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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday, October 26, 1995*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Help us, gracious God, to see other people as they truly are with their own ideas, with their own traditions, and with their own integrity. We admit that we too often portray the character of our neighbor and the motivation of others in ways that do not serve the common good and we ought to admit our shortcoming. Lead us, O God, to think with clarity, to acquit ourselves with honor, and to respect all people for that is a mark of our humanity and the stamp of Your creation.

In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. ROEMER] come forward and lead the House in the Pledge of Allegiance.

Mr. ROEMER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be ten 1-minutes on each side.

CUBAN EMBARGO

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, one of our colleagues has openly challenged the United States embargo against the Castro regime by announcing that he has accepted an invitation by Cuban tyrant Fidel Castro to visit Cuba in December with a group of Massachusetts businessmen.

I have asked the Treasury Department to deny my colleague, and his partners in crime, permission to travel to Cuba, for this trip clearly does not fall under the permissable guidelines. The presence of business leaders on this trip is an attempt at lobbying for the end of the trade embargo against Castro.

While some try to forge ties with the tyrant, the repression in Cuba goes unabated. While Castro fooled the United States media once again this week independent journalist Olance Nogueras Roce was jailed in a high security prison in Cuba for trying to ask a question at the Ministry of Foreign Relations.

The obvious attempt to violate the embargo on Cuba by these United States businessmen is a clear test of the Clinton administration's resolve to enforce the law against Castro. The President must step up to the challenge by denying them visas.

CIVIL WAR

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, today the Republicans are starting the second civil war. The second civil war between the States and States rights.

What the Republicans are proposing in their block grant approach is a race to the bottom between the States. It is going to be a race between the States on how unfriendly the States can be to the poor, the disabled, and our elderly.

By taking away the entitlement program for our senior citizens and poor children and the disabled, they are starting a war between the States on who can cut the elderly more than the next States in order to save money.

Make no mistake about it, I came from a State legislature. I know what it is like being in a State house and trying to make ends meet. With the Federal Government abandoning the most neediest of our citizens in our society, they are setting up a divided country in this Nation, and I think that this is something that we have got to stand up against.

Let us reject the civil war the Republicans are trying to wage.

Mr. Speaker, today we begin a race for the bottom.

Faster than you can say block grant, the leaders on the other side of the aisle have dismantled a program that said to children when they were most vulnerable and to seniors then they were most in need: If you are an American, you share a common right to basic health care.

Today, when we discard Medicaid, we throw out that entitlement and replace it with a lottery.

Well, as any one who plays the lottery can tell you—most people lose.

Children, poor mothers, and impoverished seniors will lose under this plan that throws all the decisions to the States without the money to do the job right.

We all know, States will not compete for who can do the most, but for who can do the least.

After today, it will not matter that you are an American.

What will matter is what side of the State line you live on.

We will 50 different answers to what it is to be an American.

I call upon my colleagues to remember that we are nation of United States and reject this plan that marches us down the road to a disunited States.

CHICKEN LITTLE DEMOCRATS

(Mr. NORWOOD asked and was given permission to address the House for 1 minute.)

Mr. NORWOOD. Mr. Speaker, in deference to our last speaker, everybody knows that it was not the Civil War, it was the War between the States.

Mr. Speaker, today we will pass a 7-year budget reconciliation that is a

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

huge step forward for this great Nation. In the reconciliation, we will do the things the voters asked us to do when they swept the liberal Democrats of out office. We will balance the budget in 7 years, something that has not been done in a generation. Where the liberal Democrats of the 103d Congress raised taxes, we will refund taxes back to the hard working men and women in this Nation. We will fix a Medicare system that was going bankrupt. We will reform the morally bankrupt welfare system. In short, Mr. Speaker, today we will do the things we promised the American peopled we would do.

I have listened to the Chicken Little Democrats whine "this is too much, too fast, too hard". But what do they offer? Nothing. Mr. Speaker, every day we ignore the problems of the Nation, they become worse. Now is the time for great action, and today will be remembered as a great day.

WHAT THE PEOPLE SAY

(Mr. ROEMER asked and was given permission to address the House for 1 minute.)

Mr. ROEMER. Mr. Speaker, this is the people's House. Therefore, what are the people of this great country saying about cutting taxes in order to get to a balanced budget?

Well, the Committee on the Budget went out to listen to the American people. Here is a transcript of what the Committee on the Budget heard going coast to coast in January and February.

They heard from Mr. Frank Ramsey from Prescott, AZ. He said, and I quote, "We feel here in Prescott what needs to be done first is to cut spending long before cutting taxes."

Cole Kleitsch of New Jersey said, "The other thing, we cannot have a tax cut right now."

Lynn Dill in Delaware: "I am very unenthusiastic about tax cuts."

Greg Pearson in Montana: "I think it is absolutely foolish for Congress to talk about reducing taxes at all."

Mr. Speaker, what we need to do is balance the budget by making tough cuts in spending as our coalition budget does. Let us demand sacrifice from all the American people, not division and redistributing the resources.

TAXES ARE TOO HIGH

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Mr. Speaker, perhaps confession is good for the soul, and good politics. Look at President Clinton.

Last week at a fat-cat fundraiser in Texas, he confessed that he raised taxes too much in 1993.

Today, the polls show that Mr. Clinton has gained some favor with the American public after that confession. I am sure that news has warmed the hearts of all those Democrats who were defeated last year after helping the President pass the largest tax increase in history.

But there is a lesson in all this for those surviving House Democrats who followed their President like lemmings and voted to raise taxes on Social Security, who voted to raise taxes on low- and middle-income working families.

The lesson is that it is not too late for you to have a change of heart, just as the President has.

You can confess that you were wrong to raise taxes in 1993 and you can demonstrate your sincerity by helping the Republican majority cut the Clinton taxes and let working families keep more of their earnings. Taxes are too high. Let us cut them today.

TAXES ARE BEING RAISED TODAY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, let us talk about taxes. In fact let us talk about the taxes that are going to be raised today in this NEWT GINGRICH Congress.

First of course is the sick tax. To be old or disabled in America is to have the opportunity to pay more and get less health care. It is a tax on being sick to finance a tax break for those who are well, very well, very well off.

Then there is NEWT GINGRICH'S new tax on work. That is right. The Americans who earn less than $30,000 will be paying more taxes after today, if Mr. GINGRICH has his way. To those who are off welfare, who walk past the drug dealer to get to the bus stop, to go across town to empty the bed pan at the nursing home, to the young mother who is off welfare, who is struggling to get child care, who is going across town to sack up another burger and fries, to those people taxes are going to go up after today. They may call that no new taxes, it is at least NEWT'S taxes.

LIBERALS OPPOSE RECONCILIATION

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, the top 10 reasons liberals oppose reconciliation. No. 10, mistaken notion that milk comes from cartons, electricity from light switches, and money from the Government instead of from taxpayers. No. 9, forget Travelgate and Whitewater; it is more fun to rip off taxpayers in the broad daylight. No. 8, tax and spend without end, tax and spend without end. Hey, Mr. Speaker, why would the American people join in that mind-numbing chant? No. 7, liberal PR firm of Jennings, Rather and Brokaw advises keep confusing and misleading the public, then leave the rest to us. No. 6, anxiously awaiting new sitcom from Larry and Linda Thomason: Bureaucrats Know Best.

No. 5, people should not keep more of their money. That is unfair and, besides, it makes too much sense. No, 4, liberal mantra for year-round Halloween: Trick the people then treat big government.

No. 3, people's money, what a wonderful thing to waste. No. 2, self-reliance, what a dangerous concept. And the No. 1 reason liberals oppose reconciliation, a secret fear that the President will flipflop again and refuse to veto this commonsense approach to the future.

THE BUDGET BILL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, both parties, Democrats and Republicans, have raised taxes. Although I will not vote for the budget bill today, I want to commend the Republican Party for at least having a program and attempting to turn the country around.

There are two provisions in this bill that I have sponsored. First, it increases penalties for IRS misconduct tenfold. That will cool the jets of some of those at the IRS, folks. Second of all, it will give taxpayers an opportunity to sue the IRS for cause.

But I am disappointed. Although there is some language on shifting the burden of proof, my provision is not in there. Let me say this; one of the main reasons is money.

My colleagues, if our Founding Fathers used money as the yardstick for liberty, we would not have the protection of the Bill of Rights today. There can be no justice in America, and after this bill is over, a taxpayer will still be considered guilty and must prove themselves innocent in a court of law.

I think the Democrats did nothing about it; tell it like it is. The Republicans have an opportunity. I am hoping they give me a shot here in the next year.

VOTE TO BALANCE THE BUDGET

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, as of yesterday, the national debt stood at $4,975,508,732,304.35.

It's not enough to debate how previous Congresses let his happen. It is not enough to complain and bellyache. It is not enough for Members of Congress to make excuses and dance around their most basic responsibilities.

Mr. Speaker, it is time to deal with our national debt and balance the budget. The excuses are over. The gimmicks have all been tried and have failed.

Last November, the American people told Congress to get its act together. They sent a new Republican majority to do the job the first time in 40 years. Our party made a promise to give them what they have been denied for the last 25 years: simple, basic, financial accountability from the U.S. Congress.

Today is historic. For the first time in a generation, Congress will vote to balance the budget and do the right thing for America's future and for America's children.

THIS BUDGET BILL DOES THE WRONG THING

(Mr. WARD asked and was given permission to address the House for 1 minute.)

Mr. WARD. Mr. Speaker, today we are going to be faced with a budget which I feel does the wrong thing. It does the wrong thing because it cuts at the very heart of our safety net in this country, and that is our seniors and their reliance on the Medicare Program.

A $270 billion reduction in the spending over the next 7 years will absolutely be a cut in services. And why? At the same time I wonder are we being given the choice, not given the choice, not given the choice to take out of this bill a $245 billion tax break.

□ 0915

This tax break is not needed. It is only being funded this year by the cuts that will be seen in the Medicare Program. Why, oh why, in the efforts to balance the budget are we reducing taxes when we are seeing the highest income earners in America seeing their taxes reduced by this bill?

BALANCING THE BUDGET WILL HELP THE POOR WITH STRONG ECONOMIC GROWTH

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, the liberal Democrats in this House say they cannot support a plan to balance the budget because it will hurt the poor too much. This is the most bizarre argument I've ever heard.

I know it drives my liberal friends nuts, but the fact is, the best antipoverty program this country has to offer is strong economic growth. And the best way to get strong economic growth is by cutting taxes. That was the lesson of the 1980's.

The tax cuts of both 1963 and 1981 created a rising tide that did indeed lift all boats. Imagine if the tax cuts of 1981 had been coupled with comparable spending restraint by the Congress. The poor might actually have been able to survive the disastrous tax increases of 1990 and 1993.

Do my liberal friends really want to help the poor? Then balance the budget and cut taxes. It is a proven solution.

EFFECT OF THE GOP BUDGET ON RHODE ISLAND CHILDREN

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, I rise today to speak on behalf of my constituents who have no voice but who have a very large stake in the outcome of the debate over the GOP budget—the children of Rhode Island.

The Republican budget will eliminate Medicaid coverage for almost 40,000 children in Rhode Island, many of whom are disabled. The Republican budget will cut nutrition assistance for almost 50,000 children in Rhode Island. The Republican budget jeopardizes immunizations for children in Rhode Island. The Republican budget will deny 14,000 children in Rhode Island child care assistance. Unfortunately, Mr. Speaker, the list goes on and on.

I say to my Republican colleagues—we must work toward a balanced budget for our children, not balance the budget on the backs of our children. When it comes to public investment in children's health and education, denying a dollar today actually costs more in the future.

Mr. Speaker, I urge my colleagues to vote against this short-sighted and mean spirited budget reconciliation bill.

HELP AMERICAN WORKERS AND AMERICAN SMALL BUSINESS—JOIN THE TRAVEL AND TOURIST CAUCUS

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, we heard many speeches yesterday, and we will hear more today, good speeches on reconciliation. I just want to address one question of the aftermath of a less-government role. I think we have to allow private enterprise some elbow room, and we are going to have the opportunity to do that on Monday and Tuesday. We have for the first time ever the most important conference in this decade in this city, the Travel and Tourist Conference. Travel and tourism is the second largest industry in America. They need less taxes, they need less regulation, so we can give our people jobs.

Mr. Speaker, this is a conference for American workers, American small business, Main Street America. Travel and tourism is becoming the real economic power right here in America and all over the globe, as the futurists tell us. Now Congress can be involved in this small business enterprise, in this travel and tourism. We have the travel and tourist caucus.

Mr. Speaker, the gentleman from Ohio [Mr. GILLMOR] is our 300th member, and I salute him for joining the travel and tourist caucus. We now have 304 members, and I ask all the Members in Congress to join the travel and tourist caucus. Let us do something positive for American workers and American small business. Please call my office, join the caucus. Let us do something for American workers.

THE REPUBLICANS' 30-YEAR GOAL TO END MEDICARE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, 30 years ago the Republican leader of the other body voted against the creation of Medicare, and yesterday he bragged of that vote saying that he knew it did not work, and he was proud of his vote, and he was proud that he fought against Medicare.

On this side of the street, Speaker NEWT GINGRICH joined the trashing of Medicare, and on Tuesday he revealed the real GOP plan, to privatize Medicare. Speaker GINGRICH said, and I quote, "We didn't get rid of it in round 1 because we don't think that that's politically smart."

1965–1995, Republicans are closing in on their 30-year goal to end Medicare. Welcome to the Gingrich revolution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). The Chair would remind Members they are not to refer to Members in the other body.

RED RIBBON WEEK

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, as important as budget reconciliation is, and it is very important, this morning I would like to address something else. This is National Red Ribbon Week; my colleagues may have seen people wearing these red ribbons on the floor of this House and around the country. It is a week to call on our Nation's citizens, particularly our young people, to stay healthy and drug-free.

Mr. Speaker, this is a critical and timely message because unfortunately in one generation it appears that normalized attitudes toward drug abuse has led to an epidemic increase in the number of drug users. The frightening fact is that although we seem to be winning the war on drugs in the 1980's those trends have been dramatically reversed.

According to the most recent National household survey on drug abuse, marijuana use among teenagers nearly doubled between 1990 and 1994, after 13 straight years of decline. Cocaine use is also up, and today more and more teenagers and young adults are resorting to drugs from the past like heroin and LSD.

In my own congressional district, drug use is back up to its highest levels ever. In Hamilton County, OH there has been a documented and dramatic increase in the past 12 months in the use of marijuana and harder drugs. And most frightening is that drug abuse is occurring among children at younger and younger ages.

Mr. Speaker, we must take bold and aggressive action. All Americans must be involved. The fight against drug abuse has to be handled community by community, and everyone needs to be involved.

INJUSTICES OF H.R. 2491—OMNIBUS BUDGET RECONCILIATION

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, I rise today to address the most egregious assault on the American people to date. Some of the missiles have already landed: $182 billion has been cut from Medicaid, $270 million has been cut from Medicare. Now that the enemy has pillaged these areas, they now seek to launch an all out offensive to achieve their ultimate victory—a tax cut for the wealthiest 10 percent of Americans.

The great injustices of history have been committed in the name of unchecked and unbridled majority rule. The Framers of the Constitution warned us about the tyranny of the majority. Their fears have become reality. The safety net of America is being snatched from under them. Affordable housing programs within the RTC and FDIC have been terminated. Some $10 billion has been cut from student loans. The earned income tax credit will be reduced by 18 percent. Keep in mind, that individuals who receive EITC have an average income of $11,000. The Republican majority has turned its back on the American people. This measure is tantamount to thievery—the theft of the sanctity of the American people.

BALANCING THE BUDGET IS THE RIGHT THING TO DO FOR OUR FUTURE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, let me just read a quote from Ronald Reagan's first inaugural address:

> . . . The crisis we are facing today requires our best effort and our willingness to believe in ourselves and to believe in our capacity to perform great deeds, to believe that together with God's help we can and will resolve the problems which now confront us. After all, why should we not believe that? We are Americans. That is just as true today as it was during the first inaugural address.

Mr. Speaker, the problem of having yearly billion-dollar deficits has to end. Period. The Federal Government cannot continue on the path it is on. This is not a Democrat or Republican problem, it is an everyone's problem. Congress can no longer run away from this problem like a bunch of scared chickens.

Today Congress will have the opportunity to put the Federal Government squarely on the path to a balanced budget. It must be done. It is the right thing to do for America's future. It will be done because we are Americans.

CHRISTMAS IN OCTOBER

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, the Republicans are at it again. The party for the rich and famous has devised a budget plan in which all Americans lose, except the wealthy. Yes, Mr. Speaker, it is Christmas in October for all of those wealthy Republican campaign contributors because the Republicans are repaying them with generous tax breaks. Meanwhile, everyone else gets the short end of the stick.

Under the Republican's reverse Robin Hood budget plan, so many programs that middle class and working families depend on—education, Medicare, Medicaid, child nutrition, Head Start, daycare, earned income tax credit, and housing, just to name a few, are being robbed while the wealthiest corporations and individuals will reap a $245 billion tax cut.

Mr. Speaker, in order to balance the budget, a shared sacrifice is necessary; everyone must make sacrifices, not just the middle class and working people.

The Republican budget plan will hurt American families. When it comes to family values, the Republican Party talks the talk but they certainly do not walk the walk. This budget proves it.

TODAY REPUBLICANS DELIVER CLINTON ADMINISTRATION'S PROMISE

(Mr. RIGGS asked and was given permission to address the House for 1 minute.)

Mr. RIGGS. Mr. Speaker, a child born today will pay an average of $187,000 in taxes over 75 years just to cover his or her share of the interest on the national debt. Let me repeat that—a child born today will owe $187,000 just on the interest of the national debt.

Mr. Speaker, for too long our Federal Government has squandered away the future of American families and their children. The Republican majority made a promise to the people to reduce the size of the Federal Government, balance the budget, and reduce overburdensome taxes, all in order to provide hope for the future. Today, we will pass the budget reconciliation bill which puts us on the path to a balanced budget by the year 2002.

Mr. Speaker, what the Clinton administration has promised, the Republicans will actually deliver.

THE REPUBLICANS' OUTRAGEOUS MEDICARE CUTS

(Mr. HILLIARD asked and was given permission to address the House for 1 minute.)

Mr. HILLIARD. Mr. Speaker, the Republicans' budget cut Medicare funding by $250 billion, and it is outrageous. Have they no shame?

The Republicans should not force those persons among us, who have the greatest needs, to suffer.

What my Republican colleagues are doing to our elderly and our disabled is disgraceful.

I am extremely concerned that our rural and inner-city hospitals are at serious risk. These huge Republican cuts, along with the steady increase in uncompensated care burden, would place these hospitals in jeopardy, and the hospitals have limited or no ability to shift the costs to payers.

The quality and access to needed health care is severely threatened.

The Republican's Medicare cuts are outrageous.

Because they refuse to listen to logic, it is my prayer that the American public hear me and that they will insist that this budget be vetoed.

□ 0930

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from Florida [Mr. DIAZ-BALART], a member of the Committee on Rules.

Mr. DIAZ-BALART. Mr. Speaker, could my colleagues imagine if during the Holocaust there had been a visit here by Hitler, and the press would have asked him "Who designs your suits? What is your favorite sport in the Olympics?" That is what we just saw during the visit by the Cuban tyrant, where some of our colleagues, as a matter of fact, met with him, and say now they are going to lead CODELS to go down there and lobby for the end of sanctions against him.

Some businessmen met with Castro and are asking him, "How many jobs can we transfer to your slave economy to take away from American workers?" That is the reality of this visit that we just saw, the pathetic visit we just saw.

The answer of this House, and I want to thank the chairman of the Committee on Rules, as well as the leadership, for inserting in the bill that we are going to be discussing today, the answer of the American people and their representatives to the disgusting visit by the Cuban tyrant, is the Cuban Liberty and Democratic Solidarity Act. It is going to be passed again today, and it is the answer to this disgusting visit by the American people.

PERMISSION FOR CERTAIN COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: The Committee on Commerce, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on Resources, and the Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

Mr. BEILENSON. Reserving the right to object, Mr. Speaker, we have no objection to this request, but pending it, we would like our side to have one additional 1-minute, if that is all right with the gentleman on the other side.

The SPEAKER pro tempore (Mr. GILLMOR). The Chair will recognize the gentleman for one 1-minute.

Mr. BEILENSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

THE BUDGET RECONCILIATION BILL AND CHILDREN

(Mr. NADLER asked and was given permission to address the House for 1 minute.)

Mr. NADLER. Mr. Speaker, I rise to express my outrage that, in the Republican rush to bestow a $245 billion tax cut for America's wealthiest citizens, we are being asked to leave the futures of our children behind. This is nothing less than immoral.

While the wealthiest Americans will receive a $20,000 windfall under the Republican budget, our Nation's abused and neglected children will suffer under a 19 percent cut in funding for programs offering child protection. By 2002, almost 200,000 children will be denied access to Head Start. Medicaid coverage for as many as 4.4 million children will be eliminated by 2002.

And the Republican budget denies 1 million women infant mortality assistance, affecting the births of 74,000 infants each year, giving new meaning to the phrase, "women and children first."

Mr. Speaker, let us not throw our Nation's children overboard. Let us reject these immoral cuts, and oppose the Republican budget reconciliation bill.

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 109, SENSE OF CONGRESS REGARDING SOCIAL SECURITY EARNINGS TEST REFORM, AND FURTHER CONSIDERATION OF H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 245 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 245

Resolved, That at any time after the adoption of this resolution it shall be in order to consider in the House the concurrent resolution (H. Con. Res. 109) expressing the sense of the Congress regarding the need for reform of the social security earnings limit, if called up by the majority leader or his designee. The concurrent resolution shall be debatable for twenty minutes equally divided and controlled by the majority leader and the minority leader or their designees. The previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

SEC. 2. At any time after the adoption of this resolution, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996. All time for general debate under the terms of the order of the House of October 24, 1995, shall be considered as expired. Further general debate shall be confined to the bill and amendments specified in this resolution and shall not exceed three hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of H.R. 2517, modified by the amendments printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment shall be in order except the further amendment in the nature of a substitute consisting of the text of H.R. 2530, which may be offered only by the minority leader or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against the further amendment in the nature of a substitute are waived. After a motion that the Committee rise has been rejected on a day, the Chair may entertain another such motion on that day only if offered by the chairman of the Committee on the Budget or the majority leader or a designee of either. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions. The motion to recommit may include instructions only if offered by the minority leader or his designee. The yeas and nays shall be considered as ordered on the question of passage of the bill and on any conference report thereon. Clause 5(c) of rule XXI shall not apply to the bill, amendments thereof, or conference reports thereon.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of the resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 245 is the customary restrictive rule for considering reconciliation legislation.

In this case the rule first makes in order the consideration in the House of a sense of the Congress resolution, House Congress Resolution 109, introduced by Mr. HASTERT. That resolution expresses the intent of Congress to pass legislation before the end of this year to raise the Social Security earnings limit for working seniors aged 65 through 69.

That is an important commitment we made in our Contract With America and we intend to keep that commitment to America's senior citizens.

Unfortunately, the Budget Act prohibits the consideration of legislation amending the Social Security Act as part of reconciliation. But we will vote on and pass this as a separate bill before this session adjourns.

Mr. Speaker, following 20 minutes of debate on that resolution, and a vote on its adoption, the rule provides for the further consideration of H.R. 2491, the Seven Year Balanced Budget Reconciliation Act of 1995.

And, oh, how the title of this bill says it all—the "Seven-Year Balanced Budget Reconciliation Act of 1995." Today we are bringing to final fruition our efforts of the past 10 months to deliver to the American people on our promise to balance the budget in 7 years.

Yesterday, we had a full 3 hours of general debate on that bill pursuant to a unanimous-consent request that was granted in consultation with the minority leadership.

Today this rule provides for another 3 hours of general debate before we consider for 1 hour a Democrat substitute that will be offered by the minority leader or his designee.

Those 6 hours are three times as much general debate time as we had on the Clinton reconciliation bill in 1993. That is as it should be, though, on a bill this important.

The rule provides for the adoption in the House and the Committee of the Whole of that amendment in the nature of a substitute which consists of the text of H.R. 2517, introduced by the Budget Committee chairman, as modified by the amendments printed in the Rules Committee's report on this rule.

That substitute is made base text for the purpose of further amendment. That further amendment is the so-called coalition substitute which is the text of H.R. 2530, introduced by Representative ORTON and others yesterday.

It will be debated for 1 hour. The House will then vote on it after which the Committee of the Whole will rise and report the bill back to the House.

Before final passage, the minority leader or a designee may offer one motion to recommit, with or without instructions. That is something that was denied us in the minority on reconciliation bills in recent years, but is something we guaranteed to the minority in our House rules reforms at the beginning of this Congress. So, the minority will have twice as many amendments as we were allowed when we were in the minority.

Finally, the rule orders the yeas and nays on passage of the bill, and suspends the application of clause 5(c) of rule XXI, which requires a three-fifths vote on any bill, amendment or conference report containing a Federal income tax rate increase, against the passage of the bill or the adoption of any amendment or conference report thereon.

Mr. Speaker, let me hasten to add that the Ways and Means Committee has certified that there are no Federal income tax rate increases contained in this measure we are making in order by this rule.

The three-fifths vote requirement is being waived, nevertheless, as a precautionary measure to avoid any unnecessary points that might be made out of a misunderstanding of the rule.

When we adopted this rule back on January 4 of this year, we placed an analysis in the CONGRESSIONAL RECORD at page H34. That analysis made clear that the term only applies to increases in the income tax rates contained in sections 1 and 11 of the Internal Revenue Code for individuals and corporations, respectively.

These are the commonly understood marginal or bracket rates with which most Americans are well familiar. That is the interpretation which still applies today. And this bill does not increase those rates one iota.

Mr. Speaker, today is not really about today's vote, as historic as it is, or about the past 10 months during which we struggled to develop this glide-path to a balanced budget by the year 2002.

Today is really about the future—the future of the economy, the future of this country, and the futures of our children and grandchildren and the better world we will bestow on them by putting our fiscal house in order today.

An overwhelming majority of the American people favor balancing the Federal budget—of ensuring that we spend no more than we take in. As the last election demonstrated, they fully expect us to make good our promises to balance the budget by making the hard choices necessary to achieve that goal.

Yes, it will involve some sacrifices on the part of everyone. But today's temporary pain will be tomorrow's great gain for our country as we build a strong economic base on which to create new jobs and prosperity for all Americans.

We can no longer be content to rest on the laurels of our past achievements. They are behind us and we are now literally drowning in a sea of red ink we have created by our past actions.

We have overpromised, overspent, and underdelivered on what the Government alone is capable of doing. In so doing, we have stifled rather than promoted individual initiative and opportunity in the private sector which is the key to new jobs and our future growth and survival as a country.

Our annual interest payments on the national debt alone are consuming and crowding out the capital necessary to build the kind of private sector growth that is so critical to our country's competing in this global economy.

By our actions here today we are recognizing the need to restrain the voracious appetite of the Government that is devouring the hard-earned dollars of American workers rather than allowing them to be put to more productive use in the private sector to create new and better paying jobs.

The time has come to put an end to the fiscal madness and insanity that is driving us deeper and deeper into debt. The bill before us reverses that trend.

It is called a reconciliation bill because in a narrow sense it reconciles our spending practices with our balanced budgetary goals adopted last spring.

But, in a larger sense it is a grander kind of reconciliation because it reconciles the grim realities of today with our hopes and dreams for a brighter and more prosperous future.

We cannot achieve that glorious reconciliation with the America we want to leave to our posterity if we do not make the hard choices and votes we must confront today. We can no longer get by on espousing the rhetoric of a balanced budget while avoiding taking the tough but necessary steps to get there.

We can no longer get by on blaming others for our failed dreams of balancing the budget when we have the duty and ability today by our votes on this bill to make those dreams a reality.

Today, that dream is within our grasp—indeed, the vote is at our very fingertips. We can either vote "yes" for the dream of a brighter future, or "no" for a long nightmare of economic stagnation, failure, and collapse.

It's in our hands; the choice is ours. Support this rule and the balanced budget reconciliation bill it makes in order.

Mr. Speaker, I include for the RECORD information regarding this rule, and previous rules and other pertinent material:

H. RES 245—SUMMARY OF PROVISIONS OF THE RULE FOR CONSIDERATION OF: HOUSE CONCURRENT RESOLUTION 109—SOCIAL SECURITY EARNINGS TEST REFORM; H.R. 2491—SEVEN YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

1. Provides for consideration in the House of a concurrent resolution (H. Con. Res. 109) Social Security earnings test reform, debatable for 20 minutes, divided between the Majority and Minority Leaders or their designees.

2. Provides three hours of additional general debate on H.R. 2491, divided equally between the chairman and ranking minority member of the Committee on the Budget.

3. Provides that an amendment in the nature of a substitute consisting of the text of H.R. 2517 modified by the amendments printed in the Rules Committee's report on the rule shall be considered as adopted in the House and the Committee of the Whole; that the bill as amended shall be considered as an original bill for the purpose of further amendment; and that all points of order against provisions of the bill as amended are waived.

4. Provides that no amendment shall be in order to the bill as amended except an amendment in the nature of a substitute consisting of the text of H.R. 2530, which may only be offered by the Minority Leader or his designee.

5. Provides that the amendment in the nature of a substitute shall be considered as read, shall not be subject to amendment, and

shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

6. Waives all points of order against the amendment in the nature of a substitute.

7. Provides after a motion to rise has been rejected on any day, another such motion may only be offered by the Majority Leader or Budget Committee chairman.

8. Provides one motion to recommit which, if containing instructions, may only be offered by the Minority Leader or a designee.

9. Provides that the yeas and nays are ordered on final passage and that the provisions of clause 5(c) of Rule XXI (requiring a three-fifths vote on any amendment or measure containing a Federal income tax rate increase) shall not apply to the votes on the bill, amendments thereto or conference reports thereon.

Summary of Amendments Modifying the Text of H.R. 2517 To Form the New Base Text for Amendment Purposes

Upton (MI): Amend Food, Drug and Cosmetic Act to authorize the export of new drugs if approved in recipient country. (p. 275, after line 11, insert new Subtitle F—"FDA Export Reform and Enhancement Act")

Horn (CA)/Davis (VA) (modified): Add new tools for Federal agencies to collect debts owed to the United States to enhance debt collection and improve financial management. (Inserts new Subtitle B to Title V, "Debt Collection Improvement Act of 1995," at page 333, line 15)

Barr (GA): Strike section 7002, "Civil Monetary Penalty Surcharge and Telecommunications Carrier Compliance Payments." (p. 416, line 3 through p. 419, line 6)

Davis (VA): Strike section 10404, "Collection of Parking Fees," requiring each Executive agency to collect parking fees at all Federal parking facilities. (p. 700, line 23 through page 701, line 19)

Davis (VA) (modified): Amend sec. 17201(c), National Technical Information Service, to provide that if an appropriate arrangement for the privatization of the functions of the NTI Service has not been made before the end of the 18-month period, the Service shall be transferred to the National Institute for Science and Technology. (p. 1588, lines 3 through 7)

Bliley (VA): Change the Medicaid allocation and lower the statutory caps for discretionary spending accordingly.

[Excerpted from the Rules Committee's report on H. Res. 245, the reconciliation rule]

Explanation and Discussion of Clause 5(c), Rule XXI Waiver

As indicated in the preceding paragraph, the Committee has provided in this rule that the provisions of clause 5(c) of House Rule XXI, which require a three-fifths vote on any bill, joint resolution, amendment or conference report "carrying a Federal income tax rate increase," shall not apply to the votes on passage of H.R. 2491, or to the votes any amendment thereto or conference report thereon.

The suspension of clause 5(c) of rule XXI is not being done because there are any Federal income tax rate increases contained in the reconciliation substitute being made in order as base text by this rule. As the Committee on Ways and Means has pointed out in its portion of the report on the reconciliation bill—

"The Committee has carefully reviewed the provisions of Titles XIII and XIV of the revenue reconciliation provisions approved by the Committee to determine whether any of these provisions constitute a Federal income tax rate increase within the meaning of the House Rules. It is the opinion of the Committee that there is no provision of Titles XIII and XIV of the revenue reconciliation provisions that constitutes a Federal income tax rate increase within the meaning of House Rule XXI, 5(c) or (d)."

Nevertheless, the Committee on Rules has suspended the application of clause 5(c) as a precautionary measure to avoid unnecessary points of order that might otherwise arise over confusion or misinterpretations of what is meant by an income tax rate increase.

Such a point of order was raised and overruled on the final passage vote of H.R. 1215, the omnibus tax bill, on April 15, 1995. The ranking minority member of the Rules Committee subsequently wrote to the chairman of this Committee requesting a clarification of the rule. An exchange of correspondence with the Parliamentarian and the Counsel of the Joint Tax Committee was subsequently released by the chairman of this Committee on June 13, 1995, regarding the ruling and the provisions of the bill which gave rise to the point of order.

The Committee would simply conclude this discussion by citing from the section-by-section analysis of H. Res. 6, adopting House Rules for the 104th Congress, placed in the Congressional Record at the time the rules were adopted on January 4, 1995. With respect to clauses 5(c) and (d) which require a three-fifths vote on any income tax rate increase and prohibit consideration of any retroactive income tax rate increase, respectively:

"For purposes of these rules, the term 'Federal income tax rate increase' is, for example, an increase in the individual income tax rates established in section 1, and the corporate income tax rates established in section 11, respectively, of the Internal Revenue Code of 1986." (Congressional Record, Jan. 4, 1995, p. H-34)

The rates established by those sections are the commonly understood "marginal" tax rates or income "bracket" tax rates applicable to various minimum and maximum income dollar amounts for individuals and corporations. It is the intent of this committee that the term "Federal income tax rate increase" should be narrowly construed and confined to the rates specified in those two sections. As indicated in the Ways and Means Committee's report, those rates have not been increased by any provision contained in H.R. 2491 as made in order as base text by this resolution.

HOUSE RECONCILIATION RULES, 1980–93

Congress year	Bill No.	Rule	Terms of rules
96th (1980)	H.R. 7765	H. Res. 776	10-hours general debate (1-hr. ea. to 8 comms., 2-hrs. Ways and Means); 4 amendments allowed: (1) Budget Comm.; (2) Strike subtitle; (3) Rep. Vanik (D); (4) Rep. Bauman (R); one motion to recommit.
97th (1981)	H.R. 3982	H. Res. 169	8-hrs. general debate, comms, of juris.; amendment in nature of substitute by chairman of Budget Comm.; 6 amendments by Rep. Latta; 1-hr. on motion to recommit.
98th (1983)	H.R. 4169	H. Res. 344	1-hr. gen. debate, Budget Comm.; amendment in nature of substitute made in order; 1 amendment by chmn. Budget Comm.; one motion to recommit, with or without instructions.
98th (1984)	H.R. 5394	H. Res. 483	6-hrs. gen. debate, Budget Comm.; (1) amend. by W&M Comm., 1-hr; (2) amend. by Rep. Pepper, 30-mins.; one motion to recommit.
99th (1985)	H.R. 3500	H. Res. 296	4-hrs. gen. debate, Budget Comm.; self-execute amendment; (1) Rep. Fazio, 30-mins; (2) Rep. Latta, 1-hr.; (3) Rep. Florio, 30-mins; one motion to recommit.
99th (1986)	H.R. 5300	H. Res. 558	3-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep. Rodino, 30-mins.; (2) Rep. Rodino, 30-mins.; (3) Rep. Wylie, 30-mins.; one motion to recommit without instructions.
100th (1987)	H.R. 3545	H. Res. 296/298	3-hrs. gen. debate, Budget Comm.; self-execute amend.; (1) Rep. Michel, 1-hr.; one motion to recommit without instructions.
101st (1989)	H.R. 3299	H. Res. 245/249	6-hrs. gen. debate, Budget Comm.; self-execute amend.; 10 amendments (D–7;R–3), debatable from 30-mins. to 2-hrs. ea. (varies by amendment); one motion to recommit.
101st (1990)	H.R. 5835	H. Res. 509	3-hrs. gen. debate, Budget Comm.; self-execute amends.; (1) Rep. Rostenkowski, 1-hr.; one motion to recommit without instructions.
103d (1993)	H.R. 2264	H. Res. 186	2-hrs. gen. debate; self-execute amend. (54 page); (1) Rep. Kasich substitute, (290 pages), 1-hr.; one motion to recommit without instructions.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of October 25, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	51	70
Modified Closed[3]	49	47	18	25
Closed[4]	9	9	4	5
Total	104	100	73	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of October 25, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	
		H.R. 2491	Seven-Year Balanced Budget	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

CORRECTION OF VOTES IN COMMITTEE REPORT OCTOBER 26, 1995

The Rules Committee's report, House Report 104–292 on House Resolution 245, the rule for the consideration of House Concurrent Resolution 109 and H.R. 2491, contains three erroneously reported rollcall votes due to typographical errors during the printing process. The votes were correctly reported in the original report filed with the Clerk.

Below is a correct version of those votes as contained in the Rules Committee report as filed with the House. The amendment numbers referred to in the motions are to amendments filed with the Rules Committee—a summary of which are contained following the listing of votes in the committee report.

The corrected votes for Rollcall Nos. 215, 228, and 229 are as follows:

RULES COMMITTEE ROLLCALL NO. 215

Date: October 25, 1995.

Measure: House Concurrent Resolution 109, Sense of Congress on Social Security Earnings Test Reform, and H.R. 2491, The Seven Year Balanced Budget Reconciliation Act of 1995.

Motion By: Mr. Beilenson.

Summary of Motion: Motions No. 12, No. 13, and No. 35.

Results: Rejected, 5 to 8.

Vote by Member	Yea	Nay	Present
QUILLEN		X	
DREIER		X	
GOSS		X	
LINDER	X		
PRYCE		X	
DIAZ-BALART		X	
McINNIS		X	
WALDHOLTZ		X	
MOAKLEY	X		
BEILENSON	X		
FROST	X		
HALL	X		
SOLOMON		X	

RULES COMMITTEE ROLLCALL NO. 228

Date: October 25, 1995.

Measure: House Concurrent Resolution, 109, Sense of Congress on Social Security Earnings Test Reform, and H.R. 2491, The Seven Year Balanced Budget Reconciliation Act of 1995.

Motion By: Mr. Hall.

Summary of Motion: No. 30 and No. 38.
Results: Rejected, 4 to 9.

Vote by Member	Yea	Nay	Present
QUILLEN	....	X	....
DREIER	....	X	....
GOSS	....	X	....
LINDER	....	X	....
PRYCE	....	X	....
DIAZ-BALART	....	X	....
McINNIS	....	X	....
WALDHOLTZ	....	X	....
MOAKLEY	X	....	....
BEILENSON	X	....	....
FROST	X	....	....
HALL	X	....	....
SOLOMON	....	X	....

RULES COMMITTEE ROLLCALL NO. 229

Date: October 25, 1995.

Measure: House Concurrent Resolution 109, Sense of Congress on Social Security Earnings Test Reform, and H.R. 2491, The Seven Year Balanced Budget Reconciliation Act of 1995.

Motion By: Mr. Frost.
Summary of Motion: No. 39.
Results: Rejected, 4 to 8.

Vote by Member	Yea	Nay	Present
QUILLEN	....	X	....
DREIER	....	X	....
GOSS	....	X	....
LINDER	....	X	....
PRYCE	....	X	....
DIAZ-BALART	....	....	....
McINNIS	....	X	....
WALDHOLTZ	....	X	....
MOAKLEY	X	....	....
BEILENSON	X	....	....
FROST	X	....	....
HALL	X	....	....
SOLOMON	....	X	....

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 26, 1995.

Hon. GERALD B.H. SOLOMON,
Chairman of the Committee on Rules, U.S. Capitol, Washington, DC.

DEAR CHAIRMAN SOLOMON: Pursuant to authority provided to me by the Committee Report accompanying the Concurrent Resolution on the Budget for Fiscal Year 1996, H. Con. Res. 67, I hereby certify the amendment in the nature of a substitute made in order by H. Res. 245 would result in a balanced budget by Fiscal Year 2002.

Section 210(a)(2)(C) of H. Con. Res. 67 authorized the Chairman of the Committee on the Budget to certify an amendment in the nature of a substitute, made in order by the Committee on Rules, consisting of the text of the reported bill, as modified by any amendments necessary to balance the budget and achieve compliance with reconciliation instructions. Section 210(1) further specified that the certification is to be based upon an estimate provided by the Director of the Congressional Budget Office.

According to the attached estimate by the Director of the Congressional Budget Office, the substitute as amended by H. Res. 245 would result in the following deficit or surplus levels: $-158 billion in Fiscal Year 1996, $-180 billion in Fiscal Year 1997, $-146 billion in Fiscal Year 1998, $-120 billion in Fiscal Year 1999, $-96 billion in Fiscal Year 2000, $-40 billion in Fiscal Year 2001, and $+1 billion in Fiscal Year 2002.

The consideration of H.R. 2491 is an historic step as Congress moves to balance the Federal budget for the first time in over 30 years. The future of our nation depends upon bringing our fiscal affairs in order. It has been an honor for me to participate in this exciting process.

Sincerely,

JOHN R. KASICH,
Chairman, Committee on the Budget.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 26, 1995.

Hon. JOHN R. KASICH,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the amendment in the nature of a substitute to H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act of 1995, considered as adopted under the terms of the rule providing for further consideration of H.R. 2491. As provided by section 210 of the budget resolution for fiscal year 1996 (H. Con. Res. 67), CBO has projected the deficits that will result if the substitute is enacted. As specified in section 210, these projections use the economic and technical assumptions underlying the budget resolution, assume the level of discretionary spending allowed under the new statutory caps on appropriations that are contained in the substitute, and include changes in outlays and revenues estimated to result from the economic impact of balancing the budget by fiscal year 2002 as estimated by CBO in its April 1995 "An Analysis of the President's Budgetary Proposals for Fiscal Year 1996." On that basis, CBO projects that enactment of the reconciliation legislation embodied in the substitute would produce a small budget surplus in 2002. The estimated federal spending, revenues and deficits that would occur if the proposal is enacted are shown in Table 1. The resulting differences from CBO's April 1995 baseline are summarized in Table 2, which includes the adjustments to the baseline assumed by the budget resolution. The estimated savings from changes in direct spending and revenues that would result from enactment of each title of the substitute are summarized in Table 3 and described in more detail in an attachment.

If you wish further details on this projection, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL.

Attachment.

TABLE 1.—PROPOSED HOUSE OUTLAYS, REVENUES, AND DEFICITS

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Outlays:							
Discretionary	536	525	518	517	521	517	516
Mandatory:							
Medicare [1]	194	209	217	228	247	266	288
Medicaid	97	103	108	112	117	122	127
Other	501	525	553	583	614	638	671
Subtotal	792	837	878	923	978	1,026	1,086
Net Interest	257	260	260	260	258	252	247
Total outlays	1,584	1,623	1,656	1,700	1,758	1,795	1,849
Revenues	1,426	1,442	1,510	1,580	1,662	1,755	1,849
Deficit	158	180	146	120	96	40	−1

[1] Medicare benefit payments only. Excludes medicare premiums and graduate medical education spending.

Source.—Congressional Budget Office.

Notes.—The fiscal dividend expected to result from balancing the budget is reflected in these figures. Numbers may not add to totals because of rounding.

TABLE 2.—PROPOSED HOUSE BUDGETARY CHANGES FROM CBO'S APRIL BASELINE

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	Total 1996–2002
CBO April baseline deficit [1]	210	230	232	266	299	316	349	NA
Baseline adjustments [2]:								
CPI rebenchmarking [3]	0	0	0	−1	−3	−6	−9	−18
Other adjustments [4]	1	1	1	2	2	1	1	10
Subtotal	1	1	1	1	−1	−4	−8	−9
Policy Changes:								
Outlays, discretionary:								
Freeze [5]	−8	−9	−12	−35	−55	−75	−96	−289
Additional savings	−10	−22	−29	−26	−22	−26	−28	−162
Welfare reform [6]	2	2	2	3	3	3	3	19
Subtotal	−16	−28	−38	−58	−74	−98	−120	−432
Outlays, mandatory:								
Medicare	−8	−15	−27	−40	−49	−60	−71	−270
Medicaid	−3	−7	−14	−23	−31	−41	−51	−169
Other	−14	−22	−22	−27	−29	−29	−31	−174
Subtotal	−25	−44	−63	−89	−109	−130	−153	−614

TABLE 2.—PROPOSED HOUSE BUDGETARY CHANGES FROM CBO'S APRIL BASELINE—Continued

[By fiscal year, in billions of dollars]

	1996	1997	1998	1999	2000	2001	2002	Total 1996–2002
Net Interest	−2	−5	−9	−16	−27	−41	−60	−161
Total outlays	−42	−77	−111	−164	−210	−269	−333	−1,207
Revenues [7]	−8	33	38	40	39	39	41	223
Total policy changes	−50	−44	−73	−124	−171	−231	−292	−985
Adjustment for fiscal dividend [8]	−3	−7	−14	−23	−32	−41	−50	−170
Total adjustments and policy changes	−52	−50	−86	−146	−204	−276	−350	−1,163
House policy deficit	158	180	146	120	96	40	−1	NA

[1] Projections assume that discretionary spending is equal to the spending limits that are in effect through 1998 and will increase with inflation after 1998.

[2] The budget resolution was based on CBO's April 1995 baseline projections of mandatory spending and revenues, except for a limited number of adjustments.

[3] The budget resolution baseline assumed that the 1998 rebenchmarking of the CPI by the Bureau of Labor Statistics will result in a 0.2 percentage point reduction in the CPI compared with CBO's December 1994 economic projections.

[4] The budget resolution baseline made adjustments related to revised accounting of direct student loan costs, expiration of excise taxes dedicated to the Superfund trust fund as provided under current law, the effects of enacted legislation, and technical corrections.

[5] Savings from freezing 1996–2002 appropriations at the nominal level appropriated for 1995.

[6] Increases in statutory caps on discretionary spending to reflect shifts from mandatory spending to discretionary spending embodied in welfare reform provisions included in reconciliation bills. The cap adjustments are specified in Title XX of the bill.

[7] Revenue increases are shown with a negative sign because they reduce the deficit.

[8] CBO has estimated that balancing the budget by 2002 would result in lower interest rates and slightly higher real growth that could lower federal interest payments and increase revenues by $170 billion over the fiscal year 1996–2002 period. See Appendix B of CBO's April 1995 report. "An Analysis of the President's Budgetary Proposals for Fiscal Year 1996."

AASource.—Congressional Budget Office.

AANotes.—NA=not applicable; CPI=consumer price index. Numbers may not add to totals because of rounding.

TABLE 3.—HOUSE RECONCILIATION MANDATORY SPENDING AND REVENUE CHANGES BY TITLE

[By fiscal year, in billions of dollars]

Title	1996	1997	1998	1999	2000	2001	2002	1996–2002
I—Agriculture:								
Outlays	−0.9	−1.9	−1.9	−1.9	−1.9	−2.5	−2.5	−13.3
II—Banking and Financial Services:								
Outlays	−6.4	(1)	0.3	0.3	0.2	0.2	0.2	−5.3
Revenues [2]	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Deficit	−6.4	(1)	0.3	0.3	0.2	0.2	0.2	−5.3
III—Commerce:								
Outlays	−0.3	−2.9	−2.7	−4.0	−3.7	−3.2	−1.9	−18.7
IV—Economic and Educational Opportunities:								
Outlays	−1.4	−1.1	−1.3	−1.5	−1.6	−1.7	−1.7	−10.2
V—Government Reform and Oversight:								
Outlays	−0.6	−1.0	−1.0	−1.0	−1.0	−1.0	−0.9	−6.5
Revenues [2]	−0.2	−0.4	−0.6	−0.6	−0.6	−0.6	−0.7	−3.7
Deficit	−0.8	−1.4	−1.6	−1.6	−1.6	−1.6	−1.6	−10.2
VI—International Relations:								
Outlays	(1)	(1)	(1)	(1)	(1)	(1)	(1)	−0.1
VII—Judiciary								
Outlays	0.0	0.0	0.0	−0.1	−0.1	−0.1	−0.1	−0.5
VIII—National Security:								
Outlays	0.4	−0.6	1.1	0.4	0.3	0.2	0.2	2.1
IX—Resources								
Outlays	−0.1	−0.9	−0.2	−0.1	−0.6	−0.1	−0.1	−2.1
Revenues [2]	0.0	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Deficit	−0.1	−0.9	−0.2	−0.1	−0.6	−0.1	−0.1	−2.1
X—Transportation and Infrastructure:								
Outlays	(1)	−0.1	(1)	−0.6	−0.1	−0.1	−0.1	−0.8
XI—Veterans' Affairs:								
Outlays	−0.3	−0.3	−0.5	−1.2	−1.4	−1.3	−1.4	−6.4
XII—Ways and Means Trade:								
Outlays	(1)	(1)	(1)	0.0	0.0	0.0	0.0	(1)
Revenues [2]	0.5	0.3	0.1	0.0	0.0	0.0	0.0	0.9
XIII—Ways and Means Revenues:								
Outlays	−0.1	−2.6	−2.8	−2.9	−3.1	−3.2	−3.3	−18.0
Revenues [2]	−0.6	−1.4	−3.1	−4.0	−4.5	−5.1	−6.1	−24.9
Deficit	−0.8	−4.1	−5.9	−6.9	−7.5	−8.3	−9.4	−42.9
XIV—Ways and Means Tax Simplification								
Revenues [2]	0.2	0.6	0.9	0.7	0.7	0.8	0.8	4.7
XV—Medicare:								
Outlays:								
Medicare	−7.9	−15.1	−26.9	−39.9	−49.2	−59.9	−71.3	−270.2
Graduate medical education	0.0	1.3	1.5	2.3	3.1	3.6	4.0	15.8
Subtotal	−7.9	−13.8	−25.4	−37.6	−46.1	−56.3	−67.3	−254.4
XVI—Transformation of Medicaid:								
Outlays	−2.7	−6.9	−14.3	−22.6	−31.2	−40.8	−50.9	−169.5
XVII—Abolishment of Department of Commerce:								
Outlays	0.0	(1)	0.0	0.0	0.0	0.0	0.0	(1)
XVIII—Welfare reform:								
Outlays	−4.3	−13.4	−16.2	−18.4	−21.0	−22.1	25.2	120.6
XIX—Contract with America Tax Cut:								
Revenues [2]	−7.8	34.1	40.3	44.3	43.6	43.8	47.2	245.7
XX—Budget Process:								
Outlays	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Totals:								
Outlays	−24.7	−45.6	−64.8	−91.2	−111.1	−131.9	−155.0	−624.4
Revenues [2]	−7.9	33.3	37.6	40.4	39.3	38.8	41.3	222.7
Deficit	−32.7	−12.3	−27.2	−50.8	−71.8	−93.1	−113.7	−401.7
Interactive effects:								
Outlays	0.1	1.4	1.7	1.8	1.9	1.9	2.0	10.6
Totals:								
Outlays	−24.7	−44.2	−63.2	−89.5	−109.2	−130.0	−153.0	−613.8
Revenues	−7.9	33.3	37.6	40.4	39.3	38.8	41.3	222.7
Deficit	−32.6	−11.0	−25.6	−49.1	−69.9	−91.2	−111.7	−391.1

[1] Less than $50 million.

[2] Revenue increases are shown with a negative sign because they reduce the deficit.

Note.—Numbers may not add to totals because of rounding.

Sources.—Congressional Budget Office; Joint Committee on Taxation.

Mr. Speaker, I reserve the balance of my time.

□ 0945

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding me the customary 30 minutes of debate time, and I yield myself such time as I may consume.

Mr. Speaker, we strongly oppose the rule, and the legislation it makes in order—the budget reconciliation bill drafted by the Republican leadership.

The importance of the legislation before us cannot be overstated. It is a measure that makes drastic changes in a huge number of Federal programs and services; a measure that will directly affect virtually every American. Yet the rule for its consideration allows the House to consider only one substitute, and one motion to recommit. And, the rule limits the remaining time for general debate to just 3 hours, plus 1 hour for debate on the substitute.

It is true, as our friends on the other side of the aisle have pointed out, that this is a typical rule for a budget reconciliation bill. But this is not a typical reconciliation bill; it is not a bill that has been developed through the normal reconciliation process but, rather, one that has been brought to the House floor through actions of the Republican leadership that constitute an extremely serious abuse of the legislative process.

In years past, reconciliation bills were drafted in open committee meetings. When committees acted on their reconciliation instructions, Members of both parties had the opportunity to debate the issues and offer amendments. After committees acted, the Budget Committee reviewed and reported the final bill, and after that, the Rules Committee issued a rule for its consideration. All this was done in full view of the press and the public. In other words, reconciliation bills were the products of an open, democratic, deliberative, and accountable process. We knew what the bills contained, and who had agreed to the provisions in them.

The bill before us now, however, contains critical changes in agriculture programs, in the civil service retirement system, in tax policy, in the structure of a Federal department, and other important provisions that were not considered by the committees of jurisdiction, nor reviewed by the Budget Committee. Some of the provisions were not even finalized until last night.

These portions of the bill were drafted behind the closed doors of the Speaker's office, where decisions were also made to drop certain provisions from the committee reported version of the bill. Even as the Rules Committee was conducting its hearing yesterday—and even as general debate on the bill had begun on the floor—decisions were still being made by the Republican leadership about the contents of the plan we would be asked to vote on today.

We find the disregard for the normal legislative process that has been demonstrated by this process profoundly disturbing. We believe it is a huge injustice to the Members of the House and, far more important, to the people we represent.

And we, the Democratic minority, are not alone in our view of what is happening here. A recent editorial in Roll Call described what is going on by saying:

> Speaker Newt Gingrich is indisputably providing strong direction for the House, but in the process he and his hand-picked leadership are running roughshod over the congressional committee system and depriving minority Democrats, rank-and-file Republicans, and even committee chairmen of the power to shape legislation. The question arises: Is this democracy or rule by politburo?

That's not a Democratic sympathizer speaking; that's a newspaper that was equally, if not more, critical of the way the Democratic Party ran the House.

The point is, the bill before us did not arrive through the typical process, and therefore the highly restrictive rule for its consideration cannot be justified on the basis of the restrictive rules used for reconciliation bills in the past. At the very least, the rule for this particular reconciliation bill should provide the House with the opportunity to consider amendments to those sections of the bill that were drafted outside of the normal committee process.

We also object to the rule's waiver of clause 5(c) of rule XXI, which requires a three-fifths vote for any bill which contains a Federal income tax rate increase. That rule, as Members recall, was adopted at the beginning of this Congress to make it more difficult to pass an income tax rate increase.

We believe that the Republican reconciliation bill would raise income taxes on 8 million American working families because of the bill's change in the earned income tax credit. Members on the other side of the aisle have tried to assure us that, no, this bill does not raise income taxes. If that, in fact, is the case, we see no reason for the protection this rule provides against the three-fifths vote requirement for a bill that raises income taxes.

Mr. Speaker, of even greater concern to us than the procedural abuse we have seen in this year's reconciliation process is the actual legislation that process has produced.

Many of us applaud the fact that the Republican leadership set a goal of 7 years for bringing the Federal budget into balance. But we think that this particular plan reaches that goal the wrong way, and that the Republican leadership is misleading the American people by justifying the drastic spending cuts in their plan as necessary to reach a balanced budget. The fact is, it is not necessary to make such extreme spending cuts in order to balance the budget, and that will be clearly demonstrated by the Stenholm-Orton-Peterson plan that will be offered as an alternative to the Republican plan.

Furthermore, contrary to the rhetoric surrounding the Republican plan, the greatest significance of this measure is not its role in producing a balanced budget. Of far greater consequence is the fact that it will result in a monumental shift of resources from poor and middle-income Americans to the wealthiest Americans. It is a cruel, meanspirited, and misguided measure that will reward well-to-do Americans and special interests, and punish the poor.

What else but cruel can you consider a measure that provides a tax credit worth several hundred dollars per child for families earning $200,000, but not for families earning $20,000? That cuts taxes for the top 1 percent of earners by an average of $14,000, while raising taxes for millions of working families? What is fair about requiring hard-working, but low-wage American workers to foot the bill for a tax cut for doctors and lawyers and corporate executives and—yes—Members of Congress?

What else but meanspirited can you consider a bill that pulls the rug out from under working families by cutting not only the earned income tax credit, but also Medicaid, food stamps, child care assistance—the support that parents working in low-wage jobs need to stay off welfare?

What else but misguided can you consider a bill that raises the cost of student loans—the primary means available to moderate-income families to give their children a leg up in life? A bill that jeopardizes the retirement security of millions of working Americans by allowing corporations to raid workers' pension funds? And yet, at the same time, abolishes the alternative minimum tax that ensures that profitable corporations are not able to use multiple tax loopholes to escape paying taxes?

What else but wrongheaded can you consider a bill that provides special deals for industries that want to use the natural resources that belong to all Americans—giveaways of Federal resources for mining, timber, ranching, and oil and gas interests? And special deals for concessionaires in our national parks, and for ski operators in our national forests?

Mr. Speaker, this is a bad rule, for a terrible bill. I urge Members to vote "no" on the previous question, "no" on the rule, and "no" on the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Florida

[Mr. GOSS], one of the Members of this House who has done more to bring about some fiscal sanity than others that I know and is a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON], the chairman of the Committee on Rules, for yielding me this time. I did want to underscore some of the points that he made in his excellent opening remarks.

This truly is a momentous day and certainly one of the most noteworthy in my short tenure as a member of this body. Before the sun sets today, we actually are going to pass a 7-year balanced budget plan that wipes out our national deficits and allows us to begin the process of paying down our enormous Federal debt. That is a major accomplishment and major good news for America.

We will deliver this product to the American people, because it is the right thing to do and because they have asked us to do it. No doubt we will continue to hear the words of doom, gloom, and fear from those on the other side who are still imprisoned in the status quo. Given the dire predictions and the red hot rhetoric we have already heard from the naysayers, some people might conclude that this is just about cuts, that we are gutting all that is great and good about America, instead of what we are really doing, which is excising layers of government fat that have grown up over the past 40 years.

In fact, it may surprise people to know that Federal spending under this proposal is actually slated to grow, I said grow, significantly in each of the 7 years ahead. In fact, this plan starts with an annual Federal spending program of $1.5 trillion and ends with an annual spending program that is a full $300 billion more than that. Yet in that 7th year, 2002, we will have also balanced the budget.

Now, how do we do that? It is possible because we are allowing our economy to grow. We are creating jobs, opportunities for Americans to work, opportunities to expand our economy, while at the same time we control the cancerous growth of rampant, runaway Federal spending which so many have closed their eyes to for so long.

Two years ago I stood in staunch opposition to President Clinton's budget reconciliation bill, the largest tax hike in history. Three years before that I opposed the deal worked out between President Bush and congressional Democrats. Both of these budgets had two basic flaws. They allowed for continued deficits as far as the eye could see, and they raised taxes at a time when we should have been addressing our chronic spending problem.

This year is different. We are eliminating redundant and wasteful spending. We are preserving and strengthening our vital health care programs, Medicare and Medicaid. We are reforming welfare, and we are allowing all Americans to keep more of what they earn by lowering taxes. It is their money, not Washington's.

Mr. Speaker, as one would expect, given a change of this magnitude, there have been disagreements on individual items within the package. Indeed, there are several elements of this bill that remain troubling to me, but I have concluded that the fundamental and overriding interest of balancing the Federal books while unshackling the American people from the grip of excessive Federal Government far outweighs the drawbacks of certain of the items. In fact, Washington does not know it all.

Mr. Speaker, with all the rhetoric surrounding this debate, I recall the words of President Theodore Roosevelt who said, "Aggressive fighting for the right is the noblest sport the world affords." We are today engaged in such a noble sport. We are preserving the integrity of the U.S. Government and the viability of America for our children, our grandchildren, our parents, and ourselves. I am proud of that effort, and I obviously support this rule to get us started along this 7-year path to balance the budget.

Notwithstanding the points from my good friend and colleague from California, Mr. BEILENSON, about management procedures, I believe that this is a fair rule and an appropriate rule for the reconciliaton budget process, and I certainly think it is fairer than the one we saw in the previous year. I urge support for the rule and support for the bill.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], our distinguished friend and the ranking Democratic member of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank my colleague from California for yielding.

Mr. Speaker, The more I look at this bill, the more horrified I become.

This bill is an enormous collection of heartless attacks on American children, senior citizens, and working families.

And the worst part, the most disappointing aspect of this whole horrible collection of mean-spirited cuts—is that they are made in order to lower taxes for the very, very rich.

Mr. Speaker, that is not why we were sent to Congress.

We were not sent here to cut $270 billion from Medicare on which 40 million seniors rely; We were not sent here to cut $182 billion from Medicaid, a program 4.4 million American children desperately need but will not get.

We were not sent here to cut $54 million from energy assistance for working families. And we certainly were not sent here to do all of that, in order to parcel out goodies to the very rich.

Mr. Speaker, I know it is too outrageous to believe but it is true without these Medicare cuts, this supposedly balanced budget has an $82 billion deficit.

Last week's Medicare vote and this vote are the same thing. Any one of my colleagues who votes for this bill is voting to put the squeeze on grandmothers, grandfathers, children, and working families, in order to give a tax break to the very rich.

This is an outrageous excuse for a bill and if it becomes law, it will mean some very dark days for many Americans.

This bill, takes from the mouths of babes, from the health care of seniors, from the education of students, and gives straight to the pockets of the rich.

I urge my colleagues to defeat the previous question.

□ 1000

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. PRYCE], a new member of the Committee on Rules this year who brought wisdom and common sense to our Committee on Rules and our Congress, a former judge from Columbus, OH.

Ms. PRYCE. Mr. Speaker, I am pleased to rise in support of this rule. Once again, this House faces an historic opportunity to choose between the policies of the status quo or to chart a bold new path for the future.

The Democrats argue that we are going too far too fast. Yet many on our side of the aisle believe we have not gone nearly far enough. The truth is the Republican Congress has worked long and hard to bring us to this moment in time when we are about to pass legislation to end years of rapidly expanding Government and to start this pendulum swinging the other way. Very simply, the bill before us will shift the focus of Government from quantity to quality and from spending to service.

Mr. Speaker, our national debt is nearly $5 trillion. It is very hard for mere mortals to comprehend $5 trillion. So here is an example paraphrased from the Wall Street Journal that can help us understand. Let us say Congress will try to pay the $5 trillion national debt by putting $1 every second into a special account. If 1 million seconds adds up to 12 days, then 1 billion seconds is roughly 32 years. And 1 trillion seconds is nearly 32,000 years.

In order to pay off the debt, Congress would have to deposit $1 into the account every second for the next 160,000 years. That is more time than the amount of time that has passed since the ice age.

As our author of this legislation, the gentleman from Ohio [Mr. KASICH] told the Committee on Rules yesterday, if you had a business which lost a million dollars a day since the time that Christ walked on this Earth, your business still would be far better off than this country is now.

Mr. Speaker, we have to get this under control. Lately many of my friends on the other side of the aisle have accused Republicans of being heartless, saying our budget is an attack on children. Yet a child born today will have to pay $187,000 in his or her lifetime just to pay the interest on this national debt.

So I ask, Mr. Speaker, what is so compassionate about spending money we simply do not have and then saddling our children and grandchildren with this enormous debt? Is it compassionate to condemn our children to a lower standard of living than we enjoy? The answer is clearly no. Further, it simply is arrogant to believe that Washington has a monopoly on compassion, that only Federal solutions can address problems on the State and local level.

Our plan, Mr. Speaker, suggests that there is more compassion at the level of local government with our Governors, with our mayors, with our city councils than there is in nameless, faceless Federal bureaucrats.

In closing, let me say that House Resolution 245 is a responsible rule. I urge my colleagues to adopt it and the underlying legislation so that we can begin to swing the pendulum back to an era of growth, productivity and financial security for our children and for future generations.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, when the budget resolution upon which today's bill is being based was considered by this body, I stood in this very spot to challenge it based on House rule XXI, which requires a three-fifths vote of the House in order to increase taxes, a measure that was supported by the gentleman from Texas [Mr. ARMEY] and the gentleman from Georgia [Mr. GINGRICH], and a rule that I wholeheartedly supported as a freshman on my first day here.

Speaker GINGRICH ruled me out of order by saying that the budget was a resolution, not a bill. He advised me to study the rules. Well, Mr. Speaker, I have studied the rules. I find that the issue before us today is a bill, and it should have this rule applied to it. But now I am told that after midnight, last night, today's debate was arranged in such a way that, although Speaker GINGRICH said on January 4 that no tax increase would take place without a three-fifths majority, that this bill would be exempt from that rule. If it is a tax increase, it should require a three-fifths majority; and, if the rule is being waived today, it must be a tax increase.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, our Republican budget chairman is correct. The pendulum of power has swung. It has swung smack-dab into the faces of American seniors, smack-dab into the faces of students trying to get a full education and into the faces of working Americans who want to claim a share of the American dream.

They give us a new sick tax for the old. They raise new barriers to education for the young and more taxes on working Americans. That is why we call this Republican bill wreckonciliation; it is a wreck for working American families.

Of course, they spell it different. They leave off the W. They call it reconciliation, like after a divorce. But you know, they are still so divorced from reality in America, the reality of what it is to work hard, to try to make ends meet for a family, the reality of what it is to survive on a Social Security check and rely on America, so divorced from a reality that their spokesman, our Republican colleague from North Carolina, thinks $183,000 is lower middle class.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I sit here in amazement when I listen to this. We are supposed to be responsible people. When you look at what we are doing with this budget, my colleagues, we are not cutting WIC. We are not cutting Head Start. We are not cutting Green Thumb. We are not cutting the RSV programs which are such good programs. We are not cutting school lunch programs.

Let me tell Members what we are doing. We are reconstructing this Federal Government. Do Members know how we are doing it? We are doing it the same way that business and industry are forced to do it in order to survive, to make a profit.

I want Members to listen to some of these words because if they read these bills here, this is what this contains. This does not contain cuts for the truly needy. My colleagues will not hear me mention one word about it.

This is what we are doing. We are merging. Ever hear that word before? We are consolidating. We are eliminating. We are privatizing. We are defunding, and we are outright abolishing dozens of antiquated, duplicative, and unnecessary bureaus, agencies, administrations, offices, commissions, and for the first time whole departments.

Do my colleagues know who is squealing like stuck pigs? It is the bureaucrats inside Washington, the taxers, the spenders, the regulators. These are the people that are being cut, and we are going to balance this budget no matter what because what is compassionate about piling this kind of irresponsible debt on our children and our grandchildren?

Mr. Speaker, you have grandchildren. I have four of them now. We are going to have some fiscal sanity in this body starting here today. This bill is going to pass with overwhelming support in this body, and we will bring about fiscal sanity.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, after all the distinguished chairman of the Committee on Rules has said about merging and acquisition and all that, they are cutting. They are not only cutting; they are gutting.

Balancing the budget is about balancing sacrifice. There is no balance of sacrifice here. People get to keep their own money, I hear. Let me tell you who is keeping their own money. Earn over $100,000 a year, you are about 1 percent of the population, you get to keep $2,400. Earn $350,000, you get to keep $14,000.

If you are in West Virginia and you are one of the 85 percent of our State that earns less than $50,000, you will pay $530 more out of pocket either in increased taxes or lost program benefits such as student loans and Medicare. Why is it that Medicare has to be cut $270 billion, when the Medicare trustees themselves, the stewards of the fund, say only $90 billion is sufficient? The reason is for a tax cut, a tax cut that goes to the wealthiest individuals in this country.

We are talking about balancing budgets. But we are not talking here about balancing sacrifice. West Virginians say we all know we have to come to the table. We all know we have to give something. But when 85 percent of the people are having to give directly out of their pockets, directly out of their middle class and middle income abilities to make sure that those over $100,000 are able to keep far more of their money, that is not balanced sacrifice.

Mr. Speaker, we must, oppose this resolution and this bill. This is about tax breaks for the wealthiest individuals, not about balancing budgets.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, I would like to just take a moment to point out that the previous speaker who opposes tax relief in this bill opposes tax relief for 155,000 working families in his home State of West Virginia, including 13,392 families who would have their entire Federal income tax burden eliminated by the budget bill that he opposes today.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, the majority leader does not point out that he raises taxes on 70,000 working lower income West Virginians, those under $24,000 a year. He does not point out that the tax bill he supported 2 years ago would have greatly given the wealthiest a tax break while the lowest income West Virginians would have received a tax increase. He does not point out that he is taking money out of 300,000 senior West Virginians, 400,000 of those on Medicaid, 700,000 total.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. WISE. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, nor does he point out that every Texas grandmother and young child is worth half as much as one in New York under his bill.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker. I rise to reluctantly oppose the rule. I am reluctant because at least we will have an opportunity to present the coalition budget. But I oppose the rule because we only get 30 minutes to explain it, which simply is not enough. So let me take 45 minutes to point out one change in our budget.

We assume a change in the Consumer Price Index. The Consumer Price Index is an assumption, an economic assumption. Virtually all of the economists, including Alan Greenspan, have indicated that the CPI formula overstates inflation by up to a percentage point. Ours is not the only budget to make this assumption or make this change. In the Republican budget originally there was a six-tenths of a percentage change. There is now a two-tenths of a percentage change.

Let me simply say, I hope that we can really debate issues and we will not be attacked as raising taxes or cutting Social Security as a result of this. We have got virtually all of the Republicans on record who spoke in the debate of the original resolution saying that this is not any such tax increase. It is simply an economic formula change. I hope we will not get into that.

The Speaker has indicated that he in fact would support such a change if the President would, but somebody has got to step forward and propose it. We are doing that.

Mr. BEILENSON. Mr. Speaker. I yield 1 minute to our friend, the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, in the words of the great movie "Cool Hand Luke," what we have here is a failure to communicate.

We have Republicans accusing Democrats of being stuck in the old FDR policies, but the truth of the matter is, it is the Republicans that are stuck in the FDR era. Anybody that has benefited in any way from Government spending is the target of their cuts.

They go about providing a phenomenal tax cut to the richest people in this country, providing literally $20,000 a year to people with incomes above $350,000 and, at the same time, go about raising taxes on some of the poorest people and the working families of this country. They cut off student loans. They go after the nursing home standards. They go after a $450 billion cut on Medicare and Medicaid and senior citizens of this country.

Why not ask everybody to participate? Why increase the defense spending this year? Why provide a tax cut to the wealthiest people in the country? Why not ask corporate America to participate instead of lavishing on corporate American additional tax bennies? Why not ask us to stand up to Gallo wine, to stand up to McDonald's hamburgers, to stand up to the mining industry, the lumber industry, and all of the industries that have so many benefits that are sprinkled throughout this bill?

Let us come up with a balanced budget but let us do it with equity and equanimity in terms of this country's policies.

Mr. SOLOMON. Mr. Speaker. I yield 30 seconds to the distinguished gentleman from California [Mr. DREIER] a member of the Committee on Rules from Claremont, CA.

□ 1015

Mr. DREIER. Mr. Speaker. I appreciate the 30 seconds from the distinguished gentleman from New York [Mr. SOLOMON], my chairman, and I do so to simply point out that my very good friend, the gentleman from Massachusetts [Mr. KENNEDY], who appears to have left the floor here, opposes tax relief to 656,736 working families in his State of Massachusetts including 77,225 families who would have their entire Federal tax burden eliminated under the budget bill that he is opposing today, and I think it is a sad commentary.

Mr. BEILENSON. Mr. Speaker. I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I am here this morning to tell the truth, and I appreciate the gentleman from California, my Republican colleague's unwavering support of $270 billion in Medicare cuts, but I am not sure if he realizes that 1,200 families in his district will be cut off the earned income tax credit and will be paying more taxes or not getting the benefit of the earned income tax credit by this budget reconciliation proposal.

Since, I have come this morning to the part of the truth squad, I know my Republican colleagues realize what the Budget Reconciliation Act means to Americans. It means they are going to be locked up and hauled off to jail as this picture reflects of a senior citizen in handcuffs taken away from the one Republican held hearing on Medicare. That is what happened in the U.S. Congress when someone came, an elderly citizen, to protest the Medicare cuts. The truth should be told on how severe these cuts will be on seniors, working families, children, and our youth.

We do not have a budget deficit problem which has been misrepresented by the Republican majority. What we have is a U.S. budget deficit that has fallen for the last 3 years. From a high of almost $300 billion to much lower and it is going down every year. We have the best economy in the Western World. Other nations, like Japan and Germany, are wondering how we do it. We have the lowest unemployment, but, as my colleagues know, what we need in America is for working men and women, to have higher incomes, we need to make sure Medicare is in place and we certainly do not need $270 billion in tax cuts, eliminating student loans and health care for our children. We need student loans for our children. We need health care through Medicare and Medicaid. This budget can be balanced with cuts that do not hurt working men and women.

This is what is happening to the American people. Stop the untruths, this debate today should be on how this budget should be for America not against America.

My Speaker, I add quotes from the following article for the RECORD:

U.S. BUDGET DEFICIT FALLS FOR 3D YEAR

(By John M. Berry)

The deficit hit a record $290 billion in fiscal 1992 before dropping to $255 billion in 1993 and $203 billion in 1994. Strong economic growth as well as the spending cuts and tax increases in Clinton's 1993 legislation have been responsible for bringing the deficit to its lowest level since 1989.

Mr. SOLOMON. Mr. Speaker, I yield 15 seconds to the gentleman from Claremont, CA [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON], the distinguished chairman, once again for being extraordinarily generous with his time, and I would like to simply point out that the gentlewoman from Texas [Ms. JACKSON-LEE], my friend, in opposing this bill is opposing tax relief to 2,016,767 Texans including 285,572 hard-working Texans who will be taken completely off the Federal income tax roll, and it is a very sad commentary on the representation made.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for his dutiful comment on my representation. Let say to him that I am proud of my representation because I know that the people in

Texas will lose $24 million in Medicare over 7 years by this cut. Texas will see over 200,000 children lose Medicaid coverage. Many of our Texas students who get student loans will also not get those student loans. Local health services for those using the Harris County Hospital District and those in need of mental health services being lost! And let me tell my Republican colleagues it is more important for me to stand for my constituents. They will be hurt by this budget reconciliation bill. This is an absolute travesty.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I just wanted to point out that in the gentleman from California's district 22,750 taxpayers will see their taxes increased under this proposal.

Basically what we are seeing here are huge cuts in Medicare/Medicaid and other programs for middle-income Americans and low-income Americans in order to pay for tax breaks for the wealthy. I wanted to just talk briefly about those low-income seniors, mostly windows, which were discussed last week on the Medicare bill, and how they are going to be negatively impacted by this Medicaid bill and the refusal of the Committee on Rules to include a provision, an amendment, today that would have protected them.

Right now those seniors who are eligible for Medicaid have Medicaid pay for their part B premium under Medicare which means that that $46 per month, which will go up to and double under the Republican proposal to almost $90 per month that these low-income seniors have to pay in order to get their part B Medicare premium, that pays for their doctor's bill. Right now that is paid for by Medicaid, but this bill would eliminate that guarantee for those people, for those millions of widows and other low-income seniors, who right now have their doctor bills and their doctor benefits paid for by Medicaid.

Mr. Speaker, I went before the Committee on Rules yesterday, and I asked that that amendment be considered that would provide that guarantee, and we were denied that even though last week on the floor of this House at the conclusion of the Medicare debate the Speaker, Speaker GINGRICH, said that this legislation was going to provide that guarantee for those widows and for those low-income seniors. Mr. Speaker, I want all my colleagues to know that there is no guarantee in this bill for those individuals, particularly those widows. The Speaker said that he was going to provide the guarantee. There is no guarantee. When we went before the Committee On Rules and asked that that be placed in order today, we were told, no, it would not be considered.

I think it is really terrible that in a context where it is suggested and it is being implemented that all these major tax cuts for wealthy Americans and those low-income seniors will not have their physician's bills paid under this legislation.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, today's historic vote will have a profound impact on the people we were sent here to represent. As the debate draws to a close, Members must stand and be counted on a fundamental question, will we provide lavish tax breaks for wealthy people and for multinational corporations or will we protect Medicare for America's seniors. The Gingrich plan that the House will vote on today is a shameful payoff for the rich and well-connected special interests paid for by a $270 billion raid on Medicare, and the American people know it.

Thirty years ago another Congress took another historic vote to create a health care system for our Nation's seniors. Not a single Republican voted for that creation of Medicare, including the majority leader of the other body, and yesterday he bragged of that vote saying that we knew it would not work.

On this side of the street Speaker GINGRICH joined the trashing of Medicare, and on Tuesday he revealed the real GOP plan to destroy Medicare. Speaker GINGRICH said that we did not get rid of it in the first round because we do not think that that is politically smart, and he further said that we believe that it will, Medicare will, wither on the vine.

Mr. Speaker, those comments to that extent are sour grapes for seniors in this country.

Today Republicans are closing in on their 30-year goal to end Medicare, but while Republican leaders say that Medicare does not work, America's seniors know that it does work, and for 30 years it has worked. It has stood for generations as a sacred compact between our Government and our seniors. It represents a core value system that has made this country great. It embodies the principle that citizens who work hard all their lives, raise their children, pay their bills, and play by the rules will not be thrown out onto the street in their sunset years.

This budget has nothing to do with saving Medicare or with paying off our debt. It has everything to do with tax cuts for the rich, and health care for the seniors is an easy target. When the bells sound for Members to record their votes, I hope my colleagues will put the American people before the special interests. The American people deserve no less.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, it pains me to get up here and have to talk about this subject, but it needs to be said.

I served here in the House in 1965 when Mr. DOLE voted against Medicare. I saw him do it, I heard him do it, and it pains me to hear that Speaker GINGRICH now says, yes, we have a plan to get rid of Medicare, but we cannot do it right now because, if we do, the seniors will get mad at us.

Mr. Speaker, let me tell the seniors this. This bill contains the Medicare cuts. The bill contains the end of Medicare. Let me tell the seniors where it is in this bill. It is in the fail-safe device that the Republicans put in this Medicare bill. It is tucked in their where we cannot see. We do not know it is going to hit us, but it requires the Secretary of HEW to make the cuts in Medicare, particularly in the fee-for-service part of Medicare, if all of their wonderful, dreamy goals are not met to cut $270 billion out of Medicare.

Mr. Speaker, it is all in this bill today, and Members of Congress should realize that when they vote for this today, particularly Republican Members of Congress ought to realize, that when they vote on this today, and listen to me, Mr. SOLOMON, listen to me, listen to me:

When you vote for this today, you're voting to end Medicare. You're voting to end Medicare. Don't be hoodwinked. It is in your proposal. It is in there in the fail-safe device that will put an end to Medicare, and the Gingrich-Dole plan to end Medicare is in this vote today.

This is a serious, serious matter. This is not just about balancing the budget. This is putting an end, this proposal that DOLE and GINGRICH have cooked up, to get rid of Medicare.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Loveland, CO [Mr. ALLARD], a very distinguished Member of this body.

Mr. ALLARD. Mr. Speaker, today, the 104th Congress will make history. We will enact a 7-year program that will balance the Federal budget for the first time in 33 years. For far too long, the Federal Government has lived too well. It has done so at the expense of hard-working Americans.

Deficits became a way of life for the Federal Government in the 1960's, 1970's, and 1980's. Unfortunately, they have continued into the 1990's. This plan marks a fundamental departure from the past by finally putting Uncle Sam on a diet.

This new Congress has kept its commitment to our children and grandchildren. We said we would balance the budget, and we will do it.

Last spring, defenders of the status quo defeated a balanced budget constitutional amendment. This was a setback, and many observers felt that Republicans would then simply abandon the hard work of actually balancing the budget. The skeptics were wrong. They misjudged our resolve.

Those of us elected to Congress in recent years have been particularly committed to changing the way the Federal Government does business. For years, as a veterinarian, small business owner, and State legislator, I watched one Congress after another squander our children's economic future. I grew sick of it.

Even when the American people elected Ronald Reagan as President in two successive landslides, the Congress ignored his desire to slow the growth of Federal spending. President Reagan was fond of saying that "we could say they [Congress] spend money like drunken sailors, but that would be unfair to drunken sailors." At least "the sailors are spending their own money."

When I ran for Congress in 1990, I made one principle commitment to the people of Colorado, I would do everything I could to balance the Federal budget. That is why I am so proud to stand here today and cast what will surely be one of the most important votes I will ever cast.

Judging by the rhetoric of those who oppose this plan one might get the impression that it contains devastating cuts. This charge indicates how far removed from reality the defenders of deficits have drifted. This budget does not cut spending at all, it simply slows the rate of increase.

Let me review some very important numbers. Over the last 7 years Federal spending totaled $9.5 trillion. Over the 7 years of this balanced budget plan, 1996–2002, the Federal Government will spend a total of over $12 trillion. Where I come from that is an increase, and it is a very substantial one.

Similarly, for those who seem to think the family and business tax cuts are excessive, I point out that over the last 7 years total Federal tax receipts were just under $8 trillion, while over the next 7 years Federal tax receipts will total $11.2 trillion. That also is an increase. In fact, our tax cut reduces projected tax receipts over the next 7 years by only 2 percent. That's right, 2 percent less revenue. And we give the money back to the hard-working families who earned it in the first place.

The modest tax cut makes particular sense in light of President Clinton's revelation that even he believes the 1993 tax hike was excessive.

It is important to keep in mind why we must balance the budget. This endeavor is about much more than numbers. It is about the future standard of living for our children.

Much focus has been placed on the supposed pain of the budget restraint in our plan. This ignores the vast benefits of balancing the budget.

Federal Reserve Chairman Alan Greenspan has stated repeatedly that balancing the budget will have a dramatic positive impact on the confidence of American families. He has also made clear his belief that interest rates would drop significantly. This view is confirmed by a recent DRI/McGraw-Hill analysis for the National Association of Realtors. According to their data, the average 30-year mortgage will drop 2.7 percentage points. On a 30-year $50,000 mortgage at 8¼-percent interest, families would save over $1,000 a year in interest payments. Now that is a real difference in people's lives.

Similarly, college loans would be much more manageable. A college student who borrows $11,000 at 8-percent interest will pay more than $2,000 less in total interest payments if rates drop just 2 percent.

Another example comes with the farm sector. While this budget reduces farm payments by $13 billion over 7 years, the Agriculture Committee estimates that a 1.5-percent reduction in interest rates will save farmers over $15 billion in payments on the outstanding farm debt over the next 7 years. And under our Freedom to Farm plan those farmers will have much more freedom to plant the crops they wish. They will also run their farms with fewer Agriculture Department bureaucrats lending a helping hand.

These are just a few examples of how lower interest rates will help families and our economy. Younger generations will benefit from lower rates for decades to come.

But it is not just the young who benefit from this budget, it is also seniors. This is a senior friendly budget. We do not touch Social Security, and we still increase Medicare spending by 6.5 percent a year. In the process we give seniors much greater freedom and control over the expenditure of their health care dollars.

I have been particularly gratified by the large number of letters I have received from seniors who say "just do it!" They realize that some sacrifice will be required of them, but they want the budget balanced, an they know that we strengthen Social Security and Medicare by getting our fiscal house in order.

Last year, we made a contract with America. This balanced budget represents the very essence of that contract—a Federal Government that will be smaller, less intrusive, and more efficient. We have kept our contract, and in so doing we have done more to restore faith in our form of government than has been done in many years.

□ 1030

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, although I support a balanced budget, this Republican bill is too extreme. It takes our country in the wrong direction.

I want to make it clear to the American people exactly what is wrong with this bill.

The Republican bill cuts student loans and forces students and their parents to bear the burden of paying even more for a college education.

It makes excessive cuts to Medicare by increasing the average senior's out-of-pocket cost by nearly $400 per year in order to give a tax break for the wealthy.

It makes deep cuts in long term care that will raise the cost for nursing homes and will force seniors out of nursing homes, or bankrupt their families who are trying to care for their parents and grandparents.

It eliminates the guarantee of Medicaid by threatening the health care of over 36 million low-income children, elderly, and disabled Americans—our most vulnerable Americans.

It curbs the quality of nursing homes for elderly Americans by repealing the minimum Federal requirements.

And it cuts the earned income tax credit which provides a modest tax break for the lowest-income families. These EITC cuts are a tax increase on the lowest-income working families in our country.

I am pleased that there will be a strong democratic alternative that has been praised by the Washington Post as a respectable, disciplined alternative that is easily the best horse in the race. It will balance the budget by 2002 without the extreme cuts in Medicare, it gets rid of any tax cut until the budget is balaned, it preserves the tax credit for the working poor, and it does not cut education.

Mr. Speaker, it is time to get our House in order, yet it should be done the smart way. The Republican bill only burdens hard-working, middle class Americans for the benefit of the wealthy and it must be defeated.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, when the Republican Contract With America tax act came to the floor a few months ago, I raised the point that that was in violation of the law that was passed at the very beginning of this session, that any tax increase required a three-fifths vote of this Congress. At the time, the Parliamentarian accepted what was certainly a specious judgment on the part of the Joint Tax Committee, that it did not in fact increase taxes. Subsequently, the Parliamentarian has conceded that it did, and in fact should have been required to have a three-fifths vote of this Congress in order to pass the House.

What has occurred subsequently, Mr. Speaker, is a recognition that much of our tax legislation does in fact violate that law that we chose to apply to ourselves, at least the Republican side of the aisle chose to apply it, but I think the vast majority of us agree, and what is most troubling is that in the biggest bills, for example, in the Medicare bill that we just took up, a $270 billion bill, the rule waived this three-fifths requirement.

There are some taxpayers who will in fact pay a 50 percent tax increase on the part B Medicare insurance premium. They are not aware of that. Most Members in the Congress are not. Certainly, it is in gross violation of the three-fifths requirement. That is why it was waived.

Again today, this rule waives that three-fifths requirement. I understand the argument that was raised, although I certainly cannot agree with it. Essentially what we are saying is it is inconvenient to apply it. There are several ways in which we violate the law that we earlier enacted. We passed a law that said that we ought to abide by the laws we apply to the private sector. Certainly, we ought to comply with the laws that we pass for ourselves. We ought not waive it when in fact it is inconvenient. That is what we are doing today.

I could cite several instances where there is, in fact, an income tax increase in this bill that in fact does require that there ought to be a three-fifths rule in order to pass it. I grant you, we will lose the vote on this rule, but the American public needs to know that a rule that they thought was going to protect them is being waived as part of this rule.

The biggest one is an income tax increase that will apply to low-income citizens. I have a long list of every one of the leadership of the Republican side of the aisle here saying that this three-fifths vote was going to protect all Americans. It did not say "all Americans of higher income," it did not say "all Americans except those of low-income." It said all Americans, but today low-income Americans will pay much more in taxes that they cannot afford if we were to pass this bill.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the Democratic whip.

Mr. BONIOR. Mr. Speaker, we've heard talk about this budget. But there's one thing that supporters of this budget have never understood.

They've never understood the soul of this Nation.

They've never understood the poetry that is America.

The dignity of a senior who doesn't have to beg to see a doctor.

The grace of a woman with a disability able to live on her own.

The pride of a student who's earned the grades to go to college.

The self-respect of a mother working her way out of poverty.

People who just need a chance. Who just need someone to believe in them.

This budget doesn't reward the best in us. It appeals to the worst in us.

It doesn't reward our best instincts. It tramples our most basic values.

We're told that this is a courageous budget. But there's nothing courageous about cutting Medicare, Medicaid, and student loans just to pay for tax breaks for the wealthy.

We're told that Medicare is being saved. But Tuesday, the Senate majority leader bragged he was proud of his 1965 vote against Medicare saying "we knew it wouldn't work."

And yesterday Speaker GINGRICH himself told an insurance group, quote, "We don't get rid of (Medicare) in round one because we don't think that that's smart politically but we believe it's going to whither on the vine."

This budget doesn't save Medicare, it destroys it. And now we have it straight from the horse's mouth.

This budget is nothing but the biggest transfer of wealth from seniors and working families to the wealthy in the history of America.

I say to my Republican friends: don't come to this floor today and tell us that this isn't a tax break for the wealthy. Because 106 members of your own conference once signed a letter that said it was a tax break for the wealthy.

And don't tell us that families will pay less under this budget. Because the bipartisan Committee on Taxation says that 7 out of 10 families will pay the same or more.

It wasn't a Democrat who said, and I quote, "this is a tax increase on low income workers and the poor which is unconscionable at this time." That was Jack Kemp—a Republican.

If this isn't a tax increase then why did you have to wave the rule that says all tax increases require a vote of three-fifths of this House?

Mr. Speaker, the American people deserve better. We may not have the votes to beat this rule. We may not have the votes to beat this budget. But we do have the votes to sustain a veto.

I urge my colleagues: Stop this tax increase on families. Stop this destruction of Medicare. Stop this war on our kids. And say no to this shameful budget.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. DREIER], a member of the Committee on Rules and one of the most fiscally conservative Members of this body.

Mr. DREIER. Mr. Speaker, 3 years ago next month I had the opportunity, having worked hard in his campaign, to vote for the reelection of George Bush. Like most Republicans, I was saddened that he was not reelected, but it really began a new day for me. I was elected in 1980 and had served for 12 years with Republican Presidents. I was ready to take on this new experience of serving with a Member of the opposing political party down at 1600 Pennsylvania Avenue.

A few weeks after the election I wrote on Op-Ed piece in the Los Angeles Times. The L.A. Times has been held up here this morning. In that piece I talked about the fact that if Bill Clinton remained a new kind of Democrat, as he said he was throughout his campaign, I would do everything that I possibly could to support him.

In fact, throughout his campaign, remember, he talked about a balanced budget. That is exactly what we are pursuing with this legislation. He talked about health care reform. We are going at it a slightly different way than he probably had envisaged in his campaign in dealing with Medicare, but he nonetheless did talk about health care reform. He talked about welfare reform, individual initiative, and responsibility. That is exactly what we are working on in this legislation.

He also talked about the need for us to move ahead with reducing the tax burden on middle-income working Americans. We know that 75 percent of the tax reduction in this package goes to people earning less than $60,000 a year. He also talked about reducing the capital gains tax rate. Why? Because he knew that encouraging savings and investment and productivity would be key to economic growth.

It seems to me that, as we look at these items, along with his desire to reduce the regulatory burden that he outlined in his campaign, we, with this reconciliation package, are in fact helping him keep his campaign promises of 1992.

Mr. Speaker, I believe that while the gentleman from New York [Mr. SOLOMON] and the gentleman from Florida [Mr. GOSS] and I were yesterday in the Committee on Rules saying "Gosh, if you look at the fact that over the next 7 years we are going to see a 24-percent increase, a 24-percent increase in the level of Federal spending," that gives some of us a little concern. What it does is it shows that we are willing to recognize that there is a Democrat in the White House, there are Democrats in both Houses of Congress, and we are trying to do this in a bipartisan way.

Tragically, rather than recognizing that it is a 24-percent increase, all they do is describe it as draconian cuts. We are working to protect, preserve, and strengthen the Medicare system, contrary to anything that has been said on the other side of the aisle. Actually, this package does just that.

One of the great concerns in my State of California happens to be the issue of illegal immigration. While we are working toward a balanced budget we are actually including three times as much as the President does in his budget to deal with the issue of illegal immigration.

Reimbursement for Medicaid. We also, in this package, are looking at reimbursement to the States for the incarceration of illegals. This rule will deal with that issue, the Bliley amendment.

It seems to me that we have a great responsibility as Members of Congress to try to come together in a bipartisan way. I am very happy to say that our party does have the majority that we need to pass this very important measure, so we can get on that glidepath toward a balanced budget, so we can in fact reduce the tax burden on working Americans, and so we can, as a byproduct of that, decrease interest rates and put into place the kind of government that the American people desperately want.

Mr. Speaker, I urge an "aye" vote on this rule, and an "aye" vote for the reconciliation package.

Mr. BEILENSON. Mr. Speaker, I yield myself the remainder of our time.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 30 seconds.

Mr. BEILENSON. Mr. Speaker, I would say first of all to my friend, the gentleman from California, that 22,750 working families in his own district will have their taxes raised by this bill that they are so strongly supporting.

Mr. Speaker, I urge defeat of the previous question. If the previous question is defeated we shall offer an amendment which would do two things: Strike the increase on taxes on 8 million American working families that the bill causes by cutting the earned income tax credit; and it would, second, strike the provision in the rule waiving the requirement for a three-fifths vote on any measure carrying a Federal income tax increase.

Mr. Speaker, I include our amendment for the RECORD, and I urge a "no" vote on the previous question.

The amendment referred to is as follows:

On page 3, lines 1 and 2, strike "modified by the amendments printed in the report" and insert "modified by the amendments printed in section 3 of this resolution and in the report".

On page 4, lines 7 through 9, strike "Clause 5(c) of rule XXI shall not apply to the bill, amendments thereto, or conference reports thereon."

At the end of the resolution, add the following new section:

"SEC. 3. Strike sections 13701 and 13702 (relating to earned income tax credit) and redesignate succeeding sections accordingly."

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of our time.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 3¾ minutes.

Mr. SOLOMON. Mr. Speaker, I just have sat here for an hour in total amazement, because I have heard speaker after speaker after speaker after speaker stand up and say "We need to spend more money here, we need to spend more money there." Mr. Speaker, we have been spending more money here and more money there for years and years. We have just about ruined this country.

It means so much to young people today to be able to have a job and to be able to take home enough pay to save a little bit of money each week in order to accumulate a downpayment on a home, and then to have enough money in their take home pay to meet a mortgage, and then to have children. That is what I did with my family many years ago. We had five children almost right in a row, and then we had to educate them all and put them in college at one time, but we were able to accumulate a little bit of money in order to buy that home and to educate those children. Today, they cannot do that, because the Government takes so much money out of their pocket. I hear that we are cutting this budget.

When some of our colleagues were going to the Speaker, the gentleman from Georgia [Mr. GINGRICH] and complaining that we were cutting too much, or they wanted to spend more here, I went to him and said "Mr. Speaker, I don't think we are cutting enough. We are going to spend $3 trillion more over the next 7 years than we spent in the last 7 years. That is an increase in spending almost across the board. It is not enough."

□ 1045

Mr. Speaker, I say to my colleagues, it is a giant step in the right direction.

We have a $5 trillion debt today, and that costs the taxpayers $250 billion in interest just to pay the Netherlands and Great Britain and the foreign countries that hold our debt, $250 billion that we cannot use to spend on truly needed programs. When President Clinton gave us a budget this year, it called for $1 additional trillion added to the national debt. Mr. Speaker, I ask my colleagues what that would have done to that interest payment. It would have increased it by another $100 billion.

God forbid in inflation had set back in like it did in the late 1970's under President Jimmy Carter at 10 and 11 and 12 percent. That interest payment annually would have grown to $600 billion. Every time you spend more money on interest, you have less money to help the truly needy.

The fiscally responsible thing to do is to support this rule and support this bill. We have to do it for the future of this country, and I urge support for the rule and the bill.

Mrs. COLLINS of Illinois. Mr. Speaker, I oppose this rule for a number of reasons.

This rule would send to the floor provisions which increase payroll taxes on Federal employees and increase agency pension costs which have never been reported by any committee. It does so for one simple reason: to finance tax cuts for the wealthy.

You can forget all of our chairman's talk about shoring up the fiscal stability of the Federal retirement system. Both the General Accounting Office and the Congressional Research Service have confirmed that the system is sound and that it will always have sufficient assets to cover benefit payments to future and current retirees. There is no retirement crisis. These increases are unnecessary.

With respect to the Department of Commerce, the Republican leadership has chosen to ignore the work of at least five committees that marked-up this legislation. By doing so, the leadership also trashed the rules and procedures which are in place to ensure that this body functions as a democratic institution.

I find it disingenuous that the Republican leadership abolishes the Minority Business Development Agency. They are still funding the Market Promotion Program to promote hamburgers overseas, but they abolish the only agency willing to help minority-owned business get access to markets.

Third, Mr. Speaker, I strongly oppose any effort to include the Debt Collection Improvement Act as part of reconciliation. This is a violation of committee procedure, and a violation of good faith.

Take my word for it: Members on both sides will regret passing this bill that takes money from the checks of poor Social Security recipients, and requires our elderly constituents to use automatic funds transfers at a bank to collect their Social Security.

Mr. NEAL. Mr. Speaker, I oppose this rule. This budget includes many provisions that harm hardworking Americans. Several of these provisions do not belong in reconciliation. They deserve a separate vote. The House should have a conversation on these provisions.

An example of these provisions is the earned income tax credit [EITC]. The EITC will be drastically cut. The incentive to get off welfare and to work will be gutted. Jack Kemp testified on October 19 before the Senate Small Business Committee and stated

> "I hope you guys do not go too far on removing the EITC because that is a tax increase on low income workers and the poor which is unconscionable at this time."

Another example is the corporate pension reversion provision. I went to the Rules Committee with several of my colleagues and requested that we have a separate debate on this provision. We were denied. Corporations should not be allowed to raid pension funds.

There are many provisions in this budget that are unconscionable. Let's go back to the drawing board and come up with a budget that we can be proud to present to the people we represent.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time, and I move the previous question.

PARLIAMENTARY INQUIRIES

Mr. MORAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman will state it.

Mr. MORAN. Mr. Speaker, am I correct that the rule that we are about to vote on waives the requirement of a 60-percent majority for a bill carrying an income tax rate increase?

The SPEAKER pro tempore. That is correct.

Mr. MORAN. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MORAN. On April 5, more than 6 months ago, I came to this well and raised a point of order on a provision of the Contract With America Tax Relief Act. It was H.R. 1215 that repealed section 1(h) of the Internal Revenue Code affecting the maximum rate for long-term capital gains.

While the intent of this provision was to lower the capital gains rate, it actually increased the tax rate on the sale of certain small business stocks from 14 percent under current law to 19.8 percent. At that time, the Speaker ruled that this tax increase was not subject to the three-fifth rule.

In a June 12 letter, however, from House Parliamentarian Charles Johnson, it appears that the ruling was made in error, and the original point of order should have been sustained.

Mr. Speaker, am I correct in my summation?

The SPEAKER pro tempore. Traditionally, the Chair does not rule on hypothetical questions or rule in advance on questions not yet presented. The Chair so responded to a parliamentary inquiry on October 19 during the consideration of a special order waiving the precise rule proposed to be waived by the pending special order. In other words, the Chair will not presume to respond to a question that is not presented as a matter in which the Chair might be required to hear argument and render a decision.

Mr. MORAN. Mr. Speaker, a further parliamentary inquiry then.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MORAN. Is it possible to waive this rule by a simple majority which was advertised by its sponsors as requiring a 60-percent majority for income tax rate increases, or does this rule need a 60-percent majority for its adoption?

The SPEAKER pro tempore. Adoption of this rule only requires a majority vote.

Mr. MORAN. Despite the fact that it is waiving a rule that required a 60-percent majority?

The SPEAKER pro tempore. That is correct.

Mr. MORAN. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MORAN. Is it true that the bill before us today contains other tax increases that would make this bill subject to a three-fifths vote?

These additional taxes include a 50-percent tax penalty on Medicare-plus medical savings accounts withdrawals for any purpose other than medical care.

Mr. SOLOMON. Mr. Speaker, regular order. The gentleman is making a speech.

Mr. MORAN. Mr. Speaker, I am explaining the parliamentary inquiry.

The SPEAKER pro tempore. The Chair cannot rule on a bill that is not yet before the House.

Mr. MORAN. Mr. Speaker, the parliamentary inquiry applies to the rule that is before us and is about to be voted on.

The SPEAKER pro tempore. The Chair has already ruled on that.

Mr. MORAN. Mr. Speaker, I am itemizing six tax rate increases that should have required a three-fifths vote, and I want to clarify that it would trigger a three-fifths vote.

The SPEAKER pro tempore. The Chair would point out that what the gentleman is referring to may be in a bill that is not yet before the body, and the Chair cannot rule on that until it is before the body, and the Chair has already ruled on the matter before us.

Mr. MORAN. Mr. Speaker, if I may further clarify my intent, this is establishing a precedent.

Mr. SOLOMON. Mr. Speaker, regular order. This is not a parliamentary inquiry. Let us get on with it. Come on.

The SPEAKER pro tempore. The adoption of this rule will waive the rule that the gentleman is currently citing. The gentleman's questions are hypothetical at this point.

Mr. MORAN. Mr. Speaker, I would ask unanimous consent that the very real six tax increases that are contained in this bill be put into the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER pro tempore. The objection is heard.

Mr. DOGGETT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DOGGETT. Mr. Speaker, is the super majority, the alleged taxpayer protection provision rule that is being suspended here the same rule that was suspended last week in the Medicare debate?

The SPEAKER pro tempore. The Chair has just cited that it is clause 5(c) of rule XXI that is being waived.

Mr. DOGGETT. So it was waived last week and waived this week.

Mr. Speaker, is this supermajority protection for taxpayers as alleged in permanent suspension, or will it ever be applied?

The SPEAKER pro tempore. That is not a correct parliamentary inquiry.

Mr. MORAN. Mr. Speaker, may I inquire of my friend from New York, Mr. SOLOMON, the chairman of the Committee on Rules, if he understands that I was only attempting to put information into the RECORD.

Mr. SOLOMON. Mr. Speaker, the previous question has been moved. If the gentleman wants to do it during the debate on the bill, that is one thing, but we have moved the previous question and we want to get on with the business. The gentleman knows that.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 228, nays 191, not voting 13, as follows:

[Roll No. 738]

YEAS—228

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh

Wamp
Watts (OK)
Weldon (FL)
Weller

White
Whitfield
Wicker
Wolf

Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—191

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson

Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar

Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—13

Crane
Fattah
Fields (LA)
Greenwood
McIntosh

Mfume
Miller (CA)
Sisisky
Talent
Towns

Tucker
Volkmer
Weldon (PA)

□ 1112

Mr. BARCIA changed his vote from "yea" to "nay."

Messrs. DELAY, HEINEMAN, and GORDON changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 185, not voting 12, as follows:

[Roll No. 739]

AYES—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen

Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery

Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield

Wicker
Wolf

Young (AK)
Young (FL)

Zeliff
Zimmer

NOES—185

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Flanagan
Foglietta
Ford
Frank (MA)
Frost
Furse

Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal

Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—12

Brown (FL)
Crane
Fields (LA)
Greenwood

Mfume
Miller (CA)
Sisisky
Talent

Towns
Tucker
Volkmer
Weldon (PA)

□ 1121

Mr. BAESLER changed his vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. WALDHOLTZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just adopted.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentlewoman from Utah?

There was no objection.

LIST OF TAX INCREASES WHICH SHOULD REQUIRE A THREE-FIFTHS VOTE FOR PASSAGE

Mr. MORAN. Mr. Speaker, I ask unanimous consent to include a list of the six tax increases that require a waiver of the three-fifths vote into the Record at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The list referred to is as follows:

These are a total of six tax increases in this bill. These increases are in direct violation of a law enacted on the first day of this session, which should require a three-fifths vote for passage. These tax increases are the following:

First, a 50 percent tax penalty on Medicare Plus Medical Savings Accounts for any purpose other than medical care;

Second, the Medicare Part B income contingent premium;

Third, repeal of the 5-year income averaging rule on lump sum pension distributions;

Fourth, increase in the phase-out rate for the Earned Income Tax Credit;

Fifth, the new rates applied to expatriates; and

Sixth, the new tax imposed on gambling income of Indian tribes.

Mr. Speaker, would any or all of these tax increases trigger the celebrated rule requiring a three-fifths vote majority for approval? Since your answer is yes, but for the waiver of the rule by the Republican leadership, it is important to note Mr. Speaker, when the history of this Congress is written, the main theme will be about the majority's unrelenting attack on the poor and defenseless in our society, but a chapter, however, should be reserved for its hypocrisy which is clearly evident today.

SENSE OF CONGRESS REGARDING SOCIAL SECURITY EARNINGS TEST REFORM

Mr. HASTERT. Mr. Speaker, pursuant to House Resolution 245, I call up the concurrent resolution (H. Con. Res. 109) expressing the sense of the Congress regarding the need for raising the Social Security earnings limit, and ask for its immediate consideration.

The SPEAKER pro tempore. Is the gentleman the designee of the majority leader?

Mr. HASTERT. Yes, Mr. Speaker.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman for Illinois [Mr. Hastert] will be recognized for 10 minutes, and the gentleman from Indiana [Mr. Jacobs], who I presume is the designee of the minority leader, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Hastert].

Mr. HASTERT. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the purpose of this resolution, which Senator Dole and Senator McCain will be introducing in the other body, is very straightforward. Because of the unique rules of the other body, it is not possible for us to lift the Social Security earnings limit in the reconciliation bill before this House today.

But an overwhelming majority of this House and of the other body favor such a move. In fact, the President of the United States, in his 1992 campaign platform "Putting People First" also expressed his commitment to lifting the Social Security earnings limit.

We all agree that it is simply wrong to penalize low and middle income seniors who must work, with a tax rate equal to that of millionaires. These seniors are some of our most productive and responsible workers. They are working to provide for themselves. They do not want to be a burden to their families or the taxpayers of this Nation. We should be rewarding such behavior, not penalizing it.

Mr. Speaker, my resolution is intended to do two things. First, it restates the commitment of this House to lift the Social Security earnings limit this year. We have already passed a measure in this House to lift the earnings limit on Social Security and we expect our colleagues in the other body to take it up shortly.

Mr. Speaker, I reserve the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. Kennelly].

Mrs. KENNELLY. Mr. Speaker, I rise because I support increasing the Social Security earnings test. I believe that we should be encouraging work for all Americans, especially those who have a lifetime of experience. The current annual Social Security earnings limit of $11,000 penalizes too many who want to work after 65.

I know that many working seniors will be disappointed today that the increase in the Social Security earnings test passed earlier this year by the House is going to be dropped by the reconciliation bill. Instead, we are voting today on a resolution which merely states that Congress intends to address this issue and I thank the gentleman for this resolution, but when we do raise the earnings test, let us make sure we do so without adversely impacting the Social Security trust funds.

We do not want to reduce the solvency of the funds that guarantee every retiree a return on the money they paid into the system. Let us again find a responsible, sensible way to increase the earnings test, so that all Americans can get a fair return for their hard work.

And let us make sure, Mr. Speaker, the earnings test applies to all people on Social Security. We should not encourage some over 65 to work and then discriminate against others, and this year, when we did pass this earnings-test increase, we discriminated against an individual over 65 who was blind. This is not fair. We should raise the limit for all people over 65 so they get a return on their hard work, and I thank the gentleman for this resolution.

Mr. HASTERT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. Archer], the chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding this time to me. This issue is something that has been one of my top priorities since I came to the Congress over two decades ago, raising the unfair earnings limit on seniors who want to work and continue to contribute to themselves and to their country once they have passed the retirement age of 65. It is nothing more than a tax on working, and it sends the wrong message to American seniors.

Last fall we promised seniors that we would pass legislation to raise the earnings limitation, and on April 5 we did, raising it to $30,000 by the year 2000 as part of our tax bill under the Contract With America. Then, as with all legislation, it was the Senate's turn to act on the provision. Unfortunately, the Senate did not. And, as we know all too well, without the cooperation of the Senate, no legislation is possible, no matter how strongly the House may feel about it.

Now the House will act today on its historic budget reconciliation bill. Because an arcane Budget Act rule would put the entire budget reconciliation bill at risk in the Senate if it included any Social Security provisions, at the request of the Senate we did not include the earnings limitation provision in the House budget reconciliation bill.

□ 1130

Nothing is more important to Americans of all ages than achieving a balanced budget, which the budget reconciliation bill today will do, but it is also important to let working seniors know that we remain totally committed to raising the unfair limit on earnings. That is why we introduced a concurrent resolution yesterday. It makes it clear to working seniors that we in the House remain committed to raising the earnings limit, separate from reconciliation, and that our colleagues in the Senate now join us in that commitment.

The House has already passed a bill to raise the earnings limit. It does not need to pass another. Now that Senate leaders have promised that the Senate will act, I am confident that the increase in the earnings limit that means so much to working seniors will become a reality. I have worked hard to see this happen for over two decades, joined in the Senate by Barry Goldwater as the leader sponsor until the year he retired.

The gentleman from Illinois [Mr. Hastert] is to be commended for his efforts that have gone on for several years, as is the gentleman from Kentucky, Jim Bunning, the chairman of the Subcommittee on Social Security of the Committee on Ways and Means.

I appreciate the support of the Speaker and the majority leader in this effort. This change is long overdue, because it means so much to hard-working seniors, and we will do everything that we can, and certainly I, as chairman of the Committee on Ways and Means, to see that it comes to pass.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, the resolution we are considering today expresses the sense of Congress that the Social Security earnings limit should be increased. The timing of this concurrent resolution is very interesting, and very telling of what is really happening here today. Did the Republicans not promise senior citizens across Ameica that this year, this year, they would increase the Social Security earnings limit from the current $11,200 to an eventual $30,000 per year in the year 2000? Was not increasing the Social Security earnings limit part of the original reconciliation package? Why now is it being pulled at this moment?

The answer as to why this provision has been pulled from the bill we are considering today is quite simple: The Republicans have made a promise that they cannot and will not keep. They are finding a difficulty associated with saying on one hand they can quickly and easily balance the budget while saying on the other they can deliver on the many promises that they have made. Today the veneer is peeled off. We are witnessing exactly what is really happening.

Mr. HASTERT. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I would just like to remind the gentleman from Massachusetts [Mr. NEAL], that the President of the United States said that he would lift the earnings test in 1992, and we have not seen that happen. We are doing it today, and we will make sure that it is done.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING] who has been a leader on this issue for the last 8 years.

Mr. BUNNING of Kentucky. Mr. Speaker, I rise in support of House Concurrent Resolution 109.

Mr. Speaker, on this historic day, it's important to talk about promises made—and promises kept—to senior Americans who want to keep working and contributing past age 65.

A year ago in September, House Republicans promised working seniors that we would try to pass legislation to raise the limit on earnings that is so unfair, especially to middle and lower income seniors who work out of economic necessity.

And on April 5, we kept our promise to working seniors by passing a tax bill that raised the earnings limit to $30,000 by the year 2000—almost triple what it is now.

And then we sent our bill over to the Senate so our colleagues there could pass it as well. But months went by, and unfortunately the Senate took no action.

Now, the tax bill has been wrapped up in the budget reconciliation bill we are considering today. But, unfortunately there is an arcane budget rule which would put the entire budget reconciliation bill at risk if it includes any Social Security provisions.

The arcane Senate rule put us in a tough position. The budget reconciliation bill will make it possible to achieve a balanced budget for the first time since 1969, and put an end to mortgaging our grandchildren's future. And as I said yesterday, as the grandfather of 28, nothing is more important than that.

As a result, it has been determined that we must drop the earnings limit provision from reconciliation rather than risk losing it all.

Yesterday, we introduced House Concurrent Resolution 109—the resolution we are considering—to make it clear that, even though we were forced to drop the earning limit increase from reconciliation, we have not given up on our commitment to passing it—and passing it this year.

We are still committed to making sure that the earnings limit is increased.

The House has already passed the earnings limit increase—and this resolution simply says that we are committed to making sure that the Senate follows through. That is what this resolution is all about.

It's a renewal of the promise we made last year. We have not given up—and I, for one, do not intend to give up until we get the Social Security earnings limit increased. I urge my colleagues to support this resolution.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank my friend and compatriot, and I know I should say champion, the gentleman from Illinois [Mr. HASTERT] for all the work he has done, because the Social Security earnings test limitation penalizes seniors who want and need to work.

In the Contract With America we pledged and voted to fix this inequity by raising the earnings threshold to a more reasonable level, and we are going to do it. Ultimately I believe we should repeal the limit altogether, because I think penalizing work is un-American and so do most Americans, but we have more work to do to reach that goal. This fix provides much-needed relief in the meantime. This resolution locks in our commitment to getting an increase in the earnings test limit signed into law this year. It also locks in the other body, and we have a commitment from the majority leader to make that happen.

By passing this resolution, we jump the hurdle of a highly technical parliamentary problem pertaining to the rules of the other body when it comes to reconciliation, and we get the earnings test limits fix back on the fast track. This is good news for America's seniors. I cannot understand why our colleagues on the other side of the aisle cannot figure that out.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I will vote for this resolution, but I think we should understand what is really happening here. The Republicans, I think this resolution shows by its timing, are squirming on the hook, on the hook of rising anger against their entire budget resolution. It is going to hurt kids, millions and millions of kids. It is hard for them to speak. It is going to hurt working families of this country, but many of them are too busy working and do not have the resources to lobby this Congress. It is going to hurt seniors, and they are speaking more and more. This is a resolution to try to cover the tracks of the majority here.

In the contract, they promised seniors that they would raise the earnings limit. How did they propose to do it? By raiding the Medicare trust fund, by robbing Peter to pay Paul. How they are saying "We will do it later." Do we trust them?

The majority leader on the Senate side said yesterday "I was there, fighting the fight, voting against Medicare, one out of twelve because we knew it would not work in 1965." It worked in 1965 it worked in 1975, Medicare worked in 1985, it is working in 1995, and now the Republicans proposed to wreck it. This resolution is an effort to cover their tracks. I do not think it is going to fool anybody.

Mr. HASTERT. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of this concucurrent resolution. I think one of the most unfair tax situations we have in this country is the earnings test on senior citizens between the ages of 62 and 70, a 50 percent tax on those earning just over $11,000 per year, in addition to the taxes they have to pay on the income that they earn, plus any State taxes and so on. Someone can be in an 80 or 90 percent tax bracket because of this earnings test. It is a tremendous disincentive for senior citizens between 62 and 70. Between 65 and 70, it is a 33 percent additional tax, a trememodous disincentive to work, at a time when many people need to remain in the work force, many people want to remain in the work force, and they ought to have the opportunity to do so.

I would say to my friends on the other side of the aisle that it is their party who originally enacted the rules in the Senate that prevent us from bringing this up in this bill. We will certainly stick by our commitment to this. It is not a matter of our not wanting to do it because of something we have done, it is because of the rules that exist. I urge my colleagues to support the resolution.

Mr. JACOBS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS], the ranking minority member of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, I am constantly appalled by the lack of knowledge of Members about parliamentary procedure. This bill that we are talking about, first of all, I am going to vote for this resolution. I am sorry I have to tell the old people that they might as well kiss this good-bye, because it costs $12 billion to do that. The only place in this whole Congress that you can find $12 billion is in the reconciliation bill, so after the reconciliation bill, there will not be $12 billion laying around.

However, this bill, the House reconciliation bill, will never be considered by the Senate. They will consider their own reconciliation bill. Our bill will be over there laying on the desk. They will take up our bill, and the first thing they will do is strike everything after the enacting clause. Not a word one of the House reconciliation bill will ever be considered by the Senate, so what they are talking about here is merely a ruse to allow the gentleman from Georgia, NEWT GINGRICH, to have $12 billion to bargain with you folks to buy your votes for that crazy reconciliation bill you have on the floor. That is what this is about. You all ought to know your own parliamentary procedure. This bill will never be considered there. The basis and the whole thrust of your argument is fallacious. You are not avoiding any Senate point of order because the Senate will never consider this bill. The Senate will consider their own reconciliation bill. Shame on you for lying to the American public on why you are doing this.

Mr. HASTERT. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I just want to remind the distinguished former chairman, the gentleman from Florida [Mr. GIBBONS], that he knows that all revenue bills start in the House. We have passed the resolution for the earnings test to the Senate. They will pick that up next week. We passed this resolution today. They will pass it also today. It is on track.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, I commend the leadership, the gentleman from Illinois, DENNY HASTERT, on one of the most popular aspects of the Contract With America, raising the earnings limit for seniors.

Mr. HASTERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I rise in strong support of this concurrent resolution.

Mr. HASTERT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, the Social Security earnings test limit is an archaic provision, created during the Great Depression to make room for young people in the work force by forcing seniors to retire. It is impractical and outdated and should have been done away with a long time ago.

The individuals most negatively affected by the earnings limit are those who have the greatest need for the extra income, and it is not right for the Government to impose a punitive tax on their earnings. We have made a commitment to raise the earnings limit and this resolution is a step toward fulfilling that important promise this year.

I urge my colleagues to support House Concurrent Resolution 109.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I do intend to vote for this resolution. I do respect the sincerity of the gentleman from Illinois [Mr. HASTERT]. However, there is no question in my mind that this is a gimmick on the part of the Republican leadership. Here we have a bill between Medicare and Medicaid that is going to increase taxes on senior citizens by doubling part B premiums, has a means test, eliminates a guaranty for low-income seniors to pay their part B premiums. This is a tax increase in this legislation, and that means that more seniors are going to have to go out and work. What happens if they go out and work? They are going to see the amount of Social Security that they earn be reduced.

It is not fair to suggest that somehow this Republican leadership could not incorporate expanding this earnings test in the context of this bill. They did not because they are trying to save $1 billion, $1 billion that is going to be taken from working seniors. These are seniors that are going to have to go out and work, and a lot of them are working right now. They are going to face major tax increases. The least that could have been done is to make it a little easier for them to work. More taxes, and they do not even get the benefit.

Mr. HASTERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I have been a long-time collaborator with the gentleman from Illinois in this legislative undertaking. I associate myself with the gentleman's remarks and his efforts.

Mr. HASTERT. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, as even President Clinton will admit, at least when he is a little tired, the Federal Government spends too much, and just as important, it taxes too much. The tax burden on working senior citizens is especially heavy. It is absolutely intolerable that working seniors who earn just over $11,000 are forced to give up significant Social Security benefits. As part of our Contract With America, we committed to easing the tax burden on senior citizens, and I am proud that today we will reaffirm that commitment through this resolution. I urge its support.

Mr. HASTERT. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I rise in strong support of the resolution. Currently seniors are limited to making $11,200 if they are under 70 years old. Now they can, under this resolution, make up to $30,000. Seniors are living longer. We want them to live better. At the same time we are rolling back the unfair 1993 Social Security tax increase, and we are saving Medicare. I strongly support the resolution.

Mr. JACOBS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I think we need to take a few moments to understand, this is nothing more than a sense of Congress. It does not have the force of law. What we are saying is that senior citizens should have the right to earn more money. That is fine. Then let us give them the right. Let us put the force of law in this. That could have been done.

The Democrats do not control the Committee on Rules, the majority party controls the Committee on Rules. I think what we need to understand is that senior citizens may be forced to have to go to work at age 65, at age 67, at age 70, and at age 75, because we have already heard the majority leader in the other body say "I was there, fighting the fight, voting against Medicare, because we knew it wouldn't work back in 1965." It did work in 1965, it is working in 1995. If it needs to be repaired let us do it that in a bipartisan fashion. We have the Speaker of the House telling people "We did not get rid of Medicare in round one, it is not politically feasible, but we are going to get rid of it later."

☐ 1145

This is nothing more than a sham. It is a sham, it is a smoke screen. If we are going to legitimately give senior citizens the right to earn more money, then let us do it and not just do a sense of Congress.

Mr. HASTERT. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, I have worked with the gentleman from Illinois [Mr. HASTERT] for almost a decade in addressing this problem. I stand in hearty endorsement of what is before us today.

Mr. HASTERT. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in strong support of the resolution.

Mr. HASTERT. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this has been one of the most hilarious debates I have witnessed in the over 10 months that I have been here. A Democratic President lowers the earnings limit on Social Security recipients' outside earnings, increases substantially the penalty for working Americans who happen to have senior status, and we in this Congress on the Republican side are trying to raise that limit again so that senior citizens can work without being penalized, and the Democrats are dancing around, coming up with the most ludicrous reasons why they cannot support this.

This is a good resolution. We need to do it. It is the Democrats in the Senate that are preventing us from doing it now in the reconciliation, my colleagues on the other side of the aisle all know that, so let us pass this resolution and eventually pass this into law.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume, limited only by such time as I may have.

Mr. Speaker, we would like to make a couple of clarifications. Someone has said that under the Constitution, only the House of Representatives can initiate revenue bills. That is not correct. Under the Constitution, the House of Representatives can only initiate revenue-raising bills.

The other clarification is the assertion that a promise was made to raise the earnings limit, and this we do today. In fact, this we do not do today. This we promised to do some day, maybe next year.

Third, the President of the United States did not lower the earnings limit under Social Security. No one has ever lowered the earnings limit under Social Security. That would require an act of Congress to do so, but no Congress has done it. It has always been uppered, it has never been lowered.

Finally, while I do support the resolution as being in the ambit of reality, there is one element of reality I think we ought to understand. Often cited is the senior citizen who works at the McDonald's or here and there and yon just to make a little bit of money and this person is being handicapped by the earnings limit. Demonstrably, this is not true. McDonald's pays on average about $5 an hour.

The present earnings limit comes out to about $5 an hour, which is not to say that some people, about 800,000, will improve their lot by this, but mostly people who are better off.

Finally, I do not think we should ever repeal the earnings test. That has always been the condition of Social Security and I do not think that people making $5 million a year ought to get the current money out of Social Security.

Mr. HASTERT. Mr. Speaker, I yield myself such time as I may consume.

I would like to agree with the gentleman that people that make $5 million a year should not be sheltered by the earnings test.

Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. FOLEY] to close.

Mr. FOLEY. Mr. Speaker, first of all, I would like to commend our deputy whip, Mr. HASTERT, for his efforts today. I cannot believe the folderol. President Clinton in his campaign document wanted to repeal this. The Senate, controlled by the majority, could not do it. Today, Willard Scott honored five Americans who had reached the age of 100 years old.

Let us reward these workers of America, those between 65 and 69, and repeal this discriminatory, punitive, and unfair penalty against those who want to work and help rebuild America.

Mr. KOLBE. Mr. Speaker, I rise today in support of increasing the earnings limit for senior citizens and will work with the Congress to see that legislation to do this comes to the floor of the House before the end of the year. If any Member of Congress were to propose a 33-percent surtax on seniors incomes earning more than $11,280 a year today, the American people would not stand for it. However, this is the current situation. The earnings test is bad policy and bad economics for the country.

It is ludicrous that seniors in the work force are subject to this impractical and outdated procedure. Our seniors deserve more. It is time for Congress to vote for changes to this archaic practice of reducing Social Security benefits for seniors that continue to work after the age of 65. We are robbing seniors of their right to support themselves and live with dignity. In many instances seniors stay in the work force out of necessity, not choice, and should be allowed to earn more without losing a portion of their earned Social Security benefits. The earnings test harms those individuals who do not have supplemental pension income for their retirement and need to work. Therefore, we are penalizing seniors who are trying to be self sufficient rather than rewarding beneficiaries who continue to work.

The Social Security earnings limit sends a message to the elderly community that we do not respect their ability to contribute in the work force after retirement. It is time to give seniors back their dignity. This Congress has already taken the first step with the passage of the Medicare Preservation Act which strengthens and protects the Medicare system and allows seniors access to the same type of health care services as offered to all Americans. And by years end, with passage of the increased earning limit, seniors will be able to hold up their heads as they continue to work without fear of losing their earned Social Security benefits.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Pursuant to House Resolution 245, the previous question is ordered.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTERT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 414, nays 5, not voting 13, as follows:

[Roll No. 740]

YEAS—414

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock

Hansen
Harman
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Hostettler
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Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
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Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
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LaTourette
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Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
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Maloney
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McKeon
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Morella
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Olver
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Pallone
Parker
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Payne (NJ)
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Pelosi
Peterson (FL)
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Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
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Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
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Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
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Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Vento
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—5

Beilenson
Johnston
Skaggs
Visclosky
Watt (NC)

NOT VOTING—13

Crane
Fattah
Greenwood
Hayes
Meek
Mfume
Miller (CA)
Sisisky
Towns
Tucker
Velazquez
Volkmer
Weldon (PA)

□ 1211

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. WARD. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WARD. Mr. Speaker, this bill contains an enormous tax increase. I need it explained to me why, when I made this same parliamentary inquiry on the budget resolution back when the budget resolution was before us, Speaker GINGRICH told me I needed to learn the rules.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WARD. My inquiry is, I have studied the rules and rule XXI applies to bills. This is a bill, and it is a tax increase. Why does rule XXI not apply to this bill?

The SPEAKER pro tempore. The Chair will state that the House, by adopting House Resolution 245, has waived that requirement of the rule. Therefore, the Chair's response at this point would be purely hypothetical, and the Chair cannot respond further at this point.

Mr. WARD. But the House resolution to which you refer is the rule that the Republican Committee on Rules has brought forth for this bill. So as I understand it, what you are saying is that Speaker GINGRICH says that you can change the rules on rule XXI when it suits your purposes, when you want to raise taxes?

The SPEAKER pro tempore. That is a statement by the gentleman and not a parliamentary inquiry.

Mr. WARD. I thank the Speaker.

SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 245 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2491.

□ 1212

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, with Mr. BOEHNER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 25, 1995, all time for general debate pursuant to the order of the House of Tuesday, October 24, 1995, had expired.

Pursuant to House Resolution 245, there will be an additional 3 hours of further general debate.

The gentleman from Ohio [Mr. KASICH] and the gentleman from Minnesota [Mr. SABO] each will be recognized for 1 hour and 30 minutes.

The Chair recognizes the gentleman from Ohio [Mr. KASICH].

□ 1215

Mr. KASICH. Mr. Chairman, I yield myself such time as I may consume.

Well, we start the second day's worth of discussion and debate in regard to our plan to provide Americans with tax relief and also to balance the budget using real numbers over 7 years.

I just heard today that apparently a poll just came out within the last 24 hours where the American people apparently registered their doubt as to whether we in fact can balance the budget. Frankly, if I was not in this Chamber or in this Congress and I was out in America watching the operation of this place, I would have my doubts for this reason: For about 25 or 30 years we have been promising the people a balanced budget. I think every candidate who has run for President has promised a balanced budget. President Clinton said he would propose and execute a balanced budget within the first 4 years.

The President before him indicated we would have a balanced budget. We have been hearing this over and over and over again. But frankly, folks, we are going to have a balanced budget for two fundamental reasons. The No. 1 reason why we are going to have a balanced budget and we are going to have the discipline to execute and maintain a balanced budget over the next 7 years has to do with the American people.

Frankly, we hear a lot about polls, but I want to tell you about the poll that I follow. That poll is not just the reaction that I get in my own district, but it is the reaction among the Members when they come back from being in their districts. We heard when we came back, after the last recess, that Americans were going south on this plan, that the Republicans were starting to shake. Well, frankly, I have not seen it.

In fact, I think we have a rededicated sense of purpose to get this job done. The reason why it is working is that this House of Representatives is truly a reflection of the attitudes, the moods and the opinion of the American people.

Frankly, we are usually behind where the American people are. I believe the American people for a number of years have said it is time to give us some of our power, money and influence back. Finally we are getting the message, which is why, when Members go home, they are being positively reinforced and they are all hearing one simple message from their constituents. Just put the country first, put politics second. Balance the budget and save this country for the next generation.

Now, let me just suggest to my colleagues that I, again, have to keep going back to the reasonableness of this plan. When we look at what we have done over the period of the last 7 years, we have spent a cumulative total of $9.5 trillion. My colleagues are going to hear this from me two or three times today, $9.5 trillion. If you started a business when Christ was on earth, if you lost $1 million a day 7 days a week, you would have to lose $1 million a day 7 days a week for the next 700 years to get to one trillion. We spent 9.5 trillion over the last 7 years, and under our plan to balance the budget we are going to spend 12.1 trillion.

I mean, the revolution that we are hearing about, my colleagues, does not mean we spend less money over the next 7 years but almost $3 trillion more. Do Members know what the fight is about in this Chamber? Do my colleagues know what the fight is all about in this whole capital, Washington, DC, area? Whether we can go from 9.5 trillion to 12.1 trillion or whether we should increase that to 13.3 trillion.

The question we have to ask the American people is, can we save $1 trillion for the next generation? Nothing is more tragic than to go to the settling of an estate and have the children sit in the room and have it told to them by the lawyers that your mother and father put you in debt. We would consider that to be not a good thing to do, a bad thing to do, to tell your children that they have big bills. I mean all the creditors come into the room and you start paying it out. There goes mom and dad's house. There go their savings because they ran up all these bills.

The same is true with the Federal budget. We do not have a right to tell the next generation that we cannot stop ourselves from spending that extra trillion, because if we can just responsibly, rationally, using common sense, hold our spending increases to $3 trillion over the next 7 years, we can ensure a strong economic future.

Now, look, folks, I do not believe all these studies. I believe some of them, but let us forget the think tanks. Let us talk about the guy who sits down here at the Federal Reserve who decides what interest rates are going to be, and that is what drives this economy. He says, if for once this Congress can make the hard choice, the hard choice, folks, to spend $3 trillion rather than 4, if we can make the hard choice, we rescue the country. I mean that is really what it is all about.

When we look at the specific programs like welfare, welfare goes up by almost 400 billion. When you combine all the programs, it is interesting to note that in many States in this country, welfare recipients are getting about equal to $8 an hour. I mean that is not being skimpy. That is being pretty darn generous.

Medicaid, Medicaid is going to grow up to 443 to $773 billion. We added another $12 billion. Why? We want to do a little better. The debate is not whether it should go up, it is how much should it go up and then of course Medicare. I will tell Members on Medicare that, any way you want to cut it or slice it, our Medicare recipients will have far more, they ought to have far more. The spending is going to go from 926 to 1.6 trillion. The average senior citizen is going to go from 4,700 bucks to 6,800 bucks in spending over the next 7 years.

My colleagues, we can in fact rein this spending in, but it does not involve a nose dive. It involves a more gentle climb, rational thinking, application of common sense. If we do it, we, in fact, can save the next generation.

Tax cuts? Well, below $75,000, 74 percent of the benefits go. But I do not even want to get into this business of dividing rich and poor. We do need reconciliation in this country from a whole host of divisive claims. Let me just suggest that in 1993 the President raised taxes by $250 billion over 5 years. What is this all about? It is really all about the size and the scope of the Federal Government.

We do not think that we need to solve our problem by raising taxes. We did not think we needed to solve our problems in 1993 by raising taxes. What we are about is taking that money that was taken from the American people's pockets in 1993. We took money from their pockets. Republicans did not want to do it. We said we can do it without a tax increase. Now we are taking that money and we are putting it back into the pockets of Americans. In order to do that, Federal spending is still going to go up almost $3 trillion.

So, my colleagues, we have got the common sense plan. This plan is going to pass this House today. I will compliment one group of Democrats coming forward with a balanced budget plan. I understand, although I have not read the editorial, that the New York Times and the Washington Post have both complimented them. That is a sea change, folks. We are the ones that said we could do it in 7 years. Now some of the major newspapers in this country are saying, well, we do not like the Republican plan but we can do it in 7 years. That is an incredible sea change in America.

When all is said and done, guess what? we are going to get there. We are going to have a balanced budget in 7 years. We are going to have tax relief for Americans. We are going to save the future, and we are going to restore the country for 100 additional years. At the end of the day, we will do it on a bipartisan basis. But today we have to do our job. Our job is about putting America first, putting the politics of parochialism second and just looking out for the next generation.

That little vision, we are going to look over all the swamp and all the muck and all the nasty rhetoric and the shrill rhetoric that exists on both sides. We are going to look beyond that, and we are going to look to the next generation. We are going to get this done for our precious Nation.

Support the reconciliation bill.

Mr. Chairman I reserve the balance of my time.

Mr. SABO. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise in opposition to the GOP plan.

Mr. Chairman, much of the debate I have heard today does not concern whether we should balance the budget. Of course we should. The debate I have heard today does not concern when we should balance the budget. Most of my colleagues will agree that balancing the budget by the year 2002 is a reasonable goal.

The center of the debate today is how we will balance the budget. The Republicans propose to balance the budget with steep cuts in education, health, farm, and seniors programs. They also propose outrageously huge tax cuts up front which must be paid for with even deeper spending cuts.

Mr. Chairman, I must object to this bill, as well as to the legislative process, which has been highly unusual and chaotic. Medicare cuts were voted on separately, while the Medicaid cuts are rolled into the reconciliation bill with no separate vote. Many committees have failed to report their recommendations as called for in the budget resolution, and large parts of the bill have been drafted behind closed doors and are being added to the bill at the last minute without any scrutiny or debate.

I have here what I believe represents the bill and the process. This is a bucket of zoo doo. That's right—zoo doo. It's like a zoo around here and all are producing is doo. Elephant doo. This is what this bill is—elephant zoo doo. It stinks.

This legislation will have a financial impact on all Americans and there are winners and losers. The wealthiest Americans receive a tax cut, while the working poor receive a tax increase. Fifty-two percent of the tax cuts go to 5.6 percent of Americans with incomes greater than $100,000 a year. Less than 1 percent of the tax cuts could go to 40 percent of the families earning $20,000 or less. I think we have our priorities out of wack.

I support providing a $500 tax cut to families with children, but we can't afford to give this cut to families earning up to $200,000. This threshold needs to be lowered to $90,000.

This bill is too generous with tax cuts, which leads to the deep spending cuts in other programs. While middle-income families would benefit from the proposed tax cuts, they will suffer, for example, from the deep spending cuts in the student loan program. The cuts proposed in this bill would raise the cost of the average undergraduate student loan by almost $2,500 over 4 years.

To pay for these tax cuts, the Republican budget plan proposes to eliminate the earned income tax credit—a program supported by President Reagan—for 5 million working families. Nine million working families would see their tax credit reduced on this plan.

The GOP plan includes a provision to allow corporations to raid pension plans for millions of workers. The retirement savings of working families could be jeopardized if the economy sours of the company makes bad investment decisions. I can't understand why my colleagues would want to do this.

I also have concerns with the Medicare and Medicaid reforms included in the bill. Let me be clear: I wholeheartedly support efforts to make adjustments to the Medicare and Medicaid programs. However, I stand strongly opposed to raiding the pockets of low-income seniors, disabled recipients, and health care providers in order to pay for Republican corporate loopholes and tax cuts for the wealthy. Not only does this bill make severe reductions in Medicare's growth, it also overturns significant consumer standards designed to protect seniors from fraud and abuse. It is clear to me what lies behind this Medicare bill: The special interests, not the people's interests.

Finally, I oppose the Republican budget reconciliation bill because it eliminates the Medicaid Program, handing over these funds to the States as a block grant with little or no standards to protect the vulnerable citizens this program insures. While I am concerned about the Nation's Medicaid recipients, I am especially opposed to the Medicaid legislation because it will devastate Tennessee's 1115 waiver TennCare Program with a $4.5 billion cut over 7 years. Tennessee is the Nation's leader in experimenting with managed care for Medicaid recipients, and now we are being punished for our success. Though some may vote today to destroy TennCare because of their party loyalty, I will stand strong against this bill's destructive provisions.

In closing, this misdirected legislation would actually make economic life more difficult for a vast majority of Americans because of the steep cuts needed to pay for the tax giveaway. I must object to this legislation and hope that a reasonable compromise can be worked out before the bill is sent to the President.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I speak to the substance, let me congratulate my friend from Ohio on his job of chairing the Committee on the Budget and working with the Republican leadership. I was one at the beginning who thought he would do what he said. He has put a package together that I expect will pass the House today that does reflect the values and priorities of the majority. I strongly disagree with those values and priorities, but he has done it with grace. He has done it with skill. I know it is not easy to put a package together. We will talk about the substance of that package today, but his job that is his responsibility within his caucus, we should not give him praise. He has done it too well. They should give him significant praise because he has accomplished the goals of his caucus.

We disagree with that, and in time we will move on.

Mr. Chairman, what the House is undertaking today is not simply a debate about balancing the Federal budget. This is a debate much more profound. It is about two very different visions for America's future and what those visions mean for America's families, workers, and the most vulnerable among us.

The Republican vision is clear. Yesterday, on the same day we began debate on this massive budget bill, the Republican leaders in both the House and Senate voiced pride in their desire to dismantle the Medicare Program.

The Speaker of the House sees the Medicare Program only in terms of politics. He says that Republicans could not eliminate Medicare right now because it is not politically smart. But he then hastens to add that he would like to see Medicare eventually wither on the vine.

This is not a vision to renew America. And it is one that we should all reject.

On the same day, the leading Republican Presidential candidate declared that he was one of only 12 to vote against the creation of the Medicare Program 30 years ago. With pride he said he was "fighting the fight, voting against Medicare."

And so we now move to the budget package to be voted on in the House today. The choices are clear. My Republican colleagues will put forward a vision that rewards the wealthiest and most powerful interests in our society at the expense of the most vulnerable Americans.

They will raise taxes on low-income working families while lavishing massive tax breaks on the affluent. They will make it difficult, if not impossible, for millions of citizens to obtain adequate health care.

They will cut funding for nutrition, education, transportation and scientific research even though we have many years of evidence that these investments enhance our society and our economic future.

They will ask people to move from welfare to work at the same time they are eliminating work incentives and reducing work opportunities, and child care benefits.

And, at a time investment in education is becoming increasingly important to the health of our economy, they will cut job training and increase college costs for millions of Americans seeking to better themselves.

One of the most troubling aspects of the Republican vision is that it will escalate the 20-year trend that has pushed income inequality in this country to its highest level ever—all so that wealthy Americans can enjoy large tax breaks they don't need.

In short, throughout this budget process, Republicans have engaged in a one-sided attack on lower and middle-income Americans which will ultimately close the doors of opportunity that lead to a prosperous Nation and a higher standard of living for everyone.

So, Mr. Chairman, I call upon my colleagues to reject a vision of America that seeks to reward those who have already prospered in our economy while imposing burdens on those who have not.

☐ 1230

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from the State of Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, there are three reasons why I am going to vote for this reconciliation bill: their names are Ingrid, Bridget, and Karl, my children.

There is so much in a bill like this that it is easy to lose sight of the forest for the trees. Is this legislation exactly the way that I would have written it? Of course, not. This bill is the product of the push and shove, the battle of competing interests, the art of compromise that is characteristic of democracy.

As you vote for this historic measure, remember Edmund Burke's praise of political courage two centuries ago:

> You well know what snares are spread about your path * * * but you have put to hazard your ease, your security, your interest, your power, even your popularity * * * you will remember that public censure is a necessary ingredient in the composition of true glory: you will remember * * * that calumny and abuse are essential parts of triumph * * * you may live long, you may do much. But here is the summit. You may never exceed what you do this day.

But to portray this bill as unworthy because it has gone through the democratic political process that all our laws go through would be unfair. I, like all 435 Members of this House, have to judge this important piece of legislation on its overall thrust. It does reform welfare, it does preserve Medicare, it does cut taxes, and most important, it does balance the budget.

I will take courage for you, my colleagues, to vote for this bill exactly because it is so big and not perfect as you would will it. But I ask you to do it for your children as I am doing it for mine.

Mr. SABO. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I would only say that the children of Members of Congress probably will do fine, but the 20,000 families in the district of the gentleman from Iowa [Mr. GANSKE] who get the EITC, the earned income tax credit, will do much worse.

Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I rise in strong opposition to the Republican budget reconciliation package. I have listened to the debate on the floor and in the Rules Committee, and can't help but remember 1981, 1983, and more important, 1993. In the early 1980's we saw two tax bills that were sold on the basis that massive tax cuts for the very wealthy would spur the economy. In the late 1970's the top marginal tax rate was close to 70 percent, and by the end of the 1980's it had been cut to almost 30 percent; did this spur economic growth and end deficit spending? Well, we started the decade with a $1 trillion debt and ended it at $4 trillion. In addition, we headed into the 1990's with an economy in deep recession.

In 1993, in response to the growing deficit and deepening economic rescission, we came to the floor to bring a budget reconciliation package to control spending and return some progressive policies to our Tax Code. A little over 2 years ago we heard the cries of economic desperation. Our package was called smoke and mirrors and I quote, "it's our bet that this is a job killer." The current Speaker predicted, and I quote, "I believe that this will lead to a recession next year. This is the Democrat machines' recession, and each one of them will be held personally accountable." The current majority leader predicted, and I quote, "the impact on job creation is going to be devastating." Well, we passed the package without one Republican vote. Now let's discuss the results and the ability of the Republican leadership to predict economic outcomes.

The deficit came down for 3 consecutive years. Our deficit is now the lowest as a percentage of national income of any major industrial country in the world. After one of the slowest 4-year periods of job growth since the Great Depression, the economy is now enjoying a solid growth, with strong private sector job creation and low inflation. The economy has created well over 3 million private sector jobs. The Republicans were wrong then, and they are wrong now.

Today, we will be asked to cast one vote on a package that will dramatically change our Government. With one vote, we will dismantle the Department of Commerce, an agency entrusted with two critically important constitutional functions: that of the census and the filing and protection of patents. We will dismantle an agency that every day impacts millions of Americans. All done without the benefit of any comprehensive committee action. We will forever change health care for millions of low-income women, children, and senior citizens. We will end Federal, uniform nursing home standards implemented less than 10 years ago; we will force more working families into poverty and end any hope of a higher education for thousands of our children. We will forever end Medicare as we know it. It does not surprise me that the Republicans want to end Medicare, as the leader of the Republican Party in the other body has stated, "I was there fighting the fight, working against Medicare—because we knew it wouldn't work in 1965." We will close many rural hospitals, cut WIC, Headstart, and significantly reduce our investment in research and development. All in the hope of economic growth and tax cuts for the very affluent. Once again, our Republican colleagues are asking Members of this body to take a leap of faith on failed economic and budget policies based on failed and misguided predictions.

I am hopeful that many of these radical changes will be dropped in conference. It is the only hope we have. I ask all of my colleagues to oppose this package.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. SMITH], a member of the Committee on the Budget, and an expert on immigration in America.

Mr. SMITH of Texas. Mr. Chairman, in the last election, the American people told us to balance the budget, cut the taxes, and end the gimmicks.

They wanted an end to Alice in Budgetland: to the rising tide of red ink that destroys jobs, makes housing and education more expensive, and encourages our addiction to big government.

They wanted an end to Alice in Budgetland: to the constant tax increases that take more and more money and decisions away from the American people.

They wanted an end to the Alice in Budgetland: rosy scenarios, bogus growth numbers, and magic asterisks, the ponzi scheme by which Congress kept spending more of the people's money.

Today we keep our word. We have a plan to balance the budget. Our balanced budget plan will mean 1.2 million additional jobs by 2002. Our balanced budget will reduce interest rates, making new homes, college education and start-up businesses more plentiful and affordable.

Our plan also increases the power and decision-making of families. It's not just important to balance the budget. It matters how we balance the budget. The family and small business tax relief provisions contained in our plan are essential to returning power and money back home.

Without tax relief, we won't return decisions where they belong—to the people who do the work, pay the taxes, raise the children. Without tax relief, we aren't putting people first.

Last week in Houston President Clinton stated, "I think I raised your taxes too much." We agree that the President was wrong, and that's why Republicans unanimously opposed the largest tax increase in history. That's why our plan is the only plan that returns some of the money that President Clinton took in 1993.

It's the family's money to keep. It's not Washington's money to spend. And only our balanced budget honors hardworking Americans by letting them keep more of what they earn and by spending their money with great care.

I urge my colleagues to support this balanced budget.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from my native State of North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, I thank the gentleman from Minnesota [Mr. SABO] for yielding this time to me.

The budget before us is truly historic in its dimensions, and perhaps that is the only thing we will all agree about in the course of this debate today. As I see it, the debate between us is not about whether we ought to balance the budget. I think there is broad agreement we ought to move toward that goal. The debate is how we do it, and here is where the conflicting priorities of the parties become very clear.

This budget plan is built on a fundamentally flawed premise, that we can balance the budget while financing a tax cut primarily benefiting the most privileged among us. This makes as much sense as a family resolving to get their household's finances in order just as soon as they spend the weekend in Paris once more on that old MasterCard.

The consequences of the Republican tax plan are enormous. The wealthiest people in this country get a windfall while working and middle-income Americans lose ground. The tax cut reflects that the driving priority in this budget is to assist the wealthy in becoming even wealthier, and to this end, they have sacrificed health programs for seniors, nutrition programs for kids, the safety net for family farmers, pension security for millions and millions of Americans. In order to accommodate the agenda of the privileged this budget makes devastating tradeoffs that pull support from those who need it and opportunity and hope from millions and millions of middle-class Americans.

Make no mistake about it. The bottom line on this budget is more wealth for the richest, less help for the neediest, and reduced hope and opportunity for middle-income families.

This bill is more than a historic budget, it is a historic and tragic mistake, on which if enacted will change the character of our great country.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. PARKER]

Mr. PARKER. Mr. Chairman, for purposes of clarification I would like to engage the gentleman from Ohio [Mr. KASICH] in a colloquy.

First let me thank the gentleman for his willingness to work with those of us who have been concerned about the public auction of the facilities in the Power Marketing Administration. It is my belief that the study provision contained in this legislation is superior to an outright sale. In fact, this nonbiased study will hopefully provide our committee with the needed facts to determine whether or not a sale of the PMA's will be in the best interest of the Government in the long run.

Mr. KASICH. Mr. Chairman, if the gentleman will yield, it better end up being better in the long run. I would say to the gentleman I wanted to do it this year, and he said we got to study it for a while, make sure we do the right thing. I agree with the gentleman.

Mr. PARKER. However, Mr. Chairman, I would like to seek clarification to determine whether or not the evaluation or study will look at the impact, if there is a sale of the PMA's, on the wholesale and retail electricity rates of the current customers in the affected areas.

Mr. KASICH. I think that the gentleman makes a good point, and obviously we want to make sure that, when we do this, we do it right and everybody understands what the impact will be.

Mr. PARKER. Mr. Chairman, I thank the gentleman from Ohio for having yielded to me. The clarification is appreciated.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Wisconsin [Mr. NEUMANN], a brand-spanking new, fiery member of the Committee on the Budget.

Mr. NEUMANN. Mr. Chairman, I rise today in strong support of this. We have spent a full generation. Now the last time we balanced our budget I was a sophomore in high school. My children are now out of high school and heading on to college. I have got a daughter who is a junior in high school. It has been a full generation since we have balanced our budget. It is time we get it done.

Congratulations to the Committee on the Budget, to the gentleman from Ohio [Mr. KASICH], for bringing us a bill that is going to allow us to not only keep our promises, but, more important, do what is right for the American people.

As my colleagues know, not enough has been made about what happens after we balance the budget. I just heard about the hopes and the dreams of the future of the middle-class America. When we balance the budget, what that means is the Federal Government stops borrowing hundreds of billions of dollars out of the private sector, and, when the Federal Government stops borrowing that money, that money is now available for real people to borrow, and when real people have the opportunity to borrow that money, that means they can buy homes, and they can buy cars, and they can get college loans to go to college, and when they get those loans, the interest rate is going to be lower because there is more access to the money. This is good news for the future of the middle class.

As a matter of fact, if somebody were to go out and buy a house today, and they were to borrow $50,000, and we had balanced the budget sooner so the interest rate was 2 points lower, they would save over $1,000 a year in the interest on the payments in that $50,000 loan.

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If they borrowed $100,000 to buy a house, they would save $2,000. Almost $200 a month remains in the pockets of the working people of this country because we are about to balance the budget. This is good news for the hopes, for the dreams, for the future of this country.

Also, it puts this Nation back on track, that the Nation will be preserved for the next generation. Instead of giving them a legacy of growing debts, we can give our children the hopes and dreams of the future, like we received from our forefathers.

In the budget resolution we passed earlier this year, it sets some 7-year targets and it sets some 1-year targets. Again, I commend the Committee on the Budget. This proposal that we have before us today not only hits the 7-year targets, it also hits the first-year targets, and a lot of other political groups would not have done that. I commend the chairman of the committee, the gentleman from Ohio [Mr. KASICH], and the committee for their tireless work at helping us keep our promises to the American people, and strongly urge support of this bill.

Mr. SABO. Mr. Chairman, I yield 10 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise just to let our colleague, the gentleman from Wisconsin, know that in his district 17,179 working families will have their taxes increased by this Republican bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LUCILLE ROYBAL-ALLARD], a distinguished member of our committee.

Ms. ROYBAL-ALLARD. Mr. Chairman, the Republican budget is morally wrong. It does nothing to improve national living standards.

Except for the very wealthy, it hurts the majority of hard-working Americans. Three areas illustrate my point.

First, the Republican bill cuts taxes for the rich, but raises taxes on the poor. It cuts the earned income tax credit which helps keep 14 million low-paid working families earning $9,500 to $25,000 dollars a year out of poverty.

The GOP tax plan will give families earning $350,000 a year a $14,000 tax cut. While the struggling, lowest paid worker must lose an additional $300 to $324 annually. That is wrong.

Second, the Republicans cut child and prenatal nutrition programs proven to be good national investments. For every $1 spent on prenatal nutrition, the WIC Program saves the American taxpayer $3.50 in special education and Medicaid expenses. To cut such programs is wrong.

Finally, the Republican plan unbelievably repeals the Nursing Home Standards Act of 1987. This act was enacted as a direct response to congressional hearings which revealed widespread abuses in State and privately run nursing homes. Abuses resulting from unsanitary conditions, malnutrition, overmedication, neglect, sexual and physical abuse.

Our current law has helped to eliminate these abuses and to improve the quality of life for nursing home seniors.

If these standards are eliminated, Republicans condemn our seniors to suffer the horrible abuses of the past. That is wrong.

Under the Republican budget reconciliation bill, the rich will be richer, but the living standard of our Nation will be made much poorer.

The only good thing about the Republican budget is that it is so extreme and unfair that the President must veto it.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MARTINI], the courageous young freshman who is from the State of Bruce Springsteen.

Mr. MARTINI. Mr. Chairman, I thank the gentleman from Ohio. I first would like to compliment him and his committee for the outstanding work he has done on this budget this year.

Today we are debating and are about to consider a Budget Reconciliation Act. It struck me coming over here that reconciliation, the very nature of the word itself, suggests a coming together, a solving of differences, and a going forward. I believe that the American people today know that the Federal Government has had extreme problems with its fiscal matters over the years. I think the Americans also know that this majority of Congress has been set to correct those wrongs, but I suspect that the Americans out there still do not know if this Congress has the resolve to do that today. It is no wonder, in my opinion, Mr. Chairman, because over the last several weeks all they have heard are distortions and scares, scares intended to stop people in their tracks from going forward.

It strikes me as sad that the party whose former leader, Franklin Delano Roosevelt, once gave us the phrase "We have nothing to fear but fear itself" now offers us only fear itself and no solutions. Let us just look at the record for a moment, if we may.

On June 4, 1992, President Clinton promised a balanced budget. He never delivered. He promised a tax cut for middle-class families. He never delivered. Worse than never delivering, he actually implemented the biggest tax increase in the history of our Nation. Now he has even admitted he raised our taxes too much. He failed to offer a plan to end welfare as we know it, and he stayed on the sidelines as we saved Medicare from going bankrupt.

In contrast, this Congress is about keeping promises. We understand the importance of fulfilling our promises to our elderly and our children, and we will do just that. Today, for me, Mr. Chairman, it is indeed humbling to take part in such a historic vote in favor of a more fiscally sound America and a brighter America, and I urge all of my colleagues to support this bill.

Mr. SABO. Mr. Chairman, I yield 10 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, 27,641 working families in the district of the gentleman who just spoke will have their taxes increased by this Republican tax increase bill they are approving today.

Mr. SABO. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I join my ranking member in emphasizing that putting all substance aside, the logistics of bringing this bill to the floor have been an abhorrence not only to the usual committee process but of any democratic process.

I want to add a word or two today about the role which the Budget Committee has, or rather could have had, in today's reconciliation bill. Having spent a great deal of my career looking at budget process issues, and in fact, having enjoyed working on a number of those issues with Chairman KASICH, that is what I would like to examine now. I was both surprised and disappointed that this reconciliation bill took a minimalist approach to process reform.

Needless to say, this bill is expansive in every other regard. No one single bill has ever entailed such a comprehensive overhaul of Federal Government policy. The other side likes to speak of the Republican revolution and I would, in no way, dispute that this is a revolutionary document.

That is why I am disappointed that process reforms which could bring meaningful budget enforcement, greater integrity in the process, and a sense of openness and honesty were left out of the revolution.

Two year's ago when we were battling over the 1993 budget reconciliation bill, I engaged in intense negotiations with my leadership to move us closer to enforcement language which would guarantee the deficit reduction promises being made. In particular, we were trying to remove "uncontrollable" as an adjective for entitlement spending.

The agreement that we reached in 1993 was far less than I wanted, especially with regard to guaranteeing control over the Medicare Program. But do you know what? That agreement showed a lot more enforcement muscle than appears anywhere in this budget. I received all sorts of Republican lecturing for failing to bring my party to the stronger entitlement control I wanted and yet even that compromise language is missing in this revolution. This bill allows "uncontrollable" to continue accurately describing entitlement spending.

What else could have been included? Well, the substitute which I am supporting today includes deficit reduction guarantees enforced by sequestration. It has 10 year scorekeeping to make sure that things like grossly ballooning tax cuts start showing up beyond the curtains on current budget windows.

Our substitute has process reforms like line item veto and a deficit reduction lock box, which the majority of this House has said it supports. It also adopts numerous provisions borrowed from previously bipartisan bills which many people standing on the other side of the floor right now not only supported but co-authored—things like baseline reform, controlling emergency spending, continuing resolution reform.

Where are those provisions today? How did they get left out of the revolution? For a party which has made a mantra of "Promises Made—Promises Kept" why were not some of the promise-keepers built into this bill?

I urge my colleagues to vote no on the base bill and vote yes on the substitute which actually has a chance of maintaining the many promises being made today.

Ms. HARMAN. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentlewoman from California.

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding to me.

This is a defining time and a defining vote. Very few here have made every vote in the last two Congresses to achieve significant and fair deficit reduction—beginning with support of the 1993 budget which has halved our deficit to the lowest level in a generation and decreased it for 3 years straight. I have made each of those tough deficit cutting votes.

And today I will continue to stand up for fairness, for balance, for deficit reduction, and for bipartisanship.

In this spirit, I strongly oppose H.R. 2491 as drafted because it funds ill-timed tax cuts by raising the deficit in the short-term and hurting our most vulnerable populations—seniors and children—with devastating Medicare cuts and the termination of Medicaid as a guaranteed safety net for nursing home residents.

I strongly support the bipartisan coalition substitute which defers tax cuts until we have achieved a balanced budget, treats cost-of-living increases in a non-inflationary manner, and preserves Medicaid, including regulations against nursing home abuse.

In my view, the Medicare cuts in the coalition substitute are deeper than what I would like to see, but this bipartisan effort sets a marker for further discussion. I have met with hundreds of seniors in my district, and will stand with them as we work for the fairest compromise within tough budgetary constraints.

Had H.R. 2491 been drafted with real public input, I believe its contents would be different. Now with its expected passage and its expected veto by the President, the real debate must start.

Every Federal program, every Federal dollar should be on the table as we debate—openly and in a bipartisan manner—how to share sacrifice and how to share benefits. Every program. Every person.

But the operative word is balance—a balanced budget, balanced sacrifice, balanced benefit, and an open and balanced process. Let's begin anew.

Mr. KASICH. Mr. Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the first thing I want to say is I would not vote for the plan described by the gentleman from Minnesota [Mr. SABO], and I do not think anybody on this side of the aisle would, but that is not our plan. That does not seem to matter to the gentleman from Minnesota and others.

We have had a budget deficit that has gone up and up and up, a debt that has gone from $385 billion 25 years ago to $4,900 billion, or $4.9 trillion. Our colleagues on that side of the aisle who have been in power for 40 years have had a chance to deal with that issue. We need to get our financial house in order, and we need to balance our Federal budget. We need to save our trust funds, particularly Medicare, and we need to transform our social and corporate welfare State into an opportunity society.

The bottom line and the most difficult part is saving our trust funds. We know what the board of trustees of the Federal hospital insurance trust fund have said. They have said that in basically 7 years the Medicare part A trust fund literally goes bankrupt, but nobody on that side of the aisle even wanted to address it until a few weeks ago.

We are addressing that fund. We are making sure that $333 billion benefits the Medicare part A trust fund, and $137 billion benefits the Medicare part B trust fund. We have extended its insolvency and its ultimate bankruptcy from the year 2002 to the year 2010.

What is so important about the year 2010? That is when the baby boomers start to get into this fund. At that point, we have the baby boomers from year 2010 to the year 2030. By the year 2030, baby boomers from the age 65 to 85 will be in the fund. What does that mean? We have workers right now, three and one-half workers are working for each individual in the trust fund. Right now three and one-third workers work for every person in the Social Security trust fund. By the year 2030, 35 years from now, there will only be two workers.

We are talking about what has happened over the last 40 years, and particularly, the last 25. Our Congresses and, regretfully, our Presidents have mortgaged the farm, and now we are trying to buy it back for our kids. This is about kids. It is about saving this country. I could not be more proud to be part of this reconciliation act. My only regret is that the President has not joined in in this effort.

Mr. SABO. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, looking at the numbers as the gentleman referred to, I discovered he only has 11,000 families eligible for low-income tax credit, one of the lowest in the country. They are going to be hurt, but let me assure the gentleman from Connecticut, all the rich constituents he has are not going to be hurt. They are going to prosper. They are going to do well. His district does not resemble America.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I want to thank the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, and the ranking member, the gentleman from Minnesota [Mr. SABO]. I served under them this session on the Committee on the Budget.

Mr. Chairman, I strongly oppose the reconciliation bill we will consider today.

Why are poor Americans being asked to shoulder most of the pain in balancing the Federal budget and paying for tax breaks for the wealthy? The answer is that they are a convenient target. Poor people can't afford to hire lobbyists to protect their interests.

We all know that cutting the Federal budget deficit is painful, but this debate isn't about pain and suffering. It is about fairness. Most of the cuts in the reconciliation bill reported by the Committee on the Budget fall on low-income Americans. The reported bill cuts $221 billion from entitlements, and $192 billion of these—87 percent—are in two Federal programs that help poor and low income Americans: Medicaid and student loans.

The Budget Committee also approved $53 billion in increased taxes, and $27 billion—51 percent—are reductions in the earned income tax credit for working Americans and low-income housing credits.

The chairman of the Committee on Ways and Means recently justified the changes in the earned income tax credit by arguing, and I quote, "Simply put, the EITC is going to people with incomes that are too high." Too high? Should a single hard-working person with no children earning $8,200 a year, or $4 an hour, have her Federal income tax raised by $101 a year? Should working people struggling to get by help pay for a tax cut that goes mainly to the small minority—12 percent of all families—that earn over $100,000 a year? This bill is simply unfair.

What happened to the Republican pledge in January that it would require a three-fifths vote to raise income taxes because the Republicans said they wanted to "help" working Americans? Today the Republicans are waiving this requirement. People are going to bear the burden for these false promises.

The Republicans' plan to cut Florida's Medicaid payments by 26 percent over the next 7 years will have a devastating effect on Miami. Jackson Memorial Hospital accounts for 30 percent of all hospital admissions in Miami. This year Medicaid will supply $438 million to Jackson Memorial, or about 40 percent of its total revenues.

What will happen to health care for the poor if Jackson Memorial runs out of Medicaid money in October under the Republican scheme? Will they stop delivering babies? Will they stop vaccinating children in November and December? Is this fair?

Last week the Republicans voted to increase part B Medicare premiums. This week they are cutting Medicaid. What will happen to the elderly when Florida runs out of Medicaid money and can no longer pay for the Medicare part B premiums of the elderly?

What will happen to the elderly who are now in nursing homes when Florida runs out of Medicaid money? Will the elderly be put out in the street?

The Republicans opposed my efforts to make the Medicaid formula fairer. Twice I tried to have the entire House decide whether to accept the Medicaid formula adopted by the Senate Finance Committee, which is fairer and helps ease the burden of these cuts on States like Florida. But twice every Republican voted "no" even though my amendment would have helped a majority of the Republican Members.

Mr. KASICH. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the simple fact of the matter is under the House plan the earned income tax credit is going to go up by 40 percent. Forty percent may not be enough for some that want to drive it up 60, 70, 80 percent. Forty percent is a generous increase.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I thank the chairman of the Committee on the Budget and my fellow Buckeye for yielding time to me.

Mr. Chairman, I listen to this debate and I just cannot conceive of how Americans watching it in their homes could be anything but confused, because we bandy about the word "cut" in such a disgraceful, shameless, and such a completely inaccurate way. The fact is we are going to increase the spending on the earned income tax credit from $22 billion in 1995 to $32 billion in 2002. Overall, this budget goes from one trillion five hundred billion to one trillion eight hundred billion; Medicare goes up from $170 billion to $244 billion; education and student loans goes up from $24 billion to $36 billion. That is a 50 percent increase. Yet all we hear from the other side is cut, cut, cut.

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Where is the cut? It is that kind of abusive language that makes it so impossible for average Americans to decipher what the heck is going on and to make the kind of judgments that they need to be able to make in order to evaluate their representatives. In fact, the only cut that I am aware of, the only real cut in this budget has to do with foreign aid, and that is a real cut.

What is the good side, what is the upside of all of this? The upside of all of this in terms of balancing the budget, the biggest impact on American families will be with respect to what it does to interest rates, and that is a profound impact. It is not just a fog of numbers, it is not just accounting, it really makes a difference in terms of what those dollars mean to the average American working family.

DRI/McGraw Hill has said that it is a 2.7 percentage point difference as a result of balancing the budget. On a $100,000 mortgage, on a $100,000 mortgage, that amounts to about $225 per month more in the hands of the people that earn that money. That has a profound impact on a student loan. There is a tremendous difference, as well as on a car payment.

The good news is that balancing the budget puts more money in the pockets of the people that make it.

Mr. SABO. Mr. Chairman, I yield 10 seconds to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, in response to my colleague from Ohio [Mr. HOKE], the last speaker, does the gentleman know that in his district 22,659 working families will have their taxes increased by this bill?

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, our Republican budget chief is exactly right. This is a debate about promises, and how you feel about the promises depends on where you are sitting on the economic ladder of this country.

If you are way up there on top, at the apex of the American economy, sitting on a cushion sipping champagne, you got your promise fulfilled by in Republican Party bountifully, because the better off are going to get a little more better off today. If you are one of the great corporations of America that back in the days of yesteryear never paid a dime of taxes on billions of dollars of profit, you also can smile. You are better off today. You will pay zero, zip, not a dime under the repeal of the minimum tax credit.

Mr. Chairman, but what if you are not way up there on top? What if you are down on the lower rungs, just trying to struggle and make ends meet and get your kids through school? Well, those people on the economic ladder have a broken promise. If you are on Medicare, well, you get the new Republican sick tax. Yesterday, BOB DOLE was boasting, he voted against Medicare, and NEWT GINGRICH said, well, we will just let it wither on the vine. The Republicans lever a hefty sick tax because they want to help those who are well. Very well. Well off.

If you make $30,000 or less, these Republicans are going to raise your taxes, plain and simple. To the many who are trying to climb up that economic ladder and share in the American dream, they stomp on their working fingers as they try to climb up that ladder. That is why we call it Wreckonciliation, because it wrecks working families that are trying to make a go of it. It wrecks seniors who are going to have to pay that Republican sick tax.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. HOEKSTRA], a member of the Committee on the Budget.

Mr. HOEKSTRA. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, the only thing that we will wreck if we do not pass this reconciliation bill is the American family. Let us talk about exactly what is going to happen to spending over the next 7 years. If we do nothing, Federal spending will rise by 37 percent. If we pass reconciliation, which we will do later on today, Federal spending, we are really going to tighten our belts for the next 7 years. We are only going to allow Federal spending to increase by 27 percent.

I came out of the private sector, and I would have loved any budget that over 7 years would have allowed me to increase spending by 27 percent. We are asking the Federal Government to get spending under control and have a gentle slope toward balancing the budget.

Spending goes up in every category. Total spending goes up. Welfare reform, welfare spending goes up. Medicare spending goes up. Per beneficiary on Medicare goes from $4,800 to $6,700. We are trying to manage health care growth to 5 percent per year. Medicaid spending goes up. Spending on student loans. Student loan spending goes by 37 percent over the next 7 years. School lunches. We heard that those were gone. Spending on school lunches goes up by 4.5 percent per year.

This is a reasonable budget; this is a commonsense reconciliation. Common people, on the street every day would love to have a budget at their house that would go up by 3 percent per year and be asked to manage to that. This makes sense. This is reform that we can manage too.

Mr. SABO. Mr. Chairman, I yield 10 seconds to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, to my dear friend, the gentleman from Michigan [Mr. HOEKSTRA], I just wonder if he knew that in his district 23,679 working families will have their taxes increase by their Republican reconciliation.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong opposition to the omnibus bill that I believe is a major step backwards for our Nation. I am committed to ensure our Nation's fiscal integrity. Our obligation to our future and our children demands decisive and decidedly different action to effect a disciplined conduct in our fiscal business. But the Republican package is not the answer. It is an attack on the middle class and poor Americans.

Mr. Chairman, I supported the Balanced Budget Amendment. I voted for the Stenholm budget, which would have achieved a surplus by 2002, and I will support the Orton alternative that also puts us on a path to a balanced budget by 2002. But I do not support tax cuts until we get our fiscal House in order. Balance the budget first and then consider tax reductions.

Half of the bill's tax breaks go to those who make more than $100,000 a year, while the lowest 20 percent of income earners will see their taxes go up. That is not right. If the Republicans were not so committed to tax breaks for the wealthy, this legislation would not include the draconian cuts that I oppose so strongly.

One example of the bill's attack on the middle class is provisions on Federal employees. While I am pleased that the parking provision has been dropped, what remains is still unfair and unwarranted.

In addition to the dramatic reductions in the earned income tax credit which has been spoken of, this bill makes very serious cuts in Medicare and Medicaid. Over $450 billion in health care cuts for seniors families and children.

Furthermore, the Republican proposals for welfare reform are weak on work and tough on kids; they are tougher on kids than they are on the deadbeat dads who walk out on those kids. The Orton substitute will effect real welfare change and require those who can work to work regularly.

These are just a few examples of what I believe our priorities must be. Not tax cuts in the face of deficits, but fiscally responsible policies that serve our Nation's needs, promote the American economy, and effect a balanced budget by the year 2002. I urge defeat of the Gingrich-Kasich budget.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am proud to stand in this House today in support of our plan to balance the Federal budget over the next 7 years. It is the most compassionate thing that we can do for the children of America. One of the best ways to help the children in America is to help their mom and dad, and let them have the basic human dignity and pride that comes from bringing home a paycheck. We need less government and lower taxes; we need to let people keep more of what they earn and save, and we need to let people make their own decisions on how they spend their money, not government.

As the head of the task force to dismantle the Commerce Department, I know we found a good place to start in rightsizing the Federal Government. Former Commerce Secretary Robert Mosbacher put it best when he recently called his old department, "Nothing more than a hall closet where you throw everything that you don't know what to do with." In fact, 60 percent of the Department has nothing to do with commerce.

In a recent Business Week poll, senior business executives said to eliminate the Department of Commerce by a two-to-one margin. Why? Because if the Commerce Department were truly the voice of business, they would be supporting a cut in capital gains tax; they would be supporting tort reform and regulatory reform, and balancing the Federal budget. In fact, the Department of Commerce is diametrically opposed to all of them.

Our plan simply makes more sense than current hodgepodge programs huddled at the agency that some now call the Department of Miscellaneous Affairs.

Mr. Chairman, our efforts to dismantle the Department of Commerce will streamline and improve Federal efforts on behalf of American businesses and save billions of dollars, giving taxpayers and their children their money's worth. Everyone in my district, in my State, and America are better off, and 88 percent of them say, balance the Federal budget.

Last week, House Republicans unveiled their final plan to dismantle one of the least defensible Departments in government: the Department of Commerce. As Majority Leader Dick Armey noted, for the first time in history, the American people will see a Cabinet chair carried out of the Cabinet Room at the White House and placed in a museum with other artifacts from American history.

Our plan to dismantle the Commerce Department is the first step in our mission to downsize a bloated Federal Government that is too big and spends too much money. It will begin to put out-of-control government growth in reverse and will save taxpayers at least $6 billion over the next 7 years, a significant down payment on our plan to balance the Federal budget.

Nothing so clearly demonstrates the need to streamline the Federal Government more than the Commerce Department. Accordingly to the Department's own inspector general, this agency is a loose collection of over 100 unrelated programs. In fact, today's Department is involved in everything from managing fish farms to predicting the weather to promoting new technology.

What Commerce officials describe as "synergy" among Commerce's wide-ranging functions, most reasonable people simply call confusion.

What most people believe is the real mission of the Department of Commerce, promoting the interests of American business throughout the global marketplace, is actually only a fragment of what the Department actually does. Only 5 percent of Commerce's budget is devoted to trade promotion, a responsibility the Department shares with numerous other Federal agencies.

While Commerce Secretary Ron Brown continues his defense of his beleaguered Department, the business community remains notably silent. A recent Business Week poll of senior business executives illustrated their support for eliminating the Department of Commerce by a margin of two to one.

Secretary Brown insists the Department is "the only effective Cabinet-level voice of U.S. business," yet industry remains skeptical. Recently, the respected Journal of Commerce quoted Willard Workman, a vice-president at the U.S. Chamber of Commerce saying, "I've only received four phone calls from member companies asking that we lead the effort to save the Department." The U.S. Chamber of Commerce represents over 200,000 businesses throughout the nation.

A Wall Street Journal article earlier this year about Republican calls for the elimination of the Commerce Department was headlined "Business Sheds Few Tears." The article went on to quote Clinton administration ally C. Fred Bergsten, director of the Institute for International Economics, as noting "I don't think much would be lost" if the Department of Commerce were eliminated.

Karen Kerrigan, president of the Small Business Survival Committee, recently rejected Secretary Brown's assertion that the business community would face dire consequences if the Department at the Commerce were dismantled: "Having the Commerce Department at the Cabinet table has accomplished little in the past few years—in fact, taxes have risen and the regulatory burden has grown."

Despite this resounding vote of no-confidence from the business community, Secretary Brown tries to claim credit for encouraging billions of dollars in U.S. exports and for creating hundreds of thousands of American jobs. Secretary Brown fails to understand that it is the spirit of American enterprise and entrepreneurship that drives the American economy, not government bureaucrats in Washington.

Steve Moore, director of fiscal policy studies at the Cato Institute, wryly answers the Secretary's exaggerated claims, "Right. And if we could just find 10 more Ron Browns, the American trade deficit and unemployment would magically vanish."

We are not, however, disputing the importance of many of the trade functions currently performed by the Commerce Department. We must aggressively pursue foreign markets and provide in-roads for American business. But to huddle these beneficial trade functions under the same administrative umbrella as the Weather Service, the Census Bureau, and the Economic Development Administration does not make sense. Our plan would change that.

That said, Mr. Brown's argument that Commerce has been a "proven business ally at the Cabinet table" holds little weight with America's business community and the American taxpayers who foot the bill.

Our plan provides a blueprint for what the Federal Government should be doing for American business: aggressively promoting opportunities and opening avenues for free and open trade for all industries.

Our plan will strengthen the important trade functions of the Federal Government. Currently, over 19 Federal offices or agencies play some role in developing Federal trade policy. Our plan begins to consolidate this fragmented system, avoiding the confusion and missed opportunities that this scattered system often creates.

We will consolidate the trade programs of the Commerce Department, including the U.S. Foreign and Commercial Service and the Import Administration, into the Office of the United States Trade Representative, which already takes the lead in trade policy.

Secretary Brown has claimed that eliminating the Commerce Department will be tantamount to unilateral disarmament, gutting the ability of the United States to compete in world markets through aggressive export promotion and sensible trade policies. I don't think the American people buy that argument for a minute.

Mr. Brown's argument assumes that it is a good thing for the U.S. to have trade functions housed in an agency in which they are swallowed up. Do our trading partners think we are serious about trade when functions directly related to trade account for just 5 percent of the budget for the Department we call Commerce? Mr. Brown implies that our trade policy and promotion efforts will only work if they are carried out by lots and lots of people sitting in a very big building. I know the people of my district sent me here to challenge that kind of assumption.

The fact is, we can conduct a much more effective trade policy by restructuring and downsizing the trade bureaucracy. The current U.S. structure for trade policy—USTR as the leader, Commerce's International Trade Administration as the poor cousin—is an anomaly. It is wasteful, duplicative, and it reduces our effectiveness vis-a-vis our major trading partners, like Canada, Japan, France, and the United Kingdom, which have single, unified trade agencies.

I am absolutely convinced that, by breaking Commerce's trade functions out of a hidebound bureaucracy, by streamlining those functions, and by eliminating the senseless division that exists between USTR and the International Trade Administration, U.S. business will end up with a much more effective advocate, and our trading partners will face a much more formidable presence across the negotiating table. Our plan moves us toward that goal. We're not disarming—we're rethinking, retooling, consolidating and learning from the successes of our trading partners.

The Commerce dismantling plan will also consolidate the beneficial science and technology programs of the Commerce Department into the new National Institute for Science and Technology [NIST]. The General Accounting Office recently reported that Commerce Department efforts comprise only a tiny fraction of overall Federal scientific endeavors. Most of the Federal science and technology programs are carried out elsewhere in government.

Many of the Commerce Department's technology programs have become notorious as the golden gooses of what Labor Secretary Robert Reich calls corporate welfare. A prime example is the Advanced Technology Program [ATP], which provides multi-million dollar hand-outs to some of the Nation's industry giants. In most cases, ATP grants amount to nothing more than pork gone high-tech.

T.J. Rogers, the CEO of Cyprus Semiconductor, recently offered these thoughts about corporate welfare:

> Corporate welfare burdens successful companies and individuals with higher taxes and higher interest rates. And, as with social welfare, corporate welfare often hurts the intended beneficiary. The Department of Commerce is one of the primary vehicles for corporate welfare.

Our plan puts an immediate stop to these taxpayer funded giveaways.

Here again, we are moving closer to a government that makes more sense, where similar functions are housed together and the waste and duplication eliminated. The useful programs of the National Oceanic and Atmospheric Administration, including the National Weather Service, and the standards functions and labs of the National Bureau of Standards, are merged into the new NIST.

We consolidate Federal statistical functions, merging the Bureau of Economic Analysis [BEA] with the Bureau of Labor Statistics [BLS]. The Bureau of the Census will be held in the Office of Management and Budget for up to 6 months, in anticipation of the creation of a unified Federal Statistical Agency.

Our plan to dismantle the Department of Commerce will clean out the bureaucratic clutter from this attic of the Federal Government, eliminating over 40 unnecessary agencies and programs and shrinking those that have grown too big. For example, the plan terminates the U.S. Travel and Tourism Administration, the Technology Administration, the Economic and Statistics Administration, the Economic Development Administration, and the Minority Business Development Administration.

We eliminate the Office of Technology Policy, the Advanced Technology Program, the Manufacturing Extension Partnership, the Federal Laboratory Consortium for Technology Transfer, and numerous other duplicative or wasteful programs.

Our plan will also free two agencies from the burden of Government redtape. The National Technical Information Service will be privatized and the Patent and Trademark Office will be made into a Government corporation.

Our efforts to dismantle the Department of Commerce are an important first step in downsizing the Federal Government and letting the American people keep more of what they earn and save.

Mr. SABO. Mr. Chairman, I yield 10 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, in response to the last speaker from Michigan, did you know that in your district 19,170 working families will have their taxes increased by this Republican bill, and in Michigan, students will have to pay $211 million more for student loans because of this bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, the driving force behind today's vote on the budget reconciliation is the goal to balance the budget by the year 2002. I believe most of us in Congress support the goal of balancing the budget. The question is, how, by what means, who makes the sacrifice, who will balance the budget on whose back?

Every citizen has the goal of balancing their personal budget. We make decisions, we make choices. We can decide to purchase a luxury automobile if we wish, but if an average American purchases a luxury automobile, they may have to sacrifice paying for their house, providing their children nutritious food. They may have to sacrifice providing their children with good health.

Most Americans, I believe, would forgo a luxury automobile in favor of choosing to do the right thing, supporting their family, supporting their elderly, supporting their children, providing for the basics.

We have a choice today. We can decide to pay the luxury tax of $245 billion for the most wealthy Americans and for those who do not need it, or we can decide to provide for the health care of our seniors, provide for the housing of our poor, provide for education of our children. We can forgo giving the 1 percent of our citizens, those who earn over $100,000, a tax cut that they have not even asked for.

Let us balance the budget, I say. I am for that, and so are many of my colleagues on the Democratic side. For that reason, we should reject the notion that the only way to balance the budget is to accept the Gingrich proposal of balancing the budget.

I support the Democratic substitute. Why? Because they balance priorities. They protect the poor. They make sure that Medicaid is there as an entitlement, and they fund the welfare program. If we are going to balance the budget, make sure we balance the priorities for all Americans, the poor Americans, which are the majority. We do have choices. Let us make the right decision for all Americans.

☐ 1315

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Chairman, today is a great day in America. As you all know, it is fall. Back in my hometown of Mariposa in California it is also fall, and what appears about this time of year is something that is known as a face fly. Why they call it a face fly is because if you are outside and you try to do some work, you are trying to get something done, you get this tiny bunch of flies that are in your eyes, in your mouth and buzzing in your ears, and they are a major distraction.

Ladies and gentlemen, the Federal Government has become a face fly in the faces of the American people. I believe that we were sent here by the American people last November 8 to get American Government out of our faces.

This budget gives that face fly a good swat. It gives freedom to the American people and freedom from a body in this Congress for the last 40 years that has tried to be America's mother, tried to be America's father, tried to be America's pastor, tried to be America's employer. We are giving freedom back to the American people to live their own lives.

I would imagine that I have got working poor in my district and their message to you is, get out of my face.

Mr. SABO. Mr. Chairman, I yield 10 seconds to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I would ask my colleague, the gentleman from California, to take a closer look at this budget, because he may not know this but 52,385 working families in his district in California will have their taxes raised through this Republican reconciliation bill.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in opposition to this legislation and I urge my colleagues to do the same. The bill before us represents bad policy; it is bad for America on several fronts, and I frankly fear for the future of our Nation should this legislation become law.

Supporters of this legislation are likely to talk about the future. They will say that over the next 7 years this bill will lead us toward a balanced budget, and that they are doing this for their children and grandchildren.

Yet what kind of a world will these future generations be inheriting?

They will be living among seniors who do not receive adequate medical care or enough income to survive, despite having worked all their lives.

They will be surrounded by undereducated people, who were bought up in public schools that were plagued by drugs and violence and out-of-date books. Most of these people will then be relegated to menial jobs because they cannot afford a college education.

Everwhere they look, there will be whole families without adequate housing and without adequate help. Entire communities will be subject to decimation by crime, the lack of viable businesses, and by abject poverty.

Mr. Chairman, if this bill becomes law our children and grandchildren will be living in a world where hard work is not rewarded unless it reaps more than $100,000 per year.

This bill is rife with problems. In almost every area that this bill touches, it has the potential to wreak havoc on millions of Americans.

To add insult to injury—and there will be injury to millions of this Nation's most vulnerable citizens—this bill then gives aid and comfort to those who need it the least.

Let us look at just two unrelated areas which demonstrate the pain that this bill will inflict on millions of hard working Americans—the provisions addressing Federal employees and those addressing the Community Reinvestment Act.

Under this bill, Federal employees' contributions to their Federal retirement system will be increased and their cost-of-living adjustments will be delayed. In other words, Federal employees will be paying more and receiving less under this plan.

On another issue, this bill dilutes the effectiveness of the Community Reinvestment Act [CRA], which has been essential in past years in assuring that banks return some of the money they earn to the communities in which they are located. Through several provisions, this bill effectively exempts close to 90 percent of the banks and thrifts from CRA coverage. The bill also eliminates the sole enforcement mechanism in CRA.

While these two issues may not appear to be related, they are both in this bill and they are demonstrative of the destructiveness this legislation will cause to average Americans.

While I will not claim that this Congress under Democratic rule was able to resolve all of this Nation's problems, at least we attempted to address them. This bill is simply saying to the old, the infirm, the middle class, the working poor, the students, and the children, that Congress no longer cares about their pain.

With this bill, we are saying that Congress has new priorities, and the average American is not one of them.

Mr. Chairman, I oppose this bill.

Mr. SABO. Mr. Chairman, I ask unanimous consent that the gentleman from Missouri [Mr. CLAY], the ranking Democratic member of the Committee on Economic and Educational Opportunities, be permitted to control the next 16 minutes of time on our side and that he be permitted to yield portions of that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, let us talk in realistic terms about the middle class in America. The fact is the middle class carries the huge working burden for this entire country. The fact is that what has happened over the last few years is that the middle class, in order to survive, has had to go from one-earner families to two-earner families and sometimes now to three- and four-earner families just to keep pace.

What has Government done along the way as we have taken on the middle class? Well, what we have done is literally taken them on by raising their taxes. We have raised their Social Security taxes, we have raised their Medicare taxes, we have raised their income taxes, and over the last 20 years more and more we have undermined their ability to keep what they earn for themselves and use it for their families.

The coup de grace was literally put in place a couple of years ago when this administration, and this Congress raised taxes enormously, the biggest single tax increase in history. Even the President now says it was too much tax. It was a huge tax increase. What it did was literally programmed in tax increases now and well into the future.

What we are trying to do in our budget is give back a little bit of that money to those people, to take away some of the tax increase that was imposed on them 2 years ago.

What do we hear? Oh, it is a tax cut for the rich. No, what it really does is goes to average middle-class Americans in a $500 per child tax credit and gives them back some of what was taken away from them by this Congress and by this administration.

Democrats do not like that. But the fact is that that is what has to be done if middle-class America is going to get back that which they earned for themselves.

What is the plan that we are offered in opposition to what we are doing? They want to continue those programmed tax cuts right on into the future. This year it will be $188 more the average family. Next year it will be $159 more for the average family. They continue those tax increases right out into the future. That is wrong. Middle-class America deserves the tax break that is contained in this budget.

Mr. CLAY. Mr. Chairman. I yield 10 seconds to the gentleman from New York [Mr. ENGEL]

Mr. ENGEL. In response to the last speaker from Pennsylvania, did the gentleman know that in his district 12,921 working families will have their taxes increased by this Republican bill and in Pennsylvania college students getting loans will have to pay $400 million more?

Mr. CLAY. Mr. Chairman, I yield myself 2 minutes.

Mr. CLAY. Mr. Chairman, for almost a year, the Republican party has been making extravagant promises to the American people in the form of their contract on America.

A lot of well-meaning, sensible people bought into this charade. In street language, the Republicans are pulling off a classic bait and switch; they made a set of promises to the voters in order to gain power, but now they are delivering a different bill of goods that will smother the aspirations of middle-class families. Republicans are rewarding their rich supporters by hurting those who simply want to pursue the American dream through higher education.

To help finance their tax cuts for the rich, the Republicans propose to cut $10 billion from the student loan program. For many middle class, hardworking families, student loans have done more to open the doors of opportunity for their children than any other program established by the Federal Government.

The American people did not ask the Republicans to give a multi-billion dollar tax cut to the rich. The American people did not ask the Republicans to make it harder for their children to attend college by increasing the cost of student loans.

Mr. Chairman, for 50 years, our national investment in higher education has had an extraordinary rate of return. But, obviously, such generosity is too liberal and too progressive for the Republican party. On the eve of another Halloween season, this House is haunted by the ghosts of society past, when a college education was a privilege reserved for the children of the elite.

I urge my colleagues to defeat this wretched reconciliation bill.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, this is a great day for America. We have a real chance to vote on a balanced budget today using real money, real numbers, and real cuts.

It is wrong to live beyond our means. We do not do it in our homes. We do not do it in our small businesses. We do not do it in our churches. It is wrong to continue to indebt future generations. Most of all, it is wrong and dead wrong to reject this one best opportunity to reverse the growth of Government, restore individual freedom, and lower the present and future tax burden for all Americans.

This budget bill puts America on track to a balanced budget and higher standard of living for all Americans in years ahead. This bill saves Medicare and the earned income tax credit, which is very important, while reforming welfare and providing American families with a much needed tax credit.

My colleagues, this is not a perfect bill. The agriculture section of this bill must be improved, and I am hopeful that it will be. It is a bill that must better address reimbursement for federally mandated Medicaid treatment. Also lost will be an opportunity to repeal a big boondoggle, the Davis-Bacon Act. But we can make these improvements.

I urge Members to vote "yes" on this bill.

Mr. CLAY. Mr. Chairman, I yield 10 seconds to the gentleman from Texas, [Mr. GENE GREEN]

Mr. GENE GREEN of Texas. Mr. Chairman, does my colleague, the gentleman from Texas, know that in his district, if this bill passes, 51,213 taxpayers will pay in increased taxes because of changes in the earned income tax credit and in Texas he will lose $337 million in student loans?

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I thank the ranking member for yielding me the time.

Mr. Chairman, I rise today in opposition to the Republican bill and in support of the coalition alternative. Today

I believe that there is a majority of principle for a balanced budget but only a partisan majority for the balanced budget plan offered by the Republican majority. That is because the Republican majority asked those who are best able to help themselves to do the least and those who are least able to help themselves to do the most. Nowhere in this budget is that more evident than in the field of education, and nowhere is that more evident than in the direct lending program which is abolished by the Republican bill.

My friends, the Republicans are abolishing the direct lending program because it works so well, because it shows American students and American taxpayers that this program works better than the billion-dollar-a-year corporate welfare giveaway to the banking industry, than to the hundreds of bureaucracies that have sprung up around the country wasting the money of students and taxpayers and families.

Direct lending will be preserved after the President vetoes this bill and we come together as a principled majority for a balanced budget. But none of us should vote for a bill that says to a janitor that we will raise your taxes while we lower the taxes of the person whose office you clean at night. No one should vote for a bill that says to the salespeople working for that company president, your children will pay more to go to college or will not go at all, at the same time that the largest argibusiness in America walk off scot-free. It is the right principle. It is the wrong path to get there.

Our principled majority will join together after our President has spoken and pass a 7-year balanced budget the right way. This is not it.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, we all want America to remain the strongest country in the world. We want our children to grow up healthy, well-educated, drug free, and prosperous. And we want to reduce the burgeoning Federal deficit.

However, we on this side of the aisle recognize that we cannot achieve our first two goals without first addressing the deficit. We simply must get control of escalating Federal spending.

Former Senator Paul Tsongas made this clear when, appearing before my Health and Environment Subcommittee earlier this year, he testified:

> The bipartisan commission on entitlement and tax reform shocked even cynical inside-the-beltway types by pointing out that, on the current path, entitlement programs plus interest will exceed all Federal revenues by the year 2012.

Mr. Chairman, that is just 17 years away.

We do not like having to say, over and over, that Federal Government spending must be contained, that waste must be eliminated, that the bloated bureaucracy must be deflated and that all programs must be examined with an eye toward cutting. We do not like to argue, over and over again, that we need a balanced budget amendment and a line-item veto.

It would be much easier to just keep piling money on every program year after year. But it would not be responsible. Unwarranted scare tactics and false information to score cheap political points do not help.

Mr. Chairman, we must pass this landmark budget reconciliation bill to balance our Federal budget and begin to honestly address our Nation's problems.

Support this bill.

□ 1330

Mr. CLAY. Mr. Chairman, I yield 10 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, in response to the last speaker, did you know that in your district, 32,028 working families will have their taxes increased by this Republican bill, and in Florida college students getting loans will have to pay $276 million more?

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in opposition to this budget reconciliation before us today.

At the very time in our history when we need to invest more in education, this bill takes a step backward. It goes after important programs that will help improve our education, like setting higher standards for our schools, providing for safe and drug-free schools, providing technology for our schools. These are devastating cuts to education.

When you look at the reality and get beyond the rhetoric, for working families in Rhode Island, this is even worse than the educational cuts. When you look at the Medicare proposals and the Medicaid proposals, you will see working families in Rhode Island have the cruel choice of saving more money to take care of aging parents or saving money to invest in their young children, indeed probably choosing between which fortunate child will go to college and which will be forced into the world, a complex world, without benefit of higher education. We can and must do better to ensure all of our citizens, all of our citizens have access to quality education.

Indeed, this whole proposal rests on very, very shallow grounds. The direct loan program is an example of a program that works for America, that saves money for taxpayers, is universally accepted and applauded by students and colleges alike, yet targeted for extinction. Why? Because it works too well, because it displaces bank-subsidized loans rather than providing direct loans to American students. This gimmick was employed in this new bill by changing the budget rules so we could make this efficient program look more expensive rather than more efficient as it in reality is.

These types of gimmicks underscore the cruel cuts imposed on this bill. We have to invest in education. Our economic prowess today is a result of consistent Federal policies, beginning with the GI bill, stretching through Pell grants, all of them aimed to improve human capital, the ability of our citizens to be the most educated, the most productive in the world. Yet we turn our back on that proud history and condemn our Nation to ignorance.

I reject this measure.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. HOSTETTLER].

Mr. HOSTETTLER. Mr. Chairman, while I come to the floor to express my overwhelming support for this reconciliation bill, I want to make a very important point. This debate today is about so much more than the nuts and bolts of achieving a balanced budget, about accusations that Republicans are giving a tax break to the wealthy or about irresponsible individuals calling an almost $2,000-per-person increase in Medicare, a spending cut.

This is about doing what is right, what is decent, and what is required of us to do if our children and grandchildren and our parents have any chance of surviving the failure of past generations of lawmakers to exercise any kind of fiscal responsibility. This is plainly and simply the right thing to do.

Mr. Chairman, in conclusion, as I know when I sit down we are going to hear some remarks about those people in my district impacted by this bill, but these are from the same folks that said they were concerned about health care for the elderly but when faced with Medicare's imminent bankruptcy, they chose bankruptcy. We said we want to cut taxes for working families, but they did not. We said we want to balance the budget, but they did not.

Mr. Chairman, I think it just goes to show that adage, you can fool the country once, shame on us, fool the country more than once, shame on those.

Mr. CLAY. Mr. Chairman, I yield 10 seconds to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I would like to respond to the speaker from Indiana, wondering if he knows that in his district 31,695 working families will have their taxes increased by this Republican bill.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, there is no doubt that we need to cut spending and balance the budget. The debate is not about whether we have a balanced budget, especially with our coalition budget that we Democrats will offer today. It is a question of fairness to the American people and to the children and the students of this country.

The big difference between the Republican plan and the coalition plan is cutting taxes. The Republican plan cuts taxes by $250 billion, so it takes money out of very important programs like Head Start for children, where they kick children out of Head Start programs and student aid for student loans. Now, what are the American people saying about these tax cuts? When I read about the people who testified before the Committee on the Budget and their testimony, all across this country, in Arizona, New Jersey, they said things such as Mr. Frank Ramsey in Arizona, "We here feel in Prescott what needs to be done first is cut spending long before cutting taxes."

In Montana, Greg Pearson said, "I think it is absolutely foolish for Congress to talk about reducing taxes at all." Lynn Dill in Delaware said, "Gentlemen, I am not looking for a tax cut. I want the best thing for the country and for the children."

The second major difference between the Republican plan and the coalition plan is that that cuts $10 billion out of student loans. I have Indiana University at South Bend [I.U.S.B.] in my district. The average age is 28. We have factory workers going back to school to get new skills so that they can continue to earn money for their families. We have people 55 changing their careers, going to I.U.S.B. This proposal will say to so many of these students that are 28, 38, and 48 years old, no more educational opportunities for you.

Mr. Chairman, let us sacrifice together equally. Let us not do the tax cuts at this time. It is inappropriate and unfair.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, for 40 years we had a tax-and-spend Congress. In 1965, the war on poverty; for 30 years there has been a war on poverty, $5 trillion has been spent. And what have we got? We have more in poverty, we have more welfare, more illegitimacy, lower education, higher crime, more poverty, more drugs.

It is time to reform. It is time to balance our budget.

That Congress for 40 years spent us into a $5 trillion debt. Now, I am not going to pretend that today is going to be easy to vote on this bill, but it is time that we balance our budget.

If a House run by Democrats for 40 years had not spent the American people into the ground, we would have more resources, but we do not. Today we vote on whether to stop the bleeding or whether to continue down a path that will lead our Nation, our seniors, and our children to economic disaster.

Mr. CLAY. Mr. Chairman, I yield 10 seconds to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, in response to the gentleman from Kentucky, did you know that in your district 34,543 working families will have their taxes increased by this Republican bill, and in the State of Kentucky students will have $75 million less for student loans?

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to know how many Members on the Republican side have had a chance to read this bill. Maybe if they had, they would notice two things in the bill. One of them is that it cuts student loans, but also that in relation to that, the quote from our majority leader on the Senate side that said, "I was there fighting the fight, voting against Medicare in 1965," and now he is proud to be doing it again. I hope they would look at that bill in relation to these quotes from this week.

There is an old saying that only the ignorant fear education. I rise today to urge my colleagues to vote "no" against ignorance and to vote "no" against this careless and irresponsible bill we have today.

The Republicans, in their zeal to balance the budget, eliminate the stafford student loan 6-month grace period. This attack on students will increase college loan costs by $3.5 billion nationwide and $331 million in the State of Texas alone. College students will have to take out additional loans just to pay the interest.

This shows the Republicans' commitment to education, in addition, the commitment on the plus loan, or raise the interest rates for parents.

Mr. CLAY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Chairman, I rise in opposition to the Republican budget proposal.

Mr. Chairman, I rise in opposition to the current Republican budget proposal and urge a vote against this attack on working men and women.

My colleagues, what we have before us today is the naked shift of wealth at its very worst. We are robbing working class Americans to pay for tax breaks for the wealthy. In the past we have talked about changing spending priorities and investing in working America. This legislation is nothing more than a debate on de-investing in working America.

In today's society when the top 4 percent of the population's total earnings already exceed that of 50 million working class Americans—something is very wrong. Where is the fairness in giving more to those who already have so much, while taking so many desperately needed programs from those that have so little.

With reductions ranging from the earned-income tax credit, and the low-income housing tax credit, to cutting support for education, job training, and infrastructure, this budget finishes the Republicans' goal of removing society's safety net, and ending many working American's dream of a better life.

In the future we will still see groups of very prosperous people. But they will be flanked by larger groups of working poor. Sandwiched in between will be an unstable middle class, struggling just to hang on. This new polarized society will make America look more like a third world country than a world leader.

Today's vote marks the end of an era. Gone will be the world in which mothers and fathers hoped and dreamed that their children's lives would be better than their own. Today with this vote that dream will cease to exist. My colleagues, before you vote ask yourself—is balancing the budget on some arbitrary date, worth the price of our children's future? I think not.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I would like to ask the gentleman from Texas a question. Does the gentleman from Texas know how much money he is depriving his constituents by voting against the $500 tax credit?

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. I do not have that information. But I would imagine in my district, to my colleague and my friend, who is chairman of my committee, my district has a $25,000 median income, and they will not even be eligible.

Mr. SHAYS. Reclaiming my time, I say to the gentleman from Texas, you have given statistics. I want you to know that your vote against the $500 tax credit is going to cost your constituents $60 million.

Mr. KASICH. Mr. Chairman, I yield myself such time as I may consume and yield to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I am really confused on this. I thought I heard the gentleman from Florida [Mr. GIBBONS] yesterday ask you if the $500 tax break was actually in this bill. I thought I heard you say it is not. Now I am asking for a clarification. Is it or is it not?

Mr. KASICH. Since I yielded to the gentleman, the actual $500 tax credit is not contained in this bill, because we went from a bill that had 350 billion dollars' worth of tax relief to $245 billion. And now, the simple fact of the matter is that at the end of the day we will march on this floor in a conference report on reconciliation with a $500 tax credit contained in the final product.

Mr. TAYLOR of Mississippi. But it is not in this bill?

Mr. KASICH. I control the time.

Mr. TAYLOR of Mississippi. I am sorry.

Mr. KASICH. I cannot tell you what the ratio adjustment would be, but I would hope that nobody would attempt to distort or try to deceive people that it is somehow not the intention of the Members in this House to deliver a $500 tax credit.

Now, you cannot have it both ways. Out of one side of your mouth you cannot say we want to have it, we do not want to have any tax relief for Americans, and then on the other side of your mouth berate us because we do not technically have it done because of the way in which we do our scoring rules.

So the bottom line is we will have a $500 tax credit, and as the gentleman from Connecticut just pointed out, one of the last speakers is going to lose about $60 million from his district because he opposes the $500 tax credit.

Mr. Chairman, I yield 2 minutes to the—

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. KASICH. Mr. Chairman, can the Chairman maintain order in the House? Regular order.

Mr. GENE GREEN of Texas. Parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. BILIRAKIS). The time is controlled by the gentleman from Ohio.

Mr. GENE GREEN of Texas. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Ohio has chosen at this point in time to yield to the gentleman from Wisconsin.

Mr. GENE GREEN of Texas. Mr. Chairman, I am not asking the gentleman from Ohio for a parliamentary inquiry. I am asking you for a parliamentary inquiry.

The CHAIRMAN pro tempore. The time is controlled at this point.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I thank the gentleman, my colleague on the Committee on the Budget, and congratulate him for all the terrific work he has done.

Friends, last month, a close friend of mine, Rick Raemisch, sheriff of Dane County, had a baby with his wife, Colleen. My family sent him off, as you might expect, a present and said, "Congratulations."

This place managed to send, along with our President, a tab for $190,000. That is the interest that little baby now owes this country because of the national debt this Congress has run up over the last 30 years.

I have got three boys at home, ages 3, 6, and 10, and combined, all of them now owe a half-million in interest payments because this Congress has not been able to control spending over the last three decades.

We have to balance the budget because this plan does it over the next 7 years, and it saves the promise of America for Rick and Colleen's little baby and for my three little boys.

It also saves Medicare for my 78-year-old mom, who lives in Milwaukee and who is scared to death if Congress does not do something that Medicare is gone completely, that it vanishes in the year 2002. We have to live up to our promises to our constituents to balance the budget. That is why I came here in the first place, and that is what this vote is all about this afternoon.

It is about a newborn baby in Madison, WI, and it is about my 78-year-old mom, moms and grandparents and fathers all across this country.

I urge my colleagues to vote "yes" to finally manage to balance the budget in this place over the next 7 years.

□ 1345

Mr. CLAY. Mr. Chairman, I yield 15 seconds to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Chairman, the gentleman, who is a good friend of mine, did he know that in his district, 19,900 more working families would have their taxes increase if this bill passes? And in my own district, 57,757 families would have their taxes increased if this bill passes today, 57,757 in my district in the State of Texas.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I thank the ranking member of my committee for yielding me this time. I rise in strong opposition to this bill.

It is called a reconciliation bill, but under my definition, reconciliation means bringing people together and trying to reconcile differences. The majority party has made no such attempt, and we find in this bill crushing destruction of bills that have brought so much progress to our country. In Medicare and Medicaid, they are going to cut $455 billion.

We have already seen devastating cuts in the appropriations bill for this year in education, and this bill brings another $10 billion of cuts in student programs to enable them to go to college. We have always talked about the importance of education for our future, for our ability to compete globally and how important it is to support our young people in going to college. This bill that we are being asked to vote on today crushes that opportunity, denies millions of students the opportunity to go to college. This is a backward moving bill. I urge that it be defeated.

Mr. Chairman, I rise in strong opposition to H.R. 2491, the Seven Year Balanced Budget Reconciliation Act of 1995, because it breaks faith with the promises made to millions of Americans who have trusted the Government to provide certain basic services which safeguard their and their family's health, education, and welfare.

This reconciliation bill is a process gone amok. It was initially intended to coordinate the work of all the committees and enable the Congress at the end of the session to know what the total budget spending was and in addition provide for the needed legislative action required to implement actions taken by the appropriations committee. The budget process was intended to bring greater collaboration and cohesiveness in the work of the Congress.

This bill attempts to implant a 7-year budget restriction by enacting in one bill thousands of changes in statutory law intended to achieve cuts in spending in order to reach a balanced budget by the year 2002. It has created chaos and literally abandoned sunshine and open government.

I do not believe that this budget process was created to foist upon an unsuspecting public, who scarcely understands what we are doing, these monstrous changes in current law that could affect so many lives, so drastically, without open discussion and due debate.

Imagine a Medicaid and Medicare reconciliation which cuts $455 billion over a period of 7 years. These cuts were devised somewhere in the back room in secret. There were no public hearings on the thousands of sections containing these devastating cuts. These are not just pages in a bill. These cuts sever the life connection for our elderly and for many it will be disastrous choices and heavier burdens on their already hard pressed children.

On page 1242 of this bill, title XI Medicare states, "text to be supplied." We have to presume that the 1,000 page bill that we voted on October 19, 1995 is what is intended to be inserted. This bill cut $270 billion of the Medicare Program without even 1 day of hearings. We know that various sections of the bill were changed during last minute negotiations, and one wonders what other changes were added to Medicare, and all the other sections.

Reconciliation means putting together the annual spending bills and making certain that statutory changes were made to align the spending with the law. That is what reconciliation should mean.

Instead this reconciliation has evolved into a demolition process in which wholesale massive destruction of programs are hastily included under the guise that it is necessary today under time targets set in the law for entirely different purposes.

One could argue about the necessity of various programs. One could differ about its efficacy. But these differences need to be discussed in the light of the day with full and open disclosure in public hearings and only after thorough and complete understanding about what is being proposed should they be brought to the floor for a vote.

There is no justification that we vote to eliminate the Department of Commerce without opportunity to debate what happens to all of the programs contained within it. This process is a disgrace and demeans this institution. There is no reason for this haste. This is deliberate chaos.

The budget resolution we passed in the spring called for the committees to report their recommendations. The Agriculture Committee did not report their recommendations. Nonetheless a recommendation is being added to this reconciliation bill by edict of the Speaker. This bypass of a standing committee is unprecedented. It is a derogation of authority and threatens the constitutional basis upon which we stand.

The 245 billion dollars' worth of tax cuts are supposed to be included in this reconciliation bill. Yet on page 1563 of the bill H.R. 2491, it still says, "Text to be provided". What changes are we voting on compared to the bill that the House passed in the spring?

The page where the welfare reform bill is supposed to be is also blank. We are told that it is intended that the House passed welfare reform bill is to be inserted.

It is clear to me that the thrust of this 7-year plan is to abandon the poorest, neediest, and most helpless of our population. It is definitely a plan that balances the budget on the backs of our children, our poor, our sick, and our elderly and disabled population.

Furthermore the size of the deficit is increased under their plan by the $240 billion tax cut, half of which goes to the 1 percent of our wealthiest people. Imagine giving these huge tax breaks, and on top of that repealing the alternative minimum tax which currently imposes tax on the super rich who otherwise would escape any payment whatsoever.

The tax benefits given the rich, is paid for by the poor, the ill, the elderly, the unemployed, and the disabled. It's simple mathematics. If you give away a tax dollar you should have collected, in order to still have a zero deficit, you have to take away a dollar's worth of benefit from someone.

No matter what the majority party says, the 245 billion dollars' worth of tax cuts, has to be paid for in order to have a balanced budget.

Let me outline the most egregious of all the cuts in programs that will result if this Reconciliation bill is enacted.

EDUCATION

You recall that in this year's appropriations bill for fiscal year 1996 we already cut education spending by $4.1 billion. A long list of programs were eliminated and many were cut back badly. Our education spending priority is gone.

This reconciliation bill proposes an additional $10.1 billion of cuts over the next 7 years in various aspects of the student loan program. This is a crushing blow to thousands of students who could not make it through college without this help. The numerous changes in the program will enable the financial institutions to toughen the eligibility requirements freezing many students from getting their loans.

H.R. 2491 seriously undermines the ability of parents and students to get loans, increases the costs of these loans, and jeopardizes the structure and integrity of the program.

Eliminating the Federal interest payment during the 6-month grace period is expected to cost students $3.5 billion over 7 years. The grace period was instituted because the greatest number of defaults occurred in the first few months of repayment, when students often had difficulty finding jobs and establishing a steady income.

Republicans have also reduced the amount of money parents can borrow under the PLUS loan program and increased the interest rate charged to parents.

Perhaps the greatest harm to students and parents will come indirectly from the new costs imposed on lenders, guaranty agencies and secondary markets. The impact of these new fees and costs will increase costs on lenders and guaranty agencies causing many to leave the program, limiting access to student aid and result in redlining. This will take us back to a time which only the well-to-do had access to higher education.

These problems in gaining access to student aid will also be compounded by the elimination of the direct loan program. While Republicans insist that they support student aid, their recent actions speak otherwise. The direct loan program is the second student aid program that the House Republicans have voted to eliminate this year. The other program, the State student incentive grant program was zeroed-out in the appropriations bill.

TAXES

With respect to the $245 billion package of tax cuts, the House GOP would direct 52 percent of the package's benefits to families with incomes of over $100,000, of which 28 percent would go to families with incomes over $200,000. The proposed reduction in taxes would range from a meager $53 per year for families with incomes of $10,000 to $20,000 up to a whopping $10,362 for families with incomes of over $200,000.

The House GOP reduces the earned income tax credit by $32 billion, by rescinding the credit to families without children, broadening the definition of income used to calculate eligibility, and reducing the income level at which families can receive the EITC.

WELFARE

Although not printed in H.R. 2491, I presume the House-passed welfare reform bill has been made a part of this bill. These measures would desert low-income families in times of greatest need and punish children just because they are poor.

Most of those receiving welfare—Aid to families with dependent children, [AFDC] are children—approximately 10 out of 14 million recipients. The arbitrary lifetime limit of 5 years for cash assistance with cut off benefits to families while ignoring special circumstances these families endure. This time limit is punitive because most recipients are cyclers, unable to sustain employment and support their families continuously because at least one vital element is missing: child care, job assistance, education, health care, housing assistance or transportation.

By refusing to provide all elements of this necessary safety net, this bill denies welfare families true opportunity at self-sufficiency. Stringent work requirements as conditions of cash assistance are unreasonable without job creation. It is unrealistic to expect welfare recipients—mostly single mothers—to be able to find a good job paying a living wage while the country's unemployment rate remains high.

Low-income families will be further punished through the discontinuation of entitlement status for several programs and establishment of various block grants to States in this bill. By capping spending for these programs, States in times of fiscal hardship would be deserted, unable to receive additional Federal assistance despite the fact that the number of individuals relying on government assistance would grow. By placing programs for low-income families into block grants, the bill carries no assurance that States will use funds for these needy families.

Funding reductions and benefits caps in the Food Stamp Program, as well as the elimination and block-granting of the school lunch and breakfast programs, will severely threaten child nutrition in America. In Hawaii alone by 2002, nutrition assistance for 50,000 children would be cut; school lunch, the Supplemental Nutrition Program for Women, Infants and Children [WIC] and other child nutrition programs serving 184,000 children would be jeopardized. Nationwide, 14 million children in 2002 would lose nutrition assistance, and 32 million children could lose nutritional support.

Among other impacts of these welfare provisions, the administration estimates that more than 400,000 American children will lose child care assistance in 2002—1,450 children in Hawaii by cutting $10.6 million over 7 years. Foster care and adoption for vulnerable children will be cut by $6.3 billion over 7 years—by $32.9 million from children in Hawaii. Child protection for abused and neglected children will decrease by 19 percent in 2002—24 percent in Hawaii. Furthermore, because their paternity has not been established 3.3 million American children will be ineligible for cash assistance—12,000 in Hawaii—by the time the House bill is implemented in 2005.

Just as disagreeable in this legislation are measures to deny Federal benefits to legal immigrants—those who have followed the letter of the law and paid taxes. Most legal immigrants would be denied by assistance from Supplemental Security Income [SSI], Medicaid, food stamps, temporary assistance for needy families block grant and social services block grant programs.

Finally, the bill before us would change eligibility requirements for SSI and reduce spending by $17.6 billion over 7 years. It is appalling that this bill would allow only those low-income children to receive SSI who are severely disabled so as to require institutionalization if they are without continuous personal assistance. As many as half of the disabled children in Hawaii projected to receive SSI in 2002 under current law would be denied benefits; the figure is as many as 55 percent nationwide.

MEDICAID

Once again it is our children, low-income families, and the elderly that will feel the brunt of the Republican Medicaid plan. The Republican Medicaid plan wipes out guaranteed health care coverage for 36 million Americans, most of whom are children and cuts the program by $182 billion over the next 7 years.

Under the Republican plan no one is entitled to coverage for any services, regardless of how basic—even prenatal care, immunization for children, and care for the disabled. Instead of the current Federal guarantee of care, States will now be able to decide eligibility requirements, the level of benefits and services, and with at least 20 percent less funding they will have no choice but to cut off people or cut services.

Children will be among the most vulnerable to suffer from these cuts. The U.S. Department of Health and Human Services estimates that as many as 15,161 children in Hawaii could lose Medicaid coverage under this plan. Currently 15 percent of Hawaii's children rely on Medicaid for the basic health needs. But the Republican plan will cut Federal Medicaid dollars to Hawaii by $443 million over 7 years.

The Urban Institute estimates that even if Hawaii could make up half of these cuts by reducing services and provided payments, it would still have to eliminate coverage for 29,557 people, including 15,161 children in the year 2002.

The other primary group of people who will be hurt by the Medicaid cuts is the elderly and disabled who depend upon Medicaid for long-term care. The majority of Medicaid funds goes to pay for long-term care—institutional and home care—for the elderly and disabled. In Hawaii Medicaid currently pays 60% of the costs of elderly in nursing homes. 74% of Hawaii's 3,289 nursing home patients rely on Medicaid to pay their bills.

Under this bill Hawaii's elderly and disabled will no longer have the assurance of Medicaid assistance for their long-term care. The program has been converted to a block grant to states under an inflexible, potentially inequitable formula. In addition, the bill repeals federal quality standards for nursing home residents. The bill also allows states to place liens on assets of adult children before their parents can be eligible for Medicaid.

HOUSING

With respect to housing, the Budget Reconciliation Act makes numerous reckless cuts. H.R. 2491 terminates the Resolution Trust Corporation [RTC] and Federal Deposit Insurance Corporation's [FDIC] affordable housing programs. Under the RTC affordable housing program, more than 104,000 residences have been sold for $1.5 billion while eliminating these programs will save a mere $32 million. These relatively meager savings will abolish these sensible and necessary services.

HUD's multifamily property disposition would be practically wiped out. This bill authorizes HUD to sell its multifamily housing projects and HUD-held mortgages without restriction. There will be no protections for displaced low-income tenants forced to enter the market and locate suitable housing that will honor a voucher. Tenants will not be guarded from rent increases and will be required to pay the difference when rents rise above the value of their voucher.

The Rural Housing and Community Development Service will be required to recapture Federal subsidies from rural housing borrowers when a home is refinanced or a single family direct loan mortgage is paid off. A low-income family that has spent years saving their scarce resources to purchase a home will be further burdened with repaying principal and interest on a refinanced first mortgage as well as the interest credit subsidy recaptured upon refinancing. This policy goes contrary to helping families obtain the American dream; delaying efforts of low-income families to purchase their own homes.

Despite weighty testimony that many low- and moderate-income individuals are not currently assisted adequately, this bill eliminates all enforcement mechanisms of the Community Reinvestment Act [CRA]. The responsibility of financial institutions to meet the credit needs of their communities will not be monitored. Institutions could invest more outside of their communities thereby slowing the growth of these already distressed areas and make it increasingly difficult for its citizens to obtain loans.

MEDICARE

Last week this House passed Medicare cuts of $270 billion. Medicare is not about cold pieces of metal fastened together to create a space station or a stealth bomber. It is about people's standard of living. It is about having the comfort and security to know that if you become ill in your years of twilight, or disabled at any age there will be a safety net.

There are already 41 million people in this country without health insurance. Does anyone in this room believe that this number will decrease as a direct result of these provisions to cut Medicare?

The majority claims that seniors will have more choice with their Medicare plan. Sure they will have new choices but in addition, I caution you to be aware that old choices will be eliminated. Among the new choices will be the option to select a medical savings account that could have a $10,000 per year deductible; the choice to stay with a skeleton of the traditional Medicare system that will not pay for all the services it did before; and to select a provider service organization that will be unregulated, unsafe, and financially vulnerable, until States are able to implement their own regulations.

Meanwhile, old choices will be abolished. This bill includes provisions that would remove a patient's legal right to sue for malpractice more than 5 years after damages were sustained even if damages were not discovered until after this period of time; patients would not have the choice to select a nursing home that maintains federally regulated standards; and beneficiaries who exercise their choice and select a Medicare-plus option could later find that they do not have the choice to select their family doctor under their new plan.

Why are we rushing these catastrophic cuts when we have 7 years at the earliest before the Medicare trust fund will become insolvent. The Medicare trustees have not stated that we need Medicare cuts of $270 billion to make the trust fund solvent. One Trustee stated that $89 billion is all that is needed. We have 7 years to plan these changes and we have done it 8 times before.

DEPARTMENT OF COMMERCE

The reconciliation bill eliminates the Commerce Department causing needless shuffling of governmental functions while eliminating successful activities that clearly benefit the American people especially in areas that promote economic growth, increase the international competitiveness of U.S. firms in global markets, and advance U.S. technology.

H.R. 2491 eliminates four agencies, the Minority Business Development Agency, U.S. Travel and Tourism Administration, Technology Administration and the Economic Development Administration. The remaining Commerce programs not eliminated are transferred to existing agencies or departments or consolidated in newly created agencies.

The U.S. Travel and Tourism Administration and the Economic Development Administration have been particularly important to economic and business development in Hawaii. These two key agencies were major contributors to the economic recovery of Kauai following Hurricane Iniki.

It is highly contradictory that Republicans who pride themselves as supporters of private enterprise would eliminate a whole agency dedicated to improving business and economic development.

The transfer of the National Oceanic and Atmospheric Administration [NOAA] to a new agency threatens weather services, State grants, fisheries, research, navigation, and sanctuaries nationwide. Negative effects of this provision will be felt the hardest in Hawaii as numerous programs lose funding or are terminated.

Finally this bill contains a provision to lift the ban on export of Alaska North Slope [ANS] crude oil which would have disastrous effects on Hawaii's consumers, who already pay the highest gas prices in the Nation. According to industry experts, this measure could increase wellhead prices for ANS by more than $2 per barrel, which would translate directly into skyrocketing gas costs for Hawaii, whose refineries run on 60-percent crude oil. The 22-year-old export ban on ANS has enabled Hawaii's refineries to hold costs down.

Should the ban be lifted, as gas prices start to rise, Hawaii and the U.S. territories would begin to receive less ANS crude. According to the State's largest refinery—BHP petroleum Americas—removal of the export ban would make exports to Pacific rim countries more attractive. The ANS provision is terribly irresponsible, at a time when the United States is importing nearly half of its petroleum, to allow domestic oil to go to foreign countries.

This is just a brief description of the thousands of harmful consequences of this bill. This bill must not become law. It destroys America's belief in what Government stands for.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, I would like to just have a very calm dialog with my good friend; he truly is a good friend and someone I respect from Texas. I would just ask the gentleman to share that, the gentleman says in my district, What?

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, 11,207 would see increases in taxes from earned income tax credit, but also your district would benefit from the increased taxes.

Mr. SHAYS. Mr. Chairman, so the gentleman is talking about the earned income tax credit. Is it the gentleman's point on the floor of the House that any of my constituents who get the earned income tax credit will get less next year?

Mr. GENE GREEN of Texas. Mr. Chairman, if the gentleman will continue to yield, the number, the 11,000 number is based on the number of constituents you have that are eligible for the earned income tax credit.

Mr. SHAYS. Nobody will be taking any earned income tax away. They will not get an increase.

Mr. GENE GREEN of Texas. They will. Under this bill, there will be less earned income tax credit.

Mr. SHAYS. Mr. Chairman, reclaiming my time, I just think the numbers you all are using are bogus. I am fed up with it. These are not accurate numbers. You are not disclosing that it is to be increased. There is no cut to a constituent in my district because of the earned income tax credit. It has got to end.

Mr. CLAY. Mr. Chairman, I yield 1⅓ minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, I rise in strong opposition to two provisions in this mean-spirited attack on educational opportunity and on the lowest paid workers in America, the people who are covered by the Service Contract Act. There is no need to go after the workers in the Service Contract Act. it does not have anything to do with increasing revenues for this country. It will not cost us anything in tax expenditures; however, it may cost a great deal in food stamps and unemployment insurance if we end the service contract and lower the wages of the lowest paid workers in the country.

Wage determinations under the Service Contract Act in 30 cities come out to $6.07 per hour for janitors, $5.42 for food service workers, $5.59 for guards. Why are we going after these lowest paid workers in America? Why is the mean-spirited attack on workers continuing through the Reconciliation Act? It does not save any money. It will cost us money in the end.

We will also lose money by not investing more in education in America. Educational opportunity is an investment. It is not an expenditure. We need to widen the amount of money available in discretionary programs so that we can restore many of the cuts made in education. We want to restore the cuts in title I. We want to restore the summer youth employment grant. We also want to make certain that the job training programs which are defunded have money restored. If we extend this attempt to balance the budget over a 10-year period instead of a 7-year period, we can gain back many of the dollars that are needed to restore these educational cuts in the budget.

Mr. Chairman, I rise in strong opposition to this mean-spirited attack on educational opportunity in America and on the lowest paid workers in America.

Education has become a matter of individual economic survival in this country. You cannot succeed, you cannot earn enough to support a family, you cannot achieve the American dream, without postsecondary education. Americans understand this and they now make enormous sacrifices to obtain access to the halls of higher education, working extra hours, taking second jobs, scrimping, saving, and, inevitably, assume crushing debt burdens.

Instead of honoring the determination and the responsibility of these Americans, today this House is about to make their struggle that much harder, piling on aid cuts of more than $10 billion. Many families will not be able to afford cuts of these magnitude. More importantly, no family should be asked to shoulder this additional burden. There is no high purpose behind all this; the only reason we are savaging these programs is to free up money for the Republican tax cut payoff.

This bill also wages a parallel assault on elementary and secondary education and job training, threatening both the availability and the quality of educational and training opportunities for millions of American children. The dramatic reduction in permissible discretionary spending that would be imposed by this bill between now and the year 2002 will savage Federal assistance for elementary and secondary education. The Labor-HHS-Education appropriations legislation passed by the House earlier this year offers just a preview of the carnage to come.

The title I program, which supports tutoring and remedial educational services for low-income children and others who are falling behind in school, is cut by $1.1 billion, or 17 percent, throwing 1.1 million educationally disadvantaged students out of the program. The Safe and Drug-Free School Program, which provides support to nearly every school district in the country for drug abuse education programming and antiviolence activities, is slashed by 60 percent, eliminating services to 23 million schoolchildren. Cuts in funding for the Adult Education Act will deny services to 125,000 illiterate adults next year. Cuts in Head Start will toss nearly 50,000 preschool children out of that acclaimed program. Support for training for disadvantaged youth is cut in half and the entire summer youth employment program is eliminated, denying 600,000 young people job and education opportunities next summer.

These draconian reductions, I emphasize, are just the beginning; this is just the first year, the first cinching of the garotte on educational funding imposed by this legislation. More than $36 billion will be bled from educational programs over the next 7 years.

The debate today is not about deficit reduction and balancing the budget. The issue is how we go about reaching the balanced budget and what programs should be given priority for funding. Earlier this year, the Congressional Black Caucus put forward a budget proposal which, like the Republican plan, balanced the budget over 7 years. We did not cut Federal support for education by one dime. Indeed, we nearly doubled spending for education, training, and other human investment programs. We expanded and improved educational opportunity in America and, at the same time, eliminated the deficit, balanced the Federal budget, and provided a tax cut to working families as well. It is not necessary to attack education in order to achieve the professed goals of the majority.

But attack education is what this legislation does, virtually and violently. Key Federal investments in education which make the American dream possible for all of our citizens are blotted out. Key Federal investments in education which make our economy thrive are extinguished. This legislation does not provide for the future of our children and youth—it destroys it.

I oppose the repeal of the Service Contract Act because it is nothing more than an assault on the standard of living of some of the hardest working men and women in our Nation; and it is an assault which will deprive workers and their families of a fair wage, health insurance, and pension protections for their senior years.

The Service Contract Act has enjoyed bipartisan support since it was enacted in 1965 and amended in 1972. The law has been virtually without controversy because it protects some of our most exploited and victimized workers in our Nation. Today, 30 years later, the Service Contract Act continues to protect almost 1 million workers—most of whom are minority and female workers in low-wage occupations. For example, service contract workers include cooks, bakers, cashiers, mess attendants, cleaners, custodians, janitors, housekeeping aides, window washers, trash collectors, mechanics, clerks, small equipment mechanics, cafeteria workers, food preparation workers, machinery and furniture repair workers, landscapers, keypunchers, and laundry workers, to name but a few.

The single largest occupation covered by the Service Contract Act is janitor, porter, cleaner which, in 1986, accounted for 18 percent of the total SCA-covered work force. The other largest categories are housekeeping aid, security guard, mess attendant, and food service worker. These occupations are ones in which the employment of women, African-Americans, and Hispanics predominates. According to the Bureau of Labor Statistics of all employed janitors, porters, and cleaners, 34 percent are women, 24 percent are African-American, and 11 percent are Hispanic. In housekeeping occupations—performed outside private homes—84 percent of such workers are women, 31 percent are African-Americans, and 13 percent are Hispanic. The food preparation and service occupations also consist of high proportions of women and minorities. Fifty-seven percent of these jobs are held by women; 12 percent are held by African-Americans, and 13 percent are held by Hispanic workers. Thus, the repeal of the Service Contract Act will injure, in particular, low-wage workers and primarily women, African-Americans, and Hispanic workers.

Repeal of the SCA would shred the safety net, as modest as it is, for these service contract workers, many of whom earn a very modest wage even with the Service Contract Act. For example, janitors in Atlanta, GA, receive $12,730 under the Service Contract Act. In St. Louis, MO, janitors make $12,860 annually and in a high-wage area like Boston, janitors make $17,200 annually. When the Federal poverty line of $14,754 for a family of four is considered, it is clear that even with the protections of the Service Contract Act, workers still need the protection of the act.

One of the myths about the Service Contract Act is that it no longer protects low-wage employees, but rather protects high technology professional and managerial employees. But the act contains numerous exemptions for many types of service contracts under which so-called high technology, high wage workers are employed. There are three major categories of highly skilled and highly compensated workers who Congress specifically excluded from the Service Contract Act when it amended the law in 1976 including professional employees, executive employees, and administrative employees. Another major category of high technology workers who have been exempted from coverage includes technicians who repair and maintain computers, scientific and medical equipment, and office and business machines when those services are provided by the manufacturer.

The wage determinations issued under the Service Contract Act are not inflationary. In 30 cities, SCA wages averaged $6.07 for janitors, $5.42 for food service workers, and $5.59 for guards. Even in a high-cost metropolitan area such as Washington, DC, the prevailing wage for SCA-covered janitors is $6.35 per hour—plus $.91 per hour in benefit contributions. In Boston, janitors receive $8.60 per hour; in Memphis, janitors receive $5.60 per hour; and in Salt Lake City, janitors receive $5.85 per hour. Thus, despite the act's protection, even those earnings are quite modest. Without SCA coverage, the work force of low-skilled, predominantly minority and female workers, would quickly drop to $4.25 per hour under the pressure of the procurement system.

In summary, the Service Contract Act has allowed workers to earn a living wage. It has enabled millions of workers to enjoy the benefits of fair wages and fringe benefits such as health insurance and a pension typically unavailable in this industry. Also, many service contractors on Federal service contract jobs maintain jointly administered labor-management training programs. Many workers have participated in these training programs and have been allowed to improve their job skills and move up the economic ladder. Improved job skills for many who might otherwise have little or no job training has benefited all service contract workers and it also has benefited their employers and the Federal Government—the ultimate consumer of their services. It is for all these reasons that I oppose repeal of the Service Contract Act.

Mr. CLAY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, on behalf of the seniors, working families and especially children in my district, I strongly oppose this bill.

Mr. Chairman, I rise in strong opposition to H.R. 2491, the Budget Reconciliation Act. This bill ignores the priorities of the American people by its cavalier attitude toward children and working families. One key purpose of this bill is to provide tax breaks for the wealthy; most Americans will get nothing back or even pay more under this so-called tax break plan.

My district is made up of hard-working American families and they have sent me a loud and clear message: they want thoughtful and measured cuts in our Government, coupled with strong safeguards for our elderly, our families, and our children. This bill ignores that message.

Mr. Chairman, almost 8,000 children in my district will lose their health coverage under this bill, and thousands of working families will suffer from the cuts in student loans and higher taxes. My district, Santa Clara County, will lose $564.6 million in Medicaid funding over 7 years and health care officials warn that emergency clinics, local clinics, public hospitals, nursing homes and private hospitals could be forced to close their doors. These measures aren't part of the message I receive from my district.

This bill also cuts into some of the most important tax provisions that benefit my district. I know that many of my colleagues are dismayed that the Earned Income Tax Credit, which provides a true incentive to people trying to stay off welfare and into the work force, would be a target of this Congress. Scaling this back really amounts to a tax increase for low-wage-earning Americans.

I am equally disappointed that the Majority has seen fit to eliminate the Low-Income Housing Tax Credit. In 1993, two-out-of-three of my colleagues on the other side of the aisle cosponsored legislation in 1993 to make this credit permanent. It made sense in 1993 and it makes sense now. The city of San Jose has called this tax provision "the single most important source of funding for the development of affordable housing." Since 1991, 1744 affordable units have been developed in San Jose, with a total tax credit of $100 million and a total economic impact of a quarter of a billion dollars. Mr. Chairman, this credit, like the Earned Income Tax Credit, helps people toward self-sufficiency, spurs local economies, provides jobs for local workers and provides affordable housing for struggling families. Under this same bill, 7,685 children in California will have to go without basic housing. We need housing for these children and their families. Why are we sacrificing effective credits in favor of tax breaks for those who make hundreds of thousands of dollars a year?

But this bill is about more than tax credits and tax breaks, Mr. Chairman. It's really about our children themselves. Kicked off Medicaid, deprived of school lunches, and inadequately protected from hunger, homelessness and abuse by the provisions of this bill, children are going to suffer. Did you know that over 50 percent of all Medicaid recipients are children? These children are the real losers in this bill. And to top it all off, this reconciliation bill is going to cap welfare assistance, meaning even less money will be available for these needy children.

My colleagues, it is clear that the current majority lacks interest in struggling families. When this budget takes effect, working America will be squeezed even more. What will this mean? More working families unable to afford health care, housing, education, child-care and even food; more problems with unemployment, homelessness and more stress in our local communities. Do we want this? Is this what the American people really asked for in November? I know that the people who elected me last November certainly did not.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the distinguished chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Chairman, I would like to first of all point out what we do not do, and then I would like to point out very quickly what we do do.

First of all, we do not eliminate inschool interest subsidies even though Alice Rivlin suggested to the President that might be the way to go. We do not eliminate the 6-month grace period before students begin repaying their loans. We do not change the eligibility or the access to student loans. We do not increase loan origination fees paid by students. We do not increase the interest rate students pay on their loans nor do we take away the reduction that they are due to get in 1998.

Let me tell my colleagues what we do do. The number of student loans issued will be increased from 6.6 million this year to 7.1 million next year. The volume of student loans increases 50 percent, rising from $24 billion this year to $36 billion.

The primary impact of what we have done really falls strictly with the loan industry who are going to come up with over $5 billion. Pell grants under the House appropriation will be the maximum they have been.

The supplemental education opportunity grants will continue at the same level. The college work-study will continue at the same level. The Perkins loan will continue at the same level. The minority programs, TRIO programs which benefited minorities and disadvantaged will continue at the same level. The historically black colleges, the undergraduate and graduate college programs are fully funded at the same level.

Those are the things we are doing. At the same time, we are going to bring down interest rates so that those people paying on these loans will get a tremendous reduction by the time we get to a balanced budget. That is not my word. That is the word of most economists, including Mr. Greenspan.

So, what we have done has done nothing to hurt students. It gives them every opportunity they have ever had to get loans, to get more loans, to get higher Pell grants. We are helping students, and at the same time we are going to help them in the future because we are not going to mortgage their future.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding time to me.

Take a look at this bill. The Republican bill increases taxes for 14 million working families at the same time it allows multinational corporations that make billions in profits to pay no taxes. The Republican bill taxes seniors through the $270 billion cut in Medicare and the $182 billion cut in Medicaid, and at the same time we are giving the Pentagon $8- to $10 billion more than the Pentagon even requested. Can it get worse? Yes. If you have students in your family and they want to go to college, get ready because they are going to have to pay billions more in this Nation to go to college, up to perhaps $5,000 more for that student to go through college. That is a tax because it would not be that way without this bill.

So who is helped? Well, this tax cut for the wealthy and tax cut for corporations helps them. As we hear now from Speaker GINGRICH and the Senate majority leader on the Senate side saying, they never wanted Medicare to begin with. It is becoming clear who this is benefiting. It is not those who work and pay taxes. It is for those who just invest and get money.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from the State of Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, when the gentleman on the other side will stand and say that someone in my district is going to pay higher taxes because of this reconciliation bill, he is mistaken. Anyone who claims that EITC reform is a tax increase is either misstating the situation, being deceived or simply does not understand how the program works.

The fact is that 85 percent of current EITC spending is considered outlays or direct government payments just like AFDC. Six out of seven dollars being spent on EITC is above and beyond, as it is returned to that taxpayer, is above and beyond the aggregate taxes paid. Less of an increase is not a cut. It is not a cut in Medicare spending, and it is not a cut in the EITC spending.

In addition, in this reconciliation bill encompassed is tax relief for millions of hard-working Americans in the $500-per-child tax credit. The family making $30,000 with two children sees their taxes cut in half.

A family making $25,000 a year with two children sees their tax eliminated. Every hard-working American family in this country will be better off because of this reconciliation bill. That is the fact.

For those who listened yesterday on this floor, I had a colloquy with members of the Committee on Ways and Means, with leadership Members in this body who made a flat commitment that we would work to ensure that all American families, all working American families will be better off under this program of tax relief than they were last year. That is a commitment and that is the truth. All of this bogus talk and bogus figures about tax increases is simply misrepresenting the reality of this reconciliation bill.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, for those of you who plan to vote for this bill today, you should do so fully aware of the consequences.

The block grant and funding reductions in the Medicaid Program in this bill will have devastating effects on disabled children across the country.

Mr. Chairman, in 1986, this Congress made changes to the Individuals with Disabilities Act [IDEA] to help States establish and operate comprehensive early intervention services for infants and toddlers with disabilities. In 1993, this program helped 154,000 families overcome the challenges of meeting the needs of disabled infant and toddlers. This is a program of proven success and has solid bipartisan support. Why? Because it works. Talk to your States. They will tell you that this program saves money because early intervention means that fewer services are needed in the future. This means reduced reliance on medical services and families avoid the expensive tragedy of putting their children in institutions.

The infants and toddlers program has been successful because it is conducted through a partnership with the Medicaid Program. In some States over 50 percent of funding comes from Medicaid. The city of Chicago estimates that they will lose $45 million annually as a result of this change to the Medicaid Program.

If you vote for this bill, know that you will put this progress at risk and that it will devastate the dreams of disabled children and their families.

Many families, who are both poor and middle class, receive much-needed support from Medicaid for their disabled children. What kind of help do they receive? Wheelchairs, equipment used to communicate and the kind of services that make it possible for parents to keep their children at home. Voting for this bill means running the risk of forcing parents to make absolutely cruel choices about the most important thing in their lives—their children.

Do you think these parents would give this up to get a $500 tax cut? Of course not. Vote "no" on this bill.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to the majority's budget proposal. Is there no end to the Republicans' attack on the most vulnerable in our society? They have already dismantled Medicare forcing seniors to pay more for less health care coverage. Now, the Republicans are going after those who—truly cannot—defend themselves, those who—entrust us with their future—the Nation's children.

The Republican budget: Takes away health care services from over 4 million needy children; takes away Head Start from 180,000 disadvantaged children; takes away basic assistance in reading and math from over 1 million disadvantaged children; and threatens the availability of school lunches and other nutritious meals for 32 million hungry children.

I know the children of my district and those across the State of Ohio will be hurt by the drastic cuts in health care, education, housing, and child protections alone. Over 150,000 children in Ohio will lose Medicaid coverage, and nearly 40,000 will be denied disability assistance. Over 600,000 children in Ohio will suffer from the drastic cuts in nutrition assistance. Nearly 20,000 children in Ohio will be denied child care.

In addition, assistance to over 180,000 children in Ohio is cut simply because their paternity has not been established. Over 8,000 children in Ohio will no longer have the benefits of Head Start. Over 32,000 children in Ohio will be denied the basic assistance in reading and math that they need. Summer jobs for nearly 20,000 Ohio youth who need and want to work will be eliminated. The families of over 150,000 children in Ohio will be forced to pay higher rents, when the median income or their family is only $6,800. To make matters worse, the families of over 700,000 children in Ohio will have their taxes increased by the Republican budget.

Mr. Speaker, what could these poor—little—innocent children in Ohio and across the Nation have done to the Republicans to warrant such a coldhearted attack? I urge all my colleagues to throw off these shackles of oppression being imposed by the Republicans on the American people and vote "no" on this bill.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from the State of Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I want to point out that the only constant that we have in this world is the fact of change. We have seen an enormous change in this country. Science and technology have whisked changes by that are blinding, at a frightening rate of speed. Nevertheless, progress, opportunity, and a hope for a better tomorrow have made most of us willing participants in this ongoing change.

As we have adopted changing times, so have nearly all of society's major institutions: The American family, large corporations, small businesses, communities, every institution, Mr. Chairman, except one, the Federal Government.

The Federal Government has continued to grow and centralize power and decisionmaking authority in Washington, DC, without regard to cost or efficiency. So, Mr. Chairman, in this era of downsizing, when everyone else, everyone else is asked to do more with less, the Federal Government has continued to swell requiring a greater and greater share of American family income and business earnings.

For too long, Congress and the White House have turned a blind eye to the dire consequences of deficit spending and the mounting national debt. In the short-term, we have been a dead weight around the neck of our economy, crowding out private investments, stifling job creation and limiting economic growth and opportunity. But even worse, Mr. Chairman, in the long run, they have compromised the standard of living of our children and grandchildren.

Mr. Chairman, today that ends. Today the House is going to adopt the first balanced budget in a generation.

Today we will finally stop the hemorrhaging of red ink and get our fiscal house in order.

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So I am proud to rise in support of this budget because it is an honest measure that does not rely on smoke and mirrors, rosy economic scenarios, and other phony accounting gimmicks.

In a moment I am going to hear, I am sure, how many of my constituents are likely to be, possibly going to be, disadvantaged by the passage of this budget, but what we will not hear from the other side are the hundreds of thousands of my constituents, indeed all of my constituents, who will be disadvantaged seriously if we fail to get this budget in balance by the year 2002, and I rise in strong support of this measure.

Over the past several decades our world has changed dramatically. Empires have crumbled, and infant nations have been born. Diseases have been eradicated by modern medicine, while newer, deadlier ones have emerged.

In some areas such as science and technology, the change has occurred at a blinding pace. What is invented today may be obsolete tomorrow.

Swift air travel, worldwide television coverage, and instance communications have made our planet a relatively small place. Laptop computers, once the size of living rooms, have empowered individuals by bringing a wealth of information and knowledge to our fingertips.

Keeping pace with the present, never mind catching up to the future, has made our lives more complex, more exhilarating, and more exhausting.

Nevertheless, progress, opportunity, and hope for a better tomorrow have made most of us willing participants in this ongoing change. And as we have adapted to these changing times, so have nearly all of our society's major institutions.

The American family has undergone a complete metamorphosis. Families supported by one breadwinner and one homemaker are nearly obsolete and have been replaced by single parent families or double-income families with latchkey kids.

Large corporations have become smaller and flatter to compete in the global marketplace. As we've moved from the industrial age into the information age, the more successful businesses have learned to integrate workers and technology, and replace conflict with cooperation to improve productivity.

Even the most conservative of institutions, religion, has taken advantage of technological advancements to reach followers and spread their word.

But, during this whirlwind of change, one major institution has managed to resist it. The Federal Government over the past 30 years has continued to grow and centralize power and decisionmaking authority in Washington, DC, without regard to cost or efficiency. Somehow, the Federal Government has been able to inoculate itself against the constant changes that are reshaping our world and our lives.

Its monolithic bureaucracies and rigid hierarchies have proven to be anathema to creativity, innovation, and experiment. Perverse incentives and debilitating inefficiencies have rendered the Federal Government incapable of dealing with the Nation's most vexing problems. Though Government once helped people overcome obstacles, it now has become an obstacle itself.

In this era of downsizing when everyone is asked to do more with less, the Federal Government has continued to swell, requiring a greater and greater share of American family income and business earnings. To the dismay of all Americans, we seem to be feeding more money to Washington, but getting less back in terms of results.

The Federal Government's inability to adapt to changes in the modern world coupled with Congress' addiction to spending have resulted in an overwhelming fiscal mess that should make us blush with shame or turn red with anger.

Each year since 1969, the Federal Government has failed to live within its means, spending more money than it collects in taxes and borrowing to make up the difference. For 26 straight years, we have piled more and more onto our national debt which now stands at nearly $5 trillion.

For too long, Congress and the White House have turned a blind eye to the dire consequences of these irresponsible spending practices. In the short term, deficit spending and the mounting national debt have been a dead weight around the neck of our economy, crowding out private investment, stifling job creation, and limiting economic growth and opportunity.

But even worse, in the long run, deficit spending compromises the standard of living of our children and grandchildren. We are risking the prosperity of future generations in order to consume more today.

Well, today, Mr. Speaker, that ends. Today, the House will adopt the first balanced budget in a generation. Today, we finally will stop the hemorrhaging of red ink and get our fiscal house in order.

I am proud to rise in support of H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act because it is an honest, credible measure that does not play the popular Washington game of relying on smoke and mirrors, rosy economic scenarios, and other phony accounting gimmicks to balance the budget. Rather, it makes the tough decisions that are necessary to really and truly get to a balanced budget.

For instance, it saves billions by tackling the difficult issue of welfare dependency. Not only does it overhaul our welfare system to encourage work and self-sufficiency, it also attacks corporate welfare by closing $30 billion in corporate tax loopholes.

The measure also achieves savings by revamping Federal farm subsidy programs so that American farmers can move away from dependence on Government support while remaining competitive in the global market and continuing to feed the world.

Some budget savings in this budget are not easy, but necessary if we are going to make the Federal Government smaller, more cost effective, and more responsible to the taxpayer. The Government Reform and Oversight Committee, of which I am chairman, crafted the section dismantling the bloated, misguided Department of Commerce. It will save billions and serve as a blueprint for future downsizing efforts.

Many provisions in the budget simply make sense. For 70 years, the Federal Government has maintained a helium reserve for national security purposes. Today, however, the U.S. military uses B–2 bombers and F–16 fighters to defend the Nation, not blimps. Privatizing the helium reserve and saving millions of dollars is just common sense.

Other provisions are long overdue. As chairman of the Government Reform and Oversight Committee, I worked to end special pension treatment for Members of Congress and their staff. The American people have been screaming for congressional pension reform, and this budget delivers it.

Another reason this budget package has earned my support is because it doesn't rely on the tried-and-failed method of deficit reduction: raising taxes. We can't tax our way out of debt or into prosperity, and history has borne that out. This time, instead of hitting the taxpayers up for more money, we have struck at the core problem: Congress' addiction to spending.

During the course of debate, we have heard concerns and criticisms about various line-item cuts and programmatic changes in the budget, however, we must not lose sight of the fact that balancing the budget is a necessity, not a luxury. In my mind, beside rescuing the standard of living of future generations, balancing the Government's books will have two vital impacts on our Nation.

First, balancing the budget will significantly boost our economy by reducing long-term interest rates by 2 percent. Families will pay less for mortgages, student loans, care loans and credit card payments. Lower interest rates will help businesses to expand, create jobs, and improve their international competitiveness. A balanced budget will create 6.1 million additional jobs and increase per capita income 16.1 percent over the next 10 years.

No Federal Government program can provide the American people as much in benefits that a balanced budget can.

Second, and maybe even more important, balancing the budget may restore the American public's confidence in its Government. The Founding Fathers instilled in us a healthy dose of skepticism for government, but this has festered into a deep distrust and cynicism about government.

Some pundits and political scientists attribute these feelings to the Vietnam war and Watergate. I disagree. When I talk to people back home who are disgusted with Washington, they don't mention Vietnam or Watergate, they point to what's going on today. They don't understand how their leaders can so poorly manage the Nation's finances.

The public recognizes that many of the problems facing our Nation—the economy, cultural and moral decay, foreign conflicts—can be influenced, but not completely controlled by the President and Congress. But they know that managing the Federal Government's fiscal affairs is a direct function of Congress and the White House, and we have been derelict in our duties for too long.

For these people, balancing the budget is not just about hope, opportunity, and prosperity, its about cleaning up the mess in Washington.

As elected officials responsible for governing the Nation, we should not—indeed, we cannot—underestimate the power of regaining the American people's trust and confidence. After all, balancing the budget is only the beginning, not the final product of the task at hand.

I remind my colleagues that balancing the budget and reducing the size of Government is only half of what we must do. Government still has vital functions and can improve the lives of people in many circumstances. Our obligation is to transform our current 1930's style Government into a 21st century Government capable of coping with the challenges confronting modern society.

Mr. Speaker, once again, I am proud to vote for this budget. Though I don't agree with every detail, I support this measure because it will balance the budget while still allowing spending to increase at a responsible rate; it will save Medicare for current and future beneficiaries; it will provide tax relief to middle class American families; and it will invigorate our economy and help create jobs.

Mr. SABO. Mr. Chairman, I yield 5 seconds to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, in answer to my chairman of the Committee on Government Reform and Oversight, 28,588 constituents lose——

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLAY. Mr. Chairman, I yield the balance of my time to the gentleman from Montana [Mr. WILLIAMS].

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] is recognized for 2 minutes.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Today America departs from a long, unbroken tradition of bipartisan support for America's students and for the schools they attend. From college grants to Head Start, Mr. Chairman, Republican, as well as Democrat, Presidents and Congresses have been in agreement until today. Chapter 1, arts education, drug-free schools, just name it, Goals 2000, was the product of a Republican President, former President Bush. But today the far right, the radical right, is in full throttle on the Republican side, and so today for the first time in the history of this Nation the public's demand of bipartisan support for education is being broken.

Mr. Chairman, the Republican proposal today cuts student loans for the first time in history by $10 billion, and these proposals never had a single day of hearing, never had one single public comment from that public that insists on bipartisanism. There will be significant increases in the cost of college for working families and their children, and now we are hitting them with a big price increase for college, an increased price tag for college, of 5 billion with a "b," $5 billion.

What do we know about this proposal? First, it will, count on it, it will force students to pay approximately $4 billion more for the student loans they receive, and for their parents, they will be able to borrow less than they can now borrow, and it will cost America's parents $1 billion more than they pay today to borrow that money.

The sad thing, my colleagues, is that today, because of the radical right, we have abandoned a long, proud American tradition of bipartisan support for our students and for their schools.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING], the chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Chairman, I thank the gentleman from Ohio for yielding this time to me.

What I have been trying to say in committee for a long time is that we better talk about excellence and quality rather than access. Let me tell my colleagues that during the last 5 years we have increased, we have increased, spending on Head Start 180 percent. How many students do my colleagues think we have increased during that time? Thirty-nine percent.

Something is not right. The students are not getting the help, the children are not getting the help. Obviously, the administrators must be. If we increase spending 180 percent and we only increase participation by 39 percent, we are not helping the kind of people we are supposed to be helping.

So, Mr. Chairman, I do not take a back seat because I made some suggestions in relationship to chapter 1 and relationship to Head Start because we must insist on quality. We cannot just talk about access because we are not helping the people we set out to try to help.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, today we finally have an opportunity to vote against the Gingrich agenda, to repudiate a document that in chapter and verse, in precise detail, dictates the single most egregious redistribution of wealth in our history. Contained in this budget bill are provisions that give the wealthiest families in this country, as this chart amply shows, the top 1 percent, a $14,000 tax break. Speaker GINGRICH calls this tapestry of tax breaks the crown jewel of the Republican agenda, but, sad to say, it is really a crown of thorns. As this chart shows once again, families earning less than $50,000 a year, most middle-class families, end up footing the bill. They will lose nearly $650 a year through a combination of tax increases and benefit cuts.

Mr. Chairman, the Gingrich bill trashes the tax credit for low-income working families; 4.3 million families would lose the credit altogether, and another 14.2 million families would actually see their taxes increase.

The children's tax credit; jewel or thorn? My colleagues, be the judge. Forty-six percent of the children in this country will not get a single dime of the $500 tax credit.

The president of Citizens for Tax Justice, a nonpartisan organization, called the tax provisions of this bill a hoax. He is right, and the American people have a right to feel wronged. The American people should not be martyr to a cause they do not agree with and do not support.

I urge my colleagues in this perhaps-most-significant vote in the years I have been in this Congress to vote against what is a massive, unprecedented transfer of wealth that only makes worse class warfare in this country.

Mr. KASICH. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I rise in extreme support of this measure that gets us on the road to improved fiscal health for our Nation.

Mr. Chairman, the vote we are about to take marks a historic change in the way this Nation conducts its business. It shows that this Congress is taking seriously its responsibility to rein in excess spending and achieve a balanced budget—something our Nation has not enjoyed since 1969. This reconciliation measure will help restore the fiscal health of our Nation and provide a brighter future for our children, who will otherwise be saddled with the consequences of our inaction.

In addition, this bill includes $245 billion in tax reductions over the next 7 years. It will allow our citizens to keep more of their own hard-earned money. By returning these resources to our Nation's families and creating the means for greater investment in private enterprise and economic growth, we will help to meet the needs of all Americans.

I urge my colleagues to support this historic bill.

Mr. SABO. Mr. Chairman, I yield 15 seconds to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Chairman, conservative estimates of the tax increases for earned income tax credit constituents will increase. I am opposed to the bill because my taxpayers will pay more, but do not take my word for it. Take Jack Kemp, who last week said:

> I hope you guys do not go too far on removing the EITC because that is a tax increase on low income workers and the poor which is unconscionable at this time . . .

Mr. SABO. Mr. Chairman, I ask unanimous consent that following the statement of the gentleman from Utah [Mr. ORTON] that the gentleman from Texas [Mr. DE LA GARZA], the ranking Democrat on the Committee on Agriculture, be permitted to control the next 15 minutes of time on our side, and that the gentleman from Michigan [Mr. DINGELL], the ranking member of the Committee on Commerce, be permitted to control the balance of the time remaining on our side, and that each have the authority to yield to other members.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Chairman, I yield 1 minute 45 seconds to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, both of the bills that are under consideration, the Republican reconciliation bill and the coalition bill, will balance on the same date in 2002 if the projections are accurate. Both use CBO scoring, but what happens if the projections are not accurate? That is the problem we have had in the past. It is easy to project a balanced budget. We need enforcement mechanisms to be sure it is there.

The budget under consideration does two things which I support. It continues the current practice of enforceable discretionary caps and extends the pay-as-you-go provisions, but that is it. The coalition budget does additional steps, and it places the deficit targets in law and requires that, if we do not meet these targets, the President come back with a recommendation of how to meet those targets, and requires the Congress to vote, and if the Congress cannot determine how to meet those targets, would place into effect sequestration. It also puts into place tools to aid us in cutting spending like applying the line-item veto to 1996 spending bills. It also applies the lockbox provision to the appropriation cuts. It also would extend, so that we have a more fair representation and more accurate projections, it would extend projecting and scoring to 10 years, would also take emergency spending and put it on budget, requiring us to create an emergency account which we fund and then spend out of that rather than waiving the budget to spend on emergencies, and would also eliminate baseline budgeting.

Mr. Chairman, all of these enforcement mechanisms I believe have bipartisan support. That is the reason for voting for the coalition budget, and, if my colleagues cannot see their way fit to voting for the coalition budget, at least let us put these things in in conference.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Delaware [Mr. CASTLE], the former Governor.

Mr. CASTLE. Mr. Chairman, I rise in strong support of the 7 year Balanced Budget Act. My commitment to balancing the budget is based on personal experience. I have lived through disastrous times in my own State when we did not balance our State budget and I have seen the tremendous economic recovery that occurred when the State took the tough steps necessary to balance its budget.

In the 1970s, the State of Delaware was an economic basket case. We had the highest personal income taxes in the country—19.8 percent—but the State could still not balance its budget because it was spending too much; businesses were leaving the State as fast as they could get out. In short, Delaware's State government operated the way the Federal Government operates today.

Delaware finally decided to face the music, we passed a balanced budget amendment and began to get our economic house in order. Since that time, Delaware has been one of the economic showplaces of the Nation. We have balanced our budget 19 straight times, reduced taxes 6 times; we have created more jobs on a percentage basis than virtually any other State; reduced poverty more than any other State during the 1980's. This would not have happened if we had not balanced our budget.

It's time for the Federal Government to do this for the entire Nation. Mr. Chairman, I know from my experience as a Governor, balancing a budget is not easy. Tough decisions have to be made. This legislation makes those decisions in a fair manner. I have not agreed with every provision and have worked hard to modify some of them.

I strongly support the inclusion of the Castle-Upton-Martini deficit reduction certification and monitoring provision in the bill. This requires a process that will ensure that we stay on path to a balanced budget each year until 2002. I also appreciate the efforts that have been made to improve the Medicaid funding formula to ensure that all States are treated fairly in the necessary effort to reform the Medicaid System.

Whatever particular differences we have with specific provisions of this bill, we can not and should not overlook the larger and most important goal of balancing the budget.

Simply put, because of its deficit spending, the Federal Government is eating up money that would normally go to businesses and individuals. This year the Government will pay $233 billion in interest on the debt, more than the $160 billion deficit for this year. If we don't change we will be paying $340 billion in interest by 2002.

If the Government stops depleting the pool of money available for savings, it would lower business's costs of borrowing and enable them to invest in the equipment that makes their employees more productive and increases their paychecks. Earlier this year, a private economist estimated that balancing the budget would raise our national output an extra 2.5 percent over the next 10 years. That would mean an average of an extra $1,000 a year for each American family. The economy would create 2.4 million more jobs by 2005 than if we do nothing about the deficit.

The Congressional Budget Office has estimated that enactment of balanced budget legislation will result in lower interest rates that will save the Government over $170 billion in interest payments by 2002.

Tearing up Uncle Sam's credit card allows the private sector to grow and affects us all from lower home mortgages to more business expansion.

Balancing the budget is good for us now and it is great for our kids and the Nation's future. I urge passage of the reconciliation bill.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, and my colleagues, I rise in opposition to the main Gingrich Republican substitute amendment and in favor of what we call the coalition proposal that the gentleman from Texas [Mr. STENHOLM] and others have worked out.

Balancing the budget is not an issue everyone is for, reducing the deficit is not an issue everyone is for, and our section in agriculture though bears a tremendous burden, more than the norm. We have always provided in the past 10 years over $50 billion. If every other committee had done what the Committee on Agriculture has done, we would not be worrying here about reducing the budget or balancing the budget. We would have done it. We have done our fair share. But in this case the process I must object to. We have not had a hearing on the freedom to farm, we have not had any discussion. We have had votes in the committee where everything failed. Basically the freedom to farm that is in this proposal has not and does not have the approval of the Committee on Agriculture.

Mr. Chairman, I strongly suggest that it might be well for us in the agriculture sector, in the areas where we impact negatively on Medicare, on Medicaid, that this is not the proper procedure, and I had to go to the Committee on Rules to say, "We have not had the opportunity to handle this. I hope that you do something for us." Unfortunately they did not.

Mr. Chairman, I rise in strong opposition to H.R. 2491, and in support of the Democratic substitute.

Mr. Chairman, the process of the development of this reconciliation bill has brought us a season of surprises:

First, in a year when the No. 1 fiscal priority of the American people is to balance the budget, the Gingrich Republicans propose a $245 billion tax cut:

Second, when a primary concern for many Americans revolves around providing health care for their elderly parents, Republicans cut Medicare by $270 billion; and

Finally—because of Republican conflicts over their own priorities—national farm policy for the next 7 years has been written in the House Committee on Rules.

Mr. Chairman, the 1995 reconciliation process has turned into the sole forum for establishing national farm policy for the next 7 years. In past years, we have had the opportunity to prepare comprehensive farm policy in a deliberative, all-inclusive manner. When we've been required to comply with budget reconciliation instructions, the House Agriculture Committee has complied to the tune of $50 billion in savings from 1981 through 1993.

The confusion this year of the policymaking process with the deficit elimination process has led to paralysis in the Agriculture Committee. For the first time ever, the House Agriculture Committee has failed to meet its budget reconciliation obligations.

As a result—Mr. Chairman—Speaker GINGRICH and his Rules Committee were given the task of writing farm policy that will take us through 2002.

I do want to commend Chairman ROBERTS for his efforts this year. He was placed in an impossible position. The Gingrich Republicans are requiring a 25 percent reduction in agricultural spending in order to provide a $245 billion tax cut. Mr. ROBERTS fought hard earlier this year for that tax cut to be scaled back, but to no avail. We agree that the tax cut is inappropriate and that it leads to farm program cuts so deep that the viability of our Nation's food production system is threatened.

Mr. Chairman, Americans are the best fed people in the world. They have a stable and abundant supply of nutritious food, and pay a lower percent of their disposal income for food than any other nation in the industrialized world. I like to think that the House Agriculture Committee—on a bipartisan basis and in spite of what editorial writers say—has played a constructive role in that success story.

Nevertheless, Speaker GINGRICH, the Republican leader, and the Republican whip wrote a letter to Chairman ROBERTS last month. That letter dictated to the Agriculture Committee—in no uncertain terms—the specific policy option the committee was to choose in order to meet its reconciliation savings. No room was left for the committee to deliberate—for the committee to obtain the views of farmers, of consumer groups, of the administration.

Mr. Chairman, the Freedom to Farm Act included by decree of Speaker GINGRICH in the bill now before the House, was first introduced as a bill in August. Our committee has not held one hearing on it. The details of the dairy portion were only made available in September: Same story—no hearings.

Mr. Chairman, farmers in every region of this country have very grave concerns about the agriculture provisions before the House. They represent a sudden and dramatic abandonment by the Government of its roll in sharing the farmer's risk. Farmers are particularly concerned that this sudden withdrawal of the Federal Government from sharing their risks may make the difference in their fight to stay on the farm. Yes, they may know that each year they will get a cash payment, but if prices collapse next year, will that payment be enough? If wheat prices fall to $2.50, how many wheat farmers will be out of business in Kansas, in the Dakotas, in Washington? If cotton prices fall back down to 45 cents, how many cotton growers—spread out all over the South—will survive? If corn prices are under $2, where will the corn belt be? What if milk prices fall to $9, how many of New England's dairy farmers can make it?

Mr. Chairman, farmers will hope for the best. But if the best doesn't materialize, and a substantial base of our food and fiber production capacity is lost—will we feel that it was worth the risk, to have incurred that loss in order to provide a $245 billion tax cut?

All these questions, Mr. Chairman, and we have no answers—not even opinions. All we had in the Agriculture Committee this year were a few votes. No discussion. No consideration of the views of the farmers, the consumers, the businesses that thrive on the products of agriculture—those hearings on which we've always heavily relied. The policy before the House was not aired out in the Agriculture Committee, it was dictated by Speaker GINGRICH and Republican leader ARMEY.

Mr. Chairman, it is not easy to figure out where we went wrong this year but I do know this: The most basic needs of our society are at stake and we are nowhere near to a consensus on where we should go. The paralysis of the Agriculture Committee and the dissension within the majority party make it clear that we need to start over again. We need to support the Democratic substitute and if that fails, we need to vote this bill down and start again.

The American people don't want this bill and many American farmers will not survive this bill. A right-thinking bipartisan majority defeated this proposal in the Agriculture Committee. Many of my colleagues on the Republican side know that the agriculture title in this bill is wrong. I urge them to resist the Speaker's pressure and to join with us; to oppose this bill today; and to work with us in trying to reach a consensus on a balanced budget that doesn't undermine agriculture.

Mr. Chairman, I reserve the balance of my time.

□ 1415

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, of all the things I have done in my career as a public servant—of all the things that, God willing, I may still yet accomplish—I believe I have never been more proud than I am today, standing in support of this reconciliation bill.

For decades, responsible voices across the political spectrum have warned Congress to get control over entitlement spending; today, we heed their call.

Since the 1970's, economists have forewarned a coming fiscal tragedy if Congress failed to muster the courage to balance the deficit; today, after 30 years of excuses, we will do just that.

For years now, reconciliation was the time when the promises ended and the excuses began.

Excuses, And justifications. And rationales.

Excuses that said balancing the budget was impossible.

Justifications that explained why it couldn't be done.

Rationales for the failure of this Congress to act.

Today is the day the excuses come to an end; the dawn of a new day, a day of political leadership.

A day of courage.

A new day of accountability in government.

Today will be remembered as the day the new Congress transformed Washington's approach to government.

We are long overdue.

A child born this year will pay more than $187,000 over his or her lifetime just to pay the interest on the debt we have already accumulated.

It's too late to change that.

But it is not too late to change the growth of that debt in the years ahead.

It has taken this Republic more than 200 years to build up a debt of almost $5 trillion.

But if we fail to act today, that debt will more than double in just the next two decades.

If we fail to act today to bring entitlement spending under control, those same entitlements—together with interest on the debt—will consume every dollar paid by every taxpayer by the year 2030.

If we fail to act today, your children, my grandchildren, will be turned down for college loans, for home mortgages, for credit cards—because the money will already have been committed, earmarked toward fueling the Government's debt.

But we will act today—and our Commerce Committee had a major role in getting us to this day, with historic reforms in Medicare and Medicaid, and with the first-ever elimination of a Cabinet-level department, the Department of Commerce.

We will act today. I'm proud of that. The American people can be proud of it, too.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, those of us who come from rural America know there will be profound implications from this budget reconciliation proposal that is put before us, not only for our farming communities, which feed the rest of this country. We know that 3 percent of our farmers are feeding 97 percent of our population, yet this bill, which had no hearing, the freedom-to-farm bill, will now put those farmers at great peril, because now they will pull that security from them.

In addition to the farm bill itself, there are other bills in our areas in rural America. We earn about one-third as much as the rest of America. That means we have less money for shelter, less money for clothes, less money for health care. Yet, through this bill, that means we will be threatened in terms of our senior citizens. By the way, there are more senior citizens living, in proportion to our population, in rural areas than anywhere else, so we will have to take care of the sick.

Tell me, how, through this bill, do we respond. This bill is a disaster for America, but it is far more harmful to those who live in rural America. For those of our community who would like to have water, sewer, and industrial development, again, no funds for housing, very little funds for water and sewer. Those funds have been cut. I remind Members, in the Committee on Agriculture itself both Republicans and

Democrats voted for an amendment to the freedom-to-farm bill to extend at least $800 million more so small communities could have water and sewer. Did I find it when I looked in the bill? No, it was deleted. This is a disaster. We should vote against this bill.

Mr. SHAYS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I had not planned to speak in this part of the debate, but I have been sitting in my office listening to the debate, and sitting here on the floor listening to it. I have heard so much about this Republican tax increase. What this side has been talking about is the cuts in the earned income tax credit. The earned income tax credit started in 1975. It started out as a $2 billion a year program. It now has grown to $20 billion a year. That is a 1,000 percent increase.

Is the Republican plan cutting it? No, we are not cutting it. I have a graph next to me that I think very graphically depicts, in picture form, so maybe those who have been debating can understand it. The red bars, as we see, starting in the year 1996, are the Republican proposal. The blue shows what existing law is, and what existing law would be if the present spending levels were to remain in place. As we can clearly see, in each year where we see the red bars, that is the Republican plan, the spending levels are substantially over 1995 and continue to escalate. As a matter of fact, it escalates out to $27 billion.

People might say "Where are the savings coming from?" The savings are coming from people who do not have children. We feel that the earned income tax credit was meant, really, to help people out that are trying to raise families. The question is, of the people that have children, were any of them cut. Yes, some of them were cut. That was at the highest level of income. The ones going into the workplace, the ones that are becoming first-time employed, they are not all affected by what the Democrats call this huge cut.

The argument has been going on on this side of the aisle to say "This is a tax increase." Let me tell the Members that is what is wrong with this country today, that type of mentality. Eighty-five percent of the money sent out by Uncle Sam as an earned income tax credit is an outlay, 85 percent of it. That means only 15 percent is actually a refund in taxes.

If we look at the whole reconciliation bill we will also find something else in there that people who are taxpayers are getting. That is a $500 credit for children. The people that are losing the earned income tax credit at the higher end of the scale, they are going to receive a tax credit. It comes out in the wash, and it is just, really, about the same. The only people that are going to actually lose this are the single taxpayers that do not have children, that are not raising families.

I tell the Members, with the type of mentality and the type of argument that has been going on in this Chamber today, it is no wonder that we are swimming in red ink. This is irresponsible accounting and it is irresponsible debate.

Mr. DE LA GARZA. Mr. Chairman, I yield 30 seconds to our distinguished colleague, the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I would just like to say to my colleague that if it was not a tax increase, then why did he need a budget waiver for this bill?

Let me just say that what they have done here with the earned income tax credit, it is $23.3 billion in taxes of low-income working families. They are going to raise the taxes of 14.2 million families who make less than $28,000 in 1996, and the charts can say whatever they want, that is an absolute fact. Take the words of Jack Kemp, who was appalled at what you are doing in terms of cutting the earned income tax credit.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. The first thing I want to do, Mr. Chairman, is make this general observation, that are we not truly blessed to live in a country that has the most abundant food supply, the best quality of food, the safest food supply, at the lowest cost of any other country in the world?

From that point I make another observation. Here we are, I thought about to discuss one of the most important things for agriculture in the United States in the budget, and we are talking EITC on this side, and no one is discussing agriculture. That has been our problem all year on agriculture. We have ideology running it on this side, and some of us on this side would like to deal with technology. We would like to talk about how we make certain things work. Instead, we are still debating freedom to farm. That is in the budget. Where is someone over here to defend freedom to farm? Where is someone on this side who is prepared to stand up and say the Freedom to Farm Act is the way we ought to go? No one is yet, and I am sure there will be someone soon.

This has been the point we have been trying to make all year, not one single minute of hearings have been held on the agricultural sector freedom to farm, which is in the budget today. A simple question, a simple statement. Basically what we are saying, we should not unilaterally disarm our farmers in the international marketplace with trade, GATT, NAFTA, all of the things that are going on, when the rest of the world is continuing to subsidize farmers.

What do we hear from the other side? Freedom to farm, freedom to farm, freedom to go broke. Somehow, some way, people believe that we can have our farmers competing with the European Economic Community that are increasing their subsidies. That is the answer we hear in this wonderful budget coming from this side of the aisle. That is the thing we have wanted to see debated and discussed time and time again.

For the first time in years, if not history, we have a farm bill in this bill that nobody seems prepared to defend. No one has seen fit even to have hearings. Yet, here we are today, unilaterally disarming, at least from the majority budget. Support the coalition budget, the best alternative.

Mr. SHAYS. Mr. Chairman, I reserve the balance of my time, given that we are ahead in time.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the gentleman discontinuing his presentation, inasmuch as it is totally unrelated to what we are speaking about on this side, agriculture.

Again, I protest the process. On that side they have legislation that was not approved by the committee, which is, in my years here, in the history of this Congress, basically the first time that that has been done. I am terribly embarrassed, one, and upset and frustrated that this process has gone on.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, we have heard why there are good reasons for senior citizens to be very concerned about this reconciliation bill. We have heard very good reasons on why the working poor ought to feel threatened by the passage of this reconciliation bill. I am here to explain why farmers throughout this country, in particular dairy farmers, should be very, very concerned about the prospects of what is included in this bill.

The dairy title in this reconciliation bill, if it was instituted, would require the immediate deregulation of our dairy industry. It would eliminate any type of dairy policy that has guided this country for the last 60 years, that has ensured stability of prices throughout this country. They would eliminate that overnight, which would ensure that we would have thousands of dairy farmers throughout this country being driven into bankruptcy.

Every economist that has analyzed the deregulation plan has come to the conclusion that it would result in at least a 15-percent decline in prices, and dairy farmers cannot withstand that. This policy is also one which is not consistent with Republican philosophy, as far as I can tell, because the Republican proposals for dairy farmers in this, with their deregulation, they are willing to obligate taxpayers of this country to start writing checks to dairy farmers.

In fact, the provisions of this dairy title would allow a dairy farmer today to sell his herd in the next month, and taxpayers for the next 7 years would be required to write them a check, even if they were not milking another cow for the next 7 years. In fact, a dairy farmer in my area with a 1,000 cow herd would be eligible under this dairy program that the Republicans are promoting for a $200,000 check next year, a $200,000 check coming from the taxpayers of this country.

The Republicans campaigned on a Contract With America. They campaigned that they were going to do good things. They convinced some of their constituencies they were going to do good things, but this contract that the Republicans are signing for the taxpayers on behalf of the dairy farmers in this country is obligating them to a check that they are going to write that they cannot afford. It is bad policy and we ought to defeat this bill.

□ 1430

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. LAUGHLIN], a very valued member of our conference.

Mr. LAUGHLIN. Mr. Chairman, passage of the 7-Year Balanced Budget Reconciliation Act demonstrates to the American people that the new Republican majority will deliver on its promises and end business as usual in Congress.

This reconciliation package provides for a balanced budget by the year 2002. With this proposal, we will balance the budget while allowing the citizens of this country to keep more of their hard-earned money. With this reconciliation package, we are telling the hard-working citizens of this country that they, not the Federal Government, can and should decide where their money is spent.

This package marks the beginning of a shift toward the goals and decisions of the individual, and an end to the burdensome, intrusive, bureaucratic agencies like the IRS.

Democrats will say that we cannot afford to give hard-working Americans a tax break while balancing the budget. With this plan, we will prove that we can and that we will. Provisions such as a reduction in the capital gains tax will mean more jobs and economic growth. This is what the American people have asked for, and this is what we are delivering.

The American people understand the importance of balancing the Federal budget. They understand that Republicans have offered the solution, and that Democrats have offered scare tactics. We need to pass the Balanced Budget Reconciliation Act today for our children and grandchildren.

Mr. DE LA GARZA. Mr. Chairman, I yield 15 seconds to our distinguished colleague from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I would like to ask the last speaker from Texas if he realizes that people from Texas, through this bill, at least, will lose $4.3 billion in Medicare for his senior citizens. That is a 20-percent cut for the citizens of his district.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to ask the previous speaker if he realizes that this legislation will reduce by half the rice-growing area of Texas.

Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Chairman, the Republican revolution has just rolled over rural America and left the family farmer in the tire tread marks. The drastic changes to farm commodity programs being forced upon family farmers by this bill that we will vote on today are unprecedented in their severity and in their lack of judicious consideration by the House Committee on Agriculture.

The budget cuts envisioned for rural America by the Republican leadership have not had a single day of hearings, have not been adequately debated, have not been approved by the House Committee on Agriculture. The chairman of the Committee on Agriculture has spent more time discussing the Republican Freedom to Farm Act with the editorial boards of the Wall Street Journal and the New York Times than he has with his Democratic and Republican colleagues on the House Committee on Agriculture.

Even with the ringing endorsements of the Wall Street Journal and corporate executives of well-known rural centers like New York, Chicago, and San Francisco, the Republican farm bill failed the House Committee on Agriculture. We voted it down in a bipartisan vote. After meeting strong bipartisan resistance, the leadership circumvented the traditional committee process and has inserted Freedom to Farm in the Republican budget.

Now, I would say to my colleagues, this is being sold to the American farmer as a great visionary piece of work. However, we have not seen one single visionary on the Republican side here today talking to you about how great Freedom to Farm is. What is the matter, brothers and sisters? If it is so wonderful, why are you not out here extolling the virtues of Freedom to Farm?

I have a letter here to the Speaker signed by about 15 Republican Members of this body to the Speaker, and it says:

> The Senate is bringing us a workable package of agricultural budget savings that we can all live with. Why not come to an agreement on an approach that achieves the budget target and avoids a disastrous vote for rural Republicans?

Brothers and sisters, my colleagues, do not do Freedom to Farm. We have done enough to rural America. This is the last straw.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON, a gentleman who had much time in Vietnam to think about how much he cares about our country and its children.

Mr. SAM JOHNSON of Texas. Mr. Chairman, this morning I saw a bumper sticker that was very appropriate for today. It read, "Hey, Congress, do your job, balance the budget."

I think today America is closely watching this debate to see if Congress is finally going to live up to its promise of balancing our Nation's budget, and that includes agriculture too, I say to the gentleman from Texas [Mr. DE LA GARZA]. America has heard the Democrats' scare tactics, the rhetoric, and the empty promises before, and they are fed up with it.

Mr. Chairman, it is the Democrats' tax and spend policy of the last 40 years that has driven this country into the financial crisis that we are facing today. I am proud to say that the Republicans are ready to act now and do what Americans elected us to do, and that is, balance the budget. We are going to send the President a plan that cuts spending by $894 billion, and for the first time in 26 years, balances America's checkbook.

This bill eliminates hundreds of wasteful government programs, ends welfare as we know it, protects, preserves, and strengthens Medicare, returns power to the States, and provides much-needed tax relief to hard-working Americans.

Mr. Chairman, the President says he will veto this historic document. If he does not have the leadership or the courage to balance the budget, lower taxes, and secure a safe future for our children, just remember, that for each day after a veto he will be personally responsible for adding millions of dollars to the national debt.

So if you are for less taxes, less government, and a balanced budget, your vote for this budget will create more jobs, more opportunity, and more prosperity for our Nation. A vote for this plan is a vote for the future of America.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The gentleman's time has expired.

Mr. DE LA GARZA. Mr. Chairman, I yield myself 5 seconds to say to the gentleman from Texas, Mr. SAM JOHNSON, we have a plan that balances the budget. We have a plan that balances the budget.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong opposition to this budget plan. I will vote against it and I wish I could vote against it twice. This bill will create more suffering for senior citizens and children than any legislation ever passed by Congress. If it passes, I strongly urge the President to veto it.

This bill severely cuts Medicare, requiring senior citizens to pay more for their health care needs. It jeopardizes their choice of doctors, the quality of care they receive and their ability to pay for it. It eliminates Federal standards for nursing homes.

This bill severely cuts Medicaid, imposing a tremendous burden on States to meet the needs of poor children. It eliminates the School Lunch Program, replacing it with a block grant that will not cover all needy children when poverty increases.

This bill destroys work incentives for thousands of low-income working families trying to stay off welfare. It cuts the earned income tax credit, designed to help the working poor, while cutting taxes for the nation's wealthiest people.

In fact, this budget plan favors the big corporations, the high-income people and the special interests at the expense of those who can least afford it.

I favor reducing the size of the Federal Government. I am a long-time co-author of a constitutional amendment to force a balanced Federal budget. And, I think we can do a better job of enforcing laws already on the books to cut waste, fraud, and abuse in government programs.

But, I will never support legislation that seeks to balance the budget on the backs of senior citizens and children.

This is the worse piece of legislation I have ever seen and I strongly urge my colleagues to do the right thing and vote against it.

Mr. DE LA GARZA. Mr. Chairman, today the House will consider a substitute to the Gingrich budget bill. This substitute contains agriculture provisions that will reduce the deficit $4.6 billion over 7 years. These are the provisions that were considered by the Committee on Agriculture and failed on a 22 to 27 vote. In spite of the fact that they were desirable policy, they did not meet the committee's reconciliation obligation. Many of my colleagues across the aisle regretted that they could not support it because it did not meet the requirements of the budget resolution to balance the budget by 2002.

Today, my friends, you can now support reductions of $4.6 billion for agriculture, not $13.4 billion in cuts—three times that size, and reap the benefit of a balanced budget because the substitute also balances the budget by 2002.

Yesterday, I heard my good friend Chairman ROBERTS testify before the Rules Committee what his freedom to farm provisions would do as part of the Gingrich plan.

Chairman ROBERTS said American farmers would pay $15 billion less in interest expenses because of a balanced budget. Mr. Chairman, the substitute will reduce the same $15 billion in interest expenses for American farmers because the substitute also balances the budget.

Chairman ROBERTS said American farmers will have increased planting flexibility because of freedom to farm in the Gingrich budget plan. Mr. Chairman, American farmers will also have increased planting flexibility in the substitute budget plan.

Chairman ROBERTS said that freedom to farm will lock up the baseline for farmers so that when we will have to pass more cuts in coming years, and he said not to fool ourselves—we will have more deficit reduction bills just like this one, that farm spending will be protected. Mr. Chairman, I do not know why there will be more reconciliation, perhaps the tax cuts are too high or the spending cuts are not real, but if you vote for the substitute, there will be no need for future reconciliation because it will balance the budget.

Chairman ROBERTS said that freedom to farm was a market-oriented plan. Mr. Chairman, unless, by market-oriented, Chairman ROBERTS means the unimpeded opportunity to lose your shirt, the substitute bill is also market-oriented. Farmers will respond to market prices in their planting and marketing decisions.

But when farm prices are driven down by large supplies, poor economic growth, or an overvalued currency, as happened in the past, the substitute's farm program will increase payments to farmers to partially offset those market losses. And when prices are high, government payments will decline or cease altogether, reducing benefits when farmers do not need them. Under freedom to farm, farmers will receive the same $6 billion in 1996, for instance, whether prices are low-baseline levels, or above, as USDA has recently projected them, and requiring only $2.8 billion in payments to farmers.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, a cute phrase can be deceptive. This is certainly the case with the mislabeled farm portion of this massive bill. The farmers in my area call it the Farm Failure Act of 1995. It is designed to stabilize land values, not commodity prices. It benefits landowners far more than farmers. It mandates automatic payments regardless of crop prices. It discredits the farm programs.

In fact, it mandates these payments even if the prices are at record highs. In this time of huge deficits, it is estimated that it will cost $10 billion more than a simple continuation of present programs. We not only balance the budget on the backs of farmers, we are cutting them off at the knees.

Mr. Chairman, I believe that all of us agree that we should balance the budget in 10 years. We should balance it in 5 years. We have a plan that would balance the budget in 7 years, and it would do so without the harsh, dramatic impact on agriculture that this bill that the Republican majority proposes would impose.

Mr. SHAYS. Mr. Chairman, I yield 2 minutes to the gentleman from Nevada [Mr. ENSIGN], another distinguished member of the Committee on Ways and Means.

Mr. ENSIGN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, there is no easy way to do what Congress is about to do. If it was easy to do, previous Congresses would have done that. The national debt we are passing on to our children, including my 3-year-old son, Trevor, and his little sister who will be born in a little over a month, is nothing short of immoral. It is immoral to do to poor children, middle-class children and wealthy children, because if nothing is done, poor children will never get to be middle class or wealthy.

This bill is not only pro family because it begins to lift the debt burden from our children and grandchildren, but there are many other provisions on which I will touch on just a few.

First of all, this bill addresses the marriage penalty. There is a $500 per child tax credit. There is a $500 elderly care tax credit. There is also an adoption tax credit, and there is also estate tax relief so family-owned businesses such as family-owned farms can survive without having to sell off all of their assets so they can send that money back here to Washington. Mr. Chairman, it is bad enough that citizens pay taxes all of their lives, but then when they die, they have to pay taxes again.

This debate is largely about who should spend the people's money. Should families have more of the money they earn to spend at their discretion in the manner best suited to their situation, or should the Federal Government, which already has demonstrated all too well the inefficient way it spends money. Should the Federal Government be increasingly let into our pocketbook to waste our tax dollars?

I believe that the words tax cuts are not bad words. This is your money, America. Do you not deserve a little more of it back? Is everyone satisfied with the bang that they are getting for their buck?

Mr. DE LA GARZA. Mr. Chairman, I yield 15 seconds to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wanted to bring to the attention of our colleagues that approximately 14 of our Republican colleagues addressed a letter to the Speaker where they call the proposal, welfare for the Freedom to Farm bill. They said they would rather have a Senate version than the version here.

Mr. DE LA GARZA. Mr. Chairman, I yield 15 seconds to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to point out to my colleague that just spoke that the chairman of the Committee on the Budget, Mr. KASICH just informed this body that the $500 tax credit is not in this bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, this portion of the budget represents the deepest cuts and most drastic changes proposed in agriculture in decades. You would have thought that the Freedom to Farm Act might have warranted very thorough consideration. In fact, it did not have a single hearing in the Committee on Agriculture.

Basically, House leaders told rural America, this is what we are going to do, now sit down, shut up, and take it. But we did not take it in the House Committee on Agriculture. We defeated the proposal. However, House leaders had the audacity to move this into the budget in spite of the House Committee on Agriculture rejection. Shame on all of you who have participated in such a vicious charade for rural America.

I am not surprised that for most of this debate there is not a single Republican House Committee on Agriculture member here to defend what has been done.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to thank the gentleman from North Dakota [Mr. POMEROY] for his help on the spousal impoverishment, which was very fine help. We appreciate it.

Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from California [Mr. THOMAS] of the Health Subcommittee from the Committee on Ways and Means.

(Mr. THOMAS asked and was given permission to revise and extend his remarks.)

□ 1445

Mr. THOMAS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, what I want to do is try to refocus our attention away from perhaps the more rancorous partisan aspects and frankly look at a little bit longer term perspective.

Because I am here representing two individuals who are not here in both the House and the Senate. Senator Bentsen is no longer with us, and J.J. Pickle is no longer with us. But for a number of years, Senator Bentsen joined with Senator ROTH and I joined with J.J. Pickle to focus on what we call superIRA accounts, the idea that individuals would have greater control over that money, which was theirs, which had been put away.

We were unsuccessful for a number of years, but I am pleased to announce that in this particular reconciliation bill a couple of the key points that Senator Bentsen, Senator ROTH, Jake Pickle, and I fought for, for a number of years, are present.

Today, if you withdraw from your IRA to spend on medical expenses for yourself prior to the 59½ year, you not only have to pay taxes on the money you withdrew from your own savings, you also have to pay a 10-percent penalty. That just does not make any sense. What we do today is say, if it is for medical expenses, you do not have to pay and you do not have to pay the penalty.

I might add that President Clinton's 1996 budget also includes this provision; and I might say that H.R. 11, which was passed by this House and unfortunately vetoed by President Bush two Congresses ago, contained that provision as well. So it is just kind of a nice culmination of a number of bipartisan projects that come together today in this particular bill.

In addition, the long-term care insurance provision. You do not now get to deduct the cost of long-term care insurance as part of your medical expenses. This has been a project that we have worked on bipartisan for a long, long time. As a matter of fact, President Clinton has this in his 1996 budget as well. We think it is a good idea, and we included it in this reconciliation package.

In addition to that, we are supposed to talk about taking care of your own. Today, if you have a senior or an elderly in your home, your parent, your relative, you do not get any tax credit whatsoever for the out-of-pocket costs in taking care of that individual. In this reconciliation bill, you get credit for those expenses.

In addition to that, when we examined the medical savings accounts and those who were uninsured, we thought that those young people who are working above the poverty level but do not need all of that third-party first-dollar coverage of comprehensive medical care really did not have a product in the marketplace that fit their needs. This reconciliation bill contains a medical savings account provision for young people who can shape their insurance needs to what they need at an affordable cost.

In addition to that, you have an orphan tax credit that has been worked on on a bipartisan basis for years. It had lapsed. We had not been able to renew it. It is for those drugs that go to Tourette's disease, go to Huntington's disease, but there simply is not a broad enough base to pay for them. That is in this bill.

There are a number of provisions that for a number of years on a bipartisan basis we have tried to move forward. I just thought people should know in the middle of this partisan rancor that there are a number of provisions that colleagues here today have voted for and colleagues who have been here in the past have voted for, and it is a really good provision.

Mr. DE LA GARZA. Mr. Chairman, I yield 15 seconds to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Chairman, just this point. Do we all know that 14 Republicans wrote Speaker GINGRICH saying this bill is a disastrous vote for rural Republicans?

Mr. DE LA GARZA. Mr. Chairman, I yield myself the balance of my time.

I want to thank all the members that worked with us in the Committee on Agriculture. I am saddened by the fact that the legislation which appears in the reconciliation is not the product of the Committee on Agriculture. I am concerned about that.

But the Stenholm proposal balances the budget in 5 years. The Committee on Agriculture has met its commitment. We have reduced over $50 billion in the past 10 years. No one can point the finger at the Committee on Agriculture that we have not done our share.

The CHAIRMAN. Under the previous unanimous-consent agreement, the gentleman from Michigan [Mr. DINGELL] will control the remaining 30 minutes for the minority.

The gentleman from Ohio [Mr. KASICH] has 27¾ minutes remaining.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, does the majority not want to use its time? It is such a great bill they have got. I would be delighted to defer to listen to that.

Mr. SHAYS. If I heard the gentleman correctly, Mr. Chairman, we have 27 minutes and this gentleman has 30 minutes remaining. Is that correct?

The CHAIRMAN. That is correct.

Mr. SHAYS. Mr. Chairman, we reserve the balance of our time.

Mr. DINGELL. Mr. Chairman, I would observe that it is usually the practice for the majority to set forth what a great piece of legislation this is. I am waiting for somebody over there to tell me what a great piece of legislation this is.

Mr. SHAYS. I would be happy to point out to the gentleman, but we reserve the balance of our time.

Mr. DINGELL. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, I can understand the reluctance of my Republican colleagues to tell us what a great bill it is because, quite frankly, this is one of the worst pieces of legislation I have ever seen in the 40 years I have served in this body. The bill includes both Medicare and Medicaid cuts and tax breaks.

Our Republican colleagues said that they were not tying the two together. Well, they are tying them together in this bill. The poor and the aged are going to understand that the contributions that they are making of about

$500 billion is being made so that a tax cut can be given to the wealthiest Americans. That is finally proven in this piece of legislation.

The pernicious approach violates the contract we have with seniors who have paid for their Medicare benefits. It means seniors will pay more and get less choice of doctors, poor quality lab tests, and nursing homes that do not meet common standards of decency.

By separating action on Medicare from the rest of reconciliation, Republicans tried to convince us that $270 billion in Medicare cuts do not pay for $245 billion in tax breaks for the rich. But Americans can perform the simple math required. They know when someone is pulling the wool over their eyes.

The bill also destroys Medicaid. Under the mantra of State's rights, Republicans are pulling the safety net out from under middle class families, poor children, women, seniors, and the disabled—the most vulnerable of Americans. Up until last night, the Republican bill arbitrarily cut $182 billion from Medicaid. Now they say they have fixed it by cutting only $170 billion. But this midnight deal does not change the fact that this bill abdicates the Federal Government's role in Medicaid, reduces health care for the most needy, and invites abuse by States. It takes away vitally important guarantees under current law: protection from having to sell the family home or farm to pay for a loved one's nursing home care; guaranteeing coverage for seniors with Alzheimer's; setting minimum standards of safety, cleanliness, and decency for nursing homes; and guaranteeing health care for children and pregnant women.

I and other Members tried to correct one of the most glaring defects in the bill by offering an amendment on behalf of Mr. GINGRICH. In debate last week, the Speaker obviously was under the misimpression that his new MediGrant Program does what current law guarantees—covering the cost of Medicare premiums for seniors under the poverty line. In fact, this bill repeals what current law provides. Our amendment would have restored provisions the Speaker erroneously relied on and guarantee that the poorest of seniors have Medicare coverage. But the Rules Committee gagged us from amending the bill so that it will do what the Speaker says it does.

I also want to point out the devastating impact that this bill has on health care for veterans. The Secretary of Veterans Affairs says that the harsh spending caps in the Republican plan will require 41 veterans hospitals to close their doors. As a result, more than 1 million veterans will be denied health care by 2002. I do not share the misguided view of my colleagues on the other side of the aisle that the best way for veterans to stay healthy is not to get sick.

This bill walks away from responsible government to help people in need in favor of lining the pockets of the wealthiest Americans with unneeded tax cuts. In addition to health care cuts, this bill slashes education, job training, and other programs upon which we empower people to help themselves.

Most Americans will get nothing, or pay more under the GOP tax break. The small percentage of the tax cuts that will go to families earning less than $50,000 a year will be more than offset by spending cuts. These families stand to lose $648 a year or more under the GOP plan. Those earning more than $350,000—the richest 1 percent—will get $14,050 a year for the tax cut. I find it curious that my Republican colleagues, who criticize the President for not cutting middle class taxes enough, are rushing to raise taxes on many low income families. I must confess I am not surprised, however, that they would follow through on their threats to slash programs vital to the financial security of working Americans.

Finally, I must object to the cavalier manner in which the Republican leadership has included massive changes in farm programs. The so-called freedom-to-farm proposal was found to be so objectionable that the House Agriculture Committee failed to get it out of committee. On an issue as vital as our Nation's food security, this bill shreds responsible legislating for partisan game playing and makes rural Americans the pawns.

This is not the way to legislate, and it is a dangerous way to govern.

Mr. Chairman, this is the biggest and the most important bill to be considered by the House this year. The cuts are too large. It hurts terribly the health care coverage of millions of Americans.

I strongly oppose the bill. I now look forward to hearing from my Republican colleagues about what a great piece of legislation this is.

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I say the reason the gentleman has not heard from us is he has not been on the floor listening.

Just taking Medicare, for instance. We have not increased co-payments; we have not increased deductibles. The premium stays the same at 31.5 percent. No one has to leave their fee-for-service system. If they want to, they can go. If they go into a private care, every month they can come back into their system.

What the gentleman does not want people to know is that we are going to spend 73 percent more, over $600 billion more in the next 7 years than we did in the last 7 years; what the gentleman does not want people to know is in the 7th year we are spending 50 percent more than we do today on Medicare; and what the gentleman does not want people to know is that the per beneficiary goes from $4,800 to $6,700.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Connecticut for yielding me the time, and I commend him for his unwavering support over the years for fiscal sanity and say that I am very proud to stand up here today and support this bill that leads us to the first balanced budget in 26 years.

But I also want to talk about some other things. As the gentleman from Michigan says, many of us are eager to talk about some of the good things in this bill beyond the fact that we come to the first balanced budget in 26 years, which is of paramount importance.

This afternoon, I want to highlight a few of the small business incentives in this package that go beyond that critical task of getting spending under control but will encourage saving and job creation to lead to real long-term economic growth.

Let me give a good example. It is not too glamorous, but it is extremely important to small businesses, to workers and employers in small businesses around this country. It is the long-overdue, comprehensive simplification of our pension laws in this country. And it is in this bill.

These changes which the gentleman from Maryland [Mr. CARDIN] and others on both sides of the aisle have been working on will make it easier and less expensive for businesses to both establish plans and to maintain pension plans, thus encouraging and enabling people to save, an important public policy goal in its own right, and also will encourage people to plan and to take responsibility for their futures and for their retirement.

Pension law is a great example of an area where Congress, by meddling, has hurt workers and employers who are trying to do the right thing. Quite simply, as the rules and regulations have multiplied in this area, fewer and fewer employers are able to offer pension plans. It has gotten to the point where today only 20 percent of those employers with less than 25 employees offer any kind of pension plan at all. It is no surprise that our savings rate is among the lowest, if not the lowest, in the industrialized countries.

Another example of rules that are outdated, overly complex and impede job creation are the subchapter S corporation rules and regulations. That includes most of the small and family-owned businesses in America. The sub-S changes that we have made, and they are in this bill, will help companies grow and flourish, create new jobs and will keep family businesses family-owned.

The point I want to emphasize is that the pension, subchapter S and other reforms in this legislation are going to stimulate national investment and savings, foster business growth, and they are good for America, and they are all in this bill.

Ms. ESHOO. Mr. Chairman, I yield 15 seconds to myself to point out to the gentleman from Ohio, who just spoke about the bill, that Ohio will lose $4.1 billion in health care for the elderly and the disabled. Most of this is in nursing home care which will have to be paid for by their hard-working middle-class families.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, there are many, many reasons to oppose this legislation: It savages health and education programs; it gives tax breaks to the wealthy at the same time it takes the earned-income tax credit away from people who need it; it contains some outrageous assaults on some of our most treasured environmental assets.

Under the cover of balancing the budget, this bill is a disaster for American people, full of special interest giveaways and policies that will do irreparable harm to the health and well-being of America's working families, children and seniors. Nowhere is that effect more obvious than in the actions taken to slash and undermine the Medicare and Medicaid Programs.

The so-called Medicare reform of Mr. GINGRICH is nothing less than an attempt to destroy Medicare as we know it, and take away from our seniors the ability to stay in a strong and viable Medicare Program where they can choose their own doctor and be protected against having to pay that doctor a lot of extra dollars out of their own pocket.

The Gingrich Medicare reform hikes the Medicare premium dramatically, and takes away the guarantee for seniors struggling to live on incomes below poverty that Medicaid will pay their Medicare part B premium and cost-sharing. Despite the personal assurances of Speaker GINGRICH to this House last week, that help that seniors have now is not there.

If there is any doubt about what the agenda is here, we need to look no further than the statements reported in today's Washington Post:

> Majority Leader Dole, stating with pride that in 1995, "I was there, fighting the fight, voting against Medicare."
>
> Speaker Gingrich, bragging to the insurers about what the Republicans are doing to Medicare, "Now, we don't get rid of it in round one because we don't think that's politically smart . . .".

It is not that he does not think it is a good idea to get rid of Medicare, but it is smart politics to cover up the impact in the first round.

I do not think it is smart politics to think that you can fool the American people about what is going on here. Democrats are proud to defend Medicare, not because we think it is smart, but because it is the right thing to do.

With Medicaid, Mr. GINGRICH and his Republican colleagues do not even seem to think they have to put up a smokescreen as they dismantle it. They take away any guarantee of coverage for people who need nursing home care, for severely disabled children, and adults who have nowhere else to turn for help, for 18 million poor children who have no other source of health care. That is one-quarter of the kids in this country who are about to be put at risk to join the ranks of the uninsured.

They take billions of Federal dollars out of the system to provide health care for people who have no other options, and they leave States, counties, and cities holding the bag when they find that there is not enough money to deal with the problem. They leave the States with the choice of raising taxes to try to replace Federal revenue, or simply cutting people off from help.

And they tip the scales toward cutting people off. States will soon be competing with surrounding States in a race to the bottom—afraid to try to keep an adequate Medicaid Program in place because too many desperate people from surrounding areas will try to come in to get help.

There is more. They do not want to pay nursing homes enough to support the delivery of decent quality care. So their answer to that problem is to repeal the nursing home standards.

They undo all the protections of current law, and hope people will not understand what they are doing. They hope this will get through before they get caught.

Look what they did in terms of protecting the spouse of someone who goes into a nursing home from ending up in poverty. First, they repealed all the protections. Not one Republican voted for restoring them when we offered an amendment to protect against spousal impoverishment in committee. They were very outspoken that they did not need or want Federal standards.

Then they started to feel some heat in the press, and even they started to feel uneasy defending what they had done. So they changed it—all of a sudden the amendment all the Republicans hated in committee showed up in the Kasich bill. Now they were finally willing to say that a State could not impoverish the spouse.

But there is just one problem—they to here let the nursing home itself require the spouse or the adult children of the person in the nursing home to make them pay extra if they wanted their husband or wife, father or mother, to get care in the nursing home. I think we call that giving with one hand and taking away with the other.

What happened? Once again, when the light of day shined on what they were doing, they reversed course.

Now the rule adds a Bliley amendment—one that Mr. BLILEY did not ask to be made in order, I might not, until we caught them at what they were doing—that would not let the nursing home get that extra money. Well good! That is what they should have done in the first place.

But the fact is they are still trying to hide the biggest thing of all. What they are hiding is that the spouse who needs the nursing home care in the first place is not assured of getting it!

People with Alzheimer's getting coverage under Medicaid now: They have no guarantee they will be covered.

People who could stay at home if they had some help: No guarantee of coverage.

People who have to have nursing home care: No guarantee of coverage, and even if they do get it, no guarantee that it will be in a decent facility.

Even veterans now getting services: No guarantee they will continue to get coverage.

This is wrong. It is wrong to say to millions of working families with severely disabled children, that they have no guarantee of help anymore.

It is wrong to say to families who have no health insurance coverage for their children, that they have no guarantee of help anymore.

It is wrong to say to low-income seniors that they have no guarantee that we will help pay their Medicare premiums and cost-sharing anymore.

And it is wrong to say to States, and counties, and cities, it is your problem. We have washed our hands of its.

There are many things that are wrong with this bill. But what is done to Medicaid alone is enough to vote against it. What is done to Medicare alone is also enough to vote against it.

The health and security of America's seniors and children depend on what we do here today. Defeat this bill.

□ 1500

Mr. SHAYS. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. EWING], the distinguished chairman of the Subcommittee on Risk Management and Speciality Crops.

Mr. EWING. Mr. Chairman, ladies and gentlemen, I have been concerned, listening to the debate here today, the criticism of the process followed by the Committee on Agriculture.

In fact, in many ways it was not the majority party's problem. We went through the process. We debated the issues. The Democrats were given an opportunity to put forth their substitute, and it failed. We came along with the substitute put forth by Republican Members, and it failed, and the one program that had the most votes was the one which is in this bill. This program is the Freedom to Farm Act.

The one that the Democrats voted for cut just as much money from agricultural programs as Freedom to Farm.

Let us not lose sight of the big picture. Our prior Congresses have been cutting agricultural spending for producers and putting it into social programs. We are going to continue that process of phasing out Big Government controls and regulations on agriculture, and it is going to go to deficit reduction.

This program is a good program. It meets the needs. It is important that it is passed with this bill.

Ms. ESHOO. Mr. Chairman, I yield 15 seconds to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, I would like to point out to the gentleman who just spoke, under this bill the State of Illinois will lose $3.5 billion in health care for the elderly and disabled, mostly nursing home care, which will have to be paid for by hard-working, middle-class families, and his vote will increase taxes for thousands of middle-class families at the same time.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman and colleagues, I believe that there is a clear consensus in this body for bipartisan reform of the Medicaid Program, and clearly the States can play a critical role in reforming that essential program.

Five States have been the lead; five States have been a laboratory for change, and the tragedy today is that this bill will turn out the laboratory for change in our home State of Oregon. This bill means that a program that is serving more than 100,000 low-income people will have to be dismantled. This means that charity care is going to increase. This means our welfare rolls are going to increase.

I would note specifically in a letter I just received from Jean Thorne, who is our Governor's assistant on Federal health policy, that she believes that the level of funding involved in this bill is going to require the dismantling of the Oregon health plan. This is a tragedy. It is a tragedy for Oregonians. But it is a tragedy for our Nation because we need bipartisan Medicaid reform, Medicaid reform that stresses prevention, holds down costs through health maintenance organizations, and this plan does it.

Let us reject this bill. Let us not turn out the lights on the laboratories for health care change in America like in my home State of Oregon.

Mr. Chairman, I believe that there is a very strong, bipartisan consensus in this House to fix Medicaid—and to fix Medicaid in some very fundamental and tough-minded ways.

And I believe that the State can play a very important role in this matter as our laboratories for change and innovation.

This bill, unfortunately, turns out the lights on those laboratories for change by eliminating waivers for these experiments in five States including my home State of Oregon.

This is bad medicine for Oregonians, and no remedy for the beleagured Federal taxpayer.

This is the last thing we should be doing. It is unwise because it will remove health care coverage from thousands of our fellow citizens, it will hog-tag States that already have undergone significant reforms, and it ultimately will cost tax payers far more dollars than you are attempting to save in this reconciliation package.

This bill sends us marching backwards, dooming States that have had the political guts to reform, back into the bad old days of public welfare programs.

Oregon is one of the States that has lead the way toward a century Medicaid Program, and our waiver plan has full, bipartisan support within our congressional delegation. It has that support because in the last 16 months: Oregon has enrolled 130,000 working poor into managed care; reduced uncompensated, charity expense at hospitals by 30 percent; and has delivered a Medicaid Program which, per capita, is 10 percent less costly than the national average.

This bill even with the new provisions worked out by the speaker last night, dooms the Oregon health plan.

I have just received a letter from Jean Thorne, governor Kitzhaber's Federal policy director and the former manager of the state's Medicaid Program.

Here is what she has to say about the measure we are voting on, today, with regard to our health plan.

Short-term, she says that while additional moneys inserted into this bill last night will alleviate some of the problems in the first year, we will likely need to take actions limiting the program before the end of the 1996 fiscal year.

After that, according to Thorne's letter, the package will cause the Oregon plan to plummet as if from a cliff.

She says the 7 year loss from this measure "is still almost $2 billion."

It is likely that such a level of funding loss will require us to dismantle the Health Plan. If this were to happen, it would mean that approximately 130,000 low-income Oregonians would no longer have Medicaid coverage. These are people who are primarily families with children.

My colleagues, and particularly my colleagues within the Oregon delegation, make no mistake, this will kill the Oregon health plan as we know it.

I suspect, after speaking with State officials this morning, that this will force a special session of our State legislature early next year to revamp the Oregon plan.

This will mean fewer services covered, and fewer Oregonians under health care coverage.

One State official speculated that somewhere between 30,000 and 40,000 Oregonians—working poor—will have to be let out of their coverage in the next 15 to 20 months.

Mr. Chairman, I should point out that under this plan we have reduced the number of welfare recipients in the State by about 8 percent in the last year. We projected further decreases of about 12 percent over the next 2 years.

That projection, like health care coverage for some tens of thousands of Oregonians, is now out the window as well.

We will see our welfare rolls, and our welfare costs, grow because of the loss of this waiver.

Mr. Chairman, as I said we have worked cooperatively in our delegation to try to get this issue turned around, and I want to especially commend the work of my colleague, JIM BUNN.

But we have no remedy in what is proposed, today.

This language is a prescription for higher public costs, higher costs to hospitals which will be shifted to other consumers, and the loss of decent health coverage for many, many of my fellow Oregonians.

I urge my colleagues to reject this measure.

STATE CAPITOL,
Salem, OR, October 26, 1995.

To: Congressman Ron Wyden.
From: Jean I. Thorne, Federal Policy Coordinator.
Subject: Amendment to House Medicaid Bill.

In reviewing the special adjustment made for Oregon in the House bill, I believe it helps alleviate the need to take immediate action to possibly dismantle the Oregon Health Plan, but it does not change the long-term outlook for the Plan.

As I read the language included in the bill, it provides a one-time allotment to Oregon of an additional $155 million in fiscal year 1996, but does not change the allotments in subsequent years. The amount of funding provided in 1996 basically would equal the amount spent in 1995 plus an inflation factor of 7.24%. We are anticipating approximately 9% growth in Oregon's Medicaid expenditures between fiscal years 1995 and 1996, so although this additional amount of funding will alleviate much of the immediate problem, we will likely need to take actions before the end of the fiscal year to trim back the Health Plan and other areas of Medicaid, such as long-term care services. By fiscal year 1997, more drastic actions will be necessary, although it is unknown at this point whether a special legislative session prior to the regular 1997 session would be necessary.

Clearly, beginning with 1997 we face the same problems as in the original House bill. The seven-year anticipated loss with this change is still almost $2 billion, as opposed to $2.1 billion. It is likely that such a level of funding loss will require us to dismantle the Health Plan. If this were to happen, it would mean that approximately 130,000 low-income Oregonians would no longer have Medicaid coverage. These are people who are primarily families with children. Since the beginning of the Health Plan in February 1994, we have increased the number of Oregonians with Medicaid coverage by almost 50%. We currently have over 75% of all Medicaid enrollees receiving services through prepaid health plans. The amount of funds hospitals spend on charity care has decreased by over 30%. Our welfare caseloads have declined by 8%, with another 12% decline anticipated in the current two-year budget period. At the same time, our spending per beneficiary is more than 10% below the national average. Our ability to "squeeze" additional savings out of the program is severely limited. If the Oregon Health Plan were to be dismantled, we would face the prospects of actually going backwards from the gains we have made—less people covered, less people in managed care, more costs shifted to other payers and welfare caseloads increasing.

We deeply appreciate the work of Congressman Bunn in getting this issue before Congress, but we recognize that it is only a first step. Our hopes are that we can secure an exemption for states with operating Section 1115 waivers to continue under the funding terms of the waiver, allowing us to prove that our demonstration programs can improve the health of poor persons in a cost-efficient manner.

JOHN A. KITZHABER,
Governor.

Mr. SHAYS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I am anxious to hear the speeches when people stop buying Treasury bills because our debt has grown so large that people are no longer interested in taking the risk.

This bill brings us to reality. It will reduce the cost of real interest payments.

On the farm bill, they say it was done in the dark of night. We had 10,000 farmers at 19 field hearings from California to New York to Florida, talking about reforming agriculture. Now, one group says we have done too much to agriculture and we are hurting rural America. My God, I live in rural America. I respect rural America. They asked me, MARK FOLEY, to make changes in the agriculture policy of this Nation.

So I stand here proudly to support the Freedom To Farm Act. We will unshackle agriculture. We will allow them to become productive. We will feed America's families. We will save us tremendous interest costs around this Nation and make our farmers proud to be Americans once again, which they are today.

Let us not hear the rhetoric that this bill is bad for America, because when the final numbers are in, when we save our children's future, when we save the bankruptcy of this Nation, when we make our people proud of this country once again, the numbers and the votes and the sentiment of America will be with us.

Ms. ESHOO. Mr. Chairman, I yield 15 seconds to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I would like to point out to the gentleman who just spoke that under this bill the State of Florida will lose $5.9 billion in health care for the elderly and the disabled. Most of this is coming from nursing home care which would have to be paid for by hard-working middle-class families.

Ms. ESHOO. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Chairman, now I get it. Now I understand why the Gingrich majority believes this bill is good for middle-class America.

The gentleman from North Carolina [Mr. HEINEMAN] recently noted those with incomes between $300,000 and $750,000 a year are middle class. I get it: The middle class that this reconciliation bill will help has an income of $300,000 a year.

The Gingrich plan cuts Medicare to give tax breaks to people making one-half of a million a year. Why? Well, Speaker GINGRICH told an extremist group of supporters of his, "We don't get rid of Medicare in round one, because we don't think that would be politically smart. We don't think that is the right way to go through a transition. We believe it is going to wither on the vine because we think people are voluntarily going to leave it."

Shame on them, cutting Medicare, trying to destroy Medicare to give a tax break to people making one-half of a million a year.

Mr. KASICH. Mr. Chairman I yield 1 minute to the distinguished gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I think it is interesting when you talk about agricultural policy and not having hearings, we had 19 hearings concerning the Freedom To Farm Act and getting ideas from farmers themselves. One gentleman who spoke earlier admitted during the committee hearing, on the Democrat side, that he had never attended any of these hearings.

I think it is kind of interesting, I am sure he must have been listening to bureaucrats here in Washington, but the thing they told, the farmers told us, they want flexibility, they want a safety net, and they want relief from regulations that are strangling agriculture today.

One important thing to remember, when we actually get to a balanced budget, it is going to lower interest costs by 1.2 to 2 percent, and when you look at agriculture that is borrowing $141 billion a year, over 7 years, that more than makes up for any reduction in farm spending, and under the bill that is in our Reconciliation Act, there is more disposable net farm income than even existing law would be.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I would like to point out that the gentleman who just spoke, under this bill, the State of Iowa will lose $590 million in health care for the elderly and disabled, and most of this is nursing home care which will have to be paid for by their hard-working middle-class families.

Mr. Chairman, maybe Speaker GINGRICH is planning to save his book royalties to pay for his hospital, doctor, and nursing home bill if he ever needs it, but most older Americans don't have that luxury.

This bill delivers a knockout punch to middle-income families, and I don't mean those middle-income families defined by Congressman HEINEMAN as making $300,000 to $750,000 a year. Not only does it cut student loans their children will need for college, but it is also going to force them to pay for much of the health care their parents now receive under Medicare and Medicaid. Talk about taking the care out of health care; that's a double whammy.

BOB DOLE yesterday proudly proclaimed that he voted against Medicare when it was created in 1965 because, and I quote, "we knew it wouldn't work."

Well Senator, let me tell you: You couldn't be more wrong—Medicare works. When Medicare was signed into law by President Johnson, nearly 30 percent of senior citizens lived below the poverty line and half of all senior citizens had no health insurance. Today barely 12 percent live in poverty and an astounding 99.1 percent have health insurance coverage.

The Republican leadership sure has a knack for revising history.

The Gingrich Medicare plan will force the elderly and their children to pick up the tab for $270 billion in payments for doctors, hospitals, medical equipment such as wheel chairs, and drugs that Medicare now covers. Adding insult to injury, it is the elderly and their middle-class sons and daughters who will not benefit from the huge tax break these health care cuts are intended to give to people earning more than $100,000 a year.

In fact, while the Republican tax plan gives a $14,000 tax break to a wealthy family with an income over $350,000, it actually raises taxes by more than $600 for middle-income families with incomes below $50,000.

Just listen to what the Speaker wants to take away from elderly and middle-class Americans to pay for his tax cut.

First, Speaker GINGRICH will cause hospitals in the Chicago metropolitan area to lose more than $2.8 billion. The city of Chicago, alone, will lose $1.3 billion; almost half that amount, $699 million, will be lost by the 11 hospitals in my congressional district.

Cuts of this magnitude will force these hospitals to sharply reduce the number of patients they can serve.

If the Speaker were on the floor, I'd say to him: Mr. Speaker, is your tax break for the wealthy worth the risk that thousands in the Chicago metropolitan area may be denied a hospital bed?

Second, under the Speaker's Medicare bill, each of Illinois' 1.6 million Medicare recipients will see their health care costs rise by at least $3.500.

Mr. Chairman, where is the fairness in a proposal that pays for a $14,000 tax break for the wealthy by forcing the elderly to pay $3,500 more than they currently pay for health care?

Third, Mr. GINGRICH's Medicaid proposal will lead to the termination of nursing home care for an estimated 350,000 people simply to pay for his crown jewel of a tax cut for the rich. Meanwhile, seniors will be asked to pay the jeweler.

Fourth, the Speaker will cut payments for more than 60 percent of all the Illinois elderly who enter nursing homes. With the Speaker's blessing, no elderly or disabled individual will be guaranteed coverage for any benefit, including nursing home care.

Mr. Chairman, is giving a tax break to wealthy Americans really worth denying nursing home care each year to 50,000 sick and aged folk who live in my State?

Is it really worth denying long-term care for 96,000 elderly and disabled in my State?

That's 49 percent of all those currently receiving such services.

Mr. Chairman, as my constituent, Irene Nelson, a senior citizen from Chicago, testified at the Democratic alternative Medicare hearings, and I quote, "It is obvious to me that the people who are making these decisions are completely out of touch with the daily struggles of senior citizens like me."

I beg of you, my colleagues: Please don't do this to your parents and to our Nation's elderly citizens. Find it in your heart to vote against the Speaker's changes that make Medicare and Medicaid into medican't.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. HILLEARY].

Mr. HILLEARY. Mr. Chairman, I rise in proud support of this historic legislation.

Mr. Chairman, I proudly rise in support of this historic legislation, H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act of 1995. This legislation keeps the promises I made to the people of the Fourth district of Tennessee.

This bill balances the Federal budget in 7 years, provides genuine welfare reform, preserves Medicare for our elderly now and in the future, and provides real tax relief for middle-class families.

I am confident that the changes we are making here today will lead to lower interest rates and growth.

Not growth in the Federal bureaucracy, but growth in the private economy creating more jobs for the people of Tennessee.

History has shown us over and over again that raising taxes hurts economic growth and never raises as much money as promised. In fact, this morning in the Wall Street Journal, former Chairman of the President's Council of Economic Advisers, Martin Feldstein, wrote an article showing that President Clinton's income tax increase in 1993 failed to raise the money he claimed. He writes that the IRS has recently published data showing that the steep increase in the tax rates raised only about one-third of the amount of money that President Clinton had predicted.

For the families of my district in Tennessee, they will see real tax relief. The $500-per-child tax credit means that families with children earning less than $25,000 will no longer pay Federal income tax. Families making $30,000 will see their Federal income tax bill cut almost in half. Furthermore, lowering the capital gains tax will mean more economic growth and more jobs for the people in Tennessee.

Unlike past efforts of Congress to balance the budget, H.R. 2491 doesn't rely on accounting tricks or gimmicks. It makes real cuts.

All of us in this Chamber, everyone in Tennessee and throughout the country has benefited over the years from the Federal Government's overspending.

But this overspending has a devastating impact on our young who are the future of our country. Right now, a child born today will pay an average of $187,000 in taxes over a lifetime just to pay the interest on the debt. This irresponsibility in the Federal Government can't continue. It must stop. We can't continue to do this to our children.

Cutting out programs many people have become comfortable with is not a job any of us cherish or enjoy. I can assure everyone that making these cuts was not easy, but I can say that they are fair.

Is this legislation perfect?

I will be the first to admit that it is not a perfect bill. It's no secret that I personally believe that we can and should balance the budget in less than 7 years.

Did we cut out only the wasteful programs and leave only the good ones?

No, I think there is still plenty more that can be cut and we may have made some errors where we cut. Some of these errors can and will be corrected as the legislative process continues. Other problems we may have to address with corrective legislation next year.

One of the problems we identified was in the funding formula for the new Medigrant Program. Under the House version of the Medicaid bill which uses 1994 as the base year for Medicaid payments, Tennessee was in fact being penalized for pioneering a State run Medicare/Medicaid Program.

Under TennCare, Tennessee had paid out an extra $180 million to its Medicaid recipients that was not included in fiscal year 1994. This short fall was a result of an entire 3 months of payments that the Federal Government had not included in its equation because of accounting differences between them and the State of Tennessee.

Mr. Chairman, I am encouraged by the willingness of the Speaker to work with the Members of Tennessee on the Medigrant funding levels. The Speaker acknowledged a discrepancy between the State of Tennessee's 1994 Medicaid funding and the numbers used by the Federal Government.

I thank the Speaker for his understanding of this problem and his support for putting an extra $180 million into TennCare's 1996 funding level to insure that no harm would come to Tennessee's Medicaid recipients.

Furthermore, I extend my appreciation to the Speaker for his commitment to continue negotiations as this legislation continues through this process to ensure that Tennesseans receive their fair share of funding for the TennCare Program.

I believe we can work out these final problems before the conference report is brought back to the House.

Mr. Chairman, we need to move forward this historic legislation to change the direction of the Government.

I proudly support this bill and urge all of my colleagues to vote for H.R. 2491.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of this vitally important legislation for the future of our country.

Today we are keeping our promise to America for a better future, and fulfilling the people's mandate for change. No more excuses, no more Washington gimmicks. It's time to do the right think—it's time to balance the budget.

Passing this budget reconciliation bill will bring more change to the way Washington operates than any other legislation in the last half century. It eliminates deficits over the next 7 years and does it honestly and fairly. And in doing so, it eases the crushing burden of Federal debt on our children.

A balanced budget is more than just an accounting trick. Balancing the budget will lower interest rates which will mean lower mortgage rates, lower car loan costs, lower rates on student loans, and more jobs.

For instance, according to DRI-McGraw/Hill, an independent economic consulting firm, fixed rate mortgages would drop by 2.7 percentage points and adjustable rate mortgages would drop by 1.7 percentage points by 2002. This would boost home values by 8 percent, existing home sales by 11.5 percent, and housing starts by 65,000 each year.

With this bill we keep other promises such as bringing real reform to the welfare system. It breaks the cycle of dependency, and emphasizes work, personal responsibility, and the preservation of the family. It shifts power and resources back to the States and slices away government bureaucracy.

The bill includes Medicare provisions, passed earlier this year, which preserve, protect, and strengthen Medicare. It saves Medicare from bankruptcy while still increasing spending on this important health care program. It's security for our seniors who have planned for their retirements with the hope that Medicare will be there. And it's security for baby-boomers who know we are committed to a sound Medicare system when they retire.

We deliver on our promise of tax relief for America's families and a cut in the capital gains tax to spur job creation and economic growth. According to the Joint Economic Committee, a $500 per-child family tax credit means families with children earning less than $25,000 will see their entire Federal income tax liability eliminated. Families with incomes of $30,000 will have 48 percent of their Federal income tax liability eliminated.

And capital gains tax relief means jobs and economic growth. Investment will not happen without capital, and capital will not be freed up without tax relief. Economic growth and more jobs means more tax revenue.

Despite what our critics say, we can balance the budget and still give relief to our hardworking and overburdened taxpayers. And one thing we know for sure, increasing taxes has not produced balanced budgets.

The American people want a smaller, more efficient government, but Washington has failed to deliver until now. With this bill we begin slimming an overweight Federal bureaucracy by eliminating an entire Cabinet-level agency—the Commerce Department.

The budget reconciliation bill is the right thing for America and America's families. We keep our word and balance the budget. Most important, we save the future of the American dream for our children.

Mr. KASICH. Mr. Chairman, I yield 2½ minutes to the very distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

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Mrs. JOHNSON of Connecticut. Mr. Chairman, what we are doing here today is passing the components of a program that over 7 years will balance this Nation's budget, but also put in place a tax policy that will assure that the jobs will be created that people need for their own security and that our Nation needs, to enjoy a level of economic growth that will make that balance possible.

This overall bill also addresses many problems. It is the first time we have tried to put in place a policy that would protect people of all ages from the catastrophic cost of nursing home care. If we do not start now, we cannot succeed for future generations.

But also within this bill are many, many detailed provisions that the public does not know about, but that will directly affect their lives. In the Taxpayer Bill of Rights section, a section that is bipartisan, that was developed in a bipartisan way, has bipartisan support, this bill builds on the work of the Hon. Jake Pickle of Texas, who spent many years trying to get this very legislation passed. I am proud not only have we adopted his work, but we have gone beyond it. Because through the Taxpayer Bill of Rights, we make the taxpayer now not a David who meets Goliath, but an equal who has an opportunity to be heard by the IRS, to have a fair shot at paying only their fair share of taxes.

For the first time, this Taxpayer Bill of Rights will begin to look at the terrible and bad breaks that so many couples who are separated and divorced get when dealing with the IRS. For the first time we ask the IRS, for the first time in all of our history, to come back to us every year with the 20 most important problems that taxpayers face. For the very first time the IRS will have the responsibility for their taxpayer advocates to actually tell the Congress what are the 20 most serious problems the people face in dealing with their Government, and then we will be able to change those things. We do not allow for their suggestions to go through the IRS or the Department of the Treasury. They must come directly to us so that they cannot be filtered.

We do many, many things in this bill to protect taxpayers from IRS actions and to put taxpayers on an equal footing with their Government.

Mr. Chairman, I urge support of this legislation.

Mr. Chairman, I want to draw our colleagues' attention to some very important provisions in the Ways and Means Committee title of H.R. 2517 which collectively are known as the Taxpayer Bill of Rights 2.

For taxpayers who go up against the Internal Revenue Service, it is too often a David vs. Goliath contest. The IRS is Goliath and the taxpayer is David. The Ways and Means Committee title includes the recommendations developed by the Subcommittee on Oversight to increase the rights of taxpayers in dealing with the IRS. The campaign to safeguard taxpayer rights has a long history. The Taxpayer Bill of Rights 2 portion of title XIII will establish a new milestone in protecting taxpayers. Like the David in biblical history, the average taxpayer may be smaller than the rival IRS, but we are giving him some strong weapons with which to defend himself.

The original Taxpayer Bill of Rights was enacted in 1988. While this action was a good first step, there was a consensus that more could be done to protect the rights of taxpayers. The Oversight Subcommittee developed follow-up legislation during the 102d Congress, but regrettably it did not become law.

One of the early priorities of the Oversight Subcommittee in the 104th Congress was to protect the rights of taxpayers in dealing with the IRS. Despite the helpful effects of the 1988 legislation, the chorus of constituent complaints against the IRS convinced us that further action was needed. On March 24, 1995, the Subcommittee on Oversight held a hearing to investigate what additional safeguards were apprporiate to provide taxpayers more evenhanded treatment in their dealings with the IRS. The hearing opened our eyes to the many areas in which we need to act in order to protect taxpayers.

For example, we learned of cases where the IRS began auditing a taxpayer's return and then the IRS employee conducting the audit was transferred to a new division, and the return sat for another year or two before the audit was completed. Under current law, the IRS has no authority to abate the interest which runs up during this period. The bill addresses this problem by giving the IRS authority to abate interest charges that accrue as a result of unreasonable delays caused by the IRS's own mistakes.

The bill will also make it easier for taxpayers who win their cases against the IRS in court to collect attorney's fees. Under current law, not only does a taxpayer have to prevail against the IRS to collect attorney's fees, she must also prove that the IRS was not justified in pressing its case against her. Our bill would shift the burden to the IRS of proving that its position was substantially justified. This is consistent with the judicial principle that the party in control of the facts should bear the burden of proof.

Another major problem area is the treatment of separated or divorced taxpayers. Under current law, couples who file a joint tax return are each fully responsible for the accuracy of the return and for the full tax liability, even though only one spouse may have earned the income which is shown on the return. This is called joint and several liability. Spouses who wish to avoid joint and several liability may file as a married person filing separately.

The Oversight Subcommittee learned of many instances where divorced taxpayers who signed a joint tax return during their former marriage were treated harshly when the IRS later disputed the accuracy of the return. Far too often, the IRS tried to collect the entire amount due from the wife, even though the omitted income or erroneous deductions which caused the tax deficiency were attributable solely to her former husband. In some cases, the person pursued for payment of the taxes due was not even aware that a tax return filed during the marriage had been audited or the additional taxes were due.

In an era where almost 50 percent of marriages end in divorce, this problem is contributing to the perception that the tax system is unfair. The time has come to reexamine the joint and several liability standard and to consider replacing it with a proportionate liability standard, under which each spouse would be responsible for the tax on that portion of their income which he or she earned. In order to fully consider the ramifications of such a change, our bill requires the Treasury Department and the General Accounting Office to conduct detailed studies examining possible changes to the joint and several liability standard designed to better protect the interests of separated and divorced couples. This is an area that we definitely intend to revisit after the studies are complete.

The Subcommittee on Oversight met on September 12, 1995, and unanimously approved a package of recommendations to address the taxpayer problems which we had identified from our hearing and from the numerous communications we had received from taxpayers. The recommendations for a Taxpayer Bill of Rights 2 were introduced on September 14, 1995, as H.R. 2337. The full Committee on Ways and Means included in its reconciliation title a Taxpayer Bill of Rights 2 subtitle which is virtually identical to the work product of the Subcommittee on Oversight.

I am gratified at our action for two reasons. First, we have acted forcefully to protect the rights of taxpayers in dealing with the IRS. Second, the subcommittee's action was bipartisan, it was strongly supported by Members of both parties. I hope this will set the example for all the activities of the Oversight Subcommittee.

Mr. Chairman, the Nation's taxpayers probably will never enjoy paying their taxes, but they should not feel powerless in dealing with the IRS. The taxpayer Bill of Rights 2 will help to better safeguard the rights of taxpayers. Until Congress implements fundamental reforms of the tax system, the next best approach is to make the current system operate in a way which treats taxpayers more fairly.

Finally, the following is a brief outline of the Taxpayer Bill of Rights two provisions which are included in title XIII of H.R. 2517:

1. Creation of Independent Taxpayer Advocate. (a) Statutorily establish the position and office of the Taxpayer Advocate within the Internal Revenue Service (IRS); (b) require the IRS to make annual reports to the tax-writing committees describing the 20 most serious problems taxpayers encounter when dealing with the IRS, along with the Taxpayer Advocate's recommendations for administrative and legislative actions to resolve such problems; and (c) require the IRS to provide that regional problem resolution officers will actively participate in the selection and evaluation of local problem resolution officers.

2. Expand Taxpayer Assistance Order (TAO) Authority. Provide the Taxpayer Advocate with broader authority to intervene on behalf of taxpayers.

3. Authority to Review a TAO. Provide that a TAO may be modified or overturned only by the Commissioner, Deputy Commissioner, Taxpayer Advocate, or Regional Problem Resolution Officer, and require a written explanation for modifications or reversals of TAOs.

4. Improved Notification of Installment Agreement Changes. (a) Require the IRS to

notify taxpayers 30 days before modifying or terminating installment agreements (except in jeopardy cases) and to include in such notification the specific reasons for the action taken; and (b) require the IRS to establish an administrative appeals process in the case of modifications or terminations of installment agreements.

5. Expand Abatement-of-Interest Authority. (a) Provide the IRS with expanded authority to abate interest resulting from erroneous or dilatory "managerial acts" (e.g., for cases where the assessment or collection of a deficiency has been unreasonably delayed as a result of IRS's loss of tax records, or IRS personnel management decisions, including the termination, transfer, training, and the granting of leave for any reason to IRS employees responsible for the handling of the taxpayer's case); and (b) give the U.S. Tax Court the jurisdiction to review the IRS's failure to abate interest on an abuse of discretion standard for taxpayers who meet the net worth criteria of section 7430.

6. Extend Interest-Free Period for Remitting Tax. Extend the interest-free period provided to taxpayers for the payment of tax liability reflected in the first notice from 10 days to 21 days, if the total tax liability shown on the notice of deficiency is less than $100,000.

7. Study of the "Joint and Several" Liability Standard. Require the Treasury Department and the General Accounting Office to conduct studies, to be submitted to the tax-writing committees within six months of the date of enactment, analyzing: (a) the effects of changing the current standard of "joint and several" liability for married couples to a "proportionate" liability standard; (b) the effects of requiring the IRS to be bound by the terms of a divorce decree which directly addresses the responsibility for the tax liability arising from joint tax returns filed during the former couple's marriage; (c) proposals for expanding the "innocent spouse" relief of IRC section 6013; and (d) the effects of overturning the application of *Poe* v. *Seaborn* for income tax purposes in community property states.

8. Election to File Joint Return Without Making Full Payment. Repeal the provision that requires full payment of tax liabilities as a precondition to taxpayers switching from married-filing-separate status to married-filing-jointly status.

9. Improved Treatment of Separated or Divorced Spouses. Upon written request, require the IRS to inform either spouse as to whether the IRS is making any attempt to collect the tax liability from the other spouse; the general nature of the collection effort; and, the amount collected.

10. Authority to Withdraw Notice of IRS Liens. Provide the IRS with authority to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer when it is ". . . in the best interest of the taxpayer and the Government" and require that in the case of an erroneous lien, upon taxpayer request, the IRS must make reasonable efforts to notify major credit agencies and financial institutions of the erroneous filing of the lien.

11. Authority to Return Levied Property. Provide the IRS with authority to return the proceeds of levies, without prejudice against future reinstatement of the levy, if it is ". . . in the best interest of the taxpayer and the Government."

12. Increase the Protections of Taxpayers from IRS Levy Actions. Increase the exemption level on fuel, furniture and personal effects to $2,500, and index it thereafter for inflation.

13. Offers-in-Compromise. Provide that offers-in-compromise which reduce tax liabilities by less than $100,000 do not require a written opinion from the Office of the Chief Counsel. Offers in compromise which would reduce tax liabilities by $100,000 or more would continue to be subject to approval by a written opinion from the Office of the Chief Counsel.

14. Civil Damages for Fraudulent Filing of Information Returns. Create a federal cause of action for a person who has been victimized by a willfully filed fraudulent information return to recover the greater of $5,000 or actual damages from the person(s) who filed the fraudulent information return.

15. IRS Responsibility to Verify Accuracy of Information Returns. In cases where a taxpayer asserts reasonable dispute about the accuracy of an information return, the IRS would be required to take reasonable steps to investigate the accuracy of the information return and would bear the burden of producing reasonable and probative information to corroborate the return. The reasonable steps which the IRS must take to corroborate the disputed information return would vary in response to the facts and circumstances of each case. The objective is to meet the standard outlined in Portillo v. Commissioner, 932 F.2d 1128 (1991).

16. Expansion of Attorney-Fees Provisions. (a) In cases where a taxpayer substantially prevails over the IRS in a tax dispute, switch the burden of proof from the taxpayer to the IRS to establish that the IRS was substantially justified in maintaining its position against the taxpayer; (b) increase the hourly rate of the attorney fees eligible for reimbursement from the current rate of $75 to $110, and index this amount after 1996; (c) clarify that the taxpayer's failure to extend the statute of limitations shall not be considered to be a failure to exhaust the administrative process; and (d) repeal the current prohibition which denies the reimbursement of attorney fees in some court actions for a declaratory judgement.

17. Taxpayer Reliance on IRS Guidance. In determining whether or not the IRS was "substantially justified" in maintaining its position against the taxpayer, the fact that IRS employees did not follow its own published guidance (e.g., revenue rulings, revenue procedures, and information releases) in examining the taxpayer, will create a rebuttable presumption that the IRS's position was not substantially justified for the purpose of applying section 7430.

18. Increased Damage Awards to Taxpayers Harmed by Reckless IRS Collection Actions. (a) Increase the ceiling on damages to $1 million; and (b) give the courts discretion to reduce a damage award because of the taxpayer's failure to exhaust the administrative remedies in the collection process, rather than a mandatory denial.

19. Modification of the Penalty to Collect and Remit Payroll Taxes. (a) Require the IRS to issue a preliminary notice 60 days in advance of any demand for payment of the 100-percent penalty imposed by section 6672, except in jeopardy cases; (b) in cases where the IRS is seeking to hold a person responsible for payroll taxes under section 6672, the IRS would be required to share with such person the identities of other persons who the IRS also asserts are responsible for the taxes and the collection activities which it has pursued against those persons; (c) create a federal cause of action for a person who may be held liable for the collection of tax under section 6672 to seek contribution from other persons who have a similar liability under the law, but who have not yet contributed their proportionate share of the liability for the collection of the tax. The "responsible person" seeking a contribution would proceed by bringing an independent action against the third parties; and (d) provide that the IRS will not impose the 100-percent penalty under section 6672 on unpaid, volunteer trustees or directors of tax-exempt organizations if such persons serve solely in an honorary capacity, do not participate in the day-to-day or financial operations of the organization, and do not have actual knowledge of the failure to remit payroll taxes to the IRS.

20. *Enrolled Agents as Third-Party Record Keepers.* Add "enrolled agents" to the list of third party record keepers to whom section 7609 applies.

21. *Safeguards Related to Designated Summons.* (a) Require that IRS regional counsel review any designated summons before it is issued against a taxpayer; (b) limit the issuance of a designated summons to taxpayers being audited as part of the IRS's Coordinated Exam Program (about 1,600 of the largest corporate taxpayers); (c) prohibit the IRS from issuing a designated summons for the purpose of third-party information gathering, except in circumstances where the taxpayer being examined has transferred its books or records to a third party; and (d) require the IRS to submit an annual report to Congress describing the designated summonses issued by the IRS during the preceding year.

22. *Relief from the Retroactive Application of IRS Regulations.* Provide that the effective date of any temporary, proposed, or final regulation shall not be before the earliest of: (a) the date the regulation is filed in the Federal Register; (b) in the case of a final regulation, the date of the temporary or proposed regulation to which it relates was filed with the Federal Register; and (c) the date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public. However, this limitation will not apply: (a) where the regulations are issued within 12 months of the enactment of the statutory provision to which the regulation relates; (b) where the Secretary of the Treasury determines that the regulation should be retroactive in order to prevent abuse; (c) where the regulation is directed at correcting procedural defects in an earlier regulation; (d) where the regulation relates to the internal policies, practices, and procedures of the Treasury Department; (e) where the taxpayer elects to have the entire regulation apply retroactively, i.e, back to the date of the underlying statute; or (f) in cases where Congress grants authority to the Secretary to prescribe the effective date of a regulation.

23. *Report on IRS Pilot Program for the Appeal of Enforcement Actions.* Require the IRS to submit a report to the tax-writing committees, by March 1, 1996, about the scope and results of its pilot program for the appeal of enforcement actions, including lien, levy, and seizure actions, together with any recommendations for legislative actions which may be necessary to facilitate the implementation of a permanent process for appeals of such enforcement actions.

24. Phone Numbers of Payors on Form 1099. Require that the providers of information returns include the phone number of the payor's service representative on the form 1099.

25. Notification to Taxpayers of Overpayments. Require that the IRS make a reasonable attempt to notify, within 60 days, those

taxpayers who have made payments which the IRS cannot properly post to the taxpayer's account.

26. Damage Claims for Taxpayers Injured When the IRS Uses Improper Informants. Create a civil cause of action allowing a taxpayer to sue the Government for the lesser of $500,000 or actual damages (plus costs) in cases where any Federal Government employee intentionally compromises the collection of any tax due from an attorney, accountant, or enrolled agent representing a taxpayer in exchange for information supplied by the taxpayer to such a professional for the purpose of obtaining tax advice.

27. Annual Reminders of Outstanding Tax Liabilities. Require the IRS to send out annual reminders to taxpayers with outstanding delinquent accounts that are not in active collection status.

28. Extension of Authority for IRS Undercover Operations. The Anti-Drug Abuse Act of 1988 exempted IRS undercover operations from certain statutory restrictions controlling the use of Government funds (which generally provide that all receipts be deposited in the general fund of the Treasury and all expenses be paid out of appropriated funds). This exemption expired on December 31, 1991. In general, the exemption permits the IRS to "churn" the income earned by an undercover operation to pay additional expenses incurred in the undercover operation. Extend the IRS "churning" authority to December 31, 2000.

29. Disclosure of Form 8300 Information on Cash Transactions. Amend IRC section 6050I to allow form 8300 information to be disclosed for either civil or criminal enforcement or regulatory purposes under the same rules applicable to Currency Transaction Reports. This would permit form 8300 information to be used at various levels of government to identify targets for investigation of possible nontax related crimes.

30. Simplified Disclosure Procedures. Amend IRC section 6103(c) to delete the word "written" from the requirement that "written consent" from the taxpayer is necessary for the disclosure of taxpayer information to a designated third party.

31. Study on Interest Netting. Require the Secretary of the Treasury to conduct a study of the manner in which the IRS has implemented Congress's directions regarding the netting of interest on overpayments and underpayments and the policy and adminstrative implications of global interest netting. Before submitting the report of such study, Treasury would be required to hold a public hearing on global interest netting to receive comments from interested parties. The record of these hearings should be included in the report.

EFFECT OF PROPOSED HOUSE WAYS AND MEANS COMMITTEE EITC REFORMS ON EITC SPENDING BASELINE

[Fiscal years 1995–2002]

[Millions of dollars]

	Fiscal year 1996	Fiscal year 1997	Fiscal year 1998	Fiscal year 1999	Fiscal year 2000	Fiscal year 2001	Fiscal year 2002	Total 1996–2002
EITC under present law	23,762	25,870	26,947	28,077	29,338	30,536	31,735	196,265
Budgets effects of proposed reforms	−160	−3,417	−3,603	−3,754	−3,940	−4,109	−4,268	−23,251
EITC under proposed reforms	23,602	22,453	23,341	24,323	25,398	26,427	27,467	[1] 173,011

[1] Totals do not add due to rounding. Estimates based on data from Joint Committee on Taxation.

Ms. ESHOO. Mr. Chairman, I yield 10 seconds to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I would like to point out to the gentlewoman from Connecticut [Mrs. JOHNSON] that the State of Connecticut would lose $590 million in health care for the elderly and the disabled.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, on Tuesday, I spent a good part of my morning at La Rabida Children's Hospital on Chicago's South Side. Similar to many other children's hospitals across the Nation, over half the children cared for at this fine institution rely on Medicaid.

I met many of these children on Tuesday. And I want to remind my colleges on the other side of the aisle that these children are not faceless statistics. They are human beings.

Like 10-year-old Tyronne, who has been coming to La Rabida for the last 9 years of treatment of severe asthma, sickle cell anemia, and scoliosis (skolee-osis).

When hospitals like La Rabida care for Tyronne, they do so at considerably greater cost than what it takes to care for adults. This is because of the wide array of equipment and supplies necessary to treat children of all ages and sizes.

Children's hospitals cannot shift costs to adult patients or, like some other hospitals, to commercial payers.

Mr. Speaker, children's hospitals are able to serve as an integral part of this Nation's approach to health care because of Federal funding provided to them via the Medicaid Program.

And the Newt Gingrich Republicans want to ignore this fact by passing the responsibility for basic health care services for children to the States—a responsibility, that many States cannot or do not want to bear.

The American people must take a long hard look at this so-called Gingrich Republican revolution, and see the wreckage left in its wake.

The Gingrich Republican meat ax will cut deep. It will cut to the bone. It will cut to the marrow.

It will cut the lifeline of many of our Nation's children. It will cut their access to basic health care.

Basic health care for our children is not a privilege, it is a fundamental right.

We must balance the budget, for our children, not on the backs of our children.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT], the distinguished deputy whip.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Chairman, I would like to engage the gentleman from Illinois; [Mr. HASTERT], the chief deputy whip and member of the Commerce Committee in a colloquy in order to clarify one of the Medicaid provisions in this bill. As an active member of health care, I am extremely concerned with the enormous problem of health care waste, fraud, and abuse that has riddled the program. The amount of such waste, fraud, and abuse perpetrated on taxpayers is staggering and must be eradicated.

It is my understanding that section 2123 would prohibit any State from using its Federal MediGrant funds for any purpose other than medical assistance for eligible beneficiaries. Is that correct?

Mr. HASTERT. The gentleman is correct. Section 2123 would prohibit the States from using any of the Federal funds provided by this act for any purpose other than providing benefits and administering the provisions of this act.

Mr. FOX of Pennsylvania. The reason I want to clarify this point is because we are all aware of the tremendous amount of waste, fraud, and abuse in the current Medicaid system. If the States are successful in exposing this waste and fraud, the residents from my State of Pennsylvania would like to know that these savings will be used to provide needed health care services—and not be diverted for some other unrelated purpose.

Mr. HASTERT. I think the gentleman raises a very important point. The public has every right to expect that the Federal funds Congress provides for health care services for the poor will in fact be used for health care. This bill gives them that assurance.

Mr. FOX of Pennsylvania. I thank the gentleman, again, for engaging in this discussion. I commend the gentleman, Chairman BLILEY, and the Commerce Committee for acknowledging the serious problem of waste, fraud, and abuse and for including these true reforms in the House budget reconciliation bill.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE], the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I came to this body in 1969, and I reflected back when we got into this debate about counsel my father gave us as children. He passed away this summer at the age of 94, mercifully in his sleep without pain and suffering. He told us as kids, he said, "Boys, you have two obligations in life: One is to be givers and not takers; and, two, leave it better than you found it."

I wrote him a letter after we got into this process of trying to turn this country around before he died, and I said, "Pop, you know, I was always able to be a giver, because I controlled that." But when I came here in 1969, our national debt was in the neighborhood of $385 billion. I knew that we were facing the prospect of a $5 trillion national debt this year. And I reflected back that in 1969 we had a budget surplus, a modest $3 billion, but, still, it was a surplus, and I thought we were going to engage in elimination of debt at that time. And I steadily watched this situation deteriorate.

Now, does this move fast enough in guaranteeing that we get our books in balance for our children and our grandchildren? No, not in my estimation. Does this provide us the kind of tax relief that is necessary to again revitalize our economy? No, not in my estimation. But it is a move in the right direction.

I think all of us have to share a responsibility, having participated in this process for all of these years, in creating a kind of a climate that, if it is not addressed in 7 years, is hardly salvaging anything, in 7 years to get us back on track.

This country still represents the world's last, best hope, and it is not just for our children and our grandchildren. We are talking posterity. And each one of us, when we raise our hand and are sworn in in this body, has the obligation to engage in that commitment.

Mr. Chairman, I would urge all of my colleagues, back off, take another look at this, because this is in the national interest. This is in the interest of mankind.

Mr. Chairman, I rise today in support of the budget reconciliation bill. While I have made separate remarks on other provisions in this package, as chairman of the Trade Subcommittee, I would like to point out some of the benefits of the trade provisions included in this bill. While these provisions have not been at the center of the debate on the reconciliation bill, they nonetheless provide important tools for U.S. business and industry in the global marketplace.

Included within the budget reconciliation package are a number of technical corrections to certain trade legislation and other miscellaneous trade provisions. Passage of these provisions will streamline implementation of the Customs Modernization Act, the Caribbean Basin Economic Recovery Act, the Andean Trade Preference Act, the Uruguay Round Agreements Act, the Harmonized Tariff Schedule, and the North American Free Trade Act. The administration and the business community have reviewed each of these provisions and concluded that they are noncontroversial.

The bill also includes an extension of the generalized system of preferences program [GSP] which expired on July 31, 1995. For over 20 years, the President has been authorized to grant tariff preferences to developing countries under GSP. Congress extended the program on a short-term basis in the 1993 budget reconciliation bill, and then again in the Uruguay Round Trade Agreements Act in 1994.

I support extension of GSP because it is a useful program for promoting increased trade with lesser developed countries. USTR can use GSP benefits effectively as a trade policy tool to achieve more open markets for U.S. exports. Testimony received by the Trade Subcommittee of the Committee on Ways and Means confirms that many U.S. businesses depend on duty-free treatment under GSP to help reduce costs.

H.R. 2491 extends authority for GSP for 2.5 years, to terminate on December 31, 1997. So that there will be no gap in duty-free treatment provided under the GSP Program, the bill would provide for refunds of any duty paid, upon request, between July 31, 1995, and the date of enactment. The recommendations lower the per capita GNP limit from $11,800 to $8,600, a number which would be indexed. When countries reach this limit, which is considered high income under the bill, the President is required to terminate the country's eligibility for GSP benefits.

H.R. 2491 would lower the competitive need limit in current law from $114 million in 1994 to $75 million in 1995 and increase it by $5 million each year after 1995. The bill would authorize the President to designate additional articles from the least developed beneficiary countries as eligible for GSP. This new authority does not apply to statutorily exempt articles such as textiles and footwear. Finally, the bill updates various provisions in order to simplify administration of the GSP Program.

Also, I would like to address the issue of trade adjustment assistance. The Committee on Ways and Means carefully examined not only trade adjustment assistance for workers and firms, but also adjustment assistance programs tailored to the implementation of the North American Free Trade Agreement. The committee's recommendations harmonize general trade adjustment assistance programs for workers with the NAFTA Workers Security Act programs.

I firmly believe that protectionism destroys jobs, while free trade creates jobs by increasing our competitiveness in the global marketplace. Nevertheless, we have extended both general and NAFTA-related trade adjustment assistance to reassure those workers uncertain about free trade.

NAFTA-related trade adjustment assistance for workers will be extended through September 30, 1998. General trade adjustment assistance will be extended through September 30, 2000. Our recommendations require workers to enter approved training programs to receive further cash benefits. The Secretary of Labor will be permitted to issue waivers of the training requirement only if training is not available. Our recommendations also terminate relocations allowances under both general TAA and NAFTA-related TAA. This will end a two-tiered system of haves and have-nots in which workers unemployed due to foreign competition are relocated at the expense of the Federal Government while those unemployed due to domestic competition are not eligible for such assistance.

The provisions included in the reconciliation bill reauthorize general trade adjustment assistance programs for firms through September, 2000, at which time these programs will terminate.

The budget reconciliation bill also dismantles and reorganizes the Commerce Department as part of the congressional effort to streamline Government, increase its efficiency, and save taxpayer dollars. The legislation retains a number of trade-related functions that are aimed toward achieving gains for U.S. companies and places them within the U.S. Trade Representative. I strongly believe that we should preserve powerful tools in this way to negotiate initiatives that open foreign markets, encourage growth in U.S. exports, and fight foreign unfair trade practices. This effort will remove a Cabinet seat and streamline our Government, while at the same time preserving the functions that keep our U.S. companies competitive.

I would like to add a word here about consideration of H.R. 2371, the Trade Agreement Authority Act, which is not included in the reconciliation bill. This legislation would renew trade agreements negotiating and implementing authority for the administration—to so-called fast track authority. We tried very hard to come to an understanding with the administration concerning the content and form of this special procedure. However, the administration would not agree to our language and seems to be prepared to do without this authority.

I believe that fast track is extremely important if we are to continue to implement trade agreements that strengthen our economy, create good jobs, and reduce the deficit—including an agreement with Chile. However, the administration must recognize that fast track is a derogation of the rules of the Congress. As such, congressional concerns over the use of fast track for issues that are not directly related to trade must be taken into account if these special procedures are to be used by the administration in the future.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I thank the gentlewoman for yielding time.

Mr. Chairman, I would like to point out to the two gentlemen from Illinois that Illinois will lose $3.5 billion in health care under this bill.

I rise today to opposed this bill. Gosh, even Pat Buchanan says the Medicare cuts are to deep. I have heard the GOP being called the get old people party. Well, I think now, after this bill, it is going to be called the gut our protections party.

This bill treats Medicare as a piggy bank, to pay for a tax cut for the rich, and we did not get 1 day of hearing. This bill shuts down State efforts to reform health care, like the Oregon health plan. This bill eliminate protections for seniors, for children, for the environment, for students, while increasing Pentagon spending by $63 billion.

Look, I am a grandmother. I know what makes sense. This does not make sense. We should vote no. Let us not gut our protections; let us eliminate the GOP budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], the distinguished chairman of the Subcommittee on Human Resources of the Committee on Ways and Means.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, for the second time this year, the House will be asked to decide between the status quo and making real reforms to the failed welfare system.

Consider the millions of Americans now on welfare. History tells us that they came from farms, they came from all over this Nation and elsewhere in search of a better life for themselves and their families. They settled in the cities, they settled in the coal mines, and they were hard working because there was a strong work ethic.

Then the jobs went away. So when the jobs left the big cities and the mines closed, why did not the same people who were the children of those who came to the factories, who came to the cities seeking a better way of life, why did they not follow? Why did they not go where there were better jobs and better opportunities?

They did not because the Congress of the United States, this Government, put into place a welfare system that was corrupt and destructive—although thought to be kind and gentle. For generations now, we have seen this destructive welfare system stay in place and keep people where there are no jobs, a system that destroys self-esteem, destroys families, destroys the basic moral fiber that has held this Nation together. Now is the time to sweep this failed welfare system away.

One of my colleagues has said that, through our welfare reforms, the Republicans are coming for the poor and the children. Yes, we are. We are coming for them to pull them out of the life of dependency and poverty. We are sweeping away a destructive system, and we are putting in a system that can work.

For once, after we pass this bill, let us join together in a new meaning of the American spirit and solve the problems of poverty in this country, to give people back self-dignity, to discourage illegitimacy, to promote the family, and to promote the values that have made this country great.

Support real welfare reform; support the Republican reconciliation bill.

Ms. ESHOO. Mr. Chairman, I yield 15 seconds to the gentleman from Illinois [Mr. RUSH].

Mr. RUSH. Mr. Chairman, this bill is destructive to the people of Florida. I would like to point out to the gentleman from Florida who just spoke, that Florida will lose $5.9 billion in health care for the elderly and the disabled. Most of this is nursing home care which would have to be paid for by their hard-working middle-class families.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, I think all Americans across this Nation have called on us in Congress to do what is fair and reasonable to put our Nation back on track. We all here share a common goal in balancing the budget and eliminating the deficit in order to put our Nation back on track. But most Americans learn that you have to eat your vegetables first before you get your dessert, and that basically translates to we have got to cut our spending, our abuse, and our waste first.

There are two choices before us today: No. 1, to achieve the goal while squeezing senior citizens, farmers, children, and military retirees, or, No. 2, achieve the goal by requiring that every group of Americans give a little to make a contribution. If we were blindfolded as Members of the House of Representatives to all of the partisan politics that go on here, and asked to just base our decisions weighted on the merits of these two packages, we would not want to cut $100 billion more out of Medicare than is necessary to balance the budget. We would not want to cut $9 billion more out of agriculture than is necessary to balance the budget.

This does not allow veterans the health care choices that they want and deserve. It raises taxes on lower income Americans by $23 billion by removing the EITC. It cuts $10 billion more out of student loan programs than is necessary to balance the program. It does devastating things to rural America and the life we know there.

I just ask my colleagues to take a serious look at what is an honest and fair way of balancing this budget for the American people, and that is the coalition budget.

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Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Nevada [Mr. ENSIGN].

Mr. ENSIGN. Mr. Chairman, I was raised by a single mother with no child support, and each and every day I saw her get up and go to work, a lesson that was taught to me that we have robbed from welfare families. This has lead to a generational dependency. There is nothing more important in America to learn than the work ethic. If we want people to get out of poverty, they have to work.

Our EITC program will preserve the incentive to go and get a job and stay off of welfare. In fact, when the EITC was created in 1975 total spending was about $2 billion. Today EITC spending is $20 billion. That is a tenfold increase. Under our plan, total EITC spending will continue to grow to about $27 billion.

Now, Mr. Chairman, I know some of our public schools are not that great these days, but even these schools know that this is addition, not subtraction. The American people know that spending more on something is not a cut. Only those who employ confusion and scare tactics fail to understand this lesson.

The last point I want to make, Mr. Chairman, is that some are calling this a tax increase because we happen to not be giving it to people with children. The last time I checked, when we give a subsidy to the American people and then happen to remove that subsidy, that is not a tax increase. That is something we are taking from one taxpayer, giving to the other, and then all of a sudden we decide we cannot afford to continue to give more and more of their money in taxes to other people and redistributing that.

Those on the left are calling this a tax increase. That is the mindset they have. That is how corrupt they are in their thinking.

Ms. ESHOO. Mr. Chairman, I yield 15 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, in response to the gentleman who just spoke, if we are not raising taxes then we did not need a budget waiver.

Let me quote Jack Kemp. This is a tax increase on low-income workers and the poor, which is unconscionable at this time. We eliminate the credit for working people who are without children. That is 4.3 million people and we increase the phaseout rate.

Ms. ESHOO. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, as Congress takes up the budget, the American public fears the Republicans plan to curb Medicare spending, scoffs at their tax cut and flatly does not believe that the plan would produce a balanced budget by 2002. That is from the latest New York Times CBS News poll that came out yesterday.

Mr. Chairman, I do not normally pay attention to polls, but this time the polls got it right and the American people got it right. The Republicans call this the Balanced Budget Reconciliation Act, but how do we begin balancing the budget by implementing such a large tax cut? We estimate that after 7 years the national debt will be at least $268 billion higher because of this tax cut that provides generous benefits for the wealthy. The legislation actually would raise taxes on taxpayers earning less than $30,000 a year.

Mr. Chairman, with all these tax cuts for the rich, and without a balanced budget, what are we getting in return? Well, essentially we are abolishing Medicare and Medicaid. The Speaker indicated in the quote earlier, Speaker GINGRICH, that it is not being abolished right away but eventually we will get rid of it.

For Medicaid recipients, for seniors, they are doubling the part B premium, increasing their taxes. They are imposing means testing. They are squeezing the hospitals so much that providers and other providers at hospitals will close or scale back their quality. And also seniors are going to lose their choice of doctors.

Medicaid is actually abolished in this. Instead, we have block grants going to the States without any strings attached, really. So there are no guarantees that poor people will get health care. Also, we lose the nursing home standards. So much money will be squeezed out of this system we can be sure those nursing homes are going to decrease in terms of the quality of care.

I went before the Committee on Rules and I asked that there be a guarantee for low-income seniors who no longer will have their part B premium for the doctors paid under this legislation. The Speaker said last week there was going to be that guarantee. There is no guarantee. The public is right, the poll is right. Medicare and Medicaid are essentially abolished and there will be no balanced budget.

Mr. KASICH. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in support of this balanced budget amendment.

Mr. Chairman, I agree with many of my colleagues who believe today is an historic day. I have served in the House of Representatives for a decade, and this is the very first opportunity I will have to vote for a balanced budget.

There is no question that in a bill this size, which makes changes in almost every department and agency of Government, every Member will find provisions with which they disagree. There are some provisions in this legislation which I would prefer to see changed, or in some cases dropped. But I will support this legislation nevertheless, for three reasons:

First, we must preserve the Medicare Program from bankruptcy, and this legislation is a first step in slowing the rate of growth of the program. This legislation does not cut Medicare or Medicaid. It does slow the rate of growth in these programs. While increasing spending from $4,800 this year to $6,700 in 2002, per Medicare beneficiary.

I believe the changes we are making in these health programs will secure health care for the elderly and the poor well into the next century. But, in making these changes, we must ensure that people are not hurt by the changes—and so we must closely monitor these programs over the next several years to be certain that they are working as we envision.

Second, over the past several years, I have worked very hard to change our welfare system, and this bill contains the same provisions of legislation I authored in 1993. I believe our welfare system has failed the very people it was designed to help. Instead of moving people out of poverty and into well-paying jobs, it has trapped people by fostering illegitimacy, weakening families, and discouraging work. If we don't make changes in these programs, by the year 2000, 80 percent of majority children, and 40 percent of all children, will be born out of wedlock. Our concern is the children. The dollars are important, without a doubt, but the changes we are making today are for the children. We want our children to be born into caring families, to have fathers, to enjoy childhood, and to be able to pursue an education. This means that above all else, we must curb the illegitimacy rate and restore personal responsibility in a caring and compassionate way. And I think that is what we are doing in this bill.

Third, finally, I will support his bill today because we cannot afford to fail. This is our first step toward a balanced budget in 2002. If we don't do it now, we may not have another chance until it is too late.

This process will not get any easier; and may not get done at all if we fail the very first year we try—and we cannot afford to fail.

Mr. KASICH. Mr. Chairman, how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] has 11 minutes and 45 seconds, and the gentlewoman from California [Ms. ESHOO] has 13½ minutes remaining.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Ms. DUNN].

Ms. DUNN of Washington. Mr. Chairman, I rise to address one of our country's greatest domestic problems, the Nation's illegitimacy rate. In 1940, the rate was well under 5 percent. Even 15 years ago, in 1980, the illegitimacy rate was only 15 percent. Today, 15 years later, it is doubled. It is 30 percent. It is a terrible revolution in birth patterns.

Mr. Chairman, the consequences of this explosion are staggering. Everyone, including the President, recognizes that the exploding illegitimacy rate is the Nation's most important domestic problem because it is the leading cause of school failure, crime, unemployment, and welfare dependency.

Why does illegitimacy lead to these problems? Consider these four facts: First, the poverty rate among children with never-married mothers is almost eight times that of children in two-parent families. Second, the odds of an out-of-wedlock child being on welfare are 10 times that of a child born into a two-parent family. Third, the odds of an out-of-wedlock child having a parent who does not work are six times greater than the odds for a child from a two-parent family. In fact, 40 percent of children born out of wedlock have no working role model parent in their lives. And fourth, the rate of school suspension among out-of-wedlock children is over three times as high as the rate of children from two-parent families.

Mr. Chairman, everybody realizes that illegitimacy is an outrage but only Republicans are proposing solutions that will effectively alleviate the problem. We get what we pay for, Mr. Chairman, and the Federal Government is now guaranteeing a package of benefits to teenaged children who have babies that adds up to $12,000 every year. By far, the most important action we can take to reduce illegitimacy and to stigmatize this most destructive behavior is to cut the cash subsidies.

The House Republican welfare reform bill is the only bill that deals with illegitimacy in this direct fashion. Only Republicans have the courage to take the strong action necessary to combat the tragic scourge of illegitimacy. Unfortunately, Mr. Chairman, I do not see any other way to do it.

Ms. ESHOO. Mr. Chairman, I yield 10 seconds to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I want to point out to the gentlewoman from Washington who just spoke that in her State her constituents will lose $2.36 billion in health care for the elderly and the disabled. That is really what I call guardians of the privileged.

Ms. ESHOO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, last Thursday night the Speaker stood in this well and charged me with misrepresenting the facts, with engaging in an absurd misrepresentation and allegation. He said, in fact, there is a provision in the Medigrant program that provides that senior citizens at the poverty level and below have all of their part B premium paid for by the taxpayers 100 percent.

Now, my hope was that when he spoke last Thursday night, he was going to include that in this reconciliation package. They have not. In fact, only 44 percent of all those poor seniors' Medicare part B premiums are going to be covered. They are not, in fact, protected at all 100 percent. Just the opposite is the case.

Mr. Chairman, back in the 1960's our political leaders asked us not what our country could do for us, but what we could do for our country. Well, in 1995, the Republican motto is ask not what our country can do for us, but ask what we can do for the country club. This is a contract with the country club. This takes money out of the pockets of senior elderly, out of students, piles it up, and then gives tens of billions of dollars of tax cuts to the wealthy in our country. The wealthy are not asked to sacrifice.

Mr. Chairman, back in the Civil War, because the wealthy could buy their way out of the war, they said it was a rich man's war but a poor man's fight. Well, here in this reconciliation battle in 1995, it is a rich man's war but it is a poor man's fight. The rich man get tremendous, tens of thousands of dollars in tax breaks, and the poor seniors have their Medicare premiums go up. The poor students and working class families have their student loan payments go up, and yet the Republicans stand here and tell us that they care about the working people in this country.

Mr. Chairman, this is a wrong vote for America, just plain wrong. Vote no on the Republican reconciliation bill.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, the gentleman from Illinois [Mr. CRANE] was up here a little earlier talking about suggestions that his father had made to him in his early years, one was to give and not take, and the other was to leave the world better than when he found it. He might have added another thing. Do not spend it unless we have it.

This bill gives us an opportunity for the first time I have seen since I have been down here to spend within our means. President Reagan used to talk about morning in America. I really feel we can extend this to this is morning in America for our children. No party has a lock on caring. No party is trying to hurt our children or our mothers or our nursing homes or our seniors. It is all our jobs to protect them.

Mr. Chairman, most Republicans and Democrats, I would like to feel, with the possible exception of some of the fire brands, are going about the task of doing this thing quietly and carefully.

Let me give Members an example. There is a thing that the gentleman from New York [Mr. RANGEL] has been working on with me called the work opportunity tax credit. People come off welfare, they need jobs, this is a way to create incentives for those people who are willing to offer them jobs. It is a wonderful program. It hires those people who have not had jobs and also it helps retain them. Is it going to solve all the problems in welfare? Certainly not. But it will help.

This is not a perfect bill, Mr. Chairman. I have never seen any bill which is perfect down here, but it is a good bill and I support it.

Mr. Chairman, on another issue, I hope this legislation will foster the development of provider networks, including specialty networks. They would assure seniors that they will have choices relating to behavioral, rehabilitation and any other specialty care services.

The private sector has engaged in direct contracting with specialty networks in order to lower costs and improve access to quality treatment as well as expand choice for consumers. The Medicare program should also explore the utilization of these specialty networks for the same reasons.

I believe the Health Care Financing Administration has adequate demonstration authority under current law to test the feasibility and desirability of permitting specialty provider sponsored networks to serve the new Medicare market. A demonstration project would serve to determine whether seniors have access to the most cost effective quality treatments for specialized services.

Ms. ESHOO. Mr. Chairman, I yield 20 seconds to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, to my good friend from New York, Mr. HOUGHTON, I want to point out that when the gentleman puts his card in the machine and casts his vote for this reconciliation bill today that people in his State of New York who are elderly and disabled will lose $11.2 billion, and this money will have to be made up for in nursing home care and hospital care by their hard-working middle class families.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentlewoman for yielding me time.

Mr. Chairman, in one word, in one word, this Republican reconciliation bill can be described as a fraud. Nothing more, nothing less, a fraud. What kind of sense does it make to ask senior citizens to pay $312 a year more for a weekend Medicare Program while the Republicans give a $14,000-a-year tax break to people making $300,000 a year?

☐ 1545

Why should we ask low-income workers to pay more in taxes, while we cut and do away with taxes for some of the largest and most profitable corporations in America?

Why do we throw 20,000 Vermonters off of Medicaid, low-income, disabled people, children, senior citizens off of Medicaid, while we retain and not cut $800 billion in corporate welfare for the privileged and the wealthy?

Mr. Chairman, this Republican proposal is a fraud and it must be returned to sender. Let us defeat it today.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, we have heard a lot of allegations today here. I have heard my socialist friend from Vermont talk about cuts for people on Medicare. The fact is in our reconciliation bill we raise, over the 7 years, people's Medicare from $4,800 to $6,700, a 40-percent increase.

Mr. Chairman, if we want to talk about cuts, I would like to take a look at this placard that we have here. We want to talk about what a real cut is. In the Clinton 1993 health care bill, in section 9101 of the Clinton bill it said: The Secretary shall provide each year for payment to regional alliances for the amount equal to the Federal medical assistance a percentage of 95 percent. That is a cut. The 5-percent decrease is a real cut. My colleagues can see here on the math, we go down 5 percent.

In the Republican majority 1995 Medicaid Program, there is an increase. The Medicaid growth increase for fiscal year 1996 is 7.2 percent and it grows from there. The conference agreement of the budget resolution grows Medicaid 7.2 percent.

Mr. Chairman, a cut is below the line. A cut is what we had in the Clinton health care bill when we cut Medicaid and only gave it to people at 95 percent; a 5-percent cut. Increase is when the line goes above and we give the American taxpayers and people on Medicaid, the American poor that need it, a 7.2-percent increase.

Ms. ESHOO. Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, let me just say that Medicare, Medicaid, that is what this is about. It is tax breaks for the rich versus Medicare and Medicaid.

The Speaker, in his own words, has said what he believes we ought to do with Medicare, and that is that we do not get rid of it now in round one because we do not think it is politically smart, but we do believe that it is going to wither on the vine.

That is the true, the true statement about the Speaker and how he feels about the Medicare Program and its future.

Mr. KASICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. THORNBERRY].

Mr. THORNBERRY. Mr. Chairman, I rise today to express my support for the Seven Year Balanced Budget Reconciliation Act of 1995.

I do so with concern over several of the bill's provisions, particularly those relating to the Federal Helium Program, the Freedom to Farm Act, and certification requirements for weather radar service office. But these concerns are outweighed by the historical significance of the bill, and the singular importance of its No. 1 goal—mainly, to balance the budget in 7 years.

It has been 27 years since the Federal Government passed a balanced budget. In that time, a burden of debt has been placed on

American families that casts a long shadow over current and future generations. A child born today will pay an average of $187,000 in lifetime taxes just to pay off interest on the national debt. It is a moral imperative that we get this weight off those shoulders. It is what we were elected to do.

But just as important as removing this burden for those coming into the world is restoring economic opportunity and security for those already here.

The single most imposing obstacle to economic advancement in our Nation today is the Federal Government. It discourages savings and security by overtaxing middle-income families. It stifles growth and investment by overregulating small businesses. And, for the less fortunate, it smothers hope and independence by promoting welfare over work. What Ronald Reagan said more than 15 years ago still holds true: In our country today, government is not the solution to our problem—government is the problem.

This legislation addresses this problem in many important ways. Among the bill's many worthwhile provisions, I am especially pleased with those which reform the welfare system in a way that emphasizes work and family. I am also happy that this bill takes a much-needed first step toward reducing the outrageous pensions Members of Congress receive. Finally, I am pleased with the provision that replaces the current Medicaid system with MediGrants, which will not only benefit taxpayers by controlling runaway spending, but will also benefit States by giving them the freedom to develop health care delivery systems that suit their needs the best.

As I indicated, I do have concerns about the provisions relating to three specific areas. The Federal Helium Program has become an easy issue to demagogue, but the provisions included in this legislation do not provide the guarantee of a reliable, affordable supply of helium which this country must have. In addition, I am concerned that the provisions relating to the Freedom to Farm Act are not in the best interests of the country. However, my reservations in this regard are overcome by the certainty that the problems with these provisions will be addressed in conference. I am also concerned with possible lapses in public safety caused by repealing the requirement that no weather service offices be shut down unless there is proven to be no degradation of radar coverage. This is critical to my region of the country, where radar coverage is not up to par. We should use House-approved language providing for a streamlined procedure which reduces unnecessary spending and emphasizes quality of service in problem areas.

I would also like to briefly touch on why I voted against the alternative measure introduced by a coalition of Members from the other side of the aisle. The coalition should be commended for offering a substantive alternative that balances the budget in 7 years. Both the leadership of their own party and their President have failed to do either of these things. However, the coalition proposal falls short in several critical areas. For one thing, it would provide for an adjustment in the consumer price index, which could lead to a reduction in Social Security benefits. Second, the coalition plan fails to provide tax relief for the middle class, thereby breaking the promise we made to American taxpayers.

I am pleased that the majority reconciliation bill fulfills this important promise by providing tax relief to families and incentives for job creation, both of which are absolutely essential and long overdue. These provisions will allow taxpayers to keep a portion of the money taken in the tax increase passed in August 1993, and correct an ill-conceived policy that even the President admits was a mistake. I am also happy that this legislation includes the Taxpayer Bill of Rights, which will provide taxpayers with protections from a wide range of Government abuses.

Mr. Chairman, this bill is truly historic. While is not perfect, it represents a giant leap toward keeping the promise we made to the American people to balance the budget and get our Nation heading in the right direction.

Ms. ESHOO. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I want to talk to the gentleman from Ohio [Mr. KASICH] a second. The stock market has already voted on the gentleman's plan today. It is down 50 points. I would say to the gentleman, "Your crown jewel has turned to paste."

The crown jewel, the $500 tax cut for every child that has been so freely advertised by my Republican friends, is now down to $365 per child, and the bill has not even gotten to second reading here on the floor. Lord knows what it will be when it gets to third reading or gets back from the Senate.

But, Mr. Chairman, that is not all of it. That $365 per child, that was $500 for every child, does not cover 33 percent of all the children who are in families who would qualify for this. Their families do not qualify for 1 red cent.

So, the $500 per child tax cut is down to $365 and 33 percent of the families get absolutely nothing out of this. It all goes to the rich. Then they tax, wrack, tear, root $270 billion out of the sick and the old. They tear, root, and rip $450 billion, almost a half a trillion dollars, out of children, out of sick people, out of nursing home care people.

Mr. Chairman, this is a travesty on the American public. Nobody is arguing about balancing the budget. The argument is how we balance the budget. Who has to carry the burden? The Republican way, the "Get Old People" way, the GOP way, is to give to the rich a $245 billion tax cut, then take all of that money and the rest of the balancing of the budget money out of the children, the sick, the poor, and the aged.

Mr. KASICH. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. BUNN].

Mr. BUNN of Oregon. Mr. Chairman, the Oregon Health Plan is an innovative, cost-effective plan. We spend $3,800 per person in Oregon, down over 10 percent from the national average.

Hospital charity care had gone down 30 percent since the implementation of the plan. Welfare rolls have decreased 8 percent and we have covered an additional 130,000 people. The governor said we needed $1,042,000,000; the Speaker has provided $1,025,000,000 in this plan.

Mr. Chairman, we will have an Oregon Health Plan next year. We will work with the leadership to provide it beyond that.

Mr. Chairman, I am grateful for the leadership's support for the Oregon Health Plan.

Ms. ESHOO. Mr. Chairman, I yield 30 seconds to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I would like to point out to the gentleman from Oregon [Mr. BUNN] who just spoke over on the GOP side that out of this bill, the State of Oregon will lose $1.8 billion in health care for the elderly and the disabled.

Mr. Chairman, even the doctors say that, "People will be sicker and people will die as a result of this toxic mix of funding cuts and elimination of standards." We need to keep that in mind.

Mr. Chairman, the GOP guardians of the privileged ought to look at what the doctors are saying. "People will be sicker and people will die as a result of this toxic mix of funding and standard cuts."

The CHAIRMAN. The gentlewoman from California [Ms. ESHOO] has 6 minutes 10 seconds remaining and the gentleman from Ohio [Mr. KASICH] has 5 minutes 15 seconds remaining.

Mr. KASICH. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. ARCHER], the very distinguished chairman of the Committee on Ways and Means.

Mr. ARCHER. Mr. Chairman, as I listened to this debate, I was struck by the growing philosophical differences between the two parties. It is unfortunate, because we should all be Americans instead of Republicans and Democrats.

But there is a difference between us. As we Republicans move forward to balance the budget and reduce the tax burden on the American people, we have made our governing philosophy very clear. We believe that the strength of this Nation lies not with the Government, but with each of us individually in our communities, in our churches, in our homes. Left to their own, without Government interference, redtape, or excessive taxation, there is no problem the American people cannot solve.

But Mr. Chairman, the great social experiment of the last 30 years has led to an unparalleled expansion of the Federal Government. Sadly, this has failed to solve our Nation's most difficult problems. Nowhere is that more the case than in our miserable and unfortunate welfare system where, in the last 30 years, we have spent over $5 trillion in the war on poverty, only to lose the war.

Mr. Chairman, the Government that the Democrats brought, along with the bankruptcy at whose brink they have left us, has overextended its reach and it has made promises to the people that no government can fulfill.

Government cannot take the tax dollars that are earned by one citizen, hand them over to another, and then believe that they have improved the lot of either citizen, yet for 30 years, Government tried that. It is called tax and spend.

Mr. Chairman, the time has come to admit that tax and spend has failed. It is time to reduce the size of Government and to give the tax dollars back to the people who earn them. I say to my colleagues across the aisle, "It ain't your money. It belongs to the people who have earned it."

Mr. Chairman, it is clear from this debate that the Democrat Caucus is the liberal caucus. The overwhelming majority of the Democrat Party, a party that I once belonged to myself, insists that the Government in Washington, DC remains the only solution and represents the best hope of how to solve people's problems, if only we would just spend more money.

Those on the other side argue over and over again that we could make our Nation's problems go away. If only we, the Government, had a few more of the people's tax dollars, we could solve our problems, so say the Democrats.

Mr. Chairman, while the world has changed, the Democrats in Washington have not. They still cling to the notion that an ever-expanding Federal Government, one that requires more taxes from its citizens, is the best hope that we have to solve our problems. As we downsize Government to a balanced budget, they do not want to give any dividend to the hard-working taxpayers of this country.

Mr. Chairman, we fell differently. While the hearts of the Democrats may sound as if they are in the right place, their fingers are in the wrong place. Their fingers remain stuck deep in the wallets of middle-income Americans trying to take from one citizen in order to give to another.

The Democrats in Congress cling to the notion that big Government, is best; that more power in Washington is wise; and that more spending leads to more solutions.

To my colleagues across the aisle, I have a simple message: Let it go. Let it go. Let it go.

Mr. Chairman, I say to my Democrat colleagues, We tried their way for 30 years. We raised taxes and we increased spending. Now it is our turn. We want to cut taxes, yes. Not for rich Americans; for middle-income Americans. That is what our tax bill does.

We want to cut spending and we want to balance the budget. That is what this bill does and that is why I am voting for it and why it is historic in turning this country around and giving it back to the people.

Ms. ESCHOO. Mr. Chairman, I yield 15 seconds to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I would like to point out that when the gentleman from Texas [Mr. ARCHER] casts his vote, the elderly and disabled in his State will lose $6.5 billion in health care. Most of this is in nursing home care for seniors, which will have to be paid for by the hard-working middle-class families.

Ms. ESHOO. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise in opposition to this budget.

Ms. ESHOO. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. DEUTSCH].

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Mr. DEUTSCH. Mr. Chairman, there is an old expression: If it looks like a duck and it sounds like a duck and it quacks like a duck and it walks like a duck and it smells like a duck, there is probably a pretty good darn chance it is a duck.

Let me tell my colleagues about the Republicans and Medicare. BOB DOLE: "I was there fighting the fight, voting against Medicare, one out of twelve, because we knew it would not work in 1965," a couple of days ago.

Speaker GINGRICH on Medicare: "We do not get rid of it in round one, because we don't think that that is politically smart and we don't think that is the right way to go through a transition period. But we believe it is going to wither on the vine because we think people are voluntarily going to leave it," just yesterday.

There are three big lies about the Medicare plan. The first one is that it is such a terrible thing that there is a 7-year actuarial life. In the 30 years of the Medicare System, 12 of those 30 years, there was a shorter actuarial life, and we did something about it. We made tough choices, and we did something about it. We changed it, not unprecedented health insurance.

The second big lie is $270 billion in cuts. The actuaries, nonpolitical people, not numbers out of the ballpark. It has nothing to do with saving Medicare. The money is not going into the trust fund. It is a flat-out lie. The $270 billion in Medicare is not going to save Medicare. It is just a flat-out lie. It has nothing to do with the problems with the trust fund.

The third problem and the third lie is the issue of choice. My colleagues continue to say that there is going to be choice. It is a false choice, because essentially the Speaker is right; no one will be able to stay in Medicare except for the richest of the rich, because people will be forced out of Medicare, forced into substandard HMO's. This plan is wrong, wrong, wrong. I urge a no vote.

Ms. ESHOO. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, I rise in strong opposition to this Gingrich budget. There are many reasons to oppose it, but I want to highlight two: how it treats our Nation's elderly and our Nation's children. On both counts, this legislation fails miserably to live up to our Nation's historic commitment to those in the autumn of their lives and those in the spring of their lives.

There is nothing in this bill to prevent nursing homes from using physical restraints on seniors without a doctor's order, nothing to prevent nursing homes from evicting the elderly for financial reasons, nothing to prevent abuses which existed in many States prior to critical Federal intervention.

As a member of the Committee on Commerce, I was proud to offer an amendment which would have continued the guarantee of health coverage for our children. That failed. As a result of these Medicaid cuts and other Gingrich proposals, our children will receive less health care, less preschool education, and less money to live on.

This Gingrich budget fails the test of decency for our children, for our elderly, and it deserves to be defeated. It does not honor our fathers and our mothers, and it totally dishonors our Nation's children.

Mr. Chairman, I yield 20 seconds to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I hope that my friends and my colleagues on the other side realize what everybody is saying about this thing that is absolutely true. That is that, because Federal law forbids denying emergency care to uninsured, hospitals could avoid financial harm only by closing emergency rooms and trauma centers, and the general public is going to be hurt.

Ms. ESHOO. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thought I was misreading my calendar. I thought that it was a week after Halloween, not the week before Halloween, because, you see, this week the masks come off. Last week we heard the Speaker give an impassioned speech here in this very well in which he gave us, first of all, his entire family tree and told us how important Medicare was to all of these people and how he was going to make sure that Medicare was there for them. Then this week, when speaking to a group of very important people in the insurance industry, Blue Cross and Blue Shield, he said:

> We don't get rid of it in round one because we do not think that politically it is smart.

We don't think that is the right way to go through a transition period, but we believe it is going to wither and die on the vine.

I ask, when was the Speaker being truthful? Was he being truthful to us a week ago in this very well when he talked to us about the fact this was an important program that he was trying to save, or in fact was he being truthful to these people that he was talking to from the insurance industry?

For a few Americans this bill is really going to be like the Good Ship Lollipop. It is going to shower sugarplums and candy canes in the form of tax breaks for the very wealthy. But for most of middle-class America, this bill that we are debating here on the floor of the House today is indeed the S.S. *Titanic*. It simply will not float.

This bill is going to shred a health care system that has protected senior citizens for 30 years. It cuts Medicare by $270 billion. It cuts Medicaid by 180 billion. To those who think we have a good health delivery system, 60 percent of the money that goes into training doctors and into taking care of medical needs of our country come from these programs. Vote against this bill. It is horrendous.

Ms. ESHOO. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Michigan [Mr. DINGELL].

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 35 seconds.

Mr. DINGELL. Mr. Chairman, I have listened all during this debate to my Republican colleagues say that Medicare does not work. I do not like to hear that, and I do not think the senior citizens like to hear it, because Medicare has worked. Medicare has prolonged the lives of senior citizens. Medicare has given a better standard of living to the American people. Medicare has prevented young people from having to choose between college for their kids and health care for their parents. Medicare has seen to it that, instead of less than 50 percent of the senior citizens having health care, that now almost 100 percent do. Americans are covered by health care amongst the senior citizens.

Americans are urged by the New York Times, and they say, reject the big Medicare cuts. The big Medicare cuts we are talking about here are nothing more or less than something that is going to hurt the senior citizens, and it is being done by the Republicans to ensure that they can give a tax cut to the very rich.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I rise in support of this reconciliation bill.

Mr. Chairman, I rise in support of H.R. 2517, the Seven Year Balanced Budget Reconciliation Act of 1995. The current budgetary situation facing this Nation is staggering. Years of deficit spending have pushed our national debt to nearly $5 trillion. For a child born today, the share of this debt totals $19,000. The landmark measure before us today, which would set a glidepath to achieve a balanced Federal budget by the year 2002, will provide our children with a future that promises economic opportunity and prosperity, rather than a future of paying for our irresponsible fiscal behavior.

Earlier this year, Congress adopted the congressional budget resolution, a nonbinding blueprint of Federal spending over the next 7 years. This resolution recommended reducing the overall growth of Federal spending to 3 percent annually, instead of the current 5 percent annual growth. H.R. 2517 fulfills the promise of the budget resolution and makes the necessary changes in our revenue and spending laws to achieve a balanced budget for the first time in a generation.

H.R. 2517 would balance the Federal budget by restraining spending and shrinking the size of Government. The plan encompasses innovative reforms in all areas of Federal spending, including: reforming the welfare system to emphasize work, families, and responsibility; restructuring Medicare to reign in out-of-control health care expenditures, and simultaneously giving seniors more choice in health care services; converting the Medicaid Program into "Medigrants," block grants to the States to allow more flexibility in providing health care to the disadvantaged elderly and disabled; closing billions of dollars in corporate tax loopholes; scaling back agriculture subsidies; abolishing the Department of Commerce; repealing burdensome and costly Federal statutes, such as the Service Contract Act; privatizing portions of the Federal bureaucracy, such as the U.S. Enrichment Corporation; and, terminating out-dated Federal programs, such as the Federal Helium Program.

Opponents of this legislation argue that Republicans are recklessly cutting Federal spending. A closer look at the plan, however, reveals that there are no cuts in spending. To illustrate, during the last 7 years, from 1989 to 1995, Federal spending totaled $9.5 trillion; under the Republican plan, during the next 7 years Federal spending will total $12.1 trillion. The growth in the major Federal programs over the next 7 years is indisputable: Medicare spending will increase by $672 billion; Medicaid spending will increase by $330 billion; and, welfare spending will increase by $346 billion. The bottom line is clear: under the Republican plan, overall Federal spending will increase by $2.6 trillion during the 1995–2002 period. Only in Washington can these increases in spending be considered cuts. On the same note, I would also point out that even with the enactment of $245 billion in tax relief in this legislation, overall Federal revenues will still increase by $3.3 trillion during the same period.

H.R. 2517 is not a perfect bill. There is one provision in particular about which I would like to comment. Section 13607 of the legislation effects a seismic change in pension law by permitting employers to withdraw for any purpose so-called excess assets from ongoing private pension plans of the defined benefit variety. This is said to raise about $9.5 billion in revenue from the $27 billion in withdrawals expected to be made by employers over the 5-year window opened up under the bill. "Excess assets" means assets above a threshold defined as the larger of 125 percent of current liability or the plan's full funding limit—equal to the lesser of the plan's accrued actuarial liability or 150 percent of current liability.

In short, this means that employers can withdraw plan assets above a minimum asset threshold which can, in effect, vary from 125 to 150 percent of current liability depending on plan structure.

The potential risks related to these provisions are not small. My first concern is that so-called excess assets can be withdrawn from a pension trust even by employers in bankruptcy who can then terminate the plan with no guarantee the remaining assets will be sufficient to pay for all plan benefits. This is because the defined threshold beyond which assets may be withdrawn can be less than the threshold of assets required in the event of the actual plan termination by a financially distressed employer.

I believe the American Academy of Actuaries is correct in saying that the minimum threshold for asset reversions should be based on plan termination liability, rather than current liability. I generally concur with the views expressed by the Pension Benefit Guaranty Corporation [PBGC], that a plan whose current liability is 125 percent funded may in fact be less than 100 percent for purposes of its liability at plan termination. This discrepancy is the result of differences in the actuarial assumptions used for interest, mortality, and expected retirement age. While the PBGC calculations may not be perfect, the discrepancy between current and termination liability is real, and the danger to employees, pensioners and the taxpayer in the case of the termination of an underfunded plan by an insolvent employer is real.

The overall funding of defined benefit pension plans has declined precipitously since 1987 when, in order to increase revenues, Congress placed an artificial full funding limit, that is, a maximum limit, on the level of tax-deductible employer contributions. As a result, many large employer plan sponsors have been forced to take contribution holidays, and thus have been prevented from funding toward projected actuarial liabilities—a more accurate measure of long-term pension plan costs than current liability. I believe it is time to reconsider the suitability of this artificial maximum contribution limit and ensure a more sound funding target—it is not the time to adopt a definition of excess assets based on the inadequate standard of current liabilities.

It may, indeed, be time to reconsider the suitability of this artificial maximum contribution limit and ensure a more sound funding target of at least "plan termination liability" which is the level of plan assets needed to pay all benefits upon the actual termination of a plan. Clearly, it could not have been intended that a large employer in or facing bankruptcy be enabled to extract assets from a pension plan and to then terminate the employer's plan or plans, leaving other employers who pay PBGC premiums or taxpayers to pay for the pensions of the employer's underfunded plan or plans. This can be avoided by listening to the voice of pension experts in the American Academy of Actuaries who suggest the withdrawal threshold be based on at least termination liability.

It also may well be that a more refined pension policy allowing for the reversion of pension assets that are truly excess could help restore employer interest in defined benefit plans and, thus, expand pension coverage. However, the provision should be crafted carefully, should amount to more than a temporary revenue raising measure, and should take into consideration the protections of that title I of Employer Retirement Income Security Act [ERISA] presently provides to plan participants and retirees. Without a permanent provision employers will have no incentive to create or remain in defined benefit plans—and that purported benefit of section 13607 will never be realized. Care must also be taken to recognize the complexity of individual plans, including the fact that so-called excess assets can arise from contributions made by employees as well as those made by employers.

Moreover, the reversion provisions of section 13607 may not even generate the revenue projected. Corporations with a tax loss carry-forward will look to acquire companies with excess assets, so that they can take a reversion tax free. Alternatively, companies may wait to take reversions until they have a tax-loss year. Thus, we may be encouraging the removal of an estimated $27 billion of excess assets without gaining the sought-after revenue.

The success of ERISA private pension plans in America has been immense—$3.5 trillion of assets invested in America. In addition, unlike Social Security and many public pension plans, the assets are real. So far, ERISA's "prudent man rule" has protected the sanctity of those trust funds. We have been successful in the House in fighting off the administration's efforts to hawk economically targeted investments [ETI's] to private pension plan fiduciaries. That effort could rightly be described as an attempt by the administration to force private pension assets to be used for socially correct investments. We want to allow employers the right to take true excess funds from their pension trusts, but the words "excess funds" are, at best, actuarial indefinite and vague. It is therefore essential that the formula for allowing employers to remove funds from pension trusts be unquestionably based on the most conservative of actuarial principles. I believe that this is the essence of what Republicans stand for. I fear, however, that section 13607 is not fully consistent with these principles.

Finally, I remain concerned that the reversion provisions in section 13607 do not include the ERISA amendments necessary to enable pension plan asset reversions to be legally consummated.

Nevertheless, Mr. Chairman, although I have these concerns about the pension reversion provisions, this reconciliation bill has many more positives than negatives. And there still is opportunity—in conference—for salutary changes. What is most important is that the constant failure of Congress to reach a balanced budget is leading us to an unforgivable consequence: passing on trillions of dollars in Federal debt to future generations of Americans. The best time to begin putting matters in order is today; when it comes to making tough decisions to rein in total Federal spending, tomorrow never comes.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BILBRAY].

The CHAIRMAN. The gentleman from California [Mr. BILBRAY] is recognized for 40 seconds.

Mr. BILBRAY. Mr. Chairman, I am a freshman. I have not been here before, but I do recognize the fact that the citizens of the United States want to get their fair share for their dollar spent.

The colleagues to my left keep pointing out about Medicare. My seniors are saying, why pay more than twice the rate of inflation? Any good consumer would not only encourage that, they would demand that. That is all we are saying.

Let me leave you with this: I keep hearing my colleagues on the other side of the aisle, who controlled this body for 40 years, saying that they support a balanced budget. As a freshman who has come here this year, my question to them is, why again and again ever since the 1960's have they not been able to present that balanced budget to the people?

So all I ask them to do is quit finding excuses not to vote for a balanced budget. The American people want it. They are tired of the excuses from Washington, and they want us to prove that we can balance the budget just like they do every day of their lives.

The CHAIRMAN. Pursuant to House Resolution 245, all time for general debate, has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 2517, as modified by the amendments printed in House Report 104-292, is adopted and the bill, as amended, is considered as an original bill for the purpose of further amendment and is considered read.

The text of the amendment in the nature of a substitute, as modified, is as follows:

H.R. 2517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seven-Year Balanced Budget Reconciliation Act of 1995".

SEC. 2. TABLE OF TITLES.

This Act is organized into titles as follows:

Title I—Committee on Agriculture
Title II—Committee on Banking and Financial Services
Title III—Committee on Commerce
Title IV—Committee on Economic and Educational Opportunities
Title V—Committee on Government Reform and Oversight
Title VI—Committee on International Relations
Title VII—Committee on the Judiciary
Title VIII—Committee on National Security
Title IX—Committee on Resources
Title X—Committee on Transportation and Infrastructure
Title XI—Committee on Veterans' Affairs
Title XII—Committee on Ways and Means-Trade
Title XIII—Committee on Ways and Means-Revenues
Title XIV—Committee on Ways and Means-Tax Simplification
Title XV—Preserving, Protecting, and Strengthening Medicare
Title XVI—Transformation of the Medicaid Program
Title XVII—Abolishment of Department of Commerce
Title XVIII—Welfare Reform
Title XIX—Contract with America-Tax Relief
Title XX—Budget Enforcement

TITLE I—COMMITTEE ON AGRICULTURE

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

TITLE I—COMMITTEE ON AGRICULTURE

Sec. 1001. Short title and table of contents.

Subtitle A—Freedom to Farm

Sec. 1101. Short title.
Sec. 1102. Seven-year contracts to improve farming certainty and flexibility.
Sec. 1103. Availability of nonrecourse marketing assistance loans for wheat, feed grains, cotton, rice, and oilseeds.
Sec. 1104. Reform of payment limitation provisions of Food Security Act of 1985.
Sec. 1105. Suspension of certain provisions regarding program crops.

Subtitle B—Dairy

CHAPTER 1—AUTHORIZATION OF MARKET TRANSITION PAYMENTS IN LIEU OF MILK PRICE SUPPORT PROGRAM

Sec. 1201. Seven-year market transition contracts for milk producers.
Sec. 1202. Recourse loans for commercial processors of dairy products.

CHAPTER 2—DAIRY EXPORT PROGRAMS

Sec. 1211. Dairy export incentive program.
Sec. 1212. Authority to assist in establishment and maintenance of export trading company.
Sec. 1213. Standby authority to indicate entity best suited to provide international market development and export services.
Sec. 1214. Study and report regarding potential impact of Uruguay Round on prices, income and Government purchases.

CHAPTER 3—DAIRY PROMOTION PROGRAMS

Sec. 1221. Research and promotion activities under Fluid Milk Promotion Act of 1990.
Sec. 1222. Expansion of dairy promotion program to cover dairy products imported into the United States.
Sec. 1223. Promotion of United States dairy products in international markets through dairy promotion program.
Sec. 1224. Issuance of amended order under Dairy Production Stabilization Act of 1983.

CHAPTER 4—VERIFICATION OF MILK RECEIPTS

Sec. 1231. Program to verify receipts of milk.

Sec. 1232. Verification program to supersede multiple existing Federal orders.

CHAPTER 5—MISCELLANEOUS PROVISIONS RELATED TO DAIRY

Sec. 1241. Extension of transfer authority regarding military and veterans hospitals.
Sec. 1242. Extension of dairy indemnity program.
Sec. 1243. Extension of report regarding export sales of dairy products.
Sec. 1244. Status of producer-handlers.

Subtitle C—Other Commodities

Sec. 1301. Extension and modification of price support and quota programs for peanuts.
Sec. 1302. Availability of loans for processors of sugarcane and sugar beets.
Sec. 1303. Repeal of obsolete authority for price support for cottonseed and cottonseed products.

Subtitle D—Miscellaneous Program Changes

Sec. 1401. Limitations on assistance under emergency livestock feed assistance program.
Sec. 1402. Conservation reserve program.
Sec. 1403. Crop insurance program.
Sec. 1404. Repeal of farmer owned reserve program.
Sec. 1405. Reduction in funding levels for export enhancement program.
Sec. 1406. Business Interruption Insurance Program.

Subtitle E—Commission on 21st Century Production Agriculture

Sec. 1501. Establishment.
Sec. 1502. Composition.
Sec. 1503. Comprehensive review of past and future of production agriculture.
Sec. 1504. Reports.
Sec. 1505. Powers.
Sec. 1506. Commission procedures.
Sec. 1507. Personnel matters.
Sec. 1508. Termination of Commission.

Subtitle A—Freedom to Farm

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Freedom to Farm Act of 1995".

SEC. 1102. SEVEN-YEAR CONTRACTS TO IMPROVE FARMING CERTAINTY AND FLEXIBILITY.

(a) CONTRACTS AUTHORIZED.—Section 102 of the Agricultural Act of 1949 (7 U.S.C. 1443), which is obsolete, is amended to read as follows:

"SEC. 102. SEVEN-YEAR MARKET TRANSITION CONTRACTS.

"(a) CONTRACTS AUTHORIZED.—

"(1) OFFER AND MAIN TERMS.—Beginning as soon as possible after the date of the enactment of this section, the Secretary shall offer to enter into a contract (to be known as a 'market transition contract') with eligible owners and operators described in paragraph (2) on a farm containing eligible farmland. Under the terms of a market transition contract, the owner or operator shall agree, in exchange for annual payments under the contract, to comply with the conservation compliance plan for the farm prepared in accordance with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) and wetland protection requirements applicable to the farm under subtitle C of title XII of such Act (16 U.S.C. 3821 et seq.).

"(2) ELIGIBLE OWNERS AND OPERATORS DESCRIBED.—The following persons shall be considered to be an owner or operator eligible to enter into a market transition contract:

"(A) An owner of eligible farmland who assumes all of the risk of producing a crop.

"(B) An owner of eligible farmland who shares in the risk of producing a crop.

"(C) An operator of eligible farmland with a share-rent lease of the eligible farmland, regardless of the length of the lease, if the owner enters into the same market transition contract.

"(D) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring on or after September 30, 2002, in which case the consent of the owner is not required.

"(E) An operator of eligible farmland who cash rents the eligible farmland under a lease expiring before September 30, 2002, if the owner consents to the contract.

"(F) An owner of eligible farmland who cash rents the eligible farmland and the lease term expires before September 30, 2002, but only if the actual operator of the farm declines to enter into a market transition contract. In the case of an owner covered by this subparagraph, payments will not begin under a market transition contract until the fiscal year following the fiscal year in which the lease held by the nonparticipating operator expires.

"(3) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of operators who are tenants and sharecroppers.

"(b) ELEMENTS OF CONTRACTING.—

"(1) TIME FOR CONTRACTING.—

"(A) DEADLINE.—Except as provided in subparagraph (B), the Secretary may not enter into a market transition contract after April 15, 1996.

"(B) SPECIAL RULE FOR CONSERVATION RESERVE LANDS.—Eligible owners and operators on farms covered by a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) that expires after April 15, 1996, may enter into or expand a market transition contract to cover the acreage equal to the quantity of the farm's crop acreage bases restored with respect to the farm under the terms and conditions of the conservation reserve program. The Secretary shall annually conduct an enrollment for such conservation reserve program acreage for the fiscal years 1997 through 2002.

"(2) DURATION OF CONTRACT.—The term of each market transition contract shall—

"(A) begin with the 1996 crop year, or the crop year in which the contract is entered into in the case of a contract entered into after April 15, 1996; and

"(B) extend through the 2002 crop year.

"(3) ESTIMATION OF PAYMENTS.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the minimum payments anticipated to be made under the contract during at least the first fiscal year for which payments will be made. If the actual payment under the contract for the first fiscal year is less than 95 percent of the estimated payment, the owner or operator subject to the contract may terminate the contract without penalty.

"(4) REPORT ON CONTRACTING.—Not later than 90 days after the date of the enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the manner in which the Secretary proposes to enter into market transition contracts, the number of persons and acreage covered by such contracts, and the total amount of anticipated payments to be made under such contracts (consistent with the limitations specified in subsection (e)).

"(c) ELIGIBLE FARMLAND DESCRIBED.—Land shall be considered to be farmland eligible for coverage under a market transition contract only if the land has crop acreage base attributable to the land and—

"(1) for at least one of the 1991 through 1995 crop years, at least a portion of the land was enrolled in the acreage reduction program authorized for a crop of rice, upland cotton, feed grains, or wheat under section 101B, 103B, 105B, or 107B or was considered planted to rice, upland cotton, feed grains, or wheat, as certified under section 503(c)(7);

"(2) was subject to a conservation reserve contract under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) whose term expired on or after January 1, 1995; or

"(3) is released from coverage under a conservation reserve contract by the Secretary during the period beginning on January 1, 1995, and ending on April 15, 1996.

"(d) TIME FOR PAYMENT.—

"(1) IN GENERAL.—An annual payment under a market transition contract shall be made not later than September 30 of each of the fiscal years 1996 through 2002.

"(2) ADVANCE PAYMENTS.—Beginning in fiscal year 1997, half of the annual payment may be made on March 15 at the option of the owner or operator subject to the contract. At the option of the owner or operator, half of the annual payment for fiscal year 1996 may be made within 90 days of the date on which the owner or operator enters into the market transition contract.

"(e) TOTAL AMOUNTS AVAILABLE FOR PAYMENTS UNDER ALL CONTRACTS.—

"(1) TOTAL PAYMENTS.—Total payments under all market transition contracts for fiscal years 1996 through 2002 shall not exceed $38,733,000,000.

"(2) TOTAL PAYMENTS PER FISCAL YEAR.—Beginning in fiscal year 1996, the Secretary shall expend on a fiscal year basis the following amounts to satisfy the obligations of the Secretary under market transition contracts:

"(A) For fiscal year 1996, $6,014,000,000.

"(B) For fiscal year 1997, $5,829,000,000.

"(C) For fiscal year 1998, $6,244,000,000.

"(D) For fiscal year 1999, $6,047,000,000.

"(E) For fiscal year 2000, $5,573,000,000.

"(F) For fiscal year 2001, $4,574,000,000.

"(G) For fiscal year 2002, $4,453,000,000.

"(3) ADJUSTMENT OF PAYMENT AMOUNTS.—The Secretary shall adjust the amount specified in paragraph (1), and the amount specified in paragraph (2) for a particular fiscal year, as follows:

"(A) Subtracting an amount equal to the amount, if any, necessary during that fiscal year to satisfy payment requirements under sections 101B, 103B, 105B, and 107B for the 1994 and 1995 crop years.

"(B) Adding an amount equal to the sum of all producer repayments of deficiency payments received during that fiscal year under section 114(a)(2).

"(C) Adding an amount equal to the sum of all market transition contract payments withheld by the Secretary, at the request of producers, during the preceding fiscal year as an offset against producer repayments of deficiency payments otherwise required under section 114(a)(2).

"(D) Adding an amount equal to the sum of all refunds of market transition contract payments received during the preceding fiscal year under subsection (i).

"(f) Contract Payments to be Based on Historic Expenditure Levels.—

"(1) Contract commodity defined.—For purposes of this section, the term 'contract commodity' means rice, upland cotton, feed grains, or wheat.

"(2) Calculation of historic expenditure levels.—

"(A) In general.—For each contract commodity, the Secretary shall calculate the total expenditures that were required for the 1991 through 1995 crops of that contract commodity under section 101B, 103B, 105B, or 107B, including expenditures in the form of deficiency payments, loan deficiency payments, gains realized from repaying loans at a level less than the original level, and marketing certificates.

"(B) Special rule for 1995 crop year.—In the absence of information regarding actual expenditures for the 1995 crop of each contract commodity, the Secretary may use an estimate of expenditures under section 101B, 103B, 105B, or 107B for that crop year. The Secretary shall base such estimate on information contained in the President's budget for fiscal year 1997 submitted to the Congress under section 1105 of title 31, United States Code.

"(3) Amounts available for each contract commodity.—The amount available for a fiscal year for payments with respect to crop acreage base of a contract commodity included in market transition contracts in effect during that fiscal year shall be equal to the product of—

"(A) the ratio of the amount calculated under paragraph (2) for that contract commodity to the total amount calculated for all contract commodities under such paragraph; and

"(B) the amount specified in paragraph (2) of subsection (e) for that fiscal year, as adjusted under paragraph (3) of such subsection.

"(g) Determination of Payments Under Particular Contract.—

"(1) Individual production of contract commodities.—For each market transition contract, the amount of production of a contract commodity covered by the contract shall be equal to the product of—

"(A) the crop acreage base of that contract commodity attributable to the eligible farmland subject to the contract; and

"(B) the farm program payment yield in effect for the 1995 crop of that contract commodity for the farm containing that eligible farmland.

"(2) Annual total production of contract commodities.—For each of the fiscal years 1996 through 2002, the total production of each contract commodity covered by all market transition contracts shall be equal to the sum of the amounts calculated under paragraph (1) for each individual market transition contract in effect during that fiscal year.

"(3) Annual payment rate.—The payment rate for a contract commodity for a fiscal year shall be equal to—

"(A) the amount made available under subsection (f)(3) for that contract commodity for that fiscal year; divided by

"(B) the amount determined under paragraph (2) for that fiscal year.

"(4) Annual payment amount.—For each of the fiscal years 1996 through 2002, the amount to be paid under a particular market transition contract in effect during that fiscal year with respect to a contract commodity shall be equal to the product of—

"(A) the amount of production determined under paragraph (1) for that contract for that contract commodity; and

"(B) the payment rate in effect under paragraph (3) for that fiscal year for that contract commodity.

"(5) Assignment of payments.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this subsection. The owner or operator making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this paragraph.

"(6) Sharing of payments.—The Secretary shall provide for the sharing of payments made under a market transition contract among the owners and operators subject to the contract on a fair and equitable basis.

"(h) Limitation on Total Amount of Payment.—The total amount of payments made to a person under a market transition contract during any fiscal year may not exceed $50,000. The Secretary shall issue regulations defining the term 'person' as used in this section, which shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308). In the case of payments under a market transition contract provided to corporations and other persons described in paragraph (5)(B)(i)(II) of such section, the Secretary shall comply with the attribution requirements specified in paragraph (5)(C) of such section.

"(i) Effect of Violation.—

"(1) Termination of contract.—If an owner or operator subject to a market transition contract violates the conservation compliance plan for the farm containing eligible farmland under the contract or wetland protection requirements applicable to the farm, the Secretary may terminate the market transition contract with respect to that owner or operator. Upon such termination, the owner or operator shall forfeit all rights to receive future payments under the contract and shall refund to the Secretary all payments under the contract received by the owner or operator during the period of the violation, together with interest thereon as determined by the Secretary.

"(2) Refund or adjustment.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the owner or operator subject to the contract—

"(A) to refund to the Secretary that part of the payments received by the owner or operator during the period of the violation, together with interest thereon as determined by the Secretary; or

"(B) to accept an adjustment in the amount of future payments otherwise required under the contract.

"(3) Foreclosure.—An owner or operator subject to a market transition contract may not be required to make repayments to the Secretary of amounts received under the contract if the eligible farm land that is subject to the contract has been foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This paragraph shall not void the responsibilities of such an owner or operator under the contract if the owner or operator continues or resumes operation, or control, of the property that is subject to the contract. Upon the resumption of operation or control over the property by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

"(4) Review.—A determination of the Secretary under this subsection shall be considered to be an adverse decision for purposes of the availability of administrative review of the determination.

"(j) Transfer of Interest in Lands Subject to Contract.—

"(1) Effect of transfer.—Except as provided in paragraph (2), the transfer by an owner or operator subject to a market transition contract of the right and interest of the owner or operator in the eligible farmland under the contract shall result in the termination of the contract with respect to that farmland, effective on the date of the transfer, unless the transferee of the land agrees with the Secretary to assume all obligations of the contract. At the request of the transferee, the Secretary may modify the contract if the modifications are consistent with the objectives of this section as determined by the Secretary.

"(2) Exception.—If an owner or operator who is entitled to a payment under a market transition contract dies, becomes incompetent, or is otherwise unable to receive such payment, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

"(k) Planting Flexibility.—

"(1) Permitted crops.—In the case of acreage on a farm that serves as the basis for payments under a market transition contract, an owner or operator on the farm may plant for harvest on the acreage—

"(A) rice, upland cotton, feed grains, and wheat;

"(B) any oilseed;

"(C) any industrial or experimental crop designated by the Secretary;

"(D) mung beans, lentils, and dry peas; and

"(E) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not covered by subparagraph (D), unless such fruit or vegetable crop is designated by the Secretary as—

"(i) an industrial or experimental crop; or

"(ii) a crop for which no substantial domestic production or market exists.

"(2) Limitation.—At the discretion of the Secretary, the Secretary may prohibit the planting of any crop specified in paragraph (1) on acreage on a farm that serves as the basis for payments under a market transition contract.

"(3) Notification.—With regard to commodities that may be planted pursuant to this subsection, the Secretary shall make a determination in each crop year of the commodities that may not be planted pursuant to this subsection and shall make available a list of the commodities.

"(4) Conservation uses.—In lieu of planting any crop specified in paragraph (1), the owner or operator on a farm may devote to conservation uses all or part of the eligible farmland subject to a market transition contract, in accordance with regulations issued by the Secretary.

"(5) Haying and grazing.—Haying and grazing of eligible farmland subject to a market transition contract shall be permitted, except during any consecutive five-month period that is established by the

State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the eligible farmland. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under the preceding sentence.

"(l) MARKET TRANSITION CONTRACTS.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.

"(m) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out this section through the Commodity Credit Corporation, except that no funds of the Corporation shall be used for any salary or expense of any officer or employee of the Department of Agriculture in connection with the administration of market transition payments or loans under this Act.

"(n) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) WHEAT 0/85 PROGRAM.—Section 107B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(c)(1)(E)) is amended by striking "through 1997" in clauses (i) and (vii) each place it appears and inserting "and 1995".

(2) FEED GRAINS 0/85 PROGRAM.—Section 105B(c)(1)(E) of such Act (7 U.S.C. 1444f(c)(1)(E)) is amended by striking "through 1997" in clauses (i) and (vii) each place it appears and inserting "and 1995".

(3) COTTON PROGRAM.—Section 103B of such Act (7 U.S.C. 1444–2) is amended—

(A) in the section heading, by striking "**1997**" and inserting "**1995**";

(B) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), and (o), by striking "1997" each place it appears and inserting "1995";

(C) in subsections (c)(1)(D)(i) and (c)(1)(D)(v)(II) by striking "through 1997" each place it appears and inserting "and 1995";

(D) in the heading of subsection (c)(1)(D)(v)(II), by striking "THROUGH 1997 CROPS" and inserting "AND 1995 CROPS";

(E) in subsection (e)(1)(D), by striking "29½ percent for each of the 1995 and 1996 crops, and 29 percent for the 1997 crop" and inserting "and 29½ percent for the 1995 crop"; and

(F) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking "1998" each place it appears and inserting "1996".

(4) RICE 50/85 PROGRAM.—Section 101B of such Act (7 U.S.C. 1441–2) is amended—

(A) in subsections (c)(1)(D)(i) and (c)(1)(D)(v)(II), by striking "through 1997" each place it appears and inserting "and 1995"; and

(B) in the heading of subsection (c)(1)(D)(v)(II), by striking "THROUGH 1997 CROPS" and inserting "AND 1995 CROPS".

(5) OILSEEDS.—Section 205(c) of such Act (7 U.S.C. 1446f(c)) is amended by striking "through 1997" both places it appears and inserting "and 1995".

(6) CROP ACREAGE BASE.—Section 509 of such Act (7 U.S.C. 1469) is amended by striking "effective only for the 1991 through 1997 program crops" and inserting "effective only until January 1, 1996".

SEC. 1103. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR WHEAT, FEED GRAINS, COTTON, RICE, AND OILSEEDS.

(a) NONRECOURSE LOANS AVAILABLE.—The Agricultural Act of 1949 is amended by inserting after section 102, as amended by section 1102, the following new section:

"SEC. 102A. NONRECOURSE MARKETING ASSISTANCE LOANS FOR CERTAIN CROPS.

"(a) NONRECOURSE LOANS AVAILABLE.—For each of the 1996 through 2002 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, and oilseeds, the Secretary shall make available to eligible producers on a farm nonrecourse marketing assistance loans under terms and conditions that are prescribed by the Secretary and at a loan rate calculated under subsection (c). A marketing assistance loan shall have a term of nine months beginning on the first day of the first month after the month in which the loan is made. The Secretary may not extend the term of a marketing assistance loan.

"(b) ANNOUNCEMENT OF LOAN RATE.—The Secretary shall announce the loan rate for each commodity specified in subsection (a) not later than the start of the marketing year of the commodity for which the loan rate is to be in effect.

"(c) CALCULATION OF LOAN RATE.—

"(1) CALCULATION.—Subject to adjustment under paragraph (2), the loan rate for marketing assistance loans under subsection (a) for a particular commodity specified in such subsection shall be equal to 70 percent of the simple average price received by producers of that commodity during the marketing years for the immediately preceding five crops of that commodity.

"(2) REQUIRED BUDGETARY ADJUSTMENTS.—If the Secretary estimates for one of the marketing years for the 1996 through 2002 crops of a particular commodity specified in subsection (a) that the average price to be received by producers of that commodity is likely to be less that the loan rate calculated under paragraph (1) for that marketing year, the Secretary shall reduce the loan rate for that commodity for that marketing year by an amount sufficient to enable the Secretary to provide marketing assistance loans at no net cost to the Federal Government by preventing the accumulation of that commodity by the Commodity Credit Corporation through loan forfeitures and by limiting producer gains under the marketing loan provision under subsection (d).

"(3) SIMPLE AVERAGE PRICE.—The Secretary shall be responsible for determining the simple average price received by producers of a commodity specified in subsection (a). In determining the simple average price a commodity for a five-year period, the Secretary shall exclude the year in which the average price was the highest and the year in which the average price was the lowest during the period.

"(d) MARKETING LOAN PROVISION.—If during the marketing year, the Secretary determines that the market price of a commodity subject to a marketing assistance loan under this section falls below the lower of (1) the loan rate, or (2) the loan rate as adjusted by subsection (c)(2), the Secretary shall allow such loan to be repaid at such market price. This subsection shall not apply in the case of marketing assistance loans for extra long staple cotton, rye, or oilseeds.

"(e) ADJUSTMENTS FOR GRADE, TYPE, QUALITY, LOCATION, AND OTHER FACTORS.—The Secretary may make such adjustments in the announced loan rate for a commodity specified in subsection (a) as the Secretary considers appropriate to reflect differences in grade, type, quality, location, and other factors.

"(f) PRODUCERS ELIGIBLE FOR LOANS.—Only the following producers shall be eligible for a marketing assistance loan under this section:

"(1) In the case of a marketing assistance loan for a crop of wheat, feed grains (other than rye), upland cotton, or rice, a producer whose land on which the crop is raised is subject to a market transition contract under section 102.

"(2) In the case of a marketing assistance loan for a crop of extra long staple cotton, rye, or oilseeds, any producer.

"(g) PROHIBITION ON STORAGE PAYMENTS.—The Secretary may not make payments to producers to cover storage charges incurred in connection with marketing assistance loans made under this section.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'feed grains' means corn, grain sorghums, barley, oats, and rye.

"(2) The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, and, if designated by the Secretary, other oilseeds.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.".

(b) REPEAL OF CURRENT ADJUSTMENT AUTHORITY.—Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is repealed.

SEC. 1104. REFORM OF PAYMENT LIMITATION PROVISIONS OF FOOD SECURITY ACT OF 1985.

(a) ATTRIBUTION OF PAYMENTS MADE TO CORPORATIONS AND OTHER ENTITIES.—Paragraph (5)(C) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended to read as follows:

"(C)(i) In the case of payments to corporations and other entities described in subparagraph (B)(i)(II), the Secretary shall attribute payments to individuals in proportion to their ownership interests in the corporation or entity receiving the payment or in any other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment. This subparagraph shall apply to individuals who hold or acquire, directly or through another corporation or entity, a substantial beneficial interest in the corporation or entity actually receiving the payment.

"(ii) In the case of payments to corporations and other entities described in subparagraph (B)(i)(II), the Secretary shall also attribute payments to any State (or political subdivision or agency thereof) or other corporation or entity that has a substantial beneficial interest in the corporation or entity actually receiving the payment in proportion to their ownership interests in the corporation or entity receiving the payment. This subparagraph shall apply even if the payments are also attributable to individuals under clause (i).

"(iii) For purposes of this subparagraph, the term 'substantial beneficial interest' means not less than five percent of all beneficial interests in the corporation or entity actually receiving the payment, except that the Secretary may set a lower percentage in order to ensure that the provisions of this section and the scheme or device provisions in section 1001B are not circumvented.".

(b) TRACKING OF PAYMENTS.—Paragraph (3) of section 1001A(a) of the Food Security Act of 1985 (7 U.S.C. 1308–1(a)) is amended to read as follows:

"(3) Notification.—To facilitate administration of this section, each entity or individual receiving payments as a separate person shall notify each individual or other entity that acquires or holds a substantial beneficial interest in it of the requirements and limitations under this subsection. Each such entity or individual receiving payments shall provide to the Secretary, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires a substantial beneficial interest.".

(c) Conforming Amendment.—Paragraph (2) of such section is amended to read as follows:

"(2) Substantial beneficial interest.—For purposes of this subsection, the term 'substantial beneficial interest' has the meaning given such term in section 1001(5)(C)(iii).".

SEC. 1105. SUSPENSION OF CERTAIN PROVISIONS REGARDING PROGRAM CROPS.

(a) Wheat.—

(1) Nonapplicability of certificate requirements.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1996, through May 31, 2003.

(2) Suspension of land use, wheat marketing allocation, and producer certificate provisions.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) Suspension of certain quota provisions.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) Nonapplicability of section 107 program.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) Feed Grains.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(c) Cotton.—

(1) Suspension of base acreage allotments, marketing quotas, and related provisions.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) Nonapplicability of section 103 program.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops of upland cotton.

Subtitle B—Dairy

CHAPTER 1—AUTHORIZATION OF MARKET TRANSITION PAYMENTS IN LIEU OF MILK PRICE SUPPORT PROGRAM

SEC. 1201. SEVEN-YEAR MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS.

(a) Contracts Authorized.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended to read as follows:

"SEC. 204. SEVEN-YEAR MARKET TRANSITION CONTRACTS FOR MILK PRODUCERS AND RELATED PROVISIONS.

"(a) Market Transition Contracts Authorized.—

"(1) Offer and main terms.—The Secretary shall offer to enter into a contract (to be known as a 'market transition contract') with willing milk producers, under which the milk producers agree, in exchange for seven payments under the contract, to comply with—

"(A) governmental animal waste management regulations otherwise applicable to the milk producer; and

"(B) any wetland protection requirements applicable to the farm under subtitle C of title XII of such Act (16 U.S.C. 3821 et seq.).

"(2) Milk producer defined.—For purposes of this section, the term 'milk producer' means a person that was engaged in the production of cow's milk in the 48 contiguous States on September 15, 1995, and that received a payment during the 45-day period before that date for cow's milk marketed for commercial use. Such term includes a person considered to be a producer-handler that satisfies the requirements of the preceding sentence.

"(b) Time for Contracting; Duration.—The Secretary shall begin to offer to enter into market transition contracts as soon as possible after the date of the enactment of this section. The Secretary may not enter into a market transition contract after April 15, 1996. The term of each market transition contract shall extend through December 31, 2001.

"(c) Estimation of Payments.—At the time the Secretary enters into a market transition contract, the Secretary shall provide an estimate of the payments anticipated to be made under the contract for at least fiscal year 1996.

"(d) Time for Payment.—The fiscal year 1996 payment under a market transition contract shall be made on April 15, 1996, or as soon thereafter as practicable. The Secretary shall make subsequent payments not later than October 15 of each of the fiscal years 1997 through 2002.

"(e) Payment Rate.—The Secretary shall use the following payment rates to calculate payments under a market transition contract for a fiscal year:

"(1) For fiscal year 1996, 10 cents per hundredweight.

"(2) For fiscal year 1997, 15 cents per hundredweight.

"(3) For fiscal year 1998, 13 cents per hundredweight.

"(4) For fiscal year 1999, 11 cents per hundredweight.

"(5) For fiscal year 2000, 9 cents per hundredweight.

"(6) For fiscal year 2001, 7 cents per hundredweight.

"(7) For fiscal year 2002, 5 cents per hundredweight.

"(f) Contract Payments To Be Based on Production History.—

"(1) In general.—The Secretary shall determine the historic annual milk production for each milk producer that enters into a market transition contract on the basis of milk checks reflecting payments for commercial marketings of cow's milk or such other records of commercial marketings or product sales as may be acceptable to the Secretary. Each milk producer's historic annual milk production shall be expressed in terms of hundredweights of milk.

"(2) Producers with three or more years of production.—In the case of a milk producer that has been engaged in the production of milk for at least three of the calendar years 1991 through 1995, the milk producer's historic annual milk production shall be equal to the average quantity of milk marketed by the milk producer during the three years of such period in which the largest quantities of milk were marketed by the milk producer.

"(3) Producers with fewer years of production.—In the case of a milk producer not covered by paragraph (2), the Secretary shall assign the milk producer an historic annual milk production equal to an annualized average of the monthly quantity of milk marketed by the milk producer during the period in which the milk producer has been engaged in milk production. The Secretary shall not consider months of production after December 31, 1995.

"(g) Calculation of Payment Amount.—The total amount to be paid to a milk producer under a market transition contract for a fiscal year shall be equal to the product of—

"(1) the payment rate in effect for that fiscal year under subsection (e); and

"(2) the historic annual milk production for the milk producer determined under subsection (f).

"(h) Assignment of Payments.—The right of a milk producer to a payment under a market transition contract shall be freely assignable by the milk producer. The milk producer or assignee shall provide the Secretary with notice, in such manner as the Secretary may require in the market transition contract, of any assignment made under this subsection.

"(i) Effect of Violation.—

"(1) Termination of contract.—If a milk producer subject to a market transition contract violates any governmental animal waste management regulation that applies to the producer or wetland protection requirements applicable to the producer, the Secretary may terminate the producer's market transition contract. Upon such termination, the milk producer shall forfeit all rights to receive future payments under the contract and shall refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest thereon as determined by the Secretary. The Secretary shall make a determination regarding violations of animal waste management regulations under this paragraph in consultation with the appropriate State governmental authority.

"(2) Refund or adjustment.—If the Secretary determines that a violation of a market transition contract does not warrant termination of the contract under paragraph (1), the Secretary may require the milk producer subject to the contract—

"(A) to refund to the Secretary any payment under the contract received by the producer after notification of the violation, together with interest thereon as determined by the Secretary; or

"(B) to accept an adjustment in the amount of future payments otherwise required under the contract.

"(j) Market Transition Contracts.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) shall affect any payment under any market transition contract.".

(b) Continued Operation of Existing Program Through 1995.—

(1) Price support operations.—Until December 31, 1995, the Secretary of Agriculture shall continue to use section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e), as in effect on the day before the date of the enactment of this Act, to support the price of milk produced in the 48 contiguous States.

(2) Price Reduction.—Subsection (h) of such section, relating to a reduction in the price received by milk producers for all milk produced in the 48 contiguous States and marketed for commercial use, shall continue to apply with respect to milk marketed through December 31, 1995. In the case of milk producers that did not increase milk marketings in 1995 when compared to 1994 milk marketings, the Secretary of Agriculture shall make refunds available in 1996 to such milk producers in the manner provided in paragraph (3) of such subsection.

(c) Conforming Repeal of General Authority to Provide Price Support for Milk.—

(1) Designated nonbasic agricultural commodity.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "milk,".

(2) Other nonbasic agricultural commodities.—Section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amended by inserting "(other than milk)" after "title II".

SEC. 1202. RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

The Agricultural Act of 1949 is amended by striking section 424 (7 U.S.C. 1433c), as added by section 1003 of the Food Security Act of 1985 and effective for 1986 through 1990 crops, and inserting the following new section:

"SEC. 424. RECOURSE LOANS FOR COMMERCIAL PROCESSORS OF DAIRY PRODUCTS.

"(a) Recourse Loans Available.—On and after January 1, 1996, the Secretary may make recourse loans available to commercial processors of eligible dairy products to assist such processors to manage inventories of eligible dairy products to assure a greater degree of price stability for the dairy industry during the year. Recourse loans may be made available under such reasonable terms and conditions as the Secretary may prescribe.

"(b) Amount of Loan.—The Secretary shall establish the amount of a loan for eligible dairy products, which shall reflect 90 percent of the reference price for that product. The rate of interest charged participants in this program shall not be less than the rate of interest charged the Commodity Credit Corporation by the United States Treasury.

"(c) Period of Loans.—A recourse loan made under this section may not extend beyond the end of the fiscal year during which the loan is made, except that the Secretary may extend the loan for an additional period not to exceed the end of the next fiscal year.

"(d) Definitions.—For purposes of this section:

"(1) The term 'eligible dairy products' means cheddar cheese, butter, and nonfat dry milk.

"(2) The term 'reference price' means—

"(A) for cheddar cheese, the average National Cheese Exchange price for 40 pound blocks of cheddar cheese for the previous three months;

"(B) for butter the average Chicago Mercantile Exchange price for butter for the previous three months; and

"(C) for nonfat dry milk, the Western States price for nonfat dry milk for the previous three months.".

CHAPTER 2—DAIRY EXPORT PROGRAMS

SEC. 1211. DAIRY EXPORT INCENTIVE PROGRAM.

(a) In General.—Section 153(c) of the Food Security Act of 1985 (15 U.S.C. 713a-14(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraphs:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States as a member of the World Trade Organization are exported under the program each year (minus the volume sold under section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and

"(4) payments may be made under the program for exports to any destination in the world for the purpose of market development, except a destination in a country with respect to which shipments from the United States are otherwise restricted by law.".

(b) Sole Discretion.—Section 153(b) of the Food Security Act of 1985 (15 U.S.C. 713a-14(b)) is amended by inserting "sole" before "discretion".

(c) Market Development.—Section 153(e)(1) of the Food Security Act of 1985 (15 U.S.C. 713a-14(e)(1)) is amended—

(1) by striking "and" and inserting "the"; and

(2) by inserting before the period the following: ", and any additional amount that may be required to assist in the development of world markets for United States dairy products".

(d) Maximum Allowable Amounts.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14) is amended by adding at the end the following:

"(f) Required Funding.—The Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States as a member of the World Trade Organization, minus the amount expended under section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) during that year. However, the Commodity Credit Corporation may not exceed the limitations specified in subsection (c)(3) on the volume of allowable dairy product exports.".

(e) Conforming Amendment.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking "2001" and inserting "2002".

SEC. 1212. AUTHORITY TO ASSIST IN ESTABLISHMENT AND MAINTENANCE OF EXPORT TRADING COMPANY.

The Secretary of Agriculture shall, consistent with the obligations of the United States as a member of the World Trade Organization, provide such advice and assistance to the United States dairy industry as may be necessary to enable that industry to establish and maintain an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States.

SEC. 1213. STANDBY AUTHORITY TO INDICATE ENTITY BEST SUITED TO PROVIDE INTERNATIONAL MARKET DEVELOPMENT AND EXPORT SERVICES.

(a) Indication of Entity Best Suited to Assist International Market Development for and Export of United States Dairy Products.—If—

(1) the United States dairy industry has not established an export trading company under the Export Trading Company Act of 1982 (15 U.S.C. 4001 et seq.) for the purpose of facilitating the international market development for and exportation of dairy products produced in the United States on or before June 30, 1996; or

(2) the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1997 does not exceed the quantity of exports of United States dairy products during the 12-month period preceding July 1, 1996 by 1.5 billion pounds (milk equivalent, total solids basis);

the Secretary of Agriculture is directed to indicate which entity autonomous of the Government of the United States is best suited to facilitate the international market development for and exportation of United States dairy products.

(b) Funding of Export Activities.—The Secretary shall assist the entity in identifying sources of funding for the activities specified in subsection (a) from within the dairy industry and elsewhere.

(c) Application of Section.—This section shall apply only during the period beginning on July 1, 1997 and ending on September 30, 2000.

SEC. 1214. STUDY AND REPORT REGARDING POTENTIAL IMPACT OF URUGUAY ROUND ON PRICES, INCOME AND GOVERNMENT PURCHASES.

(a) Study.—The Secretary of Agriculture shall conduct a study, on a variety by variety of cheese basis, to determine the potential impact on milk prices in the United States, dairy producer income, and Federal dairy program costs, of the allocation of additional cheese granted access to the United States as a result of the obligations of the United States as a member of the World Trade Organization.

(b) Report.—Not later than September 30, 1996, the Secretary shall report to the Committees on Agriculture of the Senate and the House of Representatives the results of the study conducted under this section.

(c) Rule of Construction.—Any limitation imposed by Act of Congress on the conduct or completion of studies or reports to Congress shall not apply to the study and report required under this section unless such limitation explicitly references this section in doing so.

CHAPTER 3—DAIRY PROMOTION PROGRAMS

SEC. 1221. RESEARCH AND PROMOTION ACTIVITIES UNDER FLUID MILK PROMOTION ACT OF 1990.

(a) Extension of Order.—Section 1999O of the Fluid Milk Promotion Act of 1990 (subtitle H of title XIX of Public Law 101-624; 7 U.S.C. 6414(a)) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(b) Definition of Research.—Paragraph (6) of section 1999C of such Act (7 U.S.C. 6402) is amended to read as follows:

"(6) Research.—The term 'research' means—

"(A) market research to support and increase the effectiveness of industry advertising, promotion, and educational activities; and

"(B) other research to expand sales of fluid milk products, including research regarding the development of new products, new product characteristics, and improved technology in the production, manufacturing, or processing of milk and the products of milk.".

(c) Conforming Amendments Regarding Marketing Orders.—Section 1999J(b) of such Act (7 U.S.C. 6409(b)) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking "(2) otherwise" and inserting "(1)"; and

(3) by redesignating paragraph (3) as paragraph (2).

(d) Clarification of Referendum Requirements.—

(1) SUSPENSION OR TERMINATION.—Subsection (b) of section 1999O of such Act (7 U.S.C. 6414), as redesignated by subsection (a)(2), is amended—

(A) in paragraph (1), by striking "all processors" and inserting "all fluid milk processors"; and

(B) in paragraph (2)(B), by striking "all processors" and inserting "all fluid milk processors voting in the referendum".

(2) CONFORMING AMENDMENT.—Section 1999N(b)(2) of such Act (7 U.S.C. 6413(b)(2)) is amended by striking "all processors" and inserting "all fluid milk processors voting in the referendum".

SEC. 1222. EXPANSION OF DAIRY PROMOTION PROGRAM TO COVER DAIRY PRODUCTS IMPORTED INTO THE UNITED STATES.

(a) DECLARATION OF POLICY.—Section 110(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b)) is amended by inserting after "commercial use" the following: "and dairy products imported into the United States".

(b) DEFINITIONS.—

(1) MILK.—Subsection (d) of section 111 of such Act (7 U.S.C. 4502) is amended by inserting before the period at the end the following: "or cow's milk imported into the United States in the form of dairy products intended for consumption in the United States".

(2) DAIRY PRODUCTS.—Subsection (e) of such section is amended by inserting before the semicolon the following: "and casein (except casein imported under sections 3501.90.20 (casein glue) and 3501.90.50 (other) of the Harmonized Tariff Schedule)".

(3) RESEARCH.—Subsection (j) of such section is amended by inserting before the semicolon the following: "or to reduce the costs associated with processing or marketing those products".

(4) UNITED STATES.—Subsection (l) of such section is amended to read as follows:

"(l) the term 'United States' means the several States and the District of Columbia;".

(5) IMPORTERS AND EXPORTERS.—Such section is further amended—

(A) in subsection (k), by striking "and" at the end of such subsection; and

(B) by adding at the end the following new subsections:

"(m) the term 'importer' means the first person to take title to dairy products imported into the United States for domestic consumption; and

"(n) the term 'exporter' means any person who exports dairy products from the United States.".

(c) MEMBERSHIP OF BOARD.—Section 113(b) of such Act (7 U.S.C. 4504(b)) is amended—

(1) in the first sentence, by striking "thirty-six members" and inserting "38 members, including one representative of importers and one representative of exporters to be appointed by the Secretary";

(2) in the second sentence, by striking "Members" and inserting "The remaining members"; and

(3) in the third sentence, by striking "United States" and inserting "United States, including Alaska and Hawaii".

(d) ASSESSMENT.—Section 113(g) of such Act (7 U.S.C. 4504(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following new paragraph:

"(2) The order shall provide that each importer of dairy products intended for consumption in the United States shall remit to the Board, in the manner prescribed by the order, an assessment equal to 1.2 cents per pound of total milk solids contained in the imported dairy products, or 15 cents per hundredweight of milk contained in the imported dairy products, whichever is less. If an importer can establish that it is participating in active, ongoing qualified State or regional dairy product promotion or nutrition programs intended to increase the consumption of milk and dairy products, the importer shall receive credit in determining the assessment due from that importer for contributions to such programs of up to .8 cents per pound of total milk solids contained in the imported dairy products, or 10 cents per hundredweight of milk contained in the imported dairy products, whichever is less. The assessment collected under this paragraph shall be used for the purpose specified in paragraph (1).".

(e) RECORDS.—Section 113(k) of such Act (7 U.S.C. 4504(k)) is amended in the first sentence by inserting after "commercial use," the following: "each importer of dairy products,".

(f) TERMINATION OR SUSPENSION OF ORDER.—Section 116(b) of such Act (7 U.S.C. 4507(b)) is amended—

(1) by inserting "and importers" after "producers" each place it appears;

(2) by striking "who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use"; and

(3) by adding at the end the following new sentences: "A producer shall be eligible to vote in the referendum if the producer, during a representative period (as determined by the Secretary), has been engaged in the production of milk for commercial use. An importer shall be eligible to vote in the referendum if the importer, during a representative period (as determined by the Secretary), has been engaged in the importation of dairy products into the United States intended for consumption in the United States.".

SEC. 1223. PROMOTION OF UNITED STATES DAIRY PRODUCTS IN INTERNATIONAL MARKETS THROUGH DAIRY PROMOTION PROGRAM.

Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended by adding at the end the following new sentence: "For each of the fiscal years 1996 through 2000, the Board's budget shall provide for the expenditure of not less than 10 percent of the anticipated revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced in the United States from milk produced in the United States.".

SEC. 1224. ISSUANCE OF AMENDED ORDER UNDER DAIRY PRODUCTION STABILIZATION ACT OF 1983.

(a) IMPLEMENTATION OF AMENDMENTS.—To implement the amendments made by sections 1222 and 1223, the Secretary of Agriculture shall issue an amended dairy products promotion and research order under section 112 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504) reflecting such amendments, and no other changes, in the order in existence on the date of the enactment of this Act.

(b) PROPOSAL OF AMENDED ORDER.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish a proposed dairy products promotion and research order reflecting the amendments made by sections 1222 and 1223. The Secretary shall provide notice and an opportunity for public comment on the proposed order.

(c) ISSUANCE OF AMENDED ORDER.—After notice and opportunity for public comment are provided in accordance with subsection (b), the Secretary of Agriculture shall issue a final dairy products promotion and research order, taking into consideration the comments received and including in the order such provisions as are necessary to ensure that the order is in conformity with the amendments made by sections 1222 and 1223.

(d) EFFECTIVE DATE.—The final dairy products promotion and research order shall be issued and become effective not later than 120 days after publication of the proposed order.

(e) REFERENDUM ON AMENDMENTS.—Section 115 of Dairy Production Stabilization Act of 1983 (7 U.S.C. 4506) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) REFERENDUM.—Not later than 36 months after the issuance of the order reflecting the amendments made by sections 1222 and 1223 of the Agricultural Reconciliation Act of 1995, the Secretary shall conduct a referendum under this section for the sole purpose of determining whether the requirements of such amendments shall be continued. The Secretary shall conduct the referendum among persons who have been producers or importers during a representative period as determined by the Secretary. The requirements of such amendments shall be continued only if the Secretary determines that such requirements have been approved by not less than a majority of the persons voting in the referendum. If continuation of the amendments is not approved, the Secretary shall issue a new order, within six months after the announcement of the results of the referendum, that is identical to the order in effect on the date of the enactment of the Agricultural Reconciliation Act of 1995. The new order shall become effective upon issuance and shall not be subject to referendum for approval.".

CHAPTER 4—VERIFICATION OF MILK RECEIPTS

SEC. 1231. PROGRAM TO VERIFY RECEIPTS OF MILK.

(a) ESTABLISHMENT OF VERIFICATION PROGRAM.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e), as amended by section 1201, is further amended by adding at the end the following new subsection:

"(k) VERIFICATION OF RECEIPTS OF MILK.—

"(1) VERIFICATION PROGRAM REQUIRED.—The Secretary shall establish a program through which the verification of receipts of all cow's milk marketed in the 48 contiguous States and the auditing of marketing agreements with respect to receipts of such milk may be accomplished. The Secretary shall prescribe regulations to establish the program required by this subsection.

"(2) ADMINISTRATIVE SERVICES.—The program shall provide a means by which (A) processors, associations of producers, and other persons engaged in the handling of milk and milk products file reports with the Secretary regarding receipts of milk, prices paid for milk, and the purposes for which milk was used by handlers, (B) authorized deductions from payments to producers, including assessments for research and promotion programs, are collected, (C) assurance of proper payment by handlers for milk purchased is achieved, and (D) the reports, records, and facilities of handlers are reviewed and inspected to assure their accuracy. The regulations shall provide for the publication of statistics regarding receipts, prices, and uses of milk. Statistics published by the Secretary shall include information regarding payments received by producers for milk on a component basis, including payments for milkfat, protein and other solids. The Secretary shall collect an assessment from handlers required to file reports under this paragraph to cover any expenses associated with the collection and publication of such statistics. Assessments shall be based on the relative volume of receipts of milk by each handler and shall not exceed the total cost of such expenses.

"(3) Marketing services.—The program shall further provide a means by which the weighing, sampling, and testing of milk purchased from producers is accomplished and verified. This paragraph shall not apply to producers for whom such marketing services are rendered by a cooperative marketing association qualified under the provisions of the Act of February 18, 1922 (7 U.S.C. 291–292), commonly known as the 'Co-operative Marketing Associations Act'. An assessment may be levied on producers for whom such services are performed to cover the expenses of the Secretary or the cooperative marketing association providing the services. Assessments shall be based on the relative marketings of milk by each producer and shall not exceed the total cost of providing such services.

"(4) Marketing agreements.—Producers or associations of producers, including cooperative marketing associations qualified under the provisions of the Act of February 18, 1922 (7 U.S.C. 291–292), commonly known as the 'Co-operative Marketing Associations Act', may negotiate and enter into marketing agreements or other private contracts with handlers for the marketing and receipt of milk. Upon the request of either or both of the parties, the Secretary may perform an audit of the agreement or contract to assure compliance with its terms, except that the Secretary shall be reimbursed for any costs associated with the audit in the manner provided in the agreement or contract. If there is no provision for the reimbursement of the Secretary in the agreement or contract, the party or parties requesting the audit shall provide such reimbursement.

"(5) Prohibition on marketing limitations.—No marketing agreement or Government order or regulation applicable to milk and its products in any marketing area or jurisdiction shall prohibit or in any manner limit the marketing in that area of any milk or product of milk produced in any production area in the United States.

"(6) Effect on existing marketing orders.—Effective July 1, 1996, the program established under this subsection shall supersede any Federal marketing order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to milk or its products.".

(b) Time for Issuance.—Not later than July 1, 1996, the Secretary of Agriculture shall issue final regulations under subsection (k) of section 204 of the Agricultural Act of 1949, as added by this section, to establish the verification program required by such subsection. The regulations shall take effect on that date.

(c) Process.—In preparation for the issuance of the regulations under subsection (k) of section 204 of the Agricultural Act of 1949, as added by this section, the Secretary shall comply with the following:

(1) The Secretary shall issue proposed regulations not later than April 1, 1996.

(2) The Secretary shall provide for a comment period on the regulations, as proposed under paragraph (1). However, the comment period shall not exceed 60 days nor extend past May 31, 1996.

SEC. 1232. VERIFICATION PROGRAM TO SUPERSEDE MULTIPLE EXISTING FEDERAL ORDERS.

(a) Termination of Milk Marketing Orders.—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking paragraphs (5) and (18) relating to milk and its products.

(b) Prohibition on Subsequent Orders Regarding Milk.—Paragraph (2) of such section is amended—

(1) by striking "Milk, fruits" and inserting "Fruits"; and

(2) by inserting "milk," after "honey," in subparagraph (B).

(c) Conforming Amendments.—(1) Section 2(3) of such Act (7 U.S.C. 602(3) is amended by striking ", other than milk and its products,".

(2) Section 8c of such Act (7 U.S.C. 608c) is amended—

(A) in paragraph (6), by striking ", other than milk and its products,";

(B) in paragraph (7)(B), by striking "(except for milk and cream to be sold for consumption in fluid form)";

(C) in paragraph (11)(B), by striking "Except in the case of milk and its products, orders" and inserting "Orders";

(D) in paragraph (13)(A), by striking ", except to a retailer in his capacity as a retailer of milk and its products"; and

(E) in paragraph (17), by striking the second proviso, which relates to milk orders.

(3) Section 8d(2) of such Act (7 U.S.C. 608d(2)) is amended by striking the second sentence, which relates to information from milk handlers.

(4) Section 10(b)(2) of such Act (7 U.S.C. 610(b)(2)) is amended—

(A) by striking clause (i);

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(C) in clause (i) (as so redesignated), by striking "other commodity" in the first sentence and inserting "commodity".

(5) Section 11 of such Act (7 U.S.C. 611) is amended by striking "and milk, and its products,".

(6) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103–111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso, which relates to information from milk handlers.

(d) Effective Date.—The amendments made by this section shall take effect on July 1, 1996.

CHAPTER 5—MISCELLANEOUS PROVISIONS RELATED TO DAIRY

SEC. 1241. EXTENSION OF TRANSFER AUTHORITY REGARDING MILITARY AND VETERANS HOSPITALS.

Subsections (a) and (b) of section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) are amended by striking "1995" both places it appears and inserting "2002".

SEC. 1242. EXTENSION OF DAIRY INDEMNITY PROGRAM.

Section 3 of Public Law 90–484 (7 U.S.C. 450*l*) is amended by striking "1995" and inserting "2002".

SEC. 1243. EXTENSION OF REPORT REGARDING EXPORT SALES OF DAIRY PRODUCTS.

Section 1163(c) of the Food Security Act of 1985 is amended by striking "1995" and inserting "2002".

SEC. 1244. STATUS OF PRODUCER-HANDLERS.

The legal status of producer-handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title take effect as it was before the effective date of the amendments.

Subtitle C—Other Commodities

SEC. 1301. EXTENSION AND MODIFICATION OF PRICE SUPPORT AND QUOTA PROGRAMS FOR PEANUTS.

(a) Extension of Price Support Program.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) in the section heading, by striking "**1991 through 1997 crops of**";

(2) in subsections (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (g)(1)—

(A) by striking "1997 crops" the first place it appears and inserting "2002 crops"; and

(B) by striking "1997 crop" both places it appears and inserting "1997 through 2002 crops"; and

(4) in subsection (g)(2)(A)—

(A) by striking "1997 crop" in clause (i)(IV) and inserting "1997 through 2002 crops"; and

(B) by striking "1997" in clause (ii)(II) and inserting "2002".

(b) Changes to Price Support Program.—

(1) Quota support rate.—

(A) Support rate for 1996 through 2002 crops.—Subsection (a)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended to read as follows:

"(2) Support rate.—The national average quota support rate for quota peanuts shall be equal to $610 per ton for each of the 1996 through 2002 crops of quota peanuts.".

(B) Effect of amendment on current crop.—The national average quota support rate in effect under section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) on the day before the date of the enactment of this Act shall continue to apply with respect to the 1995 crop of quota peanuts.

(2) Offers from handlers.—Subsection (a) of such section is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) Offers from handlers.—The Secretary shall reduce the support rate by 15 percent for any producer on a farm who had available to the producer an offer from a handler to purchase quota peanuts from the farm at a price equal to or greater than the applicable quota support rate.".

(3) Covering losses.—Subsection (d)(2) of such section is amended to read as follows:

"(2) Quota loan pools.—Losses in quota area pools shall be covered using the following sources in the following order of priority:

"(A) Transfers from additional loan pools.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by such producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938.

"(B) Other producers in same pool.—Further losses in an area quota pool shall be offset by reducing the gain of any producer in such pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

"(C) Use of marketing assessments.—The Secretary shall use funds collected under subsection (g) (except funds attributable to handlers) to offset further losses in area quota pools. The Secretary shall transfer to the Treasury those funds collected under subsection (g) and available for use under this paragraph that the Secretary determines are not required to cover losses in area quota pools.

"(D) CROSS COMPLIANCE.—Further losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938, shall be offset by any gains or profits from quota pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

"(E) INCREASED ASSESSMENTS.—If use of the authorities provided in the preceding subparagraphs is not sufficient to cover losses in an area quota pool, the Secretary shall increase the marketing assessment established under subsection (g) by such an amount as the Secretary considers necessary to cover the losses. The increased assessment shall apply only to quota peanuts marketed in the production area covered by that pool. Amounts collected under subsection (g) as a result of the increased assessment shall be retained by the Secretary to cover losses in that pool.".

(c) EXTENSION OF NATIONAL POUNDAGE QUOTA PROGRAM.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(1) in section 358–1 (7 U.S.C. 1358–1)—

(A) in the section heading, by striking "**1991 THROUGH 1997 CROPS OF**";

(B) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(C) in subsection (b)(1)(A)—

(i) by striking "1997" and inserting "2002"; and

(ii) in clause (i), by inserting before the semicolon the following: ", in the case of the 1991 through 1995 marketing years, and the 1995 marketing year, in the case of the 1996 through 2002 marketing years"; and

(D) in subsections (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3)(A), and (f), by striking "1997" each place it appears and inserting "2002";

(2) in section 358b (7 U.S.C. 1358b)—

(A) in the section heading, by striking "**1991 THROUGH 1995 CROPS OF**"; and

(B) in subsection (c), by striking "1995" and inserting "2002";

(3) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(4) in section 358e (7 U.S.C. 1359a)—

(A) in the section heading, by striking "**1991 THROUGH 1997**" and inserting "**CERTAIN**"; and

(B) in subsection (i), by striking "1997" and inserting "2002".

(d) PRIORITIZED QUOTA REDUCTIONS.—Section 358–1(b)(2)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)(2)(C)) is amended—

(1) by striking "all the"; and

(2) by adding at the end the following new sentence: "Rather than allocating the decrease among all the farms in a State, the Secretary shall allocate the decrease among farms in the following order of priority:

"(i) Farms owned or controlled by municipalities, airport authorities, schools, colleges, refuges, and other public entities (not including universities for research purposes).

"(ii) Farms for which the quota holder is not a producer and resides in another State.

"(iii) Farms for which the quota holder, although a resident of the State, is not a producer.

"(iv) Other farms described in the first sentence of this subparagraph.".

(e) ELIMINATION OF QUOTA FLOOR.—Section 358–1(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(a)(1)) is amended by striking the second sentence.

(f) SPRING AND FALL TRANSFERS WITHIN A STATE.—Section 358b(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)(1)) is amended—

(1) by striking "any such lease" in the matter preceding the subparagraphs and inserting "any such sale or lease"; and

(2) by striking "in the fall or after the normal planting season—" and subparagraphs (A) and (B) and inserting the following: "in the spring (or before the normal planting season) or in the fall (or after the normal planting season) with the owner or operator of a farm located within any county in the same State. In the case of a fall transfer or a transfer after the normal planting season, the transfer may be made only if not less than 90 percent of the basic quota (the farm quota exclusive of temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased.".

(g) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended by adding at the end the following new paragraph:

"(4) TRANSFERS IN COUNTIES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any county for which the poundage quota allocated to the county was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota for a farm in that county may be transferred by sale or lease or otherwise to a farm in any other county in the same State.".

(h) UNDERMARKETINGS.—

(1) ELIMINATION.—Subsection (b) of section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—(A) Such subsection is further amended—

(i) in paragraph (1)(B), by striking "including—" and clauses (i) and (ii) and inserting "including any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(ii) in paragraph (3)(B), by striking "include—" and clauses (i) and (ii) and inserting "include any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).".

(B) Section 358b(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b(a)) is amended—

(i) in paragraph (1) (as amended by subsection (f)), by striking "(including any applicable under marketings)" both places it appears;

(ii) in paragraph (2), by striking "(including any applicable under marketings)"; and

(iii) in paragraph (3), by striking "(including any applicable undermarketings)".

(i) LIMITATION ON PAYMENTS FOR DISASTER TRANSFERS.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), as amended by subsection (h), is further amended by adding at the end the following new paragraph:

"(8) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested and marketed because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide, except that the poundage of such peanuts so transferred shall not exceed the difference in the total peanuts meeting quality requirements for domestic edible use as determined by the Secretary marketed from the farm and the total farm poundage quota, excluding quota pounds transferred to the farm in the fall. Peanuts transferred under this paragraph shall be supported at a total of not more than 70 percent of the quota support rate for the marketing years in which such transfers occur and such transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

(j) TEMPORARY QUOTA ALLOCATION.—

(1) ANNUAL ALLOCATION.—Subsection (b)(2) of section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(A) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph. The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary. The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(ii) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section shall alter or change in any way the requirements regarding the use of quota and additional peanuts established by section 359a(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(b)), as added by section 804 of the Food, Agriculture, Conservation, and Trade Act of 1990.".

(2) CONFORMING AMENDMENT.—Subsection (a)(1) of such section is amended by striking "domestic edible, seed," and inserting "domestic edible use".

(k) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not apply to the 1996 through 2002 crops of peanuts:

(1) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(2) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(3) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(4) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(5) Section 371 (7 U.S.C. 1371).

(l) EXTENSION OF REPORTING AND RECORDKEEPING REQUIREMENTS.—Section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting after the first sentence the following new sentence: "In the case of the 1996 through 2002 crops of peanuts, this subsection shall also apply to all producers engaged in the production of peanuts.".

(m) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not apply to the 1996 through 2002 crops of peanuts.

SEC. 1302. AVAILABILITY OF LOANS FOR PROCESSORS OF SUGARCANE AND SUGAR BEETS.

(a) SUGAR LOANS.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. ASSURANCE OF ADEQUATE SUGAR SUPPLY.

"(a) SUGARCANE PROCESSOR LOANS.—For the 1996 through 2002 crops of domestically grown sugarcane, the Secretary shall make loans available to sugarcane processors on raw cane sugar processed from such crops. Subject to subsection (c), loans under this subsection shall be made at a rate equal to the rate provided under this section, as in effect on the day before the date of the enactment of the Agricultural Reconciliation Act of 1995, for raw cane sugar produced from the 1995 crop of domestically grown sugarcane.

"(b) SUGAR BEETS.—For the 1996 through 2002 crops of domestically grown sugar beets, the Secretary shall make loans available to sugar beet processors on refined beet sugar processed from such crops. Subject to subsection (c), loans under this subsection shall be made at a rate equal to the rate provided under this section, as in effect on the day before the date of the enactment of the Agricultural Reconciliation Act of 1995, for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(c) REDUCTION IN LOAN RATES.—

"(1) REDUCTION REQUIRED.—The Secretary shall reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of the European Union and other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

"(2) EXTENT OF REDUCTION.—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by the European Union and other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

"(3) ANNOUNCEMENT OF REDUCTION.—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

"(4) MAJOR SUGAR COUNTRIES DEFINED.—For purposes of this subsection, the term 'major sugar growing, producing, and exporting countries' means—

"(A) the countries of the European Union; and

"(B) the ten foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest amount of sugar.

"(5) AGREEMENT ON AGRICULTURE DEFINED.—For purposes of this subsection and subsection (d), the term 'Agreement on Agriculture' means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

"(d) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) RECOURSE LOANS.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

"(2) SWITCH TO NONRECOURSE LOANS.—

"(A) IN GENERAL.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is set at, or is increased to, a level that exceeds the loan modification threshold, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during such fiscal year shall be modified by the Secretary into a nonrecourse loan.

"(B) LOAN MODIFICATION THRESHOLD DEFINED.—For the purposes of this subsection, the term 'loan modification threshold' means—

"(i) for fiscal years 1996 and 1997, 1,257,000 short tons raw value; and

"(ii) for fiscal years after fiscal year 1997, 103 percent of the loan modification threshold for the previous fiscal year.

"(3) PROCESSOR ASSURANCES.—If the Secretary is required under paragraph (2) to make nonrecourse loans available during a fiscal year or to modify recourse loans into nonrecourse loans, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that the processor will provide an appropriate minimum payment for sugar beets and sugarcane delivered by producers served by the processor. The Secretary may establish appropriate minimum payments for purposes of this paragraph.

"(4) ANNOUNCEMENT OF THRESHOLD.—As soon as practicable, but not later than September 1 of each fiscal year, the Secretary shall announce the loan modification threshold that shall apply under paragraph (2) for the subsequent fiscal year.

"(e) LENGTH OF LOANS.—Each loan made under this section shall be for a term of three months, and may be extended for additional three-month terms, except that—

"(1) no loan may have a cumulative term in excess of nine months or a term that extends beyond September 30 of the fiscal year in which the loan is made; and

"(2) a processor may terminate a loan and redeem the collateral for the loan at any time by payment in full of principal, interest, and fees then owing.

"(f) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(g) MARKETING ASSESSMENT.—

"(1) SUGARCANE.—Effective only for marketings of raw cane sugar during fiscal years 1996 through 2003, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment for each pound of raw cane sugar, processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed. The assessment rate per pound is equal to 1.5 percent of the loan rate for raw cane sugar under this section.

"(2) SUGAR BEETS.—Effective only for marketings of beet sugar during fiscal years 1996 through 2003, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment for each pound of beet sugar, processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed. The assessment rate per pound is equal to 1.6083 percent of the loan rate for raw cane sugar under this section.

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected on a monthly basis and shall be remitted to the Commodity Credit Corporation within 30 days after the end of each month. Any cane sugar or beet sugar processed during a fiscal year that has not been marketed by September 30 of that year shall be subject to assessment on that date. The sugar shall not be subject to a second assessment at the time that it is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(4) PENALTIES.—If any person fails to remit the assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of cane sugar or beet sugar involved in the violation; by

"(B) the loan rate in effect at the time of the violation.

"(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(6) DEFINITION OF MARKET.—For purposes of this subsection, the term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and to deliver to a buyer.

"(h) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—In order to efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(i) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the United States demand for sugar for that fiscal year, which shall be equal to—

"(A) the quantity of sugar, that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products); plus

"(B) the quantity of sugar that would provide for adequate carryover stocks; minus

"(C) the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

"(j) REGULATIONS.—The Secretary shall issue such regulations as the Secretary determines necessary to carry out this section.".

(b) EFFECT ON EXISTING LOANS FOR SUGAR.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1991 through 1995 crops of sugarcane and sugar beets.

(c) TERMINATION OF MARKETING QUOTAS AND ALLOTMENTS.—

(1) TERMINATION.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa–1359jj) is repealed.

(2) CONFORMING AMENDMENT.—Section 344(f)(2) of such Act (7 U.S.C. 1344(f)(2)) is amended by striking "sugar cane for sugar; sugar beets for sugar;".

SEC. 1303. REPEAL OF OBSOLETE AUTHORITY FOR PRICE SUPPORT FOR COTTONSEED AND COTTONSEED PRODUCTS.

(a) REPEAL.—Section 301(b) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) is amended by striking paragraph (1).

(b) CONFORMING REPEAL.—Section 420 of the Agricultural Act of 1949 (7 U.S.C. 1432) is repealed.

Subtitle D—Miscellaneous Program Changes

SEC. 1401. LIMITATIONS ON ASSISTANCE UNDER EMERGENCY LIVESTOCK FEED ASSISTANCE PROGRAM.

Section 609 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following new subsection:

"(c) No person may receive benefits under this title attributable to lost production of a feed commodity due to a natural disaster if crop insurance protection or noninsured crop disaster assistance for the loss of feed produced on the farm is available to the person under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).".

SEC. 1402. CONSERVATION RESERVE PROGRAM.

(a) LIMITATIONS ON ACREAGE ENROLLMENTS.—

(1) LIMITATION.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended by striking "38,000,000 acres" and inserting "36,400,000 acres".

(2) PROHIBITION ON 1997 INCREASE.—Section 727 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996, is amended by striking the proviso relating to enrollment of new acres in 1997.

(b) OPTIONAL CONTRACT TERMINATION BY PRODUCERS.—Section 1235 of such Act (16 U.S.C. 3835), is amended by adding at the end the following new subsection:

"(e) TERMINATION BY OWNER OR OPERATOR.—

"(1) NOTICE OF TERMINATION.—An owner or operator of land subject to a contract entered into under this subchapter may terminate the contract by submitting to the Secretary written notice of the intention of the owner or operator to terminate the contract.

"(2) EFFECTIVE DATE.—The contract termination shall take effect 60 days after the date on which the owner or operator submits the written notice under paragraph (1).

"(3) PRO-RATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

"(4) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator who requested such termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

"(5) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the Secretary may impose conservation requirements under subtitle A on the use of the land that are similar to the requirements imposed on other lands subject to such subtitle, but in no case shall such requirements be more onerous that the requirements imposed on other lands.".

(c) LIMITATION ON RENTAL RATES.—Section 1234(c) of such Act (16 U.S.C. 3834) is amended by adding at the end the following new paragraph:

"(5) In the case of the extension of a contract, or a new contract covering land which was previously enrolled in the conservation reserve, annual rental payments under the new or extended contract may not exceed 75 percent of the annual rental payment under the previous contract.".

SEC. 1403. CROP INSURANCE.

(a) CONVERSION OF CATASTROPHIC RISK PROTECTION PROGRAM TO VOLUNTARY PROGRAM.—Subsection (b)(7) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION TO MANDATORY PARTICIPATION REQUIREMENT.—Notwithstanding subparagraph (A), a producer may decline to obtain catastrophic risk protection beginning with spring-planted 1996 crops and in any subsequent crop year, yet remain eligible for any market transition contract or marketing assistance loan, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act, if the producer agrees in writing to waive any eligibility for emergency crop loss assistance in connection with losses to any crop for which the producer declines to obtain catastrophic risk protection.".

(b) DELIVERY OF VOLUNTARY CATASTROPHIC PROTECTION.—Subsection (b)(4) of such section is amended by adding at the end the following new subparagraphs:

"(C) ELIMINATION OF SECRETARIAL OPTION.—For crop years beginning after the implementation of the exception under paragraph (7)(B) to the mandatory participation requirement, the option for delivery of catastrophic risk protection provided in subparagraph (A)(ii) shall not be available to the Secretary. All risk protection policies written by the Department prior to that date shall be transferred, including all fees collected for the crop year in which the private sector will assume the policies, in an orderly manner to the private sector for performance of all service and loss adjustment functions.

"(D) GUARANTEE OF PRIVATE SECTOR SERVICE.—In full consultation and cooperation with approved insurance providers, the Corporation shall develop a plan to ensure that each producer of an insured crop has the opportunity to be serviced by an approved insurance provider if insurance is available for that crop in that county. Not later than May 1, 1996, the Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the plan in the form it is to be implemented by the Secretary.".

(c) ESTABLISHMENT OF THE OFFICE OF RISK MANAGEMENT.—

(1) ESTABLISHMENT.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226 (7 U.S.C. 6932) the following new section:

"SEC. 226A. OFFICE OF RISK MANAGEMENT.

"(a) ESTABLISHMENT.—Subject to subsection (e), the Secretary shall establish and maintain in the Department an independent Office of Risk Management.

"(b) FUNCTIONS OF THE OFFICE OF RISK MANAGEMENT.—The Office of Risk Management shall have jurisdiction over the following functions:

"(1) Supervision of the Federal Crop Insurance Corporation.

"(2) Administration and oversight of all aspects, including delivery through local offices of the Department, of all programs authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(3) Any pilot or other programs involving revenue insurance, risk management savings accounts, or the use of the futures market to manage risk and support farm income that may be established under the Federal Crop Insurance Act or other law.

"(4) Such other functions as the Secretary considers appropriate.

"(c) ADMINISTRATOR.—

"(1) The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

"(2) The Administrator of the Office of Risk Management shall also serve as Manager of the Federal Crop Insurance Corporation.

"(d) RESOURCES.—

"(1) FUNCTIONAL COORDINATION.—Certain functions of the Office of Risk Management, such as human resources, public affairs, and legislative affairs, may be provided by a consolidation of such functions under the Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

"(2) MINIMUM PROVISIONS.—Notwithstanding paragraph (1) or any other provision of law or order of the Secretary, the Secretary shall provide the Office of Risk Management with human and capital resources sufficient for the Office to carry out its functions in a timely and efficient manner.

"(3) FISCAL YEAR 1996 FUNDING.—Not less than $88,500,000 of the appropriation provided for the salaries and expenses of the Consolidated Farm Services Agency in the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 shall be provided to the Office of Risk Management for the salaries and expenses of the Office.".

(2) CONFORMING AMENDMENT.—Section 226(b) of such Act (7 U.S.C. 6932(b)) is amended by striking paragraph (2).

(d) RECONFIGURATION OF BOARD OF DIRECTORS.—Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended to read as follows:

"SEC. 505. BOARD OF DIRECTORS.

"(a) AUTHORITY.—The management of the Corporation shall be vested in a Board of Directors subject to the general supervision of the Secretary.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Board shall consist of the Manager of the Corporation, the Under Secretary of Agriculture for Farm and Foreign Agricultural Services, one person who is an officer or employee of an approved insurance provider, one person who is a licensed crop insurance agent, one person experienced in the reinsurance business who is not otherwise employed by the Federal Government, and four active producers who are not otherwise employed by the Federal Government. The Secretary shall not be a member of the Board.

"(2) Producer members.—In appointing the four active producers who are not otherwise employed by the Federal Government, the Secretary shall ensure that three such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board. The Secretary shall ensure that the fourth active producer, who may also be a policyholder, receives a significant portion of crop income from crops covered by the noninsured crop disaster assistance program established under section 519.

"(c) Appointment.—

"(1) Manager.—The Administrator of the Office of Risk Management appointed by the Secretary under section 226A(c) of the Department of Agriculture Reorganization Act of 1994 shall serve as Manager of the Corporation.

"(2) Terms of other members.—Other than the Manager of the Corporation and the Under Secretary of Agriculture for Farm and Foreign Agricultural Services, the members of the Board shall be appointed by the Secretary for a term of three years. However, in the initial appointment of such members, the Secretary shall appoint two members for one year, two members for two years, and two members for three years in order to provide greater continuity to the Board.

"(3) Succession.—A member of the Board appointed under paragraph (2) may serve after the expiration of the term of office of such member until the successor for such member has taken office.

"(d) Quorum.—Five of the members in office shall constitute a quorum for the transaction of the business of the Board.

"(e) Impairment of Powers.—The powers of the Board to execute the functions of the Corporation shall be impaired at any time there are not six members of the Board in office. Any impairment of the powers of the Board shall also serve to impair the powers of the Manager to act under any delegation of power provided under subsection (g).

"(f) Compensation.—

"(1) Employees of the department.—The members of the Board who are employed in the Department shall receive no additional compensation for their services as members, but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation outside of the District of Columbia.

"(2) Nonemployees of the federal government.—The members of the Board who are not employed by the Federal Government shall be paid such compensation for their services as members as the Secretary shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for positions a level V of the Executive Schedule under section 5316 of title 5, United States Code, when actually employed. Such members may also receive actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of such title for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business. Any such compensation shall be paid from the insurance fund established under section 516(c).

"(g) Chief Executive Officer.—The Manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred by the Board.".

SEC. 1404. REPEAL OF FARMER OWNED RESERVE PROGRAM.

(a) Repeal.—Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is repealed.

(b) Effect of Repeal on Existing Loans.—The repeal of section 110 of the Agricultural Act of 1949 by subsection (a) shall not affect the validity or terms and conditions of any extended price support loan provided under such section before the date of the enactment of this Act.

SEC. 1405. REDUCTION IN FUNDING LEVELS FOR EXPORT ENHANCEMENT PROGRAM.

Section 301(e) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—To carry out the program established under this section, the Commodity Credit Corporation shall make available—

"(A) for each of the fiscal years 1991 through 1995, not more than $500,000,000 of the funds or commodities of the Commodity Credit Corporation;

"(B) for each of the fiscal years 1996 and 1997, not more than $400,000,000 of the funds or commodities of the Commodity Credit Corporation;

"(C) for fiscal year 1998, not more than $500,000,000 of the funds or commodities of the Commodity Credit Corporation;

"(D) for fiscal year 1999, not more than $550,000,000 of the funds or commodities of the Commodity Credit Corporation;

"(E) for fiscal year 2000, not more than $579,000,000 of the funds or commodities of the Commodity Credit Corporation; and

"(F) for each of the fiscal years 2001 and 2002, not more than $478,000,000 of the funds or commodities of the Commodity Credit Corporation.".

SEC. 1406. BUSINESS INTERRUPTION INSURANCE PROGRAM.

(a) Establishment of Program.—Not later than December 31, 1996, the Secretary of Agriculture shall implement a program (to be known as the "Business Interruption Insurance Program"), under which the producer of a program crop could elect to obtain revenue insurance coverage to ensure that the producer receives an indemnity payment if the producer suffers a loss of revenue. The nature and extent of the program and the manner of determining the amount of an indemnity payment shall be established by the Secretary.

(b) Report on Progress and Proposed Expansion.—Not later than January 1, 1998, the Secretary shall submit to the Commission on the 21st Century Production Agriculture the data and results of the program through October 1, 1997. In addition, the Secretary shall submit information and recommendations to the Commission with respect to the program that will serve as the basis for the Secretary to offer revenue insurance to agricultural producers, at one or more levels of coverage, that—

(1) is in addition to, or in lieu of, catastrophic and higher levels of crop insurance;

(2) is offered through reinsurance arrangements with private insurance companies;

(3) is actuarially sound; and

(4) requires the payment of premiums and administrative fees by participating producers.

(c) Program Crop Defined.—For purposes of this section, the term "program crop" means a crop of wheat, corn, grain sorghums, oats, barley, upland cotton, or rice.

Subtitle E—Commission on 21st Century Production Agriculture

SEC. 1501. ESTABLISHMENT.

There is hereby established a commission to be known as the "Commission on 21st Century Production Agriculture" (hereinafter in this title referred to as the "Commission").

SEC. 1502. COMPOSITION.

(a) Membership and Appointment.—The Commission shall be composed of 11 members, appointed as follows:

(1) Three members shall be appointed by the President.

(2) Four members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives in consultation with the ranking minority member of the Committee.

(3) Four members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate in consultation with the ranking minority member of the Committee.

(b) Qualifications.—At least one of the members appointed under each of the paragraphs (1), (2), and (3) of subsection (a) shall be an individual who is primarily involved in production agriculture. All other members of the Commission shall be appointed from among individuals having knowledge and experience in agricultural production, marketing, finance, or trade.

(c) Term of Members; Vacancies.—Members of the Commission shall be appointed for the life of the Commission. A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) Time for Appointment; First Meeting.—The members of the Commission shall be appointed not later than October 1, 1997. The Commission shall convene its first meeting to carry out its duties under this title 30 days after six members of the Commission have been appointed.

(e) Chairman.—The chairman of the Commission shall be designated jointly by the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate from among the members of the Commission.

SEC. 1503. COMPREHENSIVE REVIEW OF PAST AND FUTURE OF PRODUCTION AGRICULTURE.

(a) Initial Review.—The Commission shall conduct a comprehensive review of changes in the condition of production agriculture in the United States since the date of the enactment of this Act and the extent to which such changes are the result of the amendments made by this Act. The review shall include the following:

(1) An assessment of the initial success of market transition contracts under section 102 of the Agricultural Act of 1949 in supporting the economic viability of farming in the United States.

(2) An assessment of the food security situation in the United States in the areas of trade, consumer prices, international competitiveness of United States production agriculture, food supplies, and humanitarian relief.

(3) An assessment of the changes in farmland values and agricultural producer incomes since the date of the enactment of this Act.

(4) An assessment of the extent to which regulatory relief for agricultural producers has been enacted and implemented, including the application of cost/benefit principles in the issuance of agricultural regulations.

(5) An assessment of the extent to which tax relief for agricultural producers has been enacted in the form of capital gains tax reductions, estate tax exemptions, and mechanisms to average tax loads over high and low income years.

(6) An assessment of the effect of any Government interference in agricultural export markets, such as the imposition of trade embargoes, and the degree of implementation and success of international trade agreements.

(7) An assessment of the likely affect of the sale, lease, or transfer of farm poundage quota for peanuts across State lines.

(b) SUBSEQUENT REVIEW.—The Commission shall conduct a comprehensive review of the future of production agriculture in the United States and the appropriate role of the Federal Government in support of production agriculture. The review shall include the following:

(1) An assessment of changes in the condition of production agriculture in the United States since the initial review conducted under subsection (a).

(2) Identification of the appropriate future relationship of the Federal Government with production agriculture after 2002.

(3) An assessment of the personnel and infrastructure requirements of the Department of Agriculture necessary to support the future relationship of the Federal Government with production agriculture.

(c) RECOMMENDATIONS.—In carrying out the subsequent review under subsection (b), the Commission shall develop specific recommendations for legislation to achieve the appropriate future relationship of the Federal Government with production agriculture identified under subsection (a)(2).

SEC. 1504. REPORTS.

(a) REPORT ON INITIAL REVIEW.—Not later than June 1, 1998, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the initial review conducted under section 1503(a).

(b) REPORT ON SUBSEQUENT REVIEW.—Not later than January 1, 2001, the Commission shall submit to the President and the congressional committees specified in subsection (a) a report containing the results of the subsequent review conducted under section 1503(b).

SEC. 1505. POWERS.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, conduct such hearings, sit and act at such times, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) ASSISTANCE FROM OTHER AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as may be necessary for the Commission to carry out its duties under this title. Upon request of the chairman of the Commission, the head of the department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(c) MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(d) ASSISTANCE FROM SECRETARY.—The Secretary of Agriculture shall provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

SEC. 1506. COMMISSION PROCEDURES.

(a) MEETINGS.—The Commission shall meet on a regular basis (as determined by the chairman) and at the call of the chairman or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 1507. PERSONNEL MATTERS.

(a) COMPENSATION.—Each member of the Commission shall serve without compensation, but shall be allowed travel expenses including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Commission duties.

(b) STAFF.—The Commission shall appoint a staff director, who shall be paid at a rate not to exceed the maximum rate of basic pay under section 5376 of title 5, United States Code, and such professional and clerical personnel as may be reasonable and necessary to enable the Commission to carry out its duties under this title without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or any other provision of law, relating to the number, classification, and General Schedule rates. No employee appointed under this subsection (other than the staff director) may be compensated at a rate to exceed the maximum rate applicable to level GS-15 of the General Schedule.

(c) DETAILED PERSONNEL.—Upon request of the chairman of the Commission, the head of any department or agency of the Federal Government is authorized to detail, without reimbursement, any personnel of such department or agency to the Commission to assist the Commission in carrying out its duties under this section. The detail of any such personnel may not result in the interruption or loss of civil service status or privilege of such personnel.

SEC. 1508. TERMINATION OF COMMISSION.

The Commission shall terminate upon submission of the final report required by section 1504.

TITLE II—COMMITTEE ON BANKING AND FINANCIAL SERVICES

SEC. 2001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Subtitle A—Housing Provisions

Sec. 2101. Termination of RTC and FDIC affordable housing programs.
Sec. 2102. Foreclosure avoidance and borrower assistance.
Sec. 2103. Reform of HUD-owned multifamily property disposition program.
Sec. 2104. Recapture of rural housing loan subsidies by Rural Housing and Community Development Service.
Sec. 2105. Reduction of section 8 annual adjustment factors for units without tenant turnover.

Subtitle B—Thrift Charter Conversion

Sec. 2200. Short title.

CHAPTER 1—BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND

Sec. 2201. Special assessment.
Sec. 2202. Assessments on insured depository institutions.
Sec. 2203. Merger of Bank Insurance Fund and Savings Association Insurance Fund after recapitalization of SAIF.
Sec. 2204. Refund of amounts in deposit insurance fund in excess of designated reserve amount.
Sec. 2205. Assessments authorized only if needed to maintain the reserve ratio of a deposit insurance fund.

CHAPTER 2—STATUS OF BANKS AND SAVINGS ASSOCIATIONS

Sec. 2221. Termination of Federal savings associations; treatment of State savings associations as banks for purposes of Federal banking law.
Sec. 2222. Treatment of certain activities and affiliations of bank holding companies resulting from this Act.
Sec. 2223. Transition provisions for activities of savings associations which convert into or become treated as banks.
Sec. 2224. Registration of bank holding companies resulting from conversions of savings associations to banks or treatment of savings associations as banks.
Sec. 2225. Additional transition provisions and special rules.
Sec. 2226. Technical and conforming amendments.
Sec. 2227. References to savings associations and State banks in Federal law.
Sec. 2228. Repeal of Home Owners' Loan Act.
Sec. 2229. Effective date; definitions.

CHAPTER 3—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

Sec. 2241. Office of Thrift Supervision abolished.
Sec. 2242. Determination of transferred functions and employees.
Sec. 2243. Savings provisions.
Sec. 2244. References in Federal law to Director of the Office of Thrift Supervision.
Sec. 2245. Reconfiguration of board of directors of FDIC as a result of removal of Director of the Office of Thrift Supervision.

Subtitle C—Community Reinvestment Act Amendments

Sec. 2301. Expression of congressional intent.
Sec. 2302. Community Reinvestment Act exemption.
Sec. 2303. Self-certification of CRA compliance.
Sec. 2304. Community input and conclusive rating.
Sec. 2305. Special purpose financial institutions.
Sec. 2306. Increased incentives for lending to low- and moderate-income communities.
Sec. 2307. Prohibition on additional reporting under CRA.
Sec. 2308. Technical amendment.
Sec. 2309. Duplicative reporting.
Sec. 2310. CRA congressional oversight.
Sec. 2311. Consultation among examiners.
Sec. 2312. Limitation on regulations.

Subtitle D—Phase-Down of Oversight Board

Sec. 2401. Termination of authority of Oversight Board to employ staff.

Subtitle A—Housing Provisions

SEC. 2101. TERMINATION OF RTC AND FDIC AFFORDABLE HOUSING PROGRAMS.

(a) REPEAL OF UNIFIED PROGRAM AND TRANSFER OF RTC WINDUP AUTHORITY TO HUD.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by striking paragraph (17) and inserting the following new paragraph:

"(17) TRANSFER OF AUTHORITY.—The Secretary shall assume, not later than December 31, 1995, and thereafter shall carry out any remaining authority and responsibilities of the Corporation to recapture excess proceeds from resale of properties and to monitor and enforce low-income occupancy requirements or rent limitations under this subsection and shall assume any direct or contingent liability of the Corporation to carry out such authority and responsibilities.".

(b) Termination of RTC Affordable Housing Program.—Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)) is amended by adding at the end the following new paragraph:

"(18) Termination.—

"(A) In general.—On and after the date of the enactment of the Seven-Year Balanced Budget Reconciliation Act of 1995, the provisions of this subsection (other than paragraph (17)) shall not apply with respect to any eligible residential property or eligible condominium property.

"(B) Savings provision.—Notwithstanding subparagraph (A), the provisions of this subsection shall continue to apply on and after such date of enactment to any eligible residential property or eligible condominium property that—

"(i) has been sold or otherwise disposed of by the Corporation before such date of enactment; or

"(ii) is subject to a contract of sale or other disposition entered into before such date of enactment.".

(c) Termination of Affordable Housing Advisory Board.—Section 14(b)(9) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended by striking "September 30, 1998" and inserting "September 30, 1995".

(d) Repeal of FDIC Program and Transfer of Windup Authority to HUD.—

(1) Repeal.—Section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q) is hereby repealed.

(2) Transfer of windup authority.—Notwithstanding paragraph (1)—

(A) effective December 31, 1995, the Secretary shall carry out any remaining authority and responsibilities of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act to recapture excess proceeds from resale of properties and to monitor and enforce low-income occupancy requirements or rent limitations under such section and shall assume any direct or contingent liability of the Corporation to carry out such authority and responsibilities; and

(B) the Federal Deposit Insurance Corporation shall consummate any sales of property under section 40 of such Act that were pending under contracts of sale on September 30, 1995.

(e) FDIC Disposition of Assets as Conservator or Receiver.—Section 11(d)(13)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)(E)) is amended—

(1) in clause (iii), by inserting "and" after the semicolon;

(2) in clause (iv), by striking "; and" and inserting a period; and

(3) by striking clause (v).

(f) Disposition of FDIC Assets.—Section 13(d)(3)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)(D)) is amended—

(1) in clause (iii), by inserting "and" after the semicolon;

(2) in clause (iv), by striking "; and" and inserting a period; and

(3) by striking clause (v).

SEC. 2102. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) Foreclosure Avoidance.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(b) Authority to Assist Mortgagors in Default.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"Sec. 230. (a) Payment of Partial Claim.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) Assignment.—

"(1) Program authority.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) Program requirements.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) Payment of insurance benefits.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

"(c) Prohibition of Judicial Review.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.".

(c) Savings Provision.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) Applicability of Other Laws.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

SEC. 2103. REFORM OF HUD-OWNED MULTIFAMILY PROPERTY DISPOSITION PROGRAM.

(a) In General.—Effective October 1, 1995, section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11) is amended to read as follows:

"SEC. 203. MANAGEMENT AND DISPOSITION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.

"(a) In General.—The Secretary of Housing and Urban Development may manage and dispose of (1) multifamily housing projects that are owned by the Secretary or that are subject to mortgages held by the Secretary, and (2) mortgages on multifamily housing projects that are held by the Secretary, without regard to any other provision of law.

"(b) Authority to Delegate.—The Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages on multifamily housing projects held by the Secretary.

"(c) Definition.—For purposes of this section, the term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959.".

(b) Conforming Amendments.—

(1) Nondiscrimination against certificate and voucher holders.—Section 183(c) of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note) is amended by striking "section 203(i)(2) of the Housing and Community Development Amendments of 1978, as amended by section 181(h) of this Act" and inserting "section 203(b) of the Housing and Community Development Amendments of 1978 (as in effect before October 1, 1995)".

(2) LIHPRH Act of 1990.—Section 212(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102(c)) is amended by striking the last sentence.

(3) Hope homeownership program.—Section 427 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12877) is amended by striking "subject to—" and all that follows and inserting "subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990.".

(4) FHA multifamily housing mortgage insurance.—Section 207(k) of the National

Housing Act (12 U.S.C. 1713(k)) is amended by striking the third sentence.

(5) MULTIFAMILY MORTGAGE FORECLOSURE ACT OF 1981.—Section 367(b)(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C.3706(b)(2)) is amended—

(A) by striking subparagraph (B); and

(B) by striking "(A)".

(6) PREVENTING MORTGAGE DEFAULTS ON INSURED MULTIFAMILY PROJECTS.—Section 103(h)(2)(B) of the Multifamily Housing Property Disposition Reform Act of 1994 (12 U.S.C. 1715z–1a note) is amended by inserting "(as in effect before October 1, 1995)" after "1978".

SEC. 2104. RECAPTURE OF RURAL HOUSING LOAN SUBSIDIES BY RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

The first sentence of section 521(a)(1)(D)(i) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)(i)) is amended by inserting "upon the repayment of any loan made under this title or" after "assistance rendered".

SEC. 2105. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

Subtitle B—Thrift Charter Conversion

SEC. 2200. SHORT TITLE.

This subtitle may be cited as the "Thrift Charter Conversion Act of 1995".

CHAPTER 1—BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND

SEC. 2201. SPECIAL ASSESSMENT.

Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(1) by redesignating clauses (i), (ii), and (iii) of subparagraph (A) as subclauses (I), (II), and (III), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by moving the left margin of such clauses and subclauses (as so redesignated) 2 ems to the right;

(4) by striking "SPECIAL ASSESSMENTS.—In addition to" and inserting "SPECIAL ASSESSMENTS.—

"(A) IN GENERAL.—In addition to"; and

(5) by adding at the end the following new subparagraphs:

"(B) SINGLE ADDITIONAL SPECIAL ASSESSMENT WITH RESPECT TO CERTAIN ACCOUNTS.—

"(i) IN GENERAL.—The Corporation shall impose, on the basis of such factors as the Board of Directors considers to be appropriate, a single special assessment on the institutions described in the following subclauses (other than institutions exempt under subparagraph (C)):

"(I) Each Savings Association Insurance Fund member (including any Savings Association Insurance Fund member referred to in section 5(d)(2)(G)).

"(II) Each Bank Insurance Fund member which has deposits which are treated, under section 5(d)(3), as deposits which are insured by the Savings Association Insurance Fund.

"(ii) AMOUNT OF ASSESSMENT.—The assessment imposed under clause (i) shall be in an amount equal to such percentage of the Savings Association Insurance Fund assessment base (of the institutions subject to such assessment) as of March 31, 1995, as the Board of Directors determines, in the Board of Directors' discretion, to be necessary in order for the reserve ratio of the Savings Association Insurance Fund to meet the designated reserve ratio on the 1st business day of January, 1996.

"(iii) DEPOSIT OF ASSESSMENT.—Notwithstanding any other provision of law, the proceeds of any assessment imposed under clause (i) shall be deposited in the Savings Association Insurance Fund.

"(iv) DATE PAYMENT DUE.—The special assessment imposed under this subparagraph shall be—

"(I) due on the 1st business day of January, 1996; and

"(II) paid to the Corporation on the later of the due date or such other date as the Corporation may prescribe which may not be later than the end of the 60-day period beginning on the date of the Thrift Charter Conversion Act of 1995.

"(v) SAVINGS ASSOCIATION INSURANCE FUND ASSESSMENT BASE DEFINED.—For purposes of this subparagraph, the term Savings Association Insurance Fund assessment base means—

"(I) the assessment base of Savings Association Insurance Fund members on which assessments are imposed under the risk-based assessment system established pursuant to paragraph (1); and

"(II) in the case of an institution described in clause (i)(II), the adjusted attributable deposit amount determined under subparagraph (C) of section 5(d)(3) for purposes of subparagraph (B)(i) of such section.

"(C) SPECIAL RULES FOR CERTAIN EXEMPT INSTITUTIONS.—

"(i) IN GENERAL.—The Board of Directors may exempt any weak insured depository institution from the payment of the assessment imposed under subparagraph (B)(i) if the exemption would reduce risk to the Savings Association Insurance Fund.

"(ii) CONTINUATION OF ASSESSMENT RATES APPLICABLE AS OF JUNE 30, 1995.—Notwithstanding any other provision of this subsection or any determination by the Corporation pursuant to paragraph (2), the semiannual assessment rate applicable under paragraph (2) during the period beginning on January 1, 1996, and ending on December 31, 1999, with respect to any insured depository institution which receives an exemption under clause (i) shall be the semiannual assessment rate which would be applicable to such institution under paragraph (2) if such assessment rate were calculated in the manner in which semiannual assessment rates for Savings Association Insurance Fund members were determined by the Corporation under such paragraph as of June 30, 1995.

"(iii) SPECIAL RULE FOR OAKAR BANKS.—If an insured depository institution to which clause (ii) applies is an institution described in subparagraph (B)(i)(II), section 5(d)(3) (as in effect on September 13, 1995) shall continue to apply with respect to such institution for purposes of clause (ii) without regard to the repeal of such section by section 2202(c) of the Thrift Charter Conversion Act of 1995.

"(iv) DEPOSIT OF ASSESSMENT.—Assessments imposed under paragraph (2) in accordance with clause (i) on depository institutions to which such clause applies shall be deposited—

"(I) in the Savings Association Insurance Fund until such fund is merged into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995; and

"(II) after such merger, in the deposit insurance fund.

"(v) GUIDELINES.—

"(I) GUIDELINES REQUIRED.—Not later than 30 days after the date of the enactment of the Thrift Charter Conversion Act of 1995, the Board of Directors shall prescribe guidelines containing the criteria to be used by the Board of Directors in making any determination under clause (i).

"(II) PUBLICATION.—The guidelines prescribed under subclause (I) shall be published in the Federal Register.

"(D) PRO RATA PAYMENT OF SPECIAL ASSESSMENT BY EXEMPT INSTITUTIONS AUTHORIZED.—In the case of any depository institution which receives an exemption under subparagraph (C)(i) from the special assessment imposed under subparagraph (B) and any successor to such institution, subparagraph (C)(ii) shall cease to apply with respect to such institution as of the date on which the institution makes a payment to the Corporation, on such terms as the Board of Directors may prescribe, in an amount equal to the product of—

"(i) 12.5 percent of the product of—

"(I) the Savings Association Insurance Fund assessment base of the institution which would have been used in the calculation of the amount of such special assessment if the institution had not received the exemption from such assessment; and

"(II) the percentage rate calculated by the Board of Directors under subparagraph (B)(ii) for use in determining the amount of the special assessment for depository institutions which did not receive an exemption under subparagraph (C); and

"(ii) the whole number of full semiannual periods which begin after the date of such payment and end before January 1, 2000.

"(E) ASSESSMENT FOR CERTAIN DEPOSITS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, in carrying out the special assessment under subparagraph (B), the Corporation may set assessment rates on the basis of the factors described in clause (iii) for deposits treated under section 5(d)(3) as deposits insured by the Savings Association Insurance Fund.

"(ii) MINIMUM RATE.—Notwithstanding clause (i), any rate assessed under such clause may not be less than ⅔ of the assessment rate imposed under subparagraph (B).

"(iii) FACTORS.—In setting any assessment rate under clause (i), the Corporation shall consider the following factors:

"(I) The extent to which deposits treated under section 5(d)(3) as deposits insured by the Savings Association Insurance Fund do not reflect the actual amount of deposits insured by such fund because of the growth attribution rule contained in clause (iii) of such section.

"(II) The ability of an insured depository institution to demonstrate with deposit data the amount of actual deposits which should be treated as deposits insured by the Savings Association Insurance Fund notwithstanding the growth attribution rule referred to in subclause (I).

"(iv) NO NET BUDGET EFFECT.—Notwithstanding any other provision of this subparagraph, the Corporation shall not set any assessment rate under clause (i) that would result in an increased budget outlay or a decrease in offsetting receipts under this paragraph.".

SEC. 2202. ASSESSMENTS ON INSURED DEPOSITORY INSTITUTIONS.

(a) FINANCING CORPORATION ASSESSMENTS ON ALL FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 21(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441(f)) is amended—

(1) in the portion of paragraph (2) which precedes subparagraph (A)—

(A) by striking "each Savings Association Insurance Fund member" and inserting "each insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act)"; and

(B) by striking "such members" and inserting "such institutions"; and

(2) by striking ", except that—" and all that follows through the end of the paragraph and inserting ", except that the Financing Corporation shall have first priority to make the assessment.".

(b) ASSESSMENT RATES FOR SAIF MEMBERS MAY NOT BE LESS THAN ASSESSMENT RATES FOR BIF MEMBERS.—Section 7(b)(2)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(F)) is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(iii) notwithstanding any other provision of this subsection, assessment rates for Savings Association Insurance Fund members may not be less than assessment rates for Bank Insurance Fund members.".

(c) REPEAL OF EXIT MORATORIUM AND OAKAR BANK PROVISIONS.—Effective January 1, 1998, section 5(d) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)) is amended by striking paragraphs (2) and (3).

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 7(b)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(D)) is amended by striking "Savings Association Insurance Fund members" and inserting "members of a deposit insurance fund".

(2) Section 21(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441(k)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (d) shall take effect on January 1, 1996.

SEC. 2203. MERGER OF BANK INSURANCE FUND AND SAVINGS ASSOCIATION INSURANCE FUND AFTER RECAPITALIZATION OF SAIF.

(a) ESTABLISHMENT OF DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Effective January 1, 1998, section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

"(5) DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established a fund to be known as the deposit insurance fund which shall—

"(i) be maintained and administered by the Corporation; and

"(ii) initially consist of the assets and liabilities of the Bank Insurance Fund and Savings Association Insurance Fund which have been merged by the Corporation into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995, other than any assets of the Savings Association Insurance Fund which have been deposited in the special reserve of the deposit insurance fund pursuant to section 2203(b)(2) of such Act.

"(B) USES.—The deposit insurance fund shall be available to the Corporation for use in carrying out the insurance purposes of the Corporation in accordance with this Act with respect to insured depository institutions.

"(C) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the deposit insurance fund.".

(2) MERGER BY CORPORATION.—Except with respect to any assets of the Savings Association Insurance Fund which are required to be deposited in the special reserve of the deposit insurance fund pursuant to subsection (b)(2), the Corporation shall merge the Bank Insurance Fund and the Savings Association Insurance Fund on January 1, 1998, into the deposit insurance fund established by the amendment made by paragraph (1).

(b) ESTABLISHMENT OF SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

(1) IN GENERAL.—Effective January 1, 1998, section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended to read as follows:

"(6) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—

"(A) IN GENERAL.—There is established a fund to be known as the special reserve of the deposit insurance fund which shall—

"(i) be maintained and administered by the Corporation; and

"(ii) initially consist of amounts deposited in the special reserve pursuant to section 2203(b)(2) of the Thrift Charter Conversion Act of 1995.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—

"(i) USE AUTHORIZED.—Subject to clause (ii) and notwithstanding subparagraph (C), the Corporation may, in the sole discretion of the Board of Directors, transfer amounts from the special reserve for deposit in the deposit insurance fund for use in accordance with paragraph (5)(B).

"(ii) CONDITIONS ON TRANSFER.—The Board of Directors may authorize a transfer under clause (i) only if—

"(I) the Board of Directors determines that the reserve ratio of the deposit insurance fund is less than 50 percent of the designated reserve ratio; and

"(II) the Board of Directors finds that the reserve ratio of the deposit insurance will likely be less than the designated reserve ratio of the fund for each of the 4 calendar quarters beginning after the date of such determination.

"(C) NO REFUNDS OR OTHER USES AUTHORIZED.—Except as provided in subparagraph (B), the Corporation may not make any payment from the special reserve, make any refund or provide any credit to any insured depository institution with respect to any amount in the special reserve, or use any amount in the special reserve for any other purpose (including the use of any such amount as security for the repayment of any obligation of the Corporation).

"(D) EXCLUSION OF SPECIAL RESERVE IN CALCULATING THE RESERVE RATIO.—No amount in the special reserve may be taken into account in calculating the reserve ratio of the deposit insurance fund under section 7.".

(2) TRANSFER AND DEPOSIT BY CORPORATION.—If, at the time of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to subsection (a)(2), the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the Corporation shall transfer from such fund to the special reserve of the deposit insurance fund established by the amendment made by paragraph (1) an amount equal to the amount which causes the reserve ratio of the Savings Association Insurance Fund to exceed the designated reserve ratio.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate" and inserting "the deposit insurance fund established under section 11(a)(5)".

(2) Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by striking paragraphs (4)(A) and (7).

(3) Section 5(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(1)) is amended—

(A) in subparagraph (A), by striking "reserve ratios" and all that follows through the period and inserting "the reserve ratio of the deposit insurance fund.";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

(4) Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking subsection (l).

(5) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (B), (F), and (G);

(B) in clauses (i) and (iv) of subparagraph (A), by striking "each deposit insurance fund" and inserting "the deposit insurance fund";

(C) in subparagraph (A)(iii), by striking "a deposit insurance fund" and inserting "the deposit insurance fund"; and

(D) by inserting after subparagraph (E) the following new subparagraph:

"(F) RESERVE RATIO DEFINED.—For purposes of this subsection, the term 'reserve ratio' means the ratio of the net worth of the deposit insurance fund to the aggregate estimated insured deposits held in all insured depository institutions.".

(6) Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended—

(A) in subparagraph (A) by striking "any deposit insurance fund" and inserting "the deposit insurance fund"; and

(B) by striking subparagraphs (C) and (D).

(7) Subparagraph (A) of section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) (as so redesignated by section 2201 of this subtitle) is amended—

(A) in clause (i)—

(i) by inserting "or" after the semicolon at the end of subclause (I);

(ii) by striking subclause (II); and

(iii) by striking "; and" at the end of subclause (III) and inserting a period; and

(B) by striking clause (ii).

(8) Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "deposit insurance fund".

(9) Paragraph (1) of section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking "depositor, except that—" and all that follows through the period at the end of the paragraph and inserting "depositor.".

(10) Section 11(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)) is amended—

(A) by striking subparagraph (B); and

(B) in subparagraph (C), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)".

(11) Section 11A(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)(3)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "deposit insurance fund".

(12) Section 11A(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(f)) is amended by striking "Savings Association Insurance Fund" and inserting "deposit insurance fund".

(13) Section 13(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(a)(1)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "deposit insurance fund, the special reserve of the deposit insurance fund,".

(14) Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended—

(A) by striking "appropriate insurance fund" and inserting "deposit insurance fund";

(B) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(C) by striking "each member's" and inserting "each insured depository institution's"; and

(D) by striking "the member's" each place such term appears and inserting "the institution's".

(15) Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by striking paragraph (11).

(16) Section 13(h) of the Federal Deposit Insurance Act (12 U.S.C. 1823(h)) is amended by striking "Bank Insurance Fund" and inserting "deposit insurance fund".

(17) Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "deposit insurance fund"; and

(B) by striking "each such fund" and inserting "the fund".

(18) Section 14(b) of the Federal Deposit Insurance Act (12 U.S.C. 1824(b)) is amended by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "deposit insurance fund".

(19) Section 14(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(c)) is amended by striking paragraph (3).

(20) Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by striking subsection (d).

(21) Section 15(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)(5)) is amended—

(A) by striking "Bank Insurance Fund or Savings Association Insurance Fund, respectively," and inserting "deposit insurance fund";

(B) by striking "Bank Insurance Fund or Savings Association Insurance Fund, respectively;" and inserting "deposit insurance fund;"; and

(C) by striking "Bank Insurance Fund or the Savings Association Insurance Fund, respectively," and inserting "deposit insurance fund,".

(22) Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "deposit insurance fund".

(23) Section 17(d) of the Federal Deposit Insurance Act (12 U.S.C. 1827(d)) is amended by striking "Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "deposit insurance fund".

(24) The heading for section 17(a) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)) is amended by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND".

(25) Subsections (a)(1) and (d)(1)(A) of section 24 of the Federal Deposit Insurance Act (12 U.S.C. 1831a) are each amended by striking "appropriate".

(26) Section 24(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(e)(2)) is amended—

(A) in subparagraph (A), by striking "of which such banks are members"; and

(B) in subparagraph (B)(ii), by striking "of which such bank is a member".

(27) Section 24(f)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(f)(6)(B)) is amended by striking "of which such bank is a member".

(28) Section 31 of the Federal Deposit Insurance Act (12 U.S.C. 1831h) is hereby repealed.

(29) Section 36(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)(3)) is amended by striking "affected".

(30) Section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) is amended by striking subsection (o).

(31) Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended to read as follows:

"(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—To the extent the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation each calendar year an amount equal to 23.7 percent of the bank's net earnings for the year for which such amount is required to be paid.".

(d) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 1998.

SEC. 2204. REFUND OF AMOUNTS IN DEPOSIT INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE AMOUNT.

Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS.—

"(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

"(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if as of the end of any semiannual period the amount of the actual reserves in—

"(i) the Bank Insurance Fund (until the merger of such fund into the deposit insurance fund pursuant to section 2203(a)(2) of the Thrift Charter Conversion Act of 1995); or

"(ii) the deposit insurance fund (after the establishment of such fund under section 2203(a)(1) of such Act),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to members of the fund by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

"(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.".

SEC. 2205. ASSESSMENTS AUTHORIZED ONLY IF NEEDED TO MAINTAIN THE RESERVE RATIO OF A DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(2)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(i)) is amended in the portion of such section preceding subclause (I) by inserting "when necessary, and only to the extent necessary" after "insured depository institutions".

(b) LIMITATION ON ASSESSMENT.—Section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iii)) is amended to read as follows:

"(iii) LIMITATION ON ASSESSMENT.—The Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

"(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.".

CHAPTER 2—STATUS OF BANKS AND SAVINGS ASSOCIATIONS

SEC. 2221. TERMINATION OF FEDERAL SAVINGS ASSOCIATIONS; TREATMENT OF STATE SAVINGS ASSOCIATIONS AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.

(a) TERMINATION OF FEDERAL SAVINGS ASSOCIATION CHARTERS.—

(1) IN GENERAL.—Each Federal savings association shall—

(A) convert to a national bank charter;

(B) convert to a State depository institution charter; or

(C) surrender the charter of such savings association and liquidate the institution.

(2) CONVERSION TO NATIONAL BANK BY OPERATION OF LAW.—If any Federal savings association has not taken any action required under paragraph (1) as of January 1, 1998, the savings association shall—

(A) become a national bank on such date by operation of law;

(B) immediately file articles of association and an organizational certificate with the Comptroller of the Currency in accordance with sections 5133, 5134, and 5135 of the Revised Statutes of the United States; and

(C) cease to exist as a Federal savings association as of such date.

(3) PROHIBITION ON NEW CHARTERS OF FEDERAL SAVINGS ASSOCIATIONS.—The Director of the Office of Thrift Supervision may not grant any charter for a Federal savings association for which an application was received after the date of the enactment of this Act.

(b) TREATMENT OF STATE SAVINGS ASSOCIATIONS AS BANKS FOR PURPOSES OF FEDERAL BANKING LAW.—

(1) AMENDMENTS TO FEDERAL DEPOSIT INSURANCE ACT.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(A) by striking paragraph (2) of subsection (a) and inserting the following new paragraph:

"(2) STATE BANK.—

"(A) IN GENERAL.—The term 'State bank' means any bank, banking association, trust company, savings bank, industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), building and loan association, savings and loan association, homestead association, cooperative bank, or other banking institution—

"(i) which is engaged in the business of receiving deposits, other than trust funds (as defined in this section); and

"(ii) which—

"(I) is incorporated under the laws of any State;

"(II) is organized and operating according to the laws of the State in which such institution is chartered or organized; or

"(III) is operating under the Code of Law for the District of Columbia (except a national bank).

"(B) CERTAIN INSURED BANKS INCLUDED.—The term 'State bank' includes any cooperative bank or other unincorporated bank the deposits of which were insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

"(C) CERTAIN UNINSURED BANKS EXCLUDED.—The term 'State bank' does not include any cooperative bank or other unincorporated bank the deposits of which were not insured by the Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989."; and

(B) in subsection (q)—

(i) by inserting "and" after the semicolon at the end of paragraph (2);

(ii) by striking "; and" at the end of paragraph (3) and inserting a period; and

(iii) by striking paragraph (4).

(2) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(A) by striking subparagraph (E) of subsection (a)(5); and

(B) by striking subparagraphs (B) and (J) of subsection (c)(2).

(3) AMENDMENTS TO THE FEDERAL RESERVE ACT.—The 2d and 3d paragraphs of the 1st section of the Federal Reserve Act (12 U.S.C. 221) are each amended by inserting "(as defined in section 3(a)(2) of the Federal Deposit Insurance Act)" after "State bank".

SEC. 2222. TREATMENT OF CERTAIN ACTIVITIES AND AFFILIATIONS OF BANK HOLDING COMPANIES RESULTING FROM THIS ACT.

Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF COMPANIES RESULTING FROM SAVINGS AND LOAN HOLDING COMPANIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (other than paragraph (5)) or any other provision of Federal law including sections 20 and 32 of the Banking Act of 1933, a qualified bank holding company may, after such company becomes a bank holding company—

"(A) maintain or enter into any nonbanking affiliation which such company was authorized to maintain or enter into as of September 22, 1995, or was authorized to maintain following a merger of insured depository institution subsidiaries pursuant to an application filed no later than such date; and

"(B) engage, directly or through any affiliate described in subparagraph (A) which is not a bank, in any activity in which such company or any affiliate described in subparagraph (A) was authorized to engage as of September 22, 1995, or in which such company was authorized to engage following a merger of insured depository institution subsidiaries pursuant to an application filed no later than such date,

if the requirements of paragraph (4) are met.

"(2) QUALIFIED BANK HOLDING COMPANY DEFINED.—For purposes of this subsection, the term 'qualified bank holding company' means—

"(A) any company which—

"(i) as of September 13, 1995, is a savings and loan holding company and is not a bank holding company; and

"(ii) becomes a bank holding company after such date; and

"(B) any bank holding company which as of September 13, 1995—

"(i) is a savings and loan holding company; and

"(ii) is exempt from this section pursuant to an order issued by the Board under subsection (d).

"(3) NO LOSS OF SUBSECTION (d) EXEMPTION.—No qualified bank holding company described in paragraph (2)(B) shall lose the grounds for the exemption under subsection (d) because a savings association which such company controlled, directly or indirectly, as of September 13, 1995, becomes a bank after such date so long as such bank continues to meet the requirements of subparagraphs (A) and (B) of paragraph (4).

"(4) PREREQUISITES FOR CONTINUATION OF GRANDFATHERED ACTIVITIES AND AFFILIATIONS.—This subsection shall cease to apply with respect to a qualified bank holding company if, at any time after such company first meets the definition of a qualified bank holding company—

"(A) any insured depository institution controlled by such company which, as of the day before the company first meets the definition of a qualified bank holding company, was subject to the requirements contained in section 10(m) of the Home Owners' Loan Act, as in effect on such date, (and regulations in effect on such date under such section) for treatment as a qualified thrift lender under such section fails to meet such requirements;

"(B) any insured depository institution controlled by such company fails to comply with any limitation or restriction on the type or amounts of loans or investments of the institution to which such institution was subject as of the date of the enactment of the Thrift Charter Conversion Act of 1995; or

"(C) the company or any subsidiary of the company acquires more than 5 percent of the shares or assets of any bank or insured institution after September 13, 1995.

"(5) NONTRANSFERABLE.—This subsection shall not apply with respect to any qualified bank holding company if, after September 13, 1995, any person acquires, directly or indirectly, control of the company or the company is the subject of any merger, consolidation, or other similar transaction.

"(6) PROHIBITION ON CERTAIN INSURED DEPOSITORY INSTITUTIONS IDENTIFYING THEMSELVES AS NATIONAL BANKS.—

"(A) IN GENERAL.—Notwithstanding the requirement of section 5134 of the Revised Statutes of the United States—

"(i) the name of an insured depository institution subsidiary of a qualified bank holding company which—

"(I) as of the date of the enactment of the Thrift Charter Conversion Act of 1995, is a savings and loan holding company described in section 10(c)(3) of the Home Owners' Loan Act (as in effect on such date); and

"(II) is subject to the restrictions contained in paragraph (3),

may not include the term 'national'; and

"(ii) such insured depository institution may not be identified as a national bank on any sign displayed by the institution or in any advertisement or other publication of the institution.

"(B) DEPOSITORY INSTITUTION NOT LIABLE FOR FRAUDULENT MISREPRESENTATION FOR NOT REPRESENTING ITSELF AS A NATIONAL BANK.—An insured depository institution which is subject to subparagraph (A) shall not be liable for any civil or criminal penalty under any Federal or State consumer protection law, or in any criminal or civil action, for fraudulently misrepresenting the nature of the charter of the institution, for falsely advertising the status of the institution, for making a false statement with respect to the status of the institution, or for any similar offense by reason of the institution's compliance with such subparagraph.

"(7) ENFORCEMENT.—In addition to any other power of the Board, the Board may enforce compliance with the provisions of this subsection with respect to any qualified bank holding company and any bank controlled by such company under section 8 of the Federal Deposit Insurance Act.".

SEC. 2223. TRANSITION PROVISIONS FOR ACTIVITIES OF SAVINGS ASSOCIATIONS WHICH CONVERT INTO OR BECOME TREATED AS BANKS.

Notwithstanding any other provision of Federal law, any insured depository institution which, as of September 13, 1995, is a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (as in effect on such date)) and after such date converts to a national or State bank charter or becomes treated as a State bank pursuant to the amendment made by section 2221(b) may continue to engage, directly or indirectly, in any activity in which such institution was lawfully engaged as of such date during the 5-year period beginning on the effective date of such conversion or the effective date of such amendments, as the case may be.

SEC. 2224. REGISTRATION OF BANK HOLDING COMPANIES RESULTING FROM CONVERSIONS OF SAVINGS ASSOCIATIONS TO BANKS OR TREATMENT OF SAVINGS ASSOCIATIONS AS BANKS.

Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsections:

"(h) REGISTRATION OF CERTAIN BANK HOLDING COMPANIES.—A company which, as of September 13, 1995, is a savings and loan holding company (as defined in section 10(a)(1)(D) of Home Owners' Loan Act (as in effect on such date)) and is not a bank holding company shall not be required to obtain the approval of the Board under subsection (a) to become a bank holding company after September 13, 1995, as a result of the conversion of any insured depository institution subsidiary of such company into a bank or by virtue of the treatment of any insured depository institution subsidiary of such company as a bank pursuant to the amendments made by the Thrift Charter Conversion Act of 1995, if such company—

"(1) registers as a bank holding company with the Board in accordance with section 5(a); and

"(2) does not acquire, directly or indirectly, ownership or control of any additional insured depository institution or other company in connection with such conversion or treatment.

"(i) REGULATION OF QUALIFIED BANK HOLDING COMPANIES.—The Board shall regulate qualified bank holding companies (as defined in section 4(k)(2)) in a manner consistent with—

"(1) the regulation of such companies by the Director of the Office of Thrift Supervision before the date of the enactment of the Thrift Charter Conversion Act of 1995; and

"(2) the safety and soundness of insured depository institution subsidiaries of such companies.".

SEC. 2225. ADDITIONAL TRANSITION PROVISIONS AND SPECIAL RULES.

(a) MUTUAL NATIONAL BANKS AUTHORIZED; CONVERSION OF MUTUAL SAVINGS ASSOCIATIONS INTO NATIONAL BANKS.—

(1) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5133 the following new section:

"SEC. 5133A. MUTUAL NATIONAL BANKS.

"(a) IN GENERAL.—Notwithstanding the paragraph designated the "Third" of section 5134, the Comptroller of the Currency may charter national banks organized in the mutual form either de novo or through a conversion of any stock national or State bank (as defined in section 3 of the Federal Deposit Insurance Act) or any State mutual bank or credit union, subject to regulations prescribed by the Comptroller of the Currency in accordance with this section.

"(b) REGULATIONS.—

"(1) TRANSITION RULES.—National banks organized in the mutual form shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on September 13, 1995, including parts 543, 544, 546, 563b, and 563c of chapter V of title 12 of the Code of Federal Regulations (as in effect on such date), during the 3-year period beginning on the date of the enactment of the Thrift Charter Conversion Act of 1995.

"(2) REGULATIONS OF THE COMPTROLLER.—The Comptroller of the Currency shall prescribe appropriate regulations for national banks organized in the mutual form, effective as of the end of the 3-year period referred to in paragraph (1).

"(3) APPLICABILITY OF CAPITAL STOCK REQUIREMENTS.—The Comptroller of the Currency shall prescribe regulations regarding the manner in which requirements of title LXII of the Revised Statutes of the United States with respect to capital stock, and limitations imposed on national banks under such title based on capital stock, shall apply to national banks organized in mutual form pursuant to subsection (a).

"(c) CONVERSIONS.—

"(1) CONVERSION TO STOCK NATIONAL BANK.—Subject to subsection (b)(1) and, after the end of the 3-year period referred to in such subsection, such regulations as the Comptroller of the Currency may prescribe for the protection of depositors' rights and for any other purpose the Comptroller of the Currency may consider appropriate, any national bank which is organized in mutual form pursuant to paragraph (1) may reorganize as a stock national bank.

"(2) CONVERSIONS TO STATE BANKS.—Any national mutual bank may convert to a State bank charter in accordance with regulations prescribed by the Comptroller of the Currency and applicable State law.".

(2) MUTUAL BANK HOLDING COMPANIES.—Subsection (g) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)) is amended to read as follows:

"(g) MUTUAL BANK HOLDING COMPANIES.—

"(1) IN GENERAL.—A national mutual bank may reorganize so as to become a holding company by—

"(A) chartering an interim national bank, the stock of which is to be wholly owned, except as otherwise provided in this section, by the national mutual bank; and

"(B) transferring the substantial part of the national mutual bank's assets and liabilities, including all of the bank's insured liabilities, to the interim national bank.

"(2) DIRECTORS AND CERTAIN ACCOUNT HOLDERS' APPROVAL OF PLAN REQUIRED.—A reorganization is not authorized under this subsection unless—

"(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the national mutual bank; and

"(B) in the case of a national mutual bank in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the bank's charter and bylaws.

"(3) NOTICE TO THE BOARD; DISAPPROVAL PERIOD.—

"(A) NOTICE REQUIRED.—

"(i) IN GENERAL.—At least 60 days before taking any action described in paragraph (1), a national mutual bank seeking to establish a mutual holding company shall provide written notice to the Board.

"(ii) CONTENTS OF NOTICE.—The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(B) TRANSACTION ALLOWED IF NOT DISAPPROVED.—Unless the Board within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the national mutual bank providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

"(C) GROUNDS FOR DISAPPROVAL.—The Board may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the national mutual bank involved warrant disapproval;

"(iii) the national mutual bank fails to furnish the information required under subparagraph (A); or

"(iv) the national mutual bank fails to comply with the requirement of paragraph (2).

"(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a national mutual bank may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that the capital retained at the holding company is in excess of the amount of capital required in order for the interim national bank to meet all relevant capital standards established by the Comptroller of the Currency for national banks.

"(4) OWNERSHIP.—

"(A) IN GENERAL.—Persons having ownership rights in the national mutual bank under section 5133A of the Revised Statutes of the United States (including paragraph 575.5 of chapter V of title 12 of the Code of Federal Regulations, as in effect on September 13, 1995, and applicable to national mutual banks pursuant to such section) or State law shall have the same ownership rights with respect to the mutual holding company.

"(B) HOLDERS OF CERTAIN ACCOUNTS.—Holders of savings, demand, or other accounts of—

"(i) a national bank chartered as part of a transaction described in paragraph (1); or

"(ii) a mutual bank acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

"(5) PERMITTED ACTIVITIES.—A mutual holding company may engage only in the following activities:

"(A) Investing in the stock of a national or State bank.

"(B) Acquiring a mutual bank through the merger of such bank into a national bank subsidiary of such holding company or an interim national bank subsidiary of such holding company.

"(C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a national mutual bank.

"(D) Investing in a corporation the capital stock of which is available for purchase by a national mutual bank under Federal law or under the law of any State where the home office of any subsidiary bank is located.

"(E) Engaging in the activities permitted under section 4(c).

"(6) LIMITATIONS ON CERTAIN ACTIVITIES OF ACQUIRED HOLDING COMPANIES.—

"(A) NEW ACTIVITIES.—If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

"(B) GRACE PERIOD FOR DIVESTING PROHIBITED ASSETS OR DISCONTINUING PROHIBITED ACTIVITIES.—Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

"(i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and

"(ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

"(7) CHARTERING AND OTHER REQUIREMENTS.—

"(A) IN GENERAL.—A mutual holding company shall be chartered by the Board and shall be subject to such regulations as the Board may prescribe.

"(B) OTHER REQUIREMENTS.—Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this Act regarding regulation of holding companies.

"(8) CAPITAL IMPROVEMENT.—

"(A) PLEDGE OF STOCK OF SAVINGS ASSOCIATION SUBSIDIARY.—This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a national bank chartered as part of a transaction described in paragraph (1) to raise capital for such bank.

"(B) ISSUANCE OF NONVOTING SHARES.—No provision of this Act shall be construed as prohibiting a national bank chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such bank to any person other than the mutual holding company.

"(9) INSOLVENCY AND LIQUIDATION.—

"(A) IN GENERAL.—Notwithstanding any provision of law, upon—

"(i) the default of any national bank—

"(I) the stock of which is owned by any mutual holding company; and

"(II) which was chartered in a transaction described in paragraph (1);

"(ii) the default of a mutual holding company; or

"(iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A), a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11, United States Code.

"(B) DISTRIBUTION OF NET PROCEEDS.—Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

"(C) RECOVERY BY CORPORATION.—If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the mutual holding company, to the extent of the Corporation's loss.

"(10) STATE MUTUAL BANK HOLDING COMPANY.—

"(A) IN GENERAL.—Notwithstanding any provision of Federal law, a State bank operating in mutual form may reorganize so as to form a holding company under State law.

"(B) REGULATION OF STATE MUTUAL HOLDING COMPANY.—A corporation organized as a holding company in accordance with subparagraph (A) shall be regulated on the same terms and be subject to the same limitations as any other holding company which controls a bank.

"(11) REGULATIONS.—

"(A) TRANSITION RULES.—Mutual bank holding companies organized under this subsection shall be subject to the regulations of the Director of the Office of Thrift Supervision governing corporate organization, governance, and conversion of mutual institutions, as in effect on September 13, 1995, including part 575 of chapter V of title 12 of the Code of Federal Regulations (as in effect on such date), during the 3-year period beginning on the date of the enactment of the Thrift Charter Conversion Act of 1995.

"(B) REGULATIONS OF THE BOARD.—The Board shall prescribe appropriate regulations for mutual holding companies, effective at the end of the 3-year period referred to in subparagraph (A).

"(12) DEFINITIONS.—For purposes of this subsection—

"(A) MUTUAL HOLDING COMPANY.—The term 'mutual holding company' means a corporation organized as a holding company under this subsection.

"(B) DEFAULT.—The term 'default' means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

"(C) NATIONAL MUTUAL BANK.—The term 'national mutual bank' means a national bank organized in mutual form under section 5133A of the Revised Statutes of the United States.".

(3) LIMITATION ON FEDERAL REGULATION OF STATE BANKS.—Except as otherwise provided in Federal law, the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation may not adopt or enforce any regulation which contravenes the corporate governance rules prescribed by State law or regulation for State banks unless the Comptroller, Board, or Corporation finds that such Federal regulation is necessary to assure the safety and soundness of such State banks.

(4) CONVERSIONS OF MUTUAL SAVINGS ASSOCIATIONS TO MUTUAL NATIONAL BANKS BY OPERATION OF LAW.—Notwithstanding any other provision of Federal or State law, any savings association (as defined in section 3 of the Federal Deposit Insurance Act (as in effect on September 13, 1995)) which is organized in mutual form as of the date of the enactment of this Act may become a national mutual bank by operation of law if the association—

(A) files the articles of association and organization certificate with the Comptroller of the Currency before January 1, 1998, in accordance with chapter one of title LXII of the Revised Statutes of the United States; and

(B) provides such other document or information as the Comptroller of the Currency may prescribe in regulations consistent with this section and section 5133A of the Revised Statutes of the United States (as added by paragraph (1) of this subsection).

(5) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after the item relating to section 5133 the following new item:

"5133A. Mutual national banks.".

(b) MEMBERSHIP IN FEDERAL HOME LOAN BANKS.—Any insured depository institution which—

(1) as of the date of the enactment of this Act, is a Federal savings association which, pursuant to section 6(e) of the Federal Home Loan Bank Act, may not voluntarily withdraw from membership in a Federal home loan bank; and

(2) after such date converts from a Federal savings association to a national bank,

shall continue to be subject to the prohibition under such section on voluntary withdrawal from such membership as though such bank were still a Federal savings association until the bank ceases to be a national bank.

(c) BRANCHES.—

(1) IN GENERAL.—Notwithstanding any provision of the Federal Deposit Insurance Act, the Bank Holding Company Act of 1956, or any other Federal or State law, any depository institution which—

(A) as of the date of the enactment of this Act, is a savings association; and

(B) becomes a bank before January 1, 1998, or, pursuant to the amendments made by this subsection, is treated as a bank as of such date under the Federal Deposit Insurance Act,

and any depository institution or bank holding company which acquires such depository institution, may continue, after the depository institution becomes or commences to be treated as a bank, to operate any branch which the savings association operated as a branch on September 13, 1995.

(2) NO ADDITIONAL BRANCHES.—Paragraph (1) shall not be construed as authorizing the establishment, acquisition, or operation of any additional branch of a depository institution in any State by virtue of the operation by such institution of a branch in such State pursuant to such paragraph except to the extent such establishment, acquisition, or operation is permitted under the Federal Deposit Insurance Act, Bank Holding Company Act of 1956, and any other applicable Federal or State law without regard to such branch.

(d) TRANSITION PROVISION RELATING TO LIMITATIONS ON LOANS TO 1 BORROWER.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) is amended by adding at the end the following new subsection:

"(e) TRANSITION PROVISION FOR SAVINGS ASSOCIATIONS CONVERTING TO NATIONAL BANKS.—In the case of any depository institution which, as of September 13, 1995, is a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (as in effect on such date)) and becomes a national bank on or before January 1, 1998, any loan, or legally binding commitment to make a loan, made or entered into by such institution which is outstanding on the date the institution becomes a national bank may continue to be held without regard to any limitation contained in this section during the 3-year period beginning on such date.".

SEC. 2226. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) Section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)) is amended by striking "the Director of the Office of Thrift Supervision,".

(2) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by striking paragraph (9).

(3) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by striking subsection (k).

(4) Subsections (c)(2) and (i)(2) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) are each amended—

(A) in subparagraph (B), by inserting "and" after the semicolon;

(B) in subparagraph (C), by striking "; and" and inserting a period; and

(C) by striking subparagraph (D).

(5) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by striking subsection (m).

(6) The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by striking section 28.

(b) AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956.—

(1) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by striking subsections (i) and (j).

(2) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking the sentence preceding the penultimate sentence.

(3) Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(A) in paragraph (2)(A)(i), by striking "or an insured institution" and all that follows through "of this subsection)";

(B) in paragraph (2)(A)(ii)—

(i) by striking "or a savings association" where such term appears in the portion of such paragraph which precedes subclause (I);

(ii) by inserting "and" at the end of subclause (VI);

(iii) by striking subclauses (VIII), (IX), and (X); and

(iv) by striking "(V), and (VIII)", where such term appears in the portion of such paragraph which appears after the end of subclause (VII), and inserting "and (V)"; and

(C) by striking paragraphs (10), (11), (12), and (13).

(4) Section 4(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(i)) is amended—

(A) by striking paragraphs (1) and (2); and

(B) in paragraph (3)(A), by striking "any Federal savings association" and all that follows through the period at the end of such paragraph and inserting "such association was authorized to engage under this section as of September 15, 1995.".

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 804(a) of the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3803) is amended—

(A) in the portion of such subsection which precedes paragraph (1)—

(i) by striking ", and other nonfederally chartered housing creditors,"; and

(ii) by inserting "and in order to permit other nonfederally chartered housing creditors to make, purchase, and enforce alternative mortgage transactions," after "enforcing alternative mortgage transactions, "; and

(B) in paragraph (1), by inserting "(as such term is defined in section 3(a) of the Federal Deposit Insurance Act)" after "with respect to banks".

(2) Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended—

(A) in the portion of paragraph (8)(A) which precedes clause (i), by striking "A diversified savings" and all that follows through "with respect to" and inserting "A depository institution holding company which, as of September 13, 1995, and at all times thereafter, is a diversified savings and loan holding company (as defined in section 10(1)(F) of Home Owners' Loan Act, as such section is in effect on such date) with respect to"; and

(B) by striking paragraph (9).

(3) Section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)) is amended—

(A) by inserting "and" after the semicolon at the end of clause (v); and

(B) by striking clause (vi).

(4) Subparagraphs (A), (B), (C) of section 10(e)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(5)) are each amended by inserting before the period at the end "(as such section is in effect on September 13, 1995)".

SEC. 2227. REFERENCES TO SAVINGS ASSOCIATIONS AND STATE BANKS IN FEDERAL LAW.

Effective January 1, 1998, any reference in any Federal banking law to—

(1) the term "savings association" shall be deemed to be a reference to a bank as defined in section 3(a) of the Federal Deposit Insurance Act; and

(2) the term "State bank" shall be deemed to include any depository institution included in the definition of such term in section 3(a)(2) of such Act.

SEC. 2228. REPEAL OF HOME OWNERS' LOAN ACT.

Effective January 1, 1998, the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is hereby repealed.

SEC. 2229. EFFECTIVE DATE; DEFINITIONS.

(a) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this chapter shall take effect on January 1, 1998.

(b) DEFINITIONS.—For purposes of this chapter, the terms "appropriate Federal banking agency", "bank holding company", "depository institution", "Federal savings association", "insured depository institution", "savings association", and "State bank" have the same meanings as in section 3 of the Federal Deposit Insurance Act (as in effect on the date of the enactment of this Act).

CHAPTER 3—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY

SEC. 2241. OFFICE OF THRIFT SUPERVISION ABOLISHED.

Effective January 1, 1998, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are hereby abolished.

SEC. 2242. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

(a) ALL OFFICE OF THRIFT SUPERVISION EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Office of Thrift Supervision shall be identified for transfer under subsection (b) to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the Board of Governors of the Federal Reserve System shall jointly determine the functions or activities of the Office of Thrift Supervision, and the number of employees of such Office necessary to perform or support such functions or activities, which are transferred from the Office to the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be.

(2) ALLOCATION OF EMPLOYEES.—The Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairman of the Board of Governors of the Federal Reserve System shall allocate the employees of the Office of Thrift Supervision consistent with the number determined pursuant to paragraph (1) in a manner which such Comptroller, Chairperson, and Chairman, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

(c) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—In winding up the affairs of the Office of Thrift Supervision, the Director of the Office of Thrift Supervision shall consult and cooperate with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System, as the case may be, to facilitate the orderly transfer of the functions to such Comptroller, Corporation, or Board.

(2) CONTINUING AUTHORITY OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Except as provided in paragraph (1), no provision of this subtitle shall be construed as affecting the authority vested in the Director of the Office of Thrift Supervision before the date of enactment of this Act which is necessary to carry out the duties of the position until the date upon which the position of Director of the Office of Thrift Supervision is abolished.

(3) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, or any successor to any such agency, department, or instrumentality, which was providing support services to the Director of the Office of Thrift Supervision on the day before the date such position is abolished shall—

(A) continue to provide such services on a reimbursable basis, in accordance with the terms of the arrangement pursuant to which such services were provided until the arrangement is modified or terminated in accordance with such terms, except that effective January 1, 1998, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be, shall be substituted for the Director of the Office of Thrift Supervision as a party to the arrangement; and

(B) consult with the Comptroller, the Corporation, or the Board to coordinate and facilitate a prompt and reasonable transition.

(d) TRANSFER OF PROPERTY.—Effective January 1, 1998, all property of the Office of Thrift Supervision shall be transferred to the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as determined in accordance with subsections (a) and (b).

SEC. 2243. SAVINGS PROVISIONS.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this title shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, or any person, which existed on the day before the date upon which the position of Director of the Office of Thrift Supervision and the Office of Thrift Supervision are abolished.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Thrift Supervision shall abate by reason of enactment of this Act, except that, effective January 1, 1998, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System, as the case may be, shall be substituted as a party to any such action or proceeding.

(c) CONTINUATION OF ADMINISTRATIVE RULES.—All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures, supervisory and enforcement actions, and other advisory material (other than any regulation implementing or prescribed pursuant to section 3(f) of the Home Owners' Loan Act (as in effect on September 13, 1995)) which—

(1) have been issued, made, prescribed, or permitted to become effective by the Office of Thrift Supervision, and

(2) are in effect on December 31, 1996, (or become effective after such date pursuant to the terms of the order, resolution, determination, rule, other interpretation, guideline, procedure, supervisory or enforcement action, and other advisory material, as in effect on such date), shall—

(A) continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures, supervisory or enforcement actions, or other advisory material;

(B) be administered by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System; and

(C) be enforceable by or against the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System until modified, terminated, set aside, or superseded in accordance with applicable law by the Comptroller, Corporation, or Board, by any court of competent jurisdiction, or by operation of law.

(d) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGES ISSUED BEFORE FIRREA.—For purposes of section 402(e) of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1437 note), any reference in such section to—

(A) the Director of the Office of Thrift Supervision shall be deemed to be a reference to the Secretary of the Treasury; and

(B) a Savings Association Insurance Fund member shall be deemed to be a reference to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act).

(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS ISSUED AFTER FIRREA.—

(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act, any reference in the instrument to the Director of the Office of Thrift Supervision or Savings Association Insurance Fund members shall be treated as a reference to the Secretary of the Treasury or insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), as appropriate.

(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

(A) made available by the Secretary of the Treasury; or

(B) determined by the Secretary of the Treasury, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available,

may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection, the Secretary of the Treasury, the Chairperson of the Federal Deposit Insurance Corporation, and the Comptroller of the Currency shall take such action as may be necessary to assure that the indexes prepared by the Director of the Office of Thrift Supervision immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Secretary of the Treasury determines, after notice and opportunity for comment, that—

(A) the new index is based upon data substantially similar to that of the original index; and

(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

SEC. 2244. REFERENCES IN FEDERAL LAW TO DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

Effective January 1, 1998, any reference in any Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision shall be deemed to be a reference to the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act).

SEC. 2245. RECONFIGURATION OF BOARD OF DIRECTORS OF FDIC AS A RESULT OF REMOVAL OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) IN GENERAL.—Section 2(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amended to read as follows:

"(1) IN GENERAL.—The management of the Corporation shall be vested in a Board of Directors consisting of 3 members—

"(A) 1 of whom shall be the Comptroller of the Currency; and

"(B) 2 of whom shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(2)) is amended—

(A) by striking "February 28, 1993" and inserting "January 1, 1998"; and

(B) by striking "3" and inserting "2".

(2) Section 2(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(d)(2)) is amended—

(A) by striking "or the office of Director of the Office of Thrift Supervision";

(B) by striking "or such Director";

(C) by striking "or the Acting Director of the Office of Thrift Supervision, as the case may be"; and

(D) by striking "or Director".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1998.

(d) DESIGNATION OF ABOLISHED POSITION.—Unless there is a vacancy in the position of an appointed member of the Board of Directors as of January 1, 1998, the President, consistent with the requirements of section 2(a)(2) of the Federal Deposit Insurance Act, shall designate which of the 3 positions of appointed member of such Board of Directors shall be abolished pursuant to the amendment made by subsection (a).

Subtitle C—Community Reinvestment Act Amendments

SEC. 2301. EXPRESSION OF CONGRESSIONAL INTENT.

Subsection (b) of section 802 of the Community Reinvestment Act of 1977 (12 U.S.C. 2901) is amended to read as follows:

"(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority, when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. When examining financial institutions, a supervisory agency shall not impose additional burden, recordkeeping, or reporting upon such institutions.".

SEC. 2302. COMMUNITY REINVESTMENT ACT EXEMPTION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

"SEC. 809. TREATMENT OF SMALL FINANCIAL INSTITUTIONS.

"(a) IN GENERAL.—In lieu of being evaluated under section 806A and receiving a written evaluation under section 807, an eligible regulated financial institution shall make a notice, signed by the president, available to the public that—

"(1) lists the type of credit and services that the institution provides to help meet the credit needs of the local community; and

"(2) states that the institution helps meet the credit needs of the local communities in which the institution operates, including low- and moderate-income neighborhoods.

"(b) ELIGIBLE REGULATED FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—A regulated financial institution shall be eligible for purposes of subsection (a) if the institution and any bank holding company which controls such institution have aggregate assets of not more than $100,000,000.

"(2) ANNUAL ADJUSTMENT.—The dollar amount in paragraph (1) shall be adjusted annually after December 31, 1994, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(c) EXEMPTION FROM OTHER REQUIREMENTS.—A regulated financial institution which has complied with the notice requirements of subsection (a) shall not be subject to section 804 and any regulations prescribed under section 806.".

SEC. 2303. SELF-CERTIFICATION OF CRA COMPLIANCE.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection (c):

"(c) SELF-CERTIFICATION OF CRA COMPLIANCE.—

"(1) CERTIFICATION.—In lieu of being evaluated under section 806A and receiving a written evaluation under section 807, a qualifying financial institution may elect to self-certify to the appropriate Federal financial supervisory agency that such institution is in compliance with the goals of this title.

"(2) QUALIFYING INSTITUTION.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualifying institution' means a financial institution which—

"(i) has not more than $250 million in assets;

"(ii) has not been found to have engaged in a pattern or practice of illegal discrimination under the Fair Housing Act or the Equal Credit Opportunity Act for the preceding 5-year calendar period; and

"(iii) received rating under section 807(b)(2) of 'satisfactory' or 'outstanding' in the most recent evaluation of such institution under this title.

"(B) ANNUAL ADJUSTMENT.—The dollar amount in subparagraph (A) shall be adjusted annually after December 31, 1994, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(3) PUBLIC NOTICE.—

"(A) IN GENERAL.—A qualifying institution shall maintain in every branch a public notice stating that—

"(i) the institution has self-certified that the institution is satisfactorily helping to meet the credit needs of its community;

"(ii) the institution maintains—

"(I) at the main office of such institution, a public file which contains a copy of the self-certification to the appropriate Federal financial supervisory agency; and

"(II) a map delineating the community served by the institution;

"(iii) a list of the types of credit and services that the institution provides to the community served by the institution;

"(iv) such other information that the institution believes demonstrates the institution's record of helping to meet the credit needs of its community; and

"(v) every public comment or letter to the institution (and any response by the institution) received within the previous 2-year period about the record of the institution of helping to meet the credit needs of its community.

"(B) PUBLIC FILE.—A qualifying institution shall maintain a public file containing the contents described in this paragraph at the institution's main office.

"(4) RATING.—

"(A) IN GENERAL.—A qualifying institution shall be deemed to have a rating of a 'satisfactory record of meeting community credit needs' for the purposes of this section and section 806A(c).

"(B) PUBLICATION.—Each Federal financial supervisory agency shall publish in the Federal Register once each month a list of institutions that have self-certified during the previous month.

"(C) PUBLICATION CONSTITUTES DISCLOSURE.—Publication of the name of the institution in the Federal Register as having self-certified shall constitute disclosure of the rating of the institution to the public for purposes of sections 806A and 807.

"(5) REGULATORY REVIEW.—

"(A) ASSESSMENT.—During each examination for safety and soundness, a qualifying institution's supervisory agency shall, as part of the agency's review of the institution's loans, assess whether the institution's basis for its self-certification is reasonable based on the public notice and the information contained in the public file pursuant to paragraph (3).

"(B) EXAMINATION IF SELF-CERTIFICATION IS NOT REASONABLE.—If the agency determines that the institution's basis for the institution's self-certification is not reasonable, the agency shall schedule an examination of the institution for the purpose of assessing the institution's record of helping to meet the credit needs of its community.

"(C) REVOCATION OF SELF-CERTIFICATION.—If an assessment pursuant to subparagraph (B) results in a less than 'satisfactory' rating, the agency shall revoke the institution's self-certification and substitute a written evaluation as provided under section 807.

"(D) PERIOD OF INELIGIBILITY FOR SELF-CERTIFICATION.—An institution whose self-certification has been revoked may not self-certify pursuant to this subsection during the 5 years succeeding the year in which the self-certification is revoked.

"(E) SUBSEQUENT ELIGIBILITY.—After the end of the period of ineligibility described in subparagraph (D), an institution which meets the requirements for self-certification may elect to self-certify.

"(6) PROHIBITION ON ADDITIONAL REQUIREMENTS.—No appropriate Federal financial supervisory agency may impose any additional requirements, whether by regulation or otherwise, relating to the self-certification procedure under this subsection.".

SEC. 2304. COMMUNITY INPUT AND CONCLUSIVE RATING.

(a) CONFORMING AMENDMENT.—Section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by inserting "conducted in accordance with section 806A," after "financial institution,".

(b) COMMUNITY INPUT AND CONCLUSIVE RATING.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by inserting after section 806 the following new section:

"SEC. 806A. COMMUNITY INPUT AND CONCLUSIVE RATING.

"(a) PUBLICATION OF EXAM SCHEDULE AND OPPORTUNITY FOR COMMENT.—

"(1) PUBLICATION OF NOTICE.—Each appropriate Federal financial supervisory agency shall—

"(A) publish in the Federal Register, 30 days before the beginning of a calendar quarter, a listing of institutions scheduled for evaluation for compliance with this title during such calendar quarter; and

"(B) provide opportunity for written comments from the community on the performance, under this title, of each institution scheduled for evaluation.

"(2) COMMENT PERIOD.—Written comments may not be submitted to an appropriate Federal financial supervisory agency pursuant to paragraph (1) after the end of the 30-day period beginning on the first day of the calendar quarter.

"(3) COPY OF COMMENTS.—The agency shall provide a copy of such comments to the institution.

"(b) EVALUATION.—The appropriate Federal financial supervisory agency shall—

"(1) evaluate the institution in accordance with the standards contained in section 804; and

"(2) prepare and publish a written evaluation of the institution as required under section 807.

"(c) RECONSIDERATION OF RATING.—

"(1) REQUEST FOR RECONSIDERATION.—A reconsideration of an institution's rating referred to in section 807(b)(1)(C), may be requested within 30 days of the rating's disclosure to the public.

"(2) PROCEDURES FOR REQUEST.—Any such request shall be made in writing and filed with the appropriate Federal financial supervisory agency, and may be filed by the institution or a member of the community.

"(3) BASIS FOR REQUEST.—Any request for reconsideration under this subsection shall be based on significant issues of a substantive nature which are relevant to the delineated community of the institution and, in the case of a request by a member of the community, shall be limited to issues previously raised in comments submitted pursuant to subsection (a).

"(4) COMPLETION OF REVIEW.—The appropriate Federal financial supervisory agency shall complete any requested reconsideration within 30 days of the filing of the request.

"(d) CONCLUSIVE RATING.—

"(1) IN GENERAL.—An institution's rating shall become conclusive on the later of—

"(A) 30 days after the rating is disclosed to the public; or

"(B) the completion of any requested reconsideration by the Federal financial supervisory agency.

"(2) RATING CONCLUSIVE OF MEETING COMMUNITY CREDIT NEEDS.—An institution's rating shall be the conclusive assessment of the institution's record of meeting the credit needs of its community for purposes of section 804 until the institution's next rating, developed pursuant to an examination, becomes conclusive.

"(3) SAFE HARBOR.—Institutions which have received a 'satisfactory' or 'outstanding' rating shall be deemed to have met the purposes of section 804.

"(4) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, no provision of this section shall be construed as granting a cause of action to any person.".

(c) OVERALL EVALUATION OF INSTITUTION.—Paragraph (2) of section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(a)) is amended to read as follows:

"(2) take such record into account in the overall evaluation of the condition of the institution by the appropriate Federal financial supervisory agency.".

SEC. 2305. SPECIAL PURPOSE FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by inserting after subsection (c) (as added by section 2303 of this subtitle) the following new subsection:

"(d) SPECIAL PURPOSE INSTITUTIONS.—

"(1) IN GENERAL.—In conducting assessments pursuant to this section at any special purpose institution, the appropriate Federal financial supervisory agency shall—

"(A) consider the nature of business such institution is involved in; and

"(B) assess and take into account the record of the institution commensurate with the amount of deposits (as defined in section 3(1) of the Federal Deposit Insurance Act) received by such institution.

"(2) STANDARDS.—Each appropriate Federal financial supervisory agency shall develop standards under which special purpose institutions may be deemed to have complied with the requirements of this title which are consistent with the specific nature of such businesses.".

(b) SPECIAL PURPOSE INSTITUTION DEFINED.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended by adding at the end the following new paragraph:

"(5) SPECIAL PURPOSE INSTITUTIONS.—The term 'special purpose institution' means a financial institution that does not generally accept deposits from the public in amounts of less than $100,000, such as wholesale, credit card, and trust institutions.".

SEC. 2306. INCREASED INCENTIVES FOR LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.

(a) IN GENERAL.—Section 804(b) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(b)) is amended to read as follows:

"(b) POSITIVE CONSIDERATION OF CERTAIN LOANS AND INVESTMENTS.—In assessing and taking into account the records of a regulated financial institution under subsection (a), the appropriate Federal financial supervisory agency shall—

"(1) consider as a positive factor, consistent with the safe and sound operation of the institution, the institution's investment in or loan to—

"(A) any minority depository institution or women's depository institution (as such terms are defined in section 808(b)) or any low-income credit union;

"(B) any joint venture or other entity or project which promotes the public welfare in any distressed community (as defined by such agency) whether or not the distressed community is located in the local community in which the regulated financial institution is chartered to do business; and

"(C) targeted low- and moderate-income communities, including real property loans to such communities; and

"(2) consider equally with other factors capital investment, loan participation, and other ventures undertaken by the institution in cooperation with—

"(A) minority- and women-owned financial institutions and low-income credit unions to the extent that these activities help meet the credit needs of the local communities in which such institutions are chartered; and

"(B) community development corporations in extending credit and other financial services principally to low- and moderate-income persons and small businesses to the extent that such community development corporations help meet the credit needs of the local communities served by the majority-owned institution.".

(b) AMENDMENT TO DEFINITIONS.—Section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended by inserting after paragraph (5) (as added by section 2305(b) of this subtitle) the following new paragraph:

"(6) STATE BANK SUPERVISOR.—The term 'State bank supervisor' has the same meaning as in section 3(r) of the Federal Deposit Insurance Act.".

(c) TECHNICAL CORRECTION.—The 1st of the 2 paragraphs designated as paragraph (2) of section 803 of the Community Reinvestment Act of 1977 (12 U.S.C. 2902) is amended to read as follows:

"(D) the Director of the Office of Thrift Supervision with respect to any savings association (the deposits of which are insured by the Federal Deposit Insurance Corporation) and any savings and loan holding company (other than a company which is a bank holding company);".

SEC. 2307. PROHIBITION ON ADDITIONAL REPORTING UNDER CRA.

Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) is amended to read as follows:

"SEC. 806. REGULATIONS.

"(a) IN GENERAL.—

"(1) PUBLICATION REQUIREMENT.—Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency.

"(2) PROHIBITION ON ADDITIONAL RECORDKEEPING.—Regulations prescribed and policy statements, commentary, examiner guidance, or other supervisory material issued under this title shall not impose any additional recordkeeping on a financial institution.

"(3) PROHIBITION ON LOAN DATA COLLECTION.—No loan data may be required to be collected and reported by a financial institution and no such data may be made public by any Federal financial supervisory agency under this title.".

SEC. 2308. TECHNICAL AMENDMENT.

Section 807(b)(1)(B) of the Community Reinvestment Act (12 U.S.C. 2906) is amended by striking "The information" and inserting "In the case of a regulated financial institution that maintains domestic branches in 2 or more States, the information".

SEC. 2309. DUPLICATIVE REPORTING.

Section 10(g) of the Federal Home Loan Bank Act (12 U.S.C. 1430(g)) is amended by adding at the end the following new paragraph (3):

"(3) SPECIAL RULE.—This subsection shall not apply to members receiving a grade of 'outstanding' or 'satisfactory' under section 807 of the Community Reinvestment Act of 1977.".

SEC. 2310. CRA CONGRESSIONAL OVERSIGHT.

(a) SENSE OF CONGRESS RELATING TO AGGRESSIVE OVERSIGHT.—It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate should exercise aggressive oversight of the adoption and implementation of any regulation by any appropriate Federal financial supervisory agency under the Community Reinvestment Act of 1977 after the date of the enactment of this Act.

(b) AGENCY REPORTS REQUIRED.—

(1) IN GENERAL.—Each appropriate Federal financial supervisory agency shall submit a report to the Congress by December 31, 1996, and by December 31, 1997, on the implementation of all regulations prescribed by such agency under the Community Reinvestment Act of 1977 after the date of the enactment of this Act.

(2) REQUIREMENTS RELATING TO PREPARATION OF REPORTS.—In preparing each report required under paragraph (1), each appropriate Federal financial supervisory agency shall—

(A) solicit and include comments from regulated financial institutions with respect to the regulations which are the subject of the report; and

(B) include quantifiable measures of the cost savings achieved under the regulations which are the subject of the report and the effectiveness of such regulations in achieving the purposes of the Community Reinvestment Act of 1977.

(3) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal financial supervisory agency" and "regulated financial institution" have the same meanings as in section 803 of the Community Reinvestment Act of 1977.

SEC. 2311. CONSULTATION AMONG EXAMINERS.

Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following new subsection:

"(j) CONSULTATION AMONG EXAMINERS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall take such action as may be necessary to ensure that examiners employed by the agency—

"(A) consult on examination activities with respect to any depository institution; and

"(B) achieve an agreement and resolve any inconsistencies on the recommendations to be given to such institution as a consequence of any examinations.

"(2) EXAMINER-IN-CHARGE.—Each agency shall consider appointing an examiner-in-charge with respect to a depository institution to ensure consultation on examination activities among all of the agency's examiners involved in examinations of such institution.".

SEC. 2312. LIMITATION ON REGULATIONS.

Section 806 of the Community Reinvestment Act of 1977 (12 U.S.C. 2905) (as amended by section 2307) is amended by adding at the end the following new subsections:

"(b) LIMITATION ON REGULATIONS.—No regulation may be prescribed under this title by any Federal agency which would—

"(1) require any regulated financial institution to—

"(A) make any loan or enter into any other agreement on the basis of any discriminatory criteria prohibited under any law of the United States; or

"(B) make any loan to, or enter into any other agreement with, any uncreditworthy person that would jeopardize the safety and soundness of such institution; or

"(2) prevent or hinder in any way a financial institution's full responsibility to provide credit to all segments of the community.

"(c) ENCOURAGE LOANS TO CREDITWORTHY BORROWERS.—Regulations prescribed under this title shall encourage regulated financial institutions to make loans and extend credit to all creditworthy persons, consistent with safety and soundness.".

Subtitle D—Phase-Down of Oversight Board

SEC. 2401. TERMINATION OF AUTHORITY OF OVERSIGHT BOARD TO EMPLOY STAFF.

(a) IN GENERAL.—Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by adding at the end the following new paragraph:

"(17) PHASED-DOWN OPERATION OF OVERSIGHT BOARD FOLLOWING TERMINATION OF CORPORATION.—

"(A) TERMINATION OF AUTHORITY TO EMPLOY STAFF.—Except as provided in subparagraph (B), the authority of the Thrift Depositor Protection Oversight Board under paragraph (5) to establish officer and employee positions, to compensate officers and employees of the Board, to provide other benefits for officers and employees of the Board, and to utilize staff of any other department or agency shall terminate as of December 31, 1995.

"(B) LIMITED AUTHORITY FOR DETAILING STAFF FROM OTHER AGENCIES.—If the Thrift Depositor Protection Oversight Board determines that any staff is required to carry out the functions of the Board after the authority to employ staff terminates under subparagraph (A), the Board shall—

"(i) utilize employees of any other department or agency in accordance with paragraph (5)(F) to carry out the staff functions which have been determined to be necessary; and

"(ii) submit a report to the Congress containing—

"(I) the number of staff positions which the Board has determined are necessary to carry out the Board's functions after the termination of the Corporation;

"(II) a justification for such determination; and

"(III) an estimate of the length of the period for which such staff positions will be required.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subparagraphs (B), (C), (D), and (E) of section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)) are each amended by inserting "subject to paragraph (17)(A)," after the closing parenthesis of the subparagraph designation.

(2) Section 21A(a)(5)(F) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)(F)) is amended by inserting "subject to subparagraphs (A) and (B) of paragraph (17) and" after "(F)".

TITLE III—COMMITTEE ON COMMERCE

Subtitle A—Communications

CHAPTER 1—SPECTRUM AUCTIONS

SEC. 3001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions

necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) Criteria for Reassignment.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) Notification to NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) Identification and Reallocation of Frequencies.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) Additional Reallocation Report.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.";

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) Completion of C-Block PCS Auction.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93-253 (FCC 93-510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) Modification of Auction Policy To Preserve Auction Value of Spectrum.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92-9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) Identification and Reallocation of Auctionable Frequencies.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "Initial Reallocation Report";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) Second Reallocation Report.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) Allocation and Assignment of Frequencies Identified in the Second Reallocation Report.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).".

CHAPTER 2—FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION

SEC. 3011. SHORT TITLE.

This chapter may be cited as the "Federal Communications Commission Authorization Act of 1995".

SEC. 3012. EXTENSION OF AUTHORITY.

(a) Authorization of Appropriations.—Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the administration of this Act by the Commission $186,000,000 for fiscal year 1996, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1996. Of the sum appropriated in each fiscal year under this section, a portion, in an amount determined under sections 8(b) and 9(b), shall be derived from fees authorized by sections 8 and 9.".

(b) Travel and Reimbursement Program.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended to read as follows:

"(2) The Commission shall submit to the appropriate committees of Congress, and publish in the Federal Register, semiannual reports specifying the reimbursements which the Commission has accepted under section 1353 of title 31, United States Code.".

(c) Communications Support From Older Americans.—Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended by striking "fiscal years 1992 and 1993" and inserting "fiscal year 1996".

SEC. 3013. APPLICATION FEES.

(a) Adjustment of Application Fee Schedule.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

"(A) $40,000,000; plus

"(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

"(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

"(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

"(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

"(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

"(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

"(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

"(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.".

(b) Treatment of Additional Collections.—Section 8(e) of such Act is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section—

"(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

"(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

(c) Schedule of Application Fees for PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading "COMMON CARRIER SERVICES", the following new item:

"23. Personal communications services	
"a. Initial or new application ...	230.00
"b. Amendment to pending application ...	35.00
"c. Application for assignment or transfer of control ...	230.00
"d. Application for renewal of license ...	35.00
"e. Request for special temporary authority ...	200.00
"f. Notification of completion of construction ...	35.00
"g. Request to combine service areas ...	50.00".

(d) Vanity Call Signs.—

(1) Lifetime license fees.—

(A) Amendment.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading "PRIVATE RADIO SERVICES", the following new item:

"11. Amateur vanity call signs ...	150.00".

(B) Treatment of receipts.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(2) Termination of annual regulatory fees.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs ...	7".

SEC. 3014. REGULATORY FEES.

(a) Executive and Legal Costs.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(b) Establishment and Adjustment.—Section 9(b) of such Act is amended—

(1) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

(2) by adding at the end the following new paragraph:

"(5) Effective date of adjustments.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).".

(c) Regulatory Fees for Satellite TV Operations.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

"Terrestrial television satellite operations ...	500".

(d) Governmental Entities Use for Common Carrier Purposes.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(e) Information Required in Connection With Adjustment of Regulatory Fees.—Title I of such Act is amended—

(1) in section 9, by striking subsection (i); and

(2) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) Accounting System Required.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

"(b) Information Required in Connection with Adjustment of Application and Regulatory Fees.—

"(1) Schedule of requested amounts.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) Explanatory statement.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) Definition.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

SEC. 3015. INSPECTION OF SHIP RADIO STATIONS.

(a) Authority To Designate Entities To Inspect.—Section 4(f)(3) of the Communications Act of 1934 (47 U.S.C. 154(f)(3)) is amended by inserting before the period at the end the following: ": *And provided further*, That, in the alternative, an entity designated by the Commission may make the inspections referred to in this paragraph".

(b) Conduct of Inspections.—Section 362(b) of such Act (47 U.S.C. 362(b)) is amended to read as follows:

"(b) Every ship of the United States that is subject to this part shall have the equipment and apparatus prescribed therein inspected at least once each year by the Commission or an entity designated by the Commission. If, after such inspection, the Commission is satisfied that all relevant provisions of this Act and the station license have been complied with, the fact shall be certified to on the station license by the Commission. The Commission shall make such additional inspections at frequent intervals as the Commission determines may be necessary to ensure compliance with the requirements of this Act. The Commission may, upon a finding that the public interest could be served thereby—

"(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held; or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, provided that such inspection shall be performed within 30 days of such vessel's return to the United States.".

(c) Inspection by Other Entities.—Section 385 of such Act (47 U.S.C. 385) is amended by inserting "or an entity designated by the Commission" after "The Commission".

SEC. 3016. EXPEDITED ITFS PROCESSING.

Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: "Except for cases involving the authorization of service in the Instructional Television Fixed Service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.".

SEC. 3017. TARIFF REJECTION AUTHORITY.

Section 203(d) of the Communications Act of 1934 (47 U.S.C. 203(d)) is amended by inserting after the first sentence the following new sentences: "The Commission may, after affording interested parties an opportunity to comment, reject a proposed tariff filing in whole or in part, if the filing or any part thereof is patently unlawful. In evaluating whether a proposed tariff filing is patently unlawful, the Commission may consider additional information filed by the carrier or any interested party and shall presume the facts alleged by the carrier to be true.".

SEC. 3018. REFUND AUTHORITY.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 230. REFUND AUTHORITY.

"In addition to any other provision of this Act under which the Commission may order refunds, the Commission may require by order the refund of such portion of any charge by any carrier or carriers as results from a violation of section 220 (a), (b), or (d) or 221 (c) or (d) or of any of the rules promulgated pursuant to such sections or pursuant to section 215, 218, or 219. Such refunds shall be ordered only to the extent that the Commission or a court finds that such violation resulted in unlawful charges and shall be made to such persons or classes of persons as the Commission determines reasonably represent the persons from whom amounts were improperly received by reason of such violation. No refunds shall be required under this section unless—

"(1) the Commission issues an order advising the carrier of its potential refund liability and provides the carrier with an opportunity to file written comments as to why refunds should not be required; and

"(2) such order is issued not later than 5 years after the date the charge was paid.

In the case of a continuing violation, a violation shall be considered to occur on each date that the violation is repeated.".

SEC. 3019. LICENSING OF AVIATION AND MARITIME SERVICES BY RULE.

Section 307(e) of the Communications Act of 1934 (47 U.S.C. 307(e)) is amended to read as follows:

"(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (B) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

"(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'aircraft station' and 'ship station' shall have the meanings given them by the Commission by rule.".

SEC. 3020. AUCTION TECHNICAL AMENDMENTS.

(a) FUNDING AVAILABILITY.—Section 309(j)(8)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(B)) is amended by adding at the end the following new sentence: "Such offsetting collections are authorized to remain available until expended.".

(b) ESCROW OF DEPOSITS.—Section 309(j)(8) of such Act is further amended by adding at the end the following new subparagraph:

"(C) ESCROW OF DEPOSIT.—The Commission is authorized, based on the competitive bidding methodology selected, to provide for the deposit of moneys for bids in an interest-bearing account until such time as the Commission accepts a deposit from the high bidder. All interest earned on bid moneys received from the winning bidder shall be deposited into the general fund of the Treasury. All interest earned on bid moneys deposited from unsuccessful bidders, less any applicable fees and penalties, shall be paid to those bidders.".

SEC. 3021. FORFEITURES FOR VIOLATIONS IMPERILING SAFETY OF LIFE.

(a) ADMINISTRATIVE SANCTIONS.—Section 312(a) of the Communications Act of 1934 (47 U.S.C. 312(a)) is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(8) for failure to comply with any requirement of this Act or the Commission's rules that imperils the safety of life.".

(b) FORFEITURES.—Section 503(b)(1) of such Act (47 U.S.C. 503(b)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the semicolon at the end of subparagraph (D) and inserting "; or"; and

(3) by adding after subparagraph (D) the following new subparagraph:

"(E) failed to comply with any requirement of this Act or the Commission's rules that imperils the safety of life;".

SEC. 3022. USE OF EXPERTS AND CONSULTANTS.

Section 4(f)(1) of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following: "The Commission may also procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily rate equivalent to the maximum rate payable for senior-level positions under section 5276 of title 5, United States Code.".

SEC. 3023. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS AGAINST COMMON CARRIERS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "and is not a common carrier" after "title III of this Act" in subparagraph (B);

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) such person is a common carrier and the required notice of apparent liability is issued more than 5 years after the date the violation charged occurred; or".

SEC. 3024. UTILIZATION OF FM BAND FOR ASSISTIVE DEVICES FOR HEARING IMPAIRED INDIVIDUALS.

Within 6 months after the date of enactment of this Act, the Federal Communications Commission shall report to the Congress on the existing and future use of the FM band to facilitate the use of auditory assistive devices for individuals with hearing impairments. In preparing such report, the Commission shall consider—

(1) the potential for utilizing FM band auditory assistive devices to comply with the American with Disabilities Act;

(2) the impact on such compliance of the vulnerability of such devices to harmful interference from radio licensees; and

(3) alternative frequency allocations that could facilitate such compliance.

SEC. 3025. TECHNICAL AMENDMENT.

Section 302(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)) is amended—

(1) in subparagraph (A), by striking "allocated to the domestic cellular radio telecommunications service" and inserting "utilized to provide commercial mobile service (as defined in section 332(d))"; and

(2) in subparagraph (C), by striking "cellular" and inserting "commercial mobile service".

Subtitle B—Nuclear Regulatory Commission Annual Charge

SEC. 3031. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2002".

Subtitle C—United States Enrichment Corporation

SEC. 3035. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This subtitle may be cited as the "USEC Privatization Act".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 3036. PRODUCTION FACILITY.

Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

SEC. 3037. DEFINITIONS.

Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993.";

(4) by redesignating the unredesignated paragraph (14) as paragraph (19); and

(5) by adding the following new paragraphs after paragraph (19):

"(20) The term 'gaseous diffusion plants' means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

"(21) The term 'private corporation' means the corporation established under section 1503.

"(22) The term 'Russian HEU agreement' means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

"(23) The term 'Suspension Agreement' means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.".

SEC. 3038. EMPLOYEES OF THE CORPORATION.

(a) PARAGRAPHS (1) AND (2).—Section 1305(e) (42 U.S.C. 2297b–4(e)) is amended by striking paragraphs (1) and (2) and inserting in thereof the following:

"(1) IN GENERAL.—

"(A) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

"(B) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plan to a pension plan sponsored by the new contractor or the private corporation, as the case may be.

"(C) Any employer (including the private corporation or any contractor of the private corporation) at a gaseous diffusion plant shall abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the expiration of the agreement.

"(D) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a) (2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat such plant as a Department of Energy defense nuclear facility and any person employed by an operating contractor on the privatization date at either plant as a Department of Energy employee for purposes of sections 3161 through 3163 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274j).

"(E) The Department of Energy and the private corporation shall continue to fund postretirement health benefits for persons employed by an operating contractor at either of the gaseous diffusion plants at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date, consistent with clauses (i) through (iii), except that the Department of Energy, the private corporations and the operating contractor shall have the right to implement cost-saving measures, including (but not limited to) preferred provider organizations, managed care programs, mandatory second opinions before surgery or other medical procedures, and mandatory use of generic drugs, that do not materially diminish the overall quality of the medical care provided—

"(i) persons eligible for this coverage shall be limited to persons who retired from active employment at one of the gaseous diffusion plants as of the privatization date, as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants and persons who, as of the privatization date, are employed by the Corporation's operating contractor and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate either of the gaseous diffusion plants;

"(ii) for persons who retired from employment with an operating contractor prior to July 1, 1993, the Department of Energy shall fund the entire cost of postretirement health benefits; and

"(iii) for persons who retire from employment with an operating contractor after July 1, 1993, the Department of Energy and the private corporation shall fund the cost of postretirement health benefits in proportion to the retired persons' years and months of service at a gaseous diffusion plant under their respective management.".

(b) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b–4(e)(4)) is amended—

(1) by striking "AND DETAILEES" in the heading;

(2) by striking the first sentence;

(3) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(4) by striking the last sentence.

SEC. 3039. MARKETING AND CONTRACTING AUTHORITY.

(a) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(1) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(2) by striking the first sentence.

(b) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(1) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(2) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(c) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(d) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

"(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(e) LIABILITIES.—

(1) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(2) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(3) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(A) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(B) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(f) TRANSFER OF URANIUM.—

(1) AMENDMENT.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. URANIUM TRANSFERS AND SALES.

"(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural or enriched uranium in any form) to any person except as provided in this section.

"(b) RUSSIAN HEU.—

"(1) TRANFERS.—Prior to December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall transfer to the Secretary upon delivery of such material to the Secretary. Uranium hexafluoride delivered to the Secretary pursuant to this paragraph shall be deemed to be of Russian origin.

"(2) CONTRACTS.—Within 7 years of the date of enactment of the USEC Privatization Act, the Secretary shall enter into contracts to sell the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

"(A) at any time for use in the United States for the purpose of overfeeding;

"(B) at any time for use outside the United States; and

"(C) for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3 million pounds U3O8 equivalent per year.

"(3) URANIUM HEXAFLUORIDE.—With respect to all low-enriched uranium that is delivered to the United States Executive Agent under the Russian HEU Agreement after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, deliver to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium simultaneously with the delivery of such low-enriched uranium. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity consistent with the limitations on delivery to end users set forth in this subsection. Nothing in this subsection shall restrict the sale of the conversion component of such uranium hexafluoride.

"(4) INDEPENDENT PARTY.—In the event that the Russian Executive Agent does not request delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent party through a competitive selection process to auction an amount of uranium hexafluoride equivalent to the natural uranium component of such low-enriched uranium. Such independent party shall sell such uranium hexafluoride to any person or entity consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed to be of Russian origin.

"(5) CONSUMPTION.—Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States prior to January 1, 1998 and thereafter only in accordance with the following schedule:

"Year	Annual Maximum Deliveries to End Users (millions lbs. U_3O_8 equivalent)
1998	2 million lbs. U_3O_8 equivalent
1999	4 million lbs. U_3O_8 equivalent
2000	6 million lbs. U_3O_8 equivalent
2001	8 million lbs. U_3O_8 equivalent
2002	10 million lbs. U_3O_8 equivalent
2003	12 million lbs. U_3O_8 equivalent
2004	14 million lbs. U_3O_8 equivalent
2005 and each year thereafter.	16 million lbs. U_3O_8 equivalent

"(6) MATCHED SALES.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a sale with an equal portion of U.S.-origin natural uranium pursuant to the Suspension Agreement and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

"(7) OVERFEEDING.—Uranium hexafluoride delivered to the Secretary under paragraph (1) or the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

"(c) TRANSFERS TO THE CORPORATION.—(1) Before the privatization date, the Secretary may transfer to the Corporation without charge the low enriched uranium from up to 50 metric tons of highly enriched uranium and up to 7,000 metric tons of natural uranium, subject to the restrictions in subsection (b)(2).

"(2) The Corporation (or its successor) may not deliver for commercial end use—

"(A) any of the natural uranium transferred under this subsection before January 1, 1998;

"(B) more than 10 percent of the natural uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4 million pounds, whichever is less, in any calendar year after 1997; or

"(C) more than 800,000 separative work units of low-enriched uranium transferred under this subsection in any calendar year.

"(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsection (b), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy s stockpile.

"(2) Except as provided in subsections (b) and (d), no sale or transfer of natural or low-enriched uranium shall be made unless—

"(A) the President determines that the material is not necessary to national security needs,

"(B) the Secretary determines that the sale of the material will not have an adverse impact on the domestic uranium mining and enrichment industries, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

"(C) the price paid to the Secretary will not be less than the fair market value of the material.

"(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (c), the Secretary may transfer or sell low-enriched uranium—

"(1) to a federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

"(2) to any person for national security purposes, as determined by the Secretary; or

"(3) to any state or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.".

(2) CONFORMING AMENDMENT.—The table of contents for chapter 24 is amended by redesignating the item relating to section 1408 as the item relating to section 1409 and by inserting after the item for section 1407 the following:

"Sec. 1408. Uranium transfers and sales.".

SEC. 3040. PRIVATIZATION OF THE CORPORATION.

(a) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets and obligations, including all of the Corporation's rights, duties, and obligations accruing subsequent to the privatization date under contracts, agreements, and leases entered into by the Corporation before the privatization date, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B);

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403; and

"(E) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The Corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the Corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the Corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(b) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by subsection (a)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) ACQUISITIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(c) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by subsection (b)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.

"(c) SECURITIES LAWS APPLICABLE.—Any offering or sale of securities by the Corporation established pursuant to section 1503(a)(1) shall be subject to the Securities Act of 1933, the Securities Exchange Act of 1934 and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.".

(d) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by subsection (c)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(e) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of Private Corporation.
"Sec. 1504. Ownership Limitations.
"Sec. 1505. Exemption from Liability.
"Sec. 1506. Resolution of Certain Issues.".

(f) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(g) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d-1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

SEC. 3041. PERIODIC CERTIFICATION OF COMPLIANCE.

Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "Annual Application for Certificate of Compliance.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "Periodic Application for Certificate of Compliance.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

SEC. 3042. LICENSING OF OTHER TECHNOLOGIES.

Subsection (a) of section 1702 (42 U.S.C. 2297f-1(a)) is amended by striking "other than" and inserting "including".

SEC. 3043. CONFORMING AMENDMENTS.

(a) Repeals in Atomic Energy Act of 1954 as of the Privatization Date.—

(1) Repeals.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(A) Section 1202.

(B) Sections 1301 through 1304.

(C) Sections 1306 through 1316.

(D) Sections 1404 and 1405.

(E) Section 1601.

(F) Sections 1603 through 1607.

(2) Conforming amendment.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(b) Statutory Modifications.—As of such privatization date, the following shall take effect:

(1) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by section 3036(a)).

(2) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(3) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102-486.

(c) Revision of Section 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b-4) is amended—

(1) by repealing subsections (a), (b), (c), and (d), and

(2) in subsection (e)—

(A) by striking the subsection designation and heading,

(B) by redesignating paragraph (1) (as added by section 3038(a)) as subsection (a), striking "In general.—" and inserting "In General.—", redesignating subparagraphs (A) through (E) as paragraphs (1) through (5) (redesignating in such paragraph, clauses (i) through (iii) as subparagraphs (A) through (C)), striking "clauses (i) through (iii)" in paragraph (5) and inserting "subparagraphs (A) through (C)", and by moving the margins 2-ems to the left,

(C) by striking paragraph (3), and

(D) by redesignating paragraph (4) (as amended by section 3038(b)) as subsection (b), and by moving the margins 2-ems to the left.

Subtitle D—Waste Isolation Pilot Project

SEC. 3045. SHORT TITLE AND REFERENCE.

(a) Short Title.—This subtitle may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Amendment Act".

(b) Reference.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102-579).

SEC. 3046. DEFINITIONS.

Paragraphs (18) and (19) of section 2 are repealed.

SEC. 3047. TEST PHASE AND RETRIEVAL PLANS.

Section 5 is repealed.

SEC. 3048. TEST PHASE ACTIVITIES.

Section 6 is amended—

(1) by repealing subsections (a) and (b),

(2) by repealing paragraph (1) of subsection (c),

(3) by repealing subparagraph (A) of paragraph (2) of subsection (c),

(4) by redesignating subsection (c) as subsection (a), by striking the subsection heading and the matter before paragraph (1) and inserting "Study.—The following study shall be conducted:", by striking "(2) Remote-handled waste.—", by striking "(B) Study.—", and by redesignating clauses (i), (ii), and (iii) as paragraphs (1), (2), and (3), respectively, and moving them 4-ems to the left, and

(5) by redesignating subsection (d) as subsection (b).

SEC. 3049. DISPOSAL OPERATIONS.

Section 7(b) is repealed.

SEC. 3050. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) Section 8(d)(1).—Section 8(d)(1) is amended by striking subparagraphs (B), (C), and (D) and by adding after subparagraph (A) the following:

"(B) Comments of Administrator.—Within 2 months of receipt of the application under subparagraph (A), the Administrator shall provide the Secretary with any comments on the Secretary's application. Within one month of the receipt of such comments, the Secretary shall, to the extent practicable, incorporate the Administrator's comments in the Secretary's application. The comments of the Administrator provided to the Secretary should also be transmitted to the appropriate committees of jurisdiction in the House of Representatives and the Senate.".

(b) Section 8(d) (2), (3).—Section 8(d) is amended by striking paragraphs (2) and (3), by striking "(1) Compliance with disposal regulations.—", and by redesignating subparagraphs (A) and (B) of paragraph (1), as amended by subsection (a), as paragraphs (1) and (2), respectively, and moving them 2-ems to the left.

(c) Section 8(f).—Subsection (f) of section 8 is amended—

(1) by amending the subsection heading to read "Periodic Review", and

(2) by amending paragraph (2) to read as follows:

"(2) Review by the Administrator.—The Administrator shall, not later than 6 months after receiving a submission under paragraph (1), comment on whether or not the WIPP facility continues to be in compliance with the final disposition regulations.".

(d) Section 8(g).—Section 8(g) is amended to read as follows:

"(g) Engineered and Natural Barriers, Etc.—The Secretary should determine whether or not engineered barriers or natural barriers, or both, will be required at WIPP consistent with regulations published as part 191 of 40 C.F.R.".

SEC. 3051. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) Section 9(a)(1).—Section 9(a)(1) is amended by adding after and below subparagraph (H) the following:

"With respect to transuranic mixed waste designated by the Secretary for disposal at WIPP, such waste is exempt from the land disposal restrictions published at part 268 of 40 C.F.R. because compliance with the environmental radiation protection standards published at part 191 of 40 C.F.R. renders compliance with the land disposal restrictions unnecessary to achieve desired environmental protection and a no migration variance is not required for disposal of transuranic mixed waste at WIPP.".

(b) Section 9(b).—Subsection (b) of section 9 is repealed.

(c) Sections 9(c), (d).—Subsections (c) and (d) of section 9 are repealed.

SEC. 3052. RETRIEVABILITY.

Section 10 is amended to read as follows:

"SEC. 10. TRANSURANIC WASTE.

"It is the intent of Congress that a decision will be made by the Secretary with respect to the disposal of transuranic waste no later than March 31, 1997.".

SEC. 3053. DECOMMISSIONING OF WIPP.

Section 13 is amended—

(1) by repealing subsection (a), and

(2) in subsection (b), by striking "(b) Management Plan for the Withdrawal After Decommissioning.—Within 5 years after the date of the enactment of this Act, the" and inserting "The".

SEC. 3054. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

Section 15(a) is amended—

(1) by striking "to the Secretary for payments to the State $20,000,000 for each of the 15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated" and inserting "to the State $20,000,000 for each of the 15 fiscal years beginning with the date of the enactment of the Waste Isolation Pilot Plant Land Withdrawal Amendment Act", and

(2) by adding at the end the following: "An appropriation to the State shall be in addition to any appropriation for WIPP.".

SEC. 3055. NON-DEFENSE WASTE.

Section 7(a) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Nondefense waste.—Within the capacity prescribed by paragraph (4), WIPP may receive transuranic waste from the Secretary which did not result from a defense activity.".

Subtitle E—Strategic Petroleum Reserve

SEC. 3071. LEASE OF EXCESS STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) Amendment.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 151 et seq.) is amended by adding at the end the following new section:

"USE OF UNDERUTILIZED FACILITIES

"Sec. 168. (a) Authority.—Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

"(b) Conditions of Withdrawal.—The lessee or occupier of facilities under subsection

(a) may not withdraw petroleum product from those facilities more frequently than once every 5 years, unless an earlier drawdown is required to comply with the terms of the International Energy Agreement or to respond to a national energy emergency involving the disruption of more than 5 percent of the lessee's or occupier's imports.

"(c) PRIORITY ACCESS.—When a drawdown of the reserve is ordered pursuant to section 161, the United States shall have priority access, over a lessee or occupier of facilities under subsection (a), to distribution facilities, including pipelines and terminals.

"(d) STATUS OF STORED PETROLEUM PRODUCT.—Petroleum product stored under this section is not part of the Reserve, and may be exported from the United States.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of part B of title I of the Energy Policy and Conservation Act is amended by adding at the end the following new item:

"Sec. 168. Use of underutilized facilities.".

Subtitle F—FDA Export Reform and Enhancement Act

SECTION 3081. SHORT TITLE.

This Act may be cited as the "FDA Export Reform and Enhancement Act of 1995".

SEC. 3082. EXPORT OF NEW DRUGS.

Section 801(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e) is amended—

(1) in paragraph (1), by inserting after "under this Act" the following: "or in violation of section 505 or section 351 of the Public Health Service Act",

(2) in paragraph (1), by striking the last sentence, and

(3) by amending paragraph (2) to read as follows:

"(2) Paragraph (1) does not apply to the export of—

"(A) any device—

"(i) which does not comply with an applicable requirement under section 514 or 515,

"(ii) which under section 520(g) is exempt from either such section, or

"(iii) which is a banned device under section 516, or

"(B) any drug (including a biological product) which does not comply with an applicable requirement under section 505 or 512 or section 351 of the Public Health Service Act, unless the device or drug is in compliance with the requirements of paragraph (1) and if the device or drug is to be exported to a country which is not a member of the World Trade Organization, the person exporting it has notified the Secretary of the export at least 30 days before the export and has included in such notice the name of the product, the country to which the product is being exported, and a brief description of the medical need for such device or drug in such country. In the case of a device or drug for which an export notice is required under this paragraph, the Secretary may prohibit the export of such device or drug if the Secretary determines that the possibility of the reimportation of the device or drug into the United States presents an imminent hazard to the public health and safety of the United States and the only means of limiting the hazard is to prohibit the export of the device or drug.".

SEC. 3083. EXPORT OF CERTAIN UNAPPROVED PRODUCTS.

Section 802 (21 U.S.C. 382) is repealed.

SEC. 3084. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

Subsection (h) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended to read as follows:

"(h) A partially-processed biological product which—

"(1) is not a form applicable to the prevention, treatment, or cure of diseases or injuries of man,

"(2) is not intended for sale in the United States, and

"(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on its export under this Act or the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.)."

TITLE IV—COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES

SEC. 4000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IV—ECONOMIC AND EDUCATIONAL OPPORTUNITIES

Subtitle A—Higher Education
Sec. 4001. Short title; effective date.
Sec. 4002. Termination of direct lending.
Sec. 4003. Elimination of grace period interest subsidies.
Sec. 4004. Plus program reductions.
Sec. 4005. Loan transfer fee.
Sec. 4006. Lender fees to guaranty agencies.
Sec. 4007. Additional loan program changes.
Sec. 4008. Use of reserve funds to purchase defaulted loans.
Sec. 4009. Extension of period a guaranty agency must hold a defaulted loan.
Sec. 4010. Privatization of College Construction Loan Insurance Association.
Sec. 4011. Eligible institution.
Sec. 4012. Extension of program duration.
Subtitle B—Service Contract Repeal
Sec. 4101. Service Contract Act of 1965.
Subtitle C—Provisions Relating to the Employee Retirement Income Security Act of 1974
Sec. 4201. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.

Subtitle A—Higher Education

SEC. 4001. SHORT TITLE; EFFECTIVE DATE.

(a) SHORT TITLE.—This subtitle may be cited as the "Higher Education Program Efficiency Act of 1995".

(b) EFFECTIVE DATE.—Except as otherwise provided therein, the amendments made by this subtitle shall take effect on January 1, 1996.

SEC. 4002. TERMINATION OF DIRECT LENDING.

(a) TERMINATION OF AUTHORITY.—

(1) PROGRAM AUTHORITY.—Section 451(a) of the Higher Education Act of 1965 (20 U.S.C. 1087a(a)) is amended by inserting "and ending June 30, 1996" after "period beginning July 1, 1994".

(2) TERMINATION OF FUNDING.—Section 452 of such Act (20 U.S.C. 1087b) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF FUNDING.—The Secretary shall not provide funds under this section for loans for any academic year beginning on or after July 1, 1996. The Secretary shall not pay any fees pursuant to subsection (b) of this section on or after January 1, 1996.".

(3) TERMINATION OF AUTHORITY TO ENTER NEW AGREEMENTS.—Section 453(a) of such Act (20 U.S.C. 1087c(a)) is amended—

(A) in paragraph (1), by inserting "and ending before July 1, 1996" after "academic years beginning on or after July 1, 1994";

(B) in paragraph (2)—

(i) by inserting "and" after the semicolon at the end of subparagraph (A);

(ii) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(iii) by striking subparagraphs (C) and (D); and

(C) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(b) ADMINISTRATIVE COST AMENDMENTS.—Section 458 of such Act (20 U.S.C. 1087h) of such Act is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (b) and (c) as subsections (f) and (g), respectively; and

(3) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) DIRECT ADMINISTRATIVE COSTS.—Each fiscal year there shall be available to the Secretary of Education, from funds not otherwise appropriated, funds to be obligated for the subsidy costs of direct administrative costs under this part, subject to subsection (b) of this section.

"(2) INDIRECT ADMINISTRATIVE COSTS.—There shall also be available from funds available from funds not otherwise appropriated, funds to be obligated for indirect administrative costs under this part and part B, subject to subsection (c) of this section, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $345,000,000 in fiscal year 1995, $110,000,000 in fiscal year 1996 (of which $40,000,000 shall be available for administrative cost allowances for guaranty agencies for October through December of 1995), and $70,000,000 in each of the fiscal years 1997 through 2002.

"(3) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under paragraph (2) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

"(b) SUBSIDY COSTS.—For purposes of this section, 'subsidy cost' means the estimated long-term cost to the Federal Government of direct administrative expenses calculated on a net present value basis.

"(c) DIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, 'direct administrative expenses' shall consist of the cost of—

"(1) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

"(2) collection of delinquent loans; and

"(3) write-off and closeout of loans.

"(d) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this section, 'indirect administrative expenses' shall consist of the cost of—

"(1) personnel engaged in developing program regulations, policy, and administrative guidelines;

"(2) audits of institutions and contractors;

"(3) program reviews; and

"(4) other oversight of the program.

"(e) LIMITATION ON PART D EXPENDITURES.—For any fiscal year, expenditures for indirect administrative expenses and for loan servicing for loans made pursuant to this part shall not exceed 30 percent of funds available pursuant to paragraph (2) for such fiscal year.".

(c) ELIMINATION OF TRANSITION TO DIRECT LOANS.—Such Act is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7))—

(A) by striking "during the transition" and all that follows through "part D of this title" in subparagraph (A); and

(B) by striking "section 428(c)(10)(F)(v)" in subparagraph (B) and inserting "section 428(c)(9)(F)(v)";

(2) in section 428(c)(8) (20 U.S.C. 1078(c)(8)), by striking subparagraph (B) and inserting the following:

"(B) Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such guaranty agency has made adequate collection efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.";

(3) in section 428(c)(9)(E)—

(A) by inserting "or" after the semicolon at the end of clause (iv);

(B) by striking "; or" at the end of clause (v) and inserting a period; and

(C) by striking clause (vi);

(4) in clause (vii) of section 428(c)(9)(F)—

(A) by inserting "and" before "to avoid disruption"; and

(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;

(5) in section 428(c)(9)(K), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";

(6) in section 428(e)(1)(B)(ii), by striking "during the transition" and all that follows through "part D of this title";

(7) in section 428(e)(3), by striking "of transition";

(8) in section 428(j)(3)—

(A) by striking "DURING TRANSITION TO DIRECT LENDING"; and

(B) by striking "during the transition" and all that follows through "part D of this title," in subparagraph (A) and inserting a comma;

(9) in section 453(c)(2) (20 U.S.C. 1087c(c)(2)), by striking "TRANSITION" and inserting "INSTITUTIONAL";

(10) in section 453(c), by striking paragraph (3); and

(11) in section 456(b) (20 U.S.C. 1087f(b))—

(A) by inserting "and" after the semicolon at the end of paragraph (3);

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4); and

(D) in such paragraph (4) (as redesignated), by striking "successful operation" and inserting "integrity and efficiency".

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ABILITY OF PART D BORROWERS TO OBTAIN FEDERAL STAFFORD CONSOLIDATION LOANS.—Section 428C(a)(4) of such Act (20 U.S.C. 1078–3(a)(4)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) made under part D of this title;".

(2) CONFORMING AMENDMENTS.—Section 428C(b) of such Act (20 U.S.C. 1078–3(b)) is amended by striking paragraph (5).

SEC. 4003. ELIMINATION OF GRACE PERIOD INTEREST SUBSIDIES.

Section 428(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(3)) is amended by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A), no portion of the interest which accrues after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) and prior to the beginning of the repayment period of the loan shall be paid by the Secretary under this subsection on any loan made on or after January 1, 1996. Interest on the unpaid principal amount of any such loan during the interval described in the preceding sentence shall, at the option of the borrower—

"(i) be paid monthly or quarterly, or

"(ii) be added by the lender to the principal amount of the loan at the commencement of the repayment period.".

SEC. 4004. PLUS PROGRAM REDUCTIONS.

(a) LOAN LIMITS.—Section 428B(b) of the Higher Education Act of 1965 (20 U.S.C. 1078–2(b)) is amended—

(1) by striking "(b) LIMITATION BASED ON NEED.—" and inserting the following:

"(b) ANNUAL LIMITS.—

"(1) LIMITATION BASED ON NEED.—";

(2) by inserting before the last sentence thereof the following:

"(3) LIMITATION COMPUTED ON BASIS OF ACTUAL PAYMENTS.—"; and

(3) by inserting before paragraph (3) (as designated by the amendment made by paragraph (2) of this subsection) the following new paragraph:

"(2) DOLLAR LIMITATION.—Subject to paragraph (1), the maximum amount parents may borrow for one student in any academic year or itsequivalent (as defined by regulations of the Secretary) is $15,000.".

(b) INTEREST REBATE.—Section 428B of such Act is further amended by adding at the end the following new subsection:

"(f) INTEREST REBATE.—

"(1) REBATE REQUIRED.—Each holder of a loan under this section made on or after the date of enactment of this subsection, shall pay, on June 30 and December 31 of each year, to the Secretary a rebate of subsidies in an amount equal to 0.8 percent of the outstanding principal balance of loans held on such date. Payment of such rebate shall be made not later than 60 days after each such date.

"(2) DEPOSIT OF REBATES.—The Secretary shall deposit all fees collected pursuant to paragraph (1) into the insurance fund established in section 431.".

(c) PLUS LOANS INTEREST RATES.—Section 427A(c)(4) of such Act (20 U.S.C. 1077a(c)(4)) is amended by adding at the end the following new subparagraph:

"(F) Notwithstanding subparagraphs (A), (D), and (E), for any loan made pursuant to section 428B for which the first disbursement is made on or after January 1, 1996—

"(i) subparagraph (B) shall be applied by substituting '4.0' for '3.25'; and

"(ii) the interest rate shall not exceed 11 percent.".

(d) CONFORMING AMENDMENT.—Section 427A(h) of such Act (20 U.S.C. 1077a(h)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 4005. LOAN TRANSFER FEE.

Section 428(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide that, if a lender or holder, on or after January 1, 1996, sells, transfers, or assigns a loan under this part, then the transferee shall pay to the Secretary a transfer fee in an amount equal to 0.20 percent of the principal of the loan, which transfer fee shall be deposited into the insurance fund established in section 431, except that the provisions of this subparagraph shall not apply to any such sale, transfer, or assignment by a lender or holder to such lender's or holder's affiliate or pursuant to a merger or other consolidation transaction.".

SEC. 4006. LENDER FEES TO GUARANTY AGENCIES.

Subsection (f) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078(f)) is amended to read as follows:

"(f) PAYMENTS OF CERTAIN COSTS.—

"(1) PAYMENTS FROM LENDERS.—With respect to any loan under this part for which the first disbursement is made on or after January 1, 1996, the originating lender shall remit to the guaranty agency which guarantees the loan, a fee equal to 0.70 percent of the principal amount of the loan.

"(2) USE OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be used for the purposes of—

"(A) the administrative costs of collections of loans;

"(B) the administrative costs of preclaim assistance and other predefault activities;

"(C) the administrative costs of monitoring the enrollment and repayment status of students; and

"(D) other such costs related to the student loan insurance program.

"(3) TIMING OF PAYMENTS.—Payments made pursuant to paragraph (1) shall be made at the time insurance premiums on such loans are paid to the guaranty agency.

"(4) PROHIBITION ON PASS-THROUGH.—No part of any payments required by this section shall be assessed or collected, directly or indirectly, from any borrower under this part.".

SEC. 4007. ADDITIONAL LOAN PROGRAM CHANGES.

(a) RESERVE FUNDS.—

(1) AMENDMENTS TO SECTION 422.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10)(E) or (F), such unencumbered" and inserting "Such";

(B) in subsection (g)(1), by striking "or the program authorized by part D of this title" each place it appears;

(C) in subsection (g)(1)(D), by striking "(A) or (B)" and inserting "(A), (B), or (C)"; and

(D) in subsection (g), by striking paragraph (4) and inserting the following:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

(2) AMENDMENTS TO SECTION 428.—Section 428(c)(9)(A) of such Act (20 U.S.C. 1078(c)(9)(A)) is amended—

(A) by inserting "and" after the semicolon at the end of clause (i);

(B) by striking "; and" at the end of clause (ii) and inserting a period; and

(C) by striking clause (iii).

(b) APPLICATION FOR PART B LOANS USING FREE FEDERAL APPLICATION.—

(1) SINGLE FORM REQUIRED.—Section 483(a) of such Act (20 U.S.C. 1090(a)) is amended—

(A) in paragraph (1)—

(i) by inserting "B," after "assistance under parts A,";

(ii) by striking "and to determine the need of a student for the purpose of part B of this title"; and

(iii) by striking the last sentence and inserting the following: "Such form may be in an electronic or any other format (subject to section 485B) in order to facilitate use by borrowers and institutions."; and

(B) in paragraph (3), by striking "and States shall receive," and inserting ", any guaranty agency authorized by any such institution, and States shall receive, at their request and".

(2) USE OF ELECTRONIC FORMS.—Section 483(a) of such Act is further amended by adding the following new paragraph after paragraph (4):

"(5) ELECTRONIC FORMS.—(A) The Secretary, in cooperation with representatives of institutions of higher education, eligible lenders, and guaranty agencies, shall prescribe an electronic version of the form described in subsection (a)(1). Such electronic form shall not require signatures to be collected at the time such form is submitted if the data contained in the electronic form is certified in one or more separate writings. The Secretary shall prescribe the initial electronic form not later than 90 days after the date of enactment of this paragraph.

"(B) Nothing in this Act shall preclude the use of the electronic form prescribed under subparagraph (A) through software developed, produced, distributed (including by diskette, modem or network communication, or otherwise) or collected by eligible lenders, guaranty agencies, eligible institutions, or consortia thereof. Such organization or consortium shall submit such electronic form to the Secretary for review prior to its use. If such electronic form is inconsistent with the provisions of this part, the Secretary shall notify the submitting organization or consortium of his objection within 30 days of such submission, and shall specifically identify the necessary changes. In the absence of such an objection the organization or consortium may use the electronic form as submitted. No fee may be charged in connection with use of the electronic form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.".

(c) AMENDMENTS TO ELIGIBLE LENDER DEFINITION.—Section 435(d)(1) of such Act (20 U.S.C. 1085) is amended—

(1) by inserting before the semicolon at the end of subparagraph (A) the following: "; and in determining whether the making or holding of loans to students and parents under this part is the primary consumer credit function of the eligible lender, loans made or held as trustee or in a trust capacity for the benefit of a third party shall not be considered";

(2) by striking "and" at the end of subparagraph (I);

(3) in subparagraph (J), by striking the period and inserting "; and"; and

(4) by adding at the end the following new subparagraph:

"(K) a wholly owned subsidiary of a publicly-held holding company which, as of the date of enactment of this subparagraph, through one or more subsidiaries (i) acts as a finance company, and (ii) participates in the program authorized by this part pursuant to subparagraph (C).".

(d) ADDITIONAL AMENDMENTS TO SECTION 428.—

(1) AMENDMENTS.—Section 428 of such Act is further amended—

(A) in subsection (b)(1)(G), by striking "98 percent" and inserting "95 percent";

(B) in subsection (b)(1)(X), by striking "section 428(c)(10)" and inserting "section 428(c)(9)";

(C) in subsection (c)(1)(A), by striking "98 percent" and inserting "96 percent";

(D) in subsection (c)(1)(B)(i), by striking "88 percent" and inserting "86 percent";

(E) in subsection (c)(1)(B)(ii), by striking "78 percent" and inserting "76 percent";

(F) in subsection (c)(9)(C)(ii), by striking "80 percent" and inserting "76 percent";

(G) in subsection (c)(9)(I) by inserting "on the record" after "for a hearing";

(H) in subsection (j)(2)(A), by striking "60" and inserting "15";

(I) in subsection (j)(2)(B), by striking "two rejections" and inserting "one rejection"; and

(J) in subsection (l)—

(i) by striking paragraph (2); and

(ii) by striking "(1) ASSISTANCE REQUIRED.—".

(2) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (C) through (F) of paragraph (1) of this subsection shall apply to loans on which the first disbursement of principal is made on or after January 1, 1996.

(e) REINSURANCE PERCENTAGE UNDER SECTION 428I.—Section 428I of such Act (20 U.S.C. 1078–9) is amended in subsection (b)(1)—

(1) by striking "100 PERCENT" in the heading and inserting "95 PERCENT"; and

(2) by striking "100 percent" and inserting "95 percent".

(f) LOAN FEES FROM LENDERS.—Section 438(d)(2) of such Act (20 U.S.C. 1087–1(d)(2)) is amended to read as follows:

"(2) AMOUNT OF LOAN FEES.—The amount of the loan fee which shall be deducted under paragraph (1) shall be—

"(A) 0.50 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after October 1, 1993, and before January 1, 1996; or

"(B) 0.30 percent of the principal amount of the loan, for any loan under this part for which the first disbursement was made on or after January 1, 1996.".

(g) SMALL LENDER AUDIT EXEMPTION.—Section 428(b)(1)(U)(iii) of such Act (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year," before "for (I)";

(2) by inserting "such" before "lender at least once";

(3) by inserting "such" before "a lender that is audited"; and

(4) by striking "if the lender" and inserting "if such lender".

SEC. 4008. USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.

Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(h) USE OF RESERVE FUNDS TO PURCHASE DEFAULTED LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender after the date of enactment of this subsection. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

"(2) SPECIAL RULE.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds; or

"(B) such use is prohibited by State law; or

"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".

SEC. 4009. EXTENSION OF PERIOD A GUARANTY AGENCY MUST HOLD A DEFAULTED LOAN.

(a) EXEMPTION FOR EXTENDED HOLDING PERIOD.—The last sentence of section 428(c)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)(A)) is amended by striking out "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".

(b) NEW EXTENDED HOLDING PERIOD PROGRAM.—Part B of title IV of such Act (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

"(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a student borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

"(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

"(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status prior to 180 days after the date the guaranty agency discharges its insurance obligation on the loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payment satisfactory to the guaranty agency during the 180-day period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

"(d) REGULATION PROHIBITED.—The Secretary shall not regulate the collection activities of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).".

SEC. 4010. PRIVATIZATION OF COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION.

(a) REPEAL OF STATUTORY RESTRICTIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1132f et seq.) is repealed.

(b) STATUS OF THE CORPORATION.—

(1) STATUS OF THE CORPORATION.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act), shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall have the power to engage in any business or other activities for which corporations may be organized under the laws of any State of the United States or the District of Columbia. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—Except as provided in subsection (d)(2) of this section, no stock of the Corporation may be sold or issued to an agency, instrumentality, or establishment of the United States Government, to a Government corporation or a Government controlled corporation (as such terms are defined in section 103 of title 5, United States Code), or to a Government sponsored enterprise (as such term is defined in section 622 of title 2, United States Code). The Student Loan Marketing Association shall not own any stock of the Corporation, except that it may retain the stock it owns on the date of enactment. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 as long as that section is in effect. The Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation. Notwithstanding the prohibitions in this subsection, the United States may pursue any remedy against a holder of the Corporation's stock to which it would otherwise be entitled.

(c) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—During the 5-year period following the date of the enactment of this Act, the Corporation shall include in any document offering the Corporation's securities, in any contracts for insurance, guarantee, or reinsurance of obligations, and in any advertisement or promotional material, a statement that—

(A) the Corporation is not a Government-sponsored enterprise or instrumentality of the United States; and

(B) the Corporation's obligations are not guaranteed by the full faith and credit of the United States.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform the requirements of this Act.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association".

(4) ARTICLES OF INCORPORATION.—The Corporation shall amend its articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) TRANSITION REQUIREMENTS.—

(A) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (a), the requirements of section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f-3), as in existence as of the day before enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (d) of this section.

(B) REPORTS AFTER STOCK SALE.—The Corporation shall, not later than March 30 of the first full calendar year immediately following the sale pursuant to subsection (d), and each of the 2 succeeding years, submit to the Secretary of Education a report describing the Corporation's efforts to assist in the financing of education facilities projects, including projects for elementary, secondary, and postsecondary educational institution infrastructure, and detailing, on a project-by-project basis, the Corporation's business dealings with educational institutions that are rated by a nationally recognized statistical rating organization at or below the organization's third highest ratings.

(d) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall make every effort to sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education not later than 6 months after the date of the enactment of this Act.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within the period specified in paragraph (1), such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on independent appraisal by one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995. Such firms shall be selected by the Secretary of the Treasury in consultation with the Secretary of Education and the Corporation.

(e) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this section.

(f) DEFINITION.—As used in this section, the term "Corporation" means the Corporation established pursuant to the provision of law repealed by subsection (a).

SEC. 4011. ELIGIBLE INSTITUTION.

(a) AMENDMENTS.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended—

(1) by inserting before the period at the end of the first sentence the following: "on the basis of a review by the institution's independent auditor using generally accepted accounting principles"; and

(2) by inserting after the end of such first sentence the following new sentences: "For the purposes of clause (6), revenues from sources that are not derived from funds provided under this title include revenues from programs of education or training that do not meet the definition of an eligible program in subsection (e), but are provided on a contractual basis under Federal, State, or local training programs, or to business and industry. For the purposes of determining whether an institution meets the requirements of clause (6), the Secretary shall not consider the financial information of any institution for a fiscal year began on or before April 30, 1994.".

(b) EFFECTIVE DATE.—Notwithstanding section 713 of this Act, the amendments made by subsection (a) shall apply to any determination made on or after July 1, 1994, by the Secretary of Education pursuant to section 481(b)(6) of the Higher Education Act of 1965.

SEC. 4012. EXTENSION OF PROGRAM DURATION.

Part B of title IV of the Higher Education Act of 1965 is amended—

(1) in section 424(a) (20 U.S.C. 1074(a)), by striking "1998" and inserting "2002";

(2) in section 428(a)(5) (20 U.S.C. 1078(a)(5))—

(A) by striking "2002" and inserting "2006"; and

(B) by striking "1998" and inserting "2002"; and

(3) in section 428C(e) (20 U.S.C. 1078-3(e)), by striking the first sentence and inserting "The authority to make loans under this section expires at the close of September 30, 2002.".

Subtitle B—Service Contract Repeal

SEC. 4101. SERVICE CONTRACT ACT OF 1965.

(a) REPEAL.—The Service Contract Act of 1965 (41 U.S.C. 351 et seq.) is repealed.

(b) APPLICATION.—The amendment made by subsection (a) shall not apply to a contract which was entered into before the 45th day after the date of the enactment of this Act and to which the Service Contract Act of 1965 applied.

Subtitle C—Provisions Relating to the Employee Retirement Income Security Act of 1974

SEC. 4201. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 205(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)(A)), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

TITLE V—COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Subtitle A—Federal Employee and Congressional Benefits; Availability of Surplus Property for Homeless Assistance

SEC. 5001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 5002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, Claims Court judge, or member of the Capitol Police, as the case may be, the percentage of basic pay applicable under subsection (c).".

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer, a member of the Capitol Police, and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

"7	After December 31, 1969."

and inserting in lieu thereof the following:

"7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½	After December 31, 1969."

and inserting in lieu thereof the following:

"7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(C) in the matter relating to a Member for Member service by striking out

"8	After December 31, 1969."

and inserting in lieu thereof the following:

"8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

and inserting in lieu thereof the following:

"7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.";

(E) in the matter relating to a bankruptcy judge by striking out

"8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

"8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(G) in the matter relating to a United States magistrate by striking out

"8	After September 30, 1987."

and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

and

(I) by inserting after the matter relating to a Claims Court judge the following:

"Member of the Capitol Police.	2.5	August 1, 1920, to June 30, 1926.
	"3.5	July 1, 1926, to June 30, 1942.
	"5	July 1, 1942, to June 30, 1948.
	"6	July 1, 1948, to October 31, 1956.
	"6.5	November 1, 1956, to December 31, 1969.
	"7.5	January 1, 1970, to December 31, 1995.
	"7.75	January 1, 1996, to December 31, 1996.
	"7.9	January 1, 1997, to December 31, 1997.
	"8	January 1, 1998, to December 31, 2002.
	"7.5	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end thereof the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

	"Percentage of basic pay	Service period
Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Law enforcement officer, firefighter, member of the Capitol Police, or air traffic controller	7.5	Before January 1, 1996.
	7.75	January 1, 1996, to December 31, 1996.
	7.9	January 1, 1997, to December 31, 1997.
	8	January 1, 1998, to December 31, 2002.
	7.5	After December 31, 2002."

(B) Military service.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(C) Volunteer service.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) No reduction in agency contributions.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 5003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) Relating to the Years of Service as a Member of Congress and Congressional Employees for Purposes of Computing an Annuity.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "Congressional employee".

(3) Capitol police.—Section 8339(q) of title 5, United States Code, is amended—

(A) by striking "subsection (b)," and inserting "subsection (b) (as last in effect),"; and

(B) by striking "subsection (b)(2)," and inserting "subsection (b)(2) (as last in effect),".

(b) Administrative Regulations.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) Effective Dates.—

(1) Years of service; annuity computation.—(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(2) Regulations.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 5004. FEDERAL EMPLOYEES RETIREMENT SECURITY COMMISSION.

(a) Establishment.—There shall be established in the legislative branch a commission to be known as the "Federal Employees Retirement Security Commission" (hereinafter in this section referred to as the "Commission").

(b) Members.—

(1) Appointment.—The Commission shall be composed of 7 members, to be appointed within 30 days after the date of the enactment of this Act, as follows:

(A) 2 members appointed by the Speaker of the House of Representatives.

(B) 2 members appointed by the majority leader of the Senate.

(C) 1 member appointed by the minority leader of the House of Representatives.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the President.

(2) Chairman; vice chairman.—The members of the Commission shall select 1 of the members to be the Chairman and another to be the Vice Chairman of the Commission.

(3) Terms.—Each member shall be appointed for the life of the Commission.

(4) Pay and travel expenses.—

(A) Pay generally.—Each member, other than the Chairman, shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission.

(B) Pay for the chairman.—The Chairman shall be paid, for each day referred to in subparagraph (A), at a rate not to exceed the daily equivalent of the annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(C) Travel expenses.—Each member of the Commission shall, subject to the availability of appropriations and in such amounts as may be provided by such Act, be allowed travel expenses in the same manner as any individual employed intermittently by the Government is allowed travel expenses under section 5703 of title 5, United States Code.

(D) Government employees and members of congress.—Notwithstanding any other provision of this paragraph, members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission, except for travel expenses under subparagraph (C).

(5) Vacancies.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Meetings.—

(1) Open meetings.—Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(2) Access by request.—

(A) In general.—All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the Chairman and the ranking minority party member of the respective committees under subparagraph (B) or such chairmen or ranking minority party members of subcommittees of any such committee as may be designated by the Chairman or ranking minority party member, respectively, of such committee.

(B) Identification of committees.—The committees under this subparagraph are as follows:

(i) The Committee on Government Reform and Oversight of the House of Representatives.

(ii) The Committee on National Security of the House of Representatives.

(iii) The Committee on Governmental Affairs of the Senate.

(iv) The Committee on Armed Services of the Senate.

(3) FIRST MEETING.—The Commission shall hold its first meeting within 60 days after the date of the enactment of this Act.

(d) DIRECTOR; STAFF.—

(1) DIRECTOR.—The Commission shall have a Director, who—

(A) shall be appointed by the Commission; and

(B) shall be paid at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) STAFF.—

(A) APPOINTMENTS; PAY.—The Director, with the approval of the Commission, may appoint and fix the pay of additional personnel, except that no individual so appointed may receive pay at a rate in excess of the maximum rate of basic pay payable under section 5376 of title 5, United States Code, for positions classified above GS-15 of the General Schedule.

(B) DETAILS FROM CONGRESSIONAL COMMITTEES AND OFFICES.—Upon the request of the Director, the chairman of any standing committee or other committee of either House or both Houses of the Congress, or the head of any other congressional office, may detail any of the personnel of that committee or office to the Commission to assist the Commission in carrying out its duties under this Act.

(C) ASSISTANCE FROM GAO.—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(e) DUTIES.—

(1) IN GENERAL.—The Commission shall study and, within 7 months after the date of the enactment of this Act, submit to the Congress a written report on—

(A) the financial soundness of the retirement systems for Government employees (including employees of nonappropriated fund instrumentalities) and members of the uniformed services;

(B) the cost and level of benefits provided by the Civil Service Retirement System, the Federal Employees' Retirement System, and the other retirement systems under subparagraph (A), as compared with the cost and level of benefits of retirement systems prevalent in the private sector;

(C) the appropriate level and design of benefits of an alternative retirement system and modifications of existing systems to achieve the objectives described in paragraph (2); and

(D) the cost and suitability of benefits provided by the military retirement system, and their appropriateness in light of current and projected military readiness requirements.

(2) CONSIDERATIONS.—The considerations described in this paragraph are as follows:

(A) Portability of benefits, consistent with the greater mobility anticipated with respect to the workforce of the 21st century.

(B) Financial soundness, consistent with the requirements of the Employee Retirement Income Security Act of 1974 and the requirements that must be met in order to qualify to be insured by the Pension Benefit Guarantee Corporation.

(C) The Government's presence in a wide range of occupations and local labor markets, and the need for retirement benefits to be representative of the level of benefits received by most Americans in the private sector in order to allow the Government to recruit and retain a qualified workforce.

(D) Total compensation trends in the private sector, including the use of cafeteria plans.

(3) CONTENTS.—The Commission's report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for any legislation that the Commission considers appropriate.

(f) OTHER AUTHORITY.—

(1) EXPERTS AND CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants subject to the same terms and conditions as would apply under section 3109 of title 5, United States Code, in the case of an Executive agency.

(2) LEASES.—The Commission may lease space and acquire personal property to the extent funds are available.

(g) FUNDING.—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this Act. Such funds shall remain available until expended.

(h) TERMINATION.—The Commission shall cease to exist 30 days after submitting its report to the Congress under subsection (e).

SEC. 5005. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) REPEAL.—

(1) IN GENERAL.—Section 2004 of title 39, United States Code, is repealed.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall be effective as of October 1, 1995.

(2) PROVISIONS RELATING TO PAYMENTS FOR FISCAL YEAR 1996.—

(A) AMOUNTS NOT YET PAID.—No payment may be made to the Postal Service Fund, on or after the date of the enactment of this Act, pursuant to any appropriation for fiscal year 1996 authorized by section 2004 of title 39, United States Code (as in effect before the effective date of this section).

(B) AMOUNTS PAID.—If any payment to the Postal Service Fund is or has been made pursuant to an appropriation for fiscal year 1996 authorized by such section 2004, then an amount equal to the amount of such payment shall be paid from such Fund into the Treasury as miscellaneous receipts.

SEC. 5006. AVAILABILITY OF SURPLUS PROPERTY FOR HOMELESS ASSISTANCE.

(a) REPEAL.—(1) Title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) is repealed.

(2) The table of contents in section 101(b) of that Act is amended by striking the items relating to title V.

(3) This subsection shall be effective October 1, 1995.

(b) AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.—Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following:

"(r) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for homeless individuals or families, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

"(s)(1) Under such regulations as the Administrator may prescribe, and in consultation with appropriate local governmental authorities, the Administrator may transfer to any non-profit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

"(2) In making transfers under this subsection, the Administrator shall take such actions, which may include grant agreements with an organization receiving a grant, as may be necessary to ensure that—

"(A) assistance provided under this subsection is used to facilitate and encourage homeownership opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and

"(B) the dwellings constructed with property transferred under this subsection shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.".

Subtitle B—Debt Collection Improvement Act of 1995

SEC 5201. SHORT TITLE.

This subtitle may be cited as the "Debt Collection Improvement Act of 1995".

SEC. 5202. TABLE OF CONTENTS.

The table of contents for this subtitle is as follows:

Sec. 5201. Short title.
Sec. 5202. Table of contents.
Sec. 5203. Effective date.
Sec. 5204. Purposes.

PART I—GENERAL DEBT COLLECTION INITIATIVES

SUBPART A—GENERAL OFFSET AUTHORITY

Sec. 5211. Expansion of administrative offset authority.
Sec. 5212. Enhancement of administrative offset authority.
Sec. 5213. Exemption from computer matching requirements under the Privacy Act of 1974.
Sec. 5214. Use of administrative offset authority for debts to States.
Sec. 5215. Technical and conforming amendments.

SUBPART B—SALARY OFFSET AUTHORITY

Sec. 5221. Enhancement of salary offset authority.

SUBPART C—TAXPAYER IDENTIFYING NUMBERS

Sec. 5231. Access to debtor information.

Sec. 5232. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.

SUBPART D—EXPANSION AND ENHANCEMENT OF COLLECTION AUTHORITIES

Sec. 5241. Disclosure to consumer reporting agencies and commercial reporting agencies.
Sec. 5242. Contracts for collection services.
Sec. 5243. Cross-servicing partnerships and centralization of debt collection activities in the Department of the Treasury.
Sec. 5244. Compromise of claims.
Sec. 5245. Wage garnishment requirement.
Sec. 5246. Debt sales by agencies.
Sec. 5247. Adjustments of administrative debt.
Sec. 5248. Dissemination of information regarding identity of delinquent debtors.

SUBPART E—FEDERAL CIVIL MONETARY PENALTIES

Sec. 5251. Adjusting Federal civil monetary penalties for inflation.

SUBPART F—GAIN SHARING

Sec. 5261. Debt collection improvement account.

SUBPART G—TAX REFUND OFFSET AUTHORITY

Sec. 5271. Expanding tax refund offset authority.
Sec. 5272. Expanding authority to collect past-due support.

SUBPART H—DISBURSEMENTS

Sec. 5281. Electronic funds transfer.
Sec. 5282. Requirement to include taxpayer identifying number with payment voucher.

SUBPART I—MISCELLANEOUS

Sec. 5291. Miscellaneous amendments to definitions.
Sec. 5292. Monitoring and reporting.
Sec. 5293. Review of standards and policies for compromise or write-down of delinquent debts.

PART II—JUSTICE DEBT MANAGEMENT

Sec. 5301. Expanded use of private attorneys.
Sec. 5302. Nonjudicial foreclosure of mortgages.

SEC. 5203. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the provisions of this subtitle and the amendments made by this subtitle shall become effective October 1, 1995.

SEC. 5204. PURPOSES.

The purposes of this subtitle are the following:

(1) To maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools.

(2) To minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams.

(3) To reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies.

(4) To ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their financial obligations to repay amounts owed to the Federal Government.

(5) To ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States.

(6) To encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral.

(7) To rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5211. EXPANSION OF ADMINISTRATIVE OFFSET AUTHORITY.

Chapter 37 of title 31, United States Code, is amended—

(1) in each of sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting "the head of an executive, judicial, or legislative agency"; and

(2) by amending section 3701(a)(4) to read as follows:

"(4) 'executive, judicial, or legislative agency' means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of government, including government corporations.".

SEC. 5212. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) PERSONS SUBJECT TO ADMINISTRATIVE OFFSET.—Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government.".

(b) REQUIREMENTS AND PROCEDURES.—Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, judicial, or legislative agency must either—

"(1) adopt, without change, regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office, or the Department of the Treasury; or

"(2) prescribe regulations on collecting by administrative offset consistent with the regulations referred to in paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (e); and

(4) by inserting after subsection (b) the following new subsections:

"(c)(1)(A) Except as otherwise provided in this subsection, a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, or any disbursing official of the United States designated by the Secretary of the Treasury, shall offset at least annually the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement, by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965 shall not be subject to administrative offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the administrative offset on the basis that the underlying obligation, represented by the payment before the administrative offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3) The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency. The Secretary may exempt other payments from administrative offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program. The Secretary shall report to the Congress annually on exemptions granted under this section.

"(4) The Secretary of the Treasury may charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring a claim for those amounts. Fees charged to the agencies shall be based on actual administrative offsets completed. Amounts received by the United States as fees under this subsection shall be deposited into the account of the Department of the Treasury under section 3711(g)(4) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing payments to a payee in accordance with section 552a of title 5, United States Code, even if the payment has been exempt from administrative offset. If a payment is made electronically, the Secretary may obtain the current address of the payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the payee to the Secretary.

"(6) The Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary of the Treasury considers necessary to carry out this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(7) Any Federal agency that is owed by a person a past due, legally enforceable nontax debt that is over 180 days delinquent, including nontax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such nontax debts for purposes of administrative offset under this subsection.

"(8)(A) The disbursing official conducting an administrative offset with respect to a payment to a payee shall notify the payee in writing of—

"(i) the occurrence of the administrative offset to satisfy a past due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the payee against which the offset was executed;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset.

"(B) If the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the administrative offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such administrative offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for administrative offset pursuant to other laws.

"(d) Nothing in this section is intended to prohibit the use of any other administrative offset authority existing under statute or common law.".

(c) NONTAX DEBT OR CLAIM DEFINED.—Section 3701 of title 31, United States Code, is amended—

(1) in subsection (b) by inserting "and subsection (a)(8) of this section" after "of this chapter"; and

(2) in subsection (a) by adding at the end the following new paragraph:

"(8) 'nontax' means, with respect to any debt or claim, any debt or claim other than a debt or claim under the Internal Revenue Code of 1986.".

SEC. 5213. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 3716 of title 31, United States Code, as amended by section 5212(b) of this subtitle, is further amended by adding at the end the following new subsections:

"(f) The Secretary may waive the requirements of sections 552a(o) and (p) of title 5 for administrative offset or claims collection upon written certification by the head of the executive, judicial, or legislative agency seeking to collect the claim that the requirements of subsection (a) of this section have been met.

"(g) The Data Integrity Board of the Department of the Treasury established under 552a(u) of title 5 shall review and include in reports under paragraph (3)(D) of that section a description of any matching activities conducted under this section. If the Secretary has granted a waiver under subsection (f) of this section, no other Data Integrity Board is required to take any action under section 552a(u) of title 5.".

SEC. 5214. USE OF ADMINISTRATIVE OFFSET AUTHORITY FOR DEBTS TO STATES.

Section 3716 of title 31, United States Code, as amended by sections 5212 and 5213 of this subtitle, is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary may, in the discretion of the Secretary, apply subsection (a) with respect to any past-due, legally-enforceable debt owed to a State if—

"(A) the appropriate State disbursing official requests that an offset be performed; and

"(B) a reciprocal agreement with the State is in effect which contains, at a minimum—

"(i) requirements substantially equivalent to subsection (b) of this section; and

"(ii) any other requirements which the Secretary considers appropriate to facilitate the offset and prevent duplicative efforts.

"(2) This subsection does not apply to—

"(A) the collection of a debt or claim on which the administrative costs associated with the collection of the debt or claim exceed the amount of the debt or claim;

"(B) any collection of any other type, class, or amount of claim, as the Secretary considers necessary to protect the interest of the United States; or

"(C) the disbursement of any class or type of payment exempted by the Secretary of the Treasury at the request of a Federal agency.".

SEC. 5215. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A of this title," after "voucher"; and

(3) in each of sections 3711(e)(2) and 3717(h) by inserting ", the Secretary of the Treasury," after "Attorney General".

(b) INTERNAL REVENUE CODE OF 1986.—Subsection 6103(l)(10)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(10)(A)) is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" after "6402"; and

(2) in subparagraph (B), by inserting "and officers and employees of the Department of the Treasury" after "agency" the first place it appears.

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and which have outstanding delinquent debts shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. The preceding sentence shall not apply to any debt under the Internal Revenue Code of 1986. Matched Federal employee records shall include, but shall not be limited to, records of active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, employees of other government corporations, and seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) Paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, if at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(D) by amending paragraph (5)(B) (as redesignated by subparagraph (B) of this paragraph) to read as follows:

"(B) 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the Senate, the House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.";

(2) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over deductions under this section.".

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO DEBTOR INFORMATION.

Section 4 of the Debt Collection Act of 1982 (Public Law 97-365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting "For purposes of subsection (a)"; and

(2) by adding at the end the following new subsections:

"(c) FEDERAL AGENCIES.—

"(1) IN GENERAL.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(2) DOING BUSINESS.—For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan administered by the agency; or

"(ii) a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by the agency; and

"(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

"(3) DISCLOSURE.—Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'taxpayer identifying number' has the meaning given such term in section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109); and

"(B) the term 'person'—

"(i) subject to clause (ii), means an individual, sole proprietorship, partnership, corporation, or nonprofit organization, or any other form of business association; and

"(ii) does not include debtors under third party claims of the United States, other than debtors owing claims resulting from petroleum pricing violations.

"(d) ACCESS TO DEBTOR INFORMATION.—Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services and Department of Labor records to obtain names (including names of employees), name controls, names of employers, social security account numbers, addresses (including addresses of employers), and dates of birth. The Department of Health and Human Services and the Department of Labor shall release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

"(e) Electronic Payments.—If a payment is made electronically by any executive, judicial, or legislative agency, the Secretary of the Treasury may obtain from the institution receiving the payment the taxpayer identification number of any joint holder of the account to which the payment is made. Upon request of the Secretary, the institution receiving the payment shall report the taxpayer identification number of the joint holder to the Secretary.".

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) In General.—Title 31, United States Code, is amended by inserting after section 3720A the following new section:

"§ 3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

"(a) Unless this subsection is waived by the head of a Federal agency, a person may not obtain any Federal financial assistance in the form of a loan (other than a disaster loan) or loan guarantee administered by the agency if the person has an outstanding debt (other than a debt under the Internal Revenue Code of 1986) with any Federal agency which is in a delinquent status, as determined under standards prescribed by the Secretary of the Treasury. Such a person may obtain additional loans or loan guarantees only after such delinquency is resolved in accordance with those standards. The Secretary of the Treasury may exempt, at the request of an agency, any class of claims.

"(b) The head of a Federal agency may delegate the waiver authority under subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, the term 'person' means—

"(1) an individual; or

"(2) any sole proprietorship, partnership, corporation, nonprofit organization, or other form of business association.".

(b) Clerical Amendment.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

Subpart D—Expansion and Enhancement of Collection Authorities

SEC. 5241. DISCLOSURE TO CONSUMER REPORTING AGENCIES AND COMMERCIAL REPORTING AGENCIES.

Section 3711(f) of title 31, United States Code, is amended—

(1) by striking "may" the first place it appears and inserting "shall";

(2) by striking "an individual" each place it appears and inserting "a covered person";

(3) by striking "the individual" each place it appears and inserting "the covered person"; and

(4) by adding at the end the following new paragraphs:

"(4) The head of each executive agency shall require, as a condition for guaranteeing any loan, financing, or other extension of credit under any law to a covered person, that the lender provide information relating to the extension of credit to consumer reporting agencies or commercial reporting agencies, as appropriate.

"(5) The head of each executive agency may provide to a consumer reporting agency or commercial reporting agency information from a system of records that a covered person is responsible for a claim which is current, if notice required by section 552a(e)(4) of title 5 indicates that information in the system may be disclosed to a consumer reporting agency or commercial reporting agency, respectively.

"(6) In this subsection, the term 'covered person' means an individual, a sole proprietorship, a corporation (including a nonprofit corporation), or any other form of business association.".

SEC. 5242. CONTRACTS FOR COLLECTION SERVICES.

Section 3718 of title 31, United States Code, is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: "Under conditions the head of an executive, judicial, or legislative agency considers appropriate, the head of the agency may enter into a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. The head of an agency may not enter into a contract under the preceding sentence to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(2) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

SEC. 5243. CROSS-SERVICING PARTNERSHIPS AND CENTRALIZATION OF DEBT COLLECTION ACTIVITIES IN THE DEPARTMENT OF THE TREASURY.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g)(1) If a nontax debt or claim owed to the United States has been delinquent for a period of 180 days—

"(A) the head of the executive, judicial, or legislative agency that administers the program that gave rise to the debt or claim shall transfer the debt or claim to the Secretary of the Treasury; and

"(B) upon such transfer the Secretary of the Treasury shall take appropriate action to collect or terminate collection actions on the debt or claim.

"(2) Paragraph (1) shall not apply—

"(A) to any debt or claim that—

"(i) is in litigation or foreclosure;

"(ii) will be disposed of under an asset sales program within 1 year after the date the debt or claim is first delinquent, or a greater period of time if a delay would be in the best interests of the United States, as determined by the Secretary of the Treasury;

"(iii) has been referred to a private collection contractor for collection for a period of time determined by the Secretary of the Treasury;

"(iv) has been referred by, or with the consent of, the Secretary of the Treasury to a debt collection center for a period of time determined by the Secretary of the Treasury; or

"(v) will be collected under internal offset, if such offset is sufficient to collect the claim within 3 years after the date the debt or claim is first delinquent; and

"(B) to any other specific class of debt or claim, as determined by the Secretary of the Treasury at the request of the head of an executive, judicial, or legislative agency or otherwise.

"(3) For purposes of this section, the Secretary of the Treasury may designate, and withdraw such designation of debt collection centers operated by other Federal agencies. The Secretary of the Treasury shall designate such centers on the basis of their performance in collecting delinquent claims owed to the Government.

"(4) At the discretion of the Secretary of the Treasury, referral of a nontax claim may be made to—

"(A) any executive department or agency operating a debt collection center for servicing, collection, compromise, or suspension or termination of collection action;

"(B) a contractor operating under a contract for servicing or collection action; or

"(C) the Department of Justice for litigation.

"(5) nontax claims referred or transferred under this section shall be serviced, collected, or compromised, or collection action thereon suspended or terminated, in accordance with otherwise applicable statutory requirements and authorities. Executive departments and agencies operating debt collection centers may enter into agreements with the Secretary of the Treasury to carry out the purposes of this subsection. The Secretary of the Treasury shall—

"(A) maintain competition in carrying out this subsection;

"(B) maximize collections of delinquent debts by placing delinquent debts quickly;

"(C) maintain a schedule of contractors and debt collection centers eligible for referral of claims; and

"(D) refer delinquent debts to the person most appropriate to collect the type or amount of claim involved.

"(6) Any agency operating a debt collection center to which nontax claims are referred or transferred under this subsection may charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the nontax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund an activity from another account or from revenue received from the procedure described under section 3720C of this title. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(7) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (in this subsection referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of Governmentwide debt collection activities. Costs properly chargeable to the Account include—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, and other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including services and utilities provided by the Secretary, and administration of the Account.

"(8) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year, minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(9) To carry out the purposes of this subsection, the Secretary of the Treasury may prescribe such rules, regulations, and procedures as the Secretary considers necessary.

"(h)(1) The head of an executive, judicial, or legislative agency acting under subsection (a)(1), (2), or (3) of this section to collect a claim, compromise a claim, or terminate collection action on a claim may obtain a consumer report (as that term is defined in section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)) or comparable credit information on any person who is liable for the claim.

"(2) The obtaining of a consumer report under this subsection is deemed to be a circumstance or purpose authorized or listed under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).".

SEC. 5244. COMPROMISE OF CLAIMS.

Section 11 of the Administrative Dispute Resolution Act (Public Law 101-552, 104 Stat. 2736, 5 U.S.C. 571 note) is amended by adding at the end the following sentence: "This section shall not apply to section 8(b) of this Act.".

SEC. 5245. WAGE GARNISHMENT REQUIREMENT.

(a) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720C, as added by section 5261 of this subtitle, the following new section:

"§ 3720D. Garnishment

"(a) Notwithstanding any provision of State law, the head of an executive, judicial, or legislative agency that administers a program that gives rise to a delinquent nontax debt owed to the United States by an individual may in accordance with this section garnish the disposable pay of the individual to collect the amount owed, if the individual is not currently making required repayment in accordance with any agreement between the agency head and the individual.

"(b) In carrying out any garnishment of disposable pay of an individual under subsection (a), the head of an executive, judicial, or legislative agency shall comply with the following requirements:

"(1) The amount deducted under this section for any pay period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual.

"(2) The individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the head of the executive, judicial, or legislative agency, informing the individual of—

"(A) the nature and amount of the debt to be collected;

"(B) the intention of the agency to initiate proceedings to collect the debt through deductions from pay; and

"(C) an explanation of the rights of the individual under this section.

"(3) The individual shall be provided an opportunity to inspect and copy records relating to the debt.

"(4) The individual shall be provided an opportunity to enter into a written agreement with the executive, judicial, or legislative agency, under terms agreeable to the head of the agency, to establish a schedule for repayment of the debt.

"(5) The individual shall be provided an opportunity for a hearing in accordance with subsection (c) on the determination of the head of the executive, judicial, or legislative agency concerning—

"(A) the existence or the amount of the debt, and

"(B) in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), the terms of the repayment schedule.

"(6) If the individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of the individual until the individual has been reemployed continuously for at least 12 months.

"(c)(1) A hearing under subsection (b)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (b)(2), and in accordance with such procedures as the head of the executive, judicial, or legislative agency may prescribe, files a petition requesting such a hearing.

"(2) If the individual does not file a petition requesting a hearing prior to such date, the head of the agency shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order.

"(3) The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(d) The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(e)(1) An employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action.

"(2) The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

"(f)(1) The employer of an individual—

"(A) shall pay to the head of an executive, judicial, or legislative agency as directed in a withholding order issued in an action under this section with respect to the individual, and

"(B) shall be liable for any amount that the employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages.

"(2)(A) The head of an executive, judicial, or legislative agency may sue an employer in a State or Federal court of competent jurisdiction to recover amounts for which the employer is liable under paragraph (1)(B).

"(B) A suit under this paragraph may not be filed before the termination of the collection action, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period.

"(3) Notwithstanding paragraphs (1) and (2), an employer shall not be required to vary its normal pay and disbursement cycles in order to comply with this subsection.

"(g) For the purpose of this section, the term 'disposable pay' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by any other law to be withheld.

"(h) The Secretary of the Treasury shall issue regulations to implement this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720C (as added by section 5261 of this subtitle) the following new item:

"3720D. Garnishment.".

SEC. 5246. DEBT SALES BY AGENCIES.

Section 3711 of title 31, United States Code, is further amended by adding at the end the following new subsection:

"(h)(1) The head of an executive, judicial, or legislative agency may sell, subject to section 504(b) of the Federal Credit Reform Act of 1990 and using competitive procedures, any nontax debt owed to the United States that is delinquent for more than 90 days. Appropriate fees charged by a contractor to assist in the conduct of a sale under this subsection may be payable from the proceeds of the sale.

"(2) After terminating collection action, the head of an executive, judicial, or legislative agency shall sell, using competitive procedures, any nontax debt or class of nontax debts owed to the United States, if the Secretary of the Treasury determines the sale is in the best interest of the United States.

"(3) Sales of nontax debt under this subsection—

"(A) shall be for—

"(i) cash, or

"(ii) cash and a residuary equity or profit participation, if the head of the agency reasonably determines that the proceeds will be greater than sale solely for cash,

"(B) shall be without recourse, but may include the use of guarantees if otherwise authorized, and

"(C) shall transfer to the purchaser all rights of the Government to demand payment of the nontax debt, other than with respect to a residuary equity or profit participation under subparagraph (A)(ii).

"(4)(A) Within one year after the date of enactment of the Debt Collection Improvement Act of 1995, and every year thereafter, each executive agency with current and delinquent collateralized nontax debts shall report to the Congress on the valuation of its existing portfolio of loans, notes and guarantees, and other collateralized debts based on standards developed by the Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury.

"(B) The Director of the Office of Management and Budget shall determine what information is required to be reported to comply with subparagraph (A). At a minimum, for each financing account and for each liquidating account (as those terms are defined in sections 502(7) and 502(8), respectively, of the Federal Credit Reform Act of 1990) the following information shall be reported:

"(i) The cumulative balance of current debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(ii) The cumulative balance of delinquent debts, debts outstanding, the estimated net present value of such debts, the annual administrative expenses of those debts (including the portion of salaries and expenses that are directly related thereto), and the estimated net proceeds that would be received by the Government if such debts were sold.

"(iii) The cumulative balance of guaranteed loans outstanding, the estimated net present value of such guarantees, the annual administrative expenses of such guarantees (including the portion of salaries and expenses that are directly related to such guaranteed loans), and the estimated net proceeds that would be received by the Government if such loan guarantees were sold.

"(iv) The cumulative balance of defaulted loans that were previously guaranteed and have resulted in loans receivables, the estimated net present value of such loan assets, the annual administrative expenses of such loan assets (including the portion of salaries and expenses that are directly related to such loan assets), and the estimated net proceeds that would be received by the Government if such loan assets were sold.

"(v) The marketability of all debts.

"(5) This subsection is not intended to limit existing statutory authority of agencies to sell loans, debts, or other assets.".

SEC. 5247. ADJUSTMENTS OF ADMINISTRATIVE DEBT.

Section 3717 of title 31, United States Code, is amended by adding at the end of subsection (h) the following new subsection:

"(i)(1) The head of an executive, judicial, or legislative agency may increase an administrative claim by the cost of living adjustment in lieu of charging interest and penalties under this section. Adjustments under this subsection will be computed annually.

"(2) For the purpose of this subsection—

"(A) the term 'cost of living adjustment' means the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted; and

"(B) the term 'administrative claim' includes all debt that is not based on an extension of Government credit through direct loans, loan guarantees, or insurance, including fines, penalties, and overpayments.".

SEC. 5248. DISSEMINATION OF INFORMATION REGARDING IDENTITY OF DELINQUENT DEBTORS.

(a) IN GENERAL.—Chapter 37 of title 31, United States Code, is amended in subchapter II by adding after section 3720D, as added by section 5245 of this subtitle, the following new section:

"§ 3720E. Dissemination of information regarding identity of delinquent debtors

"(a) The head of any agency may, with the review of the Secretary of the Treasury, for the purpose of collecting any delinquent nontax debt owed by any person, publish or otherwise publicly disseminate information regarding the identity of the person and the existence of the nontax debt.

"(b)(1) The Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget and the heads of other appropriate Federal agencies, shall issue regulations establishing procedures and requirements the Secretary considers appropriate to carry out this section.

"(2) Regulations under this subsection shall include—

"(A) standards for disseminating information that maximize collections of delinquent nontax debts, by directing actions under this section toward delinquent debtors that have assets or income sufficient to pay their delinquent nontax debt;

"(B) procedures and requirements that prevent dissemination of information under this section regarding persons who have not had an opportunity to verify, contest, and compromise their nontax debt in accordance with this subchapter; and

"(C) procedures to ensure that persons are not incorrectly identified pursuant to this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by adding after the item relating to section 3720D (as added by section 5245 of this subtitle) the following new item:

"3720E. Dissemination of information regarding identity of delinquent debtors.".

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) IN GENERAL.—The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1995, and at least once every 4 years thereafter—

"(1) by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986, the Tariff Act of 1930, or the Social Security Act, by the inflation adjustment described under section 5 of this Act; and

"(2) publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment under section 4"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase under this Act in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect.".

(b) LIMITATION ON INITIAL ADJUSTMENT.—The first adjustment of a civil monetary penalty made pursuant to the amendment made by to subsection (a) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) IN GENERAL.—Title 31, United States Code, is amended by inserting after section 3720B (as added by section 5232 of this subtitle) the following new section:

"§ 3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter in this section referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that agency programs are credited with amounts transferred under subsection (b)(1).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency may transfer to the Account the amount described in paragraph (3), as adjusted under paragraph (4).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative, and tax refund offsets;

"(B) automated levy authority;

"(C) the Department of Justice;

"(D) private collection agencies;

"(E) sales of delinquent loans; and

"(F) contracts to locate or recover assets.

"(3) The amount referred to in paragraph (1) shall be 5 percent of the amount of delinquent debt collected by an agency in a fiscal year, minus the greater of—

"(A) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous fiscal year, or

"(B) 5 percent of the amount of delinquent nontax debt collected by the agency in the previous 4 fiscal years.

"(4) In consultation with the Secretary of the Treasury, the Office of Management and Budget may adjust the amount described in paragraph (3) for an agency to reflect the level of effort in credit management programs by the agency. As an indicator of the level of effort in credit management, the Office of Management and Budget shall consider the following:

"(A) The number of days between the date a claim or debt became delinquent and the date which an agency referred the debt or claim to the Secretary of the Treasury or obtained an exemption from this referral under section 3711(g)(2) of this title.

"(B) The ratio of delinquent debts or claims to total receivables for a given program, and the change in this ratio over a period of time.

"(c)(1) The Secretary of the Treasury may make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, such payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this section, the term 'qualified expenses' means expenditures for the improvement of credit management, debt collection, and debt recovery activities, including—

"(A) account servicing (including cross-servicing under section 3711(g) of this title),

"(B) automatic data processing equipment acquisitions,

"(C) delinquent debt collection,

"(D) measures to minimize delinquent debt,

"(E) sales of delinquent debt,

"(F) asset disposition, and

"(G) training of personnel involved in credit and debt management.

"(3)(A) Amounts in the Account shall be available to the Secretary of the Treasury for purposes of this section to the extent and in amounts provided in advance in appropriation Acts.

"(B) As soon as practicable after the end of the third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the Account shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(d) For direct loans and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary considers necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B (as added by section 5232 of this subtitle) the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) DISCRETIONARY AUTHORITY.—Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), may implement this section at its discretion.".

(b) FEDERAL AGENCY DEFINED.—Section 6402(f) of the Internal Revenue Code of 1986 (26 U.S.C. 6402(f)), is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a Government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5272. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) NOTIFICATION OF SECRETARY OF THE TREASURY.—Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a person a past-due, legally enforceable debt (including debt administered by a third party acting as an agent for the Federal Government) shall, and any agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h), owed such a debt may, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once each year of the amount of such debt.".

(b) IMPLEMENTATION OF SUPPORT COLLECTION BY SECRETARY OF THE TREASURY.—Section 464(a) of the Act of August 14, 1935 (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end the following: "This subsection may be executed by the disbursing official of the Department of the Treasury."; and

(2) in paragraph (2)(A), by adding at the end the following: "This subsection may be executed by the disbursing official of the Department of the Treasury.".

Subpart H—Disbursements

SEC. 5281. ELECTRONIC FUNDS TRANSFER.

Section 3332 of title 31, United States Code, popularly known as the Federal Financial Management Act of 1994, is amended—

(1) by redesignating subsection (e) as subsection (h), and inserting after subsection (d) the following new subsections:

"(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120(a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payments after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1995 shall be made by electronic funds transfer.

"(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

"(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120(a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

"(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

"(i) for individuals or classes of individuals for whom compliance imposes a hardship;

"(ii) for classifications or types of checks; or

"(iii) in other circumstances as may be necessary.

"(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

"(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

"(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

"(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1)."; and

(2) by adding after subsection (h) (as so redesignated) the following new subsections:

"(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

"(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

"(A) will have access to such an account at a reasonable cost; and

"(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

"(j) For purposes of this section—

"(1) The term 'electronic funds transfer' means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

"(2) The term 'Federal agency' means—

"(A) an agency (as defined in section 101 of this title); and

"(B) a Government corporation (as defined in section 103 of title 5).

"(3) The term 'Federal payments' includes—

"(A) Federal wage, salary, and retirement payments;

"(B) vendor and expense reimbursement payments; and

"(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986."

SEC. 5282. REQUIREMENT TO INCLUDE TAXPAYER IDENTIFYING NUMBER WITH PAYMENT VOUCHER.

Section 3325 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) The head of an executive agency or an officer or employee of an executive agency referred to in subsection (a)(1)(B), as applicable, shall include with each certified voucher submitted to a disbursing official pursuant to this section the taxpayer identifying number of each person to whom payment may be made under the voucher.".

Subpart I—Miscellaneous

SEC. 5291. MISCELLANEOUS AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) In subchapter II of this chapter, the term 'claim' or 'debt' means any amount of funds or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation—

"(A) funds owed on account of loans made, insured, or guaranteed by the Government, including any deficiency or any difference between the price obtained by the Government in the sale of a property and the amount owed to the Government on a mortgage on the property,

"(B) expenditures of nonappropriated funds,

"(C) over-payments, including payments disallowed by audits performed by the Inspector General of the agency administering the program,

"(D) any amount the United States is authorized by statute to collect for the benefit of any person,

"(E) the unpaid share of any non-Federal partner in a program involving a Federal payment and a matching, or cost-sharing, payment by the non-Federal partner,

"(F) any fines or penalties assessed by an agency; and

"(G) other amounts of money or property owed to the Government.

"(2) For purposes of sections 3716 of this title, each of the terms 'claim' and 'debt' includes an amount of funds or property owed by a person to a State (including any past-due support being enforced by the State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico."; and

(3) by adding after subsection (f) (as added by section 5241 of this subtitle) the following new subsection:

"(g) In section 3716 of this title—

"(1) 'creditor agency' means any agency owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any agency that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5292. MONITORING AND REPORTING.

(a) GUIDELINES.—The Secretary of the Treasury, in consultation with concerned Federal agencies, may establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) REPORT.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of the Treasury shall report to the Congress on collection services provided by

Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code, as added by section 5243 of this subtitle.

(c) AGENCY REPORTS.—Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General of the United States, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding nontax claims to prepare and submit to the Secretary at least once each year a report summarizing the status of loans and accounts receivable that are managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) CONSOLIDATION OF REPORTS.—Notwithstanding any other provision of law, the Secretary of the Treasury may consolidate reports concerning debt collection otherwise required to be submitted by the Secretary into one annual report.

SEC. 5293. REVIEW OF STANDARDS AND POLICIES FOR COMPROMISE OR WRITE-DOWN OF DELINQUENT DEBTS.

The Director of the Office of Management and Budget shall—

(1) review the standards and policies of each Federal agency for compromising, writing-down, forgiving, or discharging indebtedness arising from programs of the agency;

(2) determine whether those standards and policies are consistent and protect the interests of the United States;

(3) in the case of any Federal agency standard or policy that the Secretary determines is not consistent or does not protect the interests of the United States, direct the head of the agency to make appropriate modifications to the standard or policy; and

(4) report annually to the Congress on—

(A) deficiencies in the standards and policies of Federal agencies for compromising, writing-down, forgiving, or discharging indebtedness; and

(B) progress made in improving those standards and policies.

PART II—JUSTICE DEBT MANAGEMENT

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) ELIMINATION OF LIMITATION ON FEES.—Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) REPEAL.—Sections 3 and 5 of the Act of October 28, 1986 (popularly known as the Federal Debt Recovery Act; Public Law 99-578, 100 Stat. 3305) are hereby repealed.

SEC. 5302. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28, United States Code, is amended—

(1) in the table of subchapters at the beginning of the chapter by adding at the end the following new item:

"E. Nonjudicial foreclosure 3401"; and

(2) by adding at the end of the chapter the following new subchapter:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.
"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"§ 3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an Executive department, as set forth in section 101 of title 5, United States Code;

"(B) an independent establishment, as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department, as set forth in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation, as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty, or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages, and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

"(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

"(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"§ 3402. Rules of construction

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 335 of the Consolidated Farm and Rural Development Act, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981.

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure, including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"§ 3403. Election of procedure

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"§ 3404. Designation of foreclosure trustee

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency;

"(B) an individual who is a resident of the State in which the security property is located; or

"(C) a partnership, association, or corporation, if such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceedings with multiple foreclosures or a class of foreclosures.

"(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) Removal of Foreclosure Trustees; Successor Foreclosure Trustees.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"§ 3405. Notice of foreclosure sale; statute of limitations

"(a) In General.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclose shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) Notice of Foreclosure Sale.—The notice of foreclosure sale shall include—

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"§ 3406. Service of notice of foreclosure sale

"(a) Record Notice.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) Notice by Mail.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property.

If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) Notice by Publication.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

"§ 3407. Cancellation of foreclosure sale

"(a) In General.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender; or

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) Limitation.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) Notice of Cancellation.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§ 3408. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"§ 3409. Conduct of sale; postponement

"(a) Sale Procedures.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) Bidding Requirements.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) Postponement of Sale.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406(b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

"(d) Liability of Successful Bidder Who Fails To Comply.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"§3410. Transfer of title and possession

"(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

"(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"§3411. Record of foreclosure and sale

"(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

"(6) the sale amount.

"(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"§3412. Effect of sale

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"§3413. Disposition of sale proceeds

"(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order:

"(1)(A) First, to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250.

"(B) The amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale.

"(2) Thereafter, to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers.

"(3) Thereafter, to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents.

"(4) Thereafter, to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale.

"(5) Thereafter, to pay any liens senior to the mortgage, if required by the notice of foreclosure sale.

"(6) Thereafter, to pay service charges and advancements for taxes, assessments, and property insurance premiums.

"(7) Thereafter, to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) SURPLUS MONIES.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"§3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

TITLE VI—COMMITTEE ON INTERNATIONAL RELATIONS

Subtitle A—Recovery Of Costs Of Certain Health Care Services

SEC. 6001. RECOVERY OF COSTS OF HEALTH CARE SERVICES FOR PERSONNEL OF THE FOREIGN SERVICE OF THE UNITED STATES AND OTHER ELIGIBLE INDIVIDUALS.

(a) AUTHORITIES.—Section 904 of the Foreign Service Act of 1980 (22 U.S.C. 4084) is amended—

(1) in subsection (a) by—

(A) striking "and" before "members of the families of such members and employees"; and

(B) by inserting immediately before the period ", and for care provided abroad) such other persons as are designated by the Secretary of State, except that such persons shall be considered persons other than covered beneficiaries for purposes of subsections (g) and (h)";

(2) in subsection (d) by inserting ", subject to the provisions of subsections (g) and (h)" after "treatment"; and

(3) by adding the following new subsections:

"(g)(1) In the case of a person who is a covered beneficiary, the Secretary of State is authorized to collect from a third-party payer the reasonable costs incurred by the Department of State on behalf of such person for health care services to the same extent that the covered beneficiary would be eligible to receive reimbursement or indemnification from the third-party payer for such costs.

"(2) If the insurance policy, plan, contract, or similar agreement of that third-party payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the Secretary of State may collect from the third-party payer only the reasonable costs of the care provided less the deductible or copayment amount.

"(3) A covered beneficiary shall not be required to pay any deductible or copayment for health care services under this subsection.

"(4) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for care in the following circumstances shall operate to prevent collection by the Secretary of State under paragraph (1)—

"(A) care provided directly or indirectly by a governmental entity;

"(B) care provided to an individual who has not paid a required deductible or copayment; or

"(C) care provided by a provider with which the third-party payer has no participation agreement.

"(5) No law of any State, or of any political subdivision of a State, and no provision of any contract or agreement shall operate to prevent or hinder recovery or collection by the United States under this section.

"(6) As to the authority provided in paragraph (1) of this subsection—

"(A) the United States shall be subrogated to any right or claim that the covered beneficiary may have against a third-party payer;

"(B) the United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this subsection; and

"(C) the Secretary may compromise, settle, or waive a claim of the United States under this subsection.

"(7) The Secretary shall prescribe regulations for the administration of this subsection and subsection (h). Such regulations shall provide for computation of the reasonable cost of health care services.

"(8) Regulations prescribed under this subsection shall provide that medical records of a covered beneficiary receiving health care under this subsection shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought for the sole purpose of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the covered beneficiary; and

"(B) that the provisions of such care or services to the covered beneficiary meets criteria generally applicable under the health plan contract involved, except that this paragraph shall be subject to the provisions of paragraphs (2) and (4).

"(9) Amounts collected under this subsection or under subsection (h) from a third party payer or from any other payer shall be deposited in the Treasury as a miscellaneous offsetting receipt.

"(10) For purposes of this section—

"(A) the term 'covered beneficiary' means an individual eligible to receive health care under this section whose health care costs are to be paid by a third-party payer under a contractual agreement with such payer;

"(B) the term 'services', as used in 'health care services' includes products; and

"(C) the term 'third-party payer' means an entity that provides a fee-for-service insurance policy, contract, or similar agreement through the Federal Employees Health Benefit program, under which the expenses of health care services for individuals are paid.

"(h) In the case of a person, other than a covered beneficiary, who receives health care services pursuant to this section, the Secretary of State is authorized to collect from such person the reasonable costs of health care services incurred by the Department of State on behalf of such person. The United States shall have the same rights against persons subject to the provisions of this subsection as against third-party payers covered by subsection (g).".

(b) EFFECTIVE DATE.—The authorities of this section shall be effective beginning on the date of the enactment of this Act.

Subtitle B—Enactment Into Law of Division A of H.R. 1561

SEC. 6101. ENACTMENT INTO LAW OF DIVISION A OF H.R. 1561.

Division A of H.R. 1561, as passed the House of Representatives on June 8, 1995 (relating to consolidation of foreign affairs agencies), is hereby enacted into law.

Subtitle C—Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995

SEC. 6201. SHORT TITLE.

This subtitle may be cited as the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995".

SEC. 6202. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of at least 60 percent in the last 5 years as a result of—

(A) the end of its subsidization by the former Soviet Union of between 5 billion and 6 billion dollars annually;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the extreme decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the stated policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba on strictly commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of this economic decline and the refusal of the Castro regime to permit free and fair democratic elections in Cuba.

(3) The Castro regime has made it abundantly clear that it will not engage in any substantive political reforms that would lead to democracy, a market economy, or an economic recovery.

(4) The repression of the Cuban people, including a ban on free and fair democratic elections, and continuing violations of fundamental human rights have isolated the Cuban regime as the only completely nondemocratic government in the Western Hemisphere.

(5) As long as free elections are not held in Cuba, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(6) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(7) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the people of Cuba living under tyranny.

(8) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in sanctioning the totalitarian Castro regime.

(9) The United States has shown a deep commitment, and considers it a moral obligation, to promote and protect human rights and fundamental freedoms as expressed in the Charter of the United Nations and in the Universal Declaration of Human Rights.

(10) The Congress has historically and consistently manifested its solidarity and the solidarity of the American people with the democratic aspirations of the Cuban people.

(11) The Cuban Democracy Act of 1992 calls upon the President to encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of that Act.

(12) The 1992 FREEDOM Support Act requires that the President, in providing economic assistance to Russia and the emerging Eurasian democracies, take into account the extent to which they are acting to "terminate support for the communist regime in Cuba, including removal of troops, closing military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance".

(13) The Cuban Government engages in the illegal international narcotics trade and harbors fugitives from justice in the United States.

(14) The Castro government threatens international peace and security by engaging in acts of armed subversion and terrorism such as the training and supplying of groups dedicated to international violence.

(15) The Castro government has utilized from its inception and continues to utilize torture in various forms (including by psychiatry), as well as execution, exile, confiscation, political imprisonment, and other forms of terror and repression, as means of retaining power.

(16) Fidel Castro has defined democratic pluralism as "pluralistic garbage" and continues to make clear that he has no intention of tolerating the democratization of Cuban society.

(17) The Castro government holds innocent Cubans hostage in Cuba by no fault of the hostages themselves solely because relatives have escaped the country.

(18) Although a signatory state to the 1928 Inter-American Convention on Asylum and the International Covenant on Civil and Political Rights (which protects the right to leave one's own country), Cuba nevertheless surrounds embassies in its capital by armed forces to thwart the right of its citizens to seek asylum and systematically denies that right to the Cuban people, punishing them by imprisonment for seeking to leave the country and killing them for attempting to do so (as demonstrated in the case of the confirmed murder of over 40 men, women, and children who were seeking to leave Cuba on July 13, 1994).

(19) The Castro government continues to utilize blackmail, such as the immigration crisis with which it threatened the United States in the summer of 1994, and other unacceptable and illegal forms of conduct to influence the actions of sovereign states in the Western Hemisphere in violation of the Charter of the Organization of American States and other international agreements and international law.

(20) The United Nations Commission on Human Rights has repeatedly reported on the unacceptable human rights situation in Cuba and has taken the extraordinary step of appointing a Special Rapporteur.

(21) The Cuban Government has consistently refused access to the Special Rapporteur and formally expressed its decision not to "implement so much as one comma" of the United Nations Resolutions appointing the Rapporteur.

(22) The United Nations General Assembly passed Resolution 1992/70 on December 4, 1992, Resolution 1993/48/142 on December 20, 1993, and Resolution 1994/49/544 on October 19, 1994, referencing the Special Rapporteur's reports to the United Nations and condemning "violations of human rights and fundamental freedoms" in Cuba.

(23) Article 39 of Chapter VII of the United Nations Charter provides that the United Nations Security Council "shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken . . . , to maintain or restore international peace and security.".

(24) The United Nations has determined that massive and systematic violations of human rights may constitute a "threat to peace" under Article 39 and has imposed sanctions due to such violations of human rights in the cases of Rhodesia, South Africa, Iraq, and the former Yugoslavia.

(25) In the case of Haiti, a neighbor of Cuba not as close to the United States as Cuba, the United States led an effort to obtain and did obtain a United Nations Security Council embargo and blockade against that country due to the existence of a military dictatorship in power less than 3 years.

(26) United Nations Security Council Resolution 940 of July 31, 1994, subsequently authorized the use of "all necessary means" to restore the "democratically elected government of Haiti", and the democratically elected government of Haiti was restored to power on October 15, 1994.

(27) The Cuban people deserve to be assisted in a decisive manner to end the tyranny that has oppressed them for 36 years and the continued failure to do so constitutes ethically improper conduct by the international community.

(28) For the past 36 years, the Cuban Government has posed and continues to pose a national security threat to the United States.

SEC. 6203. PURPOSES.

The purposes of this subtitle are as follows:

(1) To assist the Cuban people in regaining their freedom and prosperity, as well as in joining the community of democracies that are flourishing in the Western Hemisphere.

(2) To seek international sanctions against the Castro government in Cuba.

(3) To encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers.

(4) To develop a plan for furnishing assistance to a transition government and, subsequently, to a democratically elected government when such governments meet the eligibility requirements of this subtitle.

(5) To protect property rights abroad of United States nationals.

(6) To provide for the continued national security of the United States in the face of continuing threats from the Castro government of terrorism, theft of property from United States nationals, and domestic repression from which refugees flee to United States shores.

SEC. 6204. DEFINITIONS.

As used in this subtitle, the following terms have the following meanings:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations, the Committee on Ways and Means, and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations, the Committee on Finance, and the Committee on Appropriations of the Senate.

(2) COMMERCIAL ACTIVITY.—The term "commercial activity" has the meaning given that term in section 1603(d) of title 28, United States Code.

(3) CONFISCATED.—As used in parts 1 and 3, the term "confiscated" refers to—

(A) the nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure by the Cuban Government to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(iii) a debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

(4) CUBAN GOVERNMENT.—(A) The term "Cuban Government" includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

(B) For purposes of subparagraph (A), the term "agency or instrumentality of the Government of Cuba" means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with "Cuba" substituted for "a foreign state" each place it appears in such section.

(5) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term "democratically elected government in Cuba" means a government determined by the President to have met the requirements of section 206.

(6) ECONOMIC EMBARGO OF CUBA.—The term "economic embargo of Cuba" refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (50 U.S.C. 1701 and following), and the Export Administration Act of 1979 (50 U.S.C. App. 2401 and following), as modified by the Cuban Democracy Act of 1992 (22 U.S.C. 6001 and following).

(7) FOREIGN NATIONAL.—The term "foreign national" means—

(A) an alien; or

(B) any corporation, trust, partnership, or other juridical entity not organized under the laws of the United States, or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

(8) KNOWINGLY.—The term "knowingly" means with knowledge or having reason to know.

(9) PROPERTY.—(A) The term "property" means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

(B) For purposes of part 3 of this subtitle, the term "property" shall not include real property used for residential purposes unless, as of the date of the enactment of this Act—

(i) the claim to the property is owned by a United States national and the claim has been certified under title V of the International Claims Settlement Act of 1949; or

(ii) the property is occupied by a member or official of the Cuban Government or the ruling political party in Cuba.

(10) TRAFFICS.—(A) As used in part 3, a person or entity "traffics" in property if that person or entity knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (i) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (i) and (ii)) through another person,

without the authorization of the United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba that are authorized by section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)); or

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national.

(11) TRANSITION GOVERNMENT IN CUBA.—The term "transition government in Cuba" means a government determined by the President to have met the requirements of section 6235.

(12) UNITED STATES NATIONAL.—The term "United States national" means—

(A) any United States citizen; or

(B) any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States, and which has its principal place of business in the United States.

PART 1—SEEKING SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 6211. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek, within the Security Council, a mandatory international embargo against the totalitarian Cuban Government pursuant to chapter VII of the Charter of the United Nations, which is similar to measures taken by United States representatives with respect to Haiti; and

(3) any resumption or commencement of efforts by any state to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to and relations with that state.

SEC. 6212. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992 that states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b) of that Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State shall ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials, are communicating the reasons for the United States economic embargo of Cuba, and are urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President should instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) TRADING WITH THE ENEMY ACT.—

(1) CIVIL PENALTIES.—Subsection (b) of section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16(b)) is amended to read as follows:

"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(2) FORFEITURE OF PROPERTY USED IN VIOLATION.—Section 16 of the Trading With the Enemy Act is further amended by striking subsection (c).

(3) CLERICAL AMENDMENT.—Section 16 of the Trading With the Enemy Act is further amended by inserting "SEC. 16." before "(a)".

(e) COVERAGE OF DEBT-FOR-EQUITY SWAPS BY ECONOMIC EMBARGO OF CUBA.—Section 1704(b)(2) of the Cuban Democracy Act of 1992 (22 U.S.C. 6003(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) includes an exchange, reduction, or forgiveness of Cuban debt owed to a foreign country in return for a grant of an equity interest in a property, investment, or operation of the Government of Cuba (including the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba) or of a Cuban national; and"; and

(4) by adding at the end the following flush sentence:

"As used in this paragraph, the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with 'Cuba' substituted for 'a foreign state' each place it appears in such section.".

SEC. 6213. PROHIBITION AGAINST INDIRECT FINANCING OF THE CASTRO DICTATORSHIP.

(a) PROHIBITION.—Notwithstanding any other provision of law, no loan, credit, or other financing may be extended knowingly by a United States national, permanent resident alien, or United States agency, to a foreign national, United States national, or permanent resident alien, in order to finance transactions involving any confiscated property the claim to which is owned by a United States national as of the date of the enactment of this Act.

(b) TERMINATION OF PROHIBITION.—The prohibition of subsection (a) shall cease to apply on the date on which the economic embargo of Cuba terminates under section 6235.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to violations of the Cuban Assets Control Regulations set forth in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term "permanent resident alien" means an alien admitted for permanent residence into the United States; and

(2) the term "United States agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

SEC. 6214. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) Until such time as the President determines that a transition government in Cuba is in power, the Secretary of the Treasury should instruct the United States executive director to each international financial institution to use the voice and vote of the United States to oppose the admission of Cuba as a member of such institution.

(2) Once a transition government in Cuba is in power, the President is encouraged to take steps to support the processing of Cuba's application for membership in any financial institution subject to the membership taking effect at such time as the President deems most likely to facilitate the transition to a democratically elected government in Cuba.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to the Cuban Government over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to that institution an amount equal to the amount of the loan or other assistance to the Cuban Government, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term "international financial institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 6215. UNITED STATES OPPOSITION TO ENDING THE SUSPENSION OF THE GOVERNMENT OF CUBA FROM THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to use the voice and vote of the United States to oppose ending the suspension of the Government of Cuba from the Organization until the President determines under section 6233(c)(3) that a democratically elected government in Cuba is in power.

SEC. 6216. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION FOR THE CUBAN GOVERNMENT.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(11)) is amended by striking "of military facilities" and inserting "military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos".

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking "or" at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within that 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Cuban Government; or".

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

"(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

"(A) exports to the Cuban Government on terms that involve a grant, concessional price, guaranty, insurance, or subsidy;

"(B) imports from the Cuban Government at preferential tariff rates;

"(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Cuban Government is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs; and

"(D) the exchange, reduction, or forgiveness of Cuban debt in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

"(4) CUBAN GOVERNMENT.—(A) The term 'Cuban Government' includes the government of any political subdivision of Cuba, and any agency or instrumentality of the Government of Cuba.

"(B) For purposes of subparagraph (A), the term 'agency or instrumentality of the Government of Cuba' means an agency or instrumentality of a foreign state as defined in section 1603(b) of title 28, United States Code, with 'Cuba' substituted for 'a foreign state' each place it appears in such section.".

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to approximately $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

"(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance provided, on or after the date of the enactment of this subsection, for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided on or after such date by such state in support of intelligence facilities in Cuba, including the intelligence facility at Lourdes, Cuba.

"(2)(A) The President may waive the requirement of paragraph (1) to withhold assistance if the President certifies to the appropriate congressional committees that the provision of such assistance is important to the national security of the United States, and, in the case of such a certification made with respect to Russia, if the President certifies that the Russian Government has assured the United States Government that the Russian Government is not sharing intelligence data collected at the Lourdes facility with officials or agents of the Cuban Government.

"(B) At the time of a certification made with respect to Russia pursuant to subparagraph (A), the President shall also submit to the appropriate congressional committees a report describing the intelligence activities of Russia in Cuba, including the purposes for which the Lourdes facility is used by the Russian Government and the extent to which the Russian Government provides payment or government credits to the Cuban Government for the continued use of the Lourdes facility.

"(C) The report required by subparagraph (B) may be submitted in classified form.

"(D) For purposes of this paragraph, the term 'appropriate congressional committees' includes the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(3) The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

"(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

"(B) democratic political reform and rule of law activities;

"(C) technical assistance for safety upgrades of civilian nuclear power plants;

"(D) the creation of private sector and nongovernmental organizations that are independent of government control;

"(E) the development of a free market economic system; and

"(F) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160).".

SEC. 6217. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of the enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director of the United States Information Agency shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

(c) TERMINATION OF BROADCASTING AUTHORITIES.—Upon transmittal of a determination under section 6233(c)(3), the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa and following) and the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 and following) are repealed.

SEC. 6218. REPORTS ON ASSISTANCE AND COMMERCE RECEIVED BY CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every year thereafter, the President shall submit a report to the appropriate congressional committees on assistance and commerce received by Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain the following, to the extent such information is known:

(1) A description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance.

(2) A description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade.

(3) A description of the joint ventures completed, or under consideration, by foreign nationals involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved.

(4) A determination whether or not any of the facilities described in paragraph (3) is the subject of a claim by a United States national.

(5) A determination of the amount of Cuban debt owed to each foreign country, including—

(A) the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals; and

(B) the amount of debt owed to the foreign country that has been exchanged, reduced, or forgiven in return for a grant by the Cuban Government of an equity interest in a property, investment, or operation of the Cuban Government or of a Cuban national.

(6) A description of the steps taken to ensure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals do not enter the United States market, either directly or through third countries or parties.

(7) An identification of countries that purchase, or have purchased, arms or military supplies from the Cuban Government or that otherwise have entered into agreements with the Cuban Government that have a military application, including—

(A) a description of the military supplies, equipment, or other materiel sold, bartered, or exchanged between the Cuban Government and such countries;

(B) a listing of the goods, services, credits, or other consideration received by the Cuban Government in exchange for military supplies, equipment, or materiel; and

(C) the terms or conditions of any such agreement.

SEC. 6219. AUTHORIZATION OF SUPPORT FOR DEMOCRATIC AND HUMAN RIGHTS GROUPS AND INTERNATIONAL OBSERVERS.

(a) AUTHORIZATION.—Notwithstanding any other provision of law, except for section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) and comparable notification requirements contained in any Act making appropriations for foreign operations, export financing, and related programs, the President is authorized to furnish assistance and provide other support for individuals and independent nongovernmental organizations to support democracy-building efforts for Cuba, including the following:

(1) Published and informational matter, such as books, videos, and cassettes, on transitions to democracy, human rights, and market economies, to be made available to independent democratic groups in Cuba.

(2) Humanitarian assistance to victims of political repression, and their families.

(3) Support for democratic and human rights groups in Cuba.

(4) Support for visits and permanent deployment of independent international human rights monitors in Cuba.

(b) OAS EMERGENCY FUND.—(1) The President shall take the necessary steps to encourage the Organization of American States to create a special emergency fund for the explicit purpose of deploying human rights observers, election support, and election observation in Cuba.

(2) The President should instruct the United States Permanent Representative to the Organization of American States to encourage other member states of the Organization to join in calling for the Cuban Government to allow the immediate deployment of independent human rights monitors of the Organization throughout Cuba and on-site visits to Cuba by the Inter-American Commission on Human Rights.

(3) Notwithstanding section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) or any other provision of law limiting the United States proportionate share of assistance to Cuba by any international organization, the President should provide not less than $5,000,000 of the voluntary contributions of the United States to the Organization of American States as of the date of the enactment of this Act solely for the purposes of the special fund referred to in paragraph (1).

SEC. 6220. WITHHOLDING OF FOREIGN ASSISTANCE FROM COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA.

(a) FINDINGS.—The Congress makes the following findings:

(1) President Clinton stated in April 1993 that "the United States opposes the construction of the Juragua nuclear power plant because of our concerns about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the Nuclear Non-Proliferation Treaty or ratify the Treaty of Tlatelolco.".

(2) Cuba has not signed the Treaty on the Non-Proliferation of Nuclear Weapons or ratified the Treaty of Tlatelolco, the latter of which establishes Latin America and the Caribbean as a nuclear weapons-free zone.

(3) The State Department, the Nuclear Regulatory Commission, and the Department of Energy have expressed concerns about the construction and operation of Cuba's nuclear reactors.

(4) In a September 1992 report to Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the nuclear plant project in Juragua, near Cienfuegos, Cuba, including—

(A) a lack in Cuba of a nuclear regulatory structure;

(B) the absence in Cuba of an adequate infrastructure to ensure the plant's safe operation and requisite maintenance;

(C) the inadequacy of training of plant operators;

(D) reports by a former technician from Cuba who, by examining with x-rays weld sites believed to be part of the auxiliary plumbing system for the plant, found that 10 to 15 percent of those sites were defective;

(E) since September 5, 1992, when construction on the plant was halted, the prolonged exposure to the elements, including corrosive salt water vapor, of the primary reactor components; and

(F) the possible inadequacy of the upper portion of the reactors' dome retention capability to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch and United States reactors are designed to accommodate pressures of 50 pounds per square inch.

(5) The United States Geological Survey claims that it had difficulty determining answers to specific questions regarding earthquake activity in the area near Cienfuegos because the Cuban Government was not forthcoming with information.

(6) The Geological Survey has indicated that the Caribbean plate, a geological formation near the south coast of Cuba, may pose seismic risks to Cuba and the site of the power plant, and may produce large to moderate earthquakes.

(7) On May 25, 1992, the Caribbean plate produced an earthquake numbering 7.0 on the Richter scale.

(8) According to a study by the National Oceanic and Atmospheric Administration, summer winds could carry radioactive pollutants from a nuclear accident at the power plant throughout all of Florida and parts of the States on the gulf coast as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, D.C.

(9) The Cuban Government, under dictator Fidel Castro, in 1962 advocated the Soviets' launching of nuclear missiles to the United States, which represented a direct and dangerous provocation of the United States and brought the world to the brink of a nuclear conflict.

(10) Fidel Castro over the years has consistently issued threats against the United States Government, most recently that he would unleash another perilous mass migration from Cuba upon the enactment of this Act.

(11) Despite the various concerns about the plant's safety and operational problems, a feasibility study is being conducted that would establish a support group to include Russia, Cuba, and third countries with the objective of completing and operating the plant.

(b) WITHHOLDING OF FOREIGN ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President shall withhold from assistance allocated, on or after the date of the enactment of this Act, for any country an amount equal to the sum of assistance and credits, if any, provided on or after such date of enactment by that country or any entity in that country in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

(2) EXCEPTIONS.—The requirement of paragraph (1) to withhold assistance shall not apply with respect to—

(A) assistance to meet urgent humanitarian needs, including disaster and refugee relief;

(B) democratic political reform and rule of law activities;

(C) the creation of private sector and nongovernmental organizations that are independent of government control;

(D) the development of a free market economic system; and

(E) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160).

(3) DEFINITION.—As used in paragraph (1), the term "assistance" means assistance under the Foreign Assistance Act of 1961, credits, sales, and guarantees of extensions of credit under the Arms Export Control Act, assistance under titles I and III of the Agricultural Trade Development and Assistance Act of 1954, assistance under the FREEDOM Support Act of 1992, and any other program of assistance or credits provided by the United States to other countries under other provisions of law, except that the term "assistance" does not include humanitarian assistance, including disaster relief assistance.

SEC. 6221. EXPULSION OF CRIMINALS FROM CUBA.

The President shall instruct all United States Government officials who engage in official conduct with the Cuban Government to raise on a regular basis the extradition of or rendering to the United States all persons residing in Cuba who are sought by the United States Department of Justice for crimes committed in the United States.

PART 2—ASSISTANCE TO A FREE AND INDEPENDENT CUBA

SEC. 6231. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

The policy of the United States is as follows:

(1) To support the self-determination of the Cuban people.

(2) To recognize that the self-determination of the Cuban people is a sovereign and national right of the citizens of Cuba which must be exercised free of interference by the government of any other country.

(3) To encourage the Cuban people to empower themselves with a government which reflects the self-determination of the Cuban people.

(4) To recognize the potential for a difficult transition from the current regime in Cuba that may result from the initiatives taken by the Cuban people for self-determination in response to the intransigence of the Castro regime in not allowing any substantive political or economic reforms, and to be prepared to provide the Cuban people with humanitarian, developmental, and other economic assistance.

(5) In solidarity with the Cuban people, to provide appropriate forms of assistance—

(A) to a transition government in Cuba;

(B) to facilitate the rapid movement from such a transition government to a democratically elected government in Cuba that results from an expression of the self-determination of the Cuban people; and

(C) to support such a democratically elected government.

(6) Through such assistance, to facilitate a peaceful transition to representative democracy and a market economy in Cuba and to consolidate democracy in Cuba.

(7) To deliver such assistance to the Cuban people only through a transition government in Cuba, through a democratically elected government in Cuba, through United States Government organizations, or through United States, international, or indigenous nongovernmental organizations.

(8) To encourage other countries and multilateral organizations to provide similar assistance, and to work cooperatively with such countries and organizations to coordinate such assistance.

(9) To ensure that appropriate assistance is rapidly provided and distributed to the people of Cuba upon the institution of a transition government in Cuba.

(10) Not to provide favorable treatment or influence on behalf of any individual or entity in the selection by the Cuban people of their future government.

(11) To assist a transition government in Cuba and a democratically elected government in Cuba to prepare the Cuban military forces for an appropriate role in a democracy.

(12) To be prepared to enter into negotiations with a democratically elected government in Cuba either to return the United States Naval Base at Guantanamo to Cuba or to renegotiate the present agreement under mutually agreeable terms.

(13) To consider the restoration of diplomatic recognition and support the reintegration of the Cuban Government into Inter-American organizations when the President determines that there exists a democratically elected government in Cuba.

(14) To take steps to remove the economic embargo of Cuba when the President determines that a transition to a democratically elected government in Cuba has begun.

(15) To assist a democratically elected government in Cuba to strengthen and stabilize its national currency.

(16) To pursue trade relations with a free, democratic, and independent Cuba.

SEC. 6232. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 6233(c)) is in power.

(2) EFFECT ON OTHER LAWS.—Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) TYPES OF ASSISTANCE.—Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT.—(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance provided only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, remittances by individuals to their relatives of cash or goods, as well as freedom to travel to visit them without any restrictions, shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to the availability of appropriations, consist of additional economic assistance, together with assistance described in subparagraph (C). Such economic assistance may include—

(i) assistance under chapter 1 of part I (relating to development assistance), and chapter 4 of part II (relating to the economic support fund), of the Foreign Assistance Act of 1961;

(ii) assistance under the Agricultural Trade Development and Assistance Act of 1954;

(iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;

(iv) financial support provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(v) assistance provided by the Trade and Development Agency;

(vi) Peace Corps programs; and

(vii) other appropriate assistance to carry out the policy of section 6231.

(C) MILITARY ADJUSTMENT ASSISTANCE.—Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) STRATEGY FOR DISTRIBUTION.—The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) DISTRIBUTION.—Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) INTERNATIONAL EFFORTS.—The President shall take the necessary steps—

(1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this subtitle; and

(2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) COMMUNICATION WITH THE CUBAN PEOPLE.—The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) TRADE AND INVESTMENT RELATIONS.—

(1) REPORT TO CONGRESS.—The President, following the transmittal to the Congress of a determination under section 6233(c)(3) that a democratically elected government in Cuba is in power, shall submit to the appropriate congressional committees a report that describes—

(A) acts, policies, and practices that constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored- nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)); and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATIONS.—The President shall consult with the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

SEC. 6233. COORDINATION OF ASSISTANCE PROGRAM; IMPLEMENTATION AND REPORTS TO CONGRESS; REPROGRAMMING.

(a) COORDINATING OFFICIAL.—The President shall designate a coordinating official who shall be responsible for—

(1) implementing the strategy for distributing assistance described in section 6232(b);

(2) ensuring the speedy and efficient distribution of such assistance; and

(3) ensuring coordination among, and appropriate oversight by, the agencies of the United States that provide assistance described in section 6232(b), including resolving any disputes among such agencies.

(b) UNITED STATES-CUBA COUNCIL.—Upon making a determination under subsection (c)(3) that a democratically elected government in Cuba is in power, the President, after consultation with the coordinating official, is authorized to designate a United States-Cuba council—

(1) to ensure coordination between the United States Government and the private sector in responding to change in Cuba, and in promoting market-based development in Cuba; and

(2) to establish periodic meetings between representatives of the United States and Cuban private sectors for the purpose of facilitating bilateral trade.

(c) IMPLEMENTATION OF PLAN; REPORTS TO CONGRESS.—

(1) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such transition government under the plan developed under section 6232(b).

(2) REPORTS TO CONGRESS.—(A) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 6232(b)(2) (A) and (C) to the transition government in Cuba under the plan of assistance developed under section 6232(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(B) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(3) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The

President shall, upon determining that a democratically elected government in Cuba is in power, submit that determination to the appropriate congressional committees and shall, subject to an authorization of appropriations and subject to the availability of appropriations, commence the delivery and distribution of assistance to such democratically elected government under the plan developed under section 6232(b).

(4) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 6232(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

(d) REPROGRAMMING.—Any changes in the assistance to be provided under the plan developed under section 6232(b) may not be made unless the President notifies the appropriate congressional committees at least 15 days in advance in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

SEC. 6234. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 6233(c)(1) that a transition government in Cuba is in power, the President, after consulting with the Congress, is authorized to take steps to suspend the economic embargo of Cuba to the extent that such action contributes to a stable foundation for a democratically elected government in Cuba.

(b) SUSPENSION OF CERTAIN PROVISIONS OF LAW.—In carrying out subsection (a), the President may suspend the enforcement of—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a));

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) with regard to the "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act (22 U.S.C. 6003, 6004(d), 6005);

(4) section 902(c) of the Food Security Act of 1985; and

(5) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations.

(c) ADDITIONAL PRESIDENTIAL ACTIONS.—Upon submitting a determination to the appropriate congressional committees under section 6233(c)(3) that a democratically elected government in Cuba is in power, the President shall take steps to terminate the economic embargo of Cuba.

(d) CONFORMING AMENDMENTS.—On the date on which the President submits a determination under section 6233(c)(3)—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking "Republic of Cuba";

(3) sections 1704, 1705(d), and 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6003, 6004(d), and 6005) are repealed; and

(4) section 902(c) of the Food Security Act of 1985 is repealed.

(e) REVIEW OF SUSPENSION OF ECONOMIC EMBARGO.—

(1) REVIEW.—If the President takes action under subsection (a) to suspend the economic embargo of Cuba, the President shall immediately so notify the Congress. The President shall report to the Congress no less frequently than every 6 months thereafter, until he submits a determination under section 6233(c)(3) that a democratically elected government in Cuba is in power, on the progress being made by Cuba toward the establishment of such a democratically elected government. The action of the President under subsection (a) shall cease to be effective upon the enactment of a joint resolution described in paragraph (2).

(2) JOINT RESOLUTIONS.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves the action of the President under section 6234(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to suspend the economic embargo of Cuba, notice of which was submitted to the Congress on ____.", with the blank space being filled with the appropriate date.

(3) REFERRAL TO COMMITTEES.—Joint resolutions introduced in the House of Representatives shall be referred to the Committee on International Relations and joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations.

(4) PROCEDURES.—(A) Any joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions, a motion to proceed to the consideration of any joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(C) Not more than 1 joint resolution may be considered in the House of Representatives and the Senate in the 6-month period beginning on the date on which the President notifies the Congress under paragraph (1) of the action taken under subsection (a), and in each 6-month period thereafter.

SEC. 6235. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

For purposes of this subtitle, a transition government in Cuba is a government in Cuba which—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has recognized the right to independent political activity and association;

(3) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(4) has ceased any interference with Radio or Television Marti broadcasts;

(5) makes public commitments to and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) dissolving the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades;

(C) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(D) effectively guaranteeing the rights of free speech and freedom of the press;

(E) organizing free and fair elections for a new government—

(i) to be held in a timely manner within a period not to exceed 1 year after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other elections monitors;

(F) assuring the right to private property;

(G) taking appropriate steps to return to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(H) granting permits to privately owned telecommunications and media companies to operate in Cuba; and

(I) allowing the establishment of independent trade unions as set forth in conventions 87 and 98 of the International Labor Organization, and allowing the establishment of independent social, economic, and political associations;

(6) does not include Fidel Castro or Raul Castro;

(7) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people;

(8) permits the deployment throughout Cuba of independent and unfettered international human rights monitors; and

(9) has extradited or otherwise rendered to the United States all persons sought by the United States Department of Justice for crimes committed in the United States.

SEC. 6236. REQUIREMENTS FOR A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this subtitle, a democratically elected government in Cuba, in addition to continuing to comply with the requirements of section 6235, is a government in Cuba which—

(1) results from free and fair elections conducted under the supervision of internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) has made demonstrable progress in establishing an independent judiciary;

(5) is substantially moving toward a market-oriented economic system;

(6) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2); and

(7) has made demonstrable progress in returning to United States citizens (and entities which are 50 percent or more beneficially owned by United States citizens) property taken by the Cuban Government from such citizens and entities on or after January 1, 1959, or providing full compensation for such property in accordance with international law standards and practice.

PART 3—PROTECTION OF PROPERTY RIGHTS OF UNITED STATES NATIONALS AGAINST CONFISCATORY TAKINGS BY THE CASTRO REGIME

SEC. 6251. STATEMENT OF POLICY.

The Congress makes the following findings:

(1) The right of individuals to hold and enjoy property is a fundamental right recognized by the United States Constitution and

international human rights law, including the Universal Declaration of Human Rights.

(2) The illegal confiscation or taking of property by governments, and the acquiescence of governments in the confiscation of property by their citizens, undermines the comity among nations, the free flow of commerce, and economic development.

(3) It is in the interest of all nations to respect equally the property rights of their citizens and nationals of other countries.

(4) Nations that provide an effective mechanism for prompt, adequate, and fair compensation for the confiscation of private property will continue to have the support of the United States.

(5) The United States Government has an obligation to its citizens to provide protection against illegal confiscation by foreign nations and their citizens, including the provision of private remedies.

(6) Nations that illegally confiscate private property should not be immune to another nation's laws whose purpose is to protect against the confiscation of lawfully acquired property by its citizens.

(7) Trafficking in illegally acquired property is a crime under the laws of the United States and other nations, yet this same activity is allowed under international law.

(8) International law, by not providing effective remedies, condones the illegal confiscation of property and allows for the unjust enrichment from the use of confiscated property by governments and private entities at the expense of those who hold legal claim to the property.

(9) The development of an international mechanism sanctioning those governments and private entities that confiscate and unjustly use private property so confiscated should be a priority objective of United States foreign policy.

SEC. 6252. LIABILITY FOR TRAFFICKING IN PROPERTY CONFISCATED FROM UNITED STATES NATIONALS.

(a) CIVIL REMEDY.—

(1) LIABILITY FOR TRAFFICKING.—(A) Except as provided in paragraphs (3) and (4), any person, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that, after the end of the 6-month period beginning on the date of the enactment of this Act, traffics in confiscated property shall be liable to any United States national who owns the claim to such property for money damages in an amount equal to the sum of—

(i) the amount which is the greater of—

(I) the amount, if any, certified to the claimant by the Foreign Claims Settlement Commission under the International Claims Settlement Act of 1949, plus interest;

(II) the amount determined under section 6253(a)(2), plus interest; or

(III) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest, whichever is greater; and

(ii) reasonable costs and attorneys' fees.

(B) Interest under subparagraph (A)(i) shall be at the rate set forth in section 1961 of title 28, United States Code, computed by the court from the date of the confiscation of the property involved to the date on which the action is brought under this subsection.

(2) PRESUMPTION IN FAVOR OF CERTIFIED CLAIMS.—There shall be a presumption that the amount for which a person, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, is liable under clause (i) of paragraph (1)(A) is the amount that is certified under subclause (I) of that clause. The presumption shall be rebuttable by clear and convincing evidence that the amount described in subclause (II) or (III) of that clause is the appropriate amount of liability under that clause.

(3) INCREASED LIABILITY FOR PRIOR NOTICE.—Except as provided in paragraph (4), any person, including any agency or instrumentality of a foreign state in the conduct of a commercial activity, that traffics in confiscated property after having received—

(A) notice of a claim to ownership of the property by a United States national who owns a claim to the confiscated property, and

(B) notice of the provisions of this section

shall be liable to that United States national for money damages in an amount which is the sum of the amount equal to the amount determined under paragraph (1)(A)(ii) plus triple the amount determined applicable under subclause (I), (II), or (III) of paragraph (1)(A)(i).

(4) APPLICABILITY.—(A) Except as otherwise provided in this paragraph, actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of the enactment of this Act.

(B) In the case of property confiscated before the date of the enactment of this Act, no United States national may bring an action under this section unless such national acquired ownership of the claim to the confiscated property before such date.

(C) In the case of property confiscated on or after the date of the enactment of this Act, no United States national who acquired ownership of a claim to confiscated property by assignment for value after such date of enactment may bring an action on the claim under this section.

(5) TREATMENT OF CERTAIN ACTIONS.—(A) In the case of any action brought under this section by a United States national who was eligible to file the underlying claim in the action with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but did not so file the claim, the court may hear the case only if the court determines that the United States national had good cause for not filing the claim.

(B) In the case of any action brought under this section by a United States national whose claim in the action was timely filed with the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949 but was denied by the Commission, the court may assess the basis for the denial and may accept the findings of the Commission on the claim as conclusive in the action under this section unless good cause justifies another result.

(6) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based upon the act of state doctrine, to make a determination on the merits in an action brought under paragraph (1).

(b) DEFINITION.—As used in this subsection, the term "agency or instrumentality of a foreign state" has the meaning given that term in section 1603(b) of title 28, United States Code.

(c) JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Civil actions involving confiscated property

"The district courts shall have exclusive jurisdiction of any action brought under section 6252 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995, regardless of the amount in controversy.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by inserting after the item relating to section 1331 the following:

"1331a. Civil actions involving confiscated property.".

(d) CERTAIN PROPERTY IMMUNE FROM EXECUTION.—Section 1611 of title 28, United States Code, is amended by adding at the end the following:

"(c) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 6252 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995 to the extent the property is a facility or installation used by an accredited diplomatic mission for official purposes.".

(e) ELECTION OF REMEDIES.—

(1) ELECTION.—Subject to paragraph (2)—

(A) any United States national that brings an action under this section may not bring any other civil action or proceeding under the common law, Federal law, or the law of any of the several States, the District of Columbia, or any territory or possession of the United States, that seeks monetary or nonmonetary compensation by reason of the same subject matter; and

(B) any person who brings, under the common law or any provision of law other than this section, a civil action or proceeding for monetary or nonmonetary compensation arising out of a claim for which an action would otherwise be cognizable under this section may not bring an action under this section on that claim.

(2) TREATMENT OF CERTIFIED CLAIMANTS.—In the case of any United States national that brings an action under this section based on a claim certified under title V of the International Claims Settlement Act of 1949—

(A) if the recovery in the action is equal to or greater than the amount of the certified claim, the United States national may not receive payment on the claim under any agreement entered into between the United States and Cuba settling claims covered by such title, and such national shall be deemed to have discharged the United States from any further responsibility to represent the United States national with respect to that claim;

(B) if the recovery in the action is less than the amount of the certified claim, the United States national may receive payment under a claims agreement described in subparagraph (A) but only to the extent of the difference between the amount of the recovery and the amount of the certified claim; and

(C) if there is no recovery in the action, the United States national may receive payment on the certified claim under a claims agreement described in subparagraph (A) to the same extent as any certified claimant who does not bring an action under this section.

(f) DEPOSIT OF EXCESS PAYMENTS BY CUBA UNDER CLAIMS AGREEMENT.—Any amounts paid by Cuba under any agreement entered into between the United States and Cuba settling certified claims under title V of the International Claims Settlement Act of 1949 that are in excess of the payments made on such certified claims after the application of subsection (e) shall be deposited into the United States Treasury.

(g) TERMINATION OF RIGHTS.—

(1) IN GENERAL.—All rights created under this section to bring an action for money

damages with respect to property confiscated before the date of the enactment of this Act shall cease upon the transmittal to the Congress of a determination of the President under section 6233(c)(3).

(2) PENDING SUITS.—The termination of rights under paragraph (1) shall not affect suits commenced before the date of such termination, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

SEC. 6253. DETERMINATION OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—

(1) CONCLUSIVENESS OF CERTIFIED CLAIMS.—In any action brought under this part, the courts shall accept as conclusive proof of ownership a certification of a claim to ownership that has been made by the Foreign Claims Settlement Commission pursuant to title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following).

(2) CLAIMS NOT CERTIFIED.—In the case of a claim that has not been certified by the Foreign Claims Settlement Commission before the enactment of this Act, a court may appoint a special master, including the Foreign Claims Settlement Commission, to make determinations regarding the amount and validity of claims to ownership of confiscated property. Such determinations are only for evidentiary purposes in civil actions brought under this part and do not constitute certifications pursuant to title V of the International Claims Settlement Act of 1949.

(3) EFFECT OF DETERMINATIONS OF FOREIGN ENTITIES.—In determining ownership, courts shall not accept as conclusive evidence of ownership any findings, orders, judgments, or decrees from administrative agencies or courts of foreign countries or international organizations that invalidate the claim held by a United States national, unless the invalidation was found pursuant to binding international arbitration to which United States national submitted the claim.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following) is amended by adding at the end the following new section:

"EVALUATION OF OWNERSHIP CLAIMS REFERRED BY DISTRICT COURTS OF THE UNITED STATES

"SEC. 514. Notwithstanding any other provision of this title and only for purposes of section 6252 the Cuban Liberty and Solidarity (LIBERTAD) Act, a United States district court, for fact-finding purposes, may refer to the Commission, and the Commission may determine, questions of the amount and ownership of a claim by a United States national (as defined in section 6204 of the Cuban Liberty and Solidarity (LIBERTAD) Act) resulting from the confiscation of property by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a national of the United States (as defined in section 502(1)) at the time of the action by the Government of Cuba.".

(c) RULE OF CONSTRUCTION.—Nothing in this subtitle or section 514 of the International Claims Settlement Act of 1949, as added by subsection (b), shall be construed—

(1) to require or otherwise authorize the claims of Cuban nationals who became United States citizens after their property was confiscated to be included in the claims certified to the Secretary of State by the Foreign Claims Settlement Commission for purposes of future negotiation and espousal of claims with a friendly government in Cuba when diplomatic relations are restored; or

(2) as superseding, amending, or otherwise altering certifications that have been made pursuant to title V of the International Claims Settlement Act of 1949 before the enactment of this Act.

SEC. 6254. EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE.

Title V of the International Claims Settlement Act of 1949 (22 U.S.C. 1643 and following), as amended by section 6253, is further amended by adding at the end the following new section:

"EXCLUSIVITY OF FOREIGN CLAIMS SETTLEMENT COMMISSION CERTIFICATION PROCEDURE

"SEC. 515. (a) Subject to subsection (b), neither any national of the United States who was eligible to file a claim under section 503 but did not timely file such claim under that section, nor any national of the United States (on the date of the enactment of this section) who was not eligible to file a claim under that section, nor any national of Cuba, including any agency, instrumentality, subdivision, or enterprise of the Government of Cuba or any local government of Cuba in place on the date of the enactment of this section, nor any successor thereto, whether or not recognized by the United States, shall have a claim to, participate in, or otherwise have an interest in, the compensation proceeds or other nonmonetary compensation paid or allocated to a national of the United States by virtue of a claim certified by the Commission under section 507, nor shall any court of the United States or any State court have jurisdiction to adjudicate any such claim.

"(b) Nothing in subsection (a) shall be construed to detract from or otherwise affect any rights in the shares of the capital stock of nationals of the United States owning claims certified by the Commission under section 507.".

PART 4—EXCLUSION OF CERTAIN ALIENS

SEC. 6271. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY OF UNITED STATES NATIONALS OR WHO TRAFFIC IN SUCH PROPERTY.

(a) GROUNDS FOR EXCLUSION.—The Secretary of State, in consultation with the Attorney General, shall exclude from the United States any alien who the Secretary of State determines is a person who—

(1) has confiscated, or has directed or overseen the confiscation of, property a claim to which is owned by a United States national, or converts or has converted for personal gain confiscated property, a claim to which is owned by a United States national;

(2) traffics in confiscated property, a claim to which is owned by a United States national;

(3) is a corporate officer, principal, or shareholder with a controlling interest of an entity which has been involved in the confiscation of property or trafficking in confiscated property, a claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(b) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) CONFISCATED; CONFISCATION.—The terms "confiscated" and "confiscation" refer to—

(A) the nationalization, expropriation, or other seizure by foreign governmental authority of ownership or control of property on or after January 1, 1959—

(i) without the property having been returned or adequate and effective compensation provided; or

(ii) without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(B) the repudiation by foreign governmental authority of, the default by foreign governmental authority on, or the failure by foreign governmental authority to pay, on or after January 1, 1959—

(i) a debt of any enterprise which has been nationalized, expropriated, or otherwise taken by foreign governmental authority;

(ii) a debt which is a charge on property nationalized, expropriated, or otherwise taken by foreign governmental authority; or

(iii) a debt which was incurred by foreign governmental authority in satisfaction or settlement of a confiscated property claim.

(2) PROPERTY.—The term "property" does not include claims arising from a territory in dispute as a result of war between United Nations member states in which the ultimate resolution of the disputed territory has not been resolved.

(3) TRAFFICS.—(A) A person or entity "traffics" in property if that person or entity knowingly and intentionally—

(i) sells, transfers, distributes, dispenses, brokers, manages, or otherwise disposes of confiscated property, or purchases, leases, receives, possesses, obtains control of, manages, uses, or otherwise acquires or holds an interest in confiscated property,

(ii) engages in a commercial activity using or otherwise benefiting from confiscated property, or

(iii) causes, directs, participates in, or profits from, trafficking (as described in clauses (i) and (ii)) by another person, or otherwise engages in trafficking (as described in clauses (i) and (ii)) through another person,

without the authorization of the United States national who holds a claim to the property.

(B) The term "traffics" does not include—

(i) the delivery of international telecommunication signals to Cuba that are authorized by section 1705(e) of the Cuban Democracy Act of 1992 (22 U.S.C. 6004(e)); or

(ii) the trading or holding of securities publicly traded or held, unless the trading is with or by a person determined by the Secretary of the Treasury to be a specially designated national.

(c) NATIONAL INTEREST EXEMPTION.—This section shall not apply where the Secretary of State finds, on a case-by-case basis, that making a determination under subsection (a) would be contrary to the national interest of the United States.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—This section applies to aliens seeking to enter the United States on or after the date of the enactment of this Act.

(2) TRAFFICKING.—This section applies only with respect to acts within the meaning of "traffics" that occur on or after the date of the enactment of this Act.

TITLE VII—COMMITTEE ON THE JUDICIARY

SEC. 7001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

TITLE VIII—COMMITTEE ON NATIONAL SECURITY

Subtitle A—Military Retired Pay

SEC. 8001. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out "THROUGH 1998" the first place it appears and all that follows through "In the case of" the second place it appears and inserting in lieu thereof "THROUGH 1996.—In the case of";

(2) by striking "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1993, 1994, or 1995"; and

(3) by striking out "September" and inserting in lieu thereof "March".

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103-335 (108 Stat. 2648) is repealed.

Subtitle B—Naval Petroleum Reserves

SEC. 8011. SALE OF NAVAL PETROLEUM RESERVES.

(a) SALE OF RESERVES REQUIRED.—Chapter 641 of title 10, United States Code, is amended by inserting after section 7421 the following new section:

"§ 7421a. Sale of naval petroleum reserves

"(a) SALE REQUIRED.—(1) Notwithstanding any other provision of this chapter, the Secretary shall sell all right, title, and interest of the United States in and to the lands owned or controlled by the United States inside the naval petroleum and oil shale reserves established by this chapter. In the case of Naval Petroleum Reserve Numbered 1, the lands to be sold shall include sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California.

"(2) Not later than September 30, 1996, the Secretary shall enter into one or more contracts for the sale of all of the interest of the United States in the naval petroleum reserves.

"(b) TIMING AND ADMINISTRATION OF SALE.—(1) Not later than January 1, 1996, the Secretary shall retain the services of five independent experts in the valuation of oil and gas fields to conduct separate assessments, in a manner consistent with commercial practices, of the fair market value of the interest of the United States in each naval petroleum reserve. In making their assessments for each naval petroleum reserve, the independent experts shall consider (among other factors) all equipment and facilities to be included in the sale, the net present value of the reserve, and the net present value of the anticipated revenue stream that the Secretary determines the Treasury would receive from the reserve if it were not sold, adjusted for any anticipated increases in tax revenues that would result if it were sold. The independent experts shall complete their assessments not later than June 1, 1996. In setting the minimum acceptable price for each naval petroleum reserve, the Secretary shall consider the average of the five assessments regarding the reserve or, if more advantageous to the Government, the average of three assessments after excluding the high and low assessments.

"(2) Not later than March 1, 1996, the Secretary shall retain the services of an investment banker to independently administer, in a manner consistent with commercial practices and in a manner that maximizes sale proceeds to the Government, the sale of the naval petroleum reserves under this section. The Secretary may enter into the contracts required under this paragraph and paragraph (1) on a noncompetitive basis.

"(3) Not later than June 1, 1996, the sales administrator selected under paragraph (2) shall complete a draft contract for the sale of each naval petroleum reserve, which shall accompany the invitation for bids and describe the terms and provisions of the sale of the interest of the United States in the reserve. Each draft contract shall identify all equipment and facilities to be included in the sales. Each draft contract, including the terms and provisions of the sale of the interest of the United States in the naval petroleum reserves, shall be subject to review and approval by the Secretary, the Secretary of the Treasury, and the Director of the Office of Management and Budget.

"(4) Not later than July 1, 1996, the Secretary shall publish an invitation for bids for the purchase of the naval petroleum reserves.

"(5) Not later than September 1, 1996, the Secretary shall accept the highest responsible offer for purchase of the interest of the United States in the naval petroleum reserves, or a particular reserve, that meets or exceeds the minimum acceptable price determined under paragraph (1). The Secretary may accept an offer for only a portion of a reserve so long as the entire reserve is still sold under this section at a price that meets or exceeds the minimum acceptable price.

"(c) FUTURE LIABILITIES.—To effectuate the sale of the interest of the United States in a naval petroleum reserve, the Secretary may extend such indemnities and warranties as the Secretary considers reasonable and necessary to protect the purchaser from claims arising from the ownership in the reserve by the United States.

"(d) SPECIAL RULES PREPARATORY TO SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) Not later than June 1, 1996, the Secretary shall finalize equity interests of the known oil and gas zones in Naval Petroleum Reserve Numbered 1 in the manner provided by this subsection.

"(2) The Secretary shall retain the services of an independent petroleum engineer, mutually acceptable to the equity owners, who shall prepare a recommendation on final equity figures. The Secretary may accept the recommendation of the independent petroleum engineer for final equity in each known oil and gas zone and establish final equity interest in the Naval Petroleum Reserve Numbered 1 in accordance with such recommendation, or the Secretary may use such other method to establish final equity interest in that reserve as the Secretary considers appropriate. The Secretary may enter into the contract required under this paragraph on a noncompetitive basis.

"(3) If, on the effective date of this section, there is an ongoing equity redetermination dispute between the equity owners under section 9(b) of the unit plan contract, such dispute shall be resolved in the manner provided in the unit plan contract not later than June 1, 1996. Such resolution shall be considered final for all purposes under this section.

"(4) In this section, the term 'unit plan contract' means the unit plan contract between equity owners of the lands within the boundaries of Naval Petroleum Reserve Numbered 1 (Elk Hills) entered into on June 19, 1944.

"(e) PRODUCTION ALLOCATION REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) As part of the contract for purchase of Naval Petroleum Reserve Numbered 1, the purchaser of the interest of the United States in that reserve shall agree to make up to 25 percent of the purchaser's share of annual petroleum production from the purchased lands available for sale to small refiners, which do not have their own adequate sources of supply of petroleum, for processing or use only in their own refineries. None of the reserved production sold to small refiners may be resold in kind. The purchaser of that reserve may reduce the quantity of petroleum reserved under this subsection in the event of an insufficient number of qualified bids. The seller of this petroleum production has the right to refuse bids that are less than the prevailing market price of comparable oil.

"(2) The purchaser of Naval Petroleum Reserve Numbered 1 shall also agree to ensure that the terms of every sale of the purchaser's share of annual petroleum production from the purchased lands shall be so structured as to give full and equal opportunity for the acquisition of petroleum by all interested persons, including major and independent oil producers and refiners alike.

"(f) MAINTAINING PRODUCTION PENDING SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.—Until the sale of Naval Petroleum Reserve Numbered 1 is completed under this section, the Secretary shall continue to produce that reserve at the maximum daily oil or gas rate from a reservoir, which will permit maximum economic development of the reservoir consistent with sound oil field engineering practices in accordance with section 3 of the unit plan contract. The definition of maximum efficient rate in section 7420(6) of this title shall not apply to Naval Petroleum Reserve Numbered 1.

"(g) EFFECT ON EXISTING CONTRACTS.—(1) In the case of any contract, in effect on the effective date of this section, for the purchase of production from any part of the United States' share of the naval petroleum reserves, the sale of the interest of the United States in the reserves shall be subject to the contract for a period of three months after the closing date of the sale or until termination of the contract, whichever occurs first. The term of any contract entered into after the effective date of this section for the purchase of such production shall not exceed the anticipated closing date for the sale of the reserve.

"(2) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the contract between the United States and Bechtel Petroleum Operation, Inc., Contract Number DE-ACO1-85FE60520 so that the contract terminates not later than the date of closing of the sale of that reserve.

"(3) In the case of Naval Petroleum Reserve Numbered 1, the Secretary shall exercise the termination procedures provided in the unit plan contract so that the unit plan contract terminates not later than the date of closing of the sale of that reserve.

"(h) OFFER OF SETTLEMENT OF STATE OF CALIFORNIA CLAIMS REGARDING NAVAL PETROLEUM RESERVE NUMBERED 1.—(1) In connection with the sale of Naval Petroleum Reserve Numbered 1, the Secretary shall offer to settle all claims against the United States by the State of California and the Teachers' Retirement Fund of the State of California with respect to lands within that reserve, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. Subject to paragraph (2), the Secretary shall offer in settlement of such claims—

"(A) a payment from funds provided for this purpose in advance in appropriation Acts;

"(B) a grant of land pursuant to sections 2275 and 2276 of the Revised Statutes of the United States (43 U.S.C. 851 and 852) so long as such land is not generating revenue for the United States;

"(C) any other option that would not be inconsistent with the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.); or

"(D) any combination of subparagraphs (A), (B), and (C).

"(2) The value of any payment, grant, or option (or combination thereof) offered as settlement under paragraph (1) may not exceed an amount equal to seven percent of the proceeds from the sale of Naval Petroleum Reserve Numbered 1, after deducting the costs incurred to conduct the sale of that reserve.

"(3) Acceptance of the settlement offered under paragraph (1) shall be subject to the condition that all claims against the United States by the State of California or the Teachers' Retirement Fund of the State of California are released with respect to lands within the Naval Petroleum Reserve Numbered 1, including sections 16 and 36 of township 30 south, range 23 east, Mount Diablo Principal Meridian, California, or production or proceeds of sale from that reserve. The Secretary may specify the manner in which the release of such claims shall be evidenced.

"(i) EFFECT ON ANTITRUST LAWS.—Nothing in this section shall be construed to alter the application of the antitrust laws of the United States to the purchaser of a naval petroleum reserve or to the lands in the naval petroleum reserves subject to sale under this section upon the completion of the sale.

"(j) PRESERVATION OF PRIVATE RIGHT, TITLE, AND INTEREST.—Nothing in this section shall be construed to adversely affect the ownership interest of any other entity having any right, title, and interest in and to lands within the boundaries of the naval petroleum reserves.

"(k) CONGRESSIONAL NOTIFICATION.—Section 7431 of this title shall not apply to the sale of the naval petroleum reserves under this section. However, the Secretary may not enter into a contract for the sale of a naval petroleum reserve until the end of the 15-day period beginning on the date on which the Secretary notifies the Committee on Armed Services of the Senate and the Committee on National Security and the Committee on Commerce of the House of Representatives that the Secretary has accepted an offer under subsection (b)(5) for the sale of that reserve.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following new item:

"7421a. Sale of naval petroleum reserves.".

Subtitle C—National Defense Stockpile

SEC. 8021. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as of the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium.	930,911 pounds contained
Germanium.	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

TITLE IX—COMMITTEE ON RESOURCES

SEC. 9000. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IX—COMMITTEE ON RESOURCES

Sec. 9000. Table of contents.

Subtitle A—Alaska and Helium Privatization

PART 1—ALASKA

Sec. 9001. Exports of Alaskan North Slope oil.
Sec. 9002. Arctic Coastal Plain leasing and revenue.
Sec. 9003. Alaska Power Administration sale.

PART 2—HELIUM PRIVATIZATION

Sec. 9011. Short title.
Sec. 9012. Amendment of Helium Act.
Sec. 9013. Authority of Secretary.
Sec. 9014. Sale of crude helium.
Sec. 9015. Elimination of stockpile.
Sec. 9016. Repeal of authority to borrow.
Sec. 9017. Reports.
Sec. 9018. Land conveyance in Potter County, Texas.

Subtitle B—Water and Power

PART 1—POWER MARKETING ADMINISTRATIONS

Sec. 9201. Short title.
Sec. 9202. Evaluation of sales of Southeastern, Southwestern, and Western Area Power Administration facilities.
Sec. 9203. Bonneville Power Administration appropriations refinancing.

PART 2—RECLAMATION

Sec. 9211. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District.
Sec. 9212. Treatment of city of Folsom as a Central Valley Project contractor.
Sec. 9213. Sly Park.
Sec. 9214. Hetch Hetchy Dam.

Subtitle C—National Parks, Forests, and Public Lands

PART 1—CONCESSION REFORM

Sec. 9301. Short title.
Sec. 9302. Purpose.
Sec. 9303. Definitions.
Sec. 9304. Nature and types of concession authorizations.
Sec. 9305. Competitive selection process for concession service agreements.
Sec. 9306. Concessioner evaluations.
Sec. 9307. Capital improvements.
Sec. 9308. Duration of concession authorization.
Sec. 9309. Rates and charges to the public.
Sec. 9310. Transferability of concession authorizations.
Sec. 9311. Fees charged by the United States for concession authorizations.
Sec. 9312. Disposition of fees.
Sec. 9313. Dispute resolution.
Sec. 9314. Recordkeeping.
Sec. 9315. Application of general governmental acquisition requirements.
Sec. 9316. Rules of construction.
Sec. 9317. Regulations.
Sec. 9318. Relationship to other existing laws.

PART 2—NATIONAL FOREST SKI AREAS

Sec. 9321. Privatization of Forest Service ski areas.
Sec. 9322. Ski area permit fees and withdrawal of ski areas from operation of mining laws.

PART 3—DOMESTIC LIVESTOCK GRAZING

Sec. 9331. Applicable regulations.
Sec. 9332. Fees and charges.
Sec. 9333. Animal unit month.
Sec. 9334. Term of grazing permits or grazing leases.
Sec. 9335. Conformance with land use plan.
Sec. 9336. Effective date.

PART 4—REGIONAL DISPOSAL FACILITY OF SOUTHWESTERN LOW LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

Sec. 9341. Conveyance of property.
Sec. 9342. Conveyance of easements.

Subtitle D—Territories

PART 1—COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Sec. 9401. Termination of annual direct grant assistance.

PART 2—TERRITORIAL ADMINISTRATIVE CESSATION ACT

Sec. 9421. Short title.
Sec. 9422. Congressional findings.
Sec. 9423. Elimination of Office of Territorial and International Affairs.
Sec. 9424. Certain activities not funded.

Subtitle E—Minerals

PART 1—HARDROCK MINING

Sec. 9501. Findings and purpose.
Sec. 9502. Patents under the general mining law.
Sec. 9503. Royalty under the general mining law.
Sec. 9504. Mineral materials.
Sec. 9505. Claim maintenance requirements.

PART 2—FEDERAL OIL AND GAS ROYALTIES

Sec. 9511. Short title.
Sec. 9512. Definitions.
Sec. 9513. Limitation periods.
Sec. 9514. Adjustment and refunds.
Sec. 9515. Required recordkeeping.
Sec. 9516. Royalty interest, penalties, and payments.
Sec. 9517. Limitation on assessments.
Sec. 9518. Alternatives for marginal properties.
Sec. 9519. Royalty in kind.
Sec. 9520. Royalty simplification and cost-effective audit and collection requirements.
Sec. 9521. Repeals.
Sec. 9522. Delegation to States.
Sec. 9523. Performance standard.
Sec. 9524. Indian lands.
Sec. 9525. Private lands.
Sec. 9526. Effective date.

Subtitle F—Indian Gaming

Sec. 9601. Indian gaming.

Subtitle G—Consultation

Sec. 9701. Consultation.

Subtitle H—Mapping

Sec. 9801. Short title.
Sec. 9802. Surveying and mapping contracting program.
Sec. 9803. Inventory of activities.
Sec. 9804. Plan to increase use of contracts.
Sec. 9805. Reports.
Sec. 9806. Definitions.

Subtitle A—Alaska and Helium Privatization

PART 1—ALASKA

SEC. 9001. EXPORTS OF ALASKAN NORTH SLOPE OIL.

(a) AMENDMENT OF MINERAL LEASING ACT.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is amended to read as follows:

"EXPORTS OF ALASKAN NORTH SLOPE OIL

"(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within 5 months after the date of enactment of this subsection. In evaluating whether exports of this oil are in the national interest, the President shall at a minimum consider—

"(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

"(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

"(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including in noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

"(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

"(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exports of this oil or under Part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271–76).

"(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

"(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

"(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.".

(b) GAO REPORT.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii. The Comptroller General shall commence this review 2 years after the date of enactment of this Act and, within 6 months after commencing the review, shall provide a report to the Committee on Resources and the Committee on Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) CONTENTS OF REPORT.—The report shall contain a statement of the principal findings of the review and recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that the Comptroller General attributes to Alaska North Slope oil exports.

SEC. 9002. ARCTIC COASTAL PLAIN LEASING AND REVENUE.

(a) PURPOSE.—It is the purpose of this section to reduce the Federal deficit by an estimated $1,300,000,000 over the next 5 years. This revenue will be derived from competitive bonus bids for oil and gas leases in the Coastal Plain area of Alaska's North Slope.

(b) DEFINITIONS.—For the purposes of this section:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Coastal Plain" means that portion of the Arctic National Wildlife Refuge identified in section 1002(b)(1) of the Alaska National Interest Lands Conservation Act of 1980 (Public Law 96-487; 16 U.S.C. 3142(b)(1)) consisting of approximately 1,549,000 acres.

(c) COMPATIBILITY.—Congress hereby determines that the oil and gas leasing program and activities authorized by this section in the Coastal Plain are compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(d) AUTHORIZATION.—(1) Congress hereby authorizes and directs the Secretary to establish and promptly implement a program to assure the expeditious competitive leasing exploration, development, production, and transportation of the oil and gas resources of the Coastal Plain. Regulations to implement this program and to govern oil and gas leasing, exploration, development and production shall be promulgated by the Secretary within 6 months of the date of enactment of this section.

(2) The Coastal Plain leasing program required by paragraph (1) shall include the following:

(A) The first lease sale of not less than 200,000 acres shall be conducted within 12 months of the date of enactment of this section.

(B) The lease sales shall be based upon an industry nomination process.

(C) The Secretary is directed to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on unleased Federal lands within the Coastal Plain. These regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary accepts the bids, with interest earned paid to the General Treasury for bids that are accepted, and to the unsuccessful bidders for bids that are rejected.

(D) Royalty payments shall not be less than 12½ percent, and rental payments shall be prescribed by the Secretary.

(E) The Attorney General of the United States and the Federal Trade Commission may conduct such review of lease terms and lease sale activities as are necessary to ensure compliance with the antitrust laws.

(F) The size of lease tracts may be up to 11,520 acres but not less than 2,560 acres, as determined by the Secretary, except that the

Secretary may lease smaller tracts if he determines smaller tracts are necessary to promote a more competitive leasing program or are necessary in certain locations to mitigate reasonably foreseeable impacts on the environment.

(G) Each lease shall be issued for an initial period of up to 10 years and shall be extended as long as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or as drilling or reworking operations as approved by the Secretary are conducted thereon.

(H) The Secretary is authorized and directed to promulgate regulations and to include terms in leases to ensure that—

(i) activities are conducted pursuant to an approved exploration or development plan;

(ii) lessees secure an appropriate performance bond to cover activities;

(iii) provision is made for the suspension, cancellation, assignment, relinquishment and unitization of leases; and

(iv) the Secretary has access to lease information and that confidential, privileged or proprietary information furnished by lessees is adequately protected.

(e) JUDICIAL REVIEW.—Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this section may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within 90 days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such 90th day, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this section may be filed in any appropriate district court of the United States, and such complaint must be filed within 90 days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such 90th day, in which case the complaint must be filed within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(f) ADMINISTRATION.—(1) Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2452; 16 U.S.C. 3143) is repealed.

(2) This section shall be considered the primary land management authorization for all activities associated with exploration, development, and production from the Coastal Plain. No land management review, determination, or other action shall be required except as specifically authorized by this section.

(g) PROTECTION OF FISH AND WILDLIFE RESOURCES AND OTHER ENVIRONMENTAL VALUES.—(1) Before conducting a competitive oil and gas lease sale under this section, the Secretary shall promulgate, within 6 months, as provided in subsection (d)(1), such rules and regulations as are necessary to ensure that oil and gas exploration, development, production, and transportation activities undertaken in the Coastal Plain achieve the reasonable protection of the fish and wildlife resources, environment and subsistence uses of the Coastal Plain.

(2) The Secretary shall administer the provisions of this section through regulations and lease terms that the Secretary determines to be necessary to mitigate reasonably foreseeable and significantly adverse effects on the fish and wildlife, surface resources and subsistence resources of the Coastal Plain.

(3)(A) The Secretary, after consultation with the State of Alaska, the city of Kaktovik, Alaska, and the North Slope Borough, is authorized to close to leasing and designate up to 30,000 acres of the Coastal Plain as Special Areas if the Secretary determines that these lands are of such unique character and interest so as to require special management and regulatory protection. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives 90 days in advance of making such designations. The Secretary may permit leasing of all or portions of any lands within the Coastal Plain designated as Special Areas by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

(B) Notwithstanding any other provision of law or any international agreement to which the United States is a party, the Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production as provided for in this part is set forth in subparagraph (A).

(4) The Secretary shall, in consultation with the State of Alaska, the city of Kaktovik, Alaska, and the North Slope Borough, develop guidelines to encourage the siting of facilities having common use characteristics (service bases, ports and docks, airports, major pipelines and roads) in a manner which leads to facility consolidation, avoids unnecessary duplication, utilizes existing facilities, minimizes impacts on fish, wildlife, habitat and the subsistence activities of residents of Native communities, and avoids disruption of the lives of the residents of the Village of Kaktovik and other communities.

(5) Notwithstanding title XI of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2457; 16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, under sections 28(a) through (t) and (v) through (y) of the Mineral Leasing Act (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the purposes of this section, for pipeline construction, and the transportation of oil and gas and related purposes.

(6) The Secretary is authorized to close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife.

(h) APPLICATION OF ENVIRONMENTAL LAWS.—The "Final Legislative Environmental Impact Statement" (April 1987) prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2449; 16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (89 Stat. 424; 42 U.S.C. 4332(2)(C)) is hereby determined to be adequate and legally sufficient for all actions authorized pursuant to this section, including all phases of oil and gas leasing, exploration, development, production, transportation and related activities, including the granting of rights-of-way, use permits and other authorizations.

(i) NEW REVENUES.—(1) Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest or other income derived from the leasing of oil and gas resources within the Coastal Plain shall be deposited into the Treasury of the United States: *Provided*, That 50 percent of all such Coastal Plain revenues shall be paid by the Secretary of the Treasury semiannually, on March 30th and on September 30th of each year, to the State of Alaska.

(2) On March 1st of each year following the date of enactment of this section, the Secretary shall prepare and submit to the Congress an annual report on the revenues derived and on the leasing program authorized by this section.

(j) CONVEYANCE.—Notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), the Secretary is authorized and directed to convey (1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 2 of Public Land Order 6959, to the extent necessary to fulfill the corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611), and (2) to the Arctic Slope Regional Corporation the subsurface estate beneath such surface estate pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

(k) PENALTY.—Any person, including any Federal official, who fails to comply with any provision or mandate of this section, a lease term, or a regulation promulgated under this section, after notice of such failure and expiration of a reasonable period for corrective action, shall be liable, after hearing, for a civil penalty of not more than $10,000 for each day of the continuance of such failure.

(l) COMMUNITY ASSISTANCE.—There is hereby established a Community Assistance Fund in the Treasury which shall be maintained at a level of $5,000,000 annually from the Federal share of Coastal Plain revenues and shall be available to the Secretary for the purposes of this section. Organized boroughs, other municipal subdivisions of the State of Alaska, and recognized Indian Reorganization Act entities which are impacted by activities authorized under this section shall be eligible, on application to the Secretary, for local assistance from the Community Assistance Fund for needed social services and to provide public services and facilities required in connection with supporting exploration and development of the Coastal Plain.

(m) EMPLOYMENT AND CONTRACTING.—As a condition of any leases, permits, or other Federal authorizations granted or issued pursuant to this section, a recipient of those leases, permits, or authorizations shall be required to use its best efforts to assure that the lessee and its agents and contractors provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State.

(n) USE OF ANWR REVENUES.—

(1) ESTABLISHMENT OF ENDOWMENT.—There is hereby established in the general fund of the Treasury a separate account which shall be known as the National Endowment for Fish and Wildlife.

(2) CONTENTS.—(A) Except as provided in subparagraph (B), the Endowment shall consist of revenues received from the following sources:

(i) Gifts, devises, and bequests to the Endowment.

(ii) Amounts appropriated by the Congress to the Endowment.

(iii) Any revenues deposited into the Treasury of the United States under subsection (i), from the Federal share of revenues derived from oil and gas leasing within the Coastal Plain, that exceed $1,300,000,000.

(B) After the Endowment has reached a level of $250,000,000 in principal, further payments to the Endowment shall consist only of the following:

(i) Gifts, devises, and bequests to the Endowment.

(ii) Amounts appropriated by the Congress to the Endowment.

(iii) 5 percent of the Federal royalties derived from commercial production of oil and gas on Federal leases on the Coastal Plain.

(3) ESTABLISHMENT OF FISH AND WILDLIFE CONSERVATION COMMISSION.—(A) To carry out the purposes of this subsection, there is hereby established a commission to be known as the Fish and Wildlife Conservation Commission.

(B) The Commission shall consist of—

(i) the Secretary of the Interior, who shall be the chairman,

(ii) 3 Members of the Senate selected by the President of the Senate, and

(iii) 3 Members of the House of Representatives selected by the Speaker.

(C) At least 1 member of the Commission selected from each House of Congress shall be a member of the minority party in that House.

(D) Any Member of the House of Representatives who is a member of the Commission, if reelected to the succeeding Congress, may serve on the Commission notwithstanding the expiration of a Congress.

(E) Any vacancy on the Commission shall be filled in the same manner as the original appointment.

(4) EXPENDITURES BY COMMISSION.—(A) The Fish and Wildlife Commission may make expenditures from the Endowment for the following fish and wildlife conservation purposes:

(i) Acquisition of important habitat lands for endangered species or threatened species from owners of private property. Such lands may be acquired solely on a willing seller basis and shall be managed by the Secretary of the Interior for the conservation of such species pursuant to the terms of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534).

(ii) Provision of funding for purposes authorized under the Endangered Species Act of 1973.

(iii) Provision of funds to the North American Wetlands Conservation Fund pursuant to the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

(B) The amount expended under subparagraph (A)(iii) each fiscal year shall equal or exceed 25 percent of the total expenditures from the Endowment in that fiscal year.

(C) The Secretary of the Interior may not recommend any lands or interest in lands for purchase or other forms of acquisition using funds made available under the terms of this section unless the Secretary of the Interior—

(i) has determined that such lands are necessary for the conservation of endangered species or other fish and wildlife; and

(ii) has consulted with the county or other unit of local government in which such lands are located and with the Governor of the State concerned.

(D) Land or an interest in land may not be acquired with moneys from the Endowment unless—

(i) the acquisition thereof has been approved by the Governor of the State in which the land is located; and

(ii) the owner of the land or interest has offered the land or interest for acquisition under this subsection and consented to the acquisition.

(5) ANNUAL REPORT.—The Commission shall, through its chairman, annually report in detail to the Congress, by not later than the first Monday in December, regarding the operations of the Commission during the preceding fiscal year.

(6) STATE LAW.—The jurisdiction of any State, both civil and criminal, over persons upon areas acquired under this subsection shall not be changed or otherwise affected by reason of the acquisition and administration of the areas by the United States as endangered species habitat. Nothing in this subsection is intended to interfere with the operation of the game laws of the States.

(7) ADMINISTRATION OF AREAS ACQUIRED.—Areas of lands, waters, or interest therein acquired or reserved pursuant to this subsection shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by the Secretary to conserve and protect endangered species in accordance with the Endangered Species Act of 1973, or to restore or develop adequate wildlife habitat.

(8) DEFINITIONS.—In this subsection:

(A) The term "Commission" means the Fish and Wildlife Conservation Commission established by this subsection.

(B) The term "Endowment" means the National Endowment for Fish and Wildlife established by this subsection.

(9) CONFORMING AMENDMENT.—Section 7 of the North American Wetlands Conservation Act of 1989 (16 U.S.C. 4406) is amended by adding at the end the following:

"(e) FISH AND WILDLIFE COMMISSION FUNDING.—In addition to the amounts made available under subsections (a), (b), and (c) of this section, the Council may receive funds from the Fish and Wildlife Commission to carry out the purposes of this Act. Use of such funds shall not be subject to the cost allocation requirements of section 8 of this Act.".

SEC. 9003. ALASKA POWER ADMINISTRATION SALE.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Eklutna assets" means the Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term "Eklutna Purchase Agreement" means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto which were adopted before the enactment of this section.

(3) The term "Eklutna Purchasers" means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term "Secretary" means the Secretary of Energy except where otherwise specified.

(5) The term "Snettisham assets" means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(6) The term "Snettisham Purchase Agreement" means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto which were adopted before the enactment of this section.

(b) SALE OF SNETTISHAM AND EKLUTNA ASSETS.—

(1) SNETTISHAM.—The Secretary is authorized and directed to sell and transfer the Snettisham assets to the State of Alaska in accordance with the terms of this section and the Snettisham Purchase Agreement.

(2) EKLUTNA.—The Secretary is authorized and directed to sell and transfer the Eklutna assets to the Eklutna Purchasers in accordance with the terms of this section and the Eklutna Purchase Agreement.

(3) COOPERATION OF OTHER AGENCIES.—Other departments, agencies, and instrumentalities of the United States shall cooperate with the Secretary in implementing the sales and transfers under this section.

(4) AUTHORIZATION OF APPROPRIATIONS; CONTRIBUTED FUNDS.—(A) There are authorized to be appropriated such sums as may be necessary to prepare, survey, or acquire Snettisham and Eklutna assets for sale and transfer under this section. Such preparations and acquisitions shall provide sufficient title in the assets to ensure beneficial use, enjoyment, and occupancy thereof to the purchasers.

(B) Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchasers or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration required under subsection (d), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

(C) The Secretary is directed to use up to $5,000,000 from unobligated balances available to the Department of Energy to fund any sale preparation costs for the sales under this section, and shall provide an accounting of all sale preparation costs to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate within 60 days after completion of the sale.

(c) GENERAL PROVISIONS.—

(1) RIGHTS-OF-WAY AND OTHER LANDS FOR THE EKLUTNA PROJECT.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(A) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers at no cost to the Eklutna Purchasers.

(B) Such rights-of-way shall remain effective for a period equal to the life of the Eklutna hydroelectric project as extended by improvements, repairs, renewals, or replacements.

(C) Such rights-of-way shall be sufficient for the operation, maintenance, repair, and replacement of, and access to, the facilities of the Eklutna hydroelectric project located on military lands and lands managed by the Bureau of Land Management, including land selected by, but not yet conveyed to, the State of Alaska.

(D) If the Eklutna Purchasers subsequently sell or transfer the Eklutna hydroelectric project to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with applicable law.

(E) The Secretary shall transfer fee title to lands at Anchorage Substation to the Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to and selections of those lands are invalid or relinquished.

(F) With respect only to the Eklutna lands identified in Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey, to the State, improved lands under the selection entitlements in section 6 of the Alaska Statehood Act (Public Law 85-508; 72 Stat. 339) and the North Anchorage Land Agreement of January 31, 1983. The conveyance of such lands is subject to the rights-of-way provided to the Eklutna Purchasers under subparagraph (A).

(2) LANDS FOR THE SNETTISHAM PROJECT.—With respect to the Snettisham lands identified in Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlement in section 6 of the Alaska Statehood Act (Public Law 85-508; 72 Stat. 339).

(3) EFFECT ON STATE SELECTIONS.—Notwithstanding the expiration of the right of the State of Alaska to make selections under section 6 of the Alaska Statehood Act (Public Law 85-508; 72 Stat. 339), the State of Alaska may select lands authorized for selection under this section or any Purchase Agreement incorporated into or ratified by this section. The State shall complete such selections within one year after the date of the enactment of this section. The Secretary of the Interior shall convey lands selected by the State under this section notwithstanding the limitation contained in section 6(b) of the Alaska Statehood Act (Public Law 85-508; 72 Stat. 339) regarding the occupancy, appropriation, or reservation of selected lands. Nothing in this subsection shall be construed to authorize the Secretary of the Interior to convey to the State of Alaska a total acreage of selected lands in excess of the total acreage which could be transferred to the State of Alaska pursuant to the Alaska Statehood Act (Public Law 85-508; 72 Stat. 339), and other applicable law.

(4) REPEAL OF ACT OF AUGUST 9, 1955.—The Act of August 9, 1955 (69 Stat. 618), concerning water resources investigations in Alaska, is repealed.

(5) TREATMENT OF ASSET SALE.—The sales of assets under this section shall not be considered a disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(6) APPLICATION OF CERTAIN LAWS.—(A) The Act of July 31, 1950 (64 Stat. 382), shall cease to apply on the date, as determined by the Secretary, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

(B) Section 204 of the Flood Control Act of 1962 (Public Law 87-874; 76 Stat. 1193) shall cease to apply effective on the date, as determined by the Secretary, when all Snettisham assets have been conveyed to the State of Alaska.

(d) TERMINATION OF ALASKA POWER ADMINISTRATION.—

(1) TERMINATION OF ALASKA POWER ADMINISTATION.—Not later than one year after both of the sales authorized in this section have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary shall—

(A) complete the business of, and close out, the Alaska Power Administration;

(B) prepare and submit to Congress a report documenting the sales; and

(C) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(2) DOE ORGANIZATION ACT.—Section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended as follows:

(A) In paragraph (1)—

(i) by striking out subparagraph (C); and

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively.

(B) In paragraph (2), by striking out "the Bonneville Power Administration, and the Alaska Power Administration" and inserting in lieu thereof "and the Bonneville Power Administration".

The amendments made by this paragraph shall take effect on the date on which the Secretary submits the report referred to in subparagraph (B) of paragraph (1).

(e) PROCEEDS.—The proceeds from the sale of Snettisham and Eklutna assets under this section shall be credited to miscellaneous receipts in the Treasury.

(f) SECTION 147(d) OF INTERNAL REVENUE CODE.—For purposes of section 147(d) of the Internal Revenue Code of 1986, the "first use" of Snettisham shall be considered to occur pursuant to acquistion of the property by or on behalf of the State of Alaska.

PART 2—HELIUM PRIVATIZATION

SEC. 9011. SHORT TITLE.

This part may be cited as the "Helium Privatization Act of 1995".

SEC. 9012. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

SEC. 9013. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

"(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

"(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Privatization Act of 1995 except to the extent that such agreements are renewed or extended after such date.

"(b) STORAGE, TRANSPORTATION, AND SALE.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

"(c) MONITORING AND REPORTING.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) STORAGE, TRANSPORTATION, AND WITHDRAWAL.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Effective 18 months after the date of enactment of the Helium Privatization Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Privatization Act of 1995, except those activities described in subsection (a). The amount of helium reserves owned by the United States and stored in the Bureau of Mines Cliffside Field at such date of cessation, less 600,000,000 cubic feet, shall be the helium reserves owned by the United States required to be sold pursuant to section 8(b) hereof.

"(c) DISPOSAL OF FACILITIES.—(1) Within two years after the date on which the Secretary ceases producing, refining and marketing refined helium and ceases all other activities relating to helium in accordance with subsection (b), the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

"(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium or any equipment needed to maintain the purity, quality control, and quality assurance of helium in the reserve.

"(d) EXISTING CONTRACTS.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Privatization Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).".

SEC. 9014. SALE OF CRUDE HELIUM.

Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(2) Subsection (b) is amended by inserting "crude" before "helium" and by adding the following at the end thereof: "Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.".

(3) Subsection (c) is amended by inserting "crude" before "helium" the first place it appears and by striking "together with interest as provided in subsection (d) of this section" and all that follows down through the period at the end of such subsection and inserting the following:

"all funds required to be repaid to the United States as of October 1, 1995, under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

"(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

"(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.".

(4) Subsection (d) is amended to read as follows:

"(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.".

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting "(1)" after "(f)" and by adding the following at the end thereof:

"(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.".

SEC. 9015. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) REVIEW OF RESERVES.—The Secretary shall review annually the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than Federally owned helium stored at the Cliffside Reservoir) at that time.

"(b) STOCKPILE SALES.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such minimum annual amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet (mcf) on a straight-line basis between such date and January 1, 2015: *Provided*, That the minimum price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c), and provided further that the minimum annual sales requirement may be deferred only if, and to the extent that, the Secretary is unable to arrange sales at the minimum price. The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, are necessary to carry out this subsection with minimum market disruption.

"(c) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b), as the case may be.".

SEC. 9016. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

SEC. 9017. REPORTS.

Section 16 is amended by redesignating existing section 16 as section 16(a) and inserting the following at the end thereof:

"(b)(1) The Inspector General of the Department of the Interior shall cause to be prepared, not later than March 31 following each fiscal year commencing with the date of enactment of the Helium Privatization Act of 1995, annual financial statements for the Helium Operations of the Bureau of Mines. The Director of the Bureau of Mines shall cooperate with the Inspector General in fulfilling this requirement, and shall provide him with such personnel and accounting assistance as may be necessary for that purpose. The financial statements shall be audited by the General Accounting Office, and a report on such audit shall be delivered by the General Accounting Office to the Secretary of the Interior and Congress, not later than June 30 following the end of the fiscal year for which they are prepared. The audit shall be prepared in accordance with generally accepted government auditing standards.

"(2) The financial statements shall be comprised of the following:

"(A) A balance sheet reflecting the overall financial position of the Helium Operations, including assets and liabilities thereof;

"(B) the Statement of Operations, reflecting the fiscal period results of the Helium Operations;

"(C) a statement cash flows or changes in financial position of the Helium Operations; and

"(D) a reconciliation of budget reports of the Helium Operations.

"(3) The Statement of Operations shall include but not be limited to the revenues from, and costs of, sales of crude helium, the storage and transportation of crude helium, the production, refining and marketing of refined helium, and the maintenance and operation of helium storage facilities at the Bureau of Mines Cliffside Field. The term 'revenues' for this purpose shall exclude (A) royalties paid to the United States for production of helium or other extraction of resources, except to the extent that the Helium Operations incur direct costs in connection therewith, and (B) proceeds from sales of assets other than inventory. The term 'expenses' shall include, but not be limited to (i) all labor costs of the Bureau of Mines Helium Operations, and of the Department of the Interior in connection therewith, and (ii) for financial reporting purposes but not in connection with the determination of sales prices in section 6(c), all current-period interest on outstanding repayable amounts (as described in section 6(c)) calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.

"(4) The balance sheet shall include, but not be limited to, on the asset side, the present discounted market value of crude helium reserves; and on the liability side, the accrued liability for principal and interest on debt to the United States. For financial reporting purposes but not in connection with the determination of sales prices in section 6(c), the balance sheet shall also include accrued but unpaid interest on outstanding repayable amounts (as described in section 6(c)) through the date of the report, calculated at the same rates as such interest was calculated prior to the enactment of the Helium Privatization Act of 1995.".

SEC. 9018. LAND CONVEYANCE IN POTTER COUNTY, TEXAS.

(a) IN GENERAL.—The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of $1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (sometimes known as the G. D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:

(1) FIRST TRACT.—One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:

Beginning at a stone 20 x 12 x 3 inches marked X, set by W. D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;

Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;

Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;

Thence North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18 x 14 x 3 inches in the middle of the South line of Section 79;

Thence South 89 degrees 47 minutes East 965 varas to the place of beginning.

(2) SECOND TRACT.—One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:

Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones;

Thence North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78; Thence North 0 degrees 10 minutes West with the East line of the West half of Section 78;

Thence South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;

Thence South 0 degrees 12 minutes East 934.6 varas to the place of beginning.

Containing an area of 331 acres, more or less.

Subtitle B—Water and Power

PART 1—POWER MARKETING ADMINISTRATIONS

SEC. 9201. SHORT TITLE.

This part may be cited as the "Power Administration Act".

SEC. 9202. EVALUATION OF SALES OF SOUTHEASTERN, SOUTHWESTERN, AND WESTERN AREA POWER ADMINISTRATION FACILITIES.

(a) REPEALS.—The following provisions are repealed:

(1) Section 505 of Public Law 102–377, the Fiscal Year 1993 Energy and Water Development Appropriations Act.

(2) Section 208 of Public Law 99–349, the Urgent Supplemental Appropriations Act, 1986.

(3) Section 510 of Public Law 101–514, the Fiscal Year 1991 Energy and Water Development appropriations Act.

(b) EVALUATION OF ISSUES.—(1) The Secretary of Energy, the Secretary of the Interior, and the Secretary of the Army shall enter into arrangements with an experienced private sector firm to serve as advisor to the Secretaries with respect to the sale of the facilities used to generate and transmit the electric power marketed by the Southeastern Power Administration, the Southwestern Power Administration and the Western Area Power Administration, including all transmission and related structures, equipment, facilities and all real, tangible and intangible property (including rights-of-way) which are used in connection with, and necessary for, the operation of such power generation and transmission facilities.

(2) Prior to December 31, 1996, the advisor shall provide to the Secretaries and the Congress a report identifying all recipients of water and power from such facilities, all relevant contracts, debt obligations, equity interests, and other binding agreements which apply to the facilities concerned and to the sale of electric power from such facilities, all assets tangible or intangible, all applicable requirements relating to environmental mitigation, Indian trust responsibilities, land ownership or use rights relevant to the proposed transfers which could terminate based on a transfer out of Federal ownership, and navigational requirements which affect the operation of such facilities.

(3) In conducting the evaluation, the Secretaries and the advisor should also recognize that many of the dams and reservoirs associated with the generation of electric power marketed by the Power Marketing Administrations are first and foremost water supply, flood control, or navigation projects. In general, power generation is incidental to these primary purposes. In addition, there are also secondary purposes such as recreation and environmental values which are served by these facilities as well as the power production. The evaluation should assume that such facilities will continue to be operated in a manner consistent with their current, primary purposes and the evaluation directed by this section shall not assume any changes in the other current operational objectives of the facilities.

(4) Such evaluation shall also include an evaluation of the tax consequences, and the revenue impacts of such consequences for the United States, of possible arrangements for the sale of generation and transmission facilities to potential transferees identified by the advisor. The report shall also investigate alternative groupings of such generation and transmission facilities for purposes of sale in order to determine which groupings would be most desirable for purposes of effectuating such sales. Proposed transfers should be structured by watershed or by project unless the advisor can provide satisfactory information to the Secretaries that another alternative should be used. Asset groupings shall specifically be designed to avoid the sale of the most valuable assets while the Federal government would be forced to retain the less valuable assets.

SEC. 9203. BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING.

(a) DEFINITIONS.—For the purposes of this section:

(1) The term "Administrator" means the Administrator of the Bonneville Power Administration.

(2) The term "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838(k)).

(3) The term "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995.

(4) The term "old capital investment" means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995; and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995.

(5) The term "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment.

(6) The term "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) NEW PRINCIPAL AMOUNTS.—(1) Effective October 1, 1995, an old capital investment shall have a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) With the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under paragraph (1) and the assignment of interest rates to the new principal amounts under subsection (c).

(3) For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this section were not enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.—As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) shall bear interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) REPAYMENT DATES.—As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under subsection (b) shall be no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A).

(e) PREPAYMENT LIMITATIONS.—During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under subsection (b), that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.—(1) The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) The Administrator shall not be required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under paragraph (1).

(3) For the purposes of this subsection, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS.—The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.—The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S PAYMENTS TO THE UNITED STATES TREASURY.

"(a) IN GENERAL.—So long as the Adminisatrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment in the amount and for each fiscal year as follows: $15,250,000 in fiscal year 1996; $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; and $4,100,000 in each succeeding fiscal year.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'settlement agreement' means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

"(2) the term 'Tribes' means the Confederated Tribes of the Colville Reservation, a Federally recognized Indian Tribe.".

(i) CONTRACT PROVISIONS.—In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b);

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c);

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b), and to pay the interest on the principal amount under subsection (c), no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Act; and

(4) the contract provisions specified in this Act shall not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) SAVINGS PROVISIONS.—(1) This section does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(2) Except as provided in subsection (e) of this section, this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

(k) DOE STUDY.—(1) The Administrator shall undertake a study to determine the effect that increases in the rates for electric power sales made by the Administrator may have on the customer base of the Bonneville Power Administration. Such study shall identify other sources of electric power that may be available to customers of the Bonneville Power Administration and shall estimate the level at which higher rates for power sales by the Administration may result in the loss of customers by the Administration.

(2) The Administrator shall undertake a study to determine the total prior costs incurred by the Bonneville Power Administration for compliance with the provisions of the Endangered Species Act of 1973 and the total future costs anticipated to be incurred by the Administration for compliance with such provisions.

(3) The Administrator shall submit the results of the studies undertaken under this section to the Congress within 180 days after the date of the enactment of this Act.

PART 2—RECLAMATION

SEC. 9211. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.".

SEC. 9212. TREATMENT OF CITY OF FOLSOM AS A CENTRAL VALLEY PROJECT CONTRACTOR.

For the purposes of being considered eligible to be a transferee of Central Valley Project water to be used for municipal and industrial purposes, the city of Folsom, California, shall be treated as a Central Valley Project contractor as of November 1, 1990.

SEC. 9213. SLY PARK.

(a) SHORT TITLE.—This section may be cited as the "Sly Park Unit Conveyance Act".

(b) DEFINITIONS.—For purposes of this section:

(1) The term "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852), together with all other facilities owned by the United States including those used to convey and store water delivered from Sly Park, as well as all recreation facilities associated thereto.

(c) SALE OF THE SLY PARK UNIT.—

(1) IN GENERAL.—The Secretary shall, within one year after the date of enactment of this Act, sell and convey to the El Dorado Irrigation District the Sly Park Unit. Within such one-year period, the Secretary shall also transfer and assign the water rights relating to the Sly Park Unit held in trust by the Secretary for diversion and storage under California State permits numbered 2631, 5645A, 10473, and 10474 to the El Dorado Irrigation District.

(2) SALE PRICE.—The sale price shall not exceed—

(A) the construction costs ($30,926,230), as included in the accounts of the Secretary, plus

(B) interest on the construction costs allocated to domestic use, at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852), up to an agreed upon date, less

(C) all revenues to date as collected under the terms of the contract between the United States and the El Dorado Irrigation District, estimated at $9,146,885.

(3) TERMS OF PAYMENT.—The Secretary shall provide for a payment of the purchase price under paragraph (2) on terms not to exceed 20 years. The interest rate to be paid by the District shall be the authorized rate included in the Act of October 14, 1949 (63 Stat. 852). Section 213(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(c)) shall not apply to the purchase of the Sly Park Unit under this section.

(4) CONVEYANCE.—Upon signing the agreement to carry out the sale required by this section, the Secretary shall convey and assign to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit.

(5) NO ADDITIONAL ENVIRONMENTAL IMPACT.—The Congress specifically finds that (A) the sale, conveyance and assignment of the Sly Park Unit and water rights under this section involves the transfer of the ownership and operation of an existing ongoing water project, (B) the Sly Park Unit operation, facilities and water rights have been, and after the sale and transfer will continue to be, committed to maximum reasonable and beneficial use for existing services, and (C) the sale, conveyance and assignment of the Sly Park Unit and water rights does not involve any additional growth or expansion of the project or other environmental impacts. Consequently, the sale, conveyance and assignment of the Sly Park Unit and water rights shall not be subject to environmental review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332) or endangered species review or consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536).

SEC. 9214. HETCH HETCHY DAM.

Section 7 of the Act of December 19, 1913 (38 Stat. 242), is amended—

(1) by striking "$30,000" in the first sentence and inserting "$8,000,000", and

(2) by amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by the Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".

Subtitle C—National Parks, Forests, and Public Lands

PART 1—CONCESSION REFORM

SEC. 9301. SHORT TITLE.

This part may be cited as the "Visitor Facilities and Services Enhancement Act of 1995".

SEC. 9302. PURPOSE.

The purpose of this part is to ensure that quality visitor facilities and services are provided by the Federal land management agencies (Forest Service, United States Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Reclamation and United States Army Corps of Engineers). Each Federal land management agency shall implement a program to encourage appropriate development and operation of services and facilities for the accommodation of visitors. The program implemented by each such agency shall consist of actions which—

(1) recognize the importance of the private sector in providing a quality visitor experience on Federal lands by encouraging private sector investments for facilities and services on Federal lands under a fair and competitive process;

(2) establish the basis for an effective relationship between the land management agencies and private businesses operating on public lands and waters in efforts to serve the public and to protect the resources of these areas;

(3) measure quality and value of services provided by concessioners and provide incentives for consistent excellence.

(4) ensure a fair return to the Federal Government; and

(5) are consistent among the various agencies to the extent practicable in order to increase efficiency of the Federal Government and simplify requirements for concessioners.

SEC. 9303. DEFINITIONS.

For the purposes of this part:

(1) The term "adjusted gross receipts" means gross receipts less revenue derived from goods and services provided on other than Federal lands or conveyed to units of Government for hunting or fishing licenses or for entrance or recreation fees, or from such other exclusions as the Secretary concerned might apply.

(2) The term "agency head" means the head of an agency or his or her designated representative.

(3) The term "concessioner" means a person or other entity acting under a concession authorization which provides public services, facilities, or activities on Federal lands or waters pursuant to a concession services agreement or concession license.

(4) The term "concession license" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide recreation services or activities on a limited basis as well as the rights and obligations of the Federal Government.

(5) The term "concession service agreement" means a written contract between the agency head and the concessioner which sets forth the terms and conditions under which the concessioner is authorized to provide visitor services, facilities, or activities as well as the rights and obligations of the Federal Government.

(6) The term "gross receipts" means revenue from goods or services provided by concession services, facilities, or activities on Federal lands and waters.

(7) The term "performance incentive" means a credit based on past performance toward the score awarded by the Secretary to a concessioner's proposal submitted in response to a solicitation for the reissuance of such contract.

(8) The term "proposal" means the complete submission for a concession service agreement offered in response to the solicitation for such concession service agreement.

(9) The term "prospectus" means a document or documents issued by the Secretary concerned and included with a solicitation which sets forth the minimum requirements for the award of a concession service agreement.

(10) The term "Secretary concerned" means—

(A) the Secretary of the Interior with respect to the United States Fish and Wildlife Service, National Park Service, Bureau of Land Management, and Bureau of Reclamation;

(B) the Secretary of Agriculture with respect to the Forest Service; and

(C) the Secretary of the Army with respect to the United States Army Corps of Engineers.

(11) The term "solicitation" means a request by the Secretary concerned for proposals in response to a prospectus.

SEC. 9304. NATURE AND TYPES OF CONCESSION AUTHORIZATIONS.

(a) IN GENERAL.—The Secretary concerned may enter into concession authorizations, as follows:

(1) CONCESSION SERVICES AGREEMENT.—A concession service agreement shall be entered into for all concessions where the Secretary concerned makes a finding that the provision of concession services is in the interest of the Federal Government and issues either a competitive offering for concession services, facilities or activities or a noncompetitive offering for such services, facilities, or activities based on a finding that due to special circumstances it is not in the public interest of the United States to award a concession service agreement on a competitive basis. Where the concessioner develops or uses fixed facilities on Federal lands, the Secretary concerned shall issue a lease.

(2) CONCESSION LICENSE.—Whenever the Secretary concerned makes a finding that public enjoyment of Federal lands would be enhanced through the provision of concession services and that there exists no need to limit the number of concessioners providing such services, he shall consider entering into a concession license with a qualified concessioner. Activities covered under a concession license would typically be one-time, intermittent, or infrequently scheduled. The Secretary concerned may not limit the number of concession licenses issued for the same types of activities in a particular geographic area. The Secretary concerned shall monitor such concession licenses to determine whether issuance of a concession service agreement would be a more appropriate authorization.

(3) LANDS UNDER MULTIPLE JURISDICTIONS.—The Secretaries of the Departments concerned shall designate an agency to be the lead agency concerning concessions which conduct a single operation on lands or waters under the jurisdiction of more than one agency. Unless otherwise agreed to by each such Secretary concerned, the lead agency shall be that agency under whose jurisdiction the concessioner generates the greatest amount of gross receipts. The agency so designated shall issue a single authorization and collect a single fee under paragraphs (1) and (2) for such operation. Such authorization shall provide for use in a manner consistent with the plans and policies for each agency.

(b) LEASES OF AREAS TO STATES AND STATE THIRD PARTY AGREEMENT NOT COVERED.—This part does not apply to leases or licenses of entire areas to States or other political subdivisions or to any third party agreement issued by any such State or political subdivisions with respect to such entire area.

SEC. 9305. COMPETITIVE SELECTION PROCESS FOR CONCESSION SERVICE AGREEMENTS.

(a) AWARD TO BEST PROPOSAL.—The Secretary shall enter into, and reissue, a concession service agreement with the person whom the Secretary determines in accordance with this section submits the best proposal through a competitive process as defined in this section.

(b) SOLICITATION AND PROSPECTUS.—The Secretary concerned shall prepare a solicitation and prospectus which describes the concession service opportunity and shall publish, in appropriate locations, announcements of the availability of the solicitation, prospectus, and the concession service opportunity. The solicitation shall include (but need not be limited to) the following:

(1) A description of the services and facilities to be provided by the concessioner.

(2) The level of capital investment required by the concessioner (if any).

(3) Terms and conditions of the concession service agreement.

(4) Minimum facilities and services to be provided by the Secretary to the concessioner and the public.

(5) Minimum fees to the United States.

(c) FACTORS AND MINIMUM STANDARDS IN DETERMINING BEST PROPOSAL.—The prospectus shall assign a weight to each factor identified therein related to the importance of such factor in the selection process. Points shall be awarded for each such factor, based on the relative strength of the proposal concerning that factor. In determining the best proposal, the Secretary concerned shall take into consideration (but shall not be limited to) the following, including whether the proposal meets the minimum requirements (if any) of the Secretary for each of the following:

(1) Responsiveness to the prospectus.

(2) Quality of visitor services taking into account the nature of equipment and facilities to be provided.

(3) Experience and performance in providing similar services. This factor shall account for not less than 20 percent of the maximum points available under any prospectus. Where the Secretary concerned determines it to be warranted to provide for a high quality visitor experience, the prospectus for a concession service agreement shall provide greater weight to this factor based on such aspects of the concession service agreement as scope or size, complexity, nature of technical skills required, and site-specific knowledge of the area. The similarity of the qualifying experience outlined in the proposal to the nature of the services required under the concession service agreement and the length of such qualifying experience shall be the basis for awarding points for this factor.

(4) Record of resource protection (as appropriate for services and activities with potential to impact natural or cultural resources).

(5) Financial capability.

(6) Fees to the United States.

(d) SELECTION PROCESS.—The process for selecting the best proposal shall consist of the following:

(1) First, the Secretary concerned shall identify those proposals which meet the minimum standards (if any) for the factors identified under subsection (c).

(2) Second, the Secretary concerned shall evaluate all proposals identified under paragraph (1), considering all factors identified under subsection (c), as well as performance incentives earned under section 9306(c) and renewal penalties incurred under section 9306(d).

(3) Third, the Secretary concerned shall offer the concession service agreement to the best qualified applicant as determined by the evaluation under paragraph (2).

(e) INAPPLICABILITY OF NEPA TO TEMPORARY EXTENSIONS AND SIMILAR REISSUANCE OF CONCESSIONS AGREEMENTS.—The temporary extension of a concession authorization, or reissuance of a concession authorization to provide concession services similar in nature and amount to concession services provided under the previous authorization, is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

(f) PROVISION FOR ADDITIONAL RELATED SERVICES.—The Secretary concerned may modify the concession service agreement to allow concessioners to provide services closely related to such agreement, if the Secretary concerned determines that such changes would enhance the safety or enjoyment of visitors and would not unduly restrict the award of future concession service agreements.

SEC. 9306. CONCESSIONER EVALUATIONS.

(a) IN GENERAL.—The Secretary concerned shall develop a program of evaluations of the concessioners operating under a concession service agreement who are providing visitor services in areas under the jurisdiction of the Secretary. The evaluations shall be on an annual basis over the duration of the concession service agreement. In developing the evaluation program, the Secretary concerned shall seek broad public input from concessioners, State agencies, and other interested persons. The evaluation program shall—

(1) include the four program areas of: quality of visitor services provided; resource protection (as applicable); financial performance; and compliance with concession service agreement provisions and pertinent laws and regulations;

(2) define three levels of performance—

(A) good, which shall be defined as a level of performance which exceeds the requirements outlined in the prospectus, but which is attainable;

(B) satisfactory, which shall be defined as meeting the requirements as contained in the prospectus; and

(C) unsatisfactory, which shall be defined as not meeting the requirements contained in the prospectus;

(3) be based on criteria which—

(A) are objective, measurable, and attainable; and

(B) shall include as applicable general standards for all concession operations, industry-specific standards, and standards developed by the Secretary concerned in consultation with the concessioner for each concession service agreement;

(4) be designed in such a manner that the annual evaluation represents the overall performance of the concessioner without undue weight to matters of limited importance; and

(5) take into account factors beyond the control of the concessioner, such as general market and other economic fluctuations, as well as weather and other natural phenomena, so that such factors may not be used as a justification for denial of performance incentives.

(b) ANNUAL EVALUATIONS.—

(1) REQUIREMENTS.—The Secretary concerned shall at least semiannually review the performance of each concessioner and shall assign an overall rating for each concessioner for each year. The procedure for any performance evaluation shall be provided to the concessioner prior to the beginning of any evaluation period. Such procedure shall provide for adequate notification of the concessioner prior to any on-site evaluation and permit a representative of the concessioner to observe the evaluation. The concessioner shall be entitled to a complete explanation of any rating given. If the Secretary's performance evaluation for any year results in an unsatisfactory rating of the concessioner, the Secretary concerned shall so notify the concessioner, in writing. Such notification shall identify the nature of conditions which require corrective action and shall provide the concessioner with a list of corrective actions necessary to meet the standards.

(2) SUSPENSION, REVOCATION, AND TERMINATION OF AUTHORIZATION.—The Secretary concerned may suspend, revoke, or terminate a concession authorization if the concessioner fails to correct the conditions identified by the Secretary within the limitations established by the Secretary at the time notice of the unsatisfactory rating is provided to the concessioner. The Secretary may immediately suspend or revoke a concession authorization where necessary to protect the public health or welfare.

(c) PERFORMANCE INCENTIVES.—

(1) In evaluating the performance of a concessioner, the incumbent concessioner is entitled to a performance incentive of—

(A) one percent of the maximum points available under such evaluations for performance in each year in which the concessioner's annual performance is rated good, as specified in subsection (a)(2)(A), and

(B) a one-time three year merit term extension upon a finding that a concessioner has been rated as good in each annual performance evaluation through the term of the concession service agreement.

(2) A performance incentive awarded under paragraph (1)(A) may not exceed 10 percent of the maximum points available under such evaluations over the life of the concession service agreement.

(d) RENEWAL PENALTY.—In evaluating the performance of a concessioner, a concessioner shall be penalized one percent of the maximum points available under such evaluation for performance in each year in which the concessioner's annual performance is found to be unsatisfactory.

SEC. 9307. CAPITAL IMPROVEMENTS.

(a) PRIVATE SECTOR DEVELOPMENT.—It is the policy of the United States to encourage the private sector to develop, own, and maintain to the extent possible such public recreation facilities which would enhance public use and enjoyment of Federal lands as are contained in approved plans developed by the Secretary concerned. Under the terms of this part, concessioners may only construct or finance construction under terms of section 9312 such public facilities on Federal lands as are to be used by the concessioner under the terms of their concession service agreement or facilities which are necessary for the concessioner to administer such public facilities on Federal lands.

(b) INVESTMENT INTEREST.—

(1) IN GENERAL.—A concessioner, who is required or authorized under a concession service agreement pursuant to this part to acquire or construct any structure, improvement, or fixture pursuant to such agreement on Federal lands shall have an investment interest therein, to the extent provided by the agreement and this part. Such investment interest shall not be extinguished by the expiration of such agreement. Such investment interest may be assigned, transferred, encumbered or relinquished.

(2) LIMITATION.—Such investment interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use of any improvement in which the concessioner has an investment interest shall be wholly subject to the applicable provisions of the concession service agreement

and of laws and regulations relating to the area.

(3) Federal property.—The agreement shall specify which new improvements required under terms of the concession service agreement, if any, shall become the property of the Federal Government at the end of the agreement. No concession service agreement shall provide for a concessioner to obtain an investment interest in any building which is wholly owned by the Federal Government. Title to the land on which such structure, improvement, or fixture is placed shall remain in the United States.

(c) Sale of Assets.—If the existing concessioner is not selected as the best qualified applicant at the time of reissuance of a concession service agreement, the Secretary concerned shall require the new concessioner to buy the investment interest of the existing concessioner.

(d) Closure of Concessioner Facilities.—In the event of a decision by the Secretary concerned, that the public interest, by reason of public and safety considerations or for other reasons beyond the control of the concessioner, requires the discontinuation or closure of facilities in which the concessioner has an investment interest, the Secretary shall compensate the concessioner in the amount equal to the value of the investment interest.

(e) Determination of Value of Investment Interest.—For purposes of this part, the investment interest of any capital improvement at the end of the concession service agreement period is the actual cost of construction of such capital improvement adjusted from the completion of such construction by changes in the Consumer Price Index (selected in the same manner as such Index is selected under section 9311(c)(2)) less depreciation evidenced by the condition and prospective serviceability in comparison with a new unit of like kind, but not to exceed fair market value. Such value shall be determined by appraisal and included in any prospectus.

SEC. 9308. DURATION OF CONCESSION AUTHORIZATION.

(a) Concession Service Agreement.—The standard term of a concession service agreement shall be ten years. The Secretary concerned may issue a concession service agreement for less than ten years if he determines (in his discretion) that the average annual gross receipts over the life of the concession service agreement would be less than $100,000. The Secretary concerned may not issue a concession service agreement for less than five years. The Secretary concerned shall issue a concession service agreement for longer than ten years if the Secretary determines (in his discretion) that such longer term is in the public interest or necessary due to the extent of investment and associated financing requirements and to meet the obligations assumed. The term for a concession service agreement may not exceed 30 years.

(b) Concession License.—The term for a concession license may not exceed two years.

(c) Temporary Extension.—The Secretary may agree to temporary extensions of concession service agreements for up to two years on a noncompetitive basis to avoid interruption of services to the public.

SEC. 9309. RATES AND CHARGES TO THE PUBLIC.

In general, rates and charges to the public shall be set by the concessioner. For concession service agreements only, a concessioner's rates and charges to the public shall be subject to the approval of the Secretary concerned in those instances where the Secretary determines that sufficient competition for such facilities and services does not exist within or in close proximity to the area in which the concessioner operates. In those instances, the concession service agreement shall state that the reasonableness of the concessioner's rates and charges to the public shall be reviewed and approved by the Secretary concerned primarily by comparison with those rates and charges for facilities and services of comparable character under similar conditions, with due consideration for length of season, seasonal variations, average percentage of occupancy, accessibility, availability and costs of labor and materials, type of patronage, and other factors deemed significant by the Secretary concerned. Such review shall be completed within 90 days of receipt of all necessary information, or the requirement for the Secretary's approval shall be waived and such rates and charges as proposed by the concessioner considered to be approved for immediate use.

SEC. 9310. TRANSFERABILITY OF CONCESSION AUTHORIZATIONS.

(a) Concession Service Agreements.—

(1) Approval required.—A concession service agreement is transferable or assignable only upon the approval of the Secretary concerned, which approval may not be unreasonably withheld or delayed. The Secretary may not approve any such transfer or assignment if the Secretary determines that the prospective concessioner is or is likely to be unable to completely satisfy all of the material requirements, terms, and conditions of the agreement or that the terms of the transfer or assignment would preclude providing appropriate facilities or services to the public at reasonable rates.

(2) Consideration period.—If the Secretary fails to approve or disapprove a transfer or assignment under paragraph (1) within 90 days after the date on which the Secretary receives all necessary information requested by the Secretary with respect to such transfer, the transfer or assignment shall be deemed approved.

(3) No modification of terms and conditions.—The terms and conditions of the concessions service agreement shall not be subject to modification by reason of any transfer or assignment under this section.

(4) Performance incentive.—Upon approval of the sale or transfer, the prospective concessioner shall be entitled to the benefit of performance incentives earned by the previous concessioner.

(b) Concession License.—A concession license may not be transferred.

SEC. 9311. FEES CHARGED BY THE UNITED STATES FOR CONCESSION AUTHORIZATIONS.

(a) In General.—The Secretary concerned shall charge a fee for the privilege of providing concession services pursuant to this part. The fee for any concession service agreement may include any of the following:

(1) An annual cash payment for the privilege of providing concession services.

(2) The amount required for capital improvements required pursuant to section 9307(a).

(3) Fees for rental or lease of Government-owned facilities or lands occupied by the concessioner.

(4) Expenditures for maintenance of or improvements to Government-owned facilities occupied by the concessioner.

(b) Establishment of Amount.—

(1) Minimum acceptable fee.—The Secretary concerned shall establish a minimum fee for each applicable category specified in paragraphs (1) through (4) of subsection (a) which is acceptable to the Secretary under this section and shall include the minimum fee in the prospectus under section 9305. This fee shall be based on historical data, where available, as well as industry-specific and other market data available to the Secretary concerned.

(2) Final fee.—Except as provided by paragraph (3), the final fee shall be the amount bid by the selected applicant under section 9305.

(3) Substantially similar services in a specific geographic area.—Where the Secretary concerned simultaneously offers authorizations for more than one river runner, outfitter, or guide concession operation to provide substantially similar services in a defined geographic area, the concession fee for all such concessioners shall be specified by the Secretary concerned in the prospectus. The Secretary concerned shall base the fee on historical data, where available, as well as on industry-specific and other market data available to the Secretary concerned or may establish a charge per user day.

(c) Adjustment of Fees.—

(1) In general.—The amount of any fee for the term of the concession service agreement shall be set at the beginning of the concession authorization and may only be modified on the basis of inflation, if the annual payment is not determined by a percentage of adjusted gross receipts (as measured by changes in the Consumer Price Index), to reflect substantial changes from the conditions specified in the prospectus, or in the event of an unforeseen disaster.

(2) CPI.—For the purposes of adjustments for inflation under paragraph (1), the Federal agencies shall select a Consumer Price Index published by the Bureau of Labor Statistics and shall use such index in a consistent manner.

(d) Concession License Fee.—The fee for a concession license shall at least cover the program administrative costs and may not be changed over the term of the license.

SEC. 9312. DISPOSITION OF FEES.

(a) Concession Improvement Account.—

(1) In general.—The Secretary concerned shall, whenever the concession service agreement requires or authorizes the concessioner to make capital improvements or occupy Government-owned facilities, require the concessioner to establish a concession improvement account. The concessioner shall deposit into this account—

(A) all funds for capital improvements as specified in the concession service agreement;

(B) all funds for maintenance of or improvements to Government-owned facilities occupied by the concessioner; and

(C) all amounts received from the Secretary concerned pursuant to subsection (b).

(2) Terms and conditions.—The account shall be maintained by the concessioner in an interest bearing account in a Federally insured financial institution. The concessioner shall maintain the account separately from any other funds or accounts and shall not commingle the monies in the account with any other moneys. The Secretary concerned may establish such other terms, conditions, or requirements as the Secretary determines to be necessary to ensure the financial integrity of the account.

(3) Disbursements.—The concessioner shall make disbursements from the account for improvements and other activities, only as specified in the concession service agreement and subsection (b)(2)(C).

(4) RECORDS.—The concessioner shall maintain proper records for all disbursements made from the account. Such records shall include (but not be limited to) invoices, bank statements, canceled checks, and such other information as the Secretary concerned determines to be necessary.

(5) ANNUAL FINANCIAL STATEMENT.—The concessioner shall annually submit to the Secretary concerned a statement reflecting total activity in the account for the preceding financial year. The statement shall reflect monthly deposits, expenditures by project, interest earned, and such other information as the Secretary concerned requires.

(6) TRANSFER OF REMAINING BALANCE.—Upon the termination of a concession authorization, or upon the transfer of a concession service agreement, any remaining balance in the account shall be transferred by the concessioner to the successor concessioner, to be used solely as set forth in this subsection. In the event there is no successor concessioner, the account balance shall be deposited in the Treasury as miscellaneous receipts.

(b) AMOUNTS RECEIVED RELATING TO PRIVILEGE OF PROVIDING CONCESSION SERVICES AND RENTAL OF GOVERNMENT-OWNED FACILITIES.—

(1) DEPOSIT INTO TREASURY.—The Secretary concerned shall deposit into the Treasury of the United States as miscellaneous receipts amounts received for a fiscal year for the privilege of providing concession services and the rental of Government-owned facilities up to the amount specified in the table in paragraph (3) for the National Park Service for that fiscal year. For the other agencies covered under this part, the Secretary concerned shall develop a schedule of anticipated receipts to be deposited to the Treasury and submit such schedule to the appropriate Congressional committees within 18 months of the date of enactment of this Act. Nothing in this part shall be construed to modify any provision of law relating to sharing of Federal receipts with any other level of Government.

(2) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—(A) Amounts received by the Secretary concerned for a fiscal year for the privilege of providing concession services and the use of Government-owned facilities which exceed the amount specified in the table in paragraph (3) for that fiscal year shall be available for deposit in the succeeding fiscal year into concession improvement accounts.

(B) Of the amounts available for deposit into concession improvement accounts, the Secretary shall make available to each concessioner a percentage of such excess amounts which bears the same ratio as the amount paid by the concessioner to the Secretary concerned for a fiscal year for the privilege of providing concession services and the use of Government-owned facilities bears to the total amount paid to the Secretary concerned by all concessioners for that fiscal year for such privilege on an agency-wide basis.

(C) Amounts made available to a concessioner under this paragraph may be used only for expenditures on visitor services and facilities at the area at which the funds were generated.

(3) DEPOSIT INTO CONCESSION IMPROVEMENT ACCOUNTS.—The table referred to in paragraph (2), expressed by fiscal year on an agency basis, is as follows:

National Park Service

Fiscal year:	Amount:
1997	$15,800,000
1998	$21,100,000
1999	$26,700,000
2000	$32,300,000
2001	$38,200,000
2002	$44,400,000.

(c) AUDIT REQUIREMENT.—Beginning with fiscal year 1998, the Inspector General of the Department concerned shall conduct a biennial audit of concession fees generated pursuant to this part. The Inspector General shall make a determination as to whether concession fees are being collected and expended in accordance with this part and shall submit copies of each audit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9313. DISPUTE RESOLUTION.

(a) BOARD OF CONTRACT APPEALS.—The Board of Contract Appeals within each Department shall adjudicate disputes between the Federal Government and concessioners arising under this part, including disputes regarding the revocation, suspension, or termination of a concession authorization, transfers of concession service agreements, and performance evaluations of concessions. Such disputes shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.). The expiration of a concession authorization shall not be subject to appeal to the Board.

(b) ADMINISTRATIVE REVIEW.—Appeals of decisions may be taken to the Board of Contract Appeals after one level of review of decisions made within an agency.

(c) EXPEDITED PROCEDURE.—Appeals of decisions to suspend, revoke, or terminate a concession authorization shall be considered under an expedited procedure, as provided by the Secretary concerned by regulation.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—A person may seek judicial review of decisions made by the Board. Such review shall be conducted by the court with jurisdiction on a de novo basis.

(2) CONCESSION SERVICE AGREEMENTS.—Judicial review of decisions rendered by the Board regarding concession service agreements shall be to the United States Court of Federal Claims in accordance with section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act").

(3) CONCESSION LICENSES.—Judicial review of decisions rendered by the Board regarding concession licenses shall be to the appropriate Federal District Court.

(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—Disputes arising under this part shall not be subject to the jurisdiction of the General Accounting Office to review bid protests under the Competition in Contracting Act of 1984.

SEC. 9314. RECORDKEEPING.

(a) MAINTENANCE AND ACCESS.—Each concessioner shall keep such records as the Secretary concerned may prescribe to enable the Secretary to determine that all terms of the concession authorization have been and are being faithfully performed, and the Secretary and his duly authorized representatives shall, for the purpose of audit and examination, have access at reasonable times and locations to such records and to other books, documents, and papers of the concessioner pertinent to the concession authorization and all the terms and conditions thereof.

(b) ACCESS BY COMPTROLLER GENERAL.—The Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of five calendar years after the close of the business year of each concessioner have access and the right to examine any pertinent books, documents, papers, and records of the concessioner related to the concession authorization involved.

SEC. 9315. APPLICATION OF GENERAL GOVERNMENTAL ACQUISITION REQUIREMENTS.

The following laws and regulations shall not apply to concession service agreements and concession licenses under this part:

(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251–266).

(2) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(3) The Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

(4) The Brooks Automatic Data Processing Act (40 U.S.C. 759).

(5) Chapters 137 and 141 of title 10, United States Code.

(6) The Federal Acquisition Regulation and any laws not listed in paragraphs (1) through (5) providing authority to promulgate regulations in the Federal Acquisition Regulation.

(7) The Act of June 20, 1936 (20 U.S.C. 107; commonly referred to as the "Randolph-Sheppard Act") and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.).

SEC. 9316. RULES OF CONSTRUCTION.

Concession programs of an agency on Federal lands and waters subject to this part shall be fully consistent with the agency's mission and laws applicable to the agency. Nothing in this part shall be construed as limiting or restricting any right, title, or interest of the United States in any land or resources.

SEC. 9317. REGULATIONS.

(a) IN GENERAL.—Pursuant to enactment of this part, no new concession authorization may be issued, nor may any existing concession authorization remain in effect after two years after the date of the enactment of this Act, unless regulations fully implementing this part are in effect. During such two-year period, the Secretary may only extend an existing concession authorization for a period ending at the end of such two-year period. Such extensions shall be made in accordance with the applicable provisions of law specified in section 9318, as such provisions were in effect on the day before the date of the enactment of this Act. The Secretary of the Interior, Secretary of Agriculture, and Secretary of the Army shall develop a single set of regulations which specify a uniform set of recordkeeping requirements for all concessioners with respect to implementation of this part.

(b) QUALIFICATIONS OF AGENCY PERSONNEL ASSIGNED CONCESSION MANAGEMENT DUTIES.—The Secretary, by regulation under subsection (a) and taking into account the provisions of this part, shall specify the minimum training and qualifications required for agency personnel assigned predominantly to concession management duties, including (but not limited to) competency in business management, public health and safety, and the delivery of quality customer services.

SEC. 9318. RELATIONSHIP TO OTHER EXISTING LAWS.

(a) REPEALS.—

(1) The Act entitled "An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes" (16 U.S.C. 20–20g) approved October 9, 1965, is repealed.

(2) The last paragraph under the heading "FOREST SERVICE" in the Act of March 4, 1915 (38 Stat. 1101), as amended by the Act of July 28, 1956 (chap. 771; 70 Stat. 708) (16 U.S.C. 497), is repealed.

(3) Section 7 of the Act of April 24, 1950 (16 U.S.C. 580d) is repealed.

(b) SUPERSEDED PROVISIONS.—The provisions of this part shall supersede the provisions of the following Acts as they pertain to concessions management:

(1) The Federal Land Policy and Management Act of 1976 (Oct. 21, 1976).

(2) Public Law 87–714 (16 U.S.C. 460k et seq.; commonly known as the "Refuge Recreation Act").

(3) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd).

(c) CONFORMING AMENDMENT.—The fourth sentence of section 3 of the Act of August 25, 1916 (16 U.S.C. 3; 39 Stat. 535), is amended by striking all through "no natural" and inserting in lieu thereof "No natural".

(d) MODIFIED PROVISIONS.—The second sentence of section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" (16 U.S.C. 460d) is amended by inserting ", except for commercial concessions purposes" the first place it appears after "public interest".

(e) SAVINGS.—

(1) IN GENERAL.—The repeal of any provision, the superseding of any provision, and the amendment of any provision, of an Act referred to in subsections (a), (b), or (c) shall not affect the validity of any authorizations entered into under any such Act. The provisions of this part shall apply to any such authorizations, except to the extent such provisions are inconsistent with the express terms and conditions of such authorizations.

(2) RIGHT OF RENEWAL.—The right of renewal explicitly provided for by any concession contract under any such provision shall be preserved for a single renewal of a contract following the enactment of, or concession authorization under, this part.

(3) VALUE OF CAPITAL IMPROVEMENTS OR POSSESSORY INTEREST.—Nothing in this part shall be construed to change the value of existing capital improvements or possessory interest as identified in concession contracts entered into before the enactment of this Act.

(4) ANILCA.—Nothing in this part shall be construed to amend, supersede or otherwise affect any provision of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) relating to revenue-producing visitor services.

(5) SKI AREA PERMITS.—No provision of this part shall apply to any ski area permittee operating on lands administered by the Forest Service.

(6) PROCEDURES FOR CONSIDERING EXISTING CONCESSIONERS IN REISSUANCE OF CONTRACTS.—In the case of any concession contract which has expired prior to the date of the enactment of this Act, or within five years after the date of the enactment of this Act, the incumbent concessioner shall be entitled to a one-time bonus of five percent of the maximum points available in the reissuance of a previous concession authorization. For any concession contract entered into prior to the date of enactment of this Act, which is projected to terminate five years or later after the enactment of this Act, any concessioner shall be entitled to a performance incentive as outlined in this part. The concessioner shall be entitled to an evaluation for the purposes of section 9306 of good for each year in which the Secretary concerned does not complete an evaluation as provided for in this part.

PART 2—NATIONAL FOREST SKI AREAS

SEC. 9321. PRIVATIZATION OF FOREST SERVICE SKI AREAS.

(a) AUTHORIZATION TO SELL.—

(1) IN GENERAL.—Not later than five years after the date of enactment of this part, the Secretary of Agriculture shall offer to sell not less than 40 ski areas to the qualifying ski area operator. Any such sale shall provide for continuation of public access for diverse recreational uses. The Secretary shall offer such areas for sale only after consultation with State and local governments. Any such sale shall be at fair market value and, subject to valid existing rights, shall transfer all right, title, and interest of the United States in and to the lands. In any such sale, the Secretary shall establish the minimum acceptable bid based on the appraised fair market value of such lands.

(2) QUALIFYING LANDS.—For the purposes of subsection (a), lands are qualifying concession lands if such lands are—

(A) subject to a lease on the date of the enactment of this Act for use as a ski area with improvements with a fair market value greater than $2,000,000; and

(B) located either adjacent to the boundary of the Federal lands or adjacent to other significant private inholdings.

(b) APPRAISAL.—

(1) IN GENERAL.—The Secretary shall provide for an independent appraisal of the lands and interests therein to be transferred pursuant to subsection (a). The appraiser shall—

(A) utilize nationally recognized appraisal standards, including to the extent appropriate the uniform appraisal standards for Federal land acquisition; and

(B) not include the value of any improvement placed on the lands by the concessioner.

(2) APPRAISAL REPORT.—The appraiser shall submit a detailed report to the Secretary.

(c) ADDITIONAL LANDS.—In addition to the national forest ski area, the Secretary may transfer by sale or exchange additional National Forest System lands for the purpose of adding such lands to and operating them as part of a ski area sold under subsection (a). The transfer of additional lands under this subsection shall be in accordance with this part and the laws generally applicable to the National Forest System.

(d) USE OF PROCEEDS BY THE APPROPRIATE SECRETARY.—The Secretary may retain 50 percent of the funds generated through sales under this section to acquire other high priority lands identified for acquisition in any forest land and resource management plan. The remaining 50 percent of such amount shall be deposited in the Treasury as miscellaneous receipts.

SEC. 9322. SKI AREA PERMIT FEES AND WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

The National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) is amended by adding at the end the following new sections:

"SEC. 4. SKI AREA PERMIT FEES.

"(a) SKI AREA PERMIT FEE.—

"(1) IN GENERAL.—Except as provided by paragraph (2), after the date of the enactment of this section, the fee for all ski area permits on National Forest System lands shall be calculated, charged, and paid only as set forth in subsection (b).

"(2) EXCEPTION.—Paragraph (1) does not apply to any ski area where the existing permit in effect on the date of enactment of this section specifies a different method to calculate the fee. In any such situation the terms of such permit shall prevail, unless the permit holder notifies the Forest Service that the permit holder agrees to adopt the method of fee calculation specified in this section. The Forest Service should encourage such permit holders to consider adopting the new method of fee calculation in order to reduce its administrative costs.

"(b) METHOD OF CALCULATION.—

"(1) DETERMINATION OF ADJUSTED GROSS REVENUE SUBJECT TO FEE.—The Secretary of Agriculture shall calculate the ski area permit fee to be charged a ski area permittee by first determining the permittee's adjusted gross revenue to be subject to the permit fee. The permittee's adjusted gross revenue is equal to the sum of the following:

"(A) The permittee's gross revenues from alpine lift ticket and alpine season pass sales plus revenue from alpine ski school operations, with such total multiplied by the permittee's slope transport feet percentage on National Forest System lands.

"(B) The permittee's gross revenues from nordic ski use pass sales and nordic ski school operations, with such total multiplied by the permittee's percentage of nordic trails on National Forest System lands.

"(C) The permittee's gross revenues from ancillary facilities physically located on National Forest System lands, including all permittee or subpermittee lodging, food service, rental shops, parking, and other ancillary operations.

"(2) DETERMINATION OF SKI AREA PERMIT FEE.—The Secretary shall determine the ski area permit fee to be charged a ski area permittee by multiplying adjusted gross revenue determined under paragraph (1) for the permittee by the following percentages for each revenue bracket and adding the total for each revenue bracket:

"(A) 1.5 percent of all adjusted gross revenue below $3,000,000.

"(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000.

"(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000.

"(D) 4.0 percent for the amount of adjusted gross revenue that exceeds $50,000,000.

"(3) SLOPE TRANSPORT FEET PERCENTAGE.—In cases where ski areas are only partially located on National Forest System lands, the slope transport feet percentage on national forest land referred to in paragraph (1) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992.

"(4) ANNUAL ADJUSTMENT OF ADJUSTED GROSS REVENUE.—In order to insure that the ski area permit fee set forth in this subsection remains fair and equitable to both the United States and ski area permittees, the Secretary shall adjust, on an annual basis, the adjusted gross revenue figures for each revenue bracket in subparagraphs (A) through (D) of paragraph (2) by the percent increase or decrease in the National Consumer Price Index for the preceding calendar year.

"(c) MINIMUM FEE.—In cases where an area of National Forest System land is under a ski area permit but the permittee does not have revenue or sales qualifying for fee payment pursuant to subsection (a), the permittee shall pay an annual minimum fee of $2 for each acre of National Forest System land under permit. Rental fees imposed under this subsection shall be paid at the time specified in subsection (d).

"(d) TIME FOR PAYMENT.—The fee set forth in subsection (b) shall be due on June 1 of each year and shall be paid or prepaid by the permittee on a monthly, quarterly, annual, or other schedule as determined appropriate by the Secretary in consultation with the permittee. It is the intention of Congress that unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to the enactment of this section. To simplify bookkeeping and fee calculation burdens on the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual fee calculations brackets and rates) to be utilized for fee calculation and submitted with the fee payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, United States Forest Service.

"(e) DEFINITIONS.—To simplify bookkeeping and administrative burdens on ski area permittees and the Forest Service, as used in this section, the terms 'revenue' and 'sales' mean actual income from sales. Such terms do not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities, discounts, complimentary lift tickets, or other goods or services (except for bartered goods) for which the permittee does not receive money.

"(f) EFFECTIVE DATE FOR FEES.—The ski area permit fees as provided under this section shall become effective on July 1, 1996, and cover receipts retroactive to July 1, 1995. If a ski area permittee has paid fees for the 12-month period ending on June 30, 1996, under the graduated rate fee system formula in effect prior to the date of the enactment of this section, such fees shall be credited toward the new ski area permit fee due for that period under this section.

"(g) REPORT ON FAIR MARKET VALUE.—No later than five years after the date of enactment of this section and every 10 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committees of Agriculture and Resources of the United States House of Representatives a report analyzing whether the ski area permit fee system legislated by this section is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications in the system.

"(h) TRANSITION PERIOD.—Where the new fee provided for in this section results in an increase in permit fee greater than one percent of the permittee's adjusted gross revenue (as defined in subsection (b)(1)), the new fee shall be phased in over a three year period in a manner providing for increases of approximately equal increments.

"(i) APPLICABILITY OF NEPA TO REISSUANCE OF SKI AREA PERMITS.—The reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit is hereby determined to be a categorical exclusion as provided for under the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

"SEC. 5. WITHDRAWAL OF SKI AREAS FROM OPERATION OF MINING LAWS.

"Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on, or after the date of the enactment of this section pursuant to the authority of the Act of March 4, 1915 (16 U.S.C. 497), the Act of June 4, 1897 (16 U.S.C. 473 et seq.), or section 3 of this Act are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal of the permit. Such withdrawal shall be canceled automatically upon expiration or other termination of the permit unless, at the request of the Secretary of Agriculture, the Secretary of the Interior determines to continue the withdrawal. Upon cancellation of the withdrawal, the land shall be automatically restored to all appropriation not otherwise restricted under the public land laws.".

PART 3—DOMESTIC LIVESTOCK GRAZING

SEC. 9331. APPLICABLE REGULATIONS.

(a) BLM LANDS.—Except as otherwise provided by this part, grazing of domestic livestock on lands administered by the Bureau of Land Management shall be in accordance with part 1780 and part 4100 of title 43, Code of Federal Regulations, as in effect on January 1, 1995.

(b) FOREST SERVICE LANDS.—Except as otherwise provided by this part, grazing of domestic livestock on lands administered by the Forest Service shall, to the extent possible, be in accordance with regulations, which the Secretary of Agriculture shall promulgate, which are substantially similar to the regulations referred to in subsection (a). Regulations promulgated under this subsection may differ from the regulations referred to in subsection (a) to the extent necessary to conform to the laws governing the National Forest System (other than this part).

(c) FEDERAL LANDS.—For the purposes of this part, the term "Federal lands" means lands administered by the Bureau of Land Management and lands administered by the Forest Service.

SEC. 9332. FEES AND CHARGES.

(a) BASIC FEE.—The basic fee for each animal unit month in a grazing fee year to be determined by the Bureau of Land Management and the Forest Service shall be equal to the 3-year average of the total gross value of production for beef cattle, as compiled by the Economic Research Service of the Department of Agriculture in accordance with subsection (b) on the basis of economic data published by the Service in the Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops & Livestock and Dairy for the 3 years preceding the grazing fee year, multiplied by the 10 year average of the United States Treasury Securities 6-month bill "new issue" rate and divided by 12.

(b) CRITERIA.—The Economic Research Service of the Department of Agriculture shall continue to compile the gross production value of production of beef cattle as reported in a dollar per bred cow basis in the "U.S. Cow-Calf Production Cash Costs and Returns".

(c) SURCHARGE.—

(1) IN GENERAL.—A surcharge shall be added to the grazing fee billings for authorized grazing of livestock owned by persons other than the permittee or lessee except where—

(A) such use is made by livestock owned by a spouse, child, or grandchild or their respective spouse of the permittee and lessee; or

(B) the permittee or lessee is unable to make full grazing use, as authorized by a grazing permit or lease, due to the infirmed condition or death of the permittee or lessee.

(2) TREATMENT AS ADDITIONAL FEE.—The surcharge shall be over and above any other fees that may be charged for using public land forage.

(3) PRIOR PAYMENT REQUIRED.—Surcharges shall be paid prior to grazing use.

(4) AMOUNT.—The surcharge for authorized pasturing of livestock owned by persons other than the permittee or lessee shall be equal to 25 percent of the difference between the current year's Federal grazing fee and the prior year's private grazing land lease rate per AUM for the appropriate State as compiled by the National Agricultural Statistics Service.

(5) IN GENERAL.—The Bureau of Land Management and the Forest Service shall make a determination under subsection (a) based on the following information gathered by the National Agriculture Statistics Service of the Department of Agriculture with respect to the largest single grazing lease of each grazing operator (in terms of dollars):

(A) Whether the operator charged—

(i) per acre;

(ii) per head per month;

(iii) per pound of gain;

(iv) per hundredweight of gain; or

(v) by another measure, and the rate charged.

(B)(i) The estimated average pounds gained per season for the grazing lease.

(ii) The total dollar amount estimated to be realized from the grazing lease.

(iii) Grazing lease acreage.

(iv) The State and county where the grazing lease is located.

(C) The classes of livestock grazed.

(D) The term of the grazing lease.

(E)(i) Whether grazing lease payments are paid if no grazing occurred.

(ii) Whether the grazing lease contains a take or pay provision.

(F) Additional information on whether the following are provided by the landlord on a 5-year basis:

(i) Fencing maintenance.

(ii) Animal management and oversight.

(iii) Water maintenance.

(iv) Salt and minerals.

(v) Other service (specified).

(vi) No services.

(vii) Hunting.

(viii) Fishing.

(ix) Other (specified).

(x) None.

(6) PRIVATE NATIVE RANGELAND.—For the purpose of determining rates for grazing leases of private native rangeland, rates for irrigated pasture, crop aftermath, and dryland winter wheat shall be excluded.

SEC. 9333. ANIMAL UNIT MONTH.

(a) DEFINITION OF ANIMAL UNIT MONTH.—The term "animal unit month" means 1 month's use and occupancy of range by—

(1) 1 cow, bull, steer, heifer, horse, burro, or mule, 7 sheep, or 7 goats, each of which is 6 months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or grazing lease.

(b) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than 6 months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

SEC. 9334. TERM OF GRAZING PERMITS OR GRAZING LEASES.

A grazing permit or grazing lease shall be issued for a term of 15 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 15 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation.

SEC. 9335. CONFORMANCE WITH LAND USE PLAN.

Livestock grazing activities and management actions approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be—

(1) may include any such activities as are not clearly prohibited by a land use plan; and

(2) shall not require any consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to the studies supporting the land use plan.

SEC. 9336. EFFECTIVE DATE.

This part shall apply to grazing on Federal lands on and after the date of the enactment of this Act.

PART 4—REGIONAL DISPOSAL FACILITY OF SOUTHWESTERN LOW LEVEL RADIOACTIVE WASTE DISPOSAL COMPACT

SEC. 9341. CONVEYANCE OF PROPERTY.

(a) CONVEYANCE.—Upon the tendering of $500,000 on behalf of the State of California and the release of the United States by the State of California from any liability for claims relating to the property described in subsection (b), all right, title and interest of the United States in and to said lands and improvements thereon are conveyed to the Department of Health Services of the State of California: *Provided*, That the property shall revert to the United States if the property is not used as a low-level radioactive waste disposal facility.

(b) DESCRIPTION.—The lands conveyed are those depicted on a map designated USGS 7.5 minute quadrangle, west of Flattop Mtn, CA 1984, entitled "Location Map for Ward Valley Site", located in San Bernardino Meridian, Township 9 North, Range 19 East.

(c) TITLE.—The Secretary of the Interior shall issue evidence of title pursuant to this Act notwithstanding any other provision of law. The Southwestern Low-Level Radioactive Waste Disposal Compact's Ward Valley regional disposal facility and transfer of the land are in compliance with any applicable provisions of section 7 of Endangered Species Act of 1973 (16 U.S.C. 1536) and the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(d) DEPOSIT OF FUNDS.—Sums received pursuant to subsection (a) shall be deposited as miscellaneous receipts in the Treasury of the United States.

(e) EXPIRATION OF AUTHORITY.—This authority expires October 1, 2010.

SEC. 9342. CONVEYANCE OF EASEMENTS.

Concurrent with the conveyance property described in section 9341(b) to the Department of Health Services of the State of California, all necessary easements for utilities and ingress and egress to said lands described in section 9341(b) of this Act and the right to improve those easements, are also conveyed to the Department of Health Services of the State of California: *Provided*, That the Department of Health Services right-of-way easements revert to the United States if the lands referenced in section 9341 are not licensed and used as a low-level radioactive waste disposal facility.

Subtitle D—Territories

PART 1—COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

SEC. 9401. TERMINATION OF ANNUAL DIRECT GRANT ASSISTANCE.

(a) TERMINATION.—Pursuant to section 704(d) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), the annual payments under section 702 of the Covenant shall terminate as of September 30, 1995.

(b) REPEAL.—Sections 3 and 4 of the Act of March 24, 1976 (Public Law 94-241; 48 U.S.C. 1681 note), as amended, are repealed, effective October 1, 1995.

(c) REMOVAL OF AUTHORITY TO OBLIGATE CERTAIN FUNDS.—Amounts appropriated under title VII of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and under sections 3 and 4 of Public Law 94-241 (48 U.S.C. 1681), which are not obligated as of the date of the enactment of this Act may not be obligated after such date.

(d) CONFORMING AMENDMENTS.—Section 5 of such Act (48 U.S.C. 1681 note) is amended—

(1) by striking out "agreement identified in section 3 of this Act" and inserting in lieu thereof "Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands"; and

(2) by striking out "Committee on Interior and Insular Affairs" and inserting in lieu thereof "Committee on Resources".

PART 2—TERRITORIAL ADMINISTRATIVE CESSATION ACT

SEC. 9421. SHORT TITLE.

This part may be cited as the "Territorial Administrative Cessation Act".

SEC. 9422. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) each of the four political subdivisions of the United Nations Trust Territory of the Pacific Islands, known as the Japanese Mandated Islands, have successfully entered into distinct self-governing entities, thereby culminating in the final termination of the Trusteeship and the end of the trusteeship responsibilities of the United States as administering authority of the Trust Territory on October 1, 1994;

(2) the United States territories have developed progressively increased local self-government over the past five decades;

(3) the territories predominantly deal directly with Federal agencies and departments, as a State would;

(4) the administering responsibilities of the Department of the Interior with respect to the insular areas has declined substantially during the past five decades; and

(5) Federal-territorial relations can be enhanced and Federal fiscal conditions improved by the elimination of unnecessary Federal bureaucracy.

SEC. 9423. ELIMINATION OF OFFICE OF TERRITORIAL AND INTERNATIONAL AFFAIRS.

(a) IN GENERAL.—The Office of Territorial and International Affairs of the Department of the Interior, established pursuant to the Order of the Secretary of the Interior 3046, of February 14, 1980, as amended, is hereby abolished.

(b) TERMINATION OF POSITION OF ASSISTANT SECRETARY.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of the Interior (6)" and inserting "Assistant Secretaries of the Interior (5)".

(c) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (b) shall take effect on the first day of the first fiscal year that begins after the date of the enactment of this Act.

SEC. 9424. CERTAIN ACTIVITIES NOT FUNDED.

Amounts may not be made available for the following program activities for assistance to territories for fiscal years beginning after September 30, 1995, as identified under the appropriations account numbered 14-0412-0-1-808:

(1) technical assistance, item 00.12;

(2) maintenance assistance, item 00.14;

(3) disaster fund, item 00.17; and

(4) insular management controls, item 00.19.

Subtitle E—Minerals

PART 1—HARDROCK MINING

SEC. 9501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares that—

(1) a secure and reliable supply of locatable minerals is essential to the industrial base of the United States, national security, and balance of trade;

(2) many of the deposits of locatable minerals that may be commercially developed are on Federal lands as that term is defined in this Act, and are difficult and expensive to discover, mine, extract and process;

(3) the national need for locatable minerals will continue to expand, and without a strong mining industry the demand for the minerals will exceed domestic sources of supply;

(4) mining of locatable minerals is an extremely high-risk, capital-intensive endeavor, which, to attract necessary investment, requires certainty and predictability in access to Federal lands in establishment of mining titles, and in the rights of owners of mining claims or sites to develop minerals;

(5) the national interest is to foster and encourage private enterprise in the development of a domestic minerals industry to maintain and create high-paying jobs and the various Federal, State, and local taxes paid by the mining industry in the United States;

(6) changes in the general mining laws of the United States to provide more direct economic return to the United States and greater protection of public resources are desirable, so long as these changes do not act as a disincentive to development of minerals, adversely affect employment in the mining industry or in industries that provide goods and services required for mining activities, interfere with a secure and reliable domestic supply of minerals, or adversely affect the balance of trade of the United States; and

(7) mining claims, mill sites and tunnel sites located under the general mining laws are property interests, and any law or regulation that substantially impairs existing property rights may expose the Federal Government to takings claims under the fifth amendment to the United States Constitution.

(b) PURPOSE.—It is the purpose of this subtitle to—

(1) affirm and maintain the policy established in section 2 of the Mining and Minerals Policy Act of 1970;

(2) promote exploration for and the development of a secure and reliable domestic source of locatable minerals;

(3) provide for increased Federal revenue from the location and production of locatable minerals from Federal lands through patent payments and royalties; and

(4) recognize that unpatented mining claims, mill sites and tunnel sites are property rights in the fullest sense and avoid, to the greatest extent possible, claims of takings of existing property rights under the

general mining laws that could require compensation under the fifth amendment to the United States Constitution.

SEC. 9502. PATENTS UNDER THE GENERAL MINING LAW.

(a) IN GENERAL.—Any patent issued by the United States under the general mining laws after the date of the enactment of this Act for any interest in land covered by a mining claim or site under such laws shall be issued only—

(1) upon payment by the owner of the mining claim or site of the fair market value for the interest in the land owned by the United States exclusive of, and without regard to, the mineral deposits in the land or the use of such land for mineral activities unless the requirements of subsection (b) are met, and

(2) subject to a reservation by the United States of the royalty provided in section 9503(a), unless the requirements in subsection (b) are met.

(b) PATENT TRANSITION.—(1) Subsection (a) shall not apply to any mining claim or site if—

(A) the claimant establishes that the claim or site constituted a valid mining claim as of the date of the enactment of this Act; and

(B) the claimant has filed a patent application or mineral survey application prior to the date of the enactment of this Act, or files such an application with the Bureau of Land Management before the date 2 years after the date of the enactment of this Act. A patent application or mineral survey application referred to in this subparagraph shall be deemed timely, notwithstanding that the application may be corrected or supplemented and resubmitted thereafter.

(2) During the 2-year period in paragraph (1)(B), or while there is pending a mineral survey or patent application to which this subsection applies, an owner of the mining claim or site may continue work on a mining claim or site directed toward establishment and confirmation of entitlement to a patent, and may amend the application as necessary.

(3) Where access to any mining claim or site has been denied or impeded by the action or inaction of any Federal official, agency, or court during all or part of the 5-year period preceding the date of enactment of this Act, including any mining claim or site within the area described in section 106 of Public Law 103–433, and the mining claim or site may require further exploration or development in order for the claimant to file a patent application or a mineral survey application and otherwise meet the requirements of paragraph (1), the claimant may, within 1 year after the date of enactment of this Act, submit a certified written statement to the Secretary describing the access denial or impediment, and shall then have a period of 10 years from the date of enactment of this Act or the termination of such access denial or impediment, whichever occurs first, to conduct such mineral exploration or development activities, file a patent application or mineral survey application, and otherwise meet the requirements of paragraph (1).

(c) PAYMENT PLAN.—(1) Any owner grossing less than $500,000 annually shall qualify for a payment plan. Upon completion of the patent process, the owner of the mining claim may purchase the surface estate under the following conditions:

(A) Payment to be amortized over 5 years with 5 equal annual payments, including principal and interest.

(B) Interest shall be calculated per annum at a rate of 2 percent over the "Treasury Current Value of Funds Rate" on the date of execution of the payment plan agreement.

(2) The purchaser shall be notified by certified mail after 60 days of delinquent payments and have 90 days from receipt of notification to correct the delinquency. Repossession shall be by and under the laws of repossession, foreclosure, and replevin of the State wherein the land is situated.

(d) REPEAL OF PATENTING MORATORIUM; PROCESSING OF PATENT APPLICATIONS.—Sections ____ and ____ of Public Law ____ are hereby repealed. The Secretary of the Interior shall diligently process all patent applications under the general mining laws pending on the date of enactment and shall make determinations for all such applications regarding patent issuance within 2 years.

SEC. 9503. ROYALTY UNDER THE GENERAL MINING LAW.

(a) IN GENERAL.—The production and sale of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 9502(b) applies) or any mining claim patented under section 9502(a) shall be subject to a royalty of 3.5 percent on the net proceeds from such production mined and sold from such claim.

(b) ROYALTY EXCLUSION.—(1) The royalty payable under this section shall be waived for any person or corporation with annual net proceeds from mineral production subject to subsection (a) of less than $50,000.

(2) Where mining operations subject to this section are conducted in 2 or more places by 1 person or corporation, the operations shall be considered a single operation the aggregate net proceeds from which shall be subject to the $50,000 limitation set forth in this subsection.

(3) No royalty shall be payable under this section with respect to minerals processed at a facility by the same person or entity which extracted the minerals if an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974 with respect to any portion of such facility.

(4) The obligation to pay royalties under this section shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(c) DEFINITIONS.—For the purposes of this subtitle:

(1) The term "net proceeds" means gross yield, less the sum of the following deductions for costs incurred prior to sale or value determination, and none other:

(A) The actual cost of extracting the locatable mineral.

(B) The actual cost of transporting the locatable mineral from the claim to the place or places of reduction, beneficiation, refining, and sale.

(C) The actual cost of crushing, processing, reduction, beneficiation, refining, and sale of the locatable mineral.

(D) The actual cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money.

(E) The actual cost of maintenance and repairs of—

(i) all machinery, equipment, apparatus, and facilities used in the mine;

(ii) all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and

(iii) all facilities and equipment for transportation.

(F) The actual cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting and mapping, computer services, surveying, housing, camp, and office expenses, safety, and security.

(G) The actual cost of engineering, sampling, and assaying pertaining to development and production.

(H) The actual cost of permitting, reclamation, environmental compliance and monitoring.

(I) The actual cost of fire and other insurance on the machinery, equipment, apparatus, works, plants, and facilities mentioned in subparagraph (E).

(J) Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subparagraph (E). The annual depreciation charge shall consist of amortization of the original cost in the manner consistent with the Internal Revenue Code of 1986, as amended from time to time. The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

(K) All money expended for premiums for industrial insurance, and the owner paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals.

(L) All money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes and severance or other taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced.

(M) The actual cost of the developmental work in or about the mine or upon a group of mines when operated as a unit.

(2) The term "gross yield" shall having the following meaning:

(A) In the case of sales of gold and silver ore, concentrates or bullion, or the sales of other locatable minerals in the form of ore or concentrates, the term "gross yield" means the actual proceeds of sale of such ore, concentrates or bullion.

(B) In the case of sales of beneficiated products from locatable minerals other than those subject to subparagraph (A) (including cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals), the term "gross yield" means the gross income from mining derived from the first commercially marketable product determined in the same manner as under section 613 of the Internal Revenue Code of 1986.

(C) If ore, concentrates, beneficiated or fabricated products, or locatable minerals are used or consumed and are not sold in an arms length transaction, the term "gross yield" means the reasonable fair market value of the ore, concentrates, beneficiated or fabricated products at the mine or wellhead determined from the first applicable of the following:

(i) Published or other competitive selling prices of locatable minerals of like kind and grade.

(ii) Any proceeds of sale.

(iii) Value received in exchange for any thing or service.

(iv) The value of any locatable minerals in kind or used or consumed in a manufacturing process or in providing a service.

Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in gross yield.

(3) The term "Secretary" means the Secretary of the Interior.

(d) Limitations and Allocations of Net Proceeds, Gross Yield, and Allowable Costs.—(1) The deductions listed in subsection (c)(1) are intended to allow a reasonable allowance for overhead. Such deductions shall not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in—

(A) the working of the mine;

(B) the operating of the leach pads, ponds, plants, mills, smelters, or reduction works;

(C) the operating of the facilities or equipment for transportation; or

(D) superintending the management of any of those operations described in subparagraphs (A) through (C).

(2) Ores or solutions of locatable minerals subject to the royalty requirements of this section may be extracted from mines comprised of mining claims and lands other than mining claims and ore or solutions of locatable minerals subject to the royalty requirements of this section may be commingled with ores or solutions from lands other than mining claims. In any such case, for purposes of determining the amount of royalties payable under this section—

(A) the operator shall first sample, weigh or measure, and assay the same in accordance with accepted industry standards; and

(B) gross yield, allowable costs and net proceeds for royalty purposes shall be allocated in proportion to mineral products recovered from the mining claims in accordance with accepted industry standards.

(e) Liability for Royalty Payments.—The owner or co-owners of a mining claim subject to a royalty under this section shall be liable for such royalty to the extent of the interest in such claim owned. As used in this subsection, the terms "owner" and "co-owner" mean the person or persons owning the right to mine locatable minerals from such claim and receiving the net proceeds of such sale. No person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall become liable to the United States for such royalty as a result of making such payment on behalf of such owner or co-owners.

(f) Time and Manner of Payment.—(1) Royalty payments for production from any mining claim subject to the royalty payable under this section shall be due to the United States at the end of the month following the end of the calendar quarter in which the net proceeds from the sale of such production are received by the owner or co-owners. Royalty payments may be made based upon good faith estimates of the gross yield, net proceeds and the quantity of ore, concentrates, or other beneficiated or fabricated products of locatable minerals, subject to adjustment when the actual annual gross yield, net proceeds and quantity are determined by the owner of the mining claim or site or co-owners.

(2) Each royalty payment or adjustment shall be accompanied by a statement containing each of the following:

(A) The name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment.

(B) The estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period.

(C) The estimated (or actual, if determined) gross yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period.

(D) The estimated (or actual, if determined) net proceeds from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in subsection (c)(1).

(E) The estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(3) In lieu of receiving a refund under subsection (h), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Act, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(g) Recordkeeping and Reporting Requirements.—(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of locatable minerals, concentrates, or products derived therefrom, subject to the royalty under this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (i), the appropriate records, reports, or information required by this subsection shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for 3 years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (i) expires.

(h) Interest Assessments.—(1) If royalty payments under this section are not received by the Secretary on the date that such payments are due, or if such payments are less than the amount due, the Secretary shall charge interest on such unpaid amount. Interest under this subsection shall be computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate." In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged with respect to royalties under this section.

(2) In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate."

(i) Audits, Payment Demands and Limitations.—(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) The Secretary shall send or issue any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section not later than 3 years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of 3 years from the date such royalty is alleged to have been due.

(j) Transitional Rules.—Any mining claim for which a patent is issued pursuant to section 9502(b) shall not be subject to the obligation to pay the royalty pursuant to this section. Royalty payments for any claim processed under section 9502(b) shall be suspended pending final determination of the right to patent. For any such claim that is determined not to qualify for the issuance of a patent under section 9502(b), royalties shall be payable under this section on production after the date of enactment of this Act, plus interest computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate" on production after such date of enactment and before the date of such determination.

(k) Disbursement of Revenues.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) Two-thirds of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

(2) One-third of such receipts shall be paid by the Secretary of the Treasury to the State in which the mining claim from which production occurred is located.

(l) No Implied Covenants.—The owner of a mining claim subject to the provisions of this title shall have no obligation, express or implied, to explore for, develop, produce or market locatable minerals as a result of the obligation to pay a royalty hereunder, and the timing, nature, extent and manner of exploring, developing, mining and marketing such locatable minerals shall be in the sole discretion of the claim owner.

SEC. 9504. MINERAL MATERIALS.

(a) Determinations.—Section 3 of the Act of July 23, 1955 (30 U.S.C. 611), is amended as follows:

(1) Insert "(a)" before the first sentence.

(2) Add the following new subsection at the end thereof:

"(b)(1) Subject to valid existing rights, after the date of enactment of this subsection, notwithstanding the reference to common varieties in subsection (a) and to the exception to such term relating to a deposit of materials with some property giving it distinct and special value, all deposits of mineral materials referred to in such subsection, including the block pumice referred to in such subsection, shall be subject to disposal only under the terms and conditions of the Materials Act of 1947.

"(2) For purposes of paragraph (1), the term 'valid existing rights' means that a mining claim located for any such mineral material had some property giving it the distinct and special value referred to in subsection (a), or as the case may be, met the definition of block pumice referred to in such subsection, was properly located and maintained under the general mining laws prior to the date of the enactment of this subsection, and was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws as in effect immediately prior to such date of enactment and that such claim continues to be valid under this Act.".

(b) IDENTIFIED DEPOSITS.—In order to assure that the Secretary has the authority to provide for the development of mineral materials which, in order to justify the investment necessary for the development of the appropriate mine, quarry or other workings and related facilities, may require longer and more secure tenure than is provided by sales contracts under the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602), and in order to provide flexibility with regard to the manner of disposition of mineral materials section 2 of such Act is amended by adding at the end the following:

"(b) IDENTIFIED DEPOSITS.—(1) Lands known to contain valuable deposits of mineral materials subject to this Act and subsequent amendments and not covered by any contract, permit, or lease under this section shall also be subject to disposition by lease under this Act by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such reasonably compact areas as he shall fix.

"(2) All leases will be conditioned upon—

"(A) the payment by the lessee of such royalty as may be fixed in the lease, not less than two percent of the quantity or gross value of the output of mineral materials, and

"(B) the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year.

"(3)(A) Any lease issued under this subsection shall be for a term of 20 years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods.

"(B) Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee.

"(C) The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

"(D) The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each 20-year period succeeding the date of said lease, as provided for in this subsection.

"(c) OTHER LANDS.—(1) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for mineral materials in lands belonging to the United States which are not subject to subsection (b), and are not covered by a contract, permit, or lease under this Act, except that a prospecting permit shall not exceed a period of 2 years and the area to be included in such a permit shall not exceed 2,560 acres of land in reasonably compact form.

"(2) The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this Act appropriate provisions for its cancellation by him.

"(3) Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the mineral materials subject to the Materials Act of 1947 have been discovered by the permittee within the area covered by his permit, and that such land is valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than two percent of the quantity or gross value of the output of the mineral materials at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior.".

(d) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612), as amended as follows:

(1) In subsection (b) insert "and mineral material" after "vegetative".

(2) In subsection (c) insert "and mineral material" after "vegetative".

(e) CONFORMING AMENDMENT.—Section 1 of the Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by striking "common varieties of" in the first sentence.

(f) SHORT TITLES.—

(1) SURFACE RESOURCES.—The Act of July 23, 1955, is amended by inserting after section 7 the following new section:

"SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'.".

(2) MINERAL MATERIALS.—The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 601 and following) is amended by inserting after section 4 the following new section:

"SEC. 5. This Act may be cited as the 'Materials Act of 1947'.".

(g) REPEALS.—(1) Subject to valid existing rights, the Act of August 4, 1892 (27 Stat. 348, 30 U.S.C. 161), commonly known as the Building Stone Act, is hereby repealed.

(2) Subject to valid existing rights, the Act of January 31, 1901 (30 U.S.C. 162), commonly known as the Saline Placer Act, is hereby repealed.

(h) AUTHORIZATION FOR DISPOSAL OF MINERAL MATERIALS BY CONTRACT.—Section 2(a) of the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 602(a)), is amended—

(1) by striking the period at the end of paragraph (3) and inserting "or, if"; and

(2) by adding after paragraph (3) the following:

"(4) the material is a mineral material.".

(i) SODIUM.—Section 24 of the Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after "2 per centum" in each place it appears the following: "and not greater than five and one-half per centum". Any rate under section 24 of the Mineral Leasing Act (30 U.S.C. 181) in excess of five and one-half per centum shall not be allowed unless the following conditions are met:

(1) the Secretary, in consultation with the Secretary of Commerce and the United States Trade Representative, finds that any increase in the royalty rate for sodium will not have an adverse effect on the export of domestically produced soda ash;

(2) the Secretary reports this finding of no "adverse effect" to Congress and recommends an additional proposed royalty rate increase; and

(3) the Congress, within 360 days, approves the Secretary's recommendation.

The Secretary shall, within 90 days, offer for competitive bid all tracts for which there are applications pending on sodium leases.

SEC. 9505. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEES.—

(1) ANNUAL MAINTENANCE FEE.—After the date of enactment of this Act, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Act, shall pay to the Secretary in advance on or before September 1 of each year, until a patent has been issued therefor, an annual maintenance fee per mining claim or site.

(2) INITIAL MAINTENANCE FEE.—The owner of each unpatented mining claim or site located after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), the location fee required under subsection (i) of this section, in lieu of the annual maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site.

(3) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the annual maintenance fee requirements of paragraph (1) for the assessment year following the filing of the certification.

(4) AMOUNT OF ANNUAL MAINTENANCE FEE.—For each assessment year the annual maintenance fee payable under paragraph (1) for a claim or site referred to in paragraph (1) shall be in the amount specified in Table 1.

TABLE 1

Assessment Year	Amount of Fee Per Site or Claim
1 through 3	$100 per year
4 through 5	$150 per year
6 through 10	$200 per year
11 through 15	$300 per year
16 and thereafter	$500 per year

For purposes of applying Table 1 in the case of claims filed before the enactment of this Act, the portion of the assessment year in which this Act is enacted shall be treated as the first assessment year.

(5) EFFECT OF FORFEITURE.—No owner or co-owner of a mining claim or site which has been forfeited because the maintenance fee has not been paid and no person who is a related person of any such owner or co-owner may relocate a new claim on any part of lands located within the forfeited claim for a period of 18 months after the date of forfeiture.

(6) DEPOSIT OF FEES.—The full amount of all fees paid under this subsection shall be deposited in the General Fund of the Treasury.

(b) ANNUAL LABOR.—(1) Amounts expended on activities that qualify as annual labor under the general mining laws may be credited on a dollar for dollar basis towards up to 75 percent of the annual maintenance fee payable under this section for the following assessment year.

(2) Subject to the 75 percent limit set forth in paragraph (1), the excess of amounts expended for annual labor performed in any one year over such 75 percent limit may be applied to the maintenance fee due in subsequent years for a period of up to three years.

(3) In order to receive credit under this subsection for annual labor work or excess annual labor, the description and value of the work must be included in the statement required in subsection (e) and the statement must be timely filed.

(4) Annual labor performed on an individual mining claim or site within a group of contiguous claims may be credited towards the aggregate amount of maintenance fees due on all of the contiguous claims within that group.

(c) WORK QUALIFYING AS ANNUAL LABOR.—(1) Only work which directly benefits or develops a mining claim or facilitates the extraction of ore qualifies as annual labor. Acceptable labor and improvements include any of the following:

(A) Drilling or excavating, including ore extraction.

(B) Mining costs directly associated with the production of ore.

(C) Prospecting work which benefits the location or a contiguous location.

(D) Development work toward an actual mine, such as shafts, tunnels, crosscuts and drifts, settling ponds and dams.

(E) Bringing in water for direct mining or milling purposes.

(F) Clearing of brush, timber, debris, or overburden where necessary to facilitate the extraction or processing of minerals.

(G) Construction of trails, roads, or landing strips providing access to claims.

(H) Construction costs of worker housing, mills, and equipment storage buildings where reasonably necessary for the development of the location.

(I) Reasonable value of the use of equipment for prospecting, mining, or development purposes on the location.

(J) Repairs of equipment used for prospecting, sampling, or production of minerals provided that such equipment has been on site during the assessment year.

(K) Cost of moving workers, materials, and equipment among contiguous locations.

(L) Watchman services of a bona fide employed watchman on the property where reasonably necessary to protect mining equipment of substantial value.

(M) Activities covered under section 1 of the Act of September 2, 1958 (30 U.S.C. 28–1), as amended.

(N) Reclamation conducted pursuant to State or Federal surface management regulations.

(O) Other activities which the Secretary may determine qualify as annual labor.

(2) The following activities do not qualify as annual labor:

(A) Work involved in maintaining the location such as brushing and marking boundaries or replacing corner posts and location notices.

(B) Transportation of workers to or from the location.

(C) Prospecting or exploration work not conducted within the location or a contiguous location.

(d) AMENDMENTS OF PUBLIC LAW 85–876.—The Act of September 2, 1958 (Public Law 85–876; 30 U.S.C. 28–1), is amended as follows:

(1) Section 1 is amended by inserting "mineral activities, environmental baseline monitoring, and" after "without being limited to" and before "geological, geochemical and geophysical surveys" and by striking "Such" at the beginning of the last sentence and inserting "Airborne".

(2) Section 2(d) is amended by inserting "environmental baseline monitoring or" after "experience to conduct" and before "geological, geochemical or geophysical surveys".

(3) Section 2 is amended by adding at the end of the following new subsection at the end thereof:

"(e) The term 'environmental baseline monitoring' means activities for collecting, reviewing and analyzing information concerning soil, vegetation, wildlife, mineral, air, water, cultural, historical, archaeological or other resources related to planning for or complying with Federal and State environmental or permitting requirements applicable to potential or proposed mineral activities on the claim(s).".

(e) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(f) ANNUAL LABOR REPORT.—When the value of annual labor is credited towards part or all of the maintenance fee, subject to the 75-percent limit set forth in subsection (b)(1), the following shall apply:

(1) The maintenance fee statement required in subsection (e) must also state the dates of performance of the labor, describe the character and total value of the improvements made or the labor performed, the amount of labor used as a credit toward the maintenance fee for the current year, and the value of excess labor performed in previous years which is to be applied to the maintenance fee for the current year.

(2) Documentation which reasonably supports the activities or improvements claimed must accompany the maintenance fee statement. Such documentation may include, but is not limited to, copies of maps showing sample locations, drill locations, or survey data; environmental baseline data; reports on geology, geochemistry, or geophysics by qualified experts; drill results; or engineering reports by qualified engineers.

(3) All supporting material filed pursuant to paragraph (2) shall remain confidential in accordance with section 552 of title 5 of the United States Code as long as the location is maintained and for a period of one year after the location is abandoned, after which all data filed shall be considered public information.

(g) EFFECT OF COMPLIANCE AS AGAINST SUBSEQUENT LOCATORS.—(1) Except as provided in paragraph (2), after the date of enactment of this Act, compliance with the requirements of this section shall, from the time the location notice or certificate is posted on the land under applicable State law, confer upon the owner of any unpatented mining claim or site, whether located before or after the date of enactment of this Act, an exclusive right of possession, as against subsequent locators, of the land included in such mining claim or site under the general mining laws. If more than one mining claim or site owned or controlled by the same claim or site owner covers substantially the same land, by reason of the location of one or more mining claims or sites on such land, the amendment or relocation of any such mining claim or site, or otherwise, such exclusive right of possession shall extend to all such mining claims or sites, effective from the time the location notice or certificate for the initial mining claim or site was posted on such land under applicable State law. The order of location, amendment, or relocation of any such mining claims or sites on such land shall not affect the validity of any such mining claim or site. Such owner of the mining claim or site shall not be required to be in actual, physical occupation of such land and shall not be required to exclude rival locators from such land. Such exclusive right of possession shall be subject to applicable Federal law, including the Multiple Mineral Development Act of 1954 (30 U.S.C. 521–31), the Materials Act of 1947 (30 U.S.C. 601–604) and the Surface Resources Act of 1955 (30 U.S.C. 611–15) to the extent applicable, and shall neither enlarge nor diminish any rights of such owner of the mining claim or site as against the United States in such land. This paragraph shall supersede the common law doctrine of pedis possessio.

(2) Conflicts over the right of exclusive possession of land included in any mining claim or site shall be determined in proceedings between owners of mining claims or sites under the provisions of section 910 of the Revised Statutes (30 U.S.C. 53) and other applicable law, including but not limited to each of the following:

(A) Any conflict based upon circumstances existing as of the date of enactment of this Act between mining claims or sites located before the date of enactment of this Act, shall be resolved under the law in effect on the day prior to the date of enactment of this Act, including the common law doctrine of pedis possessio.

(B) Any conflict arising on or after the date of enactment of this Act between mining claims or sites located before, on or after the date of enactment over whether either owner of the mining claim or site has complied with the requirements of this section, shall be resolved under this Act.

(h) FAILURE OF CO-OWNER TO CONTRIBUTE.—Upon the failure of any one or more of several co-owners of any mining claim or site to contribute such co-owner or owners' portion of any location or maintenance fee payable under this section, any co-owner who has paid such fee may, after the payment due date, serve the delinquent co-owner or owners with notice of such failure in writing or, if such delinquent co-owner or owners cannot be located after reasonable efforts, by publication in a general circulation newspaper published in a location nearest the mining claim or site at least once a week for at least 90 days. If at the expiration of 90 days after such notice in writing or by publication, any delinquent co-owner fails or refuses to contribute the owed portion, such co-owner or owners' interest shall become the property of the owner or co-owners who have paid the required fee.

(i) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Act pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per mining claim or site. The full amount of all fees paid under this subsection shall be deposited in the General Fund of the Treasury. Effective on the date of the enactment of this Act, section 10102 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) is repealed.

(j) CREDIT AGAINST MAINTENANCE FEE.—(1) Except as provided in paragraph (2), the annual maintenance fee payable for any unpatented mining claim or site for any assessment year shall be reduced by the amount of royalty paid by such claimholder for such mining claim or site, or for any contiguous mining claim or site, during the prior assessment year.

(2) Royalties paid during any assessment year prior to the first full assessment year commencing after the enactment of this Act shall not reduce the amount of any maintenance fee.

(k) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEE UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under paragraph 2511(e)(2) of the Energy Policy Act of 1992 (30 U.S.C. 242(e)(2)).

(l) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay any claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due, except that if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(m) AMENDMENT OF FLPMA FILING REQUIREMENTS.—(1) Section 314(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)) is hereby repealed.

(2) Section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) is amended to read as follows:

"(c) FAILURE TO FILE AS CONSTITUTING FORFEITURE; DEFECTIVE OR UNTIMELY FILING.—The failure to timely file the copy of the notice or certificate of location as required by subsection (b) shall constitute forfeiture of the mining claim and such claim shall be null and void by operation of law; except that it shall not be considered a failure to file if the notice or certificate of location is defective or not timely filed for record under other State or Federal laws permitting or requiring the filing or recording thereof, or if the copy of the notice or certificate is filed by or on behalf of some but not all of the owners of the claim.".

(n) RELATED PERSONS.—As used in this section, the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(o) REPEAL.—Section 10101 of the Omnibus Budget Reconciliation Act of 1993 (107 Stat. 406; 30 U.S.C. 28g) is repealed, effective with respect to assessment year commencing after the enactment of this Act.

(p) PERIODIC REVIEW OF FEE STRUCTURE.—Beginning in the year 2005 and at 10 year intervals thereafter, the Secretary shall review the costs incurred by the Secretary to administer mining claims for locatable minerals under the general mining laws and the structure and level of maintenance and location fees received by the Secretary with respect to such claims. The Secretary shall determine if the revenues from such fees is adequate to cover such costs, taking inflation and other appropriate factors into account. The Secretary shall submit the results of each such review to the Congress, together with such legislative recommendations as the Secretary deems appropriate.

PART 2—FEDERAL OIL AND GAS ROYALTIES

SEC. 9511. SHORT TITLE.

This part may be cited as the "Federal Oil and Gas Royalty Simplification and Fairness Act of 1995".

SEC. 9512. DEFINITIONS.

(a) IN GENERAL.—Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended—

(1) by amending paragraph (7) to read as follows:

"(7) 'lessee' means any person to whom the United States, an Indian tribe, or an Indian allottee issues a lease or any person to whom operating rights have been assigned;"; and

(2) by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

"(18) 'administrative proceeding' means any agency process in which a demand, decision or order issued by the Secretary is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

"(B) with respect to a demand, the receipt by the Secretary or a lessee of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'demand' means—

"(A) an order to pay issued by the Secretary; or

"(B) a separate written request by a lessee which asserts an obligation due the lessee,

but does not mean any royalty or production report, or any information contained therein, required by the Secretary;

"(23) 'obligation' means—

"(A) any duty of the Secretary or the United States—

"(i) to take oil or gas royalty in kind; or

"(ii) to pay, refund, offset, or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest;

"(B) any duty of a lessee—

"(i) to deliver oil or gas royalty in kind; or

"(ii) to pay, offset or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(24) 'order to pay' means a written order issued by the Secretary or the United States which—

"(A) asserts a definite and quantified obligation; and

"(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due,

but such term does not include any other communication or action by or on behalf of the Secretary or the United States;

"(25) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(26) 'payment' means satisfaction, in whole or in part, of an obligation;

"(27) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(28) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

"(29) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties under this Act from such lease; and

"(30) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation.".

(b) LESSEE LIABILITY.—Section 102(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1712(a)) is amended to read as follows:

"(a) A lessee who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such payments in the time and manner as may be specified by the Secretary. A lessee may designate a person to act on the lessee's behalf and shall notify the Secretary in writing of such designation. The person to whom the United States issues a lease or the person by whom operating rights are currently owned, but not both, shall remain primarily liable for its obligations.".

SEC. 9513. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.

"(a) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred, except as otherwise provided by this section.

"(b) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce the royalty obligation for a production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(c) TOLLING OF LIMITATION PERIOD.—The running of the limitation period under subsection (a) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or the United States, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—The issuance of a subpoena in accordance with the provisions of section 107(c) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which (A) the lessee has produced such subpoenaed records for the subject obligation, (B) the Secretary receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or (C) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(3) FRAUD OR CONCEALMENT.—Any fraud or concealment by a lessee in an attempt to defeat or evade an obligation in which case the limitation period shall be tolled for the period of such fraud or such concealment.

"(4) TOLLING REQUEST.—A written tolling request from a lessee based upon the lessee's representation that the lessee's entitlement to an overpayment has not been finally determined. The limitation period shall be tolled pursuant to this paragraph from the date the Secretary receives the tolling request until the earlier of the end of the requested period or 12 months after the date the Secretary receives the tolling request, but is subject to successive 12-month renewals by the lessee made prior to the expiration of the then applicable 12-month period. The tolling request shall be sufficient if it identifies—

"(A) the person who made the potential overpayment;

"(B) the leases and production months involved in the potential overpayment; and

"(C) the reasons the lessee believes that it may later be entitled to a refund of the overpayment.

"(5) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—The issuance of a notice under section 107(d)(4) that the lessee has not adequately performed a restructured accounting shall toll the limitation period with respect to the obligation which is the subject of the notice only for the period beginning on the date the lessee receives the notice and ending on the date on which (A) the Secretary receives written notice the accounting or other requirement has been performed, or (B) a court has determined in a final decision that the lessee is not required to perform the accounting, whichever occurs first.

"(d) TERMINATION OF LIMITATION PERIOD.—The limitation period shall be terminated in the event—

"(1) the Secretary has notified the lessee in writing that a time period is closed to further audit; or

"(2) the Secretary and a lessee have so agreed in writing.

"(e) FINAL AGENCY ACTION.—

"(1) 3-YEAR PERIOD.—The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, within three years from the date such proceeding was initiated or three years from the date of such enactment, whichever is later. The three-year period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—

"(A) IN GENERAL.—If no such decision has been issued by the Secretary within the three-year period referred to in paragraph (1)—

"(i) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

"(ii) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

"(B) NO PRECEDENTIAL EFFECT ON OTHER PROCEEDINGS.—Deemed decisions under subparagraph (A) shall have no precedential effect in any judicial or administrative proceeding or for any other purpose.

"(f) ADMINISTRATIVE SETTLEMENT.—During the pendency of any administrative proceeding, the parties shall hold at least one settlement consultation for the purpose of discussing disputed matters between the parties. For purposes of settlement, the Secretary may take such action as is appropriate to compromise and settle a disputed obligation, including interest and allowing offsetting of obligations among leases. The Secretary and the State concerned shall seek to resolve disputes with a lessee in as expeditious a manner as possible, through settlement negotiations and other alternative dispute resolution processes methods. If any dispute involving an obligation due is not resolved by the end of the six-year period beginning on the date the obligation became due, the amount of interest otherwise payable with respect to the obligation shall accrue after such six-year period at the rate—

"(1) for purposes of section 111(h), reduced each year thereafter by two additional percentage points from the rate in effect under this subsection for the previous year (but not less than zero); and

"(2) for purposes of section 111(a), reduced each year thereafter by one additional percentage point from the rate in effect under this subsection for the previous year (but not less than zero).

"(g) LIMITATION ON CERTAIN ACTIONS.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under this section—

"(1) no other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation may be taken; and

"(2) no other equitable or legal remedy, whether under statute or common law, with respect to an action on or an enforcement of said obligation may be pursued.

"(h) JUDICIAL REVIEW.—In the event a demand subject to this section is timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from receipt of notice by the lessee of the final agency action.

"(i) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(j) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary to pay an assessment shall be entitled to a stay without bond or other surety instrument.

"(k) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, section 42 of the Mineral Leasing Act (30 U.S.C. 226-2) and section 3716 of title 31, United States Code, shall not apply to any obligation to which this Act applies.".

(b) SUBPOENA.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717) is amended by adding at the end the following:

"(c) RULES REGARDING ISSUANCE OF SUBPOENA RELATING TO REPORTING AND PAYMENT OF AN OBLIGATION DUE.—

"(1) IN GENERAL.—A subpoena which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued under this section only by an Assistant Secretary of the Interior and an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

"(2) PRIOR WRITTEN REQUEST REQUIRED.—A subpoena described in paragraph (1) may only be issued against a lessee during the limitation period provided in section 115 and only after the Secretary has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

"(A) the lessee has failed to respond within a reasonable period of time to the Secretary's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act;

"(B) the lessee has in writing denied the Secretary's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act; or

"(C) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act after the Secretary's written request.

"(3) REASONABLE PERIOD FOR COMPLIANCE WITH WRITTEN REQUEST.—In seeking records, the Secretary shall afford the lessee a reasonable period of time after a written request by the Secretary in which to provide such records prior to the issuance of any subpoena.".

(c) RESTRUCTURED ACCOUNTING.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717), as amended by subsection (b) of this section, is amended by adding at the end the following:

"(d) RESTRUCTURED ACCOUNTING.—

"(1) IN GENERAL.—The Secretary shall issue an order to perform a restructured accounting when the Secretary determines during an in-depth audit of a lessee that the lessee should recalculate royalty due on an obligation based upon the Secretary's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary to be based upon repeated, systemic reporting errors for a significant number of leases or a single lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either significant underpayments or overpayments.

"(2) DELEGATION.—The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management'. An order to perform a restructured accounting shall—

"(A) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(B) specify the reasons and factual bases for such order; and

"(C) be specifically identified as an 'order to perform a restructured accounting'.

"(3) ORDER TO PERFORM.—An order to perform a restructured accounting shall not include any other communication or action by or on behalf of the Secretary or the United States.

"(4) NOTICE.—If a lessee fails to adequately perform a restructured accounting pursuant to this subsection, a notice shall be issued to the lessee that the restructured accounting has not been adequately performed. Such notice may be issued under this section only by an Assistant Secretary of the Interior or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.".

(d) STATE SUITS.—Section 204 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1751) is amended by adding at the end the following:

"(d) With respect to an obligation, a State bringing an action under this section shall enjoy no greater rights than the Secretary enjoys under this Act.".

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

"Sec. 115. Limitation periods and agency actions.".

SEC. 9514. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS.—

"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. The filing of a royalty report which reflects the underpayment or overpayment of an obligation shall constitute prior written notice to the Secretary of an adjustment.

"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee on whom the Secretary determines that subparagraph (A) would impose a hardship, the Secretary shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary and subject to the provisions of this Act.

"(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 9515. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

"(c) Records required by the Secretary for the purpose of determining compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under section 115(a). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in section 115.".

SEC. 9516. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

"(f) Upon a determination that it will further the effective and efficient performance of his duties and responsibilities, the Secretary may waive or forego such interest in whole or in part. Interest shall be charged under this section only for the number of days a payment is late.".

(b) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and the Secretary shall pay or credit such interest on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate obtained by applying the provisions of subparagraphs (A) and (B) of section 6621(a)(1) of the Internal Revenue Code of 1986. Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(c) LIMITATION ON INTEREST.—Section 111 of such Act, as amended by subsection (b) of this Act, is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations as a result of judicial or administrative proceedings for settlement agreements and for other similar payments) for the aggregate of all of its Federal leases exceeds 25 percent of the total royalties paid that month for those leases.".

(d) ESTIMATED PAYMENT.—Section 111 of such Act, as amended by subsections (b) and (c) of this Act, is further amended by adding at the end the following:

"(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection 'estimated payment') that would otherwise be due to the Secretary for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties become due at the end of the month following the period covered by the estimated payment. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".

(e) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of such Act (30 U.S.C. 1721), as amended by subsections (b) through (d) of this Act, is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee of a lease in any other unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee of a lease that is not contained in a unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term 'marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

(f) PRODUCTION ALLOCATION.—Section 111 of such Act (30 U.S.C. 1721), as amended by subsections (b) through (e) of this Act, is amended by adding at the end the following:

"(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

SEC. 9517. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 9516, is further amended by adding at the end the following:

"(m)(1) After the date of enactment of this subsection, the Secretary shall not impose any assessment for any late payment or underpayment. After the date of enactment of this subsection, the Secretary may impose an assessment only for erroneous reports submitted by lessees subject to the limitations of paragraph (2). Nothing in this section shall prohibit the Secretary from imposing penalties or interest under other sections of this Act for late payments or underpayments.

"(2) No assessment for erroneous reports shall be imposed for 18 months following the date of enactment of this subsection, or until the Secretary issues a final rule which provides for imposition of an assessment only on a lessee who chronically submits erroneous reports and which establishes what constitutes chronic errors for a lessee, whichever is later. However, if the Secretary determines during that 18-month period that the reporting error rate for all reporters for all Federal leases has increased by one-third for three consecutive report months for either production reporting or royalty reporting over the 12 months preceding the date of enactment of this subsection, the Secretary may impose an assessment for erroneous reports only for the increased category of report under regulations in effect on the date of enactment of this subsection.".

SEC. 9518. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 9513 of this Act, is further amended by adding at the end the following:

"SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) SELLING THE REVENUE STREAM.—

"(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, upon request of the lessee or a State under section 205(g), the Secretary shall authorize a lessee for a marginal property and for a lease, the administration of which is not cost-effective for the Secretary to administer, to make a prepayment in lieu of royalty payments under the lease for the remainder of the lease term. For the purposes of this section, the term 'marginal property' has the same meaning given such term in section 111(k)(4), unless the Secretary, together with each State in which such marginal production occurs, determines that a different definition of marginal property better achieves the purpose of this section.

"(2) MARGINAL PROPERTIES.—For marginal properties, prepayments under paragraph (1) shall begin—

"(A) in the case of those properties producing on average $500 or less per month in total royalties to the United States, two years after the date of the enactment of this section;

"(B) in the case of those properties producing on average more than $500 but $1,000 or less per month in total royalties to the United States, three years after the date of the enactment of this section;

"(C) in the case of those properties producing on average more than $1,000 but $1,500 or less per month in total royalties to the United States, four years after the date of the enactment of this section; and

"(D) in the case of those properties not described in subparagraphs (A) through (C), five years after the date of the enactment of this section.

"(3) ADMINISTRATION NOT COST-EFFECTIVE.—For a lease, the administration of which is not cost-effective for the Secretary to administer, prepayments under paragraph (1) shall begin on the date of the enactment of this section.

"(4) SATISFACTION OF ROYALTY OBLIGATION.—A lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on production from the lease or a portion of a lease and shall not be required to submit any royalty reports to the Secretary. The prepayment shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(5) VALUATION.—The prepayment authorized under this section shall only occur if the Secretary, the State concerned, and the lessee determine that such prepayment is based on the present value of the projected remaining royalties from the production from the lease, based on appropriate nominal discount rate for a comparable term. Prior to accepting such prepayment, the Secretary and State concerned shall agree that such prepayment is in the best interest of the United States and the State concerned.

"(b) ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, for the marginal properties referenced in subsection (a)(1), the Secretary shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop such properties: *Provided*, That such relief will only be available to lessees in a State that concurs. Prior to granting such relief, the Secretary and the State concerned shall agree that the type of marginal wells and relief provided under this paragraph is in the best interest of the United States and the State concerned.

"(2) PAYMENT DATE.—For leases subject to this section, the Secretary may allow royalties to be paid later than the time specified in the lease.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Alternatives for marginal properties.".

SEC. 9519. ROYALTY IN KIND.

(a) IN GENERAL.—

(1) OCS.—Section 27(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) is amended by adding at the end the following:

"Any royalty or net profit share of oil or gas accruing to the United States under any such lease, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) upon prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.".

(2) ONSHORE.—Section 36 of the Mineral Leasing Act (30 U.S.C. 192) is amended by adding at the end the following undesignated paragraph:

"Notwithstanding the provisions of the previous paragraph, any royalty or net profit share of oil or gas accruing to the United States under any lease issued or maintained by the Secretary for the exploration, production and development of oil and gas on Federal lands, at the Secretary's option, may be taken in kind at or near the lease (unless the lease expressly provides for delivery at a different location) after prior written notice given reasonably in advance by the Secretary to the lessee. Once the United States has commenced taking royalty in kind, it shall continue to do so until a reasonable time after the Secretary has provided written notice reasonably in advance to the lessee that it will resume taking royalty in value. Delivery of royalty in kind by the lessee shall satisfy in full the lessee's royalty obligation. Once the oil or gas is delivered, the lessee shall not be subject to the reporting and recordkeeping requirements under section 103 for its share of oil and gas production other than records necessary to verify the quantity of oil or gas delivered.".

(b) SALE.—Sections 27(b)(1) and (c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(c)(1)) are each amended by striking "competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value" and inserting "competitive bidding or private sale".

SEC. 9520. ROYALTY SIMPLIFICATION AND COST-EFFECTIVE AUDIT AND COLLECTION REQUIREMENTS.

(a) IN GENERAL.—Section 101 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711) is amended by adding at the end the following:

"(d)(1) For the purpose of reducing costs and increasing net royalties to the United States and the States, the Secretary, in consultation with States concerned, shall, within one year after the date of the enactment of this subsection, streamline and simplify current royalty management requirements and practices, including royalty reporting, instructions, audits and collections. This streamlining and simplification shall specifically include—

"(A) elimination of all unnecessary royalty and production reports;

"(B) modification and simplification of remaining reports and associated instructions to eliminate redundant or unnecessary reports and information that are provided or can be obtained from other required reports, forms, computer databases or government agencies;

"(C) elimination or modifications of accounting, reporting, audit and collection requirements that are not cost-effective, particularly those associated with de minimis monetary amounts;

"(D) implementation of specific recommendations and comments contained in Secretarial sponsored teams, rulemakings, and studies or those participated in by the Secretary to the extent these recommendations simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes;

"(E) recommendations and comments submitted by interested parties to the extent these recommendations and comments simplify and streamline royalty management requirements without adversely affecting the Secretary's ability to meet obligations under this Act or other mineral leasing statutes.

"(2) The Secretary shall submit to the Congress a progress report on the implementation of this section within six months from date of enactment of this Act, and a final report within 12 months from date of enactment of this Act. These reports shall include—

"(A) a description of the extent to which the Secretary has implemented the requirements in paragraph (1), including a list of specific initiatives implemented;

"(B) a list and description of additional initiatives identified by the Secretary to simplify and streamline royalty management requirements and practices; and

"(C) cost savings of implemented initiatives including impact on net-receipts sharing for States.

"(3) If the Secretary and the State concerned determines that the cost of accounting and auditing for and collecting of any obligation due for any oil and gas production exceeds the amount of the obligation to be collected, the Secretary shall waive such obligation.

"(4) The Secretary and the State concerned shall not perform accounting, reporting, or audit activities if the Secretary and the State concerned determines that the cost of conducting the activity exceeds the expected amount to be collected by the activity.

"(5) The Secretary and the State concerned shall develop a reporting and audit strategy which eliminates multiple or redundant reporting of information.".

(b) PAPERWORK REDUCTION.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717), as amended by section 9513(b) and (c), is amended by adding at the end the following:

"(e) PAPERWORK REDUCTION.—Administrative actions and investigations (including, but not limited to, accounting collection and audits) under this Act involving obligations shall be subject to section 3518(c)(1)(B) of title 44, United States Code.".

SEC. 9521. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating to the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 9522. DELEGATION TO STATES.

(a) GENERAL AUTHORITY.—Section 205(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(a)) is amended to read as follows:

"(a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, such production and royalty accounting duties and responsibilities as the Secretary determines are legally delegable, all audit coverage, and investigations to any State with respect to all Federal lands within the State.".

(b) STANDARDIZED REPORTING.—Section 205(b) of such Act (30 U.S.C. 1735(b)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the comma at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragraph (3) the following:

"(4) the State agrees to adopt Federal standardized reporting for Federal royalty accounting and collection purposes,".

(c) COST EFFECTIVE COLLECTION OF DE MINIMIS ROYALTY AMOUNTS.—Section 205 of such Act (30 U.S.C. 1735) is amended by adding at the end the following:

"(g) Upon written request of any State, the Secretary is authorized to delegate for any year the responsibility to collect royalties from all Federal leases within the State if the average amount per year of mineral revenues received by the State on all such leases under all Federal mineral leasing laws for the previous five years is less than $100,000. The State may also request that the Secretary sell the revenue stream from all or part of the Federal leases within the State in accordance with section 116 of the Federal Oil and Gas Royalty Management Act of 1982, as added by section 9518 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995.".

SEC. 9523. PERFORMANCE STANDARD.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended in subsections (c) and (d), by striking "knowingly or willfully" and inserting "by willful misconduct or gross negligence" each place it appears.

SEC. 9524. INDIAN LANDS.

The amendments made by this part shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands.

SEC. 9525. PRIVATE LANDS.

This part shall not apply to any privately owned minerals.

SEC. 9526. EFFECTIVE DATE.

Except as provided by section 115(e), section 111(h), section 111(k)(5), and section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this part), this part, and the amendments made by this part, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

Subtitle F—Indian Gaming

SEC. 9601. INDIAN GAMING.

(a) COMMISSION FUNDING.—Section 18(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2717(a)) is amended by striking out "$1,500,000" each place it appears and inserting in lieu thereof "$2,500,000".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 19(a) of the Indian Gaming Regulatory Act (25 U.S.C. 2718(a)) is amended by striking out all after "(a)" and inserting in lieu thereof the following: "Notwithstanding the provisions of section 18, no funds may be authorized to be appropriated for the operation of the Commission.".

Subtitle G—Consultation

SEC. 9701. CONSULTATION.

Section 7(d) of the Endangered Species Act of 1973 (16 U.S.C. 1536(d)) is amended to read as follows:

"(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a)(2) of this section, the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would not violate subsection (a)(2) of this section. This limitation on the commitment of resources is only applicable to consultations regarding site-specific projects and activities, and shall not apply to any consultation regarding an agency's periodic or long-term planning activities, mission or policy statements, programmatic documents, or general policies, regulations, or activities, whether or not such consultation has previously been initiated pursuant to a court order, and regardless of the date on which consultation was ordered or initiated.".

Subtitle H—Mapping

SEC. 9801. SHORT TITLE.

This subtitle may be cited as the "Department of the Interior Surveying and Mapping Efficiency and Economic Opportunity Act of 1995".

SEC. 9802. SURVEYING AND MAPPING CONTRACTING PROGRAM.

In order to provide private firms, including small and small disadvantaged businesses, ample opportunities to provide quality services to the Department of the Interior (hereinafter referred to as the "Department"), the Secretary of the Interior (hereinafter referred to as the "Secretary") shall conduct a surveying and mapping contracting program.

SEC. 9803. INVENTORY OF ACTIVITIES.

(a) PUBLICATION OF INVENTORY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration and the trade association of private surveying and mapping firms, shall publish an inventory of surveying and mapping activities in the Department of the Interior for the last fiscal year completed prior to the date of enactment of this Act.

(b) ITEMS INCLUDED.—The inventory shall include each of the following:

(1) The total dollar value of surveying and mapping activities in each agency of the Department.

(2) The total dollar value of surveying and mapping activities in each agency of the Department performed by contract with private sector firms.

(3) The total dollar value of surveying and mapping activities in each agency of the Department performed by personnel of the Department.

(4) The total dollar value of surveying and mapping activities in each agency of the Department performed for any other department or agency of the Federal Government.

(5) The total dollar value of surveying and mapping activities in each agency of the Department performed for any State or political subdivision thereof, or for any foreign government.

(6) The total number of personnel involved in surveying and mapping activities in each agency of the Department.

SEC. 9804. PLAN TO INCREASE USE OF CONTRACTS.

(a) ESTABLISHMENT.—Based on the inventory conducted pursuant to section 9803 of this Act, not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, the Administrator of the Small Business Administration and the trade association of private surveying and mapping firms, shall develop and implement a plan to increase the use of contracts with private firms for surveying and mapping services.

(b) ITEMS INCLUDED IN PLAN.—The plan established pursuant to subsection (a) of this section shall include, but not be limited to each of the following:

(1) A reduction of surveying and mapping activities by personnel in the Department that duplicate capabilities available by contract from the private sector.

(2) A reduction of acquisition and maintenance of surveying and mapping equipment that duplicate capabilities and capital investment already made by the private sector.

(3) The elimination of unfair Government competition in activities in which the Department uses its personnel to perform surveying and mapping for which it shares the cost with, is reimbursed for, or makes a grant to any other agency of the Federal Government, a State or political subdivision thereof, or a foreign government, for such activities, when such activities can be obtained by contract from the private sector.

(4) The use of contracts to perform surveying and mapping requirements of the Department created through attrition.

(5) The enhancement of the leadership role of the Department of the Interior in—

(A) the preparation of standards and specifications;

(B) research in surveying and mapping instrumentation and procedures, and the prompt transfer of technology to the private sector;

(C) providing technical guidance, coordination, cost sharing, cooperative efforts and administration in the use of Federal funds for surveying and mapping activities, and the development of geographic information systems, that are performed by the private sector by the contract to Federal, State, and local government agencies;

(D) establishing a schedule with quantifiable goals for increasing the use of contracts with private sector for current and future surveying and mapping activities; and

(E) using Department personnel to perform only those surveying and mapping activities that are inherently governmental in nature, necessary to keep current the skills of such personnel for evaluating contractor performance and administering contracts, and to perform basic research.

SEC. 9805. REPORTS.

The Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on implementation of the program not later than January 15 of each year.

SEC. 9806. DEFINITIONS.

As used in this subtitle:

(1) The term "surveying and mapping" means collecting, storing, retrieving, or disseminating graphical or digital data depicting natural or man-made physical features, phenomena and boundaries of the earth and any information related thereto, including but not limited to data shown on or in relation to surveys, maps, and charts.

(2) The "contract" means an instrument to retain private firms with licensed, certified, or otherwise qualified professionals in such fields as surveying, photogrammetry, cartography, and geodesy, which shall be awarded in accordance with the selection procedures in title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 and following).

TITLE X—COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Subtitle A—Water Resources

SEC. 10001. COMMERCIAL CONCESSIONS AT CORPS OF ENGINEERS PROJECTS.

Notwithstanding part 1 of subtitle C of title IX of this Act, the Secretary of the

Army shall not modify any concession service agreement, concession license, or similar instrument (or any policy or procedure relating to such agreement, license, or agreement) except to the extent that such modification is permitted under laws in effect on the day before the date of the enactment of this Act.

SEC. 10002. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

(e) EXPIRATION OF AUTHORITY.—The authority of the Director to assess and collect fees under subsection (a) shall expire on September 30, 2002.

Subtitle B—Ocean Shipping Reform

SEC. 10201. SHORT TITLE.

This subtitle may be cited as the "Ocean Shipping Reform Act of 1995".

CHAPTER 1—OCEAN SHIPPING REFORM

SEC. 10211. PURPOSES.

Section 2 of the Shipping Act of 1984 (46 U.S.C. App. 1701) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) to permit carriers and shippers to develop transportation arrangements to meet their specific needs.".

SEC. 10212. DEFINITIONS.

Section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) is amended—

(1) effective January 1, 1997—

(A) by striking paragraph (9); and

(B) by redesignating paragraphs (10) through (19) as paragraphs (9) through (18), respectively; and

(2) effective June 1, 1997—

(A) by striking paragraph (4);

(B) in paragraph (7) by striking "a common tariff;" and inserting "a common schedule of transportation rates, charges, classifications, rules, and practices;";

(C) by striking paragraph (10) (as redesignated by paragraph (1) of this section);

(D) by striking paragraph (13) (as redesignated by paragraph (1) of this section);

(E) by striking paragraph (16) (as redesignated by paragraph (1) of this section);

(F) by striking paragraph (18) (as redesignated by paragraph (1) of this section) and inserting the following:

"(18) 'ocean freight forwarder' means a person that—

"(A)(i) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; or

"(ii) processes the documentation or performs related activities incident to those shipments; or

"(B) acts as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier.";

(G) by striking paragraph (21);

(H) in paragraph (23)—

(i) by striking "or" the second place it appears and inserting a comma; and

(ii) by striking the period and inserting ", a shippers' association, or an ocean freight forwarder that accepts responsibility for payment of the ocean freight.";

(I) by striking paragraph (24) and inserting the following:

"(24) 'shippers' association' means a group of shippers that consolidates or distributes freight, on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or ocean transportation contracts."; and

(J) by inserting after paragraph (18) (as redesignated by paragraph (1) of this section) the following:

"(19) 'ocean transportation contract' means a contract in writing separate from the bill of lading or receipt between 1 or more common carriers or a conference and 1 or more shippers to provide specified services under specified rates and conditions.".

SEC. 10213. AGREEMENTS WITHIN THE SCOPE OF THE ACT.

Effective June 1, 1997, section 4(a) of the Shipping Act of 1984 (46 U.S.C. App. 1703(a)) is amended—

(1) in paragraph (5) by striking "non-vessel-operating common carriers" and inserting "ocean freight forwarders"; and

(2) by striking paragraph (7) and inserting the following:

"(7) discuss any matter related to ocean transportation contracts, and enter ocean transportation contracts and agreements related to those contracts.".

SEC. 10214. AGREEMENTS.

Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended—

(1) effective January 1, 1997—

(A) in subsection (b)(4) by striking "at the request of any member, require an independent neutral body to police fully" and inserting "state the provisions, if any, for the policing of";

(B) in subsection (b)(7) by striking "and" at the end;

(C) in subsection (b)(8) by striking the period and inserting "; and"; and

(D) by adding at the end of subsection (b) the following:

"(9) provide that a member of the conference may enter individual and independent negotiations and may conclude individual and independent service contracts under section 8 of this Act.";

(2) effective June 1, 1997—

(A) by striking subsection (b)(8) and inserting the following:

"(8) provide that any member of the conference may take independent action on any rate or service item agreed upon by the conference for transportation provided under section 8(a) of this Act upon not more than 3 business days' notice to the conference, and that the conference will provide the new rate or service item for use by that member, effective no later than 3 business days after receipt of that notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference provision for that rate or service item;";

(B) in subsection (b)(9) by striking "service" and inserting "ocean transportation" and by striking the period at the end and inserting "; and";

(C) by adding at the end of subsection (b) the following:

"(10) prohibit the conference from—

"(A) prohibiting or restricting the members of the conference from engaging in individual negotiations for ocean transportation contracts under section 8(b) with 1 or more shippers; and

"(B) issuing mandatory rules or requirements affecting ocean transportation contracts that may be entered by 1 or more members of the conference, except that a conference may require that a member of the conference disclose the existence of an existing individual ocean transportation contract or negotiations on an ocean transportation contract, when the conference enters negotiations on an ocean transportation contract with the same shipper."; and

(D) in subsection (e) by striking "carrier that are required to be set forth in a tariff," and inserting "carrier,".

SEC. 10215. EXEMPTION FROM ANTITRUST LAWS.

Section 7 of the Shipping Act of 1984 (46 U.S.C. App. 1706) is amended—

(1) by striking subsection (a)(6) and inserting the following:

"(6) subject to section 20(e)(2) of this Act, any agreement, modification, or cancellation, in effect before the effective date of this Act and any tariff, rate, fare, charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation."; and

(2) in subsection (c)(1) by striking "agency" and inserting "agency, department,".

SEC. 10216. COMMON AND CONTRACT CARRIAGE.

(a) IN GENERAL.—Effective June 1, 1997—

(1) section 502 of the High Seas Driftnet Fisheries Enforcement Act (46 U.S.C. App. 1707a) is repealed; and

(2) section 8 of the Shipping Act of 1984 (46 U.S.C. App. 1707) is amended to read as follows:

"SEC. 8. COMMON AND CONTRACT CARRIAGE.

"(a) COMMON CARRIAGE.—

"(1) A common carrier and a conference shall make available a schedule of transportation rates which shall include the rates, terms, and conditions for transportation services not governed by an ocean transportation contract, and shall provide the schedule of transportation rates, in writing, upon the request of any person. A common carrier and a conference may assess a reasonable charge for complying with a request for a rate, term, and condition, except that the charge may not exceed the cost of providing the information requested.

"(2) A dispute between a common carrier or conference and a person as to the applicability of the rates, terms, and conditions for ocean transportation services shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

"(3) A claim concerning a rate for ocean transportation services which involves false billing, false classification, false weighing, false report of weight, or false measurement shall be decided in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

"(b) CONTRACT CARRIAGE.—

"(1) 1 or more common carriers or a conference may enter into an ocean transportation contract with 1 or more shippers. A common carrier may enter into ocean transportation contracts without limitations concerning the number of ocean transportation contracts or the amount of cargo or space involved. The status of a common carrier as an ocean common carrier is not affected by the number or terms of ocean transportation contracts entered.

"(2) A party to an ocean transportation contract entered under this section shall have no duty in connection with services provided under the contract other than the duties specified by the terms of the contract.

"(3)(A) An ocean transportation contract or the transportation provided under that contract may not be challenged in any court on the grounds that the contract violates a provision of this Act.

"(B) The exclusive remedy for an alleged breach of an ocean transportation contract is an action in an appropriate State or Federal court of competent jurisdiction, unless the parties otherwise agree.

"(4) The requirements and prohibitions concerning contracting by conferences contained in sections 5(b) (9) and (10) of this Act shall also apply to any agreement among one or more ocean common carriers that is filed under section 5(a) of this Act.".

(b) Confidentiality of Contracts.—Effective January 1, 1998, section 8(b) of the Shipping Act of 1984 (46 U.S.C. App. 1707(b)), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(5) A contract entered under this section may be made on a confidential basis, upon agreement of the parties. An ocean common carrier that is a member of a conference agreement may not be prohibited or restricted from agreeing with 1 or more shippers that the parties to the contract will not disclose the rates, services, terms, or conditions of that contract to any other member of the agreement, to the conference, to any other carrier, shipper, conference, or to any other third party.".

SEC. 10217. PROHIBITED ACTS.

Section 10 of the Shipping Act of 1984 (46 U.S.C. App. 1709) is amended—

(1) effective January 1, 1997, in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

"(1) except for service contracts, subject a person, place, port, or shipper to unreasonable discrimination;"; and

(B) by striking paragraphs (2), (3), (4), and (8);

(2) effective June 1, 1997, by striking subsection (b) and inserting the following:

"(b) Common Carriers.—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

"(1) except for ocean transportation contracts, subject a person, place, port, or shipper to unreasonable discrimination;

"(2) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier or has filed a complaint, or for any other reason;

"(3) employ any fighting ship;

"(4) subject any particular person, locality, class, or type of shipper or description of traffic to an unreasonable refusal to deal;

"(5) refuse to negotiate with a shippers' association;

"(6) knowingly and willfully accept cargo from or transport cargo for the account of an ocean freight forwarder that does not have a bond, insurance, or other surety as required by section 19;

"(7) knowingly and willfully enter into an ocean transportation contract with an ocean freight forwarder or in which an ocean freight forwarder is listed as an affiliate that does not have a bond, insurance, or other surety as required by section 19; or

"(8)(A) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

"(i) may be used to the detriment or prejudice of the shipper or consignee;

"(ii) may improperly disclose its business transaction to a competitor; or

"(iii) may be used to the detriment or prejudice of any common carrier;

except that nothing in this paragraph shall be construed to prevent providing the information, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of that carrier, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with a conference or for the purpose of determining whether a member of the conference has breached the conference agreement or for the purpose of compiling statistics of cargo movement, but the use of that information for any other purpose prohibited by this Act or any other Act is prohibited; and

"(B) after December 31, 1997, the rates, services, terms, and conditions of an ocean transportation contract may not be disclosed under this paragraph if the contract has been made on a confidential basis under section 8(b) of this Act.

The exclusive remedy for a disclosure under this paragraph shall be an action for breach of contract as provided in section 8(b)(3) of this Act.";

(3) effective June 1, 1997—

(A) by striking subsection (c)(1) and inserting the following:

"(1) boycott, take any concerted action resulting in an unreasonable refusal to deal, or implement a policy or practice that results in an unreasonable refusal to deal;";

(B) in subsection (c)(5) by inserting "as defined in section 3(14)(A) of this Act" after "freight forwarder"; and

(C) in subsection (c)(6) by striking "a service contract." and inserting "an ocean transportation contract."; and

(4) effective June 1, 1997, in subsection (d)(3) by striking "subsection (b) (11), (12), and (16)" and inserting "paragraphs (1), (4), and (8) of subsection (b)".

SEC. 10218. REPARATIONS.

Effective June 1, 1997, section 11(g) of the Shipping Act of 1984 (46 U.S.C. App. 1710(g)) is amended—

(1) by inserting "or counter-complainant" after "complainant" the second place it appears;

(2) by striking "10(b) (5) or (7)" and inserting "10(b) (2) or (3)"; and

(3) by striking the last sentence.

SEC. 10219. FOREIGN LAWS AND PRACTICES.

Effective on June 1, 1997, section 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. App. 1710a) is amended—

(1) in subsection (a)(1)—

(A) by striking "'non-vessel-operating common carrier',"; and

(B) by inserting "'ocean freight forwarder'," after "'ocean common carrier',";

(2) in subsection (a)(4) by striking "non-vessel-operating common carrier operations,";

(3) in subsection (e)(1) by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Secretary, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

"(C) a fee, not to exceed $1,000,000 per voyage."; and

(4) in subsection (h) by striking "section 13(b)(5) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(5))" and inserting "section 13(b)(2) of the Shipping Act of 1984 (46 U.S.C. App. 1712(b)(2))".

SEC. 10220. PENALTIES.

Effective June 1, 1997, section 13 of the Shipping Act of 1984 (46 U.S.C. App. 1712) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (1) and (3) and redesignating paragraphs (2), (4), (5), and (6) as paragraphs (1), (2), (3), and (4), respectively;

(B) by striking paragraph (1), as so redesignated, and inserting the following:

"(1) If the Secretary finds, after notice and an opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 12 of this Act, the Secretary may request that the Secretary of the Treasury refuse or revoke any clearance required for a vessel operated by that common carrier. Upon request by the Secretary, the Secretary of the Treasury shall, with respect to the vessel concerned, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)."; and

(C) in paragraph (3), as so redesignated, by striking "finds appropriate," and all that follows through the period at the end and inserting "finds appropriate including the imposition of the penalties authorized under paragraph (2)."; and

(2) in subsection (f)(1) by striking "section 10 (a)(1), (b)(1), or (b)(4)" and inserting "section 10(a)(1)".

SEC. 10221. REPORTS.

(a) In General.—Effective January 1, 1997, section 15 of the Shipping Act of 1984 (46 U.S.C. App. 1714) is amended—

(1) in the section heading by striking "**and certificates**";

(2) by striking "(a) Reports.—"; and

(3) by striking subsection (b).

(b) Clerical Amendment.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 15 and inserting the following:

"Sec. 15. Reports.".

SEC. 10222. REGULATIONS.

Section 17 of the Shipping Act of 1984 (46 U.S.C. App. 1716) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 10223. REPEAL.

(a) REPEAL.—Section 18 of the Shipping Act of 1984 (46 U.S.C. App. 1717) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 18.

SEC. 10224. OCEAN FREIGHT FORWARDERS.

Effective June 1, 1997, section 19 of the Shipping Act of 1984 (46 U.S.C. App. 1718) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) LICENSE.—No person in the United States may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that the Commission determines to be qualified by experience and character to render forwarding services.";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following:

"(b) FINANCIAL RESPONSIBILITY.—

"(1) No person may act as an ocean freight forwarder unless that person furnishes a bond, proof of insurance, or other surety in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

"(2) A bond, insurance, or other surety obtained pursuant to this section shall be available to pay any judgment for damages against an ocean freight forwarder arising from its transportation-related activities under this Act or order for reparation issued pursuant to section 11 or 14 of this Act.

"(3) An ocean freight forwarder not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.";

(4) in subsection (c), as redesignated by paragraph (2) of this section, by striking "a bond in accordance with subsection (a)(2)" and inserting "a bond, proof of insurance, or other surety in accordance with subsection (b)(1)"; and

(5) in subsection (e), as redesignated by paragraph (2) of this section—

(A) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(B) by adding at the end the following:

"(4) No conference or group of 2 or more ocean common carriers in the foreign commerce of the United States that is authorized to agree upon the level of compensation paid to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, may—

"(A) deny to any member of the conference or group the right, upon notice of not more than 3 business days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

"(B) agree to limit the payment of compensation to an ocean freight forwarder, as defined in section 3(18)(A) of this Act, to less than 1.25 percent of the aggregate of all rates and charges which are applicable under a common schedule of transportation rates provided under section 8(a) of this Act, and which are assessed against the cargo on which the forwarding services are provided.".

SEC. 10225. EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.

Section 20(e) of the Shipping Act of 1984 (46 U.S.C. App. 1719) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—

"(1) Each service contract entered into by a shipper and an ocean common carrier or conference before the date of the enactment of the Ocean Shipping Reform Act of 1995 may remain in full force and effect according to its terms.

"(2) This Act and the amendments made by this Act shall not affect any suit—

"(A) filed before the date of the enactment of the Ocean Shipping Reform Act of 1995;

"(B) with respect to claims arising out of conduct engaged in before the date of the enactment of the Ocean Shipping Reform Act of 1995, filed within 1 year after the date of the enactment of the Ocean Shipping Reform Act of 1995;

"(C) with respect to claims arising out of conduct engaged in after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before January 1, 1997, pertaining to a violation of section 10(b) (1), (2), (3), (4), or (8), as in effect before January 1, 1997, filed by June 1, 1997;

"(D) with respect to claims pertaining to the failure of a common carrier or conference to file its tariffs or service contracts in accordance with this Act in the period beginning January 1, 1997, and ending June 1, 1997, filed by December 31, 1997; or

"(E) with respect to claims arising out of conduct engaged in on or after the date of the enactment of the Ocean Shipping Reform Act of 1995 but before June 1, 1997, filed by December 31, 1997.".

SEC. 10226. REPEAL.

(a) REPEAL.—Effective June 1, 1997, section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721) is repealed.

(b) CLERICAL AMENDMENT.—Effective June 1, 1997, the table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by striking the item relating to section 23.

SEC. 10227. MARINE TERMINAL OPERATOR SCHEDULES.

(a) IN GENERAL.—Effective June 1, 1997, the Shipping Act of 1984 (46 U.S.C. App. 1701 et seq.) is amended by adding at the end the following:

"SEC. 24. MARINE TERMINAL OPERATOR SCHEDULES.

"A marine terminal operator shall make available to the public a schedule of rates, regulations, and practices, including limitations of liability, pertaining to receiving, delivering, handling, or storing property at its marine terminal. The schedule shall be enforceable as an implied contract, without proof of actual knowledge of its provisions, for any activity by the marine terminal operator that is taken to—

"(1) efficiently transfer property between transportation modes;

"(2) protect property from damage or loss;

"(3) comply with any governmental requirement; or

"(4) store property in excess of the terms of any other contract or agreement, if any, entered into by the marine terminal operator.".

(b) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act (46 U.S.C. App. 1701) is amended by adding at the end the following:

"Sec. 24. Marine terminal operator schedules.".

CHAPTER 2—CONTROLLED CARRIERS AMENDMENTS

SEC. 10231. CONTROLLED CARRIERS.

Effective June 1, 1997, section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708) is amended—

(1)(A) in the first sentence of subsection (a)—

(i) by striking "in its tariffs or service contracts filed with the Commission"; and

(ii) by striking "in those tariffs or service contracts"; and

(B) in the last sentence of subsection (a) by striking "filed by a controlled carrier";

(2) in paragraphs (1) and (2) of subsection (b) by striking "filed" and inserting "published";

(3) in subsection (c) by striking the first sentence;

(4) by striking subsection (d) and inserting the following:

"(d) Within 120 days of the receipt of information requested by the Secretary under this section, the Secretary shall determine whether the rates, charges, classifications, rules, or regulations of a controlled carrier may be unjust and unreasonable. If so, the Secretary shall issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be approved. Pending a determination, the Secretary may suspend the rates, charges, classifications, rules, or regulations at any time. No period of suspension may be greater than 180 days. Whenever the Secretary has suspended any rates, charges, classifications, rules, or regulations under this subsection, the affected carrier may publish and, after notification to the Secretary, assess new rates, charges, classifications, rules, or regulations—except that the Secretary may reject the new rates, charges, classifications, rules, or regulations if the Secretary determines that they are unreasonable.";

(5) in subsection (f) by striking "This" and inserting "Subject to subsection (g), this"; and

(6) by adding at the end the following:

"(g) The rate standards, information submissions, remedies, reviews, and penalties in this section shall also apply to ocean common carriers that are not controlled, but who have been determined by the Secretary to be structurally or financially affiliated with nontransportation entities or organizations (government or private) in such a way as to affect their pricing or marketplace behavior in an unfair, predatory, or anticompetitive way that disadvantages an ocean common carrier or carriers. The Secretary may make such determinations upon request of any person or upon the Secretary's own motion, after conducting an investigation and a public hearing.

"(h) The Secretary shall issue regulations by June 1, 1997, that prescribe the procedures and requirements that would govern how price and other information is to be submitted by controlled carriers and carriers subject to determinations made under subsection (g) when such information would be needed to determine whether prices charged by these carriers are unfair, predatory, or anticompetitive.

"(i) In any instance where information provided to the Secretary under this section does not result in an affirmative finding or enforcement action by the Secretary that information may not be made public and shall be exempt from disclosure under section 552 of title 5, United States Code, except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.".

SEC. 10232. NEGOTIATING STRATEGY TO REDUCE GOVERNMENT OWNERSHIP AND CONTROL OF COMMON CARRIERS.

Not later than January 1, 1997, the Secretary of Transportation shall develop, submit to Congress, and begin implementing a negotiation strategy to persuade foreign governments to divest themselves of ownership and control of ocean common carriers (as that term is defined in section 3(18) of the Shipping Act of 1984 (46 U.S.C. App. 1702).

SEC. 10233. ANNUAL REPORT BY THE SECRETARY.

Not later than September 30, 1998, and annually thereafter, the Secretary shall report to Congress on the actions taken under the Foreign Shipping Practices Act (46 U.S.C. App. 1708), section 9 of the Shipping Act of 1984 (46 U.S.C. App. 1708), and section 10232 of this Act and the effect on United States maritime employment of laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country that result in the existence of conditions that adversely affect the operations of United States carriers in United States oceanborne trade.

CHAPTER 3—ELIMINATION OF THE FEDERAL MARITIME COMMISSION

SEC. 10241. PLAN FOR AGENCY TERMINATION.

(a) IN GENERAL.—No later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Secretary of Transportation, shall submit to Congress a plan to eliminate the Federal Maritime Commission no later than October 1, 1997. The plan shall include a timetable for the transfer of remaining functions of the Federal Maritime Commission to the Secretary of Transportation beginning as soon as feasible in fiscal year 1996. The plan shall also address matters related to personnel and other resources necessary for the Secretary of Transportation to perform the remaining functions of the Federal Maritime Commission.

(b) IMPLEMENTATION.—The Director of the Office of Management and Budget shall implement the plan to eliminate the Federal Maritime Commission submitted to Congress under subsection (a) beginning as soon as feasible in fiscal year 1996.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

Subtitle C—Midewin National Tallgrass Prairie

CHAPTER 1—GENERAL PROVISIONS

SEC. 10301. SHORT TITLE.

This subtitle may be cited as the "Illinois Land Conservation Act of 1995".

SEC. 10302. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) AGRICULTURAL PURPOSES.—The term "agricultural purposes" means the use of land for row crops, pasture, hay, and grazing.

(3) ARSENAL.—The term "Arsenal" means the Joliet Army Ammunition Plant located in the State of Illinois.

(4) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(5) DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.—The term "Defense Environmental Restoration Program" means the program of environmental restoration for defense installations established by the Secretary of Defense under section 2701 of title 10, United States Code.

(6) ENVIRONMENTAL LAW.—The term "environmental law" means all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health, natural and cultural resources, or the environment, including CERCLA, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(7) HAZARDOUS WASTE.—The term "hazardous substance" has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(8) MNP.—The term "MNP" means the Midewin National Tallgrass Prairie established pursuant to section 10314 and managed as a part of the National Forest System.

(9) NATIONAL CEMETERY.—The term "national cemetery" means a cemetery established and operated as part of the National Cemetery System of the Department of Veterans Affairs and subject to the provisions of chapter 24 of title 38, United States Code.

(10) PERSON.—The term "person" has the meaning given such term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(11) POLLUTANT OR CONTAMINANT.—The term "pollutant or contaminant" has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(12) RELEASE.—The term "release" has the meaning given such term by section 101(22) of CERCLA (42 U.S.C. 9601(22)).

(13) RESPONSE ACTION.—The term "response action" has the meaning given the term "response" by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

CHAPTER 2—CONVERSION OF JOLIET ARMY AMMUNITION PLANT TO MIDEWIN NATIONAL TALLGRASS PRAIRIE

SEC. 10311. PRINCIPLES OF TRANSFER.

(a) LAND USE PLAN.—The Congress ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on May 30, 1995.

(b) TRANSFER WITHOUT REIMBURSEMENT.—The area constituting the Midewin National Tallgrass Prairie shall be transferred, without reimbursement, to the Secretary of Agriculture.

(c) MANAGEMENT OF MNP.—Management by the Secretary of Agriculture of those portions of the Arsenal transferred to the Secretary under this subtitle shall be in accordance with sections 10314 and 10315 regarding the Midewin National Tallgrass Prairie.

(d) SECURITY MEASURES.—The Secretary of the Army and the Secretary of Agriculture shall each provide and maintain physical and other security measures on such portion of the Arsenal as is under the administrative jurisdiction of such Secretary. Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to such portions of the Arsenal as are under the administrative jurisdiction of such Secretary and that may endanger health or safety.

(e) COOPERATIVE AGREEMENTS.—The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal agencies, State and local governments, private organizations, and corporations to carry out the purposes for which the Midewin National Tallgrass Prairie is established.

(f) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 10312. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ARSENAL.

(a) INITIAL TRANSFER OF JURISDICTION.—Within 6 months after the date of the enactment of this Act, the Secretary of the Army shall effect the transfer of those portions of the Arsenal property identified for transfer to the Secretary of Agriculture pursuant to subsection (d). The Secretary of the Army shall transfer to the Secretary of Agriculture only those portions of the Arsenal for which the Secretary of the Army and the Administrator concur that no further action is required under any environmental law and which therefore have been eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. Within 4 months after the date of the enactment of this Act, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portions of the Arsenal to be transferred to the Secretary of Agriculture pursuant to this subsection.

(b) ADDITIONAL TRANSFERS.—The Secretary of the Army shall transfer to the Secretary of Agriculture in accordance with section 10316(c) any portion of the property generally identified in subsection (d) and not transferred under subsection (a) after the Secretary of the Army and the Administrator concur that no further action is required at that portion of property under any environmental law and that such portion is therefore eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. At least 2 months before any transfer under this subsection, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portion of the Arsenal to be transferred. Transfer of jurisdiction pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

(c) EFFECT ON CONTINUED RESPONSIBILITIES AND LIABILITY OF SECRETARY OF THE ARMY.—Subsections (a) and (b), and their requirements, shall not in any way affect the responsibilities and liabilities of the Secretary of the Army specified in section 10313.

(d) IDENTIFICATION OF PORTIONS FOR TRANSFER FOR MNP.—The lands to be transferred to the Secretary of Agriculture under subsections (a) and (b) shall be identified on a map or maps which shall be agreed to by the Secretary of the Army and the Secretary of Agriculture. Generally, the land to be transferred to the Secretary of Agriculture shall be all the real property and improvements comprising the Arsenal, except for lands and facilities described in subsection (e) or designated for transfer or disposal under section 10316 or chapter 3.

(e) PROPERTY USED FOR ENVIRONMENTAL CLEANUP.—

(1) RETENTION.—The Secretary of the Army shall retain jurisdiction, authority, and control over real property at the Arsenal to be used for—

(A) water treatment;

(B) the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, hazardous material, or petroleum products or their derivatives;

(C) other purposes related to any response action at the Arsenal; and

(D) other actions required at the Arsenal under any environmental law to remediate contamination or conditions of noncompliance with any environmental law.

(2) CONDITIONS.—The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this subsection and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 10314(c), and with the other provisions of sections 10314 and 10315.

(3) PRIORITY OF RESPONSE ACTIONS.—In the case of any conflict between management of the property by the Secretary of Agriculture and any response action, or any other action required under any other environmental law, including actions to remediate petroleum products of their derivatives, the response action or other action shall take priority.

(f) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal property from the Secretary of the Army to the Secretary of Agriculture shall be borne by the Secretary of Agriculture.

SEC. 10313. CONTINUATION OF RESPONSIBILITY AND LIABILITY OF SECRETARY OF THE ARMY FOR ENVIRONMENTAL CLEANUP.

(a) RESPONSIBILITY.—The liabilities and responsibilities of the Secretary of the Army under any environmental law shall not transfer under any circumstances to the Secretary of Agriculture as a result of the property transfers made under section 10312 or section 10316, or as a result of interim activities of the Secretary of Agriculture on Arsenal property under section 10311(f). With respect to the real property at the Arsenal, the Secretary of the Army shall remain liable for and continue to carry out—

(1) all response actions required under CERCLA at or related to the property;

(2) all remediation actions required under any other environmental law at or related to the property; and

(3) all actions required under any other environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel) at or related to the property.

(b) LIABILITY.—

(1) IN GENERAL.—Nothing in this Act shall be construed to effect, modify, amend, repeal, alter, limit, or otherwise change, directly or indirectly, the responsibilities or liabilities under any environmental law of any person (including the Secretary of Agriculture), except as provided in paragraph (3) with respect to the Secretary of Agriculture.

(2) LIABILITY OF SECRETARY OF THE ARMY.—The Secretary of the Army shall retain any obligation or other liability at the Arsenal that the Secretary may have under CERCLA and other environmental laws. Following transfer of any portions of the Arsenal pursuant to this Act, the Secretary of the Army shall be accorded all easements and access to such property as may be reasonably required to carry out such obligation or satisfy such liability.

(3) SPECIAL RULES FOR SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall not be responsible or liable under any environmental law for matters which are in any way related directly or indirectly to activities of the Secretary of the Army, or any party acting under the authority of the Secretary in connection with the Defense Environmental Restoration Program, at the Arsenal and which are for any of the following:

(A) Costs of response actions required under CERCLA at or related to the Arsenal.

(B) Costs, penalties, or fines related to noncompliance with any environmental law at or related to the Arsenal or related to the presence, release, or threat of release of any hazardous substance, pollutant, contaminant, hazardous waste or hazardous material of any kind at or related to the Arsenal, including contamination resulting from migration of hazardous substances, pollutants, contaminants, hazardous materials, or petroleum products or their derivatives disposed during activities of the Department of the Army.

(C) Costs of actions necessary to remedy such noncompliance or other problem specified in subparagraph (B).

(c) PAYMENT OF RESPONSE ACTION COSTS.—Any Federal department or agency that had or has operations at the Arsenal resulting in the release or threatened release of hazardous substances, pollutants, or contaminants shall pay the cost of related response actions, or related actions under other environmental laws, including actions to remediate petroleum products or their derivatives.

(d) CONSULTATION.—The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the Secretary of Agriculture's management of real property included in the Midewin National Tallgrass Prairie subject to any response action or other action at the Arsenal being carried out by or under the authority of the Secretary of the Army under any environmental law. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities on the Midewin National Tallgrass Prairie that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property. In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with the purposes for which the Midewin National Tallgrass Prairie is established, as specified in section 10314(c), and the other provisions of sections 10314 and 10315.

SEC. 10314. ESTABLISHMENT AND ADMINISTRATION OF MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) ESTABLISHMENT.—On the effective date of the initial transfer of jurisdiction of portions of the Arsenal to the Secretary of Agriculture under section 10312(a), the Secretary of Agriculture shall establish the Midewin National Tallgrass Prairie. The MNP shall—

(1) be administered by the Secretary of Agriculture; and

(2) consist of the real property so transferred and such other portions of the Arsenal subsequently transferred under section 10312(b) or 10316.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall manage the Midewin National Tallgrass Prairie as a part of the National Forest System in accordance with this Act and the laws, rules, and regulations pertaining to the National Forest System, except that the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) INITIAL MANAGEMENT ACTIVITIES.—In order to expedite the administration and public use of the Midewin National Tallgrass Prairie, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as specified in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(3) LAND AND RESOURCE MANAGEMENT PLAN.—In developing a land and resource management plan for the Midewin National Tallgrass Prairie, the Secretary of Agriculture shall consult with the Illinois Department of Conservation and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture under this Act after the development of a land and resource management plan for the MNP may be managed in accordance with such plan without need for an amendment to the plan.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The Midewin National Tallgrass Prairie is established to be managed for National Forest System purposes, including the following:

(1) To manage the land and water resources of the MNP in a manner that will conserve and enhance the native populations and habitats of fish, wildlife, and plants.

(2) To provide opportunities for scientific, environmental, and land use education and research.

(3) To allow the continuation of agricultural uses of lands within the MNP consistent with section 10315(b).

(4) To provide a variety of recreation opportunities that are not inconsistent with the preceding purposes.

(d) OTHER LAND ACQUISITION FOR MNP.—

(1) LAND ACQUISITION FUNDS.—Notwithstanding section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), monies appropriated from the Land and Water Conservation Fund established under section 2 of such Act (16 U.S.C. 460l–5) shall be available for acquisition of lands and interests in land for inclusion in the Midewin National Tallgrass Prairie.

(2) ACQUISITION OF PRIVATE LANDS.—Acquisition of private lands for inclusion in the Midewin National Tallgrass Prairie shall be on a willing seller basis only.

(e) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the Midewin National Tallgrass Prairie, the Secretary of Agriculture is authorized and encouraged to cooperate with appropriate Federal, State, and local governmental agencies, private organizations and corporations. Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978 and the Forest and Rangeland Renewable Resources Research Act of 1978. The objects of such cooperation may include public education, land and resource protection and cooperative management among government, corporate, and private landowners in a manner which furthers the purposes for which the Midewin National Tallgrass Prairie is established.

SEC. 10315. SPECIAL MANAGEMENT REQUIREMENTS FOR MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the Midewin National Tallgrass Prairie. Nothing herein shall preclude construction and maintenance of roads for use within the MNP or the granting of authorizations for utility rights-of-way under applicable Federal law or preclude such access as is necessary. Nothing herein shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this subtitle.

(b) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the Midewin National Tallgrass Prairie, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If, at the time of transfer of jurisdiction under section 10312, there exists any lease issued by the Department of the Army, Department of Defense, or any other agency thereof, for agricultural purposes upon the parcel transferred, the Secretary of Agriculture, upon transfer of jurisdiction, shall convert the lease to a special use authorization, the terms of which shall be identical in substance to the lease that existed prior to the transfer, including the expiration date and any payments owed the United States.

(2) The Secretary of Agriculture may issue special use authorizations to persons for use of the Midewin National Tallgrass Prairie for agricultural purposes. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date 20 years from the date of the enactment of this Act, except that nothing in this Act shall preclude the Secretary of Agriculture from issuing agricultural special use authorizations or grazing permits which are effective after 20 years from the date of the enactment of this Act for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of the Midewin National Tallgrass Prairie.

(c) TREATMENT OF RENTAL FEES.—Monies received pursuant to subsection (b) shall be subject to distribution to the State of Illinois and affected counties pursuant to the Acts of May 23, 1908, and March 1, 1911 (16 U.S.C. 500). All such monies not distributed pursuant to such Acts shall be deposited into the Treasury and shall constitute a special fund, which shall be available to the Secretary of Agriculture, in such amounts as are provided in advance in appropriation Acts, to cover the cost to the United States of such prairie-improvement work as the Secretary may direct. Any portion of any deposit made to the fund which the Secretary determines to be in excess of the cost of doing such work shall be transferred, upon such determination, to miscellaneous receipts, Forest Service Fund, as a National Forest receipt of the fiscal year in which such transfer is made.

(d) USER FEES.—The Secretary of Agriculture is authorized to charge reasonable fees for the admission, occupancy, and use of the Midewin National Tallgrass Prairie and may prescribe a fee schedule providing for reduced, or a waiver of, fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education. The Secretary shall permit admission, occupancy, and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(e) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary pursuant to this subtitle.

(f) TREATMENT OF USER FEES AND SALVAGE RECEIPTS.—Monies collected pursuant to subsections (d) and (e) shall be covered into the Treasury and constitute a special fund to be known as the Midewin National Tallgrass Prairie Restoration Fund. Deposits in the Midewin National Tallgrass Prairie Restoration Fund shall be available to the Secretary of Agriculture, in such amounts as are provided in advance in appropriation acts, for restoration and administration of the Midewin National Tallgrass Prairie, including construction of a visitor and education center, restoration of ecosystems, construction of recreational facilities (such as trails), construction of administrative offices, and operation and maintenance of the MNP.

SEC. 10316. SPECIAL DISPOSAL RULES FOR CERTAIN ARSENAL PARCELS INTENDED FOR MNP.

(a) DESCRIPTION OF PARCELS.—Except as provided in subsection (b), the following areas are designated for transfer or disposal pursuant to subsection (c):

(1) Manufacturing Area—Study Area 1—Southern Ash Pile, Study Area 2—Explosive Burning Ground, Study Area 3—Flashing Grounds, Study Area 4—Lead Azide Area, Study Area 10—Toluene Tank Farms, Study Area 11—Landfill, Study Area 12—Sellite Manufacturing Area, Study Area 14—Former Pond Area, Study Area 15—Sewage Treatment Plant.

(2) Load Assemble Packing Area—Group 61: Study Area L1, Explosive Burning Ground: Study Area L2, Demolition Area: Study Area L3, Landfill Area: Study Area L4, Salvage Yard: Study Area L5, Group 1: Study Area L7, Group 2: Study Area L8, Group 3: Study Area L9, Group 3A: Study Area L10, Group 4: Study Area L14, Group 5: Study Area L15, Group 8: Study Area L18, Group 9: Study Area L19, Group 27: Study Area L23, Group 62: Study Area L25, PVC Area: Study Area L33, including all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the Manufacturing and Load Assembly and Packing sides of the Joliet Arsenal as delineated in the Dames and Moore Final Report, Proposed Future Land Use Map, dated May 30, 1995.

(b) EXCEPTION.—The parcels described in subsection (a) shall not include the property at the Arsenal designated for disposal under chapter 3.

(c) INITIAL OFFER TO SECRETARY OF AGRICULTURE.—Within 6 months after the construction and installation of any remedial design approved by the Administrator and required for any lands described in subsection (a), the Administrator shall provide to the Secretary of Agriculture all existing information regarding the implementation of such remedy, including information regarding its effectiveness. Within 3 months after the Administrator provides such information to the Secretary of Agriculture, the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the areas described in subsection (a), without reimbursement, to be added to the Midewin National Tallgrass Prairie and subject to the terms and conditions, including the limitations on liability, contained in this subtitle. In the event the Secretary of Agriculture declines such offer, the property may be disposed of as the Secretary of the Army would ordinarily dispose of such property under applicable provisions of law. Any sale or other transfer of property conducted pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

CHAPTER 3—OTHER REAL PROPERTY DISPOSALS INVOLVING JOLIET ARMY AMMUNITION PLANT

SEC. 10321. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR A NATIONAL CEMETERY.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer, without reimbursement, to the Secretary of Veterans Affairs the parcel of real property at the Arsenal described in subsection (b) for use as a national cemetery.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 982 acres, the approximate legal description of which includes part of sections 30 and 31 Jackson Township, T34N R10E, and part of sections 25 and 36 Channahon Township, T34N R9E, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) SECURITY MEASURES.—The Secretary of Veterans Affairs shall provide and maintain physical and other security measures on the real property transferred under subsection (a). Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to the portion of the Arsenal that is under the administrative jurisdiction of the Secretary of Veterans Affairs and that may endanger health or safety.

(d) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of Arsenal properties from the Secretary of the Army to the Secretary of Veterans Affairs shall be borne solely by the Secretary of Veterans Affairs.

SEC. 10322. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR A COUNTY LANDFILL.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer, without compensation, to Will County, Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be operated as a landfill by the County.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of approximately 455 acres, the approximate legal description of which includes part of sections 8 and 17, Florence Township, T33N R10E, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) CONDITION ON CONVEYANCE.—The conveyance shall be subject to the condition that the Army (or its agents or assigns) may use the landfill established on the real property transferred under subsection (a) for the disposal of construction debris, refuse, and other nonhazardous materials from the restoration and cleanup of the Arsenal property as provided for in this Act. Such use shall be at no cost to the Federal Government.

(d) REVERSIONARY INTEREST.—During the 5-year period beginning on the date the Secretary of the Army makes the conveyance under subsection (a), if the Secretary of the Army determines that the conveyed real property is not being operated as a landfill or that Will County, Illinois, is in violation of the condition specified in subsection (c), then, at the option of the United States, all right, title, and interest in and to the property, including improvements thereon, shall be subject to reversion to the United States. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property. Any determination of the Secretary of the Army under this subsection shall be made on the record after an opportunity for a hearing.

(e) SURVEYS.—All costs of necessary surveys for the transfer of real property under this section shall be borne by Will County, Illinois.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary of the Army considers appropriate to protect the interests of the United States.

SEC. 10323. DISPOSAL OF CERTAIN REAL PROPERTY AT ARSENAL FOR ECONOMIC DEVELOPMENT.

(a) TRANSFER REQUIRED.—Subject to section 10331, the Secretary of the Army shall transfer to the State of Illinois, all right, title, and interest of the United States in and to the parcel of real property at the Arsenal described in subsection (b), which shall be used for economic redevelopment to replace all or a part of the economic activity lost at the Arsenal.

(b) DESCRIPTION OF PROPERTY.—The real property to be transferred under subsection (a) is a parcel of real property at the Arsenal consisting of—

(1) approximately 1,900 acres, the approximate legal description of which includes part of section 30, Jackson Township, Township 34 North, Range 10 East, and sections or parts of sections 24, 25, 26, 35, and 36, Township 34 North, Range 9 East, in Channahon Township, an area of 9.77 acres around the Des Plaines River Pump Station located in the southeast quarter of section 15, Township 34 North, Range 9 East of the Third Principal Meridian, in Channahon Township, and an area of 511 feet by 596 feet around the Kankakee River Pump Station in the Northwest Quarter of section 5, Township 33 North, Range 9 East, east of the Third Principal Meridian in Wilmington Township, containing 6.99 acres, located along the easterly side of the Kankakee Cut-Off in Will County, Illinois, as depicted in the Arsenal Re-Use Concept, and the connecting piping to the northern industrial site, as described by the United States Army Report of Availability, dated 13 December 1993; and

(2) approximately 1,100 acres, the approximate legal description of which includes part of sections 16, 17, 18 Florence Township, Township 33 North, Range 10 East, Will County, Illinois, as depicted in the Arsenal Land Use Concept.

(c) CONSIDERATION.—The transfer under subsection (a) shall be made without consideration. However, the transfer shall be subject to the condition that, if the State of Illinois reconveys all or any part of the transferred property to a non-Federal entity, the State shall pay to the United States an amount equal to the fair market value of the reconveyed property. The Secretary of the Army shall determine the fair market value of any property reconveyed by the State as of the time of the reconveyance, excluding the value of improvements made to the property by the State. The Secretary may treat a lease of the property as a reconveyance if the Secretary determines that the lease was used in an effort to avoid operation of this subsection. Amounts received under this subsection shall be deposited in the general fund of the Treasury for purposes of deficit reduction.

(d) OTHER CONDITIONS OF CONVEYANCE.—

(1) REDEVELOPMENT AUTHORITY.—The transfer under subsection (a) shall be subject to the further condition that the Governor of the State of Illinois establish a redevelopment authority to be responsible for overseeing the economic redevelopment of the transferred land.

(2) TIME FOR ESTABLISHMENT.—To satisfy the condition specified in paragraph (1), the redevelopment authority shall be established within 1 year after the date of the enactment of this Act.

(e) REVERSIONARY INTEREST.—During the 20-year period beginning on the date the Secretary of the Army makes the transfer under subsection (a), if the Secretary determines that a condition specified in subsection (c) or (d) is not being satisfied or that the transferred land is not being used for economic development purposes, then, at the option of the United States, all right, title, and interest in and to the property, including improvements thereon, shall be subject to reversion to the United States. In the event the United States exercises its option to cause the property to revert, the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(f) SURVEYS.—All costs of necessary surveys for the transfer of real property under this section shall be borne by the State of Illinois.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the transfer under this section as the Secretary considers appropriate to protect the interests of the United States.

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 10331. DEGREE OF ENVIRONMENTAL CLEANUP.

(a) IN GENERAL.—Nothing in this Act shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under provisions of any environmental law.

(b) RESPONSE ACTION.—The establishment of the Midewin National Tallgrass Prairie under chapter 2 and the additional real property transfers and disposals required under chapter 3 shall not restrict or lessen in any way any response action or degree of cleanup under CERCLA or other environmental law, or any response action required under any environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out under the authority of the Secretary of the Army at the Arsenal and surrounding areas, except to the extent otherwise allowable under such laws.

(c) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under chapter 3 shall be carried out in compliance with all applicable provisions of section 120(h) of CERCLA and other environmental laws.

Subtitle D—Miscellaneous Provisions

SEC. 10401. EXTENSION OF HIGHER VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998," each place it appears and inserting "for fiscal years through fiscal year 2002,".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998," and inserting "for fiscal years through fiscal year 2002,".

SEC. 10402. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 10403. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The contents of this title are as follows:

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

Sec. 11001. Short title; table of contents.

Subtitle A—Extension of Temporary Authorities
Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.
Sec. 11012. Medical care cost recovery authority.
Sec. 11013. Income verification authority.
Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 11015. Home loan fees.
Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.
Subtitle B—Other Matters
Sec. 11021. Revision to prescription drug copayment.
Sec. 11022. Rounding down of cost-of-living adjustments in compensation and DIC rates.
Sec. 11023. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 11024. Enhanced loan asset sale authority.
Sec. 11025. Withholding of payments and benefits.
Subtitle C—Health Care Eligibility Reform
Sec. 11031. Hospital care and medical services.
Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.
Sec. 11033. Prosthetics.
Sec. 11034. Management of health care.
Sec. 11035. Improved efficiency in health care resource management.
Sec. 11036. Sharing agreements for specialized medical resources.
Sec. 11037. Personnel furnishing shared resources.

Subtitle A—Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) Hospital and Medical Care.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) Outpatient Medications.—Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting "before October 1, 2002,".

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002"; and

(2) in paragraph (5)(C), by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out "October 1, 1998" and inserting "October 1, 2002".

Subtitle B—Other Matters

SEC. 11021. REVISION TO PRESCRIPTION DRUG COPAYMENT.

(a) Increase in Amount of Copayment.—Section 1722A(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "$2" and inserting in lieu thereof "$3";

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(b) Recovery of Indebtedness.—(1) Section 5302 of such title is amended by adding at the end the following new subsection:

"(f) The Secretary may not waive under this section the recovery of any payment or the collection of any indebtedness owed under section 1722A of this title.".

(2) The amendment made by paragraph (1) shall apply with respect to amounts that become due to the United States under section 1722A of title 38, United States Code, on or after the date of the enactment of this Act.

SEC. 11022. ROUNDING DOWN OF COST-OF-LIVING ADJUSTMENTS IN COMPENSATION AND DIC RATES.

(a) Fiscal Year 1996 COLA.—(1) Effective as of December 1, 1995, the Secretary of Veterans Affairs shall recompute any increase in an adjustment that is otherwise provided by law to be effective during fiscal year 1996 in the rates of disability compensation and dependency and indemnity compensation paid by the Secretary as such rates were in effect on November 30, 1995. The recomputation shall provide for the same percentage increase as provided under such law, but with amounts so recomputed (if not a whole dollar amount) rounded down to the next lower whole dollar amount (rather than to the nearest whole dollar amount) and with each old-law DIC rate increased by the amount by which the new-law DIC rate is increased (rather than by a uniform percentage).

(2) For purposes of paragraph (1):

(A) The term "old-law DIC rate" means a dollar amount in effect under section 1311(a)(3) of title 38, United States Code.

(B) The term "new-law DIC rate" means the dollar amount in effect under section 1311(a)(1) of title 38, United States Code.

(b) Out-Year Compensation COLAs.—(1) Chapter 11 of title 38, United States Code, is amended by inserting after section 1102 the following new section:

"§ 1103. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1102 the following new item:

"1103. Cost-of-living adjustments.".

(c) Out-Year DIC COLAs.—(1) Chapter 13 of title 38, United States Code, is amended by inserting after section 1302 the following new section:

"§ 1303. Cost-of-living adjustments

"(a) In the computation of cost-of-living adjustments for fiscal years 1997 through 2002 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

"(b)(1) Cost-of-living adjustments for each of fiscal years 1997 through 2002 in old-law DIC rates shall be in a whole dollar amount that is no greater than the amount by which the new-law DIC rate is increased for that fiscal year as determined under subsection (a).

"(2) For purposes of paragraph (1):

"(A) The term 'old-law DIC rates' means the dollar amounts in effect under section 1311(a)(3) of this title.

"(B) The term 'new-law DIC rate' means the dollar amount in effect under section 1311(a)(1) of this title.

"(c) For purposes of this section, the term 'social security increase' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1302 the following new item:

"1303. Cost-of-living adjustments.".

SEC. 11023. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) Revised Standard.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11024. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 11025. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

"(A) with a compensable service-connected disability;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.".

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out "hospital care and nursing home care" in subparagraphs (A), (B), and (C) and inserting in lieu thereof "hospital care, medical services, and nursing home care";

(B) in paragraph (2), by inserting "and medical services" after "Hospital and nursing home care"; and

(C) by striking out "subsection (a)(1)(G) of this section" each place it appears and inserting in lieu thereof "subsection (a)(1)(F)".

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(2) of this section".

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title),";

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 30 percent or greater.

"(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

"(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

"(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

"(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

"(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

"(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.
"1706. Management of health care: other requirements.".

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out "(c)", and

(ii) striking out "this section, sections" and inserting in lieu thereof "sections 1710,".

(2)(A) The heading of such section is amended to read as follows:

"§ 1703. Annual report on furnishing of care and services by contract".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"1703. Annual report on furnishing of care and services by contract.".

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

"(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "specialized medical resources" and inserting in lieu thereof "health-care resources"; and

(B) by striking out "other" and all that follows through "medical schools" and inserting in lieu thereof "any medical school, health-care provider, health-care plan, insurer, or other entity or individual";

(2) in subsection (a)(2) by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,";

(3) in subsection (b), by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.";

(4) in subsection (d), by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services";

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out "8153" and inserting in lieu thereof "8152".

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out "section 8154" and inserting in lieu thereof "section 8153".

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out "section 8153(a)" and inserting in lieu thereof "section 8152(a)"; and

(B) in subsection (b)(3), by striking out "section 8153" and inserting in lieu thereof "section 8152".

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out "section 8157" and "section 8153(a)" and inserting in lieu thereof "section 8156" and "section 8152(a)", respectively; and

(B) in paragraph (1), by striking out "section 8157(b)(4)" and inserting in lieu thereof "section 8156(b)(4)".

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.".

TITLE XII—TRADE

Subtitle A—Technical Corrections and Miscellaneous Trade Provisions

SEC. 12001. PAYMENT OF DUTIES AND FEES.

(a) INTEREST ACCRUAL.—Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) is amended in the second sentence by inserting after "duties, fees, and interest" the following: "or, in a case in which a claim is made under section 520(d), from the date on which such claim is made,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to claims made pursuant to section 520(d) of the Tariff Act of 1930 on or after April 25, 1995.

SEC. 12002. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1509(a)(2)) is amended by striking "(c)(1)(A)" and inserting "(d)(1)(A)".

(b) REQUIREMENT FOR CERTIFICATE FOR IMPORTATION OF ALCOHOLIC LIQUORS IN SMALL VESSELS.—Section 7 of the Act of August 5, 1935 (19 U.S.C. 1707; 49 Stat. 520), is repealed.

(c) MANIFESTS.—Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended in the matter preceding subparagraph (A) by striking "such manifest" and inserting "a vessel manifest".

(d) DOCUMENTATION FOR ENTRY OF MERCHANDISE.—Section 484(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(1)) is amended in the matter preceding subparagraph (A) by striking "553, and 336(j)" and inserting "and 553".

(e) PENALTIES FOR CERTAIN VIOLATIONS.—Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) is amended—

(1) in subsection (a)(1), by striking "lawful duty" and inserting "lawful duty, tax, or fee"; and

(2) in subsections (b)(1)(A)(vi), (c)(2)(A)(ii), (c)(3)(A)(ii), (c)(4)(A)(i), and (c)(4)(B) by striking "lawful duties" each place it appears and inserting "lawful duties, taxes, and fees".

(f) DEPRIVATION OF LAWFUL DUTIES, TAXES, OR FEES.—Section 592(d) of the Tariff Act of 1930 (19 U.S.C. 1592(d)) is amended by striking "or fees be restored" and inserting "and fees be restored".

(g) RECONCILIATION TREATED AS ENTRY FOR RECORDKEEPING.—

(1) Section 401(s) of the Tariff Act of 1930 (19 U.S.C. 1401(s)) is amended by inserting "recordkeeping," after "reliquidation,".

(2) Section 508(c)(1) of such Act (19 U.S.C. 1508(c)(1)) is amended by inserting ", filing of a reconciliation," after "entry".

(h) EXTENSION OF LIQUIDATION.—Section 504(d) of the Tariff Act of 1930 (19 U.S.C. 1504(d)) is amended by inserting ", unless liquidation is extended under subsection (b)," after "shall liquidate the entry".

(i) EXEMPTION FROM DUTY FOR PERSONAL AND HOUSEHOLD GOODS ACCOMPANYING RETURNING RESIDENTS.—Section 321(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(B)) is amended by inserting ", 9804.00.65," after "9804.00.30".

(j) DEBT COLLECTION.—Section 631(a) of the Tariff Act of 1930 (19 U.S.C. 1631(a)) is amended—

(1) by inserting after "law," the following: "including section 3302 of title 31, United States Code, and subchapters I and II of chapter 37 of such title,"; and

(2) by inserting "and the expenses associated with recovering such indebtedness," after "Government,".

(k) EXAMINATION OF BOOKS AND WITNESSES.—Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended in paragraphs (3) and (4) by striking "appropriate regional commissioner" and inserting "officer designated pursuant to regulations".

(l) REVIEW OF PROTESTS.—Section 515(d) of the Tariff Act of 1930 (19 U.S.C. 1515(d)) is amended by striking "district director" and inserting "port director".

(m) EFFECTIVE DATE.—The amendments made by this section apply as of December 8, 1993.

SEC. 12003. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) in clause (iv)—

(A) by striking "subparagraph 9802.00.80 of such Schedules" and inserting "heading 9802.00.80 of such Schedule"; and

(B) by striking "and" at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the privileged or nonprivileged foreign status merchandise under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if liquidation of the entry was not final before such 15th day.

(c) APPLICATION OF FEES TO CERTAIN AGRICULTURAL PRODUCTS.—The amendment made by section 111(b)(2)(D)(iv) of the Customs and Trade Act of 1990 shall apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the liquidation of the entry was not final before such 15th day.

SEC. 12004. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

SEC. 12005. TECHNICAL AMENDMENTS REGARDING CERTAIN BENEFICIARY COUNTRIES.

(a) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(h)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(b) ANDEAN TRADE PREFERENCE ACT.—Section 204(c)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(c)(1)) is amended by adding at the end thereof the following flush sentence:

"The duty reductions provided for under this paragraph shall not apply to textile and apparel articles which are subject to textile agreements.".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to—

(1) articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act, and

(2) articles entered after December 31, 1991, and before such 15th day, if the liquidation of the entry of such articles was not final before such 15th day.

SEC. 12006. CLARIFICATION OF FEES FOR CERTAIN CUSTOMS SERVICES.

(a) IN GENERAL.—Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended—

(1) by striking "centralized hub facility or" in clause (i); and

(2) in clause (ii)—

(A) by striking "facility—" and inserting "facility or centralized hub facility—",

(B) by striking "customs inspectional" in subclause (I), and

(C) by striking "at the facility" in subclause (I) and inserting "for the facility".

(b) DEFINITIONS.—Section 13031(b)(9)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(i)) is amended—

(1) by striking ", as in effect on July 30, 1990", and

(2) by adding at the end thereof the following new sentence: "Nothing in this paragraph shall be construed as prohibiting the Secretary of the Treasury from processing merchandise that is informally entered or released at any centralized hub facility or express consignment carrier facility during the normal operating hours of the Customs Service, subject to reimbursement and payment under subparagraph (A).".

(c) CITATION.—Section 13031(b)(9)(B)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)(ii)) is amended by striking "section 236 of the Tariff and Trade Act of 1984" and inserting "section 236 of the Trade and Tariff Act of 1984".

SEC. 12007. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS.

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)) is amended by adding at the end the following:

"(3)(A)(i) Subject to clause (ii), the Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

"(I) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

"(II) the claimant files a request for such extension with the Customs Service within one year from the last day of the 3-year period referred to in paragraph (1).

"(ii) In the case of a major disaster occurring on or after January 1, 1994, and before the date of the enactment of this paragraph—

"(I) the Customs Service may extend the time for filing the drawback claim for a period not to exceed 1 year; and

"(II) the request under clause (i)(II) must be filed not later than 1 year from the date of the enactment of this paragraph.

"(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

"(C) For purposes of this paragraph, the term 'major disaster' has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).".

SEC. 12008. TREATMENT OF CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), and any other provision of law, the United States Customs Service shall liquidate or reliquidate those entry numbers made at New York, New York, which are listed in subsection (c), in accordance with the final results of the administrative review, covering the period from May 1, 1984, through March 31, 1985, undertaken by the International Trade Administration of the Department of Commerce for such entries (case number A-580-008).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry Number	Date of Entry
84-4426808	August 29, 1984
84-4427823	September 4, 1984
84-4077985	July 25, 1984
84-4080859	August 3, 1984
84-4080817	August 3, 1984
84-4077723	August 1, 1984
84-4075194	July 10, 1984
84-4076481	July 17, 1984
84-4080930	August 9, 1984.

SEC. 12009. TEMPORARY DUTY SUSPENSION FOR PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.98.05	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1998 Goodwill Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing event by or on behalf of the foregoing persons or the organizing committee of such event; articles to be used in exhibitions depicting the culture of a country participating in such event; and, if consistent with the foregoing, such other articles as the Secretary of the Treasury may allow	Free	No change	Free	On or before 2/1/99".

(b) Taxes and Fees Not To Apply.—The articles described in heading 9902.98.05 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

(c) Effective Date.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 12010. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) Drawback and Refunds.—Section 313(s)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1313(s)(2)(B)) is amended by striking "successor" the first place it appears and inserting "predecessor".

(b) Trade Act of 1974.—Section 301(c)(4) of the Trade Act of 1974 (19 U.S.C. 2411(c)(4)) is amended by striking "(1)(C)(iii)" and inserting "(1)(D)(iii)".

SEC. 12011. URUGUAY ROUND AGREEMENTS ACT.

Section 405(b) of the Uruguay Round Agreements Act (19 U.S.C. 3602(b)) is amended—

(1) in paragraph (1) by striking "1(a)" and inserting "1(b)"; and

(2) in paragraph (2) by striking "1(b)" and inserting "1(a)".

SEC. 12012. FILING OF CERTIFICATIONS FOR CIVIL AIRCRAFT PARTS.

General Note 6 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting "or electronic" after "shall file a written"; and

(2) by striking "with the appropriate customs officer" and inserting "with the United States Customs Service".

SEC. 12013. EXEMPTION REGARDING CERTAIN VESSEL REPAIRS.

(a) Temporary Exemption Extended.—Section 484E(b)(2)(B) of the Customs and Trade Act of 1990 (19 U.S.C. 1466 note) is amended by striking "December 31, 1992" and inserting "December 31, 1994".

(b) Effective Date.—The amendment made by this section applies to any entry made after December 31, 1992, and before January 1, 1995.

SEC. 12014. FEES FOR CERTAIN CUSTOMS SERVICES.

(a) In General.—Section 13031(a)(5) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(5)) is amended—

(1) in subparagraph (A), by inserting "a place" after "aircraft from"; and

(2) in subparagraph (B), by striking "subsection (b)(1)(A)" and inserting "subsection (b)(1)(A)(i)".

(b) Limitation on Fees.—Section 13031(b)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)) is amended to read as follows:

"(b) Limitations on Fees.—(1)(A) No fee may be charged under subsection (a) of this section for customs services provided in connection with—

"(i) the arrival of any passenger whose journey—

"(I) originated in—

"(aa) Canada,

"(bb) Mexico,

"(cc) a territory or possession of the United States, or

"(dd) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5))), or

"(II) originated in the United States and was limited to—

"(aa) Canada,

"(bb) Mexico,

"(cc) territories and possessions of the United States, and

"(dd) such adjacent islands;

"(ii) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates;

"(iii) the arrival of any ferry; or

"(iv) the arrival of any passenger on board a commercial vessel traveling only between ports which are within the customs territory of the United States.

"(B) The exemption provided for in subparagraph (A) shall not apply in the case of the arrival of any passenger on board a commercial vessel whose journey originates and terminates at the same place in the United States if there are no intervening stops.

"(C) The exemption provided for in subparagraph (A)(i) shall not apply to fiscal years 1994, 1995, 1996, and 1997.".

(c) Fee Assessed Only Once.—Section 13031(b)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(4)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "No fee" and inserting "(A) No fee"; and

(3) by adding at the end the following new subparagraph:

"(B) In the case of a commercial vessel making a single voyage involving 2 or more United States ports with respect to which the passengers would otherwise be charged a fee pursuant to subsection (a)(5), such fee shall be charged only 1 time for each passenger.".

(d) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 521 of the North American Free Trade Agreement Implementation Act.

SEC. 12015. TECHNICAL CORRECTION TO CERTAIN CHEMICAL DESCRIPTION.

(a) Amendment to Subheading 2933.90.02.—The article description for subheading 2933.90.02 of the Harmonized Tariff Schedule of the United States is amended by striking "(Quizalofop ethyl)".

(b) Effective Date.—

(1) General rule.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) Retroactive provision.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request (which includes sufficient information to identify and locate the entry) filed with the Customs Service on or before the date that is 180 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article that occurred—

(A) after December 31, 1994, and before the date that is 15 days after the date of the enactment of this Act, and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such amendment applied to such entry or withdrawal.

SEC. 12016. MARKING OF IMPORTED ARTICLES AND CONTAINERS.

(a) In General.—Section 304 of the Tariff Act of 1930 (19 U.S.C.1304) is amended—

(1) by redesignating subsections (f), (g), (h), and (i) as subsections (i), (j), (k), and (l), respectively, and

(2) by inserting after subsection (e) the following new subsections:

"(f) Marking of Metal Forgings.—The marking requirements of subsections (a) and (b) shall not apply to—

"(1) metal forgings that—

"(A) are imported for processing into finished hand tools in the United States, and

"(B) have not been improved in condition beyond rough burring, trimming, grinding, turning, hammering, chiseling, or filing; and

"(2) hand tools made from metal forgings described in paragraph (1).

"(g) Marking of Certain Coffee and Tea Products.—The marking requirements of subsections (a) and (b) shall not apply to articles described in subheading 0901.21, 0901.22, 0902.10, 0902.20, 0902.30, 0902.40, 2101.10, or 2101.20 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.

"(h) Marking of Spices.—The marking requirements of subsections (a) and (b) shall not apply to articles provided for under subheadings 0904.11, 0904.12, 0904.20, 0905.00, 0906.10, 0906.20, 0907.00, 0908.10, 0908.20, 0908.30, 0909.10, 0909.20, 0909.30, 0909.40, 0909.50, 0910.10, 0910.20, 0910.30, 0910.40, 0910.50, 0910.91, 0910.99, 1106.20, 1207.40, 1207.50, 1207.91, 1404.90, and 3302.10, and items classifiable in categories 0712.90.60, 0712.90.8080, 1209.91.2000, 1211.90.2000, 1211.90.8040, 1211.90.8050, 1211.90.8090, 2006.00.3000, 2918.13.2000, 3203.00.8000, 3301.90.1010, 3301.90.1020, and 3301.90.1050 of the

Harmonized Tariff Schedule of the United States, as in effect on January 1, 1995.".

(b) EFFECTIVE DATE.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

SEC. 12017. RELIQUIDATING ENTRY OF WARP KNITTING MACHINES.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 180th day after the date of the enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as duty free Entry No. 100–3022436–3, made on July 12, 1989, at the port of Charleston, South Carolina; and

(2) refund any duties and interest paid with respect to such entry.

SEC. 12018. IDENTIFICATION OF TRADE EXPANSION PRIORITIES.

Section 310(a)(1) of the Trade Act of 1974 (19 U.S.C. 2420(a)(1)) is amended by striking "calendar year 1995" and inserting "each of calendar years 1995 through 2000".

Subtitle B—Generalized System of Preferences

SEC. 12101. SHORT TITLE.

This subtitle may be cited as the "GSP Renewal Act of 1995".

SEC. 12102. GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"SEC. 501. AUTHORITY TO EXTEND PREFERENCES.

"The President may provide duty-free treatment for any eligible article from any beneficiary developing country in accordance with the provisions of this title. In taking any such action, the President shall have due regard for—

"(1) the effect such action will have on furthering the economic development of developing countries through the expansion of their exports;

"(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries;

"(3) the anticipated impact of such action on United States producers of like or directly competitive products; and

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.

"SEC. 502. DESIGNATION OF BENEFICIARY DEVELOPING COUNTRIES.

"(a) AUTHORITY TO DESIGNATE COUNTRIES.—

"(1) BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate countries as beneficiary developing countries for purposes of this title.

"(2) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.—The President is authorized to designate any beneficiary developing country as a least-developed beneficiary developing country for purposes of this title, based on the considerations in section 501 and subsection (c) of this section.

"(b) COUNTRIES INELIGIBLE FOR COUNTRY DESIGNATION.—

"(1) SPECIFIC COUNTRIES.—The following countries may not be designated as beneficiary developing countries for purposes of this title:

"(A) Australia.

"(B) Canada.

"(C) European Union member states.

"(D) Iceland.

"(E) Japan.

"(F) Monaco.

"(G) New Zealand.

"(H) Norway.

"(I) Switzerland.

"(2) OTHER BASES FOR INELIGIBILITY.—The President shall not designate any country a beneficiary developing country under this title if any of the following applies:

"(A) Such country is a Communist country, unless—

"(i) the products of such country receive nondiscriminatory treatment,

"(ii) such country is a WTO Member (as such term is defined in section 2 of the Uruguay Round Agreements Act,) and a member of the International Monetary Fund, and

"(iii) such country is not dominated or controlled by international communism.

"(B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

"(i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and

"(ii) to cause serious disruption of the world economy.

"(C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

"(D)(i) Such country—

"(I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless clause (ii) applies.

"(ii) This clause applies if the President determines that—

"(I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),

"(II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

"(III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum,

and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

"(E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

"(F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism.

"(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

Subparagraphs (D), (E), (F), and (G) shall not prevent the designation of any country as a beneficiary developing country under this title if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefor.

"(c) FACTORS AFFECTING COUNTRY DESIGNATION.—In determining whether to designate any country as a beneficiary developing country under this title, the President shall take into account—

"(1) an expression by such country of its desire to be so designated;

"(2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

"(3) the extent to which other major developed countries are extending generalized preferential tariff treatment to such country;

"(4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

"(5) whether such country is providing adequate and effective protection of intellectual property rights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services;

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights; and

"(8) the extent to which such country fails to cooperate with the United States in preventing the proliferation of nuclear weapons, nuclear weapons components, and nuclear weapons delivery systems, or in preventing illegal drug trafficking.

A country may be found to not provide adequate and effective protection of intellectual property rights under paragraph (5) and section 503(d)(2)(B), notwithstanding the fact that it may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property

Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act.

"(d) Withdrawal, Suspension, or Limitation of Country Designation.—

"(1) In general.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any country. Except in exceptional circumstances, the President, before taking any action under this subsection, shall provide a period for the submission of public comments on the matter under consideration, and in taking any action under this subsection, the President shall consider the factors set forth in section 501 and subsection (c) of this section, and comments received from the public.

"(2) Changed circumstances.—The President shall, after complying with the requirements of subsection (f)(2), withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under subsection (b)(2). Such country shall cease to be a beneficiary developing country on the day on which the President issues an Executive order or Presidential proclamation revoking the designation of such country under this title.

"(e) Mandatory Graduation of Beneficiary Developing Countries.—If the President determines that a beneficiary developing country has become a 'high income' country, as defined by the official statistics of the International Bank for Reconstruction and Development, then the President shall terminate the designation of such country as a beneficiary developing country for purposes of this title, effective on January 1 of the second year following the year in which such determination is made.

"(f) Congressional Notification.—

"(1) Notification of designation.—

"(A) In general.—Before the President designates any country as a beneficiary developing country under this title, the President shall notify the Congress of the President's intention to make such designation, together with the considerations entering into such decision.

"(B) Designation as least-developed beneficiary developing country.—At least 60 days before the President designates any country as a least-developed beneficiary developing country, the President shall notify the Congress of the President's intention to make such designation.

"(2) Notification of termination.—If the President has designated any country as a beneficiary developing country under this title, the President shall not terminate such designation unless, at least 60 days before such termination, the President has notified the Congress and has notified such country of the President's intention to terminate such designation, together with the considerations entering into such decision.

"SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

"(a) Eligible Articles.—

"(1) Designation.—

"(A) In general.—Except as provided in subsection (b), the President is authorized to designate articles as eligible articles for all beneficiary developing countries for purposes of this title by Executive order or Presidential proclamation after receiving the advice of the International Trade Commission in accordance with subsection (e).

"(B) Least-developed beneficiary developing countries.—Except as provided in subsection (b), the President is authorized to designate additional articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2) if, after receiving the advice of the International Trade Commission in accordance with subsection (e) of this section, the President determines that such articles are not import-sensitive in the context of imports from least-developed beneficiary developing countries.

"(C) Three-year rule.—If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of three years after such denial.

"(2) Rule of origin.—

"(A) General rule.—The duty-free treatment provided under this title shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(i) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(ii) the sum of—

"(I) the cost or value of the materials produced in the beneficiary developing country or any two or more countries which are members of the same association of countries which is treated as one country under section 506(2), plus

"(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.

"(B) Exclusions.—An article shall not be treated as the growth, product, or manufacture of a beneficiary developing country by virtue of having merely undergone—

"(i) simple combining or packaging operations, or

"(ii) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

"(3) Regulations.—The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out paragraph (2), including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article—

"(A) must be wholly the growth, product, or manufacture of a beneficiary developing country, or

"(B) must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country.

"(b) Articles That May Not Be Designated As Eligible Articles.—

"(1) Import sensitive articles.—The President may not designate any article as an eligible article under subsection (a) if such article is within one of the following categories of import-sensitive articles:

"(A) Textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.

"(B) Import-sensitive electronic articles.

"(C) Import-sensitive steel articles.

"(D) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on January 1, 1995, as this title was in effect on such date.

"(E) Import-sensitive semimanufactured and manufactured glass products.

"(F) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

"(2) Articles against which other actions taken.—An article shall not be an eligible article for purposes of this title for any period during which such article is the subject of any action proclaimed pursuant to section 203 of this Act (19 U.S.C. 2253) or section 232 or 351 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, 1981).

"(3) Agricultural products.—No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this title.

"(c) Withdrawal, Suspension, or Limitation of Duty-Free Treatment; Competitive Need Limitation.—

"(1) In general.—The President may withdraw, suspend, or limit the application of the duty-free treatment accorded under this title with respect to any article, except that no rate of duty may be established with respect to any article pursuant to this subsection other than the rate which would apply but for this title. In taking any action under this subsection, the President shall consider the factors set forth in sections 501 and 502(c).

"(2) Competitive need limitation.—

"(A) Basis for withdrawal of duty-free treatment.—Except as provided in this paragraph and subject to subsection (d), whenever the President determines that a beneficiary developing country has exported (directly or indirectly) to the United States during any calendar year beginning after December 31, 1995—

"(i) a quantity of an eligible article having an appraised value in excess of $75,000,000, except that, in applying this clause, the amount of $75,000,000 shall be increased by $5,000,000 on January 1 of each calendar year after calendar year 1995, or

"(ii) a quantity of an eligible article equal to or exceeding 50 percent of the appraised value of the total imports of that article into the United States during the calendar year,

then the President shall, not later than July 1 of the next calendar year, terminate the duty-free treatment for that article from that beneficiary developing country.

"(B) Country defined.—For purposes of this paragraph, the term 'country' does not include an association of countries which is treated as one country under section 506(2), but does include a country which is a member of any such association.

"(C) Redesignations.—A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of subparagraph (A) may be redesignated a beneficiary developing country with respect to such article, subject to the considerations set forth in sections 501 and 502, if imports of such article from such country did not exceed the limitations in subparagraph (A) during the preceding calendar year.

"(D) Least-developed beneficiary developing countries.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country.

"(E) Articles not produced in the United States excluded.—Subparagraph (A)(ii) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

"(F) DE MINIMIS WAIVERS.—The President may disregard subparagraph (A)(ii) with respect to any eligible article from any beneficiary developing country if the appraised value of the total imports of such article into the United States during calendar year 1995 or any calendar year thereafter does not exceed $13,000,000, except that, in applying this subparagraph, the amount of $13,000,000 shall be increased by $500,000 on January 1 of each calendar year after calendar year 1995.

"(d) WAIVER OF COMPETITIVE NEED LIMITATION.—

"(1) IN GENERAL.—The President may waive the application of subsection (c)(2) with respect to any eligible article of any beneficiary developing country if, before July 1 of the calendar year beginning after the calendar year for which a determination described in subsection (c)(2)(A) was made with respect to such eligible article, the President—

"(A) receives the advice of the International Trade Commission under section 332 of the Tariff Act of 1930 on whether any industry in the United States is likely to be adversely affected by such waiver,

"(B) determines, based on the considerations described in sections 501 and 502(c) and the advice described in subparagraph (A), that such waiver is in the national economic interest of the United States, and

"(C) publishes the determination described in subparagraph (B) in the Federal Register.

"(2) CONSIDERATIONS BY THE PRESIDENT.—In making any determination under paragraph (1), the President shall give great weight to—

"(A) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(B) the extent to which such country provides adequate and effective protection of intellectual property rights.

"(3) EFFECTIVE PERIOD OF WAIVER.—Any waiver granted under this subsection shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(e) INTERNATIONAL TRADE COMMISSION ADVICE.—Before designating articles as eligible articles under section 503(a)(1), the President shall publish and furnish the International Trade Commission with lists of articles which may be considered for designation as eligible articles for purposes of this title. The provisions of sections 131, 132, 133, and 134 shall be complied with as though action under section 501 and this section were action under section 123 to carry out a trade agreement entered into under section 123.

"(f) SPECIAL RULE CONCERNING PUERTO RICO.—No action under this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 on coffee imported into Puerto Rico.

"SEC. 504. REVIEW AND REPORTS TO CONGRESS.

"(a) REPORT ON OPERATION OF TITLE.—On or before July 31, 1997, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(b) ANNUAL REPORTS ON WORKER RIGHTS.—The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.

"SEC. 505. DATE OF TERMINATION.

"No duty-free treatment provided under this title shall remain in effect after December 31, 1997.

"SEC. 506. DEFINITIONS.

"For purposes of this title:

"(1) BENEFICIARY DEVELOPING COUNTRY.—The term 'beneficiary developing country' means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this title.

"(2) COUNTRY.—The term 'country' means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 502(b) shall be treated as one country for purposes of this title.

"(3) ENTERED.—The term 'entered' means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

"(4) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

"(5) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRY.—The term 'least-developed beneficiary developing country' means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 502(a)(2).".

(b) TABLE OF CONTENTS.—The items relating to title V in the table of contents of the Trade Act of 1974 are amended to read as follows:

"TITLE V—GENERALIZED SYSTEM OF PREFERENCES

"Sec. 501. Authority to extend preferences.
"Sec. 502. Designation of beneficiary developing countries.
"Sec. 503. Designation of eligible articles.
"Sec. 504. Review and reports to Congress.
"Sec. 505. Date of termination.
"Sec. 506. Definitions.".

SEC. 12103. RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law and subject to subsection (b), the entry—

(1) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 31, 1995, and

(2) that was made after July 31, 1995, and before the date of the enactment of this Act,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(1) to locate the entry; or

(2) to reconstruct the entry if it cannot be located.

(c) TREATMENT OF CERTAIN ENTRIES OF BUFFALO LEATHER.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, buffalo leather, provided for under subheading 4104.39.20 of the Harmonized Tariff Schedule of the United States, that is a product of Thailand and entered into the United States under entry numbers M42-1113868-8 and M42-1113939-7, shall be liquidated or reliquidated, as appropriate, as if entered on June 30, 1995.

SEC. 12104. CONFORMING AMENDMENTS.

(a) TRADE LAWS.—

(1) Section 1211(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3011(b)) is amended—

(A) in paragraph (1), by striking "(19 U.S.C. 2463(a), 2464(c)(3))" and inserting "(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)"; and

(B) in paragraph (2), by striking "(19 U.S.C. 2464(c)(1))" and inserting the following: "(as in effect on the day before the date of the enactment of the GSP Renewal Act of 1995)".

(2) Section 203(c)(7) of the Andean Trade Preference Act (19 U.S.C. 3202(c)(7)) is amended by striking "502(a)(4)" and inserting "506(4)".

(3) Section 212(b)(7) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)(7)) is amended by striking "502(a)(4)" and inserting "506(4)".

(4) General note 3(a)(iv)(C) of the Harmonized Tariff Schedule of the United States is amended by striking "sections 503(b) and 504(c)" and inserting "subsections (a), (c), and (d) of section 503".

(b) OTHER LAWS.—

(1) Section 871(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "within the meaning of section 502" and inserting "under title V".

(2) Section 2202(8) of the Export Enhancement Act of 1988 (15 U.S.C. 4711(8)) is amended by striking "502(a)(4)" and inserting "506(4)".

(3) Section 231A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended—

(A) in paragraph (1) by striking "502(a)(4) of the Trade Act of 1974 (19 U.S.C. 2462(a)(4))" and inserting "506(4) of the Trade Act of 1974";

(B) in paragraph (2) by striking "505(c) of the Trade Act of 1974 (19 U.S.C. 2465(c))" and inserting "504(b) of the Trade Act of 1974"; and

(C) in paragraph (4) by striking "502(a)(4)" and inserting "506(4)".

Subtitle C—Trade Adjustment Assistance

SEC. 12201. MODIFICATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) REQUIREMENT OF TRAINING.—(1) Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291) is amended—

(A) in paragraph (1)(A) and (B) by striking "it is not feasible or appropriate to approve a training program" and inserting "a training program is not available"; and

(B) in paragraph (2)(A) and (B) by striking "it is feasible or appropriate to approve a training program" and inserting "a training program is available".

(2) Section 233(b) of such Act (19 U.S.C. 2293(b)) is repealed.

(3) Paragraph (3) of section 250(d) of the Trade Act of 1974 (19 U.S.C. 2331(d)) is amended—

(A) by striking "it is not feasible or appropriate to approve a training program" in subparagraph (A) and inserting "a training program is not available", and

(B) by striking "notwithstanding the provisions of section 233(b)," in subparagraph (B).

(b) TERMINATION OF RELOCATION ALLOWANCES.—(1) Section 238 of the Trade Act of 1974 (19 U.S.C. 2298), and the item relating to that section in the table of contents for that Act, are repealed.

(2) Section 250(d) of the Trade Act of 1974 (19 U.S.C. 2331(d)) is amended by striking paragraph (5).

(c) TERMINATION OF PROGRAM.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 preceding note) is amended—

(1) in paragraph (1), by striking "1998" and inserting "2000"; and

(2) by amending paragraph (2) to read as follows:

"(2) No assistance, vouchers, allowances, or other payments may be provided under subchapter D of chapter 2 after September 30, 1998.".

(d) EXTENSION OF AUTHORIZATION.—(1) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking "and 1998" and inserting "1998, 1999, and 2000".

(2) Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(a)) is amended by striking "and 1998" and inserting "1998, 1999, and 2000".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall take effect on October 1, 1996.

TITLE XIII—COMMITTEE ON WAYS AND MEANS—REVENUE RECONCILIATION

SEC. 13001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE XIII—COMMITTEE ON WAYS AND MEANS—REVENUE RECONCILIATION

Sec. 13001. Short title; amendment of 1986 Code.

Subtitle A—Extension of Expiring Provisions, Etc.

PART I—EXTENSIONS THROUGH DECEMBER 31, 1997

Sec. 13101. Work opportunity tax credit.
Sec. 13102. Employer-provided educational assistance programs.
Sec. 13103. Research credit.
Sec. 13104. Contributions of stock to private foundations.
Sec. 13105. Credit for clinical testing expenses.

PART II—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

Sec. 13106. FUTA exemption for alien agricultural workers.

PART III—COMMERCIAL AVIATION FUEL

Sec. 13111. Delay of scheduled increase in tax on fuel used in commercial aviation.

PART IV—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES

Sec. 13116. Extension of Airport and Airway Trust Fund excise taxes.

Subtitle B—Medical Savings Accounts

Sec. 13201. Medical savings accounts.

Subtitle C—Pickle-Johnson Taxpayer Bill of Rights

PART I—TAXPAYER ADVOCATE

Sec. 13301. Establishment of position of taxpayer advocate within Internal Revenue Service.
Sec. 13302. Expansion of authority to issue taxpayer assistance orders.

PART II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

Sec. 13306. Notification of reasons for termination of installment agreements.
Sec. 13307. Administrative review of termination of installment agreement.

PART III—ABATEMENT OF INTEREST AND PENALTIES

Sec. 13311. Expansion of authority to abate interest.
Sec. 13312. Review of IRS failure to abate interest.
Sec. 13313. Extension of interest-free period for payment of tax after notice and demand.

PART IV—JOINT RETURNS

Sec. 13316. Studies of joint return-related issues.
Sec. 13317. Joint return may be made after separate returns without full payment of tax.
Sec. 13318. Disclosure of collection activities.

PART V—COLLECTION ACTIVITIES

Sec. 13321. Modifications to lien and levy provisions.
Sec. 13322. Offers-in-compromise.

PART VI—INFORMATION RETURNS

Sec. 13326. Civil damages for fraudulent filing of information returns.
Sec. 13327. Requirement to conduct reasonable investigations of information returns.

PART VII—AWARDING OF COSTS AND CERTAIN FEES

Sec. 13331. United States must establish that its position in proceeding was substantially justified.
Sec. 13332. Increased limit on attorney fees.
Sec. 13333. Failure to agree to extension not taken into account.
Sec. 13334. Award of litigation costs permitted in declaratory judgment proceedings.
Sec. 13335. Effective date.

PART VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

Sec. 13336. Increase in limit on recovery of civil damages for unauthorized collection actions.
Sec. 13337. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.

PART IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

Sec. 13341. Preliminary notice requirement.
Sec. 13342. Disclosure of certain information where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 13343. Right of contribution where more than 1 person liable for penalty for failure to collect and pay over tax.
Sec. 13344. Volunteer board members of tax-exempt organizations exempt from penalty for failure to collect and pay over tax.

PART X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

Sec. 13346. Enrolled agents included as third-party recordkeepers.
Sec. 13347. Safeguards relating to designated summonses.
Sec. 13348. Annual report to Congress concerning designated summonses.

PART XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

Sec. 13351. Relief from retroactive application of Treasury Department regulations.

PART XII—MISCELLANEOUS PROVISIONS

Sec. 13356. Report on pilot program for appeal of enforcement actions.
Sec. 13357. Phone number of person providing payee Statements required to be shown on such Statement.
Sec. 13358. Required notice of certain payments.
Sec. 13359. Unauthorized enticement of information disclosure.
Sec. 13360. Annual reminders to taxpayers with outstanding delinquent accounts.
Sec. 13361. 5-year extension of authority for undercover operations.
Sec. 13362. Disclosure of form 8300 information on cash transactions.
Sec. 13363. Disclosure of returns and return information to designee of taxpayer.
Sec. 13364. Study of netting of interest on overpayments and liabilities.
Sec. 13365. Credit for expenses of certain TCMP audits.
Sec. 13366. Expenses of detection of underpayments and fraud, etc.

Subtitle D—Additional Technical Corrections

Sec. 13401. Reporting of real estate transactions.
Sec. 13402. Clarification of denial of deduction for stock redemption expenses.
Sec. 13403. Clarification of depreciation class for certain energy property.
Sec. 13404. Clerical amendment to section 404.
Sec. 13405. Treatment of certain veterans' reemployment rights.

Subtitle E—Tax Information Sharing

Sec. 13501. Disclosure of return information for administration of certain veterans programs.

Subtitle F—Revenue Increases

PART I—PROVISIONS RELATING TO BUSINESSES

Sec. 13601. Tax treatment of certain extraordinary dividends.
Sec. 13602. Registration of confidential corporate tax shelters.
Sec. 13603. Denial of deduction for interest on loans with respect to company-owned insurance.
Sec. 13604. Termination of suspense accounts for family corporations required to use accrual method of accounting.
Sec. 13605. Termination of Puerto Rico and possession tax credit.
Sec. 13606. Depreciation under income forecast method.
Sec. 13607. Transfers of excess pension assets.

PART II—LEGAL REFORMS

Sec. 13611. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.

Sec. 13612. Reporting of certain payments made to attorneys.

PART III—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP

Sec. 13616. Revision of income, estate, and gift taxes on individuals who lose United States citizenship.

Sec. 13617. Information on individuals losing United States citizenship.

Sec. 13618. Report on tax compliance by United States citizens and residents living abroad.

PART IV—REFORMS RELATING TO ENERGY PROVISIONS

Sec. 13621. Termination of credit for electricity produced from certain renewable resources.

Sec. 13622. Exclusion for energy conservation subsidies limited to subsidies with respect to dwelling units.

PART V—REFORMS RELATING TO NONRECOGNITION PROVISIONS

Sec. 13626. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.

Sec. 13627. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.

Sec. 13628. No rollover or exclusion of gain on sale of principal residence which is attributable to depreciation deductions.

Sec. 13629. Nonrecognition of gain on sale of principal residence by noncitizens limited to new residences located in the United States.

PART VI—REFORMS RELATING TO GAMING ACTIVITIES

Sec. 13631. Treatment of Indian gaming activities under unrelated business income tax.

Sec. 13632. Repeal of targeted exemption from tax on unrelated trade or business income from gambling in certain States.

Sec. 13633. Extension of withholding to certain gambling winnings.

PART VII—OTHER REFORMS

Sec. 13636. Sunset of low-income housing credit.

Sec. 13637. Repeal of credit for contributions to community development corporations.

Sec. 13638. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.

Sec. 13639. Application of failure-to-pay penalty to substitute returns.

Sec. 13640. Repeal of special rule for rental use of vacation homes, etc., for less than 15 days.

Sec. 13641. Election to cease status as qualified scholarship funding corporation.

Sec. 13642. Certain amounts derived from foreign corporations treated as unrelated business taxable income.

PART VIII—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

Sec. 13646. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.

Sec. 13647. Reporting of certain excise taxes and other information.

Sec. 13648. Exempt organizations required to provide copy of return.

Sec. 13649. Certain organizations required to disclose nonexempt status.

Sec. 13650. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

Sec. 13651. Studies.

Subtitle G—Reform of the Earned Income Tax Credit

Sec. 13701. Repeal of earned income credit for individuals without qualifying children; modifications to credit phaseout.

Sec. 13702. Modification of adjusted gross income used for phaseout.

Sec. 13703. Earned income tax credit denied to individuals not authorized to be employed in the United States.

Subtitle H—Increase in Public Debt Limit

Sec. 13801. Increase in public debt limit.

Subtitle I—Coal Industry Retiree Health Equity

Sec. 13901. Repeal of reachback provisions of coal industry health benefit system.

Subtitle A—Extension of Expiring Provisions, Etc.

PART I—EXTENSIONS THROUGH DECEMBER 31, 1997

SEC. 13101. WORK OPPORTUNITY TAX CREDIT.

(a) AMOUNT OF CREDIT.—Subsection (a) of section 51 is amended by striking "40 percent" and inserting "35 percent".

(b) MEMBERS OF TARGETED GROUPS.—Subsection (d) of section 51 is amended to read as follows:

"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a qualified AFDC recipient,

"(B) a qualified ex-felon,

"(C) a high-risk youth,

"(D) a vocational rehabilitation referral, or

"(E) a qualified summer youth employee.

"(2) QUALIFIED AFDC RECIPIENT.—

"(A) IN GENERAL.—The term 'qualified AFDC recipient' means any individual who is certified by the designated local agency as being a member of a family receiving assistance under an AFDC program for at least a 9-month period ending during the 9-month period ending on the hiring date.

"(B) AFDC PROGRAM.—For purposes of this paragraph, the term 'AFDC program' means any program providing aid under a State plan approved under part A of title IV of the Social Security Act (relating to aid to families with dependent children) and any successor of such program.

"(C) SPECIAL RULES FOR VETERANS.—In the case of a veteran, subparagraph (A) shall be applied by substituting '12-month' for '9-month' the second place it appears.

"(D) VETERAN.—For purposes of subparagraph (C), the term 'veteran' means any individual who is certified by the designated local agency as—

"(i)(I) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

"(II) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and

"(ii) not having any day during the 60-day period ending on the hiring date which was a day of extended active duty in the Armed Forces of the United States.

For purposes of clause (ii), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(3) QUALIFIED EX-FELON.—The term 'qualified ex-felon' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as having a hiring date which is not more than 1 year after the last date on which such individual was so convicted or was released from prison, and

"(C) as being a member of a family which had an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis, would be 70 percent or less of the Bureau of Labor Statistics lower living standard.

Any determination under subparagraph (C) shall be valid for the 45-day period beginning on the date such determination is made.

"(4) HIGH-RISK YOUTH.—

"(A) IN GENERAL.—The term 'high-risk youth' means any individual who is certified by the designated local agency—

"(i) as having attained age 18 but not age 25 on the hiring date, and

"(ii) as having his principal place of abode within an empowerment zone or enterprise community.

"(B) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—In the case of a high-risk youth, the term 'qualified wages' shall not include wages paid or incurred for services performed while such youth's principal place of abode is outside an empowerment zone or enterprise community.

"(5) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(6) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means any individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (or if later, on May 1 of the calendar year involved),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(i), and "(iv) who is certified by the designated local agency as having his principal place of abode within an empowerment zone or enterprise community.

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (b)(2) shall be applied by substituting 'any 90-day period between May 1 and September 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(ii) subsection (b)(3) shall be applied by substituting '$3,000' for '$6,000'.

The preceding sentence shall not apply to an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee.

"(C) YOUTH MUST CONTINUE TO RESIDE IN ZONE.—Paragraph (4)(B) shall apply for purposes of this paragraph.

"(7) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(8) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means a State employment security agency established in accordance with the Act of June 6, 1933, as amended (29 U.S.C. 49-49n).

"(9) SPECIAL RULES FOR CERTIFICATIONS.—

"(A) IN GENERAL.—An individual shall not be treated as a member of a targeted group unless—

"(i) on or before the day on which such individual begins work for the employer, the employer has received a certification from a designated local agency that such individual is a member of a targeted group, or

"(ii)(I) on or before the day the individual is offered employment with the employer, a pre-screening notice is completed with respect to such individual, and

"(II) not later than the 14th day after the individual begins work for the employer, the employer submits such notice to the designated local agency as part of a written request for such a certification from such agency.

For purposes of this paragraph, the term 'pre-screening notice' means a document (in such form as the Secretary shall prescribe) which is signed by the employer and the individual under penalties of perjury and which contains information provided by the individual on the basis of which the employer believes that the individual is a member of a targeted group.

"(B) INCORRECT CERTIFICATIONS.—If—

"(i) an individual has been certified by a designated local agency as a member of a targeted group, and

"(ii) such certification is incorrect because it was based on false information provided by such individual,

the certification shall be revoked and wages paid by the employer after the date on which notice of revocation is received by the employer shall not be treated as qualified wages.

"(C) EXPLANATION OF DENIAL OF REQUEST.—If a designated local agency denies a request for certification of membership in a targeted group, such agency shall provide to the person making such request a written explanation of the reasons for such denial."

(c) MINIMUM EMPLOYMENT PERIOD.—Paragraph (3) of section 51(i) is amended to read as follows:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual unless such individual either—

"(A) is employed by the employer at least 180 days (20 days in the case of a qualified summer youth employee), or

"(B) has completed at least 500 hours (120 hours in the case of a qualified summer youth employee) of services performed for the employer."

(d) DEFINITION OF WAGES.—Subsection (c) of section 51 is amended by striking paragraph (3).

(e) TERMINATION.—Paragraph (4) of section 51(c) is amended to read as follows:

"(3) TERMINATION.—The term 'wages' shall not include any amount paid or incurred to an individual who begins work for the employer—

"(A) after December 31, 1994, and before January 1, 1996, or

"(B) after December 31, 1997."

(f) REDESIGNATION OF CREDIT.—

(1) Sections 38(b)(2) and 51(a) are each amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(2) The subpart heading for subpart F of part IV of subchapter A of chapter 1 is amended by striking "**Targeted Jobs Credit**" and inserting "**Work Opportunity Credit**".

(3) The table of subparts for such part IV is amended by striking "targeted jobs credit" and inserting "work opportunity credit".

(g) BUSINESS AWARENESS PROGRAM.—The Secretary of Labor shall implement a program to encourage small businesses to use the services of local agencies to identify individuals who qualify to be certified as members of targeted groups (as defined in section 51 of the Internal Revenue Code of 1986, as amended by this section). Such Secretary, and the heads of other Federal agencies, shall make every effort to encourage small businesses to benefit from the credit allowable under such section by simplifying procedures to the extent possible.

(h) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 51(c) is amended by striking ", subsection (d)(8)(D),".

(2) Paragraph (3) of section 51(i) is amended by striking "(d)(12)" each place it appears and inserting "(d)(6)".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after December 31, 1995.

SEC. 13102. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994" and inserting "December 31, 1997".

(b) LIMITATION TO EDUCATION BELOW GRADUATE LEVEL.—The last sentence of section 127(c)(1) is amended by inserting before the period "or at the graduate level".

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

(2) LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1995.

SEC. 13103. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(1) by striking "June 30, 1995" each place it appears and inserting "December 31, 1997", and

(2) by striking "July 1, 1995" each place it appears and inserting "January 1, 1998".

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

"(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

"(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses."

(c) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—Subsection (c) of section 41 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

"(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to the sum of—

"(i) 1.65 percent of so much of the qualified research expenses for the taxable year as exceeds 1 percent of the average described in subsection (c)(1)(B) but does not exceed 1.5 percent of such average,

"(ii) 2.2 percent of so much of such expenses as exceeds 1.5 percent of such average but does not exceed 2 percent of such average, and

"(iii) 2.75 percent of so much of such expenses as exceeds 2 percent of such average.

"(B) ELECTION.—An election under this paragraph may be made only for the first taxable year of the taxpayer beginning after June 30, 1995. Such an election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary."

(d) INCREASED CREDIT FOR CONTRACT RESEARCH EXPENSES WITH RESPECT TO CERTAIN RESEARCH CONSORTIA.—Paragraph (3) of section 41(b) is amended by adding at the end the following new subparagraph:

"(C) AMOUNTS PAID TO CERTAIN RESEARCH CONSORTIA.—

"(i) IN GENERAL.—Subparagraph (A) shall be applied by substituting '75 percent' for '65 percent' with respect to amounts paid or incurred by the taxpayer to a qualified research consortium for qualified research.

"(ii) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization described in subsection (e)(6)(B) if—

"(I) at least 15 unrelated taxpayers paid (during the calendar year in which the taxable year of the taxpayer begins) amounts to such organization for qualified research,

"(II) no 3 persons paid during such calendar year more than 50 percent of the total amounts paid during such calendar year for qualified research, and

"(III) no person contributed more than 20 percent of such total amounts.

For purposes of subclause (I), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related taxpayers."

(e) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1995" and inserting "December 31, 1997".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years ending after June 30, 1995.

(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after June 30, 1995.

SEC. 13104. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) is amended by striking "December 31, 1994" and inserting "December 31, 1997".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 13105. CREDIT FOR CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 is amended by striking "December 31, 1994" and inserting "December 31, 1997".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1994.

PART II—PERMANENT EXTENSION OF FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS

SEC. 13106. FUTA EXEMPTION FOR ALIEN AGRICULTURAL WORKERS.

(a) IN GENERAL.—Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking "before January 1, 1995,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1994.

PART III—COMMERCIAL AVIATION FUEL

SEC. 13111. DELAY OF SCHEDULED INCREASE IN TAX ON FUEL USED IN COMMERCIAL AVIATION.

(a) 2-YEAR DELAY.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking "September 30, 1995" and inserting "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 30, 1995.

(2) CROSS REFERENCE.—

For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on October 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 30, 1998.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) COMMERCIAL AVIATION FUEL.—The term "commercial aviation fuel" means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on October 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

(f) STUDY.—The Secretary of the Treasury or his delegate shall, in consultation with the Secretary of Transportation, conduct a study of the Federal excise tax burdens on each of the various modes of transportation and the benefits provided to each such mode from revenues derived from such excise taxes. The results of such study shall be submitted not later than June 30, 1996, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART IV—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES

SEC. 13116. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXCISE TAXES.

(a) FUEL TAX.—

(1) Subparagraph (A) of section 4091(b)(3) is amended by striking "January 1, 1996" and inserting "October 1, 1996".

(2) Paragraph (2) of section 4081(d), as amended by section 14721 of this Act, is amended by striking "January 1, 1996" and inserting "October 1, 1996".

(b) TICKET TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1996" and inserting "October 1, 1996".

(c) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND.—

(1) Subsection (b) of section 9502 is amended by striking "January 1, 1996" each place it appears and inserting "October 1, 1996".

(2) Paragraph (3) of section 9502(f) is amended by striking "December 31, 1995" and inserting "September 30, 1996".

Subtitle B—Medical Savings Accounts

SEC. 13201. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an individual who is an eligible individual for any month during the taxable year, there shall be allowed as a deduction for the taxable year an amount equal to the aggregate amount paid in cash during such taxable year by such individual to a medical savings account of such individual.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount allowable as a deduction under subsection (a) to an individual for the taxable year shall not exceed the lesser of—

"(A) $2,500, or

"(B) the deductible under the catastrophic health plan covering such individual.

If the catastrophic health plan covering such individual provides coverage for any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, subparagraph (A) shall be applied by substituting '$5,000' for '$2,500'. The preceding sentence shall not apply if the spouse or any dependent (as so defined) of such individual is covered under any other catastrophic health plan.

"(2) SPECIAL RULE FOR MARRIED INDIVIDUALS.—

"(A) IN GENERAL.—This subsection shall be applied separately for each married individual.

"(B) SPECIAL RULE.—If individuals who are married to each other are covered under the same catastrophic health plan, then the amounts applicable under subparagraphs (A) and (B) of paragraph (1) shall be divided equally between them unless they agree on a different division.

"(3) COORDINATION WITH EXCLUSION FOR EMPLOYER CONTRIBUTIONS.—No deduction shall be allowed under this section for any amount paid for any taxable year to a medical savings account of an individual if—

"(A) any amount is paid to any medical savings account of such individual which is excludable from gross income under section 106(b) for such year, or

"(B) in a case described in paragraph (2), any amount is paid to any medical savings account of either spouse which is so excludable for such year.

"(4) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (1) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the catastrophic health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined using the next to the last sentence of paragraph (1) for some but not all months during such taxable year.

"(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph and paragraph (3)) be determined under paragraph (1) if the facts and circumstances as of the first day of such month that such individual is covered under a catastrophic health plan were true for the entire taxable year.

"(5) DENIAL OF DEDUCTION TO DEPENDENTS.—No deduction shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means, with respect to any month, any individual—

"(i) who is covered under a catastrophic health plan at any time during such month, and

"(ii) who is not, while covered under a catastrophic health plan, covered under any health plan—

"(I) which is not a catastrophic health plan, and

"(II) which provides coverage for any benefit which is covered under the catastrophic health plan.

"(B) CERTAIN COVERAGE DISREGARDED.—Subparagraph (A)(ii) shall be applied without regard to—

"(i) coverage for any benefit provided by permitted insurance, and

"(ii) coverage (whether through insurance or otherwise) for accidents, dental care, vision care, or long-term care.

"(2) CATASTROPHIC HEALTH PLAN.—The term 'catastrophic health plan' means any health plan which provides no compensation for an individual's expenses covered by the plan for any calendar year to the extent such expenses for such calendar year do not exceed $1,500 ($3,000 if the catastrophic health plan covering the taxpayer provides coverage for more than 1 individual) or such higher amounts as may be specified by the plan.

"(3) PERMITTED INSURANCE.—The term 'permitted insurance' means—

"(A) Medicare supplemental insurance,

"(B) insurance if substantially all of the coverage provided under such insurance relates to—

"(i) liabilities incurred under workers' compensation laws,

"(ii) tort liabilities,

"(iii) liabilities relating to ownership or use of property,

"(iv) credit insurance, or

"(v) such other similar liabilities as the Secretary may specify by regulations,

"(C) insurance for a specified disease or illness, and

"(D) insurance paying a fixed amount per day (or other period) of hospitalization.

"(d) MEDICAL SAVINGS ACCOUNT.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a rollover contribution described in subsection (f)(4), no contribution will be accepted unless it is in cash.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

"(i) for medical care (as defined in section 213(d)) for such individual, the spouse of such individual, and any dependent (as defined in section 152) of such individual, but only to the extent such amounts are not compensated for by insurance or otherwise, or

"(ii) for long-term care insurance for such individual, spouse, or dependent.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A)(i) shall not apply to any payment for insurance.

"(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the medical savings account was established.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

"(A) Section 219(d)(2) (relating to no deduction for rollovers).

"(B) Section 219(f)(3) (relating to time when contributions deemed made).

"(C) Except as provided in section 106(b), section 219(f)(5) (relating to employer payments).

"(D) Section 408(g) (relating to community property laws).

"(E) Section 408(h) (relating to custodial accounts).

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) ACCOUNT TAXED AS GRANTOR TRUST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the account holder of a medical savings account shall be treated for purposes of this title as the owner of such account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

"(B) TREATMENT OF CAPITAL LOSSES.—With respect to assets held in a medical savings account, any capital loss for a taxable year from the sale or exchange of such an asset shall be allowed only to the extent of capital gains from such assets for such taxable year. Any capital loss which is disallowed under the preceding sentence shall be treated as a capital loss from the sale or exchange of such an asset in the next taxable year. For purposes of this subparagraph, all medical savings accounts of the account holder shall be treated as 1 account.

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(3) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

"(A) IN GENERAL.—A trust shall not constitute a medical savings account unless the written governing instrument provides that, if the account holder dies while there is a balance in the account, the entire balance of the account holder will be distributed within 5 years after the death of the account holder.

"(B) EXCEPTION WHERE SPOUSE BECOMES ACCOUNT HOLDER.—Subparagraph (A) shall not apply if the account is payable to (or for the benefit of) the surviving spouse of the decedent.

"(f) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a medical savings account which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a medical savings account which is not so used shall be included in the gross income of such holder to the extent such amount does not exceed the excess of—

"(i) the aggregate contributions to such account which were allowed as a deduction under this section or which were excluded under section 106(b), over

"(ii) the aggregate prior payments or distributions from such account which were includible in gross income under this paragraph.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account holder shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) attains age 59½,

"(ii) becomes disabled within the meaning of section 72(m)(7), or

"(iii) dies.

"(3) WITHDRAWAL OF EXCESS CONTRIBUTIONS.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under this section with respect to such contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such contribution.

In the case of such a distribution, for purposes of section 61, any net income described in subparagraph (C) shall be deemed to have been earned and receivable in the taxable year in which such contribution is made.

"(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the account holder if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such holder not later than the 60th day after the day on which he received the payment or distribution.

"(5) Coordination with medical expense deduction.—For purposes of section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care to the extent of the amount of such payment or distribution which is excludable from gross income solely by reason of paragraph (1)(A).

"(g) Cost-of-Living Adjustment.—

"(1) In general.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount in subsection (b)(1) or in subsection (c)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the medical care cost adjustment for such calendar year.

If any increase under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

"(2) Medical care cost adjustment.—For purposes of paragraph (1), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(A) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(B) such component for August of 1995.

"(h) Reports.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the account holder with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) Deduction Allowed Whether or Not Individual Itemizes Other Deductions.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) Medical savings accounts.—The deduction allowed by section 220."

(c) Exclusions for Employer Contributions to Medical Savings Accounts.—

(1) Exclusion from income tax.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) General Rule.—Gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) Contributions to Medical Savings Accounts.—

"(1) In general.—In the case of an employee who is an eligible individual, gross income does not include amounts contributed by such employee's employer to any medical savings account of such employee.

"(2) Coordination with deduction limitation.—The amount excluded from the gross income of an employee under this subsection for any taxable year shall not exceed the limitation under section 220(b)(1) (determined without regard to this subsection) which is applicable to such employee for such taxable year."

"(3) No constructive receipt.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions referred to in paragraph (1) and employer contributions to another health plan of the employer.

"(4) Special rule for deduction of employer contributions.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(5) Definitions.—For purposes of this subsection, the terms 'eligible individual' and 'medical savings account' have the respective meanings given to such terms by section 220."

(2) Exclusion from employment taxes.—

(A) Social security taxes.—

(i) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(ii) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting "; or", and by inserting after paragraph (18) the following new paragraph:

"(19) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986."

(B) Railroad retirement tax.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) Medical savings account contributions.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(C) Unemployment tax.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(D) Withholding tax.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(d) Medical Savings Account Contributions Not Available Under Cafeteria Plans.—Subsection (f) of section 125 is amended by inserting "106(b)," before "117".

(e) Tax on Prohibited Transactions.—Section 4975 (relating to tax on prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for medical savings accounts.—An individual for whose benefit a medical savings account (within the meaning of section 220(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 220(e)(2) to such account.", and

(2) by inserting "or a medical savings account described in section 220(d)" in subsection (e)(1) after "described in section 408(a)".

(f) Failure To Provide Reports on Medical Savings Accounts.—Section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting "**OR ON MEDICAL SAVINGS ACCOUNTS**" after "**ANNUITIES**" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 220(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure to so file unless it is shown that such failure is due to reasonable cause."

(g) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 220. Medical savings accounts.

"Sec. 221. Cross reference."

(2) The table of sections for subchapter B of chapter 68 is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(h) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Pickle-Johnson Taxpayer Bill of Rights

PART I—TAXPAYER ADVOCATE

SEC. 13301. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) General Rule.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end the following new subsection:

"(d) Office of Taxpayer Advocate.—

"(1) In general.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by and report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the highest level official reporting directly to the Deputy Commissioner of the Internal Revenue Service.

"(2) Functions of office.—

"(A) In general.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) Annual reports.—

"(i) Objectives.—Not later than June 30 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) Activities.—Not later than December 31 of each calendar year after 1995, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue Taxpayer Assistance Orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers,

"(IX) describe the extent to which regional problem resolution officers participate in the selection and evaluation of local problem resolution officers, and

"(X) include such other information as the Taxpayer Advocate may deem advisable.

"(iii) Report to be submitted directly.—Each report required under this subparagraph shall be provided directly to the Committees referred to in clauses (i) and (ii) without any prior review or comment from the Commissioner, the Secretary of the Treasury, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget.

"(3) Responsibilities of commissioner.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate within 3 months after submission to the Commissioner."

(b) Conforming Amendments.—

(1) Section 7811 (relating to Taxpayer Assistance Orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13302. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) Terms of Orders.—Subsection (b) of section 7811 (relating to terms of Taxpayer Assistance Orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by inserting "take any action as permitted by law," after "cease any action,".

(b) Limitation on Authority To Modify or Rescind.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) Authority To Modify or Rescind.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded—

"(1) only by the Taxpayer Advocate, the Commissioner of Internal Revenue, the Deputy Commissioner of Internal Revenue, or a regional problem resolution officer, and

"(2) only if a written explanation of the reasons for the modification or rescission is provided to the Taxpayer Advocate."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

SEC. 13306. NOTIFICATION OF REASONS FOR TERMINATION OF INSTALLMENT AGREEMENTS.

(a) Terminations.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end the following new paragraph:

"(5) Notice requirements.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) Conforming Amendment.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) Subsequent change in financial conditions.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(c) Effective Date.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 13307. ADMINISTRATIVE REVIEW OF TERMINATION OF INSTALLMENT AGREEMENT.

(a) General Rule.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end the following new subsection:

"(c) Administrative Review.—The Secretary shall establish procedures for an independent administrative review of terminations of installment agreements under this section for taxpayers who request such a review."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1996.

PART III—ABATEMENT OF INTEREST AND PENALTIES

SEC. 13311. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) General Rule.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) Clerical Amendment.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "Assessments" and inserting "Abatement", and

(2) by inserting "Unreasonable" before "Errors".

(c) Effective Date.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 13312. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) In General.—Section 6404 is amended by adding at the end the following new subsection:

"(g) Review of Denial of Request for Abatement of Interest.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion if such action is brought within 6 months after the date of the Secretary's final determination not to abate such interest."

(b) Effective Date.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 13313. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) General Rule.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) Payments made within specified period after notice and demand.—If notice and demand is made for payment of any amount and if such amount is paid within 21 calendar days (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) Conforming Amendments.—

(1) Subparagraph (A) of section 6601(e)(2) is amended by striking "10 days from the date of notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(2) Paragraph (3) of section 6651(a) is amended by striking "10 days of the date of

the notice and demand therefor" and inserting "21 calendar days from the date of notice and demand therefor (10 business days if the amount for which such notice and demand is made equals or exceeds $100,000)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any notice and demand given after June 30, 1996.

PART IV—JOINT RETURNS

SEC. 13316. STUDIES OF JOINT RETURN-RELATED ISSUES.

The Secretary of the Treasury or his delegate and the Comptroller General of the United States shall each conduct separate studies of—

(1) the effects of changing the liability for tax on a joint return from being joint and several to being proportionate to the tax attributable to each spouse,

(2) the effects of providing that, if a divorce decree allocates liability for tax on a joint return filed before the divorce, the Secretary may collect such liability only in accordance with the decree,

(3) whether those provisions of the Internal Revenue Code of 1986 intended to provide relief to innocent spouses provide meaningful relief in all cases where such relief is appropriate, and

(4) the effect of providing that community income (as defined in section 66(d) of such Code) which, in accordance with the rules contained in section 879(a) of such Code, would be treated as the income of one spouse is exempt from a levy for failure to pay any tax imposed by subtitle A by the other spouse for a taxable year ending before their marriage.

The reports of such studies shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 6 months after the date of the enactment of this Act.

SEC. 13317. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 13318. DISCLOSURE OF COLLECTION ACTIVITIES.

Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing by either of such individuals, the Secretary shall disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

PART V—COLLECTION ACTIVITIES

SEC. 13321. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States.

Any such withdrawal shall be made by filing notice at the same office as the withdrawn notice. A copy of such notice of withdrawal shall be provided to the taxpayer.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and any financial institution or creditor whose name and address is specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer (as determined by the Taxpayer Advocate) and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) MODIFICATIONS IN CERTAIN LEVY EXEMPTION AMOUNTS.—

(1) FUEL, ETC.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(B) by striking "his household" and inserting "the taxpayer's household", and

(C) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(2) INFLATION ADJUSTMENT.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

(3) TECHNICAL AMENDMENT.—Paragraph (3) of section 6334(a) is amended by striking "($1,050 in the case of levies issued during 1989)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXEMPT AMOUNTS.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1995.

SEC. 13322. OFFERS-IN-COMPROMISE.

(a) REVIEW REQUIREMENTS.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$100,000. However, such compromise shall be subject to continuing quality review by the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

PART VI—INFORMATION RETURNS

SEC. 13326. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) IN GENERAL.—If any person willfully files a fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing),

"(2) the costs of the action, and

"(3) in the court's discretion, reasonable attorneys fees.

"(c) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within the later of—

"(1) 6 years after the date of the filing of the fraudulent information return, or

"(2) 1 year after the date such fraudulent information return would have been discovered by exercise of reasonable care.

"(d) COPY OF COMPLAINT FILED WITH IRS.—Any person bringing an action under subsection (a) shall provide a copy of the complaint to the Internal Revenue Service upon the filing of such complaint with the court.

"(e) FINDING OF COURT TO INCLUDE CORRECT AMOUNT OF PAYMENT.—The decision of the court awarding damages in an action brought under subsection (a) shall include a finding of the correct amount which should have been reported in the information return.

"(f) INFORMATION RETURN.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.
"Sec. 7435. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fraudulent information returns filed after the date of the enactment of this Act.

SEC. 13327. REQUIREMENT TO CONDUCT REASONABLE INVESTIGATIONS OF INFORMATION RETURNS.

(a) GENERAL RULE.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) REQUIRED REASONABLE VERIFICATION OF INFORMATION RETURNS.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under subpart B or C of part III of subchapter A of chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary (including providing, within a reasonable period of time, access to and inspection of all witnesses, information, and documents within the control of the taxpayer as reasonably requested by the Secretary), the Secretary shall have the burden of producing reasonable and probative information concerning such deficiency in addition to such information return."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART VII—AWARDING OF COSTS AND CERTAIN FEES

SEC. 13331. UNITED STATES MUST ESTABLISH THAT ITS POSITION IN PROCEEDING WAS SUBSTANTIALLY JUSTIFIED.

(a) GENERAL RULE.—Subparagraph (A) of section 7430(c)(4) (defining prevailing party) is amended by striking clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) BURDEN OF PROOF ON UNITED STATES.—Paragraph (4) of section 7430(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION IF UNITED STATES ESTABLISHES THAT ITS POSITION WAS SUBSTANTIALLY JUSTIFIED.—

"(i) GENERAL RULE.—A party shall not be treated as the prevailing party in a proceeding to which subsection (a) applies if the United States establishes that the position of the United States in the proceeding was substantially justified.

"(ii) PRESUMPTION OF NO JUSTIFICATION IF INTERNAL REVENUE SERVICE DIDN'T FOLLOW CERTAIN PUBLISHED GUIDANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

"(iii) APPLICABLE PUBLISHED GUIDANCE.—For purposes of clause (ii), the term 'applicable published guidance' means—

"(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

"(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 7430(c)(2) is amended by striking "paragraph (4)(B)" and inserting "paragraph (4)(C)".

(2) Subparagraph (C) of section 7430(c)(4), as redesignated by subsection (b), is amended by striking "subparagraph (A)" and inserting "this paragraph".

(3) Sections 6404(g) and 6656(c)(1), as amended by this title, are each amended by striking "section 7430(c)(4)(A)(iii)" and inserting "section 7430(c)(4)(A)(ii)".

SEC. 13332. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following:

"In the case of any calendar year beginning after 1996, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10."

SEC. 13333. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 13334. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

SEC. 13335. EFFECTIVE DATE.

The amendments made by this part shall apply in the case of proceedings commenced after the date of the enactment of this Act.

PART VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

SEC. 13336. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) GENERAL RULE.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 13337. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) GENERAL RULE.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

"(1) AWARD FOR DAMAGES MAY BE REDUCED IF ADMINISTRATIVE REMEDIES NOT EXHAUSTED.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

PART IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

SEC. 13341. PRELIMINARY NOTICE REQUIREMENT.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PRELIMINARY NOTICE REQUIREMENT.—

"(1) IN GENERAL.—No penalty shall be imposed under subsection (a) unless the Secretary notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the later of—

"(A) the date 90 days after the date on which such notice was mailed, or

"(B) if there is a timely protest of the proposed assessment, the date 30 days after the Secretary makes a final administrative determination with respect to such protest.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to proposed assessments made after June 30, 1996.

SEC. 13342. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 13318, is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13343. RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end the following new subsection:

"(d) RIGHT OF CONTRIBUTION WHERE MORE THAN 1 PERSON LIABLE FOR PENALTY.—If more than 1 person is liable for the penalty under subsection (a) with respect to any tax, each person who paid such penalty shall be entitled to recover from other persons who are liable for such penalty an amount equal to the excess of the amount paid by such person over such person's proportionate share of the penalty. Any claim for such a recovery may be made only in a proceeding which is separate from, and is not joined with—

"(1) an action for collection of such penalty brought by the United States, or

"(2) a proceeding in which the United States files a counterclaim or third-party complaint for the collection of such penalty."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

SEC. 13344. VOLUNTEER BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS EXEMPT FROM PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX.

(a) IN GENERAL.—Section 6672 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR VOLUNTARY BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—No penalty shall be imposed by subsection (a) on any unpaid, volunteer member of any board of trustees or directors of an organization exempt from tax under subtitle A if such member—

"(1) is solely serving in an honorary capacity,

"(2) does not participate in the day-to-day or financial operations of the organization, and

"(3) does not have actual knowledge of the failure on which such penalty is imposed.

The preceding sentence shall not apply if it results in no person being liable for the penalty imposed by subsection (a)."

(b) PUBLIC INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this subsection referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(A) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(B) the development of a special information packet.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

PART X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

SEC. 13346. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) IN GENERAL.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following subparagraph:

"(I) any enrolled agent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses issued after the date of the enactment of this Act.

SEC. 13347. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) STANDARD OF REVIEW.—Subparagraph (A) of section 6503(j)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) LIMITATION ON PERSONS TO WHOM DESIGNATED SUMMONS MAY BE ISSUED.—Paragraph (1) of section 6503(j) is amended by striking "with respect to any return of tax by a corporation" and inserting "to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 13348. ANNUAL REPORT TO CONGRESS CONCERNING DESIGNATED SUMMONSES.

Not later than December 31 of each calendar year after 1995, the Secretary of the Treasury or his delegate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the number of designated summonses (as defined in section 6503(j) of the Internal Revenue Code of 1986) which were issued during the preceding 12 months.

PART XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

SEC. 13351. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no temporary, proposed, or final regulation relating to the internal revenue laws shall apply to any taxable period ending before the earliest of the following dates:

"(A) The date on which such regulation is filed with the Federal Register.

"(B) In the case of any final regulation, the date on which any proposed or temporary regulation to which such final regulation relates was filed with the Federal Register.

"(C) The date on which any notice substantially describing the expected contents of any temporary, proposed, or final regulation is issued to the public.

"(2) EXCEPTION FOR PROMPTLY ISSUED REGULATIONS.—Paragraph (1) shall not apply to regulations filed or issued within 12 months of the date of the enactment of the statutory provision to which the regulation relates.

"(3) PREVENTION OF ABUSE.—The Secretary may provide that any regulation may take effect or apply retroactively to prevent abuse.

"(4) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(5) INTERNAL REGULATIONS.—The limitation of paragraph (1) shall not apply to any regulation relating to internal Treasury Department policies, practices, or procedures.

"(6) CONGRESSIONAL AUTHORIZATION.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation.

"(7) ELECTION TO APPLY RETROACTIVELY.—Paragraph (1) shall not apply to any regulation which the taxpayer elects to apply before the dates specified in paragraph (1) but only if such election applies to all regulations which were issued with such regulation under the statutory provision to which such regulation relates.

"(8) APPLICATION TO RULINGS.—The Secretary may prescribe the extent, if any, to which any ruling (including any judicial decision or any administrative determination other than by regulation) relating to the internal revenue laws shall be applied without retroactive effect."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to regulations which relate to statutory provisions enacted on or after the date of the enactment of this Act.

PART XII—MISCELLANEOUS PROVISIONS

SEC. 13356. REPORT ON PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

Not later than March 1, 1996, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service, together with such recommendations as he may deem advisable.

SEC. 13357. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) GENERAL RULE.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).

(2) Section 6041A(e)(1).

(3) Section 6042(c)(1).

(4) Section 6044(e)(1).

(5) Section 6045(b)(1).

(6) Section 6049(c)(1)(A).

(7) Section 6050B(b)(1).

(8) Section 6050H(d)(1).

(9) Section 6050I(e)(1).

(10) Section 6050J(e).

(11) Section 6050K(b)(1).

(12) Section 6050N(b)(1).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1996 (determined without regard to any extension).

SEC. 13358. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or his delegate from any taxpayer and the Secretary cannot associate such payment with such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 13359. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties), as amended by section 13316(a), is amended by redesignating section 7435 as section 7436 and by inserting after section 7434 the following new section:

"SEC. 7435. CIVIL DAMAGES FOR UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"(a) IN GENERAL.—If any officer or employee of the United States intentionally compromises the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer in exchange for information conveyed by the taxpayer to the attorney, certified public accountant, or enrolled agent for purposes of obtaining advice concerning the taxpayer's tax liability, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $500,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the information disclosure, and

"(2) the costs of the action.

Damages shall not include the taxpayer's liability for any civil or criminal penalties, or other losses attributable to incarceration or the imposition of other criminal sanctions.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the actions creating such liability would have been discovered by exercise of reasonable care.

"(e) MANDATORY STAY.—Upon a certification by the Commissioner or the Commissioner's delegate that there is an ongoing investigation or prosecution of the taxpayer, the district court before which an action under this section is pending, shall stay all proceedings with respect to such action pending the conclusion of the investigation or prosecution.

"(f) CRIME-FRAUD EXCEPTION.—Subsection (a) shall not apply to information conveyed to an attorney, certified public accountant, or enrolled agent for the purpose of perpetrating a fraud or crime."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76, as amended by section 13316(b), is amended by striking the item relating to section 7435 and by adding at the end the following new items:

"Sec. 7435. Civil damages for unauthorized enticement of information disclosure.

"Sec. 7436. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

SEC. 13360. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 1995.

SEC. 13361. 5-YEAR EXTENSION OF AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 is amended by striking all that follows "this Act" and inserting a period.

(b) RESTORATION OF AUTHORITY FOR 5 YEARS.—Subsection (c) of section 7608 is amended by adding at the end the following new paragraph:

"(6) APPLICATION OF SECTION.—The provisions of this subsection—

"(A) shall apply after November 17, 1988, and before January 1, 1990, and

"(B) shall apply after the date of the enactment of this paragraph and before January 1, 2001.

All amounts expended pursuant to this subsection during the period described in subparagraph (B) shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 2001."

(c) ENHANCED OVERSIGHT.—

(1) ADDITIONAL INFORMATION REQUIRED IN REPORTS TO CONGRESS.—Subparagraph (B) of section 7608(c)(4) is amended—

(A) by striking "preceding the period" in clause (ii),

(B) by striking "and" at the end of clause (ii), and

(C) by striking clause (iii) and inserting the following:

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted, and

"(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

"(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

"(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

"(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

"(IV) the results of the operation including the results of criminal proceedings."

(2) AUDITS REQUIRED WITHOUT REGARD TO AMOUNTS INVOLVED.—Subparagraph (C) of section 7608(c)(5) is amended to read as follows:

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The term 'undercover investigative operation' means any undercover investigative operation of the Service; except that, for purposes of subparagraphs (A) and (C) of paragraph (4), such term only includes an operation which is exempt from section 3302 or 9102 of title 31, United States Code."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 13362. DISCLOSURE OF FORM 8300 INFORMATION ON CASH TRANSACTIONS.

(a) IN GENERAL.—Subsection (l) of section 6103 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose to officers and employees of—

"(A) any Federal agency,

"(B) any agency of a State or local government, or

"(C) any agency of the government of a foreign country,

information contained on returns filed under section 6050I. Any such disclosure shall be made on the same basis, and subject to the same conditions, as apply to disclosures of information on reports filed under section 5313 of title 31, United States Code; except that no disclosure under this paragraph shall be made for purposes of the administration of any tax law."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (i) of section 6103 is amended by striking paragraph (8).

(2) Subparagraph (A) of section 6103(p)(3) is amended—

(A) by striking "(7)(A)(ii), or (8)" and inserting "or (7)(A)(ii)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(3) The material preceding subparagraph (A) of section 6103(p)(4) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)",

(B) by striking "(i)(3)(B)(i), or (8)" and inserting "(i)(3)(B)(i),", and

(C) by striking "or (12)" and inserting "(12), or (15)".

(4) Clause (ii) of section 6103(p)(4)(F) is amended—

(A) by striking "(5), or (8)" and inserting "or (5)", and

(B) by striking "or (14)" and inserting "(14), or (15)".

(5) Paragraph (2) of section 7213(a) is amended by striking "or (12)" and inserting "(12), or (15)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13363. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO DESIGNEE OF TAXPAYER.

Subsection (c) of section 6103 (relating to disclosure of returns and return information to designee of taxpayer) is amended by striking "written request for or consent to such disclosure" and inserting "request for or consent to such disclosure".

SEC. 13364. STUDY OF NETTING OF INTEREST ON OVERPAYMENTS AND LIABILITIES.

(a) In General.—The Secretary of the Treasury or his delegate shall—

(1) conduct a study of the manner in which the Internal Revenue Service has implemented the netting of interest on overpayments and underpayments and of the policy and administrative implications of global netting, and

(2) before submitting the report of such study, hold a public hearing to receive comments on the matters included in such study.

(b) Report.—The report of such study shall be submitted not later than 6 months after the date of the enactment of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 13365. CREDIT FOR EXPENSES OF CERTAIN TCMP AUDITS.

(a) In General.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

"SEC. 6428. CREDIT FOR EXPENSES OF 1994 TCMP AUDITS.

"(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to the qualified TCMP expenses paid or incurred by the taxpayer during the taxable year.

"(b) Limitation.—The amount of the credit allowed by subsection (a) shall not exceed $3,000 with respect to an audit.

"(c) Qualified TCMP Expenses.—For purposes of this section, the term 'qualified TCMP expenses' means amounts which would (but for subsection (d)) be allowed as a deduction under section 162 or 212(3) in connection with an audit under the Taxpayer Compliance Measurement Program of the taxpayer's return of tax imposed by chapter 1 for any taxable year beginning during 1994. Such term shall not include any expense in connection with an audit of an estate, trust, partnership, or S corporation.

"(d) Denial of Double Benefit.—No deduction shall be allowed under chapter 1 for any amount for which a credit is allowed under this section.

"(e) Credit Treated as Subpart C Credit.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart C of part IV of subchapter A of chapter 1."

(b) Technical Amendments.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 6428 of such Code".

(2) The table of sections for such subchapter B is amended by adding at the end the following new item:

"Sec. 6428. Credit for expenses of 1994 TCMP audits."

(d) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1994, in taxable years ending after such date.

SEC. 13366. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

(a) In General.—Section 7623 (relating to expenses of deduction and punishment of frauds) is amended to read as follows:

"SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS AND FRAUD, ETC.

"The Secretary, under regulations prescribed by the Secretary, is authorized to pay such sums as he deem necessary for—

"(1) detecting underpayments of tax, and

"(2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same,

in cases where such expenses are not otherwise provided for by law. Any amount payable under the preceding sentence shall be paid from the proceeds of amounts (other than interest) collected by reason of the information provided, and any amount so collected shall be available for such payments.".

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623 and inserting the following new item:

"Sec. 7623. Expenses of detection of underpayments and fraud, etc.".

(c) Effective Date.—The amendments made by this section shall take effect on the date which is 6 months after the enactment of this Act.

(d) Report.—The Secretary of the Treasury or his delegate shall submit an annual report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the payments under section 7623 of the Internal Revenue Code of 1986 during the year and on the amounts collected for which such payments were made.

Subtitle D—Additional Technical Corrections

SEC. 13401. REPORTING OF REAL ESTATE TRANSACTIONS.

(a) In General.—Paragraph (3) of section 6045(e) (relating to prohibition of separate charge for filing return) is amended by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in section 1015(e)(2)(A) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 13402. CLARIFICATION OF DENIAL OF DEDUCTION FOR STOCK REDEMPTION EXPENSES.

(a) In General.—Paragraph (1) of section 162(k) is amended by striking "the redemption of its stock" and inserting "the reacquisition of its stock or of the stock of any related person (as defined in section 465(b)(3)(C))".

(b) Certain Deductions Permitted.—Subparagraph (A) of section 162(k)(2) is amended by striking "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) deduction for amounts which are properly allocable to indebtedness and amortized over the term of such indebtedness, or".

(c) Clerical Amendment.—The subsection heading for subsection (k) of section 162 is amended by striking "Redemption" and inserting "Reacquisition".

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid or incurred after September 13, 1995, in taxable years ending after such date.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect as if included in the amendment made by section 613 of the Tax Reform Act of 1986.

SEC. 13403. CLARIFICATION OF DEPRECIATION CLASS FOR CERTAIN ENERGY PROPERTY.

(a) In General.—Subparagraph (B) of section 168(e)(3) (relating to 5-year property) is amended by adding at the end the following flush sentence:

"Nothing in any provision of law shall be construed to treat property as not being described in clause (vi)(I) (or the corresponding provisions of prior law) by reason of being public utility property (within the meaning of section 48(a)(3))."

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 11813 of the Revenue Reconciliation Act of 1990.

SEC. 13404. CLERICAL AMENDMENT TO SECTION 404.

(a) In General.—Paragraph (1) of section 404(j) is amended by striking "(10)" and inserting "(9)".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 713(d)(4)(A) of the Deficit Reduction Act of 1984.

SEC. 13405. TREATMENT OF CERTAIN VETERANS' REEMPLOYMENT RIGHTS.

(a) In General.—Section 414 is amended by adding at the end the following new subsection:

"(u) Special Rules Relating to Veterans' Reemployment Rights.—

"(1) Treatment of certain contributions made pursuant to veterans' reemployment rights.—If any contribution is made by an employer or an employee under an individual account plan with respect to an employee, or by an employee to a defined benefit pension plan that provides for employee contributions, and such contribution is required by reason of such employee's rights under chapter 43 of title 38, United States Code, resulting from qualified military service, then—

"(A) such contribution shall not be subject to any otherwise applicable limitation contained in section 402(g), 402(h), 403(b), 404(a), 404(h), 408, 415, or 457, and shall not be taken into account in applying such limitations to other contributions or benefits under such plan or any other plan, with respect to the year in which the contribution is made,

"(B) such contribution shall be subject to the limitations referred to in subparagraph (A) with respect to the year to which the contribution relates (in accordance with rules prescribed by the Secretary), and

"(C) such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(a)(26), 401(k)(3), 401(m), 403(b)(12), 408(k)(3), 408(k)(6), 410(b), or 416 by reason of the making of such contribution.

For purposes of the preceding sentence, any elective deferral or employee contribution made under paragraph (2) shall be treated as required by reason of the employee's rights under such chapter.

"(2) Reemployment rights with respect to elective deferrals.—

"(A) In general.—For purposes of this subchapter and subchapter E, if an employee is entitled to the benefits of chapter 43 of title 38, United States Code, with respect to any plan which provides for elective deferrals, the employer sponsoring the plan shall be treated as meeting the requirements of such chapter 43 with respect to such elective deferrals only if such employer—

"(i) permits such employee to make additional elective deferrals under such plan (in the amount determined under subparagraph (B) or such lesser amount as is elected by the employee) during the period which begins on the date of the reemployment of such employee with such employer and has the same length as the lesser of—

"(I) the product of 3 and the period of qualified military service which resulted in such rights, and

"(II) 5 years, and

"(ii) makes a matching contribution with respect to any additional elective deferral made pursuant to clause (i) which would have been required had such deferral actually been made during the period of such qualified military service.

"(B) AMOUNT OF MAKEUP REQUIRED.—The amount determined under this subparagraph with respect to any plan is the maximum amount of the elective deferrals that the individual would have been permitted to make under the plan in accordance with the limitations referred to in paragraph (1)(A) during his period of qualified military service if he had continued to be employed by the employer during such period and received compensation as determined under paragraph (7). Proper adjustment shall be made to the amount determined under the preceding sentence for any elective deferrals actually made during the period of such qualified military service.

"(C) ELECTIVE DEFERRAL.—For purposes of this paragraph, the term 'elective deferral' has the meaning given such term by section 402(g)(3); except that such term shall include any deferral of compensation under an eligible deferred compensation plan (as defined in section 457(b)).

"(D) AFTER-TAX EMPLOYEE CONTRIBUTIONS.—References in subparagraphs (A) and (B) to elective deferrals shall be treated as including references to other employee contributions.

"(3) CERTAIN RETROACTIVE ADJUSTMENTS NOT REQUIRED.—For purposes of this subchapter and subchapter E, no provision of chapter 43 of title 38, United States Code, shall be construed as requiring—

"(A) any crediting of earnings to an employee with respect to any contribution before such contribution is actually made, or

"(B) any allocation of any forfeiture with respect to the period of qualified military service.

"(4) LOAN REPAYMENT SUSPENSIONS PERMITTED.—If any plan suspends the obligation to repay any loan made to an employee from such plan for any part of any period during which such employee is performing qualified military service, such suspension shall not be taken into account for purposes of section 72(p), 401(a), or 4975(d)(1).

"(5) QUALIFIED MILITARY SERVICE.—For purposes of this subsection, the term 'qualified military service' means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service.

"(6) INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection, the term 'individual account plan' means any defined contribution plan, any tax-sheltered annuity plan under section 403(b), and any eligible deferred compensation plan (as defined in section 457(b)).

"(7) COMPENSATION.—For purposes of section 415(c)(3), an employee who is in qualified military service shall be treated as receiving compensation from the employer during such period of qualified military service equal to—

"(A) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for absence during the period of qualified military service, or

"(B) if the compensation of the employee was not based on a fixed rate, the employee's average compensation from the employer during the 12-month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

"(8) REQUIREMENTS FOR QUALIFIED RETIREMENT PLAN.—For purposes of this subchapter and subchapter E, an employer sponsoring a plan shall be treated as meeting the requirements of chapter 43 of title 38, United States Code, only if each of the following requirements is met:

"(A) An individual reemployed under such chapter is treated with respect to such plan as not having incurred a break in service with the employer maintaining the plan by reason of such individual's period of qualified military service.

"(B) Each period of qualified military service served by an individual is, upon reemployment under such chapter, deemed with respect to such plan to constitute service with the employer maintaining the plan for the purpose of determining the nonforfeitability of the individual's accrued benefits under such plan and for the purpose of determining the accrual of benefits under such plan.

"(C) An individual reemployed under such chapter is entitled to accrued benefits that are contingent on the making of, or derived from, employee contributions or elective deferrals only to the extent the individual makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the individual would have been permitted or required to contribute had the individual remained continuously employed by the employer throughout the period of qualified military service. Any payment to such plan shall be made during the period beginning with the date of reemployment and whose duration is 3 times the period of the qualified military service (but not greater than 5 years).

"(9) REFERENCES.—For purposes of this section, any reference to chapter 43 of title 38, United States Code, shall be treated as a reference to such chapter as in effect on December 12, 1994 (without regard to any subsequent amendment)."

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of December 12, 1994.

Subtitle E—Tax Information Sharing

SEC. 13501. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "Clause (viii) shall not apply after September 30, 1998."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle F—Revenue Increases

PART I—PROVISIONS RELATING TO BUSINESSES

SEC. 13601. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."?

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 13602. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of which is the avoidance or evasion of Federal income tax for a participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter organizers may receive fees in excess of $100,000 in the aggregate.

"(2) Conditions of confidentiality.—For purposes of paragraph (1)(C), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person who participates in the organization, management, or sale of the tax shelter.

"(3) Persons other than organizer required to register in certain cases.—

"(A) In general.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter organizer, and

"(ii) no tax shelter organizer is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) Exception.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) Offer to participate treated as offer for sale.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale."

(b) Penalty.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) Confidential arrangements.—

"(A) In general.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) Special rule for participants required to register shelter.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter."

(c) Conforming Amendments.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the date of the enactment of this Act.

(2) Due date for registration.—The due date for registering any tax shelter required to be registered by reason of the amendments made by this section shall be not earlier than the close of a reasonable period after the Secretary of the Treasury prescribes guidance with respect to meeting such requirements.

SEC. 13603. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) In General.—Paragraph (4) of section 264(a) is amended—

(1) by inserting "or endowment or annuity contract" after "life insurance policies", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) Phase-in of Disallowance.—Section 264 is amended by adding at the end the following new subsection:

"(d) Phase-in of Disallowance Under Subsection (a)(4).—In the case of calendar years after 1995 and before 2000—

"(1) In general.—The amount of interest paid or accrued during any period in any such calendar year with respect to qualified indebtedness which is disallowed by reason of the amendment made by section 13603(a) of the Revenue Reconciliation Act of 1995 (determined without regard to this subsection) shall not exceed the applicable percentage of such interest which is so disallowed.

"(2) Qualified indebtedness.—For purposes of paragraph (1), the term 'qualified indebtedness' means indebtedness incurred before September 18, 1995, with respect to a life insurance policy covering only the life of the individual who was insured under such policy on such date. Any increase on or after such date in the amount of such indebtedness shall be treated as indebtedness incurred after such date.

"(3) Applicable percentage.—For purposes of paragraph (1), the applicable percentage shall be determined in accordance with the following table:

"In the case of periods in calendar year:	**The applicable percentage is:**
1996	20 percent
1997	40 percent
1998	60 percent
1999	80 percent."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) Exception.—The amendments made by this section shall not apply to contracts purchased on or before June 20, 1986.

(d) 4-Year Spread of Income Inclusion on Surrender, Etc. of Contracts.—

(1) In general.—In the case of indebtedness with respect to any life insurance policy described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986, if—

(A) the interest paid or accrued after December 31, 1995, on such indebtedness is not allowed as a deduction under chapter 1 of such Code by reason of such paragraph (4) (as amended by this section), and

(B) the entire amount of interest paid or accrued on or before such date on such indebtedness was allowed as a deduction under such chapter 1,

then (in lieu of any other inclusion in gross income) the qualified amount with respect to such policy shall be includible in gross income ratably over the 4 taxable years beginning with the taxable year such amount would (but for this paragraph) be includible.

(2) Qualified amount.—For purposes of paragraph (1), the term "qualified amount" means, with respect to any policy, the amount received under such policy—

(A) on the complete surrender, redemption, or maturity of such policy during 1996, or

(B) in full discharge during 1996 of the obligation under the policy which is in the nature of a refund of the consideration paid for the policy,

but only to the extent such amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(3) Special rule.—A contract shall not be treated as failing to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986 solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (2) of this subsection.

SEC. 13604. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) In General.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) Termination.—

"(A) In general.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.

"(B) 20-year phaseout of existing suspense accounts.—Each suspense account under this subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required under this paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.

"(C) Applicable portion.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years."

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

SEC. 13605. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any taxable year beginning after December 31, 1995.

"(2) EXCEPTION FOR EXISTING CLAIMANTS.—

"(A) IN GENERAL.—Paragraph (1) shall be applied by substituting '2005' for '1995' in the case of an existing credit claimant.

"(B) EXCEPTION TERMINATES IF NEW LINE OF BUSINESS ADDED.—If, after September 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant adds a substantial new line of business, such corporation shall cease to be treated as an existing credit claimant as of the close of the taxable year ending before the date of such addition.

"(C) EXISTING CREDIT CLAIMANT.—For purposes of this subsection, the term 'existing credit claimant' means any corporation which satisfied the conditions of both subparagraph (A) and subparagraph (B) of subsection (a)(2) for at least 1 base period year for which such corporation elected the application of this section.

"(3) LIMIT ON CREDIT OF EXISTING CLAIMANTS.—

"(A) IN GENERAL.—In the case of an existing credit claimant, the aggregate amount of income taken into account under subsection (a)(1) for any taxable year beginning after December 31, 1995 (hereinafter in this subsection referred to as the 'current year'), shall not exceed the adjusted base period income of such claimant.

"(B) COORDINATION WITH SUBSECTION (a)(4).—The amount of income described in subsection (a)(1)(A) which is taken into account in applying subsection (a)(4) shall be such income as reduced under this paragraph. In determining such reduction, any reduction under subparagraph (A) in the amount which would otherwise be taken into account under subsection (a)(1) shall be allocated between the income described in subparagraph (A) thereof and the income described in subparagraph (B) thereof in proportion to the respective amounts of such incomes.

"(4) ADJUSTED BASE PERIOD INCOME.—For purposes of paragraph (3)—

"(A) IN GENERAL.—The term 'adjusted base period income' means the average of the inflation-adjusted possession incomes of the corporation for each base period year.

"(B) INFLATION-ADJUSTED POSSESSION INCOME.—For purposes of subparagraph (A), the inflation-adjusted possession income of any corporation for any base period year shall be an amount equal to the possession income of such corporation for such base period year multiplied by the inflation adjustment percentage for such base period year.

"(C) INFLATION ADJUSTMENT PERCENTAGE.—For purposes of subparagraph (B), the inflation adjustment percentage for any base period year means, with respect to the current year, the percentage (if any) by which—

"(i) the CPI for last calendar year ending before the beginning of the current year, exceeds

"(ii) the CPI for last calendar year ending before the beginning of the base period year.

For purposes of the preceding sentence, the CPI for any calendar year is the CPI (as defined in section 1(f)(5)) for such year under section 1(f)(4).

"(D) INCREASE IN INFLATION ADJUSTMENT PERCENTAGE FOR GROWTH DURING BASE YEARS.—The inflation adjustment percentage (determined under subparagraph (C) without regard to this subparagraph) for each of the 5 taxable years referred to in paragraph (5)(A) shall be increased by—

"(i) 5 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1995;

"(ii) 10.25 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1994;

"(iii) 15.76 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1993;

"(iv) 21.55 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1992; and

"(v) 27.63 percentage points in the case of a taxable year ending during the 1-year period ending on September 12, 1991.

"(5) BASE PERIOD YEAR.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'base period year' means each of 3 taxable years which are among the 5 most recent taxable years of the corporation ending before September 13, 1995, determined by disregarding—

"(i) one taxable year for which the corporation had the largest inflation-adjusted possession income, and

"(ii) one taxable year for which the corporation had the smallest inflation-adjusted possession income.

"(B) CORPORATIONS NOT HAVING SIGNIFICANT POSSESSION INCOME THROUGHOUT 5-YEAR PERIOD.—

"(i) IN GENERAL.—If a corporation does not have significant possession income for each of the most recent 5 taxable years ending before September 13, 1995, then, in lieu of applying subparagraph (A), the term 'base period year' means only those taxable years (of such 5 taxable years) for which the corporation has significant possession income; except that, if such corporation has significant possession income for 4 of such 5 taxable years, the rule of subparagraph (A)(ii) shall apply.

"(ii) SPECIAL RULE.—If there is no year (of such 5 taxable years) for which a corporation has significant possession income—

"(I) the term 'base period year' means the first taxable year ending on or after September 13, 1995, but

"(II) the amount of possession income for such year which is taken into account under paragraph (4) shall be the amount which would be determined if such year were a short taxable year ending on August 31, 1995.

"(iii) SIGNIFICANT POSSESSION INCOME.—For purposes of this subparagraph, the term 'significant possession income' means possession income which exceeds 2 percent of the possession income of the taxpayer for the taxable year (of the period of 6 taxable years ending with the first taxable year ending on or after September 13, 1995) having the greatest possession income.

"(C) ELECTION TO USE ONE BASE PERIOD YEAR.—

"(i) IN GENERAL.—At the election of the taxpayer, the term 'base period year' means only the last taxable year of the corporation ending in calendar year 1992.

"(ii) ELECTION.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1995, for which it is a possession corporation. The rules of subclauses (II) and (III) of subsection (a)(4)(B)(iii) shall apply to the election under this subparagraph.

"(D) ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of subparagraphs (A) and (B) of section 41(f)(3) shall apply for purposes of this subsection.

"(6) POSSESSION INCOME.—For purposes of this subsection, the term 'possession income' means the sum of the income referred to in subsection (a)(1)(A) and the income referred to in subsection (a)(1)(B). In no event shall possession income be treated as being less than zero.

"(7) SHORT YEARS.—If the current year or a base period year is a short taxable year, the application of this subsection shall be made with such annualizations as the Secretary shall prescribe."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13606. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all estimated income from use of the property,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

"(i) the actual income from such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income from the property for such third or 10th taxable year (as the case may be) and each prior taxable year is within 10 percent of the estimated income from the property for each such year which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this section, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is an episode in a television series, estimated income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer had a reasonable expectation that there would be a future syndication of such series.

"(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(D) DETERMINATIONS.—For purposes of this subsection, determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

SEC. 13607. TRANSFERS OF EXCESS PENSION ASSETS.

(a) IN GENERAL.—Section 420 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection:

"(f) SIMILAR RULES TO APPLY TO OTHER TRANSFERS OF EXCESS PLAN ASSETS.—

"(1) IN GENERAL.—If there is a qualified unrestricted transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to an employer—

"(A) a trust which is part of such plan shall not be treated as failing to meet the requirements of section 401(a) solely by reason of such transfer (or any other action authorized under this section), and

"(B) such transfer shall not be treated as a prohibited transaction for purposes of section 4975.

The gross income of the employer shall include the amount of any qualified transfer made during the taxable year.

"(2) QUALIFIED UNRESTRICTED TRANSFER.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified unrestricted transfer' means a transfer—

"(i) of excess pension assets of a defined benefit plan to the employer, and

"(ii) with respect to which the requirements of subsection (c)(2)(A) are met (determined by treating such transfer as a qualified transfer).

"(B) COORDINATION WITH TRANSFERS TO RETIREE HEALTH ACCOUNTS.—Such term shall not include any qualified transfer (as defined in subsection (b)).

"(C) EXPIRATION.—No transfer in any taxable year beginning after December 31, 2000, shall be treated as a qualified unrestricted transfer.

"(3) DEFINITION AND SPECIAL RULE.—For purposes of this subsection—

"(A) EXCESS PENSION ASSETS.—The term 'excess pension assets' has the meaning given such term by subsection (e)(2); except that the amount thereof shall be the lesser of—

"(i) the amount determined as of the most recent valuation date of the plan preceding the transfer, or

"(ii) the amount determined as of January 1, 1995 (or, if January 1, 1995, is not a valuation date, the most recent prior valuation date).

"(B) COORDINATION WITH SECTION 412.—In the case of a qualified unrestricted transfer—

"(i) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(ii) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.

"(C) TREATMENT OF TRANSFERS.—Except for purposes of this section, a qualified unrestricted transfer shall be treated as a qualified transfer to a health benefits account."

(b) REVERSION TAX.—Section 4980 (relating to tax on reversion of qualified plan assets to employers) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES FOR QUALIFIED UNRESTRICTED TRANSFERS UNDER SECTION 420.—In the case of a qualified unrestricted transfer to which section 420(f) applies—

"(1) no tax shall be imposed by subsection (a) if such transfer occurs before July 1, 1996,

"(2) subsection (a) shall be applied by substituting '6.5 percent' for '20 percent' if such transfer occurs after June 30, 1996, and

"(3) subsection (d) shall not apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

PART II—LEGAL REFORMS

SEC. 13611. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 13612. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

"(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051."

(b) REPORTING OF ATTORNEYS FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys fees.

(c) EFFECTIVE DATE.—The amendment made by subsection (a), and subsection (b), shall apply to payments made after December 31, 1995.

PART III—TREATMENT OF INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP

SEC. 13616. REVISION OF INCOME, ESTATE, AND GIFT TAXES ON INDIVIDUALS WHO LOSE UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Subsection (a) of section 877 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) IN GENERAL.—Every nonresident alien individual who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B, shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if—

"(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $100,000, or

"(B) the net worth of the individual as of such date is $500,000 or more.

In the case of the loss of United States citizenship in any calendar year after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1994' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000."

(b) EXCEPTIONS.—

(1) IN GENERAL.—Section 877 is amended by striking subsection (d), by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) TAX AVOIDANCE NOT PRESUMED IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(2) shall not apply to an individual if—

"(A) such individual is described in a subparagraph of paragraph (2) of this subsection, and

"(B) within the 1-year period beginning on the date of the loss of United States citizenship, such individual submits a ruling request for the Secretary's determination as to whether such loss has for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle B.

"(2) INDIVIDUALS DESCRIBED.—

"(A) DUAL CITIZENSHIP, ETC.—An individual is described in this subparagraph if—

"(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, or

"(ii) the individual becomes (not later than the close of a reasonable period after loss of United States citizenship) a citizen of the country in which—

"(I) such individual was born,

"(II) if such individual is married, such individual's spouse was born, or

"(III) either of such individual's parents were born.

"(B) LONG-TERM FOREIGN RESIDENTS.—An individual is described in this subparagraph if, for each year in the 10-year period ending on the date of loss of United States citizenship, the individual was present in the United States for 30 days or less. The rule of section 7701(b)(3)(D)(ii) shall apply for purposes of this subparagraph.

"(C) RENUNCIATION UPON REACHING AGE OF MAJORITY.—An individual is described in this subparagraph if the individual's loss of United States citizenship occurs before such individual attains age 18½.

"(D) INDIVIDUALS SPECIFIED IN REGULATIONS.—An individual is described in this subparagraph if the individual is described in a category of individuals prescribed by regulation by the Secretary."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 877(b) of such Code is amended by striking "subsection (c)" and inserting "subsection (d)".

(c) TREATMENT OF PROPERTY DISPOSED OF IN NONRECOGNITION TRANSACTIONS; TREATMENT OF DISTRIBUTIONS FROM CERTAIN CONTROLLED FOREIGN CORPORATIONS.—Subsection (d) of section 877, as redesignated by subsection (b), is amended to read as follows:

"(d) SPECIAL RULES FOR SOURCE, ETC.—For purposes of subsection (b)—

"(1) SOURCE RULES.—The following items of gross income shall be treated as income from sources within the United States:

"(A) SALE OF PROPERTY.—Gains on the sale or exchange of property (other than stock or debt obligations) located in the United States.

"(B) STOCK OR DEBT OBLIGATIONS.—Gains on the sale or exchange of stock issued by a domestic corporation or debt obligations of United States persons or of the United States, a State or political subdivision thereof, or the District of Columbia.

"(C) INCOME OR GAIN DERIVED FROM CONTROLLED FOREIGN CORPORATION.—Any income or gain derived from stock in a foreign corporation but only—

"(i) if the individual losing United States citizenship owned (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), at any time during the 2-year period ending on the date of the loss of United States citizenship, more than 50 percent of—

"(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(II) the total value of the stock of such corporation, and

"(ii) to the extent such income or gain does not exceed the earnings and profits attributable to such stock which were earned or accumulated before the loss of citizenship and during periods that the ownership requirements of clause (i) are met.

"(2) GAIN RECOGNITION ON CERTAIN EXCHANGES.—

"(A) IN GENERAL.—In the case of any exchange of property to which this paragraph applies, notwithstanding any other provision of this title, such property shall be treated as sold for its fair market value on the date of such exchange, and any gain shall be recognized for the taxable year which includes such date.

"(B) EXCHANGES TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any exchange during the 10-year period described in subsection (a) if—

"(i) gain would not (but for this paragraph) be recognized on such exchange in whole or in part for purposes of this subtitle,

"(ii) income derived from such property was from sources within the United States (or, if no income was so derived, would have been from such sources), and

"(iii) income derived from the property acquired in the exchange would be from sources outside the United States.

"(C) EXCEPTION.—Subparagraph (A) shall not apply if the individual enters into an agreement with the Secretary which specifies that any income or gain derived from the property acquired in the exchange (or any other property which has a basis determined in whole or part by reference to such property) during such 10-year period shall be treated as from sources within the United States. If the property transferred in the exchange is disposed of by the person acquiring such property, such agreement shall terminate and any gain which was not recognized by reason of such agreement shall be recognized as of the date of such disposition.

"(D) SECRETARY MAY EXTEND PERIOD.—To the extent provided in regulations prescribed by the Secretary, subparagraph (B) shall be applied by substituting the 15-year period beginning 5 years before the loss of United States citizenship for the 10-year period referred to therein.

"(E) SECRETARY MAY REQUIRE RECOGNITION OF GAIN IN CERTAIN CASES.—To the extent provided in regulations prescribed by the Secretary—

"(i) the removal of appreciated tangible personal property from the United States, and

"(ii) any other occurrence which (without recognition of gain) results in a change in the source of the income or gain from property from sources within the United States to sources outside the United States,

shall be treated as an exchange to which this paragraph applies.

"(3) SUBSTANTIAL DIMINISHING OF RISKS OF OWNERSHIP.—For purposes of determining whether this section applies to any gain on the sale or exchange of any property, the running of the 10-year period described in subsection (a) shall be suspended for any period during which the individual's risk of loss with respect to the property is substantially diminished by—

"(A) the holding of a put with respect to such property (or similar property),

"(B) the holding by another person of a right to acquire the property, or

"(C) a short sale or any other transaction."

(d) CREDIT FOR FOREIGN TAXES IMPOSED ON UNITED STATES SOURCE INCOME.—

(1) Subsection (b) of section 877 is amended by adding at the end the following new sentence: "The tax imposed solely by reason of this section shall be reduced (but not below zero) by the amount of any income, war profits, and excess profits taxes (within the meaning of section 903) paid to any foreign country or possession of the United States on any income of the taxpayer on which tax is imposed solely by reason of this section."

(2) Subsection (a) of section 877, as amended by subsection (a), is amended by inserting "(after any reduction in such tax under the last sentence of such subsection)" after "such subsection".

(e) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

"(a) TREATMENT OF EXPATRIATES.—

"(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if, within the 10-year period ending with the date of death, such decedent lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—

"(A) IN GENERAL.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(B) Exception.—Subparagraph (A) shall not apply to a decedent meeting the requirements of section 877(c)(1)."

(B) Credit for foreign death taxes.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Credit for foreign death taxes.—

"(A) In general.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

"(B) Limitation on credit.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

"(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

"(ii) such property's proportionate share of the excess of—

"(I) the tax imposed by subsection (a), over

"(II) the tax which would be imposed by section 2101 but for this section.

"(C) Proportionate share.—For purposes of subparagraph (B), a property's proportionate share is the percentage which the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate."

(C) Expansion of inclusion in gross estate of stock of foreign corporations.—Paragraph (2) of section 2107(b) is amended by striking "more than 50 percent of" and all that follows and inserting "more than 50 percent of—

"(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

"(B) the total value of the stock of such corporation,".

(2) Gift tax.—

(A) In general.—Paragraph (3) of section 2501(a) is amended to read as follows:

"(3) Exception.—

"(A) Certain individuals.—Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

"(B) Certain individuals treated as having tax avoidance purpose.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

"(C) Exception for certain individuals.—Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

"(D) Credit for foreign gift taxes.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph."

(f) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed as Residents.—

(1) In general.—Section 877 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Comparable Treatment of Lawful Permanent Residents Who Cease To Be Taxed as Residents.—

"(1) In general.—Any long-term resident of the United States who—

"(A) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(B) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country,

shall be treated for purposes of this section and sections 2107, 2501, and 6039F in the same manner as if such resident were a citizen of the United States who lost United States citizenship on the date of such cessation or commencement.

"(2) Long-term resident.—For purposes of this subsection, the term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the event described in subparagraph (A) or (B) of paragraph (1) occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) Special rules.—

"(A) Exceptions not to apply.—Subsection (c) shall not apply to an individual who is treated as provided in paragraph (1).

"(B) Step-up in basis.—Solely for purposes of determining any tax imposed by reason of this subsection, property which was held by the long-term resident on the date the individual first became a resident of the United States shall be treated as having a basis on such date of not less than the fair market value of such property on such date. The preceding sentence shall not apply if the individual elects not to have such sentence apply. Such an election, once made, shall be irrevocable.

"(4) Authority to exempt individuals.—This subsection shall not apply to an individual who is described in a category of individuals prescribed by regulation by the Secretary.

"(5) Regulations.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations providing for the application of this subsection in cases where an alien individual becomes a resident of the United States during the 10-year period after being treated as provided in paragraph (1)."

(2) Conforming amendments.—

(A) Section 2107 is amended by striking subsection (d), by redesignating subsection (e) as subsection (d), and by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) Cross Reference.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(B) Paragraph (3) of section 2501(a) (as amended by subsection (e)) is amended by adding at the end the following new subparagraph:

"(E) Cross reference.—

"For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e)."

(g) Effective Date.—

(1) In general.—The amendments made by this section shall apply to—

(A) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

(B) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after June 13, 1995.

(2) Special rule.—

(A) In general.—In the case of an individual who performed an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)-(4)) before February 6, 1995, but who did not, on or before such date, furnish to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of such act, the amendments made by this section shall apply to such individual except that—

(i) the 10-year period described in section 877(a) of such Code shall not expire before the end of the 10-year period beginning on the date such statement is so furnished, and

(ii) the 1-year period referred to in section 877(c) of such Code, as amended by this section, shall not expire before the date which is 1 year after the date of the enactment of this Act.

(B) Exception.—Subparagraph (A) shall not apply if the individual establishes to the satisfaction of the Secretary of the Treasury that such loss of United States citizenship occurred before February 6, 1994.

SEC. 13617. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

(a) In General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.

"(a) In General.—Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

"(1) provided not later than the earliest date of any act referred to in subsection (c), and

"(2) provided to the person or court referred to in subsection (c) with respect to such act.

"(b) Information To Be Provided.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) Acts Described.—For purposes of this section, the acts referred to in this subsection are—

"(1) the individual's renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(2) the individual's furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

"(4) the cancellation by a court of the United States of a naturalized citizen's certificate of naturalization.

"(d) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(e) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(f) REPORTING BY LONG-TERM LAWFUL PERMANENT RESIDENTS WHO CEASE TO BE TAXED AS RESIDENTS.—In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(g) EXEMPTION.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals losing United States citizenship."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) after the date of the enactment of this Act, and

(2) long-term residents of the United States with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(1) of such Code occurs after such date.

SEC. 13618. REPORT ON TAX COMPLIANCE BY UNITED STATES CITIZENS AND RESIDENTS LIVING ABROAD.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report—

(1) Describing the compliance with subtitle A of the Internal Revenue Code of 1986 by citizens and lawful permanent residents of the United States (within the meaning of section 7701(b)(6) of such Code) residing outside the United States, and

(2) recommending measures to improve such compliance (including improved coordination between executive branch agencies).

PART IV—REFORMS RELATING TO ENERGY PROVISIONS

SEC. 13621. TERMINATION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) FACILITIES MUST BE PLACED IN SERVICE BEFORE SEPTEMBER 14, 1995.—Paragraph (3) of section 45(c) (defining qualified facility) is amended by striking "July 1, 1999" and inserting "September 14, 1995".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by this section shall not apply to any facility—

(A) which is constructed or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such construction or acquisition, and

(B) which is placed in service before September 14, 1996.

SEC. 13622. EXCLUSION FOR ENERGY CONSERVATION SUBSIDIES LIMITED TO SUBSIDIES WITH RESPECT TO DWELLING UNITS.

(a) IN GENERAL.—Paragraph (1) of section 136(c) (defining energy conservation measure) is amended by striking "energy demand—" and all that follows and inserting "energy demand with respect to a dwelling unit."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 136 is amended to read as follows:

"(a) EXCLUSION.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure."

(2) Paragraph (2) of section 136(c) is amended—

(A) by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(B) by striking "AND SPECIAL RULES" in the paragraph heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after September 13, 1995, unless received pursuant to a written binding contract in effect on September 13, 1995, and at all times thereafter.

PART V—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 13626. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) IN GENERAL.—Subsection (b) of section 1033 is amended to read as follows:

"(b) BASIS OF PROPERTY ACQUIRED THROUGH INVOLUNTARY CONVERSION.—

"(1) CONVERSIONS DESCRIBED IN SUBSECTION (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

"(2) CONVERSIONS DESCRIBED IN SUBSECTION (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (determined without regard to such reduction)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 13627. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000. In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 13628. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:

"(3) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence."

(b) COMPARABLE TREATMENT UNDER 1-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:

"(10) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.

"(B) COORDINATION WITH PARAGRAPH (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not apply to depreciation adjustments attributable to such portion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 13629. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 13628) is amended by adding at the end the following new paragraph:

"(4) NEW RESIDENCE MUST BE LOCATED IN UNITED STATES IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of a sale of an old residence by a taxpayer—

"(i) who is not a citizen of the United States at the time of sale, and

"(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,

subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

"(B) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—

"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

"(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and

"(iii) one spouse is a citizen of the United States at the time of sale."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) TREATMENT OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—

(A) purchased before September 13, 1995, or

(B) purchased on or after such date pursuant to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.

PART VI—REFORMS RELATING TO GAMING ACTIVITIES

SEC. 13631. TREATMENT OF INDIAN GAMING ACTIVITIES UNDER UNRELATED BUSINESS INCOME TAX.

(a) IN GENERAL.—Paragraph (2) of section 511(a) (relating to imposition of tax on unrelated business income of charitable, etc., organizations) is amended by adding at the end the following new subparagraph:

"(C) GAMING ACTIVITIES OF INDIAN TRIBES.—

"(i) IN GENERAL.—The tax imposed by paragraph (1) shall apply to any Indian tribal organization; except that, notwithstanding any other provision of this part, in the case of such an organization, the term 'unrelated trade or business' means only a trade or business of conducting any class II or class III gaming activity (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), as in effect on the date of the enactment of this subparagraph), including a gaming activity described in section 513(a)(1).

"(ii) INDIAN TRIBAL ORGANIZATION.—For purposes of clause (i), the term 'Indian tribal organization' means any Indian tribe and any organization which is immune or exempt from tax under this subtitle solely by reason of being owned or controlled by an Indian tribe."

(b) TREATMENT OF AMOUNTS PAID FOR CHARITABLE PURPOSES, ETC., BY REASON OF STATE OR FEDERAL LAW.—Subsection (b) of section 512 is amended by adding at the end the following new paragraph:

"(17) In the case of an Indian tribal organization (as defined in section 511(a)(3)), if, by reason of State or Federal law or of a contract with the United States or with any State or political subdivision thereof, such organization is required to use any portion of the net proceeds of any gaming activity for specified purposes, the deduction for so using such proceeds shall be treated as allowed under section 170 for purposes of applying paragraph (10). The preceding sentence shall not apply to such proceeds which are paid as general revenues to the United States or to any State or political subdivision thereof."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

(d) STUDY OF GAMBLING CONDUCTED BY TAX-EXEMPT ORGANIZATIONS.—The Secretary of the Treasury or his delegate shall conduct a study on the nature and extent of gaming activities conducted by organizations exempt from tax under section 501(a) of the Internal Revenue Code of 1986, including an examination of—

(1) the types of gaming activities (including bingo, pull tabs, and casino nights) engaged in by charities and other nonprofit organizations and the frequency of such activities;

(2) the dollar volume of such gaming activities;

(3) the nature and extent of the involvement of for-profit entities and private parties in the management or operation of gaming activities of such organizations;

(4) competition between taxable gaming activities and gaming activities that are exempt from Federal income tax; and

(5) an analysis of the present law tax treatment of gaming activities of tax-exempt organizations.

The study may include any recommendations for change, including examination of the South End decision and the special exception for bingo games. The Secretary shall submit the results of the study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1996.

SEC. 13632. REPEAL OF TARGETED EXEMPTION FROM TAX ON UNRELATED TRADE OR BUSINESS INCOME FROM GAMBLING IN CERTAIN STATES.

(a) IN GENERAL.—Section 311 of the Tax Reform Act of 1984 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to games of chance conducted after December 31, 1995, in taxable years ending after such date.

SEC. 13633. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

"(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine."

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking "(B) and (C)" in subparagraph (A) and inserting "(B), (C), and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

PART VII—OTHER REFORMS

SEC. 13636. SUNSET OF LOW-INCOME HOUSING CREDIT.

(a) REPEAL OF REALLOCATION OF UNUSED CREDITS AMONG STATES.—Subparagraph (D) of section 42(h)(3) is amended by adding at the end the following new clause:

"(v) TERMINATION.—No amount may be allocated under this paragraph for any calendar year after 1995."

(b) TERMINATION.—Section 42 is amended by adding at the end the following new subsection:

"(o) TERMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2)—

"(A) clause (i) of subsection (h)(3)(C) shall not apply to any amount allocated after December 31, 1997, and

"(B) subsection (h)(4) shall not apply to any building placed in service after such date.

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before January 1, 1998, if—

"(A) the bonds with respect to such building are issued before such date,

"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1997, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1999, and

"(C) such building is placed in service before January 1, 2000."

SEC. 13637. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).

SEC. 13638. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k))."

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.

SEC. 13639. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 13640. REPEAL OF SPECIAL RULE FOR RENTAL USE OF VACATION HOMES, ETC., FOR LESS THAN 15 DAYS.

(a) IN GENERAL.—Section 280A (relating to disallowance of certain expenses in connection with business use of home, rental of vacation homes, etc.) is amended by striking subsection (g).

(b) NO BASIS REDUCTION UNLESS DEPRECIATION CLAIMED.—Section 1016 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE WHERE RENTAL USE OF VACATION HOME, ETC., FOR LESS THAN 15 DAYS.—If a dwelling unit is used during the taxable year by the taxpayer as a residence and such dwelling unit is actually rented for less than 15 days during the taxable year, the reduction under subsection (a)(2) by reason of such rental use in any taxable year beginning after December 31, 1995, shall not exceed the depreciation deduction allowed for such rental use."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13641. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

"(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

"(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

"(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

"(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

"(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

"(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

"(v) such transferee corporation is not exempt from tax under this chapter.

"(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(c)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

"(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

"(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

"(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

"(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

"(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

"(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

"(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

"(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

"(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

"(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

"(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

"(i) for services performed in connection with such transferee corporation, or

"(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

"(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

"(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

"(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

"(G) Election.—An election under this paragraph may be revoked only with the consent of the Secretary."

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 13642. CERTAIN AMOUNTS DERIVED FROM FOREIGN CORPORATIONS TREATED AS UNRELATED BUSINESS TAXABLE INCOME.

(a) General Rule.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(18) Treatment of certain amounts derived from foreign corporations.—

"(A) In general.—Notwithstanding paragraph (1), any amount included in gross income under section 951(a)(1)(A) shall be included as an item of gross income derived from an unrelated trade or business to the extent the amount so included is attributable to insurance income (as defined in section 953) which, if derived directly by the organization, would be treated as gross income from an unrelated trade or business. There shall be allowed all deductions directly connected with amounts included in gross income under the preceding sentence.

"(B) Exception.—Subparagraph (A) shall not apply to income attributable to a policy of insurance or reinsurance with respect to which the person (directly or indirectly) insured is—

"(i) such organization,

"(ii) an affiliate of such organization which is exempt from tax under section 501(a), or

"(iii) a director, officer, or employee of such organization or affiliate but only if the insurance covers solely risks associated with the performance of services for the benefit of such organization or affiliate.

"(C) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations for the application of this paragraph in the case of income paid through 1 or more entities or between 2 or more chains of entities."

(b) Effective Date.—The amendment made by this section shall apply to amounts included in gross income in any taxable year beginning after December 31, 1995.

PART VIII—EXCISE TAX ON AMOUNTS OF PRIVATE EXCESS BENEFITS

SEC. 13646. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.

(a) In General.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"Subchapter D—Failure By Certain Charitable Organizations To Meet Certain Qualification Requirements

"Sec. 4958. Taxes on excess benefit transactions.

"SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.

"(a) Initial Taxes.—

"(1) On the disqualified person.—There is hereby imposed on each excess benefit transaction a tax equal to 25 percent of the excess benefit. The tax imposed by this paragraph shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(2) On the management.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

"(b) Additional Tax On the Disqualified Person.—In any case in which an initial tax is imposed by subsection (a)(1) on an excess benefit transaction and the excess benefit involved in such transaction is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the excess benefit involved. The tax imposed by this subsection shall be paid by any disqualified person referred to in subsection (f)(1) with respect to such transaction.

"(c) Excess Benefit Transaction; Excess Benefit.—For purposes of this section—

"(1) Excess benefit transaction.—

"(A) In general.—The term 'excess benefit transaction' means any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

"(B) Excess benefit.—The term 'excess benefit' means the excess referred to in subparagraph (A).

"(2) Authority to include certain other private inurement.—To the extent provided in regulations prescribed by the Secretary, the term 'excess benefit transaction' includes any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of 1 or more activities of the organization but only if such transaction results in inurement not permitted under paragraph (3) or (4) of section 501(c), as the case may be. In the case of any such transaction, the excess benefit shall be the amount of the inurement not so permitted.

"(d) Special Rules.—For purposes of this section—

"(1) Joint and several liability.—If more than 1 person is liable for any tax imposed by subsection (a) or subsection (b), all such persons shall be jointly and severally liable for such tax.

"(2) Limit for management.—With respect to any 1 excess benefit transaction, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(e) Applicable Tax-Exempt Organization.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means any organization which (without regard to any excess benefit) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a). Such term shall not include a private foundation (as defined in section 509(a)).

"(f) Other Definitions.—For purposes of this section—

"(1) Disqualified person.—The term 'disqualified person' means, with respect to any transaction—

"(A) any person who was, at any time during the 5-year period ending on the date of such transaction—

"(i) an organization manager, or

"(ii) an individual (other than an organization manager) in a position to exercise substantial influence over the affairs of the organization,

"(B) a member of the family of an individual described in subparagraph (A), and

"(C) a 35-percent controlled entity.

"(2) Organization manager.—The term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization).

"(3) 35-percent controlled entity.—

"(A) In general.—The term '35-percent controlled entity' means—

"(i) a corporation in which persons described in subparagraph (A) or (B) of paragraph (1) own more than 35 percent of the total combined voting power,

"(ii) a partnership in which such persons own more than 35 percent of the profits interest, and

"(iii) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(B) Constructive ownership rules.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this paragraph.

"(4) Family members.—The members of an individual's family shall be determined under section 4946(d); except that such members also shall include the brothers and sisters (whether by the whole or half blood) of the individual and their spouses.

"(5) Taxable period.—The term 'taxable period' means, with respect to any excess benefit transaction, the period beginning with the date on which the transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(6) Correction.—The terms 'correction' and 'correct' mean, with respect to any excess benefit transaction, undoing the excess benefit to the extent possible, and where fully undoing the excess benefit is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"(g) Treatment of Previously Exempt Organizations.—

"(1) In general.—For purposes of this section, the status of any organization as an applicable tax-exempt organization shall be terminated only if—

"(A)(i) such organization notifies the Secretary (at such time and in such manner as the Secretary may by regulations prescribe) of its intent to accomplish such termination, or

"(ii) there is a final determination by the Secretary that such status has terminated, and

"(B)(i) such organization pays the tax imposed by paragraph (2) (or any portion not abated pursuant to paragraph (3)), or

"(ii) the entire amount of such tax is abated pursuant to paragraph (3).

"(2) IMPOSITION OF TAX.—There is hereby imposed on each organization referred to in paragraph (1) a tax equal to the lesser of—

"(A) the amount which the organization substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from its exemption from tax under section 501(a), or

"(B) the value of the net assets of such organization.

"(3) ABATEMENT OF TAX.—The Secretary may abate the unpaid portion of the assessment of any tax imposed by paragraph (2), or any liability in respect thereof, if the applicable tax-exempt organization distributes all of its net assets to 1 or more organizations each of which has been in existence, and described in section 501(c)(3), for a continuous period of at least 60 calendar months. If the distributing organization is described in section 501(c)(4), the preceding sentence shall be applied by treating the reference to section 501(c)(3) as including a reference to section 501(c)(4).

"(4) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subsections (d), (e), and (f) of section 507 shall apply for purposes of this subsection."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Paragraph (4) of section 501(c) is amended by inserting "(A)" after "(4)" and by adding at the end the following:

"(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4958", and

(B) by inserting before the period "or an excess benefit for purposes of section 4958".

(2) Subsections (a), (b), and (c) of section 4963 are each amended by inserting "4958," after "4955,".

(3) Subsection (e) of section 6213 is amended by inserting "4958 (relating to private excess benefit)," before "4971".

(4) Paragraphs (2) and (3) of section 7422(g) are each amended by inserting "4958," after "4955,".

(5) Subsection (b) of section 7454 is amended by inserting "or whether an organization manager (as defined in section 4958(f)(2)) has 'knowingly' participated in an excess benefit transaction (as defined in section 4958(c))," after "section 4912(b),".

(6) The table of subchapters for chapter 42 is amended by striking the last item and inserting the following:

"Subchapter D. Failure by certain charitable organizations to meet certain qualification requirements.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (b)) shall apply to excess benefit transactions occurring on or after September 14, 1995.

(2) BINDING CONTRACTS FOR PERSONAL SERVICES.—The amendments referred to in paragraph (1) shall not apply to any transaction pursuant to any written contract for the performance of personal services which was binding on September 13, 1995, and at all times thereafter before such transaction occurred.

(3) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION 501(C)(4).—

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to inurement occurring on or after September 14, 1995.

(B) BINDING CONTRACTS.—The amendment made by subsection (b) shall not apply to any inurement occurring before January 1, 1997, pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such inurement occurred.

SEC. 13647. REPORTING OF CERTAIN EXCISE TAXES AND OTHER INFORMATION.

(a) REPORTING BY ORGANIZATIONS DESCRIBED IN SECTION 501(c)(3).—Subsection (b) of section 6033 (relating to certain organizations described in section 501(c)(3)) is amended by striking "and" at the end of paragraph (9), by redesignating paragraph (10) as paragraph (14), and by inserting after paragraph (9) the following new paragraphs:

"(10) the respective amounts (if any) of the taxes paid by the organization during the taxable year under the following provisions:

"(A) section 4911 (relating to tax on excess expenditures to influence legislation),

"(B) section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations), and

"(C) section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations),

"(11) the respective amounts (if any) of the taxes paid by the organization or any disqualified person during the taxable year under section 4958 (relating to taxes on private excess benefit from certain charitable organizations),

"(12) such information as the Secretary may require with respect to any excess benefit transaction (as defined in section 4958),

"(13) the name of each disqualified person who receives an economic benefit from an applicable tax-exempt organization (as defined in section 4958(e)) and such other information as the Secretary may prescribe with respect to such benefit, and".

(b) ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Section 6033 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) CERTAIN ORGANIZATIONS DESCRIBED IN SECTION 501(c)(4).—Every organization described in section 501(c)(4) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a) the information referred to in paragraphs (10), (11), (12) and (13) of subsection (b) with respect to such organization."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years beginning after the date of the enactment of this Act.

SEC. 13648. EXEMPT ORGANIZATIONS REQUIRED TO PROVIDE COPY OF RETURN.

(a) GENERAL RULE.—

(1) Subparagraph (A) of section 6104(e)(1) (relating to public inspection of annual returns) is amended to read as follows:

"(A) IN GENERAL.—During the 3-year period beginning on the filing date—

"(i) a copy of the annual return filed under section 6033 (relating to returns by exempt organizations) by any organization to which this paragraph applies shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office, and

"(ii) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

If the request under clause (ii) is made in person, such copy shall be provided immediately and, if made other than in person, shall be provided within 30 days."

(2) Clause (ii) of section 6104(e)(2)(A) is amended by inserting before the period at the end thereof the following: "(and, upon request of an individual made at such principal office or such a regional or district office, a copy of the material required to be available for inspection under this subparagraph shall be provided (in accordance with the last sentence of paragraph (1)(A)) to such individual without charge other than a reasonable fee for any reproduction and mailing costs)".

(3) Subsection (e) of section 6104 is amended by adding at the end the following new paragraph:

"(3) LIMITATION.—Paragraph (1)(A)(ii) (and the corresponding provision of paragraph (2)) shall not apply to any request if the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest."

(b) ADVERTISEMENTS ETC., REQUIRED TO DISCLOSE AVAILABILITY OF ANNUAL RETURN.—

(1) Paragraph (1) of section 6104(e) is amended by adding at the end thereof the following new subparagraph:

"(E) ADVERTISEMENTS ETC., REQUIRED TO DISCLOSE AVAILABILITY OF ANNUAL RETURN.—In the case of an organization required by subparagraph (A) to provide a copy of its annual return under section 6033 upon request to individuals, each written advertisement or solicitation by (or on behalf of) such organization shall contain an express statement (in a conspicuous and easily recognizable format) that such return shall be provided to individuals upon request."

(2) Section 6716, as added by section 13649 of this title, is amended—

(A) by striking "section 6116" each place it appears and inserting "section 6116 or section 6104(e)(1)(E)",

(B) by striking "$1,000" in subsection (a) and inserting "$1,000 ($100 in the case of a failure to meet the requirements of 6104(e)(1)(E))", and

(C) by inserting before the period at the end of the section heading "**; FAILURE OF CERTAIN EXEMPT ORGANIZATIONS TO DISCLOSE AVAILABILITY OF ANNUAL RETURN**".

(3) Subparagraph (C) of section 6652(c)(1) is amended by striking "(e)(1)" and inserting "(e)(1) (other than subparagraph (E))", by striking "$10" and inserting "$20", and by striking "$5,000" and inserting "$10,000".

(4) Subparagraph (D) of section 6652(c)(1) is amended by striking "$10" and inserting "$20".

(5) The item relating to section 6716 in the table of sections for part I of subchapter B of chapter 68 is amended by inserting before the period "; failure of certain exempt organizations to disclose availability of annual return".

(c) INCREASE IN PENALTY FOR WILLFUL FAILURE TO ALLOW PUBLIC INSPECTION OF

CERTAIN RETURNS, ETC.—Section 6685 is amended by striking "$1,000" and inserting "$5,000".

(d) COPIES OF RETURNS OF EXEMPT ORGANIZATIONS AVAILABLE FROM SECRETARY IN CERTAIN CASES.—Subsection (b) of section 6104 is amended to read as follows:

"(b) INSPECTION OF ANNUAL INFORMATION RETURNS.—

"(1) IN GENERAL.—The information required to be furnished by sections 6033, 6034, and 6058, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary may prescribe. Nothing in this subsection shall authorize the Secretary to disclose the name or address of any contributor to any organization or trust (other than a private foundation, as defined in section 509(a)) which is required to furnish such information.

"(2) COPIES PROVIDED OF RETURNS FILED UNDER SECTION 6033 AND APPLICATIONS FILED UNDER SECTION 508 IN CERTAIN CASES.—The Secretary shall provide copies of returns filed under section 6033 and applications for exemption filed under section 508 by any organization to which subsection (d) or (e)(1) applies to any person who agrees (subject to such conditions as the Secretary shall prescribe)—

"(A) to accept broad categories of such returns and applications, and

"(B) to provide electronic access to the provided returns and applications on an electronic network available to the general public.

Such copies shall be provided without charge if such person agrees to provide such access without charge. Otherwise, the Secretary may impose a reasonable fee for any reproduction and mailing costs.

"(3) RETURNS AND APPLICATIONS FILED BEFORE 1996.—Paragraph (2) shall apply to returns and applications filed before January 1, 1996, only to the extent provided by the Secretary."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996 (or, if later, the 90th day after the date of the enactment of this Act).

SEC. 13649. CERTAIN ORGANIZATIONS REQUIRED TO DISCLOSE NONEXEMPT STATUS.

(a) GENERAL RULE.—Subchapter B of chapter 61 (relating to miscellaneous provisions) is amended by redesignating section 6116 as section 6117 and by inserting after section 6115 the following new section:

"SEC. 6116. CERTAIN ORGANIZATIONS REQUIRED TO DISCLOSE NONEXEMPT STATUS.

"(a) IN GENERAL.—If—

"(1) in an advertisement or solicitation by (or on behalf of) an organization, such organization is referred to as being nonprofit, and

"(2) such organization is not exempt from tax under subtitle A,

such advertisement or solicitation shall contain an express statement (in a conspicuous and easily recognizable format) that such organization is not exempt from Federal income taxes.

"(b) CROSS REFERENCE.—

"For penalties for violation of subsection (a), see section 6716."

(b) PENALTY.—Part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"SEC. 6716. FAILURE TO DISCLOSE NONEXEMPT STATUS.

"(a) IMPOSITION OF PENALTY.—If there is a failure to meet the requirements of section 6116 with respect to any advertisement or solicitation by (or on behalf of) an organization, such organization shall pay a penalty of $1,000 for each day on which such a failure occurred. The maximum penalty imposed under this subsection on failures by any organization during any calendar year shall not exceed $10,000.

"(b) REASONABLE CAUSE EXEMPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.

"(c) $10,000 LIMITATION NOT TO APPLY WHERE INTENTIONAL DISREGARD.—If any failure to which subsection (a) applies is due to intentional disregard of the requirements of section 6116—

"(1) the penalty under subsection (a) for the day on which failure occurred shall be the greater of—

"(A) $1,000, or

"(B) 50 percent of the aggregate cost of the advertisements and solicitations which occurred on such day and with respect to which there was such failure,

"(2) the $10,000 limitation of subsection (a) shall not apply to any penalty under subsection (a) for the day on which such failure occurred, and

"(3) such penalty shall not be taken into account in applying such limitation to other penalties under subsection (a).

"(d) DAY ON WHICH FAILURE OCCURS.—For purposes of this section, rules similar to the rules of section 6710(d) shall apply in determining the day on which any failure occurs."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6116 and inserting the following:

"Sec. 6116. Certain organizations required to disclose nonexempt status.

"Sec. 6117. Cross reference."

(2) The table of sections of part I of subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6716. Failure to disclose nonexempt status."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996 (or, if later, the 90th day after the date of the enactment of this Act).

SEC. 13650. INCREASE IN PENALTIES ON EXEMPT ORGANIZATIONS FOR FAILURE TO FILE COMPLETE AND TIMELY ANNUAL RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6652(c)(1) (relating to annual returns under section 6033) is amended by striking "$10" and inserting "$20" and by striking "$5,000" and inserting "$10,000".

(b) LARGER PENALTY ON ORGANIZATIONS HAVING GROSS RECEIPTS IN EXCESS OF $1,000,000.—Subparagraph (A) of section 6652(c)(1) is amended by adding at the end the following new sentence: "In the case of an organization having gross receipts exceeding $1,000,000 for any year, with respect to the return required under section 6033 for such year, the first sentence of this subparagraph shall be applied by substituting '$100' for '$20' and, in lieu of applying the second sentence of this subparagraph, the maximum penalty under this subparagraph shall not exceed $50,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for taxable years ending on or after December 31, 1995.

SEC. 13651. STUDIES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of—

(1) whether the statutory prohibition on private inurement, and the provisions of section 4958 of the Internal Revenue Code of 1986 (as added by this part), should apply to other tax-exempt organizations,

(2) whether State officials responsible for overseeing charitable organizations should be provided with Federal tax information in addition to the information available under section 6103 of such Code for purposes of such oversight, and

(3) whether the return required to be filed by section 6033 of such Code should be modified to assure the return's utility to such Secretary and to the public and to reduce any unnecessary reporting burdens.

(b) REPORT.—Not later than January 1, 1997, the report of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Subtitle G—Reform of the Earned Income Tax Credit

SEC. 13701. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT QUALIFYING CHILDREN; MODIFICATIONS TO CREDIT PHASEOUT.

(a) REPEAL OF CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year."

(b) MODIFICATIONS TO PHASEOUT.—

(1) Subsection (b) of section 32 is amended to read as follows:

"(b) PERCENTAGES.—

"(1) IN GENERAL.—The credit percentage and the phaseout percentage shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	18
2 or more qualifying children	40	23

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,340	$11,630
2 or more qualifying children	$8,910	$11,630."

(2) Subsection (j) of section 32 is amended—

(A) by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2)",

(B) by striking "1994" and inserting "1996", and

(C) by striking "1993" and inserting "1995".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13702. MODIFICATION OF ADJUSTED GROSS INCOME USED FOR PHASEOUT.

(a) IN GENERAL.—Subsections (a)(2)(B), (c)(1)(C), and (f)(2)(B) of section 32 are each amended by striking "adjusted gross income" each place it appears and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME.—Subsection (c) of section 32 is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income increased by—

"(A) any amount received as a pension or annuity, and any distribution or payment received from an individual retirement plan, by the taxpayer during the taxable year to the extent not otherwise included in gross income, and

"(B) the social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income.

Any amount which is not includible in gross income by reason of paragraph (3), (4), or (5) of section 408(d) or section 402(c), 403(a)(4), 403(b)(8), or 457(e)(10) shall be treated as not described in subparagraph (A)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 13703. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle H—Increase in Public Debt Limit

SEC. 13801. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting "$5,500,000,000,000".

Subtitle I—Coal Industry Retiree Health Equity

SEC. 13901. REPEAL OF REACHBACK PROVISIONS OF COAL INDUSTRY HEALTH BENEFIT SYSTEM.

(a) AMENDMENTS RELATED TO DEFINITIONS.—

(1) AGREEMENTS.—

(A) IN GENERAL.—Paragraph (1) of section 9701(b) (relating to agreements) is amended to read as follows:

"(1) COAL WAGE AGREEMENTS.—

"(A) 1988 AGREEMENT.—The term '1988 agreement' means the collective bargaining agreement between the settlors which became effective on February 1, 1988.

"(B) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means any predecessor to the 1988 agreement."

(B) CONFORMING AMENDMENT.—Section 9701(b) is amended by striking paragraph (3).

(2) OPERATORS.—

(A) SIGNATORY OPERATOR.—Paragraph (1) of section 9701(c) (relating to operators) is amended to read as follows:

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a 1988 agreement operator."

(B) 1988 AGREEMENT OPERATOR.—Paragraph (3) of section 9701(c) is amended to read as follows:

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) an operator which was a signatory to the 1988 agreement, or

"(B) a person in business which, during the term of the 1988 agreement, was a signatory to an agreement (other than the National Coal Mine Construction Agreement and the Coal Haulers' Agreement) containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 agreement.

Such term shall not include any operator who was assessed, and did pay the full amount of, contractual withdrawal liability to the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, or the Combined Fund."

(C) LAST SIGNATORY OPERATOR.—Section 9701(c)(4) is amended by inserting "bituminous" before "coal" each place it appears.

(b) COMBINED BENEFIT FUND.—Section 9702(b)(1) is amended to read as follows:

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) two individuals who represent employers in the coal mining industry shall be designated by the BCOA;

"(B) two individuals designated by the United Mine Workers of America; and

"(C) three persons selected by the persons appointed under subparagraphs (A) and (B)."

(c) ASSIGNMENT OF ELIGIBLE BENEFICIARIES.—Subsection (a) of section 9706 is amended by adding at the end the following new flush sentence:

"For purposes of assessing premiums on or after October 1, 1995, under this chapter, the Commissioner of Social Security shall, effective October 1, 1995, revoke all assignments previously made (and shall make no further assignments and shall terminate all unpaid liabilities for any pending assignments) to all persons other than signatory operators and shall deem each affected coal industry retiree who is an eligible beneficiary to be an unassigned beneficiary under section 9706. The preceding sentence shall not be construed to prevent any transfer, or any treatment of a successor as an assigned operator, under subsection (b)(2)."

(d) 1992 UMWA BENEFIT PLAN.—Section 9712(d) is amended—

(1) by striking paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively, and

(2) by striking "or last signatory operator described in paragraph (3)," in paragraph (3) (as redesignated under paragraph (1)).

(e) INFORMATION REQUIREMENTS.—

(1) IN GENERAL.—Subsection (h) of section 9704 is amended by adding at the end the following new paragraph:

"(2) INFORMATION TO CONTRIBUTORS.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall, within 30 days of a written request, make available to any person required to make contributions to the Combined Fund, or their agent—

"(i) all documents which reflect its financial and operational status, including documents under which it is operated, and

"(ii) all documents prepared at the request of the trustees or staff of the Combined Fund which form the basis for any of its actions or reports, including the eligibility of participants in predecessor plans.

"(B) FEES.—The trustees may charge reasonable fees (not in excess of actual expenses) for providing documents under this paragraph."

(2) CONFORMING AMENDMENT.—Subsection (h) of section 9704 is amended by striking "(h) INFORMATION.—The" and inserting the following:

"(h) INFORMATION.—

"(1) INFORMATION TO SECRETARY.—The".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 1995.

TITLE XIV—COMMITTEE ON WAYS AND MEANS—TAX SIMPLIFICATION

SEC. 14001. SHORT TITLE; AMENDMENT TO 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Tax Simplification Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this title is as follows:

TITLE XIV—COMMITTEE ON WAYS AND MEANS—TAX SIMPLIFICATION

Sec. 14001. Short title; amendment to 1986 Code.

Subtitle A—Provisions Relating to Individuals

PART I—PROVISIONS RELATING TO ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE

Sec. 14101. Multiple sales within rollover period.

Sec. 14102. Special rules in case of divorce.

Sec. 14103. One-time exclusion of gain from sale of principal residence for certain spouses.

PART II—OTHER PROVISIONS

Sec. 14111. Payment of tax by commercially acceptable means.

Sec. 14112. Simplified foreign tax credit limitation for individuals.

Sec. 14113. Treatment of personal transactions by individuals under foreign currency rules.

Sec. 14114. Treatment of certain reimbursed expenses of rural mail carriers.

Sec. 14115. Exclusion of combat pay from withholding limited to amount excludable from gross income.

Sec. 14116. Treatment of traveling expenses of certain Federal employees engaged in criminal investigations.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

Sec. 14201. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 14202. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 14203. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 14204. Required distributions.

PART II—INCREASED ACCESS TO PENSION PLANS

Sec. 14211. Modifications of simplified employee pensions.
Sec. 14212. State and local governments and tax-exempt organizations eligible under section 401(k).

PART III—NONDISCRIMINATION PROVISIONS

Sec. 14221. Definition of highly compensated employees.
Sec. 14222. Repeal of family aggregation rules.
Sec. 14223. Modification of additional participation requirements.
Sec. 14224. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

PART IV—MISCELLANEOUS SIMPLIFICATION

Sec. 14231. Treatment of leased employees.
Sec. 14232. Plans covering self-employed individuals.
Sec. 14233. Elimination of special vesting rule for multiemployer plans.
Sec. 14234. Distributions under rural cooperative plans.
Sec. 14235. Treatment of governmental plans under section 415.
Sec. 14236. Uniform retirement age.
Sec. 14237. Uniform penalty provisions to apply to certain pension reporting requirements.
Sec. 14238. Contributions on behalf of disabled employees.
Sec. 14239. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 14240. Trust requirement for deferred compensation plans of State and local governments.
Sec. 14241. Transition rule for computing maximum benefits under section 415 limitations.
Sec. 14242. Multiple salary reduction agreements permitted under section 403(b).
Sec. 14243. Waiver of minimum period for joint and survivor annuity explanation before annuity starting date.
Sec. 14244. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee.
Sec. 14245. Date for adoption of plan amendments.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

Sec. 14301. Simplified flow-through for large partnerships.
Sec. 14302. Simplified audit procedures for large partnerships.
Sec. 14303. Due date for furnishing information to partners of large partnerships.
Sec. 14304. Returns may be required on magnetic media.
Sec. 14305. Treatment of partnership items of individual retirement accounts.
Sec. 14306. Effective date.

PART II—PROVISIONS RELATED TO CERTAIN PARTNERSHIP PROCEEDINGS

Sec. 14311. Treatment of partnership items in deficiency proceedings.
Sec. 14312. Partnership return to be determinative of audit procedures to be followed.
Sec. 14313. Provisions relating to statute of limitations.
Sec. 14314. Expansion of small partnership exception.
Sec. 14315. Exclusion of partial settlements from 1-year limitation on assessment.
Sec. 14316. Extension of time for filing a request for administrative adjustment.
Sec. 14317. Availability of innocent spouse relief in context of partnership proceedings.
Sec. 14318. Determination of penalties at partnership level.
Sec. 14319. Provisions relating to court jurisdiction, etc.
Sec. 14320. Treatment of premature petitions filed by notice partners or 5-percent groups.
Sec. 14321. Bonds in case of appeals from certain proceeding.
Sec. 14322. Suspension of interest where delay in computational adjustment resulting from certain settlements.
Sec. 14323. Special rules for administrative adjustment requests with respect to bad debts or worthless securities.

Subtitle D—Foreign Provisions

PART I—MODIFICATIONS TO TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

Sec. 14401. United States shareholders of controlled foreign corporations not subject to PFIC inclusion.
Sec. 14402. Election of mark to market for marketable stock in passive foreign investment company.
Sec. 14403. Modifications to definition of passive income.
Sec. 14404. Effective date.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Sec. 14411. Gain on certain stock sales by controlled foreign corporations treated as dividends.
Sec. 14412. Miscellaneous modifications to subpart F.
Sec. 14413. Indirect foreign tax credit allowed for certain lower tier companies.
Sec. 14414. Repeal of inclusion of certain earnings invested in excess passive assets.

PART III—OTHER PROVISIONS

Sec. 14421. Exchange rate used in translating foreign taxes.
Sec. 14422. Election to use simplified section 904 limitation for alternative minimum tax.
Sec. 14423. Modification of section 1491.
Sec. 14424. Modification of section 367(b).
Sec. 14425. Increase in filing thresholds for returns as to organization of foreign corporations and acquisitions of stock in such corporations.
Sec. 14426. Application of uniform capitalization rules to foreign persons.
Sec. 14427. Certain prizes and awards.
Sec. 14428. Treatment for estate tax purposes of short-term obligations held by nonresident aliens.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO S CORPORATIONS

Sec. 14501. S corporations permitted to have 75 shareholders.
Sec. 14502. Electing small business trusts.
Sec. 14503. Expansion of post-death qualification for certain trusts.
Sec. 14504. Financial institutions permitted to hold safe harbor debt.
Sec. 14505. Rules relating to inadvertent terminations and invalid elections.
Sec. 14506. Agreement to terminate year.
Sec. 14507. Expansion of post-termination transition period.
Sec. 14508. S corporations permitted to hold subsidiaries.
Sec. 14509. Treatment of distributions during loss years.
Sec. 14510. Treatment of S corporations under subchapter C.
Sec. 14511. Elimination of certain earnings and profits.
Sec. 14512. Carryover of disallowed losses and deductions under at-risk rules allowed.
Sec. 14513. Adjustments to basis of inherited S stock to reflect certain items of income.
Sec. 14514. S corporations eligible for rules applicable to real property subdivided for sale by noncorporate taxpayers.
Sec. 14515. Effective date.

PART II—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

Sec. 14521. Repeal of 30-percent gross income limitation.

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS

Sec. 14531. Clarification of limitation on maximum number of shareholders.
Sec. 14532. De minimis rule for tenant services income.
Sec. 14533. Attribution rules applicable to tenant ownership.
Sec. 14534. Credit for tax paid by REIT on retained capital gains.
Sec. 14535. Repeal of 30-percent gross income requirement.
Sec. 14536. Modification of earnings and profits rules for determining whether REIT has earnings and profits from non-REIT year.
Sec. 14537. Treatment of foreclosure property.
Sec. 14538. Payments under hedging instruments.
Sec. 14539. Excess noncash income.
Sec. 14540. Prohibited transaction safe harbor.
Sec. 14541. Shared appreciation mortgages.
Sec. 14542. Wholly owned subsidiaries.
Sec. 14543. Effective date.

PART IV—ACCOUNTING PROVISIONS

Sec. 14551. Modifications to look-back method for long-term contracts.
Sec. 14552. Application of mark to market accounting method to traders in securities.
Sec. 14553. Modification of ruling amounts for nuclear decommissioning costs.
Sec. 14554. Election of alternative taxable years by partnerships and S corporations.
Sec. 14555. Special rule for crop insurance proceeds and disaster payments.

PART V—TAX-EXEMPT BOND PROVISIONS

Sec. 14561. Repeal of $100,000 limitation on unspent proceeds under 1-year exception from rebate.

Sec. 14562. Exception from rebate for earnings on bona fide debt service fund under construction bond rules.
Sec. 14563. Repeal of debt service-based limitation on investment in certain nonpurpose investments.
Sec. 14564. Repeal of expired provisions.
Sec. 14565. Effective dates.

PART VI—INSURANCE PROVISIONS

Sec. 14571. Treatment of certain insurance contracts on retired lives.
Sec. 14572. Treatment of modified guaranteed contracts.
Sec. 14573. Minimum tax treatment of certain property and casualty insurance companies.

PART VII—OTHER PROVISIONS

Sec. 14581. Closing of partnership taxable year with respect to deceased partner, etc.
Sec. 14582. Credit for Social Security taxes paid with respect to employee cash tips.
Sec. 14583. Due date for first quarter estimated tax payments by private foundations.
Sec. 14584. Treatment of dues paid to agricultural or horticultural organizations.

Subtitle F—Estates and Trusts

PART I—INCOME TAX PROVISIONS

Sec. 14601. Certain revocable trusts treated as part of estate.
Sec. 14602. Distributions during first 65 days of taxable year of estate.
Sec. 14603. Separate share rules available to estates.
Sec. 14604. Executor of estate and beneficiaries treated as related persons for disallowance of losses, etc.
Sec. 14605. Limitation on taxable year of estates.
Sec. 14606. Repeal of certain throwback rules applicable to domestic trusts.
Sec. 14607. Treatment of funeral trusts.

PART II—ESTATE AND GIFT TAX PROVISIONS

Sec. 14611. Clarification of waiver of certain rights of recovery.
Sec. 14612. Adjustments for gifts within 3 years of decedent's death.
Sec. 14613. Clarification of qualified terminable interest rules.
Sec. 14614. Transitional rule under section 2056A.
Sec. 14615. Opportunity to correct certain failures under section 2032A.
Sec. 14616. Unified credit of decedent increased by unified credit of spouse used on split gift included in decedent's gross estate.
Sec. 14617. Reformation of defective bequests, etc. to spouse of decedent.
Sec. 14618. Gifts may not be revalued for estate tax purposes after expiration of statute of limitations.
Sec. 14619. Clarifications relating to disclaimers.
Sec. 14620. Clarification of treatment of survivor annuities under qualified terminable interest rules.
Sec. 14621. Treatment under qualified domestic trust rules of forms of ownership which are not trusts.
Sec. 14622. Authority to waive requirement of United States trustee for qualified domestic trusts.

PART III—GENERATION-SKIPPING TAX PROVISIONS

Sec. 14631. Severing of trusts holding property having an inclusion ratio of greater than zero.
Sec. 14632. Clarification of who is transferor where subsequent gift by reason of power of appointment.
Sec. 14633. Taxable termination not to include direct skips.
Sec. 14634. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.

Subtitle G—Excise Tax Simplification

PART I—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

Sec. 14701. Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.
Sec. 14702. Authority to cancel or credit export bonds without submission of records.
Sec. 14703. Repeal of required maintenance of records on premises of distilled spirits plant.
Sec. 14704. Fermented material from any brewery may be received at a distilled spirits plant.
Sec. 14705. Repeal of requirement for wholesale dealers in liquors to post sign.
Sec. 14706. Refund of tax on wine returned to bond not limited to unmerchantable wine.
Sec. 14707. Use of additional ameliorating material in certain wines.
Sec. 14708. Domestically produced beer may be withdrawn free of tax for use of foreign embassies, legations, etc.
Sec. 14709. Beer may be withdrawn free of tax for destruction.
Sec. 14710. Authority to allow drawback on exported beer without submission of records.
Sec. 14711. Transfer to brewery of beer imported in bulk without payment of tax.

PART II—CONSOLIDATION OF TAXES ON AVIATION GASOLINE

Sec. 14721. Consolidation of taxes on aviation gasoline.

PART III—OTHER EXCISE TAX PROVISIONS

Sec. 14731. Authority to grant exemptions from registration requirements.
Sec. 14732. Certain combinations not treated as manufacture under retail sales tax on heavy trucks.
Sec. 14733. Exemption from diesel fuel dyeing requirements with respect to certain States.
Sec. 14734. Repeal of expired provisions.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

Sec. 14801. Repeal of authority to disclose whether prospective juror has been audited.
Sec. 14802. Clarification of statute of limitations.
Sec. 14803. Certain notices disregarded under provision increasing interest rate on large corporate underpayments.
Sec. 14804. Clarification of authority to withhold Puerto Rico income taxes from salaries of Federal employees.

PART II—TAX COURT PROCEDURES

Sec. 14811. Overpayment determinations of tax court.
Sec. 14812. Awarding of administrative costs.
Sec. 14813. Redetermination of interest pursuant to motion.
Sec. 14814. Application of net worth requirement for awards of litigation costs.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

Sec. 14821. Cooperative agreements with State tax authorities.

Subtitle A—Provisions Relating to Individuals

PART I—PROVISIONS RELATING TO ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE

SEC. 14101. MULTIPLE SALES WITHIN ROLLOVER PERIOD.

(a) GENERAL RULE.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 14102. SPECIAL RULES IN CASE OF DIVORCE.

(a) IN GENERAL.—Subsection (c) of section 1034 is amended by adding at the end the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 14103. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR CERTAIN SPOUSES.

(a) IN GENERAL.—Paragraph (2) of section 121(b) (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new sentence: "For purposes of applying the preceding sentence to individuals who are married to each other, an election by one individual with respect to a sale or exchange occurring before the marriage shall be disregarded for purposes of permitting an election with respect to property owned and used by the other individual as his principal residence throughout the 3-year period ending on the date of the marriage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining whether an election may be made under section 121 of the Internal Revenue Code of 1986 with respect to a sale or exchange occurring after September 13, 1995.

PART II—OTHER PROVISIONS

SEC. 14111. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT OF TAX BY COMMERCIALLY ACCEPTABLE MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment, including payment by credit card, debit card, or charge card so received is not duly paid, or is paid and subsequently charged back to the Secretary, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a credit card, debit card, or charge card transaction which has been guaranteed expressly by a financial institution) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the Government. The Secretary may not pay any fee or provide any other consideration under such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a credit card shall not be subject to section 161 of the Truth-in-Lending Act (15 U.S.C. 1666), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the credit card account such as a computational error or numerical transposition in the credit card transaction or an issue as to whether the person authorized payment by use of the credit card,

"(B) a payment of internal revenue taxes (or a payment for internal revenue stamps) shall not be subject to section 170 of the Truth-in-Lending Act (15 U.S.C. 1666i), or to any similar provisions of State law,

"(C) a payment of internal revenue taxes (or a payment for internal revenue stamps) by a person by use of a debit card shall not be subject to section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or to any similar provisions of State law, if the error alleged by the person is an error relating to the underlying tax liability, rather than an error relating to the debit card account such as a computational error or numerical transposition in the debit card transaction or an issue as to whether the person authorized payment by use of the debit card,

"(D) the term 'creditor' under section 103(f) of the Truth-in-Lending Act (15 U.S.C. 1602(f)) shall not include the Secretary with respect to credit card transactions in payment of internal revenue taxes (or payment for internal revenue stamps), and

"(E) notwithstanding any other provision of law to the contrary, in the case of payment made by credit card or debit card transaction of an amount owed to a person as the result of the correction of an error under section 161 of the Truth-in-Lending Act (15 U.S.C. 1666) or section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), the Secretary is authorized to provide such amount to such person as a credit to that person's credit card or debit card account through the applicable credit card or debit card system.

"(e) CONFIDENTIALITY OF INFORMATION.—

"(1) IN GENERAL.—Except as otherwise authorized by this subsection, no person may use or disclose any information relating to credit or debit card transactions obtained pursuant to section 6103(k)(8) other than for purposes directly related to the processing of such transactions, or the billing or collection of amounts charged or debited pursuant thereto.

"(2) EXCEPTIONS.—

"(A) Debit or credit card issuers or others acting on behalf of such issuers may also use and disclose such information for purposes directly related to servicing an issuer's accounts.

"(B) Debit or credit card issuers or others directly involved in the processing of credit or debit card transactions or the billing or collection of amounts charged or debited thereto may also use and disclose such information for purposes directly related to—

"(i) statistical risk and profitability assessment;

"(ii) transferring receivables, accounts, or interest therein;

"(iii) auditing the account information;

"(iv) complying with Federal, State, or local law; and

"(v) properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities.

"(3) PROCEDURES.—Use and disclosure of information under this paragraph shall be made only to the extent authorized by written procedures promulgated by the Secretary.

"(4) CROSS REFERENCE.—

"For provision providing for civil damages for violation of paragraph (1), see section 7431."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment of tax by commercially acceptable means."

(c) AMENDMENTS TO SECTIONS 6103 AND 7431 WITH RESPECT TO DISCLOSURE AUTHORIZATION.—

(1) Subsection (k) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end the following new paragraph:

"(8) DISCLOSURE OF INFORMATION TO ADMINISTER SECTION 6311.—The Secretary may disclose returns or return information to financial institutions and others to the extent the Secretary deems necessary for the administration of section 6311. Disclosures of information for purposes other than to accept payments by checks or money orders shall be made only to the extent authorized by written procedures promulgated by the Secretary."

(2) Section 7431 (relating to civil damages for unauthorized disclosure of returns and return information) is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR INFORMATION OBTAINED UNDER SECTION 6103(k)(8).—For purposes of this section, any reference to section 6103 shall be treated as including a reference to section 6311(e)."

(3) Section 6103(p)(3)(A) is amended by striking "or (6)" and inserting "(6), or (8)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day 9 months after the date of the enactment of this Act.

SEC. 14112. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income, "(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200 ($400 in the case of a joint return), and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 14113. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14114. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14115. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1995.

SEC. 14116. TREATMENT OF TRAVELING EXPENSES OF CERTAIN FEDERAL EMPLOYEES ENGAGED IN CRIMINAL INVESTIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 162 is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate, or provide support services for the investigation of, a Federal crime."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 14201. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new paragraph:

"(8) TERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply to any taxable year beginning after December 31, 1995.

"(B) RETENTION OF CERTAIN TRANSITION RULES.—Subparagraph (A) shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986."

SEC. 14202. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(2) Sections 406(e) and 407(e) are each amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 7701(a)(20) is amended by striking ", for the purposes of applying the provisions of section 101(b) with respect to employees' death benefits".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14203. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	300
More than 55 but not more than 60	260
More than 60 but not more than 65	240
More than 65 but not more than 70 ...	170
More than 70	120

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and "(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) Exception.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) Adjustment where annuity payments not on monthly basis.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) Qualified employer retirement plan.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) Treatment of employee contributions under defined contribution plans.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) Effective Date.—The amendment made by subsection (a) shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 14204. REQUIRED DISTRIBUTIONS.

(a) In General.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) Required beginning date.—For purposes of this paragraph—

"(i) In general.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) Exception.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) Actuarial adjustment.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) Exception for governmental and church plans.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) Effective Date.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 14211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) Increase in Number of Allowable Participants for Salary Reduction Arrangements.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) Repeal of Participation Requirement.—

(1) In general.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) Conforming amendments.—Clause (ii) of section 408(k)(6)(C) and clause (ii) of section 408(k)(6)(F) are each amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

(c) Alternative Test.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended by adding at the end the following new flush sentence:

"The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(d) Year for Computing Nonhighly Compensated Employee Percentage.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended—

(1) by striking "such year" in subclause (I) and inserting "the preceding year", and

(2) by adding at the end the following new flush sentence:

"In the case of the first plan year for which an employer makes contributions to a simplified employee pension, rules similar to the rules of section 401(k)(3)(E) shall apply."

(e) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14212. STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) In General.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) Eligibility of state and local governments and tax-exempt organizations.—Any—

"(i) State or local government or political subdivision thereof, or any agency or instrumentality thereof, and

"(ii) any organization exempt from tax under this subtitle,

may include a qualified cash or deferred arrangement as part of a plan maintained by it unless the entity maintains an eligible deferred compensation plan (as defined in section 457(b)). This subparagraph shall not apply to a rural cooperative plan."

(b) Effective Date.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) or (ii) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 14221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) In General.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) In general.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $80,000.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period in applying such section for purposes of this paragraph shall be the calendar quarter ending September 30, 1995."

(b) Conforming Amendments.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (2), (4), (5), (8), and (12) and by redesignating paragraphs (3), (6), (7), (9), (10), and (11) as paragraphs (2) through (7), respectively.

(B) Section 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(7)" and inserting "section 414(q)(4)".

(C) Sections 401(a)(17) and 404(l) are each amended by striking "section 414(q)(6)" and inserting "section 414(q)(3)".

(D) Section 416(i)(1)(A) is amended by striking "section 414(q)(8)" and inserting "section 414(r)(9)".

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) Excluded employees.—For purposes of paragraph (2)(A), the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Tax Simplification Act of 1995".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14222. REPEAL OF FAMILY AGGREGATION RULES.

(a) In General.—Paragraph (6) of section 414(q) is hereby repealed.

(b) Compensation Limit.—Subparagraph (A) of section 401(a)(17) is amended by striking the last sentence.

(c) Deduction.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14223. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) General Rule.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) In general.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) Separate Line of Business Test.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 14224. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) Alternative Methods of Satisfying Section 401(k) Nondiscrimination Tests.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) Alternative methods of meeting nondiscrimination requirements.—

"(A) In general.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) Matching contributions.—

"(i) In general.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) Rate for highly compensated employees.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) Alternative plan designs.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) Nonelective contributions.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) Notice requirement.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) Other requirements.—

"(i) Withdrawal and vesting restrictions.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) Social security and similar contributions not taken into account.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) Other plans.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) Alternative Methods of Satisfying Section 401(m) Nondiscrimination Tests.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) Alternative method of satisfying tests.—

"(A) In general.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) Limitation on matching contributions.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) Year for Computing Nonhighly Compensated Employee Percentage.—

(1) Cash or deferred arrangements.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) Matching and employee contributions.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employees", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) Special Rule for Determining Average Deferral Percentage for First Plan Year, Etc.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection."

(e) Distribution of Excess Contributions.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 14231. TREATMENT OF LEASED EMPLOYEES.

(a) General Rule.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under significant direction or control by the recipient."

(b) Effective Date.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 14232. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) Aggregation Rules.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) Contribution Limit on Owner-Employees.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 14233. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 14234. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after December 31, 1995.

SEC. 14235. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendment made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 14236. UNIFORM RETIREMENT AGE.

(a) DISCRIMINATION TESTING.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) SOCIAL SECURITY RETIREMENT AGE.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 14237. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) PENALTIES.—

(1) STATEMENTS.—Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) REPORTS.—Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting a comma, and by inserting after subparagraph (T) the following new subparagraphs:

"(U) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(V) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more."

(c) QUALIFYING ROLLOVER DISTRIBUTIONS.—Section 6652(i) is amended—

(1) by striking "the $10" and inserting "$100", and

(2) by striking "$5,000" and inserting "$50,000".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1995.

SEC. 14238. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 14239. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(14) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d) (determined without regard to paragraph (4)), except that the base period in applying such section for purposes of this paragraph shall be the calendar quarter ending September 30, 1994."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14240. TRUST REQUIREMENT FOR DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Section 457 is amended by adding at the end the following new subsection:

"(g) GOVERNMENTAL PLANS MUST MAINTAIN SET ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

"(1) IN GENERAL.—A plan maintained by an eligible employer described in subsection (e)(1)(A) shall not be treated as an eligible deferred compensation plan unless all assets and income of the plan described in subsection (b)(6) are held in trust for the exclusive benefit of participants and their beneficiaries.

"(2) TAXABILITY OF TRUSTS AND PARTICIPANTS.—For purposes of this title—

"(A) a trust described in paragraph (1) shall be treated as an organization exempt from taxation under section 501(a), and

"(B) notwithstanding any other provision of this title, amounts in the trust shall be includible in the gross income of participants and beneficiaries only to the extent, and at the time, provided in this section.

"(3) CUSTODIAL ACCOUNTS AND CONTRACTS.—For purposes of this subsection, custodial accounts and contracts described in section 401(f) shall be treated as trusts under rules similar to the rules under section 401(f)."

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 457(b) is amended by inserting "except as provided in subsection (g)," before "which provides that".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to assets and income described in section 457(b)(6) of the Internal Revenue Code of 1986 held by a plan on and after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of assets and income described in paragraph (1) held by a plan before the 90th day after the date of the enactment of this Act, a trust need not be established by reason of the amendments made by this section before such 90th day.

SEC. 14241. TRANSITION RULE FOR COMPUTING MAXIMUM BENEFITS UNDER SECTION 415 LIMITATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 767(d)(3) of the Uruguay Round Agreements Act is amended to read as follows:

"(A) EXCEPTION.—A plan that was adopted and in effect before December 8, 1994, shall not be required to apply the amendments made by subsection (b) with respect to benefits accrued before the earlier of—

"(i) the later of the date a plan amendment applying such amendment is adopted or made effective, or

"(ii) the first day of the first limitation year beginning after December 31, 1999.

Determinations under section 415(b)(2)(E) of the Internal Revenue Code of 1986 shall be made with respect to such benefits on the basis of such section as in effect on December 7, 1994, and the provisions of the plan as in effect on December 7, 1994, but only if such provisions of the plan meet the requirements of such section (as so in effect)."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act.

(c) TRANSITIONAL RULE.—In the case of a plan that was adopted and in effect before December 8, 1994, if—

(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act applying the amendments made by section 767(b) of the Uruguay Round Agreements Act, and

(2) within 1 year after the date of the enactment of this Act, a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).

SEC. 14242. MULTIPLE SALARY REDUCTION AGREEMENTS PERMITTED UNDER SECTION 403(b).

(a) GENERAL RULE.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 14243. WAIVER OF MINIMUM PERIOD FOR JOINT AND SURVIVOR ANNUITY EXPLANATION BEFORE ANNUITY STARTING DATE.

(a) GENERAL RULE.—For purposes of section 417(a)(3)(A) of the Internal Revenue Code of 1986 (relating to plan to provide written explanations), the minimum period prescribed by the Secretary of the Treasury between the date that the explanation referred to in such section is provided and the annuity starting date shall not apply if waived by the participant and, if applicable, the participant's spouse.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to plan years beginning after December 31, 1995.

SEC. 14244. REPEAL OF LIMITATION IN CASE OF DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN FOR SAME EMPLOYEE.

(a) IN GENERAL.—Section 415(e) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 415(b)(5) is amended by striking "and subsection (e)".

(2) Paragraph (1) of section 415(f) is amended by striking "subsections (b), (c), and (e)" and inserting "subsections (b) and (c)".

(3) Subsection (g) of section 415 is amended by striking "subsections (e) and (f)" in the last sentence and inserting "subsection (f)".

(4) Clause (i) of section 415(k)(2)(A) is amended to read as follows:

"(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and".

(5) Clause (ii) of section 415(k)(2)(A) is amended by striking "subsections (c) and (e)" and inserting "subsection (c)".

(6) Section 416 is amended by striking subsection (h).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to limitation years beginning after December 31, 1996.

SEC. 14245. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this title requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 14301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes,

"(10) the credit allowable under section 29, and

"(11) other items to the extent that the Secretary determines that the separate treatment of such items is appropriate.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CERTAIN SEPARATELY STATED ITEMS.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be), and any item referred to in subsection (a)(11), shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) Special Rules for Applying Passive Loss Limitations.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) General Rule.—

"(1) Taxable income.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) Elections.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901, and any election under section 108, shall be made by each partner separately.

"(3) Limitations, etc.—

"(A) In general.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) Certain limitations applied at partner level.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) Coordination with other provisions.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) Modifications to Determination of Taxable Income.—In determining the taxable income of a large partnership—

"(1) Certain deductions not allowed.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) Charitable deductions.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) Coordination with section 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) Special Rules for Income From Discharge of Indebtedness.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) Treatment of Certain Optional Adjustments, Etc.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) Credit Recapture Determined at Partnership Level.—

"(1) In general.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) Method of taking recapture into account.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) Dispositions not to trigger recapture.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) Credit recapture.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(c) Partnership Not Terminated by Reason of Change in Ownership.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(d) Partnership Entitled to Certain Credits.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(e) Treatment of REMIC Residuals.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(f) Special Rules for Applying Certain Installment Sale Rules.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP DEFINED.

"(a) General Rule.—For purposes of this part—

"(1) In general.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in any preceding partnership taxable year beginning after December 31, 1995, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) Election for partnerships with at least 100 partners.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) Special Rules for Certain Service Partnerships.—

"(1) Certain partners not counted.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) Exclusion.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) Special rule for lower tier partnerships.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) Exclusion of Commodity Pools.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) Secretary May Rely on Treatment on Return.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) Exception for Partnerships Holding Significant Oil and Gas Properties.—

"(1) In general.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without regard to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end the following new item:

"Part IV. Special rules for large partnerships."

SEC. 14302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end the following new subchapter:

"Subchapter D—Treatment of Large Partnerships

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C). A partnership may make an election under subparagraph (A) only if such partnership meets such requirements as the Secretary may prescribe to assure payment of such amount.

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and by treating any net increase in income as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions.—For purposes of this subchapter—

"(1) Large partnership.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) Partnership item.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) Partners Bound by Actions of Partnership, Etc.—

"(1) Designation of partner.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) Binding effect.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) Partnerships Having Principal Place of Business Outside the United States.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) Treatment Where Partnership Ceases To Exist.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) Date Decision Becomes Final.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) Partnerships in Cases Under Title 11 of the United States Code.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) Clerical Amendment.—The table of subchapters for chapter 63 is amended by adding at the end the following new item:

"Subchapter D. Treatment of large partnerships."

SEC. 14303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) General Rule.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) Treatment as Information Return.—Section 6724 is amended by adding at the end the following new subsection:

"(e) Special Rule for Certain Partnership Returns.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 14304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end the following new sentence:

"Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media."

SEC. 14305. TREATMENT OF PARTNERSHIP ITEMS OF INDIVIDUAL RETIREMENT ACCOUNTS.

Subsection (b) of section 6012 is amended by adding at the end the following new paragraph:

"(6) IRA share of partnership income.—In the case of a trust which is exempt from taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership."

SEC. 14306. EFFECTIVE DATE.

The amendments made by this part shall apply to partnership taxable years beginning after December 31, 1995.

PART II—PROVISIONS RELATED TO CERTAIN PARTNERSHIP PROCEEDINGS

SEC. 14311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) In General.—Subchapter C of chapter 63 is amended by adding at the end the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) General Rule.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) Oversheltered Return.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) Judicial Review in the Tax Court.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) Failure To File Petition.—

"(1) In general.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) Exception.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) Limitations Period.—

"(1) In general.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) Suspension when secretary mails notice of adjustment.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) Restrictions on assessment.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) Further Notices of Adjustment Restricted.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) Coordination With Other Proceedings Under This Subchapter.—

"(1) In general.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) Special rule in case of computational adjustment.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) Conversion to deficiency proceeding.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) Finally determined.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) Special Rules if Secretary Incorrectly Determines Applicable Procedure.—

"(1) Special rule if secretary erroneously mails notice of adjustment.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) Special rule if secretary erroneously mails notice of deficiency.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) Treatment of Partnership Items in Deficiency Proceedings.—Section 6211 (defining deficiency) is amended by adding at the end the following new subsection:

"(c) Coordination With Subchapter C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 63 is amended by adding at the end the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return."

(d) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) In General.—Section 6231 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(g) Partnership Return To Be Determinative of Whether Subchapter Applies.—

"(1) Determination that subchapter applies.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) Determination that subchapter does not apply.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) Suspension of Statute Where Untimely Petition Filed.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) Suspension of Statute During Bankruptcy Proceeding.—Section 6229 is amended by adding at the end the following new subsection:

"(h) Suspension During Pendency of Bankruptcy Proceeding.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) Tax Matters Partner in Bankruptcy.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Special rule with respect to debtors in title 11 cases.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) Effective Dates.—

(1) Subsections (a) and (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) Subsection (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 14314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) In General.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) In general.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1-YEAR LIMITATION ON ASSESSMENT.

(a) In General.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) Items Becoming Nonpartnership Items.—If" and inserting the following:

"(f) Special Rules.—

"(1) Items becoming nonpartnership items.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) Special rule for partial settlement agreements.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) Effective Date.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

SEC. 14316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) In General.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Special Rule in Case of Extension of Period of Limitations Under Section 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 14317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) In General.—Subsection (a) of section 6230 is amended by adding at the end the following new paragraph:

"(3) Special rule in case of assertion by partner's spouse of innocent spouse relief.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) Claims for Refund.—Subsection (c) of section 6230 is amended by adding at the end the following new paragraph:

"(5) Rules for seeking innocent spouse relief.—

"(A) In general.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) Time for filing claim.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice of computational adjustment referred to in subsection (a)(3)(A).

"(C) Suit if claim not allowed.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) Prior determinations are binding.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) Technical Amendments.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 14318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) In General.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) Conforming Amendments.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 14317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 14317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 14317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) Under paragraph (1) (A) or (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) Tax Court Jurisdiction To Enjoin Premature Assessments of Deficiencies Attributable to Partnership Items.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) Jurisdiction To Consider Statute of Limitations With Respect to Partners.—Paragraph (1) of section 6226(d) is amended by adding at the end the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) Tax Court Jurisdiction To Determine Overpayments Attributable to Affected Items.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6231(a)(5)), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b)(1) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 14320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 14321. BONDS IN CASE OF APPEALS FROM CERTAIN PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 14322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM CERTAIN SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments with respect to partnership taxable years beginning after the date of the enactment of this Act.

SEC. 14323. SPECIAL RULES FOR ADMINISTRATIVE ADJUSTMENT REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.

(a) GENERAL RULE.—Section 6227 (relating to administrative adjustment requests) is amended by adding at the end the following new subsection:

"(e) REQUESTS WITH RESPECT TO BAD DEBTS OR WORTHLESS SECURITIES.—In the case of that portion of any request for an administrative adjustment which relates to the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.

Subtitle D—Foreign Provisions

PART I—MODIFICATIONS TO TREATMENT OF PASSIVE FOREIGN INVESTMENT COMPANIES

SEC. 14401. UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS NOT SUBJECT TO PFIC INCLUSION.

Section 1296 is amended by adding at the end the following new subsection:

"(e) EXCEPTION FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this part, a corporation shall not be treated with respect to a shareholder as a passive foreign investment company during the qualified portion of such shareholder's holding period with respect to stock in such corporation.

"(2) QUALIFIED PORTION.—For purposes of this subsection, the term 'qualified portion' means the portion of the shareholder's holding period—

"(A) which is after December 31, 1995, and

"(B) during which the shareholder is a United States shareholder (as defined in section 951(b)) of the corporation and the corporation is a controlled foreign corporation.

"(3) NEW HOLDING PERIOD IF QUALIFIED PORTION ENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the qualified portion of a shareholder's holding period with respect to any stock ends after December 31, 1995, solely for purposes of this part, the shareholder's holding period with respect to such stock shall be treated as beginning as of the first day following such period.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if such stock was, with respect to such shareholder, stock in a passive foreign investment company at any time before the qualified portion of the shareholder's holding period with respect to such stock and no election under section 1298(b)(1) is made."

SEC. 14402. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK IN PASSIVE FOREIGN INVESTMENT COMPANY.

(a) IN GENERAL.—Part VI of subchapter P of chapter 1 is amended by redesignating subpart C as subpart D, by redesignating sections 1296 and 1297 as sections 1297 and 1298, respectively, and by inserting after subpart B the following new subpart:

"Subpart C—Election of Mark to Market For Marketable Stock

"Sec. 1296. Election of mark to market for marketable stock.

"SEC. 1296. ELECTION OF MARK TO MARKET FOR MARKETABLE STOCK.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign investment company which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person, at the election of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign investment company—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign investment company which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) Character and Source Rules.—

"(1) Ordinary treatment.—

"(A) Gain.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect), shall be treated as ordinary income.

"(B) Loss.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign investment company (with respect to which an election under this section is in effect) to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) Source.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign investment company.

"(d) Unreversed Inclusions.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign investment company, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1291.

"(e) Marketable Stock.—For purposes of this section—

"(1) In general.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part,

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, and

"(C) to the extent provided in regulations, any option on stock described in subparagraph (A) or (B).

"(2) Special rule for regulated investment companies.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign investment company which it owns directly or indirectly shall be treated as marketable stock for purposes of this section. Except as provided in regulations, similar treatment as marketable stock shall apply in the case of any other regulated investment company which publishes net asset valuations at least annually.

"(f) Treatment of Controlled Foreign Corporations Which Are Shareholders in Passive Foreign Investment Companies.—In the case of a foreign corporation which is a controlled foreign corporation and which owns (or is treated under subsection (g) as owning) stock in a passive foreign investment company—

"(1) this section (other than subsection (c)(2)) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) Stock Owned Through Certain Foreign Entities.—Except as provided in regulations—

"(1) In general.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) Treatment of certain dispositions.—In any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign investment company.

"(h) Coordination With Section 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) Stock Acquired From a Decedent.—In the case of stock of a passive foreign investment company which is acquired by bequest, devise, or inheritance (or by the decedent's estate) and with respect to which an election under this section was in effect as of the date of the decedent's death, notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this subsection).

"(j) Coordination With Section 1291 For First Year of Election.—

"(1) Taxpayers other than regulated investment companies.—

"(A) In general.—If the taxpayer elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, and if the requirements of subparagraph (B) are not satisfied, section 1291 shall apply to—

"(i) any distributions with respect to, or disposition of, such stock in the first taxable year of the taxpayer for which such election is made, and

"(ii) any amount which, but for section 1291, would have been included in gross income under subsection (a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(B) Requirements.—The requirements of this subparagraph are met if, with respect to each of such corporation's taxable years for which such corporation was a passive foreign investment company and which begin after December 31, 1986, and included any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part with respect to the taxpayer.

"(2) Special rules for regulated investment companies.—

"(A) In general.—If a regulated investment company elects the application of this section with respect to any marketable stock in a corporation after the beginning of the taxpayer's holding period in such stock, then, with respect to such company's first taxable year for which such company elects the application of this section with respect to such stock—

"(i) section 1291 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such regulated investment company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1291(c)(3) if section 1291 were applied without regard to this subparagraph.

Clause (ii) shall not apply if for the preceding taxable year the company elected to mark to market the stock held by such company as of the last day of such preceding taxable year.

"(B) Disallowance of deduction.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"(k) Election.—This section shall apply to marketable stock in a passive foreign investment company which is held by a United States person only if such person elects to apply this section with respect to such stock. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless—

"(1) such stock ceases to be marketable stock, or

"(2) the Secretary consents to the revocation of such election.

"(l) Transition Rule for Individuals Becoming Subject to United States Tax.—If any individual becomes a United States person in a taxable year beginning after December 31, 1995, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign investment company owned by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day."

(b) Coordination With Interest Charge, Etc.—

(1) Paragraph (1) of section 1291(d) is amended by adding at the end the following new flush sentence:

"Except as provided in section 1296(j), this section also shall not apply if an election under section 1296(k) is in effect for the taxpayer's taxable year."

(2) The subsection heading for subsection (d) of section 1291 is amended by striking "SUBPART B" and inserting "SUBPARTS B AND C".

(3) Subparagraph (A) of section 1291(a)(3) is amended to read as follows:

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1296 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1296 so applied."

(c) CONFORMING AMENDMENTS.—

(1) Sections 532(b)(4) and 542(c)(10) are each amended by striking "section 1296" and inserting "section 1297".

(2) Subsection (f) of section 551 is amended by striking "section 1297(b)(5)" and inserting "section 1298(b)(5)".

(3) Subsections (a)(1) and (d) of section 1293 are each amended by striking "section 1297(a)" and inserting "section 1298(a)".

(4) Paragraph (3) of section 1297(b), as redesignated by subsection (a), is hereby repealed.

(5) The table of sections for subpart D of part VI of subchapter P of chapter 1, as redesignated by subsection (a), is amended to read as follows:

"Sec. 1297. Passive foreign investment company.
"Sec. 1298. Special rules."

(6) The table of subparts for part VI of subchapter P of chapter 1 is amended by striking the last item and inserting the following new items:

"Subpart C. Election of mark to market for marketable stock.
"Subpart D. General provisions."

(d) CLARIFICATION OF GAIN RECOGNITION ELECTION.—The last sentence of section 1298(b)(1), as so redesignated, is amended by inserting "(determined without regard to the preceding sentence)" after "investment company".

SEC. 14403. MODIFICATIONS TO DEFINITION OF PASSIVE INCOME.

(a) EXCEPTION FOR SAME COUNTRY INCOME NOT TO APPLY.—Paragraph (1) of section 1297(b) (defining passive income), as redesignated by section 14402, is amended by inserting before the period "without regard to paragraph (3) thereof".

(b) PASSIVE INCOME NOT TO INCLUDE FSC INCOME.—Paragraph (2) of section 1297(b), as so redesignated, is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) any foreign trade income of a FSC."

SEC. 14404. EFFECTIVE DATE.

The amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1995, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 14411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end the following new subsection:

"(e) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock."

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking "and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act.

SEC. 14412. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1995.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end the following new subsection:

"(g) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 14413. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain.

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

SEC. 14414. REPEAL OF INCLUSION OF CERTAIN EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) IN GENERAL.—

(1) REPEAL OF INCLUSION.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking subparagraph (C), by striking "; and" at the end of subparagraph (B) and inserting a period, and by adding "and" at the end of subparagraph (A).

(2) REPEAL OF INCLUSION AMOUNT.—Section 956A (relating to earnings invested in excess passive assets) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 904(d)(3) is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(2) Paragraph (1) of section 956(b) is amended to read as follows:

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

"(A) the amount (not including a deficit) referred to in section 316(a)(1), and

"(B) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year."

(3) Paragraph (3) of section 956(b) is amended to read as follows:

"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(A) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation,

"(B) the average referred to in subsection (a)(1)(A) for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(C) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation."

(4) Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding "or" at the end of paragraph (1), by striking "or" at the end of paragraph (2), and by striking paragraph (3).

(5) Subsection (a) of section 959 is amended by striking "paragraphs (2) and (3)" in the last sentence and inserting "paragraph (2)".

(6) Subsection (c) of section 959 is amended by adding at the end the following flush sentence:

"References in this subsection to section 951(a)(1)(C) and subsection (a)(3) shall be treated as references to such provisions as in effect on the day before the date of the enactment of the Tax Simplification Act of 1995."

(7) Paragraph (1) of section 959(f) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3)."

(8) Paragraph (2) of section 959(f) is amended by striking "subparagraphs (B) and (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(9) Subsection (b) of section 989 is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(10) Paragraph (9) of section 1298(b), as redesignated by section 14402, is amended by striking "subparagraph (B) or (C) of section 951(a)(1)" and inserting "section 951(a)(1)(B)".

(11) Subsections (d)(3)(B) and (e)(2)(B)(ii) of section 1298, as redesignated by section 14402, are each amended by striking "or section 956A".

(c) CLERICAL AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by striking the item relating to section 956A.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1995, and to taxable years of United States shareholders within which or with which such taxable years of foreign corporations end.

PART III—OTHER PROVISIONS

SEC. 14421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—Subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under regulations prescribed by the Secretary.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (as amended by subsection (a)) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b) shall apply to taxes paid or accrued in taxable years beginning after December 31, 1995.

(2) SUBSECTION (a)(2).—The amendment made by subsection (a)(2) shall apply to taxes which relate to taxable years beginning after December 31, 1995.

SEC. 14422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1995, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle (other than for purposes of section 679), such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) Paragraph (8) of section 6501(c) is amended by inserting "or on any transfer by reason of section 1491" after "section 367".

(5) Subsection (a) of section 6038B is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) makes any transfer described in section 1491,".

(6) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(7) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1995.

SEC. 14424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 14425. INCREASE IN FILING THRESHOLDS FOR RETURNS AS TO ORGANIZATION OF FOREIGN CORPORATIONS AND ACQUISITIONS OF STOCK IN SUCH CORPORATIONS.

(a) IN GENERAL.—Subsection (a) of section 6046 (relating to returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended to read as follows:

"(a) REQUIREMENT OF RETURN.—

"(1) IN GENERAL.—A return complying with the requirements of subsection (b) shall be made by—

"(A) each United States citizen or resident who becomes an officer or director of a foreign corporation if a United States person (as defined in section 7701(a)(30)) meets the stock ownership requirements of paragraph (2) with respect to such corporation,

"(B) each United States person—

"(i) who acquires stock which, when added to any stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation, or

"(ii) who acquires stock which, without regard to stock owned on the date of such acquisition, meets the stock ownership requirements of paragraph (2) with respect to a foreign corporation,

"(C) each person (not described in subparagraph (B)) who is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and

"(D) each person who becomes a United States person while meeting the stock ownership requirements of paragraph (2) with respect to stock of a foreign corporation.

In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), subparagraph (A) shall be treated as including a reference to each United States person who is an officer or director of such corporation.

"(2) STOCK OWNERSHIP REQUIREMENTS.—A person meets the stock ownership requirements of this paragraph with respect to any corporation if such person owns 10 percent or more of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.

SEC. 14426. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

"(7) FOREIGN PERSONS.—This section shall apply to any taxpayer who is not a United States person only for purposes of—

"(A) tax liability with respect to income which is effectively connected with the conduct of a trade or business in the United States, and

"(B) tax liability of a United States shareholder (as defined in section 951(b)) with respect to amounts includible in gross income under section 951(a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995. Section 481 of the Internal Revenue Code of 1986 shall not apply to any change in a method of accounting by reason of such amendment.

SEC. 14427. CERTAIN PRIZES AND AWARDS.

(a) IN GENERAL.—Section 863 (relating to special rules for determining source) is amended by adding at the end the following new subsection:

"(f) CERTAIN PRIZES AND AWARDS ASSOCIATED WITH AMATEUR SPORTS COMPETITIONS.—

"(1) IN GENERAL.—A prize or award received by a nonresident alien by reason of participating in an amateur sports competition in the United States shall not be treated as derived from sources within the United States if such alien performs no services for such prize or award.

"(2) AMATEUR SPORTS COMPETITION.—For purposes of paragraph (1), the term 'amateur sports competition' means any competition in which the only prizes awarded by the sponsors of the competition are of nominal value."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to prizes and awards granted after the date of the enactment of this Act.

SEC. 14428. TREATMENT FOR ESTATE TAX PURPOSES OF SHORT-TERM OBLIGATIONS HELD BY NONRESIDENT ALIENS.

(a) IN GENERAL.—Subsection (b) of section 2105 is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

Subtitle E—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO S CORPORATIONS

SEC. 14501. S CORPORATIONS PERMITTED TO HAVE 75 SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35 shareholders" and inserting "75 shareholders".

SEC. 14502. ELECTING SMALL BUSINESS TRUSTS.

(a) GENERAL RULE.—Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (iv) the following new clause:

"(v) An electing small business trust."

(b) CURRENT BENEFICIARIES TREATED AS SHAREHOLDERS.—Subparagraph (B) of section 1361(c)(2) is amended by adding at the end the following new clause:

"(v) In the case of a trust described in clause (v) of subparagraph (A), each potential current beneficiary of such trust shall be treated as a shareholder; except that, if for any period there is no potential current beneficiary of such trust, such trust shall be treated as the shareholder during such period."

(c) ELECTING SMALL BUSINESS TRUST DEFINED.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

"(e) ELECTING SMALL BUSINESS TRUST DEFINED.—

"(1) ELECTING SMALL BUSINESS TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'electing small business trust' means any trust if—

"(i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, or (III) an organization described in paragraph (2), (3), (4), or (5) of section 170(c) which holds a contingent interest and is not a potential current beneficiary,

"(ii) no interest in such trust was acquired by purchase, and

"(iii) an election under this subsection applies to such trust.

"(B) CERTAIN TRUSTS NOT ELIGIBLE.—The term 'electing small business trust' shall not include—

"(i) any qualified subchapter S trust (as defined in subsection (d)(3)) if an election under subsection (d)(2) applies to any corporation the stock of which is held by such trust, and

"(ii) any trust exempt from tax under this subtitle.

"(C) PURCHASE.—For purposes of subparagraph (A), the term 'purchase' means any acquisition if the basis of the property acquired is determined under section 1012.

"(2) POTENTIAL CURRENT BENEFICIARY.—For purposes of this section, the term 'potential current beneficiary' means, with respect to any period, any person who at any time during such period is entitled to, or at the discretion of any person may receive, a distribution from the principal or income of the trust. If a trust disposes of all of the stock which it holds in an S corporation, then, with respect to such corporation, the term 'potential current beneficiary' does not include any person who first met the requirements of the preceding sentence during the 60-day period ending on the date of such disposition.

"(3) ELECTION.—An election under this subsection shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

"(4) CROSS REFERENCE.—

"For special treatment of electing small business trusts, see section 641(d)."

(d) TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—Section 641 (relating to imposition of tax on trusts) is amended by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR TAXATION OF ELECTING SMALL BUSINESS TRUSTS.—

"(1) IN GENERAL.—For purposes of this chapter—

"(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

"(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

"(2) MODIFICATIONS.—For purposes of paragraph (1), the modifications of this paragraph are the following:

"(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

"(B) The exemption amount under section 55(d) shall be zero.

"(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

"(i) The items required to be taken into account under section 1366.

"(ii) Any gain or loss from the disposition of stock in an S corporation.

"(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

"(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

"(3) TREATMENT OF REMAINDER OF TRUST AND DISTRIBUTIONS.—For purposes of determining—

"(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

"(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

"(4) TREATMENT OF UNUSED DEDUCTIONS WHERE TERMINATION OF SEPARATE TRUST.—If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

"(5) ELECTING SMALL BUSINESS TRUST.—For purposes of this subsection, the term 'electing small business trust' has the meaning given such term by section 1361(e)(1)."

(e) TECHNICAL AMENDMENT.—Paragraph (1) of section 1366(a) is amended by inserting ", or of a trust or estate which terminates," after "who dies".

SEC. 14503. EXPANSION OF POST-DEATH QUALIFICATION FOR CERTAIN TRUSTS.

Subparagraph (A) of section 1361(c)(2) (relating to certain trusts permitted as shareholders) is amended—

(1) by striking "60-day period" each place it appears in clauses (ii) and (iii) and inserting "2-year period", and

(2) by striking the last sentence in clause (ii).

SEC. 14504. FINANCIAL INSTITUTIONS PERMITTED TO HOLD SAFE HARBOR DEBT.

Clause (iii) of section 1361(c)(5)(B) (defining straight debt) is amended by striking "or a trust described in paragraph (2)" and inserting "a trust described in paragraph (2), or a person which is actively and regularly engaged in the business of lending money."

SEC. 14505. RULES RELATING TO INADVERTENT TERMINATIONS AND INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 14506. AGREEMENT TO TERMINATE YEAR.

Paragraph (2) of section 1377(a) (relating to pro rata share) is amended to read as follows:

"(2) ELECTION TO TERMINATE YEAR.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, if any shareholder terminates the shareholder's interest in the corporation during the taxable year and all affected shareholders and the corporation agree to the application of this paragraph, paragraph (1) shall be applied to the affected shareholders as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination.

"(B) AFFECTED SHAREHOLDERS.—For purposes of subparagraph (A), the term 'affected shareholders' means the shareholder whose interest is terminated and all shareholders to whom such shareholder has transferred shares during the taxable year. If such shareholder has transferred shares to the corporation, the term 'affected shareholders' shall include all persons who are shareholders during the taxable year."

SEC. 14507. EXPANSION OF POST-TERMINATION TRANSITION PERIOD.

(a) IN GENERAL.—Paragraph (1) of section 1377(b) (relating to post-termination transition period) is amended by striking "and" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) the 120-day period beginning on the date of any determination pursuant to an audit of the taxpayer which follows the termination of the corporation's election and which adjusts a subchapter S item of income, loss, or deduction of the corporation arising during the S period (as defined in section 1368(e)(2)), and".

(b) DETERMINATION DEFINED.—Paragraph (2) of section 1377(b) is amended by striking subparagraphs (A) and (B), by redesignating subparagraph (C) as subparagraph (B), and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) a determination as defined in section 1313(a), or".

(c) REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.—

(1) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(2) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(3) CONFORMING AMENDMENTS.—

(A) Section 1366 is amended by striking subsection (g).

(B) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(C) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

SEC. 14508. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) Treatment of Certain Wholly Owned S Corporation Subsidiaries.—Section 1361(b) (defining small business corporation) is amended by adding at the end the following new paragraph:

"(3) Treatment of certain wholly owned subsidiaries.—

"(A) In general.—For purposes of this title—

"(i) a corporation which is a qualified subchapter S subsidiary shall not be treated as a separate corporation, and

"(ii) all assets, liabilities, and items of income, deduction, and credit of a qualified subchapter S subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

"(B) Qualified subchapter S subsidiary.—For purposes of this paragraph, the term 'qualified subchapter S subsidiary' means any domestic corporation which is not an ineligible corporation (as defined in paragraph (2)), if—

"(i) 100 percent of the stock of such corporation is held by the S corporation, and

"(ii) the S corporation elects to treat such corporation as a qualified subchapter S subsidiary.

"(C) Treatment of terminations of qualified subchapter S subsidiary status.—For purposes of this title, if any corporation which was a qualified subchapter S subsidiary ceases to meet the requirements of subparagraph (B), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the S corporation in exchange for its stock."

(c) Certain Dividends Not Treated as Passive Investment Income.—Paragraph (3) of section 1362(d) is amended by adding at the end the following new subparagraph:

"(F) Treatment of certain dividends.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business."

(d) Conforming Amendments.—

(1) Subsection (c) of section 1361 is amended by striking paragraph (6).

(2) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end the following new paragraph:

"(8) An S corporation."

SEC. 14509. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) Adjustments for Distributions Taken Into Account Before Losses.—

(1) Subparagraph (A) of section 1366(d)(1) (relating to losses and deductions cannot exceed shareholder's basis in stock and debt) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 (relating to certain adjustments taken into account) is amended by adding at the end the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) Accumulated Adjustments Account.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end the following new subparagraph:

"(C) Net loss for year disregarded.—

"(i) In general.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) Net negative adjustment.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) Conforming Amendments.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

SEC. 14510. TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.

Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) Application of Subchapter C Rules.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

SEC. 14511. ELIMINATION OF CERTAIN EARNINGS AND PROFITS.

(a) In General.—If—

(1) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(2) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1995,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(b) Conforming Amendments.—

(1) Paragraph (3) of section 1362(d) is amended—

(A) by striking "Subchapter C" in the paragraph heading and inserting "Accumulated",

(B) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(C) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(2)(A) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(B) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) Passive investment income, etc.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(C) The section heading for section 1375 is amended by striking "**SUBCHAPTER C**" and inserting "**ACCUMULATED**".

(D) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(3) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

SEC. 14512. CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS UNDER AT-RISK RULES ALLOWED.

Paragraph (3) of section 1366(d) (relating to carryover of disallowed losses and deductions to post-termination transition period) is amended by adding at the end the following new subparagraph:

"(D) At-risk limitations.—To the extent that any increase in adjusted basis described in subparagraph (B) would have increased the shareholder's amount at risk under section 465 if such increase had occurred on the day preceding the commencement of the post-termination transition period, rules similar to the rules described in subparagraphs (A) through (C) shall apply to any losses disallowed by reason of section 465(a)."

SEC. 14513. ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.

(a) In General.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new paragraph:

"(4) Adjustments in case of inherited stock.—

"(A) In general.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) Adjustments to basis.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(b) Effective Date.—The amendment made by subsection (a) shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 14514. S CORPORATIONS ELIGIBLE FOR RULES APPLICABLE TO REAL PROPERTY SUBDIVIDED FOR SALE BY NONCORPORATE TAXPAYERS.

(a) In General.—Subsection (a) of section 1237 (relating to real property subdivided for sale) is amended by striking "other than a corporation" in the material preceding paragraph (1) and inserting "other than a C corporation".

(b) Conforming Amendment.—Subparagraph (A) of section 1237(a)(2) is amended by inserting "an S corporation which included the taxpayer as a shareholder," after "controlled by the taxpayer,".

SEC. 14515. EFFECTIVE DATE.

(a) In General.—Except as otherwise provided in this part, the amendments made by this part shall apply to taxable years beginning after December 31, 1995.

(b) Treatment of Certain Elections Under Prior Law.—For purposes of section 1362(g) of the Internal Revenue Code of 1986 (relating to election after termination), any termination under section 1362(d) of such Code in a taxable year beginning before January 1, 1996, shall not be taken into account.

PART II—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 14521. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) General Rule.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

PART III—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS

SEC. 14531. CLARIFICATION OF LIMITATION ON MAXIMUM NUMBER OF SHAREHOLDERS.

(a) RULES RELATING TO DETERMINATION OF OWNERSHIP.—

(1) FAILURE TO ISSUE SHAREHOLDER DEMAND LETTER NOT TO DISQUALIFY REIT.—Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) SHAREHOLDER DEMAND LETTER REQUIREMENT; PENALTY.—Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) REAL ESTATE INVESTMENT TRUSTS TO ASCERTAIN OWNERSHIP.—

"(1) IN GENERAL.—Each real estate investment trust shall each taxable year comply with regulations prescribed by the Secretary for the purposes of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

"(2) FAILURE TO COMPLY.—

"(A) IN GENERAL.—If a real estate investment trust fails to comply with the requirements of paragraph (1) for a taxable year, such trust shall pay (on notice and demand by the Secretary and in the same manner as tax) a penalty of $25,000.

"(B) INTENTIONAL DISREGARD.—If any failure under paragraph (1) is due to intentional disregard of the requirement under paragraph (1), the penalty under subparagraph (A) shall be $50,000.

"(C) FAILURE TO COMPLY AFTER NOTICE.—The Secretary may require a real estate investment trust to take such actions as the Secretary determines appropriate to ascertain actual ownership if the trust fails to meet the requirements of paragraph (1). If the trust fails to take such actions, the trust shall pay (on notice and demand by the Secretary and in the same manner as tax) an additional penalty equal to the penalty determined under subparagraph (A) or (B), whichever is applicable.

"(D) REASONABLE CAUSE.—No penalty shall be imposed under this paragraph with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect."

(b) COMPLIANCE WITH CLOSELY HELD PROHIBITION.—

(1) IN GENERAL.—Section 856 (defining real estate investment trust) is amended by adding at the end the following new subsection:

"(k) REQUIREMENT THAT ENTITY NOT BE CLOSELY HELD TREATED AS MET IN CERTAIN CASES.—A corporation, trust, or association—

"(1) which for a taxable year meets the requirements of section 857(f)(1), and

"(2) which does not know, or exercising reasonable diligence would not have known, whether the entity failed to meet the requirement of subsection (a)(6),

shall be treated as having met the requirement of subsection (a)(6) for the taxable year."

(2) CONFORMING AMENDMENT.—Paragraph (6) of section 856(a) is amended by inserting "subject to the provisions of subsection (k)," before "which is not".

SEC. 14532. DE MINIMIS RULE FOR TENANT SERVICES INCOME.

(a) IN GENERAL.—Paragraph (2) of section 856(d) (defining rents from real property) is amended by striking subparagraph (C) and the last sentence and inserting:

"(C) any impermissible tenant service income (as defined in paragraph (7))."

(b) IMPERMISSIBLE TENANT SERVICE INCOME.—Section 856(d) is amended by adding at the end the following new paragraph:

"(7) IMPERMISSIBLE TENANT SERVICE INCOME.—For purposes of paragraph (2)(C)—

"(A) IN GENERAL.—The term 'impermissible tenant service income' means, with respect to any real or personal property, any amount received or accrued directly or indirectly by the real estate investment trust for—

"(i) services furnished or rendered by the trust to the tenants of such property, or

"(ii) managing or operating such property.

"(B) DISQUALIFICATION OF ALL AMOUNTS WHERE MORE THAN DE MINIMIS AMOUNT.—If the amount described in subparagraph (A) with respect to a property for any taxable year exceeds 1 percent of all amounts received or accrued during such taxable year directly or indirectly by the real estate investment trust with respect to such property, the impermissible tenant service income of the trust with respect to the property shall include all such amounts.

"(C) EXCEPTIONS.—For purposes of subparagraph (A)—

"(i) services furnished or rendered, or management or operation provided, through an independent contractor from whom the trust itself does not derive or receive any income shall not be treated as furnished, rendered, or provided by the trust, and

"(ii) there shall not be taken into account any amount which would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2).

"(D) AMOUNT ATTRIBUTABLE TO IMPERMISSIBLE SERVICES.—For purposes of subparagraph (A), the amount treated as received for any service (or management or operation) shall not be less than 150 percent of the direct cost of the trust in furnishing or rendering the service (or providing the management or operation).

"(E) COORDINATION WITH LIMITATIONS.—For purposes of paragraphs (2) and (3) of subsection (c), amounts described in subparagraph (A) shall be included in the gross income of the corporation, trust, or association."

SEC. 14533. ATTRIBUTION RULES APPLICABLE TO TENANT OWNERSHIP.

Section 856(d)(5) (relating to constructive ownership of stock) is amended by adding at the end the following: "For purposes of paragraph (2)(B), section 318(a)(3)(A) shall be applied under the preceding sentence in the case of a partnership by taking into account only partners who own (directly or indirectly) 25 percent or more of the capital interest, or the profits interest, in the partnership."

SEC. 14534. CREDIT FOR TAX PAID BY REIT ON RETAINED CAPITAL GAINS.

(a) GENERAL RULE.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT BY SHAREHOLDERS OF UNDISTRIBUTED CAPITAL GAINS.—

"(i) Every shareholder of a real estate investment trust at the close of the trust's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the trust's taxable year falls, such amount as the trust shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year), but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A)(ii) which he would have received if all of such amount had been distributed as capital gain dividends by the trust to the holders of such shares at the close of its taxable year.

"(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A)(ii) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholders shall be allowed credit or refund as the case may be, for the tax so deemed to have been paid by him.

"(iii) The adjusted basis of such shares in the hands of the holder shall be increased with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

"(iv) In the event of such designation, the tax imposed by subparagraph (A)(ii) shall be paid by the real estate investment trust within 30 days after the close of its taxable year.

"(v) The earnings and profits of such real estate investment trust, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

"(vi) As used in this subparagraph, the terms 'shares' and 'shareholders' shall include beneficial interests and holders of beneficial interests, respectively."

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 857(b)(7)(A) is amended by striking "subparagraph (B)" and inserting "subparagraph (B) or (D)".

(2) Clause (iii) of section 852(b)(3)(D) is amended by striking "by 65 percent" and all that follows and inserting "by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii)."

SEC. 14535. REPEAL OF 30-PERCENT GROSS INCOME REQUIREMENT.

(a) GENERAL RULE.—Subsection (c) of section 856 (relating to limitations) is amended—

(1) by adding "and" at the end of paragraph (3),

(2) by striking paragraphs (4) and (8), and

(3) by redesignating paragraphs (5), (6), and (7) as paragraphs (4), (5), and (6), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (G) of section 856(c)(5), as redesignated by subsection (a), is amended by striking "and such agreement shall be treated as a security for purposes of paragraph (4)(A)".

(2) Paragraph (5) of section 857(b) is amended by striking "section 856(c)(7)" and inserting "section 856(c)(6)".

(3) Subparagraph (C) of section 857(b)(6) is amended by striking "section 856(c)(6)(B)" and inserting "section 856(c)(5)(B)".

SEC. 14536. MODIFICATION OF EARNINGS AND PROFITS RULES FOR DETERMINING WHETHER REIT HAS EARNINGS AND PROFITS FROM NON-REIT YEAR.

Subsection (d) of section 857 is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

"(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from the earliest accumulated earnings and profits (other than earnings and profits to which subsection (a)(2)(A) applies) rather than the most recently accumulated earnings and profits, and

"(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(B)."

SEC. 14537. TREATMENT OF FORECLOSURE PROPERTY.

(a) GRACE PERIODS.—

(1) INITIAL PERIOD.—Paragraph (2) of section 856(e) (relating to special rules for foreclosure property) is amended by striking "on the date which is 2 years after the date the trust acquired such property" and inserting "as of the close of the 3d taxable year following the taxable year in which the trust acquired such property".

(2) EXTENSION.—Paragraph (3) of section 856(e) is amended—

(A) by striking "or more extensions" and inserting "extension", and

(B) by striking the last sentence and inserting: "Any such extension shall not extend the grace period beyond the close of the 3d taxable year following the last taxable year in the period under paragraph (2)."

(b) REVOCATION OF ELECTION.—Paragraph (5) of section 856(e) is amended by striking the last sentence and inserting: "A real estate investment trust may revoke any such election for a taxable year by filing the revocation (in the manner provided by the Secretary) on or before the due date (including any extension of time) for filing its return of tax under this chapter for the taxable year. If a trust revokes an election for any property, no election may be made by the trust under this paragraph with respect to the property for any subsequent taxable year."

(c) CERTAIN ACTIVITIES NOT TO DISQUALIFY PROPERTY.—Paragraph (4) of section 856(e) is amended by adding at the end the following new flush sentence:

"For purposes of subparagraph (C), property shall not be treated as used in a trade or business by reason of any activities of the real estate investment trust with respect to such property to the extent that such activities would not result in amounts received or accrued, directly or indirectly, with respect to such property being treated as other than rents from real property."

SEC. 14538. PAYMENTS UNDER HEDGING INSTRUMENTS.

Section 856(c)(5)(G) (relating to treatment of certain interest rate agreements), as redesignated by section 14535, is amended to read as follows:

"(G) TREATMENT OF CERTAIN HEDGING INSTRUMENTS.—Except to the extent provided by regulations, any—

"(i) payment to a real estate investment trust under an interest rate swap or cap agreement, option, futures contract, forward rate agreement, or any similar financial instrument, entered into by the trust in a transaction to reduce the interest rate risks with respect to any indebtedness incurred or to be incurred by the trust to acquire or carry real estate assets, and

"(ii) gain from the sale or other disposition of any such investment,

shall be treated as income qualifying under paragraph (2)."

SEC. 14539. EXCESS NONCASH INCOME.

Section 857(e)(2) (relating to determination of amount of excess noncash income) is amended—

(1) by striking subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting a comma,

(3) by redesignating subparagraph (C) (as amended by paragraph (2)) as subparagraph (B), and

(4) by adding at the end the following new subparagraphs:

"(C) the amount (if any) by which—

"(i) the amounts includible in gross income with respect to instruments to which section 860E(a) or 1272 applies, exceed

"(ii) the amount of money and the fair market value of other property received during the taxable year under such instruments, and

"(D) amounts includible in income by reason of cancellation of indebtedness."

SEC. 14540. PROHIBITED TRANSACTION SAFE HARBOR.

Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended by striking "(other than foreclosure property)" in subclauses (I) and (II) and inserting "(other than sales of foreclosure property or sales to which section 1033 applies)".

SEC. 14541. SHARED APPRECIATION MORTGAGES.

(a) BANKRUPTCY SAFE HARBOR.—Section 856(j) (relating to treatment of shared appreciation mortgages) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) COORDINATION WITH 4-YEAR HOLDING PERIOD.—

"(A) IN GENERAL.—For purposes of section 857(b)(6)(C), if a real estate investment trust is treated as having sold secured property under paragraph (3)(A), the trust shall be treated as having held such property for at least 4 years if—

"(i) the secured property is sold or otherwise disposed of pursuant to a case under title 11 of the United States Code,

"(ii) the seller is under the jurisdiction of the court in such case, and

"(iii) the disposition is required by the court or is pursuant to a plan approved by the court.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if—

"(i) the secured property was acquired by the trust with the intent to evict or foreclose, or

"(ii) the trust knew or had reason to know that default on the obligation described in paragraph (5)(A) would occur."

(b) CLARIFICATION OF DEFINITION OF SHARED APPRECIATION PROVISION.—Clause (ii) of section 856(j)(5)(A) is amended by inserting before the period "or appreciation in value as of any specified date".

SEC. 14542. WHOLLY OWNED SUBSIDIARIES.

Section 856(i)(2) (defining qualified REIT subsidiary) is amended by striking "at all times during the period such corporation was in existence".

SEC. 14543. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after the date of the enactment of this Act.

PART IV—ACCOUNTING PROVISIONS

SEC. 14551. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 14552. APPLICATION OF MARK TO MARKET ACCOUNTING METHOD TO TRADERS IN SECURITIES.

(a) IN GENERAL.—Section 475 (relating to mark to market accounting method for dealers in securities) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) AUTHORITY TO EXTEND METHOD TO TRADERS IN SECURITIES.—

"(1) IN GENERAL.—A trader in securities may elect to have the provisions of this section (other than subsection (d)(3)) apply to securities held by the trader. Such election may be made only with the consent of the Secretary.

"(2) TRADER IN SECURITIES.—For purposes of this subsection, the term 'trader in securities' means a taxpayer who is regularly engaged in trading securities."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on and after December 31, 1995.

SEC. 14553. MODIFICATION OF RULING AMOUNTS FOR NUCLEAR DECOMMISSIONING COSTS.

(a) IN GENERAL.—Section 468A(d) (relating to ruling amount) is amended by adding at the end the following new paragraph:

"(4) NONSUBSTANTIAL MODIFICATIONS.—A taxpayer may modify a schedule of ruling amounts under paragraph (1) without a review under paragraph (3) if such modification does not substantially modify the ruling amount. The taxpayer shall notify the Secretary of any such modification."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to modifications after the date of the enactment of this Act.

SEC. 14554. ELECTION OF ALTERNATIVE TAXABLE YEARS BY PARTNERSHIPS AND S CORPORATIONS.

(a) REPEAL OF LIMITATION ON WHAT TAXABLE YEAR MAY BE ELECTED.—

(1) IN GENERAL.—Section 444(b) (relating to limitations on taxable years which may be elected) is amended by adding at the end the following new paragraph:

"(5) LIMITATIONS NOT TO APPLY TO CERTAIN PARTNERSHIPS AND S CORPORATIONS.—

"(A) IN GENERAL.—In the case of a partnership or an S corporation, this subsection shall not apply to an election under subsection (a) for a taxable year beginning after December 31, 1996.

"(B) SPECIAL RULE FOR EXISTING ELECTIONS.—

"(i) IN GENERAL.—If a partnership or S corporation has an election in effect for its last taxable year beginning before January 1, 1997, the partnership or S corporation may elect to have this paragraph apply beginning with any taxable year beginning after December 31, 1996. Such an election may be made without the consent of the Secretary and shall not be treated as a termination of an election for purposes of subsection (d).

"(ii) TREATMENT OF REQUIRED PAYMENTS.—A partnership or S corporation making an election under clause (i) may elect to have its net required payment balance (within the meaning of section 7519(e)(4))—

"(I) credited against its first estimated tax payment under section 6654A for its first full taxable year for which such section applies, or

"(II) refunded to it at the time provided in section 7519(c)(3)."

(2) EFFECT OF ELECTION.—Paragraph (1) of section 444(c) (relating to effect of election) is amended to read as follows:

"(1) in the case of a partnership or S corporation, such entity shall—

"(A) make the payments required by section 7519, or

"(B) if subsection (b)(5) applies to the election, make the estimated tax payments described in section 6654A, and".

(b) ESTIMATED TAX FOR PARTNERSHIPS AND S CORPORATIONS MAKING TAXABLE YEAR ELECTIONS.—Part I of subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by inserting after section 6654 the following new section:

"SEC. 6654A. FAILURE BY ELECTING PARTNERSHIP OR S CORPORATION TO PAY ESTIMATED TAX.

"(a) PENALTY.—Except as otherwise provided in this section, in the case of a partnership or S corporation with respect to which an election to which section 444(b)(5) applies is in effect (hereafter referred to as 'the entity'), there is hereby imposed a penalty for each quarter for which there is an underpayment in an amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to the earlier of—

"(A) the first April 15 more than 3 months after the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

"(c) REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) NUMBER AND DATES.—An entity shall make 4 required installments which shall be due on the 15th day of the 3d, 5th, 8th, and 12th months of the taxable year.

"(2) NO REQUIRED PAYMENTS WHERE ENTITY'S LIABILITY IS LESS THAN $5,000.—An entity shall not be required to make estimated payments under this section for any taxable year for which (but for this paragraph) its aggregate liability under this section would be less than $5,000.

"(3) AMOUNT.—The amount of each required installment shall be 25 percent of the product of—

"(A) the entity's applicable income determined under its applicable method for the quarter for which the installment is being made, and

"(B) the applicable rate.

"(4) APPLICABLE RATE.—

"(A) IN GENERAL.—The term 'applicable rate' means 34 percent (39.6 percent in the case of an entity described in subparagraph (B)).

"(B) HIGH AVERAGE INCOME ENTITY.—

"(i) IN GENERAL.—An entity is described in this subparagraph if—

"(I) the average applicable income of 2-percent owners of the entity for its base year is $250,000 or more, or

"(II) in the case of a partnership, its applicable income for the base year is $10,000,000 or more.

An entity shall not be treated as so described if it has no base year.

"(ii) 2-PERCENT OWNER.—The term '2-percent owner' means—

"(I) in the case of a partnership, any person who owns (or is considered as owning within the meaning of section 318) on any day during the base year more than 2 percent of the capital interests of the partnerships, and

"(II) in the case of an S corporation, a 2-percent shareholder (as defined in section 1372(b)).

"(5) ADJUSTMENTS UNDER ANNUALIZED INCOME METHOD.—An entity using the annualized income method shall adjust its required installment for any quarter to reflect any change in its required installment for any prior quarter in the taxable year which would have been required if the annualized applicable income for the current quarter had been used for the prior quarter.

"(d) APPLICABLE METHOD.—For purposes of this section—

"(1) IN GENERAL.—An entity shall determine its applicable income on the basis of the 100-percent method.

"(2) EXCEPTIONS.—

"(A) ELECTIONS.—An entity may determine its applicable income—

"(i) for all quarters in a taxable year on the basis of the 110-percent method if it elects such method on or before the due date for the first quarterly installment, or

"(ii) for any quarter in a taxable year on the basis of the annualized income method if it elects such method on or before the due date for the quarterly installment for such quarter.

An election under clause (ii) shall apply for the quarter for which made and all subsequent quarters during the taxable year.

"(B) LARGE INCREASE IN INCOME.—If an entity's applicable income for the taxable year exceeds its applicable income for the base year by more than $750,000, the entity may not use the 110-percent method for the taxable year.

"(3) METHODS.—

"(A) 100-PERCENT METHOD.—Under the 100-percent method, an entity's applicable income shall be its applicable income for the taxable year.

"(B) 110-PERCENT METHOD.—Under the 110-percent method, an entity's applicable income shall be 110 percent of its applicable income for the base year.

"(C) ANNUALIZED INCOME METHOD.—Under the annualized income method, the entity's applicable income for purposes of determining the required installment for any quarter shall be an amount equal to the product of—

"(i) its applicable income for the period consisting of the months in the taxable year ending before the due date for the quarter, and

"(ii) a percentage equal to 12 divided by the number of such months.

"(e) APPLICABLE INCOME.—

"(1) IN GENERAL.—For purposes of this section, the applicable income for any taxable year shall be the net amount (not less than zero) determined—

"(A) by taking into account the entity's items in the manner and with the exceptions provided in section 703(a) or 1363(b), as the case may be, and

"(B) by making the further adjustments provided in paragraphs (2), (3), (4), and (5) of this subsection.

"(2) CERTAIN DEDUCTIONS ALLOWED.—In determining applicable income, the following amounts shall be allowed as deductions:

"(A) The deduction allowable under section 170 for charitable contributions of the entity.

"(B) The deduction allowable under section 901 for taxes described in section 901(c) paid or accrued to foreign countries or possessions of the United States.

"(3) CERTAIN LIMITATIONS DISREGARDED.—For purposes of paragraphs (1) and (2), any limitation on the amount of any item which may be taken into account for purposes of computing the taxable income of a partner or shareholder shall be disregarded.

"(4) GUARANTEED PAYMENTS TO PARTNERS NOT DEDUCTED.—In determining applicable income, a guaranteed payment to a partner shall not be treated as an item of deduction.

"(5) DISPROPORTIONATE APPLICABLE PAYMENTS DURING DEFERRAL PERIOD.—

"(A) DEDUCTION NOT ALLOWED.—In determining applicable income, no deduction shall be allowed for disproportionate deferral period applicable payments.

"(B) DISPROPORTIONATE DEFERRAL PERIOD APPLICABLE PAYMENTS.—For purposes of subparagraph (A), the term 'disproportionate deferral period applicable payments' means the excess (if any) of—

"(i) the product of the deferral ratio and the aggregate applicable payments made to owners during the entity's entire taxable year, over

"(ii) the aggregate applicable payments made to owners during the deferral period.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'applicable payments' has the meaning given to such term by section 7519(d)(3), except that in the case of an S corporation only payments to 2-percent shareholders (as defined in section 1372(b)) shall be taken into account,

"(ii) the term 'deferral period' means the months in the period beginning with the first day of the entity's taxable year and ending on December 31, and

"(iii) the term 'deferral ratio' means the ratio which the number of months in the deferral period bears to the total number of months in the taxable year.

"(6) SPECIAL RULE WHERE C CORPORATION FOR BASE YEAR.—In applying the 110-percent method, if an S corporation was a C corporation for the base year, the S corporation's applicable income shall be the taxable income of the C corporation for the base year.

"(f) COORDINATION BETWEEN ENTITY AND OWNERS.—

"(1) TREATMENT OF PAYMENTS OF REQUIRED INSTALLMENTS.—

"(A) IN GENERAL.—For purposes of this title, an owner in an entity shall be treated as having paid, for the owner's first taxable year ending with or after the close of the entity's taxable year, an amount of tax imposed by section 1 equal to the owner's allocable share of the entity's payments of required installments under this section (determined without regard to excess payments described in subparagraph (C)(ii)(II) or amounts the entity is treated as paying under paragraph (2)).

"(B) COORDINATION WITH OWNER'S ESTIMATED TAX.—For purposes of section 6654, an individual shall be treated as having paid on the due date for the estimated tax installment for each quarter of the individual's taxable year described in subparagraph (A)—

"(i) except as provided in clause (ii), 25 percent of the tax deemed paid under subparagraph (A), or

"(ii) if the annualized income method was used by the entity for any quarter of the entity's taxable year described in subparagraph (A), an amount for the corresponding quarter in the individuals's taxable year equal to the portion of such tax attributable to the individual's allocable share of the entity's applicable income for the entity's quarter.

In no event shall the aggregate estimated tax payments treated as paid under this subparagraph exceed the amount of tax determined under subparagraph (A).

"(C) AMOUNTS DETERMINED ON BASIS OF RETURN.—

"(i) IN GENERAL.—The determination of the amount of tax payments under subparagraph (A) shall be made on the basis of amounts shown on the entity's return for the taxable year.

"(ii) RECONCILIATION OF DIFFERENCES.—If, as of the first April 15 more than 3 months after the close of the entity's taxable year, the aggregate amounts paid as required installments under this section are less or more than the aggregate amounts described in clause (i) shown on the entity's return of tax for the taxable year, then—

"(I) subject to paragraph (2), there is hereby imposed on the entity under chapter 1 an additional tax equal to the amount of the shortfall, the due date for which is such April 15, or

"(II) the entity shall be treated as having made a payment of tax under chapter 1 on such April 15 in an amount equal to the excess.

"(2) TREATMENT OF PAYMENTS BY OWNERS.—For purposes of subsection (b)(2)(B) and paragraph (1)(C), an entity shall be treated as paying any portion of an underpayment attributable to an owner's allocable share of applicable income at the time the tax imposed by chapter 1 on the owner with respect to such income is paid.

"(3) ALLOCABLE SHARE.—For purposes of this subsection—

"(A) IN GENERAL.—An owner's allocable share of an item for a taxable year shall be an amount which bears the same ratio to the amount of such item as the owner's applicable income for the taxable year bears to the sum of the applicable incomes of all owners. For purposes of this subparagraph, applicable income of an owner shall be determined in the same manner as subsection (e).

"(B) APPLICATION OTHER THAN ON TAXABLE YEAR BASIS.—If—

"(i) the entity elects the annualized income method for any quarter, subparagraph (A) shall be applied on a quarter-by-quarter basis, or

"(ii) there is an interim closing of the books of an entity under this title, subparagraph (A) shall be applied separately for the periods before and after the closing.

"(g) SPECIAL RULES FOR SHORT YEAR CREATED BY ELECTION.—

"(1) ADDITIONAL REQUIRED INSTALLMENT.—If, by reason of an election under this section, an entity has a taxable year of less than 12 months, the entity shall make a required installment under this section for such taxable year—

"(A) which shall be in an amount equal to the applicable rate multiplied by the lesser of—

"(i) the entity's applicable income for such taxable year as determined under subsection (e), or

"(ii) 110 percent of the entity's applicable income for the base year (as so determined but ratably reduced to reflect the period of such taxable year), and

"(B) the due date for which shall be the last day for which an election under this section could be made for the taxable year.

"(2) TREATMENT OF LOSSES.—Any net operating loss arising in the taxable year described in paragraph (1) shall be treated as arising one-third in such taxable year and each of the 2 following taxable years. This paragraph shall not apply to an entity not in existence before such taxable year unless more than one-half of the equity interests in the entity are held by persons who owned another entity carrying on the same business before such taxable year.

"(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purpose of this section—

"(1) BASE YEAR.—The term 'base year' means the most recent preceding taxable year containing 12 months.

"(2) EQUITY INTEREST.—The term 'equity interest' means—

"(A) in the case of a partnership, the capital interests, and

"(B) in the case of an S corporation, the shares of stock in the corporation (whether voting or nonvoting).

"(3) OWNER.—The term 'owner' means a partner in a partnership or a shareholder in an S corporation, whichever is applicable.

"(4) COMMON CONTROL.—

"(A) IN GENERAL.—For purposes of subsections (c)(2), (c)(4)(B), and (d)(2)(B), entities under common control shall be treated as 1 entity.

"(B) COMMON CONTROL.—Entities shall be treated as under common control under subparagraph (A) if they are treated as a single employee under subsection (a) or (b) of section 52.

"(5) WAIVER.—No penalty shall be imposed under subsection (a) with respect to any underpayment to the extent the Secretary determines that by reason of casualty, disaster, or other unusual circumstances the imposition of the penalty would be against equity and good conscience."

(c) Modification of Elections.—

(1) Time for making.—Paragraph (1) of section 444(d) is amended by adding at the end the following new sentence: "Such election may be made at any time on or before the 15th day of the 3d month of the first taxable year of 12 months under the election."

(2) Terminations.—Paragraph (2) of section 444(d) is amended by striking subparagraph (B) and inserting:

"(B) Terminations.—

"(i) Revocation.—An election under subsection (a) may be terminated by revocation but only if owners of more than one-half of the equity interests in the entity on the date of the revocation consent to it.

"(ii) Entity terminations.—In the case of a partnership or S corporation, an election under subsection (a) terminates when the partnership terminates under section 708(b)(1) or the corporation ceases to be an S corporation.

"(C) Subsequent elections.—If an election under subsection (a) has been terminated, no such election may be made with respect to such entity or any successor entity for any taxable year before its 5th taxable year beginning after the 1st taxable year for which the termination was effective, unless the Secretary consents to the election."

(d) Conforming Amendments.—

(1) Section 6665(b) is amended—

(A) by inserting "6654A," after "6654,", and

(B) by striking "6654 or" and inserting "6654, 6654A, or".

(2) The table of sections for part I of subchapter A of chapter 68 is amended by inserting after the item relating to section 6654 the following new item:

"Sec. 6654A. Failure by electing partnership or S corporation to pay estimated tax."

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 14555. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) In General.—Section 451(d) of the Internal Revenue Code of 1986 (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

"(d) Special Rule for Crop Insurance Proceeds and Disaster Payments.—

"(1) General rule.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or

"(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

"(2) Payments described.—For purposes of this subsection, a payment is described in this paragraph if such payment—

"(A) is insurance proceeds received on account of destruction or damage to crops, or

"(B) is disaster assistance received under any Federal law as a result of—

"(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

"(ii) inability to plant crops because of such a disaster.".

(b) Effective Date.—The amendment made by subsection (a) applies to payments received after December 31, 1995, as a result of destruction or damage occurring after such date.

PART V—TAX-EXEMPT BOND PROVISIONS

SEC. 14561. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 14562. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

"(xvii) Treatment of bona fide debt service funds.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 14563. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 14564. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 14565. EFFECTIVE DATES.

The amendments made by this part shall apply to bonds issued after the date of the enactment of this Act.

PART VI—INSURANCE PROVISIONS

SEC. 14571. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) General Rule.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 14572. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) General Rule.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) Computation of Reserves.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) Segregated Assets Under Modified Guaranteed Contracts Marked to Market.—

"(1) In general.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) Segregated asset.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) Special Rule in Computing Life Insurance Reserves.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) Modified Guaranteed Contract Defined.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(e) Regulations.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section."

(b) Clerical Amendment.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) Treatment of net adjustments.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

SEC. 14573. MINIMUM TAX TREATMENT OF CERTAIN PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) In General.—Clause (i) of section 56(g)(4)(B) (relating to inclusion of items included for purposes of computing earnings and profits) is amended by adding at the end the following new sentence: "In the case of any insurance company taxable under section 831(b), this clause shall not apply to any amount not described in section 834(b)."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

PART VII—OTHER PROVISIONS

SEC. 14581. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER, ETC.

(a) General Rule.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) Disposition of entire interest.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) Clerical Amendment.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) Treatment of dispositions.—".

(c) Effective Date.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1995.

SEC. 14582. CREDIT FOR SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) Reporting Requirement Not Considered.—Subparagraph (A) of section 45B(b)(1) (relating to excess employer social security tax) is amended by inserting "(without regard to whether such tips are reported under section 6053)" after "section 3121(q)".

(b) Taxes Paid.—Subsection (d) of section 13443 of the Revenue Reconciliation Act of 1993 is amended by inserting ", with respect to services performed before, on, or after such date" after "1993".

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by, and the provisions of, section 13443 of the Revenue Reconciliation Act of 1993.

SEC. 14583. DUE DATE FOR FIRST QUARTER ESTIMATED TAX PAYMENTS BY PRIVATE FOUNDATIONS.

(a) In General.—Paragraph (3) of section 6655(g) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) In the case of any private foundation, subsection (c)(2) shall be applied by substituting 'May 15' for 'April 15' ".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 14584. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) General Rule.—Section 512 (defining unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(d) Treatment of Dues of Agricultural or Horticultural Organizations.—

"(1) In general.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) Indexation of $100 amount.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

"(A) $100, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) Dues.—For purposes of this subsection, the term 'dues' includes any payment required to be made in order to be recognized by the organization as a member of the organization."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

Subtitle F—Estates and Trusts

PART I—INCOME TAX PROVISIONS

SEC. 14601. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

(a) In General.—Subpart A of part I of subchapter J (relating to estates, trusts, beneficiaries, and decedents) is amended by adding at the end the following new section:

"SEC. 646. CERTAIN REVOCABLE TRUSTS TREATED AS PART OF ESTATE.

"(a) General Rule.—For purposes of this subtitle, if both the executor of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

"(b) Definitions.—For purposes of subsection (a)—

"(1) Qualified revocable trust.—The term 'qualified revocable trust' means any trust all of which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a).

"(2) Applicable date.—The term 'applicable date' means—

"(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

"(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

"(c) Election.—The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable."

(b) Comparable Treatment Under Generation-Skipping Tax.—Paragraph (1) of section 2652(b) is amended by adding at the end the following new sentence: "Such term shall not include any trust during any period the trust is treated as part of an estate under section 646."

(c) Clerical Amendment.—The table of sections for such subpart A is amended by adding at the end the following new item:

"Sec. 646. Certain revocable trusts treated as part of estate."

(d) Effective Date.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

SEC. 14602. DISTRIBUTIONS DURING FIRST 65 DAYS OF TAXABLE YEAR OF ESTATE.

(a) In General.—Subsection (b) of section 663 (relating to distributions in first 65 days of taxable year) is amended by inserting "an estate or" before "a trust" each place it appears.

(b) Conforming Amendment.—Paragraph (2) of section 663(b) is amended by striking "the fiduciary of such trust" and inserting "the executor of such estate or the fiduciary of such trust (as the case may be)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 14603. SEPARATE SHARE RULES AVAILABLE TO ESTATES.

(a) In General.—Subsection (c) of section 663 (relating to separate shares treated as separate trusts) is amended—

(1) by inserting before the last sentence the following new sentence: "Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.", and

(2) by inserting "or estates" after "trusts" in the last sentence.

(b) Conforming Amendment.—The subsection heading of section 663(c) is amended by inserting "ESTATES OR" before "TRUSTS".

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14604. EXECUTOR OF ESTATE AND BENEFICIARIES TREATED AS RELATED PERSONS FOR DISALLOWANCE OF LOSSES, ETC.

(a) Disallowance of Losses.—Subsection (b) of section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by striking "or" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting "; or", and by adding at the end the following new paragraph:

"(13) Except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."

(b) Ordinary Income From Gain From Sale of Depreciable Property.—Subsection (b) of section 1239 is amended by striking the period at the end of paragraph (2) and inserting ", and" and by adding at the end the following new paragraph:

"(3) except in the case of a sale or exchange in satisfaction of a pecuniary bequest, an executor of an estate and a beneficiary of such estate."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 14605. LIMITATION ON TAXABLE YEAR OF ESTATES.

(a) In General.—Section 645 (relating to taxable year of trusts) is amended to read as follows:

"SEC. 645. TAXABLE YEAR OF ESTATES AND TRUSTS.

"(a) Estates.—For purposes of this subtitle, the taxable year of an estate shall be a year ending on October 31, November 30, or December 31.

"(b) Trusts.—

"(1) In general.—For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

"(2) Exception for trusts exempt from tax and charitable trusts.—Paragraph (1) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1)."

(b) Clerical Amendment.—The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by striking the item relating to section 645 and inserting the following new item:

"Sec. 645. Taxable year of estates and trusts."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14606. REPEAL OF CERTAIN THROWBACK RULES APPLICABLE TO DOMESTIC TRUSTS.

(a) Accumulation Distributions.—

(1) In general.—Section 665 is amended by adding at the end the following new subsection:

"(f) Accumulation Distributions After 1995.—For purposes of this subpart, in the case of a trust other than a foreign trust, any distribution in any taxable year beginning after December 31, 1995, shall be computed without regard to any undistributed net income."

(2) Conforming amendment.—Subsection (b) of section 665 is amended by inserting "except as provided in subsection (f)," after "subpart,"

(b) Property Transferred to Trusts.—Subsection (e) of section 644 is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or ", and by adding at the end the following new paragraph:

"(5) in the case of a trust other than a foreign trust, any sale or exchange of property after December 31, 1995."

(c) Effective Dates.—

(1) Accumulation distribution.—The amendments made by subsection (a) shall apply to distributions in taxable years beginning after December 31, 1995.

(2) Transferred property.—The amendments made by subsection (b) shall apply to sales or exchanges after December 31, 1995.

SEC. 14607. TREATMENT OF FUNERAL TRUSTS.

(a) In General.—Subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new section:

"SEC. 684. TREATMENT OF FUNERAL TRUSTS.

"(a) In General.—In the case of a qualified funeral trust—

"(1) subparts B, C, D, and E shall not apply, and

"(2) no deduction shall be allowed by section 642(b).

"(b) Qualified Funeral Trust.—For purposes of this subsection, the term 'qualified funeral trust' means any trust (other than a foreign trust) if—

"(1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,

"(2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,

"(3) the only beneficiaries of such trust are individuals who have entered into contracts described in paragraph (1) to have such services or property provided at their death,

"(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

"(5) the trustee elects the application of this subsection, and

"(6) the trust would (but for the election described in paragraph (5)) be treated as owned by the beneficiaries under subpart E.

"(c) Dollar Limitation on Contributions.—

"(1) In general.—The term 'qualified funeral trust' shall not include any trust which accepts contributions by or for the benefit of an individual in excess of $5,000.

"(2) Related trusts.—For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if—

"(A) the relationship between such persons would result in the disallowance of losses under section 267 or 707(b),

"(B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or

"(C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

"(3) Inflation adjustment.—In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1996, the dollar amount referred to paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of $100, such dollar amount shall be rounded to the nearest multiple of $100.

"(d) Application of Rate Schedule.—Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

"(e) Treatment of Amounts Refunded to Beneficiary on Cancellation.—No gain or loss shall be recognized to a beneficiary described in subsection (b)(3) of any qualified funeral trust by reason of any payment from such trust to such beneficiary by reason of cancellation of a contract referred to in subsection (b)(1). If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such beneficiary shall be the same as the trust's basis in such property immediately before the payment.

"(f) Simplified Reporting.—The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee."

(b) Clerical Amendment.—The table of sections for subpart F of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

"Sec. 684. Treatment of funeral trusts."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

PART II—ESTATE AND GIFT TAX PROVISIONS

SEC. 14611. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) Amendment to Section 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) Decedent may otherwise direct.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) Amendment to Section 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) Decedent may otherwise direct.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) Effective Date.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 14612. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) General Rule.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) Inclusion of Certain Property in Gross Estate.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) Inclusion of Gift Tax on Gifts Made During 3 Years Before Decedent's Death.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) Other Rules Relating to Transfers Within 3 Years of Death.—

"(1) In general.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) Coordination with section 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) Marital and small transfers.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) Exception.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) Treatment of Certain Transfers From Revocable Trusts.—For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent shall be treated as a transfer made directly by the decedent."

(b) Clerical Amendment.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) Effective Date.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 14613. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) General Rule.—

(1) Estate tax.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end the following new clause:

"(vi) Treatment of certain income distributions.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) Gift tax.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting "(iv), and (vi)".

(b) Clarification of Subsequent Inclusions.—Section 2044 is amended by adding at the end the following new subsection:

"(d) Clarification of Inclusion of Certain Income.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) Application of section 2044 to transfers before date of enactment.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 14614. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) General Rule.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) Effective Date.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 14615. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) General Rule.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) Modification of election and agreement to be permitted.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) Effective Date.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 14616. UNIFIED CREDIT OF DECEDENT INCREASED BY UNIFIED CREDIT OF SPOUSE USED ON SPLIT GIFT INCLUDED IN DECEDENT'S GROSS ESTATE.

(a) In General.—Section 2010 (relating to unified credit against estate tax) is amended by adding at the end the following new subsection:

"(d) Treatment of Unified Credit Used By Spouse on Split-Gift Included in Decedent's Gross Estate.—If—

"(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

"(2) the amount of such gift is includible in the gross estate of the decedent by reason of section 2035, 2036, 2037, or 2038,

the amount of the credit allowable by subsection (a) to the estate of the decedent shall be increased by the amount of the unified credit allowed against the tax imposed by section 2501 on the amount of such gift considered under section 2513 as made by such spouse."

(b) Effective Date.—The amendment made by subsection (a) shall apply to gifts made after the date of the enactment of this Act.

SEC. 14617. REFORMATION OF DEFECTIVE BEQUESTS, ETC., TO SPOUSE OF DECEDENT.

(a) In General.—Subsection (b) of section 2056 (relating to bequests, etc., to surviving spouse) is amended by adding at the end the following new paragraph:

"(11) Reformations permitted.—

"(A) In general.—In the case of any interest in property with respect to which a deduction would be allowable under subsection (a) but for a provision of this subsection, if—

"(i) the surviving spouse is entitled to all of the income from the property for life,

"(ii) no person other than such spouse is entitled to any distribution of such property during such spouse's life, and

"(iii) there is a change of a governing instrument (by reformation, amendment, construction, or otherwise) as of the applicable date which results in the satisfaction of the requirements of such provision as of the date of the decedent's death,

the determination of whether such deduction is allowable shall be made as of the applicable date.

"(B) Special rule where timely commencement of reformation.—Clauses (i) and (ii) of subparagraph (A) shall not apply to any interest if, not later than the date described in subparagraph (C)(i), a judicial proceeding is commenced to change such interest into an interest which satisfies the requirements of the provision by reason of which (but for this paragraph) a deduction would not be allowable under subsection (a) for such interest.

"(C) Applicable date.—For purposes of subparagraph (A), the term 'applicable date' means—

"(i) the last date (including extensions) for filing the return of tax imposed by this chapter, or

"(ii) if a judicial proceeding is commenced to comply with such provision, the time when the changes pursuant to such proceeding are made.

"(D) Special rule.—If the change referred to in subparagraph (A)(iii) is to qualify the passage of the interest under paragraph (7), subparagraph (A) shall apply only if the election under subparagraph (B) thereof is made.

"(E) Statute of limitations.—If a judicial proceeding described in subparagraph (C)(ii) is commenced with respect to any interest, the period for assessing any deficiency of tax attributable to such interest shall not expire before the date 1 year after the date on which the Secretary is notified that such provision has been complied with or that such proceeding has been terminated."

(b) Comparable Rule for Gift Tax.—Section 2523 (relating to gift to spouse) is amended by adding at the end the following new subsection:

"(j) Reformations Permitted.—Rules similar to the rules of section 2056(b)(11) shall apply for purposes of this section."

(c) Effective Date.—The amendments made by this section shall apply to estates of decedents dying, and gifts made, after the date of the enactment of this Act.

SEC. 14618. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS.

(a) In General.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end the following new subsection:

"(f) Valuation of Gifts.—If—

"(1) the time has expired within which a tax may be assessed under chapter 12 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)), and

"(2) the value of such gift is shown on the return for such preceding calendar period or is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift,

the value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12."

(b) Modification of Application of Statute of Limitations.—Paragraph (9) of section 6501(c) is amended to read as follows:

"(9) Gift tax on certain gifts not shown on return.—If any gift of property the value of which (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a)."

(c) Declaratory Judgment Procedure for Determining Value of Gift.—

(1) In general.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

"(a) Creation of Remedy.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 or disclosed on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) Limitations.—

"(1) Petitioner.—A pleading may be filed under this section only by the donor.

"(2) Exhaustion of administrative remedies.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) Time for bringing action.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(2) Clerical amendment.—The table of sections for such part IV is amended by inserting after the item relating to section 7476 the following new item:

"Sec. 7477. Declaratory judgments relating to value of certain gifts."

(d) Conforming Amendment.—Subsection (c) of section 2504 is amended by striking ", and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period".

(e) Effective Dates.—

(1) In general.—The amendments made by subsections (a) and (c) shall apply to gifts made after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall apply to gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 14619. CLARIFICATIONS RELATING TO DISCLAIMERS.

(a) Partial Transfer-Type Disclaimers Permitted.—Paragraph (3) of section 2518(c) (relating to certain transfers treated as disclaimers) is amended by inserting "(or an undivided portion of such interest)" after "entire interest in the property".

(b) Retention of Interest by Decedent's Spouse Permitted in Transfer-Type Disclaimers.—Paragraph (3) of section 2518(c) is amended by adding at the end the following new flush sentence:

"For purposes of the preceding sentence, a written transfer by the spouse of the decedent of property to a trust shall not fail to be treated as a transfer of such spouse's interest in such property by reason of such spouse having an interest in such trust."

(c) Disclaimers Are Effective for Income Tax Purposes.—Subsection (a) of section 2518 is amended by inserting "and subtitle A" after "this subtitle" each place it appears.

(d) Effective Date.—The amendments made by this section shall apply to transfers creating an interest in the person disclaiming, and disclaimers, made after the date of the enactment of this Act.

SEC. 14620. CLARIFICATION OF TREATMENT OF SURVIVOR ANNUITIES UNDER QUALIFIED TERMINABLE INTEREST RULES.

(a) In General.—Subparagraph (C) of section 2056(b)(7) is amended by inserting "(or, in the case of an interest in an annuity arising under the community property laws of a State, included in the gross estate of the decedent under section 2033)" after "section 2039".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14621. TREATMENT UNDER QUALIFIED DOMESTIC TRUST RULES OF FORMS OF OWNERSHIP WHICH ARE NOT TRUSTS.

(a) In General.—Subsection (c) of section 2056A (defining qualified domestic trust) is amended by adding at the end the following new paragraph:

"(3) Trust.—To the extent provided in regulations prescribed by the Secretary, the term 'trust' includes other arrangements which have substantially the same effect as a trust."

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 14622. AUTHORITY TO WAIVE REQUIREMENT OF UNITED STATES TRUSTEE FOR QUALIFIED DOMESTIC TRUSTS.

(a) In General.—Subparagraph (A) of section 2056A(a)(1) is amended by inserting "except as provided in regulations prescribed by the Secretary," before "requires".

(b) Effective Date.—The amendment made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

PART III—GENERATION-SKIPPING TAX PROVISIONS

SEC. 14631. SEVERING OF TRUSTS HOLDING PROPERTY HAVING AN INCLUSION RATIO OF GREATER THAN ZERO.

(a) In General.—Subsection (a) of section 2642 (relating to inclusion ratio) is amended by adding at the end the following new paragraph:

"(3) Severing of trusts holding property having an inclusion ratio of greater than zero.—

"(A) In general.—If a trust holding property having an inclusion ratio of greater than zero is severed in a qualified severance, at the election of the trustee of such trust, the trusts resulting from such severance shall be treated as separate trusts for purposes of this chapter.

"(B) Qualified severance.—For purposes of subparagraph (A), the term 'qualified severance' means the creation of 2 trusts from a single trust if each property held by the single trust was divided between the 2 created trusts such that one trust received an interest in each such property equal to the applicable fraction of the single trust. Such term includes any other severance permitted under regulations prescribed by the Secretary.

"(C) Election.—The election under this paragraph shall be made at the time prescribed by the Secretary. Such an election, once made, shall be irrevocable."

(b) Effective Date.—The amendment made by subsection (a) shall apply to severances after the date of the enactment of this Act.

SEC. 14632. CLARIFICATION OF WHO IS TRANSFEROR WHERE SUBSEQUENT GIFT BY REASON OF POWER OF APPOINTMENT.

(a) In General.—Paragraph (1) of section 2652(a) (defining transferor) is amended by adding at the end the following new sentence: "A transferor described in subparagraph (A) shall not be treated as the transferor of any property if another individual is treated as the transferor of such property under subparagraph (B) by reason of the exercise, release, or lapse of a general power of appointment with respect to such property."

(b) Effective Date.—The amendment made by subsection (a) shall apply to the exercise, release, or lapse of a general power of appointment after the date of the enactment of this Act.

SEC. 14633. TAXABLE TERMINATION NOT TO INCLUDE DIRECT SKIPS.

(a) In General.—Paragraph (1) of section 2612(a) (defining taxable termination) is amended by adding at the end the following new flush sentence:

"Such term shall not include a direct skip."

(b) Effective Date.—The amendment made by subsection (a) shall apply to generation-skipping transfers (as defined in section 2611 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 14634. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant."

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after the date of the enactment of this Act.

Subtitle G—Excise Tax Simplification

PART I—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 14701. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14702. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14703. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14704. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14705. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 14706. REFUND OF TAX ON WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "**unmerchantable**".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14707. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14708. DOMESTICALLY PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14709. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14710. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

SEC. 14711. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end the following new item:

"Sec. 5418. Beer imported in bulk.".000

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect at the beginning of the first calendar quarter beginning more than 180 days after the date of the enactment of this Act.

PART II—CONSOLIDATION OF TAXES ON AVIATION GASOLINE

SEC. 14721. CONSOLIDATION OF TAXES ON AVIATION GASOLINE.

(a) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to imposition of tax on gasoline and diesel fuel) is amended by redesignating clause (ii) as clause (iii) and by striking clause (i) and inserting the following:

"(i) in the case of gasoline other than aviation gasoline, 18.3 cents per gallon,

"(ii) in the case of aviation gasoline, 19.3 cents per gallon, and".

(b) TERMINATION.—Subsection (d) of section 4081 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) AVIATION GASOLINE.—On and after January 1, 1996, the rate specified in subsection (a)(2)(A)(ii) shall be 4.3 cents per gallon."

(c) REPEAL OF RETAIL LEVEL TAX.—

(1) Subsection (c) of section 4041 is amended by striking paragraphs (2) and (3) and by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

(2) Paragraph (3) of section 4041(c), as redesignated by paragraph (1), is amended by striking "paragraphs (1) and (2)" and inserting "paragraph (1)".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 4041(k) is amended by adding "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(2) Paragraph (1) of section 4081(d) is amended by striking "each rate of tax specified in subsection (a)(2)(A)" and inserting "the rates of tax specified in clauses (i) and (iii) of subsection (a)(2)(A)".

(3) Sections 6421(f)(2)(A) and 9502(f)(1)(A) are each amended by striking "section 4041(c)(4)" and inserting "section 4041(c)(2)".

(4) Paragraph (2) of section 9502(b) is amended by striking "14 cents" and inserting "15 cents".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation gasoline on which tax was imposed under section 4081 of the Internal Revenue Code of 1986 before January 1, 1996, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 1 cent per gallon of such gasoline.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation gasoline on January 1, 1996, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1996.

(3) DEFINITIONS.—For purposes of this subsection:

(A) HELD BY A PERSON.—Gasoline shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of such Code is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN AIRCRAFT TANK.—No tax shall be imposed by paragraph (1) on aviation gasoline held in the tank of an aircraft.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation gasoline held on January 1, 1996, by any person if the aggregate amount of aviation gasoline held by such person on such date does not exceed 6,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—

(i) CORPORATIONS.—In the case of a controlled group, the 6,000 gallon amount in subparagraph (A) shall be apportioned among the component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group under common control where 1 or more of the members is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 14731. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 14732. CERTAIN COMBINATIONS NOT TREATED AS MANUFACTURE UNDER RETAIL SALES TAX ON HEAVY TRUCKS.

(a) IN GENERAL.—Paragraph (2) of section 4052(c) (relating to certain combinations not treated as manufacture) is amended by striking "or wood or metal floor" and inserting "wood or metal floor, or a power take-off and dump body".

(b) REMOVAL OF FIFTH WHEEL.—Paragraph (1) of section 4052(c) is amended by inserting before the period "or the removal of any coupling device (including any fifth wheel)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 14733. EXEMPTION FROM DIESEL FUEL DYEING REQUIREMENTS WITH RESPECT TO CERTAIN STATES.

(a) IN GENERAL.—Section 4082 (relating to exemptions for diesel fuel) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION TO DYEING REQUIREMENTS.—Paragraph (2) of subsection (a) shall not apply with respect to any diesel fuel—

"(1) removed, entered, or sold in a State for ultimate sale or use in an area of such State which is exempted from the fuel dyeing requirements under subsection (i) of section 211 of the Clean Air Act (as in effect on the date of the enactment of this subsection) by the Administrator of the Environmental Protection Agency under paragraph (4) of such subsection, and

"(2) the use of which is certified pursuant to regulations issued by the Secretary."

(b) Effective Date.—The amendments made by this section shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 14734. REPEAL OF EXPIRED PROVISIONS.

(a) Piggy-Back Trailers.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) Deep Seabed Mining.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle H—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 14801. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) In General.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) Conforming Amendment.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) Effective Date.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 14802. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) In General.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 14803. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) General Rule.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end the following new clause:

"(iii) Exception for letters or notices involving small amounts.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) Effective Date.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1995.

SEC. 14804. CLARIFICATION OF AUTHORITY TO WITHHOLD PUERTO RICO INCOME TAXES FROM SALARIES OF FEDERAL EMPLOYEES.

(a) In General.—Subsection (c) of section 5517 of title 5, United States Code, is amended by striking "or territory or possession" and inserting ", territory, possession, or commonwealth".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 14811. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) Appeal of Order.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Denial of Jurisdiction Regarding Certain Credits and Reductions.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) Denial of jurisdiction regarding certain credits and reductions.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 14812. AWARDING OF ADMINISTRATIVE COSTS.

(a) Right To Appeal Tax Court Decision.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) Appeal of tax court decision.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Period for Applying to IRS for Costs.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) Period for applying to IRS for administrative costs.—An award may be made under subsection (a) by the Internal Revenue Service for reasonable administrative costs only if the prevailing party files an application with the Internal Revenue Service for such costs before the 91st day after the date on which the final decision of the Internal Revenue Service as to the determination of the tax, interest, or penalty is mailed to such party."

(c) Period for Petitioning of Tax Court for Review of Denial of Costs.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) Effective Date.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 14813. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) In General.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 14814. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) In General.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end the following new subparagraph:

"(C) Special rules for applying net worth requirement.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) Effective Date.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 14821. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) General Rule.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) Authorization of Agreements.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) Services on Reimbursable Basis.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) Availability of Funds.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) State Tax Authority.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TITLE XV—PRESERVING, PROTECTING, AND STRENGTHENING MEDICARE

H.R. 2425 as passed the House of Representatives is hereby enacted into law.

TITLE XVI—TRANSFORMATION OF THE MEDICAID PROGRAM

SEC. 16000. SHORT TITLE.

This title may be cited as the "Medicaid Transformation Act of 1995".

SEC. 16001. TRANSFORMATION OF MEDICAID PROGRAM.

The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—MEDIGRANT PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"Sec. 2100. Purpose; State MediGrant plans.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"Sec. 2101. Description of strategic objectives and performance goals.
"Sec. 2102. Annual reports.
"Sec. 2103. Periodic, independent evaluations.
"Sec. 2104. Description of process for MediGrant plan development.
"Sec. 2105. Consultation in MediGrant plan development.
"Sec. 2106. MediGrant Task Force.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"Sec. 2111. General description of eligibility and benefits.
"Sec. 2112. Set-asides of funds for population groups.
"Sec. 2113. Premiums and cost-sharing.
"Sec. 2114. Description of process for developing capitation payment rates.
"Sec. 2115. Preventing spousal impoverishment.
"Sec. 2116. Construction.
"Sec. 2117. Limitations on causes of action.

"PART C—PAYMENTS TO STATES

"Sec. 2121. Allotment of funds among States.
"Sec. 2122. Payments to States.
"Sec. 2123. Limitation on use of funds; disallowance.

"PART D—PROGRAM INTEGRITY AND QUALITY

"Sec. 2131. Use of audits to achieve fiscal integrity.
"Sec. 2132. Fraud prevention program.
"Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
"Sec. 2134. State MediGrant fraud control units.
"Sec. 2135. Recoveries from third parties and others.
"Sec. 2136. Assignment of rights of payment.
"Sec. 2137. Quality assurance standards for nursing facilities.
"Sec. 2138. Other provisions promoting program integrity.

"PART E—ESTABLISHMENT AND AMENDMENT OF STATE MEDIGRANT PLANS

"Sec. 2151. Submittal and approval of MediGrant plans.
"Sec. 2152. Submittal and approval of plan amendments.
"Sec. 2153. Process for State withdrawal from program.
"Sec. 2154. Sanctions for substantial noncompliance.
"Sec. 2155. Secretarial authority.

"PART F—GENERAL PROVISIONS

"Sec. 2171. Definitions.
"Sec. 2172. Treatment of territories.
"Sec. 2173. Description of treatment of Indian Health Service facilities.
"Sec. 2174. Application of certain general provisions.
"Sec. 2175. MediGrant master drug rebate agreements.

"SEC. 2100. PURPOSE; STATE MEDIGRANT PLANS.

"(a) PURPOSE.—The purpose of this title is to provide block grants to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'MediGrant plan') that—

"(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title, and

"(2) is approved under such part.

"(c) CONTINUED APPROVAL.—An approved MediGrant plan shall continue in effect unless and until—

"(1) the State amends the plan under section 2152,

"(2) the State terminates participation under this title under section 2153, or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2154.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A MediGrant plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A MediGrant plan shall include strategic objectives and performance goals relating to rates of childhood immunizations and reductions in infant mortality and morbidity.

"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

"(1) The State's priorities with respect to such areas as providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the MediGrant plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the MediGrant plan; and

"(2) the MediGrant plan shall describe, how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

"SEC. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a MediGrant plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the MediGrant plan during the fiscal year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (c) section 2112 and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals (specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the MediGrant plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services (specified in subsection (c)(2)) which are covered under the MediGrant plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the MediGrant plan consistent with the reporting format specified by the MediGrant Task Force under section 2106(d)(1), and

"(ii) the total and average number of eligible individuals under the MediGrant plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the MediGrant plan during the year (and during any portions of fiscal year 1996 during which the MediGrant plan was in effect under this title) as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the MediGrant plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the MediGrant plan consistent with the reporting format specified by the MediGrant Task Force under section 2106(d)(1).

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) data on the actual performance with respect to the goal;

"(C) a review of the extent to which the goal was achieved, based on such data; and

"(D) where a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance (including adjustments in performance goals or program activities for subsequent years).

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(D) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(7) INPATIENT HOSPITAL PAYMENTS.—With respect to inpatient hospital services provided under the MediGrant plan on a fee-for-service basis, a description of the average amount paid per discharge in the fiscal year compared either to the average charge for such services or to the State's estimate of the average amount paid per discharge by commercial health insurers in the State.

"(c) DEFINITIONS.—In this section:

"(1) Each of the following is a general category of eligible individuals:

"(A) Children.

"(B) Blind or disabled adults under 65 years of age.

"(C) Persons 65 years of age or older.

"(D) Other adults.

"(2) The health care items and services described in each subparagraph of section 2171(a)(1) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its MediGrant plan under this title.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the MediGrant plan shall be conducted by an entity that is neither responsible under State law for the submission of the State plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDIGRANT PLAN DEVELOPMENT.

"Each MediGrant plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDIGRANT PLAN DEVELOPMENT.

"(a) PUBLIC NOTICE PROCESS.—

"(1) IN GENERAL.—Before submitting a MediGrant plan or a plan amendment described in paragraph (3) to the Secretary under part E, a State shall provide—

"(A) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment;

"(B) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment; and

"(C) an opportunity for submittal and consideration of public comments on the proposed plan or amendment.

The previous sentence shall not apply to a revision of a MediGrant plan (or revision of an amendment to a plan) made by a State under section 2154(c)(1) or to a plan amendment withdrawal described in section 2152(c)(4).

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1)(A) for a proposed plan or amendment shall include a description of—

"(A) the general purpose of the proposed plan or amendment (including applicable effective dates),

"(B) where the public may inspect the proposed plan or amendment,

"(C) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy, and

"(D) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(3) AMENDMENTS DESCRIBED.—An amendment to a MediGrant plan described in this paragraph is an amendment which makes a material and substantial change in eligibility under the MediGrant plan or the benefits provided under the plan.

"(4) PUBLICATION.—Notices under this subsection may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(5) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this subsection for a State if notice of the MediGrant plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this subsection.

"(b) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—Each State with a MediGrant plan shall establish and maintain an advisory committee.

"(2) CONSULTATION.—The State shall periodically consult with the advisory committee in the development, revision, and monitoring the performance of the MediGrant plan, including—

"(A) the development of strategic objectives and performance goals under section 2101,

"(B) the annual report under section 2102, and

"(C) the research design under section 2103(c).

"(3) GEOGRAPHIC DIVERSITY.—The composition of the advisory committee shall be chosen in a manner that assures some representation on the advisory committee of the different general geographic regions of the State. Nothing in the previous sentence shall be construed as requiring proportional representation of geographic areas in a State.

"(4) CONSTRUCTION.—Nothing in this title shall be construed as preventing a State from establishing more than one advisory committee, including specialized advisory committees that represent the interests of specific population groups, provider groups, or geographic areas.

"SEC. 2106. MEDIGRANT TASK FORCE.

"(a) IN GENERAL.—The Secretary shall provide for the establishment of a MediGrant Task Force (in this section referred to as the 'Task Force').

"(b) COMPOSITION.—The Task Force shall consist of 6 members appointed by the chair of the National Governors Association and 6 members appointed by the vice chair of the National Governors Association.

"(c) ADVISORY GROUP FOR TASK FORCE.—The Secretary shall provide for the establishment of an advisory group to assist the Task Force in carrying out its duties under this section, consisting of one representative appointed by each of the following associations:

"(1) National Committee for Quality Assurance.

"(2) Joint Commission for the Accreditation of Healthcare Organizations.

"(3) Group Health Association of America.

"(4) American Managed Care and Review Association.

"(5) Association of State and Territorial Health Officers.

"(6) American Medical Association.

"(7) American Hospital Association.

"(8) American Dental Association.

"(9) American College of Gerontology.

"(10) American Health Care Association.

"(11) An association identified by the Secretary as representing the interests of disabled individuals.

"(12) An association identified by the Secretary as representing the interests of children.

"(13) An association identified by the Secretary as representing the interests of the elderly.

"(14) An association identified by the Secretary as representing the interests of mentally ill individuals.

Any reference in this subsection to a particular group shall be deemed a reference to any successor to such group.

"(d) DUTIES.—

"(1) FORMAT FOR EXPENDITURE AND UTILIZATION SUMMARIES.—The Task Force shall specify, by not later than December 31, 1996, the format of expenditure summaries and utilization summaries required under section 2102. Such format may provide for the reporting of different information from that required under section 2102(a), but shall include the reporting of at least the information described in section 2102(b)(1)(A)(i).

"(2) MODELS AND SUGGESTIONS.—The Task Force shall study and report to Congress and the States, by not later than April 1, 1997, recommendations on the following:

"(A) Recommended models for strategic objectives and performance goals for consideration by States in the development of such objectives and goals under section 2102, including alternative models for each of the objectives and goals described in section 2101(b).

"(B) For each suggested model for a strategic objective or performance goal suggested methodologies for States to consider in measuring and verifying the objective or goal.

"(C) An assessment of the potential usefulness to States of quality assurance safeguards, utilization data sets, and accreditation programs that are used or under development in the private sector.

"(D) Recommended designs and evaluation methodologies for consideration by States in providing for independent evaluations under section 2103.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to adopt any of the strategic objectives or performance goals suggested under paragraph (2).

"(e) ADMINISTRATIVE ASSISTANCE.—Administrative support for the Task Force shall be provided by the Agency for Health Care Policy and Research (or, in the absence of such Agency, the Secretary).

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"SEC. 2111. GENERAL DESCRIPTION OF ELIGIBILITY AND BENEFITS.

"(a) IN GENERAL.—Each MediGrant plan shall include a description (consistent with this title) of the following:

"(1) ELIGIBLE POPULATION.—The population eligible for medical assistance under the plan, including—

"(A) any limitations on categories of such individuals;

"(B) any limitations as to the duration of eligibility;

"(C) any eligibility standards relating to age, income (including any standards relating to spenddowns), residency, resources, disability status, immigration status, or employment status of individuals;

"(D) methods of establishing (and continuing) eligibility and enrollment (including the methodology for computing family income);

"(E) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse; and

"(F) any other standards relating to eligibility for medical assistance under the plan.

"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

"(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

"(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination), and

"(B) utilization control systems.

"(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

"(A) how the State determines the qualifications of health care providers eligible to provide such assistance, and

"(B) how the State determines rates of reimbursement for providing such assistance.

"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients under 21 years of age and the spouses of recipients.

"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(7) TREATMENT OF HEALTH CENTERS.—

"(A) IN GENERAL.—In the case of a State in which one or more health centers is located, the MediGrant plan shall include a description of—

"(i) what provision (if any) has been made for payment for items and services furnished by health centers, and

"(ii) the manner in which medical assistance for low-income eligible individuals who received health care services at health centers on or before the date of the enactment of this title may be provided, as determined by the State in consultation with the health centers in the State.

"(B) HEALTH CENTER DEFINED.—For purposes of subparagraph (A), the term 'health center' means an entity that—

"(i) is receiving a grant under section 329, 330, 340, or 340A of the Public Health Service Act; or

"(ii) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, was determined by the Secretary to meet the requirements to receive such a grant.

"(8) SUPPORT FOR CERTAIN HOSPITALS.—

"(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, the MediGrant plan shall includes a description—

"(i) of the extent to which provisions have been made for expenditures for items and services furnished by such hospitals and covered under the plan, and

"(ii) for individuals who (I) are enrolled for benefits for covered services under the MediGrant plan and (II) were previously receiving benefits for such services under the medicaid program by or through such hospitals, where or how they will receive benefits for such services under the MediGrant plan if the MediGrant plan does not permit such individuals to obtain benefits for those services by or through such hospitals.

"(B) HOSPITALS DESCRIBED.—For purposes of subparagraph (A), a hospital described in this subparagraph is a subsection (d) hospital (as defined in section 1886(d)(1)(B)) that is described in clauses (i) and (ii) of section 340B(a)(4)(L) of the Public Health Service Act.

"(b) IMMUNIZATIONS FOR CHILDREN.—The MediGrant plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the MediGrant plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

"(c) EQUAL PAYMENT RATES FOR RURAL PROVIDERS.—A State with a MediGrant plan shall establish payment rates for all services of rural providers that are comparable to the payment rates established for like services of such type of providers not in rural areas; except that a State may provide for incentive payments to attract and retain providers to medically underserved areas.

"(d) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a MediGrant plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the MediGrant plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the MediGrant plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its MediGrant plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

"(e) FAMILY RESPONSIBILITY.—A MediGrant plan may not require an adult child of moderate means (as determined by the Secretary) to contribute to the cost of covered nursing facility services and other long-term care services for the child's parent under the plan.

"SEC. 2112. SET-ASIDES OF FUNDS FOR POPULATION GROUPS.

"(a) FOR TARGETED LOW-INCOME FAMILIES.—

"(1) IN GENERAL.—Subject to subsection (e), a MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family percentage specified in paragraph (2) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-FAMILY PERCENTAGE.—The minimum low-income-family percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

"(A) who (at the time of furnishing the assistance) were under 65 years of age,

"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law, and

"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status (including being blind).

"(3) TARGETED LOW-INCOME FAMILY DEFINED.—In this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

"(A) which includes a child or a pregnant woman, and

"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

"(b) FOR LOW-INCOME ELDERLY.—

"(1) SET-ASIDES.—Subject to subsection (e)—

"(A) GENERAL SET-ASIDE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals 65 years of age or older for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A MediGrant plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The MediGrant plan shall provide priority for such making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—In this subsection, the term 'targeted low-income elderly individual' means an individual who is 65 years of age or older and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) FOR LOW-INCOME DISABLED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (e), a MediGrant plan shall provide that the percentage of funds expended under the plan for medical assistance for eligible low-income individuals who are under 65 years of age and are eligible for such assistance on the basis of a disability (including being blind) for a fiscal year is not less than the minimum low-income-disabled percentage specified in paragraph (2) of the total funds expended under the plan for medical assistance for the fiscal year.

"(2) MINIMUM LOW-INCOME-DISABLED PERCENTAGE.—The minimum low-income-disabled percentage specified in this paragraph for a State is equal to 85 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law, and

"(B) whose coverage (at such time) was on a basis directly related to disability status (including being blind).

"(d) USE OF RESIDUAL FUNDS.—

"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may be expended under the MediGrant plan for any of the following:

"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

"(C) ADMINISTRATION.—Payment for the administration of the MediGrant plan.

"(2) MEDICALLY-RELATED SERVICES DEFINED.—In this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a)(1) (relating to the definition of medical assistance).

"(e) EXCEPTIONS TO MINIMUM SET-ASIDES.—

"(1) ALTERNATIVE MINIMUM SET-ASIDES.—

"(A) IN GENERAL.—A State may provide in its MediGrant plan (through an amendment to the plan) for a lower dollar amount of expenditures than the minimum amounts specified in any (or all) of paragraphs (2) of subsections (a), (b), and (c) if State determines (and certifies to the Secretary) that—

"(i) the health care needs of the low-income populations described in paragraph (1) of the respective subsection who are eligible for medical assistance under the plan during the previous fiscal year (or medicare premium assistance needs described in subsection (b)(1)(B)) can be reasonably met without the expenditure of the amounts otherwise required to be expended, and

"(ii) the performance goals established under section 2101 relating to the respective population can reasonably be met with such lower amount of funds expended.

"(B) PERIOD OF APPLICATION.—The determination and certification under subparagraph (A) shall be made for such period as a State may request, but may not be made for a period of more than 3 consecutive Federal fiscal years (beginning with the first fiscal year for which the lower amount is sought). A new determination and certification must be made under such paragraph for any subsequent period.

"(C) NO EXCEPTION PERMITTED BEFORE FISCAL YEAR 1998.—This paragraph may not apply with respect to a State for a fiscal year before fiscal year 1998.

"(2) INDEPENDENT CERTIFICATION OF COMPLIANCE WITH GOALS.—

"(A) IN GENERAL.—For purposes of section 2151(c), a MediGrant plan shall not be considered to be in substantial violation of the requirements of this section if the amount of actual State expenditures specified in any (or all) of paragraphs (1) of subsections (a), (b), and (c) is lower than the minimum amounts specified in any (or all) of paragraphs (2) of subsections (a), (b), and (c) if an independent actuary determines and certifies to the State that the MediGrant plan is reasonably designed to result in a level of expenditures which is consistent with the requirements of such subsections.

"(B) LIMIT ON VARIATION.—Subparagraph (A) shall not apply in the case of a MediGrant plan for which the actual State expenditures described in any (or all) of paragraphs (1) of subsections (a), (b), and (c) are less than 95 percent of the expenditures which would be made if the amount of State expenditures specified in any (or all) of such paragraphs was equal to the applicable minimum amount specified in any (or all) of paragraphs (2) of subsections (a), (b), and (c).

"(3) TREATMENT OF STATES WITH NO OPTIONAL BENEFITS.—In the case of a State for which all expenditures under title XIX for medical assistance in the State during Federal fiscal years 1992 through 1994 were expenditures for medical assistance for mandated benefits, '75 percent' shall be substituted for '85 percent' each place it appears in paragraphs (2) of subsections (a), (b), and (c).

"(f) COMPUTATIONS.—

"(1) MINIMUM PERCENTAGES.—States shall calculate the minimum percentages under subsections (a)(2), (b)(2), and (c)(2) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved.

"(2) EXCLUSION OF PAYMENTS FOR CERTAIN ALIENS.—For purposes of this section, medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(g) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET-ASIDES.—In this section, the term 'mandated benefits'—

"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX,

"(2) includes medical assistance for medicare cost-sharing only to the extent such assistance was required to be provided under section 1902(a)(10)(E), and

"(3) does not include medical assistance attributable to disproportionate share payment adjustments described in section 1923.

"SEC. 2113. PREMIUMS AND COST-SHARING.

"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the MediGrant plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

"(1) IN GENERAL.—In the case of a family described in paragraph (2)—

"(A) the plan shall not impose any premium, and

"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the MediGrant plan for children or pregnant women unless such cost-sharing is nominal in nature.

"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

"(A) includes a child or a pregnant woman,

"(B) is made eligible for medical assistance under the MediGrant plan, and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a MediGrant plan (consistent with subsection (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services (delivered through a hospital emergency room, a medical transportation provider, or otherwise);

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care;

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size;

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage; or

"(5) from scaling cost-sharing based on participation in employment training program, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

"(d) COST-SHARING DEFINED.—In this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

"(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the MediGrant plan for a group of services (including at least inpatient hospital services and physicians' services), the plan shall include a description of the following:

"(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

"(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the MediGrant plan, and

"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications (including any accreditation, State licensure or certification, or provider network standards) required by the State for participation of capitated health care organizations under the MediGrant plan.

"(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

"(b) PUBLIC NOTICE AND COMMENT.—Under the MediGrant plan the State shall provide a process for providing, before the beginning of each contract year—

"(1) public notice of—

"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved or (ii) the amounts of the capitation payments the State expects to make for the contract year involved,

unless such information is designated as proprietary and not subject to public disclosure under State law; and

"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

"(c) DEFINITIONS.—In this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services (including at least inpatient hospital services and physicians' services).

"SEC. 2115. PREVENTING SPOUSAL IMPOVERISHMENT.

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(3) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title, and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for medical assistance under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for medical assistance).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR MEDICAL ASSISTANCE ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for medical assistance under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (6)(A)), in an amount not less than the amount specified in paragraph (6)(C).

"(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse (as provided under paragraph (7)).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—In this section (except as provided in paragraph (5)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

"(A) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

"(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(3) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

"(i) 150 percent of 1/12 of the income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with section 673(2)) for a family unit of 2 members; plus

"(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(4) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(5) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(6) PERSONAL NEEDS ALLOWANCE.—

"(A) IN GENERAL.—The State MediGrant plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the plan) a monthly personal needs allowance—

"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (C).

"(B) INSTITUTIONALIZED INDIVIDUAL OR COUPLE DEFINED.—In this paragraph, the term 'institutionalized individual or couple' means an individual or married couple—

"(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

"(ii) who is or are determined to be eligible for medical assistance under the State MediGrant plan.

"(C) MINIMUM ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $40 for an institutionalized individual and $80 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

"(7) TREATMENT OF INCURRED EXPENSES.—With respect to the post-eligibility treatment of income under this section, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(B) necessary medical or remedial care recognized under State law but not covered under the State MediGrant plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.

"(e) NOTICE AND HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a hearing under the MediGrant plan respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) RESULTS OF HEARING.—

"(A) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes in a hearing under this subsection that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(B) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes in such a hearing that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may, without regard to any other provision of the MediGrant plan to contrary, transfer an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—In this section:

"(1) The term 'institutionalized spouse' means an individual—

"(A)(i) who is in a medical institution or nursing facility, or

"(ii) at the option of the State (I) who would be eligible under the MediGrant plan under this title if they were in a medical institution, (II) with respect to whom there has been a determination that but for the provision of home or community-based services they would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the plan, and (III) who will receive home or community-based services pursuant the plan, and

"(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) The term 'community spouse' means the spouse of an institutionalized spouse.

"SEC. 2116. CONSTRUCTION.

"(a) NO FEDERAL ENTITLEMENT.—Nothing in this title (including section 2112) shall be construed as creating an entitlement under Federal law in any individual or category of individuals for medical assistance under a MediGrant plan.

"(b) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than section 2111(b)) shall be construed as requiring a State—

"(1) to provide medical assistance for any particular items or services;

"(2) subject to section 2111(c), to provide for any payments with respect to any specific health care providers or any level of payments for any services;

"(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State;

"(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual; or

"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(c) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care plans or individual health care providers for the provision or arrangement of medical assistance;

"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance; or

"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"SEC. 2117. LIMITATIONS ON CAUSES OF ACTION.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act (including section 1130A), no person (including an applicant, beneficiary, provider, or health plan) shall have a cause of action under Federal law against a State in relation to a State's compliance (or failure to comply) with the provisions of this title or of a MediGrant plan.

"(b) NO EFFECT ON STATE LAW.—Nothing in subsection (a) may be construed as affecting any actions brought under State law.

"PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

"(a) ALLOTMENTS.—

"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

"(2) LIMITATION ON OBLIGATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

"(B) ADJUSTMENTS.—

"(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year.

"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this Act.

"(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the 'aggregate limit on new obligation authority', for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the 'payout adjustment factor'—

"(i) for fiscal year 1996 is .950,

"(ii) for fiscal year 1997 is .986, and

"(iii) for a subsequent fiscal year is .998.

"(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

"(i) the pool amount for such year, reduced by

"(ii) $24.624 billion.

"(4) OBLIGATION ALLOTMENTS.—

"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the 'obligation allotment' for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—

"(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year, to

"(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

"(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

"(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

"(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State (including the District, a Commonwealth, or territory) is determined according to the formula: A=(B-C)/D, where—

"(I) 'A' is the obligation amount for such State;

"(II) 'B' is the outlay allotment of such State for fiscal year 1996, as determined under subsection (c);

"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)); and

"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

"(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State (including the District, Commonwealths, and territories). The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

"(iii) AGREEMENT.—The submission of a MediGrant plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection (including the formula for computing the amount of such obligation allotment).

"(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—In this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

"(b) Pool of Available Funds.—

"(1) IN GENERAL.—For purposes of this section, the 'pool amount' under this subsection for—

"(A) fiscal year 1996 is $95,662,990,500;

"(B) fiscal year 1997 is $102,748,012,797;

"(C) fiscal year 1998 is $107,268,354,400;

"(D) fiscal year 1999 is $111,826,877,512;

"(E) fiscal year 2000 is 116,472,575,350;

"(F) fiscal year 2001 is $121,311,325,403;

"(G) fiscal year 2002 is $126,351,055,338; and

"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4.1546 percent or the annual percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending in June before the beginning of that subsequent fiscal year.

"(2) NATIONAL MEDIGRANT GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the 'national MediGrant growth percentage' is the percentage by which—

"(A) the pool amount under paragraph (1) for the fiscal year, exceeds

"(B) such pool amount for the previous fiscal year.

"(c) STATE OUTLAY ALLOTMENTS.—

"(1) FISCAL YEAR 1996.—

"(A) IN GENERAL.—For each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996 is, subject to paragraph (4), equal to—

"(i) the total amount of Federal expenditures made to the State under title XIX for the 4 quarters in fiscal year 1994, increased by

"(ii) the percentage by which (I) $95,529,490,500 (which represents the total amount of outlay allotments for such States and District for fiscal year 1996), exceeds (II) $83,213,431,458 (which represents Federal medicaid expenditures for such States and District for fiscal year 1994).

"(B) COMPUTATION OF EXPENDITURES.—The amount of Federal expenditures described in subparagraph (A)(i) shall be computed, using data reported on the HCFA Form 64 as of September 1, 1995, based on—

"(i) the amount reported on line 11, or

"(ii) on the amount reported on line 6 multiplied by the ratio of (I) the sum of the amounts so reported on line 11 of such Form for fiscal year 1994 for the 50 States and the District of Columbia, to (II) the sum of the amounts so reported on line 6 of such Form for fiscal year 1994 for such States and District,

whichever is greater.

"(C) LIMITATION ON ADJUSTMENT.—The amount computed under subparagraph (B) shall not be subject to adjustment (based on any subsequent disallowances or otherwise).

"(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay allotment under this subsection for one of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

"(i) the needs-based amount determined under subparagraph (B) for the State for the fiscal year, and

"(ii) the scalar factor described in subparagraph (C) for the fiscal year.

"(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State for a fiscal year is equal to the product of—

"(i) the State's aggregate expenditure need for the fiscal year (as determined under subsection (d)), and

"(ii) the State's old Federal medical assistance percentage (as defined in section 2122(d)) for the previous fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

"(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

"(3) FLOORS AND CEILINGS.—

"(A) FLOORS.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the following:

"(i) FLOOR BASED ON PREVIOUS YEAR'S OUTLAY ALLOTMENT.—Subject to clause (ii)—

"(I) FISCAL YEAR 1997.—For fiscal year 1997, 103.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1996.

"(II) FISCAL YEAR 1998.—For fiscal year 1998, 103 percent of the amount of the State outlay allotment under this subsection for fiscal year 1997.

"(III) FISCAL YEAR 1999.—For fiscal year 1999, 102.5 percent of the amount of the State outlay allotment under this subsection for fiscal year 1998.

"(IV) SUBSEQUENT FISCAL YEARS.—For a fiscal year after 1999, 102 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year.

"(ii) FLOOR BASED ON OUTLAY ALLOTMENT GROWTH RATE IN FIRST YEAR.—Beginning with fiscal year 1998, in the case of a State for which the outlay allotment under this subsection for fiscal year 1997 exceeded its outlay allotment under this subsection for the previous fiscal year by—

"(I) more than 120 percent of the national MediGrant growth percentage for fiscal year 1997, 104 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year; or

"(II) less than 120 percent (but more than 75 percent) of the national MediGrant growth percentage for fiscal year 1997, 103 percent of the amount of the State outlay allotment under this subsection for the previous fiscal year.

"(B) CEILINGS.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State outlay allotment under this subsection for the State for the preceding fiscal year, and

"(II) the factor specified in clause (ii) (or, if applicable, in clause (iii)) for the fiscal year.

"(ii) FACTOR DESCRIBED.—The factor described in this clause for—

"(I) fiscal year 1997 is 1.09, and

"(II) each subsequent fiscal year is 1.0533.

"(iii) SPECIAL RULE.—For a fiscal year after fiscal year 1997, in the case of a State (among the 50 States and the District of Columbia) that is one of the 10 States with the lowest Federal MediGrant spending per resident-in-poverty rates (as determined under clause (iv)) for the fiscal year, the factor that shall be applied under clause (i)(II) shall be the following:

"(I) For each of fiscal years 1998 and 1999, 1.06.

"(II) For fiscal year 2000, 1.060657.

"(III) For fiscal year 2001, 1.061488.

"(IV) For any subsequent fiscal year, 1.062319.

"(iv) DETERMINATION OF FEDERAL MEDIGRANT SPENDING PER RESIDENT-IN-POVERTY RATE.—For purposes of clause (iii), the 'Federal MediGrant spending per resident-in-poverty rate' for a State for a fiscal year is equal to—

"(I) the State's outlay allotment under this subsection for the previous fiscal year (determined without regard to paragraph (4)), divided by

"(II) the average annual number of residents of the State in poverty (as defined in subsection (d)(2)) with respect to the fiscal year.

"(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

"(A) ELECTION.—In order to reduce variations in increases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of the State's outlay allotment in fiscal year 1996 and for the increase in the amount of such allotment in subsequent fiscal years.

"(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996.

"(5) COMMONWEALTHS AND TERRITORIES.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if the national MediGrant growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B).

"(d) STATE AGGREGATE EXPENDITURE NEED DETERMINED.—

"(1) IN GENERAL.—For purposes of subsection (c), the 'State aggregate expenditure need' for a State for a fiscal year is equal to the product of the following 4 factors:

"(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of the State with respect to the fiscal year (as determined under paragraph (2)).

"(B) CASE MIX INDEX.—The average of the case mix indexes for the State (as determined under paragraph (3)) for the 3 most recent fiscal years for which data are available, but in no case less than .9 or greater than 1.15.

"(C) INPUT COST INDEX.—The average of the input cost indexes for the State (as determined under paragraph (4)) for the 3 most recent fiscal years for which data are available.

"(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

"(2) RESIDENTS IN POVERTY.—In this section—

"(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in the State (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual whose family income does not exceed the poverty threshold (as such terms are defined by the Office of Management and Budget and are generally interpreted and applied by the Bureau of the Census for the year involved).

"(3) CASE MIX INDEX.—

"(A) IN GENERAL.—In this subsection, the 'case mix index' for a State for a fiscal year is equal to—

"(i) the sum of—

"(I) the projected per recipient expenditures with respect to elderly individuals in the State for the fiscal year (determined under subparagraph (B)),

"(II) the projected per recipient expenditures with respect to the blind and disabled individuals in the State for the fiscal year (determined under subparagraph (C)), and

"(III) the projected per recipient expenditures with respect to other individuals in the State (determined under subparagraph (D)); divided by—

"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

"(B) PROJECTED PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(I)(i), the 'projected per recipient expenditures with respect to elderly individuals' in a State for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are 65 years of age or older, and

"(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(C) PROJECTED PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the 'projected per recipient expenditures with respect to blind and disabled individuals' in a State for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because they are blind or disabled and under 65 years of age, and

"(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(D) PROJECTED PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the 'projected per recipient expenditures with respect to other individuals' in a State for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i), and

"(ii) the proportion, of all individuals who received medical assistance under this title in the State in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the 'national average expenditures per recipient' for a fiscal year is equal to the sum of—

"(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph;

"(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph; and

"(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

"(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

"(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

"(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

"(I) any reference in subparagraph (B)(i) to 'individuals 65 years of age or older' is deemed a reference to 'individuals whose eligibility for medical assistance is based on being 65 years of age or older',

"(II) the reference in subparagraph (C)(i) to 'and under 65 years of age' shall be considered to be deleted, and

"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

"(4) INPUT COST INDEX.—

"(A) IN GENERAL.—In this section, the 'input cost index' for a State for a fiscal year is the sum of—

"(i) 0.15, and

"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in the State for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage index applicable to hospitals under 1886(d)(2)(E) (or, if such index no longer exists, a comparable index of hospital wages) for discharges occurring during the fiscal year involved.

"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the 'national average spending per resident in poverty'—

"(A) for fiscal year 1997 is equal to—

"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for calendar quarters in fiscal year 1994, increased by the percentage specified in subsection (c)(1)(A)(ii), divided by

"(ii) the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for fiscal year 1994;

"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national MediGrant growth percentage (as defined in subsection (b)(2)) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute, after consultation with the Comptroller General, and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which they comply with the precise requirements of this section.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which they comply with the precise requirements of this section.

Section 2121 of the Social Security Act (as added by section 16001 of the bill) is amended by adding at the end the following:

"(f) SUPPLEMENTAL ALLOTMENT FOR EMERGENCY HEALTH CARE SERVICES TO CERTAIN ALIENS.—

"(1) IN GENERAL.—Notwithstanding the previous provisions of this section, the amount of the State outlay allotment for a fiscal year for each supplemental allotment eligible State shall be increased by the amount of the supplemental outlay allotment provided under paragraph (2) for the State for that year. The amount of such increased allotment may only be used for the purpose of providing medical assistance for care and services for aliens described in paragraph (1) of section 2123(e) and for which the exception described in paragraph (2) of such section applies. Section 2122(f)(3) shall apply to such assistance in the same manner as it applies to medical assistance described in such section.

"(2) SUPPLEMENTAL OUTLAY ALLOTMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the amount of the supplemental outlay allotment for a supplemental allotment eligible State for a fiscal year is equal to the supplemental allotment ratio (as defined in subparagraph (C)) multiplied by the supplemental pool amount (specified in subparagraph (D)) for the fiscal year.

"(B) SUPPLEMENTAL ALLOTMENT ELIGIBLE STATE.—In this subsection, the term 'supplemental allotment eligible State' means one of the 12 States with the highest number of undocumented aliens of all the States.

"(C) SUPPLEMENTAL ALLOTMENT RATIO.—In this paragraph, the 'supplemental allotment ratio' for a State is the ratio of—

"(i) the number of undocumented aliens for the State, to

"(ii) the sum of such numbers for all supplemental allotment eligible States.

"(D) SUPPLEMENTAL POOL AMOUNT.—In this paragraph, the 'supplemental pool amount'—

"(i) for each of fiscal years 1996 through 2002, is an amount so that, if the amount were increased for each such fiscal year beginning with fiscal year 1996 by the national MediGrant growth percentage for the year involved, the total of such amounts for all such fiscal years would be $3 billion; and

"(ii) for a subsequent year is the supplemental pool amount for the previous fiscal year increased by the national MediGrant growth percentage for such subsequent year.

"(E) DETERMINATION OF NUMBER.—The number of undocumented aliens in a State under this paragraph shall be determined based on estimates of the resident illegal alien population residing in each State prepared by the Statistics Division of the Immigration and Naturalization Service as of October 1992 (or as of such later date if such date is at least 1 year before the beginning of the fiscal year involved).

"(3) TREATMENT FOR OBLIGATION PURPOSES.—For purposes of computing obligation allotments under subsection (a)—

"(A) the amount of the supplemental pool amount for a fiscal year shall be added to the pool amount under subsection (b) for that fiscal year, and

"(B) the amount supplemental allotment to a State provided under paragraph (1) shall be added to the outlay allotment of the State for that fiscal year.

"(4) SEQUENCE OF OBLIGATIONS.—For purposes of carrying out this title, payments to a supplemental allotment eligible State under section 2122 that are attributable to expenditures for medical assistance described in the second sentence of paragraph (1) shall first be counted toward the supplemental outlay allotment provided under this subsection, rather than toward the outlay allotment otherwise provided under this section.

"(g) SPECIAL ADJUSTMENTS FOR FISCAL YEAR 1996.—Notwithstanding the previous provisions of this section—

"(1) the State outlay allotment for Oregon for fiscal year 1996 is increased by $155,682,700, and

"(2) the State outlay allotment for Tennessee for fiscal year 1996 is increased by $195,468,000.

The increases provided under this subsection shall not apply to or affect the computation of State outlay allotments of any other States and shall not apply for any fiscal year other than fiscal year 1996.

"SEC. 2122. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121 for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a MediGrant plan approved under part E, for each quarter in the fiscal year—

"(1) an amount equal to the applicable Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the applicable Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(e)(2)); plus

"(3) subject to section 2123(c)—

"(A) an amount equal to 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) an amount equal to 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) an amount equal to 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(c) Applicable Federal Medical Assistance Percentage Defined.—In this section, except as provided in subsection (f), the term 'applicable Federal medical assistance percentage' means, with respect to one of the 50 States or the District of Columbia, at the State's or District's option—

"(1) the old Federal medical assistance percentage (as determined in subsection (d)), or

"(2) the new Federal medical assistance percentage (as determined under subsection (e)) or, if less, the old Federal medical assistance percentage plus 10 percentage points.

"(d) Old Federal Medical Assistance Percentage.—

"(1) In general.—Except as provided in paragraph (2) and subsection (f), the term 'old Federal medical assistance percentage' for any State is 100 percent less the State percentage; and the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(2) Limitation on range.—In no case shall the old Federal medical assistance percentage be less than 50 percent or more than 83 percent.

"(3) Promulgation.—The old Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(e) New Federal Medical Assistance Percentage Defined.—

"(1) In general.—

"(A) Term defined.—Except as provided in paragraph (3) and subsection (f), the term 'new Federal medical assistance percentage' means, for each of the 50 States and the District of Columbia, 100 percent reduced by the product 0.39 and the ratio of—

"(i)(I) for each of the 50 States, the total taxable resources (TTR) ratio of the State specified in subparagraph (B), or

"(II) for the District of Columbia, the per capita income ratio specified in subparagraph (C),

to—

"(ii) the aggregate expenditure need ratio of the State or District, as described in subparagraph (D).

"(B) Total taxable resources (TTR) ratio.—For purposes of subparagraph (A)(i)(I), the total taxable resources (TTR) ratio for each of the 50 States is—

"(i) an amount equal to the most recent 3-year average of the total taxable resources (TTR) of the State, as determined by the Secretary of the Treasury, divided by

"(ii) an amount equal to the sum of the 3-year averages determined under clause (i) for each of the 50 States.

"(C) Per capita income ratio.—For purposes of subparagraph (A)(i)(II), the per capita income ratio of the District of Columbia is—

"(i) an amount equal to the most recent 3-year average of the total personal income of the District of Columbia, as determined in accordance with the provisions of section 1101(a)(8)(B), divided by

"(ii) an amount equal to the total personal income of the continental United States (including Alaska) and Hawaii, as determined under section 1101(a)(8)(B).

"(D) Aggregate expenditure need ratio.—For purposes of subparagraph (A), with respect to each of the 50 States and the District of Columbia for a fiscal year, the aggregate expenditure need ratio is—

"(i) the State aggregate expenditure need (as defined in section 2121(d)) for the State for the fiscal year, divided by

"(ii) the sum of such State aggregate expenditure needs for the 50 States and the District of Columbia for the fiscal year.

"(2) Limitation on range.—Except as provided in subsection (f), the new Federal medical assistance percentage shall in no case be less than 40 percent or greater than 83 percent.

"(3) Promulgation.—The new Federal medical assistance percentage for any State shall be promulgated in a timely manner consistent with the promulgation of the old Federal medical assistance percentage under section 1101(a)(8)(B).

"(f) Special Rules.—For purposes of this title—

"(1) Commonwealths and territories.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the old and new Federal medical assistance percentages are 50 percent.

"(2) Indian health service facilities.—

"(A) In general.—The old and new Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are received through a facility described in subparagraph (B) of an Indian tribe or tribal organization or through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

"(B) Facility described.—For purposes of subparagraph (A), a facility described in this subparagraph is a facility of an Indian tribe if—

"(i) the facility is located in a State which, as of the date of the enactment of this title, was not operating its State plan under title XIX pursuant to a Statewide waiver approved under section 1115,

"(ii) the facility is not an Indian Health Service facility,

"(iii) the tribe owns at least 2 such facilities, and

"(iv) the tribe has at least 50,000 members (as of the date of the enactment of this title).

"(3) No state matching required for certain expenditures.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(e)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) In General.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) Disallowances for Excluded Providers.—

"(1) In general.—Payment shall not be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) Exception for emergency services.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

"(c) Limitations.—

"(1) In general.—No Federal financial assistance is available for expenditures under the MediGrant plan for—

"(A) medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter; or

"(B) total administrative expenses (other than expenses described in paragraph (2) during the first 8 quarters in which the plan is in effect under this title) for quarters in a fiscal year to the extent such expenditures exceed the sum of $20,000,000 plus 10 percent of the total expenditures under the plan for the year.

"(2) Administrative expenses not subject to limitation.—The administrative expenses referred to in this paragraph are expenditures under the MediGrant plan for the following activities:

"(A) Quality assurance.

"(B) The development and operation of the certification program for nursing facilities and intermediate care facilities for the mentally retarded under section 2137(a)(2).

"(C) Utilization review activities, including medical activities and activities of peer review organizations.

"(D) Inspection and oversight of providers and capitated health care organizations.

"(E) Anti-fraud activities.

"(F) Independent evaluations.

"(G) Activities required to meet reporting requirements under this title.

"(d) Treatment of Third Party Liability.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its MediGrant plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(e) Limitation on Payments to Emergency Services for Nonlawful Aliens.—

"(1) In general.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) Exception for emergency services.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the MediGrant plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment), and

"(C) such care and services are not related to an organ transplant procedure.

"(3) Emergency medical condition defined.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(f) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment may be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(i)(2)) of a manufacturer provided under the MediGrant plan unless the manufacturer (as defined in section 2175(i)(4)) of the drug—

"(A) has entered into a MediGrant master rebate agreement with the Secretary under section 2175; and

"(B) is complying with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the MediGrant master rebate agreement under section 2175.

"(3) EFFECT OF SUBSEQUENT AMENDMENTS.—For purposes of paragraph (1)(B), in determining whether a manufacturer is in compliance with the requirements of section 8126 of title 38, United States Code—

"(A) the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992; and

"(B) a manufacturer is deemed to meet such requirements if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of the Veterans Health Care Act of 1992.

"(g) LIMITATION ON PAYMENT FOR ABORTIONS.—

"(1) IN GENERAL.—Payment shall not be made to a State under this part for any amount expended under the MediGrant plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

"(2) EXCEPTION.—Paragraph (1) shall not apply to an abortion—

"(A) if the pregnancy is the result of an act of rape or incest, or

"(B) in the case where a woman suffers from a physical disorder, illness, or injury that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

"(h) LIMITATION ON PAYMENT FOR ASSISTING DEATHS.—Payment shall not be made to a State under this part for amounts expended under the MediGrant plan to pay for, or to assist in the purchase, in whole or in part, of health benefit coverage that includes payment for any drug, biological product, or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each MediGrant plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter, or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor, and

"(B) make the audit report available for public inspection in the same manner as proposed MediGrant plan amendments are made available under section 2105.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each MediGrant plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each MediGrant plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the MediGrant plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the MediGrant plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The MediGrant plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the MediGrant plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

"(4) NOTICE.—The MediGrant plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

"(5) ACCESS TO INFORMATION.—The MediGrant plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

"(5) to State MediGrant fraud control units (as defined in section 2134),

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General,

in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986.

"SEC. 2134. STATE MEDIGRANT FRAUD CONTROL UNITS.

"(a) IN GENERAL.—Each MediGrant plan shall provide for a State MediGrant fraud control unit described in subsection (b) that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit

"(b) UNITS DESCRIBED.—For purposes of this subsection, the term 'State MediGrant fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

"(1) ORGANIZATION.—The entity—

"(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

"(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

"(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

"(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

"(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

"(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the MediGrant plan.

"(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the MediGrant plan.

"(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the MediGrant plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

"(5) OVERPAYMENTS.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the MediGrant plan to health care providers and that are discovered by the entity in carrying out its activities.

"(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

"(a) THIRD PARTY LIABILITY.—Each MediGrant plan shall provide for reasonable steps—

"(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties; and

"(2) to seek reimbursement for medical assistance provided to the extent legal liability is establish where the amount expected to be recovered exceeds the costs of the recovery.

"(b) BENEFICIARY PROTECTION.—

"(1) IN GENERAL.—Each MediGrant plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

"(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability, and

"(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

"(2) PENALTY.—A MediGrant plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

"(c) GENERAL LIABILITY.—The State shall prohibit any health insurer (including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a MediGrant plan for any State.

"(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a MediGrant plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

"(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The MediGrant plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

"(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

"(1) IN GENERAL.—Each State with a MediGrant plan shall have in effect the following laws:

"(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(i) the child was born out of wedlock,

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll (or eliminate coverage of) any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(ii) has received payment from a third party for the costs of such services to such child, but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—A State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the MediGrant plan, including through the imposition of liens against the property or estate of the individual.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the MediGrant plan, each MediGrant plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

"(2) provide for entering into cooperative arrangements (including financial arrangements), with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

"(a) STANDARDS FOR AND CERTIFICATION OF CERTAIN FACILITIES.—

"(1) STANDARDS FOR FACILITIES.—

"(A) IN GENERAL.—Each MediGrant plan shall provide for the establishment and maintenance of standards consistent with the contents described in subparagraph (B) for nursing facilities which furnish services under the plan. Such standards shall provide that nursing facilities must care for residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

"(B) CONTENTS OF STANDARDS.—The standards established for facilities under this paragraph shall contain provisions relating to the following items:

"(i) The treatment of resident medical records.

"(ii) Policies, procedures, and bylaws for operation.

"(iii) Quality assurance systems.

"(iv) Resident assessment procedures, including care planning and outcome evaluation.

"(v) The assurance of a safe and adequate physical plant for the facility.

"(vi) Qualifications for staff sufficient to provide adequate care, as defined by the State.

"(vii) Utilization review.

"(viii) The protection and enforcement of resident rights described in paragraph (2)(A).

"(C) PROCESS FOR ESTABLISHMENT.—The standards established by the State for facilities under this paragraph shall be promulgated either through the State's legislative, regulatory, or other process, and may only take effect after the State has provided the public with notice and an opportunity for comment.

"(2) RESIDENTS' RIGHTS.—

"(A) IN GENERAL.—The resident rights described in this paragraph are the rights of residents to the following:

"(i) To exercise the individual's rights as a resident of the facility and as a citizen or resident of the United States.

"(ii) To receive notice of rights and services.

"(iii) To be protected against the misuse of resident funds.

"(iv) To be provided privacy and confidentiality.

"(v) To voice grievances.

"(vi) To examine the results of State certification program inspections.

"(vii) To refuse to perform services for the facility.

"(viii) To be provided privacy in communications and to receive mail.

"(ix) To have the facility provide immediate access to any resident by any representative of the certification program, the resident's individual physician, the State long term care ombudsman, and any person the resident has designated as a visitor.

"(x) To retain and use personal property.

"(xi) To be free from abuse, including verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion and not to have any physical or chemical restraints imposed for purposes of discipline or convenience unless required to treat the resident's medical symptoms.

"(xii) To be provided with prior written notice of a pending transfer or discharge.

"(xiii) To organize and participate in resident groups in the facility and to have family members meet in the facility with the families of other residents in the facility.

"(xiv) To participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

"(xv) To choose a personal attending physician, to be fully informed in advance about care and treatment, and (except with respect to a resident adjudged incompetent) to participate in planning care and treatment or changes in care and treatment.

"(xvi) To not have psycho-pharmacologic drugs administered except under the orders of a physician and as part of a plan designed to eliminate or modify the symptoms for which the drugs are prescribed.

"(B) RIGHTS OF INCOMPETENT RESIDENTS.—In the case of a resident adjudged incompetent under the laws of a State, the rights of the resident under the MediGrant plan shall devolve upon, and, to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the resident's behalf.

"(3) CERTIFICATION PROGRAM.—

"(A) IN GENERAL.—Each MediGrant plan shall provide for the establishment and operation of a program consistent with the requirements of subparagraph (B) for the certification of nursing facilities which meet the standards established under paragraph (1) and the decertification of facilities which fail to meet such standards.

"(B) REQUIREMENTS FOR PROGRAM.—In addition to any other requirements the State may impose, in establishing and operating the certification program under subparagraph (A), the State shall ensure the following:

"(i) The State shall ensure public access (as defined by the State) to the certification program's evaluations of participating facilities, including compliance records and enforcement actions and other reports by the State regarding the ownership, compliance histories, and services provided by certified facilities.

"(ii) Not less often than every 4 years, the State shall audit its expenditures under the program, through an entity designated by the State which is not affiliated with the program, as designated by the State.

"(b) INTERMEDIATE SANCTION AUTHORITY.—

"(1) AUTHORITY.—In addition to any other authority under State law, where a State determines that a nursing facility which is certified for participation under the MediGrant plan no longer substantially meets the requirements for such a facility under this title and further determines that the facility's deficiencies—

"(A) immediately jeopardize the health and safety of its residents, the State shall at least provide for the termination of the facility's certification for participation under the plan, or

"(B) do not immediately jeopardize the health and safety of its residents, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide lesser sanctions including one that provides that no payment will be made under the plan with respect to any individual admitted to such facility after a date specified by the State.

"(2) NOTICE.—The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the requirements for such a facility under the plan, to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) EFFECTIVENESS.—The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title, or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the MediGrant plan effective with the first day of the first month following the month specified in such clause.

"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each MediGrant plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each MediGrant plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records (including ledgers, books, and original evidence of costs) as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan; and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDIGRANT PLANS

"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDIGRANT PLANS.

"(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a MediGrant plan that meets the applicable requirements of this title.

"(b) APPROVAL.—Except as the Secretary may provide under section 2154, a MediGrant plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"(c) APPROVAL OF LEGISLATURE FOR SUBMITTAL.—In the case of a State which has a State allotment under section 2121(c)(1) for fiscal year 1996 of more than $10 billion, the State may not submit a MediGrant plan under this section unless the State legislature, by law, has specifically authorized such submittal.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its MediGrant plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 2154, an amendment to a MediGrant plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title, and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to MediGrant plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4)—

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60 day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. PROCESS FOR STATE WITHDRAWAL FROM PROGRAM.

"(a) IN GENERAL.—A State may rescind its MediGrant plan and discontinue participation in the program under this title at any time after providing—

"(1) the public with 90 days prior notice in a publication in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules, and

"(2) the Secretary with 90 days prior written notice.

"(b) EFFECTIVE DATE.—Such discontinuation shall not apply to payments under part C for expenditures made for items and services furnished under the MediGrant plan before the effective date of the discontinuation.

"(c) PRORATION OF ALLOTMENTS.—In the case of any withdrawal under this section other than at the end of a Federal fiscal year, notwithstanding any provision of section 2121 to the contrary, the Secretary shall provide for such appropriate proration of the application of allotments under section 2121 as is appropriate.

"SEC. 2154. SANCTIONS FOR SUBSTANTIAL NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review MediGrant plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) In general.—If the Secretary, during the 30-day period beginning on the date of submittal of a MediGrant plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title, and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days, or 120 days in the case of the initial submission of the MediGrant plan specified in the order beginning on the date of the notice of the determination.

"(B) Extension of time periods.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) Violations in administration of plan.—

"(A) In general.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a MediGrant plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the MediGrant plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) Effectiveness.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) Timeliness of determinations relating to report-based compliance.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) Consultation with state.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved,

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title, and

"(C) reasonably consider any such clarifications and information submitted.

"(4) Justification of any inconsistencies in determinations.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) Substantial violation defined.—For purposes of this title, a MediGrant plan (or amendment to such a plan) or the administration of the MediGrant plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect, and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

"(c) State Response to Orders.—

"(1) State response by revising plan.—

"(A) In general.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a MediGrant plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the plan or plan amendment to substantially comply with the requirements of this part.

"(B) Review of revision.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) Secretarial response.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) Revision retroactive.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) State response by seeking reconsideration or an administrative hearing.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1), or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

"(3) State response by corrective action plan.—

"(A) In general.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the MediGrant plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) Review of corrective action plan.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) Secretarial response.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the MediGrant plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) State response by withdrawal of plan amendment; failure to respond.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the MediGrant plan shall be treated as though the amendment had not been made.

"(d) Administrative Review and Hearing.—

"(1) Reconsideration.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) Administrative hearing.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(e) Judicial Review.—

"(1) In general.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code.

"(2) Standard for review.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) Jurisdiction of appellate court.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a MediGrant plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"SEC. 2155. SECRETARIAL AUTHORITY.

"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a MediGrant plan (or amendments to a MediGrant plan) or the compliance of a MediGrant plan (including its administration) with requirements of this title.

"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2154.

"(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of MediGrant plans (or amendments to such plans) or the compliance of a MediGrant plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

"(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

"PART F—GENERAL PROVISIONS

"SEC. 2171. DEFINITIONS.

"(a) MEDICAL ASSISTANCE.—

"(1) IN GENERAL.—For purposes of this title, except as provided in paragraph (2), the term 'medical assistance' means payment of part or all the cost of any of the following for eligible low-income individuals (as defined in subsection (b)) as specified under the MediGrant plan:

"(A) Inpatient hospital services.

"(B) Outpatient hospital services.

"(C) Physician services.

"(D) Surgical services.

"(E) Clinic services and other ambulatory health care services.

"(F) Nursing facility services.

"(G) Intermediate care facility services for the mentally retarded.

"(H) Prescription drugs and biologicals.

"(I) Over-the-counter medications.

"(J) Laboratory and radiological services.

"(K) Family planning services and supplies.

"(L) Inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

"(M) Outpatient mental health services, including services furnished in a State-operated mental hospital and including community-based services in the case of a child.

"(N) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(O) Disposable medical supplies.

"(P) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, and training for family members).

"(Q) Community supported living arrangements.

"(R) Nursing care services (such as private duty nursing care, nurse midwife services, respiratory care services, pediatric nurse services, and advanced practice nurse services) in a home, school, or other setting.

"(S) Dental services.

"(T) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(U) Outpatient substance abuse treatment services.

"(V) Case management services.

"(W) Care coordination services.

"(X) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(Y) Hospice care.

"(Z) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and if the service is—

"(i) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(ii) performed under the general supervision or at the direction of a physician, or

"(iii) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(AA) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

"(BB) Medical transportation.

"(CC) Medicare cost-sharing (as defined in subsection (c)).

"(DD) Enabling services (such as transportation, translation, and outreach services) designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(EE) Any other health care services or items specified by the Secretary.

"(2) EXCLUSION OF CERTAIN PAYMENTS.—Such term does not include the payment with respect to care or services for—

"(A) any individual who is an inmate of a public institution (except as a patient in a State psychiatric hospital); and

"(B) any individual who is not an eligible low-income individual.

"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual who has been determined eligible by the State for medical assistance under the MediGrant plan and whose family income (as determined under the plan) does not exceed a percentage (specified in the MediGrant plan and not to exceed 300 percent) of the poverty line for a family of the size involved. In determining the amount of income under the previous sentence, a State may exclude costs incurred for medical care or other types of remedial care recognized by the State.

"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

"(1)(A) Premiums under section 1839.

"(B) Premiums under section 1818 or 1818A.

"(2) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(3) Deductibles established under title XVIII (including those described in section 1813 and section 1833(b)).

"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

"(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a MedicarePlus organization under part C of title XVIII.

"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) POVERTY LINE DEFINED.—The term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(3) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"SEC. 2172. TREATMENT OF TERRITORIES.

"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program a State other than the 50 States and the District of Columbia, other than a waiver of—

"(1) the applicable Federal medical assistance percentage,

"(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c), or

"(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in paragraph (1) of section 2171(a) and medically-related services (as defined in section 2112(e)(2)).

"SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH SERVICE FACILITIES.

"In the case of a State in which one or more facilities of the Indian Health Service are located, the MediGrant plan shall include a description of—

"(1) what provision (if any) has been made for payment for items and services furnished by such facilities, and

"(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

"SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

"The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1128B(d) (relating to criminal penalties for certain additional charges).

"(6) Section 1132 (relating to periods within which claims must be filed).

"SEC. 2175. MEDIGRANT MASTER DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR MANUFACTURER TO ENTER INTO AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 2123(f), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer shall enter into and have in effect an MediGrant master rebate agreement described in subsection (b) with the Secretary on behalf of States electing to participate in the agreement.

"(2) STATE PARTICIPATION IN MASTER AGREEMENT OPTIONAL.—Nothing in this section shall be construed to—

"(A) require a State to participate in an MediGrant master rebate agreement under this section; or

"(B) prohibit a State from entering into an agreement with a manufacturer of covered outpatient drugs (under such terms as the State and manufacturer may agree upon) regarding the amount of payment for such drugs under the MediGrant plan.

"(3) COVERAGE OF DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Nothing in this section shall be construed to prohibit a State in its discretion from providing coverage under its MediGrant plan of a covered outpatient drug for which no rebate agreement is in effect under this section.

"(4) EFFECT ON EXISTING AGREEMENTS.—If a State has a rebate agreement in effect with a manufacturer on the date of the enactment of this section which provides for a minimum aggregate rebate equal to or greater than the minimum aggregate rebate which would otherwise be paid under the MediGrant master agreement under this section, at the option of the State—

"(A) such agreement shall be considered to meet the requirements of the MediGrant master rebate agreement; and

"(B) the State shall be considered to have elected to participate in the MediGrant master rebate agreement.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—The MediGrant master rebate agreement under this section shall require the manufacturer to provide, to the MediGrant plan of each State participating in the agreement, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after the effective date of the agreement, for which payment was made under the plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State participating in the MediGrant master rebate agreement shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug, for which payment was made under the MediGrant plan for the period, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer which is subject to the MediGrant master rebate agreement under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each rebate period under the agreement (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (i)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement, and

"(ii) not later than 30 days after the date of entering into an agreement under this section, on the average manufacturer price (as defined in subsection (i)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer which is subject to the MediGrant master rebate agreement that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer which is subject to the MediGrant master rebate agreement, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in section 2123(f) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section,

"(ii) to permit the Comptroller General to review the information provided, and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—The MediGrant master rebate agreement under this section shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of the MediGrant master rebate agreement with respect to a manufacturer for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate its participation in the MediGrant master rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period (as defined in subsection (i)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State plan in the rebate period (as reported by the State); and

"(ii) the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)) of such average manufacturer price,

for the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' is 15.1 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in section 340B(a)(4) of the Public Health Service Act;

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

"(III) any prices used under a State pharmaceutical assistance program; and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package;

"(III) shall not take into account prices that are merely nominal in amount; and

"(IV) shall exclude rebates paid under this section or any other rebates paid to a State participating in the MediGrant master rebate agreement.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection with respect to a State participating in the MediGrant master rebate agreement for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the consumer price index for all urban consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State participating in the MediGrant master rebate agreement for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the MediGrant plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) LIMITATION ON AMOUNT OF REBATE TO AMOUNTS PAID FOR CERTAIN DRUGS.—Upon request of a manufacturer of a covered outpatient drug for which a majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities (including drugs which are exempt from the requirements of the MediGrant master rebate agreement under this section under subsection (h)(1)(B)), the Secretary shall limit the amount of the rebate under this subsection with respect to a dosage form and strength of the drug for a rebate period to the amount paid under the MediGrant plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

"(d) LIMITATIONS ON COVERAGE OF DRUGS BY STATES PARTICIPATING IN MASTER AGREEMENT.—

"(1) PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement under this section may—

"(A) subject to prior authorization under its MediGrant plan any covered outpatient drug so long as any such prior authorization program complies with the requirements of paragraph (5); and

"(B) exclude or otherwise restrict coverage under its plan of a covered outpatient drug if—

"(i) the prescribed use is not for a medically accepted indication (as defined in subsection (i)(5));

"(ii) the drug is contained in the list referred to in paragraph (2);

"(iii) the drug is subject to such restrictions pursuant to the MediGrant master rebate agreement or any agreement described in subsection (a)(4); or

"(iv) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted by a State participating in the MediGrant master rebate agreement:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State participating in the MediGrant master rebate agreement may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State.

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with the agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (i)(5)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The State plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—The MediGrant plan of a State participating in the MediGrant master rebate agreement may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (i)(5)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State participating in the MediGrant master rebate agreement may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the MediGrant master rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—A State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(f) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its MediGrant plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(g) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate, the Committee on Commerce of the House of Representatives, and the Committee on Aging of the Senate a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) the effect of inflation on the value of rebates required under this section;

"(D) trends in prices paid under this title for covered outpatient drugs; and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(h) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the MediGrant master rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

"(A) a capitated health care organization (as defined in section 2114(c)(1)); or

"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

"(i) DEFINITIONS.—In the section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in subparagraph (D), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 2171(a)(1)(H), a drug which may be dispensed only upon prescription (except as provided in paragraph (7)), and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product;

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under a MediGrant plan as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the MediGrant plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

"(4) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(5) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the following compendia:

"(A) American Hospital Formulary Service Drug Information.

"(B) United States Pharmacopeia-Drug Information.

"(C) American Medical Association Drug Evaluations.

"(D) The peer-reviewed medical literature.

"(6) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application or product licensing application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(7) NONPRESCRIPTION DRUGS.—If the MediGrant plan of a State participating in the MediGrant master rebate agreement under this section includes coverage of prescribed drugs as described in section 2171(a)(1)(H) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug for purposes of the State's participation in the agreement.

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

SEC. 16002. TERMINATION OF CURRENT PROGRAM AND TRANSITION.

(a) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—Title XIX of the Social Security Act is amended—

(1) by redesignating section 1931 as section 1932; and

(2) by inserting after section 1930 the following new section:

"TERMINATION OF MEDICAID PROGRAM;
LIMITATION ON NEW OBLIGATION AUTHORITY

"SEC. 1931. (a) ELIMINATION OF INDIVIDUAL ENTITLEMENT.—Effective on the date of the enactment of this section—

"(1) except as provided in subsection (b), the Federal Government has no obligation to provide payment with respect to items and services provided under this title, and

"(2) this title shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person (including any provider) at the time of provision or receipt of services.

"(b) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this title—

"(1) POST-ENACTMENT, PRE-MEDIGRANT.—Subject to paragraph (2), the Secretary is authorized to enter into obligations with any State under this title for expenses incurred after the date of the enactment of this Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(b)(4).

"(2) NONE AFTER MEDIGRANT.—The Secretary is not authorized to enter into any obligation with any State under this title for expenses incurred on or after the earlier of—

"(A) October 1, 1996; or

"(B) the first day of the first quarter on which the State plan under title XXI is first effective.

"(3) AGREEMENT.—A State's submission of claims for payment under section 1903 after the date of the enactment of this title with respect to which the limitation described in paragraph (1) applies is deemed to constitute the State's acceptance of the obligation limitation under such paragraph (including the formula for computing the amount of such obligation limitation).

"(c) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under this title with respect to an obligation incurred before the date of the enactment of this section, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in subsection (a) or (b) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.".

(b) MEDICAID TRANSITION.—

(1) TREATMENT OF CERTAIN CAUSES OF ACTION.—No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title and which has not become final as of the date of the enactment of this Act shall be brought or continued.

(2) TREATMENT OF CERTAIN DISALLOWANCES.—Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions effected shall be rescinded and the payments returned to the State.

(3) EXTENSION OF MORATORIUM.—Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "the first day of the first quarter on which the MediGrant plan for the State of Michigan is first effective under title XXI of such Act".

(c) NO APPLICATION OF PRIOR MEDICAID JUDGMENTS TO MEDIGRANT PROGRAM.—No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the MediGrant plan of the State title XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(d) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES.

(1) IN GENERAL.—Subject to paragraph (2), section 1928 of the Social Security Act (42 U.S.C. 1396s) is repealed, effective on the date of the enactment of this Act.

(2) TRANSITION.—(A) Such repeal shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act.

(B) No vaccine may be purchased after such date by the Federal Government or any State under any contract under section 1928(d) of the Social Security Act.

(e) ANTI-FRAUD PROVISIONS.—

(1) IN GENERAL.—Section 1128(h)(1) of the Social Security Act (42 U.S.C. 1320a-7(h)(1)) is amended by inserting "or a MediGrant plan under title XXI" after "title XIX".

(2) CONTINUED ROLE OF INSPECTOR GENERAL.—The Inspector General in the Department of Health and Human Services shall have the same responsibilities and duties in relation to fraud and abuse and related matters under the MediGrant program under title XXI of the Social Security Act as such Inspector General has had in relation to the medicaid program under title XIX of such Act before the date of the enactment of this Act.

(f) FINAL EXTENSION OF MEDICAID WAIVER FOR DAYTON AREA HEALTH PLAN.—Section 2 of Public Law 102-276, as amended by section 13644 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "the last day of the last calendar quarter in which a State medicaid plan is in effect in Ohio under title XIX of the Social Security Act".

TITLE XVII—ABOLISHMENT OF DEPARTMENT OF COMMERCE

SEC. 17001. SHORT TITLE.

This title may be cited as the "Department of Commerce Dismantling Act".

SEC. 17002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE XVII—ABOLISHMENT OF DEPARTMENT OF COMMERCE
Sec. 17001. Short title.
Sec. 17002. Table of contents.
Subtitle A—Abolishment of Department of Commerce
Sec. 17101. Abolishment of Department of Commerce.
Sec. 17102. Resolution and termination of Department functions.
Sec. 17103. Responsibilities of the Director of the Office of Management and Budget.
Sec. 17104. Office of Programs Resolution.
Sec. 17105. Personnel.
Sec. 17106. Plans and reports.
Sec. 17107. GAO audit and access to records.
Sec. 17108. Conforming amendments.
Sec. 17109. Privatization framework.
Sec. 17110. Priority placement programs for Federal employees affected by a reduction in force attributable to this title.
Sec. 17111. Funding reductions for transferred functions.
Sec. 17112. Definitions.
Subtitle B—Disposition of Various Programs, Functions, and Agencies of Department of Commerce
Sec. 17201. Abolishment of Economic Development Administration and transfer of functions.
Sec. 17202. Technology Administration.
Sec. 17203. Reorganization of the Bureau of the Census.
Sec. 17204. Bureau of Economic Analysis.
Sec. 17205. Terminated functions of NTIA.
Sec. 17206. National Oceanic and Atmospheric Administration.
Sec. 17207. National Institute for Science and Technology.
Sec. 17208. Miscellaneous terminations; moratorium on program activities.
Sec. 17209. Effective date.
Subtitle C—Office of United States Trade Representative
CHAPTER 1—GENERAL PROVISIONS
Sec. 17301. Definitions.
CHAPTER 2—OFFICE OF UNITED STATES TRADE REPRESENTATIVE
SUBCHAPTER A—ESTABLISHMENT
Sec. 17311. Establishment of the Office.
Sec. 17312. Functions of the USTR.
SUBCHAPTER B—OFFICERS
Sec. 17321. Deputy Administrator of the Office.
Sec. 17322. Deputy United States Trade Representatives.
Sec. 17323. Assistant Administrators.
Sec. 17324. Director General for Export Promotion.
Sec. 17325. General Counsel.
Sec. 17326. Inspector General.
Sec. 17327. Chief Financial Officer.
SUBCHAPTER C—TRANSFERS TO THE OFFICE
Sec. 17331. Office of the United States Trade Representative.
Sec. 17332. Transfers from the Department of Commerce.
Sec. 17333. Trade and Development Agency.
Sec. 17334. Export-Import Bank.
Sec. 17335. Overseas Private Investment Corporation.
Sec. 17336. Consolidation of export promotion and financing activities.
Sec. 17337. Additional trade functions.
SUBCHAPTER D—ADMINISTRATIVE PROVISIONS
Sec. 17341. Personnel provisions.
Sec. 17342. Delegation and assignment.
Sec. 17343. Succession.
Sec. 17344. Reorganization.
Sec. 17345. Rules.
Sec. 17346. Funds transfer.
Sec. 17347. Contracts, grants, and cooperative agreements.
Sec. 17348. Use of facilities.
Sec. 17349. Gifts and bequests.
Sec. 17350. Working capital fund.
Sec. 17351. Service charges.
Sec. 17352. Seal of Office.
SUBCHAPTER E—RELATED AGENCIES
Sec. 17361. Interagency Trade Organization.
Sec. 17362. National Security Council.
Sec. 17363. International Monetary Fund.
SUBCHAPTER F—CONFORMING AMENDMENTS
Sec. 17371. Amendments to general provisions.
Sec. 17372. Repeals.
Sec. 17373. Conforming amendments relating to Executive Schedule positions.
SUBCHAPTER G—MISCELLANEOUS
Sec. 17381. Effective date.
Sec. 17382. Interim appointments.
Sec. 17383. Funding reductions resulting from reorganization.
Subtitle D—Patent and Trademark Office Corporation
Sec. 17401. Short title.
CHAPTER 1—PATENT AND TRADEMARK OFFICE
Sec. 17411. Establishment of Patent and Trademark Office as a corporation.
Sec. 17412. Powers and duties.
Sec. 17413. Organization and management.
Sec. 17414. Management Advisory Board.
Sec. 17415. Independence from Department of Commerce.
Sec. 17416. Trademark trial and appeal board.
Sec. 17417. Board of patent appeals and interferences.
Sec. 17418. Suits by and against the corporation.
Sec. 17419. Annual report of Commissioner.
Sec. 17420. Suspension or exclusion from practice.
Sec. 17421. Funding.
Sec. 17422. Audits.
Sec. 17423. Transfers.
CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS
Sec. 17431. Effective date.
Sec. 17432. Technical and conforming amendments.
Subtitle E—Miscellaneous Provisions
Sec. 17501. References.
Sec. 17502. Exercise of authorities.
Sec. 17503. Savings provisions.
Sec. 17504. Transfer of assets.
Sec. 17505. Delegation and assignment.
Sec. 17506. Authority of director of the office of management and budget with respect to functions transferred.
Sec. 17507. Certain vesting of functions considered transfers.
Sec. 17508. Availability of existing funds.
Sec. 17509. Definitions.

Subtitle A—Abolishment of Department of Commerce

SEC. 17101. ABOLISHMENT OF DEPARTMENT OF COMMERCE.

(a) ABOLISHMENT OF DEPARTMENT.—The Department of Commerce is abolished effective on the abolishment date specified in subsection (c).

(b) TRANSFER OF DEPARTMENT FUNCTIONS TO OMB.—Except as otherwise provided in this title, all functions that immediately before the abolishment date specified in subsection (c) are authorized to be performed by the Secretary of Commerce, any other officer or employee of the Department acting in that capacity, or any agency or office of the Department, are transferred to the Director of the Office of Management and Budget effective on that abolishment date.

(c) ABOLISHMENT DATE.—The abolishment date referred to in subsections (a) and (b) is the earlier of—

(1) the last day of the 6-month period beginning on the date of the enactment of this Act; or

(2) September 30, 1996.

SEC. 17102. RESOLUTION AND TERMINATION OF DEPARTMENT FUNCTIONS.

(a) RESOLUTION OF FUNCTIONS.—During the period beginning on the date of enactment of this Act and ending on the functions termination date specified in subsection (c)—

(1) the disposition and resolution of functions of the Department of Commerce shall be completed in accordance with this title; and

(2) the Director shall resolve all functions that are transferred to the Director under section 17101(b) and are not otherwise continued under this title.

(b) TERMINATION OF FUNCTIONS.—All functions that are transferred to the Director under section 17101(b) that are not otherwise continued by this title shall terminate on the functions termination date specified in subsection (c).

(c) FUNCTIONS TERMINATION DATE.—The functions termination date referred to in subsections (a) and (b) is the last day of the 3-year period beginning on the date of the enactment of this Act.

SEC. 17103. RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

The Director of the Office of Management and Budget, acting through the Administrator of the Office of Programs Resolution, shall be responsible for the implementation of this subtitle, including—

(1) the administration and wind-up, during the wind-up period, of all functions transferred to the Director under section 17101(b);

(2) the administration and wind-up, during the wind-up period, of any outstanding obligations of the Federal Government under any programs terminated by this title; and

(3) taking such other actions as may be necessary to wind-up any outstanding affairs of the Department of Commerce before the end of the wind-up period.

SEC. 17104. OFFICE OF PROGRAMS RESOLUTION.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Office of Management and Budget an office to be known as the Office of Programs Resolution.

(b) ADMINISTRATOR.—There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Administrator shall serve as principal adviser to the Director on Government organization and reorganization matters, and shall report directly to the Director.

(c) FUNCTIONS.—The Administrator shall perform such functions as are vested in the Administrator by this title or delegated to the Administrator by the Director.

(d) Authorities of the Administrator.—For purposes of performing the functions of the Administrator under subsection (c) and subject to the availability of appropriations, the Administrator may—

(1) enter into contracts;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule; and

(3) utilize, on a reimbursable basis, the services, facilities, and personnel of other Federal agencies.

(e) Auditor General.—

(1) In general.—There shall be in the Office an Auditor General, who shall be appointed by and report to the Administrator.

(2) Functions.—The Auditor General shall—

(A) conduct audits and investigations with respect to activities of the Office; and

(B) submit to the Administrator and the Director reports on the findings of those audits and investigations.

(f) Reorganization.—The Administrator may allocate or reallocate among the officers of the Office any function vested in the Administrator or the Office, and may establish, consolidate, alter, or discontinue in the Office any organizational entities that were entities of the Department of Commerce, as the Administrator considers necessary or appropriate.

(g) Annual Authorization Required.—No sums may be appropriated for any fiscal year for the Office except as specifically authorized for that fiscal year by law.

SEC. 17105. PERSONNEL.

Effective on the abolishment date specified in section 17101(c), there are transferred to the Office all individuals who—

(1) immediately before the abolishment date, were officers or employees of the Department of Commerce; and

(2) in their capacity as such an officer or employee, performed functions that are transferred to the Director under section 17101(b).

SEC. 17106. PLANS AND REPORTS.

(a) Initial Implementation Plan.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress specifying those actions taken and necessary to be taken—

(A) to resolve those programs and functions terminated on the date of enactment of this Act; and

(B) to implement the additional transfers and other program dispositions provided for in this title.

(2) Contents.—The report shall include—

(A) a description of the anticipated size and composition of the Programs Resolution Office,

(B) recommendations for additional legislation, if any, needed to reflect or otherwise to implement the abolishments, transfers, terminations, and other dispositions of programs and functions under this title; and

(C) a description of actions planned and taken to comply with limitations imposed by this Act on future spending for continued functions.

(b) Annual Status Reports.—At the end of each of the first, second, and third years following the date of enactment of this Act, the Director shall submit a report, through the President, to the Congress which—

(1) specifies the status and progress of actions taken to implement this title and to wind-up the affairs of the Department of Commerce by the functions termination date specified in section 17102(c);

(2) includes a summary of reports submitted to the Director under section 17104(e)(2)(B) during the period covered by the report by the Auditor General of the Office;

(3) includes any recommendations the Director may have for additional legislation; and

(4) describes actions taken to comply with limitations imposed by this Act on future spending for continued functions.

(c) GAO Reports.—Not later than 60 days after issuance of each report under subsections (a) and (b), the Comptroller General of the United States shall submit to the Congress a report which—

(1) evaluates the report under that subsection; and

(2) includes any recommendations the Comptroller General considers appropriate.

SEC. 17107. GAO AUDIT AND ACCESS TO RECORDS.

(a) Audit of Persons Performing Functions Pursuant to This Act.—All agencies, corporations, organizations, and other persons of any description which under the authority of the United States perform any function or activity pursuant to this title shall be subject to audit by the Comptroller General of the United States with respect to such function or activity.

(b) Audit of Persons Providing Certain Goods or Services.—All persons and organizations which, by contract, grant, or otherwise, provide goods or services to, or receive financial assistance from, any agency or other person performing functions or activities under or referred to by this title shall be subject to audit by the Comptroller General of the United States with respect to such provision of goods or services or receipt of financial assistance.

(c) Provisions Applicable to Audits Under This Section.—

(1) Nature and scope of audit.—The Comptroller General of the United States shall determine the nature, scope, terms, and conditions of audits conducted under this section.

(2) Coordination with other provisions of law.—The authority of the Comptroller General of the United States under this section shall be in addition to any audit authority available to the Comptroller General under other provisions of this title or any other law.

(3) Rights of access, examination, and copying.—The Comptroller General of the United States, and any duly authorized representative of the Comptroller General, shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property within the possession or control of any agency or person which is subject to audit under this section, which the Comptroller General considers relevant to an audit conducted under this section.

(4) Enforcement of right of access.—The right of access of the Comptroller General of the United States to information under this section shall be enforceable under section 716 of title 31, United States Code.

(5) Maintenance of confidential records.—Section 716(e) of title 31, United States Code, shall apply to information obtained by the Comptroller General under this section.

SEC. 17108. CONFORMING AMENDMENTS.

(a) Presidential Succession.—Section 19(d)(1) of title 3, United States Code, is amended by striking "Secretary of Commerce,".

(b) Executive Departments.—Section 101 of title 5, United States Code, is amended by striking the following item: "The Department of Commerce.".

(c) Secretary's Compensation.—Section 5312 of title 5, United States Code, is amended by striking the following item: "Secretary of Commerce.".

(d) Compensation for Positions at Level III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking the following item:

"Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration and Under Secretary of Commerce for Travel and Tourism.";

(2) by striking the following item:

"Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.";

(3) by striking the following item:

"Under Secretary of Commerce for Technology."; and

(4) by adding at the end the following item:

"Administrator, Office of Programs Resolution".

(e) Compensation for Positions at Level IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the following item:

"Assistant Secretaries of Commerce (11).";

(2) by striking the following item:

"General Counsel of the Department of Commerce.";

(3) by striking the following item:

"Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.";

(4) by striking the following item:

"Director, National Institute of Standards and Technology, Department of Commerce.";

(5) by striking the following item:

"Inspector General, Department of Commerce.";

(6) by striking the following item:

"Chief Financial Officer, Department of Commerce."; and

(7) in the item relating to the Bureau of the Census, by striking ", Department of Commerce".

(f) Compensation for Positions at Level V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking the following item:

"Director, United States Travel Service, Department of Commerce."; and

(2) by striking the following item:

"National Export Expansion Coordinator, Department of Commerce.".

(g) Inspector General Act of 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking subparagraph (B);

(2) in section 11(1), by striking "Commerce,"; and

(3) in section 11(2), by striking "Commerce,".

(h) Effective Date.—The amendments made by this section shall be effective on the abolishment date specified in section 17101(c).

SEC. 17109. PRIVATIZATION FRAMEWORK.

(a) In General.—The Office of Management and Budget shall privatize each function designated for privatization under subtitle B within 18 months of the date the transfer of such function to the Office. The Office shall pursue such forms of privatization arrangements as the Office considers appropriate to best serve the interests of the

United States. If the Office is unable to privatize a function within 18 months, the Office shall report its inability to the Congress with its recommendations as to the appropriate disposition of the function and its assets.

(b) ROLE OF THE FEDERAL GOVERNMENT.—No privatization arrangement made under subsection (a) shall include any future role for, or accountability to, the Federal Government unless it is necessary to assure the continued accomplishment of a specific Federal objective. The Federal role should be the minimum necessary to accomplish Federal objectives.

(c) ASSETS.—In privatizing a function, the Office of Management and Budget shall take any action necessary to preserve the value of the assets of a function during the period the Office holds such assets and to continue the performance of the function to the extent necessary to preserve the value of the assets or to accomplish core Federal objectives.

SEC. 17110. PRIORITY PLACEMENT PROGRAMS FOR FEDERAL EMPLOYEES AFFECTED BY A REDUCTION IN FORCE ATTRIBUTABLE TO THIS TITLE.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act

"(a)(1) For the purpose of this section, the term 'affected agency'—

"(A) except as provided in subparagraph (B), means an Executive agency to which personnel are transferred in connection with a transfer of function under the Department of Commerce Dismantling Act, and

"(B) with respect to employees of the Department of Commerce in general administration, the Inspector General's office, or the General Council's office, or who provided overhead support to other components of the Department on a reimbursable basis, means all agencies to which functions of those employees are transferred under the Department of Commerce Dismantling Act.

"(2) This section applies with respect to any reduction in force that—

"(A) occurs within 12 months after the date of the enactment of this section; and

"(B) is due to—

"(i) the termination of any function of the Department of Commerce or the Office of Programs Resolution, as the case may be; or

"(ii) the agency's having excess personnel as a result of a transfer of function described in paragraph (1), as determined by—

"(I) the Administrator of the Office of Programs Resolution, in the case of a function transferred to the Office of Management and Budget; or

"(II) the head of the agency, in the case of any other function.

"(b) As soon as practicable after the date of the enactment of this section, each affected agency shall establish an agencywide priority placement program to facilitate employment placement for employees who—

"(1) are scheduled to be separated from service due to a reduction in force described in subsection (a)(2); or

"(2) are separated from service due to such a reduction in force.

"(c)(1) Each agencywide priority placement program shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of that agency if—

"(A) there is then available any individual described in paragraph (2) who is qualified for the position; and

"(B) the position—

"(i) is at the same grade (or pay level) or not more than 1 grade (or pay level) below that of the position last held by such individual before placement in the new position; and

"(ii) is within the same commuting area as the individual's last-held position (as referred to in clause (i)) or residence.

"(2) For purposes of an agencywide priority placement program, an individual shall be considered to be described in this paragraph if such individual's most recent performance evaluation was at least fully successful (or the equivalent), and such individual is either—

"(A) an employee of such agency who is scheduled to be separated, as described in subsection (b)(1); or

"(B) an individual who became a former employee of such agency as a result of a separation, as described in subsection (b)(2).

"(d)(1) Nothing in this section shall affect any priority placement program of the Department of Defense which is in operation as of the date of the enactment of this section.

"(2) Nothing in this section shall impair placement programs within agencies subject to reductions in force resulting from causes other than the Department of Commerce Dismantling Act.

"(e) An individual shall cease to be eligible to participate in a program under this section on the earlier of—

"(1) the conclusion of the 12-month period beginning on the date on which that individual first became eligible to participate under subsection (c)(2); or

"(2) the date on which the individual declines a bona fide offer (or if the individual does not act on the offer, the last day for accepting such offer) from the affected agency of a position described in subsection (c)(1)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Title 5, United States Code, is amended by redesignating the second section which is designated as section 3329 as section 3329a.

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to the second section which is designated as section 3329 and inserting the following:

"3329a. Government-wide list of vacant positions.
"3329b. Priority placement programs for employees affected by a reduction in force attributable to the Department of Commerce Dismantling Act.".

SEC. 17111. FUNDING REDUCTIONS FOR TRANSFERRED FUNCTIONS.

(a) FUNDING REDUCTIONS.—Except as provided in subsection (b), for each fiscal year that begins on or after the date of the enactment of this Act, the total amount obligated or expended by the United States in performing functions transferred under this title to the Director or to the Office from the Department of Commerce, or any of its officers or components, may not exceed 75 percent of the total amount obligated or expended by the United States in performing such functions for fiscal year 1995.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) functions transferred to the Director under section 17203 (relating to the Bureau of the Census); or

(2) obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) RULE OF CONSTRUCTION.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(1) ensure compliance with the requirements of this section; and

(2) include in each report under sections 17106 (a) and (b) a description of actions taken to comply with such requirements.

SEC. 17112. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Office of Programs Resolution.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(3) OFFICE.—The term "Office" means the Office of Programs Resolution.

(4) WIND-UP PERIOD.—The term "wind-up period" means the period beginning on the date of the enactment of this Act and ending on the functions termination date specified in section 17102(c).

Subtitle B—Disposition of Various Programs, Functions, and Agencies of Department of Commerce

SEC. 17201. ABOLISHMENT OF ECONOMIC DEVELOPMENT ADMINISTRATION AND TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—The Public Works and Economic Development Act of 1965 (40 U.S.C. 3131 et seq.) is amended by striking all after the first section and inserting the following:

"SEC. 2. ADMINISTRATOR DEFINED.

"In this Act, the term 'Administrator' means the Administrator of the Small Business Administration.

"TITLE I—STATEMENT OF PURPOSE

"SEC. 101. FINDINGS AND DECLARATION.

"(a) FINDINGS.—Congress finds that—

"(1) the maintenance of the national economy at a high level is vital to the best interests of the United States, but that some of our regions, counties, and communities are suffering substantial and persistent unemployment and underemployment that cause hardship to many individuals and their families, and waste invaluable human resources;

"(2) to overcome this problem the Federal Government, in cooperation with the States, should help areas and regions of substantial and persistent unemployment and underemployment to take effective steps in planning and financing their public works and economic development;

"(3) Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development should enable such areas to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions, if such assistance is preceded by and consistent with sound, long-range economic planning; and

"(4) under the provisions of this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

"(b) DECLARATION.—Congress declares that, in furtherance of maintaining the national economy at a high level—

"(1) the assistance authorized by this Act should be made available to both rural and urban areas;

"(2) such assistance should be made available for planning for economic development prior to the actual occurrences of economic distress in order to avoid such condition; and

"(3) such assistance should be used for long-term economic rehabilitation in areas where long-term economic deterioration has occurred or is taking place.

"TITLE II—GRANTS FOR PUBLIC WORKS AND DEVELOPMENT FACILITIES

"SEC. 201. DIRECT AND SUPPLEMENTARY GRANTS.

"(a) In General.—Upon the application of any eligible recipient, the Administrator may—

"(1) make direct grants for the acquisition or development of land and improvements for public works, public service, or development facility usage, and the acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, within an area described in section 502(a), if the Administrator finds that—

"(A) the project for which financial assistance is sought will directly or indirectly—

"(i) tend to improve the opportunities, in the area where such project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

"(ii) otherwise assist in the creation of additional long-term employment opportunities for such area; or

"(iii) primarily benefit the long-term unemployed and members of low-income families;

"(B) the project for which a grant is requested will fulfill a pressing need of the area, or part thereof, in which it is, or will be, located; and

"(C) the area for which a project is to be undertaken has an approved investment strategy as provided by section 503 and such project is consistent with such strategy;

"(2) make supplementary grants in order to enable the States and other entities within areas described in section 502(a) to take maximum advantage of designated Federal grant-in-aid programs (as defined in subsection (c)(4)), direct grants-in-aid authorized under this section, and Federal grant-in-aid programs authorized by the Watershed Protection and Flood Prevention Act (68 Stat. 666), and the 11 watersheds authorized by the Flood Control Act of December 22, 1944 (58 Stat. 887), for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share.

"(b) Cost Sharing.—Subject to subsection (c), the amount of any direct grant under this subsection for any project shall not exceed 50 percent of the cost of such project.

"(c) Requirements Applicable to Supplementary Grants.—

"(1) Amount of supplementary grants.—

"(A) In general.—Except as provided by subparagraph (B), the amount of any supplementary grant under this section for any project shall not exceed the applicable percentage established by regulations promulgated by the Administrator, but in no event shall the non-Federal share of the aggregate cost of any such project (including assumptions of debt) be less than 20 percent of such cost.

"(B) Exception.—Notwithstanding subparagraph (A), in the case of an Indian tribe, a State (or a political subdivision of the State), or a community development corporation which the Administrator determines has exhausted its effective taxing and borrowing capacity, the Administrator shall reduce the non-Federal share below the percentage specified in subparagraph (A) or shall waive the non-Federal share in the case of such a grant for a project in an area described in section 502(a)(4).

"(2) Form of supplementary grants.—Supplementary grants shall be made by the Administrator, in accordance with such regulations as the Administrator may prescribe, by increasing the amounts of direct grants authorized under this section or by the payment of funds appropriated under this Act to the heads of the departments, agencies, and instrumentalities of the Federal Government responsible for the administration of the applicable Federal programs.

"(3) Federal share limitations specified in other laws.—Notwithstanding any requirement as to the amount or sources of non-Federal funds that may otherwise be applicable to the Federal program involved, funds provided under this subsection shall be used for the sole purpose of increasing the Federal contribution to specific projects in areas described in section 502(a) under such programs above the fixed maximum portion of the cost of such project otherwise authorized by the applicable law.

"(4) Designated federal grant-in-aid programs defined.—In this subsection, the term 'designated Federal grant-in-aid programs' means such existing or future Federal grant-in-aid programs assisting in the construction or equipping of facilities as the Administrator may, in furtherance of the purposes of this Act, designate as eligible for allocation of funds under this section.

"(5) Consideration of relative need in determining amount.—In determining the amount of any supplementary grant available to any project under this section, the Administrator shall take into consideration the relative needs of the area and the nature of the projects to be assisted.

"(d) Regulations.—The Administrator shall prescribe rules, regulations, and procedures to carry out this section which will assure that adequate consideration is given to the relative needs of eligible areas. In prescribing such rules, regulations, and procedures the Administrator shall consider among other relevant factors—

"(1) the severity of the rates of unemployment in the eligible areas and the duration of such unemployment; and

"(2) the income levels of families and the extent of underemployment in eligible areas.

"(e) Review and Comment Upon Projects by Local Governmental Authorities.—The Administrator shall prescribe regulations which will assure that appropriate local governmental authorities have been given a reasonable opportunity to review and comment upon proposed projects under this section.

"SEC. 202. CONSTRUCTION COST INCREASES.

"In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has been increased because of increases in costs, the amount of such grant may be increased by an amount equal to the percentage increase, as determined by the Administrator, in such costs, but in no event shall the percentage of the Federal share of such project exceed that originally provided for in such grant.

"SEC. 203. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

"In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the cost of such project based upon the designs and specifications which were the basis of the grant has decreased because of decreases in costs, such underrun funds may be used to improve the project either directly or indirectly as determined by the Administrator.

"SEC. 204. CHANGED PROJECT CIRCUMSTANCES.

"In any case where a grant (including a supplemental grant) has been made by the Administrator under this title for a project, and after such grant has been made but before completion of the project, the purpose or scope of such project based upon the designs and specifications which were the basis of the grant has changed, the Administrator may approve the use of grant funds on such changed project if the Administrator determines that such changed project meets the requirements of this title and that such changes are necessary to enhance economic development in the area.

"TITLE III—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

"SEC. 301. STATEMENT OF PURPOSE.

"The purpose of this title to provide special economic development and adjustment assistance programs to help State and local areas meet special needs arising from actual or threatened severe unemployment arising from economic dislocation (including unemployment arising from actions of the Federal Government, from defense base closures and realignments, and from compliance with environmental requirements which remove economic activities from a locality) and economic adjustment problems resulting from severe changes in economic conditions (including long-term economic deterioration), and to encourage cooperative intergovernmental action to prevent or solve economic adjustment problems. Nothing in this title is intended to replace the efforts of the economic adjustment program of the Department of Defense.

"SEC. 302. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE.

"(a) In General.—The Administrator is authorized to make grants directly to any eligible recipient in an area which the Administrator determines, in accordance with criteria to be established by the Administrator by regulation—

"(1) has experienced, or may reasonably be foreseen to be about to experience, a special need to meet an expected rise in unemployment, or other economic adjustment problems (including those caused by any action or decision of the Federal Government); or

"(2) has demonstrated long-term economic deterioration.

"(b) Purposes.—Amounts from grants under subsection (a) shall be used by an eligible recipient to carry out or develop an investment strategy which—

"(1) meets the requirements of section 503; and

"(2) is approved by the Administrator.

"(c) Types of Assistance.—In carrying out an investment strategy using amounts from grants under subsection (a), an eligible recipient may provide assistance for any of the following:

"(1) Public facilities.

"(2) Public services.

"(3) Business development.

"(4) Planning.

"(5) Research and technical assistance.

"(6) Administrative expenses.

"(7) Training.

"(8) Relocation of individuals and businesses.

"(9) Other assistance which demonstrably furthers the economic adjustment objectives of this title.

"(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—Amounts from grants under subsection (a) may be used in direct expenditures by the eligible recipient or through redistribution by the eligible recipient to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other appropriate assistance, but no grant shall be made by an eligible recipient to a private profit-making entity.

"(e) COORDINATION.—The Administrator to the extent practicable shall coordinate the activities relating to the requirements for investment strategies and making grants and loans under this title with other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

"(f) BASE CLOSINGS AND REALIGNMENTS.—

"(1) LOCATION OF PROJECTS.—In any case in which the Administrator determines a need for assistance under subsection (a) due to the closure or realignment of a military installation, the Administrator may make such assistance available for projects to be carried out on the military installation and for projects to be carried out in communities adversely affected by the closure or realignment.

"(2) INTEREST IN PROPERTY.—Notwithstanding any other provision of law, the Administrator may provide to an eligible recipient any assistance available under this Act for a project to be carried out on a military installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

"SEC. 303. ANNUAL REPORTS BY RECIPIENT.

"Each eligible recipient which receives assistance under this title from the Administrator shall annually during the period such assistance continue to make a full and complete report to the Administrator, in such manner as the Administrator shall prescribe, and such report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need it was designed to alleviate and the purposes of this title.

"SEC. 304. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

"Any loan, loan guarantee, equity, or other financial instrument in the portfolio of a revolving loan fund, including any financial instrument made available using amounts from a grant made before the effective date specified in section 802, may be sold, encumbered, or pledged at the discretion of the grantee of the Fund, to a third party provided that the net proceeds of the transaction—

"(1) shall be deposited into the Fund and may only be used for activities which are consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

"SEC. 305. TREATMENT OF REVOLVING LOAN FUNDS.

"(a) IN GENERAL.—Amounts from grants made under this title which are used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as amounts derived from Federal funds for the purposes of any Federal law after such amounts are loaned from the fund to a borrower and repaid to the fund.

"(b) EXCEPTIONS.—Amounts described in subsection (a) which are loaned from a revolving loan fund to a borrower and repaid to the fund—

"(1) may only be used for activities which are consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing standards which were originally applicable to the grant.

"(c) REGULATIONS.—Not later than 30 days after the effective date specified in section 802, the Administrator shall issue regulations to carry out subsection (a).

"(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants under this title, the Administrator shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.

"(e) APPLICABILITY TO PAST GRANTS.—The requirements of this section applicable to amounts from grants made under this title shall also apply to amounts from grants made, before the effective date specified in section 802, under title I of this Act, as in effect on the day before such effective date.

"TITLE IV—TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION

"SEC. 401. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—In carrying out its duties under this Act, the Administrator may provide technical assistance which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment to areas which the Administrator finds have substantial need for such assistance. Such assistance shall include project planning and feasibility studies, management and operational assistance, establishment of business outreach centers, and studies evaluating the needs of, and development potentialities for, economic growth of such areas.

"(b) PROCEDURES AND TERMS.—

"(1) MANNER OF PROVIDING ASSISTANCE.—Assistance may be provided by the Administrator through—

"(A) members of the Administrator's staff;

"(B) the payment of funds authorized for this section to departments or agencies of the Federal Government;

"(C) the employment of private individuals, partnerships, firms, corporations, or suitable institutions under contracts entered into for such purposes; or

"(D) grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

"(2) REPAYMENT TERMS.—The Administrator, in the Administrator's discretion, may require the repayment of assistance provided under this subsection and prescribe the terms and conditions of such repayment.

"(c) GRANTS COVERING ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—The Administrator may make grants to defray not to exceed 50 percent of the administrative expenses of organizations which the Administrator determines to be qualified to receive grants-in-aid under subsections (a) and (b); except that in the case of a grant under this subsection to an Indian tribe, the Administrator is authorized to defray up to 100 percent of such expenses.

"(2) DETERMINATION OF NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of such costs or expenses, the Administrator shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including contributions of space, equipment, and services.

"(3) USE OF GRANTS WITH PLANNING GRANTS.—Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants to assure adequate and effective planning and economical use of funds.

"(d) AVAILABILITY OF TECHNICAL INFORMATION; FEDERAL PROCUREMENT.—The Administrator shall aid areas described in section 502(a) and other areas by furnishing to interested individuals, communities, industries, and enterprises within such areas any assistance, technical information, market research, or other forms of assistance, information, or advice which would be useful in alleviating or preventing conditions of excessive unemployment or underemployment within such areas. The Administrator may furnish the procurement divisions of the various departments, agencies, and other instrumentalities of the Federal Government with a list containing the names and addresses of business firms which are located in areas described in section 502(a) and which are desirous of obtaining Government contracts for the furnishing of supplies or services, and designating the supplies and services such firms are engaged in providing.

"SEC. 402. ECONOMIC DEVELOPMENT PLANNING.

"(a) DIRECT GRANTS.—

"(1) IN GENERAL.—The Administrator may make, upon application of any State, or city, or other political subdivision of a State, or sub-State planning and development organization (including an area described in section 502(a) or an economic development district), direct grants to such State, city, or other political subdivision, or organization to pay up to 50 percent of the cost for economic development planning.

"(2) PLANNING PROJECTS SPECIFICALLY INCLUDED.—The planning for cities, other political subdivisions, and sub-State planning and development organizations (including areas described in section 502(a) and economic development districts) assisted under this section shall include systematic efforts to reduce unemployment and increase incomes.

"(3) PLANNING PROCESS.—The planning shall be a continuous process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program.

"(4) COORDINATION OF ASSISTANCE UNDER SECTION 401(c).—The assistance available under this section may be provided in addition to assistance available under section 401(c) but shall not supplant such assistance.

"(b) COMPLIANCE WITH REVIEW PROCEDURE.—The planning assistance authorized under this title shall be used in conjunction with any other available Federal planning assistance to assure adequate and effective planning and economical use of funds.

"TITLE V—ELIGIBILITY AND INVESTMENT STRATEGIES

"PART A—ELIGIBILITY

"SEC. 501. ELIGIBLE RECIPIENT DEFINED.

"In this Act, the term 'eligible recipient' means an area described in section 502(a), an economic development district designated under section 510, an Indian tribe, a State, a city or other political subdivision of a State, or a consortium of such political subdivisions, or a public or private nonprofit organization or association acting in cooperation with officials of such political subdivisions.

"SEC. 502. AREA ELIGIBILITY.

"(a) CERTIFICATION.—In order to be eligible for assistance under title II, an applicant seeking assistance to undertake a project in an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

"(1) The area has a per capita income of 80 percent or less of the national average.

"(2) The area has an unemployment rate 1 percent above the national average percentage for the most recent 24-month period for which statistics are available.

"(3) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(4) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) which the Administrator determines has one or more of the following conditions:

"(A) A large concentration of low-income persons.

"(B) Rural areas having substantial outmigration.

"(C) Substantial unemployment.

"(b) DOCUMENTATION.—A certification made under subsection (a) shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Administrator unless it is determined to be inaccurate. The most recent statistics available shall be used.

"(c) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date specified in section 802 shall not be effective after such effective date.

"SEC. 503. INVESTMENT STRATEGY.

"The Administrator may provide assistance under titles II and III to an applicant for a project only if the applicant submits to the Administrator, as part of an application for such assistance, and the Administrator approves an investment strategy which—

"(1) identifies the economic development problems to be addressed using such assistance;

"(2) identifies past, present, and projected future economic development investments in the area receiving such assistance and public and private participants and sources of funding for such investments;

"(3) sets forth a strategy for addressing the economic problems identified pursuant to paragraph (1) and describes how the strategy will solve such problems;

"(4) provides a description of the project necessary to implement the strategy, estimates of costs, and timetables; and

"(5) provides a summary of public and private resources expected to be available for the project.

"SEC. 504. APPROVAL OF PROJECTS.

"Only applications for grants or other assistance under this Act for specific projects shall be approved which are certified by the State representing such applicant and determined by the Administrator—

"(1) to be included in a State investment strategy;

"(2) to have adequate assurance that the project will be properly administered, operated, and maintained; and

"(3) to otherwise meet the requirements for assistance under this Act.

"PART B—ECONOMIC DEVELOPMENT DISTRICTS

"SEC. 510. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS AND ECONOMIC DEVELOPMENT CENTERS.

"(a) IN GENERAL.—In order that economic development projects of broader geographic significance may be planned and carried out, the Administrator may—

"(1) designate appropriate 'economic development districts' within the United States with the concurrence of the States in which such districts will be wholly or partially located, if—

"(A) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 502(a);

"(B) the proposed district contains at least 1 area described in section 502(a);

"(C) the proposed district contains 1 or more areas described in section 502(a) or economic development centers identified in an approved district investment strategy as having sufficient size and potential to foster the economic growth activities necessary to alleviate the distress of the areas described in section 502(a) within the district; and

"(D) the proposed district has a district investment strategy which includes adequate land use and transportation planning and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Administrator;

"(2) designate as 'economic development centers', in accordance with such regulations as the Administrator shall prescribe, such areas as the Administrator may deem appropriate, if—

"(A) the proposed center has been identified and included in an approved district investment strategy and recommended by the State or States affected for such special designation;

"(B) the proposed center is geographically and economically so related to the district that its economic growth may reasonably be expected to contribute significantly to the alleviation of distress in the areas described in section 502(a) of the district; and

"(C) the proposed center does not have a population in excess of 250,000 according to the most recent Federal census.

"(3) provide financial assistance in accordance with the criteria of this Act, except as may be herein otherwise provided, for projects in economic development centers designated under subsection (a)(2), if—

"(A) the project will further the objectives of the investment strategy of the district in which it is to be located;

"(B) the project will enhance the economic growth potential of the district or result in additional long-term employment opportunities commensurate with the amount of Federal financial assistance requested; and

"(C) the amount of Federal financial assistance requested is reasonably related to the size, population, and economic needs of the district;

"(4) subject to the 50 percent non-Federal share required for any project by section 201(c), increase the amount of grant assistance authorized by section 201 for projects within areas described in section 502(a), by an amount not to exceed 10 percent of the aggregate cost of any such project, in accordance with such regulations as the Administrator shall prescribe if—

"(A) the area described in section 502(a) is situated within a designated economic development district and is actively participating in the economic development activities of the district; and

"(B) the project is consistent with an approved investment strategy.

"(b) AUTHORITIES.—In designating economic development districts and approving district investment strategies under subsection (a), the Administrator may, under regulations prescribed by the Administrator—

"(1) invite the several States to draw up proposed district boundaries and to identify potential economic development centers;

"(2) cooperate with the several States—

"(A) in sponsoring and assisting district economic planning and development groups; and

"(B) in assisting such district groups to formulate district investment strategies; and

"(3) encourage participation by appropriate local governmental authorities in such economic development districts.

"(c) TERMINATION OR MODIFICATION OF DESIGNATIONS.—The Administrator shall by regulation prescribe standards for the termination or modification of economic development districts and economic development centers designated under the authority of this section.

"(d) DEFINITIONS.—In this Act, the following definitions apply:

"(1) ECONOMIC DEVELOPMENT DISTRICT.—The term 'economic development district' refers to any area within the United States composed of cooperating areas described in section 502(a) and, where appropriate, designated economic development centers and neighboring counties or communities, which has been designated by the Administrator as an economic development district. Such term includes any economic development district designated under section 403 of this Act, as in effect on the day before the effective date specified in section 802.

"(2) ECONOMIC DEVELOPMENT CENTER.—The term 'economic development center' refers to any area within the United States which has been identified as an economic development center in an approved investment strategy and which has been designated by the Administrator as eligible for financial assistance under this Act in accordance with the provisions of this section.

"(3) LOCAL GOVERNMENT.—The term 'local government' means any city, county, town, parish, village, or other general-purpose political subdivision of a State.

"(e) PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT WITHIN AREAS DESCRIBED IN SECTION 502(a).—The Administrator is authorized to provide the financial assistance which is available to an area described in section 502(a) under this Act to those parts of an economic development district which are not within an area described in section 502(a), when such assistance will be of a substantial direct benefit to an area described in section 502(a) within such district. Such financial assistance shall be provided in the same manner and to the same extent as is provided in this Act for an area described in section 502(a); except that nothing in this subsection shall be construed to permit such parts to receive the increase in the amount of grant assistance authorized in subsection (a)(4).

"TITLE VI—ADMINISTRATION

"SEC. 601. APPOINTMENT OF ASSOCIATE ADMINISTRATOR; FULL TIME EQUIVALENT EMPLOYEES.

"(a) APPOINTMENT.—The Administrator shall carry out the duties vested in the Administrator by this Act acting through an Associate Administrator of the Small Business Administration, who shall be appointed by the President by and with the advice and consent of the Senate.

"(b) PAY.—The Associate Administrator shall be compensated by the Federal Government at the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(c) FULL TIME EQUIVALENT EMPLOYEES.—The Administrator shall assign not to exceed 25 full time equivalent employees of the Small Business Administration (excluding the Associate Administrator) to assist the Administrator in the carrying out the duties vested in the Administrator by this Act.

"SEC. 602. REGIONAL COOPERATIVE AGREEMENTS.

"(a) IN GENERAL.—The Administrator shall make grants and carry out such other functions under this Act as the Administrator considers appropriate by entering into cooperative agreements with 1 or more States on a regional basis. Each State entering into such an agreement shall be represented by the chief executive officer of the State.

"(b) TERMS AND CONDITIONS.—A cooperative agreement entered into under subsection (a) shall include such terms and conditions as the Administrator determines are necessary to carry out the provisions of this Act. Such terms and conditions at a minimum shall provide that no decision concerning regional policies or approval of project or grant applications may be made without the consent of the Administrator and a majority of the States participating in the cooperative agreement.

"(c) PARTICIPATION NOT REQUIRED.—No State shall be required to enter into a cooperative agreement under this section or to participate in any program established by this Act.

"SEC. 603. ADMINISTRATIVE EXPENSES.

"(a) PAYMENT BY STATES.—Fifty percent of the administrative expenses incurred by States in participating in a cooperative agreement entered into under section 602 shall be paid by such States and the remaining 50 percent of such expenses shall be paid by the Federal Government.

"(b) DETERMINATION OF STATE SHARE.—The share of the administrative expenses to be paid by each State participating in a cooperative agreement shall be determined by a majority vote of such States. The Administrator may not participate or vote in such determination.

"(c) DELINQUENT PAYMENTS.—No assistance authorized by this Act shall be furnished to any State or to any political subdivision or resident of a State, nor shall the State participate or vote in any decision described in section 602(b), while such State is delinquent in the payment of such State's share of the administrative expenses described in subsection (a).

"SEC. 604. FEDERAL SHARE.

"Except as otherwise expressly provided by this Act, the Federal share of the cost of any project funded with amounts made available under this Act shall not exceed 50 percent of such cost.

"SEC. 605. COOPERATION OF FEDERAL AGENCIES.

"Each Federal department and agency, in accordance with applicable laws and within the limits of available funds, shall cooperate with the Administrator in order to assist the Administrator in carrying out the functions of the Administrator.

"SEC. 606. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

"(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Administrator is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

"(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Administrator may make provisions for such consultation with interested departments and agencies as the Administrator may deem appropriate in the performance of the functions vested in the Administrator by this Act.

"SEC. 607. ADMINISTRATION, OPERATION, AND MAINTENANCE.

"No Federal assistance shall be approved under this Act unless the Administrator is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"TITLE VII—MISCELLANEOUS

"SEC. 701. POWERS OF ADMINISTRATOR.

"(a) IN GENERAL.—In performing the Administrator's duties under this Act, the Administrator is authorized to—

"(1) adopt, alter, and use a seal, which shall be judicially noticed;

"(2) subject to the civil-service and classification laws, select, employ, appoint, and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act;

"(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Administrator may deem advisable;

"(4) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Administrator;

"(5) under regulations prescribed by the Administrator, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Administrator's discretion and upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Administrator in connection with assistance extended under this Act, and collect or compromise all obligations assigned to or held by the Administrator in connection with such assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

"(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, upon such terms and conditions and for such consideration as the Administrator determines to be reasonable, any real or personal property conveyed to, or otherwise acquired by the Administrator in connection with assistance extended under this Act;

"(7) pursue to final collection, by way of compromise or other administrative action, prior to reference to the Attorney General, all claims against third parties assigned to the Administrator in connection with assistance extended this Act;

"(8) acquire, in any lawful manner and in accordance with the requirements of the Federal Property and Administrative Services Act of 1949, any property (real, personal, or mixed, tangible or intangible), whenever necessary or appropriate to the conduct of the activities authorized under this Act;

"(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Administrator, take any action, including the procurement of the services of attorneys by contract, determined by the Administrator to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance extended under this Act;

"(10) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of $100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed, except that contracts for such employment may be renewed annually;

"(11) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or the Administrator's property;

"(12) make discretionary grants, pursuant to authorities otherwise available to the Administrator under this Act and without regard to the requirements of section 504, to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in a region from the funds withheld from distribution by the Administrator; except that the aggregate amount of such discretionary grants in any fiscal year may not exceed 10 percent of the amounts appropriated under title VIII for such fiscal year;

"(13) allow a State to use not to exceed 5 percent of the total of amounts received by the State in a fiscal year in grants under this Act for reasonable expenses incurred by the State in administering such amounts; and

"(14) establish such rules, regulations, and procedures as the Administrator considers appropriate in carrying out the provisions of this Act.

"(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator.

"(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes of the United States shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of assistance extended under this Act if the premium for the insurance or the amount of the insurance does not exceed $1,000.

"(d) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Administrator, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator, or by any officer or agent appointed by the Administrator for such purpose, without the execution of any express delegation of power or power of attorney.

"SEC. 702. ESTABLISHMENT OF CLEARINGHOUSE.

"In carrying out the Administrator's duties under this Act, the Administrator shall ensure that the Small Business Administration—

"(1) serves as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, and defense conversion programs and activities of the Federal and State governments, including political subdivisions of the States; and

"(2) helps potential and actual applicants for economic development, economic adjustment, disaster recovery, and defense conversion assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

"SEC. 703. PERFORMANCE MEASURES.

"The Administrator shall establish performance measures for grants and other assistance provided under this Act. Such performance measures shall be used to evaluate project proposals and conduct evaluations of projects receiving such assistance.

"SEC. 704. MAINTENANCE OF STANDARDS.

"The Administrator shall continue to implement and enforce the provisions of section 712 of this Act, as in effect on the day before the effective date specified in section 802.

"SEC. 705. TRANSFER OF FUNCTIONS.

"The functions, powers, duties, and authorities and the assets, funds, contracts, loans, liabilities, commitments, authorizations, allocations, and records which are vested in or authorized to be transferred to the Secretary of the Treasury under section 29(b) of the Area Redevelopment Act, and all functions, powers, duties, and authorities under section 29(c) of such Act are hereby vested in the Administrator.

"SEC. 706. DEFINITION OF STATE.

"In this Act, the terms 'State', 'States', and 'United States' include the several States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Marshall Islands, Micronesia, and the Northern Mariana Islands.

"SEC. 707. ANNUAL REPORT TO CONGRESS.

"The Administrator shall transmit to Congress a comprehensive and detailed annual report of the Administrator's operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1996. Such report shall be printed and shall be transmitted to Congress not later than April 1 of the year following the fiscal year with respect to which such report is made.

"SEC. 708. USE OF OTHER FACILITIES.

"(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Administrator may delegate to the heads of other departments and agencies of the Federal Government any of the Administrator's functions, powers, and duties under this Act as the Administrator may deem appropriate, and to authorize the redelegation of such functions, powers, and duties by the heads of such departments and agencies.

"(b) DEPARTMENT AND AGENCY EXECUTION OF DELEGATED AUTHORITY.—Departments and agencies of the Federal Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this Act.

"(c) TRANSFER BETWEEN DEPARTMENTS.—Funds authorized to be appropriated under this Act may be transferred between departments and agencies of the Government, if such funds are used for the purposes for which they are specifically authorized and appropriated.

"(d) FUNDS TRANSFERRED FROM OTHER DEPARTMENTS AND AGENCIES.—In order to carry out the objectives of this Act, the Administrator may accept transfers of funds from other departments and agencies of the Federal Government if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Such transferred funds shall remain available until expended, and may be transferred to and merged with the appropriations under the heading 'salaries and expenses' by the Administrator to the extent necessary to administer the program.

"SEC. 709. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

"No financial assistance shall be extended by the Administrator under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise—

"(1) certify to the Administrator the names of any attorneys, agents, and other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administrator for assistance of any sort, under this Act, and the fees paid or to be paid to any such person; and

"(2) execute an agreement binding such business enterprise, for a period of 2 years after such assistance is rendered by the Administrator to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within the 1-year period ending on such date, shall have served as an officer, attorney, agent, or employee, occupying a position or engaging in activities which the Administrator determines involves discretion with respect to the granting of assistance under this Act.

"SEC. 710. MAINTENANCE OF RECORDS OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE; PUBLIC INSPECTION.

"(a) MAINTENANCE OF RECORD REQUIRED.—The Administrator shall maintain as a permanent part of the records of the Small Business Administration a list of applications approved for financial assistance under this Act, which shall be kept available for public inspection during the regular business hours of the Small Business Administration.

"(b) POSTING TO LIST.—The following information shall be posted in such list as soon as each application is approved:

"(1) The name of the applicant and, in the case of corporate applications, the names of the officers and directors thereof.

"(2) The amount and duration of the financial assistance for which application is made.

"(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 711. RECORDS AND AUDIT.

"(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this Act.

"SEC. 712. PROHIBITION AGAINST A STATUTORY CONSTRUCTION WHICH MIGHT CAUSE DIMINUTION IN OTHER FEDERAL ASSISTANCE.

"All financial and technical assistance authorized under this Act shall be in addition to any Federal assistance previously authorized, and no provision of this Act shall be construed as authorizing or permitting any reduction or diminution in the proportional amount of Federal assistance to which any State or other entity eligible under this Act would otherwise be entitled under the provisions of any other Act.

"SEC. 713. ACCEPTANCE OF APPLICANTS' CERTIFICATIONS.

"The Administrator may accept, when deemed appropriate, the applicants' certifications to meet the requirements of this Act.

"TITLE VIII—FUNDING; EFFECTIVE DATE

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS

"There is authorized to be appropriated to carry out this Act $340,000,000 per fiscal year for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Such sums shall remain available until expended.

"SEC. 802. EFFECTIVE DATE.

"The effective date specified in this section is the abolishment date specified in section 17101(c) of the Department of Commerce Dismantling Act.".

(b) CONFORMING AMENDMENTS TO TITLE 5.—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Associate Administrators of the Small Business Administration (4)" and inserting "Associate Administrators of the Small Business Administration (5)"; and

(2) by striking "Administrator for Economic Development.".

(c) GAO STUDY.—On or before December 30, 1996, the Comptroller General shall submit to Congress a plan or plans for consolidating economic development programs throughout the Federal Government. The plan or plans shall focus on, but not be limited to, consolidating programs included in the Catalogue of Federal Domestic Assistance with similar purposes and target populations. The plan or plans shall detail how consolidation can lead to improved grant or program management, improvements in achieving program goals, and reduced costs.

SEC. 17202. TECHNOLOGY ADMINISTRATION.

(a) TECHNOLOGY ADMINISTRATION.—

(1) GENERAL RULE.—Except as otherwise provided in this section, the Technology Administration is terminated.

(2) OFFICE OF TECHNOLOGY POLICY.—The Office of Technology Policy is terminated.

(b) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) REDESIGNATION.—The National Institute of Standards and Technology is hereby redesignated as the National Bureau of Standards, and all references to the National Institute

of Standards and Technology in Federal law or regulations are deemed to be references to the National Bureau of Standards.

(2) GENERAL RULE.—The National Bureau of Standards (in this subsection referred to as the "Bureau") is transferred to the National Institute for Science and Technology, established under section 17207.

(3) FUNCTIONS OF DIRECTOR.—Except as otherwise provided in this section or section 17208, upon the transfer under paragraph (2), the Director of the Bureau shall perform all functions relating to the Bureau that, immediately before the effective date specified in section 17209(a), were functions of the Secretary of Commerce or the Under Secretary of Commerce for Technology.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—

(1) PRIVATIZATION.—All functions of the National Technical Information Service are transferred to the Director of the Office of Management and Budget for privatization in accordance with section 17109 before the end of the 18-month period beginning on the date of the enactment of this Act.

(2) TRANSFER TO NATIONAL INSTITUTE FOR SCIENCE AND TECHNOLOGY.—If an appropriate arrangement for the privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the National Technical Information Service shall be transferred as of the end of such period to the National Institute for Science and Technology established by section 17207.

(3) GOVERNMENT CORPORATION.—If an appropriate arrangement for privatization of functions of the National Technical Information Service under paragraph (1) has not been made before the end of the period described in that paragraph, the Director of the Office of Management and Budget shall, within 6 months after the end of such period, submit to Congress a proposal for legislation to establish the National Technical Information Service as a wholly owned Government corporation. The proposal should provide for the corporation to perform substantially the same functions that, as of the date of enactment of this Act, are performed by the National Technical Information Service.

(4) FUNDING.—No funds are authorized to be appropriated for the National Technical Information Service or any successor corporation established pursuant to a proposal under paragraph (3).

(d) AMENDMENTS.—

(1) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(A) in section 2(b), by striking paragraph (1) and redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2(d), by striking ", including the programs established under sections 25, 26, and 28 of this Act";

(C) in section 10, by striking "Advanced" in both the section heading and subsection (a), and inserting in lieu thereof "Standards and"; and

(D) by striking sections 24, 25, 26, and 28.

(2) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(A) in section 3, by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(B) in section 4, by striking paragraphs (1), (4), and (13) and redesignating paragraphs (2), (3), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (1) through (10), respectively;

(C) by striking sections 5, 6, 7, 8, 9, and 10;

(D) in section 11—

(i) by striking ", the Federal Laboratory Consortium for Technology Transfer," in subsection (c)(3);

(ii) by striking "and the Federal Laboratory Consortium for Technology Transfer" in subsection (d)(2);

(iii) by striking ", and refer such requests" and all that follows through "available to the Service" in subsection (d)(3); and

(iv) by striking subsection (e); and

(E) in section 17—

(i) by striking "Subject to paragraph (2), separate" in subsection (c)(1) and inserting in lieu thereof "Separate";

(ii) by striking paragraph (2) of subsection (c) and redesignating paragraph (3) as paragraph (2);

(iii) by striking "funds to carry out" in subsection (f), and inserting in lieu thereof "funds only to pay the salary of the Director of the Office of Quality Programs, who shall be responsible for carrying out"; and

(iv) by adding at the end the following new subsection:

"(h) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Director of the Office of Quality Programs may accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31, United States Code.".

(3) MISCELLANEOUS AMENDMENTS.—Section 3 of Public Law 94–168 (15 U.S.C. 205b) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (3), as so redesignated by subparagraph (B) of this paragraph, by striking "in nonbusiness activities".

SEC. 17203. REORGANIZATION OF THE BUREAU OF THE CENSUS.

(a) PROVISIONS RELATING TO INTERIM PERIOD.—

(1) FUNCTIONS OF THE SECRETARY OF COMMERCE.—During the 6-month period beginning on the abolishment date specified in section 17101(c), the Director of the Office of Management and Budget shall perform all functions that, immediately before such effective date, were functions of the Secretary of Commerce under title 13, United States Code.

(2) REORGANIZATION AUTHORITY UNDER SECTION 17104(f) NOT TO APPLY.—Section 17104(f) shall not apply with respect to the Bureau of the Census or any function to be performed by the appropriate official pursuant to paragraph (1).

(b) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding any provision of section 17209, effective as of the first day following the end of the 6-month period referred to in subsection (a)(1)—

(A) the Bureau of the Census shall be transferred to the Department of Labor; and

(B) all functions that, immediately before such first day, were functions of the Director of the Office of Management and Budget by reason of subsection (a)(1) shall be transferred to the Secretary of Labor.

(2) CONTINUATION OF SERVICE OF THE DIRECTOR OF THE CENSUS.—The individual serving as the Director of the Census at the end of the 6-month period referred to in subsection (a)(1) may continue serving in that capacity, after the end of such period, until a successor has taken office.

(c) AMENDMENTS.—Effective as of the first day following the end of the 6-month period referred to in subsection (a)(1)—

(1) TRANSFER OF THE BUREAU OF THE CENSUS TO THE DEPARTMENT OF LABOR.—(A) Section 2 of title 13, United States Code, is amended by striking "is continued as" through the period and inserting "is an agency within, and under the jurisdiction of, the Department of Labor.".

(B) Subsection (e) of section 12 of the Act of February 14, 1903 (15 U.S.C. 1511(e)) is repealed.

(2) DEFINITION OF SECRETARY.—Title 13, United States Code, is amended in section 1(2) by striking "Secretary of Commerce" and inserting "Secretary of Labor".

(3) REFERENCES TO THE DEPARTMENT OF COMMERCE.—Title 13, United States Code, is amended in sections 4, 9(a), 23(b), 24(e), 44, 103, 132, 211, 213(b)(2), 221, 222, 223, 224, 225(a), and 241 by striking "Department of Commerce" each place it appears and inserting "Department of Labor".

(4) REFERENCES TO THE SECRETARY OF COMMERCE.—(A) Section 304(a) of title 13, United States Code, is amended by striking "Secretary of Commerce" and inserting "Secretary of Labor".

(B)(i) Section 401(a) of title 13, United States Code, is amended by striking "Secretary of Commerce" and inserting "Secretary".

(ii) Section 8(e) of the Foreign Direct Investment and International Financial Data Improvements Act of 1990 (22 U.S.C. 3144(e)) is amended by striking "Secretary of Commerce" and inserting "Secretary of Labor".

(iii) Section 401(a) of title 13, United States Code, is amended by striking "Department of Commerce" and inserting "Federal Reserve System".

(5) COMPENSATION FOR THE POSITION OF DIRECTOR OF THE CENSUS.—Section 5315 of title 5, United States Code, as amended by section 17108(e)(7), is further amended by striking "Census." and inserting "Census, Department of Labor.".

(6) CONFIDENTIALITY.—Section 9 of title 13, United States Code, is amended by adding at the end the following:

"(c)(1) Nothing in subsection (a)(3) shall be considered to permit the disclosure of any matter or information to an officer or employee of the Department of Labor who is not referred to in subchapter II if, immediately before the start of the 6-month period referred to in section 17203(a)(1) of the Department of Commerce Dismantling Act, such disclosure (if then made by an officer or employee of the Department of Commerce) would have been impermissible under this section (as then in effect).

"(2) Paragraph (1) shall not apply with respect to any disclosure made to the Secretary.".

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Bureau of the Census should—

(1) make appropriate use of any authority afforded to it by the Census Address List Improvement Act of 1994 (Public Law 103–430; 108 Stat. 4393), and take measures to ensure the timely implementation of such Act; and

(2) streamline census questionnaires to promote savings in the collection and tabulation of data.

(e) RULE OF CONSTRUCTION.—For purposes of subtitle E, the reorganization of the Bureau of the Census pursuant to subsections (b) and (c) shall be treated as if it involved a transfer of functions.

SEC. 17204. BUREAU OF ECONOMIC ANALYSIS.

(a) IN GENERAL.—(1) The functions of the Bureau of Economic Analysis are transferred to the Secretary of Labor.

(2) All functions which, immediately before such date, are functions of the Secretary of

Commerce with respect to the Bureau of Economic Analysis are transferred to the Secretary of Labor.

(b) Consolidation With the Bureau of Labor Statistics.—The Secretary of Labor shall consolidate the functions transferred under subsection (a) with the Bureau of Labor Statistics within the Department of Labor.

(c) Reports.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Labor, after consultation with the Director of the Office of Management and Budget, shall submit to the Congress a written report on—

(1) the availability of any private sector resources that may be capable of performing any or all of the functions of the Bureau of Economic Analysis, and the feasibility of having any such functions so performed; and

(2) the feasibility of implementing a system under which fees may be assessed by the Bureau of Economic Analysis in order to defray the costs of any services performed by the Bureau of Economic Analysis, when such services are performed other than on behalf of the Federal Government or an agency or instrumentality thereof.

(d) Rule of Construction.—For purposes of subtitle E, the reorganization of the Bureau of Economic Analysis under this section shall be treated as if it involved a transfer of functions.

(e) Limitation on Annual Obligations and Expenditures for Continued Functions.—

(1) In general.—Except as provided in paragraph (2), for each fiscal year that begins on or after the effective date of this section, the total of amounts obligated or expended by the United States each fiscal year for performance of functions which immediately before the date of the enactment of this Act were authorized to be performed by the Secretary of Commerce with respect to the Bureau of Economic Analysis, or by or an agency, officer, or employee of the Department of Commerce with respect to that bureau, may not exceed 75 percent of the total of amounts obligated or expended by the United States for performance of such functions for fiscal year 1995.

(2) Exception.—Paragraph (1) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of funtions pursuant to this section.

(3) Rule of construction.—This subsection shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(4) Responsibilities of the director of the office of management and budget.—The Director of the Office of Management and Budget shall—

(A) ensure compliance with the requirements of this subsection; and

(B) include in each report under sections 17106 (a) and (b) a description of actions taken to comply with such requirements.

SEC. 17205. TERMINATED FUNCTIONS OF NTIA.

(a) Repeals.—The following provisions of law are repealed:

(1) Subpart A of part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.), relating to assistance for public telecommunications facilities.

(2) Subpart B of part IV of title III of the Communications Act of 1934 (47 U.S.C. 394 et seq.), relating to the Endowment for Children's Educational Television.

(3) Subpart C of part IV of title III of the Communications Act of 1934 (47 U.S.C. 395 et seq.), relating to Telecommunications Demonstration grants.

(b) Disposal of NTIA Laboratories.—

(1) Privatization.—All laboratories of the National Telecommunications and Information Administration are transferred to the Director of the Office of Management and Budget for privatization in accordance with section 17109.

(2) Transfer of functions.—The functions of the National Telecommunications and Information Administration concerning research and analysis of the electromagnetic spectrum described in section 5112(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 1532) are transferred to the Director of the National Bureau of Standards.

(c) Transfer of National Telecommunications and Information Administration Functions.—

(1) Transfer to USTR.—Except as provided in subsection (b)(2), the functions of the National Telecommunications and Information Administration, and of the Secretary of Commerce and the Assistant Secretary for Communications and Information of the Department of Commerce with respect to the National Telecommunications and Information Administration, are transferred to the United States Trade Representative.

(2) References.—References in any provision of law (including the National Telecommunications and Information Administration Organization Act) to the Secretary of Commerce or the Assistant Secretary for Communications and Information of the Department of Commerce—

(A) with respect to a function vested pursuant to this section in the United States Trade Representative shall be deemed to refer to the United States Trade Representative; and

(B) with respect to a function vested pursuant to this section in the Director of the National Bureau of Standards shall be deemed to refer to the Director of the National Bureau of Standards.

(3) Termination of NTIA.—Effective on the abolishment date specified in section 17101(c), the National Telecommunications and Information Administration is abolished.

SEC. 17206. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) Termination of Miscellaneous Research Programs and Accounts.—

(1) In general.—No funds may be appropriated in any fiscal year for the following programs and accounts of the National Oceanic and Atmospheric Administration:

(A) The National Undersea Research Program.

(B) The Fleet Modernization Program.

(C) The Charleston, South Carolina, Special Management Plan.

(D) Chesapeake Bay Observation Buoys (as of September 30, 1996).

(E) Federal/State Weather Modification Grants.

(F) The Southeast Storm Research Account.

(G) The Southeast United States Caribbean Fisheries Oceanographic Coordinated Investigations Program.

(H) National Institute for Environmental Renewal.

(I) The Lake Champlain Study.

(J) The Maine Marine Research Center.

(K) The South Carolina Cooperative Geodetic Survey Account.

(L) Pacific Island Technical Assistance.

(M) Sea Grant Oyster Disease Account.

(N) Sea Grant Zebra Mussel Account.

(O) VENTS program.

(P) National Weather Service non-Federal, non-wildfire Weather Service.

(Q) National Weather Service Regional Climate Centers.

(R) National Weather Service Samoa Weather Forecast Office Repair and Upgrade Account.

(S) Dissemination of Weather Charts (Marine Facsimile Service).

(T) The Climate and Global Change Account.

(U) The Global Learning and Observations to Benefit the Environment Program.

(V) Great Lakes nearshore research.

(W) Mussel watch.

(2) Repeals.—The following provisions of law are repealed:

(A) The Ocean Thermal Conversion Act of 1980 (42 U.S.C. 9101 et seq.).

(B) Title IV of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1447 et seq.).

(C) Title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.).

(D) The Great Lakes Shoreline Mapping Act of 1987 (33 U.S.C. 883a note).

(E) The Great Lakes Fish and Wildlife Tissue Bank Act (16 U.S.C. 943 et seq.).

(F) The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.), except for those provisions affecting the Assistant Secretary of the Army (civil works) and the Secretary of the department in which the Coast Guard is operating.

(G) Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a).

(H) Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)).

(I) Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is repealed effective October 1, 1998.

(J) The NOAA Fleet Modernization Act (33 U.S.C. 891 et seq.).

(K) Public Law 85-342 (72 Stat. 35; 16 U.S.C. 778 et seq.), relating to fish research and experimentation.

(L) The first section of the Act of August 8, 1956 (70 Stat. 1126; 16 U.S.C. 760d), relating to grants for commercial fishing education.

(M) Public Law 86-359 (16 U.S.C. 760e et seq.), relating to the study of migratory marine gamefish.

(N) The Act of August 15, 1914 (Chapter 253; 38 Stat. 692; 16 U.S.C. 781 et seq.), prohibiting the taking of sponges in the Gulf of Mexico and the Straits of Florida.

(b) Aeronautical Mapping and Charting.—

(1) In general.—The aeronautical mapping and charting functions of the National Oceanic and Atmospheric Administration are transferred to the Defense Mapping Agency.

(2) Termination of certain functions.—The Defense Mapping Agency shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(3) Functions requested by federal aviation administration.—(A) Notwithstanding paragraph (2), the Director of the Defense Mapping Agency shall carry out such aeronautical charting functions as may be requested by the Administrator of the Federal Aviation Administration.

(B) In carrying out aeronautical mapping functions requested by the Administrator under subparagraph (A), the Director shall—

(i) publish and distribute to the public and to the Administrator any aeronautical charts requested by the Administrator; and

(ii) provide to the Administrator such other air traffic control products and services as may be requested by the Administrator.

in such manner and including such information as the Administrator determines is necessary for, or will promote, the safe and efficient movement of aircraft in air commerce.

(4) CONTINUING APPLICABILITY.—The requirements of section 1307 of title 44, United States Code, shall continue to apply with respect to all aeronautical products created or published by the Director of the Defense Mapping Agency in carrying out the functions transferred to the Director under this paragraph; except that the prices for such products shall be established jointly by the Director and the Secretary of Transportation on an annual basis.

(c) TRANSFER OF MAPPING, CHARTING, AND GEODESY FUNCTIONS TO THE UNITED STATES GEOLOGICAL SURVEY.—

(1) IN GENERAL.—Except as provided in subsection (b), there are hereby transferred to the Director of the United States Geological Survey the functions relating to mapping, charting, and geodesy authorized under the Act of August 7, 1947 (61 Stat. 787; 33 U.S.C. 883a).

(2) TERMINATION OF CERTAIN FUNCTIONS.—The Director of the United States Geological Survey shall terminate any functions transferred under paragraph (1) that are performed by the private sector.

(d) NESDIS.—There are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Environmental Satellite, Data, and Information System.

(e) OAR.—There are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration (including global programs) that on the date immediately before the effective date of this section were authorized to be performed by the Office of Oceanic and Atmospheric Research.

(f) NWS.—

(1) IN GENERAL.—There are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Weather Service.

(2) DUTIES.—To protect life and property and enhance the national economy, the Administrator of Science and Technology, through the National Weather Service, except as outlined in paragraph (3), shall be responsible for the following:

(A) Forecasts. The Administrator of Science and Technology, through the National Weather Service, shall serve as the sole official source of severe weather warnings.

(B) Issuance of storm warnings.

(C) The collection, exchange, and distribution of meteorological, hydrological, climatic, and oceanographic data and information.

(D) The preparation of hydro-meteorological guidance and core forecast information.

(3) LIMITATIONS ON COMPETITION.—The National Weather Service may not compete, or assist other entities to compete, with the private sector to provide a service when that service is currently provided or can be provided by a commercial enterprise unless—

(A) the Administrator of Science and Technology finds that the private sector is unwilling or unable to provide the service; or

(B) the Administrator of Science and Technology finds that the service provides vital weather warnings and forecasts for the protection of lives and property of the general public.

(4) ORGANIC ACT AMENDMENTS.—

(A) AMENDMENTS.—The Act of 1890 is amended—

(i) by striking section 3 (15 U.S.C. 313); and

(ii) in section 9 (15 U.S.C. 317), by striking "Department of" and all that follows thereafter and inserting "National Institute for Science and Technology.".

(B) DEFINITION.—For purposes of this paragraph, the term "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653).

(5) REPEAL.—Sections 706 and 707 of the Weather Service Modernization Act (15 U.S.C. 313 note) are repealed.

(6) CONFORMING AMENDMENTS.—The Weather Service Modernization Act (15 U.S.C. 313 note) is amended—

(A) in section 702, by striking paragraph (3) and redesignating paragraphs (4) through (10) as paragraphs (3) through (9), respectively; and

(B) in section 703—

(i) by striking "(a) NATIONAL IMPLEMENTATION PLAN.—";

(ii) by striking paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively; and

(iii) by striking subsections (b) and (c).

(g) TERMINATION OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS OF COMMISSIONED OFFICERS.—

(1) NUMBER OF OFFICERS.—Notwithstanding section 8 of the Act of June 3, 1948 (33 U.S.C. 853g), the total number of commissioned officers on the active list of the National Oceanic and Atmospheric Administration shall not exceed 358 for fiscal year 1996. No commissioned officers are authorized for any fiscal year after fiscal year 1996.

(2) SEPARATION PAY.—(A) Commissioned officers may be separated from the active list of the National Oceanic and Atmospheric Administration. Any officer so separated because of paragraph (1) shall, subject to subparagraph (B) and the availability of appropriations, be eligible for separation pay under section 9 of the Act of June 3, 1948 (33 U.S.C. 853h) to the same extent as if such officer had been separated under section 8 of such Act (33 U.S.C. 853g).

(B) Any officer who, under paragraph (4), transfers to another of the uniformed services or becomes employed in a civil service position shall not be eligible for separation pay under this paragraph.

(C)(i) Any officer who receives separation pay under this paragraph shall be required to repay the amount received if, within 1 year after the date of the separation on which the payment is based, such officer is reemployed in a civil service position in the National Oceanic and Atmospheric Administration, the duties of which position would formerly have been performed by a commissioned officer, as determined by the Administrator of the National Oceanic and Atmospheric Administration.

(ii) A repayment under this subparagraph shall be made in a lump sum or in such installments as the Administrator may specify.

(D) In the case of any officer who makes a repayment under subparagraph (C)—

(i) the National Oceanic and Atmospheric Administration shall pay into the Civil Service Retirement and Disability Fund, on such officer's behalf, any deposit required under section 8422(e)(1) of title 5, United States Code, with respect to any prior service performed by that individual as such an officer; and

(ii) if the amount paid under clause (i) is less than the amount of the repayment under subparagraph (C), the National Oceanic and Atmospheric Administration shall pay into the Government Securities Investment Fund (established under section 8438(b)(1)(A) of title 5, United States Code), on such individual's behalf, an amount equal to the difference.

The provisions of paragraph (5)(C)(iv) shall apply with respect to any contribution to the Thrift Savings Plan made under clause (ii).

(3) PRIORITY PLACEMENT PROGRAM.—A priority placement program similar to the programs described in section 3329b of title 5, United States Code, as amended by section 17110, shall be established by the National Oceanic and Atmospheric Administration to assist commissioned officers who are separated from the active list of the National Oceanic and Atmospheric Administration because of paragraph (1).

(4) TRANSFER.—(A) Subject to the approval of the Secretary of Defense and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the Armed Forces under section 716 of title 10, United States Code.

(B) Subject to the approval of the Secretary of Transportation and under terms and conditions specified by the Secretary, commissioned officers subject to paragraph (1) may transfer to the United States Coast Guard under section 716 of title 10, United States Code.

(C) Subject to the approval of the Administrator of the National Oceanic and Atmospheric Administration and under terms and conditions specified by that Administrator, commissioned officers subject to paragraph (1) may be employed by the National Oceanic and Atmospheric Administration as members of the civil service.

(5) RETIREMENT PROVISIONS.—(A) For commissioned officers who transfer under paragraph (4)(A) to the Armed Forces, the National Oceanic and Atmospheric Administration shall pay into the Department of Defense Military Retirement Fund an amount, to be calculated by the Secretary of Defense in consultation with the Secretary of the Treasury, equal to the actuarial present value of any retired or retainer pay they will draw upon retirement, including full credit for service in the NOAA Corps. Any payment under this subparagraph shall, for purposes of paragraph (2) of section 17207(g), be considered to be an expenditure described in such paragraph.

(B) For commissioned officers who transfer under paragraph (4)(B) to the United States Coast Guard, full credit for service in the NOAA Corps shall be given for purposes of any annuity or other similar benefit under the retirement system for members of the United States Coast Guard, entitlement to which is based on the separation of such officer.

(C)(i) For a commissioned officer who becomes employed in a civil service position pursuant to paragraph (4)(C) and thereupon becomes subject to the Federal Employees' Retirement System, the National Oceanic and Atmospheric Administration shall pay, on such officer's behalf—

(I) into the Civil Service Retirement and Disability Fund, the amounts required under clause (ii); and

(II) into the Government Securities Investment Fund, the amount required under clause (iii).

(ii)(I) The amount required under this subclause is the amount of any deposit required under section 8422(e)(1) of such title 5 with respect to any prior service performed by the individual as a commissioned officer of the National Oceanic and Atmospheric Administration.

(II) To determine the amount required under this subclause, first determine, for each year of service with respect to which the deposit under subclause (I) relates, the product of the normal-cost percentage for such year (as determined under the last sentence of this subclause) multiplied by basic pay received by the individual for any such service performed in such year. Second, take the sum of the amounts determined for the respective years under the first sentence. Finally, subtract from such sum the amount of the deposit under subclause (I). For purposes of the first sentence, the normal-cost percentage for any year shall be as determined for such year under the provisions of section 8423(a)(1) of title 5, United States Code, except that, in the case of any year before the first year for which any normal-cost percentage was determined under such provisions, the normal-cost percentage for such first year shall be used.

(iii) The amount required under this clause is the amount by which the separation pay to which the officer would have been entitled under the second sentence of paragraph (2)(A) (assuming the conditions for receiving such separation pay have been met) exceeds the amount of the deposit under clause (ii)(I), if at all.

(iv)(I) Any contribution made under this subparagraph to the Thrift Savings Plan shall not be subject to any otherwise applicable limitation on contributions contained in the Internal Revenue Code of 1986, and shall not be taken into account in applying any such limitation to other contributions or benefits under the Thrift Savings Plan, with respect to the year in which the contribution is made.

(II) Such plan shall not be treated as failing to meet any nondiscrimination requirement by reason of the making of such contribution.

(6) Repeals.—(A) The following provisions of law are repealed:

(i) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a–853o, 853p–853u).

(ii) The Act of February 16, 1929 (Chapter 221, section 5; 45 Stat. 1187; 33 U.S.C. 852a).

(iii) The Act of January 19, 1942 (Chapter 6; 56 Stat. 6).

(iv) Section 9 of Public Law 87–649 (76 Stat. 495).

(v) The Act of May 22, 1917 (Chapter 20, section 16; 40 Stat. 87; 33 U.S.C. 854 et seq.).

(vi) The Act of December 3, 1942 (Chapter 670; 56 Stat. 1038.

(vii) Sections 1 through 5 of Public Law 91–621 (84 Stat. 1863; 33 U.S.C. 857-1 et seq.).

(viii) The Act of August 10, 1956 (Chapter 1041, section 3; 70A Stat. 619; 33 U.S.C. 857a).

(ix) The Act of May 18, 1920 (Chapter 190, section 11; 41 Stat. 603; 33 U.S.C. 864).

(x) The Act of July 22, 1947 (Chapter 286; 61 Stat. 400; 33 U.S.C. 873, 874).

(xi) The Act of August 3, 1956 (Chapter 932; 70 Stat. 988; 33 U.S.C. 875, 876).

(xii) All other Acts inconsistent with this subsection.

No repeal under this subparagraph shall affect any annuity or other similar benefit payable, under any provision of law so repealed, based on the separation of any individual from the NOAA Corps on or before September 30, 1996. Any authority exercised by the Secretary of Commerce or his designee with respect to any such benefits shall be exercised by the Administrator of the National Oceanic and Atmospheric Administration, and any authorization of appropriations relating to those benefits, which is in effect as of September 30, 1996, shall be considered to have remained in effect.

(B) The effective date of the repeals under subparagraph (A) shall be October 1, 1996.

(7) Creditability of NOAA service for purposes relating to reductions in force.—A commissioned officer who is separated from the active list of the National Oceanic and Atmospheric Administration because of paragraph (1) shall, for purposes of any subsequent reduction in force, receive credit for any period of service performed as such an officer before separation from such list to the same extent and in the same manner as if it had been a period of active service in the Armed Forces.

(8) Abolition.—The Office of the National Oceanic and Atmospheric Administration Corps of Operations and the Commissioned Personnel Center are abolished effective September 30, 1996.

(h) NOAA Fleet.—

(1) Service contracts.—Notwithstanding any other provision of law and subject to the availability of appropriations, the Administrator of the National Institute for Science and Technology shall enter into contracts, including multiyear contracts, subject to paragraph (3), for the use of vessels to conduct oceanographic research and fisheries research, monitoring, enforcement, and management, and to acquire other data necessary to carry out the missions of the National Oceanic and Atmospheric Administration. The Administrator of the National Institute for Science and Technology shall enter into these contracts unless—

(A) the cost of the contract is more than the cost (including the cost of vessel operation, maintenance, and all personnel) to the National Oceanic and Atmospheric Administration of obtaining those services on vessels of the National Oceanic and Atmospheric Administration;

(B) the contract is for more than 7 years; or

(C) the data is acquired through a vessel agreement pursuant to paragraph (4).

(2) Vessels.—The Administrator of the National Institute for Science and Technology may not enter into any contract for the construction, lease-purchase, upgrade, or service life extension of any vessel.

(3) Multiyear contracts.—

(A) In general.—Subject to subparagraphs (B) and (C), and notwithstanding section 1341 of title 31, United States Code, and section 11 of title 41, United States Code, the Administrator of the National Institute for Science and Technology may acquire data under multiyear contracts.

(B) Required findings.—The Administrator of the National Institute for Science and Technology may not enter into a contract pursuant to this paragraph unless such Administrator finds with respect to that contract that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request from Congress funding for the contract at the level required to avoid contract termination.

(C) Required provisions.—The Administrator of the National Institute for Science and Technology may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision that specifies the term of effectiveness of the contract; and

(iii) appropri

(iii) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount speci for such a termination; or

(II) amounts that were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract and are unobligated on the date of the termination.

(4) Vessel agreements.—The Administrator of the National Institute for Science and Technology shall use excess capacity of University National Oceanographic Laboratory System vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(5) Transfer of excess vessels.—The Administrator of the National Institute for Science and Technology shall transfer any vessels that are excess to the needs of the National Oceanic and Atmospheric Administration to the National Defense Reserve Fleet. Notwithstanding any other provision of law, these vessels may be scrapped in accordance with section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(i)).

(i) National Marine Fisheries Service.—(1) There are transferred to the National Institute for Science and Technology all functions that on the day before the effective date of this section were authorized by law to be performed by the National Marine Fisheries Service.

(2) Notwithstanding any other provision of law, the National Marine Fisheries Service may not affect on-land activities under the Endangered Species Act of 1973 for salmon recovery in the State of Idaho (16 U.S.C. 1531 et seq.).

(j) National Ocean Service.—Except as otherwise provided in this title, there are transferred to the National Institute for Science and Technology all functions and assets of the National Oceanic and Atmospheric Administration that on the date immediately before the effective date of this section were authorized to be performed by the National Ocean Service (including the Coastal Ocean Program).

(k) Transfer of Coastal Nonpoint Pollution Control Functions.—There are transferred to the Administrator of the Environmental Protection Agency the functions under section 6217 of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b) that on the day before the effective date of this section were vested in the Secretary of Commerce.

SEC. 17207. NATIONAL INSTITUTE FOR SCIENCE AND TECHNOLOGY.

(a) Establishment.—There is established as an independent agency in the Executive Branch the National Institute for Science and Technology (in this section referred to as the "Institute"). The Institute, and all functions and offices transferred to it under this title, shall be administered under the supervision and direction of an Administrator of Science and Technology. The Administrator of Science and Technology shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive basic pay at the rate payable for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(b) Principal Officers.—There shall be in the Institute, on the transfer of functions and offices under this title—

(1) an Administrator of the National Oceanic and Atmospheric Administration, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive basic pay at the rate payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; and

(2) a Director of the National Bureau of Standards, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) Additional Officers.—There shall be in the Institute—

(1) a Chief Financial Officer of the Institute, to be appointed by the President, by and with the advice and consent of the Senate;

(2) a Chief of External Affairs, to be appointed by the President, by and with the advice and consent of the Senate;

(3) a General Counsel, to be appointed by the President, by and with the advice and consent of the Senate; and

(4) an Inspector General, to be appointed in accordance with the Inspector General Act of 1978.

Each Officer appointed under this subsection shall receive basic pay at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(d) Transfer of Functions and Offices.—Except as otherwise provided in this title, there are transferred to the Institute—

(1) the National Oceanic and Atmospheric Administration, along with its functions and offices, as provided in section 17206;

(2) the National Bureau of Standards, along with its functions and offices, as provided in section 17202; and

(3) the Office of Space Commerce, along with its functions and offices.

(e) Elimination of Positions.—The Administrator of Science and Technology may eliminate positions that are no longer necessary because of the termination of functions under this section, section 17202, and section 17206.

(f) Agency Terminations.—

(1) Terminations.—On the date specified in section 17209(a), the following shall terminate:

(A) The Office of the Deputy Administrator and Assistant Secretary of the National Oceanic and Atmospheric Administration.

(B) The Office of the Deputy Under Secretary of the National Oceanic and Atmospheric Administration.

(C) The Office of the Chief Scientist of the National Oceanic and Atmospheric Administration.

(D) The position of Deputy Assistant Secretary for Oceans and Atmosphere.

(E) The position of Deputy Assistant Secretary for International Affairs.

(F) Any office of the National Oceanic and Atmospheric Administration or the National Bureau of Standards whose primary purpose is to perform high performance computing communications, legislative, personnel, public relations, budget, constituent, intergovernmental, international, policy and strategic planning, sustainable development, administrative, financial, educational, legal and coordination functions. These functions shall, as necessary, be performed only by officers described in subsection (c).

(G) The position of Associate Director of the National Institute of Standards and Technology.

(2) Termination of Executive Schedule Positions.—Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for levels I through V of the Executive Schedule under sections 5312 through 5315 of title 5, United States Code, in an office terminated pursuant to this section, section 17202, and section 17206 shall also terminate.

(g) Funding Reductions Resulting From Reorganization.—

(1) Funding reductions.—For each fiscal year that begins on or after the effective date of this section, the amount obligated or expended by the United States in performing all functions vested in the National Institute for Science and Technology pursuant to this subtitle may not exceed 75 percent of the total of the amounts obligated or expended by the United States in performing, during fiscal year 1995, all functions vested in the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the Office of Space Commerce, except for those functions transferred under section 17206 to agencies or departments other than the National Institute for Science and Technology.

(2) Exception.—Paragraph (1) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in paragraph (1) pursuant to this subtitle.

(3) Rule of construction.—This subsection shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(4) Responsibilities of the Director of the Office of Management and Budget.—The Director of the Office of Management and Budget shall—

(A) ensure compliance with the requirements of this subsection; and

(B) include in each report under section 17106 (a) and (b) of this title a description of actions taken to comply with such requirements.

SEC. 17208. MISCELLANEOUS TERMINATIONS; MORATORIUM ON PROGRAM ACTIVITIES.

(a) Terminations.—The following agencies and programs of the Department of Commerce are terminated:

(1) The Minority Business Development Administration.

(2) The United States Travel and Tourism Administration.

(3) The programs and activities of the National Telecommunications and Information Administration referred to in section 17205(a).

(4) The Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n).

(5) The Manufacturing Extension Programs under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l).

(6) The National Institute of Standards and Technology METRIC Program.

(b) Moratorium on Program Activities.—The authority to make grants, enter into contracts, provide assistance, incur obligations, or provide commitments (including any enlargement of existing obligations or commitments, except if required by law) with respect to the agencies and programs described in subsection (a) is terminated effective on the date of the enactment of this title.

SEC. 17209. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this subtitle shall take effect on the abolishment date specified in section 17101(c).

(b) Provisions Effective on Date of Enactment.—The following provisions of this subtitle shall take effect on the date of the enactment of this Act:

(1) Section 17201.

(2) Section 17206(g), except as otherwise provided in that section.

(3) Section 17208(b).

(4) This section.

Subtitle C—Office of United States Trade Representative

CHAPTER 1—GENERAL PROVISIONS

SEC. 17301. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Office" means the Office of the United States Trade Representative;

(2) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code; and

(3) the term "USTR" means the United States Trade Representative as provided for under section 17311.

CHAPTER 2—OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Subchapter A—Establishment

SEC. 17311. ESTABLISHMENT OF THE OFFICE.

(a) In General.—The Office of the United States Trade Representative is established as an independent establishment in the executive branch of Government as defined under section 104 of title 5, United States Code. The United States Trade Representative shall be the head of the Office and shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Ambassador Status.—The USTR shall have the rank and status of Ambassador and shall represent the United States in all trade negotiations conducted by the Office.

(c) Continued Service of Current USTR.—The individual serving as United States Trade Representative on the date immediately preceding the effective date of this subtitle may continue to serve as USTR under subsection (a).

(d) Successor to the Department of Commerce.—The Office shall be the successor to the Department of Commerce for purposes of protocol.

SEC. 17312. FUNCTIONS OF THE USTR.

(a) In General.—In addition to the functions transferred to the USTR by this subtitle, such other functions as the President may assign or delegate to the USTR, and such other functions as the USTR may, after the effective date of this subtitle, be required to carry out by law, the USTR shall—

(1) serve as the principal advisor to the President on international trade policy and advise the President on the impact of other policies of the United States Government on international trade;

(2) exercise primary responsibility, with the advice of the interagency organization established under section 242 of the Trade

Expansion Act of 1962, for developing and implementing international trade policy, including commodity matters and, to the extent related to international trade policy, direct investment matters and, in exercising such responsibility, advance and implement, as the primary mandate of the Office, the goals of the United States to—

(A) maintain United States leadership in international trade liberalization and expansion efforts;

(B) reinvigorate the ability of the United States economy to compete in international markets and to respond flexibly to changes in international competition; and

(C) expand United States participation in international trade through aggressive promotion and marketing of goods and services that are products of the United States;

(3) exercise lead responsibility for the conduct of international trade negotiations, including negotiations relating to commodity matters and, to the extent that such negotiations are related to international trade, direct investment negotiations;

(4) exercise lead responsibility for the establishment of a national export strategy, including policies designed to implement such strategy;

(5) with the advice of the interagency organization established under section 242 of the Trade Expansion Act of 1962, issue policy guidance to other Federal agencies on international trade, commodity, and direct investment functions to the extent necessary to assure the coordination of international trade policy;

(6) seek and promote new opportunities for United States products and services to compete in the world marketplace;

(7) assist small businesses in developing export markets;

(8) enforce the laws of the United States relating to trade;

(9) analyze economic trends and developments;

(10) report directly to the Congress—

(A) on the administration of, and matters pertaining to, the trade agreements program under the Omnibus Trade and Competitiveness Act of 1988, the Trade Act of 1974, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after this Act; and

(B) with respect to other important issues pertaining to international trade;

(11) keep each official adviser to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements who is appointed from the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives under section 161 of the Trade Act of 1974 currently informed on United States negotiating objectives with respect to trade agreements, the status of negotiations in progress with respect to such agreements, and the nature of any changes in domestic law or the administration thereof which the USTR may recommend to the Congress to carry out any trade agreement;

(12) consult and cooperate with State and local governments and other interested parties on international trade matters of interest to such governments and parties, and to the extent related to international trade matters, on investment matters, and, when appropriate, hold informal public hearings;

(13) serve as the principal advisor to the President on Government policies designed to contribute to enhancing the ability of United States industry and services to compete in international markets;

(14) develop recommendations for national strategies and specific policies intended to enhance the productivity and international competitiveness of United States industries;

(15) serve as the principal advisor to the President in identifying and assessing the consequences of any Government policies that adversely affect, or have the potential to adversely affect, the international competitiveness of United States industries and services;

(16) promote cooperation between business, labor, and Government to improve industrial performance and the ability of United States industries to compete in international markets and to facilitate consultation and communication between the Government and the private sector about domestic industrial performance and prospects and the performance and prospects of foreign competitors; and

(17) monitor and enforce foreign government compliance with international trade agreements to protect United States interests.

(b) INTERAGENCY ORGANIZATION.—The USTR shall be the chairperson of the interagency organization established under section 242 of the Trade Expansion Act of 1962.

(c) NATIONAL SECURITY COUNCIL.—The USTR shall be a member of the National Security Council.

(d) ADVISORY COUNCIL.—The USTR shall be Deputy Chairman of the National Advisory Council on International Monetary and Financial Policies established under Executive Order 11269, issued February 14, 1966.

(e) AGRICULTURE.—(1) The USTR shall consult with the Secretary of Agriculture or the designee of the Secretary of Agriculture on all matters that potentially involve international trade in agricultural products.

(2) If an international meeting for negotiation or consultation includes discussion of international trade in agricultural products, the USTR or the designee of the USTR shall be Chairman of the United States delegation to such meeting and the Secretary of Agriculture or the designee of such Secretary shall be Vice Chairman. The provisions of this paragraph shall not limit the authority of the USTR under subsection (h) to assign to the Secretary of Agriculture responsibility for the conduct of, or participation in, any trade negotiation or meeting.

(f) TRADE PROMOTION.—The USTR shall be the chairperson of the Trade Promotion Coordinating Committee.

(g) NATIONAL ECONOMIC COUNCIL.—The USTR shall be a member of the National Economic Council established under Executive Order No. 12835, issued January 25, 1993.

(h) INTERNATIONAL TRADE NEGOTIATIONS.—Except where expressly prohibited by law, the USTR, at the request or with the concurrence of the head of any other Federal agency, may assign the responsibility for conducting or participating in any specific international trade negotiation or meeting to the head of such agency whenever the USTR determines that the subject matter of such international trade negotiation is related to the functions carried out by such agency.

Subchapter B—Officers

SEC. 17321. DEPUTY ADMINISTRATOR OF THE OFFICE.

(a) ESTABLISHMENT.—There shall be in the Office the Deputy Administrator of the Office of the United States Trade Representative, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) ABSENCE, DISABILITY, OR VACANCY OF USTR.—The Deputy Administrator of the Office of the United States Trade Representative shall act for and exercise the functions of the USTR during the absence or disability of the USTR or in the event the office of the USTR becomes vacant. The Deputy Administrator shall act for and exercise the functions of the USTR until the absence or disability of the USTR no longer exists or a successor to the USTR has been appointed by the President and confirmed by the Senate.

(c) FUNCTIONS OF DEPUTY ADMINISTRATOR.—The Deputy Administrator of the Office of the United States Trade Representative shall exercise all functions, under the direction of the USTR, transferred to or established in the Office, except those functions exercised by the Deputy United States Trade Representatives, the Director General for Export Promotion, the Inspector General, and the General Counsel of the Office, as provided by this subtitle.

SEC. 17322. DEPUTY UNITED STATES TRADE REPRESENTATIVES.

(a) ESTABLISHMENT.—There shall be in the Office 2 Deputy United States Trade Representatives, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy United States Trade Representatives shall exercise all functions under the direction of the USTR, and shall include—

(1) the Deputy United States Trade Representative for Negotiations; and

(2) the Deputy United States Trade Representative to the World Trade Organization.

(b) FUNCTIONS OF DEPUTY UNITED STATES TRADE REPRESENTATIVES.—(1) The Deputy United States Trade Representative for Negotiations shall exercise all functions transferred under section 17331 and shall have the rank and status of Ambassador.

(2) The Deputy United States Trade Representative to the World Trade Organization shall exercise all functions relating to representation to the World Trade Organization and shall have the rank and status of Ambassador.

SEC. 17323. ASSISTANT ADMINISTRATORS.

(a) ESTABLISHMENT.—There shall be in the Office 3 Assistant Administrators, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Administrators shall exercise all functions under the direction of the Deputy Administrator of the Office of the United States Trade Representative and include—

(1) the Assistant Administrator for Export Administration;

(2) the Assistant Administrator for Import Administration; and

(3) the Assistant Administrator for Trade and Policy Analysis.

(b) FUNCTIONS OF ASSISTANT ADMINISTRATORS.—(1) The Assistant Administrator for Export Administration shall exercise all functions transferred under section 17332(1)(C).

(2) The Assistant Administrator for Import Administration shall exercise all functions transferred under section 17332(1)(D).

(3) The Assistant Administrator for Trade and Policy Analysis shall exercise all functions transferred under section 17332(1)(B) and all functions transferred under section 17332(2).

SEC. 17324. DIRECTOR GENERAL FOR EXPORT PROMOTION.

(a) ESTABLISHMENT.—There shall be a Director General for Export Promotion, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The Director General for Export Promotion shall exercise, under the direction of the USTR, all functions transferred under sections 17332(1)(A) (relating to functions of the United States and Foreign Commercial Service) and 17333 and shall have the rank and status of Ambassador.

SEC. 17325. GENERAL COUNSEL.

There shall be in the Office a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall provide legal assistance to the USTR concerning the activities, programs, and policies of the Office.

SEC. 17326. INSPECTOR GENERAL.

There shall be in the Office an Inspector General who shall be appointed in accordance with the Inspector General Act of 1978, as amended by section 17371(b) of this Act.

SEC. 17327. CHIEF FINANCIAL OFFICER.

There shall be in the Office a Chief Financial Officer who shall be appointed in accordance with section 901 of title 31, United States Code, as amended by section 17371(e) of this Act. The Chief Financial Officer shall perform all functions prescribed by the Deputy Administrator of the Office of the United States Trade Representative, under the direction of the Deputy Administrator.

Subchapter C—Transfers to the Office

SEC. 17331. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

There are transferred to the USTR all functions of the United States Trade Representative and the Office of the United States Trade Representative in the Executive Office of the President and all functions of any officer or employee of such Office.

SEC. 17332. TRANSFERS FROM THE DEPARTMENT OF COMMERCE.

There are transferred to the USTR the following functions:

(1) All functions of, and all functions performed under the direction of, the following officers and employees of the Department of Commerce:

(A) The Under Secretary of Commerce for International Trade, and the Director General of the United States and Foreign Commercial Service, relating to all functions exercised by the Service.

(B) The Assistant Secretary of Commerce for International Economic Policy and the Assistant Secretary of Commerce for Trade Development.

(C) The Under Secretary of Commerce for Export Administration.

(D) The Assistant Secretary of Commerce for Import Administration.

(2) All functions of the Secretary of Commerce relating to the National Trade Data Bank.

(3) All functions of the Secretary of Commerce under the Tariff Act of 1930, the Uruguay Round Agreements Act, the Trade Act of 1974, and other trade-related Acts for which responsibility is not otherwise assigned under this subtitle.

SEC. 17333. TRADE AND DEVELOPMENT AGENCY.

There are transferred to the Director General for Export Promotion all functions of the Director of the Trade and Development Agency. There are transferred to the Office of the Director General for Export Promotion all functions of the Trade and Development Agency.

SEC. 17334. EXPORT-IMPORT BANK.

(a) IN GENERAL.—(1) There are transferred to the USTR all functions of the Secretary of Commerce relating to the Export-Import Bank of the United States.

(2) Section 3(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(c)(1)) is amended to read as follows:

"(c)(1) There shall be a Board of Directors of the Bank consisting of the United States Trade Representative (who shall serve as Chairman), the President of the Export-Import Bank of the United States (who shall serve as Vice Chairman), the first Vice President, and 2 additional persons appointed by the President of the United States, by and with the advice and consent of the Senate.".

(b) EX OFFICIO MEMBER OF EXPORT-IMPORT BANK BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Export-Import Bank.

(c) AMENDMENTS TO RELATED BANKING AND TRADE ACTS.—Section 2301(h) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(h)) is amended to read as follows:

"(h) ASSISTANCE TO EXPORT-IMPORT BANK.—The Commercial Service shall provide such services as the Director General for Export Promotion of the Office of the United States Trade Representative determines necessary to assist the Export-Import Bank of the United States to carry out the lending, loan guarantee, insurance, and other activities of the Bank.".

SEC. 17335. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) BOARD OF DIRECTORS.—The second and third sentences of section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) are amended to read as follows: "The United States Trade Representative shall be the Chairman of the Board. The Administrator of the Agency for International Development (who shall serve as Vice Chairman) shall serve on the Board.".

(b) EX OFFICIO MEMBER OF OVERSEAS PRIVATE INVESTMENT CORPORATION BOARD OF DIRECTORS.—The Director General for Export Promotion shall serve as an ex officio nonvoting member of the Board of Directors of the Overseas Private Investment Corporation.

SEC. 17336. CONSOLIDATION OF EXPORT PROMOTION AND FINANCING ACTIVITIES.

(a) SUBMISSION OF PLAN.—Within 180 days after the date of the enactment of this Act, the President shall transmit to the Congress a comprehensive plan to consolidate Federal nonagricultural export promotion activities and export financing activities and to transfer those functions to the Office. The plan shall provide for—

(1) the elimination of the overlap and duplication among all Federal nonagricultural export promotion activities and export financing activities;

(2) a unified budget for Federal nonagricultural export promotion activities which eliminates funding for the areas of overlap and duplication identified under paragraph (1); and

(3) a long-term agenda for developing better cooperation between local, State and Federal programs and activities designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including sharing of facilities, costs, and export market research data.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall—

(1) place all Federal nonagricultural export promotion activities and export financing activities within the Office;

(2) provide clear authority for the USTR to use the expertise and assistance of other United States Government agencies;

(3) achieve an overall 25 percent reduction in the amount of funding for all Federal nonagricultural export promotion activities within 2 years after the enactment of this Act; and

(4) include any functions of the Department of Commerce not transferred by this subtitle, or of other Federal departments the transfer of which to the Office would be necessary to the competitiveness of the United States in international trade.

(c) DEFINITION.—As used in this section, the term "Federal nonagricultural export promotion activities" means all programs or activities of any department or agency of the Federal Government (including, but not limited to, departments and agencies with representatives on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727)) that are designed to stimulate or assist United States businesses in exporting nonagricultural goods or services that are products of the United States, including trade missions.

SEC. 17337. ADDITIONAL TRADE FUNCTIONS.

(a) TERMINATION OF AUTHORIZATIONS OF APPROPRIATIONS.—

(1) NAFTA SECRETARIAT.—Section 105(b) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3315(b)) is amended by striking "each fiscal year after fiscal year 1993" and inserting "each of fiscal years 1994 and 1995".

(2) BORDER ENVIRONMENT COOPERATION COMMISSION.—Section 533(a)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473(a)(2)) is amended by striking "and each fiscal year thereafter" and inserting "fiscal year 1995".

(b) FUNCTIONS RELATED TO TEXTILE AGREEMENTS.—

(1) FUNCTIONS OF CITA.—(A) Subject to subparagraph (B), those functions delegated to the Committee for the Implementation of Textile Agreements established under Executive Order 11651 (7 U.S.C. 1854 note) (hereafter in this subsection referred to as "CITA") are transferred to the USTR.

(B) Those functions delegated to CITA that relate to the assessment of the impact of textile imports on domestic industry are transferred to the International Trade Commission.

(2) ABOLITION OF CITA.—CITA is abolished.

Subchapter D—Administrative Provisions

SEC. 17341. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The USTR may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the USTR and the Office. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) POSITIONS ABOVE GS–15.—(1) At the request of the USTR, the Director of the Office of Personnel Management shall, under section 5108 of title 5, United States Code, provide for the establishment in a grade level above GS–15 of the General Service, and in the Senior Executive Service, of a number of positions in the Office equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred by this subtitle and which were assigned and filled on the day before the effective date of this subtitle.

(2) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this subtitle and, on the day before the effective

date of this subtitle, holds a position and has duties comparable to those of the position to which appointed under this subsection.

(3) The authority under this subsection with respect to any position established at a grade level above GS–15 shall terminate when the person first appointed to fill such position ceases to hold such position.

(4) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day before the effective date of this subtitle.

(c) EXPERTS AND CONSULTANTS.—The USTR may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the maximum rate of pay for a position above GS–15 of the General Schedule under section 5332 of such title. The USTR may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

(d) VOLUNTARY SERVICES.—(1)(A) The USTR is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The USTR is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The USTR is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for individuals who provide voluntary services under subparagraph (A) or (B) of paragraph (1).

(3) An individual who provides voluntary services under paragraph (1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(e) FOREIGN SERVICE POSITIONS.—In order to assure United States representation in trade matters at a level commensurate with the level of representation maintained by industrial nations which are major trade competitors of the United States, the Secretary of State shall classify certain positions at Foreign Service posts as commercial minister positions and shall assign members of the Foreign Service performing functions of the Office, with the concurrence of the USTR, to such positions in nations which are major trade competitors of the United States. The Secretary of State shall obtain and use the recommendations of the USTR with respect to the number of positions to be so classified under this subsection.

SEC. 17342. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this subtitle, the USTR may delegate any of the functions transferred to the USTR by this subtitle and any function transferred or granted to the USTR after the effective date of this subtitle to such officers and employees of the Office as the USTR may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the USTR under this section or under any other provision of this subtitle shall relieve the USTR of responsibility for the administration of such functions.

SEC. 17343. SUCCESSION.

(a) ORDER OF SUCCESSION.—Subject to the authority of the President, and except as provided in section 17321(b), the USTR shall prescribe the order by which officers of the Office who are appointed by the President, by and with the advice and consent of the Senate, shall act for, and perform the functions of, the USTR or any other officer of the Office appointed by the President, by and with the advice and consent of the Senate, during the absence or disability of the USTR or such other officer, or in the event of a vacancy in the office of the USTR or such other officer.

(b) CONTINUATION.—Notwithstanding any other provision of law, and unless the President directs otherwise, an individual acting for the USTR or another officer of the Office pursuant to subsection (a) shall continue to serve in that capacity until the absence or disability of the USTR or such other officer no longer exists or a successor to the USTR or such other officer has been appointed by the President and confirmed by the Senate.

SEC. 17344. REORGANIZATION.

(a) IN GENERAL.—Subject to subsection (b), the USTR is authorized to allocate or reallocate functions among the officers of the Office, and to establish, consolidate, alter, or discontinue such organizational entities in the Office as may be necessary or appropriate.

(b) EXCEPTION.—The USTR may not exercise the authority under subsection (a) to establish, consolidate, alter, or discontinue any organizational entity in the Office or allocate or reallocate any function of an officer or employee of the Office that is inconsistent with any specific provision of this subtitle.

SEC. 17345. RULES.

The USTR is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the USTR determines necessary or appropriate to administer and manage the functions of the USTR or the Office.

SEC. 17346. FUNDS TRANSFER.

The USTR may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Office, except that no appropriation for any fiscal year shall be either increased or decreased by more than 10 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEC. 17347. CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—Subject to the provisions of the Federal Property and Administrative Services Act of 1949, the USTR may make, enter into, and perform such contracts, leases, cooperative agreements, grants, or other similar transactions with public agencies, private organizations, and persons, and make payments (in lump sum or installments, and by way of advance or reimbursement, and, in the case of any grant, with necessary adjustments on account of overpayments and underpayments) as the USTR considers necessary or appropriate to carry out the functions of the USTR or the Office.

(b) EXCEPTION.—Notwithstanding any other provision of this subtitle, the authority to enter into contracts or to make payments under this subchapter shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. This subsection does not apply with respect to the authority granted under section 17349.

SEC. 17348. USE OF FACILITIES.

(a) USE BY USTR.—With their consent, the USTR, with or without reimbursement, may use the research, services, equipment, and facilities of—

(1) an individual,

(2) any public or private nonprofit agency or organization, including any agency or instrumentality of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States,

(3) any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or

(4) any foreign government,

in carrying out any function of the USTR or the Office.

(b) USE OF USTR FACILITIES.—The USTR, under terms, at rates, and for periods that the USTR considers to be in the public interest, may permit the use by public and private agencies, corporations, associations or other organizations, or individuals, of any real property, or any facility, structure or other improvement thereon, under the custody of the USTR. The USTR may require permittees under this section to maintain or recondition, at their own expense, the real property, facilities, structures, and improvements used by such permittees.

SEC. 17349. GIFTS AND BEQUESTS.

(a) IN GENERAL.—The USTR is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the United States Treasury in a separate fund and shall be disbursed on order of the USTR. Property accepted pursuant to this subsection, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest.

(b) TAX TREATMENT.—For the purpose of Federal income, estate, and gift taxes, and State taxes, property accepted under subsection (a) shall be considered a gift or bequest to or for the use of the United States.

(c) INVESTMENT.—Upon the request of the USTR, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in subsection (a). Income accruing from such securities, and from any other property held by the USTR pursuant to subsection (a), shall be deposited to the credit of the fund, and shall be disbursed upon order of the USTR.

SEC. 17350. WORKING CAPITAL FUND.

(a) ESTABLISHMENT.—The USTR is authorized to establish for the Office a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the USTR shall find to be desirable in the interest of economy and efficiency, including—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Office and its components;

(2) central messenger, mail, and telephone service and other communications services;

(3) office space and central services for document reproduction and for graphics and visual aids;

(4) a central library service; and

(5) such other services as may be approved by the Director of the Office of Management and Budget.

(b) Operation of Fund.—The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the USTR may transfer to the fund, less the related liabilities and unpaid obligations. The fund shall be reimbursed in advance from available funds of agencies and offices in the Office, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain the fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to those services which the USTR determines will be performed.

SEC. 17351. SERVICE CHARGES.

(a) Authority.—Notwithstanding any other provision of law, the USTR may establish reasonable fees and commissions with respect to applications, documents, awards, loans, grants, research data, services, and assistance administered by the Office, and the USTR may change and abolish such fees and commissions. Before establishing, changing, or abolishing any schedule of fees or commissions under this section, the USTR may submit such schedule to the Congress.

(b) Deposits.—The USTR is authorized to require a deposit before the USTR provides any item, information, service, or assistance for which a fee or commission is required under this section.

(c) Deposit of Moneys.—Moneys received under this section shall be deposited in the Treasury in a special account for use by the USTR and are authorized to be appropriated and made available until expended.

(d) Factors in Establishing Fees and Commissions.—In establishing reasonable fees or commissions under this section, the USTR may take into account—

(1) the actual costs which will be incurred in providing the items, information, services, or assistance concerned;

(2) the efficiency of the Government in providing such items, information, services, or assistance;

(3) the portion of the cost that will be incurred in providing such items, information, services, or assistance which may be attributed to benefits for the general public rather than exclusively for the person to whom the items, information, services, or assistance is provided;

(4) any public service which occurs through the provision of such items, information, services, or assistance; and

(5) such other factors as the USTR considers appropriate.

(e) Refunds of Excess Payments.—In any case in which the USTR determines that any person has made a payment which is not required under this section or has made a payment which is in excess of the amount required under this section, the USTR, upon application or otherwise, may cause a refund to be made from applicable funds.

SEC. 17352. SEAL OF OFFICE.

The USTR shall cause a seal of office to be made for the Office of such design as the USTR shall approve. Judicial notice shall be taken of such seal.

Subchapter E—Related Agencies

SEC. 17361. INTERAGENCY TRADE ORGANIZATION.

Section 242(a)(3) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)(3)) is amended to read as follows:

"(3)(A) The interagency organization established under subsection (a) shall be composed of—

"(i) the United States Trade Representative, who shall be the chairperson,

"(ii) the Secretary of Agriculture,

"(iii) the Secretary of the Treasury,

"(iv) the Secretary of Labor,

"(v) the Secretary of State, and

"(vi) the representatives of such other departments and agencies as the United States Trade Representative shall designate.

"(B) The United States Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the chairperson shall direct.".

SEC. 17362. NATIONAL SECURITY COUNCIL.

The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

"(5) the United States Trade Representative;".

SEC. 17363. INTERNATIONAL MONETARY FUND.

Section 3 of the Bretton Woods Agreement Act is amended by adding at the end the following new subsection:

"(e) The United States executive director of the Fund shall consult with the United States Trade Representative with respect to matters under consideration by the Fund which relate to trade.".

Subchapter F—Conforming Amendments

SEC. 17371. AMENDMENTS TO GENERAL PROVISIONS.

(a) Inspector General.—The Inspector General Act of 1978 is amended—

(1) in subsection 9(a)(1) by inserting after subparagraph (W) the following:

"(X) of the United States Trade Representative, all functions of the Inspector General of the Department of Commerce and the Office of the Inspector General of the Department of Commerce relating to the functions transferred to the United States Trade Representative by section 17332 of the Department of Commerce Dismantling Act; and"; and

(2) in section 11—

(A) in paragraph (1) by inserting "the United States Trade Representative;" after "the Attorney General"; and

(B) in paragraph (2) by inserting "the Office of the United States Trade Representative," after "Treasury;".

(b) Amendment to the Trade Act of 1974.—(1) Chapter 4 of title I of the Trade Act of 1974 is amended to read as follows:

"CHAPTER 4—REPRESENTATION IN TRADE NEGOTIATIONS

"SEC. 141. FUNCTIONS OF THE UNITED STATES TRADE REPRESENTATIVE.

"The United States Trade Representative established under section 17311 of the Department of Commerce Dismantling Act shall—

"(1) be the chief representative of the United States for each trade negotiation under this title or chapter 1 of title III of this Act, or subtitle A of title I of the Omnibus Trade and Competitiveness Act of 1988, or any other provision of law enacted after the Department of Commerce Dismantling Act;

"(2) report directly to the President and the Congress, and be responsible to the President and the Congress for the administration of trade agreements programs under this Act, the Omnibus Trade and Competitiveness Act of 1988, the Trade Expansion Act of 1962, section 350 of the Tariff Act of 1930, and any other provision of law enacted after the Department of Commerce Dismantling Act;

"(3) advise the President and the Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs; and

"(4) be responsible for making reports to Congress with respect to the matters set forth in paragraphs (1) and (2).".

(2) The table of contents in the first section of the Trade Act of 1974 is amended by striking the items relating to chapter 4 and section 141 and inserting the following:

"Chapter 4—Representation in Trade Negotiations

"Sec. 141. Functions of the United States Trade Representative.".

(d) Foreign Service Personnel.—The Foreign Service Act of 1980 is amended by striking paragraph (3) of section 202(a) (22 U.S.C. 3922(a)) and inserting the following:

"(3) The United States Trade Representative may utilize the Foreign Service personnel system in accordance with this Act—

"(A) with respect to the personnel performing functions—

"(i) which were transferred to the Department of Commerce from the Department of State by Reorganization Plan No. 3 of 1979; and

"(ii) which were subsequently transferred to the United States Trade Representative by section 17332 of the Department of Commerce Dismantling Act; and

"(B) with respect to other personnel of the Office of United States Trade Representative to the extent the President determines to be necessary in order to enable the Office of the United States Trade Representative to carry out functions which require service abroad.".

(e) Chief Financial Officers.—Section 901(b)(1) of title 31, United States Code, is amended by adding at the end the following:

"(Q) The Office of the United States Trade Representative.".

SEC. 17372. REPEALS.

Sections 1 and 2 of the Act of June 5, 1939 (15 U.S.C. 1502 and 1503; 53 Stat. 808), relating to the Under Secretary of Commerce, are repealed.

SEC. 17373. CONFORMING AMENDMENTS RELATING TO EXECUTIVE SCHEDULE POSITIONS.

(a) Positions at Level I.—Section 5312 of title 5, United States Code, is amended by amending the item relating to the United States Trade Representative to read as follows:

"United States Trade Representative, Office of the United States Trade Representative.".

(b) Positions at Level II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Administrator of the Office of the United States Trade Representative.

"Deputy United States Trade Representatives, Office of the United States Trade Representative (2).".

(c) Positions at Level III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Administrators, Office of the United States Trade Representative (3).

"Director General for Export Promotion, Office of the United States Trade Representative.".

(d) Positions at Level IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking the item relating to the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service; and

(2) by adding at the end the following:

"General Counsel, Office of the United States Trade Representative.

"Inspector General, Office of the United States Trade Representative.

"Chief Financial Officer, Office of the United States Trade Representative.".

Subchapter G—Miscellaneous

SEC. 17381. EFFECTIVE DATE.

(a) In General.—This subtitle shall take effect on the effective date specified in section 17209(a), except that—

(1) section 17336 shall take effect on the date of the enactment of this Act; and

(2) at any time after the date of the enactment of this Act the officers provided for in subchapter B may be nominated and appointed, as provided in such subchapter.

(b) Interim Compensation and Expenses.—Funds available to the Department of Commerce or the Office of the United States Trade Representative (or any official or component thereof), with respect to the functions transferred by this subtitle, may be used, with approval of the Director of the Office of Management and Budget, to pay the compensation and expenses of an officer appointed under subsection (a) who will carry out such functions until funds for that purpose are otherwise available.

SEC. 17382. INTERIM APPOINTMENTS.

(a) In General.—If one or more officers required by this subtitle to be appointed by and with the advice and consent of the Senate have not entered upon office on the effective date of this subtitle and notwithstanding any other provision of law, the President may designate any officer who was appointed by and with the advice and consent of the Senate, and who was such an officer on the day before the effective date of this subtitle, to act in the office until it is filled as provided by this subtitle.

(b) Compensation.—Any officer acting in an office pursuant to subsection (a) shall receive compensation at the rate prescribed by this subtitle for such office.

SEC. 17383. FUNDING REDUCTIONS RESULTING FROM REORGANIZATION.

(a) Funding Reductions.—Except as provided in subsection (b), for each fiscal year that begins on or after the effective date of this section, the total of amounts obligated or expended by the United States in performing all functions vested in the USTR and the Office pursuant to this subtitle may not exceed 75 percent of the total amount obligated or expended by the United States in performing all such functions for fiscal year 1995.

(b) Exception.—Subsection (a) shall not apply to obligations or expenditures incurred as a direct consequence of the termination, transfer, or other disposition of functions described in subsection (a) pursuant to this title.

(c) Rule of Construction.—This section shall take precedence over any other provision of law unless such provision explicitly refers to this section and makes an exception to it.

(d) Responsibilities of the Director of the Office of Management and Budget.—The Director of the Office of Management and Budget shall—

(1) ensure compliance with the requirements of this section; and

(2) include in each report under sections 17106(a) and (b) a description of actions taken to comply with such requirements.

Subtitle D—Patent and Trademark Office Corporation

SEC. 17401. SHORT TITLE.

This subtitle may be cited as the "Patent and Trademark Office Corporation Act of 1995".

CHAPTER 1—PATENT AND TRADEMARK OFFICE

SEC. 17411. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE AS A CORPORATION.

Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

"(a) Establishment.—The Patent and Trademark Office is established as a wholly owned Government corporation subject to chapter 91 of title 31, except as otherwise provided in this title.

"(b) Offices.—The Patent and Trademark Office shall maintain an office in the District of Columbia, or the metropolitan area thereof, for the service of process and papers and shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located. The Patent and Trademark Office may establish offices in such other places as it considers necessary or appropriate in the conduct of its business.

"(c) Reference.—For purposes of this title, the Patent and Trademark Office shall also be referred to as the 'Office'.".

SEC. 17412. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and Duties

"(a) In General.—The Patent and Trademark Office shall be responsible for—

"(1) the granting and issuing of patents and the registration of trademarks;

"(2) conducting studies, programs, or exchanges of items or services regarding domestic and international patent and trademark law or the administration of the Office, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

"(3) authorizing or conducting studies and programs cooperatively with foreign patent and trademark offices and international organizations, in connection with the granting and issuing of patents and the registration of trademarks; and

"(4) disseminating to the public information with respect to patents and trademarks.

"(b) Specific Powers.—The Office—

"(1) shall have perpetual succession;

"(2) shall adopt and use a corporate seal, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

"(3) may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings, subject to the provisions of section 8 of this title;

"(4) may indemnify the Commissioner of Patents and Trademarks, and other officers, attorneys, agents, and employees (including members of the Management Advisory Board established in section 5) of the Office for liabilities and expenses incurred within the scope of their employment;

"(5) may adopt, amend, and repeal bylaws, rules, and regulations, governing the manner in which its business will be conducted and the powers granted to it by law will be exercised;

"(6) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

"(7)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

"(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

"(8) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

"(9) may obtain from the Administrator of General Services such services as the Administrator is authorized to provide to other agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(10) may use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign government or international organization to perform functions on its behalf;

"(11) may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946');

"(12) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office, in carrying out the functions of the Office, including for research and development and capital investment, subject to the provisions of section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note);

"(13) shall have the priority of the United States with respect to the payment of debts from bankrupt, insolvent, and decedents' estates;

"(14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, in order to carry out the functions of the Office;

"(15) may execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

"(16) may provide for liability insurance and insurance against any loss in connection with its property, other assets, or operations either by contract or by self-insurance; and

"(17) shall pay any settlement or judgment entered against it from the funds of the Office and not from amounts available under section 1304 of title 31.".

SEC. 17413. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

"§3. Officers and employees

"(a) Commissioner.—

"(1) In general.—The management of the Patent and Trademark Office shall be vested in a Commissioner of Patents and Trademarks (hereafter in this title referred to as the 'Commissioner'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner shall be a person who, by reason of professional background and experience in patent and trademark law, is especially qualified to manage the Office.

"(2) Duties.—

"(A) In general.—The Commissioner shall be responsible for the management and direction of the Office, including the issuance of patents and the registration of trademarks.

"(B) Advising the president.—The Commissioner shall advise the President of all activities of the Patent and Trademark Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those authorities of foreign governments that are responsible for granting patents or registering trademarks. The Commissioner shall also recommend to the President changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights or trademark rights in the United States or in foreign countries.

"(C) Consulting with the management advisory board.—The Commissioner shall consult with the Management Advisory Board established in section 5 on a regular basis on matters relating to the operation of the Patent and Trademark Office, and shall consult with the Board before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations.

"(D) Security clearances.—The Commissioner, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances.

"(3) Term.—The Commissioner shall serve a term of 5 years, and may continue to serve after the expiration of the Commissioner's term until a successor is appointed and assumes office. The Commissioner may be reappointed to subsequent terms.

"(4) Oath.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

"(5) Compensation.—The Commissioner shall receive compensation at the rate of pay in effect for Level III of the Executive Schedule under section 5314 of title 5.

"(6) Removal.—The Commissioner may be removed from office by the President only for cause.

"(7) Designee of commissioner.—The Commissioner shall designate an officer of the Office who shall be vested with the authority to act in the capacity of the Commissioner in the event of the absence or incapacity of the Commissioner.

"(b) Officers and Employees of the Office.—

"(1) Deputy commissioners.—The Commissioner shall appoint a Deputy Commissioner for Patents and a Deputy Commissioner for Trademarks for terms that shall expire on the date on which the Commissioner's term expires. The Deputy Commissioner for Patents shall be a person with demonstrated experience in patent law and the Deputy Commissioner for Trademarks shall be a person with demonstrated experience in trademark law. The Deputy Commissioner for Patents and the Deputy Commissioner for Trademarks shall be the principal policy advisors to the Commissioner on all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively.

"(2) Other officers and employees.—The Commissioner shall—

"(A) appoint an Inspector General and such other officers, employees (including attorneys), and agents of the Office as the Commissioner considers necessary to carry out its functions;

"(B) fix the compensation of such officers and employees; and

"(C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Commissioner may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation, except to the extent otherwise specifically provided by statute with respect to the Office.

"(c) Limits on Compensation.—Except as otherwise provided in this title or any other provision of law, the basic pay of an officer or employee of the Office for any calendar year may not exceed the annual rate of basic pay in effect for level IV of the Executive Schedule under section 5315 of title 5. The Commissioner shall by regulation establish a limitation on the total compensation payable to officers or employees of the Office, which may not exceed the annual rate of basic pay in effect for level I of the Executive Schedule under section 5312 of title 5.

"(d) Inapplicability of Title 5 Generally.—Except as otherwise provided in this section, officers and employees of the Office shall not be subject to the provisions of title 5 relating to Federal employees.

"(e) Continued Applicability of Certain Provision of Title 5.—The following provisions of title 5 shall apply to the Office and its officers and employees:

"(1) Section 3110 (relating to employment of relatives; restrictions).

"(2) Subchapter II of chapter 55 (relating to withholding pay).

"(3) Subchapter II of chapter 73 (relating to employment limitations).

"(f) Provisions of Title 5 Relating to Certain Benefits.—

"(1) Retirement.—(A)(i) Any individual who becomes an officer or employee of the Office pursuant to subsection (h) shall, if such individual has at least 3 years of creditable service (within the meaning of section 8332 or 8411 of title 5) as of the effective date of the Patent and Trademark Office Corporation Act of 1995, remain subject to subchapter III of chapter 83 or chapter 84 of such title, as the case may be, so long as such individual continues to hold an office or position in or under the Office without a break in service.

"(ii)(I) Except as provided in subclause (II), with respect to an individual described in clause (i), the Office shall make the appropriate withholding from pay and shall pay the contributions required of an employing agency into the Civil Service Retirement and Disability Fund and, if applicable, the Thrift Savings Fund in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of title 5, as the case may be.

"(II) In the case of an officer or employee who remains subject to subchapter III of chapter 83 of such title by virtue of this subparagraph, the Office shall, instead of the amount which would otherwise be required under the second sentence of section 8334(a)(1) of title 5, contribute an amount equal to the normal-cost percentage (determined with respect to officers and employees of the Office using dynamic assumptions, as defined by section 8401(9) of such title) of the individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1).

"(B)(i) Notwithstanding subsection (d), the provisions of subchapter III of chapter 83 or chapter 84 of title 5 (as applicable) which relate to disability shall be considered to remain in effect, with respect to an individual who becomes an officer or employee of the Office pursuant to subsection (h), until the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 or, if earlier, until such individual satisfies the prerequisites for coverage under any program offered by the Office to replace the disability retirement program under chapter 83 or 84 of title 5.

"(ii) This clause applies with respect to any officer or employee of the Office who is receiving disability coverage under this subparagraph and has completed the service requirement specified in the first sentence of section 8337(a) or 8451(a)(1)(A) of title 5 (as applicable), but who is not described in subparagraph (A)(i). In the case of any individual to whom this clause applies, the Office shall pay into the Civil Service Retirement and Disability Fund an amount equal to that portion of the normal-cost percentage (determined in the same manner as under subparagraph (A)(ii)(II)) of the basic pay of such individual (for service performed during the period during which such individual is receiving such coverage) allocable to such coverage. Any amounts payable under this clause shall be paid at such time and in such manner as mutually agreed to by the Office and the Office of Personnel Management, and shall be in lieu of any individual or agency contributions otherwise required.

"(2) Health benefits.—(A) Officers and employees of the Office shall not become ineligible to participate in the health benefits program under chapter 89 of title 5 by reason of subsection (d) until the effective date of elections made during the first election period (under section 8905(f) of title 5) beginning after the end of the 2-year period beginning on the effective date of the the Patent and Trademark Office Corporation Act of 1995.

"(B)(i) With respect to any individual who becomes an officer or employee of the Office pursuant to subsection (h), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined disregarding the requirements of section 8905(b) of title 5. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Office for any period of time after becoming an officer or employee of the Office pursuant to subsection (h) and before separation.

"(ii) The Government contributions authorized by section 8906 for health benefits for anyone participating in the health benefits program pursuant to this subparagraph shall be made by the Office in the same manner as provided under section 8906(g)(2) of title 5 with respect to the United States Postal Service for individuals associated therewith.

"(iii) For purposes of this subparagraph, the term 'annuitant' has the meaning given such term by section 8901(3) of title 5.

"(3) LIFE INSURANCE.—(A) Officers and employees of the Office shall not become ineligible to participate in the life insurance program under chapter 87 of title 5 by reason of subsection (d) until the first day after the end of the 2-year period beginning on the effective date of the the Patent and Trademark Office Corporation Act of 1995.

"(B)(i) Eligibility for life insurance coverage after retirement or while in receipt of compensation under subchapter I of chapter 81 of title 5 shall be determined, in the case of any individual who becomes an officer or employee of the Office pursuant to subsection (h), without regard to the requirements of section 8706(b) (1) or (2), but subject to the condition specified in the last sentence of paragraph (2)(B)(i) of this subsection.

"(ii) Government contributions under section 8708(d) on behalf of any such individual shall be made by the Office in the same manner as provided under paragraph (3) thereof with respect to the United States Postal Service for individuals associated therewith.

"(4) EMPLOYEES' COMPENSATION FUND.—The Office shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, for compensation paid or payable after the effective date of the Patent and Trademark Office Corporation Act of 1995 in accordance with chapter 81 of title 5 with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

"(5) REQUIREMENT THAT THE OFFICE OFFER CERTAIN MINIMUM NUMBER OF LIFE AND HEALTH INSURANCE POLICIES.—The Office shall offer at least 1 life insurance policy and at least 3 health insurance policies to its officers and employees, comparable to existing Federal benefits, beginning on the first day after the end of the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995.

"(g) LABOR-MANAGEMENT RELATIONS.—

"(1) LABOR RELATIONS AND EMPLOYEE RELATIONS PROGRAMS.—The Office shall develop labor relations and employee relations programs with the objective of improving productivity and efficiency, incorporating the following principles:

"(A) Such programs shall be consistent with the merit principles in section 2301(b) of title 5.

"(B) Such programs shall provide veterans preference protections equivalent to those established by sections 2801, 3308-3318, and 3320 of title 5.

"(C)(i) In order to maximize individual freedom of choice in the pursuit of employment and to encourage an economic climate conducive to economic growth, the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

"(ii) No person shall be required, as a condition of employment or continuation of employment:

"(I) To resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization.

"(II) To become or remain a member of a labor organization.

"(III) To pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization.

"(IV) To pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization.

"(V) To be recommended, approved, referred, or cleared by or through a labor organization.

"(iii) This subparagraph shall not apply to a person described in section 7103(a)(2)(v) of title 5 or a 'supervisor', 'management official', or 'confidential employee' as those terms are defined in 7103(a)(10), (11), and (13) of such title.

"(iv) Any labor organization recognized by the Office as the exclusive representative of a unit of employees of the Office shall represent the interests of all employees in that unit without discrimination and without regard to labor organization membership.

"(2) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, with respect to such Office (as then in effect). Each such agreement shall remain in effect for the 2-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree otherwise before such period ends.

"(h) CARRYOVER OF PERSONNEL.—

"(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Corporation Act of 1995, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

"(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office if—

"(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

"(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

"(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Commissioner of Patents and Trademarks.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

"(3) ACCUMULATED LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5 before the effective date described in paragraph (1), by officers or employees of the Patent and Trademark Office who so become officers or employees of the Office, are obligations of the Office.

"(4) TERMINATION RIGHTS.—Any employee referred to in paragraph (1) or (2) of this subsection whose employment with the Office is terminated during the 2-year period beginning on the effective date of the Patent and Trademark Office Corporation Act of 1995 shall be entitled to rights and benefits, to be afforded by the Office, similar to those such employee would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any such termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal any such termination occurring within this 2-year period to the Board under such procedures as it may prescribe.

"(5) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Commissioner of Patents and Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Commissioner until the earlier of 1 year after the effective date of that Act or the date on which a Commissioner is appointed under subsection (a).

"(B) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Patents until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Patents is appointed under subsection (b).

"(C) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Corporation Act of 1995 may serve as the Deputy Commissioner for Trademarks until the earlier of 1 year after the effective date of that Act or the date on which a Deputy Commissioner for Trademarks is appointed under subsection (b).

"(i) COMPETITIVE STATUS.—For purposes of appointment to a position in the competitive service for which an officer or employee of the Office is qualified, such officer or employee shall not forfeit any competitive status, acquired by such officer or employee before the effective date of the Patent and Trademark Office Corporation Act of 1995, by reason of becoming an officer or employee of the Office pursuant to subsection (h).

"(j) SAVINGS PROVISIONS.—All orders, determinations, rules, and regulations regarding compensation and benefits and other terms and conditions of employment, in effect for the Office and its officers and employees immediately before the effective date of the Patent and Trademark Office Corporation Act of 1995, shall continue in effect with respect to the Office and its officers and employees until modified, superseded, or set aside by the Office or a court of appropriate jurisdiction or by operation of law.".

SEC. 17414. MANAGEMENT ADVISORY BOARD.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

"§5. Patent and Trademark Office Management Advisory Board

"(a) ESTABLISHMENT OF MANAGEMENT ADVISORY BOARD.—

"(1) APPOINTMENT.—The Patent and Trademark Office shall have a Management Advisory Board (hereafter in this title referred to as the 'Board') of 12 members, 4 of whom shall be appointed by the President, 4 of whom shall be appointed by the Speaker of the House of Representatives, and 4 of whom shall be appointed by the President pro tempore of the Senate. Not more than 3 of the 4 members appointed by each appointing authority shall be members of the same political party.

"(2) TERMS.—Members of the Board shall be appointed for a term of 4 years each, except that of the members first appointed by each appointing authority, 1 shall be for a term of 1 year, 1 shall be for a term of 2 years, and 1 shall be for a term of 3 years. No member may serve more than 1 term.

"(3) CHAIR.—The President shall designate the chair of the Board, whose term as chair shall be for 3 years.

"(4) TIMING OF APPOINTMENTS.—Initial appointments to the Board shall be made within 3 months after the effective date of the Patent and Trademark Office Corporation Act of 1995, and vacancies shall be filled within 3 months after they occur.

"(5) VACANCIES.—Vacancies shall be filled in the manner in which the original appointment was made under this subsection. Members appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor is appointed.

"(b) BASIS FOR APPOINTMENTS.—Members of the Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the Patent and Trademark Office, and shall include individuals with substantial background and achievement in corporate finance and management.

"(c) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of the Board shall be special Government employees within the meaning of section 202 of title 18.

"(d) MEETINGS.—The Board shall meet at the call of the chair to consider an agenda set by the chair.

"(e) DUTIES.—The Board shall—

"(1) review the policies, goals, performance, budget, and user fees of the Patent and Trademark Office, and advise the Commissioner on these matters; and

"(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to in paragraph (1), transmit the report to the President and the Committees on the Judiciary of the Senate and the House of Representatives, and publish the report in the Patent and Trademark Office Official Gazette.

"(f) STAFF.—The Board shall employ a staff of not more than 10 members and shall procure support services for the staff adequate to enable the Board to carry out its functions, using funds available to the Commissioner under section 42 of this title. The Board shall ensure that members of the staff, other than clerical staff, are especially qualified in the areas of patents, trademarks, or management of public agencies. Persons employed by the Board shall receive compensation as determined by the Board, which may not exceed the limitations set forth in section 3(c) of this title, shall serve in accordance with terms and conditions of employment established by the Board, and shall be subject solely to the direction of the Board, notwithstanding any other provision of law.

"(g) COMPENSATION.—Members of the Board shall be compensated for each day (including travel time) during which they are attending meetings or conferences of the Board or otherwise engaged in the business of the Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(h) ACCESS TO INFORMATION.—Members of the Board shall be provided access to records and information in the Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122 of this title.".

SEC. 17415. INDEPENDENCE FROM DEPARTMENT OF COMMERCE.

(a) DUTIES OF COMMISSIONER.—Section 6 of title 35, United States Code, is amended—

(1) by striking ", under the direction of the Secretary of Commerce," each place it appears; and

(2) by striking ", subject to the approval of the Secretary of Commerce,".

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, is amended by striking ", subject to the approval of the Secretary of Commerce,".

SEC. 17416. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946") (15 U.S.C. 1067) is amended to read as follows:

"SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Commissioner shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

"(b) The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and members competent in trademark law who are appointed by the Commissioner.".

SEC. 17417. BOARD OF PATENT APPEALS AND INTERFERENCES.

Section 7 of title 35, United States Code, is amended to read as follows:

"§7. Board of Patent Appeals and Interferences

"(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the Patent and Trademark Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner for Patents, the Deputy Commissioner for Trademarks, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

"(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title. Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.".

SEC. 17418. SUITS BY AND AGAINST THE CORPORATION.

Chapter 1 of part I of title 35, United States Code, is amended—

(1) by redesignating sections 8 through 14 as sections 9 through 15; and

(2) by inserting after section 7 the following new section:

"§8. Suits by and against the Corporation

"(a) IN GENERAL.—

"(1) ACTIONS UNDER UNITED STATES LAW.—Any civil action or proceeding to which the Patent and Trademark Office is a party is deemed to arise under the laws of the United States. The Federal courts shall have exclusive jurisdiction over all civil actions by or against the Office.

"(2) CONTRACT CLAIMS.—Any action or proceeding against the Office in which any claim is cognizable under the Contract Disputes Act of 1978 (41 U.S.C. 601 and following) shall be subject to that Act. For purposes of that Act, the Commissioner shall be deemed to be the agency head with respect to contract claims arising with respect to the Office. Any other action or proceeding against the Office founded upon contract may be brought in an appropriate district court, notwithstanding any provision of title 28.

"(3) TORT CLAIMS.—(A) Any action or proceeding against the Office in which any claim is cognizable under the provisions of section 1346(b) and chapter 171 of title 28, shall be governed by those provisions.

"(B) Any other action or proceeding against the Office founded upon tort may be brought in an appropriate district court without regard to the provisions of section 1346(b) and chapter 171 of title 28.

"(4) PROHIBITION ON ATTACHMENT, LIENS, ETC.—No attachment, garnishment, lien, or similar process, intermediate or final, in law or equity, may be issued against property of the Office.

"(5) SUBSTITUTION OF OFFICE AS PARTY.—The Office shall be substituted as defendant in any civil action or proceeding against an officer or employee of the Office, if the Office determines that the officer or employee was acting within the scope of his or her employment with the Office. If the Office refuses to certify scope of employment, the officer or employee may at any time before trial petition the court to find and certify that the officer or employee was acting within the scope of his or her employment. Upon certification by the court, the Office shall be substituted as the party defendant. A copy of the petition shall be served upon the Office. In any such civil action or proceeding to which paragraph (3)(A) applies, the provisions of section 1346(b) and chapter 171 of title 28 shall apply in lieu of this paragraph.

"(b) RELATIONSHIP WITH JUSTICE DEPARTMENT.—

"(1) EXERCISE BY OFFICE OF ATTORNEY GENERAL'S AUTHORITIES.—Except as provided in this section, with respect to any action or proceeding in which the Office is a party or an officer or employee thereof is a party in his or her official capacity, the Office, officer, or employee may exercise, without prior authorization from the Attorney General, the authorities and duties that otherwise would be exercised by the Attorney General on behalf of the Office, officer, or employee under title 28 and other laws.

"(2) APPEARANCES BY ATTORNEY GENERAL.—Notwithstanding paragraph (1), at any time the Attorney General may, in any action or proceeding described in paragraph (1), file an appearance on behalf of the Office or the officer or employee involved, without the consent of the Office or the officer or employee. Upon such filing, the Attorney General shall represent the Office or such officer or employee with exclusive authority in the conduct, settlement, or compromise of that action or proceeding.

"(3) CONSULTATIONS WITH AND ASSISTANCE BY ATTORNEY GENERAL.—The Office may consult with the Attorney General concerning any legal matter, and the Attorney General shall provide advice and assistance to the Office, including representing the Office in litigation, if requested by the Office.

"(4) REPRESENTATION BEFORE SUPREME COURT.—The Attorney General shall represent the Office in all cases before the United States Supreme Court.

"(5) QUALIFICATIONS OF ATTORNEYS.—An attorney admitted to practice to the bar of the highest court of at least one State in the United States or the District of Columbia and employed by the Office may represent the Office in any legal proceeding in which the Office or an officer or employee of the Office is a party or interested, regardless of whether the attorney is a resident of the jurisdiction in which the proceeding is held and notwithstanding any other prerequisites of qualification or appearance required by the court or administrative body before which the proceeding is conducted.".

SEC. 17419. ANNUAL REPORT OF COMMISSIONER.

Section 15 of title 35, United States Code, as redesignated by section 17418 of this Act, is amended to read as follows:

"§ 15. Annual report to Congress

"The Commissioner shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, and other information relating to the Office. The report under this section shall also meet the requirements of section 9106 of title 31, to the extent that such requirements are not inconsistent with the preceding sentence. The report required under this section shall be deemed to be the report of the Patent and Trademark Office under section 9106 of title 31, and the Commissioner shall not file a separate report under such section.".

SEC. 17420. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: "The Commissioner shall have the discretion to designate any attorney who is an officer or employee of the Patent and Trademark Office to conduct the hearing required by this section.".

SEC. 17421. FUNDING.

Section 42 of title 35, United States Code, is amended to read as follows:

"§ 42. Patent and Trademark Office funding

"(a) FEES PAYABLE TO THE OFFICE.—All fees for services performed by or materials furnished by the Patent and Trademark Office shall be payable to the Office.

"(b) USE OF MONEYS.—Moneys of the Patent and Trademark Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments which are lawful investments for fiduciary, trust, or public funds. Fees available to the Commissioner under this title shall be used exclusively for the processing of patent applications and for other services and materials relating to patents. Fees available to the Commissioner under section 31 of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946'; 15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials relating to trademarks.

"(c) BORROWING AUTHORITY.—The Patent and Trademark Office is authorized to issue from time to time for purchase by the Secretary of the Treasury its debentures, bonds, notes, and other evidences of indebtedness (hereafter in this subsection referred to as 'obligations') to assist in financing its activities. Borrowing under this subsection shall be subject to prior approval in appropriation Acts. Such borrowing shall not exceed amounts approved in appropriation Acts. Any such borrowing shall be repaid only from fees paid to the Office and surcharges appropriated by the Congress. Such obligations shall be redeemable at the option of the Office before maturity in the manner stipulated in such obligations and shall have such maturity as is determined by the Office with the approval of the Secretary of the Treasury. Each such obligation issued to the Treasury shall bear interest at a rate not less than the current yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation as determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligations of the Office issued under this subsection and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this subsection of the purchase price of such obligations of the Patent and Trademark Office shall be treated as public debt transactions of the United States.".

SEC. 17422. AUDITS.

Chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new section:

"§ 43. Audits

"(a) IN GENERAL.—Financial statements of the Patent and Trademark Office shall be prepared on an annual basis in accordance with generally accepted accounting principles. Such statements shall be audited by an independent certified public accountant chosen by the Commissioner. The audit shall be conducted in accordance with standards that are consistent with generally accepted Government auditing standards and other standards established by the Comptroller General, and with the generally accepted auditing standards of the private sector, to the extent feasible. The Commissioner shall transmit to the Committees on the Judiciary of the House of Representatives and the Senate the results of each audit under this subsection.

"(b) REVIEW BY COMPTROLLER GENERAL.—The Comptroller General may review any audit of the financial statement of the Patent and Trademark Office that is conducted under subsection (a). The Comptroller General shall report to the Congress and the Office the results of any such review and shall include in such report appropriate recommendations.

"(c) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General may audit the financial statements of the Office and such audit shall be in lieu of the audit required by subsection (a). The Office shall reimburse the Comptroller General for the cost of any audit conducted under this subsection.

"(d) ACCESS TO OFFICE RECORDS.—All books, financial records, report files, memoranda, and other property that the Comptroller General deems necessary for the performance of any audit shall be made available to the Comptroller General.

"(e) APPLICABILITY IN LIEU OF TITLE 31 PROVISIONS.—This section applies to the Office in lieu of the provisions of section 9105 of title 31.".

SEC. 17423. TRANSFERS.

(a) TRANSFER OF FUNCTIONS.—Except as otherwise provided in this Act, there are transferred to, and vested in, the Patent and Trademark Office all functions, powers, and duties vested by law in the Secretary of Commerce or the Department of Commerce or in the officers or components in the Department of Commerce with respect to the authority to grant patents and register trademarks, and in the Patent and Trademark Office, as in effect on the day before the effective date of this subtitle, and in the officers and components of such Office.

(b) TRANSFER OF FUNDS AND PROPERTY.—The Secretary of Commerce shall transfer to the Patent and Trademark Office, on the effective date of this subtitle, so much of the assets, liabilities, contracts, property, records, and unexpended and unobligated balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Commerce, including funds set aside for accounts receivable which are related to functions, powers, and duties which are vested in the Patent and Trademark Office by this subtitle.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

SEC. 17431. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date of the enactment of this Act.

SEC. 17432. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The table of contents for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

"1. Establishment, Officers and Employees, Functions .... 1."

(2) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

"CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

"Sec.
"1. Establishment.
"2. Powers and duties.
"3. Officers and employees.
"4. Restrictions on officers and employees as to interest in patents.
"5. Patent and Trademark Office Management Advisory Board.
"6. Duties of Commissioner.
"7. Board of Patent Appeals and Interferences.
"8. Suits by and against the Corporation.
"9. Library.
"10. Classification of patents.
"11. Certified copies of records.
"12. Publications.
"13. Exchange of copies of patents with foreign countries.
"14. Copies of patents for public libraries.
"15. Annual report to Congress.".

(3) The table of contents for chapter 4 of part I of title 35, United States Code, is amended by adding at the end the following new item:

"43. Audits.".

(b) OTHER PROVISIONS OF LAW.—

(1) Section 9101(3) of title 31, United States Code, is amended by adding at the end the following:

"(O) the Patent and Trademark Office.".

(2) Section 500(e) of title 5, United States Code, is amended by striking "Patent Office" and inserting "Patent and Trademark Office".

(3) Section 5102(c)(23) of title 5, United States Code, is amended by striking "Department of Commerce".

(4) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking "Commissioner of Patents, Department of Commerce.", "Deputy Commissioner of Patents and Trademarks.", "Assistant Commissioner for Patents.", and "Assistant Commissioner for Trademarks.".

(5) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended by striking "(d) Patent and Trademark Office;" and redesignating subsections (a) through (g) as paragraphs (1) through (6), respectively.

(6) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking "Patent Office" and inserting "Patent and Trademark Office".

(7) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking "of the Department of Commerce".

(8) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking "Patent Office" and inserting "Patent and Trademark Office".

(9) Section 1744 of title 28, United States Code is amended—

(A) by striking "Patent Office" each place it appears and inserting "Patent and Trademark Office"; and

(B) by striking "Commissioner of Patents" and inserting "Commissioner of Patents and Trademarks".

(10) Section 1745 of title 28, United States Code, is amended by striking "United States Patent Office" and inserting "Patent and Trademark Office".

(11) Section 1928 of title 28, United States Code, is amended by striking "Patent Office" and inserting "Patent and Trademark Office".

(12) Section 160 of the Atomic Energy Act of 1954 (42 U.S.C. 2190) is amended—

(A) by striking "United States Patent Office" and inserting "Patent and Trademark Office"; and

(B) by striking "Commissioner of Patents" and inserting "Commissioner of Patents and Trademarks".

(13) Section 305(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(c)) is amended by striking "Commissioner of Patents" and inserting "Commissioner of Patents and Trademarks".

(14) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking "Commissioner of the Patent Office" and inserting "Commissioner of Patents and Trademarks".

(15) Section 1111 of title 44, United States Code, is amended by striking "the Commissioner of Patents,".

(16) Section 1114 of title 44, United States Code, is amended by striking "the Commissioner of Patents,".

(17) Section 1123 of title 44, United States Code, is amended by striking "the Patent Office,".

(18) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(19) Section 10(i) of the Trading With the Enemy Act (50 U.S.C. App. 10(i)) is amended by striking "Commissioner of Patents" and inserting "Commissioner of Patents and Trademarks".

(20) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting "the Patent and Trademark Office,", after "the Panama Canal Commission,".

Subtitle E—Miscellaneous Provisions

SEC. 17501. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this title—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

SEC. 17502. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 17503. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, the United States Trade Representative, any officer or employee of any office transferred by this title, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this title, and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This title shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the date of the enactment of this Act before an office transferred by this title, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS.—This title shall not affect suits commenced before the date of the enactment of this Act, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this title, shall abate by reason of the enactment of this title.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this title such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this title, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this title.

SEC. 17504. TRANSFER OF ASSETS.

Except as otherwise provided in this title, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this title shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 17505. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this title, an official to whom functions are transferred under this title (including the head of any office to which functions are transferred under this title) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this title shall relieve the official to whom a function is transferred under this title of responsibility for the administration of the function.

SEC. 17506. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director shall make any determination of the functions that are transferred under this title.

(b) INCIDENTAL TRANSFERS.—The Director, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 17507. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this title, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 17508. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 17509. DEFINITIONS.

For purposes of this title—

(1) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term 'office' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE XVIII—WELFARE REFORM

SEC. 18001. ENACTMENT OF THE PERSONAL RESPONSIBILITY ACT OF 1995.

H.R. 4, as passed by the House of Representatives on March 24, 1995, is hereby enacted with the following amendments:

(1) In section 101, insert

"(a) IN GENERAL.—" before "Title IV of the Social Security Act".

(2) At the end of section 101, add the following:

(b) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 402(a) of the Social Security Act (as in effect pursuant to the amendment made by subsection (a) of this section) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant limitations under section 403(a)(1)(A)(i) of such Act (as so in effect) for fiscal year 1996 (including the formula for computing the amount of the grant).

(3) Strike section 403(a)(1)(A) of the Social Security Act, as proposed to be added by section 101, and insert the following:

"(A) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary—

"(i) for fiscal year 1996, a grant in an amount equal to—

"(I) the State family assistance grant for fiscal year 1996; minus

"(II) the total amount of obligations to the State under part A of this title (as in effect before the effective date of this part) for fiscal year 1996, other than with respect to amounts expended for child care pursuant to subsection (g) or (i) of section 402 of this title (as so in effect); and

"(ii) for each of fiscal years 1997, 1998, 1999, and 2000, a grant in an amount equal to the State family assistance grant for the fiscal year.

(4) In section 201, insert

"(a) IN GENERAL.—" before "Part B of title IV of the Social Security Act".

(5) At the end of section 201, add the following:

(b) SUBMISSION OF STATE PLAN FOR FISCAL YEAR 1996 DEEMED ACCEPTANCE OF GRANT LIMITATIONS AND FORMULA.—The submission of a plan by a State under section 422(a) of the Social Security Act (as in effect pursuant to the amendment made by subsection (a) of this section) for fiscal year 1996 is deemed to constitute the State's acceptance of the grant limitations under section 423(a)(1)(A) of such Act (as so in effect) for fiscal year 1996 (including the formula for computing the amount of the grant).

(6) Strike section 423(a)(1) of the Social Security Act, as proposed to be added by section 201, and insert the following:

"(1) IN GENERAL.—Each eligible State shall be entitled to receive from the Secretary—

"(A) for fiscal year 1996, a grant in an amount equal to—

"(i) the State share of the child protection amount for fiscal year 1996; minus

"(ii) the total amount of obligations to the State under parts B and E of this title (as in effect before the effective date of this part) for fiscal year 1996; and

"(B) for each subsequent fiscal year specified in subsection (b)(1), a grant in an amount equal to the State share of the child protection amount for the fiscal year.

(7) Strike section 301(b) and insert the following:

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858B) is amended to read as follows:

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter $1,804,000,000 for fiscal year 1996 and $2,093,000,000 for each of the fiscal years 1997, 1998, 1999, 2000, 2001, and 2002.".

(8) In the matter preceding paragraph (1) of section 3 of the Child Nutrition Act of 1966, as proposed to be amended by section 321, strike "The Secretary" and insert "(a) IN GENERAL.—The Secretary".

(9) At the end of section 3 of the Child Nutrition Act of 1966, as proposed to be amended by section 321, add the following:

"(b) ADDITIONAL REQUIREMENTS.—

"(1) RESTRICTION ON ALLOTMENTS.—

"(A) COMPUTATION.—The Secretary shall provide for the computation of State obligation allotments in accordance with this section for each of the fiscal years 1996 through 2000.

"(B) LIMITATION ON OBLIGATIONS.—The Secretary shall not enter into obligations with any State under this Act for a fiscal year in excess of the obligation allotment for that State for the fiscal year, as determined under subsection (a). The sum of such obligation allotments for all States in any fiscal year shall not exceed the amount appropriated to carry out this Act for that fiscal year.

"(2) AGREEMENT.—The submission of an application by a State under section 4 is deemed to constitute the State's acceptance of the obligation allotment limitations under this section (including the formula for computing the amount of such obligation allotment).

(10) In the matter preceding paragraph (1) of section 3 of the National School Lunch Act, as proposed to be amended by section 341, strike "The Secretary" and insert "(a) IN GENERAL.—The Secretary".

(11) At the end of section 3 of the National School Lunch Act, as proposed to be amended by section 341, add the following:

"(b) ADDITIONAL REQUIREMENTS.—

"(1) RESTRICTION ON ALLOTMENTS.—

"(A) COMPUTATION.—The Secretary shall provide for the computation of State obligation allotments in accordance with this section for each of the fiscal years 1996 through 2000.

"(B) LIMITATION ON OBLIGATIONS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall not enter into obligations with any State under this Act for a fiscal year in excess of the obligation allotment for that State for the fiscal year, as determined under subsection (a). The sum of such obligation allotments for all States in any fiscal year shall not exceed the school-based nutrition amount for that fiscal year.

"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS IN FISCAL YEAR 1996.—

"(I) IN GENERAL.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State under this Act (as in effect on and after the date of the enactment of the Personal Responsibility Act of 1995) shall be reduced by the amount of the obligations described in subclause (II) that are entered into under this Act or under the Child Nutrition Act of 1966 on or after October 1, 1995, but prior to the date of the enactment of the Personal Responsibility Act of 1995.

"(II) AMOUNT OF OBLIGATIONS DESCRIBED.—(aa) Except as provided in division (bb), the amount of the obligations described in this subclause are 100 percent of the amount of the obligations entered into under this Act and under the Child Nutrition Act of 1966 (except obligations entered into under section 17 of such Act).

"(bb) For purposes of obligations entered into under the summer food service program for children under section 13 of this Act, the child and adult care food program under section 17 of this Act, and the special milk program under section 3 of the Child Nutrition Act of 1966, the amount of the obligations described in this subclause are 12.5 percent of the amount the obligations entered into under each such program.

"(2) AGREEMENT.—The submission of an application by a State under section 4 is deemed to constitute the State's acceptance of the obligation allotment limitations under this section (including the formula for computing the amount of such obligation allotment).

"(3) TERMINATION OF PROGRAMS; LIMITATION ON NEW OBLIGATION AUTHORITY.—

"(A) ELIMINATION OF INDIVIDUAL ENTITLEMENT.—Effective on the date of the enactment of the Personal Responsibility Act of 1995—

"(i) except as provided in subparagraph (B), the Federal Government has no obligation to provide payment with respect to items and services provided under this Act (as in effect on and after the date of the enactment of the Personal Responsibility Act of 1995); and

"(ii) this Act (as in effect on and after the date of the enactment of the Personal Responsibility Act of 1995) shall not be construed as providing for an entitlement, under Federal law in relation to the Federal Government, in an individual or person at the time of provision or receipt of services.

"(B) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this Act, the Secretary is authorized to enter into obligations with any State under this Act for expenses incurred after the date of the enactment of the Personal Responsibility Act and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996, as determined under subsection (a).

TITLE XIX—CONTRACT WITH AMERICA-TAX RELIEF

SEC. 19001. ENACTMENT OF CONTRACT WITH AMERICA TAX RELIEF ACT OF 1995.

(a) IN GENERAL.—Title VI of H.R. 1215 of the 104th Congress, as passed by the House of Representatives, is hereby enacted with the following modifications to such title:

(1) Strike subtitle E (relating to social security earnings test) and redesignate subtitles F and G as subtitles E and F, respectively.

(2) Strike subsections (c)(2) and (d)(2) of section 6201.

(3) Strike the amendment contained in paragraph (2) of section 6301(d) and insert the following: "Subsection (h) of section 1 is amended by adding at the end the following new sentence: 'For purposes of this subsection, taxable income shall be computed without regard to the deduction allowed by section 1202.' "

(4) Strike section 6321 (relating to depreciation adjustment for certain property placed in service after December 31, 1994).

(5) Strike part III of subtitle C (relating to alternative minimum tax relief).

(6) Strike subtitle F (as redesignated by paragraph (1)) and insert the following:

"Subtitle F—Tax Reduction Contingent on Deficit Reduction

"SEC. 6701. TAX REDUCTION CONTINGENT ON DEFICIT REDUCTION.

"This title, which is contained within the Act that—

"(1) carries out the concurrent resolution on the budget for fiscal year 1996 that provides that the budget of the United States will be in balance by fiscal year 2002; and

"(2) achieves a level of deficit reduction pursuant to the reconciliation instructions of that concurrent resolution that will result in a budget of the United States that will be in balance by fiscal year 2002; and

"(B) is certified pursuant to the requirements set forth in section 210 of that concurrent resolution,

shall take effect as so provided by its effective date provisions.

"SEC. 6702. MONITORING.

"The Committees on the Budget of the House of Representatives and the Senate shall each monitor progress on achieving a balanced budget consistent with the most recently agreed to concurrent resolution on the budget for fiscal year 1996 or any subsequent fiscal year (and the reconciliation Act for that resolution) or the most recently agreed to concurrent resolution on the budget that would achieve a balanced budget by fiscal year 2002 (and the reconciliation Act for that resolution). After consultation with the Director of the Congressional Budget Office, each such committee shall submit a report of its findings to its House and the President on or before December 15, 1995, and annually thereafter. Each such report shall contain the following:

"(1) Estimates of the deficit levels (based on legislation enacted through the date of the report) for each fiscal year through fiscal year 2002.

"(2) An analysis of the variance (if any) between those estimated deficit levels and the levels set forth in the concurrent resolution on the budget for fiscal year 1996 or the most recently agreed to concurrent resolution on the budget that would achieve a balanced budget by fiscal year 2002.

"(3) Policy options to achieve the additional levels of deficit reduction necessary to balance the budget of the United States by fiscal year 2002.

"SEC. 6703. CONGRESSIONAL ACTION.

"Each House of Congress shall incorporate the policy options included in the report of its Committee on the Budget under section 6702(a)(3) (or other policy options) in developing a concurrent resolution on the budget for any fiscal year that achieves the additional levels of deficit reduction necessary to balance the budget of the United States by fiscal year 2002.

"SEC. 6704. PRESIDENTIAL ACTION.

"If the President submits a budget under section 1105(a) of title 31, United States Code, that does not provide for a balanced budget for the United States by fiscal year 2002, then the President shall include with that submission a complete budget that balances the budget by that fiscal year."

(7) Conform the table of contents accordingly.

(b) TECHNICAL CORRECTION.—Effective with respect to taxable years ending after December 31, 1994, paragraph (1) of section 1201(b) of the Internal Revenue Code of 1986, as added by such title VI, is amended to read as follows:

"(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1994, and beginning before January 1, 1996, in applying subsection (a), net capital gain for such taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1994."

SEC. 19002. COMPLIANCE WITH CONCURRENT RESOLUTION ON THE BUDGET.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, the taxpayer's net modified chapter 1 liability for any taxable year shall be such liability determined without regard to this section—

(1) increased by 27 percent of the excess (if any) of—

(A) the amount which would be the taxpayer's net modified chapter 1 liability for such year if such liability were determined without regard to the amendments made by subtitles A, B, C, and D of title VI of H.R. 1215 of the 104th Congress, as passed by the House of Representatives, over

(B) the taxpayer's net modified chapter 1 liability for such year determined without regard to this section, or

(2) reduced by 27 percent of the excess (if any) of the amount described in paragraph (1)(B) over the liability described in paragraph (1)(A).

(b) NET MODIFIED CHAPTER 1 LIABILITY.—For purposes of subsection (a), the term "net modified chapter 1 liability" means the liability for tax under chapter 1 of the Internal Revenue Code of 1986 determined—

(1) without regard to sections 1201 and 1202 of such Code, as amended by such title VI,

(2) without regard to the amendments made by sections 6103 and 6104 of such title VI,

(3) after the application of any credit against such tax other than the credits under sections 31, 33, and 34 of such Code, and

(4) before crediting any payment of estimated tax for the taxable year.

(c) CAPITAL GAINS.—

(1) CAPITAL GAINS DEDUCTION FOR TAXPAYERS OTHER THAN CORPORATIONS.—For purposes of applying section 1202 of the Internal Revenue Code of 1986, as added by such title VI—

(A) in the case of taxable years ending before January 1, 1996, "42.5 percent" shall be substituted for "50 percent" in subsection (a) thereof, and

(B) in the case of taxable years ending after December 31, 1995, "34.5 percent" shall be substituted for "50 percent" in subsection (a) thereof.

(2) ALTERNATIVE CAPITAL GAINS TAX FOR CORPORATIONS.—

(A) For purposes of applying section 1201 of such Code, as amended by such title VI—

(i) in the case of taxable years ending before January 1, 1996, "26.5 percent" shall be substituted for "25 percent" in subsection (a)(2) thereof, and

(ii) in the case of taxable years ending after December 31, 1995, "31.9 percent" shall be substituted for "25 percent" in subsection (a)(2) thereof.

(B) For purposes of applying section 852(b)(3)(D)(iii) of such Code, as amended by such title VI—

(i) in the case of taxable years ending before January 1, 1996, "73.5 percent" shall be substituted for "75 percent" in subsection (a)(2) thereof, and

(ii) in the case of taxable years ending after December 31, 1995, "68.1 percent" shall be substituted for "75 percent" in subsection (a)(2) thereof.

(3) INDEXING.—For purposes of applying section 1022 of such Code, as added by such title VI, only 69 percent of the applicable inflation adjustment under subsection (c)(2) of such section 1022 shall be taken into account.

(4) CONFORMING CHANGES.—Proper adjustments shall be made to the percentages and fractions in the following provisions to reflect the percentages in paragraphs (1) and (2):

(A) Sections 170(c), 1445(e), and 7518(g)(6)(A) of such Code.

(B) Section 607(h)(6)(A) of the Merchant Marine Act, 1936.

(d) AMERICAN DREAM SAVINGS ACCOUNTS.—For purposes of applying section 408A of such Code, as added by such title VI—

(1) only 69 percent of the income on the assets held in an American Dream Savings Account (which would otherwise be includible in gross income) shall be excludible from gross income,

(2) only 69 percent of any distribution attributable to amounts not previously included in gross income shall be entitled to the treatment described in subsection (d)(1) of such section 408A, and

(3) only 69 percent of any payment or distribution referred to in subsection (d)(3)(B) of such section 408A shall be entitled to the treatment described in such subsection.

(e) SPOUSAL INDIVIDUAL RETIREMENT ACCOUNTS.—For purposes of applying sections 219 and 408 of such Code—

(1) only 69 percent of the contributions to an individual retirement plan which are allowable as a deduction solely by reason of the amendments made by section 6104 of such title VI shall be allowed as a deduction, and

(2) only 69 percent of the income on the assets held in an individual retirement plan which are attributable to contributions permitted solely by reason of the amendments made by section 6104 of such title VI (which would otherwise be includible in gross income) shall be excludible from gross income.

(f) ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—In the case of taxable years beginning after December 31, 1994—

(A) in the case of a taxpayer other than a corporation, the tax imposed by section 55 of such Code shall be determined without regard to paragraph (1) of section 56(a) of such Code, and

(B) in the case of a corporation, the tentative minimum tax under section 55 of such Code shall be zero.

(2) DELAY IN BENEFIT OF REPEAL FOR TAXABLE YEARS 1995 AND 1996.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any taxable year beginning before January 1, 1997, but there shall be allowed as a credit against the tax imposed by subtitle A of such Code for each taxable year referred to in subparagraph (C) an amount equal to the credit determined under subparagraph (B).

(B) Amount of credit.—The credit determined under this subparagraph for any taxable year to which this paragraph applies is an amount equal to ⅓ of the excess (if any) of—

(i) the aggregate tax paid under section 55 of such Code for taxable years beginning after December 31, 1994, and before January 1, 1997, over

(ii) the amount of tax which would have been imposed by such section 55 for such taxable years had paragraph (1) applied to such taxable years.

(C) Years credit allowed.—The taxable years referred to in this subparagraph are the first 3 taxable years of the taxpayer beginning after December 31, 1996.

(D) Coordination with other provisions.—For purposes of the Internal Revenue Code of 1986, the credit allowed under paragraph (1) shall be treated as a credit allowed under subpart C of part IV of subchapter A of chapter 1 of such Code and as referred to in paragraph (2) of 1324(b) of title 31, United States Code, immediately before the period at the end thereof.

(g) Comparable Treatment for Estate and Gift Tax Changes.—A rule similar to the rule of subsection (a) shall apply to any reduction in liability for tax under subtitle B of such Code by reason of the amendments made by section 6351 of such title VI.

TITLE XX—BUDGET ENFORCEMENT

SEC. 20001. SHORT TITLE; PURPOSE.

(a) Short Title.—This title may be cited as the "Seven-Year Balanced Budget Enforcement Act of 1995".

(b) Purpose.—This title extends and reduces the discretionary spending limits and extends the pay-as-you-go requirements.

SEC. 20002. DISCRETIONARY SPENDING LIMITS.

(a) Limits.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking "and" at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

"(B) with respect to fiscal year 1996, for the discretionary category: $485,074,000,000 in new budget authority and $531,768,000,000 in outlays;

"(C) with respect to fiscal year 1997, for the discretionary category: $481,423,000,000 in new budget authority and $519,288,000,000 in outlays;

"(D) with respect to fiscal year 1998, for the discretionary category: $489,233,000,000 in new budget authority and $511,173,000,000 in outlays;

"(E) with respect to fiscal year 1999, for the discretionary category: $480,420,000,000 in new budget authority and $508,695,000,000 in outlays;

"(F) with respect to fiscal year 2000, for the discretionary category: $487,347,000,000 in new budget authority and $512,202,000,000 in outlays;

"(G) with respect to fiscal year 2001, for the discretionary category: $494,307,000,000 in new budget authority and $514,109,000,000 in outlays; and

"(H) with respect to fiscal year 2002, for the discretionary category: $496,188,000,000 in new budget authority and $512,426,000,000 in outlays;".

(b) Committee Allocations and Enforcement.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking "1995" and inserting "2002" and by striking the last sentence; and

(2) in subsection (d), by striking "1992 to 1995" in the side heading and inserting "1996 to 2002" and by striking "1992 through 1995" and inserting "1996 through 2002".

(c) Term of Budget Resolutions.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in its section heading by striking "**5-YEAR**" and inserting "**TERM OF**";

(2) in the sideheading of subsection (a), by striking "5-Year" and inserting "Term of";

(3) in subsection (a), by striking "1992, 1993, 1994, or 1995" and inserting "1996 or any fiscal year thereafter through 2002" and by inserting "at least" before "each"; and

(4) in subsection (d)(1), by striking "1992, 1993, 1994, and 1995" and inserting "1996 or any fiscal year thereafter through 2002", and by striking "(i) and (ii)".

(d) Effective Date.—Section 607 of the Congressional Budget Act of 1974 is amended by striking "1991 to 1998" and inserting "1996 to 2002".

(e) Sequestration Regarding Violent Crime Reduction Trust Fund.—(1) Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (B), (C), and (D) and its last sentence and inserting the following:

"(B) For fiscal year 1996, $2,227,000,000.

"(C) For fiscal year 1997, $3,846,000,000.

"(D) For fiscal year 1998, $4,901,000,000.

"(E) For fiscal year 1999, $5,639,000,000.

"(F) For fiscal year 2000, $6,225,000,000.".

(2) Section 310002 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14212) is repealed.

(f) Conforming Amendment.—The item relating to section 606 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "5-year" and inserting "Term of".

SEC. 20003. GENERAL STATEMENT AND DEFINITIONS.

(a) General Statement.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first two sentences and inserting the following: "This part provides for the enforcement of deficit reduction by reducing and extending the discretionary spending limits though fiscal year 2002 and permanently extending pay-as-you-go requirements.".

(b) Definitions.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) The term 'category' means:

"(A) For fiscal years 1996 through 2000, all discretionary appropriations except those subject to section 251A; and

"(B) For fiscal year 2001 and any subsequent fiscal year, all discretionary appropriations.";

(2) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(3) in paragraph (9), by striking "1992" and inserting "1996"; and

(4) in paragraph (14), by striking "through fiscal year 1995".

SEC. 20004. ENFORCING DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1996–2002";

(2) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1997 or any fiscal year thereafter through 2002" and by striking "through 1998" and inserting "through 2002";

(3) in subsection (b)(1), by striking "the following:" and all that follows through "The adjustments" and inserting "the following: the adjustments" and by striking subparagraphs (B) and (C);

(4) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1996 or any fiscal year thereafter through 2002" and by striking "through 1998" and inserting "through 2002";

(5) in subsection (b)(2)(E), by striking clauses (i), (ii), and (iii) and by striking "(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998" and inserting "If, for fiscal years 1996 through 2002"; and

(6) in subsection (b)(2)(F), by striking everything after "the adjustment in outlays" and inserting "for a category for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for that fiscal year in fiscal year 1996 or any fiscal year thereafter through 2002.".

SEC. 20005. ENFORCING PAY-AS-YOU-GO.

(a) Extension.—(1) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in the side heading of subsection (a), by striking "Fiscal Years 1992–1998"; and

(B) in subsection (e), by striking ", for any fiscal year from 1991 through 1998," and by striking "through 1995".

(b) Rolling Pay-As-You-Go Scorecard.—Section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "each fiscal year through fiscal year 1998" each place it appears and inserting "the current year (if applicable), the budget year, and each of the first 4 outyears".

SEC. 20006. REPORTS AND ORDERS.

Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (d)(2), by striking "1998" and inserting "2002"; and

(2)(A) in subsection (g)(2)(A), by striking "1998" and inserting "2002"; and

(B) in subsection (g)(3), by striking "in each outyear through 1998" and inserting "in each of the 4 ensuing outyears".

SEC. 20007. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 20008. SPECIAL RULE ON INTERRELATIONSHIP BETWEEN CHANGES IN DISCRETIONARY SPENDING LIMITS AND PAY-AS-YOU-GO REQUIREMENTS.

(a)(1) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subsection:

"(f) Special Rule on Interrelationship Between Sections 251, 251A, and 252.—Whenever legislation is enacted during the 104th Congress that decreases the discretionary spending limits for budget authority and outlays for a fiscal year under section 601(a)(2) of the Congressional Budget Act of 1974 or in section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, or both, then, for purposes of subsection (b), an amount equal to that decrease in the discretionary spending limit for outlays shall be treated as direct spending legislation decreasing the deficit for that fiscal year.".

(2) Section 310(a) of the Congressional Budget Act of 1974 is amended by striking "or" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5) and by striking "and (3)" in such redesignated paragraph (5) and inserting "(3), and (4)", and by inserting after paragraph (3) the following new paragraph:

"(4) carry out section 252(f) of the Balanced Budget and Emergency Deficit Control Act of 1985; or".

(b) For purposes of section 252(f) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by subsection (a)(1))—

(1) reductions in the discretionary spending limit for outlays under section 601(a)(2) of the Congressional Budget Act of 1974 for each of fiscal years 1999 through 2002 under section 20002 shall be measured as reductions from the discretionary spending limit for outlays for fiscal year 1998 as in effect immediately before the enactment of this Act; and

(2) reductions in the discretionary spending limit for outlays under section 251A(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 for each of fiscal years 1996 through 2000 under section 20002 shall be measured as reductions in outlays for that fiscal year under section 251A(b) as in effect immediately before the enactment of this Act.

SEC. 20009. MEDICARE SAVINGS CANNOT BE USED TO PAY FOR TAX CUTS.

Any net savings in direct spending and receipts in the Medicare program for any fiscal year resulting from the enactment of this Act or H.R. 2425 (as applicable) shall not be counted for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 20010. EFFECTIVE DATE.

(a) Expiration.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "Part C of this title, section" and inserting "Sections 251, 253, 258B, and"; and

(2) by striking "1995" and inserting "2002".

(b) Expiration.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note) is repealed.

SEC. 20011. APPLICATION OF SECTION 251 ADJUSTMENTS.

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

"(H) Special allowance for welfare reform.—If, for any fiscal year, appropriations are enacted for accounts specified in clauses (i) and (ii), the adjustment shall be the sum of:

"(i) the excess of the appropriation for the fiscal year for the Child Care and Development Block Grant over $1,082,000,000, but not to exceed $722,000,000 in fiscal year 1996 or $1,011,000,000 in fiscal year 1997 through 2002; and

"(ii) the excess of the appropriation for the fiscal year for the Family Nutrition Block Grant Program over $3,470,000,000, but not to exceed $692,000,000 in fiscal year 1996, $1,307,000,000 in fiscal year 1997, $1,466,000,000 in fiscal year 1998, $1,650,000,000 in fiscal year 1999, $1,838,000,000 in fiscal year 2000, $2,075,000,000 in fiscal year 2001, or $2,324,000,000 in fiscal year 2002;

and the outlays flowing in all years from such excess appropriations (as reduced pursuant to the limitations in clauses (i) and (ii).".

SEC. 20012. SPECIAL RULES APPLICABLE TO DEPARTMENT OF DEFENSE SEQUESTRATION.

Section 255 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subsection (h) (relating to optional exemption of military personnel) and adding at the end the following new subsection:

"(j) Optional Exemption for Military Personnel.—

"(1) Authority for exemption.—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(B) The President may not use the authority provided by subparagraph (A) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.

"(2) Authority for Military Technicians and Medical Personnel.—

"(A) Whenever the President exempts a military personnel account from sequestration under paragraph (1) and after all other sequestrations to Department of Defense account have been made, the Secretary of Defense may transfer amounts to any appropriation for operation and maintenance for the current fiscal year from amounts available under any other appropriation to the Department of Defense, but—

"(i) amounts so transferred shall be available only for the pay of military technicians, the pay of medical personnel, and other expenses of medical programs (including CHAMPUS); and

"(ii) the total amount transferred to any operations and maintenance appropriation shall not exceed the amount sequestered from such appropriation.

"(C) The authority to make transfers pursuant to subparagraph (A) is in addition to any authority of the Secretary of Defense to make transfers of appropriated funds under any other provision of law.

"(D) The Secretary of Defense may carry out a transfer of funds under subparagraph (A) only after notifying the Committees on Appropriations of the Senate and House of Representatives of the proposed transfer and a period of 20 calendar days in session has elapsed after such notice is received.".

SEC. 20013. TREATMENT OF DIRECT STUDENT LOANS.

Section 504 of the Federal Credit Reform Act of 1990 is amended by adding at the end the following new subsection:

"(h) Treatment of Direct Student Loans.—The cost of a direct loan under the Federal direct student loan program shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows for the estimated life of the loan:

"(1) Loan disbursements.

"(2) Repayments of principal.

"(3) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

"(4) Direct expenses, including—

"(A) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

"(B) collection of delinquent loans; and

"(C) writeoff and closeout of loans.".

SEC. 20014. DEFINITION OF PROGRAMS, PROJECTS, AND ACTIVITIES FOR DEPARTMENT OF DEFENSE APPROPRIATIONS.

For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, the term program, project, and activity for appropriations contained in any Department of Defense appropriation Act shall be defined as the most specific level of budget items identified in the most recent Department of Defense appropriation Act, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the committee of conference, the related classified annexes and reports, and the P-1 and R-1 budget justification documents as subsequently modified by congressional action: *Provided*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriation accounts contained in the most recent Department of Defense appropriation Act: *Provided further*, That at the time the President submits his budget for any fiscal year, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the "O-1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for that fiscal year.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the budget reconciliation bill before the House today. In my view, the Republican plan brings nightmares to the American dream of a better life for our children and sets the wrong priorities for the Nation.

While I support the goal of a balanced budget, I do not support the specific provisions of the Republican budget. The bill is shaped by the Republican priority of promoting the interests of the advantaged over the disadvantaged and average working Americans. In my view, a bipartisan budget bill, rather than this highly partisan and ideological budget, would better serve the American people.

TAX PRIORITIES

The Republican budget cuts taxes for corporations and the wealthiest Americans by $245 billion. More than half of these tax breaks go to those making over $100,000 a year, including major tax giveaways for wealthy investors and corporations.

Rather than asking corporations to be part of the shared sacrifice, the budget calls for expanded business tax subsidies of $37 billion. At the same time, the budget would raise taxes by $23 billion on 14 million low-wage workers and their families by cutting the Earned Income Tax Credit. Thus, low-income working families supporting more than 23 million children will have their taxes raised.

In fact, under this budget, taxes go up for families with incomes below $30,000. Taxes should not be raised on working families in order to finance tax breaks for businesses and those who are well-off.

MEDICARE

By far, the largest portion of the spending cuts in the Republican budget come from an assault on the two major Federal health care programs, Medicare and Medicaid, which together account for half of the spending cuts in the budget.

The Republican Medicare plan cuts $180 billion more than what is needed to make the trust fund solvent, inflicts excessive new premiums on beneficiaries, forces low-income seniors into managed care, repeals important Federal nursing home standards, decimates safety-net and teaching hospitals, and weakens fraud and abuse protections.

The Democratic Medicare alternative, which was defeated in the House, would have protected the financial stability of the Medicare Program, kept premiums affordable, provided seniors a choice of responsible plans, maintained safety-net and teaching hospitals, expanded preventive health benefits, and strengthened anti-fraud and abuse protection.

Medicaid cuts compound the problems caused by the Medicare cuts. Poor or near-poor elderly (those with monthly incomes below $625 per month) may no longer be assured that Medicaid will provide cost-sharing protection for their Medicare premiums, copayments and deductibles. These low-income elderly are doubly hurt because Medicare premiums and copayments will increase substantially at the same time that the Medicaid Program stops paying for them.

The bill also repeals Federal nursing home standards and directs States to adopt whatever standards they choose. With the magnitude of spending cuts, States will be unlikely to develop and enforce standards comparable to current Federal guidelines. The last thing we need to do is go back to the dark days of nursing home abuses that led to the current Federal standards.

MEDICAID

The Republican budget repeals the Medicaid Program which provides health security to 36 million low-income Americans. Half of the beneficiaries are children, 15 percent are people with disabilities, and 12 percent are elderly. Medicaid currently pays for more than half of all nursing home care.

The Medicaid Program is replaced by a block grant program where States would determine eligibility requirements and the types of benefits to be provided. Federal payments to States would be cut by $182 million or 30 percent from projected spending under current law.

Consumers Union estimates that the Medicaid provisions in this budget will result in 12 million Americans losing health insurance coverage. Because public hospitals and trauma centers are dependent on the Medicaid Program, all Americans would suffer a loss of essential health care when they need it most, while experiencing a serious, medical emergency.

The last Congress engaged in an intensive debate on how to provide universal health care coverage. Unfortunately, due to the complexity of the issue and the partisan nature of much of the opposition, no legislation was adopted.

Nonetheless, there was a shared goal by most Members of Congress to expand health care coverage. Now, the Republican majority is about to take the most dramatic step backwards for guaranteed health coverage in American history.

WELFARE

The welfare provisions in this budget bill would cut off benefits to 4.8 million children. These cuts are mean-spirited and cheat children out of good health, good nutrition, and a bright future.

This budget cuts food stamps for families with children by $28 billion, in my home State of California, the Food Stamp Program would be cut by $3.7 billion.

The Republican budget would cut foster care and adoption for vulnerable children in the United States by over $6 billion. Where is our commitment to help our poorest and most vulnerable children? The Republicans would have us balance our budget on their backs, which are not strong enough to carry that terrible weight.

HOUSING

The Republican budget would dramatically heighten the crisis in America's cities. A walk down the street of any American city today presents a graphic portrait of how we need to be increasing our commitment to providing affordable housing. Homelessness is on the rise and America's working families are the fastest growing portion of the homeless population.

And what impact will this Republican budget have? It will decrease the availability of affordable housing by decreasing the tools used by the private and non-profit sectors in the battle to end homelessness.

For example, the Republican budget sunsets the low-income housing tax credit. This credit has played a critical role in the production and rehabilitation of affordable housing across the country.

This year's appropriations bill passed by the House cuts housing programs by at least 26 percent overall and homeless assistance programs by 40 percent. In the absence of Federal funding to provide access to safe, decent, and affordable housing for all Americans, the tax credit is an essential tool for local communities and non-profit organization struggling to house our population.

But the Republican budget does not stop here. It essentially guts the Community Reinvestment Act, one of the most effective tools we currently have to promote investment in low-income communities. This program has increased self-sufficiency in low-income communities around the country and it has had tangible results. There are more small businesses, more jobs, and more housing in communities throughout America as a result of this program. This budget will have an adverse impact on the ability of American communities to build and to rebuild themselves.

STUDENT LOANS

A college education used to be a part of the American dream. In today's economy, it has become an absolute necessity. And not every young person has the means to achieve this. Nearly one-half of all the Nation's college students depend on tuition loans to help pay their way.

Yet provisions in this legislation would result in penalties to those who take advantage of these aid programs. Elimination or drastic reduction of the Direct Student Loan Program would have a devastating effect on a great number of schools. Direct loans are being praised by students and administrators for speed, efficiency and lack of bureaucracy. It is a program that is good for our students and good for the country.

The bill increases the cost of education for parents by increasing the variable interest rate on parent loans. An increase in student loan fees makes it virtually impossible for schools not to pass on the cost of their loan volume fees to the students.

The Republican majority is attempting to give tax cuts to corporations and the rich at the expense of our Nation's children and our Nation's future. These extreme cuts could completely undermine the stability of the student loan program.

PENSION ASSETS

The Republican budget allows corporations to siphon billions of dollars out of worker's pension funds. The Joint Committee on Taxation estimates companies would take up to $40 billion of workers' pension funds through this new corporate loophole.

Only last year, the administration proposed—and Congress on a bipartisan basis enacted—safeguards to tighten pension fund security in underfunded plans by preventing manipulation of the funding rules. The Republican budget undermines these important reforms by encouraging companies to deplete pension assets dramatically.

If companies remove pension assets, thereby jeopardizing the retirement years of American workers, the Pension Benefit Guaranty Corporation has to pay them. This huge gift to corporations would increase risk to American taxpayers.

We cannot afford another huge Government bailout. Taxpayers have already bailed out the Savings and Loan industry. Yet, the Republican budget would endanger American taxpayers and threaten the security of pensions for American workers in order to provide yet another tax break for big business.

THE ENVIRONMENT

The devastation to our Nation's public lands and natural resources in this bill is beyond understanding. Under the guise of balancing the budget, programs to protect the environment have been fleeced while great Government give-aways remain cloaked and untouched.

The Republicans can open up, sell, and privatize our resources, but they are unable to reach into the deep pockets that pad Federal subsidies to make the cuts that truly should be made. There are plenty of other alternatives available to achieve this balancing act. Mining law, grazing law, and timber sales are all areas where fair cuts could have been made. But, instead, this budget yields to special interests and continues Government giveaways to those who should share in the sacrifice necessary to balance the budget.

How can we truly reconcile these costs to the American taxpayer that will not, but should be cut—the millions of dollars in subsidies and lost revenues from the private use of our public lands and resources?

This is a strange way to do business: Sell your assets at fire sale prices and then get below-market rates for the major assets you keep.

The American taxpayer owns our natural resources—they belong to us today and to our children tomorrow. But, the American taxpayer loses in this bill. We lose the investment we have made for scores of years to protect our resources, and we lose our investment in the future.

STATEMENT OF VALUES

Mr. Chairman, the Federal budget should be a statement of our national values. This budget does not meet the test of fairness demanded by the American people. It reaffirms the Republican Party as the party of wealth, power, and privilege. This bill raises taxes on average American families in order to provide tax breaks for corporations and the wealthiest Americans.

Whether its Medicare, Medicaid, welfare, student loans, pension assets, housing or the environment, the values expressed in this bill do not reflect the fairness of the American people. To adopt his budget would be to move this country in the wrong direction. I urge a vote against this budget.

Mrs. MALONEY. Mr. Chairman, when speaking about Medicare this week, the Speaker said, and I quote, "Now, we don't get rid of it in round one because we don't think that's politically smart and we don't think that's the right way to go through a transition. But we believe it's going to wither on the vine because we think people are voluntarily going to leave it."

How can you both be trying to save Medicare and talk about getting rid of it at the same time?

The answer is: you cannot.

The only true way to save Medicare is to vote against this destructive Republican budget bill.

In fact, between the slashes to both Medicare and Medicaid, $50 billion will be torn from New York State's economy over the next 7 years.

And $12 billion of that will come directly out of New York City hospitals.

These are the same hospitals that are responsible for caring for the citizens of America's largest city; that train a disproportionate number of our next generation of health care professionals; and that conduct cutting-edge research to save and improve our lives.

This plan will eliminate 140,000 jobs—everyone from doctors and nurses to janitors—that maintain the quality of health care and training at these institutions.

This degradation of our hospitals endangers the health care of every American.

However, our seniors and poor children will unfortunately be hurt the most.

More than a quarter of New York's children rely on Medicaid funding for their most basic health care needs. This means things like immunizations and regular checkups—care that no child in this country should be denied. Yet the Republican budget will deny that basic care to half-a-million children in New York. That is a disgrace.

This same budget will deny SSI payments to 65,000 disabled children in New York, children whose parents are already struggling to make ends meet.

Some parents may have to choose between poverty and institutionalizing their children.

Our seniors will see their premiums go up more than $400, forcing many to choose between basics like food and health care. After all our parents have done to build this country and give us opportunities, we owe them better than that.

Mr. Chairman, this budget is destructive to every New Yorker, and I urge my colleagues to vote against it.

Mr. KANJORSKI. Mr. Chairman, I want to express my strong opposition to the Republican reconciliation plan and do my part to help explain to the American people why the bill is bad for our country and our future, particularly in northeastern Pennsylvania. It is appropriate to discuss the future of our country in the context of this budget because the Republican majority has attempted to sell its plan as the fix for all that ails this great Nation. Nothing could be further from the truth, and in fact, this legislation will make our problems much worse.

There are so many things bad about this budget, it is hard to know where to start. Let me begin by stating what I believe is good. The only redeeming feature of this bill is that it presents a comprehensive plan to help reduce our Federal budget deficit. It finally puts on the table a detailed Republican budget plan. For all of those years of talk by Republicans about the need to balance the budget without actually putting forward a detailed, balanced budget plan, including the 12 years they were in power during the Reagan and Bush administrations, I must say: It is about time.

The hard truth, however, is that for average, hard-working Americans, children, and senior citizens, there is little to be happy about. Republicans say their plan will balance the budget, but it won't. This bill does not actually balance the budget because it continues to rely on the surplus of the Social Security trust fund. Without the trust fund, the Republican budget would not be balanced

Republicans claim the budget will benefit senior citizens, but the truth is this budget is certain to hurt them. They claim the budget will provide more economic opportunity in our country, but it actually does nothing to generate jobs and higher wages. Empty claims are made that the budget will somehow provide a more promising future for our children, but it cuts education, housing, and low-income tax credits for working families which make it possible for people to work their way out of poverty.

Who does the budget help? It helps wealthy individuals and large international corporations who beg the Congress for massive tax cuts and subsidies but who are increasingly investing more of their money, and sending jobs, out of the country. It helps corporations who want exemptions from important environmental laws. It helps companies who want to compensate taxpayers little or nothing for exploiting our limited natural resources. Truly, it is a special interest mishmash of gigantic proportion hidden behind a wall of rhetoric in support of a balanced-budget agenda.

It is an understatement to say there are many problems with the Republican budget. I would like to comment on at least a few of the more onerous aspects.

SENIOR CITIZENS

First, let address the effect on seniors in northeastern Pennsylvania and around the country. For your information, Mr. Chairman, my district has the 11th highest proportion of senior citizens of all congressional districts. About 20 percent of my district's population, or 120,000 citizens, depend on Medicare.

We held a separate vote on the Republican Medicare plan last week, but there is no hiding the fact that Medicare and Medicaid are being cut to pay for the giveaways in this budget bill. In fact, the single largest part of budget savings in this plan comes from the Medicare and Medicaid Programs—more than $450 billion over 7 years, the largest cuts in the history of these programs.

Republicans say that the cuts in Medicare are needed to preserve the Medicare trust fund. These words ring hollow from those who opposed the creation of Medicare and Medicaid. The truth is that according to the Medicare Trustees, cuts of just $89 billion, not $270 billion, are needed to preserve the trust fund. Clearly, Republicans are picking the pockets of our senior citizens to the tune of $181 billion, to pay for their tax cuts and other special interest giveaways. Beneficiaries and hospitals in my district could lose up to $1 billion in Medicare losses.

I cannot support such massive cuts in these programs. The best way to save money in Medicare and Medicaid is to reform our total health care system. Otherwise, the rising cost of providing care to seniors will be shifted to working families already struggling to pay for the cost of medical care, forcing many more to drop coverage. With more than 53,000 citizens in my district and 40 million Americans around the country currently without health insurance, that outcome is unacceptable.

I also cannot accept placing huge new financial burdens on seniors by doubling the part B Medicare premium. Many seniors can barely afford paying for food and rent. We cannot ask low-income seniors to pay more for the cost of medical care, when most already can barely pay the current cost. We also should not chip away at the quality of health care seniors receive by pushing them into managed care, forcing small hospitals to close, and reducing regulation on doctors and health insurance plans.

Equally as troubling are massive cuts in Federal spending for nursing home care under the Medicaid Program and the elimination of crucial Federal protections for nursing home residents. Medicaid pays for the care of more than 64 percent of Pennsylvania nursing home residents. Pennsylvania will be forced either to raise taxes to make up for lost Federal assistance, or lower standards and deny care to the elderly and disabled. Seniors and their families must have the security that they will not be bankrupt by the health care system as they face old age and debilitating illnesses.

WORKING FAMILIES

Working families will also suffer under this budget. In addition to the possibility that they may be forced to bear a greater burden of paying for the long-term care of their parents, many will have their taxes raised immediately. The earned income tax credit [EITC], which rewards work over welfare, and which was strongly supported by Republican and Democratic administrations, is being cut back. In Pennsylvania, reductions in the credit mean a tax increase to over 455,000 taxpayers at an average rate of $137 per taxpayer.

In my district, the tax increase on almost 27,000 taxpayers receiving the EITC will total more $3.6 million next year, and $25 million over 7 years.

Another hit comes from $10 billion in cuts to Federal student loans. Interest rates charged to parents to take loans out on behalf of their children are increased, and students will have to begin to pay back loans sooner, regardless of the fact that it is taking longer and longer for graduates to find jobs.

CHILDREN

Pennsylvania is hit with one of the largest cuts in the Medicaid Program, 22 percent, a program which has children as its largest number of beneficiaries. More than 18 percent of Pennsylvania children rely on Medicaid for their basic health needs. Coverage may have to be eliminated for as many as 114,892 Pennsylvania children with these cuts.

Combining these cuts with budget cuts in appropriation bills levy a heavy toll on Pennsylvania children. Other budget cuts will, for example, deny important new Head Start education funding and cut nutrition assistance for 551,000 children just in my State of Pennsylvania. Cuts will deny child care to more than 17,000 children and reduce foster care and adoption assistance to our State by $390 million over 7 years. Child protection funds for abused and neglected children are cut by a full 21 percent by the year 2002.

TAX CUTS

Perhaps the most outrageous part of this budget is a $245 billion tax cut which benefits mostly the wealthiest Americans. At a time when the Republican majority in Congress is proposing to raise taxes on working families, cut health care for the elderly, cut education, and cut nutrition assistance and child care for children, this is no time to be providing a tax windfall to those who do not need tax relief.

The benefit of more than 52 percent of the tax cuts in the Republican plan will go to taxpayers earning more than $100,000 per year, only 1.7 percent of households in my district. Taxpayers earning more than $350,000 a year will get an average tax break of $18,925 per year. Astonishingly, taxpayers with incomes below $10,000 will get a tax increase of about 2 percent.

Some Republicans think that making almost $200,000 per year qualifies a taxpayer as lower-middle class; one member from North Carolina actually said so last week. In fact, he went on to claim that taxpayers making between $300,000 and $750,000 per year are middle class. I have news for him, there are precious few families in northeastern Pennsylvania that make that much; most earn only a small fraction of these amounts. This shows how out of touch Republicans are with the real world. At the very least, any tax cuts should be targeted to help truly middle-class, working Americans.

CORPORATE WELFARE

Large corporations, of course, are big winners under the Republican budget. Corporations would be allowed to more easily withdraw contributions made to employee pension funds. Some 22,000 pension plans, covering 11 million workers and 2 million retirees are at risk. This is nothing more than stealing from the pensions of working families. Companies will not even have to notify employees and retirees.

In the long run, the loss of pensions for workers will mean a lower standard of living for senior citizens and an even higher level of Federal spending on Medicare, Medicaid, and other programs if companies default on pension plans. Default could easily occur because present pension surpluses are based on inflated stock market prices. Government, and therefore taxpayers, will ultimately have to step in and make up for pension shortfalls resulting from corporate greed.

Corporations would also get relief from the repeal of the Federal alternative minimum tax, which currently makes sure that companies cannot take excessive deductions and credit to eliminate tax liability. At least 130 companies between 1981 and 1985 had years where they paid no Federal taxes. These companies included General Electric, Boeing, and Lockheed, some of the largest in our country. In eliminating the minimum tax, multibillion dollar companies can again use loopholes and accounting gimmicks to pay less in taxes than most working families.

Big oil companies would be allowed to drill for oil in environmentally-sensitive areas of Alaska, just 6 years after the worst oil spill disaster in our history in Valdez, AK. Grazing fees imposed in response to environmental degradation on public lands in the west will be reduced to the benefit of large, profitable cattle companies.

Foreign mining companies will continue to be permitted to reap billions of dollars off Federal lands, while paying taxpayers pennies. One South African firm is seeking to mine Jerritt Canyon in Nevada, a project with recoverable resources worth $1.1 billion, and the company will pay just $5,080. A Canadian firm will soon mine McCoy Cove in Nevada for just $1,000, even though the mine's recoverable resources are worth $1.4 billion.

ECONOMIC DEVELOPMENT

The Republican budget proposes to eliminate the Commerce Department, but in its place establish seven new bureaucracies. Somehow, Republicans think that this will save the Government money when independent studies of the proposal have concluded that it will actually cost more to take this action.

Worse, the budget decimates funding for important programs of the Economic Development Administration [EDA] of the Commerce Department which allocates some of the already very small amounts of economic development assistance this country spends each year. The EDA has helped my district tremendously in the last few years through grants to secure new jobs and industries that are economic development anchors in Nanticoke, Wilkes-Barre, and Hazleton. In May, the EDA provided an important grant for the expansion of Humboldt Industrial Park in the greater Hazleton area. The EDA is clearly very important to northeastern Pennsylvania and other regions struggling to create jobs and economic opportunity for their citizens.

WHAT MUST BE DONE

Mr. Chairman, I want to reiterate that this bill does not provide solutions to our Nation's problems. Few Americans understand that this budget does not even truly balance the budget—the primary goal of the bill. The only reason the Republican budget reaches a balance under budget scoring rules is that it borrows $115 billion from the Social Security trust fund. Even worse, it pushes the cost of much of the tax cuts off into the long-term future, worsening the budget after the year 2002.

This budget is a fraud and a disgrace. Americans should not have to rely on the President to stop these measures nor wait for Democrats to take control of the Congress to responsibly get our fiscal house in order. Yes, we must pass a budget. But we must pass a good budget, regardless of what party is in control. A good budget is balanced and fair, and this budget clearly fails in both of these respects.

Working together, I am confident that Republicans and Democrats can accomplish many great things in this Congress, including producing a budget plan that balances the federal budget. Working together with the Bush administration in 1990 the Democratic Congress averted disaster and put together a bipartisan deficit reduction bill. Because of our deficit reduction efforts both in 1990 and 1993, the deficit has fallen from $290 billion in 1992, to $165 billion this year. The deficit is at its lowest level as a percentage of the economy since 1979.

More must be done, and on this issue Republicans and Democrats agree. There is an alternative before us which shows that there is clearly room for compromise on many of the most difficult issues. I urge my colleagues therefore to reject the majority budget bill and work with the President and the Democratic minority to produce a good balanced budget.

Mr. LANTOS. Mr. Chairman, many of my colleagues have described the fundamental flaws of this disastrous bill—this bill makes huge cuts in Medicare, Medicaid, and other programs for low- and middle-income Americans in order to finance tax breaks for the wealthy. More than half of the $245 billion in Republican tax cuts will go to those who earn over $100,000 per year, and at the same time almost seven-eighths of middle-income families will actually pay more in taxes or will see no benefit at all from this disastrous plan.

The $270 billion cut in Medicare, which is included in this bill, is three times greater than the amount recommended by the Medicare trustees—and this provision will force American seniors to pay more, limit their choice of doctors, and lead to a reduction in health care quality. This legislation abolishes minimum quality standards for nursing homes. Another provision of this calamitous legislation allows corporations to take $40 billion out of worker pension funds and use them for any purpose those corporations choose.

Mr. Chairman, as I have just enumerated briefly, there are a whole host of fatal flaws in this ill-conceived piece of legislation. But in the interest of time, I would like to concentrate on a single problem in the bill. This one problem is only a single small example of the horrendous fundamental defects of this legislation. The problem I am talking about is the great pension fund raid of 1995.

Sometimes, Mr. Chairman, the Congress makes a decision which shows remarkable long-term foresight and wisdom. Sometimes, however, it makes a decision which shows awesome short-term irresponsibility. Today, we are about to witness such short-term irresponsibility. The Republican majority—first on the House Ways and Means Committee and now in the full House of Representatives—is marching in lock-step to approve a provision which clearly qualifies as one of the most mind-boggling examples of shortsightedness I have seen since I have served in the Congress.

The Republican's self-imposed deadline to balance the Federal budget by the year 2002 has run into the brick wall of no new taxes and constituent support for continuing existing Federal programs. Now, the Republicans are desperately searching for the magic bullet that will balance the budget without cutting Government programs.

In this atmosphere, some Republicans think they have found such a magic bullet. They have proposed a change in pension reserves that will raise an estimated $9.5 billion in tax revenue. The proposal does indeed sound too good to be true.

Companies which maintain their own pension programs are required to fund the programs at 150 percent of current liabilities. The Republican proposal would allow them to fund their programs at only 125 percent of current liabilities. The excess in the pension funds could be withdrawn by the companies for any purpose, and taxes would be paid on those funds. The $9.5 billion in revenues are the estimated taxes that would be paid on those funds that would be withdrawn.

The shortsightedness of that proposal is incredible, particularly because there is a massive potential cost to the Federal Government. If the companies are unable to fund their own pensions, the American taxpayers are left holding the bag. An agency of the Federal Government—the Pension Benefit Guarantee Corporation [PBGC]—is the ultimate guarantor of all of these private pension programs. If a pension plan goes belly up, for whatever reason, the PBGC has the obligation to continue funding those pensions.

As the former chairman of the congressional Subcommittee on Employment and Housing, I held a series of hearings on the ability of the PBGC to handle potential defaults in private pension programs. The conclusion of my subcommittee hearings and the thorough review we undertook—as well as the review by independent Government auditors of these programs—is that the PBGC could face potentially serious unfunded liabilities if there are major pension program defaults. A modest increase in pension plan defaults will overwhelm the PGBC's resources, and the American taxpayer will be left holding a very large bag.

How better to turn solemn warnings into dire reality than to reduce the corporate funding requirements of those pension plans. The short-term gain of less than $10 billion over the next 7 years—which will make a minimal contribution to balancing the Federal budget—could result in pension defaults which could cost the American taxpayer in the long run many times the minimal amount gained in the short run.

This is typical of the Republican social and economic legislation that we have seen this year. The beneficiaries of this program are the corporate fat cats, who will reap a windfall because they will put away considerably less for future pension needs. The little people are the ones who will suffer. When the PBGC assumes the increased burden that will follow as more pension programs go into default, pension recipients will be cut. If the PGBC cannot meet its increased liabilities, the taxpayers—again working American men and women—will have to foot the bill.

Mr. Chairman, the corporate pension windfall provision of this legislation is in and of itself amply reason for rejecting this entire budget reconciliation package. But this is only a small example of the short-term irresponsibility and reckless policy that this single bill contains. I urge my colleagues to reject this bill.

Mr. Chairman, I ask consent to include in the RECORD a statement issued yesterday by Secretary of Labor Robert B. Reich, who is also the Chairman of the Board of the Pension Benefit Guaranty Corporation. Secretary Reich's statement clearly and concisely identifies the problems with this horrendous provision of the budget reconciliation bill.

STATEMENT OF SECRETARY OF LABOR ROBERT B. REICH

The legislation that Congress is considering this week is exactly the wrong thing to do. At a time when there is widespread agreement that we need to strengthen pensions and increase the savings rate, this legislation sends absolutely the wrong signal.

I strongly support Congressman Matsui's proposal to strip this pension grab out of the reconciliation bill that will be on the House floor tomorrow. And I support efforts to do the same thing in the Senate.

I called this a pension grab and that's what it is, pure and simple. It's an attempt to turn the clock back to the 1980s, when companies raided tens of billions of dollars from the private pension system and undermined confidence in the system. During those years, there were no restrictions on pension plans and we saw the result—billions of dollars were taken out of the pension system, and much of the money went to pay for corporate takeovers.

The practice continued until Congress wisely put a stop to it with excise taxes. Now, Congress is about to remove the safeguards which have strengthened the pension system.

And let's remember whose money will be taken—it will be the money earned by America's working people to pay for their retirement, money they will need to take care of themselves.

The fact is simple and bears repeating: a plan which is overfunded today can quickly become underfunded next week. Changes in asset values and interest rates can reduce funding levels. Companies in financial trouble will have an incentive to strip assets from pension plans.

As Congress considers this legislation, one fact should be kept in mind—last year, the pension insurance system was already running a deficit of $1.2 billion.

When this administration took office, we moved quickly to address the serious problems we found with underfunded pensions. And last year, Congress acted on a bipartisan basis to pass our Pension Protection Act. This legislation would undo the protections in that legislation. This proposal should be rejected.

As chairman of the board of the Pension Benefit Guaranty Corporation, I'm worried about the pensions of 41 million Americans. For that reason, I urge the House and Senate to halt this pension raid—and I commend the members here today for protecting America's working men and women.

Mr. TORRES. Mr. Chairman, the effects of this budget on our Nation's children are disastrous. These cuts create a system that hits our children around every corner: in the classroom, in the home, and on the street.

When our children go to school, they won't find help through unique programs. And if your child has special needs or is disadvantaged, this budget says "sorry, we have nothing for you."

The tragedy does not end with education. Even the most basic health care and nutritional assistance will be denied to millions of children.

And why?

Because they had the misfortune of being born into poverty and this bill refuses to recognize their innocence.

My home State of California stands to lose more than any State in the Nation. Roughly a quarter of a million disadvantaged students will be denied special help with reading, writing, and math.

And let's not forget the 26 percent of California children who will go without basic health care with the reduction of Medicaid.

What kind of a foundation will our Nation's children have to grow from when this Congress refuses to give them stable ground?

Mr. Chairman, the proponents of this budget can sugar-coat the effects of these cuts and swindle the American public; the reality is, this budget puts a noose around the neck of every child in America. I, for one, will not keep it a secret.

Mr. DE LA GARZA. Mr. Chairman, there are many reasons to oppose the Gingrich reconciliation legislation. The most tragic aspects of the bill are those which are targeted to compromise the well-being of our Nation's children. The bill's cuts in Medicaid, Supplemental Security Income, education, housing, and nutrition assistance programs are terribly misguided. History has shown us that the short-term savings attained by undermining the health and well-being of our children will come back to haunt us in the future through lost productivity and increased health care costs.

The following administration analysis details the impact the Republicans' human services program cuts will have on children in the State of Texas.

IMPACT OF REPUBLICAN BUDGET CUTS ON CHILDREN IN TEXAS

IMPACT OF HEALTH CARE CUTS ON CHILDREN IN TEXAS

Eliminates Medicaid coverage for as many as 206,641 children in Texas and 4.4 million children nationwide in 2002. Currently, 20% of children in Texas rely on Medicaid for their basic health needs. Medicaid pays for immunizations, regular check-ups, and intensive care in case of emergencies for about 1,407,000 children in Texas.

The Republican budget cuts federal Medicaid funding to Texas by $7 billion over seven years and by 20% in 2002 alone.

Even if Texas could absorb half of the cuts by reducing services and provider payments, it would still have to eliminate coverage for 360,097 people, including 206,641 children in 2002.

Among the children in Texas who could be denied coverage, many are disabled. Medicaid often makes the difference between whether or not a disabled child lives at home with their parents. Medicaid provides valuable services for many disabled children, often making the difference that allows them to live at home with their parents. Medicaid provides for items such as wheelchairs, communication devices, therapy at home, respite care and home modifications. Without these services, parents may be forced to give up their jobs of seek institutional placement for children.

Jeopardizes immunizations for children in Texas. The Republican budget repeals the Vaccines for Children program, putting at risk at least $1.5 billion over seven years that would otherwise provide vaccinations for children in Texas and across the nation.

Cuts Dallas infant mortality project by 52% in 1996. This Healthy Start project provides vital prenatal and health care services to women in the Dallas community of childbearing age. Nationwide, the House cut would deny 1 million women services, affecting the births of 74,000 infants each year.

IMPACT OF CUTS ON CHILDREN WITH DISABILITIES IN TEXAS

Denies as many as 44,070 disabled children in Texas SSI cash benefits in 2002. The House welfare bill eliminates federal Supplemental Security Income benefits for as many as 54% of the disabled children in Texas expected to receive SSI cash benefits in 2002 under current law. Federal SSI cash benefits for children with disabilities in Texas will be cut by $1.2 billion over seven years, affecting as many as 755,000 disabled children nationwide in 2002.

TAX INCREASE ON WORKING FAMILIES WITH CHILDREN IN TEXAS

2.5 million children in Texas live in working families that will have their taxes raised by an average of $430 in 2002 under the Republican budget. The Senate has passed a $43 billion tax increase on working families by reducing the Earned Income Tax Credit.

Families with two or more children in Texas will face an average tax increase of $500.

IMPACT OF EDUCATION CUTS ON CHILDREN IN TEXAS

Denies Head Start to 12,512 children in Texas and 180,000 children nationwide in 2002, compared with 1995.

Denies 100,100 Texas children basic and advanced skills in 1996. The Republican budget cuts Title I by $1.1 billion—a 17% cut in 1996—denying Title I funding for 1.1 million students in the poorest communities nationwide, including 100,100 children in Texas. Title I funds in Texas will be cut by $97.8 million in 1996.

Cuts Safe and Drug Free Schools, which 1,043 out of 1,053 school districts in Texas use to keep crime, violence, and drugs away from 2.0 million children, their schools, and their communities.

Eliminates Goals 2000, denying improved teaching and learning for as many as 413,000 school children in Texas in 1996. By 2002, 949,800 children in Texas would be denied improved education, compared with the President's balanced budget.

Eliminates the AmeriCorps National Service program, denying 3,171 young people in Texas the opportunity to serve their communities in 1996.

Eliminates summer jobs for 42,491 youths in Texas in 1996 and 297,437 youths over seven years. The Republican budget eliminates the summer youth employment program which provides job experience and skills to 600,000 youths each summer.

IMPACT OF NUTRITION CUTS ON CHILDREN IN TEXAS

Cuts nutrition assistance for 1.4 million children in Texas in 2002. The House Republican budget cuts food stamp benefits for families with children in Texas by $3.1 billion over seven years and by 25.7% in 2002.

Jeopardizes child nutrition programs on which 2.7 million children in Texas depend. The House Republican budget block grants funding for the school lunch and WIC program. Nationally, their budget reduces funding for child nutrition programs by more than $10 billion over seven years and 11% in 2002, compared with current law.

IMPACT OF PUBLIC HEALTH AND ENVIRONMENTAL CUTS ON CHILDREN IN TEXAS

Allows sewage to flow into waters where children in Texas live and play. The Republican budget reduces new funding to keep water clean by 33% compared with the President's budget.

Texas will lose $16.7 million to treat waste water pollution and protect public health. The cuts mean that raw sewage will pour into local waters—waters that our children often swim and play in—from outdated treatments systems in Texas.

Jeopardizes the water that children in Texas drink. Republicans are cutting low-interest loans to cities and towns in Texas for drinking water treatment facilities by $42.9 million in 1996.

Pollutes the air that children living near 32 oil refineries in Texas breathe. These refineries emitted more than 27 million pounds of toxic air pollution in 1993, putting children in the surrounding communities at risk of serious health problems, including cancer and respiratory illnesses such as asthma. The Republican budget halts the President's effort to protect the health and safety of children living near these refineries.

Exposes children in Texas to hazardous waste. The Republican budget cuts spending on toxic waste cleanups by 36%—$560 million—below the President's balanced budget in 1996.

Nationally, five million children under the age of four live within four miles of a Superfund site. These cuts will stop or slow the clean-up of sites nationwide that pose a threat to public health and the environment.

The Republican cuts will stop or slow the clean-up of at least 4 toxic waste sites in Texas. The Republican cuts will stop or slow the clean-up sites near the following communities in Texas: Jasper, Houston, Texarkana, and Arlington

IMPACT OF CUTS ON SAFETY NET FOR CHILDREN IN TEXAS

Denies 30,540 children in Texas child care assistance in 2002. The House welfare bill block grants and cuts federal child care funding for low-income children in Texas by $222.6 million over seven years, cutting child care assistance to 30,540 children in Texas.

Cuts foster care and adoption for vulnerable Texas children by $359.5 million over seven years compared with current law. The House welfare bill cuts child protection for abused and neglected children in Texas by 24% in 2002.

Eliminates cash assistance for 5,260 children in Texas simply because they were born to unmarried mothers under 18, when the House welfare bill is fully implemented in 2005.

Cuts assistance for 222,000 children in Texas simply because their paternity has not been established, when the House welfare bill is fully implemented in 2005.

IMPACT OF ENERGY CUTS ON CHILDREN IN TEXAS

Eliminates home energy assistance for 22,325 children in Texas. The Republican budget eliminates $29.1 million that helps low-income families in Texas with their home heating and cooling bills. Lower energy bills allow families to spend more money on basic needs.

Denies about 1,472 children in Texas protection from bad weather conditions. The Republican budget cuts weatherization assistance for families' homes in Texas by $2.7 million in 1996.

IMPACT OF HOUSING CUTS ON CHILDREN IN TEXAS

Forces families of 204,700 children in Texas to pay more rent. The Republican budget raises rents by an average of $200 a year for the 1.4 million low-income families with children assisted by Section 8 nationally. The median income of these families is only $6,800.

Denies families of 5,092 children in Texas the opportunity to move from public housing to renting their own home. The Republican budget eliminates funding for new Section 8 certifications and vouchers, denying rental assistance to low-income families and children who wish to live in privately-owned housing.

Eliminates protection for 4,744 children in Texas from drugs and drug-related crimes in public housing. The Republican budget zeroes-out the Public Housing Drug Elimination program which protects more than 1 million children living in public housing nationwide from drugs and drug-related crimes. Funds will be eliminated for public housing tenant patrols, local law enforcement activities, security personnel, and physical improvements to improve security.

7,990 children in Texas will be forced to remain in poor and unsafe housing conditions. The Republican budget cuts public housing modernization in Texas by $12.9 million in 1996, severely hindering efforts by housing agencies to rehabilitate run down public housing projects and provide much needed security and anti-crime programs.

10,716 children in Texas will have to go without basic housing needs. The Republican budget cuts public housing operating subsidies in Texas by $13.3 million—a cut of 14% in 1996—forcing local agencies to neglect basic housing needs, such as fixing leaking ceilings and broken windows and providing security and social services.

Denies assistance to 1,143 homeless children in Texas. The Republican budget cuts homeless assistance by 40% in 1996, cutting funding for the homeless in Texas by $30.3 million in 1996.

Mr. LAFALCE. Mr. Chairman, I rise in opposition to the reconciliation bill.

Balancing the budget and reducing the Federal deficit are worthy goals—goals the Clinton administration is aggressively pursuing. But there are many ways to achieve those goals, and the Republican package before us today chooses the wrong path.

Any effort to balance the budget must be crafted carefully so as to place any new burdens where they can best be borne. The proposal before us does precisely the opposite. It is filled with instances in which programs which aid working Americans and assist local communities are being sacrified so that tax breaks or other advantages can be given to the well-off and the privileged.

I will confine my remarks at this point to the banking portions of this bill. But I would note that these provisions are symptomatic of what has occurred in the bill overall. The thrust of these provisions is to serve the interests of the banks, not the interests of the local communities and small businesses those banks are supposed to serve.

The Community Reinvestment Act [CRA] has been an important means of ensuring that lenders make a real commitment to meeting the credit needs of the local communities from which they draw their funds. Provisions in the banking portion of the reconciliation bill totally undermine the CRA program by effectively exempting the vast majority of banks from the law's coverage; largely eliminating the only enforcement mechanism available; and insulating the vast majority of the Nation's banks from public comment on corporate plans that can adversely affect the community.

As ranking Democrat on the Small Business Committee, I particularly object to the unnecessary and unjustified prohibition on small business data collection included among the CRA provisions. The development of locally based small businesses is critical to the economic growth of our communities. Yet we are all aware of the problems local small businesses have obtaining capital, and smaller firms have always been underserved by traditional lenders. We badly need better information in order to objectively assess banks' claims that they are adequately serving local businesses and to press for greater outreach.

The gutting of the CRA program was totally unnecessary. The Republican proposal actually effected savings substantially in excess of the savings required under the Budget Resolution requirements. Yet the package then gratuitiously proceeded to gut the Community Reinvestment Act program, which brought about only the most minimal additional savings.

This issue simply does not belong in this reconciliation package. Some reform of the CRA program has certainly been in order to reduce unnecessary regulatory burdens on our smaller financial institutions. But we have new CRA regulations that meet the need—they streamline bank reporting requirements without eliminating the obligation for banks to comply with this important program. The CRA provisions in the budget reconciliation bill are simply a gratuitous effort to effectively eliminate the program through the back door before recent reforms are even given a chance to work.

This package has the right goal, but the choices made reflect values I cannot accept. I would urge my colleagues to vote against this legislation.

Mr. MOAKLEY. Mr. Chairman, I rise today in strong opposition to this Republican assault on our Nation's children. It is cruel, it is shortsighted, and it is just plain wrong.

This Republican budget which rewards the rich in our society, cuts Medicaid by $182 billion over the next 7 years, and ends its entitlement status, leaving it up to the States to decide whether or not they want to provide basic health care to children, the disabled, and the low-income elderly. Medicaid is a safety net for America's children. Although most people view Medicaid as a welfare program, nearly 60 percent of Medicaid children are from low-income working families. Medicaid actually supports employment since low-income working families don't have to choose between working and ensuring that their kids receive checkups, immunizations, and basic health care. The Medicaid Program gives parents an incentive to stay in the work force and not go on welfare in order to qualify for Medicaid. Even Presidents Reagan and Bush thought this was a good idea, and expanded the program to working families. But today, Mr. Speaker, we are cutting this important safety net from America's children. My Republican colleagues keep talking about priorities and securing a better America for our children and grandchildren, but this bill does nothing of the sort. This budget will cripple the future of our children and grandchildren.

My State of Massachusetts, where we have some of the finest hospitals, physicians, and research facilities in the world, will lose $4 billion over the next 7 years. These cuts will eliminate Medicaid coverage for 113,644 children in Massachusetts by 2002. It will deny 12,370 disabled children from receiving benefits by 2002. Kids with severe disabilities will be denied access to specialty care and their parents will not be able to afford to pay for their expensive health care bills. 227,000 children in Massachusetts will not receive food stamps by 2002, and 582,000 children who depend on WIC will be vulnerable when the State decides to use the resources for other purposes than ensuring kids get good nutrition. And I could go on and on and on.

But as we debate this draconian budget package and as I listen to the Republicans blame the poor, the disabled, and children for our country's dire financial straits—I remain confused. How come we can still afford a $245 billion big fat juicy tax break and throw the Pentagon an extra $7 billion that they did not even ask for? Mr. Speaker, this clearly represents the priorities and the tough choices of the Republican party. Reward your wealthy friends and step on the little guy.

I urge my colleagues to reject this stealth attack on America's children and defeat this budget.

Mrs. KENNELLY. Mr. Chairman, I am very concerned that section 936 is phased out in reconciliation. Section 936 has played a critical role in economic development in Puerto Rico—creating and keeping good, high-quality, well-paying jobs on the island. Many of my constituents in Hartford, CT, have friends and relatives employed by section 936 companies in Puerto Rico.

I am also greatly concerned that we consider this drastic measure just 2 years after dramatic reform of the 936 program and without consultation with the Puerto Rican Government. We have barely had time to examine the impact of the 1993 changes and yet we are poised to eliminate the program. Such actions surely don't facilitate business planning.

I am concerned about the impact on the island as 936 disappears. Poverty is already very high and good jobs scarce. What will remain for the people of Puerto Rico? I'm afraid that we will only fully realize just how effective it has been when the companies that have enjoyed section 936 begin to leave for other parts of the Caribbean or Ireland.

It is because of these concerns that I am supporting Governor Rossello's new proposal for economic development in Puerto Rico. The Governor has proposed an economic incentive program that would replace section 936 with a wage credit to help spur job creation on the island. This proposal was presented after the committee mark was drafted, and thus was not considered by the Ways and Means Committee. It is my hope that Governor Rossello's proposal will be given serious consideration in conference and ultimately adopted.

Mr. RAHALL. Mr. Chairman, I rise in strong opposition to H.R. 2491, the so-called Seven Year Budget Reconciliation Act.

It never ceases to amaze me that, just when you think you've heard it all—you hear just one more piece of rhetoric that again, you think caps everything else you've ever heard.

Now as if the changes and cuts in Medicare were not bad enough, I read in this morning's Post that just yesterday, Senate majority leader and Presidential candidate DOLE expressed his pride in his vote, 30 years ago, against Medicare's enactment. He says he knew even then it would not work. He bragged about fighting the fight against Medicare. DOLE said: "I am against Government-run health care."

So as not to be upstaged and left out of the Presidential hopeful limelight, Speaker of the House GINGRICH spoke right up about his round of massive cuts to Medicare by stating:

> "Now we don't get rid of it (Medicare) in round one because we don't think that's politically smart and we don't think that's the right way to go through a transition. But we believe it (Medicare) is going to wither on the vine because we think people are voluntarily going to leave it."

People—seniors—are not going to voluntarily leave the program, they are going to be starved out of their fee for service plans they are now in due to a lack of funding, and forced into managed care—and boy, wait till seniors find out about managed care. It would be helpful if the Republicans would just say what they mean. Not managed care—but rationed care for the elderly.

H.R. 2491 is, without a doubt, the most onerous, burdensome, hurtful bill I have ever witnessed in this House in my 19 years service here. There are more than 30 major-major changes in existing laws in this bill—major-major-changes—reforms that will change the face of how this Nation treats children, women who are pregnant and poor, senior citizens who are tiresome because they are old, the unemployed and the underemployed who are desperately seeking work and a dignity of life; young people in search of a college education and a better life for themselves and their children; children in need of day care, and their parents who would work if it could be found instead of taking welfare; for the disabled child and adult—losing coverage under Medicaid and Medicare.

I am deeply concerned for the hundreds of people in my district who have written to me about a 40-percent cut in Medicare reimbursement for home-delivered oxygen therapy—without which they would not be able to breathe. There used to be a joke about taxes—that if it keeps up, folks said, first thing you know they will be taxing the air we breathe. Well, today's the day.

As I said, there are over 30 major changes in current law in this bill, not the least of them is the decimation of the Earned Income Tax Credit for working families with children. Not the least of them is a provision that invites, encourages corporations to raid workers' pension funds. Let us hope that, when those workers retire, the money will be there to pay their pensions—but do not hold your breath. Just one investment gone bad can wipe out a company's pension plan overnight.

And lest anyone forget—veterans are also mistreated under this so-called budget reconciliation bill—let me just say that cutting $6.5 billion from veterans health, housing, education and other programs is no small amount.

This bill codifies into law the massive cuts in Medicare and Medicaid, and it codifies into law the so-called Welfare reform bill passed by the House earlier this year.

There will be no cash assistance to teens who have babies—and this is an unacceptable encouragement and incentive for these young women to get abortions—to kill their unborn babies. This is unconscionable.

Mr. Speaker, this bill decimates at least 30 major programs. I call this the Republican Judas bill. Republicans have brought this bill to the floor for 30 pieces of silver.

The bill specifically does the following things, and I am providing estimated impacts on various programs and populations in West Virginia and in my Third District as available to me:

1. Cuts $270 billion from Medicare (but we still have not seen the language—text to be supplied they say—325,000 seniors in West Virginia will be hurt by this cut, paying up to $1,800 more per individual and $3,600 for couples for health care by increasing premiums to $93 a month; requiring a 20 percent copayment for home care; by increasing the $100 deductible to $150 and above in the out years; by starving the fee for service program, forcing seniors into managed care plans.

2. Cuts the wealthiest Americans taxes by $245 billion—giving them a tax break of up to $20,000 a year, but only approximately $159 for families with incomes between $20,000 and $30,000 a year (while increasing taxes by up to $2,600 a year for families earning $28,500 or less by repealing the EITC).

It is important to note here that this bill also repeals the Alternative Minimum Tax [AMT] for huge corporations, which means that more than 130 of largest U.S. companies in the United States will not have to pay any taxes.

3. Cuts $182 billion from Medicaid and block grants it, hurting children, the elderly, the poor and the disabled (West Virginia's Medicaid cuts by 2002 will amount to 42 percent of its funds, terminating benefits by 2002) for an estimated 140,000 out of current 367,000 recipients of Medicaid for a total of $4.5 billion over 7 years (and out of approximately 548,958 seniors who will be eligible in WV by 2002). It includes terminating benefits also to children and disabled persons, and will deny long-term nursing care to 26,000 seniors.

4. Reduces the Earned Income Tax Credit by $23 billion, raising taxes on the most vulnerable among us (there are 38,500 families eligible for EITC in WV's Third Congressional District, and 93,834 families throughout the State). Eligible families can lose up to $2,600 per year depending upon income and number of children.

5. Allows corporations to raid worker pension funds to the tune of $40 billion; (bad investment of pension funds could wipe out workers' pensions overnight; the plan raises revenue for first few years but is estimated to increase the deficit by $32 billion in the out years of the 7 year budget). Welcome to the revolution all corporate raiders.

6. Terminates the low-income housing tax credit (to save $3.5 billion).

7. Eliminates the student loan interest exemption, costing students $3.5 billion (in West Virginia 39,500 students will pay as much as $2,111 more for college loans, and as much as $9,424 for 5,600 graduate students; it denies Pell grants to 2,600 students in our State in 1996 alone).

8. Cuts $1.1 billion from the title 1 education program for poor elementary school children in need of remedial instruction in reading and math (5,999 West Virginia children will be cast aside when the State loses more than $12 million in title funds).

9. Cuts $6.4 billion in veterans benefits by rounding down their COLA's repealing automatic compensation, and increasing copayments for their drugs. (This will affect 62,700 veterans in the Third Congressional district in WV).

10. Terminates the Federal Direct Student Loan Program, eliminates service improvement and costing schools already in the program additional money. (There are 25 colleges, universities, and trade schools currently in the direct lending program, six of which are in the Third District).

11. Raises interest rates on education loans to parents.

12. Cuts $1 billion in funds to oversee the Federal Student Loan Program.

13. Dismantles the Commerce Department, replacing it with 7 new agencies (new costs of 7 new agencies to be supplied according to the Republicans).

14. Increases HUD rental payments by $4 billion.

15. Increases contributions for GI bill benefits by $1 billion.

16. Block grants and cuts welfare spending by $102 billion (WV would lose approximately $90 million, affecting 17,000 children who will be dropped because they are current recipients of AFDC, and 47,000 children because they are in families who have been on AFDC more than 60 months; $134 million in food stamp assistance affecting 62,500 persons; a loss of $17 million in child protective/foster care services; loss of $10 million for WIC services to pregnant women).

17. Repeals the school lunch/breakfast programs (WV loses $4.2 million a year, affecting 195,130 West Virginia children).

18. Open Alaska's Arctic National Wildlife Refuge to oil exploration for $2.3 billion.

19. Giveaways to western mining companies that pay for land but not silver and gold beneath it.

20. Allows ranchers to pay less for grazing fees.

21. Weakens community reinvestment act by allowing banks to self certify that they are in compliance with CRA.

22. Eliminates Federal Housing Administration's foreclosure relief program.

23. Eliminates affordable housing programs run by the RTC and FDIC (reduces spending on public housing capital 46 percent below the President's request, by cutting $2.7 million in 1996 alone, and cuts 40 percent from assistance to homeless persons at a cost of $1.4 million in West Virginia).

24. Extracts $10 billion from Federal worker retirement.

25. Repeals Service Contract Act giving prevailing wages to workers such as janitors, laundry helpers, and security guard personnel creating a real underclass of working Americans who already earn very low wages.

26. Makes $13 billion in unspecified agriculture savings (text to be supplied, they say) (from what we know, West Virginia loses $3 million in farm spending along with drastic reductions in support for commodity programs).

27. Taxes innovation by diverting fees paid by users of the Patent and Trademark office.

28. Increases electric rates for rural consumers by selling power marketing administrations.

29. Exempts special tariffs for imported Timex watches—competing against our own industry and its workers.

30. Summer jobs are elminated, cutting West Virginia by $9,342,000 affecting 6,460 youths; dislocated worker training cut by $3,646,000 affecting 1,490 West Virginians; adult training dollars cut by $1,848,000 in WV affecting 690 adults; older American employment programs in WV cut by $330,000 affecting 80 senior citizens; safe and drug-free schools funding in WV cut by $1,812,000 affecting 52 out of 55 county programs; senior nutrition programs in WV cut by $189,000 affecting 122,900 seniors; Head Start is cut by $1,073,000 affecting 420 Head Start children (if not more), denies 6,850 disabled children SSI cash benefits in 2002 (55 percent of those now eligible) by cutting $195 million.

Mr. BORSKI. Mr. Chairman, I rise today to express my deepest opposition to H.R. 2491, the Republican Budget Reconciliation Act. This legislation robs retired and working Americans of their hard-earned benefits and pay in order to lavish huge tax breaks for the wealthiest Americans.

The majority's plan cuts $270 billion from Medicare and $170 billion from Medicaid over the next 7 years in order to pay for $245 billion in tax breaks for the wealthy.

In Pennsylvania, the second oldest State in the Nation, one out of six residents is a Medicare recipient and one out of seven is a Medicaid recipient. In the third congressional district, the 20th oldest district in the Nation, approximately 100,000 residents rely on Medicare. Not only will the senior citizens in my district suffer, but all citizens, our health care system and the entire Philadelphia economy will be endangered by these insidious cuts. As a result of the majority's plan to gut Medicare and Medicaid, an astounding $531 million in revenue will be withdrawn from the hospitals in the third congressional district over the next 7 years. Hospitals in Philadelphia will lose over two billion dollars, and across Pennsylvania, seven and a half billion dollars will no longer be available to protect the health of our citizens.

Let me give you an example of one particularly vulnerable hospital. At Episcopal Hospital in Philadelphia, 88 percent of the people who enter the hospital are Medicare or Medicaid beneficiaries. This puts Episcopal Hospital at the top of the critical list, a record of hospitals in danger of closing due to these cuts. Eleven hospitals in Philadelphia, including three in my district, are on that dreaded list. In Pennsylvania, a total of 54 of our 238 hospitals have the misfortune of making the list. If these cuts are approved, I don't know how Episcopal Hospital, or the other endangered hospitals, will survive.

The closing of these local hospitals would cause some 348,000 patients across Pennsylvania to lose access to vital health care services. Health care workers—as many as 40,000 in Pennsylvania, over 25,000 in Philadelphia and up to 6,000 in the third district alone, will be at risk of losing their jobs. This devastating job loss means pain for individuals, as well as ruinous economic consequences for their communities.

Will these cuts improve Medicare for senior citizens. The answer is a resounding, "no". Senior citizens will pay more for their health care, have less choice regarding their doctor, and receive a lower quality of care. Balance billing protection, which prohibits healthcare providers from charging seniors more than 15 percent above the Medicare reimbursement rate, will be eliminated. Seniors who enroll in HMO's because it has become financially impossible to remain with their family doctor and will have no protection against additional charges once they are locked into an HMO. That's the bad news. There is no good news in this Republican plan for Medicare.

But what this plan does to Medicaid is even worse. Everyone knows that Medicaid is primarily for those who are less fortunate. But what people across America don't realize is that Medicaid also pays for nursing home care of senior citizens. In Pennsylvania, 65 percent of all long-term care costs in nursing homes are paid for by Medicaid.

What happens to a senior citizen who needs to go into a nursing home? First, you learn that the cost of a modest nursing home averages about $4,000 a month. Then, you learn you must exhaust all your savings, which you have worked so hard to accumulate over your lifetime, to pay for nursing home care. Then, when your savings are gone, Medicaid provides the nursing home care and safety net you so desperately need.

Under this Republican plan, this critically needed safety net that Medicaid provides is gone.

The loss of the Medicaid safety net will harm not only seniors, but their families as well. Medicaid has always made sure not only that seniors would be cared for, but that their grown children, struggling to provide for their own families, would not be financially devastated by exorbitant nursing home costs. As a result of these cuts, this safety net for families is gone, too.

Certain laws that enable the Government to stop fraud, waste, and abuse are gone as well. For those who are still able to afford nursing home care, the guarantee that they will receive quality care is now gone, because the Republican plan eliminates standards for nursing homes, formulated in 1987, which protect nursing home residents from negligence and abuse.

In America, 40 million Americans, many of them working people, have no faith insurance. Our goal should be to help all people—especially our seniors, children, the disabled, and those who go to work each and every day—obtain health care coverage. Under the Republican plan, the only thing we are guaranteeing is that the number of uninsured Americans will grow by at least 8.8 million.

These exorbitant and heartless cuts are not designed to fix or save Medicare. They are being enacted in order to give $245 billion in tax breaks to the country's wealthiest individuals. Despite all the rhetoric from the majority, one fact is clear: the savings from Medicare will not go back into the Medicare trust fund. They will pay for tax breaks for the wealthy. Our senior citizens on fixed incomes cannot afford these increased costs. The Medicare system cannot afford these excessive cuts.

I have traveled my district and asked hundreds and hundreds of my constituents if they support $270 billion in Medicare cuts and $170 billion in Medicaid cuts in order to provide $245 billion in tax breaks for the wealthiest in our country. The answer is always the same—No.

Mr. Chairman, the Republican majority is not content with their attack on America's senior citizens. They have expanded their assault to include our Nation's hard-working families. The majority has proposed drastic cuts and allocation formula changes in the highly successful earned income tax [EITC] program. This program provides a refundable tax credit to lower income, working Americans in order to keep them off welfare and in the work force.

At a time when the real earnings of the American working class are sinking to historic lows, these EITC changes in the Republican budget reconciliation effectively raises taxes by $22 billion for more than 14 million hard-working families. In my congressional district alone, 21,000 individuals will be impacted by the cuts at a loss of over $31 million.

Under the measure, non-taxable Social Security benefits and retirement income would be counted for purposes of determining if someone is eligible for EITC, effectively limiting the possibility of a great number of American families from participation in the EITC program. In addition, this proposal phases out the earned income tax credit faster than under current law, so that certain families eligible under current law would be denied the credit because their income would be too high, while other families would receive a smaller credit than they would under current law. For example, a working family of four making approximately $27,000 a year will no longer be eligible for the EITC credit, effectively raising taxes on hard working families.

For two decades, the EITC program has enjoyed strong bipartisan support. It has been the most effective work-promoting program of the Federal Government. Although the Republicans praise the virtues of self-reliance, their actions in this bill will severely reduce work incentives for the segment of the work force that must struggle to maintain stable work and family lives.

Mr. Chairman, the Republican majority speaks about building a secure future for our children, yet their budget reconciliation proposal will slam the door of educational opportunity on young people across the country. This proposal unfairly targets middle-class American families by eliminating over $10.2 billion from valuable Federal student aid programs.

In this modern day, where an advanced educational degree is essential for success in the global marketplace, the Republican budget proposal would effectively take a college education out of reach for middle and working class families.

The majority's proposal would terminate the Federal direct student loan program and eliminate the provision of current law under which the Federal Government pays the interest costs of student loans during the first six months after graduation. As a result, the cost of a college education would rise by as much as $3,100 for undergraduate students and $9,400 for graduate students.

In addition, this proposal would increase the interest paid by parents on Parents' Loans for Undergraduate Students [PLUS] that they take out to help finance their children's education. In Pennsylvania's Third Congressional District alone, over 10,000 PLUS loan recipients would be forced into higher interest rates, while at the same time, the Republican proposal caps the amount which American families can borrow from the Federal Government to pay for the education of their children.

At a time when we should be placing great emphasis on the education of our children, who are our Nation's future, the Republican budget reconciliation will make it harder for American children to succeed in the global marketplace.

Mr. Chairman, we all want to balance the budget. But there is a right way to do it and a wrong way to do it. The Republican reconciliation bill is the wrong way to do it. The Republican majority is inflicting this pain on the American people not just to balance the budget, but also to allow them to enact the crown jewel of their Contract With America's wealthy and corporate interests—tax breaks for the wealthy.

The majority speaks of family values, but, it is clear that the only families the majority really values are wealthiest ones. Most American families—those earning under $50,000 a year—will lose $648 or more under the GOP plan. Meanwhile the wealthiest American families—who earning over $350,000 a year—will gain over $14,0000 under this plan.

Mr. Chairman, where I come from in Philadelphia, anybody earning $350,000 a year is a very wealthy person. They are in the upper class, not the middle class. And they do not need a huge tax break.

And Mr. Chairman, in Philadelphia, where the large majority of the people are in the hard-working middle class, struggling to make ends meet, the last thing they need is to see their taxes increase in order to benefit the wealthy. What the workers and families of my district need is fairness and equity and compassion—not more taxes to finance tax cuts for the rich, and not devastating cuts in education and Medicare and Medicaid.

I will vote against this mean-spirited legislation and I urge my colleagues to do the same.

Mr. QUINN. Mr. Chairman, as a leader in the movement to eliminate wasteful government spending, I rise today in support of H.R. 2491, the Seven Year Balanced Budget Reconciliation Act.

This measure will achieve the first balanced budget in more than a quarter of a century, and is the right thing for America's families. This is a historic vote and one that will be remembered as the first step to ensuring the future of our children and our grandchildren.

I promised in my first campaign more than 3 years ago to fight for reform and to balance the budget. This bill goes a long way in accomplishing both those goals. We have reached a crisis point. The current Federal debt is approximately $4.9 trillion, amounting to $19,000 for every man, woman, and child in America.

This bill means real money for America's families. It allows the working men and women of this country to keep more of their hard earned money in their own pocket, instead of sending more and more of it to Washington.

It simply boils down to doing the right thing for America and its families. By balancing the budget, we'll go a long way toward ensuring that the American dream—the dream that our children will be better off than we are—will continue for generations to come.

The Seven Year Balanced Budget Reconciliation Act overhauls nearly every major Federal spending program except Social Security. The measure also includes a plan to preserve, protect and strengthen the Medicare Program which still allows Medicare spending to increase for every senior, every year.

The bill also includes genuine welfare reform which emphasizes work, families, and hope for the future. Under welfare reform, States are given the authority to punish food stamp traffickers. We finally will be able to protect our innocent children from criminal activity that threatens their health and well-being.

As a strong advocate for reforming the Medicaid Program to allow States like New York to reinvent Medicaid, with other members of the New York delegation, I was able to obtain significant improvements for the State. In a move that will literally mean billions of dollars for New York, congressional leaders agreed to change the provision and gradually reduce the rates of growth so that the State has more time to reform its system. An additional $5.8 billion will be made available for Northeastern States, particularly New York and New Jersey.

Although I see this improvement as a step in the right direction, I'll be working for additional improvements in the Medicaid formula.

We cannot turn our backs on the future to continue the failed policies of the past. The most significant gift we can leave our children is a legacy of sound government.

Mr. MONTGOMERY. I want to commend the Ways and Means Committee for reporting legislation which ensures that employers who reemploy veterans after military service are not penalized for restoring their pension benefits. Last year, the Congress enacted the Uniformed Services Employment and Reemployment Rights Act of 1994 [USERRA]. This law guarantees that reservists and other persons who go on active military duty will be restored to their civilian jobs without any loss of seniority.

This law originated in 1940 and has been the subject of a number of Supreme Court decisions. The Supreme Court has held that one of the most important benefits of seniority, the right to a pension, is a protected benefit to which a veteran is entitled.

In discussions with various pension experts last year, it was pointed out that technical amendments to the Internal Revenue Code were needed. The existing law limits employer and employee contributions to tax-favored pension plans as well as benefits payable to reemployed veterans. Other requirements for which there is no special provision for contributions with respect to a reemployed veteran include the limit on deductible contributions and the qualified plan non-discrimination, coverage, minimum participation, and top-heavy rules.

Earlier this year, I introduced legislation, H.R. 1469, to allow employers who reemploy veterans to comply with both USERRA and the Internal Revenue Code when they endeavor to restore veterans' pension benefits as required by USERRA. The bill would provide assurance to employers that such contributions would not in any way disqualify a tax-favored plan. I am pleased that the bill before the House today includes the text of H.R. 1469.

It is very important to note that the legislation before the House today would allow employers and pension plans to make contributions for any veteran—World War II, Korea, Vietnam, as well as Persian Gulf. In essence, this provision corrects an oversight contained in the 1974 ERISA legislation which failed to take into consideration the rights of reemployed veterans, and is a good measure for employers as well as veterans.

Mr. MOAKLEY. Mr. Chairman, I rise in opposition to the Republican budget reconciliation bill. The bill makes unprecedented cuts in the Federal Government's investment in education, health care, and job training in order to give wealthy Americans a very big tax break.

Over the next 7 years, the Republicans will cut funding for education programs by 33 percent. That means 2,622 students in Massachusetts will be denied Head Start, 16,200 Massachusetts students won't get remedial education for basic and advanced skills, 98,900 schoolchildren in Massachusetts will not benefit from Goals 2000, and 12,100 students in Massachusetts won't have summer jobs.

The Republicans want to cut funding for the Safe and Drug Free Schools Program. This reduction will cripple our efforts to curtail drug use and keep drug related violence out of our schools. Nearly every school district in my home State of Massachusetts reaps the benefits of this program.

Despite several decades of Federal investment in elementary and secondary education, many classes are still overcrowded, many school buildings are deteriorating, and many classrooms don't have books, pens, and paper. Clearly, this is not the time to cut Federal funding for education.

In terms of higher education, the Republicans propose to eliminate and scale back many Federal financial aid programs. Many parents in my congressional district work very hard to send their children to college in the hopes of attaining a better life. Without Federal financial assistance, the cost of higher education would be prohibitive. Do my colleagues understand that the cutbacks in the Republican budget will betray the hopes and dreams of millions of high school seniors?

I cannot in good faith vote for a bill that cuts funding for education in order to pay for a very big tax break for the wealthy. These cuts are short sighted and will lead to embarrassingly low educational standards, higher property taxes, and many social problems caused by a poorly educated society.

Mr. BUYER. Mr. Chairman, we have kept our commitment to the American people and brought an end to the Washington tax and spend practices of old—which have saddled our Nation with almost $5 trillion of debt.

The question about balancing the budget is not simply about financial practices, but rather a question of fiscal morality. We cannot continue to spend money that we simply do not have and pass the bill on to our children.

On October 20, 1995, the Chairman of the Federal Reserve Board, Alan Greenspan, again called for Congress to balance the Federal budget. He said doing so would have a positive effect on America's economy. A balanced budget will mean lower mortgage rates and lower interest rates. It means lifting our children from their growing share of the national debt. In fact, a child born today will pay and average of $187,000 in interest alone on the debt.

We have put America on the path to a balanced budget by eliminating wasteful and bureaucratic programs. We have returned programs back to the State and local governments where they can be run more efficiently and effectively.

The debate is clear: Those who think wasteful Government programs should be cut or eliminated, inefficient programs reformed, and Americans given tax relief, will vote for this balanced budget. Those do not, will vote against this historic balanced budget plan and continue the status quo.

Ms. KAPTUR. Mr. Chairman, I rise today in strong opposition to the Gingrich budget reconciliation bill.

First, let me state at the outset that I support a balanced budget. I voted in favor of the balanced budget amendment that passed in January 1995. I am committed to putting our fiscal house in order by supporting further cuts in spending to reduce the deficit. However, I cannot in good conscience support this budget bill, which would unfairly place the burden of deficit reduction on the backs of our Nation's seniors, children, disabled citizens, students, veterans, and working families, in order to provide a tax cut to the privileged few.

Overall, middle-income working families earning less than $50,000 will lose $648 a year as a result of the tax provisions and cuts in programs under this bill, while wealthy families will receive an average tax cut of $14,050 per household. This bill imposes a $23.3 billion tax increase on 14.2 million working families with incomes under $28,553. Two-thirds of the $900 billion in program reductions in H.R. 2491 come from programs that are absolutely vital to the health, welfare, and safety of working men and women, their children and families—$270 billion from Medicare; $170 billion from Medicaid; and $200 billion in education, health and safety, and job training programs.

MEDICARE

The Republican bill makes deep cuts of $270 billion and sweeping changes in the

Medicare Program, which provides medical insurance to more than 36 million older and disabled people in our country. This body should have held comprehensive hearings on how best to structure the most extensive changes to the program since its inception 30 years ago—but did that happen? No, it did not. The legislative process used to move the Republican Medicare plan is a disgrace. Their plan was introduced on September 29, and one day of hearings was held before it was even distributed to Members. The House then left town for a 10-day recess. Upon returning on October 9, around-the-clock markups in two committees proceeded quickly. The very people who will be affected the most by these cuts, our Nation's seniors, were subject to arrest and silenced as the Republican leadership rushed their plan through the committees. We have spent 48 days holding hearings on Whitewater, Ruby Ridge, and Waco; why couldn't we manage to hold more than 1 day of hearings on Medicare?

The trustees of the Medicare Program signalled earlier this year that reform is needed. I agree. There is a short-term financing crisis in the part A hospital insurance trust fund and a long-term financing challenge that needs much more careful consideration. But, for starters, the Republican proposal makes three times more in cuts than are immediately necessary to make Medicare solvent in the short term. Thus, premiums will increase by about $400 per senior. One-third of all senior citizens in our Nation basically live on Social Security. If costs go up, they will have to choose between health care and other essentials. Seniors will have to give up their own doctors as they are herded into HMO's with which seniors have little experience, as only 9 percent of current seniors participate in HMO's. Seniors will be kicked out of nursing homes, or their families will be bankrupted paying their $40,000 a year tab, due to deep cuts in long-term care.

The Gingrich plan makes Medicare solvent only until 2006—the same as Democratic plans that cut only one-third as much. This much is clear: The Republicans had to slash Medicare to pay for their $245 billion tax break for the privileged few—but not a single penny goes to shore up the Medicare trust fund.

One of the most unsettling aspects of the Republican plan is its utter failure to address waste, fraud, and abuse. Their plan will make it easier for unscrupulous medical practitioners and insurance providers to beat the system, and harder for prosecutors to convict them. It will weaken existing laws that punish fraud and abuse, and raise the burden of proof that the Government would have to meet in order to prove such cases. This bill would weaken the law that currently requires providers to ensure that the claims they submit to Medicare are true and accurate. It also creates new exemptions for those who offer incentives to physicians for patient referrals. Moreover, this bill would mean an even larger decrease in the already-insufficient number of fraud inspectors at the Department of Health and Human Services, at a time when over half the States in our country have no fraud inspectors whatsoever, and 11 States have only two.

I recently met in my district with a group of citizens representing health professions, business, labor, retirees, insurance, and hospitals. The consensus of that group was that these cuts are draconian. They told me that any changes in Medicare that result in savings should be used for the preservation of Medicare, not tax cuts for the privileged few. They said we must fight waste, fraud, and abuse, as well as the spiraling costs of prescription drugs, labs, dental care, and durable medical equipment. Based on their assessment, it is clear that the Republican plan does not address the needed reforms in Medicare.

MEDICAID

The Republican Medicaid plan is shocking. Not only does their plan slash $170 billion from the program, eliminating health care coverage for millions of children, elderly, and disabled people in our Nation. But it also completely abolishes national standards for nursing homes and institutions caring for the mentally retarded. The Republicans want to leave this matter up to the States. The majority party must have forgotten why these Federal standards were created in the first place. It was because the States had failed so miserably in maintaining decent conditions and health care in many of these facilities. With their plan, we are faced with the prospect of returning to the days when patients' basic nutritional and medical needs were not met and when caregivers regularly abused patients with inhumane practices, such as tying them down or drugging them up. Their plan also eliminates spousal asset protection in the law, which means that States could require spouses of nursing home residents to sell their homes and cars to pay for their spouses' care. This plan will force spouses into poverty. It will also allow States to require adult children to pay for their parents' nursing home bills, forcing families to make the impossible choice of nursing home care for their parents or education for their children.

VETERANS

This bill would be a major blow to America's veterans and their families. It would force veterans to pay more for health care benefits through the year 2002, by raising prescription copayments, tightening collection procedures, and increasing per-diem charges for nursing home and hospital care. And the Republican bill would limit to $90 per month need-based pension benefits paid to nonservice connected veterans and surviving spouses who do not have children and who are in Medicaid-participating nursing homes.

EARNED INCOME TAX CREDIT

I strongly oppose the provision in this bill that would raise taxes on working Americans earning under $50,000 a year by cutting the earned income tax credit by $20 billion. Millions of working Americans who are playing by the rules and paying taxes, but still earning so little that they and their families struggle to make ends meet will be hurt by this legislation. The ironic tragedy is that their sacrifice will go to pay for tax benefits for those who do not need them, to the wealthiest corporations and individuals of our Nation. It is the height of dishonesty to propose a $20 billion cut in a program intended to reward honest labor—to make sure that work is more profitable than welfare—and then to hand the benefits of those cuts to multinational corporations and the privileged few.

EDUCATION

The Republican bill jeopardizes the ability of young people in our country to invest in their own future. This bill would repeal the direct student loan program, and would cut other student loan programs—which are so vital to the educations of children from working families—by a total of $10.2 billion, in order to finance tax breaks for the well-to-do. The bill eliminates the interest-free grace period for new student loans, increases loan origination fees, adds new rebate fees, reduces the loan guarantee to 95 percent, and increases the interest rate for PLUS loans. Their bill also eliminates the direct student loan program at the request of the banking industry. This program is popular with students because they get their money faster, and with college administrators because the loans are simpler to administer. In short, this program works. Banks, however, preferring the profits and low risk of the guaranteed student loan program, demanded that the competition from the direct student loan program be eliminated. The Republicans have delivered a handout to the private financial institutions at the expense of students and colleges across our Nation.

CORPORATE WELFARE

Tempted by the cover that this massive, multibillion-dollar bill gives them, the Republicans have added special interest corporate welfare provisions that would have little chance of becoming law if considered on their own, and have missed an opportunity to end $800 billion in already-existing corporate welfare programs. In fact, this reconciliation package doles out more new corporate welfare than it cuts.

The repeal of the alternative minimum tax.—One new form of corporate welfare that can be found in this bill is the repeal of the alternative minimum tax, created in 1986 at the behest of President Reagan when it was learned that about half of large profitable United States and foreign companies avoided paying any taxes through loopholes. The Republican plan to repeal the alternative minimum tax would add an estimated $36 billion to the budget deficit, according to the GOP's own estimates.

Currently, the alternative minimum tax levies a 20-percent tax on profits, before adjusting for certain tax preferences, to help ensure that all businesses and individuals earning substantial profits cannot entirely avoid paying taxes by using various deductions, exemptions, and exclusions. If the alternative minimum tax is repealed, it is estimated that 76,000 profitable corporations would pay no taxes by the year 2005.

Corporate raids on workers' pension funds.—Perhaps the most egregious example of the Republicans putting corporate interests ahead of the interests of workers and taxpayers is the measure in this bill that would allow corporations to raid billions of dollars from workers' pension funds, jeopardizing the futures of millions of Americans. This legislation would remove steep tax penalties that currently discourage most companies from draining employees' pensions. Under this measure, businesses with pension plans holding at least 125 percent of the assets needed to meet anticipated pension liabilities would be able to drain their employees' pensions—for any purpose, for mergers or even to pay for perks like executive limousines—without even giving workers advance notice.

The new plan would undo most of those restrictions—which were passed because in the 1980's, about $20 billion was drained from private pensions as corporate executives tapped them to finance takeovers and leveraged buyouts. Congress put a stop to such raiding in the late 1980's with a 50-percent tax penalty and other restrictions.

At a time when our Nation's private pension plans are underfunded by $71 billion, we simply cannot afford to allow big business to raid the pension funds of working Americans, jeopardizing their retirement security and those of their families. Who will be left holding the bag when these pensions go belly-up? American taxpayers.

WHAT SHOULD BE DONE

I support tax fairness and a balanced budget. In fact, I wanted to support the alternative budget proposed by a coalition of my colleagues. However, three sections need further refinement. First, we need an entirely reformed medicare financing system. We do not need to force all these savings from seniors. Second, this alternative does not do nearly enough to close loopholes for corporate welfare. Third, the changes to Consumer Price Index need further study as to their effect nationwide and on seniors in my District and State.

Furthermore, any reasonable budget bill should begin with closing existing tax loopholes that allow billionaires to avoid paying a significant portion of their U.S. tax liability by renouncing their U.S. citizenship and relocating to foreign countries. This is a loophole that benefits only about two dozen people a year; however, the Joint Committee on Taxation estimates that ending this practice could provide our country with an additional $3.6 billion over 10 years—which I believe should be applied toward deficit reduction. Furthermore, if the majority is serious about balancing the budget, then it should get serious about weaning big businesses off corporate welfare and tax subsidies financed on the backs of American families. We should dedicate all of the spending cuts we have been making toward deficit reduction, not tax breaks for the well-to-do.

I cannot support the mean-spirited cuts in this budget bill that would realize the most vulnerable in our society—like the elimination of low income energy assistance—while continuing tax policies that encourage multinational companies to move overseas and provide foreign companies doing business in the United States with tax breaks. Let us eliminate the transfer pricing loophole that allows foreign-owned corporations to move profits earned in America overseas to avoid U.S. taxes. That could save up to $143.5 billion.

Let us eliminate the foreign tax credit. Why should corporations get a credit for taxes paid to a foreign country but only a tax deduction for State taxes paid in the United States? Why not save $82.5 billion and put our States on an even playing field with foreign countries?

Let us repeal the U.S. territorial possessions tax credit that entices our companies offshore. That would save $19.7 billion. With that we could avoid Gingrich's tax increases on working families through cuts in the earned income tax credit.

Above all, let us pass comprehensive campaign finance reform, so that America will know that its elected representatives are acting in the best interests of American citizens rather than at the beck and call of multinational corporations, megabanks, and special interests. To that end, I have introduced House Joint Resolution 114, a constitutional amendment that would, for the first time, allow Congress and the States to enact reasonable limits on Campaign spending in Federal, State and local elections, ending the current practice of allowing elections to be bought by the highest bidder. I have also introduced H.R. 2499, the Ethics in Foreign Lobbying Act of 1995, which would ban campaign contributions by foreign corporations so that they could no longer purchase favorable influence with legislators, selling the future of America's working families overseas. In addition, I have introduced H.R. 2498, the FACE-IT bill, which would close the revolving door that currently exists between government service and foreign lobbying.

Let us achieve a balanced budget by having everyone pull their load in ways that strengthen America and our ability to create good jobs. Let us secure a better economic future for working Americans, not put an even heavier burden on the middle class. NEWT GINGRICH and his allies are looking for cuts in all the wrong places.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in strong support of this package.

Balancing the Federal budget is critical to the future of our country. As a direct result of decades of deficit spending, each child born in America today will be burdened with a tax bill for $187,000, just to pay for the interest on the national debt over his or her lifetime.

By leading directly to lower interest rates, this package will lower housing costs, reduce car expenses, lower college costs, cut taxes, and provide more jobs for all Americans. For those of us who represent rural communities, lower interest rates will save family farmers nearly $15 billion during the next 7 years by reducing farm debt.

Mr. Speaker, I ran and was elected on a pledge to balance the budget in 7 years. That was my promise to the people of Washington State's Fourth Congressional District. I am proud to cast my vote today to keep our commitment to the American people and urge each of my colleagues to do the same.

Mr. BALLENGER. Mr. Chairman, this week, I joined my Republican colleagues in taking another step toward delivering a balanced budget and fulfilling yet another campaign promise. This week's action centered on the Seven Year Balanced Budget Reconciliation Act of 1995, which contains real world solutions toward cutting overall Federal spending, providing much needed tax relief for all Americans, and of course setting the pace for a balanced budget within 7 years.

As you know, Mr. Chairman, budget reconciliation is the final part of the budget process where all spending recommendations made by the various House committees are combined into one giant budget proposal compiled by the House Budget Committee. This legislation is designed to meet the spending blueprint laid out in the budget resolution we passed in May. The budget resolution is a viable 7 year plan that will culminate with a balanced Federal budget by the year 2002.

The overall spending cap for fiscal year 1996 was set at $1.59 trillion. Although this cap is the bottom line, specific cuts in Federal programs were based on the recommendations made by the individual House committees, with the final decisions being made by the House Budget Committee.

Mr. Chairman, preparing a budget this size is a monumental task, certainly more complicated than almost anything I have done since coming to Washington. But, let me say that this budget is the right remedy for what ills our Nation. The budget crisis we have endured for so long is the result of out-of-control Federal spending, bloated Federal programs, and tax increases created by the Democrat leadership. These irresponsible practices have left us nearly $5 trillion in debt, or more than $19,000 for every man, woman, and child in America. But, since January of this year, Republican Members of the House have been bound and determined to correct the poor spending habits of the Government and get us out of debt.

The unmistakable message of last year's election was that it was time to reduce the size, scope, and cost of the Federal Government. We heard the message. This year's budget will produce overall savings of nearly $1 trillion over 7 years. These savings will come by eliminating hundreds of Federal programs, closing or combining several Federal agencies, and eliminating many no longer needed commissions. Under our proposal foreign aid alone will be cut by $29 billion over 7 years. The current welfare system will be reformed, producing many more savings, specifically by providing block grants to the States. However, no cuts in Social Security appear in this bill and Medicare will only be preserved, protected, and strengthened by this legislation.

Mr. Chairman, balancing the budget is critical to the economic future of this Nation. But, listening to the Democrats may leave Americans concerned how this balanced budget will affect them. Let me put it this way. If a man or woman plans to purchase a house, a balanced budget will provide him or her with lower interest rates. In most cases, these interest rates will be 2.7 percent lower than today's rates. That means, taking out a 30 year mortgage of $50,000 at an annual rate of 8.23 percent, will save more than $32,000 over the life of the loan. Likewise, a loan of $100,000 will allow a borrower to save almost $65,000 over 30 years. The money saved could be better used for college, retirement, a new car or home improvements. Interest rates on car loans will see similar reductions.

Under this bill American students will find it easier to get education loans and even more importantly make them easier to pay off. A balanced budget would reduce interest rates on student loans by 2 percent. A college student who now borrows $11,000 at the new 8 percent annual interest rate will save $2,200 over the life of the loan. Students can apply these savings toward another semester of school or for other future expenses.

By balancing the budget and lowering the interest rates, businesses will be more likely to invest in new equipment, new factories, and office buildings. Within 10 years, the more attractive business climate will help to create 6.1

million new jobs over 10 years. People from all educational and skill levels will be given new economic opportunities, benefiting the Nation overall. Lower interest rates will also help our farmers retire the farm debt. By decreasing the farm loan interest rate by 1.5 percent, farmers will save $15 billion over 7 years, allowing a faster debt retirement.

Mr. Speaker, last week President Clinton admitted that he raised taxes too much in 1993. That shouldn't be news to anyone. High taxes have left the American taxpayer with fewer dollars to buy a house, save for college, build a nest egg for retirement, or start a new business. Critics of our reconciliation bill are saying that the tax cuts contained in our bill will only benefit the wealthiest Americans. How untrue this is. Mr. Speaker, the reconciliation bill calls for tax cuts for all Americans, from all income levels, including individuals, couples, and families with children. The tax cuts we Republicans have made will not benefit one group at the expense of another. All Americans will benefit, especially the middle class. Families with children will receive a $500 per child tax credit and families who care for an elderly relative at home will also receive a tax credit, just like we promised in the Contract With America.

Mr. Speaker, the Democrats have claimed that this bill will hurt our senior citizens, but the truth is the Clinton tax hike of 1993 raised taxes on Social Security benefits by 70 percent for seniors making as low as $34,000 a year. Our reconciliation bill repeals this unfair tax by reducing this tax liability for seniors by an average of $662 a year by the year 2000. In addition, reductions in the capital gains tax will further benefit seniors when they begin to cash in their nest eggs during their retirement years.

Tax cuts for American businesses will mean much needed upgrades in equipment and other new investments leading to unprecedented growth. Business expansion will lead to new jobs and economic opportunities and increased wages for millions of Americans. New businesses will spring up all around the country, and our now stagnating economy will once again start to move in many new and prosperous directions.

I would like to add a few comments about two labor provisions: The Davis-Bacon Act and the Service Contract Act.

The Davis-Bacon Act has long outlived any usefulness that it may have had, yet it remains law, adding billions to Federal construction costs and wasting precious taxpayer dollars. The Congressional Budget Office estimates that repeal would save taxpayers $2.7 billion over 5 years. For example, electricians in Chicago who are working on a Davis-Bacon project are paid about $31.32 an hour compared with electricians on a private contract who are paid an average of $18.72 an hour. Companies can't stay in business paying $12 an hour more than the market demands, and neither can government

An investigative report by the Oklahoma Department of Labor uncovered fraud, abuse, fictitious employees, and ghost projects. The Oklahoma report uncovers a systematic problem with the Davis-Bacon Act which must be addressed. As a recent TV report entitled "The Fleecing of America," there is "growing concern that the system of setting wages on U.S. government construction projects is so flawed that it's fleecing taxpayers of hundreds of millions of dollars." Scandals like this only serve to erode public confidence in the Government procurement process.

Much to my regret and disappointment, the reconciliation bill before us today fails to repeal the Davis-Bacon Act. However, let me assure the taxpayers that it is only a matter of time before this special interest subsidy that has been fleecing them for years is removed from the books.

The reconciliation bill does include repeal of the Service Contract Act. The Service Contract Act, like the Davis-Bacon Act, inflates the cost of services procured by the Federal Government. The Service Contract Act requirements add millions per year to the cost of Federal contracts for services such as computer programming, building security, travel services, or university research. Although it began modestly, today the Service Contract Act impacts a broad spectrum of businesses and employees ranging far beyond the original intent of the law. Repeal of the Service Contract Act saves over $3 billion over 5 years according to the Congressional Budget Office.

Mr. Speaker, It is not so difficult to see how important this legislation really is to our Nation and to future generations. I know that opponents of this bill have been telling the American public how Republicans are taking away their future, but, let me assure you, this historic piece of legislation only cuts out the fat of Government, reduces unneeded spending, and sets the pace for reaching a balanced budget. Passage of this bill only means a better Government and a brighter future for all Americans.

I yield back the balance of my time.

Mr. STUMP. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, I rise in strong support of H.R. 2491, which will make the changes necessary to balance the Federal budget by the year 2002.

I believe the rising national debt and interest on that debt have created a crisis which Congress must face now.

I supported the balanced budget amendment because it is truly a matter of saving our country from financial ruin.

Our children and grandchildren will either inherit a declining standard of living caused by congressional irresponsibility—or gain freedom from the financial excesses of current generations.

Mr. Chairman, America is culminating a 5-year commemoration of the 50th anniversary of World War II.

The World War II generation's legacy to our Nation includes victory over tyranny, winning the cold war to make the world safe for democracy, and creation of world's greatest industrial power.

As a World War II veteran, I cannot imagine my generation allowing history to also record that we mortgaged our grandchildren's future for the sake of our own comfort.

Mr. Chairman, as chairman of the House Committee on Veterans' Affairs, I want to assure Members on both sides of the aisle that H.R. 2491 balances the Federal budget over 7 years, while maintaining our Nation's commitment to veterans of military service.

As in previous years, veterans' programs have been included in the reconciliation process.

The VA Committee met its targets on a bipartisan basis, without unfairly singling out veterans for any new cuts.

In fact, we substantially met the target by taking provisions from the 1993 reconciliation bill and extending them through the year 2002.

President Clinton signed the 1993 bill and this year included many of those provisions in his fiscal year 1996 budget proposal.

Members who are overly concerned with the veterans' portion of this bill should note that the Clinton 10-year plan would take nearly three times as much from veterans' programs, without balancing the budget.

The Clinton plan cuts $17.1 billion from veterans over 10 years, H.R. 2491 only requires savings of $6.4 billion over 7 years.

Mr. Chairman, the Republican budget plan allows veterans' spending to rise.

According to the House Budget Committee, veterans' spending increases from $36.9 billion in fiscal year 1996 to $41.8 billion in fiscal year 2002.

During the next 7 years, more than $275 billion will be spent on veterans' programs—$40 billion more than during the previous 7 years.

This increased spending will occur during a time when the veteran population will be declining by 6 million or 23 percent between 1995 and the year 2010.

Yet top VA officials and numerous veterans' publications have scared veterans with dire predictions about attacks on veterans' benefits and breaking our Contract With America's veterans.

Those predictions have claimed that Congress would either means test all service-connected benefits, or cut compensation for disabled veterans, or tax veterans' benefits.

Mr. Chairman, this bill does none of those things.

It is hypocritical for administration officials to demagogue the Republican budget when their own budget is worse.

The administration has predicted numerous VA hospital closures resulting from the Republican budget proposal.

However, the GAO has stated that during the next 5 years: "Under the President's budget proposal, total VA medical care funding would be $336 million less than the amount provided in the House proposal."

In fact, the House fiscal year 1996 VA/HUD appropriation bill contains a $563 million increase over the fiscal year 1995 level for VA medical care.

Additionally, H.R. 2491 includes provisions to reform VA health care eligibility.

The bill would move VA from an expensive inpatient model of health care to a modern ambulatory and primary care approach.

It greatly improve VA's ability to provide better quality and access to care within available resources.

These provisions are strongly supported by the major veterans organizations.

Mr. Chairman, without a balanced Federal budget, rising interest payments on the debt will soon crowd out ability to continue providing for our Nations' veterans and other high priority programs as well.

Mr. Chairman, I want to commend the chairman of the Budget Committee, Mr. KASICH, for all his work on this bill.

Contrary to those who would demagogue these matters, Mr. KASICH and the members of the Budget Committee have acknowledged the high priority Congress traditionally gives to veterans' programs.

The Budget Committee set a deficit reduction target that the Veterans' Affairs Committee could reasonably reach.

We have done so, and the Budget Committee members, who have had to make extremely difficult decisions about Federal spending priorities, should be given credit for protecting veterans' programs while achieving a balanced budget.

Mr. Chairman, I urge all my colleagues to vote "yes" on the bill.

Thank you Mr. Speaker.

Mr. GONZALEZ. Mr. Chairman, I am compelled to comment on some of the provisions in this ill-conceived bill that embody recommendations of the Committee on Banking and Financial Services.

THE COMMUNITY REINVESTMENT ACT

The bill before us contains a gratuitous and needless attack on the Community Reinvestment Act [CRA]. Without directly repealing the CRA, the bill nonetheless wipes out the CRA. It is clear that the less than $30 million in savings achieved by these amendments to the CRA is not the reason they were contained in the Banking Committee's recommendations—in fact, the committee exceeded its budget targets by billions of dollars—the amendments' inclusion in the reconciliation package was part of a failed scheme by the chairman to free another, wholly unrelated piece of legislation from these gutting amendments because they were sure to incur a veto.

The CRA is a law that simply requires regulated financial institutions to help meet the credit needs of the communities they are chartered to serve, including low and moderate income communities. It is reported that this law has resulted in the infusion of $60 billion into credit-starved communities across our nation.

As a result of complaints from the banking industry about the burden of demonstrating compliance with the CRA, President Clinton ordered the regulators to revise CRA regulations, with an emphasis on performance over paperwork. After a nearly 2 year effort by the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision the regulations have been issued and have just gone into effect. Each of these regulators have objected to the committee's action to destroy the CRA. Clearly, we should give these regulations a chance to work before we reevaluate the CRA.

Most importantly, at a time when this Congress is slashing the funding that has assisted low and moderate income Americans, it is critical that we save a tried-and-true program that relies on private dollars. To do otherwise would be tragic for communities across this country. Moreover, to dismantle the CRA under the ruse that it is a necessary measure to save money is simply shameful.

HOUSING PROVISIONS

The lion's share of the committee's savings comes from affordable housing programs in the Republican majority's relentless political pursuit of savings at the expense of our nation's low income families.

The bill before us gratuitously wipes out the Resolution Trust Corporation [RTC] Affordable Housing Programs for a paltry $31 million savings—again a savings that completely unnecessary to meet the targets of the Banking Committee for budget reconciliation. This home ownership program has been a real success story for the RTC. More than 104,000 dwellings have been sold at a value of $1.5 billion under the RTC Affordable Housing Program, providing shelter to hard-pressed working families of modest means. Although the RTC shuts down after this year, there will still be property to dispose of after December 31. Once the RTC is shut down, these properties and the Affordable Housing Program will be transferred to the Federal Deposit Insurance Corporation. To wipe out this program will have serious consequences for low income family home ownership opportunities far beyond the meager savings gained, particularly as direct Federal spending for affordable housing dwindles.

The bill also will permit HUD to sell all HUD owned multifamily property without providing tenant protections or making any effort to preserve affordable housing. Last year we made significant reforms to the multifamily property disposition program with an overwhelming bipartisan vote of 413 to 9. The reforms balanced the need to preserve affordable rental housing, protect low income tenants from displacement and outlandish rent increases, accelerate the property disposition process and save the Federal Government as much as $475 million. Nothing has changed since then. The committee's contribution to reconciliation saves more than enough money without including the virtual repeal of the Multifamily Property Disposition Reform Act and without harming low income families who will surely be displaced with no assistance and no place to go.

Finally, the bill requires section 502 single family rural housing borrowers to repay Federal subsidies at the time a home is refinanced. While I concur with the requirement that borrowers repay Federal assistance at the time of sale, I believe that the provision in the committee recommendations provides the best evidence yet that we are engaging in policy by the numbers. Simply to raise $39 million from low income families, this bill would discourage families from graduating from a Federal loan program. A low income family which has scrimped and saved to purchase a home in our rural communities may be forced to pay not only the principal and interest on a refinanced first mortgage, but would have to pay at least interest on the interest credit subsidy that would now be recaptured upon refinancing.

Like so much else about this bill, much of what is in the Banking title makes no sense and is indefensible from any reasonable point of view.

Mr. FRANKS of Connecticut. Mr. Chairman, today is an historic day which marks the end of the tax-and-spend ways of the Democrats and heralds in the pro-taxpayer ways of the Republicans.

The Seven Year Budget Reconciliation Act provides less spending, less taxation, and less government. It provides real welfare reform and it protects our Medicare system for today's and tomorrow's seniors. It strives to better manage our Medicaid system and it works toward strengthening families.

A balanced budget will lower the interest rates for all Americans by at least two percentage points and will thus allow all Americans to improve their standard of living.

Mr. Chairman, I am pleased to rise in support of a balanced budget plan, in support of fiscal responsibility, in support of tough choices, in support of keeping promises, and in support of H.R. 2491.

For years, Mr. Chairman, there has been something of a racket going on for some elected officials in the Nation's Capital to play games with the budget process. These officials would tell their constituents that they were for a balanced Federal budget but then they would turn around and vote against resolutions which would provide a constitutionally-imposed balanced budget.

When asked why they took such action, they would reply that they did not need a balanced budget amendment to make the tough choices.

However, when the time arrived to make those tough decisions, the same people would balk on their previously stated commitments. Rather than support efforts to reduced spending and taxation, past members of Congress have let our Federal deficit balloon up to a point to where a person could stamp the word "GOODYEAR" on it. Rather than support fiscal austerity, many of my colleagues have opted to promote initiatives which would saddle a newborn infant, circa 1995, with $187,000 in taxes to pay the interest on the national debt. Mr. Chairman, the way the Congress goes about its fiscal business must change.

Mr. Chairman, make no mistake—H.R. 2491 provides the innovative harbinger of change in American government that many citizens have been clamoring for years.

This reconciliation bill will reform Medicare to ensure its solvency well into the 21st century and give our parents the enhanced opportunity of health care and insurance choices they deserve.

H.R. 2491 will also provide Americans with much-needed tax relief and reform. This bill will reduce taxes by $245 billion over the next 7 years—a figure which would include a reduction in the capital gains tax, a $500-per-child tax credit and a repeal of President Clinton's confiscatory tax increase of 1993 while closing over $30 billion in corporate tax loopholes.

We will change our welfare system to ensure that no more of our children are forced to grow up in wretched squalor of the welfare state of 1995 America while providing help to the States to implement their own health care assistance program. Candidate Bill Clinton promised to "end welfare as we know it" in 1992, the Republicans are delivering on that promise.

We will also abolish, privatize or sell wasteful agencies and bureaucracies which have acted like a fiscal albatross around the neck of American taxpayer of the past two decades.

Will this reconciliation plan be totally painless? No, in fact there will be meritorious programs which will certainly be effected by this reconciliation bill. However, we have reached a point in our history where we need to show great care in our budget and fiscal priorities. We need to ask ourselves "Do we need that agency or program or is there a better way?" And, Mr. Chairman, that is the point of H.R. 2491. A vote for this bill is a vote to guarantee a future in which our children do not have to live under an inherited mountain of debt or within a governmental system which deems itself more important then the people it is supposed to serve. A vote for H.R. 2491 is a vote to make the hard choices and to find a better way for our children.

I consider this an extremely positive action which will benefit all constituents in my district as well as all Americans.

I encourage my colleagues to vote for H.R. 2491.

Mr. ALLARD. Mr. Chairman, today I am introducing legislation designed to reduce the regulatory burden on America's farmers and ranchers. This Congress has for too long cut commodity programs while not providing any regulatory relief. This year agriculture is once again taking spending reductions, but for a good purpose—balancing the budget and reducing the tax burden on rural America. But this year we are going to provide relief from rules regulations, and mandates that have grown while Government benefits have shrunk.

This legislation will continue to protect the environment, but will provide the necessary flexibility to meet environmental goals. This legislation will not rely upon one size fits all mandates that stifle a producers ability to wisely use the land to earn a living.

Specifically, in this legislation we will reform the current highly erodible land provisions created in the 1985 Food Security Act. While these provisions were well intended they have not manifested themselves in a farmer friendly manner. All of us who have districts that include rural areas have heard the stories of how this has become a law spinning out of control. In some areas practices required to reduce erosion on the land are more expensive than the land itself. The law itself did not require the Department to take into account local resource conditions, the economic or technical feasibility of practices they require. The legislation I am introducing today recognizes that these are realities in the real world. They should be requirements placed on the Department in the law and in the field guides NRCS employees use when assisting a farmer.

In this legislation I would also like to ease back on requirements because we are reducing Government benefits. Acres that are designated nonpayment will not be subject to Government mandates. When these programs were created there was a clear linkage, payments for compliance. However, in subsequent years when payments were reduced, regulations were not. This legislation would also create a new cost share program aimed at water quality. This program would assist livestock operations that are facing Federal and State mandates that are very expensive. This program would attempt to assist them in meeting those mandates and other practices to improve water quality. In order to pay for this program we are changing the Wetland Reserve Program to 15 year contracts from permanent easements.

I would also like to consolidate various cost share programs that have been authorized and appropriated for separately over the years. Most of these programs have been cut dramatically recently. It's my hope that by consolidating and refocusing we can have one program to support in appropriations. This will also reduce paperwork on those who apply. Instead of filling out two sets of application forms if they want money from two different programs, they will only have to fill out one form to receive assistance.

I would also like to consolidate the Natural Resource Conservation Service into the consolidated farm service agency. This move will streamline the policy making process and return NRCS to its main function, providing voluntary technical assistance to farmers.

As many will notice this legislation does not deal with swampbuster. It is not included because reaching agreement with interested parties has been difficult. I feel that repealing swampbuster is a better alternative than many of the "reforms" that have been placed before me. Between now and subcommittee markup I will continue to try and work with all interested parties. However, they need to understand that it must be a common sense proposal for me to take it seriously.

Finally, this legislation would protect the interests of private water users from the extortion of Federal agencies. This legislation outlines that Federal agencies cannot, as condition of permitting, require water users to give up a right in their property. It's my belief this will end a long standing controversy.

While all of these proposals are important to me, I am willing to work with everyone to make them better. They are my best attempts at reform. However, I am willing to listen and adopt better ideas.

Mr. KENNEDY of Rhode Island. Mr. Chairman, today the race to the bottom begins, and soon what it means to be an American will change. We have before us a plan from the other side of the aisle for balancing the budget.

Why do we want a balanced budget? What is intrinsically good about a balanced budget per se? It is important to note that there was a year when the budget was balanced. The year was 1930, and it marked the greatest depression this country has ever known.

So balancing the budget for the sake of balancing the budget is not the goal. We want a balanced budget because of what we hope it will do for us in terms of spurring our economy, growing our prosperity, and servicing the people rather than servicing the debt.

The approach that this balanced budget reconciliation act takes will send the country into the opposite direction from where a balanced budget should take the country. Instead of growing the economy and serving the people, the abrupt and vicious nature of this budget threatens these goals.

The scope of these cuts are so dramatic and the timetable so short, it begs the question of whether we want the positive results which we expect a balanced budget to bring us, or are we just happy with the politics of saying we have a balanced budget?

Just take one of many examples of where the reality of this so-called balanced budget belies their stated intent. They say they want to balance the budget in order to ease the interest payments that young people pay on the national debt, but to do so they propose to raise the interest payments on student loans so that the same young people will have to pay more to open the doors of opportunity.

When you look at where the cuts are coming from, there is nothing balanced about this budget. In fact, the poorest fifth of American families will shoulder half of the total cuts in benefit programs, and would receive no tax cut.

We face serious choices over what should be our priorities when we set out to bring our budget into balance.

Are we going to take a path that looks after the most vulnerable in society, that keeps promises, that invests in our future, that calls for shared sacrifice, and does not provide favors to people who already amply enjoy the rewards of this great country?

Or are we going to take a path that ignores the needs of senior citizens, children, and working families, that calls for sacrifice from the vulnerable while handing out tax cuts we can't afford to people who don't need them, that cripples our ability to prepare for tomorrow, that threatens the environment through underhanded deals, that takes the tax dollars of immigrants we have welcomed but denies them the very benefits their tax dollars have gone to support, and walks away from promises made to the American people?

This is a debate about numbers—cuts, slowed growth, caps, tax cuts, subsidies, and every other way we have to count money—but more important than any numbers are the principles at stake. American values should be reflected in the budget. But with the haste to only count cost in numerical terms, we've lost how to measure the cost on our society in human terms.

And that is where this bill fails. It fails seniors. It fails working families. It fails children. It fails the disabled. It fails the working poor. It fails students. It fails the environment. It fails our constituents. It fails to prepare America for tomorrow.

We have spoken about and debated the impact the Medicare provisions will have on senior citizens, and last week this Chamber voted to take a devastating $270 billion out of the Medicare Program, double premiums on seniors, and shred a program that has kept millions of seniors healthy and out of poverty since its inception in 1965.

Today we have before us the other half of their assault on health care. Faster than you can say block grant, the Republicans have killed a program that takes care of children when they are most vulnerable and seniors when they are most in need.

Now with their plan, all of the decisions and all of the responsibility will be handed over to the States without enough money to do the job. My own State of Rhode Island will suffer grievous harm under the Medicaid proposal. Over the next 7 years, Rhode Island will receive $1.6 billion less to take care of its poor children, mothers, and senior citizens. In the year 2002, Rhode Island will receive 42 percent less Medicaid assistance than it would under current law. Only two other States stand to be hit harder than Rhode Island.

Let's remember what Medicaid is all about and why it was created as a national program.

Medicaid simply told people: You are citizens of the United States and have a common right to basic health care that you share with your fellow citizens. Now that common ground is lost. Soon it will not matter that you are an American. It will matter more what side of the State line you live on. Will you get preventive care? Will your nursing home require well-trained staff and forbid the use of restraints and drugging patients? Will your disabled child get the care to live a fulfilling life? These decisions will be made in 50 different States in 50 different ways.

In the DisUnited States created by this proposal, it will not matter that you are an American. We have taken an entitlement to basic care and replaced it with a lottery system. Well, everyone who plays the lottery knows—most people end up losing.

The 127,306 Rhode Islanders on Medicaid will lose under this lottery. It is possible that almost 22,000 Rhode Island children will lose coverage.

More than 7,000, or three-quarters of the more than 9,300 elderly Rhode Islanders in nursing homes, rely on the Medicaid Program to pay for their care. Rhode Island nursing homes will lose more than $400 million over the next 7 years under this plan.

This cannot be made up by my State, which already is experiencing financial difficulties. This is not a hole that seniors can fill. And to look to the next generation, as the Republicans propose through their repeal of the adult child exclusion, is to cut off our hope for the future before it has even begun to take shape.

The opposition likes to say this bill is about the future. But a look at the fine print shows that it will produce an America of less opportunity and less promise.

This bill will put an empty plate in front of school children at breakfast and lunch. We all know students can not learn if they are hungry, if they are distracted by wondering where their next decent meal is coming from.

Our children are a national resource. But with this bill we wash our hands of our commitment to feeding hungry children, tell States to pick up the slack, and don't give them enough money for even one more glass of milk when new poor children show up at the classroom door each morning too hungry to learn.

Students who make it to college are having the rug pulled out from under them. Due to more than $10 billion in student loan cuts, undergraduate students will see their loan payments increase as much as $700, and costs for graduate students will jump by as much as $2,500.

This will construct an insurmountable barrier for thousands of Rhode Island students who will have to give up on their dream of attending one of the fine institutions of higher education in Rhode Island. Higher education will sadly become a privilege only enjoyed by the very few.

Borrowers in the Parent Loans for Undergraduate Students will face a $5,000 increase in loan repayments.

In Rhode Island as many as 1,600 students will lose some or all of their Pell Grant benefits due to the cutbacks. The 6-month interest exemption grace period for all borrowers of student loans is ended.

And from the people who often trumpet the fact that this bill will lower interest rates, there is a hike on interest rates on student loans.

Is this how you help the next generation? Is this a budget about tomorrow? No. It is all about paying for $245 billion in tax breaks today, tax breaks that will overwhelmingly benefit those who are already doing very well.

Fifty-two percent of the benefits of the tax cut in this bill go to families making $100,000 or more. The top 1 percent, those earning $350,000 and over, will get a tax break of almost $20,000. This injustice, this blatant favoritism of the fortunate few, is compounded by the fact that those at the bottom will actually see their taxes rise.

Almost 37,000 working poor Rhode Islanders will see their taxes go up. They will shoulder the burden of a $5.1 million tax increase on working families in my State. Nothing reveals the motives of those who have crafted this budget more clearly than the war they have waged on the earned income tax credit.

Mr. Chairman, the damage caused by this bill is so great one hardly knows where to begin. I have highlighted some of the most egregious measures. But as I said before, this vote is not about numbers. It is about who we are as a nation. And that is why I am so dismayed.

Mr. VENTO. Mr. Chairman, I rise in strong opposition to the Republican budget reconciliation legislation. The bill we have before us today represents a reckless restructuring of national priorities and advocates a shift of resources and commitment taken from working American families and granted to the most affluent segments of our society.

I have supported in the past and will continue to support responsible deficit reduction policies. Over the past two years, we have made steady progress in cutting the deficit with nearly $600 billion in deficit reduction over a five year schedule beginning in 1993. We passed the deficit reduction bill last session without a single Republican vote. As a result of these initiatives, the latest figures on fiscal year 1995 show that this is the first time since 1948 that the deficit has declined for 3 years in a row. The $164 billion deficit is much too high, but it's below the 1993 projected numbers on performance and nearly half the 1993 annual deficit.

This year, Republicans are trying to sell their budget plans, including this reconciliation bill and the various appropriations bills, in terms of deficit reduction, but when you look at their plans you see through the transparent goals the real effect of the Republican actions.

The Republican budget scheme and true goals are to pull back from proven policies for health care, housing, education and the environment, in order to give tax breaks to corporations and affluent Americans, increase defense spending, and give assorted benefits to special interests.

Policy makers who are serious about deficit reduction do not push a package which includes $245 billion in tax breaks, benefiting mainly the wealthiest of our society. Not only is it unwise to reduce revenues in this time of fiscal constraints, but it is unfair to dole out benefits to the well-heeled when everyone else in society is being told they must sacrifice. The Republicans continue to insist on a cut in the capital gains tax rate, a repeal of the alternative minimum tax for corporations, a limited child tax credit which is denied 34 percent of the kids, and many lavish tax breaks for upper-income individuals and corporations.

One of the most convincing pieces of evidence that shows the Republican claims of tax breaks for all Americans is all smoke and mirrors came out of the non-partisan Congressional Joint Committee on Taxation last week. The Joint Committee on Taxation incredibly reported that the effect of the Republican budget scheme actually will be a tax increase on workers earning less than $30,000 a year. This is principally because the Republican proposal drastically cuts the Earned Income Tax Credit [EITC], a working family benefit program that has been praised for its effectiveness in assisting low-income families and rewarding work and the denial of the child credit to low-income families. By 2002, 172,000 Minnesota households would pay more taxes due to cuts in the Federal EITC existing law and the resulting cut in Minnesota's matching credit. With the EITC, participants receive a reduction in their Federal Income Tax liability or rebate in order to raise their income above the poverty line. The EITC gives working families living in poverty an alternative to entering the welfare system, an incentive to remain in the workforce, and assists them as they work to lift themselves out of poverty. These families should be encouraged to continue their efforts to achieve self-sufficiency and not be forced to choose between welfare and poverty.

One of the most shameful aspects of the reconciliation legislation is the treatment of Medicare and Medicaid. The new Republican majority in the House has made the Medicare and Medicaid programs its target for nearly 50 percent of its total spending cuts. Medicare is one of our nation's most successful programs. It was established over 30 years ago as a national commitment to assure seniors health care coverage. The Republican scheme is going to destroy seniors' health care security. With $270 billion in cuts, overall Medicare spending will be cut by a cumulative $6,795 per senior over the next seven years, meaning that in 2002 there will be $1,747 less in Medicare dollars per senior in that year itself! Republicans' excuse for slashing Medicare is to save the Medicare trust fund, but even the trustees of the Medicare trust fund strongly oppose the Republican plan because the extensive cuts go far beyond program reform or deficit reduction. The Republicans' proposed changes include raising premiums, cutting payments to providers and shifting seniors into untested forms of care. The bottom line is that seniors are going to pay more for less health care coverage.

Republicans are going to turn over complete control of the Medicaid program to the States, stripping away assurances that guarantee coverage to children, the elderly, and the disabled. The Republican Medicaid scheme cuts the program by $170 billion in 7 years, nearly a 20 percent reduction. Minnesota was one of the biggest losers in the restructuring of the House Medicaid formula and is projected to lose $3.4 billion over the next 7 years under the House formula. This is a cut of over 21 percent! Illustrated as to the impact on people, these cuts would mean loss of health coverage for 80,000 Minnesota children, loss of eligibility for 5,900 nursing home residents, and loss of health care coverage for over 100,000 Minnesotans by the end of the decade.

The Republicans proposed Medicaid plan eliminates nursing home regulations, taking us back to a bleak history of institutionalization without consumer protections from abuse and neglect. It eliminates provisions for home and community-based services. People with disabilities who are now able to remain at home with their families because of home and community-based care could have to enter costly institutions under this plan.

What a difference a year makes. Last fall 1994, the Congress was struggling to expand health care to those without Medicare, Medicaid, or private coverage. However, in 1995 Congress has designs to renege on existing Medicare and Medicaid programs. Then there were 40 million uninsured Americans from working families but today the number has jumped by another 1.4 million people in the past year. Congress is not even addressing the issue of those without health care, but pulling back and punching holes in the American health care programs, Medicare, and Medicaid, that help well over 60 million Americans. What a shame and what a disgrace that the modest programs that provide dignity to the elderly and the disabled, and compassion and empathy for those without means, in fact 18 million children, are being bled of their health benefits as the Republicans prioritize tax breaks for the wealthy ahead of health care for the needy.

These changes will affect every person in this Nation, whether indirectly through their health care costs increases due to the rising number of uninsured people, or directly if they have to deal with the cutbacks in their coverage or their parents', spouse's or child's coverage.

Medicare and Medicaid represent our nation at it's best. They represent the desire on the part of the American people to pull together and care for those who otherwise might not have enough resources to have access to health care. Instead of building upon this success, by responsibly managing Medicare and expanding health care coverage to all Americans, this Republican bill rolls back on the progress that has been made.

At the same time they are working to shred the health care safety net and destroy retirement security, Republicans are pushing a measure to jeopardize the hard-earned pensions of working Americans. The reconciliation bill includes a devious provision allowing corporations to de-fund and transfer money from pension funds to be used for any purpose the corporation may choose. According to the Pension Benefit Guaranty Corporation, the Republican fund raid potentially affects 22,000 pensions funds covering 11 million active workers and even 2 million retirees. This provision shows a blatant disregard for the lives and future livelihood of working Americans, not only because it jeopardizes their pensions, but because taxpayers in the final analysis could be required to step in and bail out companies' pension programs in the future.

On the environmental front, the reconciliation bill evokes the tradition of 19th century robber barons who exploited the west. From the bill, one would think the only good tree is a horizontal tree and that our nation has been endowed with vast and wonderful resources so a few could make a profit. This legislation amounts to a wholesale exploitation and degradation of America's natural resource legacy. We see the imprint of special interests, including the mining, timber, oil and gas industries, throughout the bill.

This legislation enshrines private park concessions in our National Parks with big profits in a power position over the public visitor and park rangers and stewards. Special interest giveaways are extensive: below cost timber sales, private control of rivers and waters, grazing fees below the already scandalously low prices, and public mineral rights giveaways to mining interests are all included in the bill. Masked as positive revenue gains, they put our national heritage on the auction block, with rigged bidding rules designed to benefit the special interests.

The decision to destroy forever the Arctic National Wildlife Refuge [ANWR] by permitting oil and gas exploration and drilling demonstrates the true spirit of the majority. The last great piece of American wilderness, the Arctic plain, ANWR is birthing home to the 160,000 member Porcupine Caribou herd. Grizzly and polar bears, arctic foxes and numerous other species conspicuous and inconspicuous abound. A clear majority of the American people oppose drilling for oil in ANWR, but the GOP leadership is not listening. Opening the refuge area to drilling will assure destruction of this pristine wilderness. The Republicans know better. The Arctic plain has been untouched for 40,000 years since the ice age. A unique Native American culture, the Gwich'in people, live by subsistence hunting and are absolutely dependent on the Porcupine Caribou herd.

Opening ANWR is a serious policy decision which should be openly debated on its merits, not as part of a reconciliation bill. Folding this measure into this bill is a sleight of hand way to circumvent the process and force this wholesale policy change upon the American public.

The reconciliation bill is also an inappropriate place to include provisions which essentially gut the Community Reinvestment Act [CRA], which attempts to insure bank credit in our cities. These provisions will exempt close to 90 percent of banks and thrifts from CRA coverage. The bill also provides a safe harbor for institutions with a satisfactory or higher rating (95 percent of the industry) and eliminates the sole enforcement mechanism in the CRA. Without using a dime of taxpayer funds, the CRA every year helps steer $6 billion of private funds into housing, small business an economic development in communities across this country. The CRA is an engine of economic development and social justice, and if it did not exist, we would need to invent it today. Furthermore, any measure which undercuts the CRA at least deserves a separate vote on the House floor.

The reconciliation bill includes several dubious provisions which will limit Americans' access to affordable housing. The RTC and FDIC affordable housing programs are eliminated. These are programs that obtain properties through bank and thrift failures and allow low- and moderate-income families, nonprofit housing groups, and public housing authorities to purchase these properties. These programs work; under the RTC affordable housing program, more than 104,000 dwellings have been sold at a value of $1.5 billion. Republicans also eliminate the Low Income Housing Tax Credit, which has been responsible for more than 100,000 units of affordable housing per year, $15 billion in economic activity and 90,000 jobs. Cutting this highly targeted and successful program will devastate affordable housing opportunities in the future. The ultimate losers with these GOP proposals are the prospective tenants and homeowners.

We have heard many people talk about balancing the budget so that the next generation will inherit a smaller financial burden. I find it difficult to believe, however, that included in a budget plan designed to give our children a better future, there are such drastic cuts in education programs, which are critical to providing and empowering our nation's youth with the tools and opportunities they require to succeed in this increasingly competitive world. A balanced budget will not mean much if America's children do not have the knowledge and skills they need to continue America's leadership role in the world economy.

The bill takes particular aim at higher education, which are the institutions that produce our engineers, doctors, scientists and other personnel critical to this nation's progress and competitiveness. Federal programs comprise nearly the whole higher education financial aid support system. This legislation eliminates the interest subsidy for students during their first six months after graduation at a time when college graduates are having trouble finding jobs and more and more parents are unable to help with these financial liabilities. The measure also eliminates the Direct Loan program, which has been successfully utilized by 24 educational institutions in Minnesota alone. Parents who help their children with the costs of acquiring a higher education will also see their financial burden increase as this measure increases the interest rate that parents pay on PLUS loans. In addition, a myriad of new fees and the increases in existing fees will add to the cost of higher education even further because lenders and educational institutions will without doubt pass these costs down to students in the form of increases in tuition and higher costs of borrowing funds. In point of fact $10 billion dollars will be cut from programs to help families achieve post secondary education programs.

We cannot and shouldn't steal from the very programs that allow our children to succeed in order to secure a smaller budget in their future. America's children are our greatest resource, and we must ensure that every child has the opportunity to receive the education they require and deserve to be successful in the world of work and our communities.

At the same time Republicans make all these cuts to people programs, defense spending spirals upward in the overall Republican budget plan for weapons and spending that the defense dept has not sought. Misaligned Republican priorities include $1.4 billion for B–2 stealth bombers, not requested by the Pentagon. Republicans also sink hundreds of millions into funding for the Seawolf submarine and Star Wars missile defense. The security of the United States cannot be provided for by simply increasing the number of planes, bombers, and submarines. Economic security, safety at work, and access to quality health care are also real elements of national security. How can we say the U.S. is more secure with nearly $7 billion more than the Pentagon requested, while Medicare is being cut; while funds are reduced for occupational safety for American workers; while educational programs are gutted? Can smart weapons replace smart soldiers and sailors? The answer is obvious—investment in people is essential to our security, whether in a military uniform or part of the private economic.

The question really is about the direction our nation should be heading and what values we want to cultivate to enhance America's future. This reconciliation bill reveals a dramatic change in national priorities under the GOP leadership. This new Republican majority values the bottom line above all else, in order to give tax breaks to the wealthy and placate special interest spending project, apparently the GOP message is claim to balance the budget and anything goes—but they are wrong—people care. The American people don't want an abandonment of principles and policies which allow the most vulnerable in our society to live with dignity and afford opportunity. They also do not want a redistribution of wealth which makes it more difficult for working American families to get ahead while giving special benefits to corporations and special interests. This bill is an affront to all who believe in the concept of community and the commitment of the Federal Government to protect Americans' health, environment and economic security. I urge my colleagues to vote against this bill.

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in strong opposition to H.R. 2491. I am particularly disappointed about the impact this legislation has on the Earned Income Tax Credit. Under this measure the Earned Income Tax Credit will be cut by $23 billion. This legislation will have a very negative impact on the State of New Jersey. Provided only to those who work, the Earned Income Tax Credit is a valuable tool in encouraging work over welfare. In my State of New Jersey the Earned Income Tax Credit helps 513,808 low-income workers and their families in their struggle to stay afloat in our society. That translates into 13.1 percent of all New Jersey taxpayers. In the past, this tax credit has received bipartisan acclaim under the Presidencies of Ronald Reagan and George Bush. I find it perplexing that despite the success of the tax credit, it would be slashed under this current proposal, thereby increasing taxes on millions of working Americans.

I find it ironic that while my colleagues on the other side of the aisle talk about the need for welfare reform and personal responsibility, they are willing to decimate the program that helps people rise from dependency. The Earned Income Tax Credit encourages families to move from welfare to work by making work profitable. The tax credit rewards employment for working families, so parents who work full-time do not have to raise their children in poverty—and families with modest means do not suffer from eroding incomes. The Earned Income Tax Credit is a non-bureaucratic way to encourage work over welfare. There are no middlemen or service providers. There are no long lines at Government offices. The tax refund is provided by the IRS directly to the working families. I ask my colleagues who support this measure and have low- and moderate-income families in their districts to explain why it is necessary to slash a tax credit to low- and moderate-income families whose income has deteriorated since 1979. Payroll taxes increased five times between 1983 and 1990, while in 1996 the real value of the minimum wage will decline to its lowest real value in 40 years. The poverty rate for working families with children grew by nearly half from 1979 to 1993. The bottom 40 percent of American families, by income—those earning less than $30,000 in 1993—made 10 percent less in real terms in 1993 than in 1979.

In light of these grim statistics, I would like to know how my colleagues on the other side of the aisle are going to explain to the American people the fact that they are prepared to cut millions of dollars away from poor, working families, then turn around and provide a tax cut for the wealthy. I cannot begin to understand how many of my colleagues justify this type of action especially in light of that fact that the income gap between wealthy and nonwealthy Americans is at record levels.

In addition, the budget reconciliation bill before us today punishes poor children by eliminating key child nutrition programs, including the highly successful WIC Program—women, infants, and children. It repeals school lunch and school breakfast programs and denies benefits to legal immigrants who have faithfully complied with the law and gone through all the proper channels to enter our country.

Our Nation has always valued education as the ticket to achieving the American dream. This bill attacks student loan programs, cutting a total of over $10 billion over 7 years. Is it fair to tell our young people that they will just have to abandon the dream that we all shared?

As chairman of the Congressional Black Caucus, I am outraged that the Republican Congress has once again reversed the clock, turning back progress by eliminating the Minority Development Agency which coordinates minority business and development programs and gives a fair chance to those who were shut out of the system for years.

Our seniors are hurt by the reductions in section 8 housing; veterans who served our Nation are now told that they are part of the budget problem.

Once again, Federal employees and retirees are given harsh and unfair treatment. Those who have chosen careers in public service are now being told they will have to pay more and get less.

This is a hidden tax whether the authors of this budget want to admit it or not.

This budget will be disastrous for the working people of our Nation, for children, for students, and for seniors. I urge my colleagues to oppose H.R. 2491.

Mr. UPTON. Mr. Chairman, I have had extensive discussions with the chairman of the House Commerce Committee concerning the fact that teaching hospitals and academic medical centers have traditionally had higher costs. This is due to the special mission that these institutions have providing specialty patient care, conducting clinical research, and training new physicians to treat our poor.

After these discussions, I have been assured that it should be the policy of the States, when creating their new MediGrant programs, to take it into account. Obviously, it is in the best interest of this Nation's health care to ensure top quality doctors and research facilities, along with continuing specialty care. This can be done if the States recognize that additional reimbursements will be required to these types of facilities.

Mr. HOYER. Mr. Chairman, I rise in strong opposition to this omnibus bill that I believe is a major step backward for our Nation.

I am committed to insuring our Nation's fiscal integrity. Our obligation to our future and our children and to their children demands decisive and decidedly different action to affect a disciplined conduct of the fiscal business of this country.

But this Republican package is not the answer. It is an attack on the middle class and poor Americans.

I supported the balanced budget amendment to the Constitution. I voted for the Stenholm budget which would have achieved a surplus by the year 2002. I will also support the alternative reconciliation developed by Mr. ORTON, Mr. STENHOLM, Mr. PETERSON, Mr. SABO, and other Democrats. In a responsible and fair way, their alternative puts us on a glidepath to a balanced budget by 2002.

In my view Thomas Jefferson was right when he said:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

Reducing the deficit is of such importance that I do not believe we should approve tax cuts until we get our fiscal house in order. In my view, we must balance the budget first, then consider tax reductions.

The Republicans are steadfast in their efforts to give tax breaks to the wealthy. That is why the provisions in this bill are so draconian and is part of the reason why this bill is so unacceptable compared to the Orton-Peterson-Stenholm-Sabo substitute.

One example of the Republican bill's attack on the middle class are its provisions on Federal employees. The measure saves more than $10 billion from increased taxes on Federal employees and other provisions that will dramatically decrease their benefit packages.

The Republican leadership, despite loud and persistent rhetoric about reform of Congressional procedures, put this package together with few hearings and no markup by the Government Reform and Oversight Committee.

Mr. Chairman, I know of no precedent for making this magnitude of changes in Federal benefits without full and open discussion of the issue. As my colleagues will recall, the creation of FERS, the Federal Employees Retirement System, was done in the mid-1980's at the conclusion of nearly 2 years of bipartisan hearings with dozens of witnesses.

The Democrats and Republicans charged with review of this issue do not support what is in this bill. A vote was not allowed in the Government Reform and Oversight Committee or its Civil Service Subcommittee because the majority of Members on those committees do not support these provisions.

Federal workers have already contributed more than their share to efforts to balance our Federal budget—about $200 billion over the last 15 years. We must stop this erosion of pay and benefits or we will witness a deterioration in the quality of young men and women that we attract to and retain in Federal service.

I am pleased that the provision to require Federal employees to pay fair market value for parking have been dropped. That was the right thing to do. What remains, however, is still unfair and unwarranted.

These proposals are representative of this bill's impact on middle and lower income citizens. It is an attack on those groups and it should be rejected.

In addition to dramatic reductions in the Earned Income Tax Credit, this bill makes dramatic cuts in Medicare and Medicaid—over $450 billion in health care cuts.

Under the Kasich proposal, Maryland will lose $2.5 billion of Medicaid funding that it uses to provide medical care to poor children, the disabled, and seniors in nursing homes.

The result of these provisions, if adopted, is clear. Maryland would be forced to raise State income taxes just to retain very basic benefits. Other benefits, for adults and children, would simply have to be abandoned.

More than 60,000 Maryland children would be forced to go without health care coverage—without immunizations, health screenings, and medical treatments that will keep them healthy and ready to go to school.

Mr. Chairman, when people voted for change last November, they did not vote to bankrupt families. They did not vote to leave children languishing in foster care. They did not vote to throw children off Medicaid. That would not be responsible.

Children and their families would also suffer from the welfare provision of the Kasich bill.

We cannot promote our national economic security if taxpayers are required to support able bodied Americans who simply choose not to work. Even so, our economic future is lost if we fail to provide for the Nation's children.

The Republican proposals for welfare reform are weak on work and tough on kids—tougher on kids than they are on the deadbeat dads who walked out on them.

There is a better way to end welfare as we know it and to create a system that puts parents to work and protects the well-being of the kids who depend upon them. The welfare provisions in the Democratic substitute, which 204 Members of this body supported, represent true reform. They require those who can work, to work.

These are just a few examples of what I believe our priorities must be. Not tax cuts in the face of deficits, but fiscally responsible policies that serve the needs of all Americans, promote America's economy, and move us to a balanced budget in the year 2002.

The alternative is a responsible approach and a real approach. While I do not agree with every provision, I find it an acceptable alternative to solidify America's economic future.

Our deficit threatens our health as a nation and our ability to be competitive in our global economy. The Orton-Peterson-Stenholm-Sabo alternative would balance the budget and get us back on track.

The Gingrich/Kasich bill uses a meat ax and leaves the patient its trying to cure badly scarred. The substitute uses a scalpal and leaves the patient whole and cured.

Mr. SERRANO. Mr. Chairman, I rise in strong opposition to the budget reconciliation bill that is before the House this week.

I hardly know where to start in denouncing this misguided bill, but several themes are apparent.

It makes vast, untested changes in the way our country does business.

It abandons federal commitments to the most vulnerable among us—children, families, the elderly, immigrants, the working poor, the sick—and makes many of them the subjects of State-run experiments in providing health care, education, jobs, and other services.

It needlessly cuts taxes on corporations and wealthy investors while it raises taxes on more than half the population—the half with incomes under $30,000 a year.

It dumps huge new responsibilities on the States but gives them little time to plan, establish new programs and bureaucracies, or hire and train State employees.

It makes changes in programs across the Federal Government; while some may be useful, many are probably not or they wouldn't have to be rammed through the House in this manner.

It tramples on the procedures the House has established to permit full and open debate on important issues by inserting provisions never considered by a committee or actually rejected by a committee.

Of course, the bill has been a moving target as the Republican leadership cut deal after deal to buy the votes they need to pass this massive nightmare of a bill.

The real targets and beneficiaries of this bill are shockingly clear from a couple of the tax provisions. The bill provides for $245 billion in tax cuts that go mostly to wealthy investors and corporations. According to the Office of Management and Budget, the top 1 percent of families, those with annual incomes over $350,000, will see their taxes cut by $14,050 per year.

The $500 tax credit per child would go to families with annual incomes up to $200,000. But the credit is nonrefundable, which means that a family of four would receive a reduced credit or no credit at all until its annual income reached about $30,000.

At the same time, the Republicans propose to save $23 Billion from the Earned Income Tax Credit [EITC], which offsets payroll taxes and the failure of the minimum wage to keep pace with inflation, permitting low-income working families to keep more of their earned income, or, if their income is very low, providing a modest income supplement.

The result of these two provisions—the nonrefundable per child tax credit and the EITC cuts—is that fully half of America's working families, those with annual incomes below $30,000, face increases in their taxes.

The EITC cuts will have a particularly serious impact on New Yorkers. New York has a State EITC, which is tied to the Federal credit. Nearly one million low- and moderate-income working families will see increases in their State taxes as well as their Federal taxes from the cuts in budget reconciliation.

We discussed the Republicans' huge and dangerous cuts to Medicare last week, although without enough time for debate or opportunity for amendments to improve that deeply flawed bill. It came up last week, of course, because the Republicans hoped to fool the American people into thinking there is no connection between the $270 Billion in Medicare cuts and the $245 Billion in tax cuts. But here it is again, as title XV of this bill.

Another reason that considering Medicare last week was a mistake is that it is so closely related to Medicaid. Changes in one program affect the other in ways that have not, in my view, been sufficiently studied. Moreover, cuts in both programs, taken together, will have devastating effects on our health care system, patients and providers alike.

Mr. Chairman, on Friday, I met with a group of providers in my South Bronx district to discuss the cuts' impacts on their facilities and hear their views. One participant, representing the Daughters of Jacob Geriatric Center informed us that between 90 percent and 95 percent of the center's residents are supported by the Federal health programs and that 75 percent of its budget goes to labor costs. Clearly, cuts in Medicare and Medicaid will have serious, harmful effects on the health and well-being of the seniors at the center.

Apart from the cuts in Medicaid funding, provisions ending the entitlement of eligible individuals to coverage and converting Medicaid to a shrinking block grant are alarming. Medicaid is a national program precisely because some States were unwilling or unable to meet the health care needs of the poor. To assume that every State will have the will and the resources to meet these needs, especially as Federal contributions decline so sharply, is dangerous wishful thinking.

On Tuesday, my constituent, David Tuzo spoke about the importance of Medicaid at a rally on the Capitol Grounds. David, who is HIV-positive, has four sons, three of whom are foster children he has saved from abuse and abandonment. In closing his remarks, he said, "I guess there are two reasons my health is so good and I feel so optimistic: my life with my kids gives me hope and Medicaid is my lifeline. Without Medicaid, I'd lose my kids and my life." But there is no guarantee that the medical services David receives now with Medicaid coverage will continue to be covered, or even that he and his sons will continue to be eligible.

Welfare reform is another empty, to be added title of this bill, although conferees are now meeting to resolve differences between the versions of H.R. 4 that passed the Senate and House. But I think anything born of H.R. 4 ought to be rejected, not hidden away in this huge bill.

My outrage has not diminished since the House voted to take away the Federal guarantee that some modest assistance will be available for those children and families whose desperate circumstances make them eligible. That is not just bad public policy, it is immoral.

I also continue to be angry at the ongoing immigrant-bashing that began with H.R. 4, which would deny public assistance on the basis of legal immigration status. We know that immigrants don't come here for public assistance; they come to join family members and to provide a better life for their children. They work, they pay taxes, they participate in community life, and they play by the rules. Why should they be targeted, except to save money?

Mr. Chairman, there is a great deal more to condemn about this bill, but I am nearly out of time. Let me just mention a few more outrages.

The bill repeals the alternative minimum tax on corporations, letting corporations get away with paying no Federal income taxes at all.

The bill permits businesses to raid their pension funds of as much as $40 billion, threatening the retirement security of millions of current workers.

The bill amends the Community Reinvestment Act to make it easier for banks to avoid investing and lending in communities from which they take deposits and to make it harder for community groups to challenge a bank's CRA compliance.

The bill terminates the RTC and FDIC affordable housing programs and repeals the low-income housing tax credit, reducing the already small stock of affordable housing for low- and moderate-income families at a time of increasing homelessness.

The bill eliminates the direct loan program and the graduation grace period, putting a college education, which is the most effective vehicle for success, beyond the reach of most people.

The bill incorporates the provisions of H.R. 927, the Cuban Liberty and Democratic Solidarity Act, an extreme bill that would enhance policies that have never worked, increase the suffering of the Cuban people, and adversely affect United States businesses, the United States court system, and our relations with our closest allies.

The bill ignores reforms made just 2 years ago to the tax exemption of certain income from investments in U.S. possessions such as Puerto Rico, known as section 936, and, instead, phases it out over 10 years. I believe section 936 should be left alone, but if it must be changed there are better ways.

Mr. Chairman, all thinking Members agree that we must bring the Federal deficit under control, if not actually balance the budget.

There is wider disagreement over the number of years it should take. I personally think 7 years is too short and requires the kind of mindless slashing of spending the Republicans propose rather than thoughtful adjustments, but the Republicans insist on 7 years.

Cutting taxes before the deficit is under control makes the required spending cuts that much greater.

And the specific cuts chosen, aimed mostly at low- and middle-income families, and the refusal to curb corporate welfare, add to the outrages in this bill.

Mr. Chairman, I urge my colleagues to reject this terrible bill.

Mr. NEAL. Mr. Chairman, I join with Representatives RANGEL, JOHNSON, and KENNELLY to express my concerns about the tax changes to section 936 included in budget reconciliation legislation.

The bill recognizes that section 936 cannot remain in effect indefinitely and must be terminated within a reasonable time. However, the termination of section 936 in this legislation would eliminate totally all Federal incentives for new job creation in Puerto Rico. This provision provides protection for the companies doing business in Puerto Rico, but not for the working people of Puerto Rico.

The Governor of Puerto Rico has suggested an economic incentive program that would replace section 936 with a wage credit provision to help spur job creation in Puerto Rico. The provision included in budget reconciliation was not debated thoroughly and the Governor did not have time to submit an alternative proposal. The Conference Committee on budget reconciliation should adopt the Governor's proposal or some other reasonable replacement program to help with investment and job creation in Puerto Rico.

I urge the House to thoroughly review this issue.

Mr. WICKER. Mr. Chairman, I am pleased to share with my colleagues the following remarks from October 23, 1995 by R. Bruce Josten, Senior Vice President for the Chamber of Commerce of the United States of America.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, October 23, 1995

MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: In the next few days, you will be voting on H.R. 2491, the "Seven-Year Balanced Budget Reconciliation Act of 1995," this year's omnibus balanced budget reconciliation bill. This historic measure will lead to a balanced federal budget within the next seven years, cut taxes for American families and businesses, streamline welfare systems and provide for stronger economic growth. The U.S. Chamber of Commerce—the world's largest business federation, representing 215,000 businesses, 3,000 state and local Chambers of Commerce, 1,200 trade and professional associations, and 73 American Chambers of Commerce abroad—urges you to vote YES on the reconciliation bill.

H.R. 2491 offers us the chance to switch tracks, from the usual tax-and-spend mentality to an emphasis on less government, lower taxes, and increased economic growth. Eliminating the deficit in seven years will lower interest rates, boost savings and investment, increase productivity growth, and lead to more and better jobs and a higher standard of living. The reconciliation bill also takes a courageous step in addressing runaway entitlement spending while ensuring more effective services to those in need.

The tax cuts contained in the reconciliation bill provide incentives for job creation and return some of the taxpayer's earnings to where they rightfully belong—the taxpayers's pocket. As part of a comprehensive balanced budget package, the tax cuts make the process of eliminating the deficit easier on the economy at the same time they make achievement of the goal more likely.

The reconciliation bill before you deserves your support. The business community will be closely following the outcome of this vote, which the U.S. Chamber will count as a key vote in its annual "How They Voted" tabulation. Passage of the reconciliation bill is crucial to re-establishing the historic trust between the government and the governed. The U.S. Chamber membership urges you to vote YES on H.R. 2491.

Sincerely,

R. BRUCE JOSTEN.

BALANCING THE FEDERAL BUDGET—THE NATION'S GREATEST PRIORITY

With all the hoopla over Medicare, Medicaid, welfare reform, and tax cuts it is easy to lose sight of the forest for the trees. Therefore, it is important now to reiterate and reemphasize where we are headed. The single overarching goal of this legislation is to put the economy on a new track by balancing the budget through spending restraint, reducing taxes, and getting the government out of the everyday lives of its citizens. The message is simple: Balance the Budget Now!!!

Why is it so important to balance the budget? Balancing the budget is the single most important act that congress can take to boost savings in this country. This in turn will lead to lower interest rates, higher investment, greater productivity growth, and a higher standard of living. Achieving this balance will also increase our competitiveness in international markets.

In a June 1995 U.S. Chamber survey, more than 96 percent of those responding would like to have the federal budget balanced in seven years

There is no doubt that balancing the budget is a clear winner for the economy—but it is more than an economic issue; it is an issue of generational fairness. Deficits not only burden future generations with higher taxes required to service the debt but also deny future generations the basic right to make their own decisions and choose their own destiny.

While it is true that balancing the budget involves some short-run pain, the long-run cost of failure to balance the budget is the virtual impoverishment of America's future. Unless we make some tough decisions to reduce spending and eliminate the deficit, we will soon find ourselves in a position of bankruptcy, and totally ill-equipped to provide for the retirement needs of the baby-boom generation. Without immediate program changes, by 2012 entitlement spending and interest payments on the debt will consume all tax revenue. If unreformed, Medicare will be insolvent in seven years.

The balanced budget reconciliation package also includes a tax cut for America's households and businesses. By improving the incentives for individuals to work and businesses to create new jobs, the proposed tax cuts will spur economic growth. These beneficial effects not only will mitigate the short-run fiscal drag from the spending restraint but also will generate tax receipts to help offset the revenue loss from the tax cuts themselves.

Eliminating the deficit and balancing the budget is sound public policy. It will benefit individuals of all ages and socio-economics groups, it will encourage savings and investments and foster job growth, and ultimately will place America in a sound financial position to deal with the complexities of its aging population. Failure to do so is simply irresponsible.

BALANCED BUDGET RECONCILIATION BILL—MYTHS VS. FACTS

Myth: Balancing the budget is going to harm the economy.

Fact: The congressional Budget Office has estimated that balancing the budget within five to ten years provides enough time for the economy to adjust without providing undue stress to economic growth. By producing a plan that splits the difference—balancing the budget in seven years—the Republicans place the economy on as gentle a transition path as possible that still preserves the plan's credibility. That's important because a vote of no confidence in the financial markets would send interest rates up, which could unravel the entire plan by slowing the economy and forcing the government to spend more on its debt service.

Myth: The Republicans are slashing programs for the poor and the elderly.

Fact: Actually, total government spending over the next seven years under the Republican plan would continue to grow, averaging 3.0% per year. Social Security spending is slated to rise about 5% per year, and Medicare growth will average 6.4%.

Myth: It's irresponsible to cut taxes at the same time we're trying to balance the federal budget.

Fact: The tax-cut package will help achieve a balanced budget by improving the incentives for Americans to work, save and invest. These activities will generate private-sector growth that will offset the economic drag caused by reduced government spending.

Myth: The Republicans are slashing Medicare.

Fact: The Republican plan for Medicare calls for program expenditures to rise an average of 6.4% per year for the next seven years—more than twice the rate of inflation. Medicare spending over the past five years has grown at the unsustainable average annual rate of 10.4% over the past five years. Critics of the Republican plan usually fail to note that expenditures per beneficiary are projected to climb from $4,800 today to $6,700 by 2002 under the Republican proposal.

Myth: The Republican tax cuts are for the wealthy.

Fact: Most of the tax relief goes to the American family as the child tax credit. Under the Senate Finance Committee tax cut bill, 62 percent of tax reduction is accounted for by the child tax credit, which has income limits (the full amount is available to single filers earning $75,000 or less and to married joint filers earning $110,000 or less). Only about one-sixth of the tax package's $245 billion in tax relief goes for reductions in capital gains tax.

Myth: The cuts in Medicare spending are funding the tax cut.

Fact: These are two separate issues. Tax cuts or not, balanced budget or not—the Medicare trust fund will be bankrupt by 2002, according to the best estimates of the Medicare Trustees (four of the six trustees are Clinton appointees). Action on Medicare is required now. The problem can only truly be solved by addressing the explosive growth of Medicare, which has averaged 10.5 percent per year over the past five years. Moreover, because any changes to Medicare Part A will accrue directly to the Medicare Hospital Insurance Trust Fund, the savings cannot be used to provide for tax cuts.

Myth: President Clinton's plan to balance the budget in ten years offers a preferred path to fiscal balance.

Fact: Actually, the president's path doesn't lead anywhere. According to the CBO, the federal deficits under the Administration's June 1995 proposal remain lodged around the $200 billion level for the next decade. The Administrations rosier underlying economic assumptions play a big role in getting the deficit to zero, but when the CBO figures are used instead, the deficit shows little improvement. CBO's scoring of the Republican plan, on the other hand, shows balance. Which numbers should be used? The president answered this question himself, when in February 1993 he argued that lawmakers should stick to one set of economic assumptions—CBO's—so that "the American people will think we're shooting straight with them."

MEDICARE REFORM—THE RIGHT SOLUTION

Medicare reform is at the crux of the balanced budget battle. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to The Board of Trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustees 1995 Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small-and medium-sized businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Key elements include:

New choices for Medicare beneficiaries. Beneficiaries will have the right to choose traditional Medicare, as well as the right to choose from a range of private health plan options including managed care and medical savings accounts. These options will provide beneficiaries access to expanded benefits—such as prescription drugs, preventative care, vision and hearing care.

Restrained growth in Medicare spending. Increases in Medicare spending are inevitable, given the growing Medicare population and the advance of medical technology. However, controlling the rate at which Medicare spending increases is as important to our nation's future financial health as Medicare itself is to seniors' health care. Introducing competition to Medicare through beneficiary choice of health plans will help control costs and allocate resources more fairly and efficiently than Washington bureaucrats.

Accountability. The Republican plan allows seniors to take responsibility for making their own health care decisions. Instead of relying on a bureaucratic, one-size-fits-all approach, seniors will decide which health plans are best for them. Doctors and hospitals are also held accountable. The bill rewards beneficiaries who report incidences of waste, fraud and abuse, and strengthens penalties for anyone who defrauds Medicare.

By passing this legislation Congress will have taken timely, critical action that will avert the program's bankruptcy and preserve and protect it for current recipients and future generations.

MEDICARE REFORM—MYTHS VS. FACTS

Myth: The House and Senate Republican Medicare reform plans will cut $270 billion from Medicare in order to finance a tax cut for the wealthy.

Fact: The Medicare Trustees' 1995 Annual Report urged Congress to take "prompt and decisive action" to address the solvency of the Medicare Part A (hospital insurance) Trust Fund and the continued growth of Medicare Part B (supplemental medical insurance).

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Under the Republican plan, spending per beneficiary will still increase 40% by 2002 ($4,800 to $6,700).

Tax cuts provided for in the budget resolution were considered and passed independent of Medicare. Whether or not taxes are cut, Medicare will still go broke in 2002.

Myth: It's not fair for Congress to take away benefits from seniors who have faithfully paid into the system.

Fact: The average Medicare beneficiaries receive far more than they put in. The average two-earner couple receives $117,200 more in benefits than it contributes to the program. The average singe-earner couple receives $126,700 more.

By encouraging competition among private health plans based on quality and innovation, the Republican plan may lead to increased benefits.

Myth: The business community is a latecomer to the Medicare debate.

Fact: Medicare's influence is felt throughout the business community—from payroll taxes paid to finance the system to insurance premiums inflated by consistent shortfalls in Medicare reimbursements to providers who in turn shift the cost to private health plans.

Myth: Medicare is in trouble because doctors and hospitals charge too much. The Republican plan fails to address this problem.

Fact: Solving the Medicare crisis will require the participation of all—doctors, hospitals, seniors and other taxpayers—particularly the business community. Just as no one factor led to the Medicare crisis, a single-minded focus on providers won't get us out. Further, cost controls have failed miserably whenever they have been tried—particulary in the context of health care.

WELFARE REFORM—A CALL FOR ACTION

Efforts to reform the nation's welfare system continue to gain momentum and could be included in the budget bill. Other legislation supported by the U.S. Chamber of Commerce has been passed by both the House and Senate. A final compromise will be sent to President Clinton for his signature once differences between the bills are resolved by a House-Senate conference committee.

Overhaul of the welfare program is critical to control spending costs and provide effective, streamlined services to those who truly warrant such assistance. To achieve this end, the bills eliminate the federal guarantee of benefits for all eligible Americans by turning responsibility for welfare programs to the states in the form of block grants. A substantial reduction in federal spending is anticipated—from $65 to $100 billion over seven years. There is much commonality between the House and Senate proposals:

Both bills replace federal welfare programs with lump-sum payments to the states for cash assistance to the poor (AFDC) and child care. (The House bill also includes family nutrition, Supplemental Security Income, and school lunches.) Block grants to the states are capped; no state match is required.

The legislation places a limit of five years on the duration of time that individuals may receive welfare benefits. States have the option of lowering the limit to two years.

States must move half of all welfare recipients into work by either 2003 (House bill) or 2000 (Senate bill). Both bills repeal the JOBS program.

But key differences with respect to illegitimacy, "family caps," and aid to immigrants remain. The House bill prohibits states from providing benefits to women who have additional children while on welfare, teenagers who have babies of out of wedlock, and most non-U.S. citizens. The Senate bill does not contain these prohibitions.

Business has a strong stake in the welfare reform issue. If people are to exit the welfare rolls, they must be prepared and able to find and keep a job. In response, many welfare reformers look to the private sector as the primary source of job creation.

Chamber members understand the need to be centrally involved in the welfare reform debate. In a survey to construct the 1995-1996 National Business Agenda, welfare reform was ranked as the second highest priority (behind unfunded mandates). The June, 1995 "Where I Stand" *Nation's Business* questionnaire on welfare generated 6,319 responses, the fourth-highest return ever.

In November, 1994, the Chamber became the first business organization to adopt policy on welfare reform. The Chamber supports immediate and intensive job placement services for welfare recipients; a time limit on welfare benefits; work requirements; and incentives for businesses to hire welfare recipients. Above all, it is imperative that former welfare recipients possess the knowledge and skills to succeed in the modern workplace.

WELFARE REFORM—MYTHS VS. FACTS

Myth: Business will not hire welfare recipients.

Fact: Private companies will hire welfare recipients, but practical incentives need to be offered. Examples include flexible wage scales, relief from certain labor law requirements, and/or tax incentives. Equally important is ensuring that recipients possess the skills and attitudes to succeed in today's workplace.

Myth: The legislation recklessly endangers the well-being of the poorest children and families.

Fact: America's welfare system eats up billions of dollars of taxpayers' money annually. Without incentives like time limits and work requirements, many persons will continue to make an easy living off welfare. Reliance on public assistance must to an end.

Myth: Moving to a block grant system will cripple state budgets and lead to a "mishmash" of state welfare programs. The federal government needs to maintain authority.

Fact: Block grants deserve strong consideration; they will help maximize state and local flexibility and allow states to design welfare programs that best reflect their public assistance needs. Moreover, block grants will put an end to unfunded mandates and burdensome regulations associated with federal welfare programs.

Myth: Increasing the minimum wage is the only way to ensure that welfare mothers can live on entry-level earnings. Otherwise, the work requirement will never be effective.

Fact: Quite the contrary. An increase in the minimum wage would cost many Americans their jobs and deter employers from hiring welfare recipients. The key to increased job opportunities is an abolishment of the minimum wage and allowing the marketplace to work.

A Congressional Budget Office study has shown that 70 percent of workers who entered the workforce at $5 an hour or less were still employed after one year. Forty-five had received wage increases of 20 percent or more.

Mr. RAMSTAD. Mr. Chairman, I want to express my deep concern about the 4.3 cent per gallon aviation fuel tax which was imposed in the massive 1993 tax increase signed into law by President Clinton.

While I would have preferred a full repeal of this damaging tax, I am pleased the reconciliation bill before the House today includes a provision to extend the current exemption from this tax for 2 years.

But I am deeply concerned the other body has only chosen to extend the exemption for 17 months, and I strongly urge my colleagues on the reconciliation conference committee to support the full 2-year exemption.

Without the certainty of a long exemption, it is impossible for the airline industry to make the long-term decisions needed to keep this critical sector of our economy healthy.

The airline industry is already under an enormous tax burden. Federal taxes imposed on the airlines include a 10 percent excise tax on airline tickets, a 6.25 percent excise tax on cargo shipments, a $6 per passenger international departure tax, special taxes to support customs, immigration, and agricultural inspection services, and a $3 passenger facilitation charge at many major airports. These taxes impose costs of $6.7 billion a year on an industry with total revenues of $64 billion a year.

Mr. Chairman, I urge continued commitment to the 2-year exemption during conference committee consideration of this provision.

Mr. BARCIA. Mr. Chairman, I came here following the 1992 election to do on the Federal level what I have done for my entire time in public service: serve the good people who elected me, make tough choices to secure a sound future, and make tough choices to guarantee a fair treatment for the people I represent. I came here to bring the discipline of a balanced budget, just like the one I followed as a member of the Michigan State Legislature, to Washington.

Since coming here, I have supported the balance budget amendment, and the line-item veto. I have voted for many spending cuts—over $900 billion in my first term.

Today, I find myself facing three choices. First, I can vote for the Republican budget plan which according to a recent New York Times poll only 12 percent of people believe will balance the budget, and which guts Medicare and other programs important to a significant number of people that I represent.

Secondly, I can support the Conservative Coalition proposal which responsibly lessens the impact on Medicare recipients by $100 billion, and which delays tax cuts until the budget is balanced, in line with what 60 percent of Americans believe should be the case.

Thirdly, I can find fault with both proposals, vote for neither, and accept responsibility for perpetuating budget deficits.

Clearly, this last alternative is unacceptable. The first option, slashing spending haphazardly like scissor-fingered Freddie in another "Nightmare on Elm Street" movie, is breaking faith with the many people in my district who believe that while spending should be cut, we should not take assistance away from those least able to absorb those losses. We should not expect seniors who have paid taxes all their lives to pay even more by losing benefits they cannot afford to lose.

As a result, I will vote for the Conservative Coalition proposal. It balances the budget in 7 years. It concentrates in eliminating waste, fraud, and abuse. It doesn't punish seniors like the Republican alternative does. It brings the debate from whether or not we should balance the budget to how do we balance the budget.

I came here to balance the budget. My vote today does just that.

Mr. JOHNSON of South Dakota. Mr. Chairman, we can balance the Federal budget without attacking education, the elderly, veterans and rural America—and for that reason, I must rise to express my strong opposition to H.R. 2491, the Omnibus Budget Reconciliation bill. I must also express my opposition to the parliamentary rules under which this legislation is being considered. Under the rule passed by this House, no amendments to the reconciliation bill will be allowed other than for one alternative which is a better but still flawed bill. In this way, the House is being asked to vote on drastic and unecessary reductions in Medicare and Medicaid, farm programs, education, VA and other vital concerns without any ability to cast a vote up or down on any of these issues.

It is time to get our priorities straight. I've been a strong supporter of a balanced budget amendment and line-item veto as well as for budget spending caps. But this bill raises income taxes on families making less than $30,000 per year, slashes our investment in education, cuts agricultural programs three deeper than is needed to balance the budget, and cuts Medicare three times deeper than is needed to stabilize the Medicare Trust Fund. If that weren't bad enough, this bill spends billions on defense weapon pork the Pentagon doesn't even want, and gives tax breaks that primarily benefit the wealthiest 1 percent of families.

A recent analysis from our Joint Committee on Taxation finds that under H.R. 2491, families making less than $10,000 per year will pay a cumulative $879 million more in taxes, while families making more than $200,000 per year will get a $2.8 billion tax cut. This amounts to a $43 billion tax increase for families making less than $30,000—51 percent of all taxpayers.

It is my hope that this bill is either defeated or vetoed by the President so that we can commence a meaningful bipartisan effort to balance the budget with sane priorities and values. I will continue to support tough choices on the budget, but I will absolutely not be a part of this reverse-Robin Hood budget effort. South Dakotans and the American public deserve better.

Mr. COSTELLO. Mr. Chairman, the process of this reconciliation bill is such that I have not witnessed during my tenure on the Budget Committee. First, over half of the committees did not meet their reconciliation instructions, as directed under the budget resolution, to submit them to the Budget Committee. This has been the most convoluted process since my tenure began on the Budget Committee. At the very least, the mark-up of the budget reconciliation bill should have been postponed until all spending measures were completed and received by the Budget Committee.

While I was disappointed with the process of reporting the budget reconciliation legislation, I also disagree with many parts of this enormous package. This month, the Census Bureau released data for 1994 showing the income-gap between the wealthy and all other

Americans is large and still growing. I am disappointed but not surprised that the Republican leadership's agenda is to reinforce this growing disparity in economic equality. The $245 billion tax cut mostly coming from the $270 cut out of Medicare will benefit primarily wealthy Americans. More than 50 percent of the benefit of the tax cut will go to the less than 3 percent of households with incomes over $200,000. We must get our fiscal house in order before we dismantle critical programs to pay for a tax cut. I fully support a tax cut for American taxpayers; however, such relief should come after we reach a balanced budget. A tax cut that is financed on the backs of he elderly, poor and disabled in our society will not benefit our Nation. It is not good economic practice and it is clearly harmful public policy.

Finally, in addition to my opposition to Medicare and Medicaid cuts, I find it outrageous that this legislation would:

Repeal national nursing home standards which exist through Medicare, which provide patients a basic minimum of safety, care and training in nursing homes;

Repeal the spousal impoverishment provisions of Medicaid, which ensure that spouses of long-term care patients do not become impoverished when the spouse is institutionalized; and

Repeal of a program instituted in 1992 to keep the coal health benefits program solvent. Over 100,000 retired coal miners rely on this fund, which could be jeopardized with repeal of this program.

For these and other reasons, I urge my colleagues to vote no on the Republican reconciliation plan.

Mr. RICHARDSON. Mr. Chairman, this budget reconciliation bill will undermine our commitments to educate our children, provide incentives for hardworking Americans, preserve our environment and most importantly ensure health care for poor children and the elderly.

This bill makes drastic cuts in Medicaid funding.

My State will lose about 30 percent of its Medicaid funding. New Mexico will have $1 billion less to spend on Medicaid over the next 7 years.

Let me remind you that the program we are cutting by $170 billion in this bill provides health care to children and pregnant women, the disabled and elderly in nursing homes.

Let us be clear that voting for this bill means millions of Americans will have no health care—while millionaires will get a tax break.

I have supported and will continue to support balanced, reasonable, reforms in Medicaid—but I cannot support irresponsible cuts to finance a tax cut. I do not support decimating the program that provides a safety net for poor children, pregnant women, the disabled and nursing home patients.

This bill also sacrifices the quality of health care for 40 million elderly who depend on Medicare.

The hospital association in my State has identified 11 hospitals that they believe will close because of the drastic Medicare cuts in this bill.

Nothing, especially a tax cut for the wealthy, is worth sacrificing the health of our children and over 40 million elderly in this country.

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in support of the Republican Balanced Budget Reconciliation bill. I regret that meetings in my office prevented me from being on the floor earlier when Members on the other side of the aisle rose to denounce the agriculture title of this bill.

By passing this Reconciliation bill today, we are dramatically changing the 1930's depression-era-based Federal farm programs.

I believe that farm policy should be based on less government and free market principles; regulatory relief and simplification; aggressive, consistent export strategies; and fiscal responsibility.

The Freedom to Farm bill is the first step in accomplishing these goals.

This legislation provides for more planting flexibility, promotes full production, and allows farmers to manage their own businesses based on economic factors without government intervention.

Earlier this year, almost every political journalist questioned whether the New Republican majority would take a walk when it came to farm programs.

Well, as a part of this new majority, I'm proud that the Freedom to Farm bill meets the budget agreement target. Agriculture will do its fair share to help balance the budget by 2002 and the programs are indeed reformed.

By passing the Freedom to Farm provisions, the Republicans are saying good bye to the past—when Federal farm policies micro-managed farmers; and hello to the future—a future of world markets, and freeing farmers to seize the opportunities to capture these new markets.

I urge the body to support the Reconciliation bill.

Mr. UNDERWOOD. Mr. Chairman, I rise in opposition to H.R. 2491, the Omnibus Budget Reconciliation Act. I have been on record on previous occasions opposing the changes to Federal programs that have an unfair impact on the elderly, students, and the working poor. I share the commitment to fiscal responsibility that other Members have, but I remain unconvinced that this bill is fair burden-sharing.

I also call attention to the provision which would eliminate covenant funding for the Commonwealth of the Northern Mariana Islands [CNMI]. This funding was amended in December 1992 by an agreement negotiated by the Bush administration and the CNMI. To eliminate the funding now, without renegotiating the agreement, is a serious breach of faith with the covenant. The word of the U.S. Government should mean something, and commitments made by a President, whether Republication or Democrat, should be honored by Congress.

During the reconciliation resolution markup in the Committee on Resources, I noted that Congress has other insular issues that demand attention and that require funding. This includes the Rongelap resettlement funding, compact-impact reimbursement for Guam and the Northern Marianas, and the capital infrastructure needs of American Samoa, the Virgin Islands, and other insular territories.

The conference report on the fiscal year 1996 Interior Appropriations (H.R. 1977) offers a compromise solution to these issues. It is a compromise solution that the insular territories can accept, and one that I support. However, this compromise is contingent on continued CNMI covenant funding, and proposes that funds be made available for these other needs while still honoring CNMI covenant commitments. The budget reconciliation provision for the CNMI funding would therefore not only harm the CNMI, but in making the compromise solution unworkable, also harms all the insular territories.

Mr. COLEMAN. Mr. Chairman, I rise in strong opposition to this Republican reconciliation bill. After months of waiting for the majority to reveal its plans to balance the budget and finance a $245 billion tax cut, we finally have them in all its gruesome detail.

This bill does so much. The great majority of it bad. Even with the American people acknowledging that Republican legislative efforts disproportionately benefit upper income families and hurt those with lower incomes, the majority plunges on with cut after cut. There is no abating its destruction of anything that working Americans, the elderly, the children, and the poor hold so dear.

Let us begin with tax cuts. In the face of overwhelming evidence, Republicans refuse to back down from the huge tax cuts they are giving to corporations and wealthy individuals. This includes provisions which reduce taxes on capital gains, repeal the alternative minimum tax on corporations, increase business deductions, and give tax credits to upper income families. The majority of these tax cuts go to the heart of upper income America, as the U.S. Treasury Department has found.

Last week, the majority slashed $270 billion from Medicare which was incorporated into this reconciliation bill. As everyone knows, this cut was unnecessary for the Medicare Program to remain solvent. Its plan makes Medicare solvent only until 2006—exactly the same year as Democratic plans that only cost one-third as much. Why the extra cuts? To pay for a $245 billion tax break for the wealthy.

On the floor of the House, I hear Republican Members state that they were actually spending more per Medicare beneficiary. I heard them say that they were giving seniors more choices. But they never acknowledged the fact that seniors' premiums would increase by about $400. They grudgingly acknowledged that they would be herding our senior citizens into Health Maintenance Organizations [HMO's], thereby limiting choice of doctors.

The bill also guts the Earned Income Tax Credit [EITC]. Republicans have targeted the EITC for $23 billion in cuts. Savings also come from proposals to include Social Security and other retirement income as income for purposes of the EITC phaseout and increasing the EITC phaseout rate.

In the past, the EITC has been supported by both Democrats and Republicans as a program which promotes work over welfare and helps move or keep low-income working families out of poverty. President Reagan in 1986 called the EITC "the best antipoverty, the best pro-family, the best job creation measure to come out of Congress." As recently as this February, the EITC was praised by House majority leader Dick Armey for "rewarding work . . . without destroying jobs." Yet still they decimate this program.

These cuts hit my district particularly hard. The 48,647 families currently claiming the

EITC in my district will face a tax increase of $7.4 million in 1996. Many of these families will no longer be able to qualify for the credit.

This bill also decimates the Medicaid Program. This bill cuts $182 billion from the Federal-State program that provides health insurance for the poor and disabled. H.R. 2491 replaces this important program with a capped block grant. States would receive a fixed amount of money with very few Federal requirements attached.

Texas would be profoundly impacted. My State could lose between $10 billion and $14 billion in Federal Medicaid funds between 1996 and 2002. Such losses will inevitably be passed along to local hospitals, nursing homes, doctors, and, ultimately, local Texas taxpayers.

In welfare reform, the cuts exacerbate the inequities that already exist. Currently, Texas has more than 7 percent of the U.S. population, yet receives less than 3 percent of the total U.S. expenditures on Aid to Families with Dependent Children. Michigan, with roughly half the population of Texas, gets twice as much Federal money for AFDC recipients as does Texas.

This situation would be made even worse under the current block grant proposals contained in this bill—the previously approved welfare reform legislation—H.R. 4. A preliminary analysis shows, for example, that block grant proposals for AFDC would hit Texas harder than any other State costing us $4.3 billion over 5 years. Michigan, at an average AFDC payment of $457 per month, and Wisconsin, at $517 per month, each pay their recipients two-and-a-half times as much as Texas, where the average monthly check is $188.

Yet, those and other high benefit States will receive more money under this bill, not less money—even though they have declining populations and higher per capital incomes.

While cutting welfare for the most needy, this legislation continues welfare for the rich. Under this legislation, companies would be allowed to withdraw excess funds from their pension plans without penalty. Currently, companies are required to fund pension plans at a minimum level but many experts consider this minimum inadequate. The penalty for withdrawal of excess funds protects workers pensions.

By letting companies put pension funding at risk, this bill undermines the security of workers pensions. Ultimately, this puts taxpayers at risk, as it is the taxpayer who gets stuck if pensions are not funded. In addition, this provision gives new opportunities to corporate raiders and takeover artists. Historically, corporate raiders have seen well-funded pension plans as a source of cash with which to finance the cost of a takeover. Congress imposed penalty taxes on these withdrawals not only to protect funds that belong to workers, but also to cut down on corporate takeovers and leveraged buyouts.

In the arena of education, the Republican reconciliation calls for student loan cuts of $10.1 billion over the next 7 years. This will mean fewer loans and fewer banks participating in the program. The student aid cuts follow already devastating cuts to this program. Student loans were cut by $477 million in 1986, $295 million in 1989, $2 billion in 1990, and $4.3 billion in 1993. This program has been cut by more than $7 billion in the past 10 years. And the Republicans want to cut it more.

The bill also terminates the very successful Direct Lending Program. This is the second student-aid program that House Republicans have voted to eliminate in the last 2 months. In addition, this bill also does away with the interest subsidy to college students during the first 6 months after a student leaves school. Eliminating this subsidy will increase students' costs by $3.5 billion, a pretty hefty tax on student borrowing. The provision ignores one of the principal reasons this 6-month grace period was put in the law in the first place: to help reduce potential defaults.

Proving that this bill is the anathema to the working class, the bill eliminates the Davis-Bacon Act and the Service Contract Act. Both these two pieces of law have served to protect workers in the service sector and the construction industries. In my congressional district of El Paso, the Davis-Bacon Act ensures that unscrupulous developers do not undercut wages paid to construction workers. Laws like Davis-Bacon and the Service Contract Act provide a stable foundation for workers in their respective industries. The savings from the repeal of these two laws come directly from the pockets of hard-working Americans.

I will tell you, Mr. Chairman, this bill leaves nothing untouched. Everyone knows about the provision to allow drilling in the Alaska National Wildlife Refuge which should be cause for concern. But do you know that this legislation also includes a hidden-away provision to remove the authorization for the Border Environmental Cooperation Commission? This organization, which was created by the NAFTA to work alongside the North American Development Bank to address environmental problems on both sides of the United States/Mexico border, is being tampered with in this bill. Funding for this agency would have to come from authorizations for other trade functions. Representing a portion of the United States/Mexico border, this affects my area of the country, Mr. Chairman. It makes me wonder if the majority carefully looks at what it is doing.

There are some good parts to this bill, Mr. Chairman. But the good far outweighs the bad. I have previously supported provisions like the $500-per-child tax credit, the elimination of the marriage tax, the raising of the Social Security earnings limit to $30,000, and the repealing of the 1993 tax increase on Social Security benefits.

Yet even with these good elements, the Republicans insist on giving some provisions a bitter edge. For example, people with incomes of up to $200,000 can claim the child tax credit. I submit to you, Mr. Chairman, that these are the last individuals that should be receiving this tax credit. Better that the child tax credit go to working families with two earners struggling to make ends meet. It is my hope that the Senate will reduce this high threshold.

Mr. Chairman, the President has already stated that he will veto this bill and I support him in that endeavor. I believe it is unconscionable to cut health care for the poor, slash student loans, and increase taxes on low income working families, in order to pay for these new tax breaks for the most privileged segments of society. It is my hope that the majority will come back with a budget balancing bill that is fairer and more equitable for the American people. This bill is not, and I cannot support it.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to this far-reaching and destructive measure. This bill is perhaps the greatest transfer of wealth from the poor to the rich this country has ever experienced. This measure is a grab bag of giveaways to narrow special interests at the expense of the vast majority of our citizens, including seniors, middle class and low-income families, students, and the disabled. Among other things, this bill slashes Medicare by $270 billion, it abolishes Medicaid, Aid to Families with Dependent Children [AFDC], and the Department of Commerce, and contains numerous provisions attacking our most important and unspoiled natural resources. Each and every one of these provisions have been included in order to provide $245 billion in tax cuts to the wealthiest Americans and corporations. I urge my colleagues to carefully consider the ramifications of this measure. Indiscriminate cuts of nearly $1 trillion from the Federal budget will have tangible and profound adverse impacts on citizens and our economy in the near future and well beyond the arbitrary deadline of 2002. We can achieve substantial deficit reduction and move toward a balance budget without jeopardizing economic growth, income security and quality of life for tens of millions of Americans. If members consider these ramifications, they will join me in voting no.

While I have concerns about each and every title of this massive package, I will concentrate on several areas which are especially egregious to the people of eastern Connecticut and the Nation. The health care cuts contained in H.R. 2517 are extreme. With only one hearing, the Republicans have proposed a bill which cuts $270 billion from Medicare and $182 from the Medicaid Program. The reductions to these programs, which predominately serve seniors and low-income families with children, represent 50 percent of the total cuts in this bill. This is unfair.

It is ironic that the elimination of Medicaid has been included in the same piece of legislation as the "crown jewel" of the Republicans' Contract With America—a $20,000 tax break for the wealthiest Americans—because the Medicaid provisions break a contract between the government and the American people. This bill removes the Federal Government's guarantee of basic health care and long-term care services for uninsured, elderly, and disabled Americans.

The measure eliminates the current Medicaid Program and replaces it with State-controlled block grants called MediGrants. The bill also relaxes regulations on nursing homes, which currently ensure that patients receive appropriate care. Many of us remember the not-to-distant past when nursing home patients were unnecessarily restrained or heavily sedated against their will. This bill returns us to those dark ages of health care.

Perhaps the most appalling provisions of the bill, as approved by the House Commerce Committee, were two sections that repealed protections in current law regarding the families of nursing home patients. If Newt Gingrich had had his way, he would have permitted the Government to take away the homes of adult children in order to force them to pay for their parents' nursing home care. Mr. Gingrich would also have preferred to require the spouse of a nursing home resident to spend down his or her assets, including the individual's home, before the ill partner could be eligible for Medicaid coverage. Only after the Democrats in Congress exposed these cruel provisions and the public rebelled did the Republicans agree to remove them.

Further, this bill is bad for my State of Connecticut. Under the Republican's plan, Connecticut will lose between $1.6 and $3 billion in funding for Medicaid. Proponents of the legislation may claim that the increased administrative flexibility given to the States under this plan will generate enough savings to ensure that eligibility cuts will not be necessary. That is simply not true. On the contrary, in an independent analysis of the Republicans plan, the Urban Institute concluded that aggressive cost containment strategies employed by the States would not alone produce the savings needed to meet the $182 billion target.

In addition, H.R. 2517 contains provisions of the so-called Medicare Preservation Act which was considered by the House last week. I voted against this shortsighted legislation. While no one would argue that the Medicare program needs reforming to ensure the trust funds remain viable into the next century, there is significant disagreement surrounding the magnitude of cuts necessary to accomplish this goal.

Under the majority's plan, Medicare costs will go up. By the year 2002, the monthly premium will increase from the current $46.10 to $87. In addition, choice of doctors will be limited as a result of the financial incentives hidden in the bill which entice physicians to stop serving traditional Medicare patients.

Further, many provisions of current law designed to protect Medicare beneficiaries will be relaxed. If the Republican bill is enacted, under certain conditions, Medigap policies will be unregulated, insurance companies will be allowed to choose who they want to cover, and doctors will not be limited in the amount they can charge patients over the total amount that Medicare will pay for a procedure.

Title I, the so-called Freedom to Farm Act, fundamentally alters dairy policy in a manner which will be devastating to producers in my State and across the Northeast. While my mother, father, and brother continue to make their living on the family dairy farm, I raise these concerns on behalf of hundreds of dairy farmers across the second district. Under current law, 34 milk marketing orders, covering 99 percent of grade A milk produced in this country, help to guarantee farmers receive a minimum price for their product. The order system ensures efficient market operation and is administered at no cost to the Federal Government. No one in this body would argue the order system is perfect or without its detractors, but it has been reasonably successful in stabilizing markets for farmers and consumers.

Under this bill, marketing orders will be abolished on July 1, 1996. This will send the dairy industry into chaos, possibly disrupt supplies and drive down producer income. As most of my colleagues know, dairy farmers are not wealthy and struggle each and every year to make ends meet. Orders ensure that all farmers, regardless of whether their farm happens to be 10 or 100 miles from Boston, receive the same basic price for their product. Orders guarantee farmers with high production costs can compete with those who have easy access to feed and grain and are not faced with high tax burdens shouldered by most of my constituents. Certain producers in the upper Midwest argue the order system provides farmers in the Northeast and Southeast with unfairly high prices for their product. While the blend price in New England is higher than in the upper Midwest, the mailbox price, the price farmers actually receive when all expenses are deducted, was lower in New England in the first 3 months of this year than in virtually any other region of the Nation. While farmers in my area received a mailbox price of $11.89 per hundred weight, producers in the upper Midwest received $12.26.

Mr. Chairman, States will not be able to step in and replace Federal orders. As most economists will agree, markets do not respect political boundaries. Moreover, milksheds, which supply markets, often cover multiple States and are usually not served by single co-op. Moreover, orders are even more important in light of the fact that this bill eliminates price supports for milk at the end of this year. Interestingly, the bill maintains high price supports for peanuts and sugar. Economists familiar with the dairy industry have documented the interaction between price supports and Federal orders. Neither is sufficient to guarantee producers a fair return for their product, but together they help to ensure equitable prices are distributed to all producers.

Milk marketing orders represent a voluntary system, supported by producers and handlers, and financed by the industry which benefit farmers and consumers alike. By eliminating orders, this bill guarantees that farmers in my State will see their income reduced by nearly $7 million in 1996. This cut will be devastating to the rural economy as it will reverberate from producers to haulers, suppliers, and processors.

Title 9, written by Republicans on the Resources Committee, is among the most egregious. As ranking member GEORGE MILLER described during markup on September 19, this title represents an early Christmas present for miners, loggers, ranchers, multinational oil and gas interests, subsidized irrigators, and major concession operators. The American people won't find any presents under the tree, but plenty of coal in their stockings. This package affects virtually every aspect of our natural resource policy and benefits narrow special interest at the expense of the American people who own these resources and hope to enjoy their recreational, aesthetic, and economic benefits.

In spite of the fact that we import about 50 percent of our oil, title 9 contains the text of legislation passed earlier this year lifting the ban on exporting oil from Alaska. It makes absolutely no sense to me to lift the ban when we are unable to meet more than one-half of our energy needs. I wouldn't be surprised to see reports in a year or two about how Americans are buying oil from Japan which ultimately came from Prudhoe Bay.

In devastating attack on one of our Nation's most pristine and productive wildlife areas, the bill opens the coastal plain of the Arctic National Wildlife Refuge [ANWR] to oil and gas exploration. As many Members know, the coastal plain has been protected in one form or another since 1960 and serves as the primary calving ground for 160,000 caribou and provides vital habitat for polar bears, musk oxen, and snow geese. This measure forces the Secretary of Interior to begin leasing tracts in ANWR within 12 months of enactment. While the coastal plain encompasses 1.5 million acres, the Secretary is barred from setting aside more than 30,000 acres—merely 2 percent of the total area—to protect important habitat. Virtually every environmental law is suspended and public comment is sharply curtailed. In fact, the bill deems an outdated environmental impact statement [EIS] prepared by the Reagan administration "to be adequate and legally sufficient for all actions authorized pursuant to this section, including all phases of oil and gas leasing, exploration, development, production, transportation, and related activities." This language is so sweeping that it insulates every action from the first lease sale to transportation of oil to tankers from environmental review and any mitigation measures not mentioned in the EIS. This provision is even more alarming because the Fish and Wildlife Service [FWS] recently updated the EIS and determined oil and gas exploration will have serious negative effects on caribou and other wildlife species, water quality and the arctic environment in general.

While the environmental consequences of this provision are devastating, the financial provisions should also cause Members concern because they are built like a house of cards. The bill assumes oil and gas leasing will generate $1.3 billion in revenue over 7 years. This figure is based on the Government receiving 50 percent of all lease and royalty income. However, the Alaska Statehood Act guarantees the State 90 percent of all revenue from oil and gas activities. The committee leadership was well aware of the 90 to 10 split when it crafted this provision. The State has made it clear it will go to court to enforce the split set forth in the Statehood Act. If the State is successful, the American people will receive only $260 million for opening this national treasure to the oil barons.

This title includes numerous provisions for special interests which threaten environment and fail to generate any appreciable revenue. It bars the Secretary of Interior from implementing reasonable grazing reform designed to protect sensitive environmental areas and ensure the American people receive a fair return on the use of their resources. In its place, it includes language which virtually guarantees Federal grazing fees will not increase and is completely devoid of any environmental standards.

It incorporates sham mining reform which gives taxpayers the "shaft." Overwhelming majorities of this body have voted repeatedly to eliminate patenting. In fact, the conference report on the Interior appropriations bill was recently sent back to committee because it failed to include a moratorium on patenting. While proponents of this bill will tell you patenting has been reformed by requiring miners to pay "fair market value," they fail to inform Members this term is based on the value of the surface estate and specifically excludes consideration of the minerals below. Desert land in the middle of nowhere isn't worth much more than $5 per acre if one fails to consider the gold, silver, and platinum which lies below the surface. Proponents will tell Members their approach includes a Royalty which will generate revenue for the taxpayers. They fail to mention there are 13 deductions, including the cost of insurance for employees and environmental compliance, which can be taken before the royalty is assessed. The CBO determined this royalty would not generate any revenue for the Federal Government. Once again, the taxpayers take a hit while miners get a great deal.

In one small victory for the American people, Budget Chairman KASICH stripped the text of H.R. 260, which is designed to close national parks, monuments, and recreation areas, from this package. I worked very closely with the gentleman from New Mexico, Mr. RICHARDSON, and the gentlemen from New Jersey, Mr. PALLONE, to remove this ill-conceived measure from the bill. As many of my colleagues know, the House defeated H.R. 260 by a vote 180 to 231 on September 19. However, about 6 hours later, several Republican members on the Resources Committee offered it as an amendment to the reconciliation bill. This was a blatant attack on the will of the majority and could not be allowed to stand. I believe Chairman KASICH's action demonstrates majority rule is still the most important rule of the House.

In perhaps the most blatant example of legislative "trophy hunting," title 17 abolishes the Department of Commerce by September 30, 1996. In an attempt to score cheap political points, the majority is eliminating the only Department which is aggressively working to open foreign markets, create new business opportunities at home, and prepare our economy for the challenges of the 21st century. This action is completely contrary to the national interest because it threatens the competitive position of this country. If this title is enacted into law, the United States will be the only developed country in the world without a cabinet-level agency responsible for trade promotion and development. Once again, extremists in the Republican Party are putting the narrow interest of some freshman Members ahead of the interests of the American people.

This title abolishes the Economic Development Administration, U.S. Travel and Tourism Administration [USTTA], International Trade Administration, and many other smaller, but worthwhile, programs. Many of the proposed terminations and transfers make no sense from a policy process or fiscal perspective. The EDA assists thousands of communities nationwide in developing infrastructure necessary to support economic growth and job creation. While combining the trade promotion functions of Commerce with the trade enforcement functions of the U.S. Trade Representative may appear to make sense, in fact, proponents of this approach are forcing the Trade Representative to carry out functions which are inherently at odds. Eliminating the USTTA is among the most shortsighted provisions of this bill. Tourism is our largest service export and generated a trade surplus of $21.6 billion in 1994. Travel and tourism is America's second largest employer, providing 14.3 million direct and indirect jobs. In addition, it generated $417 billion in sales last year. While governments of other nations around the world are aggressively promoting tourism, this provision undermines of competitive position in the global market place.

Moreover, this title guts the National Oceanic and Atmospheric Administration [NOAA] by terminating many nationally significant programs and scattering remaining NOAA functions across the Federal Government. Under these provisions, research of vital importance to our coastal communities, fishermen and every American will be eliminated or sharply curtailed. Cuts in NOAA will hinder our efforts to rebuild fisheries in New England, the Pacific Northwest, and the Gulf of Mexico, assess the implications of global warming on coastal communities and curb pollution of the marine environment.

I am also terribly concerned about the vicious attacks on Federal employees in this legislation. The bill raises employee contributions to their retirement systems and delays cost-of-living adjustments. The Government promised Federal workers adequate health and retirement benefits when they chose to enter the civil service. Federal employees have upheld their end of the contract by serving their country. It's wrong for the Government to now suddenly change the terms of the agreement in order to pay for tax cuts for the wealthy.

Republicans say they can save $10 billion from student loan programs. Cutting out programs and raising interest rates may look good on paper, but the real effects on American families will be very different.

Changes in student financial aid programs will be devastating to middle-class Americans trying to send their children to college. It is an outrage that the Direct Loan Program is being legislated out of existence just when hundreds of additional schools were ready to help ease the bureaucratic nightmare for students and their parents. The real beneficiary of direct loan's demise is not the American people, but the banking industry that was beginning to feel some competition.

The elimination of the grace period will not result in the savings projected by the Republicans. After graduation, it often takes at least 6 months to find a permanent position. Without the grace period, many students will start out unable to begin repaying their loans. As the unpaid debt continues to accumulate, the likelihood of default increases.

Limiting the PLUS Loan Program to a fixed amount per child will force many parents to take out loans from other sources. Many will have to resort to home equity loans at very high interest rates. Families with several children may be burdened beyond the breaking point, leaving huge debts and no means to provide for younger children. Under the current program, parents could be confident that, even if other forms of aid were unavailable, PLUS loans would enable their children could go to college.

Finally, the "crown jewel" of the bill—$245 billion in tax cuts—is a windfall for the rich and large corporations. The wealthiest 1 percent of our citizens, those making more than $350,000 per year, will see their taxes reduced by more than $14,000 per year. At the same time, 70 percent of the American people will see their taxes go up or stay the same. Perhaps the greatest injustice is visited on those people at the bottom of the economic latter, the working poor who are struggling to do the "right" thing by working to support themselves and their families, will see their taxes increase due to massive reductions in the earned income tax credit. The 150 page tax section of this bill reads like a wish list for corporate America: 50 percent capital gains reduction, 25 percent corporate alternative tax for capital gains, and repeal of corporate alternative minimum tax. These provisions are "Robin Hood" in reverse—they take from the poor and give to the rich.

Mr. Chairman, this package sets the wrong direction for this country. It fails to invest in our future, it jeopardizes the health of millions of senior and low-income Americans, and it provides unnecessary tax breaks to the wealthiest among us at the expense of the least fortunate. Moreover, many of its revenue assumptions are based on rosy scenarios or simple delusions which will never materialize. As a result, the American people will be left with the fallout of failed policies as well as empty pockets. Republicans are hurtling along this devastating course because they signed a contract with themselves to achieve certain arbitrary goals and deadlines set forth in an election year stunt. Rather than admitting that election year rhetoric should not be the basis for our economic and social policy into the next century, Members of the majority are repeating over and over "the contract says, the contract says." I urge may colleagues to consider the unprecedented effects of this measure and defeat it.

Mr. RUSH. Mr. Chairman, I rise today to address the most egregious assault on the American people by the Republican majority to date. It comes in the form of the budget reconciliation package. We have seen the missiles fired throughout the year. Medicaid has been cut by $182 billion. Medicare has been cut by $270 million. Ironically, the Republicans have proposed a tax cut for the wealthiest Americans at a cost of $245 billion. Now that the enemy has pillaged these areas, they now seek to launch an all out offensive on any and all areas that serve the needs of American people.

The great injustices of history have been committed in the name of unchecked and unbridled majority rule. The Framers of the Constitution warned us about the tyranny of the majority. Their fears have become reality. This bill is tyranny in the truest sense. Programs which assist people in achieving some of the goals we relish as a society are under attack. Affordable housing programs within the RTC and FDIC have been terminated. Student loans have been cut by $10 billion. As the Republicans march along to achieve their ultimate victory—a tax cut for the wealthiest of Americans—the safety net for the rest of America is being pulled from under them. The earned income tax credit, which helps the poorest of Americans will be reduced by 18 percent. Keep in mind, that individuals who receive EITC have an average salary of

$11,000. The Republican majority has turned its back on the people who chose them to represent their best interests. This measure is tantamount to thievery—the theft of the sanctity of the American people.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2491, the 7-year balanced budget reconciliation act of 1995. The Republican championed budget, H.R. 2491, is firm evidence that there is no end to their attack on the weakest in our society—children and seniors. There is no question that they and their families will be worse off under the Republican budget. H.R. 2491 is just one in the series of—Republican escalating assault, after assault, on the children and seniors of this Nation, and is consistent with the majority's sentiment that the American peoples' knees would buckle once they knew what cuts the Republicans would make.

H.R. 2491 takes away families' hope, takes away their opportunity for a better life, and takes away their ability to achieve the American dream. In return, the Republican measure burdens them with endless suffering, pain, and despair. What an astronomical price the American people are being forced to pay just to give a tax break to the rich. Keep in mind that this price tag has been levied on the American people by a self-proclaimed family friendly—promises made promises kept touted—Republican majority Congress.

Let's be up front with the American people. Tell them exactly what H.R. 2491 is taking away from them, their parents, their children, and their family. The hardship that is buried in the nearly 1,600 page coldhearted Republican championed budget, H.R. 2491, is one nightmare that should never see the light of day.

In addition to dismantling Medicare, gutting it by $270 billion, doubling seniors health care premiums, forcing seniors to give up their personal physician, and denying seniors nursing home care and nursing home protection, the Republicans' budget repeals Medicaid and guts the program by $182 billion. The guaranteed coverage for basic health and long-term health care for 36 million poor children, poor pregnant women and infants, and seniors is taken away. Coverage for elderly with Alzheimer's; and coverage for women with breast cancer is taken away. Where can they turn for health care services when under the Republicans' Medicaid Block Grant the States are permitted to deny and ration coverage by geographical area or political subdivision, and the safety net is shattered?

The Republican budget destroys children's opportunity for a good education and restricts their academic achievement. H.R. 2491 takes away Head Start from 180,000 disadvantaged children; takes away basic assistance in reading and math from over 1 million disadvantaged children; deprives over 32 million students the safety of a drug-free and violence-free classroom; denies summer jobs to over 600,000 students each year; and saddles college students and their families with higher college loans.

The Republican budget jeopardizes the health of millions of children. H.R. 2491 takes away health care for over 4 million needy and disabled children; threatens hundreds of thousands of children's receipt of critical immunizations by repealing the vaccines for children program; threatens the availability of school lunches and other nutritious meals for 32 million hungry children; takes away vital prenatal infant mortality prevention services from 1 million women; and exposes children to hazardous waste, toxic air, lead poisoning, contaminated drinking water, and unsafe housing.

The Republican budget erodes the quality of life for millions of families. H.R. 2491 drastically reduces the earned income tax credit for 17 million low income working families; increase taxes for families with two or more children by an average of $483; forces over 2 million families to go hungry by taking away their food stamps; takes away heating assistance from 6 million children and their families; reduces dislocated worker assistance and employment training; denies families with disabled children the assistance they desperately need; denies housing assistance to hundreds of thousands of needy hard working families; and places millions of hard working families at risk for homelessness and domestic abuse.

The Republican budget weakens the Nation's economy. The abolishment of the U.S. Department of Commerce jeopardizes the Nation's effectiveness in the world trade market, reduces jobs and venture opportunities, and drastically reduces minority business development opportunities.

Mr. Chairman, is there no end to the Republicans' attack on the most vulnerable in our society? What could poor little innocent children, frail and weak seniors, and hard working families have done to warrant the Republicans' coldhearted attack? How much more will the Republicans take away from children and seniors in order to pay for a tax break for the wealthy? Let's stand up for the needs of those who cannot defend themselves, and for those who entrust us with their future—the children, seniors, and hard working families. I strongly urge my colleagues to join with me in voting against the Republicans' callous assault. Vote no to H.R. 2491.

Mr. HAMILTON. Mr. Chairman, I am deeply concerned about the process the House has followed in considering the Omnibus Reconciliation bill. Those concerns are outlined in my statement before the Committee on Rules on this bill.

I believe that this process represents an unprecedented attach on this institution. I hope my colleagues will keep in mind the concerns outlined in my statement during consideration of this bill.

STATEMENT OF THE HON. LEE H. HAMILTON BEFORE THE COMMITTEE ON RULES ON H.R. 2517, THE OMNIBUS RECONCILIATION BILL

Mr. Chairman, Mr. Moakley, and other members of the Committee on Rules, I appreciate the opportunity to appear before you on H.R. 2517, the omnibus reconciliation package.

I am here today because I am troubled by the pattern of abuse of the legislative process that has been developing during this Congress. This bill exemplifies that abuse.

Now I know that reconciliation bills under Democratic majorities were not pure. Problems with the process have been growing over the years, given that the original reconciliation bill dealt with $8 billion, and today we cannot even estimate the total sums both "reconciled" and authorized in this package.

This reconciliation bill enters a new universe in its breadth, the sheer number and complexity of proposals, and the extent to which committees of jurisdiction—and thus, all Members of the minority—were shut out of developing this package.

The reconciliation package contains three large items and several smaller provisions that fall within the jurisdiction of the International Relations Committee.

First, H.R. 2517 contains a major legislative proposal dramatically changing the configuration of the Commerce Department. The Committee has jurisdiction over international trade issues, so the dismantlement of the Commerce Department causes great concern. The Committee never considered the measure.

Second, this bill "deems" enacted the entire foreign affairs agencies' reorganization bill. Action has not yet been completed in the Senate.

Third, the bill contains the text of H.R. 927, the Cuban Liberty and Democratic Solidarity Act, approved by the House last month. This bill was altered substantially by the Senate, and should be scheduled for conference.

The purpose of a reconciliation bill is to bring direct spending in line with the targets set by the budget resolution. Among the many problems with this bill, these items in the jurisdiction of the International Relations Committee have nothing to do with budget reconciliation. These items will cost money.

Quite simply, this is the wrong way for the House to go about its business.

PROBLEMS WITH THE PROCESS

(1) This process places enormous power in the Leadership, who will consult only with those persons and groups they want to include.

The Committee is bypassed, an entire House of the Congress is bypassed. All decisionmaking about the issues occurs behind closed doors in a group formed by the leaders of the majority. Final decisions are made by the Speaker. You have created a largely secret system.

This is a system which *reduces* accountability. It is an entirely closed process. The average American has no way of learning which Members are involved, which special interest groups are consulted or locked out, and what positions Members have taken on a proposal until it is too late and the House has voted.

Many members of both parties with significant expertise were simply not welcome to contribute to the process.

(2) This process bypasses and undermines the entire committee system.

When the Chairman decides to waive consideration of bills that are central to the committee's jurisdiction, most Members—including, all Members of the minority—are shut out. The Commerce proposal is a case in point. Our Committee had *no* role in developing that proposal. We held no hearings on this proposal, there was no debate, we had no markup, no amendments were permitted, we did not vote. We defaulted on our responsibilities.

The Committee is also stripped of its responsibilities when items that is has considered and moved through the House are included in the reconciliation package. Moving the Committee's foreign affairs reorganization bill or the Cuba bill through the reconciliation bill removes the Committee from meaningful participation in a conference. It puts these major foreign policy bills into a conference with a mix of 1000 other domestic items. The substance of these bills will not likely be discussed in a reconciliation conference.

In the last Congress, Republicans and Democrats working on congressional reform talked about streamlining, modernizing, rationalizing, and enhancing the committee system. Congressman Dreier and I worked many long hours on these issues. But we did not talk about what has come to be in this Congress: bypassing committees on major policy issues.

(3) This process produces a monster bill.

This bill is simply overwhelming. What we have before us—all 1754 pages—is not really the entire bill. It does not yet include the Medicare package. There are several other bills that are hundreds of pages themselves—such as H.R. 1561 and the welfare reform package—that this bill incorporates by reference.

This reconciliation package will include that majority votes in committees rejected. The "Freedom to Farm" bill, for example.

It includes bills the bulk of which the House has rejected, such as the mining patents and national park concessions proposals.

It includes bills such as the Cuba bill, that have passed the House and Senate in very different forms. There is every reason to send this bill to conference under regular process.

It includes bills—for instance, the Commerce proposal—created by a task force made up only of Members of the majority party, *after* committees have reported out different measures and some committees—such as the International Relations Committee—were apparently instructed by the Leadership not to act at all.

(4) This process will include a tightly constrained rule.

Reconciliation bills traditionally impose severe constraints on time for debate and the opportunity to amend. You will undoubtedly prescribe a restrictive rule, a rule designed to keep the package intact.

The Senate accords only 20 hours of debate (12 minutes per Member) on the bill. In this bill, that means just over one minute per page.

We have had only a few days to digest this enormous bill. And the contents of the bill we take up on the floor are anyone's guess—I expect your rule will include significant "self-executing" changes.

We will probably know even less about the contents of the reconciliation conference report before we must vote on it.

(5) This process is not defensible because the ends do not justify the means.

I understand that the current Leadership has a very different view of the committee system. If the Leadership is driven only by outcome then process is irrelevant. Having the votes at the end of the day is all that matters.

I believe that the essence of democracy is process, and that the end does not justify the means, the means is as important as the end.

That means a process that guarantees that all Members will have an opportunity to be heard, even if they do not have the chance to prevail.

It means a process that allows every Member to offer amendments and to vote, and every constituent to track how their representative has voted as a bill winds it way from committee, to the floor, to conference, and to the President.

It means a process that allows those who have spent time developing expertise in a particular area to have a seat at the negotiating table.

Eliminating consideration by committees, by one House, silencing voices, reducing the number of people at the negotiating table may get bills through the House faster. You may get bills out of conference more quickly. But in the end we will not get better laws. And we will erode the foundations of this institution.

CONCLUSION

We are subverting the entire legislative process here, decision by decision. We are taking bills to the Floor that have not been written or even considered by the committees of jurisdiction and expertise.

Protecting the committee system in this House should not be a partisan issue. Safeguarding the legislative process is not partisan.

For these reasons, I urge you to support Mr. HALL's efforts to strip the foreign affairs reorganization provisions from H.R. 2517. I would also support any efforts to strip the Commerce and Cuba provisions from this bill.

And I ask that you think very seriously about the entire way you're planning to move this reconciliation package. Subverting the legislative process does a grave disservice to this body, and to the American people.

Mr. TOWNS. Mr. Chairman, make no mistake about the measure before us today. It is a major setback for nursing home care in this country. In my district alone, cuts in Medicaid will result in a $32 million loss to just Cobble Hill Nursing Home, and that figure is just for one nursing home.

Not only are the cuts devastating to nursing homes, the elimination of minimum care standards add insult to injury. These standards were passed in 1987 precisely because of widespread abuse, neglect and indecent conditions in the Nation's nursing homes. Under this bill, all these protections are wiped out:

Gone are the curbs on misuse of physical restraints and abuse of drugs;

Gone is the requirement for round-the-clock licensed nursing services;

Gone is the prohibition against evicting patients on financial reasons. Patients now will be subject to eviction or transfer from nursing homes after their private funds have been depleted and before Medicaid assumes payment.

And finally, this bill contains no guarantee of healthy, appropriate meals.

There is not question that nursing home care will return to the dark ages. Mr. Chairman, if we can not protect "those who are the least of these," like nursing home residents, then who can we protect?

Mr. RICHARDSON. Mr Chairman, this budget reconciliation bill will undermine our commitments to educate our children, provide incentives for hardworking Americans, preserve our environment, and most importantly ensure health care for poor children and the elderly.

This bill makes drastic cuts in Medicaid funding.

My State will lose about 30 percent of its Medicaid funding. New Mexico will have $1 billion less to spend on Medicaid over the next 7 years.

Let me remind you that the program we are cutting by $170 billion in this bill provides health care to children and pregnant women, the disabled and elderly in nursing homes.

Let us be clear that voting for this bill means millions of Americans will have no health care—while millionaires will get a tax break.

I have supported and will continue to support balanced, reasonable, reforms in Medicaid—but I cannot support irresponsible cuts to finance a tax cut. I do not support decimating the program that provides a safety net for poor children, pregnant women, the disabled, and nursing home patients.

This bill also sacrifices the quality of health care for 40 million elderly who depend on Medicare.

The hospital association in my State has identified 11 hospitals that they believe will close because of the drastic Medicare cuts in this bill.

Nothing, especially at tax cut for wealthy, is worth sacrificing the health of our children and over 40 million elderly in this country.

Mr. BILBRAY. Mr. Chairman, as county supervisor in 1994, I asked the Clinton administration to declare a Federal emergency over illegal immigration in San Diego County.

That year my county reduced its contract with UCSD Medical center to provide emergency services to indigent patients by 50 percent or a total of $5 million.

The Board of Supervisors implemented this reduction based on estimates that half of the indigent patients receiving emergency care at UCSD were illegal immigrants, and that these costs should not be the burden of local government.

President Clinton, who denied my request to declare a state of emergency in 1994, is now threatening to veto our balanced budget package.

He should think long and hard about denying hospitals funds to ensure that they can keep providing services to our most vulnerable citizens.

His veto threat particularly jeopardizes California hospitals keeping their emergency room doors open to everyone.

President Clinton allocated only $150 million in his budget to States nationwide for health care for illegal immigrants.

The 7 year Balanced Budget Reconciliation Act, contains funding to reimburse hospitals for health care which they are required to provide to illegal immigrants.

An approximately $3 billion trust fund will be made available to States most severely impacted by illegal immigration; California will receive the largest share since it has the highest population of illegals in the Nation.

What we have created is a pot of money to pay hospitals for the services the Federal Government requires them to provide.

It is unprecedented. Previously, the State and local governments and hospitals have borne the responsibility for the Federal Government's failure to secure our borders.

Now, for the first time, hospitals will send the bill for illegal immigrants health care where it rightfully belongs: to Washington, DC.

What we have seen in California is a direct consequence of the Federal Government's failure to secure our borders.

Our ability to provide health care to our poor and disabled citizens is being jeopardized by the increasing costs of providing health care to illegal aliens.

I would point to Los Angeles County health care system's near collapse as an example of the strain providing care to illegal immigrants places on emergency rooms already stretched beyond their resources.

An estimated 96,000 babies will be born to undocumented women covered by Medi-Cal, California's Medicaid program, at a cost of $230 million in medical bills this year.

Because hospital workers are prohibited by law from asking a patient's immigration status, these costs are absorbed and paid for out of other parts of the hospital's budget.

An increasing share of these dollars must cover the costs of California's large, and growing, illegal immigration population.

The trust fund we are creating today represents the first time that Congress accepts that providing emergency health care services to illegal immigrants is a Federal responsibility, not a State responsibility.

Past Congresses have failed in this regard.

Today, we take the first step toward addressing this problem. I look forward to working with Speaker GINGRICH and Senator DOLE as we toward reconciling the differences between the House and Senate budget bills and allocating California, and other States, their fair share of these funds.

[From the Blade-Citizen, La Costa, CA, Aug. 26, 1994]

WILSON, BILBRAY ASK CLINTON FOR DECLARATION

(By Michael J. Williams)

SAN DIEGO.—First District Supervisor Brian Bilbray, with the support of Gov. Pete Wilson, on Thursday called for President Clinton to declare a federal emergency over illegal immigration in San Diego County.

The demand, made at a press conference at the UCSD Medical Center, comes in the midst of publicity surrounding a wave of Cuban immigrants to Florida.

The flood of immigrants inspired Florida Gov. Lawton Chiles to declare a state of emergency and mobilize National Guard troops in his state.

But illegal immigration into San Diego County is as chronically heavy as Florida influxes like the Mariel boat lift in 1980, said Bilbray, the Republican candidate for the 49th Congressional District.

According to Bilbray, the influx of Cubans and Haitians to Florida's shores pales compared to the wave of immigrants crossing the international border into San Diego County.

"There are 500 people a day coming into Florida, the governor declared an emergency and the president responded," Bilbray said in an interview following the press conference. "We've got three times that number every night. If you're going to hold the line in Miami, doggone it, we're part of the country too."

In the press conference, Bilbray announced that he intends to ask his colleagues on the Board of Supervisors on Sept. 20 to adopt a resolution declaring a state of emergency.

The resolution also asks the governor to seek federal interdiction of illegal immigrants at the border and reiterates a demand of reimbursement to the state and county for the cost of providing services to illegal immigrants.

"The president said that the days of ignoring this problem are over with," Bilbray said. "He's doing it in Miami, and he ought to be doing it in California. We have the just right to make sure our resources are being used to stop illegal aliens and drugs from crossing the border here."

Wilson, who is campaigning to keep his gubernatorial seat, stated his support for the resolution, which echoes demands he made of the federal government earlier this year.

Immigrant rights advocates have decried the demands as campaign tactics and disputed the claims that immigrants are costing the state billions of dollars in health and social services.

[From the Blade-Citizen, North County, CA, Sep. 24, 1994]

BILBRAY PRESSES ONWARD

WANTS AGGRESSIVE APPROACH TO HALTING ILLEGAL IMMIGRATION

(By Michael J. Williams)

SAN DIEGO.—Despite a rebuff from the Clinton administration, county Supervisor Brian Bilbray said Friday he will continue demanding a declaration of emergency over illegal immigration here.

Bilbray said it was hypocritical for the Federal Government to reject the county Board of Supervisors' demand, while honoring a similar demand made recently by Florida Gov. Lawton Chiles in response to the flight of Cubans to his State. The government used the Navy, Coast Guard and other agencies to stop Cubans trying to sail to Florida on rafts.

"We're supposed to be grateful for what they did in Florida?" Bilbray asked. "We deserve the same attention that they have given down there. We may be 3,000 miles away, but we're citizens too. It's like rubbing salt in the wound to those of us who have to live with the illegal-immigration problems."

After county supervisors approved their resolution with the support of Gov. Pete Wilson, Attorney General Janet Reno responded Wednesday with a letter to the governor rejecting the county's plea.

Reno said the Clinton administration has already taken steps to address the county's and state's problems with illegal immigration through Operation Gatekeeper, a plan she announced last weeekend.

Under that plan, the federal government would allocate hundreds of additional Border Patrol agents to the Southwestern borders, place high-powered lights at the border, install a fingerprinting system to detect illegals, launch a crackdown on immigrant smugglers and add 110 new inspectors at border entry ports.

Additionally, Reno announced the state will be reimbursed for $130 million in immigration costs.

"I don't argue that they're starting to move in the right direction," said Bilbray, who is running for Congress in the South Bay. "What I argue is that they're approaching this with a double standard—they're using a slow, methodical approach to the border here, when they used an aggressive, dynamic approach in Florida. We have three times the amount of illegal immigration that Florida has."

Reno also suggested the county can receive federal emergency immigration funding without a formally recognized declaration of emergency.

Though the county has without success sent a $64 million bill to the White House for the estimated cost of providing services to illegal immigrants, there has been no response to date, said Assistant Auditor and Controller William Kelly.

Reno said in her letter that neither the state nor the county has applied for the funds through her office, which is authorized to distribute them. Kelly said he is preparing to send out a new bill, this time directly to Reno.

Meanwhile, the county's declaration has fueled indignation from the Mexican foreign ministry.

The ministry sent a letter Wednesday to Bilbray stating that the county's tactic will damage relations between the two countries and undermine the campaign against racism and xenophobia in California.

Bilbray said he was surprised and shocked by the response.

CASE STUDIES

In October 1994, a 19-year-old male was crossing the border to visit his children, who live with their mother in San Diego. Witnesses state he was hit by a border patrol vehicle, but the Border Patrol denies responsibility. The man has been in a coma at UCSD Medical Center ever since. He has been denied Medi-Cal because he is not a resident. His family in Mexico has retained an attorney and refuses to allow transfer of the patient to a facility in Mexico. They are suing the Border Patrol. As we have pursued legal authorization to transfer the patient, we have provided over $400,000 in care for which there is no funding.

A patient of unknown age was struck by an automobile and admitted in October 1994. No liability was acknowledged by the driver, and the patient has a closed head injury and cannot provide information about herself. It appears that the individual was homeless and living in an encampment. The patient was referred to the Medi-Cal program, and the case approved at the end of February for long-term care only. Since the patient was unable to validate residence to obtain Medi-Cal coverage for hospital charges incurred up until her discharge in March, there is not funding for hospital charges of over $345,000.

An undocumented immigrant who is a 27-year-old quadriplegic with a tracheal tube was granted legal status as Prucol (Patient Residing Under Cover of Law) so that the patient could be cared for in a Skilled Nursing Facility (SNF) and receive Medi-Cal benefits. At some point, the benefits granted under Prucol status were reduced so that while SNF and inpatient hospitalization would be covered, physician services would not. The SNF which had been providing care transferred to the patient to USCD Medical Center, and now refuses to take the patient back because of the curtailment of Medi-Cal to cover the physician fees. The patient remains at UCSD while we investigate alternatives. So far, charges total $215,180.

A 24-year-old Ethiopian with a large facial mass arrived in the United States with a valid passport, supposedly after making arrangements with a local physician for treatment prior to leaving Ethiopia. Somehow, the contact with the community physician was never made, and the patient was admitted to UCSD with complications arising from the tumor. UCSD has treated the patient and is facilitating ongoing care with the City of Hope. There is no funding for charges of $62,141.

UCSD MEDICAL CENTER

ILLEGAL IMMIGRANTS: AN UNFUNDED MANDATE

The issue of undocumented immigrants using publicly funded services has become a subject of intense public and political debate. The problem was brought into focus during the 1994 election year. Proposition 187 was on the California ballot, and the issue of illegal immigration became a campaign theme for many seeking election or re-election.

For hospitals like UCSD Medical Center, the primary issue is one of funding. Control of the borders is clearly the purview of the Federal Government. Who has the responsibility for these individuals once they are in the United States is another question.

State and federal laws require hospitals to provide emergency treatment to all individuals, regardless of their ability to pay, or their legal status. This includes trauma care, labor and delivery for women giving birth, and appropriate assessment, treatment and follow-up for children and adults with emergency medical needs.

Of ethical and professional importance to physicians is the Hippocratic Oath, taken upon graduation from medical school, which includes the vow that ". . . The health and life on my patient will be my first consideration . . . I will not permit consideration of race, religion, nationality, ideology, or social standing to intervene between my duty and my patient . . ."

As a trauma center serving a region that extends south to the U.S./Mexico border; as a hospital that traditionally provides care to a large percentage of the county's indigent patients; and as a facility housing specialized services such as the San Diego Regional Burn Center and Infant Special Care Center, UCSD Medical Center has assumed a large share of the burden of caring for undocumented immigrants. While numbers are estimates based on assumptions reached from evaluating patient records:

An estimated 3,600 inpatients at UCSD Medical Center in 1994 were undocumented aliens, or approximately 17 percent of total inpatients. About 84 percent of these were undercompensated; others were eligible for some form of support or were able to pay for their care.

Of all undocumented immigrants admitted to UCSD Medical Center in 1994 through the emergency room, trauma or some other service mandated by state and federal law, 99 percent were undercompensated patients.

Of all undercompensated illegal immigrants admitted to the Medical Center in 1994, 85 percent were admitted through the emergency room, trauma, or through some other service mandated by state and federal law. The others were admitted through various mechanisms; for example, for follow-up to a previous emergency visit.

In 1993, UCSD provided inpatient care costing between $27 million and $37 million to undocumented persons; $11 million to $15 million was not reimbursed.

In 1994, the County of San Diego reduced its contract with UCSD to provide emergency services to indigent patients by 50 percent, or a total of $5 million. The Board of Supervisors implemented this reduction based on County staff estimates that half of indigent patients receiving emergency care at UCSD Medical center were illegal immigrants, and that these costs should not be the burden of local government.

[From the San Diego (CA) Union Tribune, Sept. 30, 1995]

Bilbray Fights Illegal-Immigrant Care Plan That Would Stiff Hospitals

(By Stephen Green)

When Rep. Brian Bilbray, R-Imperial Beach, served on the San Diego County Board of Supervisors, he didn't mince words in telling President Clinton that the federal government should pay the entire cost of providing services to undocumented immigrants.

During a trip to San Diego, Clinton readily agreed, saying the county should just sent the tab to Washington.

Taking Clinton up on his offer, county officials calculated a bill totaling about $1 billion and mailed it to the White House. The amount, Bilbray recalled, represented the annual cost of providing medical, criminal justice and other public services to undocumented immigrants in San Diego County.

While Clinton may have agreed in principle, the bill never was paid. California's politicians still are trying to get the federal government to reimburse the state for the impact of illegal immigration.

Now, Bilbray, along with his colleagues in the House of Representatives from California and other border states, has won a modest victory concerning the long sought federal compensation.

The Medicaid reform bill produced by the House Commerce Committee would do something, for the first time, about the cost to states and local governments of providing emergency medical services to undocumented immigrants.

In California, emergency medical services to undocumented immigrants make up a sizable chunk of the state's Medicaid costs, Bilbray said.

As now written, the legislation recently approved by the Commerce Committee would exempt states from having to match—as they do now—the federal Medicaid money that goes to provide emergency medical services to undocumented immigrants.

So, on the surface, the bill to revamp the federal medical insurance program for the poor would seem to be a big money saver for California and the other states adversely affected by illegal immigration.

But there is a catch—and it's likely to be expensive.

The portion of hospitals' costs of giving emergency medical care to undocumented immigrants that now is financed by the states' contributions to Medicaid would have to be made up from someplace else.

As matters now stand, it appears that local hospitals would be stuck with the portion of the bills that heretofore have been picked up by the states.

That would translate into higher hospital costs, which probably would mean increasing the cost of hospital care for nonindigent patients.

House Commerce Committee Chairman Thomas J. Bliley Jr., R-Va., credits Bilbray and other panel members from California, Texas and Florida for gaining approval of the provisions easing the impact of illegal immigration on state finances.

But Bilbray is far from satisfied, saying the issue of costs to the hospitals must be addressed.

"I am continually hounding the federal government as the biggest deadbeat in the county," Bilbray said.

A meeting of House Republicans from California authorized Bilbray to continue the fight for complete reimbursement for emergency medical services.

Bilbray, who addressed the GOP delegation about the problem, said he and the two other GOP Commerce Committee members from the state—Reps. Carlos J. Moorhead of Glendale and Christopher Cox of Newport Beach—will carry the ball.

"I got all the support in the world from other delegation members to hang tough," Bilbray said.

When Medicare comes to the House floor as part of the omnibus budget reconciliation bill, Bilbray hopes to offer an amendment that would require the federal government—and taxpayers nationwide, not just Californians—to pick up the entire tab for the cost of emergency medical services to undocumented immigrants.

Winning this fight won't be easy. Procedural rules frequently make it difficult to amend reconciliation bills.

But Bilbray expects to have a key ally in this battle in the person of another Californian—Rep. David Dreier, R-San Dimas.

As a senior member of the House Rules Committee, Dreier will have a lot to say about the format for the Medicaid reform debate on the House floor.

Even if Bilbray is able to offer an amendment, there is no assurance it will be approved. But it seems a breach in the resistance to federal compensation finally has been made in the Medicaid reform bill. Other openings many follow.

It is the federal government's own failure to enforce the immigration laws that has resulted in fiscal adversity for California. It is clear to Bilbray and his allies that the federal government has an absolute obligation to remedy the problem that it has created.

Mr. TAUZIN. Mr. Chairman, while I am in support of chapter 2 (FCC Authorization) of subtitle A in title III of H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act of 1995, I would like to bring to the attention of my colleagues three concerns in the statutory language which I hope will be addressed in conference with the Senate.

First, section 3017, giving the FCC the authority to reject tariffs, in whole or part, would disserve the public interest as it would inhibit the introduction of new services, impede competition, and complicate the FCC's processes by adding an additional unnecessary layer of regulation. Carriers seeking to introduce new services would be hesitant to introduce new services if the FCC were to put tariffs on public notice, invite opposition, and then reject them. Authority to reject part of a tariff, while requiring the carrier to continue to offer the service, is contrary to the concept of carrier-initiated rates.

This process of public notice and comment (including oppositions) before a service can be provided is followed with respect to section 214 applications. The section 214 process significantly inhibits telephone company provision of cable services; this provision would extend a similar obstacle to all common carrier services. This obstacle would similarly impede competition by slowing the introduction of services designed to respond to competition, and giving competitors an opportunity to use and/or abuse Commission processes and impose costs on other competitors.

This tariff rejection authority is unnecessary to protect ratepayers. The Communications Act already provides for hearings as to the lawfulness of new rates, terms, and conditions; rates found unlawful can be suspended, and subject to an accounting order at the beginning of such proceedings. See 47 U.S.C. § 204(a),(b). If the rates are later found to be unlawful, the accounting order permits refunds to be made. Notice and comment proceedings as to the lawfulness of tariffs add nothing to this ratepayer protection, and create an additional regulatory burden.

Secondly, in part because the Commission can order refunds for rates found to be unlawful, it is unnecessary to give the Commission authority to order refunds for rule violations which may affect rates, as proposed by section 3018. Additionally, since there is no rate element necessarily involved nor an accounting order associated with application of rules to a particular rate, calculation of the impact on rates of any of the violations described (e.g., violations of depreciation and other accounting rules), is likely to be difficult and arbitrary. The provision essentially appears to serve as a device by which the Commission can intimidate carriers. This type of device is particularly unnecessary since common carriers are already subject to substantial forfeitures of $100,000 for each violation—up to $1,000,000. See 47 U.S.C. § 503(a)(2)(B).

Finally, the legislation would amend section 503(b)(6) of the Communications Act of 1934 (section 3023) to extend the statute of limitations on forfeitures, and permit the Commission to impose forfeitures on common carriers even when discovered five years after the fact. This provision, intended to permit the Commission to impose forfeitures for rule violations discovered during audits, is unnecessary for two reasons. First, direct review of rates which would be affected by such violations is already available, as described above. Therefore, this provision adds little in the way of ratepayer protections. Additionally, such discriminatory treatment of common carriers is unwarranted.

The statute of limitations applicable to other entities subject to forfeiture authority is one year. It would be unnecessarily discriminatory to extend the period to five years for common carriers alone. Moreover, we recommend that the forfeiture authority itself be revised to end unnecessary discrimination against common carriers.

Presently, section 503 of the Communications Act provides that broadcasters are subject to potential forfeitures of $25,000 for each violation, other parties $10,000, while common carriers are subject to potential forfeitures of $100,000. The legislative history of this provision suggests that the increased authority for common carriers was intended to permit the FCC to impose meaningful fines, in proportion to the size of the violator. Yet, there is no reason to discriminate between large non-common carriers, e.g. Time Warner (subject only to a $10,000 maximum) and small telephone companies (subject to a $100,000 maximum) on that basis. Accordingly, section 503 should be amended to provide for a single dollar maximum for any type of entity—the FCC would still be permitted to tailor the fine as appropriate.

Additionally, we recommend that rather than being permitted to assess penalties for violations of the FCC-prescribed rate of depreciation, the FCC should not have the authority to regulate depreciation. In a competitive environment, carriers will need to depreciate assets at faster rates than allowed by the FCC. Under price regulation, a carrier has no incentive to depreciate assets faster than appropriate, since any additional booked costs do not permit the carrier to obtain a corresponding rate increase.

Mr. Speaker, I look forward to working on these issues in the next few weeks.

Mr. OXLEY. Mr. Chairman, I rise today in strong support of the Seven-Year Balanced Budget Reconciliation Act of 1995. As the name implies, this package of reforms outlines a clear path to a balanced budget in the year 2002. We promised the American people that we would bring the budget to balance in 7 years, and today we plan to deliver on that promise.

While balancing the budget in itself is an admirable and worthwhile goal, our bill does much more. These provisions, taken as a whole, mark a clear shift in power from Federal bureaucrats to families, States, and communities, who know what works best for them. I had the opportunity myself to vote in Committee on many of the provisions included in the bill, and I commend my colleagues for their fine work in constructing the other reforms included in this bill.

I would like to outline some of the major items included in our bill.

As many already know, the Medicare trustees reported last April that unless Congress takes "prompt, effective and decisive action," Medicare will go bankrupt in 2002. Consequently, House Republicans have passed the Medicare Preservation Act of 1995, which has been included in this bill. This legislation will bring Medicare back onto solid financial ground by infusing it with the innovation and efficiency found in many private health plans. By giving seniors a wide choice of options, while maintaining traditional Medicare as one option, and by cracking down on waste, fraud, and abuse, we can ensure a strong Medicare Program well into the future.

Another major highlight of this legislation is the $245 billion tax cut for American families. As included in the Contract With America, our bill includes a $500 per-child tax credit, a reduction in the capital gains tax, and a repeal of President Clinton's 1993 tax on Social Security benefits. While President Clinton promised tax relief for the middle-class, and subsequently delivered the largest tax increase in American history, our bill delivers on our promise of needed tax cuts.

This package also incorporates the Personal Responsibility Act of 1995, as passed by the House earlier this year. Simply stated, welfare has become a way of life for far too many recipients. By making it easier to collect a handout than to work, the current system has destroyed individual initiative and actually perpetuated poverty. A Contract With America priority, this pro-work, pro-family bill will reform our welfare system by providing a helping hand, not a handout, to the millions of Americans caught in this dead-end trap.

As some may know, the cost of Medicaid has been growing at the uncontrollable rate of nearly 10 percent a year, and eating up one-fifth of State budgets. Our bill includes Medicaid reform that will provide more money, fewer bureaucrats, and greater protections against fraud and abuse. With the help of our Nation's Governors, Republicans have developed a plan to block grant Medicaid funds to States in the form of new MediGrants. Given this new flexibility States will be able to design innovative, cost-effective programs targeted toward their specific needs and populations.

In our continuing effort to make Government both smaller and more efficient our bill includes language, which I personally shepherded through the Commerce Committee, to abolish the Department of Commerce. While our bill will maintain the Department's legitimate functions, such as the census and statistical recordkeeping functions, we eliminate the unnecessary and duplicative functions for an estimated $7 billion in savings.

Another issue that I was personally involved with was the spectrum auction. Our bill will expand the auction to raise an additional $15.3 billion over 7 years. Having been an early proponent of the spectrum auction, I am pleased that revenue raised by auctioning radio spectrum, which was previously given away for free, will now be used to balance the budget.

Other meaningful reforms included in our bill include: The creation of tax deductible personal medical savings accounts, the closing of corporate tax loopholes, public housing reforms to eliminate duplicative programs, terminating the overly bureaucratic and costly Direct Student Loan Program, and the adoption of a taxpayers' bill of rights.

I believe that it is time for these reforms, because the American people deserve more than higher taxes and a bigger, more bureaucratic Federal Government. This bill represents much more than your average yearly spending reconciliation plan, it represents a blueprint for the future. Under our plan Americans will have more in the family budget, greater control over the workings of their Government, and the peace of mind that their children and grandchildren will live in a debt-free America full of opportunity.

Mr. DOYLE. Mr. Chairman, I rise today in opposition to H.R. 2425, and to speak on behalf of our communities, hospitals, and the health of today's and tomorrow's senior citizens. If we are to bring about Medicare reform which will prove to be truly beneficial, we must first reach a consensus that reforms must achieve specified goals without creating new, more difficult problems.

In the Pittsburgh area alone, there are seven hospitals which would face almost certain shut-down as a result of these proposed cuts. This situation is certainly exacerbated by the elimination of disproportionate share payments to these hospitals. It is neither prudent nor logical to make devastating cuts to Medicare in such an arbitrary fashion. The sound thinking, hard-working people of western Pennsylvania and across this country will tell you that putting the cart before the horse will get Medicare nowhere fast.

It has been documented that both proposals we are considering today, H.R. 2425 and the Democratic alternative, will result in the Medicare trust fund being put on sound financial footing through the year 2006. However, the Democratic alternative saves $90 billion, all of which is put back into the Medicare system, while H.R. 2425 cuts $270 billion, far more than is necessary, simply to help pay for huge tax cuts we cannot afford.

A recent national poll shows that 72 percent of those polled oppose Medicare cuts being made to pay for tax breaks. One has to question how making major cuts to Medicare in a quick fix effort to fund tax breaks could be construed by anyone as fiscally conservative.

I urge my colleagues to oppose the ill-conceived and reckless cuts called for in this bill which will not only shake the current foundation, but will cause irreparable damage to the health of American senior citizens in the future.

Mr. WOLF. Mr. Chairman, I rise on behalf of the American family, America's children, and restoring the American dream and will support budget reconciliation which will bring our burgeoning budget deficit into balance by the year 2002 and provide needed family tax relief. This is the right thing to do.

Consider this. According to the Joint Committee on Taxation, a child born today will have to pay $187,000 in his or her lifetime in interest on the national debt. That money won't be spent on education, nutrition, medical research, national defense, or roads. Rather, our children will be forced to pay for the present generation's profligacy. That is unfair; it is unwise; and it offends traditional notions of justice.

For all the things the 104th Congress will do, this is the most important. We are at a historic crossroads, and I will choose the path of lower interest rates, lower taxes, and job creation, thereby preserving America's greatness for present and future generations. It is time to end the gluttonous consumption of America's precious and scarce resources. We can ill afford the relentless spending and borrowing binge of the past which mortgages the future of America's most precious resource—her young people—because we are unwilling to exercise restraint needed to forego immediate gratification.

We have a solemn duty to provide a better world for future generations. Will Allen Dromgoole, in his poem "The Bridge Builder," describes an old man's effort to cross a river flowing through a vast, deep, and wide chasm. Even though the old man never had to repeat the treacherous journey, he built a bridge over the river. A fellow traveler asked the old man why he was wasting his strength building a bridge he would never use. The builder lifted his old gray head and responded:

There followeth after me today
A youth, whose feet must pass this way.
This chasm, that has been naught to me,
To that fair-haired youth may a pitfall be.
He, too, must cross in the twilight dim;
Good friend, I am building the bridge for him.

Mr. Chairman, I implore all Members to be like the selfless bridge builder and vote for this legislation which will build a bridge to a better world for those who follow.

Mr. WELLER. Mr. Chairman, I come to the well today to speak in favor of the Republican plan to allow seniors to increase their earnings without being penalized. Senior citizens made this country strong with their long and arduous labors year in and year out. They taught me and my generation how to profit from a strong work ethic. Yet, we need to stop punishing them for their desire to remain active. We need to recognize that many seniors want to work longer. We need to reward those who continue to work or operate a business. We can no longer force them to choose between an active and productive life and Social Security benefits.

Under current law, seniors between the ages of 65 and 69 lose $1 in benefits for every dollar they earn over $11,160. This earnings test amounts to an additional 33 percent marginal tax rate. This marginal rate is on top of the taxes they already pay on their earnings. This draconian test punishes seniors who want to work beyond the age of 64.

It is unconscionable that in times of shrinking fiscal resources at the Federal level, that we would punish seniors who seek to remain financially independent. With so severe an earnings limit we essentially force them to become more reliant on Government spending and congressional action. Such an unhealthy reliance undermines the self esteem of seniors and makes the governing role of Congress more difficult.

Our proposal today, would raise the earning potential of seniors to $30,000 over 5 years and more immediately they can earn $15,000 beginning on January 1, 1996. This change goes a long way to providing equity to the hard working seniors of this great country and I am proud to be associated with it.

Mr. COLEMAN. Mr. Chairman, Republicans have not only targeted the sick, disabled, elderly, and women in this Congress, but now they are targeting children. Children do not have a voice in the legislature, but trust us to protect their interests. This Congress has betrayed that trust by waging an all-out war on children in the budget.

The battle has been waged on a number of different fronts: health care, disabled assistance, education, nutrition, and social safety nets.

In Texas, Medicaid coverage for as many as 206,641 children will be eliminated under Republican proposals by 2002. Currently, 20 percent of all children in Texas rely on Medicaid for their basic health needs. Medicaid pays for immunizations, regular checkups, and intensive care for about 1,407,000 children in Texas.

There are 148,287 El Pasoans who are eligible for Medicaid. Of those eligible, approximately 57,000 are children between the ages of 1 and 14.

The Republican budget also repeals the Vaccines for Children Program, putting at risk at least $1.5 billion over 7 years that would otherwise provide immunizations for children in Texas and across the Nation. In the last few years, El Paso has been the site of several outbreaks of serious diseases such as tuberculosis and hepatitis. Without vaccines for contagious diseases, the health of the border region would be in great danger.

Children with disabilities are at risk as well. The Republican welfare plan denies as many as 54 percent of all disabled children in Texas SSI cash benefits in 2002.

Texas education programs are vitally important to sustain a good economy, and my Republican colleagues are set on destroying our educational system. In Texas, Head Start would be denied to 12,512 children in 2002 under the Republican budget. The cuts would also deny title I funding to 100,100 children in Texas.

Not only are we reducing funds in assisting education, but we are reducing the ability of administrators to keep their schools safe. The Republican budget cuts funding to the Safe and Drug Free Schools Program which supplies funding to 1,043 out of 1,053 school districts in Texas who use the money to keep crime, violence, and drugs away from the children in their schools.

Not only does the budget limit the opportunities students have, but it limits the opportunities they will have outside of school when they try to enter the work force. The budget will deny approximately 3,000 young people in Texas the opportunity to serve their community through AmeriCorps. And over 7 years, the Republican budget eliminates summer jobs for 297,437 youths in Texas.

In this family friendly Congress Republicans are picking and choosing what type of families they want to help. For example, the Republican welfare bill cuts foster care and adoption for vulnerable Texas children by $359.5 million over 7 years and eliminates cash assistance for 5,260 children in Texas simply because they were born to unmarried mothers under 18. Additionally, assistance would be cut to 222,000 children in Texas simply because their paternity has not been established.

The effort to balance the budget should not include an unnecessary and harsh attack on children and their interests. They are the future of this country and we must treat them as assets, not liabilities.

Mr. FATTAH. Mr. Chairman, I oppose this heinous attempt by the Republican majority to balance the budget at the expense of the Nation's elderly. This hysteria surrounding the mandate to balance the budget in 7 years is nothing short of a hoax being perpetrated on the American people to conceal the true Republican agenda. If the Republicans were so interested in balancing the Federal budget, would they be proposing a royalty holiday for major oil producers, many of whom are not even American companies? If the Republicans were truly interested in balancing the Federal budget, would they be proposing the elimination of the guaranteed minimum tax on corporations? Does it make sense to propose a $242 billion tax cut if your objective is to balance the budget? How many of the American people know that the debate over balancing the budget is being conducted in an environment where half the budget isn't even on the table?

The result, Mr. Chairman, is that we have a program to revise Medicare which, like the entire Republican program, is regressive in the extreme. It gives special breaks to doctors; it increases premiums for people who can least afford it; it distorts medical financing systems, particularly of hospitals that serve the poor; it sets up dynamics that could lead to the concentration of the poorest and least healthy people in the most inadequate coverage. The Republicans have maintained that the premiums of the poorest elderly will continue to be paid, but this is just another deception. The very program which is responsible for paying these premiums is being eliminated under the Republican Medicaid reform package.

Nothing could make the true Republican intent more clear than an analysis of their approach to Medicare reform. If they had been concerned about protecting the health options of the elderly, they would have pursued comprehensive health care reform. The Republican agenda has nothing to do with protecting Medicare, or with balancing the budget. It has to do with making good on campaign promises to corporations. It has to do with eliminating, on every conceivable front, our social obligation to invest in our people. It has to do with vitiating the very meaning of this democracy. It has to do with tearing at the fabric of our social institutions so that those at the bottom of heap, who can least fend for themselves—our children, our elderly, our poor—have no chance of improving the quality of their lives. It is about redistributing the resources of our country to those that already have plenty so that they can get more.

H.R. 2425 is a bad bill. It does not address the broader issue of health care reform; it places unnecessary burdens on the elderly and the poor; it devastates medical training facilities, and is mainly a financial vehicle to balance the budget while reducing taxes for the affluent. We can do better for the elderly, we can do better for our future as a democratic society. I urge my colleagues to consider who we are to be become as a people before they vote on this measure, because it is that question that this bill puts to the test.

Mr. NEY. Mr. Chairman, as the House debates a budget reconciliation I would like to give my support to the provisions in the bill renewing generalized system of preferences [GSP] duty-free import program. This program was designed as a way to help less developed nations export into the U.S. market. the GSP Program allows duty-free imports of certain products into the U.S. from over 100 GSP-eligible countries. The bill wisely provides that import-sensitive products are not to be subject to GSP treatment. Ceramic tile is a clear example of an import sensitive product and is exactly the type of product which should not be subject to lower tariffs under the GSP Program.

Imports have dominated the U.S. ceramic tile market for the last decade and they currently capture nearly 60 percent of the market. This extraordinary level of import penetration is a result, in part, of over 30 years of documented unfair predatory foreign trade practices including dumping, subsidies, customs fraud import diversion, and abuse of a loophole in the GSP. The American ceramic tile industry, though relatively small, is efficient and competitive at normal tariff levels.

From its inception in the Trade Act of 1974, the GSP Program has provided for the exemption of "articles which the President determines to be import-sensitive." In light of the history of unfair trade in ceramic tile and the significant and growing import participation in the U.S. ceramic tile market, the U.S. industry has been recognized by successive Congresses and administrations as import sensitive, dating back to the Dillon and Kenney rounds of the General Agreement on Tariffs and Trade [GATT]. During this period the American ceramic tile also has been forced to defend itself from over a dozen petitions filed by various designated GSP-eligible countries seeking duty-free treatment for ceramic tile into this market. If just one petitioning nation succeeds in gaining GSP benefits for ceramic tile, then by law, every GSP beneficiary country is also entitled to GSP duty-free benefits for ceramic tile. If any of these petitions were granted, it would eliminate American tile jobs and could destroy the industry.

A major guiding principle of the GSP Program has been reciprocal market access. Current GSP eligible beneficiary countries supply almost one-third of the U.S. ceramic tile imports and they are increasing their sales and market shares. U.S. ceramic tile manufacturers, however, are still denied access to many of these foreign markets. Many developing countries maintain exclusionary tariff and nontariff mechanisms which serve to block the entry of U.S. ceramic tile exports into these markets. Industrial countries, including the European Union [EU], may use less transparent methods such as discriminatory product standards and testing methods to control their ceramic tile imports and, in some cases, to divert ceramic tile manufactured in third countries over to the U.S. market by imposing restrictions on those third country exports to the EU.

I am in support of the reauthorization of the GSP Program and trust that import-sensitive products such as tile will not be subject to GSP.

Mr. LUTHER. Mr. Chairman, I rise today in support of the substitute to the budget reconciliation bill. My reasoning can be summed up in three simple words: Cut Spending First.

The people of my district sent me to Washington to change the way this place operates and to get this country's finances in order. President Clinton and most of the new Members of this body were sent here to do the same thing.

Today's votes are far from the final chapter in this book. But as we go through the conference committee process with the other body and negotiations with the White House, I believe we should be guided by the substitute reconciliation bill before us today.

The substitute bill balances the budget by 2002, makes spending cuts first, accumulates $50 billion less in debt, and turns away from the notion of borrowing more money to pay for new tax breaks. It spreads the pain of balancing the budget more evenly and sets up a budget process that more strongly guarantees that we will in fact balance the budget and avoid the tragic mistakes of the past.

Mr. Speaker, it is time to end the partisan wrangling that goes on in this Chamber and build a genuine consensus for balancing the budget in the right way.

Thanks to the contributions of many, the question is no longer, "should we balance the budget?", but rather "how should we balance it?" The President is now suggesting that the 7-year time frame for balancing the budget makes sense. Let's join together as Democrats and Republicans and build on this fundamental change in attitude.

Mr. Speaker, I believe the eventual budget resolution for the American people can be based upon many of the elements of the substitute bill before us today. I urge my colleagues to support it

The CHAIRMAN. No further amendment is in order except the further amendment in the nature of a substitute consisting of the text of H.R. 2530, which may be offered only by the gentleman from Missouri [Mr. GEPHARDT] or his designee, is considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. ORTON:

H.R. 2530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Common Sense Balanced Budget Act of 1995".

(b) TABLE OF CONTENTS.—

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

Sec. 1101. Privatization of uranium enrichment.
Sec. 1102. Making permanent Nuclear Regulatory Commission annual charges.
Sec. 1103. Cogeneration.
Sec. 1104. FEMA radiological emergency preparedness fees.

Subtitle B—Central Utah

Sec. 1121. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District.

Subtitle C—Army Corps of Engineers

Sec. 1131. Regulatory Program Fund.

Subtitle D—Helium Reserve

Sec. 1141. Sale of helium processing and storage facility.

Subtitle E—Territories

Sec. 1151. Termination of annual direct assistance to Northern Mariana Islands.

TITLE II—AGRICULTURAL PROGRAMS

Sec. 2001. Short title.

Subtitle A—Extension and Modification of Various Commodity Programs

Sec. 2101. Extension of loans, payments, and acreage reduction programs for wheat through 2002.
Sec. 2102. Extension of loans, payments, and acreage reduction programs for feed grains through 2002.
Sec. 2103. Extension of loans, payments, and acreage reduction programs for cotton through 2002.
Sec. 2104. Extension of loans, payments, and acreage reduction programs for rice through 2002.
Sec. 2105. Extension of loans and payments for oilseeds through 2002.
Sec. 2106. Increase in flex acres.
Sec. 2107. Reduction in 50/85 and 0/85 programs.

Subtitle B—Sugar

Sec. 2201. Extension and modification of sugar program.

Subtitle C—Peanuts

Sec. 2301. Extension of price support program for peanuts and related programs.
Sec. 2302. National poundage quotas and acreage allotments.
Sec. 2303. Sale, lease, or transfer of farm poundage quota.

Sec. 2304. Penalty for reentry of exported peanut products.
Sec. 2305. Price support program for peanuts.
Sec. 2306. Referendum regarding poundage quotas.
Sec. 2307. Regulations.

Subtitle D—Tobacco

Sec. 2401. Elimination of Federal budgetary outlays for tobacco programs.
Sec. 2402. Establishment of farm yield for Flue-cured tobacco based on individual farm production history.
Sec. 2403. Removal of farm reconstitution exception for Burley tobacco.
Sec. 2404. Reduction in percentage threshold for transfer of Flue-cured tobacco quota in cases of disaster.
Sec. 2405. Expansion of types of tobacco subject to no net cost assessment.
Sec. 2406. Repeal of reporting requirements relating to export of tobacco.
Sec. 2407. Repeal of limitation on reducing national marketing quota for Flue-cured and Burley tobacco.
Sec. 2408. Application of civil penalties under Tobacco Inspection Act.
Sec. 2409. Transfers of quota or allotment across county lines in a State.
Sec. 2410. Calculation of national marketing quota.
Sec. 2411. Clarification of authority to access civil money penalties.
Sec. 2412. Lease and transfer of farm marketing quotas for Burley tobacco.
Sec. 2413. Limitation on transfer of acreage allotments of other tobacco.
Sec. 2414. Good faith reliance on actions or advice of Department representatives.
Sec. 2415. Uniform forfeiture dates for Flue-cured and Burley tobacco.
Sec. 2416. Sale of Burley and Flue-cured tobacco marketing quotas for a farm by recent purchasers.

Subtitle E—Planting Flexibility

Sec. 2501. Definitions.
Sec. 2502. Crop and total acreage bases.
Sec. 2503. Planting flexibility.
Sec. 2504. Farm program payment yields.
Sec. 2505. Application of provisions.

Subtitle F—Miscellaneous Provisions

Sec. 2601. Limitations on amount of deficiency payments and land diversion payments.
Sec. 2602. Sense of Congress regarding certain Canadian trade practices.

TITLE III—COMMERCE

Sec. 3101. Spectrum auctions.
Sec. 3102. Federal Communications Commission fee collections
Sec. 3103. Auction of recaptured analog licenses.
Sec. 3104. Patent and trademark fees.
Sec. 3105. Repeal of authorization of transitional appropriations for the United States Postal Service.

TITLE IV—TRANSPORTATION

Sec. 4101. Extension of railroad safety fees.
Sec. 4102. Permanent extension of vessel tonnage duties.
Sec. 4103. Sale of Governors Island, New York.
Sec. 4104. Sale of air rights.

TITLE V—HOUSING PROVISIONS

Sec. 5101. Reduction of section 8 annual adjustment factors for units without tenant turnover.
Sec. 5102. Maximum mortgage amount floor for single family mortgage insurance.
Sec. 5103. Foreclosure avoidance and borrower assistance.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

Sec. 6101. Consumer Price Index.
Sec. 6102. Reduction in title XX block grants to States for social services.
Sec. 6103. Matching rate requirement for title XX block grants to States for social services.
Sec. 6104. Denial of unemployment insurance to certain high-income individuals.
Sec. 6105. Denial of unemployment insurance to individuals who voluntarily leave military service.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

Sec. 7001. Limitation on expenditures recognized for purposes of Federal financial participation.

Subtitle B—Medicaid Managed Care

Sec. 7101. Permitting greater flexibility for States to enroll beneficiaries in managed care arrangements.
Sec. 7102. Removal of barriers to provision of medicaid services through managed care.
Sec. 7103. Additional requirements for medicaid managed care plans.
Sec. 7104. Preventing fraud in medicaid managed care.
Sec. 7105. Assuring adequacy of payments to medicaid managed care plans and providers.
Sec. 7106. Sanctions for noncompliance by eligible managed care providers.
Sec. 7107. Report on public health services.
Sec. 7108. Report on payments to hospitals.
Sec. 7109. Conforming amendments.
Sec. 7110. Effective date; status of waivers.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

Sec. 7201. Permitting increased flexibility in medicaid cost-sharing.
Sec. 7202. Limits on required coverage of additional treatment services under EPSDT.
Sec. 7203. Delay in application of new requirements.
Sec. 7204. Deadline on action on waivers.

Subtitle D—National Commission on Medicaid Restructuring

Sec. 7301. Establishment of commission.
Sec. 7302. Duties of commission.
Sec. 7303. Administration.
Sec. 7304. Authorization of appropriations.
Sec. 7305. Termination.

Subtitle E—Restrictions on Disproportionate Share Payments

Sec. 7401. Reforming disproportionate share payments under State medicaid programs.

Subtitle F—Fraud Reduction

Sec. 7501. Monitoring payments for dual eligibles.
Sec. 7502. Improved identification systems.

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"Sec. 1851. Requirements for Medicare Choice organizations.
"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to Medicare Choice organizations.
"Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
"Sec. 1857. Medicare Choice certification.
"Sec. 1858. Contracts with Medicare Choice organizations.
"Sec. 1859. Demonstration project for high deductible/medisave products.
Sec. 8003. Reports.
Sec. 8004. Transitional rules for current medicare HMO program.

PART 2—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

Sec. 8011. Medicare choice MSA's.
Sec. 8012. Certain rebates excluded from gross income.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

Sec. 8021. Application of antitrust rule of reason to provider service networks.

PART 4—COMMISSIONS

Sec. 8031. Medicare Payment Review Commission.
Sec. 8032. Commission on the Effect of the Baby Boom Generation on the Medicare Program.

PART 5—PREEMPTION OF STATE ANTI-MANAGED CARE LAWS

Sec. 8041. Preemption of State law restrictions on managed care arrangements.
Sec. 8042. Preemption of State laws restricting utilization review programs.

Subtitle B—Provisions Relating to Regulatory Relief

PART 1—PROVISIONS RELATING TO PHYSICIAN FINANCIAL RELATIONSHIPS

Sec. 8101. Repeal of prohibitions based on compensation arrangements.
Sec. 8102. Revision of designated health services subject to prohibition.
Sec. 8103. Delay in implementation until promulgation of regulations.
Sec. 8104. Exceptions to prohibition.
Sec. 8105. Repeal of reporting requirements.
Sec. 8106. Preemption of State law.
Sec. 8107. Effective date.

PART 2—ANTITRUST REFORM

Sec. 8111. Publication of antitrust guidelines on activities of health plans.
Sec. 8112. Issuance of health care certificates of public advantage.
Sec. 8113. Study of impact on competition.
Sec. 8114. Antitrust exemption.
Sec. 8115. Requirements.
Sec. 8116. Definition.

PART 3—MALPRACTICE REFORM

SUBPART A—UNIFORM STANDARDS FOR MALPRACTICE CLAIMS.

Sec. 8121. Applicability.
Sec. 8122. Requirement for initial resolution of action through alternative dispute resolution.
Sec. 8123. Optional application of practice guidelines.
Sec. 8124. Treatment of noneconomic and punitive damages.
Sec. 8125. Periodic payments for future losses.

Sec. 8126. Treatment of attorney's fees and other costs.
Sec. 8127. Uniform statute of limitations.
Sec. 8128. Special provision for certain obstetric services.
Sec. 8129. Jurisdiction of Federal courts.
Sec. 8130. Preemption.

SUBPART B—REQUIREMENTS FOR STATE ALTERNATIVE DISPUTE RESOLUTION SYSTEMS (ADR)

Sec. 8131. Basic requirements.
Sec. 8132. Certification of State systems; applicability of alternative Federal system.
Sec. 8133. Reports on implementation and effectiveness of alternative dispute resolution systems.

SUBPART C—DEFINITIONS

Sec. 8141. Definitions.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART 2—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Payments for physicians' services.

PART 3—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

Subtitle D—Provisions Relating to Medicare Beneficiaries

Sec. 8301. Part B premium.
Sec. 8302. Full cost of medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

Subtitle E—Medicare Fraud Reduction

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Direct spending for anti-fraud activities under medicare.
Sec. 8406. Fraud reduction demonstration project.
Sec. 8407. Report on competitive pricing.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

SUBPART A—RURAL HOSPITALS

Sec. 8501. Sole community hospitals.
Sec. 8502. Clarification of treatment of EAC and RPC hospitals.
Sec. 8503. Establishment of rural emergency access care hospitals.
Sec. 8504. Classification of rural referral centers.
Sec. 8505. Floor on area wage index.
Sec. 8506. Medical education.

SUBPART B—RURAL PHYSICIANS AND OTHER PROVIDERS

Sec. 8511. Provider incentives.
Sec. 8512. National Health Service Corps loan repayments excluded from gross income.
Sec. 8513. Telemedicine payment methodology.
Sec. 8514. Demonstration project to increase choice in rural areas.

PART 2—MEDICARE SUBVENTION

Sec. 8521. Medicare program payments for health care services provided in the military health services system.

Subtitle G—Other Provisions

Sec. 8601. Extension and expansion of existing secondary payer requirements.
Sec. 8602. Repeal of medicare and medicaid coverage data bank.
Sec. 8603. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 8604. Additional exclusion from coverage.
Sec. 8605. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle H—Monitoring Achievement of Medicare Reform Goals

Sec. 8701. Establishment of budgetary and program goals.
Sec. 8702. Medicare Reform Commission.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 8801. Establishment of Medicare Growth Reduction Trust Fund for part B savings.

Subtitle J—Clinical Laboratories

Sec. 8901. Exemption of physician office laboratories.

TITLE IX—WELFARE REFORM

Sec. 9000. Amendment of the Social Security Act.

Subtitle A—Temporary Employment Assistance

Sec. 9101. State plan.

Subtitle B—Make Work Pay

Sec. 9201. Transitional medicaid benefits.
Sec. 9202. Notice of availability required to be provided to applicants and former recipients of temporary family assistance, food stamps, and medicaid.
Sec. 9203. Notice of availability of earned income tax credit and dependent care tax credit to be included on W–4 form.
Sec. 9204. Advance payment of earned income tax credit through State demonstration programs.
Sec. 9205. Funding of child care services.
Sec. 9206. Certain Federal assistance includible in gross income.
Sec. 9207. Dependent care credit to be refundable; high-income taxpayers ineligible for credit.

Subtitle C—Work First

Sec. 9301. Work first program.
Sec. 9302. Regulations.
Sec. 9303. Applicability to States.

Subtitle D—Family Responsibility and Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV–D PROGRAM CLIENTS

Sec. 9401. State obligation to provide paternity establishment and child support enforcement services.
Sec. 9402. Distribution of payments.
Sec. 9403. Due process rights.
Sec. 9404. Privacy safeguards.

CHAPTER 2—PROGRAM ADMINISTRATION AND FUNDING

Sec. 9411. Federal matching payments.
Sec. 9412. Performance-based incentives and penalties.
Sec. 9413. Federal and State reviews and audits.
Sec. 9414. Required reporting procedures.
Sec. 9415. Automated data processing requirements.
Sec. 9416. Director of CSE program; staffing study.
Sec. 9417. Funding for Secretarial assistance to State programs.
Sec. 9418. Reports and data collection by the Secretary.

CHAPTER 3—LOCATE AND CASE TRACKING

Sec. 9421. Central State and case registry.
Sec. 9422. Centralized collection and disbursement of support payments.
Sec. 9423. Amendments concerning income withholding.
Sec. 9424. Locator information from interstate networks.
Sec. 9425. Expanded Federal parent locator service.
Sec. 9426. Use of social security numbers.

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

Sec. 9431. Adoption of uniform State laws.
Sec. 9432. Improvements to full faith and credit for child support orders.
Sec. 9433. State laws providing expedited procedures.

CHAPTER 5—PATERNITY ESTABLISHMENT

Sec. 9441. Sense of the Congress.
Sec. 9442. Availability of parenting social services for new fathers.
Sec. 9443. Cooperation requirement and good cause exception.
Sec. 9444. Federal matching payments.
Sec. 9445. State laws concerning paternity establishment.
Sec. 9446. Outreach for voluntary paternity establishment.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 9451. National Child Support Guidelines Commission.
Sec. 9452. Simplified process for review and adjustment of child support orders.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

Sec. 9461. Federal income tax refund offset.
Sec. 9462. Internal Revenue Service collection of arrears.

Sec. 9463. Authority to collect support from Federal employees.
Sec. 9464. Enforcement of child support obligations of members of the Armed Forces.
Sec. 9465. Motor vehicle liens.
Sec. 9466. Voiding of fraudulent transfers.
Sec. 9467. State law authorizing suspension of licenses.
Sec. 9468. Reporting arrearages to credit bureaus.
Sec. 9469. Extended statute of limitation for collection of arrearages.
Sec. 9470. Charges for arrearages.
Sec. 9471. Denial of passports for nonpayment of child support.
Sec. 9472. International child support enforcement.
Sec. 9473. Seizure of lottery winnings, settlements, payouts, awards, and bequests, and sale of forfeited property, to pay child support arrearages.
Sec. 9474. Liability of grandparents for financial support of children of their minor children.
Sec. 9475. Sense of the Congress regarding programs for noncustodial parents unable to meet child support obligations.

CHAPTER 8—MEDICAL SUPPORT

Sec. 9481. Technical correction to ERISA definition of medical child support order.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

Sec. 9491. Cooperation with child support agencies.
Sec. 9492. Disqualification for child support arrears.

CHAPTER 10—EFFECT OF ENACTMENT

Sec. 9498. Effective dates.
Sec. 9499. Severability.

Subtitle E—Teen Pregnancy and Family Stability

Sec. 9501. State option to deny temporary employment assistance for additional children.
Sec. 9502. Supervised living arrangements for minors.
Sec. 9503. National clearinghouse on adolescent pregnancy.
Sec. 9504. Required completion of high school or other training for teenage parents.
Sec. 9505. Denial of Federal housing benefits to minors who bear children out-of-wedlock.
Sec. 9506. State option to deny temporary employment assistance to minor parents.

Subtitle F—SSI Reform

Sec. 9601. Definition and eligibility rules.
Sec. 9602. Eligibility redeterminations and continuing disability reviews.
Sec. 9603. Additional accountability requirements.
Sec. 9604. Denial of SSI benefits by reason of disability to drug addicts and alcoholics.
Sec. 9605. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 9606. Denial of SSI benefits for fugitive felons and probation and parole violators.
Sec. 9607. Reapplication requirements for adults receiving SSI benefits by reason of disability.
Sec. 9608. Reduction in unearned income exclusion.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

Sec. 9701. Application of amendments.
Sec. 9702. Amendments to the Food Stamp Act of 1977.
Sec. 9703. Authority to establish authorization periods.
Sec. 9704. Specific period for prohibiting participation of stores based on lack of business integrity.
Sec. 9705. Information for verifying eligibility for authorization.
Sec. 9706. Waiting period for stores that initially fail to meet authorization criteria.
Sec. 9707. Bases for suspensions and disqualifications.
Sec. 9708. Authority to suspend stores violating program requirements pending administrative and judicial review.
Sec. 9709. Disqualification of retailers who are disqualified from the WIC program.
Sec. 9710. Permanent debarment of retailers who intentionally submit falsified applications.
Sec. 9711. Expanded civil and criminal forfeiture for violations of the Food Stamp Act.
Sec. 9712. Expanded authority for sharing information provided by retailers.
Sec. 9713. Expanded definition of "coupon".
Sec. 9714. Doubled penalties for violating food stamp program requirements.
Sec. 9715. Mandatory claims collection methods.
Sec. 9716. Promoting expansion of electronic benefits transfer.
Sec. 9717. Reduction of basic benefit level.
Sec. 9718. 2-year freeze of standard deduction.
Sec. 9719. Pro-rating benefits after interruptions in participation.
Sec. 9720. Disqualification for participating in 2 or more States.
Sec. 9721. Disqualification relating to child support arrears.
Sec. 9722. State authorization to assist law enforcement officers in locating fugitive felons.
Sec. 9723. Work requirement for able-bodied recipients.
Sec. 9724. Coordination of employment and training programs.
Sec. 9725. Extending current claims retention rates.
Sec. 9726. Nutrition assistance for Puerto Rico.
Sec. 9727. Treatment of children living at home.

CHAPTER 2—COMMODITY DISTRIBUTION

Sec. 9751. Short title.
Sec. 9752. Availability of commodities.
Sec. 9753. State, local and private supplementation of commodities.
Sec. 9754. State plan.
Sec. 9755. Allocation of commodities to States.
Sec. 9756. Priority system for State distribution of commodities.
Sec. 9757. Initial processing costs.
Sec. 9758. Assurances; anticipated use.
Sec. 9759. Authorization of appropriations.
Sec. 9760. Commodity supplemental food program.
Sec. 9761. Commodities not income.
Sec. 9762. Prohibition against certain State charges.
Sec. 9763. Definitions.
Sec. 9764. Regulations.
Sec. 9765. Finality of determinations.
Sec. 9766. Relationship to other programs.
Sec. 9767. Settlement and adjustment of claims.
Sec. 9768. Repealers; amendments.

CHAPTER 3—OTHER PROGRAMS

Sec. 9781. Child and adult care food program.
Sec. 9782. Resumption of discretionary funding for nutrition education and training program.

Subtitle H—Treatment of Aliens

Sec. 9801. Extension of deeming of income and resources under TEA, SSI, and food stamp programs.
Sec. 9802. Requirements for sponsor's affidavits of support.
Sec. 9803. Extending requirement for affidavits of support to family-related and diversity immigrants.

Subtitle I—Earned Income Tax Credit

Sec. 9901. Earned income tax credit denied to individuals not authorized to be employed in the United States.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

Sec. 10001. Short title.

Subtitle A—Tax Treatment of Expatriation

Sec. 10101. Revision of tax rules on expatriation.
Sec. 10102. Basis of assets of nonresident alien individuals becoming citizens or residents.

Subtitle B—Modification to Earned Income Credit

Sec. 10201. Earned income tax credit denied to individuals with substantial capital gain net income.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

Sec. 10401. Tax treatment of certain extraordinary dividends.

Subtitle E—Foreign Trust Tax Compliance

Sec. 10501. Improved information reporting on foreign trusts.
Sec. 10502. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 10503. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 10504. Information reporting regarding foreign gifts.
Sec. 10505. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 10506. Residence of estates and trusts, etc.

Subtitle F—Limitation on Section 936 Credit

Sec. 10601. Limitation on section 936 credit.

TITLE XI—VETERANS' AFFAIRS

Sec. 11001. Short title.

Subtitle A—Permanent Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.

Sec. 11012. Medical care cost recovery authority.
Sec. 11013. Income verification authority.
Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 11015. Home loan fees.
Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.
Subtitle B—Other Matters
Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 11022. Enhanced loan asset sale authority.
Sec. 11023. Withholding of payments and benefits.
Subtitle C—Health Care Eligibility Reform
Sec. 11031. Hospital care and medical services.
Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.
Sec. 11033. Prosthetics.
Sec. 11034. Management of health care.
Sec. 11035. Improved efficiency in health care resource management.
Sec. 11036. Sharing agreements for specialized medical resources.
Sec. 11037. Personnel furnishing shared resources.
TITLE XII—LEGISLATIVE BRANCH
Sec. 12101. Requirement that excess funds provided for official allowances of Members of the House of Representatives be dedicated to deficit reduction.
TITLE XIII—MISCELLANEOUS PROVISIONS
Sec. 13101. Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal years 1996, 1997, and 1998.
Sec. 13102. Disposal of certain materials in National Defense Stockpile for deficit reduction.
Sec. 13103. Requirement that certain agencies prefund Government health benefits contributions for their annuitants.
Sec. 13104. Application of OMB Circular a-129.
Sec. 13105. 7-year extension of Hazardous Substance Superfund excise taxes.
TITLE XIV—BUDGET PROCESS PROVISIONS
CHAPTER 1—SHORT TITLE; PURPOSE
Sec. 14001. Short title.
Sec. 14002. Purpose.
CHAPTER 2—BUDGET ESTIMATES
Sec. 14051. Board of Estimates.
Subtitle B—Discretionary Spending Limits
Sec. 14101. Discretionary spending limits.
Sec. 14102. Technical and conforming changes.
Sec. 14103. Elimination of certain adjustments to discretionary spending limits.
Subtitle C—Pay-As-You-Go Procedures
Sec. 14201. Permanent extension of pay-as-you-go procedures; ten-year scorekeeping.
Sec. 14202. Elimination of emergency exception.
Subtitle D—Miscellaneous
Sec. 14301. Technical correction.
Sec. 14302. Repeal of expiration date.
Subtitle E—Deficit Control
Sec. 14401. Deficit control.
Sec. 14402. Sequestration process.
Subtitle F—Line Item Veto
Sec. 14501. Line item veto authority.
Sec. 14502. Line item veto effective unless disapproved.
Sec. 14503. Definitions.
Sec. 14504. Congressional consideration of line item vetoes.
Sec. 14505. Report of the General Accounting Office.
Sec. 14506. Judicial review.
Subtitle G—Enforcing Points of Order
Sec. 14601. Points of order in the Senate.
Sec. 14602. Points of order in the House of Representatives.
Subtitle H—Deficit Reduction Lock-box
Sec. 14701. Deficit reduction lock-box provisions of appropriation measures.
Sec. 14702. Downward adjustments.
Sec. 14703. CBO tracking.
Subtitle I—Emergency Spending; Baseline Reform; Continuing Resolutions Reform
CHAPTER 1—EMERGENCY SPENDING
Sec. 14801. Establishment of budget reserve account.
Sec. 14802. Congressional budget process changes.
Sec. 14803. Reporting.
CHAPTER 2—BASELINE REFORM
Sec. 14851. The baseline.
Sec. 14852. The President's budget.
Sec. 14853. The congressional budget.
Sec. 14854. Congressional Budget Office reports to committees.
CHAPTER 3—RESTRICTED USES OF CONTINUING RESOLUTIONS
Sec. 14871. Restrictions respecting continuing resolutions.
Subtitle J—Technical and Conforming Amendments
Sec. 14901. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
Sec. 14902. Technical and conforming amendments to the Rules of the House of Representatives.
Sec. 14903. President's budget.
Subtitle K—Truth in Legislating
Sec. 14951. Identity, sponsor, and cost of certain provisions required to be reported.

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.

(a) REFERENCE.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) PRODUCTION FACILITY.—Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

(c) DEFINITIONS.—Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

(d) EMPLOYEES OF THE CORPORATION.—

(1) PARAGRAPH (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are amended to read as follows:

"(A) IN GENERAL.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(B) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(2) PARAGRAPH (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b-4(e)(4)) is amended—

(A) by striking "AND DETAILEES" in the heading;

(B) by striking the first sentence;

(C) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(D) by striking the last sentence.

(e) MARKETING AND CONTRACTING AUTHORITY.—

(1) MARKETING AUTHORITY.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(A) by amending the subsection heading to read "MARKETING AUTHORITY.—"; and

(B) by striking the first sentence.

(2) TRANSFER OF CONTRACTS.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(A) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(B) by adding at the end the following:

"(3) EFFECT OF TRANSFER.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(3) PRICING.—Section 1402 (42 U.S.C. 2297c–1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(4) LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c–2) is amended by adding at the end the following:

"(h) LOW-LEVEL RADIOACTIVE WASTE AND MIXED WASTE.—

"(1) RESPONSIBILITY OF THE DEPARTMENT; COSTS.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(5) LIABILITIES.—

(A) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(B) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(C) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(6) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.".

(f) PRIVATIZATION OF THE CORPORATION.—

(1) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(5) TAX TREATMENT OF PRIVATIZATION.—

"(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

"(B) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(2) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(3) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by paragraph (2)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(4) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by paragraph (3)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(5) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by paragraph (4)) is amended by adding at the end the following new section:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of private corporation.
"Sec. 1504. Ownership limitations.
"Sec. 1505. Exemption from liability.
"Sec. 1506. Resolution of certain issues.
"Sec. 1507. Application of privatization proceeds.".

(7) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(8) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d-1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

(g) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

(h) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f-1(a)) is amended by striking "other than" and inserting "including".

(i) CONFORMING AMENDMENTS.—

(1) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(A) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(i) Section 1202.
(ii) Sections 1301 through 1304.
(iii) Sections 1306 through 1316.
(iv) Sections 1404 and 1405.
(v) Section 1601.
(vi) Sections 1603 through 1607.

(B) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(2) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(A) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by subsection (f)(1)).

(B) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(C) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102-486.

(3) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b-4) is amended—

(A) by repealing subsections (a), (b), (c), and (d), and

(B) in subsection (e)—

(i) by striking the subsection designation and heading,

(ii) by redesignating paragraphs (1) and (2) (as added by subsection (d)(1)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(iii) by striking paragraph (3), and

(iv) by redesignating paragraph (4) (as amended by subsection (d)(2)) as subsection (c), and by moving the margins 2-ems to the left.

SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Paragraph (3) of section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is repealed.

SEC. 1103. COGENERATION.

Section 804(2)(B) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)(B)) is amended by striking ", excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities".

SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) In General.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) Requirements.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) Amount of Fees.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) Deposit of Fees in Treasury.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

Subtitle B—Central Utah

SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.".

Subtitle C—Army Corps of Engineers

SEC. 1131. REGULATORY PROGRAM FUND.

(a) Establishment.—There is established in the Treasury of the United States the "Army Civil Works Regulatory Program Fund" (hereinafter in this section referred to as the "Regulatory Program Fund") into which shall be deposited fees collected by the Secretary of the Army pursuant to subsection (b). Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

(b) Regulatory Fees.—

(1) Collection.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall establish fees for the evaluation of commercial permit applications, for the recovery of costs associated with the preparation of environmental impact statements required by the National Environmental Policy Act of 1969, and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. The Secretary shall collect such fees and deposit amounts collected pursuant to this paragraph into the Regulatory Program Fund.

(2) Fees.—The fees described in paragraph (1) shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

Subtitle D—Helium Reserve

SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE FACILITY.

(a) Short Title.—This section may be cited as the "Helium Act of 1995".

(b) References.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

(c) Authority of Secretary.—Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) Extraction and Disposal of Helium on Federal Lands.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

"(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

"(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after such date.

"(b) Storage, Transportation, and Sale.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

"(c) Monitoring and Reporting.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

"SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

"(a) Storage and Transportation.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

"(b) Cessation of Production, Refining, and Marketing.—Effective one year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

"(c) Disposal of Facilities.—(1) Within one year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining, and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

"(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium.

"(d) Existing Contracts.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).".

(d) Sale of Crude Helium.—Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(2) Subsection (b) is amended by inserting "crude" before "helium" and by adding the following at the end thereof: "Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.".

(3) Subsection (c) is amended by inserting "crude" before "helium" after the words "Sales of" and by striking "together with interest as provided in this subsection" and all that follows down through the period at the end of such subsection and inserting the following: "all funds required to be repaid to

the United States as of October 1, 1994 under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

"(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

"(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.".

(4) Subsection (d) is amended to read as follows:

"(d) Extraction of Helium From Deposits on Federal Lands.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.".

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting "(1)" after "(f)" and by adding the following at the end thereof:

"(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.".

(e) Elimination of Stockpile.—Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) Review of Reserves.—Not later than January 1, 2014 the Secretary shall review the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

"(b) Reserves Below 1 BCF in 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are less than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2019. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection. The price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c) by the year 2019 with minimum market disruption. The date specified in this subsection for completion of such sales and for repayment of debt may be extended by the Secretary for a period of not to exceed 5 additional years if necessary in order to assure repayment of such debt with minimum market disruption.

"(c) Reserves Above 1 BCF in 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are more than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2024. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum disruption of the market for crude helium.

"(d) Discovery of Additional Reserves.—The discovery of additional helium reserves after the year 2014 shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b) or (c), as the case may be.".

(f) Repeal of Authority To Borrow.—Sections 12 and 15 are repealed.

Subtitle E—Territories

SEC. 1151. TERMINATION OF ANNUAL DIRECT ASSISTANCE TO NORTHERN MARIANA ISLANDS.

(a) In General.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) Elimination of 7-Year Extensions.—

(1) In general.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) Conforming changes.—(A) Section 5 of the Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking "agreement identified in section 3 of this Act" and inserting "Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands"; and

(ii) by striking "Interior and Insular Affairs" and inserting "Resources".

TITLE II—AGRICULTURAL PROGRAMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Agricultural Reconciliation Act of 1995".

Subtitle A—Extension and Modification of Various Commodity Programs

SEC. 2101. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR WHEAT THROUGH 2002.

(a) Agricultural Act of 1949.—Section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is amended—

(1) in the section heading by striking "**1995**" and inserting "**2002**";

(2) in subsections (a)(1), (a)(4)(C), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (q), by striking "1995" each place it appears and inserting "2002";

(3) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 2002";

(4) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 2002";

(5) in subsection (c)(1)(E)(vii), by striking "1997" and inserting "2002";

(6) in the heading of subsection (e)(1)(G), by striking "1995" and inserting "2002"; and

(7) in subsection (g)(1), by striking "and 1995" and inserting "through 2002".

(b) Food Security Wheat Reserve.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking "1995" both places it appears and inserting "2002".

(c) Nonapplicability of Certificate Requirements.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1996, through May 31, 2003.

(d) Suspension of Land Use, Wheat Marketing Allocation, and Producer Certificate Provisions.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(e) Suspension of Certain Quota Provisions.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(f) Nonapplicability of Section 107 of Agricultural Act of 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

SEC. 2102. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR FEED GRAINS THROUGH 2002.

(a) Agricultural Act of 1949.—Section 105B of the Agricultural Act of 1949 (7 U.S.C. 1444f) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**2002**";

(2) in subsections (a)(1), (a)(4)(C), (a)(6), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(1)(G), (e)(1)(H), (e)(2)(H), (e)(3)(A), (e)(3)(C)(iii), (f)(1), (p)(1), (q)(1), and (r), by striking "1995" each place it appears and inserting "2002";

(3) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 2002";

(4) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 2002";

(5) in subsection (c)(1)(E)(vii), by striking "1997" and inserting "2002";

(6) in the headings of subsections (e)(1)(G) and (e)(1)(H), by striking "1995" both places it appears and inserting "2002"; and

(7) in subsection (g)(1), by striking "and 1995" and inserting "through 2002".

(b) Recourse Loan Program For Silage.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking "1996" and inserting "2002".

(c) Nonapplicability of Section 105 of Agricultural Act of 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

SEC. 2103. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR COTTON THROUGH 2002.

(a) Extra Long Staple Cotton.—Section 103(h)(16) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended by striking "1996" and inserting "2003".

(b) Upland Cotton.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444–2) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), (c)(1)(D)(v)(II), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997 CROPS" and inserting "2002 CROPS";

(4) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops";

(5) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002"; and

(6) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking "1998" each place it appears and inserting "2003".

(c) Cottonseed and Cottonseed Oil.—Section 203(b) of the Agricultural Act of 1949 (7 U.S.C. 1446d(b)) is amended by striking "1995" and inserting "2002".

(d) Agricultural Adjustment Act of 1938.—Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking "1995" each place it appears and inserting "2002".

(e) Suspension of Base Acreage Allotments, Marketing Quotas, and Related Provisions.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(f) Suspension of Miscellaneous Cotton Provisions.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(g) Preliminary Allotments for 2003 Crop of Upland Cotton.—Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 2003 crop.

(h) Cotton Classification Services.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the "Cotton Statistics and Estimates Act") (chapter 337; 7 U.S.C. 473a), is amended by striking "1996" and inserting "2002".

SEC. 2104. EXTENSION OF LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR RICE THROUGH 2002.

Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441–2) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**2002**";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2001";

(4) in the heading of subsection (c)(1)(B)(ii), by striking "AND 1995" and inserting "THROUGH 2002";

(5) in subsection (c)(1)(B)(ii), by striking "and 1995" and inserting "through 2002";

(6) in subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002"; and

(7) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997 CROPS" and inserting "2002 CROPS".

SEC. 2105. EXTENSION OF LOANS AND PAYMENTS FOR OILSEEDS THROUGH 2002.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**2002**";

(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "2002"; and

(3) in subsections (c) and (h)(2), by striking "1997" each places it appears and inserting "2002".

SEC. 2106. INCREASE IN FLEX ACRES.

(a) Wheat.—Subsection (c)(1)(C)(ii) of section 107B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop of wheat) and 77 percent (for the 1996 through 2002 crops)".

(b) Feed Grains.—Subsection (c)(1)(C)(ii) of section 105B of such Act (7 U.S.C. 1444f) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop) and 77 percent (for the 1996 through 2002 crops)".

(c) Upland Cotton.—Subsection (c)(1)(C)(ii) of section 103B of such Act (7 U.S.C. 1444–2) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop of upland cotton) and 77 percent (for the 1996 through 2002 crops)".

(d) Rice.—Subsection (c)(1)(C)(ii) of section 101B of such Act (7 U.S.C. 1441–2) is amended by striking "85 percent" and inserting "85 percent (through the 1995 crop of rice) and 77 percent (for the 1996 through 2002 crops)".

SEC. 2107. REDUCTION IN 50/85 AND 0/85 PROGRAMS.

(a) Rice.—Section 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/85 PROGRAM" and inserting "50/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(b) Cotton.—Section 103B(c)(1)(D) of such Act (7 U.S.C. 1444–2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/85 PROGRAM" and inserting "50/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(c) Feed Grains.—Section 105B(c)(1)(E) of such Act (7 U.S.C. 1444f(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/85 PROGRAM" and inserting "0/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(d) Wheat.—Section 107B(c)(1)(E) of such Act (7 U.S.C. 1445–3a(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/85 PROGRAM" and inserting "0/80 PROGRAM"; and

(2) in clause (i), by striking "8 percent for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops" both places it appears and inserting "20 percent for each of the 1996 through 2002 crops".

(e) Effect of Amendments on Prior Crop Years.—Sections 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), and 107B(c)(1)(E) of the Agricultural Act of 1949, as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1991 through 1995 crops covered by such sections.

Subtitle B—Sugar

SEC. 2201. EXTENSION AND MODIFICATION OF SUGAR PROGRAM.

(a) Assurance of Sugar Supply.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g, et seq.) is amended to read as follows:

"SEC. 206. ASSURANCE OF SUGAR SUPPLY.

"(a) In General.—The price of each crop of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

"(b) Sugarcane.—Subject to subsection (d), the Secretary shall support the price of domestically grown sugarcane through loans at 18 cents per pound for raw cane sugar.

"(c) Sugar Beets.—Subject to subsection (d), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(d) Adjustment in Support Level.—

"(1) Downward adjustment in support level.—

"(A) In general.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the price determined for the preceding crop, as established under this section, if negotiated reductions in export subsidies and domestic subsidies provided for sugar of the European Union and other major sugar growing, producing, and exporting countries ('major countries') in the aggregate exceed the commitments made as part of the Uruguay Round Agreements.

"(B) Extent of reduction.—The Secretary shall not reduce the support price under this section below a level that provides an equal measure of support to that provided by any other major country or customs union based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture referenced in 19 U.S.C. 3511(d)(2).

"(C) Major countries.—For purposes of this subsection, the term 'major countries' includes all countries allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 of chapter 17 of the Harmonized Tariff Schedule, all countries of the European Union, and the People's Republic of China.

"(2) Increases in support level.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(e) Loan Type; Processor Assurances.—

"(1) In general.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

"(2) Modification.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is set at, or is increased to, a level that exceeds the minimum level for such imports committed to by the United States under the Agreement on Agriculture contained in the Uruguay Round of Agreements of the General Agreement on Tariffs and Trade, the Secretary shall carry out this section by making available nonrecourse loans. Any recourse loan previously made available by the Secretary under this section during such fiscal year shall be modified by the Secretary into a nonrecourse loan.

"(3) Processor assurances.—In order to effectively support the prices of sugar beets and sugarcane received by the producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or modify recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(f) ANNOUNCEMENTS.—In order to ensure the efficient administration of the program under this section and the effective support of the price of sugar, the Secretary shall announce the type of loans available and the loan rates for beet sugar and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(g) LOAN TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (h), loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, upon written request to the Commodity Credit Corporation. The maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(h) SUPPLEMENTARY LOANS.—Subject to subsection (d), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. Such loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months less the quantity of time that the first loan was in effect.

"(i) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(j) MARKETING ASSESSMENTS.—The following assessments shall be collected with respect to all sugar marketed within the United States during the 1996 through 2003 fiscal years:

"(1) BEET SUGAR.—The first seller of beet sugar produced from sugar beets or sugar beet molasses, or refined sugar refined outside of the United States, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1794 percent of the loan level established under subsection (b) per pound of sugar marketed.

"(2) CANE SUGAR.—The first seller of raw cane sugar produced from sugarcane or sugarcane molasses, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1 percent of the loan level established under subsection (b) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(3) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation within 30 days of the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(4) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(6) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

"(k) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—All sugarcane processors, cane sugar refiners, and sugar beet processors shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—In order to efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(l) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States equal to Total Estimated Disappearance minus the quantity of sugar that will be available from carry-in stocks.

"(2) TOTAL DISAPPEARANCE.—For the purposes of this subsection, the term "Total Estimated Disappearance" means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during the fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in sugar containing products) plus the quantity of sugar that would provide for adequate carryover stocks.

"(3) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

"(m) DEFINITION OF MARKET.—For purposes of this section, the term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and deliver to a buyer.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) CONFORMING AMENDMENT.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

Subtitle C—Peanuts

SEC. 2301. EXTENSION OF PRICE SUPPORT PROGRAM FOR PEANUTS AND RELATED PROGRAMS.

(a) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsection (a)(1), (a)(2), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(3) in subsection (g)(1), by striking "1997 crops" the first place it appears and inserting "2002 crops".

(b) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(1) in section 358-1 (7 U.S.C. 1358-1)—

(A) in the section heading, by striking "**1997**" and inserting "**2002**";

(B) in subsection (a)(3), by striking "1990" and inserting "1990, for the 1991 through 1995 marketing years, and 1995, for the 1996 through 2002 marketing years";

(C) in subsection (b)(1)(A)—

(i) by striking "1997" and inserting "2002"; and

(ii) in clause (i), by inserting before the semicolon the following: ", for the 1991 through 1995 marketing years, and the 1995 marketing year, for the 1996 through 2002 marketing years"; and

(D) in subsections (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3)(A), and (f), by striking "1997" each place it appears and inserting "2002";

(2) in section 358b (7 U.S.C. 1358b)—

(A) in the section heading, by striking "**1995**" and inserting "**2002**"; and

(B) in subsection (c), by striking "1995" and inserting "2002";

(3) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(4) in section 358e (7 U.S.C. 1359a)—

(A) in the section heading, by striking "**1997**" and inserting "**2002**"; and

(B) in subsection (i), by striking "1997" and inserting "2002".

(c) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Title VIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 3459) is amended—

(1) in section 801 (104 Stat. 3459), by striking "1995" and inserting "2002";

(2) in section 807 (104 Stat. 3478), by striking "1995" and inserting "2002"; and

(3) in section 808 (7 U.S.C. 1441 note), by striking "1995" and inserting "2002".

SEC. 2302. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS.

(a) ESTABLISHMENT.—Subsection (a)(1) of section 358-1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1) is amended to read as follows:

"(1) ESTABLISHMENT.—The national poundage quota for peanuts for each of the 1991 through 2002 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible and related uses. Beginning with the 1996 marketing year, the Secretary shall exclude seed uses from the estimate of domestic edible and related uses, but shall include the estimated quantity of peanuts and peanut products to be imported into the United States for the marketing year for which the quota is being established.".

(b) EXCLUSIONS FROM FARM POUNDAGE QUOTA.—Subsection (b) of such section is amended—

(1) in paragraph (1)(B), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) through the 1995 marketing year, any increases for undermarketings from previous years; or

"(ii) through the 2002 marketing year, any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7)."; and

(2) in paragraph (3)(B), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) through the 1995 marketing year, any increases for undermarketings of quota peanuts from previous years; or

"(ii) through the 2002 marketing year, any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).".

(c) TEMPORARY QUOTA ALLOCATION.—Subsection (b)(2) of such section is amended—

(1) in subparagraph (A), by striking "subparagraph (B) and subject to"; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) ALLOCATION RELATED TO SEED PEANUTS.—Temporary allocation of quota pounds for the marketing year only in which the crop is planted shall be made to producers for each of the 1996 through 2002 marketing years as provided in this subparagraph. The temporary quota allocation shall be equal to the pounds of seed peanuts planted on the farm, as may be adjusted under regulations prescribed by the Secretary. The temporary allocation of quota pounds under this paragraph shall be in addition to the farm poundage quota otherwise established under this subsection and shall be credited for the applicable marketing year only, in total to the producer of the peanuts on the farm in a manner prescribed by the Secretary.

"(ii) CONDITION ON ALLOCATION.—The allocation of quota pounds to producers under this subparagraph shall be performed in such a manner so that such allocation will not result in a net decrease in the farm poundage quota for a farm in excess of 3 percent, after temporary seed quota is added, from the basic farm quota in 1996. Such decrease shall occur one time only and shall be applicable to the 1996 marketing year only.

"(iii) TERM OF PROVISION.—Application of this subparagraph may continue so long as doing so does not result in increased cost to the Commodity Credit Corporation by displacement of quota peanuts by additional peanuts in the domestic market, increased losses in the Association loan pools, or other such increases in cost.

"(iv) EFFECT OF OTHER REQUIREMENTS.—Nothing in this section shall alter or change in any way the requirements regarding the use of quota and additional peanuts established by section 359a(b) of the Agricultural Act of 1949 (7 U.S.C. 1359a(b)), as added by section 804 of the Food, Agriculture, Conservation, and Trade Act of 1990.".

(d) QUOTA CONSIDERED PRODUCED.—Subsection (b)(4) of such section is amended to read as follows:

"(4) QUOTA CONSIDERED PRODUCED.—

"(A) NATURAL DISASTER.—For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary.

"(B) LEASE OR RELEASE OF QUOTA.—Such farm poundage quota shall also be considered produced on a farm if the farm poundage quota was either leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made or the farm poundage quota was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made. The farm poundage quota leased or released under this subparagraph shall be considered produced for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made. The farm shall not receive considered produced credit for more than 1 marketing year out of the 3 immediately preceding marketing years under the options in this subparagraph.".

(e) ALLOCATION OF QUOTAS REDUCED OR RELEASED TO FARMS WITHOUT QUOTAS.—Subsection (b)(6) of such section is amended to read as follows:

"(6) ALLOCATION OF QUOTAS REDUCED OR RELEASED.—

"(A) IN GENERAL.—The total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs 3 and (5) shall be allocated under subparagraph (B), as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

"(B) SET-ASIDE FOR FARMS WITH NO QUOTA.—The total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm. Any farm quota pounds remaining after allocation to farms under this subparagraph shall be allocated to farms in the State on which poundage quotas were established for the immediately preceding crop year.".

(f) TRANSFER OF ADDITIONAL PEANUTS.—Subsection (b) of such section is amended by striking paragraphs (8) and (9) and inserting the following new paragraph:

"(8) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested and marketed may be transferred to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation provide, except that the poundage of such peanuts so transferred shall not exceed the difference in the total peanuts meeting quality requirements for domestic edible use as determined by the Secretary marketed from the farm and the total farm poundage quota, excluding quota pounds transferred to the farm in the fall. Peanuts transferred under this paragraph shall be supported at a total of not less than 70 percent of the quota support rate for the marketing years in which such transfers occur and such transfers for a farm shall not exceed 25 percent of the total farm quota pounds, excluding pounds transferred in the fall.".

SEC. 2303. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA.

(a) TRANSFERS AUTHORIZED UNDER CERTAIN CIRCUMSTANCES.—Subsection (a) of section 358b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is amended—

(1) in paragraph (1)—

(A) by striking "(including any applicable under marketings)" both places it appears;

(B) in subparagraph (A), by striking "undermarketings and"; and

(C) by adding at the end the following new sentences: "In the case of a fall transfer only, poundage quota from a farm may be leased to another owner or operator of a farm within the same county or to another owner or operator of a farm in any other county within the State. Fall transfers of quota pounds shall not affect the farm quota history for the transferring or receiving farm and shall not result in reducing the farm poundage quota on the transferring farm.";

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same county or any other county within the same State and that had a farm poundage quota for the preceding crop year, if both the transferring and the receiving farms were under the control of the owner or operator for at least 3 crop years prior to the crop year in which the farm poundage quota is transferred. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if sufficient acreage is planted on the receiving farm to produce the quota pounds transferred.";

(3) in paragraph (3), by striking "(including any applicable undermarketings)"; and

(4) by adding at the end the following new paragraph:

"(4) TRANSFERS BY SALE IN STATES HAVING QUOTAS OF 10,000 TONS OR MORE.—Subject to such terms and conditions as the Secretary may prescribe, the owner, or operator with permission of the owner, of any farm for which a farm quota has been established and which is located in a State having a quota of 10,000 tons or more may sell poundage quota to any other eligible owner or operator of a farm within the same State. The Secretary shall ensure that no more than 15 percent of the total poundage quota within a county as of January 1, 1996, is sold and transferred in 1996 under this paragraph and that no more than 5 percent of the quota pounds remaining in a county as of January 1 in each of the next 4 years are sold and transferred in any such year. Notwithstanding any other provision of this paragraph, no more than 30 percent of the total poundage quota within a county may be sold and transferred. Quota pounds sold and transferred under this paragraph may not be leased or sold from the farm to which transferred to another farm owner or operator within the same State for a period of 5 years following the original transfer to the farm.".

(b) CONDITIONS.—Subsection (b) of such section is amended—

(1) in paragraph (1), by inserting before the period at the end the following: ", except that no such agreement shall be necessary in the event of fall lease, if the operator had the lienholder's agreement for a previous spring cash lease"; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) Record.—No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committees of the counties from which transferred and to which transferred and the committees determine that the transfer complies with this section.".

SEC. 2304. PENALTY FOR REENTRY OF EXPORTED PEANUT PRODUCTS.

Section 358e(d)(6)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a(d)(6)(A)) is amended by inserting "or peanut products manufactured from additional peanuts" after "any additional peanuts".

SEC. 2305. PRICE SUPPORT PROGRAM FOR PEANUTS.

(a) Support Rates.—Subsection (a)(2) Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) by striking "any increase" and inserting "any increase or decrease"; and

(2) by striking ", except that" and all that follows through "preceding crop" and inserting the following: "In no event shall the national average quota support rate be increased by more than 5 percent of the national average quota support rate for the preceding crop. In no event shall the national average quota support rate be decreased by more than 5 percent of the national average quota support rate for the preceding crop.".

(b) Special Rule Regarding New Mexico Pools.—Subsection (c)(2)(A) of such section is amended by inserting after the first sentence the following new sentence: "Peanuts physically produced outside the State of New Mexico shall not be eligible for entry into or participation in the New Mexico pools even though the farm on which the peanuts are produced is considered to be a New Mexican farm for administrative purposes.".

(c) Losses in Area Quota Pools.—Subsection (d)(2) of such section is amended—

(1) by redesignating subparagraph (B) as subparagraph (D);

(2) by inserting after subparagraph (A) the following new paragraphs:

"(B) Reduction of gains of other producers in same pool.—If use of the authority provided in subparagraph (A) is not sufficient to cover losses in an area quota pool, the additional losses shall be offset by reducing the gain of any producer in such pool by the amount of pool gains attributed to the same producer from the sale of additional peanuts for domestic and export edible use.

"(C) Use of marketing assessments.—If use of the authority provided in subparagraphs (A) and (B) is not sufficient to cover losses in area quota pools, the Secretary shall use funds collected under subsection (g) to offset such losses. At the end of each year, the Secretary shall deposit in the Treasury those funds collected under subsection (g) that the Secretary determines are not required to cover losses in area quota pools for that year."; and

(3) in subparagraph (D), as redesignated by paragraph (1), by adding at the end the following new sentence: "This subparagraph shall apply only to the extent that use of the authority provided in subparagraphs (A), (B), and (C) is not sufficient to cover losses in an area quota pool.".

(d) Compliance With Quality Standards.—Subsection (f)(2) of such section is amended to read as follows:

"(2) Exports and other peanuts.—The Secretary shall require that all peanuts in the domestic market, including peanuts imported into the United States, meet all United States quality standards under Marketing Agreement No. 146 and that importers of such peanuts fully comply with inspection, handling, storage, and processing requirements implemented under Marketing Agreement No. 146. The Secretary shall ensure that peanuts produced for the export market meet quality, inspection, handling, storage, and processing requirements under Marketing Agreement No. 146.".

(e) Assessment Rates.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking "1.15 percent" the first place it appears and all that follows through the period at the end of such paragraph and inserting "and 1.2 percent for the 1996 through 2002 crops, of the applicable support rate under this subsection.";

(2) in paragraph (2)(A)(i)—

(A) by inserting "and" at the end of subclause (II); and

(B) by striking subclauses (III) and (IV) and inserting the following new subclause:

"(III) in the case of each of the 1996 through 2002 crops, .6 percent of the applicable national average support rate;"; and

(3) in paragraph (2)(A)(ii)—

(A) by striking "and" at the end of subclause (I);

(B) in subclause (II), by striking "through 1997 crops" and inserting "and 1995 crops"; and

(C) by adding at the end the following new subclause:

"(III) in the case of each of the 1996 through 2002 crops, .6 percent of the applicable national average support rate; and".

(f) Assessment on Imports.—Subsection (g) of such section is further amended—

(1) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Imports.—Each importer of peanuts produced outside of the United States and imported into the United States after the date of the enactment of this paragraph shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to the product obtained by multiplying the number of pounds of peanuts imported by the importer by 1.2 percent of the national average support rate for additional peanuts.".

SEC. 2306. REFERENDUM REGARDING POUNDAGE QUOTAS.

Section 358–1(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 13581(d)) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) In general.—Each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the seven calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the next six years of the period. In the case of the referendum required in 1995, the Secretary shall conduct the referendum as soon as practicable after the date of the enactment of the Agricultural Reconciliation Act of 1995. In the case of any referendum required in calendar years 1996 through 2002, the Secretary shall conduct the referendum not later than December 15 of the calendar year in which the referendum is required.".

SEC. 2307. REGULATIONS.

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title. In issuing the regulations, the Secretary—

(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

(2) shall provide public notice through the Federal Register of any such proposed regulations; and

(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.

Subtitle D—Tobacco

SEC. 2401. ELIMINATION OF FEDERAL BUDGETARY OUTLAYS FOR TOBACCO PROGRAMS.

Section 106(g)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(g)(1)) is amended—

(1) by striking "1998" and inserting "2002"; and

(2) by inserting after "equal to" the following: "a pro rata share of the total amount of the costs of other Department of Agriculture programs related to tobacco production or processing that are not required to be covered by user fees or by contributions or assessments under section 106A(d)(1) or 106B(d)(1), but in no event less than".

SEC. 2402. ESTABLISHMENT OF FARM YIELD FOR FLUE-CURED TOBACCO BASED ON INDIVIDUAL FARM PRODUCTION HISTORY.

(a) Method of Determining Farm Acreage Allotments.—Subsection (a) of section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by striking paragraphs (2) through (8) and inserting the following new paragraphs:

"(2) Farm acreage allotments.—The term 'farm acreage allotment' for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by dividing the farm marketing quota by the farm yield.

"(3) Farm yield.—The term 'farm yield' means the yield per acre for a farm determined according to regulations issued by the Secretary and which would be expected to result in a quality of tobacco acceptable to the tobacco trade.

"(4) Farm marketing quota.—

"(A) In general.—The term 'farm marketing quota' for a farm for a marketing year means a number that is equal to the number of pounds of tobacco determined by multiplying—

"(i) the farm marketing quota for the farm for the previous marketing year (prior to any adjustment for undermarketing or overmarketing); by

"(ii) the national factor.

"(B) Adjustment.—The farm marketing quota determined under subparagraph (A) for a marketing year shall be increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediate preceding marketing year (if marketing quotas were in effect for that year under the program established by this section) is less than or exceeds the farm marketing quota for such year. Notwithstanding the preceding sentence, the farm marketing quota for a marketing year shall not be increased under this subparagraph for undermarketing by an amount in excess of the farm marketing quota determined for the farm for the immediately preceding year prior to any increase for undermarketing or decrease for overmarketing. If due to excess marketing in the preceding marketing year, the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction shall be made for the subsequent marketing year or years.

"(5) NATIONAL FACTOR.—The term 'national factor' for a marketing year means a number obtained by dividing—

"(A) the national marketing quota (less the reserve provided for under subsection (e)); by

"(B) the sum of the farm marketing quotas (prior to any adjustments for undermarketing or overmarketing) for the immediate preceding marketing year for all farms for which marketing quotas for the kind of tobacco involved will be determined for such succeeding marketing year.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the first sentence of subsection (b), by striking "and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco,";

(2) in the first sentence of subsection (c), by striking "and at the same time announce the national acreage allotment and national average yield goal";

(3) in subsection (d)—

(A) in the sixth sentence, by striking ", national acreage allotment, and national average yield goal";

(B) in the eighth sentence, by striking ", national acreage allotment and national average yield goal"; and

(C) in the ninth sentence, by striking ", national acreage allotment, and national average goal are" and inserting "is";

(4) in subsection (e)—

(A) in the first sentence, by striking "No farm acreage allotment or farm yield shall be established" and inserting "A farm marketing quota and farm yield shall not be established";

(B) in the second sentence, by striking "acreage allotment" both places it appears and inserting "marketing quota";

(C) in the second sentence, by striking "acreage allotments" both places it appears and inserting "marketing quotas"; and

(D) in the last sentence, by striking "acreage allotment" and inserting "marketing quota"; and

(5) in subsection (g)—

(A) in paragraph (1), by striking "paragraph (a)(8)" and inserting "subsection (a)(4)"; and

(B) in paragraph (3), by striking "subsection (a)(8)" and inserting "subsection (a)(4)".

(c) FARM MARKETING QUOTA REDUCTIONS.—Subsection (f) of such section is amended to read as follows:

"(f) CAUSES FOR FARM MARKETING QUOTA REDUCTION.—(1) When an acreage-poundage program is in effect for any kind of tobacco under this section, the farm marketing quota next established for a farm shall be reduced by the amount of such kind of tobacco produced on the farm—

"(A) which was marketed as having been produced on a different farm;

"(B) for which proof of disposition is not furnished as required by the Secretary;

"(C) on acreage equal to the difference between the acreage reported by the farm operator or a duly authorized representative and the determined acreage for the farm; and

"(D) as to which any producer on the farm filed, or aids, or acquiesces, in the filing of any false report with respect to the production or marketing of tobacco.

"(2) If the Secretary, through the local committee, find that no person connected with a farm caused, aided, or acquiesced in any irregularity described in paragraph (1), the next established farm marketing quota shall not be reduced under this subsection.

"(3) The reduction required under this subsection shall be in addition to any other adjustments made pursuant to this section.

"(4) In establishing farm marketing quotas for other farms owned by the owner displaced by acquisition of the owner's land by any agency, as provided in section 378 of this Act, increases or decreases in such farm marketing quotas as provided in this section shall be made on account of marketings below or in excess of the farm marketing quotas for the farm acquired by the agency.

"(5) Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316) be leased and sold under the terms and conditions in section 316 of this Act, except that any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred.".

(d) EFFECT OF AMENDMENTS ON CURRENT TOBACCO CROP.—Section 317 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 1995 crop of Flue-cured tobacco.

SEC. 2403. REMOVAL OF FARM RECONSTITUTION EXCEPTION FOR BURLEY TOBACCO.

Section 379(a)(6) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379(a)(6)) is amended by striking ", but this clause (6) shall not be applicable in the case of burley tobacco".

SEC. 2404. REDUCTION IN PERCENTAGE THRESHOLD FOR TRANSFER OF FLUE-CURED TOBACCO QUOTA IN CASES OF DISASTER.

The second subsection (h) in section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking "90 percent" in paragraph (1)(A) and inserting "80 percent".

SEC. 2405. EXPANSION OF TYPES OF TOBACCO SUBJECT TO NO NET COST ASSESSMENT.

(a) NO NET COST TOBACCO FUND.—Section 106A(d)(1)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)(1)(A)) is amended—

(1) in clause (ii), by inserting after "Burley quota tobacco" the following: "and cigar-type quota tobacco"; and

(2) in clause (iii)—

(A) in the matter preceding the subclauses, by striking "Flue-cured or Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,"; and

(B) by striking subclause (II) and inserting the following new subclause:

"(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for such kind of tobacco payable under clauses (i) and (ii); and".

(b) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445-2(d)(1)) is amended—

(1) in subparagraph (B), by inserting after "Burley quota tobacco" the following: "and cigar-type quota tobacco"; and

(2) in subparagraph (C), by striking "Flue-cured and Burley tobacco" and inserting "each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 2406. REPEAL OF REPORTING REQUIREMENTS RELATING TO EXPORT OF TOBACCO.

Section 214 of the Tobacco Adjustment Act of 1983 (7 U.S.C. 509) is repealed.

SEC. 2407. REPEAL OF LIMITATION ON REDUCING NATIONAL MARKETING QUOTA FOR FLUE-CURED AND BURLEY TOBACCO.

(a) FLUE-CURED TOBACCO.—Section 317(a)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(1)) is amended by striking subparagraph (C).

(b) BURLEY TOBACCO.—Section 319(c)(3) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3)) is amended by striking subparagraph (C).

SEC. 2408. APPLICATION OF CIVIL PENALTIES UNDER TOBACCO INSPECTION ACT.

Section 12 of the Tobacco Inspection Act (7 U.S.C. 511k) is amended—

(1) by inserting "(a) FINE FOR VIOLATIONS.—" after "That any person"; and

(2) by adding at the end the following new subsections:

"(b) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any rule or regulation issued under this Act.

"(c) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to the person who committed such violation or administrative action.

"(d) CIVIL PENALTIES AND ORDERS.—

"(1) CIVIL PENALTIES.—Any person who willfully violates any provision of this Act or any of the regulations issued by the Secretary under this Act may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense.

"(2) CEASE AND DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

"(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

"(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an appeal of the Secretary's order with the appropriate district court of the United States, in accordance with subsection (e).

"(e) REVIEW BY DISTRICT COURT.—

"(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this Act, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (d), may obtain review of the penalty or order—

"(A) by filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

"(i) the district court of the United States for the district in which the person resides or conducts business; or

"(ii) the United States District Court for the District of Columbia; and

"(B) by sending, within the same period, a copy of such notice by certified mail to the Secretary.

"(2) RECORD.—The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

"(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if such finding is found to be unsupported by substantial evidence.

"(f) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order under this section after such order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for hearing and for a judicial review under the procedures specified in subsection (e), of not more than $500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

"(g) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for the district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(h) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.".

SEC. 2409. TRANSFERS OF QUOTA OR ALLOTMENT ACROSS COUNTY LINES IN A STATE.

(a) TRANSFERS ALLOWED BY REFERENDUM.—

(1) FLUE-CURED TOBACCO.—Section 316(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(g)) is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), the Secretary may permit the sale of a Flue-cured tobacco allotment or quota from one farm in a State to any other farm in the State if a majority of active Flue-cured tobacco producers within the State approve of such sales by a state-wide referendum to be conducted by the Secretary.".

(2) OTHER TOBACCO.—Section 318(b) of such Act (7 U.S.C. 1314d(b)) is amended in the proviso by inserting after "same State" the following: "and, in the case of other kinds of tobacco, any such transfer may be made to a farm in another county in the same State if transfers of such type are approved by a majority of the active producers of that kind of tobacco in the State who vote in a referendum held on the subject".

(3) BURLEY TOBACCO.—Section 319(l) of such Act (7 U.S.C. 1314e(l)) is amended by striking the last sentence.

(b) SAME GROWER IN CONTIGUOUS COUNTIES.—Section 379(b) of such Act (7 U.S.C. 1379(b)) is amended by striking "Burley tobacco poundage quota" and inserting "tobacco quota or allotment".

SEC. 2410. CALCULATION OF NATIONAL MARKETING QUOTA.

(a) FLUE-CURED TOBACCO.—Section 317(a)(1)(B)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(a)(1)(B)(ii)) is amended by inserting before the semicolon the following: ", but excluding any exports of unmanufactured tobacco counted under clause (i)".

(b) BURLEY TOBACCO.—Section 319(c)(3)(A)(ii) of such Act (7 U.S.C. 1314e(l)) is amended by inserting before the semicolon the following: ", but excluding any exports of unmanufactured tobacco counted under clause (i)".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to the 1996 and subsequent crops of Flue-cured and Burley tobacco.

SEC. 2411. CLARIFICATION OF AUTHORITY TO ACCESS CIVIL MONEY PENALTIES.

Section 314 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) The failure by a person to comply with regulations issued by the Secretary governing the marketing, disposition, or handling of tobacco under this part shall subject the person to a penalty at the rate provided in subsection (a).".

SEC. 2412. LEASE AND TRANSFER OF FARM MARKETING QUOTAS FOR BURLEY TOBACCO.

Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended—

(1) in paragraph (1), by striking "July 1" each place it appears and inserting "September 1"; and

(2) in paragraph (3)—

(A) by striking "within the three immediately preceding crop years" in the first sentence and inserting "during the current crop year or either of the two immediately preceding crop years"; and

(B) by striking "July 1" in the second sentence and inserting "September 1".

SEC. 2413. LIMITATION ON TRANSFER OF ACREAGE ALLOTMENTS OF OTHER TOBACCO.

Section 318(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d(g)) is amended by striking "ten acres" and inserting "20 acres".

SEC. 2414. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE OF DEPARTMENT REPRESENTATIVES.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 314A (7 U.S.C. 1314-1) the following new section:

"SEC. 315. GOOD FAITH RELIANCE ON ACTIONS OR ADVICE OF DEPARTMENT REPRESENTATIVES.

"Notwithstanding any other provision of law, the performance rendered in good faith by a person in good faith in reliance upon action or advice of an authorized representative of the Secretary may be accepted as meeting the requirements of this part.".

SEC. 2415. UNIFORM FORFEITURE DATES FOR FLUE-CURED AND BURLEY TOBACCO.

(a) SALE OR FORFEITURE OF FLUE-CURED TOBACCO ALLOTMENT OR QUOTA.—The first subsection (h) of section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended—

(1) in paragraph (1), by striking "before the expiration of the eighteen month period beginning on July 1 of the year in which such crop is planted" and inserting "before February 15 of the year after the end of the marketing year for the planted crop"; and

(2) in paragraph (2), by striking "July 1" and inserting "February 15".

(b) MANDATORY SALE OF FLUE-CURED TOBACCO ALLOTMENT OR QUOTA.—Section 316A of such Act (7 U.S.C. 1314b-1) is amended—

(1) in subsection (a), by striking "December 1 of the year" and inserting "February 15 of the year"; and

(2) in subsection (b), by striking "July 1" and inserting "February 15".

(c) MANDATORY SALE OF BURLEY TOBACCO ALLOTMENT OR QUOTA.—Section 316B of such Act (7 U.S.C. 1314b-2) is amended—

(1) in subsection (a), by striking "December 1 of the year" and inserting "February 15 of the year"; and

(2) in subsection (c)(1), by striking "before the expiration of the eighteen month period beginning on July 1 of the year in which such crop is planted" and inserting "before February 15 of the year after the end of the marketing year for the planted crop".

SEC. 2416. SALE OF BURLEY AND FLUE-CURED TOBACCO MARKETING QUOTAS FOR A FARM BY RECENT PURCHASERS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 316B (7 U.S.C. 1314b-2) the following new section:

"SEC. 316C. AUTHORITY FOR RECENT PURCHASER OF A FARM TO SELL BURLEY TOBACCO OR FLUE-CURED TOBACCO MARKETING QUOTAS FOR THE FARM.

"A new owner of a farm that has purchase history of Burley tobacco or Flue-cured tobacco may sell the purchased tobacco quota notwithstanding any limitations on such a sale contained in this part if the sale is completed not later than one year after the purchase date of the farm.".

Subtitle E—Planting Flexibility

SEC. 2501. DEFINITIONS.

Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by adding at the end the following:

"(4) ACREAGE CONSERVATION RESERVE, REDUCED ACREAGE.—The terms 'acreage conservation reserve' and 'reduced acreage' mean the number of acres on a farm to be devoted to conservation uses on the farm, which must be protected from weeds and erosion. Such number shall be determined by multiplying the specific crop acreage base for a crop on the farm by the percentage acreage reduction required by the Secretary.

"(5) PERMITTED ACREAGE.—The term 'permitted acreage' means the crop acreage base for a program crop for the farm less the acreage conservation reserve. If an acreage reduction program is not in effect for a program crop, for purposes of administering this title, the permitted acreage of such a crop on a farm shall be equal to the crop acreage base for the crop for the farm.

"(6) PAYMENT ACREAGE.—The term 'payment acreage' means the lesser of—

"(A) the number of acres planted and considered planted to an eligible crop, as determined in sections 503(c) and 504(b)(1), for harvest within the permitted acreage; or

"(B) 77 percent of the crop acreage base for the crop for the farm less the acreage conservation reserve.

"(7) RESOURCE-CONSERVING CROP.—The term 'resource-conserving crop' means legumes, legume-grass mixtures, legume-small grain mixtures, legume-grass-small grain mixtures, and experimental and industrial crops, crops planted for special conservation practices, biomass production, intensive rotational grazing, and non-legume crops, as determined by the Secretary, to satisfy program objectives.

"(8) RESOURCE-CONSERVING CROP ROTATION.—The term 'resource-conserving crop rotation' means a crop rotation that includes at least one resource-conserving crop and that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves water.

"(9) FARMING OPERATIONS AND PRACTICES.—The term 'farming operations and practices' means practices which include the integration of crops and crop-plant variety selection, rotation practices, tillage systems, soil conserving and soil building practices, nutrient management strategies, biological control and integrated pest management strategies, livestock production and management systems, animal waste management systems, water and energy conservation measures, and health and safety considerations.

"(10) INTEGRATED FARM MANAGEMENT PLAN.—The term 'integrated farm management plan' means a comprehensive, multiyear, site-specific plan that meets the requirements of section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5822).

"(11) GRASS.—The term 'grass' means any perennial grasses commonly used for haying or grazing.

"(12) LEGUME.—The term 'legume' means any forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green manure, but not including any bean crop from which the seeds are harvested.

"(13) SMALL GRAIN.—The term 'small grain' does not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.".

SEC. 2502. CROP AND TOTAL ACREAGE BASES.

Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended—

(1) in the section heading, by inserting "and total" after "crop";

(2) at the end of subsection (a), by adding the following new paragraph:

"(4) TOTAL ACREAGE BASE.—The total acreage base for a farm shall equal the sum of the crop acreage bases established for program crops on the farm that are enrolled in the acreage reduction programs established by the Secretary.";

(3) in the heading for subsection (b) by adding "OF CROP ACREAGE BASES" after "CALCULATION";

(4) in subsection (b)(2)—

(A) by striking "(A) IN GENERAL";

(B) by striking "except as provided in subparagraph (B),"; and

(C) by striking subparagraph (B); and

(5) in subsection (c)(1), by striking "reduced acreage" and inserting "acreage conservation reserve".

SEC. 2503. PLANTING FLEXIBILITY.

(a) SPECIFIED COMMODITIES.—Subsection (b) of section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting the following new subparagraph after subparagraph (D):

"(E) any cover crop (including maintenance of native cover) and summer fallow which, as determined by the Secretary, will protect the land from weeds and erosion; and";

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) LIMITATIONS ON CROPS.—

"(A) IN GENERAL.—For purposes of this section, the Secretary may restrict the planting on a crop acreage base of any crop specified in paragraph (1).

"(B) EFFECT OF ACREAGE REDUCTION PROGRAM.—If an acreage reduction program is in effect for any specific program crop, the Secretary may limit the plantings of the specific program crop for which there is an acreage reduction program in effect to no more than the sum of—

"(i) the permitted acreage for the specific program crop for which there is an acreage reduction program in effect; plus

"(ii) 23 percent of other crop acreage bases which are included in the total acreage base for a farm.

"(C) MINIMUM PLANTING.—The Secretary may require that, as a condition for eligibility for loans, deficiency payments and any other program benefits authorized by this Act, a minimum percentage not to exceed 50 percent of a specific permitted acreage, be planted to the specific program crop."; and

(3) in paragraph (3) by striking "make a determination in each crop year of" and inserting "determine".

(b) LIMITATION ON PLANTINGS.—Subsection (c) of such section is amended by striking paragraphs (1) and (2) and inserting the following:

"The quantity of the total acreage base that may be planted to program crops enrolled in an acreage reduction program shall not exceed 100 percent of the total acreage base, less the acreage conservation reserve for the farm.".

(c) PLANTINGS IN EXCESS OF PERMITTED ACREAGE.—Subsection (d) of such section is amended to read as follows:

"(d) PLANTINGS IN EXCESS OF PERMITTED ACREAGE.—Notwithstanding any other provision of this Act, except as provided in section 504(b)(2)(B), producers of a program crop who are participating in the acreage reduction program for that crop shall be allowed to plant that program crop in a quantity that exceeds the permitted acreage for that crop without losing their eligibility for loans or payments with respect to that crop if—

"(1) the acreage planted to that program crop on the farm in excess of the permitted acreage for that crop does not exceed the permitted acreage of other program crops on the farm; and

"(2) the producer agrees to a reduction in permitted acreage for the other program crops produced on the farm by a quantity equal to the overplanting.".

(d) LOAN ELIGIBILITY.—Subsection (e) of such section is amended to read as follows:

"(e) LOAN ELIGIBILITY.—Producers of a specific program crop (referred to in this subsection as the 'original program crop') who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are participants in the program established for such other program crop shall be eligible to receive loans or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in a acreage reduction program established for such other program crop if the producers—

"(1) plant such other program crop in an amount that does not exceed 100 percent of the permitted acreage established for the original program crop; and

"(2) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.".

SEC. 2504. FARM PROGRAM PAYMENT YIELDS.

Section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465) is amended to read as follows:

"SEC. 505. FARM PROGRAM PAYMENT YIELDS.

"(a) ESTABLISHMENT.—The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c).

"(b) FARM PROGRAM PAYMENT YIELDS BASED ON 1995 CROP YEAR.—

"(1) IN GENERAL.—If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraph (2), the farm program payment yield for each of the 1996 through 2002 crop years shall be the farm program payment yield for the 1995 crop year for the farm.

"(2) ADDITIONAL YIELD PAYMENTS.—In the case of each of the 1991 through 2002 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. The payments shall be made available not later than the time final deficiency payments are made.

"(3) NO YIELD AVAILABLE.—If no farm program payment yield was established for the farm for 1995 crop, the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

"(4) NATIONAL, STATE, OR COUNTY YIELDS.—If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

"(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

"(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

"(5) BALANCING YIELDS.—If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(c) DETERMINATION OF YIELDS.—

"(1) ACTUAL YIELDS.—With respect to the 1996 and subsequent crop years, the Secretary may—

"(A) establish the farm program payment yield as provided in subsection (a); or

"(B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

"(2) PRIOR YIELDS.—For purposes of the preceding sentence, the farm program payment yield for the 1996 crop year and the actual yield per harvested acre with respect to the 1997 and subsequent crop years shall be used in determining farm program payment yields.

"(3) REDUCTION LIMITATION.—Notwithstanding any other provision of this subsection, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1991 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

"(4) ADJUSTMENT OF YIELDS.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield for the crop on the farm does not accurately reflect the productive potential of the farm.

"(d) ASSIGNMENT OF YIELDS.—In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

"(e) ACTUAL YIELD DATA.—

"(1) PROVISION.—The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

"(2) MAINTENANCE.—The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.".

SEC. 2505. APPLICATION OF PROVISIONS.

Section 509 of the Agricultural Act of 1949 (7 U.S.C. 1469) is amended to read as follows:

"SEC. 509. APPLICATION OF TITLE.

"Except as provided in section 406, this title shall apply only with respect to the 1996 through 2002 crops.".

Subtitle F—Miscellaneous Provisions

SEC. 2601. LIMITATIONS ON AMOUNT OF DEFICIENCY PAYMENTS AND LAND DIVERSION PAYMENTS.

Section 1001(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(1)(A)) is amended by striking "$50,000" and inserting "$47,000".

SEC. 2602. SENSE OF CONGRESS REGARDING CERTAIN CANADIAN TRADE PRACTICES.

(a) FINDINGS.—The Congress finds the following:

(1) On October 15, 1993, in response to a request from the National Potato Council, the Foreign Agricultural Service of the Department of Agriculture listed several Canadian nontariff barriers that violate the national treatment principle of the General Agreement on Tariffs and Trade, including the prohibition on bulk shipments, container size limitations on processed products, and prohibitions on consignment sales.

(2) Current Government-to-Government and direct grower-to-grower discussions with Canada have failed to result in changes in Canadian trade practices.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should intensify efforts to resolve the Canadian potato trade concerns and begin to consider formal action under the dispute resolution procedures of the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

TITLE III—COMMERCE

SEC. 3101. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2001.

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.";

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93-253 (FCC 93-510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92-9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal

Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).".

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

"(A) $40,000,000; plus

"(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

"(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

"(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

"(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

"(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

"(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

"(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

"(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.".

(2) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section—

"(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

"(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

(3) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading "COMMON CARRIER SERVICES", the following new item:

"23. Personal communications services	
"a. Initial or new application	230
"b. Amendment to pending application	35
"c. Application for assignment or transfer of control	230
"d. Application for renewal of license	35
"e. Request for special temporary authority	200
"f. Notification of completion of construction	35
"g. Request to combine service areas	50".

(4) VANITY CALL SIGNS.—

(A) LIFETIME LICENSE FEES.—

(i) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading "PRIVATE RADIO SERVICES", the following new item:

"11. Amateur vanity call signs	150.00".

(ii) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(B) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs	7".

(b) REGULATORY FEES.—

(1) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(2) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(A) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

(B) by adding at the end the following new paragraph:

"(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).".

(3) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

"Terrestrial television satellite operations	500".

(4) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(5) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(A) in section 9, by striking subsection (i); and

(B) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

"(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

"(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.

(a) Limitations on Terms of Analog Television Licenses ("Reversion Date").—The Commission shall not renew any analog television license for a period that extends beyond the earlier of December 31, 2005, or one year after the date the Commission finds, based on annual surveys conducted pursuant to subsection (b), that at least 95 percent of households in the United States have the capability to receive and display video signals, other than video signals transmitted pursuant to an analog television license. After such date, the Commission shall not issue any television licenses other than advanced television licenses.

(b) Annual Survey.—The Secretary of Commerce shall, each calendar year from 1998 to 2005, conduct a survey to estimate the percentage of households in the United States that have the capability to receive and display video signals other than signals transmitted pursuant to an analog television license.

(c) Spectrum Reversion.—The Commission shall ensure that, as analog television licenses expire pursuant to subsection (a), spectrum previously used for the broadcast of analog television signals is reclaimed and reallocated in such manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. The Commission shall complete the competitive bidding procedure by May 1, 2002.

(d) Minimum Service Obligation.—

(1) Provision of capability to receive advanced services.—The Commission shall, by regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced television licensees shall provide each household with the capability to receive and display video signals for advanced television services if such household requests such capability.

(2) Provision of nonsubscription services.—Each advanced television service licensee shall provide, for at least a minimum of 5 years from the date identified in subsection (a), at least one nonsubscription video service that meets or exceeds minimum technical standards established by the Commission. In setting such minimum technical standards, the Commission shall, to the extent technically feasible, ensure that picture and audio quality are at least as good as that provided to recipients within the Grade B contour of an analog television license. The Commission shall revoke the license of any advanced television licensee who fails to meet this condition of the license.

(e) Definitions.—As used in this section:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87-268.

(3) The term "analog television licenses" means licenses issued pursuant to 47 C.F.R. 73.682 et seq.

SEC. 3104. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) In General.—(1) Section 2004 of title 39, United States Code, is repealed.

(2)(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) Clarification That Liabilities Formerly Paid Pursuant to Section 2004 Remain Liabilities Payable by the Postal Service.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

TITLE IV—TRANSPORTATION

SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.

Subsection (e) of section 20115 of title 49, United States Code, is repealed.

SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE DUTIES.

(a) Extension of Duties.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended—

(1) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents per ton not to exceed in the aggregate 10 cents per tone in any one year, for each fiscal year thereafter"; and

(2) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents per ton, not to exceed 30 cents per ton for each fiscal year thereafter".

(b) Conforming Amendment.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year, for each fiscal year thereafter,".

SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) In General.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) Right of First Refusal.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) Proceeds.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) In General.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) Description.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) Proceeds.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) Conveyance of Amtrak Air Rights.—

(1) General rule.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) Failure to comply.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

SEC. 5102. MAXIMUM MORTGAGE AMOUNT FLOOR FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking "the greater of" and all that follows through "applicable size" and inserting the following: "50 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size".

SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) Foreclosure Avoidance.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(b) Authority to Assist Mortgagors in Default.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"Sec. 230. (a) Payment of Partial Claim.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) Assignment.—

"(1) Program authority.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) Program requirements.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) Payment of insurance benefits.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses resulting from the mortgage modification.

"(c) Prohibition of Judicial Review.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.".

(c) Savings Provision.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) Applicability of Other Laws.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

SEC. 6101. CONSUMER PRICE INDEX.

(a) Adjustments Applicable to Internal Revenue Code Provisions.—

(1) In general.—Paragraph (3) of section 1(f) of the Internal Revenue Code of 1986 (defining cost-of-living adjustment) is amended by striking the period at the end and inserting a comma and by inserting at the end the following flush material:

"reduced by the number of percentage points determined under paragraph (8) for the calendar year for which such adjustment is being determined."

(2) Limitation on increases.—Subsection (f) of section 1 of such Code is amended by adding at the end the following new paragraph:

"(8) Limitation on increases in CPI.—

"(A) In general.—The number of percentage points determined under this paragraph for any calendar year is—

"(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

"(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

"(B) Computation of base to reflect limitation.—The Secretary shall adjust the number taken into account under paragraph (3)(B) so that any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period."

(b) Adjustments Applicable to Certain Entitlement Programs.—

(1) In general.—For purposes of determining the amount of any cost-of-living adjustment which takes effect for benefits payable after December 31, 1995, with respect to any benefit described in paragraph (5)—

(A) any increase in the relevant index (determined without regard to this subsection) shall be reduced by the number of percentage points determined under paragraph (2), and

(B) the amount of the increase in such benefit shall be equal to the product of—

(i) the increase in the relevant index (as reduced under subparagraph (A)), and

(ii) the average such benefit for the preceding calendar year under the program described in paragraph (5) which provides such benefit.

(2) Limitation on increases.—

(A) In general.—The number of percentage points determined under this paragraph for any calendar year is—

(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

(B) Computation of base to reflect limitation.—Any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.

(3) Paragraph (1) to apply only to computation of benefit amounts.—Paragraph (1) shall apply only for purposes of determining the amount of benefits and not for purposes of determining—

(A) whether a threshold increase in the relevant index has been met, or

(B) increases in amounts under other provisions of law not described in paragraph (5) which operate by reference to increases in such benefits.

(4) Definitions.—For purposes of this subsection—

(A) Cost-of-living adjustment.—The term "cost-of-living adjustment" means any adjustment in the amount of benefits described in paragraph (5) which is determined by reference to changes in an index.

(B) Index.—

(i) Index.—The term "index" means the Consumer Price Index and any other index of price or wages.

(ii) Relevant index.—The term "relevant index" means the index on the basis of which the amount of the cost-of-living adjustment is determined.

(5) Benefits to which subsection applies.—For purposes of this subsection, the benefits described in this paragraph are—

(A) old age, survivors, and disability insurance benefits subject to adjustment under section 215(i) of the Social Security Act (but the limitation under paragraph (1) shall not apply to supplemental security income benefits under title XVI of such Act);

(B) retired and retainer pay subject to adjustment under section 1401a of title 10, United States Code;

(C) civil service retirement benefits under section 8340 of title 5, United States Code, foreign service retirement benefits under section 826 of the Foreign Service Act of 1980, Central Intelligence Agency retirement benefits under part J of the Central Intelligence Agency Retirement Act of 1964 for certain employees, and any other benefits under any similar provision under any retirement system for employees of the government of the United States;

(D) Federal workers' compensation under section 8146a of title 5, United States Code;

(E) benefits under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974; and

(F) benefits and expenditure limits under title XVIII or XIX of the Social Security Act.

(6) Benefit.—For purposes of this section, the term "benefit" includes a payment.

SEC. 6102. REDUCTION IN TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) in paragraph (5), by striking "fiscal year after fiscal year 1989." and inserting "of fiscal years 1990 through 1995; and"; and

(3) by adding at the end the following:

"(6) $2,520,000,000 for fiscal year 1996 and each succeeding fiscal year.".

SEC. 6103. MATCHING RATE REQUIREMENT FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2002(a)(1) of the Social Security Act (42 U.S.C. 1397a(a)(1)) is amended by striking "Each State" and all that follows through the period and inserting the following: "(A) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to the lesser of—

"(i) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or

"(ii) the allotment of the State for the fiscal year.

"(B) A State to which a payment is made under this title shall use the payment for services directed at the goals set forth in section 2001, subject to the requirements of this title.".

SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO CERTAIN HIGH-INCOME INDIVIDUALS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking "and" at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following new paragraph:

"(19) compensation shall not be payable to any individual for any benefit year if the taxable income of such individual for such individual's most recent taxable year ending before the beginning of such benefit year exceeded $120,000; and".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to benefit years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1995, the amendments made by this section shall apply to benefit years beginning after the day 30 calendar days after the first day on which such legislature is in session on or after December 31, 1995.

SEC. 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO INDIVIDUALS WHO VOLUNTARILY LEAVE MILITARY SERVICE.

(a) GENERAL RULE.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

"(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 45 days or more) in the armed forces or the commissioned corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual—

"(A) was discharged or released under honorable conditions,

"(B) did not resign or voluntarily leave the service, and

"(C) was not discharged or released for cause as defined by the Secretary of Defense;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a discharge or release after the date of the enactment of this Act.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1903(a), by striking "From" and inserting "Subject to section 1931, from";

(2) by redesignating section 1931 as section 1932; and

(3) by inserting after section 1930 the following new section:

"LIMITATION ON FEDERAL FINANCIAL PARTICIPATION BASED ON PER BENEFICIARY SPENDING

"SEC. 1931. (a) IN GENERAL.—Subject to subsection (e), the total amount of State expenditures for medical assistance for which Federal financial participation may be made under section 1903(a) for quarters in a fiscal year (beginning with fiscal year 1997) may not exceed the sum of the following:

"(1) NONDISABLED MEDICAID CHILDREN.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid children (described in subsection (b)(1)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(2) NONDISABLED MEDICAID ADULTS.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid adults (described in subsection (b)(2)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent nondisabled elderly medicaid beneficiaries (described in subsection (b)(3)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(4) DISABLED MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent disabled medicaid beneficiaries (described in subsection (b)(4)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(5) ADMINISTRATIVE EXPENDITURES.—The product of—

"(A) the number of full-year equivalent medicaid beneficiaries who are in any category of beneficiaries in the State in the fiscal year, and

"(B) the per capita limit established under subsection (c)(1) for administrative expenditures for the fiscal year.

This section shall not apply to expenditures for which no Federal financial participation is available under this title.

"(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

"(1) NONDISABLED MEDICAID CHILDREN.—The term 'nondisabled medicaid child' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is under 21 years of age.

"(2) NONDISABLED MEDICAID ADULTS.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 21 years of age but under 65 years of age.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARY.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 65 years of age.

"(4) DISABLED MEDICAID BENEFICIARIES.—The term 'disabled medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title who is entitled to such assistance solely on the basis of blindness or disability.

For purposes of this section, nondisabled medicaid children, nondisabled medicaid adults, nondisabled elderly medicaid beneficiaries, and disabled medicaid beneficiaries each constitutes a separate category of medicaid beneficiaries.

"(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

"(1) IN GENERAL.—The Secretary shall establish for each State a per capita medical assistance limit for each category of medicaid beneficiaries described in subsection (b) and for administrative expenditures for a fiscal year equal to the product of the following:

"(A) PREVIOUS EXPENDITURES.—The average of the amount of the per capita matchable medical assistance expenditures (determined under paragraph (2)(A)) for such category (or the per capita matchable adminstrative expenditures determined under paragraph (2)(B)) for such State for each of the 3 previous fiscal years.

"(B) INFLATION FACTOR.—The rolling 2-year CPI increase factor (determined under paragraph (3)(A)) for the fiscal year involved.

"(C) TRANSITIONAL ALLOWANCE.—The transitional allowance factor (if any) applicable under paragraph (3)(B) to such limit for the previous fiscal year and for the fiscal year involved.

"(2) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES.—For purposes of this section—

"(A) MEDICAL ASSISTANCE EXPENDITURES.—The 'per capita matchable medical assistance expenditures', for a category of medicaid beneficiaries for a State for a fiscal year, is equal to—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under paragraphs (1) and (5) of section 1903(a) (other than expenditures excluded under subsection (e)) with respect to medical assistance furnished with respect to individuals in such category during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in such category in the State in such fiscal year.

"(B) PER CAPITA MATCHABLE ADMINISTRATIVE EXPENDITURES.—The 'per capita matchable administrative expenditures', for a State for a fiscal year, is equal to—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under section 1903(a) (under paragraphs (1) and (5) of such section) during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in any category of medicaid beneficiary in the State in such fiscal year.

"(3) INCREASE FACTORS.—In this subsection—

"(A) ROLLING 2-YEAR CPI INCREASE FACTOR.—The 'rolling 2-year CPI increase factor' for a fiscal year is 1 plus the percentage by which—

"(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

"(ii) the average value of such index for months in the 3 previous fiscal years.

"(B) TRANSITIONAL ALLOWANCE FACTORS.—

"(i) FISCAL YEAR 1996.—The 'transitional allowance factor' for fiscal year 1996—

"(I) for the category of nondisabled medicaid children, is 1.051;

"(II) for the category of nondisabled medicaid adults, is 1.067;

"(III) for the category of nondisabled elderly medicaid beneficiaries is 1.031;

"(IV) for the category of disabled medicaid beneficiaries is 1.015; and

"(V) for administrative expenditures is 1.046.

"(ii) SUBSEQUENT FISCAL YEARS FOR NONDISABLED CHILDREN AND ADULTS AND FOR DISABLED CATEGORIES.—The 'transitional allowance factor' for the categories of nondisabled medicaid children, nondisabled medicaid adults, and disabled medicaid beneficiaries—

"(I) for fiscal year 1997 is 1.01, and

"(II) for each subsequent fiscal year is 1.0.

"(iii) SUBSEQUENT FISCAL YEARS FOR THE ELDERLY AND ADMINISTRATIVE EXPENDITURES.—The 'transitional allowance factor' for the category of nondisabled elderly medicaid beneficiaries and for administrative expenditures for fiscal years after fiscal year 1996 is 1.0.

"(4) NOTICE.—The Secretary shall notify each State before the beginning of each fiscal year of the per capita limits established under this subsection for the State for the fiscal year.

"(d) SPECIAL RULES AND EXCEPTIONS.—For purposes of this section, expenditures attributable to any of the following shall not be subject to the limits established under this section and shall not be taken into account in establishing per capita medical assistance limits under subsection (c)(1):

"(1) DSH.—Payment adjustments under section 1923.

"(2) MEDICARE COST-SHARING.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)).

"(3) SERVICES THROUGH IHS AND TRIBAL PROVIDERS.—Payments for medical assistance for services described in the last sentence of section 1905(b).

Nothing in this section shall be construed as applying any limitation to expenditures for the purchase and delivery of qualified pediatric vaccines under section 1928.

"(e) DEFINITIONS.—In this section, the term 'medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title.

"(f) ESTIMATIONS AND NOTICE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a process for estimating the limits established under subsection (a) for each State at the beginning of each fiscal year and adjusting such estimate during such year; and

"(B) notifying each State of the estimations and adjustments referred to in subparagraph (A).

"(2) DETERMINATION OF NUMBER OF FULL-YEAR EQUIVALENT INDIVIDUALS.—For purposes of this section, the number of full-year equivalent individuals in each category described in subsection (b) for a State for a year shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not entitled to benefits under a State plan for the entire fiscal year (or are within a group of individuals for only part of a fiscal year), the number shall take into account only the portion of the year in which they were so entitled or within such group. The Secretary may audit such reports.

"(g) ANTI-GAMING ADJUSTMENT TO REFLECT CHANGES IN ELIGIBILITY.—

"(1) REPORT ON PER CAPITA EXPENDITURES.—If a State makes a change (on or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the addition or deletion of individuals eligible for such assistance, the State shall submit to the Secretary with such change such information as the Secretary may require in order to carry out paragraph (2).

"(2) ADJUSTMENT FOR CERTAIN ADDITIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in making medical assistance available for additional individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures will be less the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits under such subsection separately with respect to individuals who are eligible for medical assistance without regard to such addition and with respect to the individuals so added.

"(3) ADJUSTMENT FOR CERTAIN DELETIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in denial of medical assistance for individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures is greater than the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall adjust the payment limits under subsection (a) to reflect any decrease in average per beneficiary expenditures that would result from such change.

"(h) TREATMENT OF STATES OPERATING UNDER WAIVERS.—The Secretary shall provide for such adjustments to the per capita limits under subsection (c) for a fiscal year as may be appropriate to take into account the case of States which either—

"(1) during any of the 3 previous fiscal years was providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is no longer providing such medical assistance under such waiver; or

"(2) during any of the 3 previous fiscal years was not providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is providing such medical assistance under such a waiver.".

(b) ENFORCEMENT-RELATED PROVISIONS.—

(1) ASSURING ACTUAL PAYMENTS TO STATES CONSISTENT WITH LIMITATION.—Section 1903(d) of such Act (42 U.S.C. 1396b(d)) is amended—

(A) in paragraph (2)(A), by striking "The Secretary" and inserting "Subject to paragraph (7), the Secretary", and

(B) by adding at the end the following new paragraph:

"(7)(A) The Secretary shall take such steps as are necessary to assure that payments under this subsection for quarters in a fiscal year are consistent with the payment limits established under section 1931 for the fiscal year. Such steps may include limiting such payments for one or more quarters in a fiscal year based on—

"(i) an appropriate proportion of the payment limits for the fiscal year involved, and

"(ii) numbers of individuals within each category, as reported under subparagraph (B) for a recent previous quarter.

"(B) Each State shall include, in its report filed under paragraph (1)(A) for a calendar quarter—

"(i) the actual number of individuals within each category described in section 1931(b) for the second previous calendar quarter and (based on the data available) for the previous calendar quarter, and

"(ii) an estimate of such numbers for the calendar quarter involved.".

(2) RESTRICTION ON AUTHORITY OF STATES TO APPLY LESS RESTRICTIVE INCOME AND RESOURCE METHODOLOGIES.—Section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

"(C) Subparagraph (A) shall not apply to plan amendments made on or after October 15, 1995.".

(c) CONFORMING AMENDMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following:

"(16) in accordance with section 1931, with respect to amounts expended to the extent they exceed applicable limits established under section 1931(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1996.

Subtitle B—Medicaid Managed Care

SEC. 7101. PERMITTING GREATER FLEXIBILITY FOR STATES TO ENROLL BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(a), is amended—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

"STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS

"SEC. 1932. (a) MANDATORY ENROLLMENT.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this section and notwithstanding paragraphs (1), (10)(B), and (23) of section 1902(a), a State may require an individual eligible for medical assistance under the State plan under this title to enroll with an eligible managed care provider as a condition of receiving such assistance and, with respect to assistance furnished by or under arrangements with such provider, to receive such assistance through the provider, if the following provisions are met:

"(A) The provider meets the requirements of section 1933.

"(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such provider are made on an actuarially sound basis.

"(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll with such providers.

"(D) The individual is not a special needs individual (as defined in subsection (c)).

"(E) The State—

"(i) permits an individual to choose an eligible managed care provider—

"(I) from among not less than 2 medicaid managed care plans; or

"(II) between a medicaid managed care plan and a primary care case management provider;

"(ii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment;

"(iii) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with the provider;

"(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such individual who does not enroll with an eligible managed care provider during the enrollment period specified by the State shall be enrolled by the State with such a provider in accordance with such process; and

"(v) establishes the sanctions provided for in section 1934.

"(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(E)(iv) shall—

"(A) provide that the State may not enroll individuals with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

"(B) provide for an equitable distribution of individuals among all eligible managed care providers available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such providers.

"(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

"(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the provider as of the first day of the month in which the individual is again eligible for such assistance.

"(2) CONDITIONS.—Paragraph (1) shall only apply if—

"(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the eligible managed care provider;

"(B) the eligible managed care provider continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

"(C) the eligible managed care provider complies with the requirements of section 1933.

"(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to an eligible managed care provider of any reenrollment of an individual under this subsection.

"(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this section, a 'special needs individual' means any of the following:

"(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who —

"(A) is eligible for supplemental security income under title XVI;

"(B) is described under section 501(a)(1)(D);

"(C) is a child described in section 1902(e)(3); or

"(D) is in foster care or is otherwise in an out-of-home placement.

"(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

"(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

"(B) an individual who is a resident in transitional housing.

"(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health Service Act), or the spouse or dependent of such a worker.

"(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c)))."

(b) CONFORMING AMENDMENT.—Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(1) in the matter preceding subparagraph (A), by striking "subsection (g) and in section 1915" and inserting "subsection (g), section 1915, and section 1931,"; and

(2) in subparagraph (B)—

(A) by striking "a health maintenance organization, or a" and inserting "or with an eligible managed care provider, as defined in section 1933(g)(1), or".

SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MEDICAID SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(b) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(1) the day after the date of the expiration of the contract; or

(2) the date which is 1 year after the date of the enactment of this Act.

(c) ELIGIBLE MANAGED CARE PROVIDERS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as amended by sections 7001(a) and 7101(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1933. (a) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELIGIBLE MANAGED CARE PROVIDER.—The term 'eligible managed care provider' means—

"(A) a medicaid managed care plan; or

"(B) a primary care case management provider.

"(2) MEDICAID MANAGED CARE PLAN.—The term 'medicaid managed care plan' means a health maintenance organization, an eligible organization with a contract under Section 1876, a provider sponsored network or any other plan which provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B).

"(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

"(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that—

"(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B);

"(ii) receives payment on a fee-for-service basis (or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals;

"(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

"(iv) is not an entity that is at risk.

"(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that—

"(i) has a contract with the State under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual; and

"(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

"(b) ENROLLMENT.—

"(1) NONDISCRIMINATION.—An eligible managed care provider may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollment of individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

"(2) TERMINATION OF ENROLLMENT.—

"(A) IN GENERAL.—An eligible managed care provider shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider to terminate such enrollment for cause at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

"(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with an eligible managed care provider on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion shall be considered to terminate such enrollment for cause.

"(C) NOTICE OF TERMINATION.—

"(i) NOTICE TO STATE.—

"(I) BY INDIVIDUALS.—Each individual terminating enrollment with an eligible managed care provider under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of an eligible managed care provider.

"(II) BY PLANS.—Any eligible managed care provider which receives notice of an individual's termination of enrollment with such provider through receipt of such notice at an office of an eligible managed care provider shall provide timely notice of the termination to the State agency administering the State plan under this title.

"(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (i) shall provide timely notice of the termination to such provider.

"(D) REENROLLMENT.—Each State shall establish a process under which an individual terminating enrollment under this paragraph shall be promptly enrolled with another eligible managed care provider and notified of such enrollment.

"(3) PROVISION OF ENROLLMENT MATERIALS IN UNDERSTANDABLE FORM.—Each eligible managed care provider shall provide all enrollment materials in a manner and form which may be easily understood by a typical adult enrollee of the provider who is eligible for medical assistance under the State plan under this title.

"(c) QUALITY ASSURANCE.—

"(1) ACCESS TO SERVICES.—Each eligible managed care provider shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such provider and the State under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

"(2) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall respond to requests from enrollees for the delivery of medical assistance in a manner which —

"(A) makes such assistance —

"(i) available and accessible to each such individual, within the area served by the provider, with reasonable promptness and in a manner which assures continuity; and

"(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

"(B) with respect to assistance provided to such an individual other than through the provider, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the provider) if —

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

"(ii) it was not reasonable given the circumstances to obtain the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

"(3) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

"(A) REVIEW OF MEDICAID MANAGED CARE PLAN CONTRACT.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), each medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan's contract with the State under section 1932(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care plan provides such services in a timely manner.

"(ii) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(I) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(II) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(III) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(IV) other activities as prescribed by the Secretary or the State.

"(iii) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care plan, except that the results may not be made available in a manner that discloses the identity of any individual patient.

"(B) DEEMED COMPLIANCE.—

"(i) MEDICARE PLANS.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if the plan is an eligible organization with a contract in effect under section 1876.

"(ii) PRIVATE ACCREDITATION.—

"(I) IN GENERAL.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if—

"(aa) the plan is accredited by an organization meeting the requirements described in clause (iii); and

"(bb) the standards and process under which the plan is accredited meet such requirements as are established under subclause (II), without regard to whether or not the time requirement of such subclause is satisfied.

"(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall specify requirements for the standards and process under which a medicaid managed care plan is accredited by an organization meeting the requirements of clause (iii).

"(iii) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this clause if the organization—

"(I) is a private, nonprofit organization;

"(II) exists for the primary purpose of accrediting managed care plans or health care providers; and

"(III) is independent of health care providers or associations of health care providers.

"(C) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

"(4) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(5) PROVIDING INFORMATION ON SERVICES.—

"(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(i) INFORMATION TO THE STATE.—Each medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the following:

"(I) The services that the plan provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

"(II) The identity, locations, qualifications, and availability of participating health care providers.

"(III) The rights and responsibilities of enrollees.

"(IV) The services provided by the plan which are subject to prior authorization by the plan as a condition of coverage (in accordance with paragraph (6)(A)).

"(V) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

"(VI) The performance of the plan in serving individuals eligible for medical assistance under the State plan under this title.

"(ii) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care plan shall—

"(I) upon request, make the information described in clause (i) available to participating health care providers, enrollees, and potential enrollees in the plan's service area; and

"(II) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the plan that are covered either directly or through a method of referral and prior authorization.

"(B) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall—

"(i) provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

"(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required; and

"(iii) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization.

"(iv) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

"(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall provide the State with aggregate encounter data for early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

"(6) TIMELINESS OF PAYMENT.—An eligible managed care provider shall make payment to health care providers for items and services which are subject to the contract under section 1931(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the provider on a timely basis and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the eligible managed care provider agree to an alternate payment schedule.

"(7) ADDITIONAL QUALITY ASSURANCE REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(A) CONDITIONS FOR PRIOR AUTHORIZATION.—A medicaid managed care plan may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval—

"(i) provides that such decisions are made in a timely manner, depending upon the urgency of the situation; and

"(ii) permits coverage of medically necessary medical assistance provided to an enrollee without prior authorization in the event of an emergency.

"(B) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care plan shall establish an internal grievance procedure under which a plan enrollee or a provider on behalf of such an enrollee who is eligible for medical assistance under the State plan under this title may challenge the denial of coverage of or payment for such assistance.

"(C) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care plan shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1902(x).

"(D) PATIENT ENCOUNTER DATA.—

"(i) IN GENERAL.—Each medicaid managed care plan shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27). The plan shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

"(ii) COMPLIANCE.—A medicaid managed care plan shall—

"(I) submit the data maintained under clause (i) to the State; or

"(II) demonstrate to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii).

"(iii) STANDARDS.—In establishing managed care quality assurance guidelines under clause (ii)(II), the Secretary shall consider—

"(I) managed care industry standards for—

"(aa) internal quality assurance; and

"(bb) performance measures; and

"(II) any managed care quality standards established by the National Association of Insurance Commissioners.

(E) PAYMENTS TO HOSPITALS.—A medicaid managed care plan shall—

"(i) provide the State with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

"(ii) report to the State at least annually—

"(I) the rates paid to hospitals by the plan for items and services furnished to such individuals,

"(II) an explanation of the methodology used to compute such rates, and

"(III) a comparison of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a medicaid managed care plan; and

"(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet the standard described in clause (i).

"(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE AS GROUNDS FOR HEARING.—If an eligible managed care provider—

"(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

"(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(3), but only, with respect to a medicaid managed care plan, after completion of the internal grievance procedure established by the plan under subsection (c)(6)(B).

"(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if such procedure does not exist or if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature.

"(e) MISCELLANEOUS.—

"(1) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF ELIGIBLE MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each eligible managed care provider shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider may not be held liable—

"(A) for the debts of the eligible managed care provider, in the event of the provider's insolvency;

"(B) for services provided to the individual—

"(i) in the event of the provider failing to receive payment from the State for such services; or

"(ii) in the event of a health care provider with a contractual or other arrangement with the eligible managed care provider failing to receive payment from the State or the eligible managed care provider for such services; or

"(C) for the debts of any health care provider with a contractual or other arrangement with the provider to provide services to the individual, in the event of the insolvency of the health care provider.

"(2) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

"(A) IN GENERAL.—In the case of an enrollee of an eligible managed care provider who is a child with special health care needs—

"(i) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subparagraph (C), the eligible managed care provider shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

"(I) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the eligible managed care provider to provide such assistance; or

"(II) if appropriate services are not available through the eligible managed care provider, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the eligible managed care provider; and

"(ii) the eligible managed care provider shall require each health care provider with whom the eligible managed care provider has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

"(B) PRIOR AUTHORIZATION.—An enrollee referred for treatment under subparagraph (A)(i)(I), or permitted to seek treatment outside of or apart from the eligible managed care provider under subparagraph (A)(i)(II) shall be deemed to have obtained any prior authorization required by the provider.

"(C) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of subparagraph (A), a child with special health care needs is a child who is receiving services under—

"(i) a program administered under part B or part H of the Individuals with Disabilities Education Act;

"(ii) a program for children with special health care needs under title V;

"(iii) a program under part B or part D of title IV; or

"(iv) any other program for children with special health care needs identified by the Secretary.

"(3) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care plan shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care plan shall meet the requirements of section 1876(i)(8).

"(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE MANAGED CARE PROVIDERS.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), eligible managed care providers that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such providers. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.".

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MEDICAID MANAGED CARE PLANS.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: "Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through an eligible managed care provider (as defined in section 1933(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.".

(e) CLARIFICATION OF CERTIFICATION REQUIREMENTS FOR PHYSICIANS PROVIDING SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i)(12) of such Act (42 U.S.C. 1396b(i)(12)) is amended.—

(1) in subparagraph (A)(i), to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,";

(2) in subparagraph (B)(i), to read as follows:

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association,"; and

(3) in both subparagraphs (A) and (B) —

(A) by striking "or" at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.

Section 1933 of the Social Security Act, as added by section 7102(c)(2), is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(1) DEMONSTRATION OF ADEQUATE CAPACITY AND SERVICES.—

"(A) IN GENERAL.—Subject to subparagraph (C), each medicaid managed care plan shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the plan, with respect to a service area —

"(i) has the capacity to serve the expected enrollment in such service area;

"(ii) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services and translation services consisting of the principal languages spoken in the service area;

"(iii) maintains sufficient numbers of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the plan to the same extent that such services are available to individuals enrolled in the plan who are not recipients of medical assistance under the State plan under this title;

"(iv) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

"(v) provides preventive and primary care services in locations that are readily accessible to members of the community; and

"(vi) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible.

"(vii) complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(B) PROOF OF ADEQUATE PRIMARY CARE CAPACITY AND SERVICES.—Subject to subparagraph (C), a medicaid managed care plan that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of subparagraph (A):

"(i) Rural health clinics, as defined in section 1905(l)(1).

"(ii) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

"(iii) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

"(C) SUFFICIENT PROVIDERS OF SPECIALIZED SERVICES.—Notwithstanding subparagraphs (A) and (B), a medicaid managed care plan may not be considered to have satisfied the requirements of subparagraph (A) if the plan does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

"(2) WRITTEN PROVIDER PARTICIPATION AGREEMENTS FOR CERTAIN PROVIDERS.—Each medicaid managed care plan that enters into a written provider participation agreement with a provider described in paragraph (1)(B) shall—

"(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care plan includes in its agreements with other participating providers with respect to—

"(i) the scope of covered services for which payment is made to the provider;

"(ii) the assignment of enrollees by the plan to the provider;

"(iii) the limitation on financial risk or availability of financial incentives to the provider;

"(iv) accessibility of care;

"(v) professional credentialing and recredentialing;

"(vi) licensure;

"(vii) quality and utilization management;

"(viii) confidentiality of patient records;

"(ix) grievance procedures; and

"(x) indemnification arrangements between the plans and providers; and

"(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.".

SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED CARE.

(a) IN GENERAL.—Section 1933 of the Social Security Act, as added by section 7102(c)(2) and amended by section 7103, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) ANTI-FRAUD PROVISIONS.—

"(1) PROVISIONS APPLICABLE TO ELIGIBLE MANAGED CARE PROVIDERS.—

"(A) PROHIBITING AFFILIATIONS WITH INDIVIDUALS DEBARRED BY FEDERAL AGENCIES.—

"(i) IN GENERAL.—An eligible managed care provider may not knowingly—

"(I) have a person described in clause (iii) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the plan's equity; or

"(II) have an employment, consulting, or other agreement with a person described in clause (iii) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(ii) EFFECT OF NONCOMPLIANCE.—If a State finds that an eligible managed care provider is not in compliance with subclause (I) or (II) of clause (i), the State—

"(I) shall notify the Secretary of such noncompliance;

"(II) may continue an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(III) may not renew or otherwise extend the duration of an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iii) PERSONS DESCRIBED.—A person is described in this clause if such person—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

"(III) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

"(B) RESTRICTIONS ON MARKETING.—

"(i) DISTRIBUTION OF MATERIALS.—

"(I) IN GENERAL.—An eligible managed care provider may not distribute marketing materials within any State—

"(aa) without the prior approval of the State; and

"(bb) that contain false or materially misleading information.

"(II) PROHIBITION.—The State may not enter into or renew a contract with an eligible managed care provider for the provision of services to individuals enrolled under the State plan under this title if the State determines that the provider intentionally distributed false or materially misleading information in violation of subclause (I)(bb).

"(ii) SERVICE MARKET.—An eligible managed care provider shall distribute marketing materials to the entire service area of such provider.

"(iii) PROHIBITION OF TIE-INS.—An eligible managed care provider, or any agency of such provider, may not seek to influence an individual's enrollment with the provider in conjunction with the sale of any other insurance.

"(iv) PROHIBITING MARKETING FRAUD.—Each eligible managed care provider shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the provider, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.

"(2) PROVISIONS APPLICABLE ONLY TO MEDICAID MANAGED CARE PLANS.—

"(A) STATE CONFLICT-OF-INTEREST SAFEGUARDS IN MEDICAID RISK CONTRACTING.—A medicaid managed care plan may not enter into a contract with any State under section 1932(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such plans or to the default enrollment process described in section 1932(a)(1)(D)(iv) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

"(B) REQUIRING DISCLOSURE OF FINANCIAL INFORMATION.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care plan shall—

"(i) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that—

"(I) the plan has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

"(II) the plan uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and plan; and

"(III) the plan does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

"(ii) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) relating to the information reported pursuant to clause (i) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

"(iii) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the plan and a party in interest (as defined in section 1318(b) of such Act); and

"(iv) agree to make available to its enrollees upon reasonable request—

"(I) the information reported pursuant to clause (i); and

"(II) the information required to be disclosed under sections 1124 and 1126.

"(C) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

"(i) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care plan shall make adequate provision against the risk of insolvency.

"(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in clause (i), the Secretary shall consider solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

"(iii) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(D) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care plan shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) the most recent audited financial statement of the plan's net earnings, in accordance with guidelines established by the Secretary in consultation with the States, and consistent with generally accepted accounting principles; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the plan and entitled to medical assistance under the State plan under this title.".

SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 7001, 7101(a), and 7102(c), is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

"ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS

"SEC. 1934. As a condition of approval of a State plan under this title, a State shall—

"(1) find, determine, and make assurances satisfactory to the Secretary that—

"(A) the rates it pays medicaid managed care plans for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

"(i) the items and services to which the rate applies,

"(ii) the eligible population, and

"(iii) the rate the State pays providers for such items and services; and

"(B) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care plan; and

"(2) report to the Secretary, at least annually, on—

"(A) the rates the States pays to medicaid managed care plans, and

"(B) the rates medicaid managed care plans pay for hospital services (and such other information as medicaid managed care plans are required to submit to the State pursuant to section 1933(c)(5)(E).".

SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS.

(a) SANCTIONS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as previously amended, is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1934 the following new section:

"SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with an eligible managed care provider, which the State may impose against an eligible managed care provider with a contract under section 1932(a)(1)(B) if the provider—

"(1) fails substantially to provide medically necessary items and services that are required (under law or under such provider's contract with the State) to be provided to an enrollee covered under the contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee;

"(2) imposes premiums on enrollees in excess of the premiums permitted under this title;

"(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by sections 1932 and 1933, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the provider by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

"(4) misrepresents or falsifies information that is furnished—

"(A) to the Secretary or the State under section 1932 or 1933; or

"(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

"(5) fails to comply with the requirements of section 1876(i)(8).

"(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

"(1) Civil money penalties as follows:

"(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

"(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

"(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

"(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

"(2) The appointment of temporary management to oversee the operation of the eligible managed care provider and to assure the health of the provider's enrollees, if there is a need for temporary management while—

"(A) there is an orderly termination or reorganization of the eligible managed care provider; or

"(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the eligible managed care provider has the capability to ensure that the violations shall not recur.

"(3) Permitting individuals enrolled with the eligible managed care provider to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

"(c) TREATMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

"(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of an eligible managed care provider which has failed to meet the requirements of section 1932 or 1933, the State shall have the authority to terminate its contract with such provider under section 1932(a)(1)(B) and to enroll such provider's enrollees with other eligible managed care providers (or to permit such enrollees to receive medical assistance under the State plan under this title other than through an eligible managed care provider).

"(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

"(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that—

"(A) an eligible managed care provider with a contract under section 1932(a)(1)(B) fails to meet any of the requirements of section 1932 or 1933; and

"(B) the State has failed to act appropriately to address such failure.

"(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1932(a)(1)(B) for individuals enrolled after the date the Secretary notifies an eligible managed care provider of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(f) DUE PROCESS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) AVAILABILITY OF HEARING PRIOR TO TERMINATION OF CONTRACT.—A State may not terminate a contract with an eligible managed care provider under section 1932(a)(1)(B) unless the provider is provided with a hearing prior to the termination.

"(2) NOTICE TO ENROLLEES OF TERMINATION HEARING.—A State shall notify all individuals enrolled with an eligible managed care provider which is the subject of a hearing to terminate the provider's contract with the State of the hearing and that the enrollees may immediately disenroll with the provider for cause.

"(3) OTHER PROTECTIONS FOR ELIGIBLE MANAGED CARE PROVIDERS AGAINST SANCTIONS IMPOSED BY STATE.—Before imposing any sanction against an eligible managed care provider other than termination of the provider's contract, the State shall provide the provider with notice and such other due process protections as the State may provide, except that a State may not provide an eligible managed care provider with a pretermination hearing before imposing the sanction described in subsection (b)(2).

"(4) IMPOSITION OF CIVIL MONETARY PENALTIES BY SECRETARY.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.".

(b) CONFORMING AMENDMENT RELATING TO TERMINATION OF ENROLLMENT FOR CAUSE.—Section 1933(b)(2)(B) of the Social Security Act, as added by this part, is amended by inserting after "coercion" the following: ", or pursuant to the imposition against the eligible managed care provider of the sanction described in section 1935(b)(3),".

SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.

(a) IN GENERAL.—Not later than January 1, 1994, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1932(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1932(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1932 of such Act.

(b) CONTENTS OF REPORT.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.

(a) IN GENERAL.—Not later than October 1 of each year, beginning with October 1, 1996, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1932 of the Social Security Act.

(b) CONTENTS OF REPORT.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) REPORTS BY STATES.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1932(b)(3)(P) of such Act.

SEC. 7109. CONFORMING AMENDMENTS.

(a) EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN PROGRAM.—Section 1128(b)(6)(C) of the Social Security Act (42 U.S.C. 1320a-7(b)(6)(C)) is amended—

(1) in clause (i), by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1),"; and

(2) in clause (ii), by inserting "section 1115 or" after "approved under".

(b) STATE PLAN REQUIREMENTS.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking "section 1903(m)" and inserting "section 1932(a)(1)(B)"; and

(2) in subsection (a)(57), by striking "hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "or hospice program";

(3) in subsection (e)(2)(A), by striking "or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or

(6) of section 1903(m) under a contract described in section 1903(m)(2)(A);

(4) in subsection (p)(2)—

(A) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1),";

(B) by striking "an organization" and inserting "a provider"; and

(C) by striking "any organization" and inserting "any provider"; and

(5) in subsection (w)(1), by striking "sections 1903(m)(1)(A) and" and inserting "section".

(c) PAYMENT TO STATES.—Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of an eligible managed care provider with a contract under section 1932(a)(1)(B).".

(d) USE OF ENROLLMENT FEES AND OTHER CHARGES.—Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1)," each place it appears.

(e) EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.—Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r-6(b)(4)(D)(iv)) is amended to read as follows:

"(iv) ENROLLMENT WITH ELIGIBLE MANAGED CARE PROVIDER.—Enrollment of the caretaker relative and dependent children with an eligible managed care provider, as defined in section 1933(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through an eligible managed care provider in accordance with sections 1932, 1933, and 1934.".

(f) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Section 1926(a) of such Act (42 U.S.C. 1396r-7(a)) is amended in paragraphs (1) and (2) by striking "health maintenance organizations under section 1903(m)" and inserting "eligible managed care providers under contracts entered into under section 1932(a)(1)(B)" each place it appears.

(g) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927(j)(1) of such Act (42 U.S.C. 1396r-8(j)(1)) is amended by striking "***Health Maintenance Organizations, including those organizations that contract under section 1903(m)," and inserting "health maintenance organizations and medicaid managed care plans, as defined in section 1933(a)(2),".

(h) DEMONSTRATION PROJECTS TO STUDY EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE FOR CERTAIN FAMILIES.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking "(except section 1903(m)" and inserting "(except sections 1932, 1933, and 1934)".

SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1996; or

(2) in the case of assistance furnished under a contract described in section 7102(b), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) APPLICATION TO WAIVERS.—

(1) EXISTING WAIVERS.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this subtitle shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of sections 1932, 1933, and 1934 of the Social Security Act (as added by this subtitle).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDICAID COST-SHARING.

(a) IN GENERAL.—Subsections (a)(3) and (b)(3) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are amended by striking everything that follows "other care and services" and inserting the following: "will be established pursuant to a public schedule of charges and will be adjusted to reflect the income, resources, and family size of the individual provided the item or service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 7202. LIMITS ON REQUIRED COVERAGE OF ADDITIONAL TREATMENT SERVICES UNDER EPSDT.

(a) REGULATIONS.—The Secretary of Health and Human Services shall define, by regulation promulgated after consultation with States and organizations representing health care providers, those treatment services (in addition to those otherwise covered under a State plan under title XIX of the Social Security Act) that must be covered under section 1905(r)(5) of such Act.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as limiting the scope of such treatment services a State may cover under such section.

SEC. 7203. DELAY IN APPLICATION OF NEW REQUIREMENTS.

(a) DELAY IN IMPLEMENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no change in law—

(A) which has the effect of imposing a requirement on a State under a State plan under title XIX of the Social Security Act, and

(B) with respect to the Secretary of Health and Human Services is required to issue regulations to carry out such requirement,

shall take effect until the date the Secretary promulgates such regulation as a final regulation.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a law described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(b) PROHIBITION OF CHANGES IN FINAL REGULATIONS DURING A FISCAL YEAR.—

(1) IN GENERAL.—Except as provided in paragraph (2), any change in a regulation of the Secretary of Health and Human Services relating to the medicaid program under title XIX of the Social Security Act shall not become effective until the beginning of the fiscal year following the fiscal year in which the change was promulgated.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a regulation described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(c) SENSE OF CONGRESS REGARDING FEDERAL PAYMENT FOR NEW MEDICAID MANDATES.—It is the sense of Congress that if a State is required by future legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under its medicaid program under title XIX of the Social Security Act, the Federal Government shall provide for full payment of any such additional costs for at least the first two years in which such requirement applies.

SEC. 7204. DEADLINE ON ACTION ON WAIVERS.

(a) IN GENERAL.—In considering applications for medicaid waivers—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within ninety days after the date of the submission of the application of the Secretary, either denies the application in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application, and

(2) after the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary within ninety days of such date, denies such application.

(b) MEDICAID WAIVERS.—In this section, the term "medicaid waiver" means the request of a State for a waiver of a provision of title XIX of the Social Security Act (or of another provision of law that applies to State plans under such title), and includes such a waiver under the authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed as follows:

(1) 2 FEDERAL OFFICIALS.—The President shall appoint 2 Federal officials, one of whom the President shall designate as chairperson of the Commission.

(2) 4 MEMBERS OF CONGRESS.—(A) The Speaker of the House of Representatives shall appoint one Member of the House as a member.

(B) The minority leader of the House of Representatives shall appoint one Member of the House as a member.

(C) The majority leader of the Senate shall appoint one Member of the Senate as a member.

(D) The minority leader of the Senate shall appoint one Member of the Senate as a member.

(3) 6 STATE GOVERNMENT REPRESENTATIVES.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(B) The minority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(4) 6 EXPERTS.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(B) The President shall appoint 2 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(c) INITIAL APPOINTMENT.—Members of the Commission shall first be appointed by not later than February 1, 1996.

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 7302. DUTIES OF COMMISSION.

(a) STUDY OF MEDICAID PROGRAM.—

(1) IN GENERAL.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary regarding the need for changes (in addition to the changes effected under this title) in the laws and regulations regarding the medicaid program under title XIX of the Social Security Act.

(2) SPECIFIC CONCERNS.—The Commission shall specifically address each of the following:

(A) Changes needed to ensure adequate access to health care for low-income individuals.

(B) Promotion of quality care.

(C) Deterrence of fraud and abuse.

(D) Providing States with additional flexibility in implementing their medicaid plans.

(E) Methods of containing Federal and State costs.

(b) REPORTS.—

(1) FIRST REPORT.—The Commission shall issue a first report to Congress by not later than December 31, 1996.

(2) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

SEC. 7303. ADMINISTRATION.

(a) APPOINTMENT OF STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the Executive Director may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(3) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(b) Provision of Administrative Support Services by HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $3,000,000 for fiscal year 1996, $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

SEC. 7305. TERMINATION.

The Commission shall terminate on December 31, 1998.

Subtitle E—Restrictions on Disproportionate Share Payments

SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) Targeting Payments.—Section 1923 of the Social Security Act (42 U.S.C.1396r-3) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(1)" and inserting "(1)(A)",

(C) in clause (i) (as so redesignated) by striking "(b)(1)" and inserting "(b)(1)(A)", and

(D) by adding at the end the following:

"(B) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that utilizes the definition of such hospitals specified in subsection (b)(1)(B) in lieu of the definition established by the State under subparagraph (a)(i).";

(2) in subsection (a)(2)(A)—

(A) by inserting "(i)" after "(2)(A)",

(B) by striking "paragraph (1)" and inserting "paragraph (1)(A)(i)", and

(C) by adding at the end the following:

"(ii) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1996, the State must submit to the Secretary by not later than April 1, 1996, the State plan amendment described in paragraph (1)(B), consistent with subsection (c), effective for inpatient hospital services furnished on or after July 1, 1996.";

(3) in subsection (b)—

(A) in the heading, by striking "Hospitals Deemed Disproportionate Share" and inserting "Disproportionate Share Hospitals",

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(ii) by striking "(1) For purposes of subsection (a)(1)" and inserting "(1)(A) For purposes of subsection (a)(1)(A)", and

(iii) by adding at the end the following:

"(B) For purposes of subsection (a)(1)(B), a hospital that meets the requirements of subsection (d) is a disproportionate share hospital only if—

"(i) in the case of a hospital that is not described in subsection (d)(2)(A)(i), the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent; or

"(ii) in the case of a hospital that is described in subsection (d)(2)(A)(i)—

"(I) the hospital meets the requirement of clause (i), or

"(II) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) exceeds 20 percent.";

(C) in paragraph (2) by striking "(1)(A)" and inserting "(1)",

(D) in paragraph (3) by striking "(1)(B)" and inserting "(1)", and

(E) by striking paragraph (4);

(4) in subsection (c)—

(A) in paragraph (2), by striking "subparagraph (A) or (B) of subsection (b)(1)" and inserting "clause (i) or (ii) of subsection (b)(1)(A)",

(B) by striking paragraph (3), and

(C) in the matter following paragraph (3)—

(i) by striking "(1)(B)" each place it appears and inserting "(1)(A)(ii)", and

(ii) by striking "(2)(A)" each place it appears and inserting "(2)(A)(i)" ; and

(5) in subsection (e)—

(A) in paragraph (1)(C), by striking "meets the requirement of subsection (d)(3)" and inserting "makes payments under this section only to hospitals described in subsection (b)(1)(B)", and

(B) in paragraph (2)—

(i) by inserting "and" at the end of subparagraph (B), and

(ii) by striking subparagraph (C).

(b) Direct Payment by State.—Section 1923(a) of such Act (42 U.S.C. 1396r-4(a)), as amended by subsection (a), is further amended—

(1) in paragraph (1), by adding at the end the following

"(C) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State provides that any payments made under this section with respect to individuals who are—

"(i) entitled to benefits under the State plan, and

"(ii) enrolled with a health maintenance organization or other managed care plan,

are, at the option of the hospital, made directly to such hospital by the State."; and

(2) in paragraph (2)(A)(ii), by striking "amendment described in paragraph (1)(B)" and inserting "amendments described in subparagraphs (B) and (C) of paragraph (1)".

(c) Adjustment to National DSH Limit; State Allocations.—

(1) In general.—Section 1923(f) (42 U.S.C. 1396r-4(f)) is amended—

(A) in paragraph (1)(B), by striking "for a fiscal year" and all that follows and inserting the following: "for—

"(i) each of fiscal years 1997 and 1998, is $6.5 billion,

"(ii) each of fiscal years 1999 and 2000, is $5.5 billion,

"(iii) each succeeding fiscal year is $5.0 billion.";

(B) by striking subparagraphs (D) and (E) of paragraph (1); and

(C) by amending paragraph (2) to read as follows:

"(2) Determination of State DSH Allotments.—

"(A) In general.—The State DSH allotment for a fiscal year is equal to the State's share (as determined under subparagraph (B)) of the national DSH limit for the fiscal year established under paragraph (1)(B).

"(B) State share.—For purposes of subparagraph (A), the 'State share' is equal to the ratio of—

"(i) the total number low-income patient days (as defined in subparagraph (C)) for all hospitals described in subsection (b)(1)(B) in the State for the fiscal year, to

"(ii) the total number of such low-income patient days for all such hospitals for all States for the fiscal year.

The Secretary shall determine the State share based on the Secretary's best estimate of patient days and hospitals.

"(C) Low-income patient day.—

"(i) In general.—For purposes of this paragraph, the term 'low-income patient day' means, for a hospital, a patient day (as defined in clause (ii)) attributable to an individual who either is eligible for medical assistance under the State plan or has no health insurance (or other source of third party coverage) for services furnished by the hospital.

"(ii) Patient days defined.—For purposes of this subparagraph, the term 'patient day' includes each day in which—

"(I) an individual (including a new-born) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere, and

"(II) an individual makes one or more outpatient visits to the hospital.".

(2) Effective date.—The amendments made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1997.

(d) Effective Date.—Except as provided in subsection (c)(2), the amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) July 1, 1996, or

(2) in the case of a State with a State legislature that is not scheduled to have a regular legislative session in 1996, July 1, 1997.

Subtitle F—Fraud Reduction

SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.

The Administrator of the Health Care Financing Administration shall develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program in the case of individuals who are dually eligible for benefits under such program and under the medicare program.

SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.

The Administrator of the Health Care Financing Administration shall develop improved mechanisms, such as picture identification documents and smart documents, to provide methods of improved identification and tracking of beneficiaries and providers that perpetrate fraud against the medicaid program.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE; REFERENCES IN TITLE.

(a) Short Title of Title.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) References to OBRA.—In this title, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", "OBRA-1990", and "OBRA-1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the

Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 8001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

"(B) THROUGH A MEDICARE CHOICE PRODUCT.—Through a Medicare Choice product (as defined in paragraph (2)), which may be—

"(i) a product offered by a provider-sponsored organization,

"(ii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

"(iii) a product providing for benefits on a fee-for-service or other basis.

Such a product may be a high deductible/medisave product (and a contribution into a Medicare Choice medical savings account (MSA)) under the demonstration project provided under section 1859.

"(2) MEDICARE CHOICE PRODUCT DEFINED.—For purposes of this section and part C, the term 'Medicare Choice product' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

"(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

"(A) NON-MEDICARE-CHOICE OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-Medicare Choice option'.

"(B) MEDICARE CHOICE OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a Medicare Choice product is considered to have elected the 'Medicare Choice option' for that product.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice product offered by a Medicare Choice organization only if the organization in relation to the product serves the geographic area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a Medicare Choice product offered by a limited enrollment Medicare Choice organization (as defined in section 1852(c)(4)(D)) only if—

"(i) the individual is eligible under section 1852(c)(4) to make such election, and

"(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a Medicare Choice product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

"(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a Medicare Choice product offered by a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for Medicare Choice products in an area as soon as such products become available in that area.

"(3) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice product offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice product offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-Medicare Choice option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a Medicare Choice organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate Medicare Choice product offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a Medicare Choice product is discontinued, if the individual had elected such product at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the Medicare Choice program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in Medicare Choice products under this section.

"(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the Medicare Choice option during the initial election period described in subsection (e)(1).

"(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which Medicare Choice products are offered:

"(A) INFORMATION BOOKLET.—

"(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the Medicare Choice option under this section during coverage election periods.

"(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

"(I) the benefits (including cost-sharing) and premiums for the various Medicare Choice products in the areas involved;

"(II) the quality of such products, including consumer satisfaction information; and

"(III) rights and responsibilities of medicare beneficiaries under such products.

"(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of Medicare Choice products and the benefits and premiums for such products.

"(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of part C.

"(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the Medicare Choice option provided under this section in the annual notice of medicare benefits under section 1804.

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a Medicare Choice product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a Medicare Choice product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE CHOICE OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-Medicare Choice option may change such election to a Medicare Choice option at any time.

"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product may change such election to another Medicare Choice product or to the non-Medicare Choice option.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MEDICARE CHOICE HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect Medicare Choice products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the Medicare Choice product under such option becomes effective.

"(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a Medicare Choice product offered by a Medicare Choice organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

"(B) in the case of an individual who has elected a Medicare Choice product offered by a Medicare Choice organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a Medicare Choice option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a Medicare Choice organization under section 1858(a) with respect to an individual electing a Medicare Choice product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(h) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approaches to coordinated open enrollments in different markets, including different annual enrollment periods and models of rolling open enrollment periods. The Secretary may waive previous provisions of this section in order to carry out such projects.".

SEC. 8002. MEDICARE CHOICE PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

"SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'Medicare Choice organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

"(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—A Medicare Choice organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice product.

"(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)).

"(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Subject to paragraph (5), paragraph (1) shall not apply to a Medicare Choice organization that is a provider-sponsored organization (as defined in section 1854(a)).

"(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a Medicare Choice organization that is a qualified association (as defined in section 1852(c)(4)(B)).

"(5) LIMITATION.—Effective on and after January 1, 2000, paragraph (1) shall only apply (and paragraph (3) shall no longer apply) to a Medicare Choice organization in a State if the standards for licensure of the organization under the law of the State are identical to the standards established under section 1856(b).

"(c) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(d) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)) or a qualified association (as defined in section 1852(c)(4)(B)), this subsection shall not apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(e) PROVISION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—Each Medicare Choice organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of Medicare Choice products offered by the organization.

"(2) TREATMENT OF TAFT-HARTLEY SPONSORS.—An entity that is a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to Medicare Choice products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

"SEC. 1852. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—Each Medicare Choice product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

"(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(3) SATISFACTION OF REQUIREMENT.—A Medicare Choice product offered by a Medicare Choice organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) NON-MEDICARE CHOICE LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-Medicare Choice option.

"(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-Medicare Choice option) of the payment rate provided under the contract.

"(b) ANTIDISCRIMINATION.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(c) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under section 1805 with respect to a Medicare Choice product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

"(A) first to such individuals as have elected the product at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under section 1805 for a Medicare Choice product it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under section 1805 with respect to a Medicare Choice product it offers if—

"(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-Medicare Choice option (as defined in section 1805(a)(3)(A)).

"(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each Medicare Choice organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATIONS.—

"(A) TAFT-HARTLEY SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

"(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(B) QUALIFIED ASSOCIATIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a Medicare Choice product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

"(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

"(II) does not exist solely or principally for the purpose of selling insurance, and

"(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(C) UNIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATION.—In this part and section 1805, the term 'limited enrollment Medicare Choice organization' means a Medicare Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

"(F) EMPLOYER, ETC.—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(d) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premiums for coverage under each Medicare Choice product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

"(B) the enrollment capacity in relation to the product in each such area.

"(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

"(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

"(B) 1/12 of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

"(3) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice organization under this part may not vary among individuals who reside in the same payment area.

"(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice product for failure to make premium payments only in accordance with subsection (c)(3)(B).

"(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a Medicare Choice organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization.

"(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

"(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

"(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(3) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

"(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice products offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—Each Medicare Choice organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(g) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

"(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE Product.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its medicaid program under title XIX with those provided under a Medicare Choice product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

"PATIENT PROTECTION STANDARDS

"SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A Medicare Choice organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each Medicare Choice product it offers:

"(1) Benefits under the Medicare Choice product offered, including exclusions from coverage.

"(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(3) Potential liability for cost-sharing for out-of-network services.

"(4) The number, mix, and distribution of participating providers.

"(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

"(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

"(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

"(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

"(b) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

"(D) coverage is provided for emergency services (as defined in paragraph (5)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a Medicare Choice product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

"(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

"(B) the amount charged by the entity furnishing such items and services.

"(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of physicians' services or renal dialysis services described in subparagraph (C) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with a Medicare Choice organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of physicians' services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a Medicare Choice organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this subparagraph are physicians' services or renal dialysis services which are furnished to an enrollee of a Medicare Choice organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

"(4) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides covered services through a network of providers shall provide coverage of services provided by a provider that is not part of the network if the service cannot be provided by a provider that is part of the network and the organization authorized the service directly or through referral by the primary care physician who is designated by the organization for the individual involved.

"(5) EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital, and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (6)) until the condition is stabilized.

"(6) EMERGENCY MEDICAL CONDITION.—In paragraph (5), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(7) PROTECTION AGAINST BALANCE BILLING.—The limitations on billing that apply to a provider (including a physician) under parts A and B in the case of an individual electing the non-Medicare Choice option shall apply to an individual who elects the Medicare Choice option in the case of any provider that (under the Medicare Choice option) may bill the enrollee directly for services.

"(c) Confidentiality and Accuracy of Enrollee Records.—Each Medicare Choice organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(d) Quality Assurance Program.—

"(1) In general.—Each Medicare Choice organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

"(2) Elements of program.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluates the continuity and coordination of care that enrollees receive;

"(F) has mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establishes or alters practice parameters;

"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) is evaluated on an ongoing basis as to its effectiveness; and

"(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

"(3) Exception for certain fee-for-service plans.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

"(4) Treatment of accreditation.—The Secretary shall provide that a Medicare Choice organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

"(e) Coverage Determinations.—

"(1) Decisions on nonemergency care.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) Appeals.—

"(A) In general.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) Physician decision on certain appeals.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) Emergency cases.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(f) Grievances and Appeals.—

"(1) Grievance mechanism.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

"(2) Appeals.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) Coordination with Secretary of Labor.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

"(g) Information on Advance Directives.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) Approval of Marketing Materials.—

"(1) Submission.—Each Medicare Choice organization may not distribute marketing materials unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) Review.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) Deemed approval (1-stop shopping).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a Medicare Choice product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

"(4) Prohibition of certain marketing practices.—Each Medicare Choice organization shall conform to fair marketing standards in relation to Medicare Choice products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

"(i) Additional Standardized Information on Quality, Outcomes, and Other Factors.—

"(1) In general.—In addition to any other information required to be provided under this part, each Medicare Choice organization shall provide the Secretary (at a time, not less frequently than annually, and in an electronic, standardized form and manner specified by the Secretary) such information as the Secretary determines to be necessary, consistent with this part, to evaluate the performance of the organization in providing benefits to enrollees.

"(2) Information to be included.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

"(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of risk-adjusted payments under section 1855.

"(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and well-being of enrollees.

"(C) Information on health care expenditures and the volume and prices of procedures.

"(D) Information on the flexibility permitted by plans to enrollees in their selection of providers.

"(3) Special treatment.—The Secretary may waive the provision of such information under paragraph (2), or require such other information, as the Secretary finds appropriate in the case of a newly established Medicare Choice organization for which such information is not available.

"(j) Demonstration Projects.—The Secretary shall provide for demonstration projects to determine the effectiveness, cost, and impact of alternative methods of providing comparative information about the performance of Medicare Choice organizations and products and the performance of medicare supplemental policies in relation to such products. Such projects shall include information about health care outcomes resulting from coverage under different products and policies.

"PROVIDER-SPONSORED ORGANIZATIONS

"Sec. 1854. (a) Provider-Sponsored Organization Defined.—

"(1) In general.—In this part, the term 'provider-sponsored organization' means a public or private entity that (in accordance with standards established under subsection (b)) is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary under such standards) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—For purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) PREEMPTION OF STATE INSURANCE LICENSING REQUIREMENTS.—

"(1) IN GENERAL.—This section supersedes any State law which—

"(A) requires that a provider-sponsored organization meet requirements for insurers of health services or health maintenance organizations doing business in the State with respect to initial capitalization and establishment of financial reserves against insolvency, or

"(B) imposes requirements that would have the effect of prohibiting the organization from complying with the applicable requirements of this part,

insofar as such the law applies to individuals enrolled with the organization under this part.

"(2) EXCEPTION FOR IDENTICAL STANDARDS.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides the application of standards that are identical to the standards established for provider-sponsored organizations under this part.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

"SEC. 1855. (a) PAYMENTS.—

"(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each Medicare Choice organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted Medicare Choice capitation rate (as provided under subsection (b)) with respect to that individual for that area.

"(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) the annual Medicare Choice capitation rate for each payment area for the year, and

"(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

"(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPITATION RATE.—

"(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted Medicare Choice capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual Medicare Choice capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

"(2) ANNUAL MEDICARE CHOICE CAPITATION RATES.—

"(A) IN GENERAL.—For purposes of this section, the annual Medicare Choice capitation rate for a payment area for a year is equal to the annual Medicare Choice capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

"(B) SPECIAL RULES FOR 1996.—

"(i) FLOOR AT 85 PERCENT OF NATIONAL AVERAGE.—In no case shall the annual Medicare Choice capitation rate for a payment area for 1996 be less than 85 percent of the national average of such rates for such year for all payment areas (weighted to reflect the number of medicare beneficiaries in each such area).

"(ii) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—In determining the annual Medicare Choice capitation rate for 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded from such rate any amounts which the Secretary estimated would have been payable under this title during the year for—

"(I) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

"(II) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).

"(3) PAYMENT AREA DEFINED.—

"(A) IN GENERAL.—In this section, the term 'payment area' means—

"(i) a metropolitan statistical area, or

"(ii) all areas of a State outside of such an area.

"(B) SPECIAL RULE FOR ESRD BENEFICIARIES.—Such term means, in the case of the population group described in paragraph (5)(C), each State.

"(4) CLASSES.—

"(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

"(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

"(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

"(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

"(c) PER CAPITA GROWTH RATES.—

"(1) FOR 1996.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the below average service utilization cohort, 9.6 percent.

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the above average service utilization cohort, 4.8 percent.

"(iii) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 2.1 percent.

"(B) BUDGET NEUTRAL ADJUSTMENT.—The Secretary shall adjust the per capita growth rates specified in subparagraph (A) for all the areas by such uniform factor as may be necessary to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996.

"(2) FOR SUBSEQUENT YEARS.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT SET AT 143 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the below average service utilization cohort for the year shall be 160 percent of the national average per capita growth rate for the year (as specified under paragraph (3)).

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT SET AT 80 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the above average service utilization cohort for the year shall be 80 percent of the national average per capita growth rate for the year.

"(iii) HIGHEST SERVICE UTILIZATION COHORT SET AT 40 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 35 percent of the national average per capita growth rate for the year.

"(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

"(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

"(A) 1996 is 6.0 percent,

"(B) 1997 is 6.0 percent,

"(C) 1998 is 6.0 percent,

"(D) 1999 is 5.5 percent,

"(E) 2000 is 5.5 percent,

"(F) 2001 is 5.5 percent,

"(G) 2002 is 5.5 percent, and

"(H) each subsequent year is 5.5 percent.

"(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

"(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

"(A) BELOW AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the below average service utilization cohort.

"(B) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.00 but less than 1.20 shall be assigned to the above average service utilization cohort.

"(C) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

"(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

"(A) the annual Medicare Choice capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

"(B) the input-price-adjusted annual national Medicare Choice capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

"(3) DETERMINATION OF INPUT-PRICE-ADJUSTED RATES.—

"(A) IN GENERAL.—For purposes of paragraph (2), the 'input-price-adjusted annual national Medicare Choice capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

"(i) the national standardized Medicare Choice capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) NATIONAL STANDARDIZED MEDICARE CHOICE CAPITATION RATE.—In this paragraph, the 'national standardized Medicare Choice capitation rate' for a year is equal to—

"(i) the sum (for all payment areas) of the product of (I) the annual Medicare Choice capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

"(C) SPECIAL RULES FOR 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(e) PAYMENT PROCESS.—

"(1) IN GENERAL.—Subject to section 1859(f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a Medicare Choice organization under this part.

"(2) ADJUSTMENT TO REFLECT NUMBER OF ENROLLEES.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) EXCEPTION.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

"(f) PAYMENTS FROM TRUST FUND.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization, and payments to a Medicare Choice MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(g) SPECIAL RULE FOR CERTAIN INPATIENT HOSPITAL STAYS.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a Medicare Choice product offered by a Medicare Choice organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice product or Non-Medicare Choice option (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a Medicare Choice organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"ESTABLISHMENT OF STANDARDS FOR MEDICARE CHOICE ORGANIZATIONS AND PRODUCTS

"SEC. 1856. (a) INTERIM STANDARDS.—

"(1) IN GENERAL.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

"(2) SOLICITATION OF VIEWS.—In developing standards under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the American Academy of Actuaries.

"(3) EFFECT ON STATE REGULATIONS.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

"(b) PERMANENT STANDARDS.—

"(1) IN GENERAL.—The Secretary shall develop permanent standards under this subsection.

"(2) CONSULTATION.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and medicare beneficiaries.

"(3) EFFECTIVENESS.—The standards under this subsection shall take effect for periods beginning on or after January 1, 2000.

"(c) SOLVENCY.—In establishing interim and permanent standards under this section relating to solvency of organizations, the Secretary shall recognize the multiple means of demonstrating solvency, including—

"(1) reinsurance purchased through a recognized commerce company or through a capitive company owned directly or indirectly by 3 or more provider-sponsored organizations,

"(2) unrestricted surplus,

"(3) guarantees, and

"(4) letters of credit.

In such standards, the Secretary may treat as admitted assets the assets used by a provider-sponsored organization in delivering covered services.

"(d) APPLICATION OF NEW STANDARDS TO ENTITIES WITH A CONTRACT.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(e) RELATION TO STATE LAWS.—The standards established under this section shall supersede any State law. The standard or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"MEDICARE CHOICE CERTIFICATION

"SEC. 1857. (a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of organizations and products offered by organizations as meeting the applicable standards for Medicare Choice organizations and Medicare Choice products established under section 1856.

"(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(3) USE OF PRIVATE ACCREDITATION PROCESSES.—

"(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that Medicare Choice organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

"(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

"(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(b) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a Medicare Choice organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

"(c) QUALIFIED ASSOCIATIONS.—In the case of Medicare Choice products offered by a Medicare Choice organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

"CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

"SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a Medicare Choice product offered by a Medicare Choice organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one Medicare Choice product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) ENROLLMENT REQUIREMENTS.—

"(1)(A) MINIMUM ENROLLMENT REQUIREMENT.—Subject to subparagraphs (B) and (C), the Secretary may not enter into a contract under this section with a Medicare Choice organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(B) ALLOWING TRANSITION.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

"(C) TREATMENT OF AREAS WITH LOW MANAGED CARE PENETRATION.—The Secretary may waive the requirement of subparagraph (A) in the case of organizations operating in areas in which there is a low proportion of medicare beneficiaries who have made the Medicare Choice election.

"(2) REQUIREMENT FOR ENROLLMENT OF NON-MEDICARE BENEFICIARIES.—

"(A) IN GENERAL.—Each Medicare Choice organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) an organization that has been certified by a national organization recognized by the Secretary and has been found to have met performance standards established by the Secretary for at least 2 years, or

"(ii) a provider-sponsored organization for which commercial payments to providers participating in the organization exceed the payments to the organization under this part.

"(C) MODIFICATION AND WAIVER.—The Secretary may modify or waive the requirement imposed by subparagraph (A)—

"(i) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

"(ii) in the case of an organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(D) ENFORCEMENT.—If the Secretary determines that an organization has failed to comply with the requirements of this paragraph, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(f) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(f)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a Medicare Choice organization under this section or may impose the intermediate sanctions described in subsection (g) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

"DEMONSTRATION PROJECT FOR HIGH DEDUCTIBLE/MEDISAVE PRODUCTS

"SEC. 1859. (a) PERMITTING DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall permit, on a demonstration project basis, the offering of high deductible/medisave products under this part, subject to the special rules provided under this section.

"(2) LIMITATION ON NUMBER AND DURATION OF PROJECTS.—The Secretary shall not permit under this section the offering of more than 10 demonstration projects and each such project shall not exceed 7 years in duration.

"(b) HIGH DEDUCTIBLE/MEDISAVE PRODUCT DEFINED.—

"(1) IN GENERAL.—In this part, the term 'high deductible/medisave product' means a Medicare Choice product that—

"(A) provides reimbursement for at least the items and services described in section 1852(a)(1) in a year but only after the enrollee incurs countable expenses (as specified under the product) equal to the amount of a deductible (described in paragraph (2));

"(B) counts as such expenses (for purposes of such deductible) at least all amounts that would have been payable under parts A and B or by the enrollee if the enrollee had elected to receive benefits through the provisions of such parts; and

"(C) provides, after such deductible is met for a year and for all subsequent expenses for benefits referred to in subparagraph (A) in the year, for a level of reimbursement that is not less than—

"(i) 100 percent of such expenses, or

"(ii) 100 percent of the amounts that would have been paid (without regard to any deductibles or coinsurance) under parts A and B with respect to such expenses,

whichever is less. Such term does not include the Medicare Choice MSA itself or any contribution into such account.

"(2) DEDUCTIBLE.—The amount of deductible under a high deductible/medisave product—

"(A) for contract year 1997 shall be not more than $10,000; and

"(B) for a subsequent contract year shall be not more than the maximum amount of such deductible for the previous contract year under this paragraph increased by the national average per capita growth rate under section 1855(c)(3) for the year.

If the amount of the deductible under subparagraph (B) is not a multiple of $50, the amount shall be rounded to the nearest multiple of $50.

"(c) SPECIAL RULES RELATING TO ENROLLMENT.—The rule under section 1805 relating to election of medicare choice products shall apply to election of high deductible/medisave products offered under the demonstration project under this section, except as follows:

"(1) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual is not eligible to elect a high deductible/medisave product under section 1805 if the individual is entitled to benefits under chapter 89 of title 5, United States Code, as an annuitant or spouse of an annuitant.

"(2) TRANSITION PERIOD RULE.—During the transition period (as defined in section 1805(e)(1)(B)), an individual who has elected a high deductible/medisave product may not change such election to a Medicare Choice product that is not a high deductible/medisave product unless the individual has had such election in effect for 12 months.

"(3) NO 90-DAY DISENROLLMENT OPTION.—Paragraph (4)(A) of section 1805(e) shall not apply to an individual who elects a high deductible/medisave product.

"(4) TIMING OF ELECTION.—An individual may elect a high deductible/medisave product only during an annual, coordinated election period described in section 1805(e)(3)(B) or during the month of October, 1996.

"(5) EFFECTIVENESS OF ELECTION.—An election of coverage for a high deductible/medisave product made in a year shall take effect as of the first day of the following year.

"(d) SPECIAL RULES RELATING TO BENEFITS.—

"(1) IN GENERAL.—Paragraphs (1) and (3) of section 1852(a) shall not apply to high deductible/medisave products.

"(2) PREMIUMS.—

"(A) APPLICATION OF ALTERNATIVE PREMIUM.—In applying section 1852(d)(2) in the case of a high deductible/medisave product, instead of the amount specified in subparagraph (B) there shall be substituted the monthly adjusted Medicare Choice capitation rate specified in section 1855(b)(1) for the individual and period involved.

"(B) CLASS ADJUSTED PREMIUMS.—Notwithstanding section 1852(d)(3), a Medicare Choice organization shall establish premiums for any high deductible/medisave product it offers in a payment area based on each of the risk adjustment categories established for purposes of determining the amount of the payment to Medicare Choice organizations under section 1855(b)(1) and using the identical demographic and other adjustments among such categories as are used for such purposes.

"(C) REQUIREMENT FOR ADDITIONAL BENEFITS NOT APPLICABLE.—Section 1852(e)(1)(A) shall not apply to a high deductible/medisave product.

"(e) ADDITIONAL DISCLOSURE.—In any disclosure made pursuant to section 1853(a)(1) for a high deductible/medisave product, the disclosure shall include a comparison of benefits under such a product with benefits under other Medicare Choice products.

"(f) SPECIAL RULES FOR INDIVIDUALS ELECTING HIGH DEDUCTIBLE/MEDISAVE PRODUCT.—

"(1) IN GENERAL.—In the case of an individual who has elected a high deductible/medisave product, notwithstanding the provisions of section 1855—

"(A) the amount of the payment to the Medicare Choice organization offering the high deductible/medisave product shall not exceed the premium for the product, and

"(B) subject to paragraph (2), the difference between the amount of payment that would otherwise be made and the amount of payment to such organization shall be made directly into a Medicare Choice MSA established (and, if applicable, designated) by the individual under paragraph (2).

"(2) ESTABLISHMENT AND DESIGNATION OF MEDICARE CHOICE MEDICAL SAVINGS ACCOUNT AS REQUIREMENT FOR PAYMENT OF CONTRIBUTION.—In the case of an individual who has elected coverage under a high deductible/medisave product, no payment shall be made under paragraph (1)(B) on behalf of an individual for a month unless the individual—

"(A) has established before the beginning of the month (or by such other deadline as the Secretary may specify) a Medicare Choice MSA (as defined in section 137(b) of the Internal Revenue Code of 1986), and

"(B) if the individual has established more than one Medicare Choice MSA, has designated one of such accounts as the individual's Medicare Choice MSA for purposes of this part.

Under rules under this section, such an individual may change the designation of such account under subparagraph (B) for purposes of this part.

"(3) LUMP SUM DEPOSIT OF MEDICAL SAVINGS ACCOUNT CONTRIBUTION.—In the case of an individual electing a high deductible/medisave product effective beginning with a month in a year, the amount of the contribution to the Medicare Choice MSA on behalf of the individual for that month and all successive months in the year shall be deposited during that first month. In the case of a termination of such an election as of a month before the end of a year, the Secretary shall provide for a procedure for the recovery of deposits attributable to the remaining months in the year.

"(g) SPECIAL CONTRACT RULES.—

"(1) ENROLLMENT REQUIREMENTS WAIVED.—Subsection (b) of section 1858 shall not apply with respect to a contract that relates only to one or more high deductible/medisave products.

"(2) EFFECTIVE DATE OF CONTRACTS.—In no case shall a contract under section 1858 which provides for coverage under a high deductible/medisave account be effective before January 1997 with respect to such coverage.".

(b) CONFORMING REFERENCES TO PREVIOUS PART C.—Any reference in law (in effect before the date of the enactment of this Act) to part C of title XVIII of the Social Security Act is deemed a reference to part D of such title (as in effect after such date).

(c) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the amendment made by subsection (a) in a timely manner, the Secretary of Health and Human Services may promulgate regulations that take effect on an interim basis, after notice and pending opportunity for public comment.

(d) ADVANCE DIRECTIVES.—Section 1866(f)(1) (42 U.S.C. 1395cc(f)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "1853(g)," after "1833(s),", and

(B) by inserting ", Medicare Choice organization," after "provider of services", and

(2) by adding at the end the following new paragraph:

"(4) Nothing in this subsection shall be construed to require the provision of information regarding assisted suicide, euthanasia, or mercy killing.".

(e) CONFORMING AMENDMENT.—Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended by inserting before the semicolon at the end the following: "and in the case of hospitals to accept as payment in full for inpatient hospital services that are covered under this title and are furnished to any individual enrolled under part C with a Medicare Choice organization which does not have a contract establishing payment amounts for services furnished to members of the organization the amounts that would be made as a payment in full under this title if the individuals were not so enrolled".

SEC. 8003. REPORTS.

(a) ALTERNATIVE PAYMENT APPROACHES.—By not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this title referred to as the "Secretary") shall submit to Congress a report on alternative provider payment approaches under the medicare program, including—

(1) combined hospital and physician payments per admission,

(2) partial capitation models for subsets of medicare benefits, and

(3) risk-sharing arrangements in which the Secretary defines the risk corridor and shares in gains and losses.

Such report shall include recommendations for implementing and testing such approaches and legislation that may be required to implement and test such approaches.

(b) COVERAGE OF RETIRED WORKERS.—

(1) IN GENERAL.—The Secretary shall work with employers and health benefit plans to develop standards and payment methodologies to allow retired workers to continue to participate in employer health plans instead of participating in the medicare program. Such standards shall also cover workers covered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the development of such standards and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) TRANSITION FROM CURRENT CONTRACTS.—

(1) LIMITATION ON NEW CONTRACTS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall not enter into any risk-sharing or cost reimbursement contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for Medicare Choice organizations and products are first established under section 1856(a) of such Act with respect to Medicare Choice organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(2) TERMINATION OF CURRENT CONTRACTS.—

(A) RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) COST REIMBURSEMENT CONTRACTS.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) CONFORMING PAYMENT RATES UNDER RISK-SHARING CONTRACTS.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(1) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(2) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act.

For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

PART 2—SPECIAL RULES FOR MEDICARE CHOICE MEDICAL SAVINGS ACCOUNTS

SEC. 8011. MEDICARE CHOICE MSA'S.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICARE CHOICE MSA'S.

"(a) EXCLUSION.—Gross income shall not include any payment to the Medicare Choice MSA of an individual by the Secretary of Health and Human Services under section 1859(f)(1)(B) of the Social Security Act.

"(b) MEDICARE CHOICE MSA.—For purposes of this section—

"(1) MEDICARE CHOICE MSA.—The term 'Medicare Choice MSA' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the account holder, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by the Secretary of Health and Human Services under section 1859(f)(1)(B) of the Social Security Act.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account holder, amounts paid by such holder—

"(i) for medical care (as defined in section 213(d)) for the account holder, but only to the extent such amounts are not compensated for by insurance or otherwise, or

"(ii) for long-term care insurance for the account holder.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A)(i) shall not apply to any payment for insurance.

"(3) ACCOUNT HOLDER.—The term 'account holder' means the individual on whose behalf the Medicare Choice MSA is maintained.

"(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A Medicare Choice MSA is exempt from taxation under this subtitle unless such MSA has ceased to be a Medicare Choice MSA by reason of paragraph (2). Notwithstanding the preceding sentence, any such MSA is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to Medicare Choice MSA's, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—No amount shall be included in the gross income of the account holder by reason of a payment or distribution from a Medicare Choice MSA which is used exclusively to pay the qualified medical expenses of the account holder. Any amount paid or distributed from a Medicare Choice MSA which is not so used shall be included in the gross income of such holder.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES IF MINIMUM BALANCE NOT MAINTAINED.—

"(A) IN GENERAL.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a Medicare Choice MSA which is not used exclusively to pay the qualified medical expenses of the account holder shall be increased by 50 percent of the excess (if any) of—

"(i) the amount of such payment or distribution, over

"(ii) the excess (if any) of—

"(I) the fair market value of the assets in the Medicare Choice MSA as of the close of the calendar year preceding the calendar year in which the taxable year begins, over

"(II) an amount equal to 60 percent of the deductible under the catastrophic health plan covering the account holder as of January 1 of the calendar year in which the taxable year begins.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account holder—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all Medicare Choice MSA's of the account holder shall be treated as 1 account, "(ii) all payments and distributions not used exclusively to pay the qualified medical expenses of the account holder during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a Medicare Choice MSA to the Secretary of Health and Human Services of an erroneous contribution to such MSA and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a Medicare Choice MSA of an account holder to another Medicare Choice MSA of such account holder.

"(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a Medicare Choice MSA for qualified medical expenses shall not be treated as an expense paid for medical care.

"(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT HOLDER.—

"(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

"(A) IN GENERAL.—In the case of an account holder's interest in a Medicare Choice MSA which is payable to (or for the benefit of) such holder's spouse upon the death of such holder, such Medicare Choice MSA shall be treated as a Medicare Choice MSA of such spouse as of the date of such death.

"(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such Medicare Choice MSA, other than payments attributable to periods before such date,

"(ii) in applying subsection (b)(2) with respect to such Medicare Choice MSA, references to the account holder shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse, and

"(iii) in lieu of applying subsection (d)(2), the rules of section 220(f)(2) shall apply.

"(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account holder's interest in a Medicare Choice MSA which is payable to (or for the benefit of) any person other than such holder's spouse upon the death of such holder—

"(A) such account shall cease to be a Medicare Choice MSA as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such holder, in such person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such holder, in such holder's gross income for last taxable year of such holder.

"(f) REPORTS.—

"(1) IN GENERAL.—The trustee of a Medicare Choice MSA shall make such reports regarding such account to the Secretary and to the account holder with respect to—

"(A) the fair market value of the assets in such Medicare Choice MSA as of the close of each calendar year, and

"(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

"(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account holder—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations."

(b) EXCLUSION OF MEDICARE CHOICE MSA'S FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICARE CHOICE MSA'S.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any Medicare Choice MSA (as defined in section 137(b)) included in the gross estate."

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(5) SPECIAL RULE FOR MEDICARE CHOICE MSA'S.—An individual for whose benefit a Medicare Choice MSA (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a Medicare Choice MSA by reason of the application of section 137(c)(2) to such account."

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medical savings account described in section 220(d),

"(E) a Medicare Choice MSA described in section 137(b), or

"(F) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph."

(d) FAILURE TO PROVIDE REPORTS ON MEDICARE CHOICE MSA'S.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans),

"(B) section 220(h) (relating to medical savings accounts), and

"(C) section 137(f) (relating to Medicare Choice MSA's)."

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. Medicare Choice MSA's.

"Sec. 138. Cross references to other Acts."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions."

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. Medicare Choice MSA's."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 8012. CERTAIN REBATES EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) CERTAIN REBATES UNDER SOCIAL SECURITY ACT.—Gross income does not include any rebate received under section 1852(e)(1)(A) of the Social Security Act during the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

PART 3—SPECIAL ANTITRUST RULE FOR PROVIDER SERVICE NETWORKS

SEC. 8021. APPLICATION OF ANTITRUST RULE OF REASON TO PROVIDER SERVICE NETWORKS.

(a) RULE OF REASON STANDARD.—In any action under the antitrust laws, or under any State law similar to the antitrust laws—

(1) the conduct of a provider service network in negotiating, making, or performing a contract (including the establishment and modification of a fee schedule and the development of a panel of physicians), to the extent such contract is for the purpose of providing health care services to individuals under the terms of a Medicare Choice PSO product, and

(2) the conduct of any member of such network for the purpose of providing such health care services under such contract to such extent,

shall not be deemed illegal per se. Such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including the effects on competition in properly defined markets.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) ANTITRUST LAWS.—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) HEALTH CARE PROVIDER.—The term "health care provider" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(3) HEALTH CARE SERVICE.—The term "health care service" means any service for which payment may be made under a Medicare Choice PSO product including services related to the delivery or administration of such service.

(4) MEDICARE CHOICE PROGRAM.—The term "Medicare Choice program" means the program under part C of title XVIII of the Social Security Act.

(5) MEDICARE CHOICE PSO PRODUCT.—The term "Medicare Choice PSO product" means a Medicare Choice product offered by a provider-sponsored organization under part C of title XVIII of the Social Security Act.

(6) PROVIDER SERVICE NETWORK.—The term "provider service network" means an organization that—

(A) is organized by, operated by, and composed of members who are health care providers and for purposes that include providing health care services,

(B) is funded in part by capital contributions made by the members of such organization,

(C) with respect to each contract made by such organization for the purpose of providing a type of health care service to individuals under the terms of a Medicare Choice PSO product—

(i) requires all members of such organization who engage in providing such type of health care service to agree to provide health care services of such type under such contract,

(ii) receives the compensation paid for the health care services of such type provided under such contract by such members, and

(iii) provides for the distribution of such compensation,

(D) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a program to review, pursuant to written guidelines, the quality, efficiency, and appropriateness of treatment methods and setting of services for all health care providers and all patients participating in such product, along with internal procedures to correct identified deficiencies relating to such methods and such services,

(E) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a program to monitor and control utilization of health care services provided under such product, for the purpose of improving efficient, appropriate care and eliminating the provision of unnecessary health care services,

(F) has established a management program to coordinate the delivery of health care services for all health care providers and all patients participating in such product, for the purpose of achieving efficiencies and enhancing the quality of health care services provided, and

(G) has established, consistent with the requirements of the Medicare Choice program for provider-sponsored organizations, a grievance and appeal process for such organization designed to review and promptly resolve beneficiary or patient grievances and complaints.

Such term may include a provider-sponsored organization.

(7) PROVIDER-SPONSORED ORGANIZATION.—The term "provider-sponsored organization" means a Medicare Choice organization under the Medicare Choice program that is a provider-sponsored organization (as defined in section 1854(a)(1) of the Social Security Act).

(8) STATE.—The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(c) ISSUANCE OF GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Attorney General and the Federal Trade Commission shall issue jointly guidelines specifying the enforcement policies and analytical principles that will be applied by the Department of Justice and the Commission with respect to the operation of subsection (a).

PART 4—COMMISSIONS

SEC. 8031. MEDICARE PAYMENT REVIEW COMMISSION.

(a) IN GENERAL.—Title XVIII, as amended by section 8001(a), is amended by inserting after section 1805 the following new section:

"MEDICARE PAYMENT REVIEW COMMISSION

"SEC. 1806. (a) ESTABLISHMENT.—There is hereby established the Medicare Payment Review Commission (in this section referred to as the 'Commission').

"(b) DUTIES.—

"(1) GENERAL DUTIES AND REPORTS.—The Commission shall review, and make recommendations to Congress concerning, payment policies under this title. By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting the medicare program, including the implications of changes in health care delivery in the United States and in the market for health care services on the medicare program. The Commission may submit to Congress from time to time such other reports as the Commission deems appropriate. The Secretary shall respond to recommendations of the Commission in notices of rulemaking proceedings under this title.

"(2) SPECIFIC DUTIES RELATING TO MEDICARE CHOICE PROGRAM.—Specifically, the Commission shall review, with respect to the Medicare Choice program under part C—

"(A) the appropriateness of the methodology for making payment to plans under such program, including the making of differential payments and the distribution of differential updates among different payment areas,

"(B) the appropriateness of the mechanisms used to adjust payments for risk and the need to adjust such mechanisms to take into account health status of beneficiaries,

"(C) the implications of risk selection both among Medicare Choice organizations and between the Medicare Choice option and the non-Medicare Choice option,

"(D) in relation to payment under part C, the development and implementation of mechanisms to assure the quality of care for those enrolled with Medicare Choice organizations,

"(E) the impact of the Medicare Choice program on access to care for medicare beneficiaries, and

"(F) other major issues in implementation and further development of the Medicare Choice program.

"(3) SPECIFIC DUTIES RELATING TO THE FEE-FOR-SERVICE SYSTEM.—Specifically, the Commission shall review payment policies under parts A and B, including—

"(A) the factors affecting expenditures for services in different sectors, including the process for updating hospital, physician, and other fees,

"(B) payment methodologies; and

"(C) the impact of payment policies on access and quality of care for medicare beneficiaries.

"(4) SPECIFIC DUTIES RELATING TO INTERACTION OF PAYMENT POLICIES WITH HEALTH CARE DELIVERY GENERALLY.—Specifically the Commission shall review the effect of payment policies under this title on the delivery of health care services under this title and assess the implications of changes in the health services market on the medicare program.

"(c) MEMBERSHIP.—

"(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General.

"(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health facility management, health plans and integrated delivery systems, reimbursement of health facilities, physicians, and other providers of services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives, including physicians and other health professionals, employers, third party payors, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research and expertise in outcomes and effectiveness research and technology assessment. Such membership shall also include representatives of consumers and the elderly.

"(3) CONSIDERATIONS IN INITIAL APPOINTMENT.—To the extent possible, in first appointing members to the Commission the Comptroller General shall consider appointing individuals who (as of the date of the enactment of this section) were serving on the Prospective Payment Assessment Commission or the Physician Payment Review Commission.

"(4) TERMS.—

"(A) IN GENERAL.—The terms of members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for the members first appointed.

"(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) COMPENSATION.—While serving on the business of the Commission (including traveltime), a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and while so serving away from home and member's regular place of business, a member may be allowed travel expenses, as authorized by the Chairman of the Commission. Physicians serving as personnel of the Commission may be provided a physician comparability allowance by the Commission in the same manner as Government physicians may be provided such an allowance by an agency under section 5948 of title 5, United States Code, and for such purpose subsection (i) of such section shall apply to the Commission in the same manner as it applies to the Tennessee Valley Authority. For purposes of pay (other than pay of members of the Commission) and employment benefits, rights, and privileges, all personnel of the Commission shall be treated as if they were employees of the United States Senate.

"(6) Chairman; vice chairman.—The Comptroller General shall designate a member of the Commission, at the time of appointment of the member, as Chairman and a member as Vice Chairman for that term of appointment.

"(7) Meetings.—The Commission shall meet at the call of the Chairman.

"(d) Director and Staff; Experts and Consultants.—Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission may—

"(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

"(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

"(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

"(4) make advance, progress, and other payments which relate to the work of the Commission;

"(5) provide transportation and subsistence for persons serving without compensation; and

"(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

"(e) Powers.—

"(1) Obtaining official data.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

"(2) Data collection.—In order to carry out its functions, the Commission shall collect and assess information.

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate, and

"(C) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

"(3) Access of GAO to information.—The Comptroller General shall have unrestricted access to all deliberations, records, and data of the Commission, immediately upon request.

"(4) Periodic audit.—The Commission shall be subject to periodic audit by the General Accounting Office.

"(f) Authorization of Appropriations.—

"(1) Request for appropriations.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

"(2) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. 60 percent of such appropriation shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) Abolition of ProPAC and PPRC.—

(1) ProPAC.—

(A) In general.—Section 1886(e) (42 U.S.C. 1395ww(e)) is amended—

(i) by striking paragraphs (2) and (6); and

(ii) in paragraph (3), by striking "(A) The Commission" and all that follows through "(B)".

(B) Conforming amendment.—Section 1862 (42 U.S.C. 1395y) is amended by striking "Prospective Payment Assessment Commission" each place it appears in subsection (a)(1)(D) and subsection (i) and inserting "Medicare Payment Review Commission".

(2) PPRC.—

(A) In general.—Title XVIII is amended by striking section 1845 (42 U.S.C. 1395w–1).

(B) Conforming amendments.—

(i) Section 1834(b)(2) (42 U.S.C. 1395m(b)(2)) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission".

(ii) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "Physician Payment Review Commission" each place it appears in paragraphs (2)(C), (9)(D), and (14)(C)(i) and inserting "Medicare Payment Review Commission".

(iii) Section 1848 (42 U.S.C. 1395w@4) is amended by striking "Physician Payment Review Commission" and inserting "Medicare Payment Review Commission" each place it appears in paragraph (2)(A)(ii), (2)(B)(iii), and (5) of subsection (c), subsection (d)(2)(F), paragraphs (1)(B), (3), and (4)(A) of subsection (f), and paragraphs (6)(C) and (7)(C) of subsection (g).

(c) Effective Date; Transition.—

(1) In general.—The Comptroller General shall first provide for appointment of members to the Medicare Payment Review Commission (in this subsection referred to as "MPRC") by not later than March 31, 1996.

(2) Transition.—Effective on a date (not later than 30 days after the date a majority of members of the MPRC have first been appointed, the Prospective Payment Assessment Commission (in this subsection referred to as "ProPAC") and the Physician Payment Review Commission (in this subsection referred to as "PPRC"), and amendments made by subsection (b), are terminated. The Comptroller General, to the maximum extent feasible, shall provide for the transfer to the MPRC of assets and staff of ProPAC and PPRC, without any loss of benefits or seniority by virtue of such transfers. Fund balances available to the ProPAC or PPRC for any period shall be available to the MPRC for such period for like purposes.

(3) Continuing responsibility for reports.—The MPRC shall be responsible for the preparation and submission of reports required by law to be submitted (and which have not been submitted by the date of establishment of the MPRC) by the ProPAC and PPRC, and, for this purpose, any reference in law to either such Commission is deemed, after the appointment of the MPRC, to refer to the MPRC.

SEC. 8032. COMMISSION ON THE EFFECT OF THE BABY BOOM GENERATION ON THE MEDICARE PROGRAM.

(a) Establishment.—There is established a commission to be known as the Commission on the Effect of the Baby Boom Generation on the Medicare Program (in this section referred to as the "Commission").

(b) Duties.—

(1) In general.—The Commission shall—

(A) examine the financial impact on the medicare program of the significant increase in the number of medicare eligible individuals which will occur beginning approximately during 2010 and lasting for approximately 25 years, and

(B) make specific recommendations to the Congress respecting a comprehensive approach to preserve the medicare program for the period during which such individuals are eligible for medicare.

(2) Considerations in making recommendations.—In making its recommendations, the Commission shall consider the following:

(A) The amount and sources of Federal funds to finance the medicare program, including the potential use of innovative financing methods.

(B) The most efficient and effective manner of administering the program, including the appropriateness of continuing the enforcement of medicare budget targets under section 8701 for fiscal years after fiscal year 2002 and the appropriate long-term growth rates for contributions electing coverage under Medicare Choice under part C of title XVIII of such Act.

(C) Methods used by other nations to respond to comparable demographic patterns in eligibility for health care benefits for elderly and disabled individuals.

(D) Modifying age-based eligibility to correspond to changes in age-based eligibility under the OASDI program.

(E) Trends in employment-related health care for retirees, including the use of medical savings accounts and similar financing devices.

(c) Membership.—

(1) Appointment.—The Commission shall be composed of 15 members appointed as follows:

(A) The President shall appoint 3 members.

(B) The Majority Leader of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members, of whom not more than 4 may be of the same political party.

(C) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members, of whom not more than 4 may be of the same political party.

(2) Chairman and vice chairman.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(3) Vacancies.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(4) Quorum.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e).

(5) Meetings.—The Commission shall meet at the call of its Chairman or a majority of its members.

(6) Compensation and reimbursement of expenses.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) Staff and Consultants.—

(1) Staff.—The Commission may appoint and determine the compensation of such

staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) REPORT.—Not later than May 1, 1997, the Commission shall submit to Congress a report containing its findings and recommendations regarding how to protect and preserve the medicare program in a financially solvent manner until 2030 (or, if later, throughout the period of projected solvency of the Federal Old-Age and Survivors Insurance Trust Fund). The report shall include detailed recommendations for appropriate legislative initiatives respecting how to accomplish this objective.

(g) TERMINATION.—The Commission shall terminate 60 days after the date of submission of the report required in subsection (f).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,500,000 to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

PART 5—PREEMPTION OF STATE ANTI-MANAGED CARE LAWS

SEC. 8041. PREEMPTION OF STATE LAW RESTRICTIONS ON MANAGED CARE ARRANGEMENTS.

(a) LIMITATION ON RESTRICTIONS ON NETWORK PLANS.—Effective as of January 1, 1997—

(1) a State may not prohibit or limit a carrier or group health plan providing health coverage from including incentives for enrollees to use the services of participating providers;

(2) a State may not prohibit or limit such a carrier or plan from limiting coverage of services to those provided by a participating provider, except as provided in section 1013;

(3) a State may not prohibit or limit the negotiation of rates and forms of payments for providers by such a carrier or plan with respect to health coverage;

(4) a State may not prohibit or limit such a carrier or plan from limiting the number of participating providers;

(5) a State may not prohibit or limit such a carrier or plan from requiring that services be provided (or authorized) by a practitioner selected by the enrollee from a list of available participating providers or, except for services of a physician who specializes in obstetrics and gynecology, from requiring enrollees to obtain referral in order to have coverage for treatment by a specialist or health institution; and

(6) a State may not prohibit or limit the corporate practice of medicine.

(b) DEFINITIONS.—In this section:

(1) MANAGED CARE COVERAGE.—The term "managed care coverage" means health coverage to the extent the coverage is provided through a managed care arrangement (as defined in paragraph (3)) that meets the applicable requirements of such section.

(2) PARTICIPATING PROVIDER.—The term "participating provider" means an entity or individual which provides, sells, or leases health care services as part of a provider network (as defined in paragraph (4)).

(3) MANAGED CARE ARRANGEMENT.—The term "managed care arrangement" means, with respect to a group health plan or under health insurance coverage, an arrangement under such plan or coverage under which providers agree to provide items and services covered under the arrangement to individuals covered under the plan or who have such coverage.

(4) PROVIDER NETWORK.—The term "provider network" means, with respect to a group health plan or health insurance coverage, providers who have entered into an agreement described in paragraph (3).

SEC. 8042. PREEMPTION OF STATE LAWS RESTRICTING UTILIZATION REVIEW PROGRAMS.

(a) IN GENERAL.—Effective January 1, 1997, no State law or regulation shall prohibit or regulate activities under a utilization review program (as defined in subsection (b)).

(b) UTILIZATION REVIEW PROGRAM DEFINED.—In this section, the term "utilization review program" means a system of reviewing the medical necessity and appropriateness of patient services (which may include inpatient and outpatient services) using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory procedures, and retrospective review.

(c) EXEMPTION OF LAWS PREVENTING DENIAL OF LIFESAVING MEDICAL TREATMENT PENDING TRANSFER TO ANOTHER HEALTH CARE PROVIDER.—Nothing in this subtitle shall be construed to invalidate any State law that has the effect of preventing involuntary denial of life-preserving medical treatment when such denial would cause the involuntary death of the patient pending transfer of the patient to a health care provider willing to provide such treatment.

Subtitle B—Provisions Relating to Regulatory Relief

PART 1—PROVISIONS RELATING TO PHYSICIAN FINANCIAL RELATIONSHIPS

SEC. 8101. REPEAL OF PROHIBITIONS BASED ON COMPENSATION ARRANGEMENTS.

(a) IN GENERAL.—Section 1877(a)(2) (42 U.S.C. 1395nn(a)(2)) is amended by striking "is—" and all that follows through "equity," and inserting the following: "is (except as provided in subsection (c)) an ownership or investment interest in the entity through equity,".

(b) CONFORMING AMENDMENTS.—Section 1877 (42 U.S.C. 1395nn) is amended as follows:

(1) In subsection (b)—

(A) in the heading, by striking "TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROVISIONS" and inserting "WHERE FINANCIAL RELATIONSHIP EXISTS"; and

(B) by redesignating paragraph (4) as paragraph (7).

(2) In subsection (c)—

(A) by amending the heading to read as follows: "EXCEPTION FOR OWNERSHIP OR INVESTMENT INTEREST IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS"; and

(B) in the matter preceding paragraph (1), by striking "subsection (a)(2)(A)" and inserting "subsection (a)(2)".

(3) In subsection (d)—

(A) by striking the matter preceding paragraph (1);

(B) in paragraph (3), by striking "paragraph (1)" and inserting "paragraph (4)"; and

(C) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), and by transferring and inserting such paragraphs after paragraph (3) of subsection (b).

(4) By striking subsection (e).

(5) In subsection (f)(2), as amended by section 152(a) of the Social Security Act Amendments of 1994—

(A) in the matter preceding paragraph (1), by striking "ownership, investment, and compensation" and inserting "ownership and investment";

(B) in paragraph (2), by striking "subsection (a)(2)(A)" and all that follows through "subsection (a)(2)(B))," and inserting "subsection (a)(2),"; and

(C) in paragraph (2), by striking "or who have such a compensation relationship with the entity".

(6) In subsection (h)—

(A) by striking paragraphs (1), (2), and (3);

(B) in paragraph (4)(A), by striking clauses (iv) and (vi);

(C) in paragraph (4)(B), by striking "RULES.—" and all that follows through "(ii) FACULTY" and inserting "RULES FOR FACULTY; and

(D) by adding at the end of paragraph (4) the following new subparagraph:

"(C) MEMBER OF A GROUP.—A physician is a 'member' of a group if the physician is an owner or a bona fide employee, or both, of the group.".

SEC. 8102. REVISION OF DESIGNATED HEALTH SERVICES SUBJECT TO PROHIBITION.

(a) IN GENERAL.—Section 1877(h)(6) (42 U.S.C. 1395nn(h)(6)) is amended by striking subparagraphs (B) through (K) and inserting the following:

"(B) Items and services furnished by a community pharmacy (as defined in paragraph (1)).

"(C) Magnetic resonance imaging and computerized tomography services.

"(D) Outpatient physical therapy services.".

(b) COMMUNITY PHARMACY DEFINED.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8101(b)(6), is amended by inserting before paragraph (4) the following new paragraph:

"(1) COMMUNITY PHARMACY.—The term 'community pharmacy' means any entity licensed or certified to dispense prescription drugs by the State in which the entity is located (including an entity which dispenses such drugs by mail order).".

(c) CONFORMING AMENDMENTS.—

(1) Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended in the matter preceding subparagraph (A) by striking "services" and all that follows through "supplies)—" and inserting "services—".

(2) Section 1877(h)(5)(C) (42 U.S.C. 1395nn(h)(5)(C)) is amended—

(A) by striking ", a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy," and inserting "and a request by a radiologist for magnetic resonance imaging or for computerized tomography", and

(B) by striking "radiologist, or radiation oncologist" and inserting "or radiologist".

SEC. 8103. DELAY IN IMPLEMENTATION UNTIL PROMULGATION OF REGULATIONS.

(a) IN GENERAL.—Section 13562(b) of OBRA–1993 (42 U.S.C. 1395nn note) is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(2) by adding at the end the following new paragraph:

"(3) PROMULGATION OF REGULATIONS.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall not apply to any referrals made before the effective date of final regulations promulgated by the Secretary of Health and Human Services to carry out such amendments.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of OBRA–1993.

SEC. 8104. EXCEPTIONS TO PROHIBITION.

(a) REVISIONS TO EXCEPTION FOR IN-OFFICE ANCILLARY SERVICES.—

(1) REPEAL OF SITE-OF-SERVICE REQUIREMENT.—Section 1877 (42 U.S.C. 1395nn) is amended—

(A) by amending subparagraph (A) of subsection (b)(2) to read as follows:

"(A) that are furnished personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are under the general supervision of the physician or of another physician in the group practice, and", and

(B) by adding at the end of subsection (h) the following new paragraph:

"(7) GENERAL SUPERVISION.—An individual is considered to be under the 'general supervision' of a physician if the physician (or group practice of which the physician is a member) is legally responsible for the services performed by the individual and for ensuring that the individual meets licensure and certification requirements, if any, applicable under other provisions of law, regardless of whether or not the physician is physically present when the individual furnishes an item or service.".

(2) CLARIFICATION OF TREATMENT OF PHYSICIAN OWNERS OF GROUP PRACTICE.—Section 1877(b)(2)(B) (42 U.S.C. 1395nn(b)(2)(B)) is amended by striking "physician or such group practice" and inserting "physician, such group practice, or the physician owners of such group practice".

(3) CONFORMING AMENDMENT.—Section 1877(b)(2) (42 U.S.C. 1395nn(b)(2)) is amended by amending the heading to read as follows: "ANCILLARY SERVICES FURNISHED PERSONALLY OR THROUGH GROUP PRACTICE.—".

(b) CLARIFICATION OF EXCEPTION FOR SERVICES FURNISHED IN A RURAL AREA.—Paragraph (5) of section 1877(b) (42 U.S.C. 1395nn(b)), as transferred by section 8101(b)(3)(C), is amended by striking "substantially all" and inserting "not less than 75 percent".

(c) REVISION OF EXCEPTION FOR CERTAIN MANAGED CARE ARRANGEMENTS.—Section 1877(b)(3) (42 U.S.C. 1395nn(b)(3)) is amended—

(1) in the heading by inserting "MANAGED CARE ARRANGEMENTS" after "PREPAID PLANS";

(2) in the matter preceding subparagraph (A), by striking "organization—" and inserting "organization, directly or through contractual arrangements with other entities, to individuals enrolled with the organization—";

(3) in subparagraph (A), by inserting "or part C" after "section 1876";

(4) by striking "or" at the end of subparagraph (C);

(5) by striking the period at the end of subparagraph (D) and inserting a comma; and

(6) by adding at the end the following new subparagraphs:

"(E) with a contract with a State to provide services under the State plan under title XIX (in accordance with section 1903(m)) or a State MediGrant plan under title XXI; or

"(F) which—

"(i) provides health care items or services directly or through one or more subsidiary entities or arranges for the provision of health care items or services substantially through the services of health care providers under contract with the organization, and

"(ii)(I) assumes financial risk for the provision of health services through mechanisms (such as capitation, risk pools, withholds, and per diem payments) or offers its network of contract health providers to an entity (including self-insured employers and indemnity plans) which assumes financial risk for the provision of such health services, or

"(II) has in effect a written agreement with the provider of services under which the provider is at significant financial risk (whether through a withhold, capitation, incentive pool, per diem payments, or similar risk sharing arrangement) for the cost or utilization of services that the provider is obligated to provide.".

(d) NEW EXCEPTION FOR SHARED FACILITY SERVICES.—

(1) IN GENERAL.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) SHARED FACILITY SERVICES.—In the case of a designated health service consisting of a shared facility service of a shared facility—

"(A) that is furnished—

"(i) personally by the referring physician who is a shared facility physician or personally by an individual directly employed or under the general supervision of such a physician,

"(ii) by a shared facility in a building in which the referring physician furnishes substantially all of the services of the physician that are unrelated to the furnishing of shared facility services, and

"(iii) to a patient of a shared facility physician; and

"(B) that is billed by the referring physician or a group practice of which the physician is a member.".

(2) DEFINITIONS.—Section 1877(h) (42 U.S.C. 1395nn(h)), as amended by section 8101(b)(6) and section 8102(b), is amended by inserting after paragraph (1) the following new paragraph:

"(2) SHARED FACILITY RELATED DEFINITIONS.—

"(A) SHARED FACILITY SERVICE.—The term 'shared facility service' means, with respect to a shared facility, a designated health service furnished by the facility to patients of shared facility physicians.

"(B) SHARED FACILITY.—The term 'shared facility' means an entity that furnishes shared facility services under a shared facility arrangement.

"(C) SHARED FACILITY PHYSICIAN.—The term 'shared facility physician' means, with respect to a shared facility, a physician (or a group practice of which the physician is a member) who has a financial relationship under a shared facility arrangement with the facility.

"(D) SHARED FACILITY ARRANGEMENT.—The term 'shared facility arrangement' means, with respect to the provision of shared facility services in a building, a financial arrangement—

"(i) which is only between physicians who are providing services (unrelated to shared facility services) in the same building,

"(ii) in which the overhead expenses of the facility are shared, in accordance with methods previously determined by the physicians in the arrangement, among the physicians in the arrangement, and

"(iii) which, in the case of a corporation, is wholly owned and controlled by shared facility physicians.".

(e) NEW EXCEPTION FOR SERVICES FURNISHED IN COMMUNITIES WITH NO ALTERNATIVE PROVIDERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C) and subsection (d)(1), is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) NO ALTERNATIVE PROVIDERS IN AREA.—In the case of a designated health service furnished in any area with respect to which the Secretary determines that individuals residing in the area do not have reasonable access to such a designated health service for which subsection (a)(1) does not apply.".

(f) NEW EXCEPTION FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), and subsection (e)(1), is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—In the case of a designated health service furnished in an ambulatory surgical center described in section 1832(a)(2)(F)(i).".

(g) NEW EXCEPTION FOR SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), and subsection (f), is amended—

(1) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11); and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) SERVICES FURNISHED IN RENAL DIALYSIS FACILITIES.—In the case of a designated health service furnished in a renal dialysis facility under section 1881.".

(h) NEW EXCEPTION FOR SERVICES FURNISHED IN A HOSPICE.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), and subsection (g), is amended—

(1) by redesignating paragraphs (8) through (11) as paragraphs (9) through (12); and

(2) by inserting after paragraph (7) the following new paragraph:

"(8) SERVICES FURNISHED BY A HOSPICE PROGRAM.—In the case of a designated health service furnished by a hospice program under section 1861(dd)(2).".

(i) NEW EXCEPTION FOR SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—Section 1877(b) (42 U.S.C. 1395nn(b)), as amended by section 8101(b)(3)(C), subsection (d)(1), subsection (e)(1), subsection (f), subsection (g), and subsection (h), is amended—

(1) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) SERVICES FURNISHED IN A COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY.—In the case of a designated health service furnished in a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)).".

(i) DEFINITION OF REFERRAL.—Section 1877(h)(5)(A) (42 U.S.C. 1395nn(h)(5)(A)) is amended—

(1) by striking "an item or service" and inserting "a designated health service", and

(2) by striking "the item or service" and inserting "the designated health service".

SEC. 8105. REPEAL OF REPORTING REQUIREMENTS.

Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (g)(5).

SEC. 8106. PREEMPTION OF STATE LAW.

Section 1877 (42 U.S.C. 1395nn) is amended by adding at the end the following new subsection:

"(i) PREEMPTION OF STATE LAW.—This section preempts State law to the extent State law is inconsistent with this section.".

SEC. 8107. EFFECTIVE DATE.

Except as provided in section 8103(b), the amendments made by this part shall apply to referrals made on or after August 14, 1995, regardless of whether or not regulations are promulgated to carry out such amendments.

PART 2—ANTITRUST REFORM

SEC. 8111. PUBLICATION OF ANTITRUST GUIDELINES ON ACTIVITIES OF HEALTH PLANS.

(a) IN GENERAL.—The Attorney General shall provide for the development and publication of explicit guidelines on the application of antitrust laws to the activities of health plans. The guidelines shall be designed to facilitate development and operation of plans, consistent with the antitrust laws.

(b) REVIEW PROCESS.—The Attorney General shall establish a review process under which the administrator or sponsor of a health plan (or organization that proposes to administer or sponsor a health plan) may submit a request to the Attorney General to obtain a prompt opinion (but in no event later than 90 days after the Attorney General receives the request) from the Department of Justice on the plan's conformity with the Federal antitrust laws.

SEC. 8112. ISSUANCE OF HEALTH CARE CERTIFICATES OF PUBLIC ADVANTAGE.

(a) ISSUANCE AND EFFECT OF CERTIFICATE.—The Attorney General, after consultation with the Secretary, shall issue in accordance with this section a certificate of public advantage to each eligible health care collaborative activity that complies with the requirements in effect under this section on or after the expiration of the 1-year period that begins on the date of the enactment of this Act (without regard to whether or not the Attorney General has promulgated regulations to carry out this section by such date). Such activity, and the parties to such activity, shall not be liable under any of the antitrust laws for conduct described in such certificate and engaged in by such activity if such conduct occurs while such certificate is in effect.

(b) REQUIREMENTS APPLICABLE TO ISSUANCE OF CERTIFICATES.—

(1) STANDARDS TO BE MET.—The Attorney General shall issue a certificate to an eligible health care collaborative activity if the Attorney General finds that—

(A) the benefits that are likely to result from carrying out the activity outweigh the reduction in competition (if any) that is likely to result from the activity, and

(B) such reduction in competition is necessary to obtain such benefits.

(2) FACTORS TO BE CONSIDERED.—

(A) WEIGHING OF BENEFITS AGAINST REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(A), the Attorney General shall consider whether the activity is likely—

(i) to maintain or to increase the quality of health care by providing new services not currently offered in the relevant market,

(ii) to increase access to health care,

(iii) to achieve cost efficiencies that will be passed on to health care consumers, such as economies of scale, reduced transaction costs, and reduced administrative costs, that cannot be achieved by the provision of available services and facilities in the relevant market,

(iv) to preserve the operation of health care facilities located in underserved geographical areas,

(v) to improve utilization of health care resources, and

(vi) to reduce inefficient health care resource duplication.

(B) NECESSITY OF REDUCTION IN COMPETITION.—For purposes of making the finding described in paragraph (1)(B), the Attorney General shall consider—

(i) the ability of the providers of health care services that are (or likely to be) affected by the health care collaborative activity and the entities responsible for making payments to such providers to negotiate societally optimal payment and service arrangements,

(ii) the effects of the health care collaborative activity on premiums and other charges imposed by the entities described in clause (i), and

(iii) the availability of equally efficient, less restrictive alternatives to achieve the benefits that are intended to be achieved by carrying out the activity.

(c) ESTABLISHMENT OF CRITERIA AND PROCEDURES.—Subject to subsections (d) and (e), not later than 1 year after the date of the enactment of this Act, the Attorney General and the Secretary shall establish jointly by rule the criteria and procedures applicable to the issuance of certificates under subsection (a). The rules shall specify the form and content of the application to be submitted to the Attorney General to request a certificate, the information required to be submitted in support of such application, the procedures applicable to denying and to revoking a certificate, and the procedures applicable to the administrative appeal (if such appeal is authorized by rule) of the denial and the revocation of a certificate. Such information may include the terms of the health care collaborative activity (in the case of an activity in existence as of the time of the application) and implementation plan for the collaborative activity.

(d) ELIGIBLE HEALTH CARE COLLABORATIVE ACTIVITY.—To be an eligible health care collaborative activity for purposes of this section, a health care collaborative activity shall submit to the Attorney General an application that complies with the rules in effect under subsection (c) and that includes—

(1) an agreement by the parties to the activity that the activity will not foreclose competition by entering into contracts that prevent health care providers from providing health care in competition with the activity,

(2) an agreement that the activity will submit to the Attorney General annually a report that describes the operations of the activity and information regarding the impact of the activity on health care and on competition in health care, and

(3) an agreement that the parties to the activity will notify the Attorney General and the Secretary of the termination of the activity not later than 30 days after such termination occurs.

(e) REVIEW OF APPLICATIONS FOR CERTIFICATES.—Not later than 90 days after an eligible health care collaborative activity submits to the Attorney General an application that complies with the rules in effect under subsection (c) and with subsection (d), the Attorney General shall issue or deny the issuance of such certificate. If, before the expiration of such 90-day period, the Attorney General may extend the time for issuance for good cause.

(f) REVOCATION OF CERTIFICATE.—Whenever the Attorney General finds that a health care collaborative activity with respect to which a certificate is in effect does not meet the standards specified in subsection (b), the Attorney General shall revoke such certificate.

(g) WRITTEN REASONS; JUDICIAL REVIEW.—

(1) DENIAL AND REVOCATION OF CERTIFICATES.—If the Attorney General denies an application for a certificate or revokes a certificate, the Attorney General shall include

in the notice of denial or revocation a statement of the reasons relied upon for the denial or revocation of such certificate.

(2) JUDICIAL REVIEW.—

(A) AFTER ADMINISTRATIVE PROCEEDING.—(i) If the Attorney General denies an application submitted or revokes a certificate issued under this section after an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for review of the record of such denial or revocation.

(ii) As part of the Attorney General's answer, the Attorney General shall file in such court a certified copy of the record on which such denial or revocation is based. The findings of fact of the Attorney General may be set aside only if found to be unsupported by substantial evidence in such record taken as a whole.

(B) DENIAL OR REVOCATION WITHOUT ADMINISTRATIVE PROCEEDING.—If the Attorney General denies an application submitted or revokes a certificate issued under this section without an opportunity for hearing on the record, then any party to the health care collaborative activity involved may commence a civil action, not later than 60 days after receiving notice of the denial or revocation, in an appropriate district court of the United States for de novo review of such denial or revocation.

(h) EXEMPTION.—A person shall not be liable under any of the antitrust laws for conduct necessary—

(1) to prepare, agree to prepare, or attempt to agree to prepare an application to request a certificate under this section, or

(2) to attempt to enter into any health care collaborative activity with respect to which such a certificate is in effect.

(i) DEFINITIONS.—In this section:

(1) The term "certificate" means a certificate of public advantage authorized to be issued under subsection (a).

(2) The term "health care collaborative activity" means an agreement (whether existing or proposed) between 2 or more providers of health care services that is entered into solely for the purpose of sharing in the provision and coordination of health care services and that involves substantial integration and financial risk-sharing between the parties, but does not include the exchanging of information, the entering into of any agreement, or the engagement in any other conduct that is not reasonably required to carry out such agreement.

(3) The term "health care services" includes services related to the delivery or administration of health care services.

(4) The term "liable" means liable for any civil or criminal violation of the antitrust laws.

(5) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

SEC. 8113. STUDY OF IMPACT ON COMPETITION.

The Attorney General, in consultation with the Chairman of the Federal Trade Commission, annually shall submit to the Congress a report as part of the annual budget oversight proceedings concerning the Antitrust Division of the Department of Justice. The report shall enable the Congress to determine how enforcement of antitrust laws is affecting the formation of efficient, cost-saving joint ventures and if the certificate of public advantage procedure set forth in section 8112 has resulted in undesirable reduction in competition in the health care marketplace. The report shall include an evaluation of the factors set forth in paragraphs (2)(A) and (2)(B) of section 8112(b).

SEC. 8114. ANTITRUST EXEMPTION.

The antitrust laws shall not apply with respect to—

(1) the merger of, or the attempt to merge, 2 or more hospitals,

(2) a contract entered into solely by 2 or more hospitals to allocate hospital services, or

(3) the attempt by only 2 or more hospitals to enter into a contract to allocate hospital services,

if each of such hospitals satisfies all of the requirements of section 8115 at the time such hospitals engage in the conduct described in paragraph (1), (2), or (3), as the case may be.

SEC. 8115. REQUIREMENTS.

The requirements referred to in section 8114 are as follows:

(1) The hospital is located outside of a city, or in a city that has less than 150,000 inhabitants, as determined in accordance with the most recent data available from the Bureau of the Census.

(2) In the most recently concluded calendar year, the hospital received more than 40 percent of its gross revenue from payments made under Federal programs.

(3) There is in effect with respect to the hospital a certificate issued by the Health Care Financing Administration specifying that such Administration has determined that Federal expenditures would be reduced, consumer costs would not increase, and access to health care services would not be reduced, if the hospital and the other hospitals that requested such certificate merge, or allocate the hospital services specified in such request, as the case may be.

SEC. 8116. DEFINITION.

For purposes of this subtitle, the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies with respect to unfair methods of competition.

PART 3—MALPRACTICE REFORM

Subpart A—Uniform Standards for Malpractice Claims

SEC. 8121. APPLICABILITY.

Except as provided in section 8131, this subpart shall apply to any medical malpractice liability action brought in a Federal or State court, and to any medical malpractice claim subject to an alternative dispute resolution system, that is initiated on or after January 1, 1996.

SEC. 8122. REQUIREMENT FOR INITIAL RESOLUTION OF ACTION THROUGH ALTERNATIVE DISPUTE RESOLUTION.

(a) IN GENERAL.—

(1) STATE CASES.—A medical malpractice liability action may not be brought in any State court during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under an alternative dispute resolution system certified for the year by the Secretary under section 8132(a), or, in the case of a State in which such a system is not in effect for the year, under the alternative Federal system established under section 8132(b).

(2) FEDERAL DIVERSITY ACTIONS.—A medical malpractice liability action may not be brought in any Federal court under section 1332 of title 28, United States Code, during a calendar year unless the medical malpractice liability claim that is the subject of the action has been initially resolved under the alternative dispute resolution system referred to in paragraph (1) that applied in the State whose law applies in such action.

(3) CLAIMS AGAINST UNITED STATES.—

(A) ESTABLISHMENT OF PROCESS FOR CLAIMS.—The Attorney General shall establish an alternative dispute resolution process for the resolution of tort claims consisting of medical malpractice liability claims brought against the United States under chapter 171 of title 28, United States Code. Under such process, the resolution of a claim shall occur after the completion of the administrative claim process applicable to the claim under section 2675 of such title.

(B) REQUIREMENT FOR INITIAL RESOLUTION UNDER PROCESS.—A medical malpractice liability action based on a medical malpractice liability claim described in subparagraph (A) may not be brought in any Federal court unless the claim has been initially resolved under the alternative dispute resolution process established by the Attorney General under such subparagraph.

(b) INITIAL RESOLUTION OF CLAIMS UNDER ADR.—For purposes of subsection (a), an action is "initially resolved" under an alternative dispute resolution system if—

(1) the ADR reaches a decision on whether the defendant is liable to the plaintiff for damages; and

(2) if the ADR determines that the defendant is liable, the ADR reaches a decision on the amount of damages assessed against the defendant.

(c) PROCEDURES FOR FILING ACTIONS.—

(1) NOTICE OF INTENT TO CONTEST DECISION.—Not later than 60 days after a decision is issued with respect to a medical malpractice liability claim under an alternative dispute resolution system, each party affected by the decision shall submit a sealed statement to a court of competent jurisdiction indicating whether or not the party intends to contest the decision.

(2) DEADLINE FOR FILING ACTION.—A medical malpractice liability action may not be brought by a party unless—

(A) the party has filed the notice of intent required by paragraph (1); and

(B) the party files the action in a court of competent jurisdiction not later than 90 days after the decision resolving the medical malpractice liability claim that is the subject of the action is issued under the applicable alternative dispute resolution system.

(3) COURT OF COMPETENT JURISDICTION.—For purposes of this subsection, the term "court of competent jurisdiction" means—

(A) with respect to actions filed in a State court, the appropriate State trial court; and

(B) with respect to actions filed in a Federal court, the appropriate United States district court.

(d) LEGAL EFFECT OF UNCONTESTED ADR DECISION.—The decision reached under an alternative dispute resolution system shall, for purposes of enforcement by a court of competent jurisdiction, have the same status in the court as the verdict of a medical malpractice liability action adjudicated in a State or Federal trial court. The previous sentence shall not apply to a decision that is contested by a party affected by the decision pursuant to subsection (c)(1).

SEC. 8123. OPTIONAL APPLICATION OF PRACTICE GUIDELINES.

(a) DEVELOPMENT AND CERTIFICATION OF GUIDELINES.—Each State may develop, for certification by the Secretary, a set of specialty clinical practice guidelines, based on recommended guidelines from national specialty societies, to be updated annually. In the absence of recommended guidelines from such societies, each State may develop such guidelines based on such criteria as the State considers appropriate (including based on recommended guidelines developed by the Agency for Health Care Policy and Research).

(b) PROVISION OF HEALTH CARE UNDER GUIDELINES.—Notwithstanding any other provision of law, in any medical malpractice liability action arising from the conduct of a health care provider or health care professional, if such conduct was in accordance with a guideline developed by the State in which the conduct occurred and certified by the Secretary under subsection (a), the guideline—

(1) may be introduced by any party to the action (including a health care provider, health care professional, or patient); and

(2) if introduced, shall establish a rebuttable presumption that the conduct was in accordance with the appropriate standard of medical care, which may only be overcome by the presentation of clear and convincing evidence on behalf of the party against whom the presumption operates.

SEC. 8124. TREATMENT OF NONECONOMIC AND PUNITIVE DAMAGES.

(a) LIMITATION ON NONECONOMIC DAMAGES.—The total amount of noneconomic damages that may be awarded to a claimant and the members of the claimant's family for losses resulting from the injury which is the subject of a medical malpractice liability action may not exceed $500,000, regardless of the number of parties against whom the action is brought or the number of actions brought with respect to the injury.

(b) NO AWARD OF PUNITIVE DAMAGES AGAINST MANUFACTURER OF MEDICAL PRODUCT.—In the case of a medical malpractice liability action in which the plaintiff alleges a claim against the manufacturer of a medical product, no punitive or exemplary damages may be awarded against such manufacturer.

(c) JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.—The liability of each defendant for noneconomic damages shall be several only and shall not be joint, and each defendant shall be liable only for the amount of noneconomic damages allocated to the defendant in direct proportion to the defendant's percentage of responsibility (as determined by the trier of fact).

(d) USE OF PUNITIVE DAMAGE AWARDS FOR OPERATION OF ADR SYSTEMS IN STATES.—

(1) IN GENERAL.—The total amount of any punitive damages awarded in a medical malpractice liability action shall be paid to the State in which the action is brought (or, in a case brought in Federal court, in the State in which the health care services that caused the injury that is the subject of the action were provided), and shall be used by the State solely to implement and operate the State alternative dispute resolution system certified by the Secretary under section 8132 (except as provided in paragraph (2)).

(2) USE OF REMAINING AMOUNTS FOR PROVIDER LICENSING AND DISCIPLINARY ACTIVITIES.—If the amount of punitive damages paid to a State under paragraph (1) for a year is greater than the State's costs of implementing and operating the State alternative dispute resolution system during the year, the balance of such punitive damages paid to the State shall be used solely to carry out activities to assure the safety and quality of health care services provided in the State, including (but not limited to)—

(A) licensing or certifying health care professionals and health care providers in the State; and

(B) carrying out programs to reduce malpractice-related costs for providers volunteering to provide services in medically underserved areas.

(3) MAINTENANCE OF EFFORT.—A State shall use any amounts paid pursuant to paragraph (1) to supplement and not to replace amounts spent by the State for implementing and operating the State alternative dispute resolution system or carrying out the activities described in paragraph (2).

(e) DRUGS AND DEVICES.—

(1)(A) Punitive damages shall not be awarded against a manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) which caused the claimant's harm where—

(i) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(ii) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

(B) Subparagraph (A) shall not apply in any case in which the defendant, before or after premarket approval of a drug or device—

(i) intentionally and wrongfully withheld from or misrepresented to the Food and Drug Administration information concerning such drug or device required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and relevant to the harm suffered by the claimant, or

(ii) made an illegal payment to an official or employee of the Food and Drug Administration for the purpose of securing or maintaining approval of such drug or device.

(2) PACKAGING.—In a product liability action for harm which is alleged to relate to the adequacy of the packaging (or labeling relating to such packaging) of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer of the drug shall not be held liable for punitive damages unless the drug is found by the court by clear and convincing evidence to be substantially out of compliance with such regulations.

SEC. 8125. PERIODIC PAYMENTS FOR FUTURE LOSSES.

(a) IN GENERAL.—In any medical malpractice liability action in which the damages awarded for future economic loss exceeds $100,000, a defendant may not be required to pay such damages in a single, lump-sum payment, but may be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based upon projections of when such expenses are likely to be incurred.

(b) WAIVER.—A court may waive the application of subsection (a) with respect to a defendant if the court determines that it is not in the best interests of the plaintiff to receive payments for damages on such a periodic basis.

SEC. 8126. TREATMENT OF ATTORNEY'S FEES AND OTHER COSTS.

(a) REQUIRING PARTY CONTESTING ADR RULING TO PAY ATTORNEY'S FEES AND OTHER COSTS.—

(1) IN GENERAL.—The court in a medical malpractice liability action shall require the party that (pursuant to section 8122(c)(1)) contested the ruling of the alternative dispute resolution system with respect to the medical malpractice liability claim that is the subject of the action to pay to the opposing party the costs incurred by the opposing party under the action, including attorney's fees, fees paid to expert witnesses, and other litigation expenses (but not including court costs, filing fees, or other expenses paid directly by the party to the court, or any fees or costs associated with the resolution of the claim under the alternative dispute resolution system), but only if—

(A) in the case of an action in which the party that contested the ruling is the claimant, the amount of damages awarded to the party under the action is less than the amount of damages awarded to the party under the ADR system; and

(B) in the case of an action in which the party that contested the ruling is the defendant, the amount of damages assessed against the party under the action is greater than the amount of damages assessed under the ADR system.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the party contesting the ruling made under the previous alternative dispute resolution system shows that—

(i) the ruling was procured by corruption, fraud, or undue means,

(ii) there was partiality or corruption under the system,

(iii) there was other misconduct under the system that materially prejudiced the party's rights, or

(iv) the ruling was based on an error of law;

(B) the party contesting the ruling made under the alternative dispute resolution system presents new evidence before the trier of fact that was not available for presentation under the ADR system;

(C) the medical malpractice liability action raised a novel issue of law; or

(D) the court finds that the application of such paragraph to a party would constitute an undue hardship, and issues an order waiving or modifying the application of such paragraph that specifies the grounds for the court's decision.

(3) LIMIT ON ATTORNEYS' FEES PAID.—Attorneys' fees that are required to be paid under paragraph (1) by the contesting party shall not exceed the amount of the attorneys' fees incurred by the contesting party in the action. If the attorneys' fees of the contesting party are based on a contingency fee agreement, the amount of attorneys' fees for purposes of the preceding sentence shall not exceed the reasonable value of those services.

(4) RECORDS.—In order to receive attorneys' fees under paragraph (1), counsel of record in the medical malpractice liability action involved shall maintain accurate, complete records of hours worked on the action, regardless of the fee arrangement with the client involved.

(b) CONTINGENCY FEE DEFINED.—As used in this section, the term "contingency fee" means any fee for professional legal services which is, in whole or in part, contingent upon the recovery of any amount of damages, whether through judgment or settlement.

SEC. 8127. UNIFORM STATUTE OF LIMITATIONS.

(a) In General.—Except as provided in subsection (b), no medical malpractice claim may be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered, but in no event may such a claim be initiated after the expiration of the 4-year period that begins on the date on which the alleged injury that is the subject of such claim occurred.

(b) Exception for Minors.—In the case of an alleged injury suffered by a minor who has not attained 6 years of age, a medical malpractice claim may not be initiated after the expiration of the 2-year period that begins on the date on which the alleged injury that is the subject of such claim was discovered or should reasonably have been discovered, but in no event may such a claim be initiated after the date on which the minor attains 12 years of age.

SEC. 8128. SPECIAL PROVISION FOR CERTAIN OBSTETRIC SERVICES.

(a) In General.—In the case of a medical malpractice claim relating to services provided during labor or the delivery of a baby, if the health care professional or health care provider against whom the claim is brought did not previously treat the claimant for the pregnancy, the trier of fact may not find that such professional or provider committed malpractice and may not assess damages against such professional or provider unless the malpractice is proven by clear and convincing evidence.

(b) Applicability to Group Practices or Agreements Among Providers.—For purposes of subsection (a), a health care professional shall be considered to have previously treated an individual for a pregnancy if the professional is a member of a group practice whose members previously treated the individual for the pregnancy or is providing services to the individual during labor or the delivery of a baby pursuant to an agreement with another professional.

SEC. 8129. JURISDICTION OF FEDERAL COURTS.

Nothing in this subpart shall be construed to establish any jurisdiction over any medical malpractice liability action in the district courts of the United States on the basis of sections 1331 or 1337 of title 28, United States Code.

SEC. 8130. PREEMPTION.

(a) In General.—The provisions of this subpart shall preempt any State law to the extent such law is inconsistent with such provisions, except that the provisions of this subpart shall not preempt any State law that provides for defenses or places limitations on a person's liability in addition to those contained in this part, places greater limitations on the amount of attorneys' fees that can be collected, or otherwise imposes greater restrictions than those provided in this part.

(b) Effect on Sovereign Immunity and Choice of Law or Venue.—Nothing in this subpart shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground in inconvenient forum.

Subpart B—Requirements for State Alternative Dispute Resolution Systems (ADR)

SEC. 8131. BASIC REQUIREMENTS.

(a) In General.—A State's alternative dispute resolution system meets the requirements of this section if the system—

(1) applies to all medical malpractice liability claims under the jurisdiction of the courts of that State;

(2) requires that a written opinion resolving the dispute be issued not later than 6 months after the date by which each party against whom the claim is filed has received notice of the claim (other than in exceptional cases for which a longer period is required for the issuance of such an opinion), and that the opinion contain—

(A) findings of fact relating to the dispute, and

(B) a description of the costs incurred in resolving the dispute under the system (including any fees paid to the individuals hearing and resolving the claim), together with an appropriate assessment of the costs against any of the parties;

(3) requires individuals who hear and resolve claims under the system to meet such qualifications as the State may require (in accordance with regulations of the Secretary);

(4) is approved by the State or by local governments in the State;

(5) with respect to a State system that consists of multiple dispute resolution procedures—

(A) permits the parties to a dispute to select the procedure to be used for the resolution of the dispute under the system, and

(B) if the parties do not agree on the procedure to be used for the resolution of the dispute, assigns a particular procedure to the parties;

(6) provides for the transmittal to the State agency responsible for monitoring or disciplining health care professionals and health care providers of any findings made under the system that such a professional or provider committed malpractice, unless, during the 90-day period beginning on the date the system resolves the claim against the professional or provider, the professional or provider brings an action contesting the decision made under the system; and

(7) provides for the regular transmittal to the Administrator for Health Care Policy and Research of information on disputes resolved under the system, in a manner that assures that the identity of the parties to a dispute shall not be revealed.

(b) Application of Malpractice Liability Standards to Alternative Dispute Resolution.—The provisions of subpart A (other than section 8122) shall apply with respect to claims brought under a State alternative dispute resolution system or the alternative Federal system in the same manner as such provisions apply with respect to medical malpractice liability actions brought in the State.

SEC. 8132. CERTIFICATION OF STATE SYSTEMS; APPLICABILITY OF ALTERNATIVE FEDERAL SYSTEM.

(a) Certification.—

(1) In general.—Not later than October 1 of each year (beginning with 1995), the Secretary, in consultation with the Attorney General, shall determine whether a State's alternative dispute resolution system meets the requirements of this subpart for the following calendar year.

(2) Basis for certification.—The Secretary shall certify a State's alternative dispute resolution system under this subsection for a calendar year if the Secretary determines under paragraph (1) that the system meets the requirements of section 8131, including the requirement described in section 8124 that punitive damages awarded under the system are paid to the State for the uses described in such section.

(b) Applicability of Alternative Federal System.—

(1) Establishment and applicability.—Not later than October 1, 1995, the Secretary, in consultation with the Attorney General, shall establish by rule an alternative Federal ADR system for the resolution of medical malpractice liability claims during a calendar year in States that do not have in effect an alternative dispute resolution system certified under subsection (a) for the year.

(2) Requirements for system.—Under the alternative Federal ADR system established under paragraph (1)—

(A) paragraphs (1), (2), (6), and (7) of section 8131(a) shall apply to claims brought under the system;

(B) if the system provides for the resolution of claims through arbitration, the claims brought under the system shall be heard and resolved by arbitrators appointed by the Secretary in consultation with the Attorney General; and

(C) with respect to a State in which the system is in effect, the Secretary may (at the State's request) modify the system to take into account the existence of dispute resolution procedures in the State that affect the resolution of medical malpractice liability claims.

(3) Treatment of States with alternative system in effect.—If the alternative Federal ADR system established under this subsection is applied with respect to a State for a calendar year, the State shall make a payment to the United States (at such time and in such manner as the Secretary may require) in an amount equal to 110 percent of the costs incurred by the United States during the year as a result of the application of the system with respect to the State.

SEC. 8133. REPORTS ON IMPLEMENTATION AND EFFECTIVENESS OF ALTERNATIVE DISPUTE RESOLUTION SYSTEMS.

(a) In General.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report describing and evaluating State alternative dispute resolution systems operated pursuant to this subpart and the alternative Federal system established under section 8132(b).

(b) Contents of Report.—The Secretary shall include in the report prepared and submitted under subsection (a)—

(1) information on—

(A) the effect of the alternative dispute resolution systems on the cost of health care within each State,

(B) the impact of such systems on the access of individuals to health care within the State, and

(C) the effect of such systems on the quality of health care provided within the State; and

(2) to the extent that such report does not provide information on no-fault systems operated by States as alternative dispute resolution systems pursuant to this part, an analysis of the feasibility and desirability of establishing a system under which medical malpractice liability claims shall be resolved on a no-fault basis.

Subpart C—Definitions

SEC. 8141. DEFINITIONS.

As used in this part:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM.—The term "alternative dispute resolution system" means a system that is enacted or adopted by a State to resolve medical malpractice claims other than through a medical malpractice liability action.

(2) CLAIMANT.—The term "claimant" means any person who brings a health care liability action and, in the case of an individual who is deceased, incompetent, or a minor, the person on whose behalf such an action is brought.

(3) CLEAR AND CONVINCING EVIDENCE.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, except that such measure or degree of proof is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(4) ECONOMIC DAMAGES.—The term "economic damages" means damages paid to compensate an individual for losses for hospital and other medical expenses, lost wages, lost employment, and other pecuniary losses.

(5) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State.

(6) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(7) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice claim.

(8) MEDICAL MALPRACTICE LIABILITY ACTION.—The term "medical malpractice liability action" means any civil action brought pursuant to State law in which a plaintiff alleges a medical malpractice claim against a health care provider or health care professional, but does not include any action in which the plaintiff's sole allegation is an allegation of an intentional tort.

(9) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services or the use of a medical product, without regard to the theory of liability asserted, and includes any third-party claim, cross-claim, counterclaim, or contribution claim in a medical malpractice liability action.

(10) MEDICAL PRODUCT.—

(A) IN GENERAL.—The term "medical product" means, with respect to the allegation of a claimant, a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) if—

(i) such drug or device was subject to premarket approval under section 505, 507, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 357, or 360e) or section 351 of the Public Health Service Act (42 U.S.C. 262) with respect to the safety of the formulation or performance of the aspect of such drug or device which is the subject of the claimant's allegation or the adequacy of the packaging or labeling of such drug or device, and such drug or device is approved by the Food and Drug Administration; or

(ii) the drug or device is generally recognized as safe and effective under regulations issued by the Secretary of Health and Human Services under section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)).

(B) EXCEPTION IN CASE OF MISREPRESENTATION OR FRAUD.—Notwithstanding subparagraph (A), the term "medical product" shall not include any product described in such subparagraph if the claimant shows that the product is approved by the Food and Drug Administration for marketing as a result of withheld information, misrepresentation, or an illegal payment by manufacturer of the product.

(11) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages paid to compensate an individual for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of consortium, and other nonpecuniary losses, but does not include punitive damages.

(12) PUNITIVE DAMAGES.—The term "punitive damages" means compensation, in addition to compensation for actual harm suffered, that is awarded for the purpose of punishing a person for conduct deemed to be malicious, wanton, willful, or excessively reckless.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO DETERMINE PAYMENTS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1848(j)(2) (42 U.S.C. 1395ww4(j)(2)) is amended to read as follows:

"(2) FEE SCHEDULE AREA.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the term 'fee schedule area' means, with respect to physicians' services furnished in a State, the State.

"(B) EXCEPTION FOR STATES WITH HIGHEST VARIATION AMONG AREAS.—In the case of the 15 States with the greatest variation in cost associated with physicians' services among various geographic areas of the State (as determined by the Secretary in accordance with such standards as the Secretary considers appropriate), the fee schedule area applicable with respect to physicians' services furnished in the State shall be a locality used under section 1842(b) for purposes of computing payment amounts for physicians' services, except that the Secretary shall revise the localities used under such section so that there are no more than 5 such localities in any State.".

(b) BUDGET-NEUTRALITY REQUIREMENT.—The Secretary of Health and Human Services shall carry out the amendment made by subsection (a) in a manner which ensures that the aggregate amount of payment made for physicians' services under part B of the medicare program in any year does not exceed the aggregate amount of payment which would have been made for such services under part B during the year if the amendment were not in effect.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to physicians' services furnished on or after January 1, 1997.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVIDERS.

(a) FREEZE IN UPDATES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, except as otherwise provided in paragraph (2), for purposes of determining the amount to paid for an item or service under title XVIII of the Social Security Act, the percentage increase in any economic index by which a payment amount under title XVIII of the Social Security Act is required to be increased during fiscal year 1996 shall be deemed to be zero.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to the determination of hospital-specific FTE resident amounts under section 1886(h) of such Act.

(b) ECONOMIC INDEX.— The term "economic index" includes—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFS AND HHAS.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA-1993 is amended by striking "1994 and 1995" and inserting "1994, 1995, and 1996".

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking "1995" and inserting "1996", and

(ii) by striking "subsection." and inserting "subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).".

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996".

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA-1993 is amended by striking "1996" and inserting "1997".

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking "1996" and inserting "1997", and

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.".

PART 2—PROVISIONS AFFECTING DOCTORS

SEC. 8211. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) IN GENERAL.—Section 1848(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended to read as follows:

"(2) RECOMMENDATION OF UPDATE.—

"(A) IN GENERAL.—Not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that includes a recommendation on the appropriate update in the conversion factor for all physicians' services (as defined in subsection (f)(3)(A)) in the following year. In making the recommendation, the Secretary shall consider—

"(i) the percentage change in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for that year;

"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and

"(iii) access to services.

"(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Secretary may also consider—

"(i) unexpected changes by physicians in response to the implementation of the fee schedule;

"(ii) unexpected changes in outlay projections;

"(iii) changes in the quality or appropriateness of care;

"(iv) any other relevant factors not measured in the resource-based payment methodology; and

"(v) changes in volume or intensity of services.

"(C) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the report submitted under subparagraph (A) in a year and shall submit to the Congress, by not later than May 15 of the year, a report including its recommendations respecting the update in the conversion factor for the following year.".

(2) UPDATE.—Section 1848(d)(3) (42 U.S.C. 1395w@4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(ii) less than 91.75 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w@4(f)) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) PROCESS FOR ESTABLISHING SUSTAINABLE GROWTH RATE OF INCREASE.—

"(A) SECRETARY'S RECOMMENDATION.—By not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a recommendation on the sustainable growth rate for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with organizations representing physicians and shall consider—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than private plan enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than private plan enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of inappropriate utilization of services,

"(vi) evidence of lack of access to necessary physicians' services, and

"(vii) such other factors as the Secretary considers appropriate.

"(B) COMMISSION REVIEW.—The Medicare Payment Review Commission shall review the recommendation transmitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 15 of the year, respecting the sustainable growth rate for the fiscal year beginning in that year.

"(C) PUBLICATION OF SUSTAINABLE GROWTH RATE.—The Secretary shall cause to have the sustainable growth rate published in the Federal Register, in the last 15 days of October of each calendar year (beginning with 1997), for the fiscal year beginning in that year. The Secretary shall cause to have published in the Federal Register, by not later than January 1, 1997, the paragraph (2) for fiscal year 1997.

"(2) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Common Sense Balanced Budget Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a Medicare Choice product under part C or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w@4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $36.40 for all physicians' services.".

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w@4), as amended by paragraph (1), is amended—

(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(D)(ii);

(B) in subsection (d)(1)(A), by striking "or updates";

(C) in subsection (d)(1)(D)(ii), by striking "(or updates)"; and

(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS Hospitals.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

"(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and"; and

(2) in subclause (XIII), by striking "1998" and inserting "2003".

(b) PPS-Exempt Hospitals.—

(1) In general.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "thorugh 1997" and inserting "through 1996", and

(ii) by striking "and" at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and".

(2) Conforming amendment.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) Ambulatory Surgical Center Procedures.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) Radiology Services and Diagnostic Procedures.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) Effective Date.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after January 1, 1996.

SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT SERVICES.

(a) In General.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by striking "section 1886)—" and all that follows and inserting the following: "section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;".

(b) Establishment of Prospective Payment System.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) Effective Date.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1997.

SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOSPITALS FOR INPATIENT CAPITAL-RELATED COSTS.

(a) PPS Hospitals.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking "1995" and inserting "2002".

(b) PPS-Exempt Hospitals.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal year 1996 through 2002.".

SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.

(a) In General.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking "Secretary)" and inserting "Secretary on or before September 30, 1995)".

(b) Recommendations on Appropriate Standards for Long-Term Care Hospitals.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress recommendations for modifications to the standards used by the Secretary to determine whether a hospital (including a distinct part of another hospital) is classified as a long-term care hospital for purposes of determining the amount of payment to the hospital under part A of the medicare program for the operating costs of inpatient hospital services.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.

(a) Additions to Cost Limits.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(b) Use of Interim Final Regulations.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(c) Studies.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(d) Payments Determined on Prospective Basis.—Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"Sec. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

"(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.".

SEC. 8232. LIMITATION OF HOME HEALTH COVERAGE UNDER PART A.

(a) In General.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 150 days during any spell of illness;".

(b) Conforming Amendment.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell.".

(c) Exclusion of Additional Part B Costs From Determination of Part B Monthly Premium.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5)).''; and

(2) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(d) Effective Date.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE MEDICAL EQUIPMENT.

(a) In General.—

(1) Freeze in update for covered items.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 2002, 0 percent; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) Update for orthotics and prosthetics.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "each of the years 1994 through 2002".

(b) Oxygen and Oxygen Equipment.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) in 1996 and each subsequent year, is 90 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 8234. NURSING HOME BILLING.

(a) Payments for Routine Service Costs.—

(1) Clarification of definition of routine service costs.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.".

(2) Conforming amendment.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

(b) Incentives for Cost Effective Management of Covered Nonroutine Services.—

(1) In general.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"Sec. 1888A. (a) Definitions.—For purposes of this section:

"(1) Covered non-routine services.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF market basket percentage increase.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

"(3) Stay.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title to the individual during the individual's spell of illness.

"(b) New Payment Method for Covered Non-Routine Services.—

"(1) In general.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) Responsibility of skilled nursing facility to manage billings.—

"(A) Clarification relating to part A billing.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) Part B billing.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) Maintaining records on services furnished to residents.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) Reconciliation of Amounts.—

"(1) Limit based on per stay limit and number of stays.—

"(A) In general.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(B) Cost reporting period limit.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

"(i) the per stay limit applicable to the facility under subsection (d) for the period; and

"(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

"(C) Prospective reduction in payments.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) Incentive payments.—

"(A) In general.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) Installment incentive payments.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

"(d) Determination of Facility Per Stay Limit.—

"(1) Limit for fiscal year 1997.—

"(A) In general.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

"(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

"(B) Facilities not having 1994 cost reporting period.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) Limit for subsequent fiscal years.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) Rebasing of amounts.—

"(A) In general.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

"(B) Treatment of facilities not having rebased cost reporting periods.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

"(e) Determination of Facility-Specific Stay Amounts.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay (as determined on a per diem basis); and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) Intensive Nursing or Therapy Needs.—

"(1) In general.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) Per stay limit for intensive need residents.—Not later than June 30, 1997, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) Budget neutrality.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) Special Treatment for Small Skilled Nursing Facilities.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(h) Exceptions and Adjustments to Limits.—

"(1) In general.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) Budget neutrality.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(i) Special Rule for X-Ray Services.—Before furnishing a covered non-routine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.".

(2) Conforming amendment.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) Teaching Hospital and Graduate Medical Education Trust Fund.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

"TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"Part A—Establishment of Fund

"SEC. 2101. ESTABLISHMENT OF FUND.

"(a) In General.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

"(c) TRANSFERS TO FUND.—

"(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

"(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

"(A) the nationwide total of the amounts that would have been paid under sections 1855 and 1876 during the year but for the operation of section 1855(b)(2)(B)(ii); and

"(B) the nationwide total of the amounts paid under such sections during the year.

"(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.".

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the "Council").

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organizations paid on a capitated basis, see section 1855(b)(2)(B)(ii).

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

"(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount of reductions in payments under section 1855 that are attributable to the operation of subsection (b)(2)(B)(ii) of such section.".

SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR INDIRECT MEDICAL EDUCATION.

(a) MODIFICATION REGARDING 6.8 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by striking "on or after October 1, 1988," and inserting "on or after October 1, 1999,"; and

(2) by striking "1.89" and inserting "1.68".

(b) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT.—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: "In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.68' is deemed to be 1.48.".

Subtitle D—Provisions Relating to Medicare Beneficiaries

SEC. 8301. PART B PREMIUM.

(a) FREEZE IN PREMIUM FOR 1996.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "December 1995" and inserting "December 1996"; and

(2) in subparagraph (B)(v), by striking "1995" and inserting "1995 and 1996".

(b) ESTABLISHING PREMIUM AT 25 PERCENT OF PROGRAM COSTS THROUGH 2002.—Section 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by striking "January 1999" and inserting "January 2003".

SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"Sec. 59B. Supplemental Medicare part B premium.

"SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.

"(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare part B premiums (if any) for months during such year that such individual is covered under Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—

"(1) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) of the Social Security Act for such month, over

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(2) ADJUSTING MONTHLY ACTUARIAL RATE BY GEOGRAPHIC AREA.—

"(A) IN GENERAL.—In determining the amount described in paragraph (1)(A) for an individual residing in a premium area, the Secretary shall adjust such amount for a year by a geographic adjustment factor established by the Secretary which reflects the relative benefits and administrative costs payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in the year with respect to enrollees residing in such area compared to the national average of such benefits and costs.

"(B) PREMIUM AREA.—In this paragraph, a 'premium area' means a metropolitan statistical area or the portion of a State outside of any metropolitan statistical area.

"(d) PHASEIN.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return, paragraph (1) shall be applied by substituting '$75,000' for '$50,000'.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000,

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the amount imposed by subsection (a) shall be the sum of the amounts so imposed determined separately for each spouse, and

"(B) subsections (a) and (d) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(5) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental Medicare part B premium imposed by this section shall be treated as an amount paid for insurance covering medical care (as defined in section 213(d)).

"(2) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F (other than section 6654), the supplemental Medicare part B premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental Medicare part B premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55."

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the portion of the supplemental Medicare part B premium (as defined in such section 59B) which is attributable to months during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Paragraph (1) of section 6050F(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the Secretary of Health and Human Services in the case of the information specified in subsection (a)(1)(D)."

(4) The heading for section 6050F is amended by inserting "**AND MEDICARE PART B COVERAGE**" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII. Supplemental Medicare part B premiums for high-income individuals."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(B) by striking "(nn)" and inserting "(nn)(1)";

(C) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(D) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

"(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).".

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking "and (5)" and inserting "(5)"; and

(B) by striking the period at the end and inserting the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) Conforming amendments.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) Coverage of Colorectal Screening.—

(1) In general.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) Frequency and Payment Limits for Screening Fecal-Occult Blood Tests, Screening Flexible Sigmoidoscopies, and Screening Colonoscopy.—

"(1) Frequency limits for screening fecal-occult blood tests.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

"(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

"(2) Screening flexible sigmoidoscopies.—

"(A) Payment amount.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) Frequency limits.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) Screening colonoscopy for individuals at high risk for colorectal cancer.—

"(A) Payment amount.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) Frequency limit.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

"(C) Factors considered in establishing criteria for determining individuals at high risk.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) Revision of frequency.—

"(A) Review.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

"(B) Revision of frequency.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.".

(2) Conforming amendments.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking "and" at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(III) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(ii) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) Prostate Cancer Screening Tests.—

(1) In general.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and".

(2) Tests described.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.".

(3) Payment for prostate-specific antigen blood test under clinical diagnostic laboratory test fee schedules.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(4) Conforming amendment.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(e) Diabetes Screening Benefits.—

(1) Diabetes outpatient self-management training services.—

(A) In general.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking "and" at the end of subparagraph (N);

(ii) by striking "and" at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

"(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and".

(B) Definition.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

"DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.".

(C) CONSULTATION WITH ORGANIZATIONS IN ESTABLISHING PAYMENT AMOUNTS FOR SERVICES PROVIDED BY PHYSICIANS.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) BLOOD-TESTING STRIPS FOR INDIVIDUALS WITH DIABETES.—

(A) INCLUDING STRIPS AS DURABLE MEDICAL EQUIPMENT.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: ", and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);".

(2) PAYMENT FOR STRIPS BASED ON METHODOLOGY FOR INEXPENSIVE AND ROUTINELY PURCHASED EQUIPMENT.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by adding "or" at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

"(iv) which is a blood-testing strip for an individual with diabetes,".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2001.

Subtitle E—Medicare Fraud Reduction

SEC. 8401. INCREASING BENEFICIARY AWARENESS OF FRAUD AND ABUSE.

(a) BENEFICIARY OUTREACH EFFORTS.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) CLARIFICATION OF REQUIREMENT TO PROVIDE EXPLANATION OF MEDICARE BENEFITS.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) PROVIDER OUTREACH EFFORTS; PUBLICATION OF FRAUD ALERTS.—

(1) SPECIAL FRAUD ALERTS.—

(A) IN GENERAL.—

(i) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) SPECIAL FRAUD ALERT DEFINED.—In this section, a "special fraud alert" is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subparagraph (C); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(C) CONSEQUENCES DESCRIBED.—The consequences described in this subparagraph are as follows:

(i) An increase or decrease in access to health care services.

(ii) An increase or decrease in the quality of health care services.

(iii) An increase or decrease in patient freedom of choice among health care providers.

(iv) An increase or decrease in competition among health care providers.

(v) An increase or decrease in the cost to health care programs of the Federal Government.

(vi) An increase or decrease in the potential overutilization of health care services.

(viii) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD AND ABUSE.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAYMENTS.

(a) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished during cost reporting periods beginning on or after October 1, 1995.

SEC. 8404. SKILLED NURSING FACILITIES.

(a) CLARIFICATION OF TREATMENT OF HOSPITAL TRANSFERS.—

(1) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1995.

(b) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1819(b) (42 U.S.C. 1395i@3(b)) is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULE FOR BILLING AND PAYMENT.—A skilled nursing facility shall submit claims for payment for services under this title (whether such services are billed under part A or part B) only on the basis of the geographic location at which the service is furnished.".

SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII, as amended by section 8231(d), is further amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) Activities Described.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) Eligibility of Entities.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(d) Process for Entering Into Contracts.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) Limitation on Contractor Liability.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(f) Transfer of Amounts to Medicare Anti-Fraud and Abuse Trust Fund.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

"(g) Medicare Anti-Fraud and Abuse Trust Fund.—

"(1) Establishment.—

"(A) In general.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

"(B) Authorization to accept gifts and bequests.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

"(2) Investment.—

"(A) In general.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

"(B) Use of income.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

"(3) Amounts deposited into trust fund.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

"(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

"(B) fines imposed under section 1128B arising out of a claim under this title, and

"(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

"(4) Direct appropriation of funds to carry out program.—

"(A) In general.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

"(B) Amounts specified.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) Annual report.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.".

(b) Elimination of FI and Carrier Responsibility for Carrying Out Activities Subject to Program.—

(1) Responsibilities of fiscal intermediaries under part A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(2) Responsibilities of carriers under part B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(c) Conforming Amendment.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 1895(g)".

(d) Direct Spending for Medicare-Related Activities of Inspector General.—Section 1894, as added by subsection (a), is amended by adding at the end the following new subsection:

"(h) Direct Spending for Medicare-Related Activities of Inspector General.—

"(1) In general.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) Activities described.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and consumer education activities regarding the requirements of this title.

"(3) Amounts specified.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.

(a) In General.—Not later than July 1, 1996, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish not less than three demonstration projects under which organizations with a contract under section 1816 or section 1842 of the Social Security Act—

(1) identify practitioners and providers whose patterns of providing care to beneficiaries enrolled under title XVIII of the Social Security Act are consistently outside the norm for other practitioners or providers of the same category, class, or type, and

(2) experiment with ways of identifying fraudulent claims submitted to the program established under such title before they are paid.

(b) Duration of Projects.—Each project established under subsection (a) shall last for at least 18 months and shall focus on those categories, classes, or types of providers and practitioners that have been identified by the Inspector General of the Department of Health and Human Services as having a high incidence of fraud and abuse.

(c) Report.—Not later than July 1, 1997, the Secretary shall report to the Congress on the demonstration projects established under subsection (a), and shall include in the report an assessment of the effectiveness of, and any recommended legislative changes based on, the projects.

SEC. 8407. REPORT ON COMPETITIVE PRICING.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall submit to Congress a report recommending legislative changes to the medicare program to enable the prices paid for items and services under the medicare program to be established on a more competitive basis.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

Subpart A—Rural Hospitals

SEC. 8501. SOLE COMMUNITY HOSPITALS.

(a) Update.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking "and" at the end; and

(B) by striking subclause (IV) and inserting the following:

"(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

"(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(b) Study of Impact of Sole Community Hospital Designations.—

(1) Study.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) Report.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 8502. CLARIFICATION OF TREATMENT OF EAC AND RPC HOSPITALS.

Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i@4(i)) are each amended by striking the semicolon at the end and inserting the following: ", or in a State which the Secretary finds would receive a grant under such subsection during a fiscal year if funds were appropriated for grants under such subsection for the fiscal year;".

SEC. 8503. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) Establishment.—

(1) In general.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(2) REQUIRING RURAL EMERGENCY ACCESS CARE HOSPITALS TO MEET HOSPITAL ANTIDUMPING REQUIREMENTS.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(b) Coverage and Payment Under Part B.—

(1) COVERAGE UNDER PART B.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) PAYMENT BASED ON PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—

(A) In general.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)) is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) PAYMENT METHODOLOGY DESCRIBED.—Section 1834(g) (42 U.S.C. 1395m(g)) is amended—

(i) in the heading, by striking "Services" and inserting "Services and Rural Emergency Access Care Hospital Services"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(c) Effective Date.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) Prohibiting Denial of Request for Reclassification on Basis of Comparability of Wages.—

(1) In general.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8505. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall make any adjustments required under subsection (a) in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year without such adjustments.

SEC. 8506. MEDICAL EDUCATION.

(a) STATE AND CONSORTIUM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—

(A) PARTICIPATION OF STATES AND CONSORTIA.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with paragraph (4)—

(i) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in subsection (b); and

(ii) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(B) EXCLUSION OF CONSORTIA IN PARTICIPATING STATES.—A consortia may not receive payments under the demonstration project under subparagraph (A)(ii) if any of its members is located in a State receiving payments under the project under subparagraph (A)(i).

(2) APPLICATIONS.—

(A) IN GENERAL.—Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in subsection (b). In the case of an application of a State, the application shall include—

(i) information demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(ii) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project; and

(iii) an explanation of a plan for evaluating the impact of the project in the State.

(B) APPROVAL OF APPLICATIONS.—A State or consortium that submits an application under subparagraph (A) may begin a demonstration project under this subsection—

(i) upon approval of such application by the Secretary; or

(ii) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(C) NOTICE AND COMMENT.—A State or consortium shall issue a public notice on the date it submits an application under subparagraph (A) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(3) SPECIFIC REQUIREMENTS FOR PARTICIPANTS.—

(A) REQUIREMENTS FOR STATES.—Each State participating in the demonstration project under this section shall use the payments provided under paragraph (4) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(i) USE OF ALTERNATIVE WEIGHTING FACTORS.—

(I) IN GENERAL.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(II) USE OF PAYMENTS FOR PRIMARY CARE RESIDENTS.—In applying different weighting factors under subclause (I), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) PAYMENTS FOR MEDICAL EDUCATION THROUGH CONSORTIUM.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium) that is established in the State but that is not otherwise participating in the demonstration project.

(B) REQUIREMENTS FOR CONSORTIUM.—

(i) IN GENERAL.—In the case of a consortium participating in the demonstration project under this section, the Secretary shall make payments for graduate medical education costs through a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—

(I) IN GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(II) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the majority of the payments received under clause (i) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(4) ALLOCATION OF PORTION OF MEDICARE GME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) In the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the State an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(5) DURATION.—A demonstration project under this subsection shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(6) EVALUATIONS AND REPORTS.—

(A) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(B) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(7) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(b) GOALS FOR PROJECTS.—The goals referred to in this subsection for a State or consortium participating in the demonstration project under this section are as follows:

(1) The training of an equal number of physician and nonphysician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

(c) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term "health care training consortium" means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term "primary care" means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term "rural area" has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

Subpart B—Rural Physicians and Other Providers

SEC. 8511. PROVIDER INCENTIVES.

(a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.—

(1) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(3) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(4) REQUIRING CARRIERS TO REPORT ON SERVICES PROVIDED.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary not later than 30 days after the end of the contract year on the types of providers to whom the carrier made additional payments during the year for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers during the year; and".

(5) STUDY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting and retaining physicians to provide services in such areas.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), and shall include in the report such recommendations as the Secretary considers appropriate.

(6) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (4) shall apply to physicians' services furnished on or after January 1, 1996.

(b) DEVELOPMENT OF MODEL STATE SCOPE OF PRACTICE LAW.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(2) DEADLINE.—The Secretary shall publish the model law developed under paragraph (1) not later than 1 year after the date of the enactment of this Act.

SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) GENERAL RULE.—Gross income shall not include any qualified loan repayment.

"(b) QUALIFIED LOAN REPAYMENT.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

SEC. 8514. DEMONSTRATION PROJECT TO INCREASE CHOICE IN RURAL AREAS.

The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall conduct a demonstration project to assess the advantages and disadvantages of requiring Medicare Choice organizations under part C of title XVIII of the Social Security Act (as added by section 8002(a)) to market Medicare Choice products in certain underserved areas which are near the standard service area for such products.

PART 2—MEDICARE SUBVENTION

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) PAYMENTS UNDER MEDICARE RISK CONTRACTS PROGRAM.—

(1) CURRENT PROGRAM.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k) Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other eligible organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other eligible organizations with risk sharing contracts under this section.".

(2) MEDICARE CHOICE PROGRAM.—Section 1855, as inserted by section 8002(a), by adding at the end the following new subsection:

"(h) PAYMENTS TO MILITARY PROGRAM.—Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered a Medicare Choice organization under this part, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other Medicare Choice organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other Medicare Choice organizations with contracts in effect under this part.".

(b) TEMPORARY PROVISION FOR WAIVER OF PART B PREMIUM PENALTY.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(h) The premium increase required by subsection (b) shall not apply with respect to a person who is enrolled with a managed care plan that is established by the Secretary of Defense under chapter 55 of title 10, United States Code, and is recognized as an eligible organization pursuant to section 1855(h) or section 1876(k), if such person first enrolled in such plan prior to January 1, 1998.".

(c) PAYMENTS UNDER PART A OF MEDICARE.—Section 1814(c) (42 U.S.C. 1395f(c)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.".

(d) PAYMENTS UNDER PART B OF MEDICARE.—Section 1835(d) (42 U.S.C. 1395n(d)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.".

(e) CONFORMING AMENDMENTS TO THE THIRD PARTY COLLECTION PROGRAM FOR MILITARY MEDICAL FACILITIES.—(1) Section 1095(d) of title 10, United States Code, is amended—

(A) by striking "XVIII or"; and

(B) by striking "1395" and inserting "1396".

(2) Section 1095(h)(2) of such title is amended by inserting after "includes" the following: "plans administered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

Subtitle G—Other Provisions

SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "24-month", and

(2) by striking the second sentence.

SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under—" and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "including the use of" and all that follows through "any additional measures".

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding "; or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term "approved device" means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1996.

Subtitle H—Monitoring Achievement of Medicare Reform Goals

SEC. 8701. ESTABLISHMENT OF BUDGETARY AND PROGRAM GOALS.

(a) IN GENERAL.—The Secretary shall establish program budgetary and program goals for the medicare program consistent with this section.

(b) BUDGETARY GOALS.—The budgetary goal is to restrict total outlays under the medicare program as follows:

(1) For fiscal year 1996, $173,500,000,000.

(2) For fiscal year 1997, $187,300,000,000.

(3) For fiscal year 1998, $200,800,000,000.

(4) For fiscal year 1999, $215,200,000,000.

(5) For fiscal year 2000, $220,500,000,000.

(6) For fiscal year 2001, $248,000,000,000.

(7) For fiscal year 2002, $267,100,000,000.

(c) PROGRAM GOALS.—The program goals shall be consistent with the following:

(1) There should be an equitable distribution of funds between per beneficiary spending on payments to Medicare Choice organizations under part C of the medicare program and on payments to providers on a fee-for-service basis under parts A and B of the program.

(2) Payments to Medicare Choice organizations should be established in a manner that promotes the availability of Medicare Choice products in all regions of the country and that permits such organizations to offer adequate coverage.

SEC. 8702. MEDICARE REFORM COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Reform Commission (in this section referred to as the "Commission").

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall examine how the medicare program has met the budgetary and program goals established under section 8701.

(2) PERIODIC REPORTS.—

(A) IN GENERAL.—The Commission shall issue a report on April 1, 1998, and on March 1 of every third subsequent year, on the status of the medicare program in relation to the budgetary and program goals specified in section 8601.

(B) CONTENTS.—Each report shall include the following information about the medicare program in the most recent fiscal year and projects for the succeeding 3 fiscal years:

(i) The actuarial value of the traditional medicare benefit package.

(ii) The projected rate of growth of outlays under the traditional medicare program.

(iii) The ability of Medicare Choice organizations to offer an adequate benefit package under part C of the medicare program.

(iv) The extent of Medicare Choice products made available to medicare beneficiaries in the different regions of the country.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—If a report under paragraph (2) finds that any of the following problems exists, the Commission shall include recommendations to respond to the problem:

(i) The actuarial value of the traditional medicare benefit package exceeds the payment rate under the Medicare Choice program.

(ii) The rate of growth of the traditional medicare program under parts A and B is projected to result in medicare outlays exceeding the outlay targets specified in section 8701.

(iii) The payments under the Medicare Choice program are not sufficient to allow contractors to provide an adequate benefit package.

(iv) The selection of Medicare Choice products are limited or not available in parts of the country.

(B) TYPES OF RECOMMENDATIONS.—The recommendations provided under subparagraph (A) may include—

(i) in response to the problem described in subparagraph (A)(ii), reduction in payments to providers under parts A and B or an increase in cost sharing by beneficiaries; and

(ii) in response to the problems described in subparagraphs (A)(iii) and (A)(iv), an adjustment to payment rates to Medicare Choice organizations.

Such recommendations may not include any change that is inconsistent with attaining the outlay targets specified under section 8701.

(4) PRESIDENTIAL RESPONSE.—If the Commission reports under this subsection that the goals established in section 8701 are not met (or projects that such goals will not be met during a 3-year period), the President shall submit to Congress, within 90 days after the date of submission of the report, specific legislative recommendations to correct the problem. Such recommendations may include those described in paragraph (3)(B) and may not include any change that is inconsistent with attaining the outlay targets specified under section 8701.

(5) CONGRESSIONAL CONSIDERATION.—

(A) IN GENERAL.—The President's recommendations submitted under paragraph (4) shall not apply unless a joint resolution (described in subparagraph (B)) approving such recommendations is enacted, in accordance with the provisions of subparagraph (C), before the end of the 60-day period beginning on the date on which a report containing such recommendations is submitted by the President under paragraph (4). For purposes of applying the preceding sentence and subparagraphs (B) and (C), the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

(B) JOINT RESOLUTION OF APPROVAL.—A joint resolution described in this subparagraph means only a joint resolution which is introduced within the 10-day period beginning on the date on which the report described in subparagraph (A) is submitted and—

(i) which does not have a preamble;

(ii) the matter after the resolving clause of which is as follows: "That Congress approves the recommendations of the President under section 8702(b)(4) of the Medicare Preservation Act, as submitted by the President on ____________.", the blank space being filled in with the appropriate date; and

(iii) the title of which is as follows: "Joint resolution approving Presidential recommendations submitted under section 8702(b)(4) of the Medicare Preservation Act, as submitted by the President on ____________.", the blank space being filled in with the appropriate date.

(C) PROCEDURES FOR CONSIDERATION OF RESOLUTION OF APPROVAL.—Subject to subparagraph (D), the provisions of section 2908 (other than subsection (a)) of the Defense Base Closure and Realignment Act of 1990 shall apply to the consideration of a joint resolution described in subparagraph (B) in the same manner as such provisions apply to a joint resolution described in section 2908(a) of such Act.

(D) SPECIAL RULES.—For purposes of applying subparagraph (C) with respect to such provisions—

(i) any reference to the Committee on Armed Services of the House of Representatives shall be deemed a reference to the Committee on Ways and Means and any reference to the Committee on Armed Services of the Senate shall be deemed a reference to the Committee on Finance of the Senate; and

(ii) any reference to the date on which the President transmits a report shall be deemed a reference to the date on which the President submits the recommendations under paragraph (4).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 5 members appointed by the President, of which 4 of whom are appointed from a list (of at least 5 nominees) submitted by each of the following:

(A) The Speaker of the House of Representatives.

(B) The Minority Leader of the House of Representatives.

(C) The Majority Leader of the Senate.

(D) The Minority Leader of the Senate.

(2) TERM OF SERVICE.—Each member of the Commission shall serve for a term of 3 years. Members may be reappointed for additional terms.

(3) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a Chairman and Vice Chairman from among its members.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(5) QUORUM.—A quorum shall consist of 3 members of the Commission, except that 2 members may conduct a hearing under subsection (e).

(6) MEETINGS.—The Commission shall meet at the call of its Chairman or a majority of its members.

(7) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND CONSULTANTS.—

(1) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(2) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GAO.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(A) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(B) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under subparagraph (A).

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies and shall, for purposes of the frank, be considered a commission of Congress as described in section 3215 of title 39, United States Code.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission. In particular, the Administrator of the Health Care Financing Administration and the Director of the Office of Management and Budget shall provide the Commission with access to data for the conduct of its work.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(9) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(10) PRINTING.—For purposes of costs relating to printing and binding, including the cost of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section. Amounts appropriated to carry out this section shall remain available until expended.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

SEC. 8801. ESTABLISHMENT OF MEDICARE GROWTH REDUCTION TRUST FUND FOR PART B SAVINGS.

Part B of title XVIII is amended by inserting after section 1841 the following new section:

"MEDICARE GROWTH REDUCTION TRUST FUND

"SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Medicare Growth Reduction Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the Secretary's estimate of the reductions in expenditures under this part that are attributable to the Medicare Preservation Act of 1995. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund.

"(3)(A) Subject to subparagraph (B), with respect to monies transferred to the Trust Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(B) Beginning with fiscal year 2003, the Secretary may expend funds in the Trust Fund to carry out this title, but only to the extent provided by Congress in advance through a specific amendment to this section.

"(b) The provisions of subsections (b) through (e) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Trust Fund shall be composed of the members of the Board of Trustees and the Managing Trustee, respectively, of the Federal Supplementary Medical Insurance Trust Fund.".

Subtitle J—Clinical Laboratories

SEC. 8901. EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.

Section 353(d) of the Public Health Service Act (42 U.S.C. 263a(d)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5) and by adding after paragraph (1) the following:

"(2) EXEMPTION OF PHYSICIAN OFFICE LABORATORIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a clinical laboratory in a physician's office (including an office of a group of physicians) which is directed by a physician and in which examinations and procedures are either performed by a physician or by individuals supervised by a physician solely as an adjunct to other services provided by the physician's office is exempt from this section.

"(B) EXCEPTION.—A clinical laboratory described in subparagraph (A) is not exempt from this section when it performs a pap smear (Papanicolaou Smear) analysis.

"(C) DEFINITION.—For purposes of subparagraph (A), the term 'physician' has the same meaning as is prescribed for such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).";

(2) in paragraph (3) (as so redesignated) by striking "(3)" and inserting "(4)"; and

(3) in paragraphs (4) and (5) (as so redesignated) by striking "(2)" and inserting "(3)".

TITLE IX—WELFARE REFORM

SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Temporary Employment Assistance

SEC. 9101. STATE PLAN.

(a) IN GENERAL.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part A and inserting the following:

"PART A—TEMPORARY EMPLOYMENT ASSISTANCE

"SEC. 400. APPROPRIATION.

"For the purpose of providing assistance to families with needy children and assisting parents of children in such families to obtain and retain private sector work to the extent possible, and public sector or volunteer work if necessary, through the Work First Employment Block Grant program (hereafter in this title referred to as the 'Work First program'), there is hereby authorized to be appropriated, and is hereby appropriated, for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have approved State plans for temporary employment assistance.

"Subpart 1—State Plans for Temporary Employment Assistance

"SEC. 401. ELEMENTS OF STATE PLANS.

"A State plan for temporary employment assistance shall provide a description of the State program which carries out the purpose described in section 400 and shall meet the requirements of the following sections of this subpart.

"SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOYMENT ASSISTANCE.

"(a) IN GENERAL.—The State plan shall provide that any family—

"(1) with 1 or more children (or any expectant family, at the option of the State), defined as needy by the State; and

"(2) which fulfills the conditions set forth in subsection (b),

shall be eligible for cash assistance under the plan, except as otherwise provided under this part.

"(b) INDIVIDUAL RESPONSIBILITY PLAN.—The State plan shall provide that not later than 30 days after the approval of the application for temporary employment assistance, a parent qualifying for assistance shall execute an individual responsibility plan as described in section 403. If a child otherwise eligible for assistance under this part is residing with a relative other than a parent, the State plan may require the relative to execute such a plan as a condition of the family receiving such assistance.

"(c) LIMITATIONS ON ELIGIBILITY.—

"(1) LENGTH OF TIME.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18 years (or age 19 years, at the option of the State), has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

"(B) HARDSHIP EXCEPTION.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

"(i) at the option of the State, the family includes an individual working 20 hours per week (or more, at the option of the State);

"(ii) the family resides in an area with an unemployment rate exceeding 8 percent; or

"(iii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

"(C) EXCEPTION FOR TEEN PARENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which the parent—

"(i) is under age 18 (or age 19, at the option of the State); and

"(ii) is making satisfactory progress while attending high school or an alternative technical preparation school.

"(D) EXCEPTION FOR INDIVIDUALS EXEMPT FROM WORK REQUIREMENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which 1 or each of the parents—

"(i) is seriously ill, incapacitated, or of advanced age;

"(ii)(I) except for a child described in subclause (II), is responsible for a child under age 1 year (or age 6 months, at the option of the State), or

"(II) in the case of a 2nd or subsequent child born during such period, is responsible for a child under age 3 months;

"(iii) is pregnant in the 3rd trimester; or

"(iv) is caring for a family member who is ill or incapacitated.

"(E) EXCEPTION FOR CHILD-ONLY CASES.—With respect to any child who has not attained age 18 (or age 19, at the option of the State) and who is eligible for assistance under this part, but not as a member of a family otherwise eligible for assistance under this part (determined without regard to this paragraph), the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which such child has not attained such age.

"(F) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that if a family is no longer eligible for cash assistance under the plan due to the imposition of the 60-month period under subparagraph (A) or due to the imposition of a penalty under subparagraph (A)(ii) or (B)(ii) of section 403(e)(1)—

"(i) for purposes of determining eligibility for any other Federal or federally assisted program based on need, such family shall continue to be considered eligible for such cash assistance;

"(ii) for purposes of determining the amount of assistance under any other Federal or federally assisted program based on need, such family shall continue to be considered receiving such cash assistance; and

"(iii) the State may, at the option of the State, after having assessed the needs of the child or children of the family, provide for such needs with a voucher for such family—

"(I) determined on the same basis as the State would provide assistance under the State plan to such a family with 1 less individual,

"(II) designed appropriately to pay third parties for shelter, goods, and services received by the child or children, and

"(III) payable directly to such third parties.

"(2) TREATMENT OF INTERSTATE MIGRANTS.—The State plan may apply to a category of families the rules for such category under a plan of another State approved under this part, if a family in such category has moved to the State from the other State and has resided in the State for less than 12 months.

"(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT ASSISTANCE.—The State plan shall provide that no assistance shall be furnished any individual under the plan with respect to any period with respect to which such individual is receiving old-age assistance under the State plan approved under section 102 of title I or supplemental security income under title XVI.

"(4) CHILDREN FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.—A child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a needy child under this part, and such child's income and resources shall be disregarded in determining the eligibility of the family of such child for temporary employment assistance.

"(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—The State plan shall provide that no assistance will be furnished any individual under the plan during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs that are funded under this part, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(6) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—The State plan shall provide that no assistance will be furnished any individual under the plan for any period if during such period the State agency has knowledge that such individual is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of assistance under the plan, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(I) is described in clause (i) or (ii) of subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the recipient is within such officer's official duties.

"(d) DETERMINATION OF ELIGIBILITY.—

"(1) DETERMINATION OF NEED.—The State plan shall provide that the State agency take into consideration any income and resources of any individual the State determines should be considered in determining the need of the child or relative claiming temporary employment assistance, subject to section 407.

"(2) RESOURCE AND INCOME DETERMINATION.—In determining the total resources and income of the family of any needy child, the State plan shall provide the following:

"(A) RESOURCES.—The State's resource limit, including a description of the policy determined by the State regarding any exclusion allowed for vehicles owned by family members, resources set aside for future needs of a child, individual development accounts, or other policies established by the State to encourage savings.

"(B) FAMILY INCOME.—The extent to which earned or unearned income is disregarded in determining eligibility for, and amount of, assistance.

"(C) CHILD SUPPORT.—The State's policy, if any, for determining the extent to which child support received in excess of $50 per month on behalf of a member of the family is disregarded in determining eligibility for, and the amount of, assistance.

"(D) CHILD'S EARNINGS.—The treatment of earnings of a child living in the home.

"(E) EARNED INCOME TAX CREDIT.—The State agency shall disregard any refund of Federal income taxes made to a family receiving temporary employment assistance by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

"(3) VERIFICATION SYSTEM.—The State plan shall provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137.

"SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.

"(a) ASSESSMENT.—The State agency responsible for administering the State plan shall make an initial assessment of the skills, prior work experience, and employability of each applicant for, or recipient of, assistance under the State plan who—

"(1) has attained 18 years of age; or

"(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

"(b) INDIVIDUAL RESPONSIBILITY PLANS.—

"(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

"(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State plan approved under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

"(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

"(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

"(D) may require that the individual enter the State program established under part F, if the caseworker determines that the individual will need education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector;

"(E) shall provide that the individual must—

"(i) assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance; and

"(ii) cooperate with the State—

"(I) in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and

"(II) in obtaining support payments for the individual and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due the individual or the child,

unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf assistance is claimed.

"(F) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

"(G) shall describe what services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

"(H) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

"(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

"(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of assistance under the State plan approved under this part; or

"(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

"(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State plan approved under this part of all available services under the State plan for which they are eligible.

"(d) REQUIREMENT THAT RECIPIENTS ENTER THE WORK FIRST PROGRAM.—

"(1) IN GENERAL.—Beginning with fiscal year 2004, the State shall place recipients of assistance under the State plan approved under this part, who have not become employed in the private sector within 1 year after signing an individual responsibility plan, in the first available slot in the State program established under part F, except as provided in paragraph (2).

"(2) EXCEPTIONS.—A state may not be required to place a recipient of such assistance in the State program established under part F if the recipient—

"(A) is ill, incapacitated, or of advanced age;

"(B) has not attained 18 years of age;

"(C) is caring for a child or parent who is ill or incapacitated; or

"(D) is enrolled in school or in educational or training programs that will lead to private sector employment.

"(e) PENALTIES.—

"(1) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G:

"(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—

"(i) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart 1 of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (other than by reason of conduct described in paragraph (2)) shall be reduced by—

"(I) 33 percent for the 1st such act of noncompliance; or

"(II) 66 percent for the 2nd such act of noncompliance.

"(ii) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(iii) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 1 calendar month shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

"(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK, LOOK FOR WORK, OR ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—

"(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work—

"(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

"(aa) a period of not less than 6 months after the date of the first such refusal; or

"(bb) the first date the individual agrees to work or look for work; or

"(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

"SEC. 404. PAYMENT OF ASSISTANCE.

"(a) STANDARDS OF ASSISTANCE.—The State plan shall specify standards of assistance, including—

"(1) the composition of the unit for which assistance will be provided;

"(2) a standard, expressed in money amounts, to be used in determining the need of applicants and recipients;

"(3) a standard, expressed in money amounts, to be used in determining the amount of the assistance payment; and

"(4) the methodology to be used in determining the payment amount received by assistance units.

"(b) Level of Assistance.—Except as otherwise provided in this title, the State plan shall provide that—

"(1) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

"(2) families of similar composition with similar needs and circumstances shall be treated similarly.

"(c) Correction of Payments.—The State plan shall provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of assistance under such plan, including the request for Federal tax refund intercepts as provided under section 416.

"(d) Optional Voluntary Diversion Program.—The State plan shall, at the option of the State, and in such part or parts of the State as the State may select, provide that—

"(1) upon the recommendation of the caseworker who is handling the case of a family eligible for assistance under the State plan, the State shall, in lieu of any other assistance under the State plan to the family during a time period of not more than 3 months, make a lump-sum payment to the family for the time period in an amount not to exceed—

"(A) the value of the monthly benefits that would otherwise be provided to the family under the State plan; multiplied by

"(B) the number of months in the time period;

"(2) a lump-sum payment pursuant to subparagraph (A) shall not be made more than once to any family; and

"(3) if, during a time period for which the State has made a lump-sum payment to a family pursuant to subparagraph (A), the family applies for and (but for the lump-sum payment) would be eligible under the State plan for a monthly benefit that is greater than the value of the monthly benefit which would have been provided to the family under the State plan at the time of the calculation of the lump sum payment, then, notwithstanding subparagraph (A), the State shall, for that part of the time period that remains after the family becomes eligible for the greater monthly benefit, provide monthly benefits to the family in an amount not to exceed—

"(A) the amount by which the value of the greater monthly benefit exceeds the value of the former monthly benefit, multiplied by the number of months in the time period; divided by

"(B) the whole number of months remaining in the time period.".

"SEC. 405. OTHER PROGRAMS.

"(a) Work First Program; Workfare or Job Placement Voucher Program.—The State plan shall provide that the State has in effect and operation—

"(1) a work first program that meets the requirements of part F; and

"(2) a workfare program that meets the requirements of part G, or a job placement voucher program that meets the requirements of part H, but not both.

"(b) Provision of Positions and Vouchers.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part G, or a job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is prohibited from participating in the work first program operated by the State, and shall not provide such a position or such a voucher to any other individual.

"(c) Provision of Case Management Services.—The State plan shall provide that the State shall provide to participants in such programs such case management services as are necessary to ensure the integrated provision of benefits and services under such programs.

"(d) State Child Support Agency.—The State plan shall—

"(1) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

"(2) provide that the State agency administering the plan approved under this part shall be responsible for assuring that—

"(A) the benefits and services provided under plans approved under this part and part D are furnished in an integrated manner, including coordination of intake procedures with the agency administering the plan approved under part D;

"(B) all applicants for, and recipients of, temporary employment assistance are encouraged, assisted, and required (as provided under section 403(b)(1)(E)(ii)) to cooperate in the establishment and enforcement of paternity and child support obligations and are notified about the services available under the State plan approved under part D; and

"(C) procedures require referral of paternity and child support enforcement cases to the agency administering the plan approved under part D not later than 10 days after the application for temporary employment assistance; and

"(3) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency established pursuant to part D of the furnishing of temporary employment assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out-of-wedlock without regard to whether the paternity of such child has been established).

"(e) Child Welfare Services and Foster Care and Adoption Assistance.—The State plan shall provide that the State has in effect—

"(1) a State plan for child welfare services approved under part B; and

"(2) a State plan for foster care and adoption assistance approved under part E,

and operates such plans in substantial compliance with the requirements of such parts.

"(f) Report of Child Abuse, etc.—The State plan shall provide that the State agency will—

"(1) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving assistance under the State plan under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(2) provide such information with respect to a situation described in paragraph (1) as the State agency may have.

"(g) Availability of Assistance in Rural Areas of State.—The State plan shall consider and address the needs of rural areas in the State to ensure that families in such areas receive assistance to become self-sufficient.

"(h) Family Preservation.—

"(1) In general.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

"(A) to encourage fathers to stay home and be a part of the family;

"(B) to keep families together to the extent possible; and

"(C) except to the extent provided in paragraph (2), to treat 2-parent families and 1-parent families equally with respect to eligibility for assistance.

"(2) Maintenance of treatment.—The State may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than such limitations in effect in the State plan in fiscal year 1995.

"SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

"(a) Statewide Plan.—The State plan shall be in effect in all political subdivisions of the State, and, if administered by the subdivisions, be mandatory upon such subdivisions. If such plan is not administered uniformly throughout the State, the plan shall describe the administrative variations.

"(b) Single Administrating Agency.—The State plan shall provide for the establishment or designation of a single State agency to administer the plan or supervise the administration of the plan.

"(c) Financial Participation.—The State plan shall provide for financial participation by the State in the same manner and amount as such State participates under title XIX, except that with respect to the sums expended for the administration of the State plan, the percentage shall be 50 percent.

"(d) Reasonable Promptness.—The State plan shall provide that all individuals wishing to make application for temporary employment assistance shall have opportunity to do so, and that such assistance be furnished with reasonable promptness to all eligible individuals.

"(e) Automated Data Processing System.—The State plan shall, at the option of the State, provide for the establishment and operation of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan approved under this part, so as—

"(1) to control and account for—

"(A) all the factors in the total eligibility determination process under such plan for assistance, and

"(B) the costs, quality, and delivery of payments and services furnished to applicants for and recipients of assistance; and

"(2) to notify the appropriate officials for child support, food stamp, and social service programs, and the medical assistance program approved under title XIX, whenever a recipient becomes ineligible for such assistance or the amount of assistance provided to a recipient under the State plan is changed.

"(f) Disclosure of Information.—The State plan shall provide for safeguards which restrict the use or disclosure of information concerning applicants or recipients.

"(g) Detection of Fraud.—The State plan shall provide, in accordance with regulations issued by the Secretary, for appropriate measures to detect fraudulent applications for temporary employment assistance before the establishment of eligibility for such assistance.

"Subpart 2—Administrative Provisions

"SEC. 411. APPROVAL OF PLAN.

"(a) In General.—The Secretary shall approve a State plan which fulfills the requirements under subpart 1 within 120 days of the submission of the plan by the State to the Secretary.

"(b) Deemed Approval.—If a State plan has not been rejected by the Secretary during the period specified in subsection (a), the plan shall be deemed to have been approved.

"SEC. 412. COMPLIANCE.

"In the case of any State plan for temporary employment assistance which has been approved under section 411, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by subpart 1 to be included in the plan, the Secretary shall notify such State agency that further payments will not be made to the State (or in the Secretary's discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until the Secretary is so satisfied the Secretary shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"SEC. 413. PAYMENTS TO STATES.

"(a) COMPUTATION OF AMOUNT.—Subject to section 412, from the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for temporary employment assistance, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State under such plan.

"(b) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

"(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on—

"(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

"(B) records showing the number of needy children in the State; and

"(C) such other information as the Secretary may find necessary.

"(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services—

"(A) reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter;

"(B) reduced by a sum equivalent to the pro rata share to which the Federal Government is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to temporary employment assistance furnished under the State plan; and

"(C) reduced by such amount as is necessary to provide the appropriate reimbursement to the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by the State pursuant to such section,

except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

"(c) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND REPORTING SYSTEM.

"(a) QUALITY ASSURANCE.—

"(1) IN GENERAL.—Under the State plan, a quality assurance system shall be developed based upon a collaborative effort involving the Secretary, the State, the political subdivisions of the State, and assistance recipients, and shall include quantifiable program outcomes related to self-sufficiency in the categories of welfare-to-work, payment accuracy, and child support.

"(2) MODIFICATIONS TO SYSTEM.—As deemed necessary, but not more often than every 2 years, the Secretary, in consultation with the State, the political subdivisions of the State, and assistance recipients, shall make appropriate changes in the design and administration of the quality assurance system, including changes in benchmarks, measures, and data collection or sampling procedures.

"(b) DATA COLLECTION AND REPORTING.—

"(1) IN GENERAL.—The State plan shall provide for a quarterly report to the Secretary regarding the data described in paragraphs (2) and (3) and such additional data needed for the quality assurance system. The data collection and reporting system under this subsection shall promote accountability, continuous improvement, and integrity in the State plans for temporary employment assistance and Work First.

"(2) DISAGGREGATED DATA.—The State shall collect the following data items on a monthly basis from disaggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

"(A) The age of adults and children (including pregnant women).

"(B) Marital or familial status of cases: married (2-parent family), widowed, divorced, separated, or never married; or child living with other adult relative.

"(C) The gender, race, educational attainment, work experience, disability status (whether the individual is seriously ill, incapacitated, or caring for a disabled or incapacitated child) of adults.

"(D) The amount of cash assistance and the amount and reason for any reduction in such assistance. Any other data necessary to determine the timeliness and accuracy of benefits and welfare diversions.

"(E) Whether any member of the family receives benefits under any of the following:

"(i) Any housing program.

"(ii) The food stamp program under the Food Stamp Act of 1977.

"(iii) The Head Start programs carried out under the Head Start Act.

"(iv) Any job training program.

"(F) The number of months since the most recent application for assistance under the plan.

"(G) The total number of months for which assistance has been provided to the families under the plan.

"(H) The employment status, hours worked, and earnings of individuals while receiving assistance, whether the case was closed due to employment, and other data needed to meet the work performance rate.

"(I) Status in Work First and workfare, including the number of hours an individual participated and the component in which the individual participated.

"(J) The number of persons in the assistance unit and their relationship to the youngest child. Nonrecipients in the household and their relationship to the youngest child.

"(K) Citizenship status.

"(L) Shelter arrangement.

"(M) Unearned income (not including temporary employment assistance), such as child support, and assets.

"(N) The number of children who have a parent who is deceased, incapacitated, or unemployed.

"(O) Geographic location.

"(3) AGGREGATED DATA.—The State shall collect the following data items on a monthly basis from aggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

"(A) The number of adults receiving assistance.

"(B) The number of children receiving assistance.

"(C) The number of families receiving assistance.

"(D) The number of assistance units who had their grants reduced or terminated and the reason for the reduction or termination, including sanction, employment, and meeting the time limit for assistance).

"(E) The number of applications for assistance; the number approved and the number denied and the reason for denial.

"(4) LONGITUDINAL STUDIES.—The State shall submit selected data items for a cohort of individuals who are tracked over time. This longitudinal sample shall be used for selected data items described in paragraphs (2) and (3), as determined appropriate by the Secretary.

"(c) ADDITIONAL DATA.—The report required by subsection (b) for a fiscal year quarter shall also include the following:

"(1) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A statement of—

"(A) the percentage of the Federal funds paid to the State under this part for the fiscal year quarter that are used to cover administrative costs or overhead; and

"(B) the total amount of State funds that are used to cover such costs or overhead.

"(2) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—A statement of the total amount expended by the State during the fiscal year quarter on programs for needy families, with the amount spent on the program under this part, and the purposes for which such amount was spent, separately stated.

"(3) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The number of noncustodial parents in the State who participated in work activities during the fiscal year quarter.

"(4) REPORT ON CHILD SUPPORT COLLECTED.—The total amount of child support collected by the State agency administering the State plan under part D on behalf of a family receiving assistance under this part.

"(5) REPORT ON CHILD CARE.—The total amount expended by the State for child care under this part, along with a description of the types of child care provided, such as child care provided in the case of a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, or in the case of a family that is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

"(6) Report on transitional services.—The total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, along with a description of such services.

"(d) Collection Procedures.—The Secretary shall provide case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of plan performance.

"(e) Verification.—The Secretary shall develop and implement procedures for verifying the quality of the data submitted by the State, and shall provide technical assistance, funded by the compliance penalties imposed under section 412, if such data quality falls below acceptable standards.

"SEC. 415. COMPILATION AND REPORTING OF DATA.

"(a) Current Programs.—The Secretary shall, on the basis of the Secretary's review of the reports received from the States under section 414, compile such data as the Secretary believes necessary, and from time to time, publish the findings as to the effectiveness of the programs developed and administered by the States under this part. The Secretary shall annually report to the Congress on the programs developed and administered by each State under this part.

"(b) Research, Demonstration and Evaluation.—Of the amount specified under section 413(a), an amount equal to 0.25 percent is authorized to be expended by the Secretary to support the following types of research, demonstrations, and evaluations:

"(1) State-initiated research.—States may apply for grants to cover 90 percent of the costs of self-evaluations of programs under State plans approved under this part.

"(2) Demonstrations.—

"(A) In general.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies to—

"(i) improve child well-being through reductions in illegitimacy, teen pregnancy, welfare dependency, homelessness, and poverty;

"(ii) test promising strategies by nonprofit and for-profit institutions to increase employment, earning, child support payments, and self-sufficiency with respect to temporary employment assistance clients under State plans; and

"(iii) foster the development of child care.

"(B) Additional parameters.—Demonstrations implemented under this paragraph—

"(i) may provide one-time capital funds to establish, expand, or replicate programs;

"(ii) may test performance-based grant to loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a pro-rated basis; and

"(iii) should test stategies in multiple States and types of communities.

"(3) Federal evaluations.—

"(A) In general.—The Secretary shall conduct research on the effects, benefits, and costs of different approaches to operating welfare programs, including an implementation study based on a representative sample of States and localities, documenting what policies were adopted, how such policies were implemented, the types and mix of services provided, and other such factors as the Secretary deems appropriate.

"(B) Research on related issues.—The Secretary shall also conduct research on issues related to the purposes of this part, such as strategies for moving welfare recipients into the workforce quickly, reducing teen pregnancies and out-of-wedlock births, and providing adequate child care.

"(C) State reimbursement.—The Secretary may reimburse a State for any research-related costs incurred pursuant to research conducted under this paragraph.

"(D) Use of random assignment.—Evaluations authorized under this paragraph should use random assignment to the maximum extent feasible and appropriate.

"(4) Regional information centers.—

"(A) In general.—The Secretary shall establish not less than 5, nor more than 7 regional information centers located at major research universities or consortiums of universities to ensure the effective implementation of welfare reform and the efficient dissemination of information about innovations, evaluation outcomes, and training initiatives.

"(B) Center responsibilities.—The Centers shall have the following functions:

"(i) Disseminate information about effective income support and related programs, along with suggestions for the replication of such programs.

"(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

"(iii) Assist the States in the region formulate and implement innovative programs and improvements in existing programs that help clients move off welfare and become productive citizens.

"(iv) Provide training as appropriate to staff of State agencies to enhance the ability of the agencies to successfully place Work First clients in productive employment or self-employment.

"(C) Center eligibility to perform evaluations.—The Centers may compete for demonstration and evaluation contracts developed under this section.

"SEC. 416. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

"(a) In General.—Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) Regulations.—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving temporary employment assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.".

(b) Payments to Puerto Rico.—Section 1108(a)(1) (42 U.S.C. 1308(a)(1)) is amended—

(1) in subparagraph (F), by striking "or"; and

(2) by striking subparagraph (G) and inserting the following:

"(G) $82,000,000 with respect to each of fiscal years 1989 through 1995, or

"(H) $102,500,000 with respect to the fiscal year 1996 and each fiscal year thereafter;".

(c) Conforming Amendments Relating To Collection of Overpayments.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(g) Collection of Overpayments Under Title IV-A of the Social Security Act.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 416 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(2) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 416, 464, or 1137 of the Social Security Act".

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) Special rule.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection (a), the State shall not be regarded as failing to comply with the requirements of such amendment before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

Subtitle B—Make Work Pay

SEC. 9201. TRANSITIONAL MEDICAID BENEFITS.

(a) State Option of Extension of Medicaid Enrollment for Former AFDC Recipients for 1 Additional Year.—

(1) IN GENERAL.—Section 1925(b)(1) (42 U.S.C. 1396r–6(b)(1)) is amended by striking the period at the end and inserting the following: ", and that the State may, at its option, offer to each such family the option of extending coverage under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions as the option of extending coverage under this subsection for the first succeeding 6-month period.".

(2) CONFORMING AMENDMENTS.—Section 1925(b) (42 U.S.C. 1396r–6(b)) is amended—

(A) in the heading, by striking "EXTENSION" and inserting "EXTENSIONS";

(B) in the heading of paragraph (1), by striking "REQUIREMENT" and inserting "IN GENERAL";

(C) in paragraph (2)(B)(ii)—

(i) in the heading, by striking "PERIOD" and inserting "PERIODS", and

(ii) by striking "in the period" and inserting "in any of the 6-month periods";

(D) in paragraph (3)(A), by striking "the 6-month period" and inserting "any 6-month period";

(E) in paragraph (4)(A), by striking "the extension period" and inserting "any extension period"; and

(F) in paragraph (5)(D)(i), by striking "is a 3-month period" and all that follows and inserting the following: "is, with respect to a particular 6-month additional extension period provided under this subsection, a 3-month period beginning with the 1st or 4th month of such extension period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PROVIDED TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by the amendment made by section 9101(a) of this Act, is amended by adding at the end the following:

"(h) NOTICE OF AVAILABILITY OF EITC.—The State plan shall provide that the State agency referred to in subsection (b) must provide written notice of the existence and availability of the earned income credit under section 32 of the Internal Revenue Code of 1986 to—

"(1) any individual who applies for assistance under the State plan, upon receipt of the application; and

"(2) any individual whose assistance under the State plan (or under the State plan approved under part A of this title (as in effect before the effective date of title IX of the Omnibus Budget Reconciliation Act of 1995) is terminated, in the notice of termination of benefits.".

(b) FOOD STAMPS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24) by striking "and" at the end;

(2) in paragraph (25) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (25) the following:

"(26) that whenever a household applies for food stamp benefits, and whenever such benefits are terminated with respect to a household, the State agency shall provide to each member of such household notice of—

"(A) the existence of the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

"(B) the fact that such credit may be applicable to such member.".

(c) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide that the State shall provide notice of the existence and availability of the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to each individual applying for medical assistance under the State plan and to each individual whose eligibility for medical assistance under the State plan is terminated.".

SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT AND DEPENDENT CARE TAX CREDIT TO BE INCLUDED ON W–4 FORM.

(a) IN GENERAL.—Section 11114 of the Omnibus Budget Reconciliation Act of 1990 (26 U.S.C. 21 note), relating to program to increase public awareness, is amended by adding at the end the following new sentence: "Such means shall include printing a notice of the availability of such credits on the forms used by employees to determine the proper number of withholding exemptions under chapter 24 of such Code."

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Section 3507 of the Internal Revenue Code of 1986 (relating to the advance payment of the earned income tax credit) is amended by adding at the end the following:

"(g) STATE DEMONSTRATIONS.—

"(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of paragraph (3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 413(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

"(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1996.

"(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1996, and before January 1, 2000.

"(ii) SPECIAL RULES.—

"(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke any designation made under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

"(II) AUTOMATIC TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

"(3) PROPOSALS.—No State may be designated under paragraph (2) unless the State's proposal for such designation—

"(A) identifies the responsible State agency,

"(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

"(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned income tax credit,

"(F) commits the State to furnishing to each participating resident by January 31 of each year a written statement showing—

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat any advance earned income payments as described in paragraph (5) and any repayments of excessive advance earned income payments as described in paragraph (6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1996.

"(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

"(A) AMOUNT.—

"(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident shall conform to the fullest extent possible with the provisions of subsection (c).

"(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

"(B) TIMING.—The frequency of advance earned income payments may be determined on the basis of the payroll periods of participating residents, on a single statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advance earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

"(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(A) IN GENERAL.—For purposes of this title, advance earned income payments during any calendar quarter—

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of—

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding),

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) IF ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

"(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and as being required to pay to the United States, the repayment amount during the repayment calendar quarter.

"(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, the term 'excessive advance income payment' means that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

"(C) REPAYMENT AMOUNT.—For purposes of this subsection, the term 'repayment amount' means an amount equal to 50 percent of the excess of—

"(i) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of—

"(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

"(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

"(D) REPAYMENT CALENDAR QUARTER.—For purposes of this subsection, the term 'repayment calendar quarter' means the second calendar quarter of the third calendar year beginning after the calendar year in which an excessive earned income payment is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) STATE ADVANCE PAYMENT PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

"(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

"(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

"(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

"(i) is a resident of a State that has in effect a designated State Advance Payment Program,

"(ii) makes the election described in paragraph (3)(D) pursuant to guidelines prescribed by the State,

"(iii) certifies to the State the number of qualifying children the individual has, and

"(iv) provides to the State the certifications and statement described in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause, the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.".

(b) TECHNICAL ASSISTANCE.—The Secretaries of the Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file Federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repay those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal years 1997 through 2000.

SEC. 9205. FUNDING OF CHILD CARE SERVICES.

(a) REPEAL OF CHILD CARE PROGRAMS UNDER THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF1990.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is hereby repealed.

(b) FUNDING OF CHILD CARE SERVICES THROUGH SOCIAL SERVICES BLOCK GRANT PROGRAM.—Title XX (42 U.S.C. 1397–1397f) is amended by adding at the end the following:

"SEC. 2008. CHILD CARE.

"(a) CONDITIONAL GRANT.—

"(1) IN GENERAL.—In addition to any payment under section 2002 or 2007, the Secretary shall make a grant to each State with a plan approved under this section for a fiscal year in an amount equal to the special allotment of the State for the fiscal year.

"(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary not more than—

"(A) $1,400,000,000 for fiscal year 1997;

"(B) $1,450,000,000 for each of fiscal years 1998, 1999, and 2000; and

"(C) $1,500,000,000 for each of fiscal years 2001 and 2002.

"(b) STATE PLANS.—

"(1) CONTENT.—A plan meets the requirements of this paragraph if the plan—

"(A) identifies an appropriate State agency to be the lead agency responsible for administering at the State level, and coordinating with local governments, the activities of the State pursuant to this section;

"(B) describes the activities the State will carry out with funds provided under this section;

"(C) provides assurances that the funds provided under this section will be used to supplement, not supplant, State and local funds as well as Federal funds provided under any Act and applied to child care activities in the State during fiscal year 1989;

"(D) provides assurances that the State will not expend more than 7 percent of the funds provided to the States under this section for the fiscal year for administrative expenses;

"(E) provides assurances that, in providing child care assistance, the State will give priority to families with low income and families living in a low-income geographical area;

"(F) ensures that child care providers reimbursed under this section meet applicable standards of State and local law;

"(G) provides assurances that the lead agency will coordinate the use of funds provided under this section with the use of other Federal resources for child care provided under this Act, and with other Federal, State, or local child care and preschool programs operated in the State;

"(H) provides for the establishment of such fiscal and accounting procedures as may be necessary to—

"(i) ensure a proper accounting of Federal funds received by the State under this section; and

"(ii) ensure the proper verification of the reports submitted by the State under subsection (f)(2);

"(I) provides assurances that the State will not impose more stringent standards and licensing or regulatory requirements on child care providers receiving funds provided under this section than those imposed on other child care providers in the State;

"(J) provides assurances that the State will not implement any policy or practice which has the effect of significantly restricting parental choice by—

"(i) expressly or effectively excluding any category of care or type of provider within a category of care;

"(ii) limiting parental access to or choices from among various categories of care or types of providers; or

"(iii) excluding a significant number of providers in any category of care; and

"(K) provides assurances that parents will be informed regarding their options under this section, including the option of receiving a child care certificate or voucher.

"(2) FORM.—A State may submit a plan that meets the requirements of paragraph (1) in the form of amendments to the State plan submitted pursuant to section 658E of the Child Care and Development Block Grant Act of 1990, as in effect before the effective date of section 9205 of the Omnibus Budget Reconciliation Act of 1995.

"(3) APPROVAL.—Not later than 90 days after the date the State submits a plan to the Secretary under this subsection, the Secretary shall either approve or disapprove the plan. If the Secretary disapproves the plan, the Secretary shall provide the State with an explanation and recommendations for changes in the plan to gain approval.

"(c) SPECIAL ALLOTMENTS.—The special allotment of a State for a fiscal year equals the amount that bears the same ratio to the amount appropriated pursuant to this section for the fiscal year, as the number of children who have not attained 13 years of age and are residing with families in the State bears to the total number of such children in all States with plans approved under this section for the fiscal year, determined on the basis of the most recent data available from the Department of Commerce at the time the special allotment is determined.

"(d) PAYMENTS TO STATES.—

"(1) PAYMENTS.—

"(A) COMPUTATION OF AMOUNT.—From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this section for a fiscal year, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to ¼ of the special allotment of the State for the fiscal year.

"(B) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

"(i) ESTIMATE.—The Secretary shall, before each quarter, estimate the amount to be paid to the State for the quarter under this section, based on a report filed by the State containing the State's estimate of the total sum to be expended by the State in such quarter in accordance with subsection (e).

"(ii) CERTIFICATION.—The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

"(iii) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"(2) DEADLINE FOR EXPENDITURE OF FUNDS BY STATES.—Except as provided in paragraph (3)(A), each State to which funds are paid under this section for a fiscal year shall expend such funds in the fiscal year or in the immediately succeeding fiscal year.

"(3) REDISTRIBUTION OF UNEXPENDED SPECIAL ALLOTMENTS.—

"(A) REMITTANCE TO THE SECRETARY.—Each State to which funds are paid under this section for a fiscal year shall remit to the Secretary that part of such funds which the State intends not to, or does not, expend in the fiscal year or in the immediately succeeding fiscal year.

"(B) REDISTRIBUTION.—The Secretary shall increase the special allotment of each State with a plan approved under this part for a fiscal year that does not remit any amount to the Secretary for the fiscal year by an amount equal to—

"(i) the aggregate of the amounts remitted pursuant to subparagraph (A) for the fiscal year; multiplied by

"(ii) the adjusted State share for the fiscal year.

"(C) ADJUSTED STATE SHARE.—As used in subparagraph (B)(ii), the term 'adjusted State share' means, with respect to a fiscal year—

"(i) the special allotment of the State for the fiscal year (before any increase under subparagraph (B)); divided by

"(ii)(I) the sum of the special allotments of all States with plans approved under this part for the fiscal year; minus

"(II) the aggregate of the amounts remitted to the Secretary pursuant to subparagraph (A) for the fiscal year.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided under this section shall be used to expand parent choices in selecting child care, to address deficiencies in the supply of child care, and to expand and improve child care services, with an emphasis on providing such services to low-income families and geographical areas. Subject to the approval of the Secretary, States to which funds are paid under this section shall use such funds to carry out child care programs and activities through cash grants, certificates, or contracts with families, or public or private entities as the State determines appropriate. States shall take parental preference into account to the maximum extent possible in carrying out child care programs.

"(2) SPECIFIC USES.—Each State to which funds are paid under this section may expend such funds for—

"(A) child care services for infants, sick children, children with special needs, and children of adolescent parents;

"(B) after-school and before-school programs and programs during nontraditional hours for the children of working parents;

"(C) programs for the recruitment and training of day care workers, including older Americans;

"(D) grant and loan programs to enable child care workers and providers to meet State and local standards and requirements;

"(E) child care programs developed by public and private sector partnerships;

"(F) State efforts to provide technical assistance designed to help providers improve the services offered to parents and children; and

"(G) other child care-related programs consistent with the purpose of this section and approved by the Secretary.

"(3) LIMITATIONS ON USE OF FUNDS.—A State to which funds are paid under this section for a fiscal year shall use not less than 80 percent of such funds to provide direct child care assistance to low-income parents through child care certificates or vouchers, contracts, or grants.

"(4) METHODS OF FUNDING.—Funds for child care services under this title shall be for the benefit of parents and shall be provided through child care vouchers or certificates provided directly to parents or through contracts or grants with public or private providers.

"(5) PARENTAL RIGHTS OF CHOICE.—Any parent who receives a child care certificate under this title may use such certificate with any child care provider, including those providers which have religious activities, if such provider is freely chosen by the parent from among the available alternatives.

"(6) CHILD CARE CERTIFICATES.—

"(A) IN GENERAL.—For purposes of this title, a child care certificate is a certificate issued by a State directly to a parent or legal guardian for use only as payment for child care services in any child care facility eligible to receive funds under this Act.

"(B) REDEMPTION.—If the demand for child care services of families qualified to receive such services from a State under this Act exceeds the available supply of such services, the State shall ration assistance to obtain such services using procedures that do not disadvantage parents using child care certificates, relative to other methods of financing, in either the waiting period or the pecuniary value of such services.

"(C) COMMENCEMENT OF CERTIFICATE PROGRAM.—Beginning not later than 1 year after the date of the enactment of this section, each State that receives funds under this title shall offer a child care certificate program in accordance with this section.

"(D) AUTHORITY TO USE CHILD CARE FUNDS FOR CERTIFICATE PROGRAM.—Each State to which funds are paid under this title may use the funds provided to the State under this title which are required to be used for child care activities to plan and establish the State's child care certificate program.

"(7) OPTION OF RECEIVING A CHILD CARE CERTIFICATE.—Each parent or legal guardian who receives assistance pursuant to this title shall be provided with the option of enrolling their child with an eligible child care provider that receives funds through grants, contracts, or child care certificates provided under this title. Such parent shall have the right to use such certificates to purchase child care services from an eligible provider of their choice. The State shall ensure that parental preference is considered to the maximum extent possible in awarding grants or contracts.

"(8) RIGHTS OF RELIGIOUS CHILD CARE PROVIDERS.—Notwithstanding any other provision of law, a religious child care provider who receives funds under this Act may require adherence by employees to the religious tenets or teachings of the provider.

"(9) ELIGIBLE CHILD CARE PROVIDERS.—Any child care provider who meets applicable standards of State and local law shall be eligible to receive funds under this section. As used in this paragraph, the term 'child care provider' includes—

"(A) proprietary for-profit entities, relatives, informal day care homes, religious child care providers, day care centers, and any other entities that the State determines appropriate subject to approval of the Secretary;

"(B) nonprofit organizations under subsections (c) and (d) of section 501 of the Internal Revenue Code of 1986;

"(C) professional or employee associations;

"(D) consortia of small businesses; and

"(E) units of State and local governments, and elementary, secondary, and post-secondary educational institutions.

"(10) PROHIBITED USES.—Any State to which funds are paid under this section may not use such funds—

"(A) to satisfy any State matching requirement imposed under any Federal grant;

"(B) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility; or

"(C) to provide any service which the State makes generally available to the residents of the State without cost to such residents and without regard to the income of such residents.

"(f) Reporting Requirements.—

"(1) Notice to secretary of unexpended funds.—Each State which has not completely expended the funds paid to the State under this section for a fiscal year in the fiscal year or the immediately succeeding fiscal year shall notify the Secretary of any amount not so expended.

"(2) State reports on use of funds.—Not later than 18 months after the date of the enactment of this section, and each year thereafter, the State shall prepare and submit to the Secretary, in such form as the Secretary shall prescribe, a report describing the State's use of funds paid to the State under this section, including—

"(A) the number, type, and distribution of services and programs under this section;

"(B) the average cost of child care, by type of provider;

"(C) the number of children serviced under this section;

"(D) the average income and distribution of incomes of the families being served;

"(E) efforts undertaken by the State pursuant to this section to promote and ensure health and safety and improve quality; and

"(F) such other information as the Secretary considers appropriate.

"(3) Guidelines for state reports; coordination with reports under section 2006.—Within 6 months after the date of the enactment of this section, the Secretary shall establish guidelines for State reports under paragraph (2). To the extent feasible, the Secretary shall coordinate such reporting requirement with the reports required under section 2006 and, as the Secretary deems appropriate, with other reporting requirements placed on States as a condition of receipt of other Federal funds which support child care.

"(4) Reports by the secretary.—

"(A) Reports to the congress of summary of state reports.—The Secretary shall annually summarize the information reported to the Secretary pursuant to paragraph (2) and provide such summary to the Congress.

"(B) Reports to the states on effective practices.—The Secretary shall annually provide the States with a report on particularly effective practices and programs supported by funds paid to the State under this section, which ensure the health and safety of children in care, promote quality child care, and provide training to all types of providers.

"(g) Administration and Enforcement.—

"(1) Administration.—The Secretary shall—

"(A) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

"(B) collect, publish, and make available to the public a listing of State child care standards at least once every 3 years; and

"(C) provide technical assistance to assist States to carry out this section, including assistance on a reimbursable basis.

"(2) Enforcement.—

"(A) Review of compliance with state plan.—The Secretary shall review and monitor State compliance with this section and the plans approved under this section for the State, and shall have the power to terminate payments to the State in accordance with subparagraph (B).

"(B) Noncompliance.—

"(i) In general.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(I) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under this section for the State; or

"(II) in the operation of any program for which assistance is provided under this section there is a failure by the State to comply substantially with any provision of this section;

the Secretary shall notify the State of the findings and that no further payments may be made to such State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(ii) Additional sanctions.—In the case of a finding of noncompliance made pursuant to clause (i), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose the other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section, and disqualification from the receipt of financial assistance under this section.

"(iii) Notice.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under clause (ii).

"(C) Issuance of rules.—The Secretary shall establish by rule procedures for—

"(i) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(ii) imposing sanctions under this subsection.

"SEC. 2009. CHILD CARE DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING; EXTENDED ELIGIBILITY.

"(a) Child Care Guarantee.—

"(1) In general.—Each State agency referred to in section 2008(b)(1)(A) shall guarantee child care in accordance with section 2008—

"(A) for any individual who is participating in an education or training activity (including participation in a program established under part G of title IV) if the State agency approves the activity and determines that the individual is participating satisfactorily in the activity;

"(B) for each family with a dependent child (as defined in section 413(a)(2)(E)) requiring such care to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed, including in a community service job under part G of title IV; and

"(C) to the extent that the State agency determines that such care is necessary for the employment of an individual, if the family of which the individual is a member has ceased to receive assistance under the State plan approved under part A of title IV by reason of increased hours of, or income from, such employment, subject to paragraph (2) of this subsection.

"(2) Limitations on eligibility for transitional child care.—A family shall not be eligible for child care under paragraph (1)(C)—

"(A) for more than 12 months after the last month for which the family received assistance described in such paragraph;

"(B) if the family did not receive such assistance in at least 3 of the most recent 6 months in which the family received such assistance;

"(C) if the family does not include a child who is (or, if needy, would be) a dependent child (within the meaning of section 413(a)(2)(E));

"(D) for any month beginning after the caretaker relative (within the meaning of such part) in the family has terminated his or her employment without good cause; or

"(E) with respect to a child, for any month beginning after the caretaker relative in the family has refused to cooperate with the State in establishing or enforcing the obligation of any parent of the child to provide support for the child, without good cause as determined by the State agency in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child.

"(b) State Entitlement to Payments.—Each State with a plan approved under section 2008 shall be entitled to receive from the Secretary for any fiscal year an amount equal to—

"(1) the total amount expended by the State to carry out subsection (a) during the fiscal year; multiplied by

"(2) the Federal medical assistance percentage (as defined in the last sentence of section 1118).".

(c) Effective Date.—The amendments and repeals made by this section shall take effect on October 1, 1996.

SEC. 9206. CERTAIN FEDERAL ASSISTANCE INCLUDIBLE IN GROSS INCOME.

(a) In General.—Part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

"SEC. 91. CERTAIN FEDERAL ASSISTANCE.

"(a) In General.—Gross income shall include an amount equal to the specified Federal assistance received by the taxpayer during the taxable year.

"(b) Specified Federal Assistance.—For purposes of this section—

"(1) In general.—The term 'specified Federal assistance' means—

"(A) assistance provided under a State plan approved under part A of title IV of the Social Security Act (relating to temporary employment assistance program),

"(B) assistance provided under any food stamp program, and

"(C) supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66).

"(2) Special rule.—In the case of assistance provided under a program described in subsection (d)(2), such term shall include only the assistance required to be provided under section 21 or 22 (as the case may be) of the Food Stamp Act of 1977.

"(c) Individuals Subject to Tax.—For purposes of this section—

"(1) Temporary employment assistance program.—Assistance described in subsection (b)(1)(A) shall be treated as received by the relative with whom the dependent child is living (within the meaning of section 406(c) of the Social Security Act).

"(2) FOOD STAMPS.—In the case of assistance described in subsection (b)(1)(B)—

"(A) IN GENERAL.—Except as provided in subparagraph (B), such assistance shall be treated as received ratably by each of the individuals taken into account in determining the amount of such assistance for the benefit of such individuals.

"(B) ASSISTANCE TO CHILDREN TREATED AS RECEIVED BY PARENTS, ETC.—The amount of assistance which would (but for this subparagraph) be treated as received by a child shall be treated as received as follows:

"(i) If there is an includible parent, such amount shall be treated as received by the includible parent (or if there is more than 1 includible parent, as received ratably by each includible parent).

"(ii) If there is no includible parent and there is an includible grandparent, such amount shall be treated as received by the includible grandparent (or if there is more than 1 includible grandparent, as received ratably by each includible grandparent).

"(iii) If there is no includible parent or grandparent, such amount shall be treated as received ratably by each includible adult.

"(C) DEFINITIONS.—For purposes of subparagraph (B)—

"(i) CHILD.—The term 'child' means any individual who has not attained age 16 as of the close of the taxable year. Such term shall not include any individual who is an includible parent of a child (as defined in the preceding sentence).

"(ii) ADULT.—The term 'adult' means any individual who is not a child.

"(iii) INCLUDIBLE.—The term 'includible' means, with respect to any individual, an individual who is included in determining the amount of assistance paid to the household which includes the child.

"(iv) PARENT.—The term 'parent' includes the stepfather and stepmother of the child.

"(v) GRANDPARENT.—The term 'grandparent' means any parent of a parent of the child.

"(d) FOOD STAMP PROGRAM.—For purposes of subsection (b), the term 'food stamp program' means—

"(1) the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977), and

"(2) the portion of the program under sections 21 and 22 of such Act which provides food assistance."

(b) REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new section:

"SEC. 6050Q. PAYMENTS OF CERTAIN FEDERAL ASSISTANCE.

"(a) REQUIREMENT OF REPORTING.—The appropriate official shall make a return, according to the forms and regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of specified Federal assistance paid to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the aggregate amount of payments made to the individual which are required to be shown on such return, and

"(2) the name of the agency making the payments.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) APPROPRIATE OFFICIAL.—The term 'appropriate official' means—

"(A) in the case of specified Federal assistance described in section 91(b)(1)(A), the head of the State agency administering the plan under which such assistance is provided,

"(B) in the case of specified Federal assistance described in section 91(b)(1)(B), the head of the State agency administering the program under which such assistance is provided, and

"(C) in the case of specified Federal assistance described in section 91(b)(1)(C), the Secretary of Health and Human Services.

"(2) SPECIFIED FEDERAL ASSISTANCE.—The term 'specified Federal assistance' has the meaning given such term by section 91(b).

"(3) AMOUNTS TREATED AS PAID.—The rules of section 91(c) shall apply for purposes of determining to whom specified Federal assistance is paid."

(2) PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code is amended by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, and by inserting after clause (viii) the following new clause:

"(ix) section 6050Q (relating to payments of certain Federal assistance),".

(B) Paragraph (2) of section 6724(d) of such Code is amended by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, and by inserting after subparagraph (P) the following new subparagraph:

"(Q) section 6050Q(b) (relating to payments of certain Federal assistance),".

(c) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM, SUPPLEMENTAL SECURITY INCOME, AND FOOD STAMP BENEFITS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF THE EARNED INCOME TAX CREDIT.—Section 32 of the Internal Revenue Code of 1986 (relating to the earned income tax credit), is amended by adding at the end the following new subsection:

"(k) ADJUSTED GROSS INCOME DETERMINED WITHOUT REGARD TO CERTAIN FEDERAL ASSISTANCE.—For purposes of this section, adjusted gross income shall be determined without regard to any amount which is includible in gross income solely by reason of section 91."

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 91. Certain Federal assistance."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

"Sec. 6050Q. Payments of certain Federal assistance."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits received after December 31, 1995, except that the amendment made by subsection (c) shall apply to taxable years beginning after such date.

SEC. 9207. DEPENDENT CARE CREDIT TO BE REFUNDABLE; HIGH-INCOME TAXPAYERS INELIGIBLE FOR CREDIT.

(a) CREDIT TO BE REFUNDABLE.—

(1) IN GENERAL.—Section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is hereby moved to subpart C of part IV of subchapter A of chapter 1 of such Code (relating to refundable credits) and inserted after section 34.

(2) TECHNICAL AMENDMENTS.—

(A) Section 35 of such Code is redesignated as section 36.

(B) Section 21 of such Code is redesignated as section 35.

(C) Paragraph (1) of section 35(a) of such Code (as redesignated by subparagraph (B)) is amended by striking "this chapter" and inserting "this subtitle".

(D) Subparagraph (C) of section 129(a)(2) of such Code is amended by striking "section 21(e)" and inserting "section 35(e)".

(E) Paragraph (2) of section 129(b) of such Code is amended by striking "section 21(d)(2)" and inserting "section 35(d)(2)".

(F) Paragraph (1) of section 129(e) of such Code is amended by striking "section 21(b)(2)" and inserting "section 35(b)(2)".

(G) Subsection (e) of section 213 of such Code is amended by striking "section 21" and inserting "section 35".

(H) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period ", or from section 35 of such Code".

(I) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.".

(J) The table of sections for subpart A of such part IV is amended by striking the item relating to section 21.

(b) HIGHER-INCOME TAXPAYERS INELIGIBLE FOR CREDIT.—Subsection (a) of section 35 of such Code, as redesignated by subsection (a), is amended by adding at the end the following new paragraph:

"(3) PHASEOUT OF CREDIT FOR HIGHER-INCOME TAXPAYERS.—The amount of the credit which would (but for this paragraph) be allowed by this section shall be reduced (but not below zero) by an amount which bears the same ratio to such amount of credit as the excess of the taxpayer's adjusted gross income for the taxable year over $60,000 bears to $20,000. Any reduction determined under the preceding sentence which is not a multiple of $10 shall be rounded to the nearest multiple of $10.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle C—Work First

SEC. 9301. WORK FIRST PROGRAM.

(a) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part F and inserting the following:

"Part F—Work First Program

"SEC. 481. STATE ROLE.

"(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

"(1) OBJECTIVE.—The objective of the program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

"(2) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved under part A with the private sector labor market as soon as possible and offer them the support and skills necessary to remain in the labor market. Each component of the program should be permeated with an emphasis on employment and with an understanding that minimum wage jobs are a stepping stone to more highly paid employment. The program shall provide recipients with education, training, job search and placement, wage supplementation, temporary subsidized jobs, or such other services that the State deems necessary to help a recipient obtain private sector employment.

"(3) JOB CREATION.—The creation of jobs, with an emphasis on private sector jobs, shall be a component of the program and shall be a priority for each State office with responsibilities under the program.

"(4) FORMS OF ASSISTANCE.—The State shall provide assistance to participants in the program in the form of education, training, job placement services (including vouchers for job placement services), work supplementation programs, temporary subsidized job creation, job counseling, assistance in establishing microenterprises, or other services to provide individuals with the support and skills necessary to obtain and keep employment in the private sector.

"(5) 2-YEAR LIMITATION ON PARTICIPATION.—The program shall comply with section 487(b).

"(6) AGREEMENTS OF MUTUAL RESPONSIBILITY.—

"(A) IN GENERAL.—The State agency shall develop an agreement of mutual responsibility for each program participant, which will be an individualized comprehensive plan, developed by the team and the participant, to move the participant into a full-time unsubsidized job. The agreement should detail the education, training, or skills that the individual will be receiving to obtain a full-time unsubsidized job, and the obligations of the individual.

"(B) HOURS OF PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

"(i) not fewer than 20 hours per week during fiscal years 1997 and 1998;

"(ii) not fewer than 25 hours per week during fiscal year 1999; and

"(iii) not fewer than 30 hours per week thereafter.

"(7) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

"(8) NONDISPLACEMENT.—The program may not be operated in a manner that results in—

"(A) the displacement of a currently employed worker or position by a program participant;

"(B) the replacement of an employee who has been terminated with a program participant; or

"(C) the replacement of an individual who is on layoff from the same position given to a program participant or any equivalent position.

"(b) ANNUAL REPORTS.—

"(1) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under section 488(c).

"(2) COMPLIANCE WITH PARTICIPATION RATES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

"SEC. 482. REVAMPED JOBS PROGRAM.

"A State that establishes a program under this part may operate a program similar to the program known as the 'GAIN Program' that has been operated by Riverside County, California, under Federal law in effect immediately before the date this part first applies to the State of California.

"SEC. 483. USE OF PLACEMENT COMPANIES.

"(a) IN GENERAL.—A State that establishes a program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance.

"(b) REQUIRED CONTRACT TERMS.—Each contract entered into under this section with a company shall meet the following requirements:

"(1) PROVISION OF JOB READINESS AND SUPPORT SERVICES.—The contract shall require the company to provide, to any program participant who presents to the company a voucher issued under subsection (d) intensive personalized support and job readiness services designed to prepare the individual for employment and ensure the continued success of the individual in employment.

"(2) PAYMENTS.—

"(A) IN GENERAL.—The contract shall provide for payments to be made to the company with respect to each program participant who presents to the company a voucher issued under subsection (d).

"(B) STRUCTURE.—The contract shall provide for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid after the company has placed the participant in a position of full-time employment and the participant has been employed in the position for such period of not less than 5 months as the State deems appropriate.

"(c) COMPETITIVE BIDDING REQUIRED.—Contracts under this section shall be awarded only after competitive bidding.

"(d) VOUCHERS.—The State shall issue a voucher to each program participant whose agreement of mutual responsibility provides for the use of placement companies under this section, indicating that the participant is eligible for the services of such a company.

"SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

"A State that establishes a program under this part may establish a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

"SEC. 485. MICROENTERPRISE.

"(a) GRANTS AND LOANS TO NONPROFIT ORGANIZATIONS FOR THE PROVISION OF TECHNICAL ASSISTANCE, TRAINING, AND CREDIT TO LOW INCOME ENTREPRENEURS.—A State that establishes a program under this part may make grants and loans to nonprofit organizations to provide technical assistance, training, and credit to low income entrepreneurs for the purpose of establishing microenterprises.

"(b) MICROENTERPRISE DEFINED.—For purposes of this subsection, the term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"SEC. 486. WORK SUPPLEMENTATION PROGRAM.

"(a) IN GENERAL.—A State that establishes a program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable under the State plan approved under part A to participants in the program and use the sums instead for the purpose of providing and subsidizing jobs for the participants (as described in subsection (c)(3)(A) and (B)), as an alternative to providing such assistance to the participants.

"(b) STATE FLEXIBILITY.—

"(1) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this section and section 484 (as in effect immediately before the date this part first applies to the State).

"(2) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(3) Notwithstanding any other provision of law, a State operating a work supplementation program under this section may provide that the need standards in effect in those areas of the State in which the program is in operation may be different from the need standards in effect in the areas in which the program is not in operation, and the State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(4) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of assistance provided under the plan to different categories of recipients (as determined under paragraph (3)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(5) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section as described in subsection (a), the State may use a sampling methodology.

"(6) Notwithstanding any other provision of law, a State operating a work supplementation program under this section, may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c) RULES RELATING TO SUPPLEMENTED JOBS.—

"(1) A work supplementation program operated by a State under this section may provide that any individual who is an eligible individual (as determined under paragraph (2)) shall take a supplemented job (as defined in paragraph (3)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for temporary employment assistance under part A except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for assistance under an approved State plan if the State did not have a work supplementation program in effect.

"(3) For purposes of this subsection, a supplemented job is—

"(A) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(B) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by the State or local agency.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(d) COST LIMITATION.—The amount of the Federal payment to a State under section 413 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in the State under this section had received the maximum amount of assistance providable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for the lesser of—

"(1) 9 months; or

"(2) the number of months in which the individual was employed in the program.

"(e) RULES OF INTERPRETATION.—

"(1) This section shall not be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom the State or local agency provides a job under the work supplementation program (or with respect to whom the State or local agency provides all or part of the wages paid to the individual by another entity under the program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under the program be provided employee status by the entity during the first 13 weeks the individual fills the position.

"(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) PRESERVATION OF MEDICAID ELIGIBILITY.—Any State that chooses to operate a work supplementation program under this section shall provide that any individual who participates in the program, and any child or relative of the individual (or other individual living in the same household as the individual) who would be eligible for assistance under the State plan approved under part A if the State did not have a work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"SEC. 487. PARTICIPATION RULES.

"(a) IN GENERAL.—Except as provided in subsection (b), a State that establishes a program under this part may require any individual receiving assistance under the State plan approved under part A to participate in the program.

"(b) 2-YEAR LIMITATION ON PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate in a State program established under this part if the individual has participated in the State program established under this part for 24 months after the date the individual first signed an agreement of mutual responsibility under this part, excluding any month during which the individual worked for an average of at least 25 hours per week in a private sector job.

"(2) AUTHORITY TO ALLOW REPEAT PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B) of this paragraph, a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii) of this subparagraph, the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed—

"(I) 10 percent of the total number of individuals who participated in the State program established under this part or the State program established under part H during the immediately preceding program year; or

"(II) in the case of fiscal year 2004 or any succeeding fiscal year, 15 percent of such total number of individuals.

"(ii) AUTHORITY TO INCREASE LIMITATION.—

"(I) PETITION.—A State may request the Secretary to increase to not more than 15 percent the percentage limitation imposed by clause (i)(I) for a fiscal year before fiscal year 2004.

"(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"SEC. 488. CASELOAD PARTICIPATION RATES; PERFORMANCE MEASURES.

"(a) PARTICIPATION RATES.—

"(1) REQUIREMENT.—A State that operates a program under this part shall achieve a participation rate for the following fiscal years of not less than the following percentage:

"Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

"(2) PARTICIPATION RATE DEFINED.—

"(A) IN GENERAL.—As used in this subsection, the term 'participation rate' means, with respect to a State and a fiscal year, an amount equal to—

"(i) the average monthly number of individuals who, during the fiscal year, participate in the State program established under this part or (if applicable) part G or H; divided by

"(ii) the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility plan is in effect under section 403 during the fiscal year.

"(B) SPECIAL RULE.—For each of the 1st 12 months after an individual ceases to receive assistance under a State plan approved under part A by reason of having become employed for more than 25 hours per week in an unsubsidized job in the private sector, the individual shall be considered to be participating in the State program established under this part, and to be an adult recipient of such assistance, for purposes of subparagraph (A).

"(3) STATE COMPLIANCE REPORTS.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

"(4) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(A) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by paragraph (1) for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(B) SECOND CONSECUTIVE FAILURE.—Notwithstanding subparagraph (A), if a State fails to achieve the participation rate required by paragraph (1) for 2 consecutive fiscal years, the Secretary may—

"(i) require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G; and

"(ii) reduce by 5 percent the amount otherwise payable to the State under section 413.

"(b) PERFORMANCE STANDARDS.—The Secretary shall develop standards to be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"(c) PERFORMANCE-BASED MEASURES.—

"(1) ESTABLISHMENT.—The Secretary shall, by regulation, establish measures of the effectiveness of the State programs established under this part and under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(2) ANNUAL COMPLIANCE REPORTS.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under paragraph (1).

"SEC. 489. FEDERAL ROLE.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—Within 60 days after the date a State submits to the Secretary a plan that provides for the establishment and operation of a work first program that meets the requirements of section 481, the Secretary shall approve the plan.

"(2) AUTHORITY TO EXTEND APPROVAL DEADLINE.—The 60-day deadline established in paragraph (1) with respect to a State may be extended in accordance with an agreement between the Secretary and the State.

"(b) PERFORMANCE-BASED MEASURES.—The Secretary shall, by regulation, establish measures of the effectiveness of the State program established under this part and (if the State has established a program under part G) the State program established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(c) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(1) In general.—If a State reports that the State has failed to achieve the participation rate required by section 488 for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(2) Second consecutive failure.—Notwithstanding paragraph (1), if the State has failed to achieve the participation rates required by section 488 for 2 consecutive fiscal years, the Secretary may require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G.

"Part G—Workfare Program

"SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.

"(a) In General.—A State that establishes a work first program under part F may establish and carry out a workfare program that meets the requirements of this part, unless the State has established a job placement voucher program under part H.

"(b) Objective.—The objective of the workfare program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

"(c) Case Management Teams.—The State shall assign to each program participant a case management team that shall meet with the participant and assist the participant to choose the most suitable workfare job under subsection (e), (f), or (g) and to eventually obtain a full-time unsubsidized paid job.

"(d) Provision of Jobs.—The State shall provide each participant in the program with a community service job that meets the requirements of subsection (e) or a subsidized job that meets the requirements of subsection (f) or (g).

"(e) Community Service Jobs.—

"(1) In general.—Except as provided in paragraphs (2) and (3), each participant shall work for not fewer than 30 hours per week (or, at the option of the State, 20 hours per week during fiscal years 1997 and 1998, not fewer than 25 hours per week during fiscal year 1999, not fewer than 30 hours per week during fiscal years 2000 and 2001, and not fewer than 35 hours per week thereafter) in a community service job, and be paid at a rate which is not greater than 75 percent (or, at the option of the State, 100 percent) of the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with no income.

"(2) Exception.—(A) If the participant has obtained unsubsidized part-time employment in the private sector, the State shall provide the participant with a part-time community service job.

"(B) If the State provides a participant a part-time community service job under subparagraph (A), the State shall ensure that the participant works for not fewer than 30 hours per week.

"(3) Wages not considered earned income.—Wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law.

"(4) Community service job defined.—For purposes of this section, the term 'community service job' means—

"(A) a job provided to a participant by the State administering the State plan under part A; or

"(B) a job provided to a participant by any other employer for which all or part of the wages are paid by the State.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(f) Temporary Subsidized Job Creation.—A State that establishes a workfare program under this part may establish a program similar to the program operated by the State of Oregon, which is known as 'JOBS Plus'.

"(g) Work Supplementation Program.—

"(1) In general.—A State that establishes a workfare program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as a community service minimum wage and use the sums instead for the purpose of providing and subsidizing private sector jobs for the participants.

"(2) Employer agreement.—An employer who provides a private sector job to a participant under paragraph (1) shall agree to provide to the participant an amount in wages equal to the poverty threshold for a family of three.

"(h) Job Search Requirement.—The State shall require each participant to spend a minimum of 5 hours per week on activities related to securing unsubsidized full-time employment in the private sector.

"(i) Duration of Participation.—

"(1) In general.—Except as provided in paragraph (2), an individual may not participate for more than 2 years in a workfare program under this part.

"(2) Authority to allow repeated participation.—

"(A) In general.—Subject to subparagraph (B), a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) Limitation on percentage of repeat participants.—

"(i) In general.—Except as provided in clause (ii), the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed 10 percent of the total number of individuals who participated in the program during the immediately preceding program year.

"(ii) Authority to increase limitation.—

"(I) Petition.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

"(II) Authority to grant request.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"(j) Use of Placement Companies.—A State that establishes a workfare program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

"(k) Maximum of 3 Community Service Jobs.—A program participant may not receive more than 3 community service jobs under the program.

"Part H—Job Placement Voucher Program

"SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.

"A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

"(1) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

"(2) An employer who receives a voucher issued under the program from an individual may redeem the voucher at any time after the individual has been employed by the employer for 6 months, unless another employee of the employer was displaced by the employment of the individual.

"(3) Upon presentation of a voucher by an employer to the State agency responsible for the administration of the program, the State agency shall pay to the employer an amount equal to 50 percent of the total amount of assistance provided under the State plan approved under part A to the family of which the individual is a member for the most recent 12 months for which the family was eligible for such assistance.".

(c) Funding.—Section 413(a), as added by section 9101(a) of this Act, is amended—

(1) by striking "Subject to" and inserting the following:

"(1) In general.—Subject to"; and

(2) by inserting after and below the end the following:

"(2) Work first and other programs.—(A) Each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such paragraph) of its expenditures to carry out such programs (subject to limitations prescribed by or pursuant to such parts or this part on expenditures that may be included for purposes of determining payment under paragraph (3)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under subparagraph (B) with respect to the State.

"(B) The limitation determined under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (C) for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(C)(i) The amount specified in this subparagraph is—

"(I) $1,600,000,000 for fiscal year 1997;

"(II) $1,600,000,000 for fiscal year 1998;

"(III) $1,900,000,000 for fiscal year 1999;

"(IV) $2,500,000,000 for fiscal year 2000; and

"(V) $3,200,000,000 for fiscal year 2001; and

"(VI) $4,700,000,000 for fiscal year 2002; and

"(VII) the amount determined under clause (ii) for fiscal year 2003 and each succeeding fiscal year.

"(ii) The amount determined under this clause for a fiscal year is the product of the following:

"(I) The amount specified in this subparagraph for the immediately preceding fiscal year.

"(II) 1.00 plus the percentage (if any) by which—

"(aa) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the most recent 12-month period for which such information is available; exceeds

"(bb) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

"(III) The amount that bears the same ratio to the amount specified in this subparagraph for the immediately preceding fiscal year as the number of individuals whom the Secretary estimates will participate in programs operated under part F, G, or H during the fiscal year bears to the total number of individuals who participated in such programs during such preceding fiscal year.

"(D) For purposes of this paragraph, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with assistance provided under the State plan approved under this part.

"(E) For purposes of subparagraph (D), the term 'dependent child' means a needy child (i) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (ii) who is (I) under the age of eighteen, or (II) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).

"(F) For purposes of subparagraph (E), the term 'relative with whom any dependent child is living' means the individual who is one of the relatives specified in subparagraph (E) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

"(3)(A) In lieu of any payment under paragraph (1) therefor, the Secretary shall pay to each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H, with respect to expenditures by the State to carry out such programs, an amount equal to—

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services; and

"(II) 60 percent or the Federal medical assistance percentage (as defined in the last sentence of section 1118), whichever is the greater, in the case of expenditures made by a State in operating such programs for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating such programs may be in cash or in kind, fairly evaluated.

"(C) Not more than 10 percent of the amount payable to a State under this paragraph for a quarter may be for expenditures made during the quarter with respect to program participants who are not eligible for assistance under the State plan approved under this part.".

(d) Secretary's Special Adjustment Fund.—Section 413(a), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(4) Secretary's Special Adjustment Fund.—(A) There shall be available to the Secretary from the amount appropriated for payments under paragraph (2) for States' programs under parts F and G for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for such programs.

"(B) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its program under part F (and, in fiscal years after 1997) its program under part G for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under paragraph (2) in the current fiscal year and obligated 95 percent of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

"(C) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under paragraph (2), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in such paragraph shall be considered to be so increased for the following fiscal year.

"(D) The amount made available under subparagraph (A) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under paragraph (2) of this subsection and section 2008 for a fiscal year exceeded the sum of the Federal payments under such provisons of law for such fiscal year, but for fiscal years after 1997, such amount at the end of such fiscal year shall not exceed $400,000,000.".

(e) Conforming Amendments.—

(1) Section 1115(b)(2)(A) (42 U.S.C. 1315(b)(2)(A)) is amended by striking ", and 402(a)(19) (relating to the work incentive program)".

(2) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking "or, in the case of part A of title IV, section 403(k)"; and

(B) in subsection (d), by striking "(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)".

(3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended—

(A) by striking "402(a)(37), 406(h), or"; and

(B) by striking "482(e)(6)" and inserting "486(f)".

(4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1)) is amended by striking "482(e)(6)" and inserting "486(f)".

(f) Intent of the Congress.—The Congress intends for State activities under section 484 of the Social Security Act (as added by the amendment made by section 9301(a) of this Act) to emphasize the use of the funds that would otherwise be used to provide individuals with assistance under part A of title IV of the Social Security Act and with food stamp benefits under the Food Stamp Act of 1977, to subsidize the wages of such individuals in temporary jobs.

(g) Sense of the Congress.—It is the sense of the Congress that States should target individuals who have not attained 25 years of age for participation in the program established by the State under part F of title IV of the Social Security Act (as added by the amendment made by section 9301(a) of this section) in order to break the cycle of welfare dependency.

SEC. 9302. REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

SEC. 9303. APPLICABILITY TO STATES.

(a) State Option to Accelerate Applicability.—If a State formally notifies the Secretary of Health and Human Services that the State desires to accelerate the applicability to the State of the amendments made by this subtitle, the amendments shall apply to the State on and after such earlier date as the State may select.

(b) State Option to Delay Applicability Until Waivers Expire.—The amendments made by this subtitle shall not apply to a State with respect to which there is in effect a waiver issued under section 1115 of the Social Security Act for the State program established under part F of title IV of such Act, until the waiver expires, if the State formally notifies the Secretary of Health and Human Services that the State desires to so delay such effective date.

(c) Authority of the Secretary of Health and Human Services to Delay Applicability to a State.—If a State formally notifies the Secretary of Health and Human Services that the State desires to delay the applicability to the State of the amendments made by this title, the amendments shall apply to the State on and after any later date agreed upon by the Secretary and the State.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV–D PROGRAM CLIENTS

SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) State Law Requirements.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

"(12) Use of central case registry and centralized collections unit.—Procedures under which—

"(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

"(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

"(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

"(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

"(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

"(ii) an agreement described in clause (i) becomes void whenever either party advises the State agency of an intent to vacate the agreement.".

(b) State Plan Requirements.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) provide that such State will undertake—

"(A) to provide appropriate services under this part to—

"(i) each child with respect to whom an assignment is effective under section 403(b)(1)(E)(i), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

"(ii) each child not described in clause (i)—

"(I) with respect to whom an individual applies for such services; and

"(II) (on and after October 1, 1998) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

"(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A) unless the parties to the order which establishes the support obligation have opted, in accordance with section 466(a)(12)(C), for an alternative payment procedure."; and

(2) in paragraph (6)—

(A) by striking subparagraph (A) and inserting the following:

"(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;";

(B) in subparagraph (B)—

(i) by inserting "on individuals not receiving assistance under part A" after "such services shall be imposed"; and

(ii) by inserting "but no fees or costs shall be imposed on any absent or custodial parent or other individual for inclusion in the central State registry maintained pursuant to section 454A(e)"; and

(C) in each of subparagraphs (B), (C), and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(ii) by striking the final comma and inserting a semicolon.

(c) Conforming Amendments.—

(1) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(2) Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking "information as to any application fees for such services and".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "or (6)".

SEC. 9402. DISTRIBUTION OF PAYMENTS.

(a) Distributions Through State Child Support Enforcement Agency to Former Assistance Recipients.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by striking section 402(a)(26) is effective," and inserting "section 403(b)(1)(E)(i) is effective, except as otherwise specifically provided in section 464 or 466(a)(3),"; and

(B) by striking "except that" and all that follows through the semicolon; and

(2) in subparagraph (B), by striking ", except" and all that follows through "medical assistance".

(b) Distribution to a Family Currently Receiving Temporary Employment Assistance.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a) (as so redesignated)—

(A) in the matter preceding paragraph (2), to read as follows:

"(a) In the Case of a Family Receiving TEA.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;";

(B) in paragraph (4), by striking "or (B)" and all that follows through the period and inserting "; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family."; and

(3) by inserting after subsection (a) (as so redesignated) the following new subsection:

"(b) Alternative Distribution in Case of Family Receiving TEA.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;

and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

"(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(5) fifth, any remainder shall be paid to the family.".

(c) Distribution to a Family Not Receiving TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

"(c) Distributions In Case of Family Not Receiving TEA.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

"(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

"(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).".

(d) Distribution to a Child Receiving Assistance Under Title IV–E.—Section 457(d)

(42 U.S.C. 657(d)) is amended, in the matter preceding paragraph (1), by striking "Notwithstanding the preceding provisions of this section, amounts" and inserting the following:

"(d) DISTRIBUTIONS IN CASE OF A CHILD RECEIVING ASSISTANCE UNDER TITLE IV-E.—Amounts".

(e) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations under part A of title IV of the Social Security Act, establishing standards applicable to States electing the alternative formula under section 457(b) of such Act for distribution of collections on behalf of families receiving temporary employment assistance, designed to minimize irregular monthly payments to such families.

(f) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by inserting after the semicolon "and"; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall become effective on October 1, 1996.

(2) FAMILY NOT RECEIVING TEA.—The amendment made by subsection (c) shall become effective on October 1, 1999.

(3) SPECIAL RULES.—

(A) APPLICABILITY.—A State may elect to have the amendments made by any subsection of this section become effective only with respect to child support cases beginning on or after the effective date of such subsection.

(B) DELAYED IMPLEMENTATION.—A State may elect to have the amendments made by this section (other than subsection (c)) become effective on a date later than October 1, 1996, which date shall coincide with the operation of the single statewide automated data processing and information retrieval system required by section 454A of the Social Security Act (as added by section 9415(a)(2) of this Act) and the State centralized collection unit required by section 454B of the Social Security Act (as added by section 9422(b) of this Act).

SEC. 9403. DUE PROCESS RIGHTS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 9402(f) of this Act, is amended by inserting after paragraph (11) the following new paragraph:

"(12) provide for procedures to ensure that—

"(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination;

"(B) individuals applying for or receiving services under this part have access to a fair hearing that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order); and

"(C) individuals adversely affected by the establishment or modification of (or, in the case of a petition for modification, the determination that there should be no change in) a child support order shall be afforded not less than 30 days after the receipt of the order or determination to initiate proceedings to challenge such order or determination;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 9404. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 454) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following:

"(25) will have in effect safeguards applicable to all sensitive and confidential information handled by the State agency designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions on the release of information on the whereabouts of one party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions on the release of information on the whereabouts of one party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—PROGRAM ADMINISTRATION AND FUNDING

SEC. 9411. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1997, 69 percent,

"(B) for fiscal year 1998, 72 percent, and

"(C) for fiscal year 1999 and succeeding fiscal years, 75 percent.".

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) MAINTENANCE OF EFFORT.—Notwithstanding the provisions of subsection (a), total expenditures for the State program under this part for fiscal year 1997 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subsection (a)(2)(A), (B), or (C)(i), shall not be less than such total expenditures for fiscal year 1996, reduced by 66 percent.".

SEC. 9412. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE ADJUSTMENTS TO FEDERAL MATCHING RATE.—Section 458 (42 U.S.C. 658) is amended to read as follows:

"INCENTIVE ADJUSTMENTS TO MATCHING RATE

"SEC. 458. (a) INCENTIVE ADJUSTMENT.—(1) IN GENERAL.—In order to encourage and reward State child support enforcement programs which perform in an effective manner, the Federal matching rate for payments to a State under section 455(a)(1)(A), for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

"(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

"(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

"(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

"(I) 5 percentage points, in connection with Statewide paternity establishment; and

"(II) 10 percentage points, in connection with overall performance in child support enforcement.

"(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

"(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

"(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

"(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A State shall expend in the State program under this part all funds paid to the State by the Federal Government as a result of an incentive adjustment under this section.

"(b) MEANING OF TERMS.—For purposes of this section—

"(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

"(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

"(B) the total number of children born out of wedlock in the State during such fiscal year; and

"(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

"(A) the percentage of cases requiring a child support order in which such an order was established;

"(B) the percentage of cases in which child support is being paid;

"(C) the ratio of child support collected to child support due; and

"(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.".

(b) ADJUSTMENT OF PAYMENTS UNDER PART D OF TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 9411(a) of this Act, is amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

"increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.".

(c) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking "incentive payments" the first place it appears and inserting "incentive adjustments"; and

(2) by striking "any such incentive payments made to the State for such period" and inserting "any increases in Federal payments to the State resulting from such incentive adjustments".

(d) CALCULATION OF IV-D PATERNITY ESTABLISHMENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,".

(2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by striking "paternity establishment percentage" and inserting "IV-D paternity establishment percentage"; and

(ii) by striking "(or all States, as the case may be)";

(B) in subparagraph (A)(i), by striking "during the fiscal year";

(C) in subparagraph (A)(ii)(I), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(D) in subparagraph (A)(ii)(II), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(E) in subparagraph (A)(iii)—

(i) by striking "during the fiscal year"; and

(ii) by striking "and" at the end; and

(F) in the matter following subparagraph (A)—

(i) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(ii) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(iii) by striking "or (E)" the second place it appears.

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated, by striking "the percentage of children born out-of-wedlock in the State" and inserting "the percentage of children in the State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B), as redesignated—

(i) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(ii) by inserting "and securing support" before the period.

(e) REDUCTION OF PAYMENTS UNDER PART D OF TITLE IV.—

(1) NEW REQUIREMENTS.—Section 455 (42 U.S.C. 655) is amended by inserting after subsection (b) the following:

"(c)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

"(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV-D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

"(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(B) that, with respect to the succeeding fiscal year—

"(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

"(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

"(2) The reductions required under paragraph (1) shall be—

"(A) not less than 6 nor more than 8 percent, or

"(B) not less than 8 nor more than 12 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

"(C) not less than 12 nor more than 15 percent, if the finding is the third or a subsequent consecutive such finding.

"(3) For purposes of this subsection, section 405(d), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.".

(2) CONFORMING AMENDMENTS.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking "403(h)" each place such term appears and inserting "455(c)".

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking "403(h)" and inserting "455(c)".

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1997, except to the extent provided in subparagraph (B).

(B) Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program under this part, which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

"(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV-D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(c) to be applied to the State;

"(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

"(ii) of the adequacy of financial management of the State program, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) Effective Date.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) Establishment.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes and timely case processing) to be applied in following such procedures" before the semicolon.

(b) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by section 9404(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following:

"(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) Revised Requirements.—(1) Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"AUTOMATED DATA PROCESSING

"Sec. 454A. (a) In General.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

"(b) Program Management.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

"(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

"(c) Calculation of Performance Indicators.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV-D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) Information Integrity and Security.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

"(1) Policies restricting access.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

"(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

"(2) Systems controls.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

"(3) Monitoring of access.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) Training and information.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

"(5) Penalties.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) Regulations.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.".

(4) Implementation Timetable.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 9404(a)(2) and 9414(b)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j) of this Act;".

(b) Special Federal Matching Rate for Development Costs of Automated Systems.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(B) by striking "so much of"; and

(C) by striking "which the Secretary" and all that follows and inserting ", and"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

"(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

"(I) 80 percent, or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(c) Conforming Amendment.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

(d) Additional Provisions.—For additional provisions of section 454A, as added by subsection (a) of this section, see the amendments made by sections 9421, 9422(c), and 9433(d) of this Act.

SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.

(a) Reporting to Secretary.—Section 452(a) (42 U.S.C. 652(a)) is amended in the matter preceding paragraph (1) by striking "directly".

(b) Staffing Studies.—

(1) Scope.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) Frequency of studies.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) Report to the congress.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 (42 U.S.C. 652), as amended by section 9415(a)(3) of this Act, is amended by adding at the end the following new subsection:

"(k) FUNDING FOR FEDERAL ACTIVITIES ASSISTING STATE PROGRAMS.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

"(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

"(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

"(C) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

"(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving assistance under State plans approved under part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

"(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

"(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).".

SEC. 9418. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following indented clauses:

"(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

"(II) with respect to whom a child support payment was received in the same month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

"(1) families (or dependent children) receiving assistance under State plans approved under part A (or E); and

"(2) families not receiving such assistance.

"(b) The data referred to in subsection (a) are—

"(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

"(2) the number of such cases in which the service has been provided."; and

(2) in subsection (c), by striking "(a)(2)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 3—LOCATE AND CASE TRACKING

SEC. 9421. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 9415(a)(2) of this Act, is amended by adding at the end the following:

"(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

"(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

"(B) the date on which or circumstances under which the support obligation will terminate under such order;

"(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

"(D) the distribution of such amounts collected; and

"(E) the birth date of the child for whom the child support order is entered.

"(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from matches with Federal, State, or local data sources;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

"(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnish to the Data Bank of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

"(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 9422. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a) and 9414(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that the State agency, on and after October 1, 1998—

"(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

"(B) will have sufficient State staff (consisting of State employees), and (at State option) contractors reporting directly to the

State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).''.

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV (42 U.S.C. 651–669) is amended by adding after section 454A the following new section:

''CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

''SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(27), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

''(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

''(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

''(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

''(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

''(2) for accurate identification of payments;

''(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

''(4) to furnish to either parent, upon request, timely information on the current status of support payments.''.

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by section 9421 of this Act, is amended by adding at the end the following new subsection:

''(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

''(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

''(A) within two working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

''(B) using uniform formats directed by the Secretary;

''(2) ongoing monitoring to promptly identify failures to make timely payment; and

''(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—(1) Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

''(1) INCOME WITHHOLDING.—(A) UNDER ORDERS ENFORCED UNDER THE STATE PLAN.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

''(B) UNDER CERTAIN ORDERS PREDATING CHANGE IN REQUIREMENT.—Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.''.

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)'';

(B) in paragraph (5), by striking all that follows ''administered by'' and inserting ''the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.'';

(C) in paragraph (6)(A)(i)—

(i) by inserting '', in accordance with timetables established by the Secretary,'' after ''must be required''; and

(ii) by striking ''to the appropriate agency'' and all that follows and inserting ''to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.'';

(D) in paragraph (6)(A)(ii), by inserting ''be in a standard format prescribed by the Secretary, and'' after ''shall''; and

(E) in paragraph (6)(D)—

(i) by striking ''employer who discharges'' and inserting ''employer who—(A) discharges'';

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

''(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.''.

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) DEFINITION OF TERMS.—The Secretary shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term ''income'' and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 9423(a)(2) of this Act, is amended by inserting after paragraph (7) the following:

''(8) LOCATOR INFORMATION FROM INTERSTATE NETWORKS.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

''(A) for purposes relating to the use of motor vehicles; or

''(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.''.

SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows ''subsection (c))'' and inserting the following:

'', for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

''(1) information on, or facilitating the discovery of, the location of any individual—

''(A) who is under an obligation to pay child support;

''(B) against whom such an obligation is sought; or

''(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

''(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

''(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''social security'' and all that follows through ''absent parent'' and inserting ''information specified in subsection (a)''; and

(B) in paragraph (2), by inserting before the period '', or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))'';

(3) in subsection (e)(1), by inserting before the period '', or by consumer reporting agencies''.

(b) REIMBURSEMENT FOR DATA FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period ''in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)''.

(c) ACCESS TO CONSUMER REPORTS UNDER FAIR CREDIT REPORTING ACT.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking '', limited to'' and inserting ''to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to''; and

(B) by striking ''employment, to a governmental agency'' and inserting ''employment, in the case of any other governmental agency)''.

(2) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES AND CREDIT BUREAUS.—Section 453

(42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).".

(d) DISCLOSURE OF TAX RETURN INFORMATION.—(1) Section 6103(l)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking ", but only if" and all that follows and inserting a period.

(2) Section 6103(l)(8)(A) of the Internal Revenue Code of 1986 is amended by inserting "Federal," before "State or local".

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting "Federal" before "Parent" each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2) of this section, is amended by adding at the end the following:

"(h) DATA BANK OF CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) CASE INFORMATION.—The information referred to in paragraph (1), as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

"(i) DIRECTORY OF NEW HIRES.—

"(1) IN GENERAL.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

"(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

"(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

"(2) EMPLOYER INFORMATION.—

"(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory established under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

"(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

"(i) automated or electronic transmission of such reports;

"(ii) transmission by regular mail; and

"(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

"(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

"(D) PAPERWORK REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

"(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

"(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(iii) Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

"(3) EMPLOYMENT SECURITY INFORMATION.—

"(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

"(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

"(j) DATA MATCHES AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

"(i) the name, social security number, and birth date of each individual; and

"(ii) the employer identification number of each employer.

"(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

"(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less often than every 2 working days; and

"(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

"(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

"(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

"(B) disclose data in such registries to such State agencies,

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

"(k) FEES.—

"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

"(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

"(m) RETENTION OF DATA.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

"(n) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respeot to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(o) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service section and disclosed by the Secretary in accordance with this section.".

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding after paragraph (9) the following new paragraph:

"(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.".

SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 9401(a) of this Act, is amended by inserting after paragraph (12) the following:

"(13) SOCIAL SECURITY NUMBERS REQUIRED.—Procedures requiring the recording of social security numbers—

"(A) of both parties on marriage licenses and divorce decrees; and

"(B) of both parents, on birth records and child support and paternity orders.".

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting "This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.".

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and 9426(a) of this Act, is amended inserting after paragraph (13) the following:

"(14) INTERSTATE ENFORCEMENT.—(A) ADOPTION OF UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

"(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

"(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

"(ii) in which interstate activity is required to enforce an order.

"(C) JURISDICTION TO MODIFY ORDERS.—The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) do not reside in the issuing State; and

"'(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

"'(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(D) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

"(E) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.".

SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If one or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only one court has issued a child support order, the order of that court must be recognized.

"(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following:

"(i) Registration for Modification.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) State Law Requirements.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by adding after subsection (b) the following new subsection:

"(c) Expedited Procedures.—The procedures specified in this subsection are the following:

"(1) Administrative action by State agency.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

"(A) Genetic testing.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) Default orders.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

"(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

"(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

"(C) Subpoenas.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

"(D) Access to personal and financial information.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records; and

"(ii) certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

"(E) Income withholding.—To order income withholding in accordance with subsection (a)(1) and (b) of section 466.

"(F) Change in payee.—(In cases where support is subject to an assignment under section 403(b)(1)(E)(i), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(G) Secure assets to satisfy arrearages.—For the purpose of securing overdue support—

"(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

"(I) unemployment compensation, workers' compensation, and other benefits;

"(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

"(III) lottery winnings;

"(ii) to attach and seize assets of the obligor held by financial institutions;

"(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

"(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) Increase monthly payments.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

"(I) Suspension of drivers' licenses.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

"(2) Substantive and procedural rules.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) Locator information; presumptions concerning notice.—Procedures under which—

"(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

"(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

"(B) Statewide jurisdiction.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

"(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(c) Exceptions from State Law Requirements.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking "(d) If" and inserting the following:

"(d) Exemptions From Requirements.—

"(1) In general.—Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) Nonexempt requirements.—The Secretary shall not grant an exemption from the requirements of—

"(A) subsection (a)(5) (concerning procedures for paternity establishment);

"(B) subsection (a)(10) (concerning modification of orders);

"(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

"(D) subsection (a)(13) (concerning recording of Social Security numbers);

"(E) subsection (a)(14) (concerning interstate enforcement); or

"(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).".

(d) Automation of State Agency Functions.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by sections 9421 and 9422(c) of this Act, is amended by adding at the end the following new subsection:

"(h) Expedited Administrative Procedures.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).".

CHAPTER 5—PATERNITY ESTABLISHMENT

SEC. 9441. SENSE OF THE CONGRESS.

It is the sense of the Congress that social services should be provided in hospitals to women who have become pregnant as a result of rape or incest.

SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES FOR NEW FATHERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), and 9431 of this Act, is amended by inserting after paragraph (14) the following:

"(15) Procedures for providing new fathers with positive parenting counseling that stresses the importance of paying child support in a timely manner, in accordance with regulations prescribed by the Secretary.".

SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) In General.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide that the State agency administering the plan under this part—

"(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 403(b)(1)(E)(i) and 1912;

"(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

"(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

"(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

"(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

"(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

"(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

"(i) the name of the putative father (or fathers); and

"(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

"(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

"(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate)) will not later determine such individual not to be cooperating (or not to have good cause not to cooperate) until such individual has been afforded an opportunity for a hearing.".

(b) MEDICAID AMENDMENTS.—Section 1912(a) (42 U.S.C. 1396k(a)) is amended—

(1) in paragraph (1)(B), by inserting "(except as provided in paragraph (2))" after "to cooperate with the State";

(2) in subparagraphs (B) and (C) of paragraph (1) by striking ", unless" and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

"(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

"(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

"(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

"(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

"(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

"(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate; and

"(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

"(i) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after the date of the enactment of this Act (or such earlier quarter as the State may select) for assistance under a State plan approved under part A of title IV of the Social Security Act or for medical assistance under a State plan approved under title XIX of such Act.

SEC. 9444. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1996, 69 percent;

"(B) for fiscal year 1997, 72 percent; and

"(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.".

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following:

"(c) MAINTENANCE OF EFFORT.—Notwithstanding subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.".

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking "(5)" and inserting the following:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—";

(2) in subparagraph (A)—

(A) by striking "(A)(i)" and inserting the following:

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN.—(i)"; and

(B) by indenting clauses (i) and (ii) so that the left margin of such clauses is 2 ems to the right of the left margin of paragraph (4);

(3) in subparagraph (B)—

(A) by striking "(B)" and inserting the following:

"(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)";

(B) in clause (i), as redesignated, by inserting before the period ", where such request is supported by a sworn statement (I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties, or (II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;";

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

"(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.";

(4) by striking subparagraphs (C) and (D) and inserting the following:

"(C) PATERNITY ACKNOWLEDGMENT.—(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

"(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as, voluntary paternity establishment programs of hospitals and birth record agencies.

"(v) Such procedures must require the State and those required to establish paternity to use only the affidavit developed under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

"(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

"(aa) attaining the age of majority; or

"(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.";

(5) by striking subparagraph (E) and inserting the following:

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.";

(6) by striking subparagraph (F) and inserting the following:

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

"(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and

"(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy."; and

(7) by adding after subparagraph (H) the following new subparagraphs:

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

"(L) WAIVER OF STATE DEBTS FOR COOPERATION.—At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

"(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security account number of each parent" before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

"(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

"(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

"(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;".

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon ", and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1997.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Child Support Guidelines Commission" (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—The Commission shall develop a national child support guideline for consideration by the Congress that is based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

(a) In General.—Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) Procedures for Modification of Support Orders.—

"(A)(i) Procedures under which—

"(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

"(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

"(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

"(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be established by the Secretary and provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.".

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.

(a) Changed Order of Refund Distribution Under Internal Revenue Code.—Section 6402(c) of the Internal Revenue Code of 1986 is amended by striking the 3rd sentence.

(b) Elimination of Disparities in Treatment of Assigned and Non-Assigned Arrearages.—(1) Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) by striking "(a)" and inserting "(a) Offset Authorized.—";

(B) in paragraph (1)—

(i) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(C) in paragraph (2), to read as follows:

"(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 403(b)(1)(E)(i) or 471(a)(17); and

"(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.";

(D) in paragraph (3)—

(i) by striking "or (2)" each place it appears; and

(ii) in subparagraph (B), by striking "under paragraph (2)" and inserting "on account of past-due support described in paragraph (2)(B)".

(2) Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking "(b)(1)" and inserting "(b) Regulations.—"; and

(B) by striking paragraph (2).

(3) Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), as" and inserting "(c) Definition.—As"; and

(B) by striking paragraphs (2) and (3).

(c) Effective Date.—The amendments made by this section shall become effective October 1, 1999.

SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) Amendment to Internal Revenue Code.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting "except as provided in paragraph (5)" after "collected";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(5) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) Effective Date.—The amendments made by this section shall become effective October 1, 1997.

SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) Consolidation and Streamlining of Authorities.—

(1) Section 459 (42 U.S.C. 659) is amended in the caption by inserting "INCOME WITHHOLDING," before "GARNISHMENT".

(2) Section 459(a) (42 U.S.C. 659(a)) is amended—

(A) by striking "(a)" and inserting "(a) Consent To Support Enforcement.—

(B) by striking "section 207" and inserting "section 207 of this Act and 38 U.S.C. 5301"; and

(C) by striking all that follows "a private person," and inserting "to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.".

(3) Section 459(b) (42 U.S.C. 659(b)) is amended to read as follows:

"(b) Consent to Requirements Applicable to Private Person.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.".

(4) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking "responding to interrogatories pursuant to requirements imposed by section 461(b)(3)" and inserting "taking actions necessary to comply with the requirements of subsection (A) with regard to any individual"; and

(B) by striking "any of his duties" and all that follows and inserting "such duties.".

(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (b), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (b) (as added by paragraph (3) of this subsection) the following:

"(c) Designation of Agent; Response to Notice or Process.—(1) The head of each agency subject to the requirements of this section shall—

"(A) designate an agent or agents to receive orders and accept service of process; and

"(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.".

(6) Section 459 (42 U.S.C. 659) is amended by striking subsection (d) and by inserting after subsection (c)(1) (as added by paragraph (5) of this subsection) the following:

"(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

"(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.".

(7) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (c) (as added by paragraph (5) and amended by paragraph (6) of this subsection) the following:

"(d) Priority of Claims.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

"(3) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(8) Section 459(e) (42 U.S.C. 659(e)) is amended by striking "(e)" and inserting the following:

"(e) No Requirement To Vary Pay Cycles.—".

(9) Section 459(f) (42 U.S.C. 659(f)) is amended by striking "(f)" and inserting the following:

"(f) Relief From Liability.—(1)".

(10) Section 461(a) (42 U.S.C. 661(a)) is redesignated and relocated as section 459(g), and is amended—

(A) by striking "(g)" and inserting the following:

"(g) REGULATIONS.—"; and

(B) by striking "section 459" and inserting "this section".

(11) Section 462 (42 U.S.C. 662) is amended by striking subsection (f), and section 459 (42 U.S.C. 659) is amended by inserting the following after subsection (g) (as added by paragraph (10) of this subsection):

"(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); and

"(iii) worker's compensation benefits paid under Federal or State law; but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.".

(12) Section 462(g) (42 U.S.C. 662(g)) is redesignated and relocated as section 459(i) (42 U.S.C. 659(i)).

(13)(A) Section 462 (42 U.S.C. 662) is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 (42 U.S.C. 659) is amended by adding at the end the following:

"(j) DEFINITIONS.—For purposes of this section—".

(C) Subsections (a) through (e) of section 462 (42 U.S.C. 662), as amended by subparagraph (A) of this paragraph, are relocated and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subparagraph (B) of this paragraph, (42 U.S.C. 659(j)), and the left margin of each of such paragraphs (1) through (4) is indented 2 ems to the right of the left margin of subsection (i) (as added by paragraph (12) of this subsection).

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661), as amended by subsection (a) of this section, are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new paragraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).";

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement," before "which—".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by striking "to spouse" and inserting "to (or for benefit of)"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order or an order of an administrative process established under State law for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the first sentence the following: "In the case of a spouse or former spouse who, pursuant to section 403(b)(1)(E)(i) of the Social Security Act, assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order or an order of an administrative process established under State law for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisy the amount of child support set forth in a court order or an order of an administrative process established under State law shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

SEC. 9465. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking "(4) Procedures" and inserting the following:

"(4) LIENS.—

"(A) IN GENERAL.—Procedures"; and

(2) by adding at the end the following new subparagraph:

"(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

"(i) any person owed such arrears may place such a lien;

"(ii) the State agency administering the program under this part shall systematically place such liens;

"(iii) expedited methods are provided for—

"(I) ascertaining the amount of arrears;

"(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

"(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

"(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.".

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, and 9442 of this Act, is amended by inserting after paragraph (15) the following:

"(16) FRAUDULENT TRANSFERS.—Procedures under which—

"(A) the State has in effect—

"(i) the Uniform Fraudulent Conveyance Act of 1981,

"(ii) the Uniform Fraudulent Transfer Act of 1984, or

"(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(i) seek to void such transfer; or

"(ii) obtain a settlement in the best interests of the child support creditor.".

SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, and 9466 of this Act, is amended by inserting after paragraph (16) the following:

"(17) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, and professional and occupational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.".

SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by striking "(9) Procedures" and inserting the following:

"(9) LEGAL TREATMENT OF ARREARS.—

"(A) FINALITY.—Procedures";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by indenting each of such clauses 2 additional ems to the right; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

"(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.".

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, and 9467 of this Act, is amended by inserting after paragraph (17) the following:

"(18) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).".

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1998.

SEC. 9471. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by sections 9415(a)(3) and 9417 of this Act, is amended by adding at the end the following new subsection:

"(l) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—

"(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 9471(b) of the Omnibus Budget Reconciliation Act of 1995.

"(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting "; and"; and

(C) by adding after paragraph (27) the following new paragraph:

"(28) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(l) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State, upon certification by the Secretary of Health

and Human Services, in accordance with section 452(l) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) Limit on liability.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) Effective Date.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) Sense of the Congress That the United States Should Ratify the United Nations Convention of 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) Treatment of International Child Support Cases as Interstate Cases.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), 9422(a), and 9471(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following:

"(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.".

SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and 9470(a) of this Act, is amended by inserting after paragraph (18) the following:

"(19) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

"(A) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(B) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(C) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

"(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

"(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.

"(D) Any person required to make a payment in respect of a decedent shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.".

SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL SUPPORT OF CHILDREN OF THEIR MINOR CHILDREN.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, 9470(a), and 9473 of this Act, is amended by inserting after paragraph (19) the following:

"(20) Procedures under which each parent of an individual who has not attained 18 years of age is liable for the financial support of any child of the individual to the extent that the individual is unable to provide such support. The preceding sentence shall not apply to the State if the State plan explicitly provides for such inapplicability.".

SEC. 9475. SENSE OF THE CONGRESS REGARDING PROGRAMS FOR NONCUSTODIAL PARENTS UNABLE TO MEET CHILD SUPPORT OBLIGATIONS.

It is the sense of the Congress that the States should develop programs, such as the program of the State of Wisconsin known as the "Children's First Program", that are designed to work with noncustodial parents who are unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) In General.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.".

(b) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Plan amendments not required until January 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended adding at the end the following:

"(i) Custodial Parent's Cooperation With Child Support Agencies.—

"(1) In general.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) Good cause for noncooperation.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) Fees.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(j) Non-Custodial Parent's Cooperation With Child Support Agencies.—

"(1) In general.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) Refusal to cooperate.—

"(A) Guidelines.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) Procedures.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) Fees.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 9491 of this Act, is amended by adding at the end the following:

"(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 9498. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon enactment.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment, or

(2) the date five years after enactment of this title.

SEC. 9499. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

Subtitle E—Teen Pregnancy And Family Stability

SEC. 9501. STATE OPTION TO DENY TEMPORARY EMPLOYMENT ASSISTANCE FOR ADDITIONAL CHILDREN.

(a) IN GENERAL.—Section 402(d)(1), as added by section 9101(a) of this Act, is amended—

(1) by striking "(1) DETERMINATION OF NEED.—" and inserting the following:

"(1) DETERMINATION OF NEED.—

"(A) IN GENERAL.—"; and

(2) by adding at the end the following:

"(B) OPTIONAL DENIAL OF ASSISTANCE TO FAMILIES HAVING ADDITIONAL CHILDREN WHILE RECEIVING ASSISTANCE.—At the option of the State, the State plan may provide that—

"(i)(I) a child shall not be considered a needy child if the child is born (other than as a result of rape or incest) to a member of a family—

"(aa) while the family was a recipient of assistance under the State plan; or

"(bb) during the 6-month period ending with the date the family applied for such assistance; and

"(II) if the value of assistance to a family under the State plan approved under this part is reduced by reason of subclause (I), each member of the family shall be considered to be receiving such assistance for purposes of eligibility for medical assistance under the State plan approved under title XIX for so long as assistance to the family under the State plan approved under this part would otherwise not be so reduced; and

"(ii) if the State exercises the option, the State may provide the family with vouchers, in amounts not exceeding the amount of any such reduction in assistance, that may be used only to pay for particular goods and services specified by the State as suitable for the care of the child of the parent (such as diapers, clothing, or school supplies).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(a) IN GENERAL.—Section 402(c), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(8) SUPERVISED LIVING ARRANGEMENTS FOR MINORS.—The State plan shall provide that—

"(A) except as provided in subparagraph (B), in the case of any individual who is under age 18 and has never married, and who has a needy child in his or her care (or is pregnant and is eligible for temporary employment assistance under the State plan)—

"(i) such individual may receive such assistance for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home; and

"(ii) such assistance (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

"(B)(i) in the case of an individual described in clause (ii)—

"(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

"(II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, the State agency shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency); and

"(ii) for purposes of clause (i), an individual is described in this clause if—

"(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(III) the State agency determines that the physical or emotional health of such individual or any needy child of the individual would be jeopardized if such individual and such needy child lived in the same residence with such individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the needy child to waive the requirement of subparagraph (A) with respect to such individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) IN GENERAL.—Title XX (42 U.S.C. 1397–1397f), as amended by section 9205(b) of this Act, is amended by adding at the end the following:

"SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

"(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

"(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

"(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

"(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention programs and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

"(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

"(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

"(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

"(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

"(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

"(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (a) so that in the aggregate the expenditures for such grants do not exceed $2,000,000 for fiscal year 1996, $4,000,000 for fiscal year 1997, $8,000,000 for fiscal year 1998, and $10,000,000 for fiscal year 1999 and each subsequent fiscal year.

"(c) DEFINITIONS.—As used in this section:

"(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

"(A) a local education agency, acting on behalf of one or more schools, together with

"(B) one or more community-based organizations, institutions of higher education, or public or private agencies or organizations.

"(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

"(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

"(B) the number of children receiving assistance under a State plan approved under part A of title IV of this Act is substantial as determined by the responsible Federal officials; or

"(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

"(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

"(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 9101(a) of this Act, is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following:

"(ii) in the case of a client who is a custodial parent who is under age 18 (or age 19, at the option of the State), has not successfully completed a high-school education (or its equivalent), and is required to participate in the Work First program (including an individual who would otherwise be exempt from participation in the program), shall provide that—

"(I) such parent participate in—

"(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

"(bb) an alternative educational or training program on a full-time (as defined by the provider) basis; and

"(II) child care be provided in accordance with section 2009 with respect to the family.".

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(iii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participate in a program of monetary incentives and penalties which—

"(I) may, at the option of the State, require full-time participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

"(II) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual's individual responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and service providers will coordinate with the educational or skills training activities in which the client is participating;

"(III) shall provide monetary incentives (to be treated as assistance under the State plan) for more than minimally acceptable performance of required educational activities;

"(IV) shall provide penalties (which may be those required by subsection (e) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities;

"(V) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid directly to such parent, regardless of whether the State agency makes payment of assistance under the State plan directly to such parent; and

"(VI) for purposes of any other Federal or federally-assisted program based on need, shall not consider any monetary incentive paid under the State plan as income in determining a family's eligibility for or amount of benefits under such program, and if assistance is reduced by reason of a penalty under this clause, such other program shall treat the family involved as if no such penalty has been applied.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MINORS WHO BEAR CHILDREN OUT-OF-WEDLOCK.

(a) PROHIBITION OF ASSISTANCE.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(1) after the birth of the child—

(A) the individual marries an individual who has been determined by the relevant State to be the biological father of the child; or

(B) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(2) the individual is a biological and custodial parent of another child who was not born out-of-wedlock; or

(3) eligibility for such Federal housing assistance is based in whole or in part on any disability or handicap of a member of the household.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) COVERED PROGRAM.—The term "covered program" means—

(A) the program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) the public housing program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(C) the program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(D) the program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1);

(E) the program for mortgage insurance provided pursuant to sections 221(d) (3) or (4) of the National Housing Act (12 U.S.C. 1715l(d)) for multifamily housing for low- and moderate-income families;

(F) the rural housing loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472);

(G) the rural housing loan guarantee program under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h));

(H) the loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings;

(I) the program of loans for rental and cooperative rural housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(J) the program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A));

(K) the loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor;

(L) the program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c);

(M) the program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m); and

(N) the program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(2) COVERED PROJECT.—The term "covered project" means any housing for which Federal housing assistance is provided that is

attached to the project or specific dwelling units in the project.

(3) FEDERAL HOUSING ASSISTANCE.—The term "Federal housing assistance" means—

(A) assistance provided under a covered program in the form of any contract, grant, loan, subsidy, cooperative agreement, loan or mortgage guarantee or insurance, or other financial assistance; or

(B) occupancy in a dwelling unit that is—

(i) provided assistance under a covered program; or

(ii) located in a covered project and subject to occupancy limitations under a covered program that are based on income.

(4) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(c) LIMITATIONS ON APPLICABILITY.—Subsection (a) shall not apply to Federal housing assistance provided for a household pursuant to an application or request for such assistance made by such household before the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

SEC. 9506. STATE OPTION TO DENY TEMPORARY EMPLOYMENT ASSISTANCE TO MINOR PARENTS.

(a) IN GENERAL.—Section 402(d)(1), as added by section 9101(a) of this Act and as amended by section 9501(a) of this Act, is amended by adding at the end the following:

"(C) OPTIONAL DENIAL OF ASSISTANCE TO MINOR PARENTS.—At the option of the State, the State plan may provide that—

"(i)(I) in determining the need of a family, the State may disregard the needs of any family member who is a parent and has not attained 18 years of age or such lesser age as the State may prescribe; and

"(II) if the value of the assistance provided to a family under the State plan approved under this part is reduced by reason of subclause (I), each member of the family shall be considered to be receiving such assistance for purposes of eligibility for medical assistance under the State plan approved under title XIX for so long as such assistance under the State plan approved under this part would otherwise not be so reduced; and

"(ii) if the State exercises the option, the State may provide the family with vouchers, in amounts not exceeding the value of any such reduction in assistance, that may be used only to pay for—

"(I) particular goods and services specified by the State as suitable for the care of the child of the parent (such as diapers, clothing, or cribs); and

"(II) the costs associated with a maternity home, foster home, or other adult-supervised supportive living arrangement in which the parent and the child live.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect in the same manner in which the amendment made by section 9101(a) takes effect.

Subtitle F—SSI Reform

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."; and

(5) in subparagraph (F), as so redesignated by paragraph (3) of this subsection, by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act, is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

"(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking "and" at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting "; and", and by adding after subclause (IV) the following new subclause:

"(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.".

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—

(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

"(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

"(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

"(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.".

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEES.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking "Clause (i)" and inserting "Subclauses (II) and (III) of clause (i)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following:

"(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

"(I) education and job skills training;

"(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

"(III) appropriate therapy and rehabilitation.".

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking "and" at the end of paragraph (10),

(B) by striking the period at the end of paragraph (11) and inserting "; and", and

(C) by inserting after paragraph (11) the following:

"(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 9601(a)(3) of this Act, is amended by adding at the end the following:

"(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1613(a)(12) (42 U.S.C. 1382b(a)(12)) is amended by striking "1631(a)(2)(B)(xiv)" and inserting "1631(a)(2)(B)(xiii)".

(3) Section 1631(a)(2)(A)(ii) (42 U.S.C. 1383(a)(2)(A)(ii)) is amended—

(A) by striking "(I)"; and

(B) by striking subclause (II).

(4) Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) by striking clause (vii);

(B) in clause (viii), by striking "(ix)" and inserting "(viii)";

(C) in clause (ix)—

(i) by striking "(viii)" and inserting "(vii)"; and

(ii) in subclause (II), by striking all that follows "15 years" and inserting a period;

(D) in clause (xiii)—

(i) by striking "(xii)" and inserting "(xi)"; and

(ii) by striking "(xi)" and inserting "(x)";

(E) in clause (xiv) (as added by section 9603(b)(1) of this Act), by striking "(x)" and inserting "(ix)"; and

(F) by redesignating clauses (viii) through (xiv) as clauses (vii) through (xiii), respectively.

(5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking all that follows "$25.00 per month" and inserting a period.

(6) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(7) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "—" and all that follows through "(A)" the 1st place such term appears;

(B) by striking "and" the 3rd place such term appears;

(C) by striking subparagraph (B);

(D) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(E) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1995, and shall apply with respect to months beginning on or after such date.

(d) FUNDING OF CERTAIN PROGRAMS FOR DRUG ADDICTS AND ALCOHOLICS.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Director of the National Institute on Drug Abuse—

(1) $95,000,000, for each of fiscal years 1997, 1998, 1999, and 2000, for expenditure through the Federal Capacity Expansion Program to expand the availability of drug treatment; and

(2) $5,000,000 for each of fiscal years 1997, 1998, 1999, and 2000 to be expended solely on the medication development project to improve drug abuse and drug treatment research.

SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under programs that are funded under part A of title IV, or title XIX of this Act, the consolidated program of food assistance under chapter 2 of subtitle E of title XIV of the Omnibus Budget Reconciliation Act of 1995, or the Food Stamp Act of 1977 (as in effect before the effective date of such chapter), or benefits in 2 or more States under the supplemental security income program under title XVI of this Act.".

SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 9604(b)(1) of this Act, is amended by inserting after paragraph (2) the following:

"(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if, throughout the month, the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties;

"(B) the location or apprehension of the recipient is within the official duties of the officer; and

"(C) the request is made in the proper exercise of such duties.".

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS BY REASON OF DISABILITY.

(a) In General.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by section 9602 of this Act, is amended by adding at the end the following:

"(v) In the case of an individual who has attained 18 years of age and for whom a determination has been made of eligibility for a benefit under this title by reason of disability, the following applies:

"(I) Subject to the provisions of this clause, the determination of eligibility is effective for the 3-year period beginning on the date of the determination, and the eligibility of the individual lapses unless a determination of continuing eligibility is made before the end of such period, and before the end of each subsequent 3-year period. This subclause ceases to apply to the individual upon the individual attaining 65 years of age. This subclause does not apply to the individual if the individual has an impairment that is not expected to improve (or a combination of impairments that are not expected to improve).

"(II) With respect to a determination under subclause (I) of whether the individual continues to be eligible for the benefit (in this clause referred to as a 'redetermination'), the Commissioner may not make the redetermination unless the individual submits to the Commissioner an application requesting the redetermination. If such an application is submitted, the Commissioner shall make the redetermination. This subclause is subject to subclause (V).

"(III) If as of the date on which this clause takes effect the individual has been receiving the benefit for three years or less, the first period under subclause (I) for the individual is deemed to end on the expiration of the period beginning on the date on which this clause takes effect and continuing through a number of months equal to 12 plus a number equal to 36 minus the number of months the individual has been receiving the benefit.

"(IV) If as of the date on which this clause takes effect the individual has been receiving the benefit for five years or less, but for more than three years, the first period under subclause (I) for the individual is deemed to end on the expiration of the 1-year period beginning on the date on which this clause takes effect.

"(V) If as of the date on which this clause takes effect the individual has been receiving the benefit for more than five years, the Commissioner shall make redeterminations under subclause (I) and may not require the individual to submit applications for the redeterminations. The first 3-year period under subclause (I) for the individual is deemed to begin upon the expiration of the period beginning on the date on which this clause takes effect and ending upon the termination of a number of years equal to the lowest number (greater than zero) that can be obtained by subtracting the number of years that the individual has been receiving the benefit from a number that is a multiple of three.

"(VI) If the individual first attains 18 years of age on or after the date on which this clause takes effect, the first 3-year period under subclause (I) for the individual is deemed to end on the date on which the individual attains such age.

"(VII) Not later than one year prior to the date on which a determination under subclause (I) expires, the Commissioner shall (except in the case of an individual to whom subclause (V) applies) provide to the individual a written notice explaining the applicability of this clause to the individual, including an explanation of the effect of failing to submit the application. If the individual submits the application not later than 180 days prior to such date and the Commissioner does not make the redetermination before such date, the Commissioner shall continue to provide the benefit pending the redetermination and shall publish in the Federal Register a notice that the Commissioner was unable to make the redetermination by such date.

"(VIII) If the individual fails to submit the application under subclause (II) by the end of the applicable period under subclause (I), the individual may apply for a redetermination. The Commissioner shall make the redetermination for the individual only after making redeterminations for individuals for whom eligibility has not lapsed pursuant to subclause (I).".

(b) Limitations on Authorization of Appropriations.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) Effective Date.—The amendment made by subsection (a) takes effect upon the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 9608. REDUCTION IN UNEARNED INCOME EXCLUSION.

(a) In General.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking "$20" and inserting "$15".

(b) Effective Date.—The amendment made by subsection (a) shall apply to benefits for months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 9701. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall not apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 9702. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) Certification Period.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended to read as follows:

"(c) 'Certification period' means the period specified by the State agency for which households shall be eligible to receive authorization cards, except that such period shall be—

"(1) 24 months for households in which all adult members are elderly or disabled; and

"(2) not more than 12 months for all other households.".

(2) Section 6(c)(1)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

(A) in clause (ii) by adding "and" at the end;

(B) in clause (iii) by striking "; and" at the end and inserting a period; and

(C) by striking clause (iv).

(b) Energy Assistance Counted as Income.—

(1) Limiting exclusion.—Section 5(d)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)) is amended—

(A) by striking "(A) under any Federal law, or (B)"; and

(B) by inserting before the comma at the end the following: ", except that no benefits provided under the State program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall be excluded under this clause".

(2) Conforming amendments.—

(A) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking the ninth through the twelfth sentences.

(B) Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (C) and redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(C) Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended by adding at the end the following:

"(4) For purposes of subsection (d)(1), any payments or allowances made under any Federal or State law for the purposes of energy assistance shall be treated as money payable directly to the household.".

(D) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8634(f)) is amended—

(i) in paragraph (1), by striking "food stamps";

(ii) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding"; and

(iii) by striking paragraph (2).

(c) Exclusion of Certain JTPA Income.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d)—

(A) by striking "and (16)" and inserting "(16)"; and

(B) by inserting before the period at the end the following: ", and (17) income received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) by a household member who is less than 19 years of age"; and

(2) in subsection (*l*), by striking "under section 204(b)(1)(C)" and all that follows and inserting "shall be considered earned income for purposes of the food stamp program.".

(d) Exclusion of Life Insurance Policies.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(6) The Secretary shall exclude from financial resources the cash value of any life insurance policy owned by a member of a household.".

(e) In-Tandem Exclusions From Income.—Section 5 of the Food Stamp Act of 1977 (7

U.S.C. 2014) is amended by adding at the end the following:

"(n) Whenever a Federal statute enacted after the date of the enactment of this Act excludes funds from income for purposes of determining eligibility, benefit levels, or both under State plans approved under part A of title IV of the Social Security Act, then such funds shall be excluded from income for purposes of determining eligibility, benefit levels, or both, respectively, under the food stamp program of households all of whose members receive benefits under a State plan approved under part A of title IV of the Social Security Act.".

SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which authorization to accept and redeem coupons under the food stamp program shall be valid.".

SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)), as amended by section 9703, is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied or that has such an approval withdrawn on the basis of business integrity and reputation cannot submit a new application for approval. Such periods shall reflect the severity of business integrity infractions that are the basis of such denials or withdrawals.".

SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence by inserting ", which may include relevant income and sales tax filing documents," after "submit information" ; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources in order that the accuracy of information provided by such stores and concerns may be verified."

SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall prohibit a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied because it does not meet criteria for approval established by the Secretary in regulations from submitting a new application for six months from the date of such denial.".

SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data, or evidence obtained through transaction reports under electronic benefit transfer systems.".

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)), as amended by section 9707, is amended by adding at the end the following: "Such regulations may establish criteria under which the authorization of a retail food store or wholesale food concern to accept and redeem coupons may be suspended at the time such store or concern is initially found to have committed violations of program requirements. Such suspension may coincide with the period of a review as provided in section 14. The Secretary shall not be liable for the value of any sales lost during any suspension or disqualification period.".

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) in the first sentence by inserting "suspended," before "disqualified or subjected";

(2) in the fifth sentence by inserting before the period at the end the following: ", except that in the case of the suspension of a retail food store or wholesale food concern pursuant to section 12(a), such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action, and the period of suspension shall be deemed a part of any period of disqualification which is imposed."; and

(3) by striking the last sentence.

SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED FROM THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) The Secretary shall issue regulations providing criteria for the disqualification of approved retail food stores and wholesale food concerns that are otherwise disqualified from accepting benefits under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized under section 17 of the Child Nutrition Act of 1966. Such disqualification—

"(1) shall be for the same period as the disqualification from the WIC Program;

"(2) may begin at a later date; and

"(3) notwithstanding section 14 of this Act, shall not be subject to administrative or judicial review.".

SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021), as amended by section 9709, is amended by adding at the end the following:

"(h) The Secretary shall issue regulations providing for the permanent disqualification of a retail food store or wholesale food concern that is determined to have knowingly submitted an application for approval to accept and redeem coupons which contains false information about one or more substantive matters which were the basis for providing approval. Any disqualification imposed under this subsection shall be subject to administrative and judicial review pursuant to section 14, but such disqualification shall remain in effect pending such review.".

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

(a) FORFEITURE OF ITEMS EXCHANGED IN FOOD STAMP TRAFFICKING.—Section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking "or intended to be furnished".

(b) CIVIL AND CRIMINAL FORFEITURE.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is amended by adding at the end the following:

"(h)(1) CIVIL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

"(A) Any food stamp benefits and any property, real or personal—

"(i) constituting, derived from, or traceable to any proceeds obtained directly or indirectly from, or

"(ii) used, or intended to be used, to commit, or to facilitate,

the commission of a violation of subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall be subject to forfeiture to the United States.

"(B) The provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to a seizure or forfeiture under this subsection, insofar as applicable and not inconsistent with the provisions of this subsection.

"(2) CRIMINAL FORFEITURE FOR FOOD STAMP BENEFIT VIOLATIONS.—

"(A)(i) Any person convicted of violating subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall forfeit to the United States, irrespective of any State law—

"(I) any food stamp benefits and any property constituting, or derived from, or traceable to any proceeds such person obtained directly or indirectly as a result of such violation; and

"(II) any food stamp benefits and any of such person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

"(ii) In imposing sentence on such person, the court shall order that the person forfeit to the United States all property described in this subsection.

"(B) All food stamp benefits and any property subject to forfeiture under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding relating thereto, shall be governed by subsections (b), (c), (e), and (g) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), insofar as applicable and not inconsistent with the provisions of this subsection.

"(3) APPLICABILITY.—This subsection shall not apply to property specified in subsection (g) of this section.

"(4) RULES.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this subsection.".

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(C)(iii) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(iii)) (as amended by section 316(a) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464) is amended—

(1) by inserting in the first sentence of subclause (II) after "instrumentality of the United States" the following: ", or State government officers and employees with law

enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) by inserting in the last sentence of subclause (II) immediately after "other Federal" the words "or State"; and

(3) by inserting "or a State" in subclause (III) immediately after "United States".

(b) Section 6109(f)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)(2)) (as added by section 316(b) of the Social Security Administrative Reform Act of 1994 (Public Law 103-296; 108 Stat. 1464)) is amended—

(1) by inserting in subparagraph (A) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) in the last sentence of subparagraph (A) by inserting "or State" after "other Federal"; and

(3) in subparagraph (B) by inserting "or a State" after "United States".

SEC. 9713. EXPANDED DEFINITION OF "COUPON".

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization cards, cash or checks issued of coupons or access devices, including, but not limited to, electronic benefit transfer cards and personal identification numbers".

SEC. 9714. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i)—

(A) by striking "six months" and inserting "1 year"; and

(B) by adding "and" at the end; and

(2) striking clauses (ii) and (iii) and inserting the following:

"(ii) permanently upon—

"(I) the second occasion of any such determination; or

"(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), firearms, ammunition, or explosives for coupons.".

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the semicolon at the end.

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the period at the end.

(c) Section 6103(l) of the Internal Revenue Code (26 U.S.C. 6103(l)) is amended—

(1) by striking "officers and employees" in paragraph (10)(A) and inserting "officers, employees or agents, including State agencies"; and

(2) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees or agents, including State agencies".

SEC. 9716. PROMOTING EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended—

(1) by amending paragraph (1) to read:

"(1)(A) State agencies are encouraged to implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) Subject to paragraph (2), a State agency is authorized to procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency deems appropriate.

"(C) The Secretary shall, upon request of a State agency, waive any provision of this subsection prohibiting the effective implementation of an electronic benefit transfer system consistent with the purposes of this Act. The Secretary shall act upon any request for such a waiver within 90 days of receipt of a complete application.";

(2) in paragraph (2), by striking "for the approval"; and

(3) in paragraph (3), by striking "the Secretary shall not approve such a system unless" and inserting "the State agency shall ensure that".

SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "and (11)" and inserting "(11)";

(2) in clause (11) by inserting "through October 1, 1994" after "each October 1 thereafter"; and

(3) by inserting before the period at the end the following:

", and (12) on October 1, 1995, and on each October 1 thereafter, adjust the cost of such diet to reflect 100 percent of the cost, in the preceding June (without regard to any previous adjustment made under this clause or clauses (4) through (11) of this subsection) and round the result to the nearest lower dollar increment for each household size".

SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.

The second sentence of section 5(e)(4) (7 U.S.C. 2014(e)(4)) is amended by inserting ", except October 1, 1995, and October 1, 1996" after "thereafter".

SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS IN PARTICIPATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 9720. DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491 and 9492, is amended by adding at the end the following:

"(*l*) DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be ineligible to participate in the food stamp program as a member of any household during a 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual to receive benefits simultaneously from 2 or more States under—

"(1) the food stamp program;

"(2) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under title XIX of the Act (42 U.S.C. 1396 et seq.); or

"(3) the supplemental security income program under title XVI of the Act (42 U.S.C. 1381 et seq.).".

SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, and 9720, is amended by adding at the end the following:

"(m) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 9722. STATE AUTHORIZATION TO ASSIST LAW ENFORCEMENT OFFICERS IN LOCATING FUGITIVE FELONS.

Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(B)) is amended by striking "Act, and" and inserting "Act or of locating a fugitive felon (as defined by a State), and".

SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPIENTS.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, 9720, and 9721, is amended by adding at the end the following:

"(n) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or local government, as determined appropriate by the Secretary.

"(2) WORK REQUIREMENT.—No individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly;

"(B) participate in a workfare program under section 20 or a comparable State or local workfare program;

"(C) participate in and comply with the requirements of an approved employment and training program under subsection (d)(4); or

"(D) participate in and comply with the requirements of a work program for 20 hours or more per week.

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with a dependent child under 18 years of age; or

"(D) otherwise exempt under subsection (d)(2).

"(4) WAIVER.—

"(A) IN GENERAL.—The Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 8 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

(b) WORK AND TRAINING PROGRAMS.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

"(O) REQUIRED PARTICIPATION IN WORK AND TRAINING PROGRAMS.—A State agency shall provide an opportunity to participate in the employment and training program under this paragraph to any individual who would otherwise become subject to disqualification under subsection (i).

"(P) COORDINATING WORK REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, a State agency that meets the participation requirements of clause (ii) may operate the employment and training program of the State for individuals who are members of households receiving allotments under this Act as part of a program operated by the State under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), subject to the requirements of the Act.

"(ii) PARTICIPATION REQUIREMENTS.—A State agency may exercise the option under clause (i) if the State agency provides an opportunity to participate in an approved employment and training program to an individual who is—

"(I) subject to subsection (i);

"(II) not employed at least an average of 20 hours per week;

"(III) not participating in a workfare program under section 20 (or a comparable State or local program); and

"(IV) not subject to a waiver under subsection (i)(4).".

(c) ENHANCED EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking "$75,000,000 for each of the fiscal years 1991 through 1995" and inserting "$150,000,000 for each of fiscal years 1996 through 2000";

(2) by striking subparagraphs (B), (C), (E), and (F);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking "for each" and all that follows through "of $60,000,000" and inserting ", the Secretary shall allocate funding".

SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 8(d) of the Food Stamp Act of 1977 (7 U.S.C. 2019(d)) is amended—

(1) by striking "(d) A household" and inserting the following:

"(d) NONCOMPLIANCE WITH OTHER WELFARE OR WORK PROGRAMS.—

"(1) IN GENERAL.—A household"; and

(2) by inserting "or a work requirement under a welfare or public assistance program" after "assistance program"; and

(3) by adding at the end the following:

"(2) WORK REQUIREMENT.—If a household fails to comply with a work requirement under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of a penalty imposed for the failure to comply; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.".

SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION RATES.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "September 30, 1995" each place it appears and inserting "September 30, 2002".

SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.

Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking "1994, and" and inserting "1994,"; and

(2) by inserting "and $1,143,000,000 for fiscal year 1996," before "to finance".

SEC. 9727. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

CHAPTER 2—COMMODITY DISTRIBUTION

SEC. 9751. SHORT TITLE.

This chapter may be cited as the "Commodity Distribution Act of 1995".

SEC. 9752. AVAILABILITY OF COMMODITIES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary") is authorized during fiscal years 1996 through 2000 to purchase a variety of nutritious and useful commodities and distribute such commodities to the States for distribution in accordance with this chapter.

(b) In addition to the commodities described in subsection (a), the Secretary may expend funds made available to carry out the section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), which are not expended or needed to carry out such section, to purchase, process, and distribute commodities of the types customarily purchased under such section to the States for distribution in accordance to this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), may be made available by the Secretary to the States for distribution in accordance with this chapter.

(d) In addition to the commodities described in subsections (a), (b), and (c), commodities acquired by the Commodity Credit Corporation that the Secretary determines, in the discretion of the Secretary, are in excess of quantities needed to—

(1) carry out other domestic donation programs;

(2) meet other domestic obligations;

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act; shall be made available by the Secretary, without charge or credit for such commodities, to the States for distribution in accordance with this chapter.

(e) During each fiscal year, the types, varieties, and amounts of commodities to be purchased under this chapter shall be determined by the Secretary. In purchasing such commodities, except those commodities purchased pursuant to section 9760, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) the preferences and needs of States and distributing agencies; and

(3) the preferences of the recipients.

SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION OF COMMODITIES.

(a) The Secretary shall establish procedures under which State and local agencies, recipient agencies, or any other entity or person may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities that such entities or persons donate for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(1) the funds appropriated for administrative cost under section 9759(b);

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter; and

(3) the personnel, both paid or volunteer, involved in such storage, handling, or distribution; to store, handle or distribute commodities donated for use under subsection (a).

(c) States and recipient agencies shall continue, to the maximum extent practical, to use volunteer workers, and commodities and other foodstuffs donated by charitable and other organizations, in the distribution of commodities under this chapter.

SEC. 9754. STATE PLAN.

(a) A State seeking to receive commodities under this chapter shall submit a plan of operation and administration every four years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) The State plan, at a minimum, shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter in quantities requested to eligible recipient agencies in accordance with sections 9756 and 9760;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which at minimum shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of application for assistance.

(c) The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this chapter in the State.

(d) A State agency receiving commodities under this chapter may—

(1)(A) enter into cooperative agreements with State agencies of other States to jointly provide commodities received under this chapter to eligible recipient agencies that serve needy persons in a single geographical area which includes such States; or

(B) transfer commodities received under this chapter to any such eligible recipient agency in the other State under such agreement; and

(2) advise the Secretary of an agreement entered into under this subsection and the transfer of commodities made pursuant to such agreement.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9760, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 60 percent of such total value as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line. Each State shall receive the value of commodities allocated under this paragraph.

(2) 40 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year. Each State shall receive the value of commodities allocated to the State under this paragraph.

(b)(1) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under subsection (a) or this subsection, if applicable. Each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute such commodities in a manner the Secretary deems appropriate and equitable. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year in a manner the State determines is appropriate and the Secretary shall reallocate and distribute such allocation as the Secretary deems appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities from such unaffected State to States containing areas adversely affected by the disaster.

(c) Purchases of commodities under this chapter shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All commodities so purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and or carry out section 9760, not later than December 31 of the following fiscal year.

SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.

(a) In distributing the commodities allocated under subsections (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to emergency feeding organizations.

(b) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsection (a), its remaining allocation of commodities shall be distributed to charitable institutions described in section 9763(3) not receiving commodities under subsection (a).

(c) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsections (a) and (b), its remaining allocation of commodities shall be distributed to any eligible recipient agency not receiving commodities under subsections (a) and (b).

SEC. 9757. INITIAL PROCESSING COSTS.

The Secretary may use funds of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter into forms and in quantities suitable, as determined by the Secretary, for use by the individual households or eligible recipient agencies, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

SEC. 9758. ASSURANCES; ANTICIPATED USE.

(a) The Secretary shall take such precautions as the Secretary deems necessary to ensure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31, 1997, and not less than every two years thereafter, a report as to whether and to what extent such displacements or substitutions are occurring.

(b) The Secretary shall determine that commodities provided under this chapter shall be purchased and distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) PURCHASE OF COMMODITIES.—To carry out this chapter, there are authorized to be appropriated $260,000,000 for each of the fiscal years 1996 through 2000 to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) ADMINISTRATIVE FUNDS.—

(1) There are authorized to be appropriated $40,000,000 for each of the fiscal years 1996 through 2000 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this chapter, excluding costs associated with the distribution of those commodities distributed under section 9760. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are allocated among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States in a manner the Secretary deems appropriate and equitable.

(2)(A) A State shall make available in each fiscal year to eligible recipient agencies in the State not less than 40 percent of the funds received by the State under paragraph (1) for such fiscal year, as necessary to pay for, or provide advance payments to cover, the allowable expenses of eligible recipient agencies for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such recipient agencies.

(B) As used in this paragraph, the term "allowable expenses" includes—

(i) costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after such commodities are received by eligible recipient agencies;

(ii) costs associated with determinations of eligibility, verification, and documentation;

(iii) costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; and

(iv) costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

(C) If a State makes a payment, using State funds, to cover allowable expenses of eligible recipient agencies, the amount of such payment shall be counted toward the amount a State must make available for allowable expenses of recipient agencies under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or eligible recipient agencies for costs other than those involved in covering the expenses related to the distribution of commodities by eligible recipient agencies.

(4)(A) Except as provided in subparagraph (B), to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to eligible recipient agencies; or

(II) for the allowable expenses of such recipient agencies; for use in carrying out this chapter.

(B) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(C) Any funds distributed for administrative costs under section 9760(b) shall not be covered by this paragraph.

(5) States may not charge for commodities made available to eligible recipient agencies, and may not pass on to such recipient agencies the cost of any matching requirements, under this chapter.

(c) VALUE OF COMMODITIES.—The value of the commodities made available under subsections (c) and (d) of section 9752, and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations authorized by this section.

SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) From the funds appropriated under section 9759(a), $94,500,000 shall be used for each fiscal year to purchase and distribute commodities to supplemental feeding programs serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the "commodity supplemental food program"), or serving both groups wherever located.

(b) Not more than 20 percent of the funds made available under subsection (a) shall be made available to the States for State and local payments of administrative costs associated with the distribution of commodities by eligible recipient agencies under this section. Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(c)(1) During each fiscal year the commodity supplemental food program is in operation, the types, varieties, and amounts of commodities to be purchased under this section shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or amounts from those that were available or were planned at the beginning of the fiscal year the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1996 through 2000 to the Secretary. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(d) The Secretary shall, in each fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate, to the full extent that applications can be approved within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (e)) in areas in which the program is in effect.

(e) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(f)(1) If it is necessary for the Secretary to pay a significantly higher than expected price for one or more types of commodities purchased under this section, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(g) Commodities distributed to States pursuant to this section shall not be considered in determining the commodity allocation to each State under section 9755 or priority of distribution under section 9756.

SEC. 9761. COMMODITIES NOT INCOME.

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for purposes of determining recipient eligibility under any Federal, State, or local means-tested program.

SEC. 9762. PROHIBITION AGAINST CERTAIN STATE CHARGES.

Whenever a commodity is made available without charge or credit under this chapter by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing, and transporting to recipient agencies the commodities minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

SEC. 9763. DEFINITIONS.

As used in this chapter:

(1) The term "average monthly number of unemployed persons" means the average monthly number of unemployed persons within a State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(2) The term "elderly persons" means individuals 60 years of age or older.

(3) The term "eligible recipient agency" means a public or nonprofit organization that administers—

(A) an institution providing commodities to supplemental feeding programs serving women, infants, and children or serving elderly persons, or serving both groups;

(B) an emergency feeding organization;

(C) a charitable institution (including hospitals and retirement homes and excluding penal institutions) to the extent that such institution serves needy persons;

(D) a summer camp for children, or a child nutrition program providing food service;

(E) a nutrition project operating under the Older Americans Act of 1965, including such projects that operate a congregate nutrition site and a project that provides home-delivered meals; or

(F) a disaster relief program; and that has been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(4) The term "emergency feeding organization" means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

(5) The term "food bank" means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(6) The term "food pantry" means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) The term "needy persons" means—

(A) individuals who have low incomes or who are unemployed, as determined by the State (in no event shall the income of such individual or household exceed 185 percent of the poverty line);

(B) households certified as eligible to participate in the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(8) The term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(9) The term "soup kitchen" means a public and charitable institution that, as integral part of its normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

SEC. 9764. REGULATIONS.

(a) The Secretary shall issue regulations within 120 days to implement this chapter.

(b) In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register a nonbinding estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses for the commodities distributed under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of eligible recipient agencies.

SEC. 9765. FINALITY OF DETERMINATIONS.

Determinations made by the Secretary under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 9757, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

(a) The Secretary may—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SEC. 9768. REPEALERS; AMENDMENTS.

(a) REPEALER.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

(b) AMENDMENTS.—

(1) The Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by striking section 110; and

(B) by striking section 502.

(2) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking section 4.

(3) The Charitable Assistance and Food Bank Act of 1987 (7 U.S.C. 612c note) is amended by striking section 3.

(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1562(a) and section 1571; and

(B) in section 1562(d), by striking "section 4 of the Agricultural and Consumer Protection Act of 1973" and inserting "section 9752 of the Commodity Distribution Act of 1995".

(5) The Agricultural and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(A) in section 4(a), by striking "institutions (including hospitals and facilities caring for needy infants and children), supplemental feeding programs serving women, infants and children or elderly persons, or both, wherever located, disaster areas, summer camps for children,";

(B) in subsection 4(c), by striking "the Emergency Food Assistance Act of 1983" and inserting "the Commodity Distribution Act of 1995"; and

(C) by striking section 5.

(6) The Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 612c note) is amended by striking section 1773(f).

CHAPTER 3—OTHER PROGRAMS

SEC. 9781. CHILD AND ADULT CARE FOOD PROGRAM.

(a) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.".

(b) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home of the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose income is verified by a sponsoring organization under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 40 cents for breakfasts, and 20 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) SPONSOR PAYMENTS.—Section 17(f)(3)(B) of the National School Lunch Act is amended—

(A) by striking the period at the end of the second sentence and all that follows through the end of the subparagraph and inserting the following: ", except that the adjustment that otherwise would occur on July 1, 1996, shall be made on August 1, 1996. The maximum allowable levels for administrative expense payments shall be rounded to the nearest lower dollar increment and based on the unrounded adjustment for the preceding 12-month period.";

(B) by striking "(B)" and inserting "(B)(i)"; and

(C) by adding at the end the following new clause:

"(ii) The maximum allowable level of administrative expense payments shall be adjusted by the Secretary—

"(I) to increase by 7.5 percent the monthly payment to family or group day care home sponsoring organizations both for tier I family or group day care homes and for those tier II family or group day care homes for which the sponsoring organization administers a means test as provided under subparagraph (A)(iii); and

"(II) to decrease by 7.5 percent the monthly payment to family or group day care home sponsoring organizations for family or group day care homes that do not meet the criteria for tier I homes and for which a means test is not administered.".

(3) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).".

(4) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (as amended by paragraph (3)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the program under this section shall annually provide to a family or group day care home sponsoring organizations that request the data, a list of schools serving elementary school children in the State in which at least 50 percent of the children enrolled are certified to receive free or reduced price meals. State agencies administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall collect such data annually and provide such data on a timely basis to the State agency administering the program under this section.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(5) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the National School Lunch Act is amended by inserting "(including institutions that are not family or group day care home sponsoring organizations)" after "institutions".

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

(3) IMPLEMENTATION.—The Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (2), (3), and (4) of subsection (b) and the provisions of section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)) not later than February 1, 1996. If such regulations are issued in interim form, final regulations shall be issued not later than August 1, 1996.

SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

(1) by striking "Out of" and all that follows through "and $10,000,000" and inserting "To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $10,000,000"; and

(2) by striking the last sentence.

Subtitle H—Treatment of Aliens

SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RESOURCES UNDER TEA, SSI, AND FOOD STAMP PROGRAMS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), in applying sections 407 and 1621 of the Social Security Act and section 5(i) of the Food Stamp Act of 1977, the period in which each respective section otherwise applies with respect to an alien shall be extended through the date (if any) on which the alien becomes a citizen of the United States (under chapter 2 of title III of the Immigration and Nationality Act).

(b) EXCEPTION.—Subsection (a) shall not apply to an alien if—

(1) the alien has been lawfully admitted to the United States for permanent residence, has attained 75 years of age, and has resided in the United States for at least 5 years;

(2) the alien—

(A) is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge,

(B) is on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) is the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B);

(3) the alien is the subject of domestic violence by the alien's spouse and a divorce between the alien and the alien's spouse has been initiated through the filing of an appropriate action in an appropriate court; or

(4) there has been paid with respect to the self-employment income or employment of the alien, or of a parent or spouse of the alien, taxes under chapter 2 or chapter 21 of the Internal Revenue Code of 1986 in each of 20 different calendar quarters.

(c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—Subsection (a) shall not apply with respect to determinations of eligibility for benefits under a State plan approved under part A of title IV of the Social Security Act or under the supplemental income security program under title XVI of such Act but only insofar as such determinations provide for eligibility for medical assistance under title XIX of such Act.

(d) RULES REGARDING INCOME AND RESOURCE DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A of title IV of the Social Security Act, as added by section 9101(a) of this Act, is amended by adding at the end the following:

"SEC. 407. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

"(a) For purposes of determining eligibility for and the amount of assistance under a State plan approved under this part for an individual who is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(d);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for assistance under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of assistance under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422).'.

SEC. 9802. REQUIREMENTS FOR SPONSOR'S AFFIDAVITS OF SUPPORT.

(a) IN GENERAL.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"SEC. 213A. (a) ENFORCEABILITY.—

"(1) IN GENERAL.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the Federal Government, by a State, or by any political subdivision of a State, providing cash benefits under a public cash assistance program (as defined in subsection (f)(2)), but not later than 5 years after the date the alien last receives any such cash benefit; and

"(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) EXPIRATION OF LIABILITY.—Such contract shall only apply with respect to cash benefits described in paragraph (1)(A) provided to an alien before the earliest of the following:

"(A) CITIZENSHIP.—The date the alien becomes a citizen of the United States under chapter 2 of title III.

"(B) VETERAN.—The first date the alien is described in section 9801(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1995.

"(C) PAYMENT OF SOCIAL SECURITY TAXES.—The first date as of which the condition described in section 9801(b)(4) of the Omnibus Budget Reconciliation Act of 1995 is met with respect to the alien.

"(3) NONAPPLICATION DURING CERTAIN PERIODS.—Such contract also shall not apply with respect to cash benefits described in paragraph (1)(A) provided during any period in which the alien is described in section 9801(b)(2)(B) or 9801(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1995.

"(b) FORMS.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) NOTIFICATION OF CHANGE OF ADDRESS.—

"(1) REQUIREMENT.—The sponsor shall notify the Federal Government and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1)(A).

"(2) ENFORCEMENT.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

"(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

"(1) REQUEST FOR REIMBURSEMENT.—

"(A) IN GENERAL.—Upon notification that a sponsored alien has received any cash benefits described in subsection (a)(1)(A), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such cash benefits.

"(B) REGULATIONS.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) INITIATION OF ACTION.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) FAILURE TO ABIDE BY REPAYMENT TERMS.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) LIMITATION ON ACTIONS.—No cause of action may be brought under this subsection later than 5 years after the date the alien last received any cash benefit described in subsection (a)(1)(A).

"(f) DEFINITIONS.—For the purposes of this section:

"(1) SPONSOR.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over; and

"(C) is domiciled in any State.

"(2) PUBLIC CASH ASSISTANCE PROGRAM.—The term 'public cash assistance program' means a program of the Federal Government or of a State or political subdivision of a State that provides direct cash assistance for the purpose of income maintenance and in which the eligibility of an individual, household, or family eligibility unit for cash benefits under the program, or the amount of such cash benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit. Such term does not include any program insofar as it provides medical, housing, education, job training, food, or in-kind assistance or social services.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) EFFECTIVE DATE.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section 213A.

SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS.

(a) IN GENERAL.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

"(4) PUBLIC CHARGE AND AFFIDAVITS OF SUPPORT.—

"(A) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) AFFIDAVITS OF SUPPORT.—Any immigrant who seeks admission or adjustment of status as any of the following is excludable unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A:

"(i) As an immediate relative (under section 201(b)(2)).

"(ii) As a family-sponsored immigrant under section 203(a) (or as the spouse or child under section 203(d) of such an immigrant).

"(iii) As the spouse or child (under section 203(d)) of an employment-based immigrant under section 203(b).

"(iv) As a diversity immigrant under section 203(c) (or as the spouse or child under section 203(d) of such an immigrant).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens with respect to whom an immigrant visa is issued (or adjustment of status is granted) after the date specified by the Attorney General under section 9802(c)

Subtitle I—Earned Income Tax Credit

SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 of such Code is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 10001. SHORT TITLE.

This title may be cited as the "Revenue Reconciliation Act of 1995".

Subtitle A—Tax Treatment of Expatriation

SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph with respect to any property—

"(i) this section (other than this paragraph) shall not apply to such property, but

"(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

"(b) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) PROPERTY TREATED AS HELD.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) EXCEPTIONS.—The following property shall not be treated as sold for purposes of this section:

"(1) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(2) INTEREST IN CERTAIN RETIREMENT PLANS.—

"(A) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax- favored treatment.

"(B) FOREIGN PENSION PLANS.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)-(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—For purposes of this section—

"(A) GENERAL RULE.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) SPECIAL RULE.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

"(C) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(D) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(i) the methodology used to determine that taxpayer's trust interest under this section, and

"(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(2) DEEMED SALE IN CASE OF TRUST INTEREST.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) RULES RELATING TO PAYMENT OF TAX.—

"(1) IMPOSITION OF TENTATIVE TAX.—

"(A) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(B) DUE DATE.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

"(C) TREATMENT OF TAX.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(2) DEFERRAL OF TAX.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

"(3) RULES RELATING TO SECURITY INTERESTS.—

"(A) ADEQUACY OF SECURITY INTERESTS.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

"(B) SPECIAL RULE FOR TRUST.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

"(1) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

"(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

"(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47)."

(b) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995."

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i)."

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i)."

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1))."

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

"(a) GENERAL RULE.—If a nonresident alien individual becomes a citizen or resident of the United States, gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

"(b) EXCEPTION FOR DEPRECIATION.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE DATE.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

"(A) the date the individual becomes a citizen or resident of the United States, or

"(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of becoming a United States real property interest (within the meaning of section 897(c)(1)).

"(2) RESIDENT.—The term 'resident' does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and a foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) TRUSTS.—A trust shall not be treated as an individual.

"(4) ELECTION NOT TO HAVE SECTION APPLY.—An individual may elect not to have this section apply solely for purposes of determining gain with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

"(5) SECTION ONLY TO APPLY ONCE.—This section shall apply only with respect to the first time the individual becomes either a citizen or resident of the United States.

"(d) REGULATIONS.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

"(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

"(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business."

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

"Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

"Sec. 1062. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after the date of the enactment of this Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 611) applies.

Subtitle B—Modification to Earned Income Credit

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) capital gain net income for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

"(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

"(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

"(d) DEFINITIONS.—For purposes of this section:

"(1) NET BUSINESS RECEIPTS.—The term 'net business receipts' means the value of all parts or products sold in the United States, excluding—

"(A) the value of parts or products sold for export,

"(B) expenses paid for parts or products produced in the United States,

"(C) expenses paid for services performed in the United States, and

"(D) amounts paid for income, sales or use taxes imposed by any State, or political subdivision thereof, or by the District of Columbia, Puerto Rico, Guam or the Virgin Islands.

"(2) SUBSIDIARY OR AFFILIATE CONTROLLED BY THE CORPORATION.—An entity shall be considered to be a 'subsidiary or affiliate controlled by the corporation' if the corporation owns 5 percent or more of any class of stock of the entity or if the corporation exercises control over a majority of the board of directors of the entity."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part VIII. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) of the Internal Revenue Code of 1986 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) of such Code (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

Subtitle E—Foreign Trust Tax Compliance

SEC. 10501. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 404(a)(4) or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) INCREASED PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 10502. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value."

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust."

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph."

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

"(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust."

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

"(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income."

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 of such Code is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 10505. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.q02

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) of such Code is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) PENALTY.—Section 1494 of such Code is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle F—Limitation on Section 936 Credit

SEC. 10601. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Paragraph (4) of section 936(a) of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking subparagraph (A) and inserting the following new subsections:

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

"(I) the excess determined under clause (i), bears to

"(II) the QPSII assets of the possession corporation for such taxable year."

(b) PHASEDOWN OF CREDIT.—The table contained in clause (ii) of section 936(a)(4)(C) of such Code, as redesignated by subsection (a), is amended to read as follows:

"In the case of taxable years beginning in:	**The percentage is:**
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0."

(c) DEFINITIONS AND SPECIAL RULES.—Subsection (i) of section 936 of such Code is amended to read as follows:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

"(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) RELOCATED BUSINESSES.—

"(A) IN GENERAL.—In determining—

"(i) the possession corporation's qualified possession wages for any taxable year, and

"(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

"(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after October 12, 1995, or any addition after such date to an existing trade or business of such possession corporation unless—

"(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

"(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

"(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c), such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect."

(d) MINIMUM TAX TREATMENT.—Clause (iii) of section 56(g)(4)(C) of such Code is amended by adding at the end thereof the following subclauses:

"(III) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(IV) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE.

This title may be cited as the "Veterans Reconciliation Act of 1995".

Subtitle A—Permanent Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998,".

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking out ", and before October 1, 1998".

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out paragraph (11).

Subtitle B—Other Matters

SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

"(A) with a compensable service-connected disability;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.".

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out "hospital care and nursing home care" in subparagraphs (A), (B), and (C) and inserting in lieu thereof "hospital care, medical services, and nursing home care";

(B) in paragraph (2), by inserting "and medical services" after "Hospital and nursing home care"; and

(C) by striking out "subsection (a)(1)(G) of this section" each place it appears and inserting in lieu thereof "subsection (a)(1)(F)".

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(2) of this section".

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title),";

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 30 percent or greater.

"(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

"(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

"(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

"(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

"(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

"(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.

"1706. Management of health care: other requirements.".

(b) CONFORMING AMENDMENTS TO SECTION 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out "(c)", and

(ii) striking out "this section, sections" and inserting in lieu thereof "sections 1710,".

(2)(A) The heading of such section is amended to read as follows:

"§ 1703. Annual report on furnishing of care and services by contract".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"1703. Annual report on furnishing of care and services by contract.".

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) REPEAL OF SUNSET PROVISION.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) COST RECOVERY.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

"(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) REPEAL OF SECTION 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) REVISED AUTHORITY FOR SHARING AGREEMENTS.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "specialized medical resources" and inserting in lieu thereof "health-care resources"; and

(B) by striking out "other" and all that follows through "medical schools" and inserting in lieu thereof "any medical school, health-care provider, health-care plan, insurer, or other entity or individual";

(2) in subsection (a)(2) by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,";

(3) in subsection (b), by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.";

(4) in subsection (d), by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services";

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.".

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 8110(c)(3)(A) of such title is amended by striking out "8153" and inserting in lieu thereof "8152".

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out "section 8154" and inserting in lieu thereof "section 8153".

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out "section 8153(a)" and inserting in lieu thereof "section 8152(a)"; and

(B) in subsection (b)(3), by striking out "section 8153" and inserting in lieu thereof "section 8152".

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out "section 8157" and "section 8153(a)" and inserting in lieu thereof "section 8156" and "section 8152(a)", respectively; and

(B) in paragraph (1), by striking out "section 8157(b)(4)" and inserting in lieu thereof "section 8156(b)(4)".

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.".

TITLE XII—LEGISLATIVE BRANCH

SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED FOR OFFICIAL ALLOWANCES OF MEMBERS OF THE HOUSE OF REPRESENTATIVES BE DEDICATED TO DEFICIT REDUCTION.

Of the funds made available in any appropriation Act for fiscal year 1996 or any succeeding fiscal year for the official expenses allowance, the clerk hire allowance, or the official mail allowance of a Member of the House of Representatives, any amount that remains unobligated at the end of such fiscal year shall be transferred to the Deficit Reduction Fund established by Executive Order 12858 (58 Fed. Reg. 42185). Any amount so transferred shall be in addition to the amounts specified in section 2(b) of such order, but shall be subject to the requirements and limitations set forth in sections 2(c) and 3 of such order.

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) CONFORMANCE WITH SCHEDULE FOR CIVIL SERVICE COLAS.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out "THROUGH 1998" the first place it appears and all that follows through "In the case of" the second place it appears and inserting in lieu thereof "THROUGH 1996.—In the case of";

(2) by striking "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1993, 1994, or 1995"; and

(3) by striking out "September" and inserting in lieu thereof "March".

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103-335 (108 Stat. 2648) is repealed.

SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and

quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium.	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "agency" means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term "health benefits plan" means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term "health-benefits coverage" means coverage under a health benefits plan;

(4) an individual shall be considered to be an "annuitant of an agency" if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term "Office" means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1996, each agency shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a "pay-as-you-go" basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 13104. APPLICATION OF OMB CIRCULAR A-129.

The provisions of Office of Management and Budget Circular No. A-129, relating to policies for Federal credit programs and nontax receivables, as in effect on the date of enactment of this Act, shall apply as provided in that circular.

SEC. 13105. 7-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES.

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 2003."

(b) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking "December 31, 1995" and inserting "December 31, 2002".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

TITLE XIV—BUDGET PROCESS PROVISIONS

CHAPTER 1—SHORT TITLE; PURPOSE

SEC. 14001. SHORT TITLE.

This title may be cited as the "Balanced Budget Enforcement Act of 1995".

SEC. 14002. PURPOSE.

The purpose of this title is to enforce a path toward a balanced budget by fiscal year 2002 and to make Federal budget process more honest and open.

CHAPTER 2—BUDGET ESTIMATES

SEC. 14051. BOARD OF ESTIMATES.

(a) ESTABLISHMENT.—There is established a Board of Estimates.

(b) DUTIES OF THE BOARD.—(1) On the dates specified in section 254, the Board shall issue a report to the President and the Congress which states whether it has chosen (with no modification)—

(A) the sequestration preview report for the budget year submitted by OMB under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 or the report for that year submitted by CBO under that section; and

(B) the final sequestration report for the budget year submitted by OMB under section 254(g) of the Balanced Budget and Emergency Deficit Control Act of 1985 or the report for that year submitted by CBO under that section;

that shall be used for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, chapter 11 of title 31, United States Code, and section 403 of the Congressional Budget Act of 1974. In making its choice, the Board shall choose the report that, in its opinion, is the more accurate.

(2) At any time the Board may change the list of major estimating assumptions to be used by OMB and CBO in preparing their sequestration preview reports.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members, the chairman of the Board of Governors of the Federal Reserve System and 4 other members to be appointed by the President as follows:

(A) One from a list of at least 5 individuals nominated for such appointment by the Speaker of the House of Representatives.

(B) One from a list of at least 5 individuals nominated for such appointment by the majority leader of the Senate.

(C) One from a list of at least 5 individuals nominated for such appointment by the minority leader of the House of Representatives.

(D) One from a list of at least 5 individuals nominated for such appointment by the minority leader of the Senate.

No member appointed by the President may be an officer or employee of any government. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(2) CONTINUATION OF MEMBERSHIP.—If any member of the Board appointed by the President becomes an officer or employee of a government, he may continue as a member of the Board for not longer than the 30-day period beginning on the date he becomes such an officer or employee.

(3) TERMS.—(A) Members shall be appointed for terms of 4 years.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4) BASIC PAY.—Members of the Board shall serve without pay.

(5) QUORUM.—Three members of the Board shall constitute a quorum but a lesser number may hold hearings.

(6) CHAIRMAN.—The Chairman of the Board shall be chosen annually by its members.

(7) MEETINGS.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) DIRECTOR AND STAFF.—

(1) APPOINTMENT.—The Board shall have a Director who shall be appointed by the members of the Board. Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of such personnel as the Director considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(3) STAFF OF FEDERAL AGENCIES.—Upon request of the Board, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Board to assist the Board in carrying out its duties, notwithstanding section 202(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(a)).

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as it considers appropriate.

(2) OBTAINING OFFICIAL DATA.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Chairman of the Board, the head of such department or agency shall furnish such information to the Board.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) DEFINITIONS.—As used in this section:

(1) The term "Board" refers to the Board of Estimates established by subsection (a).

(2) The term "CBO" refers to the Director of the Congressional Budget Office.

(3) The term "OMB" refers to the Director of the Office of Management and Budget.

Subtitle B—Discretionary Spending Limits

SEC. 14101. DISCRETIONARY SPENDING LIMITS.

(a) LIMITS.—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended by striking subparagraphs (A), (B), (C), (D), and (F), by redesignating subparagraph (E) as subparagraph (A) and by striking "and" at the end of that subparagraph, and by inserting after subparagraph (A) the following new subparagraphs:

"(B) with respect to fiscal year 1996, $498,113,000,000 in new budget authority and $536,600,000,000 in outlays;

"(C) with respect to fiscal year 1997, $497,200,000,000 in new budget authority and $530,200,000,000 in outlays;

"(D) with respect to fiscal year 1998, $496,700,000,000 in new budget authority and $526,100,000,000 in outlays;

"(E) with respect to fiscal year 1999, $495,700,000,000 in new budget authority and $524,200,000,000 in outlays;

"(F) with respect to fiscal year 2000, $497,700,000,000 in new budget authority and $523,300,000,000 in outlays;

"(G) with respect to fiscal year 2001, $506,700,000,000 in new budget authority and $529,500,000,000 in outlays; and

"(H) with respect to fiscal year 2002, $509,700,000,000 in new budget authority and $529,500,000,000 in outlays.".

(b) COMMITTEE ALLOCATIONS AND ENFORCEMENT.—Section 602 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (c), by striking "1995" and inserting "2002" and by striking its last sentence; and

(2) in subsection (d), by striking "1992 TO 1995" in the side heading and inserting "1995 TO 2002" and by striking "1992 through 1995" and inserting "1995 through 2002".

(c) FIVE-YEAR BUDGET RESOLUTIONS.—Section 606 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a), by striking "for fiscal year 1992, 1993, 1994, or 1995"; and

(2) in subsection (d)(1), by striking "for fiscal years 1992, 1993, 1994, and 1995" and by striking "(i) and (ii)".

(d) EFFECTIVE DATE REPEALER.—(1) Section 607 of the Congressional Budget Act of 1974 is repealed.

(2) The item relating to section 607 in the table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

(e) SEQUESTRATION REGARDING CRIME TRUST FUND.—(1) Section 251A(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraphs (B), (C), and (D) and its last sentence and inserting the following:

"(B) For fiscal year 1996, $2,227,000,000.

"(C) For fiscal year 1997, $3,846,000,000.

"(D) For fiscal year 1998, $4,901,000,000.

"(E) For fiscal year 1999, $5,639,000,000.

"(F) For fiscal year 2000, $6,225,000,000.

"The appropriate levels of new budget authority are as follows: for fiscal year 1996, $4,087,000,000; for fiscal year 1997, $5,000,000,000; for fiscal year 1998, $5,500,000,000; for fiscal year 1999, $6,500,000,000; for fiscal year 2000, $6,500,000,000.".

(2) The last two sentences of section 310002 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14212) are repealed.

SEC. 14102. TECHNICAL AND CONFORMING CHANGES.

(a) GENERAL STATEMENT.—Section 250(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the first sentence and inserting the following: "This part provides for the enforcement of deficit reduction through discretionary spending limits and pay-as-you-go requirements for fiscal years 1995 through 2002.".

(b) DEFINITIONS.—Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) The term 'budgetary resources' means new budget authority, unobligated balances, direct spending authority, and obligation limitations.";

(2) in paragraph (9), by striking "1992" and inserting "1996"; and

(3) in paragraph (14), by striking "1995" and inserting "2002".

SEC. 14103. ELIMINATION OF CERTAIN ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "1991–1998" and inserting "1995–2002";

(2) in the first sentence of subsection (b)(1), by striking "1992, 1993, 1994, 1995, 1996, 1997 or 1998" and inserting "1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002" and by striking "through 1998" and inserting "through 2002";

(3) in subsection (b)(1), by striking subparagraphs (B) and (C) and by striking "the following:" and all that follows through "The adjustments" and inserting "the following: the adjustments";

(4) in subsection (b)(2), by striking "1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998" and inserting "1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002" and by striking "through 1998" and inserting "through 2002"; and

(5) by repealing subsection (b)(2).

Subtitle C—Pay-As-You-Go Procedures

SEC. 14201. PERMANENT EXTENSION OF PAY-AS-YOU-GO PROCEDURES; TEN-YEAR SCOREKEEPING.

(a) TEN-YEAR SCOREKEEPING.—Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in the side heading of subsection (a), by striking "FISCAL YEARS 1992–1998"; and

(2) in subsection (d), by striking "each fiscal year through fiscal year 1998" each place it appears and inserting "each of the 10 succeeding fiscal years following enactment of any direct spending or receipts legislation".

(b) REPEAL OF EMERGENCIES.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

(c) PAY-AS-YOU-GO SCORECARD.—Upon enactment of this Act, the Director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment of this Act of direct spending and receipts legislation for that year.

(d) PAY-AS-YOU-GO POINT OF ORDER.—Section 311 of the Congressional Budget Act of 1974 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(d) PAY-AS-YOU-GO POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would increase the deficit above the maximum deficit amount set forth in section 253 for the budget year or any of the 9 succeeding fiscal years after the budget year, as measured by the sum of all applicable estimates of direct spending and receipts legislation applicable to that fiscal year.".

SEC. 14202. ELIMINATION OF EMERGENCY EXCEPTION.

(a) SEQUESTRATION.—Section 252(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking subparagraph (B), by striking the dash after "from", and by striking "(A)".

(b) TECHNICAL CHANGE.—Section 252(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "in the manner described in section 256." after "accounts" the first place it appears and by striking the remainder of the subsection.

Subtitle D—Miscellaneous

SEC. 14301. TECHNICAL CORRECTION.

Section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985, entitled "Modification of Presidential Order", is repealed.

SEC. 14302. REPEAL OF EXPIRATION DATE.

(a) EXPIRATION.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by repealing subsection (b) and by redesignating subsection (c) as subsection (b).

(b) EXPIRATION.—Section 14002(c)(3) of the Omnibus Budget Reconciliation Act of 1993 (2 U.S.C. 900 note; 2 U.S.C. 665 note) is repealed.

Subtitle E—Deficit Control

SEC. 14401. DEFICIT CONTROL.

(a) DEFICIT CONTROL.—Part D of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Part D—Deficit Control

"SEC. 261. ESTABLISHMENT OF DEFICIT TARGETS.

"The deficit targets are as follows:

"Fiscal year	Deficit (in billions of dollars)
1996	179.2
1997	160.4
1998	132.5
1999	111.0
2000	85.3
2001	41.0
2002	0

The deficit target for each fiscal year after 2002 shall be zero.

"SEC. 262. SPECIAL DEFICIT MESSAGE BY PRESIDENT.

"(a) SPECIAL MESSAGE.—If the OMB sequestration preview report submitted under section 254(d) indicates that deficit for the budget year or any outyear will exceed the applicable deficit target, or that the actual deficit target in the most recently completed fiscal year exceeded the applicable deficit target, the budget submitted under section 1105(a) of title 31, United States Code, shall include a special deficit message that includes proposed legislative changes to offset the net deficit impact of the excess identified by that OMB sequestration preview report for each such year through any combination of:

"(1) Reductions in outlays.

"(2) Increases in revenues.

"(3) Increases in the deficit targets, if the President submits a written determination that, because of economic or programmatic reasons, only some or none of the excess should be offset.

"(b) INTRODUCTION OF PRESIDENT'S PACKAGE.—Within 10 days after the President submitted a special deficit message, the text referred to in subsection (a) shall be introduced as a joint resolution in the House of Representatives by the chairman of its Committee on the Budget and in the Senate by the chairman of its Committee on the Budget. If the chairman fails to do so, after the 10th day the resolution may be introduced by any Member of the House of Representatives or the Senate, as the case may be. A joint resolution introduced under this subsection shall be referred to the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

"SEC. 263. CONGRESSIONAL ACTION REQUIRED.

"(a) IN GENERAL.—The requirements of this section shall be in effect for any year in which the OMB sequestration preview report submitted under section 254(d) indicates that the deficit for the budget year or any outyear will exceed the applicable deficit target.

"(b) REQUIREMENTS FOR SPECIAL BUDGET RESOLUTION IN THE HOUSE.—The Committee on the Budget in the House shall report not later than March 15 a joint resolution, either as a separate section of the joint resolution on the budget reported pursuant to section 301 of the Congressional Budget Act of 1974 or as a separate resolution, that includes reconciliation instructions instructing the appropriate committees of the House and Senate to report changes in laws within their jurisdiction to offset any excess in the deficit identified in the OMB sequestration preview report submitted under section 254(d) as follows:

"(1) Reductions in outlays.

"(2) Increases in revenues.

"(3) Increases in the deficit targets, except that any increase in those targets may not be greater than the increase included in the special reconciliation message submitted by the President.

"(c) PROCEDURE IF HOUSE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

"(1) AUTOMATIC DISCHARGE OF HOUSE BUDGET COMMITTEE.—In the event that the House Committee on the Budget fails to report a resolution meeting the requirements of subsection (b), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to section 5(b), and the joint resolution shall be placed on the appropriate calendar.

"(2) CONSIDERATION BY HOUSE OF DISCHARGED RESOLUTION.—Ten days after the House Committee on the Budget has been discharged under paragraph (1), any member may move that the House proceed to consider the resolution. Such motion shall be highly privileged and not debatable. It shall not be in order to consider any amendment to the resolution except amendments which are germane and which do not change the net deficit impact of the resolution. Consideration of such resolution shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (d).

"(d) CONSIDERATION BY THE HOUSE OF REPRESENTATIVES.—(1) It shall not be in order in the House of Representatives to consider a joint resolution on the budget unless that joint resolution fully addresses the entirety of any excess of the deficit targets as identified in the OMB sequestration preview report submitted under section 254(d) through reconciliation instructions requiring spending reductions, or changes in the deficit targets.

"(2) If the joint resolution on the budget proposes to eliminate or offset less than the entire excess for budget year and any subsequent fiscal years, then the Committee on the Budget shall report a separate resolution increasing the deficit targets for each applicable year by the full amount of the excess not offset or eliminated. It shall not be in order to consider any joint resolution on the budget that does not offset the full amount of the excess until the House of Representatives has agreed to the resolution directing the increase in the deficit targets.

"(e) TRANSMITTAL TO SENATE.—If a joint resolution passes the House pursuant to subsection (d), the Clerk of the House of Representatives shall cause the resolution to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the resolution is passed. The resolution shall be referred to the Senate Committee on the Budget.

"(f) REQUIREMENTS FOR SPECIAL BUDGET RESOLUTION IN THE SENATE.—The Committee on the Budget in the Senate shall report not later than April 1 a joint resolution, either as a separate section of a budget resolution reported pursuant to section 301 of the Congressional Budget Act of 1974 or as a separate resolution, that shall include reconciliation instructions instructing the appropriate committees of the House and Senate to report changes in laws within their jurisdiction to offset any excess through any combination of:

"(1) Reductions in outlays.

"(2) Increases in revenues.

"(3) Increases in the deficit targets, except that any increase in those targets may not be greater than the increase included in the special reconciliation message submitted by the President.

"(g) PROCEDURE IF SENATE BUDGET COMMITTEE FAILS TO REPORT REQUIRED RESOLUTION.—

"(1) AUTOMATIC DISCHARGE OF SENATE BUDGET COMMITTEE.—In the event that the Senate Committee on the Budget fails to report a resolution meeting the requirements of subsection (f), the committee shall be automatically discharged from further consideration of the joint resolution reflecting the President's recommendations introduced pursuant to section 5(b), and the joint resolution shall be placed on the appropriate calendar.

"(2) CONSIDERATION BY SENATE OF DISCHARGED RESOLUTION.—Ten days after the Senate Committee on the Budget has been discharged under paragraph (1), any member may move that the Senate proceed to consider the resolution. Such motion shall be privileged and not debatable. Consideration of such resolution shall be pursuant to the procedures set forth in section 305 of the Congressional Budget Act of 1974 and subsection (h).

"(h) CONSIDERATION BY SENATE.—(1) It shall not be in order in the Senate to consider a joint resolution on the budget unless that joint resolution fully addresses the entirety of any excess of the deficit targets as identified in the OMB sequestration report submitted under section 254(d) through reconciliation instructions requiring deficit reductions, or changes in the deficit targets.

"(2) If the joint resolution on the budget proposes to eliminate or offset less than the entire overage of a budget year, then the Committee on the Budget shall report a resolution increasing the deficit target by the full amount of the overage not eliminated. It shall not be in order to consider any joint resolution on the budget that does not offset the entire amount of the overage until the Senate has agreed to the resolution directing the increase in the deficit targets.

"(i) Conference Reports Must Fully Address Deficit Excess.—It shall not be in order in the House of Representatives or the Senate to consider a conference report on a joint resolution on the budget unless that conference report fully addresses the entirety of any excess identified by the OMB sequestration preview report submitted pursuant to section 254(d) through reconciliation instructions requiring deficit reductions, or changes in the deficit targets.

"SEC. 264. COMPREHENSIVE SEQUESTRATION.

"(a) Sequestration Based on Budget-Year Shortfall.—The amount to be sequestered for the budget year is the amount (if any) by which deficit exceeds the cap for that year under section 261 or the amount that the actual deficit in the preceding fiscal year exceeded the applicable deficit target.

"(b) Sequestration.—Within 15 days after Congress adjourns to end a session and on May 15, there shall be a sequestration to reduce the amount of deficit in the current policy baseline and to repay any deficit excess in the most recently completed fiscal year by the amounts specified in subsection (b). The amount required to be sequestered shall be achieved by reducing each spending account (or activity within an account) by the uniform percentage necessary to achieve that amount.".

(c) Conforming Changes.—(1) The table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the items relating to part D and inserting the following:

"Sec. 261. Establishment of deficit targets.

"Sec. 262. Special deficit message by President.

"Sec. 263. Congressional action required.

"Sec. 264. Comprehensive sequestration.".

(2) Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "or in part D" after "As used in this part".

SEC. 14402. SEQUESTRATION PROCESS.

(a) Estimating Assumptions, Reports, and Orders.—Sections 254, 255, and 256 of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

"SEC. 254. ESTIMATING ASSUMPTIONS, REPORTS, AND ORDERS.

"(a) Timetable.—The timetable with respect to this part for any budget year is as follows:

Date:	Action to be completed:
Dec. 31	OMB and CBO sequestration preview reports submitted to Board.
Jan. 15	Board selects sequestration preview report.
The President's budget submission.	OMB publishes sequestration preview report.
May 1	OMB and CBO sequestration reports submitted to Board.
5 days later	Board selected midsession sequestration report.
May 15	President issues sequestration order.
August 29	President's midsession review; notification regarding military personnel.
Within 10 days after end of session.	OMB and CBO final budget year sequestration reports submitted to Board.
5 days later	Board selects final sequestration report; President issues sequestration order.

"(b) Submission and Availability of Reports.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate, OMB, and the Board and, in the case of OMB, to the House of Representatives, the Senate, the President, and the Board on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

"(c) Exchange of Preliminary Current Policy Baselines.—On December 15 or 3 weeks after Congress adjourns to end a session, whichever is later, OMB and CBO shall exchange their preliminary current policy baselines for the budget-year session starting in January.

"(d) Sequestration Preview Reports.—

"(1) Reporting requirement.—On December 31 or 2 weeks after exchanging preliminary current policy baselines, whichever is later, OMB and CBO shall each submit a sequestration preview report.

"(2) Contents.—Each preview report shall set forth the following:

"(A) Major estimating assumptions.—The major estimating assumptions for the current year, the budget year, and the outyears, and an explanation of them.

"(B) Current policy baseline.—A detailed display of the current policy baseline for the current year, the budget year, and the outyears, with an explanation of changes in the baseline since it was last issued that includes the effect of policy decisions made during the intervening period and an explanation of the differences between OMB and CBO for each item set forth in the report.

"(C) Deficits.—Estimates for the most recently completed fiscal year, the budget year, and each subsequent year through fiscal year 2002 of the deficits or surpluses in the current policy baseline.

"(D) Discretionary spending limits.—Estimates for the current year and each subsequent year through 2002 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(E) Sequestration of discretionary accounts.—Estimates of the uniform percentage and the amount of budgetary resources to be sequestered from discretionary programs given the baseline level of appropriations, and if the President chooses to exempt some or all military personnel from sequestration, the effect of that decision on the percentage and amounts.

"(F) Pay-as-you-go sequestration reports.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

"(i) The amount of net deficit increase or decrease, if any, calculated under section 252(b).

"(ii) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

"(iii) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(G) Requirements for the deficit.—An estimate of the amount of deficit reduction, if any, to be achieved for the budget year and the current year necessary to comply with the deficit targets or to repay any deficit excess in the preceding fiscal year.

"(H) Deficit sequestration.—Estimates of the uniform percentage and the amount of comprehensive sequestration of spending programs that will be necessary under section 264.

"(I) Amount of change in deficit projections.—Amounts that deficit projections for the current year and the budget year have changed as a result of changes in economic and technical assumptions occurring after the enactment of the Omnibus Budget Reconciliation Act of 1995.

"(e) Selection of Official Sequestration Preview Report.—On January 15 or 2 weeks after receiving the OMB and CBO sequestration preview reports, whichever is later, the Board shall choose either the OMB or CBO sequestration preview report as the official report for purposes of this Act. The Board shall add to the chosen report an analysis of which reports submitted in previous years have proven to be more accurate and recommendations about methods of improving the accuracy of future reports. That report shall be set forth, without change, in the budget submitted by the President under section 1105(a) of title 31, United States Code, for the budget year.

"(f) Agreeing on Earlier Dates.—The Chairman of the Board may set earlier dates for subsections (c), (d), and (e) if OMB and CBO concur.

"(g) Notification Regarding Military Personnel.—On or before August 29, the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 251(a)(3).

"(h) Final Sequestration Reports.—

"(1) Reporting requirement.—Not later than 10 days following the end of a budget-year session, OMB and CBO shall each submit a final sequestration report. On May 1 of each year, OMB and CBO shall each submit a midyear sequestration report for the current year.

"(2) Contents.—Each such report shall be based upon laws enacted through the date of the report and shall set forth all the information and estimates required of a sequestration preview report required by subsections (d)(2)(D) through (H). In addition, that report shall include—

"(A) for each account to be sequestered, the baseline level of sequestrable budgetary resources and the resulting reductions in new budget authority and outlays; and

"(B) the effects of sequestration on the level of outlays for each fiscal year through 2002.

"(i) Selection of Official Final Sequestration Report.—Not later than 5 days after receiving the final OMB and CBO sequestration reports, the Board shall choose either the OMB or CBO final sequestration report as the official report for purposes of this Act, and shall issue a report stating that decision and making any comments that the Board chooses.

"(j) Presidential Order.—(1) On the day that the Board chooses a final sequestration report, the President shall issue an order fully implementing without change all sequestrations required by—

"(A) the final sequestration report that requires the lesser amount of discretionary sequestration under section 260; and

"(B) the final sequestration report that requires the lesser total amount of deficit sequestration under section 264.

The order shall be effective on issuance and shall be issued only if sequestration is required.

"(2)(A) If both the CBO and OMB final sequestration reports require a sequestration of discretionary programs, and the Board chooses the report requiring the greater sequestration, then a positive amount equal to the difference between the CBO and OMB estimates of discretionary new budget authority for the budget year shall be subtracted from the budget-year column and added to the column for the first outyear of the discretionary scorecard under section 107 as though that amount had been enacted in the next session of Congress.

"(B) If one final sequestration report requires a sequestration of discretionary programs and the Board chooses that report, then an amount equal to the difference between that report's estimate of discretionary new budget authority for the budget year and the discretionary funding limit for that year shall be subtracted from the budget-year column and added to column for the first outyear of the discretionary scorecard under section 107 as though that amount had been enacted in the next session of Congress.

"(k) Use of Major Estimating Assumptions and Scorekeeping Conventions.—In the estimates, projections, and reports under subsections (c) and (d), CBO and OMB shall use the best and most recent estimating assumptions available. In all other reports required by this section and in all estimates or calculations required by this Act, CBO and OMB shall use—

"(1) current-year and budget-year discretionary funding limits chosen by the Board and the estimates chosen by the Board of the deficit reduction necessary to comply with the deficit targets in the budget year;

"(2) in estimating the effects of bills and discretionary regulations, the major estimating assumptions most recently chosen by the Board, except to the extent that they must be altered to reflect actual results occurring or measured after the Board's choice; and

"(3) scorekeeping conventions determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

In applying the two previous sentences, the major estimating assumptions and other calculations required by this Act that are included in the statement of managers accompanying the conference report on this Act shall be considered, for all purposes of this Act, to be the report of the Board chosen under subsection (e) for fiscal year 1993.

"(l) Bill Cost Estimates.—Within 10 days after the enactment of any discretionary appropriations, direct spending, or receipts legislation, CBO and OMB shall transmit to each other, the Board, and to the Congress an estimate of the budgetary effects of that law, following the estimating requirements of this section. Those estimates may not change after the 10-day period except—

"(1) to the extent those estimates are subsumed within (and implicitly changed by) the estimates made in preparation of a new baseline under subsections (c), (d), and (h);

"(2) to reflect a choice of the Board regarding an official set of estimates under subsections (l) and (n); and

"(3) to correct clerical errors or errors in the application of this Act.

"SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

"The following budget accounts, activities within accounts, or income shall be exempt from sequestration—

"(1) net interest;

"(2) deposit insurance and pension benefit guarantees;

"(3) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

"(4) offsetting receipts and collections;

"(5) all payments from one Federal direct spending budget account to another Federal budget account; all intragovernmental funds including those from which funding is derived primarily from other Government accounts;

"(6) expenses to the extent they result from private donations, bequests, or voluntary contributions to the Government;

"(7) nonbudgetary activities, including but not limited to—

"(A) credit liquidating and financing accounts;

"(B) the Pension Benefit Guarantee Corporation Trust Funds;

"(C) the Thrift Savings Fund;

"(D) the Federal Reserve System; and

"(E) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

"(8) payments resulting from Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

"(9) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed—

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments, and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian land claims settlement fund (14–2202–0–1–806)

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Panama Canal Commission, operating expenses and capital outlay (95–5190–0–2–403);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payments to copyright owners (03–5175–0–2–376);

Payments to the United States territories, fiscal assistance (14–0418–0–1–801);

Salaries of Article III judges;

Soldier's and Airmen's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401).

"(10) the following noncredit special, revolving, or trust-revolving funds—

Coinage profit fund (20–5811–0–2–803);

Exchange Stabilization Fund (20–4444–0–3–155);

Foreign Military Sales trust fund (11–82232–0–7–155);

"(11)(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act);

"(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act;

"(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account;

"(12) the earned income tax credit (payments to individuals pursuant to section 32 of the Internal Revenue Code of 1986);

"(13) the uranium enrichment program; and

"(14) benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act.

"SEC. 256. GENERAL AND SPECIAL SEQUESTRATION RULES.

"(a) Permanent Sequestration of Deficit.—

"(1) The purpose of any sequestration under this Act is to ensure deficit reduction in the budget year and all subsequent fiscal years, so that the budget-year cap in section 262 is not exceeded.

"(2) Obligations in sequestered spending accounts shall be reduced in the fiscal year in which a sequestration occurs and in all succeeding fiscal years. Notwithstanding any other provision of this section, after the first deficit sequestration, any later sequestration shall reduce spending outlays by an amount in addition to, rather than in lieu of, the reduction in spending outlays in place under the existing sequestration or sequestrations.

"(b) Uniform Percentages.—

"(1) In calculating the uniform percentage applicable to the sequestration of all spending programs or activities under section 266 the sequestrable base for spending programs and activities is the total budget-year level of outlays for those programs or activities in the current policy baseline minus—

"(A) those budget-year outlays resulting from obligations incurred in the current or prior fiscal years, and

(B) those budget-year outlays resulting from exemptions under section 253.

"(2) For any direct spending program in which—

"(A) outlays pay for entitlement benefits,

(B) a budget-year sequestration takes effect after the 1st day of the budget year, and

"(C) that delay reduces the amount of entitlement authority that is subject to sequestration in the budget year, the uniform percentage otherwise applicable to the sequestration of that program in the budget year shall be increased as necessary to achieve the same budget-year outlay reduction in that program as would have been achieved had there been no delay.

"(3) If the uniform percentage otherwise applicable to the budget-year sequestration of a program or activity is increased under paragraph (2), then it shall revert to the uniform percentage calculated under paragraph (1) when the budget year is completed.

"(c) GENERAL RULES FOR SEQUESTRATION.—

"(1) INDEFINITE AUTHORITY.—Except as otherwise provided, sequestration in accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration and succeeding fiscal years are reduced, from the level that would actually have occurred, by the applicable sequestration percentage or percentages.

"(2) CANCELLATION OF BUDGETARY RESOURCES.—Budgetary resources sequestered from any account other than an entitlement trust, special, or revolving fund account shall revert to the Treasury and be permanently canceled or repealed.

"(3) INDEXED BENEFIT PAYMENTS.—If, under any entitlement program—

"(A) benefit payments are made to persons or governments more frequently than once a year, and

"(B) the amount of entitlement authority is periodically adjusted under existing law to reflect changes in a price index,

then for the first fiscal year to which a sequestration order applies, the benefit reductions in that program accomplished by the order shall take effect starting with the payment made at the beginning of January or 7 weeks after the order is issued, whichever is later. For the purposes of this subsection, Veterans Compensation shall be considered a program that meets the conditions of the preceding sentence.

"(4) PROGRAMS, PROJECTS, OR ACTIVITIES.—Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

"(5) IMPLEMENTING REGULATIONS.—Administrative regulations or similar actions implementing the sequestration of a program or activity shall be made within 120 days of the effective date of the sequestration of that program or activity.

"(6) DISTRIBUTION FORMULAS.—To the extent that distribution or allocation formulas differ at different levels of budgetary resources within an account, program, project, or activity, a sequestration shall be interpreted as producing a lower total appropriation, with that lower appropriation being obligated as though it had been the pre-sequestration appropriation and no sequestration had occurred.

"(7) CONTINGENT FEES.—In any account for which fees charged to the public are legally determined by the level of appropriations, fees shall be charged on the basis of the presequestration level of appropriations.

"(d) NON-JOBS PORTION OF AFDC.—Any sequestration order shall accomplish the full amount of any required reduction in payments for the non-jobs portion of the aid to families with dependant children program under the Social Security Act by reducing the Federal reimbursement percentage (for the fiscal year involved) by multiplying that reimbursement percentage, on a State-by-State basis, by the uniform percentage applicable to the sequestration of nonexempt direct spending programs or activities.

"(e) JOBS PORTION OF AFDC.—

"(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any sequestration order shall accomplish the full amount of any required reduction of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

"(2) NEW ALLOTMENT FORMULA.—

"(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act shall be equal to that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year, except that a State may not be allotted an amount under this subparagraph that exceeds the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

"(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

"(f) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in payments under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under the program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

"(g) COMMODITY CREDIT CORPORATION.—

"(1) EFFECTIVE DATE.—For the Commodity Credit Corporation, the date on which a sequestration order takes effect in a fiscal year shall vary for each crop of a commodity. In general, the sequestration order shall take effect when issued, but for each crop of a commodity for which 1-year contracts are issued as an entitlement, the sequestration order shall take effect with the start of the sign-up period for that crop that begins after the sequestration order is issued. Payments for each contract in such a crop shall be reduced under the same terms and conditions.

"(2) DAIRY PROGRAM.—(A) As the sole means of achieving any reduction in outlays under the milk price-support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundredweight of milk marketed) shall occur under subparagraph (A) of section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued, and shall not exceed the aggregate amount of the reduction in outlays under the milk price-support program, that otherwise would have been achieved by reducing payments made for the purchase of milk or the products of milk under this subsection during that fiscal year.

"(3) EFFECT OF DELAY.—For purposes of subsection (b)(1), the sequestrable base for the Commodity Credit Corporation is the budget-year level of gross outlays resulting from new budget authority that is subject to reduction under paragraphs (1) and (2), and subsection (b)(2) shall not apply.

"(4) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this Act shall restrict the Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, or limit or reduce in any way any appropriation that provides the Corporation with funds to cover its net realized losses.

"(h) EXTENDED UNEMPLOYMENT COMPENSATION.—(1) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under any sequestration order by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

"(2) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1986.

"(i) FEDERAL EMPLOYEES HEALTH BENEFITS FUND.—For the Federal Employees Health Benefits Fund, a sequestration order shall take effect with the next open season. The sequestration shall be accomplished by annual payments from that Fund to the General Fund of the Treasury. Those annual payments shall be financed solely by charging higher premiums. For purposes of subsection (b)(1), the sequestrable base for the Fund is the budget-year level of gross outlays resulting from claims paid after the sequestration order takes effect, and subsection (b)(2) shall not apply.

"(j) FEDERAL HOUSING FINANCE BOARD.—Any sequestration of the Federal Housing Finance Board shall be accomplished by annual payments (by the end of each fiscal year) from that Board to the general fund of the Treasury, in amounts equal to the uniform sequestration percentage for that year times the gross obligations of the Board in that year.

"(k) FEDERAL PAY.—

"(1) IN GENERAL.—Except as provided in section 10(b)(3), new budget authority to pay Federal personnel from direct spending accounts shall be reduced by the uniform percentage calculated under section 264, as applicable, but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

"(2) Definitions.—For purposes of this subsection:

"(A) The term 'statutory pay system' shall have the meaning given that term in section 5302(1) of title 5, United States Code.

"(B) The term 'elements of military pay' means—

"(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

"(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

"(iii) cadet pay and midshipman pay under section 203(c) of such title.

"(C) The term 'uniformed services' shall have the meaning given that term in section 101(3) of title 37, United States Code.

"(l) Guaranteed Student Loans.—(A) For all student loans under part B of title IV of the Higher Education Act of 1965 made on or after the date of a sequestration, the origination fees shall be increased by a uniform percentage sufficient to produce the dollar savings in student loan programs for the fiscal year of the sequestration required by section 264, and all subsequent origination fees shall be increased by the same percentage, notwithstanding any other provision of law.

"(B) The origination fees to which paragraph (A) applies are those specified in sections 428H(f)(1) and 438(c) of that Act.

"(m) Insurance Programs.—Any sequestration in a Federal program that sells insurance contracts to the public (including the Federal Crop Insurance Fund, the National Insurance Development Fund, the National Flood Insurance Fund, insurance activities of the Overseas Private Insurance Corporation, and Veterans' life insurance programs) shall be accomplished by annual payments from the insurance fund or account to the general fund of the Treasury. The amount of each annual payment by each such fund or account shall be the amount received by the fund or account by increasing premiums on contracts entered into after the date a sequestration order takes effect by the uniform sequestration percentage, and premiums shall be increased accordingly.

"(n) Medicaid.—The November 15th estimate of medicaid spending by States shall be the base estimate from which the uniform percentage reduction under any sequestration, applied across-the-board by State, shall be made. Succeeding Federal payments to States shall reflect that reduction. The Health Care Financing Administration shall reconcile actual medicaid spending for each fiscal year with the base estimate as reduced by the uniform percentage, and adjust each State's grants as soon as practicable, but no later than 100 days after the end of the fiscal year to which the base estimate applied, to comply with the sequestration order.

"(o) Medicare.—

"(1) Timing of application of reductions.—

"(A) In general.—Except as provided in subparagraph (B), if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

"(B) Payment on the basis of cost reporting periods.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

"(2) No increase in beneficiary charges in assignment-related cases.—If a reduction in payment amounts is made pursuant to a sequestration order for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

"(p) Postal Service Fund.—Any sequestration of the Postal Service Fund shall be accomplished by annual payments from that Fund to the General Fund of the Treasury, and the Postmaster General of the United States shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment shall be—

"(1) the uniform sequestration percentage, times

"(2) the estimated gross obligations of the Postal Service Fund in that year other than those obligations financed with an appropriation for revenue foregone for that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Within 30 days after the sequestration order is issued, the Postmaster General shall submit to the Postal Rate Commission a plan for financing the annual payment for that fiscal year and publish that plan in the Federal Register. The plan may assume efficiencies in the operation of the Postal Service, reductions in capital expenditures, increases in the prices of services, or any combination, but may not assume a lower Fund surplus or higher Fund deficit and must follow the requirements of existing law governing the Postal Service in all other respects. Within 30 days of the receipt of that plan, the Postal Rate Commission shall approve the plan or modify it in the manner that modifications are allowed under current law. If the Postal Rate Commission does not respond to the plan within 30 days, the plan submitted by the Postmaster General shall go into effect. Any plan may be later revised by the submission of a new plan to the Postal Rate Commission, which may approve or modify it.

"(q) Power Marketing Administrations and T.V.A.—Any sequestration of the Department of Energy power marketing administration funds or the Tennessee Valley Authority fund shall be accomplished by annual payments from those funds to the General Fund of the Treasury, and the administrators of those funds shall have the duty to make those payments during the fiscal year to which the sequestration order applies and each succeeding fiscal year. The amount of each annual payment by a fund shall be—

"(1) the uniform sequestration percentage, times

"(2) the estimated gross obligations of the fund in that year.

Any such payment for a fiscal year shall be made as soon as possible during the fiscal year, except that it may be made in installments within that year if the payment schedule is approved by the Secretary of the Treasury. Annual payments by a fund may be financed by reductions in costs required to produce the presequester amount of power (but those reductions shall not include reductions in the amount of power supplied by the fund), by reductions in capital expenditures, by increases in rates, or by any combination, but may not be financed by a lower fund surplus or a higher fund deficit and must follow the requirements of existing law governing the fund in all other respects. The administrator of a fund or the TVA Board is authorized to take the actions specified above in order to make the annual payments to the Treasury.

"(r) Veterans' Housing Loans.—(1) For all housing loans guaranteed, insured, or made under chapter 37 of title 38, United States Code, on or after the date of a sequestration, the origination fees shall be increased by a uniform percentage sufficient to produce the dollar savings in veterans' housing programs for the fiscal year of the sequestration required by section 264, and all subsequent origination fees shall be increased by the same percentage, notwithstanding any other provision of law.

"(2) The origination fees to which paragraph (1) applies are those referred to in section 3729 of title 38, United States Code.".

(b) Conforming Changes.—(1) The item relating to section 254 in the table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 254. Estimating assumptions, reports, and orders.".

(2) The item relating to section 256 in the table of sections set forth in section 200 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

"Sec. 256. General and special sequestration rules.".

(c) Within 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each issue a report that includes projections of Federal spending, revenues, and deficits as a result of enactment of this Act and setting forth the economic and technical assumptions used to make those projections.

Subtitle F—Line Item Veto

SEC. 14501. LINE ITEM VETO AUTHORITY.

(a) In General.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of the dollar amount of any discretionary budget authority specified in an appropriation Act for fiscal year 1996 or conference report or joint explanatory statement accompanying a conference report on the Act, or veto any targeted tax benefit provision in this reconciliation Act, if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than 10 calendar days (not including Sundays) after the date of the enactment of an appropriation Act providing such budget authority, or of this reconciliation Act in the case of a targeted tax benefit.

(b) Deficit Reduction.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) Separate Messages.—The President shall submit a separate special message under this section for each appropriation Act and for this reconciliation Act.

(d) Limitation.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

(e) Special Rule for Previously Enacted Appropriation Acts.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1996 that is enacted before the date of the enactment of this Act, the President may rescind all or part of that discretionary budget authority under the terms of this subtitle if the President notifies the Congress of such rescission by a special message not later than 10 calendar days (not including Sundays) after the date of the enactment of this Act.

SEC. 14502. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a) In General.—

(1) Any amount of budget authority rescinded under this subtitle as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this subtitle as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) Congressional Review Period.—The period referred to in subsection (a) is—

(1) a congressional review period of 20 calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional 5 calendar days of session after the date of the veto.

(c) Special Rule.—If a special message is transmitted by the President under this subtitle and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 14503. DEFINITIONS.

As used in this subtitle:

(1) The term "rescission/receipts disapproval bill" means a bill which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this subtitle and—

(A)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ______.", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ______.", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(B) the title of which is as follows: "A bill to disapprove the recommendations submitted by the President on ______.", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of this reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act for fiscal year 1996, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations for fiscal year 1996.

SEC. 14504. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) Presidential Special Message.—Whenever the President rescinds any budget authority as provided in this subtitle or vetoes any provision of law as provided in this subtitle, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this subtitle;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) Transmission of Messages to House and Senate.—

(1) Each special message transmitted under this subtitle shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this subtitle shall be printed in the first issue of the Federal Register published after such transmittal.

(c) Introduction of Rescission/Receipts Disapproval Bills.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under this subtitle.

(d) Consideration in the House of Representatives.—

(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered

on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this subtitle.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this subtitle.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this subtitle.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 14505. REPORT OF THE GENERAL ACCOUNTING OFFICE.

On January 6, 1997, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for fiscal year 1996, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for fiscal year 1996, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for fiscal year 1996 and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for fiscal year 1996, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for fiscal year 1996, together with their total dollar value.

SEC. 14506. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this subtitle violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

(4) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Subtitle G—Enforcing Points of Order

SEC. 14601. POINTS OF ORDER IN THE SENATE.

(a) WAIVER.—The second sentence of section 904(c) of the Congressional Budget Act of 1974 is amended by inserting "303(a)," after "302(f),", by inserting "311(c)," after "311(a),", by inserting "606(b)," after "601(b),", and by inserting "253(d), 253(h), 253(i)," before "258(a)(4)(C)".

(b) APPEALS.—The third sentence of section 904(c) of the Congressional Budget Act of 1974 is amended by inserting "303(a)," after "302(f),", by inserting "311(c)," after "311(a),", by inserting "606(b)," after "601(b),", and by inserting "253(d), 253(h), 253(i)," before "258(a)(4)(C)".

SEC. 14602. POINTS OF ORDER IN THE HOUSE OF REPRESENTATIVES.

Section 904 of the Congressional Budget Act of 1974 is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) In the House of Representatives, a separate vote shall be required on that part of any resolution or order that makes in order the waiver of any points of order referred to in subsection (c).".

Subtitle H—Deficit Reduction Lock-box

SEC. 14701. DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION MEASURES.

(a) DEFICIT REDUCTION LOCK-BOX PROVISIONS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"DEFICIT REDUCTION LOCK-BOX PROVISIONS OF APPROPRIATION BILLS

"SEC. 314. (a) Any appropriation bill that is being marked up by the Committee on Appropriations (or a subcommittee thereof) of either House shall contain a line item entitled 'Deficit Reduction Lock-box'.

"(b) Whenever the Committee on Appropriations of either House reports an appropriation bill, that bill shall contain a line item entitled 'Deficit Reduction Account' comprised of the following:

"(1) Only in the case of any general appropriation bill containing the appropriations for Treasury and Postal Service (or resolution making continuing appropriations (if applicable)), an amount equal to the amounts by which the discretionary spending limit for new budget authority and outlays set forth in the most recent OMB sequestration preview report pursuant to section 601(a)(2) exceed the section 602(a) allocation for the fiscal year covered by that bill.

"(2) Only in the case of any general appropriation bill (or resolution making continuing appropriations (if applicable)), an amount not to exceed the amount by which the appropriate section 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill (as reported by that committee), but not less than the sum of reductions in budget authority resulting from adoption of amendments in the committee which were designated for deficit reduction.

"(3) Only in the case of any bill making supplemental appropriations following enactment of all general appropriation bills for the same fiscal year, an amount not to exceed the amount by which the section 602(a) allocation of new budget authority exceeds the sum of all new budget authority provided by appropriation bills enacted for that fiscal year plus that supplemental appropriation bill (as reported by that committee).

"(c) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution that restricts the offering of amendments to any appropriation bill adjusting the level of budget authority contained in a Deficit Reduction Account.

"(d) Whenever a Member of either House of Congress offers an amendment (whether in subcommittee, committee, or on the floor) to an appropriation bill to reduce spending, that reduction shall be placed in the deficit reduction lock-box unless that Member indicates that it is to be utilized for another program, project, or activity covered by that bill. If the amendment is agreed to and the reduction was placed in the deficit reduction lock-box, then the line item entitled 'Deficit Reduction Lock-box' shall be increased by the amount of that reduction. Any amendment pursuant to this subsection shall be in order even if amendment portions of the bill are not read for amendment with respect to the Deficit Reduction Lock-box.

"(e) It shall not be in order in the House of Representatives or the Senate to consider a conference report or amendment of the Senate that modifies any Deficit Reduction Lock-box provision that is beyond the scope of that provision as so committed to the conference committee.

"(f) It shall not be in order to offer an amendment increasing the Deficit Reduction Lock-box Account unless the amendment increases rescissions or reduces appropriations by an equivalent or larger amount, except that it shall be in order to offer an amendment increasing the amount in the Deficit Reduction Lock-box by the amount that the appropriate 602(b) allocation of new budget authority exceeds the amount of new budget authority provided by that bill.

"(g) It shall not be in order for the Committee on Rules of the House of Representatives to report a resolution which waives subsection (c).".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 313 the following new item:

"Sec. 314. Deficit reduction lock-box provisions of appropriation measures.".

SEC. 14702. DOWNWARD ADJUSTMENTS.

(a) DOWNWARD ADJUSTMENTS.—The discretionary spending limit for new budget authority for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amount of budget authority transferred to the Deficit Reduction Lockbox for that fiscal year under section 314 of the Budget Control and Impoundment Act of 1974. The adjusted discretionary spending limit for outlays for that fiscal year and each outyear as set forth in such section 601(a)(2) shall be reduced as a result of the reduction of such budget authority, as calculated by the Director of the Office of Management and Budget based upon such programmatic and other assumptions set forth in the joint explanatory statement of managers accompanying the conference report on that bill. All such reductions shall occur within ten days of enactment of any appropriations bill.

(b) DEFINITION.—As used in this section, the term "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(c) RESCISSION.—Funds in the Deficit Reduction Lockbox shall be rescinded upon reductions in discretionary limits pursuant to subsection (a).

SEC. 14703. CBO TRACKING.

Section 202 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(i) SCOREKEEPING.—To facilitate compliance by the Committee on Appropriations with section 314, the Office shall score all general appropriation measures (including conference reports) as passed by the House of Representatives, as passed the Senate and as enacted into law. The scorecard shall include amounts contained in the Deficit Reduction Lock-Box. The chairman of the Committee on Appropriations of the House of Representatives or the Senate, as the case may be, shall have such scorecard published in the Congressional Record.".

Subtitle I—Emergency Spending; Baseline Reform; Continuing Resolutions Reform

CHAPTER 1—EMERGENCY SPENDING

SEC. 14801. ESTABLISHMENT OF BUDGET RESERVE ACCOUNT.

(a) ESTABLISHMENT.—A budget reserve account (hereinafter in this section referred to as the "account") shall be established for the purpose of setting aside adequate funding for natural disasters and national security emergencies.

(b) PRIOR APPROPRIATION REQUIRED.—The account shall consist of such sums as may be provided in advance in appropriation Acts for a particular fiscal year.

(c) RESTRICTION ON USE OF FUNDS.—(1) Notwithstanding any other provision of law, the amounts in the account shall not be available for other than emergency funding requirements for particular natural disasters or national security emergencies so designated by Acts of Congress.

(2) Funds in the account that are not obligated during the fiscal year for which they are appropriated may only be used for deficit reduction purposes.

(d) NEW POINT OF ORDER.—(1) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(2) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

SEC. 14802. CONGRESSIONAL BUDGET PROCESS CHANGES.

(a) CONTENTS OF JOINT RESOLUTIONS ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) total new budget authority and total budget outlays for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account;".

(b) SECTION 602 ALLOCATIONS.—(1) Section 602 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(f) COMMITTEE SPENDING ALLOCATIONS AND SUBALLOCATIONS FOR BUDGET RESERVE ACCOUNT.—

"(1) ALLOCATIONS.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution) of total new budget authority and outlays to the Committee on Appropriations of each House for emergency funding requirements for natural disasters and national security emergencies to be included in a budget reserve account.

"(2) SUBALLOCATIONS.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under paragraph (1) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.".

(2) Section 602(c) of the Congressional Budget Act of 1974 is amended by inserting "or subsection (f)(1)" after "subsection (a)" and by inserting "or subsection (f)(2)" after "subsection (b)".

SEC. 14803. REPORTING.

Not later than November 30, 1996, and at annual intervals thereafter, the Director of the Office of Management and Budget shall submit a report to each House of Congress listing the amounts of money expended from the budget reserve account established under section 1 for the fiscal year ending during that calendar year for each natural disaster and national security emergency.

CHAPTER 2—BASELINE REFORM

SEC. 14851. THE BASELINE.

(a) The second sentence of section 257(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "for inflation as specified in paragraph (5)"; and

(2) by inserting "but only for the purpose of adjusting the discretionary spending limits set forth in section 601(a)(2) of the Congressional Budget Act of 1974" after "to offset pay absorption and for pay annualization as specified in paragraph (4)".

(b) Section 1109(a) of title 31, United States Code, is amended by adding after the first sentence the following new sentence: "These estimates shall not include an adjustment for inflation for programs and activities subject to discretionary appropriations.".

SEC. 14852. THE PRESIDENT'S BUDGET.

(a) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section, estimated expenditures and appropriations for the current year and estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years following that year;".

(b) Section 1105(a)(6) of title 31, United States Code, is amended by inserting "current fiscal year and the" before "fiscal year".

(c) Section 1105(a)(12) of title 31, United States Code, is amended by striking "and" at the end of subparagraph (A), by striking the period and inserting "; and" at the end of subparagraph (B), and by adding at the end the following new subparagraph:

"(C) the estimated amount for the same activity (if any) in the current fiscal year.".

(d) Section 1105(a)(18) of title 31, United States Code, is amended by inserting "new budget authority and" before "budget outlays".

(e) Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(30) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction.".

SEC. 14853. THE CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the joint resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the congressional budget for the next fiscal year shall be from such estimated levels."; and

(2) striking paragraph (8) and redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively, and by inserting after paragraph (7) the following new paragraphs:

"(8) a comparison of levels for the current fiscal year with proposed spending and revenue levels for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction; and

"(9) information, data, and comparisons indicating the manner in which and the basis on which, the committee determined each of the matters set forth in the joint resolution;".

SEC. 14854. CONGRESSIONAL BUDGET OFFICE REPORTS TO COMMITTEES.

(a) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report for the fiscal year commencing on October 1 of that year with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits) compared to comparable levels for the current year and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

(b) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended by inserting after the first sentence the following new sentence: "That report shall also include a table on sources of spending growth in total mandatory spending for the budget year and the ensuing 4 fiscal years, which shall include changes in outlays attributable to the following: cost-of-living adjustments; changes in the number of program recipients; increases in medical care prices, utilization and intensity of medical care; and residual factors.".

(c) Section 308(a)(1) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (C), by inserting ", and shall include a comparison of those levels to comparable levels for the current fiscal year" before "if timely submitted"; and

(2) by striking "and" at the end of subparagraph (C), by striking the period and inserting "; and" at the end of subparagraph (D), and by adding at the end the following new subparagraph:

"(E) comparing the levels in existing programs in such measure to the estimated levels for the current fiscal year."

(d) Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"GAO REPORTS TO BUDGET COMMITTEES

(a) "SEC. 408. On or before January 15 of each year, the Comptroller General, after consultation with appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing all programs, projects, and activities that fall within the definition of direct spending under section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. GAO reports to budget committees.".

CHAPTER 3—RESTRICTED USES OF CONTINUING RESOLUTIONS

SEC. 14871. RESTRICTIONS RESPECTING CONTINUING RESOLUTIONS.

(a) Rule XXI of the Rules of the House of Representatives is amended by adding at the end thereof the following new clause:

"9. (a) Any item of appropriation set forth in any joint resolution continuing appropriations, or amendment thereto, shall not exceed the rate it would have been at assuming the continuation of current law.

"(b) It shall not be in order in the House to consider any joint resolution continuing appropriations, or amendment thereto, which changes existing law.".

(b) The amendment made by subsection (a) shall only apply to joint resolutions continuing appropriations for fiscal year 1996 or any subsequent fiscal year.

Subtitle J—Technical and Conforming Amendments

SEC. 14901. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DEFINITION OF BUDGET AUTHORITY.—Paragraph (2) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, the second time it appears, is amended by inserting "in any form" after "promissory notes", by inserting at the end of subparagraph (A) the following new sentence: "Such term excludes transactions classified as means of financing.", and by striking "With respect to" and all that follows through "retirement account, any" and inserting "Any", by inserting after subparagraph (B) the following:

"(C) RELATIONSHIP TO ENTITLEMENT AUTHORITY.—For purposes of titles III and IV, all references to budget authority shall be considered to include the amount of budget authority estimated to be needed to fund entitlement provisions under existing or proposed law, and all legislation increasing (or decreasing) the level of entitlement authority under existing law shall be considered to provide (or decrease) new budget authority in that amount.",

and by redesignating the next subparagraph accordingly.

(b) DEFINITION OF ENTITLEMENT AUTHORITY.—Paragraph (9) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "spending authority described by section 401(c)(2)(C)" and inserting the following: ", and the term 'entitlement program' refers to, any provision of law that has the effect of requiring the Government to make net payments (including intragovernmental payments) regardless of the amount of budget authority that may be available to make those payments. Those terms shall include amounts estimated to be required under provisions of law that depend on the fulfillment of nonlegislative conditions or are indefinite as to amount or timing. Except as provided in the next sentence, if a provision of law that otherwise requires the Government to make net payments is directly or indirectly limited by any other provision of law to an amount of available budget authority, then entitlement authority does not exist. Subchapter II of chapter 13 of title 31, United States Code, and the sequestration provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be considered provisions of law that limit entitlement authority to the amount of available budget authority."

(c) DEFINITION OF MEANS OF FINANCING.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new paragraph:

"(11) The term 'means of financing' means the financial transactions of the Government that consist of exchanges of money or monetary proxies of equal value and therefore are not counted as obligations, outlays, or revenues, such as net Federal borrowing from the public in any form, debt redemption, seignorage on coins and profits from the sale of gold, and changes in outstanding check or other monetary credits, including write-offs.".

(d) CBO STUDIES.—Section 202(h) of the Congressional Budget Act of 1974 is amended by striking "outlays, credit authority," and inserting "outlays".

(e) REQUIRED CONTENTS OF BUDGET RESOLUTION.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking "planning levels", by striking "two" and inserting "four", by striking ", budget outlays, direct loan obligations, and primary loan guarantee commitments" both places it appears and inserting "and outlays", by striking paragraphs (5), (6) and (7), by striking the semicolon at the end of paragraph (4) and inserting a period, by inserting "and" after the semicolon at the end of paragraph (3), and by striking the last sentence.

(f) Technical Correction to Section 301(e).—Section 301(e) of the Congressional Budget Act of 1974 is amended by inserting "new" before "budget authority" in the second sentence.

(g) Committee Allocations and Suballocations.—Section 602(a)(1)(B) of the Congressional Budget Act of 1974 is amended by striking "committee." and inserting "committee, except that new budget authority and outlays for entitlement programs funded through annual appropriations shall be allocated and scored both to the Committee on Appropriations and to the committee that authorized such programs.".

(h) Committee Allocations.—Section 302 of the Congressional Budget Act of 1974 is amended to read as follows:

"COMMITTEE ALLOCATIONS

"Sec. 302. (a) Reports by Committees.—As soon as practicable after a joint resolution on the budget is enacted—

"(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House—

"(A) subdivide among its subcommittees the allocation of budget outlays, new budget authority, and new credit authority allocated to it in the joint budget resolution;

"(B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

"(2) every other committee of the House and Senate to which an allocation was made in such joint budget resolution shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made—

"(A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction; and

"(B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

"(b) Point of Order.—It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, providing—

"(1) new budget authority for a fiscal year;

"(2) new spending authority as described in section 401(c)(2) for a fiscal year; or

"(3) new credit authority for a fiscal year; within the jurisdiction of any committee which has received an appropriate allocation of such authority pursuant to section 301(a)(6) for such fiscal year, unless and until such committee makes the allocation of subdivisions required by subsection (a), in connection with the most recently enacted joint resolution on the budget for such fiscal year.

"(c) Subsequent Joint Resolutions.—In the case of a joint resolution on the budget referred to in section 304, the subdivisions under subsection (a) shall be required only to the extent necessary to take into account revisions made in the most recently enacted joint resolution on the budget.

"(d) Alteration of Allocations.—At any time after a committee reports the subdivision required to be made under subsection (a), such committee may report to its House an alteration of such subdivision. Any alteration of such subdivision must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

"(e) Legislation Subject to Point of Order.—After enactment of a joint resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, resolution, or amendment providing new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year, or any conference report on any such bill or resolution, if—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate allocation made pursuant to section 301(a)(6) or subdivision made under subsection (a) of this section for such fiscal year of new discretionary budget authority, new entitlement authority, or new credit authority, to be exceeded.

"(f) Determinations by Budget Committees.—For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays and new credit authority for a fiscal year, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.".

(i) Cost Estimates and Scorekeeping Reports.—Section 308 of the Congressional Budget Act of 1974 is amended—

(1) in its title, by striking ", NEW SPENDING AUTHORITY, OR NEW CREDIT AUTHORITY,";

(2) by striking ", new spending authority described in section 401(c)(2), or new credit authority," the 3 times it appears;

(3) in subsection (a), by striking "in the reports submitted", by inserting "302(a) or" before "302(b)", in paragraph (1)(B) by striking "spending authority" and everything that follows through "401(c)(2) which is" and inserting "budget authority" and by striking "annual appropriations" and inserting "annual discretionary appropriations", and in paragraph (1)(C) by striking "such budget authority" and all that follows through "loan guarantee commitments" and inserting "new budget authority, outlays, or revenues"; and

(4) in subsection (c), by adding "and" at the end of paragraph (1), by striking "period;" and inserting "period." at the end of paragraph (2), and by striking paragraphs (3), (4), and (5).

(j) Technical Correction to Section 312.—Section 312 of the Congressional Budget Act of 1974 is amended by inserting "(a)" after "312.".

(k) Consideration of Legislation That Has Not Been Reported.—Section 312 of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(c) Consideration of Legislation That Has Not Been Reported.—In the House of Representatives, any point of order under title III or IV that would lie against consideration of a bill or joint resolution as reported by a committee shall also lie against a motion to consider legislation respecting which no report has been filed.".

(l) Conforming Amendments to Section 313.—Section 313 of the Congressional Budget Act of 1974 is amended by striking "or section 258C" and everything that follows through "Deficit Control Act of 1985", by striking "; and (F)" and everything that follows through "310(g)", by redesignating the second subsection (c) and subsection (d) as subsections (d) and (e), respectively, and by striking "or (b)(1)(F),".

(m) Borrowing and Contract Authority.—Section 401 of the Congressional Budget Act of 1974 is amended:

(1) in subsection (a), by striking "new spending authority described in subsection (c)(2) (A) or (B)" both times it appears and inserting "borrowing authority or contract authority";

(2) by repealing subsections (b) and (c) and by redesignating subsection (d) as subsection (b); and

(3) in subsection (b) (as redesignated), by striking "Subsections (a) and (b)" and inserting "Subsection (a)", by inserting "noninterest" before "receipts" in paragraph (1)(B), by repealing paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(n) Credit Authority.—Section 402(a) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: ", except that this provision shall not apply with respect to programs that, as of August 15, 1992, provide credit authority as an entitlement".

SEC. 14902. TECHNICAL AND CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.

(a) Miscellaneous Conforming Amendment.—Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "or section 602 (in the case of fiscal years 1991 through 1995)".

(b) Repealer.—Rule XLIX of the Rules of the House of Representatives is repealed.

SEC. 14903. PRESIDENT'S BUDGET.

(a) Definitions.—Section 1101 of title 31, United States Code, is amended by adding at the end the following:

"(3) 'Expenditures' has the same meaning as the term 'outlays' in the Balanced Budget and Emergency Deficit Control Act of 1985.

"(4) All other terms used herein or in the documents prepared hereunder shall have the meanings set forth in the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) Byrd Amendment.—Section 1103 of title 31, United States Code, is amended by striking "commitment that budget" and inserting "commitment that, starting with fiscal year 2002,".

(c) President's Budget Submission.—Section 1105(a) of title 31, United States Code, is amended—

(1) in the first sentence by striking "On or after the first Monday in January but not later than the first Monday in February of each year" and inserting "On or before the first Monday in February or the 21st calendar day beginning after the date the Board of Estimates issues a report to the President under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in paragraph (15) by striking "section 301(a)(1)–(5)" and inserting "section 301(a)(1)–(4);

(3) in paragraph (16) by striking "section 3(a)(3)" and inserting "section 3(3)"; and

(4) by adding at the end the following new paragraph:

"(32) an analysis of the financial condition of Government-sponsored enterprises and the financial exposure of the Government, if any, posed by them.".

(d) Use of Official Estimates.—Section 1105(f) of title 31, United States Code, is amended by inserting at the end the following new sentence: "That budget shall be consistent with the discretionary funding limit and the direct spending and receipts deficit reduction requirement for that year chosen by the Board of Estimates and shall be based upon the major estimating assumptions chosen by that Board.".

Subtitle K—Truth in Legislating

SEC. 14951. IDENTITY, SPONSOR, AND COST OF CERTAIN PROVISIONS REQUIRED TO BE REPORTED.

(a) IDENTITY, SPONSOR, AND COST.—Clause 4 of rule X of the Rules of the House of Representatives is amended by adding at the end thereof the following:

"(j)(1) Except as provided by subparagraph (2), the report or joint explanatory statement accompanying each bill or joint resolution of a public character reported by a committee or committee of conference shall contain, in plain and understandable language—

"(A) an identification of each provision (if any) of the bill or joint resolution which benefits only 10 or fewer beneficiaries in any one of the following categories: persons, corporations, partnerships, institutions, organizations, transactions, events, items of property, projects, civil subdivisions within one or more States, or issuances of bonds;

"(B) the name of each beneficiary of such provision;

"(C) the name of any Member or Members who sponsored the inclusion of each such provision and an indication of each such provision requested by any agency, instrumentality, or officer of the United States; and

"(D) an estimate by the Congressional Budget Office or the Joint Committee on Taxation, whichever is appropriate, of the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision for the fiscal year for which costs or loss in revenues, as the case may be, first occurs and each of the next 5 fiscal years.

"(2)(A) Subparagraph (1) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the beneficiary of such provision is the United States or any agency or instrumentality thereof.

"(B) Subparagraph (1)(D) shall not apply with respect to any provision of a bill or joint resolution or of a conference report on a bill or joint resolution if the costs which would be incurred in carrying out such provision or any loss in revenues resulting from such provision are identified clearly in the report or joint explanatory statement accompanying such bill or joint resolution.

"(3) It shall not be in order to consider any such bill or joint resolution in the House if the report or joint explanatory statement of the committee or committee of conference which reported that bill or joint resolution does not comply with subparagraph (1). The requirements of subparagraph (1) may be waived only upon a separate vote directed solely to that subject.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bills and joint resolutions reported by a committee of the House of Representatives after the date of enactment of this Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Utah [Mr. ORTON] and a Member opposed will be recognized for 30 minutes each.

Mr. KASICH. Mr. Chairman, I rise in aggressive opposition to the gentleman's proposal.

The CHAIRMAN. The gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CONDIT], the chairman of our coalition.

Mr. CONDIT. Mr. Chairman, first of all, I would like to thank the coalition members and the staff for all the hard work they have done in putting this budget together. We have worked over the last several months with limited number of staff, and we believe we put a good budget together. The budget obviously is a product of hard work. It is a sound and credible and reasonable alternative. There are some technical and major public policy differences.

But we come to the floor today not armed with any charts. We come today armed with the facts. And we would like to take the opportunity today to have a thoughtful and respectful discussion about our budget and about how it differs from the Republican budget.

We have a great deal of respect for the chairman of the Committee on the Budget on the Republican side and we do not question his motives on his budget. But we do think there is a difference, and we would like very much to have the opportunity to explain that and have a kind and reasonable discussion.

We want to make a commitment. At the end of this process, the coalition members are committed to get this country's financial house in order. We will work with anyone in this House at the end of this process to see that that gets done.

Mr. KASICH. Mr. Chairman, I yield 4 minutes to my friend, the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Chairman, I rise in opposition to the substitute and appreciate the opportunity to address the House.

Before I do, I just want to commend my dear friend and colleague from the State of Ohio, who I think is a gentleman, a true revolutionary making history today for the American people. To my friend, the gentleman from Ohio [Mr. KASICH] I tip my hat again.

Mr. Chairman, today is an extraordinary day for the American people. As Speaker GINGRICH said the other day, the changes we are making for the American people in today's reconciliation bill approach the level of sweeping change advanced by President Roosevelt's New Deal. Without question, our dramatic reshaping of the Federal Government certainly surpasses the magnitude of change advanced by Lyndon Johnson's big government Great Society programs.

Without doubt, history will judge our efforts today as the start of a new era in American life and in American politics.

Unfortunately, not all Members of this body are willing to stake a dramatic new course for America and its people. The liberal Democrat leadership in this body still clings to the failed policies of the past. They still believe that America can continue deficit spending with impunity. They still believe in the Great Society notion that the Federal Government is the leading institution in American life.

A few Members of the Democrat Party in this House have rejected the notion of their liberal leaders and at least made an attempt to present an alternative reconciliation plan that balances the budget in 7 years.

Unfortunately, Mr. Chairman, this Democrat alternative is serious flawed.

As we set out to dramatically reshape the Federal Government, a government that was built with the hard work and sweat of American taxpayers, it is only fair that we provide the American people with a dividend in the form of tax relief for working families.

The Democrat alternative ignores the very people whose hard earned dollars built the bloated Government we are now downsizing by refusing to provide them with tax relief.

Mr. Chairman, in my own region of western New York and the Finger Lakes, nearly 430,000 children will be eligible for the $500 tax credit, worth nearly $220 million to their families—not to government.

Nearly 15,000 senior citizen households will see the 1993 assault on their Social Security earnings reversed.

For the 200 or so couples in my region who were married last week, they will see a slow reversal of the unfair marriage penalty contained in the Tax Code.

And for the 120 or so senior citizens in my community who this week became eligible for Medicare, our reconciliation plan protects their access to health care until the year 2010.

Mr. Chairman, the Democrat alternative accomplishes none of these goals.

Our reconciliation plan is the right answer to get America on a new course. Our reconciliation plan says to the taxpayers back home; we work for you. You are our bosses. You are paying to keep us here and you deserve a dividend as your Government is restructured.

Mr. Chairman, I urge my colleagues to support the Republican plan and reject the Democrat alternative.

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Mr. ORTON. Mr. Chairman, I yield myself 5 minutes to explain our bill.

Mr. Chairman, my colleagues, the coalition budget also reaches balance in the year 2002, but does so by reducing the deficit by more than $30 billion more than the leadership plan before us.

Let me just divert for a minute and tell my colleagues a little story. Most of my colleagues have seen me on the floor with my son, Will. I have learned something from my son over the last several months. That is, when I feed him his vanilla custard first, he does not want to eat the green beans. History proves that our country is the same way. We want desert first.

Mr. Chairman, in the 1980 changes that we went through we made the tax cuts, but we never got around to making the difficult spending cuts. The coalition budget puts spending cuts ahead of tax cuts, in contrast to the leadership plan which borrows money to pay for tax cuts and cuts deeply into critical priority spending areas like education and health care.

The coalition budget proves that it is possible to balance the budget and also restore solvency to the Medicare trust fund to avoid devastating cuts to Medicare, to avoid raising premiums for low- and middle-income seniors. In fact, our plan would have seniors, the average senior, paying $1,000 less per person over the next 7 years than the plan before us. Mr. Chairman, it also avoids cuts which threaten the solvency of rural and inner-city hospitals.

The coalition budget proves that it is possible to balance the budget at the same time avoiding huge Medicaid cuts contained in the leadership plan that will threaten nursing home care for seniors. Ours retains the nursing home standards in current law, threatened health care for millions of poor Americans, and provide a huge unfunded mandate to the States or, in the alternative, raise premiums on poverty-level seniors by up to $5,000 apiece over the next 7 years. It also retains the spousal exemption so that seniors do not have to become impoverished when one spouse goes into the hospital.

The coalition budget also proves that it is possible to balance the budget and at the same time reform welfare in a way that provides tough work requirements, provides for child care, child enforcement, health care, and training skills to allow people to move off of welfare, provides protection for children, avoids new individual mandates on the States which merely implement a new social agenda. It avoids crippling cuts in discretionary spending to protect critical areas like education, health research, job training, economic development, and infrastructure. It avoids severe cuts to agriculture programs which could threaten the existence of family farms and rural communities.

It avoids a tax increase, as Mr. Kemp put it, on working people, 14 million working Americans of low and moderate income, as contained in the leadership plan on the earned income tax credit changes. It avoids unnecessary levels of cuts to student loans, single and multifamily housing programs, Federal worker benefits, and environmental areas. It does not politicize the debt limit and risk financial solvency of the Treasury.

Ultimately, Mr. Chairman, the coalition plan proves that it is possible to balance the budget over 7 years using honest numbers, shared sacrifices, sound priorities, and common sense, without blue smoke and mirrors as Senator DOMENICI called the $36 billion plug figure in the leadership Medicare plan. Our budget reflects where the majority of Americans would like to see our ideological debate resolved.

Our budget has received endorsements from various and interesting groups from all sides of the political spectrum including the Concord Coalition, the Washington Post, the New York Times, the Philadelphia Inquirer, and the Minneapolis Star Bulletin.

The coalition plan places deficit reduction over ideology, puts spending cuts before tax cuts, and presents a complete and credible package without blue smoke and mirrors. Our budget reflects Democratic priorities, but, more important, it reflects America's priorities.

Mr. Chairman, I urge adoption of the coalition budget and am happy to announce that in the other body Senators SIMON, ROBB, KERREY, and CONRAD are going to be introducing the same bill as an amendment on the floor of the Senate.

Mr. Chairman, I reserve the balance of my time.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Chairman, I also come, as the gentleman who stood up earlier on the Democrat side of the aisle, with no charts, with no maps, even with no buttons, even though I have worn one today, because in fact today the strategy has been clear. The strategy by the minority in this House is that, if we say things that are untrue enough, people will believe them. If we say to seniors that trying to fix Medicare will hurt them, they might believe that. If, in fact, we say to children do not worry about the debt, we are going to solve it at some point, that they might believe it. If in fact we say to the poor enough do not worry about federally driven programs, the States cannot do it, that they might believe it.

As my colleagues know, the fact is that I have had a button on all day that said if not now, when? Well, if not now, when will we stand up for seniors and secure the future of Medicare for them and for future generations? If not now, when will we stand up for children in this country and for once say we are going to begin to do away with the debt problem that we have put on their shoulders? If not now, when? If not now, when will we say to those poor individuals in this country who need Federal assistance we are going to ask their neighbors to design programs because they know better than bureaucrats what they need? If not now, when are we going to do what the American people want us to do, and turn down this substitute, and vote for the reconciliation package that will truly balance our budget in 7 years and save the programs of this Government?

Mr. Chairman, I hope and expect this legislation will foster the development of provider networks, including specialty provider networks because of my interest in assuring seniors that they will have choices relating to behavioral health care, rehabilitation care and other specialty services.

The private sector has engaged in direct contracting with specialty networks in order to lower costs and improve access to quality treatment as well as expand choice for consumers. The Medicare Program should also explore the utilization of these specialty networks for the same reasons.

I believe the Health Care Finance Administration has adequate demonstration authority under current law to test the feasibility and desirability of permitting specialty provider sponsored networks to serve the new Medicare market. A demonstration project would serve to determine whether seniors have access to the most cost-effective quality treatments for specialized services.

Mr. ORTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. PETERSON], who is the chairman for policy of the coalition.

Mr. PETERSON of Minnesota. Mr. Chairman, first of all I want to commend all the chairmen of the task forces of the coalition and Members that served on those task forces for their hard work. It has been a lot of effort put in this budget, and this coalition budget is a honest plan to balance the budget, as the gentleman from Utah said, in 7 years through real reforms in Government programs. We make tough choices to balance the budget first instead of borrowing money to pay for tax cuts is being done in the other plan. Because we do not have tax cuts up front, we add $30 billion less to the national debt over the next 7 years than the Republican plan and put the deficit on a much more reasonable guidepath toward a balanced budget. The deficit actually increases in the second year under the Kasich substitute because of that tax increase. The coalition plan does not include this deficit bump in the second year, and in fact reduces the deficit by $61 billion in the second year. The coalition plan does not include any of the unspecified Medicare savings or budget gimmicks such as pension reversion, merger of the bank insurance fund, back-loaded IRA's, and other tax changes that make the deficit appear smaller in the first year but actually cost the taxpayers money over the long term. If we remove these gimmicks from the plan, the deficit will be $25 billion higher than in the first 2 years under the Republican plan. The coalition budget backs up the deficit reduction in this bill with tough enforcement mechanisms that make sure we meet the deficit targets. The coalition budget includes budget process reforms such as line-item veto and the lockbox to allow Congress and the President to cut spending further.

In addition, Mr. Chairman, we make a change in here that most anybody looking at this thinks we need to make. The coalition budget includes a 0.5-percent reduction in the CPI. In the Republican plan they pick up the real Bureau of Labor Statistics 0.2 change in 1999. We do what a lot of people say we should do. Five prominent economists chaired by Michael Boskin said that the CPI is overstated by between 0.7 and 2 percent. Alan Greenspan has said that it has been overstated by maybe 1 percent. The CBO says it is anywhere from 0.2 to 0.8 percent. So we picked something that we think makes some sense, and, if we are going to get at this budget problem, we have got to get something out of every area. This CPI is a fair way to spread the burden of balancing the budget evenly by treating all programs equally including tax indexing. There is lots of Republicans, including the Republican majority leader, that support this, and we also have a flat-rate COLA which we think makes a lot of sense for lower-income Americans.

We urge our colleagues' support.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, last week President Clinton said, "I increased taxes too much and cut spending too little." We all saw it here, and, as my colleagues know, that is really what this debate is all about. Will we continue 40 years of blindly throwing taxpayer money at our problems, or will for one time reverse that failed policy? Today we must really ask ourselves what has the tax-and-spend policy of these past 30 or 40 years brought us?

We discourage and we penalize people for working. We have destroyed family structures. Our Federal programs are like sieves. They are fraught with waste, fraud, and abuse. In my district nearly 50 percent of our community college entrants need remedial education. Our children must look forward to bleak futures, part-time jobs, low-paying jobs, or service jobs. We penalize our seniors for working. We export our jobs. We discourage savings. We penalize investment, and, to top it all off, the wonderful mess we have created for our people makes them afraid to go out and walk on our streets at night.

Today we have with the budget before us possibly the last opportunity to change all that. I urge the adoption of the Republican budget and urge the defeat of this fig-leaf substitute.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

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Mr. PAYNE of Virginia. Mr. Chairman, I thank the gentleman for yielding time to me, and I thank all my colleagues in the coalition for their hard work on this substitute.

Mr. Chairman, there are many good reasons why this substitute is better than the Republican bill. But let me just tell you why it's better for all Americans who are, or who will be, served by Medicare.

First, the coalition budget saves Medicare by restoring its hospital trust fund. But unlike the Republican budget, our plan doesn't ask our least vulnerable seniors to shoulder an undue burden. We maintain basic part B premiums for seniors at 25 percent while we ask seniors who earn more than $50,000 to pay more. Overall, our budget provides $100 billion more for Medicare over 7 years than the Republican plan.

Second, the coalition's reforms in Medicare won't destroy health care in rural and other medically underserved areas. Our plan avoids deep, harmful cuts in payments to these vulnerable hospitals. And we incorporate vital reforms recommended by the bipartisan Rural Health Care Coalition.

Third, the coalition's Medicare reforms expand coverage for preventive medicine.

Fourth, the coalition's budget fights Medicare fraud and abuse better.

And fifth, our Medicare reforms aren't based on gimmicks such as the look-back provision. The reforms made by the coalition are clear and there for the American people to see and understand.

Mr. Chairman, the Republicans have been telling us for months now that we must cut $270 billion from Medicare to save the program from bankruptcy and to balance the budget.

Our coalition budget proves them wrong on both counts. Our plan ensures the solvency of Medicare, balances the budget, and protects our most vulnerable seniors, while spending $100 billion more than the Republican plan on Medicare for the next 7 years.

The New York Times says the coalition's plan shows "the budget can be balanced by 2002 without pummeling the poor or Medicare."

The Washington Post says our budget is "easily the best horse in the race."

These and many other newspapers across the country, as well as the Concord Coalition, are endorsing the coalition's budget.

I urge my colleagues to vote for this substitute.

Mr. KASICH. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from California [Mr. KIM].

Mr. KIM. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we all agree that we cannot continue spending and spending more than we take in. We all know we have to balance the budget. We all agree with that. In private, if you spend more than you earn, you have to file a bankruptcy. My kid can understand this.

The debate is not whether we should or should not. I think the debate is how to do it. Obviously, we have two kinds of solutions. One is a real solution, the Republican solution, which guarantees that the budget will be balanced at the end of 7 years. The other plan is gentler, a band-aid plan, a feel-good plan.

Let me talk about this. Right now our national deficit is sky high. The interest payment alone last year was about the same as our national defense budget. This is a tough time. We need a tough solution, not a band-aid feel-good solution. As a matter of fact, the feel-good solution was rejected yesterday by the other body by 96 to 3. Only two Democrats supported this feel-good plan yesterday in the other body. Forty-four Democrats rejected this band-aid, feel-good plan.

Obviously, the plan we adopt must be the Republican plan. I do not see any other plan except this. This is a tough solution, a realistic solution. We guarantee we will balance the budget at the end of 7 years, which our budget does.

Mr. ORTON. Mr. Chairman, I yield myself 10 seconds to correct the gentleman.

The gentleman reflected that this alternative had been voted on in the Senate yesterday and lost 96 to 3. That is incorrect. This alternative has not been voted on in the Senate. Several Senators indicated their intention to raise it today. That is an incorrect statement.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Chairman, I rise in strong support of the coalition's budget reconciliation plan. It is a fair and responsible proposal that achieves a balanced budget and yet is not unkind in doing so. These are two important points, Mr. Chairman. It is important for our Nation's future that we ensure economic security through a balanced budget, and it is equally important that we protect all of our citizens in the process. It is also vital that we protect the most vulnerable in our Nation—our children, our seniors, our sick, our poor.

As chairman of the Coalition's Health Care Task Force, I would like to address the coalition's plan to reform Medicare and Medicaid. We recognize that reforms are needed to protect the future of these programs. We recognize that we need to slow the rate of growth. We believe that our plan achieves these goals less painfully than the majority's proposal.

The coalition budget achieves a balanced budget while protecting Medicare. It does this by slowing the rate of growth and by giving seniors more choices of health care plans—but it does not force them to change. The reforms contained in our budget have far less impact on Medicare than those in the leadership's budget—by about $100 billion less. Our Medicare plan increases coverage for preventive care and maintains full home health care coverage. It reduces providers' Medicare reimbursements far less than the leadership budget does. Our plan includes fraud and abuse provisions, medical malpractice reform, and anti-trust relief. It establishes a commission to report every 3 years on the effectiveness of our plan. Most importantly, Mr. Chairman, it maintains part B premiums at 25 percent for low and middle-income seniors and avoids cuts to rural and inner city hospitals. The coalition's Medicare provisions are less painful than those in the leadership's plan—and yet will keep us on target to balance the budget.

Those who need our help the most—those covered under Medicaid—also are protected under the coalition's plan. Our budget maintains Medicaid payment of part B premimus, deductibles, and co-payments for low-income seniors. It continues nursing home standards and protects spouses from exhausting their resources to pay for nursing home costs. These are safety nets that are critical to the health and economic well-being of our citizens, Mr. Chairman, and they must be preserved.

Mr. Chairman, we must honor our contract with the 37 million seniors being served by Medicare. We have an obligation to protect their current quality of care. At the same time, part of our contract with them is to ensure the future solvency of the program. The coalition budget accomplishes both of these. Although I don't agree with all aspects of either the leadership bill or the coalition budget, I believe the coalition budget is the most responsible proposal before the House today. I, for example, favor some tax relief, such as the $500 child tax credit and capital gains relief, that will spawn income and not cause outgo, but the argument is strong that we should not cut taxes until we balance the budget. I believe there will be some tax cuts in the final bill.

I believe that we are within a stone's throw of where the Republicans, Democrats, and the President will finally come to. We have an extraordinary opportunity to achieve a balanced budget. This is a goal that I have supported throughout my years in Congress and one that is long overdue. But we must be sure that we are stepping in the right direction, that we are resolute but kind in our efforts to protect Medicare and also balance our budget. Mr. Chairman, I believe the coalition budget is a right step, and I urge my colleagues' support.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Chairman, in November the American people elected a new Congress to come to Washington. They elected us on a number of principles, but the one that I campaigned on was cutting taxes, cutting bureaucracy, and cutting spending. The Democrat alternative falls short on cutting taxes. One in particular is the capital gains tax cut.

A capital gains tax cut is good for the small business person, it is good for the little guy, but we have heard a lot about the fact that it only helps the rich. That is not quite true. If we look at this chart, we will see that in last year's returns, capital gains was filed by people making less than $50,000, 58 percent of the time. As a matter of fact, 86 percent of all the returns filing a capital gain were from people making less than $100,000.

Capital gains will spur the economy. We know it. It is proven. It has happened before. It is going to help our seniors, it is going to help our children. It is good for the working men and women of this country. I believe that the Democrat alternative falls short in not returning people's money back to its rightful owner. That is why I support the Kasich substitute, the Republican plan, and why I think we should vote no on the Democrat alternative and vote yes on the Republican plan to balance this budget for the future of this country.

Mr. ORTON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, both of these plans balance the budget. I think that is a lot of what the American people are asking us to do. The way they ask us to do it is in a fair and reasonable way.

I think in a recent article in the Philadelphia Enquirer our group of 23 conservative Democrats, the coalition, are called a group of renegades. We are basically called that because we are the few people here in Washington that are willing to do exactly what the American people want, and that is to put people above politics, especially the partisan politics that are played here in Washington.

As I said, both of these plans balance the budget. Many of us from the coalition agree with the former speaker, that there is a need for tax reform and tax relief. However, what the American people want us to do is to cut spending first, and that is what we do. In specific areas of Medicaid, we are much more reasonable and fair than the Republican alternative. We plan to treat Medicaid more fairly than the Republican budget. The Coalition cuts $100 billion less than the Republican plan, while still balancing the budget by 2002.

The coalition keeps nursing home quality care standards that are currently in the Federal law. We do not impose liens on family farms or homes, and spouses or children of nursing home residents do not have to spend all of their assets to pay for care. The coalition imposes a per capita limit on Federal spending, instead of limiting growth per State. The coalition will allow Medicaid to continue to guarantee to pay for low-income Medicare beneficiaries.

In my State of Arkansas, roughly 70 to 80 percent of the Medicare recipients of our State have their premiums paid by Medicaid, but most importantly, the coalition will continue to guarantee health care coverage for the three categories of Medicaid beneficiaries: Low-income mothers and children, elderly people needing long-term care, and the disabled population.

I urge my colleagues to take the reasonable approach to balancing the budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from North Carolina [Mrs. MYRICK], a former mayor.

Mrs. MYRICK. Mr. Chairman, our colleague, the gentleman from Oklahoma, Mr. TOM COBURN, became the proud grandfather of a little baby girl, Sarah. Today's vote on this balanced Budget Reconciliation Act is going to be an historic vote that is going to make a big difference in Sarah's life. It restores fiscal sanity to our Government. As a mother of five and a grandmother of six, I have a moral obligation to balance this budget. I want my kids to have the same opportunity to succeed that I have enjoyed in this generation. We are looking today at a national debt of $4.8 trillion.

What this vote on the balanced budget means is very simply that Sarah and my new grandchild, No. 7, who is going to be born in December, will not have to pay $187,000 just to cover the interest on the debt alone through their lifetimes. We cannot go on literally mortgaging our children and our grandchildren's future, and saddling them with this huge mountain of debt.

When we pass this bill today, it is going to be the first step in balancing a budget that has not been balanced in 26 years. That is historic. We owe it to our children and we owe it to our grandchildren, and their children, to pass a balanced budget. This bill is the first step in the right direction.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, my family and I would personally benefit from the tax cuts contained in H.R. 2491, but they are wrong. I strongly support the coalition substitute, which cuts spending first and defers tax relief until the budget is balanced. As the mother of the bipartisan lockbox, deficit lockbox amendment, let me point out that the coalition substitute is the only, repeat, the only vote we can take today to include a formal deficit lockbox mechanism as part of our 7-year balanced budget program. Only the coalition substitute makes a cut a cut, this year and in the out years.

Deficit hawks, listen up. This is the defining vote for those serious about process reform, reform that will genuinely help to reduce the deficit. Deficit hawks, Republican freshmen, this is the vote you need to make. Support the coalition substitute and its bipartisan deficit reduction lockbox.

Mr. KASICH. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Wisconsin [Mr. GUNDERSON], the reformer of agriculture in the House.

Mr. GUNDERSON. Mr. Chairman, last June, I joined with my colleagues in the House in voting to balance the Federal budget over 7 years. This is an historic step and, if successful, would represent the first balanced budget in 33 years.

I voted in favor of a balanced budget because it is time that Congress finally take the necessary action to slow Federal spending. Failure to correct the course now will land us in dire straits over time. In fact, if we decide to continue spending at the same levels we had in fiscal year 1995, the annual deficit—the amount by which spending exceed receipts each year—would increase from $210 billion in fiscal year 1996 to $349 billion in fiscal year 2002. That increase represents a $1.165 trillion addition to the national debt. Without any additional changes, the interest on the national debt will increase from $235 billion in fiscal year 1996 to $334 billion in 2002.

This again becomes clear if you just look at how much more we spend on interest on the national debt than we spend on our education and training programs. In fiscal year 1995, we spent 66 times more on interest on the national debt than we do on the Head Start Program. We spent 32 times more on interest on the national debt than we do on the Title I Program which benefits disadvantaged gradeschool kids. We spent 149 times more on interest on the national debt than we did on all elementary and secondary school improvement programs. We spent 158 times more on interest on the national debt than we did on Federal aid to vocational education, 180 times more than on the JOBS program to get people off welfare, and 212 times more than on Job Corps. Clearly this is a distorted sense of priorities because interest on the debt is only going to grow if we do not take action now.

Today, entitlement spending makes up 64 percent of the entire Federal budget, and spending on discretionary programs, such as defense, education and job training, makes up 36 percent. Without significant shifts in priorities, by 2012 entitlement spending will consume the entire budget. That means unless we institute a significant increase in the income tax, zero Federal dollars spent for our national defense, for any education programs, other than student loans, and countless other Federal programs.

It is vital that we take steps to slow the growth in Federal spending because of the dramatic growth in entitlement programs. Although I continue to support the existence of many of our entitlement programs—especially Social Security, Medicare and student loans—we risk them consuming the entire budget.

THE OMNIBUS BUDGET RECONCILIATION ACT OF 1995

The budget that we passed in June was only a blueprint for action on congressional spending. Today, through the Omnibus Budget Reconciliation Act of 1995, we are making tough choices to slow the rate of Federal spending on entitlement programs.

Slowing the rate of growth in Federal entitlement programs is not a cut. Instead, we are slowing the rate of increase in spending. If you look at the big picture this becomes clear. Over the last 7 years, between 1989 and 1995 as a nation we spent $9.5 trillion. By taking the requisite steps to balance the budget over 7 years, we will still spend $11.2 trillion. That's $2.2 trillion more than in the previous 7 years. Clearly, this package makes tough choices, but spending still increases.

Let us take a look at three of the components of the budget reconciliation package that are most important to the third district. The changes in the Student Loan Program, the deregulation of the dairy industry and pro-growth tax cuts. Earlier, I expressed my support for another major component, the Medicare Preservation Act.

STUDENT LOAN REFORM

One of the tougher jobs during the budget process was the task given to the Economic and Educational Opportunities Committee of which I am a member. To find $10.1 billion in savings over 7 years in the Student Loan Program. That is a lot of money. But if you look at the fact that we will spend 242 times more this year on interest on the national debt than on higher education programs, you will realize that this is absolutely necessary. In the end, the committee was successful in crafting a student-friendly package while getting our fiscal house in order.

The package crafted by the committee would eliminate the President's Direct Loan Program. If allowed to expand, the Direct Loan Program would transform the Education Department into a bank and would disregard the long-term impact on the Federal budget. This year, the Congressional Budget Office and the Congressional Research Service have estimated that the Student Loan Program would cost $1.5 billion over 7 years. The program would require that the Education Department either hire or contract with hundreds of loan processors—duplicating what the private sector has already perfected.

The student loan reform package passed by the committee would preserve student aid for all students, despite eliminating the direct loan program. Any student who wants financial aid will be able to receive it. Students will continue to have access to Stafford and PLUS loan dollars. The annual student loan volume is projected to increase 47 percent over the next 7 years, from $24.5 billion in 1995 to $36 billion in 2002. The annual student loan amount would increase from $2,340 to $4,300 over the 7 years.

We have also succeeded in minimizing costs to students, by requiring the financial industry to shoulder its fair share—$4.8 billion. Students will not accrue or be asked to pay interest while they are still in school. In addition, they will maintain the 6-month-grace period before they are required to start repaying their loans. The only difference is that interest will begin accruing the month after graduation. This will cost graduates on average between $6 and $9 per month during the repayment period.

DAIRY POLICY FOR WORLD MARKET—THE DAIRY TITLE OF FREEDOM TO FARM

The 1995 farm bill marks a key change in farm commodity pricing, and—especially important to western Wisconsin—a deregulation of the dairy industry. The "Freedom to Farm Act" put forth by House Agriculture Committee Chairman PAT ROBERTS, would save $13.4 billion over the next 7 years.

The dairy title of the Freedom to Farm Act, which I crafted as chairman of the Dairy and Livestock Subcommittee of the House Agriculture Committee, would deregulate the market in dairy products, leveling the playing field and freeing western Wisconsin farmers from the outdated and market-suppressing milk marketing order system. The change will enable U.S. dairy producers to become and remain players in the world market.

The act would continue market transition payments over the next 7 years, and would fully fund the Dairy Export Incentive Program. In addition, the act would authorize the Secretary of Agriculture to help the industry from export trading companies and continue existing producer and processor promotion programs.

TAX CHANGES: PRO-GROWTH, PRIVATE-SECTOR INCENTIVES

Reducing the amount of Federal Government growth also requires that we return control of money which we have traditionally sent to Washington back to the taxpayers. Although I believe that we must be very careful when enacting tax cuts at the same time we are balancing the budget, I have consistently supported pro-growth tax policies. The reconciliation bill before us today will help grow the economy through market incentives.

The reconciliation bill would cut individual capital gains taxes by 50 percent and corporate capital gains rates by 25 percent. These cuts will spur investment to enable the United States to maintain its competitive edge in the world economy. In addition, the bill would create new, expanded savings accounts, like individual retirement accounts, that would allow individuals to withdraw savings tax-free for major investments, such as for the purchase of a new house or for a child's college or vocational education. But the bill also closes $27 billion in corporate tax loopholes.

In sum, it is time for us to act to protect our future, to ensure that we have the option of investing in important programs in which there should be a Federal role, such as education and training. The choices that we have made are not easy, and this bill is not perfect by any means. But it represents an important start toward real fiscal responsibility. I wholeheartedly agree with that goal. By eliminating the deficit, and gradually reducing the debt, we will increase the economy's capacity for growth and ensure that our children have a chance at a prosperous future.

Mr. Chairman, I appreciate those comments, but I would like to engage the chairman of the Subcommittee on Health and the Environment of the Committee on Commerce in a brief colloquy.

If I understand the current law, Medicaid eligibility for a person who is disabled is based on whether the Social Security Administration has recognized them to be disabled. Social Security has improved the eligibility determination process to help ensure that disabled people get recognized as disabled and therefore qualify for Medicaid as soon as possible. This is especially important for people who have disabilities that are life-threatening and are at risk of dying before the Government finds them to be disabled.

My question to the chairman of the committee is, Is it the committee's expectation that a State, in establishing its Medigrant, will expedite determinations of eligibility for people with life-threatening conditions?

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Very clearly, Mr. Chairman, we would expect the States to take such steps to ensure that such people receive expedited determinations of eligibility, and would be very disappointed if they did not take these steps.

Mr. GUNDERSON. Mr. Chairman, I appreciate the reassurance of the gentleman, and look forward to making sure there is no doubt about this after it comes out of conference.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in strong support of the coalition budget. It is clearly the best plan before us. It balances the budget within 7 years, and it provides for less borrowing and less debt than the Republican plan. It is not perfect. I disagree with some of the provisions in there. I would like to see a little more time in understanding the COLA changes. I would have had less Medicare cuts. However, the key difference between the substitute and the Republican bill is the tax provisions. There are no tax cuts in this proposal, because this proposal is serious about deficit reduction.

The Republican budget runs the risk of us repeating the same mistakes that we made in 1981. In 1981 we thought we could cut taxes. We promised to control future spending. We saw the deficit soar. We could very well end up with the Republican budget devastating programs for our seniors, for our children, and our environment, and still have large deficits. That is the risk we run with the Republican budget.

The coalition budget puts the spending cuts toward deficit reduction, where it should. It does less cuts in order to preserve Medicare, in order to preserve our opportunities for higher education, in order to preserve our programs for the environment. The Members have a clear choice. In supporting the coalition budget, they are supporting cuts for deficit reduction. In the Republican plan, we are talking about cuts in order to provide for tax breaks for the wealthy. I think it is a clear choice, and I am proud to support the coalition budget.

I rise in support of the coalition budget plan. It is the best plan that has yet been proposed for balancing the budget.

Two years ago, we took a major first step toward eliminating Federal budget deficits. The 1993 budget plan has succeeded in bringing deficits down for 3 consecutive years, and the deficit in the year just ended was about half what it would have been.

This year, we have to take the next step, and move toward a balanced budget. The coalition budget will balance the budget in 7 years, through spending cuts that are real, but not harsh. The plan balances the budget more quickly, with less borrowing than the Republican leadership budget.

The coalition budget is not perfect. The cost of living adjustment in this plan raises many serious issues that have not been adequately considered. The level of Medicare cuts would not devastate the program, as the Republican plan does, but they exceed the amount I believe is necessary. I would have preferred alternative spending cuts.

Nonetheless, the authors of the coalition plan have learned the lessons of recent budget history. In 1981, in the Reagan revolution, Congress enacted the Reagan plan of tax cuts and promised spending cuts. What resulted was an explosion of Federal deficit spending.

Today, in 1995, the Gingrich revolution is hell-bent on repeating the fiscal mistakes of 1981. By cutting taxes by $245 billion, mostly to benefit the most well-off Americans, this plan again puts the cart before the horse. We should not be borrowing hundreds of billions of dollars for tax breaks, while we are still piling up hundreds of billions of debt. With the Republican budget, we could very easily end up slashing programs that are needed for our seniors, students, and the environment, and still have large budget deficits.

The coalition budget is driven by the need to balance the budget, preserve Medicare, and maintain our commitment to higher education. The Republican leadership budget is about cutting taxes and taking the first step toward eliminating Medicare. Do not take my word for it. Speaker GINGRICH, the architect of this plan, yesterday said that he would have gotten rid of Medicare but it would not be "politically smart."

The difference could not be clearer. The coalition budget cuts spending to balance the budget. The Republican budget cuts taxes to benefit the wealthy, and cuts Medicare as a first step toward eliminating this most successful American program. I urge my colleagues to support the coalition budget, and reject the committee budget.

Mr. KASICH. Mr. Chairman, I yield 2 minutes to my friend, the distinguished gentleman from Pennsylvania, [Mr. WALKER], the czar of science, and the vice-chairman of the Committee on the Budget.

Mr. WALKER. Mr. Chairman, I would like to begin by thanking the coalition for bringing forward a balanced budget to the floor, and allowing us to debate a couple of different balanced budgets out here on the floor. I think that is a useful thing to have done. I happen to think that it is preferable to give the American people an opportunity to get some tax cuts out of all of this to what the coalition has done, but I think it is useful to have a debate about this.

I happen to believe that some of the spending reductions that we are making are in fact responsible spending reductions, because they go toward trying to reform the system a good deal more than what the Coalition does. But again, it is a useful exercise.

The reason why the tax cuts are important is for the reason of what happens in my district. Sixty-five million dollars in tax cuts come primarily to families with children in my district; over 100,000 children in my district are eligible for tax cuts. Their families are eligible for tax breaks under our budget. That is something that gets denied under the Democrats' proposal on the floor. I just think that it is a better plan to give people back a little bit of what they owe.

Mr. Chairman, I am a little disappointed, I must say, in the debate that we had a little earlier today that suggested, for instance, that the Speaker had spoken out against Medicare.

The fact is, some of the charts I saw on the floor and some of the phoney language I heard from the other side is very disappointing because I think some of the people may have known about it. The fact is, the Speaker's quote is quite clear in what we said. He was talking about HCFA. He was talking about a centralized bureaucratic monstrosity that is in the government called HCFA. He said that perhaps at some point we ought to get rid of some of the bureaucracies that surround all of this process.

It seems to me that that is what the American people have told us. They have told us that government is too big and spends too much and that we ought to get rid of a lot of the centralized bureaucracy. I think the American people would agree with that. Nothing was said by the Speaker that indicated that he was talking about Medicare in any way, shape or form.

So I think for some of the disingenuous language that we have heard on the floor today about some of the issues we have seen discussing is disturbing. That being said, Mr. Chairman, it is a good thing to be debating balanced budgets.

Mr. ORTON. Mr. Chairman, I yield 10 seconds to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I would like to remind my friend from Pennsylvania that the chairman of the Committee on the Budget has informed this body that the $500 per child tax cut is not in his bill.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Chairman, I want to thank the gentleman from Utah [Mr. ORTON] for yielding me the time.

Mr. Chairman, I want to reiterate something that has reverberated through this chamber and that is the Coalition budget gets to balance in 7 years every bit as much as the Republican budget gets to balance. However, ours is more responsible, it is wiser and fairer.

Mr. Chairman, I would tell the Members that I do not know of any group of people who have more credibility on the wisdom of a balanced budget in this Nation than the Concord Coalition. Those of you who are listening, the Concord Coalition is a bipartisan group who came together because of their concern, all of our concern, about our national deficit and debt. The Concord Coalition has endorsed the Coalition budget today as being the better way to go for our country.

In welfare reform, for example, we put people to work in a better way and faster than does the Republican plan. We do not rob the people who are trying to stay off of welfare of their earned income tax credit, the working poor, the people who are getting up every day and going to work, trying to stay off of the welfare rolls, that is simply the wrong way to go. They need a helping hand, a hand-up and not a handout. We do that in the Coalition budget.

But more importantly, let me say that we were sent here for an American solution, not a Democratic or a Republican solution, but an American solution, representing people in our districts consistent with the national interests. Democrats, Republicans and Independents. The Coalition budget is an American solution to the disgrace that our national deficit has become.

So when you hear all of this rhetoric about the Republicans have all of the answers, it is simply not true. Neither do the Democrats. This 23 maverick Democrats in the middle, as the Philadelphia Enquirer called us, have the American solution.

Mr. FRANKS of New Jersey. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I rise today in support of the Republican plan which will balance the budget and give the opportunity for all Americans to have reductions in their mortgage so that they can better take care of their families and have the American dream realized. It will lower by at least 2 percent their auto loans, which again will put more money back in their pocket. It will also reduce for them the cost of student loans for college, at least by 2 percent or more. Over the life of a loan, we are talking about a lot of money.

It will also help senior citizens by making sure we have the rollback of the 1993 Social Security tax. It will also give senior citizens the ability to make about the $11,280 we have been talking about, which the ceiling is falsely there now, stifling opportunity; and under our legislative, the total package, we will now have, for the first time, the ability to make up to $30,000 a year for seniors under 70 without impinging on their Social Security.

So for seniors, for working people, for children, for all Americans, by balancing the budget for the first time since 1969, we will actually help America move forward fiscally for every family.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I rise in support of the Coalition substitute. This substitute shows that we can wipe out the deficit without wiping out programs.

We can take on this task today of balancing the budget in 7 years only because 3 years ago, we began the quest for a balanced budget on our side of the aisle.

Let put that in context. On January 13, 1993, one week before he left office, President Bush handed in his "Economic Report of the President." Turn to page 69 of this Report, and you will see that President Bush projected a deficit for 1993 of $332 billion. In March 1993, this House passed a budget, solely with Democratic votes, which put the deficit on a path downward and steered us away from that projection.

Yesterday, the President announced the results. The deficit for fiscal year 1995 was $164 billion—half the deficit President Bush projected for his last year in office. But for what we have achieved over the last three years, we would still be looking at deficits as far as the eye can see. We could not even hope to balance the budget in seven years.

Even so, balancing the budget in this timeframe is a tall order. My first problem with the Republican budget resolution was that it took a tough problem and made tougher by stipulating $350 billion in tax breaks, mostly for upper-income Americans. Those tax cuts have been compromised down to $245 billion; but guess who bears the brunt of that compromise? Working families, whose Earned Income Tax Credit will be reduced by $23 billion so that the Alternative Minimum Tax can be taken off the books, and some of the largest corporations in America can be taken off the hook when it comes to paying a fair share of taxes.

What are the consequences of such tax breaks? It's very simple: spending has to be cut by $245 billion more than otherwise needed to balance the budget over 7 years. And where do these extra spending cuts fall? On the old and very young, who depend on Medicaid, which the Republicans would slash by $182 billion. And they hit the elderly again, in the form of higher premiums for Medicare, and benefit payments so low they are sure to shut down small hospitals and rural as well as inner city hospitals.

Not everyone in this House seems concerned by such a scenario. Yesterday, the Speaker, with some pride, told a gathering from Blue Cross-Blue Shield that under his proposal, Medicare as we know it will "wither on the vine."

I cannot vote for a budget that will cause Medicare "to wither on the vine." I am not willing to wreck programs on which peoples' lives depend under the guise of balancing the budget, especially when it is not necessary to commit such carnage.

We have before us a substitute that offers a better way to a balanced budget. It reduces the cost of Medicare by more than I would like, but by enough to ensure that its solvency. It lowers the cost of Medicaid, but saves its integrity. And it puts us on a straighter course to a balanced budget because it avoids any diversion into tax cuts until the task is accomplished.

I urge my colleagues to vote against a budget that will cause Medicare to "wither on the vine," and wreck Medicaid, and run up the cost of student loans. We can wipe out the deficit without wiping out programs that millions of Americans depend on. We should all vote instead for the Sabo-Stenholm-Orton substitute.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of the Orton alternative.

It is a real and positive alternative that would solidify America's economic future.

Our deficit threatens our health as a nation and our ability to be competitive in our global economy. This Orton package balances the budget and meets our responsibilities to the future.

As a strong supporter of the balanced budget amendment, I recognize that we must make tough choices. We do that. Without attacking the middle class. Without taking Medicaid benefits from children and seniors. Without gutting Medicare.

This bill cuts $100 billion less from Medicare than the bill rammed through the House by the Republican leadership last Thursday.

The coalition alternative restores solvency to the Medicare Trust Fund without stealing money from seniors for tax breaks for the wealthy.

Over 7 years, the Medicare provisions in the Republican bill would cut $2,700 more per senior than this alternative.

This alternative provides a total of $80 billion more in discretionary spending for priorities such as job training, housing, economic development, and education.

It does not cut student loans—a Republican provision that has students at the University of Maryland justifiably worried about whether or not they can finish their education.

The amendment rejects the most damaging farm program cuts included in the Republican bill.

This sensible alternative also rejects cuts in Federal employee benefits.

The welfare reform provisions in the alternative, which 204 Members of this body supported, represented true reform, that puts parents to work and protects the well-being of children.

Mr. Chairman, this is responsible government. It makes tough choices and gets us to a balanced budget in 2002. As the sponsors have stated it uses "honest numbers, shared sacrifice, sound priorities, and common sense" to get our budget balanced.

Instead, the alternative imposes real discipline on spending. Unlike the Kasich bill it does so while continuing our commitment to invest in Americans to ensure a strong, healthy, educated nation.

Passage of this alternative would be good news for the citizens I represent and for all Americans. I urge a vote for the Orton-Stenholm-Peterson-Sabo alternative.

Mr. KASICH. Mr. Chairman, I yield myself 1 minute to say, with regard to the gentleman from Maryland [Mr. HOYER], if you take the best collection of the Beatles, which in essence is what the Blue Dogs did, they took the best pieces of our plan and recorded an album, any way you shake it or cut it, it still is the fundamentals of the Beatles, and their plan is still the fundamentals of ours.

They are to be complimented for having real numbers and for trying to balance the budget. But let us not dwell too much on the difference between the two proposals. It is the best of what we have to offer, and I compliment them for that.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if we have taken the best of the Kasich program, would it not be best to support it?

Mr. KASICH. Mr. Chairman, the answer is, no. The problem with that, I say to the gentleman, is that you take off the icing and you can take the easiest things to do without completing the job and without also giving people some of their money back. But the point is that the Blue Dog budget is a positive document and it bears an amazing resemblance to the document that we will vote on later this afternoon. That is, frankly, why I want to compliment the folks for their program, but they could have done better.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let us talk about this maybe in a little more simple terms. The fact is that the Democrat alternative has more taxes, has higher taxes than the Republican proposal and has higher spending than the Republican proposal.

If the gentleman is suggesting that we should take those taxes and cut some of that tax decrease out and use it to balance the budget faster, I think that would be one question; but to go back to the same old story of higher taxes and higher spending is not the way we need to go.

There was a comment that used the word draconian. Mr. Chairman, what we are doing is we are cutting 10 percent out of our budget. A lot of families in the United States cut 10 percent out of their budget in 1 year. We are taking 7 years to cut 10 percent out of our budget. It is ridiculous.

The spending of this Congress is out of shape, it is out of style, and let us get back to the real world and let people keep their money in their pockets.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Chairman, I rise in strong support of the Coalition budget. The Philadelphia Enquirer called it a hint of sanity.

Today, I rise in opposition to the Republican reconciliation bill, H.R. 2491, which will devastate essential Medicare and Medicaid programs, institute tax cuts which will disproportionately benefit the wealthiest in our country, and debilitate entitlement and discretionary programs which are essential to securing the economic and environmental health of this country. I will support the Orton substitute to balance the budget by the year 2002.

Through the $452 billion in Medicare and Medicaid cuts, the Republicans are asking far too much of our most vulnerable citizens. In my State of Pennsylvania, Medicare currently serves one of six citizens, or more than 2 million people. Medicaid covers one in every seven residents. The impact of these cuts on our seniors will be profound: Forty-five percent of Medicaid dollars spent in Pennsylvania are for long-term nursing care for the elderly, and Medicaid dollars account for more than half of total nursing home care in the United States. These two programs have proven to be remarkably successful. In 1959, only 46% of seniors had health coverage. By 1995, this number had increased to 99%. I do not support cuts in these programs which go far beyond ensuring the solvency of these programs, and will endanger the viability of these programs for future generations.

The Republican bill contains irresponsible tax cut provisions which will benefit the wealthiest, and unfair cuts in the EITC program which will increase taxes on the poorest working families. Two thirds of the Republican's proposed tax cut would go to families in the top fifth distribution of income. Further, in my district, the 15th District of Pennsylvania, 16,644 hard working families will have their taxes increased by almost $2.3 million through the Republican EITC cuts, according to the Treasury Department.

Republican cuts in student loan and education programs will increase the cost of student loans and significantly raise the interest rates on parent loans—making college much less affordable for the middle class. The Republican budget reconciliation also opens the Arctic National Wildlife Refuge the Nation's second largest national wildlife refuge, to oil and natural gas exploration and drilling—paving way for the destruction of one of our most precious and unpolluted natural resources.

The Orton substitute is an effective, financially responsible document which will balance the budget by the year 2002 without drastically cutting Medicare, Medicaid, and other crucial programs and without implementing irresponsible tax cuts before a balanced budget is achieved. The Republican reconciliation bill represents a betrayal of basic principles, while the substitute is a fiscally sound, budget-balancing document which embodies necessary and prudent budget decisions.

Therefore, I urge the defeat of HR 2491 in its current form and the adoption of the Orton substitute.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Chairman, earlier this year, the Entitlement Reform Commission told us that all tax dollars would be spent on entitlements and interest on the debt by the year 2012 and if we continue our present course we will bankrupt the nation.

Therefore, we must stop this borrowing and spending and we must balance the budget.

The Medicare trust fund board told us we must act to restore the trust fund balance to its normal 10–12 years instead of the 6-year balance to which it has presently sunk.

Both of these reconciliation bills will balance the budget in 7 years and restore solvency to Medicare.

Only one, however, does it without massive downsizing of Medicare, Medicaid, Education, Agriculture, and Pension funds. That is the coalition budget and it is the one we should support because it puts spending cuts toward deficit reduction, not toward tax breaks for people who are not asking for them.

Mr. Chairman, in 1992 we faced the impending collapse of the Coal Miner's Retiree Health Fund. Several hundred companies who had thousands of retired miners basically said what this bill allows.

They said, "Even though these retirees were our employees all these years, and even though we have signed signatory agreements guaranteeing their health care, through our contributions to the Retiree Health Care plan, now, because we no longer want to be a part of the Bituminous Coal Operators of America, we no longer have any obligation for the health care of these retirees."

Well, a bipartisan agreement in this Congress is 1992, negotiated by a Republican Secretary of Labor and signed by a Republican President said to those companies, "You do have an obligation. You can't just transfer your responsibility to the remaining BCOA companies and force them to pay your bills."

Mr. Chairman, if the bill stands, the remaining companies will assume an additional $58 billion a year for these orphaned retirees.

We're struggling now for the survival of our coal economy and we're going to put this additional burden on the companies who are still mining!

Increase their costs, the ones that are being responsible? The coal companies who are mining the coal and the unions agreed on this. This isn't a one-sided agreement.

Please don't allow this agreement to be rescinded as a part of the reconciliation bill.

The Coal Act which I helped pass in 1992 helped keep the health fund from collapsing and helped preserve both health care and peace of mind for nearly 100,000 mining families in this Nation. The shift of costs and responsibility back to only those companies who are still in business will upset the competitive balance in the coal industry, which is already struggling to comply with the onerous provisions of the Clean Air Act.

While this provision is certainly important to me and thousands of mining families in my district, I am also very concerned about how this bill will negatively impact my district in many other ways.

That is why I am cosponsoring the Coalition Budget, which I have worked to develop along with a host of colleagues who are moderate and conservative Democrats. The people behind this alternative are seasoned veterans in the war against deficit spending.

Our budget is demonstrably better than the leadership proposal in a number of ways. Our budget controls Medicare spending by $170 billion over 5 years—enough to restore solvency to the trust fund and to control Government spending to help us reach a balanced budget. We don't take an extra $100 billion out of Medicare to finance unwise and unnecessary tax cuts, as the Republican plan proposes. Likewise, our Medicaid proposal maintains nursing home standards and continues to guarantee health care for the poor and elderly.

On the discretionary spending side, our budget has $80 billion less in budget cuts for areas such as education, job training, job creation and housing.

And in the area of agriculture, which is the economic foundation of the 19th District of Illinois, we reject the lopsided cuts contained in the Republican budget.

On balance, the coalition budget which I support is clearly better for my district, the State of Illinois and the country as a whole. We reach balance in 7 years. We reform programs such as Medicare, Medicaid, and welfare, taking the necessary steps to control rising costs but ensuring there is a way to help people maintain a decent standard of living. There are budget cuts across the spectrum of federal spending, but we have prioritized and balanced our spending plan to help middle-income families afford a home and send their kids to college.

I know that our proposal is not likely to be accepted today. The Republican plan will pass, the Senate will pass its version, and the conference agreement will go to the President and he will veto it. At that point in time, we will have to come back and work as a legislative body to reach consensus and do the job the people sent us to do. The final agreement is also likely to contain some provisions with which I very much disagree, but I will continue to keep an open mind and work in a productive way to do what's right for this country—to balance the budget.

My strong belief is that the budget which I cosponsor and have worked for looks a lot like where the final agreement will be, because I think it is the most fair and balanced approach.

□ 1700

Mr. KASICH. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS], a distinguished member of the Committee on the Budget.

Mr. SHAYS. Mr. Chairman, I first want to thank the Coalition. The Democratic alternative is a very fine plan. I think there is some if not a good deal that we should be talking about when we ultimately come to a conference agreement between the House and the Senate.

When I look at this budget, I see that their budget balances the budget in 7 years, and that is what we are asking the President of the United States to do. If he does that, we go a long way to having a point of agreement. So I am encouraged that my colleagues on that side of the aisle who will vote for it will be sending a message to the President.

I am also encouraged that it looks at the growth of Medicare and Medicaid and particularly Medicare and attempts to cut the growth by $170 billion. We are attempting to cut the growth by $270 billion. So there is a difference of $100 billion. In my judgment, that $100 billion change in the growth needs to happen. So we have a disagreement there.

But, on balance, there is a lot that can be complimented about this. I like the plan that we have done, and I believe in the tax cuts. I believe that if we are going to take 7 years to balance the budget, that we can, in fact, afford a tax cut; and I believe that the group that needs it the most are those that have children that are under 17 years of age and can get that $500 tax credit.

I also believe in the capital gains, because I think it generates economic activity rather than causing a loss in revenue. But, on balance, I congratulate my colleagues. They, I think, have gone a long way in helping the White House and both Chambers realize that, ultimately, we can come to an agreement.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I rise in strong support of the Democratic substitute and I want to commend my colleagues for their work in its development. I especially wish to recognize my friend from Texas, Mr. STENHOLM. We worked together with other Agriculture Committee Democrats to develop the agriculture provisions now contained in the substitute—the alternative receiving the fewest no votes in the Agriculture Committee.

Mr. Chairman, the substitute amendment does what the American people want. It results in a balanced budget for fiscal year 2002. It is particularly attractive to me and to those who know agriculture because it achieves that goal without endangering the strength of our food and fiber production system and without decimating the nutrition programs that are vital to so many American families.

Mr. Chairman, we pointed out earlier that the cuts in agriculture made by the Gingrich bill are just too severe. Agriculture is the very foundation of our Nation's economy. Our basic farm programs have played a significant role in the farmer/government partnership that has been so successful in assuring that our Nation has a safe, reliable, and affordable food supply. The Gingrich plan to reduce Federal spending on farm programs by $13.4 billion will threaten the economic viability of American agriculture and thereby endanger our food security.

To take such an enormous risk with our food production system in order to provide a tax cut is a reckless approach to fiscal policy.

Mr. Chairman, the substitute includes savings from agricultural programs. It would reduce farm spending by $4.4 billion over 7 years. Agriculture always contributes its share to deficit reduction—from 1981 through 1993 we cut $50 billion out of farm spending. But this substitute cuts these programs in a responsible manner and in a way that preserves the farmer/government partnership that has so successfully served to satisfy our Nation's food.

FOOD STAMP

This substitute also achieves over $17 billion in food stamp savings over the next 7 years. These are painful cuts in a vital program that keeps millions of people from going hungry every day; but Democrats are supporting the welfare reform provisions of the substitute because we cannot vote for a bill that incorporates the harsh welfare reform legislation passed by the House last spring. The Democrats are strongly in favor of welfare reform and want the public record to properly reflect our commitment to welfare reform.

Although this substitute will reduce the amount of food stamp benefits people will get in the future, it assures that those benefits will never go below 100 percent of the thrifty food plan. People will continue to get enough benefits so that they can purchase a nutritionally adequate diet.

Unlike H.R. 4 as it passed the House, the food stamp provisions of the substitute bill do not cap the funding for food stamps. The substitute retains the flexibility in funding necessary to accommodate downswings in the economy and the subsequent increases in program participation. If the economy of a locality falters for a time, people thrown out of work will be able to feed their families under our proposal; adequate funding will be available.

Our proposal contains strong incentives to get people out of the food stamp program and into jobs, but it doesn't kick them out of the program if they are wanting and willing to work and there are no jobs available.

The substitute contains all of the fraud and abuse provisions proposed by USDA. The Gingrich bill contains only about half of those proposals. We must do everything possible to maintain the integrity of the food stamp program, to assure that these vital benefits go to those who need them most.

The substitute bill puts us on the road to true and effective welfare reform without putting huge holes in the food safety net. It cuts farm spending without endangering the foundation of our food production system. I urge my colleagues to approve this substitute.

Mr. Chairman, there are several misperceptions about the different agriculture bills that need to be clarified.

First, we need to talk about reductions. Neither the Democrats nor Republicans are saying that Agriculture should be exempted from the Reconciliation process. Agriculture has always given its fair share. We have cut agriculture over $50 billion since the 1980's. It is the only major entitlement program that has steadily declined and continues to decline. So we are in agreement.

What we don't agree with is having to cut Agriculture an additional $9 billion in order to pay for a $245 billion tax cut. It isn't that we don't like tax cuts. It isn't that we don't support the many tax cuts that are proposed. It is the simple fact that this is an inappropriate time to cut taxes (although I will note that on the working poor we are raising taxes)—when we are trying to balance the budget.

In addition, Chairman Roberts said that American farmers would pay $15 billion less in interest expenses because of a balanced budget. Mr. Speaker, the Substitute will reduce the interest expenses for American farmers the same $15 billion because the Substitute also balances the budget.

Second, we need to talk about trade. The Gingrich plan will cut our trade programs by $1.2 billion. We are now implementing the GATT Agreement that many of us supported. This is a crucial time in Agriculture as we implement this agreement. I fear that many of my colleagues have the perception that, because of the GATT Agreement, we are now on a level playing field with our competitors. Nothing could be further from the truth. Yes, this Agreement will reduce spending in agriculture. However to some extent it locked in the inequities that existed. The EV still currently subsidizes its agriculture 6 times more than the U.S. The Substitute recognizes this crucial fact and fully funds our export programs so that American Agriculture can compete abroad and maintain its markets.

Third, we need to talk about flexibility. It is being represented that one bill allows flexibility and the other doesn't. This is simply incorrect. Democrats and Republicans both agree that farmers want more flexibility in commodity programs. Both the Substitute and "Freedom to Farm" allow producers more flexibility. "Freedom to Farm" allows producers to plant program and other specified crops on their base acres. The Substitute is similar in that it provides this flexibility with the total acreage base concept and with additional safeguards for certain commodities if supplies are in excess.

And fourth, one of the most basic differences between the two provisions goes to the core of what our farms programs are designed to do. My farmers have never said that they want a handout. My farmers have never talked to me about preserving the baseline. They have talked to me about getting a decent price for their crops and about various ways to minimize risk. Farmers don't need a guaranteed payment when prices are high. Many people will say that some times when prices are high farmers don't have a crop to sell. That is why we have tried to make crop insurance a workable program. It still has many problems, but it is a concept that we need to continue to improve. Our commodity programs in the Substitute are designed to provide farmers with risk management when prices are low. "Freedom to Farm" just does not provide the safety net that producers need to survive in the face of certain weather, prices, and world conditions.

Mr. Chairman, Chairman Roberts said that Freedom to Farm will lock up the baseline for farmers so that when we have to pass more cuts in coming years—and he said not to fool ourselves, we will have more deficit reduction bills just like this one—that farm spending will be protected.

Mr. Chairman, I don't know why there will be more cuts and reconciliation bills in coming years. Perhaps the tax cuts are too high or the spending cuts are not real in the Gingrich package, but if you vote for the Substitute, there will be no need for future reconciliation bills because it will balance the budget.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. As usual, my friend, the gentleman from Ohio [Mr. KASICH], is right. We do take the best parts of their plan, and we make it better.

As far as our Nation's veterans, the coalition budget makes $1.5 billion less in spending cuts for veterans' programs. The leadership plan would extend the prescription drug co-payment and raise it by $1. The Coalition plan does not.

But, most importantly, the coalition plan enacts the text of H.R. 580, a bill that has over 220 cosponsors, and provides much-needed military subvention, allows our military retirees to take their Medicare payments to a military hospital. This is a plan that has been endorsed by the Coalition of Military and Veterans Associations, the Retired Officers Association, the Fleet Reserve Association, the Air Force Association, the Army Association, the Marine Corps League, the Marine Corps Officers Association, the Military Order of the Purple Heart, the National Association of Uniformed Services and 30 other veterans' groups want to see this plan become law.

We have a chance to do that by passing the coalition budget.

Mr. ORTON. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BAESLER].

Mr. BAESLER. Mr. Chairman, the second place I think the coalition budget is superior to the budget presented by the Republicans is in the area of education. The coalition believes that education is an investment in our Nation's future. The $10 billion question is whether or not we want to make it harder for young people to invest in our own future. the coalition believes the answer is no.

The Republican plan would eliminate the 6-month, interest-free grace period, thus costing graduate students $2,500. The coalition plan thinks that is unnecessary and unfair.

The leadership plan would increase the rates that parents have to pay on the plus program. This could cost parents an additional $5,000 when repaying these loans. The coalition plan does not ask the parents to take on this additional burden.

The leadership plan eliminates direct lending as an option for schools and students. The coalition plan does not eliminate direct lending. The coalition plan believes that education cuts do not heal.

I hope my colleagues will join me in encouraging this investment by supporting the coalition reconciliation plan.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas, Mr. PETE GEREN.

Mr. PETE GEREN of Texas. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Medicare subvention provisions in the coalition budget and endorse the coalition budget.

Mr. Chairman, I rise to give you yet another reason why the coalition alternative deserves your vote. We have included a provision in our alternative on Medicare subvention that has widespread and bipartisan support. It is similar to H.R. 580 which has 222 cosponsors. Not only does this proposal make dollars and cents, it corrects an inequity in the way we provide health care to our military retirees.

This proposal would allow our military retirees to use military treatment facilities with the cost of care reimbursed by Medicare. Under current law, the DOD receives no reimbursement when it treats Medicare-eligible retirees, and they are frequently the first group of beneficiaries to be denied care when budget cuts force cutbacks. Yet the military facility is the more cost-effective provider of care. The current arrangement makes no sense.

Mr. Chairman, there are 1.2 million military retirees age 65 and older in America. These men and women dedicated their lives to protecting our freedom. Right now, these retirees pay into the Medicare program as do all Americans, but Medicare will not cover their care because they receive their health care at military facilities. In 1994 alone, the DOD provided more than $1 billion in care to 230,000 Medicare-eligible retirees. Medicare should reimburse the DOD for these costs. This is good for the retiree, after all it's his or her first choice, and it is good for the taxpayer because it saves money.

Why is this so? Because health care costs at military facilities are 10 percent to 24 percent less than in the private sector, which is the price that Medicare has to pay. This proposal will save Medicare and the taxpayers billions of dollars as we struggle with balancing our budget.

But more important than that, I stated that this proposal corrects a basic inequity for our military retirees. Because of shrinking budgets, our military retirees are seeing their access to care diminish, care that they earned by their service to America. This proposal will ensure that these retirees will receive the access to care they deserve, from the doctors they choose.

Mr. Chairman, this reform is long overdue. Many military retirees choose military facilities over private providers, and we should expand that option by having Medicare cover those costs. Our military retirees deserve this and it saves money. Mr. Chairman, this is a no-brainer. It is a win/win situation.

I urge my colleagues to support our military retirees and vote yes on the coalition substitute.

Mr. KASICH. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. DELAY], our distinguished Republican whip.

Mr. DELAY. Mr. Chairman, I thank the chairman of the Committee on the Budget for yielding me the time, and I just want to commend him. It is been a long road for the gentleman from Ohio, but he is here today, and we are all very, very proud of the work that he has done and very proud of him.

Mr. Chairman, I want to rise in support of this historic reconciliation legislation and obviously in opposition of the Democrats' alternative.

Many people have trouble understanding what the reconciliation process really is. I believe it is where we reconcile our campaign promises with our legislative agenda. In other words, we are putting our money where our mouth has been. Pundits have called the Democrat alternative humble. Well as Churchill would have put it, it has much to be humble about. It does not give tax relief for American families, it does not save Medicare, and most of the Democrat leadership will not even support it.

Let me focus on the biggest difference between the Republicans and the Democrats in this debate: taxes. Republicans believe that there is a moral imperative to cutting taxes. If we fail in this endeavor, we will break faith with the families and the voters of this great Nation.

The Democrats in the Congress have a different view. They are squeamish about cutting taxes. It cuts against their philosophy, and it is shown in this substitute. The reason they are against cutting taxes is they want to spend more money. They have branded our efforts to be tax cuts for the rich. Never has so much been said by so few that has been so wrong. When Bill Clinton knows it is wrong, he admitted it himself.

Beyond the rhetoric, here are the facts: Under our bill, a family with two kids earning up to $24,000 a year will not have to pay any taxes at all. Our plan actually removes 3 million low-income families from the income tax rolls, and a family of 4 that earns $24,000 a year or more will pay $1,000 less in taxes than they paid last year under our plan.

Do we really cut taxes only for the rich? Is a $500 tax credit for children a tax break for the rich? Since when is it politically incorrect to help families take care of their children? Is our adoption tax credit a giveaway to the rich?

Let me tell you something. Those children who desperately need to find homes that are safe and secure do not think they are rich.

Is our repeal of the President's Social Security tax increase a giveaway to the rich? Frankly, I do not even think the President believes that anymore.

How about the infamous capital gains tax cut? We all know that, without the capital gains tax cut, the economy will continue to chug along at its current 2 percent per year growth rate. I thought I would never see a President of the United States brag about a 2 percent growth rate.

The real victims of this meager growth rate are those who cannot find jobs, those who cannot afford to start their own businesses, those who have never heard opportunity knock. Are they really the rich? They do not think so.

Republicans will not be intimidated by the Democrats' rhetoric on tax cuts. If we cut taxes, we will be doing what the American people sent us here for. We will be keeping our promises with our constituents. There are only positive political consequences when you keep your promises.

I hope the American people remember just one thing: These tax cuts are only 40 percent of the $600 billion that were raised in tax increases in 1990 and in 1993. These tax cuts are simply a down payment on the principle of smaller, more efficient and more effective government.

Bill Clinton has expressed taxer's remorse over his efforts to raise taxes in 1993. Maybe now he will get the message that we can cut taxes for families and balance the budget in 7 years.

Mr. Chairman, I just urge my colleagues to support historic change, vote down the Democrat alternative and vote to provide relief for the American family.

Mr. ORTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I support the Coalition plan because it is fiscally conservative but socially responsible.

Mr. ORTON. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Chairman, I appreciate the gentleman yielding me the time.

Mr. Chairman, the coalition reconciliation plan balances the budget by 2002 just like the Republican plan but we do it in a way that is fair and responsible. I am not going to speak about the fairness, but I do want to touch on responsibility.

Earlier this year the Budget Committee traveled around the country for public hearings. Attendance at these hearings probably ran into the thousands. At every hearing, I asked if they thought we should cut taxes before balancing the budget. Overwhelmingly, the public rejected up front tax cuts. By not listening the wisdom of the American public the Republican reconciliation is unnecessarily polarizing the Nation and may cause us to fail to reach any agreement on balancing the budget this year. This is not responsible.

Make no mistake, I and many of my coalition colleagues support cutting taxes. For me, I would like to see something done on capital gains. I want a better deal for family owned businesses on estate taxes. I think a family tax credit—done smartly so it reaches families in need—is a good thing. But not in this bill.

At this stage the tax cut debate has touched off partisan bickering and class and generational warfare. When it comes to the bottom line, why divide the Nation when we are in agreement on what really needs to be done—balance the budget? Even more to the point, who go through this divisive debate when we are all in agreement that Congress soon will take up major tax reforms—many of the proposed reforms will make all our actions on tax cuts today moot.

We are in agreement that the budget should be balanced. The issue today, then, is whether we want to miss this chance just to make a political statement. The coalition sets the stage for bipartisan agreement in the best interests of the country. The Republican bill sets up a veto fight and 12 months of political rhetoric while the country suffers more deficits, more debt.

The coalition says balance first. Then nobody can charge that this is being done to cut taxes for one class while raising costs for another. Passing the coalition reconciliation would let us take up a pure tax bill—real tax reform—outside the scope of this divisive debate, so that the American people can clearly examine the spending cuts that offset the tax reductions. Then we can debate the issues of tax fairness and appropriate levels of taxation clearly and partisanship and class warfare—that is tearing this county apart—will be diminished.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama [Mr. CRAMER].

Mr. CRAMER. Mr. Chairman, I rise in strong support of coalition plan to balance the budget in 7 years without egregious cuts, without putting tax cuts ahead of spending cuts, and without huge Medicaid and Medicare cuts.

It is often said on this floor, in reference to a particular bill, that that bill is not a perfect bill.

This may be said of the coalition plan as well.

However, the coalition proposal is the best proposal being considered today and every Republican and Democrat should vote for it.

The coalition plan is based on fairness and fiscal responsibility. The coalition plan is both tough and compassionate.

It is tough because it reaches balance in 7 years with a steady glidepath of deficit reduction and includes tough deficit reduction enforcement provisions.

It is tough because it puts spending cuts ahead of popular tax cuts.

It is tough because it reforms welfare in a way that provides tough work requirements and provides protection for children.

It is compassionate because it restores solvency to the Medicare trust fund and avoids premium hikes for low- and middle-income seniors, and avoids devastating cuts to rural and inner-city hospitals.

It is compassionate because it maintains nursing home standards and Medicare premium assistance for low-income seniors.

It is compassionate because it rejects a tax increase on the working poor.

If Members of Congress are looking for a proactive moderate proposal that reflects true mainstream American values—have I got a deal for you—the coalition reconciliation proposal.

The coalition plan proves that it is possible to balance the budget over 7 years, using honest numbers, shared sacrifice, sound priorities, and common sense.

Both the Washington Post and the New York Times, considered two of the most conservative newspapers in the country, have endorsed the coalition plan by opining that "it [Coalition plan] is a far better solution to the deficit problem than any other in sight now," and "the plan suggests the budget can be balanced by 2002 without pummeling the poor or Medicare," respectively.

I urge my colleagues to support the coalition plan—a plan that reflects where the majority of Americans would like to see our ideological budget debates resolved.

The CHAIRMAN. The Members should know that the gentleman from Utah has 5½ minutes remaining and the gentleman from Ohio [Mr. KASICH] has 5½ minutes remaining, and the gentleman from Ohio has the right to close.

Mr ORTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Minnesota [Mr. SABO], the ranking member of the Committee on the Budget and the former chairman of the Committee on the Budget.

Mr. SABO. Mr. Chairman, I rise in support of the Orton coalition budget alternative that is before us today. It accomplishes the goal of balancing the budget by the year 2002 in a fashion that is reasonable, fair, and tough but not mean.

Let me speak to some components. Clearly the area of big cuts in the Republican plan is health care. The Orton alternative makes reasonable change and reform in Medicare. it deals not only with part A of Medicare, it also deals with part B which comes from general revenue and impacts the balance of our budget.

In my judgment, there are 3 numbers that are very clear.

□ 1715

If one wants to simply deal with the solvency of the part A fund for the next decade, you can do $90 billion of change. If you want to deal with part A, part B, deal with higher premiums for high-income people, balance the budget, you can do it with $170 billion. If your want to deal with solvency, balance the budget, and then have a tax cut, that requires $270 billion, changes that I think are totally unacceptable in Medicare, and puts in question the long-term sustainability of those kind of cuts.

The Orton proposal restores $100 billion to Medicaid to deal with health care for the most vulnerable of children, of seniors, and of disabled in our country. Because one says let us get our fiscal house in order first, it means that we have discretionary funds so we can deal with the problems of education and housing and economic development in our country. The proposal deals with welfare reform in a tough way, in a method to put people to work but have training and child care there available for them. It does not have the meanness that some proposals have. It gets the job done. It would help people, not hurt them.

So, Mr. Chairman, I congratulate the gentleman from Utah and all the people who worked with him in putting this alternative before us. It is a good alternative. The country would be well served if it became law

Mr. ORTON. Mr. Chairman, I thank my former chairman for his very knowledgeable statement.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I first want to associate myself with Chairman Kasich's remarks earlier today when he commented on the remarkable shift in philosophy toward a balanced budget which has occurred in our country. John, you have done as much as any single individual to bring about that shift and I am grateful for the role you have played.

I also associate myself with many of the comments of my ranking member. My Swedish ancestors may turn in their graves but MARTIN SABO is one Norwegian who has earned my deepest, highest respect.

Finally, I have been proud to spend hours locked up in rooms with coalition members and our staffs as we fought our way through this massive reconciliation substitute. I am proud of our product, making tough choices, always with an eye toward fairness and reasonableness.

All Members know that launching into the intricacies of the Federal budget can bring about an eye-glazing, bring-numbing boredom. But budgets are about much more than numbers; they are about people and our values.

When the coalition budget reaches balance in 7 years it is not just numbers. It is an assertion of the value that our children and grandchildren should be given as much economic opportunity as we were, not have to pay for our irresponsibility.

By putting spending cuts ahead of tax cuts we reinforce the value that rewards should come after hard work, not before. We are not opposed to tax cuts. We simply learned from the 1980's that when dessert comes first, you never get to the spinach.

The coalition budget makes reforms in Medicare to keep the program solvent well into the next decade. Value: keep the promises you have made, to today's and tomorrow's seniors.

Similarly, the coalition budget finds a numeric middle ground in Medicaid. Value: A society will be judged by the way it treats its most vulnerable citizens, particularly young children needing basic health care, senior citizens needing guaranteed, quality nursing home care, and the disabled.

The coalition budget would fundamentally reform America's welfare system, moving people from welfare to the work force, but also it includes sufficient funding for child care, job training, and other building blocks necessary to make a welfare reform policy more than a pot full of empty political promises. Value: balance compassion with a sense of personal responsibility.

The Coalition budget maintains support for student loans and agriculture. Value: treasure, nurture, and develop your national resources if you want to remain strong and healthy. Unilaterally disarming the American farmer as he seeks to compete in the international market place food makes about as much sense as unilaterally disarming our country militarily. Disarming our American students by depriving them of the education they will need to compete globally is equal folly.

Finally, the coalition budget includes the only meaningful budget enforcement to be found in this debate. Value: if you expect people to believe what you say, you ought to police yourself in ways that show you mean it.

Our budget includes hundreds of numbers but all of those numbers draw a picture of values Americans are desperately seeking in their elected officials and in public policy: responsibility, honesty, fairness, compassion. Vote for a commonsense reconciliation budget full of the common values held by most Americans. Vote for the coalition substitute.

Mr. ORTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of the Coalition substitute.

Mr. Chairman, today, Congress is debating the Republican budget reconciliation proposal. This bill is just bad policy.

The Republican bill will cut $270 billion from Medicare, $10 billion from student loans, and $180 billion from Medicaid. I agree that we need to find ways to reduce the budget deficit. However, I am concerned that we have decided to do so by transferring the burden to poor and low-income Americans who are already struggling to get by.

The combination of a large national debt and the aging of the post-war generation will place an even greater burden on younger generations. Our national policies must reflect this changing reality. As we seek ways to balance the budget, we must also continue investing in our Nation's future—including expanding access to higher education. These investments will be essential to preserving living standards and ensuring higher wages for the challenges we face in the future.

Twice before in our history, our Nation was able to grow out of a large national debt by investing in human capital. In the last century, the establishment of the Land Grant College system made higher education something to benefit all Americans. The G.I. Bill further increased access to higher education, strengthening a new American workforce able to face the changing needs of the country and the times. As we once again face a mounting national debt, history can be a model for our policy decisions.

The higher education cuts in the Republican budget proposal will increasingly restrict access to higher education in this country. These cuts will increase the cost of postsecondary education and may put college out of the financial reach of many families. Access to higher education has never been more important. Today, the incomes of Americans with college degrees are over 75 percent more than those with a high school education.

It is no exaggeration to suggest that higher education has helped create the American century. Our system is the envy of the world. We would be shortsighted and foolish not to take the full measure of benefit from this singular, uniquely American, comparative advantage.

I support responsible measures to reduce or eliminate the budget deficit. That is why I support the coalition alternative. This alternative balances the budget while investing in our Nation's future. It dedicates $50 billion more to education programs and maintains our commitment to student financial aid. The coalition budget reconciliation package does not give tax breaks that will only serve to cut current discretionary spending.

History has shown that we can balance the budget while making the investments in our Nation's future that can help to diminish our debt. Given that record, I believe we are doing ourselves a great disservice by limiting access to higher education by making these cuts. We cannot afford to waste any of the talent that is America's most powerful national resource.

I urge my colleagues to vote for the coalition alternative.

I urge my colleagues to vote against the Republican bill.

Mr. KASICH. I yield the balance of our time, 5½ minutes, to the gentleman from Texas [Mr. ARMEY], the majority leader.

Mr. ARMEY. Mr. Chairman, I thank the gentleman from Ohio [Mr. KASICH], my good friend, for yielding me this time.

My colleagues, historians will have already no choice but to recognize this first session of the 104th Congress as among the hardest-working sessions ever of any Congress at any time. I am sure all of my colleagues will agree with that proposition.

If I could take a moment, Mr. Chairman, I would like to give my regards, my personal recognition of appreciation to all the Members of this Congress on both sides of the aisle, both those with whom I found myself in disagreement most of the time, and those with whom I found myself in agreement. The fact is we worked hard. Now we are at a point in our legislative agenda where it is time to collect our work together and to validate that work and move it forward. This work that we have before us today, this budget reconciliation bill, represents big change.

America has asked of Congress that we make a big change. We pledged to make a big change, and today is the day we can stand and deliver and keep our promise. Big change is unnerving. Those of us who are committed to making it are haunted by a fear that maybe the American people will not understand, and, quite frankly, I must say those who resist our efforts are haunted by the fear that maybe America will understand. But we must put aside our fears regarding the understanding of the American people and recognize that they do understand.

We are not here today asking America to be with us, to be on our side. We are here today prepared to make a vote that says to America, we are on your side. We are ready to give you the change you demand.

For 60 years the Ship of State, this great land, has been sailed consistently in the wrong direction, to the left, in the direction of big government, big taxation, big regulation and a lack of regard and respect for the American people's ability and integrity. With this vote today, we will crank this ship around. We will turn this ship around to the right, and we will sail it in the direction of freedom, integrity, recognition, in the direction of a government that has the ability to know the goodness of the American people and the decency to respect it. That is what this change is all about.

We must look at the direction in which we have sailed and recognize that we have left in our wake a sea of despair, a sea of frustration, and a sea of dependence, in fact a nation that is not fulfilling its great promises and its great dreams.

So now is the time to make the vote. Now is the time to step up to the challenge of those who elected us and those we represent, the people back home, the good people back home, people who work hard, people who care hard, people who share hard, and, yes, unhappily because of the failures of big government, people back home who despair hard for its failures, and in that, today we are putting together a package, and we will pass a package that promises, first, tax relief to those who work hard, that says to these American people, "We believe you should keep more of the money you earn and make the decisions regarding your family at home instead of ship that money away to Washington where people who do not know you will make mistakes on your behalf."

We have also here the first year's mark to that all-important balanced budget in 7 years. We do that for people who care hard, care hard for the future of their children, and there to say enough, we cannot saddle them with more debt. Then, as we save Medicare for another generation, we again act on behalf of those who share hard and who care hard and do so out of respect for and concern for the medical future of their parents.

This is a serious business.

Finally, on behalf of those who today must only despair hard, we have welfare reform. We dare to change a system that has failed, not because we believe people have abused that system but because we know that system has abused people and made them victims.

This is the vote we must take. In doing that, we must put aside our concerns, our fears, our parochial interests. We must think about America, and we must first reject the politics of fear and the politics of class warfare, and we must vote for the two great promises of America. America is a nation that promises each individual an equality of opportunity, and it is pledged to the all-important, critical guarantee that we will always work to secure the blessings of liberty for ourselves and our posterity, and our posterity is our children.

So I call on my colleagues, step up today, stand and deliver. Vote for this budget reconciliation package brought forward by the gentleman from Ohio [Mr. KASICH] and the Committee on the Budget and all of our hard work, reject this substitute, reject a motion to recommit. Vote for the future of our children so that they shall know our heritage and live it in their own lives.

Mr. DICKS. Mr. Chairman, today Congress faces a decision of great significance, where our actions will affect so thoroughly the lives of our fellow Americans. I urge my colleagues to indicate their most serious consideration of the plight of seniors, children, workers, and the less privileged, by lending their support to the Democratic substitute and rejecting the GOP package.

Both sides of the aisle have been able to agree on a number of important policy issues, and I commend the leadership of both sides for their willingness to address these important points. We have agreed that the Federal deficit must be eliminated. Both sides agree that there should be a 7-year time period through which to accomplish this. Members agree that the short and long term problems with Medicare and Medicaid must be resolved by this legislation. The House has also been able to agree that the welfare system must be improved to encourage recipients to re-enter the workforce and become positive, contributing members of society.

Unfortunately, the agreement ends here. The Republican budget reconciliation proposal severely cuts many critical Federal programs unnecessarily—for the single purpose of providing a tax cut worth over $245 billion during the next 7 years, much of which will go directly to individuals who make over $100,000 a year. At the same time, the Republican plan will cut the Earned Income Tax Credit, which provides critical tax relief to the poorest American workers. Frankly, I am unable to find the logic of a proposal which cuts taxes for the wealthy while raising taxes on the working people of the United States. I do not believe that this is the message the House should be sending to the American people.

This $245 billion tax cut for wealthy Americans also will force draconian cuts to be made across the board to programs which provide critical services and assistance upon which many Americans rely. The Republican plan brutally attacks seniors by cutting Medicare and Medicaid by a combined $482 billion. The measure requires seniors and low income individuals to pay greater premiums. It also will reduce payments to hospitals which will force many of these facilities to reduce services or, in some cases, shut down entirely. The Republican proposal will make further cuts to veterans' health programs, increasing their copayments by 50 percent and increasing the fees veterans must pay to stay in a VA hospital or nursing home. Federal retirees will also be hit by delays in their COLA payments and other changes adding up to a cut of $9.9 billion. Is it right to demand that seniors, veterans, and Federal employees pay more while the most wealthy pay less?

This proposal also calls for major reductions to Federal programs supporting our children. Student loans, the most important vehicle through which middle and lower class children are able to attend college, will be cut by over $10 billion. The Federal direct loan program, which has been highly successful at my alma mater, the University of Washington, is eliminated by the Republican bill. Students receiving loans also will be charged an additional $3.8 billion over the next 7 years by eliminating the interest-free grace period, increasing the cost of student loans by as much as $2,500 per student. Is it truly in our Nation's best interest to provide $255 billion to the richest Americans by raising taxes on students?

The Republican bill also contains a number of policy decisions which are, simply put, bad ideas. This measure would eliminate established Federal standards nursing homes must meet to receive Medicaid funds. These requirements ensure that our parents and grandparents receive adequate care, are served by competent staff, and retain the rights that they deserve. This measure also permits corporations to raid their workers' pension funds for any purpose—including hostile takeovers—thus putting the retirement funds of working Americans at significant risk.

Mr. Chairman, if all of these changes were truly necessary to balance the budget by 2002, perhaps more of us on the Democratic side of the aisle would be willing to support the Republican proposal. However, the Coalition has developed a plan which accomplishes all of the important goals without this terrible assault on the middle and lower class. How can the coalition's plan do this? Simply, by eliminating the huge tax cut which our Nation cannot afford.

The Democratic plan will accomplish deficit reduction while maintaining crucial investments in education and human resources. Our plan will restore the solvency of the Medicare trust fund while cutting health care services by $195 billion less than the GOP plan. It also provides for other important services such as annual mammograms which the GOP proposal chooses not to include. This plan rejects the Republican tax increase on the working poor, encouraging people to choose work over welfare. Our substitute also confirms Congress's dedication to providing our children with a quality education and maintaining their access to institutions of higher learning by providing $50 billion more for education than the Republican plan and fully funding Federal student loan programs. Retired Federal employees will not be required to accept again delayed COLA payments under the Democratic substitute. Neither will nursing home residents be asked to compromise their personal safety nor must worker risk the security of their retirement funds.

I ask my friends on both sides of the aisle to consider carefully the decision they are about to make. Ask yourselves, should the effort to balance the Federal budget be a divisive affair—where the rich win and the poor lose; where corporations profit while workers and retirees are asked to pay more? Or should this action require all Americans to bear the burden of deficit reduction equally, with fairness and the common need being our guide? I urge my colleagues to reject the further splitting of the wealthy and middle class in this country and to support the balanced approach inherent in the Democratic substitute.

Mr. SKAGGS. Mr. Chairman, We have two choices today.

The Democratic alternative—the Orton substitute—would balance the budget in 7 years, without tax cuts we can't now afford, without undue cuts in Medicare and Medicaid, without raising taxes on lower-income workers, and while making possible investments we need to keep our country strong in the future. I support it.

This is in sharp contrast to the Republican bill, which I oppose. That bill would also balance the budget in 7 years, but there the similarity ends. It includes a tax cut we cannot afford, most of which goes to the wealthy who least need it. To pay for that tax cut, the committee bill cuts Medicare and Medicaid more than necessary, with over half of the total spending cuts coming from those important programs. It also actually raises taxes on lower-income workers.

Compared to the Republican bill, the Orton substitute cuts $100 billion less in Medicare, $100 billion less in Medicaid, $50 billion less in direct assistance to individuals, $10 billion less in education, $10 billion less in agriculture, and $80 billion less in other discretionary spending.

How is that possible? It is made possible by refusing to dig the hole of Federal debt deeper—that is, by refusing to cut taxes before we can afford to. And by ending $28 billion worth of particularly ill-advised subsidies to corporations.

The Democratic alternative reduces the deficit more, and quicker, than the majority's bill. It cuts a total of $853 billion from the budget over the next 7 years, compared to $811 billion in the Republican bill.

While making these deep cuts, our alternative reflects better priorities and wiser policies than majority's bill.

It maintains the earned-income tax credit, which used to enjoy strong bipartisan support as an effective, non-bureaucratic way to enable lower-income people to work their way into the middle class.

It closes tax loopholes that let multinational corporations manipulate their books to avoid paying their fair share of U.S. taxes and that allow billionaires to avoid paying their taxes by renouncing their citizenship.

It protects Medicare and Medicaid, because it is not driven to cut them deeper than necessary because it does not have to pay for a misguided tax cut.

It would provide more resources for nutrition, education, transportation, research, and crime control.

It includes real welfare reforms, with flexibility for States, a crack-down on fraud, and enough funding for day-care, training, and the other needs of people moving off welfare and into jobs.

It maintains funding for student loans, which the Republican bill would cut.

It protects the benefits of Federal retirees and preserves veterans' compensation.

It keeps our public lands in public ownership—unlike the Republican plan, which offers to turn national forest ski mountains over to the owners of ski resorts. The Republican leadership refused to let me offer an amendment to strip that provision from their bill.

The Democratic alternative would not sacrifice the wilderness and wildlife of America's last untouched stretch of Arctic coastline, the coastal plain of the Arctic National Wildlife Refuge, which the majority's bill would open to oil and gas development.

Our alternative would not perpetuate bargain-basement sales of the gold, silver, and other hardrock mineral resources of our public lands.

And it does not include the myriad provisions tucked into the majority leadership's plan, including ones that have little or nothing to do with balancing the budget and everything to do with political posturing and campaigns. Like a requirement to waste even more money on TV Marti, which no one in Cuba sees anyway, by switching to a signal that even fewer Cuban televisions can receive—and which will be even easier for Castro to jam!

And like provisions to eliminate the arms control and disarmament agency.

It's clear to me which of these two choices is better for the country. The Republican plan may be called a reconciliation bill, but I can't be reconciled into thinking that it's anything but bad for the country. We have a chance to do better—in fact, we have a duty to do better. The Democratic alternative is that better choice.

Mr. RICHARDSON. Mr. Chairman, I rise in support of the Stenholm reconciliation bill that balances the budget in 7 years without the draconian cuts found in the Republican plan.

The Stenholm alternative balances the budget without cuts in education, without extreme cuts to Medicare and Medicaid, and without increasing taxes on the middle class and the working poor.

The Stenholm alternative places deficit reduction first and does not borrow money to pay for tax cuts.

The Stenholm alternative spreads the sacrifice necessary to balance the budget among various areas of the budget. The Republican plan places a heavy burden on middle-class, hard-working Americans while giving a tax cut for the rich.

The Stenholm alternative reforms the welfare program by rewarding work that pays more than welfare.

Mr. Speaker, the Stenholm alternative has been praised by the Washington Post as a "respectable, disciplined alternative" that is "easily the best horse in the race."

The bottom line is the Stenholm alternative balances the budget without punishing the middle class and the poor. This is the bill that the American people have been asking for.

The President deserves credit for his 1993 budget which has brought the fiscal year 1995 deficit to $164 billion, almost half of what it was when he took office.

Despite forecasts of doom in 1993, our economy continues to grow at a strong, steady pace.

The Stenholm alternative will signal to the markets that we are serious about implementing sound fiscal policy in Washington. The lower interest rates that will result from this budget will allow businesses to expand at a lower cost, it will allow millions of Americans to refinance their loans on homes, cars, and credit cards, it will hasten the retirement of past debts that depress the savings rate of this country.

The Republican budget threatens to shock the economy with enormous tax cuts that could jeopardize the effects of the difficult spending cuts that we have already made.

The Stenholm alternative is prudent and makes difficult choices that we are sent here to make.

I urge my colleagues to balance the budget the smart way, and to support the Stenholm alternative.

Mr. HAYES. Mr. Chairman, when we vote today on this reconciliation bill, we are passing judgement on hundreds of pages of text containing thousands of specific numbers and provisions. As important as those details are—and they are very important—perhaps more crucial are the underlying values embodied in the proposals before us. In the final analysis, people sent me here to recognize, protect, and advance the basic values America holds dear. A group of conservative Democrats called the coalition have a reconciliation bill that best accomplishes that objective.

The values implicit in the Democratic leadership's refusal to submit a balanced budget are unacceptable. At the same time, I believe that the Republican leadership bill goes too far in too many areas and does not adequately enough protect some of our most vulnerable citizens.

The coalition's budget strikes the right balance. It reflects the common sense and common values held by most Americans. All of us should strongly support it.

The coalition budget reaches balance in 7 years with a steady glidepath of deficit reduction. Value interpretation: Our children and grandchildren should be given as much economic opportunity as we were, not forced to pay for our irresponsibility.

The coalition budget requires tough spending cuts before tax rewards. Value interpretation: Rewards should come after hard work, not before.

The coalition budget makes reforms in Medicare to achieve $170 billion in savings—compared to the Republicans $270 billion and the Democratic leadership's $90 billion—to keep the program solvent well into the next decade. Value interpretation: Keep promises you've made, to both today's and tomorrow's seniors.

The coalition budget finds a numeric middle ground in Medicaid, saving $85 billion from the program for lower-income citizens. Value interpretation: Runaway costs must be reigned in, but not at the expense of the most vulnerable.

The coalition budget includes a proposal to significantly reform our welfare system. Value interpretation: Balance the compassion imperative just mentioned with a sense of personal responsibility, moving people from welfare to the work force while including adequate funds for child care, job training, and other building blocks necessary to make a welfare reform policy more than a pot full of empty promises.

The coalition budgets maintains support for student loans and agriculture. Value interpretation: Treasure, nurture, and develop your national resources if you want to remain strong and healthy.

Finally, the coalition budget includes the only meaningful budget enforcement to be found in this debate. Value interpretation: If you expect people to believe what you say, you ought to police yourself in ways that show you mean it.

During the debate on the balanced budget amendment, I stood in this very well and stressed that our obligation as public servants and to the Framers of the Constitution is to ensure that the Federal Government live within its means. Prudence and fairness dictate that we get down to the business of cutting the deficit as soon as possible and not postpone the major portion of the burden until the out years. The coalition substitute would leave our children with $159 billion less debt than H.R. 2491, my Republican colleagues' bill. That is what this debate is about—ensuring a sound financial future for our children and grandchildren—not rhetorical comments about partisan politics or Presidential elections.

I remind my colleagues that my voting record speaks volumes about my philosophy on tax cuts. I supported the Contract With America tax cut package and voted against the President's 1993 tax increases. Increasing the amount of income that my constituents retain has always been one of my, and should be one of our, top priorities. Taxes should, however, only be cut when the hard work of balancing the budget is completed. I believe that the final budget agreement will likely contain a reduced tax cut. The groundwork to do is also in place as indicated by comments of the Speaker and the President.

The coalition proposal represents the views of the majority of Americans and our best opportunity for compromise. Americans want their Federal Government to manage its fiscal affairs with the same responsibility that they are forced to in private life. Americans want the Federal Government to respect their privacy and personal freedoms. Americans want the Federal Government to trust their abilities to make decisions.

But, Americans also expect the Federal Government to carry out its responsibility to protect the general welfare. The coalition substitute does so by being fairer to rural communities, senior citizens, farmers, children, and the American family. Our proposal also balances the budget in seven years. I believe that such a combination achieves a commonsense balance that is essential to guarantee that our long-term and short-term economic future is not jeopardized, and I urge its adoption.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Utah [Mr. ORTON].

The question was taken; and the Chairman announced that the noes to have it.

RECORDED VOTE

Mr. ORTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 72, noes 356, answered "present" 1, not voting 3, as follows:

[Roll No. 741]

AYES—72

Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Bishop
Blute
Brewster
Browder
Brown (CA)
Cardin
Chapman
Clayton
Condit
Cramer
de la Garza
Dicks
Dingell
Dooley
Duncan
Eshoo
Fazio
Flake
Furse
Geren
Hall (OH)
Hall (TX)
Hamilton
Harman
Hayes
Hoyer
Klug
Lincoln
Luther
Martinez
Matsui
McCarthy
McHale
Meehan
Minge
Montgomery
Moran
Morella
Murtha
Ortiz
Orton
Payne (VA)
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Richardson
Roemer
Sabo
Sawyer
Schroeder
Scott
Skaggs
Skelton
Spratt
Stenholm
Tanner
Taylor (MS)
Thornton
Torres
Vento
Visclosky
Volkmer
Ward
Wilson

NOES—356

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dixon
Doggett
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mink
Moakley
Molinari
Mollohan
Moorhead
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Pelosi
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stark
Stearns
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Upton
Velazquez
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Kaptur

NOT VOTING—3

Sisisky
Tucker
Weldon (PA)

Mrs. CUBIN and Messrs. ALLARD, BACHUS, HEFLEY, MCINTOSH, and OBERSTAR has changed their vote from "aye" to "no".

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DREIER) having assumed the Chair, Mr. BOEHNER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2491) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, pursuant to House Resolution 245, he reported the bill, as amended pursuant to that rule, back to the House.

The SPEAKER pro tempore (Mr. DREIER). Under the rule, the previous question is ordered and the amendment is adopted.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GEPHARDT. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEPHARDT moves to recommit the bill H.R. 2491 to the Committee on Budget with instructions to report the same back to the House with modifications to preserve and protect the health and income security of our seniors and our children and to achieve fairness by denying revenue reductions favoring the rich and excluding revenue increases on working class families and to retain Section 5003 relating to federal retirement provisions for Members of Congress and Congressional employees.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, let me say, a few moments ago the majority leader, my friend, the gentleman from Texas [Mr. ARMEY] said that for 60 years we have been steering to the left and that now we should vote for a big change and begin to steer to the right. With all respect to my friend, I believe we should not be trying to steer left or right but we ought to steer together forward, to move this great country forward to meet the central challenges of our time.

What is that? The fact is that America in the last 20 years has fallen to sixth in the world in standard of living. The fact is that real wages for the middle class in this country have been declining for over 20 years, the steepest decline since 1820. The fact is that American families are working longer, taking second jobs and part-time jobs, having spouses in the work force who did not have to work 20 years ago. And at the end of all that work, at the end of the month and at the end of the year, they have less money to spend than they had 20 years ago.

The fact is that in the boom years of the 1980's, two-thirds of all the new wealth went to the top 1 percent, while most Americans, the bottom 80 percent, saw their income decline in real terms. So that the disparity between the people at the top and the rest of America has grown larger and wider than it has been in decades.

Mr. Speaker, we have two problems. We have two challenges. How do we get the pie to grow again in this country so we can talk about everybody having a larger share of a larger pie; and how, along with that, we can decrease the disparity in income so that there is less room between the middle class and the people trying to get in the middle class and the people at the top. Mr. Speaker, I suggest to my colleagues that the budget we are talking about today does not move us in the right direction on either of those challenges.

Let me talk about disparity of income for a moment. This budget we are about to vote on decreases the earned income credit for families struggling to get in the middle class. In other words, it increases taxes on people that are struggling to get in the middle class, people earning $25,000 and $30,000 a year. And in the same budget we have a tax cut, a massive tax cut for people at the top. It takes my breath away. I cannot believe that someone seriously, in 1995, at the same time could make those two suggestions simultaneously. It is wrong. It is morally wrong. It is economically wrong. It is the wrong thing for our country.

Second, the budget does not address how we make the pie grow again. One of our former colleagues from this side of the aisle, Jack Kemp, is an eloquent voice for saying that we will never get rid of the deficit simply by cutting. We have to also grow our way to balance in the budget. I do not agree with a lot of the things that Jack Kemp, our former colleague, prescribed, but I think he was right, we have to grow our way.

Are we going to grow our way out of this deficit if we are cutting student loans, which is the one way people in the middle class have a chance to do better and to advance their young people? Do we make the pie grow if we are cutting Medicare and Medicaid, which, in the case of Medicaid, is the one way that youngsters, two of five youngsters in the country today are on Medicaid. Are they going to have a healthy life, will they be able to produce and be productive citizens in our society if we are cutting the very way that they can do that?

Agriculture. We have had a partnership in agriculture in this country for as long as any body can remember, programs to help farming families be able to succeed and provide the food and fiber that this society needs, which has been part of the secret of having a large and growing middle class. Most countries spend more for food and fiber than we do, yet this bill takes away those agricultural programs.

Finally, Mr. Speaker, let me say that I think this budget, more than anything that we have dealt with, presents a very clear and different vision between these two parties. This budget really presents a different vision for America.

A very prominent Member in the other body said yesterday, "I was there fighting the fight voting against Medicare because we knew it would not work in 1965." My party, the Democratic party, fought for and enacted Medicare in 1965.

□ 1600

We believe that Medicare has helped the American people probably more than anything we as a people have ever done.

Mr. Speaker, I believe the rhetoric we heard yesterday is really the real debate that we ought to be having. If extremes in the Republican party really do want to get rid of Medicare and to change it so dramatically that it is emasculated, then let us have that debate. Let us be proud to bring that difference to the American people.

If the extremes in the Republican party really believe that the right thing to do is to raise taxes on the middle-class and lower taxes dramatically on the wealthiest people in this country, then let us have that debate between now and 1996.

Mr. Speaker, I say to the ladies and gentlemen of the House in conclusion, this budget and these next 14 or 15 months are about real differences and a difference in vision of where this country should go. Let the American people decide and I believe they will decide for Medicare and for the middle-class of this country, not the wealthiest of this country.

Mr. KASICH. Mr. Chairman, I rise in opposition to the motion to recommit.

Mr. Speaker, this is a great Republican, and frankly we are going to have some Democrats, team effort today to try to meet the challenge. It is a team effort.

But, Mr. Speaker, if I could just for a second lodge a personal note, I started offering budgets in 1989 with my good friend, the gentleman from Connecticut [Mr. SHAYS] and the support of the gentleman from Texas [Mr. STENHOLM]. When we did it, we took on the Republican President of the United States and the Republican chairman of the Committee on the Budget.

Mr. Speaker, the reason we did it is because we were committed to a basic principle that regardless of who was in power, regardless of who was in charge, we just had to like tell it like it was.

We started arguing back in 1989 that we needed to make some hard decisions and, frankly, we discovered this: If we would just slow the growth in Federal spending, if we would just put the Federal budget on a slight diet, we could save the next generation.

It was not partisan. All over this town, if my colleagues read all the scholarly writings and listen to all the analysts and listen to politicians of both parties and listen to the presidential candidates for the last 20, 30 years, frankly they will hear the same thing: We cannot let this continue to go on; we have got to make some hard choices, because if we do not, our inability to make choices and put the country first will destroy us.

This is not a matter of conservative or liberal or Democrat or Republican. This is a matter of using good common sense, like every American family does. We need to establish priorities. We need to shrink the size and the scope of the influence of the Federal Government. And if, in fact, we put America first, we can get it done.

This is what all the political commentators have been saying. Do my colleagues want to know something? It has been tough to take on the sacred cows. The folks that have criticized our program should come over here and listen. It is not easy.

In order to take on the sacred cows, in order to deal with the entitlement programs in this country, we have had to walk across some very hot coals, have we not colleagues on both sides of the aisle? We have had to.

But we have had the courage to do it, and we promised that this day would come. We said that we would finally, once and for all, end the smoke and mirrors, end the gimmicks, stop delaying and balance the Federal budget.

Mr. Speaker, they said it could not be done. Here we have before us today the Seven Year Balanced Budget Resolution certified by the Congressional Budget Office that we, in fact, have met our goal and the people of this country should understand that in seven years we will, in fact, balance the Federal budget and save this country and save the next generation. Why did we do it? Why did we do it? Why did we do it and how did it happen?

Mr. Speaker, I just ask my colleagues to just think about this a little bit. First of all, it took courage. Some of my colleagues know what it is like to go home and have to take the heat when people do not understand all the programs and what we are doing.

Mr. Speaker, I am proud of these people. I am proud to serve with them. Why? It is courage. It is the courage to be willing to put an election on the line; do the right thing.

But the other thing we are missing is why it is being done. We hear about polls. I am going to tell my colleagues about the poll I take. I started taking it in 1989, and I really took it in 1993, and I really took it this year, because I have to listen, I know I talk a lot, but I have to listen to my colleagues. Mr. Speaker, when they come back from home, know that they are listening to? The people.

Tip O'Neill talked about the beauty of the House being the House the people run. It is true. We get their message later rather than sooner, but in the final analysis, the people rule in this House. And when Members come back when they came back from the August recess and when they came back from the last holiday, what were they were hearing at home?" "Don't stop. No smoke and mirrors. No gimmicks. Put the country first. We want you to do it. Save our children." That is what they heard and that is why the program is advancing.

Mr. Speaker, a little about the program. Every time I put these charts up we get a thousand calls to the office asking for charts. Mr. Speaker, let me tell my colleagues about the program. It is unbelievable what we are doing. We are going from $9.5 trillion in spending over the last 7 years to $12.1 trillion.

Some in this House want to grow to $13.3 trillion. I respect them for that, but we are not talking about going down; we are talking about going up. The debate is not about a $3 trillion increase in spending; it is whether we can restrain ourselves for that last trillion dollars; whether we can meet the challenge on that last trillion dollars to slow the growth of this government so that we, in fact, can balance our budget.

Medicaid. Medicaid is going from 443 to 785. All over America, that is an increase. We are going to give the States flexibility. Know what? We added a little back to Medicaid today. Why? Because we will be big enough to say, if it is too thin, we are going to come in and we are going to help. We will be big enough to say it. I asked my colleagues on the other side the last time to work with us. We will keep working with them.

Medicare, $926 billion to $1.6 trillion increase over the next 7 years. How about the per beneficiary? The per beneficiary is going to go from 4,800 bucks to 6,700 bucks. The average person in the private sector who is not a senior citizen is getting 1,900. We are doing a good job by our senior citizens. We are giving them a heck of a lot more and they need it and they are going to get it. We are going to save the program from bankruptcy.

One other thing, Mr. Speaker, we are going to stop generational transfer that begins to rob the next generation that is about to go to work.

Welfare, 492 to 838. Any way we want to count it, if the Cleveland Indians could have a 492 to 838, we would be winning the World Series tonight. That is an increase. That is more. If Cleveland had 838 and Atlanta had 492, we would be bringing out the champagne in Cleveland tonight. The fact is, we are doing better by this program. Bottom line though, again, $9.5 trillion to $12.2 trillion.

Tax cuts. Two schools of thought on tax cuts. Mr. Speaker, to growth advocates I would say, want to know something? Your President, our President, my President is going to sign a reduction in the capital gains tax. I will tell my colleagues why. Because intellectuals, and people who simply get up and go to work every day, know we have got to provide an incentive for risk-taking, because that creates jobs. We will have a lower capital gains tax at the end of this process, because it is for creating jobs.

Number 2, the social advocates, and they are not mutually exclusive, number 2, people who are concerned about the American family, they want to give the family some back. So, we close the Commerce Department down and save $8 billion. We are going to give some of the money back to the people who supported that bureaucracy all these years. It makes sense.

Mr. Speaker, the results at the end of the day? Do not listen to these think tanks. Let us not even listen to us. Let us listen to the Chairman of the Federal Reserve. Do my colleagues know what he said? In simple terms: If we can balance the budget, we will do two things. We will destroy the fear in the hearts and minds of mothers and fathers that their children will not have a better America than what they had, we will eliminate that if we can balance the budget; and, secondly, we will unleash a prosperity that we cannot even chart in America.

It is about growth; it is about the future; it is about the family; it is about the next generation; about doing the commonsense things that we all believe in and our constituents believe in.

Finally, Mr. Speaker, we have a process called reconciliation.

The SPEAKER pro tempore (Mr. DREIER). The Chair wishes to observe that the gentleman from Missouri [Mr. GEPHARDT] was recognized for the time that he consumed, which was beyond the 5 minutes. We are extending the same courtesy to the gentleman from Ohio [Mr. KASICH], chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, let me finish by saying the word "reconciliation" never made any sense to me. I thought about it this morning. If there is anything this country needs, it is reconciliation. If there is anything this House needs over the longhaul, it is reconciliation.

Mr. Speaker, I was in the gym with the gentleman from California [Mr. MILLER] the other night and I said, "GEORGE, you were doing a lot of things when you were in power that I thought were not so hot, but I liked you anyway, GEORGE." I said, "Now we are in power and we are doing some things that you do not like. The challenge for you is can you still like us?" Do my colleagues know what the gentleman from California said? "Yes, we can."

Mr. Speaker, at the end of the day, and the gentleman from Minnesota [Mr. SABO] reminds me of this every day, at the end of the day, in the fourth quarter, we have to have reconciliation with ourselves, with the other body, with the administration.

Mr. Speaker, I will promise my colleagues that one of the leaders on this side or this side will ever ask Members to sell out their principles. They cannot do it. What I can tell Members is if we can talk, if we can communicate, if we can listen, if we can understand one another, nothing but good can come from it. Frankly, if we can have reconciliation in this House as part of the leadership of this country, that will spread to the kind of reconciliation we need in this Nation.

Republicans and Democrats, let us lay this plan down. Let us pass it. Let us save the next generation, and let us begin saving America.

(By unanimous consent, Mr. WALKER was allowed to speak out of order for 1 minute.)

WELCOME TO MR. WELDON OF PENNSYLVANIA UPON HIS RETURN TO THE HOUSE FLOOR

Mr. WALKER. Mr. Speaker, I make this announcement simply to ask the House to welcome back our colleague, the gentleman from Pennsylvania [Mr. WELDON], who has had open heart surgery just last week and, in fact, is here for this historic vote.

The SPEAKER pro tempore. (Mr. DRIER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GEPHARDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 180, nays 250, as follows:

[Roll No. 742]

YEAS—180

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—250

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—2

Sisisky
Tucker

□ 1832

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DREIER). The question is on the passage of the bill.

Pursuant to House Resolution 245, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas—227, nay 203, not voting 3, as follows:

[Roll No 743]

YEAS—227

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
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Gingrich
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Graham
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Gutknecht
Hall (TX)
Hancock
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Johnson, Sam
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NAYS—203

Abercrombie
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Roybal-Allard
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Scarborough
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Williams
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NOT VOTING—3

Hilliard
Sisisky
Tucker

☐ 1849

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HILLIARD. Mr. Speaker, I rise today to say that I was unavoidably delayed last Thursday in a meeting and missed the vote on H.R. 2491.

If I had been present, I would have voted "no."

GENERAL LEAVE

Mr. FRANKS of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REPORT ON H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1996

Mr. WALSH, from the Committee on Appropriations, submitted a privileged report (Rept. No. 104–294) on the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. DREIER). All points of order are reserved on the bill.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, October 26, 1995, to file a conference report on the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I take this time to inquire of the distinguished majority leader the schedule for next week.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, on Monday, October 30, the House will meet at 12:30 p.m. for morning hour and 2 o'clock p.m. for legislative business. We plan to take up four bills under suspension of the rules, H.R. 1508, the National Children's Island Act of 1995; H.R. 2005, a bill to make technical corrections in Coastal Barrier Resources Systems Map; H.R. 1358, a bill to convey the National Marine Fisheries Service Laboratory at Gloucester, Massachusetts; and H.R. 1691, the Homesteading and Neighborhood Restoration Act of 1995.

Mr. Speaker, Members should be advised that any recorded votes ordered on these bills will be postponed until 5 o'clock p.m. on Monday.

After suspensions, we will take up the rule on H.R. 2492 and the bill itself, the Legislative Branch Appropriations Act for Fiscal Year 1996. We also plan on going to conference on H.R. 2491, the Seven-year Balanced Budget Reconciliation Act of 1995.

On Tuesday, October 31, and the balance of the week, the House will consider the following bills, both of which will be subject to rules: The District of Columbia Appropriations Act for fiscal year 1996, and H.R. 1883, the Partial-Birth Abortion Ban Act of 1995.

Of course, Members should keep in mind that conference reports may be brought to the floor at any time, and we do expect a number of appropriations conference reports to be ready next week.

On Monday, October 30, we expect to finish legislation around 8 o'clock p.m. On Tuesday, the House will meet at 9 a.m. for the morning hour and 10 a.m. for the legislative business. We hope to finish voting that night by 6 o'clock so Members may return home to see their little hobgoblins, ghosts and ghouls trick or treat on Halloween night. On Wednesday we plan to work later, probably until 10 or 11 p.m. so that on Thursday, November 2, we can have Members on their way home to their families by 6 o'clock p.m.

Mr. Speaker, this is the last vote for this week, and there will be no session tomorrow.

Mr. BONIOR. Mr. Speaker, may I inquire of the majority leader, you know, the House had a series of very close votes on riders to the VA-HUD bill, particularly to the EPA section of that bill. We on this side of the aisle were concerned about the statement yesterday that appeared in Congress Daily that the Republican leadership may attempt to schedule another vote on this issue at a time when many Members were absent, "to sneak it by," as the quote was relayed in Congress Daily.

That troubles us, as you can imagine dearly. We want to know if you plan to go to conference on the VA-HUD bill and when you want to do it.

Mr. ARMEY. If the gentleman would yield, we expect, Mr. Speaker, to go to conference on that on Wednesday.

Mr. BONIOR. On Wednesday. I thank my colleague.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DOGGETT. I see that Legislative Branch Appropriations Act has been rescheduled for Monday. Are you sure we will reach it on Monday?

Mr. ARMEY. Yes.

Mr. DOGGETT. Really sure?

Mr. ARMEY. Really sure.

Mr. DOGGETT. Will the rule that is provided there allow for consideration of a gift ban and lobby reform?

Mr. ARMEY. It is not germane.

Mr. DOGGET. It is not germane.

Mr. ARMEY. You can check with the Committee on Rules, but that is my understanding.

Mr. DOGGETT. Will there be any other opportunity next week to consider gift ban and lobby reform legislation of the type that the Senate approved 98 to 0?

Mr. ARMEY. I can tell the gentleman from Texas I will be making an announcement on that subject tomorrow at a press conference to be held at 10 o'clock in the morning.

Mr. DOGGETT. Without presuming what your press conference might cover, does the gentleman contemplate the possibility of a rule being in place for this body on January 1, as is the case with the Senate?

Mr. ARMEY. I am sorry, the gentleman will repeat the question?

Mr. DOGGETT. Yes. Without getting into the details of your press conference, does the gentleman contemplate the possibility that we could have a rule in place here by January 1 as the Senate has done?

Mr. ARMEY. I thank the gentleman for asking. I will just say to the gentleman, I am sure that the gentleman's curiosity will be satisfied at 10 o'clock tomorrow morning.

Mr. DOGGETT. I look forward to it.

Mr. BONIOR. Have a nice weekend.

Mr. ARMEY. You all have a nice weekend.

ADJOURNMENT TO MONDAY, OCTOBER 30, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATION FROM THE HONORABLE SAM M. GIBBONS, MEMBER OF CONGRESS

The SPEAKER pro tempore. laid before the House the following communication from the Honorable SAM M. GIBBONS, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena issued by the United States District Court for the Middle District of Florida.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,
SAM M. GIBBONS.

TABLING OF PRIVILEGED RESOLUTION REGARDING FORGERY OF DOCUMENT BY A HOUSE SUBCOMMITTEE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from New York [Ms. SLAUGHTER] is recognized for 60 minutes as the designee of the minority leader.

Ms. SLAUGHTER. Mr Speaker, I rise tonight to participate in this special order in order to have an opportunity to discuss yesterday's tabling of the privileged resolution which dealt with the forgery by a House subcommittee. Although we were denied the opportunity to even debate the serious issue, I feel it is so important that we cannot let it go undiscussed.

Yesterday we tabled a resolution regarding an issue of basic responsibility of the people who serve here either by election or by appointment. This responsibility is to assure that all who serve here are cognizant of their responsibility and determined to carry out the legal obligations of this country.

This resolution, Mr. Speaker, was an effort to protect the history of our legislative record. It was designed to guarantee that we put together a fair and accurate record of our legislative history for those to come. What we do in Congress is used by teachers in classrooms, lawyers in courtrooms, authors and historians, all of whom depend upon our integrity so they need not question the authenticity of what they read.

Senator TRENT LOTT, when he served in the House, made an eloquent statement of the importance of the sanctity of our legislative records, and I quote.

> For if the legislative history made by the duly elected representatives of the people is subject to malicious alteration and distortion by anonymous nonelected staffers, then the credibility of this institution in the people's branch is in serious jeopardy. All our written records become suddenly suspect in the eyes of the people and of the press and of the courts. How much weight, for instance, are the courts likely to give to the legislative history we supposedly made as representatives when the actual source of that history is in doubt? And yet that is the situation in which we find ourselves until the guilty are found and punished and adequate steps are taken to prevent the reoccurrence of such abuse.

That was then House Member LOTT, CONGRESSIONAL RECORD June 30, 1983, and I agree with him.

Yesterday, a resolution was tabled that would have reaffirmed this House's commitment to history. Not only did this House refuse to affirm the integrity and honesty of House records, but we were prevented from even speaking about it. Are we to expect that when such things occur in this House we will sweep them under the carpet, pretend they never happened, in essence condone the actions with our silence?

Mr. Speaker, let us go back to the beginning. At a hearing on September 28 in the Government Reform and Oversight Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, a document was placed on the press table which appeared to be on the letterhead of the Alliance for Justice. It included a logo and address, phone number, fax number, E-mail address and a listing of member organizations laid out in such a manner as to replicate the Alliance's own letterhead. Incorrect information was then placed on this document in such a way in which any reasonable person would believe it came from the Alliance for Justice.

Upon closer examination by members of the Alliance for Justice it became clear that the document was falsified. When pressed, the Chair of the committee admitted his staff had created the document and, as admitted by his communications director, they had taken a faxed document, scanned it into the computer system and altered it.

Mr. Speaker, anyone could have picked up this piece of paper, walked out of the room and remained under the impression that it was put out by the Alliance for Justice. The creation of this document clearly held the intention of deceit. This is forgery. Forgery is a crime in the United States, and forgery was committed by those people who work in a place where the laws on forgery are made.

If the intent was not to deceive or to mislead, as claimed by the creators of the document, why create it at all? Why not simply make the point on a hand-out of their own committee letterhead? Why not just use the organization's name and list the information? The sole reason to replicate the logo and include an address, phone number, fax number, E-mail address and listing of members organizations is to make the reader of the document assume the document came from the organization instead of from the subcommittee.

Mr. Speaker, why did this staff need to forge a document in the first place? We should all be perplexed and outraged by this action. Regardless of your position on the legislation which was under consideration on September 28, that hearing cannot be ignored by anyone who believes that Congress must obey the laws that it writes. It cannot go unchallenged by anybody who honorably claims to represent the United States in these hallowed halls of Congress. It cannot be accepted by those of us who have vowed to uphold the laws of the United States as we take our oath.

In short, Mr. Speaker, the unauthorized creation and falsification of documents to be distributed to the general public must be condemned. The forgery calls into question the role that we, as Members of the Committee on Government Reform and Oversight, have been sworn to carry out. It is our duty and responsibility to ensure that we provide oversight, to make sure we are acting in accordance with rules and regulations of the land. We must guarantee we are fair to all our witnesses. We must guarantee we conduct fair and open hearings. We must guarantee we put together a fair and accurate record of our legislative history.

Furthermore, I find it distressing to witness this kind of overreaching and blatant disregard for the law simply in order to make a political point, to create an enemies list, mistreat them as witnesses before the Congress and then to silence those who challenge this kind of behavior brings dangerous memories to mind and sets off resounding alarm bells.

As the people of this country once again examine this institution ever more closely, do we think they would accept the use of forgery to make a point? Do we think they would accept silencing those who attempt to make us honest? I think not.

In the name of the men and women who have served Congress in the past, in the name of those who will come after us, and in the name of history, we must be clear. We will not let forgery go unchecked. We will not allow representatives in this Congress to deceive. Mr. Speaker, we will not tolerate this kind of action.

I would like to yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank my friend from New York, Ms. SLAUGHTER, for including me in this opportunity to comment on something that I think is a very serious matter. And while the privileged resolution that was to be offered yesterday was tabled, it in no sense erases this problem from the RECORD. In fact, perhaps the claim of vindication that we have heard since then makes it even more important that we pursue the matter vigorously.

I think the gentlewoman's effort tonight is an effort, even in the midst of all that is happening here, with all the very fundamental questions about public policy, to make sure that this very key issue for those of us who are concerned about the legitimacy of our process here remains on the table. Because, in my view, there are few things as sacred to this House as the public trust. And that very legitimacy, that legitimacy of our representation, rests on a tradition of trust, a tradition that is truly built painstakingly over 200 years of serve to this Nation.

Mr. Speaker, 13 years ago an incident occurred that put that trust in jeopardy. I think that incident is very much like the one that the gentlewoman from New York is commenting on. And it might surprise some of the new Members of Congress, who seem to think that for 40 years we did not fight to uphold the integrity of this institution, but, in fact, a very different approach was taken. We were not into tabling and covering up, we were actually concerned enough that we took some action.

So perhaps I can outline for colleagues who were not aware of the similar occurrence and the differing approach we took under that Democratic leadership.

A staff member of the Government Operations Committee doctored the transcripts of a committee hearing. He altered an official committee document, part of the permanent record of the House of Representatives. The changes he made were designed to advance his political agenda. The testimony of committee members was changed in a way that reflected negatively on them. He made them look foolish, and in doing so, in my opinion, he made all of us look foolish.

Committee hearings and debate like the debate we are having tonight constitute a living history of the democratic process. Words have meaning. Debate has meaning. Parliamentary democracy derives its very legitimacy from rules and procedures, and, most importantly, from a tradition of trust. For these reasons, the House acted swiftly and on a bipartisan basis to investigate the matter. 409 Members agreed unanimously to authorize the Ethics Committee to look into the incident.

The entire shameful episode was put to rest with the resignation of the staff person who perpetrated the forgery and the release of an Ethics Committee report which commented on the fulsome nature of the activity involved. No single voice was more powerful in that debate than the voice of my Republican colleague, the gentleman from Pennsylvania, BOB WALKER.

Today a similar outrageous incident compels us to take the floor. I believe that outrageous incident is deceitful and is damaging and just as dangerous. Another forgery, this time perpetrated by yet unnamed staff of the very same committee. No one has been brought to justice, and it looks like more than a few people here would just as soon sweep this whole matter, this entire episode under the rug.

Mr. Speaker, I am angry, and I think I am angry in the same context that our colleague BOB WALKER was angry in 1983. Twelve years ago he said the following: "The integrity of this body has been compromised." He added "There is a need to begin a process to make certain that such an instance never happens again". And I think we are in a similar position today.

Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] talked about the integrity of the committee process. He told the House "To have any committee or any subcommittee of that full committee under a cloud of suspicion will reflect adversely on the base work of the committee, which is oversight of Federal agencies". The same as it is today.

As we do today, my colleague demanded a thorough investigation of these matters. In language that seems, unfortunately, as appropriate today as it did then, my colleague, Mr. WALKER, characterized the incident as "An example of congressional staff run amuck and of certain Members of Congress attempting to utilize our legitimate congressional oversight functions as platform to further their individual political ambition".

While I certainly hope the same is not true today, 12 years ago we acted on a bipartisan basis to investigate a forgery. Today we should join together once again in condemning a similar shameful action. We have the opportunity to urge the Speaker to ensure that the integrity of the legislative process and the committee process are respected and protected. A vote to uphold the honesty and the integrity of the House of Representatives should still be scheduled here for the deliberation on the House floor.

□ 1915

Once Republicans learn, I believe, that vindication has been claimed, as I said earlier, and once they learn that there is a precedent for taking action on matters that are very similar, if not exact, I am hopeful that their sense of fair play and bipartisan sense of integrity, the integrity of this institution, will come into play and that the cavalier decision to simply table the matter without further comment will be not only regretted but reversed.

It seems to me that the only way perhaps we can call upon a sense of fairness and a sense of not only perpetuating a tradition of integrity, but following a precedent can be brought about is for the gentlewoman, and others who have a concern for the institution, to continue to bring the issue to the floor until it is properly dealt with by the Republican leadership.

So, I want to thank the gentlewoman for her diligence, for the serious nature that she views this indiscretion, and I hope that other Members looking back to 1983, to when Democrats were embarrassed but unanimously, with our Republican colleagues, took action, with that harkening back to I think the proper management of the House, we will ultimately succeed.

Once again, I appreciate, the gentlewoman for letting my comments be a part of the RECORD, and I hope she will continue her effort.

Ms. SLAUGHTER. Thank you, very much. The gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, I thank the gentlewoman from New York for yielding some time to me and for her courage in pursuing this very troubling matter.

Mr. Speaker, one of the wonderful words of political debate in this country over the decades has been the word "balderdash." It just occurred to me that as with so many things, perhaps like obscenity, it is hard to define, but we know it when we see it.

My colleagues, this is balderdash. The idea that the gentleman from Indiana would claim that a vote to table the gentlewoman's resolution of inquiry and privilege somehow vindicated the acts that were taken under his name by his staff in the Committee on Government Reform and Oversight really stretches credulity to the breaking point.

This is a classic example of, I think, "He protesteth too much," and we will see how the facts ultimately unfold here.

I think, as the gentlewoman has pointed out, this is a very serious matter. It does implicate the integrity of the House of Representatives of this country and the trustworthiness of the legislative process. This forgery was committed with the official resources of the House of Representatives. What kind of example does that set for not only our colleagues, but others who are observing us and trying to discern whether this body deserves to have their trust and confidence?

Let us be perfectly clear about this. There could be no purpose in this document's being produced other than to deceive. There is simply no such thing as an innocent forgery.

Let me just show, this is a blowup of the genuine article, the real stationery of the Alliance for Justice, and this was the forgery. I think there can be absolutely no doubt that this document was devised and intended to look like this one and to mislead people in the process.

Mr. Speaker, I was there at that hearing. I questioned the chairman about it at the time. He professed to have no knowledge that this had been done by his committee staff, and I think that is why the gentlewoman's resolution, which was a measured response asking the Speaker of the House of Representatives to deal appropriately to correct this failure of the committee staff to meet the high standards we expect of them, was a very, as I say, measured reaction to this.

Yet, what does the majority leader do but to move to table the resolution, clearly hoping that this problem will just go away. To the contrary, I believe that it will fester until it is dealt with openly and straightforwardly by the body. It is another example of the leadership style that seems to prevail around here these days, which is essentially encapsulated in the phrase, "Our way or no way."

The underlying issue here, the so-called Istook-McIntosh-Ehrlich proposal, is a perverse one to begin with. It directly attacks the ability of many, if not most organizations, and many if not most citizens of this country, to fully participate in the political life of America. It is a direct attack on the life blood of any democracy, which is the free flow of information and debate.

What is the problem? What is the gentleman from Indiana [Mr. MCINTOSH] afraid of? Why is political advocacy by the American Red Cross or the Girl Scouts or the YMCA somehow a threat? Why should those organizations not have the full right to talk to the Congress and to others in public life about things that concern them?

It is hard to figure out, but that is, as the gentlewoman knows, the underlying agenda here. Perhaps one of the things that explains all of this is that it is intended to distract, intended to draw attention away from the failure on the part of the majority party to take up real lobbying reform, real gift ban legislation.

But in their zeal to push this kind of extreme proposal, they have overstepped the bounds. That zeal has clearly been communicated to staff in a way that has evidently blurred the very important distinction between means and ends.

A forgery by the official staff of a committee of the House of Representatives. Give me a break. That is bad enough. But for the majority just to brush it off, to table the gentlewoman's resolution, is a sorry spectacle indeed.

Ms. SLAUGHTER. Thank you. The gentleman from North Carolina, [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I thank the gentlewoman for making this time available. I do not usually participate in special orders, but I read a press release that took on, in my view, a very vicious tone and made some accusations about a gentlewoman who has been my friend for a long, long time.

Mr. Speaker, the only thing we have in life is our integrity, and our word is our bond, as people take about. We have some high rhetoric when we get into debate about different issues. We have just had Medicare and reconciliation. I have been here for some 20 years, but we usually try to, in our arguments, be basically honest and have some truth to what we say.

But, Mr. Speaker, I do not think there is any argument, nobody has disputed, that this was not a forgery, which in itself is bad enough that anyone would forge a document. The only reason that I can imagine that anyone would put a document out is because the heading "Alliance for Justice" maybe would call attention that this is an organization and people would pick it up and they would have some respect and people would read it.

It would seem to me if someone wanted to put the information out, they would have used their own stationery, or the subcommittee's stationery head. Not only was it a forgery, which is bad enough, but after contacting the different organizations that were mentioned, they denied that they got the numbers. They got no Federal funds. And this, in itself, is false witness about an agency.

Then when they get caught with their hand in the cookie jar, if they are in the majority, they can have a motion to table and if they have got the votes, they can walk lockstep and table it. It does not mean that they are not caught with their hand in the cookie jar.

It seems to me if they had wanted to do the honorable thing when it was called to their attention, if the subcommittee chairman had wanted to do the honorable thing, he would apologize if his staff had done it.

Mr. Speaker, if my staff had done it, I would have been the first one on this floor. I have been a subcommittee chairman for a lot of years. I would have been the first one on this floor to apologize to this House and to apologize to the people that were affected, and the staff people that had done it would apologize and they probably would not have been on the staff anymore.

This is something that takes on a very serious situation to me. Then I read the press accounts here. The press release says: Taking Ms. SLAUGHTER to task for all she wants to do and use this as politically motivated and unfounded.

It is not unfounded. Nobody denies that it is a forgery. There is no doubt about that. Let me just read and follow up on what the gentleman from California [Mr. FAZIO] said. I have a quotation here on the same situation that the gentleman was talking about. This was from the gentleman from Pennsylvania [Mr. WALKER]:

> We have got to make certain that what we do serves the best interest of the House, but also accomplishes the purpose of making certain that we never have the future staff people or future Members thinking that this is the kind of thing they can get away with.

He goes on to say,

> This is political dirty tricks with venom, because what they have done here is the dirty tricks have resulted, potentially, in the change in the entire public documentation, but in this case, in trying to change the people's minds on legislation that is being proposed in this House."

In my view, it is to put a muzzle on these people that you do not agree with their positions, but you will just do away with these organizations. We just shut them down. We want to be able to end up detailing precisely how this came about, what took place, and then make whatever changes are necessary to make certain it never takes place again, including, of course, getting rid of the people who are responsible.

Mr. Speaker, if my colleagues are responsible Members of this House, talking about family values and principle, they would not condone and would certainly not be a party to this, which constitutes dirty tricks. It is a forgery. It is a false document. It does not have any truth to it. They are trying to do this so they can prevail in their ability to do away with all of these different agencies; muzzle the agencies, the Red Cross, the Girl Scouts, and all of these that I consider to be legitimate agencies.

If my colleagues are responsible Members of this House, and they represent, as I do and the gentlewoman from New York [Ms. SLAUGHTER] and these other people that have spoken, some half a million people in this country, they owe it to these people to be honest, to the best of their ability to speak the truth, to where the people in their district and the people of the great United States of America know that when they speak or they put out a document, it has some basis of truth to it.

And, Mr. Speaker, when they are caught in a case where this is not the case, rather than to admit and be big enough to come before the House and at least come before the people on the committee that could be affected by it and the agencies that could be affected by it, be big enough to come to them and apologize and take the people to task, the staff people, take them to task so it would never happen again.

What goes beyond all bounds of reason in my view is they muzzle the gentlewoman that brought the resolution to the House and just say, "Hey, we have got the numbers. We will not face up to it. We do not have to explain to anybody, because we have the numbers and we will just vote to table it and that will be the last of it."

I do not believe that that is the way this place is supposed to work. That is not the way that we have operated in the 22 years that I have been here, and there have been times when we have been forced to take painful votes when it affected people in my party. But we made the votes and we did not sweep it under the rug.

To me, this is absolutely, totally unacceptable. Mr. Speaker, I appreciate the gentlewoman from New York for taking this special order. I would urge that the Member that is responsible for this would take the responsibility. He swore to uphold the laws of the great United States of America and the Constitution, that he would take it upon his shoulders to come to this House and admit that this was a forgery and that the people who are responsible for it are no longer in the employ of the taxpayers of the United States of America.

Mr. Speaker, I thank the gentlewoman for taking this time and I think she certainly is to be commended for standing up for what is morally right and the integrity of this House of Representatives.

□ 1930

Ms. SLAUGHTER. I thank the gentleman very much.

Mr. Speaker, I yield to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the full committee.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, it is not often that I come to this floor for special orders, but I come here today because I feel this is an extremely important matter.

Mr. Speaker, the chairman of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, has said that he had no prior knowledge of the document distributed at the hearing on September 28.

I have no reason not to believe him. I, therefore, also believe that he had no personal involvement in creating the document that misled so many who saw it.

However, Mr. Speaker, this incident should never have happened.

In this case, when the facts failed to support the majority's view, it appears they manufactured their own facts using official funds, committee staff and support agencies of the House to mislead Members, the press, and the public.

When they did these things, Mr. Speaker, they went too far. They ran afoul of rule IX of the Rules of the House of Representatives, and that created a question of the privileges of the House of the kind Ms. SLAUGHTER presented yesterday. Her resolution, which was tabled twice deserved a full and open debate on this floor.

Adoption of the motion to table which was offered by the majority leader obviously represented a desire to avoid debate and to side step accountability. We have seen this blind vision so often in the 104th Congress—far too often. It was hardly the vindication which some have claimed.

What is particularly offensive about the events described by Ms. SLAUGHTER is that a document was created using official funds which misrepresented the views of a witness at the hearing, an organization called the Alliance for Justice. In addition, the information about Federal grants was inaccurate.

There is only one reason the subcommittee would have created this document and that is to embarrass the Alliance for Justice.

When the document was exposed as a fraud, the chairman of the subcommittee claimed that he was not aware of any problems in the preparation of the document.

He accused the witness, Nan Aron, the director of the Alliance for Justice, of hiding behind the fifth amendment when she refused to confirm the accuracy of the numbers contained in the document.

Later he admitted that the subcommittee staff created the document. After that, he wrote a letter of apology to Nan Aron.

It is still unclear which staff actually participated in this deception and what authorization they received from Members. Concerns have also been raised that staff of a member's personal office performed functions which should have been under the direction of subcommittee staff.

Mr. Speaker, some have said in defense of the subcommittee that the forged document with the Alliance for Justice letterhead was merely a harmless graphic which was intended to illustrate the majority's contention that some member organizations of the Alliance received Federal funds.

But if this was merely a harmless graphic, then one of its purposes was to give the impression that there was something improper or illegal in their receipt of Federal funds.

Mr. Speaker, this was an exercise in using an official investigative hearing of a House subcommittee to deceive, rather than to enlighten.

The House and its committees cannot function if Members of the House attempt to deceive each other, as well as the press and the public which we represent, with false information.

The resolution submitted by Ms. SLAUGHTER called for the Speaker to get to the bottom of this incident. The Speaker had already acted earlier to ensure that Members of the House must take responsibility for documents circulated on the floor about pending legislation and amendments.

We still need action to ensure that the integrity of the committee process is respected so that its principal purpose—to gather accurate information which we can use to write legislation and to conduct proper oversight—is respected.

That integrity has been under attack throughout this Congress, not just in the incident we are addressing today.

For example, at the recent Waco hearings jointly conducted by subcommittees of the Judiciary Committee and the Committee on Government Reform and Oversight, we discovered that representatives of a private entity, the National Rifle Association, were treated like professional committee staff of the House; that an attempt was made to allow them access to confidential materials which might be used as evidence in the hearings; and that there was an effort to cover up their role.

As the majority must now realize, those revelations, as well as the incident involving the forged document, were counterproductive. They interfered with whatever message the majority might have been trying to put out. They embarrassed the committees and Members involved. Ultimately, they reflect on the House and on all of us.

Mr. Speaker, we often disagree on policy. But let's not attempt to deceive each other, or the national audience outside the House, with forged documents, tricks, and misrepresentations. That hurts the House on every legislative issue, not just this one. And that is what the House must speak firmly against. This must not happen again.

Ms. SLAUGHTER. If I could just ask the gentlewoman a question. I know you have seen the press release that was handed out saying that the House voted to vindicate the gentleman involved.

Mrs. COLLINS of Illinois. I did.

Ms. SLAUGHTER. Did you notice that that was written on committee stationery?

Mrs. COLLINS of Illinois. No, I did not.

Ms. SLAUGHTER. Mr. Speaker, I appreciate the leadership of the gentlewoman from Illinois [Mrs. COLLINS] in this committee in trying at least to uphold the laws of the House, but the laxity, as you had pointed out, what we have seen in the Waco hearings and what we saw the other day in the hearings on the White House Travel Office, indicate to me that integrity is in very short supply on that committee.

I wonder if you agree with me, and you were there the day this document came about. I have said many times I think the thing that saddened me most was the fact that the staff and the subcommittee chair thought it was very amusing, and they saw nothing in the world wrong with what had taken place here.

I feel that it is going to be my obligation. If no one else of the 435 Members care about it, it is terribly important to me that this not take place here in this House. This is too sacred a ground that we stand on. Too many people send us here with their total trust that we are going to do the right thing. I can imagine their outrage if they really knew that this is going on. Frankly, I do not know how much more of it goes on. But at least on this piece right here where I was closely involved I intend to make my stand.

Mrs. THURMAN. Mr. Speaker, I strongly support the efforts of the gentlewoman from New York to bring a serious problem to this body's attention. The actions of majority staff of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs are very disturbing, and every Member of this House should be alarmed. The entire House is once again subject to more public outrage about our activities by the production of a phony press release concocted just to make a point.

When the Republican leadership immediately tabled the gentlewoman's resolution yesterday, it certainly sent a strong message to me. Why has the Republican leadership gagged us? Why can't we have a debate? As the gentlewoman has pointed out, quite correctly, forgery is a crime. This matter needs to be examined to ensure that it never happens again. Contrary to arguments from the other side of the aisle, this is not merely a partisan issue: it is a question of institutional integrity.

I was encouraged at the beginning of this Congress when the new leadership promised that the House would be more open and that debate would be free. What has happened to that promise? I opposed efforts in the last Congress to gag or shorten debate, and I still oppose these restrictions. To say I am extremely disappointed in what happened here yesterday would be an understatement.

This is a serious problem that casts a dark shadow over this institution. So why have the Republicans also attempted to discredit the gentlewoman from New York? We all received a Dear Colleague from the Republican members of the subcommittee that not only attacked the integrity of the gentlewoman from New York but also evaded the facts. Perhaps it is because the gentlewoman is correct: forgery is a crime. This matter needs to be examined to ensure that it never happens again. Regarding the integrity of the gentlewoman, I wonder how many signers of this Dear Colleague have received campaign contributions from Defense corporations? We don't see the Republicans attempting to subvert the first amendment rights of Defense and other corporations who engage in lobbying activities.

I also question the fact that this was just a simple mistake. If the intent was only to show the amount of Federal dollars received by the Alliance for Justice, why was it necessary to use House Information Resources to produce an exact duplicate of the Alliance's letterhead, even down to its e-mail address?

The legislation that produced this controversy, the restriction of groups from using any of their own funds to lobby, deserved to be debated in a very open forum. I do not see how this is possible now. The fact that the majority staff of this subcommittee believed it necessary to willfully falsify a document to make a point about the need for this legislation certainly sends a unmistakable signal that they and their superiors did not have enough facts to bolster their arguments.

I hope the matter does not end here. Regardless of the propriety or impropriety of the actions by majority staff, the fact remains that the information was false and could have become part of the public record.

Finally, how can we explain this to our constituents? As we all know, the public's perception of Congress is still quite low. This sad situation will only lower our constituents' opinion of both the process and the institution most of us respect. This is the greatest tragedy of all, because it undermines every Member's mission—producing sound and reasoned laws for the public good. How can I tell my constituents back home that I am making the best decisions on important issues when the information I am receiving may be either skewed or fraudulent?

Once again, I salute the gentlewoman's commitment to this serious problem.

BUDGET RECONCILIATION ACT

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. PALLONE] is recognized to control the balance of the pending hour as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, could I just inquire, does that mean that I have 5 minutes or that I have how long?

The SPEAKER pro tempo. The gentleman has a maximum of 22 minutes remaining.

Mr. PALLONE. I thank the Speaker and I want to thank the gentlewoman from New York for yielding me the balance of her time.

CYPRUS

Mr. Speaker, I wanted to talk about the Budget Reconciliation Act that we passed today. But before I do that, if I could just spend a couple of minutes on a matter that is very important relating to the state of Cyprus.

Mr. Speaker, earlier today Cyprus's Minister of Foreign Affairs met with the International Relations Committee for a briefing on the United Nation's and United State's continuing efforts to bring about a peaceful resolution to the illegal occupation of Cyprus by Turkey, which is now in its 21st year. I am, consequently, here tonight to once again lend my support to Mr. Michaelides and all of the Cypriot people in their fight to restore independence to their country.

Mr. Speaker, over the last two decades the international community has demanded that the Turks—who today manage their illegal occupation with a heavily armed force of over 30,000 troops and 300 tanks—allow the Cypriot people to live as a free and independent people in various forms over the years. Most recently, in July of last year the United Nations Security Council passed Resolution 939, which mandated that any settlement of the Cyprus issue must be based on a state of Cyprus with a single sovereignty and international personality and a single citizenship with its independence and territorial integrity safeguarded.

During this time period the United States has also repeatedly urged Turkey to abide by the various United Nation resolutions that have been issued. Just a few weeks ago on September 18, the House passed House Concurrent Resolution 42, which insists that all parties to the dispute regarding Cyprus agree to seek a solution based upon the relevant United Nations resolutions. House Concurrent Resolution 42 also urges the Turks to build upon a gesture of goodwill made last year by Cyprus's President Glafcos Clerides and agree to remove all foreign troops from the island.

For 21 years the entire region surrounding Cyprus has been in a volatile state, casting a pall of instability that feeds the specter of war. The Secretary General of the United Nation has called Cyprus one of the most highly militarized areas in the world. As an international champion for both the notion of self-determination and respect for international law, the United States has an obligation to make sure that when the Foreign Minister leaves our country, he will leave knowing that American people fully support the demilitarization of the island as part of the larger effort to secure a free and wholly independent Cyprus.

As I said when I spoke in support of House Congressional Resolution 42 last month, a Turkish refusal to act on this proposal can only be read as an unwavering determination by Turkey to ignore the rule of law. Indeed, the Secretary General of the United Nations has also noted there has been a lack of progress on this issue due essentially to the lack of political will on the Turkish Cypriot side. There is, however, no shortage of American political will when it comes to assisting Cyprus in its struggle for independence. Indeed, as the House's decision earlier this year to cut United States aid to Turkey demonstrated, there is an ample supply of American political will, and the sooner the Turks realize it, the better it will be for them, for Cyprus, and for the maintenance of international peace.

1945

Mr. Speaker, I would like to now turn, if I could, back to the legislation that we spent most of our time on today, and that is the budget reconciliation bill.

When I had a few minutes during the debate today to talk about why I was opposed to Speaker GINGRICH'S budget reconciliation plan, I made reference to something that I rarely make reference to because I do not really think that surveys or polls are necessarily a good indication of the way people think. But in the poll that was actually done by the New York Times and CBS News that was in the New York Times today, there was reflected essentially what I have been hearing from my constituents relative to the budget, relative to the purported tax cuts and relative to the changes that the Republican leadership is making in both Medicare and Medicaid in this budget bill that was passed today.

Essentially, what the New York Times poll showed was that the public in general feels that and Medicare Medicaid are going to be seriously diminished for the worse as a result of this Republican bill that passed today, also that the tax cuts really are a sham, that they essentially go mostly for the rich and that ultimately this Budget Reconciliation Act, which is purported to have the purpose of balancing the budget, will not accomplish that goal.

I mention those things because I think that essentially they are true. They not only reflect what my constituents say but they reflect the reality of the legislation that was passed today.

If you look at the whole idea of balancing the budget, why would you start out with a tax cut? We all know that, in terms of the revenue that comes in, it is not sufficient to balance the budget. So if the revenue is reduced, and particularly if it is reduced in order to give some cuts to mostly wealthy people, then the balancing of the budget is going to be more difficult, and that is, in fact, what happens with this Republican proposal.

After 7 years, the national debt will be at least 250, some estimates even higher, because of the tax cut, and if you look at the tax cut, it provides more generous benefits at higher income levels.

We know that the legislation actually would raise taxes on those earning less than $30,000. So it is not even a tax cut unless you are making more than $30,000.

We are asking the American people to implement this tax cut mostly for wealthy people and at the same time that we are raising taxes on those below $30,000. And what are we doing it for? Well, I mean, if you look at what has been the debate for the last week or so on the House floor, you know that what is happening in this bill is that Medicare and Medicaid, Medicare being the health care program for the elderly, Medicaid being the health care program for low-income people, are both being seriously diminished, some would argue ultimately abolished, because of this budget bill.

It is no surprise, really, over and over again today on the House floor, and I will repeat it again, we made mention, the Democrats did, at least, to the Senate majority leader, BOB DOLE, Speaker GINGRICH, and the statements that they made with regard to the Medicare Program. We know that from the very beginning, when Medicare was passed back in the 1960's, that most of the Republicans in the House of Representatives and the Senate actually opposed it. And Senator DOLE, who is actually running for President now, was one of the 12 Members of Congress who voted again the Medicare bill at that time back in the 1960's.

Well, again, this Tuesday, earlier this week, he reiterated in a speech before the American Conservative Union, "I was there fighting the fight, voting against Medicare, 1 out of 12, because we knew it would not work in 1965." What a message that is being sent here by a candidate for President of the United States. He is essentially saying Medicare is a terrible program, and certainly it is no surprise that he and the Republican leadership are trying to essentially gut Medicare today.

Speaker GINGRICH went even further, in a sense. He pointed out that maybe we are not abolishing Medicare today, but that is ultimately what will happen. He says, "Now, we don't get rid of it in round 1, because we don't think that that is politically smart, and we don't think that is the right way to go through a transition period, but we believe it is going to wither on the vine because we think people are voluntarily going to leave it."

So what he is saying, in a sense, is he is saying very straightforwardly to, I think it was, to an insurance group, and this was actually today, that, "Well, we may not be totally destroying Medicare today, but the changes are so radical that it ultimately will disappear," and that is exactly what is going to happen under this legislation.

In an effort to try to achieve tax cuts mostly for wealthy people, not to balance the budget, we are destroying both Medicare, and I would argue also Medicaid. At least now, though, the Republican leaders are saying that they never liked Medicare from the beginning and that that really is what they are trying to do, get rid of Medicare.

How do they get rid of Medicare? Well, basically, what they do is they squeeze the program in Medicare and Medicaid so much. In other words, they take so much money out of it and they set limits on the amount of Federal dollars that are actually going to be available over the next few years so that it is not possible essentially to operate Medicare and Medicaid the way we have known them.

They also increase taxes on Medicare recipients, on the senior citizens who are part of the Medicare program. They doubling the Part B premium. Part B is the program that pays for physicians care. It could go from something like $40 today to something like $90 over the next 7 years. They means-test Medicare Part B for the elderly; those who have higher incomes will have to pay more.

But most importantly, what they are doing here, and this is why the Speaker says that ultimately people will get out of Medicare and it will disappear, is because they make it so difficult to stay in the traditional Medicare program where you choose your own doctor and he gets reimbursed in what we call a traditional fee-for-service program. So little money goes to that traditional system where you choose your own doctor and Medicare reimburses it, most of the increased dollars that are going to be available or most of the dollars that are going to be available go to HMO's or managed care systems. So if you decide you do not want to choose your own doctor and you want to go to a HMO, you are encouraged to do, because more money is going to be available on that side for seniors who go into HMO's or managed care than for seniors who stay in the traditional fee-for-service system where they choose their own doctors. That is how they get to the situation where the Speaker says ultimately Medicare disappears because more and more people will not be able to take advantage of the traditional Medicare.

On Medicaid, the abolition of Medicaid is even more direct under the bill. Medicaid right now is an entitlement, which means that if you are eligible because of your income, you get the health insurance benefit. But instead of providing a continued entitlement, we estimate maybe 35 million or so Americans who take advantage of Medicaid all of a sudden now their future and their ability to get health care is left up to the States. The money that the Federal Government provides, which again is capped and is limited, goes to the States in a block grant and the States decide who they want to cover, how they want to cover, and when they want to cover those individuals, and so essentially they could decide that they do not want to cover certain people or they could make it so difficult for those people to become eligible and so little money would be available that essentially they do not have adequate health care.

The worst the examples of this are that, I think, for myself, and again where you can see a link between what is happening with Medicare and Medicaid, was brought out last week and again today on the House floor where we mentioned that right now part B Medicare recipients, these are senior citizens who want to have their physician services covered, if they are below a certain income, if they are eligible for Medicaid, Medicaid now pays for their Part B premium. That guarantee, which exists under current law, its abolished.

There are a lot, we estimate about 7 million, widows in this country who are low-income, who right now Medicaid pays for their Part B premium. They no longer have a guarantee anymore that Medicaid will pay for that.

Although the Speaker last week indicated that this bill, or either the Medicare or this reconciliation bill, would take care of those low-income seniors, the reality is that they are not covered under this legislation that passed today.

So I think that when the American public, based on that New York Times poll or based on what I hear from my constituents say, that they are very scared about the future of Medicare and Medicaid because of the legislation that was put forward by the Republican leadership and passed rather narrowly today almost on a partisan vote, there is reason for them to be scared because the Republican leaders, because the leaders, whether it is Senator DOLE or Speaker GINGRICH, basically——

The SPEAKER pro tempore (Mr. LATHAM). The Chair will caution Members not to make personal references to Members of the other body.

Mr. PALLONE. Oh, you mean the Senate? All right. Thank you, Mr. Speaker. I forgot that I am not allowed to make personal references to Senate Members.

What I wanted to say, though, in conclusion, is that it is abundantly clear that the Republican leadership in both houses, both the Senate and the House of Representatives, essentially are not in favor of Medicare, certainly the Medicare that we know of, and so when seniors express their concern and say they are fearful that this bill is going to abolish or significantly change Medicare or Medicaid for the worse, they are certainly accurate in their concerns.

We have some time, though. We have some time because even though this bill passed today, it still has to pass in the Senate. President Clinton has said that he intends to veto the legislation, and the vote today, which was rather narrow, I think it was about 232 to 200, so there were over 200 Members who were opposed to it, I think will send a message to the administration that this is not a bill that should be supported and that it should be vetoed, and when it is vetoed and it comes back to this body, we will join with all of those who have expressed concern about it to make sure that we can come up with a better bill that does not severely impact Medicare and Medicaid and that ultimately achieves the balanced budget that is necessary to achieve deficit reduction and get this country back on the road to economic prosperity.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from California.

Mr. RIGGS. Mr. Speaker, I have a quick question. I respect the gentleman a lot. I heard the very tail end of his comments.

Is the gentleman committing to support that compromise that you just described if we are able to work one out?

Mr. PALLONE. Oh, absolutely. You know, I guess I should point out to you today that I had a problem with the, some problems with the Democratic substitute that was proposed, and so I ultimately did not support it. But I think that, in general, what that substitute indicated was that it is possible to achieve a balanced budget in 7 years within the time frame that the bill that was passed today proposes and that you can achieve that without having the level of cuts in Medicare and Medicaid that this bill seeks.

One of the ways that the Democratic substitute achieved that was, of course, by eliminating the tax cut.

I think the bottom line is that it is possible to achieve deficit reduction to balance the budget within the 7 years. It certainly is a worthy goal, but you do not have to do it on the backs of America's seniors, which I think is what is happening.

Mr. RIGGS. I appreciate the gentleman yielding.

Mr. NORWOOD. Mr. Speaker, will the gentleman yield?

Mr. PALLONE. I yield to the gentleman from Georgia.

Mr. NORWOOD. Mr. Speaker, I have one simple question. I am curious if you would tell me, over the next several years, will the amount of money that we are going to spend on Medicare increase?

Mr. PALLONE. The amount of money that you propose to spend on Medicare would increase in absolute dollars, but what I would say to you is that the problem is that the rate of increase is insufficient to keep a quality health care system. I do not like to get involved in this debate over whether it is a cut or an increase. I think I will acknowledge that it is an increase in the actual amount of dollars, but if you look at the inflation rate and you look at the amount of money that is going to be necessary to keep a quality Medicare and Medicaid system, I think it is inadequate. That is my point.

Mr. NORWOOD. Well, I know you do, and those of us on this side really believe it is very adequate. For the first time, we are going to give providers of health care the opportunities to help bring down that inflation rate, and I think we will see that happen.

□ 2001

"60 MINUTES" REPORT ON THE DEATH OF VINCE FOSTER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 15 minutes as the designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, I have been watching the television show on CBS, "60 Minutes," for a long, long time, and I have always respected that program because it was very informative, and I always thought it was factual. And then, just after the last presidential election, I think Mr. Hewlett, the producer of "60 Minutes," said in a national interview that had he exposed all of the information that was available to him at "60 Minutes" during the campaign, that the then candidate for President, who was later elected, would be walking around in the snows of New Hampshire. So it became apparent to me that the "60 Minutes" producers and the people who ran that show had a very strong bias, and that bias was reflected in much of their reporting.

This became apparent to me again about 2 weeks ago on a Saturday night, when I watched Mike Wallace start doing a 20 minute segment on the death of Vince Foster. I have never seen so much misinformation and so much bias in reporting as I saw during that 20 minute segment.

Let me just tell you some of the things that happened, some of the things that "60 Minutes" ignored. Mike Wallace said that every government body that has investigated the death of Vince Foster reached the same conclusion, than he killed himself at Fort Marcy Park.

He did not mention that the independent counsel, Kenneth Starr, has reopened the investigation. Mr. Starr's attorney spent this summer questioning witnesses before a grand jury. The FBI is back in Fort Marcy Park, or was a couple of weeks ago, more than 2 years after Vince Foster's death, looking for the bullet that killed him. Would the independent counsel go through all of this work were there not unanswered questions about the case?

So I believe that Mr. Wallace was incorrect when he said that the conclusion has been reached by every government agency. In addition, many of us in Congress have come to different conclusions as well.

Another thing that he forgot to mention was that the police were not the first people to encounter Foster's body. He mentioned a national park policeman who found the body. The fact of the matter is that the park policeman did not find the body. The body was found by a man called C.W., the confidential witness, who was the first person on the scene.

I have a sworn statement, where I went out to his home with a court reporter and two other Congressmen, from the confidential witness. The FBI questioned him extensively and considers him honest and credible.

"60 Minutes" never talked about him or even mentioned on that program that there was a confidential witness that found the body. "60 Minutes" never read his statement.

The gentleman from Pennsylvania [Mr. CLINGER], who is the chairman of the Committee on Government Reform and Oversight in the House, told "60 Minutes" that he knows more about this subject than any Member of Congress, and, although I have high regard for Representative CLINGER, he never interviewed the confidential witness, although he had an opportunity to do so, and he never read his sworn deposition, which was verified.

Mike Wallace went into great detail during this interview about how the gun was found in Foster's right hand. He said critics of the investigation incorrectly stated that Foster was left-handed. Well, that misses the point entirely. When the confidential witness discovered the body, he looked very carefully. He was within 18 inches of Mr. Foster's face. He looked very carefully and saw no gun in either hand. He was very clear in his statement, in the sworn statement before me and the FBI, that when he found Foster, both hands were palm up with the thumbs pointed out away from the body. When the police arrived on the scene, they found his right hand palm down with the thumb pointed in, the gun on the trigger finger, and the gun was partially obscured by his hand and his leg.

When the confidential witness found the body, the head was looking straight up, and there were no bloodstains on his cheek. When the police arrived, the head was still pointing up, but there was a contact bloodstain on the cheek and the trails of blood running from his mouth and nostrils down the side of his face.

Now, how did Foster's hand get moved and why was there no gun in it when the man found it, and later there was a gun in it? How did Foster's head get moved? It is obvious to me that somebody was there and moved the body.

Now, the Park Police officer, Officer Fornshill, was not, as I said before, the first to discover the body. It was a confidential witness. Park Police Officer Kevin Fornshill told Mike Wallace that Foster's body could not have been moved to the park because the vegetation around him was not trampled.

But the fact of the matter is the confidential witness said in a sworn statement that the vegetation below the body, from the feet all the way down to a path that went all the way around the park, it was trampled flat. There was a narrow path at the bottom of the berm that winds around the perimeter of the park. "60 Minutes" would have known this if they had read his statement, or even decided to look into it and asked.

The confidential witness told the FBI that he saw a half-empty wine cooler bottle near Foster's body. The Park Police did not find it. What happened to the wine cooler bottle and were there any fingerprints on it? As the confidential witness was leaving the park, he looked inside the white Nissan parked in the lot and saw a half-full package of wine cooler bottles, very similar to the one beside the body, a briefcase, and a suit jacket that looked similar to Foster's suit pants. This was not Foster's car. Foster's car was a gray Honda and it was parked further away, and C.W., the confidential witness, did not walk near it.

Mike Wallace made a big issue out of the amount of blood around the body. He interviewed the medical examiner, who said there was sufficient blood underneath the head and shoulders to conclude that he died at that spot.

This misses the key point. There would have been blood underneath Foster's head, whether he shot himself at the spot or was moved there. The key point is there was no blood spattered on anything behind where Foster was sitting. Anytime someone shoots himself through the mouth, there would be blood splattered all over above him, and there was nothing above him that had any blood on it whatsoever. The vegetation on the path behind Foster was clean.

The first emergency medical services person who arrived at the park, George Gonzalez, commented that it was very unusual for a suicide victim's body to be laid out so neatly, with the feet together and the hands neatly at his side. He told this to the staff of the Committee on Government Operations, and he said: "I find it odd to have the body laid out like it was. I wouldn't expect the hand or body in the position found, the hands perfectly at the side." "60 Minutes," incidentally, did not interview Mr. Gonzalez.

Mike Wallace noted that it was not unusual for Foster's clothes to have carpet fibers on them. Foster's attorney said that Mrs. Foster had just had new carpeting installed in their home. Well, if that is the case, why did the FBI not take carpet samples and match them with the fibers on his clothes? They did not do that.

There were blond hairs on Mr. Foster's body and all over his clothes. Why did the FBI not compare these hairs to the hair of the people Foster knew and was close to?

Here are some other key points that "60 Minutes" left out in their biased reporting.

First, the Park Police investigation was incomplete and unprofessional. The photos of the crime scene were underexposed and did not turn out. The only photos were of very poor quality, and they were made with instamatic cameras.

No search was conducted for any skull fragments. When you blow the top of your head out with a .38 caliber bullet, there are skull fragments and bone fragments all about where the head was. There was none of this, no blood and no brain particles.

No search was conducted for skull fragments, as I said. Only a very cursory search was conducted for the bullet. White House Counsel Bernie Nussbaum refused to allow Park Police officers or the FBI to search Foster's office. In fact, the night of Foster's death, Bernie Nussbaum, the chief counsel of the President, and two other high level White House aides, Patsy Thomason, who was the chief personnel officer, and Mrs. Williams, Hillary Clinton's chief of staff, searched Foster's office and removed files having to do with Whitewater. This was after the Park Police asked that the office be sealed, and it was not sealed for at least 12 hours while they went through and rifled through those papers. Justice Department officials accused Nussbaum of violating an agreement they had reached regarding the search of Foster's office.

Second, the coroner that conducted the autopsy on Foster has made glaring errors in the past. This was not revealed by the "60 Minutes" show. Dr. James Beyer was the coroner who reviewed and did the autopsy on Vince Foster.

Let me tell you about Mr. Beyer. In 1989 there was an autopsy on establishing the death of a man named Tim Easley. Mr. Beyer, the coroner, ruled that Easley killed himself by stabbing himself in the chest. He failed to notice a defensive wound on the man's hand. The case was reopened, and, after an outside expert reviewed the case, Easley's girlfriend confessed to murdering him, after he had been judged a suicide by the coroner. That is one mistake.

In 1991, regarding a Mr. Tommy Burkett, Mr. Beyer did an autopsy on him and ruled that Burkett had killed himself with a gunshot wound to the mouth very similar to Vince Foster's. He said it was a suicide. Mr. Burkett's family had the body exhumed and reexamined by an outside expert. The second coroner reported that Dr. Beyer had failed to notice a disfigured and bloody ear, indicating a struggle, and a broken jaw, indicating he had been hit in the face and his jaw was broken during a struggle. The FBI is now investigating this case. It obviously was a murder or homicide, and not a suicide.

The first special counsel, Robert Fiske, appointed a board of forensic experts to review the Vince Foster case. They concurred in Fiske's opinion that Foster killed himself at Fort Marcy Park. However, they were not appointed until a year after Foster died, and the only way that they could come to the conclusions they did was to read the coroner's report and use that as a guide to come to their conclusions. So they never saw the body, and they verified he was killed at the park. But the fact of the matter is, they could not possibly have known that, because they only used the coroner's report to come to the conclusions they did.

So, in conclusion, last summer, when the Senate Committee on Banking and Financial Services held a hearing on Foster's death, the FBI testified there was absolutely no doubt that Foster killed himself, and that he killed himself at Fort Marcy Park.

Now, let us review the problems and glaring inconsistencies with this investigation.

First, the eyewitness who found the body testified that he is sure there was no gun in Foster's hand and the hands were in a different position than when the police arrived. That was not mentioned on "60 Minutes."

Second, the confidential witness said there were no bloodstains on the face when he found the body. There were bloodstains on the cheek when the police arrived, indicating it had been moved. When they moved his body, his head went over to the side and blood drained out on the face.

Third, the confidential witness testified he saw a wine cooler bottle close to Foster's body in the park, and a package of similar wine cooler bottles in a car in the parking lot that did not belong to Foster. Where did they come from? Where did that bottle go?

Fourth, despite extensive searchers of the park, the FBI has been unable to find the bullet that killed Vince Foster, and they are still looking for it. Evidently the independent counsel sent them back out there 2 or 3 weeks ago to look for it again.

Fifth, no skull fragments were ever found at the site where Foster's body was found, even though there definitely would have been skull fragments from that kind of a wound.

Sixth, there were no fingerprints on the gun. Get this: The gun was in his hand, and there were no fingerprints on the gun. The FBI said they probably, get this, "melted off in the heat." And yet when they took the gun apart, they found fingerprints there from the time the gun was made at the factory.

Seventh, there were no fingerprints on the suicide note found in Foster's briefcase in his White House office. It was torn up into 28 pieces, and the first few times the briefcase was searched, they could not find the note at all, even though they turned it upside down, and there were no fingerprints on it.

Eighth, the coroner who conducted the autopsy of Foster's body has made glaring errors of high profile cases in the past. In one case, a body had to be exhumed and reexamined in order to change the ruling from suicide to murder.

Ninth, security guards working at the Saudi Arabian Ambassador's residence across the street from the park, within 100 yards, 300 feet, with guards outside all day and night, heard no gunshot.

Tenth, Foster's shoes were completely clean, with no grass or dirt stains, even though he was supposed to have walked 700 yards through the park to the second cannon.

No. 11, the FBI never made any attempt to identify the carpet fibers or the blond hair on Foster's clothing.

No. 12, the police photos at the death scene did not turn out, leaving a serious lack of documentation of the death scene.

With all of the glaring problems, can you imagine the FBI telling the Senate Banking Committee there could be no doubt about where and how Foster died? With all of these glaring problems, can you imagine what Johnny Cochran, F. Lee Bailey, and O.J. Simpson's other lawyers would have done in a case like this?

Independent Counsel Starr is still investigating this death. "60 Minutes" should not jump to conclusions until Mr. Starr has completed his investigation, and Members of Congress should not jump to conclusions until Mr. Starr completes his investigation as well.

So I just would like to say to my friends at "60 Minutes," Mr. Wallace, Mr. Hewlitt, and everybody else, before you make the kind of determination that you did and do the kind of reporting that you did 2 weeks ago, please talk to all the people involved, especially eyewitnesses. The man who found the body, who gave a sworn statement under oath to me and to two other Congressmen, was never contacted, never interviewed, and nobody has seen that report, even Mr. CLINGER, who is the chairman of the Committee on Government Reform and Oversight here in the House.

So I just say that I think it was a bad piece of reporting, and I would urge them to be more thorough in the future.

BALANCED BUDGET RECONCILIATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. RIGGS] is recognized for 45 minutes as the designee of the majority leader.

Mr. RIGGS. Mr. Speaker, I am very pleased to take advantage of this momentous occasion to talk with some of my distinguished colleagues a little further on what we did on this floor today.

This vote earlier today on the Seven Year Balanced Budget Reconciliation Act of 1995, as far as I am concerned, is not only the defining moment for the 104th Congress, but clearly it is one of the most historic votes in modern memory.

I had the opportunity to preside for a short period of time today in the Speaker's chair over the debate, and, as I was sitting up there, Mr. Speaker, where you are sitting now, I was really struck. I found myself thinking back on my first stint in Congress, since some of my friends and families like to teasingly call me a "retread." But I have served in Congress once before, took a time out, I guess a forced vacation or sabbatical, going through a near-death experience politically, and then won election again to Congress, and had, obviously, the good fortune to come back to Washington as part of our new majority.

As I was sitting up there today I thought back on the debate we had in the 102d Congress, when a group of us, led by the gentleman from Ohio, JOHN KASICH, who is now the chairman of the House Committee on the Budget and the primary architect and sponsor of this Seven Year Balanced Budget Reconciliation Act, attempted to force a debate on this floor on balancing the Federal budget.

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As I thought back on that debate, I realized that the terms of the debate back here in Washington have fundamentally changed, and for the better, in my view. I think there is no going back to that time and that tenor in previous Congresses. The debate has changed again because now the debate is framed in terms of what we will do, even if it entails sacrifice on the part of ourselves and our fellow Americans to preserve the American dream for our children, and, frankly, to create a better opportunity, a better future rather for better opportunities for all Americans, particularly for our kids and grandkids.

So back then the debate was cast in terms of why we cannot and will not balance the Federal budget, and today, concluding with this historic vote on final passage for the 7-year Balanced Budget Reconciliation Act, we saw that the debate in the 104th Congress and, as far as I am concerned from here on out, will be cast in terms of how we can and we will and we must balance the Federal budget.

So, Mr. Speaker, things have very much changed. Back then, in that 102d Congress, and what made me think of this is now that the junior Senator from Pennsylvania, one of our former colleagues, Senator SANTORUM came over to join us tonight on this floor for the conclusion of the debate and the vote on final passage. Back than I recalled doing special order with him into the wee hours of the night. Now we are a little more civilized, we have a certain time restraint on special orders to allow our hard working staff to get home. But I remember that on that occasion we both took from our wallets, as I am right now, photographs of our families. We both have young children. As I look at mine, mine are much older than then and certainly have grown much bigger, but I really think what we did today is all about our kids and America's children.

Again I am struck by how much the debate has changed back in Washington, and I look forward to talking about these fundamental changes with my colleagues on the House floor tonight during the remaining time for our special order.

Mr. Speaker, at this point in time I want to yield to the gentleman from Kansas [Mr. TIAHRT] who can, I think, set the stage for the debate to follow, and then we will go to my colleague, the gentleman from Georgia [Mr. NORWOOD], and my colleague and very good friend the gentleman from Arkansas [Mr. HUTCHINSON], who I think has made some major contributions to the budget reconciliation package.

So I will yield to the gentleman from Kansas.

Mr. TIAHRT. Mr. Speaker, I thank the gentleman from California [Mr. RIGGS], and I want to set the framework for the rest of our discussion by giving to the audience here in the House Chamber and elsewhere what the marching orders have been for Congress, and they are expressed on this chart here.

This is something that has been driven by the American people. We have had a lot of polling data that has been given to the Congress and it says there are some things they want to see happen over the course of the remainder of this year. Well, top on the list here is balancing the budget in 7 years.

Tonight, Mr. Speaker, I had the honor of voting for a reconciliation package that does balance the budget in 7 years and it passed on a vote of 227 to 203.

We also received from the American public the request to save Medicare from bankruptcy this year. I want to make a comment that there has been some confusion between tax breaks, which we will talk about in a minute, and saving Medicare. The allegation has been that we are taking cuts in Medicare and giving it to our rich friends, but it is really not true. In fact, it is an outright lie. We are increasing. What is going to happen in Medicare, right now the average recipient gets $4,800. By 2002 the average recipient will get $6,700, an increase of $1,900, 43 percent.

There is a provision called a lockbox in the bill that says that any savings go right back towards health care. They do not go towards any kind of tax breaks. So that has been a big misnomer the American public has had to swim through to get to the truth.

Also, as a request from the American public, we are going to reform welfare. That is an important thing to do because we have a system now that is obviously broke. It is anti-family and anti-work. Just since October 1st, in Wichita, Kansas, we had a toddler that was shot in a gang feud. A two-year-old child was sitting in a car seat out in front of a Quick Trip, which is a convenience store; in a gang-related killing this little child was shot. This is evidence of the breakdown of the American family. It is time that we change this system that has been around since the 1960s because it really is broken.

By any yardstick that we use to measure our social climate, whether it be violence or drug abuse or illegitimacy, they have all gotten worse in the last 30 years, and I think their roots are in the current welfare system.

The last thing I want to talk about is providing that tax relief for families and for job creation that is important, and we will expand more on that later, but one more chart I want to talk about before I yield back. This is from Alan Greenspan, the chairman of the Federal Reserve, and it goes back to the very first point we were talking about, balancing the budget.

We need to look at what are the effects of balancing the budget. Congress has been trying to do it for 25 years. They have been unsuccessful until this year. This year we are successful in getting on a glide path to balance the budget by 2002. But what will be the results, according to the chairman of the Federal Reserve? His vision says that children will have a higher standard of living than their parents.

Mr. Speaker, about a year ago there was a poll where about two-thirds of Americans had lost faith in the system. They did not think that their children would have the same or better opportunities than they had. We are going to restore faith in the system. We are going to provide the opportunity for may children and the children in the fourth district of Kansas and across America to have a higher standard of living than their parents.

Improve the purchasing power of incomes. We have seen a real degradation of purchasing power over the last 40 years. We want to reverse that trend by balancing the budget.

A rise in productivity. If we are going to compete on an international basis we must have a rise in productivity.

A reduction in inflation. We have not seen the inflation like we had during the Carter years, but we are right on the verge with a lot of short-term debt that needs refinancing and long-term debt. We have a very big increase in the money supply. We must check that inflation so we have a reduction in inflation.

We are going to strengthen financial markets. Acceleration long-term economic growth and a significant drop in long-term interest rates. According to Alan Greenspan, a balanced budget would reduce the interest rates 2 percent. And in the average house in

Wichita, KS, that would cut the payment about $100 a month, over a 30-year mortgage about $36,000 to $38,000. A significant reduction by simply balancing the budget.

So I think we have had a real challenge from the American public. We have seen a significant step tonight with putting the seven-year Balanced Budget Reconciliation Act in place, passed through the House. And as I yield back, I want to say I was very proud to be a part of that and hope that America will see this significant achievement and have hope for the future, because I see that hope.

Mr. RIGGS. Mr. Speaker, I appreciate the gentleman's comments and his participation in this special order. He makes, I think, some very significant points, not the least of which, to paraphrase that wonderful and venerable saying, we do not inherit the world from our parents, we borrow it from our children. I think what we are all about tonight, and as a majority party in the Congress, is making a better world for out children.

I really believe, Mr. Speaker, the American people are tired of excuses. As the gentleman from Kansas points out, it has been more than a quarter of a century since Washington last produced a balanced budget. Twenty-five years. And the American people's patience with the excuses, with the Washington gimmicks, has actually worn out.

Last November, and I do not think there is any mistaking the message of last year's election, they demanded an end to ever bigger Government, ever increasing taxes and endless deficits as far as the eye can see. They voted for smaller government, lower taxes, and a balanced budget, and that is the clear message to the Republican Congress.

After 10 months, Mr. Speaker, of frankly fighting the entrenched opposition of the defenders of the status quo, for the most part the Democratic minority, which has refused to acknowledge at least what the leader of their party, President Clinton, has recently acknowledged, and that is we must get on with task of balancing the budget. Despite all the obstacles we have encountered, we are able to report to the American people tonight mission accomplished.

So as the gentleman points out, for the discussion that will follow, we have produced today in this historic legislation the first balanced budget in 25 years, which includes a plan passed last week on the House floor as a separate freestanding bill and then incorporated into the legislation on the floor today, a plan to preserve, protect and strengthen Medicare which still allows Medicare spending.

As the gentleman from New Jersey [Mr. PALLONE] finally admitted a little earlier this evening in his special order, we still allow Medicare spending to increase for every senior every year. As the gentleman from Kansas points out, we have a genuine welfare reform proposal that emphasizes work, families and hope for the future. And, last, but certainly not least, in terms of importance, tax cuts to counter, and let us be honest about this, the huge Clinton Democratic tax increase in the last Congress, but tax cuts to strengthen families and to stimulate economic growth and job creation in the private sector, which gives us most of our new living wage jobs.

With that, Mr. Speaker, I want to yield to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. I thank my friend from California for yielding, and let me say to the gentlemen, Mr. HUTCHINSON from Arkansas, and Mr. TIAHRT from Kansas, that I am very pleased to share this hour with them. I think it is fortunate that we represent the whole southern end of the United States so that people can know that this is not just a Georgia thing and this is not just an Arkansas thing, this is a movement that we see in our country.

Mr. Speaker, I think it is appropriate for us to recognize how fortunate we are to have such a wonderful speaker pro tempore tonight, the gentleman from Iowa [Mr. LATHAM]. We are privileged to be here with you, sir.

I also want to point out that I would rather be watching the Braves game, the Atlanta Braves are going to finish that series tonight, and I am sorry I will not be there, but today is such an historic day that I wanted us to have a little time tonight to talk about the truth again, because, generally, we have to come in an hour early to hear the misrepresentations and the half truths so we know really what to say to the American people in order to correct their misinformation.

It was interesting to me tonight, Mr. RIGGS, to watch the minority leader, Mr. GEPHARDT, and the fact that he was actually stunned that this body was going to balance the budget. He seemed in disbelief that after 25 years we were actually going to balance the budget. I think for me tonight I was a little stunned, too. I cannot imagine this body having an hour debate where the debate is what is the best way to balance the budget.

Do Members know we actually did that tonight? We had another group that thought we should do it a little different way, but the idea was that we have to balance our budget for our children and our grandchildren.

Now, Mr. Speaker, I want to speak a little bit to why we are dealing with the problem.What really caused this reconciliation package for a balanced budget over 7 years. We in this country, maybe not us, maybe our children and maybe our grandchildren, are in debt $5 trillion. That is a fact. My 2-year-old grandson owes $187,000 on his portion of the interest on the debt. If we continue to follow the lead of Mr. GEPHARDT, we would borrow another trillion over the next 4 years, get into the 21st century and start borrowing a trillion every 3 years, and next year we would pay more for the interest on the debt than we actually spend on defense and where would it end?

I think it is pretty clear if we continue to follow the Gephardt plan that we are going to end up bankrupt. We are going to end up a mess in this country with a standard of living that none of us want for our children.

Mr. Speaker, there is another option. We can follow the lead of the great South American economies and we can start printing a lot of money. Well, we all know what happens there. Our economy goes to ruin. A third option for us might have been to follow the President's lead and continue to do what we are doing and spend whatever we want to spend with no prioritizing, just spend it if we like it, and we could get into the 21st century and our children would be paying 85 cents out of every dollar they earn just for taxes, just to keep this country afloat.

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Now, it is my personal opinion, my children are doing enough. My father paid $1 out of every $50 he earned in Federal taxes. My son is paying $1 out of every $4 he earns. They are doing enough.

Our only alternative, then, was to do what the people I know in the 10th District of Georgia said do. They said for us to balance this budget by cutting spending. And in addition to that, they said, we do not like the 103d Congress' and Mr. Clinton's $260 billion tax increase. And if my colleagues do not believe they did not like it, look around this body sometime and look at all the new faces. The American people said we do not want the tax increase.

Now, what I think we are trying to do is exactly what my people at home said do. First, give them their money back. I do not think of this as a tax cut; I think of this as a tax return. We are giving $245 billion back out of the $260 billion.

Now, we start doing what they told me to do. Start by cutting the spending. That is precisely what this reconciliation has done. As we talk about more details of our tax return and details of this great Medicare Program, Mr. TIAHRT and I talked about it the other night. I cannot wait for us to get home and start talking to our seniors and give them the details.

Mr. RIGGS, I will yield back in hopes that we will come back and talk more about Medicare.

Mr. RIGGS. Mr. Speaker, the gentleman from Georgia is very distinguished in his professional life. I guess he could call it his "real life." His professional career. He is one of a handful of medical doctors who joined the 104th Congress. He is a dentist by profession and obviously very knowledgeable about the issue of health care.

I know that he has worked hard on the Medicare Preservation Act portion of the budget reconciliation bill. So, I would like the gentleman from Georgia to review for us, briefly if he could, what we were able to accomplish last week when we passed the Medicare Preservation Act on this House floor, and why it was included in the budget reconciliation.

Mr. NORWOOD. First of all, I do not think any American would disagree with us on the point that Medicare part A was going bankrupt. If my mother-in-law was to have Medicare in the year 2002, we had to act. We could not hide behind a rock; we could not wait until the next election; we needed to deal with the problem today. That is exactly what we have done, and I am very, very pleased with the outcome.

I think we have managed to do some very good things for the patients, if you will. That is how I tend to think about people. But the patients in Medicare are going to be much better off.

First thing, we are going to increase the spending greatly. I know, 40 percent; I get new numbers saying up to 50 percent. But the spending over 7 years is going to increase greatly.

Mr. Speaker, I will use the same tired numbers. We are now spending $4,800 per recipient. In the year 2002, we are going to be spending $6,700 per recipient. I know in Washington that is a cut, but in the 10th District of Georgia, that is a $1,900 increase.

Mr. RIGGS. If the gentleman would yield for me to interject, those figures are actually higher in high-growth States like California. The increase in California is roughly from $5,000 per Medicare beneficiary today to $8,000 per Medicare beneficiary in the year 2002.

Our Medicare Preservation Act anticipates that we will spend an aggregate of $50,000 per Medicare beneficiary in California over the next 7 years.

I thank the gentleman for yielding.

Mr. NORWOOD. If I could, I want to hurry and bring this up. My mother-in-law may be watching. One of the things that is so great about the Medicare plan is the options. The patients are going to have the same options that we have as Congressmen. They are not going to have to have one-size-fits-all. They are going to look at a number of alternatives and they are going to pick the option that is best for that family. A 65-year-old is going to take a different option than an 85-year-old, but the point is, they will have options.

Quickly, let me say, Medicare recipients do not have to do anything. If they want to stay in Medicare exactly as it is today, all they have to do is stay there. They do not even have to make a phone call. If they like part A and part B and Medigap and that suits them and they are happy with their doc, they can stay put.

There is no increase in the copayments; there is no increase in the deductibles. It is exactly like it is. We are not changing anything for anybody.

Now, having said that, Mother-in-law, I want to look at some of the other great options, because there are new ways to have health care. We are going to have provider service networks. Listen, I have been in health care. That is going to be great. The doctors are going to come together. The hospitals are going to come together. They are going to have efficiencies. They are going to work at getting the costs down and not have to worry about the Federal Trade Commission putting them in jail.

Mr. Speaker, that is what has been holding the price up, partly, in health care. The Federal Trade Commission would not dare let two of our hospitals come together and share a CAT scan. Lord knows, that is cheating.

Mr. RIGGS. And that is the antitrust reforms we made.

Mr. NORWOOD. Antitrust reforms are very important in that bill.

Another option for patients will be to try managed care. That is going to be the right thing for certain people. It might not be right for everybody, but recipients can get into these programs for the first 2 years and if they do not like it in 30 days, go back. Try them all. Try even one of them. See what is best for your family.

Medical savings accounts will be terrific. Not for every patient. Not for every person. But they are going to be very good for many families to choose the medical savings account where they simply get a cash rebate from the Government. Rather than them paying a recipient's Medicare bills, the recipient will put that money in the bank and draw interest on it and no tax on it. They will have a catastrophic insurance plan and they even choose the amount of their deductible; $3,000, $5,000. It is a terrific bill.

Mr. RIGGS. Mr. Speaker, I very much appreciate the comments of the gentleman from Georgia who is one of the leading architects of the Medicare reforms that are contained in the bill.

Now, if the gentleman would not mind, I want to turn to the gentleman from Arkansas [Mr. HUTCHINSON]. We are also joined by the gentleman from Michigan [Mr. CHRYSLER].

The gentleman from Arkansas [Mr. HUTCHINSON] is one of the principal movers and shakers in the House of Representatives for real reform of the American welfare system; one of the chief architects of the welfare reform provisions contained in the Seven-year Balanced Budget Reconciliation Act.

The gentleman from Michigan [Mr. CHRYSLER] is the leading proponent of the section in the budget reconciliation bill which effectively will abolish the Department of Commerce and at least partially address the criticism from some of our political opponents and other skeptics and pundits across the land who believe that we are not willing to tackle in an earnest fashion the whole issue of corporate subsidies.

Let me turn first to the gentleman from Arkansas and then next to the gentleman from Michigan.

Mr. HUTCHINSON. Thank you. Mr. Speaker, I appreciate the opportunity to join my friend and colleague on a truly historic and monumental night. I have admired the gentleman's contribution for many years back when he was in the gang of seven in his first round in Congress, and I think he had a great deal to do with bringing this day and making it a reality.

Mr. Speaker, I first got into public life and ran for public office back in 1984. We had a business and I have been involved in education. People asked me, "Why would you get into politics and go into the State legislature?" I served 8 years in the Arkansas State Legislature with Bill Clinton as the Governor.

My answer was very simple. I had one motivation. I had three boys who at that time were pretty young. I had twins who were 12-years-old at the time and I had an 8-year-old. I looked at where our country was headed and even then 12 years ago at the kind of debt that we were accumulating in this country and the burden that we were placing upon them. I wanted to be able to look them in their eyes and say, "You guys, the Nation that I am leaving you, the heritage that I am leaving you may not be what I wanted it to be, but I did what I could to reverse that."

Mr. Speaker, here a dozen years later it is so gratifying to know that all across this country there were people who were feeling that same way and who took the step to get into public life and who have made this day a reality.

For the first time in 25 years, we passed a reconciliation bill that leads us to a balanced budget in the year 2002. I suppose if it had been easier, there would have been a Congress that would have done it before. It has taken courage and there were some choppy waters out there, but today we cast the right vote.

In the midst of all the debate and statistics and rhetoric today, I am afraid it could be easy to forget that the real winners in this vote today, the real winner is the American family. And that is the purpose of this, and I appreciate the gentleman from California [Mr. RIGGS] for organizing this special order to remind us that the real victors today were the families.

The gentleman from Kansas [Mr. TIAHRT] a moment ago had the chart up, the marching orders for Congress: Balanced budget, tax relief, welfare reform, and Medicare reform. When we really look at those issues, they come right back to the American family. There is nothing more that we could do for the American family than balance the budget.

My district director has a 2-year-old little girl, Abby Deatherage, and we have all fallen in love with her. When Abby was born 2 years ago, she inherited $18,000 worth of debt and she is going to pay $187,000 over her lifetime just to pay her part of the interest on the national debt, and it has gotten worse every day.

Mr. Speaker, we finally have started to change that with this historic vote today.

Mr. RIGGS. If I may interject for a moment, that will be taxes that she will pay over the course of her lifetime as a wage earner and taxpayer just in interest on the national debt for no productive purpose. This is money that otherwise could have gone perhaps for college education, home purchase, health care, but instead it will go just to pay interest on the national debt at the present rate.

Mr. HUTCHINSON. That is her paying for our luxuries and what we wanted to consume during our generation.

Let me illustrate it a different way. It is not a partisan issue. There was a bipartisan commission on entitlements. It was chaired by Democrat Senator KERRY, and it made this observation. In just 17 years, the year 2012, Federal mandatory spending, that is entitlements, plus interest, that is mandatory spending, entitlements plus interest, will consume all of the total amount of revenues collected.

Not a penny for roads; not a penny for courts; not a penny for Head Start; not a penny for drug enforcement; not a penny for the FBI, national defense, and on and on we go. All of it consumed on entitlements and on interest.

Mr. RIGGS. And that is the course we were on until today.

Mr. HUTCHINSON. Until today.

Mr. NORWOOD. Let me ask a question about that. Had we not changed things, I can expect that the likely solution would well have been to raise taxes until we get up to the President's number of 85 cents out of every dollar, leaving our children to live on 15 cents of every dollar.

Mr. HUTCHINSON. My colleague is exactly right. The liberal solution has always been raise taxes. But the interesting thing is that the Joint Economic Committee that produced a report in 1992 demonstrated that during the last 40 years, every time Congress raised taxes $1, they increased spending $1.59, which I think is the clearest evidence that raising taxes is not the solution to deficit spending. Rather, it is to control spending and that is what this Congress took a big step toward today.

Ronald Reagan said, "Never give a big spender a bigger allowance." That is what we have been doing for too long.

Mr. Speaker, I would like to talk about tax relief. Back in my district, there are some awfully patriotic people. They say, We would like to have a tax cut, but why cut taxes if this is the time to balance the budget?

I think the gentleman from Georgia [Mr. NORWOOD] said it well. He explained the situation that we face appropriately. They deserve a dividend out of the savings that we are generating. The tough choices that we have made, they deserve to get a dividend on that.

There is nothing I have worked harder on than this $500-per-child tax credit. My Senate colleague from Minnesota, ROD GRAMS, and I worked very hard to get it into the Republican budget 2 years ago when the Republican budget did not seem anything more than a symbolic gesture. It became part of the Contract With America, and now it is passed today.

In 1948, the average family paid 3 percent of its income to Uncle Sam and today that same family pays 24.5 percent. When we combine it with State taxes, local taxes, the cost of government regulation, the average family pays 52 percent of its income to the Federal Government.

Mr. Speaker, that is more than they pay for clothing; more than they pay for food; more than they pay for recreation; more than they pay for health care. All of those things combined, they are paying more to the Federal Government in taxes.

Then they say, "You are cutting Medicare so that you can give breaks to the wealthy." Who are we really giving relief to? That $500-per-child tax credit will benefit most the middle-class working person who has seen his lifestyle squeezed over the years. If he makes $30,000 and they have two children, that couple is going to see their Federal taxes cut in half.

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If they make $25,000 a year, two children, that $500 per child tax credit will mean that they owe nothing.

Mr. NORWOOD. They do not pay any taxes.

Mr. HUTCHINSON. Those are not rich people. They will not owe anything at that wage level.

Mr. NORWOOD. It depends on who defines rich. I notice some on the other side say anybody who has a job is rich. A family of four making $25,000 a year is not rich. You mean to tell me they will not have to pay any? All of their tax liability goes away?

Mr. HUTCHINSON. That will be the effect.

Mr. NORWOOD. What a great move.

Mr. RIGGS. That family of four effectively gets a $1,000 tax break each and every year until those two children turn 18, and I believe the estimate was that the $500 per child tax credit will completely eliminate the Federal tax liability for something like 4.7 million American families with incomes below $25,000 a year.

Mr. HUTCHINSON. They are suddenly going to discover, when this becomes a reality next year, that they are the rich people that people said we were cutting taxes for.

I might point out, I want to commend the gentleman from California [Mr. RIGGS] for his efforts on insuring that the earned income tax credit for even lower-income working Americans, those making $12,000 to $20,000, to insure that this budget reconciliation will make them a winner as well, that there will be no working Americans with children who will be net losers because of this budget reconciliation bill. I think that is very important. We want to reward working Americans and working American families. That is what this budget reconciliation can do. The issue is who can spend it better.

For years, for a generation now, we have confiscated the taxes, the wages of hard-working Americans, brought that money to Washington; we in our wisdom in the Washington-knows-best mentality decided where it should go, sent it back to them in the form of entitlements after we took out a huge surcharge back in Washington.

Back in Arkansas, we kind of have the notion God made the family to be the primary caretaker of their children, not the government, and that the moms and dads of middle America will know better how to use that money for the benefit of their children and their families than bureaucrats in Washington, DC.

Mr. NORWOOD. Just for a second, you mentioned the earned income tax credit, and you know and I know we have heard so much unbelievable rhetoric about that.

Do you know that this 7-year reconciliation balanced budget bill increases that by 35 percent? "Increase" in Georgia, that means going up, you know, 35 percent more for the earned income tax credit.

Mr. RIGGS. Likewise, we increase spending, of course, on Medicare, Medicaid, and the welfare program, although at a slower rate than the present course.

So I thank the gentleman from Arkansas very much for his contribution, and I was really remiss. I introduced him as one of the leading architects of welfare reform in the House of Representatives. He is certainly that. But he is also the chief proponent of the $500 per child tax credit going back to the last Congress in his first term in Congress. I want to thank the gentleman for what he has done to provide much-needed tax relief for American families.

I want to turn to the gentleman from Michigan, who, as I mentioned earlier, was the chief proponent, or is the chief proponent, of our plans for reinventing the Federal Government by beginning with the elimination of the Commerce Department.

I also want to signal to my colleagues that we have a little bit less than 15 minutes remaining on our special order.

I yield to the gentleman from Michigan.

Mr. CHRYSLER. I thank the gentleman. It is good to be here joining you at this moment, certainly a moment of history when this Congress has passed Medicare reform, welfare reform, balanced budget, certainly the dismantling of the Commerce Department, which is near and dear to my heart, but also tax cuts.

You know, I would like to take a minute, and my colleague from Arkansas, you know, I think you hit it right on the head. The Republican Party is the party for people that work. That is really what we are saying here. You know, when you talk about these tax cuts, the only people that say that they do not want a tax cut are people that can afford it. But people that work, they are the ones that really want it. You know what this thing is all about, and the Democrats know what this is all about, they are railing against this tax cut.

I mean, it was, first of all, school lunches. We heard that back in May, school lunches; we were eliminating the School Lunch Program, we were taking the food out of the children's mouths. But guess what happened in August, a school year started, and we have not heard one story or one comment from anyone about one child in this country that did not get their school lunches. Is that not amazing?

I think it speaks volumes about the rhetoric we heard today, and what we are trying to do to balance this budget, what that really means is instead of spending $3 trillion more than what we are spending today over the next 7 years, we are going to spend $2 trillion more than what we are spending today over the next 7 years. The Democrats know that. They know we are increasing spending. The only way to get to a balanced budget in 7 years is to increase the growth of revenue, and the only way to increase the growth of revenue is to have these tax cuts.

You know, it is not money the Federal Government has that we are going to say we are going to give you some money back. It is money that we are saying to people out there, keep it, do not send it in, you will make a better decision about spending it. The Democrats know it. They know that we need those tax cuts. All of us in this country need those tax cuts in order to get this balanced budget, and we need to make sure, as we did tonight, as the Senate will do tomorrow, that there will be $245 billion worth of tax cuts in this.

There also is certainly a provision in this thing that says we have to have the spending cuts first, and they have to be certified before the tax cuts kick in. I think it is important for the American people to know that.

Mr. RIGGS. Is that the lockbox language?

Mr. CHRYSLER. I was going to say, set up the lockbox provision, that says that when we eliminate a program, those savings go to eliminating the debt which is other than the deficit. So we have set up a number of things.

Mr. RIGGS. Just on that one point, to make sure I clearly understand what the gentleman is saying, the gentleman is saying our 7-year balanced budget plan has to be certified as getting us to a balanced budget, and perhaps even generating a budget surplus, an unheard-of idea in this town, but a budget surplus, a balanced budget and a budget surplus by the year 2002 before any tax cuts can take effect.

Mr. CHRYSLER. That is exactly right. Now, the American people need to know that, because there is a lot of demagoguery going on about this, and it is amazing to me, the American people need to know that this is not the Government's money. This is their money. All of us. We are the taxpayers. We are the government, in fact, and most Americans, it is a strange phenomenon, but most Americans think the money withheld from their paycheck is not even their money, and, you know, it is the single largest expenditure they make, as the gentleman said, higher than the car that they buy, higher the clothes and the food they put on their tables, the clothes they put on their backs. This is a tremendous expenditure on the part of the American taxpayers. It is their money. It is not government. We are not cutting taxes. We are just letting people keep more of what they earn and save, and we need a little less government. We need lower taxes. We need to let people make their own decisions about how they spend their money and not government, because we need to preserve the opportunity, certainly that all of us have had in our lifetimes, for our kids because when it is their turn, they deserve the same opportunity that we have had.

That is what this is all about.

Mr. RIGGS. I appreciate the gentleman's comments. Very eloquent. The gentleman made a crucial point. The gentleman actually made the point that by allowing people to keep more of what they make, more of their hard-earned money, we actually create an incentive for average Americans to plan and save for their own retirement, which helps reduce the strain on the entitlement programs. I think that is a crucial point.

Mr. CHRYSLER. When we let people keep more of what they earn and save, we let them make their own decisions how they spend it, they are always going to make the better decisions. They are going to go out and buy something. When they buy something, somebody has to build that something. When somebody builds something, they are earning a wage and paying taxes. That is how you create revenue for the government.

Mrs. MYRICK. If the gentleman will yield, the gentleman from Michigan makes a very good point, you know, when you talk about government funds, and it is really our money and the taxpayers' money. Have we ever considered the fact that why do we not just talk about, instead of saying government funds, taxpayers' funds or taxpayers' money every time that we mention it? Because really and truly there is a mentality up here that says, "Oh, it is the government's money," and so the American people really do not have the benefit of the thinking to realize that we are here to say, hey, wait a minute, this is your money, and we want to give it back to you. Just a thought.

Mr. CHRYSLER. It is a very good thought. Certainly, you know, we all need to understand that we have got to talk in language the American people understand. We talk about Medicaid and Medicare. The average American out there does not understand the difference. This Medi Grant Program is much clearer than Medicaid, and certainly things like Most Favored Nation status for China should be called normalizing trade relations. Community Reinvestment Act should be called high-risk lending because that is exactly what it is. When the American citizens, the American taxpayers, can understand what we are talking about in clear and concise language, then they will feel more a part of the government and there will be more respect for it.

Mr. RIGGS. I look forward to doing further special orders with my colleagues. I know, with the frantic pace we have been keeping in this Congress, we will be on next week on to other matters. Really I think we hopefully will at least periodically pause and reflect on what we have done here today. We ;still have a ways to go. Obviously, we will have to work out any differences between the House and Senate versions of this balanced budget reconciliation bill. Then we have to see what the President does, the one remaining obstacle to the critical reforms we discussed here tonight. I am committed to coming back here and reinforcing our actions and making sure we convey our message to the American people because again this is by far and away the most momentous and historic vote in any Congress in modern times.

I want to go very quickly to may colleagues to give them an opportunity to make some closing remarks.

Mr. TIAHRT. As we close, I want to say the 7-year Balanced Budget Reconciliation Act is for Gene and Kathy Ewert, who have Tia, Trevor, and Katie. It is a $500 tax break for each one of those. That will cover several months; rent. For David and Kay Walker, who have three sons, Caton, Daniel, and Body, that will be $500 for each of those boys, and that will cover several months of house payments, and it is very important to David because he is on strike right now.

So this tax package that we have in the 7-year Balanced Budget Reconciliation Act is for families, and I am excited about that, and I am happy that we can still balance the budget, get the workings of government going and take care of families here in America.

Mr. RIGGS. I thank the gentleman for his comments and participation.

Mr. NORWOOD. In closing, I will make three quick little points. No. 1, I would like to thank the gentleman from Arkansas [Mr. HUTCHINSON] on behalf of my 29-year-old son and two of the most beautiful children you have ever seen for the $500 tax credit. I know that it is going to the right place for the right people.

I think it is very important that we say to the American people, because I know it drives me crazy when they talk about tax cuts for the wealthy, when 90 percent of these tax returns that we are going to give people back are for families with incomes of $75,000 or less, and 75 percent of the capital gains that we are going to return to people go to families with $50,000 or less.

In conclusion, I want to talk about a lady back in my district. I will not talk about her name, but I think it points out what this tax cut, tax return bill does as much as anything. She is a single parent with two children, and she makes $17,500 a year. Under our present system, she gets back each year $939, under the current tax rate, and the earned income tax credit. Under our plan that we passed today, that family will get back $2,214. That is $1,275 more for a low-income working single mom than she would get under the current law.

Mr. RIGGS. I thank all of my colleagues again. I thank the gentleman from Arkansas and the gentleman from Michigan.

CONFERENCE REPORT ON H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. BUNN of Oregon submitted the following conference report and statement on the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 104–293)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1905) "making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 18, 20, 23, 24, 26, 32, 36, 44, 45, 46, 47, 57, and 58.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 13, 14, 25, 33, 38, 39, 40, 43, and 54; and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$121,767,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Norco Bluffs, California, $375,000;

Ohio River Greenway, Indiana, $500,000;

Kentucky Lock and Dam, Kentucky, $2,000,000;

Mussers Dam, Middle Creek, Snyder County, Pennsylvania, $300,000; and

West Virginia Port Development, West Virginia, $300,000: Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a study of water supply and associated needs in the vicinity of Hazard, Kentucky, using $500,000 of the funds appropriated under this heading in Public Law 103–316 for Hazard, Kentucky.

And the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$804,573,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert:

Homer Spit, Alaska, repair and extend project, $3,800,000;

McClellan-Kerr Arkansas River Navigation System, Arkansas, $6,000,000: Provided, That $4,900,000 of such amount shall be used for activities relating to Montgomery Point Lock and Dam, Arkansas;

Red River Emergency Bank Protection, Arkansas and Louisiana, $6,600,000;

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California, $300,000;

San Timoteo Creek (Santa Ana River Mainstem), California, $5,000,000;

Indiana Shoreline Erosion, Indiana, $1,500,000;

Arkansas City flood control project, Kansas, $700,000, except that for the purposes of the project, section 902 of Public Law 99–662 is waived;

Winfield, Kansas, $670,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $12,000,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,100,000;

Middlesboro (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $1,600,000;

Salyersville, Kentucky, $500,000;

Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, $13,348,000;

Ouachita River Levees, Louisiana, $2,300,000;

Red River below Denison Dam Levee and Bank Stabilization, Louisiana, Arkansas, and Texas, $2,500,000;

Roughans Point, Massachusetts, $710,000;

Marshall, Minnesota, $850,000;

Ste. Genevieve, Missouri, $1,000,000;

Broad Top Region, Pennsylvania, $4,100,000;

Glen Foerd, Pennsylvania, $200,000;

South Central Pennsylvania Environmental Restoration, Pennsylvania, $3,500,000;

Wallisville Lake, Texas, $5,000,000;

Virginia Beach Erosion Control and Hurricane Protection, Virginia, $1,100,000;

Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $200,000; and

Upper Mingo (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $2,000,000: Provided, That the Secretary of the Army, acting through the Chief of Engineers, shall transfer $1,120,000 of the Construction, General funds appropriated in this Act to the Secretary of the Interior and the Secretary of the Interior shall accept and expend such funds for performing operation and maintenance activities at the Columbia River Fishing Access Sites to be constructed by the Department of the Army at Cascade Locks, Oregon; Lone Pine, Oregon; Underwood, Washington; and the Bonneville Treaty Fishing Access Site, Washington: Provided further, That using funds appropriated in Public Law 103–316 for the Sacramento River Flood Control Project (Deficiency Correction), California, project and funds appropriated herein for the Sacramento Urban Area Levee Reconstruction, California, project, the Secretary of the Army, acting through the Chief of Engineers, is directed to acquire all or part of the Little Holland tract, with any and all appurtenant water rights, for wetland and fish and wildlife activities pursuant to the authority of section 906 of Public Law 99–662 and conditioned on a determination made by the Secretary, pursuant to Section 906, that acquisition is in the Federal interest.

And the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,703,697,000*; and the Senate agreed to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$151,500,000*; and the Senate agreed to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named in said amendment, insert: *$62,000,000*; and the Senate agreed to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, and on page 7, line 18, of the House engrossed bill, H.R. 1905, strike "the", and insert in lieu thereof, "any civil".

And the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

Delete the matter stricken by said amendment and insert the matter proposed by said amendment, amended as follows:

Strike subsection (d) and insert in lieu thereof the following: *(d) If any of the four Corps of Engineers hopper dredges is removed from normal service for repair or rehabilitation and such repair prevents the dredge from accomplishing its volume of work regularly carried out in each of the past three years, the Secretary shall not significantly alter the operating schedules of the remaining Federal hopper dredges established in accordance with the requirements of subsection (a) above.*

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 103. With the exception of the use of funds to process any required Department of the Army permits, none of the funds appropriated herein or otherwise available to the Army Corps of Engineers may be used to assist, guide, coordinate, administer, prepare for occupancy of, or acquire furnishings for or in preparation of a movement to the Southeast Federal Center.

And, on page 9, line 12, of the House engrossed bill, H.R. 1905, strike "(b) PROJECT DEPTH.—" and all that follows through "harbor or refuge.", on page 10, line 2 and insert in lieu thereof the following:

(b) PROJECT DEPTH.—The project described in subsection (a) is modified to provide for an authorized depth of 12.5 feet.

(c) NAVIGATION CHANNEL (MODIFIED).—The reauthorized project navigation channel shall be defined by the following coordinates: 2911N–2239E, 3240N–2504E, 3964N–2874E, 4182N–2891E, 4469N–2808E, 4692N–2720E, 4879N–2615E, 4952N–2778E, 4438N–2980E, 4227N–3097E, 3720N–3068E, 3076N–2798E, 2996N–2706E, 2783N–2450E.

(d) HARBOR OF REFUGE.—The project described in subsection (a), including the breakwalls, pier and authorized depth of the project (as modified by subsection (b)), shall continue to be maintained as a harbor of refuge.

And the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 106. Using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the Indianapolis, Indiana, project, authorized in section 5 of Public Law 74–738, as amended, and as modified to include certain riverfront alterations as described in the Central Indianapolis Waterfront Concept Master Plan, dated February, 1994, at a total cost of $65,975,000 with an estimated first Federal cost of $39,975,000 and an estimated first non-Federal cost of $26,000,000.

SEC. 107. SOUTH CENTRAL PENNSYLVANIA.

(a) IN GENERAL.—Section 313 of the Water Resources Development Act of 1992 (106 Stat. 4845–4847) is amended—

(1) in the heading to subsection (c) by striking "WITH SARCD COUNCIL";

(2) in subsection (c) by inserting "with State, regional, and local officials, including, where applicable," after "consult";

(3) in subsection (d)(2)(A) by inserting "where applicable," after "Council";

(4) in subsection (g)(1) by striking "$17,000,000" and inserting "$50,000,000"; and

(5) in subsection (h)(2) by striking "Bedford, Blair, Cambria, Fulton, Huntingdon, and Somerset" and inserting "Armstrong, Bedford, Blair, Cambria, Clearfield, Fayette, Franklin, Fulton, Huntingdon, Indiana, Juniata, Mifflin, Somerset, Snyder, and Westmoreland".

(b) COST SHARING.—Section 313(d)(3) of the Water Resources Development Act of 1992 (106 Stat. 4846) is amended to read as follows:

"(3) Cost sharing.—

"(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The Federal share may in the form of grants or reimbursements of project costs.

"(B) INTEREST.—In the event of delays in reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest to provide the non-Federal share of a project's cost.

"(C) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, including direct costs associated with obtaining permits necessary for the placement of such project on public owned or controlled lands, but not to exceed 25 percent of total project costs.

"(D) OPERATION AND MAINTENANCE CREDIT.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.".

SEC. 108. Using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to proceed with engineering, design, and construction of projects to provide for flood control and improvements to rainfall drainage systems in Jefferson, Orleans, and St. Tammany Parishes, Louisiana, in accordance with the following reports of the New Orleans District Engineer: Jefferson and Orleans Parishes, Louisiana, Urban Flood Control and Water Quality Management, July 1992; Tangipahoa, Techefuncte and Tickfaw Rivers, Louisiana, June 1991; and Schneider Canal, Slidell, Louisiana, Hurricane Protection, May 1990. There is authorized to be appropriated $25,000,000 for the initiation and partial accomplishment of projects described in these reports. The cost of any work performed by the non-Federal interests subsequent to the above cited reports, as determined by the Secretary of the Army to be a compatible and integral part of the projects, shall be credited toward the non-Federal share of the projects.

SEC. 109. (a) IN GENERAL.—Subject to the provisions of this section, the Secretary of the Army shall convey to the City of Prestonsburg, Kentucky, all right, title, and interest of the United States, in and to the land described in the Supplemental Agreement—Modification No. 2 to the Department of the Army lease #DACW69–1–76–0186, executed by and between the Department of the Army and the Commonwealth of Kentucky, together with any improvements thereon.

(b) CONDITIONS.—The conveyance authorized by this section is subject to the following conditions:

(1) The City shall ensure that the land conveyed by this section will be used for public use recreational purposes and to further the regional economic development.

(2) The City shall use all proceeds derived from the sale or lease of any mineral rights conveyed pursuant to this section for the development, operation, and maintenance of recreational facilities on the lands conveyed in accordance with this section.

(3) The City shall accept the property in its condition at the time of the conveyance. The Secretary shall not be required to make any improvements in the property's condition, and the City shall hold and save the United States free from any claims or damages arising from any activities on the conveyed land either on the date of the conveyance or any subsequent date.

(4) If the City uses the land conveyed under this section for any purpose other than those specified in this paragraph, the Secretary shall notify the City of such failure. If the City does not correct such nonconforming use during the 1-year period beginning on the date of such notification, the Secretary shall have a right of reverter to reclaim possession and title to the land conveyed under this section.

And the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *110*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,684,000*; and the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$411,046,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$273,076,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$2,727,407,000, to remain available until expended*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$981,000,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $151,600,000, to remain available until expended, to be derived from the Nuclear Waste Fund.*

And the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,460,314,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,557,532,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,373,212,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment insert: *: Provided, That of the amount herein appropriated, $85,000,000 shall be available for obligation and expenditure only for an interim storage facility and only upon the enactment of specific statutory authority*

And the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$366,697,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$244,391,000*; and the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$170,000,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $343,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $428,000.

And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $318,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $250,000.

And the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$109,169,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert. *The Tennessee Valley Authority shall, not later than March 30, 1996, submit to Congress a preliminary plan for funding the environmental research center from sources other than direct appropriations to the Tennessee Valley Authority after fiscal year 1996; and the Senate agree to the same.*

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert:

SEC. 501. Section 510 of Public Law 101–514, the Fiscal Year 1991 Energy and Water Development Appropriations Act, is repealed.

SEC. 502. Notwithstanding the provisions of any other law, the report referred to in Title 30 of Public Law 102–575 shall be submitted within five years from the date of enactment of that Act.

And the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert:

SEC. 504. Section 4(a) of the Act entitled "An Act to provide for the restoration of the fish and wildlife in the Trinity River Basin, California, and for other purposes", approved October 24, 1984 (98 Stat. 2723), is amended—

(a) in paragraph (1), by striking "October 1, 1995" and inserting in lieu thereof "October 1, 1996"; and

(b) in paragraph (2), by striking "ten-year" and inserting in lieu thereof "eleven-year".

And the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the matter stricken by said amendment, insert:

SEC. 507. In order to ensure the timely implementation of the Colorado Ute Indian Water Rights Settlement Act of 1988, the Secretary of the Interior is directed to proceed without delay with construction of those facilities in conformance with the final Biological Opinion for the Animas-La Plata project, Colorado and New Mexico, dated October 25, 1991.

And the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 508.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Bonneville Power Administration.

(2) COUNCIL.—The term "Council" means the Northwest Power and Conservation Planning Council.

(3) EXCESS FEDERAL POWER.—The term "excess Federal power" means such electric power that has become surplus to the firm contractual obligations of the Administrator under section 5(f) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839c(f)) due to either—

(A) any reduction in the quantity of electric power that the Administrator is contractually required to supply under subsections (b) and (d) of section 5 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839c), due to the election by customers of the Bonneville Power Administration to purchase electric power from other suppliers, as compared to the quantity of electric power that the Administrator was contractually required to supply as of January 1, 1995; or

(B) those operations of the Federal Columbia River Power System that are primarily for the

benefit of fish and wildlife affected by the development, operation, or management of the System.

(b) SALE OF EXCESS FEDERAL POWER.—Notwithstanding section 2, subsections (a), (b), and (c) of section 3, and section 7 of Public Law 88–552 (16 U.S.C. 837a, 837b, and 837f), and section 9(c) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839f(c)), the Administrator may, as permitted by otherwise applicable law, sell or otherwise dispose of excess Federal power—

(1) outside the Pacific Northwest on a firm basis for a contract term of not to exceed 7 years, if the excess Federal power is first offered for a reasonable period of time and under the same essential rate, terms and conditions to those Pacific Northwest public body, cooperative and investor-owned utilities and those direct service industrial customers identified in subsection (b) or (d)(1)(A) of section 5 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839c); and,

(2) in any region without the prohibition on resale established by the second sentence of section 5(a) of the Act entitled "An Act to authorize the completion, maintenance, and operation of Bonneville project for navigation, and for other purposes", approved August 20, 1937 (commonly known as the "Bonneville Project Act of 1937") (16 U.S.C. 832d(a)).

(c) STUDY BY COUNCIL.—(1) Within 180 days of enactment of this Act, the Council shall review and report to Congress regarding the most appropriate governance structure to allow more effective regional control over efforts to conserve and enhance anadromous and resident fish and wildlife within the Federal Columbia River Power System.

(d) CORPS OF ENGINEERS PROCUREMENT.—The Assistant Secretary of the Army for Civil Works, acting through the North Pacific Division of the Corps of Engineers, is authorized to place orders for goods and services related to facilities for electric power generation and fish and wildlife mitigation associated with the Federal Columbia River Power System with and through the Administrator using the authorities available to the Administrator.

(e) RESIDENTIAL EXCHANGE.—Notwithstanding the establishment, confirmation and approval of rates pursuant to 16 U.S.C. 839e, and notwithstanding the provisions of 16 U.S.C. 839c(c), the cost benefits of eligible utilities' total purchase and exchange sales under 16 U.S.C. 839c(c)(1) shall be $145,000,000 for Fiscal Year 1997, and the net benefits paid to each eligible electric utility shall be $145,000,000 multiplied by the percentage of the total of such net benefits paid by the Administrator to such utility for Fiscal Year 1995.

(f) PERSONNEL FLEXIBILITY.—The Administrator may offer employees voluntary separation incentives as deemed necessary which shall not exceed $25,000. Recipients who accept employment with the United States within five years after separation shall repay the entire amount to the Bonneville Power Administration.

(g) SAVINGS.—Unless superseded by an Act of Congress, the authority provided by this section is expressly intended to extend beyond the fiscal year.

And the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 509. Section 7 of the Magnetic Fusion Energy Engineering Act (42 U.S.C. 9396) is repealed.

And the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *510*; and the Senate agree to the same.

JOHN T. MYERS,
HAROLD ROGERS,
JOE KNOLLENBERG,
FRANK RIGGS,
RODNEY P. FRELINGHUYSEN,
JIM BUNN,
BOB LIVINGSTON,
TOM BEVILL,
VIC FAZIO,
JIM CHAPMAN,
Managers on the Part of the House.

PETE V. DOMENICI,
MARK O. HATFIELD,
THAD COCHRAN,
SLADE GORTON,
MITCH MCCONNELL,
ROBERT F. BENNETT,
CONRAD BURNS,
ROBERT C. BYRD,
FRITZ HOLLINGS,
HARRY REID,
BOB KERREY,
PATTY MURRAY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

The language and allocations set forth in House Report 104–149 and Senate Report 104–120 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activates of the Corps of Engineers. Additional items of conference agreement are discussed below.

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Amendment No. 1: Appropriates $121,767,000 for General Investigations instead of $129,906,000 as proposed by the House and $126,323,000 as proposed by the Senate.

The conferees are aware that there is existing authority for the Corps of Engineers to maintain the Dog River in Alabama from the Mobile Harbor Ship Channel to 2,600 feet west of the Alabama Highway 163 bridge. The river has severe siltation west of that point and is not navigable during low tide. From within available funds, the Corps of Engineers is directed to use $200,000 to initiate a reconnaissance study of that portion of the Dog River.

The conference agreement includes $150,000 for the Atlantic Intracoastal Waterway, Palm Beach County, Florida, project. Using these funds, the Corps of Engineers is directed to perform a reevaluation study of the authorized navigation improvements along the Atlantic Intracoastal Waterway in Palm Beach County.

The conference agreement includes $6,205,000 for the Upper Mississippi River and Illinois Waterway study, the same as the budget request. The purpose of this study is to address the need for navigation capacity expansion on the Upper Mississippi River and Illinois Waterway. The conferees believe that the environmental component of the study should be limited to any impacts associated with expanding the capacity of the two systems. Therefore, the conferees direct the Corps of Engineers to not expand the scope of the study such that its total cost exceeds that presented in the current Project Management Plan. In addition, because of the need for a timely review of future navigation needs on the upper Mississippi River and Illinois Waterway, the conferees direct the Corps to expedite work on the study and ensure that the Division Engineer's public notice on the feasibility report is issued no later than December of 1999.

The Secretary of the Army is directed to initiate a general reevaluation report for the Truckee Meadows Flood Control project, Nevada, authorized in the Water Resources Development Act of 1988. Of the $400,000 provided in the conference agreement for the Lower Truckee River, Nevada, project, $50,000 is appropriated for this investigation. The report will consider additional flood protection at and below Reno, Nevada, through levee/channel improvements, local impoundments, and potential reoperation of existing reservoirs in the watershed. The report will also consider the potential for environmental restoration along the Truckee River and tributaries in the Reno-Sparks area.

The conference agreement includes $600,000 for the Corps of Engineers, in cooperation with the Bureau of Reclamation, to continue the feasibility study for lake stabilization in the Devils Lake Basin of North Dakota as described in Public Law 102–377. The conferees expect the Corps of Engineers to expedite planning for emergency mitigation measures including emergency outlet options to the Sheyenne River, upper basin storage, and enhanced diking. The Corps of Engineers shall make its recommendations to the Congress for upper basin storage and enhanced diking by March 1, 1996, and shall report on the status of the lake stabilization study by September 30, 1996.

The conference agreement includes $559,000 for the Army Corps of Engineers to continue preconstruction engineering and design for the Noyo Harbor Breakwater, California, project. The conferees are aware of a proposal to utilize prefabricated steel structures in lieu of a stone breakwater, at considerably less cost than the $22,900,000 now projected. Furthermore, the structures can be fitted to generate electricity. The potential for reduced construction costs, together with the ancillary benefit of wave power generation, would facilitate local cost sharing. The conferees, therefore, direct that the funds be utilized for efforts to validate the viability of using these structures to serve as breakwaters, including modeling.

The conference agreement includes the following amounts for Coordination Studies With Other Agencies: Cooperation With Other Agencies, $480,000; Section 22 Planning Assistance to States, $2,000,000; Special Investigations, $3,400,000; Gulf of Mexico Program, $300,000; Interagency Water Resources Development, $1,000,000; National Estuary Program, $180,000; North American Waterfowl Management Plan, $180,000; and $380,000 for the Pacific Northwest Forest Case Study as described in the Senate Report.

Within the funds available for the Flood Plain Management Services Program, the conferees have provided $100,000 for a study along the Jacks Defeat Creek watershed in Monroe County, Indiana.

The conference agreement includes $30,432,000 for Corps of Engineers research and development activities. Included in this total is $23,732,000 for the Corps' base research and development program; $1,900,000 for evaluation of environmental investments; $2,000,000 for earthquake engineering; $1,000,000 for zebra mussel control; $1,500,000 for the characterization and restoration of wetlands; and $300,000 for the continuation of the Construction Technology Transfer Project between the Corps of Engineers' research institutions and Indiana State University.

Amendment No. 2: The conference agreement includes language providing $375,000 for the Norco Bluffs, California, project, as provided for in the House and Senate bills; restores House language stricken by the Senate for the Ohio River Greenway, Indiana, project amended to provide $500,000 instead of $1,000,000 as proposed by the House; includes language proposed by the Senate for the Kentucky Lock and Dam, Kentucky, project amended to provide $2,000,000 instead of $2,500,000 as proposed by the Senate; restores House language stricken by the Senate providing $300,000 for the Mussers Dam, Pennsylvania, project; and includes language proposed by the Senate providing $300,000 for the West Virginia Port Development, West Virginia, project. The conference agreement also deletes language contained in the House and Senate bills providing funds for the Indianapolis Central Waterfront, Indiana, project. Funding for this project has been included under Construction, General.

The conference agreement also includes language for a watershed study in the vicinity of Hazard, Kentucky, using previously appropriated funds. The Corps of Engineers is directed to prepare a reconnaissance level study addressing flood control, water supply and water quality needs as well as opportunities for environmental restoration in the Upper Kentucky River basin. In particular, the Corps is directed to evaluate the potential to reallocate excess storage in existing Corps lakes and alternatives thereto, for the purpose of providing additional water supply capability to meet expanding regional needs.

CONSTRUCTION, GENERAL

Amendment No. 3: Appropriates $804,573,000 for Construction, General instead of $807,846,000 as proposed by the House and $778,456,000 as proposed by the Senate.

The conferees understand that the Acting Assistant Secretary of the Army for Civil Works determined on September 1, 1995, that the Army Corps of Engineers will cost share the project for design deficiency correction of the Klamath-Glen Levee in Del Norte County, California, under the same financial terms as the original construction. This is in accordance with the technical conclusions of the Initial Appraisal Report of the San Francisco District Engineer, entitled "Terwer Creek Erosion, Klamath-Glen Levee, Klamath River, Del Norte County, California", March 1994. In view of this determination, and so that the necessary repairs can begin as quickly as possible, the Secretary of the Army is directed to utilize funds appropriated in this or prior appropriations Acts for the project.

The Corps of Engineers may allocate up to $150,000 of the funds provided for the Central and Southern Florida Project Review Study or from other sources, for the purpose of initiating a study to determine whether the construction of a wastewater reuse facility in Dade County, Florida, should be incorporated within the overall project authorization upon receipt of necessary approval. Such reuse facility would be intended to increase the supply of surface water to the Everglades system and Everglades National Park, in turn benefiting recreation and enhancing fish and wildlife.

The conference agreement includes $78,800,000 for the Columbia River Juvenile Fish Mitigation, Washington and Oregon, program as proposed by the Senate instead of $68,800,000 as proposed by the House. Of the funds provided, $1,000,000 is available for advanced planning and design for public and private facilities affected by the operation of the John Day project at minimum pool levels. The conferees share the concern of both the Senate and the House regarding the costs and justification for the John Day drawdown as an effective method for salmon recovery. To date, the conferees have not been provided with any scientific evidence supporting the drawdown; therefore, the Administration is directed to provide scientific justification of the project as an effective means of salmon recovery along with any further requests for funding. Considering the extraordinary cost of completing this project, if the Administration does not find significant benefits, the proposal should be abandoned altogether. The conferees also note that the mitigation necessary to lower John Day Reservoir to minimum operating pool will require specific authorization from Congress.

The conferees understand that rapid and substantial improvement in fish passage in the Federal Columbia River power system is a high priority. Accordingly, the conferees direct the Secretary of the Army to independently evaluate annually the performance of the Corps of Engineers in achieving improvements in fish passage and to provide these evaluations to the Committees on Appropriations. The conferees further direct the Corps and the Bonneville Power Administration, in consultation with the National Marine Fisheries Service, to develop a set of recommendations for improving the system by which fish passage improvements are designed, tested and implemented at the Federal projects. These improvements should seek to shorten the time requirements, reduce the costs, and improve the biological success of fish passage projects. The Corps and BPA should submit these recommendations to the Committees on Appropriations within six months of enactment of this Act and should proceed to implement immediately reforms for which they have the authority.

The Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct a Regional Visitors Center in the vicinity of Shreveport, Louisiana, to provide information to the public on the Red River Basin, national and local water resources development of the U.S. Army Corps of Engineers, and the Red River Waterway Project. The Regional Visitors Center is to be constructed using funds appropriated for construction of the Red River Waterway Project, and will be operated and maintained using funds appropriated for operation and maintenance of the waterway.

The conferees wish to emphasize their continued support for the Corps of Engineers Continuing Authorities Programs. These programs, which require only modest amounts of budgetary resources, have proven to be of great value and are particularly important to many small communities throughout the Nation. Therefore, the conferees direct the Secretary of the Army, acting through the Chief of Engineers, to continue the planning, engineering, and design of projects under all of the continuing authorities programs whether or not they will be approved for construction by the end of fiscal year 1996, initiate new projects under normal procedures for the continuing authorities programs, and continue budgeting these programs in fiscal year 1997 and beyond.

For the Emergency Streambank and Erosion Control (Section 14) program, the conferees direct the Corps of Engineers to undertake the projects identified in the House Report. In addition, the conference agreement includes $242,000 for the project to provide erosion protection for the Russell-Allison Levee along the Wabash River in Lawrence County, Illinois, and $325,000 for repair of the Ohio River levee in Marietta, Ohio. For the Small Flood Control Projects (Section 205) program, the conferees direct the Corps of Engineers to undertake the projects identified in the House and Senate Reports. In addition, the conference agreement including $200,000 for the Corps of Engineers to initiate and complete a feasibility study to control flooding at the town of Sumava Resorts, Indiana, and $65,000 for a feasibility study of the Bellepoint floodwall, Frankfort, Kentucky, project. For the Small Beach Erosion Control (Section 103) program, the conferees direct the Corps of Engineers to undertake the Aqua Hedionda Lagoon project in Carlsbad, California, as described in the House Report. For the Project Modifications for the Improvement of the Environment (Section 1135) program, the conference agreement includes funds for the projects identified in the House Report and also includes $100,000 for the St. Paul Harbor, Alaska, project and $370,000 for the Valdez Harbor, Alaska, project. For the Small Navigation Projects (Section 107) program, the conference agreement includes $1,000,000 for the Ouizinkie Harbor, Alaska, project, $500,000 for the Larsen Bay Harbor, Alaska, project, $200,000 for the Williamsburg, Alaska project, and $250,000 for the Tatitlik Harbor, Alaska, project.

Amendment No. 4: The conference agreement includes language in the bill for the following projects, which were funded at the same level in the House and Senate bills:

Sacramento River Flood Control Project (Glenn-Colusa Irrigation District), California ($300,000); Harlan, Kentucky ($12,000,000); Williamsburg, Kentucky ($4,100,000); Middlesboro, Kentucky ($1,600,000); Salyersville, Kentucky ($500,000); Glen Foerd, Pennsylvania ($200,000); Wallisville, Texas ($5,000,000); and Red River Emergency Bank Protection, Arkansas and Louisiana ($6,600,000).

The conference agreement restores House language stricken by the Senate providing funds for the San Timoteo Creek feature of the Santa Ana River Mainstem, California, project ($5,000,000), and the Indiana Shoreline Erosion, Indiana, project, ($1,500,000).

The conference agreement provides $13,348,000 for the Lake Pontchartrain and Vicinity (Hurricane Protection), Louisiana, project instead of $11,848,000 as proposed by the House and $11,838,000 as proposed by the Senate, provides $2,500,000 for the Red River below Denison Dam, Louisiana, Arkansas, and Texas, project instead of $3,800,000 as proposed by the House and $2,000,000 as proposed by the Senate; and provides $4,100,000 for the Broad Top Region, Pennsylvania, project as proposed by the House instead of $2,000,000 as proposed by the Senate.

The conference agreement includes language proposed by the Senate which provides $3,800,000 for repair and extension of the Homer Spit, Alaska, project; provides $6,000,000 for the McClellan-Kerr Arkansas River Navigation System, Arkansas, project, of which $4,900,000 is for the Montgomery Point Lock and Dam; provides $700,000 for the Arkansas City, Kansas project and waives section 902 of Public Law 99–662; provides $670,000 for the Winfield, Kansas, project; provides $2,300,000 for the Ouachita River Levees, Louisiana, project; provides $710,000 for the Roughans Point, Massachusetts, project; provides $850,000 for the Marshall, Minnesota, project; provides $1,000,000 for the Ste. Genevieve, Missouri, project, provides; $1,100,000 for the Virginia Beach Erosion Control and Hurricane Protection, Virginia, project; provides $200,000 for the Hatfield Bottom, West Virginia, project; provides $2,000,000 for the Upper Mingo, West Virginia, project; and provides that $1,120,000 shall be transferred to the Secretary of the Interior for performing operation and maintenance activities at the Columbia River Fishing Access Sites to be constructed in Oregon and Washington.

The conferees have also included language in the bill that directs the Secretary of the Army to acquire all or part of the Little Holland Tract in California for wetlands restoration and waterfowl and fishery habitat enhancement and/or mitigation purposes conditioned on a determination made by the Secretary that acquisition is in the Federal interest; and language that provides $3,500,000 for the South Central Pennsylvania Environmental Restoration project.

The conferees are aware of the need for continued emergency construction on the Red River between Index, Arkansas, and Shreveport, Louisiana. However, due to bank caving problems that may be induced by the previously funded Sulfur Revetment now under construction, the conference agreement includes $6,600,000 to initiate and complete design and construction of the Canale Revetment in lieu of the Dickson Revetment.

The conferees direct the Secretary of the Army, acting through the Chief of Engineers, to extend the levee identified in Plan B of the approved draft specific project report for Williamsburg, Kentucky, dated April 1993, by approximately 2,000 feet upstream using funds provided for this project.

For the Lake Pontchartrain and Vicinity (Hurricane Protection) project, the conference agreement includes an additional $4,000,000 to continue construction of parallel protection along the Orleans and London Avenue outfall canals, and an additional $1,500,000 for the project to intercept and convey landside runoff from Jefferson Parish lakefront levees. The conferees agree that the landside runoff project is not a separable element of the Lake Pontchartrain and Vicinity (Hurricane Protection) project and direct that future budget requests for the Lake Pontchartrain and Vicinity (Hurricane Protection) project include funding for landside runnoff.

The amount provided for the Red River below Denison Dam project includes $500,000 to continue the Bowie County Levee, Texas, portion of the project. The conferees direct the Corps of Engineers to continue to prepare plans and specifications for restoration or replacement of the Bowie County Levee as authorized by the Flood Control Act of 1946 for incorporation into the Federal levee system to provide the same level of protection as the adjoining Miller County Levee in Arkansas under the terms and conditions of section 3 of the Flood Control Act of 1936, Public Law 74–738.

The funds to be transferred to the Secretary of the Interior for Columbia River Fishing Access Sites provide for the capitalized operation and maintenance costs for phase I sites. In addition, the conference agreement includes $600,000 for engineering and design of an additional six Bonneville pool sites planned under phase II.

On September 22, 1995, the Acting Assistant Secretary of the Army for Civil Works advised the House and Senate Committees of a proposal to enter into a Section 215 agreement with the city of Arkansas City, Kansas, to provide for a credit toward the local contribution for certain work to be performed by the city in connection with the authorized Arkansas City flood control project. The conferees have no objection to that proposal and the Secretary may immediately execute the agreement with the understanding that the credit will not exceed the statutory limit of Section 215 of Public Law 90–483, as amended.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

Due to the severe budgetary situation, the conference agreement includes; $307,885,000 for the Flood Control, Mississippi River and Tributaries, project, which is the same as the amount provided by the House and the Senate and $11,365,000 below the budget request. At the same time, the conferees recognize the importance of this project to the Nation. The conferees agree that the reductions made to the individual features within the Mississippi River and Tributaries project were made without prejudice and expect the Corps of Engineers to manage the project, including the reprogramming of funds where necessary, to derive the maximum benefit from the funds provided.

The conferees are aware that the Corps of Engineers no longer requires the use of lands in the Vidalia, Louisiana, area previously used for casting and storage of articulated concrete mats used for construction of the Mississippi River and Tributaries project. In the interest of public safety and environmental restoration, the conferees direct the Corps of Engineers to use up to $900,000 of the funds available for the Mississippi River and Tributaries project to return lands to acceptable environmental condition now that the casting operations have ceased.

OPERATION AND MAINTENANCE, GENERAL

Amendment No. 5: Appropriates $1,703,697,000 for Operation and Maintenance, General instead of $1,712,123,000 as proposed by the House and $1,696,998,000 as proposed by the Senate.

The conferees recognize that flooding in the wake of Typhoon Oscar, which resulted in a Presidential disaster declaration in Southcentral Alaska, devastated the harbor at Seward, Alaska, just as the winter season was approaching. The Corps of Engineers is, therefore, encouraged to expedite work using available funds, including such contractual economies of effort with the City of Seward and the State of Alaska as are necessary in the judgment of the District Engineer, to restore full use to the port and port facilities impacted by the flooding.

The conference agreement includes $280,000 for the Pearl River, Mississippi and Louisiana, project, the same as the budget request. These funds are to be used to maintain the project in caretaker status and correct any safety problems, including lighting and boat trolley system improvements, at Pool's Bluff Sill and other lock locations.

Upon resolution of the status of the section 401 permit, the Corps of Engineers may use $250,000 of available funds to resume design work on the proposed expansion of the Renard Isle confined disposal facility at Green Bay Harbor, Wisconsin.

Amendment No. 6: Provides $5,926,000 for the Raystown Lake, Pennsylvania, project as proposed by the House instead of $3,426,000 as proposed by the Senate.

Amendment No. 7: Inserts language proposed by the Senate which directs the Secretary of the Army to maintain a minimum conservation pool of 475.5 feet at the Wister Lake, Oklahoma, project.

REGULATORY PROGRAM

The conferees agree with the language contained in the House and Senate Reports for the Regulatory Program of the Corps of Engineers. In addition, the conferees understand that the Corps of Engineers has under review an application by the City of East Chicago, Indiana, for the construction of a breakwater in Lake Michigan. The conferees expect the Corps to work with the city toward an expeditious resolution to the permitting process.

GENERAL EXPENSES

Amendment No. 8: Appropriates $151,500,000 for General Expenses instead of $150,000,000 as proposed by the House and $153,000,000 as proposed by the Senate and provides that the funds shall remain available until expended as proposed by the Senate.

Amendment No. 9: Restores language proposed by the House and stricken by the Senate limiting the funds available for general administration and related functions in the Office of the Chief of Engineers with an amendment providing that not to exceed $62,000,000 shall be available for that purpose instead of $60,000,000 as proposed by the House.

Amendment No. 10: Inserts language proposed by the Senate which provides that the plan for reducing the number of division offices which the Secretary of the Army is directed to develop and submit to the Congress shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and amends language contained in the House and Senate bills which provides that the division office plan shall not change the function of any district office by adding the words "any civil" before "function". This amendment is necessary to clarify that it is not the intent of the conferees to prohibit the Corps of Engineers from making necessary adjustments in mission and function of districts handling military construction to accommodate the shrinking military workload.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

Amendment No. 11: Deletes language proposed by the House and stricken by the Senate which provides that the Corps of Engineers shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with Government-owned dredges in fiscal year 1992 and which further provides that none of the funds available to the Corps of Engineers may be used to undertake improvements or major repair of the hopper dredge McFARLAND and inserts similar language proposed by the Senate. The Senate language differs from the House language in that it permits the Corps of Engineers to expend funds to maintain the McFARLAND's current operational condition and in that it includes an additional subsection relating to the use of the four Corps of Engineers hopper dredges, which has been amended by the conference agreement to provide that if any of the Corps' hopper dredges is removed from normal service for repair or rehabilitation, the Secretary of the Army shall not significantly alter the operating schedules of the remaining dredges.

Amendment No. 12: Inserts language proposed by the Senate which provides that none of the funds appropriated in this Act or otherwise available to the Corps of Engineers may be used for activities associated with moving the Corps' headquarters office to the Southeast Federal Center with an amendment which clarifies that this limitation on the use of funds does not apply to the use of funds required to process any Department of the Army permits, and makes technical corrections to Section 102, which modifies the authorization for the Manistique Harbor, Michigan, project.

Amendment No. 13: Inserts language proposed by the Senate which modifies the authorization for the Petersburg, West Virginia, project by increasing the total estimated cost to $26,600,000, with an estimated first Federal cost of $19,195,000 and an estimated first non-Federal cost of $7,405,000.

Amendment No. 14: Inserts language proposed by the Senate which authorizes the Secretary of the Army to accept from a non-Federal sponsor additional lands, not to exceed 300 acres, at the Cooper Lake and Channels, Texas, project and further authorizes the Secretary, upon acceptance of those lands, to redesignate an amount of mitigation lands, not to exceed 300 acres, to recreation purposes. The amendment also provides that the lands accepted from the non-Federal sponsor shall provide habitat value at least equal to that provided by the lands redesignated to recreation purposes and that all costs of work to be undertaken pursuant to the amendment shall be borne by the donating sponsor.

Amendment No. 15: Deletes language proposed by the Senate which directs the Secretary of the Army to take such actions as are necessary to obtain and maintain an elevation of 977 feet above sea level at the Lake Traverse, South Dakota and Minnesota, project and inserts the new sections described below.

Section 106 authorizes the Secretary of the Army to undertake the Indianapolis, Indiana, project authorized by Section 5 of Public Law 74–738 as modified to include certain riverfront alterations as described in the Corps of Engineers Central Indianapolis Waterfront Concept Master Plan, dated February, 1994. Non-Federal funds expended on or after the date of the Corps of Engineers report on items and outlined for construction in the Corps' document shall be applied to the non-Federal cost-sharing requirements.

Section 107 modifies section 313 of the Water Resources Development Act of 1992, the South Central Pennsylvania Environmental Restoration Infrastructure and Resource Protection Development Pilot Program. The modification includes changes to the consultation requirements to reflect a revised geographic scope, an increase in the authorized funding level, and several technical changes. The conferees have also included $3,500,000 under the Construction, General account to accomplish high priority work under the section 313 authority.

Section 108 authorizes and directs the Secretary of the Army to proceed with engineering, design, and construction of projects to provide for flood control and improvements to rainfall drainage systems in Jefferson, Orleans, and St. Tammany Parishes in Louisiana. The conferees are aware of the disastrous floods due to torrential rainfalls that occurred in southeast Louisiana in May of 1995, which resulted in the loss of seven lives, inundation of over 35,000 homes, and estimated property and infrastructure losses exceeding $3,000,000,000. This event produced the second highest number of flood insurance claims ever for a flood event. In addition, between 1978 and 1989, flood insurance claims for this area totaled $227,000,000. Therefore, because of the urgent need to prevent such disasters from recurring, the conferees have directed the Secretary of the Army to proceed immediately with economically justified flood control improvements that have been identified in reports of the Corps of Engineers' New Orleans District Engineer. No further feasibility studies are required for the projects authorized in this section. The conferees intend that the cost-sharing requirement between the Federal and non-Federal interests be consistent with the provisions for flood control and hurricane protection projects, as appropriate, in the Water Resources Development Act of 1986, except that the non-Federal sponsor shall receive credit, as part of the non-Federal share of the cost of these projects, for any work accomplished subsequent to those reports as determined by the Secretary of the Army to be a compatible and integral part of the projects. The projects include, but are not limited to, pumping station and channel improvements in Jefferson and Orleans Parishes, channel improvements along Mile Creek in Covington, hurricane protection along the Lake Pontchartrain shoreline in Mandeville, and hurricane protection and improved drainage in the Schneider Canal area in Slidell. An amount of $25,000,000 has been authorized for the Corps to proceed with work on these projects.

Section 109 directs the Secretary of the Army to convey land at the Dewey Lake, Kentucky, project to the City of Prestonsburg, Kentucky, for the development of public use recreational facilities and to further regional economic development.

Amendment No. 16: Inserts language proposed by the Senate which authorizes the Secretary of the Army to undertake the Coos Bay, Oregon, project in accordance with the Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $14,541,000, with an estimated Federal cost of $10,777,000 and an estimated non-Federal cost of $3,764,000, and changes the section number.

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	ALABAMA				
(N)	ALABAMA RIVER BELOW CLAIBORNE L&D, AL.................	238,000	---	238,000	---
	ALASKA				
(N)	ANIAK, AK..	---	---	50,000	---
(N)	ANCHOR POINT HARBOR, AK....................................	208,000	---	208,000	---
(SPE)	CHENA RIVER WATERSHED STUDY, AK........................	200,000	---	100,000	---
(N)	CHIGNIK HARBOR, AK...	---	237,000	---	237,000
(N)	COOK INLET, AK...	70,000	---	70,000	---
(N)	KAKE HARBOR, AK..	---	186,000	---	186,000
(N)	KUSKOKWIM RIVER, AK..	175,000	---	175,000	---
(N)	NOME HARBOR, AK..	200,000	---	280,000	---
(N)	NORTHERN SEA ROUTE, AK.....................................	100,000	---	100,000	---
(N)	ST PAUL HARBOR, AK...	100,000	---	150,000	---
(N)	WRANGELL, AK...	---	---	175,000	---
	ARIZONA				
(RCP)	ALAMO LAKE, ARIZONA..	200,000	---	200,000	---
(FDP)	GILA RIVER & TRIBUTARIES, N SCOTTSDALE DRAINAGE AREA,.	400,000	---	450,000	---
	GILA RIVER & TRIBUTARIES, SANTA CRUZ RIVER BASIN......	---	---	100,000	---
(FDP)	GILA RIVER, GILLESPIE DAM TO YUMA, AZ..................	400,000	---	400,000	---
(FDP)	GILA RIVER, TORTOLITA DRAINAGE AREA, AZ................	200,000	---	300,000	---
	RIO DE FLAG, AZ..	---	---	200,000	---
(FDP)	RIO SALADO, SALT RIVER, AZ................................	300,000	---	300,000	---
(FDP)	TUCSON DRAINAGE AREA, AZ...................................	180,000	---	180,000	---
	ARKANSAS				
	ARKANSAS RIVER LEVEE, PLUM BAYOU, AR.......................	---	---	300,000	---
	ARKANSAS RIVER, TUCKER CREEK, AR...........................	---	---	280,000	---
(FDP)	MAY BRANCH, FORT SMITH, AR.................................	250,000	---	250,000	---
(FDP)	MCKINNEY BAYOU, AR & TX....................................	450,000	---	450,000	---
	CALIFORNIA				
(FC)	AMERICAN RIVER WATERSHED, CA...............................	---	3,000,000	---	3,000,000
(SPE)	CENTRAL BASIN GROUNDWATER PROJECT, CA.....................	375,000	---	375,000	---
	CITY OF ARCADIA WATER INFRASTRUCTURE RESTORATION, CA..	---	---	300,000	---
(SP)	CITY OF ENCINITAS, CA......................................	169,000	---	169,000	---
(N)	CRESCENT CITY HARBOR, CA...................................	250,000	---	250,000	---
(N)	CRESCENT CITY HARBOR, CA...................................	---	50,000	---	50,000
(N)	HUMBOLDT HARBOR AND BAY (DEEPENING), CA...................	---	410,000	---	410,000
	IMPERIAL COUNTY WATERSHED, CA..............................	---	---	150,000	---
(SPE)	LACDA WATER CONS & SUP(HANSEN & LOPEZ DAMS), CA.......	400,000	---	400,000	---
(SPE)	LACDA WATER CONS & SUP(WHITTIER NARROWS & SANTA FE DAM	460,000	---	460,000	---
(SP)	MALIBU COASTAL AREA, CA....................................	200,000	---	200,000	---
(FDP)	MARIN COUNTY SHORELINE, SAN CLEMENTE CREEK, CA........	234,000	---	234,000	150,000

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
(N)	MARINA DEL REY AND BALLONA CREEK, CA	200,000	---	200,000	---
(FDP)	N CA STREAMS, CACHE CREEK ENVIRONMENTAL RESTORATION, C	200,000	---	200,000	---
	N CA STREAMS, MIDDLE CREEK, CA	---	---	300,000	---
(FDP)	N CA STREAMS, SACRAMENTO RIVER FISH MIGRATION, CA	300,000	---	300,000	---
(FDP)	N CA STREAMS, WINTERS & VICINITY, CA	200,000	---	200,000	---
(FDP)	N CA STREAMS, YUBA RIVER BASIN, CA	100,000	---	100,000	---
(FC)	NAPA RIVER, CA	---	787,000	---	787,000
	NAPA RIVER, SALT MARSH RESTORATION, CA	---	---	200,000	---
(N)	NEWPORT BAY HARBOR, CA	250,000	---	250,000	---
	NORCO BLUFFS, CA	---	---	375,000	---
(N)	NOYO RIVER AND HARBOR (BREAKWATER), CA	---	559,000	---	559,000
(FC)	PAJARO RIVER AT WATSONVILLE, CA	---	500,000	---	500,000
	PENINSULA BEACH, CA	---	---	200,000	---
(N)	PILLAR POINT HARBOR, CA	225,000	---	225,000	---
(N)	PORT HUENEME, CA	300,000	---	300,000	---
(N)	PORT OF LONG BEACH (DEEPENING), CA	---	750,000	---	750,000
	RUSSIAN RIVER ENVIRONMENTAL RESTORATION, CA	---	---	100,000	---
(SPE)	SACRAMENTO - SAN JOAQUIN DELTA, CA	800,000	---	800,000	---
(FDP)	SACRAMENTO - SAN JOAQUIN DELTA, LITTLE HOLLAND TRACT,	290,000	---	290,000	---
(FDP)	SACRAMENTO - SAN JOAQUIN DELTA, PROSPECT ISLAND, CA	100,000	---	100,000	---
	SACRAMENTO - SAN JOAQUIN DELTA, WESTERN DELTA TRACT	---	---	200,000	---
(FDP)	SAN ANTONIO CREEK, CA	150,000	---	250,000	---
(SP)	SAN DIEGO COUNTY, CITIES OF OCEANSIDE AND CALSBAD, CA.	300,000	---	300,000	---
(N)	SAN FRANCISCO BAY BAR CHANNEL, CA	240,000	---	---	---
(SP)	SAN FRANCISCO COUNTY, OCEAN BEACH, CA	125,000	---	125,000	---
(N)	SAN FRANCISCO HARBOR, CA	100,000	---	100,000	---
(FDP)	SAN JOAQUIN R BASIN, PINE FLAT DAM, F&WL HABITAT RESTO	500,000	---	500,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, ARROYO PASAJERO (FRESNO CO),	700,000	---	700,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, CALIENTE CREEK STREAM GROUP,	171,000	---	171,000	---
	SAN JOAQUIN RIVER BASIN, FIREBAUGH AND MENDOTA, CA	---	---	150,000	---
(FDP)	SAN JOAQUIN RIVER BASIN, KAWEAH RIVER, CA	40,000	---	40,000	200,000
(FDP)	SAN JOAQUIN RIVER BASIN, SOUTH SACRAMENTO COUNTY STRMS	500,000	---	500,000	---
	SAN JOAQUIN RIVER BASIN, STOCKTON METROPOLITAN AREA, C	---	---	400,000	---
	SAN JOAQUIN RIVER BASIN, TULE RIVER, CA	---	---	200,000	---
	SAN JUAN AND ALISO CREEKS, CA	---	---	150,000	---
(FC)	SAN LORENZO RIVER, CA	---	100,000	---	100,000
(FC)	SAN RAFAEL CANAL, CA	---	250,000	---	250,000
(FDP)	SANTA BARBARA COUNTY STREAMS, CA	81,000	---	81,000	---
(N)	SANTA BARBARA HARBOR, CA	---	50,000	---	50,000
(N)	SANTA MONICA BREAKWATER, CA	---	350,000	---	350,000
(FDP)	SEVEN OAKS AND PRADO DAMS WATER CONSERVATION, CA	265,000	---	265,000	---
(N)	SF BAY, LEONARD RANCH (DISPOSAL), CA	150,000	---	150,000	---
(N)	SOUTHAMPTON SHOAL CHANNEL, CA	240,000	---	---	---
(FDP)	UPPER GUADALUPE RIVER, CA	285,000	---	285,000	---
	UPPER PENITENCIA CREEK, CA	---	---	300,000	---
	VENTURA AND SANTA BARBARA COUNTY SHORELINE, CA	---	---	200,000	---
(FDP)	WHITEWATER RIVER BASIN, CA	370,000	---	370,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	CONNECTICUT				
(FDP)	CENTRAL CONNECTICUT COASTAL FLOODING, CT..............	65,000	---	65,000	---
	DELAWARE				
(N)	C&D CANAL - BALTIMORE HBR CONN CHANNELS, DE & MD (DEEP	57,000	---	57,000	---
(SP)	DELAWARE BAY COASTLINE, DE & NJ........................	880,000	---	880,000	---
(SP)	DELAWARE COAST FROM CAPE HENLOPEN TO FENWICK ISLAND, D	145,000	---	145,000	---
(N)	DELAWARE RIVER MAIN CHANNEL DEEPENING, DE, NJ, & PA...	---	780,000	---	780,000
	DISTRICT OF COLUMBIA				
(FC)	WASHINGTON, DC & VICINITY..............................	---	200,000	---	200,000
	FLORIDA				
	ATLANTIC INTRACOASTAL WW, PALM BEACH COUNTY, FL........	---	---	---	150,000
(SP)	BREVARD COUNTY, FL.....................................	107,000	---	107,000	---
(FDP)	COAST OF FLORIDA STUDY, FL.............................	750,000	---	650,000	---
(SP)	DAYTONA BEACH SHORES, FL...............................	112,000	---	112,000	---
(N)	HILLSBORO INLET, FL....................................	---	300,000	---	300,000
(N)	JACKSONVILLE HARBOR, FL................................	414,000	---	414,000	---
	LIDO SARASOTA BEACH, FL................................	---	---	100,000	---
(BE)	PANAMA CITY BEACHES, FL................................	---	415,000	---	415,000
(N)	PANAMA CITY HARBOR, FL.................................	---	285,000	---	285,000
(N)	PONCE DE LEON INLET, FL................................	233,000	---	233,000	---
(N)	ST LUCIE INLET, FL.....................................	---	400,000	---	400,000
	GEORGIA				
(SPE)	ATLANTA WATERSHED STUDY, GA............................	350,000	---	250,000	---
(N)	BRUNSWICK HARBOR, GA...................................	300,000	---	300,000	---
(N)	LOWER SAVANNAH RIVER BASIN, GA & SC....................	25,000	---	25,000	---
(N)	LOWER SAVANNAH RIVER BASIN, GA & SC....................	---	250,000	---	250,000
(RCP)	NEW SAVANNAH BLUFF LOCK & DAM, GA......................	130,000	---	---	---
(N)	SAVANNAH HARBOR EXTENSION, GA..........................	332,000	---	332,000	---
	HAWAII				
(N)	BARBERS POINT HARBOR MODIFICATION, OAHU, HI............	200,000	---	200,000	---
(N)	KIKIAOLA SMALL BOAT HARBOR, KAUAI, HI..................	---	170,000	---	170,000
(N)	MAUI SECOND HARBOR, MAUI, HI...........................	130,000	---	130,000	---
(FDP)	WAILUPE STREAM FLOOD CONTROL STUDY, OAHU, HI...........	200,000	---	200,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	ILLINOIS				
(FDP)	ALEXANDER AND PULASKI COUNTIES, IL	175,000	---	175,000	---
(BE)	CHICAGO SHORELINE, IL	---	400,000	---	400,000
(FDP)	DES PLAINES RIVER, IL	362,000	---	362,000	---
(RDP)	FREEPORT, IL	108,000	---	108,000	---
(FC)	NUTWOOD DRAINAGE AND LEVEE DISTRICT, IL	---	150,000	---	150,000
(RCP)	SNY ISLAND, IL	248,000	---	248,000	---
(FDP)	SOUTHEAST CHICAGO, IL	200,000	---	200,000	---
(RCP)	UPPER MISSISSIPPI & ILLINOIS NAV STUDY, IL, IA, MN, MO	6,205,000	---	6,205,000	---
(RDP)	WAUKEGAN HARBOR, IL	25,000	---	25,000	---
	INDIANA				
(FDP)	INDIANAPOLIS, WHITE RIVER (NORTH), IN	55,000	---	55,000	200,000
(FDP)	LITTLE CALUMET RIVER BASIN, CALUMET TOWNSHIP, IN	100,000	---	100,000	---
(FDP)	LITTLE CALUMET RIVER BASIN, DYER, IN	60,000	---	60,000	---
(FDP)	OHIO RIVER FLOOD PROTECTION (INDIANA SHORELINE), IN	275,000	---	---	---
	OHIO RIVER GREENWAY, IN	---	---	---	500,000
(FDP)	WABASH RIVER BASIN COMPREHENSIVE, IN & IL (MIDDLE REAC	153,000	---	228,000	---
	IOWA				
(FDP)	CORALVILLE LAKE, IA	---	---	100,000	---
(FDP)	MISSISSIPPI RIVER LEVEES, IA, IL & MO	50,000	---	50,000	---
	KANSAS				
(FDP)	GRAND (NEOSHO) RIVER, KS	---	---	500,000	---
(RCP)	MISSOURI RIVER LEVEE SYSTEM, UNITS L455 & R460-471, KS	475,000	---	475,000	---
(RCP)	SALINA, KS	200,000	---	200,000	---
(RCP)	TOPEKA, KS	150,000	---	150,000	---
(FDP)	TURKEY CREEK BASIN, KS & MO	111,000	---	111,000	---
(RCP)	WILSON LAKE, KS	100,000	---	100,000	---
(FC)	WINFIELD, KS	---	670,000	---	---
	KENTUCKY				
	GREEN RIVER LOCK AND DAM NO. 6	---	---	50,000	---
(N)	KENTUCKY LOCK AND DAM ADDITION, KY	---	---	---	2,000,000
(N)	MCALPINE LOCKS AND DAM, KY & IN	---	1,487,000	---	---
	METROPOLITAN LEXINGTON, FAYETTE COUNTY, KY	---	---	400,000	---
(FDP)	METROPOLITAN LOUISVILLE, BEARGRASS CREEK, KY	270,000	---	270,000	---
(FC)	METROPOLITAN LOUISVILLE, POND CREEK, KY	---	300,000	---	300,000
(FDP)	METROPOLITAN LOUISVILLE, SOUTHWEST, KY	100,000	---	100,000	---
(FDP)	METROPOLITAN REGION OF CINCINNATI, NORTHERN KENTUCKY,	300,000	---	300,000	---
(N)	UNIONTOWN/OHIO RIVER MAINSTEM STUDY, KY, IL & IN	2,600,000	---	2,600,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	LOUISIANA				
	AMITE RIVER AND TRIBUTARIES	---	---	200,000	---
(FDP)	BAYOU BARTHOLOMEW, LA	100,000	---	100,000	---
(FC)	COMITE RIVER, LA	---	160,000	---	160,000
(FC)	EAST BATON ROUGE PARISH, LA	---	900,000	---	900,000
(N)	INTRACOASTAL WATERWAY LOCKS, LA	500,000	---	500,000	---
(FDP)	JEFFERSON PARISH, LA	800,000	---	800,000	---
(FDP)	LAFAYETTE PARISH, LA	34,000	---	234,000	---
(N)	LAKE CHARLES SHIP CHAN, BY-PASS AND GEN ANCHORAGE AREA	47,000	---	587,000	---
(N)	MISSISSIPPI RIVER SHIP CHANNEL, LA	---	---	300,000	---
(N)	MISSISSIPPI RIVER - GULF OUTLET BANK EROSION, LA	25,000	---	25,000	---
(FDP)	ORLEANS PARISH, LA	60,000	---	60,000	---
(N)	PORT FOURCHON, LA	---	100,000	---	100,000
(FC)	WEST BANK - EAST OF HARVEY CANAL, LA	---	1,100,000	---	1,100,000
	WEST SHORE - LAKE PONTCHARTRAIN, LA	---	---	500,000	---
	MARYLAND				
(FC)	ANACOSTIA RIVER & TRIBUTARIES, MD & DC	---	1,100,000	---	1,100,000
(FDP)	ANACOSTIA RIVER AND TRIBUTARIES, MD & DC	450,000	---	450,000	---
(SPE)	ANACOSTIA RIVER FEDERAL WATERSHED IMPACT ASSESS, MD &.	300,000	---	200,000	---
(N)	BALTIMORE HARBOR ANCHORAGES & CHANNELS, MD	---	50,000	---	50,000
(N)	BALTIMORE HARBOR ANCHORAGES AND CHANNELS, MD	291,000	---	291,000	---
(FDP)	BALTIMORE METROPOLITAN WATER RESOURCES STUDY, MD	500,000	---	500,000	---
(SPE)	CHESAPEAKE BAY TIME VARIABLE MODEL, MD, VA, PA & DC	335,000	---	335,000	---
(RCP)	JENNINGS RANDOLPH LAKE - REALLOCATION, MD & VA	200,000	---	200,000	---
(SPE)	LOWER EASTERN SHORE, MD & DE	250,000	---	---	---
(N)	OCEAN CITY, MD AND VICINITY	850,000	---	850,000	---
(FDP)	PATUXENT RIVER WATER RESOURCES, MD	350,000	---	350,000	---
(N)	SMITH ISLAND ENVIRONMENTAL RESTORATION, MD	300,000	---	150,000	---
	MASSACHUSETTS				
(FDP)	BLACKSTONE RIVER WATERSHED RESTORATION, MA & RI	300,000	---	100,000	---
(N)	BOSTON HARBOR, MA	---	185,000	---	185,000
	MICHIGAN				
	SAULT STE MARIE, MI	---	---	---	200,000
	MINNESOTA				
(FDP)	CROOKSTON, MN	150,000	---	150,000	---
(SPE)	POMME DE TERRE RIVER - MINNESOTA RIVER VALLEY, MN	75,000	---	---	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	MISSISSIPPI				
(FDP)	HANCOCK, HARRISON AND JACKSON COUNTIES, MS	62,000	---	62,000	---
	JACKSON METROPOLITAN AREA, MS	---	---	---	1,299,000
(N)	LOWNDES COUNTY PORT BARGE FLEETING AREA, MS	100,000	---	100,000	---
	MISSOURI				
(FC)	BLUE RIVER BASIN, KANSAS CITY, MO	---	10,000	---	10,000
	FABIUS RIVER DRAINAGE DISTRICT, MO	---	---	125,000	---
(FDP)	ST LOUIS REGION, MO	150,000	---	150,000	---
(FDP)	SWOPE PARK INDUSTRIAL AREA, KANSAS CITY, MO	144,000	---	144,000	---
	NEBRASKA				
(FDP)	ANTELOPE CREEK, LINCOLN, NE	90,000	---	90,000	---
(FDP)	LOWER PLATTE RIVER & TRIBS, NE	441,000	---	441,000	---
(FC)	WOOD RIVER, GRAND ISLAND, NE	---	200,000	---	200,000
	NEVADA				
(FDP)	LOWER TRUCKEE RIVER, NV	---	---	400,000	---
	NEW JERSEY				
	BARNEGAT INLET TO LITTLE EGG INLET, NJ	---	---	550,000	---
(SP)	BRIGANTINE INLET TO GREAT EGG HARBOR INLET, NJ	115,000	---	115,000	---
(SP)	GREAT EGG INLET TO TOWNSEND INLET, NJ	290,000	---	290,000	---
(SP)	LOWER CAPE MAY MEADOWS - CAPE MAY POINT, NJ	350,000	---	350,000	---
(FC)	LOWER SADDLE RIVER, BERGEN COUNTY, NJ	---	963,000	---	963,000
(SP)	MANASQUAN INLET TO BARNEGAT INLET, NJ	290,000	---	290,000	---
(N)	NEW YORK HBR AND ADJACENT CHANNELS, CLAREMONT TERMINAL	---	400,000	---	400,000
(SP)	RARITAN BAY AND SANDY HOOK BAY (CLIFFWOOD BEACH), NJ	52,000	---	52,000	---
(SP)	RARITAN BAY AND SANDY HOOK BAY, NJ	620,000	---	620,000	---
(FC)	RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN, NJ	---	3,600,000	---	3,600,000
(FDP)	SOUTH RIVER, RARITAN RIVER BASIN, NJ	25,000	---	300,000	---
(SPE)	STONY BROOK, PRINCETON TOWNSHIP, NJ	250,000	---	---	---
(SP)	TOWNSENDS INLET TO CAPE MAY INLET, NJ	80,000	---	80,000	---
	NEW MEXICO				
(FDP)	ESPANOLA VALLEY, RIO GRANDE AND TRIBUTARIES, NM	118,000	---	118,000	---
(FC)	LAS CRUCES, EL PASO AND VICINITY, NM	---	200,000	---	200,000
(SPE)	RIO DE CHAMA, ABIQUIU DAM TO ESPANOLA, NM	232,000	---	232,000	---
(FDP)	ROCKY ARROYO/DARK CANYON, PECOS RIVER AND TRIBUTARIES,	45,000	---	45,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	NEW YORK				
(N)	ARTHUR KILL CHANNEL - HOWLAND HOOK MARINE TERMINAL, NY	---	400,000	---	600,000
(SP)	ATLANTIC COAST OF NEW YORK, NY	1,400,000	---	1,400,000	---
(N)	HUDSON RIVER HABITAT RESTORATION, NY	350,000	---	350,000	---
(SP)	JAMAICA BAY, MARINE PARK AND PLUMB BEACH, NY	350,000	---	350,000	---
(N)	LAKE MONTAUK HARBOR, NY	195,000	---	195,000	---
(BE)	LONG BEACH ISLAND, NY	---	525,000	---	525,000
(N)	MATTITUCK HARBOR, NY	250,000	---	---	---
(SP)	MONTAUK POINT, NY	125,000	---	125,000	---
(N)	NEW YORK HARBOR ANCHORAGE AREAS, NY	100,000	---	100,000	---
(SP)	NORTH SHORE OF LONG ISLAND, NY	25,000	---	25,000	---
(SPE)	ONONDAGA LAKE, NY	95,000	---	95,000	---
(N)	RARITAN BAY ANCHORAGES, NY AND NJ CHANNELS, NY & NJ	100,000	---	100,000	---
(N)	REYNOLD'S CHANNEL AND NEW YORK STATE BOAT CHANNEL, NY.	170,000	---	170,000	---
(SP)	SOUTH SHORE OF STATEN ISLAND, NY	30,000	---	330,000	---
(FDP)	SUSQUEHANNA RIVER BASIN WATER MANAGEMENT, NY, PA & MD.	290,000	---	290,000	---
(SP)	YONKERS SHORELINE, NY	332,000	---	332,000	---
	NORTH CAROLINA				
(FC)	BRUNSWICK COUNTY BEACHES, NC	---	500,000	---	500,000
(N)	CAPE FEAR - NORTHEAST (CAPE FEAR) RIVER, NC	400,000	---	400,000	---
(SP)	DARE COUNTY BEACHES, NC	290,000	---	290,000	---
(N)	WILMINGTON HARBOR, CHANNEL WIDENING, NC	---	570,000	---	570,000
	NORTH DAKOTA				
(SPE)	DEVILS LAKE, ND	125,000	---	600,000	---
(FDP)	GRAND FORKS, ND	225,000	---	225,000	---
	OHIO				
(FC)	METROPOLITAN REGION OF CINCINNATI, DUCK CREEK, OH, KY.	---	300,000	---	300,000
	OKLAHOMA				
(FDP)	CIMARRON RIVER AND TRIBS, OK, NM, CO, & KS	350,000	---	---	---
(RCP)	OPTIMA LAKE, OK	100,000	---	---	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	OREGON				
(N)	COLUMBIA RIVER NAVIGATION CHANNEL DEEPENING, OR & WA	900,000	---	900,000	---
(FDP)	COLUMBIA SLOUGH, OR	55,000	---	55,000	---
(FDP)	JOHNSON CREEK, OR	200,000	---	200,000	---
(FDP)	MIDDLE FORK WILLAMETTE FISHERY RESTORATION, OR	350,000	---	350,000	---
(FDP)	SOUTH SANTIAM FISHERY RESTORATION, OR	35,000	---	35,000	---
(SPE)	WALLA WALLA RIVER WATERSHED, OR & WA	100,000	---	100,000	---
(FDP)	WILLAMETTE RIVER BASIN REVIEW, OR	500,000	---	500,000	---
(MP)	WILLAMETTE RIVER TEMPERATURE CONTROL, OR	---	1,000,000	---	1,000,000
	PENNSYLVANIA				
(FC)	CHARTIERS CREEK, PA	---	570,000	---	570,000
(COM)	CONEMAUGH RIVER BASIN, PA	200,000	---	200,000	---
(FDP)	JUNIATA RIVER BASIN, PA	50,000	---	50,000	---
(FDP)	MILTON, PA	15,000	---	15,000	---
	MUSSERS DAM, MIDDLE CREEK, SNYDER CO, PA	---	---	---	300,000
(RCP)	YOUGHIOGHENY LAKE - SEC 216	250,000	---	200,000	---
	PUERTO RICO				
(FC)	ARECIBO RIVER, PR	---	281,000	---	281,000
(FC)	RIO GRANDE DE LOIZA, PR	---	453,000	---	453,000
	SOUTH CAROLINA				
(N)	CHARLESTON HARBOR, SC (DEEPENING/WIDENING)	158,000	---	158,000	---
(N)	GEORGETOWN HARBOR, SC	300,000	---	300,000	---
(N)	SANTEE, COOPER, CONGAREE RIVERS, SC	300,000	---	300,000	---
(FDP)	WACCAMAW RIVER, SC	300,000	---	---	---
	SOUTH DAKOTA				
(FC)	BIG SIOUX RIVER, SIOUX FALLS, SD	---	390,000	---	390,000
(SPE)	JAMES RIVER ENVIRONMENTAL, SD	10,000	---	10,000	---
(FC)	WATERTOWN AND VICINITY, SD	---	20,000	---	20,000
	TENNESSEE				
	BLACK FOX, MURFREE AND OAKLAND SPRINGS WETLANDS, TN	---	---	---	200,000
(FDP)	METRO CENTER LEVEE, DAVIDSON CO, NASHVILLE, TN	400,000	---	400,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES INVESTIGATIONS	BUDGET ESTIMATES PLANNING	CONFERENCE ALLOWANCE INVESTIGATIONS	CONFERENCE ALLOWANCE PLANNING
	TEXAS				
	ALPINE, TX	---	---	300,000	---
(FC)	BRAYS BAYOU, HOUSTON, TX	---	500,000	---	500,000
(RDP)	BUFFALO BAYOU & TRIBUTARIES - ADDICKS & BARKER RESERVO	50,000	---	50,000	---
	COLONIAS ALONG U.S. - MEXICO BORDER, TX	---	---	---	300,000
(N)	CORPUS CHRISTI SHIP CHANNEL, TX	100,000	---	100,000	---
(FC)	CYPRESS CREEK, HOUSTON, TX	---	300,000	---	300,000
(SPE)	CYPRESS VALLEY WATERSHED, TX	50,000	---	50,000	---
(FC)	DALLAS FLOODWAY EXTENSION, TRINITY RIVER, TX	---	500,000	---	500,000
(N)	GIWW - ARANSAS NATIONAL WILDLIFE REFUGE, TX	---	750,000	---	750,000
(RDP)	GIWW - HIGH ISLAND TO BRAZOS RIVER, TX (SECTION 216)	300,000	---	300,000	---
(RCP)	GIWW - PORT O'CONNOR TO CORPUS CHRISTI BAY, TX	150,000	---	---	---
(RDP)	GIWW-CC BAY TO PORT ISABEL, TX AA642	400,000	---	400,000	---
(FC)	GREENS BAYOU, HOUSTON, TX	---	300,000	---	300,000
(N)	HOUSTON - GALVESTON NAVIGATION CHANNELS, TX	---	1,100,000	---	1,100,000
(N)	NECHES RIVER & TRIBS SALTWATER BARRIER, TX	---	100,000	---	100,000
(FDP)	PECAN BAYOU, BROWNWOOD, TX	150,000	---	150,000	---
(FDP)	PLAINVIEW, BRAZOS RIVER BASIN, TX	30,000	---	30,000	---
(FC)	SOUTH MAIN CHANNEL, TX	---	900,000	---	900,000
(FDP)	UPPER TRINITY RIVER BASIN, TX	304,000	---	304,000	---
	UTAH				
	PROVO AND VICINITY, UT	---	---	450,000	---
(FC)	UPPER JORDAN RIVER, UT	---	100,000	---	100,000
	VIRGIN ISLANDS				
(RDP)	CROWN BAY CHANNEL, VI	150,000	---	150,000	---
	VIRGINIA				
(N)	AIWW BRIDGE AT GREAT BRIDGE, VA	---	1,000,000	---	1,000,000
	CHESAPEAKE BAY SHORELINE, POQUOSON, VA	---	---	100,000	---
(SPE)	EASTERN SHORE, ACCOMACK AND NORTHAMPTON COUNTIES, VA	248,000	---	248,000	---
(RCP)	JOHN H KERR LAKE, VA & NC	350,000	---	250,000	---
(SPE)	NANSEMOND RIVER BASIN, SUFFOLK, VA	370,000	---	370,000	---
(BE)	SANDBRIDGE, VIRGINIA BEACH, VA	---	470,000	---	470,000
	WASHINGTON				
(SPE)	CHIEF JOSEPH POOL RAISE, WA	400,000	---	400,000	---
(COM)	DUWAMISH AND GREEN RIVER, WA	300,000	---	300,000	---
(RCP)	HOWARD HANSON DAM (ADDITIONAL STORAGE), WA	400,000	---	400,000	---
(RDP)	MOUNT ST HELENS ENVIRONMENTAL RESTORATION, WA	15,000	---	---	---
(N)	PUGET SOUND CONFINED DISPOSAL SITES, WA	98,000	---	98,000	---
(COM)	STILLAGUAMISH RIVER, WA	200,000	---	200,000	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATES		CONFERENCE ALLOWANCE	
		INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
	WEST VIRGINIA				
(FDP)	CHEAT RIVER BASIN, WV	65,000	---	65,000	---
(N)	KANAWHA RIVER NAVIGATION, WV	703,000	---	703,000	---
(N)	MARMET LOCKS AND DAM, WV	---	5,319,000	---	5,319,000
(N)	MONONGAHELA RIVER WATERFRONT, WV	300,000	---	300,000	---
(FDP)	NORTH BRANCH POTOMAC RIVER ENVIRONMENTAL RESTOR, WV &	275,000	---	275,000	---
	TYGART RIVER BASIN, WV	---	---	400,000	---
	TYGART RIVER BASIN (BARBOUR COUNTY), WV	---	---	400,000	---
	WEST VIRGINIA PORT DEVELOPMENT, WV	---	---	300,000	---
	WYOMING				
(FDP)	JACKSON HOLE RESTORATION, WY	270,000	---	270,000	---
	MISCELLANEOUS				
	AUTOMATED INFORMATION SYSTEM SUPPORT	3,605,000	---	2,600,000	---
	COASTAL FIELD DATA COLLECTION	4,000,000	---	3,600,000	---
	COORDINATION STUDIES WITH OTHER AGENCIES	14,790,000	---	7,920,000	---
	ENVIRONMENTAL DATA STUDIES	160,000	---	---	---
	ENVIRONMENTAL SERVICE PARTNERSHIPS	615,000	---	---	---
	FLOOD DAMAGE DATA	500,000	---	---	---
	FLOOD PLAIN MANAGEMENT SERVICES	15,000,000	---	8,600,000	---
	GREAT LAKES REMEDIAL ACTION PROGRAM (SEC. 401)	---	---	500,000	---
	HYDROLOGIC STUDIES	770,000	---	700,000	---
	INTERNATIONAL WATER STUDIES	500,000	---	500,000	---
	NATIONAL ASSESSMENT OF WATER SUPPLY DEMAND AND AVAILAB	3,000,000	---	---	---
	NATIONAL DREDGING NEEDS STUDY OF PORTS AND HARBORS	909,000	---	450,000	---
	NATIONAL SPATIAL DATA INFRASTRUCTURE	2,050,000	---	---	---
	OHIO RIVER BASIN STUDY	---	---	500,000	---
	PRECIPITATION STUDIES (NATIONAL WEATEHER SERVICE)	550,000	---	400,000	---
	PRESIDENT'S CLIMATE CHANGE ACTION PLAN	600,000	---	---	---
	REMOTE SENSING/GEOGRAPHIC INFORMATION SYSTEM SUPPORT	400,000	---	300,000	---
	RESEARCH AND DEVELOPMENT	40,574,000	---	30,432,000	---
	SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	350,000	---	175,000	---
	STREAM GAGING (U.S. GEOLOGICAL SURVEY)	770,000	---	770,000	---
	TRANSPORTATION SYSTEMS	950,000	---	950,000	---
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-26,988,000	---	-41,117,000	---
	TOTAL, GENERAL INVESTIGATIONS	117,273,000	38,352,000	79,673,000	42,094,000

TYPE OF PROJECT:

(N)	NAVIGATION
(BE)	BEACH EROSION CONTROL
(FC)	FLOOD CONTROL
(MP)	MULTIPURPOSE, INCLUDING POWER
(SP)	SHORELINE PROTECTION
(FDP)	FLOOD DAMAGE PREVENTION
(RCP)	REVIEW OF COMPLETED PROJECT
(RDP)	REVIEW OF DEFERRED PROJECT
(COMP)	COMPREHENSIVE
(SPEC)	SPECIAL

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ALABAMA		
(N)	BAYOU LA BATRE, AL	1,000,000	1,000,000
(N)	BLACK WARRIOR AND TOMBIGBEE RIVERS, VICINITY OF JACKSO	500,000	500,000
(N)	TENNESSEE - TOMBIGBEE WATERWAY WILDLIFE MITIGATION, AL	12,400,000	12,400,000
	ALASKA		
(N)	HOMER SPIT, REPAIR AND EXTENSION, AK	---	3,800,000
(N)	KODIAK HARBOR, AK	3,000,000	3,000,000
	ARIZONA		
(FC)	CLIFTON, AZ	900,000	900,000
(FC)	HOLBROOK, AZ	2,261,000	2,261,000
(FC)	NOGALES WASH, AZ	75,000	75,000
(FC)	RILLITO RIVER, AZ	4,894,000	4,894,000
	ARKANSAS		
(MP)	DARDANELLE LOCK AND DAM POWERHOUSE, AR (MAJOR REHAB)	3,500,000	3,500,000
(N)	MCCLELLAN - KERR AR RVR NAV SYSTEM, LOCKS AND DAMS, AR	6,000,000	6,000,000
	RED RIVER EMERGENCY BANK PROTECTION, AR	---	6,600,000
	CALIFORNIA		
(FC)	COYOTE AND BERRYESSA CREEKS, CA	12,000,000	12,000,000
(FC)	GUADALUPE RIVER, CA	8,100,000	8,100,000
(FC)	LOS ANGELES COUNTY DRAINAGE AREA, CA	11,367,000	11,367,000
(N)	LOS ANGELES HARBOR, CA	100,000	250,000
	LOWER SACRAMENTO AREA RECONSTRUCTION, CA	---	500,000
(FC)	MARYSVILLE/YUBA CITY LEVEE RECONSTRUCTION, CA	6,000,000	6,000,000
(FC)	MERCED COUNTY STREAMS, CA	700,000	700,000
	MID-VALLEY AREA LEVEE RECONSTRUCTION, CA	---	500,000
(N)	MORRO BAY HARBOR, CA	124,000	124,000
(N)	OAKLAND HARBOR, CA	14,000,000	14,000,000
(N)	RICHMOND HARBOR, CA	3,296,000	3,296,000
(FC)	SACRAMENTO RIVER BANK PROTECTION PROJECT, CA	3,000,000	3,000,000
(N)	SACRAMENTO RIVER DEEPWATER SHIP CHANNEL, CA	100,000	100,000
(FC)	SACRAMENTO RIVER FLOOD CONTROL PROJECT, CA (DEF CORR).	100,000	100,000
	SACRAMENTO RIVER FLOOD CONTROL PROJECT (GCID), CA	---	300,000
(FC)	SACRAMENTO URBAN AREA LEVEE RECONSTRUCTION, CA	1,870,000	1,870,000
	SAN DIEGO RIVER AND MISSION BAY, CA	---	1,900,000
(N)	SAN FRANCISCO BAY TO STOCKTON, CA	800,000	800,000
(FC)	SANTA ANA RIVER MAINSTEM, CA	70,249,000	70,249,000
(FC)	SANTA PAULA CREEK, CA	300,000	2,300,000
(N)	SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT, CA	500,000	500,000
(BE)	SURFSIDE - SUNSET - NEWPORT BEACH, CA	100,000	100,000
(FC)	WEST SACRAMENTO, CA	7,000,000	7,000,000
(FC)	WILDCAT AND SAN PABLO CREEKS, CA	1,240,000	1,240,000
(E)	YOLO BASIN WETLANDS, SACRAMENTO RIVER, CA	720,000	720,000
	COLORADO		
(FC)	ALAMOSA, CO	600,000	600,000
	FLORIDA		
	BROWARD COUNTY, FL	---	450,000
(FC)	CENTRAL AND SOUTHERN FLORIDA, FL	3,726,000	4,026,000
(FC)	DADE COUNTY, FL	1,300,000	1,300,000
(N)	FORT PIERCE HARBOR, FL	2,590,000	2,590,000
(MP)	JIM WOODRUFF LOCK AND DAM POWERHOUSE, FL & GA (MAJOR R	600,000	600,000
(BE)	LEE COUNTY, FL (REIMBURSEMENT)	600,000	600,000
(N)	MANATEE HARBOR, FL	1,450,000	1,450,000
(BE)	MARTIN COUNTY, FL	3,202,000	3,202,000
(N)	MIAMI HARBOR CHANNEL, FL	1,000,000	1,000,000
	PINELLAS COUNTY, FL	---	3,000,000
(BE)	SARASOTA COUNTY, FL	4,400,000	4,400,000
	ST JOHNS COUNTY (ST AUGUSTINE BEACH), FL	---	350,000
	GEORGIA		
(MP)	HARTWELL LAKE POWERHOUSE, GA & SC (MAJOR REHAB)	1,400,000	1,400,000
(MP)	RICHARD B RUSSELL DAM AND LAKE, GA & SC	4,400,000	4,400,000
(MP)	THURMOND LAKE POWERHOUSE, GA & SC (MAJOR REHAB)	2,200,000	2,200,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	ILLINOIS		
(FC)	EAST ST LOUIS, IL	3,700,000	3,700,000
(N)	FOUR LOCKS, ILLINOIS WATERWAY, IL (MAJOR REHAB)	3,254,000	3,254,000
(N)	LOCK AND DAM 24, MISSISSIPPI RIVER, IL & MO (MAJOR REH	2,000,000	2,000,000
(N)	LOCK AND DAM 25, MISSISSIPPI RIVER, IL & MO (MAJOR REH	4,300,000	4,300,000
(FC)	LOVES PARK, IL	750,000	750,000
(N)	MELVIN PRICE LOCK AND DAM, IL & MO	2,400,000	2,400,000
(N)	OLMSTED LOCKS AND DAM, IL & KY	32,100,000	32,100,000
(FC)	REND LAKE, IL (DEF CORR)	300,000	300,000
(N)	UPPER MISS RIVER SYSTEM ENV MGMT PROG, IL, IA, MO, MN.	19,455,000	19,455,000
	INDIANA		
(N)	BURNS WATERWAY HARBOR, IN (MAJOR REHAB)	4,000,000	4,000,000
(FC)	FORT WAYNE METROPOLITAN AREA, IN	4,000,000	4,000,000
	INDIANA SHORELINE EROSION, IN	---	1,500,000
	INDIANAPOLIS CENTRAL WATERFRONT, IN	---	2,000,000
(FC)	LITTLE CALUMET RIVER, IN	5,000,000	5,000,000
	OHIO RIVER FLOOD PROTECTION, IN	---	1,000,000
	IOWA		
(N)	LOCK AND DAM 14, MISSISSIPPI RIVER, IA (MAJOR REHAB)	700,000	700,000
(N)	MISSOURI RIVER FISH AND WILDLIFE MITIGATION, IA, NE, K	5,700,000	5,700,000
(FC)	MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS & MO	125,000	125,000
(FC)	MUSCATINE ISLAND, IA	220,000	220,000
(FC)	PERRY CREEK, IA	168,000	168,000
(FC)	WEST DES MOINES, DES MOINES, IA	4,040,000	4,040,000
	KANSAS		
	ARKANSAS CITY, KS	---	700,000
	WINFIELD, KS	---	670,000
	KENTUCKY		
(MP)	BARKLEY DAM AND LAKE BARKLEY, KY	1,600,000	1,600,000
(FC)	DEWEY LAKE, KY (DAM SAFETY)	1,400,000	1,400,000
(FC)	FRANKFORT, SOUTH FRANKFORT, KY	2,623,000	2,623,000
	MCALPINE LOCK AND DAM, KY, IN	---	3,487,000
	SALYERSVILLE, KY	---	500,000
	LOUISIANA		
	LAKE PONTCHARTRAIN STORM WATER DISCHARGE, LA	---	850,000
(FC)	ALOHA - RIGOLETTE, LA	2,379,000	2,379,000
(FC)	LAKE PONTCHARTRAIN AND VICINITY, LA (HURRICANE PROTECT	7,848,000	13,348,000
(FC)	LAROSE TO GOLDEN MEADOW, LA (HURRICANE PROTECTION)	1,440,000	1,440,000
(N)	MISSISSIPPI RIVER - GULF OUTLET, LA	3,200,000	3,200,000
(FC)	NEW ORLEANS TO VENICE, LA (HURRICANE PROTECTION)	3,360,000	3,360,000
	OUACHITA RIVER LEVEES, LA	---	2,300,000
	RED RIVER BELOW DENISON DAM, LA, AR, TX	---	2,500,000
(N)	RED RIVER WATERWAY, MISSISSIPPI RIVER TO SHREVEPORT, L	16,673,000	16,673,000
	SOUTHEAST LOUISIANA, LA	---	2,000,000
(FC)	WESTWEGO TO HARVEY CANAL, LA (HURRICANE PROTECTION)	1,000,000	1,000,000
	MARYLAND		
	BALTIMORE HARBOR AND CHANNELS, MD	---	339,000
(E)	CHESAPEAKE BAY OYSTER RECOVERY, MD	230,000	230,000
	MASSACHUSETTS		
	ROUGHANS PT, REVERE, MA	---	710,000
(FC)	TOWN BROOK, QUINCY AND BRAINTREE, MA	990,000	990,000
	MICHIGAN		
	CEDAR RIVER HARBOR, MI	---	82,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	MINNESOTA		
(FC)	CHASKA, MN	3,740,000	3,740,000
	MARSHALL, MN	---	850,000
	MISSISSIPPI		
(N)	PASCAGOULA HARBOR, MS	2,812,000	2,812,000
(FC)	TOMBIGBEE RIVER AND TRIBUTARIES, MS & AL	4,686,000	4,686,000
	MISSOURI		
(FC)	BLUE RIVER CHANNEL, KANSAS CITY, MO	9,600,000	9,600,000
(FC)	CAPE GIRARDEAU - JACKSON, MO	200,000	200,000
(N)	MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO	5,700,000	4,700,000
	STE GENEVIEVE, MO	---	1,000,000
	NEBRASKA		
(FC)	MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD	20,000	20,000
	NEVADA		
(FC)	TROPICANA AND FLAMINGO WASHES, NV	4,000,000	4,000,000
	NEW JERSEY		
(FC)	MOLLY ANN'S BROOK AT HALEDON, PROSPECT PARK AND PATERS	3,750,000	3,750,000
(N)	NEW YORK HARBOR & ADJACENT CHANNELS, PORT JERSEY CHANN	550,000	550,000
(FC)	RAMAPO RIVER AT OAKLAND,NJ	70,000	70,000
(N)	SALEM RIVER, NJ	3,576,000	3,576,000
(BE)	SANDY HOOK TO BARNEGAT INLET, NJ	15,700,000	15,700,000
	NEW MEXICO		
(FC)	ABIQUIU DAM EMERGENCY GATES, NM	1,200,000	1,200,000
(FC)	ACEQUIAS IRRIGATION SYSTEM, NM	120,000	1,500,000
(FC)	ALAMOGORDO, NM	100,000	100,000
	NEW YORK		
(BE)	EAST ROCKAWAY INLET TO ROCKAWAY INLET AND JAMAICA BAY,	6,100,000	6,100,000
(BE)	FIRE ISLAND INLET TO MONTAUK POINT, NY	10,400,000	10,400,000
(N)	NEW YORK HARBOR COLLECTION AND REMOVAL OF DRIFT, NY &.	100,000	100,000
(FC)	NORTH ELLENVILLE, NY (DEF CORR)	4,015,000	4,015,000
	NORTH CAROLINA		
(N)	AIWW - REPLACEMENT OF FEDERAL HIGHWAY BRIDGES, NC	6,500,000	5,600,000
(FC)	CAROLINA BEACH AND VICINITY, NC	3,300,000	3,300,000
(BE)	FORT FISHER, NC	2,094,000	2,094,000
	NORTH DAKOTA		
(FC)	HOMME LAKE, ND (DAM SAFETY)	200,000	200,000
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND (DAM SAFETY)	4,700,000	4,700,000
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND (MAJOR REHAB)	853,000	853,000
(FC)	SHEYENNE RIVER, ND	500,000	500,000
	OHIO		
	HOLES CREEK, WEST CARROLLTON, OH	---	190,000
(FC)	WEST COLUMBUS, OH	2,800,000	2,800,000
	OKLAHOMA		
(FC)	FRY CREEKS, BIXBY, OK	1,700,000	1,700,000
(FC)	MINGO CREEK, TULSA, OK	4,400,000	4,400,000
(MP)	TENKILLER FERRY LAKE, OK (DAM SAFETY)	530,000	530,000
	OREGON		
(MP)	BONNEVILLE POWERHOUSE PHASE I, OR & WA (MAJOR REHAB)	8,530,000	8,530,000
(MP)	BONNEVILLE POWERHOUSE PHASE II, OR & WA (MAJOR REHAB)	7,000,000	7,000,000
	COLUMBIA RIVER IN-LIEU INDIAN FISHING SITES, OR & WA	---	1,720,000
(FC)	ELK CREEK LAKE, OR	500,000	500,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	PENNSYLVANIA		
	BROAD TOP REGION, PA	---	4,100,000
(FC)	JOHNSTOWN, PA (MAJOR REHAB)	1,230,000	1,230,000
	GLEN FOERD, PA	---	200,000
(FC)	LACKAWANNA RIVER, OLYPHANT, PA	240,000	240,000
(FC)	LACKAWANNA RIVER, SCRANTON, PA	357,000	357,000
(N)	LOCKS AND DAMS 2, 3 & 4, MONONGAHELA RIVER, PA	15,000,000	15,000,000
(BE)	PRESQUE ISLE PENINSULA, PA (PERMANENT)	450,000	450,000
	SOUTH CENTRAL PENN ENVIRONMENTAL RESTORATION, PA	---	3,500,000
(FC)	TURTLE CREEK, PA	1,964,000	1,964,000
(FC)	WYOMING VALLEY, PA (LEVEE RAISING)	4,300,000	4,300,000
	PUERTO RICO		
(FC)	PORTUGUES AND BUCANA RIVERS, PR	12,451,000	12,451,000
(FC)	RIO DE LA PLATA, PR	250,000	250,000
(FC)	RIO PUERTO NUEVO, PR	7,000,000	7,000,000
	SOUTH CAROLINA		
(BE)	MYRTLE BEACH, SC	17,000,000	17,000,000
	TENNESSEE		
(MP)	CENTER HILL DAM, TN (DAM SAFETY)	904,000	904,000
	TEXAS		
(FC)	BEALS CREEK, BIG SPRING, TX	1,916,000	1,916,000
(N)	CHANNEL TO VICTORIA, TX	3,100,000	3,100,000
(FC)	EL PASO, TX	400,000	400,000
(N)	GIWW - SARGENT BEACH, TX	20,000,000	20,000,000
(FC)	MCGRATH CREEK, WICHITA FALLS, TX	110,000	110,000
(FC)	RAY ROBERTS LAKE, TX	3,500,000	3,500,000
(MP)	SAM RAYBURN DAM AND RESERVOIR, TX (DAM SAFETY)	9,474,000	9,474,000
(FC)	SAN ANTONIO CHANNEL IMPROVEMENT, TX	7,097,000	7,097,000
(FC)	SIMS BAYOU, HOUSTON, TX	12,000,000	12,000,000
(FC)	WACO LAKE, TX (DAM SAFETY)	300,000	300,000
	WALLISVILLE LAKE, TX	---	5,000,000
	VIRGINIA		
(FC)	JAMES R OLIN FLOOD CONTROL PROJECT, VA	7,400,000	7,400,000
(N)	NORFOLK HARBOR AND CHANNELS (DEEPENING), VA	600,000	600,000
(FC)	ROANOKE RIVER UPPER BASIN, HEADWATERS AREA, VA	400,000	400,000
	VIRGINIA BEACH, VA	---	1,100,000
(BE)	VIRGINIA BEACH, VA (REIMBURSEMENT)	925,000	925,000
	WASHINGTON		
(FC)	CHEHALIS RIVER, SOUTH ABERDEEN AND COSMOPOLIS, WA	1,377,000	1,377,000
(MP)	COLUMBIA RIVER JUVENILE FISH MITIGATION, WA, OR & ID	78,800,000	78,800,000
(FC)	HOWARD HANSON DAM, WA (DAM SAFETY)	1,587,000	1,587,000
(MP)	LOWER SNAKE RIVER FISH & WILDLIFE COMPENSATION, WA, OR	8,000,000	8,000,000
	WEST VIRGINIA		
(FC)	LEVISA AND TUG FORKS AND UPPER CUMBERLAND RIVER, WV, V	6,300,000	26,200,000
(FC)	MOOREFIELD, WV	4,200,000	4,200,000
(FC)	PETERSBURG, WV	7,900,000	7,900,000
(N)	ROBERT C BYRD LOCKS AND DAM, OHIO RIVER, WV & OH	10,000,000	10,000,000
(N)	WINFIELD LOCKS AND DAM, WV	11,840,000	11,840,000

CORPS OF ENGINEERS - CONSTRUCTION, GENERAL

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
	WISCONSIN		
	PORTAGE, WI	---	250,000
	MISCELLANEOUS		
	AQUATIC PLANT CONTROL PROGRAM	---	4,000,000
	BEACH EROSION CONTROL PROJECTS (SECTION 103)	3,000,000	1,500,000
	CLEARING AND SNAGGING (SECTION 208)	500,000	300,000
	DAM SAFETY ASSURANCE PROGRAM	2,000,000	2,000,000
	EMERGENCY STREAMBANK & SHORELINE PROTECTION (SEC. 14)	10,000,000	7,000,000
	EMPLOYEES' COMPENSATION	18,984,000	18,984,000
	FLOOD CONTROL PROJECTS (SECTION 205)	22,000,000	17,000,000
	INLAND WATERWAYS USERS BOARD - BOARD EXPENSES	40,000	40,000
	INLAND WATERWAYS USERS BOARD - CORPS EXPENSES	185,000	185,000
	NAVIGATION MITIGATION (SECTION 111)	500,000	600,000
	NAVIGATION PROJECTS (SECTION 107)	5,000,000	3,500,000
	PROJECT MODIFICATIONS FOR IMPROVEMENT OF THE ENVIRONME	24,280,000	10,850,000
	WETLAND AND AQUATIC HABITAT CREATION	15,000,000	2,500,000
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-33,401,000	-62,201,000
	TOTAL, CONSTRUCTION GENERAL	785,125,000	804,573,000

TYPE OF PROJECT:
(N) NAVIGATION
(BE) BEACH EROSION CONTROL
(FC) FLOOD CONTROL
(MP) MULTIPURPOSE, INCLUDING POWER

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	GENERAL INVESTIGATIONS		
	SURVEYS:		
	GENERAL STUDIES:		
(FDP)	MORGANZA, LA TO THE GULF OF MEXICO	500,000	500,000
(FDP)	MISSISSIPPI DELTA, MS	1,800,000	1,800,000
(FDP)	REELFOOT LAKE, TN	238,000	238,000
	COLLECTION AND STUDY OF BASIC DATA	325,000	325,000
	PRECONSTRUCTION ENGINEERING AND DESIGN:		
(FC)	EASTERN ARKANSAS REGION (COMPREHENSIVE STUDY), AR	2,200,000	2,200,000
(FC)	LOWER WHITE RIVER, BIG CREEK & TRIBUTARIES, AR	200,000	200,000
	LOUISIANA STATE PENITENTIARY LEVEE, LA	---	100,000
	SUBTOTAL, GENERAL INVESTIGATIONS	5,263,000	5,363,000
	CONSTRUCTION		
(FC)	CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN	63,090,000	61,000,000
(FC)	EIGHT MILE CREEK, AR	580,000	580,000
(FC)	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	32,450,000	30,000,000
(FC)	ST FRANCIS BASIN, AR & MO	10,000,000	10,000,000
(FC)	TENSAS BASIN, RED RIVER BACKWATER, LA	11,294,000	11,294,000
(FC)	WHITEMAN'S CREEK, AR	850,000	850,000
(FC)	ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA	5,300,000	5,300,000
(FC)	ATCHAFALAYA BASIN, LA	27,000,000	27,000,000
(FC)	MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MS & LA	1,500,000	1,500,000
(FC)	MISSISSIPPI DELTA REGION, LA	13,300,000	13,300,000
(FC)	HORN LAKE CREEK & TRIBUTARIES (INCL COW PEN CREEK), MS	148,000	148,000
	YAZOO BASIN, MS:	(47,928,000)	(47,928,000)
(FC)	BIG SUNFLOWER RIVER, MS	8,920,000	8,920,000
(FC)	DEMONSTRATION EROSION CONTROL, MS	22,000,000	22,000,000
(FC)	F&WL MITIGATION LANDS, MS	25,000	25,000
(FC)	MAIN STEM, MS	25,000	25,000
(FC)	REFORMULATION UNIT, MS	2,810,000	2,810,000
(FC)	TRIBUTARIES, MS	2,948,000	2,948,000
(FC)	UPPER YAZOO PROJECTS, MS	11,200,000	11,200,000
(FC)	NONCONNAH CREEK, TN & MS	1,600,000	1,600,000
(FC)	WEST TENNESSEE TRIBUTARIES, TN	2,900,000	2,900,000
	SUBTOTAL, CONSTRUCTION	217,940,000	213,400,000
	MAINTENANCE		
(FC)	CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN	61,825,000	56,000,000
(FC)	LOWER ARKANSAS RIVER - NORTH BANK, AR	146,000	146,000
(FC)	LOWER ARKANSAS RIVER - SOUTH BANK, AR	115,000	115,000
(FC)	MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	5,630,000	5,630,000
(FC)	ST FRANCIS RIVER BASIN, AR & MO	9,363,000	9,363,000
(FC)	TENSAS BASIN, BOEUF AND TENSAS RIVERS, AR & LA	2,528,000	2,528,000
(FC)	WHITE RIVER BACKWATER, AR	1,258,000	1,258,000
(FC)	ATCHAFALAYA BASIN FLOODWAY SYSTEM, LA	206,000	206,000
(FC)	ATCHAFALAYA BASIN, LA	13,341,000	13,341,000
(FC)	BATON ROUGE HARBOR - DEVIL SWAMP, LA	150,000	150,000
(FC)	BAYOU COCODRIE AND TRIBUTARIES, LA	87,000	87,000
(FC)	BONNET CARRE, LA	875,000	875,000
(FC)	LOWER RED RIVER - SOUTH BANK LEVEES, LA	77,000	77,000
(FC)	MISSISSIPPI DELTA REGION, CAERNARVON, LA	415,000	415,000
(FC)	OLD RIVER, LA	4,821,000	4,821,000
(FC)	TENSAS BASIN, RED RIVER BACKWATER, LA	2,740,000	2,740,000
(N)	GREENVILLE HARBOR, MS	258,000	258,000
(N)	VICKSBURG HARBOR, MS	223,000	223,000
	YAZOO BASIN, MS:	(22,638,000)	(22,638,000)
(FC)	ARKABUTLA LAKE, MS	3,500,000	3,500,000
(FC)	BIG SUNFLOWER RIVER, MS	2,012,000	2,012,000
(FC)	ENID LAKE, MS	3,500,000	3,500,000
(FC)	GREENWOOD, MS	860,000	860,000
(FC)	GRENADA LAKE, MS	4,329,000	4,329,000
(FC)	MAIN STEM, MS	1,390,000	1,390,000
(FC)	SARDIS LAKE, MS	4,200,000	4,200,000
(FC)	TRIBUTARIES, MS	1,135,000	1,135,000
(FC)	WILL M WHITTINGTON AUX CHAN, MS	474,000	474,000
(FC)	YAZOO BACKWATER AREA, MS	529,000	529,000
(FC)	YAZOO CITY, MS	709,000	709,000
(FC)	WAPPAPELLO LAKE, MO	3,601,000	3,601,000
(N)	MEMPHIS HARBOR (MCKELLAR LAKE), TN	1,415,000	1,415,000
(FC)	INSPECTION OF COMPLETED WORKS	1,368,000	1,368,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	MAPPING	1,008,000	1,008,000
	SUBTOTAL, MAINTENANCE	134,188,000	128,363,000
	REDUCTION FOR SAVINGS AND SLIPPAGE	-38,141,000	-39,241,000
	TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	319,250,000	307,885,000

TYPE OF PROJECT:
(N) NAVIGATION
(FC) FLOOD CONTROL

ALABAMA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	ALABAMA - COOSA RIVER, AL	5,668,000	5,668,000
(N)	BAYOU CODEN, AL	231,000	231,000
(N)	BAYOU LA BATRE, AL	455,000	455,000
(N)	BLACK WARRIOR AND TOMBIGBEE RIVERS, AL	16,820,000	16,820,000
(N)	BON SECOUR RIVER, AL	551,000	551,000
(N)	DAUPHIN ISLAND BAY, AL	252,000	252,000
(N)	DOG AND FOWL RIVERS, AL	505,000	505,000
(N)	FLY CREEK, AL	249,000	249,000
(N)	GULF INTRACOASTAL WATERWAY, AL	3,172,000	3,172,000
(MP)	MILLERS FERRY LOCK & DAM - WILLIAM "BILL" DANNELLY LAK	5,156,000	5,156,000
(N)	MOBILE HARBOR, AL	17,780,000	17,780,000
(N)	PERDIDO PASS CHANNEL, AL	350,000	350,000
(MP)	ROBERT F HENRY LOCK AND DAM, AL	3,688,000	3,688,000
(N)	TENNESSEE - TOMBIGBEE WATERWAY, AL & MS	21,090,000	21,090,000
(MP)	WALTER F GEORGE LOCK AND DAM, AL & GA	6,434,000	6,434,000

ALASKA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	ANCHORAGE HARBOR, AK	1,380,000	1,380,000
(FC)	CHENA RIVER LAKES, AK	1,649,000	1,649,000
(N)	DILLINGHAM HARBOR, AK	599,000	599,000
(N)	HOMER HARBOR, AK	265,000	265,000
(N)	KETCHIKAN, THOMAS BASIN, AK	564,000	564,000
(N)	NINILCHIK HARBOR, AK	182,000	182,000
(N)	NOME HARBOR, AK	305,000	305,000
	VALDEZ HARBOR, AK	---	275,000

ARIZONA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	ALAMO LAKE, AZ	1,167,000	1,167,000
(FC)	PAINTED ROCK DAM, AZ	3,736,000	3,736,000
(FC)	WHITLOW RANCH DAM, AZ	112,000	112,000

ARKANSAS

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(MP)	BEAVER LAKE, AR	3,983,000	3,983,000
(MP)	BLAKELY MT DAM - LAKE OUACHITA, AR	4,640,000	4,640,000
(FC)	BLUE MOUNTAIN LAKE, AR	1,153,000	1,153,000
(MP)	BULL SHOALS LAKE, AR	4,575,000	4,575,000
(MP)	DARDANELLE LOCK AND DAM, AR	6,385,000	6,385,000
(MP)	DEGRAY LAKE, AR	4,189,000	4,189,000
(FC)	DEQUEEN LAKE, AR	1,096,000	1,096,000
(FC)	DIERKS LAKE, AR	997,000	997,000
(FC)	GILLHAM LAKE, AR	1,006,000	1,006,000
(MP)	GREERS FERRY LAKE, AR	4,447,000	4,447,000
(N)	HELENA HARBOR, AR	500,000	500,000
(N)	MCCLELLAN - KERR ARKANSAS RIVER NAVIGATION SYSTEM, AR	25,248,000	25,248,000
(FC)	MILLWOOD LAKE, AR	1,789,000	1,789,000
(MP)	NARROWS DAM - LAKE GREESON, AR	3,524,000	3,524,000
(FC)	NIMROD LAKE, AR	1,363,000	1,363,000
(MP)	NORFORK LAKE, AR	3,582,000	3,582,000
(N)	OSCEOLA HARBOR, AR	453,000	453,000
(N)	OUACHITA AND BLACK RIVERS, AR & LA	5,304,000	5,304,000
(MP)	OZARK - JETA TAYLOR LOCK AND DAM, AR	4,175,000	4,175,000
(N)	WHITE RIVER, AR	2,200,000	2,200,000
(N)	YELLOW BEND PORT, AR	142,000	142,000

CALIFORNIA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	BLACK BUTTE LAKE, CA	1,534,000	1,534,000
(FC)	BUCHANAN DAM - H V EASTMAN LAKE, CA	1,529,000	1,529,000
(N)	CHANNEL ISLANDS HARBOR, CA	890,000	890,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	COYOTE VALLEY DAM (LAKE MENDOCINO), CA	2,410,000	2,410,000
(FC)	DRY CREEK (WARM SPRINGS) LAKE AND CHANNEL, CA	3,172,000	3,172,000
(FC)	FARMINGTON DAM, CA	158,000	158,000
(FC)	HIDDEN DAM - HENSLEY LAKE, CA	1,705,000	1,705,000
(N)	HUMBOLDT HARBOR AND BAY, CA	4,670,000	4,670,000
(FC)	ISABELLA LAKE, CA	702,000	702,000
(N)	LOS ANGELES - LONG BEACH HARBOR MODEL, CA	160,000	160,000
(FC)	LOS ANGELES COUNTY DRAINAGE AREA, CA	3,413,000	3,413,000
	LOS ANGELES RIVER, CA	---	600,000
(FC)	MERCED COUNTY STREAM GROUP, CA	172,000	172,000
(FC)	MOJAVE RIVER DAM, CA	217,000	217,000
(N)	MORRO BAY HARBOR, CA	2,580,000	2,580,000
(N)	MOSS LANDING HARBOR, CA	845,000	845,000
(FC)	NEW HOGAN LAKE, CA	1,529,000	1,529,000
(MP)	NEW MELONES LAKE (DOWNSTREAM CHANNEL), CA	893,000	893,000
	NEWPORT BAY HARBOR, CA	---	1,265,000
(N)	OAKLAND HARBOR, CA	2,205,000	2,205,000
(N)	OCEANSIDE HARBOR, CA	1,045,000	1,045,000
	OCEANSIDE HARBOR SAND BYPASS, CA	---	750,000
(N)	PETALUMA RIVER, CA	1,690,000	1,690,000
	PILLAR POINT HARBOR, CA	---	400,000
(FC)	PINE FLAT LAKE, CA	2,451,000	2,451,000
(N)	PORT HUENEME, CA	135,000	135,000
(N)	REDWOOD CITY HARBOR, CA	2,600,000	2,600,000
(N)	RICHMOND HARBOR, CA	6,481,000	6,481,000
(N)	SACRAMENTO RIVER (30 FOOT PROJECT), CA	457,000	457,000
(N)	SACRAMENTO RIVER AND TRIBUTARIES (DEBRIS CONTROL), CA.	872,000	872,000
(N)	SACRAMENTO RIVER SHALLOW DRAFT CHANNEL, CA	117,000	117,000
(N)	SAN DIEGO HARBOR, CA	1,085,000	1,085,000
(N)	SAN FRANCISCO BAY - DELTA MODEL STRUCTURE, CA	2,000,000	2,000,000
(N)	SAN FRANCISCO BAY LONG TERM MANAGEMENT STRATEGY, CA	150,000	150,000
(N)	SAN FRANCISCO HARBOR AND BAY (DRIFT REMOVAL), CA	2,195,000	2,195,000
(N)	SAN FRANCISCO HARBOR, CA	1,825,000	1,825,000
(N)	SAN JOAQUIN RIVER, CA	1,659,000	1,659,000
(N)	SAN PABLO BAY AND MARE ISLAND STRAIT, CA	1,080,000	1,080,000
(FC)	SANTA ANA RIVER BASIN, CA	2,889,000	2,889,000
(N)	SANTA BARBARA HARBOR, CA	1,038,000	1,038,000
(FC)	SUCCESS LAKE, CA	2,358,000	2,358,000
(N)	SUISUN BAY CHANNEL, CA	665,000	665,000
(FC)	TERMINUS DAM (LAKE KAWEAH), CA	1,474,000	1,474,000
(N)	VENTURA HARBOR, CA	2,288,000	2,288,000
(N)	YUBA RIVER, CA	30,000	30,000
	COLORADO		
(FC)	BEAR CREEK LAKE, CO	429,000	429,000
(FC)	CHATFIELD LAKE, CO	1,000,000	1,000,000
(FC)	CHERRY CREEK LAKE, CO	978,000	978,000
(FC)	JOHN MARTIN RESERVOIR, CO	1,475,000	1,475,000
(FC)	TRINIDAD LAKE, CO	609,000	609,000
	CONNECTICUT		
(FC)	BLACK ROCK LAKE, CT	249,000	249,000
(FC)	COLEBROOK RIVER LAKE, CT	375,000	375,000
(FC)	HANCOCK BROOK LAKE, CT	264,000	264,000
(FC)	HOP BROOK LAKE, CT	724,000	724,000
(FC)	MANSFIELD HOLLOW LAKE, CT	349,000	349,000
(FC)	NORTHFIELD BROOK LAKE, CT	325,000	325,000
(FC)	STAMFORD HURRICANE BARRIER, CT	245,000	245,000
(N)	STONY CREEK, CT	412,000	412,000
(FC)	THOMASTON DAM, CT	471,000	471,000
(FC)	WEST THOMPSON LAKE, CT	486,000	486,000
	DELAWARE		
(N)	CHESAPEAKE AND DELAWARE CANAL - ST GEORGE'S BRIDGE REP	14,000,000	14,000,000
(N)	INTRACOASTAL WATERWAY, DELAWARE R TO CHESAPEAKE BAY, D	16,090,000	16,090,000
(N)	MURDERKILL RIVER, DE	40,000	40,000
(N)	WILMINGTON HARBOR, DE	2,513,000	2,513,000
	DISTRICT OF COLUMBIA		
(N)	POTOMAC AND ANACOSTIA RIVERS (DRIFT REMOVAL), DC	785,000	785,000
(N)	WASHINGTON HARBOR, DC	35,000	35,000
	FLORIDA		
(N)	AIWW, NORFOLK TO ST JOHNS RIVER, FL, GA, SC, NC & VA.	75,000	75,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	APALACHICOLA BAY, FL	187,000	187,000
(N)	CANAVERAL HARBOR, FL	4,736,000	4,736,000
(FC)	CENTRAL AND SOUTHERN FLORIDA, FL	9,846,000	9,846,000
(N)	CHARLOTTE HARBOR, FL	3,275,000	3,275,000
(N)	EAST PASS CHANNEL, FL	886,000	886,000
(N)	FERNANDINA HARBOR, FL	1,623,000	1,623,000
(N)	FORT PIERCE HARBOR, FL	712,000	712,000
(N)	INTRACOASTAL WATERWAY, CALOOSAHATCHEE R TO ANCLOTE R,	221,000	221,000
(N)	INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, FL	3,293,000	3,293,000
(N)	JACKSONVILLE HARBOR, FL	4,119,000	4,119,000
(MP)	JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA.	5,111,000	5,111,000
(N)	JOHNS PASS, PINELLAS COUNTY, FL	400,000	400,000
(N)	MIAMI HARBOR, FL	295,000	295,000
(N)	NEW PASS, SARASOTA, FL	1,086,000	1,086,000
(N)	OKEECHOBEE WATERWAY, FL	3,933,000	3,933,000
(N)	OKLAWAHA RIVER, FL	127,000	127,000
(N)	PALM BEACH HARBOR, FL	1,459,000	1,459,000
(N)	PANAMA CITY HARBOR, FL	717,000	717,000
(N)	PONCE DE LEON INLET, FL	2,147,000	2,147,000
(N)	PORT ST JOE HARBOR, FL	72,000	72,000
	REMOVAL OF AQUATIC GROWTH, FL	3,700,000	3,700,000
(N)	ST AUGUSTINE HARBOR, FL	4,000	804,000
(N)	ST LUCIE INLET, FL	85,000	85,000
(N)	TAMPA HARBOR, FL	3,744,000	3,744,000
(N)	WITHLACOOCHIE RIVER, FL	34,000	34,000
	GEORGIA		
(MP)	ALLATOONA LAKE, GA	5,894,000	5,894,000
(N)	APALACHICOLA CHATTAHOOCHEE AND FLINT RIVERS, GA, AL &.	4,321,000	4,321,000
(N)	ATLANTIC INTRACOASTAL WATERWAY, GA	1,916,000	1,916,000
(N)	BRUNSWICK HARBOR, GA	3,411,000	3,411,000
(MP)	BUFORD DAM AND LAKE SIDNEY LANIER, GA	7,377,000	7,377,000
(MP)	CARTERS DAM AND LAKE, GA	5,218,000	5,218,000
(MP)	HARTWELL LAKE, GA & SC	10,364,000	10,364,000
(MP)	J STROM THURMOND LAKE, GA & SC	9,480,000	9,480,000
(MP)	RICHARD B RUSSELL, GA	7,307,000	7,307,000
(N)	SAVANNAH HARBOR, GA	8,377,000	8,377,000
(N)	SAVANNAH RIVER BELOW AUGUSTA, GA	2,475,000	2,475,000
(MP)	WEST POINT DAM AND LAKE, GA & AL	5,114,000	5,114,000
	HAWAII		
(N)	BARBERS POINT HARBOR, HI	143,000	143,000
(FC)	IAO STREAM FLOOD CONTROL, MAUI, HI	480,000	480,000
	IDAHO		
(MP)	ALBENI FALLS DAM, ID	4,467,000	4,467,000
(MP)	DWORSHAK DAM AND RESERVOIR, ID	9,144,000	9,144,000
(FC)	LUCKY PEAK LAKE, ID	1,054,000	1,054,000
	ILLINOIS		
(N)	ANDALUSIA HARBOR, IL	71,000	71,000
(N)	CALUMET HARBOR AND RIVER, IL & IN	600,000	600,000
(FC)	CARLYLE LAKE, IL	3,715,000	3,715,000
(N)	CHICAGO HARBOR, IL	2,545,000	2,545,000
(N)	CHICAGO RIVER, IL	610,000	610,000
(FC)	FARM CREEK RESERVOIRS, IL	273,000	273,000
(N)	ILLINOIS AND MISSISSIPPI CANAL, IL	465,000	465,000
(N)	ILLINOIS WATERWAY (LMVD PORTION), IL	1,440,000	1,440,000
(N)	ILLINOIS WATERWAY (NCD PORTION), IL & IN	20,844,000	20,844,000
(N)	KASKASKIA RIVER NAVIGATION, IL	1,717,000	1,717,000
(N)	LAKE MICHIGAN DIVERSION, IL	645,000	645,000
(FC)	LAKE SHELBYVILLE, IL	6,399,000	6,399,000
(N)	MISS R BETWEEN MO R AND MINNEAPOLIS (LMVD PORTION), IL	12,437,000	12,437,000
(N)	MISS R BETWEEN MO R AND MINNEAPOLIS, IL, IA, MN, MO &.	73,347,000	73,347,000
(FC)	REND LAKE, IL	3,434,000	3,434,000
(N)	ROCK ISLAND SMALL BOAT HARBOR, IL	123,000	123,000
(N)	WAUKEGAN HARBOR, IL	970,000	970,000
	INDIANA		
(FC)	BEVERLY SHORES, IN	35,000	35,000
(FC)	BROOKVILLE LAKE, IN	711,000	711,000
(N)	BURNS WATERWAY HARBOR, IN	1,545,000	1,545,000
(N)	BURNS WATERWAY SMALL BOAT HARBOR, IN	95,000	95,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	CAGLES MILL LAKE, IN	625,000	625,000
(FC)	CECIL M HARDEN LAKE, IN	762,000	762,000
(FC)	HUNTINGTON LAKE, IN	643,000	643,000
(N)	INDIANA HARBOR, IN	320,000	320,000
(N)	MICHIGAN CITY HARBOR, IN	540,000	540,000
(FC)	MISSISSINEWA LAKE, IN	1,073,000	1,073,000
(FC)	MONROE LAKE, IN	680,000	680,000
(FC)	PATOKA LAKE, IN	790,000	790,000
(FC)	SALAMONIE LAKE, IN	807,000	807,000
	IOWA		
(FC)	CORALVILLE LAKE, IA	2,654,000	2,654,000
(FC)	MISSOURI RIVER - KENSLERS BEND, NE TO SIOUX CITY, IA	61,000	61,000
(N)	MISSOURI RIVER - SIOUX CITY TO MOUTH, IA, NE, KS & MO.	6,068,000	6,068,000
(FC)	RATHBUN LAKE, IA	2,028,000	2,028,000
(FC)	RED ROCK DAM - LAKE RED ROCK, IA	3,539,000	3,539,000
(FC)	SAYLORVILLE LAKE, IA	4,956,000	4,956,000
	KANSAS		
(FC)	CLINTON LAKE, KS	2,014,000	2,014,000
(FC)	COUNCIL GROVE LAKE, KS	1,038,000	1,038,000
(FC)	EL DORADO LAKE, KS	498,000	498,000
(FC)	ELK CITY LAKE, KS	765,000	765,000
(FC)	FALL RIVER LAKE, KS	892,000	892,000
(FC)	HILLSDALE LAKE, KS	1,128,000	1,128,000
(FC)	JOHN REDMOND DAM AND RESERVOIR, KS	2,238,000	2,238,000
(FC)	KANOPOLIS LAKE, KS	1,493,000	1,493,000
(FC)	MARION LAKE, KS	2,533,000	2,533,000
(FC)	MELVERN LAKE, KS	1,567,000	1,567,000
(FC)	MILFORD LAKE, KS	1,886,000	1,886,000
(FC)	PEARSON - SKUBITZ BIG HILL LAKE, KS	893,000	893,000
(FC)	PERRY LAKE, KS	1,919,000	1,919,000
(FC)	POMONA LAKE, KS	1,939,000	1,939,000
(FC)	TORONTO LAKE, KS	330,000	330,000
(FC)	TUTTLE CREEK LAKE, KS	2,202,000	2,202,000
(FC)	WILSON LAKE, KS	1,307,000	1,307,000
	KENTUCKY		
(MP)	BARKLEY DAM AND LAKE BARKLEY, KY	7,026,000	7,026,000
(FC)	BARREN RIVER LAKE, KY	1,898,000	1,898,000
(N)	BIG SANDY HARBOR, KY	1,035,000	1,035,000
(FC)	BUCKHORN LAKE, KY	1,272,000	1,272,000
(FC)	CARR FORK LAKE, KY	1,593,000	1,593,000
(FC)	CAVE RUN LAKE, KY	979,000	979,000
(FC)	DEWEY LAKE, KY	1,092,000	1,092,000
(N)	ELVIS STAHR (HICKMAN) HARBOR, KY	400,000	400,000
(FC)	FISHTRAP LAKE, KY	1,607,000	1,722,000
(FC)	GRAYSON LAKE, KY	986,000	986,000
(N)	GREEN AND BARREN RIVERS, KY	1,378,000	1,378,000
(FC)	GREEN RIVER LAKE, KY	1,904,000	1,904,000
(N)	KENTUCKY RIVER, KY	1,059,000	1,059,000
	KENTUCKY RIVER LOCKS AND DAMS 5-14, KY	---	3,000,000
(MP)	LAUREL RIVER LAKE, KY	1,261,000	1,261,000
(N)	LICKING RIVER OPEN CHANNEL WORK, KY	30,000	30,000
(FC)	MARTINS FORK LAKE, KY	649,000	649,000
(FC)	MIDDLESBORO CUMBERLAND RIVER BASIN, KY	65,000	65,000
(FC)	NOLIN LAKE, KY	1,956,000	1,956,000
(N)	OHIO RIVER LOCKS AND DAMS, KY, IL, IN, OH, PA & WV	53,568,000	53,568,000
(N)	OHIO RIVER OPEN CHANNEL WORK, KY, IL, IN, OH, PA & WV.	6,025,000	6,025,000
(FC)	PAINTSVILLE LAKE, KY	940,000	940,000
(FC)	ROUGH RIVER LAKE, KY	1,780,000	1,780,000
(FC)	TAYLORSVILLE LAKE, KY	963,000	963,000
(MP)	WOLF CREEK DAM - LAKE CUMBERLAND, KY	6,488,000	6,488,000
(FC)	YATESVILLE LAKE, KY	1,033,000	1,033,000
	LOUISIANA		
(N)	ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF AND BLACK, L	12,786,000	12,786,000
(N)	BARATARIA BAY WATERWAY, LA	921,000	921,000
(FC)	BAYOU BODCAU RESERVOIR, LA	504,000	504,000
(N)	BAYOU LAFOURCHE AND LAFOURCHE JUMP WATERWAY, LA	10,000	10,000
(FC)	BAYOU PIERRE, LA	25,000	25,000
(N)	BAYOU TECHE, LA	727,000	727,000
(FC)	CADDO LAKE, LA	159,000	159,000
(N)	CALCASIEU RIVER AND PASS, LA	4,095,000	4,095,000
(N)	FRESHWATER BAYOU, LA	1,659,000	1,659,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	GULF INTRACOASTAL WATERWAY, LA & TX	16,110,000	16,110,000
(N)	HOUMA NAVIGATION CANAL, LA	3,897,000	3,897,000
(N)	LAKE PROVIDENCE HARBOR, LA	292,000	292,000
(N)	MADISON PARISH PORT, LA	37,000	37,000
(N)	MERMENTAU RIVER, LA	2,081,000	2,081,000
(N)	MISSISSIPPI RIVER - BATON ROUGE TO GULF OF MEXICO, LA.	51,837,000	51,837,000
(N)	MISSISSIPPI RIVER - GULF OUTLET, LA	12,054,000	12,054,000
(N)	MISSISSIPPI RIVER OUTLETS AT VENICE, LA	1,645,000	1,645,000
(N)	RED RIVER WATERWAY - MISSISSIPPI RIVER TO SHREVEPORT,	9,714,000	10,714,000
	REMOVAL OF AQUATIC GROWTH, LA	1,865,000	1,865,000
(N)	TANGIPAHOA RIVER, LA	100,000	100,000
(FC)	WALLACE LAKE, LA	186,000	186,000
	MAINE		
(N)	CRIEHAVEN HARBOR, ME	293,000	293,000
	SCARBOROUGH RIVER, ME	---	960,000
	YORK HARBOR, ME	---	714,000
	MARYLAND		
(N)	BALTIMORE HARBOR & CHANNELS, MD (50 FT)	13,425,000	13,425,000
(N)	BALTIMORE HARBOR (DRIFT REMOVAL), MD	455,000	455,000
(N)	BALTIMORE HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS),	520,000	520,000
(N)	BROAD CREEK, MD	360,000	360,000
(N)	CHESTER RIVER, MD	660,000	660,000
(N)	CRISFIELD HARBOR, MD	65,000	65,000
(FC)	CUMBERLAND, MD AND RIDGELEY, WV	104,000	104,000
(N)	FISHING BAY, MD	70,000	70,000
(N)	HERRING CREEK, TALL TIMBERS, MD	40,000	40,000
(FC)	JENNINGS RANDOLPH LAKE, MD & WV	1,604,000	1,764,000
(N)	KNAPPS NARROWS, MD	782,000	782,000
(N)	NANTICOKE RIVER NORTHWEST FORK, MD	260,000	260,000
(N)	OCEAN CITY HARBOR AND INLET AND SINEPUXENT BAY, MD	125,000	125,000
(N)	TWITCH COVE AND BIG THOROFARE RIVER, MD	150,000	150,000
(N)	WICOMICO RIVER, MD	615,000	615,000
	MASSACHUSETTS		
(FC)	BARRE FALLS DAM, MA	342,000	342,000
(FC)	BIRCH HILL DAM, MA	336,000	336,000
(FC)	BUFFUMVILLE LAKE, MA	331,000	331,000
(N)	CAPE COD CANAL, MA	8,087,000	8,087,000
(FC)	CHARLES RIVER NATURAL VALLEY STORAGE AREA, MA	153,000	153,000
(FC)	CONANT BROOK LAKE, MA	236,000	236,000
(FC)	EAST BRIMFIELD LAKE, MA	385,000	385,000
(N)	GREEN HARBOR, MA	364,000	364,000
(FC)	HODGES VILLAGE DAM, MA	339,000	339,000
(FC)	KNIGHTVILLE DAM, MA	355,000	355,000
(FC)	LITTLEVILLE LAKE, MA	326,000	326,000
(FC)	NEW BEDFORD FAIRHAVEN AND ACUSHNET HURRICANE BARRIER,	241,000	241,000
(N)	NEWBURYPORT HARBOR, MA	646,000	646,000
(N)	SCITUATE HARBOR, MA	208,000	208,000
(N)	SESUIT HARBOR, MA	217,000	217,000
(FC)	TULLY LAKE, MA	384,000	384,000
(N)	WELLFLEET HARBOR, MA	1,214,000	1,214,000
(FC)	WEST HILL DAM, MA	479,000	479,000
(FC)	WESTVILLE LAKE, MA	369,000	369,000
	MICHIGAN		
(N)	ALPENA HARBOR, MI	218,000	218,000
(N)	ARCADIA HARBOR, MI	77,000	77,000
(N)	BOLLES HARBOR, MI	29,000	29,000
(N)	CHANNELS IN LAKE ST CLAIR, MI	245,000	245,000
(N)	CHARLEVOIX HARBOR, MI	118,000	118,000
(N)	DETROIT RIVER, MI	4,729,000	4,729,000
(N)	EAGLE HARBOR, MI	60,000	60,000
(N)	FRANKFORT HARBOR, MI	372,000	372,000
(N)	GRAND HAVEN HARBOR, MI	817,000	817,000
(N)	GRAND MARAIS HARBOR, MI	218,000	218,000
(N)	GRAND TRAVERSE BAY HARBOR, MI	123,000	123,000
(N)	GRELICKVILLE, MI	63,000	63,000
(N)	HARBOR BEACH HARBOR, MI	77,000	77,000
(N)	HOLLAND HARBOR, MI	417,000	417,000
(N)	INLAND ROUTE, MI	31,000	31,000
(N)	KEWEENAW WATERWAY, MI	1,641,000	1,641,000
(N)	LELAND HARBOR, MI	280,000	280,000
(N)	LEXINGTON HARBOR, MI	224,000	224,000

CORPS OF ENGINEERS - FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	LITTLE LAKE HARBOR, MI	136,000	136,000
(N)	LUDINGTON HARBOR, MI	495,000	495,000
(N)	MANISTEE HARBOR, MI	440,000	440,000
(N)	MENOMINEE HARBOR, MI & WI	32,000	32,000
(N)	MONROE HARBOR, MI	772,000	772,000
(N)	MUSKEGON HARBOR, MI	805,000	805,000
(N)	ONTONAGON HARBOR, MI	455,000	455,000
(N)	PENTWATER HARBOR, MI	799,000	799,000
(N)	POINT LOOKOUT HARBOR, MI	301,000	301,000
(N)	PORT AUSTIN HARBOR, MI	188,000	188,000
(N)	PORT SANILAC HARBOR, MI	260,000	260,000
(N)	PORTAGE LAKE HARBOR, MI	103,000	103,000
(N)	ROUGE RIVER, MI	297,000	297,000
(N)	SAGINAW RIVER, MI	1,802,000	1,802,000
(N)	SAUGATUCK HARBOR, MI	918,000	918,000
(FC)	SEBEWAING RIVER (ICE JAM REMOVAL), MI	10,000	10,000
(N)	ST CLAIR RIVER, MI	868,000	868,000
(N)	ST JOSEPH HARBOR, MI	1,080,000	1,080,000
(MP)	ST MARYS RIVER, MI	14,962,000	14,962,000
(N)	WHITE LAKE HARBOR, MI	434,000	434,000
	MINNESOTA		
(FC)	BIGSTONE LAKE WHETSTONE RIVER, MN & SD	475,000	475,000
(N)	DULUTH - SUPERIOR HARBOR, MN & WI	3,396,000	3,396,000
(FC)	LAC QUI PARLE LAKES, MINNESOTA RIVER, MN	550,000	550,000
(N)	MINNESOTA RIVER, MN	145,000	145,000
(FC)	ORWELL LAKE, MN	4,077,000	4,077,000
(FC)	RED LAKE RESERVOIR, MN	302,000	302,000
(N)	RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER, MN	3,515,000	3,515,000
	MISSISSIPPI		
(N)	BILOXI HARBOR, MS	461,000	461,000
(N)	CLAIBORNE COUNTY PORT, MS	153,000	153,000
(FC)	EAST FORK, TOMBIGBEE RIVER, MS	203,000	203,000
(N)	GULFPORT HARBOR, MS	2,876,000	2,876,000
(N)	MOUTH OF YAZOO RIVER, MS	113,000	113,000
(FC)	OKATIBBEE LAKE, MS	1,773,000	1,773,000
(N)	PASCAGOULA HARBOR, MS	2,998,000	2,998,000
(N)	PEARL RIVER, MS & LA	280,000	280,000
(N)	ROSEDALE HARBOR, MS	410,000	410,000
(N)	YAZOO RIVER, MS	3,000	3,000
	MISSOURI		
(N)	CARUTHERSVILLE HARBOR, MO	300,000	300,000
(MP)	CLARENCE CANNON DAM AND MARK TWAIN LAKE, MO	5,279,000	5,279,000
(FC)	CLEARWATER LAKE, MO	2,065,000	2,065,000
(MP)	HARRY S TRUMAN DAM AND RESERVOIR, MO	8,549,000	8,549,000
(FC)	LITTLE BLUE RIVER LAKES, MO	1,403,000	1,403,000
(FC)	LONG BRANCH LAKE, MO	731,000	731,000
(N)	MISS RIVER BETWEEN OHIO AND MO RIVERS, MO & IL (REG WO	18,858,000	18,858,000
(N)	NEW MADRID HARBOR, MO	300,000	300,000
(FC)	POMME DE TERRE LAKE, MO	1,668,000	1,668,000
(FC)	SMITHVILLE LAKE, MO	1,030,000	1,030,000
(N)	SOUTHEAST MISSOURI PORT, MISSISSIPPI RIVER, MO	150,000	150,000
(MP)	STOCKTON LAKE, MO	3,528,000	3,528,000
(MP)	TABLE ROCK LAKE, MO	5,565,000	5,565,000
(FC)	UNION LAKE, MO	16,000	16,000
(FC)	WAPPAPELLO LAKE, MO	20,000	20,000
	MONTANA		
(MP)	FT PECK DAM AND LAKE, MT	4,050,000	4,050,000
(MP)	LIBBY DAM, LAKE KOOCANUSA, MT	5,009,000	5,009,000
	NEBRASKA		
(MP)	GAVINS POINT DAM, LEWIS AND CLARK LAKE, NE & SD	6,363,000	6,363,000
(FC)	HARLAN COUNTY LAKE, NE	1,488,000	1,488,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	MISSOURI NATIONAL RECREATIONAL RIVER, NE , SD	---	200,000
(MP)	MISSOURI R MASTER WTR CONTROL MANUAL, NE, IA, KS, MO,	500,000	500,000
(FC)	PAPILLION CREEK & TRIBUTARIES LAKES, NE	742,000	742,000
(FC)	SALT CREEK AND TRIBUTARIES, NE	811,000	811,000
	NEVADA		
(FC)	MARTIS CREEK LAKE, NV & CA	378,000	378,000
(FC)	PINE AND MATHEWS CANYONS LAKES, NV	163,000	163,000
	NEW HAMPSHIRE		
(FC)	BLACKWATER DAM, NH	387,000	387,000
(FC)	EDWARD MACDOWELL LAKE, NH	346,000	346,000
(FC)	FRANKLIN FALLS DAM, NH	614,000	614,000
(FC)	HOPKINTON - EVERETT LAKES, NH	827,000	827,000
(FC)	OTTER BROOK LAKE, NH	392,000	392,000
(FC)	SURRY MOUNTAIN LAKE, NH	401,000	401,000
	NEW JERSEY		
(N)	BARNEGAT INLET, NJ	1,455,000	1,455,000
(N)	CHEESEQUAKE CREEK, NJ	2,590,000	2,590,000
(N)	COLD SPRING INLET, NJ	485,000	485,000
(N)	DELAWARE RIVER AT CAMDEN, NJ	850,000	850,000
(N)	DELAWARE RIVER, PHILADELPHIA TO THE SEA, NJ, PA & DE	18,157,000	18,157,000
(N)	DELAWARE RIVER, PHILADELPHIA, PA TO TRENTON, NJ	1,255,000	1,255,000
	MANASQUAN INLET, NJ	---	100,000
(N)	NEW JERSEY INTRACOASTAL WATERWAY, NJ	3,729,000	3,729,000
(N)	SALEM RIVER, NJ	410,000	410,000
(N)	SHARK RIVER, NJ	1,190,000	1,190,000
(N)	TOMS RIVER, NJ	290,000	290,000
	NEW MEXICO		
(FC)	ABIQUIU DAM, NM	1,352,000	1,352,000
(FC)	COCHITI LAKE, NM	2,040,000	2,040,000
(FC)	CONCHAS LAKE, NM	1,134,000	1,134,000
(FC)	GALISTEO DAM, NM	244,000	244,000
(FC)	JEMEZ CANYON DAM, NM	398,000	398,000
(FC)	SANTA ROSA DAM AND LAKE, NM	998,000	998,000
(FC)	TWO RIVERS DAM, NM	356,000	356,000
	NEW YORK		
(FC)	ALMOND LAKE, NY	438,000	438,000
(FC)	ARKPORT DAM, NY	226,000	226,000
(N)	BAY RIDGE AND RED HOOK CHANNELS, NY	230,000	230,000
(N)	BLACK ROCK CHANNEL AND TONAWANDA HARBOR, NY	3,205,000	3,205,000
(N)	BROWNS CREEK, NY	500,000	500,000
(N)	BUFFALO HARBOR, NY	455,000	455,000
(N)	BUTTERMILK CHANNEL, NY	820,000	820,000
(N)	DUNKIRK HARBOR, NY	309,000	309,000
(N)	EAST RIVER, NY	195,000	195,000
(N)	EAST ROCKAWAY INLET, NY	930,000	930,000
(FC)	EAST SIDNEY LAKE, NY	483,000	483,000
(N)	FIRE ISLAND TO JONES INLET, NY	1,668,000	1,668,000
(N)	GLEN COVE CREEK, NY	130,000	130,000
(N)	GREAT SODUS BAY HARBOR, NY	10,000	10,000
(N)	HUDSON RIVER CHANNEL, NY	1,380,000	1,380,000
(N)	HUDSON RIVER, NY	2,520,000	2,520,000
(N)	IRONDEQUOIT BAY HARBOR, NY	160,000	160,000
(N)	JAMAICA BAY, NY	220,000	220,000
(N)	JONES INLET, NY	3,880,000	3,880,000
(N)	LAKE MONTAUK HARBOR, NY	1,930,000	1,930,000
(N)	LITTLE SODUS BAY HARBOR, NY	1,560,000	1,560,000
(N)	MATTITUCK HARBOR, NY	570,000	570,000
(FC)	MT MORRIS LAKE, NY	1,810,000	1,810,000
(N)	NEW YORK AND NEW JERSEY CHANNELS, NY	205,000	205,000
(N)	NEW YORK HARBOR (DRIFT REMOVAL), NY & NJ	4,886,000	4,886,000
(N)	NEW YORK HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS),	740,000	740,000
(N)	NEW YORK HARBOR, NY	6,020,000	6,020,000
(N)	OAK ORCHARD HARBOR, NY	10,000	10,000
(N)	OLCOTT HARBOR, NY	10,000	10,000
(N)	OSWEGO HARBOR, NY	496,000	496,000
(N)	SHINNECOCK INLET, NY	200,000	200,000
(FC)	SOUTHERN NEW YORK FLOOD CONTROL PROJECTS, NY	853,000	853,000
(FC)	WHITNEY POINT LAKE, NY	515,000	515,000
(N)	WILSON HARBOR, NY	10,000	10,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

NORTH CAROLINA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(N)	ATLANTIC INTRACOASTAL WATERWAY, NC	5,097,000	5,097,000
(FC)	B EVERETT JORDAN DAM AND LAKE, NC	1,237,000	1,237,000
(N)	BEAUFORT HARBOR, NC	350,000	350,000
(N)	BELHAVEN HARBOR NC	415,000	415,000
(N)	BOGUE INLET AND CHANNEL, NC	655,000	655,000
(N)	CAPE FEAR RIVER ABOVE WILMINGTON, NC	1,200,000	1,200,000
(N)	CAROLINA BEACH INLET, NC	852,000	852,000
(FC)	FALLS LAKE, NC	1,070,000	1,070,000
(N)	LOCKWOODS FOLLY RIVER, NC	857,000	857,000
(N)	MANTEO (SHALLOWBAG) BAY, NC	6,506,000	6,506,000
(N)	MASONBORO INLET AND CONNECTING CHANNELS, NC	4,650,000	4,650,000
(N)	MOREHEAD CITY HARBOR, NC	3,108,000	3,108,000
(N)	NEW RIVER INLET, NC	1,595,000	1,595,000
(N)	NEW TOPSAIL INLET AND CONNECTING CHANNELS, NC	840,000	840,000
(N)	PAMLICO AND TAR RIVERS, NC	125,000	125,000
(N)	ROANOKE RIVER, NC	125,000	125,000
(N)	SILVER LAKE HARBOR, NC	200,000	200,000
(FC)	W KERR SCOTT DAM AND RESERVOIR, NC	2,848,000	2,848,000
(N)	WILMINGTON HARBOR, NC	6,048,000	6,048,000

NORTH DAKOTA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	BOWMAN - HALEY LAKE, ND	222,000	222,000
(MP)	GARRISON DAM, LAKE SAKAKAWEA, ND	9,154,000	9,154,000
(FC)	HOMME LAKE, ND	149,000	149,000
(FC)	LAKE ASHTABULA AND BALDHILL DAM, ND	1,230,000	1,230,000
(FC)	PIPESTEM LAKE, ND	405,000	405,000
(FC)	SOURIS RIVER, ND	101,000	101,000

OHIO

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	ALUM CREEK LAKE, OH	861,000	861,000
(N)	ASHTABULA HARBOR, OH	1,088,000	1,088,000
(FC)	BERLIN LAKE, OH	1,907,000	1,907,000
(FC)	CAESAR CREEK LAKE, OH	1,186,000	1,186,000
(FC)	CLARENCE J BROWN DAM, OH	722,000	722,000
(N)	CLEVELAND HARBOR, OH	13,038,000	13,038,000
(N)	CONNEAUT HARBOR, OH	655,000	655,000
(FC)	DEER CREEK LAKE, OH	620,000	620,000
(FC)	DELAWARE LAKE, OH	623,000	623,000
(FC)	DILLON LAKE, OH	914,000	914,000
(N)	HURON HARBOR, OH	820,000	820,000
(N)	LORAIN HARBOR, OH	407,000	407,000
(FC)	MASSILLON LOCAL PROTECTION PROJECT, OH	25,000	25,000
(FC)	MICHAEL J KIRWAN DAM AND RESERVOIR, OH	922,000	922,000
(FC)	MOSQUITO CREEK LAKE, OH	1,026,000	1,026,000
(FC)	MUSKINGUM RIVER LAKES, OH	8,287,000	8,287,000
(FC)	NORTH BRANCH KOKOSING RIVER LAKE, OH	213,000	213,000
(FC)	PAINT CREEK LAKE, OH	521,000	521,000
(N)	PORTSMOUTH HARBOR, OH	75,000	75,000
(N)	ROCKY RIVER, OH	12,000	12,000
(FC)	ROSEVILLE LOCAL PROTECTION PROJECT, OH	30,000	30,000
(N)	SANDUSKY HARBOR, OH	1,030,000	1,030,000
(N)	TOLEDO HARBOR, OH	3,502,000	3,502,000
(FC)	TOM JENKINS DAM, OH	430,000	430,000
(N)	VERMILION HARBOR, OH	10,000	10,000
(FC)	WEST FORK OF MILL CREEK LAKE, OH	609,000	609,000
(FC)	WILLIAM H HARSHA LAKE, OH	850,000	850,000

OKLAHOMA

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	ARCADIA LAKE, OK	292,000	292,000
(FC)	BIRCH LAKE, OK	749,000	749,000
(MP)	BROKEN BOW LAKE, OK	2,059,000	2,059,000
(FC)	CANDY LAKE, OK	39,000	39,000
(FC)	CANTON LAKE, OK	1,692,000	1,692,000
(FC)	COPAN LAKE, OK	874,000	874,000
(MP)	EUFAULA LAKE, OK	4,405,000	4,405,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(MP)	FORT GIBSON LAKE, OK	4,271,000	4,271,000
(FC)	FORT SUPPLY LAKE, OK	847,000	847,000
(FC)	GREAT SALT PLAINS LAKE, OK	337,000	337,000
(FC)	HEYBURN LAKE, OK	754,000	754,000
(FC)	HUGO LAKE, OK	1,527,000	1,527,000
(FC)	HULAH LAKE, OK	401,000	401,000
(FC)	KAW LAKE, OK	1,702,000	1,702,000
(MP)	KEYSTONE LAKE, OK	3,819,000	3,819,000
(FC)	OOLOGAH LAKE, OK	1,373,000	1,373,000
(FC)	OPTIMA LAKE, OK	511,000	511,000
(FC)	PENSACOLA RESERVOIR - LAKE OF THE CHEROKEES, OK	5,000	5,000
(FC)	PINE CREEK LAKE, OK	1,168,000	1,168,000
(MP)	ROBERT S KERR LOCK AND DAM AND RESERVOIRS, OK	4,862,000	4,862,000
(FC)	SARDIS LAKE, OK	857,000	857,000
(FC)	SKIATOOK LAKE, OK	789,000	789,000
(MP)	TENKILLER FERRY LAKE, OK	3,371,000	3,371,000
(FC)	WAURIKA LAKE, OK	1,894,000	1,894,000
(MP)	WEBBERS FALLS LOCK AND DAM, OK	3,515,000	3,515,000
(FC)	WISTER LAKE, OK	947,000	947,000
	OREGON		
(FC)	APPLEGATE LAKE, OR	664,000	664,000
	ASTORIA HARBOR, NORTH BREAKWATER, OR	---	275,000
(FC)	BLUE RIVER LAKE, OR	442,000	442,000
(MP)	BONNEVILLE LOCK AND DAM, OR & WA	18,788,000	18,788,000
(N)	CHETCO RIVER, OR	500,000	500,000
(N)	COLUMBIA & LWR WILLAMETTE R BLW VANCOUVER, WA & PORTLA	11,017,000	11,017,000
(N)	COLUMBIA RIVER AT THE MOUTH, OR & WA	8,013,000	8,013,000
(N)	COLUMBIA RIVER BETWEEN VANCOUVER, WA AND THE DALLES, O	420,000	420,000
(N)	COOS BAY, OR	4,349,000	4,349,000
(N)	COQUILLE RIVER, OR	454,000	454,000
(FC)	COTTAGE GROVE LAKE, OR	719,000	719,000
(MP)	COUGAR LAKE, OR	1,282,000	1,282,000
(N)	DEPOE BAY, OR	3,000	3,000
(MP)	DETROIT LAKE, OR	2,247,000	2,247,000
(FC)	DORENA LAKE, OR	552,000	552,000
(FC)	FALL CREEK LAKE, OR	559,000	559,000
(FC)	FERN RIDGE LAKE, OR	920,000	920,000
(MP)	GREEN PETER - FOSTER LAKES, OR	2,558,000	2,558,000
(MP)	HILLS CREEK LAKE, OR	752,000	752,000
(MP)	JOHN DAY LOCK AND DAM, OR & WA	14,988,000	14,988,000
(MP)	LOOKOUT POINT LAKE, OR	5,439,000	5,439,000
(MP)	LOST CREEK LAKE, OR	3,914,000	3,914,000
(MP)	MCNARY LOCK AND DAM, OR & WA	12,561,000	12,561,000
(N)	PORT ORFORD, OR	425,000	425,000
(N)	PORT OF TOLEDO, OR	---	500,000
(N)	ROGUE RIVER, OR	816,000	816,000
(N)	SIUSLAW RIVER, OR	864,000	864,000
(N)	SKIPANON CHANNEL, OR	61,000	61,000
(N)	TILLAMOOK BAY AND BAR, OR	43,000	43,000
(N)	UMPQUA RIVER, OR	1,094,000	1,094,000
(N)	WILLAMETTE RIVER AT WILLAMETTE FALLS, OR	846,000	846,000
(FC)	WILLAMETTE RIVER BANK PROTECTION, OR	70,000	70,000
(FC)	WILLOW CREEK LAKE, OR	482,000	482,000
(N)	YAQUINA BAY AND HARBOR, OR	1,565,000	1,565,000
	PENNSYLVANIA		
(N)	ALLEGHENY RIVER, PA	12,736,000	12,736,000
(FC)	ALVIN R BUSH DAM, PA	612,000	612,000
(FC)	AYLESWORTH CREEK LAKE, PA	205,000	205,000
(FC)	BELTZVILLE LAKE, PA	1,425,000	1,425,000
(FC)	BLUE MARSH LAKE, PA	2,059,000	2,059,000
(FC)	CONEMAUGH RIVER LAKE, PA	3,112,000	3,112,000
(FC)	COWANESQUE LAKE, PA	2,084,000	2,084,000
(FC)	CROOKED CREEK LAKE, PA	1,201,000	1,201,000
(FC)	CURWENSVILLE LAKE, PA	669,000	669,000
(FC)	EAST BRANCH CLARION RIVER LAKE, PA	1,036,000	1,036,000
(N)	ERIE HARBOR, PA	468,000	468,000
(FC)	FOSTER JOSEPH SAYERS DAM, PA	683,000	683,000
(FC)	FRANCIS E WALTER DAM, PA	675,000	675,000
(FC)	GENERAL EDGAR JADWIN DAM AND RESERVOIR, PA	331,000	331,000
(FC)	JOHNSTOWN, PA	1,243,000	1,243,000
(FC)	KINZUA DAM AND ALLEGHENY RESERVOIR, PA	1,559,000	1,559,000
(FC)	LOYALHANNA LAKE, PA	1,155,000	1,155,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	MAHONING CREEK LAKE, PA	1,844,000	1,844,000
(N)	MONONGAHELA RIVER, PA	16,586,000	16,586,000
(FC)	PROMPTON LAKE, PA	463,000	463,000
(FC)	PUNXSUTAWNEY, PA	37,000	37,000
(FC)	RAYSTOWN LAKE, PA	3,426,000	5,926,000
(N)	SCHUYLKILL RIVER, PA	1,930,000	1,930,000
(FC)	SHENANGO RIVER LAKE, PA	2,074,000	2,074,000
(FC)	STILLWATER LAKE, PA	373,000	373,000
(FC)	TIOGA - HAMMOND LAKES, PA	2,415,000	2,415,000
(FC)	TIONESTA LAKE, PA	1,256,000	1,256,000
(FC)	UNION CITY LAKE, PA	296,000	296,000
(FC)	WOODCOCK CREEK LAKE, PA	1,242,000	1,242,000
(FC)	YORK INDIAN ROCK DAM, PA	3,044,000	3,044,000
(FC)	YOUGHIOGHENY RIVER LAKE, PA	1,833,000	1,833,000
	PUERTO RICO		
(N)	SAN JUAN HARBOR, PR	10,000	10,000
	SOUTH CAROLINA		
(N)	ATLANTIC INTRACOASTAL WATERWAY, SC	2,420,000	2,420,000
(N)	CHARLESTON HARBOR, SC	5,426,000	6,626,000
(N)	COOPER RIVER, CHARLESTON HARBOR, SC	2,469,000	2,469,000
(N)	FOLLY RIVER, SC	386,000	386,000
(N)	GEORGETOWN HARBOR, SC	3,509,000	3,509,000
(N)	LITTLE RIVER INLET, SC & NC	64,000	64,000
(N)	MURRELLS INLET, SC	65,000	65,000
(N)	PORT ROYAL HARBOR, SC	1,192,000	1,192,000
(N)	SHIPYARD RIVER, SC	428,000	428,000
(N)	TOWN CREEK, SC	491,000	491,000
	SOUTH DAKOTA		
(MP)	BIG BEND DAM - LAKE SHARPE, SD	6,079,000	6,079,000
(FC)	COLD BROOK LAKE, SD	190,000	190,000
(FC)	COTTONWOOD SPRINGS LAKE, SD	184,000	184,000
(MP)	FT RANDALL DAM - LAKE FRANCIS CASE, SD	8,520,000	8,520,000
(FC)	LAKE TRAVERSE, SD & MN	973,000	973,000
(MP)	OAHE DAM - LAKE OAHE, SD & ND	9,363,000	9,363,000
	TENNESSEE		
(MP)	CENTER HILL LAKE, TN	5,251,000	5,251,000
(MP)	CHEATHAM LOCK AND DAM, TN	5,895,000	5,895,000
(MP)	CORDELL HULL DAM AND RESERVOIR, TN	4,192,000	4,192,000
(MP)	DALE HOLLOW LAKE, TN	4,082,000	4,082,000
(MP)	J PERCY PRIEST DAM AND RESERVOIR, TN	4,410,000	4,410,000
(MP)	OLD HICKORY LOCK AND DAM, TN	7,281,000	7,281,000
(N)	TENNESSEE RIVER, TN	13,637,000	13,637,000
(N)	WOLF RIVER HARBOR, TN	650,000	650,000
	TEXAS		
(FC)	AQUILLA LAKE, TX	623,000	623,000
(FC)	ARKANSAS - RED RIVER BASINS CHLORIDE CONTROL - AREA VI	1,139,000	1,139,000
(FC)	BARDWELL LAKE, TX	1,210,000	1,210,000
(FC)	BELTON LAKE, TX	2,249,000	2,249,000
(FC)	BENBROOK LAKE, TX	1,610,000	1,610,000
(N)	BRAZOS ISLAND HARBOR, TX	1,038,000	1,038,000
(FC)	BUFFALO BAYOU AND TRIBUTARIES, TX	3,649,000	3,649,000
(FC)	CANYON LAKE, TX	1,657,000	1,657,000
(N)	CHANNEL TO PORT MANSFIELD, TX	1,510,000	1,510,000
(FC)	COOPER LAKE AND CHANNELS, TX	874,000	874,000
(N)	CORPUS CHRISTI SHIP CHANNEL, TX	2,190,000	2,190,000
(MP)	DENISON DAM - LAKE TEXOMA, TX	6,033,000	6,033,000
(FC)	ESTELLINE SPRINGS, TX	12,000	12,000
(FC)	FERRELLS BRIDGE DAM - LAKE O'THE PINES, TX	2,130,000	2,130,000
(N)	FREEPORT HARBOR, TX	2,870,000	2,870,000
(N)	GALVESTON HARBOR AND CHANNEL, TX	136,000	136,000
(N)	GIWW - CHANNEL TO VICTORIA, TX	1,595,000	1,595,000
(FC)	GRANGER DAM AND LAKE, TX	1,459,000	1,459,000
(FC)	GRAPEVINE LAKE, TX	1,956,000	1,956,000
(N)	GULF INTRACOASTAL WATERWAY, TX	17,805,000	17,805,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(FC)	HORDS CREEK LAKE, TX	1,007,000	1,007,000
(N)	HOUSTON SHIP CHANNEL, TX	5,823,000	5,823,000
(FC)	JOE POOL LAKE, TX	810,000	810,000
(FC)	LAKE KEMP, TX	218,000	218,000
(FC)	LAVON LAKE, TX	2,303,000	2,303,000
(FC)	LEWISVILLE DAM, TX	2,798,000	2,798,000
(N)	MATAGORDA SHIP CHANNEL, TX	5,145,000	5,145,000
(N)	MOUTH OF THE COLORADO RIVER, TX	1,780,000	1,780,000
(FC)	NAVARRO MILLS LAKE, TX	1,388,000	1,388,000
(FC)	NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN, TX	1,540,000	1,540,000
(FC)	O C FISHER DAM AND LAKE, TX	1,120,000	1,120,000
(FC)	PAT MAYSE LAKE, TX	873,000	873,000
(FC)	PROCTOR LAKE, TX	1,528,000	1,528,000
(FC)	RAY ROBERTS LAKE, TX	783,000	783,000
(N)	SABINE - NECHES WATERWAY, TX	11,946,000	11,946,000
(MP)	SAM RAYBURN DAM AND RESERVOIR, TX	4,217,000	4,217,000
(FC)	SOMERVILLE LAKE, TX	2,282,000	2,282,000
(FC)	STILLHOUSE HOLLOW DAM, TX	1,519,000	1,519,000
(N)	TEXAS CITY SHIP CHANNEL, TX	1,525,000	1,525,000
(MP)	TOWN BLUFF DAM - B A STEINHAGEN LAKE, TX	1,502,000	1,502,000
(N)	TRINITY RIVER & TRIBUTARIES, TX	1,270,000	1,270,000
(FC)	WACO LAKE, TX	2,014,000	2,014,000
(FC)	WALLISVILLE LAKE, TX	473,000	473,000
(MP)	WHITNEY LAKE, TX	3,659,000	3,659,000
(FC)	WRIGHT PATMAN DAM AND LAKE, TX	2,326,000	2,326,000
	VERMONT		
(FC)	BALL MOUNTAIN LAKE, VT	548,000	548,000
(N)	NARROWS OF LAKE CHAMPLAIN, VT & NY	645,000	645,000
(FC)	NORTH HARTLAND LAKE, VT	398,000	398,000
(FC)	NORTH SPRINGFIELD LAKE, VT	483,000	483,000
(FC)	TOWNSHEND LAKE, VT	506,000	506,000
(FC)	UNION VILLAGE DAM, VT	363,000	363,000
	VIRGINIA		
(N)	ATLANTIC INTRACOASTAL WATERWAY, VA	3,169,000	3,169,000
(N)	CHANNEL TO NEWPORT NEWS, VA	590,000	590,000
(N)	CHINCOTEAGUE BAY CHANNEL, VA	42,000	42,000
(N)	CHINCOTEAGUE HARBOR OF REFUGE, VA	36,000	36,000
(N)	CHINCOTEAGUE INLET, VA	888,000	888,000
(N)	CRANES CREEK, VA	321,000	321,000
(N)	DEEP CREEK, VA	597,000	597,000
(FC)	GATHRIGHT DAM AND LAKE MOOMAW, VA	2,169,000	2,169,000
(N)	HAMPTON RDS, NORFOLK & NEWPORT NEWS HBR, VA (DRIFT REM	647,000	647,000
(N)	HOSKINS CREEK, VA	395,000	395,000
(N)	JAMES RIVER CHANNEL, VA	1,616,000	1,616,000
(MP)	JOHN H KERR LAKE, VA & NC	8,770,000	8,770,000
(FC)	JOHN W FLANNAGAN DAM AND RESERVOIR, VA	1,551,000	1,551,000
(N)	NORFOLK HARBOR (PREVENTION OF OBSTRUCTIVE DEPOSITS), V	200,000	200,000
(N)	NORFOLK HARBOR, VA	5,131,000	5,131,000
(FC)	NORTH FORK OF POUND RIVER LAKE, VA	351,000	351,000
(MP)	PHILPOTT LAKE, VA	2,266,000	2,266,000
(N)	QUEENS CREEK, MATHEWS COUNTY, VA	337,000	337,000
(N)	RUDEE INLET, VA	570,000	570,000
(N)	STARLINGS CREEK, VA	389,000	389,000
(N)	TANGIER CHANNEL, VA	467,000	467,000
(N)	THIMBLE SHOAL CHANNEL, VA	1,355,000	1,355,000
(N)	TYLERS BEACH, VA	34,000	34,000
(N)	WATERWAY ON THE COAST OF VIRGINIA, VA	1,268,000	1,268,000
	WASHINGTON		
(MP)	CHIEF JOSEPH DAM, WA	12,038,000	12,038,000
(N)	COLUMBIA RIVER AT BAKER BAY, WA & OR	26,000	26,000
(N)	COLUMBIA RIVER BETWEEN CHINOOK AND SAND ISLAND, WA	7,000	7,000
(MP)	COLUMBIA RIVER SYSTEM OPERATION REVIEW, WA, ID, MT & O	559,000	559,000
(N)	EVERETT HARBOR AND SNOHOMISH RIVER, WA	870,000	870,000
(N)	GRAYS HARBOR AND CHEHALIS RIVER, WA	10,655,000	10,655,000
(FC)	HOWARD A HANSON DAM, WA	1,373,000	1,373,000
(MP)	ICE HARBOR LOCK AND DAM, WA	14,884,000	14,884,000
(N)	KENMORE NAVIGATION CHANNEL, WA	202,000	202,000
(N)	LAKE WASHINGTON SHIP CANAL, WA	6,877,000	6,877,000
(MP)	LITTLE GOOSE LOCK AND DAM, WA	4,978,000	4,978,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
(MP)	LOWER GRANITE LOCK AND DAM, WA	10,618,000	10,618,000
(MP)	LOWER MONUMENTAL LOCK AND DAM, WA	5,318,000	5,318,000
(FC)	MILL CREEK LAKE, VIRGIL B BENNINGTON LAKE, WA	731,000	731,000
(FC)	MT ST HELENS, WA	432,000	432,000
(FC)	MUD MOUNTAIN DAM, WA	1,922,000	1,922,000
(N)	OLYMPIA HARBOR, WA	12,000	12,000
(N)	PUGET SOUND AND TRIBUTARY WATERS, WA	1,155,000	1,155,000
(N)	QUILLAYUTE RIVER, WA	2,250,000	2,250,000
(N)	SEATTLE HARBOR, WA	678,000	678,000
(FC)	STILLAGUAMISH RIVER, WA	174,000	174,000
(FC)	TACOMA, PUYALLUP RIVER, WA	56,000	56,000
(MP)	THE DALLES LOCK AND DAM, WA & OR	12,270,000	12,270,000
(N)	WILLAPA RIVER AND HARBOR, WA	431,000	431,000
	WEST VIRGINIA		
(FC)	BEECH FORK LAKE, WV	956,000	956,000
(FC)	BLUESTONE LAKE, WV	1,741,000	1,741,000
(FC)	BURNSVILLE LAKE, WV	1,187,000	1,187,000
(FC)	EAST LYNN LAKE, WV	1,296,000	1,296,000
(N)	ELK RIVER HARBOR, WV	3,000	3,000
(FC)	ELKINS, WV	10,000	10,000
(N)	KANAWHA RIVER LOCKS AND DAMS, WV	11,376,000	11,376,000
(FC)	R D BAILEY LAKE, WV	1,632,000	1,632,000
(FC)	STONEWALL JACKSON LAKE, WV	957,000	957,000
(FC)	SUMMERSVILLE LAKE, WV	1,310,000	1,310,000
(FC)	SUTTON LAKE, WV	1,753,000	1,753,000
(N)	TYGART LAKE, WV	1,615,000	1,615,000
	WISCONSIN		
(N)	ALGOMA HARBOR, WI	117,000	117,000
(N)	CORNUCOPIA HARBOR, WI	107,000	107,000
(FC)	EAU GALLE RIVER LAKE, WI	560,000	560,000
(N)	FOX RIVER, WI	2,215,000	2,215,000
(N)	GREEN BAY HARBOR, WI	1,029,000	1,029,000
(N)	KENOSHA HARBOR, WI	130,000	130,000
(N)	KEWAUNEE HARBOR, WI	300,000	300,000
(FC)	LA FARGE LAKE, WI	43,000	43,000
(N)	MANITOWOC HARBOR, WI	257,000	257,000
(N)	MILWAUKEE HARBOR, WI	3,123,000	3,123,000
(N)	SHEBOYGAN HARBOR, WI	883,000	883,000
(N)	STURGEON BAY HARBOR & LAKE MICHIGAN SHIP CANAL, WI	2,831,000	2,831,000
(N)	TWO RIVERS HARBOR, WI	760,000	760,000
	WYOMING		
(FC)	JACKSON HOLE LEVEES, WY	979,000	979,000
	MISCELLANEOUS		
	CIVIL WORKS ENERGY DATA SYSTEM	60,000	---
	COASTAL INLET RESEARCH PROGRAM	4,000,000	2,000,000
	DREDGING DATA AND LOCK PERFORMANCE MONITORING SYSTEM	480,000	480,000
	DREDGING OPERATIONS AND ENVIRONMENTAL RESEARCH (DOER)	3,000,000	---
	DREDGING OPERATIONS TECHNICAL SUPPORT PROGRAM (DOTS)	3,350,000	1,675,000
	EARTHQUAKE HAZARDS PROGRAM FOR BUILDINGS AND LIFELINES	1,250,000	800,000
	ENVIRONMENTAL REVIEW GUIDE FOR OPERATIONS (ERGO)	2,000,000	---
	HAZARDOUS WASTE SITE RESTORATION	3,000,000	---
	INSPECTION OF COMPLETED WORKS	7,818,000	6,000,000
	MISSISSIPPI RIVER BASIN MAINSTEM MODEL DEVELOPMENT	1,000,000	500,000
	MONITORING OF COMPLETED COASTAL PROJECTS	2,100,000	1,900,000
	NATIONAL DAM SAFETY PROGRAM	20,000	20,000
	NATIONAL EMERGENCY PREPAREDNESS PROGRAMS (NEPP)	7,000,000	5,000,000
	NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION	4,000,000	2,000,000
	NATURAL RESOURCES INVENTORY (NRI)	500,000	---
	NATURAL RESOURCES TECHNICAL SUPPORT (NRTS)	1,800,000	---
	PEER REVIEW PROGRAM	400,000	---
	PERFORMANCE MEASUREMENTS FOR O&M	3,500,000	---
	POLLUTION PREVENTION PROGRAM	4,000,000	---
	PROJECT CONDITION SURVEYS	11,498,000	7,000,000
	PROTECT, CLEAR AND STRAIGHTEN CHANNELS (SECTION 3)	50,000	50,000
	REAL TIME WATER CONTROL RESEARCH PROGRAM (WCRP)	1,000,000	---
	REINVESTED USER FEES FOR RECREATION IMPROVEMENTS	5,000,000	---
	RELIABILITY MODELS PROGRAM FOR MAJOR REHABILITATION	675,000	500,000

CORPS OF ENGINEERS - OPERATION AND MAINTENANCE

TYPE OF PROJECT	PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE
	REMOVAL OF SUNKEN VESSELS............................	1,000,000	500,000
	REPAIR EVALUATION MAINTENANCE RESEARCH (REMR II)......	6,000,000	1,500,000
	RIVER CONFLUENCE ICE RESEARCH.........................	1,150,000	---
	SCANNING HYDROGRAPHIC OPERATIONAL AIRBORNE LIDAR SURVE	1,750,000	1,750,000
	SCHEDULING RESERVOIR OPERATIONS.......................	3,058,000	3,000,000
	SURVEILLANCE OF NORTHERN BOUNDARY WATERS..............	4,108,000	3,000,000
	WATER OPERATIONS TECHNICAL SUPPORT (WOTS) PROGRAM.....	1,600,000	---
	WATERBORNE COMMERCE STATISTICS........................	4,200,000	4,200,000
	WETLANDS ACTION PLAN IMPLEMENTATION...................	500,000	---
	REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE........	-55,770,000	-67,770,000
	TOTAL, OPERATION AND MAINTENANCE..................	1,749,875,000	1,703,697,000

TYPE OF PROJECT:
(N) NAVIGATION
(BE) BEACH EROSION CONTROL
(FC) FLOOD CONTROL
(MP) MULTIPURPOSE, INCLUDING POWER

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

GENERAL INVESTIGATIONS

Amendment No. 17: Appropriates $12,684,000 for General Investigations instead of $13,114,000 as proposed by the House and $11,234,000 as proposed by the Senate.

Amendment No. 18: Deletes language proposed by the Senate providing $300,000 for the completion of the feasibility study of alternatives for meeting drinking water needs on the Cheyenne River Sioux Reservation and surrounding communities in South Dakota. Funding for this project ($150,000) is included in the amount appropriated in Amendment No. 17.

CONSTRUCTION PROGRAM

Amendment No. 19: Appropriates $411,046,000 for Construction Program instead of $417,301,000 as proposed by the House and $390,461,000 as proposed by the Senate.

The conference agreement includes $12,069,000 for Miscellaneous Project Programs of the Central Valley Project, California, which includes $200,000 for the Salmon Stamp Program as described in the House Report, $250,000 for the Colusa Basin Drainage District Management Project, and $5,750,000 for the unscreened diversions program, which is $250,000 less than the budget request.

The conferees have provided $6,540,000 for the Sacramento River Division of the Central Valley Project, California. The amount provided includes: $3,000,000 for the completion of engineering and design and initiation of construction of a new fish screen and fish recovery facilities at the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant; $1,000,000 for the continuation of the pilot research pumping facility evaluation; $500,000 for the program to find solutions for passage for endangered and threatened fish at the Red Bluff Diversion Dam; $865,000 for the installation and evaluation of alternative fish guidance systems at Reclamation District 108 and Reclamation District 1004; and $300,000 for the Winter-Run Chinook Salmon Captive Broodstock Program.

The conference agreement includes $5,067,000 for the Trinity River Restoration Program, California, the same as the budget request and the amount provided in the House and Senate bills. Included in this total is $500,000 to carry out the interagency agreement between the Bureau of Reclamation and the Hoopa Valley Tribe regarding the Cooperative for Comprehensive Fisheries Management and funds necessary to complete the Environmental Impact Statement in support of the instream flow decision the Secretary of the Interior is required to render in 1996.

On July 17, 1995, one of the eight spillway gates at Folsom Dam in California failed resulting in an uncontrolled flow of 40,000 cubic feet per second of water from the reservoir. The total loss of water was about 360,000 acre-feet, which is approximately 35% of total reservoir capacity. The conferees are aware that the Bureau of Reclamation has begun work to design a replacement for the damaged gate, with the goal of having the replacement gate installed in 1996. Because of the timing of this event, no funds were included in either the House bill or the Senate bill to accomplish this work. The conferees agree that the Bureau of Reclamation may reprogram up to $6,000,000 of the funds available to it in fiscal year 1996, upon notification of the House and Senate Appropriations Committees, for the removal and replacement of the damaged gate and the remediation of the remaining spillway gates at Folsom Dam. If additional funds are required in fiscal year 1996 to complete the work, the Bureau of Reclamation should request those funds following the normal reprogramming procedures.

On August 22, 1995, the Department of the Interior submitted to the House and Senate subcommittees a request to reprogram $5,000,000 to the Los Angeles Area Water Reclamation and Reuse, California, project. Because of the unanticipated funding needs which have arisen, including the need to repair Folsom Dam in California and the need to make additional dam safety repairs at Ochoco Dam in Oregon, the conferees have agreed to defer, without prejudice, action on this reprogramming request.

The conference agreement includes $1,500,000 for the National Fish and Wildlife Foundation as proposed by the Senate. The House had deleted the funds requested by the Administration for this program. Within the amounts provided for the National Fish and Wildlife Foundation, $500,000 shall be made available to support the Spring Run and Coho Salmon Programs approved by the House under the Central Valley Project, Miscellaneous Project Programs, California, and $100,000 shall be made available to support the Kaweah River Delta Corridor Project. The conferees are concerned about certain grants that have been made by the National Fish and Wildlife Foundation to organizations known to be hostile to the interests of private landowners and those engaged in the productive and lawful use of public lands. The conferees have included the funding cited above for the Foundation based upon the understanding that its grant award procedures have been considerably tightened, and that the Foundation will make a concerted effort to avoid making further grants to the types of organizations described above. The Foundation's performance in this regard will be closely monitored by the Committees during the coming year.

The conference agreement includes $5,000,000 for the Wetlands Development Program. From within that amount, the conferees direct that $3,600,000 be utilized to continue the Caddo Lake wetlands project in Texas.

The conferees agree with the language contained in the House Report regarding the Rillito Creek, Arizona, High Plains Groundwater Recharge Demonstration project. In addition, the conference agreement includes $500,000 for the Bureau of Reclamation to continue the Equus Beds recharge project in Kansas.

Amendment No. 20: Provides that $94,225,000 of the funds appropriated under the Construction Program shall be available for transfer to the Lower Colorado River Basin Development Fund for construction of the Central Arizona Project as proposed by the House instead of $92,725,000 as proposed by the Senate.

OPERATION AND MAINTENANCE

Amendment No. 21: Appropriates $273,076,000 for Operation and Maintenance instead of $278,759,000 as proposed by the House and $267,393,000 as proposed by the Senate.

Due to the budgetary situation, the conferees have provided $273,076,000 for the Bureau of Reclamation's operation and maintenance program, which is $15,683,000 below the budget request and $1,224,000 below the amount appropriated in fiscal year 1995. The conferees expect the Bureau of Reclamation to use the flexibility available to it in managing the operation and maintenance program to ensure that the most critical maintenance needs are met. In that regard, the conferees agree with the language contained in the House Report regarding the growth in the Associated Operation and Maintenance Programs and expect the Bureau of Reclamation to derive a significant share of the reduction below the budget request from the various Associated O&M Programs in order to retain as much money as possible for operation and maintenance of projects.

The conferees note that the backlog in replacements, additions, and extraordinary maintenance items continues to grow for the Central Valley Project in California. In addition, the conferees are concerned that the Bureau of Reclamation has failed to comply with the directive to submit a plan, by February of 1995, for reducing the backlog in replacements, additions, and extraordinary maintenance items in a timely manner and direct that this previously requested plan be submitted as soon as possible. The conference agreement does include $4,625,000 for replacements, additions, and extraordinary maintenance items, the same as the budget request. The conferees urge the Bureau of Reclamation to continue its efforts to reach consensus with the canal authorities on the manner that those funds are allocated. The conference agreement also includes $5,454,000 for operation and maintenance of the Trinity River Division. The amount provided includes sufficient funds to continue the monitoring and tagging tasks, repair of winter damage, and sediment control needed for continued management of the Trinity River fishery.

The conferees have been informed that landowners and farmers suffered flooding and destruction of crops in March 1995 from waters of the Arroyo Pasajaro in Fresno County, California. The waters were diverted from the San Luis Canal, jointly operated by the Bureau of Reclamation and the State of California. The conferees direct the Bureau to evaluate the damage and report back to Congress on whether Federal responsibility is involved and if steps should be taken to provide compensation to those suffering damage.

CENTRAL VALLEY PROJECT RESTORATION FUND

The conferees direct that the $1,000,000 requested for the San Joaquin River Basin Resource Management Initiative, and any funds remaining from previous fiscal years, not be expended for that purpose. This action is consistent with action of the Congress during consideration of H.R. 1158. In the reports accompanying that bill, the Bureau of Reclamation was directed not to obligate any additional funds in fiscal year 1995 for the San Joaquin River Basin Resource Management Initiative.

The conference agreement includes $12,281,000 for the Shasta Dam Temperature Control Device, $1,000,000 above the budget request.

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
GENERAL INVESTIGATIONS		
ARIZONA		
TUCSON/PHOENIX WATER CONSERVATION AND EXCHANGE STUDY..	50,000	50,000
VERDE RIVER BASIN MANAGEMENT STUDY....................	125,000	125,000
CALIFORNIA		
DEL NORTE CNTY/CRESCENT CITY WASTEWATER RECLAMATION ST	---	300,000
FORT BRAGG WATER RECLAMATION STUDY....................	---	500,000
IMPERIAL VALLEY WATER RECLAMATION & REUSE STUDY.......	175,000	175,000
LOWER OWENS RIVER ENVIRONMENTAL STUDY.................	100,000	---
MALIBU CREEK FISHERY ENHANCEMENT STUDY................	50,000	---
SALTON SEA RESEARCH PROJECT...........................	---	100,000
SAN FRANCISCO AREA WATER RECLAMATION STUDY............	700,000	1,000,000
SO CALIF COASTAL WATER SUPPLY STUDY...................	50,000	50,000
SO CALIF COMPREHENSIVE WATER SUPPLY & RECLAMATION STUD	750,000	750,000
COLORADO		
GRAND VALLEY PROJECT WATER CONSERVATION STUDY.........	50,000	50,000
SOUTHWEST COLORADO RURAL WATER SUPPLY.................	75,000	---
YAMPA RIVER WATER SUPPLY STUDY........................	50,000	50,000
IDAHO		
IDAHO RIVER SYSTEMS MANAGEMENT........................	100,000	100,000
UPPER SALMON RIVER WATER OPTIMIZATION.................	150,000	150,000
KANSAS		
KANSAS COMPREHENSIVE INVESTIGATION....................	100,000	75,000
MONTANA		
WESTERN MONTANA WATER CONSERVATION STUDY..............	200,000	200,000
YELLOWSTONE RIVER BASIN STUDY.........................	140,000	120,000
NEBRASKA		
NEBRASKA WATER SUPPLY ASSESSMENT......................	100,000	75,000
NEVADA		
WALKER RIVER BASIN....................................	---	150,000
NEW MEXICO		
RIO GRANDE/LOW FLOW CONVEYANCE CHANNEL................	100,000	75,000
SAN JUAN RIVER GALLUP - NAVAJO WATER SUPPLY, NM.......	---	100,000
OKLAHOMA		
OKLAHOMA WATER SUPPLY STUDY...........................	100,000	75,000
OREGON		
CARLTON LAKE RESTORATION..............................	50,000	50,000
CENTRAL OREGON IRRIG SYS CONSERVATION PROJ FEASIBILITY	200,000	200,000
UPPER DESCHUTES PROJECT...............................	50,000	50,000
GRANDE RONDE RIVER BASIN	200,000	200,000
NORTHWEST OREGON REGIONAL WATER SUPPLY................	300,000	300,000
OREGON STREAM RESTORATION PLANNING STUDY..............	150,000	150,000
OREGON SUBBASIN CONSERVATION PLANNING	200,000	200,000
OWYHEE STORAGE OPTIMIZATION STUDY.....................	50,000	50,000
SOUTHERN OREGON COASTAL RIVER BASINS..................	100,000	100,000
SOUTH DAKOTA		
CHEYENNE RIVER SIOUX RESERVATION......................	---	150,000
SOUTH DAKOTA		
BLACK HILLS REGIONAL WATER MANAGEMENT STUDY...........	150,000	150,000

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
TEXAS		
EDWARDS AQUIFER REGIONAL WATER RESOURCES & MGMT STUDY.	240,000	240,000
RINCON BAYOU-NUECES MARSH WETLANDS RESTOR/ENHANCE PROJ	150,000	150,000
RIO GRANDE/RIO BRAVO INTERNATIONAL BASIN ASSESSMENT...	200,000	150,000
RIO GRANDE CONVEYANCE CANAL/PIPELINE......................	---	150,000
UTAH		
ASHLEY/BRUSH CREEKS OPTIMIZATION STUDY...................	75,000	75,000
WEBER BASIN WATER QUALITY/WATERSHED.......................	100,000	100,000
WASHINGTON		
WASHINGTON RIVER BASIN PLANNING...........................	75,000	75,000
VARIOUS		
BEAR RIVER BASIN WATER QUALITY/WATERSHED..............	100,000	100,000
COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM......	375,000	375,000
DROUGHT INVESTIGATIONS..................................	40,000	40,000
ENVIRONMENTAL & INTERAGENCY COORDINATION ACTIVITIES...	1,877,000	1,000,000
FISH & WILDLIFE HABITAT PRESERVATION AND ENHANCEMENT..	50,000	---
GENERAL PLANNING STUDIES................................	2,435,000	1,635,000
INVESTIGATION OF EXISTING PROJECTS....................	540,000	432,000
LOWER COLORADO INDIAN WATER MANAGEMENT STUDY..........	75,000	---
MINOR WORK ON COMPLETED INVESTIGATIONS................	150,000	120,000
MISSOURI RIVER BASIN TRIBES IN NORTH AND SOUTH DAKOTA.	250,000	250,000
PALLID STURGEON RECOVERY DECISION SUPPORT SYSTEM......	140,000	140,000
TECHNICAL ASSISTANCE TO STATES........................	1,665,000	1,332,000
UPPER SNAKE RIVER BASIN STORAGE OPTIMIZATION..........	200,000	200,000
UPPER SNAKE RIVER BASIN SALMON MIGRATION WATER STUDY..	250,000	250,000
TOTAL, GENERAL INVESTIGATIONS........................	13,602,000	12,684,000
CONSTRUCTION PROGRAM		
CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS		
CALIFORNIA		
CENTRAL VALLEY PROJECT:		
AUBURN-FOLSOM SOUTH UNIT............................	1,357,000	1,357,000
DELTA DIVISION......................................	6,500,000	6,580,000
MISCELLANEOUS PROJECT PROGRAMS......................	11,869,000	12,069,000
SACRAMENTO RIVER DIVISION...........................	875,000	6,540,000
SAN FELIPE DIVISION.................................	664,000	664,000
SAN LUIS UNIT.......................................	800,000	800,000
SHASTA DIVISION.....................................	749,000	19,749,000
TRINITY RIVER RESTORATION PROGRAM...................	5,067,000	5,067,000
LOS ANGELES AREA WATER RECLAMATION/REUSE PROJECT......	9,300,000	8,300,000
BRACKISH WATER RECLAMATION DEMONSTRATION FACILITY.....	---	1,000,000
SAN DIEGO AREA WATER RECLAMATION PROGRAM..............	2,340,000	2,340,000
SAN GABRIEL BASIN PROJECT.............................	9,750,000	8,000,000
SAN JOSE WATER RECLAMATION/REUSE-TITLE 16.............	1,750,000	1,750,000
COLORADO		
GRAND VALLEY UNIT, TITLE II, CRBSCP...................	5,799,000	5,799,000
LOWER GUNNISON BASIN UNIT, TITLE II, CRBSCP...........	1,231,000	1,231,000
PARADOX VALLEY UNIT, TITLE II, CRBSCP.................	300,000	300,000
IDAHO		
MINIDOKA NORTH SIDE DRAINWATER PROJECT................	60,000	60,000
NORTH DAKOTA		
GARRISON DIVERSION UNIT, P-SMBP.......................	24,900,000	24,900,000
OREGON		
UMATILLA BASIN PROJECT................................	6,700,000	6,875,000

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
SOUTH DAKOTA		
BELLE FOURCHE UNIT, P-SMBP	3,802,000	3,802,000
MID-DAKOTA PROJECT	2,500,000	11,500,000
MNI WICONI PROJECT	10,500,000	22,300,000
TEXAS		
NORTHWEST WASTEWATER REUSE PROJECT	---	1,500,000
WASHINGTON		
COLUMBIA BASIN PROJECT	1,698,000	2,573,000
YAKIMA BASIN ENHANCEMENT PROJECT	---	1,500,000
VARIOUS		
COLUMBIA/SNAKE RIVER SALMON RECOVERY	15,000,000	13,500,000
NATIONAL FISH AND WILDLIFE FOUNDATION	3,255,000	1,500,000
ENDANGERED SPECIES RECOVERY IMPLEMENTATION PROG., UC R	6,373,000	6,373,000
ENDANGERED SPECIES CONSERVATION/RECOVERY PROJ., LC REG	2,170,000	2,170,000
ENDANGERED SPECIES RECOVERY IMPLEMENTATION PROG., PN R	170,000	170,000
INDIAN WATER RIGHTS SETTLEMENT	4,357,000	4,357,000
TITLE I DIVISION, CRBSCP	2,300,000	2,300,000
TITLE II, NEW FORMAT, CRBSCP	6,000,000	500,000
WATER CONSERVATION CHALLENGE PARTNERSHIPS	9,000,000	---
SUBTOTAL, REGULAR CONSTRUCTION	157,136,000	187,426,000
DRAINAGE AND MINOR CONSTRUCTION:		
BOISE PROJECT, ID	510,000	510,000
BRANTLEY PROJECT, NM	650,000	650,000
COLORADO RIVER FRONT WORK AND LEVEE SYSTEM, AZ - CA	1,800,000	1,800,000
KLAMATH PROJECT, OR - CA	2,818,000	2,818,000
LAKE MEREDITH SALINITY CONTROL, NM - TX	100,000	570,000
LEADVILLE/ARKANSAS RIVER RECOVERY, CO	600,000	600,000
MC GEE CREEK PROJECT, OK	125,000	125,000
MOUNTAIN PARK PROJECT, OK	700,000	700,000
NEWLANDS PROJECT, CA - NV	7,250,000	7,250,000
NUECES RIVER PROJECT, TX	105,000	105,000
PALMETTO BEND PROJECT, TX	25,000	25,000
PICK-SLOAN MISSOURI BASIN PROGRAM:		
NORTH LOUP DIVISION, P-SMBP, NE	900,000	900,000
OAHE UNIT, P-SMBP, SD	80,000	80,000
RECLAMATION RECREATION MANAGEMENT ACT-TITLE 28, VARI	3,500,000	3,500,000
TRES RIOS WETLANDS DEMONSTRATION, AZ	500,000	500,000
VELARDE COMMUNITY DITCH PROJECT, NM	---	1,500,000
WETLANDS DEVELOPMENT, VARIOUS	2,330,000	5,000,000
YAKIMA FISH PASSAGE/PROTECTIVE FACILITIES, WA	1,210,000	1,210,000
SUBTOTAL, DRAINAGE AND MINOR CONSTRUCTION	23,203,000	27,843,000
SAFETY OF DAMS PROGRAM:		
CROOKED RIVER, OCHOCO DAM, OR	6,000,000	6,000,000
DEPARTMENT OF THE INTERIOR DAM SAFETY PROGRAM	1,270,000	1,270,000
INITIATE SAFETY OF DAMS CORRECTIVE ACTION	38,175,000	35,175,000
SAFETY OF DAMS CORRECTIVE ACTION STUDIES	2,500,000	2,500,000
SALT RIVER PROJECT, BARTLETT DAM, AZ	8,085,000	8,085,000
SALT RIVER PROJECT, HORSESHOE DAM, AZ	1,103,000	1,103,000
SAN CARLOS IRRIGATION - COOLIDGE DAM, AZ	974,000	974,000
UMATILLA PROJECT, COLD SPRINGS DAM, OR	5,250,000	5,250,000
YAKIMA, BUMPING LAKE DAM, WA	1,825,000	1,825,000
SUBTOTAL, SAFETY OF DAMS	65,182,000	62,182,000
REHABILITATION AND BETTERMENT:		
OGDEN RIVER PROJECT, UT	975,000	975,000
SHOSHONE, WY	1,300,000	1,300,000
WEBER BASIN PROJECT, UT	2,474,000	2,474,000
SUBTOTAL, REHABILITATION AND BETTERMENT	4,749,000	4,749,000
SCIENCE AND TECHNOLOGY:		
ENERGY/WATER PRODUCT EFFICIENCY STANDARDS	450,000	---
GROUNDWATER RECHARGE DEMONSTRATION PROGRAM	771,000	1,271,000
IMPROVED RIVER BASIN MANAGEMENT CONTROL	300,000	---
TECHNOLOGY ADVANCEMENT	300,000	300,000
WATERSHED MODELING SYSTEMS INITIATIVE	1,000,000	800,000

BUREAU OF RECLAMATION

PROJECT TITLE	BUDGET ESTIMATE	CONFERENCE ALLOWANCE
WATER TREATMENT TECHNOLOGY	1,700,000	1,360,000
WATER TECHNOLOGY/ENVIRONMENTAL RESEARCH	3,800,000	2,800,000
SUBTOTAL, SCIENCE AND TECHNOLOGY	8,321,000	6,531,000
TOTAL, CONSTRUCTION AND REHABILITATION AND COLORADO RIVER BASIN SALINITY CONTROL PROJECTS	258,591,000	288,731,000
COLORADO RIVER STORAGE PROJECT		
UPPER COLORADO RIVER BASIN FUND AND PARTICIPATING PROJECTS		
COLORADO		
ANIMAS-LA PLATA PROJECT	4,879,000	10,000,000
DOLORES PARTICIPATING PROJECT	3,470,000	3,470,000
UTAH		
CENTRAL UTAH PROJECT, BONNEVILLE UNIT	13,579,000	13,579,000
FISH AND WILDLIFE FACILITIES, AZ, CO, NM, UT, WY	1,920,000	1,920,000
TOTAL, COLORADO RIVER STORAGE PROJECT	23,848,000	28,969,000
COLORADO RIVER BASIN PROJECT		
CENTRAL ARIZONA PROJECT		
ARIZONA		
CENTRAL ARIZONA PROJECT, WATER DEVELOPMENT (LCRBDF)	92,725,000	94,225,000
CENTRAL ARIZONA PROJECT, SAFETY OF DAMS	29,411,000	29,411,000
CENTAL ARIZONA PROJECT, GILA RIVER INDIAN COMMUNITY	---	1,842,000
TOTAL, COLORADO RIVER BASIN PROJECT	122,136,000	125,478,000
ASSOCIATED ITEMS		
UNDISTRIBUTED REDUCTION BASED ON ANTICIPATED DELAYS	-28,632,000	-32,132,000
TOTAL, CONTRUCTION PROGRAM	375,943,000	411,046,000
LOAN PROGRAM		
ARIZONA		
TOHONO O'ODHAM NATION - SCHUK TOAK DISTRICT	3,043,000	3,043,000
CALIFORNIA		
CASTROVILLE IRRIGATION WATER SUPPLY PROJECT	1,500,000	1,500,000
CHINO BASIN DESALINATION PROJECT	1,100,000	1,100,000
EASTERN MUNICIPAL WATER DISTRICT NO. 3	2,200,000	2,200,000
SALINAS VALLEY WATER RECLAMATION FACILITY	1,100,000	1,100,000
TEMESCAL VALLEY PROJECT-ELSINORE VALLEY MUNICIPAL WATE	700,000	700,000
COLORADO		
UTE MOUNTAIN UTE	1,500,000	1,500,000
OREGON		
DOUGLAS COUNTY - MILLTOWN HILL	100,000	100,000
VARIOUS		
LOAN ADMINISTRATION	425,000	425,000
NEW LOAN PROGRAM ACTIVITY	5,000,000	---
TOTAL, LOAN PROGRAM	16,668,000	11,668,000

TITLE III

DEPARTMENT OF ENERGY

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Department of Energy. Additional items of conference agreements are discussed below.

FEDERAL EMPLOYMENT LEVELS

The Department of Energy has announced a strategic alignment initiative which would reduce the number of Federal employees by 27 percent over five years. The Department has provided a summary of recommended employment levels and proposed reductions by organization for fiscal year 1996. The conferees expect the Department to make these proposed employment reductions in those areas where the conference agreement does not reduce employment levels below those requested by the Department. The Department is to report to the Committees on Appropriations the actual employment levels as of March 1996 compared to the fiscal year 1995 baseline and the Department's proposed employment levels.

SUPPORT SERVICE CONTRACTORS

The conferees are aware of the extensive use of support service contractors by the Department of Energy at headquarters and the field offices. In many instances these contractors are performing inherently governmental functions such as assisting in program management and program execution duties, representing program organizations at meetings inside and outside the Department, preparing briefing materials, newsletters, and budget justifications, and providing daily administrative and clerical support.

There are clearly instances where it is cost-effective to use support service contractors to support Federal programs. This would include functions such as custodial services, guard services, operation of emergency communications centers and mail rooms, and facility and grounds maintenance. In addition to these types of commercial services, there are situations where technical expertise is needed to augment Federal efforts. These technical services would include such tasks as automated data processing systems development for the Department's corporate financial, procurement, and personnel systems, systems review and reliability analyses, and economic and environmental analyses. These tasks are characterized by specific project schedules, milestones, and deliverables.

The conferees have no objection to continuing support service contracts which can be documented to be cost-effective and which provide specific technical expertise not available in the Federal work force at the Department. However, the Department has increasingly used support service contractors to augment the Federal work force for nonspecific functions. This may be done to circumvent Federal employment ceilings or funding constraints or because it is easier to hire an outside contractor than to manage properly the existing Federal work force.

After excluding those support service contracts which are documented to reflect the cost benefits of contracting for the service, and those contracts which provide specific technical expertise tied to a schedule and a deliverable, the conferees expect funding for all other support service contracts to decrease by 50 percent in fiscal year 1996. All other categories of support service contracts should be reduced by 15 percent in accordance with the Department's strategic alignment initiative. The Department is directed to submit semi-annual reports on the use of all support services contracts at headquarters and the field. By organization, appropriation, and program, this report should include the name of the contractor, fiscal year 1996 funding, number of employers, and a brief description of the work performed.

DEPARTMENTAL BUDGET JUSTIFICATIONS

The Department does not budget for Federal employees in a consistent manner throughout the whole organization. Using existing budget justification materials, it is difficult to determine where each Department of energy employee is located and the costs associated with each. To alleviate these discrepancies, in the fiscal year 1997 budget request the Department is directed to include all salaries and related expenses in the program that manages the employee. In addition to salaries and benefits, the personnel cost for each employee should include all related costs such as space rental, utilities, materials and supplies, telecommunications, and building maintenance. The administrative services group will determine the amount of these costs which should be charged to each program organization to ensure consistency in budgeting.

Within each appropriation account, each organization should have one program direction line for all full-time equivalent employees (FTEs), both field and headquarters, and provide object class information for all expenses. No Federal employees are to be funded in program accounts. Any difference between the average cost of the fully loaded FTE between specific programs should be explained in the budget justification.

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

Amendment No. 22: Appropriates $2,727,407,000 for Energy Supply, Research and Development Activities instead of $2,576,700,000 (less $1,000,000) as proposed by the House and $2,793,324,000 as proposed by the Senate, and deletes language proposed by the Senate providing no more than $7,500,000 for termination of the Gas Turbine-Modular Helium Reactor program.

SOLAR AND RENEWABLE ENERGY PROGRAMS

Funding of $2,000,000 for the solar international program is to be allocated to nongovernmental organizations which are active in joint implementation activities to develop specific international energy projects.

Funding of $400,000 is provided to study the feasibility of piping treated effluent from Santa Rosa to the Geysers for injection.

The conferees have provided $55,300,000 for biofuels energy systems. An amount of $27,650,000 is allocated for the categories of biochemical and thermochemical conversion, of which $3,000,000 is for the Federal share of a 50/50 cost-shared biomass ethanol production plant in Gridley, California, and the amount also includes the request for capital equipment. With the remaining funds, the conferees support and fully fund the biomass power projects in Vermont and Hawaii, and have provided from the remainder of available funds $3,940,000 for the regional biomass program.

The conferees have not provided funding for the ocean thermal energy systems program, nor technical assistance and other support for the Kotzebue, Alaska, project for a wind energy system.

Within the total funding provided for solar energy, the conferees have included $2,988,000, the same as the budget request, for the renewable energy production incentive (REPI) program. The conferees urge the Department to fully fund both tier 1 and tier 2 projects as outlined in its recently published regulations. REPI program funding shall be available only for so long as the tax credit for electricity produced from certain renewable sources or the energy investment credit for solar and geothermal property (authorized by sections 1914 and 1916 of the Energy Policy Act of 1992, respectively) remain in effect.

Within funds available for hydrogen research, $250,000 shall be made available to an institution where expertise in electrochemical (fuel cells), thermochemical and photochemical reactions for hydrogen production may be synergistically studied and the application to gas storage and alternate vehicle technology may be integrated.

The conferees have provided $1,500,000 for the hydropower program which includes funding to support the cost-shared program to develop an advanced energy-efficient turbine which reduces environmental impacts on fish species.

NUCLEAR ENERGY

The conferees realize that sufficient funding has not been provided to complete all tasks as proposed in the Department's budget request for the advanced light water reactor program. Therefore, the conferees urge the Department to apply funds within the light water reactor program to cost-effectively complete essential activities.

Termination funding of $7,500,000, the same as the budget request, has been provided for the orderly close-out of the gas turbine-modular helium reactor program. An orderly close-out shall include only the summary documentation of existing technical data and information. All design, development, and test programs shall be terminated.

The conference agreement provides $25,000,000 for electrometallurgical research and development in the technology development program for Defense Environmental Restoration and Waste Management. As recommended by the National Academy of Sciences' assessment of the electrometallurgical approach for treating spent nuclear fuel, the conferees expect the Department to develop a plan to support the EBR–II demonstration using this technology. If this is successful, the Department should review the program for application to other types of spent fuel and waste management issues.

No funding for the Soviet-designed reactor safety program is included in the Energy Supply, Research and Development appropriation account. Funding for this activity has been included in the Other Defense Activities appropriation account.

ISOTOPES

The conferees agree to provide a total of $3,000,000—$1,000,000 in fiscal year 1996 in addition to $2,000,000 from funds appropriated for this purpose in fiscal year 1995—to continue development of the National Biomedical Tracer Facility (NBTF). This funding should be used to acquire three site specific conceptual designs from among the strongest submissions received during the project definition study. Additionally, the Department should assess all permanent or interim upgrade NBTF proposals, including any from national laboratories, according to a consistent set of evaluation criteria including the capacity to produce a wide range of isotopes for medical and research purposes; research, technology transfer, education and training capabilities; and overall cost effectiveness considering lifetime costs of the facility as well as public-private partnerships and cost-sharing by state and local partners.

The conferees support using up to $750,000 of available funds within this account for completion of the Hanford medical isotopes business planning and program development project.

ENVIRONMENT, SAFETY AND HEALTH

The Radiation Effects Research Foundation (RERF) is a private foundation co-funded by the governments of the United States and Japan to study the effects of radiation on the survivors of the Hiroshima and Nagasaki bombings. Since 1946, the National Academy of Sciences has provided support and oversight of scientific research on the consequences of the acute radiation exposures suffered by the population of these two cities, pursuant to an international agreement that co-funds activities at a 50–50 cost share, but this work has been threatened by the dramatically declining value of the dollar versus the yen. The conferees direct the Administration to continue to work with the National Academy of Sciences to achieve additional cost savings in this program and with the Japanese government to review areas for cost savings to reflect U.S. budgetary constraints. The appropriate committees should be informed of any funding changes before they become effective.

The conferees are also interested in the assessment of the continuing effectiveness and value of this program that is being conducted by a scientific committee jointly appointed by the U.S. and Japanese governments, and expect the Department to review the continued funding for this activity and report to the appropriate Congressional committees prior to hearings on the fiscal year 1997 budget and upon completion of the international scientific committee's review.

ENERGY RESEARCH

Biological and environmental research

The conferees support the important work conducted at the Inhalation Toxicology Research Institute. The conferees further understand that the Institute is reviewing ways to reduce its operating costs to the Department of Energy and to increase access to its facilities by other Federal and non-Federal entities having research needs. The conferees support these efforts to reduce costs and to meet both Federal and non-Federal needs and requirements.

Any general reductions to this account should be allocated equitably across all program elements without terminating any programs unilaterally.

Fusion

The conferees have provided $244,144,000, an increase of $15,000,000 over the House recommendation, for the fusion energy program. This funding is to support a program in plasma science and fusion technology, and continue United States participation in the engineering design activities phase of the International Thermonuclear Experimental Reactor project to which the United States is committed through fiscal year 1998. The conferees do not agree with the Senate language which recommended transferring computer work, termination, severance and separation costs to other activities within the Department, and transferring the heavy ion fusion program to defense activities.

With little prospect for increased funding for the fusion base program over the next several years, it will be necessary for the program to restructure its strategy, content and near-to-medium-term objectives. The restructured program should emphasize continued development of fusion science, increased attention to concept improvement and alternative approaches to fusion, and development and testing of the low-activation structural materials so important for fusion's attractiveness as an energy source.

The Department of Energy, with participation of the fusion community and the Fusion Energy Advisory Committee, is instructed to prepare a strategic plan to implement such a restructured program, to be completed by December 31, 1995. This plan should assume a constant level of effort in the base program for the next several years; as appropriate, it should be integrated with plans of the international fusion program; and it should address the institutional makeup of a domestic program consistent with the funding assumptions.

The conferees believe that, because of the stringent budget realities facing this Nation, the promise of fusion energy can only be realized through international collaboration. The high cost of fusion development points to the increasing importance of international cooperation as a means of designing, building, and financing major magnetic fusion facilities in the future. Because the United States has committed to such an approach, it is crucial that a restructuring of the fusion program maintain a strong domestic base and not undermine our credibility as a reliable international partner.

Basic energy sciences

The conferees make no recommendation with regard to the siting of the new spallation source project. The Department of Energy shall make that determination in a fair and unbiased manner. The conferees direct the Department of Energy to evaluate opportunities to upgrade existing reactors and spallation sources as cost-effective means of providing neutrons in the near term for the scientific community while the next generation source is developed. This evaluation shall be available prior to the Appropriations Committee's hearings on the Department's fiscal year 1997 budget submission.

For purposes of reprogrammings during fiscal year 1996, funding may be reallocated by the Department among all operating accounts in basic energy sciences other than program direction.

Other energy research activities

The conferees agree that to the extent non-program specific general plant projects and general plant equipment are required for the Oak Ridge National Laboratory and the Oak Ridge Institute for Science and Education, they are to be funded within the Basic Energy Science and Biological and Environmental Research programs, respectively.

The conference agreement provides $18,000,000 for the laboratory technology transfer program. Within this funding, up to $1,500,000 is available for severance costs for 17 current employees. The conferees recommend that the Department identify and complete the most promising cooperative research and development agreements during fiscal year 1996.

ENERGY SUPPORT ACTIVITIES

University science and education programs

The conferees have provided $20,000,000 for this portion of the Department's science and education activities. None of the funds in this account may be used for salaries and expenses other than up to $1,100,000 which is available for severance costs for the 27 employees currently managing this program.

In addition to this individual program, the Department of Energy spends well over $100,000,000 throughout all programs to support science and education activities. The conferees continue to support science and education activities funded directly by programs and which have a direct correlation to programmatic needs. The conferees do not agree to fund a separate bureaucracy set up to manage only a small portion of the science and education activities of the Department. In fiscal year 1996, these activities are to be managed by the Office of Energy Research as they were from 1977 to 1993. In that way, this science and education program will be closely coupled with the Department's research programs, and the number of employees needed to support the program will be significantly reduced.

The conference agreement does not contain specific funding directions for science and education activities, but urges the Department to consider the views express in the Senate report. The conferees also encourage the Secretary of Energy to enter into an agreement with a qualified minority women's model institution of excellence to support curriculum development, research, training and other activities related to energy research and environmental restoration and waste management.

ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(NON–DEFENSE)

The conferees agree with the House report language on the Wayne, New Jersey project.

INDIAN ENERGY RESOURCES

From within available funds for the Energy Supply, Research and Development appropriation account, $8,600,000 is provided for Indian energy resources. The funding should be allocated to provide $6,100,000 for continued preconstruction activities for the Navajo transmission project, and $2,000,000 for the Haida Alaska Native Village Corporation's Reynolds Creek hydroelectric project. The conference agreement includes $500,000 for the Crow Energy Project, instead of $2,000,000 as proposed by the Senate. The Department is encouraged to work through the Western Area Technology Center In Butte, Montana, to provide any and all assistance in making the Crow energy project a success.

Amendment No. 23: Deletes language proposed by the Senate providing that within available funds $56,000,000 may be available to continue operation of the Tokamak Fusion Test Reactor.

Amendment No. 24: Deletes language proposed by the Senate providing that within the amount for Indian Energy Resource projects, $2,000,000 may be made available to fund the Crow energy resources programs.

Amendment No. 25: Deletes language proposed by the House providing $44,772,000 to implement provisions of section 1211 of the Energy Policy Act of 1992.

Amendment No. 26: Deletes language proposed by the Senate allocating additional funds for renewable energy resources and reducing departmental administration funding.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

The conference agreement adjusts the allocation of funding for implementation of the depleted uranium hexafluoride cylinders and maintenance program. These adjustments will accelerate cleaning and painting of corroded cylinders at the three gaseous diffusion plant sites and construction of a new cylinder storage yard. These activities have been accommodated by reallocating funding provided in the House and Senate recommendations.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

Amendment No. 27: Appropriates $981,000,000 for General Science and Research Activities instead of $991,000,000 as proposed by the House and $971,000,000 as proposed by the Senate.

NUCLEAR WASTE DISPOSAL FUND

Amendment No. 28: Appropriates $151,600,000 as proposed by the Senate instead of $226,600,000 as proposed by the House and deletes language proposed by the Senate that authorizes construction of an interim storage facility for spent nuclear fuel.

The conferees agree on the importance of continuing the existing scientific work at Yucca Mountain to determine the ultimate feasibility and licensability of the permanent repository at that site. The conferees direct the Department to refocus the repository program on completing the core scientific activities at Yucca Mountain. The Department should complete excavation of the necessary portions of the exploratory tunnel and the scientific tests needed to assess the performance of the repository. It should defer preparation and filing of a license application for the repository with the Nuclear Regulatory Commission until a later date. The Department's goal should be to collect the scientific information needed to determine the suitability of the Yucca Mountain site and to complete a conceptual design for the repository and waste package for later submission to the Nuclear Regulatory Commission.

ATOMIC ENERGY DEFENSE ACTIVITIES

Weapons activities

Amendment No. 29: Appropriates $3,460,314,000 for Weapons Activities instead of $3,273,014,000 as proposed by the House and $3,751,719,000 as proposed by the Senate.

The conference agreement provides $1,078,403,000 for core stockpile stewardship activities which includes an additional $40,000,000 for the accelerated strategic computing initiative (ASCI). The conferees also support the enhanced surveillance and dual revalidation programs.

Funding of $37,400,000, the same as the budget request, is provided for project 96–D–111, the National Ignition Facility. Full funding for all inertial confinement fusion program participants is provided as requested in the Department's budget justification.

The conference agreement provides an increase of $106,000,000 over the House recommendation for stockpile management to provide for enhanced stockpile surveillance, advanced manufacturing, and core stockpile management activities. However, the conferees believe it is premature to initiate long-term capital improvements in advance of the outcome of the stockpile stewardship/management programmatic environmental impact statement process currently underway. The conferees have not provided specific site funding, but support fundamental initiatives in advanced manufacturing, and additional emphasis on advanced computerized manufacturing and dual revalidation techniques.

The conferees have provided $115,000,000 for program direction activities. The conferees support the liquefied gaseous spill test facility and the facility's modeling support center under the Department's emergency management program funded in the Other Defense Activities appropriation account.

The conference agreement includes the use of $209,744,000 in prior year balances, an increase of $123,400,000 over the budget request which included the use of $86,344,000.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

Amendment No. 30: Appropriates $5,557,532,000 for Defense Environmental Restoration and Waste Management instead of $5,265,478,000 a proposed by the House and $5,989,750,000 as proposed by the Senate.

The tables accompanying this conference agreement reallocate funding for several construction projects as requested by the Department to reflect the most recent programmatic and site assumptions for fiscal year 1996 activities.

Budget reductions should be taken in those areas which will have the least impact on ongoing cleanup activities. The conferees seek to the extent possible to protect funding necessary to meet the cleanup milestones established in compliance agreements with other Federal agencies, states, and local agencies, by directing the cuts against support service contracts, excessive Headquarters and field oversight, large uncosted balances, and by reducing other Department administrative expenses such as travel.

The conferees direct that, to the maximum extent practicable, funding reductions be taken against Headquarters personnel and activities. Headquarters employees should be reviewing and auditing field and contractor activities and holding the contractors responsible for meeting performance goals and milestones, not micromanaging each step of the process from Headquarters through the financial plan process and activity data sheets. A critical review of Headquarters' approval processes for various activities would yield a wealth of non-value added administrative steps which serve primarily to delay, prolong, and diffuse responsibility for direct and timely cleanup activities. Thus, the conferees expect funding for Headquarters' organizations to be severely curtailed during execution of the fiscal year 1996 program.

The conferees also believe that legislative reforms in the Department's cleanup program are long overdue, and will work with the legislative committees to ensure that significant changes are made in the cleanup program.

The Department has indicated that the environmental management organization plans to hire an additional 315 Federal employees in fiscal year 1996. The conferees do not agree with this strategy. Every witness outside of the Department who testified on this program stated that one of the management problems was too many employees. While the conferees are sympathetic that the program may not have the correct mix of technical skills in the current work force, they are not amenable to the concept of hiring 10% more employees for this program in fiscal year 1996. Thus, the Department is directed not to exceed the current Federal employee ceiling and hire new employees only as current employees leave.

The conference agreement provides $1,635,973,000 for environmental restoration. An additional $60,000,000 has been provided to accelerate cleanup activities and reduce current landlord costs and outyear funding requirements. The conferees strongly support efforts at sites such as Fernald, Ohio, and Rocky Flats, Colorado, which have developed detailed plans to expedite cleanup actions and reduce costs to the taxpayer.

The conferees are in agreement with the Senate recommendation to accelerate certain activities at the Idaho National Engineering Laboratory. Within the waste management account, funding is provided for preconstruction activities such as design and engineering work on additional capacity for dry storage of spent nuclear fuel and an advanced mixed waste treatment facility. The conference agreement also provides funding of $42,000,000 for project 96–D–406, the nuclear fuels canister storage building and stabilization facility in Richland, Washington.

The conferees agree with the concern expressed by the Senate that the Department is not providing sufficient attention and resources to longer term basic science research which needs to be done to ultimately reduce cleanup costs. The current technology development program continues to favor near-term applied research efforts while failing to utilize the existing basic research infrastructure within the Department and the Office of Energy Research. As a result of this, the conferees direct that at least $50,000,000 of the technology development funding provided to the environmental management program in fiscal year 1996 be managed by the Office of Energy Research and used to develop a program that takes advantage of laboratory and university expertise. This funding is to be used to stimulate the required basic research, development and demonstration efforts to seek new and innovative cleanup methods to replace current conventional approaches which are often costly and ineffective.

In the technology development program, $25,000,000 has been provided for electrometallurgical research and development. The conferees have also included sufficient funding for the Department to prepare a report on the potential of using pentaborane for environmental remediation or other uses, the estimated costs of the effort, and potential advantages and disadvantages of the proposal. The Department's activities in this area are to be confined to the preparation of this report.

The conferees expect the Department to direct more resources toward activities surrounding storage, treatment, and disposal of spent nuclear fuel currently stored at Department of Energy sites.

The conferees fully support the mission of the Hazardous Materials Training Center at the Hanford site in Richland, Washington, and direct the Department to adequately fund the requested operating budget from the compliance and coordination account.

The conferees understand the need for economic development funding to support local communities adversely impacted by Department of Energy programs and to transition communities which have lost jobs due to programmatic changes at facilities, but are concerned that cleanup funds are being used for economic development activities. With that understanding, the conferees have provided $82,500,000 in the worker and community transition program under Other Defense Activities which was established and authorized to fund such activities, and expect all economic development activities to be funded from that program.

The conference agreement provides not more than $12,000,000 for public accountability activities in the analysis, education and risk management program. The Department is expected to review requests for this funding to reduce duplication of efforts by various groups and excessive costs. None of these funds may be used for reimbursement of travel expenses of individuals traveling to Washington, DC.

The conference agreement includes funding to maintain State health studies in South Carolina, Tennessee, and Colorado at the $7,300,000 level in fiscal year 1996. These funds are in addition to the $9,950,000 for dose reconstruction or other health studies including those conducted under a Memorandum of Understanding between the Department of Health and Human Services and DOE's Office of Environment, Safety and

Health. Additionally, the conferees direct that all of these studies shall continue to be administered by the Office of Environment, Safety and Health.

The conference agreement supports the Hanford environmental dose reconstruction project and health information network at the budget request level, and continues the Hanford thyroid study at $1,700,000, the same as the fiscal year 1995 level.

The conferees are aware that the Draft Environmental Impact Statement prepared by the Department of Energy on the Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel includes as an option the importation of foreign spent nuclear fuel through civilian ports. The conferees are concerned that some of these ports may not have the security or the emergency management capabilities needed to safely handle weapons grade or highly irradiated nuclear material and that the designation of some of these ports as a port of entry would necessitate that the spent nuclear fuel be transported through highly populated metropolitan areas. The Department of Energy should take into consideration a port's willingness to be designated as a port of entry for the foreign spent nuclear fuel as one of the determining factors in the final selection process and to the maximum extent feasible, the conferees direct the Department of Energy to utilize military ports or civilian ports which have expressed an interest in receiving the spent fuel.

The conference agreement includes the use of $667,240,000 of prior year balances, an increase of $390,298,000 over the budget request, which included the use of $276,942,000.

OTHER DEFENSE ACTIVITIES

Amendment No. 31: Appropriates $1,373,212,000 for Other Defense Activities instead of $1,323,841,000 as proposed by the House and $1,439,112,000 as proposed by the Senate.

The conferees have provided $30,000,000 for the Soviet-designed reactor safety program, as proposed by the Senate, and $10,000,000 for the Industrial Partnering Program. The conference agreement also provides $3,600,000 to continue the Department's role in the North Korean spent fuel project.

NUCLEAR SAFEGUARDS AND SECURITY

The conferees are deeply concerned about the recent direction in Executive Order 12958 to "automatically declassify" and publicly release documents containing National Security Information within five years whether or not the records have been reviewed. Automatic declassification creates a substantial and unnecessary risk that information, including information regarding U.S. nuclear weapons, will be inadvertently disclosed to potential proliferators. Clearly such disclosure fundamentally undermines U.S. nonproliferation efforts, and could effect grave damage to U.S. national security. The conferees believe that the automatic declassification of national security records that could contain Restricted Data constitutes a violation of the legal protections for Restricted Data mandated by the Atomic Energy Act of 1954, as amended. Although the conferees recognize that the Order provides an exemption from automatic declassification for Restricted Data, the conferees do not see how such an exemption can be effectively implemented since the National Security Information records slated for automatic release have a high probability of containing some Restricted Data intermixed within the National Security Information. Thus, short of a Department of Energy review of all National Security Information records believed by the Department to have a probability of containing Restricted Data, there is no way to ensure the protection of Restricted Data materials consistent with the provisions of the Atomic Energy Act.

Given the potential impact to national security through the inappropriate release of Restricted Data, the conferees believe the rush to automatically declassify sensitive documents is not in the national interest. Therefore, the conferees strongly urge the President to review and revise Executive Order 12958 regarding Classified National Security Information, and exempt from automatic declassification all National Security Information files, including files of other agencies, earmarked by the Department of Energy as potentially containing Restricted Data.

FUNDING ADJUSTMENTS

The conferees direct the use of $70,000,000 of prior year balances from this account, an increase of $57,000,000 from the budget request of $13,000,000. The increase is to be taken against unobligated and uncosted balances remaining in the Materials Support program at the end of fiscal year 1995.

Amendment No. 32: Deletes language proposed by the Senate providing $4,952,000 for project 96–D–463, electrical and utility systems upgrade at the Idaho Chemical Processing Plant in Idaho. Funding for this project has been included in the Defense Environmental Restoration and Waste Management appropriation account.

DEFENSE NUCLEAR WASTE DISPOSAL

Amendment No. 33: Appropriates $248,400,000 as proposed by the Senate instead of $198,400,000 as proposed by the House.

Since passage of the Nuclear Waste Policy Act of 1982, as amended, the nuclear waste fund has incurred costs for activities related to disposal of high-level waste generated from the atomic energy defense activities of the Department of Energy. At the end of fiscal year 1994, the balance owed by the Federal Government to the nuclear waste fund was $664,000,000 (including principal and interest). Through fiscal year 1995, a total of $361,930,000 has been paid to the nuclear waste fund through the Defense Nuclear Waste Disposal appropriation account.

During fiscal year 1995, the defense contribution to the nuclear waste fund was reestimated to the current amount of $660,000,000. The recommendation of the conferees is to provide $248,400,000 in fiscal year 1996 which will reduce the deficit to $538,000,000 at the end of the fiscal year.

Amendment No. 34: Inserts language providing that $85,000,000 shall be available only for an interim storage facility and only upon the enactment of statutory authority instead of language proposed by the Senate clarifying the use of the funds appropriated in the Defense Nuclear Waste Disposal appropriation account.

DEPARTMENTAL ADMINISTRATION

Amendment No. 35: Appropriates $366,697,000 for Departmental Administration instead of $362,259,000 as proposed by the House and $377,126,000 as proposed by the Senate.

Amendment No. 36: Applies revenues of $122,306,000 for use in the Departmental Administration account as proposed by the House instead of $137,306,000 as proposed by the Senate.

Amendment No. 37: Provides a net appropriation of $244,391,000 for a final year estimate of Departmental Administration expenditures instead of $239,944,000 as proposed by the House and $239,820,000 as proposed by the Senate.

While the conferees realize that this funding level for the Departmental Administration account will cause reductions in existing personnel at the Department of Energy, it should be noted that the Secretary of Energy has initiated a strategic alignment process which will also lead to downsizing of the Department by 27 percent over the next five years. The conference agreement assumes a 15-percent reduction in the number of employees during fiscal year 1996 from the fiscal year 1995 baseline. To the extent possible the additional reductions should be targeted to correspond with reductions in other programmatic areas in this bill. Solar and renewables, fusion, nuclear energy, technology transfer, and science and education programs are a few of the areas funded below fiscal year 1995. Support and administrative workload and staff focused on these areas should see a corresponding reduction as should offices for activities such as quality management and employee and contractor protection which have grown significantly in the last two years.

Reduced funding for this account was first proposed by the House of Representatives in June of this year, but the Department made no effort to prepare for the possibility that actual funding reductions would be implemented on October 1, 1995. Thus, the impact of these reductions exceeds that which may have occurred had the Department taken them seriously several months ago. Another example of this was the rescission of $20,000,000 of fiscal year 1995 funding which the Department chose to allocate solely to contractual services rather than personnel or programmatic areas. This was ultimately short-sighted and has amplified the impact of the fiscal year 1996 reduction.

SECRETARIAL TRAVEL

In response to concerns about the breadth and scope of Secretarial travel, the conferees issue directions and impose limitations on appropriated funds as follows:

1. Beginning in fiscal year 1997, the Department is instructed to provide sufficient detail in its budget justifications for the Office of the Secretary to provide for identification of resources budgeted for secretarial travel.
2. Costs to support travel of the Secretary, any special assistants funded through the Office of the Secretary, and any security detail accompanying the Secretary are to be absorbed within the line item for the Office of the Secretary.
3. The Department is instructed to notify the House and Senate Committees on Appropriations of any internal reprogrammings which are executed to directly or indirectly support departmental travel, regardless of the amount.
4. No funds provided by this Act may be used to host or subsidize the travel of any non-Federal participants in secretarial missions.
5. The Department is instructed to provide semi-annual reports on secretarial travel to the House and Senate Committees on Appropriations. In addition to providing a full financial accounting of trips, these reports should identify: travel dates and destinations, all persons accompanying or advancing the Secretary, and the purpose and results of each trip.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 38: Appropriates $25,000,000 for the Office of the Department of Energy Inspector General as proposed by the Senate instead of $26,000,000 as proposed by the House. From within available funds, the Office of Contractor Employee Protection is to be funded in this account.

POWER MARKETING ADMINISTRATION

BONNEVILLE POWER ADMINISTRATION

Recent actions by the Bonneville Power Administration have led to concerns that the Bonneville Power Administration may not make its Treasury payment in fiscal year 1996. The conferees cannot state more strongly that failure by Bonneville to make the full annual payment to Treasury will seriously jeopardize its credibility with Congress and will lead to more involvement by Congress in the management and decision-making processes of the agency.

The conferees are also concerned that Bonneville's much touted cost cutting measures are more words than action. For example, Bonneville has indicated its intent to downsize, but plans to reduce its Federal work force by little more than eight percent over three years. That is less than annual attrition rates, and less than the Department of Energy has proposed for other program organizations.

FEDERAL ENERGY REGULATORY COMMISSION

Amendment No. 39: Appropriates $131,290,000 as proposed by the Senate instead of $132,290,000 as proposed by the House.

The conference agreement provides $131,290,000 for the Federal Energy Regulatory Commission. Revenues are established at a rate equal to the amount provided for program activities, resulting in a net appropriation of zero.

The conferees recognize that Commission workload with respect to the regulation of natural gas and oil is declining as those industries become more competitive and, therefore, concurs with the House and Senate Committees' recommendations to reduce staff in the natural gas and oil pipelines program. A 20-percent reduction over the next two years is recommended.

The conferees recognize the value in maintaining the current staffing level for the electric power program. This is necessary to respond to a significant increase in workload due to the Commission's efforts to establish a competitive wholesale bulk power market for electricity similar to what has been accomplished in the natural gas area.

To mitigate the impact of the recommended funding reduction, the conferees encourage the Commission to employ additional authority from prior years' unexpended balances, as needed.

The conferees direct the Commission to not approve the transfer of electric generating facilities at Scott Dam at Lake Pillsbury in Lake County, California, or Cape Horn Dam in Mendocino County, California, unless the Commission determines that such transfer will not adversely affect any existing water rights and will not substantially change flow levels in the Russian and Eel Rivers.

Amendment No. 40: Applies revenues of $131,290,000 as proposed by the Senate instead of $132,290,000 as proposed by the House.

Department of Energy (in thousands)

	Budget Estimate	Conference
ENERGY SUPPLY, RESEARCH AND DEVELOPMENT		
SOLAR AND RENEWABLE ENERGY		
Solar energy		
Solar building technology research	4,657	2,000
Photovoltaic energy systems	88,129	65,000
Solar thermal energy systems	33,943	25,000
Biofuels energy systems	80,380	55,300
Wind energy systems	49,820	32,500
International solar energy program	29,154	4,000
Solar technology transfer	17,758	4,300
National renewable energy laboratory	380	500
Construction		
General plant projects	120	---
96-E-100 FTLB renovation and expansion, Golden, CO	5,500	1,500
Subtotal, Construction	5,620	1,500
Subtotal, National renewable energy laboratory	6,000	2,000
Resource assessment	4,665	2,000
Solar program support	7,345	---
Program direction	9,460	---
Subtotal, Solar Energy	331,311	192,100
Review of uncosted balances	-4,888	-4,888
Total, Solar Energy	326,423	187,212
Geothermal		
Geothermal technology development	36,130	30,447
Program direction	1,000	---
Capital equipment	397	---
Review of uncosted balances	-555	-555
Total, Geothermal	36,972	29,892
Hydrogen research	7,334	14,500
Hydropower		
Small scale hydropower development	904	1,500
Program direction	90	---
Review of uncosted balances	-14	---
Total, Hydropower	980	1,500
Electric energy systems and storage		
Electric energy systems		
Electric field effects research	9,924	9,924
Reliability research	6,153	---
System and materials research	24,712	19,000
Program direction	850	---
Review of uncosted balances	-615	-615
Subtotal, Electric energy systems	41,024	28,309
Energy storage systems		
Battery storage	5,656	2,000
Program direction	350	---
Review of uncosted balances	-88	---
Subtotal, Energy storage systems	5,918	2,000
Total, Electric energy systems and storage	46,942	30,309
Policy and management	4,746	11,800
TOTAL, SOLAR AND RENEWABLE ENERGY	423,397	275,213

Department of Energy (in thousands)

	Budget Estimate	Conference
NUCLEAR ENERGY		
Nuclear energy R&D		
Light water reactor	49,339	40,000
Advanced radioisotope power system	48,512	48,512
Nuclear technology R&D	37,210	---
Program direction	12,093	8,000
Policy and management	9,841	5,000
Test reactor area hot cells	1,400	---
Oak Ridge landlord	15,380	14,400
Construction		
GPN-103 General plant projects	3,255	---
Subtotal, Oak Ridge landlord	18,635	14,400
Test reactor area landlord	1,370	2,000
Construction		
GP-N-102 General plant projects, Idaho National Engineering Laboratory, ID	730	---
95-E-201 Test reactor area fire and life safety improvements, Idaho National Engineering Laboratory, ID	1,900	1,900
Subtotal, Construction	2,630	1,900
Subtotal, Test reactor area landlord	4,000	3,900
Advanced test reactor fusion irradiation	2,303	2,303
University reactor fuel assistance and support	6,130	3,500
Total, Nuclear energy R&D	189,463	125,615
Termination costs	78,800	79,000
Construction		
GPN-102 General plant projects	1,000	---
95-E-207 Modifications to reactors, experimental breeder reactor - II sodium processing facility Argonne National Laboratory-West, ID	1,700	1,700
Subtotal, Construction	2,700	1,700
Total, Termination costs	81,500	80,700
Isotope support	25,303	24,658
Soviet designed reactor safety	78,543	---
Russian replacement power initiative	5,000	---
TOTAL, NUCLEAR ENERGY	379,809	230,973
CIVILIAN WASTE RESEARCH AND DEVELOPMENT		
Spent fuel storage R&D	586	---
Program direction	110	---
TOTAL, CIVILIAN WASTE RESEARCH AND DEVELOPMENT	696	---
ENVIRONMENT, SAFETY AND HEALTH		
Environment, safety and health	147,443	114,933
Nuclear safety policy	17,180	13,500
TOTAL, ENVIRONMENT, SAFETY AND HEALTH	164,623	128,433

Department of Energy (in thousands)

	Budget Estimate	Conference
ENERGY RESEARCH		
Biological and environmental research		
Biological and environmental research R&D	354,546	349,891
Construction		
GP-E-120 General plant projects	4,450	---
94-E-337 Advanced light source structural biology support facility, LBL	2,600	2,600
94-E-338 Structural biology center, ANL	4,295	4,295
94-E-339 Human genome lab, LBL	5,700	5,700
91-EM-100 Environmental & molecular sciences laboratory, PNL, Richland, WA	50,000	50,000
Subtotal, Construction	67,045	62,595
Subtotal, Biological & environ. research R&D	421,591	412,486
BER program direction	7,060	7,000
Total, Biological and environmental research	428,651	419,486
Fusion energy	309,187	244,144
Construction		
GPE-900 General plant projects, var. locations	1,000	---
96-E-310 Elise project	3,200	---
94-E-200 Tokamak physics experiment, Princeton plasma physics laboratory	49,900	---
Subtotal, Construction	54,100	---
Total, Fusion energy	363,287	244,144
Basic energy sciences		
Materials sciences	345,606	367,400
Chemical sciences	180,161	198,400
Applied mathematical sciences	107,852	116,500
Engineering and geosciences	39,648	41,700
Advanced energy projects	11,915	12,300
Energy biosciences	29,307	30,200
Program direction	9,495	9,500
Capital equipment	56,973	---
Construction		
GPE-400 General plant projects	6,314	---
96-E-305 Accelerator and reactor improvements and modifications, various locations	12,883	10,475
89-R-402 6-7 GeV syn. radiation source, ANL	3,186	3,186
96-E-300 Combustion research facility, Phase II, SNL/L	2,000	2,000
Subtotal, Construction	24,383	15,661
Total, Basic energy sciences	805,340	791,661
Other energy research		
Energy research analyses	3,463	3,463
Laboratory technology transfer	58,776	18,000
Advisory and oversight	8,720	6,200
Policy and management	2,180	2,200

Department of Energy (in thousands)

	Budget Estimate	Conference
Multiprogram energy labs - facility support		
Multiprogram general purpose facilities...........	6,382	---
Construction		
GPE-801 General plant projects...............	8,740	---
95-E-301 Central heating plant rehabilitation, Phase I (ANL)............................	2,500	2,500
95-E-302 Applied science center, phase I (BNL)	3,270	3,270
95-E-303 Electrical safety rehab (PNL)........	1,500	1,500
95-E-310 Multiprogram laboratory rehabilitation, phase I (PNL)...............	2,740	2,740
94-E-351 Fuel storage and transfer facility upgrade (BNL)................................	440	440
94-E-363 Roofing improvements (ORNL)..........	2,038	2,038
Subtotal, Construction........................	21,228	12,488
Subtotal, Multiprogram gen. purpose facilities	27,610	12,488
Environment, safety and health....................	8,657	6,656
Construction		
96-E-330 Building electrical service upgrade Phase I, Argonne National Laboratory Argonne, Illinois............................	1,200	---
96-E-331 Sanitary sewer restoration, Phase I, Lawrence Berkeley Laboratory, Berkeley, CA.....	2,400	---
96-E-332 Building 801, renovations Brookhaven National Laboratory, Upton, New York.........	800	---
96-E-333 Multiprogram energy laboratories upgrades, various locations..................	---	4,400
95-E-307 Fire Safety imp. III (ANL)...........	1,000	1,000
95-E-308 Sanitary system mods. II (BNL).......	1,540	1,540
95-E-309 Loss prevention upgrades (BNL).......	2,480	2,480
93-E-320 Fire and safety improvements, phase II (ANL)...............................	2,411	2,411
93-E-323 Fire and safety systems upgrade phase I (LBL)................................	1,130	1,130
93-E-324 Hazardous materials safeguards, phase I (LBL)................................	1,288	1,288
Subtotal, Construction........................	14,249	14,249
Subtotal, Environment, safety and health......	22,906	20,905
Inactive and surplus facilities..................	500	---
Subtotal, Multiprogram energy labs - fac. suppor	51,016	33,393
Total, Other energy research......................	124,155	63,256
TOTAL, ENERGY RESEARCH..........................	1,721,433	1,518,547

Department of Energy (in thousands)

	Budget Estimate	Conference
ENERGY SUPPORT ACTIVITIES		
University and science education programs		
Laboratory cooperative science centers	29,576	13,000
University programs	17,377	7,000
University research instrumentation	5,647	---
Program direction	2,359	---
Total, University and science education programs	54,959	20,000
Technical information management program	14,220	11,000
Construction	1,500	1,000
Total, Technical information management program	15,720	12,000
Technology partnership	3,139	---
In-house energy management	15,664	---
Construction		
IHE - 500 Modifications for energy mgmt	13,125	---
Total, In-house energy management	28,789	---
TOTAL, ENERGY SUPPORT ACTIVITIES	102,607	32,000
ENVIRONMENTAL RESTORATION & WASTE MGMT. (NON-DEFENSE)		
Corrective activities	1,065	---
Construction		
92-E-601 Melton Valley liquid low level waste collection and transfer system upgrade, ORNL	339	339
88-R-830 Liquid low level waste collection and transfer system upgrade, ORNL	4,000	4,000
Subtotal, Construction	4,339	4,339
Total, Corrective activities	5,404	4,339
Environmental restoration	411,532	366,400
Waste management	194,907	171,896
Construction		
GP-E-600 General plant projects	2,212	---
94-E-602 Bethel Valley federal facility agreement upgrades, ORNL	300	300
93-E-900 Long-term storage of TMI-2 fuel, INEL	4,048	4,048
91-E-600 Rehabilitation of waste management building 306, ANL	787	787
88-R-812 Hazardous waste handling facility, LBL	671	671
Subtotal, Construction	8,018	5,806
Total, Waste management	202,925	177,702
Nuclear materials and facilities stabilization	82,395	73,100
TOTAL, ENVIRONMENTAL RESTORATION AND WASTE MGMT	702,256	621,541
Subtotal, Energy supply, research and development	3,494,821	2,806,707

Department of Energy (in thousands)

	Budget Estimate	Conference
Use of prior year balances	-79,300	-79,300
General reduction, ESR&D	-10,000	---
Galvin task force reductions	-50,000	---
TOTAL, ENERGY SUPPLY, RESEARCH AND DEVELOPMENT	3,355,521	2,727,407
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES		
Uranium program activities	91,944	83,500
Construction		
96-U-200 UF6 cylinders refurbishment facility, Paducah, Kentucky gaseous diffusion plants	5,800	---
96-U-201 depleted UF6 cylinder storage yards, Paducah, Kentucky gaseous diffusion plant	---	3,000
93-U-200 UF6 cylinders and storage yards, Paducah, KY and Portsmouth, OH gaseous diffusion plants	3,400	3,400
Subtotal, Construction	9,200	6,400
Subtotal, Uranium supply & enrichment activities	101,144	89,900
Revenues - Sales	-34,903	-34,903
Use of prior year balances	-25,703	-25,703
TOTAL, URANIUM SUPPLY AND ENRICHMENT ACTIVITIES	40,538	29,294
URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND		
Decontamination and Decommissioning Fund	288,807	278,807
GENERAL SCIENCE AND RESEARCH		
High energy physics		
Physics research	146,050	141,000
Facility operations	337,352	353,077
Construction		
GP-E-103 General plant projects, various locations	13,845	---
96-G-301 Accelerator improvement projects, various locations	9,800	---
94-G-304 B-Factory, SLAC	52,000	52,000
92-G-302 Fermilab main injector, Fermilab	52,000	52,000
Subtotal, Construction	127,645	104,000
Subtotal, Facility operations	464,997	457,077
High energy technology	66,864	68,923
Other capital equipment	3,925	---
Total, High energy physics	681,836	667,000
Nuclear physics	237,773	236,925
Construction		
GP-E-300 General plant projects, various locations	4,785	---

Department of Energy (in thousands)

	Budget Estimate	Conference
96-G-302 Accelerator improvements and modifications, various locations	4,975	2,575
91-G-300 Relativistic heavy ion collider, BNL	70,000	65,000
Subtotal, Construction	79,760	67,575
Other capital equipment	2,000	---
Total, Nuclear physics	319,533	304,500
General science program direction	10,330	9,500
TOTAL, GENERAL SCIENCE AND RESEARCH	1,011,699	981,000
ATOMIC ENERGY DEFENSE ACTIVITIES		
WEAPONS ACTIVITIES		
Stockpile stewardship		
Core stockpile stewardship	994,208	1,078,403
Construction		
GPD-101 General plant projects, various locations	12,500	---
96-D-102 Stockpile stewardship facilities revitalization, Phase VI, various locations	2,520	2,520
96-D-103 ATLAS, Los Alamos National laboratory	8,400	8,400
96-D-104 Process and environmental technology laboratory, SNL	1,800	1,800
96-D-105 Contained firing facility addition, LLNL	6,600	6,600
95-D-102 Chemistry and metallurgy research (CMR) upgrades project, LANL	9,940	9,940
94-D-102 Nuclear Weapons Research, development and testing facilities revitalization, Phase V, various locations	12,200	12,200
93-D-102 Nevada support facility, NV	15,650	15,650
90-D-102 Nuclear Weapons Research, Development and testing facilities revitalization, Phase III, various locations	6,200	6,200
88-D-106 Nuclear weapons research, development and testing facilities revitalization, Phase II, various locations	17,995	17,995
Subtotal, Construction	93,805	81,305
Subtotal, Core stockpile stewardship	1,088,013	1,159,708
Inertial fusion	203,267	203,267
Construction		
96-D-111 National ignition facility, TBD	37,400	37,400
Subtotal, Inertial fusion	240,667	240,667
Technology transfer/education		
Technology transfer	229,405	150,000
Education	20,000	10,000
Subtotal, Technology transfer/education	249,405	160,000
Marshall Island/Dose reconstruction	6,800	6,800
Total, Stockpile stewardship	1,584,885	1,567,175

Department of Energy (in thousands)

	Budget Estimate	Conference
Stockpile management	1,769,090	1,911,458
Construction		
Stockpile support facilities		
GPD-121 General plant projects, various loc.	10,000	---
Production base		
88-D-122 Facilities capability assurance program (FCAP), various locations	8,660	8,660
96-D-126 Tritium loading line modifications, Savannah River Site, SC	---	12,200
Subtotal, Production base	8,660	20,860
Environmental, safety and health		
96-D-122 Sewage treatment quality upgrade (STQU) Pantex plant	600	600
96-D-123 Retrofit HVAC and chillers, for Ozone protection Y-12 plant	3,100	3,100
95-D-122 Sanitary sewer upgrade, Y-12 plant	6,300	6,300
94-D-124 Hydrogen fluoride supply system, Y-12 plant	8,700	8,700
94-D-125 Upgrade life safety, Kansas City plant	5,500	5,500
94-D-127 Emergency notification system, Pantex plant	2,000	2,000
94-D-128 Environmental safety and health analytical laboratory, Pantex plant	4,000	4,000
93-D-122 Life safety upgrades, Y-12 plant	7,200	7,200
Subtotal, Environmental, safety and health	37,400	37,400
Safeguards and security		
88-D-123 Security enhancement, Pantex plant	13,400	13,400
Nuclear weapons incident response		
96-D-125 Washington measurement operations facility, Andrews Air Force Base, MD	900	900
Reconfiguration		
93-D-123 Non-nuclear reconfiguration, various locations	41,065	41,065
Subtotal, Construction	111,425	113,625
Total, Stockpile management	1,880,515	2,025,083
Program direction	135,311	115,000
Subtotal, Weapons activities	3,600,711	3,707,258
Use of prior year balances	-86,344	-209,744
Streamline DOE contractors (undistributed)	-25,000	-37,200
TOTAL, WEAPONS ACTIVITIES	3,489,367	3,460,314
DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MGMT.		
Corrective activities		
Construction		
90-D-103 Environment, safety and health improvements, weapons R&D complex, LANL	3,406	3,406
Environmental restoration	1,570,174	1,635,973

Department of Energy (in thousands)

	Budget Estimate	Conference
Waste management..	2,280,039	2,295,994
Construction		
GP-D-171 General plant projects,various locations	30,728	---
96-D-400 Replace industrial waste piping, Kansas City Plant, Kansas City, MO....................	200	---
96-D-401 Comprehensive Treatment & Management Plan immobilization of miscellaneous wastes, Rocky Flats Environmental Technology Site, Golden, CO...	1,400	---
96-D-402 Comprehensive Treatment & Management Plan building 374/774 sludge immobilization Golden, CO..	1,500	---
96-D-403 Tank farm service upgrades, Savannah River, SC..	3,315	---
96-D-405 T-Plant secondary containment & leak detection upgrades, Richland, WA...............	2,100	---
96-D-406 Spent nuclear fuels canister storage and stabilization facility, Richland, WA..........	26,000	42,000
96-D-407 Mixed waste low level waste treatment project, Rocky Flats..................................	---	2,900
96-D-408 Waste mgmt upgrades, various locations...	---	5,615
95-D-402 Install permanent electrical service WIPP, AL..	4,314	4,314
95-D-405 Industrial landfill V and construction/ demolition landfill VII, Y-12 Plant, Oak Ridge,TN	4,600	4,600
95-D-406 Road 5-01 reconstruction, area 5, NV.....	1,023	1,023
95-D-407 219-S Secondary containment upgrade, Richland, WA..	---	1,000
94-D-400 High explosive wastewater treatment system, LANL..	4,445	4,445
94-D-402 Liquid waste treatment system, NTS.......	282	282
94-D-404 Melton Valley storage tank capacity increase, ORNL..	11,000	11,000
94-D-407 Initial tank retrieval systems, Richland, WA..	9,400	12,000
94-D-411 Solid waste operation complex Richland, WA..	5,500	6,606
94-D-417 Intermediate-level and low-activity waste vaults, Savannah River, SC..................	2,704	---
93-D-178 Building 374 liquid waste treatment facility, Rocky Flats Plant, CO..................	3,900	3,900
93-D-181 Radioactive liquid waste line replacement, Richland, WA..............................	---	5,000
93-D-182 Replacement of cross-site transfer system, Richland, WA..................................	19,795	19,795
93-D-183 Multi-function waste remediation facility, Richland, WA..................................	31,000	---
93-D-187 High level waste removal from filled waste tanks, Savannah River, SC............	19,700	19,700
92-D-171 Mixed waste receiving and storage facility, LANL..	1,105	1,105
92-D-188 Waste management ES&H, and compliance activities, various locations....................	1,100	1,100

Department of Energy (in thousands)

	Budget Estimate	Conference
90-D-172 Aging waste transfer line, Richland, WA..	2,000	2,000
90-D-177 RWMC transuranic (TRU) waste characterization and storage facility, ID.........	1,428	1,428
90-D-178 TSA retrieval enclosure, ID.............	2,606	2,606
89-D-173 Tank farm ventilation upgrade, Richland, WA...	800	800
89-D-174 Replacement high level waste evaporator, Savannah River, SC......................................	11,500	11,500
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA...........................	8,885	8,885
83-D-148 Non-radioactive hazardous waste management, Savannah River, SC..........................	1,000	1,000
Subtotal, Construction...........................	213,330	174,604
Total, Waste management...........................	2,493,369	2,470,598
Technology development.............................	389,327	440,510
Transportation management..........................	16,158	13,158
Nuclear materials and facilities stabilization....	1,462,117	1,447,108
Construction		
GP-D-171 General plant projects, various locations..	34,724	---
96-D-457 Thermal treatment system, Richland, WA..	---	1,000
96-D-458 Site drainage control, Mound Plant, Miamisburg, OH......................................	885	885
96-D-461 Electrical distribution upgrade, Idaho National Engineering Laboratory, ID..............	1,539	1,539
96-D-462 Health physics instrument laboratory, Idaho National Engineering Laboratory, ID.........	1,126	---
96-D-463 Central facilities area (CFA) craft shop Idaho National Engineering Laboratory, ID.........	724	---
96-D-464 Electrical & utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, ID............................	4,952	4,952
96-D-465 200 Area sanitary sewer system, Richland, WA...	1,800	---
96-D-468 Residue elimination project, Rocky Flats Plant, Golden, Co..	---	33,100
96-D-470 Environmental monitoring laboratory, Savannah River Site, Aiken, SC.....................	3,500	---
96-D-471 CFC HVAC/chiller retrofit, Savannah River Site, Aiken, SC...............................	1,500	1,500
96-D-472 Plant engineering & Design, Savannah River Site, Aiken, SC...............................	4,000	---
96-D-473 Health physics site support facility, Savannah River, South Carolina....................	2,000	---
95-D-155 Upgrade site road infrastructure, Savannah River, South Carolina....................	2,900	2,900
95-D-156 Radio trunking system, Savannah River,SC	6,000	6,000
95-D-454 324 Facility compliance/renovation, Richland, WA...	3,500	3,500

Department of Energy (in thousands)

	Budget Estimate	Conference
95-D-456 Security facilities consolidation, Idaho Chemical Processing Plant, INEL, Idaho	8,382	8,382
94-D-122 Underground storage tanks, Rocky Flats Plant, CO	5,000	5,000
94-D-401 Emergency response facility, INEL, ID	5,074	5,074
94-D-412 300 area process sewer piping system upgrade, Richland, WA	1,000	1,000
94-D-415 Idaho National Engineering Laboratory medical facilities, INEL, ID	3,601	3,601
94-D-451 Infrastructure replacement, Rocky Flats Plant, CO	2,940	2,940
93-D-147 Domestic water system upgrade, Phase I & II, Savannah River, South Carolina	7,130	7,130
93-D-172 Idaho national engineering laboratory electrical upgrade, INEL, ID	124	---
92-D-123 Plant fire/security alarm system replacement, Rocky Flats Plant, Golden, CO	9,560	9,560
92-D-125 Master safeguards and security agreement/materials surveillance task force security upgrades, Rocky Flats Plant, CO	7,000	7,000
92-D-181 Idaho national engineering laboratory fire and life safety improvements, INEL, ID	6,883	6,883
91-D-127 Criticality alarm & plant annunciation utility replacement, Rocky Flats plant, Golden, CO	2,800	2,800
Subtotal, Construction	128,644	114,746
Total, Nuclear materials & fac. stabilization	1,590,761	1,561,854
Compliance and program coordination	66,053	31,251
Construction		
95-E-600 Hazardous materials training center, Richland, Washington	15,000	15,000
Total, Compliance and program coordination	81,053	46,251
Analysis, education and risk management	156,430	90,022
Subtotal, Defense environmental management	6,300,678	6,261,772
Savannah river pension refund	-37,000	-37,000
Use of prior year balances	-276,942	-667,240
TOTAL, DEFENSE ENVIRON. RESTORATION AND WASTE MGMT	5,986,736	5,557,532
OTHER DEFENSE ACTIVITIES		
Other national security programs		
Verification and control technology		
Nonproliferation and verification, R&D	224,905	246,142
Arms control	160,933	160,964
Intelligence	42,110	42,336
Subtotal, Verification and control technology	427,948	449,442
Nuclear safeguards and security	86,774	83,395
Security investigations	32,871	20,000
Security evaluations	14,658	14,707
Nuclear safety	24,597	17,679

Department of Energy (in thousands)

	Budget Estimate	Conference
Worker and community transition	100,000	82,500
Fissile materials control and disposition	69,979	70,000
Emergency management	---	23,321
Total, Other national security programs	756,827	761,044
Naval reactors		
Naval reactors development	649,700	652,568
Construction		
GPN-101 General plant projects, various locations	6,600	6,600
95-D-200 Laboratory systems and hot cell upgrades, various locations	11,300	11,300
95-D-201 Advanced test reactor radioactive waste system upgrades, Idaho National Engineering Laboratory, ID	4,800	4,800
93-D-200 Engineering services facilities Knolls Atomic Power Laboratory, Niskayuna, NY	3,900	3,900
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	3,000	3,000
Subtotal, Construction	29,600	29,600
Total, Naval reactors	679,300	682,168
Subtotal, Other defense activities	1,436,127	1,443,212
Use of prior year balances	-13,000	-70,000
TOTAL, OTHER DEFENSE ACTIVITIES	1,423,127	1,373,212
DEFENSE NUCLEAR WASTE DISPOSAL		
Defense nuclear waste disposal	198,053	248,400
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	11,097,283	10,639,458
DEPARTMENTAL ADMINISTRATION		
Administrative operations		
Office of the Secretary - salaries and expenses	3,435	2,500
General management - personnel compensation and benefits	208,398	185,000
General management - other expenses	180,630	157,000
Program support		
Minority economic impact	3,415	2,900
Policy analysis and system studies	5,864	2,900
Consumer affairs	46	40
Public affairs	92	50
Environmental policy studies	7,700	4,000
Scientific and technical training	2,248	1,000
Subtotal, Program support	19,365	10,890
Total, Administrative operations	411,828	355,390
Cost of work for others	22,826	22,826
Subtotal, Departmental Administration	434,654	378,216
Use of unobligated balances and other adjustments	-11,519	-11,519
Total, Departmental administration (gross)	423,135	366,697
Miscellaneous revenues	-137,306	-122,306

Department of Energy (in thousands)

	Budget Estimate	Conference
OFFICE OF INSPECTOR GENERAL		
Office of Inspector General	32,611	26,915
Use of prior year balances	-1,915	-1,915
TOTAL, OFFICE OF INSPECTOR GENERAL	30,696	25,000
POWER MARKETING ADMINISTRATIONS		
ALASKA POWER ADMINISTRATION		
Operation and maintenance	4,260	4,260
SOUTHEASTERN POWER ADMINISTRATION		
Operation and maintenance		
Operating expenses	3,472	3,472
Purchase power and wheeling	26,416	26,430
Subtotal, Operation and maintenance	29,888	29,902
Use of prior year balances	-10,059	-10,059
TOTAL, SOUTHEASTERN POWER ADMINISTRATION	19,829	19,843
SOUTHWESTERN POWER ADMINISTRATION		
Operation and maintenance		
Operating expenses	20,897	20,897
Purchase power and wheeling	1,464	1,464
Construction	7,789	7,931
Subtotal, Operation and maintenance	30,150	30,292
Use of prior year balances	-514	-514
TOTAL, SOUTHWESTERN POWER ADMINISTRATION	29,636	29,778
WESTERN AREA POWER ADMINISTRATION		
Operation and maintenance		
Construction and rehabilitation	64,816	51,125
System operation and maintenance	123,358	125,255
Purchase power and wheeling	97,322	93,709
Utah mitigation and conservation	5,283	5,283
Subtotal, Operation and maintenance	290,779	275,372
Use of prior year balances	-8,020	-17,720
Transfer of authority from Department of Interior	(4,556)	(4,556)
TOTAL, WESTERN AREA POWER ADMINISTRATION	282,759	257,652
FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND		
Operation and maintenance	1,000	1,000
TOTAL, POWER MARKETING ADMINISTRATIONS	337,484	312,533
FEDERAL ENERGY REGULATORY COMMISSION		
Federal energy regulatory commission	151,567	146,290
Use of prior year balances (FERC)	-15,000	-15,000
FERC revenues	-136,567	-131,290
TOTAL, FEDERAL ENERGY REGULATORY COMMISSION	---	---
NUCLEAR WASTE DISPOSAL FUND		
Discretionary funding	---	151,600

Department of Energy (in thousands)

	Budget Estimate	Conference
ENERGY AND WATER DEVELOPMENT ACCOUNTS		
Energy Supply, Research and Development	3,355,521	2,727,407
Uranium Supply and Enrichment Activities	75,441	64,197
Revenues	-34,903	-34,903
Total, Uranium supply and enrichment	40,538	29,294
Uranium enrichment D&D fund	288,807	278,807
General Science and Research Activities	1,011,699	981,000
Nuclear Waste Disposal Fund	---	151,600
Environmental Restoration and Waste Management		
Defense function	(5,986,736)	(5,557,532)
Non-defense function	(991,063)	(900,348)
Total, Environmental Restoration and Waste Mgmt	(6,977,799)	(6,457,880)
Atomic Energy Defense Activities		
Weapons Activities	3,489,367	3,460,314
Defense Environmental Restoration and Waste Mgmt	5,986,736	5,557,532
Other Defense Activities	1,423,127	1,373,212
Defense nuclear waste disposal	198,053	248,400
Total, Atomic Energy Defense Activities	11,097,283	10,639,458
Departmental Administration	423,135	366,697
Revenues	-137,306	-122,306
Total, Departmental administration	285,829	244,391
Office of the Inspector General	30,696	25,000
Power Marketing Administrations		
Alaska Power Administration	4,260	4,260
Southeastern Power Administration	19,829	19,843
Southwestern Power Administration	29,636	29,778
Western Area Power Administration	282,759	257,652
Falcon and Amistad Operating and Maintenance Fund	1,000	1,000
Total, Power Marketing Administrations	337,484	312,533
Federal Energy Regulatory Commission	---	---
TOTAL, ENERGY AND WATER DEVELOPMENT ACCOUNTS	16,447,857	15,389,490

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

Amendment No. 41: Appropriates $170,000,000 instead of $142,000,000 as proposed by the House and $182,000,000 as proposed by the Senate.

Of the total amount appropriated, $57,355,000 is provided for area development, $3,645,000 is provided for salaries and expenses, and $109,000,000 is provided for the highway program.

The conferees direct that the Commission establish new area development allocation criteria which place greater emphasis on assistance to the more severely distressed counties.

DELAWARE RIVER BASIN COMMISSION

Amendment No. 42: Appropriates $343,000 for Salaries and Expenses instead of $440,000 as proposed by the Senate and appropriates $428,000 as a contribution to the Delaware River Basin Commission instead of $478,000 as proposed by the Senate and deletes language related to the compensation of the United States Commissioner as proposed by the Senate. The House included no similar provision.

The conferees agree to provide final year funding for the Delaware River Basin Commission. Funding is provided to facilitate an orderly transition to financial self-sufficiency of the compact states and an orderly termination of the Office of the Federal Commissioner. Committees of authorizing jurisdiction will have an opportunity during fiscal year 1996 to address any new institutional arrangements or revisions to the Delaware River Basin Compact that are necessary or desirable due to the prospective termination of Federal funding.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

Amendment No. 43: Appropriates $511,000 as proposed by the Senate. The House included no similar provision.

The conferees agree to provide final year funding for the Interstate Commission on the Potomac River Basin. Funding is provided to facilitate an orderly transition to financial self-sufficiency of the compact states. Committees of authorizing jurisdiction will have an opportunity during fiscal year 1996 to address any new institutional arrangements or revisions to the compact creating the Interstate Commission on the Potomac River Basin that are necessary or desirable due to the prospective termination of Federal funding.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

Amendment No. 44: Appropriates $468,300,000 as proposed by the House instead of $474,300,000 as proposed by the Senate.

Amendment No. 45: Derives $11,000,000 from the Nuclear Waste Fund as proposed by the House instead of $17,000,000 as proposed by the Senate.

Amendment No. 46: Provides for a net appropriation of $11,000,000 as proposed by the House instead of $17,000,000 as proposed by the Senate.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Amendment No. 47: Appropriates $2,531,000 as proposed by the House instead of $2,664,000 as proposed by the Senate.

SUSQUEHANNA RIVER BASIN COMMISSION

Amendment No. 48: Appropriates $318,000 for Salaries and Expenses instead of $280,000 as proposed by the Senate and appropriates $250,000 as a contribution to the Susquehanna River Basin Commission instead of $288,000 as proposed by the Senate and deletes language relating to the compensation of the United States Commissioner as proposed by the Senate. The House included no similar provision.

The conferees agree to provide final year funding for the Susquehanna River Basin Commission. Funding is provided to facilitate an orderly transition to financial self-sufficiency of the compact states and an orderly termination of the Office of the Federal Commissioner. Committees of authorizing jurisdiction will have an opportunity during fiscal year 1996 to address any new institutional arrangements or revisions to the Susquehanna River Basin Compact that are necessary or desirable due to the prospective termination of Federal funding.

TENNESSEE VALLEY AUTHORITY

Amendment No. 49: Appropriates $109,169,000 for the Tennessee Valley Authority instead of $103,339,000 as proposed by the House and $110,339,000 as proposed by the Senate.

The appropriation is to be distributed among TVA programs as follows: $71,169,000 for stewardship and land and water; $5,000,000 for Land Between the Lakes; $16,000,000 for economic development; and $17,000,000 for the environmental research center.

In conjunction with its efforts to reduce the need for future appropriations at Land Between the Lakes through reductions, savings and efficiencies, TVA may continue to use its flexibility to allocate up to an additional $1,000,000 from its Stewardship funds to LBL. This flexibility will allow TVA, if the need arises due to a lack of funds or other emergency and/or crisis situations, to allocate additional funding to promote the facilitation of LBL's transition to increased financial self-sufficiency.

Amendment No. 50: Includes language proposed by the Senate that requires the Tennessee Valley Authority to submit to Congress a plan for obtaining funding for the Environmental Research Center from other sources amended to extend the deadline for submission of such plan and to delete limitations on expenditures for the TVA Environmental Research Center.

TITLE V

GENERAL PROVISIONS

Amendment No. 51: Deletes language proposed by the House repealing Sec. 505 of Public Law 102-377 which prohibits the use of funds to conduct studies relating to changes in pricing hydroelectric power by the six Federal public power authorities and Sec. 208 of Public Law 99-349 which prohibits the use of funds by the executive branch to solicit proposals, prepare studies, or draft proposals to transfer out of Federal ownership the Federal power marketing administrations located within the contiguous 48 states, but accepts House language repealing Sec. 510 of Public Law 101-514 which prohibits the use of funds by the executive branch to change the employment levels determined by the administrators of the Federal power marketing administrations to be necessary to carry out their responsibilities. The conferees agree that the statutory limitations do not prohibit the Legislative Branch from initiating or conducting studies or collecting information regarding the sale or transfer of the power marketing administrations to non-Federal ownership.

The conference agreement also inserts language which extends the due date for the report required to be submitted by Title 30 of Public Law 102-575, the Western Water Policy Review Act of 1992. This extension is required because of the delay by the Administration in establishing the Western Water Policy Review Advisory Commission. The Bureau of Reclamation may use up to $800,000 of available funds in support of the work of the Commission.

Amendment No. 52: Deletes language proposed by the House and stricken by the Senate providing that no funds may be used for programs, projects, or activities not in compliance with applicable Federal law relating to risk assessment, protection of property rights, or unfunded mandates and inserts language which extends the authorization for the Trinity River Restoration Program of the Central Valley Project, California, for one year. The conferees are aware that the House Resources Committee currently has under consideration legislation to extend the authorization for this program. This temporary extension will permit work to continue on this important program pending action by the authorizing committee.

Amendment No. 53: Deletes language proposed by the House and stricken by the Senate reducing the Nuclear Waste Disposal Fund by $1,000, and inserts language that directs the Secretary of the Interior to proceed without delay with construction of those facilities of the Animas-La Plata Project, Colorado and New Mexico, identified for construction in the Final Biological Opinion for the project dated October 25, 1991.

Amendment No. 54: Deletes language proposed by the House and stricken by the Senate which provides that none of the funds available in the Act for the U.S. Army Corps of Engineers Upper Mississippi River—Illinios Waterway Navigation Study may be used to study any portion of the Mississippi River above Lock and Dam 14.

The conferees believe that the language contained in the House-passed bill could restrict the ability of the Corps of Engineers to undertake a comprehensive study of the navigation needs on the Upper Mississippi River and Illinois Waterway and have, therefore, agreed to delete the language. The conferees do agree, however, with the intent of the language and direct that the Corps of Engineers not study any large-scale improvements on the Upper Mississippi River above Lock and Dam 14.

Amendment No. 55: Deletes language inserted by the Senate pertaining to the amount of fish and wildlife costs that the Bonneville Power Administration could incur, and inserts language amending Public Law 88-552 and the Pacific Northwest Electric Power Planning and Conservation Act to permit the Bonneville Power Administration to sell excess Federal power outside the Pacific Northwest; requiring the Northwest Power and Conservation Planning Council to provide a report to Congress; authorizing the Corps of Engineers to procure goods through Bonneville using the authorities available to the Administrator; maintaining the residential exchange power program through fiscal year 1997; providing Bonneville Power Administration employees with a voluntary separation incentive up to $25,000; and authorizing these authorities to extend beyond the fiscal year.

The conferees are deeply concerned over the escalating and uncoordinated fish and wildlife costs imposed on the Bonneville Power Administration (BPA) and its customers due to Endangered Species Act compliance. The conferees are concerned that the current inability to control BPA's fish and wildlife costs may result in the shifting of costs—both directly and indirectly—to the

Nation's taxpayers and to non-Federal interests on the Columbia and Snake River system. Such non-Federal interests include the region's electric ratepayers, agriculture, non-Federal hydroelectric projects owners, river users, reservoir users, water interests, and others. The conferees strongly urge BPA and the Administration to resist the temptation to shift fish and wildlife costs onto the Nation's taxpayers and these non-Federal interests.

The conferees understand that there is a nearly unanimous call from affected parties—user groups, and ratepayers—in the region of Washington, Oregon, Idaho and Montana to start the review of the Pacific Northwest Power Planning and Conservation Act. The provisions of the Northwest Power Act that deserve careful consideration include, but are not limited to, containing the region's fish and wildlife costs, coordinating fish and wildlife expenditures, and granting the region the ability to make the decisions with respect to such costs. The conferees, therefore, urge a renewed review of the Northwest Power Act within the authorizing committees in the next session of Congress in an effort to answer these and other important issues confronting the region.

The conferees understand the Administration is taking steps to control fish and wildlife costs as an interim measure. In addition, the conferees direct the agencies involved to enter into a Memorandum of Agreement establishing an overall salmon recovery budget, and detailing the manner in which such budget will be implemented.

Sale of Excess Federal Power.—Excess power may be generated by routine power operations, or fish and wildlife operations, of either the Federal Columbia River Power System or other electric power plants from which Bonneville is contractually obligated to acquire electric power.

This section removes restrictions from power made excess to BPA contractual obligations by: 1) a customer's decision to remove load from Bonneville, 2) hydrosystem operations, or 3) purchases for the benefit of fish and wildlife. This gives BPA greater flexibility in marketing, to increase its revenue and its competitiveness.

The legislation applies the term "excess power" to this power. Currently, Bonneville's authorizing legislation severely limits Bonneville's flexibility to market such power, putting the agency at a marketing disadvantage and restricting potential revenues. Bonneville may sell excess power without, among other things, the regional preference call back provisions of 60 days for energy sales and 60 months for capacity sales, and without the Bonneville Project Act prohibition on resale of Federal power by private entities not in the business of selling power in the retail market. Surplus power which is surplus for reasons other than the reasons stated above will continue to be governed by existing marketing restrictions.

Bonneville is allowed greater flexibility to provide Pacific Northwest preference notice to regional customers for out-of-region sales. This flexibility may include shorter notice periods and less detailed information on inprogress negotiations. Notice periods may be very short for short-term sales (for example, notice to accommodate hourly sales) and for transactions that must be negotiated quickly. BPA may also provide seasonal notices with price ranges requesting interested parties to contact BPA to purchase power. In all cases, prior to sales outside the Pacific Northwest, Bonneville would continue to offer power first to Northwest utilities and industries purchasing power from Bonneville. Bonneville would offer excess power first to regional customers under the same essential rate, terms and conditions as for the proposed out-of-region sale. The Administrator has discretion in making this determination given that the rate may depend on terms and conditions for one purchaser that would be inapplicable to another purchaser. The rate, as under current law, will continue to be the price that BPA applies to the proposed sale within the parameters of the applicable rate schedule and based on the terms and conditions of the sale.

This legislation poses no significant risk or cost to Bonneville's regional customers because the only power sold outside the region without the restrictions is power abandoned by regional customers and excess power generated or purchased for the benefit of fish and wildlife. No other amount of power can be sold outside the region without such restrictions. Regional customers will continue to receive first right to purchase excess power before it is sold outside the region.

Within 90 days, the Bonneville Power Administration, with the concurrence of the Secretary of Energy, shall deliver a report on the sale of excess Federal power provision to the House Commerce Committee, House Resources Committee, the Senate Energy and Natural Resources Committee, and the House and Senate Committees on Appropriations. This report will be one of the factors considered in the comprehensive review of the Bonneville Power Administration.

Residential Exchange.—Establishes the total amount of benefits available for residential and small farm consumers of utilities participating in the residential exchange program under section 5(c) of the Pacific Northwest Power Planning and Conservation Act for fiscal year 1997. All residential exchange benefits will continue to be passed through in their entirety to the eligible residential and small farm consumers of the respective utilities. The conferees recognize the authority of the Bonneville Power Administration to implement in lieu transactions, among other actions, which could effectively terminate the residential exchange after 2001. Consistent with the regional review, Bonneville and its customers should work together to gradually phase out the residential exchange program by October 1, 2001. This should result in total fiscal year 1997 benefits to these consumers being approximately equivalent to the benefits they received in fiscal year 1996.

In order to maintain a sound financial position, the conferees urge, to the extent practicable, BPA to take such actions as are necessary to assure the proposed rate for public utilities and direct services industries are not increased from the initial proposal. In a further effort to prevent load loss, the conferees urge Bonneville to pursue load commitments from its public utility customers at an appropriate level which assures Bonneville's continued financial viability and recognizes customers' desires for load diversification and to capture economies of scale by pooling their resources.

Amendment No. 56: Inserts a provision which would repeal section 7 of the Magnetic Fusion Engineering Act as proposed by the Senate, but does not repeal section 3131(c) of Public Law 101-510, the National Defense Authorization Act for Fiscal Year 1991, as proposed by the Senate because this was an erroneous citation.

Amendment No. 57: Deletes language proposed by the Senate expressing the sense of the Senate on the conference on S. 4, the Line Item Veto Act.

Amendment No. 58: Deletes language proposed by the Senate requiring reductions in energy costs of agency facilities.

Amendment No. 59: Inserts language proposed by the Senate regarding the regulation of water levels in Rainy Lake and Namakan Lake in Minnesota, and changes the section number.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparison to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$20,042,999,000
Budget estimates of new (obligational) authority, fiscal year 1996	20,562,044,000
House bill, fiscal year 1996	18,682,457,000
Senate bill, fiscal year 1996	20,169,152,000
Conference agreement, fiscal year 1996	19,336,311,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	−706,688,000
Budget estimates of new (obligational) authority, fiscal year 1996	−1,225,733,000
House bill, fiscal year 1996	+653,854,000
Senate bill, fiscal year 1996	−832,841,000

JOHN T. MYERS,
HAROLD ROGERS,
JOE KNOLLENBERG,
FRANK RIGGS,
RODNEY P. FRELINGHUYSEN,
JIM BUNN,
BOB LIVINGSTON,
TOM BEVILL,
VIC FAZIO,
JIM CHAPMAN,
Managers on the Part of the House.

PETE V. DOMENICI,
MARK O. HATFIELD,
THAD COCHRAN,
SLADE GORTON,
MITCH MCCONNELL,
ROBERT F. BENNETT,
CONRAD BURNS,
ROBERT C. BYRD,
FRITZ HOLLINGS,
HARRY REID,
BOB KERREY,
PATTY MURRAY,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 1868

Mr. CALLAHAN submitted the following conference report and statement on the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–295)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1868) "making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 6, 15, 21, 23, 25, 29, 30, 33, 36, 37, 39, 54, 59, 61, 71, 85, 88, 90, 91, 93, 95, 96, 97, 98, 99, 100, 101, 102, 107, 108, 109, 112, 113, 117, 119, 120, 125, 127, 128, 129, 130, 134, 136, 137, 141, 143, 148, 153, 154, 157, 164, 166, 170, 172, 173, 174, 177, 178, 179, 180, 184, 185, 187, 188, 191, and 193.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 7, 13, 14, 17, 20, 26, 27, 38, 40, 41, 49, 50, 52, 56, 57, 58, 62, 66, 67, 68, 69, 70, 74, 75, 77, 81, 83, 84, 86, 87, 103, 104, 105, 110, 111, 114, 116, 118, 121, 122, 123, 124, 131, 133, 138, 139, 146, 149, 150, 151, 160, 161, 162, and 163, and agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$45,614,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$72,000,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS

Of the funds appropriated in title II of this Act, and under the heading "International Organizations and Programs" in title IV of this Act, not less than $484,000,000 shall be made available for programs for child survival, assistance to combat tropical and other diseases, and related activities: Provided, That this amount shall be made available for such activities as (1) immunization programs, (2) oral rehydration programs, (3) health and nutrition programs, and related education programs, which address the needs of mothers and children, (4) water and sanitation programs, (5) assistance for displaced and orphaned children, (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases, and (7) a contribution on a grant basis to the United Nations Children's Fund (UNICEF).

And the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

DEVELOPMENT ASSISTANCE

And the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96–533) and the provisions of section 401 of the Foreign Assistance Act of 1969, $1,675,000,000; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *That of the amount appropriated under this heading, up to $20,000,000 may be made available for the Inter-American Foundation and shall be apportioned directly to that agency: Provided further, That of the amount appropriated under this heading, up to $11,500,000 may be made available for the African Development Foundation and shall be apportioned directly to that agency: Provided further, That of the funds appropriated under title II of this Act that are administered by the Agency for International Development and made available for family planning assistance, not less than 65 percent shall be made available directly to the agency's central Office of Population and shall be programmed by that office for family planning activities: Provided further, That the President shall seek to ensure that funds made available under this heading for sub-Saharan Africa are in substantially the same proportion to the total amount appropriated and made available by this Act for development assistance as the proportion of funds made available for development assistance for sub-Saharan Africa was to the total amount appropriated for development assistance in Public Law 103–306: Provided further, That up to $25,000,000 of the funds appropriated under this heading may be made available for necessary expenses to carry out the provisions of section 667 of the Foreign Assistance Act: Provided further, That the President shall seek to ensure that the percentage of funds made available under this heading for the activities of private and voluntary organizations and cooperatives is at least equal to the percentage of funds made available pursuant to corresponding authorities in law for the activities of private and voluntary organizations and cooperatives in fiscal year 1995: Provided further,*

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided further, That not less than $650,000 of the funds made available under this heading should be made available for support of the United States Telecommunications Training Institute*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agreed to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

CYPRUS

Of the funds appropriated under the headings "Development Assistance" and "Economic Support Fund", not less than $15,000,000 shall be made available for Cyprus to be used for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

And the Senate agree to the same.

Amendment numbered 19:

That the House recede from its disagreement to the amendment to the Senate numbered 19, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

BURMA

Of the funds appropriated by this Act to carry out the provisions of chapter 8 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $2,380,000 shall be made available to support activities in Burma, along the Burma-Thailand border, and for activities of Burmese student groups and other organizations located outside Burma, for the purposes of fostering democracy in Burma, supporting the provision of medical supplies and other humanitarian assistance to Burmese located in Burma or displaced Burmese along the borders, and for other purposes: Provided, That of this amount, not less than $200,000 shall be made available to support newspapers, publications, and other media activities promoting democracy inside Burma: Provided further, That of this amount, not less than $380,000 shall be made available for crop substitution activities in cooperation with the Kachin people of Burma: Provided further, That funds made available under this heading may be made available notwithstanding any other provision of law: Provided further, That provision of such funds shall be made available subject to the regular notification procedures of the Committees on Appropriations.

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $181,000,000 to remain available until expended.

HUMANITARIAN ASSISTANCE TO THE FORMER YUGOSLAVIA

Of the funds appropriated in title II of this Act, $40,000,000 should be available only for emergency humanitarian assistance to the former Yugoslavia, of which amount not less than $6,000,000 shall be available only for humanitarian assistance to Kosova.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961, $10,000,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $4,000,000, to remain available until September 30, 1997: Provided, That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections. In addition, for administrative expenses to carry out guaranteed loan programs, $7,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development: Provided further, That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Eastern Europe and programs for the benefit of South Africans disadvantaged by apartheid, section 223(j) of the Foreign Assistance Act of 1961: Provided further, That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided, That of this amount not more than $1,475,000 may be made available to pay for printing costs: Provided further, That none of the funds appropriated by this Act for programs administered by the Agency for International Development (AID) may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of the Agency or the Administrator's designee: Provided further, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be made available for expenses necessary to relocate the Agency for International Development, or any part of that agency, to the building at the Federal Triangle in Washington, District of Columbia*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$30,200,000, to remain available until September 30, 1997*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$2,340,000,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: Provided further, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Eygpt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: Provided further, That the Egyptian pound equivalent of $85,000,000 generated from funds made available by this paragraph or generated from funds appropriated under this heading in prior appropriations Acts, may be made available to the United States pursuant to the United States-Egypt Economic, Technical and Related Assistance Agreements of 1978, for the following activities under such Agreements: the Egyptian pound equivalent of $50,000,000 may be made available to replenish the existing endowment for the American University in Cairo, and the Egyptian pound equivalent of $35,000,000 may be made available for projects and programs, including establishment of an endowment, which promote the preservation and restoration of Egyptian antiquities: Provided further, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to each such country: Provided further, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$641,000,000*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: such as those violations included in the Helsinki Final Act: Provided, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: Provided further,

And the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *: Provided, That this restriction does not apply to demilitarization or nonproliferation programs*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, and to read as follows: Provided, That grantees and contractors should, to the maximum extent possible, place in key staff positions specialists with prior on the ground expertise in the region of activity and fluency in one of the local languages; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

(j) In issuing new task orders entering into contracts, or making grants, with funds appropriated under this heading or in prior appropriations Acts, for projects or activities that have as one of their primary purposes the fostering of private sector development, the Coordinator for United States Assistance to the New Independent States and the implementing agency shall encourage the participation of and give significant weight to contractors and grantees who propose investing a significant amount of their own resources (including volunteer services and in-kind contributions) in such projects and activities.

And the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(k) Of the funds made available under this heading, not less than $225,000,000 shall be made available for Ukraine, with the understanding that Ukraine will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $50,000,000 (from this or any other Act) shall be made available to improve energy self-sufficient and improve safety at nuclear reactors, and of which $2,000,000 should be made available to conduct or implement an assessment of the energy distribution grid that provides recommendations leading to increased access to power by industrial, commercial and residential users, and of which not less than $22,000,000 shall be made available to support the development of small and medium enterprises, including independent broadcast and print media.

(l) Of the funds made available under this heading, $5,000,000 should be made available for a project to screen, diagnose, and treat victims of breast cancer associated with the 1985 incident at the Chernobyl reactor in Ukraine.

(m) Of the funds made available by this Act, not less than $85,000,000 shall be made available for Armenia.

(n) Of the funds made available by this or any other Act, $30,000,000 should be made available for Georgia.

(o)(1) Effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for Russia unless the President determines and certifies in writing to the Committees on Appropriations that the Government of Russia has terminated implementation of arrangements to provide Iran with technical expertise, training, technology, or equipment necessary to develop a nuclear reactor or related nuclear research facilities or programs.

(2) Subparagraph (1) shall not apply if the President determines that making such funds available is important to the national security interest of the United States. Any such determination shall cease to be effective six months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(p) Of the funds appropriated under this heading, $20,000,000 should be provided for hospital partnership programs, medical assistance

to directly reduce the incidence of infectious diseases such as diphtheria or tuberculosis, and a program to reduce the adverse impact of contaminated drinking water.

(q) Of the funds appropriated under this heading and under the heading "Assistance for Eastern Europe and the Baltic States", not less than $12,600,000 shall be made available for law enforcement training and exchanges, and investigative and technical assistance activities related to international criminal activities.

(r) Support should be provided from funds appropriated under this heading for a ballot security project to promote public review by Russian citizens over the conduct of parliamentary and presidential elections in Russia: Provided, That the Secretary of State may waive this provision with regard to any election upon notification to the Committees on Appropriations that the Government of Russia has blocked implementation of a ballot security project.

(s) Of the funds appropriated under this heading, not less than $50,000,000 should be provided to the Western NIS and Central Asian Enterprise Funds: Provided, That obligation of these funds shall be consistent with sound business practices.

(t) The President shall establish a Trans-Caucasus Enterprise Fund to encourage regional peace through economic cooperation: Provided, That the President shall seek other bilateral and multilateral investors in the Fund: Provided further, That of the funds made available under this heading, not less than $15,000,000 shall be made available for a United States investment in the Trans-Caucasus Enterprise Fund.

(u) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the disbursement of such funds by the Fund for program purposes. The Fund may retain for such program proposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(v) Section 5421(d) (3) (B) of title 22, United States Code is amended by adding at the end thereof the following: ": Provided, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the "Advisory Councils"), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause."

(w) Notwithstanding any other provision of law, assistance may be provided for the Government of Azerbaijan for humanitarian purposes, if the President determines that humanitarian assistance provided in Azerbaijan through nongovernmental organizations is not adequately addressing the suffering of refugees and internally displaced persons.

And the Senate agree to the same.

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

INDEPENDENT AGENCY

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$205,000,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$115,000,000*; and the Senate agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: *; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$16,000,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That funds appropriated under this heading for grant financed military education and training for Indonesia may only be available for expanded military education and training*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$3,208,390,000*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *: Provided, That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: Provided further, That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: Provided further, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$23,250,000*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment, insert: *$70,000,000*; and the Senate agree to the same.

Amendment numbered 76:

That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$35,000,000*; and the Senate agree to the same.

Amendment numbered 78:

That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$700,000,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: in lieu of "$67,550,000", insert: *$60,900,000*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *$25,952,110, and for the United States share of the increase in the resources of the Fund for Special Operations, $10,000,000, to remain available until expended*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: in lieu of "$70,000,000", insert: *$53,750,000*; and the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$285,000,000*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert: *$30,000,000*; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *: Provided further, That funds may be made available to the Korean Peninsula Energy Department Organization (KEDO) for administrative expenses and heavy fuel oil costs associated* *with the Agreed Framework: Provided further, That no funds may be provided for KEDO for funding for administrative expenses and heavy fuel oil costs beyond the total amount included for KEDO in the fiscal year 1996 congressional presentation: Provided further, That no funds may be made available under this Act to KEDO unless the President determines and certifies in writing to the Committees on Appropriations that (a) in accordance with section 1 of the Agreed Framework, KEDO has designated a Republic of Korea company, corporation or entity for the purpose of negotiating a prime contract to carry out construction of the light water reactors provided for in the Agreed Framework; and (b) the Democratic People's Republic of Korea is maintaining the freeze on its nuclear facilities as required in the Agreed Framework; and (c) the United States is taking steps to assure that progress is made on (1) the North-South dialogue, including efforts to reduce barriers to trade and investment, such as removing restrictions on travel, telecommunications services and financial transactions; (2) implementation of the January 1, 1992, Joint Declaration on the Denuclearization of the Korean Peninsula; Provided further, That a report on the specific efforts with regard to subsections (a), (b) and (c) of the preceding proviso shall be submitted by the President to the Committees on Appropriations six months after the date of enactment of this Act, and every six months thereafter*; and the Senate agree to the same.

Amendment numbered 106:

That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

"Development Assistance"

And the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In the matter proposed to be inserted in said amendment, strike "wholly paid for" and insert: *wholly paid for from*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(c) WAIVER AUTHORITY.—The President may waive the application in whole or in part, of subsection (a) if the President certifies to the Congress that the President has determined that the waiver is necessary to meet emergency humanitarian needs or to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

(d) EXPANDED AUTHORITY.—Section 660(b) of the Foreign Assistance Act of 1961 is amended—

(1) in paragraph (3), by striking "or";

(2) in paragraph (4), by striking the period at the end thereof and inserting "; or";

(3) adding the following new paragraphs:

"(5) with respect to assistance, including training, relating to sanctions monitoring and enforcement;

"(6) with respect to assistance provided to reconstitute civilian police authority and capability in the post-conflict restoration of host nation infrastructure for the purposes of supporting a nation emerging from instability, and the provision of professional public safety training, to include training in internationally recognized standards of human rights, the rule of law, anti-corruption, and the promotion of civilian police roles that support democracy.".

And the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *tactically or strategically, with the Khmer Rouge in their military operations, or to the military of any country which the President determines is not taking steps to prevent a pattern or practice of commercial relations between its members and the Khmer Rouge*; and the Senate agree to the same.

Amendment numbered 140:

That the House recede from its disagreement to the amendment of the Senate numbered 140, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *, Estonia, Latvia, and Lithuania*; and the Senate agree to the same.

Amendment numbered 142:

That the House recede from its disagreement to the amendment of the Senate numbered 142, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: *Provided, That not to exceed $750,000 may be made available to carry out the provisions of section 316 of Public Law 96–533*; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows: In lieu of "October 23, 1993" insert: *October 23, 1992*; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

CLARIFICATION OF RESTRICTIONS

SEC. 559. (a) IN GENERAL.—Section 620E of the Foreign Assistance Act of 1961 (22 U.S.C. 2375) is amended—

(1) in subsection (e)—

(A) by striking the words "No assistance" and inserting the words "No military assistance";

(B) by striking the words "in which assistance is to be furnished or military equipment or technology" and inserting the words "in which military assistance is to be furnished or military equipment or technology";

(C) by striking the words "the proposed United States assistance" and inserting the words "the proposed United States military assistance";

(D) by inserting "(1)" immediately after "(e)"; and

(E) by adding the following new paragraph:

"(2) The prohibitions in this section do not apply to any assistance or transfer provided for the purposes of:

"(A) International narcotics control (including Chapter 8 of Part I of this Act) or any provision of law available for providing assistance for counter narcotics purposes;

"(B) Facilitating military-to-military contact, training (including Chapter 5 of Part II of this Act) and humanitarian and civic assistance projects;

"(C) Peacekeeping and other multilateral operations (including Chapter 6 of Part II of this Act relating to peacekeeping) or any provision of law available for providing assistance for peacekeeping purposes, except that lethal military equipment provided under this subparagraph shall be provided on a lease or loan basis only and shall be returned upon completion of the operation for which it was provided;

"(D) Antiterrorism assistance (including Chapter 8 of Part II of this Act relating to antiterrorism assistance) or any provision of law available for antitorrorism assistance purposes.

"(3) The restrictions of this subsection shall continue to apply to contracts for the delivery of F–16 aircraft to Pakistan.

"(4) Notwithstanding the restrictions contained in this subsection, military equipment, technology, or defense services, other than F–16 aircraft, may be transferred to Pakistan pursuant to contracts or cases entered into before October 1, 1990."; and

(2) by adding at the end the following new subsections:

"(f) STORAGE COSTS.—The President may release the Government of Pakistan of its contractual obligation to pay the United States Government for the storage costs of items purchased prior to October 1, 1990, but not delivered by the United States Government pursuant to subsection (e) and may reimburse the Government of Pakistan for any such amount paid, on such terms and conditions as the President may prescribe: Provided, That such payments have no budgetary impact.

"(g) INAPPLICABILITY OF RESTRICTIONS TO PREVIOUSLY OWNED ITEMS.—Section 620E(e) does not apply to broken, worn or unupgraded items or their equivalent which Pakistan paid for and took possession of prior to October 1, 1990 and which the Government of Pakistan sent to the United States for repair or upgrade. Such equipment or its equivalent may be returned to the Government of Pakistan: Provided, That the President determines and so certifies to the appropriate congressional committees that such equipment or equivalent neither constitutes nor has received any significant qualitative upgrade since being transferred to the United States and that its total value does not exceed $25,000,000.

"(h) BALLISTIC MISSILE SANCTIONS NOT AFFECTED.—Nothing contained herein shall affect sanctions for transfers of missile equipment or technology required under section 11B of the Export Administration Act of 1979 or section 73 of the Arms Export Control Act.".

And the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 562. (a) IN GENERAL.—None of the funds made available in this Act may be used for assistance in support of any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) EXCEPTION.—Funds may be made available with regard to the restrictions in subsection (a) if the President determines that to do so is in the national security interest of the United States.

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

(b) EXCEPTIONS.—The requirement of subsection (a) to withhold assistance shall not apply with respect to—

(1) assistance to meet urgent humanitarian needs including disaster and refugee relief;

(2) democratic political reform and rule of law activities;

(3) the creation of private sector and nongovernmental organizations that are independent of government control;

(4) the development of a free market economic system; and

(5) assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160).

And the Senate agree to the same.

Amendment numbered 155:

That the House recede from its disagreement to the amendment of the Senate numbered 155, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 569. Not more than $33,500,000 of the funds appropriated in this Act under the heading "Economic Support Fund" may be made available to the Government of Turkey.

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

LIMITATION OF FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 569. None of the funds appropriated in this Act under the heading "North American Development Bank" and made available for the Community Adjustment and Investment Program shall be used for purposes other than those set out in the binational agreement establishing the Bank.

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

ASIAN DEVELOPMENT BANK

SEC. 571. The Secretary of the Treasury may, to fulfill commitments of the United States, subscribe to and make payments for shares of the Asian Development Bank in connection with the fourth general capital increase of the Bank. The amount authorized to be appropriated for paid-in shares of the Bank is limited to $66,614,647; the amount authorized to be appropriated for payment for callable shares of the Bank is limited to $3,264,178,021. The amount to be paid in respect of each subscription is authorized to be appropriated without fiscal year limitation. Any subscription by the United States to the capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance inappropriations Acts.

INTERNATIONAL DEVELOPMENT ASSOCIATION

SEC. 572. In order to pay for the United States contribution to the tenth replenishment of the resources of the International Development Association authorized in section 526 of Public Law 103–87, there is authorized to be appropriated, without fiscal year limitation, $700,000,000 for payment by the Secretary of the Treasury.

And the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 573. (a) AUTHORITY TO REDUCE DEBT.—The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) LIMITATIONS.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only' countries.

(c) CONDITIONS.—The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

(d) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) CERTAIN PROHIBITIONS INAPPLICABLE.—A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country. The authority provided by subsection (a) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961.

AUTHORITY TO ENGAGE IN DEBT BUYBACKS OR SALES

SEC. 574. (a) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any concessional loan or portion thereof made before January 1, 1995, pursuant to the Foreign Assistance Act of 1961, to the government of any eligible country as defined in section 702(6) of that Act or on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid or such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development, in a manner consistent with section 707 through 710 of the Foreign Assistance Act of 1961, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) ADMINISTRATION.—The Facility, as defined in Section 702(8) of the Foreign Assistance Act of 1961, shall notify the administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of purchasers that the President has determined to be eligible, and shall direct such agency to carry out the sale, reduction, or cancellation of a loan pursuant to this section. Such agency shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(4) LIMITATION.—The authorities of this subsection shall be available only to the extent that appropriations for the cost of the modification, as defined in section 502 of the Congressional Budget Act of 1974, are made in advance.

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(c) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (a)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(d) DEBTOR CONSULTATION.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(e) AVAILABILITY OF FUNDS.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

And the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert: *Sec. 575.*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

LIBERIA

SEC. 576. (a) Public Law 102–270 is amended—

(1) in subsection (b) by striking "Notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any other similar provision, the" and inserting "The"; and

(2) in subsection (b)(2) by striking "to implement the Yamoussoukro peace accord".

(b) Funds appropriated by this Act may be made available for assistance for Liberia notwithstanding section 620(q) of the Foreign Assistance Act of 1961 and section 512 of this Act.

And the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

ANNUAL REPORT ON ECONOMIC AND SOCIAL GROWTH

SEC. 577. (a) REPORTING REQUIREMENT.—The President shall submit to the appropriate congressional committees an annual report providing a concise overview of the prospects for economic and social growth on a broad, equitable, and sustainable basis in the countries receiving economic assistance under title II of this Act. For each country, the report shall discuss the laws, policies and practices of that country that most contribute to or detract from the achievement of this kind of growth. The report should address relevant macroeconomic, microeconomic, social, legal, environmental, and political factors and include criteria regarding wage and price controls, State ownership of production and distribution, State control of financial institutions, trade and foreign investment, capital and profit repatriation, tax and private property protection and a country's commitment to stimulate education, health and human development.

(b) COUNTRIES.—The countries referred to in subsection (a) are countries—

(1) for which in excess of $5,000,000 has been obligated during the previous fiscal year for assistance under sections 103 through 106, chapter 10 and 11 of part I, and chapter 4 of part II of the Foreign Assistance of 1961, and under the Support for East European Democracy Act of 1989; or

(2) for which in excess of $1,000,000 has been obligated during the previous fiscal year by the Overseas Private Investment Corporation.

(c) CONSULTATION.—The Secretary of State shall submit the report required by subsection (a) in consultation with the Secretary of the Treasury, the Administrator of the Agency for International Development, and the President of the Overseas Private Investment Corporation. The report shall be submitted with the annual congressional presentation for appropriations.

And the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert: *Sec. 578.*; and the Senate agree to the same.

Amendment numbered 171:

That the House recede from its disagreement to the amendment of the Senate numbered 171, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

REPORTS REGARDING HONG KONG

SEC. 579. (a) Section 301 of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5731) is amended in the text above paragraph (1) by inserting "March 31, 1996," after "March 31, 1995,".

(b) In light of the deficiencies in reports submitted to the Congress pursuant to section 301 of the United States-Hong Kong Policy Act (22 U.S.C. 5731), the Congress directs that the additional report required to be submitted under such section by subsection (a) of this section include detailed information on the status of, and other developments affecting, implementation of the Sino-British Joint Declaration on the Question of Hong Kong, including—

(1) the Basic Law and its consistency with the Joint Declaration;

(2) the openness and fairness of elections to the legislature;

(3) the openness and fairness of the election of the chief executive and the executive's accountability to the legislature;

(4) the treatment of political parties;

(5) the independence of the judiciary and its ability to exercise the power of final judgment over Hong Kong law; and

(6) the Bill of Rights.

And the Senate agree to the same.

Amendment numbered 175:

That the House recede from its disagreement to the amendment of the Senate numbered 175, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 580. Notwithstanding any other provision of this Act, $20,000,000 of the funds made available under the headings "Development Assistance" and/or "Economic Support Fund" may be transferred to, and merged with, the appropriations account entitled "International Narcotics Control" and may be available for the same purposes for which funds in such account are available.

And the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

GUATEMALA

SEC. 581. (a) Funds provided in this Act may be made available for the Guatemalan military or security forces, and the restrictions on Guatemala under the headings "International Military Education and Training" and "Foreign Military Financing Program" shall not apply, only if the President determines and certifies to the Congress that the Guatemalan military is cooperating with efforts to resolve human rights abuses which elements of the Guatemalan military or security forces are alleged to have committed, ordered or attempted to thwart the investigation of.

(b) The prohibition contained in subsection (a) shall not apply to funds made available to implement a cease-fire or peace agreement.

(c) Any funds made available pursuant to subsections (a) or (b) shall be subject to the regular notification procedures of the Committees on Appropriations.

(d) Any funds made available pursuant to subsections (a) and (b) for international military education and training may only be for expanded international military education and training.

And the Senate agree to the same.

Amendment numbered 181:

That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

EXTENSION OF TIED AID CREDIT PROGRAM

SEC. 582. (a) Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(c)(2) is amended by striking "1995" and inserting "1997".

(b) Section 10(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(e)) is amended by striking "1993, 1994, and 1995" and inserting "1996 and 1997".

And the Senate agree to the same.

Amendment numbered 182:

That the House recede from its disagreement to the amendment of the Senate numbered 182, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

MORATORIUM ON USE OF ANTIPERSONNEL LANDMINES

SEC. 583. (a) UNITED STATES MORATORIUM.—For a period of one year beginning three years after the date of enactment of this Act, the United States shall not use antipersonnel landmines except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

(b) DEFINITION AND EXEMPTIONS.—For the purposes of this section:

(1) ANTIPERSONNEL LANDMINE.—The term "antipersonnel landmine" means any munition placed under, on, or near the ground or other surface area, delivered by artillery, rocket, mortar, or similar means, or dropped from an aircraft and which is designed, constructed or adapted to be detonated or exploded by the presence, proximity, or contact of a person.

(2) EXEMPTIONS.—the term "antipersonnel landmine" does not include command detonated Claymore munitions.

And the Senate agree to the same.

Amendment numbered 183:

That the House recede from its disagreement to the amendment of the Senate numbered 183, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

EXTENSION OF AU PAIR PROGRAMS

SEC. 584. Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking "fiscal year 1995" and inserting "fiscal year 1996".

And the Senate agree to the same.

Amendment numbered 186:

That the House recede from its disagreement to the amendment of the Senate numbered 186, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

SANCTIONS AGAINST COUNTRIES HARBORING WAR CRIMINALS

SEC. 585. (a) BILATERAL ASSISTANCE.—Funds appropriated by this Act under the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be provided for any country described in subsection (c).

(b) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States executive directors of the international financial institutions to work in opposition to, and vote against, any extension by such institutions of financing or financial or technical assistance to any country described in subsection (c).

(c) SANCTIONED COUNTRIES.—A country described in this subsection is a country the government of which knowingly grants sanctuary to persons in its territory for the purpose of evading prosecution, where such persons—

(1) have been indicted by the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, or any other international tribunal with similar standing under international law, or

(2) have been indicted for war crimes or crimes against humanity committed during the period beginning March 23, 1933 and ending on May 8, 1945 under the direction of, or in association with—

(A) the Nazi government of Germany;

(B) any government in any area occupied by the military forces of the Nazi government of Germany;

(C) any government which was established with the assistance or cooperation of the Nazi government; or

(D) any government which was an ally of the Nazi government of Germany.

And the Senate agree to the same.

Amendment numbered 189:

That the House recede from its disagreement to the amendment of the Senate numbered 189, and agree to the same with an amendment, as follows:

LIMITATION ON ASSISTANCE FOR HAITI

SEC. 586. (a) LIMITATION.—None of the funds appropriated or otherwise made available by this Act, may be provided to the Government of Haiti until the President reports to Congress that—

(1) the Government is conducting thorough investigations of extrajudicial and political killings; and

(2) the Government is cooperating with U.S. authorities in the investigations of political and extrajudicial killings.

(b) Nothing in this section shall be construed to restrict the provision of humanitarian or electoral assistance.

(c) The President may waive the requirements of this section if he determines and certifies to the appropriate committees of Congress that it is in the national interest of the United States or necessary to assure the safe and timely withdrawal of American forces from Haiti.

And the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert: *SEC. 587.* ; and the Senate agree to the same.

Amendment numbered 192:

That the House recede from its disagreement to the amendment of the Senate numbered 192, and agree to the same with an amendment, as follows:

In lieu of the section designation of said amendment, insert:

NATO PARTICIPATION

SEC. 588. REVISIONS TO PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.—

(a) ELIGIBLE COUNTIES.—Subsection (d) of section 203 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended to read as follows:

"(d) DESIGNATION OF ELIGIBLE COUNTRIES.—

"(1) INITIAL PRESIDENTIAL REVIEW AND DESIGNATION.—Within 60 days of the enactment of the NATO Participation Act Amendments of 1995, the President should evaluate the degree to which any country emerging from communist domination which has expressed its interest in joining NATO meets the criteria set forth in paragraph (3), and may designate one or more of these countries as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

"(2) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—In addition to the countries designated pursuant to paragraph (1), the President may at any time designate other European countries emerging from communist domination as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

"(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are, with respect to each country, that the country—

"(A) has made significant progress toward establishing—

"(i) shared values and interests;

"(ii) democratic governments;

"(iii) free market economies;

"(iv) civilian control of the military, of the police, and of intelligence service, so that these organizations do not pose a threat to democratic institutions, neighboring countries, or the security of NATO or the United States;

"(v) adherence to the rule of law and to the values, principles, and political commitments set forth in the Helsinki Final Act and other declarations by the members of the Organization on Security and Cooperation in Europe;

"(vi) commitment to further the principles of NATO and to contribute to the security of the North Atlantic area.

"(vii) commitment to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

"(viii) commitment and ability to accept the obligations, responsibilities, and costs of NATO membership; and

"(ix) commitment and ability to implement infrastructure development activities they will facilitate participation in and support for NATO military activities;

"(B) is likely, within five years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

"(C) is not ineligible to receive assistance under section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, with respect to transfers of equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act.".

(2) CONFORMING AMENDMENTS.—

(A) Subsections (b) and (c) of section 203 of such Act are amended by striking "countries described in such subsection" each of the two places it appears and inserting "countries designated under subsection (d)".

(B) Subsection (e) of section 203 of such Act is amended by inserting "(22 U.S.C. 2394–1), and shall include with such notification a memorandum of justification with respect to the proposed designation" before the period at the end.

(b) TYPES OF ASSISTANCE.—Section 203(c) of such Act is amended by inserting after paragraph (4) the following new paragraphs:

"(5) Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).

"(6) Funds appropriated under the "Nonproliferation and Disarmament Fund" account.

"(7) Assistance under chapter 6 of part II of the Foreign Assistance Act of 1961 (relating to peacekeeping operations and other programs).

"(8) Notwithstanding any other provision of law, including any restrictions in sections 516 and 519 of the Foreign Assistance Act of 1961, as amended, the President may direct the crating, packing, handling, and transportation of excess defense articles provided pursuant to paragraphs (1) and (2) of this subsection without charge to the recipient of such articles."

(c) EFFECT ON OTHER AUTHORITIES.—Section 203 of the NATO Participation Act of 1994 (Title II of Public Law 103–447, 22 U.S.C. 1928 note), is amended to add a new subsection (g) to read as follows:

"(g) EFFECT ON OTHER AUTHORITIES.—Nothing in this Act shall affect the eligibility of countries to participate under other provisions of law in programs described in this Act.".

(d) ANNUAL REPORT.—Section 205 of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended:

(1) by inserting "ANNUAL" in the section heading before the first word;

(2) by inserting "annual" after "include in the" in the matter preceding paragraph (1); and

(3) in paragraphs (1) and (2), by striking "and other " and all that follows through the period at the end in both instances inserting in lieu thereof "and any other country designated by the President pursuant to section 203(d).".

TITLE VI—MIDDLE EAST PEACE FACILITATION ACT OF 1995

SHORT TITLE

SEC. 601. This title may be cited as the "Middle East Peace Facilitation Act of 1995".

FINDINGS

SEC. 602. The Congress finds that—

(1) the Palestine Liberation Organization (hereafter the "P.L.O.") has recognized the State of Israel's right to exist in peace and security, accepted United Nations Security Council Resolutions 242 and 338, committed itself to the peace process and peaceful coexistence with Israel, free from violence and all other acts which endanger peace and stability, and assumed responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations, and discipline violators;

(2) Israel has recognized the P.L.O. as the representative of the Palestinian people;

(3) Israel and the P.L.O. signed a Declaration of Principles on Interim Self-Government Arrangements (hereafter the "Declaration of Principles") on September 13, 1993 at the White House;

(4) Israel and the P.L.O. signed an Agreement on the Gaza Strip and the Jericho Area (hereafter the "Gaza-Jericho Agreement") on May 4, 1994 which established a Palestinian Authority for the Gaza and Jericho areas;

(5) Israel and the P.L.O. signed an Agreement on Preparatory Transfer of Powers and Responsibilities (hereafter the "Early Empowerment Agreement") on August 29, 1994 which provided for the transfer to the Palestinian Authority of certain powers and responsibilities in the West Bank outside of the Jericho Area;

(6) under the terms of the Israeli-Palestinian Interim Agreement on the West Bank and Gaza (hereafter the "Interim Agreement) signed on September 28, 1995, the Declaration of Principles, the Gaza-Jericho Agreement and the Early Empowerment Agreement, the powers and responsibilities of the Palestinian Authority are to be assumed by an elected Palestinian Council with jurisdiction in the West Bank and Gaza Strip in accordance with the Interim Agreement;

(7) permanent status negotiations relating to the West Bank and Gaza Strip are scheduled to begin by May 1996;

(8) the Congress has, since the conclusion of the Declaration of Principles and the P.L.O.'s renunciation of terrorism, provided authorities to the President to suspend certain statutory restrictions relating to the P.L.O., subject to Presidential certifications that the P.L.O. has continued to abide by commitments made in and in connection with or resulting from the good faith implementation of, the Declaration of Principles;

(9) the P.L.O. commitments relevant to Presidential certifications have included commitments to renounce and condemn terrorism, to submit to the Palestinian National Council for former approval the necessary changes to those articles of the Palestinian Covenant which call for Israel's destruction, and to prevent acts of terrorism and hostilities against Israel; and

(10) the United States is resolute in its determination to ensure that in providing assistance to Palestinians living under the jurisdiction of the Palestinian Authority or elsewhere, the beneficiaries of such assistance shall be held to the same standard of financial accountability and management control as any other recipient of United States assistance.

SENSE OF CONGRESS

SEC. 603. It is the sense of the Congress that the P.L.O. must do far more to demonstrate an irrevocable denunciation of terrorism and ensure a peaceful settlement of the Middle East dispute, and in particular it must—

(1) submit to the Palestinian National Council for formal approval the necessary changes to those articles of the Palestinian National Covenant which call for Israel's destruction;

(2) make greater efforts to pre-empt acts of terror, discipline violators and contribute to stemming the violence that has resulted in the deaths of over 140 Israeli and United States citizens since the signing of the Declaration of Principles;

(3) prohibit participation in its activities and in the Palestinian Authority and its successors by any groups or individuals which continue to promote and commit acts of terrorism;

(4) cease all anti-Israel rhetoric, which potentially undermines the peace process;

(5) confiscate all unlicensed weapons;

(6) transfer and cooperate in transfer proceedings relating to any person accused by Israel to acts of terrorism; and

(7) respect civil liberties, human rights and democratic norms.

AUTHORITY TO SUSPEND CERTAIN PROVISIONS

SEC. 604. (a) IN GENERAL.—Subject to subsection (b), beginning on the date of enactment of this Act and for eighteen months thereafter, the President may suspend for a period of not more than 6 months at a time any provision of law specified in subsection (d). Any such suspension shall cease to be effective after 6 months, or at such earlier date as the President may specify.

(b) CONDITIONS.—

(1) CONSULTATIONS.—Prior to each exercise of the authority provided in subsection (a) or certification pursuant to subsection (c), the President shall consult with the relevant congressional committees. The President may not exercise that authority or make such certification until 30 days after a written policy justification is submitted to the relevant congressional committees.

(2) PRESIDENTIAL CERTIFICATION.—The President may exercise the authority provided in subsection (a) only if the President certifies to the relevant congressional committees each time he exercises such authority that—

(A) it is in the national interest of the United States to exercise such authority;

(B) the P.L.O., the Palestinian Authority, and successor entities are complying with all the commitments described in paragraph (4); and

(C) funds provided pursuant to the exercise of this authority and the authorities under section 583(a) of Public Law 103-236 and section 3(a) of Public Law 103-125 have been used for the purposes for which they were intended.

(3) REQUIREMENT FOR CONTINUING P.L.O. COMPLIANCE.—(A) The President shall ensure that P.L.O. performance is continuously monitored and if the President at any time determines that the P.L.O. has not continued to comply with all the commitments described in paragraph (4), he shall so notify the relevant congressional committees and any suspension under subsection (a) of a provision of law specified in subsection (d) shall cease to be effective.

(B) Beginning six months after the date of enactment of this Act, if the President on the basis of the continuous monitoring of the P.L.O.'s performance determines that the P.L.O. is not complying with the requirements described in subsection (c), he shall notify the relevant congressional committees and no assistance shall be provided pursuant to the exercise by the President of the authority provided by subsection (a) until such time as the President makes the certification provided for in subsection (c).

(4) P.L.O. COMMITMENTS DESCRIBED.—The commitments referred to in paragraphs (2)(B) and (3)(A) are the commitments made by the P.L.O.—

(A) in its letter of September 9, 1993, to the Prime Minister of Israel; in its letter of September 9, 1993, to the Foreign Minister of Norway to—

(i) recognize the right of the State of Israel to exist in peace and security;

(ii) accept United Nations Security Council Resolutions 242 and 338;

(iii) renounce the use of terrorism and other acts of violence;

(iv) assume responsibility over all P.L.O. elements and personnel in order to assure their compliance, prevent violations and discipline violators;

(v) call upon the Palestinian people in the West Bank and Gaza Strip to take part in the steps leading to the normalization of life, rejecting violence and terrorism, and contributing to peace and stability; and

(vi) submit to the Palestinian National Council for formal approval the necessary changes to the Palestinian National Covenant eliminating calls for Israel's destruction, and

(B) in, and resulting from, the good faith implementation of the Declaration of Principles, including good faith implementation of subsequent agreements with Israel, with particular attention to the objective of preventing terrorism, as reflected in the provisions of the Interim Agreement concerning—

(i) prevention of acts of terrorism and legal measures against terrorists, including the arrest and prosecution of individuals suspected of perpetrating acts of violence and terror;

(ii) abstention from and prevention of incitement, including hostile propaganda;

(iii) operation of armed forces other than the Palestinian Police;

(iv) possession, manufacture, sale, acquisition or importation of weapons;

(v) employment of police who have been convicted of serious crimes or have been found to be actively involved in terrorist activities subsequent to their employment;

(vi) transfers to Israel of individuals suspected of, charged with, or convicted of an offense that falls within Israeli criminal jurisdiction;

(vii) cooperation with the government of Israel in criminal matters, including cooperation in the conduct of investigations; and

(viii) exercise of powers and responsibilities under the agreement with due regard to internationally accepted norms and principles of human rights and the rule of law.

(5) POLICY JUSTIFICATION.—As part of the President's written policy justification to be submitted to the relevant Congressional Committees pursuant to paragraph (1), the President will report on—

(A) the manner in which the P.L.O. has complied with the commitments specified in paragraph (4), including responses to individual acts of terrorism and violence, actions to discipline perpetrators of terror and violence, and actions to preempt acts of terror and violence;

(B) the extent to which the P.L.O. has fulfilled the requirements specified in subsection (c);

(C) actions that the P.L.O. has taken with regard to the Arab League boycott of Israel;

(D) the status and activities of the P.L.O. office in the United States;

(E) all United States assistance which benefits, directly or indirectly, the projects, programs, or activities of the Palestinian Authority in Gaza, Jericho, or any other area it may control, since September 13, 1993, including—

(i) the obligation and disbursal of such assistance, by project, activity, and date, as well as by prime contractor and all subcontractors;

(ii) the organizations or individuals responsible for the receipt and obligation of such assistance;

(iii) the intended beneficiaries of such assistance; and

(iv) the amount of international donor funds that benefit the P.L.O. or the Palestinian Authority in Gaza, Jericho, or any other area the P.L.O. or the Palestinian Authority may control, and to which the United States is a contributor; and

(F) statements by senior official of the P.L.O., the Palestinian Authority, and successor entities that question the right of Israel to exist or urge armed conflict with or terrorism against Israel or its citizens, including an assessment of the degree to which such statements reflect official policy of the P.L.O., the Palestinian Authority, or successor entities.

(c) REQUIREMENT FOR CONTINUED PROVISION OF ASSISTANCE.—Six months after the enactment of this Act, United States assistance shall not be provided pursuant to the exercise by the President of the authority provided by subsection (a), unless and until the President determines and so certifies to the Congress that—

(1) if the Palestinian Council has been elected and assumed its responsibilities, it has, within 2 months, effectively disavowed and thereby nullified the articles of the Palestine National Covenant which call for Israel's destruction, unless the necessary changes to the Covenant have already been approved by the Palestine National Council;

(2) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to establish the necessary enforcement institutions; including laws, police, and a judicial system, for apprehending, transferring, prosecuting, convicting, and imprisoning terrorists;

(3) the P.L.O., has limited participation in the Palestinian Authority and its successors to individuals and groups that neither engage in nor practice terrorism or violence in the implementation of their political goals;

(4) the P.L.O., the Palestinian Authority, and successor entities have not provided any financial or material assistance, or training to any group, whether or not affiliated with the P.L.O., to carry out actions inconsistent with the Declaration of Principles, particularly acts of terrorism against Israel;

(5) the P.L.O., the Palestinian Authority, or successor entities have cooperated in good faith with Israeli authorities in—

(A) the preemption of acts of terrorism;

(B) the apprehension, trial, and punishment of individuals who have planned or committed terrorist acts subject to the jurisdiction of the Palestinian Authority or any successor entity; and

(C) the apprehension of and transfer to Israeli authorities of individual suspected of, charged with, or convicted of, planning or committing terrorist acts subject to Israeli jurisdiction in accordance with the specific provisions of the Interim Agreement;

(6) the P.L.O., the Palestinian Authority, and successor entities have exercised their authority resolutely to enact and implement laws requiring the disarming of civilians not specifically licensed to possess or carry weapons;

(7) the P.L.O., the Palestinian Authority, and successor entities have not funded, either partially or wholly, or have ceased funding, either partially or wholly, any office, or other presence of the Palestinian Authority in Jerusalem unless established by specific agreement between Israel and the P.L.O., the Palestinian Authority, or successor entities;

(8) the P.L.O., the Palestinian Authority, and successor entities are cooperating fully with the Government of the United States on the provision of information on United States nationals known to have been held at any time by the P.L.O. or factions thereof; and

(9) the P.L.O., the Palestinian Authority, and successor entities have not, without the agreement of the Government of Israel, taken any

steps that will change the status of Jerusalem or the West Bank and Gaza Strip, pending the outcome of the permanent status negotiations.

(d) PROVISIONS THAT MAY BE SUSPENDED.—The provisions that may be suspended under the authority of subsection (a) are the following:

(1) Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) as it applies with respect to the P.L.O. or entities associated with it.

(2) Section 114 of the Department of State Authorization Act, fiscal years 1984 and 1985 (22 U.S.C. 287e note) as it applies with respect to the P.L.O. or entities associated with it.

(3) Section 1003 of the Foreign Relations Authorization Act, fiscal years 1988 and 1989 (22 U.S.C. 5202).

(4) Section 37 of the Bretton Woods Agreement Act (22 U.S.C. 286W) as it applies on the granting to the P.L.O. of observer status or other official status at any meeting sponsored by or associated with the International Monetary Fund. As used in this paragraph, the term "other official status" does not include membership in the International Monetary Fund.

(e) DEFINITIONS.—As used in this title:

(1) RELEVANT CONGRESSIONAL COMMITTEES.—The term "relevant congressional committees" mean—

(A) the Committee on International Relations, the Committee on Banking and Financial Services, and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) UNITED STATES ASSISTANCE.—The term "United States assistance" means any form of grant, loan, loan guarantee, credit, insurance, in kind assistance, or any other form of assistance.

TRANSITION PROVISION

SEC. 605. (a) IN GENERAL.—Section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking "November 1, 1995" and insert "January 1, 1996".

(b) CONSULTATION.—For purposes of any exercise of the authority provided in section 583(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) prior to November 15, 1995, the written policy justification dated June 1, 1995, and submitted to the Congress in accordance with section 583(b)(1) of such Act, and the consultations associated with such policy justification, shall be deemed to satisfy the requirements of section 583(b)(1) of such Act.

REPORTING REQUIREMENT

SEC. 606. Section 804(b) of the PLO Commitments Compliance Act of 1989 (title VIII of Public Law 101–246) is amended—

(1) in the matter preceding paragraph (1), by striking "section (3)(b)(1) of the Middle East Peace Facilitation Act of 1994" and inserting "section 604(b)(1) of the Middle East Peace Facilitation Act of 1995"; and

(2) in paragraph (1), by striking "section (4)(a) of the Middle East Peace Facilitation Act of 1994 (Oslo commitments)" and inserting "section 604(b)(4) of the Middle East Peace Facilitation Act of 1995".

And the Senate agreed to the same.

The committee of conference report in disagreement amendment numbered 115.

SONNY CALLAHAN,
JOHN EDWARD PORTER,
BOB LIVINGSTON,
JIM LIGHTFOOT,
FRANK R. WOLF,
RON PACKARD,
JOE KNOLLENBERG,
MICHAEL FORBES,
JIM BUNN,
CHARLES WILSON,
SIDNEY R. YATES,
NANCY PELOSI,
ESTEBAN E. TORRES,
DAVID OBEY.

Managers on the part of the House.

MITCH MCCONNELL,
ARLEN SPECTER,
CONNIE MACK,
JAMES M. JEFFORDS,
JUDD GREGG,
RICHARD SHELBY,
ROBERT F. BENNETT,
MARK O. HATFIELD,
PATRICK LEAHY,
DANIEL K. INOUYE,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD.

Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

Amendment No. 1: Appropriates $786,551,000 for the subsidy appropriation of the Export-Import Bank as proposed by the House instead of $795,000,000 as proposed by the Senate. Deletes language proposed by the Senate relating to the proposed relocation of the Agency for International Development to the building at the Federal Triangle. This matter is addressed in amendment No. 31.

EXPORT-IMPORT BANK OF THE UNITED STATES

ADMINISTRATIVE EXPENSES

Amendment No. 2: Appropriates $45,614,000 for the administrative expenses of the Export-Import Bank instead of $45,228,000 as proposed by the House and $46,000,000 as proposed by the Senate.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

Amendment No. 3: Deletes Senate limitation of $20,000 for official reception and representation expenses and restores House limitation of $35,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCEDIT ACCOUNT

Amendment No. 4: Inserts Senate limitation of $26,000,000 for administrative expenses for the Overseas Private Investment Corporation instead of House limitation of $26,500,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

PROGRAM ACCOUNT

Amendment No. 5: Appropriates $72,000,000 for the costs of direct and guaranteed loans instead of $69,500,000 as proposed by the House and $79,000,000 as proposed by the Senate.

OVERSEAS PRIVATE INVESTMENT CORPORATION

PROGRAM ACCOUNT

Amendment No. 6: Deletes Senate language which allowed for the transfer of funds from the OPIC noncredit account in order to fund program activities. The House language provides for an appropriation from the general fund of the Treasury.

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

Amendment No. 7: Deletes House language providing appropriations for the International Finance Corporations and for the Contribution to the Enterprise for the Americas Multilateral Investment Fund. These matters are addressed in amendments no. 79, 82, and 88.

TITLE II—BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS

Amendment No. 8: Inserts language providing that not less than $484,000,000 of the funds appropriated in title II, and in title IV under "International Organizations and Programs", shall be available for Child Survival and Disease Programs. The House had proposed an appropriation of $592,660,000 for a "Children and Disease Programs Fund". The Senate bill contained no provision on this matter.

The managers support the maintenance of child survival ($300,000,000), infectious disease programs, and funding for UNICEF ($100,000,000), as indicated in the House report. In addition to funding for child survival programs included in the earmark in the conference agreement, $30,000,000 would be available from "International Disaster Assistance" and $16,000,000 would be provided from "Economic Support Fund" for programs in Egypt.

The managers support the House and Senate report language regarding the need for targeted polio eradication efforts, and recommend that $20,000,000 be made available for purchase and delivery of polio vaccines. The managers urge that funding for HIV/AIDS be maintained at the current level.

The conferees believe that basic education programs are essential both to the well-being of the world's children and to achieving the long-term economic goals of economic growth and trade. In particular, girls' education has multiple benefits, including improved child survival and overall family health. The conferees define basic education to include early childhood and primary education. The conferees strongly believe that strong support for these programs should be maintained and that $108,000,000 should be maintained for children's basic education programs.

DEVELOPMENT ASSISTANCE

Amendment No. 9: Inserts language designating a combined development assistance account "Development Assistance" instead of "Development Assistance Fund" as proposed by the House and "Economic Assistance" as proposed by the Senate.

Amendment No. 10: Appropriates $1,675,000,000 for "Development Assistance". The House had proposed that funding for development assistance activities by appropriated in three accounts, "Development Assistance Fund", "Children and Disease Programs Fund" and "Development Fund for Africa". The Senate proposed that development assistance activities, certain other activities, and non-Camp David funding from "Economic Support Fund" be appropriated in an account entitled "Economic Assistance". The conference agreement includes development assistance activities, including support for the Inter-American Foundation and the African Development Foundation, in one account and returns non-Camp David funding to "Economic Support Fund".

Funds are recommended for the continued participation of AID in the International Cooperative Biodiversity Group program at a level as close to the current level as possible.

The conferees continue to support the University Development Linkages Program. In addition, the conferees endorse the House report language regarding a proposal to establish an electronic interconnection involving colleges and universities in Latin America.

The conferees urge that the Office of Energy, Environment and Technology at AID be funded at the current level and recommend that AID continue funding for Office of Energy, Environment and Technology activities that promote power sector privatization, innovative technologies, renewable energy, and energy efficiency. The conferees reaffirm support for programs that promote economic development, reduce environmental pollution, and enhance United States industrial leadership in these areas.

The managers suggest that AID maintain the current dollar level of support for agriculture and agricultural research, including but not limited to, $20,000,000 for the collaborative research support program. Also, because of the importance of livestock to the economies of developing countries and to women-run households, the conferees urge AID to support appropriate livestock research.

The conferees urge AID to give a high priority to programs that directly support sustainable economic growth in developing countries. In that regard, the managers urge that AID expand efforts to institutionalize community participation at the local level through core support for organizations that promote self-governance. In addition, organizations such as the Institute for Liberty and Democracy can help stimulate private sector-led growth by helping to apply to other settings the experiences in Peru in generating economic growth through land titling, removal of cumbersome regulations on business, and guaranteeing security of investment.

The managers support the AID Economic Growth Center's emphasis on economic and institutional reform. The managers encourage the Growth Center to identify the most serious domestic government barriers preventing AID recipients from achieving high levels of growth and recommend that AID propose appropriate free-market solutions.

The managers endorse the House report language regarding the need to maintain development assistance support for Latin America.

The managers support funding for management and training programs with ports in the developing world. The conferees urge AID and the State Department to work with U.S. ports and private port organizations, such as the International Port Development Council, Inc., to leverage the skills and expertise of U.S. seaport managers to improve port infrastructure overseas. Bilateral port cooperation will expand U.S. trade opportunities and improve the ability of developing countries to participate in the modern, global economy.

The conferees reaffirm their strong support for U.S. assistance programs that recognize the central role played by women in fostering economic development. The conferees urge AID to sustain support for the Office of Women in Development, including the continued provision of funds from the NIS assistance program.

Amendment No. 11: Inserts language providing that funds for the Inter-American Foundation and the African Development Foundation shall be made available (and apportioned directly to said foundations) from funds appropriated in "Development Assistance". Up to $20,000,000 may be made available for the Inter-American Foundation and up to $11,500,000 may be made available for the African Development Foundation. Senate language on the proportionality of funds made available through the account is deleted.

The conference agreement also provides that up to $25,000,000 may be made available to implement section 667 of the Foreign Assistance Act, and that not less than 65 percent of the funds made available for family planning assistance shall be made available directly to the Agency for International Development's central Office of Population and shall be programmed by that office for family planning activities. The Senate had proposed that not less than $350,000,000 be made available for the latter activities.

The conference agreement also includes Senate language regarding the relative funding levels for activities of private and voluntary organizations and cooperatives, but does not include Senate language requiring a reprogramming notification to waive such language. House language on this matter is addressed in amendment No. 21.

FAMILY PLANNING ASSISTANCE

Amendment No. 12: Inserts language that defines the term "motivate" for purposes of obligating funds available for family planning assistance. The conference agreement modifies Senate language by removing the words "including abortion". This change is not intended to narrow the scope of any of the pregnancy options included in last year's act. The House bill did not address this matter.

DEVELOPMENT FUND FOR AFRICA

Amendment No. 13: Deletes House language referring to the "Development Fund for Africa". The conference agreement does not include a separate appropriations account for this fund, and the reference is no longer necessary. This matter is further addressed in amendments no. 10, 11 and 17.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

Amendment No. 14: Inserts Senate language increasing the limitation on funds that may be transferred to "International Organizations and Programs" for a contribution to the International Fund for Agricultural Development from $15,000,000, as proposed by the House, to $30,000,000, as proposed by the Senate.

Amendment No. 15: Deletes Senate language regarding a prohibition on funds for Zaire and an earmark for the International Fertilizer Development Center. The prohibition on funding for Zaire is addressed in amendment no. 36.

The managers support funding for the center as proposed in the Senate amendment.

UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE

Amendment No. 16: Inserts language providing that not less than $650,000 should be provided for support of the United States Telecommunications Training Institute. The Senate language would have mandated funding at $800,000. The House bill contained no provision on this matter.

DEVELOPMENT FUND FOR AFRICA

Amendment No. 17: Deletes House language providing for a separate "Development Fund for Africa" account. Funding for this purpose, and a statutory reference to "Development Fund for Africa", has been included in "Development Assistance" in amendments no. 10 and 11.

The merger of bilateral development assistance funding into a single appropriations account is designed to allow the Administration the flexibility to respond to changing priorities with fewer resources. However, it does not indicate a lessening of interest in Africa; the managers expect that a major portion of the resources provided in the "Development Assistance" account will be committed to programs in sub-Saharan Africa, and have included bill language to require the President to seek to ensure that the amount of funds available for Africa for development assistance in fiscal year 1996 is in substantially the same proportion to the total amount available for development assistance as the funding provided in fiscal year 1995. Activities in Africa should be managed under the authorities of chapter 10 of part I of the Foreign Assistance Act of 1961.

The managers anticipate that AID will continue the reforms undertaken under the Development Fund for Africa that focus its limited funds on a smaller number of countries where the governments are committed to development policies that will promote equitable and sustainable economic growth. Concurrently, the managers expect that Africa humanitarian resources will be managed in a way that promotes long-term development, as development resources are programmed to minimize short-term crises. The Greater Horn of Africa initiative is a good example of such an effort.

CYPRUS

Amendment No. 18: Inserts language earmarking $15,000,000 for Cyprus to be used only for scholarships, scholarship administrative costs, bicommunal projects, and measures aimed at reunification. The conference agreement is similar to Senate language, but allows for funds to be derived from both "Development Assistance" and "Economic Support Fund", and provides authority to use funds for administrative costs.

BURMA

Amendment No. 19: Inserts language providing that not less than $2,380,000 of the funds appropriated in "Development Assistance" and in "Economic Support Fund" will be available for programs in Burma. These funds would be used to strengthen democracy, support humanitarian assistance, and provide for support to a nongovernmental organization for a crop substitution project in Burma.

For the past two years, the conferees have urged the Administration to provide meaningful levels of assistance to refugees and exiles supporting the restoration of democracy in Burma. Although the Administration agreed in writing to obligate no less than $1,000,000 in such support for fiscal year 1995, the commitment to the Congress was not fulfilled.

The release of Daw Aung San Suu Kyi represents a unique opportunity to support initiatives to implement the results of the 1990 elections and strengthen free market principles and practices. The conferees have designated not less than $2,380,000 to support students, organizations, and ethnic groups, including the Karen, Karenni, and Kachin dedicated to these goals. The conferees direct AID and the Department of State, in consultation with the Congress, to prepare a report sixty days after enactment of this Act on a plan for the expenditure of these resources.

PRIVATE AND VOLUNTARY ORGANIZATIONS

Amendment No. 20: Inserts Senate language allowing the Administrator of AID to waive, on a case-by-case basis, the requirement that no funds may be made available to private and voluntary organizations which obtain less than 20 percent of total funding for international activities from sources other than the United States government. The managers agree such authority should only be used in emergency or extraordinary situations, and that the Administrator should report to the Committees on Appropriations each time the waiver is used.

Amendment No. 21: Restores House language stating that funds appropriated or otherwise made available under title II should be made available to private and voluntary organizations at a level which is equivalent to the level provided in fiscal year 1995. This matter is also addressed in amendment no. 11.

INTERNATIONAL DISASTER ASSISTANCE

Amendment No. 22: Appropriates $181,000,000 for disaster assistance instead of $200,000,000 as proposed by the House and $175,000,000 as proposed by the Senate in amendment no. 29.

The conference agreement also inserts Senate language (proposed in amendment no. 29) providing that $40,000,000 should be made available for emergency humanitarian assistance in the former Yugoslavia (of which not less than $6,000,000 shall be available only for Kosova) and modifies such language to allow these funds to come from any appropriations account within title II of this Act.

DEBT RESTRUCTURING

Amendment No. 23: Deletes Senate language earmarking funds for "Debt restricting" from "Economic Assistance", and restores House language providing for a direct appropriation of such funds.

Amendment No. 24: Appropriates $10,000,000 for "Debt Restructuring" instead of $7,000,000 as proposed by the House or earmarking such funds from "Economic Assistance" as proposed by the Senate. The conference agreement also restores House language allowing for debt restructuring of loans owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries. The managers endorse the House report language regarding the need to reduce the debt burden on countries participating in debt restructuring, and expect individual reports on the expected new debt that would be assumed by any country proposed for such restructuring including the rationale justifying such additional debt.

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

Amendment No. 25: Appropriates $1,500,000 for subsidy costs of micro and small enterprise development loans and $500,000 for administrative expenses as proposed by the House instead of earmarking such funds from "Economic Assistance" as proposed by the Senate.

Although the conferees have not designated a specific funding level for microenterprise lending programs, the conferees note a strong bipartisan commitment to these activities. The conferees support the program's emphasis on micro-loans for self-employment as a means to lift the poorest people from poverty. The conferees believe that these programs promote sustainable, market-based development at relatively little cost and deserve support substantially consistent with last year's level. The conferees urge AID, consistent with its Microenterprise Initiative, to allocate up to one-half of its microenterprise funds to poverty lending programs that provide loans of less than $300.

Amendment No. 26: Inserts Senate language allowing up to 70 percent of the principal amount of a micro loan to be guaranteed notwithstanding section 108 of the Foreign Assistance Act.

Amendment No. 27: Inserts Senate language making funds available for obligation until September 30, 1997.

HOUSING GUARANTY PROGRAM ACCOUNT

Amendment No. 28: Appropriates $4,000,000 for the subsidy cost of guaranteed loans. The House had proposed no funding for this purpose, and the Senate had proposed $8,000,000, to be derived from funds appropriated in "Economic Assistance". The conference agreement also includes $7,000,000 as proposed by the House for the administrative costs of the housing guaranty program, instead of earmarking such funds from "Economic Assistance" as proposed by the Senate.

INTERNATIONAL DISASTER ASSISTANCE AND ASSISTANCE TO PAKISTAN

Amendment No. 29: Deletes Senate language providing an appropriation of $175,000,000 for "International Disaster Assistance" and requiring that $40,000,000 of such funds should be made available for emergency humanitarian assistance to the former Yugoslavia. These matters are addressed in amendment no. 22.

Also, deletes Senate language clarifying restrictions on assistance to Pakistan. This matter is addressed in amendment no. 145.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

Amendment No. 30: Appropriates $465,750,000 for operating expenses of the Agency for International Development as proposed by the House instead of $490,000,000 as proposed by the Senate. The conferees expect the Committees on Appropriations to be informed any time prior to the exercise of the authority to use up to $25,000,000, as provided for under amendment no. 11, for purposes of section 667 of the Foreign Assistance Act.

Amendment No. 31: Inserts language proposed by the House and stricken by the Senate that would limit to $1,475,000 the amount of funds available for printing costs, and limit to $25,000 the cost of any individual report without the approval of the Administrator.

The conference agreement also includes new language, similar to Senate language from amendment no. 1, that would prohibit the use of any funds in this Act to relocate the Agency for International Development to the Federal Triangle. The managers expect AID to assess the need for such a move, and to report to the Committees on Appropriations on future plans for a move, if warranted, at a lower cost and with lower rental payments. The prohibitive cost of the proposed relocation to the Federal Triangle building, including exorbitant rental costs, was the primary reason for the decision to prohibit the use of funds for the move.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

OFFICE OF INSPECTOR GENERAL

Amendment No. 32: Appropriates $30,200,000 for the operating expenses of the Inspector General as proposed by the Senate instead of $35,200,000 as proposed by the House and makes such funds available for two fiscal years. The managers anticipate that the Inspector General will use deobligated prior year funds in order to maintain an adequate program level.

ECONOMIC SUPPORT FUND

Amendment No. 33: Deletes Senate language inserting "Middle East Fund", and restores House language designating the account "Economic Support Fund".

Amendment No. 34: Appropriates $2,340,000,000 for "Economic Support Fund" instead of $2,300,000,000 as proposed by the House and $2,015,000,000 as proposed by the Senate.

Amendment No. 35: Inserts language earmarking $1,200,000,000 for Israel on a grant basis and $815,000,000 for Egypt on a grant basis of which not less than $200,000,000 shall be provided by Commodity Import Program assistance, provides that the President assure such assistance does not cause an adverse impact on the total level of non-military exports from the United States to Israel and Egypt, links aid to Egypt and Israel in great measure to their continued participation in the Camp David Accords, and authorizes the use of local currency for increasing the endowment of the American University in Cairo and for projects and programs which promote the preservation and restoration of Egyptian antiquities. This assistance, which utilizes only local currency generated by our foreign assistance program, is a "no-cost" way of fostering U.S. values in a region of the world that is vital to our national interests. This will be the third time Congress has approved a replenishment for the A.U.C. endowment, and the second time Congress has approved assistance for the preservation of Egyptian antiquities. The managers expect the administration to utilize this authority by providing at least the amounts detailed in the legislation. The House bill contained no provision on this matter.

Amendment No. 36: Restores House language which prohibits assistance to Zaire.

INTERNATIONAL FUND FOR IRELAND

Amendment No. 37: Appropriates up to $19,600,000 for the International Fund for Ireland as proposed by the House. The Senate bill did not contain a provision on this matter.

The conferees strongly urge the International Fund for Ireland to take every step possible to ensure that all recipients of Fund support are promoting equality of opportunity and non-discrimination in employment.

The conferees note the formation of a distance learning consortium that includes six universities from the United States, Northern Ireland, and the Irish Republic, and suggest that an allocation be provided for support of this service to business and investment in Ireland.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

Amendment No. 38: Inserts a subsection designation as proposed by the Senate.

Amendment No. 39: Appropriates $324,000,000 for "Assistance for Eastern Europe and the Baltic States" as proposed by the House instead of $335,000,000 as proposed by the Senate.

Amendment No. 40: Inserts a subsection designation as proposed by the Senate.

Amendment No. 41: Inserts a subsection designation as proposed by the Senate.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

Amendment No. 42: Appropriates $641,000,000 for assistance for the New Independent States of the former Soviet Union (NIS) instead of $580,000,000 as proposed by the House and $705,000,000 as proposed by the Senate.

The conferees expect that not more than $195,000,000 of the total amount made available under this heading should be provided to Russia in 1996 in consideration of the fact that Russia has been allocated more than 60 percent of the funds obligated under this heading since fiscal year 1993. This matter is addressed in amendment no. 47.

Amendment No. 43: Inserts House language regarding a presidential national security waiver that was deleted by the Senate, and modifies a reference to the Helsinki Final Act.

Amendment No. 44: Deletes Senate language permitting funds to be used for defense conversion.

Amendment No. 45: Inserts language requiring that projects in the NIS should employ in key positions individuals with prior experience in the region and relevant language skills, instead of requiring that organizations previously functioning in the region be given priority in grants and contracts as proposed by the House.

Amendment No. 46: Inserts language directing that the Agency for International Development encourage and give significant weight to cost-sharing in its awards of grants and contracts to assist privatization activities within the New Independent States of the former Soviet Union. The House language mandated cost-sharing on a 1 to 1 basis. The conference agreement is not intended to disadvantage private and voluntary organization, but to encourage, to the extent feasible, use of their own resources when implementing private sector programs.

OMNIBUS II PRIVATIZATION PROJECT CONTRACT

The managers support the open competition for contracts under the Omnibus II Privatization Project that resulted in an appreciable number of base contract awards to new and/or small businesses. However, they note that the actual number of task orders awarded to small and new contractors is disappointingly small. The managers direct USAID to take immediate measures to ensure that all awardees receive a fair proportion of task order awards and a chance to perform. A level playing field must be implemented for the competition process as many small and new businesses find it impossible to successfully compete for task orders against large and established USAID contractors. The use of dollar goals and competitions limited to new and/or small firms should be utilized, if necessary, to expand access beyond the Washington D.C. region. The Assistant Administrator for Europe and the New Independent States, in consultation with the Coordinator for Assistance to the NIS, should report to the House and Senate Committees on Appropriations on progress toward opening the task order process to small businesses and firms not currently under USAID contract, no later than February 15, 1996.

Amendment No. 47: Inserts language providing various directives regarding the allocation and use of funds appropriated for assistance to Ukraine, Russia, Armenia and other independent states of the former Soviet Union. The House bill contained no provisions on this matter other than those addressed in amendments no. 151, 152, and 160.

Inserts language proposed by the Senate with regard to retention of interest by enterprise funds and language allowing any enterprise fund established with respect to more than one country to establish advisory councils in lieu of the appointment of host country nationals to its board of director.

The language also includes Senate provisions that not less than $225,000,000 shall be made available for Ukraine, not less than $85,000,000 shall be made available for Armenia, and that not less than $15,000,000 shall be made available for a Trans-Caucasus Enterprise Fund.

Obligation of funds for Russia is made contingent on a determination by the President that the Government of Russia has terminated implementation of arrangements to provide Iran with certain goods and services related to nuclear programs in Iran. The managers also included a provision allowing the President to waive the provisions of the subsection on national security grounds. The House had no similar provision.

The managers strongly support a program of assistance to the New Independent States that reflects a shift in emphasis toward Ukraine, Armenia, Moldovia, Georgia, the Kyrgyz Republic, and other states that the United States is encouraging to move toward free markets and democracy.

Recent progress by Armenia in carrying out economic reforms is noted by the managers. Because of concern about the impact of the continuing economic blockade and conflict in the region, the conferees have provided $85,000,000 for technical and humanitarian assistance requested by the Government of Armenia, including food, fuel, and medical supplies and services. The managers expect the projects and activities undertaken under this subsection to be in addition to the projects and activities included in the 1996 congressional justification documents.

The managers support funding for the Russian, Eurasian, and East European Research and Training Program (Title VIII) from both the NIS and Eastern Europe and Baltic assistance accounts. The program is intended to assure that broad-based regional expertise is available to both policy managers and the academic community. To the maximum extent possible, funding for this program is recommended at the fiscal year 1995 level. The conference agreement also assumes continuation of other graduate fellowship, partnership, and training projects in the region, such as the Central and Eastern European Graduate fellowship program. Regional student exchange programs, in general, should be distributed equitably among high school, college, and graduate categories.

NIS NON-PROLIFERATION

The managers agree that the Soviet-Designed Reactor Safety Program and implementation of the Russian agreement to cease production of weapons-grade plutonium are essential elements of our foreign and nonproliferation policies. In administering the NIS assistance programs, the Coordinator and AID are urged to expeditiously transfer funds to other federal agencies that are engaged in implementing these non-proliferation programs.

UKRAINE

The managers have provided $225,000,000 for Ukraine, conditioned on additional progress with respect to economic reform. Of this amount, $50,000,000 has been provided to reduce uncertainties in Ukraine's energy supply that have severely impeded its economic recovery and renewed development. The conference agreement assumes that $30,000,000 is to be expended for technical assistance in the energy sector, including assistance to develop regulatory institutions for managing the purchase, licensing, and use of nuclear fuel. The managers urge that none of these funds be used to purchase or pay for oil, natural gas, or nuclear fuel.

Historically, Ukraine has been dependent upon Russia for the technical management of nuclear facilities. As a result, during the Chernobyl crisis, local technicians were not sufficiently skilled, nor prepared to take any action independent of guidance from Moscow. Ongoing concern about the adequacy of safety measures and equipment in Ukraine's nuclear plants has motivated the conferees to recommend that $20,000,000 be made available to meet a request from the Government of Ukraine for the purchase, installation, and training to operate new display and control systems that have the capability to monitor and shut down a facility before a crisis occurs.

The managers have also provided $22,000,000 to strengthen small and medium businesses. Learning from the experience of Russia, the conferees conclude that mass privatization efforts alone do not generate sufficient jobs and income during a period of radical economic and social transition. The managers also support continued assistance to strengthen independent print and broadcast media that appear capable of becoming financially self-sufficient. The availability of accurate, timely information during the current period of transition is key to maintaining support of necessary economic and political reforms.

The conferees continue to view with concern the decision of the Committee for the Implementation of Textile Agreements (CITA) to impose restrictive quotas on textile imports from Ukraine. Testimony earlier this year before the House Committee by the Coordinator of United States Assistance in the New Independent States suggested that every effort should be undertaken to encourage a market economy in Ukraine.

CRIME IN EASTERN EUROPE AND RUSSIA

The managers have provided not less than $12,600,000 for activities in support of training and investigations related to international crime in Central and Eastern Europe, Ukraine and Russia. This is a minimum amount, and the coordinators of aid to Eastern Europe and the NIS should make this a top priority in allocating funds if additional amounts are required.

Corruption and violent crimes have increased markedly over the past year in much of the region, with estimates of many thousands of criminal organizations that are rapidly expanding narcotics smuggling, banking and insurance fraud, extortion and kidnapping activities into Western Europe and the United States. The conferees are particularly concerned about an escalation in the number of reported incidents of smuggling of fissile and nuclear-related materials that could be used by international terrorists.

The managers also inserted a provision allowing the President, under certain limited conditions, to provide only humanitarian assistance for the Government of Azerbaijan for the exclusive use of refugees and displaced persons within Azerbaijan.

INDEPENDENT AGENCY

Amendment No. 48: Inserts language providing for the heading "Independent Agency" instead of "Independent Agencies" as proposed by the House. The Senate amendment deleted the heading.

AFRICAN DEVELOPMENT FOUNDATION

Amendment No. 49: Deletes House language providing an appropriation of $11,500,000 for the African Development Foundation. This matter is further addressed in amendments no. 10 and 11.

INTER-AMERICAN FOUNDATION

Amendment No. 50: Deletes House language providing an appropriation of $20,000,000 for the Inter-American Foundation. This matter is further addressed in amendments no. 10 and 11.

PEACE CORPS

Amendment No. 51: Appropriates $205,000,000 for the Peace Corps instead of $210,000,000 as proposed by the House and $200,000,000 as proposed by the Senate. The managers expect that the Peace Corps and the Trade and Development Agency will receive by transfer from funds appropriated for assistance for the NIS the cost of fiscal year 1996 activities and operations in the NIS.

Amendment No. 52: Inserts Senate language making funds for the Peace Corps available until September 30, 1997.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

Amendment No. 53: Appropriates $115,000,000 for "International Narcotics Control" instead of $113,000,000 as proposed by the House and $150,000,000 as proposed by the Senate. Authority to transfer additional funds to this account is provided in amendment no. 175.

Amendment No. 54: Deletes language proposed by the Senate earmarking $1,800,000 for a Federal Bureau of Investigation Legal Attaché office in Cairo, Egypt, and $5,000,000 for the Federal Bureau of Investigation and Secret Service to establish and maintain offices in the Triborder area of Argentina, Brazil, and Paraguay.

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 55: Inserts language allowing the use of funds appropriated under this heading to be used for salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, and for allowances as authorized by sections 5921 through 5925 of title 5, United States Code. Deletes language proposed by the Senate that would have allowed funds to be used for salaries and expenses of personnel assigned to the Bureau charged with carrying out the Migration and Refugee Assistance Act.

The managers agree that funds for salaries and expenses should be made available for the same purposes as they were made available under this heading in fiscal year 1995, and should not be made available for other purposes.

Since 1991 the United States has provided humanitarian assistance for Tibetan refugees living in exile, and the conferees expect that such support be continued.

Amendment No. 56: Inserts Senate language making available not more than $12,000,000 for administrative expenses.

Amendment No. 57: Deletes House language limiting funds for salaries and expenses of personnel assigned to the Bureau charged with carrying out the Migration and Refugee Assistance Act.

Amendment No. 58: Inserts Senate language earmarking not less than $80,000,000 for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in Israel. The House bill contained no provision on this matter.

REFUGEE RESETTLEMENT ASSISTANCE

Amendment No. 59: Appropriates $5,000,000 for "Refugee Resettlement Assistance" as proposed by the House. The Senate bill did not contain a provision on this matter.

ANTI-TERRORISM ASSISTANCE

Amendment No. 60: Appropriates $16,000,000 for "Anti-Terrorism Assistance" instead of $17,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

TITLE III—MILITARY ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 61: Appropriates $39,000,000 as proposed by the House instead of $19,000,000 as proposed by the Senate. The Senate supported full funding for IMET in fiscal year 1996 but proposed $19,000,000 from this Act and $20,000,000 from the Department of Defense.

Amendment No. 62: Inserts Senate language adding Guatemala as a nation prohibited from receiving IMET funding. This matter is also addressed in amendments no. 63 and 176.

Amendment No. 63: Deletes language proposed by the House permitting expanded IMET training only for Guatemala and retains House language permitting expanded IMET training only for Indonesia. The managers have agreed to permit "expanded" IMET assistance for Indonesia because they believe that expanded IMET could address some of the human rights concerns associated with the Indonesian military. The conferees expect the IMET courses to focus on human rights, military justice, and civilian management and control of the armed forces, and the courses should include members of the Indonesian legislature and representatives from nongovernmental organizations.

FOREIGN MILITARY FINANCING PROGRAM

Amendment No. 64: Appropriates $3,208,390,000 instead of $3,211,279,000 as proposed by the House and $3,207,500,000 as proposed by the Senate.

Amendment No. 65: Inserts Senate language earmarking not less than $1,800,000,000 for grants only for Israel and not less than $1,300,000,000 for grants only for Egypt. Retains language in both House and Senate bills directing that funds appropriated for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later. Inserts language proposed in both House and Senate bills making funds available for advanced weapons systems of which not less than $475,000,000 shall be available for procurement in Israel of defense articles and services, including research and development, and deletes Senate language making funds available for advanced fighter aircraft programs and up to $150,000,000 for research and development in the United States.

Amendment No. 66: Inserts Senate language providing that funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act, and that up to $20,000,000 may be transferred from funds made available for the NIS and SEED for the purpose of supporting the Warsaw Initiative Program.

CENTRAL EUROPE

The conferees note that Poland, the Czech Republic, Hungary, and the Slovak Republic are all considering the replacement of many of their Air Forces' high performance aircraft. The managers urge the Administration to take steps to ensure that U.S.-produced aircraft can compete effectively for these sales. For this reason, the conferees urge the administration to support any possible sale of high performance U.S. fighter aircraft to these nations.

Amendment No. 67: Inserts Senate language, "the following:" in order to conform the common dollar amounts provided by the House and Senate for Greece and Turkey to language changes made by amendments No. 68 and 70.

Amendment No. 68: Insert the word "only" as proposed by the Senate.

Amendment No. 69: Strikes House language to conform with amendments No. 68 and 70 as proposed by the Senate.

Amendment No. 70: Inserts the word "only" as proposed by the Senate.

Amendment No. 71: Deletes Senate language related to access by international organizations.

ALIZA MARCUS

The managers are concerned that Aliza Marcus, a Reuters journalist and U.S. citizen, is being tried in Turkey on charges of "provoking racial hatred" for reporting on the Turkish military's forced evaluation and destruction of villages in southeastern Turkey. The conferees recognize Turkey's legitimate right to combat terrorism, and expect that the government of Turkey will protect freedom of expression and information by interceding with the military-sponsored State Security Courts on behalf of Aliza Marcus.

Amendment No. 72: Inserts a limitation of $23,250,000 for expenses for administering military assistance instead of $24,000,000 as provided by the House and $22,500,000 as proposed by the Senate.

PEACEKEEPING OPERATIONS

Amendment No. 73: Appropriates $70,000,000 for "Peacekeeping Operations", instead of $68,300,000 as proposed by the House and $72,033,000 as proposed by the Senate, and inserts language proposed by the Senate subjecting the obligation and expenditure of such funds to the regular notification procedures of the Committee on Appropriations.

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 74: Appropriates $28,189,963 for the paid-in capital stock of the World Bank as proposed by the Senate instead of $23,009,000 as proposed by the House.

Amendment No. 75: Inserts Senate language conditioning obligation of funds to purchase paid-in capital stock of the World Bank upon certification from the Secretary of the Treasury that the Bank has not approved any loans to Iran since October 1, 1994.

GLOBAL ENVIRONMENT FACILITY

Amendment No. 76: Appropriates $35,000,000 for the Global Environmental Facility of the World Bank instead of $30,000,000 as proposed by the House and $50,000,000 as proposed by the Senate.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 77: Permits subscription for callable capital portion of the United States share of increases in the capital stock of the International Bank for Reconstruction and Development totaling $911,475,013 as proposed by the Senate instead of $743,900,000 as proposed by the House.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

Amendment No. 78: Appropriates $700,000,000 for the International Development Association instead of $575,000,000 as proposed by the House and $775,000,000 as proposed by the Senate.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

Amendment No. 79: Appropriates $60,900,000 for the International Finance Corporation instead of $67,550,000 as proposed by the House and the Senate.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

Amendment No. 80: Appropriates $25,952,110 for the paid-in capital of the Inter-American Development Bank as proposed by the Senate instead of $25,950,000 as proposed by the House, and $10,000,000 for the Fund for Special Operations instead of $20,000,000 as proposed by the Senate. The House did not recommend funding for the Fund for Special Operations.

INTER-AMERICAN DEVELOPMENT BANK LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 81: Permits subscription for callable capital portion of the United States share of increases in the capital stock of the Inter-American Development Bank totaling $1,523,767,142 as proposed by the Senate instead of $1,523,000,000 as proposed by the House.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

Amendment No. 82: Appropriates $53,750,000 for the United States contribution to the Multilateral Investment Fund instead of $70,000,000 as proposed by the House and Senate.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

Amendment No. 83: Appropriates $13,221,596 for the paid-in capital of the Asian Development Bank as proposed by the Senate instead of $13,200,000 as proposed by the House.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 84: Permits subscription for callable capital portion of the United States share of increases in the capital stock of the Asian Development Bank totaling $647,858,204 as proposed by the Senate instead of $647,000,000 as proposed by the House.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

Amendment No. 85: Appropriates $100,000,000 for the Asian Development Fund as proposed by the House instead of $110,000,000 as proposed by the Senate.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Amendment No. 86: Appropriates $70,000,000 for the paid-in capital of the European Bank for Reconstruction and Development as proposed by the Senate instead of $69,180,000 as proposed by the House.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

Amendment No. 87: Permits subscriptions for the callable capital portion of the United States share of increases in the capital stock of the European Bank for Reconstruction and Development totaling $163,333,333 as proposed by the Senate instead of $161,400,000 as proposed by the House.

NORTH AMERICAN DEVELOPMENT BANK

Amendment No. 88: Appropriates $56,250,000 for paid-in capital of the North American Development Bank as proposed by the House instead of $25,000,000 as proposed by the Senate. The language also permits subscription for the callable capital portion of the United States share of increases in the capital stock of the North American Development Bank totaling $318,750,000 as proposed by the House and the Senate. The appropriation for the Multilateral Investment Fund contained in the Senate amendment is addressed in amendment no. 82.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Amendment No. 89: Appropriates $285,000,000 for "International Organizations and Programs" instead of $155,000,000 as proposed by the House and $260,000,000 as proposed by the Senate. Within these funds, the managers expect that $100,000,000 will be made available for a grant to UNICEF.

The conferees recognize the vital role UNDP plays as the coordinating agency for United Nations activities in support of sustainable development worldwide.

Amendment No. 90: Deletes an earmark of $3,000,000 for the World Food Program that was proposed by the Senate. The conferees urge the Secretary of State to provide $3,000,000 for the World Food Program in fiscal year 1996, the same amount prior conferees have urged in the past two statements of managers. The conferees recognize that the World Food Program plays an essential role in providing food and other aid to the neediest people in the world, especially in conflict zones such as Bosnia and parts of sub-Saharan Africa.

Amendment No. 91: Deletes Senate language on the proportionality of reductions as applied to funding for the United Nations Development Program, the United Nations Children's Fund, the United Nations Environment Program, and the International Atomic Energy Agency.

Amendment No. 92: Inserts a limitation of $30,000,000 on funds for the United Nations Population Fund, instead of $25,000,000 as proposed by the House and $35,000,000 as proposed by the Senate.

Amendment No. 93: Deletes Senate language earmarking not less than $1,000,000 for the United Nations Development Fund for Women (UNIFEM). The House bill contained no provision on this matter.

Amendment No. 94: Inserts language providing that funds may be made available to the Korean Peninsula Energy Development Organization (KEDO) for administrative expenses and heavy fuel oil costs associated with the Agreed Framework. No funds are available for KEDO funding for administrative expenses and heavy fuel oil costs beyond the total amount included for KEDO in the fiscal year 1996 congressional presentation. The conference agreement further provides that these funds may only be made available if the President determines and certifies in writing to the Congress that certain specific actions have been undertaken in support of the Agreed Framework with North Korea. The managers agree that none of the funds in this bill that are made available for KEDO in fiscal year 1996 may be used to contribute to the lightwater nuclear reactors being provided to North Korea under the terms of the Agreed Framework. This matter is also addressed in amendment no. 164.

Amendment No. 95: Deletes Senate language earmarking $1,500,000 for the United Nations Fund for Victims of Torture. The House bill contained no provision on this matter.

The conferees urge the Secretary of State to provide a total of $2,250,000 for the United Nations Fund for Victims of Torture and the United Nations Development Fund for Women in fiscal 1996.

GENERAL PROVISIONS

LIMITATION ON EXPENSES

Amendment No. 96: Restores House language providing a limitation of $5,000 on entertainment expenses for the Agency for International Development.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

Amendment No. 97: Restores House language providing a limitation of $2,000 on entertainment expenses associated with "Foreign Military Financing Program".

Amendment No. 98: Deletes language proposed by the Senate limiting funds for entertainment expenses of the Inter-American Foundation.

Amendment No. 99: Restores House language providing a limitation of $2,000 on entertainment and representation expenses of the Inter-American Foundation.

Amendment No. 100: Restores House language providing a limitation of $4,000 on entertainment expenses of the Peace Corps.

Amendment No. 101: Deletes language proposed by the Senate limiting funds for entertainment expenses of the Trade and Development Agency.

Amendment No. 102: Restores House language providing a limitation of $2,000 on representation and entertainment expenses of the Trade and Development Agency.

DEOBLIGATION/REOBLIGATION AUTHORITY

Amendment No. 103: Inserts Senate language providing for a new subsection designation.

Amendment No. 104: Inserts Senate language which provides that fiscal year 1994 FMF obligated balances, if deobligated, will remain available during fiscal year 1995 for the same purposes, and further that this authority may not be used in fiscal year 1996.

COMMERCE AND TRADE

Amendment No. 105: Inserts Senate language regarding notifications on actions authorized by this section.

NOTIFICATION REQUIREMENTS

Amendment No. 106: Inserts language subjecting "Development Assistance" to the notification requirements of this section. The House had proposed that such requirements be applied to "Child Survival and Disease Programs Fund", "Development Assistance Fund", and "Development Fund for Africa". The Senate had deleted these accounts from the notification requirements and had inserted a new account, "Economic Assistance". The notification requirements now conform to the account structure contained in the conference agreement.

Amendment No. 107: Restores House language which includes "Economic Support Fund" in the notification requirements of section 515.

Amendment No. 108: Restores House language which subjected "Inter-American Foundation" and "African Development Foundation" to the notification requirements of section 515.

Amendment No. 109: Deletes Senate language which added "Middle East Fund" to the notification requirements of section 515.

Amendment No. 110: Deletes House language which subjected "United States Emergency Refugee and Migration Assistance Fund" to the notification requirements of section 515.

Amendment No. 111: Inserts Senate language reducing to 10 percent the threshold triggering a notification for changes in the amount of funds to be obligated from the level justified to the Congress for any program, project, or activity. This modification conforms with the threshold currently contained in the Foreign Assistance Act.

Economic Support Fund Assistance for Israel

Amendment No. 112: Inserts the House language "Support Fund" which was deleted by the Senate.

Amendment No. 113: Deletes the Senate language "economic assistance" and reinserts the House language "the Economic Support Fund" which was deleted by the Senate.

Prohibition Concerning Abortions and Involuntary Sterilization

Amendment No. 114: Inserts Senate language striking "Concerning Abortions" from the heading of the section and inserting "On Funding for Abortions".

Amendment No. 115: Reported in disagreement.

Special Notification Requirements

Amendment No. 116: Deletes language proposed by the House and stricken by the Senate making Indonesia subject to the special notification requirements of section 520.

Amendment No. 117: Restores language proposed by the House and stricken by the Senate that would subject assistance to Russia to the special notification requirements of section 520.

Amendment No. 118: Deletes language proposed by the House and stricken by the Senate that exempts Indonesia from the special notification requirements of section 520 for the purpose of obligating or expending funds for development assistance activities. This exemption is no longer necessary, since Indonesia is no longer subject to the special notification requirements of section 520.

Child Survival and AIDS Activities

Amendment No. 119: Deletes Senate language inserting the words "Family Planning" in the heading of this section.

Prohibition Against Direct Funding to Certain Countries

Amendment No. 120: Deletes Senate language requiring the President to certify that withholding indirect funding for certain countries would be contrary to the national security interest of the United States prior to the obligation of funds. The conference agreement would require the certification to be made based on the national interest of the United States.

Authorization Requirement

Amendment No. 121: Inserts Senate language waiving the provisions of section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956 for funds appropriated by this Act. The House bill would have subjected the funds to the provisions of these sections.

SUPPORT FOR AUTHORIZATION PROCESS

The managers regret that they must recommend waiving the statutory authorization requirement for most programs in this bill in order to avoid passing what would be in effect a partial year appropriation.

The Committees on International Relations and Foreign Relations have gone to great lengths this year to end the decade-long stalemate over foreign aid authorizations. The majority of the managers have supported that effort and will continue to do so. Only through the enactment of an authorization bill for foreign aid will the Committees on Appropriations be able to benefit from formal legislative guidance as they apportion the spending allocations for programs under their jurisdiction.

Under the current situation, in which the House has passed an authorization for foreign assistance and the Senate is attempting to complete action on its counterpart measure under an agreement to limit time for further consideration, the managers have been asked by members of authorization committees to include in the conference report substantial legislation such as the Middle East Peace Facilitation Act and the NATO Participation Act, as well as extension of the au pair program. In addition, the managers have gone to some effort to conform spending levels to authorization levels passed by the House or reported in the Senate, taking into consideration that the two authorization bills contain differing ceilings in many accounts.

Prohibition on Bilateral Assistance to Terrorist Countries

Amendment No. 122: Inserts Senate language prohibiting bilateral assistance to terrorist countries.

Commercial Leasing of Defense Articles

Amendment No. 123: Deletes an excess "and".

Competitive Insurance

Amendment No. 124: Inserts Senate language requiring the Agency for International Development to include a clause in all contracts, subcontracts, and solicitations, requiring that United States insurance companies have a fair opportunity to bid for insurance when such insurance is necessary or appropriate.

Stingers in the Persian Gulf Region

Amendment No. 125: Restores House language prohibiting the sale of Stingers to Persian Gulf nations.

Location of Stockpiles

Amendment No. 126: Deletes House language and inserts Senate provisions which amend the Arms Export Control Act with respect to the competitive pricing of defense articles, make Israel eligible for future stockpile additions without further statutory authorization, authorize additional funds for South Korea and Thailand for each of fiscal years 1996 and 1997, and permit the President to designate additional countries for establishment of stockpiles without requiring further statutory authorization.

Compliance with United States Sanctions Against Iraq

Amendment No. 127: Restores House language providing a subsection heading.

Amendment No. 128: Restores House language which allows the President to impose import sanctions against nations which have not prohibited the importation of products from and the export of products to Iraq, Serbia, or Montenegro.

POW/MIA Military Drawdown

Amendment No. 129: Deletes Senate language authorizing the appropriation of such sums as may be necessary to provide reimbursement for defense articles and services provided under this section.

Priority Delivery of Equipment

Amendment No. 130: Deletes Senate language requiring priority delivery of excess defense articles to NATO allies and major non-NATO allies on the southern and southeastern flank of NATO.

Authority to Assist Bosnia-Herzegovina

Amendment No. 131: Inserts Senate language authorizing the President to transfer to the government of Bosnia-Hercegovina, without reimbursement and subject to prior notification of the Committees on Appropriations, defense articles from the stocks of the Defense Department and defense services of the Department of Defense of an aggregate value not to exceed $100,000,000. The House bill contained a limitation of $50,000,000 on the value of such articles and services.

Restrictions on the Termination of Sanctions Against Serbia and Montenegro

Amendment No. 132: Inserts language allowing the President to waive the provisions of section 540A only for the purposes of meeting emergency humanitarian assistance or to achieve a negotiated settlement of the conflict in Bosnia-Herzegovina that is acceptable to the parties.

In addition, the conference agreement includes language proposed by the Senate expanding the authority of section 660(b) of the Foreign Assistance Act to allow police training with respect to sanctions monitoring and enforcement, and to reconstitute civilian police authority under certain circumstances. The conferees recognize that there may be instances when there is no practical alternative to utilizing U.S. military personnel to conduct short-term training of civilian police. The conferees intend that any such use of U.S. military personnel for police training should be on a limited, short-term basis.

Special Authorities

Amendment No. 133: Deletes Haiti from the list of countries and programs for which funds are made available notwithstanding any other provision of law, as proposed by the Senate.

Amendment No. 134: Restores House language, stricken by the Senate, that would have deleted displaced Burmese from the list of countries and programs for which funds are made available notwithstanding any other provision of law.

Amendment No. 135: Inserts language which requires the President to terminate assistance to the military of any country or organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations, or to the military of which the President determines is not taking steps to prevent a pattern or practice of commercial relations with the Khmer Rouge. The conferees are concerned by reports that Thai military personnel are engaging in cooperative commercial relations with the Khmer Rouge in the export of timber and gems. The conferees believe that meaningful efforts should be made by the government of Thailand and the Thai military to halt this source of income for the Khmer Rouge.

Anti-Narcotics Activities

Amendment No. 136: Restores House language allowing funds appropriated in "Economic Support Fund" to be used for administration of justice programs in Latin America and the Caribbean. The Senate language would have stricken the reference to "Economic Support Fund" and replaced it with a reference to "Economic Assistance". The disposition of this amendment conforms with the conference agreement on the account structure for bilateral assistance.

Eligibility for Assistance

Amendment No. 137: Deletes Senate language referring to titles I and II of the Agricultural Trade Development and Assistance Act of 1954.

Earmarks

Amendment No. 138: Inserts Senate language governing the application of earmarks contained in the conference agreement. The House bill did not contain this language, since it contained no earmarks.

Ceilings

Amendment No. 139: Inserts Senate language changing the heading to include the words "and Earmarks".

Excess Defense Articles

Amendment No. 140: Deletes House provision which requires that excess defense articles transferred to Jordan be subject to section 534 of this Act and inserts language making Estonia, Latvia and Lithuania eligible for receipt of lethal excess defense articles.

Amendment No. 141: Deletes Senate language which allows the President to transfer lethal excess defense articles to Estonia. This matter is addressed in amendment No. 140.

Prohibition on Publicity or Propaganda

Amendment No. 142: Inserts language limiting use of funds for development education to $750,000,000 instead of a funding prohibition as proposed by the House and stricken by the Senate.

Export Financing Transfer Authorities

Amendment No. 143: Deletes Senate Language changing the reference for export financing agencies from title I to title IV. Title I of the bill contains the funding for export financing agencies.

Landmines

Amendment No. 144: Inserts Senate language which amends the National Defense Authorization Act for fiscal year 1993 to extend by one year the existing moratorium on transfers of antipersonnel landmines under the authorities of the Foreign Assistance Act and the Arms Export Control Act.

Pakistan

Amendment No. 145: Deletes House language requiring a GAO report, and inserts language which amends section 620E of the Foreign Assistance Act of 1961 regarding Pakistan as follows: allows the transfer of military equipment to Pakistan (other than F-16 aircraft) contracted for prior to October 1, 1990; provides that the restrictions in section 620E continue to apply to contracts for the delivery of F-16 aircraft; provides that the prohibitions in section 620E do not apply to assistance provided for counternarcotics purposes, military to military contact, IMET training, humanitarian and civic assistance, peacekeeping (except that lethal military equipment can only be leased or loaned), and antiterrorism activities; and provides further that the President may release Pakistan of storage costs for item purchased but not delivered and may reimburse Pakistan for such amounts paid provided that such payments have no budgetary impact.

The conferees believe that in light of this important administration policy initiative, the administration should provide to the Committees on Appropriations, not later than April 1, 1996, a report on conventional force reduction and non-proliferation in south Asia. This report should include an assessment of the strategic and conventional balance in the region, efforts taken by the United States to achieve regional agreement on nuclear non-proliferation and conventional force reductions, the role of United States aid in achieving these objectives, and progress being made by nations in the region in meeting U.S. non-proliferation objectives. This report should be unclassified to the extent possible, with a classified addendum if required.

The conferees also note that the State Department has determined that the Pressler amendment prohibition applies to government to government sales of military equipment while the commercial sale of military equipment is subject to especially rigorous case by case license review. The conferees believe that certain items which may promote border security and stability, such as border surveillance equipment, radar, and radar warning receivers should be reviewed, consistent with current law, in light of their contribution as confidence building measures contributing to security in border areas in the region.

Restrictions Concerning the Palestinian Authority

Amendment No. 146: Inserts Senate language replacing the word "subsection" with the word "restriction".

Limitation on Assistance to Countries That Restrict the Transport or Delivery of United States Humanitarian Assistance

Amendment No. 147: Restores House language stricken by the Senate which prohibits funds for any country if the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance and further provides the President waiver authority if he determines it to be in the national security interest. This matter is addressed in amendment No. 174.

Non-overtime Differential Pay

Amendment No. 148: Deletes language proposed by the Senate that would allow a Foreign Service Officer who is a criminal investigator for the AID Office of Inspector General to receive non-overtime differential pay.

References to Authorization Acts

Amendment No. 149: Deletes language proposed by the House and stricken by the Senate identifying the authorization sources for the "Child Survival and Disease Programs Fund". The conference agreement does not contain such an account.

Prohibition on Funding for Abortion

Amendment No. 150: Deletes language proposed by the House and stricken by the Senate.

The managers on the part of the House agree to recede from their disagreement in a technical sense only. The substance of the House amendment will be addressed by the House managers during further consideration by the House of amendment no. 115, an amendment in disagreement.

Withholding of Assistance to Countries Supporting Nuclear Plant in Cuba

Amendment No. 151: Inserts Senate language providing a subsection designation and heading for the first subsection.

Amendment No. 152: Inserts language providing for several exceptions to the withholding of funds to any country that supports the completion of the nuclear facility at Juragua, near Cienfuegos, Cuba. The exceptions include assistance to meet urgent humanitarian needs, including disaster assistance and refugee relief; democratic political reform and rule of law activities; the creation of private sector and nongovernmental organizations that are independent of government control; the development of a free market economic system; and assistance for the purposes described in the Cooperative Threat Reduction Act of 1993 (Nunn-Lugar). The conference agreement deletes subsection (c) of the Senate amendment, regarding definitions.

Limitation on Funds for Haiti

Amendment No. 153: Restores House language stricken by the Senate prohibiting assistance for Haiti when it is made known to the President that the Government of Haiti is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with the requirements of the 1987 Constitution of Haiti.

Purchase of American Made Equipment and Products

Amendment No. 154: Restores House language stricken by the Senate that expresses the Sense of the Congress that all equipment and products purchased with funds made available by this Act should be American-made. The language also requires that, to the greatest extent practicable, each entity receiving financial assistance or funding through this Act should be provided a notice describing the Sense of the Congress provision.

Limitation on Assistance to Turkey

Amendment No. 155: Inserts a limitation of $33,500,000 for ESF for Turkey instead of the House limitation of $21,000,000.

Limitation of Funds for the North American Development Bank

Amendment No. 156: Inserts language limiting the use of community adjustment and investment programs of the North American Development Bank to those set out in the binational agreement under which the Bank was established. The Senate bill contained no provision on this matter.

The managers direct that funds appropriated for the North American Development Bank's Community Adjustment and Investment Program (CAIP) be limited to the purposes as defined in the binational agreement establishing the Bank, specifically adjustment assistance and investment relate to trade. The conferees expect CAIP funds to be restricted to communities or businesses that can clearly demonstrate adverse foreign trade-induced economic impact and that otherwise cannot secure financing from commercial lenders. It is further expected that projects in trade-impacted communities should focus on job creation, job retention, and retooling.

The managers do not recommend funding for the Bank in order for it to serve as a pass-through for existing federal programs. The managers oppose the use of CAIP funds for personnel or operating expenses of other federal entities participating in CAIP projects. The Committees on Appropriations will closely monitor compliance with these directives when considering fiscal year 1997 funding for the Bank.

To increase accountability, the managers recommend that the North American Development Bank make the final determination regarding both CAIP eligibility criteria and endorsement of projects for financing on a case-by-case basis.

Limitation on Funds for Burma

Amendment No. 157: Restores House language stricken by the Senate prohibiting funds in this Act from being used for international narcotics control or crop substitution assistance for the government of Burma. The Senate amendment would have allowed such assistance if the Secretary of State certified that it was fully consistent with United States human rights concerns in Burma and serve a vital United States national interest. The Senate amendment also extended to such assistance the reporting requirements of chapter 8 of part I of the Foreign Assistance Act.

Asian Development Bank and International Development Association

Amendment No. 158: Inserts language to authorize the Secretary of the Treasury to subscribe to the fourth general capital increase of the Asian Development Bank and authorizes appropriations of $66,614,647 over the multi-year period. Also, inserts a new section 572 providing the authority for the Secretary of the Treasury to make a contribution of $700,000,000 to the International Development Association. The amount is the same as the appropriation for IDA in amendment no. 78.

SPECIAL DEBT RELIEF FOR THE POOREST

Amendment No. 159: Inserts language proposed by the Senate authorizing the President to reduce debt provided to certain countries under the Foreign Assistance Act and the Arms Export Control Act. In addition, the conference agreement inserts language authorizing the President to engage in debt buybacks and sales, including debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps. The inclusion of such language is consistent with the House language contained in the conference agreement on "Debt Restructuring" in amendment no. 24.

LIMITATION ON FUNDS FOR RUSSIA

Amendment No. 160: Strikes House language limiting the amount of fund under the heading "Assistance for the New Independent States of the Former Soviet Union" that may be made available for Russia as proposed by the Senate. The managers expect that not more than $195,000,000 of the total amount made available in this bill for the former Soviet Union should be provided to Russia in fiscal year 1996.

LIMITATION ON ASSISTANCE TO MEXICO

Amendment No. 161: Deletes language contained in the House bill and stricken by the Senate limiting assistance to Mexico.

The managers expect the United States government to continue to urge the government of Mexico to take actions to reduce the amount of illegal drug entering the United States from Mexico, and to take effective law enforcement actions to deal with illegal drug activities, especially illegal narcotics trafficking.

HUMAN RIGHTS IN ETHIOPIA

Amendment No. 162: Deletes House language requiring the State Department to closely monitor and take into account human rights progress in Ethiopia as it obligates fiscal year 1996 assistance for that country. The managers expect the Department of State to continue to be attentive to this important issue.

BASIC EDUCATION OF CHILDREN

Amendment No. 163: Deletes House language providing that not more than $108,000,000 from the AID "Children and Disease Programs Fund" may be used for basic education for children. The conference agreement does not contain such a fund.

KOREAN PENINSULA ENERGY DEVELOPMENT ORGANIZATION

Amendment No. 164: Deletes Senate language. This matter is addressed in amendment no. 94.

DRAWDOWN AUTHORITY FOR JORDAN

Amendment No. 165: Inserts Senate language which provides that the President may direct the drawdown of up to $100,000,000 of defense articles, service and training from the Department of Defense for Jordan.

An important opportunity exists to promote the ongoing Arab-Israeli peace process which the administration can seize without the need for additional appropriated funds. Jordan's signing of a treaty of peace with Israel and its break with Iraq has now exposed Jordan to the risks of peace. Jordan's assumption of these burdens should be acknowledged by including Jordan with Israel and Egypt for the statutory designation of a major "non-NATO" ally. Further, the administration should honor this increased risk to Jordan's security brought about by its break with Iraq and accepting peace with Israel by carefully reviewing the Government of Jordan's request to acquire up to 80 Egyptian-American built M1A1 tanks to address its near-term security needs.

FEDERAL PROHIBITION OF FEMALE GENITAL MULTILATION

Amendment No. 166: Deletes Senate language amending chapter 7 of title 18, United States Code, imposing fines and criminal penalties on those who violate the provisions of the proposed amendment regarding female mutilation. The Senate amendment would have also required the Secretary of Health and Human Services to conduct information and education activities regarding female mutilation.

The managers urge the authorization committees of the Congress to review this issue as soon as possible, and to report legislation as appropriate.

LIBERIA

Amendment No. 167: Inserts language, amending Public Law 102–270, that would exempt Liberia from the provisions of section 620(q) of the Foreign Assistance Act and section 512 of this Act. The new language would exempt assistance to Liberia from provisions of these sections for funds appropriated in this Act. The Senate amendment would have provided a permanent exemption for Liberia from these sections, and also included language expressing the sense of the Congress regarding the peace process in Liberia. The House bill contained no provision on this matter.

ANNUAL REPORT ON ECONOMIC AND SOCIAL GROWTH

Amendment No. 168: Inserts language which requires the President to submit an annual report to the appropriate committees providing a concise overview of the prospects for economic and social growth on a broad, equitable and sustainable basis in countries receiving assistance under title II of this Act, to include criteria regarding wage and price controls, State ownership production and distribution, State control of financial institutions, trade and investment, capital and profit repatriation, tax and private property protections and a country's commitment to stimulate education, health and human development. The report shall be submitted with the Administration's annual congressional presentation for appropriations.

BUY AMERICA PROVISIONS FOR MAPPING & SURVEYING SERVICES

Amendment No. 169: Inserts Senate language requiring that, to the maximum extent possible, the funds provided in this Act shall be used to provide surveying and mapping related services through contracts entered into through competitive bidding to qualified United States contractors. The House bill contained no provision on this matter.

ENERGY SAVINGS AT FEDERAL FACILITIES

Amendment No. 170: Deletes Senate language requiring agencies funded in this Act to achieve certain specified energy savings. The House bill contained no provision on this matter.

REPORTS REGARDING HONG KONG

Amendment No. 171: Inserts language requiring a March 31, 1996 report on Hong Kong consistent with the provisions of the United States-Hong Kong Policy Act of 1992, and includes Senate language regarding the content of said report. The House bill contained no provision on this matter.

HONDURAS

Amendment No. 172: Deletes Senate language regarding Honduras.

The conferees note that during the 1980's, a secret Honduran army death squad known as Battalion 316 allegedly engaged in a campaign of systematically kidnapping, torturing and murdering suspected subversives. Victims included Honduran students, teachers, labor leaders, and journalists. Also, in 1993 there were reportedly 184 unsolved cases of persons who were allegedly "disappeared", and are presumed dead. The conferees urge the President to order the expedited declassification of any documents in the possession of the United States Government pertaining to persons who allegedly "disappeared" in Honduras, and promptly make such documents available to Honduran authorities who are seeking to determine the fate of these individuals.

REPORT ON RUSSIAN MILITARY OPERATIONS

Amendment No. 173: Deletes Senate language which requires the President to declassify and resubmit to the Congress no later than three months after the date of enactment a report on Russian military operations as required by section 528 of Public Law 103–236.

The conferees request that the Administration submit to Congress a declassified version of the report submitted pursuant to section 528 of P.L. 103–236. The conferees understand declassification will be to the maximum extent possible.

The report shall also provide an unclassified assessment of: (a) Russian compliance with the Russian-Moldovan agreement of October 24, 1994; (b) allegations of Russian involvement in the September 1994 coup attempt against the Azerbaijan government; (c) the Russian deployment of troops of the Ministry of Defense, Ministry of Interior, or any other security agency to secure the borders of the New Independent States (NIS) of the former Soviet Union; (d) Russian efforts to integrate the security, defense and intelligence forces of the government of the NIS; and (e) compliance with the Treaty on Conventional Armed Forces in Europe.

LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT THE TRANSPORT OF DELIVERY OF UNITED STATES HUMANITARIAN ASSISTANCE

Amendment No. 174: Deletes Senate language which prohibits funds for any country if the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance. This matter is addressed in amendment No. 147.

Amendment No. 175: Inserts language providing that up to $20,000,000 of the funds made available through "Development Assistance" or "Economic Support Fund" may be transferred to "International Narcotics Control". Senate language would have required such a transfer from funds made available to the Agency for International Development. The House bill contained no provision on this matter.

GUATEMALA

Amendment No. 176: Deletes Senate language and inserts new language which allows the Guatemalan military to receive expanded IMET only, or FMF funds only if the President certifies that the Guatemalan military is cooperating with efforts to resolve human rights abuses. The prohibitions included in this section shall not apply to funds made available to implement a cease-fire or peace agreement. Any funds made available are subject to the regular notification procedures of the Committees on Appropriations. This matter is addressed in amendment No. 63.

The conferees commend the Guatemalan President for his efforts to negotiate a peaceful settlement of the civil war in Guatemala and to improve respect for human rights and the rule of law. The conferees are disturbed by reports that members of the military and security forces continue to commit human rights abuses including several cases involving American citizens. The conferees have included a provision which conditions aid to the military and security forces on their cooperation in resolving human rights abuses which their members are alleged to have committed, ordered or attempted to thwart the investigation of. The conferees intend that the cases listed in the April 7, 1995 bipartisan letter to President Clinton by twelve members of the U.S. Senate, as well as the murder of U.S. Ambassador John Gordon Mein, should be among those of particular concern.

PERU AND NARCOTICS

Amendment No. 177: Deletes Senate language making a number of findings regarding actions by the government of Peru involving illegal drug activities, and expressing the sense of the Senate on the provision of military equipment to Peru for drug interdiction activities. The House bill contained no provision on this matter.

ASSISTANCE TO TURKEY

Amendment No. 178: Deletes Senate language earmarking $5,000,000 of ESF funds for Turkey to promote economic growth, cultural and ethnic tolerance, human rights activities, and non-governmental organizations in southeastern Turkey.

HONG KONG ELECTIONS

Amendment No. 179: Deletes Senate language making a number of findings regarding elections in Hong Kong, and expressing the sense of the Congress regarding various aspects of these elections. The House bill contained no provision on this matter.

SENSE OF THE SENATE ON THAILAND

Amendment No. 180: Deletes Senate sense of the Senate language regarding the Government of Thailand's relations with the Khmer Rouge.

EXTENSION OF TIED AID CREDIT PROGRAM

Amendment No. 181: Inserts Senate language extending through 1997 the authority of the Export-Import Bank to conduct tied aid credit programs. Deletes Senate language authorizing a demonstration project.

CONVENTIONAL WEAPONS REVIEW

Amendment No. 182: Inserts Senate language which requires that for a period of one year beginning three years after the date of enactment of this Act, the United States shall not use antipersonnel landmines except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians. The managers agree that this issue must be closely monitored in the period leading up to the moratorium's implementation and that the case of Guantanamo Bay, Cuba, must be carefully reviewed in light of the moratorium's application to this especially sensitive facility.

The conferees recognize the global crisis caused by unexploded landmines. According to the Department of State, there are an estimated 80,000,000 to 110,000,000 landmines deployed in 62 countries. As a result, the conferees urge the President to actively encourage other governments to join the U.S. in solving the global landmine problem by implementing moratoria on the use of antipersonnel landmines similar to the U.S. moratorium as a step toward the elimination of antipersonnel landmines.

The conferees recommend that the U.S. should not sell, license for export, or otherwise transfer defense articles and services to any foreign government which, as determined by the President, sells, exports or otherwise transfers antipersonnel landmines.

EXTENSION OF AU PAIR PROGRAMS

Amendment No. 183: Inserts language extending the authority for the Au Pair program of the U.S. Information Agency through fiscal year 1996. The Senate amendment would have extended such authority through fiscal year 1998. The House bill contained no provision on this matter.

AUTHORIZATION REQUIREMENT

Amendment No. 184: Deletes Senate language regarding authorization requirements for funds provided in this Act. This matter is addressed in amendment No. 121.

CROATIAN-AMERICAN ENTERPRISE FUND

Amendment No. 185: Deletes Senate language authorizing the creation of a Croatian-American Enterprise Fund. The language would also have earmarked $12,000,000 for such fund from "Assistance for Eastern Europe and the Baltic States".

SANCTIONS AGAINST COUNTRIES HARBORING WAR CRIMINALS

Amendment No. 186: Inserts language that would not allow funds appropriated in this Act to be made available for the government of any country that is knowingly granting sanctuary to war criminals. Such criminals would include those indicted by the International Criminal Tribunal for the former Yugoslavia or the International Criminal Tribunal for Rwanda, or Nazi war criminals. The Senate language would have restricted bilateral and multilateral assistance provided in such fiscal year for any country which harbored war criminals. The House bill contained no provision on this matter.

RUSSIAN COMPLIANCE WITH THE CFE TREATY AND PRIORITIES FOR MODIFYING EXISTING ARMS AGREEMENTS

Amendment No. 187: Deletes Senate language. The conferees consider compliance with the terms of the Treaty on Conventional Armed Forces in Europe (CFE) an important priority in U.S. relations with the Russian Federation. The conferees believe the Treaty provides adequate means by which the Russian Federation can meet its military requirements for treaty limited equipment in the flank zones defined by Article V of the Treaty. The conferees strongly believe that efforts by the Government of Russia to modify CFE Treaty obligations, including those regarding movement or deployment of treaty limited equipment on the flanks, must be resolved through negotiations, not unilateral reinterpretation.

Amendment No. 188: This matter is dealt with in Amendment No. 192.

LIMITATION ON ASSISTANCE TO HAITI

Amendment No. 189: Deletes Senate language and inserts language which prohibits the availability of funds for Haiti unless the President determines that the government of Haiti is conducting thorough investigations of political and extrajudicial killings and cooperating with U.S. authorities in the investigation of political and extrajudicial killings. The managers agree that nothing in subsection (a) shall be construed to restrict the provision of humanitarian or electoral assistance to Haiti. The President may waive the requirements of this section if he determines and certifies to the appropriate committees of Congress that it is the national interest of the United States or necessary to ensure the safe and timely withdrawal of American forces from Haiti.

LIMITATION ON FUNDS TO THE TERRITORY OF THE BOSNIA-CROAT FEDERATION

Amendment No. 190: Inserts Senate language limiting United States assistance to Bosnia and Herzegovina (other than refugee and disaster assistance, and assistance for restoration of certain infrastructure) to the territory of the Bosnia-Croat Federation. The House bill contained no provision on this matter.

PLAN RECOMMENDING A STRATEGIC REORGANIZATION OF THE UNITED NATIONS

Amendment No. 191: Deletes Senate language requiring a plan for a strategic reorganization of the United Nations.

On the occasion of the 50th anniversary of the United Nations, the conferees concur with the Administration's stated intention to implement significant management and financial reforms. Accordingly the conferees request a report to be submitted in conjunction with the fiscal year 1997 budget request regarding reorganization of the United Nations. The report should include proposals to achieve (a) reductions in the number of agencies within the UN system including proposals to abolish, consolidate or restructure financing mechanisms for agencies with low priority; (b) the identification and strengthening of core agencies; (c) the increased cooperation and elimination of duplication between UN headquarters and offices in Geneva and the merger of technical cooperation functions of various UN agencies; (d) the consolidation of the UN emergency response mechanisms by merging functions in relevant agencies; and (e) improvements in the administrative and management capabilities of the Secretary General.

NATO PARTICIPATION ACT AMENDMENTS OF 1995

Amendment No. 192: Inserts language which amends the NATO Participation Act of 1994 and provides that the President should evaluate the degree to which any country emerging from communist domination which has expressed its interest in joining NATO meets certain specified criteria. The President may within 60 days designate one or more of these countries as eligible to receive assistance under the program established by the NATO Participation Act of 1994.

TITLE VI—MIDDLE EAST PEACE FACILITATION ACT OF 1995

Inserts additional language to the Senate proposed "Middle East Peace Facilitation Act of 1995" (which extends the authority of the President to waive certain provisions of law to facilitate the provision of U.S. assistance in support of the Middle East peace process). The House provisions increase accountability and provide additional detailed oversight over the provision of U.S. funds in support of the Middle East peace process, either directly or indirectly, to the P.L.O., the Palestinian Authority, and successor entities. The managers further agree to extend the President's authority to suspend certain provisions of law from twelve months to eighteen months.

The managers believe that the information provided pursuant to section 604(b)(5)(E) should be as extensive as possible and in accordance with AID's normal accounting practices. With respect to section 604(b)(5)(F), this section does not require a detailed listing of all statements of senior officials of the PLO, the Palestinian Authority and successor entities but rather an assessment of such statements, with attribution of those specific statements which best reflects the issues of concern described in this subparagraph. The managers also note that the reference to Jerusalem in section 604(c)(9) is not intended to suggest that the Palestinian Authority will operate in Jerusalem under the Interim Agreement; rather this section emphasizes the managers' concern that the PLO not purport to affect the status of Jerusalem.

TO IMPOSE SANCTIONS AGAINST BURMA, AND COUNTRIES ASSISTING BURMA, UNLESS BURMA OBSERVES HUMAN RIGHTS AND PERMITS POLITICAL FREEDOM

Amendment No. 193: Deletes Senate language imposing sanctions against Burma and countries assisting Burma.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$13,654,521,750
Budget estimates of new (obligational) authority fiscal year 1996	14,773,904,666
House bill, fiscal year 1996	11,901,375,000
Senate bill, fiscal year 1996	12,413,914,000
Conference agreement, fiscal year 1996	12,103,536,669
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	−1,550,985,081
Budget estimates of new (obligational) authority, fiscal year 1996	−2,670,367,997
House bill, fiscal year 1996	+202,161,669
Senate bill, fiscal year 1996	−310,377,331

SONNY CALLAHAN,
JOHN EDWARD PORTER,
BOB LIVINGSTON,
JIM LIGHTFOOT,
FRANK R. WOLF,
RON PACKARD,
JOE KNOLLENBERG,
MICHAEL FORBES,
JIM BUNN,
CHARLES WILSON,
SIDNEY R. YATES,
NANCY PELOSI,
ESTEBAN E. TORRES,
DAVID OBEY,
Managers on the part of the House.

MITCH MCCONNELL,
ARLEN SPECTER,
CONNIE MACK,
JAMES M. JEFFORDS,
JUDD GREGG,
RICHARD SHELBY,
ROBERT F. BENNETT,
MARK O. HATFIELD,
PATRICK LEAHY,
DANIEL K. INOUYE,
FRANK R. LAUTENBERG,
TOM HARKIN,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD.
Managers on the part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. FURSE) to revise and extend their remarks and include extraneous material:)

Mr. SKAGGS, for 5 minutes, today.
Mr. WISE, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Ms. FURSE, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. LAFALCE, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. RIGGS) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.
Mr. KIM, for 5 minutes, today.
Mr. RADANOVICH, for 5 minutes, today.
Mr. BUYER, for 5 minutes, today.
Mr. HUNTER, for 5 minutes, today.
Mr. SHAYS, for 5 minutes, today.
Mr. TIAHRT, for 5 minutes, today.
Mr. HORN, for 5 minutes, today.
Mr. UPTON, for 5 minutes, on October 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to.

(The following Members (at the request of Ms. FURSE) and to include extraneous matter:)

Ms. HARMAN.
Mr. TOWNS.
Mr. LIPINSKI.
Mr. MENENDEZ.
Mr. NEAL of Massachusetts in two instances.
Mr. TORRES.
Mr. DURBIN.
Mrs. SCHROEDER.
Mr. RANGEL.
Mr. BONIOR.
Mr. SERRANO.
Mr. WARD.
Mr. FOGLIETTA in three instances.
Mr. LANTOS.
Mr. SANDERS.
Mr. STOKES.
Mr. SKAGGS.
Mr. MEEHAN.
Mr. ANDREWS.
Mr. EDWARDS.
Mr. PALLONE.
Mr. FILNER.
Ms. JACKSON-LEE.

(The following Members (at the request of Mr. RIGGS) and to include extraneous matter:)

Mr. DELAY.
Mr. CRANE.
Mr. DAVIS.
Mr. QUINN.
Mr. WICKER.
Mr. GILMAN in two instances.
Mr. GALLEGLY.
Mr. DUNCAN.
Mr. GUNDERSON.

(The following Members (at the request of Mr. RIGGS) and to include extraneous matter:)

Mr. PORTER.
Mr. STARK.
Mr. OWENS.
Mr. NEY in two instances.
Mr. GONZALEZ.
Mr. CARDIN.
Mr. FARR of California.
Mr. SERRANO.
Mr. WICKER.
Mr. SMITH of Michigan.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 716. An act to amend the Fishermen's Protective Act; and

H.R. 1026. An act to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 402. An act to amend the Alaska Native Claims Settlement Act, and for other reasons.

ADJOURNMENT

Mr. RIGGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 59 minutes p.m.), under its previous order, the House adjourned until Monday, October 30, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1561. Chairman, Board of Governors, Federal Reserve System, transmitting the Federal Reserve System's report on State member bank compliance with the National Flood Insurance Program, pursuant to Public Law 103-325, section 529(a) (108 Stat. 2266); to the Committee on Banking and Financial Services.

1562. Assistant Secretary for Legislative Affairs, Department of State, transmitting a report to Congress on Russia's status as an adherent to the Missile Technology Control Regime [MTCR], pursuant to 22 U.S.C. 2797b-1; to the Committee on International Relations.

1563. Director, Defense Security Assistance Agency, transmitting notification that the Department of Defense has completed delivery of defense articles, services, and training on the attached list to Ecuador, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on International Relations.

1564. Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of the Public Service Commission Agency Fund for Fiscal Year 1994," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

1565. Director, Office of Personnel Management, transmitting the agency's annual report on drug and alcohol abuse prevention, treatment, and rehabilitation programs and services for Federal civilian employees covering fiscal year 1994, pursuant to 5 U.S.C. 7363; to the Committee on Government Reform and Oversight.

1566. Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the court of appeals for the District of Columbia (94-7143 & 94-7144—*Washington Service Contractors Coalition, et al.* v. *D.C., et al.*); to the Committee on Government Reform and Oversight.

1567. Director, Woodrow Wilson International Center for Scholars, transmitting the annual report on activities of the inspector general for fiscal year 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1568. Clerk, U.S. Court of Appeals, District of Columbia Circuit, transmitting an opinion of the United States Court of Appeals for the District of Columbia (94-5088—*Atkins, et al.* v. *FEC*); to the Committee on House Oversight.

1569. Chair, Foreign Claims Settlement Commission of the United States, transmitting the annual report of its activities for calendar year 1994, pursuant to 50 U.S.C. app. 2008 and 22 U.S.C. 1622a; to the Committee on the Judiciary.

1570. American Gold Star Mothers, Inc., transmitting the organization's report and financial audit for the period ending June 30, 1995, pursuant to 36 U.S.C. 1101(63) and 1103; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MYERS: Committee of Conference. Conference report on H.R. 1905. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104-293). Ordered to be printed.

Mr. WALSH: Committee on Appropriations. H.R. 2546. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104-294). Referred to the Committee of the Whole House on the State of the Union.

Mr. CALLAHAN: Committee of Conference. Conference report on H.R. 1868. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104-295). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 994. The amendment recommended by the Committee on Government Reform and Oversight referred to the Committee on Commerce for a period not to exceed Nov. 3, 1995 for consideration of such provisions of the amendment as fall within the jurisdiction of that committee pursuant to clause 1(e), rule X.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. McCOLLUM (for himself and Mr. SCHUMER):

H.R. 2538. A bill to make clerical and technical amendments to title 18, United States Code, and other provisions of law relating to crime and criminal justice; to the Committee on the Judiciary.

By Mr. SHUSTER (for himself, Mr. PETRI, Mr. RAHALL, and Ms. MOLINARI):

H.R. 2539. A bill to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DELAY (for himself, Mr. FIELDS of Texas, Mr. HASTERT, Mr. EWING, Mr. STUMP, Mrs. CHENOWETH, Mr. FUNDERBURK, Mr. CRANE, Mr. STOCKMAN, Mr. ROHRABACHER, and Mr. HAYWORTH):

H.R. 2540. A bill to amend title 10, United States Code, to prohibit any member of the Armed Forces from being required to wear as part of the military uniform any indicia or insignia of the United Nations; to the Committee on National Security.

By Mr. GILLMAN:

H.R. 2541. A bill to establish an Assistant Secretary of State for Diplomatic Security; to the Committee on International Relations.

By Mr. ALLARD (for himself and Mr. ROBERTS):

H.R. 2542. A bill to consolidate conservation cost-share assistance programs of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHRYSLER:

H.R. 2543. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for tuition and fees for undergraduate and post-secondary vocational education; to the Committee on Ways and Means.

By Miss COLLINS of Michigan:

H.R. 2544. A bill to require the Commissioner of the Bureau of Labor Statistics to conduct time use surveys of unremunerated work performed in the United States and to calculate the monetary value of such work; to the Committee on Economic and Educational Opportunities.

By Ms. MCKINNEY:

H.R. 2545. A bill to provide that a State that uses a system of limited voting, cumulative voting, or preference voting may establish multimember congressional districts; to the Committee on the Judiciary.

By Mr. WALSH:

H.R. 2546. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

By Mr. DUNCAN:

H.R. 2547. A bill to designate the U.S. courthouse located at 800 Market Street in Knoxville, TN, as the "Howard H. Baker, Jr. United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mr. DUNCAN (for himself, Mr. HEFLEY, Mr. TORKILDSEN, Mr. COOLEY, and Mr. HANSEN):

H.R. 2548. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for the benefit of units of the National Park System; to the Committee on Ways and Means.

By Mr. FARR:

H.R. 2549. A bill to authorize the Secretary of the Interior to enter into contracts to assist the Pajaro Valley Water Management Agency, CA, to implement a basin management plan for the elimination of groundwater overdraft and seawater intrusion, and for other purposes; to the Committee on Resources.

By Mr. HEFLEY (for himself, Mr. ROHRABACHER, Mr. SOLOMON, Mr. COX, Mr. BROWNBACK, Mr. CUNNINGHAM, Mr. STEARNS, Mr. DREIER, Mr. BAKER of California, Mr. FUNDERBURK, Mr. ROYCE, Mr. METCALF, Mr. HERGER, Mr. CHRISTENSEN, Mr. STUMP, Mr. SAM JOHNSON, Mr. NETHERCUTT, Mr. ROTH Mrs. MEYERS of Kansas, Mr. NEUMANN, Mr. BONILLA, Mrs. CUBIN, Mr. KLECZKA, Mr. DORNAN, Mr. CHABOT, Mrs. SEASTRAND, Mr. RADANOVICH, Mr. MANZULLO, Mr. BURTON of Indiana, Mr. ROBERTS, Mr. LAHOOD, Mr. WATTS of Oklahoma, Mr. GEKAS, Mr. SANFORD, Mr. ENGLISH of Pennsylvania, Mr. HUNTER, Mr. SALMON, Mrs. CHENOWETH, Mr. TAYLOR of North Carolina, Mr. HASTINGS of Washington, Mr. LARGENT, Mr. PETERSON of Minnesota, Mr. PACKARD, Mr. SMITH of New Jersey, Mr. MOORHEAD, Mr. MCKEON, Mr. KIM, Mr. RIGGS, Mr. DOOLITTLE, Mr. BONO, Mr. KNOLLENBERG, Mr. UPTON, Mr. MCINNIS, Mr. BUYER, Mr. ISTOOK, Mr. HORN, Mr. BUNNING of Kentucky, Ms. DUNN of Washington, Mr. CALVERT, and Mr. FORBES):

H.R. 2550. A bill to prohibit the use of funds appropriated to the Department of Defense from being used for the deployment on the ground of United States Armed Forces in the Republic of Bosnia and Herzegovina as part of any peacekeeping operation, or as part of any implementation force, unless such development is specifically authorized by law; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself, Mr. SPENCE, Mr. MOAKLEY, Mr. WALSH, Mr. KLECZKA, Ms. PELOSI, Mrs. THURMAN, Mr. BROWN of California, Mr. FROST, Mr. CUNNINGHAM, and Mr. FRAZER):

H.R. 2551. A bill to establish a congressional commemorative medal for organ donors and their families; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TAYLOR of Mississippi (for himself, Mr. YOUNG of Alaska, Mr. ABERCROMBIE, Mr. BAKER of Louisiana, Mr. BILBRAY, Mr. BISHOP, Mr. BORSKI, Mr. BROWDER, Mr. CALLAHAN, Mr. CLEMENT, Mr. COLEMAN, Mr. CONDIT, Mr. COSTELLO, Mr. COYNE, Mr. DAVIS, Mr. DEAL of Georgia, Mr. DELLUMS, Mr. DE LA GARZA, Mr. DINGELL, Mr. EVERETT, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. FROST, Mr. GONZALEZ, Mr. HALL of Texas, Mr. HAYES, Mr. HEFNER, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. MATSUI, Mr. MCDADE, Ms. MCKINNEY, Mr. MCNULTY, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. MONTGOMERY, Mrs. MORELLA, Mr. MURTHA, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. PARKER, Mr. PAYNE of Virginia, Mr. ROBERTS, Mr. ROSE, Mr. SISISKY, Mr. SKELTON, Mr. SPRATT, Mr. STUMP, Mr. TANNER, Mr. THOMPSON, Mr. THORNTON, Mrs. THURMAN, Mr. TRAFICANT, Mr. UNDERWOOD, Mr. VENTO, Mrs. VUCANOVICH, Mr. WICKER, Mr. EHLERS, Mr. ROMERO-BARCELO, Mr. WILSON, Mr. EVANS, and Mr. HOYER):

H.R. 2552. A bill to transfer the Tatum Salt Dome property to the State of Mississippi to be designated by the State as the Jamie Whitten Wilderness Area; to the Committee on Resources.

By Mr. WOLF:

H.R. 2553. A bill to provide for pilot programs conducted by the Federal Prison Industries to test the feasibility of meeting the need for increased employment of Federal prisoners by producing items, for the private market, in conjunction with private United States firms, that would otherwise be produced by foreign labor; to the Committee on the Judiciary.

By Mr. GALLEGLY:

H. Con. Res. 111. Concurrent resolution authorizing the printing of a report to the Speaker of the House of Representatives, prepared by the Congressional Task Force on Immigration Reform; to the Committee on House Oversight.

By Mr. KANJORSKI:

H. Res. 246. Resolution providing for the consideration of the bill H.R. 302, and amendments thereto, to ensure timely payment of Social Security and Medicare benefits, to protect the stability of financial markets, to preserve the credit rating of the U.S. Government, and for other purposes, by increasing the statutory limit on the public debt; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. SAXTON introduced a bill (H.R. 2554) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for the vessel M/V *Marion C II*: which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. GEPHARDT, and Mr. FATTAH.

H.R. 63: Mr. BLUTE.

H.R. 65: Mr. WYDEN.

H.R. 127: Mr. MASCARA, Mr. WISE, and Mr. FALEOMAVAEGA.

H.R. 394: Mr. HOUGHTON, Mr. JONES, and Mr. BOUCHER.

H.R. 468: Mr. SAM JOHNSON.

H.R. 497: Mr. LARGENT, Mr. ISTOOK, Mr. WHITE, Mr. SMITH of New Jersey, Mr. KINGSTON, Mr. JOHNSTON of Florida, Ms. DUNN of Washington, Mr. BARTLETT of Maryland, Mr. LANTOS, Mr. SCHUMER, Mr. HAYES, Mr. COLEMAN, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. TRAFICANT, and Mr. GORDON.

H.R. 528: Mr. STUDDS, Mrs. VUCANOVICH, Mr. TORRES, and Mr. SANDERS.

H.R. 850: Mr. BACHUS.

H.R. 1021: Mr. MATSUI.

H.R. 1023: Mr. FORBES and Mr. HILLIARD.

H.R. 1090: Mr. SKEEN.

H.R. 1124: Mr. BONIOR.

H.R. 1133: Mr. HEFLEY, Mr. BARTLETT of Maryland, and Mr. LOBIONDO.

H.R. 1202: Mr. HEINEMAN, Mr. MORAN, and Mr. BOEHLERT.

H.R. 1226: Mr. NORWOOD.

H.R. 1488: Mr. STEARNS, Mr. CREMEANS, Mr. MCKEON, Mr. MCINTOSH, Mr. DEAL of Georgia, Mr. LEWIS of California, Mr. GEKAS, and Mr. COOLEY.

H.R. 1493: Mr. ABERCROMBIE.

H.R. 1500: Mr. CLYBURN and Mr. REED.

H.R. 1619: Mr. BALDACCI, Ms. DANNER, Mr. NEAL of Massachusetts, and Mr. GRAHAM.

H.R. 1733: Mr. HEFLEY, Mr. LANTOS, Mr. FROST, and Mr. MCKEON.

H.R. 1749: Mr. OWENS.

H.R. 1796: Mr. PACKARD.

H.R. 1834: Mr. DORNAN and Mr. GOODLATTE.

H.R. 1846: Ms. DELAURO, Mr. FALEOMAVAEGA, Mr. GONZALEZ, and Mrs. LOWEY.

H.R. 1856: Mr. BAKER of Louisiana, Mr. MARTINI, and Mr. BARR.

H.R. 1920: Ms. DANNER and Mr. BALDACCI.

H.R. 2009: Ms. PELOSI and Mr. OBERSTAR.

H.R. 2143: Ms. NORTON.

H.R. 2178: Ms. MCKINNEY and Miss COLLINS of Michigan.

H.R. 2181: Mr. DEUTSCH, Mrs. LOWEY, Mr. REED, and Mr. STUPAK.

H.R. 2190: Mr. ROTH, Mr. WICKER, and Ms. HARMAN.

H.R. 2211: Mr. COLEMAN, Mr. FILNER, Ms. RIVERS, and Mr. RUSH.

H.R. 2240: Mr. ACKERMAN, Mr. WALSH, Mr. WILSON, and Mr. FLANAGAN.

H.R. 2326: Mr. FALEOMAVAEGA.

H.R. 2328: Mr. FALEOMAVAEGA.

H.R. 2407: Mr. PETE GEREN of Texas.

H.R. 2422: Mr. RICHARDSON.

H.R. 2433: Mr. HEFNER, Mr. FRAZER, Mrs. MALONEY, Mr. WILSON, Mr. CLAY, Ms. WOOLSEY, Mr. GOSS, Ms. PELOSI, and Mr. CALVERT.

H.R. 2435: Mr. MINGE, Mr. WICKER, and Mr. LUCAS.

H.R. 2443: Mr. FATTAH.

H.R. 2458: Mr. LANTOS, Mr. TORRICELLI, and Mr. ROYCE.

H.R. 2470: Mr. EMERSON and Mr. STUMP.

H.R. 2474: Mr. BEREUTER, Mr. COSTELLO, Mr. POMEROY, Mr. LIPINSKI, Ms. DANNER, Mr. EVANS, Mr. BARRETT of Nebraska, Mr. NUSSLE, Mr. LATHAM, Mr. GANSKE, Mr. KLUG, and Mr. MINGE.

H.R. 2483: Mr. KINGSTON and Mr. SOLOMON.

H.R. 2508: Ms. DANNER, Mr. STUPAK, and Mr. VOLKMER.

H.R. 2523: Mr. BLUTE and Mr. LIPINSKI.

H.J. Res. 87: Mr. HANCOCK.

H.J. Res. 89: Mr. NORWOOD.

H.J. Res. 114: Mr. SANDERS, Mr. ABERCROMBIE, Mr. BARRETT of Wisconsin, and Mr. LIPINSKI.

H. Con. Res. 5: Mr. COOLEY.

H. Res. 39: Mr. BONIOR.

H. Res. 214: Mr. WAMP, Mr. HOLDEN, and Mr. DOGGETT.

SENATE—*Thursday, October 26, 1995*

The Senate met at 9 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, the divine Potter of our lives, our days are in Your hands. Shape the clay as You have planned. May the day work out exactly as You have arranged it for Your glory and our growth. We say with the psalmist, "I delight to do Your will, O my God, and Your law is within my heart."—Psalm 40:8. We long to know what is best for our Nation. Now at the beginning of the day, we commit to You the challenges and decisions of this day. We desire to glorify You, so show us what You desire. With inspired intentionality, we put our relationship with You first and make our primary goal what is best for our Nation. In the name of the Way, the Truth, and the Life. Amen.

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The PRESIDENT pro tempore. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The Senate resumed consideration of the bill.

Pending:

Rockefeller motion to commit the bill to the Committee on Finance with instructions.

Brown modified amendment No. 2949 (to instructions of motion to commit), instructions that the committee should consider the findings of the trustees of the Federal Insurance Trust Fund.

Abraham amendment No. 2950, to establish beneficiary incentive programs to collect information on fraud and abuse against the Medicare Program and to collect information on program efficiency.

Harkin amendment No. 2957 (to amendment No. 2950), to strengthen efforts to combat Medicare waste, fraud, and abuse.

Bradley motion to commit the bill to the Committee on Finance with instructions.

Nickles/Brown amendment No. 2958 (to Bradley motion to commit the bill), to increase the earned income tax credit for families.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Minnesota.

MOTION TO COMMIT

Mr. WELLSTONE. Mr. President, I am proud to be an original cosponsor of the motion by Senator BRADLEY. Let me start out by saying, last night I think we had a good technical discussion and an important policy discussion. I must say, I think all of my colleagues are enormously impressed with Senator BRADLEY's mastery of the material.

Mr. President, what I would like to do today in the 5 minutes that I have, is to talk about this vote before us in a slightly different context. I say to my colleague from Wisconsin, my good friend, I have been thinking about the first class I will teach again at the college or university, community college, or University of Minnesota. In this class, which I hope to teach in 7 years from now, the first lecture is going to be about this week. It is going to start out with a definition of politics, and I am going to say politics is, in part, about values and what we all care about, and we can have honest disagreements.

The second part of the lecture I am going to give when I go back to teaching is going to be titled: Who decides? Who is asked to sacrifice? And how do these decisions take place? That really summarizes this motion that the Senator from New Jersey has offered, which I am so proud to be a cosponsor of.

A question: Who decides that we are going to have $245 billion of tax giveaways to people already high-income and wealthy, least in need of those breaks? And whose parents, or whose children, go without adequate health care? It is that simple. Or, Mr. President—and this refers to some amendments that I will later on make sure that colleagues vote on—who decides that we are going to, essentially, leave untouched this area of corporate welfare, that if you have a $5 million estate, you are going to get a tax cut, as my colleague from New Jersey pointed out last night, to the tune of $1.7 million?

But at the same time that you have that kind of tax giveaway, at the same time you have special tax loopholes and breaks for oil companies, or insurance companies, or you have citizens who work abroad in other countries that do not have to pay any taxes on the first $70,000 they make, or special breaks for pharmaceutical companies and, at the same time, Mr. President—and there is no better example—a $5 million estate. How many people ever have that, and you get a $1.7 million tax break.

Who decides that we are going to have that kind of tax giveaway to the wealthiest of the wealthiest citizens in this country, and not those whose children go hungry and whose children are not able to afford a higher education?

In the lecture that I give, when I teach again, I am going to continue to raise these questions. I will ask the question: Who decides that we are going to raise taxes for more than 200,000 people in Minnesota, families in Minnesota, with incomes under $30,000 a year, hard-pressed people and, at the same time, we are going to let the one person in my State—or maybe two—with a $5 million estate get $1.7 million in a tax giveaway?

We make choices here, and these are the questions: Who decides? Who benefits? Who is asked to sacrifice?

In my State of Minnesota, I say to my colleague from New Jersey, we have an interesting situation where back in 1991 we decided that we would have a 15-percent EITC at the State level, tied to the Federal EITC. So working families in Minnesota get an added benefit.

The final point in my lecture: How did this decision get made? I would tell you that what we have going on here in the U.S. Senate is deficit reduction based on the path of least political resistance, deficit reduction in inverse relationship to economic justice. If you have the big bucks, if you have a $5 million estate, you get the tax breaks. If you are low or moderate income, your taxes are raised, or you cannot afford health care, or you cannot afford to send your kid to college.

Mr. President, it is clear that the big givers are getting their way. The heavy hitters are getting their way. All these large financial institutions and corporations are not asked to tighten their belts at all. Mr. President, what we have here is decisionmaking, democracy for the few, not democracy for the many.

This motion brings back some fairness and justice to this process.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the senior Senator from Wisconsin.

Mr. KOHL. I thank the Senator. Mr. President, I rise today as a strong supporter and original cosponsor of Senator BRADLEY's motion. It presents a straightforward tradeoff to the Senate. It says restore the tax credit for lower income working families in exchange for cutting some of the tax breaks available to healthy corporations.

Before I get into the arguments for this motion, I want to say a brief word on this budget, in general.

Mr. President, like many of my colleagues, I cannot agree with the priorities established in the budget bill before us today. But what I find more disturbing than the bill itself is the partisan and destructive direction the debate over this budget has taken.

We have polarized in extreme political positions firing slogans and half-truths at each other. The two parties agree on many basic principles that could underpin a balanced budget plan. There are billions of dollars and miles of middle ground between the Democratic and Republican budget battle stations. Yet we have chosen to stay locked in our traditional partisan positions.

I want to use the few minutes I have today to talk about the ample room for compromise in the current budget debate. I want to remind my colleagues about the principles that bring us together as public servants—rather than those that drive us apart into our partisan political camps.

First, we believe in balancing the budget. This is a year in which a majority of the Senators voted for a balanced budget amendment to the Constitution and a vast majority voted for a 7-year balanced budget plan. Whether we talk about 7 or 10 years, most of us agree it is time to stop adding to our national debt. Whether we cut defense or domestic programs, most of us agree that Government should spend less.

Second, we believe that the growth of spending on Medicare and Medicaid must be restrained and doing so will involve difficult cuts. I have heard no one deny that the aging of our population and out-of-control health care costs have put into jeopardy these two basic health care programs. I do not think anyone is seriously suggesting that we can continue to let them grow at their current rates.

How much we cut this year, how much we put back into Medicare and Medicaid, how we make those cuts are all legitimate items for debate. Whether cuts need to occur at all is not debatable.

Third, we believe that our economy needs to grow and grow in a manner that rewards families who choose work over welfare. A huge majority of this Senate just voted for a welfare bill—a bill included in the budget before us—that radically changes welfare into a flexible program that moves people into jobs. A majority of those who have served in this and past Congresses have support the earned income tax credit, a tax incentive for families that work. Encouraging work—rewarding work—supporting working families. These ideas are not Democratic or Republican. They are American.

On these three points of agreement alone, we could build a credible balanced budget plan. And if we did that, this Congress would be praised for its responsibility, its leadership, and its service.

Furthermore, producing a bipartisan budget plan—without partisan bickering, without vetoes, without shutting the government, without press conference—would respond to what people outside the beltway are demanding I strongly believe that Americans want to see us debate the budget, not use it to divide our country.

Americans are sickened by the hostile rhetoric, the blind partisanship, the misleading use of figures and facts. They are demanding some honesty, some comity, and some real attempts to craft a balanced budget that a huge majority of them and us can support.

That said, Mr. President, the budget before us is not the place to start a fruitful debate on balancing the budget. It has been written without the input of our party, the President, or any outside witnesses brought in for public hearings. It contains too many tradeoffs that I believe are unfair and unbalanced—and that I believe most Americans would believe are unfair and unbalanced.

Mr. President a report recently released by the Census Bureau showed the gap between our wealthiest families and low-income families growing to the widest point recorded since the Bureau began taking such measurements in 1967. That income disparity is a cancer that is eating away at economic productivity and the standard of living in this country. Any responsible balanced budget plan would take it into account and would certainly not make it worse.

The budget before us makes it worse. The bottom 51 percent of tax filers—those with incomes of less than $30,000—would be worse off under the Senate package than under current law, according to Joint Tax Committee data. Further, wealthy taxpayers—those with incomes above $200,000—would gain an average of $5,088 per taxpayer in the year 2000. How can I justify asking a sacrifice from so many while I myself would get a big tax break under this bill?

Mr. President, this basic unfairness—this basic unbalance—is the primary reason I will vote against this budget, and why I do not believe it can form the basis for the compromise we so sorely need. I can and will ask and stand for sacrifices for the common good as long as they are shared sacrifices. But I will not support a bill that imposes real pain on many to provide gain for a few.

Mr. President, I am afraid that we are missing an historic opportunity because of our focus on short-term political benefit. If we gave up our infatuation with sound bites and brinkmanship, we have the chance to pass a balanced budget, to undo the economic damage of the last decade. As this debate proceeds, I urge my colleagues on both sides to move toward the position most Americans have already taken: Stop tearing each other down and start building a future for this country with a bipartisan and fair balanced budget.

Mr. President, like many of my colleagues, I cannot agree with the priorities established in the budget bill before us today. But what I find more disturbing than the bill itself is the partisan and destructive direction the debate over this budget has taken. We have polarized in extreme political positions, firing slogans, and half-truths at each other. Americans are sick of the blind partisanship and misleading use of figures and facts. They are demanding some honesty, some cooperation, and some real attempts to craft a balanced budget that a huge majority of them and us can support.

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Mr. President, this basic unfairness—this basic unabalance—is the primary reason I will vote against this budget, and why I do not believe it can form the basis for the compromise we so sorely need. I can and will ask for sacrifices for the common good as long as they are shared sacrifices. But I will not support a bill that imposes real pain on many to provide gain for a few. I cannot justify asking for a sacrifice from so many when I, myself, would get a big tax break under this bill.

Our time is limited, so let me offer three brief arguments for the amendment on the earned income credit before us.

First, the amendment would make the balanced budget plan more fair. According to Joint Tax Committee data, the budget before us makes most taxpayers with incomes of $30,000 or less worse off than they are under current law. Compare that with the top 1 percent of taxpayers—those with incomes above $200,000—who would receive a tax break of an average of $5,088 under this budget plan.

The primary reason for this imbalance is the cut in the earned income tax credit [EIC]—the only tax break targeted to low-income working families.

No one here would claim that balancing the budget is easy or can be done without sacrifices by many people. However, how can we ask a majority of the taxpayers to accept a balanced budget plan in which they lose and a small, wealthy minority wins? That is not balanced, and, once it is fully understood, I do not believe it will be supported by most Americans.

Second, the amendment before us keeps a bipartisan promise we made to working families. The EIC was enacted during the Ford administration and supported by every President since then. The EIC represents a bipartisan commitment to keeping low-income working families with children above the poverty line. In short, the EIC makes work pays better than welfare.

I have heard almost every Member of this body talk about the importance of moving people from welfare to work. And we need to do that in a manner that is not bureaucratic and not burdensome to business. The EIC does this. If we cannot agree in this body to keep our promise to working families by preserving the EIC, I am afraid there is going to be very little we can agree on.

Finally, the amendment before us cuts fat without cutting muscle. Some have characterized the EIC as a program plagued by uncontrolled growth and fraud. If that were the case, we should certainly cut it back dramatically. But that is not the case.

Only 5 percent of the cuts in the EIC proposed by the budget are related to fraud—and our amendment keeps those cuts intact. The rest of the cuts re reductions in taxes that go directly to working families.

The average annual Federal tax hike proposed in this budget for the 262,000 Wisconsin families who get the EIC would be $457. No one, I hope, is claiming those families—many of whom make around $12,000 a year—are defrauding the Government. No one, I hope, is suggesting that their one tax credit ought to be first on the budget chopping block.

Mr. President, we are all agreed that we have to balance the budget, and to do that, we have to reduce entitlement spending. But we have to do so in a way that makes sense and is fair. Cutting an established bipartisan tax credit that encourages work over welfare does not make sense. Cutting it while increasing tax breaks for corporations and the wealthy is not fair. I urge my colleagues to support the Bradley motion.

Ms. MIKULSKI. Mr. President, I rise today to speak out against the Republican proposal to raise taxes on working families and in support of the Democratic amendment. The Republican tax plan raises taxes on families making $30,000 while give a big fat tax cut to people with $5 million estates.

We talk a lot about getting people off welfare. But I believe if we are serious about moving people from welfare to work, then work must pay them enough to pay the bills. When mom or dad works 40 hours a week they should be able to pay the bills. They should be rewarded for working hard. The earned income tax credit does that, it rewards hard work by families. It allows these struggling families to have hope for a better future.

Yes, we talk a lot about welfare reform. We talk a lot about family values. But look what we do. I believe what we explicitly state as our values we should implicitly reflect in our public policy. What is our public policy? This Senate is already on record against even debating an increase in the minimum wage. And now this Senate is about to approve cutting a tax credit that helps these very same working men and women who depend on the minimum wage.

What are we saying to these families? We are saying even as you struggle and work hard, we are going to raise your taxes. And why? Is it because we want to balance the budget? That is what the Republicans say, but that is not the truth. The only reason we are raising taxes on working families and slashing Medicare is so that the Republicans can pass a big tax cut for people making $100,000 or $200,000 a year.

Mr. President. In order to fund a capital gains tax cut for the wealthy, the plan before us would cut the earned income tax credit by $42 billion and call it reform. It would increase the tax deductions for capital gains by $33 billion and call it fair.

The earned income tax credit is designed to reward work. For every dollar a low income worker earns at a job, he or she receives a tax credit. The size of the credit ranges from 7 cents to 36 cents per dollar, based on your family size. This credit is gradually phased-out as income rises so that there is always an incentive to earn more and work more. In short, the EITC helps to offset the heavy burden that taxes can place on a family that counts every single penny. It is tied only to income that is earned on a job. It provides a tax break to those who need it most, low-wage earners.

But all of this is being changed by this reconciliation bill. Single workers will be cut off. Families with one or two kids will have their credit reduced and their taxes increased.

And what does this mean? To the people of my State of Maryland it means tougher times. These cuts in the EITC mean that over 270,000 Maryland taxpayers will pay more while those at the top pay less. These cuts in the EITC mean that by 2002, people of my State will pay an average of $345 more in taxes. It means that 120,000 Maryland families with two kids will have their tax bill go up by $474 a year.

Lets talk about what this tax increase means to real people. For Rhonda Clark, a 26-year-old mother from Baltimore, it means that even though she has worked hard to get off welfare and to raise her two young kids, even though she has played by the rules, life is about to get harder. For Rhonda, this tax increase means she will have less money to pay for child care for her two young kids. Inflation will go up, but Rhonda's tax credit will be reduced in 1996 by $367.

The EITC has a long history of bipartisan support. But that is about to change too. This tax credit has been endorsed and expanded by Presidents and Congresses of both parties. President Ronald Reagan called it, "The best antipoverty, the best profamily, the best job creation measure to come out of Congress." This credit rewards work. It is a bonus for the good guys because it is based on hard work. We should be praising it today. Not attacking it. Not cutting off workers, cutting off families, and cutting off hope.

Let us reflect in our public policy what we have stated as our values. Let us keep faith with working families by supporting the earned income tax credit.

Mr. KENNEDY. Mr. President, the earned income tax credit is a valuable tax credit for our working families. As enacted by the Congress in 1993, the EITC would provide a tax credit for over 21 million workers and their families this coming year. Working families with earnings of up to $28,500 per year would be eligible. These are families who play by the rules and work hard each day to get by. These are the same families who are disproportionately affected by the Republican cuts in domestic spending.

The earned income tax credit is the result of a bipartisan effort to create a disincentive to people from remaining on public assistance rather than working at lower wage jobs, and was hopefully a major aspect of welfare reform. President Reagan called it the "best antipoverty, the best pro-family, the best job creation measure to come out of Congress." Reagan proposed a significant expansion of the credit in the 1986 tax reform bill.

The House of Representatives has proposed a $23 billion tax increase on these same families by repealing the 1993 earned income tax credit expansion for families with two or more children, and by denying the EITC to families without children. Fourteen million EITC recipients—nearly half of the EITC recipients with children—would be adversely affected. Families with two or more children would be hardest hit.

The proposal before the Senate makes even more severe cuts. The proposal would increase taxes on 17 million households to raise $42 billion. A report by the Treasury Department shows that under the Senate proposal, 21 percent of families currently eligible for the EITC would lose their eligibility by the year 2005.

On a national level, the proposal will mean an immediate $300 average tax increase. For the 7.4 million families with two or more children, a $410 tax increase will occur. And the average tax increase will continue to go up over time, reaching $644 by the year 2005. These families include 18.5 million children.

In Massachusetts, 194,000 working families would face an average tax increase of $321 in the year 2002. For families with two or more children, the increase would reach $440.

Two-thirds of the proposed tax increase in the EITC would be achieved by repealing the final phase of the 1993 expansion for families with two or more children—an expansion promoted by President Reagan in 1986 and President Bush in 1990.

Also included in the Republican bill is a proposal to tax social security payments received by approximately 1 million widowed, retired, and disabled taxpayers who care for about 2 million of their own children, grandchildren, or other children. These social security recipients would face an average increase of $850.

The 1993 expansion was designed to keep a family of four with a parent working at the minimum wage above the poverty level, assuming the family also received food stamps. And we still haven't been able to achieve that.

The standard of living of working families has continued to deteriorate since 1979. In 1996, the real value of the minimum wage will decline to its lowest level in 40 years. Without an increase in the minimum wage, the EITC must do the job of raising the after tax incomes of working families.

We have heard too much rhetoric about the level of fraud and abuse. The facts do not bear out these accusations. Any fraud and abuse that had taken place has been largely eliminated through steps taken by the IRS to reduce erroneous claims. There is no more fraud and abuse with this credit than there is in capital gains claims of the rich.

Other improvements to the credit have been made consistently over the past several years. Most recently, it was altered to deny eligibility to those with $2,500 or more of taxable interest and dividends.

There has also been too much rhetoric about the fact that the rate of growth of the EITC is out of control. That is not the case. With the 1996 expansion, the CBO projects that the EITC will grow at less than 4.5 percent per year. This growth is due largely to inflation. As a percentage of gross domestic product, the cost of the EITC will decline after 1997.

Mr. LEAHY. Mr. President, I rise in strong support for the amendment offered by the distinguished Senator from New Jersey.

It restores $43 billion in cuts over the next 7 years in the earned income tax credit in the Senate Republican reconciliation bill.

At a time when many working Americans are struggling to make ends meet, the Senate Republican budget would hike Federal taxes on low- and moderate-income working families. It would also raise some State taxes on these same working families.

This is a double whammy on working families.

This Federal tax increase will also raise taxes in seven States that have a State earned income tax credit tied to the Federal credit, including my home State of Vermont.

This bill will raise both State and Federal taxes on 27,000 Vermont working families earning less than $28,500 a year.

As a result of this double tax jeopardy, working Vermonters will lose $64 million in Federal earned income tax credit benefits and an additional $16 million in State earned income tax credit benefits over the next 7 years.

On average, about 63 percent of Vermont taxpayers would see their taxes rise under this bill because of these earned income tax credit cuts.

Under the Senate bill, a Vermont family of four earning $15,610 a year, the 1995 poverty line, would lose $4,500 of earned income tax credit benefits over the next 7 years—$3,600 cut in the Federal earned income tax credit and $900 cut in the State earned income tax credit.

A Vermont family of four making $22,000 a year would fare even worse—suffering a loss of $1,208 in State earned income tax credit and a loss of $4,831 in Federal earned income tax credit over the next 7 years.

It is very doubtful that the Vermont General Assembly can afford to increase the State earned income tax credit to make up this loss, with even more Federal cuts on the way.

Workers are treading water or worse against the rising tide of inflation and low wages. Now is not the time to cut a tax credit that will raise Federal and State taxes on low- and moderate-income families.

Instead, I urge my colleagues to support this amendment to restore the earned income tax credit.

Mr. AKAKA. Mr. President, as the Senate debates S. 1357, the fiscal year 1996 budget reconciliation bill, I am concerned that the tax changes and spending priorities put forward seek to balance the budget on the backs of senior citizens, working families, the working poor, and our Nation's children. The Republican proposal for a $270 billion cut in Medicare, a $182 billion reduction in Medicaid, and a $43 million tax hike for families earning under $30,000 a year to finance $245 billion in tax giveaways—over half to individuals earning over $100,000 annually—clearly outlines the No. 1 priority of the Republican plan: Tax relief for a privileged few.

The details of the legislation stand in stark contrast to the intended goal of reducing the Federal budget deficit. The fears I expressed during debate on the budget resolution have been confirmed; the brunt of deficit reduction in this bill comes at the expense of our responsibility to make work pay, the education and well-being of our youth, the retirement security of our parents, and our commitment to long-term investments in productivity, education, and job training. This approach is shortsighted and threatens to reverse progress made in genuine deficit reduction and tax fairness over the past years.

The tax increases contained in the reconciliation bill hit hardest on working American families. In particular, the $43 billion reduction in the earned income tax credit [EITC] will raise taxes for 17 million working Americans and their families. The most effective way to improve the economic well-being of the middle class and working poor is to promote policies that reward work and lessen dependency. Resources should be focused on economic policies and public investments that enhance productivity, create on well-paying, skilled private sector jobs, and restore economic mobility and prosperity to working Americans.

Yet the Republican plan cuts the earned income tax credit by $43 billion over 7 years; reversing longstanding bipartisan support for policies that make work pay. The earned income tax credit helps low-and-middle-income working families who have seen their wages decline since the 1980's and serves as a safety net for middle-class families confronted with a sudden loss of income. The EITC helps these families through economic difficulties and encourages policies that make work pay.

Mr. President, despite the tremendous number of new jobs created last year and the 2-year decline in the national unemployment rate, the earnings of many Americans have remained stagnant. In fact, over the last decade most working families have seen their standard of living erode. People are working harder and longer to make ends meet. The number of working poor families and individuals living at or below the poverty line continues to grow.

The 1993 expansion of the EITC was designed to lift a family of four, in which a parent works full-time, year-round at the minimum wage, to the poverty line. This $43 billion tax increase on millions of working families—many just above the poverty line who are struggling to work, raise their families, and avoid welfare, will destroy an important incentive that encourages work and self-sufficiency. The proposed cut in the EITC would increase Federal income taxes on millions of low-income working families with children. The Treasury Department estimates that 17 million low-income American taxpayers will see an immediate tax increase averaging $281 per year under the Republican proposal. When fully implemented, the Republican proposal would boost the average tax bill for working taxpayers by $457 per year.

In 1996, working families with more than one child will see their EITC reduced by $270. A working family with two children earning $20,000 or less would see a $372 tax hike. Working poor families with one child and taxpayers without children also will see a tax increase under the GOP plan. The elderly, disabled, and retired who receive Social Security and have an average income under $10,000 will see their taxes climb by an average of $859 under the Republican plan. Over 1 million low-income working families—and over 2 million children—would suffer as a direct result of this proposal.

Working families with children that have low and moderate incomes face three strikes under this bill. The reduction in the earned income tax credit, cuts in Medicaid, and ineligibility for the $500 per child tax credit will hit millions of working families and millions of children hard. Over 30 million children, 44 percent of our Nation's young people, would receive no benefit or only partial credit and not the full $500 proposed.

Mr. President, what message are we sending to working men and women? By raising income taxes on millions of Americans struggling to make ends meet and committed to work over welfare and making tax breaks paramount, the Republican reconciliation plan establishes disincentives to hard work and threatens the economic security of millions of American families.

I urge the defeat of S. 1357.

Mr. BRADLEY. Mr. President, I yield 4 minutes to the distinguished Senator from Washington State.

Mrs. MURRAY. Thank you, Mr. President. It is always a pleasure to be working with my colleague from New Jersey, Senator BRADLEY. It is unfortunate, though, today, that what we are trying to do is to fix the Republican budget and attempt to restore the earned income tax credit.

Mr. President, this Republican budget will cut $43 billion from the earned income tax credit, and in so doing, this budget will be raising taxes on those earning less than $30,000 a year.

I have to tell you, this is totally incomprehensible to me that while the Republicans are touting this budget and all the glory of its tax cuts, they are raising taxes on hard-working American families.

Where is the logic in this? As one of my colleagues recently stated, this is nothing more than reverse Robin Hood—taking from the poor in order to pay for tax breaks for the most wealthy in America.

The impact of this proposal is astounding. The numbers are staggering. This budget will raise taxes on 17 million families across America. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $522 tax increase in 2005.

What kind of message does this proposal send to our hard-working families? Does it provide security and hope? Or does it tell them they are on their own? Does it tell these families that are working to stay above the poverty line that we no longer reward hard work and support their efforts?

Mr. President, the EITC has always received bipartisan support because it is a commonsense tax credit. It rewards work. It provides a real incentive. It gives people the means to move from the welfare rolls to the work force.

As we all know, in 1986, Ronald Reagan praised the EITC. I remember him saying, "It is the best antipoverty, best profamily, best job creation measure to come out of Congress."

As in President Reagan's day, many of today's hard-working American families are trying to make end's meet, send their kids to school and provide some hope for the future. Average Americans are worried today about their jobs. They are anxious about their cost of education. And there is genuine concern out there about the costs of health care. It is astounding that the other side has chosen this time to reduce the EITC.

Mr. President, this tax increase is not a big deal to some of our colleagues here in the Senate, but, believe me, these are real increases to average Americans.

As I have said many times throughout this budget process—I will say it again now—this budget has no conscience nor provides any hope. It hurts the little guy, those who need help, those who are struggling to make a living and provide for their children, and it rewards the rich.

Taking away this tax credit adds insult to injury. The EITC keeps people off welfare. It offsets other forms of formal assistance. It gives American parents the security they need to enter the work force.

We cannot balance the budget on our working poor, our elderly and our children, and we cannot justify cutting taxes for the wealthy while increasing taxes on the poor. We should put things back in perspective and help those who really need our help.

Mr. President, I urge my colleagues to support this amendment. It tells working families we are in their corner. It says we are against increasing their taxes and we are for insuring their financial security.

I commend my colleague from New Jersey and urge all of our colleagues to support this sound, commonsense amendment.

Mr. BRADLEY. Mr. President, in 1993, Congress decided to give a 3-year tax cut to families earning under $30,000 a year. That is the earned income tax credit.

What the other side attempted to do is to say, "Do not give these working families earning under $30,000 a year the third year of their tax cut." That is essentially what this debate is about.

As I said last night, I would oppose their effort to raise taxes on families earning under $30,000 a year if it was a free-standing amendment; but in the context of this debate it is virtually unconscionable because of the estate tax provision in this bill. I have not heard anyone on the other side defend this provision. If you have a $5 million estate you pay $1.7 million less in estate tax because of the changes in this bill. I have not heard one person on the other side of the aisle stand up and credibly defend why we should give less than one-tenth of 1 percent of the estates in this country a $1.7 million tax cut while we are raising taxes on families earning under $30,000 a year. I have not heard that defense. Maybe it exists. I have not heard it.

The distinguished Senator from New Mexico read a letter from the Joint Tax Committee, as if the letter clinched the case. And the letter of course says that 72 percent of the tax benefits in this bill go to families earning under $75,000 a year. That is true. One does not dispute that. But that is not a refutation of the fact that taxes are increased on families earning under $30,000 a year. It means that the tax cut for those with incomes between $30,000 and $75,000 is large enough to offset the tax increase for those earning under $30,000.

Then, finally, there was this nice phrase here in the letter from the Joint Tax Committee, "Only 1.5 percent of all households will have an income tax increase;" an income tax increase.

Mr. President, people who earned under $30,000 a year last year paid $114 billion in Federal taxes. Guess how much of the $114 billion was income tax? It was $12 billion. Mr. President $12 billion out of the $114 billion was income tax.

What other taxes do they pay? They are working people. They pay Social Security taxes. For years we heard from the other side that the cruelest tax of all is the tax on working Americans, the Social Security tax. What they are doing is essentially raising the effect of the Social Security tax on those working people, because the earned income tax credit offsets Social Security taxes and income taxes and excise taxes paid by families earning under $30,000 a year. And the Joint Tax Committee did not refute that. The letter refers only to income taxes, not Social Security taxes.

So let us be clear here. Let us be clear. There has not been one refutation of the fact that the earned income tax credit offsets Social Security taxes. And when you repeal it, you are essentially raising Social Security taxes on families earning under $30,000 a year. Why do this in the context of a bill where estates of $5 million get a

$1.7 million tax cut? Tell me how is that good policy.

Then, of course, we are going to see a chart later, the famous growth chart, that will show that the earned income tax credit has increased dramatically in the last 3 years, how it is exploding since 1986. Every time, Mr. President, every time we hear that argument about the earned income tax credit exploding, remember, Mr. and Mrs. America, what they are saying is that working families are getting a bigger and bigger tax cut and they do not like it. Republicans want to reduce their tax cut. They want to raise taxes on working families.

So when you see that chart going up, that is not a chart of the growth of the earned income tax credit. That is a chart of taxes going down for working families in this country.

So when the distinguished Senator from Oklahoma puts that chart up—and I hope he puts that chart up at some point today—remember those bars that go higher and higher: Lower taxes on working families in America.

Mr. President, this is one of those moments that is so clearly defining that it really is even reachable by my own rhetorical skills. You do not have to be a great speaker when you have all the facts on your side, when you have no refutation on the other side, and when the choice is so clear—a $1.7 million tax cut for estates of $5 million? That is less than one-tenth of 1 percent of the estates in this country in any given year. So the contrast is clear: a tax cut of $1.7 million for estates versus a tax increase on working families.

The other side says, "We did not increase it on families. We only increased it on single people earning under $30,000." Well it is true that single people are clearly getting a tax increase. That is true. But I can also give you plenty of examples of where you increased taxes on working families. Anybody who is single under 30, yes, you get a big tax increase—a big tax increase. Not a small one, a big one. And for many families, it is also true.

Mr. President, this is an issue that I think bears a very a strong vote in support of our effort to protect this tax cut for working families. Mr. President, I am prepared to yield 3 minutes to the distinguished Senator from West Virginia, who is on the floor now in support of this amendment.

Mr. ROCKEFELLER. The distinguished Senator from New Jersey is kind as always.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am going to be on the floor again today because the Republican rhetoric is not matching the reality and the Republican rhetoric is that the children's tax credit will help families.

In reality, too many families will be excluded from this credit because it is not refundable.

In fact, over 20 million children will not receive the full benefit. And these children are in families earning less than $30,000, families that need tax relief the most to make ends meet on a tight family budget.

To add insult to injury, not only do Republicans deny the credit to such hard working, low-wage families, Republicans are paying for it by imposing a tax increase on them with a $43 billion cut from the earned income tax credit [EITC].

The Republican leadership continues to claim that their tax package helps middle-class American families. And this sounds good, but I want to know how they define the middle class?

In my State of West Virginia, we believe that parents who go to work every day, and struggle to raise their children are middle class, admirable, and deserving of support and encouragement. Over 65 percent of our taxpayers are working hard but earn less-less than—$30,000. For such families they will lose, not gain under this bill.

West Virginians have a basic sense of fairness and common sense. They will know that this package and its claim of middle class tax relief are false when they fill out their tax forms in April 1997.

Just 2 years ago, these working families were promised tax relief. Now Republicans are reneging on that deal and raising taxes on families earning less than $30,000. For families with two or more children, their taxes will go up an average $483. For families with one child, taxes will go up an average of $410. This will hit over 77,000 families with children in my State of West Virginia alone.

But such numbers can be numbing. Let us get beyond the rhetoric, and look at real families.

A real family, like the Helmick family of New Milton, West Virginia, will be worse off, not better. The Helmick family has 6 children, ranging in age from 15 to 4. Mr. Helmick works full-time as a truck driver for a local construction company, and Mrs. Helmick is a full-time homemaker. In the past, they have used their EITC to buy baby furniture and to buy a used truck so Mr. Helmick has reliable transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt, not helped.

And families like the Helmicks who can not claim the child credit and are hurt by the cuts in EITC, probably will not be claiming capital gains tax breaks either. For them, this package does little more than renew their cynicism since it reneges on promises made just 2 years ago when we told families to play by rules, go to work instead of welfare and we will offset your payroll taxes so that you do not have to raise your children in poverty.

I feel badly for 65 percent of families in West Virginia who will be hurt rather than helped by the Republican tax proposal.

I thank the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Jersey has 3 minutes and 18 seconds remaining.

Mr. BRADLEY. Mr. President, I have one final point.

The purpose of the earned income credit was to offset income taxes that working families pay—working people—and Social Security taxes that working families pay, and excise taxes that working families pay. That is the purpose of it.

The other side has said this proposal that they have offered does not increase income taxes on 98 percent of the people.

What about Social Security taxes? What about excise taxes? Are they saying those are not taxes? Are they not saying that a working family at the end of the month has less money in their pockets because they paid those taxes? A working family has less in their pockets after this proposal passes because of the Social Security taxes that they do not have offset, and the excise taxes that they do not have offset. And if you are a working single person, forget it. You are going to have a serious increase in taxes. Those are the facts. Those are the facts.

One repeat of a statistic: Of the $114 billion in Federal taxes paid by families and individuals earning under $30,000 a year, only $12 billion of the $114 billion are income taxes. We offset all the others. They offset only the $12 billion.

In the context of a tax bill, where an estate of $5 million gets a tax cut of $1.7 million, I really want to hear the other side defend that estate tax provision.

I want to hear them make the argument about the family farm because I will have an amendment later that will protect the family farm, and it will cost $700 million as opposed to $3 billion over 5 years. Then we will be able to see the difference between the two parties. Even on that issue, one wants to protect the family farm, and the other, of course, wants to give a little bit more benefit to business corporations, and not only the family farm. I can understand why that is good politics for some. It certainly is not good politics. And it is certainly not good policy in the context of a bill that raises taxes on working families that deserve a tax cut, not a tax increase.

Mr. WELLSTONE. Mr. President, is there any time left?

The PRESIDING OFFICER. There are 27 seconds remaining.

Mr. WELLSTONE. If I could amplify a point made by the Senator from New

Jersey, it is not good politics either because people in the country—in case anybody has not noticed—yearn for a political process that they can believe in, a political process where they think they are represented. This does not look like such a process. This looks like something good for big players, heavy hitters, those who have all of the influence, with the vast majority of the people shut out. This is not a regular person's standard with this kind of break.

Mr. EXON. Mr. President, for the record, I would like to have the Chair advise the Senate of the time remaining on both sides overall.

The PRESIDING OFFICER. There are 3 hours left for the Senator from New Mexico, and there are 4 hours and 45 minutes remaining for the Senator from Nebraska.

Mr. EXON. I thank the Chair. As I understand it, we have now used up all time and completed debate on the amendment offered by the Senator from New Jersey. As I understand it, we are about then, per the previous agreement, ready to take up an amendment that I understand is to be offered by the Senator from Florida who I believe is in or near the Chamber with regard to Medicaid funding.

Is that the understanding that has been tentatively agreed to as far as the other side is concerned?

Mr. ABRAHAM. It is my understanding that Senator NICKLES reserved 10 minutes of time to speak on this topic. I am trying to ascertain whether he intends to use it.

Mr. EXON. On the EITC issue.

Mr. ABRAHAM. That is correct.

Mr. EXON. Then we would go to the Medicaid amendment.

Mr. ABRAHAM. That is my understanding.

Mr. EXON. I thank my colleague.

Mr. ABRAHAM. We are trying to determine if that reserved 10 minutes will be used or not.

Mr. EXON. Since Senator NICKLES is not here, in order to conserve time, could we temporarily set that aside and allow the Senator from Florida to proceed with his presentation?

Mr. ABRAHAM. We would be happy to enter into a unanimous-consent agreement, and we wish to reserve the 10 minutes of time for Senator NICKLES for whatever time later that he might be available.

I move that we temporarily lay aside the EITC motion so that we might proceed to the next motion, I believe it is, while reserving 10 minutes of debate on our side for the EITC.

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. Mr. President, reserving the right to object, what was the request on the EITC?

Mr. ABRAHAM. I do not think it is a request, simply a confirmation of an agreement reached last night for 10 minutes reserved for Senator NICKLES to comment further on the motion that the Senator from New Jersey has offered.

Mr. BRADLEY. There was a motion made last night? I do not think there was a motion last night relating to any time allotted to the other side.

Mr. ABRAHAM. The motion I believe is the motion of the Senator from New Jersey. I believe the agreement with regard to time on that motion is 10 minutes had been reserved.

Mr. BRADLEY. Reserving my right to object, my understanding is Senator NICKLES' amendment was on a second-degree amendment, and Senator NICKLES chose to withdraw his second-degree amendment. I do not think there was ever an agreement on time.

Mr. ABRAHAM. Mr. President, I propose to have Senator GRAHAM proceed. If he chooses to take time off the bill, we will for Senator NICKLES.

Mr. BRADLEY. Mr. President, I have no objection to time off the bill.

Mr. EXON. Mr. President, we can then proceed at this time in the usual fashion. I am pleased to yield 1 hour off the bill of time to be controlled by the Senator from Florida who wishes to address the matter, and I hope the Chair will recognize the Senator from Florida at this time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, could I ask the ranking member a question? Is the 1 hour under the control of the Senator from Florida, or is it 1 hour equally divided?

Mr. EXON. Under the usual procedures, there is 1 hour under the control of the minority. I have just yielded that 1 hour to the Senator from Florida, and, of course, there is also 1 hour for the Senator from Georgia.

The PRESIDING OFFICER. The Chair would inform the Members of the Senate that, since this is a motion, it is 1 hour equally divided between the sides. That would be 1 hour equally divided between the proponents of the motion, Senator GRAHAM, and 1 hour for the opponents under the control of the Senator from Michigan.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, in light of the limitations under which we will debate this matter, I will make a few opening comments, and then yield 5 minutes to my colleague from Minnesota.

Mr. President, one of the most significant but not adequately focused upon aspects of this debate is the impact which this reconciliation will have on the most important Federal-State partnership in existence, which is the Medicaid program. This program represents for most States——

The PRESIDING OFFICER. The Chair would inquire: Has the Senator sent the motion to the desk?

Mr. GRAHAM. I have not but I shall in a moment.

This represents for most States 40 percent, or more, of all of their Federal grant in aid programs for highways, education, and law enforcement. Forty percent of all of the funds which come from the Federal Government to assist States in providing services to their people come through this one program of Medicaid.

It is the safety net under our entire health care system. While it represents well under 10 percent of health care spending in terms of the Federal commitment to Medicaid, it represents the safety net for virtually 100 percent of our health care system.

Yesterday, I heard some speakers talk about the fact that we are involved in this reform not just because we need to balance the Federal budget, which many of us, including this Senator, strongly support and have voted consistently for measures that will move toward the balanced budget and are very pleased at the report yesterday that for the third consecutive year we have reduced the degree of the Federal deficit, but beyond that goal of balancing the Federal budget, we need to rid ourselves of failures, of programs that were not functioning, that in some cases were even counterproductive.

Mr. President, while I will suggest some areas in which I believe the Medicaid Program can be improved, I will state emphatically this program is by no definition a failure. In one very dramatic area, infant mortality, this program has contributed substantially to a dramatic reduction in infant mortality in virtually every State. It has resulted in more babies being born at term, at full birthweight, fully able to begin the developmental process, and then it has helped poor mothers to be able to continue the health care for those babies after they were birthed.

This program is a program which has had flexibility to respond to changing circumstances which range in every degree from changes in population to changes in economic circumstances to natural disasters that impose unanticipated burdens upon a particular State.

I will talk later about my concern of the proposals in this reconciliation bill for the severe cuts in the Medicaid program, cuts which will reduce the annual average increase to 1.4 percent in comparison to the private sector's estimate that over this 7 years, private sector health care will increase at 7.1 percent per American citizen over each of the next 7 years; that that kind of disparity represents not a fine tuning of the Medicaid Program but, frankly, a collapse of the Medicaid Program and its ability to serve as the safety net. And finally, that the allocation of funds among the 50 States in the rigid block grant formula is inequitable, perpetuating inequities in distribution which exist in the current law as well as rendering the program unable to respond to changes in circumstances among our 50 States.

MOTION TO COMMIT

Mr. GRAHAM. Mr. President, with those introductory comments, I send to the desk a motion to commit with instructions.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM] moves to commit the bill S. 1357 to the Committee on Finance with instructions: to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to eliminate reductions in the Medicaid program over the seven year period beyond $62,000,000,000 and reduce revenue reductions for upper-income taxpayers by the amount necessary to ensure deficit neutrality. In addition, the Committee is instructed to achieve the Medicaid savings through implementation of a Medicaid per capita cap with continued coverage protections and quality assurance provisions for low-income children, pregnant women, disabled, and elderly Americans instead of through implementation of a Medicaid block grant.

Mr. GRAHAM. Thank you, Mr. President. I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. I thank my colleague from Florida. I rise to support this motion and ask unanimous consent to be included as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I say to my colleague from Florida, I do not have much confidence about this 2,000 pages plus and what it is going to mean for people in my State of Minnesota that I represent.

The other day in the Chamber of the Senate I had an amendment. I did not mean for it to be symbolic. I thought there would be 100 votes for it. My amendment said that if by virtue of action we take in this reconciliation bill there are fewer children with medical coverage, also more children that are hungry, then we will revisit what we have done over the next year and we will take action to correct this damage. I could not get votes for that. I received 45 votes.

I come from a State with 425,000 Medicaid—we say medical assistance—beneficiaries, projected to be, I say to my colleague from Florida, 535,000 by the year 2002. My State of Minnesota does not have the slightest idea what in the world we are going to do in response to anywhere from $2.5 billion to $3.5 billion—we do not even know yet—of cuts in medical assistance. And I can tell you right now, in all due respect to my wonderful colleagues, in my not so humble opinion, I come from the greatest State in the United States of America. We have done some wonderful things. We are a compassionate State, and we will not walk away from the most vulnerable citizens.

So this a shell game for Minnesota, and for all too many of our States it is a shell game.

Mr. President, 300,000 children are medical assistance beneficiaries in my State of Minnesota, many of them in working families. We will not walk away from those children. So the counties are going to have to pick up the cost. It will be the property tax, Minnesotans.

In my State of Minnesota, we have done some wonderful things to make sure that people in the developmental disabilities community can keep their children at home, do not have to become indigent and poor to get assistance; that people with developmental disabilities may live lives with dignity. But I will tell you what is going to happen. With draconian cuts in medical assistance, my State will not walk away from this community. It all gets put back on the State, all gets put back on the counties. This is nothing but a shell game.

In my State of Minnesota, 60 percent—60 percent—of our medical assistance payments go to our nursing homes. I have been to a lot of those nursing homes, and a lot of the people who are the care givers ask the following question: Senator, what are we going to do with these reductions? We cannot live with these reductions and live up to standards. Are we going to let staff go? Are we going to redefine eligibility? Are there going to be fewer benefits?

This is not just the elderly. These are the children and the grandchildren as well.

This amendment really cuts right to the heart and soul of what we are about here. I was in a debate earlier. We have an estate relief tax break. For those Minnesotans who have $5 million in an estate, they are going get a tax break, I say to my colleague from North Dakota, of $1.7 million. Those are the kinds of giveaways we have. But at the same time we have draconian cuts in medical assistance for people with disabilities, for children, and for elderly citizens. And in many ways, I say to my colleague from Florida, I think these reductions are perhaps the most problematical for the States we represent, the most problematical, the most awful, the most god-awful for the counties and local communities that we represent, because in my State of Minnesota we are not going to walk away from the citizens. Somebody is going to have to pay the bill. We are going to have to do it out of the local property tax, and that is going to be the most difficult way of all.

This makes no sense at all. This is, as I have said 1,000 times in the Chamber of the Senate, a rush to recklessness. This is a fast track to foolishness, and I wish my colleagues would look at their language and look at their statistics and look at their charts and read their sentences and understand what the consequences are going to be for the lives of the people we represent.

Let us have deficit reduction, but let us go after some other folks that can tighten their belts. Let us look at the subsidies to the oil companies, coal companies, pharmaceutical companies, insurance companies, estate breaks, and all the rest.

Let us not cut medical assistance to the point where we are denying quality health care for the people we represent. This is an extremely important motion. It is about fairness. It is about economic justice. And I say to my colleagues, it is also about good health care policy. The numbers should drive the policy. We need to have deficit reduction, but we cannot be reckless with the lives of the people we are here to represent.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. GRAHAM. Mr. President, I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, Mr. President.

I rise in strong support of the Democratic leadership amendment, the Graham motion. My Republican colleagues constantly remind us of how important family values are. And I think family values are fantastic, especially the one that says, "Honor thy father and thy mother." I think it is not only a good commandment to live by, I think it is a good public policy to implement.

I believe when we say, "Honor thy father and thy mother," we should have this in our Medicare Program and in our Medicaid Program. A substantial part of the Medicaid Program goes to services to the elderly who are in nursing homes. We have watched this program grow. And it is an important safety net to the American middle-class families. We must preserve Medicaid to be a safety net for the people who have no other resources for long-term care and also for those who are disabled, disabled Americans who rely on Medicaid because they cannot get private health insurance.

My dear father died of Alzheimer's. I could not reverse the tide of him dying one brain cell at a time, but I vowed I would devote my life to fighting for a long-term care policy. That is what the Spousal Impoverishment Act was, a protection, and what we passed in 1988. I am glad that we do not repeal spousal impoverishment. And I hope it does not erode.

I regret that we are now going to cancel out the protections of nursing home grants that looked out for people who were in nursing homes, who were too sick to be able to protect themselves, the laws that prevent restraints and the laws that prevent abuse, that mandates standards, so that when people who have Alzheimer's or Parkinson's or other dementia diseases where we need long-term care, even though we cannot change the course of the disease, we can ensure that they are in a safe, secure environment. We can be sure of a lot of things if we pass the Graham motion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is entirely appropriate that today we focus on the other real aspect of the Medicare debate, and that is Medicaid. Medicare reduces the support for our seniors by 22 percent. The Medicaid legislation reduces it by some 30 percent. Today I want to talk for just a few moments about the children who are going to be adversely impacted by the current legislation that is before the Senate, unless the Graham amendment is passed.

Among the children—in 1993—9.5 million were uninsured. The best estimate is that, under current law, the number of uninsured children will increase to 12.6 million in the year 2002. Under the Republican proposal, 4.4 million additional children will be uninsured in 2002 for a total of 17 million. Even under current law, there will be an upward flow in the number of children who lack health insurance coverage, but the Republican plan makes it even worse.

Just 2 years ago, on a bipartisan basis, under the leadership of Senator ROCKEFELLER, Senator RIEGLE, and others, the Finance Committee passed a program to provide comprehensive health services for children up to the age of 18 who were at or below 185 percent of poverty. We have one intervening election and look what happens? We basically pull the rug out from underneath the children of this country. Eighteen million of them now have coverage under Medicaid. Ninety percent of those children are in families that are in the work force, either full time or part time. These are hardworking men and women at the lower level of the economic ladder that absolutely depend on this program for the range of health services that are provided under the Medicaid Program. And effectively, under the Republican proposal that is before us today, we are saying, "No longer will there be the guarantees of the prescreening services, no longer will there be the range of different health services for the children in this country." And why are we doing it? To provide tax breaks for the wealthiest companies and corporations in this country and the wealthiest individuals in this country.

Not only are we pulling out the rug from underneath the children in this country, but, again, we are pulling out the rug from underneath the seniors by eliminating Federal standards in nursing homes. I was here in 1987 during the time that Congress held some of the most shocking hearings that we have ever had in the U.S. Senate, when we found out what was happening to our parents in nursing homes across this country. We found that there were shocking conditions. And Republicans and Democrats got together and passed minimal standards in order to make sure that our seniors were going to be able to live in nursing homes with some peace and dignity and quality care.

Under this Republican proposal, effectively, we are taking out those guarantees and taking out those standards and at the same time failing to provide the assurance for those seniors and those parents that there will be decent, quality care in the nursing homes of this country.

Mr. President, this makes no sense for the same reasons that the cuts in Medicare make no sense. The Republicans are taking the funds out of the protections for children and out of the protections for the seniors of this country, and using it for tax breaks for the wealthy individuals and corporations of this country. And, Mr. President, in order to remedy that, we should embrace the Graham motion. That amendment offers us the best opportunity to do so.

Medicaid is the companion program to Medicare, and the Republican assault on Medicaid is even more cruel and unfair than their assault on Medicare. The Republican plan would cut Medicaid by $187 billion over the next 7 years.

The country is up in arms over Medicare cuts that would mean a 22-percent reduction a year by the end of the budget period. By the end of that same period, Medicaid will be cut by a staggering 30 percent a year.

In large measure, the Republican cuts in Medicaid will strike another blow at the same groups hurt by the Republican cuts in Medicare—senior citizens and the disabled. Ten million elderly and disabled Americans are enrolled in Medicaid. Twenty-three percent of them—nearly one in every four—will lose their coverage. Seventy percent of all Medicaid spending under the program is for these two groups—the elderly and disabled—and much of it is for long-term nursing home care.

But there is also another group who will be especially injured by the Republican cuts—America's children. Seventy percent of Medicare spending is on the aged and disabled—but 70 percent of the people relying on Medicaid are children and their parents—a total of 18 million children and 8.1 million parents.

Every child deserves a healthy start in life. But under the Republican program, millions of families who have adequate medical care today will be forced to go without such care tomorrow. One in every five children in America depends on Medicaid. One in every three children born in this country depends on Medicaid to cover their prenatal care and the cost of delivery. These children are also guaranteed prenatal care, immunizations, regular check-ups, and developmental screenings. And, they are guaranteed the physician care and hospital care they need.

The vast majority of Medicaid-covered children—90 percent—are in families with working parents. Most of these parents work full time—40 hours a week, 52 weeks a year. But all their hard work does not buy them health care for their children, because their employers don't provide it and they can't afford it on their own. Even Medicaid fills only part of the gaps. Over 9 million other children are uninsured, and each day the number rises. Soon, less than half of all children will be covered by employer-based health insurance.

We tried to address this problem last year, but Republicans said no. Now, they are trying to undermine the only place where families without employer-provided coverage can turn for health care.

The Republican cuts in Medicaid will add 4 to 6 million more children to the ranks of the uninsured. When they are done—one in four American children will have no insurance at all.

These cuts will drastically increase the number of uninsured children. They will eliminate all the standards of quality that protect children today. The guarantee of prenatal care is gone. The guarantee of physician care is gone. The guarantee of hospital care is gone.

Under the Republican plan, senior citizens and the disabled are on the receiving end of a deadly one-two punch. Deep Medicare cuts, and even deeper cuts in Medicaid. Not only will one in four lose their Medicaid coverage, but they will be victimized by one of the cruellest aspects of the cuts—the elimination of any Federal quality standards for nursing homes.

Strong Federal quality standards for nursing homes were enacted by Congress with solid bipartisan support in 1987, after a series of investigations revealed appalling conditions in nursing homes throughout the Nation and shocking abuse of senior citizens and the disabled.

Elderly patients were often allowed to go uncleaned for days, lying in their own excrement. They were tied to wheelchairs and beds under conditions that would not be tolerated in any prison in America. Deliberate abuse and violence were used against helpless senior citizens by callous or sadistic attendants. Painful, untreated, and completely avoidable bedsores were found widespread. Patients had been scalded to death in hot baths and showers, or sedated to the point of unconsciousness, or isolated from all aspects of normal life by fly-by-night nursing home operators bent on profiteering from the misery of their patients.

These conditions, once revealed, shocked the conscience of the Nation. The Federal standards enacted by Congress ended much of this unconscionable abuse and achieved substantial improvements in the quality of care for nursing home residents.

Yet the Republican Medicaid cuts eliminate these Federal standards. It does not modify them. This bill does not reform them. It eliminates them. The House bill even repeals the nursing home ombudsman program that provides an independent check on conditions in nursing homes.

In addition, the cuts in Medicaid are so deep that even conscientious nursing home operators who want to maintain high quality care will be hard-pressed to afford the staff and equipment necessary to provide it.

It is difficult to believe that anyone, no matter how extreme their ideology, would take us back to the harsh nursing home conditions before 1987. But that is exactly what the Republican plan will do.

The Republican plan for Medicaid is an outrage. It says that society does not care about the most vulnerable groups in our country—senior citizens, children and people with disabilities.

In a very real way, Medicare and Medicaid is a lifeline for tens of millions of Americans who have nowhere else to turn. Without access to Medicare and Medicaid, many healthy children and many senior citizens will become sick and many will die. This bill can fairly be called The Sick Child and Dead Senior Citizen Act of 1995.

It is wrong, deeply wrong, to put millions of our citizens at much greater risk of illness and death in order to pay for tax breaks and special favors for the wealthy and powerful. Greed is not a family value. Republicans in Congress who intend to vote for these harsh and extreme cuts should think again before they wash their hands of their responsibility for the consequences of their votes.

These Republican proposals are too harsh and too extreme. They are not what the American people voted for last November. They should be rejected out of hand by Congress.

I withhold the balance of my time and yield it to the Senator from Florida.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, at this time I would yield 10 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you very much.

I think it is important to put the reforms that are proposed by the majority into context here and to try and speak about those reforms in rational language, instead of the panic and paranoia that has been expressed regarding those reforms.

It has been represented on the floor of the Senate today that the block grant program for Medicaid as proposed would be a collapse of the Medicaid system. I think that is an overstatement by a substantial amount.

Let me just address the issue of what kind of collapse could happen in the event we were to have the block grant program. We began in the State of Missouri, my home State, in which I had the privilege of serving as attorney general for 8 years and Governor for 8 years, a total of 16 years. During that timeframe we began to use managed care under a special waiver from the Federal Government to deal with the needs of those who needed assistance in regard to their medical needs.

And as a result of our experience with that, we have come up with some idea of how much we could do if we were given a block grant compared to what we were able to do under the Federal system of bureaucratic intermeddling and a one-size-fits-all Washingtonian Medicaid Program.

Now, it should be noted after I left the Governor's office almost 3 years ago now, my successor, who is a Democrat, maintained largely the same set of professionals to run the program, so that the individuals who will talk about the program from that experience are not partisan individuals. Earlier this year, the director of the program in the State of Missouri indicated if they had a block grant, they could increase the number of individuals covered from 600,000 under the Federal plan, to 900,000 if they had the flexibility of doing with the funds what a State could do under the flexibility of a block grant.

Now, I do not call the extension of medical services to an additional 50 percent a collapse of the system. I call this an empowerment of State and local governments to be able to do something that they may or may not deem necessary. It gives them the flexibility to meet the needs of the indigent rather than to define this in terms of a collapse.

I was interested with the statement, particularly because it was now a statement from an individual in a Democratic administration of a Midwestern State. And after it appeared in the newspapers around my State last January, I inquired of the individual who came to my office to talk about these proposals in the summer. And I asked him point blank, "Is this the fact that you could increase the coverage from 600,000 people to 900,000 people if you were absent the redtape, if you had the same amount of money on a block grant?" His direct testimony was "yes."

Now, that is not a collapse of the system. Now, it may be politically expedient to talk about scare tactics and to talk about collapses, but the truth of the matter is, we are not going to provide the basis for a collapse. We are going to provide the basis for meeting needs, and meeting them effectively. And just a few moments after we had the collapse theory expressed on the floor here today, we had the we would not have the slightest idea of what to do theory expressed on the floor today.

I cannot believe that a State as profoundly well disposed as Minnesota would not have the slightest idea in terms of how to meet the needs of their citizens. It is stunning to me. As a matter of fact, they could look to the State of Missouri, or a number of other States, to find out.

Let me just tell you some of the Missouri experience. As a matter of fact, even if we do not have this major reform, Missouri is going to try and continue to expand its ability to serve through managed care. Next year, Missouri would have half of all of its recipients on managed care.

What does the system look like? What does the system look like if States have the right to design the system, because they have been given a partial right in my home State? Here is what it looks like in St. Louis.

Last year, they decided to offer to Medicaid individuals the option for managed care. They asked companies that can provide that managed care to provide proposals. There were eight or nine companies that competed to provide proposals. Seven of them were authorized as a menu so that the people who have needs could get those needs met in a managed care system.

People choose the HMO. People choose the provider system that they want. Nine out of every ten recipients of the program make a choice. The other 10 percent have to be assigned by the State. They do not have enough interest in their medical care to even make their own choice, but they are assigned.

What is interesting to me is this: That at the end of every year, including our pilot program in Kansas City and St. Louis, individuals have a right to switch from one system to another.

If this were a draconian system, if this were an abusive system, if this were a system where there was lots of dissatisfaction, you would expect to see a lot of people switching at the end of every year. You would expect to see people trying to find a better way, looking for a different company, finding a different provider. You would expect to see a tremendous outpouring of rejection of the system of managed care that the block grant would really endow every State with the capacity to implement.

Do you know what? Do you know what the rate of changing providers is every year at the end of the year in the State of Missouri? The rate is 1 percent. There is a 1-percent dissatisfaction rate, individuals—well, they may not be dissatisfied, they may just try something else or they may move to a different part of the city so a different provider would be more convenient for them.

A 1-percent—1 percent—change rate does not indicate a system which is in collapse. It does not indicate a system which is in chaos. You do not have a 1-percent change rate if your system is one where they do not have the slightest idea about how to meet the needs. When you have a 1-percent change rate, you are really doing well.

I cannot imagine a federally operated system where 99 percent of the people were lauding the system and endorsing it by their sticking with the program, in spite of the fact they had six or eight other options from which to choose.

It has been said this is a shell game. Well, Mr. President, I say to my colleagues, it is a shell game all right to propose that this is chaos or this is collapse. We are not talking about reducing our commitment to individuals who are medically needy. We are talking about our ability to provide for ways of meeting their needs more substantially. If in Missouri we could expand from 600,000 to 900,000, just with ripping out the red tape, it is a shell game to say that we want to keep the old system.

Forty percent growth over the next 7 years in the resources—and if you could have a 50-percent increase in the number of recipients with the current amount of funds and you provide a 40-percent growth, this is empowerment, this is not shell, this is not collapse, this is not chaos, this is compassion, and I mean that seriously.

I just want to say that when we hear these arguments indicating that, "Oh, we're not going to be doing enough; there are children that are going to"—we have a system which is in collapse. We have a system which is in chaos. It says if to endow States with the capacity to correct the errors is going to promote collapse or chaos, we have collapse and chaos. That is what has happened in the welfare system of the United States. It not only collapsed financially, it has collapsed in terms of its humanity, and it is wasting resources. It is supporting in my State 600,000 people when the same resource could be supporting 900,000 people for medical care.

I might add that in the State of Missouri, this is not a State where we have to spend a whole lot of money to get the 99-percent satisfaction rate. Missouri is far below the national average when it comes to the kind of resources that are required to meet the needs of the medically needy.

So let us just try to set the record straight for a moment. Giving States the right and the opportunity to have cost reduction does not mean they are going to reduce the services. It may mean we are going to improve. It has in the State of Missouri, and I think it can in every other State.

Asking States to exercise their ingenuity in their capacity to rescue a failed system from the Federal Government does not mean we do not have the slightest idea about how we can meet the needs of individuals. I think that is an overstatement, even for Minnesota. I believe they will have a good idea, and I believe they can make it work.

This is an opportunity we have to change a failed system and to move from a failed system to a system that can succeed. It is not a tightfisted opportunity. It is not an opportunity that does not recognize that there will be additional needs. It is a system which provides for reasonable growth, but not unbridled expansion.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield 2 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Florida, and I certainly support his motion to commit.

Mr. President, what happens to parents who are struggling to try to balance the raising of children and, at the same time, caring for aging parents under the Republican proposal? If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family? The child tax credit is $500 for some families. Not in West Virginia where two-thirds of our families would not get it.

Let us say for some families it is $500 a year, but the loss of Medicaid nursing home coverage in West Virginia would cost from $25,000 to $35,000 per family, because that is what a nursing home costs if you have to pay it yourself.

An example, Julie Sayers of Charleston, WV, cares for her mother who, as the Senator from Maryland was talking about, suffers from Alzheimer's disease, and she cared for her as long as she could at home, as children want to do, but when it came to the point that she could not care any longer, she had to take her mother to a nursing home.

Julie in this case gets a partial child tax credit, much less than $500 under the Republican package, but she cannot get Medicaid coverage for her mother in the nursing home. So what good is it, the child tax credit? What damage does the Medicaid cut do—$182 billion, $187 billion for a tax break for the wealthy.

Julie and her family are going to be a lot worse off under the Republican proposal, not better off, but worse off, and this is a real person caring for a real mother with Alzheimer's in West Virginia today.

Mr. President, I understand Medicaid needs reform, and Senator GRAHAM recognizes that there are responsible ways to reduce the rate of growth in Medicaid spending, but we really should not get down to the business of throwing seniors out of nursing homes. We really should not do that. That, in my judgment, is what the Republican amendment does.

The PRESIDING OFFICER. The time of the Senator has expired.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator from Michigan has 20 minutes. The Senator from Florida has 13 minutes.

Mr. ABRAHAM. Thank you, Mr. President.

At this time, I will yield 10 minutes to the Senator from Tennessee, Senator FRIST.

Mr. FRIST. Mr. President, I rise to speak against the amendment and in support of the underlying bill before us. I wish to take a few minutes to outline where we are going with Medicaid today. I have had the opportunity to spend some time in the private sector on Medicaid, and we have huge challenges there—challenges before me as a physician, before hospitals, before the beneficiaries and groups of people that, all too often, could fall through a safety net, and, in fact, today are falling through safety nets. Why? Because of excessive and burdensome regulations we put on the States that prevent the States from carrying out their mandate to provide that safety net through this joint Federal and State program called Medicaid.

The program is not working today. In fact, as most people know, only about half of the people under the poverty level are served by Medicaid today. It was Gov. Bill Clinton speaking before the House Operations Committee, in December of 1990, who said it, laid it out, clearly—as clearly as any of us could today. He said, "Medicaid used to be a program with a lot of options and few mandates. Now it is just the opposite."

The problem is that a well-intentioned program—once again, now 30 years old—has layered mandate upon mandate, regulation upon regulation, where we have tied the hands of our regulators, State governments, where they cannot carry out this important goal of serving people who are in need, or who cannot provide for themselves otherwise. The problem is crystal clear.

Again, it is one of these problems which has been laid out before us, which our Governors have told us about, which anybody who has participated in the system at a doctor-patient level, or at a level this Congress could recognize or should recognize. This underlying Republican plan will go a long way toward resolving that problem. The problem is that Federal spending has doubled over the last 5 years. It has doubled the amount of money that is put in from the Federal Government, without any observable improvement in services delivered.

The problem at the State level is that 20 percent, on average, of a State budget now goes to a Medicaid program, and that 20 percent is growing faster and faster and crowding out other State responsibilities.

Third, and probably most important, is the excessive regulation we impose by running this program and micromanaging this program out of Washington, DC, which results in waste, which some resources could be translated into very effective care for populations in need.

Now, the Republican Medicaid plan basically does one thing. It says we cannot micromanage the health care for the populations that have been defined out of Washington, DC. We have failed. We have not been able to control costs, and are only serving about 50 percent of the people under the poverty level.

What we have said overall in this bill is that we are going to give that responsibility to the States, to the people who are closer to home, who can identify the individual needs, strip away the thousands and thousands of regulations which tie the State's hands, and say you address the problem in the way that you see fit. But there are certain ramifications and certain general, broad areas that we say it is important to target.

In this bill we have said that 85 percent of current spending levels for mandatory services are for three distinct populations: One, families with pregnant women or children; two, individuals with disabilities; and, three, the indigent seniors.

The transformation of Medicaid will be, again, very simple. If we compare the old Medicaid to the new Medicaid program, in the past Medicaid has had an open-ended entitlement. Under the new Medicaid, we will move toward this concept of block grants, allowing States to control their dollars. Under the old Medicaid, we had Federal mandates with micromanagement, coming out of the beltway, out of the bureaucracy here in Washington. And under new Medicaid, we give States the flexibility to design the types of plans they think best identify the needs and meet the needs of their citizens.

Under the old Medicaid, it is expenditure-driven, increasing at a rate of about 17 percent a year, again and again. Under the new Medicaid, it will be needs-driven. Under the old Medicaid, there have been unlimited growth rates.

In my State of Tennessee, Medicaid grew by 40 percent just 3 years ago. There is no tax base that can keep up with 40-percent growth. Under the new Medicaid, Medicaid will continue to grow—continue to grow on a base year of 1995, in our particular plan, and grow at a rate of 7 percent next year, and then it will vary thereafter, according to formulas developed by the States.

Again, looking to my own State of Tennessee, what is one of the fundamental problems? On this chart is the Medicaid expenditure growth from 1986 out to 1993. You can see that, on average, as illustrated by the red going across, the growth in Tennessee has been about 22 percent. And remember, this growth of 20 percent is competing in a State budget for other issues, whether it is infrastructure or education; it is crowding out other State expenditures. In 1992, you can see, in one State we had growth rates in Medicaid of 44 percent. It was about 14 percent in fiscal year 1993.

Well, in Tennessee, we looked at three solutions: No. 1, raise taxes again and again and again. That is what we have done a number of times over the last decade. The American people have said, "We do not want to have our taxes raised again and again."

Second, we can go through massive health care reductions. In Tennessee, we said "no." Or we can undergo fundamental change. Tennessee is one of six States who got a waiver from HCFA in order to carry out a plan. The plan has had mixed results. Let me show you what the results have been overall. It was a program called TennCare.

Given the flexibility we want to give all 50 States—and only 6 have it today—there were 12 competing managed care organizations who, through a total demonstration project, assumed the care for about 1 million people in Tennessee. Primary care access has been improving over time under the program compared to the old Medicaid system. Nonemergency use of emergency rooms has gone down over time. The number of in-patient hospital days has gone down over time. And the overall budgetary expenditures have been met. In fact, growth there has been flat. But the exciting thing is that the quality of care has increased by overall objective standards and, not only that, the number of people covered has been markedly increased.

In 1993, before this reform plan, if you took the overall population of Tennessee, coverage was 89 percent. By using those Federal dollars sent to the State more wisely, more effectively, with all of the Government regulations stripped away, we were able to improve our overall coverage for all people across Tennessee from 89 percent to 94 percent.

So when you hear that by giving States more flexibility we are, in some way, decreasing access, you can look to Tennessee and say that we are one State that had regulations stripped away and were given that freedom to carry out a program that they thought best identified and covered the needs, and we were able to improve access across the State from 89 percent to 94 percent.

If we look at overall expenditures by allowing one State the flexibility to carry out their program, stripped away of the Federal regulations, we can see, when you compare Medicaid versus the new program called TennCare, which is in yellow here, the overall Medicaid projections growing at 20 percent a year, which are in the color red. The year is along the axis here. Starting from 1987, 1995 to 1998, we can see we have had this progressive growth up to 1995. If we had done nothing in Tennessee, the growth would have continued at 20 percent a year. But having an element of coordinated care, growth has been restrained over time. This is translated into savings for the American people, again, with good quality of care, and expanded coverage, in terms of the number of people covered.

So the final question is: Why can everybody not do what Tennessee did? Well, Oregon might want a different type of system; Hawaii might want another type of system; Missouri might want another system. Let us let people closer to home decide that, but we have to strip away the regulations.

In addition, the other comment might be, well, why cannot people get waivers like Tennessee did—and I participated in that process so I can tell you it is a huge burden to get the waiver.

In fact, on September 22, in a letter sent to the commissioner of the department of finance and administration in Nashville, TN, there are another 9 pages of terms and conditions for Tennessee to try to adhere under. We would do away with those regulations under the Medicaid proposal.

For all these reasons, I support the underlying bill and speak against the proposed amendment.

Mr. GRAHAM. I yield 2 minutes to the Senator from California.

Mrs. BOXER. Mr. President, I cleared it with the managers that I can have 2 minutes off bill debate time and I ask unanimous consent that I be allowed to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Thank you, Mr. President. I will speak to this issue for 4 minutes.

Mr. President, today we learned on the news that America is finally getting it. Mr. President, 57 percent of the people in the latest national poll say that the Republicans are gutting Medicare to pay for a tax cut for the rich.

It has taken awhile for the message to come through but people are waking up to the truth. The Republicans are gutting Medicare. They are gutting Medicaid. They are raising taxes on those who earn less than $30,000 a year to help fund a tax break for the wealthiest Americans. Those who earn over $350,000 a year do just great.

By the way, if you are one of those lucky people to have a $5 million estate, pop open that champagne because unless we Democrats prevail you are going to get millions of dollars back.

Today, the Senator from Florida is giving all Members a chance to modify this radical and extreme budget as it relates to Medicaid.

I have listened very carefully to Senator FRIST, to Senator ASHCROFT, and neither of them address the main issue addressed in this amendment, which is the devastating nature of these cuts, the very size of these cuts.

Let me put it into perspective. In America today, the Medicaid Program costs $90 billion a year. The Republicans want to cut $187 billion out of that. That is 2 years—more than 2 years of expenditures of the Medicaid Program over a 7-year period. They are cutting 2 years of Medicaid out of 7 years.

I ask, as a person who works for a living, over a 7-year period, could you afford to be unemployed for 2 years? Could you afford to lose that much income and pull your family together? I think it is clear that the answer is no.

Do you know what the cuts mean to California? Mr. President, $18 billion. Millions of children will not be served. Millions of working poor will not be served. Emergency rooms will close. Trauma centers will close.

My friends say, oh, there is so much room to be more efficient. California is the most efficient in the Nation. How do we get more efficiency out of a system that is already the most efficient?

The answer is that people will be kicked off the program. Who are these people who are on Medicaid? We should look at them. Who are these people on Medicaid? They are the most disabled people among us, the most disabled children among us—children with spina bifida, children with cystic fibrosis. They are the working poor who cannot get insurance. They are the down and out who maybe lost their job and need help.

By the way, they are the seniors. Two-thirds of the seniors in nursing homes are on Medicaid. I do not know if you have been to a nursing home lately, but buried in this bill is a provision to repeal national standards for nursing homes.

We are not only cutting all of this, we are gutting the standards.

Now, I heard Senator ROTH, the distinguished chairman of the Finance Committee, on the radio this morning saying, "These Democrats, they do not want change. They want the same old thing."

I want to respond to that. We Democrats want change, but there is a difference. We want good change. We want change that is good for America.

President Clinton has a record of change—more jobs, less unemployment, AmeriCorps, lower deficit for the first time 3 years in a row since Harry Truman. That is good change.

This is evil change. This is bad change. This is greedy change. Support our friend from Florida.

Mr. ASHCROFT. Mr. President, the Senator from California spoke as if there were going to be decreases in the amount of funding.

I think it is important to just call to the attention of the American people that when we refer to cuts here in Washington we are referring to cuts in the amount of increase. We are not going to take 2 years out of the funding of the next 7 years. We are going to reduce the level of increase. We will still have a 40-percent increase in the amount of resource available.

It is important that we define the situation in terms that the American people would normally use. In that respect, we have a 40-percent increase in funding.

Mrs. BOXER. Will the Senator yield on that point?

Mr. ASHCROFT. Your comment referred to my argument and I choose not to yield.

The second thing that the Senator from California said, how can you get a system more efficient? I think it is clear, we allow States to develop the efficiencies that provide for as much as a 50 percent increase in the delivery of services.

The fact of the matter is, that is what has been shown in the pilot projects in Missouri. Our director of Medicaid says that if he could just get rid of the Federal regs he could move from 600,000 people to 900,000 people with the same amount of money. That is how you get more efficient—take the onerous one-size-fits-all Federal Government out of the picture.

I yield 6 minutes of our remaining time to the Senator from Wyoming.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Wyoming.

Mr. THOMAS. Mr. President, would it not be interesting to be some kind of out-of-touch observer and walk out and listen to the last day or so, the conversation. It is not a debate. It is posturing conversation.

I just walked in and listened. It would be pretty hard to follow. It would be pretty hard to try and establish from listening here what the goals were and what the purpose was, particularly from our friends on the other side of the aisle.

I think you have to conclude certainly we are not all coming from the same base of facts. I think you have to conclude that in some cases there is not even any clearly defined goals that are being pursued on that side of the aisle.

I think you would have to conclude there is quite a different philosophy—a philosophy of maintaining the status quo, of attacking the proposals without any particular plan, to continue the growth of Government and the size of spending. That would have to be the goal that you would assume from the conversation.

You would be confused when you hear constantly time after time this idea that you are reducing Medicare so that we can increase tax cuts.

The fact of the matter is that part A of Medicare is financed by withholding from wages. It goes into a trust fund. You have two choices when it is growing at 10.5 percent. You can either do something about the cost and reduce that rate of growth or you can add more to the withholding.

I do not hear that proposition being done. Those are the choices. It has nothing to do with taxes. It has nothing to do with balancing the budget. If the balanced budget was not in the picture, you would be talking about how do you take care of part A in Medicare. You do not hear that. That is a fact. That is a fact.

You can probably balance the budget it we stop using all the charts that we have out here, for one thing.

We do have a plan. The Republicans do have a plan. The plan is to balance the budget instead of more debt. A responsible thing we need to do for our kids as we go into another century, we have a plan to have some middle-class tax cuts instead of increasing—the largest increase we ever had—like last year.

I hope we get on into this earned-income tax credit, this 50 percent of people's taxes going up. That is just not the case. You might be reducing some of the payments that have been going under earned-income taxes—it is not increasing taxes. We know that.

We ought to be talking about Medicare solvency. That is what our purpose is. We ought to be talking about jobs and opportunity, instead of welfare dependency. That is what we are talking about here, making some changes that have not been made for years. My friends start by saying yes, we need changes, and then resist them. That has become the pattern here.

Let me tell you just a little bit about Medicaid in Wyoming. Republicans surely have taken a historic approach to it. In Wyoming, spending will rise on

Medicaid from $110 million in 1996 to $168 million in the year 2002. That is not really a cut, is it? On an individual basis, the average Federal grant for each person in poverty will grow from $2,188 to $3,263, hardly a cut.

Certainly we need more flexibility. We have heard from some of the former Governors. We heard, of course, from the Governors in the States who say give us more flexibility and we can take these dollars and more effectively run the program. The Governors have asked for more flexibility. The Republican bill mandates benefits for low-income pregnant women, children up to 12, elderly and disabled as defined by the State—those are mandates that are there that, indeed, some of the Governors are objecting to.

Medicaid, as the Senator from Tennessee indicated, has exploded in terms of its growth rate; an annual rate of 19.1 percent between 1989 and 1994. You cannot sustain that kind of growth. So you need to look for ways to deliver the system, to deal with the core problems and that is helping to reduce the costs by giving more flexibility to States to shape their programs. The program in Wyoming for the delivery of Medicaid needs to be quite different than the program in West Virginia or Massachusetts, and we need the flexibility to do that.

So, Mr. President, we have talked about the benefits. States will meet a minimum spending level of Medicaid. For low-income pregnant women, children up to 12, elderly and disabled as defined by the State, States will be required to spend at least 85 percent of the amount they spend in 1995. They will be allowed to put together programs like AFDC and Food Stamps if they choose, to put together a package of benefits.

Regarding nursing home standards, the committee responded to the Governors' requests by granting them authority to write standards under Federal guidelines. States must establish and maintain standards for quality care, which must be promulgated through their State legislatures—people, I suppose, who have no caring for the elderly. I do not believe that. Most of you have served in State legislatures. Do not tell me the States do not care. I cannot believe what I hear from time to time about that.

So, we do need to make changes if we want to continue to have a program that delivers services. That is what it is all about. I think we ought to take a little look at the long-term goals and the breadth of the goals that are in this bill. They have to do with balancing the budget. They have to do with job opportunities. They have to do with dealing with some of the problems which have brought us to where we are.

I really wish we could talk just a little bit more about the facts. For instance, this tax business that we hear every time someone stands up. Tell me a little bit about part A of Medicare and how that gives a tax offset. I would like to know more about that.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THOMPSON. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield 90 seconds to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I want to make a few remarks about the effects of the proposal to reduce projected Medicaid expenditures by over $186 billion over 7 years on those in Alabama—poor mothers and children, the disabled, and the elderly—who count on Medicaid for their medical and long-term care.

First, and most importantly, the Republicans proposal, if adopted, would immediately place the Alabama Medicaid Program in a state of utter chaos. It would place a gun to the head of the Governor and State legislature. They would be forced to make immediate, savage cuts—about 21 percent—in the program. These cuts, over $386 million, would have to be imposed the current fiscal year, starting in the second quarter of the year.

Let me be very clear about this. These cuts would be imposed on the Medicaid budget that has been in effect since October 1, 1995. The only alternative available to these cuts would be an immediate major increase in taxes on the people of Alabama. This would not happen given the "no new taxes" pledge of our Republican Governor.

My second observation is that this sudden cut is only part of the almost $3 billion hit the Republican bill would impose on Alabama. I know the other side claims that Alabama and other States can easily handle these cuts by achieving greater efficiencies in the program. Well, sure they can, and I can tell you how. They can cut poor people off the program by restricting eligibility. For those who remain, access to care can be cut by simply reducing payments to providers, doctors, hospitals, and nursing homes, below the costs of their services. At that point, these services will no longer be available.

Finally, Mr. President, our Republican colleagues repeatedly assert that all of these cuts are not real, they are simply reductions in the rate of increase. However, as we have finally had an opportunity to examine the details of the bill, we find that in some important instances this is simply not the case. For example, the Medicaid proposal cuts funds going to hospitals that care for a disproportionate share of patients that do not have insurance or other means to pay for their care as reduced immediately by 56 percent. I repeat, this is a real cut of $185 million. According to Dr. Claude Bennett, President of UAB, almost 30 percent of Alabamians are medically indigent and responsibility for providing care to them falls largely upon their University Hospital. Dr. Bennett is correctly concerned that it can continue to shoulder this burden which will surely increase in the face of these cuts.

Now, I know, Mr. President, that in the backrooms the majority is continuing to cut deals in an effort to fix up this disaster. States are pitted against States. If Alabama gets its situation improved, which it must, the poor in some other States will suffer. The bottom line is this—these Medicaid cuts are simply too much, too soon. Our State will not be able to cope without hurting people. We must rethink what we are doing.

REAL FAMILIES VERSUS REPUBLICAN RHETORIC

Mr. ROCKEFELLER. Mr. President, Republican rhetoric is that working families will be helped, but I question if this will be true for real families in West Virginia.

This Republican package seeks to cut Medicaid funding by a whopping $187 billion over 7 years. But people deserve to understand what such harsh cuts mean. Medicaid covers poor children, pregnant women, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?

Coming from West Virginia, when I think of a family, I think about the children, parents, and grandparents. What happens to parents struggling to balance raising children and caring for aging parents?

If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family? The child tax credit is $500 a year for some families lucky enough to qualify, but the loss of Medicaid nursing home coverage will cost those same families $16,000 to $30,000 a year.

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer's disease as long as she could at home. But as her mother's illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother's meager savings are exhausted, Julie and her family will be much, much worse off. That child tax credit will not cover even a month of nursing home care for her mother.

This is real story about a family hurt, not helped by this package.

In my State of West Virginia, over 21 percent of our residents rely on Medicaid, and I worry about what will happen to them and the health care system in my State as it tries to absorb more than $4 billion in cuts—West Virginia simply cannot afford this.

A headline from the Charleston Daily Mail last week reads: "[Medicaid] Cuts May Affect Infant Mortality."

This catches one's attention. It demands closer scrutiny and careful thought. The article reports:

> With the help of Medicaid-funded programs, West Virginia's infant mortality death rate decreased from 18.4 deaths per 1,000 in 1975 to 6.2 deaths per 1,000 in 1994, better than the national rate of 8.0 deaths per 1,000 births.
>
> Medicaid has greatly increased poor women's opportunities to get medical care, said Phil Edwards, the administrative assistant for the Bureau of Public Health's Division of Women's Services. "By making them eligible, they go in for prenatal care earlier than they would otherwise," he said. "Every dollar you spend on this side in prevention, you save four on the other side where you don't have to treat an at-risk patient," Diane Kopcial of the state maternal and child health office said.

Mr. President, I believe this article should make us all stop and think before we impose such cuts in Medicaid. Do we really want to jeopardize nursing home care for seniors? Do we really want to slide backward on infant mortality?

I do not want to go backward. I understand that Medicaid needs reform and our amendment recognizes that there are responsible ways to reduce the rate of growth in Medicaid spending. But we should not throw seniors out of nursing homes, deny poor mothers access to prenatal care and possibly return to times when our infant mortality rate rivals some Third World countries, or turn our backs on the disabled.

We should think about the real families in West Virginia and cross this country who depend on Medicaid for basic, vital health care.

Mr. President, I ask unanimous consent that the full article from the Charleston Daily Mail, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Charleston Daily Mail, Oct. 20, 1995]

Cuts May Affect Infant Mortality

The state Medicaid Crisis Panel began wrapping up its work as health officials expressed concern that federal cuts in the program could reverse progress the state has made reducing infant deaths.

The panel appointed by Gov. Gaston Caperton will recommend ways to cut $200 million out of the Medicaid program this year to balance the budget. It recommend long-term changes that should prepare the program to handle likely federal cuts.

Medicaid is a health care program for the poor and disabled. The federal government pays 75 percent of the cost and the state pays the rest.

At the insistence of Administration Secretary Chuck Polan, the Department of Health and Human Resources will prepare a priority list of money-saving measures it already is taking and those it thinks the state should take.

The list, with the amount each change would save, will be presented at the panel's meeting next Thursday.

The group will begin discussing its recommendations then, but will meet final time on Oct. 29 to reach an agreement, said Chairman from Haywood.

Meanwhile, state health officials are worried that proposed federal Medicaid cuts could increase infant mortality.

With the help of Medicaid-funded programs, West Virginia's infant death rate decreased from 18.4 deaths per 1,000 births in 1975 to 6.2 deaths per 1,000 births in 1994, officials said. The national rate is 8.0 deaths per 1,000 births.

Diane Kopcial of the state maternal and child health office said that when Medicaid expanded in the 1980s the state:

Recruited physicians to care for Medicaid patients.

Built a referral system with hospitals in Charleston, Morgantown and Huntington.

Began the Right from the Start program to serve Medicaid-eligible woman during their pregnancies and 60 days after they give birth. It also serves infants up to age 1. The program provides nutritional counseling, parenting education, and transportation to medical appointments.

The Women, Infants and Children program also provides nutrition and health education, free food and breastfeeding information for women and children under 5.

Medicaid has greatly increased poor women's opportunities to get medical care, and Phil Edwards, the administrative assistant for the Bureau of Public Health's Division of Women's Services.

"By making them eligible, they'll go in for prenatal care earlier than they would otherwise," he said.

"Every dollar you spend on this side in prevention, you save four on the other side where you don't have to treat an at-risk patient," Kopical said.

Mr. SARBANES. Mr. President, I rise today to join my Democratic colleagues in opposition to the Republican proposal to replace the joint Federal-State Medicaid Program with a block grant to the States.

Medicaid currently guarantees that 36 million low-income pregnant women, children, disabled, and elderly Americans have access to hospitals, physicians, nursing homes, and other basic health care. The Republican plan would eliminate this guarantee and cut Medicaid by $182 billion by the year 2002.

What the Republicans are proposing is to cut Medicaid and then lower the standards States must meet because they know that the standards cannot be met with the lower level of funding. In a recent letter to Members of the Senate, the National Association of Counties expressed quite correctly the natural consequence of this proposal. I quote from that letter:

> We do not believe that States will find enough budgetary efficiencies without reducing eligibility. The flexibility given to States in the operation of the proposed restructuring will trickle down to counties in the form of flexibility to raise property taxes, cut other necessary services or further reduce staff.

The Republican plan endangers the future health, well being, and productivity of millions of low-income pregnant women, poor children, and disabled Americans. It jeopardizes the long-term care of millions of our elderly. And these sweeping policy changes have been proposed, passed out of committee—and may well be passed by the Senate—without one official public committee hearing.

Because of this, I joined with a number of my Democratic colleagues earlier this month in convening several hearings on the Medicaid and Medicare programs. We wanted to hear from the people who will be affected by the proposed changes. During those hearings, we heard some very moving testimony regarding the impact the Republican plan to cut Medicaid will have on the lives of average, hard working middle-class Americans. Since many Members were unable to hear this very moving testimony, I would like to insert in the RECORD one of the more compelling statements presented at these hearings by Ms. Mary Fitzpatrick from Dickson, Tennessee.

There being no objection, the material was ordered to be printed in the RECORD, so follows:

Testimony of Mary Fitzpatrick

My name is Mary Fitzpatrick. I live in Dickson, Tennessee, about 50 miles outside of Nashville. Once again, I am in Washington to speak on behalf of the rights and needs of citizens in nursing homes. I use the word "again" because it was eight years ago that I sat before members of Congress and described a pattern of neglect and poor care that led to my mother's death in a nursing home in 1984. I spoke then because I wanted to do whatever I could to prevent another human being from the pain and denial of dignity that my mother, Maggie Connolly, endured. I did not want any other family to have to bear the agony of watching a loved one suffer because of lack of basic services and a system that fails to protect frail, vulnerable people. And I want to spare others the despair my family felt trying to persuade the state of Tennessee to enforce nursing home standards.

The account I gave eight years ago helped achieve bipartisan support for the 1987 Nursing Home Reform Act. Imagine my shock in learning of the current proposal to undermine this law.

I cannot believe Congress would consider returning to a system that renders quality nursing home care an option for states, especially when I know what the state did for my mother—absolutely nothing.

Obviously, lawmakers in Washington are out of touch with ordinary people. And that's who people in nursing homes and their families are—ordinary individuals seeking a safe setting and adequate services during an emotionally, physically trying time.

Ordinary people understand the need to control the federal deficit. Ordinary people realize the importance of ensuring accountability for public dollars paid to the nursing home industry each year.

What is beyond our comprehension is how elected officials can support a proposal that will hurt people who can not speak out for themselves.

As I explained in 1987, after my mother's admission to the nursing home, my daily routine soon became one of cleaning up my mother's waste, bathing her and changing her linen as soon as I arrived each afternoon. The facility denied my mother this basic care. I even had to fight for the supplies to provide that care myself.

My mother raised three children, and until a stroke at age 47 had worked in a bag manufacturing plant. Prior to her admission to the nursing home, she suffered from Parkinsons disease and congestive heart failure and lost her ability to speak. In 1983, her condition quickly deteriorated. After a two week hospital stay, she became incontinent and her doctors advised us she would need to go to a nursing home. I favored a nursing facility near my home. Unfortunately, my mother's source of payment, Medicaid, was not preferred by that facility which refused her admittance.

Upon recommendation and a tour of the chapel, lunchroom and some of the residence floors, we chose a facility then called the Belmont Health Care Center. From day one, my brother, sister and I visited mother regularly. My brother even changed shifts so that he could see her each afternoon.. I would come by directly from work, missing dinner to stay until 8:30 or 9:00 p.m. Weekends also involved regular visits from family and friends. There was never a day during my mother's nursing home stay that she did not receive care and attention for several hours from family members or friends. Still, the problems began almost immediately.

On the third day of my mother's nursing home stay, I found her seated in her own waste in a wheelchair. Giving up on finding any staff to assist me, I changed mother's clothing and cleaned her up myself. Soon after I was unable to find any clean linens and was informed of a new policy allowing each residents just two sets of linens. I was persistent and was able to obtain some fresh linens. But there was always a shortage of supplies and on many days, I had to search the linen closets on several floors to find a single set of clean bed linens.

Within six weeks my mother developed her bed sore. Eventually the sores covered her body, making it impossible for her to lie without pressing on the painful skin ulcers. By the time she died eight months later at the age of 75, one of the original sores measured about three inches across and nearly two inches deep. The staff never carried out the instructions on regularly repositioning her. My brother, sister and I would turn her while we were there, but she was supposed to be turned every two hours around the clock. Nor was there sufficient staff to properly care for my mother's bed sores. Two nurses showed me how to clean the bed sores and told me where to purchase special medical dressing. I bought and used them regularly, but the nursing home administration continued telling me that they couldn't find out whether the pharmacy carried these dressings.

There were other problems. Residents like my mother who were unable to reach out for water could go for many hours without anything to drink. My mother's roommate told us how my mother once had dabbed a Kleenex and spilled water on a tray and held it in her mouth to relieve her thirst. Throughout this ordeal none of the family or friends caring for my mother knew where to go for help. Finally a friend located someone on the Tennessee Department of Health and Environment Nursing Home Inspections staff. I called him and explained our concerns about retaliation. He promised confidentiality and said someone would be out within the next few days. But it wasn't until a few weeks that a state inspector came. One of my complaints involved getting proper care for my mother's bed sores.

Then two days after the state inspector's visit I came to the facility and found my mother's sheets soaked in blood. She was lying on her side crying. I pulled back the covers and saw her bed sores had been debrided, which means surgically cut to remove the dead tissue. I was shocked to find that the procedure had been performed at the nursing home instead of the hospital. Given the seriousness of the bed sores, she must have been in agony. But when I asked what they could do for the pain, I was told, "Tylenol is all we can give."

I think mother probably went into shock. But, in any event, she died two days later on July the 7th, 1984. When I was getting ready to go to the funeral home the state inspector called me to say that they had been out a few days before to investigate my allegations of three weeks ago. He said I would be pleased to know that most of my complaints had been substantiated. I told him it was too late. My mother was dead.

The undertaker told me he had never seen a body in such bad condition, and that he had to enclose the lower half of mother's body in a plastic bag. One of the most disturbing things about this whole ordeal is that my mother was aware of what was going on, even though she could not express herself, other than through gestures and facial expressions. And, all the while, I was haunted by the fact that other people in nursing homes, both young and older, were going through the same hell that my mother went through.

It has been very difficult to have to relive this experience the second time around. But, it is even harder to accept the fact, Congress is preparing to destroy a law that would have saved my mother and so many others, so much pain and suffering. Thank you for the chance to speak. I would be glad to try and answer any questions.

Mr. SARBANES. Mr. President, Ms. Fitzpatrick laid out before us in detail commonly found nursing home conditions before passage of Federal nursing home minimum quality standards. The Republican plan we are considering would repeal the minimum quality standards for nursing homes. In my view, such a proposal is mean spirited and illogical.

Morton Kondracke in a recent column described the consequences of this proposal:

> The Republicans need to face up to the fact that, if they go through with their planned reforms in poor people's healthcare, instances of abuse, neglect, broken bones, urine-soaked beds and filthy surroundings will multiply in the years to come.

Mr. President, those were the very conditions that led to the enactment of the 1987 legislation. And now they want to repeal these standards. They want to repeal them because they know that without them some nursing home—some, not all—but some nursing homes will be able to absorb the reduced funding by lowering their standards of care. They will return to the old days of mistreatment and nontreatment which Mary Fitzpatrick and Morton Kondracke described as a means of cutting costs to respond to the slashed funding. Other nursing homes—the ones that do not lower their standards—may simply stop serving those families which cannot afford to pay $50,000-$60,000 a year for nursing home care. And who will this affect? The 4 million elderly who depend on Medicaid for their nursing home care and their families.

Mr. President, our Government should not renege on its commitment to ensuring that millions of needy, disabled, and elderly Americans receive essential basic health care. The Republican proposal, which would eliminate such guarantees, could have disastrous consequences for many citizens, and I would strongly urge my colleagues not to go down this path.

Ms. MIKULSKI. Mr. President, I rise today in strong support of the Democratic leadership amendment to restore over $125 billion to the Medicaid Program.

Our Republican colleagues constantly remind us how important family values are to them. I think that's great. Families are the backbone of our society. They provide nurturing and loving environments for our children. They provide stability and safety, and foster values we need to become better people and a better society.

What are family values? I'll tell you what I think they are. I think family values are honoring your mother and father. I think family values are honesty—keeping promises. Family values are care and dedication to the well-being of those you love.

Family values are not breaking promises, they are not telling your mother and father that they'll have to do without medical care, and they're absolutely not about risking the safety of your parents when you can no longer provide the care they need and have to put them in a nursing home.

Mr. President, there are 18 million children in the United States who depend on Medicaid. There are more than 900,000 elderly people who depend on Medicaid for their nursing home care. There are 6 million disabled Americans who depend on Medicaid.

The wealthy won't be affected by these draconian cuts. It's likely that the vast majority of the 100 Senators in this room won't be affected, nor will most of the 435 Members of the House.

The people who are affected are normal, regular, everyday Americans. Not big-time lobbyists; not big-money campaign contributors. The people who are affected are people like my neighbors, my mom, and the kids who go to St. Stanislaw's Catholic School right down the street from me.

Mr. President, there are 6 million disabled Americans who rely on Medicaid because they cannot get private health insurance. It's not because they don't want it. It's not because they can't afford it. It's because no private insurance company will cover them. Without Medicaid, where will they go? I believe that I am my brother's keeper. We have a responsibility to our fellow women and men. Make no mistake about it.

Mr. President, Medicaid is a program that benefits a broad spectrum of Americans. One in five children in America—18 million kids—receive their health coverage through Medicaid. One in five. Healthy children are the first step to a strong America. The next generation must be healthy in body and mind in order to make the large contribution to our society that we're all trying to prepare them for.

These kids don't understand Medicaid. They don't understand the process, and, quite frankly, they probably don't care. But their parents do. Their parents worry themselves sick about whether or not we're going to take away their ability to get medical care for their kids.

I worry myself sick about that too. But there's a difference. I have a vote on this floor, and I have the bully pulpit. And I want them to know that I'm on their side. I'm fighting for them. I want the parents of the 18 million children on Medicaid to know that I stand ready to help them help themselves.

I'm glad this legislation does not repeal the Spousal Impoverishment Act. I authored this act in 1988. And I'm here to tell you I'm standing sentry to make sure this critical protection is maintained.

My dad died of Alzheimer's disease. My mom, my sisters and I made use of a long-term care continuum in Maryland. We took Dad to a geriatric evaluation center at Johns Hopkins to be sure we knew what was wrong with him and how to keep him at home with us longer. We used adult day care to stretch out his ability to stay with us and to help with respite care for my mother—a heart bypass survivor. But we reached a point when we knew we couldn't give him the level of care that he needed. And we had to bring him to a nursing home.

I visited my dad all the time at his home. It wasn't a Cadillac, Gucci-style nursing home. Dad would have hated that. It was a real nursing home with real patients who had real families.

Over time I got to know those families. I listened to their stories—to their trials and their tribulations. I heard stories about how you had to spend down your life savings to $3,000 before you could qualify for help. Families had to go into bankruptcy while they were trying to practice family responsibility.

My dad wasn't the kind of guy who wanted a fancy tombstone. He wanted to make sure that what he left behind would help others. I made a promise that I'd try to change the cruel rules of Government that penalize families who have saved all their lives.

I'm so proud that with the help of great men like Lloyd Bentsen, George Mitchell, TED KENNEDY, and the members of the Finance Committee, we changed that law so that now you can keep your home, you can keep assets up to $15,000, and the spouse at home can have an income of up to $1,000 a month. So, I'm glad that this won't be repealed, and I want to make sure it never, ever is. I want all Senators to know that in this regard, we've done well by the American people.

Unfortunately, I cannot say the same for the rest of the bill. In this legislation we are repealing nursing home safety standards! That is horrific.

As I just said, my father was in a Chevy Cavalier nursing home—not a Cadillac nursing home. But we all knew that he would be fed, he would be taken care of, he would receive his medication, we wouldn't have to worry about restraints, we wouldn't have to worry about abuse. We knew that because of the standards, dad would be safe.

In 1983 Congress commissioned a study by the Institute of Medicine at the National Academy of Sciences. This study revealed shocking deficiencies in nursing home care. In 27 States, at least one-third of facilities had care so poor that it jeopardized health and safety.

Some nursing home residents have been treated in conditions which are worse than prisons. Worse than prisons!

In 1987 Senator PRYOR led the charge to enact the standards which now protect nursing home residents. He's still leading that charge, and I thank him for that.

Now we want to repeal those standards? Not this Senator. I will not, under any circumstance, allow anyone in this body to put the lives of men like my father at risk.

Saying "yes" to this amendment says yes to keeping promises, it tells our seniors, our children and the disabled that we care about their wellbeing. That we will help them if they've played by the rules and if they're making the effort to help themselves. And that we will not let those few nursing home profiteers put them at risk in the name of turning a buck.

I urge my colleagues to support this amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to support the amendment offered by Senator GRAHAM.

The bill before us creates a Medicaid block grant, a blank check, to States with virtually no rules, no specified benefits, no rules of eligibility.

The amendment would retain the current Medicaid Program, but impose a spending limit per individual recipient, an individual cap. This approach would hold down cost increases without undermining Medicaid as a health insurance program.

MEDICAID IN CALIFORNIA

Medicaid, called Medi-Cal in my State, pays for health care for 6 million Californians. Out of these 6 million, 38 percent are children. Medicaid pays the bills of over 60 percent of children in California's children's hospitals. At Oakland Children's Hospital, it pays for 70 percent.

Medicaid provides 70 percent of hospital care to the poor in my State. Of total Medicaid dollars, over 59 percent is spent on the elderly and disabled and 41 percent to families.

One million Americans are infected with HIV/AIDS. In California, there are over 150,000. Medicaid provides health insurance for 40 percent of all people with HIV/AIDS, including 90 percent of all HIV-infected children. In California, Medicaid pays for 50 percent of all HIV/AIDS care. Medicaid pays for 55 percent of HIV-related public hospital care and 41 percent of private hospital care.

In my State, Medicaid paid $719 million for emergency services for illegal immigrants, last year, according to the California Department of Health Services.

Medicaid is a fundamental health safety net in California, insuring everything from basic inoculations for poor children to sophisticated advanced treatment for AIDS.

MEDICAID COST INCREASES

As a former mayor, I know the difficulty of balancing budgets and keeping costs under control. And there is no doubt that Medicaid costs, along with general health care inflation, have grown at double digits, creating tremendous pressure on government budgets at all levels.

The amendment before us reins in Medicaid's growth, but instead of cutting $187 billion, it cuts $62 billion, one-third of the cut in the Republican bill.

WHY THE GRAHAM AMENDMENT IS BETTER THAN THE ROTH BILL

Why is this approach preferable to the committee bill?

First, it does put restraints on spiraling costs.

Second, it preserves coverage for those who cannot get health insurance on the private market because of costs or the individual's health condition.

Third, a per capita cap can respond to changing conditions—population growth, recessions, base closings, natural disasters, immigration.

CALIFORNIA AND FLUCTUATIONS

The per capita cap approach in this amendment would enable my State to respond to all the economic fluctuations that we live with daily.

Unemployment in California has not dropped below 7 percent since 1990. While the country added 3 million jobs between 1991 and 1993, California lost nearly 450,000.

Base closures and realignments have erased more than 200,000 jobs, sucking $7 billion out of the State's economy. Defense and aerospace industries are downsizing.

Some 6.5 million or 23 percent of our nonelderly population are without health insurance. In some urban areas, the uninsured rate is as high as 33 percent. Over half, 58 percent of the uninsured, are children and young adults.

Employer-provided health insurance is declining. Two-thirds of Californians employed by firms with fewer than 25 employees do not receive health insurance.

California is home to 38 percent of all legal immigrants in the U.S.

A flat block grant with a fixed pool of money cannot respond to changing needs like this. A formula that is responsive to numbers of beneficiaries, like this amendment, can.

NURSING HOME CARE

The amendment before us would preserve nursing home standards, standards that S. 1357 eliminates.

Responding to a National Academy of Sciences report, Congress in 1987 enacted nursing home standards to promote quality of life of nursing home residents and to prevent abuse and neglect. This bill repeals those standards, rules designed to prevent bedsores, dehydration, malnutrition, infection; rules designed to protect privacy and human integrity. These standards have reduced injury and cut the use of chemical restraints, which in turn has reduced costs.

In California, 65 percent of our 113,000 nursing home residents rely on Medicaid. This is 113,000 elderly and disabled people, patients with, for example, Alzheimer's, AIDS, and ventilator needs.

Twenty-one percent of nonelderly nursing home residents are disabled. Seventy-five percent of nursing home residents are women. The typical nursing home resident is an 83-year-old widow with multiple chronic conditions, such as crippling arthritis or osteoporosis.

We should not take away these minimal protections for the most frail and make them victims again.

MEDICAID—A MIDDLE-CLASS PROGRAM

Medicaid is health insurance for low-income Americans and the disabled. But it is important to understand the implications Medicaid has for the middle-class. Nursing home standards, which are required as a condition of receiving Medicaid payments, benefit every nursing home resident of whatever income.

By cutting Medicaid, we add to the rolls of the uninsured which means that more people show up in emergency rooms with exacerbated illnesses. We all pay for that.

Medicaid reimbursement to our public hospitals enables these hospitals to have up-to-date trauma centers and emergency rooms which serve Medicaid and non-Medicaid patients. These are critical institutions in many communities on which we all depend. Indeed, these institutions are at the economic core of thousands of communities and they provide jobs.

A BASIC PROTECTION

The committee bill makes drastic cuts in Medicaid and it revamps the program in a way that cannot respond to the growing needs of California and changes a steadfast program of health insurance to an arbitrary, ill-defined block of Federal funds.

The bill purports to transform Medicaid. I'm afraid that it destroys Medicaid.

I oppose the committee bill. I commend my colleague from Florida for his amendment and I support him.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield the Senator from Washington 2 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from Florida for this very important amendment he has brought before us today. It seems, so often when we come out on the Senate floor, we get caught up in the charts and graphs and "Senatese" terms that we hear so often and we forget what we are doing affects very real people and very real families across this country. I want to talk about one of those very real people. He is a young child. He is 21 months old. He lives in my State. His mother wrote me a desperate letter saying, "Please do not take away Medicaid."

Her son, Abe, was born with a severe medical disorder. He needs a modified ventilator to breathe 22 out of every 24 hours. In his short 21 months, he has had many surgeries to help put fingers on his hands, to help him breathe, to help him live. His mother said, without Medicaid, Abe would not be here.

This mother is desperate because she knows, as all of us do, that if we change this bill in the way that is being proposed by the Republicans, she will have to fight for Medicaid coverage with everyone else in my State who is desperately going to be looking for help, and it is very likely that Abe will not have his ventilator once this goes to our States.

I went out and I talked to hundreds of parents in my State who have children at Children's Orthopedic Hospital in my home State. These are parents who did not expect to have a child with a severe medical disorder. They did not expect to have a child with asthma, who was in the hospital every other week. They did not expect to have a child who had leukemia. And they did not expect that they would have to quit their job to stay home and take care of that child. They did not expect that their own medical insurance would run out within a very short time because of the limits on insurance. And they never expected to have to turn to the Federal Government to ask for help.

But I can tell you everyone of those parents needs our help and this amendment will send that assurance back to them. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. ABRAHAM. Mr. President, how much time is left on each side?

The PRESIDING OFFICER. Two minutes for the Senator from Michigan and 7 minutes and 30 seconds the Senator from Florida.

Mr. ABRAHAM. I would prefer not to use our 2 minutes at this point.

Mr. GRAHAM. Mr. President, I ask unanimous consent that off of the general debate on the bill there be 3 minutes yielded, one of which will be yielded to the Senator from Wisconsin as well as 1 minute for debate of this motion.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator from Florida and I thank the Chair. If we do not make changes very quickly, I am very concerned that older people in our society are going to get the message from this budget that we have changed our attitude toward their contributions in building this society. What other impression are senior citizens supposed to get, when a huge percentage of balancing the budget is based on enormous, and I think in many cases unjustified, changes in Medicare, changes that will increase the premiums of seniors in this country well beyond what they would have been.

Equally bad is something that is being discussed, as we sit here today, over in the Senate Aging Committee, namely the completely unjustified elimination of the Federal nursing home regulations from OBRA 1987. What fiscal or other justification is there for saying to older people who now must be in a nursing home after a hard life, a life of work and contribution to country and family, that we are not going to be sure on a national level that people are protected from unhealthy and unsafe conditions?

Those of my colleagues who served in State legislatures, or served as Governors of their State, will certainly confirm that Medicaid makes up a huge portion of the State budget.

And, Mr. President, if they have any passing knowledge of their State's Medicaid program, they will also confirm that the bulk of the Medicaid budget, and the source of the greatest growth in that budget, is probably the growing demand for long-term care services, typically nursing home care.

This is certainly true for Wisconsin.

But, Mr. President, in Wisconsin, back in the late 1970's, we came to the realization that unless significant reforms were enacted, the rapidly increasing nursing home use would be too heavy a load for the States' budget to sustain prudently.

Through a bipartisan effort—and Mr. President, I stress bipartisan because Governors and legislators from both parties supported the effort—we made some significant reforms to our long-term care system.

The centerpiece of that reform was the creation of a home and community-based program, called the Community Options Program, or COP.

COP provides flexible, consumer-oriented and consumer-directed services that help keep the disabled of all ages in their own homes and communities.

It builds upon the existing set of so-called informal supports—the caregiving done by family members and friends.

Mr. President, the results have been dramatic.

Between 1980 and 1993, while Medicaid nursing home use increased by 47 percent nationally, in Wisconsin Medicaid nursing home use actually dropped 15 percent.

Mr. President, long-term care reform is the key to taming our Medicaid budget.

But that is not the route pursued in this bill.

Instead of a comprehensive reform that would help States cope with the growing population of those needing long-term care services, this bill cuts and runs.

It cuts the Federal Government's share of this growing burden by $182 billion over the next 7 years.

It runs away from the problem of a mushrooming population needing long-term care by block granting the program and dumping responsibility in the laps of State policymakers.

Mr. President, this is a prescription for disaster.

For 30 years, States have made policy decisions based on one set of rules.

Based on those rules, over those 30 years an infrastructure of long-term care has evolved that is heavily skewed toward expensive, institutional care.

That was not by accident.

The system that developed in that time produced the incentives that resulted in this institutional bias.

But, Mr. President, that infrastructure cannot change overnight.

And it certainly will not change simply because the Federal Government slashes funding and runs away from the problem.

Just the opposite is likely to happen.

Today, Medicaid is essentially a provider entitlement.

Providers of specific services are funded, and that infrastructure, which has been so influential at both the State and Federal level in writing the rules which produced the system we have today, is not going to disappear.

That skewed infrastructure is well situated at the State level to win the fight for the pool of resources this bill greatly reduces.

This bill is not reform; it merely makes a flawed situation even worse.

The same problems that exist in Medicaid today will exist under this bill.

Mr. President, I urge my colleagues to support this motion to commit, and let the Finance Committee craft a product that will let States wean themselves off of their addiction to expensive institutional services and instead move toward helping families keep their disabled loved ones at home, utilizing consumer-oriented and consumer-directed home and community based care. So I hope we support the Graham amendment.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I wish to reserve the balance of our time including the additional 2 minutes which were yielded for my close.

I yield to the Senator from Michigan for any final debate in opposition to the motion.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself 1 minute to just recapitulate the point that has been made on our side in the last hour of debate.

Our position is quite simple—that if States are given the kind of flexibility that has in part been given for waivers to run Medicaid Programs, they can bring down the rate of growth of these programs far more effectively than a Federal bureaucracy in Washington; that, indeed, the growth rates are growth rates that decrease but growth in spending that has been outlined in the reconciliation bill can still provide the sorts of benefits that all of us want to see for our citizens, if we let the States, the people closest to those in need, run these systems.

In my State of Michigan, our Governor, our legislature, and our department of social services insist that they can make our program even more efficient at the rate of growth that is proposed in this legislation if they are simply given the opportunity to do so. We have come to a point when health care costs are skyrocketing in the public sector but are being brought under control in the private sector through such things as competition and other market factors.

Let us give the States the chance to do some of the same things this legislation does. That is the reason we have included this approach and State flexibility in the reconciliation package.

At this point, I yield the remainder of our time to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the St. Louis Post-Dispatch from January 31, 1995, which bears testimony to the fact that:

> Missouri also wants to start a managed care system for its 600,000 Medicaid recipients. It would use the money saved to provide medical coverage to another 300,000 Missourians who do not qualify for Medicaid coverage now and who also cannot afford insurance.

So it would really provide insurance for about half of the individuals who currently are uninsured in the State. That is what the promise of this potential is.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Jan. 31, 1995]

GOP GEARS UP TO GRAPPLE WITH MEDICAID: STATES COULD DESIGN OWN PROGRAMS

(By Kathleen Best)

Republican Congressional leaders said they would take up legislation in the next few weeks that could dramatically change the way states provided medical services to the poor.

Illinois Gov. Jim Edgar said after a meeting with GOP Congressional leaders that they were willing to consider giving states lump-sum payments and letting them design their own health-care programs for the poor.

"Let us determine who's going to be in the program," Edgar said. "If the money's not there, then we'll have to make some tough decisions."

In return for greater state flexibility, the states would have to agree to hold down future costs, which they split with the federal government.

"They seemed very sympathetic and agreeable to giving us flexibility," Edgar said. "And they said they would like to try to get this thing going within the next few weeks."

Edgar, a Republican, is the lead negotiator of Medicaid for the Republican Governors Association. He met Monday with Sen. Robert Packwood of Oregon, head of the Senate Finance Committee, and with Rep. John Kasich of Ohio, the House GOP's point man on the federal budget.

Edgar said no firm agreements came out of the meeting. But he said both House and Senate GOP leaders "are willing to move much quicker than we had hoped for," in part to try to hold down increasing costs for the program.

Medicaid is now the third largest entitlement program in the nation after Social Security and Medicare. The health benefits to the poor cost states five to eight times more each year than providing cash, food and other benefits to poor mothers with children.

For the last few years, Medicaid also has been one of the fastest-growing programs. Illinois, for example, now spends more on Medicaid than it does on education. And Missouri spends more on Medicaid than on any other program.

Both states are seeking permission from the Department of Health and Human Services, to change their Medicaid programs. But those requests—both pending for months—remain unanswered.

Illinois wants to move to a managed care system that would encourage the poor to get medical treatment from health maintenance organizations or a designated family physician rather than seeking more expensive care in emergency rooms.

Missouri also wants to start a managed care system for its 600,000 Medicaid recipients. It would use money save to provide medical coverage to another 300,000 Missourians who do not qualify for Medicaid coverage now and who also cannot afford insurance.

Edgar said the reforms that he would push for would do away with the need for states to seek federal permission to make such changes. Such permission is now required because the federal government pays for 50 percent of Medicaid costs in Illinois and 60 percent of the costs in Missouri.

Federal reimbursement rates are based on the per capita income of a state, which means poorer states get more federal money.

"One of the major things driving the Congress right now is the bottom line—how do you balance the budget," Edgar said. "You can't balance the budget unless you attack the Medicaid problem.

"We're not talking about just throwing people off the rolls, but creating a more efficient program," he said.

Although Medicaid affects millions of poor Americans and accounts for billions of dollars in annual spending, the issue had remained on the sidelines of the welfare reform debate while Congress focused on changing the programs that provided cash, food and housing to mothers with children.

"The discussion of welfare reform has been far too narrow," Missouri Gov. Mel Carnahan said. "It really comes from some of the anecdotal talk about the welfare queen and all this sort of thing as opposed to really thinking through what you want to do—lifting people up to self-sufficiency and work."

President Bill Clinton, in a meeting Monday morning with the National Governors' Association, said he would be willing to consider some changes in Medicaid, but he provided no specifics, participants said.

Clinton promised the governors more flexibility in their welfare programs but insisted on safeguards for children.

Donna Shalala, Secretary of Health and Human Services, said later that if the federal government did not give states permission to experiment with Medicaid, "then we will have failed with welfare reform."

Edgar said he planned to meet again next week with GOP congressional leaders to work out a consensus on what needed to be changed. In the meantime, he said, he would talk to both Democratic and Republican governors.

He predicted that changes in Medicaid would not set off the same kinds of partisan wrangling that have kept the nation's governors from reaching an agreement on food, housing and cash assistance to the poor.

"Welfare is important, but if you really want to get to what drives most governors up the wall, it's Medicaid," he said.

Mr. ASHCROFT. Mr. President, I also ask unanimous consent to have printed in the RECORD, another St. Louis Post-Dispatch article, published on the 24th of November of last year, which is similar:

State officials estimate that that provision would result in health insurance coverage for 300,000 people who cannot afford it today—about half the State's uninsured.

That provision referred to is one which would waive Federal regulations and allow the State to design its own program.

I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch]

GOP PLAN MAY LET MISSOURI ALTER MEDICAID—WAIVER WOULD ALLOW COVERAGE OF HALF OF STATE'S UNINSURED

(By Kathleen Best)

A promise by congressional Republicans to give the states more flexibility could help Missouri win federal approval of a dramatic shift in the way it provides medical services to its poor.

"Since this is a request for state flexibility, it is in line with the Republican agenda," said Donna Checkett, director of the Missouri Division of Medical Services.

Missouri wants a waiver of federal regulations that would allow it to rein in the cost of providing medical services to the poor at the same time it expands the program to include about half of the state's uninsured.

Health care for the poor would be provided through a new, managed-care system designed to hold down costs by, for example, encouraging people to seek treatment from family doctors, rather than going to emergency rooms, which are more expensive.

The state would contract with doctors, hospitals and health maintenance organizations to care for the state's 600,000 Medicaid participants.

In addition, Missourians who now earn too much to qualify for Medicaid but too little to buy private health insurance would be allowed to buy into the state-run program at reduced rates.

State officials estimate that that provision would result in health insurance coverage for 300,000 people who cannot afford it today—about half the state's uninsured.

Before Missouri can put the new system in place, it needs approval from the U.S. Department of Health and Human Services. With Republicans poised to take control of federal purse strings, department officials are likely to be encouraged to look favorably on such waiver requests.

Missouri made its formal application for a waiver last summer and is now answering questions about its proposal.

Checkett said the most nettlesome problems resolve around how to provide care for poor people with chronic mental illness.

"There have been a lot of questions—both from Washington and in the state—about whether individuals who are chronically mentally ill should go into managed care," she said.

"We're concerned about how to balance the protections we need to provide (for the mentally ill) with cost control."

The mentally ill tend to need lots of expensive medical care. But the nature of their illness often makes managing that care nearly impossible as some move in and out of institutions, sometimes living on the streets and occasionally disappearing from the system.

"Managed care is tricky with basically health people," Checkett said. "It's more challenging when you are dealing with the Medicaid population. When you are dealing with the mentally ill, you need to strike a balance very carefully and be very certain how appropriately you have balanced the cost interest with protecting a vulnerable population."

The state originally proposed setting up a pilot project that would carve out a package of behavioral health services for everyone on Medicaid that would be managed by a behavioral health organization.

But that approach resulted in howls of protest from mental health advocates and others, and has been, in effect, scrapped.

Chekett said no alternative plan had been decided, although negotiations were under way.

"Missouri is not alone in wrestling with this, I can guarantee you," said Checkett, who is chairman of the association representing state Medicaid directors.

"If you were to poll other states, you would find this issue of how to treat individuals with chronic mental illness has been a big one. It's been the hardest project I've ever worked on."

A final decision on the mental illness question will be made by Gov. Mel Carnahan and is expected by Jan. 15, when the state plans to present its answers to 259 questions posed by federal regulators.

Checkett said the other difficult questions on the list centered on how the state would provide managed care in rural areas of Missouri, where there are few doctors and fewer opportunities to impose cost controls.

"Those are questions we have ourselves and are working on," she said. "We hope we will be able to pay better rates for primary care under a managed care system, which would encourage more doctors to take on more Medicaid recipients."

Some doctors in rural areas now limit the number of poor patients they will see because the state pays proportionately higher rates for treating the poor at hospitals and in emergency rooms.

"Now, we spend $2.5 billion a year with a heavy bias toward institutional settings," she said. "We want to change that."

Checkett said she hoped that if all the answers are submitted by mid-January, the state can begin negotiating details of final approval in the spring. That schedule would coincide with a review by the Missouri Legislature. Legislators must appropriate the funds to pay for the revamped program.

But the same Republican majority in Washington that may make it easier for the states to experiment with new approaches may also throw a wrench into carrying out such plans.

GOP legislators already have begun talking about major changes in Medicaid and welfare funding, which could force Missouri back to the drawing board.

"I am concerned, just looking at Medicaid, that there will be serious discussion about entitlement caps," Checkett said. "I don't know what it means."

The PRESIDING OFFICER. Who yields time?

Mr. ASHCROFT. Mr. President, I ask unanimous consent that an editorial which appeared in the St. Louis Post Dispatch entitled "Missouri's Wise Shift to HMOs," be printed in the RECORD.

It states, in part:

The Carnahan administration made the right move in deciding to use HMOs to provide medical care for the 154,000 St. Louis area residents eligible for Medicaid.

The potential of a waiver is similar to what we would have in a block grant.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the St. Louis Post Dispatch, Oct. 14, 1995]

MISSOURI'S WISE SHIFT TO HMO'S

Regional Medical Center appears to have won big in Missouri's decision to shift all

Medicaid recipients in the St. Louis area into health maintenance organizations. The state itself is a winner, too.

The Carnahan administration made the right move in deciding to use HMOs to provide medical care for the 154,000 St. Louis area residents eligible for Medicaid. Otherwise, these patients would be cared for under fee-for-service programs with few ways to control costs. HMOs, by contrast, agree to treat patients for a fixed monthly fee, regardless of the services the patients require.

HMOs do this profitably by stressing prevention and managed care that denies patients access to unneeded and costly medical specialists, procedures and tests. The Carnahan administration estimates that the shift to HMOs could save the state as much as $11.6 million in the first 12 months. That may seem like a mere ripple in a Missouri Medicaid budget of about $2 billion, about half of which comes from state funds, but these savings mark an important step toward improved cost control.

Seven HMOs have contracts with Missouri to treat the state's Medicaid patients. Their monthly per-patient fees vary. The fee for Medicaid-eligible women between the ages of 21 and 44, for example, ranges from $120.30 to $127.35. The monthly per-patient fee for children between the ages of 7 and 13 ranges from $42.95 to $46.39.

Regional is a big winner because at least 33 percent of the 121,890 Medicaid patients have enrolled in HealthCare USA, the HMO co-owned by Regional. Two other HMOs also are using Regional as the preferred provider of services under their plans. Some officials estimate that Regional could end up providing care for nearly half the Medicaid-eligible patients in the St. Louis area.

Whether these numbers will be sufficient to help Regional balance its budget and provide care for the uninsured is uncertain. In the last fiscal year, the hospital provided $40 million in care to indigent patients. This year, the hospital is facing a shortfall of at least $11 million because of reductions in federal funds for indigent care. In all probability, the city and county, which set up Regional, will have to cover this deficit.

Ideally, Regional's entry into the HMO business will help it pay more of its bills without having to rely on local subsidies. But the city and county must keep in mind that lots of the community's indigent patients don't have access to Medicaid. In other words, St. Louis and St. Louis County will continue to have an obligation to assist Regional in providing care for these patients.

Mr. ASHCROFT. Mr. President, I also ask unanimous consent to have printed in the RECORD an article from the Tennessean, published on October 24, 1995, which praises the success of Missouri's use of managed care for its Medicaid population.

I thank the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[FROM THE TENNESSEAN, OCT. 24, 1995]

TENNCARE COULD TAKE SOME NOTES

COVENTRY EXEC COMPARES PLANS

(By David A. Fox)

Tennessee may be in the vanguard of Medicaid reform with its TennCare program, but Missouri is the state that is pulling off Medicaid privatization most successfully, a local managed care executive said yesterday.

With a more incremental approach, Missouri has managed so far to avoid some of the problems that have plagued Medicaid reform here and in Florida, said Philip Hertik, chairman of Conventy Corp. Nashville-based Coventry, which does not participate in TennCare, is one of seven organizations that last month began enrolling St. Louis Medicaid members in private managed care plans.

In a speech to a national conference of the Health Industry Manufacturers Association at Loews Vanderbilt Plaza Hotel. Hertik cited several strengths of the Missouri plan to provide health care to the poor at a contained cost. Among them:

Missouri initiated its plan in just one area, rather than throughout the entire state.

It put the managed care contracts out for bid.

It prohibited marketing of the private plans directly to Medicaid beneficiaries.

A neutral company was chosen to gather data from each plan and distribute the information to Medicaid members for use in making their selection.

Missouri geared its plan only to the poor, beginning with people in the Aid to Families with Dependent Children program.

By contrast, TennCare began in January 1994 covering both the poor and uninsured statewide, at predetermined rates with aggressive marketing to Medicaid members. As a consequence, the $3.1 billion program serving 1.1 million residents started with great confusion among its members, with griping by providers whose reimbursements were slashed and with some apparently improper member-recruitment practices by at least one private health plan.

Hertik called the privatization of Medicaid "the biggest thing in managed care in the past 15 years" and one of several trends revamping the industry. With the companion trend toward privatizing Medicare, he forecast that market leverage increasingly will shift to managed care organizations and away from hospitals and other providers, such as home health, which traditionally have received a majority of their payments directly from government programs.

Probably the most obvious trend facing managed care organizations is the wave of mergers and acquisitions. But Hertik said this trend differs from consolidation waves in other industries that frequently are sparked by efforts to achieve operating efficiencies from such things as volume buying and the elimination of redundant services.

"All of this is aimed at market leverage, rather than just economies," he said.

The deals, including health maintenance organizations buying traditional indemnity insurors, are intended to increase the membership in local managed care plans.

"But having sheer size on a national scale and strong balance sheets don't necessarily make you the high-quality, low-cost provider in local markets where the purchasing decisions are made," he said. "It's just a little troubling knowing that its market leverage at the base of this consolidation."

Hertik also identified two other trends:

The reaching of "an inflection point" heralding "price competition as more the rule of the day" instead of boom-and-bust cycles in health insurance underwriting.

An emphasis by managed care companies in managing care, rather than just costs, by establishing clinical guidelines, practicing disease management and measuring outcomes.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, has the Senator from Michigan completed his presentation?

The PRESIDING OFFICER. There are 14 seconds remaining for the Senator from Michigan, and 7 minutes and 30 seconds remaining for the Senator from Florida.

Mr. ABRAHAM. Mr. President, I yield the remainder of my 14 seconds.

Mr. GRAHAM. Mr. President, there is time we received, 3 minutes of general debate and 1 minute which was used by the Senator from Wisconsin. And I ask for the other 2 minutes, as well as the balance of our time on this amendment for my closing remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, it has been an illuminating debate but almost as illuminating by what has not been said as what has been said.

What are some of the things that have been omitted? One of the major omissions is, how did the majority party arrive at the figure of $187 billion as the basis of its reduction in Medicaid expenditures by the Federal Government over the next 7 years? What was the source of that number? How was the calculation of the efficiencies and flexibilities that were going to be incorporated in this program used to derive the ultimate number of $187 billion?

The reason that there has not been an answer to that question is because there is not an answer to that question. The $187 billion was derived, not by a rational assessment of what would be the needs of the program or what will be the per capita increase in costs in delivering health care, but rather as a means of deriving a set of dollars to fund a tax cut for the wealthiest of Americans.

The fact is that the Medicaid Program has been operating at a per capita level of expenditure less than the national average in terms of all private sector health care spending, 7.1 percent in the private sector, 7 percent in Medicaid. This is what has been the level of Medicaid expenditure per capita. Under this bill, the proposal is to slash Medicaid from a 7 percent growth to a 1.4 percent growth.

Mr. President, I would defy anyone to say that is not going to result in a significant collapse of the Medicaid system's ability to serve the most vulnerable population in our country.

The second question that has not been discussed is, why has the Medicaid Program been growing at the rate that it has been growing?

Let me suggest three reasons, one that we ought to be very proud of, and that is that we are doing as a Nation a much better job of helping the poorest and most at risk of our children. Infant mortality in the United States has dropped by over 21 percent in the last decade. Infant mortality in America has dropped by over 21 percent in the last decade. We ought to be proud about that, and it has occurred because in large part we have extended Medicaid coverage to more and more at-risk mothers, and we have provided the kind of appropriate health care immediately after birth. We should not be ashamed of that.

Second, Medicaid has increased because of the aging of Americans. What has not been pointed out is that 60 percent of the Medicaid expenditures do not go to poor children and their mothers. Sixty percent of the expenditures go to the disabled and particularly to the frail elderly. In my State, 70 percent of Medicaid expenditures go to the disabled and the frail elderly.

That happens to be the segment of our population which is growing at the fastest rate. In most States the fastest growing generational component of the population is people who are over the age of 80—the very population that is most likely to need Medicaid assistance for long-term care.

The third reason for the increase in the number of persons on Medicaid has been the decline in private insurance coverage particularly for children. In 1977, 71 percent of the children of working Americans had their health care covered through their working parents. Today, in 1993, that number is down to 57 percent and projected in the year 2002 to be 47 percent. There has been almost a 1-to-1 increase in the poor children on Medicaid as there has been a decline in poor children covered through a parent's health care policy.

Those are three basic reasons why Medicaid has been increasing over the last few years, not because of oppressive Federal regulations.

Another thing that has not been discussed is the allocation formula. Would you like to see the allocation formula among the States? There it is. That is the arithmetic allocation formula contained in the Republicans' Medicaid proposal.

This formula, when you get through all the algebra, says that those States which today are receiving 4 and 5 times as much per capita as other States will continue to receive 4 to 5 times as much. We are seeing a pattern. We saw it in welfare reform and now we are seeing it in Medicaid, and that is identify the problem, decry the status quo, and then retain the funding formula of the current program. We did it in welfare reform, and we are about to do it again in Medicaid.

It would be like George Washington, after having won the American Revolution, saying, "but we are going to continue to pay tribute to George III." The very reason that we fought the war would have been forgotten.

Mr. President, we need to have a funding formula that treats all Americans fairly wherever they live. This bill of the Republicans continues basically the current funding formula into the indefinite future.

What is going to be lost under the Republican proposal? We are going to lose the flexibility of an effective State-Federal partnership—those States that experience growth, those States that experience economic decline, those States that experience a natural disaster. We had 12,000 people added to the Medicaid role in Florida within days after Hurricane Andrew because not only were their homes blown away, their jobs were blown away and they became eligible for Medicaid. And they needed it because of the disaster through which they just lived. That flexibility is going to be lost in this program. We are also going to lose the adequate funding of a Federal partner, and we are going to lose national standards particularly in the area of nursing homes.

It is not surprising that President Reagan said that the Medicaid Program should not be turned over to the States but that the Medicaid Program should be federalized in order to have a national standard of health care. Where are the voices for President Reagan today? This great advocate of a strong national program to protect the health of our children needs to be heard today.

I close by saying there is a better way. We are proposing in this motion, first, that we have a rational reduction in Medicaid. What we essentially are saying is that we will propose to restrain Medicaid to 1 percentage point less than the private sector rate of growth in health care spending. And with that 1 percent restraint, that is, that the per capita for Medicaid will be 6.1 percent per year over the next 7 years, we will save $62 billion. We think that we can make that kind of a change without ravaging the system, and we would distribute the money through a per capita cap.

This maintains the individual entitlement to Medicaid coverage and creates incentives to maintain health care coverage. It provides for funding into each of the four categories of principal Medicaid populations, that is, poor children, their mothers, the disabled, and the frail elderly, so that we will not create what is, I believe, an inevitable result of the block grant approach which is going to be a war at the State level among those four groups of beneficiaries.

We would also allow for a continuation of innovative programs such as the program in the State of Tennessee. We believe that the kinds of flexibility that we would provide, which would make it easier for States to move into managed care and easier for States to use community-based services to meet the needs of the elderly, will produce some real economies and therefore reduce the rates of expenditure over the next 7 years, an attainable goal without collapsing the system.

It is interesting, Mr. President, that the proposal that I make today, the per capita cap alternative to block grants, is the proposal which was introduced in the Senate on June 29, 1994, by our distinguished majority leader, cosponsored by 39 Republican Members. A similar program was introduced by our colleague, the senior Senator from Texas, and the junior Senator from Rhode Island, also promoting a per capita cap on Medicaid as a means of reforming the system.

Mr. President, I believe that we have a program that will achieve significant savings without sacrificing the safety net that Medicaid has represented. We can have these reforms while retaining a program that is vital to 37 million of our most vulnerable Americans. What we will sacrifice is a little piece of the tax break that we are about to give to the wealthiest of Americans in order to assure minimal health care standards for the poorest and most vulnerable of Americans.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent that statements from scores of organizations in opposition to the Republican plan and in support of the proposal that is before us be printed in the RECORD and that an analysis of the mandates which are contained in the Republican proposal also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAY 3, 1995.

DEAR SENATOR: The undersigned organizations are opposed to eliminating the entitlement status of individuals under the Medicaid program. The Medicaid program provides basic health and long term-care services to over 33 million American men, women, and children. Eliminating the entitlement status would jeopardize coverage for these seniors, families, children, and persons with disabilities, at a time when employers are dropping coverage and the number of uninsured persons continues to rise.

We understand that, in the interest of deficit reduction, savings must be achieved in the Medicaid program. However, extreme and disproportionate cuts in the Medicaid program will result in more Americans uninsured and in poor health, disincentives for providers to serve this population, and untenable cost shifting to state and local governments, providers and private payers. We stand ready to work with you on ways to achieve reasonable levels of savings without endangering the access of millions of beneficiaries to essential health care. We do not believe that ending the entitlement nature of the Medicaid program would achieve these objectives.

Sincerely yours,

AIDS Action Council.

Alzheimer's Association.

American Academy of Family Physicians.

American Association of University Women.

American Civil Liberties Union.

American College of Physicians.

American Federation of State, County & Municipal Employees.

American Federation of Teachers, AFL-CIO.

American Geriatrics Society.
American Network of Community Options and Resources.
American Nurses Association.
American Public Health Association.
American Speech-Language-Hearing Association.
Americans for Democratic Action.
Association for the Care of Children's Health.
Automated Health Systems, Inc.
Bazelon Center for Mental Health Law.
Bridgeport Child Advocacy Coalition.
Catholic Charities USA.
Catholic Health Association.
Center for Community Change.
Center for Science in the Public Interest.
Center for Women Policy Studies.
Center on Disability and Health.
Children's Defense Fund.
Coalition on Human Needs.
Connecticut Association for Human Services.
Consumers' Union.
Council of Women's and Infants' Specialty Hospitals.
County Welfare Directors Association of California.
Families USA.
Family Service America.
Human Rights Campaign Fund.
International Ladies' Garment Workers' Union.
International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers.
International Union of United Auto Workers.
Legal Action Center.
Legal Assistance Resource Center of Connecticut.
Mennonite Central Committee, Washington Office.
National Association of Child Advocates.
National Association of Children's Hospitals and Related Institutions.
National Association of Counties.
National Association of Developmental Disabilities Councils.
National Association of Homes and Services for Children.
National Association of People with AIDS.
National Association of Protection and Advocacy Systems.
National Association of Public Hospitals.
National Association of School Psychologists.
National Association of Social Workers.
National Citizens' Coalition for Nursing Home Reform.
National Coalition for the Homeless.
National Community Mental Health Care Council.
National Council of Senior Citizens.
National Easter Seals Society.
National Education Association.
National Family Planning and Reproductive Health Association.
National Jewish Community Relations Advisory Council.
National Mental Health Association.
National Treatment Consortium.
National Women's Law Center.
Neighbor to Neighbor.
NETWORK: A National Catholic Social Justice Lobby.
OMB Watch.
Planned Parenthood Federation of America.
Protestant Health Alliance.
Service Employees International Union.
Spina Bifida Association of America.
The Alan Gutmacher Institute.
The American Geriatrics Society.
The Arc.
United Cerebral Palsy Associations.
West Virginia Developmental Disabilities Planning Council.
Women's Legal Defense Fund.
World Hunger Year.
YWCA of the U.S.A.

OCTOBER 24, 1995.

DEAR SENATOR: As groups deeply concerned with the health and well-being of America's children and families, we are writing to express our fundamental opposition to the proposed House and Senate reconciliation bills' Medicaid provisions.

The physical and mental health of America's children today determines the social and economic health of the whole nation in the future. Unfortunately, our children's health is already at risk: we lag behind many other industrialized and some developing nations on key indicators like infant mortality, low birthweight, prenatal care, and immunizations. The Medicaid proposals in the reconciliation bills will make this situation far worse.

Already, nine and a half million U.S. children lack any health insurance. Even though just as many parents as ever are employed, children have been losing private, employer-based insurance at a rate of 1 percent a year for more than a decade. Medicaid has been making the difference, as its increased coverage of children from working poor and near poor families has kept the number of uninsured children from skyrocketing.

But as the drop in private insurance continues, if Medicaid shrinks instead of picking up some of the slack, children will lead in paying the price. With a $182 billion Medicaid cut, in the seventh year of the cut 6½ million children would lose eligibility if the cut is translated into eligibility reductions applied proportionately to all groups (e.g., children, people with disabilities, the elderly, and other adults). Then 19 million children would be uninsured in 2002. In fact, we fear that political conditions in state capitals will lead children to bear a disproportionately large share of any Medicaid cuts, so the number of uninsured children would be even larger.

The United States can invest now—in immunizations, preventive care and early treatment—or it can pay later in more expensive remedial care and the high social and productivity cost of children growing up unhealthy. We all support fiscal responsibility in the federal budget, but to balance the budget on the backs of children and destroy a system of assured health care that is fundamental to the health of millions of America's children and pregnant women is unacceptable.

Sincerely,

Action for Families and Children (DE).
Adolescent Pregnancy ChildWatch, Los Angeles County (CA).
Advocates for Children and Youth, Inc. (MD).
Advocates for Youth.
Advocates for Connecticut's Children and Youth (CT).
Agenda for Children (LA).
Aids Foundation of Chicago (IL).
Aids Policy Center for Children, Youth, and Families (NJ).
Alaska Children's Services, Inc. (AK).
All Saints Church, Pasadena (CA).
American Academy of Family Physicians.
American Academy of Pediatrics, Connecticut Chapter (CT).
American Academy of Pediatrics, Utah Chapter (UT).
American Federation of State, County and Municipal Employees.
American Medical Student Association/Foundation.
American Nurses Association.
American Occupational Therapy Association.
American Public Health Association.
American Speech-Language-Hearing Association.
Americans for Democratic Action.
Anacostia/Congress Heights Partnership (DC).
APPLEServices/Crisis Center of Hillsborough County, Inc. (FL).
Arkansas Advocates for Children and Families (AR).
Arkansas Children's Hospital (AR).
A Sign of Class (MN).
Asian and Pacific Islander American Health Forum (CA).
Association of Medical School Pediatric Department Chairs.
Baystate Medical Center Children's Hospital (MA).
Bazelon Center for Mental Health Law.
Beckland Home Health Care, Inc. (MN).
Belfast Area Child Care Services, Inc. (ME).
Bellefaire (OH).
Berkeley Oakland Support Services (CA).
Bread for the World.
California Children's Hospital Association (CA).
Cash Plus (IN).
Catholic Charities Office for Social Justice (MN).
Center for Human Investment Policy (CO).
Center for Law and Human Services, Inc. (IL).
Center for Multicultural Human Services (VA).
Center on Disability and Health.
Center for Public Policy Priorities (TX).
Center on Work & Family at Boston University (MA).
Central Nebraska Community Services (NE).
Chatham-Savannah Youth Futures Authority (GA).
Chicago Coalition for the Homeless (IL).
Child Abuse Coalition, Inc. (FL).
Child Advocacy/Palm Beach County, Inc. (FL).
Child Advocates, Inc. (TX).
Child Care Connection (AK).
Child Care Connection (FL).
Child Welfare League of America.
Children's Action Alliance of Arizona (AZ).
Children's Advocacy Institute (CA).
Children's Defense Fund.
Children's Health Care (MN).
Children's Home Society of Minnesota (MN).
Children's House, Inc. (NY).
Children's Medical Center of Dayton (OH).
Children's Memorial Hospital (IL).
Children's Rights, Inc. (NY).
Citizen's Committee for Children of New York (NY).
Citizen's for Missouri's Children (MO).
Citizen's Committee for Children of New York (NY).
Citizenship Education Fund.
City of Alameda Democratic Club (CA).
Coalition for a Better Acre (MA).
Coalition for Family and Children's Services in Iowa (IA).
Coalition for Mississippi's Children (MS).
Coalition on Human Needs.
Coleman Advocates for Children and Youth (CA).
Colorado Association of Family and Children's Agencies, Inc. (CO).

Colorado Council of Churches.
Colorado Foundation for Families and Children (CO).
Community Action Program of Palm Beach County (FL).
Community Concepts, Inc. (ME).
Community Empowerment Concepts (MD).
Community Psychologists of Minnesota (MN).
Concerned Graduate Students in Public Health in Seattle (WA).
Congress Park Plaza Apartments Resident Services (DC).
Connecticut Association for Human Services (CT).
Coordinated Child Care of Pinellas, Inc. (FL).
Corpus Christi American Federation of Teachers (TX).
Council on Women's and Infants' Specialty Hospitals.
Courage Center (MN).
Covenant House (NY).
Council of the Great City Schools.
Crossroads Program, Inc. (NJ).
Driscoll Children's Hospital of Corpus Christi (TX).
Elim Transitional Housing, Inc. (MN).
Elks Aidmore Children's Center (GA).
Episcopal Community Services, Inc. (MN).
Equality Press (CA).
Face to Face Health and Counseling Service, Inc. (MN).
Families USA.
Family and School Support Teams (FL).
Family Resource Coalition (IL).
Family Resource Schools (CO).
Family Support Network (MO).
Family Voices.
Firstlink (OH).
Florida Legal Services, Inc. (FL).
Food Research and Action Center.
For Love of Children.
Fremont Public Association (WA).
Friends of Children (WI).
Friends of the Family (MD).
Friends of Youth (WA).
General Board of Church and Society, The United Methodist Church.
General Federation of Women's Clubs.
Georgians for Children (GA).
Greater New Brunswick Day Care Council (NJ).
Hathaway Children's Services (CA).
Health and Welfare Council of Nassau County, Inc. (NY).
Healthy Mothers/Healthy Babies, Florida Association (FL).
Hinds County Project Head Start (MS).
Hispanic Human Resources (FL).
Johns Hopkins Child & Adolescent Health Policy Center.
Indiana Coalition on Housing and Homeless Issues (IN).
Institute on Cultural Dynamics and Social Change, Inc. (MN).
Interhealth (DC).
Jack and Jill of America, Inc.
Jacksonville Area Legal Aid, Inc., (FL).
Juvenile Law Center (PA).
Kansas Action for Children (KS).
Kansas Association of Child Care Resource and Referral Agencies (KS).
Kansas Association for the Education of Young Children (KS).
Kern Child Abuse Prevention Council, Inc. (CA).
Kids Public Education and Policy Project (IL).
Lakeside Family and Children's Services (NY).
Lawyers for Children, Inc. (NY).
Legal Assistance Resource Center of Connecticut (CT).
Los Alamos Citizens Against Substance Abuse (NM).
Los Angeles Coalition to End Homelessness (CA).
Louisiana Maternal and Child Health Coalition (LA).
Lucille Salter Packard Children's Hospital (CA).
Lutheran Children & Family Services of Eastern Pennsylvania (PA).
Masschusetts Advocacy Center (MA).
Mennonite Central Committee, Washington Office.
Mental Health Association in Texas (TX).
Merrie Way Community for Arts and Humanities (CA).
Michigan Coalition for Children and Families (MI).
Michigan Council for Maternal and Child Health (MI).
Michigan League for Human Services (MI).
Minnesota Association of Community Mental Health Programs (MN).
Minnesota State Council on Disability (MN).
Mississippi Human Services Coalition (MS).
Montana Low Income Coalition (MT).
Mothers Protecting Children, Inc. (CT).
Multnomah County Chair Beverly Stein (OR).
National Association of Child Advocates.
National Association of Counties.
National Association of County and City Health Officials.
National Association of Homes and Services for Children.
National Association of Public Hospitals.
National Association of School Nurses.
National Association of Social Workers.
National Association of Developmental Disabilities Councils.
National Center for Clinical Infant Programs (Zero to Three).
National Center for Youth Law.
National Committee to Prevent Child Abuse.
National Community Mental Healthcare Council.
National Council of Jewish Women.
National Council of Senior Citizens.
National Easter Seal Society.
National Education Association.
National Family Planning and Reproductive Health Association.
National Mental Health Association.
National Parenting Association.
National Perinatal Association.
National Puerto Rican Coalition, Inc.
National Safe Kids Campaign.
National Women's Law Center.
Neighbor to Neighbor.
New Orleans Bread for the World (LA).
Nome Receiving Home (AK).
North American Council on Adoptable Children (MN).
North Carolina Advocacy Institute (NC).
Oklahoma Healthy Mothers, Healthy Babies Coalition (OK).
Oklahoma Institute for Child Advocacy (OK).
Orange County Parent Child Center (VT).
Panhandle Assessment Center (TX).
Parent Action of Maryland, Inc. (MD).
Parent to Parent of Vermont (VT).
Parents Anonymous, Inc. (CA).
Parry Center for Children (OR).
Penn State University, Allentown Campus (PA).
Pennsylvania Association of Child Care Agencies (PA).
Pennsylvania Partnerships for Children (PA).
Philadelphia Citizens for Children and Youth (PA).
Planned Parenthood Federation of America.
Planned Parenthood of Palm Beach County (FL).
Presbyterian Child Advocacy Network (KY).
Preventive Services Coalition of Erie County (NY).
Priority '90s: Children and Families (MI).
Project H.O.M.E. (PA).
Public Welfare Coalition of Illinois (IL).
Redlands Christian Migrant Association (FL).
RESULTS.
Richland County Children Services (OH).
Rise, Inc. (MN).
Robins Nest, Inc. (NJ).
Same Boat Coalition (NY).
Sasha Bruce Youthwork, Inc. (DC).
Southern Regional Project on Infant Mortality.
Spina Bifida Association of America.
State Communities Aid Association (NY).
Statewide Youth Advocacy, Inc. (NY).
Support Center for Child Advocates (PA).
The Adaptive Learning Center (GA).
The Arc.
The Child Care Connection (NJ).
The Children's Alliance (WA).
The Children's Health Fund (NY).
The Coalition for American Trauma Care.
The Connecticut Alliance for Basic Human Needs (CT).
The Council for Exceptional Children.
The Episcopal Church.
The Foundation for the Future of Youth.
The Health Coalition for Children and Youth (WA).
The Kitchen, Inc. (MO).
The National Association of WIC Directors.
The Ohio Association of Child Caring Agencies (OH).
The Presbyterian Church (USA), Washington Office.
The United States Conference of Mayors.
The Urban Coalition (MN).
TransCentury (VA).
Tulsa Area Coalition on Perinatal Care Community Service Council (OK).
Ucare Minnesota (MN).
United Child Development Program (NC).
University of Vermont Department of Social Work MSW program (VT).
Unitarian Universalist Association, Washington Office.
Unitarian Universalist Service Committee.
United Cerebral Palsy Associations.
Utah Children (UT).
Vermont Center for Independent Living (VT).
Vermont Head Start Association (VT).
Voices for Illinois Children (IL).
Voices for Children in Nebraska (NE).
Washington State Child Care Resource and Referral Network (WA).
Westchester Children's Association (NY).
Wisconsin Council on Children and Families (WI).
Women Leaders Online.
Women's Committee of One Hundred.
Women's Legal Defense Fund.
World Institute on Disability (CA).
Wyoming P.A.R.E.N.T. (WY).
Youth Law Center.

OCTOBER 24, 1995.

DEAR SENATOR: On behalf of the nation's pediatricians and children's hospitals, the American Academy of Pediatrics and the National Association of Children's Hospitals urge you to make sure that regardless of how Medicaid is restructured Congress includes basic protections for the health coverage of children and adolescents.

This is the message we are seeking to bring to all members of Congress and the public in a new paid advertisement we are running this week in the national press. We are enclosing a copy for you. It outlines the protections children and adolescents need in coverage, medically necessary and preventive care, access to pediatric care, and immunizations under a restructured Medicaid program.

These kinds of protections make good sense, because children and adolescents represent over half of all recipients of Medicaid. In fact, Medicaid pays for the health care of one fourth of the nation's children and adolescents as well as one third of the country's infants. Protecting their health coverage, regardless of the state in which they live, is a low cost but high return investment not only in children's well-being today but also in the health and productivity of at least one third of the nation's future work force. Medicaid coverage for a child averages only one-eighth the cost of coverage for a senior citizen.

We were heartened by the bipartisanship of the Senate Finance Committee in addressing the need for children's coverage. It would require all states under a restructured Medicaid program to cover poor children and pregnant women. We believe most members of Congress share in this conviction.

Your vote on Medicaid legislation this year may be the single most important vote you will cast for the health of our nation's children in this decade. Please vote to protect America's most important resources: our children

Sincerely,

JOE M. SANDERS, Jr., M.D.,
Executive Director, American Academy of Pediatrics.
LAWRENCE A. MCANDREWS,
President and CEO, National Association of Children's Hospitals.

Enclosure.

HOW TO MAKE SURE THEY'RE STILL SMILING AFTER CONGRESS GETS THROUGH WITH MEDICAID.

It should go without saying that the key to having a healthy America in the future is keeping children healthy today.

Those of us who spend every moment of our working lives keeping children healthy want to say it anyway.

Because at this moment, Congress is making drastic changes to the Medicaid program, the most serious side effect of which is that the health care needs of millions of children will not be sufficiently guaranteed.

CONGRESS IS TAKING THE "AID" OUT OF MEDICAID

The Congressional block grant proposals could leave it to the States to determine who is eligible to receive benefits and what kind of benefits will be offered.

Today's system at least guarantees specific preventive health care benefits vital to the health and well-being of many children from poor and working families.

CONGRESS MUST BUILD IN CERTAIN BASIC GUARANTEES

Regardless of how Congress changes Medicaid overall, the following protections should be included:

1. Children and adolescents from low-income families must maintain guaranteed Medicaid coverage.
2. Medically necessary care, including preventive services, must not be compromised.
3. Children and adolescents must retain access to appropriately trained and certified providers of pediatric care.
4. children should be guaranteed all age appropriate immunizations.

Let's protect America's most important, most vulnerable resources: our children. Let's help keep them healthy. And smiling.

[From Consortium for Citizens with Disabilities]

A MESSAGE TO CONGRESS

CONGRESSIONAL MEDICAID "REFORM" PROPOSALS WILL HARM CHILDREN AND ADULTS WITH DISABILITIES AND THEIR FAMILIES

Member organizations of the Consortium for Citizens with Disabilities Health and Long Term Services Task Forces are extremely concerned about the impact that both the House and Senate Medicaid "reform" proposals will have on the lives of children and adults with disabilities and their families. We strongly urge you not to support these proposals and to carefully reconsider how to "reform" the Medicaid program so that children and adults with disabilities and other individuals with low and very low incomes are not harmed.

The proposals reported out of the House Commerce and Senate Finance Committees make harmful, fundamental changes to the Medicaid program—a program which now is the largest source of federal and state funding for services and supports for individuals with disabilities. It has been access to critically needed health and related services and to essential community-based long term services and supports—provided through the Medicaid program—that have enabled families to stay together and children and adults with disabilities to live fuller and more productive lives in their communities.

Specific CCD concerns relate to the following issues:

While the Senate proposal maintains a guarantee of health care coverage for low income individuals with disabilities, the House proposal completely eliminates the current individual entitlement status of Medicaid for people with disabilities.

Neither the Senate or House proposals would require states to provide any specific services, except for childhood immunizations.

Medicaid is no longer an entitlement and if there is no requirement for the provision of a full range of services, people with disabilities will lose access to critical health and long term services, and supports. For people with disabilities and serious health conditions, the lack of access to health and health-related services and supports will lead to an exacerbation of existing health problems and/or disabilities, as well as the emergence of additional health problems and secondary disabilities. For people with long term care needs, the lack of Medicaid coverage will lead to the loss of services and supports that help them to live more independent lives in the community—in some cases leading to homelessness and inappropriate institutionalization. In addition, families of children with disabilities will have their economic security undermined as they try to pay for essential health and long term services. It is important to remember—especially in a nation where the number of individuals insured through their employer continues to decrease—that for many people with disabilities, Medicaid has been the only health care coverage available.

While both proposals include state level "set-asides" for certain vulnerable populations, i.e. families with pregnant women and children, elderly individuals, and low income people with disabilities under age 65, the proposed funding formula for these set-asides would mean that states could not continue to provide the full range of services and supports that they now provide for children and adults with disabilities.

States would be permitted—within these broad categories—to determine what services to provide. According to the House proposal, for each set-aside category, states would have to spend 85 percent of the average percentage of the state's Medicaid spending from FY 1992 through FY 1994 devoted to mandatory services (what the state now must cover) for people in that category. According to the Senate proposal, for each set-aside category, states would have to spend 85 percent of the state's Medicaid spending in FY 1995 on mandatory services for people in that category.

This formula does not take into consideration spending on optional services (what the state now chooses to cover). For people with disabilities, this is a major blow. Current optional services are the ones most likely to be of critical importance to children and adults with disabilities and dollars currently spent towards them would not be counted towards the disability set-aside. Optional services include the following: speech, physical, and occupational therapy, psychological services, clinic services, prescription drugs, dental services, eyeglasses, prosthetic devices, rehabilitative services, home and community based services, ICF–MR services, personal care services, respiratory care services, and case management.

In addition to the loss of the personal entitlement to specific required services and the weak funding formula, both the House and Senate proposals eliminate consumer and quality assurance protections and federal oversight in Medicaid services or Medicaid funded facilities.

This includes elimination of federal nursing home and ICF/MR regulations and even the minimum requirement that funds be spent on active treatment for individuals in institutional settings rather than merely custodial care. While Congress continues to speak of the value of devolution and state's rights, the CCD remembers when states could not or would not provide needed services and supports for children and adults with disabilities and their families. There are well warranted and deep-seated fears in the disability community that the loss of minimum federal standards coupled with intensifying fiscal pressures will mean that some states return to institution-based custodial care with the consequent loss of individual freedom, rights, and quality of life. The public policy and the original intent behind federal oversight requirements currently attached to funding for certain Medicaid long-term services must be remembered and respected. The proposals also permit the states to move more people into managed care plans while at the same time removing current consumer protections related to managed care.

The CCD strongly urges you to carefully reconsider how to "reform" the Medicaid program and not to support the passage of the provisions in the Medicaid Transformation Act of 1995 as part of the budget reconciliation bill. We ask you not to eviscerate a program that has allowed millions of children and adults with disabilities to live fuller and more productive lives in the community because they now have access to both acute health care and needed long term services and supports. The CCD does not support the status quo on Medicaid. We do believe, however, that there are changes to the program that can be made that will not penalize those who now benefit from the program. These include the elimination of the current incentives for institutional care and the provision instead of incentives for home and community-based long term services and supports.

Finally, the CCD supports efforts to reduce the federal deficit. However, the CCD strongly believes that it is unfortunate that most of the programs on the table for deficit reduction are those of importance to children and adults with disabilities—such as Medicaid, children's Supplemental Security Income, housing, social services, jobs, and education. It is also unfortunate that Congress is endeavoring to balance the budget using only 48% of the federal budget and that 48% comes at the expense of programs of critical importance to the lives of people with disabilities.

The CCD asserts that the individual entitlement status of Medicaid to a mandated set of benefits for children and adults with disabilities must be maintained.

The CCD asserts that federal reimbursement should be maintained for the full range of acute and long term services and supports that are presently available, including optional services which states now choose to provide through their Medicaid programs. In addition, the states should be required to continue to contribute at least their current share of funds to finance Medicaid services and supports.

The CCD asserts that the federal requirements that states meet certain standards of care and continue appropriate quality assurance measures, as well as due process and other consumer protections must be maintained.

The CCD asserts that managed care should be an "option" and not the only avenue of services for people with disabilities and that strong consumer protections, including timely and appropriate access to all necessary services, supports, and providers must be ensured.

The CCD asserts that current incentives for institutional care built into the Medicaid program must be eliminated and replaced with incentives for the provision of home and community-based long term services and supports.

1995 CCD HEALTH AND LONG-TERM SERVICES TASK FORCE MEMBERS

Adapted Physical Activity Council.
Alliance of Genetic Support Groups.
American Academy of Child & Adolescent Psychiatry.
American Academy of Neurology.
American Academy of Physical Medicine and Rehabilitation.
American Association for Respiratory Care.
American Association of Children's Residential Center.
American Association of Spinal Cord Injury Psychologists & Social Workers.
American Association of University Affiliated Programs.
American Congress of Rehabilitation Medicine.
American Foundation of the Blind.
American Horticultural Therapy Association.
American Network of Community Options & Resources.
American Occupational Therapy Association.
American Orthotic and Prosthetic Association.
American Physical Therapy Association.
American Psychological Association.
American Rehabilitation Association.
American Speech-Language-Hearing Association.
American Therapeutic Recreation Association.
Amputee Coalition of America.
Association of Academic Physiatrists.
Association of Maternal and Child Health Programs.
Autism National Committee.
Bazelon Center for Mental Health Law.
Brain Injury Association.
Center on Disability and Health.
Children's Defense Fund.
Children & Adults with Attention Deficit Disorders.
Epilepsy Foundation of America.
International Association of Psychosocial Rehabilitation Services.
Joseph P. Kennedy, Jr. Foundation.
Mental Health Policy Resource Center.
National Alliance for the Mentally Ill.
National Association for Music Therapy.
National Association for the Advancement of Orthotics and Prosthetics.
National Association of the Deaf.
National Association of Developmental Disabilities Council.
National Association of Medical Equipment Suppliers.
National Association of People with AIDS.
National Association of Protection and Advocacy Systems.
National Association of State Directors of Developmental Disabilities Services.
National Association of State Directors of Special Education.
National Association of State Mental Health Program Director.
National Center for Learning Disabilities.
National Community Mental Healthcare Centers.
National Consortium on Physical Education and Recreation for Individuals with Disabilities.
National Easter Seal Society.
National Health Law Program, Inc.
National Industries for the Blind.
National Mental Health Association.
National Multiple Sclerosis Society.
National Organization for Rare Disorders.
National Organization on Disability.
National Rehabilitation Association.
National Spinal Cord Injury Association.
National Therapeutic Recreation Society.
NISH.
Paralyzed Veterans of America.
President's Committee on Employment of People with Disabilities.
Research Institute for Independent Living.
The Accrediation Council on Services for People with Disabilities.
The Arc.
United Cerebral Palsy Associations.
World Institute on Disability.

OCTOBER 24, 1995.

DEAR SENATOR DOLE: As providers of long-term care services, we are concerned that the current Finance Committee proposal to impose a block grant financing mechanism for Medicaid fails to ensure that adequate resources will be made available to meet the needs of our nation's elderly, disabled, and infirm. We fear that the proposed annual increases in federal Medicaid funding for state programs will be insufficient to meet the quality of care needed by residents of long-term care facilities and subsequently reduce access to services. Furthermore, the failure to meet the resource needs anticipated in future years for these services will negate the many advances made in this area as a result of the enactment of the nursing home reform provisions of OBRA '87.

We urge you to support the retention of federal oversight of nursing home quality linked to a statutory provision ensuring that adequate financial resources are made available to meet prescribed levels of service. Although this linkage can take several forms, the current formulation which backs the nursing home reforms of OBRA '87 to a statutory direction that payors of services (both federal and state) must ensure the payment of adequate rates has proven a workable mechanism and should not be repealed.

Federal nursing home reform standards, joined with existing reimbursement standards have resulted in a steady improvement in the quality of long-term care services. Without such a linkage, this quality of care cannot be sustained. It is our sincere desire to move forward with the quality of care provided in nursing homes, and recognize that the ability to do so is dependent upon the provision of adequate financial resources.

Sincerely,

American Health Care Association (AHCA); American Association of Homes and Services for the Aging (AAHA); Catholic Health Association; InterHealth; Horizon CMS; Clinton Village Nursing Home, Oakland, California; Qualicare Nursing Home, Detroit, MI; Westmoreland Manor, Greensburg, PA; Services Employees International Union (SEIU); American Federation of State, County, and Municipal Employees (AFSCME); United Auto Workers (UAW).

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, October 24, 1995.

DEAR SENATOR: The National Association of Counties (NACo) strongly opposes the block granting of Medicaid and the loss of a federal guarantee to benefits. Counties will be saddled with significant cost shifts as a result of capping the federal contribution to Medicaid.

We do not believe that states will find enough budgetary efficiencies without reducing eligibility. The flexibility given to states in the operation of the proposed restructuring will trickle down to counties in the form of flexibility to raise property taxes, cut other necessary services or further reduce staff. In many states, counties are required to serve individuals with no private or public health insurance. The cuts to the program will have the effect of increasing the costs of that state mandate.

Individuals will continue to have health needs, regardless of the payor source. That is why we have always supported the intergovernmental nature of the Medicaid program and the assurance that there is some minimum level of coverage guaranteed to eligible individuals, regardless of the state in which they reside. While we support the increased use of managed care and the further targeting of the disproportionate share program, we believe that provisions in the bill overall will harm many current recipients and the counties which serve them.

If you have any questions about our position, please call Tom Joseph, Associate Legislative Director, at 202/942-4230.

Sincerely,

LARRY E. NAAKE,
Executive Director.

BUREAUCRACY CREATED BY THE GOP MEDICAID PLAN

In the Medicaid debate, the GOP has stressed that offering states block grants will reduce federal and state bureaucracy. However, a review of the GOP Medicaid Plan indicates that it creates as much bureaucracy as it purports to reduce. Some of the bureaucratic initiatives included in the plan are important and necessary; however, the argument that the GOP plan reduces bureaucracy just doesn't add up. The following is a *very* conservative estimate of the total number of new bureaucratic requirements created by the GOP Medicaid plan:

Number of new requirements for each submitted Medicaid plan	32
Number of States and District of Columbia (times)	51
Total number of new requirements for all plans (=)	1,632
Additional committees, advisory panels, demonstration projects, etc. (+)	15
Total number of new bureaucratic requirements (=)	1,647

Note: The total does not include drug provider pricing reports or other federal and state drug-related reports.

Specifically, the proposal requires:

SECTION 2100

Page 2—A state plan is required for reimbursement under this bill.

The state plan must be approved by Secretary.

SECTION 2101

Page 4—State must establish performance measures to evaluate Medicaid plan.

Independent review required of state performance.

Page 5—Strategic objectives and performance goals in state plan must be updated not later than every 3 years.

SECTION 2102

Page 5—Extensive annual reports must be prepared by states and submitted to Congress.

SECTION 2103

Page 6—Every third year, each state must provide for an independent review of the state Medicaid plan.

SECTION 2104

Page 12—Each state Medicaid plan must provide a description of the process under which the plan shall be developed.

SECTION 2105

Page 13—States required to provide public notice and comment on their Medicaid plan.

Page 14—States are required to established advisory committees for the establishment and the monitoring of the Medicaid plan.

SECTION 2106

Page 16—The Secretary shall provide for the establishment of a Medicaid Task Force.

Page 16—An advisory group to the Medicaid Task Force shall be created comprised of representatives from seventeen national health care organizations.

Page 18—The task force shall report to Congress by April 1, 1997, with recommendations regarding objectives and goals for states in the implementation of a Medicaid plan.

Page 19—Creation of an Agency for Health Care Policy and Research.

SECTION 2111

Page 19—Each state Medicaid plan must meet certain Federal eligibility and benefit requirements.

SECTION 2113

Page 31—States may set up premium and cost sharing mechanism including co-payments and deductibles.

SECTION 2114

Page 35—If a state contracts with a capitated health care organization, the state must annually provide before the beginning of the contract year—public notice and an opportunity for public comment on amounts spent.

SECTION 2115

Page 37—Each state will develop its own criteria for providing benefits and geographic coverage.

SECTION 2117

Page 40—Establishment of new income rules for institutionalized spouse in determining eligibility for Medicaid. Also, rules establish a hearing process relating to a monthly allowance for the non-institutionalized spouse.

SECTION 2121

Page 59—Establishment of complex formula for the allotment of block grant funds to states.

Page 84—By April 1, annually, the Secretary shall compute and publish in the Federal Register proposed obligation and outlay allotments for each State.

Page 85—GAO shall report to Congress annually a report of preliminary allotments.

GAO shall submit an annual report analyzing allotments.

SECTION 2122

Page 87—Quarterly reports shall be filed by the States estimating the total sum to be expended in such quarter.

Page 90—Procedure established for disputes with respect to overpayment to the States.

Page 97—States given authority to impose health care taxes on providers.

Page 111—Limits established on the amount that a state may use a grant to carry out a program for which a waiver was granted.

SECTION 2123

Page 113—Limits on payments for nonlawful aliens, abortions and assisted suicides. States must establish procedures that funds not be used for unauthorized purposes.

SECTION 2124

Page 119—Methodology for grants to be determined by HHS.

SECTION 2131

Page 119—Separate state audit required annually. Additional "verification" audit required if first audit not acceptable. Audit reports must be available to both HHS and the public. Each State must adopt fiscal control measures to insure compliance. State or private plans must provide HHS with records of any audit conducted by anyone on any provider offering services through he plan.

SECTION 2132

Page 121—Each state is required to develop separate fraud prevention procedures. Additionally, if an individual or provider is excluded due to a violation of this section, a state must file a separate notification of the violation with the appropriate state licensing board and HHS.

SECTION 2133

Page 123—States must create a mechanism that notifies the Secretary of HHS of *any* formal proceedings, including outcome, against an individual provider or provider entity. Additionally, the State must provide the Secretary of HHS with documentation of these formal proceedings. HHS must notify all relevant federal agencies, providers under contract, licensing boards, State agencies, utilization and quality control peer-review organizations, State Medicaid Fraud Units, hospitals and other providers, the Attorney General, and the Comptroller General. Program to be coordinated through HHS.

SECTION 2134

Page 127—Each state required to provide a separate State Medicaid Fraud Unit. This unit must be attached to the State Attorney General or other appropriate state agency. The State must establish formal procedures for referral of fraud, patient "abuse and neglect" complaints, and overpayment cases to the State Attorney General.

SECTION 2135

Page 131—Each State must develop procedures for determining when a third-party payor is legally obligated to pay a claim, when beneficiaries acquire the rights, when they may assign those rights, and laws that mandate coverage of children. Any denial of benefits to a child must be documented. States must also create a procedure for wages or tax return garnishment.

SECTION 2137

Page 142—Each State must develop separate "Quality Assurance Standards for Nursing Facilities," consisting of separate treatment standards, administrative policies and procedures, operational bylaws, Quality Assurance systems, resident assessment procedures, staff qualifications, and utilization review procedures. These standards are subject to public comment before acceptance by the State legislature.

Each State must also create a nursing facility certification program, whose records must be available to the public. This program must be audited every four years.

SECTION 2138

Page 150—Requires public access to any compliance survey conducted by any state agency. Each state must create separate record-keeping requirements.

SECTION 2151

Page 151—Each state must submit separate "Part C" Medicaid plans.

SECTION 2152

Page 151—Allows for amendment of a States Medicaid plan "at any time."

SECTION 2153

Page 153—Requires HHS to "promptly" review (within 30 days) any plan or amendment submitted. Requires notice non-compliance, and a state response or revision of the plan must follow. Creates administrative hearing procedure for determination of non-compliance if requested by the state. If dissatisfied, state may appeal to the appropriate U.S. court of appeals. Any decision may be appealed to the U.S. Supreme Court.

SECTION 2173

Page 174—If a state has an Indian Health Program, the state plan must separately define who and what will be eligible.

SECTION 2175

Page 182—Requires HHS (or each state separately) to reach separate rebate agreements with each eligible drug manufacturer before reimbursement. Any exceptions must be submitted for review and approved by HHS. If a rebate agreement is in place at the time this Act is passed, the state has the burden of showing that such rebate agreement saves as much or more money as the requirements of this new Act.

Page 192—Requires each state to submit a report of the total number of covered drug units used, including form, dosage, and package size.

Page 193—Drug manufacturers must submit a report listing the "average" price of an eligible drug sold for at the beginning of a rebate period. Drug manufacturers are also required to submit a report at the end of a rebate period noting both the "average" and the "best" price the drug sold for.

Page 199—Secretary and states both have authority to resolve conflicts over rebate amount.

Page 200—Secretary or state must compute rebate formulas for each separate drug, manufacturer, and rebate agreement.

Page 207—Any State may subject any drug to a separate prior authorization program prior to filling a prescription.

Page 208—Secretary required to periodically update the list of ineligible drugs.

Page 209—Each state may set up separate formularies if approved by HHS.

Page 211—Outlines the specific requirements of a state "Prior Authorization Program."

Page 212—HCFA required to establish reimbursement limits for "therapeutically equivalent" drugs.

Page 213—Secretary must "encourage" states to establish an electronic claims processing system.

Page 214—Requires HHS to submit an annual report to the Senate Finance Committee and House Commerce Committee outlining individual and total drug costs, the impact of inflation of such costs, any significant trends in drug pricing, and the administrative costs of compliance with the drug-rebate program.

Page 224—Requires HHS to establish a "Medicaid Drug Rebate Task Force."

SECTION 7194

Page 228—Requires HHS and HCFA to develop a classification system for children with special health care needs.

Page 229—Creates a grant program for demonstration projects using the criteria developed for classifying children with special health needs. Requires these projects to submit annual and final reports to HHS.

Page 232—Requires CBO to conduct an annual analysis of the impact of the new Medicaid amendments and to submit a report to the Senate Finance Committee and House Commerce Committee.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I congratulate the excellent statement and arguments that have been made by my distinguished colleague from Florida on the matter at hand. I believe we are about ready to come down to the end of this and go on to the education amendment. But before we proceed, I wish to yield 1 minute to the Senator from Connecticut.

Mr. DODD. I thank our colleague from Nebraska.

Mr. President, I apologize for being tied up in the Committee on Banking and Housing. I think as we look at this legislation people have to ask the fundamental question of who is being hurt by this proposal. No one is suggesting we ought not to make reforms in these programs to make them more efficient. But when 4.4 million children over the next 7 years, as the estimates say, will lose the kind of protection that Medicaid has provided, that in my view goes too far. I think the American people are responding to that. It is extreme. Clearly, corrections need to be made, but this goes way beyond what most Americans think is right and fair.

If we are going to invest in the future and promote growth, then these young children who have no other safety net to protect them are going to be lost in that process. It is bad enough to place at risk 12 million Americans, 8 of whom are in effect adults with long-term care needs. But for almost 5 million children who may lose Medicaid in this country who are born into these circumstances and will start their lives in this way, I think is wrong headed; I think it is extreme; I think it is unfair; and I think it is dangerous for this country's future.

I thank my colleague for yielding.

Mr. EXON. Mr. President, after conversation with several Senators, including my distinguished colleague from Michigan, I think we have general agreement now that we will, under the previous order, move to the next order of business, which is the so-called education amendment.

The time under that amendment will be controlled by the Senator from Massachusetts, Senator KENNEDY, who I think is ready to offer the amendment. In the interest of conserving time—we have had a general agreement—and I ask unanimous consent at this time that instead of the 2 hours, 1 hour each side, on the education amendment, that the time be reduced to 90 minutes or 45 minutes per side. I propose that as a unanimous consent request.

The PRESIDING OFFICER (Mr. BURNS). Is there objection?

Mr. ABRAHAM. Mr. President, the majority does not object. We support the 90-minute time agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I thank the Chair. I hope at this time the Chair could recognize the Senator from Massachusetts.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2959

(Purpose: To strike those portions of the Committee on Labor and Human Resources reconciliation title that impose higher student loan costs on students and families, by striking the 85 percent fee imposed on colleges and universities based on their student loan volume, restoring Federal interest payments on subsidized student loans during the 6-month grace period in which graduates look for jobs, eliminating interest rate increases on parent (PLUS) loans, and eliminating the 20 percent cap on direct lending, and to provide an offset by striking the provisions that dilute the alternative minimum tax)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk shall report the amendment.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself, Mr. SIMON, Mr. PELL, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. FEINSTEIN and Mrs. MURRAY, proposes an amendment numbered 2959.

On page 1409, beginning with line 8, strike all through page 1410, line 25.

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1425, line 16.

Strike chapter 3 of subtitle B of title XII.

Mr. KENNEDY. Mr. President, I yield myself 6 minutes.

Mr. President, we are 2 days into this debate on the budget recommendations of our Republican friends in the U.S. Senate. We had an opportunity yesterday to debate the issue of whether we are going to cut $270 billion out of the Medicare program in order to give tax breaks for the wealthy individuals and corporations.

Today we had the debate about whether we are going to take $180 billion away from the neediest children in our society and from the seniors of our country who have made such a difference to our Nation and put them at greater risk.

The third element in this whole Republican proposal is to deny, or move towards denying, the sons and daughters of working families the opportunity to achieve the American dream, that is, in the area of higher education.

The whole debate on higher education was a key debate in the 1960's between President Kennedy and President Nixon. During that time, this country went on record to provide help and assistance to the young people of this country. We reserved three-quarters of a Federal assistance program for grant money and one-quarter for loans. The programs built on the enormous success that this country saw at the end of World War II. We expended, in today's dollars, $9 billion on education assistance to those who came back and fought in World War II.

It is an interesting fact, Mr. President, that the analysis of this program proved it was a remarkable success. In fact, every dollar was actually given in grants—not loans—and returned some $8 to the Federal Treasury.

This Nation was committed to higher education. This Nation was committed to the young people of this country, to their hopes and dreams for a future America. But under the Republican proposal, effectively what they are saying is, "We're going to take some $10 billion away, away from the students of this country, and make it more complex, more difficult, and in many instances deny the dreams of those young people." For what reason? For the reason of providing the tax breaks for wealthy corporations and wealthy individuals.

That is what this is about, Mr. President. That is what this is about. The amendment that we have offered today responds to that provision of the Republican bill.

First of all, the provision that institutes a new student loan tax that requires colleges and universities to pay the Federal Government an annual fee of .85 percent of their student loan volume is struck. In addition, the amendment strikes provisions that eliminate the interest-free grace period, a concept that has been supported by Republicans and Democrats since the student loan program began.

We also strike the increased interest rates on parents in the PLUS loans, which are necessary loans for parents that do not have great assets. Striking the increased interest rates will help those parents continue to take advantage of the PLUS loans. Finally, the amendment strikes provisions capping the direct loan program at 20 percent of loan volume. The program is now at almost 40 percent participation.

The amendment takes us back to the existing law which will permit any college in this country, in any State, to choose to participate in the direct loan program. Not under the Republican program.

What we are saying is: If colleges, their boards of trustees, parents, faculty, teachers, young people want to move toward a direct loan program, that choice ought to be available at the local level. The Republican proposal denies colleges and universities and their communities the right to choose a loan program that works for them. That right to choose was a bipartisan agreement that was made in 1993. I believe that denying colleges and universities the right to choose is unwise and unfair.

And, Mr. President, we offer a full offset for this change to the Republican proposal, so that our amendment is budget neutral. We will return help and assistance to the students of our country by striking the provisions of the Finance Committee's reconciliation bill that dilute the alternative minimum tax on corporations.

The alternative minimum tax on corporations sets a minimum corporate tax liability. It was passed in 1986 because many corporations were escaping any kind of tax payment. And you know what the Republicans did? They relaxed it to benefit corporations by $9.2 billion. And so the Senate of the United States will have a chance today to say, "Do we want to relax the alternative minimum tax for corporations by $9.2 billion or do we want to provide the help and the assistance for the sons and daughters of working families?"

We have effectively voted on this amendment before, and we are going to see if the whiplash of the Republican leadership is going to march—force the Republicans to march in lock step to reject what they have supported in May: a reduction in the cuts to students.

We are taking the changes in the alternative minimum tax that provided easier payments for the largest corporations of this country and using them for the deficit reduction requirements for education and leaving these programs alone. That is what this amendment does.

Mr. President, I do not think we have to make the case, or should have to make the case, that education is central to the American dream. But under the Republican proposal, they change that dream into a nightmare. The idea that the Republican proposal is a shared sacrifice is malarkey.

They say, "There's a shared sacrifice in our Human Resources Committee's proposal." The shared sacrifice is two-thirds—two-thirds of the burden is going to be on the sons and daughters of working families. Half of them earn below $20,000 a year; two-thirds of them below $40,000. It is interesting to note that these are the same people whose taxes are going to be increased under the EITC. These are the same people that are going to have to provide additional help and assistance to their parents to increase the copayments and the deductibles.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield 2 more minutes.

Again, these are the same people whose taxes will be increased under EITC, as Senator MOYNIHAN clearly pointed out when he put the chart before the U.S. Senate and the American people. We are already going to have to pay increased payments under this bill.

What do our Republican friends have against working families? They raised the EITC that goes to the low-income, working families. And now they are denying the opportunity for education for many of the sons and daughters.

Mr. President, I want to just point out that a $250 increase in the cost of college will cause roughly 20,000 fewer students from working families to enroll. Because there are almost $1,000 in additional costs to working families just in the grace-period provisions of the Republican proposal, 80,000 young people in this country will not go to college because of the increased burden that their families will not be able to pay.

Now, there will be a time when someone says, "This is really a very minor slap on the wrist for these families." They will point out, "Look, you are only talking about $900 for the grace period, only $500 more under the PLUS loans, and only $25 under the institutional loans."

Mr. President, that all adds up. In my State of Massachusetts, working families will have to pay more than $200 million in additional costs. That is wrong. It is a transfer of wealth from working families to the already wealthy individuals in our country. Therefore, I hope that this amendment is agreed to. It is a responsible amendment. We have debated this issue many times and we have said that we believe that education is fundamental to the future of America and young Americans. Why should we dampen, and in many instances extinguish, the hopes and dreams of the sons and daughters of working families?

That is the choice here. We can strike the alternative minimum tax or we can dock the sons and daughters of working families.

I yield 5 minutes to the Senator from Rhode Island who has been a former chairman of the Education Committee and who has made such a mark in education policy.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Rhode Island.

Mr. PELL. Mr. President, I thank my colleague. I am very, very pleased to be an original cosponsor of this critically important amendment. What we are talking about here is a capital investment in the future of our Nation. Passage of this amendment would accomplish the objective of taking students and their families, not completely, but partially out of harm's way.

First, it would strike the first-time-ever fee on institutions of higher education. This fee of .85 percent, based on the total amount of money borrowed by students and parents at every institution of learning, is an unprecedented move and a cost that would undoubtedly be passed along to students in higher fees. Once established, I am afraid that it will increase over time.

Second, this amendment would strike the increase on the interest rate in the Parent Loan Program. Some argue that the increase would be so small as to be insignificant. I disagree.

A parent who borrows for 4 years of college at a typical 4-year public university will borrow a total of $27,000. If those loans are repaid over 10 years, the increase in the interest rate will mean those parents will have to pay an additional $1,400. If they take advantage of extended repayment, the cost could well increase to $2,800. Neither of these figures is insignificant.

A parent who borrows at a private university will borrow more than $66,000. Repayment over a 10-year period will mean an additional $3,400 that parents will have to pay because of the increase in the interest rate. If repayment is extended over 20 years, the additional cost to the parent will be nearly $6,900, or $7,000.

Third, the amendment would strike the 20-percent cap on the Direct Loan Program. This would leave alone the direct loan conference agreement of 2 years ago. It would mean that we would continue to have a spirited competition between direct and regular loans, a competition that has brought students improved services, better rates and more benefits.

And fourth, the amendment would strike the elimination of the interest subsidy during the grace period. This is of vital interest to students who have just completed their education and are out looking for a job. Proponents argue that the cost of eliminating the grace period will be small, but to a student who is just beginning a job, every dollar counts.

In terms of the package, I point out that while one change might appear small, the combined impact of the four changes addressed in this amendment is considerable. Students and their families will feel the impact of these changes. Instead of taking them out of harm's way, it will place them directly in the line of fire. We can avoid that outcome if we adopt this amendment. I urge my colleagues to join me in voting for it. If ever there was a capital investment amendment to improve the competitive ability of our Nation, this is it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 5 minutes to our friend and colleague and former member of the Labor and Human Resources Committee, JEFF BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Thank you very much, Mr. President. I thank the Senator from Massachusetts for yielding me time.

Mr. President, I am in strong support of the Kennedy-Simon student loan amendment. It does deal with a very serious problem that I see in this budget reconciliation bill.

Very simply, what we are talking about here is $10.8 billion that is to be reduced or eliminated out of the funds that will otherwise be made available to students over the next 7 years, students who want to go to college and who do not have the financial means with which to go to college.

That $10.8 billion is presented by the Republican majority as being fairly shared. We are going to try to charge some of that to the loan industry and some of that to the students and families themselves.

I have a chart here, Mr. President, which I think makes the point pretty clearly that the cost, that $10.8 billion, is not fairly shared. What this chart shows is that something like 30 percent of this entire $10.8 billion, $3.1 billion specifically, will be additional costs to the loan industry; 70 percent of the entire cut in education is costs to students and their families. That is $7.6 billion over 7 years.

Let me talk about some of the specific things that we are doing to increase the costs to students and families during that time, because some of it is precedent setting and, in my view, it is a very bad precedent and reflects very badly on our country.

One which has been referred to by both the Senator from Massachusetts and the Senator from Rhode Island is that we are starting, for the first time, to charge interest on the loan from the day of graduation. That may seem like a small item and, in some larger global sense, it may be, but it signifies something about what the Congress is about in this reconciliation bill.

Always before, the idea was when students graduated from college, we would give them a 6-month grace period in which to get a job, in which to begin to receive regular monthly paychecks, before they were charged the interest on that loan.

But we are eliminating that in this legislation. Here the idea is that we can pick up $2.7 billion over the next 7 years by eliminating that grace period and starting to charge that interest from the day they graduate. I think that is a shortsighted, mistaken and wrong policy decision.

A second item that I particularly want to focus on that I think is perhaps even a worse precedent is this whole idea of charging a tax to schools that want to make a student loan. In my State, the schools that are making Federal student loans are generally schools that are trying to provide education to moderate-income families and students. They would be charged, under this bill, .85 percent, nearly 1 percent of the value of the loan, at the time the loan is originated.

When I bought a house, I remember that they charged me a loan origination fee. You always shop around to see where can you get the fewest points, where will they charge you the fewest points for your house loan. The Government has never charged points for student loans before. We have never charged origination fees when we made a loan to a student to go to school.

This year, for the first time, we will begin to charge an origination fee. Now we charge it to the institution. The school itself has to pay the student loan and, of course, that builds in an incentive for the school perhaps to look for more financially capable students. They do not have that cost. They do not need to worry about origination fees if they get students that, in fact, do not need student loans. I think it is a very bad precedent. I think when you start charging an origination fee for a student loan, it is a sad day in our Nation's history. That is exactly what we see proposed in this bill. That would, supposedly, result in the Federal Government picking up $2 billion over the next 7 years.

We are increasing the interest rates on family interest. That is another $1.5 billion. And then by capping the amount of direct student loans that can be made, presumably we are going to pick up $1.4 billion.

Mr. President, this amendment would strike the most onerous provisions of the reconciliation bill by striking the provisions that increase the costs of loans for students and their families.

The Republicans propose that almost 70 percent of the $10.8 billion cuts in the current student loan system be shouldered by students and their families. Only $3.1 billion is borne by the loan industry and $100 million by cost sharing with States. The overwhelming majority of these cuts, shown in red on this chart, would be shouldered by the very students the program is intended to help. Only 30 percent of the cuts, shown in yellow on this chart, are imposed on banks, guaranty agencies, and secondary markets in the student loan industry. That means that directly or indirectly the wrong people suffer. It will cost needy students more to borrow.

The Kennedy-Simon amendment fixes that. It strikes all portions of the Labor and Human Resources Committee reconciliation title that impose higher student loan costs on students and their families. Let me show you how.

First, the amendment would restore a 6-month interest-free grace period following graduation. That means that interest would not accrue on student loans for 6 months after graduation giving students time to look for a job. This amendment strikes the Republican cut of $2.7 billion for the interest-free grace period. The amendment would thereby save an individual student between $700 and $2,500, depending on the length of study and amount borrowed.

Next, the amendment eliminates a new .85-percent fee on new student loans. It strikes the $2 billion Republicans would save by introducing this new loan fee. The Republican plan would force colleges either to absorb this new tax on student loans or pass it on as increased students fees. This would have meant about $25 every year for about 14 million students with new loans. It would have effectively penalized schools for accepting needy students.

Next, the amendment eliminates the rise in interest rates families pay for student loans. Without this amendment, the increase in PLUS loan interest rates could amount to up to $5,000 a family. This increase would be paid by the very families who lack other assets against which to borrow, and must therefore borrow most heavily from this program to afford 4 years of college.

Finally, the amendment eliminates the 20 percent cap on the direct loan program. The program is now at 30 to 40 percent and has made the student loan process much quicker and more efficient for participating students.

This amendment is good policy for the Nation. In New Mexico, it will be absolutely essential. It will enable a better education for some students who otherwise would not go to college. Colleges in New Mexico have volunteered my office the numbers of their students on Federal financial aid because, they tell me, they know is vital for the students they serve. They say three New Mexico colleges alone have well over 20,000 students receiving some form of Federal financial aid. At the University of New Mexico, there are about

10,000; at New Mexico State University, about 9,000; at Western New Mexico University, about 1,400. Other colleges have more.

More important, over 70 percent of all financial aid in most New Mexico colleges is Federal. In some it is almost the only source available. In New Mexico Highlands University and New Mexico Junior College in Hobbs there is very little financial assistance that is not Federal. These schools serve students to whom financial assistance is absolutely essential, whose families cannot sustain higher levels of personal debt. Other States may be richer than New Mexico. But in my home State, this amendment would make the difference in reducing the level of student and family debt to a point that working families feel it is within their reach. This would enable some students to go to college who otherwise might not go. Graduating from college is no longer a ticket to the good life; it has become a mandatory qualification for most entry-level professional jobs.

This bill strikes at the heart of the Federal Government's commitment to education; the Kennedy-Simon amendment renews that commitment to making college accessible to qualified students regardless of privilege. I urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BINGAMAN. I urge my colleagues to support the Kennedy-Simon amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 28 minutes.

Mr. ABRAHAM. I yield myself such time as I may need to make a brief statement or two regarding this amendment. And then I will yield time to another Member on our side.

The chairman of the Senate Labor and Human Resources Committee and I were chatting here on the floor, and the Senator from Kansas indicated to me a couple of things. Members on both sides are probably aware that there are discussions going on now that may directly address much of the content of this amendment in a way that would be very similar to what is being proposed here. Those discussions are going on as we debate this issue.

There is likely to be, from our side, an amendment which would be responsive to some of these concerns, many of which were raised in the Labor and Human Resources Committee—Members on both sides of the aisle—during the debate.

For the students who are watching today and listening to our proceedings, or their families, I want to point out a couple of factors which, once again, the chairman of the committee reminded me of, which we discussed during our deliberations on this.

First of all, nothing in the reconciliation package will, in any way, affect the volume of loans available to students. In other words, the growth rate of student loan volume will continue unabated under the Republican package. Students who are hoping to get loans will have those loans available. We are not contracting the size of the loan volume. I believe it will be in the vicinity of $26 billion annually under this package.

In addition, I point out concerns that have been raised hear about the origination fee that is part of this package. There was an amendment, as the President will remember, brought before the committee that would have eliminated the origination fee. It was opposed and voted down. I believe every Member of the minority party voted against an amendment that would have eliminated those origination fees.

I want to, once again, point out just for clarification, insofar as the grace period issue is concerned, we are not asking students to begin paying back their loans upon completion of school. Our changes only go to the issues of when interest begins to accrue. Students will still have 6 months after they graduate before they are required to begin paying their student loans. Indeed, as I think everybody is aware, the overriding goal we have here in this reconciliation package, and more broadly in our budget, is to bring the budget into balance.

Mr. President, when we do that, we not only will bring down interest rates for the Federal Government, we also will bring down interest rates across America for everybody. When those interest rates come down, they will not just come down insofar as what we pay on the bills, it will be for what people pay on home mortgages and with respect to student loans. As those student loan interest rates come down, they will, I believe far more effectively, help students to finance their college education than anything we are doing here today, because a much lower student loan rate is going to mean far less total dollars spent by students than anything else we could do here in the U.S. Senate.

I also note that in our finance package here in the reconciliation bill, there also is a student loan deduction available to people who are paying student loans, for middle-income families. That, too, will help to offset the burdens of college education that middle-class families in this country pay.

So we are trying to be responsive. We are not reducing the volume rate. We are not requiring students to begin paying their loans earlier; and, most important, we are trying to balance the budget so that interest rates on student loans will be so low that they will help students in the kind of ways students want most, which is a total amount of money being paid back, lower than what they have to pay back today.

I yield 10 minutes to the Senator from Montana.

Mr. BURNS. Mr. President, this is the first time I have come to the floor to comment on this reconciliation package. I guess the first thing we tried to look at with regard to this is the tax cuts and also the cuts in spending. One has to look at it from the standpoint of how it affects home. What does it do for my home State of Montana? There are some things not in this package that I think, if you want to do something about a farm bill, give farmers accelerated depreciation and income averaging, we would not need a farm bill, if you want to be fair with agriculture because of the conditions under which they work.

But in this package, I congratulate Senator DOMENICI, the chairman of the Budget Committee and, of course, the Finance Committee, for their exceptionally hard work to try to balance and make it fair. Tax relief for families is the biggest part of this tax relief provision. It goes to families. Now, we hear talk on the other side of the aisle this morning about a cutback in programs. Why do you think there are tax cuts in here? Because it allows families to make the decision on how they want to spend their money, not how it is spent here in Washington, DC; it is for them who live in the hinterlands. There is tax relief for senior citizens and small businesses.

When you look at my State of Montana, that is going right down the line where we need a little relief. And we close some loopholes for corporations. So they did exceptional work on this. We have heard about the tax break for the rich, corporate welfare, and all of this, those loopholes for the corporations. They have been closed. Frankly, I have not seen a lot of that. This tax package, as a total revenue cost over a 7-year budget, is around $245 billion. However the cost is reduced by elimination of those corporate loopholes, which saves the Government a little over $21 billion over 7 years. That net cost makes us back to $224 billion. We can get bogged down in figures. I know how easy that is.

We have to keep reminding America through this whole debate that the single largest revenue item in this tax package is a $500 per child tax credit, which has a cost of about $142 billion. What is wrong with letting families hang on to their money? They earned it. Sure, there are some Government services they want to pay for and it takes some amount of dollars to provide services that only Government can offer. We know that. But when they start making the decisions for all parts of your life, then that is where the real debate starts. Nobody is debating public safety here or doing some of the things for the society that has to be done.

This package provides for an adoption credit; a marriage penalty credit; deductions for student loan interest, for the first time; deductions for contributions to individual retirement accounts. These tax breaks—about $28 billion, or so—are 13 percent of the total cost of the package, and are targeted for folks who are middle-income folks. There is $40 billion in capital gains tax reform. There, again, we hear "cut taxes for the rich." Capital gains tax is a voluntary tax.

You do not have to pay capital gains tax. You do not have to pay it because you do not have to sell.

The real wealthy folks can get around it because they know how to move those things around with tax laws and different laws.

On capital gains, this helps even the homeowner whenever he sells his home and wants to retire. Everybody whose assets appreciate, pays capital gains taxes—that is, if they sell.

So it is not for the rich. It is for all Americans that are smart enough to get ahold of some assets that appreciate, and they pay taxes on them.

We visited with a very knowledgeable man from Kansas and he said over $7 trillion of assets would flow onto the market if the capital gains was cut in half. Imagine what that would do to the American economy. Imagine what that would do to the tax coffers of the Treasury of the U.S. Government, so that maybe we can do some things that we want to do.

We have to think a little bit—just think a little bit. Capital gains is basically a voluntary tax. Just a voluntary tax.

Another provision in this package, the estate and inheritance tax provision on that reform. Folks who leave estates—those estates have been taxed and taxed and taxed and the interest they make on that has been taxed and taxed and taxed and then when they die they are taxed again.

I think of all of the ranches and farms in the State of Montana where money had to be spent for insurance policies to protect themselves so they could pay the inheritance taxes so the farm or the ranch can stay in the family.

Needless, needless expense. They paid taxes on that land, and property tax, income taxes, investment taxes, and then when the key family member passes on there is another estate tax that has to be paid again.

Hard-working families—the only thing they have on these farms and ranches is just the land. They have not made a lot of money. They do not have a lot of cash. They just do not have a lot of cash.

In effect, these death taxes are robbing American communities of a tradition of values that local family-run businesses provide. I wholeheartedly support that provision. If you feel for a young man that is trying to start off in the agriculture business, my goodness, do not strap him with a debt that he cannot work his way out of.

If you think there is not some disparity there, I will give you just a little idea on what it is like to farm. I was walking down the grocery store aisle the other day and found out that Wheaties cost $3.46 a pound. Do you realize that we are only getting $2.50 a bushel for a bushel of wheat that has 60 pounds of wheat in it?

They wonder—it is a little bit of disparity here. You want that man to keep on producing food and fiber so the American people can eat cheaper than any other society on the face of this Earth.

A while ago I listened to my distinguished colleague from the other side of the aisle challenge the estate tax credit. Their argument is focused on the unfairness of giving a tax break to any estate that exceeds $5 million.

I have asserted the top one half of the top 1 percent of the American people fall into that category. They should not be getting a tax break in the first place. I agree.

I must depart from my distinguished colleagues on the other side of the aisle for two reasons. I believe any death tax is on its face unfair. If we are going to keep these small businesses, these farms and ranches in the families of traditional values, we have to take a look at what we do in the taxing situation.

Taxes that cost jobs—the alternative minimum tax, we did not get all that we needed in this, but if there is one place that creates jobs and opportunities, it is here. When you tax small corporations, small family businesses, make sure that they keep two sets of books to see which one is a higher set of taxes than the others, that takes away from this business of the ability to expand, to expand their business.

Under the committee's package, the method of depreciation is conformed but the useful life is not.

One major problem with this is that business will start to have to suffer the unnecessary costs of maintaining two sets of books on each depreciable asset of the performing two tax computations to determine that they do not fallinto the alternative minimum tax bucket.

Two sets of books—needless, costly. We could be investing that in a bigger payroll. That is what creates jobs.

In conclusion, we should talk about some good things that are in this package. Talk about the good things that people are going to say we will keep more money in your neighborhood, for your quality of life, that you can make the decisions on how you want to spend the money and not be looking toward this 13 square miles of logic-free environment or answers that sometimes just do not work in our local communities.

That is what this debate is all about—where the power is, the power of the purse string. With the tax credits and some reform we will do the responsible thing and not the irresponsible thing of saying, "Let's wait until next year," or "Let's accept the status quo," and we know what the results of that are.

I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I rise in strong support of the education amendment offered by my colleague from Massachusetts.

I glanced through this two-volume reconciliation thing this morning and I found all kinds of things. Here is a provision for the Hetch Hetchy Dam. I have no idea where the Hetch Hetchy Dam is or what it means.

It has very little significance for the future of our country, but what does have significance for the future of our country is what we are doing in the field of education.

The Presiding Officer may be too young to remember the GI bill after World War II. There was a fight on the GI bill. The American Legion, to their credit, said "Let's have educational benefits as part of the GI bill." The other veterans organizations said, "Let's have a cash bonus for veterans."

Fortunately, the American Legion prevailed and we put the money into education. We lifted this Nation.

Now we face the same choice. Do we have a tax loophole here that is being put in, which the Kennedy amendment says, "Let's not put that tax loophole in," or do we put the money in education? The Kennedy amendment says put the money in education.

I want to address specifically the question of direct lending. Let me say to my colleagues on the Republican side, this is not a Democratic idea. The first person that suggested it is Congressman TOM PETRI, a Republican from Wisconsin.

My cosponsor of this legislation in the U.S. Senate was Senator David Durenberger, a Republican from Minnesota. When he was approached and said we ought to have the free enterprise system work and have the banks and the guaranty agencies profit from it, Dave Durenberger said, "This is not free enterprise; it is a free lunch." That is the reality.

There is not a school in the country, not a college or university, that is on direct lending, that wants to go back to the old system.

Colleges and universities like it, the students like it, taxpayers like it for reasons I will get into in a minute, and for my colleagues on the Republican side who say we like to do away with paperwork, I have heard speeches on both sides on that, every college and university says this does away with all kinds of paperwork. This is a change not just for a speech but for a vote. If the colleges and universities like it, if the students like it, if it is good for the taxpayers, why are we limiting direct lending? My friends, the only beneficiaries are the banks and the guaranty agencies and their lobbyists. And we have just seen in the newspapers that the banks have record-breaking profits. If we want to have a bank subsidy bill, let us call it that, but do not put the name of "student assistance" on it. Let us not play games.

Who are these people who are fighting direct lending? The Student Loan Marketing Association, Sallie Mae, created by the U.S. Congress. The salary of the chief executive officer of Sallie Mae, 3 years ago was $2.1 million. All they do is student aid, guaranteed by the U.S. Government. The guaranty agency, one in Indiana, USA—the chief executive officer earns $627,000. We pay the President of the United States $200,000. And that one guaranty agency is spending $750,000 on lobbying on this.

We face a choice. Are we going to help students and parents and taxpayers or the banks and the guaranty agencies? It is very, very clear. This is brazen, Mr. President, brazen. We have to help people.

Indiana University says there is 90 percent less paperwork with direct lending, 25 percent fewer errors, easier adjustments, faster disbursement. I have heard a lot of talk about unfunded mandates around here. This is an unfunded mandate you are imposing on colleges and universities. Iowa State University, for example, testified they have been able to take four people who used to work in student loans because of the all the paperwork and everything, and have them do other things. And they have been able to cancel some of their computers that they have, for $400 a month.

If I may have 1 more minute?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. It is very, very clear what the public interest is. "Banks Cash In, Taxpayers Lose on Loan Programs," USA Today says.

Government employees—we hear a lot, let us simplify. This is what we are told: 500 employees direct lending; 2,500 Government employees. That does count the guaranty agencies.

Then here is what CBO says about the 20 percent cap that is in here right now: Under current law, direct lending will save us, over 7 years, $4.6 billion.

What we did on the budget resolution, we said count administrative costs for direct lending but not for the old program. So, because of the phoniness—and even the Chicago Tribune says they are cooking the books here—you theoretically save $600 million. The real saving is a saving of $4.6 billion.

If we are interested in helping students, colleges and taxpayers, we ought to be voting for the Kennedy amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, I yield 10 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. GORTON. Mr. President, I believe that it is important constantly, during the course of this debate, to return to fundamental principles, to the broad policy goals which we as a nation ought to seek for the betterment of our society and for a brighter future for those who follow us. In returning to those fundamental principles, there is no better place to start than with this fundamental principle enunciated by Thomas Jefferson almost two centuries ago. And I quote our third President:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of Government. We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves.

The staff notes I have here with me this morning have, at one place, the notation "they," that is to say the opponents to this resolution, "do not wish to balance the budget." But I do not believe that to be true. I have not heard any argument at any time this year from a Member of this body that has not included in it at least lip service to the concept of a balanced budget. But, of course, there are three ways to that goal, or at least three kinds of oratory which give lip service to Thomas Jefferson's principle.

The first is to state the principle but always to have an objection to any course of action which will make that principle a reality. And that is the common approach of those who oppose the resolution we have before us today.

The second way, a way that seems to have very little support on the other side of the aisle but clearly actuates the President of the United States, is to define the problem out of existence. I will come back to that in just a moment.

The third way, the hard way, the difficult way, is actually to make basic changes in our laws and in our spending policies, that will in fact lead us to a balanced budget.

To return for a moment to the President's approach of defining it out of existence, I would also like to quote him. Just a little more than 2 short years ago, the President of the United States said:

> The Congressional Budget Office was normally more conservative about what was going to happen and closer to right than previous Presidents have been. I did this so we could argue about priorities with the same set of numbers. I did this so that no one could say I was estimating my way out of this difficulty. I did this because, if we can agree together on the most prudent revenues we are likely to get if the recovery stays and we do the right things economically, then it will turn out better for the American people than we said. In the last 12 years, because there were differences over the revenue estimates, you and I know that both parties were given greater elbow room for irresponsibility. This is tightening the reins on Democrats as well as Republicans. Let us at least argue about the same set of numbers so the American people will think we are shooting straight with them.

In those eloquent words the President said let us all agree that we will use the projections of the Congressional Budget Office.

That was then. This is now. Earlier this year the President presented a budget to us which never, in his own terms, included a deficit of less than $200 billion. Later, when it turned out that Republicans were serious about balancing the budget, the President said, "Me, too. I can do it. And I can do it without pain. I can do it without changing any major policies in the United States. I can do it by defining it out of existence. I will abandon my allegiance to the Congressional Budget Office. I will simply estimate that interest rates and inflation will be lower and revenues will be higher, and without any major changes at all we can balance the budget." So he defined the problem out of existence.

The day before yesterday in this body we had a straw poll, as it were, on whether or not the President's approach was acceptable. And it lost by a vote of 96 to nothing. The other side of this aisle, quite properly, rejects that approach. But it also rejects the approach of any significant changes. So, at this moment, nominally we are debating education. They do not want any changes. Previously we were debating Medicaid. They do not want any changes. Before that we debated Medicare. They do not want any changes. In fact, you can go down a litany of spending programs, and they do not want any changes. But they would like to have a balanced budget. It just is not a high enough priority.

Mr. President, to return to the Congressional Budget Office, we now know that we are not simply engaging in a game of whether or not it is appropriate to balance the budget. We know what the positive results of balancing that budget will be. The Congressional Budget Office says that if we actually change the laws appropriately interest rates will be sufficiently lower and economic growth will be sufficiently higher so that the Federal Treasury will be $170 billion better off by the time the budget comes into balance in the year 2002. That is only the Federal Treasury. That is not the other hundreds of billions of dollars which will be in the pockets of the American people because they have better jobs and higher wages.

That is what this exercise is all about, a better break for America.

So what are we proposing to do? We are proposing to say to the Americans, if we go through this process, if we make these changes, we are going to give that $170 billion back to you in lower taxes on working Americans, and a little more besides because we have been responsible enough to balance the budget.

So when we get right down to it, Mr. President, that is what this debate is all about.

First principles—the moral duty not to load our spending on the backs of our children and grandchildren; and the economic benefit—an economic benefit I suspect Thomas Jefferson did not suspect—of acting in a responsible fashion, both because we will create more opportunity for our people and because we can appropriately lower our taxes.

That is the difference between the two parties. That is the difference between a yes and a no vote on this resolution.

The PRESIDING OFFICER (Mr. BURNS). Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 20 minutes and 54 seconds.

Mr. KENNEDY. I yield 4 minutes to my colleague.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Senator for yielding.

I just could not help but hearing my friend from Washington saying we have a moral obligation. Yes. We do. We have a lot of moral obligations to our children and to the future. One of the most important obligations is to ensure that future generations have the ability to get a decent, sound education so that they can raise their families and so that they can compete in the world marketplace. That also is a moral obligation.

What this reconciliation bill does is pull the rug out from under that obligation that we have for future generations.

Mr. President, we hear a lot of talk about the tax breaks that are in this bill. Those of us on this side have been talking about the $245 billion tax breaks for the wealthy that will come at the expense of the elderly and Medicare cuts. There is an $11 billion cut in student aid in this bill, the largest cut in student aid in our history. But what we are not hearing about are the hidden taxes that the Republicans have in this bill, the "stealth taxes." This is what they are hitting students with to pay for those tax breaks for the wealthy.

This chart illustrates this right here. This budget adds about $700 to $2,500 of debt per student by eliminating the interest subsidy during the grace period. That is a hidden tax on our students. It also includes up to $5,000 in additional expense for families who use the PLUS program by raising their interest rates. It is another tax on students and their families. It imposes a direct Federal tax of .85 percent on colleges and universities participating in the student loan programs; a direct tax on colleges. Of course, they are going to have to pass that on to their students.

Last, of course, it forces schools out of the direct loan program that has been so successful.

So we hear about the tax breaks to the wealthy. We do not hear about the stealth taxes that are in the Republican bill, and mainly it falls on students.

Mr. President, there was an article recently in the Des Moines Register which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Des Moines Register]

THE REALITY OF CUTTING STUDENT AID

(By Rekha Basu)

If you want to talk to Robin Kniech, you'd best catch the Drake University junior early, before she heads for class or checks in at one of her five jobs, which add nearly 40 hours to her already full load.

Between the baby sitting, secretarial and other work, Kniech just manages to eke out her $1,200 tuition contribution. The rest of the $14,100 is made up from merit-based scholarships and college loans.

Last week, which was Save Student Financial Aid Week, sponsored by Drake Democrats, Kniech was also out rallying students against proposed cuts to federal student aid. For her, it's a subject of more than political interest. Any cuts, however small, could tip the delicate balance she has crafted to get a college education.

"I don't have any financial support from my parents," says Kniech. "I don't have any more hours to squeeze, and if I were to lose $300 in aid, I probably wouldn't be in school."

Just when you start thinking there's no other sacred zone left for congressional Republicans to tamper with, along comes another. If it isn't school lunches or aid to families with minor children, or programs that give disadvantaged preschoolers a fighting start, if it isn't rolling back federal standards governing the care of elderly in nursing homes or the health care of low-income people, then it's gashes into the very programs that enable people to go to college so they can hope to get decent jobs. At Drake, several hundred thousands dollars could be lost, according to John Parker, director of financial planning. Some 60 percent of Drake students get need-based assistance.

This is a tough issue to get your arms around, given the rather confusing tangle of college-aid programs and formulas. But the bottom line is the GOP plans to take $10.4 billion out of student-loan entitlement programs and apply it to deficit reduction. The legislation targets Stafford loans—private loans secured by the federal government, which you might remember as Guaranteed Student Loans. That's what they were called when I got one for graduate school. A whopping 90 percent of Drake law students and 40 percent of undergraduates now get them.

It also hits loans to parents to help finance their kids' educations, and several loan programs originating with the federal government but administered by the university, such as the Perkins loan. That cut alone would knock off aid to 90 Drake students.

Some proposals that might seem benign can cut quite deep. One would force student recipients of subsidized Stafford loans (those given to the highest-needs students) to start accruing interest charges immediately on graduation, instead of after the six-month grace period they now have. The added debt could be just enough to derail Kniech's plans to join the Peace Corps. "This hits at high-needs students harder than anybody else," says Parker.

There's also a proposal to raise both the ceiling and floor on the major federal grant program, Pell grants, disqualifying some 250,000 students nationwide, costing 75 Drake students about $40,000, and affecting students' eligibility for other grants. And more.

If you're tempted to argue that a student like Kniech should set her sights on a less costly education, forget it. She couldn't afford community college. She'd have to pay more than twice what she's paying out of pocket.

Viewed piece by piece, the cuts may not look like much. And Drake Republicans have countered with flyers pointing to the programs which aren't slated for actual cuts (but contain no increases for inflation), or the growth in funding of the Pell grant program. But every cut matters to students struggling to stay afloat. "There are students at Drake who, if they had to come up with another $50 they just flat out couldn't do it," Parker says. And there's the precedent. As senior Tanya Beer put it, "I think we're moving more toward education for the privileged rather than education as a right."

The financial-aid story offers an interesting juxtaposition of GOP fact and rhetoric. While the cheerleaders of congressional Republicans like to rail about elitist liberals, the scheme unfolding in Congress is built around an unparalleled elitism, deliberately cutting off avenues for advancement for those starting out at a disadvantage, even as they are admonished to stay in school and work harder.

So excuse Robin Kniech if the politicians' lectures about working her way up ring a little hollow. She's keeping her end of the bargain, and a 3.8 grade-point average. She just doesn't have anything left to give up.

Mr. HARKIN. It is entitled "The Reality of Cutting Student Aid."

I will read a couple of items from it:

> If you want to talk to Robin Kniech, you'd best catch the Drake University junior early, before she heads for class or checks in at one of her five jobs, which add nearly 40 hours to her already full load.
>
> Between the baby sitting, secretarial and other work, Kniech just manages to eke out her $1,200 tuition contribution. The rest of the $14,100 is made up from merit-based scholarships and college loans.
>
> "I don't have any financial support from my parents," says Kniech. "I don't have any more hours to squeeze, and if I were to lose $300 in aid, I probably wouldn't be in school."

John Parker, director of financial planning, said that 60 percent of Drake students get need-based assistance.

"There are students at Drake who, if they had to come up with another $50, just could not, flatout could not, do it," Parker said.

I think I will end on this note, a good note. The writer of the article said:

> So excuse Robin Kniech if the politicians' lectures about working her way up ring a little hollow. She's keeping her end of the bargain, and a 3.8 grade-point average. She just doesn't have anything left to give.

Mr. President, here is what is happening at one of our regent universities, the University of Northern Iowa, the smallest of our three state universities. For the 1990–91 school year the average loan of a student per year was $2,589. That was in 1991. Today that is up to $4,395, and, if this reconciliation bill passes, that is going to climb even higher. This bill just piles more debt on students. That is going to discourage students from going to school and seeking a higher education.

Who does it hit? It hits moderate- and low-income families the hardest. That is why we have to defeat this reconciliation bill and make sure that these students can get a decent education.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. KENNEDY. I yield 4 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Thank you, Mr. President. I appreciate my colleague yielding me this time.

Mr. President, I am a cosponsor of this amendment and strongly support this amendment. Many good arguments have already been made here this morning. In fact, the chart used earlier by my colleague from New Mexico I think makes the case. Seventy percent of the cuts proposed in the bill before us will fall on students and their families; 30 percent are industry losses.

I suppose in the context of a huge budget, some may say what is $7.6 billion in all of this? I suppose there are not many people here in this body who would understand what this will mean to millions of Americans. The impact seems relatively minor when you start talking about $100, $300, or $500 a year. But they are not minor costs for most Americans.

There is a failure to appreciate, whether it is Medicaid, Medicare, higher education, that while these numbers of $90, $100, $200, $2,000, or $2,700 do not seem like anything large in the context of people of the upper-income levels, to working families in this country, these amounts make the difference between getting an education, getting health care, losing the job, or falling back into poverty. And for many of these families, they will be hit time and time again by the provisions of this bill—they will pay more for health care, receive less earned income tax credit and pay more for college.

Our colleague from North Dakota the other day offered an amendment on the cuts in Medicare. He said cannot we forgo the tax breaks for people making in excess of $250,000 a year? The savings to us would be $50 billion over 7 years, if we just said nobody over $250,000 gets a tax break. We could have saved $50 billion, if we had followed that amendment. But this Senate said no. We are even going to provide the tax breaks for people making in excess of a quarter of a million dollars.

Just think what that $50 billion would do. We would not have to be debating this amendment. Mr. President, $7 billion of that $50 billion could go to these middle-income families out there that are going to feel the pinch in higher education.

Mr. President, we all appreciate and know that in a global economy in the 21st century we are going to have to produce the best-educated, and the best-prepared generation that this country has ever produced if we are going to be effective. That is common sense. Everyone ought to understand that.

Yet as you increase these costs on these families, we are going to watch students fall through the cracks. We are going to lose that talent and ability merely because we want to provide a tax break for people making in excess of a quarter of a million dollars. I do not know anyone who believes, if you have to make a choice as to which of those two groups you benefit when there are scarce resources, it ought not go to people earning a quarter of a million dollars rather than to those of modest means pursuing higher education.

I think it is regretful; I think it is sad, indeed, that this institution could not make the simple decision of saying to those at the highest incomes: Wait a while. Maybe next year or the year after we can provide a tax break for you. But right now we need to assist families struggling to meet the costs of higher education.

This $7.6 billion is going to fall heavily on those families out there trying to make ends meet, trying to send their kids to college and trying to make difficult choices that make this possible.

Let me just quote one recent survey. It shows that business that made an investment in the educational attainment of their work force—as reported by corporate managers—resulted in twice a return in increased productivity of a comparable increase in work hours and nearly three times the return of an investment in capital stock. That is corporate managers talking about the importance of investments in education. I hope this amendment is adopted.

There are 11 million young Americans who are in our public higher education institutions. Cannot we today offer some relief, some hope for them even if it means saying to those making more than a quarter of a million a year, you are going to have to wait a while to get your break, to see to it that those 11 million families, those 11 million children get the opportunity for a decent education? That choice ought to be clear.

I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. At this time I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 10 minutes.

Mr. NICKLES. Mr. President, I wish to thank my colleague from Michigan. I compliment him on his leadership. I just mention that many of the allegations and statements that are made are certainly not taking a look at the overall big picture.

I wish to help students, too. I understand that there may be a leadership amendment that is going to make some modifications in the proposals that are being discussed. I think I will wait for the discussions on the specifics until that amendment is offered. It will be accommodating some of the concerns that have been raised because I think all of us—I happen to have four kids, two of whom are in higher education right now. That costs a little money. But I will tell you the best news we could give my kids that are going to college is to balance the budget.

We only have one proposal before us to balance the budget. That is the proposal that the Republicans have put forth that will give us a balanced budget. I remember going to a town meeting not too long ago and somebody who was about 23 years old raised their hand and said: Senator, will I ever see a balanced budget in my lifetime?

They were just as serious as they could possibly be. Later today, or maybe tomorrow, we are going to be voting on a balanced budget. But there is only one. President Clinton does not have a balanced budget. We do. When you think of somebody going to college and talking about college loans, what a heck of a deal it is right now that they inherit such enormous national debt. Let us at least stop it.

The only proposal that we have before us to stop it is our proposal to balance the budget. Now, we may make some modifications in the proposal to alleviate some of the concerns that have been raised specifically dealing with student loans. So again I will leave that alone for the time being.

Let us talk about what we are doing for all American families. I heard my colleague say, well, this is $10 billion. We are giving American families $140 billion of tax cuts. If they have children, they get a tax cut under our proposal, $500 per child. If you have four children, that is $2,000. That is pretty significant. And families get to decide if they want to use that money for education, for transportation, or for other things. Families make that decision. I think that is important.

I also want to talk about the benefit of a balanced budget for the average American family. If you have a $100,000 mortgage—it seems like that is a large amount but that is not that unheard of today—you will have savings—it is estimated by independent sources that by having a balanced budget you will have a 2-percent interest rate reduction, maybe as high as a 2.7-percent reduction on a $100,000 mortgage. That boils down to savings of over $2,000 per year, actually $2,162 per year.

Also, if you have a student loan, let us say an $11,000 student loan, that is $216 in savings just in the fact that interest rates have come down. If you have a car loan of, say, $15,000, you have savings of $180. Those total savings of $2,500 per year if we are able to bring interest rates down by balancing the budget. So I think students have a real interest in seeing us balance the budget.

I also want to talk about some of the misstatements that have been made. Are families better off at different income levels? Because I heard some people say some lower-income families are getting a tax increase. That is totally false, totally, completely false. And so again I wish to look at what happens to families under this proposal. Families that make, say, $5,000, they do not pay any income tax. They pay zero income tax. Right now they get an earned income credit of $1,800. They get it under present law. That is what they are going to get under our proposal.

What about families making $10,000? They still do not pay any income tax. They get a $3,110 EIC. Next year they are going to get an increase that goes to $3,200.

What about families that make $15,000? Right now, they get a check from Uncle Sam of $2,300. They do not write Uncle Sam a check. They still pay zero income tax and next year they are going to get a bigger check, $2,488. So that is an increase. That is an improvement.

What about families that make $20,000? Well, they get an EIC of $832. With two children, they are presently paying zero tax. Next year, they are going to get from us, EIC goes up to $1,429.

You might say, why? Well, the tax credit reduces their tax deduction so they get a higher EIC.

What about a family that, say, makes $30,000. You have a lot of families making $30,000 that are sending kids to school. Right now, they are writing Uncle Sam a check for $929. Under our proposal, they will receive an EIC of $171 and pay no income tax. That is over a $1,000 improvement for that family. And actually every family beyond here will receive over a $1,000 improvement. Right now, if they are writing checks for $2,000, they will write a check for $900. That is over a $1,000 improvement.

A $40,000 family would write a check to Uncle Sam right now with two children, $3,500. Under our proposal, they will write a check for $2,400. Again, they save $1,100. They save in the child credit. They also save from the reduction in the marriage penalty.

A family making $50,000 would write a check for $5,000. Under our proposal, they will write a check for $3,900. They will get a $1,100 savings. They can use that money for education. Our whole propose is targeted at families, and families can decide how to spend that money. And people with children are concerned about education. We are going to let them keep their money so they can decide how it should be spent. I think that is awfully important.

We have heard a lot of rhetoric that bothers me because it is not factual. Lower-income groups are going to have their taxes raised. Not true. In many cases they are alluding to earned income credits, and so on. Those grow. I happen to be pretty familiar with them. I am going to put them in the RECORD. Maybe everybody can be familiar with them. These credits are growing every year. We give taxpayers a tax cut if they have children and they want their children to go to school.

It is interesting; after the debate we had last night, somebody called my office about 11 o'clock and said: I am kind of embarrassed because my daughter, who is going to school, going to college received an earned income credit of $300. He said the reason why I am embarrassed is because I am a millionaire. But in present law they qualify. Does that make sense? I said, well, why would your daughter qualify? Well, she forgot to tell them that I gave her $18,000 to support her college education. But under present law she can qualify if she does not report that income. Now, we try to tighten down on EIC, so we report other income and say that income should be counted.

Right now with EIC, you qualify under the program if you make less than $26,000. Under our proposal we allow that to grow to $29,000. Some people say that is a Draconian change because the administration wants you to qualify for EIC if you make $34,600. That may be the majority of people in Alabama; that may be the majority of people in Michigan, maybe in Oklahoma. There are a lot of people in our State that make less than $34,000.

So we curb the growth. Right now you can qualify if you have income less than $26,000. We allow that to grow under our proposal to $29,000. But the administration wants it to grow to $34,000.

I had a millionaire call me last night and say, "My daughter received a benefit that I don't think she should have. I think you're right. I think a lot of people are receiving this benefit that shouldn't. Let's try to target our assistance to those people who really need the help."

That is what we are trying to do, target our assistance. Some 70 percent of this package is directed at American families that make less than $75,000 per year. Those are the families that are sending their kids to school. So let us be responsive. Let us be helpful. And let us make some of the changes that are necessary to make our economy grow.

At the same time, let us balance the budget. I am really excited about the opportunity to balance the budget. I am bothered by the fact that the President of the United States had a press conference yesterday and he said, "Look how great we are doing. The deficit has come down 3 years in a row. We are making real progress."

What he forgot to show is what happens in the future. According to the Congressional Budget Office, his deficit grows. He talks about $164 billion in 1995, and it is less than it was the year before. I think that is great. I do not think he is entirely responsible for that. But what happens in the outyears? Well, the Congressional Budget Office says that it will be $210 billion in the year 2002. He forgot to tell everybody the deficit is going to go from $164 billion to $210 billion and over $200 billion almost every year, according to the Congressional Budget Office.

That is not acceptable. There is a change. Some of us are very, very sincere. We mean it. We want to balance the budget. Some of us voted for a constitutional amendment to make us balance the budget, and we failed. We lacked one vote in the Senate. But we also said we should do it whether this amendment passes or not.

Many people on the other side of the aisle said, "We should pass a balanced budget. We don't need a constitutional amendment to make us do it." And if we had the right composition in this body, they would be correct.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oklahoma has spoken for 10 minutes.

Mr. NICKLES. I ask for an additional 2 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for an additional 2 minutes.

Mr. NICKLES. It would be correct if we had the composition in the body that would vote for a balanced budget. But I will tell my colleagues, we cannot balance the budget unless or until we are willing to contain the growth of the entire budget. And we have already had votes to say, "Oh, let's don't reduce the rate of growth in Medicare. Oh, we're cutting $270 billion in Medicare."

The facts are, in Medicare, this year we are spending $178 billion in Medicare, and in the year 2002 we are going to spend $286 billion in Medicare. That is a significant increase. It is a 7 percent increase over that entire period of time, 7 percent per year.

"Don't cut Medicaid, for crying out loud. No. Medicaid is too sensitive." They forget to tell people Medicaid in the last 4 years has grown as much as 28, 29, 13, and 8 percent. Make that in 5 years then 9 percent. Medicaid has exploded in costs. Many States have figured out ways to dump their liability on the Federal Government. It used to be a 50-50 share for most States. Now they are figuring out ways to make it 70 percent Federal Government, 30 percent State. We are trying to reform that and curtail that growth.

Mr. President, I think it is awfully important we balance the budget, and I compliment my colleagues for the proposal we have before us today. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. Mr. President, may I inquire as to how much time is left?

The PRESIDING OFFICER. The Senator from Michigan has 8 minutes 40 seconds.

Mr. NICKLES. Will the Senator yield me—

I ask unanimous consent, Mr. President, to have printed in the RECORD several charts and other material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN FAMILIES BETTER OFF TOMORROW THAN TODAY UNDER SENATE GOP BILL

AGI=Earned Income	Today: EIC check from Uncle Sam	Today: Tax check to Uncle Sam	Senate GOP Bill—1996: EIC check from Uncle Sam	Senate GOP Bill—1996: Tax check to Uncle Sam
Married with Two Children				
$5,000	$1,800	0	$1,800	0
$10,000	3,110	0	3,208	0
$15,000	2,360	0	2,488	0
$20,000	832	0	1,429	0
$25,000	0	$929	171	0
$30,000	0	2,018	0	$950
$40,000	0	3,518	0	2,450
$50,000	0	5,018	0	3,950

AMERICAN FAMILIES BETTER OFF TOMORROW THAN TODAY UNDER SENATE GOP BILL—Continued

AGI=Earned Income	Today: EIC check from Uncle Sam	Today: Tax check to Uncle Sam	Senate GOP Bill—1996: EIC check from Uncle Sam	Senate GOP Bill—1996: Tax check to Uncle Sam
Married with One Child				
$5,000	$1,700	0	$1,700	0
$10,000	2,094	0	2,156	0
$15,000	1,359	0	1,525	0
$20,000	0	$190	266	0
$25,000	0	1,643	0	$1,083
$30,000	0	2,393	0	1,833
$40,000	0	3,893	0	3,333
$50,000	0	5,393	0	4,833
Single with Two Children				
$5,000	$1,800	0	$1,800	0
$10,000	3,110	0	3,208	0
$15,000	2,098	0	2,488	0
$20,000	337	0	1,429	0
$25,000	0	$1,424	0	$347
$30,000	0	2,513	0	1,468
$40,000	0	4,013	0	2,968
$50,000	0	5,513	0	4,468
Single with One Child				
$5,000	$1,700	0	$1,700	0
$10,000	2,094	0	2,156	0
$15,000	864	0	1,425	0
$20,000	0	$685	0	$252
$25,000	0	2,138	0	1,600
$30,000	0	2,888	0	2,350
$40,000	0	4,388	0	3,850
$50,000	0	5,888	0	5,350

85urce: Joint Committee on Taxation.

EARNED INCOME TAX CREDIT

[Historical and current law estimates]

Calendar year	Total cost (billions)	Percent growth	Outlay cost (billions)	Percent growth	Revenue cost (billions)	Percent growth	Number of family beneficiaries	Percent growth	Average credit	Percent growth
1975	1.3		0.9		0.4		6,215,000		$201	
1976	1.3	4	.9	−1	.4	16	6,473,000	4	200	0
1977	1.1	−13	.9	−1	.2	−39	5,627,000	−13	200	0
1978	1.0	−7	.8	−9	.2	0	5,192,000	−8	202	1
1979	2.1	96	1.4	74	.7	166	7,135,000	37	288	43
1980	2.0	−3	1.4	−2	.6	−6	6,954,000	−3	286	−1
1981	1.9	−4	1.3	−7	.6	3	6,717,000	−3	285	0
1982	1.8	−7	1.2	−4	.6	−13	6,395,000	−5	278	−2
1983	1.8	1	1.3	5	.5	−8	7,368,000	15	224	−19
1984	1.6	−9	1.2	−10	.5	−6	6,376,000	−13	257	15
1985	2.1	27	1.5	29	.6	24	7,432,000	17	281	9
1986	2.0	−4	1.5	−1	.5	−10	7,156,000	−4	281	0
1987	3.4	69	2.9	98	.5	−13	8,738,000	22	450	60
1988	5.9	74	4.3	45	1.6	256	11,148,000	28	529	18
1989	6.6	12	4.6	9	2.0	20	11,696,000	5	564	7
1990	6.9	5	5.3	14	1.6	−17	12,612,000	8	549	−3
1991	10.6	53	7.8	48	2.7	69	13,105,000	4	808	47
1992	13.0	23	10.0	27	3.1	12	14,097,000	8	926	15
1993	15.5	19	12.0	21	3.5	14	15,117,000	7	945	2
1994	19.6	26	16.5	38	3.1	−12	18,059,000	19	1,088	15
1995	23.7	20	20.2	22	3.5	13	18,425,000	2	1,265	16
1996	25.8	9	22.0	9	3.8	10	18,716,000	2	1,380	9
1997	26.9	4	22.9	4	4.0	5	18,907,000	1	1,425	3
1998	28.0	4	23.8	4	4.2	4	19,104,000	1	1,473	3
1999	29.3	5	24.9	4	4.4	5	19,369,000	1	1,519	3
2000	30.5	4	25.6	3	4.8	10	19,638,000	1	1,569	3
2001	31.7	4	26.9	5	4.8	0	21,200,000	8	1,639	4
2002	33.1	4	28.0	4	5.1	5	21,400,000	1	1,687	3

Source: Joint Committee on Taxation: Provided by Senator Don Nickles, 10/20/95.

EARNED INCOME TAX CREDIT

[Two or more children]

Year	Credit percent	Maximum credit	Min Income for max credit	Max Income for max credit	Zero credit income
Historical					
1976	10.00	$400	$4,000	$4,000	$8,000
1977	10.00	400	4,000	4,000	8,000
1978	10.00	400	4,000	4,000	8,000
1979	10.00	500	5,000	6,000	10,000
1980	10.00	500	5,000	6,000	10,000
1981	10.00	500	5,000	6,000	10,000
1982	10.00	500	5,000	6,000	10,000
1983	10.00	500	5,000	6,000	10,000
1984	10.00	500	5,000	6,000	10,000
1985	11.00	550	5,000	6,500	11,000
1986	11.00	550	5,000	6,500	11,000
1987	14.00	851	6,080	6,920	15,432
1988	14.00	874	6,240	9,840	18,576
1989	14.00	910	6,500	10,240	19,340
1990	14.00	953	6,810	10,730	20,264
1991	17.30	1,235	7,140	11,250	21,250
1992	18.40	1,384	7,520	11,840	22,370
1993	19.50	1,511	7,750	12,220	23,049
1994	30.00	2,528	8,425	11,000	25,296
1995	36.00	3,110	8,640	11,290	26,673

EARNED INCOME TAX CREDIT—Continued

[Two or more children]

Year	Credit percent	Maximum credit	Min Income for max credit	Max Income for max credit	Zero credit income
Current Law					
1996	40.00	3,564	8,910	11,630	28,553
1997	40.00	3,680	9,200	12,010	29,484
1998	40.00	3,804	9,510	12,420	30,483
1999	40.00	3,932	9,830	12,840	31,510
2000	40.00	4,058	10,140	13,240	32,499
2001	40.00	4,184	10,460	13,660	33,527
2002	40.00	4,320	10,800	14,100	34,613
Senate Reforms					
1996	36.00	3,208	8,910	11,630	26,731
1997	36.00	3,312	9,200	12,010	27,111
1998	36.00	3,424	9,510	12,420	27,521
1999	36.00	3,539	9,830	12,840	27,941
2000	36.00	3,650	10,140	13,240	28,341
2001	36.00	3,766	10,460	13,660	28,761
2002	36.00	3,888	10,800	14,100	29,201

Source: Joint Committee on Taxation: Provided by Senator Don Nickles, 10/20/95.

EARNED INCOME TAX CREDIT

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Phaseout income
ONE CHILD					
Historical					
1976	10.00	$400	$4,000	$4,000	$8,000
1977	10.00	400	4,000	4,000	8,000
1978	10.00	400	4,000	4,000	8,000
1979	10.00	500	5,000	6,000	10,000
1980	10.00	500	5,000	6,000	10,000
1981	10.00	500	5,000	6,000	10,000
1982	10.00	500	5,000	6,000	10,000
1983	10.00	500	5,000	6,000	10,000
1984	10.00	500	5,000	6,000	10,000
1985	11.00	550	5,000	6,500	11,000
1986	11.00	550	5,000	6,500	11,000
1987	14.00	851	6,080	6,920	15,432
1988	14.00	874	6,240	9,840	18,576
1989	14.00	910	6,500	10,240	19,340
1990	14.00	953	6,810	10,730	20,264
1991	16.70	1,192	7,140	11,250	21,250
1992	17.60	1,324	7,520	11,840	22,370
1993	18.50	1,434	7,750	12,200	23,054
1994	26.30	2,038	7,750	11,000	23,755
1995	34.00	2,094	6,160	11,290	24,396

EARNED INCOME TAX CREDIT—Continued

Year	Credit percent	Maximum credit	Min income for max credit	Max income for max credit	Phaseout income
Current Law					
1996	34.00	2,156	6,340	11,630	25,119
1997	34.00	2,227	6,550	12,010	25,946
1998	34.00	2,305	6,780	12,420	26,846
1999	34.00	2,380	7,000	12,840	27,734
2000	34.00	2,455	7,220	13,240	28,602
2001	34.00	2,533	7,450	13,660	29,511
2002	34.00	2,615	7,690	14,100	30,462
Senate Reforms					
1996	34.00	2,156	6,340	11,630	23,321
1997	34.00	2,227	6,550	12,010	23,611
1998	34.00	2,305	6,780	12,420	24,021
1999	34.00	2,380	7,000	12,840	24,441
2000	34.00	2,455	7,220	13,240	24,841
2001	34.00	2,533	7,450	13,660	25,261
2002	34.00	2,615	7,690	14,100	25,701
NO CHILDREN					
Current Law					
1976	n/a	n/a	n/a	n/a	n/a
1977	n/a	n/a	n/a	n/a	n/a
1978	n/a	n/a	n/a	n/a	n/a
1979	n/a	n/a	n/a	n/a	n/a
1980	n/a	n/a	n/a	n/a	n/a
1981	n/a	n/a	n/a	n/a	n/a
1982	n/a	n/a	n/a	n/a	n/a
1983	n/a	n/a	n/a	n/a	n/a
1984	n/a	n/a	n/a	n/a	n/a
1985	n/a	n/a	n/a	n/a	n/a
1986	n/a	n/a	n/a	n/a	n/a
1987	n/a	n/a	n/a	n/a	n/a
1988	n/a	n/a	n/a	n/a	n/a
1989	n/a	n/a	n/a	n/a	n/a
1990	n/a	n/a	n/a	n/a	n/a
1991	n/a	n/a	n/a	n/a	n/a
1992	n/a	n/a	n/a	n/a	n/a
1993	n/a	n/a	n/a	n/a	n/a
1994	7.65	306	4,000	5,000	9,000
1995	7.65	314	4,100	5,130	9,230
1996	7.65	324	4,230	5,290	9,520
1997	7.65	334	4,370	5,460	9,830
1998	7.65	346	4,520	5,650	10,170
1999	7.65	357	4,670	5,830	10,500
2000	7.65	369	4,820	6,020	10,840
2001	7.65	380	4,970	6,210	11,180
2002	7.65	392	5,130	6,410	11,540
Senate Reforms					
1996	0.00	0	n/a	n/a	n/a
1997	0.00	0	n/a	n/a	n/a
1998	0.00	0	n/a	n/a	n/a
1999	0.00	0	n/a	n/a	n/a
2000	0.00	0	n/a	n/a	n/a
2001	0.00	0	n/a	n/a	n/a
2002	0.00	0	n/a	n/a	n/a

Source: Joint Committee on Taxation: Provided by Senator Don Nickles, 10/20/95.

[From the U.S. Senate—Republican Policy Committee]

To: Budget and Tax L.A.'s.
From: J.T. Young.
Re: Earned Income Tax Credit.

Once again we bring to your attention a piece run by today's Washington Post that refutes the shrill political posturing of the White House.

(By James K. Glassman)

A PROGRAM GONE BONKERS

The road to a $5 trillion national debt is paved with good intentions.

Look at the Earned Income Tax Credit (EITC). Launched by Gerald Ford, lauded by Ronald Reagan, expanded by George Bush and Bill Clinton, it's based on welfare principles that even a Republican (or a professed New Democrat) can love. The only problem is that, like many other good ideas in Washington, it's gotten completely out of hand.

Currently, the EITC is the fastest-growing program in the federal budget. It will cost the Treasury $24 billion this year, up from less than $2 billion 10 years ago.

In their giant reconciliation bill—the final budget measure of the year—Republicans are trying to restrain this growth. Under the Senate version, EITC costs will rise to $32 billion in 2002. In the budget language of Washington, that's a cut. In any other language it's an increase—although not so large as projected under the current law, which has costs rising to $36 billion by 2002.

The EITC is a sort of negative income tax. If you fall into a certain earnings bracket, you don't pay the government; the government pays you.

The idea of the EITC is to put more money in the pockets of low-income working families. If you don't work, you don't qualify. Since the benefits are paid in cash and the rules are simple, the Internal Revenue Service can administer the EITC easily and cheaply.

Believers in the free market like the notion that the EITC doesn't force recipients to use funds for a particular purpose like other federal programs (housing, food stamps). Instead, it gives them money and lets them make their own choices.

The EITC is not only the fastest-growing entitlement program, it's the broadest. In 1986 some 7 million families were covered by the EITC, and the average-outlay by the government was $281. This year 18 million families are covered at an average of $1,265. In 1986 the maximum credit taxpayer could receive was $550; today, it's $3,111.

In Mississippi, a whopping 39 percent of families receive the EITC; in Texas, 26 percent; California, 22 percent. With this kind of penetration, the EITC follows a welfare tradition invented by Franklin Roosevelt: To keep a program alive, make sure money flows not just to the poor but to the middle class. That's been the key to success for Social Security, Medicare, student loans and farm subsidies.

The EITC was begun as a modest program to help offset the burden of payroll taxes on the poor and, through its unique structure, to encourage them to work more. But the philosophy soon became: "Hey, if a little bit is good, then more is better," says Bruce Bartlett, an economist who served in the Bush Treasury Department.

Today, the EITC is enjoyed by families making as much as $26,672 a year, and that doesn't include outside income. Under the tax law that President Clinton promoted and signed two years ago, by 2002 families making $34,612 will qualify for EITC benefits. The Senate wants to scale that figure back to $30,200—which seems pretty sensible for a government that already owes its creditors $4.9 trillion.

At its core, the EITC is a massive income transfer scheme. New IRS figures show that in 1993 the top 5 percent of American earners paid 47 percent of the federal income taxes, up from 37 percent in 1981. Meanwhile, the bottom 50 percent of earners—thanks in large measure to the EITC—paid 5 percent of the taxes.

The EITC, in other words, has created a veritable tax holiday for about half the families in America.

Many would say that's fair. But there's another question raised by the EITC: Does it really encourage work? There's doubt.

For 1996, families with two or more children will earn credits of 40 percent of their income until they reach earnings of $8,910 annually. Then, they max out at a credit (in nearly all cases, a cash payment) of $3,564. So far, so good. Clearly, there's a big incentive to work, since a dollar paid on the job becomes $1.40 in the pocket (minus modest payroll taxes).

If you earn between $8,910 and $11,630, you still receive the maximum credit. Then the disincentive begins—you start losing 21 cents of credits for every additional dollar you earn. When your income reaches $28,533, your credits hit zero.

Again, this sounds fair. But the problem is that the EITC forces lower-income Americans to face marginal tax rates that are higher than those faced by the richest Americans.

As Bartlett wrote recently in a brief for the National Center for Policy Analysis: "Families with incomes between $11,000 and $26,000 are being taxed at the rate of 60 percent on each additional dollar earned. . . . This total tax rate includes federal, state and local taxes plus the reduction in the EITC."

And these high marginal taxes definitely discourage work. Economist Edgar Browning of Texas A&M reported in the National Tax journal that nearly half of all families receiving the EITC has less income than they would have had without the tax credit—because the credit enticed them to work less. And a University of Wisconsin study found that "on balance the EITC reduces the total hours worked."

Is there a solution to the EITC conundrum? One answer is to remove the phaseout of benefits: Simply give all taxpayers an extra 40 percent credit for the first $10,000 or so of income. But that would be hugely expensive. Another answer is to kill the EITC entirely. But that would be politically impossible.

The third course is to try to restrain a program gone bonkers. That's what the Republicans are doing. At the same time, however, they should admit that the EITC isn't quite so glorious as they once thought. Maybe luring people out of poverty is something that government just can't do.

Ms. MIKULSKI. Mr. President, I must oppose the reconciliation bill we consider today because it impacts on parents, students, and families in ways they cannot afford; that is why I support and cosponsor Senator KENNEDY's amendment to strike the student loan provisions in this bill that impose higher college costs on students and working families.

Mr. President, the Labor Committee's proposal to save $10.85 billion through changes in the Federal Student Loan Program is simply unacceptable. It strikes a blow at the Federal Government's role in providing an opportunity structure for our Nation's youth. It threatens the future economic opportunity for young people who are today's students and tomorrow's work force, and it rejects help to those who practice self-help.

The Labor Committee's reconciliation proposal is another strike at this Nation's opportunity structure. The Republicans want to levy on new tax on colleges and universities. The Republicans want colleges to pay a .85 percent tax on their total student loan volume. That is outrageous.

It does not make a difference whether that tax is .85 percent or 2 percent as originally proposed by committee Republicans. A tax is a tax. Colleges and universities will still have to pay a new tax to the Federal Government every year.

Mr. President, colleges and universities all across my State of Maryland are adamantly opposed to this new tax.

This new tax means that the University of Maryland in College Park will have to pay approximately $255,000 in taxes on its student loan volume each year. The University of Maryland in Baltimore will have to pay approximately $180,000.

Private independent colleges will be especially hard hit. These colleges do not get substantial State financial support. This results in higher student loan volume. So, Loyola College in Baltimore will have to pay approximately $95,000 to the Federal Government.

It means that Johns Hopkins University will have to pay about $204,000 and Western Maryland College will pay about $25,000 in taxes on student loans each year.

Where will colleges get this money? They may be forced to pass on this new tax burden to students in the form of increased tuition, reduction in scholarships, or elimination of student services or programs.

College tuition has already skyrocketed. Our undergraduate students borrow the maximum of $17,125 a year just to be able to afford a college education, to have access to increased opportunities and to achieve the American dream. But this reconciliation bill will leave some students out in the cold.

This is unacceptable. It is not only a tax on colleges, but a tax on opportunity. Students in this country are told every day—do well, work hard, get a good education and you will be rewarded. But this kind of tax sends the wrong message to students trying to get ahead and trying to get ready for the future.

Mr. President, the Congress passed the Higher Education Act amendments in 1992 to bring help to those who practice self help. It was meant to be Federal help to middle class families who are drowning in debt and trying to send their children to college.

Yet, imposing a new tax is not only a hit on colleges and students, but also a hit on parents trying to help pay for their child's college education. This reconciliation bill increases the interest rate that parents will pay on loans and increases the overall cap on that interest.

Mr. President, promises made must be promises kept. By cutting student loans, we are cutting the promises we made to students, to parents and to colleges.

I believe in rewarding the good guys in our society who work hard and play by the rules. That means giving help to middle-class families where moms and dads struggle—maybe even working two jobs—to pay tuition to send their son or daughter to college.

Mr. President, these families are paying loans on top of loans. We cannot turn our backs on them now.

Our students need our support through Federal financial aid programs or through innovative initiatives like national service. But, we are doing away with those opportunities too.

National service gives students an alternate way to afford college, and at the same time, national service helps meet some of our community's most critical needs.

As an appropriator, I know firsthand how hard it is for the Government to come up with a balanced check book. But education must be our No. 1 priority. It is with me. It is for parents and students who balance their own check book every day and every semester. It should be a priority for this Congress.

Mr. President, college is no longer a luxury. It is a necessity just to stay competitive in the job market. It is a dream come true for parents of first generation college students to see their children walk across the stage. I believe we should give people the chance to pursue their dream through earned opportunities. To rob them of this opportunity is robbing America of its future.

I hope every member of the Senate will support Senator KENNEDY's amendment to strike the student loan provisions from this bill. It is an important investment to this Nation's students and it is important to America's economic future.

Mr. HOLLINGS. Mr. President, first I want to thank the Senator from Massachusetts for his great leadership on preserving student aid. He has moved quickly at every opportunity to stick up for students and parents, and his amendment today is sorely needed.

Mr. President, student aid has a proud history in this country. Much of my generation went to college on the GI bill. Then we passed the Higher Education Act of 1965, helping boost college attendance to today's levels. Of the 13 million students in college today, half of them receive Federal grants and loans under that Act.

Economically, budgetary, morally, this bipartisan policy of making student aid a priority has been right. Economic analysis shows that we have benefited 8 for 1 on our GI bill investment. Recent analysis shows that the investment in education is twice as productive as other workplace investments. And the lower income people in our society should not be shut out of an affordable college education. We need to make every effort every year to make sure that our higher education assistance policy builds our country rather than dividing it.

But Republicans have come this year with the proposition to students that everyone has to help balance the budget. Students should take some time in the library and study this bill. Everyone does not pay. Students—particularly low-income students—are asked to pay $10.8 billion more. But others—particularly those who can pay for college out of their pockets—get new tax breaks. These tax breaks and increased spending in other parts of the budget are much larger than the student loan cuts. In other words, this Congress could easily choose not to make students pay more, but the Republican leadership thinks it is more important to give more to certain constituencies before the next election, all the while crying balancing budget.

Let me be specific about how Congress could avoid cutting student aid in this bill:

First, we could lower the brand new tax break in this so-called budget-balancing bill from $245 billion to $235 billion.

Second, we could trim back the proposed defense increase of over $50 billion.

Third, we could refuse to provide a new tax break for corporations currently paying the minimum allowed, which is what is offered in this amendment.

The fact is, all of these alternatives—and many others—are unacceptable to the Republicans that wrote this budget because student aid was a much lower priority to them than new tax breaks.

Mr. President, these student aid provisions are shameful. If students and parents knew what was in this bill, they would think we had gone off the deep end. This is not the way we balance the budget, it is the way we pander for the next election and put the budget out of balance in the long run. I urge my colleagues to support the Kennedy amendment to maintain our investment in education.

Mr. AKAKA Mr. President, I rise to express my deep concern about cuts in education programs included in the reconciliation bill.

The bill before us cuts $10.8 billion from the student loan program. These proposals include a 1 percent fee hike in PLUS loans, elimination of the grace period for recent graduates, the imposition of a 20 percent cap on direct student loan volume, and an .85 percent school tax based on the institution's student loan volume. If you wanted to undermine deliberately higher education, it would be difficult to come up with a more destructive list of proposals. Plain and simple, these education cuts are irresponsible.

Mr. President, the 1 percent fee hike for PLUS loans is regressive and could add $5,000 to a family's indebtedness for a college education. This may not mean much, but to a family struggling to make it on $25,000 a year, it could deprive a student of a college education. Moreover, this measure discriminates against families who haven't achieved the dream of home ownership, and who cannot take out home equity loans to finance college.

Eliminating the grace period for recent graduates is similarly ill-conceived. This provision would saddle graduates with additional financial burden at the most critical time in their careers. It could force graduates to settle for lower paying, less desirable jobs immediately upon graduation rather than providing them a reasonable opportunity to secure higher paying employment that better matches their skills and desires.

The proposal to cap the direct loan program at 20 percent of the total student loan volume is misguided in three respects. First and foremost, it would discourage additional schools from participating in the program and reduce the opportunities for thousands of economically disadvantaged students who would not be able to qualify for guaranteed loans.

Second, the 20 percent cap will ultimately drain the Treasury of billions of dollars because reinsurance fees and other subsidies will be paid to banks, secondary markets, and guaranty agencies. Direct loans have been a money saver because they cut out the middleman, reduce administrative overhead, and increase accessibility. Only the banks and other financial institutions stand to profit from the changes in this bill.

Third, capping direct loans will effectively limit one of the most important side benefits of the program—providing competition to the banks. Without the direct loan program, the lending industry would be free to raise interest rates on their own student loan instruments, increasing borrowing costs to those who choose, or are forced to choose, private lending sources. This in turn is likely to lead to additional defaults, the costs of which will be borne by the taxpayer. I would be curious to learn how proponents of free enterprise explain this clearly anticompetitive initiative.

Mr. President, the last major GOP education initiative is the proposed 0.85 percent tax on schools. Like the other proposals, this is a regressive inititaive that will discourage schools from participating in the direct loan program, force them to pass on the costs to students through increased tuition, and require them to tap into their already dwindling student financial aid budgets. Again, as with the other initiatives, this provision will disproportionately impact students from low- and middle-income families. It is ironic that as Republicans trumpet a $245 billion package of tax cuts that largely favor wealthier Americans, they seek to impose an indirect tax on students and families who can least afford it.

Mr. President, these are some of the reasons why I oppose the education provisions contained in this measure. When added to the proposed wholesale reductions in discretionary education programs—from Head Start to Goals 2000, to campus-based aid—they constitute a plan to reduce access to quality education and harm our ability to compete in an increasingly sophisticated international marketplace.

Reducing investment in education, which is already inadequate, will inevitably limit economic growth and undermine the standard of living of middle-class Americans in the 21st century. And it will close the window of opportunity for the economically disadvantaged among us who are pursuing the American dream.

Mr. President, reducing our commitment to an educated, skilled work force in the name of deficit reduction is shortsighted and terribly misguided. As this country struggles to find its way in a global marketplace dominated by cheap foreign labor and high technology, withdrawing our investment in education amounts to economic suicide.

This budget proves that Republicans are more committed to protecting the interests of the haves than in accommodating the aspirations of the vast majority of Americans who want only to improve the quality of their lives through hard work and education. Again, I believe this is a pennywise, pound-foolish approach that is shortsighted, mean spirited, and will cost the taxpayer money in the long run.

If this budget is implemented, students of modest means may have to forgo a college education; others who are fortunate enough to achieve their baccalaureates may have to forgo their dreams of pursuing graduate study. And those students who leave college in the future will be saddled with huge debt burdens at a time when they are least likely to be able to afford payments.

The proposals contained in this measure, in concert with the proposed reductions in fiscal year 1996 education appropriations measure, will ensure that our future work force is less educated, less productive, and less well off. This in turn will reduce the Nation's tax base, placing further upward pressure on the deficit—exactly the opposite effect from the stated purpose of this budget plan.

This wholesale disinvestment in our most important resource, our young people, is not merely shortsighted, it is blind. Blind to the imperatives of the new global marketplace, blind to the effect that cuts in education will have on our ability to prosper in an increasingly complex world, and blind to the effect it will have on our deficit.

But competitiveness, economic viability, and individual opportunity will not be the only victims of the proposed cutbacks in education. Our sense of civil community, of history, of tolerance, the ability to conduct informed, rational discourse—these are also the potential victims of this harsh and ill-conceived budget plan.

For education is not just about making enough to feed the kids or to buy a new car or to own a home—it is also about preparing ourselves to carry out the responsibilities of citizenship in the world's oldest republic.

Mr. President, no sane nation embraces ignorance. Yet, this is what the proposed resolution would have us do. I therefore urge my colleagues to reject this war on knowledge by opposing the education proposals contained in this measure that threaten our future.

Mr. KENNEDY. How much time do we have?

The PRESIDING OFFICER. The Senator from Massachusetts has 14 minutes.

Mr. ABRAHAM. I am prepared to yield our time.

Mr. KENNEDY. I was just going to yield 4 minutes to the Senator from Washington, and then we go with your side.

Mr. ABRAHAM. Fine.

Mr. WELLSTONE. Will the Senator yield?

Could I ask the Senator from Michigan how much time will be yielded to the Senator from Idaho?

Mr. ABRAHAM. The remainder of our time.

Mr. WELLSTONE. OK. Thank you.

The PRESIDING OFFICER. The Senator from Washington is recognized for 4 minutes.

Mrs. MURRAY. Thank you, Mr. President.

I thank my colleague from Massachusetts for this amendment.

As I sit here and listen to this debate today, I cannot help but wonder how many of our colleagues depended upon financial aid to advance their education and build the foundation for their careers. This is a highly educated body. And judging from the vast array of degrees that are conferred upon my colleagues, I would have guessed that many were dependent upon Federal assistance to finish their schooling.

However, the proposal to eliminate $10.8 billion in student loans forces me to question whether any of my colleagues on the other side of the aisle ever relied on financial aid to get an education. I can tell you I would not be here today without Federal assistance that made my college education possible.

I will also tell you that working families will be the hardest hit by this gutting of our student loan program. These middle-income families often do not qualify for full scholarships and cannot afford to pay full tuition, particularly when $20,000 a year for tuition is today's norm in higher education. Why sacrifice our Nation's future by limiting educational opportunities for young people?

This bill could have targeted the student loan industry, but instead 63 percent of the bill's student loan cuts fall directly on students and their parents. Take for example the increased rates on PLUS loans that are taken out by parents. I can tell you as a parent of two children entering the post-secondary world, I am concerned that families across this land will find these new loans out of reach. This aid is particularly important to those families without enough equity in their homes to take out a tax-deductible home equity loan.

Mr. President, I am extremely concerned with the proposal to eliminate a small, but very important, element to those entering our work force. All of us realize the difficult challenges facing today's college graduate. The limited prospects of employment, coupled with financial independence, on top of an already mounting educational debt put many of our graduates today in fiscal hardship before they are ever able to contribute back to our society.

To help these individuals during this difficult time, we have provided a 6-month grace period on their loan once they finish school. This is not loan forgiveness. It does not lead to increased deficits or defaults. It simply provides a new college graduate a few months to find a job and begin the process of becoming a contributing member of our society.

Some say this is a minor provision, appreciated by few students. I will tell you, at the University of Washington, in Seattle alone, 12,000 students will feel the impact of this grace period. It means $2.4 million to those students.

Finally, Mr. President, let us discuss a program that is working. The direct loan program is producing enormous benefits for all. In a recent survey, 112 campuses using the direct lending program were polled, and 90 percent reported satisfaction with the program.

During this academic year more than 1,350 schools are making borrowing easier for their students through the direct loan program. It is praised by students and college presidents alike for its speed, efficiency, and lack of bureaucracy. Why are we capping this success at 20 percent of total loan volume when we know it works? Let us give direct lending a chance to work for our schools and its students.

Mr. President, these cuts in our student loan programs are not economic savings. They are only going to shortchange our country's future. When we sacrifice our next work force for the sake of quick economic savings, we all mortgage our economic prosperity. The cuts in student loans are a direct impact to every single working family who wants to know that their child will be able to go on to college in this country that we are so proud of.

Mr. President, I yield back my time to the Senator from Massachusetts.

The PRESIDING OFFICER. Who yields time?

Mr. ABRAHAM. I yield the remainder of our time to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank my colleague from Michigan for yielding.

Mr. President, I find that the debate that is currently going on on the floor interesting but not balanced. And I say that because, while we talk about our children and the great compassion that I think this Senate and this Congress has always demonstrated toward young people in need, there is another side to the story that must be told if we are to speak of balance.

There is no question that we want as many of our young people as well educated as they can possibly become. We should encourage that kind of an environment. Clearly, the student loan program that is embodied within this package today will continue to educate as many as are currently being educated with the flexibility of growth to include more. While it changes the parameters of the obligation, it would be grossly unfair for anybody to portray that we are stepping away from or stepping back from our commitment to disadvantaged young people today seeking higher education.

What is glaringly absent from the debate on the other side is the rest of the story. I will tell you that having an education, having a degree in an economy that does not create a job and hire you is the greatest of tragedies.

The budget that we are seeking to bring about, in promises kept to the American people, is a budget in balance, and there is not an economist in this country today that will disagree that a budget imbalance causes the economy of this country to be more productive, more job creating, having the ability to pay higher wages and to hire the master's degrees and the doctorate degrees that oftentimes today go wanting and in their search for a job cannot find themselves able to pay the student loan.

The future of our children, Mr. President, and our grandchildren does not depend on a student loan. It depends on the economy of this country and the vitality of that economy that produces the student loans that creates the jobs that offers the future and the opportunity.

Most economists agree today that our current debt structure creates a 2-percent drag on our economy, and that 2-percent drag costs us hundreds of thousands of high-paying jobs annually as we work to increasingly compete in a world marketplace.

I find it absolutely amazing that this President will argue a $200 billion deficit and a debt that heads toward $5 trillion and says that that is growth and that is opportunity and that is going to create a productive economy.

Let me tell you what that kind of $200 billion deficit does to the average child of today, the college student of tomorrow, the job seeker in the future.

The average child today will pay $5,000 additional taxes over their lifetime with that $200 billion deficit. The Clinton budget projects deficits of that range out through the year 2000, and that alone adds up to an additional tax burden of $40,000 in the lifetime of that child. Those are statistics from the National Taxpayers Union.

Mr. President, in my opinion, that is the future. This Senator is going to vote for a dynamic program of student aid, but he is not going to deny that student the same opportunity that that student's parents had in their lifetime: to seek a better life, to have a job, to be productive, to be creative. That is our reality, and that is what we promise the American people.

So I suggest to all of us today that this really is a debate about the child and the child's future and his or her opportunity to be productive, to have a rewarding experience in their life, because just like the security of Medicare and just like the security of Social Security, they are all bound inextricably to the productivity of an economy. Not debt, not layoffs, not a sluggish economy that is not able to get up to speed and to be competitive in a world marketplace.

I am absolutely amazed that we cannot strike that balance or that we have to struggle so hard to argue that a balanced budget makes sense. Somehow this deficit syndrome that the President has caught himself in and is unable to escape—while he argued yesterday, "Look at the productivity, look what I have done," what he failed to say, "In the outyears, I am going to have to ask the American people for another large tax increase, because while my tax increase of a year ago has forced the deficit down, the Government has not changed its spending habits. And every program that I offer in my budget," i.e., the President, "I want more spending and more Government and more growth in the most nonproductive sector of our society."

The American people last November said it very clearly. They said, "Sorry, Mr. President, you're wrong; you've got to change and our Government has to change and we have to make sense of something, because we sense our vitality is slipping away, our ability to make a living is slipping away."

I do not dispute what the other side is saying about the less ability of the American family to pay for their child's education, but have they ever stopped to ask why there is less ability, why can the family of today not provide as much for the child as the family of 20 or 30 years ago? There is an obvious reason. They cannot provide the lifestyle. The economy has been dragged down by a debt structure and a Government that consumes ever greater a proportion of the gross national product of our country in the most nonproductive of ways.

I do not dispute the need for Government, but I do dispute its size, I do dispute the debt, I do dispute the deficit, because economic common sense says, and most economists agree, that if this Government can live within its means, our economy will be a much more productive place, I say to my fellow Senators, and we all know what that means. That is opportunity, that is jobs, that is productivity, that is the average family being able to care for their children and having the pride to say to their children, "You are going to have a better life; you are going to have greater opportunity; we want you to have that college degree, and we can assist you in doing so because our lives are better lives."

That is the issue at hand. It is the debt. It is the question of deficit. It is the drag on the economy and the nonproductive way that we have found ourselves increasingly caught up in, unable to provide those kinds of opportunities.

I applaud what this side is attempting to do in response to the American people and future generations to come.

You see, Mr. President, I have parents—like we all do—who grew up in the Depression days, and they tell me about the phenomenal difficulties and the attitudes that for a generation that experience provoked on the American scene; that somehow they thought less of themselves and less of their ability to produce because of the phenomenal negative economic experience that that generation went through.

Can we assume that that could never occur again? Well, we should not, and that is what Republicans and Americans are doing today in their effort to produce a balanced budget to control the growth of Government and say to future generations, "We heard you and we provided an economy that will give you the opportunity you seek."

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 2 minutes to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I am delighted to join my colleague from Massachusetts in supporting this amendment. As I listen to some of the rhetoric on the floor, I really feel like this is Alice in Wonderland out here. This is not a debate about whether we are going to reduce the deficit or balance the budget. The Republicans keep coming back and saying, "By God, the only way we are going to deal with the deficit and the budget is to do these things."

The choice here is how we are going to balance the budget. They want to spend more money on B-2 bombers. They want to continue the Market Promotion Program. They want to take a $5 million asset on a trust fund and give people a $1.7 million tax break. It is a question of how we are doing it.

What we all understand is, we should not be doing it at the expense of students and at the expense of the colleges and universities that have entered into the Direct Loan Program so that you can put more money back into the pockets of the lending institutions. It just does not make sense.

The Senator from Idaho stands up and says, "We are going to take a lesser amount of money, but we are still going to be able to give you the same amount of education." I wish he had been there yesterday when the chancellor of the University of Massachusetts and the folks from Lowell, MA, and New Bedford and Fall River, which have 15 percent unemployment, working class people came in and said to me, "Senator, if these cuts go through, our kids are going to drop out of school." And they are going to drop out of school because they are going to have $5,000 of additional costs in interest on the PLUS loan that is going to be $700 to $2,500 of debt because they eliminate the interest subsidy on the 6-month grace period. They are going to have a transfer tax on colleges and universities participating in the student loan program, and they are going to end, for half the universities, direct participation.

Mr. President, those kids cannot go to school paying that additional money. But they are giving the money to people earning more than $300,000, and to all of these other interests. They are continuing additional defense spending. The question is how we will balance the budget. It should not be done on the backs of the future generation in education.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. Yes.

Mr. DOLE. I ask unanimous consent that I may use a portion of that leader time without it being charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF WAR CRIMES

Mr. DOLE. Mr. President, today's Washington Post reveals shocking news about what happened to the men of Srebrenica after this so-called safe area fell to Bosnian Serb forces in July. Twelve thousand men from this U.N.-designated safe area tired to flee to Bosnian Government-held territory and more than half were brutally butchered by forces under the command of Gen. Ratko Mladic.

Yesterday's Christian Science Monitor reported that Serb officers—from Serbia—actively participated in the massacre of Moslems from Srebrenica.

No doubt about it, General Mladic and his forces are directly responsible for these war crimes. But, these reports beg the question: What was the role of the Yugoslav Army in this attack on Srebrenica and the subsequent massacre of Moslems. And more importantly, what was Slobodan Milosevic's role in these savage war crimes?

Reportedly Mladic is often in Belgrade—where he coordinates with senior Serb officers, including the Chief of Staff of the Yugoslav Army. The Yugoslav Army has continued to actively assist Bosnian Serb forces. And Bosnian Serb and Serb air defenses are integrated.

The bottom line is that the Congress—and the American people—need to hear what the administration knows about the relationship between Bosnian Serb forces and the Yugoslav Army, and the relationship between Mladic and Milosevic. Have we been told everything the administration knows about Milosevic's possible culpability in this hideous war crime?

Frankly, I am highly skeptical that the buck stops at General Mladic. In any event, these questions need to be answered by the administration now.

Next week, the proximity talks will begin in Dayton and Serbian President Slobodan Milosevic will attend. We need to know whether we are rolling out the red carpet for a war criminal. We need to know who the administration is dealing with—the butcher of the Balkans or the peacemaker of the Balkans?

Furthermore, the President should publicly commit his administration to ensuring that these war crimes will not be swept under the rug as part of the price of peace settlement. If Milosevic is responsible for war crimes, he should be held accountable—even if this complicates the peace negotiations.

Mr. President, if the administration fails to effectively address the matter of war crimes in the former Yugoslavia, the Congress will. The fiscal year 1996 foreign operations bill includes an amendment I offered on the Senate floor which would prohibit bilateral assistance to any country that provides sanctuary to individuals indicted by the U.N. War Crimes Tribunal on Yugoslavia. It also instructs U.S. representatives in multilateral institutions to vote against aid to any country that provides sanctuary to indicted war criminals.

The United States is the leader of the free world—this requires not only political, but moral leadership. We cannot repeat the United Nations' grievous error of looking the other way when confronted with enormous crimes against humanity.

Mr. President, I reserve the remainder of my leader time.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have 30 seconds to thank the majority leader for his statement.

Mr. DOLE. I yield 30 seconds to the Senator from Minnesota.

Mr. WELLSTONE. I thank the majority leader for his statement made on these war crimes, these atrocities. I do not believe that those who committed these crimes should be able to get away with it. I think it would be a terrible mistake for the world.

I appreciate the power of what the majority leader says. I very much appreciate his focus on the war crimes.

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Minnesota.

Mr. WELLSTONE. When I heard what my colleague from Idaho said, I could not be in more profound disagreement. The debate is not on a balanced budget, deficit reduction; it is on a Minnesota standard of fairness. This agenda here is not connected to the reality of the lives of people that we represent back in our States: "Senator, I am a student at Moorhead State, I work three minimum-wage jobs. The college years are not the best years of my life."

"Senator, I am a nontraditional student. I am older than you and I lost my job; I am going back to school, and I do not have much money. If you cut my financial aid, I will not be able to get back on my own two feet."

"Senator, I am a single mother, and I am going back to school, and I have two small children. If you cut my financial aid, I will not be able to move from welfare to workfare."

I hear it in community colleges; I hear it in public universities; I hear it in private schools. I asked my colleagues, I say to my colleague from Massachusetts, during markup, "Have you held town meetings in the campuses? Do you know what the consequences of what you are doing here in the Senate will be for students in this country?"

Mr. President, this is outrageous.

I ask unanimous consent to have printed in the RECORD the text of a petition from 515 students at Inver Hills Community College and Lakewood Community College.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PETITION FOR SAVING OUR STUDENT LOAN PROGRAM

Students are concerned about federal financial aid cuts Congress proposes to higher education. If these cuts are made, they will affect my ability to go to college and find a living wage job. Please help me continue to have an education that is affordable and accessible. The economic security of our nation depends upon a well-educated work force. America's future rests in your hands.

Mr. WELLSTONE. Mr. President, I simply say it loud and clear, and I will shout it from the mountaintop. I only have probably 30 seconds left. If you want to do deficit reduction, cut the subsidies for the pharmaceutical companies, cut the subsidies for the oil companies, cut the subsidies for the insurance companies, cut the subsidies for the tobacco companies; do not spend more money on stealth bombers and Trident and all of the rest, and do not have tax cuts that disproportionately go to the wealthiest people.

Do not do deficit reduction by denying all too many young people—and not-so-young people because many of our students are older—their opportunity for a higher education. I am proud to be an original cosponsor of the Kennedy amendment. It speaks to basic economic justice. I hope 100 Senators vote for it.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes 12 seconds.

Mr. KENNEDY. I yield myself 4 minutes, Mr. President.

Mr. President, I want to repeat what I mentioned at the outset, that our amendment is budget neutral. We have been asked about that.

Mr. President, in the final few moments, I have been amazed by the silence of our Republican friends in defending an indefensible policy. Silence in defending a policy that will put a stranglehold on the sons and daughters of working families trying to achieve a better education. The most that was said in defense of this indefensible policy, Mr. President, by one Member of the Republicans, is that this proposal is "changing the parameters of the obligation." Let me tell every working family in my State and across the country the truth. This Republican proposal is going to mean more dollars out of your pocket and more obligations on the students of this country.

In the final breath, Mr. President, there is an extraordinary reliance by our Republican friends on raising the revenues. In their proposal, they put a tax—described by the majority of the Republicans as a "fee"—on every educational institution in this country. They would mandate a tax on every educational institution. The cruelest part of all is that the amount of that tax increases as they provide more and more assistance to the neediest students that go to those schools. The institutional tax goes in the opposite direction of every educational policy that we have made in the last 30 years. It requires more and more payment by the sons and daughters of working families and the neediest families. That is just an extraordinary admission, Mr. President, of a bankrupt effort by our Republican friends by taxing these working families.

In the Republican proposal, working families are going to have to pay more out of their hard-earned income because of the tax increase in the EITC. Then, the same working families are going to pay more out of scarce resources for the copays and the deductibles we will have to have.

Because of reductions in Medicaid, these working families are going to pay even more to provide health care coverage for their children.

For what reason? To give a tax break for the wealthiest individuals and the wealthiest corporations. That is what this is all about. They are taking the money out of the pockets of the neediest families in this country and transferring it to the wealthiest individuals. That is the parameter of the obligation that our Republican friends refer to when they try to justify their position.

Mr. President, this bill and these cuts are too harsh and too extreme. But, in addition to their cold heart, Republicans are now getting cold feet. The verdict of the American people is coming in.

Republicans are being found guilty beyond a reasonable doubt of hurting senior citizens on Medicare; guilty of hurting helpless elderly patients in nursing homes; guilty of punishing innocent children on welfare; guilty of closing college doors to the sons and daughters of working families; guilty of pandering to polluters and endangering the environment; guilty of massive giveaways to powerful special interest groups; guilty of taxing low-income workers; guilty of taxing hard-pressed college students to give tax breaks to millionaires.

Whatever became of the antitax Republicans? I say shame, shame on the Republican Party for using their majority power to hurt the vast majority of Americans. This bill will be dead on arrival at the White House, and we ought to bury it right here in the U.S. Senate.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. KENNEDY. I hope we have an opportunity to vote on this amendment soon.

What is the Chair's understanding about when we will be able to have a disposition of this amendment?

Mr. EXON. Mr. President, if I could answer briefly the Senator's question. It is a good one.

We have been trying to work on this since yesterday afternoon. It appears we are very close to agreement that allows us to start voting up or down on these amendments sometime early this afternoon and very late into the evening.

Mr. KENNEDY. Would the Senator yield half a minute on the bill?

Mr. EXON. I yield.

Mr. KENNEDY. Mr. President, I have heard that my Republican colleagues are trying to doctor up some different proposal on student loan cuts. We have had months to change the proposal. I hope we will support this amendment that represents the best judgment of parents, educators, and working families.

Mr. EXON. Mr. President, I thank the Senator from Massachusetts for his excellent presentation, and I agree with his remarks. I agree with his conclusion. I hope we can move in an expeditious fashion.

I yield 8 minutes off the bill to my colleague from North Dakota.

Mr. DORGAN. Mr. President, I have been puzzled here for nearly a day and a half because we have some very important decisions to make in the U.S. Senate, one of which deals with Medicare, and we are not voting on them.

Reconciliation is a process that provides us 20 hours. We offered an amendment that does not take great skill to read. It does not take many staff people to read it. It is very simple.

It says, "Let's reduce this tax cut for the wealthy and use the savings to reduce the cut on Medicare for the elderly." That is a very simple proposition.

It has been almost 30 hours since it was offered yesterday on the floor of the Senate, and no vote. Why no vote? Is it hard to understand? Are people still reviewing this? No, that is not why. What we have is a stall.

I understand we may be getting close to an agreement, and I hope we are, because if we are not, we are going to start reading this legislation—maybe two or three times. It is 1,949 pages, given us Tuesday night to come to the floor Wednesday morning.

Most people here do not have the foggiest notion of what is in it. Most of us have some suspicion about what is in it. Most of us believe that this, handed to the wealthier families in America, will provoke significant smiles because they will find some awfully good news in here for their families. Drive a Mercedes Benz, make half a million a year, there is awfully good news in here for you.

If you are an elderly person, dependent on Medicare or a poor person on Medicaid or a middle-income family trying to send your kids to school, or a poor mother who has a child in Head Start, the news here is pretty grim. It says we cannot afford you. It says you better tighten your belt because this is coming your way, and this is not good news for you at all.

I think some of the pieces of the puzzle are starting to come into focus about who is fighting for whom. Whose side are you on?

Here are a couple pieces of that puzzle. This was in the paper yesterday. One of the new Republicans over in the House of Representatives says "the Democrats once again have it all wrong when they claim the GOP's proposed $500 tax credit for families earning up to $200,000 is a tax cut for the rich." He says those folks are lower middle class.

> Heineman, former Raleigh Police Chief, told the Raleigh News and Observer that his salary of $133,000 plus $50,000 a year in police pensions "does not make me rich. It does not make me middle class. In my opinion that makes me lower middle class."

This new Republican, this fellow that has new ideas and came with a notion of change says, "When I see someone who is making anywhere from $300,000 to $750,000 a year, that's middle class." He said, "When I see anyone above that, that's upper middle class." Oh, really? These are the new ideas? Middle class at $750,000 a year? Now I can understand why they tell us their tax cut is aimed at the middle class. Now it is clear to me. I understand how these pieces to the puzzle start to fit.

Another big piece—in fact, it is the centerpiece for this puzzle in this morning's newspaper—the Speaker of the House, speaking candidly to Blue Cross Blue Shield, an insurance company, says this in talking about Medicare:

> Now let me talk about Medicare . . . we don't get rid of it in round one because we don't think that would be politically smart.

Let me say that again. The Speaker of the House says, and these are people who say, "We love Medicare; we want to save Medicare."

> We don't get rid of it in round one because we don't think that would be politically smart and we don't think that's the right way to go through a transition. But we believe it's going to wither on the vine because we think people are going to voluntarily leave it.

Now, put these pieces into the puzzle and see if you do not start getting the message. These are people who are going to save Medicare? No, I do not think so.

Round one. They do not get rid of it in round one. But guess what? This is a 10 rounder, and by the end of this match they plan on getting rid of Medicare. This is all about the middle class—yes, their middle class—somebody making $750,000 a year.

I said, good news and bad news around here. I was watching Star Wars the other night with my children. I have not seen that for a long time. Does anyone remember the characters in Star Wars, R2–D2 and C3–PO? I was thinking, if children in this society had names with numbers maybe they would do better; right?

Let me give some numbers that do well. I said that a lot of folks do not do well in this. A lot of kids do not do well. Fifty-five thousand kids, all of whom have names, will no longer be in Head Start because the majority cannot afford them in the Head Start program. A kid by the name of Tim or Martha or Tom, they get bad news, no Head Start program.

But if you had an initial like a B–2 or an F–15 or a UH–60 Blackhawk—go down this list. I do not have time. But this is a list, all of which represent spending add-ons; in other words, money that the Defense Department did not ask for, for helicopters, amphibious ships, fighters, bombers, star wars, and on and on and on that the Defense Department said they did not want, they did not need, and they did not order.

Guess what? The conservatives say, "We insist you buy it because we got the money to pay for it." And then they bring 2,000 pages out here to the floor and say, "We are sorry. We are broke. You are poor? You are young? Out of luck."

So we say to them on Medicare, on our first amendment, offered nearly 30 hours ago, how about establishing priorities here? How about at least forgetting the tax cut notion you got for the wealthiest Americans and using some of that money to provide Medicare for the elderly? Do you know what, 30 hours later we cannot get a vote. Why can we not get a vote? Is it because they cannot understand the amendment? No. It is because they are stalling. They do not want to vote on the amendment.

One way or another, somehow we are going to vote on this amendment. We might stand here for 6 days, but we are going to vote on this amendment, and we are going to vote on the education amendment, and we are going to vote on the next amendment which is fiscal responsibility, which says do not give a tax cut until we have a balanced budget.

I am a little disappointed about what has been going on the last 30 hours. I can understand a shuffle when I see it. I can understand a stall when I see it. But nobody ought to claim to us they do not understand this issue. After 30 hours you would think everybody understands it well enough to have a vote.

So, it is 10 minutes to 1. How about a vote at 1 o'clock? Why do you not give the elderly in this country an opportunity? Express yourselves and give us an opportunity to express ourselves about tax cuts for the rich and Medicare cuts for the rest? Let us decide if we are going to have a vote soon.

If we are near an agreement, I say fine. I want us to have an agreement and get through this. But I say, at the end stage of this process, that I happen to know and all of you in this room know what is really at work. We have a Medicare amendment on the floor. The Speaker of the House gives a speech to Blue Cross/Blue Shield. He says he wants to save Medicare. And here is what he says in his speech. "We don't get rid of it in round one because we don't think that would be politically smart."

We understand what that means about round two. That is why this is important. That is why there is some passion in this debate, about a lot of folks who have reached their senior status in life and fear they are going to get sick and they are not going to have the money to deal with that illness. This is important.

Mr. President, I ask for 1 additional minute.

Mr. EXON. I am sorry. Another 30 seconds. I am trying to conserve time on this side.

Mr. DORGAN. I yield the floor to the Senator from Nebraska.

Mr. EXON. I will yield 30 seconds to the Senator from Maryland.

Mr. SARBANES. Mr. President, I listened very carefully to the very distinguished Senator from North Dakota. What is the date of that speech the Speaker made when he said that this is only round one to get rid of Medicare?

Mr. DORGAN. The speech apparently was given the other night, October 24.

Mr. SARBANES. On the same day, October 24, Senator DOLE made a speech. Listen to this. "I was there, fighting the fight, voting against Medicare—1 of 12—because we knew it wouldn't work in 1965."

So you have the Republican leader in the Senate and the Republican leader in the House, both of whom have been trying to portray themselves as helping Medicare, now bragging about the fact that they are against Medicare or that this is only the first round in getting rid of it.

The PRESIDING OFFICER. The Chair will advise the Senator 30 seconds has expired.

The Senator from Nebraska.

Mr. EXON. Mr. President, as I understand it we are now prepared to go to the next item that will be offered by the Senator from Arkansas with 30 minutes equally divided; is that correct?

Mr. ABRAHAM. Yes. We are prepared to do that.

Mr. EXON. So I hope the Chair could recognize the Senator from Arkansas, following 1½ minutes that I would like to yield at this time to the Senator from Vermont.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Vermont.

Mr. LEAHY. Mr. President, I have repeatedly said on the Senate floor that balancing the Federal budget is so important we need to set our partisan differences aside.

Unfortunately, balancing the budget was the most serious problem facing our country—until today.

The American people are fed up with Washington—and how can you blame them.

The single working mother who is holding two jobs to take care of her children should expect nothing less than having the Federal Government pay its own bills.

Vermonters must balance their checkbooks each month, why should the Government that they send their taxes to not be held to the same accountability.

Mr. President, Republicans laud this budget reconciliation bill that we are debating today as the solution to the deficit problem.

Well, this bill may balance the budget but the wake it leaves behind threatens to irreparably divide our country. This bill is a cruel prank on hard working Americans who have asked Congress to get our budget in order.

The Republican leadership has answered the call to balance the budget with a plan that radically redistributes the wealth of our country.

Playing on the desires of hard working Americans, the Republican leadership has seized the opportunity to protect the wealthiest in our country.

This plan balances the budget on the backs of the people who are working the longest hours, in the lowest paying jobs.

Ironically, as these Americans have shouted out the loudest about getting our fiscal books in order, they will be the ones who feel the pain the most.

Under the guise of saving Americans from the burden of debt, the Republican leadership has devastated programs that help hard working men and women realize the American dream of economic opportunity.

We are told that in order to save programs, we must first kill them so that 7 years from now they will emerge solvent and robust.

It is a leap of faith that I cannot make, much to my embarrassment, because my distinguished colleagues in the majority have been telling us what a bold and courageous moment in time that they are seizing.

They are the self appointed saviors out to rescue us from the trillions of dollars of debt accrued during the Reagan-Bush administrations. They never mention that latter part—no doubt an oversight—and in the press of time, it is perfectly understandable why the subject never arises.

A case in point is education. This bill makes short-sighted cuts in education. It cuts student loan programs by $10 billion over the next 7 years.

Students will be hit with 70 percent of these cuts—increasing the costs to the 20,000 Vermonters receiving higher education and their families by at least $5,800 over the life of a student loan.

Congress should be working to make education more affordable—not less.

These additional financial burdens will discourage many students from continuing their education after high school.

The Contract With America has sealed the fate of the next generation of Americans. They may never have the chance of post high school training or a college education—the key to a better paying job.

Mr. President, the list of programs that the Republican leadership are slashing under the thin guise of reform is long.

This bill is a back door version of the New Federalism, the short-lived brainchild that was the predecessor of the Contract With America. Congress piles up the rhetoric while dumping the tough decisions on the States.

Governors are increasingly wary of this, because the cost for maintaining any of these programs will rest squarely on the local taxpayers.

We know that Medicaid is a life-line to provide essential health care to low-income pregnant women, children, the disabled, and the elderly.

It is also the safety net that rescues middle-class families when a factory closes down and the jobs that are available do not provide health insurance.

It spares middle-class families from choosing between nursing home care for a parent or financing the college education of a son or daughter.

I think we all agree that the Medicaid reform proposal before us turns the program over to the States, at greatly reduced funding levels.

Despite all the disclaimers from its supporters, I remain unconvinced that it is anything more than a recurrence of policies that once made poor farms and orphanages the sanctuaries for low-income children and families in America.

I agree that States should have more flexibility, but not at the cost of our national responsibility. Our States will find themselves hundreds of millions of dollars short of funds to provide necessary health care over the next 7 years.

Vermont already has flexibility through the Federal waiver process.

Vermont's plan continues the Federal/State partnership nature of Medicaid and enables Vermont to cover 15,000 more of the State's growing number of uninsured.

This bill will nullify Vermont's initiatives to administer the program more economically.

The budgetary pressure on States to make cuts in eligibility and benefits will be very strong. On average, States will lose 30 percent of their Federal Medicaid payments by the year 2002.

There is no provision in this bill that would provide Vermont, or any State, with additional resources in times of economic downturn or recession when the Medicaid rolls have historically increased.

Vermont will lose 10 percent on average over the next 7 years and cuts are backloaded so that Vermont will lose 27 percent in the year 2002.

This cut is estimated to reduce Federal Medicaid payments to Vermont by $205 million over the next 7 years.

If the sharp reductions in Federal Medicaid funding cannot be offset by managed care savings or cuts in payments to providers, States will have to cut benefits or severely limit the number of people eligible unless they are willing to pay a much larger share of the cost of the program with State funds.

Competition among States may contribute to the pressure to restrict eligibility.

Without Federal standards, many predict a race to the bottom where no State wants to be seen as providing broader coverage or more generous benefits than its neighbors.

While there was much talk about this bill partially retaining an entitlement for low-income pregnant women, children, and the disabled, the truth is that the bill fully follows through on the Contract With America proposal to provide no assurance to any low-income American that they will get the health care they need.

This fact was certified by the Congressional Budget Office earlier this week.

The plan also repeals requirements that now protect nursing home residents from being restrained, drugged, or forced to live with substandard care in disreputable homes.

It replaces these safeguards with 50 separate State regulations with no standard minimum requirements.

I have been pleading for Congress and the President to join in bipartisan negotiations on balancing the budget without jeopardizing the success of our health programs.

The PRESIDING OFFICER. The Senator from Arkansas.

MOTION TO COMMIT

Mr. BUMPERS. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] moves to commit the bill S. 1357 to the Committee on Finance.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to delay the effectiveness of any revenue reductions until the first fiscal year in which outlays no longer exceed revenues.

Mr. BUMPERS. Mr. President, this is very simple and straightforward. The Members of this body should vote for this on a purely intellectual basis, without regard for partisanship. That is hard for me to say, and I know it is hard for people around here to respond to that kind of request. But it simply says: Do not cut taxes until you balance the budget.

I can remember not too many months ago when that idea had great credence in this body, on both sides of the aisle. I had even hoped at one time that the chairman of the Budget Committee who crafted this whole thing, Senator DOMENICI, would join me, today, with this amendment saying we are not going to cut taxes until we balance the budget. Here is what Senator DOMENICI said on May 29, this year, just a few months ago.

"We are working through some very, very tough terrain," he said, acknowledging that most battles lie ahead. "But I am convinced that most people share our view that we must balance the budget first before we cut taxes."

Here is a chart for anybody who chooses to look at this thing economically and sensibly. Here it is. You cut taxes in accordance with $245 billion, the figure that is bandied about here, and if you cut taxes by $245 billion over the next 7 years you add $293 billion to the national debt and our children and grandchildren will pay interest on that $293 billion as far as you can see.

I do not want to mix Social Security in this, but when you add this $300 billion, also bear in mind there are about $656 or $660 billion in Social Security surpluses that are going to be used. To say we are going to have a balanced budget when we are using Social Security surpluses, when we are $78 billion short even by the Republicans' own numbers, it is a scam to lead the American people to believe that we are going to have a balanced budget. If we never have another deficit after 2002, our grandchildren and great-grandchildren are going to pay interest on this tax cut.

You know, the reconciliation bill provides $5,600 per year—listen to this—$5,600 per year in tax cuts for the wealthiest 1 percent of the people in this country, and the bottom 50 percent wind up with less money than they had before this reconciliation bill passes.

What does that say about the values of the U.S. Congress, about their attitude—not toward people with stocks who get dividends and interest, but about working people who sweat and toil every day to keep this Nation going, who get nothing out of this except increases, lowered standard of living?

Do you know something else? This bill stands squarely on the shoulders of 50 brave Democrats who, in August 1993, passed a reconciliation bill. I want you to think about this. If it were not for 50 brave Senators who stood on their hind feet and voted to raise taxes on the wealthy and to cut spending accordingly, the Republicans would be faced with raising another $1.081 trillion to balance the budget.

The senior Senator from Texas, a candidate for the Presidency, said we want all of those people in the back of the wagon to get out and help the rest of us pull. They were. Every single Republican in the Senate was in the back of the wagon that day when a lot of people lost their jobs a year and a half later for doing something so sensible. And here they are still in the back of the wagon taking advantage of $1.8 trillion that the Democrats provided, the most courageous, sensible thing that the President of the United States has proposed since he has been President.

Mr. EXON. Will the Senator yield for a second for a unanimous-consent request?

Mr. BUMPERS. I am happy to yield.

Mr. EXON. I ask unanimous consent that the unanimous-consent request not be charged to either side. In order to try to accommodate as many people as possible we are trying to shrink down this time.

I ask unanimous consent that, rather than one-half hour of time on this amendment, it be reduced by 5 minutes each to 25 minutes per side.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. EXON. I thank my friend and say, to accommodate a lot of people, we have subtracted 5 minutes.

Mr. BUMPERS. Mr. President, our friends on the other side of the aisle have the best of both worlds. They can criticize and carp about that bill in 1993, and yet they have never tried to undo one penny of it; did not undo the gas tax, did not undo the 36-percent tax rate increase, have not done anything about the surcharge, and they get the benefit of over $1 trillion in balancing the budget because 50 Senators stood up—and 2 of them are not with us today because they did; and about 17 Members of the House are not with us today because they did.

This tax cut is the height of fiscal irresponsibility. That is the reason we call it the fiscal responsibility amendment, to do away with the tax cut until we balance the budget. We have the rest of our lives to cut taxes. Our first chore is to keep faith with the people of this country.

If you eliminate the tax cut, you do not balance the budget in the year 2002 even by the Republican figures. You can do it in 2001. That would be shocking.

But the most important thing I want to say, Mr. President, is do not cut taxes when we are running this kind of a deficit. Balance the budget, and then talk about taxes. When you are talking about tax cuts, talk for a change about working people and real middle-class Americans.

Mr. President, I yield the floor. Does anyone wish time?

I yield to the distinguished Senator from Michigan 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Arkansas.

This tax package which is contained in the massive budget reconciliation bill is ill timed. It is inequitable. It provides the $224 billion tax break which, when fully phased in, would go disproportionally to the wealthiest among us. Indeed, more than half of those tax breaks would go to the wealthiest 14 percent of Americans, and we are talking about the fully phased in tax package. In that tax package, while the upper 14 percent get over 50 percent of the tax reductions, 14 million Americans of modest means would actually get a tax increase.

This maldistribution is reason enough to reject this tax package. But it becomes all the more unacceptable when one considers the extreme lengths to which the majority has gone to pay for these large tax breaks. Senior citizens are hit hard, students are hit hard, and working people are hit hard. But, above and beyond those flaws, there is the simple fact that we in this tax package would be providing tax cuts before assuring the reality of the deficit reduction that is projected. In other words, under this bill we would be spending the money before it is in the bank.

We have seen this before. In 1981, President Reagan introduced the Economic Recovery Tax Act which had large tax cuts, and also had projections, aspirations, hopes, and plans that the budget would be balanced by 1984. The tax cuts were not made dependent upon those projections taking place. If they had been, we would have been a trillion dollars better off in those years. But it seems to me that history is so recent that we ought to take its lessons and say to ourselves that we have to get deficit reduction under our belts before we enact tax cuts. This time let us make sure that projections of deficit reductions turn out to be true before we do the easier part.

On October 18, the Congressional Budget Office Director, June O'Neill, wrote the chairman of the Senate Budget Committee to provide the critical certification which the budget resolution calls for. The claims of a balanced budget are based on that certification, and the tax cut is based on an argument that we are reaching a balanced budget by 2002, which in turn is based on that certification. But when you read the certification, it is a bunch of hedges.

The Congressional Budget Office letter says, "Based on estimates using economic and technical assumptions underlying the budget resolution, assuming the level of discretionary spending specified in that resolution, the Congressional Budget Office projects . . ."—and later on the letter says—"the Congressional Budget Office projects that the resulting reductions in interest payments will be $50 billion in the year 2002 and $170 billion over the 1996–2002 period." Then the Congressional Budget Office says, "Those projections were based on a hypothetical deficit reduction path." It is based on those hypothetical estimates, projections, that the balanced budget claim is made for the year 2002. But even more significant, for the purpose of this amendment which is pending, it is based on those hypothetical paths, projections, and estimates that the tax cut is being defended.

This letter does not certify much except that the Congressional Budget Office has a long list of wiggle words which are available to us. And it is the foundation; it is that certification again which is the foundation for the assertion that the budget is going to be in balance in the year 2002. And you cannot help that because you have to have projections and estimates. But what we can avoid doing is providing a tax cut before we know in fact that the budget is going to be balanced.

So what this amendment says is hold off the tax cuts until we balance the budget. In fact, let us put the money in the bank before we spend it.

And, let's not be fooled by the happy talk about reaching a balanced budget. It is not balanced by any commonsense or legal definition. We know already, as Congressional Budge Office Director June O'Neill's letter to Senator CONRAD acknowledges, this plan falls short of balancing the budget by $105 billion in the year 2002. This is because the Republican majority's budget uses the surplus in the Social Security Trust Fund to mask the real Federal deficit.

The law, section 13301 of the Congressional Budget Act, states:

> [T]he receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of:
>
> (1) the budget of the United States Government as submitted by the President,
>
> (2) the congressional budget, or
>
> (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

And, the law further states:

> The concurrent resolution shall not include the outlay and revenue totals of the old age, survivors, and disability insurance program established under Title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.

We're not only spending the dollars before they are in the bank, we are spending them earlier and faster than we are even projected to have them to spend.

Nearly half of the savings in this budget are projected to come in 2001 and 2002, while the tax breaks are set in law now. In fact, the budget resolution assumes $440 billion in discretionary spending cuts over 7 years. Only $18 billion of that would be cut next year, less than 5 percent. We know from past history what happens when tax cuts are put in law now while most of the actual cuts are to take place later.

Some of our Republican colleagues have appeared, in public statements, to agree that a tax cut should be put off until we are sure deficits will drop as predicted. Let's join together on a bipartisan basis and do just that.

I yield the floor.

Mr. BUMPERS. Mr. President, I yield the Senator from Wisconsin 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Chair.

Mr. President, this amendment is simple and straightforward. It eliminates the fiscally irresponsible and reckless tax cut that is the core of this fatally flawed reconciliation package.

All the other provisions of the reconciliation bill, in my view, flow from this singular act of fiscal irresponsibility. Cuts to Medicare and Medicaid, student loans and the earned income tax credit, as well as the other provisions in this measure, all driven by the need to fund a quarter of a trillion dollar tax cut, are so out of proportion to any consensus the public would support that I think they doom any hope their supporters might have of really balancing the budget.

Mr. President, just as we are beginning to climb out of the hole that was dug 14 years ago, somebody wants to shove us back in.

Mr. President, we have made remarkable progress in lowering the Federal budget deficit during the 103d Congress. The President's deficit reduction package produced $600 billion in lower deficits and got us about half the way there—almost half the way there to a balanced budget, from over $300 billion to about $160 billion. In fact, Mr. President, but for the debts rung up during the 1980's, we would be in balance today.

But we still do not have a balanced budget, and we cannot afford any tax cut—not the President, not the House, not the Senate tax cut. We need to balance the budget. That should be our first priority.

Actually, Mr. President, this bill is really an alchemist's dream. Those who have crafted this measure have finally invented a machine that makes gold. The reconciliation bill really amounts to just that. It is a machine that makes gold. All you do is feed health care services for the most vulnerable among us in our Nation, and out comes gold.

Of course, Mr. President, not everyone shares equally in that bounty. The gold from this machine largely benefits the best off in our Nation. The better off you are, the more you get. The less well off you are, the less you get.

I am not going to dwell any further on the distribution issues relating to the tax cut. As I have noted many times on this floor, this issue comes to me as an issue of pure fiscal responsibility. Even if the benefits of tax cuts were more fairly distributed, I would oppose it. We cannot afford to cut taxes while we still face a Federal budget deficit of $160 billion. Nobody out there believes that makes fiscal sense. It is the opposite of sense. And you cannot spend $1 three times. You cannot say you are spending the dollar to save Medicare and then you are going to use the same dollar to eliminate the deficit and then you are going to use the dollar for tax cuts. You can only spend it once. This budget uses it not to save Medicare, not to reduce the deficit, but to fund tax cuts. For that reason, I regard this as the most important amendment in this process, and I urge my colleagues to support it.

I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I wonder if the minority leader has a speaker here he wishes to recognize at this point?

Mr. ABRAHAM. Is the Senator referring to me?

Mr. BUMPERS. Yes.

Mr. ABRAHAM. He mentioned the minority leader.

Mr. BUMPERS. Majority leader. I am sorry; I have a hard time breaking the habit.

Mr. ABRAHAM. I will have somebody here shortly. If the Senator has a short speech, we would be ready to go after that.

Mr. BUMPERS. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Like the previous amendments, this one is also painfully simple. It is an amendment that will not take a dozen staff to explain, an amendment that will not take a great deal of research, an amendment that probably should not take a great deal of thought. No one can misunderstand what this is. This amendment says we ought not do a tax cut until the budget is balanced. Do not serve dessert before the main course.

It is a pretty simple proposition. My expectation is they will not want to vote on that either. We have been here 30 hours. They do not want to give a vote on Medicare so we will not get a vote on this. One of these days we will, I guess.

Let me talk about the proposed tax cut. This is the center pole in the tent called Contract With America. This is the center pole of the tent, the tax cut. And I understand why. It is enormously popular. Go take a poll and ask people: Would you like a tax cut? Heck, yes, I would like a tax cut; the bigger the better.

So I understand why it is there. This is about polls and focus groups and finding out what is popular—let us give a tax cut. I wonder how the American people would feel if they were told that every dollar of this tax cut will be borrowed in order to give it. In other words, we are going to increase the Federal debt during these 7 years with this plan by $660 billion roughly—this plan, a $660 billion increase in the debt and then a $245 billion tax cut. In other words, every single dollar plus much more will be borrowed. We will borrow money, float bonds to give a tax cut, a substantial portion of which will go to upper income Americans.

I think most people would say, well, that does not make much sense. But that is not what this debate is about—sense. If it were about sense, we would not even have to offer this amendment. We would have people say let us do the honest work and the tough work, the heavy lifting to balance the Federal budget. Let us do that. When we are done with that, then let us talk about the Tax Code, what is wrong with it, how do we fix it, who gets a tax cut.

That is not what we are doing. What we are doing is pretending to balance the budget and saying now that we pretend to balance the budget, we will offer up a tax cut. Unfortunately, we have a letter dated October 20 from the Director of the Congressional Budget Office. I asked, is the budget in balance in the year 2002? The answer is no—$105 billion deficit in 2002. That is, of course, if you take the Social Security trust funds and put them in the Social Security trust funds where they should be. If you take them out and use them as operating revenue, then you balance the budget.

I guess those who took remedial accounting and believe that double entry bookkeeping means you can use money twice in two different places at the same time, I guess they are comfortable and they can sleep with this. But, of course, if you were in private business and said, let me take the money out of my employees' pension funds and use it on my operating statement, you would be doing years at hard tennis at some minimum security prison. Instead, it is "budget technique" to say, let us misuse Social Security trust funds, show a balanced budget in the year 2002 by misusing that money, and then claim we have a balanced budget so we are going to give a tax cut. Every single dollar of this tax cut will be borrowed in the next 7 years and every Member of this Senate knows it. They can pretend they did not hear or they did not know; it escaped their attention. But they know it. This amendment is very simple. It is called a "fiscal responsibility amendment." It says, let us do the tough, honest work first, get the budget balanced, really balanced, and then let us decide how to fix our tax system.

Having said all of that, I hope one of these hours we will get a vote first on Medicare and then on the sequential amendments because these are not difficult for anybody to understand.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I yield myself such time as I need. I will be very brief, and then I will yield further time on our side.

Mr. President, the fact is it is not surprising that the minority is arguing against tax cuts. They are the party that raised taxes in this country in the last Congress by a record-setting $270 billion. In my State and across America, everywhere I go, the people I talk to say we need a tax cut to make ends meet. The middle-class squeeze we talk about on the floor all the time is in no small measure the result of the fact that today in America average families send $1 to Washington for every $4 they earn versus $1 for every $50 they earned back in the 1950's and the 1960's. Those are the families who are paying the bills and paying the taxes.

As we go through the belt-tightening process here in Washington to bring down the deficit, we believe it is only fair to let those hard-working families keep more of what they earn. What we have been presented with today is an amendment that says to all of those families: Wait. Wait, American families, hard-working families, for your $500 tax credit. Wait, spouses who work in the home, before you get your IRA. Wait, to people who want to adopt and need a little help making an adoption feasible. Wait, to jobseekers who need the opportunities created by progrowth tax cuts.

We believe the waiting should be over. We say this: If America's taxpayers want to wait for the Democrats and President Clinton to produce a tax cut, fine. But we have already gone through a lot of waiting for the tax cut that was promised in the 1992 campaign by the President. It has never been delivered. The waiting that this amendment suggests will have to continue will also be undelivered. We are prepared to allow hard-working families to realize tax savings now.

At this time I yield 6 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we have entered a new age in American politics. All of us know that. The days are long gone when elected officials can get elected, duck controversy, avoid hard choices, and, yes, hide from the judgment of the people. Governing in 1995 requires hard choices, adherence to principle and accountability. As party defections increase, as State legislatures and governorships change hands, my former colleagues on the other side of the aisle scratch their heads and ask why. The answer is simple, Mr. President. On the other side of the aisle there is no accountability and no willingness to make hard choices.

Instead, I believe they remain wedded to the status quo politics and policies that have led this country to the verge of bankruptcy.

For 60 years the other side has steadily created a Federal monster that now handles $1 out of every $4 in our economy. While the growth of the Government that past half century is stunning, it should come as no surprise to all of us. The politics of the status quo promoted on the other side of the aisle operates on the simple premise that the American people will always trade their freedom and their hard-won dollars for the promise of Government security.

"Tax and spend." Yes, Mr. President, "tax and spend, and the docile American people will never resist. Tax and spend, tax and spend, and the American people will never support the reform or repeal of a Government program. Make the American people dependent on the Federal Government for everything from income and health care to business subsidies, and they will never resist or even reject us."

These, Mr. President, I believe, are the maxims by which the agents of the status quo operate. But, Mr. President, the agents opposed to change have vastly underestimated the American people. The reason, Mr. President: The price of a balanced budget is so high that the American people will reject any politician who attempts to do the right thing and bring the budget into balance. They are dead wrong. We are allowing families to keep more of their hard-earned dollars, and we are ending welfare as we know it, and, above all, we are balancing the budget. The agents of change have a solemn obligation to do the unheard of, keep their promises. And I believe we will.

Mr. President, I would just like to show two charts in the short time I have of what parents can purchase with a $500-per-child tax credit in America.

For example, with a $500 tax credit, items parents can purchase: a winter jacket, $30; winter boots, $30; athletic socks, $6.50, six pairs of those; a sweat shirt, $12; books, $100; a tutor for their child, $230, 32 hours. That is $498.50. We checked it out.

We also have another chart for the $500 tax credit. Parents can purchase 847 jars of baby food or, Mr. President, 2,370 disposable diapers or approximately 6 months of electric bills.

The $500 tax credit for working families in America is real, and they need it.

Ms. MIKULSKI. Mr. President, I rise in strong support of the fiscal responsibility amendment. Mr. President, we should not cut taxes until we balance the budget. This reconciliation legislation cuts taxes before the budget is balanced. This is like eating dessert before dinner.

I support a balanced Federal budget and I have voted for significant deficit reduction over the past 2 years. But reducing the deficit cannot be accomplished if we are simultaneously cutting taxes for the wealthiest of Americans.

This is fiscally irresponsible. This highlights the Republican's real priority in this reconciliation bill—cutting taxes for the wealthiest Americans.

Balancing the budget must be based on principles that uphold basic values. Protecting our seniors, providing opportunities for our young people, and protecting the ladders of opportunity for working families are my guiding principles. This reconciliation legislation violates those principles by gutting Medicare and Medicaid, cutting student loans and repealing the earned income tax credit [EITC].

The fact is Mr. President, the Republican tax cut would add nearly $300 billion to the national debt by 2002. All but the last few billion of the tax cut is borrowed money, under the Republicans own deficit reduction timetable.

This reconciliation bill is fiscally irresponsible—and don't think otherwise. Requiring the budget to be balanced before we cut taxes is the responsible, fair and principled action to take. That's what this amendment ensures. This amendment also ensures that future tax cuts will be targeted to low and moderate-income working American families, not the wealthiest Americans. That is why I support this amendment and urge my colleagues to support it.

Mr. President, the tax cuts proposed by the Republicans are fiscally disastrous. I urge my colleagues to vote for fairness and common sense and vote for this amendment.

Mr. ROBB. Mr. President, I have long believed that it would take courage and wisdom to develop and implement a plan that would lead to a balanced budget. Without the courage to make tough choices and the wisdom to place budget policy above partisan politics, our ability to develop an equitable plan that can stand the test of time and public opinion is severely limited.

While I give our Republican friends credit for bringing this package to the floor, I must say that a certain element of this plan does not reflect courage, wisdom, or equity. A particular concern to me is the tax breaks which have been included in the bill.

Mr. President, it does not take courage to cut taxes. That is one of the easiest votes a legislator can cast. What takes courage is to revisit politically popular tax cuts at a time we have a nearly $5 trillion debt, and even a unified balanced budget is at least 7 years away if we get there at all. And for all the talk about fiscal responsibility recently, how can we endorse a $245 billion tax cut that makes balancing the budget much more difficult and adds to the debt over the next 7 years?

Mr. President, I was one of three Democrats who supported the original Senate budget resolution this year because I strongly believe that we have a responsibility to make tough choices that are necessary to balance the budget.

Unfortunately, during the budget resolution conference between the House and the Senate, fiscal responsibility gave way to political expediency as tax breaks were added up front and the deep spending reductions moved into the next century. Were these particular changes wise? In my judgment, absolutely not.

I think most in this Chamber would agree we should not be cutting taxes until we prove capable of carrying out these spending reductions and actually balance the budget.

If we get further down the road and decide spending reductions, particularly Medicare and Medicaid, in this plan are politically unsustainable, I fear, Mr. President, that we will abandon the spending cuts and leave the tax cuts in place at a time when their cost will begin to explode. And as we have seen before, the end result will be, we will simply be further away from a balanced budget.

The last point I would like to address is equity. Including the tax cut in this plan is not equitable. At a time when we are asking the American public to sacrifice by restraining the growth of programs which benefit low- and moderate-income individuals, how can we, in good conscience, adopt a tax cut which, according to the Treasury Department estimates, will disproportionately benefit upper-income Americans? I simply cannot agree.

Including $245 billion in tax cuts in this budget package is not courageous, it is not wise, and it is not equitable. I would implore my colleagues to reject the proposition that we should have tax cuts before we have a balanced budget.

With that, Mr. President, I yield the floor, and I thank the Chair.

YOUR'RE RIGHT MR. PRESIDENT, YOU RAISED TAXES TOO MUCH!

Mr. ROTH. Mr. President, why after shackling American middle-class families with the largest tax increase in history, has Bill Clinton finally admitted that he made a mistake? Why does his confession come just days before Congressional Republicans are scheduled to meet in conference to finish one of the largest tax cut proposals since the Kemp-Roth income tax rate reductions brought our economy roaring back in the 1980's?

Because Bill Clinton knows his taxes did not deliver on his promise to improve the economy, bring down interest rates, and thereby reduce the deficit.

Tax increases never do.

History proves that increases actually poison economic growth while tax cuts unlock capital, encourage savings, improve investment, and create jobs, opportunity, and growth.

Kemp-Roth led to the longest peacetime economic expansion in history. Eighteen million jobs were created, along with four million new businesses. Family income rose and home ownership boomed as interest rates and inflation fell. At the same time, Treasury revenues doubled, not because Americans were paying a higher percentage of their income to taxes, but because Americans had higher incomes.

We must unlock this kind of growth again. Only by creating an environment where our economy can expand can we simultaneously cut the deficit and meet necessary Government obligations.

Last spring the House passed a 7-year $354-billion tax reduction package, 76 percent of which, would go to family relief, and 24 percent to job creation. The plan offers a $500-a-child tax credit, encourages savings and investment, and offers other incentives for economic growth.

The proposal recently passed by the Senate Finance Committee cuts taxes by $245 billion, offers relief for our middle class—with over 70 percent of the $245 billion going to families making less than $75,000 a year—and, like its House counterpart, contains incentives that will encourage savings, investment, capital formation, and business growth. These provisions mean more jobs for Americans, greater economic security for our families, and stability in our communities.

Of the $245 billion Senate relief package, a full $223 billion will go to families. The remaining $22 billion will strengthen businesses and lead to increased employment opportunity. It will also improve America's ability to compete in the global community, with other nations that provide their businesses with strong incentives to compete with us.

The four pillars of both proposals are: First, a $500 child tax credit; second, restoration and strengthening of Individual Retirement Accounts; third, relief from overbearing estate taxes on families and businesses; and, fourth, reduction of the top rate of capital gains on individuals and corporations.

These measures meet our promise to the American people that in Washington we will change business as usual. The current system double-taxes savings, thwarts investment, hinders productivity, increases prices, stifles wages, and hurts exports. It is complex, controlled by special interest groups, and places disincentives on work.

Our proposals represent a major step toward correcting these deficiencies, and because we have cut spending, our bill balances the budget while making room for tax relief. The House has acted. Now, the full Senate must pass the Finance Committee's proposal. Following a House-Senate conference to iron out any differences between the bills, both Chambers must pass this historic reform, and the President must sign it into law.

Americans need relief. Our economy needs a shot in the arm. Even Bill Clinton has admitted as much. We call on him to join us in our efforts to unleash the potential our economy has to move us into a bold and exciting future.

He admits he made a mistake. Working together, we can fix it.

Martin Feldstein, former Chairman of the President's Council of Economic Advisers and professor of economics at Harvard University spells out in a very livid fashion what the 1993 tax increases really did in an article in The Wall Street Journal. I request that article be included in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal]

WHAT THE '93 TAX INCREASES REALLY DID

(By Martin Feldstein)

President Clinton was right when he recently told business groups in Virginia and Texas that he had raised taxes too much in 1993, perhaps more so than he realizes. We now have the first hard evidence on the effect of the Clinton tax rate increases. The new data, published by the Internal Revenue Service, show that the sharp jump in tax rates raised only one-third as much revenue as the Clinton administration had predicted.

Because taxpayers responded to the sharply higher marginal tax rates by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

HOW IT HAPPENS

To understand how taxpayer behavior could produce such a large revenue shortfall, recall that the Clinton plan raised the marginal personal income tax rate to 36% from 31% on incomes between $140,000 ($115,000 for single taxpayers) and $250,000, and to 39.6% on all incomes over $250,000. Relatively small reductions in taxable income in response to these sharply higher rates can eliminate most or all of the additional tax revenue that would result with no behavioral response.

If a couple with $200,000 of taxable income reduces its income by just 5% in response to the higher tax rate, the Treasury loses more from the $10,000 decline in income ($3,100 less revenue at 31%) than it gains from the higher tax rate on the remaining $50,000 of income above the $140,000 floor ($2,600 more revenue at 5%); the net effect is that the Treasury collects $600 less than it would have if there had been no tax rate increase.

Similarly, a couple with $400,000 of taxable income would pay $18,400 in extra taxes if its taxable income remained unchanged. But if that couple responds to the nearly 30% marginal tax rate increase by cutting its taxable income by as little as 8%, the Treasury's revenue gain would fall 67% to less than $6,000.

How can taxpayers reduce their taxable incomes in this way? Self-employed taxpayers, two-earner couples, and senior executives can reduce their taxable earnings by a combination of working fewer hours, taking more vacations, and shifting compensation from taxable cash to untaxed fringe benefits. Investors can shift from taxable bonds and high yield stocks to tax exempt bonds and to stocks with lower dividends. Individuals can increase tax deductible mortgage borrowing and raise charitable contributions. (I ignore reduced realizations of capital gains because the 1993 tax rate changes did not raise the top capital gains rate above its previous 28% level.)

To evaluate the magnitude of the taxpayers' actual responses, Daniel Feenberg at the National Bureau of Economic Research (NBER) and I studied the published IRS estimates of the 1992 and 1993 taxable incomes of high income taxpayers (i.e., taxpayers with adjusted gross incomes over $200,000, corresponding to about $140,000 of taxable income). We compared the growth of such incomes with the corresponding rise in taxable incomes for taxpayers with adjusted gross incomes between $50,000 and $200,000. Since the latter group did not experience a 1993 tax rate change, the increase of their taxable incomes provides a basis for predicting how taxable incomes would have increased in the high income group if its members had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random, anonymous tax returns provided by the IRS.

We concluded that the high income taxpayers reported 8.5% less taxable income in 1993 than they would have if their tax rates had not increased. This in turn reduced the additional tax liabilities of the high income group to less than one-third of what they would have been if they had not changed their behavior in response to the higher tax rates.

This sensitivity of taxable income to marginal tax rates is quantitatively similar to the magnitude of the response that I found when I studied taxpayers' responses to the tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax increases occurred within the first year. It would not be surprising if the taxpayer responses get larger as taxpayers have more time to adjust to the higher tax rates by retiring earlier, by choosing less demanding and less remunerative occupations, by buying larger homes and second homes with new mortgage deductions, etc.

The 1993 tax law also eliminated the $135,000 ceiling on the wage and salary income subject to the 2.9% payroll tax for Medicare. When this took effect in January 1994, it raised the tax rate on earnings to 38.9% for taxpayers with incomes between $140,000 and $250,000 and to 42.5% on incomes above $250,000. Although we will have to wait until data are available for 1994 to see the effect of that extra tax rate rise, the evidence for 1993 suggests that taxpayers' responses to the higher marginal tax rates would cut personal income tax revenue by so much that the net additional revenue for eliminating the ceiling on the payroll tax base would be less than $1 billion.

All of this stands in sharp contrast to the official revenue estimates produced by the staffs of the Treasury and of the Congressional Joint Committee on Taxation before the 1993 tax legislation was passed. Their estimates were based on the self-imposed "convention" of ignoring the effects of tax rate changes on the amount that people work and invest. The combination of that obviously false assumption and a gross underestimate of the other ways in which taxpayer behavior reduces taxable income caused the revenue estimators at the Treasury to conclude that taxpayer behavior would reduce the additional tax revenue raised by the higher rates by only 7%. In contrast, the actual experience shows a revenue reduction that is nearly 10 times as large as the Treasury staff assumed.

This experience is directly relevant to the debate about whether Congress should use "dynamic" revenue estimates that take into account the effect of taxpayer behavior on tax revenue. The 1993 experience shows that unless such behavior is taken into account, the revenue estimates presented to Congress can grossly overstate the revenue gains from higher tax rates (and the revenue costs of lower tax rates). Although the official revenue estimating staffs claim that their estimates are dynamic because they take into account some taxpayer behavior, the 1993 experience shows that as a practical matter, the official estimates are close to being "static" no-behavioral-response estimates because they explicitly ignore the effect taxes on work effort and grossly underestimate the magnitude of other taxpayer responses.

CURRENT PROPOSALS

If Congress had known in 1993 that raising top marginal tax rates from 31% to more than 42% would be less than $7 billion a year, including the payroll tax revenue as well as the personal income tax revenue, it might not have been possible for President Clinton to get the votes to pass his tax increase.

Which brings us back to President Clinton's own statement (half-recanted the next day) that he raised taxes too much in 1993. Congress and the president will soon be negotiating about the final shape of the 1995 tax package. The current congressional tax proposals do nothing to repeal the very harmful rate increases of 1990. Rolling back both the personal tax rates and the Medicare payroll tax base to where they were before 1993 would cost less than $7 billion a year in revenue and would raise real national income by more than $25 billion. Now that the evidence is in, Congress and the president should agree to undo a bad mistake. •

Mr. BUMPERS. I yield the Senator from Florida 2 minutes.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, we have just heard a speech about change versus the status quo. This is one place in which we are all together. This is the status quo. This is deja vu all over again. We started this process of saying that we were going to meet deficit reduction targets and committed to the American people our frugality and our dedication to their attainment.

We did it under what was called Gramm-Rudman. And in the years from 1986 to 1990, those 5 years, we had deficit-reduction targets for Gramm-Rudman that were supposed to bring us to a balanced budget early in this decade.

What did it, in fact, bring us? More enormous deficits. And every year of Gramm-Rudman, from 1986 to 1990, we failed to meet the deficit reduction target. In fact, the total amount of our excess deficits, deficits beyond the target, was $201 billion over those 5 years.

Did we change that pattern after President Bush went to Andrews Air Force Base and negotiated a new deficit-reduction plan? We did not—in 1991, 1992, 1993, again, failure to meet the deficit reduction targets in excess of $150 billion in just those 3 years.

Mr. President, we delude ourselves, we repeat the status quo, not engage in change if we are saying that we are going to give ourselves this tax benefit before we demonstrate, first, that we have a serious, credible plan for balancing the Federal budget that is not just smoke, mirrors, and ideas in the minds of a few people, but rather concrete law that has been passed, signed by the President and is a firm national contract and commitment to its attainment, and, second, a period of demonstrated fidelity to that plan and performance under that plan.

I am the grandfather of eight young boys and girls. I know one thing about children: They like to eat their dessert before they will eat their spinach. That is what we are being asked here to do, is eat the cake and ice cream before we have the carrots and peas. I think we should not go down that path one more time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Mr. President, I yield 2 minutes to the Senator from Nebraska.

Mr. KERREY. The Senator from Alabama's speech was earlier. It was helpful. I have to pick up some groceries on the way home. But I did not find it to be terribly helpful in this debate, saying that Democrats have no accountability, that Democrats are not willing to make hard choices, that we are for the politics of the status quo. That is just bunk.

I just stood out on the Capitol steps a little while ago endorsing a Democratic proposal that balanced the budget in 7 years, making very tough choices but without this tax cut. And one of the hard truths that we have to face right now is, the truth of the matter is Republicans in America, Mr. President, not Republicans in this Congress, by the New York Times poll this morning, Republicans in America oppose the tax cut. Indeed, more Democrats in America support the tax cut. And the most revealing thing of all is that the lower the income goes of working people, the more they favor a tax cut. Unfortunately, they do not benefit from this tax cut.

Indeed, as a consequence of change in the earned income tax credit, and according to the Republican Joint Tax Committee, every family under $30,000 will have a tax increase.

It is remarkable, Mr. President, in addition to not needing to cut taxes, we have got plenty of tough choices to make, and I hope we are able to vote in a bipartisan fashion for tough choices, that break the status quo of deficit financing and move us to a balanced budget.

But those are not the only goals that we need to move toward. That is not the only status quo that we need to make. We had another million Americans that moved into the ranks of the uninsured in 1994. We have another 1.5 million that will move to be uninsured in health care as a consequence of what is happening in the health care industry.

Almost 50 percent of the babies born in the State of Texas are paid for by Medicaid, working people, Mr. President, as a consequence of the status quo. There are lots of changes that need to be made. I am willing to make tough votes to change the status quo and move to a balanced budget, but not with a $245 billion tax cut that does not benefit the Americans that need to be benefited.

Mr. BUMPERS. How much time remains?

The PRESIDING OFFICER. Three and a half minutes.

Mr. BUMPERS. I yield 2 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague for yielding.

Mr. President, really what we are suggesting with this amendment is two concepts here: It is fiscal responsibility and equity. I know that there are those who believe that these tax breaks are critical. Some, I believe, honestly believe, I think, this is going to create some sort of a massive new growth, although there are no studies that I know of that indicates that is the case at all. But the cruel, hard facts here, Mr. President, are that what we are talking about is a deficit that will increase.

According to the hand-selected head of the Congressional Budget Office by our friends on the other side, they have said this produces a deficit, this proposal, in excess of $93 billion. So for those who are seeking fiscal responsibility, the inclusion of $245 billion in tax breaks does not get us there.

So, Mr. President, on the question of fiscal responsibility, this is irresponsible. On the issue of equity, what we are doing here with this proposal is we are taking significant cuts, far beyond what is needed to restore the integrity of Medicare or Medicaid, in order to pay for tax breaks, the bulk of which go to people at an upper-income category and simultaneously increasing the tax obligation of those people at the working class category.

If you make $30,000 or less, you have got a $352 tax increase. That is what is in this bill. It is in black and white, a $352 tax increase.

If you are the top 1 percent of income earners, your tax break is almost $6,000. That is not equitable, Mr. President. It is not fiscally responsible, and it is not equitable. And for that reason, we urge our colleagues to support this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President, let me just close by saying that I can remember when there were about 10 Republicans last summer who were strongly opposed to a tax cut until we balanced the budget. I do not think the majority leader was very keen for it. And the

Senator from New Mexico, chairman of the Budget Committee, was devoutly opposed to it.

So what happened along the way? I can only conclude that NEWT GINGRICH said, "This is the major part of the contract. You do not have any choice. You have got to abandon all economic reason and sanity and vote for this tax cut."

It is the height of fiscal irresponsibility to do it. But even more importantly, it is a social disaster. It makes the working people of this country second-class citizens. They are in the second tier. I do not want to say the idle rich, but the rich who do not work, who get their income from the sweat of somebody else's brow, they are in the first-class tier.

Mr. President, the real tragedy is the American people are not asking for this. If you look at the New York Times poll this morning, the American people are strongly opposed to a tax cut until we balance the budget.

Here is a USA poll taken in December of 1994. Seventy percent of the people in this country said, "We want the budget balanced before you cut taxes."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Michigan controls 19 minutes. The time has expired on your side.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time, we are prepared to yield back the remainder of our time. I inquire before I do as to whether the Senator from Nebraska is prepared to proceed with their next amendment? If not, until they are ready I will probably be putting in a quorum call request without the time running against either side.

Mr. President, I yield back the remainder of my time. I suggest the absence of a quorum, and I ask unanimous consent that the time not run against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, at this time, I yield 5 minutes to the Senator from Texas, to be taken off our time on the bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, if you are looking at our budget which is now before the Senate, it addresses two basic facts that I believe alarm all working Americans.

The first fact is that the average family in America with two little children, which in 1950 was sending $1 out of every $50 it earned to Washington, DC, is today sending $1 out of every $4 it earns to Washington, DC. And if, over the next 20 years, we do not start a new spending program nor eliminate an existing one, to pay for the Government we have already committed to will mean that in 20 years the average working family in America with two children will be sending $1 out of every $3 they earn to Washington, DC.

Bill Clinton looks at that trend and says, "Great, let's accelerate." We look at it and say, "It has to be stopped and it has to be reversed." And that is exactly what we do in our budget.

The second figure is a very simple fact and it is an alarming fact. A baby born in America today, if the current trend of Government spending continues unabated, will pay $187,000 of taxes in their working lifetime just to pay interest on the public debt. That is not just economic suicide, that is immoral, and we are determined to stop it.

Here is basically where we are. We have written a budget that over 7 years comes into balance. President Clinton has trumpeted the fact that the deficit today is down, but he does not show us that his own budget office shows that under his budget, and the Congressional Budget Office shows convincingly, that the deficit now skyrockets under the Clinton budget. He has sent us not one but two budgets, and under both of those budgets, the deficit explodes.

We have proposed a budget that achieves balance in 7 years, and now the President is saying to us that unless we increase spending on programs that we do not need and we cannot afford that the President is going to veto our budget.

Well, Mr. President, let me say as one Member of the Senate, there is no circumstance under which I am going to go back and rewrite our budget. There is no circumstance under which I am going to agree to increase spending, to continue the deficit spree that threatens the future of our country and that threatens the future of our children.

We have proposed a budget that cuts taxes. It gives a $500 tax credit per child for every working family in America. What it means is that if we are successful next year, every working family in America that pays taxes that has two children will get to keep $1,000 more of what they earn to invest in their own children, to invest in their own family, to invest in their own future.

Now Bill Clinton says the Government can spend the money better than that family can spend the money. We reject that. We think history proves that notion is wrong and we are confident that the people who do the work and pay the taxes and pull the wagon in America agree with us.

Our $500 tax credit per child, our elimination of the marriage penalty will mean that the average working family in my State will get to keep $1,100 more of their hard-earned income to invest in their own future, to invest in their own children, and we want that to happen.

We talk so much about balancing the budget, but it has been so long since we have done it that people forget what the benefits of a balanced budget are. First of all, since we are balancing the budget and cutting taxes, the first benefit for a working family with two children is they get to keep $1,000 more of what they earn.

But a balanced Federal budget would mean on an average mortgage of the average working family, that their mortgage payments per year over the next 20 years would be $1,664 less per year. In buying a new car every 4 years and financing it, as most working Americans have to do, they would pay $180 less in interest costs for buying that car every year because we balanced the budget.

Because we will have more growth when income is going into expanding the economy, that is $1,385 of income for every working family.

You add it all up and the average family in America gains, I repeat, gains $4,229 a year directly from a balanced budget. It means over 1.75 million more jobs annually and reducing the national debt mortgage on our grandchildren by $66,000.

This budget is a choice: Do you want more income, lower interest rates, higher growth, more jobs, less debt on your grandchildren and to keep more of what you earn?

We say, "Yes." The Democrats say, "No, Government can do it better."

MOTION TO COMMIT

Mr. BAUCUS. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] moves to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to reduce revenue reductions attributable to tax breaks benefiting upper-income taxpayers over the next seven years in an amount necessary to avoid unfair cuts in Medicare payments to rural hospitals and other rural health care providers, to maintain federal support at the levels recommended by the President of the United States for federal agriculture and nutrition programs, and to maintain levels of federal support for education and child care in rural America.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the time allotted be reduced to 15 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, on behalf of our side, we will agree to that.

Mr. BAUCUS. Mr. President, the whole country knows about the Medicare cuts in this budget, and the threats they present to rural hospitals and to health care for seniors.

A lot of people know that a few days ago, the House Speaker NEWT GINGRICH called this bill the round one in a long-term plan to kill Medicare.

Many people know how deeply it will cut student loans and assistance for elementary and secondary education.

THE 1995 FARM BILL

But very few people know that this year, the budget is also the farm bill. It will reauthorize all the commodity programs and the Conservation Reserve Program. It will eliminate several more. Altogether, for the next 7 years, it sets our national agriculture policy.

It is supposed to keep rural economies stable. And it should guarantee consumers a safe and dependable food supply at a reasonable price. But on the Senate floor today, we have something entirely different.

I am sorry to say it, but laying everything about Medicare, tax increases on people making less than $30,000 a year, education and the rest aside, this is a terrible farm bill.

WRITTEN IN SECRET

First, it is partisan. It is a hard-line, ideological approach to agricultural policy, not an effort to bring people together and take the best from everyone.

Second, it is secretive. It was written behind closed doors. And very, very few Americans even know it is up on the floor today.

At an absolute maximum, the agricultural part of this budget will get a grand total of 50 minutes for debate. It is a scandal, but it is not a surprise. Because if this were my bill, I would not want to say much about it either.

But in any case, I want to welcome all my colleagues to the debate on the 1995 farm bill. I imagine the other side will be awfully quiet. But we're here to make up for it.

We are going to use these 45 minutes to tell the truth about the big, gobbling, turkey out here on the Senate floor. And then we'll give the other folks a second chance.

Our motion to recommit will restore the traditional, bipartisan approach to agricultural policy. We can work together, restore some fairness and moderation. And if we adopt this motion, our friends on the other side of the aisle can have something to be proud of when they go home and talk to their farmers.

SEVEN LEAN YEARS TO COME

If you have read Genesis, chapter 41, you know the story of Joseph's dream. He compared the 7 years to come with:

> seven kine . . . poor and very ill favoured and lean-fleshed, such as I never saw in all the land of Egypt for badness.

These seven ill-favored cattle ate up the good cattle, just as seven ears of corn, "withered, thin and blasted with the east wind" ate up seven good ears of corn. So Joseph could tell that the future would bring 7 years of trouble—7 lean years, in which "all the plenty shall be forgotten in the land of Egypt."

Well, we may not be as wise as Joseph. And the days of inspired prophecy may be gone. But on the other hand, we have a lot more than a dream to go on. We have hard facts and numbers. And these facts and numbers tell us that our farmers have 7 pretty lean years ahead.

This bill makes dramatic cuts in farm supports, which have already been cut 60 percent in the past decade. If this turkey survives Thanksgiving of 1995, the year 2002 will see us fund just half of today's Conservation Reserve Program. Bad for farmers, bad for hunters, bad for recreation.

The Emergency Livestock Feed Assistance Program will end. Our deficiency payments—the safety net our producers need in tough times—will be capped. In the very worst years, when our producers need help most, it won't be there.

Then look at nutrition. School lunch, daycare meals, and meals for senior citizens are all cut. And these are not surgical strikes—these are repeated blows with a meat axe.

These cuts affect more than farmers. They affect all of rural America. Schools, grocers, bankers, fuel dealers, equipment and automobile dealerships, and even our local and county governments will all feel the pinch.

And we are doing all this at a time when our competitors in Europe are not giving up a thing. They already give their farmers over 10 times the export subsidies we provide.

This budget cuts the Export Enhancement Program by 20 percent, and market promotion by 30 percent. We will end up exporting less, and that means lower incomes for farmers.

KEEPING YOUNG PEOPLE OFF THE LAND

Finally, maybe the most painful item of all. That is the apparent exclusion of beginning farmers from all these services. This spring I went to a lot of high school graduations in rural Montana. Places like Geyser, Hobson, Stanford, Opheim, Harlem and Dodson.

We have some great kids in these communities. They are looking forward to a career in agriculture like their parents. They want to work and provide for their families on their own land.

This bill shuts them out and puts them at a competitive disadvantage. Combine that with the trouble young farmers have in obtaining credit, and the message they get from this budget is clear. There is no place for you in production agriculture. There is no place for the small family farm in America.

OUR AMENDMENT: A SECOND CHANCE

Well, we can do better. And with our amendment, we will do better.

Our amendment is very simple. It says, go back to the drawing board. Take it back to the Finance Committee. Restore some sense and moderation to agricultural policy, nutrition and our rural economic approach as a whole. The amendment doesn't dictate how we should do it, but it gives us a chance to take a second look and get it right.

Let us remember the story of Joseph. He saw the 7 lean years coming. He told Paraoh about his dream. And Paraoh listened to Joseph. He changed his agriculture policy, promoted production, and stockpiled corn. And therefore Egypt got through the 7 lean years.

We can do the same. if the folks on the other side will listen, we can take advantage of this second chance. We can vote for the motion to recommit, and come back with a moderate, nonpartisan farm policy that is good for everyone. I hope it will get the Senate's support.

Thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. I yield 4 minutes to the Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, there is kind of a joke in Illinois that goes: "Just outside of Chicago, there's a place called Illinois."

That joke, or that phrase, used in the tourism industry, is based upon a notion that when people think of Illinois, they often first think of Chicago, and the rest of the State is overlooked. And that part of the State, the part "just outside of Chicago," is rural. That part of the State has vital agricultural industry. That part of the State is where you will discover more rural communities than any other State in the Nation except Texas.

In fact, when you discover that fully half of the 11.5 million people of Illinois live in the places outside of Chicago, that, I think, paints a more accurate picture of what Illinois is about than what our popular mythology would lead you to believe.

The reason I mention that, Mr. President, is that what happens in this bill, in this Reconciliation Act, with regard to rural programs is, therefore, vitally important to the State that I was elected to represent.

I hope always to represent all of that State and speak to the interests of rural Illinois—speak to the interests of what we call downstate as much as any other part of my State. That part of Illinois, just outside of Chicago, is a part of Illinois that I am determined to see is not overlooked. But being overlooked, I think, captures the general feelings shared by many rural Americans this year when it comes to Federal dollars and Federal attention this part of the country needs and deserves.

Mr. President, rural Illinoisans understand the meaning of shared sacrifice. No group of Americans should be asked to share a disproportionate burden of cuts any more than any other group. Rural Illinoisans have told me, and I have been around my State in town meetings, the deficit reduction should be a priority for this Congress. They understand that no Federal program should be off limits, that nothing should be excluded from review, and that everything should be on the table.

However, they also understand that shared sacrifice is something that means everybody. Shared sacrifice is exactly what this reconciliation bill fails to accomplish.

Some Americans will see huge and significant tax cuts from this bill. But more than half of all Americans, including most rural Americans, will see no tax cut at all. What is more, the net effect of the overall bill is to tighten the economic vise on rural America.

The $13 billion in farm program cuts proposed by this bill means that Illinois farmers will lose over three-quarters of a billion dollars in economic protection. With $113 million in title I education cuts, rural Illinois loses $3 million at a time when many rural school districts face a funding crisis. The cuts proposed for grants and loans for water and waste disposal programs mean thousands of rural Americans will not have access to safe drinking water.

I understand my time is concluded. I would like a further minute to finish up.

Mr. BAUCUS. I yield 30 seconds to the Senator from Illinois.

Ms. MOSELEY-BRAUN. In closing, Mr. President, for rural America, this bill, in fact, is "Robin Hood in reverse." The cuts on the rural programs are needlessly excessive, and given the fact that the tax breaks called for in this bill are absolutely inconsistent with our objective of deficit reduction, I believe we should recommit this bill back to the Finance Committee.

Mr. President, just outside of Washington is a place called rural America, a place populated by hard-working Americans who are willing to do their share—and then some—to achieve real deficit reduction, but who cannot afford the loss of economic opportunities this bill entails.

Surely we can do better than this bill.

Mr. BAUCUS. I yield 2 minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I want to talk about safety nets. The policy relative to agriculture is designed around a safety net. They have target price tied to some degree to the cost of production. This is a policy that has been established where there is no payment in good years. When you have a bad year, you need a safety net.

The proposal in the House eliminates the safety net. The proposal in the Senate puts gaping holes in the safety net for farmers. The idea of doing away with farm programs over a period of time, in my judgment, fails to realize the calamities, the disasters, that farmers face. They are subject to weather, they are subject to foreign competition, to price changes, all sorts of disastrous effects that can occur to the market.

I think we are making a serious mistake. We have cut agriculture programs from $30 million in 1986 down to $9 million last year. Here we come along with a $13.7 billion further cut in agriculture over 7 years. I think it is too much. We are not doing right by the farmer. We are doing away with the policy of safety net.

Mr. WELLSTONE. I yield a minute of my time to the Senator from Alabama.

Mr. BAUCUS. I yield 1 minute to the Senator.

Mr. HEFLIN. I want to mention, also, the safety net in regard to rural hospitals and the people.

In effect, what we are doing under the Medicaid and Medicare situation, we are eliminating a safety net for hospitals for rural America. In my judgment that is a mistake.

Safety nets go across the board. In my judgment, this bill is wrong in regard to what it does to rural America.

Mr. BAUCUS. I yield 2 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, 2 minutes is hardly any time at all.

Let me just put it to you this way. This is thoughtless. This is not a farm bill. It is not agricultural policy. It is slash and burn. It is $48 billion over the next 7 years. It plays off children and nutrition programs against family farmers, against the environment. It is a 50-percent cut in the Conservation Reserve Program, which in my State of Minnesota and I bet every State, has brought together those that love outdoor recreation and the environmentalists and the farmers.

This is really, Mr. President, the opposite of a careful policy—the very opposite of a careful policy. What we have here is the worst of all worlds—keep the farm prices low, then have some subsidy. Have the subsidy in inverse relationship to need, with taxpayers having to pick up the cost.

Mr. President, why do we not understand that rural people are not going to stay out of sight and out of mind? Why are we picking on the people that we think do not have the voice, picking on the people we think do not have the power, picking on people who are not the heavy hitters, not the players, are not the big contributors.

That is what this is about. We should not have these tax cuts that go to wealthy people. We should not have a Pentagon budget that is $7 billion over what the Pentagon wanted, and we should not lavish subsidies on most of the major large corporations and financial institutions in the country.

Rural people in Minnesota, the people of greater Minnesota, ask for one thing and one thing only: A fair shake. There is no fair shake and there is no fairness to this plan.

That is why I am proud to be an original cosponsor of this amendment.

Mrs. MURRAY. Mr. President, I rise to support this motion to recommit. I am deeply concerned about the Republican budget proposal and its all-out assault on rural America. I understand the need to balance the Federal budget. In fact, I've supported balanced budgets. But, I do not think we should do it on the backs of our working families and farming communities. They deserve better treatment than that. Just because the voice of rural Americans is not heard as loudly on Capitol Hill as others does not mean they can be ignored.

This Republican budget attacks rural communities in my State of Washington on a number of fronts. Republican cuts to Medicare will force 157,700 older and disabled rural Washingtonians to pay higher premiums and higher deductibles for a weakened second class Medicare Program. The cuts will increase the severe financial pressure on rural hospitals in Washington. The average rural hospital will lose $5 million in Medicare funding over 7 years, forcing some to close their doors. In addition, the American Medical Association has stated that the Medicare cuts "will unquestionably cause some physicians to leave Medicare". Rural America is already suffering from a shortage of doctors when compared to the Nation as a whole and it will only become worse under this budget. Rural Americans will be paying more for less, and that is unacceptable.

In addition, Medicaid cuts will eliminate coverage for children, nursing home residents, and people in need of long-term care. As many as 2.2 million rural Americans, including 1 million children will be denied medical coverage in 2002 if the Republican plan is adopted. Gordon Lederer, a farmer in Latah, WA, sits on the board of directors of the Tekoa Care Center. Patients pay $90/day at Tekoa, and Mr. Lederer said that the board does not know how the Care Center will continue to provide service to the community if the cuts to Medicaid are enacted.

Mr. President, cuts to the earned income tax credit will cripple working families and their ability to provide for their children in rural Washington. The Republican cuts to EITC raise taxes on

49,945 working families in rural Washington by an average of $388 in 2002, imposing a $1.4 billion tax increase on rural Americans overall. And there's more.

The 25 percent cut to farm programs will reduce farm spending in my State of Washington by $290 million, drastically reducing support for commodity programs. I am particularly concerned about the reductions in the loan rate for wheat. These reductions could threaten the viability of farms in my State. In fact, I just heard from Mack and June Crow, wheat farmers from Oaksdale, WA. Their son now runs the family farm and they are deeply concerned about the impacts of the farm program cuts on their farm's income and hence, their ability to survive. Farms are a symbol of American bounty recognized worldwide. They are a major part of Washington State's export-based economy. Most importantly, they are a way of life that roots us and grounds us in our history and our land. To balance the budget on the backs of family farmers is not only unfair, it is un-American.

Republican cuts to education programs will deny basic and advanced skills education to 937 children in rural Washington. Small town schools in Washington are already having difficulty making ends meet. A 17 percent cut in title I funds will deny these schools crucial assistance as they struggle to adequately prepare our children for the future.

In addition, cuts to rural nutrition, housing, and transportation programs as well as cuts to programs designed to protect the environment and public health add insult to injury, and will further undermine our rural Americans attempts to secure a solid future for themselves and their children.

Mr. President, this Republican plan to balance the budget unfairly targets rural Americans. It burdens them with far more than their fair share of cuts. I therefore encourage my colleagues on both sides of the aisle who care about rural America to support this motion to recommit.

Mr. DASCHLE. Mr. President, today my colleagues and I offer an amendment to the budget reconciliation bill that reaffirms our commitment to rural America. This budget before the Senate today will devastate the hard-working farmers and ranchers that provide our Nation's food supply. It will also decimate the main street businesses, schools and hospitals that make up our rural communities. The agricultural cuts in this budget are too extreme, are unfair to rural America and should be restored. Our amendment proposes to do just that.

No one should be fooled. The agricultural provisions in this bill represent the bulk of the farm bill. Buried in this 2,000-page document is the heart and soul of agricultural policy for the next 7 years. There were no hearings during the development of this bill and no opportunity for Democratic input. Now we do not even get a vote on farm policy. It is all rolled up in this enormous budget bill. Everyone knows this is not the way farm bills have been developed in the past.

This farm bill rips the safety net out from under our hard-working producers by cutting $13.4 billion from farm programs over the next 7 years. In South Dakota that translates into a loss of $460 million for our producers. Nationwide net farm income is projected to decrease over $9 billion over the next 7 years. Clearly family farmers who are already disappearing at the rate of 600 per week cannot tolerate this level of income reduction.

The pain of this budget does not stop at the farm gate. It bleeds into our rural hospitals. Ten to fifteen rural hospitals are projected to close in South Dakota if the proposed Medicaid/Medicare cuts are enacted. Some people already have to drive over 50 miles to reach a hospital or doctor. After this budget goes into effect they will have to drive even farther. Add to that the fact that over 2 million rural residents nationwide will be denied Medicaid, and anyone can see that this budget is a recipe for a health care disaster in rural America.

The sad truth of this situation is that it does not have to be this way. This severe level of cuts was required only to finance the lavish tax breaks for the wealthiest of Americans who do not need them. This amendment my colleagues and I are offering provides the opportunity to send the agricultural provisions back to the drawing board and to do it right.

Rural Americans deserve better than what they are getting under this budget. Farmers and ranchers are committed to balancing the budget as long as it is done fairly. Reducing farm income to pay for tax breaks is not remotely fair. No one is asking for a handout—only as fair shake. This budget gives rural America, the very heartland of the Nation, little more than a cold shoulder. We can and should do better than that.

Mr. BAUCUS. Mr. President, I yield 2 minutes to the Senator from North Dakota.

Mr. DORGAN. Mr. President, as I have said previously, this bill is about choices: 2,000 pages of making choices.

All across this country people got up this morning and ate breakfast food. Some ate rice that was crisped, called rice krispies. Some ate flaked corn, called corn flakes; wheat that was puffed, puffed wheat.

It is interesting. We have folks that raise these crops. They plow and raise wheat and corn. Down South they raise rice. Then we have a lot of folks that process it—the ones that put the crisp in it, put the flake in it, put the puff in it.

The big agrifactories have plenty of reason to smile at this. This bill is a really nice deal for them: tax cuts, major advantages.

But, the folks who get up in the morning and plow, they do not have much reason to smile. They get big cuts.

The President said $4.2 billion in cuts. We agreed to that.

But the Republican majority came along and more than tripled it. You cannot write a decent farm program that way. They painted themselves in the corner.

So instead of bringing a farm bill to the floor, which we have always done before, for the first time in history they threw it into a reconciliation bill and hoped nobody would notice.

Their approach is to say to farmers, do not worry. If you are a family farmer in trouble, move to downtown. That is their answer.

It is not an answer for North Dakota, in my judgment. A lot of farm families rely on us writing a decent family farm program. These people work hard, and all they are asking for is a fair shake.

We ought not to ask them to bear the entire burden of all the budget cuts. They have had a 60 percent cut in support prices alone in recent years. Now we are told to take a much higher proportion of cuts than virtually any other area of the Federal budget.

Frankly, it is not fair and it is not right. It ought not be done.

Mr. BAUCUS. I yield 3 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, 2 weeks ago I spent a crisp Monday morning at Claude Bourbeau's farm in St. Albans, VT, with Secretary Dan Glickman and a number of Vermont dairy farmers. I wanted to give him a chance to visit with some hard-working honest folks who will be severely affected by this budget bill.

Many of those farmers are concerned about this budget. I am too. I told the farmers that they lose thousands of dollars a year in revenue under the Senate Republican plan.

I asked the farmers, "Which of you could afford a cut like that?" Not a single hand went up.

It turns out that I was underestimating the impact when I was in Vermont. Just this morning, the Food and Agricultural Policy Research Institute and Texas A&M University released a new study.

This new, independent study says that under the Senate Republican plan, a typical 70-cow dairy farmer in Vermont would see net cash income fall by $9,050—from $31,120 to $22,070—in the next year. The House Republican plan is even worse—it would cost a typical farmer $17,850. Farm income would decline from $31,120 in 1995 to $13,270 in 1996. Under these plans, typical dairy farmers will lose 30 to 60 percent of their annual incomes. These farmers are already working dawn to dusk just to get by.

These numbers are consistent with a new analysis that USDA released a couple of days ago.

When those farmers in St. Albans hear how bad these cuts are, they will be stunned.

This budget is a war on rural America in many ways.

Over 27,000 working families in Vermont alone will see their taxes increase because the Republicans are scaling back the earned income tax credit.

The typical rural hospital will lose $5 million a year or more in Medicare. In rural Vermont, doctors and hospitals will lose $290 million in Medicare funds. I am afraid that doctors will simply abandon the small towns.

Schools in rural Vermont will lose $1.2 million in education funding. Our schools cannot afford that kind of hit.

Republicans want to create giant tax breaks for rich people and big corporations. The average rural family is not wealthy enough to benefit from the Republican budget. In Vermont, 63 percent of taxpayers earn less than $30,000—those are the people who will see their taxes increase.

According to Congressional Research Service, over half of all heads of households working in the agricultural sector qualify for the earned income tax credit, which Republicans cut.

In 1994, 328,000 farm families qualified for the EITC. Many of these were farm laborers, but 100,000 were farm operators and managers. Over one-third of all farm operators and managers nationwide will see their taxes increase under this Republican budget.

This Nation's farmers are struggling, and this budget says to them, "Tough luck."

The Finance Committee cut the EITC but it passed over $200 billion in tax breaks. Most of those tax breaks will benefit families earning over $100,000 a year. Only 3 percent of rural households earn that kind of money.

Several Senators addressed the Chair.

Mr. BAUCUS. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes.

Mr. BAUCUS. I yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, this plan for rural America is the equivalent of dropping a neutron bomb in the middle of rural America. Remember the neutron bomb? That is where the buildings remain standing but the people are gone. That is what will happen in much of rural America if this farm plan and this plan for rural America ever becomes law.

The Republican plan would force farmers off the land. In a low-price year, it would mean a 60 percent reduction in net returns to farmers in my State. It would close hospitals in rural areas. The hospital association in my State has just done a survey and they say 26 of the 30 rural hospitals in North Dakota would go to negative returns on their Medicare patients. It would shutter nursing homes and represents unilateral disarmament in the world trade battle over agricultural trade.

We would pull the rug out from our producers at the very time our competitors are already supporting their farmers at a level three times ours. That would be a profound mistake, not only for the rural parts of this country but for the trade balance of the United States.

Agriculture is one of the two areas in which we still enjoy a substantial trade surplus. We ought not to wave the white flag of surrender in this trade fight. We would never do it in a military confrontation. We should not do it in a trade battle.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, at this time I yield 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, obviously I rise to oppose the motion that is before us. It may be well intended, but let me tell you, the simple truth is that this amendment will hurt the very people, the very rural America, and the very family farms that, according to their statements, it is intended to help.

People on the other side of the aisle probably do not intend it this way, but the fact of the matter is, with their tax policy, they do not believe in taxation, they believe in confiscation. Because, when you leave high estate taxes, when you leave high capital gains taxes and the impact of inflation on each, you are in a situation where, when you tax inflation, it is confiscation and not taxation.

The estate tax laws, the way they are—and they have not been changed for 15 years; the capital gains tax laws, and they have not been changed since 1986—are tying up a lot of property in rural America that will not move because people are not going to pay confiscatory, high rates of taxation. One sure thing, if you do not need the income and you do not have to sell, you are not going to sell and give it all to the Federal Treasury, because in most of the farms of America, the lifetime of savings is tied up just to create an income and a job for one family.

So, if you want to help rural America, we have to transfer the property from one generation to another, and I do not know how you are going to do that if you do not do it by increasing the exemption and encouraging people to sell their property.

People suggest what we are doing in this reconciliation bill on farm policy is wrong.

The fact is that the President's budget is not good for agriculture because it does not achieve balance in the next 7 years.

The Food and Agriculture Policy Research Institute ran some numbers on the impact of a balanced budget on farm income. They estimate that by the year 2002, under a balanced budget scenario, farmers will save $2.3 billion per year due to expected reductions in interest rates. It is important to note that farming is a very capital-intensive industry and benefits greatly from low interest rates.

Furthermore, FAPRI's preliminary numbers indicate that farmers' cash flow will increase $300 million per year due to the increased economic activity resulting from the balanced budget.

So the net positive impact on farm income from a balanced budget will be $2.6 billion per year. This gain will be lost if we adopt the President's budget numbers.

Mr. President, another vital point that my Democratic colleagues fail to mention is that their doomsday numbers on agriculture assume that the cuts will be made to the program as it is currently structured. They would want you to believe that the Republicans are taking $13.4 billion out of farmer's pockets.

This assumption reveals a lack of understanding about how farm programs work and a failure to recognize the important reforms contained in this bill. The next farm bill will significantly reduce the regulatory burden on farmers, allow farmers to plant for the marketplace, and continue to aggressively promote new markets and new uses for agriculture commodities.

Specifically, farmers will no longer be required to idle productive land because of a mandate from Washington. Furthermore, farmers will have the flexibility to produce whatever commodity they chose in response to market signals. These reform measures, along with reducing the regulatory burden and finding new markets for our products, will lead to an increase in farm income in the future.

It is true that Government payments to farmers will be reduced. But the future of U.S. agriculture must rest on the ability of farmers to earn income from the marketplace. The reforms to the farm programs contained in this budget reconciliation package achieve this goal and will allow our farmers to flourish.

So I urge you to vote against this motion. I yield the floor and yield the remainder of my time.

The PRESIDING OFFICER (Mr. CRAIG). Who yields time?

Mr. COVERDELL. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, we have moved away again a little bit and have gone into posturing this afternoon, I guess not unusually. There has been a good deal of misinformation floating around this budget and its effect on rural areas with respect to health care. Contrary to what we have heard, there are several provisions designed to recruit providers and to ensure that 24-hour emergency care is available, which we have not had in my State, even though the Senator from Montana has had some in his.

It is interesting, also, that several of the provisions talked about here my friends on the other side of the aisle supported last year when they were in the Clinton health care plan—reducing the updates for inpatient hospital services, section 4101. The Republican plan does not apply 2 percent reductions to all hospitals like the Clinton health care plan did. Rather, it receives the 1 percent reduction.

The copayment for health care services—this is a fee we have heard a great deal about—somehow it was not as devastating last year when it was in Clinton health care plan, section 4134.

But, happily, there are a number of provisions that are most helpful. One is the limited services hospitals. Frankly, there are going to be a continuing number of these in rural areas. With hospitals that are built relatively close together, you simply cannot support the hospital as a coservice hospital because there is not enough utilization. And we have had some experience with this. Under this bill, they can be reorganized and downsized into emergency rooms, or stabilizing facilities, and be reimbursed by HCFA—that is a very important change—so that you will have the facility in the town that cannot afford to have a full-blown hospital.

Medicare-dependent hospitals. The Clinton 1993 budget let this program expire, but the Republican plan reinstates it. The purpose is to assist high Medicare patient loads in Iowa, Wisconsin, Kansas, and other Midwest States. But it also has the extension of the sole community hospital. The Republican plan plans to extend these special payments to hospitals that have 50 beds or less and are 35 miles or more away from the nearest hospital. Wyoming, Montana, Idaho, and other Rocky Mountain States receive the most money.

Medicare HMO payments. It intends to put these on an equal footing and to put some parity in these payments. These HMO payments in Medicare were based on the fee-for-service history. In one instance, in Bronx County in New York, the payment was $678 a month as opposed to South Dakota where it was $177. We need to find some equity in that. This program does that.

Medicare bonus payments, payments to primary care physicians to help hold primary care providers in rural areas, a 10- to 20-percent increase there if they practice in health care professional shortage areas.

These are the things that are in this bill to help rural health areas. Specifically, we have been working on it for several years with our rural health caucus, both in the House and in the Senate.

Telemedicine grants. We are going to find that we can save a great deal of money and provide better services by using telemedicine. There are some grants here that allow for that to be developed as well as to develop systems within rural States to deliver services.

So, Mr. President, contrary to what we have been hearing for the last few minutes, there are some substantial rural health additions to assist in delivering rural health services.

I urge the defeat of this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield now to our distinguished leader in agriculture, a strong spokesman in our country for agriculture. I yield 2½ minutes and to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. BAUCUS. I yield the remaining time.

Mr. HARKIN. Mr. President, I thank the Senator for yielding.

Mr. President, in times past, when rural America was hit with droughts or floods, we brought disaster bills to the floor of the Congress. These bills were to ease the suffering of rural communities in hard times and to help stop disasters.

Yesterday morning we were handed this, a brand new 2,000-page disaster bill. But this bill does not cure a disaster in rural America; it provokes one. This is a disaster bill for agriculture. We were supposed to have a farm bill this year with a full debate on a sound food and agriculture policy for the Nation. Instead, agriculture has now been slipped into these 2,000 pages—I bet no one has really read the darned thing—and we have had no opportunity for real debate or amendments.

Once again, agriculture is being forced to take unfair and unreasonable cuts amounting to 25 percent over the next 7 years —even though agriculture has already been reduced significantly and commodity programs amount to about one-half of 1 percent of the budget. One-half of 1 percent, but commodity programs take a 25 percent cut over the next 7 years. Tell me if that is fair.

This is a disaster bill for rural health care. We all know that access to quality, affordable health care in rural communities has been a serious problem for years—especially for seniors. This disaster bill, with its drastic Medicare cuts, makes it even worse in rural America.

This is a disaster bill for America's farm families, who are already having a tough time making ends meet. Net farm income in real dollar terms will be at its lowest level this year since 1986, in the depths of the farm crisis. This disaster bill makes it worse by lowering farm income another $9 billion, according to USDA estimates.

The PRESIDING OFFICER. The Senator's time has expired.

The majority controls 15 minutes 30 seconds.

Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are in the process of trying to work out a unanimous-consent agreement that will start us voting. So I am going to suggest the absence of a quorum.

Mr. HARKIN. May I finish my statement? May I have enough time to finish my statement?

Mr. DOMENICI. How long does the Senator wish to speak?

Mr. HARKIN. For a minute and a half. I was on a roll, and I did not want to stop.

Mr. DOMENICI. Of course; 2 minutes. Can the Senator pick up the roll?

Mr. HARKIN. I will pick up the roll.

The PRESIDING OFFICER. The Senator from Iowa is yielded 2 minutes.

Mr. HARKIN. I thank the chairman for yielding me an additional amount of time because I did want to make another point—that this 2,000-page bill really destroys our basic commodity programs that we have had to put a safety net under our farm families. It puts a hard cap on deficiency payment rates, doubles the percentage of unpaid base acreage and decimates USDA's ability to respond to price-depressing surpluses.

What if commodity prices and farm income fall as they did in the 1980s? Under this disaster bill, if corn prices fall to $2 a bushel an Iowa farmer with a 350-acre corn base—which is a modest size—would lose over $10,000 of income protection compared to the current farm bill. And, if corn prices fell to $1.80 a bushel, which is not out of the question, that farmer would lose over $17,000 in income protection compared to what we have now in the law.

Also, this is a disaster bill for hungry kids. The nutrition cuts in this bill are excessive and unsupportable. It is unconscionable that this bill is cutting our commitment to school lunches, school breakfasts, summer meals, and the special milk program.

Mr. President, these drastic cuts to rural America are driven by ideology and not by common sense. They are unfair, unreasonable, and unconscionable.

Enough is enough. Rural America is already paying its fair share for deficit reduction. So this amendment offered by the Senator from Montana is to send this disaster bill back to the Finance Committee with instructions to pare back the upper income tax windfalls, and to reduce the assault on rural America.

It is time, Mr. President, to put common sense ahead of ideology and to put the interests of rural communities over the interests of a privileged few.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COVERDELL. Mr. President, our side yields back its time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. I have been informed by Senator DASCHLE, the Democratic leader, that they will limit their amendments that they will offer after all time has expired, and with that commitment I now ask unanimous consent that all first-degree amendments pending to motions to recommit and all pending second-degree amendments be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. This will leave the following issues that need to be disposed of by rollcall votes that have been debated yesterday and up to this point today: The Rockefeller motion concerning Medicare, followed by the Abraham amendment concerning Medicare fraud, and the Bradley motion concerning EITC; the Graham, of Florida, motion concerning Medicaid; Kennedy amendment concerning education; Bumpers motion concerning deficit reduction; Baucus motion concerning rural restoration.

Therefore, I ask unanimous consent that all votes in this sequence after the first vote be limited to 10 minutes in length, with 2 minutes for explanation between each vote to be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I further ask that Senator KASSEBAUM or her designee now be recognized to offer a first-degree amendment concerning education and the time be limited to 10 minutes equally divided in the usual form, with no amendments in order to the amendment, and the vote occur immediately following the vote on or in relation to the Kennedy amendment in the voting sequence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. I further ask unanimous consent that the next 10 Republican amendments and the next 10 Democratic amendments be limited to 10 minutes equally divided in the usual form, with no amendments in order to any of the next 20 amendments offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Let me explain to our colleague where we go after the voting sequence that will occur after 10 minutes of debate by Senator KASSEBAUM or her designee. Republicans will be entitled to offer the next three amendments in a row as a result of a previous agreement. Then each side will alternate until the remaining amendments, limited to 10 minutes each, have been debated.

The Senate will then begin voting on those debated amendments, and then begin voting on all amendments Members are going to offer which would have no debate time. We would just offer it. There will be a little explanation. It will be the majority leader's intention to keep the Senate in until approximately midnight tonight and resume the voting sequence until concluded on Friday.

We could vary a little bit either way this evening depending on how much progress we make. And I have discussed this with the Democratic leader. It is our hope that we could finish voting and have final passage by midafternoon tomorrow. That will depend, of course, on whether Members on the other side feel compelled to continue to offer amendment after amendment after amendment when all time has expired. But that will be determined later. And I thank the Democratic leader for his cooperation.

I will be happy to yield to the Senator from South Dakota.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I thank the majority leader for that explanation, and that is in keeping with our agreement. We have three tiers of amendments. We have just completed our work on the first tier, for which now there will be votes, without second-degree amendments.

Once those votes have been completed, we will go to the second tier, for which there will be debate of up to 10 minutes on either side. I should say 10 minutes total for 10 amendments on the Democratic side and 10 amendments on the Republican side.

That will then expire all of the time. We will then go to the third tier of amendments for which there will be no time, and we will encourage Senators to write the purpose of their amendments clearly enough to allow the clerk to read the purpose and give us the opportunity then to vote.

We would also expect that on occasion the managers might find the need to explain a particular amendment. But there would be no time for discussion of that third tier set of amendments.

I think this is a very good agreement. It is what we had hoped to achieve now for some time. I appreciate the cooperation of all of our colleagues on both sides of the aisle. I think this will allow us to accommodate our work and accommodate many of the priorities we have been talking about now for several hours.

Mr. DOLE. Mr. President, I just say to my colleagues this would not be a good day to be absent. Neither will tomorrow be a good day to be absent. I assume there will be anywhere from 40 to 60 votes between now and tomorrow afternoon.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. May I inquire of the majority leader when the vote on the Bumpers deficit reduction amendment and Baucus rural restoration amendments will occur. I was a little bit confused as I listened to the leader read the list and then say the Kassebaum amendment would come up after the Kennedy amendment. There was an ambiguous point as to when the vote on the Bumpers amendment and vote on the Baucus amendment would occur.

Mr. DOLE. They will occur after the Kassebaum amendment or her designee. So it will be KASSEBAUM or her designee, then BUMPERS, then BAUCUS.

Mr. BAUCUS. And then the other second-tier amendments?

Mr. DOLE. Then second-tier amendments. And then third-tier amendments, which we hope will find a way to the wastebasket.

Mr. DASCHLE. Mr. President, just one clarification, I ask the majority leader. I would expect that we will vote en bloc on the second tier. I wonder if it would not be appropriate to have a minute, 30 seconds on a side, just to remind everybody what that series of second-tier votes are prior to the time we vote. We may have done that. I do not have the agreement in front of me. We are going to do that on the first tier with 2 minutes on a side. We vote on the second tier and have 30 seconds on a side just to be sure people understand.

Mr. DOLE. I so amend my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. One minute equally divided.

The PRESIDING OFFICER. One minute equally divided.

Mr. DOLE. Divided very quickly.

Mr. DASCHLE. That is right.

Mr. DOMENICI. Could I ask a question?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. We have agreed to this, have we not?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Could I ask, yesterday, when the Abraham amendment was being discussed on fraud and abuse, we heard a comment from your side that it would be accepted. If that is still the case, we can just save a little bit of time. We are up against time constraints. I wonder if that is still the case.

Mr. DASCHLE. I would want to consult with our ranking member. It is my understanding we would be able to accept it, but let me confirm that after consultation.

Mr. DOMENICI. In any event, we are not precluding that and if the Senator could find that out, we would save a little bit of time.

Mr. President, I am informed that the other side ought not work too hard on that request. It may be that we do not want you to say yes to our request.

Mr. DASCHLE. Mr. President, I would ask that the quorum call not be taken from either side as it relates to the time available on the bill, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The quorum call at this time will not be charged.

Mr. DOMENICI. It would not be because a vote is pending in any event. We are just following the rules?

The PRESIDING OFFICER. The Senator from New Mexico is correct.

The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I yield 3 minutes to the distinguished Senator from Hawaii off the bill.

The PRESIDING OFFICER. The Senator from Hawaii has been yielded 3 minutes.

Mr. AKAKA. Mr. President, I rise to express my deep concern about the provisions in the reconciliation bill relating to Medicare and Medicaid. In my judgment, the proposals are a danger to the health of millions of Americans. House and Senate Republicans have called for a reduction of roughly $450 billion in health care expenditures over the next 7 years.

They argue that they are merely reducing program growth, not cutting Medicare. But the facts tell us a different story. We have very good estimates of what it will cost to fund the Medicare program over the next 7 years. The fact is that more people will become eligible and we will continue to have health care inflation.

The Republican proposal would cut Medicare below both the medical inflation rate and the private sector rate by cutting $270 billion, for tax breaks, from what is needed to fund the Medicare program. We are not just scaling back Medicare, we are eroding its foundation.

Medicare experts estimate that keeping part A solvent through the year 2006 requires $89 billion in cuts, not the $270 billion called for under the GOP proposal. Those who want to cut Medicare argue that cuts are necessary to get us to a balanced budget in 7 years. That puzzles me.

If the objective of this bill is to balance the budget, why are we simultaneously considering a plan to cut taxes by $245 billion over the same period? Clearly, the vast majority of the cuts are not needed to keep Medicare solvent, but are needed to pay for new tax breaks.

I am deeply concerned about the size of the Medicare and Medicaid cuts, and the fact that the savings will be diverted to provide tax breaks for the wealthy. But my foremost concern is the impact these proposals will have on the poor, elderly, and the disabled who will be drastically hurt.

Under the Republican proposal, Medicare premiums and deductibles will increase, and the quality and availability of care will be seriously compromised. Seventy-five and eighty-five percent of Medicare beneficiaries have incomes under $25,000, and the increase in out-of-pocket costs could make Medicare coverage unaffordable for many. Furthermore, the portion of cuts that do not fall on beneficiaries directly will be borne by the providers who deliver Medicare services. These cuts will be shifted to the rest of the population in the form of higher medical bills and higher health insurance costs.

I would also like to discuss briefly the provisions of the bill pertaining to the Medicaid Program. In addition to cutting $182 billion in Medicaid over 7 years, the proposal before us replaces the current Medicaid Program with a block grant capped at fixed dollar amounts each year. The bill would offer only minimal coverage and benefits, eliminate all Federal Standards for providers and delivery systems, and abolish the Federal standards set for nursing homes and institutions caring for the mentally retarded.

In 1987, national standards for nursing home care were established with broad bipartisan support. These standards were designed to protect nursing home patients because of the horrendous treatment many were receiving and because State regulations were inadequate. Yet the Republican plan to cut Medicaid by $182 billion contains a provision repealing the national standards for nursing homes, even though these standards have improved care substantially.

Mr. President, we all agree that we must balance the Federal budget. However, we must do it the right way. We must ensure a basic safety net and make adequate investments for the future. I question the priorities set forth in this legislation. This bill does not safeguard health care for our Nation's elderly, poor, or disabled; it does not ensure proper care of vulnerable people in nursing homes; and it certainly does not make adequate investments in our future.

Mr. President, I sincerely hope that we recognize the tremendous benefits these programs have made in our society and urge that we continue the fight for dignity and security for our Nation's most vulnerable as we work to balance the Federal budget.

I yield the floor.

Mr. LEAHY. Mr. President, this budget bill is a raw deal for Vermont. It makes deep and unnecessary cuts in Medicaid, Medicare, student loans, and dairy programs that will devastate our economy for years to come. And it will raises taxes on 63 percent of working Vermont families. This is the wrong way to try to balance the budget.

This bill cuts Medicaid by $182 billion over the next 7 years and turns this vital program into a block grant to the States. Over the next 7 years, these cuts will reduce Federal Medicaid payments to Vermont by $205 million. This plan defaults on our guarantee that seniors would receive health care assistance when they need it the most.

Vermont's acceptance of this enormous responsibility would leave the State hundreds of millions of dollars short of funds to provide necessary health care over the next 7 years.

The plan also eliminates requirements for nursing homes to provide proper health standards, a loophole that will be seized by some to lower the quality of care and life in these institutions.

It is not an easy decision to place a parent or a spouse in a nursing home, but often it is the only alternative to ensure that they get proper care. And it will be even more difficult if the Republican plan prevails.

The bill cuts Medicare by $270 billion over the next 7 years. It will cut payment rates to providers and hospitals, make seniors pay higher premiums and increase deductibles. Vermont will lose $356 million in Medicare payments over the next 7 years, losing $88 million in 2002 alone.

In Vermont, 73 percent of our elderly population have incomes of less than $15,000. And 1 dollar of every 5 dollars of that fixed income is spent on health care. Yet Republicans are cutting Medicare and Medicaid to finance tax cuts that will mostly benefit Americans making over $100,000 a year—less than 3 percent of Vermonters make that kind of money.

Republicans have the gall to tell us that these massive cuts are supposed to "preserve, protect and strengthen Medicare." I think William Wells of Rutland, Vermont, who recently wrote to me, had the right response to this claim.

With true Vermont common sense, Mr. Wells wrote: I have heard politicians say "they want to save Medicare." Their way of saving Medicare is like a hunter 'saving' a moose by shooting it and having it mounted by a taxidermist. It is still there but no longer functional.

Let us be honest with the American people. Congress can balance the Medicare budget and keep the system solvent—but the cuts must be gradual and spread over a longer period of time.

For 30 years, Medicare and Medicaid have contributed greatly to the decline in poverty and improved the health of seniors in America. We are now asked to turn our backs on the elderly and distribute the "savings" among our wealthiest citizens.

Mr. President, I will oppose any plan that attempts to dismantle the health care delivery system that has served our Nation's seniors so well.

This bill also makes short-sighted cuts in education. It cuts student loan programs by $10 billion over the next 7 years. Students will be hit with 70 percent of these cuts—increasing the costs to the 20,000 Vermonters receiving higher education and their families by at least $5,800 over the life of a student loan. Because of rising tuition costs, Congress should be working to make education more affordable—not less.

These additional financial burdens will discourage many students to continue their education after high school. The Contract With America has sealed the fate of the next generation of Americans. They may never have the chance of post-high-school training or a college education—the key to a better paying job.

This bill also makes deep cuts in our dairy program. The Senate plan scraps the price support system for butter and nonfat milk and sharply limits the price supports for cheese. Under the bill, the average Vermont dairy farm will lose more than $7,000 a year in revenue. These dairy cuts will deal another blow to Vermont's dwindling family farms.

At a time when many working Vermonters are struggling to make ends meet, the Senate Republican budget would hike Federal taxes on low- and moderate-income families by cutting $43 billion from the earned income tax credit—a program that rewards work and compensates for low-wages.

This Federal tax increase will also raise State taxes in seven states, including Vermont, that have a State earned income tax credit tied to the federal credit. As a result, 27,000 Vermont working families earning less than $30,000 a year—about 63 percent of Vermont taxpayers—will be forced to pay higher taxes. This is a double whammy on working families.

Mr. President, this budget bill is a raw deal for Vermont. It will leave my home State in an economy crisis for years to come. And I will urge the President to veto it.

Mr. HATFIELD. Mr. President, the Balanced Budget Reconciliation Act of 1995 is proof that this Congress is willing to make the difficult decisions that are needed to balance our Federal budget. That there is agreement between Congress and the executive branch, between Republicans and Democrats, and between the House of Representatives and the Senate, of the need to balance the budget at a date certain is a victory in and of itself. While we may not all agree on how to accomplish that feat, we are at least all proceeding toward a common goal.

This legislation continues the effort that is already underway in the Appropriations Committee to balance the budget. To date the Appropriations Committee has reduced Federal spending by $24 billion. My colleagues who have worked to put this legislation together know full well that reducing spending is not an easy task. However, given the size of the national debt, all members know that we must act now and make those tough choices.

The prime example that we are ready to make tough choices is proven in this bill's attempt to reign in the exponential growth in entitlement spending. Earlier this year I stated on this floor that I was sobered by the demise of the Bipartisan Commission on Entitlements and Tax Reform. The Commission was unable to agree on a specific set of recommendations on how to address the issue of continued entitlement growth. I am very happy that the taboo of reforming entitlements may finally be gone. Entitlement spending will continue to grow from 49 percent of the Federal budget in 1995 to 59 percent of the total budget in 2002. Based on these numbers it is clear the entitlement beast has not been slain, but at least the Balanced Budget Reconciliation Act of 1995 takes us in the right direction on the entitlement issue.

Like many Members in this chamber, I have some disagreements with the spending decisions in this legislation ad drafted. One of those areas of disagreement relates to the $11 billion reduction in education spending over 7 years. Some members have argued that this cut is small in comparison to total spending in this area, or that the impact is painless on a per person basis. What these arguments fail to consider is the critical role education plays in the success of the Nation's children, the success of this Nation's industries, and the success of this Nation's standing in the world community. Education is an investment in the future. The Senate would be shortsighted to cut this investment short. I plan to work with my colleagues to ensure that this provision can be fixed before the Senate finishes its work on this legislation.

I am also concerned that this legislation deals a blow to States that have been innovative in addressing the rise in health care costs. The State of Oregon began an experiment in 1994 to expand health care coverage to more Oregonians. The Oregon Health Plan, as it is known, has increased access to basic health care to more than 120,000 low-income Oregonians. This has been accomplished by making rational choices about the effectiveness of health care services and making the delivery system more efficient. Already Oregon has seen significant results. Our costs per beneficiary are 10 percent less than the national average; hospital charity care has decreased by 30 percent; emergency room visits are down by over 5 percent; and our welfare caseloads have decreased by 8 percent in the past year. Unfortunately the legislation before the Senate would inadvertently penalize Oregon for being innovative in its delivery of medical services. I am working with the leadership to ensure that this type of creativity and effective governing is not penalized.

There are a number of tough choices in this legislation and the authors should be commended for their work. However, given the fact that 15 percent of the current budget is spent to pay interest on the debt, these tough choices need to be made. We have before us a proposal that will do the job. While I would like to see some reordering of priorities in the legislation, I am looking forward to working with my colleagues to assure that a balanced budget becomes a reality.

PENSION REVERSIONS

Mr. BINGAMAN. Mr. President, I rise today in opposition to a provision in the budget reconciliation legislation before us that could put at risk the pensions of hard-working Americans. Specifically, I refer to the provision allowing corporations to take money out of funds deemed overfunded by the IRS for deductibility purposes, and use that money for other employee benefits, without paying an excise tax. Of course, because money transferred in this manner is fungible, the money could actually be used for almost any purpose.

The principal problem with this provision is that pensions funds considered overfunded by IRS for tax policy consideration are not overfunded on an actuarial termination basis. As I understand it, this means that while the plans have enough money to meet their current ongoing obligations, if for some reason the plan terminated, the people who had paid into that plan would have no guarantee that the plan could provide the pension benefits that they earned over the years. In such a case, the U.S. taxpayer, through the Pension Benefit Guarantee Corporation [PBGC], would be forced to step in and pay the benefits.

Mr. President, we know that workers are concerned about their ability to retire with a decent standard of living. We also know that our Nation is suffering from a lack of savings and capital for economic expansion, and that institutional investors like pension funds are the single largest investors in capital. It therefore makes absolutely no sense to me to provide an incentive to decrease pension security, savings, and available capital through provisions like the one included in the budget reconciliation legislation before us.

I think we should be doing more to promote sound pension plans, and expand coverage for American workers. This provision seems to me to be doing just the opposite: putting existing plans at greater risk without expanding coverage. In the time since this and a similar House provision have come to the public's attention, numerous pension experts, including the American Academy of Actuaries and the PBGC, have expressed concern about the effect this provision could have on pension fund soundness. I have also heard from constituents expressing similar concerns. For all of these reasons, I urge my colleagues to strike this provision.

Mr. BOND. Mr. President, in many respects this is an amazing debate we are having today, a debate I was not sure I would ever see—should we, or should we not, pass a bill which will get our budget into balance over the next 7 years.

It is historic. It is bold. It is unprecedented. And judging by the reaction, it is real.

Unfortunately, $5 trillion in debt has piled up waiting for this day, so even with this action, we are still passing on a huge debt to our children and their children.

When I first got to Washington, after coming from State government where we had to balance the budget every year, I was amazed at the cavalier attitude taken by so many about budget crisis.

It did not take me long to learn that walking away from budget problems had become so ingrained that success was defined as holding the deficit to only $200 billion—meaning we only added $1 trillion to the debt every 5 years.

Unfortunately, that is where President Clinton remains today. While we are willing to put before the public the real questions—when do we stop adding to the debt? When do we get serious about slowing the growth of runaway programs? When will Congress be willing to actually say No to a special interest, or a pet program and say "Sorry, I'm worried about adding to my kid's debt."

No one said it would be easy—but with the leadership of Senator DOMENICI, and the willingness of Members to stand up and vote for action instead of just talking a good game—this Senate will soon take that step.

Make no mistake, the step is a big one, as for the first time in 25 years Congress has the opportunity to pass a budget which will get us to a surplus—rather than just keep adding to our debt.

The budget before us is tough. It sets priorities. It recognizes that government cannot do it all. And it makes the statement that the time has come for leaders of today to start paying attention to the financial and economic devastation thy are creating for tomorrow's generations.

We have heard many speeches about the need to cut spending, reduce the deficit, and get our Nation's books into balance. Everyone who looks at our nearly $5 trillion debt recognizes the need to do something so that we don't keep piling on that debt for our children and grandchildren.

Over the next few days the American people will have a rare opportunity to see exactly what the political leadership's visions for our country's future are.

Too often Congress legislates for the present, ignoring the costs for the future. Political expediency replaces thoughtful debate, and at the end of the day it is with shock and dismay that the public finally realizes what has occurred—and recognizes what additional debt they or their children will be forced to pay.

It takes a long time to build up a $5 trillion debt. And even starting today it will take 7 years to get us to a balance, meaning that we won't even begin paying off a dime of debt until 2002.

Some would like us to put off the tough choices for a little longer. Others have abandoned finding a solution to the real budget crisis we are facing in their zeal to make political points. And still others claim to be on board with the concept of balancing the budget—they just don't like our approach.

But as I have said before—talk is cheap. If you say you want to balance the budget, let's see your plan.

If you say you understand Medicare is going broke, and must be fixed, let's see your plan.

Unfortunately, what we have seen and heard so far is much heat—and no light.

Medicare is one of the best examples. Medicare today is paying out in claims more than it is collecting in premiums. It is only because of the interest earned on the trust fund's surplus that Medicare is not insolvent right at this moment.

This means that as I speak, for every dollar a senior is paying in, more than a dollar in claims is being paid out. So why is everyone not saying stop, something has to be done?

Next year even including the interest earned on the trust fund's won't be enough to pay out all the claims. Thus next year Medicare will be insolvent, and it will be forced to start eating into its rainy day fund—the money which has been built up in order to be available for the baby boomers who start to retire in the next decade.

And then if nothing is done, by the year 2002 the surplus will be gone and the entire program will be bankrupt and will be forced to shut down.

So again I ask, why is the President not saying we must do something to fix this drastic problem—not just delay it again like has been done so often before—but actually fix it?

Why are my colleagues in the Democratic party not saying let us get to work on this problem?

Instead they want to paper over the problems in Medicare, only fiddling around the edges, while making no effort to make fundamental changes in the program as we realize must be done. We want to make savings by giving seniors a real choice—they offer a 2-year bandaid to get them beyond the next election.

So what does our bill do? It takes on the task of reforming and overhauling Medicare—both to protect it for today's seniors, as well as preserve it for tomorrow's. It also expands choices, and bring the program of the 1960's into the health care system of the 1990's. And it gives us 25 years of additional solvency—versus the 25 months of the Democrats' plan.

How much clearer can the choice be? A thoughtful long-term solution—or a get-me-through one more election BandAid.

Mr. President this debate is much bigger than Medicare. It is much bigger than Medicaid, agriculture, civil service retirement, or welfare. It is about what financial legacy we want to leave to our next generations.

It is about whether people believe that $5 trillion in debt is enough, and whether we in Congress have the courage to hit the spending brakes.

I hope we do. And hope that the President will find the courage to do the same.

Finally, I would like to express my opposition to the amendment that the senior senator from Arizona has indicated he plans to offer.

That amendment would, allegedly, eliminate 12 pork programs—a goal I would support if it delivered on that promise. Unfortunately, however, the amendment would target several programs which are critical to our international competitiveness and our ability to create high-paying export jobs. Let me quickly touch on just a few examples:

First, the amendment would require the Export Import Bank to raise loan fees which would have the impact of making Exim financing uncompetitive vis-a-vis other countries' export finance agencies. That means U.S. companies will lose deals and U.S. workers will lose jobs.

Second, it would reimpose recoupment fees on commercial sales of military equipment overseas. The Bush administration eliminated this fee because it was making U.S. export uncompetitive and costing jobs. It makes no sense to reimpose it.

Third, it would cancel NASA's subsonic and supersonic research programs. These programs are aimed at ensuring U.S. aerospace companies retain their technological edge into the 21st century. If it becomes technically possible, it will be economically viable to build only one supersonic airplane. I want that plane to be built by Boeing or McDonnell Douglas, not by Airbus.

CAPITAL GAINS—FAIRNESS

Mr. HATCH. Mr. President, we need to consider some very important facts concerning the fairness of the capital gains tax rate reduction in the reconciliation bill before us.

We have heard some statements here on the Senate floor over the past few days by some of our colleagues who believe that a broad-based capital gains tax rate reduction somehow favors the rich at the expense of middle- and lower-income taxpayers. I want to set the record straight on this issue.

WHO PAYS CAPITAL GAINS TAXES?

First, Mr. President, let us start by examining who pays capital gains taxes in this country.

The fact of the matter is that most of the tax returns reporting capital gains come from taxpayers in the lower- and middle-income categories.

Since there are varying views as to where the middle-income category begins and ends, I have prepared two pie charts contained within chart 1 to illustrate who these taxpayers are.

The pie on the left shows that, on average, from 1985 to 1992, 62 percent of all returns reporting capital gains came from those reporting $50,000 or less of adjusted gross income [AGI]. I repeat, 62 percent. This amounted to more than 5½ million taxpayers per year.

The pie on the right, Mr. President, shows the same information for taxpayers with higher incomes, but still within what most would consider as the middle-income category.

As you can see, 79 percent of all returns reporting capital gains came from those reporting $75,000 or less of AGI. On average, this was over 7 million taxpayers per year.

Capital gains realization is hardly the exclusive domain of the rich.

Actually, these figures dramatically understate the number of people in the lower- and middle-income categories who will benefit from the capital gains deduction.

It is estimated that about 44 percent of all people reporting capital gains recognize such gains in only 1 out of 5 years, on average.

In 1986 alone, of the 7.6 million returns reporting capital gains, 3.1 million of these taxpayers reported no capital gains in the previous year.

THE "OCCASIONAL RECOGNITION PHENOMENON"

Since many taxpayers do not have capital gains each year, it is obvious that there are millions more of lower- and middle-income taxpayers than this chart indicates who will benefit from a lower capital gains tax rate.

This occasional recognition phenomenon also illustrates why the numbers cited for the rich are consistently overstated by capital gains tax cut opponents.

By only looking at 1-year segments, capital gains tax cut opponents erroneously conclude that once a taxpayer experiences an unusually large capital gains recognition in a particular year, he or she will stay in the rich category forever. Such is simply not the case.

Take, for example, a typical farming couple in Cache County, UT, who has struggled over the years to make ends meet and finally decides to sell the farm and move to the warmer climate of southern Utah.

Even though this couple may never have reported more than $30,000 of farming income in any given year, in that 1 year of sale they will be lumped in with the rich because they reported a $250,000 of gain on the sale of their farm.

To conclude that this couple is rich because they realized a large capital gain in only 1 year of their life is ridiculous. Yet, this is exactly the basis for many of the statistics given by my friends on the other side of this issue.

One study looked at those reporting over $200,000 of income per year from 1981 to 1984. Taking just single-year snapshots of the realizations, such taxpayers accounted for almost 40 percent of all capital gains reported.

However, when the entire 4-year period was considered as a whole and the occasional nature of recognitions was taken into account, their proportional share dropped to just 22 percent.

Thus, the more years that are included in the comparison, the smaller the share of gains going to the so-called rich.

Let me repeat, Mr. President, studies that show lower- and middle-income taxpayers who receive an occasional larger capital gain as being rich are misleading.

OPPONENTS IGNORE BENEFIT TO LOWER- AND MIDDLE-CLASS TAXPAYERS

Now, I am the first to admit that some who are truly wealthy will benefit from a lower capital gains tax rate, and rightly so, as I will discuss in a few moments.

However, the impact of the benefits of a capital gains tax cut to the wealthy are greatly overstated, while the positive benefits to lower- and middle-income taxpayers are mostly ignored by those who oppose this change.

For example, a Treasury Department study estimates that nearly half of the dollar value of all capital gains are reported by taxpayers reporting wage and salary income of $50,000 or less.

Moreover, the same study estimates that three-fourths of all tax returns with capital gains are filed by taxpayers with wage and salary income of less than $50,000. Yet, to listen to capital gains tax opponents, one could conclude that only the rich would be affected by a lower rate.

Mr. President, to get a better feel for how many lower- and middle-income taxpayers will actually benefit from the capital gains deduction in this bill, consider the following.

It is estimated that about 12 million lower- and middle-income workers participate in some sort of stock equity plans with their employers—12 million.

Moreover, many millions of Americans own investments in stocks, bonds, and mutual funds. In fact, as of September 1994, there were 93.6 million mutual fund accounts in America. It is interesting to note that 52 percent of the 30.2 million families owning mutual funds report incomes of $50,000 or below and that 80 percent of those families report incomes of $75,000 or below. This is middle America. This is the teacher who married the police officer planning for their future.

In addition, millions of people in the lower- and middle-income categories own homes and rental properties that could be subject to capital gains taxes upon sale. This bill will benefit all of these taxpayers.

CAPITAL GAINS TAX RATE DIFFERENTIALS

Mr. President, it is well known that in 1986, Congress raised the capital gains tax rates on the rich, from a 20-percent top rate to a 28-percent top rate. What is lesser known, however, is that we raised capital gains taxes on middle-income taxpayers as well.

For example, a family of four earning the median income saw a 50-percent increase in their capital gains tax rate. A family of four earning twice the median income—and these would be the upper middle class rather than the rich—saw a 47 percent increase in their capital gains tax rate.

In 1990, Congress once again created a differential between the top tax rate on capital gains income and the top tax rate for ordinary income.

By putting in a new 31 percent bracket, but keeping the top rate on capital gains income at 28 percent, we once again began to favor capital gains income—for some.

The differential was further increased in 1993 when Congress created the 36 and 39.6 percent tax brackets and again capped the capital gains tax rate at 28 percent. The result is that taxpayers in the highest brackets currently enjoy a lower rate on capital gains, but those in the 15 percent and 28 percent brackets do not.

As you can see from chart 2, Mr. President, this bill remedies this situation by giving those in the lowest tax brackets the largest percentage reductions in their effective capital gains tax rates.

Note that the wealthiest Americans will get only a 25-percent decrease in their effective capital gains tax rates, while those in the lowest tax brackets will enjoy a full 50-percent reduction.

Not only will large investors receive incentives to create jobs, but this relief will now be enjoyed by smaller investors as well.

It is high time that lower- and middle-income families get some meaningful capital gains tax relief. For the first time in years, lower-income taxpayers will enjoy single digit rates of taxation on their capital gains.

INFLATION

One of the best reasons for a cut in the capital gains tax rate is that a sizeable portion of all capital gains reported are caused by inflation. In fact, economists estimate that on average, about half of all capital gains are inflationary in nature.

Mr. President, I have never heard anyone try to argue that taxing inflationary gains is fair—either for the rich or for anyone else. There is simply nothing fair about having to pay tax on inflationary gains.

In fact, a tax on inflationary capital gains is not a tax on income at all or even on the increase in the real value of the asset. It is purely a tax on capital, very much like the property tax, but assessed only when the property is sold.

This bill helps to ameliorate inflationary gains by providing a 50-percent capital gains deduction. In most cases, this should effectively nullify the tax on the inflation element. This is fair tax treatment—for everyone.

TAX DISTRIBUTION

Many of my colleagues on the other side of the aisle have expressed concern that the dollar amounts of a capital gains tax cut will go disproportionately to those in the highest tax brackets. Let me make three points about this, Mr. President.

First, despite the continual rantings and ravings by liberals about tax breaks for the rich, our tax system has gotten more and more progressive over the past years, as illustrated by chart 3.

Note that in 1993, the top 1 percent of all taxpayers paid almost 29 percent of all income taxes while the bottom 50 percent of all taxpayers paid less that 5 percent.

Since 1980, our income tax system has gotten much more progressive. If capital gains tax cut opponents think our system is so drastically unfair, I want to ask them a question: If these percentages do not satisfy you, what percentages will?

Second, many millions of American families currently pay no Federal income taxes at all. It makes little sense to talk about these people in terms of tax relief. A hundred percent of zero is still zero.

By definition, it is impossible to give income tax relief to those who pay no income taxes in the first place. If we want to talk about taking from higher-income taxpayers and giving to lower-income taxpayers, let us call it what it really is—welfare.

Third, opponents of capital gains tax relief must assume that wealthier taxpayers who realize capital gains take the money and bury it in the back yard or stuff it into a mattress.

Opponents ignore the fact that this money is almost always immediately put back into the economy, where it goes to work creating jobs and adding to investment capital available for business creation or expansion. The ultimate fairness of the cut in the capital gains tax is that economic and job opportunities will be enhanced for all Americans because of this bill.

In conclusion, Mr. President, for the reasons cited in chart 4, I firmly believe that the capital gains tax cut provisions in this bill are fair. They are fair for all American families because all American families will derive a great deal of benefit from them.

I sincerely hope that my colleagues will take the time to consider the points I have made and vote in favor of this much-needed reform to our tax law.

The bottom line, as I see it, is that our current capital gains tax rates are an effective tax on initiative, investment, and planning ahead—all things that we say we should encourage people to do.

It is time for our tax policy to reflect our national values.

Mr. President, I ask unanimous consent that the two tables referred to in my statement be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Chart No. 1—Who reports capital gains?

	Percent
AGI >$50,000, 3.4 million people	38
AGI of $50,000 or less, 5.5 million people	62
2.9 million people, AGI >$75,000	21
AGI of $75,000 or less, 7 million people	79

Source: Treasury Department.

CHART NO. 2—WHO ENJOYS THE GREATEST TAX RATE REDUCTION?

[In percent]

Income tax brackets:	39.6	36	31	28	15
Current capital gains tax rate	28	28	28	28	15
Effective rate under this bill:	21	18	15.5	14	7.5
Percentage Reduction:	25	36	45	50	50

* Assumes the Alternative Minimum tax applies.

CHART NO. 4.—WHY IS THE CAPITAL GAINS DEDUCTION FAIR?

It gives the largest percentage decrease to those in the lower tax brackets.

Most of the returns filed showing capital gains come from lower- and middle income taxpayes.

It reverses the 1986 capital gains tax increase on the middle-class.

It reduces, if not eliminates, the cruel and unjustifiable tax on inflationary gains.

It stimulates the economy to create more jobs and opportunity for those on the lower rungs of the economic ladder.

PMA VICTORY

Mr. PRESSLER. Mr. President, I rise today to declare victory for rural community and small city electric ratepayers. I am pleased that both the House and the Senate budget reconciliation bills do not contain any language requiring a sale of the Southeastern, Southwestern or Western Power Marketing Administrations—collectively known as the PMAs. As I have stated on this floor many times before, this is a critical issue to my fellow South Dakotans.

As my colleagues know, during Senate consideration of the Budget Resolution earlier this year, my colleague from Montana, Senator BAUCUS, and I offered an amendment that expressed the Senate's opposition to the sale of the Southwestern, Southeastern and Western Area Power Administrations. The Senate voted overwhelmingly against a motion to table that amendment.

The balanced budget reconciliation bill now before us reflects the wishes of the Senate. The PMAs represent a government program that works. They provide affordable power to rural communities and small cities and still manage to turn a profit for the Federal Government.

As I have said again and again, sale of the PMAs would have a devastating effect on South Dakota citizens in rural communities and small cities—and on people across the country.

Public power serves many functions in South Dakota. As a sparsely populated State, utilities are faced with the challenge of how to get affordable electricity for those who live in small cities and rural communities where there are less than two people per mile of transmission line. Public power provides the solution.

Public power, purchased through the Western Area Power Administration, known as WAPA, costs South Dakotans an average of 2.5 cents less than the market rate. This lower cost is essential to encourage economic development in small cities and towns. It allows revenue to be reinvested in additional transmission lines, and better service. The availability of hydropower from the Missouri River to rural cooperatives and municipalities has helped to stabilize power rates. With 7,758 miles of transmission lines in the Pick-Sloan region, WAPA can serve 133,100 South Dakotans—without charging them an arm and a leg.

Public power has brought more than electricity to South Dakota. For example, Missouri Basin Municipal Power

Agency, based in Sioux Falls, has embarked on a program offering incentives for planting trees. The goal is to plant at least one tree for each 112,500 meters in the Agency's membership territory.

Public power also brings new jobs to the communities it serves. In part due to the low cost of power from East River Electric, there are now three injection molding plants based in Madison, SD.

East River Electric also is involved in other economic development activities. It provides classes to help the community attract new businesses, and offers grants for feasibility studies associated with economic development projects. South Dakota clearly has benefitted from the work of Jeff Nelson, the general manager of the East River Electric Power Cooperative.

Public power is a South Dakota success story. It is a source of innovation, development, and community pride. I am sure the same is true in other small cities and rural communities across America. That is why I fought against proposals to sell WAPA and two other power marketing administrations. The proposal to sell the PMAs was a budgetary smoke-and-mirrors effort to disguise a backdoor tax on rural and small city Americans.

In fact, a PMA sale would force South Dakotans—and public power consumers everywhere—to cover for the rest of America. Why? Because the sale of the PMAs could result in rate increases totaling more than $47 million.

Some argued that the sale of the PMAs would generate revenue for the Federal Government. Would it? Let us look at the facts.

PMAs still owe almost $15 billion in principal. Also, more than $9 billion in interest already has been paid to the Federal Government. By selling the PMAs, the government would forfeit future interest earning on the outstanding loans.

In fact, the Congressional Budget Office [CBO] recently released its scoring of a House proposal to sell the Southeastern Power Administration [SEPA]. The proposal, approved by the House Transportation and Natural Resources Committees, limited the sale only to actual power generation and the right to market the power.

CBO scored the House proposal to sell SEPA at zero—showing that the sale would cause no gain or loss to the Treasury. In other words, CBO certified what I have said all along—that a PMA sale would not generate net revenue.

In addition, CBO estimated that the proposal to sell SEPA would cause rates to increase up to 75 percent in some areas. CBO noted that the supposed rate "cap" included in the House proposal would do nothing to protect 95 percent of the rural electric cooperatives or municipal utilities that buy power from SEPA from significant rate increases. This proves what South Dakotans have known all along—selling the PMAs would rob rural ratepayers and destroy a vital community resource.

Mr. President, I am pleased that with strong bipartisan support, we fought successfully to prove the worth of public power. We demonstrated how necessary it is to the lives of rural and small city Americans. I am proud of the people of South Dakota who have stated their message loud and clear—through thousands of postcards, letters, and phone calls. South Dakotans such as Ron Holsteen, Bob Martin, and Jeff Nelson have been leaders in their opposition to the proposed PMA sale and I again congratulate them and commend their hard work. They and their counterparts are the true heroes in this victorious battle.

Public power is a solid investment for the Nation. Public power is one of the great success stories of South Dakota. There is no question: For now, we have won the war for the continued existence of public power. This is a victory for all Americans who reside in small cities and rural communities.

The PRESIDING OFFICER. Who yields time?

Would the Senator from New Mexico suggest the absence of a quorum?

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. I thank the Senator.

The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I yield 2 minutes to Senator KYL off the bill.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President. If there is a single vote on which the American people will judge the success or the failure of this Congress, if there is a single vote this session that will change the course of American history, it will be the vote on the Balanced Budget Reconciliation Act, which is before us today.

This single vote will determine whether we finally face up to the grim reality of a national debt that is $4.9 trillion and growing daily, a debt that now amounts to $18,500 for every man, woman and child in this country, or whether we continue the spending spree that we have been on for the last 20 years at the expense of our children and grandchildren.

This single vote is more important than the votes on the balanced budget amendment and the line-item veto. Those are the tools that will help us balance the budget and keep it there. This bill actually balances the budget.

This single vote will determine whether we keep the promises we made to the American people last fall that we would balance the budget and provide badly needed tax relief or whether it is business as usual: Promises out the door as soon as it is time to make the final decisions, the difficult decisions.

I believe that this Congress, the new majority and the American people who sent us here last year believe that it is different. We have spoken, we have worked, we have voted for the fiscal restraint for years but never had the votes in the Congress to prevail. This time is different. We finally have the chance and the numbers to prove what we say is what we mean: That Government is too big, that it costs too much, that it intrudes too far into the lives of our people and that, finally, we are willing to do something about it.

Mr. President, this is the most crucial vote that we will cast, and I am assuming that the majority of this body will support this Balanced Budget Reconciliation Act and put this country on the right course for the next century.

I believe this Congress—the new majority that the American people sent here last year—is different. We have spoken, we have worked, we have voted for fiscal restraint for years, but have never had the votes in Congress to prevail. This time is different. We finally have the chance, and the numbers, to prove that we mean what we say—that government is too big, it costs too much, and it intrudes too far into the lives of our people—and that we are willing to do something about it.

Former Education Secretary Bill Bennett probably said it best in testimony before the Budget Committee earlier this year. He said:

> We have created a nanny state that takes too much from us in order to do too much for us. This has created inefficiency, sapped individual responsibility, and intruded on personal liberty.

Mr. President, it is time to change course.

Fourteen years ago, President Reagan embarked on a similar mission to curb Federal spending, cut taxes, and reduce regulation. He succeeded in cutting taxes—and that launched the longest peacetime economic expansion in our Nation's history. And, I will talk about that a little more later.

Yes, deficits soared. But that was not because of the tax cuts. It was because the majority in Congress at the time did not have the courage or the will to limit Federal spending.

In the budget we have before us, spending growth is limited to about 3 percent a year. Had Congress been able to exercise the same restraint beginning in fiscal year 1982—the first year President Reagan had full control of the budget—the budget would not only have balanced in fiscal year 1989, there would actually have been a $73.5 billion surplus. Instead, Congress let spending grow by about twice that rate. Spending skyrocketed from $745.8 billion in fiscal year 1982 to $1.1 trillion by fiscal year 1989.

So even as revenues grew dramatically—from $617.8 billion in fiscal year 1982 to $990.7 billion in fiscal year 1989—the deficit soared because spending grew faster. A 60.4-percent increase in revenues was not enough for the spendthrift majority in Congress.

To my colleagues who say this is no time for a tax cut, let me tell you that the middle-class tax cut in our budget does not come at the expense of a balanced budget, but as a result of one. It is the dividend that the American people receive from the downsizing of government: the $200 million reduction in the congressional budget; the phasing out of the Commerce Department; welfare reform; and the consolidation and elimination of other programs to name a few.

In fact, the Congressional Budget Office has certified that our budget meets its deficit reduction target; will help the economy; and, as a result, will produce a $170 billion economic dividend. We can and should return this dividend to the people. The $170 billion, combined with $21 billion from the repeal of corporate welfare, and billions of dollars in other savings—none of which comes from Medicare—allows us to pay for the tax cut and balance the budget. That is certified by the CBO, the agency President Clinton praised as the most accurate forecaster of budget numbers.

My colleagues, taxes are a problem, but it is not because they are too low; they are too high. Go out and talk to people in your States. Listen to them. The typical family now pays over 40 percent of its income in Federal, State, and local taxes. That is more than it spends on food, clothing, and shelter combined. Americans are working more than 3 hours of every 8-hour workday just to pay taxes to various levels of government.

Back in 1948, the typical family paid only about 3 percent of its income to the Federal Government in taxes. The budget balanced that year. In fact, the entire Federal budget amounted to only $29.8 billion—about what we will pay this year for 43 days' worth of interest on the national debt.

Mr. President, the American people are not undertaxed. They are overtaxed. They need relief. When politicians say we cannot afford a tax cut now, it is because they do not want to give up the money that is available for them—for the politicians—to spend. Well, what about hard-working families? What about what they can afford?

These are people struggling every day to get the kids to school, go to work, and pay their bills. To the family with two kids earning $20,000 a year, a $500 per child tax credit means a lot.

The Heritage Foundation recently estimated that 344,152 taxpayers in Arizona—more than 28 million taxpayers nationwide—are eligible for the $500 per child tax credit. Heritage estimated that 47,552 taxpayers in Arizona—3.5 million nationwide—would see their entire income tax liability eliminated as a result of the $500 per child tax credit. Those taxpayers are not wealthy, yet they are the ones who benefit most significantly from the Senate tax cuts.

In fact, 83 percent of the tax reductions in this bill will go to those with annual incomes under $100,000, and 70 percent will go to those with incomes under $75,000.

The bill includes a capital gains tax cut. A recent study by the Cato Institute found that the capital gains cut will benefit poor and working-class Americans most. The study found that the tax reduction would unlock hundreds of billions of dollars in unrealized capital gains, thus promoting investment in new technologies and entrepreneurial ventures. It would "expand economic opportunities for working-class Americans by encouraging capital formation, new business creation, and investment in capital-starved areas, particularly inner cities, and lead to the creation of more than half a million new jobs and increase wages by the year 2000."

People across America are frustrated. They are struggling day in and day out to make ends meet, while they watch the Federal Government squander their hard-earned tax dollars on everything from farm subsidies to pork-barrel highway projects, helium reserves, and welfare for lobbyists. President Clinton even wants us to pay "volunteers" to do their work—pay "volunteers" in the AmeriCorps program more than the average American earns in a year.

People in homes across the country are struggling with an oppressive tax burden while Congress and the President argue about who is rich, and about how much "we" can afford to give up in tax revenue. My colleagues, it is the American people—not government—that needs help, and this bill takes a small, but meaningful, step in that direction.

This bill is not radical or draconian. In fact, the tax cuts will total $245 billion over 7 years—just 2 percent of the total amount that the Federal Government will collect over that period. It is modest, and if the American people knew we were having such a battle over just 2 percent, they would be stunned.

Throughout the debate over the next few days, we will hear a lot about tax cuts for the rich. Whenever politicians start to object to tax bills because they do not tax the "rich" enough, or they provide too much relief for the "rich," middle America better hold onto its wallet. As I pointed out before, more than 70 percent of the benefit of this cut goes to those with annual incomes of less than $75,000, so we are not talking about the super rich at all.

Remember in 1990 when Congress was supposedly going to soak the rich with a luxury tax on expensive cars, boats, jewelry, and furs? Well, it was not the rich who ultimately got soaked. The sale of yachts fell by 73 percent, and boatyards died. Sales of Cadillacs declined 17 percent. The rich simply avoided the tax by not buying the yacht or the Cadillac, and it was the guy on the line who ultimately paid the luxury tax—paid with his job. Congress had to repeal it.

In 1993, President Clinton called on the American people to pay higher taxes—he called it making a "contribution" to the Government. But it was the average woman on her way to work who found that she had to pay a higher price for gasoline to get there. It was the senior citizen making as little as $34,000 per year who found out he was among the "rich" President Clinton had in mind; he ended up paying higher taxes on his Social Security.

Now President Clinton says he made a mistake in 1993—that he raised taxes too much. I agree that he made a mistake, but if I recall correctly, he sent up a budget asking for $359 billion in new taxes—$100 billion more than he eventually got. It turned out that there was no support in Congress for a tax increase of that magnitude, even among members of his own party. He ultimately had to settle for a tax increase of "only" $258 billion—still the largest in history.

Yes, President Clinton did raise taxes too much, and we have the chance in this bill to undo some of the damage. Not only have people been taxed too much, but they have lost jobs as well. A constituent of mine, Tom Ford from Tucson, AZ, contacted me recently about what the Clinton tax increase has done to him.

Mr. Ford makes a living as a special effects specialist for the motion picture industry. He lost one job on a film called "China Spur," which was to have starred Willie Nelson, Ernest Borgnine, and Heather Locklear. The film was canceled when the Clinton tax increase took effect because the investor found he did not have enough money to take a risk on the film.

Tom Ford worked on another movie, "Waiting to Exhale," with Whitney Houston. Again, taxes hurt the little guy. The project went forward, but corners were cut. Salary and hours were reduced. Whitney Houston got her full asking price, and paid all her taxes, as did Gregory Hines and Angela Bassett who also starred in the film. But the guys behind the scene—people like Mr. Ford—were forced to work for less. It was they who bore the brunt of the tighter budget that resulted from higher taxes.

What does that mean? Wealthier taxpayers like Whitney Houston do not get hurt. She has a great deal of talent, and will continue to command a good wage no matter what taxes are levied. But others are not so fortunate. When Mr. Ford does not work, or works fewer hours or for less money, he cannot buy the extra equipment he needs for filmmaking. And this, in turn, means someone who produces the equipment is also put out of a job. He cannot buy the new pick-up truck he needs for his business. The Ford dealer in Tucson loses a sale, and the factory worker in Detroit sees her job threatened because sales fall off.

Mr. Ford pointed out the irony in a letter to me. He said, "the only good thing is that with a lower income brought on by higher taxes, I am now paying less in taxes to the government." But that is not what is supposed to happen according to the big taxers.

If you listen to the other side in this debate, you will hear that higher tax rates are supposed to bring in more revenue for the Government. But that is not what Tom Ford's experience demonstrates. High tax rates cost jobs and ultimately reduce revenues that might otherwise accrue to the Federal Treasury.

That is the experience of the 1980's. Tax revenues increased from $517 billion in fiscal year 1980 to $1.03 trillion by fiscal year 1990. They nearly doubled. And that is despite the fact that the top income tax rate fell from 70 percent to 28 percent. The share of total Federal income taxes paid by the top 10 percent of taxpayers, ranked by adjusted gross income, rose from just under 50 percent in 1980 to more than 57 percent by 1988. During a period in which their marginal rate fell by 60 percent, the wealthy paid almost 19 percent more in dollar terms in Federal taxes. That is because the tax base expanded as people worked more, invested more, and took money out of tax shelters and put it into taxable investments instead.

Just as the local department store does not lose money when it holds a weekend sale—volume more than makes up for a reduction in price—the Government does not lose revenue when it reduces tax rates. Just the opposite occurs. With businesses expanding, more people working, and more investments being made, tax revenues will increase.

The opposite occurs when tax rates are increased. People change their behavior to avoid the higher tax. After the tax increases of 1990 and 1993, income tax collections actually declined from 8.6 percent of gross domestic product [GDP] to 8.2 percent of GDP in 1994.

Even if you disregard the dynamic effect of the tax cuts proposed in the budget before us today, tax revenues are projected to increase substantially. They will increase from $1.35 trillion in fiscal year 1995 to $1.85 trillion in fiscal year 2002. That is $500 billion—half a trillion—more money than we are collecting today.

Mr. President, how much is enough? Can the Government not get by with an extra 35 percent worth of revenue—an extra half-a-trillion dollars—to spend? How much more is needed?

Now there is a lot of talk about the spending cuts in this package; that they are too deep or that one group or another is being singled out. The fact is, most programs are not being cut at all. Medicare spending, for example, will rise from $178 billion this year to $274 billion 7 years from now. In other words, we will be spending 50 percent more in 7 years than we spend today. The average Medicare benefit will go from about $4,800 per person today to $6,700 in the year 2002. That is not a cut. Let us be honest. It is not a cut.

Student loan volume will grow from $24 billion in 1995 to $36 billion in 2002—another 50-percent increase. Be honest: a 50-percent increase is not a cut.

It is the logic that defines a spending increase as a cut that has gotten us into this predicament. It is like giving someone a 50-percent raise and having that person quit because he thinks his employer cut his salary. Let us be honest. An increase is not a cut.

Let us make no mistake about what these deficits mean. When mom, dad, grandma, and grandpa want more from the Government than they are willing to pay for in taxes today—that is a budget deficit—we are all handing the bill, dollar for dollar—plus interest—to our sons and daughters, and their children yet to come.

Most people agree that the Federal Government should maintain a social safety net to provide individuals with the hand up that they need to escape hard financial times. No one here is proposing that we eliminate that helping hand. But, we have got to find a way to provide a safety net without leaving future generations with a legacy of debt and despair.

My grandson was born just 5 months ago and already owns a share of the national debt that is $18,500 and rising. He can expect to pay $187,000 in taxes during his lifetime just to pay the increase on the national debt. What will be left of his income to care for his children? How will the Government care for the needy of tomorrow when every dollar of individual income tax revenue is devoted to interest on the national debt?

Mr. President, a balanced Federal budget offers hope. Yes, it will require that Congress prioritize spending so that the most important programs are not jeopardized. And wasteful programs will have to be eliminated. Some of the luxuries will have to be postponed to another day. A balanced budget will require heavy lifting, but it offers hope and opportunity.

The Congressional Budget Office predicts that a balanced budget would facilitate a reduction in long-term real interest rates of between 1 and 2 percent. That means that more Americans will have the chance to live the American dream—to own their own home. A 2-percent reduction on a typical 30-year $80,000 mortgage would save homeowners $107 a month. That is $1,284 a year, or over $38,000 over the life of the mortgage.

A 2-percent reduction in interest rates on a typical $15,000 car loan would save buyers $676.

The savings would accrue on student loans, and credit cards, and loans to businesses that want to expand and create new jobs. Reducing interest rates is probably one of the most important things we can do to help people across this country.

This bill includes incentives to help people buy insurance coverage for long-term health care, and to save in medical savings accounts. It includes a tax credit for adoption expenses, and estate tax reform so that families are not forced to sell their small businesses just to pay estate taxes to the Government.

This budget represents a break from business as usual. We are finally making the tough choices the American people sent us here to make. We are keeping our promises—for a change.

Will some people be unhappy with the bill? Of course. It is always easier to hand out money other people earned than it is to say "no." Will some say they have been singled out? Of course. But if you look at the myriad of interests that say they have been singled out, you see that no one has been singled out at all.

This is a historic debate, the most important vote many of us will ever cast. Let us not miss this opportunity or another one might not arise until it is too late for our country. Vote for the Balanced Budget Reconciliation Act.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be allowed to speak for 2 minutes as in morning business, not to take away from the time on either side.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, just so everyone will understand, we cannot be doing this because we are very, very close on getting to the amendments we have agreed to. In this instance, for 2 additional minutes, I will not object, just so Senators on our side know we are not going to be able to do any more of this until we get on the amendment. At this time, I will not object.

The PRESIDING OFFICER. Without objection, the order for the quorum call is rescinded. The Senator from Texas is recognized as in morning business.

ATROCITIES IN BOSNIA

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the Senator from New Mexico.

I want to talk for 2 minutes about the atrocities that we believe may be going on right now in Bosnia. I have submitted a sense-of-the-Senate resolution so that the Senate can speak out against these atrocities and ask the Bosnian Serb leadership to stop forthwith anything that might be going on that is a crime in the area of Banja Luka.

We saw in the Washington Post this morning and in the New York Times last week what now appears to be mass murders in Srebrenica by the Serbs in July. The problem, Mr. President, is this may be going on right now around Banja Luka. I want the U.S. Senate to speak forcefully, asking the Serb leadership, if they are going to try to sit down at a peace table, that the least they can do is allow our Assistant Secretary of State John Shattuck, people from the United Nations, people from the Red Cross into the Banja Luka area to certify that there are not mass murders going on right now to account for the men who have been rounded up in factories, in stadiums and, if they are still alive, to let them go back to their families and, if there are crimes being committed, to stop them forthwith.

I think it is time that we as a Senate, on a bipartisan basis, speak loudly and clearly.

My sense-of-the-Senate resolution has been filed as an amendment. It is HUTCHISON, MCCAIN, LIEBERMAN, STEVENS, LEVIN and THOMAS, and many cosponsors are coming from both sides of the aisle.

Mr. President, we must speak and the Serb leadership must stand up and say these atrocities have stopped.

Thank you, Mr. President, and I thank the manager of the bill for letting me speak on this very important subject. If we can stop one murder right now, it will be worth it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I understand Senator KASSEBAUM is prepared to offer an amendment with reference to education. I understand we have 10 minutes on our side and they have 10 minutes on their side.

The PRESIDING OFFICER. The Senator from New Mexico is not correct in that. There is 10 minutes equally divided, 5 minutes to a side.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2962

(Purpose: To strike the provisions relating to loan payments from institutions, the elimination of the grace period interest subsidy, and the PLUS loan interest rate and rebate)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, proposes an amendment numbered 2962.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1426 line 9.

Mrs. KASSEBAUM. Mr. President, the purpose of this amendment is to strike the provisions relating to loan payments from institutions, the elimination of the grace period interest subsidy, and the PLUS loan interest rate and rebate.

I will just briefly speak to this, Mr. President, because this has been something the Labor and Human Resources Committee has worked long and hard on. We passed the budget resolution earlier this year in the U.S. Senate. The Labor Committee, as a whole, expressed reservations at that time about the magnitude of the cuts that the resolution directed us to make in the Federal student loan programs. However, we agreed to try and meet the reconciliation instruction, and we did so.

As chairman of the Committee on Labor and Human Resources, on behalf of the majority members of this committee, we worked to get a package that met the reconciliation instruction and had the least impact on students.

Much has been said on the Senate floor about the impact on students. We consciously directed the effort so that it would not impact strongly on students. This amendment would reduce savings by about $6 billion from the original $10.8 billion that was requested from and produced by the committee. Those costs will be offset by excess savings from the entire budget package.

Mr. President, this amendment would eliminate the provision of the bill that would require students to pay for the interest on their subsidized Stafford loans in the 6 months after they leave school. This would have only applied to new borrowers, but we now eliminate that provision. It would eliminate a raise in interest rate and the interest rate cap on the PLUS parent loans and would also repeal the assessment of a participation fee on institutions of higher education.

The main difference between this amendment and the amendment offered by Senator KENNEDY, is that we leave intact provisions in the budget bill that would decrease the size of the direct loan program to a more appropriate demonstration size, until we can fully assess the merits and feasibility of direct lending. Direct lending does not affect student eligibility for Federal student loans, nor does it affect the amount of funds available for loans or the rates and fees charged to students. They do not make financial aid more affordable or more accessible.

Mr. President, I just add that there are two members—one, a member of the committee, Senator JEFFORDS from Vermont, and the other is Senator SNOWE from Maine—who have felt strongly from the very beginning that we simply should not cut into the education funds as much as the reconciliation request required. They have fought long and hard.

I will yield what time I have remaining to Senator JEFFORDS and Senator SNOWE but I want to point out that a majority of the committee is cosponsoring this amendment. We are all united behind this amendment, and it has been a dedicated effort on the part of the committee majority members.

I yield the floor to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont has 1 minute, 21 seconds.

Mr. JEFFORDS. Mr. President, let me briefly remind everybody that a while back, when we were dealing with the budget resolution, 67 of us voted not to cut more than $4 billion out of higher education. This amendment would bring this level closer to where we in the Senate voted earlier this year to be—a $5 billion cut from the $10.8 billion. I remind my colleagues of that. I hate to see anybody be inconsistent with their voting, and since 67 voted for something a little more draconian than this, I hope those Senators will stay with us on this amendment.

I will also say, while I believe that we should have direct lending stay in as it creates great competition for the programs, and am in favor of having a rate higher than 20 percent that is in the bill now, I could not go with the Democratic amendment because it essentially opens up direct lending fully. I will therefore be voting against the Kennedy amendment. But I will be voting in favor, obviously, of the Kassebaum-Snowe-Jeffords amendment.

Our amendment restores the 6-month grace period, eliminates the .85 percent institution fee, and lowers the interest rate on PLUS loans. Reducing the labor committee's instruction from $10.85 billion over 7 years to $5 billion.

Let me lay aside the issue of reducing education cuts for one quick moment and explain why this amendment is so important.

The amendment offered by my democratic colleagues restored direct lending to current law—or a transition to 100 percent. I simply could not support such a provision.

I have always been a supporter of testing the direct lending program and am on record as opposing the labor committee's bill to limit it to 20 percent. Twenty percent in my view is too small, it cuts out schools that currently participate in the program—that to me is wrong.

However, as I stated during debate of the 1993 reconciliation, I believe in a slow, implementation of direct lending. It should be undertaken thoughtfully and carefully. The amendment offered by my democratic colleagues is tantamount to a phase-in of direct lending. A phase-in suggests something very different than a thoughtful analysis of the two programs. My fear is that we have already made the decision to go full force without really looking at the advisability of such a move. It is like saying "ready, fire, and then aim."

For this reason I support a firm cap on direct lending. That cap, in my mind should be set at a point which protects the schools that are current participants and allows some room for growth. I suggest that number be set between 30–40 percent.

Mr. President, that is not the amendment we are currently considering. I offered that suggestion to my colleagues as a bipartisan approach. Unfortunately, that amendment coupled with billions of dollars in additional student aid, was rejected by the democrats and interestingly also by groups purporting to represent higher education. In particular the council on education.

I am truly disheartened that today we may have lost an opportunity to demonstrate to this Congress, the administration and the people of this country that education is not a partisan issue. Unfortunately, we gave up the chance to show that politics takes a back seat to sound policy.

I wish we could have put differences aside and discussed the real issue—reducing the labor committee's instruction and restore funding for education.

Certainly, we must balance the budget but we must cut expenditure not investment. That is what this amendment does. It strikes the .85 percent institution fee, restores the 6-month grace period, and eliminates the increase in the PLUS interest rate. Support for this amendment will provide savings to parents, students, and institutions.

Eliminating the interest subsidy during the 6-month grace period could increase the debt of an undergraduate who borrows the maximum $23,000 by almost $1,000, resulting in additional payments of nearly $1,400 over the life of the loan. For a graduate student who borrows the maximum $65,500, the result would be $2,700 in additional debt and almost $4,000 in additional payments.

Raising the interest rate and the interest rate cap on PLUS loans would increase the total payments of parents who borrow $20,000 for their children's education by $1,300.

It simply doesn't pay to cut education.

Consider the following: More highly educated workers not only earn more, but they work and pay taxes longer then less educated workers.

Between 1973 and 1993, median family income dropped by over 20 percent for families headed by a person with a high school diploma or less; but it held steady for those families headed by someone with 4 years of college; and increased for families head by someone with 5 years of college or more. (Mortenson, June 1995)

We need to encourage our young people to pursue higher education both to keep us competitive and to help balance the budget.

Higher education funds cannot be cut any further.

Unfortunately, the opportunity for individuals to go on to postsecondary education is getting slimmer and slimmer. Pell grant awards have not kept pace with college costs. Students have had to increase borrowing in order to make up the difference.

In 1985–86, the actual maximum Pell grant of $2,100 paid 58 percent of the total annual cost of attendance for a 4-year public institution $3,637. In 1993–94, the maximum Pell grant of $2,300 paid only 36 percent of the total cost, $6,454.

Because Federal grant programs have grown much more slowly than the cost of attending college, loans now, 1994–95 account for 56 percent of all student aid, up from 49 percent in 1985–96.

Borrowing has skyrocketed in recent years to such an extent that the amount borrowed through the FFEL program from 1990 to 1995 is greater than the total amount borrowed from its inception in 1965 through 1989.

With such statistics it is no wonder that polls show more and more students and families deciding that college is simply out of their reach. In fact, close to 20 percent of students consider leaving school because of debt. Considering the impact on our economy and the future earning potential of individuals with a postsecondary degree, this statistic is most disheartening.

I urge my colleagues to support this amendment and tell the nation that the issue of education spending is a bipartisan issue.

I see that the Senator from Maine has arrived. I am happy to yield to her.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have 5 minutes, as I understand it. I will speak for 2 minutes and then yield 2½ minutes to the Senator from Illinois.

Mr. President, this is, first of all, an extraordinary moment because it is an initial victory for the students of this country and their parents that our Republican friends are hearing their message about the unfair, unwise, unjustified additional burden on working families. So that is the good news.

The bad news is that what Senator KASSEBAUM's amendment will effectively do is to say to the 1,400 schools that now have direct lending that half of them are out. Half of them are out. There is no suggestion about how you are going to cut those out.

Under our amendment, we are leaving the choice to the schools, to the colleges. It is so interesting that our Republican friends want to close the option for local control out. We leave it up to the schools. If they want to get in, they can—maximum choice—and we leave it up to the schools to have competition between the direct loan program and the guaranteed loan program.

Under the amendment of the Republicans, they will be preserving the $77 billion that will flow through the guarantee agencies and guarantee $5 million in profits. That is not competition. Where is the voice for competition among the Republicans? Where is the description about what colleges are going to be in and what colleges are going out?

The amendment that has been introduced by myself and Senator SIMON goes back to what was agreed to in terms of direct loans in 1993. We permit the colleges that want to get in, and we establish a ceiling. That was bipartisan. Someone tell me what happened in the 1994 election that was to say that we are going to jiggle the system and force the students into the guaranty system.

I yield to the Senator from Illinois.

Mr. SIMON. Mr. President, I agree this is a step forward. But it eliminates—cuts down to 20 percent direct lending. This is, frankly, a brazen kind of pandering to the banks and the guaranty agencies. There is not a college or university in this Nation that has a direct lending program that does not want to keep it. And as our friend and former colleague, DAVE DURENBERGER, said, "This is not free enterprise, the old system, this is free lunch for the guaranty agencies and the banks." We write into the law their profit.

In terms of the taxpayer, we wrote the budget resolution so that you would count the administrative cost for direct lending but not for the guaranty student program. CBO says, under current law, that leaving this 20 percent, as the Kassebaum amendment does, will cost the Nation $4.64 billion. All colleges and universities, again, who are in the program like it. It saves a huge amount of paperwork. Students like it, parents like it, taxpayers like it.

The Kennedy amendment is budget neutral. We do not add to the deficit. Why are we doing something that colleges like, students like, and taxpayers benefit from? We are doing it for one reason and one reason only: To benefit the banks and the guaranty agencies.

If we want to call this a bank assistance bill—and they have record-breaking profits right now—we ought to do that. If we want to call this an assistance to guaranty agencies, we ought to do that; but if we want to call it an assistance to students bill, then we ought to vote for the Kennedy amendment. Let me just point out that this idea came from Congressman TOM PETRI, a Republican from Wisconsin. DAVE DURENBERGER, Republican from Minnesota, was the chief cosponsor of this.

This should not be a partisan thing. I hope Members on both sides will vote for the Kennedy-Simon amendment. It makes sense for everyone. I just appeal to you on behalf of America's students.

Mr. KENNEDY. Do I have 30 seconds?

The PRESIDING OFFICER (Mr. THOMPSON). Ten seconds.

Mr. KENNEDY. Mr. President, this is a clear attempt to strike one of the initiatives of President Clinton—eliminate National Service, eliminate Goals 2000, eliminate direct lending for education.

Our Republican friends cannot stand a good idea when they see one.

The PRESIDING OFFICER. All time under the amendment has expired.

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Congressional Budget Office dated October 26 saying there has been no scorekeeping activities that try to prejudice one of the programs versus another; that is, that guaranteed one versus another.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 26, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your letter of September 5, 1995, you asked the Congressional Budget Office (CBO) to respond to several questions regarding the Credit Reform Act and section 207 of the 1966 budget resolution related to the treatment of administrative expenses in the student loan programs. Attached are CBO's responses to your questions.

If you wish further details, we will be pleased to provide them. The CBO staff contact is Deborah Kalcevic.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment.

RESPONSES TO QUESTIONS FROM CHAIRMAN DOMENICI

The Credit Reform Act of 1990 provided that the federal budget would record the cost of direct loans and guaranteed loans on a subsidy basis rather than a cash basis. The act defined the subsidy cost of a loan to equal the present discounted value of all loan disbursements, repayments, default costs, interest subsidies, and other payments associated with the loan, excluding federal administrative costs. Federal administrative costs of loan programs continued to be accorded a cash-accounting treatment. Estimates of proposals affecting student loans made from 1992 through early 1995 used the accounting rules established in the Credit Reform Act.

The budget resolution for fiscal year 1996, adopted in June 1995, specified that the direct administrative costs of direct student loans should be included in the subsidy estimates of that program for purposes of Congressional scorekeeping. Since June, for estimating legislation under the 1996 budget resolution, the Congressional Budget Office (CBO) has used this alternative definition of subsidy costs. In addition, changes in economic and technical estimating assumptions complicate the comparison of estimates made at different times. The following questions and answers explore the implications of the change in accounting for direct student loans.

Question 1: The President proposed, and signed into law in 1993, the Federal Direct Student Loan Program to replace the guaranteed lending program. What was the time frame adopted for the phase-in of that program when it was initially enacted and what savings estimate was provided by CBO?

Answer: The President's fiscal 1994 budget proposed expanding the direct student loan program from a pilot program (which was about 4 percent of loan volume) to a program that would provide 100 percent of all student loans by the 1997–1998 academic year. As part of the request, the President proposed to lower interest rates to borrowers as of July 1997, substantially increase the annual capped entitlement levels for direct loan administrative costs, and subsidize schools for loan origination. The budget proposed no changes in the guaranteed loan program except to phase it out. CBO estimated that the proposal would save $4.3 billion over the 1994–1998 period. These estimates were completed using the CBO February 1993 baseline economic and technical assumptions. The President's proposal became the policy assumed in that year's budget resolution.

The legislation passed by the Congress differed significantly from the policies assumed in the budget resolution. The bill met the requirement to save $4.3 billion by limiting the volume in the direct lending program to 60 percent of the total and substantially cutting subsidies in the guaranteed loan program. Specifically, direct loans were to represent 5 percent of total volume for academic year 1994–1995, 40 percent for 1995–1996, 50 percent for 1996–1997 and 1997–1998, and 60 percent for 1998–1999. The legislation also provided that the ceiling could be exceeded if demand required it.

Question 2: In his FY96 budget, the President proposed an acceleration of that plan so that all student loans would be provided directly from the government no later than July 1, 1997. What "additional" savings did CBO estimate for the accelerated phase-in under the Credit Reform Act?

Answer: The President's fiscal year 1996 budget request included a proposal to expand the direct student loan program to cover 100 percent of loan volume by July 1997. This proposed change was estimated to save $4.1 billion from the CBO baseline over the 1996–2002 period. That baseline incorporated CBO's February 1995 economic and technical assumptions and the direct loan phase-in schedule provided under current law. This baseline reflected the rules that are currently in law for estimating the cost of credit programs.

The 1996 budget resolution specified that the direct administrative costs of direct student loans should be included in the subsidy estimates for that program for purposes of Congressional scorekeeping. This change conformed the treatment of the administrative costs of direct student loans with that for guaranteed student loans. For purposes of Congressional budget scorekeeping, the change overrides the Credit Reform Act, which requires that the federal administrative costs for direct loan programs be accorded a cash-accounting treatment.

For estimating legislation under the 1996 budget resolution, CBO modified its baseline for direct student loans to include in the subsidy calculations the present value of direct federal administrative costs, including the loans' servicing costs. This change means that direct loans issued in a given year have their administrative costs calculated over the life of the loan portfolio, with adjustments for the time value of the funds. Therefore, the subsidy costs of any year's direct loans will include the discounted future administrative costs of servicing loans which may be in repayment (or collection) for as long as 25 to 30 years. The inclusion of these administrative costs in the subsidy calculations for direct loans increases the subsidy rates for these loans by about 7 percentage points. Consequently, the resolution baseline for student loans is higher than the current CBO baseline. Under the assumptions of the budget resolution baseline, the President's 100 percent direct lending proposal would save $115 million over the 1996–2002 period.

Question 3: What would be the long term costs, under scoring rules in effect prior to the 1995 budget resolution, for the above proposal? How would those savings be affected over the life of the loan? How would those costs be compared with the same volume of loans made under the guaranteed program?

Answer: The response to the first part of this question is addressed in the previous answer. Compared to the CBO baseline, the President's 1996 budget proposal was estimated to save $4.1 billion over the next seven years. In order to provide an estimate of a proposal to return to 100 percent guaranteed lending by July 1997 under either the CBO or the resolution baseline, we would need more detail than has been provided on how the program would be restructured.

Question 4: Did the credit reform amendment adopted as part of the budget resolution direct the Congressional Budget Office to exclude any costs for guaranteed loans?

Answer: This year's budget resolution addressed only the budgetary treatment of the administrative costs of direct student loans. By defining the direct administrative costs of direct loans and requiring these costs be calculated over the life of the loan portfolio, the resolution allowed for the costs of direct and guaranteed loans to be evaluated on a similar basis. Thus, all of the program costs for both programs are included in the resolution baseline and are accounted for in the same way, whether they are calculated on the basis of subsidy or cash-based accounting.

Question 5: Are there any expenses of direct or guaranteed loans that are currently excluded from the government subsidy costs that would be more appropriately included in that subsidy? If so, what are they and why have they been excluded from the subsidy cost? For example, some have argued that the credit reform amendment did not include the administrative cost allowance which is paid to guarantee agencies.

Answer: Indirect administrative costs—those not directly tied to loan servicing and collection—are included in the budget on a cash basis for both programs. Some have asked whether these costs would be more appropriately included in the loan subsidy calculations. Although it might be appropriate to include some or all of these costs in the subsidy calculation, as a practical matter it is not straightforward to determine which costs to account for in this manner. For the most part the costs of government oversight, regulation writing, Pell grant certification, and other similar expenditures are personnel costs of the Department of Education or contracted services. In addition, many of the costs, such as program oversight, are not tied to a single loan portfolio but affect many portfolios and both programs. Allocating these costs to specific portfolios and programs for specific fiscal years would be difficult.

The Omnibus Budget Reconciliation Act of 1993 (OBRA-93) eliminated administrative cost allowance (ACA) payments to guaranty agencies. Until that time, the volume-based payments were always included in the subsidy costs of guaranteed student loans. However, OBRA-93 gave the Secretary of Education authority to make such payments out of the $2.5 billion capped entitlement fund for the direct loan program. Any expenditures from this fund would be accounted for on a cash basis. If the Secretary chose not to allocate any funds for this purpose, then there would be no payments to guaranty agencies.

As part of its current services budget estimates, the Department of Education announced plans to use funds available under the capped entitlement to pay administrative cost allowances to guaranty agencies at one percent of new loan volume for the next five years. Both the CBO baseline and the budget resolution baseline include these planned administrative expenses on a cash basis under the capped entitlement account at the Department's current services levels.

It makes little budgetary difference whether these payments are computed on a cash or subsidy basis. Because the payments are made at the time of loan disbursement, their estimated costs on a cash basis or subsidy basis would be essentially the same. As a result, over the 1996–2002 period the cost of the student loan programs and the budget totals would be changed only marginally by accounting for these payments on a subsidy basis.

Question 6: What possible mechanisms exist to reclassify these costs as part of the federal subsidy, to be scored on a present value basis?

Answer: The guaranty agency cost allowance could again be made an automatic government payment under the guaranteed student loan law. Including the current cash-based indirect administrative expenses for both the direct and guaranteed loans in the subsidy estimates would require amending the Credit Reform Act, but it would be difficult to estimate a wide range of federal personnel-related expenses over a 25- to 30-year period. Determining whether some types of expenditures that are now accounted for on a cash basis should be included in the subsidy calculation would require a more thorough review of the current expenditures of the Department of Education than has been conducted to date.

Question 7: Does the credit reform rule adopted as part of the budget resolution provide the proper framework to fairly assess all direct federal expenses of guaranteed and direct loans?

Answer: In general, the Credit Reform Act amendment allows direct comparisons between the costs of the guaranteed and direct loan programs.

Question 8: Some have claimed that savings associated with the Goodling proposal to repeal direct lending were a result of excluding administrative costs of guaranteed loans. What is the primary reason for the $1.5 billion in savings associated with the Goodling proposal under the new scoring rule?

Answer: On July 26, 1995, CBO prepared an estimate of the original Goodling proposal. The proposal had three components: (1) eliminate the authority for new direct student and parent loans effective in academic year 1996–1997; (2) change the annual and cumulative budget authority levels under Section 458 to reflect the elimination of indirect administrative cost anticipated for new direct loans and the termination of payments of Section 458 funds to guarantee agencies and limit the funds to $24 million annually; and (3) reestablish an administrative cost allowance (ACA) for guarantee agencies at 0.85 percent of new loan volume or 0.08 percent of outstanding volume, with an annual limitation on ACA subsides of $200 million. Assuming an enactment date of October 1995, the proposals would reduce outlays for student loans by $227 million for fiscal year 1996 and by $1.5 billion over the 1996–2002 period.

Relative to the budget resolution baseline, shifting loan volume to guaranteed loans would save $855 million over the 1996–2002 period. Administrative expenditures would be reduced by $1.97 billion over the next seven years by lowering the cap. Of this amount, $824 million reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the indirect costs for the phased-out direct loan program. Reestablishing the ACA for a 100 percent guaranteed loan program would cost $1.3 billion over seven years.

Although the Goodling proposal would have eliminated most of the funds to fund and oversee the phased-out direct loan program by reducing the capped entitlement level for these funds, it did not address the level of appropriated funds that would be necessary to oversee the larger guaranteed loan program.

Question 9: Did the Goodling proposal to eliminate the direct loan program and make changes to the guaranteed program you were asked to score, address all federal administrative costs of direct and guaranteed loans? When you applied the new scoring rule, were you able to properly categorize those expenses to provide a completed fair calculation of the cost differential?

Answer: All of the cost analyses of the Goodling proposal for both the direct and guaranteed loan programs were completed using the same budgetary treatment for both programs. The Goodling proposal, however, did not address the level of discretionary appropriations necessary to oversee the larger guaranteed loan program.

Mr. SIMON. Will my colleague yield for a question?

Mr. DOMENICI. Yes.

Mr. SIMON. Under the scorekeeping in the budget resolution, you say count the administrative costs for direct lending but not for the guaranteed program, and we asked CBO, how do you score it under current law? There is a savings of $4.6 billion under direct lending.

Mr. DOMENICI. There is a statement in the letter from CBO on that issue.

Mr. SIMON. I will read it, and I thank my colleague.

Mr. DOMENICI. I want 30 seconds to say thanks to Senator KASSEBAUM and the other Senators who worked on our side. I think they have come up with a very good amendment, and I think ultimately the students across America who have been concerned will find they have done an excellent job in taking care of an overwhelming percentage of their issues.

We thank you for it.

VOTE ON ROCKEFELLER MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have not been ordered.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey

Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

NAYS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

So the motion to lay on the table the motion to commit was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2950

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of explanation equally divided on the Abraham amendment.

Mr. BYRD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Chamber will be in order.

The Senator from Michigan.

Mr. ABRAHAM. Mr. President, the next amendment before us is very simple.

Mr. BYRD. Mr. President, the remarks do not mean anything if we cannot hear them. May we have order?

The PRESIDING OFFICER. The Chamber will be in order.

Mr. BYRD. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank you, Mr. President.

The next amendment I will offer is pretty straightforward. It basically creates a mechanism by which the Medicare beneficiaries can be rewarded for assisting us in ferreting out the waste, the fraud, and abuse in the Medicare program.

Under the amendment, the Secretary of HHS has the responsibility of setting up two programs—one program that, in effect, is a whistle-blower program which would provide bonuses to Medicare beneficiaries who will identify Medicare fraud and abuse. The other program would be designed to provide bonuses to Medicare beneficiaries who identify waste, and to streamline and make more efficient and less costly the Medicare system.

Mr. President, I think this will help us to achieve cost savings in Medicare while at the same time providing benefits to Medicare beneficiaries who assist us in that effort.

I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield 1 minute to Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Thank you, Mr. President. I thank the Senator from Nebraska for yielding.

As I said, I support the Abraham amendment. It is not a bad amendment. It is a good amendment. There is nothing wrong with it. I would just point out it is sort of voluntary on the Secretary's part. It does not mandate that they have to do this. It says the Secretary may set these up. That is fine, as far as it goes. I would just say that probably later on today or tomorrow, the amendment that I had offered to the Abraham amendment last night will be coming up for a vote, which provides for some tough measures. We will talk about that later. This amendment is a good amendment. I intend to support it. It is in keeping with trying to give the Secretary more power to cut down on waste, fraud, and abuse.

So it is a good amendment. We will certainly support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So, the amendment (No. 2950) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BRADLEY MOTION TO COMMIT

Mr. EXON. Mr. President, I understand that the Bradley motion is next. I would appreciate, if possible, the Chair recognizing the Senator from New Jersey for the purpose of a 1-minute statement.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, this amendment eliminates the tax increase on people making under $30,000 a year. This bill contains a tax cut for estates of $5 million, a tax cut in the amount of $1.7 million.

We are not touching that tax cut, but we are trying to prevent the tax increase that will come in this bill for people making under $30,000 a year. The EIC offsets income taxes, Social Security, and excise taxes. The other side has talked only about income taxes.

Last year, with $114 billion in Federal taxes, only $12 billion of that was income taxes from people making under $30,000 a year. Why increase taxes on those hard-working Americans? These are Americans who work every day, and they pay their taxes, and they support their families.

This motion is progrowth and profamily. It deserves to be supported because it is a tax cut for individual working families.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I yield our time to Senator NICKLES.

Mr. NICKLES. Mr. President, one, let me just tell my colleague from New Jersey, and other colleagues, there is no tax increase for individuals making less than $30,000. That claim has been refuted by the Joint Tax Committee. It is totally false, and people making that claim should really be ashamed of themselves.

Mr. President, I am going to put in the RECORD the facts. The facts are, the earned income tax credit grows even under our proposal. It grows. The maximum benefit that anybody can receive today is $3,100. It grows next year to $3,200. And in 7 years it grows to $3,888. It is an increase.

This is a program that is a cash outlay program. Eighty-five percent of this program is Uncle Sam writing checks, not reducing liability, but writing checks. And it is the most fraudulent program we have in Government today. GAO said 30 to 40 percent of it was in fraud and in error.

It needs to be reformed. That is what we do. This program should be reformed. These proposals that we have made, I think, are the right things to do for American families.

Mr. President, I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1996: TWO PARENTS, TWO CHILDREN

Income	EIC: Two or more children		Tax burden			EIC relief: As a percent of tax burden	
	Current law	Senate reform	Income taxes	FICA (15.3 percent)	Total	Current law	Senate reform
$1	$0	$0	$0	$0	$0	261	235
$1,000	400	360	0	153	153	261	235
$2,000	800	720	0	306	306	261	235
$3,000	1,200	1,080	0	459	459	261	235
$4,000	1,600	1,400	0	612	612	251	235
$5,000	2,000	1,800	0	765	765	261	235
$6,000	2,400	2,160	0	918	918	261	235
$7,000	2,800	2,520	0	1,071	1,071	251	235
$8,000	3,200	2,880	0	1,224	1,224	261	235
$8,910	3,564	3,208	0	1,363	1,363	261	235
$9,000	3,564	3,208	0	1,377	1,377	259	233
$10,000	3,564	3,208	0	1,530	1,530	233	210
$11,000	3,564	3,208	0	1,683	1,683	212	191
$11,630	3,564	3,208	0	1,779	1,779	200	180
$12,000	3,486	3,124	0	1,836	1,836	190	170
$13,000	3,275	2,912	0	1,989	1,989	165	146
$14,000	3,065	2,700	0	2,142	2,142	143	126
$15,000	2,854	2,488	0	2,295	2,295	124	108
$16,000	2,644	2,276	0	2,448	2,448	108	93
$17,000	2,433	2,065	15	2,601	2,616	93	79
$18,000	2,222	1,853	165	2,754	2,929	76	63
$19,000	2,012	1,641	315	2,907	3,222	62	51
$20,000	1,801	1,429	465	3,060	3,525	51	41
$21,000	1,591	1,218	615	3,213	3,828	42	32
$22,000	1,380	1,006	765	3,366	4,131	33	24
$23,000	1,169	794	915	3,519	4,434	26	18
$24,000	959	583	1,065	3,672	4,737	20	12
$25,000	748	371	1,215	3,825	5,040	15	7
$26,000	538	159	1,365	3,978	5,343	10	3
$26,731	384	0	1,475	4,090	5,564	7	0
$27,000	327	0	1,515	4,131	5,646	6	0
$28,000	116	0	1,665	4,284	5,949	2	0
$28,553	0	0	1,748	4,369	6,117	0	0
$29,000	0	0	1,815	4,437	6,252	0	0
$30,000	0	0	1,965	4,590	6,555	0	0

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Mr. President, I move to table the Bradley motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the Bradley motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So, the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRAHAM MOTION TO COMMIT

The PRESIDING OFFICER (Mr. GORTON). The pending business is the motion of Senator GRAHAM to commit the bill with instructions. There are 2 minutes of debate equally divided.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, this reconciliation proposal is filled with risk—risk of the unknown, risks that have consequences that are beyond our ability to forecast. There is no area in this entire legislation that has a greater risk to the people of this country than the proposals in Medicaid.

We are proposing to cut Medicaid by $187 billion—I repeat, a program which, last year, had a total Federal expenditure of $89 billion, we are going to cut, over 7 years, by $187 billion. It is at risk because we are proposing, for those funds that are left, to place them in an inflexible block grant, without Federal participation, in terms of dealing with unexpected circumstances, and we are freezing in many of the inequities that have made this program inappropriate in the past.

Mr. President, we are putting at risk poor children, our elderly and, particularly, the States of America, as they are all being removed from the safety net that Medicaid has provided.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the biggest risk is that we not balance our budget, and that we continue to spend your children's and grandchildren's money to pay for programs we cannot afford.

Obviously, this program is growing so fast, it is unsustainable. Anyone who thinks it is being cut is not hearing the facts. We are going to increase this program to more than $94 billion next year, $124 billion in 2002. And over the entire period of time, this program will increase at a rather healthy rate, while most programs in the National

Government are either frozen or reduced.

It is time that we reform this system so we can deliver on what we promise. But we also have to deliver on a promise to get interest rates down, to have growth and jobs for our children. We cannot have the status quo and do that also.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion to commit proposed by the Senator from Florida.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

So the motion to lay on the table the Graham motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2959

Mr. EXON. Mr. President, I understand the next vote is on the Kennedy amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. EXON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on amendment No. 2959 by the Senator from Massachusetts [Mr. KENNEDY] and others.

The Senate will be in order.

Mr. EXON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Until conversations cease, we will just have to hold up.

The Senator from Massachusetts is recognized for 1 minute.

Mr. KENNEDY. Mr. President, I thank the Chair. This is an easy choice. My amendment strikes all provisions of the bill that increase the cost for students and families, and preserves choice and competition in the student loan program at the local level.

Senator KASSEBAUM's amendment rightfully pulls back the unfair and extreme provisions that increase the costs for students. It wrongfully prevents schools from choosing the loan program that best serves their students at the local level, and wrongfully provides a Government-mandated monopoly to the powerful special interests in the student loan industry.

I hope my amendment will be accepted.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senate will vote on an amendment offered by Senators KASSEBAUM, JEFFORDS, and SNOWE that removes all cuts affecting students. The Senate Republicans do this without raising taxes or taxing investment. The Republican plan will result in lower interest rates which will benefit all students and all Americans. That is what our entire deficit reduction package is all about.

I yield any time I have and I move to table.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment by the Senator from Massachusetts.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 51, nays 48, as follows:

[Rollcall Vote No. 503 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So, the motion to lay on the table the amendment (No. 2959) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Could I be advised how long that vote took?

The PRESIDING OFFICER. The last rollcall lasted approximately 13 minutes.

Mr. DOLE. Let me remind my colleagues three times 60 is a long time—we were about 3 minutes late on that vote—if we start slipping these votes for everybody who wants to step out for 5 minutes. If we just stay in the Chamber, we can do this in 10 minutes. I say to my colleagues, we are going to start ringing the bell here in 10 minutes.

The PRESIDING OFFICER. The Senate will be in order. It also slows down the Senate when conversations are going on during debate time.

AMENDMENT NO. 2962

The PRESIDING OFFICER. The issue before the Senate is amendment No. 2962 by the Senator from Kansas, [Mrs. KASSEBAUM]. There are 2 minutes equally divided.

Senator KASSEBAUM will be recognized when the Senate is in order.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield the time remaining to the Senator from Maine [Ms. SNOWE].

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair. I thank Senator KASSEBAUM for yielding.

Mr. President, I want to first recognize several of my colleagues who have been instrumental in helping to craft this amendment and reach a compromise on student loan funding.

First, the chairwoman of the Labor and Human Resources Committee, Senator KASSEBAUM, who has been a real leader on this issue. She has had to make difficult choices and tough decisions throughout this process—especially meeting instructions of $10.8 billion in savings for her committee, so I thank her for her work and for offering this amendment.

Second, the majority leader and the chair of the Budget Committee, Senator DOLE and Senator DOMENICI—for meeting our concerns and being responsive to our requests all along. Their support was obviously instrumental in crafting this amendment.

Finally, one of the main cosponsor of this amendment, Senator JEFFORDS of Vermont, for his concern, his support, and his compassion for the needs of America's students.

Mr. President, let there be no doubt about it, we are setting a course for America for the next 7 years and beyond as we debate the measure before us today. That is a heavy responsibility.

But the image of a better America, a stronger America, and a more fiscally secure America is incomplete for the next generations without one critical component: that is, a commitment to education funding and to students.

I believe one of our duties in this process is to keep the American Dream alive for our generation as well as the next generation of students—because we all know that educating today's students is also about preparing tomorrow's workers.

While I firmly believed that balancing the budget is the greatest legacy we can bequeath to our children and grandchildren, I do not believe it requires the sacrifice of educational opportunities to the children and students today.

Let us be clear about this: our two objectives—balancing the budget and providing quality educational opportunities—are not mutually exclusive entities.

I believe we can identify and set budget priorities within the framework of a balanced budget. I believe it is possible to be fiscally responsible and also be visionary about our education needs into the next century for the next generation.

That is basically what this amendment accomplishes. It is prudent. It is responsible. It's fair. And it maintains our commitment to excellence in education.

The amendment we are offering today would restore $5.9 billion in student loan funding that is sorely needed by America's youth to continue their education.

Basically, we are removing the most onerous and punitive provisions on students that are currently contained in this package.

Those provisions we are targeting for removal include the following: the imposition of a 0.85 percent fee on the student loan volume of institutions of higher learning; the provision increasing the interest rate on parent PLUS loans from T-bill plus 3.1 percent, to T-bill 4.0 percent; and—most importantly—the provision charging interest on student loans during the so-called 6-month grace period.

I believe we must support this amendment because student loans level the education playing field for so many in this country. In the world of education, student loans are the great "enabler". They afford everyone the equal opportunity to profit from a college education.

I should know, I owe my education and much of my career in public service to the student loan program, which sustained me at the University of Maine.

Now, it is important to add that the Senate has already gone on record and has made a strong statement in support of increased student loan funding.

Back in May, when the Budget Committee reported out a resolution that included a cut of more than $13 billion in student loan funding over 7 years—and when the House reported out a version that included a cut of over $18 billion, I joined several of my colleagues in taking action—because student loan funding programs would clearly result in leaving some needy students locked out of our Nation's colleges and universities, and therefore locked out of America's work force and a successful career.

And, with bipartisan support from both sides of the aisle, my colleague from Illinois, Senator SIMON, and I authorized and passed an amendment that restored $9.4 billion for student loans. No other amendment, except one, received as much bipartisan support during the consideration of the Senate budget resolution.

We should reaffirm that same level of commitment again today, and with this amendment, we now have an opportunity to do so.

If we pass this amendment, the Senate's strong support for this level of funding will be a strong instruction to the Senate conferees to maintain this level of funding during the upcoming House-Senate Reconciliation conference.

Now, I know that many of my colleagues on the other side of the aisle would have wanted more, especially when it come to direct lending. Obviously, there is a difference of opinion on direct lending.

While the amendment we are offering restores critical funding for loans, it maintains the bills current cap on direct lending at 20 percent. I could support raising this cap to 30 percent, which would cover the 1,300 education institutions currently involved in the direct lending program.

However, the sole purpose of this amendment is to restore funding for student loan programs. other opportunities may arise on the floor today or tomorrow to increase the cap on direct lending.

I have worked with many of my colleagues across the aisle, and I know that—in the final analysis—we share the same goals on funding for student education. That is the most important—the most critical-issue here.

Why is this amendment important to our students and to our future as a nation? What is the value of student loans?

it is unmistakable. Student loans have a tremendous impact on our nation's economy . . . on personal incomes . . . on careers . . . and especially on providing education to needy citizens.

Student loans have given millions of young Americans a fighting chance at reaching their own American Dream: in 1993, it gave 5.6 million Americans that chance, and that was almost double the number of loans made 10 years earlier, when it was 3 million, in fact, statistics show that almost half of all college students receive some kind of financial aid—many through student loans.

They have become especially important considering that the cost of college education and post-secondary education has become a very, very expensive proposition for students, as well as their families.

For example, a College Board survey says that 1995–1996 is the third straight year that tuition costs have risen by 6 percent. Since this rise outpaces income growth in America, there's heavy borrowing for a college education—up an average of 17 percent yearly since 1990.

Each year, college costs rise 6.6 percent for private college while we have recorded a rise in disposable personal income of only 4.4 percent. That 2 percent disparity is what is making student loans a pipe dream for our college-bound students.

In fact, since 1988, college costs have risen by 54 percent—well ahead of a 16 percent increase in the cost of living. And, more tellingly, student borrowing has increased by 219 percent since that time.

Without student aid, increasing costs make higher education out of reach for millions of Americans.

We should not have to bankrupt the families of students in order to allow them to send their children to receive a solid college education.

You see, when we allow students to get the loans they need to complete their college education, we are making a sizable, long-term investment in not only personal incomes, but our economy as well.

Men and women who continue their education beyond high school, as we have seen in study after study, have consistently earned more money on average each year than those who do not.

In 1990, for example, the average income for high school graduates was almost $18,000. For those who had 1 to 3 years of a college education, earned on the average $24,000. Those who graduated from college and received a college diploma received on average salary of $31,000.

According to the U.S. Department of Commerce, a person with a bachelor's degree will average 50 to 55 percent more in lifetime earnings than a person with a high school diploma.

The entire country benefits, as well from student loans. For every $1 we invest in education we get enormous returns as a result. Back in 1990, another study was conducted that analyzed the school assistance that was provided to high school students back in 1972.

For every $1 that the Federal Government invested in the student loan programs at that time, the Government received $4.3 in return in tax revenues.

According to a study by the Brookings Institute, over the last 60 years, education and advancements in knowledge have accounted for 37 percent of America's economic growth.

At a time in which education is becoming paramount in this global arena, where it is going to make the difference for an individual and the kind of living that can be enjoying for themselves and their families, education puts them on the cutting edge.

Most of all, it puts America on the threshold of competition for the future.

If we deny individuals the opportunity to receive an education because they lack the financial assistance or the access to financial assistance, clearly, we—as a nation, a superpower, and the world's greatest democracy—are going to suffer.

Today, let's make sure that we retain policies that will make higher education accessible to millions of low- and middle-income families.

Today, let us make a significant contribution to students pursuing a higher education. Thank you, Mr. President.

Mr. President and Members of the Senate, I am very pleased to have joined Senator KASSEBAUM and Senator JEFFORDS offering this amendment that essentially restores $5.9 billion to the student loan program. This essentially reaffirms the position that has been taken by 67 Members of this body when we had a vote on this issue last spring to the budget resolution.

This amendment removes the provision that increases the origination fee on student loans. It removes the provision that allows interest rates to accrue during the so-called 6-month grace period, and it also eliminates the provision that allowed interest rates to increase on the PLUS loans from 3.1 percent to 4 percent.

I think we all acknowledge that college costs have increased in this country. In fact, since 1988, they have increased more than 54 percent—16 percent beyond the growth of income for most families in America. That has resulted in increased borrowing of 219 percent for individuals and families all across this Nation so that their family and their children can pursue higher education.

I think it is essential for this country to retain the policies that ensure access for low- and middle-income families through these policies.

I also ask unanimous consent to include as cosponsors of this amendment Senators ROTH, DOMENICI, PRESSLER, STEVENS, and SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mr. FRIST. Mr. President, I rise in support of the Kassebaum amendment which strikes from the budget reconciliation bill the provisions relating to a .85 percent school fee, the elimination of the grace period interest subsidy, and the PLUS loan interest rate increase.

Mr. President, I am committed to balancing the budget—this is probably the single most important thing we can do for our children and our country. Today's students will save money if we succeed in balancing the budget. According to Federal Reserve Chairman Alan Greenspan, a balanced budget will lower interest rates by 1–2 percent for everyone.

I am pleased that the leadership has found offsets which will make the Kassebaum amendment revenue neutral. It will allow us to balance the budget without imposing additional costs on students, their parents or schools.

This bill also benefits students by allowing those who have paid interest on education loans a credit against income tax liability equal to 20 percent of such interest up to $500.

As the father of three young children, I believe that education is one of the most important issues facing our nation today. We must continue to offer students across the country the opportunity to excel and obtain their goals. Many students depend on the federal student loan programs as their only chance to go to college. This amendment will allow us to preserve those programs without imposing additional costs on students.

Mr. EXON. Mr. President, I yield 1 minute to the distinguished Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I shall vote for the Kassebaum amendment, but I have to say I am doing it with real mixed feelings because it fails to address something that every higher education association favors, and that is direct lending. The colleges and universities in your States want direct lending. The bankers in your States and the guarantee agencies do not want it because they have a cushy deal going right now.

The Kassebaum amendment is an improvement over the resolution as it is right now, so I will vote yes for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The Senator from New Mexico.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So the amendment (No. 2962) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUMPERS MOTION TO COMMIT

The PRESIDING OFFICER. The order of business is the Bumpers motion to commit to the Committee on Finance with instructions.

Mr. EXON. Mr. President, I yield 1 minute to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, in 1981, this body, all but 11 Senators, voted for a massive tax cut on the argument that it would help balance the budget. Eight years and $2 trillion later, we all knew we had made a massive mistake. We are about to repeat it, though not quite the magnitude of that.

This amendment simply says what my good friend from New Mexico, the chairman of the Budget Committee, said on May 30 of this year, that there is one thing our side has agreed on: There will be no tax cut until we balance the budget.

Senator DOMENICI was right on May 30, and to vote a different way now is wrong.

The New York Times this very morning shows that a vast majority of the American people, even the wealthy who benefit most from this, are all opposed to a tax cut until we balance the budget. It is fiscal responsibility, and that is the reason we call this the fiscal responsibility amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, this amendment, I think, points up the difference between the two parties. We have a balanced budget. It has been certified by the Congressional Budget Office. Once we adopt this reconciliation instruction, we will have a balanced budget. Then it is time to give the taxpayers of America some relief.

We get a $170 billion economic dividend for getting a balanced budget. What should we do with that money? Should we spend it, or should we give it back to Americans, especially families who are having difficulty raising their children because we whittled down their deduction such that they are kind of on their own?

I believe it is right when you have made savings and have a balanced budget, according to the Congressional Budget Office, that you ought to give money back to the people and not let the dividends sit around so we can spend it. The people want to spend their own money. It happens to be theirs, not ours.

Mr. President, I move to table the Bumpers motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bumpers motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—53

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

So the motion to lay on the table the Bumpers motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BAUCUS MOTION TO COMMIT

Mr. EXON. Mr. President, according to the pending business, the next item of business is the rural restoration motion.

I yield to the Senator from Montana for 1 minute.

Mr. BAUCUS. Mr. President, the budget bill before us is a raid on rural America. It cuts the farm program and begins to eviscerate, obliterate the farm program by cutting $13.4 billion over 7 years, 25 percent cut. The budget bill cuts health care, disproportionately affecting rural America because our hospitals have so many seniors. Medicaid is cut, hurting rural America. There is already a tendency for people to leave the farm and go to the city to seek some job to survive. We here should be sensitive to rural America, not insensitive, by raiding rural America. This bill before us raids rural America, accelerates the transfer of people from rural America to the city, which is something we should not do.

So my amendment simply says to the Finance Committee, go back and restore some of these provisions that affect rural America, but still balance the budget.

I urge adoption of the amendment.

Mr. DOMENICI. Mr. President, under the proposed reforms in this bill, the Federal Government will be spending and continue to spend $64.8 billion in outlays over the next 7 years for commodity-related programs.

Farmers will benefit the most of all groups of Americans if interest rates come down because they rely most on borrowed money, as compared with any other group of business men or women in the country.

Farmers and rural America will also benefit from the capital gains reduction in this bill.

In addition, this amendment instructs the Finance Committee to make changes in programs that are not even within their jurisdiction.

Mr. President, since that makes it not germane, I raise a point of order that this motion violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending motion, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 53, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

NAYS—53

Abraham
Ashcroft
Bennett
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe

Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this question, the yeas are 46, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the motion falls.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand that it is our turn for three successive amendments, and the first of those three that we have on our side will be the Social Security earnings test by Senator MCCAIN.

Will the Chair announce how much time is on these three amendments?

The PRESIDING OFFICER. Ten minutes equally divided.

The Senator from Arizona.

Mr. FORD. Mr. President, will the Senator yield for just a minute? We were looking for what these amendment are. Can we have those? It just says "Finance Committee amendment," and we do not know what it is. We need a little bit of information. That was required of us last night.

I thank the Chair.

I am grateful to the Senator. I thank him.

AMENDMENT NO. 2964

(Purpose: To express the sense of the Senate regarding the need to raise the Social Security earnings limit)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself, Mr. DOLE, Mr. COATS, and Mr. NICKLES, proposes an amendment numbered 2964.

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that

(a) The Senate has held hearings on the social security earnings limit in 1994 and 1995 and the House has held two hearings on the social security earnings limit in 1995;

(b) The Senate has overwhelmingly passed Sense of the Senate language calling for substantial reform of the social security earnings limit;

(c) The House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the social security earnings limit three times, in 1989, 1992, and 1995;

(d) Such legislation is a key provision of the Contract with America;

(e) The President in his 1992 campaign document "Putting People First" pledged to lift the social security earnings limit;

(f) The social security earnings limit is a depression-era relic that unfairly punishes working seniors; therefore,

(g) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

Mr. MCCAIN. Mr. President, this amendment signals the Senate's intent to move forward expeditiously on reforming the earnings test. The majority leader has let it be known that he will move this matter soon, as early as next week depending on the action of the House of Representatives. I appreciate the leadership of the majority leader, and I also want to thank former Finance Committee chairman, Senator Packwood, and Senator MOYNIHAN for their help and for their support on this matter.

Additionally, I want to note that the House of Representatives today passed a similar amendment by the overwhelming vote of 414 to 5.

Mr. President, the Social Security earnings test was created during the Depression era when senior citizens were being discouraged from working. This may have been appropriate then when 50 percent of Americans were out of work. But it is certainly not appropriate today. It is not appropriate today when seniors are struggling to get ahead and survive on limited incomes. Many of these seniors are working to survive and make it on a day-today basis.

Mr. President, most Americans are amazed to find that older Americans are actually penalized by the Social Security earnings test for their productivity. For every $3 earned by a retiree over the $11,160 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33-percent tax on their earned income.

I want to point out this only applies to people who have to go to work. If someone is very rich and has a trust fund, pension, stocks, all of the gain that is accrued from that is not taxable. It only applies to low-income and middle-income Americans who in our society today have to go to work tragically for a broad variety of reasons.

Mr. President, there has been a lot of partisanship back and forth today, some regrettably and some of it is a natural happenstance when a revolution is taking place because that is basically what this is all about.

Let me point out that I heard a lot of pleas and cries in behalf of seniors on the part of friends on the other side of the aisle. In 1987, I came to the floor of this body and sought repeal of the Social Security earnings test. There was a hearing in the Finance Committee chaired by former chairman and former Secretary of Treasury Bentsen.

In 1988, I brought this amendment to the floor, and in 1989 I brought it to the floor, and in 1990, 1991, 1992, 1993, and 1994. And each time on the other side of the aisle it was turned down.

I am happy to say that now this side is in the majority. In both bodies we will repeal the onerous and outrageous earnings test which on the other side they failed to do.

Mr. President, if I sound a little excited about that, it is because we have had a lot of rhetoric today about how cruel Members on this side of the aisle are to senior citizens.

The best way, the most effective way that we can help senior citizens today is for those who seek to go to work and have to work for a broad variety of reasons to be allowed to keep their earnings. And, by the way, it would only be raised up to $30,000.

Mr. President, there is a couple who are friends of mine who live near me in northern Arizona. They are low-income Americans. They have a son who had prostate cancer. The son has a daughter that he has to take care of in a home. My friend's wife had to go back to work in order to support her son and her granddaughter. She went to work in a hospital where she has been working. She dramatically increased her hours because she is now helping her son who had prostate cancer and was out of work. And she gets what? She found out 2 weeks ago that she owes the Federal Government $1,200 because she exceeded the $11,000 limit.

So her ability to care for herself, her husband, her son and her granddaughter is dramatically penalized because this earnings test puts her in the highest tax bracket of anyone in America, amongst the richest.

Mr. President, as I said before, there is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle-income elderly who must work to supplement their income.

Mr. President, finally it is simply outrageous to continue two separate policies that both keep people out of the work force who are experienced and who want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Mr. President, in order to move things along, we have a great amount of work to do, we yield back our allotted 5 minutes.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that editorial endorsements from several newspapers, and also from various organizations, ranging from the Seniors Coalition to the National Council of Senior Citizens, and others, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EDITORIAL ENDORSEMENTS

Chicago Tribune: The skill and expertise of the elderly could be used to train future workers, while bringing in more tax dollars and helping America stay competitive in the 21st century.

Los Angeles Times: As the senior population expands and the younger population shrinks in the decades ahead, there will be an increasing need to encourage older workers to stay on the job to maintain the nation's productivity.

The Baltimore Sun: The Social Security landscape is littered with a great irony: While the program is built on the strength of the work ethic, its earnings test actually provides a disincentive to work . . . One consequence of this skewed policy is the emergence of a gray, underground economy—a cadre of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table.

Dallas Morning News: Both individual citizens and society as a whole would benefit from a repeal of the law that limits what Social Security recipients may earn before their benefits are reduced.

The San Diego Tribune: The benefit-reaction law made some economic sense when Social Security was established in the 1930s and the government wanted to encourage the elderly to leave the labor force and open up jobs for younger workers. But with declining birth rates and the nation's need for more, not fewer, experienced workers, the measure is bad for the nation as well as its older workers.

Wall Street Journal: The punitive taxation of the earnings limit sends the message to seniors that their country doesn't want them to work, or that they are fools if they do.

The New York Times: . . . it is not wrong to encourage willing older adults to remain in the work force.

The Orange County Register: Indeed, repealing the tax might actually increase revenues. More people would be working, paying more taxes of all kinds, including the Social Security tax. If our government bureaucrats want us to keep paying their salaries, the least they can do is make it possible to work in the first place.

Houston Post: Equity and common sense demand that this disincentive to work be scrapped.

The Cincinnati Enquirer: No American should be discouraged from working, as long as he wants to and is physically able to do so.

The Indianapolis Star: On the face of it, the game appears rigged in favor of those who stop working at 65 and against those who keep working, in favor of well-to-do retirees and against middle- and low-income retirees who need a part-time job to help with expenses.

Forbes: Moreover, people are living longer; the economy is hurt when artificial barriers block the full use of our most productive asset, people.

Detroit News: Work is important to many of the elderly, who are living longer. They shouldn't be faced with a confiscatory tax for remaining productive.

[From the Los Angeles Times, Nov. 17, 1991]

WHY PUSH THEM OUT OF WORK?

CONGRESS SHOULD ELIMINATE OUTMODED SOCIAL SECURITY EARNINGS TEST

There are more than 40 million Americans age 60 or older, many of whom are eager to work beyond normal retirement age but can't afford to, thanks to an outmoded earnings test applied to Social Security recipients. The Senate, in a provision attached to the extension of the Older Americans Act, has voted to eliminate this punitive restriction. The measure now goes to a congressional conference committee, where House conferees will have a chance to accept the Senate's provision. They should do so, and the House should adopt it. Millions of workers would be the better for it, and so would government and society.

Current law says that people between the ages of 65 and 70 who draw Social Security and who earn more than $9,720 a year must lost $1 in Social Security benefits for every $3 they earn over that limit. This rule effectively applies to those workers a 33% marginal tax rate—higher than anyone else must pay—but there is more. Sen. John McCain (R-Ariz.) says that when federal, state and other Social Security taxes are factored in, the tax bite approaches nearly 70%. If that isn't age discrimination, McCain suggests, nothing is.

There is no earnings ceiling for Social Security recipients age 70 or older. It's nonsensical to have one for those younger. Maintaining the arbitrary ceiling and taxing away 33 cents out of every dollar earned from those who exceed it drives millions of productive workers into forced retirement. The nation's economy is not so robust that it can afford to lose willing, able and experienced employees. Federal and state treasuries are not so flush they can pass up the revenues that could be had from taxes on the higher earnings of older workers.

Why chase people who want to work out of the labor force? Why make this pool of talent lie stagnant? The earnings ceiling is an echo of an earlier time when it was argued that older workers had to be pushed into retirement to make jobs available for new entrants into the work force. Demographics and the needs of the economy have changed. Millions of those older workers want to go on working without being punished if they earn too much. The time has come to let them do so.

[From the Arizona Republic, Nov. 17, 1991]

AGE DISCRIMINATION: LIFT EARNINGS CAP

Congress dotes on its anti-discrimination record. How then to explain why its continuing prejudice is targeted at a particular minority?

The earnings cap on Social Security benefits is a form of discrimination. "The earnings test translates into an effective tax burden of 33 percent," Sen. John McCain told a Senate committee. "Combined with federal, state and other Social Security taxes, it can amount to a stunning tax bite of nearly 70 percent."

The cap on earnings—set at $9,720 for retirees age 65 to 70—is "age discrimination of the worst kind," the senator said, and that "is plainly wrong." For every $3 earned above the cap, seniors lose $1 in benefits.

As Mr. McCain points out, it is foolish to maintain a policy that keeps people with experience and a willingness to apply their skills out of the work force, especially when the country faces economic stagnation and declining international competitiveness.

Punishing people for working is wrong in an even more fundamental way. It violates an American principle known as the work ethic. Surely it is poor social policy to maintain disincentives to productive labor. Better to let seniors who have something to contribute slip back into harness. Besides, many of them need the extra income.

The Bush administration argues that eliminating the earnings test would cost $3.9 billion in fiscal 1992. Sen. McCain disagrees. He argues that lifting the cap would save money, both through the collection of additional taxes on the earnings of seniors and administrative savings.

A Senate-passed measure to lift the cap is now in a conference committee, where it must be reconciled with a House-approved bill that would not eliminate the earnings penalty. If the House cares anything at all about fairness, it will end the discrimination now in place and free older Americans to work.

[From the Chicago Tribune, Jan. 5, 1991]

END SOCIAL SECURITY EARNING CURBS

(By U.S. Rep. J. Dennis Hastert)

When a country doesn't support its stated goals by adopting policies to achieve those goals, its aims become unattainable. Such is the case with our goal of restoring U.S. competitiveness in the global market. We say we want to regain our competitive edge, yet we follow obsolete policies that preclude us from fielding the most productive work force possible.

The most pernicious example of this practice is the continued application of the Social Security Earnings Test, a Depression-era relic that penalizes senior citizens who work after they retire. By forcing seniors to, forfeit one-third of their Social Security benefits after they earn more than a ridiculously low amount, the Earnings Test tells the elderly we no longer value their expertise and experience.

Seniors between 65 and 70 who earn more than $9,360 are slapped with a 33 percent penalty. In short, the government siphons $1 in penalties for every $3 a productive senior earns over the limit. When coupled with federal taxes, seniors who earn a penalty $10,000 a year are faced with a 56 percent marginal income tax rate—twice the rate of millionaires.

The Social Security Earnings Test is age discrimination, pure and simple. Not only does it discriminate against one age group, it also afflicts the seniors who need extra income the most. Seniors can receive stock dividends and interest payments without losing Social Security benefits, but those who work at low-paying jobs to make ends meet are punished for attempting to remain financially independent.

At a time in our nation's history when the operative buzz word is "competitiveness," policymakers are hypocrites when they preach the gospel of working harder while retaining outdated policies that strip our labor force of productive and experienced workers. Just as business leaders must modernize their factories, congressional leaders must update public policy.

The Social Security Earnings Test was instituted in the 1930s to discourage seniors from working and make room for younger Americans to enter the work force. Whether this was a good idea at the time is hardly relevant; as the U.S. population ages, seniors are becoming an increasingly important segment of the labor force. The government should support them, rather than financially penalize them, for remaining active and productive.

By the end of this decade, there will be 1.5 million fewer members of the work force aged 16 to 24. Coupled with this trend is the fact that there is a sharply increasing number of older persons relative to the working population. To respond to these challenges, the United States needs to attract more people to participate in the labor force.

I have introduced legislation that would help our businesses adapt to the demands of the international marketplace by making our work force more productive. My bill, H.R. , the Older Americans Freedom to Work Act, has a majority of House members as co-sponsors, as well as considerable support in the Senate (Sen. Rudy Boschwitz, R-Minn., introduced the Senate version). But many in the House leadership remain opposed to it. The Ways and Means Committee chairman, Rep. Dan Rostenkowski (D-Ill.), and Social Security subcommittee chairman, Rep. Andrew Jacobs (D-Ind.), are laboring under the incorrect assumption that repeal of the Earnings Test will lead to a shortfall in government revenue, when exactly the opposite is true.

If the Earnings Test is repealed, more seniors—up to 700,000, according to the National Center for Policy Analysis, an economic research group—would rejoin the work force, expanding the tax base and increasing the amount of tax revenue the government receives from these returning workers and taxpayers. As a result, the NCPA reported, the annual output of goods would increase by at least $15.4 billion.

The NCPA, in concert with the Institute for Policy Innovation, another research group, revealed these findings in a recently published report, "Paying People Not to Work: The Economic Cost of the Social Security Earnings Limit."

Repealing the Earnings Test would also be a federal revenue gainer, the groups reported. "Government revenue would increase by $4.9 billion, more than offsetting the additional Social Security benefits that would be paid," the report stated.

The few remaining naysayers who continue to oppose repeal of the Earnings Test base their opposition on the belief that Social Security is an insurance policy. Specifically, Jacobs argues that benefits should be allocated only to those who are "retired"—and if someone is still working, and hence not "retired," he or she should not receive full benefits.

This reasoning ignores the difficulty seniors encounter in attempting to survive solely on Social Security or working at a job; seniors frequently need both to make ends meet. Because economic realities necessitate more money than Social Security or, say, a job at McDonald's provides, the Earnings Test must be repealed. Jacobs is simply out of step with the realities of the cost of living in the 1990's.

It is disturbing that two powerful committee chairmen are in a position to block landmark legislation that has the official support of a majority in the House.

It would be one thing to have the Older Americans Freedom to Work Act deliberated on the House floor and tabled. At least then the merits—or what some believe to be the lack thereof—would have been put in the open and subject to public inspection.

But a powerful minority of House leaders are doing everything in their power to make sure this bill is never debated on the House floor. Because of their refusal to allow deliberation on the proposed repeal of the Earnings Test, one can only conclude that they are fearful open discussion would lead to an even greater groundswell of public support and a demand that Congress move swiftly to approve the bill.

As our country takes steps to make itself more economically competitive for the 21st Century, it is clear that we will have to use every available resource, especially in the U.S. work force. Remaining competitive in the next century requires adopting policies that foster economic vibrancy and doing away with outdated policies that inhibit it. Repealing the Social Security Earnings Test will both encourage a large portion of the population to remain productive and help bolster the economy. The realities of our economic situation demand that we do so.

AIR FORCE SERGEANTS ASSOCIATION,
INTERNATIONAL HEADQUARTERS,
Temple Hills, MD, January 8, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: The Air Force Sergeants Association strongly supports your amendment to S. 243 to repeal the Social Security Earnings Test. We have written to the House and Senate conferees expressing this support and are ready to assist in any way possible.

Sincerely,

JAMES D. STATON,
Executive Director.

THE SENIORS COALITION,
Washington, DC, January 26, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I wanted to take just a moment to thank you for introducing the Senate measure to repeal the Social Security Earnings Test.

The Seniors Coalition has made this issue the cornerstone of our legislative agenda over the past three years. We have worked closely with Rep. Dennis Hastert in the House of Representatives and will continue to work with the House Republican Conference now that the Contract With America addresses the earnings limit.

I am enclosing for your information our Issue Paper on the earnings limit, as well as my recent testimony to the Ways and Means Social Security Subcommittee. The Seniors Coalition is ready to assist you in any way possible to ensure the success of your measure. This issue is very important to our two million members and they love being asked to get involved with legislative issues.

Please feel free to contact may assistant, Kimberly Schuld at (703) 591-0663 if there is anything we can do to help.

Sincerely,

JAKE HANSEN,
Vice President for Government Relations.

WALT DISNEY WORLD CO.,
June 9, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR MCCAIN. We fully support your proposal to eliminate the Social Security Earning Limit for senior citizens age 65 to 69. Furthermore, we favor additional relief for senior citizens in the age group 62 to 64 who are faced with an even more stringent limit on their earnings.

In today's society, Social Security is a supplement to a senior's income which is traditionally pension and investments. Unfortunately, some must continue to work to maintain a quality of life that is becoming evermore expensive.

Our opinion is formulated by the following compelling issues:

Our nation is faced with a shrinking labor supply for one of the fastest growing sectors of the economy—the service sector. Many seniors are fully capable of and interested in filing these openings.

As stated in your fact sheet, we should not have a system that has built-in disincentives that inhibit seniors from working.

The current "cap" of $8,040 does not permit a senior in the 62–64 age group to work in a minimum wage ($4.25/hour) job for an entire year without incurring a penalty on the last 10% of their income.

Seniors represent a growing part of our population who possess skill and attributes that employers are seeking. Seniors offer experience and an excellent work ethic to an employer.

Also, in light of the health care reform issue that is on everyone's mind, by raising the earnings "cap," this will allow seniors to avoid the Catch-22 of not being able to work enough hours to qualify for health care at most corporations.

In conclusion, we believe that seniors should always be able to work in a minimum wage paying job full time (40 hours per week) without being penalized. To ensure that this is not a future problem, we recommend that the Social Security Earnings Limit be indexed at 25% above the annual full time income based on prevailing federally mandated minimum wage. Currently, that would increase the cap to $11,050. Internally, this would allow us to hire a senior, have them work 30 hours per week, and penetrate the rate range to the second step before reaching this new ceiling.

Thank you for the opportunity to express our views on this important issue.

Sincerely,

DIANNA MORGAN.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, September 9, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We urge your support of an early and positive vote for S. 3008, the Older Americans Act (OAA) reauthorization. We believe that further delay in reauthorizing the Act is a disservice to the millions of seniors and their families who depend on vital OAA programs.

The National Council of Senior Citizens, comprised of five million seniors active in five thousand clubs and Councils, has made passage of the OAA reauthorization one of our highest priorities for this Session. The Council has historically supported a sound Social Security retirement test amendment has caused a yearlong delay in final passage of the OAA. The two issues should be separated now and support of S. 3008 is the best way of resolving this matter.

Inaction on S. 3008 will be the cause of further loss of resources and a weakening of the national commitment to meet the needs of older persons at risk. We trust that we can count on your vigorous support of S. 3008.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

COUNCIL OF JEWISH FEDERATIONS,
Washington, DC, July 23, 1992.

DEAR SENATOR: On behalf of the Council of Jewish Federations, I am writing to urge the immediate passage of the reauthorization of the Older Americans Act, S3008. Millions of older citizens depend on the programs funded in this Act for community and social services, nutrition programs, senior centers, legal assistance, homebound care and assistance, research and demonstration, and employment opportunities.

As a network of over 200 Jewish Federations and their affiliated social service agencies, we are charged with the responsibility for providing thousands of elderly people with a life of quality. The Older Americans Act, with its coordination between local, state, and federal agencies, enables us to do this.

The Older Americans Act, originally enacted in 1965, has been a framework for providing vital nutritional and social services to the elderly community for over 25 years. At a time when seniors are growing as a population, the Older Americans Act should not be pulled from them. By passing the Older Americans Act the Senate will move one step further along in the process necessary to ensure that the elderly may continue to receive the quality care they need.

We urge you to pass this critical legislation immediately.

Sincerely,

MARK E. TALISMAN,
Director.

OLDER WOMEN'S LEAGUE,
Washington, DC, September 9, 1992.

DEAR SENATOR: On behalf of the Older Women's League, I am writing to urge you to pass the Older Americans Act, S.3008, before Congress adjourns.

I cannot stress strongly enough how important it is to pass the Older Americans Act. The reauthorization of this legislation and its programs is critical to providing continuing supportive services for millions of older Americans, most of whom are low-income and women. Without final passage, important new programs cannot be initiated and the White House Conference on Aging cannot take place. Amendments of particular importance to OWL are those requiring data collection on long-term care workers, and supportive services for family caregivers.

From its inception, the Older Women's League has sought changes in Social Security that would make the system more equitable for women. While OWL has endorsed the Social Security provisions attached to the OAA conference bill passed by the House of Representatives, we believe that these and other changes to Social Security should be dealt with in a more appropriate legislative measure. We hope to continue working with Congress next year to make Social Security equitable for beneficiaries, particularly women.

Passage of the Older Americans Act is long overdue. The Act is the cornerstone of services for this country's most vulnerable older population. Congress must reaffirm its commitment to assure the quality of life sought for older Americans as declared in Title I of the Act.

Sincerely,

LOU GLASSE,
President.

NATIONAL COUNCIL ON THE AGING, INC.,
Washington, DC, September 9, 1992.

DEAR SENATOR: The National Council on the Aging, Inc. urges you to support for immediate Senate action to reauthorize the Older Americans Act, S. 3008.

Today, we are joining forces with many other national organizations to seek your help in passing a clean Older Americas Act.

For the past two decades, the OAA has provided vital services including congregate and home-delivered meals, transportation, information and referral, advocacy assistance, visiting and telephone reassurance, homemaker services, legal and employment services.

Failure to take action on the reauthorization means that none of the many significant improvements in OAA services crafted after long Congressional scrutiny will be initiated. Inaction has already had an effect on the current appropriation process in the House.

The delay in passing the OAA jeopardizes those services that allow millions of older Americans to maintain their independence and dignity. This year's amendments, many of which enhance services under the Act, cannot be implemented until it passes. Failure to pass the reauthorization will create a major rift in the covenant between Congress and the older population of our country.

I cannot stress strongly enough the importance of passage of S. 3008, the Older Americans Act at this time.

Sincerely,

DR. DANIEL THURSZ,
President.

NATIONAL ASSOCIATION OF
AREA AGENCIES ON AGING,
Washington, DC, September 9, 1992.

JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the members of the National Association of Area Agencies on Aging, I am writing to urge you to take immediate action to pass the Older Americans Act reauthorization legislation, S. 3008. Thousands of older Americans in Arizona and millions of elders across our nation depend on the services provided under the Act—information and referral, supportive services, nutrition programs, transportation, in-home care and assistance, and the long-term care ombudsman program.

Senate inaction on S. 3008 is placing low-income, minority, and frail elders in jeopardy. Because of resulting funding problems, older persons are being denied services, there are increases in service waiting lists, and higher levels of unmet need.

As you are probably aware, passage of the Older Americans Act has been stalled by provisions to amend the exemption level of the Social Security earnings test. For the past nine months Congress has been unable to reach an agreement on the earnings test issue. We strongly believe it is time Congress moved beyond this impasse by decoupling the earnings test from the Older Americans Act—by passing S. 3008. Further delay will do a disservice to older persons who depend on Older Americans Act services. We, therefore, urge you to take the necessary steps to obtain immediate passage of this crucial legislation.

Sincerely,

CHERYLL SCHRAMM,
President.

NATIONAL ASSOCIATION OF
RETIRED FEDERAL EMPLOYEES,
Washington, DC, September 9, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN: The National Association of Retired Federal Employees (NARFE), and its nearly 450,000 members, is greatly concerned that the Older Americans Act has not yet been reauthorized.

Today, we are joining forces with many other national aging organizations to seek your help in passing a clean Older Americans Act, S. 3008. Unless the Act is reauthorized soon, we fear that service programs that benefit low-income, minority and frail elders will be jeopardized.

We hope that you will join with us to urge passage of S. 3008 so that Older Americans Act programs for community and supportive services, nutrition programs, senior centers, legal assistance and elder opportunities serving millions of older Americans will be able to continue uninterrupted.

Sincerely,

HAROLD PRICE,
President.

NATIONAL ASSOCIATION OF STATE
UNITS ON AGING,
Washington, DC, August 28, 1992.

DEAR SENATOR MCCAIN: The National Association of State Units on Aging urges your support for immediate Senate action to reauthorize the Older Americans Act, S. 3008. While the Older Americans Act itself has received almost unanimous support on the floor of both Houses, it has been held captive for months by a host of seemingly never ending congressional procedural roadblocks and controversial and non-germane amendments.

Failure by the Senate to act swiftly will result in an unconscionable reduction in funds available across the nation to provide meals, transportation, in-home services, jobs, advocacy for nursing home residents, elder abuse prevention and similar, often life-sustaining, services to millions of low-income and frail older persons.

NASUA's members are the nation's 57 state agencies on aging, designated by Governors and state legislatures to represent and serve older persons in their states. They have tried to explain to older persons that these frustrating delays do not indicate a lack of congressional support for this program which is so important to them. However, their questions have turned to anger, their frustration to disillusionment.

Once again, we urge the Senate's immediate passage of S. 3008. Swift action can still avoid unnecessary and unwarranted reductions in Older Americans Act service funds and rescue literally years of congressional work to strengthen the Act from being lost when this Congress adjourns in a few short weeks.

Thank you for your consideration of our views on this issue of critical importance to millions of older persons.

Sincerely,

DANIEL A. QUIRK,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 25, 1995.
Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Last year, Congress authorized a Commission to study the Social Security Notch Inequity as a way to examine the merits of the arguments for and against legislative action.

The National Committee welcomed the opportunity this Commission presented to adjudicate the merits of this long standing issue.

The Congress is to be congratulated for its efforts to bring this Commission to life.

This year, the leaders of both parties in both Chambers have made all of the eight Congressional appointments.

This month as a part of the Labor/HHS Appropriation Conference report, Congress appropriated $1.8 million so that the Commission can carry out its mandate and report back by the end of the year.

As soon as the President appoints his four members and designates a Chairperson, the Commission will proceed.

I hope that you will agree that the Notch Commission, when activated, will study the issue and note findings which will produce a recommendation. Please do your part to move this Commission into action.

Sincerely,

MARTHA A. MCSTEEN,
President.

THE RETIRED ENLISTED ASSOCIATION,
Alexandria, VA, January 14, 1992.
Hon. JOHN MCCAIN,
U.S. Senate, Russell SOB, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than 54,000 members of The Retired Enlisted Association (TREA) it is my pleasure to offer TREA's support to you in your efforts to repeal the Social Security Earnings Test.

We of TREA appreciate your willingness to address what we believe is a penalty imposed upon older Americans having a strong work-ethic.

Should you or a member of your staff have any specific tasking suggestions for this office on this issue, please don't hesitate to contact me.

Very respectfully,

JOHN M. ADAMS,
MCPO, USN (Ret.),
Director of Government Affairs.

Mr. DOMENICI. Mr. President, I understand this amendment is stacked now. We do not vote on it now. We go next to another Republican amendment. We had a change in what our next amendment would be. But the Democrats have been advised. This will be the Helms amendment. Senator HELMS is ready on the floor, and they have a copy of it on the other side.

AMENDMENT NO. 2965

(Purpose: To allow senior citizens to continue to choose their doctors)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2965.

On page 461, line 13, after the period, insert the following:

"(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsor, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the Individual."

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I am sure that I am not alone in my strong feelings that the senior citizens of America must not be deprived of their right to choose their own doctors.

The text of my amendment has been modified to address both my strong desire to preserve the right of the senior citizens and the concerns of a number of Senators relating to options.

The pending amendment stipulates that if a Medicare choice plan offers a closed plan HMO within the Medicare margin, that plan must also offer a point-of-service plan enabling senior citizens to exercise their freedom of choice regarding the selection of physicians.

Three summers ago, I had a little encounter with some remarkable medical doctors, who are also my personal friends, in my hometown of Raleigh. I was at that time, of course, free to choose the team of surgeons who performed my heart surgery.

The point is that all senior citizens enrolled in Medicare should have the same choice that I had. And the pending amendment will enable senior citizens to preserve their right to choose their doctors.

Most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professionals will perform their care and treatment. In reforming Medicare, Congress must make sure that senior citizens know their options and can choose their doctors and other medical providers instead of being required to accept somebody else's lineup of physicians and surgeons.

Mr. President, the Senate is considering major reforms to save Medicare and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt. We agree on that. Otherwise, the Medicare trust fund will be flat broke when the 21st century rolls around just a few years hence.

America's senior citizens—and I am one of them—depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure that they will not be forced to give up their right to choose their doctors. It is vital to their future security that our senior citizens retain this right. The power to choose will place senior citizens firmly in control of their health care.

Senior citizens may be enticed to join an HMO because they will gain coverage for prescription drugs and eyeglasses and hearing aids—coverages not presently provided by Medicare.

However, without some moderating legislation, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctors.

So, Mr. President, these are the reasons why I am introducing this amendment, to make sure that all Medicare-eligible Americans who choose to enroll in an HMO know their options of choosing the closed panel HMO or the point-of-service plan offered by the same insurance company.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a long-standing relationship. My amendment will enable women being treated for breast cancer to have more options when choosing a lower cost plan that will allow them to continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this amendment.

Point-of-service plans provide a safety valve to protect seniors who find themselves in the position of needing to see a doctor of choice. A point of service plan enables patients to see physicians and specialists inside and outside the managed care network. If seniors citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists.

Mr. President, CBO has given me repeated assurances that a built-in point-of-service feature—the technical term for freedom of choice—would not increase the cost of Medicare. In fact, in testimony before the Senate Budget Committee, CBO stated that "the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit costs to HMOs or to Medicare. . . ."

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there should be no increase in cost to the HMO. In fact, there could actually be a savings.

The fastest-growing health insurance product is a managed care plan that includes the point-of-service feature. In fact, in 1993, 61 percent of all HMOs offer a point of service option.

Building a point-of-service option into health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And my amendment, we can also preserve a basic American freedom to choose one's own doctor.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that at the expiration or yielding back of debate time on each amendment, the amendment be laid aside to consider the next amendment in order, and that when the next order of stacked votes begins, each amendment be voted on in the order in which it was offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. EXON. Mr. President, I suggest the absence of a quorum and that it be charged to the 5 minutes on our allocated time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. DOMENICI. Mr. President, could you hold up on the quorum?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. EXON. Be glad to.

Mr. DOMENICI. Are we charging time because we have not given you this amendment?

Mr. EXON. We are having a great deal of difficulty. Since you have changed the order of offering amendments, our Senator was not alerted, and we are having trouble getting him here.

Mr. DOMENICI. Would you like to have 5 minutes and charge it to no one while the Senator gets down here?

Mr. EXON. I would appreciate that.

Mr. DOMENICI. We are just going to do that.

I ask unanimous consent we go into a quorum call for 5 minutes and that it not be charged to the bill or to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. EXON. I thank my friend for his courtesy.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I have a very brief, 2-minute colloquy with Senator HELMS.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INHOFE. I say to Senator HELMS, just briefly, there was a little evolutionary process that we went through with this amendment. I think the amendment is very good, and I am in support of the amendment. Initially the Senator had it that under a managed plan, if a person wanted to leave the managed plan in one area of specialty, there was a split between the additional costs, if there were additional costs, of 70–30 percent. My suggestion in talking with the Senator and with his staff was it might be a better idea if we had a managed plan that allowed the market to take care of that differential so that if an individual went into a managed plan and at a later date wanted to go to another specialist, that individual would pay the differential himself so that the patient would have the choice of any practitioner he wanted to use and yet the savings of the managed plan would be effected.

My question would be, does the Senator think that perhaps this might avoid a duplication of all kinds of actuarial calculations, just to have one? And maybe we could talk about this or bring this up during the conference.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator's suggestion was excellent, and as he knows we undertook to adjust and modify the amendment to conform with the Senator's excellent suggestion.

Now, the HMO may set up a cost sharing plan in the manner that the Senator from Oklahoma suggested. A plan may require that the senior citizen pay up to 100 percent of the difference between what a network doctor would charge and what the HMO would pay for the doctor. And that is, of course, one of the many options.

My amendment is intentionally silent as to how an HMO should set its cost sharing schedule, but as the Senator has suggested, HMO's could set deductibles and other specific cost sharing arrangements.

So I commend the Senator on his suggestion. The modified version of the amendment is at the desk.

Mr. INHOFE. I thank the Senator from North Carolina.

I thank the Chair.

I would like to have a chance to look at that. I think we all want to accomplish the same low cost and choice.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I thank the Senator. I thank the Chair.

Mr. HELMS. I give the Senator a copy of the modified amendment which is now pending.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, could I get back to understanding where we are. We were on a 5-minute kind of recess waiting for the Democrats to have an opportunity and then we got a discussion going, which I think was good, for the record. Now where are we parliamentarywise?

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes remaining on his time on the amendment.

Mr. EXON. Mr. President, I thank my friend and colleague.

I yield back the 5 minutes of time that was allotted to us in the interest of conserving time and moving ahead.

Let me say the next amendment that we have now, which we do not have, is the amendment to be offered by Senator BROWN, as I understand it. We are having a great deal of difficulty with this shifting back and forth, trying to accommodate an awful lot of people. We do not mind accommodating people, but it is very difficult for us to make a determination on these things and get the proper people here the way we are receiving the amendments, or not receiving them, before they are introduced.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. DOMENICI. Now, I say to Senator EXON, I am willing to accommodate whichever way he would like. We are not ready with the amendment that we styled for, the Finance Committee amendment. That is being worked on now. I mean, that is just a matter of fact. We cannot bring it until it is done.

Mr. FORD. Mr. President, would the Senator yield for a question?

Mr. DOMENICI. Of course.

Mr. FORD. We have a Brown amendment, and Senator BROWN is not even on the list of 17 given to us. And the first four that were given to us——

Mr. DOMENICI. He is No. 17.

Mr. EXON. That is a question mark, yes.

Mr. FORD. BROWN is a question mark?

Mr. DOMENICI. We never thought he was a question mark.

Mr. FORD. That is a question mark on the list the Senator gave to us?

Mr. DOMENICI. Yes.

Mr. FORD. Now, am I to understand that there will only be 10 out of the 17 that the Senator will give us?

Mr. DOMENICI. Yes. There are only going to be 10 that we will have 5 minutes on a side. Any that are left over go into the——

Mr. FORD. Third tier.

Mr. DOMENICI. The third tier with no time.

Mr. FORD. The only thing we have on the Brown amendment is a question mark?

Mr. DOMENICI. Yes.

Mr. FORD. We just got it. We do not know who to go to here or to have debate or if we want to even debate. This is getting completely out of hand, and we are not doing it properly. We are not being fair to either side. I think that we should stop now and go back and get it in order. And we will have ours. You had the first three, and then we get one, and we can tell you who that is and what it is about.

But I think we ought to take a few minutes, get them in order so we will know and we can have a decent 5-minute debate on each amendment on the floor.

Now, I think the Senator from New Mexico agrees with me because he has been a little bit frustrated by not being able to get them in the order in which he told me that we were going to get them.

So, Mr. President, I urge that we just take some time to get the amendments, because we do not know what the Senator from Colorado is going to offer, except the question mark.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, may I suggest in the interest of an orderly process—I already yielded back 10 minutes of our time, which still holds—therefore, I would suggest possibly it might be a good idea to take a 15-minute quorum call without being further charged to each side, and to come up with an orderly process so we can move expeditiously ahead.

Would the Senator from New Mexico respond?

Mr. BROWN. Will the Senator yield?

Mr. DOMENICI. Mr. President, I am going to yield.

Yes, I say to Senator BROWN, I will be pleased to yield.

Mr. BROWN. I did not mean to interfere. I think the distinguished Senator from Kentucky raises a very valid point. As far as I am concerned, I would be happy to limit my remarks to 1 minute and then to defer for a response time, which would give the distinguished Senator some additional time to review it. I think this is very straightforward.

Mr. FORD. We do not even know what it is yet.

Mr. BROWN. I delivered a copy.

Mr. FORD. We just now got it.

Mr. BROWN. I will try to accommodate any way I can.

Mr. DOMENICI. Mr. President, first, let me say we are in very good shape, comparatively speaking. So, I hope nobody is taken in by my exaggerations, or perhaps the exaggerations of the other side, on how muddled we are. We are not muddled at all. We were going to offer a Finance Committee amendment which is a very important amendment. We have been very forthright. It is not ready.

Now, having said that, we do not have your No. 1 amendment from the second tier. We have a statement of it. We have the Biden tax credit. We have not seen it either. And the Breaux child tax credit has been circulating around, so maybe we have seen it.

Now, what we would like to do is to have Senator BROWN go next. And, I say to the Senator, his is an important amendment, so I would ask him not to take less than 5 minutes. The Senator is entitled to explain it.

So we have that. And there are two changes. Let me see if we can help to get something done. I do not like being in this position either. So what we need to do is to get the Brown amendment. Or does the Senator have it now?

Mr. BROWN. We have copies, and both sides have it.

Mr. DOMENICI. We ask the Senator that he give us the remainder of his first three that we do not have.

We would like 15 minutes; do it the Senator's way. And we will try to get our amendments and get them to the other side. We are having some difficulty because our people did not know exactly when they were going to come up. We drew some arbitrary lines on who was in and who was out, which is tough for some of them.

So, Mr. President, I ask unanimous consent that we have a 15-minute quorum call—

Mr. WARNER. Will the Senator withhold?

Instead of the quorum call, could others address generalities in the measure rather than just have a quorum call put in? This Senator would require about 6 minutes.

Mr. DOMENICI. Sure. Sure.

Mr. WARNER. I thank the Chair.

Mr. DOMENICI. I ask unanimous consent that we have 15 minutes without an amendment, divided equally, for any Senators, half on the other side, half on ours, that might want to speak to the bill, and that it not be charged to anything, because we are getting very short of time and it is sort of combined—our fault for the time. So let us not charge it to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have been listening with great attention and interest to this very important debate on both sides of the aisle regarding the Balanced Budget Reconciliation Act of 1995.

I am pleased to support the budget which follows through on our promise to balance the budget by the year 2002, protect Social Security, and save Medicare from threatened bankruptcy.

While there has been much debate focused on the details of this massive package, I would like to address the promise to the American people, present and future, that this bill represents. This is not just a budget for another year. This is not a package of routine legislative changes. This is a historic commitment to America that deficit spending is about to come to an end and has been brought about during this first year of the Republican majority in the U.S. Congress.

The net result of a balanced budget will be lower interest rates for years to come and as many as 6 million new jobs. The reforms in this bill will give the States more control over critical entitlement programs that have become inflated with the Federal bureaucracy mismanagement of many years. These programs range from Aid to Families With Dependent Children to Medicaid. I strongly support these initiatives which will let the States decide how best to solve and serve the problems associated with their own citizens.

What is best for Virginia is not necessarily the same as what is best for another State. And this Balanced Budget Reconciliation Act will move more power and money out of Washington back to State governments and local communities where it properly, in my judgment, belongs.

I have received correspondence from many Virginians who support this bill because it will both balance the budget for the sake of future American families, particularly our children, Mr. President, and will pave the way for needed relief for the heavy tax burden on our present American families.

When this budget reconciliation bill is signed into law, we will not be at the end of the trail, but only at the beginning. We will have identified the path and the course, but each year we will have to make spending decisions that will keep us on the road that is being defined here today and tomorrow.

During my nearly 17 years as a privileged Member of this body, I have seen many instances where unforeseen spending requirements from hurricanes to peacekeeping operations have arisen and been funded by the Congress. These will surely occur from now until the year 2002 when the deficit is projected to disappear.

We are now committed to making our Government live within the funding levels contained in this bill. If emergencies occur, we will have to offset their costs with spending reductions. Those budget decisions will be as difficult in the year 2000 as they are this year. But this package is a commitment by the Republican majority and eventually by the entire Congress that we will stay the course.

Mr. President, I yield the floor.

CAPITAL GAINS TAX CUTS: A BOOST TO ECONOMIC GROWTH

Mr. HATCH. Mr. President, I rise in support of the capital gains tax cut provisions in the budget reconciliation bill that lies before us today.

I would like to focus my remarks on the economic effects that these provisions will have on our country.

Mr. President, what often seems to get lost in all of the debate about capital gains is economics.

Opponents of the capital gains tax cut seem content to promote class warfare while ignoring the economic effects of such a change.

It seems to me, however, that instead of worrying about whether the so-called rich will pay less in taxes under this bill, the most important thing to focus on is how to sustain and boost economic growth so we can balance the budget and create the jobs needed by the next generation.

The respected economic forecasting firm of DRI/McGraw Hill has studied our capital gains tax provisions very carefully. Their findings appear on this chart 1 following this statement.

First, we should note that between now and 1999, DRI projects that about 600,000 new jobs will be created as a direct result of the capital gains provisions contained in this bill.

Of paramount concern to all of us is the need to expand the job base so that no matter where one is on the ladder of success, there is opportunity to move up economically.

As this chart 2 shows, most of the new job creation taking place in this country is provided by new companies and those that are in the early phases of their growth cycles.

Look at the figures—while large companies are in the down-sizing mode, small and medium companies are expanding.

The expanding companies are not the long established blue chippers. There is more risk involved investing in these emerging enterprises than in mature companies.

By lowering the effective capital gains tax rates, the risk threshold for all investors will decrease and this will cause more equity funds to become available to companies that are in the growth stage.

To illustrate this dynamic, Mr. President, consider the following facts.

From 1969 to 1971, there were on average 510 new public offerings in this country per year.

From 1972 to 1976, when the effective capital gains rates jumped to just over 49 percent, only 145 new public offerings occurred on average each year.

When the effective capital gains rate fell to 20 percent between 1981 and 1986, the average annual new public offerings figure jumped to 577.

Between 1987 and 1992, when the capital gains tax rate jumped up again to 28 percent, the number of public offerings dropped to only 431.

While some growth in new company formations can be attributed to the fact that our economy was growing during those years, one wonders how much more it might have benefited if we had not increased the capital gains tax rate.

Obviously, there is a relationship between the capital gains tax rate and the rate at which new companies start and grow.

And, because these new and expanding companies are fueling most of our job growth—more than 70 percent of all new jobs are in small business—we can see that lowering the capital gains tax rate will increase the number of jobs in this country.

Mr. President, DRI has made three other projections on chart 1.

Because of the capital gains provisions in this bill, we should experience a 4.1 percent increase in our capital stock, a 5.1 percent increase in fixed investments and a 1.2 percent increase in labor productivity.

What does capital stock refer to? It refers to our investment in plant, equipment, and technology. Even a ditch digger needs a shovel.

While hundreds of millions of laborers around the world work for mere pennies per hour, how is it that most of our American jobs have not already been exported outside of our country? The answer is capital stock.

We have one of the highest ratios in the world of capital stock per labor hour worked.

In other words, for each hour a laborer works, we have more capital invested to support that worker in his or her job than most of our competitors around the world.

As a result, on a per capita basis, American workers are the most productive in the world.

This explains how our country grew from a predominantly agricultural economy to a predominantly manufacturing and services economy without reducing our agricultural output.

It has been estimated that at the turn of the century, about two-thirds of the American work force were in farming.

Today, only about 3 percent of Americans work in farming. Yet, our grocery stores and storage facilities are filled to overflowing even though the number of mouths to feed has gone up and the number of agricultural workers has gone down dramatically.

But for this tremendous infusion of capital stock into the equation, our American farmers would probably be about as productive and well paid as their counterparts in China.

Because of the capital investment supporting our workers, we have made their services more valuable which, in turn, has prompted higher real wage rates here than most other countries in the world.

Mr. President, the critical relationship between capital stock and real wage rates is illustrated by chart 3. Note that as our capital stock grows, real wages increase almost in lockstep. Thus, it is critical that we maintain growth in both capital stock, fixed asset investment, and worker productivity.

And, as the DRI projections show, the capital gains provisions of this bill will do just that.

Please note, Mr. President, the DRI projection in chart 1 that our collective cost of capital will drop by 8 percent as a result of the capital gains tax reductions in our bill.

Many believe that our relatively high cost of capital is a critical area of U.S. weakness when competing in the international marketplace.

Thus, in passing a capital gains tax reduction, we can take a meaningful step today toward narrowing this critical competitive gap and helping all Americans in the process.

It should go without saying that growth in our collective standard of living depends upon growth in our gross domestic product.

Mr. President, a 1.4 percent increase in GDP in the DRI projections contained in chart 1 might not seem like very much, but when applied to a $7 trillion economy, we are talking about an additional $100 billion of growth.

As can be seen from this chart 4, Mr. President, we treat capital gains more punitively than most of our major international competitors.

We can also see why the competitors in the Far East are gaining on us. We need to respond to this challenge in order to enhance our international competitive position.

Mr. President, much has been said about the wisdom of lowering capital gains taxes at a time when we are trying to balance the budget.

In my opinion, tax cuts and balancing the budget are not mutually exclusive, especially in the area of capital gains.

Before the Hatch-Lieberman capital gains proposal underwent minor changes in the Senate Finance Committee, the Joint Committee on Taxation projected that it would result in about $89 billion in lost Federal revenues over 10 years.

I very much doubt that this projection will be accurate, for a couple of reasons.

First, both the CBO and the Joint Committee on Taxation have a poor track record in estimating the revenue effects of capital gains tax rate changes, as can be seen from this chart.

In connection with estimated capital gains realizations for 1991, CBO originally projected realizations of $269 billion while the Joint Committee on Taxation projected realizations of $285 billion.

In reality, there were only about $108 billion worth of realizations for that year. In other words, the CBO was off by 60 percent and the Joint Committee on Taxation was off by 62 percent.

Estimating errors of a similar magnitude were made for 1990. In this case, the Bush Treasury Department projected capital gains revenues of $48 billion, while CBO projected $53 billion for that same year.

In reality, the revenue only amounted to $28 billion. The cumulative gap from 1989 to 1992 between the Bush Treasury's revenue estimates and what actually was realized totaled $85 billion. The CBO was $118 billion off the mark over the same period.

The problem is that the economic models used by CBO, the Joint Committee on Taxation, and the Treasury do not adequately take into account the macroeconomic feedback effects caused by changes in the capital gains tax rates.

This explains the wide divergence between their projections and reality.

It is a fundamental law of economics that people respond to incentives. If we tax a good or service more, people buy or produce less of it. If we tax capital more, we get less.

If we lower the tax on capital, we will create more of it.

For years, the revenue estimating agencies of the Federal Government have failed to adequately account for the feedback effects of taxation.

DRI has included these feedback effects in its estimate.

As the DRI study indicates in chart 1, rather than the loss projected by the Joint Committee on Taxation, we should actually experience at least a $12 billion increase in Federal revenues over the next 10 years.

Personally, I believe this estimate to be on the conservative side. I believe a 50-percent capital gains deduction will unlock the floodgates of capital gains realizations.

There is an estimated $8 trillion in unrealized capital gains in this country. Even if this bill only unlocks a small percentage of this vast mountain of capital, we will have unleashed a tremendous force for growth in our economy.

With the benefit of hindsight, it is easy to see that we made a serious mistake in raising the effective tax rates on capital gains after 1986.

Chart 5 shows the foregone realizations that we missed by the 1986 capital gains tax increase.

The lighter bars indicate actual realizations. Notice, Mr. President, how they drop off and stagnate after 1986 while the Standard and Poors stock index [S & P Index] continued to rise.

The dark bars represent what taxable capital gains realizations would likely have occurred if they had kept pace with the S&P Index, as they did before the capital gains tax increase.

This helps explain why our capital gains tax revenues have been so anemic since 1986.

After jacking up the top effective capital gains tax rate by 40 percent, from 20 to 28 percent, some might have expected a similar 40 percent increase in capital gains tax revenues.

However, we have only managed to generate an average of about 64 percent per year of the capital gains revenue received in 1986; 28 percent is clearly higher than the tax rate that maximizes capital gains revenues to the Treasury.

Mr. President, recent history has made it clear that there is a direct relationship between capital gains tax rates and the amount of revenue from capital gains realizations received by the Treasury.

Experience shows that reducing the capital gains tax rate actually increases government revenues.

Consider the period from 1978 to 1985. On November 1, 1978, the top capital gains rate dropped from an effective 49 percent to 28 percent. It fell again in the middle of 1981 to 20 percent.

Rather than experiencing a similar reduction in capital gains revenue, as some might predict, we saw the sharpest increase in such revenues since World War II.

Annual capital gains tax receipts grew from $9.1 billion in 1978 to $26.5 billion in 1985.

In other words, at the same time we experienced a 59 percent decrease in the top capital gains tax rate, our annual capital gains tax revenues increased by 191 percent.

Mr. President, some of my colleagues on the other side of the aisle are, in effect, saying that no tax benefits should go to the so-called wealthy.

This is ludicrous. How do we expect to attain the economic objectives that we all are seeking if the wealthy stay on the sidelines as mere spectators, rather than as active participants?

Some of my colleagues seem to hold that no matter how beneficial a certain course of action is to the economy and to average Americans, that action is totally unacceptable if the rich get any benefit from it.

Abraham Lincoln once observed that you cannot help the weak by weakening the strong.

Likewise, we cannot help all Americans by punitively taxing wealth. Our progressive income tax already does a good job of that.

Trying to craft a set of incentives that exempts from coverage the very people whose conduct is critical to the attainment of our economic goals just will not work.

By giving an across-the-board capital gains tax deduction to everyone alike, we will encourage an efficient reallocation of resources in such a way as to stimulate economic growth for all Americans.

As I mentioned earlier, at stake in all of this is about $8 trillion of locked-in capital gains, which if unlocked, would produce substantial revenue gains to the Treasury, as well as create more jobs and economic growth for all Americans.

Let me close Mr. President, with a real-life example that indicates that all of the economic principles I have talked about actually work and are not just theories that sound good.

As a division of a major parent company, Sungard Data Systems had $30 million in annual sales but was losing money.

The parent company decided to sell this division. Venture capitalists believed that they could turn things around and return Sungard to profitability. The new buyers were correct.

After the sale, the new management generated over $440 million in revenues and about $70 million in operating income.

What used to be a 400-employee division before the sale turned into a 2,400-employee company after the sale. This represents a 500-percent increase in jobs.

Did the rich venture capitalists get richer from all of this? Of course they did. But most importantly, 2,000 people had good jobs that did not exist before. This is the way our economy has always worked.

This is America, where it is possible to create wealth for oneself by investing one's sweat, one's brains, and taking a risk. By so doing, the risk taker creates wealth and opportunity for those around him or her.

Now is not time to abandon the economic principles that made this country the greatest economic powerhouse the world has ever known.

Mr. President, I urge all of my colleagues to vote in favor of the tax package reported out of the Finance Committee.

Mr. President, I ask unanimous consent that items referred to above be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

September 1995 DRI/McGraw Hill study projects the specific economic benefits that will result from a 50 percent capital gains deduction as follows:

150,000 new jobs created each year from 1997–2000.

4.1 percent increase in capital stock.

5.1 percent increase in fixed investment over 10 years.

1.2 percent increase in labor productivity.

8 percent reduction in the cost of capital.

1.4 percent increase in GDP over 10 years.

$12 billion increase in federal tax revenues over 10 years.

Who Generates the New Jobs?

Answer: New Companies and Those in the Early Stages of Expansion:

Small Companies: Added 1.6 million net jew jobs in 1993; and 25% job growth per year from 1989 to 1993.

Large Companies: Industries dominated by large companies had a net decrease of 200,000 jobs in 1993; and Fortune 500 companies lost about 3% of their jobs from 1989 to 1993.

Comparative capital gains rates

	Percent
United States	28
Japan	(1)
France	18.1
Germany	0
South Korea	0
Taiwan	0
Singapore	0

Lesser of 1 percent of gross sale price of 20 percent of gain.

U.S. AFFILIATED INSULAR AREAS

Mr. AKAKA. I would like to engage in a colloquy with the chairman and ranking member of the Committee on Energy and Natural Resources, and my good friend, the senior Senator from Hawaii, on a matter of very great concern to me—a provision in the House reconciliation bill that is inconsistent with House and Senate Appropriations Committee actions and would eliminate our ability to meet some of the most basic needs in the U.S. affiliated insular areas.

What the House Subcommittee on Native American and Insular Affairs has proposed, and the House has accepted, may appear to many to be relatively noncontroversial—the repeal of a $27.7 million mandatory annual appropriation to the Commonwealth of the Northern Mariana Islands [CNMI] for infrastructure improvement projects. The reality, however, is that this recommendation would wreck—before it can even be implemented—a carefully negotiated bipartisan, bicameral agreement made by the Conference Committee on Appropriations for Interior and Related Agencies.

After outlining the facts in this case, I would hope and urge that the Senate conferees conclude that this proposal is misguided and must be rejected.

In the administration's budget request it was recognized that the needs of the Commonwealth of the Northern Mariana Islands for Federal financial assistance were decreasing due to local economic growth. Therefore, the level of financial assistance could be decreased. However, the Administration and the Appropriations Committees also recognized that there continue to be significant future needs and obligations to be met in other island insular areas.

The first of these other obligations is fulfilling the intent of section 103(i) of Public Law 99-239, the Compact of Free Association Act of 1985, which obligates the United States to undertake radiation mitigation measures and to resettle the people of Rongelap who were irradiated during the United States' nuclear testing program in the Marshall Islands.

Second, Public Law 99-239 also authorizes immigration from the former Trust Territory of the Pacific Islands to the United States and its territories. In recognition of the impact which this immigration would have on social services, particularly in Guam, section 104(e)(6) of Public Law 99-239 authorizes compensation to assist in offsetting the negative impacts of immigration under the compacts.

Third, economic development in remote American Samoa is still unable to generate sufficient revenue to meet all of the territory's basic needs. Of greatest concern is the Environmental Protection Agency's estimated $30 million backlog in waste water construction. If these projects are not undertaken, then the community will face an increasing risk of contamination of its groundwater, as well as destruction of its protective and productive surrounding coral reefs. In addition, American Samoa's hospital facilities are nearing the end of their useful life. The Department of the Interior and the Army Corps of Engineers estimate renovation or replacement costs for healthcare facilities to be between $20 and $60 million.

Finally, the fourth obligation facing the Federal Government with respect to the islands is fulfilling our commitment to the CNMI. In 1992, the previous administration and representatives of the CNMI reached an agreement under which the Federal Government would provide $120 million in financial assistance to the CNMI, to be matched by $120 million from the CNMI, to meet the capital infrastructure needs of their rapidly growing population and economy. From 1993 to 1995 much of these funds were provided to the CNMI under the mandatory appropriation established by section 702 of Public Law 94-241, the Covenant to Establish the Commonwealth of the Northern Marianas. However, $77 million remains to be paid under the agreement.

Given the extreme pressure on the budget, how were these needs and obligations to the islands to be met? Fortunately, the administration proposed a solution which would allow the appropriations committees to avoid the nearly impossible task of meeting these needs through large annual discretionary appropriations. The proposal, contained in the Insular Development Act (S. 638), was to reallocate the CNMI's $27.7 million mandatory annual appropriation to meet needs among all of the islands. The Energy Committee held a hearing on this bill on May 25, 1995, and the full Senate passed the bill on July 20. The Office of Management and Budget and the House and Senate Appropriations Committees supported the proposal because it would allow for significant discretionary savings.

In short, there is a solution to a set of difficult problems. The administration's original concept was adopted and modified to specify priorities and funding levels among these needs. It was then agreed to on a bipartisan basis by the Conferees on Interior Appropriations, who could now also agree to eliminate discretionary funding to meet these needs.

Mr. President, it is with the greatest disappointment that I view the House recommendation to repeal the CNMI mandatory appropriation. This proposal completely wrecks the carefully crafted policy to meet the public health needs of Samoa, fulfill our commitment to the CNMI, compensate Guam for the negative social impacts resulting from compact immigration, and to acquit ourselves with respect to our commitments to the nuclear testing victims of Rongelap Atoll.

I would like to call on my good friend, the senior Senator from Louisiana and the ranking member of the Committee on Energy and Natural Resources, to confirm my presentation of the facts in this matter.

Mr. JOHNSTON. The Senator is absolutely correct. The provisions of the Interior conference report were the result of weeks of careful bipartisan effort. As ranking member of the authorizing committee, I have been familiar with each of these issues for many years and have shared with the Senator from Hawaii the frustration of trying to find a solution. This is why I joined with my chairman, the senior Senator from Alaska, in writing to the chairman and ranking member of the Interior Appropriations Subcommittee urging that the administration's proposal, as modified and reported by the Committee on Energy and Natural Resources, be included in the Interior appropriations bill.

I have been dealing with territorial issues since I first came to the Senate in 1972, and I can assure my colleagues that although these islands are small and remote, their needs are just as real as those of the States. We have responsibilities to U.S. citizens and nationals and citizens of the former Trust Territory that we simply cannot turn our backs on. After three long years we have finally come up with a solution to meet four of our most pressing problems in the islands. I simply cannot understand how the House justifies its proposal, which would ignore these responsibilities and commitments.

Let me reassure my colleague from Hawaii that I will do all that I can to ensure that the Senate position prevails on this matter.

Mr. AKAKA. I thank my good friend and would also like to ask the chairman of the Committee on Energy and Natural Resources, whether my understanding on these matters is correct.

Mr. MURKOWSKI. I agree with the Senator's statement. In fact, I ask unanimous consent that the letter sent by our Committee to the Interior Appropriations Subcommittee requesting the adoption of S. 638 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
Washington, DC, July 25, 1995.
Senator SLADE GORTON,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to you concerning the funding for the Department of the Interior's responsibilities for territories and insular areas, including the freely associated states. We are concerned over the action taken by the House in eliminating funding for staffing and for very important programs, such as technical assistance, operations and maintenance improvement, insular management control, and disaster assistance. Each of these programs, while relatively small, have proved to be of critical importance in assisting the various island governments. We understand that both the Departments of Defense and the Interior have also expressed their concern over this action.

The elimination of the salaries for all staff is perplexing. Including the FY '95 appropriation, there are over $900 million in funding for the territories and freely associated states that the Department of the Interior is responsible for. The Department has reorganized and placed responsibility under the Assistant Secretary for Policy, Management and Budget. As part of that reorganization, the core permanent staff has been reduced from 45 to 25. We believe that the staffing level should be kept to the minimum necessary to enable the Secretary to fully discharge his responsibilities. We have strongly suggested that they give serious consideration to using at least a portion of the savings to obtain details from other agencies to enhance the Department's ability to deal with problems in the islands and to reduce the need for permanent staff. We expect that further adjustments will be made in the future as the responsibilities of the Secretary change. The expected efficiency and greater emphasis on technical and financial management assistance to the areas will be completely frustrated by the House action.

We do not see how the reductions proposed by the House can be supported. As you may be aware, the Senate has passed S. 638, which in part would redirect the permissible uses of that portion of the current entitlement for the Northern Marianas not needed to meet the 1992 Agreement on future funding so that the excess could be used for long-term infrastructure planning. Those funds would also provide the ability to meet United States responsibilities in areas such as assisting in the resettlement of Rongelap. In part, the Committee felt that this action would increase the flexibility of the Appropriations Committee to address critical needs such as financial management. Enactment of that provision would also provide a significant portion of the infrastructure funding for American Samoa needed to meet critical health and safety concerns. Given the increasing pressures on the budget, we see no alternative other than reallocation of the excess CNMI funding if essential needs are to be met.

Accordingly, we urge you to reject the action taken by the House in eliminating funding for staff and for essential programs for the insular areas. If you agree with the action taken by the Senate with respect to the use of excess funding for the Northern Marianas, we suggest that you seriously consider adopting such a provision as part of the Appropriation measure.

Sincerely,
J. BENNETT JOHNSTON,
Ranking Minority Member.
FRANK H. MURKOWSKI,
Chairman.

Mr. MURKOWSKI. Let me also reassure my colleague of my strong desire to see that our agreement, as set forth in the Appropriations conference report, not be undermined by the House reconciliation proposal which contradicts that agreement.

Mr. AKAKA. I thank the Chairman for his reassurance. Mr. President, finally I would like to ask the senior Senator from Hawaii, for his support on this matter.

Mr. INOUYE. The Senator is correct. It comes as a great disappointment to me that just as the United States was finally coming to a resolution on how to meet its obligations on these issues, the House has proposed to repeal the source of funding that had been agreed upon.

I stand with my colleagues on the authorizing and appropriations committees in urging that the Senate insist on its position in conference—that the CNMI's mandatory funding be preserved in order to implement the bipartisan, bicameral agreement to reallocate these funds as set forth in the Interior Appropriations conference report.

Mr. AKAKA. I thank my colleagues for their support in ensuring that the Senate position prevails on this issue.

Mr. KEMPTHORNE. Mr. President, I rise today in strong support of passage of the Balanced Budget Reconciliation Act of 1995. This is not only good legislation. It is historic legislation. For the first time, in a long time, Congress has the opportunity to vote for a truly balanced budget—not just a theory, not just rhetoric but an action plan to realize the goal that many thought impossible.

Only once in the past 30 years has the Federal Government had a balanced budget. Every other year we "deficit spent" our way toward a national debt that now stands at nearly $5 trillion dollars. That is $19,000 of debt for every man, woman and child in the United States. Because the interest on the debt is threatening to consume ever larger portions of the budget, this national debt is currently one of the greatest threats to our children's future.

For the fiscal year that ended on September 30 the Federal Government ran a deficit of $161 billion. If nothing is done, and we don't change our spending habits, that deficit will rise to $256 billion by 2002. We must stop borrowing from the future and learn to live within our means. This budget reconciliation bill gives us the blueprint to accomplish that task.

While the American people made it clear that they wanted the Federal budget balanced, they also made it clear that they wanted meaningful tax relief. The Republican leadership heard that message loud and clear. Besides balancing the Federal budget by the year 2002, the Reconciliation Act of 1995 provides the biggest tax cut in history—more than $245 billion. Of these cuts 84 percent go to those making less than $100,000 and 70 percent go to those making less than $75,000. These tax cuts are real, significant tax relief for the families of America. For example:

A $500 per child under 18 tax credit for couples earning $110,000 or less annually.

20 percent credit of interest paid on student loans up to $500 per year, per borrower, for couples with an adjusted gross income of $60,000 or less.

Raising the income limits for eligibility for IRA's by $5,000 annually until they reach $100,000 for couples and $85,000 for singles and indexing for inflation and creating a $2,000 IRA for homemakers.

Capital gains reform that deducts 50 percent of the gain for individuals that have owned property at least 1 year, which effectively lowers the tax rate to 19.8 percent. A reduction of the corporate rate on tax gains to 28 percent. Both changes are effective 10–13–95.

Estate tax reforms that will allow more Americans to continue operating family owned business after the death of the primary owner/founder. The first $1.5 million in value of family owned businesses and farms are exempt from tax and the tax on the next $3.5 million is reduced by 50 percent.

These tax cuts are both responsive and responsible solutions to the excessive taxation that is stealing the financial independence from American families across this country.

The Medicare portion of the budget reconciliation package is, in every sense of the word, true reform. It takes the current system, which is so obviously flawed and damaged beyond simple Band-Aid fixes, and transforms it into something which will truly work. It will work not only to meet the health care needs of current and future senior citizens, it will work to allow the marketplace, and therefore the people, to shape the future of health care.

We all know the level of political rhetoric which has surrounded the issue of Medicare reform. The fact remains, however, unless something is done, and done soon, Medicare will go bankrupt. This is not a political issue. This is not a matter of just whether or not Republicans want to change the system. It is a question of whether or not we have the courage to make the tough decisions needed to save the system. Simply delaying the pending bankruptcy for a couple of years will not be sufficient. We have had enough of that attitude. It is time to stand firm and to stop avoiding the difficult decisions before us. I believe the Republican Medicare reform package does just that.

The contents of the Medicare reform proposal have been significantly misrepresented. I believe it is important to point out what the measure reported out of the Finance Committee does.

The first thing the plan does is provide choice. For too long we have told this Nation's senior citizens that they may not have a choice. When they turn 65, they are placed on Medicare, whether they want it or not. Until recently, only a few were even allowed to choose managed care options instead of fee-for-service. I believe this is outrageous. To tell people in this country that they may not provide for their own health care as they see fit violates the basic principles of freedom for which so many of our seniors fought and sacrificed. Some have claimed seniors have all the choice they need, but that is simply not true. When older people are turned away from a health care provider's office because the provider no longer wishes to struggle with the regulations and bureaucracy surrounding the Medicare Program, they have no choice. This must simply change.

So what kind of choice will seniors get to make? Under the Republican proposal they can stay enrolled in the current Medicare program. Those wishing to go beyond the present system may choose from traditional fee-for-service indemnity health plans—(just like many of them had before retirement), coordinated care plans, and high-deductible health plans with medical savings accounts, also known as MSAs. In addition, the Medicare reform plan allows future enrollees to select from yet unforeseen health options as they become available, provided the plans meet minimum Federal standards. This, I would say to my colleagues, is the kind of choice most Americans already have. Do our senior citizens deserve any less?

The Medicare reform plan we are debating also addresses another issue, fraud, which Idahoans have told me should be one of the primary focal points of any reform effort. I am pleased our plan takes serious efforts to reduce health care fraud and abuse. Specifically, the bill provides for the establishment of coordinated efforts by Federal, State, and local law enforcement officials to combat fraud. The bill also instructs the Secretary of Health and Human Services to exclude individuals convicted of health care fraud from receiving payments under Medicare and Medicaid. Furthermore, the reform package would establish a new criminal statute, with specific criminal penalties, and would also increase fines and civil penalties for health care fraud.

With expanded choice and reduced fraud, one must wonder why there is so much opposition to our Medicare reform plan. I believe it stems from fear based on misinformation. In an attempt to set the record straight, I would like to take this opportunity to point out what the reform package does not do.

First, this proposal does not cut Medicare. Under the Republican plan, Medicare will continue to grow by 6.4 percent each year. Over the next 7 years, expenditures for Medicare will grow by nearly $2,000 per recipient. Only in Washington could a $2,000 increase in payments per person be labeled, by some, as a cut.

The GOP plan also does not force people to give up Medicare or to join managed care organizations. As I stated before, the plan offers seniors a choice. It lets them, rather than the Government, decide how one will receive health care. I believe this Nation's senior citizens can make those choices.

In addition, the spending reductions included in the Medicare reform package are not, and I will repeat this, are not, related to a tax cut. The bill explicitly states that savings generated from reforming the Medicare system may not be used for any purpose other than saving and preserving the Medicare system. Whether or not we adopt any tax cuts, we need these savings to preserve the system for current and future recipients.

Finally, to those who say smaller savings would be sufficient, I would ask them to define "sufficient." While the Democrat's proposal would prevent the system from going bankrupt in 2002, as it is currently on a pace to do, it would allow the system to fail only 2 years later. This attitude of "put it off until it is someone else's problem" is precisely why the United States is in the economic mess it is. As the Medicare trustee's said, "prompt, effective, and decisive action is necessary." Simply delaying the inevitable is not a solution.

I was pleased to note that my hometown newspaper, The Idaho Statesman, shares this view. In a recent editorial the newspaper stated, "Without enormous changes like those proposed by the GOP, the program will go broke soon after the turn of the century." The editorial went on to say, "somebody finally has the courage to begin fixing what's been broken for a long time."

Since before I first came to the Senate, Idahoans have told me they want Congress to face the important issues head on, to try to set this country on solid economic footing. The Medicare reform plan which the Senate Finance Committee approved does just that. It will not be easy, and it will not be painless, but it will achieve our goals. It will correct the financial difficulties the program faces, bring the efficiencies of the market into play, and give senior citizens the freedom to choose.

The Idaho Statesman's editorial ended with the following statement, "The numbers clearly show that Medicare, which served one generation well, cannot serve the next one without significant reform." The Republican package is just that, significant, and serious, reform.

The Finance Committee has also used this bill as a vehicle to redirect and energize the earned income tax credit. The EITC is a well-conceived and well-intended program designed to encourage work over welfare for low-income families. Unfortunately this worthy intent has been lost in what has become the fastest growing entitlement program we have. Just since 1986 it has grown from 7 million families receiving an average of $281 to 18 million families receiving an average of $1,265. The EITC no longer benefits only families with children but provides benefits to both individuals and families without children.

The Senate proposal redirects the EITC back to the truly needy, reduces the potential for fraud and abuse and puts money where we need it, in the hands of low income families with children. We will increase spending on the intended beneficiaries at the same time we save the taxpayers more than $32 billion.

I ask my colleagues to join me in supporting the Balanced Budget Reconciliation Act. It is good, smart legislation that demonstrates to the American taxpayer that Republicans are serious about changing the business as usual attitude in Congress.

S-CORPORATION REFORM

Mr. PRYOR. Mr. President, as many of my colleagues are aware, there are a number of tax issues of significant importance to the 1.9 million American businesses that are S corporations that did not get resolved during the Finance Committee markup last week. Many of those issues—which include the current law's severe limitations on capital formation, growth, corporate streamlining, family business planning, estate planning, and tax simplifaction—are addressed in a bill I introduced earlier this year with my colleague from Utah, Senator HATCH. That bill, S. 758, the S Corporation Reform Act of 1995, has the bipartisan cosponsorship of a third of the Senate.

While it is unfortunate that none of the provisions of S. 758 were included in the bill reported by the Finance Committee and made part of the Budget Reconciliation Bill that is before us, I am pleased to note that many of these provisions were included in the tax bill passed by the House Ways and Means Committee.

Mr. HATCH. Mr. President, I, too, share the concerns of my colleague from Arkansas and see S corporation reform as an important step in helping this nation's S corporations stay competive and grow. I firmly believe that S corporation reform is long overdue, and hope that we can work through the conference process and during the rest of this legislative session, not simply to adopt the key S corporation simplification provisions that have already been included in the House bill, but also to address and include several additional provisions that are critical components of S. 758.

Mr. PRYOR. Mr. President, I agree with my colleague from Utah. Specifically, I believe that it is very important that we extend the S corporation reform initiative in the budget process to include all the items in the House bill, as well as such provisions as:

The ability of S corporations to issue preferred stock and general convertible debt;

The ability of S corporations to form ESOPs, so their employees can share in the success of the business;

The ability of financial institutions to be shareholders of an S corporation's stock, which is often a critical element of obtaining financing for corporate growth; and

The ability of all members of a family to be counted as a single shareholder of an S corporation, since family-owned S corporations are frequently stifled as they continue to grow from one generation to the next.

I hope that these issues will be on the table for discussion, and that my colleagues will be willing to help S corporations—most of which are small and/or family owned businesses—be more effective competitors in the marketplace.

Mr. HATCH. Mr. President, I understand the concerns of my colleague from Arkansas, and also hope that we will be able to resolve these and other critical issues in conference. I will be working closely with Senator PRYOR in the coming weeks on these very important legislative objectives.

Mr. WARNER. Mr. President, seeing no other Senators seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the Balanced Budget Reconciliation Act of 1995 which, for the first time in many years, controls entitlement spending, restrains the growth of Government and eliminates annual deficits.

What a refreshing contrast this balanced budget reconciliation bill is to the budget proposals submitted over the past 2 years by the President. Those budgets enacted the largest tax increase in history, contained no plan to balance the budget, significantly increased the national debt, failed to restrain growth in nondefense Government spending and proposed dangerous reductions in national defense spending.

Mr. President, the Balanced Budget Reconciliation Act of 1995 reverses direction on those policies which are strapping our economy and burdening all Americans with an overwhelming national debt.

I remind my colleagues that the national debt now stands at over $4.9 trillion. Outlays for interest on the public debt is well over $300 billion per year, exceeding outlays for any other Government Department or program, except Social Security.

Furthermore, failure to adopt this reconciliation act will result in annual deficits exceeding $200 billion for as far as can be projected. That is not an acceptable alternative. We must reduce Government spending. We must eliminate these annual deficits, and we must reduce the national debt. The Balanced Budget Reconciliation Act puts us on track to accomplish those objectives.

Mr. President, I support the Balanced Budget Reconciliation Act of 1995. I vote yes for reducing the deficit. I vote yes for controlling the growth of Government spending. I vote yes for our families by reducing their tax burden. I vote yes for restoring the economic future of our Nation. Therefore, I will vote yes for this bill and encourage my colleagues to do likewise.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I was here listening to the distinguished Senator from South Carolina talking a moment ago. As always, I am impressed with his vigor, vitality, and enthusiasm and, indeed, his stamina.

I also found myself in agreement with much, if not most, of what he was saying. I agree that we should vote yes on deficit reduction, and I see my friend from New Mexico here. I want to tell him how much I admire him personally, the job he has done and the work that he has put in over the years on the Budget Committee, the years he has spent dedicating himself to budget reductions and trying to achieve a balanced budget for this country. So I do not want him in any way to regard the comments I might make in the next few moments as being in derogation of my respect and admiration for him.

I agree with what Senator THURMOND said; we have to vote yes on deficit reduction. I believe that. I believe we have to vote yes on cutting spending. I believe we have to vote yes on reforming programs which have heretofore been regarded as untouchable, being third rails we cannot touch. I think we have reached the point in our history where we have to look at virtually every program and not decide that any of them are immune from reform, from trimming, from cutting, maybe even elimination.

But there are other items in this package that I do not support. I do not support drilling in ANWR. I do not support opening that up. I do not, frankly, support calling for tax reductions at a time when we are calling for deep budget cuts. For me, it is the equivalent of putting our foot on the brake and putting our foot on the pedal at the same time. It is a personal decision on my part. I feel that I can support virtually all the cuts that are necessary to achieve a balanced budget by the year 2002.

I was pleased to hear President Clinton indicate that he, No. 1, believes we should strive for a balanced budget. Initially he said 10 years, then it was 9 years, and now I believe it is even 7 years. I think that is quite a concession on his part, that he agrees that we ought to have a balanced budget within a 7-year timeframe.

The dilemma that I face is like that of several other of my colleagues. This may be the only vehicle to date that we have for achieving a balanced budget by the year 2002. This may be only part of the process that is underway.

This may be act II of a three-part drama that has to be played out that was initiated by the Contract With America, as being part one in its adoption, and part two being our deliberations and debate, and, ultimately, votes here in the Senate and conference with the House, to present a package that will be sent to the President that most, if not all, of us anticipate will be vetoed by the President because it does not include some of his priorities. That may be act II.

Ultimately, we have to come to act III, which is where we sit down with the President and work out our differences—again, being committed to a balanced budget by the year 2002.

So I will listen with some interest as we proceed throughout the evening and into tomorrow as to whether or not I can support the final package. But I indicate today, as I did last evening, I think it is inappropriate that we have massive tax reductions at a time when we are trying to balance the budget and cut the deficit to achieve a balanced budget by the year 2002. And so I intend to support various amendments that will be offered.

I may, in fact, offer an amendment to strike the tax cuts in their entirety. But it may be that that matter has already been debated long enough on the

Senate floor. It is my personal judgment that we ought to do everything we can to make the reductions that we have long deferred in making, that we ought to do it within a 7-year timeframe, that we should support our chairman in his efforts for what he has done to produce that.

But I must say, Mr. President, that I have great reservations about calling for substantial tax reductions at the same time we are asking for substantial cutbacks in programs.

So I will listen with interest as we proceed throughout the evening and tomorrow. But I indicate my great admiration and respect for Senator DOMENICI and the effort he has undertaken to produce a reconciliation package that, perhaps, is only part two or act II of the three-act drama that has to be played out.

The PRESIDING OFFICER. The 15 minutes called for under the previous order has expired.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Is Senator BROWN's amendment before the Senate, on which he has 5 minutes?

The PRESIDING OFFICER. The Senator needs to call that amendment up.

AMENDMENT NO. 2969

(Purpose: To provide that the $1,000,000 limit on deductibility of compensation paid to an employee is extended to employees of all businesses, and to use the resulting revenues to reduce the Social Security earnings penalty)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG, proposes an amendment numbered 2969.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYERS OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking "publicly held corporation" in paragraph (1) and inserting "taxpayer (other than personal service corporations)",

(2) by striking "covered employee" each place it appears in paragraphs (1) and (4) and inserting "employee", and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

Mr. BROWN. Mr. President, this is a very straightforward amendment, and it deals with an area this Congress legislated on in 1993.

In 1993, Congress passed a tax provision that placed a limitation of a million dollars on the deductibility for publicly held corporations. The limit of a million dollars was on the amount they could deduct on the salary of an employee of that corporation.

I might say, just in retrospect, that statute had other provisions. In other words, it was possible to earn over a million dollars and have it deductible but only if it was incentive pay or fit into other provisions. So it is not an absolute limitation. But that limitation, in this Senator's view, was somewhat limited and deficient. It was deficient in that it was not applied evenhandedly, fairly; it was not applied to everybody who had a salary in excess of a million dollars; it was only applied to a special few. So the suggestion of the first half of this amendment is simply to be evenhanded and apply that same limitation to employees of all businesses. Again, the tax is on the business, not on the employees.

Mr. President, I might say two important things here. We have not changed any of the exceptions to this provision. In other words, included in it was a provision that allowed incentive payments, and so on. None of that has been changed.

In addition, included here is a provision that prohibits them from being retroactive. That is, if you have an employment contract signed prior to today, that is valid and not affected by this provision. But it does raise, according to the preliminary estimates we have, $800 million. That $800 million, according to the amendment, is then used to ameliorate the impact of the penalty on Social Security tax.

As I think Senators are well aware right now, above the threshold level a very high tax is placed on Social Security recipients, many of whom are not wealthy at all, but are low-income or middle-income and struggling, and they are put into a very difficult penalty situation. So this is a net, even with regard to tax revenue to the Federal Government.

What it does is take that $800 million that will be raised and use it to offset the earnings penalty. It will not eliminate the Social Security earnings penalty. My guess is it will only have a small affect on it. It will only increase the threshold a small amount of money. But that amount of money will go to working men and women, who retire without adequate resources and need that money and need to work to make their household expenses fit.

In my view, it is an excellent transfer. It applies even tax philosophy to those who receive over a million dollars in compensation. It provides evenhandedly and uses the money to ameliorate that Social Security earnings penalty that is so burdensome for so many working people.

Mr. President, I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, we have reviewed the amendment and checked it with the Finance Committee sources. I am prepared to yield back the full 5 minutes in order to move this thing along. Once again, I would like to take the opportunity to thank the chairman of the committee for his diligence and consideration, in allowing a 15-minute discussion period when we worked this out.

Let me say this. We have unnecessarily delayed the process here, though, because both sides have not been as forthcoming as I think we should be—or that we intend to be, for that matter—in supplying copies of the amendments to the other side. I am not saying it is just on your side, it is on our side as well.

Suffice to say, I am ready to yield the remainder of my time. I believe—if the chairman agrees—that would take us to the Harkin amendment.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. EXON. Yes.

Mr. ROCKEFELLER. Mr. President, simply to affirm what the Senator from Nebraska says, I think it is, in fact, part of the agreement between the leaders that we will know what we are voting on, that we will have copies of these amendments. I have a list here of 17 of what are called Republican amendments, and three of them are question marks. There are all kinds of words. There is a word that says kickback, one that says taxes, health care, sugar. There is no way to make any kind of a judgment.

So I just affirm the view of the ranking member of the Budget Committee that we need to have these amendments. It is part of the agreement that we would have these amendments and our amendments in writing before we act on them.

Otherwise we are just singing in the dark.

Mr. BROWN. Mr. President, I yield back the balance of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

AMENDMENT NO. 2970

(Purpose: To strengthen efforts to combat Medicare waste, fraud and abuse)

Mr. EXON. Mr. President, I believe the next amendment in order is the amendment to be offered by the Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. Parliamentary inquiry, Mr. President. How much time do we have?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. HARKIN. I have an amendment that I am sending to the desk, and I ask for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. GRAHAM and Mr. BIDEN, proposes an amendment numbered 2970.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. I yield myself 2 minutes.

Mr. President, if you believe that waste, fraud and abuse in Medicare is just a small problem, then you want to just support the bill and the Abraham amendment that was added to it and vote "no" on this amendment.

If you have followed the hearings that I have held over the last 5 years showing that what GAO says amounts up to 10 percent of Medicare spending goes for waste, fraud and abuse, this is up to $17 billion a year.

If you have followed those hearings or read the numerous GAO and Inspector General reports, then you know we just cannot go after the small things in waste, fraud and abuse. We have to go after the big game. We have to take a truly comprehensive approach to combatting this bilking of the taxpayers and our elderly.

Now, the bill has some good provisions in it. I will not deny that. The Abraham amendment which I voted for is also pretty good. But that just takes a nick out of it. What we have to do is go after it with every thing we can. The taxpayers and the elderly deserve no less.

My amendment, cosponsored by Senators GRAHAM and BIDEN, both of whom who have worked hard to tackle this problem, makes a number of important changes. It requires Medicare within 6 months must use state-of-the-art commercial software to find billing abuse. GAO estimated the first full year savings of making this common sense idea at $640 million.

Next, my amendment prohibits Medicare payments for unnecessary and inappropriate items like fines owed by health care providers for violations of Federal, State or local laws, personal auto use, tickets to sporting events, entertainment, and other things like that. Believe it or not, Medicare still has no specific prohibition against paying for those kind of items.

Third, my amendment reforms payments to ambulances as recommended by the inspector general. It also reduces paperwork by requiring a standardized claim form for Medicaid and Medicare.

Most important, and the heart and soul of this, it requires competitive bidding for durable medical equipment, medical supplies, and oxygen paid for by Medicare. The Veterans Administration has been doing this a long time and the difference in payments is dramatic.

How can you say you do not support it in Medicare when you have it in the VA, when the VA spends 4 cents for the same bandage that Medicare spends 86 cents for? Oxygen—Medicare spends $3,600 for rental of oxygen; the Veterans Administration pays less than half that.

That is because the Veterans Administration has competitive bidding and Medicare does not. It is time we have good old competitive bidding in Medicare. That is what this amendment does.

I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. I compliment the Senator from Iowa.

Put bluntly, there is no legitimate reason not to be for this amendment. None. Zero. None. I challenge anyone to tell us why this amendment does not make sense.

Going after fraud should be our top priority, our first priority. The bill makes progress but it does not go far enough.

At least it is not what the Gingrich bill in the House does which makes it easier for health care providers to engage in fraud. Literally, not figuratively.

Last, the point made by the Senator, there is $18 billion in Medicare fraud a year and $16 billion in Medicaid fraud a year. I see no legitimate rationale for not tightening this up unless there is some outrageous special interest that thinks it would benefit from it. I see none. Prosecutors want it. Prosecutors ask for it.

I held a hearing in my State where I had the top prosecutors from Philadelphia and the top prosecutors from the State of Delaware. They point out that the House bill, which set them back decades—this bill would not do much. Our bill would make a significant impact on their ability to deal with health care fraud.

I thank my colleague for his leadership and allowing me the minutes.

The PRESIDING OFFICER. The Senator has 1 minute and 30 seconds remaining.

Mr. HARKIN. I will reserve my time if the other side wants to speak.

Mr. DOMENICI. I yield 5 minutes in opposition to Senator COHEN.

Mr. COHEN. Mr. President, ordinarily I find myself in agreement with the Senator from Iowa, dealing with health care fraud, but I must say in this particular circumstance I have to rise in opposition, not because I am opposed to what he is seeking to do but rather I believe that while his proposal for addressing fraud and abuse in the health care system has merit, they also compromised some of the more important facets of the health care fraud bill we were successful in including in the Finance Committee package as such.

For the past several years, we have been holding hearings. As a matter of fact, it was a report that the minority staff issued on health care fraud which produced the estimates from GAO, as well as our own staff, showing that there is $100 billion being lost annually in our health care system.

As far as the Federal portion of that, it is anywhere from $27 to $40 million, depending on which Federal programs are included. We are losing billions of dollars through our health care system through fraud now.

What we have tried to do in the proposal that was agreed to by the Finance Committee is to structure it in a way that actually produces savings—this $4.2 billion.

The amendment of the Senator from Iowa, as I understand it—unfortunately, because of the time limitations we have, I believe some of my provisions have been deleted that are in the health care fraud bill. I am advised that CBO has concluded that this dilutes some of the $4.2 billion in savings.

One of the justifications for persuading the Finance Committee to include the health care fraud bill that I had authored was to get some savings. CBO now scores it at $4.2 billion. This at least raises a question as to whether or not we have diluted that and it calls into question in terms of how much we will save.

The Senator from Iowa may use a different method of calculating those savings.

What we have tried to do is structure it in a way which we could get the provider groups to agree. This has been no easy task. We have met with provider groups, with consumers, with health care advocates, with the FBI, with the Justice Department, with the White House.

We put together a package which we believe enjoys broad support which has been scored as saving $4.2 billion. Under these circumstances, I find myself compelled to rise in opposition not because I am opposed to what the Senator from Iowa seeks to do, but by virtue of the fact this may undermine to some degree and dilute to some degree, which I do not know what extent, the

$4.2 billion which has currently been scored by CBO.

For those reasons I rise in opposition to the amendment of the Senator.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute and 50 seconds and the Senator from Iowa has 1 minute and 14 seconds.

Mr. HARKIN. I yield 30 seconds to the Senator from Nebraska.

Mr. EXON. Mr. President, I am somewhat disappointed. I thought this was perhaps one amendment that we could get Republican agreement on.

This is a good amendment. There may be reasons to oppose it, but I do not know what they are and they have not been explained to me.

Mr. HARKIN. I am befuddled, Mr. President, because I say to my friend from Maine, the CBO—which I want on the record—the CBO has scored our amendment as saving more money than is in the bill. I want that on the record. That is so.

We did not weaken the provisions in the bill, we significantly strengthened them. For example, as I pointed out, we require the commercial software, we reduce the paperwork by having one claim form. We required the competitive bidding and we prohibit the Medicare payments for unnecessary things like personal use of automobiles, tickets to sporting events, things like that.

And CBO has certified that this amendment saves more money than the underlying bill's provisions.

Mr. COHEN. We are basically in accord with what we are seeking to do, but I have been advised that CBO indicates this would reduce the $4.2 billion by—

Mr. HARKIN. Absolutely not. CBO said today it would save $4.7 billion, considerably more than the underlying bill. Let there be no question about that.

The PRESIDING OFFICER. The time of the Senator from Iowa is expired.

Mr. DOMENICI. I yield back the balance of our time.

Mrs. MURRAY. Mr. President, the Harkin amendment to remove fraud and abuse from Medicare is a giant step in the right direction—saving taxpayer money, urging us toward a balanced budget, and striving for greater efficiency.

However, the amendment is based on a concept both necessary and controversial. This amendment would require competitive bidding for Medicare part B items and services.

I have heard from owners of numerous medical supply businesses in my State who tell me they will be driven out of business by this amendment provision. They tell me services will be cut to rural areas. They tell me services involved with setting up and instructing about medical equipment is essential for patients, and will be threatened under this amendment.

Senator HARKIN has made changes to his amendment language, to maintain access to services for rural and underserved areas. He has made changes to assure quality assurance standards, so that large companies are not able to undercut their competition simply by providing shoddy supplies and equipment.

He points out the large difference between prices for supplies at Veterans Administration hospitals—which have competitive bidding—and prices from providers under Medicare part B. He makes a good case for solving some of our Medicare cost problems with a clear goal to find efficiency through competitive bidding, rather than just a budget decision.

In light of these changes, I will vote for the amendment, but I want to be sure that we are doing everything we can to make this transition survivable for small business.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 10 seconds in order to have items printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I would like to have printed in the RECORD various documents, including a letter from the inspector general of the Department of HHS and statements by the Secretary of the Department and the Attorney General. They all go to the point that we need to have as strong an antifraud position as possible in the Senate version of the Medicare bill, because the House version is woefully weak. I support the joint efforts of my colleagues from Iowa and Maine in assuring that goal.

Mr. President, I ask unanimous consent the documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL,
Washington, DC, September 29, 1995.

Re H.R. 2389: "Safeguarding Medicare Integrity Act of 1995."

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the "Medicare Preservation Act." We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

A voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from qui tam suits under the False Claims Act (but not waiver by the Secretary of sanctions);

Minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based statutes, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

1. MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the "knows or should know" standard for the mental element of the offense, Congress chose a standard which is well defined in the *Restatement of Torts. Second*, Section 12. The term "should know" places a duty on health care providers to use "reasonable diligence" to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the "should know" standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term "should know" in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with "deliberate ignorance" of false claims or if they act with "reckless disregard" of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use "reasonable diligence" to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which mnay be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

2. MAKING THE ANTIKICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT THE SIGNIFICANT INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc, paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

H.R. 2389 Proposal: Section 201 would require the Government to prove that "the significant purpose" of a payment was to induce referrals of business. The phrase "the significant" implies there can only be one "significant" purpose of a payment. If so, at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, if enacted it would threaten the Government's ability to prosecute all but the most blatant kickback arrangements.

The courts interpreting the anti-kickback statute agree that the statute applies to the payment of remuneration "if *one purpose* of the payment was to induce referrals." *United States* v. *Greber*, 760 F.2d 68, 69 (3d Cir. 1985) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also: *United States* v. *Kats*, 871 F.2d 105, 108 (1989); *United States* v. *Bay State Ambulance*, 874 F.2d 20, 29–30 (1st Cir. 1989).

The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care industry requires the interpretation adopted by Greber and its progeny. To prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the prosecution must establish the defendant's state of mind, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony about what the defendant said to business associates or potential customers, etc. These types of evidence are rarely clear about the purposes and motivations of the defendant. The difficulties of establishing intent are multiple by the complexity, size, and dynamism of the health care industry, as well as the sophistication of most-kickback scheme participants. Documents are "pre-sanitized" by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has a difficult task to prove beyond a reasonable doubt that even one purpose of a payment is to induce referrals.

If the Government had to prove that inducement of referrals was "the significant" reason for the payment, many common kickback schemes would be allowed to proliferate. In today's health care industry, very few kickback arrangements involve the bald payment of money for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment serves one or more "legitimate purposes." For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some payments to referral sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide use of space incorporate some inducement to refer in the lease rates. In all of these examples, and countless others, it is impossible to quantify what portions of payments are made for nefarious versus legitimate purposes.

Where the defendant could argue that there was some legitimate purpose for the payment, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant actually had another motive that was "the significant" reason. For the vast majority of the present-day kickback schemes, the proposed amendment would place in insurmountable burden of proof on the Government.

3. CREATION OF AN EASILY ABUSED EXCEPTION FROM THE ANTI-KICKBACK STATUTE FOR CERTAIN MANAGED CARE ARRANGEMENTS

Background: There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as most health maintenance organizations (HMOs) doing business with Medicare, consist of providers who assume financial risk for the quantity of medical services needed by the population they serve. In this context, the incentive to offer kickbacks for referrals of patients for additional services is minimized, since the providers are at risk for the additional costs of those services. If anything, the incentives are to reduce services. Many other managed care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In the fee for service system, the payer (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad protection from the anti-kick statute may be appropriate for capitated, at-risk entities like the HMO described above, such protection for managed care organizations in the fee for service system would invite serious abuse.

H.R. 2389 Proposal: Section 202 would establish broad new exceptions under the anti-kickback statute for "any capitation, risk-sharing, or disease management program." The lack of definition of these terms would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is a "disease management program?" Does not that term include most of health care?

Nefarious organizations could easily escape the kickback statute by simply rearranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape liability by establishing some device whereby the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least theoretically). Then, the organization could pay blatant kickbacks for every referral with impunity.

If the concern is that the kickback statute is hurting innovation, as observed above, there is now an explosion of innovation in the health care industry, especially in managed care. No one in Government is suggesting that HMOs or preferred provider arrangements, etc., formed in good faith, violate the kickback statute. There has never been any action against any such arrangement under the statute.

4. INAPPROPRIATE EXPANSION OF THE EXCEPTION TO THE ANTI-KICKBACK STATUTE FOR DISCOUNTS

Background. Medicare/Medicaid discounts are beneficial and to be encouraged with one critical condition: That Medicare and/or Medicaid receive and participate fully in the discount. For example, if the Medicare reasonable charge for a Part B item or service is $100, Medicare would pay $80 of the bill and the copayment would be $20. If a 20 percent discount is applied to this bill, the charge should be $80, and Medicare would pay $64 (80 percent of the $80) and the copayment would be $16. If the discount is *not* shared with Medicare (which would be improper), the bill to Medicare would falsely show a $100 charge. Medicare would pay $80, but the copayment would be $0. This discount has not been shared with Medicare.

Many discounting programs are designed expressly to transfer the benefit of discounts away from Medicare. The scheme is to give little or no discount on an item or service separately billed to Medicare, and give large discounts on items *not* separately billed to Medicare. This scheme results in Medicare paying a higher percentage for the separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a predetermined fee (such as lab tests paid by Medicare to the facility as part of a bundled payment), if the facility refers to the lab its separately billed Medicare lab work, for which no discount is given. The lab calls this a "combination" discount, yet is a discount on some items and not on others. Another example is where ancillary or noncovered items are furnished free, if a provider pays full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a "free" adult diaper. Medicare has not shared in these combination discounts.

H.R. 2389 Proposal. Section 202 would permit discounts on one item in a combination to be treated as discounts on another item in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissable for a supplier to offer a discount on a combination of items or services, so long as every item or service separately billed to Medicare or Medicaid receives no less of a discount than is applied to other items in the combination. If the items or services separately billed to Medicare or Medicaid receive *less* of a discount than other items in the combination, Medicare and Medicaid are not receiving their fair share of the discounts.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers more advice on the anti-kickback statute than is provided regarding any other criminal provision in the United States Code.

Industry groups have been seeking advisory opinions under the anti-kickback statute for many years, with vigorous opposition by the Department of Justice (DOJ), and the HHS Office of Inspector General (OIG) under the last three administrations, as well as the National Association of Attorneys General. In 1987, Congress rejected calls to require advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue "safe harbor" regulations describing conduct which would not be subject to criminal prosecution or exclusion. See Section 14 of Public Law 100-93.

To date, the OIG has issued 13 final anti-kickback "safe harbor" rules and solicited comment on 8 additional proposed safe harbor rules, for a total of 21 final and proposed safe harbors. Over 50 pages of explanatory material has been published in the Federal Register regarding these proposed and final rules. In addition, the OIG has issued six general "fraud alerts" describing activity which is suspect under the anti-kickback statute. Thus, the Government gives providers guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal. HHS would be required to issue advisory opinions to the public on the Medicare/Medicaid anti-kickback statute (section 1128B(b) of the Social Security Act), as well as all other criminal authorities, civil monetary penalty and exclusion authorities pertaining to Medicare and Medicaid. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requesters a user fee, but there is no provision for this fee to be credited to HHS. Fees would therefore be deposited in the Treasury as miscellaneous receipts.

Major problems with anti-kickback advisory opinions include:

Advisory opinions on intent-based statutes (such as the anti-kickback statute) are impractical if not impossible. Because of the inherently subjective, factual nature of intent, it would be impossible for HHS to determine intent based solely upon a written submission from the requestor. Indeed, it does not make sense for a requestor to ask the Government to determine the requestor's own intent. Obviously, the requester already knows what their intent is.

None of the 11 existing advisory opinion processes in the Federal Government provide advisory opinions regarding the issue of the requestor's intent. An advisory opinion process for an intent-based statute is without precedent in U.S. law.

The advisory opinion process in H.R. 2389 would severely hamper the Government's ability to prosecute health care fraud. Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the defendant read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Advisory opinions would likely require enormous resources and many full time equivalents (FTE) at HHS. The user fees in the bill would go to the Treasury, not to HHS. Even if they did go to HHS, appropriations committees tend to view them as offsets to appropriations. There are no estimates of number of likely requests, number of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural and program changes. The possible result of the bill is a diversion of hundreds of anti-fraud workers to handle the advisory opinions.

For the above reasons, DOJ, HHS/OIG and the National Association of Attorneys General strongly oppose advisory opinions under the anti-kickback statute, and all other intent-based statutes.

6. CREATION OF TRUST FUND MECHANISM WHICH DOES NOT BENEFIT LAW ENFORCEMENT

Background: In our view, the most significant step Congress could undertake to reduce fraud and abuse would be to increase the resources devoted to investigating false claims, kickbacks and other serious misconduct. It is important to recognize that the law enforcement effort to control Medicare fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and abuse, and Medicare expenditures continue to grow substantially. Yet, the staff of the HHS/OIG, the agency with primary enforcement authority over Medicare, has declined from 1,411 employees in 1991 to just over 900 today. (Note: 259 of the 1,411 positions were transferred to the Social Security Administration). Approximately half of these FTE are devoted to Medicare investigations, audits and program evaluations. As a result of downsizing, HHS/OIG has had to close 17 OIG investigative offices and we now lack an investigative presence in 24 States. The OIG has only about 140 investigators for all Medicare cases nationwide. By way of contrast, the State of New York gainfully employs about 300 persons to control Medicaid fraud in that State alone.

Ironically, the investigative activity of OIG pays for itself many times over. Over the last 5 years, every dollar devoted to OIG investigations of health care fraud and abuse has yielded an average return of over $7 to the Federal Treasury, Medicare trust funds, and State Medicaid programs. In addition, an increase in enforcement also generates increased deterrence, due to the increased chance of fraud being caught. For these reasons, many fraud control bills contain a proposal to recycle monies recovered from wrongdoers into increased law enforcement. The amount an agency gets should not be related to how much it generates, so that it could not be viewed as a "bounty." The Attorney General and the Secretary of HHS would decide on disbursements from the fund. We believe such proposals would strengthen our ability to protect Medicare from wrongdoers and at no cost to the taxpayers. The parties who actually perpetrate fraud would "foot the bill."

H.R. 2389 Proposal: Section 106 would create a funding mechanism using fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bring others to justice. Instead, all the funds would be used only by private contractors for "soft" claims review, such as, medical and utilization review, audits of costs reports, and provider education.

The above functions are indeed necessary, and they are now being conducted primarily by the Medicare carriers and intermediaries. Since the bill would prohibit carriers and intermediaries from performing these functions in the future, there appears to be no increase in these functions, but only a different funding mechanism.

These "soft" review and education functions are no substitute for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 will not result in any more Medicare convictions and sanctions.

In summary, H.R. 2389 would:

Relieve providers of the legal duty to use reasonable diligence to ensure that the claims they submit are true and accurate; this is the effect of increasing the Government's burden of proof in civil monetary penalty cases;

Substantially increase the Government's burden of proof in anti-kickback cases;

Create new exemptions to the anti-kickback statute which could readily be exploited by those who wish to pay rewards to physicians for referrals of patients;

Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law; since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory opinion writers; and

Create a fund to use monies recovered from wrongdoers by law enforcement agencies, but the fund would not be available to assist the law enforcement efforts; all the monies would be used by private contractors only for "soft" payment review and education functions.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

Thank you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

PRESS CONFERENCE OF ATTORNEY GENERAL JANET RENO ON HEALTH CARE FRAUD, OCTOBER 18, 1995

Attorney General RENO. Thank you, Secretary Shalala.

The House Medicare bill would make it more difficult for us to prosecute medical providers for fraudulent conduct against patients and the Medicare system. These provisions are totally inconsistent with the provisions in the Senate bill, which would facilitate our law enforcement efforts against health care fraud that harms us all, and particularly our most vulnerable.

I understand that some members of the House have indicated that law enforcement should not be criminally prosecuting health care providers who engage in fraud. I just don't understand that, for I believe that health care fraud is so detrimental to the health and to the pocketbook of all Americans that I made health care fraud one of my priorities in the Department of Justice. I believe perpetrators of health care fraud should not be immune from criminal prosecution because they commit a crime in an office, in a boardroom, in a laboratory, rather than in the street. White collar crooks who pay or take kickbacks endanger the health of patients and steal money from us all.

Experts estimate it may cost Americans as much as $100 billion a year. That is why we need stronger, not weaker, provisions in the House bill. The Senate bill, under the leadership of Senator Cohen and with bipartisan support, provides those strengthened provisions.

Particularly at this time, we need to preserve every Medicare trust fund dollar; we cannot allow Medicare money to be spent on bribes paid to doctors and others as inducement for the referral of Medicare patients. Even more importantly, we cannot allow financial inducements to corrupt the professional judgment of medical providers—providers who Americans have been taught to trust. Decisions which physicians make day in and day out—whether and where to hospitalize a patient, what laboratory tests to order, what surgical procedure to perform, what drug to prescribe, and how long to keep a patient in a psychiatric facility—affect the health and well-being of our elderly patients and our children. Allowing these decisions to be made under the influence of kickbacks is just plain wrong.

The House bill would place a very high, additional burden on the Government in its attempts to prosecute those who pay or receive kickbacks for the purpose of inducing the referral of Medicare business. Existing law requires the Government to prove that one purpose of the kickback was to induce the referral of health care business. The language of the House bill would require that the Government prove that the payment was made for the significant purpose of inducing the referral. That's language that would immunize arrangements that are dressed up to disguise the payor's motive. This would seriously undermine our efforts and it would place beyond the reach of prosecution many kickbacks which are calculated to induce referrals and which adversely affect the judgment of medical providers. From the perspective of Federal law enforcement and, I believe, from the perspective of patients who seek their doctors' advice, this result is simply not acceptable.

Ultimately, this isn't a choice between prosecuting violent crime and prosecuting health care fraud. Both of them do real harm to real people and both deserve vigorous enforcement action. I hope that the House legislation will support, not undermine, our efforts.

QUESTION. Why are the Republicans gutting the statutes?

Attorney General RENO. You would have to ask them, but I have heard it said that they said we shouldn't prosecute these cases while we have robbers and murderers on our streets. And my response is we need to do both with vigor.

QUESTION. Secretary Shalala, what's your theory about why this is happening up in the House?

Secretary SHALALA. Well, I have long ago learned not to anticipate the motivations, but they clearly are weakening our ability to get fraud out of the system, particularly—it's particularly damaging during an era, as the Attorney General pointed out, where we need to squeeze every dollar we can out of Medicare to invest in the trust fund. And the last things we should be doing is wasting money or letting people rip off the program.

QUESTION. [inaudible] uniform deadly health policy that you approved yesterday. Tell us, do you think it will clear up some of the confusion left over from the Ruby Ridge damage?

Attorney General RENO. Again, I think this is an important step forward because for the first time, all of the major law enforcement agencies in the Federal Government have joined together in a uniform policy. And I think it will help people to understand when deadly force can be used. It will apply to each agency and I am very delighted about that.

QUESTION. What is the real change that this policy makes?

Attorney General RENO. This policy will—the real change.

QUESTION. What's the difference from the way it would be.

Attorney General RENO. DIFFERENT DEPARTMENTS HAD DIFFERENT PROVISIONS AND THIS CONSOLIDATED IN ONE, I THINK, A VERY FIRM STATEMENT ON THE POLICY OF BOTH THE TREASURY AGENCY AND THE DEPARTMENT OF JUSTICE.

QUESTION. What tangible impact do you expect the changes to have on the deadly force policy.

Attorney General RENO. I think it will enable those enforcement officers involved to understand when they can and can't use deadly force and I think the message will be clear.

QUESTION. Secretary Shalala, will you ask the President to veto this bill unless this is modified?

Secretary SHALALA. THERE ARE SO MANY PROVISIONS IN THE REPUBLICANS BILL THAT I HAVE ALREADY SENT A LETTER TO THE HILL, INDICATING THAT IF THEY ADOPT THE BILL AS IT'S NOW WRITTEN THAT I WILL RECOMMEND THAT THE PRESIDENT VETO IT. I WILL JOIN WITH THE ATTORNEY GENERAL AFTER WE REVIEW THESE PROVISIONS IN AN ADDITIONAL COMMENT FOR THE PRESIDENT, ADVISING HIM ON THE BILL. BUT THESE ARE SIMPLY UNACCEPTABLE AND I THINK THAT'S OUR POINT TODAY.

QUESTION. Are all these are provisions for Medicare and Medicaid violations only or do some of them include kickback statutes that cover general medical operations, not Government programs?

Attorney General RENO. No, it covers some Government programs. We would like to see it expanded to others: to the Federal Health employees benefits program, to the CHAMPUS program on behalf of the Department of Justice.

QUESTION. But it doesn't cover kickbacks——

Attorney General RENO. In the private sector.

QUESTION [continuing]. Not involving Medicare or Medicaid?

Attorney General RENO. That's correct.

QUESTION. Do you know, as a practical matter, how the change in the standard of proof would affect the prosecution?

Secretary SHALALA. I think the cases that we gave you as an example we would probably not be able to prosecute.

Attorney General RENO. If I can prove one purpose is to induce the referral of Medicare business, that's one thing. But to have to prove that the significant purpose is to induce the referral of Medicare business significantly heightens the standard. I think it produces confusion as to what is meant by significant. And I think it undermines what the kickback statute is trying to prevent.

Any time you bribe someone to get business you are impairing or presenting a chance for the impairment of judgment. That should never—the fact that you get money for referring business, particularly medical business, should never be a factor in the physicians' or the providers' judgment. It should be what is in the best interest of that patient, what is the most cost-effective medical treatment. And a significant purpose or one purpose, it is critically important that there not be bribery to secure Medicare business.

QUESTION. How does that, in turn, make it harder to prosecute?

Attorney General RENO. I might be able to prove that it is one purpose, but having to prove that it is the significant purpose heightens the standards of proof.

Secretary SHALALA. In fact, the Inspector Generals—all of them have signed on to a letter to the Hill that basically said it would bring those kinds of cases to a standstill because it raises the bar pretty high.

QUESTION. It sounds like it would make it pretty easy for those involved in the kickbacks to get around it, doing something illegal by masking and not making——

Attorney General RENO. All they would have to do is disguise it and say it's for this reason or for that reason or it has something to do with the patient's care and I might not be able to prove that it is a significant purpose. It has that chance of disguising what is really a bribe.

QUESTION. Attorney General Reno, on another subject, what is the Justice Department's position on the U.S. Sentencing Commission's guidelines on crack cocaine versus powder cocaine and the pending legislation that deals with that?

Attorney General RENO. We have said and made clear that prosecutors, police officers, and most of all, the residents of communities across this nation that have been impacted by crack cocaine, understand that the marketing and distribution systems and nature of the drug have had a terrible, terrible impact on many neighborhoods and that its impact reflects the need to have some distinction in the manner in which crack is treated. But the Justice Department has made clear that it favors a review of the 101 ratio, to adjust it, to make it fairer.

It is our hope that legislation that is pending now which rejects the one-to-one ratio because of the impact on communities across this nation also would provide—ask the Sentencing Commission to study it again in this coming year to come up with a recommendation that reflects the impact of crack on the community but also achieves fairness.

QUESTION. What would you suggest would be a good ratio?

Attorney General RENO. We are going to be reviewing with all concerned—as part of—I serve as part of the ex officio members of the Sentencing Commission—that balance.

QUESTION. Secretary Shalala, given that the [inaudible] is taking a completely different approach, isn't there every reason to believe it will be worked out in Congress?

Secretary SHALALA. We long ago have learned not to depend on one House versus another House. I think we are pointing the contrast out between this House bill, which is going to the floor tomorrow, and our ability to work in a bipartisan manner with the Senate. Obviously, we hope in conference we will be able to work it through, but we want to make it very clear that what the House is doing is unacceptable. And most members of Congress probably don't know what's in the bill, since it was moved so quickly.

QUESTION. Have you considered asking the American Medical Association to join you in urging the Republicans to change this?

Secretary SHALALA. There are numerous organizations that have now spoken out on this issue. Most of them have been the State Attorney General, for example, and the Inspector Generals. The American Medical Association, with a handful of important exceptions, have joined us on all issues that are related to fraud and abuse because they are absolutely opposed to, number one, having to police themselves; and number two, I think they very much favor anything we can do to help them to clean up the profession.

QUESTION. So where exactly are they on this?

Secretary SHALALA. You will have to go ask them.

QUESTION. Are you talking about the American Medical Association or American medical associations of various types?

Secretary SHALALA. Well, of various types.

QUESTION. Not the American Medical Association?

Secretary SHALALA. I don't know the position of the AMA at this moment.

QUESTION. [inaudible.]

Secretary SHALALA. Well, the self-referral changes that are being referenced is whether a doctor can own a laboratory and then refer his own patients to a laboratory in which he has a financial interest. That law was changed a number of years ago because of the abuse that was found in the system. There were 45 percent more referrals if the doctors owned the lab. And that was barred by the law. And the American Medical Association has favored repealing the law which we are, of course, opposed to.

QUESTION. Are there any examples of fraud cases that stand out that would be good to pinpoint, related to this?

Attorney General RENO. One of the cases—where is Jerry Stern—is NME case of last year. Our recovery in that case was $379 million and that was based in significant part on this provision that we are trying to defend today in terms of kickbacks.

QUESTION. Do you have any idea what would have happened had the law been [inaudible]?

Attorney General RENO. I think, again, you can't quantify it. But any time you have to prove that some—rather than just one purpose, that it was the significant purpose, you raise the bar real high. Thank you.

(Whereupon, at 1:55 p.m., the press conference adjourned.)

Mr. DOMENICI. Mr. President, could I ask if it will be in order to ask for the yeas and nays or to table the Harkin amendment even if we now proceed to the amendment of the Senator from Arizona?

The PRESIDING OFFICER. It will be in order to do that when the amendment recurs for a vote.

The Senator from Arizona.

AMENDMENT NO. 2971

(Purpose: To eliminate corporate welfare in Federal programs)

Mr. McCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. KERRY, and Mr. FAIRCLOTH, proposes an amendment numbered 2971.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. McCAIN. Mr. President I yield myself 4 minutes of the 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, this is a bipartisan amendment, which has been endorsed by the Citizens Against Government Waste and Citizens for a Sound Economy, which would terminate or substantially reform a dozen Federal programs identified by the Progressive Policy Institute and the Cato Institute as amongst the most egregious forms of corporate welfare in the Federal budget. These amount to savings of about $60 billion over the next 7 years. They are the Marketing Promotion Program, the advanced light water reactor, Forest Road Construction Program, highway demonstrations, military export sales, broadcast spectrum auction, Export/Import Bank, the B-2 bomber, Travel and Tourism Administration, sub- and supersonic research——

Mr. ROCKEFELLER. Mr. President, will the Senator yield for a friendly inquiry?

Mr. McCAIN. I only have 4 minutes, I say to my colleague.

Mr. ROCKEFELLER. May I have 5 seconds?

Mr. McCAIN. If you ask unanimous consent, I will be glad to yield.

Mr. ROCKEFELLER. Can the Senate get a copy of your amendment now? We have nothing.

Mr. McCAIN. Absolutely.

Mr. ROCKEFELLER. I do not want to embarrass the U.S. Senate.

Mr. McCAIN. I will make sure the Senator gets a copy of the amendment.

Mr. DOMENICI. We delivered a copy of the amendment.

Mr. McCAIN. A copy of the amendment, I understand, has been delivered to the Senator from West Virginia. I certainly understand his frustration if he did not have a chance to see the amendment.

Mr. President, continuing—sub- and supersonic research; terminates the NASA program which conducts aircraft design activities, which can be undertaken by the private sector; oil and gas research and development; rural electric utilities service.

Mr. President, there is nothing new about these programs. They are items we have been discussing on the floor of the Senate for many years. They each have one thing in common; in a time of fiscal necessity, we can no longer afford them.

We are considering historic legislation to place the Federal budget on a 7-year path toward balance and to reform unsustainable entitlement programs which threaten to bankrupt our Nation. If we are going to restore fiscal sanity and if we are going to ask poor people to take cuts in their programs, if we are going to reduce the rate of growth of many, many programs that have been designed as a safety net for those less well off in our society, if we are going to have credibility with the American people, we had better go after this corporate pork and we better do it soon. Otherwise, we will open ourselves to justifiable criticism that we take care of corporate America while we do not take care of citizens who are less fortunate than we in our society.

I think it is an important amendment. I think it is going to put the Senate on record as to exactly where we stand on some of these programs that have clearly, clearly not required Federal funding in order to continue.

We owe a debt of gratitude to the Cato Institute and Progressive Policy Institute. Although they represent different ideological perspectives, they joined together to identify corporate welfare programs and to articulate the destructive role that they play in the Federal budget and the economy.

As time is limited on debate, I offer these insights as offered by these groups. The Cato Institute says:

> Corporate welfare is an enormous drain on the Federal Treasury for little economic benefit.

The Progressive Policy Institute says:

> The President and Congress can break the [budget] impasse and substantially reduce most spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential industries.

I reserve my 1 minute.

Mr. KENNEDY. Mr. President, at a time when deep cuts are being proposed in Medicare, Medicaid, education, the earned income tax credit, welfare benefits, and other important programs for senior citizens, children, and working families, it is essential to see that corporate welfare—government subsidies to wealthy corporations—bears its fair share of the sacrifices needed to put the Nation's fiscal house in order.

I welcome the opportunity to work with Senator MCCAIN and other Senators in this bipartisan effort. We have identified a dirty dozen examples of corporate welfare that ought to be ended or drastically reduced.

My hope is that the current efforts will become the foundation for a longer-term initiative to deal more effectively with the wider range of corporate welfare provisions on both the spending side and the tax side of the Federal budget.

At a time when we are cutting billions of dollars from health benefits for the elderly, it makes no sense to continue to give away billions to wealthy telecommunications corporations by failing to obtain fair market value by auctioning electronic spectrum.

At a time when we are imposing billions of dollars in taxes on our working families, it makes no sense to spend billions of dollars on additional B-2 bombers that the Pentagon doesn't want and the Nation doesn't need.

At a time when we are imposing new burdens on education, it makes no sense to confer excessive subsidies on oil and gas companies.

At a time when we are cutting benefits for the disabled, it makes no sense to continue to provide subsidies for major companies to market their goods overseas.

Our current amendment will end these and several other forms of corporate welfare. It also calls for a base-closing type Federal Commission to deal with this equally flagrant type of corporate welfare—the lavish Federal subsidies dispensed to wealthy individuals and corporations through the Tax Code.

Over the next 7 years, these tax subsidies will cost the Treasury a total of $4.5 trillion. Yet they undergo no annual review during the appropriations process or during reconciliation. Once enacted, they can go on forever, with no effective oversight by Congress.

The Commission we are proposing will examine all existing tax subsidies and make recommendations to Congress that will be subject to a "yes" or "no" vote by the Senate and the House.

I commend Senator McCAIN and our other colleagues for their work on this important issue, and I am hopeful that the Senate will approve our amendment. Our action on this legislation is part of a longer-term initiative to insist on congressional scrutiny of all Federal subsidies.

At a time when so many individuals and families are being asked to bear a heavy burden of budget cuts, there should be no free rides for special interest groups and their cozy subsidies.

Mr. KOHL. Mr. President, I rise in reluctant support of the amendment from the Senator from Arizona to cut spending from 12 programs.

I am supporting the amendment because, at a time when we are debating a budget bill to cut programs and assistance for the most needy in our society, I find it hard to pass up an opportunity to cut billions of dollars from programs like the B-2 bomber, and oil and gas subsidies.

However, while I will support this amendment, I am extremely unhappy with the decision by the proponents of this amendment to cut loan programs for rural electric cooperatives, who depend on those funds to keep utility rates reasonable for rural residents.

I am equally unhappy with the choice of the proponents of this amendment to eliminate the Market Promotion Program, on the heels of the successful effort to eliminate the corporate subsidies from that program, and target it toward small businesses and cooperatives.

So while I must reluctantly vote in support of this amendment to cut billions of dollars, if it does prevail, I will work to have the Rural Utility Service loans and the Market Promotion Program restored in conference.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, this amendment has very broad jurisdictional problems with a whole series of committees. It is the opinion of this Senator that probably the primary committee of jurisdiction would again be the Finance Committee. Therefore, I will yield to a member of the Finance Committee, the Senator from West Virginia, for remarks to be included in our 5 minutes.

Mr. ROCKEFELLER. Mr. President, I appreciate the action of the ranking member of the Budget Committee.

This amendment which we have not yet—let me say first of all, it will be my hope that our side will not take a position on this, because we are simply unaware of what it is. In fact, it appears to be many, many things.

It starts out with the elimination of the Market Promotion Program for agriculture, I think. It appears to be part Agriculture, part Finance, part Commerce Committee. It gets into the termination of the Advanced Light Water Reactor Program. I am thoroughly unqualified to review that. It talks about timber access roads. That is an Energy Committee matter. It talks about United States Travel and Tourism, USTTA. That is something I strongly support. Other Members may not. I suspect the Senator from Arizona does not.

There is a private sector funding for certain research and development by NASA relating to aircraft performance. That is the formal title. What that means I have absolutely no idea, and I have no way of finding out in the next 2 or 3 minutes.

There are many other things—the recoupment of certain Department of Defense costs for equipment sold directly by contractors to foreign countries and international organizations.

So, my plea would be for all my colleagues to take this 21-page amendment, between the time now—having no position on it, as would be my recommendation to my ranking member on the Budget Committee—and the time that we vote, and Senators make up their minds as best they can.

I am absolutely unable, having had this for a period of 2½ minutes, to make heads or tails of it, since it is many things and, I suspect, many things to many people. This is not, it strikes me, in terms of process, one of the Senate's finer moments.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, following up the inquiry that was made just a few moments ago by the chairman of the committee, I would also presume we have not made up our minds on this side of the aisle on this amendment. I also assume that, without taking action now, it would not preclude us from making a point of order which might lie against this amendment at some future date before the vote is taken; is that correct?

The PRESIDING OFFICER. The point of order can be made when the amendment comes up again.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. Does Senator McCAIN have any additional time?

The PRESIDING OFFICER. The Senator has 51 seconds.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, for the benefit of the Senator from West Virginia, we did distribute this amendment much earlier today. I am sorry he did not get it.

Also, I would like to point out that Senators FEINGOLD, KERRY, and KENNEDY are also cosponsors of this amendment. So some Members on his side of the aisle obviously are aware of it.

I am also aware that a budget point of order can be lodged against this amendment, and I do not expect it to pass, Mr. President. I am being very frank. But I will tell you what. We are going to be on record as to what we support and what we do not support in the way of corporate pork and whether we are really willing to make the sacrifices necessary to reduce this unconscionable debt of $187,000 per child in America while we support corporations all over America with taxpayers' dollars.

Mr. ROCKEFELLER. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arizona's time has expired.

Mr. ROCKEFELLER. Is there any time?

The PRESIDING OFFICER. There is a minute and 40 seconds available to the Senator from Nebraska.

Mr. EXON. We have 40 seconds left.

The PRESIDING OFFICER. A minute and 40 seconds.

Mr. EXON. I am prepared to yield that back in a moment.

Mr. McCAIN. The Senator from West Virginia—

Mr. EXON. I see the majority leader in the Chamber. Is he seeking recognition?

Mr. DOLE. No.

Mr. EXON. I yield back the remainder of our time.

I thought Senator ROCKEFELLER was finished.

Mr. ROCKEFELLER. In responding to the Senator from Arizona and what I am sure is a very good-faith—I know is a very good-faith effort, if Senators FEINGOLD, KENNEDY and others are in fact cosponsors of it, one would never know by looking at the amendment because only the name of the Senator from Arizona is listed. And this is part of what I am talking about. If we are going to make serious decisions about the enormous variety of programs, we have to do this in some kind of more intelligent way. Now, the rules may preclude us from doing that because the agreement has already been made, but this is many things to many people.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time expired?

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska has 30 seconds.

Mr. EXON. Reserving the right to object, the yeas and nays are being requested. Again, I want to make it clear that would not preclude us from making a point of order before the vote is taken. That is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. I thank the Senator from Arizona. We imposed on him this afternoon, having called down and you were not ready, and I apologize for that.

Mr. McCAIN. Is it appropriate for the Senator from Nebraska to make a point of order at this point and we move to waive the point of order, or does that take place at the time of the vote?

Mr. EXON. I simply say we are looking at this. I do not know whether we are going make a point of order against this or not.

Mr. McCAIN. I thank the Senator.

Mr. EXON. We are simply reserving the right to do that at a certain time, and I will not give that up at this juncture.

The PRESIDING OFFICER. The Senator has that right.

Mr. DOMENICI. Parliamentary inquiry. Is it not Senator BYRD's amendment that is next pursuant to the previous agreement?

Mr. FORD. That would be the Senator's prerogative.

Mr. DOMENICI. I am just asking.

The PRESIDING OFFICER. The Chair has no specified list and therefore presumes it is to up to the managers of the bill.

Mr. EXON. Mr. President, Senator BYRD will be next in line, and I am pleased to yield to him whatever time we have on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 5 minutes.

AMENDMENT NO. 2972

(Purpose: To strike the reductions in highway demonstration projects and to provide an offsetting revenue increase)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. FORD, proposes an amendment numbered 2972.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 6002.

On page 1746, line 11, strike "2001" and insert "2000".

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100
1996	80
1997	60
1998	40
1999	20

Mr. BYRD. Mr. President, less than 4 years ago, Congress passed the Intermodal Surface Transportation Efficiency Act, ISTEA. That legislation modernized our Federal Aid Highway Program by targeting available resources on the most critical needs. The bill before us would rescind $712 million for certain highway projects funded in ISTEA and previous appropriation acts. This represents a substantial retreat from the commitments made in ISTEA and in those appropriations acts.

Mr. President, my amendment will restore full funding for these important highway projects in 48 States. By rescinding these Federal funds, the bill before us would require States to cough up an additional $712 million for these projects. In effect, this would cause States to have to increase their matching share from 20 percent to as much as 32 percent in order to complete these projects.

Currently, the Department of Defense shows a total unobligated balance in excess of $10 billion for ongoing military construction projects, yet no one—no one—suggests that we should rescind 15 percent of these unobligated balances in defense and thereby ensure that these projects cannot be completed.

If we seek to reduce our Federal budget deficit by worsening our investment deficit in our Nation's infrastructure, we will have done absolutely nothing to improve our national prosperity. We will only dig our Nation into a deeper hole characterized by excessively congested and deteriorating roads and bridges.

According to the Department of Transportation, there are currently more than 234,000 miles of nonlocal roads across the Nation which require improvements immediately or within the next 5 years. Additionally, 118,000 of the Nation's 575,000 bridges, more than one in five, are structurally deficient. Our current highway capacity is being stretched beyond its limits, and what is our response at the Federal level? Just as is the case with our Federal budget deficit, we are leaving the mess to our grandchildren.

To fully offset the effects of the restoration of these critical highway projects, my amendment includes a modification to section 12803 of the reconciliation bill which phases out the tax deductions presently allowed for the interest paid on company-owned life insurance policies over the period 1996 to 2001. Companies have used this loophole to earn profits at the expense of the taxpayer by insuring employees, then borrowing on the policy and deducting the interest on company tax returns. Both the Senate and House bills proposed to phase out this loophole.

My amendment would simply require the phaseout in the Senate bill to be completed in 4 years rather than 5 years. My proposal would retain the key employee exception as contained in the Senate bill. My amendment would restore highway moneys to 48 States, and I urge its adoption.

Now, Mr. President, I ask unanimous consent that Mr. BUMPERS and Mr. PRYOR be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, 48 States will lose money unless my amendment is adopted. They will lose money for highways. I do not blame the committee that had to meet its instructions and did so by rescinding $712 million in highway funds. But I have provided an offset, and therefore I hope that this amendment will be adopted.

I have received letters of support of my amendment from the American Road and Transportation Builders Association, the American Trucking Association, and the Associated General Contractors of America.

Mr. President, let me just read a few of those States that lose money. Alabama will lose $12.8 million; Arizona, $2.8 million; Arizona, $31.5 million; California, $43.8 million; Connecticut, $5 million; Florida, $27.9 million; Georgia, $10.8 million; Hawaii, $3 million; Idaho, $8 million; Illinois, $29 million; Indiana, $8 million; Iowa, $9 million; Kansas, $9 million; Kentucky, $4.6 million; Louisiana, $13.8 million; Maine, $10.9 million; Maryland, $12.6 million; Michigan, $23 million; Minnesota, $23.5 million; Mississippi, $2.9 million; Missouri, $9.3 million; Montana, $3 million; Nebraska, $2.8 million; Nevada, $5.8 million; New Hampshire, $4.3 million; New Jersey, $29.3 million; New York, $40 million——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. Mr. President, I have on each desk the table of the amount that the various States would lose. I ask unanimous consent that this table, along with three letters in support of my amendment, be printed in the RECORD. I urge adoption of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Alabama	600,000	0	29,259	3,983,891	8,205,463	12,818,613
Alaska	0	0	0	0	0	0
Arizona	1,492,206	0	0	773,238	633,033	2,898,477
Arkansas	417,552	0	67,578	13,433,012	17,670,188	31,588,330
California	3,920,286	11,849	1,637,734	19,165,117	19,154,455	43,889,441
Colorado	0	0	0	90	150,475	150,565
Connecticut	100,200	0	324,603	531,450	4,119,907	5,076,160
Delaware	0	0	0	0	0	0
District of Columbia	0	0	812,253	2,069,040	1,146,724	4,028,017
Florida	3,233,284	0	2,547,679	12,885,327	9,317,009	27,983,299
Georgia	582,750	0	0	4,548,971	5,758,944	10,890,665
Hawaii	1,200,000	0	931,285	568,800	311,328	3,011,413
Idaho	0	0	17,587	4,455,415	3,652,915	8,125,917
Illinois	435,951	119,805	163,132	16,152,427	13,015,067	29,886,382
Indiana	866,448	0	15	2,459,368	4,924,171	8,250,002
Iowa	654,678	0	0	2,592,174	5,901,066	9,147,918
Kansas	2,287,280	0	0	3,624,030	3,787,824	9,699,134
Kentucky	1,662,456	0	0	1,827,894	1,120,780	4,611,130
Louisiana	1,725,000	0	2,997,515	5,475,780	3,630,344	13,828,639
Maine	0	0	0	1,291,604	9,708,244	10,999,848
Maryland	5,269,652	0	244,012	2,113,169	4,986,436	12,613,269
Massachusetts	438,000	0	598,349	559,320	306,139	1,901,808
Michigan	14,042,211	0	0	2,898,416	6,437,225	23,377,852
Minnesota	7,722,427	0	8,968	4,965,669	10,831,101	23,528,165
Mississippi	60,000	0	0	1,222,950	1,713,600	2,996,550
Missouri	96,000	0	0	1,812,401	7,475,659	9,384,060
Montana	640,542	0	0	1,429,242	933,984	3,003,768
Nebraska	0	0	0	1,576,152	1,298,237	2,874,389
Nevada	197,415	0	0	1,267,384	4,363,780	5,828,579
New Hampshire	1,159,504	0	640	1,571,425	1,665,604	4,397,173
New Jersey	6,306,751	0	2,350,069	10,125,842	10,528,075	29,310,737
New Mexico	1,318,693	0	38	0	560,390	1,879,121
New York	7,696,917	0	0	14,391,838	18,515,195	40,603,950
North Carolina	769,500	0	141,337	5,440,685	7,586,025	13,937,547
North Dakota	0	0	102,955	9,505	3,684,048	3,796,508
Ohio	1,159,275	0	1,306,292	12,078,132	8,206,606	22,750,305
Oklahoma	674,695	0	0	1,447,826	4,594,163	6,716,684
Oregon	98,954	0	80,300	5,208,840	2,386,848	7,774,942
Pennsylvania	6,949,575	0	2,446,078	56,843,233	45,750,168	111,989,054
Rhode Island	0	0	704,318	2,438,042	2,978,890	6,121,250
South Carolina	0	0	0	0	2,008,065	2,008,065
South Dakota	794,400	0	0	1,523,616	971,343	3,289,359
Tennessee	0	0	0	1,830,312	2,142,662	3,972,974
Texas	3,035,244	0	0	13,800,624	12,590,892	29,426,760
Utah	2,919,008	0	0	379,200	565,579	3,863,787
Vermont	0	0	0	1,655,358	1,037,760	2,703,118
Virginia	885,868	0	259,584	6,238,310	7,238,376	14,622,138
Washington	0	0	0	1,290,000	4,649,164	5,939,164
West Virginia	27,556,841	0	1,701,531	20,905,207	16,178,678	66,342,257
Wisconsin	0	0	0	0	3,709,992	3,709,992
Wyoming	0	0	0	0	1,037,760	1,037,760
American Samoa	0	0	90,479	113,760	119,342	323,581
Virgin Islands	321,600	0	0	1,263,900	1,042,948	2,628,448
Total	109,291,163	131,654	19,563,590	272,247,986	310,302,671	711,537,064

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, October 26, 1995.

DEAR SENATOR: The documented backlog of highway and bridge needs in the United States was estimated at more than $290 billion by the Department of Transportation in its 1993 report to the Congress. Despite this huge deficiency in infrastructure investment, the reconciliation bill (S. 1357) now before the Senate would reduce funding for highways by $522 million in fiscal year 1996 and an additional $165 million in fiscal year 1997.

The 4,000 members of the American Road & Transportation Buildings Association (ARTBA) strongly urge that you support an amendment to S. 1357 to be offered by Sen. Robert C. Byrd that would preserve existing funding levels.

Cutting highway funding at this time would be in conflict with the conference report on the fiscal 1996 transportation appropriations bill (H.R. 2002). That measure reflects the importance of highways to the country by increasing funding for their improvement. The federal highway program was, in fact, the only mode to receive a higher funding level than in fiscal 1995.

According to the Federal Highway Administration, America's highways provide 88 percent of the nation's personal transportation in addition to a large proportion of its commercial movement. Congress is expected shortly to approve designation of the National Highway System, a 159,000-mile network of roads intended to be the nation's backbone transportation system and the focus of federal highway investment in the years ahead. Clearly, this is no time to cutting already-inadequate funding for highway improvements. Furthermore, most of the proposed reduction is for activities supported by the Highway Trust Fund, a pay-as-you-go financing system supported by user fees. The sought budget savings can be found in other areas less crucial to this country's future.

ARTBA's nationwide membership is involved in the planning, design, construction, financing and operation of all forms of transportation facilities. It includes contractors, engineers and planners, equipment manufacturers, materials suppliers, public officials, financial institutions and educators. Again, we urge you to support Senator Byrd's amendment to S. 1357.

Sincerely,

T. PETER RUANE,
President & CEO.

AMERICAN TRUCKING ASSOCIATIONS,
Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I am writing to indicate the support of the American Trucking Associations for your efforts to restore $712 million in badly needed highway funding.

A Department of Transportation report estimated that the backlong of highway and bridge needs in the United States was in excess of $290 million. The conference report on the FY '96 Department of Transportation Appropriations bill (H.R. 2002) recognized this problem by increasing highway funding. Your efforts to restore that funding is in line with the priorities set out in H.R. 2002.

We support your amendment to S. 1357, the Budget Reconciliation Act, and urge your Senate colleagues to approve this amendment.

Sincerely yours,

TIMOTHY P. LYNCH.

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: The 33,000 members of the Associated General Contractors of America strongly support your amendment to S. 1357 that will restore much needed funding for highway projects.

Your recognition of the problems that the existing provision (section 6002) will cause the highway program are greatly appreciated. As you are so keenly aware, your amendment restores $715 million in highway funding for 48 states (only Alaska and Delaware escape the cuts included in Section 6002). Elimination of this funding mid stream will simply delay needed construction and could cost as many as 36,000 jobs.

In addition to eliminating current funding for projects (many of which are under construction) that have been previously approved by both the House and Senate, Section 6002 also sets a bad precedent by using highway trust fund money to offset the general fund deficit and will adversely impact the baseline for highway funding which could lower the amount of resources made available for critical highway construction in the future.

Thank you for your continued vigilance in ensuring adequate investment in the Nation's Surface Transportation Programs.

Sincerely,

STEPHEN E. SANDHERR,
Executive Director,
Congressional Relations.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I was not privy to drafting the provisions in the Finance Committee, and from the Environment and Public Works Committee, I wonder if Senator CHAFEE might take half my time and explain this as he sees it.

Mr. CHAFEE. Mr. President, this provision that is referred to as a loophole was entirely legal over the years that it was enforced, and in the Finance Committee, after considerable negotiation in what we are doing in retroactively repealing something, if you would, the belief was that doing it over 5 years was a fair method of proceeding.

And the belief was that to do it in 4 years—a very abbreviated time—was just not fair. So, Mr. President, this is an intricate, complicated system, and a complicated piece of legislation. But we felt in the Finance Committee that indeed there was considerable pressure to give a longer time to phase it out. But we arrived at 5 years thinking that was a fair way of doing it, and the 4 years just does pose a severe problem and difficulty upon those who chose to use this type of company-owned life insurance policies. So, Mr. President, that was the rationale for going to the 5 years.

Mr. BYRD. Would the Senator yield?

Mr. CHAFEE. Yes.

Mr. BYRD. Mr. President, the House phases it out in 4 years. The Senate phases it out in 5 years. So either way it gets phased out. I suggest we phase it out in 4 years, and apply that money to these infrastructure projects in 48 States of the country. Let us cast a vote for America and the future of America.

Mr. CHAFEE. Mr. President, I do not want to look at this in terms of whether we are voting for America or not. People would not want to stand up here and suggest they were not voting for America. I suspect they believe the amendments are for America.

What I am saying, Mr. President, is that we are doing something retroactively. And it was our belief that 5 years was the fair way. Now, I suppose you could do it in 1 year. But that does not make it any fairer. So, Mr. President, that was the basis on which we did the 5 years in the Finance Committee.

Mr. DOMENICI addressed the Chair.

How much time do I have remaining?

The PRESIDING OFFICER. Two minutes and 20 seconds.

Mr. DOMENICI. Mr. President, I would just make a couple of quick points. Senator BYRD knows that I have great respect for him and I am fully aware of his constant and persistent desire that we spend money on infrastructure. But I think the only possible way, assuming it is not subject to a point of order, that this amendment should be adopted is if the U.S. Senate thinks that the demonstration highway projects were a good thing.

The demonstration highway projects did not treat all States equally. As a matter of fact, by being demonstration projects, some States got a lot more than others. So the distinguished Senator is now looking at that and saying some States would lose and some States would gain, but this is not a formula where everyone was allowed demonstration projects. This is a nonformula.

The demonstrations were established by committee or by appropriation or in that way. And anybody interested in whether this is a fair distribution among our States can just look at the list which I do not chose to read here tonight, but there are some very disproportionate returns of money to certain States and very little to other States that should have the same amount on population and highways. But the demonstrations were not set out in any fair way in the beginning.

So if you think the highway demonstration programs were great, then obviously you ought to put them back in here whereas the committee decided that they did not think they ought to be in and we ought to save money. So that is going to be the issue. That is if it is not subject to a point of order. And the reason I say "if," my instinct tells me it is, but then I think of who offered it, and I am quite sure he made sure it was not subject to a point of order.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOMENICI. Yes.

Mr. BYRD. If we do not adopt this amendment, then we are retroactively wiping out those infrastructure projects in 48 States of this country. I hope the Senate will adopt the amendment. I did not mention Pennsylvania, $111 million; Ohio, $22 million; Texas, $29 million; Virginia, $14 million; West Virginia, $66 million. I have only read some of them.

Mr. DOMENICI. The Senator mentioned West Virginia?

Mr. BYRD. I mentioned West Virginia.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I am not going to ask for the yeas and nays or move to table. I will wait for the vote, the time that it comes up.

Senator CHAFEE, I believe, is the next one.

Does the Senator have a copy of Senator CHAFEE's amendment?

Mr. EXON. We do. I might say at this time, following Senator CHAFEE's presentation, I will yield our 5 minutes, which is the jurisdiction of the Finance Committee, to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask that the Chair would be good enough to tell when I have used 3 minutes.

As I understand it, we have 5 minutes on our side.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. If the Chair could tell me at the end of 3 minutes, I would appreciate it.

The PRESIDING OFFICER. If the Senator is offering an amendment, he needs to send it to the desk.

AMENDMENT NO. 2973

(Purpose: To guarantee coverage under the medicaid program for low-income aged, blind, and disabled individuals eligible for supplemental security income benefits under title XVI of the Social Security Act)

Mr. CHAFEE. I am sending the amendment to the desk, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. CONRAD, proposes amendment numbered 2973.

Mr. CHAFEE. Mr. President, I would ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 767, strike lines 12 through 15 and insert the following:

"(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and".

Mr. CHAFEE. Mr. President, I am offering this amendment on behalf of Senator CONRAD and myself. What it does, it guarantees Medicaid eligibility for low-income individuals with disabilities. Under the language reported by the Senate Finance Committee, States are required to provide coverage to persons with disabilities.

However, and here is the hitch—the States are given complete latitude in establishing the definition of who is disabled. It could be only those who are quadriplegics who are blind are considered disabled. I mean, they can have any definition the States wish. What our amendment does is it sets a minimum standard by requiring States to provide coverage to children and adults with disabilities who receive benefits under the Supplemental Security Income Program [SSI].

But here are the important words, the SSI Program, as amended by the welfare reform bill which we passed here a month or so ago, we passed here by a vote of 87 to 12. So this is a very restricted group. This is not the SSI group that we worry about that included substance abusers, for example. That is not in this category. Only the neediest individuals qualify for SSI. They all have incomes below the poverty level and indeed currently they have to—they cannot be above 75 percent of the poverty level and qualify. Now, this is a pretty low-income group.

Why is this amendment important? Without this requirement, States will have the ability to exclude from coverage a group of individuals who depend on this Medicaid coverage as their only source of health insurance coverage. There is no place else they can go. You say get private insurance. Well, they first cannot afford it. And second, they all have preexisting conditions, and so therefore would not be qualified.

Mr. President, there is no mandated benefit package in this proposal. These are the facts. We do not mandate a benefit package. We leave that up to the States. All we are saying is, you have to cover this group. And how do you describe this group? You describe them by the SSI description as we had it in the welfare program. So, indeed, with no mandated benefit package, the States could say, "For this group there will be one aspirin a year." That could be done. But at least you have to cover everybody in the group with whatever the benefit package is.

Mr. President, I think it is very important to remember that we are giving the States, over the next 7 years, $800 billion—$800 billion, Mr. President. And they are going to receive their allocations based on the fact of those whom they covered in 1995, and in the group that they covered in which they got their money are these disabled. So, Mr. President, these are a very, very low-income group in our society. They are being cared for very frequently by their parents and others, kept in the community. And without this safety net they would have to in many cases be institutionalized at a far higher cost. I hope my colleagues will join me in preserving this critical safety net.

I yield time to Senator CONRAD.

Mr. CONRAD. Mr. President, I am proud to join Senator CHAFEE in offering this amendment. Mr. President, simply put, this provides health care support to the most severely disabled individuals in our society. Senator CHAFEE and I received a letter of support from the Consortium for Citizens With Disabilities, 30 national organizations that work to support the disabled. They said, and I quote:

> We believe that your amendment to establish a minimum floor of eligibility for children and adults with disabilities is a fundamental component of ensuring a basic safety net for low-income people with severe disabilities.

Mr. President, health care is not an option for these people, it is a necessity. They have it today. They should not be at risk for losing it tomorrow.

During Finance Committee deliberation, we received this communication. It said:

> Mr. Senator, if you are a person with mental retardation, these services are not optional. Remember, this is a lifelong condition which cannot be cured like substance abuse or unemployment. Also remember, it is not a self-inflicted condition, but rather one that a person is born with.

Mr. President, States should not cut severely disabled people from Medicaid. That is the premise of this amendment. I hope our colleagues will support it.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, first, I want to compliment the Senator from Rhode Island, because actually it was the Senator from Rhode Island and myself in the Finance Committee who put up this amendment, which won 17 to 3, and then it sort of disappeared. It particularly disappeared with respect to the disabled. It should be understood the Senator is entirely correct in his amendment, and I urge my colleagues to support his amendment.

On the other hand, it is also important to understand that by voting for this amendment that we are not going to be making a prince out of a frog; that the underlying Medicaid bill which encompasses this amendment is, in the judgment of this Senator, a disaster.

This amendment will help. I do not want to in any way diminish that. This is pregnant women, children, and the disabled, and it is a guarantee. The guarantee was not there before.

The Senator is right when he says the States now have to make a determination under the current law what "disabled" means. Good heavens, 50 different definitions coming in on "disabled."

The point is, it is a good amendment in a bad bill. The States will still lose 30 percent of their Medicaid funding. In the case of my State, it is a little more than that. On nursing home protection, Federal standards are wiped out. That really does bring up the specter, and some say, "Well, you are just making a fuss over this." What a fuss. The standards we passed in 1987 by which you could no longer tether, that is tie down, an elderly person in a nursing home or drug into passivity an elderly person, is wiped out. So that is now possible under the underlying bill.

These are terrible things. Children with primary care needs, early detection, early protection, no immunization—it is not a good bill. But the amendment is good and the Senator from Rhode Island has suggested an amendment that ought to be adopted.

So I just simply make that point and compliment the Senator significantly for now getting the word "guaranteed" coverage into the legislation. I compliment him on that and urge my colleagues to support the Senator's amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time been used on the amendment before us?

The PRESIDING OFFICER. The Senator from Nebraska controls 1 minute, 50 seconds.

Mr. CHAFEE. Mr. President, if I could have just a portion of that.

Mr. EXON. I will be glad to yield half of it to my colleague.

Mr. DOMENICI. Wait a minute; wait a minute. How do we get all 10 minutes in favor of the amendment? I do not want to argue against it. You cannot allocate the time to the other side if they are in favor of the amendment. Is that not the rule? If it is not, I am mistaken.

Mr. EXON. I do not think the rule specifies that. But in a matter of fairness, I agree to the chairman's—who wishes to speak in opposition?

Mr. CHAFEE. Mr. President, it is such an outstanding amendment. I do not think there is any opposition.

Mr. DOMENICI. I am not so sure but you are right. But I want to make sure we do not have all 10 minutes. I thought we were going to save 5.

Mr. CHAFEE. Why do we not save time and just adopt it?

Mr. DOMENICI. We cannot do that right now. It may come to pass.

Mr. EXON. I yield half my time to the Senator from Rhode Island.

Mr. ROCKEFELLER. Will the Senator from Rhode Island yield? Will the Senator from Rhode Island correct the misstatement of the Senator from West Virginia about pregnant women, children and disabled as opposed to the elderly?

Mr. CHAFEE. I am going to stick what we have here, which is we are solely dealing with low-income individuals with disabilities. Mr. President, I tell you, when you are talking 75 percent of poverty, you are really talking about poor people.

But the key thing I want to stress here is these folks are being cared for in the community very frequently by their parents. And do not think these are 6-year-olds and their parents are 35. Their parents are frequently 65 and these individuals are 40 years old. But they are being cared for in the community, because they have this safety net of Medicaid coverage that is there in case they get ill. Otherwise, I am certain that they would end up in institutions at a far greater cost to the public and all of us.

So, Mr. President, I hope the amendment will be adopted.

Mr. COHEN. Will the Senator yield? I indicate my support for the amendment.

The PRESIDING OFFICER. Time has expired. If the manager wishes to speak in opposition, he is entitled to have 5 minutes restored in opposition.

Mr. DOMENICI. I do not choose to speak in opposition. Does any Senator want to speak in opposition? What I would like to do is take my 5 minutes and I would like to yield 2 minutes of that to Senator COHEN. He can speak in favor of it.

The PRESIDING OFFICER. Ten minutes has expired in support.

Mr. DOMENICI. I ask unanimous consent that the Senator have 2 minutes to speak in favor of it.

The PRESIDING OFFICER. The manager is entitled to 5 minutes in opposition. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, I thank my friend. I rise in support of the CHAFEE amendment. Senator CHAFEE has tried valiantly to include the poorest of the poor in our system, and for anyone to object to having the disabled included—I might say, it does not go far enough perhaps, because as I understand the Senator's amendment, it includes pregnant women and children and does not include elderly; it includes disabled but it leaves it up to the States to define what "disabled" is.

I know the Senator was eager to use the SSI determination for "disabled." Is that the Senator's amendment?

Mr. CHAFEE. That is right. It has already been adopted. Pregnant women and children up to the age of 12 and 100 percent of poverty, that is covered. And also the disabled are to be covered, but the definition of "disabled" was not made.

Mr. COHEN. My understanding is now you have included the definition that has been acknowledged under the SSI determination.

Mr. CHAFEE. As changed by the welfare bill.

Mr. COHEN. Then please let me lend my strong support for that, and I want to thank my friend from New Mexico for allowing me a moment or two to express my support.

Mr. CHAFEE. Mr. President, is this the proper time to ask for the yeas and nays?

The PRESIDING OFFICER. It would be appropriate.

Mr. CHAFEE. I do so. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I want to thank everyone.

Several Senators addressed the Chair.

Mr. EXON. Mr. President, I thought he was next. I was mistaken. I believe Senator BREAUX is next.

I yield our 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2963

(Purpose: To provide for a partially refundable child tax credit)

Mr. BREAUX. Mr. President, I have an amendment at the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 2963.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1469, beginning on line 2, strike all through page 1471, line 20, and insert the following:

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by paragraph (1) for a taxable year shall not exceed the sum of—

"(A) the tax imposed by this subtitle for the taxable year (reduced by the credits allowable against such tax other than the credit allowable under section 32), and

"(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

"(b) ADJUSTED GROSS INCOME LIMITATION.—The aggregate amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section."

"(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Child tax credit.
"Sec. 36. Overpayments of tax."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BREAUX. Mr. President, my colleagues, the largest item in the Finance Committee bill, by far, is the $500 per child tax credit. It cost $141 billion over 7 years. That is a lot of money. Some people think we should not have a tax cut at all. But this bill is going to have a tax cut in it. The largest one is going to be a per child tax cut at $500 per child. I would think that all of us, if we know it is going to pass, should at least agree on one thing—the largest number of families that need it should get it.

Here is what my amendment does. It addresses a problem that is very real. Simply stated, the Republican proposal only is a credit against income tax. It is not a credit against the largest tax that people pay in this country, that is, the payroll tax. For 75 percent of American families, they pay more in payroll tax than in income tax. This child tax credit is not an offset against the payroll tax. This chart shows that. The blue line is the payroll taxes that people pay on average. The orange line is an estimate of their income tax.

So you see, families making $16,000, all the way up to families on this chart making almost $27,000, are paying far more in payroll taxes than they are paying in income taxes.

The figures show that under the Republican proposal, something like 44 percent of all the children in America would only get a partial or no credit at all, because the credit is only against the income tax. Many families do not even pay that much in income tax.

If you have a family that has two children, that is a $1,000 credit. But if they are only paying $700 or $500 in income tax, they do not get to use the credit. Therefore, simply stated, my amendment makes the $500 per child tax credit a credit against both the income tax or the payroll tax. We spend the same amount of money—not a dime more, not a dime less. But we cover 44 percent more children. We cover about 31 million more children living in families, and if we are going to spend this money for a credit, let us make sure they get it.

The second chart tells you what we are talking about when we look at family earnings and how much they pay in income taxes—the actual numbers. A family making $20,000 a year is at about $458 in income tax. That would not even pay for the credit for one child. But that same family is spending over $1,500—$1,530—in payroll tax. My amendment says that the $500 per child tax credit can be used as a credit against the payroll tax, as well as an income tax, so that the family making $20,000 will get some of the benefits of this massive program that we are passing. What is wrong with saying let us make sure that the most number of children get the benefit?

I have seen some of the Republican charts that say, well, under this credit, this proposal, we get a huge credit against income tax. Sure, the problem that is most families pay more in payroll tax, and it is no offset whatsoever against the payroll tax. So for families making under $30,000 a year, for most of them it is no benefit at all.

Look at this chart. This is every State in the country. This is the median household income. In Louisiana, it is $25,000. Under the Republican proposal, if you are in a family making less than $30,000 a year, you are not going to get the benefit of a per child tax credit. So my proposition is very simple. If you want to add about 31 million more people to the rolls and give them the benefit, for the same amount of money—exactly the same amount of money—my credit goes out to families making up to $75,000 a year. It starts to phase out at $60,000 and eliminates it at $75,000 per family, but it makes it refundable against a payroll tax. By spending the same amount of money, we cover 31 million more children. I think that is what we are trying to do.

I got this wonderful note from the Christian Coalition saying they are going to target this amendment. They say, "We are going to portray this amendment as a vote to gut the $500 per child tax credit." It does not gut it; it is the same amount of money. We are just covering 31 million more children in this country by making it a credit against the payroll tax. They say they want to make sure they get the most number of people covered. That is exactly what my amendment does. They say, well, his starts to phase out at $60,000 per year. That is true, but it goes up to the same amount, $75,000, that the original Republican proposal did. Just by making it refundable against the payroll tax——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BREAUX. Forty-four percent more children are covered.

I urge adoption of this amendment.

Mr. DOMENICI. Mr. President, I yield 2½ minutes to the Senator from Minnesota.

Mr. GRAMS. Mr. President, first let me say that I agree with the Senator from Louisiana in wanting to make this tax cut refundable against the FICA or payroll tax, because I argued many months and many times that we should do this and expand the tax credit, because FICA is one of the most regressive.

But this is not the way to do it. This is not the way to pit one group of hard-working, tax-paying families against another group of families that struggle every day to try and make ends meet, to provide for his or her family.

Nearly 75 percent of the tax credits in the Republican plan go to families making under $75,000 a year, those hard-working families who have been asked to pay.

This is the real crux of the argument: They have been asked to pay more of their income to Federal taxes every year, year after year. Our plan does target low-income families with increases in the EITC credit, already giving $24 billion this year, growing to like $30 billion, and in the next year, $40 billion plus. So those families are seeing an increase in their earned-income tax credit. They are getting tax relief or more money in their pockets.

But who is forgotten? The families forgotten are those making between $30,000 and $75,000 a year. They are forgotten for the EITC program. They do not get the benefits here. Yet, they are remembered one day of the year—tax day—when they are asked to spend more and more of their money. I would like to work with the Senator from Louisiana to try and define ways to shrink the size of the Federal Government, to save additional moneys, to be able to expand even farther the tax credits, to give more persons tax relief. But let us not pit one group who are asked to pay and pay, and pay more of their income, as well as their FICA. Their FICA taxes are also being deducted.

Let us give them credits and not pit one against the other. Let us not take money from the taxpayers. Let us work to shrink the size of the Government and give more Americans more of their money back in the form of tax credits. I would like to work with the Senator from Louisiana in doing that. But I do not support this, and I urge my colleagues to vote no on the amendment.

Mr. BREAUX. Will the Senator from New Mexico yield me 60 seconds? I do not think I have any time left.

The PRESIDING OFFICER. The Senator from Louisiana has used his time. The Senator from New Mexico has 2 minutes 30 seconds.

Mr. DOMENICI. Mr. President, I rise in opposition to the amendment. First of all, everybody should know this amendment starts phasing out the child tax care credit at $60,000. The credit that we have in the Senate bill, when coupled with the earned-income tax credit, achieves the same goal as the Breaux amendment. It relieves the lower-income folks of the payroll burden. His would be to the contrary. The child credit and EIC is already in excess of the family's Federal payroll taxes. The employee and the employer share for families living at or near the poverty line. A family earning under $12,500, with two children, and families with earnings under $15,500 will have the same effect under our bill. Yet, we will be able to cover more Americans because we do not stop it at $60,000.

So I do not believe we ought to do this. Frankly, I am not a great fan of refundable anything because I believe they are rampant with fraud. We just got through a situation with EITC, and it is about 25 percent fraudulent because we are giving people a check back as a refundable tax credit. Some may be for that. I do not think it is a very good policy. The same thing will happen to this one if we do it this way.

Mr. GRAMS. If the Senator will yield, the Senator from Louisiana said more children would be covered. Actually, under his bill, because he would limit the age at 15 and not 17, as in our proposal, 5 million children between the ages of 16 and 17, whose families' income fall below $75,000 a year, would not be denied this child tax credit. It would cover fewer children and not more. So I think the whole crux of this plan is to give tax relief for families.

Mr. DOMENICI. Mr. President, in closing, I do not believe we ought to stop a child tax credit at 16 years of age. I have been through this, and that is about the time they start to get really expensive. There we are stopping it just about at that time, while in our bill we add two more years, which is much better in terms of really helping middle income families when they need it the most.

Mr. ABRAHAM. Mr. President, I will vote against the Breaux amendment. Although I have expressed support for making the $500-per-child tax credit refundable against the FICA tax, this amendment is the wrong way to achieve this objective. First, it dramatically limits the $55 credit for many middle-class families. Second, it limits the number of children who would qualify for the credit.

For families earning between $60,000 and $75,000, this amendment would unfairly prevent them from receiving the $500 child tax credit.

It is my hope that FICA refundability will be raised during conference and that a solution will be adopted which will provide much needed tax relief to all American families.

Mr. BREAUX. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move to table that amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I think it comes to our side. Senator BOND is next.

Mr. EXON. When Senator BOND finishes, I wish to yield the 5 minutes on our side to the discretion of the Senator from Arkansas.

AMENDMENT NO. 2975

(Purpose: To increase the health insurance deduction for self-employed individuals and to strike the long-term care insurance provisions)

Mr. BOND. Mr. President, I thank my good friend and eminent leader of the Budget Committee for this time. I send an amendment to the desk on behalf of myself and Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. PRYOR, proposes an amendment numbered 2975.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1553, beginning with line 13, strike all through page 1588, line 24, and insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

"For taxable years beginning in	The applicable in percentage is:
1996 and 1997	60
1998 and thereafter	100."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. There is a great injustice in our tax law, an injustice that I suspect everyone in this body has addressed at some time or another. That is the inequity in the deductibility of health insurance costs.

I do not think I need to tell my colleagues that corporations historically can deduct 100 percent of the health care insurance premium that they pay for employees, and the employees do not have to declare any of the employer-paid health insurance premiums as income. At the same time, the self-employed farmers, the small business men and women of this country cannot deduct more than 30 percent.

This body took a great step forward earlier this year when we reinstated for last year the 25-percent deduction and increased that to 30 percent. Frankly, that is not enough.

In my role as chairman of the Small Business Committee, I have heard from small businesses in my State and across the country who are concerned, and greatly concerned, rightfully so, about health care.

The occupant of the chair and I know, because we have worked on health care issues over recent years, one of the biggest problems we face are those who are uninsured, because they are limited to a 30-percent deduction as self-employed people for health care insurance premiums.

Under the amendment that I am offering today with Senator PRYOR, we will increase the deduction for self-employed to 60 percent next year, 60 percent the following year, and then in the year 1998, increase that to 100 percent. Mr. President, I believe that is the way to achieve equity and ensure that more of the self-employed are insured.

The offset to this provision—we seek to offset by taking out the new program for long-term care insurance included in the Finance Committee markup. I think it is a good idea down the road, or perhaps even before we complete work on this bill, to start providing some incentives for long-term insurance. I think it makes a great deal of sense. I think first we have to address the basic inequity.

I reserve the remainder of my time.

Mr. PRYOR. Mr. President, I thank my colleague from Missouri for yielding to me, and I thank the distinguished manager, Senator EXON of Nebraska, for giving me the opportunity to address this issue.

We all know last spring the Congress passed and the President signed into law H.R. 831. This was a bill to restore the 25-percent health care deduction for the self-employed and for the farmers of America. As my colleagues may remember, Mr. President, this deduction had expired and the self-employed were receiving absolutely no health care deduction at all for a period of time. It was an absurd position in which to place small businesses and the family farm.

H.R. 831 also increased the deduction to 30 percent for 1995 and for all years in the future. It was a very good step, a positive step for small business and for the family farm.

I was proud, by the way, to join Senator ROTH and Senator BOND and others in a letter with 73 of our colleagues who promised not to offer or support any amendment on the floor. It was a strong statement, but we underscored our recognition of the importance of the health care deduction for the self-employed.

Last week when the tax bill came before the Senate Finance Committee, I was disappointed that the chairman's markup did not include any progress on the deduction front. I offered an amendment to increase this deduction to 50 percent—from 30 percent to 50 percent. I was further disappointed when this amendment failed on a party-line vote.

I am very proud to join with Senator BOND this evening on the floor of the Senate in an amendment to increase the self-employed deduction not to 50 percent, Mr. President, but to 100 percent. There is where it should be, and that is what our amendment does.

It is an issue of parity. It is an issue of increasing coverage for small business and for farmers, for making insurance more affordable. It would move the 30-percent rate to 60 percent in 1996 for deduction. In 1997, it would continue at 60 percent. By 1998, Mr. President, we would have a 100-percent deduction for small businesses, for the self-employed, and for the farm families of America. I think it would do more to, basically, make insurance more affordable and to provide insurance for many, many more millions of Americans that have labored under a very inequitable situation.

I reserve the remainder of my time.

Mr. BOND. Mr. President, I thank my distinguished colleague from Arkansas, who has been a champion of this deduction for a long time. It is a pleasure to work with him on this amendment.

I want to advise my colleagues that we have received strong letters of support from a whole host of organizations—agriculture and small business, including the Farm Bureau Federation, ABC, Chamber of Commerce, H.E.A.L., Association for Self-Employed, Association of Home Builders, Cattlemen's Association, National Restaurant Association, NFIB, National Retail Federation, Small Business Legislative Council, Society of American Florists.

I ask unanimous consent this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT THE BOND/PRYOR AMENDMENT

OCTOBER 25, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Senate Committee on Small Business,
Washington, DC.

DEAR SENATOR BOND: We, the undersigned organizations, support your and Senator Pryor's amendment to Reconciliation to increase health insurance deductibility for the self-employed.

For years, large corporations have been deducting 100 percent of the cost of their health insurance while self-employed business owners like sole proprietors, Subchapter S corporations and partnerships have been limited to 30 percent—which was just increased five percent this year. This is simply unfair and must be changed.

We believe that before the Congress authorizes a costly, new deduction for any other kind of health care benefit self-employed small business owners and farmers should get 100 percent health insurance deductibility.

Thank you for your leadership on behalf of the self-employed. We look forward to working with you to pass this important amendment. We urge all of your colleagues to support your amendment.

Sincerely,

American Farm Bureau Federation, Associated Builders and Contractors, Chamber of Commerce of the United States, H.E.A.L. (Healthcare Equity Action League),[1] National Association for the Self-Employed, National Association of Home Builders, National Cattlemen's Association, National Federation of Independent Business, National Restaurant Association, National Retail Federation, Small Business Legislative Council, Society of American Florists.

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[1] The Healthcare Equity Action League (HEAL) was formed in 1991, and is the oldest and largest

SMALL BUSINESS,
LEGISLATIVE COUNCIL,
Washington, DC, October 24, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We strongly support your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care expenses.

As you know, sole-proprietors, partners and S Corporation shareholders can now deduct 30 percent of such costs. For many years, these individuals were not allowed to deduct health care costs at all. For a time, the deduction was 25 percent, but it was a temporary deduction and we found ourselves fighting each year to justify a provision that should not require a constant defense.

The prohibition on such deductions is an anachronism from the 1950s, based on an outdated concept of how business entities should be taxed under our system. In the modern day business environment, this policy is simply unfair. Frankly, we believe, if not for the issue of revenue, Congress would have already changed this law. It is time to address this inequity once and for all time.

The Small Business Legislative Council [SBLC] is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

GARY F. PETTY,
Chairman of the Board.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America,
Alliance for Affordable Health Care,
Alliance of Independent Store Owners and Professionals,
American Animal Hospital Association,
American Association of Equine Practitioners,
American Association of Nurserymen,
American Bus Association,
American Consulting Engineers Council,
American Council of Independent Laboratories,
American Gear Manufacturers Association,
American Machine Tool Distributors Association,
American Road, Transportation Builders Association,
American Society of Interior Designers,
American Society of Travel Agents, Inc.,
American Subcontractors Association,
American Textile Machinery Association,
American Trucking Associations Inc.,
American Warehouse Association,
AMT—The Association of Manufacturing Technology,
Architectural Precast Association,
Associated Builders & Contractors,
Associated Equipment Distributors,
Associated Landscape Contractors of America,
Association of Small Business Development Centers,
Automotive Service Association,
Automotive Recyclers Association,
Automotive Warehouse Distributors Association,
Bowling Proprietors Association of America,
Building Service Contractors Association International,
Christian Booksellers Association,
Cincinnati Sign Supplies/Lamb and Co.,
Council of Fleet Specialists,
Council of Growing Companies,
Direct Selling Association,
Electronics Representatives Association,
Florists' Transworld Delivery Association,
Health Industry Representatives Association,
Helicopter Association International,
Independent Bankers Association of America,
Independent Medical Distributors Association,
International Association of Refrigerated Warehouses,
International Communications Industries Association,
International Formalwear Association,
International Television Association,
Machinery Dealers National Association,
Manufacturers Agents National Association,
Manufacturers Representatives of America, Inc.,
Mechanical Contractors Association of America, Inc.,
National Association for the Self-Employed,
National Association of catalog Showroom Merchandisers,
National Association of Home Builders,
National Association of Investment Companies,
National Association of Plumbing-Heating-Cooling Contractors,
National Association of Private Enterprise,
National Association of Realtors,
National Association of Retail Druggist,
National Association of RV Parks and Campgrounds,
National Association of Small Business Investment Companies,
National Association of the Remodeling Industry,
National Chimney Sweep Guild,
National Electrical Contractors Association,
National Electrical Manufacturers Representatives Association,
National Food Brokers Association,
National Independent Flag Dealers Association,
National Knitwear & Sportswear Association,
National Lumber & Building Material Dealers Association,
National Moving and Storage Association,
National Ornamental & Miscellaneous Metals Association,
National Paperbox Association,
National Shoe Retailers Association,
National Society of Public Accountants,
National Tire Dealers & Retreaders Association,
National Tooling and Machining Association,
National Tour Association,
National Wood Flooring Association,
NATSO, Inc.,
Opticians Association of America,
Organization for the Protection and Advancement of Small Telephone Companies,
Petroleum Marketers Association of America,
Power Transmission Representatives Association,
Printing Industries of America, Inc.,
Professional Lawn Care Association of America,
Promotional Products Association International,
Retail Bakers of America,
Small Business Council of America, Inc.,
Small Business Exporters Association,
SMC/Pennsylvania Small Business,
Society of America Florists,
Turfgrass Producers International.

NATIONAL ASSOCIATION
FOR THE SELF-EMPLOYED,
Washington, DC, October 25, 1995.

Hon. KIT BOND,
Chairman, Senate Small Business Committee, Washington, DC.

DEAR CHAIRMAN BOND: It is my understanding that you intend to offer an amendment during the budget debate that would raise the health insurance deduction for the self-employed from the current 30 percent level to 100 percent. On behalf of the National Association for the Self-Employed, I completely support your efforts.

Raising this deduction level would create tax equity between corporate America and small business. Currently, large businesses can deduct 100 percent of the premiums they pay on behalf of their employees for health insurance coverage. The self-employed can only deduct 30 percent of their costs. And the self-employed who pay for their own insurance are primarily paying with after-tax dollars, effectively making the policies more expensive. A 100-percent deduction would give the self-employed the equity they deserve.

Also a 100-percent deduction would enable many self-employed to purchase a health insurance policy, a luxury many cannot currently afford. I believe passing a 100-percent deduction would significantly decrease the number of uninsured individuals in this country.

We have polled our 320,000 self-employed members and 100-percent deductibility of health insurance premiums is the No. 1 issue of concern to them. Please do not hesitate to call on me. I stand ready to assist your efforts in any way I can.

Sincerely,

BENNIE L. THAYER,
President/CEO.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Small Business Committee,
U.S. Senate, Washington, DC.

DEAR KIT: The U.S. chamber of Commerce Federation of 215,000 businesses (96% of whom are small businesses), 3,000 state and local chambers of commerce, 1,200 trade and professional organizations, and 75 American chambers of commerce abroad strongly supports your small business amendment to the Balanced Budget Reconciliation bill. Your

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business community coalition supporting healthcare reform. It is comprised of over 600 companies, associations, and local Chambers of Commerce, representing over 1 million employers and 35 million employees.

amendment would allow the self-employed and small businesses to deduct 100% of their health insurance costs, a benefit currently available only to large corporations.

As you know, the Chamber has long maintained that the self-employed and unincorporated small businesses should receive the same tax treatment currently available to corporations. Sound tax policy dictates full deductibility of premium of self-insurance cost as ordinary and necessary business expenses. There is no valid tax policy reason for treating the smallest businesses any differently. It is vitally important to the nation's economic security that the smallest businesses, frequently new and often struggling, should be granted a measure of security equal to that of larger corporations.

Once again, the Chamber commends your work on behalf of our nation's small businesses and looks forward to working with you towards resolving this issue. The inability of the nation's smallest businesses to deduct the full cost of their health insurance, and the inequity in being denied an advantage granted to their incorporated fellows, has been a thorn in the side of small business and the self-employed for years. It is time that thorn is removed and equality is restored.

Sincerely,

R. BRUCE JOSTEN.

PROMOTIONAL PRODUCTS
ASSOCIATION INTERNATIONAL,
Irving, TX, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Promotional Products Association International (PPA), I wish to express our support for your amendment to increase the deduction the self-employed may take for their own health care costs.

Under current law, they may deduct only 30 percent of their health care costs, and the current deduction was only recently made permanent. For the millions of sole proprietors, partners, and S Corporation shareholders, including PPA members, this is an unfair penalty with no sound basis in tax policy.

The current policy dates back to another era in tax policy, when business entities such as sole proprietorships were viewed upon with great suspicion. Now, decades later, economic and social policy has evolved to the point where we find more and more individuals opting to structure their small business in such a fashion. These small businesses are an increasingly important source of strength in our economy.

It is time to give them the same opportunity to deduct their health care costs as any other business.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise imprinted with an advertiser's name, logo, or message. Our industry sales are over $6 billion and PPA members are manufacturers and distributors of such goods and services.

Sincerely,

H. TED OLSON, MAS,
President.

NATIONAL HOME
FURNISHINGS ASSOCIATION,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Home Furnishings Association [NHFA], I wish to express our strong support for your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is long overdue.

It is unfair to penalize small business owners solely because they elect to do business as a sole proprietorship, partnership, or S Corporation, yet that is what the current tax code does with respect to their own health care costs.

As you know, for the first time this year, the self-employed can deduct 30 percent of their health care costs. For many years, they were not allowed to deduct even that much. We all know what health care costs these days, and it is simply unfair to impose such a harsh penalty which does not have any sound tax policy justification to support it.

The NHFA represents approximately 2,800 retailers of home furnishings throughout the United States. Thank you for your efforts on our behalf.

Sincerely,

PATRICIA N. BOWLING,
Executive Vice President.

WORLD FLOOR
COVERING ASSOCIATION,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the World Floor Covering Association [WFCA], representing floorcovering retailers throughout the United States, I wish to express our strong support for our amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is about time this inequity in our tax policy was resolved once and for all.

Mr. BOND. Now, Mr. President, I know there are a number of my colleagues who feel very strongly about the long-term care insurance program. We have had discussions about finding other offsets to this amendment so that we may be able to start on that long-term care prospect. I will be most anxious to work with my colleagues because I think everybody here at one time or another has expressed his or her strong support for the full deductibility of health care.

With that, I ask unanimous consent that I be permitted to modify the amendment prior to a vote on it.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I do not understand what that means.

Mr. BOND. Mr. President, if I could respond.

Mr. DOMENICI. You mean, if you find another source of revenue?

Mr. BOND. There are minds far brighter than mine and people with far greater access to the intricacies of this measure who are embarking on a good-faith effort to find offsets to get them scored by the Joint Tax Committee.

I sincerely hope we can find a way to accommodate both the long-term insurance and the health care. I believe very strongly that the health care deductibility for self-employed must be done. I would like to be able to work with my colleagues who support the long-term insurance program so that can be accomplished.

At this point we do not have an offset. I want to make sure this measure is before us.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Senator DOLE wants to be recognized in opposition.

Mr. DOLE. Only in opposition to the long-term care.

I think in this matter, a lot of the debate in the last 2 or 3 days has been long-term care—Medicare, Medicaid. We are trying to get the younger people involved in long-term care so that when they arrive at their senior years, they will have long-term care through the private sector.

It is something we have worked on in a bipartisan way in the Finance Committee for years. We finally have it in the bill. We believe it is a very good provision.

I do not object to the amendment that is pending. I hope they can find another revenue source. I support what Senator BOND and Senator PRYOR are trying to do. The self-employed should have the same rights as everyone else, the same deduction. I hope that if we can find another revenue source—because I really believe the long-term care amendment, although this is very important, is just as important, or we will be back here in 10, 15, 20 years, somebody will be back here wondering why we did not do something to get people interested in buying insurance and getting a deduction.

I hope we can resolve it before we have the vote.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, we said we had no objection.

The PRESIDING OFFICER. The request is agreed to.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we were entitled to 5 minutes in opposition, because the other side was in favor. But I am just going to take a minute and say I compliment Senator BOND for what he is trying to do. But I, too, hope he will find another offset, because I truly believe, in the midst of a national debate on Medicare and Medicaid, much of which is long-term care, we have come to the conclusion that the missing link out there is that not many people have long-term care protection.

That is getting to be a bigger and bigger burden of our Government. We are going to be less and less able to do it. That we start, in this bill, moving in the direction of letting that happen for people who want to save for themselves and buy insurance and get an appropriate credit, seems to me to be very positive. I hope the Senator from

Missouri, for whom I have great respect, would agree with that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I cannot disagree with a thing my distinguished colleague from New Mexico has said. I had the pleasure of meeting with business men and women in his State. Both of these are important in his State, my State, and the rest of the country.

I do want to make sure this bill has the deductibility phased in, full deductibility for the self-employed and small businesses. We are most anxious to work cooperatively with colleagues on both sides to accomplish this.

Mr. DOMENICI. I yield back any time I had in opposition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes and 9 seconds.

Mr. PRYOR. Will Senator EXON like some time?

Mr. EXON. I will wait until the Senator finishes.

Mr. PRYOR. Mr. President, just for 1 minute. On many occasions we, all of us, I assume, have gone to town meetings or wherever and said we believe the self-employed, small business, farmers of our country need to have the same rights and same deductibility, especially in purchasing their health care coverage for themselves and their employees. This is exactly what Senator BOND and I are trying to craft tonight, that opportunity. I hope we can give that to these individuals who truly create the jobs in America and who really are deserving of this opportunity to participate in the health care system of America.

I hope we can work out something and I pledge my best efforts to do so.

Mr. EXON. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 1 minute and 15 seconds.

Mr. EXON. I would like to use that 1 minute, if I might, for a brief colloquy between myself and the chairman of the committee. I think we can jointly announce some good news. I think we are moving quite well here. The amendments I have next, that I think are agreed to on the other side—next will be Senator BIDEN, then Senator SNOWE, then Senator DORGAN, then Senator PHIL GRAMM of Texas, and then Senator KERRY of Massachusetts.

I am pleased with the way we are cooperating on both sides and the fact the Senators are here, prepared to offer their amendments in a timely fashion.

Is that the schedule for the next amendments, in that order?

Mr. DOMENICI. Yes. I would make sure and confirm on our side that, when we have done Senator GRAMM of Texas, it is my calculation that we will have had 8 of our 10, still leaving us with 2. If that is everybody's understanding, then I am perfectly in accord.

Mr. EXON. It appears to me that is accurate.

Mr. WELLSTONE. Will the Senator yield for just a moment? I did not hear the Senator from Nebraska. What was the order of the next 50 minutes, did he say?

Mr. EXON. The next amendments, 10 minutes each, equally divided. The next will be Senator BIDEN followed by Senator SNOWE followed by Senator DORGAN followed by Senator PHIL Gramm of Texas followed by Senator KERRY of Massachusetts.

With that, I yield 5 minutes to Senator BIDEN, from the State of Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

MOTION TO COMMIT

Mr. BIDEN. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes a motion to commit with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee on Finance report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with identical language, except that the Committee on Finance shall include a provision in the bill which would provide tax relief to middle-class American families and which would help middle-class families meet the rapidly rising costs of a higher education by providing a tax deduction of up to $10,000 per year for the costs of a college education for individual taxpayers with adjusted gross income of not more than $90,000 and for married couples with adjusted gross incomes of not more than $120,000. The Committee on Finance should also include a provision which offsets the costs of this proposed tax deduction by restricting the growth of tax expenditures, except for the deductions for mortgage interest, health insurance, state and local taxes, and charitable contributions.

Mr. BIDEN. Mr. President, this goal is straightforward. It is simple and I think consistent with what I heard everyone over the last 2 years talk about. We all stand before this body, in both parties—I do not question the motivation of anyone in either party—and we always talk about the need to give immediate relief to middle-class taxpayers. Admittedly, in this bill there is some relief for middle-class taxpayers in the tax portion, and that is the $500 child care tax credit. I would argue—I will not take the time now—the additional cost to middle-class families as a consequence of the cuts in Medicare and Medicaid will offset that, but that is a different question.

One of the things we also talk about is the goal and dream of every American family, whether it is the richest businessman or poorest welfare mother, and every middle-class family, and that is providing for the education for their children.

Frankly, as the Presiding Officer knows, it is getting harder and harder for middle-class families—and I mean that in a broad range, people making from $30,000 to $90,000 individually or up to $120,000 as a family—to be able to afford a college education. I would like to take a look at what is happening here, very quickly, in the limited amount of time that I have. This is what has happened since 1980.

The orange represents the cost of public college tuition. I want to make sure we understand now I am talking about State universities. I am not talking about private universities, whether the Syracuses or the Harvards or the Yales or the Georgetowns of the world, which are a great deal more expensive than the cost of public tuition and fees. And I am not even talking about room and board. I am not even talking about that—just college tuition and fees. Since the 1980's the college tuition and fees for public universities have increased 236 percent. The median household income in America has gone up 82 percent.

If you go back to 1980 you can see how every single, solitary year the gap is widening, in what I do not know anyone would disagree with is the ultimate middle-class dream most American families have, like the one my father had, he never went to college: give my son and my daughter a college education.

When I went to school, this gap was not so wide. If you take a look at what has happened in terms of, again, income for median families, middle-income families, in 1980, 4.5 percent of median household income was what it cost to send someone to college. Now that is almost doubled, it is 8.4 percent. That is for one child.

The bottomline is it is getting incredibly difficult for middle-class families, or any family to send their child to college. So the result is, in 1980, as I said, it took 4.5 percent of the median household income to pay for tuition and fees. I am not talking, now, about room and board. Today it takes 8.4 percent, almost double, just for tuition and fees for a public university.

Education is one of the best investments we can make in American society. I have voted for investment tax credit for businesses. I voted for tax credits for them buying machinery and all of those things which make sense in my view.

I can think of nothing that makes more sense than encouraging American families to invest in a post-high school education for their children. It seems to me it is about time they should get a break.

Mr. President, to reiterate, this motion to recommit is simple. It instructs the Finance Committee to include in the budget reconciliation bill a tax deduction of up to $10,000 for the costs of a college education.

Let me tell you why this is important. In my years of public service, I have found that no matter what differences may divide us, there is always one constant thing that unites us. We all have the same dream.

Think about it. No matter who you talk to—black or white, rich or poor—every American family dreams that their children will go to college. It was my dad's dream for his children, and it was, and is, my dream for my children. It remains the dream of every middle-class American family.

But, that dream is now at risk. This last summer, a poll was conducted of undergraduate students and parents with children in college. Of those surveyed, 87 percent—nearly 9 out of every 10 Americans—believe that the cost of college is rising so fast that it will soon be out of reach for most Americans.

It should be no surprise why the overwhelming majority of Americans believe that. At the rate we are going, it is true. It is getting harder and harder for middle-class Americans to afford a college education.

It makes you begin to wonder what exactly the word public means when you say "public higher education."

A college education is slipping out of reach of middle-class Americans. And, if they still want to fulfill the dream, it means that more and more young people must borrow more and more money to go to college.

One more statistic—and perhaps the one that boggles my mind the most. Of all the money ever borrowed under the Federal Government's guaranteed student loan program, 22 percent of it has been borrowed in the last 2 years.

Let me say that again. The guaranteed student loan program has been with us for 30 years. And, of all the money borrowed during that time, almost one-fourth of it has been borrowed in just the last 2 years.

We are saddling the next generation with enormous debt before their adult lives even begin. And, I am not talking about the abstract terms of the Federal debt. No, this is saddling the next generation with individual, personal debt.

When today's college students walk down the aisle at graduation, they are handed not only a diploma, but a big i-o-u. And, for too many, it is either that, or no college at all.

So, I have a very simple proposition. We should give a tax deduction of up to $10,000 per year for the costs of a college education. Under my motion to recommit, this tax deduction would be limited to single taxpayers with incomes under $90,000 and to married couples with incomes under $120,000. And, it would be paid for by limiting the growth—not cutting, just limiting the growth—in tax expenditures.

Mr. President, education is one of the best investments we, as a society, can make. It is one of the best measurements of future economic well-being. And, it is more important now than ever before. Previous generations could make a solid middle-class living with only a high school education. No more.

In fact, there was an interesting point made in a Wall Street Journal article last week. Working families save primarily by investing in human capital—that is, education.

Yet, when businesses invest in machine capital, they are not taxed. Middle-class families, when they invest in education, are taxed to the hilt. Education is treated as consumption, not investment.

And, as a Nobel Prize economist once put it, the tax code treats machines better than it does people.

It is time for that to change.

From the establishment of the land-grant university system in the late 1800's to the GI bill at the end of World War II to the creation of the PELL Grant and Guaranteed Student Loan programs in the 1960s, the Federal Government has been committed to seeing that young people desiring to go to college would not be turned away because of the cost. It was a national goal to see a college education within reach of every American.

Now, as that goal begins to slip out of reach for many middle-class families, it is time to renew our commitment to ensuring access to a college education for all Americans. I urge my colleagues to support this proposal.

I reserve the remainder of my time if I have any.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I regrettably disagree with my friend from Delaware. Actually, to pick out two of the many tax expenditures, that is, two mortgage deductions—that is a very large one—and health insurance and freeze all the rest seems to me totally unreasonable. Let me just go through a couple.

We are freezing pension contributions. That is one of the largest tax expenditures we have, and we think it is fair. Education that employees get from their corporations, you would freeze that deduction. The R&D tax credits for American corporations. The one thing they have asked for is that they get to deduct in a special way the research and development costs of their business, something needed to keep them competitive. Arbitrarily we decide those are all frozen so that we can provide this special tax treatment for those people with children going to college.

Now, we would like to do that. We would like to do a lot of things, but, frankly, to take the tax code and say all these other provisions that are good for our country, we just decide to freeze them so we can do that, in light of the fact that we have provided significant assistance to middle-income Americans—in this bill, there is a credit for student loan interest, a credit for 20 percent of the interest paid on the student loan during the taxable year if the taxpayer has an adjusted gross income of $40,000 to $50,000 as a single taxpayer, $60,000 to $75,000 as a couple—it is capped at $500 per year per borrower, $1,000 per return—that is pretty fair. With all the other things we are trying to do, it seems to me we ought to in a more orderly way look at such things as the pension deductions and the expenditures for education that employers give to employees, and many other good tax expenditures that are out there right now working for Americans.

So at the right time, I will move to table the amendment, but for now I yield back the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 53 seconds.

Mr. BIDEN. Mr. President, I know my friend has put a whole flock of kids through college, and so I know his commitment to college.

Let me just say very briefly my amendment restricts the growth of tax expenditures in those areas. It does not in fact freeze them.

No. 2, tell middle-class taxpayers that R&D is more important for corporations, which I support, than freezing—even if you were to freeze—than it is to be able to send their kid to college. Ask the average middle-class American taxpayer what is a better investment. Who is going to do the R&D if we do not get these kids to college?

Lastly, I say to my friend, the $500 cap on student loan interest is worthwhile and is necessary but it does not compare to $10,000 that a middle-class family would be able to deduct. They need help now. They need help now, Mr. President, and this is the most direct and immediate way to do it.

I thank the Chair. I thank my colleagues.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I think it returns to our side and Senator SNOWE has an amendment at this time.

The PRESIDING OFFICER. The Senator from Maine.

Mr. EXON. Before Senator SNOWE is recognized, to expedite things, when Senator SNOWE finishes, I yield half of our 5 minutes to the Senator from West Virginia, who I understand also supports it.

I reserve the other half of the time in case any opposition surfaces.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 2976

(Purpose: To express the sense of the Senate regarding the coverage of treatment for breast and prostate cancer under Medicare)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MACK, Mrs. HUTCHISON, and Mr. GRAMM, proposes an amendment numbered 2976.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE.

(a) FINDINGS.—The Senate finds that—

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded medicare to cover self-administered chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) SENSE OF SENATE.—It is the sense of the Senate that medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend medicare to provide coverage for these important cancer drug treatments.

Ms. SNOWE. I thank the Chair.

I am offering this amendment in conjunction with Senators D'AMATO, SHELBY, BIDEN, MACK, HUTCHISON, and GRAMM that expresses the sense-of-the-Senate that the budget reconciliation conferees should amend Medicare to provide coverage for certain oral cancer drugs that are of enormous benefit to breast and prostate cancer victims. Currently, Medicare discriminates among breast and prostate cancer victims by providing certain drug treatment coverage for some but not all such cancers.

Back in 1993, when Congress expanded Medicare to help pay for the diagnosis and treatment of breast cancer, gaps in coverage were inadvertently created which denied coverage for certain oral cancer drugs. This is because in 1993, the Medicare OBRA provisions allowed the coverage of oral cancer drugs that were previously available in injectable or intravenous form.

However, half of all women with breast cancer, that is, 50 percent, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy that is administered through oral cancer drugs that have never been available in injectable or intravenous form.

Let us consider the potential benefit of covering these oral estrogen-based cancer drugs for elderly populations.

Breast cancer and prostate cancers are very similar. First, both diseases strike approximately 200,000 Americans per year.

Second, both diseases take over 40,000 lives each year. While breast cancer affects 1 in 9 women, prostate cancer affects 1 in 11 men every year, and for both diseases the number of reported cases is rising rapidly. In fact, the number of reported cases of prostate cancer is increasing to an alarming degree, an expected 90 percent increase between 1983 and the year 2000.

Finally, these diseases are prevalent among women and men whose age makes them eligible for Medicare.

The Congressional Budget Office's preliminary analysis revealed the coverage of the breast cancer portion of this amendment at a savings of $156 million over 7 years.

So I am asking, Mr. President, that we support this resolution because I think it is the next logical step in fighting both breast cancer and prostate cancer. It does not make sense that we do not provide coverage for the next generation of drug treatment for both prostate and breast cancer treatment. It will save money in the long run under Medicare, and it certainly will make it easier to be administered to those patients, especially those who live in rural areas because it is an oral type of drug rather than having to be administered in outpatient or in inpatient facilities.

In 1991, Congress made a significant investment under the Medicare provisions for breast cancer screening. It only makes sense then to provide this kind of extensive coverage with the new kinds of drugs that are coming on the market that will be reimbursed under the Medicare system. By denying coverage for treatment to half the population of breast cancer patients, we are not taking full advantage of the investment that Congress has already made.

In 1994 alone, Medicare will have spent an estimated $640 million on breast cancer treatment. Yet, here we find that Medicare will not cover some of the treatments that could be provided for women because they do not reimburse an oral form of drug. In this case, for example, it is tamoxifen. Tamoxifen is a new drug on the market for the treatment of breast cancers at certain stages and yet because it was not available in intravenous or injectable form it cannot be reimbursed under the Medicare system because it is an oral drug. I do not think it makes sense. It certainly does not make sense for the future. It does not make sense for the lives and the health of the individuals who are victims of breast or prostate cancer.

So I would urge that the Senate go on record in preventing the recurrence of breast and prostate cancer by advocating that Medicare reimburse for such coverage.

Mr. President, I would ask for the yeas and nays, and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator COHEN, of Maine, as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes.

Mr. ROCKEFELLER. I yield 10 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator. I wish to thank my colleague from Maine. As an original cosponsor of her amendment, I would like to point out two things very quickly.

One, this was an oversight in the first place. It was never intended that this drug should not be covered. And No. 2, it is vitally important to the health and safety of millions of Americans. I think it is a good amendment, and I am glad she is introducing it.

Mr. ROCKEFELLER. Mr. President, let me put this in two forms. One is, I think this amendment has a virtuous purpose, and I will support it. It is a wish. It is just simply a wish. That is why it is put in the form of a sense of the Senate. We are hoping that the reconciliation conferees will approve Medicare. I support it. In fact, I worked on matters of this oral use of cancer pills and other things in the past.

But I would be very surprised, quite frankly, if we can in Medicare buy a single new aspirin, much less prostate cancer and breast cancer remedies, under the $270 billion cut which the underlying bill of the majority contemplates, let alone any more coverage whatsoever for cancer. And I think that Senator SNOWE understands that, making this, therefore, a sense of the Senate.

Keep in mind, please, my colleagues, that we are cutting $270 billion. We were devastating everything from graduate medical education to rural hospitals, to premiums, to original research in any area. You are going to find a lot of people—in fact, I notice our colleague from Massachusetts coming in—you will find a lot of people not going into research medicine to come up with new cures for prostate cancer or breast cancer because of what is happening to graduate medical institutions.

But all we had to do to get this amendment and to be able to pass this amendment was, in fact, to do what the Democrats wanted to do, which was simply cut $89 billion from Medicare. But, no, they wanted to cut $270 billion in order to be able to——

The PRESIDING OFFICER (Mr. KYL). The Senator has used his 2½ minutes.

The Senator from Nebraska controls the time.

Mr. EXON. I will be glad to yield—has the Senator finished? Does the Senator need more time?

Mr. ROCKEFELLER. One minute.

Mr. EXON. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Medicare, let us face it, has been put on the chopping block. These are huge, huge cuts that are going to be made in the next 7 years that our people have absolutely no concept of. And here we are talking about adding on services. I am for that. I am for Senator SNOWE. She is an excellent Senator, and her sense-of-the-Senate resolution is excellent and it should be supported.

But the division on the one hand of the virtue of that purpose and the utter devastation of Medicare is a very awkward coupling, to say the very least. I hope and pray Medicare can do more for breast cancer, for prostate cancer, but I will guarantee you it cannot so long as we are cutting $270 billion out of it.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, since no others are seeking time, I will be glad to yield back our time.

Is there any time on this side?

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator JEFFORDS as a cosponsor of this amendment, and I will yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Has all time been yielded back on both sides?

The PRESIDING OFFICER. Not all time has been yielded back yet.

Mr. EXON. May I request all time be yielded back? I yield back our time.

Mr. DOMENICI. Does the Senator yield back all his?

The PRESIDING OFFICER. The Senator from Maine yields back. All time is yielded back.

Mr. EXON. I believe the next order of business would be an amendment offered by Senator DORGAN of North Dakota.

I yield 5 minutes to him at this time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2977

(Purpose: To end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States)

Mr. DORGAN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD and Mr. BUMPERS, proposes an amendment numbered 2977.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

"(h) IMPORTED PROPERTY INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

"(2) IMPORTED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

"(3) DEFINITIONS AND SPECIAL RULES.—

"(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

"(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and".

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h))."

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking "or (E)" and inserting "(E), or (H)".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

"(III) imported property income,".

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

Mr. DORGAN. This is a very important amendment. It is one that actually has previously been passed by the House of Representatives a few years ago. My amendment simply ends something called "deferral" for someone who closes their plant in the United States, moves it to a tax haven country, makes the same product and ships it back to the United States. This is about moving jobs overseas.

We have had a circumstance in this country for some while where we say to somebody, "If you close your manufacturing plant in America, move the jobs overseas, make the same product, ship it back to the United States, we will give you a tax break. Stay here and you pay income taxes. Move your jobs overseas and do your manufacturing overseas, we will give you a tax break."

We have lost 3 million manufacturing jobs during the same time that Singapore has experienced a 46-percent increase in manufacturing jobs. That is not a coincidence. We give a tax break for people to ship their jobs overseas.

Let me give you an example of that. Here is a company that I will not identify. I will just tell you it makes pants, a pants company. This company had 280 of its employees apply for trade adjustment assistance a few months ago. What does that mean? It means they lost their jobs because of overseas competition. The same company, whose employees now have lost their jobs here in this country, same company, describes with its filings what it does, performs most of its sewing and finishing now offshore in order to keep production costs low. It means they have moved their jobs out of this country.

Then it says in its financial reports, this same company has undistributed retained earnings of $21 million, November 1994. No tax has been paid on them because the management intends to indefinitely reinvest them in foreign countries.

What does this mean? It means they get a tax break. They would have paid $7 million in taxes had they stayed in this country and manufactured. But, no, we say to them, "If you move your operation outside of this country, move your American jobs elsewhere, give the jobs to foreigners, shut your plant down here and move your jobs overseas, we'll give you a tax break."

My legislation is very simple. It says, end the tax break for people who want to move their jobs overseas. End the tax break. It does not make any sense. No one, in my judgment, can honestly defend this kind of practice.

Use the money that we develop as a result of this amendment to reduce the Federal debt. That is what this amendment is about.

This amendment I offer on behalf of myself and Senators KENNEDY, REID, FEINGOLD, and BUMPERS.

I have heard a lot of debate about a lot of financial issues, but I never heard anyone in this country who can defend a part of the Tax Code that says, "We will be willing to provide a tax break if you will only close your doors to your manufacturing plant in the U.S.A. and ship the jobs to some foreign land."

If we cannot end this sort of thing, how can we talk to the American people about good jobs? Sixty percent of the families in this country now have less income than they did 20 years ago. Why? Because good jobs are moving overseas. There are a lot of reasons for that, but at least one of those reasons is we have an insidious, perverse incentive in our Tax Code to reward those with a tax break who would move their jobs overseas.

This amendment very simply says, "Let's at least stop that. Let's decide jobs in this country are important. We want to retain good jobs, good-paying jobs, manufacturing jobs. Let's stop the flight of American jobs out of America." And one way to do that, among many others, is to decide to straighten out the Tax Code.

The fact is, President Clinton during the last campaign talked about this issue. We have had people on all sides of the political aisle talk about it. I was helpful in getting this passed through the House of Representatives in 1987, I believe it was. It subsequently was dropped. It was subsequently dropped in conference. This bill had extensive hearings. I held a hearing on this bill in the U.S. Senate. So this bill meets the criteria. We understand what this is about. This amendment makes sense. I hope that this amendment will have the support of Members of the Senate. This makes good sense for our country.

Mr. President, with that I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I yield such time as he may need to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I rise in opposition to the amendment proposed by Senator DORGAN. In doing so, let me say at the beginning, I am not happy with companies that move abroad to a tax haven or cheap labor for the purpose of manufacturing products that are sold back to the United States. None of us can be happy with the export of American jobs.

At the same time it is important to understand that we are in the global economy and that if we are to provide well-paying, good jobs for our people, it is important that we become a vital force in the global economy that is now emerging. The United States must become competitive in this global economy.

My concern with the Dorgan amendment is that in hearings held before the Finance Committee in the past, Treasury has testified that this kind of legislation is very difficult to administer.

It has been pointed out, for example, what do you do in the case of a plant that sells both to the United States and to other companies abroad? Obviously, we want to encourage American business to compete in foreign markets, but would that company be entitled to the deferral, or how would you administer it?

Let me say that it is my intent, upon the completion of reconciliation, to look at a number of these important and complex international trade questions. We have purposely avoided in this reconciliation containing any amendments or provisions dealing with foreign trade or international matters. And as I have indicated, one of our reasons for taking this approach is that this is a matter of extreme complexity, of greatest importance to our economy and the creation of jobs in America. For that reason, we have not, as I said, included any provisions involving international trade matters in this legislation. For that reason, the Dorgan amendment is not appropriate as part of this legislation.

Again, let me say that it is my intent as chairman of the Finance Committee, which has jurisdiction over trade, that we will be holding a series of hearings dealing with the kind of problems that are raised by this amendment. But until we have a better idea of how to address this problem so that we do not, in the process of trying to correct one problem of people fleeing abroad to tax havens that sell back here, that we do not hurt those who are going abroad for a legitimate purpose, to become competitive in international markets.

So, for these reasons, I must respectfully disagree with this amendment. I yield back any remaining time.

The PRESIDING OFFICER. The Senator from North Dakota has 30 seconds remaining.

Mr. DORGAN. Mr. President, we do not need to study this; we need to stop it. Anybody who thinks that a tax break for moving American jobs overseas is good for this country probably thinks Elvis is living in a trailer park in St. Louis.

Nobody I know believes it is good tax policy to spend $2.2 billion in the next 7 years encouraging companies to shut their doors here and move their jobs overseas. What kind of nonsense is this? If we cannot support an amendment like this, we ought to turn off the lights and lock the door in this place.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Michigan has 20 seconds remaining.

Mr. ABRAHAM. We yield back the remaining time.

The PRESIDING OFFICER. Time is yielded back.

Mr. DORGAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. At this time, I believe the next item in order will be the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 2978

(Purpose: To provide States additional flexibility in providing for Medicaid beneficiaries)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2978.

On page 767, strike all after "(2)" on line 6 through "(4)" on line 16.

Mr. EXON. Mr. President, will the Senator from Texas yield for one moment? After the Senator has made his presentation, I yield 5 minutes to Senator ROCKEFELLER in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, the whole logic of block granting Medicaid so that States could run the Medicaid Program with less money than if we had kept it as an entitlement is a belief that States can run the program better. In fact, both Democratic and Republican Governors have come to the national capital and said to us: "If you will let us run Medicaid, we will provide better health care and we will do it cheaper and we will share the savings with you."

On a bipartisan basis, they have supported our efforts to block grant Medicaid to the States, the logic being that States are capable of making decisions about running Medicaid, the logic being that the Governor and the legislature of the various States love people who receive benefits from Medicaid in their State at least as much as we do. They know those people more intimately than we do, and, obviously, those people are capable of putting them out of office directly, whereas they may not be able to vote against a Senator from another State.

In the markup in the Finance Committee before I became a member, an amendment was added that created a new entitlement. This is an entitlement imposed upon the States. The entitlement basically says that while we are giving States the ability to run Medicaid, that we are going to intervene at the Federal level and mandate that no matter how they structure their programs they have to provide three entitlements. Specifically they are told by us that there are three groups of people that they must cover.

There are groups that we would not want to cover; there are groups that the States would cover. But every Governor I know is outraged about this provision that mandates a State-mandated program for pregnant women, for children under the age of 12, and for disabled individuals.

The point is this: Not that anyone wants to deny service to pregnant women or children under 12 or disabled people, but who are we in Washington to decide how the States are going to run this program? Is it not the ultimate arrogance for Washington to believe that only we care about pregnant women, that only we care about children under 12, that only we care about the disabled, and if we let the uncaring Governors, if we let the uncaring legislators run their program in their State, they are not going to take care of their own people?

I totally and absolutely reject this. This amendment flies in the face of everything we are trying to do in Medicare, everything that my party stands for, and I think this Big Brother Washington approach has to end.

I do not believe we are going to strip this rotten amendment out of this bill, but I want to have a vote on it. The whole logic of the Medicaid reform is we are going to let the local leaders who know their people best and who care the most make the decisions. The idea that we are creating a new entitlement and we are imposing it on the States, and now in a new provision we are going to, in essence, let people go into Federal court and sue the States on these issues, I think that clearly is a retreat from what we promised the States when we gave them less money to let them run the program, and I reserve whatever seconds may remain on my time.

Mr. ROCKEFELLER. Mr. President, this amendment should absolutely be defeated on both sides. It has this wonderful kind of a kind-hearted title to it. It talks about "flexibility." The purpose is, of course, to get rid of all of this. If the Senator wants to have a vote on getting rid of Medicaid or getting rid of care for pregnant women, for children under the age of 12, or the disabled, why does he not suggest that?

We have been through this so many times before. "Let the States decide what being disabled means." So then you have 50 different ideas of what a disabled person is, and it is complete chaos. I really do believe this is a country which has not given up on the idea that if a child is sick, no matter what its family's income is, that the child should get care. If a poor person is ill, or needs a test because something is desperately wrong and nobody knows what it is, America is the kind of country where you should be able to get that test without worrying about something called "flexibility."

I believe that health care is about giving people the opportunity to grow up to be what they really want to be. Health care is an enormous part of that. This Senator, in what appears to be a "kind" amendment, but what is really, in the judgment of this Senator, a very mean-spirited amendment, would just get as far away from doing anything for pregnant women and children and the disabled as the Senator possibly could. It is an amendment which should be absolutely crushed.

I yield the remainder of my time to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Senator from Texas says this is a new entitlement. Let us look at what the present law is. The present law mandates that, in every State of the Nation, the State must provide Medicaid coverage for every child 5 and under up to 133 percent of poverty, and for those over the age of 5, it is up to age 12 and lower, to 100 percent of poverty; and that increases it by a year each year so that by 2002, every child up to the age of 18 will be mandated coverage. So this is no new entitlement.

Second, the Senator from Texas says, "What arrogance for us to say to these States they must cover children up through the age of 12, 100 percent of poverty and below. What right have we to levy such a mandate on the States?" What he fails to mention is that we are sending the States $800 billion over the next 7 years—not million, but billion, with a "b."

When you send out money like that to the States, it seems to me you are entitled to ask for something. What do we ask for? We say they must cover poor children, 100 percent of poverty, up through the age of 12. Do we say what kinds of coverage, what the health care package is? No. It could be the most modest package. Indeed, one aspirin a year could be the health care package.

So to say this is arrogance, when we demand that the States cover this little group, come on now. I thought this was being offered with a sense of humor, but I see the Senator is serious about this.

So, Mr. President, I hope this amendment is resoundingly defeated because we have to stand for something around this place. When we send out $800 billion, we are entitled to ask for something on behalf of the States' poor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has 23 seconds. The Senator from Texas has 48 seconds.

Mr. ROCKEFELLER. I yield back my time.

Mr. GRAMM. I want to conclude the debate.

Mr. President, we are reducing funding for the existing Medicaid Program by $187 billion. The Governors agreed to this reduction. But on one basic part of the agreement, they asked that if we were going to reduce funding that we let them run their program, which they are funding in conjunction with us.

Now what is happening is the Senator from West Virginia and the Senator from Rhode Island are saying, OK, we are giving you less money, but we are going to tell you how you have to run this program. As for this talk of "getting rid of Medicaid"—nobody is talking about getting rid of Medicaid. And "mean spirited"—I flatly reject the notion that the Senator from West Virginia loves the children in Texas or Rhode Island more than the Governor of Texas and the Governor of Rhode Island loves the children in their own States.

The tide of history is moving against the "Washington knows best" policies advanced by the Senator from West Virginia and the Senator from Rhode Island, and this provision may stick today, but its days are numbered. We have to stop telling the States how to run programs in their own jurisdiction, based on our own arrogance that only we know best and only we care.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I believe, under the agreement, the Senator from Massachusetts, Senator KERRY is next. I yield to him 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2979

(Purpose: To increase the Federal minimum wage)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself and Mr. KENNEDY, proposes an amendment numbered 2979.

At the appropriate place in the bill insert the following new section:

"SEC. . MINIMUM WAGE.

(a) FINDINGS.—

"(1) The federal minimum wage has not been raised since 1991; and

"(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

"(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

"(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

"(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year: and

"(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

"(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

"(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

"(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

"(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

"Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress."

Mr. KERRY. I yield myself 3 minutes, Mr. President. I emphasize that this is a sense of the Senate, No. 1; and, No. 2, it does not set a specific figure at this time, though many of us would like to.

It simply says that the Senate will go on record as being prepared to debate and vote on the raising of the minimum wage, which was introduced last February, that we will vote on it before the end of this first session.

Why is that important, Mr. President? Well, from 1979 until 1995, 79 percent of the increase in household income in America has gone to the top 20 percent—the 20 percent wealthiest Americans. The minimum wage which, during the 1960's, was at about 52 percent of the nonsupervisory wage, and during the 1970's was at about 45 percent, and during the 1980's was at about 40 percent, is today at 37 percent of the nonsupervisory wage.

That means, Mr. President, that for those two-thirds of the people on the minimum wage who are adults—60 percent women—they are working at 70 percent of poverty level in this country today—70 percent of poverty level. Now, the whole theory of this country for years was based on the notion that we would value work, and if people went to work they would be able to break out of poverty. During the 1960's and 1970's, we respected that by keeping the minimum wage commensurate with the poverty level.

But ever since 1991, where we only caught up to a small percentage of the decrease of the prior 9 years, when there was no increase, we have had another 13 percent decline in the value of the purchasing power of the wage. So the wage, today, has a 26-percent purchasing power of what it had previously, and it is about to be at a 40-year low. In over 40 years, by 1996, if we do not change the minimum wage, it will never have been so low.

Mr. President, if you are going to be pro-family, if you are going to be pro-work, if you are going to be pro-community, you have to respect the notion that somebody ought to be able to take home a decent wage for an hour's work and for a week's work. The fact is, Mr. President, that under the current constraints, it is impossible for people to be able to do that, and we must go on record as really being pro-family, in an effort to try help them. I yield 1½ minutes to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with my colleague in urging the Senate to accept the sense-of-the-Senate resolution. Members can wonder why this is appropriate. Included in the legislation is the earned income tax credit, which is a program to try to provide some relief for the working poor. That program helps to provide assistance, particularly with heads of households who have children.

The minimum wage is for those families that do not have many children. The minimum wage provides the greatest advantage for the single heads of household.

This amendment is prochildren because 70 percent of those that work full-time have children in their families. This amendment is for women, working women, because 60 percent of all minimum wage earners are working women.

This is for full-time workers, Mr. President. Sixty-six percent of all minimum wage recipients are full-time workers.

Once again, if we care about children, if we care about working women, if we care about making work pay in America, we will support this amendment.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining and the Senator from Massachusetts has ½ minute.

Mr. DOMENICI. I yield back my time.

Mr. KERRY. The minimum wage worker today will earn $8,500 for full-time work. The poverty line is $12,500. Every economist, conservatives and liberals alike—at Harvard, and Friedman, say you have to have a combination of the earned income tax credit and the minimum wage to truly permit people to break out of poverty.

We can do this, as every study shows, without losing jobs—in fact, as New

Jersey showed, creating further employment.

I hope my colleagues will go on record as being willing simply to debate and vote on this issue.

Mr. KENNEDY. Will the Senator from New Mexico in his typical gracious and wonderful way be willing to give me 15 seconds?

Mr. DOMENICI. As the evening passes, I am getting less and less gracious.

I ask Senator KERRY of Massachusetts, did he mention a great economist from the University of Chicago in his wrap-up?

Mr. KERRY. I did not mean to. I meant to mention the one from Harvard.

Mr. DOMENICI. It was not Friedman from Chicago?

Mr. KERRY. No.

Mr. DOMENICI. Because he does not think this works at all. He thinks this makes for more people—I do not have any time left and we will get on with a vote.

Mr. KERRY. There are 101 economists and 3 Nobel laureates, and 7 past presidents of the Economic Association who endorse this increase.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2980

(Purpose: To make technical amendments to title V)

Mr. DOMENICI. Mr. President I have an amendment on behalf of the Energy Committee, for Senator MURKOWSKI, the chairman, and Senator JOHNSTON, the ranking member. It is a technical amendment that will correct the reconciliation statute that the Energy Committee passed. I believe it is acceptable.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. MURKOWSKI, for himself, and Mr. JOHNSTON proposes an amendment numbered 2980.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 304, line 20, delete "follows:" and insert in lieu thereof "follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2006):".

(2) On page 361, line 7, delete "thereafter," and insert in lieu thereof "thereafter, except for fiscal years 2003 and 2004,".

Mr. DOMENICI. Am I correct, I say to the whip, is this acceptable?

Mr. FORD. I do not know. I have not seen it. Apparently, the Budget Committee ranking member is willing to accept it.

Mr. EXON. We have no objection. I agree to accept the amendment.

Mr. DOMENICI. I yield back my time.

Mr. EXON. I yield back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. Is it appropriate under the unanimous consent that we adopt this amendment, or must we hold it?

The PRESIDING OFFICER. If there is a unanimous consent agreement to adopt the amendment, that may be done.

Mr. FORD. Mr. President, we should keep it going. It is the ninth amendment.

Mr. DOMENICI. We will put it in the sequence in this particular position.

Mr. EXON. According to my list we have Senator KENNEDY next.

Mr. DOMENICI. We have one amendment remaining.

I want to state to the distinguished ranking member, Senator EXON, the majority leader requests that we do some of your amendments, giving us additional time. They are not yet finished in terms of drafting. It must be one with at least 5 minutes on a side.

Could you proceed to the Kennedy-Wellstone-Pryor and reserve our one remaining?

Mr. EXON. That sounds reasonable.

Mr. DOMENICI. If we come in perhaps after 30 minutes and are ready, we could intervene.

Mr. EXON. I see nothing wrong with that. We can move on to the Kennedy amendment, the next amendment on my list. I yield 5 minutes to Senator KENNEDY.

AMENDMENT NO. 2981

(Purpose: To strike the provision allowing the transfer of excess pension assets)

Mr. KENNEDY. I send to the desk an amendment on behalf of myself and the Senator from Kansas, Senator KASSEBAUM, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 2981.

Strike section 12807.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

Mr. President, this proposal allows corporations to remove money from pension plans and use it for nonretirement purposes. That particular proposal is included in the Republican measure that is now before the U.S. Senate.

The Republican budget, therefore, hits older Americans not once but twice. The Medicare cuts are an outrage and so is the raid on workers' pensions. No one can claim they are saving the pension system. The pension system is not broken. We have no right to give away $20 billion of pension funds that do not belong to us and do not belong to the Federal Government.

The $20 billion that the Republican budget gives away belongs to workers and retirees who have given up wages to have that money contributed to their pensions. The bill is an invitation to corporate raiders and greedy executives to loot the pension plans of their workers and retirees.

What looks like overfunding today can be underfunding tomorrow. The Senator from Kansas, Senator KASSEBAUM, put it well several years ago when she said, "If stocks and bonds drop in value, as they will at some point, these surpluses could evaporate like the morning mist."

The history of the Pension Benefit Guaranty Corporation over the past 20 years makes it clear that today's well-funded company can become tomorrow's massive pension bankruptcy.

Congress should be worried about plan underfunding, not how to give away surplus assets that have been built up for retirees. The danger of underfunded plans is what Congress ought to be addressing.

We passed the Pension Protection Act last year to strengthen pension funding. It makes no sense to turn around a year later and weaken pension funds in a way that puts both retirees and taxpayers at risk.

This issue presents a stark choice about who we represent here in the Senate. Which side are we on? Are we on the side of the workers and retirees who struggle to find some economic security in their old age? Or on the side of the wheeler dealers, corporate raiders, and the super rich? I want the Senators to say no to this raid on retirees and defeat this unconscionable attack on the pension funds.

Mrs. KASSEBAUM. Mr. President, I want to take a few moments this afternoon to discuss a provision in the reconciliation package that has attracted relatively little attention to this point.

As many of my colleagues know, the House reconciliation bill includes a measure designed to generate approximately $10 billion in tax revenue by doing away with penalties Congress imposed in 1990 on pension fund withdrawals. The House proposal generally allows companies to take money from pension plans that are more than 125 percent funded and use those funds for any purpose, without informing their workers.

In response to a wave of corporate takeovers and pension raids in the 1980's, Congress in 1990 imposed an 50-percent excise tax on pension fund reversions, except in limited circumstances. The idea was to make it costly for companies to take assets from their pension plans. And, in fact, the raids on assets ceased almost entirely. Before this change, however, about $20 billion was siphoned from pension funds in just a few years, many pension plans were terminated, and thousands of workers saw their pensions replaced by risky annuities that provided lower benefits.

The reconciliation package before us includes a pension reversion measure that is similar to the House proposal. Under the Senate bill, excess pension assets could be wihdrawn—with little or no penalty—to fund active and retiree health benefits, underfunded pension plans, disability benefits, child care, and educational assistance plans.

Mr. President, this represents a significant change in pension policy.

I understand that there are approximately 22,000 pension plans covering 11 million workers and 2 million retirees that have assets in excess of 125 percent of current liability, and that the Joint Committee on Taxation estimates that the pension reversion provisions contained in both the House and Senate bills could result in the removal of tens of billions of dollars in assets from these plans.

Therefore, while the Senate proposal clearly is more limited than the House proposal, I nevertheless must oppose it. I understand there will be an amendment to strike this provision that will be offered by the ranking member of the Senate Labor and Human Resources Committee, Senator KENNEDY. I want to make clear to my colleagues that I intend to support that amendment.

The Senate Committee on Labor and Human Resources, which I chair, shares jurisdiction over the Employee Retirement Income Security Act [ERISA] with the Committee on Finance. In the past, the Labor Committee has taken an active role in pension security and pension reversion issues. In fact, the provision reported by the Finance Committee contains modification to title I of ERISA, which clearly fall within the Labor Committee's jurisdiction.

Yet the Labor Committee did not consider the pension provisions contained in the legislation before us. And neither the Finance Committee nor the Labor Committee has held hearings to consider modifications of this nature in the pension reversion area.

Mr. President, as I said, the Senate proposal clearly is more limited than the House proposal. I also believe that there may be valid reasons to revisit the pension reversion penalties that were imposed in 1990.

However, given the actions that led to the imposition of the excise tax, I strongly believe that any modifications in this area should be given full consideration by the committees of jurisdiction and that we should weigh heavily the genuine possibility of adverse consequences to plan participants, the Federal pension insurance program, and the national savings rate that may result from a change in pension policy of this magnitude.

Therefore, I intend to support the KENNEDY amendment and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I yield 2 minutes to the Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. In an earlier debate I mentioned this is legislation filled with risk. We have now identified another one of those areas of risk. Have we forgotten so soon? It was just a matter of a few years ago when we were having pension plans across America fail because they were underfunded.

In many cases, they failed because they had been used by corporate raiders as a means of financing mergers and acquisitions which then destroyed the jobs of the very people for whom the pension fund was intended to protect.

I cannot believe in 1995 we are about to not only make it easier but, I am going to suggest, positively encourage this type of behavior. Why would we encourage this behavior? If a chief financial officer of a corporation failed to take advantage of this program, he or she ought to be fired for corporate malfeasance.

Here is what we are about to do. We allow a corporation in profitable years to overfund their pension, to put in more than is required in order to meet that year's annual pension amount. Then, when the corporation in a business cycle has a not-so-good year, we are allowing them to reach in and withdraw those funds.

What is the significance to the U.S. Treasury? They take a full deduction when they put the money in the pension. They pay no taxes when they take it out, because they had planned to take it out in a year in which they owe no taxes.

This is an outrage, Mr. President. It is a disgrace that it is part of this legislation. It has no part in a bill which is intended to balance the budget, to balance the budget of the Federal Government off the security and hard work of working men and women who depend on these funds for their well-being, and to turn it over to corporate raiders.

I urge adoption of this amendment.

Mr. MOYNIHAN. Mr. President, the Republicans' revenue recommendations contain a slew of tax breaks for businesses that do not belong in a deficit reduction bill. One of the most egregious of these special tax breaks is a provision on corporate pension transfers that would allow employers to take billions of dollars in excess assets from pension plans to the extent of their costs for other employee benefits—such as health care for active employees—without paying the current-law excise tax. The proposal opens the door for up to $47 billion to be removed from the pension system, thereby endangering workers' retirement security and increasing the risk to the Pension Benefit Guaranty Corporation [PBGC] and U.S. taxpayers.

The Republicans have included this provision among a small group of so-called corporate welfare reforms that raise revenue through restrictions on tax rules under which the affected companies currently operate. The pension transfer proposal, however, is hardly a reform; rather, it is a conspicuous corporate welfare program of its own. The proposal merely frees workers' pension funds to be used for general corporate purposes, such as executive bonuses or extra shareholder dividends.

Earlier this year, the Finance Committee devoted several weeks to hearings on how to increase our Nation's savings rate. We found that the savings rate is terribly low, and that the high rate of consumption was hurting the economy. Yet, the Finance Committee has now recommended to the Senate a provision that both weakens the retirement security of employees and removes assets from a key source of savings—employees' pension funds.

Despite Republican assertions to the contrary, the proposal poses a serious threat to the security of the affected pension plans. First, the pension transfer proposal generally would measure excess assets using a standard that is easily manipulated and thus, I believe, inappropriate for this purpose. Under the provision, a pension plan would be considered to have excess assets, eligible to be withdrawn, to the extent its assets exceed 125 percent of the plan's current liability. Under this standard, the employer is free to use a range of interest rate and mortality assumptions, and need not account for the effect of early retirement or contingent events such as plant shutdowns. Thus, an employer can choose favorable actuarial assumptions to minimize the plan's liabilities and maximize the excess assets it is entitled to withdraw from the retirement plan under the proposal. Consequently, the cushion provided by the proposal cannot ensure that adequate funds remain to fulfill the amount of the employees' accrued benefits.

The laxity of this standard is demonstrated in PBGC's analysis of several large plans. PBGC's analysis of 10 large plans revealed that a transfer in accordance with the provision in the bill could leave those plans with less than 90 percent of the funds needed to pay benefits on termination. PBGC would be expected to pay the difference, up to the guaranteed level.

Moreover, the current liability standard is highly susceptible to shifts in the stock or bond market. The stock market is currently at an all-time high; any subsequent drop in the market could have a significant adverse effect on a plan's asset values, thereby causing a plan that currently has excess assets under the proposal to become underfunded. Thus, a more substantial cushion is necessary than that provided by the proposal to protect against future market shifts.

The Republicans note that the standard used in this proposal is the same standard enacted for pension transfers for retiree health benefits in the 1994 Uruguay Round Agreements Act [GATT]. However, the two provisions are vastly different in scope. The potential transfers allowable under this proposal would dwarf the amount of transfers allowable for use in meeting retiree health costs under GATT. Care was also taken in GATT—unlike in the Republican proposal—to create a protective firewall that is, a maintenance of effort requirement. Thus, the proposal will increase considerably the risk of loss to the PBGC.

Finally, by exempting employers from the current law excise tax, the proposal encourages employers to use pension plans as tax-sheltered corporate piggy banks. Under current law, if an employer terminates its plan and takes a reversion, an excise tax of 50 percent of the reversion applies. One purpose of the excise tax is to recapture the tax benefit the employer enjoys from earnings that have grown tax-free on the contributions to the pension plan. In 1990, GAO found that an excise tax of between 17 percent and 59 percent was necessary—depending on the plan population and the underlying investments—for the Federal Government to recapture the tax benefit to employers when assets in a pension plan are withdrawn by the employer. In addition, the proposal removes the deterrent effect of the excise tax on plan terminations: An employer can first take the excess assets and subsequently terminate the plan, thus avoiding the excise tax because there would be no additional assets left to revert to the employer as a result of the termination.

Yet, employers under the committee's proposal are exempted from the excise tax, and are merely required to include the amount taken into income. Any company with a net operating loss carryover can offset the income from the pension transfer with its accumulated net operating losses. Thus, the tax paid by employers on a reversion under this proposal could be zero. Moreover, under this proposal, an employer can easily terminate its plan after draining it of excess assets, thus avoiding the termination excise tax altogether.

Senate Republicans argue that the use of the pension transfers under the proposal is restricted to meeting the costs of other qualified employee benefits—primarily health benefits for active employees. Make no mistake: This requirement is merely cosmetic. The proposal allows employees' pensions to be siphoned off for general corporate use. Nearly all employers who would take advantage of this proposal already provide health benefits to their employees. Thus, using these excess assets for existing health benefits merely frees up funds they would have spent anyway, to be used in turn for executive bonuses, extra shareholder dividends, or the like.

In light of all these defects, I believe the proposal is fundamentally flawed as a matter of retirement and tax policy, and strongly urge my colleagues to support my amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts has ½ minute remaining.

The Senator from New Mexico.

Mr. DOMENICI. I yield our 5 minutes to the distinguished chairman of the Finance Committee, Mr. ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, excess pension assets do not belong to employees. The reason for this is that under a defined benefit pension plan, the employer promises to pay an employee a fixed monthly retirement benefit. Under current law, after these benefits are fully funded the employer can take out excess assets upon plan termination.

Excess pension asset transfers will not reduce or jeopardize workers' pensions. Only the most overfunded pension plans will be allowed to transfer excess pension assets. According to a former chief actuary of the PBGC, only 1 percent of plans covered by the PBGC terminate in a given year without sufficient assets. And after the passage of the stringent funding rules in last year's GATT legislation, it is reasonable to expect the incidence of plan failures will decrease in the future.

The proposal also contained several provisions designed to guard against plan underfunding. First, employers are required to keep a substantial cushion of excess pension assets in the plan. And I point out this is the same measure that President Clinton proposed for retiree health transfers in the Retirement Protection Act of 1994.

The other side has attacked this proposal. But is it not interesting that their own President proposed the same measure that is contained in the legislation before us tonight.

The minimum cushion is 125 percent of plan liabilities, and in many cases the cushion is as high as 150 percent of plan liability. In fact, a national actuary firm prepared a study that concluded that more than 70 percent of the overfunded plans will be subject to a cushion greater than 125 percent of plan liability. At these funding levels, the pension plan will always be at the full funding limit.

In fact, plans at the full funding limit are not permitted to make new contributions to the pension plan. Plan trustees are required to use a plan asset valuation method that results in the largest asset cushion. And, to guard against fluctuations in interest rates and stock market values, the proposal requires plan trustees to use January 1, 1995, or the most recent valuation date before the transfer, whichever results in the largest asset cushion.

Employers must use the excess assets to fund ERISA-protected employee benefit plans that cover a broad group of employees. That is a most important point that must and should be understood. Employers can only take out the excess assets to fund other ERISA-protected employee benefits that cover a broad group of employees. That is just common sense. And the plans that can be funded with excess assets are limited to—and let me spell them out—other retirement plans of the employer, including underfunded retirement plans; active and retiree health plans; child care; disability; and educational assistance.

This is a good plan, and, for that reason, I must oppose amendment of Senator KENNEDY.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Senator KENNEDY.

Mr. KENNEDY. I yield the final 30 seconds to the Senator from Vermont.

Mr. President, I ask unanimous consent that Senators JEFFORDS, MOYNIHAN, BINGAMAN, EXON, WELLSTONE, SIMON, and GRAHAM be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise in vigorous support of removing these provisions in this bill because we are dealing here with a very serious problem of pension plans. This will result in tens of billions of dollars being withdrawn from employee pension plans at a time when we are in absolute need of improving our pension capacity. It is done without any hearings. It is a matter that is within the jurisdiction of our committee. We would want desperately to make sure that what things are done are done correctly and appropriately.

I vigorously oppose the provisions that are in the bill and support the strike amendment.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next Senator on the list is the distinguished Senator from Minnesota, Senator WELLSTONE. I yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 2982

(Purpose: To scale back corporate welfare in the tax code by eliminating the deduction for intangible drilling and development costs for oil, gas, and geo-thermal wells, by eliminating the corporate minimum tax provisions, by eliminating the foreign earned income exclusion, and by eliminating the section 936 possession tax credit, and use the savings for deficit reduction)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2982.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert:

SEC. . REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(a) FINDINGS.—The Senate finds that—

(1) this legislation, as reported by the Senate Committee on the Budget on October 23, 1995, significantly reduces funding for medicare and medicaid, student loans, food stamps, and other federal efforts critical to working families across the country, in order to pay for tax breaks to benefit primarily wealthy corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(4) Congress should reduce the federal budget deficit in a way that is responsible, and that requires shared sacrifice by eliminating many of the special interest tax breaks and loopholes that have been embedded in the tax code for decades, making the tax system fairer, flatter and simpler;

(5) eliminating special interest tax breaks would enable Congress to do real tax reform, making the system fairer and more simple by flattening the current tax rate structure and eventually providing real tax relief for working families;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit.

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: "This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.", and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(d) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. REVENUE LOCK BOX.

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from striking section 12161 and section 12162 as contained in the Balanced Budget Reconciliation Act of 1995 as reported by the Senate Committee on the Budget on October 23, 1995, in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking "subtitle," and all that follows and inserting "subtitle—

"(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

"(2) for any taxable year, the housing cost amount of such individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1995."

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Mr. WELLSTONE. Mr. President, this amendment scales back corporate welfare in the Tax Code by eliminating several loopholes, including the deduction for intangible drilling and development costs for oil, gas, and geothermal wells, the corporate minimum tax provisions, the foreign earned income exclusion, and section 936, the possession tax credit. It locks all of the savings away to be used for deficit reduction—and only for this purpose.

The savings from these amendments, all to go for deficit reduction, range between $60 and $70 billion, depending on whose estimates you use. I do not have time to go through each of these corporate welfare provisions, but let me simply say that over and over and over again this week we have been talking about basic fairness, and that closing these loopholes is an attempt to make the Tax Code fairer.

I will tell you right now, as people in the country look at this deficit reduction bill, they know that it is based upon the path of least political resistance. They know that it is disproportionately working families and middle-income people and low- and moderate-income people who have been targeted.

Mr. President, I do not know one citizen in Minnesota, or in any of our States, if the truth be told, who would not agree with the proposition that we ought to close some of these loopholes. And by closing some of these loopholes, with these benefits going primarily to large companies that do not need the benefits, that have not been asked to tighten their belts, instead of allowing these to continue we would have more money to slash the deficit further, to invest in law enforcement, in education, in children, in health care, in transportation, in child care, in child nutrition programs.

It is a matter of priorities. Donald Barlett and James Steele won a Pulitzer for their book here, "America: What Went Wrong?" They are two really fine investigative reporters for the Philadelphia Inquirer. And in the section of the book "America: Who really Pays the Taxes?" they have an interesting paragraph:

> For over 30 years, Members of Congress and Presidents, Democrats and Republicans alike, have enacted one tax after another to create two separate and distinct systems, one for the rich and powerful called the privileged person's tax law, and another for everyone else called the common person's tax law.

Mr. President, this amendment will move us back toward a Tax Code that treats people fairly. It is time for some basic fairness, and that is the meaning of this amendment.

I reserve the rest of my time.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it sounds good to talk about getting rid of depreciation and intangible drilling costs for the oil and gas industry in the United States until you understand that most of these go to independent producers, those who really find the diminishing supply of both oil and gas in America. These are not exceptional depreciation allowances. They are not some gift. They are absolutely necessary unless we want to make a decision that America's own oil and gas production should disappear and we should not have any.

We are importing oil now, about half of our needs, and that is growing. And speak of losing jobs and losing growth. This industry that we would now try to take away the last, the last thing they have that might give them a chance to survive, succeed, employ people and produce oil, has already lost 250,000 jobs since the oil slump began.

We fought Desert Storm, and make no bones about it, because oil is precious to the United States, because it is a commodity without which our American economy for now and the foreseeable future cannot work.

Now, why would we come to the floor in a balanced budget activity and decide that we are going to take away what will keep the little industry we have left for producing oil and gas and the men and women who work in it, produce it and make a living? To me, it seems absolutely absurd. It seems kind of like backward economics to go out there and pluck this industry, perhaps because there is none in some States, or perhaps people think when oil and gas is mentioned it is Exxon or that it is Mobil—nothing wrong with them, but obviously in the United States, the principal people working and producing oil and gas are independent producers. They are finding most of the new oil. They are operating most of the rigs out there now. And I might just say, at this particular time we have the lowest rig count since we started keeping records. That means that even with these allowances we are hardly keeping pace with producing any new oil in America's oil patch.

Now, Mr. President, Senator NICKLES wants to speak about a minute or so on this, and if the Senator would permit me, I will reserve the remainder of my time and let the Senator complete his with the hope that Senator NICKLES will arrive.

Mr. WELLSTONE. Mr. President, I will just take a minute and then wait to respond later, if I could.

The PRESIDING OFFICER. The Senator from Minnesota has 2½ minutes.

Mr. WELLSTONE. First of all, Mr. President, we have on the part of my colleagues on the other side of the aisle a proposal for exporting more oil now from the North Alaska slopes, at the very time we are saying we are worried about our own supply. That is already contained in this bill.

Second, this is typical of what happens when we try to scale back corporate welfare and close tax loopholes. Every time you take on a powerful interest like this as opposed to regular people, opponents claim that the sky is going to fall in. It is not true that this change would spell the demise of the oil and gas industry. Just like other industries and other businesses, they should be made to capitalize their costs, to write off their costs over a longer period of time—the life of the asset. This is a special exemption, just for one industry. That is what is going on here. And this is why people do not trust this process. Every time it is a powerful interest whose benefits are under fire, we hear all sorts of reasons why they cannot be asked to tighten their belts. But, boy, when it comes to Medicare, when it comes to education, when it comes to children, belt-tightening is all the rage. This amendment basically says, let us have a standard when it comes to some deficit reduction. Let us have standard of fairness.

I will reserve the rest of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I regret to tell my friend, Senator WELLSTONE, that average people use oil. Without oil for America, average people suffer. Medicare suffers. Hospitals close.

Does anyone recall when we were in the small embargo situation with Iran and the cars were piled up at our gasoline stations? They were even shooting each other in the excitement of trying to get up there and see if they could get some gasoline in their cars.

All the gasoline comes from oil. Why should we stop producing oil in the United States, take away the tax deductions that are legitimate that they have? They are just as legitimate as everybody else's deduction. They are not a gratuity or a gift. So it might be nice to say, let us take out after this industry, but it is amazing when this industry does not produce the very people who Senator WELLSTONE is so worried about are the ones who suffer because everybody suffers. Our standard of living suffers. Inflation goes rampant. And I do not want to take that chance.

I reserve the remainder of my time.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. STEVENS). The Senator has 1 minute, 40 seconds.

Mr. WELLSTONE. I will take 30 seconds on this.

I remind my colleague that altogether this particular exemption is only about $2.5 billion over the next 5 years. This is a whole package, worth tens of billions, that says, let us close these tax loopholes. People in the country want us to.

Second, Mr. President, in all due respect to my good friend from New Mexico, this is exactly the line we so often hear: the sky is falling in. No one is talking about eliminating the oil industry. Nobody is talking about not having oil business. We are just saying, how about closing these tax loopholes so that when companies do not pay and—

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. WELLSTONE. I thought the Chair said I had 1 minute, 45 seconds.

The PRESIDING OFFICER. I am sorry. The Chair thought the Senator meant to notify him when 30 seconds expired.

Mr. WELLSTONE. I am sorry. Let me finish very briefly and reserve the remainder of my time.

Other people pay more.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. How much time is on the other side, Mr. President?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I yield 1 minute to Senator NICKLES.

The PRESIDING OFFICER. Senator NICKLES has 1 minute and 5 seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to oppose this amendment. I just heard about it. I understand he says, well, we want to take away this advantage, IDC. Really, what my colleague is saying is, you should not be able to deduct ordinary out-of-pocket, nonrecoverable business expenses. That is ludicrous. It should not happen. He happens to be wrong on that issue.

I think I heard my colleague say that he wanted to eliminate the 936 benefit that goes toward Puerto Rico. We do that in this bill. We do it in the bill over 7 years and over 6 years. There are two different ways you count that benefit. We phase it out over 6 or 7 years. I think it is a responsible provision. I guess he wants to do it immediately, but you have a lot of firms that have made investments. I think that would be very inappropriate.

My colleague may call it corporate welfare, but again I think this committee has taken some very responsible action in allowing people to deduct their out-of-pocket, nonrecoverable business expenses as should be allowed and phasing out the tax benefit that was directed toward Puerto Rico.

So I would urge the Senate to oppose my colleague's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator has 1 minute.

Mr. WELLSTONE. Mr. President, facts are stubborn things. It is a fact that IDC's are a special exemption. With my amendment, you could still in this industry capitalize your costs, depreciate them over a longer period of time, just like with most other industries.

This is just a special exemption that most other businesses do not get. We have been talking about the tax rate in Puerto Rico. In 1993, I wanted to phase it out, even though I was sympathetic to concerns that doing so suddenly would be unfair. That didn't happen. And now, we have 7 to 10 more years provided for in this bill. My amendment says that by 1997 we have to eliminate it.

My amendment says, colleagues, that we have to make tough choices. Barlett and Steele have it right. What do you have? One person's tax code is called the "privileged person's tax law," and for everyone else, call it the "common person's tax law." It is time we understand: regular people pay more because these loopholes allow often very profitable companies—some of the largest and most powerful companies in the country—are paying less.

This is revenue that the Government does not collect. We ought to have deficit reduction here. This is between $60 billion to $70 billion of deficit reduction based on a standard of fairness. We would have more for education, more for children, more for health care, more for law enforcement.

This is a perfect example of whether or not we will be willing to vote for people we represent or whether or not we are too beholden to powerful special interests. That is what this amendment speaks to.

I ask unanimous consent that copies of my prepared statements on each of the four loopholes, elaborating on my policy rationale for closing them, be included in the RECORD before the vote.

Mr. EXON. Mr. President, is all time expired?

The PRESIDING OFFICER. All time is expired.

Mr. EXON. Mr. President, the good news is that according to my record—and I believe my colleague will agree—we have three amendments left in this tier 2 category: Pryor, Conrad and Roth, in that order.

Is that the Senator's understanding?

Mr. DOMENICI. Finance Committee—Roth. We have been calling it "Finance Committee." Yes.

Mr. EXON. Pryor, Conrad, Roth—Finance Committee.

Mr. WELLSTONE. Would the Senator from Nebraska yield for a moment, a split second?

Mr. EXON. Yes.

Mr. WELLSTONE. I ask unanimous consent that Senator FEINGOLD be included as an original cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I now recognize Senator PRYOR from Arkansas for his amendment and yield him the 5 minutes.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I yield myself 5 minutes and have an exchange with the Senator, a conversation that our leader asked me to have, if the Senator would?

Mr. EXON. Certainly.

Mr. DOMENICI. We have 17 amendments that are completed.

The PRESIDING OFFICER. The Senator from New Mexico has no time.

Mr. DOMENICI. Please?

The PRESIDING OFFICER. I am informed the Senator from New Mexico has no time.

Mr. DOMENICI. Where is the time, all on the Democrat side?

Could the Senator yield me 4 minutes to engage in this conversation?

Mr. EXON. I will.

Mr. DOMENICI. I say to the Senator, Senator DOLE has suggested, since we have 17 amendments to vote on now, we would like to vote on them tonight—that will put us well beyond 12 o'clock, and we will vote on them all—that we put over two amendments until morning, and that be the Pryor amendment and what the Senator has heretofore called the Roth amendment. And we would not change anything about those amendments in terms of votes—5 minutes of debate, and everything else—but they would be two that we would not lay down tonight.

We would go ahead and put CONRAD's in, if you would like, and that would leave two amendments for tomorrow. And then we could use this evening to see what the remaining lists of amendments are. We have 2 hours or 3 hours that we are going to be down here. The Senator's side and ours could put together the list which would follow after the end of our second tier, which is the goal. The Roth——

Mr. EXON. I would have to check on it. Could we put in a brief quorum call and see if—this surprises me. I do not know whether there is objection to it or not.

I know Senator PRYOR is ready to go. Could we put in a quorum call for a few minutes?

Mr. FORD. Would the Senator yield for one moment? We have another amendment.

Mr. DOMENICI. Yes.

Mr. FORD. You talked about the Pryor amendment. We have the Simon-Conrad amendment that is also mentioned. The Senator says take that one tonight and have Pryor tomorrow?

Mr. DOMENICI. I called it Conrad. I am sorry.

Mr. FORD. I do not believe Senator PRYOR is going to be willing to move his away from tonight.

Mr. EXON. Wait a minute. How many amendments? We have Pryor, Conrad, Roth. Is it Conrad-Simon? All right. We have three amendments; right.

Mr. DOMENICI. We call it Conrad; he calls it Simon.

Mr. EXON. All right.

Mr. NICKLES. One wears a bow tie.

Mr. EXON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand they have two amendments on their side. We will hold our Roth amendment until morning. So we will proceed with theirs at this point.

Mr. EXON. Mr. President, I thank the chairman of the committee.

I now recognize Senator PRYOR, as I did previously, and have awarded him the 5 minutes on our side.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. PRYOR. Thank you, Mr. President. I thank the Chair for recognizing me.

AMENDMENT NO. 2983

(Purpose: To provide for the continuation of requirements for nursing facilities in the Medicaid Program)

Mr. PRYOR. Mr. President, in this 2,000-page piece of legislation, the budget reconciliation bill of 1995, we would think that just about everything under the sun would have been thought of and included in this to consume some 2,000 pages.

But what we did not include in this reconciliation bill is something very, very vital, Mr. President, because those are the nursing home standards that we have had enacted since 1987, and if we fail to reenact those same nursing home standards on the Federal level, we will be failing to protect a very, very fragile and vulnerable asset, which is the elderly population of this country, some 2 million now residing in these American nursing homes.

Mr. President, I send the amendment to the desk. I send it to the desk on behalf of myself and Senator COHEN of Maine.

The PRESIDING OFFICER. The clerk will report.

Mr. PRYOR. I have several cosponsors. I will not read all of those at this time. It will consume too much time.

The bill clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs.

MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, and Mr. KOHL proposes an amendment numbered 2983.

Mr. PRYOR. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

"The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities which furnish services under the State plan.

Mr. PRYOR. Mr. President, since we enacted OBRA 1987, we have seen a dramatic change in the care of the nursing home patients in our country. For example, we have seen a 38 percent decline in the number of physical restraints. Since the enactment of the OBRA 1987 nursing home regulations, which was, I might say, a bipartisan effort—the late John Heinz, former Senator Durenberger, former Senator George Mitchell, former Senator Jack Danforth from Missouri—we have seen a dramatic advance in all of the things that make the quality of care in nursing homes better; for example, in resident outcomes, a 50 percent increase in the number of dehydration cases that we have solved, and no longer do we find many of these patients dehydrated.

We see also just a characteristic of the nursing home population, Mr. President. And how are we going to afford to look them in the eye and say that we failed to adopt any Federal standards in the budget reconciliation bill and we are going to say to the 77 percent of those who need help dressing, to the 63 percent who need help in toileting, the 91 percent who need help bathing, "We are sorry, you can just make it on your own. We are doing away with all Federal standards. We are going to leave it to the States"?

But, Mr. President, the reason we have Federal standards today as a result of OBRA 87 is because the States were not meeting their obligation and their challenge.

Mr. President, I know that there are two or three of my colleagues who want to speak. I know that Senator ROCKEFELLER wants 30 seconds. I yield 30 seconds to Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. ROCKEFELLER. I thank the Presiding Officer and the Senator from Arkansas. If there was a sense upon my colleagues of nervousness just before Senator PRYOR offered his amendment—there was a lot of huddling—in the sense of what was going to happen, my colleagues noticed correctly. I think that there was an effort to try and not have a vote on this tonight, because this is one of the most important amendments that we will vote on in this entire, somewhat bizarre process.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I yield 30 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment. I point out that the arguments against this amendment are going to be that we ought to let the States have unbridled responsibility, discretion as to how to set these standards.

I should point out that in the year 2002 in my State, which has the highest percentage of persons over 80 in the country, that we are going to have 35 percent less funds than is currently projected to meet the needs of our elderly, our frail elderly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. If there is any prescription for abuse, it is a 35-percent cut in funds and no Federal standards.

The PRESIDING OFFICER. The Senator's time has expired. Without objection, the Senator's request is granted.

Mr. PRYOR. Mr. President, I yield 20 seconds to the Senator from Maryland, Senator MIKULSKI.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, my father was in a nursing home for 3 years. He had Alzheimer's. We could go and visit him and make sure he was OK. But one of the things we need to know is when people are in a nursing home, they are often too sick to care for themselves or they are too sick to say how they are being cared for. If we do not have Federal standards around safety and staffing to be sure that our—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. Mr. President, I am looking for Senator COHEN, our cosponsor on the other side. I do not see him.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. PRYOR. If Senator MIKULSKI needs an additional 20 seconds, I will be glad to yield to her.

Ms. MIKULSKI. Mr. President, the idea of safety is absolutely crucial, that we need adequate staff, but we need to have those standards so that if anyone is too sick to say how they are being cared for, we know that we are preventing their abuse, we know that they are receiving the right medication, we know that they are being adequately cared for.

The PRESIDING OFFICER. The Senator's time has expired. The Senator has 10 seconds left.

Mr. PRYOR. Mr. President, I want to conclude by thanking the distinguished Senator from Maine, Senator COHEN, for not only being a cosponsor, but also having labored for many years in this particular field. He supports strongly this amendment. I also would like—

The PRESIDING OFFICER. Thank you. The Senator's time has expired.

Mr. PRYOR. Mr. President, I also would like to acknowledge Senator BOXER of California who has truly spoken on many occasions and feels compassionate about this amendment.

Mr. DOMENICI. Mr. President, Senator CHAFEE is going to explain where we are. Let me just suggest, at Senator COHEN's suggestion, Senator CHAFEE, and others, the so-called Finance Committee amendment, which you are going to have an evening to look at, will have everything in it Senator COHEN wants and even further improvements than the one before us. So I do not want anyone to think we have done that after we defeat your amendment tonight, because it is in there and you all will see it when we get it circulated.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I commend the Senator from Arkansas for his efforts in connection with the nursing home standards and, indeed, he and I have worked together in the Finance Committee. I voted with him in connection with his amendment, which was defeated 10 to 10.

Since then, in conjunction with Senator COHEN and others on this side, we have prevailed upon what you might call the managers of the bill to put in a very good Federal nursing home standard provision. As regards nursing homes, there are two provisions in here that I think are superior to the provision that Senator PRYOR has, although I am not intimately familiar with everything that he has.

One, in the provision that we have, we remove the costly and duplicative requirement that standards perform so-called preadmission screening and annual resident review, which is known by the acronym of PASARR, and that would not be included and it is my understanding that this is a rather good provision.

Second, we have a proposal that if the States have tighter inspection requirements than the Federal, then the States can apply to the Secretary of HHS for a waiver and have those tighter provisions included as the inspection requirements or the standard requirements for the nursing homes within that State.

You might say, "Well, how do they go about enforcing it?" We have a provision that it can be enforced by HCFA. So we think that this has a lot of provisions in it that have merit.

I urge those on the other side to take a look at this provision that is in the so-called managers amendment.

Mr. ROCKEFELLER. Will the Senator yield?

The PRESIDING OFFICER. There is still not quiet in the Chamber. The Senator is entitled to be heard.

Mr. GRAHAM. Will the Senator from Rhode Island yield?

Mr. CHAFEE. Quickly, because it is on my time.

Mr. GRAHAM. I agree with what you just said. I would like to be able to compare the specifics of what is going to be offered with what Senator PRYOR and others have offered. When will we have that opportunity?

Mr. DOLE. I can respond. I think that language is ready now. I think we are working on some other language, but that language is ready. That is why we wanted to wait until the morning so we can compare that.

Mr. GRAHAM. The difficulty is we are going to get this sometime in the morning and then be expected to vote on it. We are going to vote on this amendment tonight; correct?

Mr. CHAFEE. I think the suggestion was to put the vote off until the morning and to give you a chance to look at this particular provision.

Mr. GRAHAM. The vote on Senator PRYOR's amendment is off until tomorrow?

Mr. DOLE. Both.

Mr. DOMENICI. Both; we ask for both.

The PRESIDING OFFICER. The Chair advises Senators to please go through the Chair so we keep some control.

Who seeks time? There is 1 minute 28 seconds left.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me indicate that we have addressed this concern, and I think as Senator CHAFEE pointed out, if we really want to find the best provision, we ought to compare the two. We may not vote on the Pryor amendment tonight. I will decide how many amendments we vote on this evening. So we will have an opportunity to look at the language in both.

If you are looking for a political vote, we can have the political vote, but if you are looking for the best provision—it was worked out with Senator COHEN, Senator SNOWE, Senator CHAFEE, and others on this side of the aisle. We think it is a pretty good provision. So I hope if we are interested in getting the best provision in the bill, we will do as Senator DOMENICI suggested: Wait until morning, have a vote, find out which is the superior provision, and then vote accordingly.

The PRESIDING OFFICER. The Chair apologizes. The Chair did not ask the Senator from Rhode Island if he would yield to the majority leader.

Mr. CHAFEE. Do I still have control of the time?

I would have been delighted to have yielded that time.

The PRESIDING OFFICER. I again apologize and give back 20 seconds.

Mr. CHAFEE. Was there another question, or does that satisfy everyone?

The PRESIDING OFFICER. There are 18 seconds left to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask Senator COHEN if he wants to say anything?

Mr. COHEN. I believe I will get 2 minutes to speak.

The PRESIDING OFFICER. There is no time left on the Democratic side.

Mr. EXON. I yield 2 minutes off the bill to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, let me specifically address the issue whether or not this is a political effort on the part of my colleague and friend from Arkansas, Senator PRYOR.

We had a hearing this morning dealing with nursing home standards. I want to say, for the benefit of all who are here, I have been working with Senator DOLE, Senator CHAFEE, Senator SNOWE, and others, to try to make sure that the standards that were set in place by OBRA 1987 go back into place, that we have Federal standards and Federal enforcement of the nursing home rights, as such. Senator DOLE has been most amenable to that.

I think Senator CHAFEE is correct that we have actually made some improvements in cutting back on some of the things that do not need to be there, that are costing money and are duplicative. One issue remaining in my mind is, in fact, the extension of the waiver, so-called, to the States that have higher standards than required by Federal law. The concern I have is that if such standards are so high that they therefore would apply for a waiver, what in fact would be the role of the Federal Government as far as oversight and enforcement? If there will be strict oversight and enforcement, I would recommend we support the bill that we offered as part of the managers' bill. If, however, that is a major loophole that would be seen as such by those in the business itself—the nursing home industry, providers and consumers—I would have problems supporting the substitute contained in the managers' bill. I have not seen the language.

I think Senator DOLE is correct. We ought to put this off until tomorrow so we can compare the language. If we are satisfied there will be adequate oversight and enforcement authority retained by the Federal Government, I would recommend to my colleague from Arkansas that we accept the managers' bill.

Mr. PRYOR. If my friend from Maine will yield, Mr. President, let me remind my colleagues that in the managers' amendment to be offered by Senator ROTH tomorrow, the nursing home provision is only a very, very small part of it. There is going to be, as I understand it, a change in the Medicaid formula, also encompassed in the managers' amendment. This is only a small section of it.

I think we should go ahead according to schedule. We have all been here all day, playing by the rules. Let us vote for the Pryor amendment and the Pryor-Cohen amendment tonight, and if we need to change it tomorrow, we can, and we can look at it tomorrow.

The PRESIDING OFFICER. The time of the Senator has expired. All time on the amendment has expired.

Mr. PRYOR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, we are down to the final amendment, as I understand it, we will be debating tonight. Therefore, I yield the 5 minutes on our side to Senator SIMON for his distribution.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2 minutes.

AMENDMENT NO. 2984

(Purpose: In the nature of a substitute)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. CONRAD, proposes an amendment numbered 2984.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. SIMON. Mr. President, this is the amendment you have read about in the Washington Post when it says a "Good Budget Compromise." This is the amendment the New York Times has editorialized about. This says balance the budget, number one. And we have a comprehensive program to do that. Number two, we eliminate the tax cut. Senator SPECTER said, "If you would have a secret vote, 20 Republican Senators would not vote for the tax cut."

To say we are going to balance the budget, and then start with a tax cut, is like having a New Year's resolution to diet and start with a great big dessert.

Third, we take the CPI and reduce it by one-half of 1 percent. At the Finance Committee meeting, Senator DOLE said, in talking about looking at the CPI, "This is something we should have addressed years ago." This is still below what the special economist said should be a drop of between 0.7 to 2 points.

Third, we help the less fortunate in our society. Instead of a savings of $270 billion in Medicare, it is $168 billion. Instead of $187 billion in Medicaid, it is $83 billion. Welfare reform—there is $36 billion more for poor people. Discretionary spending, $79 billion more. Veterans programs are assisted. Agriculture programs are assisted. Student loan programs are helped.

This is a balanced program that makes sense and it balances the budget in a prudent way. I hope we can move in this direction.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. I yield 2 minutes to the Senator from North Dakota, Mr. President.

Mr. CONRAD. I thank the Senator from Illinois. This is an amendment for those who disagree with cutting taxes by $245 billion at the very time we are adding $1.8 trillion to the national debt. This is the amendment for those who are concerned that the Medicare and Medicaid cuts are too severe. This is the amendment for those who oppose cuts in education. This is the amendment for those who want welfare to be work-oriented but protect the children. This is the amendment for those who are concerned about the raid on rural America contained in the underlying bill. This is the amendment for those who recognize that CPI overstates the cost of living. The advisory commission to the Finance Committee said it is overstated by .7 to 2.0. That means adding $600 billion to the national debt over the next 7 years.

Mr. President, I hope my colleagues will support this amendment to fairly balance the budget.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. How much time do I have on the amendment, and how much time do they have?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes; the minority has 1 minute 50 seconds.

Mr. DOMENICI. Mr. President, let me remind Senators of a couple of things. First of all, the Consumer Price Index provides $115 billion of the money needed to balance their budget. In addition, Medicare is getting cut, or hit, or reformed $168 billion. So we are doing both Medicare and CPI. And then, third, and equally as important, the fiscal dividend that is not supposed to be there until you are in balance—that is how we thought it worked, that you get to balance and you get a fiscal dividend—they take the $170 billion fiscal dividend, before in balance, and put it in their balanced budget.

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. DOMENICI. I am pleased that the Chair is concerned, and I thank him. I want to close by saying that I really do not believe this is the kind of budget we want to adopt here tonight. I think if anybody had a real chance to look through it and go into detail, they would agree with the Senator from New Mexico.

I want to go through the three. You get $115 billion by changing the CPI by .5. I was wondering a little while ago—my friends on the Democrat side were concerned because we had not given them our amendments. Most are one page. We just got this one now, in case anybody wonders, which is all right. I am not complaining. It is just that we do not know very much about it. These few little facts are about the best I can do.

Mr. FORD. Now you know how we feel when we have 2,000 pages.

Mr. DOMENICI. I think you got those pursuant to the rules. They were before you all. This was presented right here, tonight, to us. I do not want to take any more time. I will yield the remainder of my time.

Mr. SIMON. Mr. President, I yield 50 seconds to my colleague from Virginia.

Mr. ROBB. Mr. President, I thank my colleague and friend from Illinois. I will not make a full statement at this time. I will put one in the RECORD. Suffice it to say—I say this to my good friends on the other side of the aisle—this is where we ought to be going. This is a tough, fair, principled budget that reflects the kind of distribution that we ought to be looking toward if we are going to come up with a reasonable solution to the fiscal challenges that are facing the country today, and it does it without a $245 billion tax cut that we simply cannot afford and should not be giving under the circumstances.

I am pleased to join my fiscally responsible colleagues in offering an alternative that I think meets the test that this country is looking for us to meet.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMON. I yield myself the remainder of the time.

In terms of the fiscal dividends that Senator DOMENICI is talking about, we balance the budget also, so we have the same savings on interest.

In terms of the size of this—and I recognize this is not going to pass tonight—but I think this may be the basis for a compromise that we may move toward. I think there is a lot of common sense in this.

In terms of the CPI, it is less than was recommended to the Finance Committee by the economic experts, and what it means for a person who is in the median on Social Security getting $770, it would be a reduction of $3.85 for which that person gets more help on Medicare and Medicaid.

I think seniors would welcome this proposal.

Mr. DOMENICI. I yielded back my time, but I ask unanimous consent to retrieve 1 minute of it to yield to Senator NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I thank my colleague from New Mexico. I join him in opposition to this amendment.

Although I compliment the sponsors of the amendment for saying we should use an accurate CPI, they do not go as far as that that was proposed by a group of economists that said we should use from 0.7 percent even and maybe above 1 percent. Whatever the percent is, it should be accurate, and most estimates are that 0.5 percent, which would save something like $115 billion, is on the low side. So I compliment them for doing that.

I rise in opposition to their proposal because they want to spend $245 billion more so we do not tax more. I would like to give taxpayers a break for $245 billion and reduce spending to pay for it. That is the difference between the two.

I compliment them for a very significant element of this package and hope that ultimately we will use accurate CPI reflection in all of our cost-of-living adjustments.

Mr. DOLE. Mr. President, as I understand, all the amendments have been offered that will be offered this evening in tier 2. The committee amendment will be offered tomorrow morning.

I now ask unanimous consent that the votes scheduled to begin now be limited to 8 minutes after the first rollcall vote, with 1 minute for explanation between each vote to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Let me persuade my colleagues we will have about 18 votes here. If we all stay in the Chamber we will probably save 20 or 30 minutes. There are not many places to go at 9:30 at night around here. They can watch the ball game right off the floor. Hopefully, we will accommodate one another by being here.

The first vote will be the normal 15 minutes plus 5 to give people time to come back from wherever they want to come back from.

The PRESIDING OFFICER. Does the request include 1 minute before the first vote?

Mr. DOLE. One minute before each vote equally divided in the usual form.

We will start tomorrow morning at 9 o'clock, and we hope to have 7½-minute votes after the first vote, so we ask all Senators to remain in the Chamber—not overnight but be back here.

Mr. DOMENICI. Mr. President, I wonder if Senator EXON would join in requesting from his side what I request for our side.

We still have a third tier, which are all the amendments that will not get debated. We would like to use the evening now while we are here voting to have you get as many together so we know, maybe tonight or early morning, how many you have. And we have some. Perhaps we can give the Senators an idea, then, by midmorning on how many there are.

Mr. EXON. I advise my colleague we have been working on that. We were talking about it a few minutes ago in the Cloakroom. We do not have a definitive number. We have made major reductions generally in the area that we have been indicating to you in our series of negotiations about where we think we will end up. I do not know that I can give a specific number tonight. I will explore that.

The PRESIDING OFFICER. The first amendment is numbered 2964 by Senator McCain and others; 1 minute, equally divided. Who yields time?

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back on this amendment? Does the Senator from Nebraska yield back the 30 seconds?

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Did we order the yeas and nays on all the amendments?

The PRESIDING OFFICER. Is there an objection for all the yeas and nays to be ordered at one time?

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on all amendments that have been debated so far.

VOTE ON AMENDMENT NO. 2964

The PRESIDING OFFICER. The clerk will call the roll on amendment No. 2964.

The assistant legislative clerk called the roll. The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

The amendment (No. 2964) was agreed to.

AMENDMENT NO. 2965

The PRESIDING OFFICER. Ladies and gentlemen, the next amendment is amendment 2965 by Mr. Helms, 1 minute equally divided.

Mr. ROCKEFELLER. May we have order.

The PRESIDING OFFICER. There will be 1 minute equally divided on this amendment prior to the vote.

The Chair recognizes the Senator from North Carolina.

This is going to be a long night unless we can get quiet after these votes.

Mr. HELMS. Mr. President, I think this is one of few times when both sides are in favor of an amendment. It is to protect the right of senior citizens to choose their own doctors if they wish.

I think the distinguished manager of the bill, Mr. Domenici, has a clarification.

Mr. DOMENICI. I would like to say for the Republicans, there is a technical error on the explanation. This amendment has been modified so that the language in our Whip Notice—it says, "if you don't comply, they are not eligible for Medicare reimbursement"—is out of this. It is not in this amendment. I think the amendment deserves to be adopted.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this amendment pretends that the Republican budget's destructive plan for Medicare will preserve the senior citizen's ability to get their care through fee for service and continue to see his or her own doctor.

Now, it is fine to pretend, so vote for the amendment. It is all right. It is not going to do any harm. Make no mistake. There is no guarantee of anything in the Helms amendment for seniors and their future ability to see their own doctor.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered on every amendment.

Mr. DOLE. Mr. President, this will be an 8-minute vote.

The PRESIDING OFFICER. This is an 8-minute vote.

Mr. DOLE. This is the test. If we all stay here, we may finish.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. Santorum). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—79

Abraham
Akaka
Baucus
Biden
Boxer
Bradley
Breaux
Brown
Bumpers
Burns
Byrd
Campbell
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lott
Lugar
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Smith
Snowe
Specter
Stevens
Thurmond
Warner
Wellstone

NAYS—20

Ashcroft
Bennett
Bingaman
Bond
Bryan
Chafee
Coats
Daschle
Dodd
Gorton
Grams
Gregg
Hatfield
Jeffords
Lieberman
Mack
Reid
Simpson
Thomas
Thompson

So the amendment (No. 2965) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2969

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 2969 offered by the Senator from Colorado [Mr. Brown]. The yeas and nays are ordered.

There will be 1 minute equally divided on the question.

Who yields time?

Mr. DOLE. The time is running.

The PRESIDING OFFICER. Time is running. Who wants to claim the 30 seconds on each side?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. Brown] is recognized for 26 seconds.

Mr. BROWN. The measure that is before the Senate takes a 1993 limitation on business' ability to deduct salaries in excess of $1 million and applies it, not to just publicly traded corporations to which it applies to now, it applies it to nonpublicly traded organizations and other business. It is a fairness question. It is grandfathered for any existing contracts, but I might say the money that is raised goes to reduce the Social Security earnings penalty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. I yield back our 30 seconds.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2969.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 509 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So, the amendment (No. 2969) was agreed to.

Mr. BROWN. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me observe that, out of the three votes, we have had two unanimous votes. Maybe some could be done by voice vote. It would save some time. Otherwise, we are going to stay on the 8-minute schedule, and I urge my colleagues to stay on the premises.

AMENDMENT NO. 2970

The PRESIDING OFFICER. The pending question is amendment No. 2970.

Mr. EXON. I yield 30 seconds to the Senator from Iowa.

Mr. HARKIN. Mr. President, this amendment is the fraud, waste, and abuse amendment. It saves $600 million, by CBO's estimate, more than the underlying amendment. This is a culmination of 5 years of hearings.

All of the things in this amendment were recommended by the Inspector General's office and by GAO. It saves more than $600 million. In sum, all I can tell you is what this does. It says that when the Veterans Administration pays 4 cents for a bandage and Medicare pays 86 cents, something is wrong. Let us pay the same thing as the Veterans Administration. That is what this amendment does.

Mr. DOMENICI. Mr. President, I yield to Senator COHEN.

Mr. COHEN. Mr. President, the antifraud provision in the Finance Committee measure has been the product of over 3 years of effort on my part. I have had to work with Justice, FBI, the White House, providers, consumers, and they support the provision as written.

In addition to that, there is a deletion under my bill which would allow the criminal fines imposed under the violation to go back into the Medicare trust fund. That is deleted under the Senator's amendment.

I urge that we reject this amendment for a variety of reasons but, most of all, because it would make a last-minute change over something that is accepted by virtually everybody.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation bill pursuant to section 305(b)(2). I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 510 Leg.]

YEAS—43

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—56

Abraham
Ashcroft
Baucus
Bennett
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hollings
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote the ayes are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is well taken and the amendment falls.

AMENDMENT NO. 2971

The PRESIDING OFFICER. The next amendment is amendment No. 2971. There are 30 seconds on each side for debate.

Mr. McCAIN. Mr. President, this amendment removes about $60 billion worth of corporate pork over a period of 7 years. It has bipartisan support.

For the information of my colleagues, it does not include the auction of public safety spectrum. Obviously, that would be exempt from the auction of spectrum.

Mr. President, I understand the point of order may be lodged against this amendment. It makes no sense to lodge a point of order against an amendment that would reduce spending, which is what this legislation is supposed to be all about.

Mr. EXON. The pending amendment would add two new matters to the bill and violate the prohibition of nongermane amendments. I raise a point of order that the pending amendment is therefore not germane and thus violates section 305(b)(2) of the Congressional Budget Act of 1974.

I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion.

Is there a sufficient second?

There is a sufficient second.

The question is on the motion to waive the Budget Act.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 25, nays 74, as follows:

[Rollcall Vote No. 511 Leg.]

YEAS—25

Abraham
Biden
Bradley
Brown
Coats
Cohen
Dole
Faircloth
Feingold
Gramm
Grams
Grassley
Gregg
Hutchison
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
McCain
Moynihan
Pell
Robb
Roth
Thompson

NAYS—74

Akaka
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Pressler
Pryor
Reid
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 25, the nays are 74. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is well taken and the amendment falls.

AMENDMENT NO. 2972

The PRESIDING OFFICER. The question occurs on amendment 2972, offered by the Senator from West Virginia.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

The Senate will please come to order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, my amendment restores $712 million rescinded by the bill in 48 States in highway funds.

The PRESIDING OFFICER. The Senator will suspend. Senators will please come to order.

Mr. BYRD. Senators will find on their desks a detailed table which shows the reductions that were made in each of the 48 States.

I restore this money by closing a corporate loophole. The corporate loophole is closed by the House by a phaseout in 4 years; closed by the bill by a phaseout in 5 years. I say, let us go with the House, phase out the loophole in 4 years and restore $712 million in highway funds to the 48 States.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, for those who thought the highway demonstration programs were good programs and all the projects were good projects, obviously you ought to vote for this.

They were never spread equally across the land. They had very significant preferential treatment, depending upon a lot of things. So I think the committee that decided to do this acted appropriately, especially since they applied the savings to a very good cause.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 46, nays 53, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—46

Abraham
Akaka
Baucus
Biden
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Stevens
Wellstone

NAYS—53

Ashcroft
Bennett
Bingaman
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kyl
Lieberman
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Nunn
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Thomas
Thompson
Thurmond
Warner

So, the amendment (No. 2972) was rejected.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2973

The PRESIDING OFFICER. The question occurs on amendment No. 2973 offered by the Senator from Rhode Island, Senator CHAFEE.

The Senator from Rhode Island is recognized for 30 seconds.

Mr. CHAFEE. Mr. President, I am pleased to be joined in this amendment by Senators CONRAD and FRIST. The reconciliation bill says States must cover the disabled but does not define who is disabled. This amendment adopts the same definition of "disabled" as we used in the welfare bill which we passed——

Mr. HARKIN. Point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Senate will please come to order. Those Senators in front of the Chair, please take your conversations to the cloakroom.

Mr. CHAFEE. Do I start my 30 seconds over?

The PRESIDING OFFICER. The Senator has 16 seconds remaining.

Mr. CHAFEE. Well, I will start. This amendment adopts the same definition of "disabled" as we used in the welfare bill which we passed 87–12. It does not include substance abuses. That is a mistake in the little chit that was circulated here. These individuals are at 75 percent of the poverty level or less. They cannot get health insurance. This safety net is essential to them if they are going to stay in the community.

The PRESIDING OFFICER. Time has expired.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, two excellent Senators are offering this amendment and trying to protect the basic Medicaid coverage for the very poorest, very oldest and disabled Americans.

I hope everybody will vote for it. But, again, you cannot turn a frog into a prince. The underlying bill would require 200 such amendments to make it agreeable. I hope people will support this.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no opposition.

Mr. DOLE. I would ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DOLE. This is another infringement on the Governors. We are going to turn over these programs, make them entitlements, and give them block grants, and make it impossible for Democrats or Republicans to administer the program.

We had this argument. We discussed it long and hard with the Senator from Rhode Island. I hope we would defeat this amendment. If you do not have any faith in your Governor, then vote the other way.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to amendment No. 2973.

The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—60

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings

Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Simpson
Snowe
Specter
Stevens
Wellstone

NAYS—39

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Faircloth
Gorton
Gramm
Grams
Grassley
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Smith
Thomas
Thompson
Thurmond
Warner

So, the amendment (No. 2973) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2963

The PRESIDING OFFICER. The question recurs on amendment No. 2963 offered by the Senator from Louisiana. A motion to table is pending on which the yeas and nays have been ordered. Who yields time?

Mr. EXON. I yield 30 seconds to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 30 seconds.

Mr. BREAUX. Mr. President, I say to my colleagues, I urge my Republican colleagues to vote for this tonight, because NEWT GINGRICH is going to do it in conference. You all are going to be on record of voting against it. They are going to fix it in conference.

I suggest to vote against tabling, because you can add 44 percent more children who would benefit from the child tax credit. Without this amendment, you are cutting off 31 million youngsters who will not benefit from the tax credit. It is that simple. Guess what? They are going to do it in conference.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield my time to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against this amendment. This amendment would build another entitlement program, another brandnew entitlement program into the Tax Code. According to the Joint Tax Committee, the Breaux amendment would increase outlays by $37 billion over 7 years. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Breaux amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the motion to lay on the table the amendment (No. 2963) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2975, AS MODIFIED

The PRESIDING OFFICER. The pending business is amendment No. 2975 offered by the Senator from Missouri [Mr. BOND].

The Senator from Missouri has 30 seconds.

Mr. BOND. Mr. President, pursuant to a unanimous consent agreement when I offered the amendment, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2975), as modified, is as follows:

On page 1620 after line 1 insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "55 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. Mr. President, when I raised the question of deductibility of health insurance, I said we were looking for another offset. I have been able to work with the managers and the majority leader. They have enabled us to eliminate the offsets which would have taken out the long-term care insurance, and we are able to raise the deductibility for self-employed individuals and small business people from 30 to 55 percent. I believe that this is something we can work with in conference.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. They have already been ordered.

Mr. PRYOR. Mr. President, I am the cosponsor on this side of the Bond amendment. I strongly support this amendment. We hoped, originally, that we would be able to permit the self-employed to deduct 100 percent of their insurance premiums, and this looks like they are going to take about 55 percent. This is the best we could do, but it is better than in the past.

Mr. WELLSTONE. Can I ask what the offset is?

Mr. DOMENICI. Mr. President, the time has expired.

Mr. DOLE. We did not need an offset. We found another area where they overestimated or underestimated, or whatever it is.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I wonder, will the Senator withdraw the yeas and nays?

Mr. BOND. We would like the yeas and nays since everybody is here.

Mr. DOMENICI. OK.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—99

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne

Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So the amendment (No. 2975), as modified, was agreed to.

BIDEN MOTION TO COMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion to commit with instructions offered by the Senator from Delaware.

The Senator from Delaware is recognized for 30 seconds.

Mr. BIDEN. Mr. President, one thing all Americans say they care about is to get a college education for their children.

This amendment will allow—it costs $35 billion, roughly $5 billion a year, and it would allow a $10,000 per year deduction—maximum deduction—for the cost of college tuition for couples making up to $120,000, or individuals up to $90,000.

This is a genuine benefit for the middle class, and we do exactly what the Republican bill does. The way in which we get the money is restrict the growth of tax expenditures.

Mr. DOMENICI. Mr. President, has there been a motion to table?

The PRESIDING OFFICER. No.

Mr. DOMENICI. I yield back any time I have. I move to table the Biden amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays they were ordered.

The PRESIDING OFFICER. The question is on the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 55, nays 44, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—55

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Specter
Wellstone

So, the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2976

The PRESIDING OFFICER. The question occurs on amendment No. 2976 offered by the Senator from Maine, Ms. SNOWE, on which the yeas and nays have been ordered.

The Senator from Maine.

Ms. SNOWE. I thank the Chair.

First of all, I would like to say that this amendment is cosponsored by Senators D'AMATO, SHELBY, BIDEN, MACK, MURKOWSKI, HUTCHISON, GRAMM, COHEN, and JEFFORDS.

This amendment is a sense of the Senate that would provide coverage under Medicare for breast and prostate cancer.

When changes were made in Medicare back in 1993, there was an inadvertent omission whereby oral drug treatment was not covered under Medicare for breast and prostate cancer. It is a cost-saving measure.

Mr. President, I will ask unanimous consent to vitiate the yeas and nays and ask for a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Nebraska.

Mr. EXON. I yield my time back.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2976) was agreed to.

AMENDMENT NO. 2977

The PRESIDING OFFICER. The question occurs on amendment No. 2977 offered by the Senator from North Dakota.

The Senator from North Dakota is recognized for 30 seconds.

The Senator will suspend. The Senate will come to order.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, it is an extraordinarily simple amendment. We have in the Tax Code of the United States an incentive, a tax break, a tax deduction for somebody who closes their plant in this country and moves the jobs overseas to a tax haven, produces the same product with foreign workers, then ships the product back to the United States.

This simply gets rid of the tax break for companies that move the jobs overseas. If we cannot close this tax loophole, we cannot close any tax loophole. I would hope we will have an affirmative vote on this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, I yield back our time.

This amendment contains extraneous material and is not germane and therefore subject to a point of order under the Budget Act.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. This will be the last vote this evening, and we will start voting tomorrow morning at 9:15. The first vote will be on the amendment by——

Mr. FORD. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will please come to order.

This is the last vote. Senators will please listen.

Mr. DOLE. Senator GRAMM of Texas. The first vote will come on his amendment, and the first vote will be 20 minutes in length. Then we will go back to our 8 minutes after the first vote. We have had 20 votes today. I wish to thank my colleagues.

Mr. FORD. Mr. President, will the Senator yield? Are we going tomorrow by the schedule of amendments offered, and then we go down that line and then we are on, will be on the last ones?

Mr. DOLE. Right. We are going to go down—that is right, yes.

Mr. FORD. We go as introduced.

Mr. DOLE. Then we go to tier three.

Mr. FORD. I thank the Senator.

Mr. DOLE. Then tier four and tier five.

Mr. FORD. Ten.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the budget act. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—47

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Stevens
Wellstone

NAYS—52

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Specter
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The amendment falls.

Mr. GRAMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIST OF EXTRANEOUS MATTER (THE BYRD RULE)

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Budget Act, I submit a list of material considered to be extraneous under subsections 313 (b)(1)(A), (b)(1)(B), and (b)(1)(E) on behalf of the Committee on the Budget.

Section 313(c) of the Budget Act states:

> The inclusion or the exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

In addition, this list does not represent the Budget Committee's position on the program or policies represented in these provisions or a waiver of a point of order against these provisions. The Budget Act requires the committee to simply identify potential violations under three components of the Byrd rule and the committee has complied with the law.

That a provision appears on this list does not mean it will automatically be deleted from the bill. A Senator must raise a point of order against the provision and the Presiding Officer must sustain the point of order. The Byrd rule may be waived in the Senate by an affirmative vote of 60 Senators.

This list is a compilation of items identified by both the majority and minority staff of the Senate Budget Committee. The staffs did not agree on every item, but the differences were small when one considers the controversial and comprehensive nature of this bill. I want to thank the staff. The Byrd rule has evolved over the past 10 years and identifying those provisions that violate the rule is a very difficult exercise.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET RECONCILIATION ACT OF 1995—POSSIBLE EXTRANEOUS PROVISIONS; SENATE BILL

(Prepared by the Republican Staff of the U.S. Senate Budget Committee, October 1995)

EXTRANEOUS PROVISIONS—SENATE BILL

Provision	Comments/Violation
	AGRICULTURE, NUTRITION, AND FORESTRY
Sec. 1113(a)(4), 1113(c), and (e) (2)	Clarification on peanut pool and sale, lease, or transfer of farm poundage quota for 1991 through 2000 crops of peanuts and allows non-quota peanuts to become available if market price exceeds 120 percent of loan rate; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1115	Savings adjustment; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1116	Sense of the Senate regarding tax provisions relating to ethanol; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	ARMED SERVICES
	Naval Petroleum Reserve Sale (Elk Hills)
Sec. 2; Sec. 7421a(f)	Requirements on Elk Hills production until sale is completed; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(j)	Requirement that a sale cannot take place unless DOE provides a notice to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(k)	Expedited procedures for Congressional consideration of a resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(l)	Notice to Congress of noncompliance with deadlines; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(m)	Requirement that GAO monitor DOE sale and report to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Naval Oil Shale Reserve Sale
Sec. 2; Sec. 7421b(b)	Application of Sec. 7421(h), (j), (k), (l), & (m) to the Oil Shale Reserve sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421b(b)(C)	Expedited procedures for consideration of joint resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 3002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would require the Secretary of Treasury to report to the Congress on the feasibility of a private deposit insurance system.
Sec. 3001(d)	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This subsection outlines a merger of the two deposit insurance funds for banks (BIF) and thrifts (SAIF), but item (4) of this subsection makes implementation of all of subsection (d) contingent on a future act of Congress (which will be necessary to eliminate all thrift charters). Therefore, the entire subsection 3001(d) will have no effect when reconciliation is enacted.
	COMMERCE, SCIENCE AND TRANSPORTATION
Sec. 4001(a)(C), beginning on p. 207, line 1 with "unless" through "1998" on line 23.	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section 4001 directs the FCC to allocate spectrum to applicants by auction spectrum, but exempts certain parts of the spectrum from being sold at auction. Section 4001(a)(C) lists as one of the exemptions the spectrum to be used for advanced/digital television, with a qualification. That is, the FCC can't auction spectrum for digital TV "unless" the FCC submits within six months a new proposal for allocating this spectrum by auction and the Congress "takes action to approve the plan" (i.e. enacts a later law with the President's signature). Because the prohibition on auctioning spectrum for digital TV stands on its own and is unaffected by the possibility that Congress could always come back later and change the law, the language telling the FCC to do a new plan that would have to be approved by Congress has no impact on the receipts yielded by the auctions that are authorized in this bill, and therefore that language is extraneous.
Sec. 4002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would amend a schedule of regulatory fees charged by the FCC to broadcasters. These fees were established by OBRA '93 as permanent offsetting collections to be "credited to the account providing appropriations" to the FCC. Two months later, the Commerce-Justice-State appropriations bill for 1994 amended OBRA '93 by saying that these fees "shall be collected only if, and only in the total amounts, required in Appropriations Acts." Therefore, if there is no appropriations action, then these fees cannot be collected. Since future collection of the fees is contingent on future action by the Congress, changing the schedule of fees in this reconciliation bill has no budgetary effect, so the provision is extraneous.
Sec. 4021	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section limits the fee the Coast Guard can charge for inspection of small vessels. Provision does not sunset and causes outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Interest for Oil Spill Recovery Institute.	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending by allowing interest in Oil Spill Liability trust fund attributed to the Oil Spill Recovery Institute (OSRI) be used by the Institute. Provision may or may not sunset, due to interaction with next provision, dealing with Section 1012 in Alaska. Provision will cause outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Section 1012 in Alaska	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending beginning eleven years after enactment of the 1995 Coast Guard authorization bill by mandating principal attributed to the Oil Spill Recovery Institute (OSRI) in the Oil Spill Liability trust fund be used for oil spill liability and compensation activities in Alaska.
Sec. 4033	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides change in current law to the Local Rail Freight Assistance program allowing for disaster assistance for railroads.
Sec. 4034	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides for additional eligible state activities under the Local Rail Freight Assistance program.
	ENERGY AND NATURAL RESOURCES
	Subtitle A—United States Enrichment Corporation
Sec. 5002	Enrichment Corporation statement of purpose; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5004(d)(2) & (3)	Enrichment Corporation amendments dealing with the scoring of the proceeds from the sale of the corporation; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(a)(1)(B)	Requirement that DOE accept low level nuclear waste from any operator of an enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
Sec. 5013(c)	Waiver of liability for State or Interstate Compact's requirement to accept low level nuclear waste from any enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle C—Arctic Coastal Plain Leasing and Revenue Act
Sec. 5202	Purpose and policy; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5207(d) second sentence	Special Areas reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Portion of Sec. 5215(b)	Reporting requirements (beginning with line 12 on page 48 through line 2 on page 49); Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle D—Park Entrance Fees
Sec. 5300(a)(3)	Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5300(a)(10)	Report to Congress on fee collections; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5301	Authorizes Secretary to enter into challenge cost-share agreements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5302	Cost recovery for damage to National Park resources; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5305(b)(2) second sentence	Reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle E—Water Projects
Sec. 5410 second sentence of subsection (2)	Hetch Hetchy dam authorizations for Yosemite operations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle F—Oil and Gas Royalties
5509	Royalty in Kind; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5510	Royalty Simplification Audit and Reporting Requirements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5512	Delegation to States; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle H—Mining
5709	Uses and Objectives of Mine Reclamation Fund; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle K—Radio and Television Communication Site Fees
Sec. 5920	CBO scores no impact from communicatoin fees; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	ENVIRONMENT AND PUBLIC WORKS
Sec. 6003(a)	Findings section regarding highway minimum allocation program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICARE
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	Medicare Choice
Sec. 1895A (c) (2) (B)	"the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' " Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895A (b) (1) (B) (iii)	MSAs—costs $$ relative to the savings of Medicare Choice. Separable. Probably a violation. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895M (d) (3)	"The Secretary shall conduct an analysis of the measurable input cost differences across payment areas"and "The Secretary shall also determine the degree to which medicare beneficiaries have access"and "the Secretary shall submit a report" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895M (f)	Demonstration project on market-based reimbursement and competitive pricing. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895R (c)	Report on the temporary certification of coordinated care plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895R (f)	Partial capitation demonstration Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
	Part A provisions
Sec. 7012 (c)	Development [of] National Prospective Payment Rates for Current Non-PPS Hospitals Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7032	Incentive payments to SNFs. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7037	Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part B provisions
Sec. 7043 (c)	Study & report of physician fee schedule. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7044 (c)	Upgraded Durable Medical Equipment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7050	Physician Supervision of Nurse Anesthetists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part A & B provisions
Sec. 7056	Treatment of assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (a)	Nothing in this Act shall be construed to change the status under title XVIII of ... (Indian Health Centers). Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (b)	Conforming amendment to change the name/organization for Christian Scientists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7061 (a)	(C) Share of Savings—Bonus payments to home health agencies. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7061 (a)	(f) Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Rural Areas
Sec. 7071	Medicare-dependent small rural hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7072	Medicare rural hospital flexibility: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7073	Rural emergency access care hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7074	Payments to physicians in shortage areas: increases OL by $0.4B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7075	Direct fee schedule payments to physician assistants and nurse practitioners: increases OL by $0.3B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7076	Demonstration projects to promote telemedicine. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7077	Prospective Payment Assessment Commission report on updates for urban Medicare-dependent hospitals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Health Care Fraud & Abuse
Sec. 7103	Health Care Fraud and Abuse Guidelines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7112	Minimum exclusion period for individuals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7116	Clarification of and additions to exceptions to anti-kickback penalties. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7121	Establishment of the health care fraud and abuse data collection program. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7143	Injunctive relief relating to federal health care offenses. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7144	Grand jury disclosure. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7148	Laundering of monetary instruments. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7149	Authorized investigative demand procedures. Is this a necessary term or condition? Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Other provisions for trust fund solvency
Sec. 7173	Transfers of certain part B savings to HI trust fund. (i.e., medicare lockbox) Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICAID
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	The provisions listed here as Sec. 2102 through Sec. 2137 are new sections added by Sec. 7191(a) of the reconciliation bill.
Sec. 2102 (b)(7)	Plan must include "a description of the average amount paid per discharge" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2105 (b)	Each State with a medicaid plan shall establish and maintain an advisory committee (which shall aid in) the development, revision, and monitoring the performance of the medicaid plan" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2106	Secretary shall create a Medicaid Task Force. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (c)	"The medicaid plan shall provide medical assistance for immunizations." Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (d)	"The medicaid plan shall provide prepregnancy planning services and supplies" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (e)	"A medicaid plan may not deny or exclude coverage on the basis of a pre-existing condition" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (f)	"A medicaid plan shall not impose treatment limits on mental illness services" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2116	Causes of action Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2117	Spousal impoverishment mandate. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2122 (g)	Super-block grant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2123 (g), (h)	Limitations on use of funds. "No payment shall be made to a State under this part for expenditures for items"(g) abortions; (h) assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2137	Nursing home standards. "Each medicaid plan shall provide for the establishment and maintenance of procedures for nursing facilities which furnish services under the plan."—mandate Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (1)	"No payment shall be made to a State under this part for medical assistance for medical assistance for covered outpatient drugs unless the manufacturer of the drug" "No payment shall be made under this part to a State that requires manufacturer rebates" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (2)	"in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer must" Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7194	Authorizes new demonstration project. No appropriation. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7195	CBO Report requiring analysis of effect of block grant on health insurance status. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—NON-HEALTH
Sec 7201: 401	Purpose of Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(C)	3 month notification to State with Indian tribes exercising funding option—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(D) (i) and (ii)	Additional payments for EA where State plan is modified in 1994. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(a)(2)(D) (iii)	Directed Scoring Post 2000—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(3), (4)(B)	Supplemental Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(b)(1)	Limitation on admin expenditures—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(2)	Authority to treat interstate immigrants under rules of former states —Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(4)	Authority to operate employment placement program with grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
403(b)(5)	Authority to 30% transfer grant to Child Care Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(f)	Job Placement Performance Set Aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(h)	Contingency Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
404(d)	Required Penalties against Individuals—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(e)	Non Displacement in Work Activities—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(f)	Sense of Congress on use of Job training fund—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(g)	Encouragement to Deliver Child Care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
405	Limitations and Requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(a)	Congressional Findings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(b)	State option to deny assistance to out of wedlock births to minor children: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(c)	State option to deny assistance for additional births: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(1) and (2)	Requirement that teenage parents live at home or in supervised arrangements: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(3)	Grants to States to provide supervised living—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(e)	Requirement that teenage parents attend high school—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(f)	Grant to States that reduce out-of-wedlock birthrate—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(g)	Denial of assistance by the State not limited to these requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(i)	Report to Congress on Automation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(j)	Report to Congress on participation rates compliance—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410	Research, Evaluations, State Rankings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410(h)	Direct Spending for additional evaluations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
411	Census Bureau Study—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
412(b)	Hold harmless for cost neutrality from waiver conditions—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
413	State and County Run Demonstrations—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
414(a)	Purpose of provision—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
415	Assistant Secretary for Family Support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
418	High Performance Bonus Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
419(b)	Additional Child Care Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
420	Single state agency in charge of child care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
421	Tax Refund offset to states for overpayments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7202	Services Provided by Charitable/Religious, or Private Organizations Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7203	No funds provided to institutions may be used for sectarian worship—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7204	Census data on grandparents as primary caregiver—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7205	Study of Effect of Welfare Reform on Grandparents as Caregivers—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7206	Development of new Social Security Card Authorization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7207	Funds used by organizations can not support or oppose publicly without disclosure of receipt of funds. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7208	Modification of JOLI program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7209	Demo project for School Utilization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7211	Parental Responsibility Contracts—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7212	Federal funds must be spent in accordance with laws and procedures applicable to state revenues—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7216	Secretary of HHS must submit list of technical amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7251(e)	Supplemental Funding for Substance Abuse—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7263	Additional requirements for representative payees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7271	Annual Report to Congress on SSI—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7272	Improvements to Disability Evaluation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7273	Study of the Disability Determination Process—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7274	Study by GAO on impact of Amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7281 to 7287	National Commission on Future of Disability—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7291	Repeal of Maintenance of Effort for State SSI Supplement—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7302	Distribute child support collections to families off welfare first—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7303	Rights to notifications and hearings for those applying for services or a party to these actions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7344(b)	Extension of enhanced match and new funds matching funds for ADP development—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7345	Training and technical assistance, child support demonstrations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7346	Changes in the annual report to Congress—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7351	National Child Support Guidelines Commission—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7354	Non-liability for depository institutions providing financial records to child support agencies—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(a): 454(C)(b) and (c)	Permissive fees and excess costs of enforcement. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(b)	Sense of Senate on how to collect fees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7377	Sense of Senate on inability of non-custodial parents to pay child support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7381	Grants to State for Access and Visitation Programs—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7406	Information Reporting, requiring states to provide names to INS—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7411	Reductions in Federal Government Positions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7412	75% reduction in Federal positions dealing with AFDC—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7413	Sense of Senate that reductions should come from Washington DC office—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7422	Establish National Goals for teenage pregnancy prevention—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7442	Sense of Senate on legislative accountability for unfunded mandates—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7443	Sense of Senate Regarding Enforcement of Statutory Rape—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7444	No prohibition on sanctioning an individual when testing positive for controlled substances—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7445	Abstinence Education set aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7481	Sense of Senate on Cost of Living Adjustments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—REVENUES
Sec. 12401(f)	Requires the Secretary of Labor to implement a "Business Awareness Program" to educate and encourage business to benefit from the Work Opportunity Tax Credit. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 6039F(d)	Beginning with the phrase, ''notwithstanding any other provision of law...'' requires the Secretary of Treasury to publish in the Federal Register the names of expatriates. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12874(c)	Requires the trustees of the Combined Fund (coal industry retirees) to provide documents to contributors if requested. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Requires notices to charitable beneficiaries of charitable remainder trusts that a remainder has been created. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Provides exceptions to the notification requirements (to charitable beneficiaries of the creation of or continuation of charitable remainders) if the Secretary determines it is not necessary for efficient administration of tax law. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12878	Section 2878(e) authorizes the Secretary of the Treasury to prescribe regulations regarding Modified guaranteed contracts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12904(a) (12)(D)Requiring written notice to each employee eligible to participate in certain qualified cash or deferred arrangements and matching contributions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues..	
	GOVERNMENTAL AFFAIRS
	There are no extraneous provisions in this title.
	JUDICIARY
	There are no extraneous provisions in this title.
	LABOR AND HUMAN RESOURCES
Sec. 10002(c)(2)(C)	Indirect costs for direct loans may not exceed 50% of the section 458 funds and they may not be used for promotion the direct loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10002(g) p. 1422 lines 5-8	Sense of the Senate statement that the .85 fee to institutions should not be passed on to students. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10003(d) & (e)	Permits the development, and distribution an use of an electronic version of the free federal common application for by guaranty agencies and lenders. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (g)	Permits guarantors to use the funds from the federal payment of the Administrative Cost Allowance to pay for any means of monitoring the enrollment and repayment status of borrowers. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (h)	Guaranty agencies are prohibited from using federal reserves for marketing, advertising, or promotion of the guaranteed loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10007(a)(4)(A)(ii)	Provision regarding Sallie Mae and full faith and credit of the United States. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
VETERANS' AFFAIRS	
Veterans' Affairs Committee reconciliation language contains no Byrd Rule Violation	

Note: Prepared by SBC majority staff, October 25, 1995 (12:55 pm) and by the Staff of the Committee on the Budget, pursuant to Section 313(c) requiring a list of items considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E). The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

Mr. EXON. Mr. President, the chairman of the Budget Committee was kind enough to discuss with me in advance the list that he just submitted for the RECORD. I, in turn, have shared with him my view of which items in the bill violate the Byrd rule against extraneous matter in reconciliation.

There is a great deal of agreement on these two lists, but some differences persist. To make the RECORD more complete, I submit my list of extraneous provisions and ask unanimous consent that it be printed in the RECORD.

At the close of debate on the bill, after Senators and the Parliamentarian have had a full, fair chance to review these lists, I intend to raise an omnibus point of order under the Byrd rule against a large number of provisions that we have determined to be extraneous. I ask unanimous consent that my list be printed in the RECORD to give Senators the maximum amount of notice as to which provisions are under review for that purpose.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF BYRD RULE VIOLATIONS TO THE BALANCED BUDGET RECONCILIATION ACT OF 1995

(Prepared by the Democratic Staff of the Senate Budget Committee, October 25, 1995)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
	Title I COMMITTEE: AGRICULTURE Compliance: 1,5 yes; 7 no		
1113(b)(3)(B)	Creates a temporary quota for seed peanuts	313(b)(1)(A)	No budgetary impact.
1111(b)	Terminates Tree Assistance program	313(b)(1)(A)	No budgetary impact.
1113(c)	Provides for Sale, Lease or Transfer of Peanut quotas	313(b)(1)(d)	Savings are incidental.
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustment to prorate payments to farmers if deficit targets aren't met	313(b)(1)(A)	No budgetary impact.
1116	Sense of the Senate regarding Ethanol	313(b)(1)(A)	No budgetary impact.
1201	Establishes Environmental Incentives Program		Ag title out of compliance—spends money.

BYRD RULE VIOLATIONS, RECONCILIATION 1996

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE: II COMMITTEE: ARMED SERVICES Compliance 1st Year: No; 5-Years: Yes; 7-Years: Yes		
7421a.(a)	Sale Required. The sale of the Elk Hills, CA site in the NPR.	313(b)(1)(E)	There is a loss of offsetting receipts in the outyears that is not offset with the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
7421a.(e)	Treatment of State of California. Reservation of 7 percent of the sale of the Elk Hills site in the NPR to settle claims with the State of California.	313(b)(1)(A)	This provision amounts to California's price for waiving its claim to the land within the NPR. This 7 percent set-aside does not score because the spending is subject to appropriations action.
7421.a.(f)	Maintaining Elk Hlls Unit Production. Sets requirements for Elk Hills to maintain production till sale is complete.	313(b)(1)(A)	This provision provides no change in revenue or outlays and is thus extraneous.
7421a.(j)(3)	Notice to Congress. Establishes a sense of the Congress regarding the Secretary of the Energy's approval of the Elk Hills site in the NPR.	313(b)(1)(A)	As a sense of the Senate, this provision produces no changes in revenue or outlays and is thus extraneous.
7421a.(k)	Joint Resolution of Approval. Provides fast track authority for congressional approval of the sale of the Elk Hills site in the NPR.	313(b)(1)(A)	This provision does not produce any change in revenue or outlays and is thus extraneous.
7421.a(1)	Noncompliance with Deadlines. Requires the Secretary of Energy to notify Congress if the sale is delayed.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.a(m)	Oversight. Requires the Comptroller General to monitor the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(a)	Sale Required. The sale of reserves in the NPR other than that at Elk Hills, CA.	313(b)(1)(E)	There is a loss of offsetting receipts in the outyears beyond 2002 that is not offset within the title. Thus, the provision produces revenue losses in years beyond the years covered in the budget resolution.
7421.b.(b)	Administration of Sale. Applies subsections c, d, h, i, j, k, l, m, and n or section 7421.a. of this title to the sale of sites other than Elk Hills.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(b)(C)	Joint Resolution of Approval. Provides fast track authority for congressional consideration of the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE III COMMITTEE: BANKING, HOUSING, AND URBAN AFFAIRS Compliance: Yes		
3002	Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate)
3001(d)	Merger of BIF and SAIF	313(b)(1)(A)	Has no impact on the deficit.
	TITLE IV COMMITTEE: COMMERCE, SCIENCE, AND TRANSPORTATION Compliance: Yes		
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate)
4001(a)(C)(i)(ii)	Spectrum language p. 207, lines 2–23	313(b)(1)(A)	This language has no impact on spending.
4021	Limits on Coast Guard User Fees	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(a)	Oil Spill Recovery Institute	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(A)	Use of Section 1012 in Alaska	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4033	Disaster Funding for Railroads	313(b)(1)(A)	This section clarifies procedures that allow the Secretary of Transportation to use LRFA for railroad disaster assistance. The section has no impact on the deficit. (not in cost estimate)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
4034	Grade-crossing eligibility	313(b)(1)(A)	This section expands the list of activities eligible for LRFA and has no impact on the deficit. (not in cost estimate)
		TITLE V	
		COMMITTEE: ENERGY AND NATURAL RESOURCES	
		Compliance in 1, 5 and 7	
Subtitle A, Uranium Enrichment Corporation:			
5002	Statement of Purpose	(b)(1)(A)	Non-budgetary.
5004(d)(2) & (3)	Proceeds	(b)(1)(A)	Non-budgetary.
5013(a)(1)(B)	Low-Level Waste	(b)(1)(A)	Non-budgetary, requirement that DOE accept low-level waste from any operator of an enrichment facility.
5013(c)	Low-Level Waste	(b)(1)(A)	Non-budgetary, waiver of liability for State or Interstate Compact's requirement to accept low level nuclear waste from any enrichment facility.
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the State of California for the purpose of creating a low-level radioactive waste site.
Subtitle C, ANWR:			
5202	Purpose and Policy	313(b)(1)(D)	Non-budgetary.
5206	Adequacy of 1987 EIS	313(b)(1)(A)	Extraneous; no budgetary impact. Overrides the impact assessment requirements of the National Environmental Policy Act (NEPA) by declaring that the 1987 environmental impact statement satisfies the requirements of NEPA.
5702(d), second sentence	Special Areas	313(b)(1)(A)	Non-budgetary, reporting requirements to Congress.
5212	Expedited Judicial Review	313(b)(1)(A)	Extraneous, no budgetary impact. Limits complaints seeking judicial review to 90 days after date of any regulation.
5213	Rights of way Requirements	313(b)(1)(A)	Extraneous, no budgetary impact. Overrides existing law (ANILCA's title XI) which delineates procedures for transportation rights of way within the Alaska refuges, including the ANWR.
5215(b)	New Revenues	313(b)(1)(A)	Non-budgetary, reporting requirements.
Subtitle D, Park Entrance Fees:			
5300(a)(3)	Fees	313(b)(1)(A)	Non-budgetary, authorization of appropriations.
5300(a)(10)	Fees	313(b)(1)(A)	Non-budgetary, report to Congress on fee collections.
5301	Challenge Cost-Share Agreements	313(b)(1)(A)	Non-budgetary, authorizes Secretary to enter into challenge cost-share agreements.
5302	Cost Recovery	313(B)(1)(A)	Non-budgetary, cost recovery for damage to National Parks resources.
5305(b)(2)	Allocation and Use of Fees	313(b)(1)(A)	Non-Budgetary, reporting requirements to Congress. (second sentence)
Subtitle E, Water Projects:			
5510(2)	Hetch Hetchy Dam	313(b)(1)(A)	Extraneous, no budget impact. Sets up fund subject to appropriations.
Subtitle F, Federal Oil and Gas Royalties:			
5509	Royalty In Kind	313(b)(1)(A)	Extraneous, no budgetary impact. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	313(b)(1)(A)	Extraneous, no budgetary impact. Requires Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	313(b)(1)(A)	Extraneous, no budgetary impact. Delegates certain auditing responsibilities to states.
5513	Performance Standard	313(b)(1)(A)	Extraneous, no budgetary impact. Changes the standards for assessing civil penalties.
Subtite H, Mining:			
5709	Use and Objectives of State Funds	313(b)(1)(A)	Extraneous, no budgetary impact. Stipulates how monies to states can be spent.
Part K: 5920	Radio and TV Site Communications Fees	313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by this level beginning in 1996.
		TITLE VI	
		COMMITTEE: ENVIRONMENT & PUBLIC WORKS	
		Compliance in 5 and 7, not in 1	
Section 6002(c)	Rescission of appropriated demonstration projects	313(b)(1)(C)	These demonstration projects are not within EPW's jurisdiction.
		TITLE VII—SPENDING	
		COMMITTEE: FINANCE	
		Compliance: No in 1996 and 1996–2000	
Chap. 1	Medicare Choice Plans		
1895A(b)(1)(B)	Medical savings accounts	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
1895A(c)(2)(B)	Special rule for end-stage renal disease	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(d)(3)	Report to the Congress on Medicare Choice	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(f)	Demonstration project on market-based reimbursement and competitive pricing.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(c)	Report on the temporary certification of coordinated care plans.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(f)	Partial capitation demonstration	313(b)(1)(A)	Produces no change in outlays or revenues.
Chap. 2:	General provisions related to Part A		
7012(c)	Development National Prospective Payment Rates for Current Non-PPS Hospitals.	313(b)(1)(A)	Requires Secretary of HHS to develop a proposal and recommendations. Produces no change in outlays or revenues.
7013(c)	Hospital-specific adjustment for capital-related costs.	313(b)(1)(D)	Redistributes payments among hospitals. Merely incidental to deficit reduction.
7013(d)	Revisions of exceptions process under PPS	313(b)(1)(D)	Changes exceptions process. Merely incidental to deficit reduction.
7036	Medical review process	313(b)(1)(A)	Requires HHS to establish a medical review process to examine effects of provisions on extended care services. According to CBO, produces no change in outlays or revenues.
7037	Report by Prospective Payment Commission	313(b)(1)(A)	Requires ProPAC to submit a report on SNF services. Produces no change in outlays or revenues.
Chap. 3:	Provisions Relating to Part B		
7043(c)	Payments for clinical lab diagnosis services study and report.	313(b)(1)(A)	Requires HHS to prepare study of fee schedule for clinical labs. Produces no change in outlays or revenues.
7044(c)	Upgraded Durable Medical Equipment	313(b)(1)(A)	Produces no change in outlays or revenues.
7050	Physician supervision of nurse anesthetists	313(b)(1)(A)	Requires HHS to revise regulations on anesthesia services. Produces no change in outlays or revenues.
Chap. 4:	Provisions Relating to A and B		
7056	Treatment of Assisted Suicide	313(b)(1)(A)	Prohibits payments for treatment of assisted suicide. Produces no change in outlays or revenues.
7057	Administrative provisions	313(b)(1)(A)	Codifies current status of Indian health facilities and Christian Science Providers as Federally qualified health centers. Produces no change in outlays or revenues.
7061(a)	Report to ProPAC	313(b)(1)(A)	Requires PROPAC to submit an annual report to Congress on Home Health payment methodology. Produces no change in outlays or revenues.
Chap. 5:	Rural Areas		
7071	Medicare-dependent, small, rural hospital payment extensions.	313(b)(1)(B)	Re-institutes Medicare Dependent Hospital program. Costs $0.4 billion over 7-years.
7072	Medicare rural hospital flexibility program	313(b)(1)(B)	Designates critical access hospitals in rural areas. Costs $0.2 billion over 7-years.
7073	Rural Emergency Access Care hospitals	313(b)(1)(B)	Establishes new program for REACH. Costs $0.2 billion over 7-years.
7074	Additional payments for physicians Services furnished in shortage areas.	313(b)(1)(B)	Increases payments to rural, primary care physicians. Costs $0.4 billion over 7-years.
7075	Payments to physician assistants and nurse practitioners.	313(b)(1)(B)	Pays physician assistants and nurse practitioners 85% for outpatient settings. Costs $0.3 billion over 7.
7076	Demonstration projects for telemedicine	313(b)(1)(A)	Authorization for demonstration project grants for Telemedicine. Produces no change in outlays or revenues.
7077	ProPAC recommendations on urban Medicare dependent hospitals.	313(b)(1)(A)	Directs ProPAC to make recommendations on hospitals that have a high number of Medicare patients and patient days. Produces no change in outlays or revenues.
Chap. 6:	Health Care Fraud and Abuse Prevention		
7112	Establishment of minimum period of exclusion for certain individuals.	313(b)(1)(A)	Codifies current practice. Produces no change in outlays or revenues.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare Produces no change in outlays or revenues.
7121	Data Collection Program	313(b)(1)(B)	Requires HHS to establish a national fraud and abuse data collection program. Provision increases the deficit.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Chap. 7:	Other Provisions for Trust Fund Solvency		
7171	Eligibility Age for Medicare	313(b)(1)(A)	Raises eligibility age of Medicare from 65 to 67. Produces no change in outlays or revenues during 7-year period.
7173	Transfers of B to Part A	313(b)(1)(A)	Transfers premium and deductible savings to Part-A trust fund. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
TITLE VI COMMITTEE: FINANCE—MEDICAID Compliance: Not in 1, not in 5, in compliance in 7			
Subtitle B, 7191:			
2100(a)	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact. Statement of purpose.
2101	Discription of Strategic Objectives and Performance Goals.	313(b)(1)(A)	Extraneous, no budgetary impact. Lays out requirements for state plans including: (1) general description; (2) objectives and performance goals relating to childhood immunizations, infant mortality and standards of care; (3) factors states might consider in specifying objectives and goals; (4) performance measures.
2102(a)	Annual reports	313(b)(1)(A)	Extraneous, no budgetary impact. States are required to submit reports which include summaries of: expenditures and beneficiaries; utilizations; achievement of performance goals; program evaluations, fraud and abuse and quality control activities; administrative roles, and responsibilities, including organizational charts, costs, interstate compacts, and citations to state statutes; and inpatient hospital payments.
2102(a)	Special Rules	313(b)(1)(A)	Extraneous; no budgetary impact. Defines general categories of beneficiaries for use in State plans and reports.
2103	Periodic, Independent Evaluations	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to have an independent entity evaluate its Medicaid plan every three years.
2104	Description of Process for Medicaid Plan Development.	313(b)(1)(A)	Extraneous; no budgetary impact. Requires state plans to include a description of the process under which the plan is to be developed and implemented.
2105(a)	Consultation in Medicaid Plan Development	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to give public notice of, allow public inspection of, and consider public comments on state plans before submission. Does not apply to revisions. Specifies what is to be included in the notice, how the amendments may be described, where the notice may be published.
2105(b)	Advisory Committee	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to establish and maintain at least 1 advisory committee. Specifies issues on which states must consult with the advisory committee, and the geographic diversity of the advisory committee.
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. THe Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2111(a)	Eligibility and Benefits	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must serve all political subdivisions, provide for making medical assistance available to any pregnant woman or child under the age of 12 whose family income does not exceed 100 percent of poverty and to any individual with a disability.
2111(b)(1)	Elements Relating to Eligibility	313(b)(1)(A)	Extraneous; no budgetary impact. Plans are required to describe: limitations on eligibility; eligibility standards; methods of establishing and continuing eligibility and enrollment; the eligibility standards that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of a community spouse.
2111(b)(2–6)	Description of General Elements	313(b)(1)(A)	Extraneous; no budgetary impact. Plans are required to describe: the amount, duration and scope of health care services and items covered including differences among population groups; delivery method; under what circumstance fee-for-service benefits are furnished; cost-sharing if any; and utilization incentives.
2111(b)(7)	Support for Certain Hospitals	313(b)(1)(A)	Extraneous; no budgetary impact. Sets forth criteria for hospitals that are to be eligible for disproportionate share hospital (DSH) payments.
2111(c)	Immunizations for Children	313(b)(1)(A)	Extraneous; no budgetary impact. Requires plans to provide medical assistance for immunizations for children eligible for medical assistance in accordance with a schedule for immunizations established by the Health Department of the State.
2111(d)	Family Planning Services	313(b)(1)(A)	Extraneous; no budgetary impact. States shall provide prepregnancy planning services and supplies as specified by State.
2111(e)	Preexisting Condition Exclusions	313(b)(1)(A)	Extraneous; no budgetary impact. Prohibits States from denying coverage to eligible individuals on the basis of a preexisting condition. If a State allows a contractor to exclude coverage on the basis of a preexisting condition, the State must provide for such coverage through its Medicaid plan.
2111(f)	Mental Health Services	313(b)(1)(A)	Extraneous; no budgetary impact. A Medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.
2112	Set-asides For Population Groups	313(b)(1)(A)	Extraneous; no budgetary impact. State plans are required to provide 85 percent of amount spent in FY 1995 on low-income families; low-income elderly; and low-income disabled people. Excludes assistance provided to certain aliens. Includes DSH.
2112(d)	Use of Residual Funds	313(b)(1)(A)	Extraneous; no budgetary impact. Any funds not required to be expended under the set-asides may only be expended for: medical assistance for eligible low-income individuals, medically-related services, and administration.
2113	Premiums and Cost-sharing	313(b)(1)(A)	Extraneous; no budgetary impact. States may not impose cost-sharing on pregnant women and children under 100 percent of poverty for primary or preventive care under the Medicaid plan, unless the charge is nominal. States may impose cost-sharing to discourage the inappropriate use of emergency medical services. State may impose premiums and cost-sharing differentially.
2114	Description of Process for Developing Capitation Payment Rates.	313(b)(1)(A)	Extraneous; no budgetary impact. If a state plans to contract with a capitated health care organization, the plan must contain descriptions of the actuarial science that will be used to analyze health care expenditures and other data, the general qualifications required by the state, how data will be disseminated to contractors, and how enrollees will be identified. States must provide public notice about capitation rates unless the information is designated as proprietary and seek public comment. This section contains definitions.
2115	Construction	313(b)(1)(A)	Extraneous; no budgetary impact. Outlines state flexibility in benefits, provider payments, geographical coverage and selection of providers. Says that states do not have any specific responsibility to beneficiaries or providers for particular services or payments or for consistent benefits and payments throughout a state. Provides flexibility for contracting with managed care providers or case management services.
2116	Causes of Action	313(b)(1)(A)	Extraneous; no budgetary impact. States that no applicants, beneficiaries, providers or health care plans has a right to sue if a State fails to comply with this law or with the provisions of a Medicaid plan. Provides that no person shall be excluded from participation in any program funded under this title on the ground of sex or religion. Outlines procedures when State is found to discriminate. States that nothing in this subsection may be construed as affecting any actions brought under State law.
2117	Treatment of Income and Resources	313(b)(1)(A)	Extraneous; no budgetary impact. Spousal impoverishment. Includes definitions.
2121	Allotment of Funds Among States	313(b)(1)(B)	Extraneous; costs. This section contains the pool of available funds. The section outlines procedures for determining a state's allotment. It provides for allowing states to draw down future allotments or carry over 1996 funds. It sets out procedures for notifying state of their allotments and calls for a GAO review of the allotments. This section also contains definitions.
2122	Payments to States	313(b)(1)(A)	Sets forth payments to States for medical assistance, medically related services, and administrative expenses, in relation to the state's Federal medical assistance percentage (FMAP), which are defined. Makes provisions for overpayments. Contains restraints on provider-related donations and health care-related taxes; includes a waiver for broad-based health care taxes not related to payments. Contains definitions. Includes treatment of the Territories and Indian Health programs.
2122(g)	Authority to Use Portion of Payment for Other Purposes.	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows state to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2123	Limitation on Use of Funds; Disallowance	313(b)(1)(A)	Extraneous; no budgetary impact. No payments are to be used for providers excluded from participation under other programs including MCH block grant, Medicare and Title XX. Defines treatment of third party liability. Medicaid is the secondary payer to any other Federal operated or financed health care program. No payments shall be made to a state for medical assistance furnished to an alien who is not lawfully admitted for permanent residence, except for emergency services, if the alien otherwise meets the eligibility requirements for Medicaid and are not related to organ transplants.
2123(g)	Limitation on Payment for Abortions	313(b)(1)(A)	Extraneous; no budgetary impact. No funds are to be made to a State for any amount expended to pay for any abortion or to assist in the purchase in whole or in part of health benefit coverage that includes coverage or abortion. Does not apply in the case of rape or incest or if the woman's life is in danger.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2123(i)	Unauthorized Use of Funds	313(b)(1)(A)	Extraneous; no budgetary impact. No payments shall be used to purchase or improve land or construct or remodel buildings, to pay room and board except when provided as part of a temporary, respite care, to provide educational services without regard to income, or to provide vocational rehabilitation or other employment and training services available through other programs.
2124	Grant Program for Community Health Centers and Rural Health Clinics.	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to set aside 1 percent of the pool amount to be used for grants for primary and preventive health care services at rural health clinics and Federal qualified health centers.
2131	Use of Audits to Achieve Fiscal Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. Requires annual audits of State expenditures. Requires states to adopt and maintain fiscal controls, accounting procedures, and data processing safeguards which are consistent with generally accepted accounting principles.
2132	Fraud Prevention Program	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have programs to detect and prevent fraud and abuse. Includes program requirements. Requires States to report information about providers excluded from program to the Secretary and State medical licensing board.
2133	Information Concerning Sanctions Taken by State Licensing Authorities against Health Care Practitioners and Providers.	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have reporting systems about proceedings against providers.
2134	Medicaid Fraud Control Units	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have Medicaid fraud units. Organization of unit is specified. It is to provide for collection of overpayments.
2135	Recoveries from Third Parties and Providers	313(b)(1)(A)	Extraneous; no budgetary impact. Each State plan shall take reasonable steps to ascertain the legal liability of third parties to pay for care and services under the plan. Provides protections to beneficiaries. Provides penalties in the form of reductions of payments to a person who violates this section.
2135(f)	Required Laws Relating to Medical Child Support	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have laws that prohibit insurers from denying enrollment of a child under the health coverage of a parent on the ground that the child was born out-of-wedlock, is not claimed on the parent's income tax return, or does not reside with the parent or in the insurer's service area. Contains further provisions to assure access to health insurance for kids with divorced parents.
2135(g)	Estate Recoveries and Liens permitted	313(b)(1)(A)	Extraneous; no budgetary impact. States may take appropriate action to recover from an individual or estate any amounts paid as medical assistance to or on behalf of the individual under the plan including through the imposition of liens against property or the estate. A state may not impost a lien on the principal residence of moderate value or the family farm owned by the individual as a condition of the spouse of that individual receiving long term care.
2136	Assignments of Rights of Payment	313(b)(1)(A)	Extraneous; no budgetary impact. States may require as a condition of eligibility that individuals: assign to the State any rights to payment for medical care from any third party; cooperate in establishing paternity if the person is a child born out of wedlock and in obtaining support payments for himself and such a child unless the individual is a pregnant woman or is found to have good cause for refusing.
2137	Quality Assurance Standards for Nursing Facilities	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to establish nursing home standards. Provides procedures for when a State determines that a nursing home previously certified for participation no longer meets the requirements.
2138	Other Provisions Promoting Prgm Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to make public findings of any survey of any health care facility or organization. Record keeping of services provided to individuals required.
2151	Submittal and Approval of Medicaid Plans	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to submit plans that meet the requirements of this title as a condition of receiving funding.
2152	Submittal and Approval of Plan Amendments	313(b)(1)(A)	Extraneous; no budgetary impact. States may amend their plan at any time. States must provide public notice of any amendments that eliminate or restrict eligibility or benefits.
2153	Sanctions for Substantial Noncompliance	313(b)(1)(A)	Extraneous; no budgetary impact. Secretary is required to review plans and amendments promptly. The Secretary must notify a State within 30 days if its plan substantially violates a requirement of this title and will issue an order that the plan is not to become effective. If upon finding the administration of the plan to be in violation, after notice and opportunity for a hearing, the Secretary shall order remedy. Provides for State response, corrective action, review, failure to respond, judicial hearing.
2154	Secretarial Authority	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary and the State can negotiate a satisfactory resolution to any dispute concerning the approval of a Medicaid plan.
2171	Definitions	313(b)(1)(A)	Extraneous; no budgetary impact.
2172	Treatment of Territories	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary may waive certain requirements for the Territories.
2173	Descriptions of Treatment of Indian Health Programs.	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must include provisions made for any Indian health programs operated under the plan.
7192	Medicaid Drug Rebate Program	313(b)(1)(A)	Extraneous; no budgetary impact. No payment shall be made to a state for covered outpatient drugs unless the manufacturer has entered into a Medicaid rebate agreement with the Secretary. States are not required to participate in the Medicaid rebate agreement.
7193	Waivers	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States with Section 1115 waivers to opt to continue to operate such a waiver, and to continue to receive funding under the waiver, as long as it does not exceed funding granted under this Title. If states opt to terminate a waiver, they are held harmless for accrued cost neutrality liabilities.
7194	Children with Special Health Care Needs	313(b)(1)(A)	Extraneous; no budgetary impact. Authorization of appropriations. The Secretary is required to develop a national classification system to identify children with special health care needs. The Secretary is allowed to make grants to not more than 5 States to conduct 5-year demonstration projects to test the reliability of the classification system, develop methods of assuring quality care for children with special needs, provide for methods to identify these children. These projects will develop adequate capitation rates for these children.
7195	CBO Reports	313(b)(1)(A)	Extraneous; no budgetary impact. CBO is to prepare an annual analysis of the effects of these amendments on the health insurance status of children, retirees, and the disabled and to report by May 15.

Title VII

COMMITTEE FINANCE—WELFARE AND OTHER

Compliance: Not in 1, not in 5, in compliance in 7

Block Grants for Temporary Assistance for Needy Families

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle C, Under 7201:			
401	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact.
402	Eligible States; State Plan	313(b)(1)(A)	Extraneous; no budgetary impact. Requires States to have a written plan and to make the plan available to the pacific.
403	Payments to States and Indian Tribes	313(b)(1)(B)	Extraneous; costs. This section establishes the block grant.
403(a)(2)(C)	Notification	313(b)(1)(A)	Extraneous; no budgetary impact. Requires Secretary to notify the State 3 months in advance about the amount a State's grant will be reduced to pay for the program for Indians in that State.
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State.	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
403(b)(3)	Authority to Reserve Certain Amounts for Assistance	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to reserve for assistance or child care.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
403(b)(4)	Authority to Operate Employment Placement Program.	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to make payments or provide vouchers to State-approved public and private job placement agencies that provide employment placement services to people who receive assistance.
403(c)	Timing of Payments	313(b)(1)(A)	Extraneous; no budgetary impact. Allows for quarterly installments.
403(d)	Federal Loan Fund for State Welfare Programs	313(b)(1)(A)	Extraneous; CBO states in a footnote that under the rules of credit reform this does not score. Establishes a $1.7 billion "rainy day" revolving fund. States must pay back loans with interest.
403(e)	Indian Tribes that Receive JOBS Funds	313(b)(1)(B)	Extraneous; costs. Grant for Indian tribes to maker work activities available.
403(f)	Job Placement Performance Bonus	313(b)(1)(B)	Extraneous; cost. Establishes a bonus fund to reward States for high job placement rates. Paid for out of totals.
403(h)	Contingency Fund	313(b)(1)(B)	Extraneous; costs. Provides $1 billion for matching grants to States with high unemployment. Requires 100 percent maintenance of effort.
404(c)(3)(F) Provision in parens lines 8–10.	Vocational Educational Training	313(b)(1)(A)	Extraneous; does not score. Limits States from counting more than 1 year of vocational education as a work activity.
404(c)(4)	Limitation on Vocational Education	313(b)(1)(A)	Not more than 25 percent of adults engaged in work are allowed to meet the work requirement through vocational educational training.
404(d)	Penalties Against Individuals	313(b)(1)(A)	States are required to reduce the amount of assistance payable to a family if an adult refuses to engage in work activities.
404(f)	Sense of the Congress	313(b)(1)(A)	Extraneous; does not score. States are encouraged to assign priority to requiring adults in 2-parent families and adults in single parent families that include older preschool or school-age children to be engaged in work activities.
404(g)	Encouragement to Provide Child Care Services	313(b)(1)(A)	Extraneous; does not score. States may treat individuals providing day care to other participating individuals as meeting the work requirements.
405	Requirements and Limitations	313(b)(1)(A)	Extraneous; does not score. Requires States to enter into personal responsibility contract with families receiving assistance.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
405(d)	Denial of Assistance for Fugitive Felons and Probation and Parole Violators.	313(b)(1)(A)	Extraneous; does not score. Fugitive felons, those on probation and in violation of parole are not eligible for assistance. Allows for exchange of information with law enforcement officials for purposes of enforcing this section.
405(e)	State Option to Require Assignment of Support	313(b)(1)(A)	Extraneous; does not score. States may require that individuals assign to the State any rights to support from any other person.
405(f)	Denial of Assistance	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance to a family with respect to any minor who is absent for 45 days, or, at State option, not less than 30 and not more than 90 consecutive days. Allows for good cause exceptions.
406(a)	Promoting Responsible Parenting	313(b)(1)(A)	Extraneous; does not score. Series of findings.
406(b)	State Option to Deny Assistance for Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(d)(1)	Requirement That Teenage Parents Live in Adult-Supervised Settings.	313(b)(1)(A)	Extraneous; does not score. If a State provides assistance to an unmarried teenage mother, that individual must reside with a parent, guardian, or other adult relative.
406(d)(2)	Exception	313(b)(1)(A)	Extraneous; does not score. Exception is provided if the individual lives in an adult-supervised living arrangement (such as a second chance home.) States can help locate such an arrangement.
406(d)(3)	Assistance to States in Providing or Locating Adult-Supervised Supportive Living Arrangement for.	313(b)(1)(B)	Extraneous; costs. Provides $25 million in grants to States for supportive living arrangements such as second chance homes.
406(e)	Requirement that Teenage Parents Attend High School or Equivalent Training Program.	313(b)(1)(A)	Extraneous; does not score. State shall not provide assistance or, at State option, shall reduce assistance for someone who has not completed high school and is not in school or an approved alternative educational or training program.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
406(g)	State Option to Deny Assistance in Certain Situations.	313(b)(1)(A)	Extraneous; no cost impact. Nothing should be construed to restrict the authority of a State to limit assistance if the limitation is not inconsistent with the provisions of this part.
408	Audits	313(b)(1)(A)	Extraneous; no cost impact. Requires annual audits by an approved entity which must be submitted to the Secretaries of Treasury and HHS.
409	Data Collection and Reporting	313(b)(1)(A)	Extraneous; no cost impact. Secretary is required to develop a quality assurance system of data collection and reporting. Data described.
410	Research, Evaluations, and National Studies	313(b)(1)(B)	Extraneous; overall costs. Requires research on benefits, effects and costs of operating different State programs, including time limits. Secretary may assist States in developing and evaluating innovative approaches.
410(d)	Annual Ranking of States and Review of Most and Least Successful Work programs.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states in order of their success in placing recipients into long-term private sector jobs, reducing welfare caseload, and diverting individuals from formally applying.
410(e)	Annual Ranking of States and Review of Issues Relating to.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states on the basis of out-of-wedlock rates relative to live births and changes in the out-of-wedlock ratio.
411	Study by the Census Bureau	313(b)(1)(A)	Extraneous. Requires Census to expand the Survey of Income and Program Participation to allow evaluation on a random national sample of recipients. "Secretary shall appropriate from funds not otherwise appropriated."
412	Waivers	313(b)(1)(B)	The section as a whole scores because of 412(b)(3), but as a cost. Allows States to continue to operate under current waivers.
412(b)(3)	Hold Harmless	313(b)(1)(B)	Extraneous; costs. States who request to terminate a waiver will be held harmless for accrued cost neutrality liabilities.
413	State and County Demonstration	313(b)(1)(B)	Extraneous; costs. Allows for demonstrations of innovative and effective program designs.
414	Direct Funding and Administration by Indian Tribes	313(b)(1)(B)	Extraneous; costs. Provides funding to Indian tribes for administration of grants. Requires tribes to submit plans with minimum work requirements. Provides for emergency assistance, accountability, penalties, and data collection.
415	Assistant Secretary for Family Support	313(b)(1)(A)	Extraneous; no cost impact. Program is to be administered by such a Secretary.
416	Limitation on Federal Authority	313(b)(1)(A)	Extraneous; no cost impact. HHS and Treasury may not regulate the conduct of the States except to the extent expressly provided in this part.
417	Appeal of Adverse Decision	313(b)(1)(A)	Extraneous; no cost impact. Lays out procedures for appealing an adverse decision of the Secretary.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
419	Amounts for Child Care	313(b)(1)(B)	Extraneous; costs. Provides current funding plus $3 billion over 5 years for grants to states for child care. Provides for distribution of funds and administration of programs.
420	Eligibility for Child Care Assistance	313(b)(1)(A)	Extraneous; no cost impact. Allows states to determine who is eligible for child care assistance.
7202	Services Provided by Charitable	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7206	Development of Prototype of Counterfeit-resistant Soc. Sec. Card.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of appropriations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
7208	Modifications to the Job Opportunities for Certain Low-Income Individuals program.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7209	Demonstration Projects for School Utilization	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7211	Parental Responsibility Contracts	313(b)(1)(A)	
7212	Expenditure of Fed Funds in Accordance with Laws and Procedures Applicable to Expenditure of State Funds.	313(b)(1)(A)	
Subtitle D, SSI:			
7251(e)	Supplemental Funding for Alcohol and Substance Abuse Treatment Programs.	313(b)(1)(B)	Extraneous; costs. $100 million for treatment.
7271	Annual Report on SSI	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to prepare an annual report describing the program, providing historical data, and making projections for the future.
7273	Study of Disability Determination	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 4, 7282–7	Nat'l Commission on Future of Disability	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 5	State Supplementation Programs	313(b)(1)(D)	Extraneous; merely incidental. Repeals Maintenance of Effort requirements applicable to Optional State programs for supplementation of SSI. CBO is unable to estimate savings, but says they will be small. Most savings will accrue to the states.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Chapter 6, 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle E, Child Support:			
Sec. 7301	State Obligation to Provide Child Support Enforcement Services.	313(b)(1)(B)	Extraneous; costs.
Sec. 7302	Distribution of Child Support Collections	313(b)(1)(B)	Extraneous; costs.
Sec. 7303	Rights to Notification/Hearings	313(b)(1)(A)	Extraneous; no cost impact. Establishes procedures to assure parties receive notifications and have access to hearings.
Sec. 7304	Privacy Safeguards	313(b)(1)(A)	Extraneous; no cost impact. Establishes a State plan requirement to protect against unauthorized use of information.
7341(a)(2)(b)	Performance-Based Incentives and penalties	313(b)(1)(A)	Extraneous; no budgetary impact. Orders the Secretary to develop a formula for the distribution of incentive payments.
7344	Automated Data Processing Requirements (O&M)	313(b)(1)(B)	Extraneous; costs. Requires States to have a single system in accordance with this section's provisions.
7344	Automated Data Processing Development	313(b)(1)(B)	Extraneous; costs. Creates a federal matching rate for development costs of automated systems.
7345(a)(j)	Technical Assistance. For training federal and state staff, R&D programs, and special projects.	313(b)(1)(B)	Extraneous; costs. This section appropriates 1% of the amount paid to the U.S. in the previous fiscal year pursuant to 475(a).
7351	National Child Support Guidelines Commission	313(b)(1)(A)	Extraneous; no budgetary impact. This section creates a Commission to establish guidelines for a national child support policy.
7352	Simplified Process for Review of Child Support Orders.	313(b)(1)(B)	Extraneous; costs. This section lists procedures the State may employ to review and adjust each support order.
Ch. 7. Sec. 7369	State Law Authorizing Suspension Licenses	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec.	Denial of Passports for Nonpayment of Child Support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7371	International Child Support Enforcement	313(b)(1)(A)	Extraneous; no budgetary impact. Gives Secretary of State authority to negotiate agreements in foreign nations to enforce child support laws.
Ch. 7. Sec. 7375(b)	Sense of the Senate. Regarding how states can collect enforcement costs.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7377	Sense of the Senate. Regarding noncustodial parent's inability to pay child support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 8. Sec. 7379	Enforcement of Orders for Health Care Coverage	313(b)(1)(B)	Costs. This provision obligates states to provide services.
Ch. 9. Sec. 7381	Grants to States for Visitation	313(b)(1)(B)	Extraneous; costs. This provision requires the Administration for Children and Families to make grants to States so that parents can visit their children.
Subtitle F, Noncitizens: 7406	Information Reporting	313(b)(1)(A)	Extraneous; no cost impact. Requires states to make quarterly reports with the names and addresses of individuals known to be unlawfully in the US.
Subtitle G, Add'l Provisions Relating to Welfare			
Chapter 1—Reductions in Federal Positions:			
7411–3	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7422	Establishing Nat'l Goals to Prevent Teenage Pregnancies.	313(b)(1)(A)	Extraneous; no spending impact. Requires the Secretary to establish and implement a strategy for preventing out-of-wedlock teenage pregnancies. Requires a report to Congress.
Chapter 4:			
7441	Exemption of Battered Individuals from Certain Requirements.	313(b)(1)(B)	Extraneous; costs. Exempts from the provisions of this Subtitles D–F any individual who has been battered or subjected to extreme cruelty, if the application of the provision would endanger the individual.
7442	Sense of the Senate on Legislative Accountability for unfunded Mandates.	313(b)(1)(A)	Extraneous; no cost impact. Sense of the Senate that prior to acting on the conference report on welfare, CBO shall prepare an analysis to include estimates of costs to States of meeting the work requirements, the resources available to the States to meet the requirements, and the amount of additional revenues needed to meet the work requirements.
7443	Sense of the Senate Regarding Enforcement of Statutory Rape Laws.	313(b)(1)(A)	Extraneous; no cost impact. SoS that State and local jurisdictions should aggressively enforce statutory rape laws.
7444	Sanctioning for Testing Positive for Controlled Substances.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to sanction people who test positive for illegal substances.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs: 7481	SoS Regarding Corrections of Cost of Living Adjustments.	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.

TITLE X

COMMITTEE: LABOR AND HUMAN RESOURCES

Compliance: Yes

§ 10002(c)(1) "(a)(2)(C)"	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1) "(a)(1)(A)", therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10002(g) p. 15, lines 14–16	Participation of Institutions and Administration of Loan Programs, School Origination Payment, "Sense of Senate" provision.	313(b)(1)(A)	A Sense of the Senate statement, that a fee shall not be charged to students in the form of increase tuition, can not be considered a term or condition.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]
§ 10005(a)	Amendments Affecting Guarantee Agencies, Use of Reserve Funds to Purchase Defaulted Loans.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(e)	Amendments Affecting Guarantee Agencies, Reserve Fund Reforms.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
Title XI	Veterans' Affairs	310(c)	Out of compliance in 1st year (1996).
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12114	Changes to Merchant Marine Act	313(b)(1)(C)	Jurisdiction.
12213	Allows states to establish standards for long term care policies.	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12421	Extends expedited refund of excise tax paid regarding ethanol.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12501 to 12510	Taxpayer Bill of Rights 2	313(b0(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as losing $20 million over seven years.
12702	Allows tax exempt organizations to accept "qualified sponsorship payments" without being subject to the unrelated business income tax.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12703	Exempts agriculture and horticulture organizations from unrelated business income tax on associate dues of less than $100.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12705	Provides exceptions to the notification 313(b)(1)(A) requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12706	Allows football coaches retirement plan to be considered a multi-employer plan under ERISA.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12822	Provides that the rollover of gain on the sale of a home cannot be elected by a nonresident alien.	313(b)(1)(D)	Merely incidental budgetary impact. Join Tax Committee scores as losing less than $500,000 over seven years.
12874	Requires the trustees of the Combined Fund to provide documents to contributors.	313(b)(1)(A)	No budgetary impact.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
12875	Clarifies that newspaper carriers are independent contractors.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12876	Allows bank common trust funds to transfer assets to regulated investment trusts.	313(b)(1)(A)	No budgetary impact.
12901	Repeal of family aggregation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being "considered in other provisions."
12903	Changes the minimum participation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12931	Clarifies when individuals are "leased" employees."	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12932	Eliminates special aggregation rules for pension plans maintained by unincorporated employers.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12935	Allows government pensions to pay higher benefits	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12937	Creates a special rule for contributions on behalf of disabled employees.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12938	Allows rural cooperative plans to make distributions to participants after the attainment of age 59½.	313(b)(1)(b)	No budgetary impact. Joint Tax Committee scores as "negligible."
12940	Provides that for purposes of the general nondiscrimination rules that the Social Security retirement age is a uniform retirement age.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being "considered in other provisions."
12941	Clarifies that 403b plans for tribal governments are not disqualified because the contract was purchased on behalf of employees who are not employees of educational organizations.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12951 to 12968	Creates special rules for church retirement plans ...	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. THOMAS. Mr. President, I am honored to serve as a member of the Advisory Commission on Intergovernmental Relations [ACIR]. In this era of new federalism, the Government must create a partnership with State and local governments that is based on balanced, decentralized decision making. These governments have been the laboratories for change for the last 20 years. A streamlined and more flexible intergovernmental system will offer significant opportunities for State and local governments to develop more innovative and cost effective methods of delivering programs and services. State and local governments are now ready to rise to the challenges of this new era in history—the Information Age—where experimentation and local control are needed.

For example, as this Congress moves to balance the budget and restore fiscal responsibility and accountability at the Federal level, it cannot do so on the backs of State and local governments. My involvement in drafting Public Law 104-4, the Unfunded Mandates Reform Law, was an effort to relieve this burden. As a former Wyoming State legislator, I am well aware of the hardships the Federal Government places on states and localities.

I look forward to working with the other members of the ACIR in implementing the unfunded mandates reform law and sharing with my Senate colleagues the effects of Federal policy making on State and local governments. Together, we can usher in a new era of government and restore federalism as the founding fathers intended over 200 years ago.

FRANCES W. NOLDE, PIONEER AVIATRIX

Mr. SPECTER. Mr. President, I was recently advised of the passing of a distinguished American, Frances W. Nolde, of Reading, PA. In addition to an illustrious career as a pioneer in aviation and in the theater, she is the mother of a distinguished Washingtonian, H. Christopher Nolde, who is the husband of another distinguished Washingtonian, Mrs. Sylvia Nolde, who was my Executive Assistant for almost 14 years after serving in a similar capacity with Senator Jacob Javits.

Mr. President, I wish to acknowledge the life of Frances W. Nolde with a brief recitation of her career for the CONGRESSIONAL RECORD.

Frances W. Nolde was a woman ahead of her time, whose life spanned nearly the entire 20th century. She made unique contributions to the field of aviation as a pilot, World War II Civil Air Patrol leader, visionary, and achiever, all the while raising a family of seven children, founding and directing a country day school, and receiving acclaim as a civic leader in her home community. Musically talented, with a flair for the dramatic, Mrs. Nolde had a budding career on stage and in radio.

Born in Deposit, NY, in 1902, she attended Oberlin Conservatory of Music and graduated from Syracuse University with a BA and BS in Music. She married Carlton Brown, who later became an accomplished Hollywood screen writer. Their marriage ended in divorce.

Frances lived in the New York City area and played in a hit Broadway musical "Lady Be Good," starring Fred Astaire in the 1920's, and starred in one of the first radio soap operas, under her stage name Gloria Gay.

Upon marrying a successful businessman, Hans W. Nolde, Frances moved to Reading, PA, where she was one of the first to combine career and family and became well known for civic and philanthropic activities. She was a board member of the Junior League and founded and directed The New School, and country day school.

A pioneer in aviation, Frances Nolde was one of the early women pilots, beginning in 1940. During World War II she commanded a Civil Air Patrol [CAP] courier base, flying cargo and key personnel for the war industries. She held the rank of full colonel, the highest allowable to women at that time, and was the first National Director of Women in Aviation for the CAP.

In 1948 she won the inaugural All-Women's Transcontinental Air Race—Powder Puff Derby—from Los Angeles to Miami.

The Distinguished Citizen's Award for Leadership in the Advancement of Aviation was presented in 1950 to her by the Altrusa International Organization.

Mrs. Nolde served as an Airport Commissioner and arranged with General Carl A. Spaatz and the U.S. Air Force to rename the Reading Municipal Airport as the General Carl A. Spaatz Field.

She later became associated with the Reading Aviation Service and was Public Relations Director of Aviation Consultants, Inc.

Upon her divorce from Hans, she moved to the Washington, DC, area where she lived for more than 40 years. During that time she was employed by the U.S. Department of Commerce as the Director of General Aviation in the Defense Air Transportation Administration. She was responsible for the Civil Air Reserve Fleet and the National Emergency Airlift Plan. Mrs. Nolde was a member of the American Newspaper Women's Clubs, the Top Flight Club, and the Ambassador's Club.

Her accomplishments and contributions include: vice president, National Aeronautics Association; delegate to Federation Aeronautique Internationale [FAI]; vice president, FAI Economic Technical Commission; Governor 99's (International Organization of Women Pilots) and vice president of its Contest Division; vice president and Treasurer of Aero Club of Washington, DC; Board of Governors and membership Chairman of National Aviation

Club; member President's "Women's Advisory Committee on Aviation."

Mrs. Nolde held a commercial pilots rating, and logged more than 10,000 hours flying time over her outstanding aviation career. A full biography can be found in Who's Who In the world of Aviation and also in Who's Who of American Women.

A long time resident of Bethesda, MD, Mrs. Nolde was 93 when she passed away on October 22. She is survived by her son H. Christopher Nolde of Washington, D.C.; daughter Sally Lutyens of Manset, ME; daughter Frances D. Nolde of Maynard, MA; 9 grandchildren and 8 great-grandchildren.

SENATOR CHARLES GRASSLEY

Mr. PRESSLER. Mr. President, CHUCK GRASSLEY is a man I much admire. Someday when I am out of here teaching a college course, I plan to cite CHUCK as a model Senator. He is not aware that I am placing this into the CONGRESSIONAL RECORD, and I am sure that he would protest the cost. However, I believe it is well worth it because he is probably the hardest working, most decent Senator around here. I often say, "CHUCK GRASSLEY is a real U.S. Senator. He is the real McCoy." He keeps a low profile but gets a lot done around here that never is credited to him. He is the type of a U.S. Senator that I particularly like. While some are retiring from this body with much fanfare, and others are holding press conferences about their achievements, CHUCK GRASSLEY keeps quietly working away. In the end, he will go down as one of the great U.S. Senators.

Mr. President, I ask unanimous consent to have printed in the RECORD a recent article that appeared in The Hill on October 25, 1995.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Hill, Oct. 25, 1995]

SEN. CHARLES GRASSLEY—IOWA REPUBLICAN STANDS OUT AS WORKHORSE AMONG SENATE SHOWHORSES

(By Albert Eisele)

You can't get much more grassroots than Sen. Charles Grassley (R-Iowa).

Early this month, the 62-year-old crusader against federal waste was at the wheel of an International Harvester 1450 tractor, hauling a load of soybeans to a grain elevator near his family farm in northeastern Iowa.

The only working farmer in the Senate, Grassley interrupted his farming chores to issue a press release informing his constituents he had regained his Agriculture Committee seat, which he was forced to give up in January when committee assignments were redistributed after Republicans took control of the Senate.

But last week, Grassley was back in the Senate, behind the closed doors of the Finance Committee helping Republicans work out disagreements over their controversial $245-billion tax cut package, and then defending that package from Democratic criticism in full committee.

"If you're concerned about balancing the budget, you'll be for this program," Grassley declared as he and his GOP colleagues sent their historic tax package to the Senate floor as part of the even more historic budget reconciliation bill.

Then, using a metaphor appropriate to his Iowa origins and his parochial view of his role in the Senate, once described by Congressional Quarterly as "pigs and pork," Grassley said, "The people of this country are tired of living high on the hog, and not worrying about our children or grandchildren paying for it."

For the man who is the philosophical heir of the late Rep. H.R. Gross (R), the quintessential penny-pinching legislator whom Grassley succeeded in the House in 1974, it was a characteristic moment.

Never hailed as an intellectual giant or an inspiring orator, the easy-going third-term senator has made his name, and compiled a truly imposing campaign record, by balancing the needs of Iowa farmers and small businesses with the national yearning for fiscal discipline in government.

Despite one of the lowest profiles in the Senate, Grassley has managed, by stint of sheer hard work, country-bred political smarts and a low-octane ego, to place himself in the middle of the Senate debate over the big ticket issues of tax cuts, budget balancing and welfare reform at the heart of the Republican revolution.

As a member of the Finance Committee, the number two Republican on the Budget Committee behind Chairman Pete Domenici (R-N.M.), and a member of the House-Senate conference committee on welfare reform which holds its first meeting today, Grassley is perfectly positioned to add to his already impressive electoral achievements in Iowa, where he has never lost a race.

Elected to the state legislature while studying for a doctorate at the University of Iowa—he left school after he was elected and never returned—Grassley took over his family farm after his father died in 1960.

By 1974, when he won a narrow victory over a Democratic opponent to replace the retiring Rep. Gross, Grassley had bought additional acreage—it's now just under 600 acres—and turned the farm over to his son Robin, who still farms it, with weekend help from his father in the fall and spring.

Then, in 1980, after Iowa voters dumped liberal Democratic Sen. Dick Clark in favor of conservative Republican Roger Jepson two years earlier, Grassley took on Clark's liberal Democratic colleague, John Culver, after winning 90 of the state's 99 counties in the GOP primary.

His emphasis on pocketbook issues and his earnest demeanor, which belied Culver's charges that he was a tool of the Moral Majority and New Right, earned Grassley an unexpectedly comfortable victory with 54 percent of the vote.

Amazingly, for someone whose name and accomplishments are little-known outside of Iowa, and widely discounted inside the Washington Beltway, Grassley has one of the best records as a campaigner of anyone in the Senate. Of the 43 senators who have run for three or more terms, Grassley is the only one, other than John Warner (R-Va.) and two others who ran unopposed, who has significantly improved his electoral margin in each of the last three elections.

After winning 54 percent of the vote in 1980, he easily disposed of his Democratic challenger in 1986 by taking 66 percent of the vote, and crushed his opponent in 1992, highly touted state Sen. Jean Lloyd-Jones, by winning 70 percent of the vote.

The latter victory was one of historic proportions as he carried every single county while winning by the largest statewide margin in the county, and winning more votes than any candidate in the history of the state—President Eisenhower had the old record.

Grassley has an uncanny ability to translate national issues, such as defense fraud, tax reform, out-of-control government spending, congressional accountability, and international trade—especially for Iowa farm and manufacturing products—into issues of local appeal.

Grassley scored one of his major successes earlier this year when the 104th Congress enacted its first piece of legislation, the Congressional Accountability Act that made Congress subject to the same labor and antidiscrimination laws that apply to all Americans. Grassley has been pushing for such a law since 1989.

But it was his attack on government waste and fraud that first brought him public attention. In 1984, as chairman of the Judiciary Subcommittee on Administrative Practices, he publicized the notorious $7,600 coffee maker bought by the Air Force. Then, in 1990, he won headlines by uncovering Pentagon purchases of $999 screwdrivers and $1,868 toilet seats.

Grassley is proudest of two major achievements, passage of the Congressional Accountability Act and his work with Rep. Howard Berman (D-Calif.) in promoting the 1986 "whistle blower" provisions, known as the "qui tam" amendments to the False Claims Act, which enabled the Justice Department to recover more than $1 billion in civil fraud cases since 1986.

Over breakfast in the Senate Dining Room last week, Grassley, who had a very un-Iowa-like breakfast—a grapefruit with honey and black coffee—commented, almost apologetically, on the fact that very little major legislation bears his name.

"Sometimes I think the passage of legislation might not necessarily be the best way to measure a person's most important accomplishments," he said. "Sometimes, it's what you might do to stop a bad administrative action or get an amicus brief before the Supreme Court on child pornography."

Grassley has already signed onto Senate Majority Leader Bob Dole's (Kan.) presidential bandwagon, so it's no surprise he predicts Dole will win the bellwether Iowa caucuses next February. But he concedes that Dole will have to beat the 38-percent figure he got in 1986.

And for those who want to bet a long shot, the most successful politician in Iowa history offers this startling advice: "Keep an eye on Phil Gramm [R-Texas]. He's the one to watch."

NAOMI ROSENBLATT

Mr. PRESSLER. Mr. President, it has been my great privilege to have attended Naomi Rosenblatt's bible classes over the past few years. I have found her teaching to be directly related to my duties in the U.S. Senate. She is a splendid teacher, but more importantly, a fine, insightful person. I wish that time would allow me to attend more of her classes.

Naomi Rosenblatt takes the approach that the great stories of the Bible are relevant today—as we struggle with some of the same issues in running the United States as Joseph faced in running ancient Egypt for the Pharoah.

Recently a review of her new book appeared in the Washington Post. It summarizes some of her classes that I have attended along with certain other Senators and journalists. I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, October 15, 1995]

THE BIBLE TELLS US SO

(By Jonathan Groner)

In an era when many of our politicians are still trying to locate the proper place of religion in American life, Naomi Rosenblatt has for several years played the role of Bible teacher to many of Capitol Hill's movers and shakers. The weekly Old Testament classes led by Rosenblatt, an Israeli-born Washington psychotherapist, have captivated tough political professionals like senators Larry Pressler and Arlen Specter and journalists William Safire and Marvin Kalb, *Wrestling with Angels*, co-written with her longtime student Joshua Horwitz but bearing Rosenblatt's stamp as chief author, grows out of these sessions.

It's Rosenblatt's first book, and what a fascinating effort it is; part biblical interpretation, part self-help treatise; a book that adopts an unmistakably Jewish perspective yet remains accessible to readers of all backgrounds.

Rosenblatt's ambitious project was to traverse the entire book of Genesis—amply familiar for the stories of Adam and Eve, Noah and the flood, the Tower of Babel, and the wanderings of the patriarchs Abraham, Isaac and Jacob—and to derive from it universal and psychologically valid lessons about human character. Her approach to the first book of the Bible is inseparable from her therapeutic method.

Rosenblatt says that her role as interpreter of the text is to provide "a psychological and spiritual examination of the multigenerational family," by which she means the family of Abraham, Sarah and their descendants. Sibling rivalries, midlife crises, blended families, guilt and personal responsibility—these are the therapist's stock in trade. Rosenblatt is able to convince me, most of the time, that these also represent useful interpretive tools in understanding the biblical text.

Two thousand years ago, a rabbi said in the Mishna that he had learned more from his students than from his teachers. In struggling with these old riddles, Rosenblatt too enjoyed the assistance of her students. Like the Talmud, *Wrestling with Angels* is a distillation of discussions held over a period of years. And the questions with which Rosenblatt grapples, as she fully understands, were already noted by the rabbis of the Jewish tradition, who provided their own answers. What was the real nature of the sin of Adam and Eve? Why did God command Abraham to sacrifice his only son? With whom was Jacob really wrestling in his nocturnal encounter with the "angel"? What was the secret of Joseph's success in Egypt?

Yet Rosenblatt's method yields new solutions, or at least new versions of old solutions. Here is her interpretation of Jacob's wrestling with the angel: "Is this 'man' his twin brother, Esau, with whom he wrestled in the womb and whom he must confront the next morning? Is he Jacob's shadow self, the darker part of his psyche that doubts and fears—that he must integrate before he can become whole? Could he be an angle of death, Jacob's fear of mortality rising up to greet him on the eve of his brother's revenge? . . . It seems to me that the 'man' is all of these." Rosenblatt's sensitive reading takes full advantage of the ambiguity and mysteriousness of the biblical story, which is a dream an allegory, or both.

As might be expected, Rosenblatt is at her most convincing when she touches on the portions of Genesis that deal explicitly with intra-family conflicts. The text tells us this directly in Chapter 25, after all: Of her twins, Rebekah preferred Jacob, while Isaac, their father, chose Esau as his favorite. From these facts sprang rivalry and disruption that continued for generations. Rosenblatt's psychological filter is helpful here. She explains, for example, that the story of Jacob and Esau "is a strong warning to us of the danger to children when parents draw them into the shifting power balance of their marriage." That's as true now as it was then.

Rosenblatt's thoughts often echo and extend some of the interpretations already found in Jewish tradition. The result is as if one were seeing the old stories with new eyes. The tradition notes, for example, that once Isaac was consecrated and nearly sacrificed on the altar by Abraham, he took on a personal holiness and thus was never allowed to venture beyond the holy land of Israel. Speaking from a psychological perspective, Rosenblatt also recognizes how circumscribed Isaac's life was. As a child growing up in the shadow of a famous father, she argues, Isaac "never experiences the cathartic personal transformation that the other patriarchs undergo."

Or Rosenblatt explains how Jacob's "emotional blindness on his wedding night mirrors Isaac's physical blindness when bestowing his blessing on his son [Jacob]." This echoes an old rabbinical interpretation that emphasized how the onetime deceiver, Jacob, was later himself the victim of deception.

Not all of Rosenblatt's interpretations are on target. My understanding of the conflict between the wives of Jacob was not measurably aided by Rosenblatt's digression on the dilemma of 20th-century women who are torn between career and motherhood. Nor did her cursory discussion of the attempted seduction of Joseph in Egypt, citing modern views of sexual harassment, add anything to my thinking on either the Joseph narrative or the harassment dynamic. She somewhat shortchanges the whole Joseph narrative, a section of Genesis that gets better treatment from the brilliant contemporary critic Robert Alter.

But these are minor points. Rosenblatt's students on Capitol Hill feel privileged that she is their teacher, and now that this book is available, all of us who take the Bible seriously can consider ourselves similarly blessed.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, more than 3 years ago I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day.

As of the close of business Wednesday, October 25, the Federal debt stood at exactly $4,977,804,019,628.98. On a per capita basis, every man, woman, and child in America owes $18,895.83 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a Constitutional amendment.

GOVERNOR LEAVITT'S DECLARATION REGARDING GREEK-AMERICAN VETERANS APPRECIATION WEEK

Mr. BENNETT. Mr. President, I rise today to have printed in the RECORD a Declaration signed by Governor Mike Leavitt of Utah entitled: "Greek-American Veterans Appreciation Week, November 5–November 12, 1995."

During the week of November 5th, the Hellenic Cultural Association in Utah is sponsoring a series of events which include a variety of displays in the Hellenic Cultural Museum, Memorial Services and a Greek-American Veterans' Luncheon.

The events have been created to coincide with the 50th Anniversary of the ending of World War II and also for the annual observance of Veterans Day, November 11th.

I salute the Greek Community in Utah for this effort. To my knowledge they are the only Greek Community in America which is honoring their veterans in this way.

I extend my appreciation, support and gratitude to Chris S. Metos, Chairman of the appreciation week. I applaud him for his leadership in this endeavor.

I ask unanimous consent that the text of the declaration be printed in the RECORD.

There being no objection, the declaration was ordered to be printed in the RECORD, as follows:

DECLARATION

Whereas, ancient Greece is universally recognized as the cradle of Western Civilization, and America historically has close affinities with the ideals exemplified in the Legacy of Ancient Greece and, more recently, with modern Greece; and

Whereas, the tiny country of Greece fought valiantly against overwhelming Axis forces in World War I and World War II and thus contributed mightily to ultimate victory of the Allied countries; and

Whereas, immigrants to America from Greece and their descendants have established themselves as hard working, law abiding, patriotic, progressive American citizens; and

Whereas, Greek-Americans from the State of Utah have responded enthusiastically to the call for active military and merchant marine duty when needed by the United States; and

Whereas, thirty-five Greek-Americans from the State of Utah made the supreme sacrifice for their country in World War I, World War II and the Korean Conflict; and

Whereas, Greek-American veterans returning to civilian life have been highly productive in their chosen careers and professions, including business, medicine, law, engineering, education, etc., whereby the community, state, and nation have benefited greatly and will continue to benefit from their high qualities of leadership, work ethic, love and devotion to family, church and country; and

Whereas, Greek-American veterans of the armed forces and merchant marines of the United States and Greece are gathering at the Hellenic Memorial Cultural Center in Salt Lake City, Utah, Sunday, November 12, 1995, to honor their fallen comrades, to meet socially as a group, to affirm their faith, love and loyalty to the United States and to the Constitution; and

Whereas, the Hellenic Cultural Association-Hellenic Cultural Museum, a non-sectarian, independent, cultural organization seeks to honor these Greek-American veterans and their fallen comrades by sponsoring memorial services, museum tours, displays, and a Greek-American Veterans Appreciation Luncheon, Sunday, November 12, 1995, in Salt Lake City;

Now, Therefore, I, Michael O. Leavitt, Governor of the State of Utah, do hereby declare November 5 through 12, 1995, as Greek-American Veterans Appreciation Week in Utah, to be dedicated to the preservation of the Legacy of Greek and of American ideals, leadership, patriotism and citizenship as exemplified by the Greek-American veterans of the military and merchant marine forces of the United States and Greece.

MICHAEL O. LEAVITT,
Governor.

JUDGE ROBERT E. WISS

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding judge, a faithful naval officer, and a remarkable individual, the Honorable Robert E. Wiss, a judge on the U.S. Court of Appeals for the Armed Forces. Judge Wiss was 66 when he passed away on Monday morning, October 23, 1995.

Judge Wiss was born in Chicago, IL in 1929 and graduated from the University of Illinois in 1950. He entered the service in that same year for 3 years of active duty but he did not end his military career at that point. He continued in the reserves and finally retired in 1988 as a rear admiral in the Navy's Judge Advocate Generals Corps.

Judge Wiss was an excellent lawyer who received his degree from Northwestern in 1956 and taught law at John Marshall Law School. He was a member of numerous bar associations and was admitted to practice before over a half dozen courts to include the U.S. Supreme Court.

He was truly a talented individual who loved the military, understood it mission, and believed in a strong national defense. He fully understood as well the need for the Uniform Code of Military Justice. Judge Wiss believed that the system was better than any other system of justice in existence but if change was needed, it should be pursued with vigor. If no change was in order, however, Judge Wiss did not tolerate anything short of complete adherence and respect for that system.

In the eyes of those who knew him, he was a legal figure of great stature. In his own mind, he was never important, only extremely fortunate. All people mattered to him and his wife and children most of all. Our thoughts and prayers will be with his wife Charlene and his three daughters, Julia, Karen, and Laurel. He will be missed.

IN MEMORY OF JUDGE ROBERT E. WISS OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

Mr. NUNN. I join with Senator THURMOND in paying tribute to the memory of Judge Robert E. Wiss of the U.S. Court of Appeals for the Armed Forces. Judge Wiss, who was in the midst of his term on the Court, passed away on October 23, 1995.

Judge Wiss joined the court in 1991 after a distinguished career in both the public and private sectors. In his civilian career, he served as a special counsel to the city of Chicago and as general counsel to Cook County. He had a very successful private practice, rising to senior partnership with the firm of Foran, Wiss, & Schultz. He also was a distinguished teacher, serving on the faculty of the John Marshall Law School in Chicago. He also played a leading role in many bar associations and civic activities.

In addition to his very active civilian practice, Judge Wiss had a lifelong commitment to military law. He served on active duty from 1950 to 1953, and in the Naval Reserve from 1953 to 1988, advancing to the grade of rear admiral. Highlights of his military career included services as director of the Naval Reserve Law Program and commanding officer of the Navy and Marine Appellate Review activity.

Judge Wiss appeared before our committee in 1991 following his nomination to serve on the U.S. Court of Appeals for the Armed Forces—which was then denominated as the Court of Military Appeals. He received the unanimous approval of our committee and was confirmed by the Senate.

In his 4 years on the court, Judge Wiss distinguished himself by his thorough scholarship, probing questions, and keen interest in preserving the dignity and fairness of the military justice system. He will be missed by his colleagues on the court, the lawyers who practiced before him, and his many other friends and admirers. I would like to extend my deepest sympathy to his wife Charlene, and to his children, Julia Leahy, Karen Wiss, and Laurel Latimer. They can be very proud of his outstanding contribution to our Nation.

SUPERFUND REFORM

Mr. PRESSLER. Mr. President, I wanted to bring to my colleagues' attention the concerns of a prominent South Dakotan regarding the Superfund program.

Like many of my colleagues, during the August recess, I spent considerable time back home talking to my constituents. While in South Dakota, one issue came up on numerous occasions: Superfund reform. This issue is important to small business men and women throughout South Dakota.

Recently, an op-ed by Bill Huebner of Rapid City, SD, was published in the Wall Street Journal. This article details Mr. Huebner's own unfortunate experience with Superfund. I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. We all agree that the current Superfund program does not work. It is one of the most expensive environmental programs on the books. Despite the vast amounts of taxpayer dollars that have poured into the Superfund, the program has a very low success rate. One of the prime causes of this low success rate is a confusing and costly liability system. This system is unfair to small businesses. It encourages excessive and costly litigation.

I am encouraged by the draft proposal drawn up by my esteemed colleague from New Hampshire, Senator SMITH. As chairman of the Superfund, Waste Control and Risk Management Subcommittee, he has assumed the daunting task of rewriting the existing Superfund law. I look forward to working with him to create a new Superfund law based on fairness and common sense. We should not insist on a system that calls on small businesses that have complied with past laws and regulations to continue shouldering the burden of cleaning up our hazardous waste sites.

Bill Huebner's article represents not only the concerns of South Dakota small business leaders, but of all small business men and women across the country. They are the innovators who collectively make our economic engine run. For that reason, we should take their concerns and experiences to heart in our reexamination of the Superfund program.

EXHIBIT 1

[From the Wall Street Journal, Oct. 26, 1995]

MY SUPERFUND NIGHTMARE

(By Bill Huebner)

I'm sitting here at my desk starting at a three-foot-high pile of letters, legal motions, and other documents. That pile of paper tells my Superfund story—a 3½-year nightmare that cost my company time, money and business.

For those who don't know, Superfund is the federal government's program to clean up America's worst hazardous waste sites. It was established by Congress in 1980 with $1.6 billion in funding. Today, 15 years later, more than $20 billion in government and private sector funds have been spent. More than 1,300 hazardous waste sites have been identified by the Environmental Protection Agency. But only a tiny fraction of these sites have actually been cleaned up.

Where did Superfund go wrong? Read on.

Back in November 1991, I received a letter addressed to Ace Steel & Metals, claiming I owed $47,000 as my share of the bill to clean up the Douglas County, Neb., Superfund site. Between 1940 and 1982, the letter said, the property had been owned by a series of battery recycling companies. Apparently, some battery lead and acid had seeped into the ground, creating a hazardous waste area.

There were only a few problems. First my company is Act Steel & Recycling, not Ace Steel & Metals. Second, we never sent any batteries to Douglas County. And third, we weren't even in business until 1989—a full seven years after they said the last battery was dumped.

A simple case of mistaken identity. I thought. In 1989, we bought about 20% of the assets of a company called Ace Salvage, as well as the right to use the "Ace" name. That company was still in business, operating as Lipp Ventures. Lipp had sent the batteries to the Douglas County site, so they must be the one the EPA wanted. A letter from my lawyer explaining the situation should clear the whole thing up, right? Wrong.

Our first letter generated no response, so we sent another. This time, we documented everything. We sent copies of our original articles of incorporation from 1989, proving that we couldn't have been responsible for the problems at the Douglas County Superfund site.

Again, no response to speak of. Just a letter of acknowledgment saying thank you very much for the information, but you still owe $47,000. Needless to say, as a small business, we didn't have an extra $47,000 to spare—in fact, that was more than our profit for the entire year. We had to fight on or go out of business.

Finally, after 3½ years, Lipp's attorney settled with the lawyers from Douglas County. No one ever admitted there had been a mistake, but Ace Steel & Recycling was removed from the case "with prejudice." That means the plaintiff reserves the right to bring us back into the lawsuit, so we might not be out of danger yet.

Don't think for a minute that my case was some kind of freak accident. More than 20,000 small and medium-sized businesses, community groups, and other organizations across America have been dragged into the Superfund mess.

The primary problem with Superfund is its unfair liability system known as "retroactive, strict, joint and several liability." Retroactive liability gives the EPA the power to make companies pay to clean up problems that occurred before Superfund was passed, even if they followed every rule on the books at the time. And under joint and several liability, a single company can be forced to finance the entire cleanup cost, no matter now marginal its contribution to the site.

With marching orders like those, you can easily guess the EPA's standard operating procedure: Track down every company with even the most remote connection to a Superfund site, force them to pay, or drag them into court. Most companies fight the charges, rather than pay to clean up a problem they had little or no responsibility for creating. All the litigation caused by Superfund's notorious liability scheme is the main reason it now costs $30 million and takes 12 years to clean up the average Superfund site.

Congress will shortly begin debating Superfund reform legislation. Its top priority must be total repeal of retroactive liability. Superfund reform opponents claim that ending retroactive liability will let polluters off the hook and force taxpayers to pick up the bill. Not true. The program will still be financed by a tax on oil and chemical companies and other large corporations. Individual taxpayers won't have to pay a penny—unless Congress keeps Superfund on it failed course for another 15 years.

Repealing retroactive liability will put an end to wasteful litigation and force the EPA to focus on cleaning toxic waste sites instead of harassing innocent companies. Superfund cleanup could start immediately. And think of how many additional Superfund sites could be cleaned up if 50% of the money wasn't wasted on lawyers and bureaucrats.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:56 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

H.R. 716. An act to amend the Fishermen's Protective Act.

H.R. 1026. An act to designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the "Winfield Scott Stratton Post Office."

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 26, 1995, he had presented to the President of the United States, the following enrolled bill:

S. 1322. An act to provide for the relocation of the United States Embassy in Israel to Jerusalem, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1550. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Royalty Management Program, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1551. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to Exxon and stripper well oil overcharge funds as of June 30, 1995; to the Committee on Energy and Natural Resources.

EC-1552. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled "The Federal Energy Regulatory Commission Act of 1995"; to the Committee on Energy and Natural Resources.

EC-1553. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Royalty Management Program, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1554. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the report of a flood plain management assessment; to the Committee on Environment and Public Works.

EC-1555. A communication from the Chair of the Prospective Payment Assessment Commission and the Chair of the Physician Payment Review Commission, transmitting jointly, pursuant to law, a report on Medicare Managed Care; to the Committee on Finance.

EC-1556. A communication from the Chair of the Foreign Claims Settlement Commission, transmitting, pursuant to law, the annual report for calendar year 1994; to the Committee on Foreign Relations.

EC-1557. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC-1558. A communication from the Director of the Woodrow Wilson Center, transmitting, pursuant to law, the semiannual report of the Inspector General for fiscal year 1995; to the Committee on Governmental Affairs.

EC-1559. A communication from the Head of the Nonappropriated Fund Personnel and Insurance Branch, transmitting, pursuant to law, the report for the Navy NAF Retirement Plan for calendar year 1993; to the Committee on Governmental Affairs.

EC-1560. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference for fiscal year 1994; to the Committee on the Judiciary.

EC-1561. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to amend title 38, U.S. Code, to expand the authority of the Secretary of Veterans' Affairs to suspend special pay agreements for physicians and dentists who enter residency training programs; to the Committee on Veterans' Affairs.

EC-1562. A communication from the Comptroller General, transmitting, pursuant to law, the report of a revised deferral of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, and to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated.

POM-454. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE JOINT RESOLUTION NO. 21

"Whereas, the interstate Tahoe Regional Planning Compact ratified pursuant to Title 7.4 (commencing with Section 66800) of the Government Code created the Tahoe Regional Planning Agency; and

"Whereas, the agency is responsible for facilitating the attainment of environmental thresholds in the areas of air quality, transportation, scenic resources, and water quality; and

"Whereas, providing nonmotorized transportation facilities allows recreationists and residents to travel in the Tahoe Basin without an automobile, is consistent with the achievement of those thresholds, and leads to improved air quality and reduced vehicle miles traveled; and

"Whereas, approximately one-third of Lake Tahoe is currently provided with nonmotorized facilities through past cooperative work by local, state, and federal agencies; and

"Whereas, a trailside survey of the existing nonmotorized facilities provided by the Tahoe City Public Utility District shows usage and demand for recreation and commuter use to be exceptionally high; and

"Whereas, a completed nonmotorized facility around the lake would be a major recreational attraction leading to increased economic improvement in the tourism base; and

"Whereas, an enthusiastic "partnership" of public, private, and volunteer groups is ready to move forward to develop such a nonmotorized facility; and

"Whereas, full construction of the ultimate nonmotorized facility will require considerable cooperation between the federal government, the two states that are parties to the compact, local governments, and special districts, and will require a cooperative effort by all parties, public and private, in meeting funding needs over the next five years with a goal of full operation of the system by the year 2000; Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That California state agencies, counties, cities, and districts in the Tahoe Basin, the Tahoe Regional Planning Agency, and other interested parties are urged to undertake the necessary steps to ensure the designation and siting, by July 1, 1996, and the development, by July 1, 2000, of an appropriate nonmotorized route on the California side of the Tahoe Basin; and be it further

Resolved, That the United States Forest Service is hereby urged to provide assistance to the Tahoe Regional Planning Agency to ensure the designation and siting of an appropriate nonmotorized route on the California side of the Tahoe Basin by July 1, 1996; and be it further

Resolved, That the Legislature of the State of California memorializes the President and the Congress of the United States to support the development of the Lake Tahoe Nonmotorized Bikeway and Pedestrian Facility; and be it further

Resolved, That the Tahoe Regional Planning Agency be requested to pursue a similar resolution and concurrent action with the State of Nevada; and be it further

Resolved, That planning for the nonmotorized facility consider the needs of both the recreational user who wishes to take an enjoyable tour of the Lake Tahoe shoreline, as well as the "serious" commuter or recreational traveler who wishes to travel the perimeter of the lake; and be it further

Resolved, That support of this resolution be based on the understanding that all facility development will be consistent with the thresholds established as a requirement of the interstate compact; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Director of the United States Forest Service, to the President pro Tempore of the United States Senate, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Tahoe Regional Planning Agency, to the Governor of California, to the Board of Supervisors of El Dorado County, to the Board of Supervisors of Placer County, to the City of South Lake Tahoe, to the Board of Directors of the Tahoe City Public Utilities District, and to the Board of Directors of the North Tahoe Public Utilities District."

POM-455. A joint resolution adopted by the Legislature of the State of California to the Committee on Appropriations.

"SENATE JOINT RESOLUTION NO. 17

"Whereas, the United States government has mandated that state and local governments provide various services to immigrants, whether they are in this country legally or illegally, and has failed to reimburse those state and local governments for the costs of providing those services; and

"Whereas, the United States government historically has failed to adequately control the influx of undocumented immigrants into this country; and

"Whereas, the United States Supreme Court has repeatedly held that regulating the movement of individuals between this country and other nations is exclusively a federal responsibility; and

"Whereas, the costs associated with the supervision of parolees should never have been borne by the State of California because federal law mandates the prompt deportation of criminal aliens; and

"Whereas, the United States Congress enacted the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), authorizing a total of one billion eight hundred million dollars ($1,800,000,000) to be distributed to several states over a period of six years to cover incarceration costs of illegal immigrants, but did not actually appropriate or provide the funds to the states; and

"Whereas, the amount authorized by the federal act would not, in any event, cover more than a fraction of the costs to the State of California associated with the incarceration of illegal immigrants; and

"Whereas, the failure of the United States government to adequately control the borders, in addition to the imposition of huge mandated but unreimbursed costs to state and local governments, has led to blatant inequities in terms of exploitation of undocumented laborers, and abuse of wage, safety, and child labor laws, as well as lower wage levels for California's working poor; and

"Whereas, California, Florida, and other states have suffered disproportionately from the failure of the United States government to control this nation's borders; and

"Whereas, California, Florida, and other states have brought legal actions with federal district courts to compel the United States government to reimburse them for the costs associated with providing mandated and other services to illegal immigrants; and

"Whereas, the federal district courts have dimissed these actions at the request of the United States government based on the doctrine of sovereign immunity, the most recent dismissal being that regarding the action brought by the State of California in the United States District Court in and for the Southern District of California, entitled State of California v. United States of America, Case No. 94-0674 K (CM); and

"Whereas, there is clear precedent for acting to waive the provisions regarding sovereign immunity in situations such as these; and

"Whereas, the continuing dispute between the State of California and the United States government regarding actual costs of providing unreimbursed services to illegal immigrants can best be resolved in an objective judicial proceeding; and

"Whereas, Congress also has the power to take salutary action by amending the Violent Crime Control and Law Enforcement Act of 1994 to appropriate, and distribute to the states over the next six years, the sum of one billion eight hundred million dollars ($1,800,000,000), as originally authorized by the act, to cover costs of incarcerating illegal immigrants; Now therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to do all of the following:

"(a) Enact legislation to waive the immunity of the United States government to all suits brought by the states seeking reimbursement for all costs resulting from illegal immigration.

"(b) Enact legislation to facilitate the transfer from state and local custody to the Federal Bureau of Prisons all illegal immigrants in state and local correctional facilities.

"(c) Appropriate and distribute all funds necessary to cover the costs to the various states associated with providing services to illegal immigrants; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-456. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Armed Services.

"SENATE CONCURRENT RESOLUTION NO. 109.

"Whereas, in response to the call of officials and citizens alike, the United States Department of Defense, through the Defense Reutilization and Marketing Service, has achieved remarkable success as a pilot project committed to bringing sound business practices to a worldwide governmental operation. This initiative, which has been made more important by the reorganization of military facilities and base closures around the world, has been nominated for major recognition through the Innovations in American Government program coordinated by the Harvard University Kennedy School of Government; and

"Whereas, the Defense Reutilization and Marketing Service is charged with the mission of selling Department of Defense assets, reutilizing resources, transferring property and materials, and encouraging the recovery of metals. With the ever-increasing speed of change in technology and the unique demands of military preparedness in our volatile world, the task facing the Defense Reutilization and Marketing Service is a substantial one, representing enormous sums of capital. Fittingly, the Defense Logistics Agency of the Department of Defense selected the Defense Reutilization and Marketing Service as a pilot project under the Government Performance Results Act of 1993. Since that time, this operation has constituted a wonderful example of reinventing policies and attitudes in government; and

"Whereas, Michigan has been the recipient of numerous benefits through the efforts of the Defense Reutilization and Marketing Service. Products from around the world have gone to Michigan schools, youth groups, universities, museums, local units of government, and police departments. Several million dollars worth of materials, ranging from camping equipment to heavy machinery, have been put to good use; and

"Whereas, the Defense Reutilization and Marketing Service responded to its challenge with true business strategies of putting customers first, improving processes and the use of technologies, empowering employees to get results, and meeting customer requirements at a reduced cost. With emphasis on maximizing return to the taxpayer, the service has achieved remarkable success in increasing total assets by nearly 200 percent and attaining self-sufficiency with an operating profit of $17 million. These impressive figures represent a wonderful beginning. Most importantly, the success of this effort has generated a rethinking of all levels, with employees adopting attitudes consistent with those found in a sound and productive business. We hope all governmental agencies will follow this lead: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we recognize the achievements of the Defense Reutilization and Marketing Service in being recognized nationally for representing the reinvention potential that exists within the federal government; and be it further

Resolved, That we memorialize the Congress of the United States to continue to encourage the progress of the Defense Reutilization and Marketing Service and similar programs in all governmental units; and be it further

Resolved, That copies of this resolution be transmitted to officials of the National Performance Review, the Department of Defense, the Defense Logistics Agency, and the Defense Reutilization and Marketing Service, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–457. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

"SENATE JOINT RESOLUTION NO. 10

"Whereas, the federal government has attempted to impose national solutions to solve state and regional problems for decades; and

"Whereas, in that frame of policymaking, the role of the federal government in transportation has increased substantially over the past five decades; and

"Whereas, construction of the Interstate Highway System to link all states with a good network of roads was a desirable objective when it was introduced, and that system is very near completion; and

"Whereas, the federal government has expanded its role and mandates beyond the initial interstate system; and

"Whereas, the federal government's responsibilities for highway and mass transit are essentially that of tax collector, payor of public funds, "second-guesser," regulator, and reviewer; and

"Whereas, the state and local governments have continued to be the actual providers of services; and

"Whereas, the states possess the capability to collect their own taxes and formulate their own expenditure priorities without federal oversight or mandates; and

"Whereas, the state and local governments have encouraged and contributed to this gradual increase in federal involvement; and

"Whereas, the new Congress and the President are considering options for reinventing federal government and reducing its involvement in areas in which federal involvement is not necessary; and

"Whereas, the effort of the previous Congress was to establish a new national transportation system to add other modes of transportation only for the sake of intermodalism; and

"Whereas, that action would increase, rather than decrease, the federal role in an area that is not necessary; and

"Whereas, the federal government can do more for intermodalism by eliminating its role in highway building than by expanding its role into transit; and

"Whereas, state and local agencies should recognize that by asking for federal money they are asking for federal intervention and that they cannot expect the United States government to furnish funds and not order them to spend those funds in mandated ways, that every federal dollar received is paid to the federal tax collectors by California residents, and that California taxpayers are benefited if the federal role in collecting and distributing taxes is eliminated. Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take appropriate action to reorganize the federal Department of Transportation, eliminate federal programs for highways and transit, and limit the federal role in transportation to national safety standards, aviation, the Coast Guard, and Amtrak; and be it further

"*Resolved,* That federal efforts to develop and establish a national transportation system should be abandoned, and California transportation agencies are urged not to participate in the formation of that system; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States and to the United States Secretary of Transportation."

POM–458. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 30

"Whereas, Yosemite National Park has long been a favorite destination for horseback travelers, and in the park's early days, tourism facilities in Yosemite Valley depended on pack trains and stagecoaches to import supplies and guests, and to provide communication to that then-remote part of the Sierra-Nevada Mountains; and

"Whereas, in 1865, James M. Hutchings opened the first saddle train business in Yosemite, which provided pleasure riding and guide services for guests; and

"Whereas, Yosemite National Park consistently receives high numbers of visitors and, in 1994, a record number of 4.1 million people visited the park; and

"Whereas, only 5 percent of the park's total number of annual visitors leave the paved, developed areas of the park thus leaving most of the 1,170 square-mile park for those persons who prefer a less crowded, more adventurous experience; and

"Whereas, in January of this year, head managers of the Yosemite Stables were given notice that the park's concessionaire, the Yosemite Concessions Services, intends to shut down the stable operations prior to the 1996 season; however, the National park Service has recommended that the stables remain open for another year until the economic and environmental considerations relating to horse operations in the park can be thoroughly evaluated; and

"Whereas, Yosemite stable operations is one of the most profitable services in the park; and

"Whereas, if the Yosemite Concessions Services horse operations are shut down, the park revenues from trail fees will be decreased and the level of trail maintenance will deteriorate; and

"Whereas, if the Yosemite Stables close down, no private use of corrals will be possible, thus making it difficult for individuals with private stock to make use of the riding trails out of Yosemite; Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature expresses its opposition to the closure of the Yosemite Stables for environmental and economic reasons; and be it further

Resolved, That the Legislature memorializes the National Park Service, the President, and the Congress of the United States to take steps necessary to prevent the closure of the Yosemite Stables; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, to the Secretary of the Interior, to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States".

POM–459. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 2

"Whereas, through the Clean Air Act and its amendments (42 U.S.C. Sec. 7401 et seq.), the federal government has undertaken the laudable task of ridding the air we breathe of pollution; and

"Whereas, a balance must be struck between any steps taken to reduce air pollution, and the adverse impact those steps may have upon the economy, the business climate, and the cost and size of government; and

"Whereas, under the Clean Air Act Amendments of 1990 (P.L. 101-549), those states with areas that are classified as severe or extreme nonattainment areas are forced to adopt employee commute option and trip reduction laws; and

"Whereas, pursuant to the Clean Air Act, programs are being conducted by California air districts to clean the state's air through the imposition of onerous, burdensome, and costly regulations that require employers of companies having 100 or more employees to establish trip reduction plans; and

"Whereas, an example of the ineffectiveness and excessive cost of employer trip reduction plan regulations can be shown by the resultant failures of the South Coast Air Quality Management District's employer trip reduction plan requirement, Rule 1501, previously known as Regulation 15; and

"Whereas, since its implementation in 1988, Rule 1501 has contributed negligible benefits towards reducing or eliminating smog within the Los Angeles basin, while at the same time, this rule's compliance cost upon employers is estimated at anywhere between $136 million and $197 million annually, or, roughly, $3,000 for every car not driven to work, for a total of approximately $1 billion that Los Angeles basin employers have been forced to spend to comply with this rule; and

"Whereas, the South Coast Air Quality Management District Governing Board realizes that Rule 1501 is ineffective, expensive, and has fallen far short of the average vehicle ridership goals sought by the district pursuant to the Clean Air Act; and

"Whereas, it is obvious that the costs and effects of mandated employer trip reduction plans, such as Rule 1501, can be devastating to companies trying to remain economically competitive, and these policies do not justify the economic and social hardships that will occur in nonattainment areas if employer trip reduction mandates continue as part of the Clean Air Act; and

"Whereas, despite the fact that other avenues may be available to pursue the goals of the Clean Air Act without having to resort to mandated employer trip reduction plans, these alternatives cannot be legally pursued by states in lieu of existing employer trip reduction plan mandates unless Congress amends the Clean Air Act to reflect this intent; Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact an amendment to the Clean Air Act that will eliminate the provisions mandating an employer trip reduction program in extreme and severe nonattainment areas and, instead, allow states to pursue practical and cost-effective alternatives towards solving their air quality problems; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the Legislature of each of the other states."

POM-460. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 5

"Whereas, the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) was enacted to encourage states to act appropriately to clean up the air in their own neighborhoods; and

"Whereas, the act, as recently amended (P.L. 101-549), has continued to deviate from the principle of establishing standards and allowing states to design specific actions to satisfy those standards and to rely more on the principle that Washington "knows best"; and

"Whereas, the federal law now specifies detailed procedures and programs that the states must follow, including the requirement for specific types of smog check, and other similar programs; and

"Whereas, the State of California has been in the forefront of clean air activities, including the adoption of new vehicle emission standards, and possesses extensive experience and knowledge about programs and activities that are feasible and cost-effective and those that are not; and

"Whereas, the Clean Air Act has placed California at the mercy of federal bureaucrats to the extent that the state must negotiate with them on minute details, such as whether or not the smog inspection stations can be allowed to sell candy bars and other similar commodities; and

"Whereas, Congress has expressed a strong interest in reducing the role of the federal government by allowing states to manage their own affairs; and

"Whereas, there is a question regarding the efficacy of the science that the Environmental Protection Agency has used to diminish the relative effectiveness of alternative clean air strategies; Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend the Clean Air Act to retain the clean air standards, including requirements to reduce emissions from mobile sources, but remove specific requirements such as vehicle inspection and maintenance, and to require the Environmental Protection Agency to reevaluate, using recent scientific, technological, and other environmental findings, the methodology and science used to measure both the inventory of emissions and the effectiveness of individual components of the state clean air plans for purposes of compliance with the broader goals of the Clean Air Act Amendments of 1990 (P.L. 101-549); and be it further

"*Resolved*, That the California Legislature will continue to pursue all feasible and cost-effective strategies that, as implemented, produce cleaner air for California's residents, and that those strategies will be pursued because doing so is good for the health and safety of the people of California and not because doing so is mandated by the United States Congress, the federal bureaucracy, or a federal judge; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-461. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 18

"Whereas, the Home Office and Business Opportunities (HOBO) Association of California, an innovative grassroots organization recognized as one of the foremost leaders and advocates of homebased business issues statewide, is sponsoring a Homebased Business Week in the state; and

"Whereas, Homebased Business Week will build public awareness and advance the values of homebased business to California; and

"Whereas, Homebased Business Week will create and promote change, foster economic growth, increase employment, and support the desire for independence and self-reliance, while realizing the concerns for child care, the quality of home life, and the environment; and

"Whereas, Homebased Business Week will assist homebased businesses by providing educational and informational programs, forums, workshops, seminars, and conferences, which will aid in the establishment and development of homebased businesses all across California; and

"Whereas, Homebased Business Week will assist the growing number of homebased business owners in realizing their potential in finding the American dream; and

"Whereas, it would be of benefit to other states to observe Homebased Business Week nationally: Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California, sharing these interests and concerns, hereby declares the week of September 25 through 29, 1995, as Homebased Business Week in California; and be it further

"*Resolved*, That the Legislature further urges the President and Congress of the United States to declare the week of September 25 through 29, 1995, as Homebased Business Week nationally; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Governor, and to the Home Office and Business Opportunities Association.

POM-462. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION NO. 33

"Whereas, it was Japan that ultimately plunged the United States into World War II when on December 7, 1941, Japanese aircraft attacked without warning the United States Pacific Fleet at anchor in Pearl Harbor in Hawaii which propelled enraged Americans to arms; and

"Whereas, on December 8, 1941, within hours of the attack on Pearl Harbor, Japanese bombers struck the British colony of Hong Kong on the south coast of China and the two United States Islands of Guam and Wake in the Pacific Ocean; and

"Whereas, Japan's next target was the petroleum-rich Netherlands East Indies that were protected by Allied warships that were mauled by Japan's navy in February 1942 in the Battle of the Java Sea; and

"Whereas, only the conquest of the Philippines took longer than Japan expected when American and Philippine forces commanded by United States General Douglas MacArthur defended the islands and although suffering from malnutrition and disease, they beat back Japanese attacks for just over three months; and

"Whereas, on April 9, 1942, about 75,000 exhausted troops on Bataan surrendered to the Japanese and most of them were forced to march about 65 miles to prison camps and many prisoners died of disease and mistreatment during what became known as the Bataan Death March; and

"Whereas, three events in 1942 helped turn the tide against Japan, the first of these being the Doolittle Raid in which Lieutenant Colonel James H. Doolittle led 16 B-25 bombers in a daring bombing raid on the Japanese homeland that consisted of a surprise attack on Tokyo and other Japanese cities to show that Japan could be beaten; and

"Whereas, in May 1942 in the Battle of the Coral Sea, which was the first naval battle in which opposing ships never sighted one another and planes based on aircraft carriers did all the fighting, American warships halted the Japanese assault on Port Moresby on the south coast of New Guinea; and

"Whereas, in the Battle of Midway in June 1942, the United States cracked Japan's naval code and learned of Japan's coming invasion to capture Midway Island at the westernmost tip of the Hawaiian chain and the battle that ensued became the first clear Allied victory over Japan in World War II; and

"Whereas, the Allies developed two major campaigns against Japan in the South Pacific, one force under MacArthur that checked the Japanese on New Guinea and another force under Admiral Chester W. Nimitz that battled the Japanese in the Solomon Islands northeast of Australia that included the six-month battle for Allied control of the Island of Guadalcanal; and

"Whereas, superiority at sea and in the air enabled the Allies to close in on Japan in early 1945 and by then Japan had lost much of its empire, most of its aircraft and cargo ships, and nearly all of its warships and American B-29 bombers were pounding Japan's industries, and American submarines were sinking vital supplies headed for Japan; and

"Whereas, Japan's military leaders went on fighting even though they faced certain defeat; and

"Whereas, the Allies decided they needed more bases to step up the bombing campaign against Japan and chose the Japanese islands of Iwo Jima and Okinawa; and

"Whereas, in April 1945 the United States, Great Britain, and China issued a statement warning that Japan would be destroyed unless it surrendered unconditionally but in spite of the warning, Japan went on fighting; and

"Whereas, on August 6, 1945, an American B-29 bomber called the Enola Gay dropped the first atomic bomb used in warfare on the Japanese city of Hiroshima and after Japanese leaders failed to respond to the bombing, the United States dropped a larger bomb on Nagasaki on August 9, 1945.

"Whereas, on August 14, 1945, Japan agreed to end the war and on September 2, 1945, representatives of Japan signed the official statement of surrender aboard the United States battleship Missouri that lay at anchor in Tokyo Bay and representatives of all the Allied nations were present; and

"Whereas, President Truman declared September 2, 1945s as V–J Day or Victory over Japan Day and World War II had finally ended; Now, therefore, be it

"*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature does hereby proclaim September 2, 1995, as the 50th Anniversary of V–J Day and urges all Californians to join in ceremonies to commemorate this major historic event; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Governor of California, and to each Senator and Representative from California in the Congress of the United States."

POM–463. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary

"SENATE CONCURRENT RESOLUTION NO. 17

"Whereas, home should be a place of warmth, unconditional love, tranquility, and security; however, for many Americans, home is tainted with violence and fear; and

"Whereas, domestic violence is more than the occasional family dispute; and

"Whereas, according to the United States Department of Health and Human Services, domestic violence is the single largest cause of injury to American women, affecting six million women of all racial, cultural, and economic backgrounds; and

"Whereas, according to data published in 1993 by the Commonwealth Fund and a 1994 survey report by the United States Department of Justice, in the United States, a woman is battered every 15 seconds; 40 percent of female homicide victims in 1991 were killed by their husbands or boyfriends; and

"Whereas, more than half of the number of women in need of shelter from an abusive environment may be turned away from a shelter due to lack of space; and

"Whereas, women are not the only targets of domestic violence; young children, elderly persons, and men are also victims in their own homes; and

"Whereas, emotional scars are often permanent; and

"Whereas, a coalition of organizations has emerged to confront directly this crisis. Law enforcement agencies, domestic violence hotlines, battered women and children's shelters, health care providers, churches, and the volunteers that serve those entities are helping the effort to end domestic violence; and

"Whereas, it is important to recognize the compassion and dedication of the individuals involved in that effort, applaud their commitment, and increase public understanding of this significant problem; and

"Whereas, the first Day of Unity was celebrated in October 1981 and was sponsored by the National Coalition Against Domestic Violence (N.C.A.D.V.) for the purpose of uniting battered women's advocates across the nation in an effort to end domestic violence; and

"Whereas, that one day has grown into a month of activities at all levels of government, aimed at creating awareness about the problem and presenting solutions; and

"Whereas, the first Domestic Violence Awareness Month was proclaimed in October 1987: Now, therefore, be it

"*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby proclaims the month of October 1995 as Domestic Violence Awareness Month; and be it further

"*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the President of the United States, the Governor of the State of California, the Director of the United States Department of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States."

POM–464. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 24

"Whereas, the travel agent industry employs travel agents in this state, who derive a substantial amount of their earnings from the traditional 10-percent commission on airline ticket sales; and

"Whereas, virtually every major airline has imposed a limit on these sales commissions, so that airlines pay no more than $25 on one-way domestic tickets and $50 for round-trip tickets instead of the former commission of 10 percent of the cost of the ticket; and

"Whereas, the imposition of the commission limit is harming the travel agent industry, endangering jobs held primarily by women and single parents; and

"Whereas, a statewide job loss will have a negative impact on the state's budget, resulting in a decrease in formerly collected income taxes and an increase in state unemployment compensation expenditures; and

"Whereas, it has not yet been determined whether the airline industry's lockstep approach to cost savings through the imposition of a commission limit constitutes a violation of antitrust law: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Attorney General of the United States to conduct an investigation to determine if the airlines' imposition of a limit on the sales commissions of travel agents constitutes a violation of federal antitrust law; and be it further

"*Resolved,* That the Congress of the United States is respectfully urged to suspend the imposition of commission limits until the Attorney General has completed the investigation requested pursuant to this resolution; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Attorney General of the United States, the Majority Leader of the United States Senate, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–465. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs.

"SENATE JOINT RESOLUTION NO. 29

"Whereas, the 1.5 million Americans who served in the "Forgotten War" have waited too long to be recognized for their sacrifices; and

"Whereas, the 54,000 soldiers who made the ultimate sacrifice for democracy deserve our thanks and respect; and

"Whereas, the 8,168 Americans who remain missing-in-action should always remain in our memories; and

"Whereas, it is appropriate that the Veterans of the Korean War be commemorated for their heroic efforts in that struggle for democracy; and

"Whereas, in October 1986, Congress passed legislation authorizing the American Battle Monuments Commission to establish a memorial on federal land in or near Washington, D.C. to honor the military personnel who served in the Korean War; and

"Whereas, in October 1986, President Ronald Reagan signed into law a measure authorizing the establishment of the Korean War Memorial in Washington, D.C., and Congress earmarked $1 million, to be repaid to the federal government, to start the project originally estimated to cost $5 million; and

"Whereas, on June 14, 1992, President George Bush broke ground for the Korean War Memorial, on a 2.2-acre plot on the National Mall on a plot of former marshlands at the foot of the Lincoln Memorial; and

"Whereas, on August 17, 1995, the President and South Korean President Kim Young-Sam, joined by ambassadors from the 21 nations that supported the United Nations resolution opposing North Korea's invasion of South Korea, dedicated the Korean War Memorial in Washington, D.C.; and

"Whereas, the memorial consists of 19 seven-foot-tall statues of roughened stainless steel with a dark patina weighing nearly 1,000 pounds each, depicting American soldiers advancing toward the American Flag; and

"Whereas, the memorial represents all of the services that fought in the war: 14 Army infantrymen, three Marines, one Navy medic, and one Air Force forward observer; and

"Whereas, the memorial includes a 164-foot long, eight-foot thick, polished granite wall weighing over 100 tons; and

"Whereas, the wall is made of "academy black" granite from California, and contains over 2,500 images representing the land, sea, and air troops; and

"Whereas, the memorial includes a highly reflective black granite reflecting pool; and

"Whereas, Ray Davis, a retired Marine Corps general and Chairman of the Korean War Veterans Memorial Dedication Foundation stated that establishment of the memorial will be "a positive, uplifting, permanent kind of memorial. It will not age in that visitors see there, in almost perfect form, those that served the cause of freedom"; and

"Whereas, California commends these and other efforts to commemorate and place in a proper place of honor, a memorial to the great sacrifices that were made by those who fought for freedom and democracy during this heretofore "forgotten war"; Now therefore be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California commemorates those who fought in the Korean War, and applauds the President and the Congress of the United States, the Korean War Veterans Memorial Dedication Foundation, and others who supported this effort for their accomplishments in making the Washington, D.C. Korean War Memorial a reality; and be it further

"*Resolved*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take further action, as appropriate, to ensure that the Korean War does not again become a "forgotten war"; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Korean War Veterans Memorial Dedication Foundation, and a suitably prepared copy to the author for distribution, as appropriate."

REPORTS OF COMMITTEES

The following reports of committees were submitted on October 25, 1995:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 1097: A bill to designate the Federal building located at 1550 Dewey Avenue, Baker City, Oregon, as the "David J. Wheeler Federal Building", and for other purposes.

The following reports of committees were submitted on October 26, 1995:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 848. A bill to grant the consent of Congress to an amendment of the Historic Chattahoochee Compact between the States of Alabama and Georgia.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs: John A. Knubel, of Maryland, to be Chief Financial Officer, Department of Housing and Urban Development.

Kevin G. Chavers, of Pennsylvania, to be President, Government National Mortgage Association.

Hal C. DeCell III, of Mississippi, to be an Assistant Secretary of Housing and Urban Development.

Norman S. Johnson, of Utah, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1999.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1995.

Joseph H. Neely, of Mississippi, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

Alicia Haydock Munnell, of Massachusetts, to be a Member of the Council of Economic Advisers.

Dwight P. Robinson, of Michigan, to be Deputy Secretary of Housing and Urban Development.

Isaac C. Hunt, Jr., of Ohio, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2000.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on the Judiciary:

Juan Abran DeHerrera, of Wyoming, to be United States Marshal for the District of Wyoming for the term of four years.

John R. Tunheim, of Minnesota, to be United States District Judge for the District of Minnesota.

Barry Ted Moskowitz, of California, to be United States District Judge for the Southern District of California vice a new position created by Public Law 101-650, approved December 1, 1990.

Stephen M. Orlofsky, of New Jersey, to be United States District Judge for the District of New Jersey.

Susan J. Dlott, of Ohio, to be United States District Judge for the Southern District of Ohio.

R. Guy Cole, Jr., of Ohio, to be United States Circuit Judge for the Sixth Circuit.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KEMPTHORNE (for himself, Mr. Warner, Mr. Faircloth, Mr. Inhofe, Mr. Thomas, Mr. McConnell, Mr. Craig, Mr. Bennett, Mr. Burns, and Mr. Cochran):

S. 1364. A bill to reauthorize and amend the Endangered Species Act of 1973, and for other purposes; to the Committee on Environment and Public Works.

S. 1365. A bill to provide Federal tax incentives to owners of environmentally sensitive lands to enter into conservation easements for the protection of endangered species habitat, and for other purposes; to the Committee on Finance.

By Mr. KEMPTHORNE (for himself, Mr. Chafee, Mr. Warner, Mr. Faircloth, Mr. Inhofe, Mr. Thomas, Mr. McConnell, Mr. Craig, Mr. Bennett, Mr. Burns, and Mr. Cochran):

S. 1366. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from the gross estate of a decedent in an amount equal to the value of real property subject to an endangered species conservation agreement; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KEMPTHORNE (for himself, Mr. Warner, Mr. Faircloth, Mr. Inhofe, Mr. Thomas, Mr. McConnell, Mr. Craig, Mr. Bennett, Mr. Burns, and Mr. Cochran):

S. 1364. A bill to reauthorize and amend the Endangered Species Act of 1973, and for other purposes; to the Committee on Environment and Public Works.

THE ENDANGERED SPECIES CONSERVATION ACT

• Mr. KEMPTHORNE. Mr. President, today I introduced a bill that I believe will restore Americans' faith and confidence in the Government's ability to protect the environment and our future.

I am talking about reform of the Endangered Species Act, first enacted in 1973. If we do nothing, the act will collapse under the weight of regulation and inefficiencies.

Everyone I speak with considers themselves an environmentalist, and I believe they are right. We all want a future for our children. We only have one planet, and we must do all we can to protect it and the species living on it.

We can all agree with the goals of the act—identify species and habitat in danger of extinction and try to reverse the process for those that we can. Unfortunately, many Americans have come to destruct the act and its bureaucracy. We need to restore a balance in order to allow the act to work.

That is why I am introducing my Endangered Species Conservation Act today. I consider myself a probusiness environmentalist. Some may think that is an oxymoron, but I do not believe so. Here is why: Without a healthy economy, we will not have the resources needed to conserve the rare species among us.

How can we have both?

My Drinking Water, Fisheries, and Wildlife Subcommittee held extensive hearings on the act this spring and summer. We held hearings in Washington, DC, Idaho, Oregon, and Wyoming. In those hearings, some common themes emerged. First, almost everyone agreed it is time to reform the Endangered Species Act.

We heard that from almost everyone, from the unemployed timber worker in Idaho to the Secretary of the Interior. And I intend with this bill to bring about the meaningful and substantial reform to the act that everyone has asked for.

While all of us agree on the general goals of the Endangered Species Act, the message that we received at our hearings is that the ESA is too much regulation, too much Federal control, and too much Government. That message has come through loud and clear. People who have to live with the ESA are angry with how the Government uses it against them. The ESA relies too often on untested science, bureaucratic delays, and excludes State and local government from decisions that affect their own people, and threatens private property rights.

An example of this is the case in Idaho, where a Federal judge threatened to shut down all activities in six national forests. The loggers, miners, ranchers, businessowners, and the thousands of jobs they provide were at risk because Federal agencies were not talking to each other.

We must bring balance back to the process of saving rare and threatened species. This is not just an issue in my home State of Idaho or elsewhere in the West. Indeed, the Endangered Species Act has implications in the Northeast, where the Atlantic Salmon remains a concern, the Southwest with the Mexican Spotted Owl, the Red Cockaded Woodpecker in the Southeast, and the Midwest's whooping cranes. Nearly every American has a stake in this debate, and I believe, Mr. President, that nearly every American will understand the reasons why my bill will be better for people, species, and the environment.

The said truth is that since 1973, only a handful of species have been successfully removed from the endangered species list. Yet despite our efforts to document the cost, untold millions of dollars have been spent in the effort. We need a bill that works better, more effectively, and actually accomplishes what that original 1973 law intended to do.

I believe this bill will do that by allowing science to take its proper place in the debate. Science, not political science, should determine whether a species is at risk of extinction. Right now, it is the other way around, with a political decision made first on a species and then the necessary data found to justify that decision. Science should provide options for public policymakers. Until we use science to allow us to make the best public policy decisions, and until we openly move into the political arena and discuss the competing concerns facing our country, we never will be able place our society's priorities in balance.

I believe that is where Congress has abdicated its responsibilities. Congress tells Federal agencies to go out and make the ESA work, but often the only tools those agencies have are the blunt instrument of regulation.

Examples like the 29 homes lost to fire in southern California because homeowners couldn't cut fire lines due to ESA regulations have eroded public confidence in the act, and have made them openly skeptical of its goals. I doubt whether many Americans will make the Stephens' Kangaroo Rat a priority over those 29 homes. Under the ESCA we would find a way to protect both the Stephens' Kangaroo Rat and the private property rights of the 29 homeowners.

In this manner this legislation restores the balance to the equation and allows for a healthy economy, vibrant communities, better species protection, and hope for our children's futures. It makes the Endangered Species Act actually work better and stronger and is good reform. If we do nothing, public opposition to how the act has been implemented will cause it to fail altogether. I do not think anyone here wants that to happen.

Let me go over the major provisions of the ESCA: This bill effectively separates science from politics; it is designed to actually conserve species while recognizing the rights of private property owners; the current act's mandate to recover every species regardless of cost or consequence is changed to allow us to prioritize our Nation's needs and to conserve species in the process; the ESCA involves State and local governments in the conservation process and treats them as equals; we remove bureaucratic delays that destroy the relationship between property owners and Government; this bill provides incentives to encourage the protection of endangered and threatened species; it makes all Federal agencies partners, instead of adversaries, in the conservation of species.

This bill introduces several innovations and new ideas that I think are crucial to bringing balance to the act. First, we recognize the progress science has made in genetics. Genetics are not even mentioned in the 1973 act. In the ESCA we recognize genetics as a measure of species distinctness. And, as requested by the scientists, we protect the biological species and genetically distinct populations and subspecies.

Whether a species should be listed is measured in human generations, because I believe we must look to our children's future, and how we can provide for them. Is this sound science? I believe so because population biologists tell me they can now make such forecasts within those bounds.

The fact remains we are spending millions of dollars now and putting jobs and communities at risk with no clear policy, priorities, or ability to measure results. We must acknowledge that extinction is a natural phenomenon over which man has limited control. Today we have an opportunity to reform the Endangered Species Act to do a better job of preventing the increasing loss of species. Congress must take a forceful step in this area, because we can't afford to let the courts distort our good intentions.

I do not expect this bill to be embraced by those in our country who view this issue only from the extremes. But extremists get very little accomplished. I contend that extremists probably deserve each other and ought to be on some remote island where they have to help each other. The balance between people and our natural world can only be maintained with a partnership—a partnership brought about by legislation like this.

If we do nothing, and do not work together, and if we continue to rely solely on regulation instead of incentives we will fail. That is something we cannot allow for our present and for our childrens' future.•

• Mr. BURNS. Mr. President, I am pleased to be a cosponsor of the Endangered Species Conservation Act [ESCA] introduced by Senator KEMPTHORNE.

The Endangered Species Act [ESA] has been misused and twisted from its original intent, and I believe the bill we are introducing today puts us back on track.

Montana's largest industry is agriculture. If you asked Montana's farmers and ranchers what law they want Congress to fix, most will say the Endangered Species Act. The wood products industry represents almost half of western Montana's economy. If you ask the folks who make a living in the woods what law is currently infringing on their ability to make a living for their families, they'll tell you about grizzly bears and road closures—once again coming back to the Endangered Species Act.

There is no doubt that we must reform the ESA. It is the single most restrictive law that Montanans and other American who rely on the land to make a living, must deal with. The communities in Montana lack the economic stability and predictability they deserve. The current law has many communities in Montana and throughout our Nation living on pins and needles. The bottom line is communities are hurting.

We need to change the ESA so that it truly protects and recovers species, won't cost millions of dollars per species, and will protect private propertyowners' rights. The bill we're introducing today accomplishes these goals.

Emphasis must be placed on recovery. The current law emphasizes the listing of species instead of protecting and recovering species. In order to do this, the Endangered Species Conservation Act contains the following principles:

First, as I stated earlier, above all we must concentrate our efforts on recovery plans. If we do so, we would focus on the least costly alternative and we would assess the impacts of decisions made under the act for State and local economics. In addition, this would force priorities to be set and would generate recovery plans which are reasonable and obtainable.

Second, the ESCA bill we've introduced today recognizes that a one-size-fits-all recovery standard is flawed. The ESCA establishes standards for prioritizing where Federal dollars should be spent and what level of conservation will be sought.

Finally, it also ensures decisions are based on better science. Peer review procedures need to be added to improve the overall data collected so that the right decisions are made. We must have three decisions made outside of politics and instead done by objective individuals who have a background in science. The bill establishes an Endangered Species Commission which will ensure sound science, not politics, drives our decisions.

The best decisions are those made at the local level, and I believe we need increased private participation in our conservation efforts. The fact is, local individuals are the best people to support any conservation plan. They work and live in the areas affected, and they have a stake in what happens in their own backyards.

Washington should not forget, these people want to maintain the quality of life they have for their families. The ESCA encourages cooperative management agreements for non-Federal efforts and other incentives for private land owners. These include deferment of estate taxes where conservation easements are in place, technical assistance, and cost sharing.

Without a doubt, compensation must be given to individuals who lose the use of their private property under a Federal Government conservation plan. Our Constitution and property rights need protection on every front. Anything short of that is selling our constitutional rights down the river. I am pleased that the ESCA contains a provision to protect our private property rights.

The Endangered Species Act has a good goal. However, since it became law, it has been twisted and misused for other purposes. We need some common sense put back into recovering species. Starting from a new view point, and crafting an act which truly reflects what we want to do—conserve and recover species—has to be the focus. We can't let the existing law and regulations run multiple use off our lands.

Reforming the Endangered Species Act is essential to Montana's economy. Our four largest industries—agriculture, timber, mining, and oil and gas rely on the use of land. And it's these industries which supply the jobs and the tax base for Montana. Changing the laws on conserving and recovering endangered species is important for jobs for Montanans, and it is important for sound land management activities.

The Endangered Species Conservation Act is a good bill and I hope the Senate will act quickly in considering this important issue.●

ADDITIONAL COSPONSORS

S. 228

At the request of Mr. BRYAN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and Congressional employees for retirement purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 678

At the request of Mr. AKAKA, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 690

At the request of Mr. AKAKA, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 690, a bill to amend the Federal Noxious Weed Act of 1974 and the Terminal Inspection Act to improve the exclusion, eradication, and control of noxious weeds and plants, plant products, plant pests, animals, and other organisms within and into the United States, and for other purposes.

S. 878

At the request of Mr. COCHRAN, the name of the Senator from Ohio [Mr. DEWINE] was withdrawn as a cosponsor of S. 878, a bill to amend the Internal Revenue Code of 1986 to reduce mandatory premiums to the United Mine Workers of America Combined Benefit Fund by certain surplus amounts in the Fund, and for other purposes.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

KENNEDY (AND OTHERS) AMENDMENT NO. 2959

Mr. KENNEDY (for himself, Mr. SIMON, Mr. PELL, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. WELLSTONE, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. KOHL, Mr. BAUCUS, Mr. BINGAMAN, and Mr. FORD) proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 1409, beginning with line 8, strike all through page 1410, line 25.

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1425, line 16.

Strike chapter 3 of subtitle B of title XII.

HUTCHISON (AND OTHERS) AMENDMENT NO. 2960

(Ordered to lie on the table.)

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra; as follows:

At the appropriate place, insert the following:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The UN spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facie evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails."

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to corporate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicated persons found in their territories.

(8) ethnic cleansing by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

BAUCUS AMENDMENT NO. 2961

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

Strike section 1105(4)(B)(iii).

KASSEBAUM (AND OTHERS) AMENDMENT NO. 2962

Mrs. KASSEBAUM (for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. GORTON, Mr. PRESSLER, Mr. ROTH, Mr. DOMENICI, Mr. STEVENS, Mr. SPECTER, Mr. COHEN, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1426, line 9.

BREAUX (AND KERRY) AMENDMENT NO. 2963

Mr. BREAUX (for himself and Mr. KERRY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1469, beginning on line 2, strike all through page 1471, line 20, and insert the following:

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by paragraph (1) for a taxable year shall not exceed the sum of—

"(A) the tax imposed by this subtitle for the taxable year (reduced by the credits allowable against such tax other than the credit allowable under section 32), and

"(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

"(b) ADJUSTED GROSS INCOME LIMITATION.—The aggregate amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section."

(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

"Sec. 35. Child tax credit.

"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

MCCAIN (AND OTHERS) AMENDMENT NO. 2964

Mr. MCCAIN (for himself, Mr. DOLE, Mr. COATS, and Mr. NICKLES) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that—

(a) The Senate has held hearings on the social security earnings limit in 1994 and 1995 and the House has held two hearings on the social security earnings limit in 1995;

(b) The Senate has overwhelmingly passed Sense of the Senate language calling for substantial reform of the social security earnings limit;

(c) The House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the social security earnings limit three times, in 1989, 1992, and 1995;

(d) Such legislation is a key provision of the Contract with America;

(e) The President in his 1992 campaign document "Putting People First" pledged to lift the social security earnings limit;

(f) The social security earnings limit is a depression-era relic that unfairly punishes working seniors; therefore,

(g) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

HELMS AMENDMENT NO. 2965

Mr. HELMS proposed an amendment to the bill S. 1357, supra; as follows:

On page 461, line 13, after the period, insert the following:

"(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsors, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the individual."

CAMPBELL (AND BROWN) AMENDMENTS NOS. 2966–2967

(Ordered to lie on the table.)

Mr. CAMPBELL (for himself and Mr. BROWN) submitted two amendments intended to be proposed by them to the bill S. 1357, supra; as follows:

AMENDMENT NO. 2966

Beginning on page 178, strike out line 3 and all that follows through the end of the matter between lines 7 and 8 on page 178, and insert in lieu thereof the following:

"§ 7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

"(a) STUDY OF FUTURE OF PETROLEUM RESERVES.—(1) The Secretary of Energy shall conduct a study to determine which of the following options, or combination of options, would maximize the value of the naval petroleum reserves to or for the United States:

"(A) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C.1701 et seq.).

"(B) Sale of the interest of the United States in the naval petroleum reserves.

"(2) The Secretary shall retain such independent consultants as the Secretary considers appropriate to conduct the study.

"(3) An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves under paragraph (1) shall include an assessment and estimate, in a manner consistent with customary property valuation practices in the oil and gas industry, of the fair market value of the interest of the United States in the naval petroleum reserves.

"(4) Not later than June 1, 1996, the Secretary shall submit to Congress and make available to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

"(b) IMPLEMENTATION OF RECOMMENDATIONS.—(1) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4), and not later than September 30, 1997, the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) shall be leased as described in subparagraph (A) of subsection (a)(1) or sold as described in subparagraph (B) of such subsection.

"(2) The Secretary shall use for carrying out this section such amounts of the unobligated balances of funds available to the Department of Energy as are necessary to carry out this section.

"(c) ADMINISTRATION OF A SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to any sale of the naval petroleum reserves under subsection (b) as if the reference to Naval Petroleum Reserve Numbered 1 in those subsections of such section 7421a referred to the naval petroleum reserves.

"(2)(A) The time requirements set forth in subsection (c) of section 7421a of this title do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

"(B) In the application of subsection (d) of section 7421a of this title under paragraph (1), the reference in that subsection to subsection (e) of such section does not apply.

"(C) In the application of subsections (j) and (k) of section 7421a of this to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

"(i) that does not have a preamble;

"(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed sale of naval petroleum reserves reported in the notification submitted to Congress by the Secretary of Energy on __________.' (the blank space being filled in with the appropriate date); and

"(iii) the title of which is as follows: 'Joint resolution approving the sale of naval petroleum reserves'.

"(D) In the application of subsection (l) of section 7421a of this title to the sale of the naval petroleum reserves under paragraph (1), the period referred in that subsection shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

"(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

"7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).
"7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).".

AMENDMENT NO. 2968

Beginning on page 178, strike out line 3 and all that follows through the end of the matter between lines 7 and 8 on page 178, and insert in lieu thereof the following:

"§ 7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills)

"(a) STUDY OF FUTURE OF PETROLEUM RESERVES.—(1) The Secretary of Energy shall conduct a study to determine which of the following options, or combination of options, would maximize the value of the naval petroleum reserves to or for the United States:

"(A) Transfer of all or a part of the naval petroleum reserves to the jurisdiction of the Department of the Interior for leasing in accordance with the Mineral Leasing Act (30 U.S.C. 181 et seq.) and surface management in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

"(B) Sale of the interest of the United States in the naval petroleum reserves.

"(2) The Secretary shall retain such independent consultants as the Secretary considers appropriate to conduct the study.

"(3) An examination of the value to be derived by the United States from the transfer or sale of the naval petroleum reserves under paragraph (1) shall include an assessment and estimate, in a manner consistent with customary property valuation practices in the oil and gas industry, of the fair market value of the interest of the United States in the naval petroleum reserves.

"(4) Not later than June 1, 1996, the Secretary shall submit to Congress and make available to the public a report describing the results of the study and containing such recommendations as the Secretary considers appropriate to implement the option, or combination of options, identified in the study that would maximize the value of the naval petroleum reserves to or for the United States.

"(b) IMPLEMENTATION OF RECOMMENDATIONS.—(1) Not earlier than 31 days after submitting to Congress the report required under subsection (a)(4), and not later than September 30, 1997, the naval petroleum reserves (other than Naval Petroleum Reserve Numbered 1) shall be leased as described in subparagraph (A) of subsection (a)(1) or sold as described in subparagraph (B) of such subsection.

"(2) The Secretary shall use for carrying out this section such amounts of the unobligated balances of funds available to the Department of Energy as are necessary to carry out this section.

"(c) ADMINISTRATION OF A SALE.—(1) Except as provided in paragraph (2), subsections (c), (d), (h), (i), (j), (k), (l), (m), and (n) of section 7421a of this title shall apply to any sale of the naval petroleum reserves under subsection (b) as if the reference to Naval Petroleum Reserve Numbered 1 in those subsections of such section 7421a referred to the naval petroleum reserves.

"(2)(A) The time requirements set forth in subsection (c) of section 7421a of this title do not apply under paragraph (1) to the sale of the naval petroleum reserves under this section.

"(B) In the application of subsection (d) of section 7421a of this title under paragraph (1), the reference in that subsection to subsection (e) of such section does not apply.

"(C) In the application of subsections (j) and (k) of section 7421a of this to the sale of the naval petroleum reserves under paragraph (1), 'joint resolution of approval' means only a joint resolution that is introduced after the date on which the notification to which the joint resolution relates is received by Congress, and—

"(i) that does not have a preamble;

"(ii) the matter after the resolving clause of which reads only as follows: 'That Congress approves the proposed sale of naval petroleum reserves reported in the notification submitted to Congress by the Secretary of Energy on _____.' (the blank space being filled in with the appropriate date); and "(iii) the title of which is as follows: 'Joint resolution approving the sale of naval petroleum reserves'.

"(D) In the application of subsection (l) of section 7421a of this title to the sale of the naval petroleum reserves under paragraph (1), the period referred in that subsection shall be deemed to be the two-year period beginning on the date of the enactment of the Balanced Budget Reconciliation Act of 1995.

"(d) INAPPLICABILITY TO NAVAL PETROLEUM RESERVE NUMBERED 1.—This section does not apply to Naval Petroleum Reserve Numbered 1, as defined in section 7421a(a)(2)(A) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7421 the following:

"7421a. Sale of Naval Petroleum Reserve Numbered 1 (Elk Hills).
"7421b. Future of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills).".

MCCAIN AMENDMENT NO. 2968

(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

On page 696, between lines 8 and 9, insert the following:

SEC. 7116A. MEDICARE WHISTLEBLOWER INCENTIVE.

(a) PURPOSE.—The purpose of this section is to—

(1) reduce and eliminate fraud and abuse under the medicare program;

(2) reduce negligent and fraudulent medicare billings by providers;

(3) provide medicare beneficiaries with incentives to report inappropriate billing practices; and

(4) provide savings to the medicare trust funds by increasing the recovery of medicare overpayments.

(b) REQUEST FOR ITEMIZED BILL FOR MEDICARE ITEMS AND SERVICES.—

(1) IN GENERAL.—Section 1128A (42 U.S.C. 1320a–7a), as amended by section 7131(a)(4), is further amended by adding at the end the following new subsection:

"(n) WRITTEN REQUEST FOR ITEMIZED BILL.—

"(1) IN GENERAL.—A beneficiary may submit a written request for an itemized bill for medical or other items or services provided to such beneficiary by any person (including an organization, agency, or other entity) that receives payment under title XVIII for providing such items or services to such beneficiary.

"(2) 30-DAY PERIOD TO RECEIVE BILL.—

"(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) has been received, a person described in such paragraph shall furnish an itemized bill describing each medical or other item or service provided to the beneficiary requesting the itemized bill.

"(B) PENALTY.—Whoever knowingly fails to furnish an itemized bill in accordance with subparagraph (A) shall be subject to a civil fine of not more than $100 for each such failure.

"(3) REVIEW OF ITEMIZED BILL.—

"(A) IN GENERAL.—Not later than 90 days after the receipt of an itemized bill furnished under paragraph (1), a beneficiary may submit a written request for a review of the itemized bill to the appropriate fiscal intermediary or carrier with a contract under section 1816 or 1842.

"(B) SPECIFIC ALLEGATIONS.—A request for a review of the itemized bill shall identify—

"(i) specific medical or other items or services that the beneficiary believes were not provided as claimed, or

"(ii) any other billing irregularity (including duplicate billing).

"(4) FINDINGS OF FISCAL INTERMEDIARY OR CARRIER.—Each fiscal intermediary or carrier with a contract under section 1816 or 1842 shall, with respect to each written request submitted to the fiscal intermediary or carrier under paragraph (3), determine whether the itemized bill identifies specific medical or other items or services that were not provided as claimed or any other billing irregularity (including duplicate billing) that has resulted in unnecessary payments under title XVIII.

"(5) RECOVERY OF AMOUNTS.—The Secretary shall require fiscal intermediaries and carriers to take all appropriate measures to recover amounts unnecessarily paid under title XVIII with respect to a bill described in paragraph (4).

"(6) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If the fiscal intermediary or carrier recovers amounts in accordance with paragraph (5), the Secretary shall make an incentive payment (in an amount determined under subparagraph (B)) to the beneficiary who submitted the request for the itemized bill under paragraph (1) that resulted in such recovery. No incentive payment shall be made under this subparagraph unless such recovery is made after a final determination on whether such recovered amounts are required to be repaid by the provider.

"(B) INCENTIVE PAYMENT DETERMINED.—

"(i) IN GENERAL.—The amount of the incentive payment determined under this subparagraph is equal to the lesser of—

"(I) 1 percent of the amount that the bill overcharged for medical or other items or services; or

"(II) $10,000.

"(ii) LIMITATION OF AMOUNT.—The amount determined under this subparagraph may not exceed the total amounts recovered with respect to the bill in accordance with paragraph (5).

"(7) PREVENTION OF ABUSE BY BENEFICIARIES.—The Secretary shall—

"(A) address abuses of the incentive system established under this subsection; and

"(B) establish appropriate procedures to prevent such abuses.

"(8) REQUIREMENT THAT BENEFICIARY DISCOVER INACCURATE BILL TO RECEIVE INCENTIVE PAYMENT.—No incentive payment shall be made under paragraph (6) to a beneficiary if the Secretary or the appropriate fiscal intermediary or carrier identified the bill that was the subject of the beneficiary's request for review under this subsection as being overpaid prior to such request.".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to medical or other items or services provided on or after January 1, 1996.

• Mr. MCCAIN. Mr. President, earlier this session, I introduced S. 1325, the Medicare Whistleblower Act of 1995, to reduce provider fraud and abuse in the Medicare Program. The amendment I am submitting today improves upon that bill, and provides a strong incentive for beneficiaries to identify overpayments made by Medicare. An Abraham amendment which passed today, and which I supported, takes a similar approach to achieve this same objective. However, my amendment is preferable because it specifically delineates the whistleblower reward process and does not give the Secretary of HHS discretion not to make incentive payments. I hope that the conferees will adopt this amendment.

At Medicare town meetings throughout Arizona, I have heard over and over from senior citizens that the Medicare Program is rampant with inaccurate billings. They have told me, based on their personal experiences, that their Medicare bills frequently include services that they have not received, double billings for the same service, or charges that are disproportionate to the value of services received. Often, they have no idea what Medicare is being billed for on their behalf, and they are not able to obtain explanations from providers.

The perceptions of Medicare beneficiaries are confirmed by more systematic analyses. The General Accounting Office has estimated that fraud and abuse in our Nation's health care system costs taxpayers as much as $100 billion each year. Medicare fraud alone costs about $17 billion per year, which is 10 percent of the program's costs. A report by the Republican staff of the Senate Committee on Aging has documented a broad array of fraudulent activities, including false claims for services that were supposed to have been rendered after the beneficiaries had died.

The Medicare Program has many problems. A fundamental problem, and the source of many other problems, is that too few people are adequately concerned about its costs because the Government is paying most of the bills. One constituent informed me of a situation in which his provider double-billed for the same service and told him not to worry about it because Medicare is paying. This is an outrage and must be stopped. When Medicare overpays, we all overpay, and costs to beneficiaries and other taxpayers spiral.

This amendment addresses this fundamental problem of the Medicare Program. It gives beneficiaries an added incentive to carefully scrutinize their bills and to actively pursue corrections when they believe that there has been inappropriate billing of Medicare. In particular, beneficiaries would be financially rewarded if they uncover negligence or fraud to the benefit of us all. Although such provider fraud is not the entire problem, and there is other legislation that I support which also addresses beneficiary fraud, studies clearly indicate that provider fraud is most prevalent and the greatest concern.

The major problem with our current approach to detecting Medicare fraud is that it relies primarily upon bureaucrats who have no firsthand knowledge of what services were provided to a beneficiary and who have extremely limited time and resources to investigate. This approach can be expected to discover only the most apparent fraudulent activities. To discover most fraud, we must obtain the full cooperation of those who know what occurred at providers' offices and who have the time to pursue fraud—the beneficiaries. All they need is the ability and incentive to scrutinize their bills and actively correct inaccuracies.

Under this amendment, beneficiaries would have a right to receive in writing from their providers, within 30 days of when their request is received, an itemized bill for Medicare services provided to them. The beneficiary would then have 90 days to raise specific allegations of inappropriate billings to Medicare. The Medicare intermediaries and carriers would then have to review the bills and determine whether an overpayment has been made which must be reimbursed to the Medicare program. The beneficiary would receive a reward of 1 percent of the overpayment reimbursed up to $10,000. Because these rewards would be paid directly out of the overpayments, they would not increase costs to the Federal Government.

There are several important safeguards built into this legislation. The Secretary would be required to establish appropriate procedures to ensure that the incentive system is not abused by overzealous beneficiaries. An incentive payment would be awarded only to the extent that HCFA is able to recover the overpayment from the provider, and there would be no incentive payment if HCFA can demonstrate that it—for its Medicare intermediary or carrier—has identified the overpayment prior to receiving the beneficiary's complaint.

Some will argue that many seniors and other beneficiaries do not need personal rewards for fighting fraud, and in any event, this is a matter of national duty. While I agree with this contention, I also recognize that these individuals would not be able to identify and report fraud without having access to the itemized bills that this legislation provides. Moreover, I see nothing wrong with giving beneficiaries an added financial incentive. After all, we pay Federal employees for ideas that save the taxpayers money, and we pay private citizens for identifying fraud by defense contractors.

Mr. President, there is no inconsistency between this amendment and the Abraham amendment which passed today. Their objectives are entirely compatible. However, the Abraham amendment effectively delegates responsibility for planning the whistleblower program to the Secretary of HHS. I strongly believe that we should fulfill our legislative responsibility by specifying the parameters of this important antifraud program. Otherwise, we should not be surprised if we end up with something that we had not contemplated and which does not satisfy our objective.

Mr. President, I will not request a vote on this amendment, because we have already had a vote on the Abraham amendment. However, for the reasons that I outlined, I hope that the conferees will agree that this is a preferable whistleblower provision and that they will adopt it in the conference report. In so doing, I believe that the conferees should retain the provisions of the Abraham amendment that reward individuals for ideas that improve Medicare.•

BROWN (AND OTHERS) AMENDMENT NO. 2969

Mr. BROWN (for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYEES OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking "publicly held corporation" in paragraph (1) and inserting "taxpayer (other than personal service corporations)",

(2) by striking "covered employee" each place it appears in paragraphs (1) and (4) and inserting "employee", and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

HARKIN (AND OTHERS) AMENDMENT NO. 2970

Mr. HARKIN (for himself, Mr. GRAHAM, and Mr. BIDEN) proposed an amendment to the bill S. 1357, supra; as follows:

Strike Chapter 6 of Title VII except for the text of amendment number 2950 as passed by the Senate and insert in lieu thereof, the following:

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud and Abuse Prevention Act of 1995".

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) Additional Use of Funds by Inspector General.—

"(1) Reimbursements for investigations.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) Crediting.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) Health Plan Defined.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) Establishment of Health Care Fraud and Abuse Control Account in Federal Hospital Insurance Trust Fund.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) Health Care Fraud and Abuse Control Account.—

"(1) Establishment.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) Appropriated amounts to trust fund.—

"(A) In general.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) Authorization to accept gifts.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) Transfer of amounts.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) Appropriated amounts to account.—

"(A) In general.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) Use of funds.—The purposes described in this subparagraph are as follows:

"(i) General use.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) Use by state medicaid fraud control units for investigation reimbursements.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) Annual report.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) Crimes.—

(1) Social security act.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program"; and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b)—

(i) by striking "and willfully" each place it appears;

(ii) by striking "$25,000" each place it appears and inserting "$50,000";

(iii) by striking "title XVIII or a State health care program" each place it appears and inserting "Federal health care program";

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and inserting "kind with intent to be influenced—";

(v) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(vi) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend";

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person";

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.";

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking "Paragraphs (1) and (2)" and inserting "Paragraphs (1), (2), and (3)"; and

(xi) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

"(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

"(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsections:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).

"(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

"(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

"(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(h) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7103. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7b) (in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 7104. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) Recognition and Publication of Contributions.—The program established by the Secretary under this section shall recognize and publicize significant contributions made by individual health care patients toward the combating of health care fraud and abuse.

(c) Dissemination of Information.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 7110. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) Individual Convicted of Felony Relating to Health Care Fraud.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) Felony conviction relating to health care fraud.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) Conforming amendment.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a–7(b)) is amended to read as follows:

"(1) Conviction relating to fraud.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) Individual Convicted of Felony Relating to Controlled Substance.—

(1) In general.—Section 1128(a) (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Felony conviction relating to controlled substance.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) Conforming amendment.—Section 1128(b)(3) (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7111. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7112. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) Individuals controlling a sanctioned entity.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7113. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) Minimum Period of Exclusion for Practitioners and Persons Failing To Meet Statutory Obligations.—

(1) In general.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) Conforming amendment.—Section 1156(b)(2) (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) Repeal of "Unwilling or Unable" Condition for Imposition of Sanction.—Section 1156(b)(1) (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7114. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a–7(b)(6)(A)) is amended—

(1) by inserting "(as specified by the Secretary in regulations)" after "substantially in excess of such individual's or entity's usual charges"; and

(2) striking "(or, in applicable cases, substantially in excess of such individual's or entity's costs)" and inserting ", costs or fees".

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) Exclusion of Individuals and Entities From Participation in Federal Health Care Programs.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) Applicability of Bankruptcy Provisions.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) Civil Monetary Penalties.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under sec-***

SEC. 7114. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) Application of Intermediate Sanctions for Any Program Violations.—

(1) In general.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) Other intermediate sanctions for miscellaneous program violations.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the

Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 7115. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a–7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

SEC. 7116. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7117. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7120. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r-2(d)) is amended by inserting "and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 7121. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board."; and

(2) by amending subsection (b)(4) to read as follows:

"(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.".

SEC. 7122. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

CORPORATE WHISTLEBLOWER PROGRAM

"SEC. 1128C (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

"(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

"(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

"(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.".

PART IV—CIVIL MONETARY PENALTIES

SEC. 7121. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(b)(f))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Balanced Budget Reconciliation of 1995 (as estimated by the Secretary) shall be deposited into the Hospital Insurance Trust Fund.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))";

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)"; and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking "; or" at the end of subparagraph (D) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);".

(d) Civil Money Penalties for Items or Services Furnished, Directed, or Prescribed by an Excluded Individual.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting ", directed, or prescribed" after "furnished".

(e) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(f) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(g) Permitting Secretary To Impose Civil Monetary Penalty.—Section 1128A(b) (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(h) Sanctions Against Practitioners and Persons for Failure To Comply With Statutory Obligations.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(i) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) Remuneration defined.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(j) Effective Date.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7131. HEALTH CARE FRAUD.

(a) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) Clerical amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 7132. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act; and

"(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.".

(b) Conforming amendment.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting "or (a)(6)" after "(a)(1)".

(c) Property Forfeited Deposited in Federal Hospital Insurance Trust Fund.—

(1) In general.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) Costs of asset forfeiture.—For purposes of paragraph (1), the term "payment of the costs of asset forfeiture" means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 7133. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 7134. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 7135. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1035. False statements relating to health care matters.".

SEC. 7136. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.".

SEC. 7137. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 7138. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7139. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) Health Plan.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) Clerical Amendment.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) Conforming Amendment.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7141. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) Extension of Concurrent Authority To Investigate and Prosecute Fraud in Other Federal Programs.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).".

(b) Extension of Authority To Investigate and Prosecute Patient Abuse in Non-Medicaid Board and Care Facilities.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7151. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7152. STANDARDS FOR UNIFORM CLAIMS.

(a) Establishment of Standards.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) Ensuring Provider Responsibility.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) Use of Electronic Media.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7153. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) Establishment of System.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) Application Fee.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7154. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7155. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) Conditions of Participation.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) Wage Adjustment.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7161. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7162. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) General Rule.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"Sec. 1847. (a) Establishment of Bidding Areas.—

"(1) In general.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) Criteria for establishment.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be within, or be centered around metropolitan statistical areas;

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

"(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas..

"(b) Awarding of Contracts in Areas.—

"(1) In general.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Durable medical equipment and medical supplies.

"(2) Oxygen and oxygen equipment.

"(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (40 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction. Notwithstanding this section, in no case can the Secretary make a payment for items and services described in Section 1847(c) that are greater than that required by other provisions of the Balanced Budget Reconciliation Act of 1995.

SEC. 7163. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 7164. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 7165. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7171. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as "ADPE") meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7172. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7173. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7171(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7174. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7171.

SEC. 7175. DEFINITIONS.

For purposes of this chapter—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w-4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7141. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) In General.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) Payment for Ambulance Services.—

"(1) In general.—Notwithstanding any other provision of this part (except Section 1861(v)(1)(V)) with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

"(A) the actual charges for the services; or

"(B) the amount determined by a fee schedule developed by the Secretary.

"(2) Fee schedule.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

"(3) Separate payment levels.—

"(A) In general.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

"(B) Nonroutine basis.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

"(5) Special rule for end stage renal disease beneficiaries.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

"(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

"(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

"(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.".

(b) Effective Date.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7192. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) In General.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) Ineligible Persons.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) Definitions.—

(1) Health care fraud.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) Original source.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) No Judicial Review.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

McCAIN (AND OTHERS) AMENDMENT NO. 2971

Mr. McCain (for himself, Mr. Feingold, Mr. Thompson, Mr. Kerry, and Mr. Faircloth) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 1301 and insert the following:

SEC. 1301. ELIMINATION OF MARKET PROMOTION PROGRAM.

(a) In General.—Section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) is repealed.

(b) Transitional Assistance.—The Secretary of Agriculture is authorized to take such actions are necessary to facilitate the transition to the private sector of activities carried out under the market promotion program established under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) (as in effect prior to the amendment made by subsection (a)).

(c) Conforming Amendments.—

(1) Section 211 of the Act (7 U.S.C. 5641) is amended by striking subsection (c).

(2) Section 402(a)(1) of the Act (7 U.S.C. 5662(a)(1)) is amended by striking "203,".

(3) Section 1302 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 7 U.S.C. 5623 note) is repealed.

SEC. 1301A. TERMINATION OF ADVANCED LIGHT-WATER REACTOR PROGRAM.

(a) Advanced Light-Water Reactor Program.—(1) The Secretary of Energy shall terminate the Advanced Light-Water Reactor program.

(2) Except as provided in subsection (c), the Secretary of Energy may not obligate or expend funds for the program referred to in paragraph (1) except to pay the costs associated with the termination of that program.

(b) Assumption of Program Operations.—The Secretary of Energy shall take appropriate actions to ensure the assumption by a private consortium of the research operations and activities (including the purchase of capital equipment necessary for such operations and activities) under the programs referred to in subsection (a)(1). Such actions may include the obligation and expenditure of funds available for such programs.

SEC. 1301B. TIMBER ACCESS ROADS.

(a) In General.—Notwithstanding any other law, the Secretary of Agriculture and the Secretary of the Interior, in or in connection with a contract for the sale of timber on Federal land, shall require the contractor to pay a fair prorated share for the construction and maintenance of any road that is required to provide access to the timber harvest area.

(b) Considerations.—In determining the share of a contractor under subsection (a), the Secretary of Agriculture and the Secretary of the Interior, respectively, shall consider—

(1) the various uses to which a road will be put, such as providing access to other areas of Federal land for purposes of recreation or maintenance and other purposes; and

(2) the benefit to the public in carrying out the harvest, in the case of a salvage sale or other sale in which the carrying out of the harvest provides a public benefit.

(c) Requirement.—The Secretary of Agriculture and the Secretary of the Interior shall require the contractor described in subsection (a) to pay the full cost of timber construction access roads referred to in subsection (a) if the road is not authorized for purposes other than timber within the applicable forest management plan.

SEC. 1301C. TERMINATION OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

(a) Termination of the United States Travel and Tourism Administration.—The United States Travel and Tourism Administration of the Department of Commerce is terminated.

(b) Conforming Amendments.—

(1) Small business act.—Section 21(c)(3)(O) of the Small Business Act (15 U.S.C. 648(c)(3)(O)) is amended by striking "in conjunction with the United States Travel and Tourism Administration,".

(2) Department of commerce appropriations act, 1988.—The first sentence of section 108 of the Department of Commerce Appropriations Act, 1988 (15 U.S.C. 1531) is amended by striking ", the Export Administration, and the United States Travel and Tourism Administration." and inserting "and the Export Administration.".

(3) Act of february 14, 1903.—Section 12 of the Act of February 14, 1903 (32 Stat. 826, chapter 552; 15 U.S.C. 1511) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) through (g) as subsections (b) through (f), respectively.

(4) International travel act of 1961.—

(A) Performance of the united states travel and tourism administration.—Section 206 of the International Travel Act of 1961 (22 U.S.C. 2123d) is repealed.

(B) United states travel and tourism administration.—Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is repealed.

(C) Tourism policy council.—Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B);

(iii) by striking subparagraph (D); and

(iv) by redesignating subparagraphs (E) through (P) as subparagraphs (C) through (N), respectively.

(5) Rural tourism development foundation.—Section 4 of the Tourism Policy and

Export Promotion Act of 1992 (22 U.S.C. 2124c) is amended by striking "the Under Secretary of Commerce for Travel and Tourism" each place it appears and inserting "the Secretary of Commerce".

(6) UNITED STATES TRAVEL AND TOURISM ADMINISTRATION FACILITATION FEE.—

(A) REPEAL.—Section 306 of the International Travel Act of 1961 (22 U.S.C. 2128) is repealed.

(B) UNEXPENDED FUNDS.—Any fees that are deposited in the general fund of the Treasury pursuant to section 306(d) of the International Travel Act of 1961 (22 U.S.C. 2128(d)) before the effective date specified in subsection (d)(1) shall remain available to the Secretary of Commerce until expended.

(C) PENALTIES.—Section 307 of the International Travel Act of 1961 (22 U.S.C. 2129) is repealed.

(7) TITLE 5.—

(A) UNDER SECRETARY OF COMMERCE FOR TRAVEL AND TOURISM.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Commerce for Travel and Tourism" in the item relating to Under Secretaries of Commerce.

(B) DIRECTOR, UNITED STATES TRAVEL SERVICE.—Section 5316 of title 5, United States Code, is amended by striking the following item:

"Director, United States Travel Service, Department of Commerce.".

(c) TERMINATION OF AFFAIRS; FURTHER MEASURES.—The Secretary of Commerce shall provide for—

(1) the termination of the United States Trade and Travel Administration by the date specified in subsection (d)(1); and

(2) such further measures and disposition as may be necessary to carry out this section, including the disposition of any unexpended funds made available for the United States Trade and Travel Administration.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Subsections (a) and (b) shall become effective on October 1, 1997.

(2) DUTIES OF THE SECRETARY OF COMMERCE.—Subsection (c) shall become effective on the date of enactment of this Act.

SEC. 1301D. RECOUPMENT OF CERTAIN DEPARTMENT OF DEFENSE COSTS FOR EQUIPMENT SOLD DIRECTLY BY CONTRACTORS TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

(a) RECOUPMENT REQUIRED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

"§ 2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by contractors to foreign countries and international organizations

"(a) CONTRACT CLAUSE.—Each contract of the Department of Defense for the procurement of major defense equipment shall include a clause that provides for the Department of Defense to recoup from the contractor, for each unit of such equipment that is sold directly to an eligible country or international organization, the unit amount of any nonrecurring costs incurred by the Department of Defense for research, development, and production of such equipment.

"(b) UNIT AMOUNT.—For purposes of this section, the unit amount of the nonrecurring costs of research, development, and production of major defense equipment to be recouped from a contractor is one-half of the amount that is determined by dividing—

"(1) the total amount of such costs that have been incurred by the Department of Defense for such equipment, by

"(2) the sum of—

"(A) the estimated total number of the units of such equipment that will be sold by the contractor directly to eligible foreign countries and international organizations, and

"(B) the estimated total number of the units of such equipment that will be purchased from such contractor by the Department of Defense.

"(c) MAXIMUM AMOUNT RECOUPED.—The total amount of the nonrecurring costs of research, development, and production recouped from a contractor under this section for particular major defense equipment may not exceed the amount determined by multiplying—

"(1) the unit amount computed for such equipment under subsection (b), by

"(2) twice the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount.

"(d) WAIVER AUTHORITY.—The President may waive recoupment of up to 50 percent of the unit amount for each unit of major defense equipment sold to an eligible country or international organization by a contractor if the President determines that the recoupment requirement would otherwise be a severe impediment to the sale.

"(e) SOURCE OF PAYMENT OF RECOUPMENT.—A contractor may pay amounts to be recouped by the Department of Defense out of any charges that the contractor imposes on an eligible country or international organization for such purpose or out of any other source of funds available to the contractor.

"(f) DEFINITIONS.—In this section:

"(1) The term 'major defense equipment' has the meaning given that term in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

"(2) The terms 'nonrecurring costs of research, development, and production', 'eligible country', and 'eligible international organization' have the meanings applicable to such terms for purposes of section 21 of the Arms Export Control Act (22 U.S.C. 2761).".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410*l* the following:

"2410k. Recoupment of costs: certain costs associated with major defense equipment sold directly by contractors to foreign countries and international organizations.".

(b) EFFECTIVE DATE.—Section 2410k of title 10, United States Code, as added by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to solicitations issued by the Department of Defense for offers for contracts for the procurement of major defense equipment (as defined in such section) on or after that date.

SEC. 1301E. RECOUPMENT OF CERTAIN DEPARTMENT OF DEFENSE COSTS FOR EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

(a) RECOUPMENT REQUIRED.—

(1) IN GENERAL.—The Arms Export Control Act is amended by inserting after section 22 the following:

"SEC. 22A. RECOUPMENT OF COSTS: CERTAIN COSTS ASSOCIATED WITH MAJOR DEFENSE EQUIPMENT SOLD UNDER THE ACT.

"(a) LETTER OF OFFER CLAUSE.—Each letter of offer for the sale of major defense equipment under this Act to a foreign country or international organization shall include a clause that provides for the Department of Defense to recoup from the foreign country or international organization the unit amount of any nonrecurring costs incurred by the Department of Defense for research, development, and production of such equipment.

"(b) UNIT AMOUNT.—For purposes of this section, the unit amount of the nonrecurring costs of research, development, and production of major defense equipment to be recouped from a foreign country or international organization is one-half of the amount that is determined by dividing—

"(1) the total amount of such costs that have been incurred by the Department of Defense for such equipment, by

"(2) the sum of—

"(A) the estimated total number of the units of such equipment that will be sold by the contractor directly to eligible foreign countries and international organizations, and

"(B) the estimated total number of the units of such equipment that will be purchased from such contractor by the Department of Defense.

"(c) MAXIMUM AMOUNT RECOUPED.—The total amount of the nonrecurring costs of research, development, and production recouped from a foreign country or international organization under this section for particular major defense equipment may not exceed the amount determined by multiplying—

"(1) the unit amount computed for such equipment under subsection (b), by

"(2) twice the number estimated for such equipment under paragraph (2)(A) of such subsection in the computation of the unit amount.".

(2) CONFORMING AMENDMENT.—Section 21(e)(1)(B) of the Arms Export Control Act (22 U.S.C. 2761(e)(1)(B)) is amended by inserting ", as determined in section 22A," after "proportionate amount".

(b) EFFECTIVE DATE.—Section 22A of the Arms Export Control Act, as added by subsection (a), shall take effect on the date that is 90 days after the date of the enactment of this Act and shall apply with respect to letters of offer for the sale of major defense equipment issued on or after that date.

SEC. 1301F. WAIVER OF CHARGES TO RECOUP NONRECURRING COSTS FOR MAJOR DEFENSE EQUIPMENT SOLD UNDER THE ARMS EXPORT CONTROL ACT.

Section 21(e)(2) of the Arms Export Control Act (22 U.S.C. 2761(e)(2)) is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding at the end the following:

"(B) The President may reduce or waive up to 50 percent of the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) if the President determines that imposition of the full charge or charges would be a severe impediment to the sale of the major defense equipment.".

SEC. 1301G. ELIMINATION OF AUTHORITY AND FUNDING FOR HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Except as provided in subsection (c) and except in the case of a contract or agreement entered into before the date of enactment of this Act, notwithstanding any other provision of law, the Secretary of Transportation may not enter into any contract or agreement to carry out, or carry out, a demonstration project or program authorized under—

(1) the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240);

(2) the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17);

(3) the Surface Transportation Assistance Act of 1982 (Public Law 97-424);

(4) any law described in section 6002(c); or

(5) any other law.

(b) PROHIBITION ON EXPENDITURE OF FUNDS.—Except as provided in subsection (c), no Federal funds shall be expended in connection with a demonstration project or program subject to subsection (a).

(c) EXCEPTION.—Subsections (a) and (b) shall not apply to any contract or agreement entered into, or any funds made available, solely for the purpose of terminating, as a result of this section, any action or activity involving a demonstration project or program subject to subsection (a).

(d) RESCISSION OF FUNDS.—There are rescinded—

(1) any amounts set aside or otherwise made available, for demonstration projects and programs subject to subsection (a), that are not expended as a result of this section; and

(2) the underlying appropriations for the amounts described in paragraph (1).

SEC. 1301H. RURAL UTILITIES SERVICE COSTS SAVINGS AND EFFICIENCIES.

Of the funds made available for the Rural Utilities Service, no funds shall be used in the form of a direct and guaranteed electric and telephone loan if the Administrator of the Rural Utilities Service finds no substantial need for the federally funded insured loans. The Administrator shall make a determination of need based on factors including the following:

(1) evidence that the applicant does not have the working capital available to internally finance the activity for which loan funds are requested; and

(2) documentation that the financing need cannot be met first directly from sources of private credit, or second from sources of private credit with a guarantee of the principal of and interest on the loan, unless the applicant cannot, in accordance with generally accepted management and accounting principles and without charging rates to its customers or subscribers so high as to create a substantial disparity between such rates and the rates charged for similar service in the same or nearby areas by other suppliers, provide service consistent with the objectives of the Rural Electrification Act.

SEC. 1301I. AMENDMENT TO THE EXPORT-IMPORT BANK ACT OF 1945.

The third sentence of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended to read as follows: "The Bank shall consider its average cost of money as one factor in its determination of interest rates and shall otherwise seek to reduce to the extent feasible the cost of transactions under its loan, guarantee and insurance programs as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 through—

(i) adjustments in fees, repayment terms and other conditions,

(ii) continuation of efforts to reach international agreements to reduce government subsidized export financing, and

(iii) other methods, where such consideration and methods of reducing the cost of transactions do not impair the Bank's primary function of expanding United States exports through fully competitive financing.".

SEC. 1301J. PRIVATE SECTOR FUNDING FOR CERTAIN RESEARCH AND DEVELOPMENT BY NASA RELATING TO AIRCRAFT PERFORMANCE.

(a) REQUIREMENT FOR PRIVATE SECTOR FUNDING.—Except as provided in subsection (b), the Administrator of the National Aeronautics and Space Administration may not carry out research and development activities relating to the performance of aircraft (including supersonic aircraft and subsonic aircraft) unless the Administrator receives payment in full for such activities from the private sector.

(b) EXCEPTIONS.—The limitation set forth in subsection (a) does not apply to any research and development activities referred to in that subsection that are necessary for—

(1) ensuring the safety and security of the national air space system; or

(2) mitigating the environmental effects of, or noise resulting from, the operation of aircraft.

SEC. 1301K. AUCTION OF ELECTROMAGNETIC SPECTRUM.

(a) REPEAL OF EXISTING AUTHORITY TO ALLOCATE SPECTRUM.—(1) Subsections (i) and (j) of section 309 of the Communications Act of 1934 (47 U.S.C. 309) are repealed.

(2) No regulation prescribed by the Federal Communications Commission under the authority set forth in such subsection (i) or (j), or under any other provision of law authorizing the Commission to prescribe regulations for the grant of licenses or permits for the use of the electromagnetic spectrum, shall have any further force or effect after the date of the enactment of this Act.

(b) GRANT OF LICENSES AND PERMITS BY COMPETITIVE BIDDING.—Such section is further amended by adding at the end the following:

"(i) REQUIREMENT FOR COMPETITIVE BIDDING.—

"(1) REQUIREMENT.—Except as provided in paragraph (2), the Commission shall grant a license or construction permit involving the use of a portion of the electromagnetic spectrum not covered by a license or permit granted before the date of the enactment of the Balanced Budget Reconciliation Act of 1995 only through the use of a system of competitive bidding established by the Commission.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Commission may grant a license or permit to cover this subsection—

"(i) by alternative adjudication;

"(ii) without a fee; or

"(iii) for a nominal fee.

"(B) TERM OF LOW-FEE LICENSES AND PERMITS.—The term of a license granted under clause (ii) of subparagraph (A) or a permit granted under clause (iii) of that subparagraph may not exceed 10 years, except that the Commission may permit the renewal of the license or permit for an additional period of 10 years.

"(C) NOTICE AND WAIT REQUIREMENT.—The Commission may not grant a license or permit under this paragraph until 120 days after the date on which the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a notice of the intent of the Commission to so grant the license or permit.

"(D) CONTENTS OF NOTICE.—Each notice submitted under subparagraph (C) shall include the following:

"(i) A justification for the decision to grant the license or permit in question under this paragraph.

"(ii) An estimate of the revenue that the United States will forego as a result of the grant of the license or permit under this paragraph.

"(iii) An explanation of the manner in which the license or permit will be granted.

"(iv) If the license or permit will be granted under clause (ii) or (iii) of subparagraph (A), an explanation why the grant of the license or permit under such clause will be more beneficial to the public interest than the grant of the license or permit under paragraph (1).".

SEC. 1301L. PROHIBITION PROCUREMENT OF ADDITIONAL B-2 BOMBER AIRCRAFT.

(a) PROHIBITION.—Notwithstanding any other provision of law, funds available to the Department of Defense may not be obligated or expended—

(1) to procure additional B-2 bomber aircraft in excess of the 20 operational and one prototype aircraft for which funds were appropriated before the date of the enactment of this Act; or

(2) to maintain an industrial base capability for B-2 bomber production in excess of that which is necessary to complete production and delivery of the 20 operational and one prototype B-2 bomber aircraft referred to in paragraph (1) and associated spares and repair parts necessary for those aircraft.

(b) RULE OF CONSTRUCTION.—A provision of law may not be construed as modifying or superseding the prohibition in subsection (a) unless that provision of law—

(1) specifically refers to this section; and

(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

SEC. 1301M. COST SHARING OF GOVERNMENT RESEARCH ASSISTING THE FOSSIL FUELS INDUSTRY.

(a) COST SHARING.—Notwithstanding any other law, the Secretary of Energy shall require that at least 75 percent of the cost of any research and development project under the fossil fuels program of the Department of Energy be paid for from non-Federal sources.

(b) TERMINATION AND TRANSFER OF PROJECTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall—

(1) terminate any fossil fuels program research and development project that does not meet the cost-sharing requirement of subsection (a); and

(2) take all actions necessary to transfer any such projects to the private sector.

BYRD (AND OTHERS) AMENDMENT NO. 2972

Mr. BYRD (for himself, Mr. FORD, Mr. BUMPERS, and Mr. PRYOR) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 6002.

On page 1746, line 11, strike "2001" and insert "2000".

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100 percent
1996	80 percent
1997	60 percent
1998	40 percent
1999	20 percent.

CHAFEE (AND OTHERS) AMENDMENT NO. 2973

Mr. CHAFEE (for himself, Mr. CONRAD, and Mr. KERRY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 767, strike lines 12 through 15 and insert the following:

"(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and".

BYRD (AND OTHERS) AMENDMENT NO. 2974

(Ordered to lie on the table.)

Mr. BYRD (for himself, Mr. FEINGOLD, Mr. SIMON, Mr. DORGAN, Mr. ROBB, Mr. HOLLINGS, and Mr. BUMPERS) submitted an amendment intended to be proposed by them to the bill S. 1357, supra; as follows:

On page 1469, strie beginning with line 1 and all that follows through page 1650, line 9.

BOND (AND PRYOR) AMENDMENT NO. 2975

Mr. BOND (for himself Mr. PRYOR, Mr. DOLE, Mr. DOMENICI, Mr. COVERDELL, Mr. STEVENS, and Mr. PRESSLER) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1553, beginning with line 13, strike all through page 1588, line 24, and insert:

Subchapter A—Health Insurance Costs of Self-Employed Individuals

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended—

(1) by striking "30 percent" in paragraph (1) and inserting "the applicable percentage", and

(2) by adding at the end the following new paragraph:

"(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

"For taxable years beginning in	The applicable percentage is:
1996 and 1997	60
1998 and thereafter	100."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SNOWE (AND OTHERS) AMENDMENT NO. 2976

Ms. SNOWE (for herself, Mr. JEFFORDS, Mr. COHEN, Mr. KERRY, Mr. DODD, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MOCK, Mrs. HUTCHISON, and Mr. GRAMM) proposed an amendment to the bill S. 1357, supra; as follows:

On page 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE.

(a) FINDINGS.—The Senate finds that—

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded medicare to cover self-administered chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) SENSE OF SENATE.—It is the sense of the Senate that medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend medicare to provide coverage for these important cancer drug treatments.

DORGAN (AND OTHERS) AMENDMENT NO. 2977

Mr. DORGAN (for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD, Mr. BUMPERS, and Mr. HARKIN) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5))."

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

"(h) IMPORTED PROPERTY INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

"(2) IMPORTED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

"(3) DEFINITIONS AND SPECIAL RULES.—

"(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

"(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and".

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h))."

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking "or (E)" and inserting "(E), or (H)".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

"(III) imported property income,".

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

GRAMM AMENDMENT NO. 2978

Mr. GRAMM proposed an amendment to the bill S. 1357, supra; as follows:

On page 767, strike all after "(2)" on line 6 through "(4)" on line 16.

KERRY (AND OTHERS) AMENDMENT NO. 2979

Mr. KERRY (for himself, Mr. KENNEDY, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in the bill insert the following new section:

"SEC . MINIMUM WAGE.

"(1) Findings. The federal minimum wage has not been raised since 1991; and

"(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

"(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

"(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

"(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year; and

"(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

"(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

"(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

"(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

"(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

"Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.

MURKOWSKI (AND JOHNSTON) AMENDMENT NO. 2980

Mr. DOMENICI (for MURKOWSKI, for himself and Mr. JOHNSTON) proposed an amendment to the bill S. 1357, supra; as follows:

(1) On page 304, line 20, delete "follows:" and insert in lieu thereof "follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2006):".

(2) On page 361, line 7, delete "thereafter," and insert in lieu thereof "thereafter, except for fiscal years 2003 and 2004,".

KENNEDY (AND OTHERS) AMENDMENT NO. 2981

Mr. KENNEDY (for himself, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. BINGAMAN, Mr. EXON, Mr. WELLSTONE, Mr. SIMON, and Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra; as follows:

Strike section 12807.

WELLSTONE (AND FEINGOLD) AMENDMENT NO. 2982

Mr. WELLSTONE (for himself and Mr. FEINGOLD) proposed and amendment to the bill S. 1357, supra; as follows:

At the end of chapter 1 of subtitle I of title XII, insert:

SEC. ___. REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(a) FINDINGS.—The Senate finds that—

(1) this legislation, as reported by the Senate Committee on the Budget on October 23, 1995, significantly reduces funding for medicare and medicaid, student loans, food stamps, and other federal efforts critical to working families across the country, in order to pay for tax breaks to benefit primarily wealthy corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(4) Congress should reduce the federal budget deficit in a way that is responsible, and that requires shared sacrifice by eliminating many of the special interest tax breaks and loopholes that have been embedded in the tax code for decades, making the tax system fairer, flatter and simpler;

(5) eliminating special interest tax breaks would enable Congress to do real tax reform, making the system fairer and more simple by flattening the current tax rate structure and eventually providing real tax relief for working families;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit;

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: "This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.", and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(d) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. REVENUE LOCK BOX.

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from striking section 12161 and section 12162 as contained in the Balanced Budget Reconciliation Act of 1995 as reported by the Senate Committee on the Budget on October 23, 1995, in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. ___. ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking "subtitle," and all that follows and inserting "subtitle—

"(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

"(2) for any taxable year, the housing cost amount of such individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1996."

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from

the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

PRYOR (AND OTHERS) AMENDMENT NO. 2983

Mr. PRYOR (for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mr. KOHL, Mr. GRAHAM, and Mr. REID) proposed an amendment to the bill S. 1357, supra; as follows:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

"SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

"The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities which furnish services under the State plan.

SIMON (AND OTHERS) AMENDMENT NO. 2984

Mr. SIMON (for himself, Mr. CONRAD, Mr. ROBB, and Mr. KERREY) proposed an amendment to the bill S. 1357, supra; as follows:

STATEMENT OF PURPOSE

The purpose of the Common Sense Balanced Budget Act of 1995 is to provide a credible proposal to balance the budget in seven years through real reductions in government programs, while maintaining a fundamental commitment to the needs of society. This proposal places deficit reduction first, without borrowing money to pay for ill-advised tax cuts. This proposal spreads the sacrifice, without dismantling Medicare, Medicaid, welfare, the Earned Income Tax Credit, discretionary spending, agriculture, education, or the environment.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(b) SHORT TITLE.—This Act may be cited as the "Common Sense Balanced Budget Act of 1995".

(c) TABLE OF CONTENTS.—

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

Sec. 1101. Privatization of uranium enrichment.
Sec. 1104. FEMA radiological emergency preparedness fees.

Subtitle B—Central Utah

Sec. 1121. Prepayment of certain repayment contracts between the United States and the Central Utah Water Conservancy District.

Subtitle C—Army Corps of Engineers

Sec. 1131. Regulatory Program Fund.

Subtitle D—Helium Reserve

Sec. 1141. Sale of helium processing and storage facility.

Subtitle E—Territories

Sec. 1151. Termination of annual direct assistance to Northern Mariana Islands.

TITLE II—AGRICULTURAL PROGRAMS

Sec. 2001. Short title and table of contents.

Subtitle A—Extension and Modification of Various Commodity Programs

Sec. 2101. Extension of loans, payments, and acreage reduction programs for wheat through 2002.
Sec. 2102. Extension of loans, payments, and acreage reduction programs for feed grains through 2002.
Sec. 2103. Extension of loans, payments, and acreage reduction programs for cotton through 2002.
Sec. 2104. Extension of loans, payments, and acreage reduction programs for rice through 2002.
Sec. 2105. Extension of loans and payments for oilseeds through 2002.
Sec. 2106. Increase in flex acres.
Sec. 2107. Reduction in 50/85 and 0/85 programs.

Subtitle B—Sugar

Sec. 2201. Extension and modification of sugar program.

Subtitle C—Peanuts

Sec. 2301. Extension of price support program for peanuts and related programs.
Sec. 2302. National poundage quotas and acreage allotments.
Sec. 2303. Sale, lease, or transfer of farm poundage quota.
Sec. 2304. Penalty for reentry of exported peanut products.
Sec. 2305. Price support program for peanuts.
Sec. 2306. Referendum regarding poundage quotas.
Sec. 2307. Regulations.

Subtitle D—Tobacco

Sec. 2401. Elimination of Federal budgetary outlays for tobacco programs.
Sec. 2402. Establishment of farm yield for Flue-cured tobacco based on individual farm production history.
Sec. 2403. Removal of farm reconstitution exception for Burley tobacco.
Sec. 2404. Reduction in percentage threshold for transfer of Flue-cured tobacco quota in cases of disaster.
Sec. 2405. Expansion of types of tobacco subject to no net cost assessment.
Sec. 2406. Repeal of reporting requirements relating to export of tobacco.
Sec. 2407. Repeal of limitation on reducing national marketing quota for Flue-cured and Burley tobacco.
Sec. 2408. Application of civil penalties under Tobacco Inspection Act.
Sec. 2409. Transfers of quota or allotment across county lines in a State.
Sec. 2410. Calculation of national marketing quota.
Sec. 2411. Clarification of authority to access civil money penalties.
Sec. 2412. Lease and transfer of farm marketing quotas for Burley tobacco.
Sec. 2413. Limitation on transfer of acreage allotments of other tobacco.
Sec. 2414. Good faith reliance on actions or advice of Department representatives.
Sec. 2415. Uniform forfeiture dates for Flue-cured and Burley tobacco.
Sec. 2416. Sale of Burley and Flue-cured tobacco marketing quotas for a farm by recent purchasers.

Subtitle E—Planting Flexibility

Sec. 2501. Definitions.
Sec. 2502. Crop and total acreage bases.
Sec. 2503. Planting flexibility.
Sec. 2504. Farm program payment yields.
Sec. 2505. Application of provisions.

Subtitle F—Miscellaneous Provisions

Sec. 2601. Limitations on amount of deficiency payments and land diversion payments.
Sec. 2602. Sense of Congress regarding certain Canadian trade practices.

TITLE III—COMMERCE

Sec. 3101. Spectrum auctions.
Sec. 3102. Federal Communications Commission fee collections
Sec. 3103. Auction of recaptured analog licenses.
Sec. 3104. Patent and trademark fees.
Sec. 3105. Repeal of authorization of transitional appropriations for the United States Postal Service.

TITLE IV—TRANSPORTATION

Sec. 4101. Extension of railroad safety fees.
Sec. 4102. Permanent extension of vessel tonnage duties.
Sec. 4103. Sale of Governors Island, New York.
Sec. 4104. Sale of air rights.

TITLE V—HOUSING PROVISIONS

Sec. 5101. Reduction of section 8 annual adjustment factors for units without tenant turnover.
Sec. 5102. Maximum mortgage amount floor for single family mortgage insurance.
Sec. 5103. Foreclosure avoidance and borrower assistance.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

Sec. 6101. Consumer Price Index.
Sec. 6103. Matching rate requirement for title XX block grants to States for social services.
Sec. 6104. Denial of unemployment insurance to certain high-income individuals.
Sec. 6105. Denial of unemployment insurance to individuals who voluntarily leave military service.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

Sec. 7001. Limitation on expenditures recognized for purposes of Federal financial participation.

Subtitle B—Medicaid Managed Care

Sec. 7101. Permitting greater flexibility for States to enroll beneficiaries in managed care arrangements.
Sec. 7102. Removal of barriers to provision of medicaid services through managed care.
Sec. 7103. Additional requirements for medicaid managed care plans.
Sec. 7104. Preventing fraud in medicaid managed care.
Sec. 7105. Assuring adequacy of payments to medicaid managed care plans and providers.
Sec. 7106. Sanctions for noncompliance by eligible managed care providers.
Sec. 7107. Report on public health services.
Sec. 7108. Report on payments to hospitals.
Sec. 7109. Conforming amendments.
Sec. 7110. Effective date; status of waivers.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

Sec. 7201. Permitting increased flexibility in medicaid cost-sharing.

Sec. 7203. Delay in application of new requirements.
Sec. 7204. Deadline on action on waivers.

Subtitle D—National Commission on Medicaid Restructuring

Sec. 7301. Establishment of commission.
Sec. 7302. Duties of commission.
Sec. 7303. Administration.
Sec. 7304. Authorization of appropriations.
Sec. 7305. Termination.

Subtitle E—Restrictions on Disproportionate Share Payments

Sec. 7401. Reforming disproportionate share payments under State medicaid programs.

Subtitle F—Fraud Reduction

Sec. 7501. Monitoring payments for dual eligibles.
Sec. 7502. Improved identification systems.

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title; table of contents.

Subtitle A—Medicare Choice Program

Part 1—Increasing Choice Under the Medicare Program

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

"Part C—Provisions Relating to Medicare Choice

"Sec. 1851. Requirements for Medicare Choice organizations.
"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to Medicare Choice organizations.
"Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
"Sec. 1857. Medicare Choice certification.
"Sec. 1858. Contracts with Medicare Choice organizations.

Sec. 8003. Reports.
Sec. 8004. Transitional rules for current medicare HMO program.

Part 4—Payment Areas for Physicians' Services Under Medicare

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

Part 1—Provisions Affecting All Providers

Sec. 8201. One-year freeze in payments to providers.

Part 2—Provisions Affecting Doctors

Sec. 8211. Payments for physicians' services.
Sec. 8212. Use of real GDP to adjust for volume and intensity.

Part 3—Provisions Affecting Hospitals

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

Part 4—Provisions Affecting Other Providers

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

Part 5—Graduate Medical Education and Teaching Hospitals

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

Subtitle D—Provisions Relating to Medicare Beneficiaries

Sec. 8301. Part B premium.
Sec. 8302. Full cost of medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

Subtitle E—Medicare Fraud Reduction

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Direct spending for anti-fraud activities under medicare.
Sec. 8406. Fraud reduction demonstration project.
Sec. 8407. Report on competitive pricing.

Subtitle F—Improving Access to Health Care

Part 1—Assistance for Rural Providers

Subpart A—Rural Hospitals

Sec. 8501. Sole community hospitals. Medicare rural hospital flexibility Medicare dependent rural hospitals Propac recommendations on urban Medicare dependent hospitals. Payments to physicians assistants and nurse practioners.
Sec. 8504. Classification of rural referral centers.
Sec. 8505. Floor on area wage index.
Sec. 8506. Medical education.

Subpart B—Rural Physicians and Other Providers

Sec. 8511. Provider incentives.
Sec. 8512. National Health Service Corps loan repayments excluded from gross income.
Sec. 8513. Telemedicine payment methodology.
Sec. 8514. Demonstration project to increase choice in rural areas.

Part 2—Medicare Subvention

Sec. 8521. Medicare program payments for health care services provided in the military health services system.

Subtitle G—Other Provisions

Sec. 8601. Extension and expansion of existing secondary payer requirements.
Sec. 8602. Repeal of medicare and medicaid coverage data bank.
Sec. 8603. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 8604. Additional exclusion from coverage.
Sec. 8605. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 8801. Establishment of Commission to prepare for the 21st century.

TITLE IX—WELFARE REFORM

Sec. 9000. Amendment of the Social Security Act.

Subtitle A—Temporary Employment Assistance

Sec. 9101. State plan.

Subtitle B—Make Work Pay

Sec. 9201. Transitional medicaid benefits.
Sec. 9202. Notice of availability required to be provided to applicants and former recipients of temporary family assistance, food stamps, and medicaid.
Sec. 9203. Notice of availability of earned income tax credit and dependent care tax credit to be included on W-4 form.
Sec. 9204. Advance payment of earned income tax credit through State demonstration programs.

Subtitle C—Work First

Sec. 9301. Work first program.
Sec. 9302. Regulations.
Sec. 9303. Applicability to States.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

Chapter 1—Eligibility And Other Matters Concerning Title IV-D Program Clients

Sec. 9401. State obligation to provide paternity establishment and child support enforcement services.
Sec. 9402. Distribution of payments.
Sec. 9403. Due process rights.
Sec. 9404. Privacy safeguards.

Chapter 2—Program Administration and Funding

Sec. 9411. Federal matching payments.
Sec. 9412. Performance-based incentives and penalties.
Sec. 9413. Federal and State reviews and audits.
Sec. 9414. Required reporting procedures.
Sec. 9415. Automated data processing requirements.
Sec. 9416. Director of CSE program; staffing study.
Sec. 9417. Funding for Secretarial assistance to State programs.
Sec. 9418. Reports and data collection by the Secretary.

Chapter 3—Locate And Case Tracking

Sec. 9421. Central State and case registry.
Sec. 9422. Centralized collection and disbursement of support payments.
Sec. 9423. Amendments concerning income withholding.
Sec. 9424. Locator information from interstate networks.
Sec. 9425. Expanded Federal parent locator service.
Sec. 9426. Use of social security numbers.

Chapter 4—Streamlining And Uniformity of Procedures

Sec. 9431. Adoption of uniform State laws.
Sec. 9432. Improvements to full faith and credit for child support orders.
Sec. 9433. State laws providing expedited procedures.

Chapter 5—Paternity Establishment

Sec. 9441. Sense of the Congress.

Sec. 9442. Availability of parenting social services for new fathers.
Sec. 9443. Cooperation requirement and good cause exception.
Sec. 9444. Federal matching payments.
Sec. 9445. State laws concerning paternity establishment.
Sec. 9446. Outreach for voluntary paternity establishment.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

Sec. 9451. National Child Support Guidelines Commission.
Sec. 9452. Simplified process for review and adjustment of child support orders.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

Sec. 9461. Federal income tax refund offset.
Sec. 9462. Internal Revenue Service collection of arrears.
Sec. 9463. Authority to collect support from Federal employees.
Sec. 9464. Enforcement of child support obligations of members of the Armed Forces.
Sec. 9465. Motor vehicle liens.
Sec. 9466. Voiding of fraudulent transfers.
Sec. 9467. State law authorizing suspension of licenses.
Sec. 9468. Reporting arrearages to credit bureaus.
Sec. 9469. Extended statute of limitation for collection of arrearages.
Sec. 9470. Charges for arrearages.
Sec. 9471. Denial of passports for nonpayment of child support.
Sec. 9472. International child support enforcement.
Sec. 9473. Seizure of lottery winnings, settlements, payouts, awards, and bequests, and sale of forfeited property, to pay child support arrearages.
Sec. 9474. Liability of grandparents for financial support of children of their minor children.
Sec. 9475. Sense of the Congress regarding programs for noncustodial parents unable to meet child support obligations.

CHAPTER 8—MEDICAL SUPPORT

Sec. 9481. Technical correction to ERISA definition of medical child support order.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

Sec. 9491. Cooperation with child support agencies.
Sec. 9492. Disqualification for child support arrears.

CHAPTER 10—EFFECT OF ENACTMENT

Sec. 9498. Effective dates.
Sec. 9499. Severability.

Subtitle E—Teen Pregnancy And Family Stability

Sec. 9502. Supervised living arrangements for minors.
Sec. 9503. National clearinghouse on adolescent pregnancy.
Sec. 9504. Required completion of high school or other training for teenage parents.
Sec. 9505. Denial of Federal housing benefits to minors who bear children out-of-wedlock.

Subtitle F—SSI Reform

Sec. 9601. Definition and eligibility rules.
Sec. 9602. Eligibility redeterminations and continuing disability reviews.
Sec. 9603. Additional accountability requirements.
Sec. 9604. Denial of SSI benefits by reason of disability to drug addicts and alcoholics.
Sec. 9605. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 9606. Denial of SSI benefits for fugitive felons and probation and parole violators.
Sec. 9607. Reapplication requirements for adults receiving SSI benefits by reason of disability.
Sec. 9608. Narrowing of SSI eligibility on basis of mental impairments.
Sec. 9609. Reduction in unearned income exclusion.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

Sec. 9701. Application of amendments.
Sec. 9702. Amendments to the Food Stamp Act of 1977.
Sec. 9703. Authority to establish authorization periods.
Sec. 9704. Specific period for prohibiting participation of stores based on lack of business integrity.
Sec. 9705. Information for verifying eligibility for authorization.
Sec. 9706. Waiting period for stores that initially fail to meet authorization criteria.
Sec. 9707. Bases for suspensions and disqualifications.
Sec. 9708. Authority to suspend stores violating program requirements pending administrative and judicial review.
Sec. 9709. Disqualification of retailers who are disqualified from the WIC program.
Sec. 9710. Permanent debarment of retailers who intentionally submit falsified applications.
Sec. 9711. Expanded civil and criminal forfeiture for violations of the food Stamp Act.
Sec. 9712. Expanded authority for sharing information provided by retailers.
Sec. 9713. Expanded definition of "coupon".
Sec. 9714. Doubled penalties for violating food stamp program requirements.
Sec. 9715. Mandatory claims collection methods.
Sec. 9716. Promoting expansion of electronic benefits transfer.
Sec. 9717. Reduction of basic benefit level.
Sec. 9718. 2-year freeze of standard deduction.
Sec. 9719. Pro-rating benefits after interruptions in participation.
Sec. 9720. Disqualification for participating in 2 or more States.
Sec. 9721. Disqualification relating to child support arrears.
Sec. 9722. State authorization to assist law enforcement officers in locating fugitive felons.
Sec. 9723. Work requirement for able-bodied recipients.
Sec. 9724. Coordination of employment and training programs.
Sec. 9725. Extending current claims retention rates.
Sec. 9726. Nutrition assistance for Puerto Rico.
Sec. 9727. Treatment of children living at home.

CHAPTER 2—COMMODITY DISTRIBUTION

Sec. 9751. Short title.
Sec. 9752. Availability of commodities.
Sec. 9753. State, local and private supplementation of commodities.
Sec. 9754. State plan.
Sec. 9755. Allocation of commodities to States.
Sec. 9756. Priority system for State distribution of commodities.
Sec. 9757. Initial processing costs.
Sec. 9758. Assurances; anticipated use.
Sec. 9759. Authorization of appropriations.
Sec. 9760. Commodity supplemental food program.
Sec. 9761. Commodities not income.
Sec. 9762. Prohibition against certain State charges.
Sec. 9763. Definitions.
Sec. 9764. Regulations.
Sec. 9765. Finality of determinations.
Sec. 9766. Relationship to other programs.
Sec. 9767. Settlement and adjustment of claims.
Sec. 9768. Repealers; amendments.

CHAPTER 3—OTHER PROGRAMS

Sec. 9781. Child and adult care food program.
Sec. 9782. Resumption of discretionary funding for nutrition education and training program.

Subtitle H—Treatment of Aliens

Sec. 9801. Extension of deeming of income and resources under TEA, SSI, and food stamp programs.
Sec. 9802. Requirements for sponsor's affidavits of support.
Sec. 9803. Extending requirement for affidavits of support to family-related and diversity immigrants.

CHAPTER 2—INELIGIBILITY OF CERTAIN ALIENS FOR CERTAIN SOCIAL SERVICES

Sec. 9851. Certain aliens ineligible for temporary employment assistance.

Subtitle I—Earned Income Tax Credit

Sec. 9901. Earned income tax credit denied to individuals not authorized to be employed in the United States.
Sec. 10001. Short title; table of contents.

Subtitle A—Tax Treatment of Expatriation

Sec. 10101. Revision of tax rules on expatriation.
Sec. 10102. Basis of assets of nonresident alien individuals becoming citizens or residents.

Subtitle B—Modification to Earned Income Credit

Sec. 10201. Earned income tax credit denied to individuals with substantial capital gain net income.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

Sec. 10401. Tax treatment of certain extraordinary dividends.

Subtitle E—Foreign Trust Tax Compliance

Sec. 10501. Improved information reporting on foreign trusts.
Sec. 10502. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 10503. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 10504. Information reporting regarding foreign gifts.
Sec. 10505. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 10506. Residence of estates and trusts, etc.

Subtitle F—Limitation on Section 936 Credit

Sec. 10601. Limitation on section 936 credit.

TITLE XI—VETERANS' AFFAIRS

Sec. 11001. Short title; table of contents.

Subtitle A—Permanent Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.
Sec. 11012. Medical care cost recovery authority.
Sec. 11013. Income verification authority.
Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 11015. Home loan fees.
Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 11022. Enhanced loan asset sale authority.
Sec. 11023. Withholding of payments and benefits.

Subtitle C—Health Care Eligibility Reform

Sec. 11031. Hospital care and medical services.
Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.
Sec. 11033. Prosthetics.
Sec. 11034. Management of health care.
Sec. 11035. Improved efficiency in health care resource management.
Sec. 11036. Sharing agreements for specialized medical resources.
Sec. 11037. Personnel furnishing shared resources.

TITLE XII—LEGISLATIVE BRANCH

Sec. 12101. Requirement that excess funds provided for official allowances of Members of the House of Representatives be dedicated to deficit reduction.

TITLE XIII—MISCELLANEOUS PROVISIONS

Sec. 13101. Elimination of disparity between effective dates for military and civilian retiree cost-of-living adjustments for fiscal years 1996, 1997, and 1998.
Sec. 13102. Disposal of certain materials in National Defense Stockpile for deficit reduction.
Sec. 13103. Requirement that certain agencies prefund Government health benefits contributions for their annuitants.
Sec. 13104. Application of OMB Circular a-129.
Sec. 13105. 7-year extension of Hazardous Substance Superfund excise taxes.

TITLE XIV—COMMITTEE ON GOVERNMENTAL AFFAIRS

Sec. 8001. Extension of delay in cost-of-living adjustments in federal employee retirement benefits through fiscal year 2002.
Sec. 8002. Increased contributions to Federal Civilian Retirement Systems.
Sec. 8003. Federal Retirement Provisions Relating to Members of Congress and Congressional Employees.

TITLE I—ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Subtitle A—Energy

SEC. 1101. PRIVATIZATION OF URANIUM ENRICHMENT.

(a) Reference.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(b) Production Facility.—Paragraph v. of section 11 (42 U.S.C. 2014 v.) is amended by striking "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology".

(c) Definitions.—Section 1201 (42 U.S.C. 2297) is amended—

(1) in paragraph (4), by inserting before the period the following: "and any successor corporation established through privatization of the Corporation";

(2) by redesignating paragraphs (10) through (13) as paragraphs (14) through (17), respectively, and by inserting after paragraph (9) the following new paragraphs:

"(10) The term 'low-level radioactive waste' has the meaning given such term in section 102(9) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. 2021b(9)).

"(11) The term 'mixed waste' has the meaning given such term in section 1004(41) of the Solid Waste Disposal Act (42 U.S.C. 6903(41)).

"(12) The term 'privatization' means the transfer of ownership of the Corporation to private investors pursuant to chapter 25.

"(13) The term 'privatization date' means the date on which 100 percent of ownership of the Corporation has been transferred to private investors.";

(3) by inserting after paragraph (17) (as redesignated) the following new paragraph:

"(18) The term 'transition date' means July 1, 1993."; and

(4) by redesignating the unredesignated paragraph (14) as paragraph (19).

(d) Employees of the Corporation.—

(1) Paragraph (2).—Paragraphs (1) and (2) of section 1305(e) (42 U.S.C. 2297b-4(e)(1)(2)) are amended to read as follows:

"(A) In general.—It is the purpose of this subsection to ensure that the privatization of the Corporation shall not result in any adverse effects on the pension benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(B) Applicability of existing collective bargaining agreement.—The Corporation shall abide by the terms of the collective bargaining agreement in effect on the privatization date at each individual facility.".

(2) Paragraph (4).—Paragraph (4) of section 1305(e) (42 U.S.C. 2297b-4(e)(4)) is amended—

(A) by striking "and detailees" in the heading;

(B) by striking the first sentence;

(C) in the second sentence, by inserting "from other Federal employment" after "transfer to the Corporation"; and

(D) by striking the last sentence.

(e) Marketing and Contracting Authority.—

(1) Marketing authority.—Section 1401(a) (42 U.S.C. 2297c(a)) is amended effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954)—

(A) by amending the subsection heading to read "Marketing Authority.—"; and

(B) by striking the first sentence.

(2) Transfer of contracts.—Section 1401(b) (42 U.S.C. 2297c(b)) is amended—

(A) in paragraph (2)(B), by adding at the end the following: "The privatization of the Corporation shall not affect the terms of, or the rights or obligations of the parties to, any such power purchase contract."; and

(B) by adding at the end the following:

"(3) Effect of transfer.—

"(A) As a result of the transfer pursuant to paragraph (1), all rights, privileges, and benefits under such contracts, agreements, and leases, including the right to amend, modify, extend, revise, or terminate any of such contracts, agreements, or leases were irrevocably assigned to the Corporation for its exclusive benefit.

"(B) Notwithstanding the transfer pursuant to paragraph (1), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred pursuant to paragraph (1) for the performance of the obligations of the United States thereunder during the term thereof. The Corporation shall reimburse the United States for any amount paid by the United States in respect of such obligations arising after the privatization date to the extent such amount is a legal and valid obligation of the Corporation then due.

"(C) After the privatization date, upon any material amendment, modification, extension, revision, replacement, or termination of any contract, agreement, or lease transferred under paragraph (1), the United States shall be released from further obligation under such contract, agreement, or lease, except that such action shall not release the United States from obligations arising under such contract, agreement, or lease prior to such time.".

(3) Pricing.—Section 1402 (42 U.S.C. 2297c-1) is amended to read as follows:

"SEC. 1402. PRICING.

"The Corporation shall establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.".

(4) Leasing of gaseous diffusion facilities of department.—Effective on the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), section 1403 (42 U.S.C. 2297c-2) is amended by adding at the end the following:

"(h) Low-Level Radioactive Waste and Mixed Waste.—

"(1) Responsibility of the department; costs.—

"(A) With respect to low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) or as a result of treatment of such wastes at a location other than the facilities and related property leased by the Corporation pursuant to subsection (a) the Department, at the request of the Corporation, shall—

"(i) accept for treatment or disposal of all such wastes for which treatment or disposal technologies and capacities exist, whether within the Department or elsewhere; and

"(ii) accept for storage (or ultimately treatment or disposal) all such wastes for which treatment and disposal technologies or capacities do not exist, pending development of such technologies or availability of such capacities for such wastes.

"(B) All low-level wastes and mixed wastes that the Department accepts for treatment, storage, or disposal pursuant to subparagraph (A) shall, for the purpose of any permits, licenses, authorizations, agreements, or orders involving the Department and other Federal agencies or State or local governments, be deemed to be generated by the Department and the Department shall handle such wastes in accordance with any such permits, licenses, authorizations, agreements, or orders. The Department shall obtain any additional permits, licenses, or authorizations necessary to handle such wastes, shall amend any such agreements or orders as necessary to handle such wastes, and shall handle such wastes in accordance therewith.

"(C) The Corporation shall reimburse the Department for the treatment, storage, or disposal of low-level radioactive waste or mixed waste pursuant to subparagraph (A) in an amount equal to the Department's costs but in no event greater than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for treatment, storage, or disposal of such waste.

"(2) AGREEMENTS WITH OTHER PERSONS.—The Corporation may also enter into agreements for the treatment, storage, or disposal of low-level radioactive waste and mixed waste generated by the Corporation as a result of the operation of the facilities and related property leased by the Corporation pursuant to subsection (a) with any person other than the Department that is authorized by applicable laws and regulations to treat, store, or dispose of such wastes.".

(5) LIABILITIES.—

(A) Subsection (a) of section 1406 (42 U.S.C. 2297c–5(a)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, all liabilities attributable to the operation of the Corporation from the transition date to the privatization date shall be direct liabilities of the United States.".

(B) Subsection (b) of section 1406 (42 U.S.C. 2297c–5(b)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by adding at the end the following: "As of the privatization date, any judgment entered against the Corporation imposing liability arising out of the operation of the Corporation from the transition date to the privatization date shall be considered a judgment against the United States.".

(C) Subsection (d) of section 1406 (42 U.S.C. 2297c–5(d)) is amended—

(i) by inserting "AND PRIVATIZATION" after "TRANSITION" in the heading; and

(ii) by striking "the transition date" and inserting "the privatization date (or, in the event the privatization date does not occur, the transition date)".

(6) TRANSFER OF URANIUM.—Title II (42 U.S.C. 2297 et seq.) is amended by redesignating section 1408 as section 1409 and by inserting after section 1407 the following:

"SEC. 1408. TRANSFER OF URANIUM.

"The Secretary may, before the privatization date, transfer to the Corporation without charge raw uranium, low-enriched uranium, and highly enriched uranium.".

(f) PRIVATIZATION OF THE CORPORATION.—

(1) ESTABLISHMENT OF PRIVATE CORPORATION.—Chapter 25 (42 U.S.C. 2297d et seq.) is amended by adding at the end the following new section:

"SEC. 1503. ESTABLISHMENT OF PRIVATE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to facilitate privatization, the Corporation may provide for the establishment of a private corporation organized under the laws of any of the several States. Such corporation shall have among its purposes the following:

"(A) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(B) To undertake any and all activities as provided in its corporate charter.

"(2) AUTHORITIES.—The corporation established pursuant to paragraph (1) shall be authorized to—

"(A) enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium);

"(B) conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the corporation considers necessary or advisable to maintain itself as a commercial enterprise operating on a profitable and efficient basis;

"(C) enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(i) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(ii) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(iii) persons otherwise authorized by law to enter into such transactions;

"(D) enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(E) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(F) take any and all such other actions as are permitted by the law of the jurisdiction of incorporation of the corporation.

"(3) TRANSFER OF ASSETS.—For purposes of implementing the privatization, the Corporation may transfer some or all of its assets and obligations to the corporation established pursuant to this section, including—

"(A) all of the Corporation's assets, including all contracts, agreements, and leases, including all uranium enrichment contracts and power purchase contracts;

"(B) all funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution;

"(C) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the power purchase contracts covered by section 1401(b)(2)(B); and

"(D) all of the Corporation's rights, duties, and obligations, accruing subsequent to the privatization date, under the lease agreement between the Department and the Corporation executed by the Department and the Corporation pursuant to section 1403.

"(4) MERGER OR CONSOLIDATION.—For purposes of implementing the privatization, the Corporation may merge or consolidate with the corporation established pursuant to subsection (a)(1) if such action is contemplated by the plan for privatization approved by the President under section 1502(b). The Board shall have exclusive authority to approve such merger or consolidation and to take all further actions necessary to consummate such merger or consolidation, and no action by or in respect of shareholders shall be required. The merger or consolidation shall be effected in accordance with, and have the effects of a merger or consolidation under, the laws of the jurisdiction of incorporation of the surviving corporation, and all rights and benefits provided under this title to the Corporation shall apply to the surviving corporation as if it were the Corporation.

"(5) TAX TREATMENT OF PRIVATIZATION.—

"(A) TRANSFER OF ASSETS OR MERGER.—No income, gain, or loss shall be recognized by any person by reason of the transfer of the Corporation's assets to, or the Corporation's merger with, the corporation established pursuant to subsection (a)(1) in connection with the privatization.

"(B) CANCELLATION OF DEBT AND COMMON STOCK.—No income, gain, or loss shall be recognized by any person by reason of any cancellation of any obligation or common stock of the Corporation in connection with the privatization.

"(b) OSHA REQUIREMENTS.—For purposes of the regulation of radiological and nonradiological hazards under the Occupational Safety and Health Act of 1970, the corporation established pursuant to subsection (a)(1) shall be treated in the same manner as other employers licensed by the Nuclear Regulatory Commission. Any interagency agreement entered into between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration governing the scope of their respective regulatory authorities shall apply to the corporation as if the corporation were a Nuclear Regulatory Commission licensee.

"(c) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The corporation established pursuant to subsection (a)(1) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government-controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the corporation established pursuant to subsection (a)(1) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the corporation established pursuant to subsection (a)(1).

"(d) BOARD OF DIRECTOR'S ELECTION AFTER PUBLIC OFFERING.—In the event that the privatization is implemented by means of a public offering, an election of the members of the board of directors of the Corporation by the shareholders shall be conducted before the end of the 1-year period beginning the date shares are first offered to the public pursuant to such public offering.

"(e) ADEQUATE PROCEEDS.—The Secretary of Energy shall not allow the privatization of the Corporation unless before the sale date the Secretary determines that the estimated sum of the gross proceeds from the sale of the Corporation will be an adequate amount.".

(2) OWNERSHIP LIMITATIONS.—Chapter 25 (as amended by paragraph (1)) is amended by adding at the end the following new section:

"SEC. 1504. OWNERSHIP LIMITATIONS.

"(a) SECURITIES LIMITATION.—In the event that the privatization is implemented by means of a public offering, during a period of 3 years beginning on the privatization date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

"(b) APPLICATION.—Subsection (a) shall not apply—

"(1) to any employee stock ownership plan of the Corporation,

"(2) to underwriting syndicates holding shares for resale, or

"(3) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

"(c) No director, officer, or employee of the Corporation may acquire any securities, or any right to acquire securities, of the Corporation—

"(1) in the public offering of securities of the Corporation in the implementation of the privatization,

"(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

"(3) before the election of directors of the Corporation under section 1503(d) on any terms more favorable than those offered to the general public.".

(3) EXEMPTION FROM LIABILITY.—Chapter 25 (as amended by paragraph (2)) is amended by adding at the end the following new section:

"SEC. 1505. EXEMPTION FROM LIABILITY.

"(a) IN GENERAL.—No director, officer, employee, or agent of the Corporation shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken in connection with the privatization, which such person in good faith reasonably believed to be required by law or vested in such person.

"(b) EXCEPTION.—The privatization shall be subject to the Securities Act of 1933 and the Securities Exchange Act of 1934. The exemption set forth in subsection (a) shall not apply to claims arising under such Acts or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering implementing the privatization.".

(4) RESOLUTION OF CERTAIN ISSUES.—Chapter 25 (as amended by paragraph (3)) is amended by adding at the end the following new section:

"SEC. 1506. RESOLUTION OF CERTAIN ISSUES.

"(a) CORPORATION ACTIONS.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered to be in breach, default, or violation of any such agreement because of any provision of this chapter or any action the Corporation is required to take under this chapter.

"(b) RIGHT TO SUE WITHDRAWN.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this chapter.".

(5) APPLICATION OF PRIVATIZATION PROCEEDS.—Chapter 25 (as amended by paragraph (4)) is amended by adding at the end the following new section:

"SEC. 1507. APPLICATION OF PRIVATIZATION PROCEEDS.

"The proceeds from the privatization shall be included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985 and shall be counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.".

(6) CONFORMING AMENDMENT.—The table of contents for chapter 25 is amended by inserting after the item for section 1502 the following:

"Sec. 1503. Establishment of private corporation.
"Sec. 1504. Ownership limitations.
"Sec. 1505. Exemption from liability.
"Sec. 1506. Resolution of certain issues.
"Sec. 1507. Application of privatization proceeds.".

(7) Section 193 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—If the privatization of the United States Enrichment Corporation results in the Corporation being—

"(1) owned, controlled, or dominated by a foreign corporation or a foreign government, or

"(2) otherwise inimical to the common defense or security of the United States,

any license held by the Corporation under sections 53 and 63 shall be terminated.".

(8) PERIOD FOR CONGRESSIONAL REVIEW.—Section 1502(d) (42 U.S.C. 2297d-1(d)) is amended by striking "less than 60 days after notification of the Congress" and inserting "less than 60 days after the date of the report to Congress by the Comptroller General under subsection (c)".

(g) PERIODIC CERTIFICATION OF COMPLIANCE.—Section 1701(c)(2) (42 U.S.C. 2297f(c)(2)) is amended by striking "ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1)." and inserting "PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Nuclear Regulatory Commission, but not less than every 5 years.".

(h) LICENSING OF OTHER TECHNOLOGIES.—Subsection (a) of section 1702 (42 U.S.C. 2297f-1(a)) is amended by striking "other than" and inserting "including".

(i) CONFORMING AMENDMENTS.—

(1) REPEALS IN ATOMIC ENERGY ACT OF 1954 AS OF THE PRIVATIZATION DATE.—

(A) REPEALS.—As of the privatization date (as defined in section 1201(13) of the Atomic Energy Act of 1954), the following sections (as in effect on such privatization date) of the Atomic Energy Act of 1954 are repealed:

(i) Section 1202.

(ii) Sections 1301 through 1304.

(iii) Sections 1306 through 1316.

(iv) Sections 1404 and 1405.

(v) Section 1601.

(vi) Sections 1603 through 1607.

(B) CONFORMING AMENDMENT.—The table of contents of such Act is amended by repealing the items referring to sections repealed by paragraph (1).

(2) STATUTORY MODIFICATIONS.—As of such privatization date, the following shall take effect:

(A) For purposes of title I of the Atomic Energy Act of 1954, all references in such Act to the "United States Enrichment Corporation" shall be deemed to be references to the corporation established pursuant to section 1503 of the Atomic Energy Act of 1954 (as added by subsection (f)(1)).

(B) Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b-7(1)) is amended by striking "the United States" and all that follows through the period and inserting "the corporation referred to in section 1201(4) of the Atomic Energy Act of 1954.".

(C) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N), as added by section 902(b) of Public Law 102-486.

(3) REVISION OF SECTION 1305.—As of such privatization date, section 1305 of the Atomic Energy Act of 1954 (42 U.S.C 2297b-4) is amended—

(A) by repealing subsections (a), (b), (c), and (d), and

(B) in subsection (e)—

(i) by striking the subsection designation and heading,

(ii) by redesignating paragraphs (1) and (2) (as added by subsection (d)(1)) as subsections (a) and (b) and by moving the margins 2-ems to the left,

(iii) by striking paragraph (3), and

(iv) by redesignating paragraph (4) (as amended by subsection (d)(2)) as subsection (c), and by moving the margins 2-ems to the left.

SEC. 1102. MAKING PERMANENT NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Paragraph (3) of section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is repealed.

SEC. 1104. FEMA RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

(a) IN GENERAL.—The Director of the Federal Emergency Management Agency may assess and collect fees applicable to persons subject to radiological emergency preparedness regulations issued by the Director.

(b) REQUIREMENTS.—The assessment and collection of fees by the Director under subsection (a) shall be fair and equitable and shall reflect the full amount of costs to the Agency of providing radiological emergency planning, preparedness, response, and associated services. Such fees shall be assessed by the Director in a manner which reflects the use of resources of the Agency for classes of regulated persons and the administrative costs of collecting such fees.

(c) AMOUNT OF FEES.—The aggregate amount of fees assessed under subsection (a) in a fiscal year shall approximate, but not be less than, 100 percent of the amounts anticipated by the Director to be obligated for the radiological emergency preparedness program of the Agency for such fiscal year.

(d) DEPOSIT OF FEES IN TREASURY.—Fees received pursuant to subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts.

Subtitle B—Central Utah

SEC. 1121. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND THE CENTRAL UTAH WATER CONSERVANCY DISTRICT.

The second sentence of section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended to read as follows: "The Secretary of the Interior shall allow for prepayment of the repayment contract between the United States and the Central Utah Water Conservancy District dated December 28, 1965, and supplemented on November 26, 1985, providing for repayment of the municipal and industrial water delivery facilities for which repayment is provided pursuant to such contract, under such terms and conditions as the Secretary deems appropriate to protect the interest of the United States, which shall be similar to the terms and conditions contained in the supplemental contract that provided for the prepayment of the Jordan Aqueduct dated October 28, 1993. The District shall exercise its right to prepayment pursuant to this section by the end of fiscal year 2002.".

Subtitle C—Army Corps of Engineers

SEC. 1131. REGULATORY PROGRAM FUND.

(a) Establishment.—There is established in the Treasury of the United States the "Army Civil Works Regulatory Program Fund" (hereinafter in this section referred to as the "Regulatory Program Fund") into which shall be deposited fees collected by the Secretary of the Army pursuant to subsection (b). Amounts deposited into the Regulatory Program Fund are authorized to be appropriated to the Secretary of the Army to cover a portion of the expenses incurred by the Department of the Army in administering laws pertaining to the regulation of the navigable waters of the United States, including wetlands.

(b) Regulatory Fees.—

(1) Collection.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall establish fees for the evaluation of commercial permit applications, for the recovery of costs associated with the preparation of environmental impact statements required by the National Environmental Policy Act of 1969, and for the recovery of costs associated with wetlands delineations for major developments affecting wetlands. The Secretary shall collect such fees and deposit amounts collected pursuant to this paragraph into the Regulatory Program Fund.

(2) Fees.—The fees described in paragraph (1) shall be established by the Secretary of the Army at rates that will allow for the recovery of receipts at amounts sufficient to cover the costs for which the fees are established under paragraph (1).

Subtitle D—Helium Reserve

SEC. 1141. SALE OF HELIUM PROCESSING AND STORAGE FACILITY.

(a) Short Title.—This section may be cited as the "Helium Act of 1995".

(b) References.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).

(c) Authority of Secretary.—Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) Extraction and Disposal of Helium on Federal Lands.—(1) The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as he deems fair, reasonable and necessary. The Secretary may grant leasehold rights to any such helium. The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium. Such agreements may be subject to such rules and regulations as may be prescribed by the Secretary.

"(2) Any agreement under this subsection shall be subject to the existing rights of any affected Federal oil and gas lessee. Each such agreement (and any extension or renewal thereof) shall contain such terms and conditions as deemed appropriate by the Secretary.

"(3) This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence at the enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after such date.

"(b) Storage, Transportation and Sale.—The Secretary is authorized to store, transport, and sell helium only in accordance with this Act.

"(c) Monitoring and Reporting.—The Secretary is authorized to monitor helium production and helium reserves in the United States and to periodically prepare reports regarding the amounts of helium produced and the quantity of crude helium in storage in the United States.

"SEC. 4. STORAGE AND TRANSPORTATION OF CRUDE HELIUM.

"(a) Storage and Transportation.—The Secretary is authorized to store and transport crude helium and to maintain and operate existing crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

"(b) Cessation of Production, Refining, and Marketing.—Effective one year after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except those activities described in subsection (a).

"(c) Disposal of Facilities.—(1) Within one year after the date of enactment of the Helium Act of 1995, the Secretary shall dispose of all facilities, equipment, and other real and personal property, together with all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium. The disposal of such property shall be in accordance with the provisions of law governing the disposal of excess or surplus properties of the United States.

"(2) All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f). All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(3) Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage and transportation of crude helium.

"(d) Existing Contracts.—All contracts which were entered into by any person with the Secretary for the purchase by such person from the Secretary of refined helium and which are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the facilities referred to in subsection (c) are disposed of. Any costs associated with the termination of such contracts shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"Whenever the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary is authorized and directed to impose fees on such person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal. All such fees received by the Secretary shall be treated as moneys received under this Act for purposes of section 6(f).".

(d) Sale of Crude Helium.—Section 6 is amended as follows:

(1) Subsection (a) is amended by striking out "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(2) Subsection (b) is amended by inserting "crude" before "helium" and by adding the following at the end thereof: "Except as may be required by reason of subsection (a), the Secretary shall not make sales of crude helium under this section in such amounts as will disrupt the market price of crude helium.".

(3) Subsection (c) is amended by inserting "crude" before "helium" after the words "Sales of" and by striking "together with interest as provided in this subsection" and all that follows down through the period at the end of such subsection and inserting the following: "all funds required to be repaid to the United States as of October 1, 1994 under this section (hereinafter referred to as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary as follows:

"(1) Divide the outstanding amount of such repayable amounts by the volume (in mcf) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned.

"(2) Adjust the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.".

(4) Subsection (d) is amended to read as follows:

"(d) Extraction of Helium From Deposits on Federal Lands.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.".

(5) Subsection (e) is repealed.

(6) Subsection (f) is amended by inserting "(1)" after "(f)" and by adding the following at the end thereof:

"(2) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1). Upon repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the Treasury as General Revenues.".

(e) Elimination of Stockpile.—Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) Review of Reserves.—Not later than January 1, 2014 the Secretary shall review the known helium reserves in the United States and make a determination as to the expected life of the domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) at that time.

"(b) Reserves Below 1 BCF in 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are less than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of

600 million cubic feet (mcf) by January 1, 2019. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection. The price for all such sales, as determined by the Secretary in consultation with the helium industry, shall be such as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c) by the year 2019 with minimum market disruption. The date specified in this subsection for completion of such sales and for repayment of debt may be extended by the Secretary for a period of not to exceed 5 additional years if necessary in order to assure repayment of such debt with minimum market disruption.

"(c) RESERVES ABOVE 1 BCF IN 2014.—Not later than January 1, 2014, if the Secretary determines that domestic helium reserves (other than federally owned helium stored at the Cliffside Reservoir) are more than 1 billion cubic feet (bcf), the Secretary shall commence making sales of crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600 million cubic feet (mcf) by January 1, 2024. The sales shall be at such times and in such lots as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum disruption of the market for crude helium.

"(d) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves after the year 2014 shall not affect the duty of the Secretary to make sales of helium as provided in subsection (b) or (c), as the case may be.".

(f) REPEAL OF AUTHORITY TO BORROW.—Sections 12 and 15 are repealed.

Subtitle E—Territories

SEC. 1151. TERMINATION OF ANNUAL DIRECT ASSISTANCE TO NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—No annual payment may be made under section 701, 702, or 704 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note), for any fiscal year beginning after September 30, 1995.

(b) ELIMINATION OF 7-YEAR EXTENSIONS.—

(1) IN GENERAL.—The Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note), is amended by striking sections 3 and 4.

(2) CONFORMING CHANGES.—(A) Section 5 of the Act of March 24, 1976 (90 Stat. 263; 16 U.S.C. 1681 note) is redesignated as section 3.

(B) Section 3 of such Act, as redesignated by subparagraph (A) of this paragraph, is amended—

(i) by striking "agreement identified in section 3 of this Act" and inserting "Agreement of the Special Representatives on Future United States Financial Assistance for the Government of the Northern Mariana Islands, executed June 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands"; and

(ii) by striking "Interior and Insular Affairs" and inserting "Resources".

TITLE II—AGRICULTURE

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 2001. Short title; table of contents.

Subtitle A—Commodity Programs

Sec. 2101. Wheat, feed grain, and oilseed program.
Sec. 2102. Upland cotton program.
Sec. 2103. Rice program.
Sec. 2104. Peanut program.
Sec. 2105. Dairy program.
Sec. 2106. Sugar program.
Sec. 2107. Sheep industry transition program.
Sec. 2108. Suspension of permanent price support authority.
Sec. 2109. Extension of related price support provisions.
Sec. 2110. Effective date.

Subtitle B—Conservation

Sec. 2201. Environmental quality incentives program.

Subtitle C—Agricultural Promotion and Export Programs

Sec. 2301. Export enhancement program.

Subtitle A—Commodity Programs

SEC. 2101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

"SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

"(b) ADJUSTMENT ACCOUNT.—

"(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

"(A) in the case of wheat, 7/10 of a bushel;

"(B) in the case of corn, a bushel; and

"(C) in the case of other feed grains, a quantity determined by the Secretary.

"(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

"(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

"(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

"(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

"(A) $4,500,000,000 for fiscal year 1996; and

"(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

"(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

"(5) TIER 1 SUPPORT.—

"(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

"(i) the payment quantity determined under subparagraph (B); by

"(ii) the payment factor determined under subparagraph (C).

"(B) PAYMENT QUANTITY.—

"(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

"(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

"(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

"(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

"(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

"(C) PAYMENT FACTOR.—

"(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of wheat; or

"(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

"(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of corn; or

"(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

"(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

"(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(6) ENVIRONMENTAL RESERVE PROGRAM.—

"(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

"(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

"(c) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

"(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

"(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

"(4) REPAYMENT.—

"(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

"(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing domestic market price for each covered commodity; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

"(d) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forego obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—

"(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

"(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

"(ii) the level at which a loan may be repaid under subsection (c)(4).

"(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

"(i) the date the producers lost beneficial interest in the crop; or

"(ii) the end of the marketing year for the crop.

"(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

"(e) PROGRAM COST LIMITATION.—

"(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

"(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

"(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

"(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

"(C) an acreage limitation program; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

"(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

"(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

"(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

"(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.".

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

"(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.".

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

"(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.".

SEC. 2102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "**1997**" and inserting "**2002**";

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (a)(5), by striking "1998" each place it appears and inserting "2002";

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002";

(5) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops"; and

(6) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1996 through 2002 crops".

SEC. 2103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "**1995**" and inserting "**2002**";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2003"; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking "AND 1995" and inserting "THROUGH 2002"; and

(ii) by striking "and 1995" and inserting "through 2002"; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking "1997" each place it appears and inserting "2002"; and

(ii) in the heading of clause (v)(II), by striking "1997" and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1998 through 2002 crops".

SEC. 2104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(A) in the section heading, by striking "**1997**" and inserting "**2002**";

(B) in subsection (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(C) in subsection (g)—

(i) by striking "1997" in paragraphs (1) and (2)(A)(ii)(II) and inserting "2002"; and

(ii) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2002 crops".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking "**1997**" and inserting "**2002**"; and

(ii) in subsections (a)(1), (b), and (f), by striking "1997" each place it appears and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "**1995**" and inserting "**2002**"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "**1997**" and inserting "**2002**"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(b) Support Rates for Peanuts.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(a)(2)) is amended—

(1) by striking "(2) Support rates.—The" and inserting the following:

"(2) Support rates.—

"(A) 1991–1995 crops.—The"; and

(2) by adding at the end the following:

"(B) 1996–2002 crops.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.".

(c) Undermarketings.—

(1) In general.—Section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

"(C) Transfer of additional peanuts.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota."; and

(B) by striking paragraphs (8) and (9).

(2) Conforming amendments.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking "undermarketings and"; and

(B) in paragraph (3), by striking "(including any applicable undermarketings)".

SEC. 2105. DAIRY PROGRAM.

(a) Price support.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "**1996**" and inserting "**2002**";

(2) in subsections (a), (b), (f), (g), and (k), by striking "1996" each place it appears and inserting "2002";

(3) in subsection (h)(2)(C), by striking "and 1997" and inserting "through 2002".

(b) Support Price for Butter and Powdered Milk.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking "Subject to subparagraph (B), the" and inserting "The";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) Support Rate.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 2106. SUGAR PROGRAM.

(a) In General.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) Definitions.—In this section:

"(1) Agreement on agriculture.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

"(2) Major country.—The term 'major country' includes—

"(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

"(B) a country of the European Union; and

"(C) the People's Republic of China.

"(3) Market.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

"(4) Total estimated disappearance.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

"(b) Price Support.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

"(c) Sugarcane.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

"(d) Sugar Beets.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(e) Adjustment in Support Level.—

"(1) Downward adjustment in support level.—

"(A) In general.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

"(B) Extent of reduction.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

"(2) Increases in support level.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(f) Loan Type; Processor Assurances.—

"(1) In general.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

"(2) Modification.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

"(3) Processor assurances.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(g) Announcements.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(h) Loan Term.—

"(1) In general.—Except as provided in paragraph (2) and subsection (i), a loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) Extension.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(i) Supplementary Loans.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

"(j) Use of Commodity Credit Corporation.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(k) Marketing Assessments.—

"(1) In general.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

"(2) Beet sugar.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

"(3) Cane sugar.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(4) Collection.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(l) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(m) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 2107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

"SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

"(a) LOSS.—

"(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

"(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

"(C) ADJUSTMENT FOR QUALITY.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

"(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

"(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

"(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

"(4) TERM OF LOAN.—

"(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

"(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

"(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

"(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

"(A) the loan level determined for the marketing year; or

"(B) the higher of—

"(i) the loan level determined for the marketing year multiplied by 70 percent; or

"(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

"(6) PREVAILING WORLD MARKET PRICE.—

"(A) IN GENERAL.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

"(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

"(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

"(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of wool export sales and wool export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

"(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

"(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the marketing year under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

"(A) the payment rate; by

"(B) the payment quantity of wool for the marketing year.

"(2) PAYMENT RATE.—

"(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

"(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

"(ii) the loan level determined for the marketing year.

"(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

"(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

"(d) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(j) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

"(k) LIMITATION ON OUTLAYS.—

"(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

"(A) $75,000,000, during any single marketing year; or

"(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

"(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

"(3) PERSON LIMITATION.—

"(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

"(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

"(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.".

SEC. 2108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking "1996" and inserting "2002".

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking "oilseeds" and all that follows through "determine),".

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 2109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking "1997" each place it appears and inserting "2002"; and

(2) in subsection (b), by striking "1995" and inserting "2002";

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking "1995" and inserting "2002".

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking "1995" and inserting "2002".

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking "1995" and inserting "2002".

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking "1997" each place it appears and inserting "2002";

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking "1997" each place it appears and inserting "2002"; and

(3) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "1997" each place it appears and inserting "2002".

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking "1995" each place it appears in subsections (a), (b)(1), and (c) and inserting "2002".

(h) Options Pilot Program.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101-624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking "1995" each place it appears and inserting "2002"; and

(2) in section 1154(b)(1)(A), by striking "1995" each place it appears and inserting "2002".

(i) Food Security Wheat Reserve.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 2110. EFFECTIVE DATE.

(a) In General.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) Prior Crops.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 2201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) Land management practice.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

"(2) Large confined livestock operation.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 100,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 2,500 swine; or

"(vi) 10,000 sheep or lambs.

"(3) Livestock.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) Operator.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) Structural practice.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) Establishment.—

"(1) In general.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) Consolidation of existing programs.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

"(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

"(b) Application and Term.—

"(1) In general.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) Contract effective date.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

"(c) Cost-Sharing and Incentive Payments.—

"(1) Cost-sharing payments.—

"(A) In general.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) Limitation.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) Other payments.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) Incentive payments.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(d) Technical Assistance.—

"(1) Funding.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) Other authorities.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(e) Funding.—The Secretary shall use to carry out this chapter not less than—

"(1) $200,000,000 for fiscal year 1997; and

"(2) $250,000,000 for each of fiscal years 1998 through 2002.

"(f) Commodity Credit Corporation.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

"SEC. 1238B. CONSERVATION PRIORITY AREAS.

"(a) In General.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota, South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

"(b) Applicability.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) Regional Priorities.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) Maximization of Environmental Benefits.—

"(1) In general.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) State or local contributions.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

"(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

"(1) farming or ranching practices on the farm;

"(2) characteristics of natural resources on the farm;

"(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

"(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

"(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

Subtitle C—Agricultural Promotion and Export Programs

SEC. 2301. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than $800,000,000 for fiscal year 1996.".

Subtitle D—Nutrition Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 2401. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 2402. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.".

(2) Current Government-to-Government and direct grower-to-grower discussions with Canada have failed to result in changes in Canadian trade practices.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary of Agriculture and the United States Trade Representative should intensify efforts to resolve the Canadian potato trade concerns and begin to consider formal action under the dispute resolution procedures of the North American Free Trade Agreement or the General Agreement on Tariffs and Trade.

TITLE III—COMMERCE

SEC. 3101. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXEMPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive:

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) CONFORMING AMENDMENT.—Subsection (i) of section 309 of such Act is repealed.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall not apply with respect to any license or permit for which the Federal Communications Commission has accepted mutually exclusive applications on or before the date of enactment of this Act.

(b) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bans can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been designated by Commission regulation for assignment pursuant to such section; or

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act.

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2001.

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services; and

(D) comply with the requirements of international agreements concerning spectrum allocations.

(3) NOTIFICATION TO NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (as amended by this Act).

(c) IDENTIFICATION AND REALLOCATION OF FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113, by adding at the end the following new subsection:

"(f) ADDITIONAL REALLOCATION REPORT.—If the Secretary receives a notice from the Commission pursuant to section 3001(b)(3) of the Seven-Year Balanced Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.";

(2) in section 114(a)(1), by striking "(a) or (d)(1)" and inserting "(a), (d)(1), or (f)".

(d) COMPLETION OF C-BLOCK PCS AUCTION.—The Federal Communications Commission shall commence the Broadband Personal Communications Services C-Block auction described in the Commission's Sixth Report and Order in DP Docket 93-253 (FCC 93-510, released July 18, 1995) not later than December 4, 1995. The Commission's competitive bidding rules governing such auction, as set forth in such Sixth Report and Order, are hereby ratified and adopted as a matter of Federal law.

(e) MODIFICATION OF AUCTION POLICY TO PRESERVE AUCTION VALUE OF SPECTRUM.—The voluntary negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established by the Commission's Third Report and Order in ET Docket No. 92-9, shall expire one year after the date of acceptance by the Commission of applications for such licensed emerging technology services. The mandatory negotiation period for relocating fixed microwave licensees to frequency bands other than those allocated for licensed emerging technology services (including licensed personal communications services), established in such Third Report and Order, shall expire two years after the date of acceptance by the Commission of applications for such licensed emerging technology services.

(f) IDENTIFICATION AND REALLOCATION OF AUCTIONABLE FREQUENCIES.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) in section 113(b)—

(A) by striking the heading of paragraph (1) and inserting "INITIAL REALLOCATION REPORT";

(B) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in paragraph (1);

(C) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2); and

(D) by inserting after paragraph (2) the following new paragraph:

"(3) SECOND REALLOCATION REPORT.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation in the second report required by subsection (a), for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a)."; and

(2) in section 115—

(A) in subsection (b), by striking "the report required by section 113(a)" and inserting "the initial reallocation report required by section 113(a)"; and

(B) by adding at the end the following new subsection:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j).".

SEC. 3102. FEDERAL COMMUNICATIONS COMMISSION FEE COLLECTIONS

(a) APPLICATION FEES.—

(1) ADJUSTMENT OF APPLICATION FEE SCHEDULE.—Section 8(b) of the Communications Act of 1934 (47 U.S.C. 158(b)) is amended to read as follows:

"(b)(1) For fiscal year 1996 and each fiscal year thereafter, the Commission shall, by regulation, modify the application fees by proportionate increases or decreases so as to result in estimated total collections for the fiscal year equal to—

"(A) $40,000,000; plus

"(B) an additional amount, specified in an appropriation Act for the Commission for that fiscal year to be collected and credited to such appropriation, not to exceed the amount by which the necessary expenses for the costs described in paragraph (5) exceeds $40,000,000.

"(2) In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5.00 in the case of fees under $100, or to the nearest $20 in the case of fees of $100 or more. The Commission shall transmit to the Congress notification of any adjustment made pursuant to this paragraph immediately upon the adoption of such adjustment.

"(3) The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraphs (1) and (4).

"(4) The Commission shall, by regulation, add, delete, or reclassify services, categories, applications, or other filings subject to application fees to reflect additions, deletions, or changes in the nature of its services or authorization of service processes as a consequence of Commission rulemaking proceedings or changes in law.

"(5) Any modified fees established under paragraph (4) shall be derived by determining the full-time equivalent number of employees performing application activities, adjusted to take into account other expenses that are reasonably related to the cost of processing the application or filing, including all executive and legal costs incurred by the Commission in the discharge of these functions, and other factors that the Commission determines are necessary in the public interest. The Commission shall—

"(A) transmit to the Congress notification of any proposed modification made pursuant to this paragraph immediately upon adoption of such proposal; and

"(B) transmit to the Congress notification of any modification made pursuant to this paragraph immediately upon adoption of such modification.

"(6) Increases or decreases in application fees made pursuant to this subsection shall not be subject to judicial review.".

(2) TREATMENT OF ADDITIONAL COLLECTIONS.—Section 8(e) of such Act is amended to read as follows:

"(e) Of the moneys received from fees authorized under this section—

"(1) $40,000,000 shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act; and

"(2) the remainder shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.".

(3) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading "COMMON CARRIER SERVICES", the following new item:

"23. Personal communications services

"a. Initial or new application ...	230
"b. Amendment to pending application	35
"c. Application for assignment or transfer of control	230
"d. Application for renewal of license	35
"e. Request for special temporary authority	200
"f. Notification of completion of construction	35
"g. Request to combine service areas	50 ".

(4) VANITY CALL SIGNS.—

(A) LIFETIME LICENSE FEES.—

(i) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading "PRIVATE RADIO SERVICES", the following new item:

"11. Amateur vanity call signs 150.00".

(ii) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(B) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs ...... 7".

(b) REGULATORY FEES.

(1) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(2) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(A) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

(B) by adding at the end the following new paragraph:

"(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission is authorized to continue to collect fees at the prior year's rate until the effective date of fee adjustments or amendments made pursuant to paragraph (2) or (3).".

(3) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the Mass Media Bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial and UHF commercial TV the following new item:

"Terrestrial television satellite operations .... 500".

(4) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(5) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(A) in section 9, by striking subsection (i); and

(B) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems for the purposes of making the adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(a)(5) and 9(a)(1) in making such adjustments in the schedules required by sections 8 and 9.

"(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

"(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(a)(5) and

9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

SEC. 3103. AUCTION OF RECAPTURED ANALOG LICENSES.

(a) LIMITATIONS ON TERMS OF ANALOG TELEVISION LICENSES ("REVERSION DATE").—The Commission shall not renew any analog television license for a period that extends beyond the earlier of December 31, 2005, or one year after the date the Commission finds, based on annual surveys conducted pursuant to subsection (b), that at least 95 percent of households in the United States have the capability to receive and display video signals, other than video signals transmitted pursuant to an analog television license. After such date, the Commission shall not issue any television licenses other than advanced television licenses.

(b) ANNUAL SURVEY.—The Secretary of Commerce shall, each calendar year from 1998 to 2005, conduct a survey to estimate the percentage of households in the United States that have the capability to receive and display video signals other than signals transmitted pursuant to an analog television license.

(c) SPECTRUM REVERSION.—The Commission shall ensure that, as analog television licenses expire pursuant to subsection (a), spectrum previously used for the broadcast of analog television signals is reclaimed and reallocated in such manner as to maximize the deployment of new services. Licensees for new services shall be selected by competitive bidding. The Commission shall complete the competitive bidding procedure by May 1, 2002.

(d) MINIMUM SERVICE OBLIGATION.—

(1) PROVISION OF CAPABILITY TO RECEIVE ADVANCED SERVICES.—The Commission shall, by regulation, establish procedures to ensure that, within the year prior to the reversion date defined in subsection (a), the advanced television licensees shall provide each household with the capability to receive and display video signals for advanced television services if such household requests such capability.

(2) PROVISION OF NONSUBSCRIPTION SERVICES.—Each advanced television service licensee shall provide, for at least a minimum of 5 years from the date identified in subsection (a), at least one nonsubscription video service that meets or exceeds minimum technical standards established by the Commission. In setting such minimum technical standards, the Commission shall, to the extent technically feasible, ensure that picture and audio quality are at least as good as that provided to recipients within the Grade B contour of an analog television license. The Commission shall revoke the license of any advanced television licensee who fails to meet this condition of the license.

(e) DEFINITIONS.—As used in this section:

(1) The term "Commission" means the Federal Communications Commission.

(2) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the Opinion, Report, and Order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Service," MM Docket No. 87-268.

(3) The term "analog television licenses" means licenses issued pursuant to 47 C.F.R. 73.682 et seq.

SEC. 3104. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

SEC. 3105. REPEAL OF AUTHORIZATION OF TRANSITIONAL APPROPRIATIONS FOR THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—(1) Section 2004 of title 39, United States Code, is repealed.

(2)(A) The table of sections for chapter 20 of such title is amended by repealing the item relating to section 2004.

(B) Section 2003(e)(2) of such title is amended by striking "sections 2401 and 2004" each place it appears and inserting "section 2401".

(b) CLARIFICATION THAT LIABILITIES FORMERLY PAID PURSUANT TO SECTION 2004 REMAIN LIABILITIES PAYABLE BY THE POSTAL SERVICE.—Section 2003 of title 39, United States Code, is amended by adding at the end the following:

"(h) Liabilities of the former Post Office Department to the Employees' Compensation Fund (appropriations for which were authorized by former section 2004, as in effect before the effective date of this subsection) shall be liabilities of the Postal Service payable out of the Fund.".

TITLE IV—TRANSPORTATION

SEC. 4101. EXTENSION OF RAILROAD SAFETY FEES.

Subsection (e) of section 20115 of title 49, United States Code, is repealed.

SEC. 4102. PERMANENT EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended—

(1) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 2 cents per ton not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter"; and

(2) by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 6 cents per ton, not to exceed 30 cents per ton for each fiscal year thereafter".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, 1997, and 1998, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any 1 year, for each fiscal year thereafter,".

SEC. 4103. SALE OF GOVERNORS ISLAND, NEW YORK.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall dispose of by sale at fair market value all rights, title, and interests of the United States in and to the land of, and improvements to, Governors Island, New York.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under subsection (a) to any other parties, the State of New York and the city of New York shall be given the right of first refusal to purchase all or part of Governors Island. Such right may be exercised by either the State of New York or the city of New York or by both parties acting jointly.

(c) PROCEEDS.—Proceeds from the disposal of Governors Island under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

SEC. 4104. SALE OF AIR RIGHTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator of General Services shall sell, at fair market value and in a manner to be determined by the Administrator, the air rights adjacent to Washington Union Station described in subsection (b), including air rights conveyed to the Administrator under subsection (d). The Administrator shall complete the sale by such date as is necessary to ensure that the proceeds from the sale will be deposited in accordance with subsection (c).

(b) DESCRIPTION.—The air rights referred to in subsection (a) total approximately 16.5 acres and are depicted on the plat map of the District of Columbia as follows:

(1) Part of lot 172, square 720.

(2) Part of lots 172 and 823, square 720.

(3) Part of lot 811, square 717.

(c) PROCEEDS.—Before September 30, 1996, proceeds from the sale of air rights under subsection (a) shall be deposited in the general fund of the Treasury and credited as miscellaneous receipts.

(d) CONVEYANCE OF AMTRAK AIR RIGHTS.—

(1) GENERAL RULE.—As a condition of future Federal financial assistance, Amtrak shall convey to the Administrator of General Services on or before December 31, 1995, at no charge, all of the air rights of Amtrak described in subsection (b).

(2) FAILURE TO COMPLY.—If Amtrak does not meet the condition established by paragraph (1), Amtrak shall be prohibited from obligating Federal funds after March 1, 1996.

TITLE V—HOUSING PROVISIONS

SEC. 5101. REDUCTION OF SECTION 8 ANNUAL ADJUSTMENT FACTORS FOR UNITS WITHOUT TENANT TURNOVER.

Paragraph (2)(A) of section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended by striking the last sentence.

SEC. 5102. MAXIMUM MORTGAGE AMOUNT FLOOR FOR SINGLE FAMILY MORTGAGE INSURANCE.

Subparagraph (A) of the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended by striking "the greater of" and all that follows through "applicable size" and inserting the following: "50 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size".

SEC. 5103. FORECLOSURE AVOIDANCE AND BORROWER ASSISTANCE.

(a) FORECLOSURE AVOIDANCE.—The last sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended by inserting before the period the following: ": *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to foreclosure of a mortgage that is in default, which actions may include such actions as special forbearance, loan modification, and deeds in lieu of foreclosure, all upon such terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review".

(b) AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT.—Section 230 of the National Housing Act (12 U.S.C. 1715u) is amended to read as follows:

"AUTHORITY TO ASSIST MORTGAGORS IN DEFAULT

"SEC. 230. (a) PAYMENT OF PARTIAL CLAIM.—The Secretary may establish a program for payment of a partial insurance claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the Secretary's sole discretion and on terms and conditions acceptable to the Secretary, except that—

"(1) the amount of the payment shall be in an amount determined by the Secretary, which shall not exceed an amount equivalent to 12 monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

"(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

"(b) ASSIGNMENT.—

"(1) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this Act.

"(2) PROGRAM REQUIREMENTS.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

"(A) the mortgage was in default;

"(B) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay at interest rates not exceeding current market interest rates; and

"(C) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

"(3) PAYMENT OF INSURANCE BENEFITS.—Upon accepting assignment of a mortgage under the program under this subsection, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund in an amount that the Secretary determines to be appropriate, but which may not exceed the amount necessary to compensate the mortgagee for the assignment and any losses resulting from the mortgage modification.

"(c) PROHIBITION OF JUDICIAL REVIEW.—No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.".

(c) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary of Housing and Urban Development, before the date of the enactment of this Act, for assignment pursuant to section 230(b) of the National Housing Act shall continue to be governed by the provisions of such section, as in effect immediately before such date of enactment.

(d) APPLICABILITY OF OTHER LAWS.—No provision of the National Housing Act or any other law shall be construed to require the Secretary of Housing and Urban Development to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under the National Housing Act, or to accept assignments of such mortgages.

TITLE VI—INDEXATION AND MISCELLANEOUS ENTITLEMENT-RELATED PROVISIONS

SEC. 6101. CONSUMER PRICE INDEX.

(a) ADJUSTMENTS APPLICABLE TO INTERNAL REVENUE CODE PROVISIONS.—

(1) IN GENERAL.—Paragraph (3) of section 1(f) of the Internal Revenue Code of 1986 (defining cost-of-living adjustment) is amended by striking the period at the end and inserting a comma and by inserting at the end the following flush material:

"reduced by the number of percentage points determined under paragraph (8) for the calendar year for which such adjustment is being determined."

(2) LIMITATION ON INCREASES.—Subsection (f) of section 1 of such Code is amended by adding at the end the following new paragraph:

"(8) LIMITATION ON INCREASES IN CPI.—

"(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

"(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

"(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

"(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—The Secretary shall adjust the number taken into account under paragraph (3)(B) so that any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period."

(b) ADJUSTMENTS APPLICABLE TO CERTAIN ENTITLEMENT PROGRAMS.—

(1) IN GENERAL.—For purposes of determining the amount of any cost-of-living adjustment which takes effect for benefits payable after December 31, 1995, with respect to any benefit described in paragraph (5)—

(A) any increase in the relevant index (determined without regard to this subsection) shall be reduced by the number of percentage points determined under paragraph (2), and

(B) the amount of the increase in such benefit shall be equal to the product of—

(i) the increase in the relevant index (as reduced under subparagraph (A)), and

(ii) the average such benefit for the preceding calendar year under the program described in paragraph (5) which provides such benefit.

(2) LIMITATION ON INCREASES.—

(A) IN GENERAL.—The number of percentage points determined under this paragraph for any calendar year is—

(i) in the case of calendar years 1996, 1997, and 1998, 0.5 percentage point, and

(ii) in the case of calendar years 1999, 2000, 2001, and 2002, 0.3 percentage point.

(B) COMPUTATION OF BASE TO REFLECT LIMITATION.—Any increase which is not taken into account by reason of subparagraph (A) shall not be taken into account at any time so as to allow such increase for any period.

(3) PARAGRAPH (1) TO APPLY ONLY TO COMPUTATION OF BENEFIT AMOUNTS.—Paragraph (1) shall apply only for purposes of determining the amount of benefits and not for purposes of determining—

(A) whether a threshold increase in the relevant index has been met, or

(B) increases in amounts under other provisions of law not described in paragraph (5) which operate by reference to increases in such benefits.

(4) DEFINITIONS.—For purposes of this subsection—

(A) COST-OF-LIVING ADJUSTMENT.—The term "cost-of-living adjustment" means any adjustment in the amount of benefits described in paragraph (5) which is determined by reference to changes in an index.

(B) INDEX.—

(i) INDEX.—The term "index" means the Consumer Price Index and any other index of price or wages.

(ii) RELEVANT INDEX.—The term "relevant index" means the index on the basis of which the amount of the cost-of-living adjustment is determined.

(5) BENEFITS TO WHICH SUBSECTION APPLIES.—For purposes of this subsection, the benefits described in this paragraph are—

(A) old age, survivors, and disability insurance benefits subject to adjustment under section 215(i) of the Social Security Act (but the limitation under paragraph (1) shall not apply to supplemental security income benefits under title XVI of such Act);

(B) retired and retainer pay subject to adjustment under section 1401a of title 10, United States Code;

(C) civil service retirement benefits under section 8340 of title 5, United States Code, foreign service retirement benefits under section 826 of the Foreign Service Act of 1980, Central Intelligence Agency retirement benefits under part J of the Central Intelligence Agency Retirement Act of 1964 for certain employees, and any other benefits under any similar provision under any retirement system for employees of the government of the United States;

(D) Federal workers' compensation under section 8146a of title 5, United States Code;

(E) benefits under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974; and

(F) benefits and expenditure limits under title XVIII or XIX of the Social Security Act.

SEC. 6103. MATCHING RATE REQUIREMENT FOR TITLE XX BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Section 2002(a)(1) of the Social Security Act (42 U.S.C. 1397a(a)(1)) is amended by striking "Each State" and all that follows through the period and inserting the following: "(A) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to the lesser of—

"(i) 80 percent of the total amount expended by the State during the fiscal year for services referred to in subparagraph (B); or "(ii) the allotment of the State for the fiscal year.

"(B) A State to which a payment is made under this title shall use the payment for services directed at the goals set forth in section 2001, subject to the requirements of this title.".

SEC. 6104. DENIAL OF UNEMPLOYMENT INSURANCE TO CERTAIN HIGH-INCOME INDIVIDUALS.

(a) GENERAL RULE.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986, as amended by section 10101, is further amended by striking "and" at the end of paragraph (18), by redesignating paragraph (19) as paragraph (20), and by inserting after paragraph (18) the following new paragraph:

"(19) compensation shall not be payable to any individual for any benefit year if the taxable income of such individual for such individual's most recent taxable year ending before the beginning of such benefit year exceeded $120,000; and".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to benefit years beginning after December 31, 1995.

(2) SPECIAL RULE.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and December 31, 1995, the amendments made by this section shall apply to benefit years beginning after the day 30 calendar days after the first day on which such legislature is in session on or after December 31, 1995.

SEC. 6105. DENIAL OF UNEMPLOYMENT INSURANCE TO INDIVIDUALS WHO VOLUNTARILY LEAVE MILITARY SERVICE.

(a) GENERAL RULE.—Paragraph (1) of section 8521(a) of title 5, United States Code, is amended to read as follows:

"(1) 'Federal service' means active service (not including active duty in a reserve status unless for a continuous period of 45 days or more) in the armed forces or the commissioned corps of the National Oceanic and Atmospheric Administration if with respect to that service the individual—

"(A) was discharged or released under honorable conditions,

"(B) did not resign or voluntarily leave the service, and

"(C) was not discharged or released for cause as defined by the Secretary of Defense;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of a discharge or release after the date of the enactment of this Act.

TITLE VII—MEDICAID REFORM

Subtitle A—Per Capita Spending Limit

SEC. 7001. LIMITATION ON EXPENDITURES RECOGNIZED FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

(1) in section 1903(a), by striking "From" and inserting "Subject to section 1931, from";

(2) by redesignating section 1931 as section 1932; and

(3) by inserting after section 1930 the following new section:

"LIMITATION ON FEDERAL FINANCIAL PARTICIPATION BASED ON PER BENEFICIARY SPENDING

"SEC. 1931. (a) IN GENERAL.—Subject to subsection (e), the total amount of State expenditures for medical assistance for which Federal financial participation may be made under section 1903(a) for quarters in a fiscal year (beginning with fiscal year 1997) may not exceed the sum of the following:

"(1) NONDISABLED MEDICAID CHILDREN.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid children (described in subsection (b)(1)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(2) NONDISABLED MEDICAID ADULTS.—The product of—

"(A) the number of full-year equivalent nondisabled medicaid adults (described in subsection (b)(2)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent nondisabled elderly medicaid beneficiaries (described in subsection (b)(3)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category of individuals for the fiscal year.

"(4) DISABLED MEDICAID BENEFICIARIES.—The product of—

"(A) the number of full-year equivalent disabled medicaid beneficiaries (described in subsection (b)(4)) in the State in the fiscal year, and

"(B) the per capita medical assistance limit established under subsection (c)(1) for such category individuals for the fiscal year.

"(5) ADMINISTRATIVE EXPENDITURES.—The product of—

"(A) the number of full-year equivalent medicaid beneficiaries who are in any category of beneficiaries in the State in the fiscal year, and

"(B) the per capita limit established under subsection (c)(1) for administrative expenditures for the fiscal year.

This section shall not apply to expenditures for which no Federal financial participation is available under this title.

"(b) DEFINITIONS RELATING TO CATEGORIES OF INDIVIDUALS.—In this section:

"(1) NONDISABLED MEDICAID CHILDREN.—The term 'nondisabled medicaid child' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is under 21 years of age.

"(2) NONDISABLED MEDICAID ADULTS.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 21 years of age but under 65 years of age.

"(3) NONDISABLED ELDERLY MEDICAID BENEFICIARY.—The term 'nondisabled medicaid adult' means an individual entitled to medical assistance under the State plan under this title who is not disabled (as such term is used under paragraph (4)) and is at least 65 years of age.

"(4) DISABLED MEDICAID BENEFICIARIES.—The term 'disabled medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title who is entitled to such assistance solely on the basis of blindness or disability.

For purposes of this section, nondisabled medicaid children, nondisabled medicaid adults, nondisabled elderly medicaid beneficiaries, and disabled medicaid beneficiaries each constitutes a separate category of medicaid beneficiaries.

"(c) ESTABLISHMENT OF PER CAPITA LIMITS.—

"(1) IN GENERAL.—The Secretary shall establish for each State a per capita medical assistance limit for each category of medicaid beneficiaries described in subsection (b) and for administrative expenditures for a fiscal year equal to the product of the following:

"(A) PREVIOUS EXPENDITURES.—The average of the amount of the per capita matchable medical assistance expenditures (determined under paragraph (2)(A)) for such category (or the per capita matchable adminstrative expenditures determined under paragraph (2)(B)) for such State for each of the 3 previous fiscal years.

"(B) INFLATION FACTOR.—The rolling 2-year CPI increase factor (determined under paragraph (3)(A)) for the fiscal year involved.

"(C) TRANSITIONAL ALLOWANCE.—The transitional allowance factor (if any) applicable under paragraph (3)(B) to such limit for the previous fiscal year and for the fiscal year involved.

"(2) PER CAPITA MATCHABLE MEDICAL ASSISTANCE EXPENDITURES.—For purposes of this section—

"(A) MEDICAL ASSISTANCE EXPENDITURES.—The 'per capita matchable medical assistance expenditures', for a category of medicaid beneficiaries for a State for a fiscal year, is equal to—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under paragraphs (1) and (5) of section 1903(a) (other than expenditures excluded under subsection (e)) with respect to medical assistance furnished with respect to individuals in such category during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in such category in the State in such fiscal year.

"(B) PER CAPITA MATCHABLE ADMINISTRATIVE EXPENDITURES.—The 'per capita matchable administrative expenditures', for a State for a fiscal year, is equal to—

"(i) the amount of expenditures for which Federal financial participation is (or may be) provided (consistent with this section) to the State under section 1903(a) (under paragraphs (1) and (5) of such section) during the fiscal year, divided by

"(ii) the number of full-year equivalent individuals in any category of medicaid beneficiary in the State in such fiscal year.

"(3) INCREASE FACTORS.—In this subsection—

"(A) ROLLING 2-YEAR CPI INCREASE FACTOR.—The 'rolling 2-year CPI increase factor' for a fiscal year is 1 plus the percentage by which—

"(i) the Secretary's estimate of the average value of the consumer price index for all urban consumers (all items, U.S. city average) for months in the particular fiscal year, exceeds

"(ii) the average value of such index for months in the 3 previous fiscal years.

"(B) TRANSITIONAL ALLOWANCE FACTORS.—

"(i) FISCAL YEAR 1996.—The 'transitional allowance factor' for fiscal year 1996—

"(I) for the category of nondisabled medicaid children, is 1.051;

"(II) for the category of nondisabled medicaid adults, is 1.067;

"(III) for the category of nondisabled elderly medicaid beneficiaries is 1.031;

"(IV) for the category of disabled medicaid beneficiaries is 1.015; and

"(V) for administrative expenditures is 1.046.

"(ii) SUBSEQUENT FISCAL YEARS FOR NONDISABLED CHILDREN AND ADULTS AND FOR DISABLED CATEGORIES.—The 'transitional allowance factor' for the categories of nondisabled medicaid children, nondisabled medicaid adults, and disabled medicaid beneficiaries—

"(I) for fiscal year 1997 is 1.01, and

"(II) for each subsequent fiscal year is 1.0.

"(iii) SUBSEQUENT FISCAL YEARS FOR THE ELDERLY AND ADMINISTRATIVE EXPENDITURES.—The 'transitional allowance factor' for the category of nondisabled elderly medicaid beneficiaries and for administrative expenditures for fiscal years after fiscal year 1996 is 1.0.

"(4) NOTICE.—The Secretary shall notify each State before the beginning of each fiscal year of the per capita limits established under this subsection for the State for the fiscal year.

"(d) SPECIAL RULES AND EXCEPTIONS.—For purposes of this section, expenditures attributable to any of the following shall not be subject to the limits established under this section and shall not be taken into account in establishing per capita medical assistance limits under subsection (c)(1):

"(1) DSH.—Payment adjustments under section 1923.

"(2) MEDICARE COST-SHARING.—Payments for medical assistance for medicare cost-sharing (as defined in section 1905(p)(3)).

"(3) SERVICES THROUGH IHS AND TRIBAL PROVIDERS.—Payments for medical assistance for services described in the last sentence of section 1905(b).

Nothing in this section shall be construed as applying any limitation to expenditures for the purchase and delivery of qualified pediatric vaccines under section 1928.

"(e) DEFINITIONS.—In this section, the term 'medicaid beneficiary' means an individual entitled to medical assistance under the State plan under this title.

"(f) ESTIMATIONS AND NOTICE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) establish a process for estimating the limits established under subsection (a) for each State at the beginning of each fiscal year and adjusting such estimate during such year; and

"(B) notifying each State of the estimations and adjustments referred to in subparagraph (A).

"(2) DETERMINATION OF NUMBER OF FULL-YEAR EQUIVALENT INDIVIDUALS.—For purposes of this section, the number of full-year equivalent individuals in each category described in subsection (b) for a State for a year shall be determined based on actual reports submitted by the State to the Secretary. In the case of individuals who were not entitled to benefits under a State plan for the entire fiscal year (or are within a group of individuals for only part of a fiscal year), the number shall take into account only the portion of the year in which they were so entitled or within such group. The Secretary may audit such reports.

"(g) ANTI-GAMING ADJUSTMENT TO REFLECT CHANGES IN ELIGIBILITY.—

"(1) REPORT ON PER CAPITA EXPENDITURES.—If a State makes a change (on or after October 15, 1995) relating to eligibility for medical assistance in its State plan that results in the addition or deletion of individuals eligible for such assistance, the State shall submit to the Secretary with such change such information as the Secretary may require in order to carry out paragraph (2).

"(2) ADJUSTMENT FOR CERTAIN ADDITIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in making medical assistance available for additional individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures will be less the applicable per capita limit established under subsection (c)(1) for such category, the Secretary shall apply the per capita limits under such subsection separately with respect to individuals who are eligible for medical assistance without regard to such addition and with respect to the individuals so added.

"(3) ADJUSTMENT FOR CERTAIN DELETIONS.—If a State makes a change described in paragraph (1) that the Secretary believes will result in denial of medical assistance for individuals (within a category described in subsection (b)) with respect to whom the Secretary estimates the per capita average medical assistance expenditures is greater than the applicable per capita limit established under subsection (c)(1) for such catetory, the Secretary shall adjust the payment limits under subsection (a) to reflect any decrease in average per beneficiary expenditures that would result from such change.

"(h) TREATMENT OF STATES OPERATING UNDER WAIVERS.—The Secretary shall provide for such adjustments to the per capita limits under subsection (c) for a fiscal year as may be appropriate to take into account the case of States which either—

"(1) during any of the 3 previous fiscal years was providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is no longer providing such medical assistance under such waiver; or

"(2) during any of the 3 previous fiscal years was not providing medical assistance to its residents under a waiver granted under section 1115, section 1915, or other provision of law, and, in the fiscal year involved is providing such medical assistance under such a waiver.".

(b) ENFORCEMENT-RELATED PROVISIONS.—

(1) ASSURING ACTUAL PAYMENTS TO STATES CONSISTENT WITH LIMITATION.—Section 1903(d) of such Act (42 U.S.C. 1396b(d)) is amended—

(A) in paragraph (2)(A), by striking "The Secretary" and inserting "Subject to paragraph (7), the Secretary", and

(B) by adding at the end the following new paragraph:

"(7)(A) The Secretary shall take such steps as are necessary to assure that payments under this subsection for quarters in a fiscal year are consistent with the payment limits established under section 1931 for the fiscal year. Such steps may include limiting such payments for one or more quarters in a fiscal year based on—

"(i) an appropriate proportion of the payment limits for the fiscal year involved, and

"(ii) numbers of individuals within each category, as reported under subparagraph (B) for a recent previous quarter.

"(B) Each State shall include, in its report filed under paragraph (1)(A) for a calendar quarter—

"(i) the actual number of individuals within each category described in section 1931(b) for the second previous calendar quarter and (based on the data available) for the previous calendar quarter, and

"(ii) an estimate of such numbers for the calendar quarter involved.".

(2) RESTRICTION ON AUTHORITY OF STATES TO APPLY LESS RESTRICTIVE INCOME AND RESOURCE METHODOLOGIES.—Section 1902(r)(2) of such Act (42 U.S.C. 1396a(r)(2)) is amended by adding at the end the following new subparagraph:

"(C) Subparagraph (A) shall not apply to plan amendments made on or after October 15, 1995.".

(c) CONFORMING AMENDMENT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following:

"(16) in accordance with section 1931, with respect to amounts expended to the extent they exceed applicable limits established under section 1931(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for calendar quarters beginning on or after October 1, 1996.

Subtitle B—Medicaid Managed Care

SEC. 7101. PERMITTING GREATER FLEXIBILITY FOR STATES TO ENROLL BENEFICIARIES IN MANAGED CARE ARRANGEMENTS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(a), is amended—

(1) by redesignating section 1932 as section 1933; and

(2) by inserting after section 1931 the following new section:

"STATE OPTIONS FOR ENROLLMENT OF BENEFICIARIES IN MANAGED CARE ARRANGEMENTS

"SEC. 1932. (a) MANDATORY ENROLLMENT.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this section and notwithstanding paragraphs (1), (10)(B), and (23) of section 1902(a), a State may require an individual eligible for medical assistance under the State plan under this title to enroll with an eligible managed care provider as a condition of receiving such assistance and, with respect to assistance furnished by or under arrangements with such provider, to receive such assistance through the provider, if the following provisions are met:

"(A) The provider meets the requirements of section 1933.

"(B) The provider enters into a contract with the State to provide services for the benefit of individuals eligible for benefits under this title under which prepaid payments to such provider are made on an actuarially sound basis.

"(C) There is sufficient capacity among all providers meeting such requirements to enroll and serve the individuals required to enroll with such providers.

"(D) The individual is not a special needs individual (as defined in subsection (c)).

"(E) The State—

"(i) permits an individual to choose an eligible managed care provider—

"(I) from among not less than 2 medicaid managed care plans; or

"(II) between a medicaid managed care plan and a primary care case management provider;

"(ii) provides the individual with the opportunity to change enrollment among eligible managed care providers not less than once annually and notifies the individual of such opportunity not later than 60 days prior to the first date on which the individual may change enrollment;

"(iii) establishes a method for establishing enrollment priorities in the case of an eligible managed care provider that does not have sufficient capacity to enroll all such individuals seeking enrollment under which individuals already enrolled with the provider are given priority in continuing enrollment with the provider;

"(iv) establishes a default enrollment process which meets the requirements described in paragraph (2) and under which any such individual who does not enroll with an eligible managed care provider during the enrollment period specified by the State shall be enrolled by the State with such a provider in accordance with such process; and

"(v) establishes the sanctions provided for in section 1934.

"(2) DEFAULT ENROLLMENT PROCESS REQUIREMENTS.—The default enrollment process established by a State under paragraph (1)(E)(iv) shall—

"(A) provide that the State may not enroll individuals with an eligible managed care provider which is not in compliance with the requirements of section 1933; and

"(B) provide for an equitable distribution of individuals among all eligible managed care providers available to enroll individuals through such default enrollment process, consistent with the enrollment capacities of such providers.

"(b) REENROLLMENT OF INDIVIDUALS WHO REGAIN ELIGIBILITY.—

"(1) IN GENERAL.—If an individual eligible for medical assistance under a State plan under this title and enrolled with an eligible managed care provider with a contract under subsection (a)(1)(B) ceases to be eligible for such assistance for a period of not greater than 2 months, the State may provide for the automatic reenrollment of the individual with the provider as of the first day of the month in which the individual is again eligible for such assistance.

"(2) CONDITIONS.—Paragraph (1) shall only apply if—

"(A) the month for which the individual is to be reenrolled occurs during the enrollment period covered by the individual's original enrollment with the eligible managed care provider;

"(B) the eligible managed care provider continues to have a contract with the State agency under subsection (a)(1)(B) as of the first day of such month; and

"(C) the eligible managed care provider complies with the requirements of section 1933.

"(3) NOTICE OF REENROLLMENT.—The State shall provide timely notice to an eligible managed care provider of any reenrollment of an individual under this subsection.

"(c) SPECIAL NEEDS INDIVIDUALS DESCRIBED.—In this section, a 'special needs individual' means any of the following:

"(1) SPECIAL NEEDS CHILD.—An individual who is under 19 years of age who—

"(A) is eligible for supplemental security income under title XVI;

"(B) is described under section 501(a)(1)(D);

"(C) is a child described in section 1902(e)(3); or

"(D) is in foster care or is otherwise in an out-of-home placement.

"(2) HOMELESS INDIVIDUALS.—An individual who is homeless (without regard to whether the individual is a member of a family), including—

"(A) an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

"(B) an individual who is a resident in transitional housing.

"(3) MIGRANT AGRICULTURAL WORKERS.—A migratory agricultural worker or a seasonal agricultural worker (as such terms are defined in section 329 of the Public Health Service Act), or the spouse or dependent of such a worker.

"(4) INDIANS.—An Indian (as defined in section 4(c) of the Indian Health Care Improvement Act (25 U.S.C. 1603(c)))."

(b) CONFORMING AMENDMENT.—Section 1902(a)(23) of such Act (42 U.S.C. 1396a(a)(23)) is amended—

(1) in the matter preceding subparagraph (A), by striking "subsection (g) and in section 1915" and inserting "subsection (g), section 1915, and section 1931,"; and

(2) in subparagraph (B)—

(A) by striking "a health maintenance organization, or a" and inserting "or with an eligible managed care provider, as defined in section 1933(g)(1), or".

SEC. 7102. REMOVAL OF BARRIERS TO PROVISION OF MEDICAID SERVICES THROUGH MANAGED CARE.

(a) REPEAL OF CURRENT BARRIERS.—Except as provided in subsection (b), section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is repealed on the date of the enactment of this Act.

(b) EXISTING CONTRACTS.—In the case of any contract under section 1903(m) of such Act which is in effect on the day before the date of the enactment of this Act, the provisions of such section shall apply to such contract until the earlier of—

(1) the day after the date of the expiration of the contract; or

(2) the date which is 1 year after the date of the enactment of this Act.

(c) ELIGIBLE MANAGED CARE PROVIDERS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as amended by sections 7001(a) and 7101(a), is amended—

(1) by redesignating section 1933 as section 1934; and

(2) by inserting after section 1932 the following new section:

"ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1933. (a) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) ELIGIBLE MANAGED CARE PROVIDER.—The term 'eligible managed care provider' means—

"(A) a medicaid managed care plan; or

"(B) a primary care case management provider.

"(2) MEDICAID MANAGED CARE PLAN.—The term 'medicaid managed care plan' means a health maintenance organization, an eligible organization with a contract under Section 1876, a provider sponsored network or any other plan which provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B).

"(3) PRIMARY CARE CASE MANAGEMENT PROVIDER.—

"(A) IN GENERAL.—The term 'primary care case management provider' means a health care provider that—

"(i) is a physician, group of physicians, a Federally-qualified health center, a rural health clinic, or an entity employing or having other arrangements with physicians that provides or arranges for the provision of one or more items and services to individuals eligible for medical assistance under the State plan under this title in accordance with a contract with the State under section 1932(a)(1)(B);

"(ii) receives payment on a fee-for-service basis (or, in the case of a Federally-qualified health center or a rural health clinic, on a reasonable cost per encounter basis) for the provision of health care items and services specified in such contract to enrolled individuals;

"(iii) receives an additional fixed fee per enrollee for a period specified in such contract for providing case management services (including approving and arranging for the provision of health care items and services specified in such contract on a referral basis) to enrolled individuals; and

"(iv) is not an entity that is at risk.

"(B) AT RISK.—In subparagraph (A)(iv), the term 'at risk' means an entity that—

"(i) has a contract with the State under which such entity is paid a fixed amount for providing or arranging for the provision of health care items or services specified in such contract to an individual eligible for medical assistance under the State plan and enrolled with such entity, regardless of whether such items or services are furnished to such individual; and

"(ii) is liable for all or part of the cost of furnishing such items or services, regardless of whether such cost exceeds such fixed payment.

"(b) ENROLLMENT.—

"(1) NONDISCRIMINATION.—An eligible managed care provider may not discriminate on the basis of health status or anticipated need for services in the enrollment, reenrollment, or disenrollmentof individuals eligible to receive medical assistance under a State plan under this title or by discouraging enrollment (except as permitted by this section) by eligible individuals.

"(2) TERMINATION OF ENROLLMENT.—

"(A) IN GENERAL.—An eligible managed care provider shall permit an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider to terminate such enrollment for cause at any time, and without cause during the 60-day period beginning on the date the individual receives notice of enrollment, and shall notify each such individual of the opportunity to terminate enrollment under these conditions.

"(B) FRAUDULENT INDUCEMENT OR COERCION AS GROUNDS FOR CAUSE.—For purposes of subparagraph (A), an individual terminating enrollment with an eligible managed care provider on the grounds that the enrollment was based on fraudulent inducement or was obtained through coercion shall be considered to terminate such enrollment for cause.

"(C) NOTICE OF TERMINATION.—

"(i) NOTICE TO STATE.—

"(I) BY INDIVIDUALS.—Each individual terminating enrollment with an eligible managed care provider under subparagraph (A) shall do so by providing notice of the termination to an office of the State agency administering the State plan under this title, the State or local welfare agency, or an office of an eligible managed care provider.

"(II) BY PLANS.—Any eligible managed care provider which receives notice of an individual's termination of enrollment with such provider through receipt of such notice at an office of an eligible managed care provider shall provide timely notice of the termination to the State agency administering the State plan under this title.

"(ii) NOTICE TO PLAN.—The State agency administering the State plan under this title or the State or local welfare agency which receives notice of an individual's termination of enrollment with an eligible managed care provider under clause (i) shall provide timely notice of the termination to such provider.

"(D) REENROLLMENT.—Each State shall establish a process under which an individual terminating enrollment under this paragraph shall be promptly enrolled with another eligible managed care provider and notified of such enrollment.

"(3) PROVISION OF ENROLLMENT MATERIALS IN UNDERSTANDABLE FORM.—Each eligible managed care provider shall provide all enrollment materials in a manner and form which may be easily understood by a typical adult enrollee of the provider who is eligible for medical assistance under the State plan under this title.

"(c) QUALITY ASSURANCE.—

"(1) ACCESS TO SERVICES.—Each eligible managed care provider shall provide or arrange for the provision of all medically necessary medical assistance under this title which is specified in the contract entered into between such provider and the State under section 1932(a)(1)(B) for enrollees who are eligible for medical assistance under the State plan under this title.

"(2) TIMELY DELIVERY OF SERVICES.—Each eligible managed care provider shall respond to requests from enrollees for the delivery of medical assistance in a manner which—

"(A) makes such assistance—

"(i) available and accessible to each such individual, within the area served by the provider, with reasonable promptness and in a manner which assures continuity; and

"(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week; and

"(B) with respect to assistance provided to such an individual other than through the provider, or without prior authorization, in the case of a primary care case management provider, provides for reimbursement to the individual (if applicable under the contract between the State and the provider) if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition; and

"(ii) it was not reasonable given the circumstances to obtain the services through the provider, or, in the case of a primary care case management provider, with prior authorization.

"(3) EXTERNAL INDEPENDENT REVIEW OF ELIGIBLE MANAGED CARE PROVIDER ACTIVITIES.—

"(A) REVIEW OF MEDICAID MANAGED CARE PLAN CONTRACT.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), each medicaid managed care plan shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in such plan's contract with the State under section 1932(a)(1)(B). Such review shall specifically evaluate the extent to which the medicaid managed care plan provides such services in a timely manner.

"(ii) CONTENTS OF REVIEW.—An external independent review conducted under this paragraph shall include the following:

"(I) a review of the entity's medical care, through sampling of medical records or other appropriate methods, for indications of quality of care and inappropriate utilization (including overutilization) and treatment,

"(II) a review of enrollee inpatient and ambulatory data, through sampling of medical records or other appropriate methods, to determine trends in quality and appropriateness of care,

"(III) notification of the entity and the State when the review under this paragraph indicates inappropriate care, treatment, or utilization of services (including overutilization), and

"(IV) other activities as prescribed by the Secretary or the State.

"(iii) AVAILABILITY OF RESULTS.—The results of each external independent review conducted under this subparagraph shall be available to participating health care providers, enrollees, and potential enrollees of the medicaid managed care plan, except that the results may not be made available in a manner that discloses the identity of any individual patient.

"(B) DEEMED COMPLIANCE.—

"(i) MEDICARE PLANS.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if the plan is an eligible organization with a contract in effect under section 1876.

"(ii) PRIVATE ACCREDITATION.—

"(I) IN GENERAL.—The requirements of subparagraph (A) shall not apply with respect to a medicaid managed care plan if—

"(aa) the plan is accredited by an organization meeting the requirements described in clause (iii); and

"(bb) the standards and process under which the plan is accredited meet such requirements as are established under subclause (II), without regard to whether or not the time requirement of such subclause is satisfied.

"(II) STANDARDS AND PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall specify requirements for the standards and process under which a medicaid managed care plan is accredited by an organization meeting the requirements of clause (iii).

"(iii) ACCREDITING ORGANIZATION.—An accrediting organization meets the requirements of this clause if the organization—

"(I) is a private, nonprofit organization;

"(II) exists for the primary purpose of accrediting managed care plans or health care providers; and

"(III) is independent of health care providers or associations of health care providers.

"(C) REVIEW OF PRIMARY CARE CASE MANAGEMENT PROVIDER CONTRACT.—Each primary care case management provider shall be subject to an annual external independent review of the quality and timeliness of, and access to, the items and services specified in the contract entered into between the State and the primary care case management provider under section 1932(a)(1)(B).

"(4) FEDERAL MONITORING RESPONSIBILITIES.—The Secretary shall review the external independent reviews conducted pursuant to paragraph (3) and shall monitor the effectiveness of the State's monitoring and followup activities required under subparagraph (A) of paragraph (2). If the Secretary determines that a State's monitoring and followup activities are not adequate to ensure that the requirements of paragraph (2) are met, the Secretary shall undertake appropriate followup activities to ensure that the State improves its monitoring and followup activities.

"(5) PROVIDING INFORMATION ON SERVICES.—

"(A) REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(i) INFORMATION TO THE STATE.—Each medicaid managed care plan shall provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the following:

"(I) The services that the plan provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title.

"(II) The identity, locations, qualifications, and availability of participating health care providers.

"(III) The rights and responsibilities of enrollees.

"(IV) The services provided by the plan which are subject to prior authorization by the plan as a condition of coverage (in accordance with paragraph (6)(A)).

"(V) The procedures available to an enrollee and a health care provider to appeal the failure of the plan to cover a service.

"(VI) The performance of the plan in serving individuals eligible for medical assistance under the State plan under this title.

"(ii) INFORMATION TO HEALTH CARE PROVIDERS, ENROLLEES, AND POTENTIAL ENROLLEES.—Each medicaid managed care plan shall—

"(I) upon request, make the information described in clause (i) available to participating health care providers, enrollees, and potential enrollees in the plan's service area; and

"(II) provide to enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the plan that are covered either directly or through a method of referral and prior authorization.

"(B) REQUIREMENTS FOR PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each primary care case management provider shall—

"(i) provide to the State (at such frequency as the Secretary may require), complete and timely information concerning the services that the primary care case management provider provides to (or arranges to be provided to) individuals eligible for medical assistance under the State plan under this title;

"(ii) make available to enrollees and potential enrollees information concerning services available to the enrollee for which prior authorization by the primary care case management provider is required; and

"(iii) provide enrollees and potential enrollees information regarding all items and services that are available to enrollees under the contract between the State and the primary care case management provider that are covered either directly or through a method of referral and prior authorization.

"(iv) provide assurances that such entities and their professional personnel are licensed as required by State law and qualified to provide case management services, through methods such as ongoing monitoring of compliance with applicable requirements and providing information and technical assistance.

"(C) REQUIREMENTS FOR BOTH MEDICAID MANAGED CARE PLANS AND PRIMARY CARE CASE MANAGEMENT PROVIDERS.—Each eligible managed care provider shall provide the State with aggregate encounter data for early and periodic screening, diagnostic, and treatment services under section 1905(r) furnished to individuals under 21 years of age. Any such data provided may be audited by the State and the Secretary.

"(6) TIMELINESS OF PAYMENT.—An eligible managed care provider shall make payment to health care providers for items and services which are subject to the contract under section 1931(a)(1)(B) and which are furnished to individuals eligible for medical assistance under the State plan under this title who are enrolled with the provider on a timely basis and under the claims payment procedures described in section 1902(a)(37)(A), unless the health care provider and the eligible managed care provider agree to an alternate payment schedule.

"(7) ADDITIONAL QUALITY ASSURANCE REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.—

"(A) CONDITIONS FOR PRIOR AUTHORIZATION.—A medicaid managed care plan may require the approval of medical assistance for nonemergency services before the assistance is furnished to an enrollee only if the system providing for such approval—

"(i) provides that such decisions are made in a timely manner, depending upon the urgency of the situation; and "(ii) permits coverage of medically necessary medical assistance provided to an enrollee without prior authorization in the event of an emergency.

"(B) INTERNAL GRIEVANCE PROCEDURE.—Each medicaid managed care plan shall establish an internal grievance procedure under which a plan enrollee or a provider on behalf of such an enrollee who is eligible for medical assistance under the State plan under this title may challenge the denial of coverage of or payment for such assistance.

"(C) USE OF UNIQUE PHYSICIAN IDENTIFIER FOR PARTICIPATING PHYSICIANS.—Each medicaid managed care plan shall require each physician providing services to enrollees eligible for medical assistance under the State plan under this title to have a unique identifier in accordance with the system established under section 1902(x).

"(D) PATIENT ENCOUNTER DATA.—

"(i) IN GENERAL.—Each medicaid managed care plan shall maintain sufficient patient encounter data to identify the health care provider who delivers services to patients and to otherwise enable the State plan to meet the requirements of section 1902(a)(27). The plan shall incorporate such information in the maintenance of patient encounter data with respect to such health care provider.

"(ii) COMPLIANCE.—A medicaid managed care plan shall—

"(I) submit the data maintained under clause (i) to the State; or

"(II) demonstrate to the State that the data complies with managed care quality assurance guidelines established by the Secretary in accordance with clause (iii).

"(iii) STANDARDS.—In establishing managed care quality assurance guidelines under clause (ii)(II), the Secretary shall consider—

"(I) managed care industry standards for—

"(aa) internal quality assurance; and

"(bb) performance measures; and

"(II) any managed care quality standards established by the National Association of Insurance Commissioners.

(E) PAYMENTS TO HOSPITALS.—A medicaid managed care plan shall—

"(i) provide the State with assurances that payments for hospital services are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide such services to individuals enrolled with the plan under this title in conformity with applicable State and Federal laws, regulations, and quality and safety standards;

"(ii) report to the State at least annually—

"(I) the rates paid to hospitals by the plan for items and services furnished to such individuals,

"(II) an explanation of the methodology used to compute such rates, and

"(III) a comparison of such rates with the rates used by the State to pay for hospital services furnished to individuals who are eligible for benefits under the program established by the State under this title but are not enrolled in a medicaid managed care plan; and

"(iii) if the rates paid by the plan are lower than the rates paid by the State (as described in clause (ii)(III)), an explanation of why the rates paid by the plan nonetheless meet the standard described in clause (i).

"(d) DUE PROCESS REQUIREMENTS FOR ELIGIBLE MANAGED CARE PROVIDERS.—

"(1) DENIAL OF OR UNREASONABLE DELAY IN DETERMINING COVERAGE AS GROUNDS FOR HEARING.—If an eligible managed care provider—

"(A) denies coverage of or payment for medical assistance with respect to an enrollee who is eligible for such assistance under the State plan under this title; or

"(B) fails to make any eligibility or coverage determination sought by an enrollee or, in the case of a medicaid managed care plan, by a participating health care provider or enrollee, in a timely manner, depending upon the urgency of the situation, the enrollee or the health care provider furnishing such assistance to the enrollee (as applicable) may obtain a hearing before the State agency administering the State plan under this title in accordance with section 1902(a)(3), but only, with respect to a medicaid managed care plan, after completion of the internal grievance procedure established by the plan under subsection (c)(6)(B).

"(2) COMPLETION OF INTERNAL GRIEVANCE PROCEDURE.—Nothing in this subsection shall require completion of an internal grievance procedure if such procedure does not exist or if the procedure does not provide for timely review of health needs considered by the enrollee's health care provider to be of an urgent nature.

"(e) MISCELLANEOUS.—

"(1) PROTECTING ENROLLEES AGAINST THE INSOLVENCY OF ELIGIBLE MANAGED CARE PROVIDERS AND AGAINST THE FAILURE OF THE STATE TO PAY SUCH PROVIDERS.—Each eligible managed care provider shall provide that an individual eligible for medical assistance under the State plan under this title who is enrolled with the provider may not be held liable—

"(A) for the debts of the eligible managed care provider, in the event of the provider's insolvency;

"(B) for services provided to the individual—

"(i) in the event of the provider failing to receive payment from the State for such services; or

"(ii) in the event of a health care provider with a contractual or other arrangement with the eligible managed care provider failing to receive payment from the State or the eligible managed care provider for such services; or

"(C) for the debts of any health care provider with a contractual or other arrangement with the provider to provide services to the individual, in the event of the insolvency of the health care provider.

"(2) TREATMENT OF CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

"(A) IN GENERAL.—In the case of an enrollee of an eligible managed care provider who is a child with special health care needs—

"(i) if any medical assistance specified in the contract with the State is identified in a treatment plan prepared for the enrollee by a program described in subparagraph (C), the eligible managed care provider shall provide (or arrange to be provided) such assistance in accordance with the treatment plan either—

"(I) by referring the enrollee to a pediatric health care provider who is trained and experienced in the provision of such assistance and who has a contract with the eligible managed care provider to provide such assistance; or

"(II) if appropriate services are not available through the eligible managed care provider, permitting such enrollee to seek appropriate specialty services from pediatric health care providers outside of or apart from the eligible managed care provider; and

"(ii) the eligible managed care provider shall require each health care provider with whom the eligible managed care provider has entered into an agreement to provide medical assistance to enrollees to furnish the medical assistance specified in such enrollee's treatment plan to the extent the health care provider is able to carry out such treatment plan.

"(B) PRIOR AUTHORIZATION.—An enrollee referred for treatment under subparagraph (A)(i)(I), or permitted to seek treatment outside of or apart from the eligible managed care provider under subparagraph (A)(i)(II) shall be deemed to have obtained any prior authorization required by the provider.

"(C) CHILD WITH SPECIAL HEALTH CARE NEEDS.—For purposes of subparagraph (A), a child with special health care needs is a child who is receiving services under—

"(i) a program administered under part B or part H of the Individuals with Disabilities Education Act;

"(ii) a program for children with special health care needs under title V;

"(iii) a program under part B or part D of title IV; or

"(iv) any other program for children with special health care needs identified by the Secretary.

"(3) PHYSICIAN INCENTIVE PLANS.—Each medicaid managed care plan shall require that any physician incentive plan covering physicians who are participating in the medicaid managed care plan shall meet the requirements of section 1876(i)(8).

"(4) INCENTIVES FOR HIGH QUALITY ELIGIBLE MANAGED CARE PROVIDERS.—The Secretary and the State may establish a program to reward, through public recognition, incentive payments, or enrollment of additional individuals (or combinations of such rewards), eligible managed care providers that provide the highest quality care to individuals eligible for medical assistance under the State plan under this title who are enrolled with such providers. For purposes of section 1903(a)(7), proper expenses incurred by a State in carrying out such a program shall be considered to be expenses necessary for the proper and efficient administration of the State plan under this title.".

(d) CLARIFICATION OF APPLICATION OF FFP DENIAL RULES TO PAYMENTS MADE PURSUANT TO MEDICAID MANAGED CARE PLANS.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended by adding at the end the following sentence: "Paragraphs (1)(A), (1)(B), (2), (5), and (12) shall apply with respect to items or services furnished and amounts expended by or through an eligible managed care provider (as defined in section 1933(a)(1)) in the same manner as such paragraphs apply to items or services furnished and amounts expended directly by the State.".

(e) CLARIFICATION OF CERTIFICATION REQUIREMENTS FOR PHYSICIANS PROVIDING SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i)(12) of such Act (42 U.S.C. 1396b(i)(12)) is amended—

(1) in subparagraph (A)(i), to read as follows:

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics or is certified in general practice or pediatrics by the medical specialty board recognized by the American Osteopathic Association,";

(2) in subparagraph (B)(i), to read as follows:

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics or is certified in family practice or obstetrics by the medical specialty board recognized by the American Osteopathic Association,"; and

(3) in both subparagraphs (A) and (B)—

(A) by striking "or" at the end of clause (v);

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following new clause:

"(vi) delivers such services in the emergency department of a hospital participating in the State plan approved under this title, or".

SEC. 7103. ADDITIONAL REQUIREMENTS FOR MEDICAID MANAGED CARE PLANS.

Section 1933 of the Social Security Act, as added by section 7102(c)(2), is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) Additional Requirements for Medicaid Managed Care Plans.—

"(1) Demonstration of adequate capacity and services.—

"(A) In general.—Subject to subparagraph (C), each medicaid managed care plan shall provide the State and the Secretary with adequate assurances (as determined by the Secretary) that the plan, with respect to a service area—

"(i) has the capacity to serve the expected enrollment in such service area;

"(ii) offers an appropriate range of services for the population expected to be enrolled in such service area, including transportation services and translation services consisting of the principal languages spoken in the service area;

"(iii) maintains sufficient numbers of providers of services included in the contract with the State to ensure that services are available to individuals receiving medical assistance and enrolled in the plan to the same extent that such services are available to individuals enrolled in the plan who are not recipients of medical assistance under the State plan under this title;

"(iv) maintains extended hours of operation with respect to primary care services that are beyond those maintained during a normal business day;

"(v) provides preventive and primary care services in locations that are readily accessible to members of the community; and

"(vi) provides information concerning educational, social, health, and nutritional services offered by other programs for which enrollees may be eligible.

"(vii) complies with such other requirements relating to access to care as the Secretary or the State may impose.

"(B) Proof of adequate primary care capacity and services.—Subject to subparagraph (C), a medicaid managed care plan that contracts with a reasonable number of primary care providers (as determined by the Secretary) and whose primary care membership includes a reasonable number (as so determined) of the following providers will be deemed to have satisfied the requirements of subparagraph (A):

"(i) Rural health clinics, as defined in section 1905(l)(1).

"(ii) Federally-qualified health centers, as defined in section 1905(l)(2)(B).

"(iii) Clinics which are eligible to receive payment for services provided under title X of the Public Health Service Act.

"(C) Sufficient providers of specialized services.—Notwithstanding subparagraphs (A) and (B), a medicaid managed care plan may not be considered to have satisfied the requirements of subparagraph (A) if the plan does not have a sufficient number (as determined by the Secretary) of providers of specialized services, including perinatal and pediatric specialty care, to ensure that such services are available and accessible.

"(2) Written provider participation agreements for certain providers.—Each medicaid managed care plan that enters into a written provider participation agreement with a provider described in paragraph (1)(B) shall—

"(A) include terms and conditions that are no more restrictive than the terms and conditions that the medicaid managed care plan includes in its agreements with other participating providers with respect to—

"(i) the scope of covered services for which payment is made to the provider;

"(ii) the assignment of enrollees by the plan to the provider;

"(iii) the limitation on financial risk or availability of financial incentives to the provider;

"(iv) accessibility of care;

"(v) professional credentialing and recredentialing;

"(vi) licensure;

"(vii) quality and utilization management;

"(viii) confidentiality of patient records;

"(ix) grievance procedures; and

"(x) indemnification arrangements between the plans and providers; and

"(B) provide for payment to the provider on a basis that is comparable to the basis on which other providers are paid.".

SEC. 7104. PREVENTING FRAUD IN MEDICAID MANAGED CARE.

(a) In General.—Section 1933 of the Social Security Act, as added by section 7102(c)(2) and amended by section 7103, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) Anti-Fraud Provisions.—

"(1) Provisions applicable to eligible managed care providers.—

"(A) Prohibiting affiliations with individuals debarred by Federal agencies.—

"(i) In general.—An eligible managed care provider may not knowingly—

"(I) have a person described in clause (iii) as a director, officer, partner, or person with beneficial ownership of more than 5 percent of the plan's equity; or

"(II) have an employment, consulting, or other agreement with a person described in clause (iii) for the provision of items and services that are significant and material to the organization's obligations under its contract with the State.

"(ii) Effect of noncompliance.—If a State finds that an eligible managed care provider is not in compliance with subclause (I) or (II) of clause (i), the State—

"(I) shall notify the Secretary of such noncompliance;

"(II) may continue an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) directs otherwise; and

"(III) may not renew or otherwise extend the duration of an existing agreement with the provider unless the Secretary (in consultation with the Inspector General of the Department of Health and Human Services) provides to the State and to the Congress a written statement describing compelling reasons that exist for renewing or extending the agreement.

"(iii) Persons described.—A person is described in this clause if such person—

"(I) is debarred or suspended by the Federal Government, pursuant to the Federal acquisition regulation, from Government contracting and subcontracting;

"(II) is an affiliate (within the meaning of the Federal acquisition regulation) of a person described in clause (i); or

"(III) is excluded from participation in any program under title XVIII or any State health care program, as defined in section 1128(h).

"(B) Restrictions on marketing.—

"(i) Distribution of materials.—

"(I) In general.—An eligible managed care provider may not distribute marketing materials within any State—

"(aa) without the prior approval of the State; and

"(bb) that contain false or materially misleading information.

"(II) Prohibition.—The State may not enter into or renew a contract with an eligible managed care provider for the provision of services to individuals enrolled under the State plan under this title if the State determines that the provider intentionally distributed false or materially misleading information in violation of subclause (I)(bb).

"(ii) Service market.—An eligible managed care provider shall distribute marketing materials to the entire service area of such provider.

"(iii) Prohibition of tie-ins.—An eligible managed care provider, or any agency of such provider, may not seek to influence an individual's enrollment with the provider in conjunction with the sale of any other insurance.

"(iv) Prohibiting marketing fraud.—Each eligible managed care provider shall comply with such procedures and conditions as the Secretary prescribes in order to ensure that, before an individual is enrolled with the provider, the individual is provided accurate and sufficient information to make an informed decision whether or not to enroll.

"(2) Provisions applicable only to medicaid managed care plans.—

"(A) State conflict-of-interest safeguards in medicaid risk contracting.—A medicaid managed care plan may not enter into a contract with any State under section 1932(a)(1)(B) unless the State has in effect conflict-of-interest safeguards with respect to officers and employees of the State with responsibilities relating to contracts with such plans or to the default enrollment process described in section 1932(a)(1)(D)(iv) that are at least as effective as the Federal safeguards provided under section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), against conflicts of interest that apply with respect to Federal procurement officials with comparable responsibilities with respect to such contracts.

"(B) Requiring disclosure of financial information.—In addition to any requirements applicable under section 1902(a)(27) or 1902(a)(35), a medicaid managed care plan shall—

"(i) report to the State (and to the Secretary upon the Secretary's request) such financial information as the State or the Secretary may require to demonstrate that—

"(I) the plan has the ability to bear the risk of potential financial losses and otherwise has a fiscally sound operation;

"(II) the plan uses the funds paid to it by the State and the Secretary for activities consistent with the requirements of this title and the contract between the State and plan; and

"(III) the plan does not place an individual physician, physician group, or other health care provider at substantial risk (as determined by the Secretary) for services not provided by such physician, group, or health care provider, by providing adequate protection (as determined by the Secretary) to limit the liability of such physician, group, or health care provider, through measures such as stop loss insurance or appropriate risk corridors;

"(ii) agree that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the plan (and of any subcontractor) relating to the information reported pursuant to clause (i) and any information required to be furnished under section paragraphs (27) or (35) of section 1902(a);

"(iii) make available to the Secretary and the State a description of each transaction described in subparagraphs (A) through (C) of section 1318(a)(3) of the Public Health Service Act between the plan and a party in interest (as defined in section 1318(b) of such Act); and

"(iv) agree to make available to its enrollees upon reasonable request—

"(I) the information reported pursuant to clause (i); and

"(II) the information required to be disclosed under sections 1124 and 1126.

"(C) ADEQUATE PROVISION AGAINST RISK OF INSOLVENCY.—

"(i) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, including appropriate equity standards, under which each medicaid managed care plan shall make adequate provision against the risk of insolvency.

"(ii) CONSIDERATION OF OTHER STANDARDS.—In establishing the standards described in clause (i), the Secretary shall consider solvency standards applicable to eligible organizations with a risk-sharing contract under section 1876.

(iii) MODEL CONTRACT ON SOLVENCY.—At the earliest practicable time after the date of enactment of this section, the Secretary shall issue guidelines and regulations concerning solvency standards for risk contracting entities and subcontractors of such risk contracting entities. Such guidelines and regulations shall take into account characteristics that may differ among risk contracting entities including whether such an entity is at risk for inpatient hospital services.

"(D) REQUIRING REPORT ON NET EARNINGS AND ADDITIONAL BENEFITS.—Each medicaid managed care plan shall submit a report to the State and the Secretary not later than 12 months after the close of a contract year containing—

"(i) the most recent audited financial statement of the plan's net earnings, in accordance with guidelines established by the Secretary in consultation with the States, and consistent with generally accepted accounting principles; and

"(ii) a description of any benefits that are in addition to the benefits required to be provided under the contract that were provided during the contract year to members enrolled with the plan and entitled to medical assistance under the State plan under this title.".

SEC. 7105. ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS.

Title XIX of the Social Security Act, as amended by sections 7001, 7101(a), and 7102(c), is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1933 the following new section:

"ASSURING ADEQUACY OF PAYMENTS TO MEDICAID MANAGED CARE PLANS AND PROVIDERS

"SEC. 1934. As a condition of approval of a State plan under this title, a State shall—

"(1) find, determine, and make assurances satisfactory to the Secretary that—

"(A) the rates it pays medicaid managed care plans for individuals eligible under the State plan are reasonable and adequate to assure access to services meeting professionally recognized quality standards, taking into account—

"(i) the items and services to which the rate applies,

"(ii) the eligible population, and

"(iii) the rate the State pays providers for suchitems and services; and

"(B) the methodology used to adjust the rate adequately reflects the varying risks associated with individuals actually enrolling in each medicaid managed care plan; and

"(2) report to the Secretary, at least annually, on—

"(A) the rates the States pays to medicaid managed care plans, and

"(B) the rates medicaid managed care plans pay for hospital services (and such other information as medicaid managed care plans are required to submit to the State pursuant to section 1933(c)(5)(E).".

SEC. 7106. SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS.

(a) SANCTIONS DESCRIBED.—Title XIX of such Act (42 U.S.C. 1396 et seq.), as previously amended, is further amended—

(1) by redesignating section 1934 as section 1935; and

(2) by inserting after section 1934 the following new section:

"SANCTIONS FOR NONCOMPLIANCE BY ELIGIBLE MANAGED CARE PROVIDERS

"SEC. 1935. (a) USE OF INTERMEDIATE SANCTIONS BY THE STATE TO ENFORCE REQUIREMENTS.—Each State shall establish intermediate sanctions, which may include any of the types described in subsection (b) other than the termination of a contract with an eligible managed care provider, which the State may impose against an eligible managed care provider with a contract under section 1932(a)(1)(B) if the provider—

"(1) fails substantially to provide medically necessary items and services that are required (under law or under such provider's contract with the State) to be provided to an enrollee covered under the contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) the enrollee;

"(2) imposes premiums on enrollees in excess of the premiums permitted under this title;

"(3) acts to discriminate among enrollees on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, except as permitted by sections 1932 and 1933, or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment with the provider by eligible individuals whose medical condition or history indicates a need for substantial future medical services;

"(4) misrepresents or falsifies information that is furnished

"(A) to the Secretary or the State under section 1932 or 1933; or

"(B) to an enrollee, potential enrollee, or a health care provider under such sections; or

"(5) fails to comply with the requirements of section 1876(i)(8).

"(b) INTERMEDIATE SANCTIONS.—The sanctions described in this subsection are as follows:

"(1) Civil money penalties as follows:

"(A) Except as provided in subparagraph (B), (C), or (D), not more than $25,000 for each determination under subsection (a).

"(B) With respect to a determination under paragraph (3) or (4)(A) of subsection (a), not more than $100,000 for each such determination.

"(C) With respect to a determination under subsection (a)(2), double the excess amount charged in violation of such subsection (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned).

"(D) Subject to subparagraph (B), with respect to a determination under subsection (a)(3), $15,000 for each individual not enrolled as a result of a practice described in such subsection.

"(2) The appointment of temporary management to oversee the operation of the eligible managed care provider and to assure the health of the provider's enrollees, if there is a need for temporary management while—

"(A) there is an orderly termination or reorganization of the eligible managed care provider; or

"(B) improvements are made to remedy the violations found under subsection (a), except that temporary management under this paragraph may not be terminated until the State has determined that the eligible managed care provider has the capability to ensure that the violations shall not recur.

"(3) Permitting individuals enrolled with the eligible managed care provider to terminate enrollment without cause, and notifying such individuals of such right to terminate enrollment.

"(c) TREATMENT OF CHRONIC SUBSTANDARD PROVIDERS.—In the case of an eligible managed care provider which has repeatedly failed to meet the requirements of section 1932 or 1933, the State shall (regardless of what other sanctions are provided) impose the sanctions described in paragraphs (2) and (3) of subsection (b).

"(d) AUTHORITY TO TERMINATE CONTRACT.—In the case of an eligible managed care provider which has failed to meet the requirements of section 1932 or 1933, the State shall have the authority to terminate its contract with such provider under section 1932(a)(1)(B) and to enroll such provider's enrollees with other eligible managed care providers (or to permit such enrollees to receive medical assistance under the State plan under this title other than through an eligible managed care provider).

"(e) AVAILABILITY OF SANCTIONS TO THE SECRETARY.—

"(1) INTERMEDIATE SANCTIONS.—In addition to the sanctions described in paragraph (2) and any other sanctions available under law, the Secretary may provide for any of the sanctions described in subsection (b) if the Secretary determines that—

"(A) an eligible managed care provider with a contract under section 1932(a)(1)(B) fails to meet any of the requirements of section 1932 or 1933; and

"(B) the State has failed to act appropriately to address such failure.

"(2) DENIAL OF PAYMENTS TO THE STATE.—The Secretary may deny payments to the State for medical assistance furnished under the contract under section 1932(a)(1)(B) for individuals enrolled after the date the Secretary notifies an eligible managed care provider of a determination under subsection (a) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(f) Due Process for Eligible Managed Care Providers.—

"(1) Availability of hearing prior to termination of contract.—A State may not terminate a contract with an eligible managed care provider under section 1932(a)(1)(B) unless the provider is provided with a hearing prior to the termination.

"(2) Notice to enrollees of termination hearing.—A State shall notify all individuals enrolled with an eligible managed care provider which is the subject of a hearing to terminate the provider's contract with the State of the hearing and that the enrollees may immediately disenroll with the provider for cause.

"(3) Other protections for eligible managed care providers against sanctions imposed by State.—Before imposing any sanction against an eligible managed care provider other than termination of the provider's contract, the State shall provide the provider with notice and such other due process protections as the State may provide, except that a State may not provide an eligible managed care provider with a pretermination hearing before imposing the sanction described in subsection (b)(2).

"(4) Imposition of civil monetary penalties by Secretary.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply with respect to a civil money penalty imposed by the Secretary under subsection (b)(1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A.".

(b) Conforming Amendment Relating to Termination of Enrollment for Cause.—Section 1933(b)(2)(B) of the Social Security Act, as added by this part, is amended by inserting after "coercion" the following: ", or pursuant to the imposition against the eligible managed care provider of the sanction described in section 1935(b)(3),".

SEC. 7107. REPORT ON PUBLIC HEALTH SERVICES.

(a) In General.—Not later than January 1, 1994, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary") shall report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on the effect of risk contracting entities (as defined in section 1932(a)(3) of the Social Security Act) and primary care case management entities (as defined in section 1932(a)(1) of such Act) on the delivery of and payment for the services listed in subsection (f)(2)(C)(ii) of section 1932 of such Act.

(b) Contents of Report.—The report referred to in subsection (a) shall include—

(1) information on the extent to which enrollees with risk contracting entities and primary care case management programs seek services at local health departments, public hospitals, and other facilities that provide care without regard to a patient's ability to pay;

(2) information on the extent to which the facilities described in paragraph (1) provide services to enrollees with risk contracting entities and primary care case management programs without receiving payment;

(3) information on the effectiveness of systems implemented by facilities described in paragraph (1) for educating such enrollees on services that are available through the risk contracting entities or primary care case management programs with which such enrollees are enrolled;

(4) to the extent possible, identification of the types of services most frequently sought by such enrollees at such facilities; and

(5) recommendations about how to ensure the timely delivery of the services listed in subsection (f)(2)(C)(ii) of section 1931 of the Social Security Act to enrollees of risk contracting entities and primary care case management entities and how to ensure that local health departments, public hospitals, and other facilities are adequately compensated for the provision of such services to such enrollees.

SEC. 7108. REPORT ON PAYMENTS TO HOSPITALS.

(a) In General.—Not later than October 1 of each year, beginning with October 1, 1996, the Secretary and the Comptroller General shall analyze and submit a report to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives on rates paid for hospital services under coordinated care programs described in section 1932 of the Social Security Act.S0634

(b) Contents of Report.—The information in the report described in subsection (a) shall—

(1) be organized by State, type of hospital, type of service, and

(2) include a comparison of rates paid for hospital services under coordinated care programs with rates paid for hospital services furnished to individuals who are entitled to benefits under a State plan under title XIX of the Social Security Act and are not enrolled in such coordinated care programs.

(c) Reports by States.—Each State shall transmit to the Secretary, at such time and in such manner as the Secretary determines appropriate, the information on hospital rates submitted to such State under section 1932(b)(3)(P) of such Act.

SEC. 7109. CONFORMING AMENDMENTS.

(a) Exclusion of Certain Individuals and Entities From Participation in Program.—Section 1128(b)(6)(C) of the Social Security Act (42 U.S.C. 1320a–7(b)(6)(C)) is amended—

(1) in clause (i), by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1),"; and

(2) in clause (ii), by inserting "section 1115 or" after "approved under".

(b) State Plan Requirements.—Section 1902 of such Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(30)(C), by striking "section 1903(m)" and inserting "section 1932(a)(1)(B)"; and

(2) in subsection (a)(57), by striking "hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A))" and inserting "or hospice program";

(3) in subsection (e)(2)(A), by striking "or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or

(6) of section 1903(m) under a contract described in section 1903(m)(2)(A);

(4) in subsection (p)(2)—

(A) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1),";

(B) by striking "an organization" and inserting "a provider"; and

(C) by striking "any organization" and inserting "any provider"; and

(5) in subsection (w)(1), by striking "sections 1903(m)(1)(A) and" and inserting "section".

(c) Payment to States.—Section 1903(w)(7)(A)(viii) of such Act (42 U.S.C. 1396b(w)(7)(A)(viii)) is amended to read as follows:

"(viii) Services of an eligible managed care provider with a contract under section 1932(a)(1)(B).".

(d) Use of Enrollment Fees and Other Charges.—Section 1916 of such Act (42 U.S.C. 1396o) is amended in subsections (a)(2)(D) and (b)(2)(D) by striking "a health maintenance organization (as defined in section 1903(m))" and inserting "an eligible managed care provider, as defined in section 1933(a)(1)," each place it appears.

(e) Extension of Eligibility for Medical Assistance.—Section 1925(b)(4)(D)(iv) of such Act (42 U.S.C. 1396r–6(b)(4)(D)(iv)) is amended to read as follows:

"(iv) Enrollment with eligible managed care provider.—Enrollment of the caretaker relative and dependent children with an eligible managed care provider, as defined in section 1933(a)(1), less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through an eligible managed care provider in accordance with sections 1932, 1933, and 1934.".

(f) Assuring Adequate Payment Levels for Obstetrical and Pediatric Services.—Section 1926(a) of such Act (42 U.S.C. 1396r–7(a)) is amended in paragraphs (1) and (2) by striking "health maintenance organizations under section 1903(m)" and inserting "eligible managed care providers under contracts entered into under section 1932(a)(1)(B)" each place it appears.

(g) Payment for Covered Outpatient Drugs.—Section 1927(j)(1) of such Act (42 U.S.C. 1396r-8(j)(1)) is amended by striking "* * * Health Maintenance Organizations, including those organizations that contract under section 1903(m)," and inserting "health maintenance organizations and medicaid managed care plans, as defined in section 1933(a)(2),".

(h) Demonstration Projects To Study Effect of Allowing States To Extend Medicaid Coverage for Certain Families.—Section 4745(a)(5)(A) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note) is amended by striking "(except section 1903(m)" and inserting "(except sections 1932, 1933, and 1934)".

SEC. 7110. EFFECTIVE DATE; STATUS OF WAIVERS.

(a) Effective Date.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to medical assistance furnished—

(1) during quarters beginning on or after October 1, 1996; or

(2) in the case of assistance furnished under a contract described in section 7102(b), during quarters beginning after the earlier of—

(A) the date of the expiration of the contract; or

(B) the expiration of the 1-year period which begins on the date of the enactment of this Act.

(b) Application to Waivers.—

(1) Existing waivers.—If any waiver granted to a State under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), is in effect or approved by the Secretary of Health and Human Services as of the applicable effective date described in subsection (a), the amendments made by this subtitle shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

(2) SECRETARIAL EVALUATION AND REPORT FOR EXISTING WAIVERS AND EXTENSIONS.—

(A) PRIOR TO APPROVAL.—On and after the applicable effective date described in subsection (a), the Secretary, prior to extending any waiver granted under section 1115 or 1915 of the Social Security Act (42 U.S.C. 1315, 1396n) or otherwise which relates to the provision of medical assistance under a State plan under title XIX of the such Act (42 U.S.C. 1396 et seq.), shall—

(i) conduct an evaluation of—

(I) the waivers existing under such sections or other provision of law as of the date of the enactment of this Act; and

(II) any applications pending, as of the date of the enactment of this Act, for extensions of waivers under such sections or other provision of law; and

(ii) submit a report to the Congress recommending whether the extension of a waiver under such sections or provision of law should be conditioned on the State submitting the request for an extension complying with the provisions of sections 1932, 1933, and 1934 of the Social Security Act (as added by this subtitle).

(B) DEEMED APPROVAL.—If the Congress has not enacted legislation based on a report submitted under subparagraph (A)(ii) within 120 days after the date such report is submitted to the Congress, the recommendations contained in such report shall be deemed to be approved by the Congress.

Subtitle C—Additional Reforms of Medicaid Acute Care Program

SEC. 7201. PERMITTING INCREASED FLEXIBILITY IN MEDICAID COST-SHARING.

(a) IN GENERAL.—Subsections (a)(3) and (b)(3) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are amended by striking everything that follows "other care and services" and inserting the following: "will be established pursuant to a public schedule of charges and will be adjusted to reflect the income, resources, and family size of the individual provided the item or service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after the first day of the first calendar quarter beginning after the date of the enactment of this Act.

SEC. 7203. DELAY IN APPLICATION OF NEW REQUIREMENTS.

(a) DELAY IN IMPLEMENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no change in law—

(A) which has the effect of imposing a requirement on a State under a State plan under title XIX of the Social Security Act, and

(B) with respect to the Secretary of Health and Human Services is required to issue regulations to carry out such requirement,

shall take effect until the date the Secretary promulgates such regulation as a final regulation.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a law described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(b) PROHIBITION OF CHANGES IN FINAL REGULATIONS DURING A FISCAL YEAR.—

(1) IN GENERAL.—Except as provided in paragraph (2), any change in a regulation of the Secretary of Health and Human Services relating to the medicaid program under title XIX of the Social Security Act shall not become effective until the beginning of the fiscal year following the fiscal year in which the change was promulgated.

(2) STATE OPTION.—Except as otherwise provided by the Secretary, a State may elect to have a change in a regulation described in paragraph (1) apply with respect to the State during the period (or portion thereof) in which the change would have taken effect but for paragraph (1).

(c) SENSE OF CONGRESS REGARDING FEDERAL PAYMENT FOR NEW MEDICAID MANDATES.—It is the sense of Congress that if a State is required by future legislation to provide for additional services, eligible individuals, or otherwise incur additional costs under its medicaid program under title XIX of the Social Security Act, the Federal Government shall provide for full payment of any such additional costs for at least the first two years in which such requirement applies.

SEC. 7204. DEADLINE ON ACTION ON WAIVERS.

(a) IN GENERAL.—In considering applications for medicaid waivers—

(1) the application shall be deemed granted unless the Secretary of Health and Human Services, within ninety days after the date of the submission of the application of the Secretary, either denies the application in writing or informs the applicant in writing with respect to any additional information which is needed in order to make a final determination with respect to the application, and

(2) after the date the Secretary receives such additional information, the application shall be deemed granted unless the Secretary within ninety days of such date, denies such application.

(b) MEDICAID WAIVERS.—In this section, the term "medicaid waiver" means the request of a State for a waiver of a provision of title XIX of the Social Security Act (or of another provision of law that applies to State plans under such title), and includes such a waiver under the authority of section 1115 or section 1915 of the Social Security Act or under section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967.

Subtitle D—National Commission on Medicaid Restructuring

SEC. 7301. ESTABLISHMENT OF COMMISSION.

(a) IN GENERAL.—There is hereby established the National Commission on Medicaid Restructuring (in this subtitle referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed as follows:

(1) 2 FEDERAL OFFICIALS.—The President shall appoint 2 Federal officials, one of whom the President shall designate as chairperson of the Commission.

(2) 4 MEMBERS OF CONGRESS.—(A) The Speaker of the House of Representatives shall appoint one Member of the House as a member.

(B) The minority leader of the House of Representatives shall appoint one Member of the House as a member.

(C) The majority leader of the Senate shall appoint one Member of the Senate as a member.

(D) The minority leader of the Senate shall appoint one Member of the Senate as a member.

(3) 6 STATE GOVERNMENT REPRESENTATIVES.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(B) The minority leaders of the House of Representatives and the Senate shall jointly appoint 3 individuals who are governors, State legislators, or State medicaid officials.

(4) 6 EXPERTS.—(A) The majority leaders of the House of Representatives and the Senate shall jointly appoint 4 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(B) The President shall appoint 2 individuals who are not officials of the Federal or State governments and who have expertise in a health-related field, such as medicine, public health, or delivery and financing of health care services.

(c) INITIAL APPOINTMENT.—Members of the Commission shall first be appointed by not later than February 1, 1996.

(d) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission shall serve without compensation.

(2) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 7302. DUTIES OF COMMISSION.

(a) STUDY OF MEDICAID PROGRAM.—

(1) IN GENERAL.—The Commission shall study and make recommendations to the Congress, the President, and the Secretary regarding the need for changes (in addition to the changes effected under this title) in the laws and regulations regarding the medicaid program under title XIX of the Social Security Act.

(2) SPECIFIC CONCERNS.—The Commission shall specifically address each of the following:

(A) Changes needed to ensure adequate access to health care for low-income individuals.

(B) Promotion of quality care.

(C) Deterrence of fraud and abuse.

(D) Providing States with additional felxibility in implementing their medicaid plans.

(E) Methods of containing Federal and State costs.

(b) REPORTS.—

(1) FIRST REPORT.—The Commission shall issue a first report to Congress by not later than December 31, 1996.

(2) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to Congress by not later than December 31, 1997, and December 31, 1998.

SEC. 7303. ADMINISTRATION.

(a) APPOINTMENT OF STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director who shall be appointed by the Chairperson with the approval of the Commission. The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level III of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the Executive Director may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(3) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(b) PROVISION OF ADMINISTRATIVE SUPPORT SERVICES BY HHS.—Upon the request of the Commission, the Secretary of Health and Human Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 7304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $3,000,000 for fiscal year 1996, $4,000,000 for each of fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999.

SEC. 7305. TERMINATION.

The Commission shall terminate on December 31, 1998.

Subtitle E—Restrictions on Disproportionate Share Payments

SEC. 7401. REFORMING DISPROPORTIONATE SHARE PAYMENTS UNDER STATE MEDICAID PROGRAMS.

(a) TARGETING PAYMENTS.—Section 1923 of the Social Security Act (42 U.S.C.1396r-3) is amended—

(1) in subsection (a)(1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(B) by striking "(1)" and inserting "(1)(A)",

(C) in clause (i) (as so redesignated) by striking "(b)(1)" and inserting "(b)(1)(A)", and

(D) by adding at the end the following:

"(B) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State has submitted to the Secretary, by not later than such date, an amendment to such plan that utilizes the definition of such hospitals specified in subsection (b)(1)(B) in lieu of the definition established by the State under subparagraph (a)(i).";

(2) in subsection (a)(2)(A)—

(A) by inserting "(i)" after "(2)(A)",

(B) by striking "paragraph (1)" and inserting "paragraph (1)(A)(i)", and

(C) by adding at the end the following:

"(ii) In order to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1996, the State must submit to the Secretary by not later than April 1, 1996, the State plan amendment described in paragraph (1)(B), consistent with subsection (c), effective for inpatient hospital services furnished on or after July 1, 1996.";

(3) in subsection (b)—

(A) in the heading, by striking "HOSPITALS DEEMED DISPROPORTIONATE SHARE" and inserting "DISPROPORTIONATE SHARE HOSPITALS",

(B) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii),

(ii) by striking "(1) For purposes of subsection (a)(1)" and inserting "(1)(A) For purposes of subsection (a)(1)(A)", and

(iii) by adding at the end the following:

"(B) For purposes of subsection (a)(1)(B), a hospital that meets the requirements of subsection (d) is a disproportionate share hospital only if—

"(i) in the case of a hospital that is not described in subsection (d)(2)(A)(i), the hospital's low-income utilization rate (as defined in paragraph (3)) exceeds 25 percent; or

"(ii) in the case of a hospital that is described in subsection (d)(2)(A)(i)—

"(I) the hospital meets the requirement of clause (i), or

"(II) the hospital's medicaid inpatient utilization rate (as defined in paragraph (2)) exceeds 20 percent.";

(C) in paragraph (2) by striking "(1)(A)" and inserting "(1)",

(D) in paragraph (3) by striking "(1)(B)" and inserting "(1)", and

(E) by striking paragraph (4);

(4) in subsection (c)—

(A) in paragraph (2), by striking "subparagraph (A) or (B) of subsection (b)(1)" and inserting "clause (i) or (ii) of subsection (b)(1)(A)",

(B) by striking paragraph (3), and

(C) in the matter following paragraph (3)—

(i) by striking "(1)(B)" each place it appears and inserting "(1)(A)(ii)", and

(ii) by striking "(2)(A)" each place it appears and inserting "(2)(A)(i)" ; and

(5) in subsection (e)—

(A) in paragraph (1)(C), by striking "meets the requirement of subsection (d)(3)" and inserting "makes payments under this section only to hospitals described in subsection (b)(1)(B)", and

(B) in paragraph (2)—

(i) by inserting "and" at the end of subparagraph (B), and

(ii) by striking subparagraph (C).

(b) DIRECT PAYMENT BY STATE.—Section 1923(a) of such Act (42 U.S.C. 1396r–4(a)), as amended by subsection (a), is further amended—

(1) in paragraph (1), by adding at the end the following

"(C) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(13)(A) (insofar as it requires payments to hospitals to take into account the situation of hospitals that serve a disproportionate number of low-income patients with special needs), as of July 1, 1996, unless the State provides that any payments made under this section with respect to individuals who are—

"(i) entitled to benefits under the State plan, and

"(ii) enrolled with a health maintenance organization or other managed care plan,

are, at the option of the hospital, made directly to such hospital by the State."; and

(2) in paragraph (2)(A)(ii), by striking "amendment described in paragraph (1)(B)" and inserting " amendments described in subparagraphs (B) and (C) of paragraph (1)".

(c) ADJUSTMENT TO NATIONAL DSH LIMIT; STATE ALLOCATIONS.—The Secretary of Health and Human Services shall make appropriate adjustments in—

(1) the national DSH payment limit established under section 1923(f)(1(B) of the Social Security Act, and

(2) the State DSH allotments established under section 1923(f)(2) of such Act.

to reflect the amendments made by subsection (a).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(1) July 1, 1996, or

(2) in the case of a State with a State legislature that is not scheduled to have a regular legislative session in 1996, July 1, 1997.

Subtitle F—Fraud Reduction

SEC. 7501. MONITORING PAYMENTS FOR DUAL ELIGIBLES.

The Administrator of the Health Care Financing Administration shall develop mechanisms to better monitor and prevent inappropriate payments under the medicaid program in the case of individuals who are dually eligible for benefits under such program and under the medicare program.

SEC. 7502. IMPROVED IDENTIFICATION SYSTEMS.

The Administrator of the Health Care Financing Administration shall develop improved mechanisms, such as picture identification documents and smart documents, to provide methods of improved identification and tracking of beneficiaries and providers that perpetrate fraud against the medicaid program.

TITLE VIII—MEDICARE

SEC. 8000. SHORT TITLE; REFERENCES IN TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE OF TITLE.—This title may be cited as the "Medicare Preservation Act of 1995".

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

TITLE VIII—MEDICARE

Sec. 8000. Short title; references in title; table of contents.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

Sec. 8001. Increasing choice under medicare.
Sec. 8002. Medicare Choice program.

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"Sec. 1851. Requirements for Medicare Choice organizations.
"Sec. 1852. Requirements relating to benefits, provision of services, enrollment, and premiums.
"Sec. 1853. Patient protection standards.
"Sec. 1854. Provider-sponsored organizations.
"Sec. 1855. Payments to Medicare Choice organizations.
"Sec. 1856. Establishment of standards for Medicare Choice organizations and products.
"Sec. 1857. Medicare Choice certification.
"Sec. 1858. Contracts with Medicare Choice organizations.
"Sec. 8004. Transitional rules for current medicare HMO program.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

Sec. 8151. Modification of payment areas used to determine payments for physicians' services under medicare.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

Sec. 8201. One-year freeze in payments to providers.

PART 2—PROVISIONS AFFECTING DOCTORS

Sec. 8211. Updating fees for physicians' services.
Sec. 8212. Use of real GDP to adjust for volume and intensity.

PART 3—PROVISIONS AFFECTING HOSPITALS

Sec. 8221. Reduction in update for inpatient hospital services.
Sec. 8222. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 8223. Establishment of prospective payment system .for outpatient services.
Sec. 8224. Reduction in medicare payments to hospitals for inpatient capital-related costs.
Sec. 8225. Moratorium on PPS exemption for long-term care hospitals.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

Sec. 8231. Revision of payment methodology for home health services.
Sec. 8232. Limitation of home health coverage under part A.
Sec. 8233. Reduction in fee schedule for durable medical equipment.
Sec. 8234. Nursing home billing.
Sec. 8235. Freeze in payments for clinical diagnostic laboratory tests.

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

Sec. 8241. Teaching hospital and graduate medical education trust fund.
Sec. 8242. Reduction in payment adjustments for indirect medical education.

Subtitle D—Provisions Relating to Medicare Beneficiaries

Sec. 8301. Part B premium.
Sec. 8302. Full cost of Medicare part B coverage payable by high-income individuals.
Sec. 8303. Expanded coverage of preventive benefits.

Subtitle E—Medicare Fraud Reduction

Sec. 8401. Increasing beneficiary awareness of fraud and abuse.
Sec. 8402. Beneficiary incentives to report fraud and abuse.
Sec. 8403. Elimination of home health overpayments.
Sec. 8404. Skilled nursing facilities.
Sec. 8405. Direct spending for anti-fraud activities under medicare.
Sec. 8406. Fraud reduction demonstration project.
Sec. 8407. Report on competitive pricing.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

SUBPART A—RURAL HOSPITALS

Sec. 8501. Sole community hospitals.
Sec. . Medicare rural hospital flexibility.
Sec. . Medicare dependent rural hospital.
Sec. . PROPAL recommendations on urban medicare dependent hospitals.
Sec. . Payments to physician assistants and nurse practitioners.
Sec. 8504. Classification of rural referral centers.
Sec. 8505. Floor on area wage index.
Sec. 8506. Medical education.

SUBPART B—RURAL PHYSICIANS AND OTHER PROVIDERS

Sec. 8511. Provider incentives.
Sec. 8512. National Health Service Corps loan repayments excluded from gross income.
Sec. 8513. Telemedicine payment methodology.
Sec. 8514. Demonstration project to increase choice in rural areas.

PART 2—MEDICARE SUBVENTION

Sec. 8521. Medicare program payments for health care services provided in the military health services system.

Subtitle G—Other Provisions

Sec. 8601. Extension and expansion of existing secondary payer requirements.
Sec. 8602. Repeal of medicare and medicaid coverage data bank.
Sec. 8603. Clarification of medicare coverage of items and services associated with certain medical devices approved for investigational use.
Sec. 8604. Additional exclusion from coverage.
Sec. 8605. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.

Subtitle I—Lock-Box Provisions for Medicare Part B Savings from Growth Reductions

Sec. 8801. Establishment of Medicare Growth Reduction Trust Fund for part B savings
Sec. Establishment of Commission to prepare for the 21st century.

Subtitle A—Medicare Choice Program

PART 1—INCREASING CHOICE UNDER THE MEDICARE PROGRAM

SEC. 8001. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH FEE-FOR-SERVICE SYSTEM.—Through the provisions of parts A and B.

"(B) THROUGH A MEDICARE CHOICE PRODUCT.—Through a Medicare Choice product (as defined in paragraph (2)), which may be—

"(i) a product offered by a provider-sponsored organization,

"(ii) a product offered by an organization that is a union, Taft-Hartley plan, or association, or

"(iii) a product providing for benefits on a fee-for-service or other basis.

Such a product may be a high deductible/medisave product (and a contribution into a Medicare Choice medical savings account (MSA)) under the demonstration project provided under section 1859.

"(2) MEDICARE CHOICE PRODUCT DEFINED.—For purposes this section and part C, the term 'Medicare Choice product' means health benefits coverage offered under a policy, contract, or plan by a Medicare Choice organization (as defined in section 1851(a)) pursuant to and in accordance with a contract under section 1858.

"(3) TERMINOLOGY RELATING TO OPTIONS.—For purposes of this section and part C—

"(A) NON-MEDICARE-CHOICE OPTION.—An individual who has made the election described in paragraph (1)(A) is considered to have elected the 'Non-Medicare Choice option'.

"(B) MEDICARE CHOICE OPTION.—An individual who has made the election described in paragraph (1)(B) to obtain coverage through a Medicare Choice product is considered to have elected the 'Medicare Choice option' for that product.

"(b) SPECIAL RULES.—

"(1) RESIDENCE REQUIREMENT.—Except as the Secretary may otherwise provide, an individual is eligible to elect a Medicare Choice product offered by a Medicare Choice organization only if the organization in relation to the product serves the geographic area in which the individual resides.

"(2) AFFILIATION REQUIREMENTS FOR CERTAIN PRODUCTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an individual is eligible to elect a Medicare Choice product offered by a limited enrollment Medicare Choice organization (as defined in section 1852(c)(4)(D)) only if—

"(i) the individual is eligible under section 1852(c)(4) to make such election, and

"(ii) in the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)), the individual elected under this section a Medicare Choice product offered by the sponsor during the first enrollment period in which the individual was eligible to make such election with respect to such sponsor.

"(B) NO REELECTION AFTER DISENROLLMENT FOR CERTAIN PRODUCTS.—An individual is not eligible to elect a Medicare Choice product offered by a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor if the individual previously had elected a Medicare Choice product offered by the organization and had subsequently discontinued to elect such a product offered by the organization.

"(c) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed only during coverage election periods specified under subsection (e) and shall become effective as provided in subsection (f).

"(2) EXPEDITED IMPLEMENTATION.—The Secretary shall establish the process of electing coverage under this section during the transition period (as defined in subsection (e)(1)(B)) in such an expedited manner as will permit such an election for Medicare Choice products in an area as soon as such products become available in that area.

"(3) COORDINATION THROUGH MEDICARE CHOICE ORGANIZATIONS.—

"(A) ENROLLMENT.—Such process shall permit an individual who wishes to elect a Medicare Choice product offered by a Medicare Choice organization to make such election through the filing of an appropriate election form with the organization.

"(B) DISENROLLMENT.—Such process shall permit an individual, who has elected a Medicare Choice product offered by a Medicare Choice organization and who wishes to terminate such election, to terminate such election through the filing of an appropriate election form with the organization.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an initial election period under subsection (e)(1) is deemed to have chosen the Non-Medicare Choice option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with a Medicare Choice organization at the time of the initial election period and who fail to elect to receive coverage other than through the organization are deemed to have elected an appropriate Medicare Choice product offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) a Medicare Choice product is discontinued, if the individual had elected such product at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the Medicare Choice program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in Medicare Choice products under this section.

"(d) PROVISION OF BENEFICIARY INFORMATION TO PROMOTE INFORMED CHOICE.—

"(1) IN GENERAL.—The Secretary shall provide for activities under this subsection to disseminate broadly information to medicare beneficiaries (and prospective medicare beneficiaries) on the coverage options provided under this section in order to promote an active, informed selection among such options. Such information shall be made available on such a timely basis (such as 6 months before the date an individual would first attain eligibility for medicare on the basis of age) as to permit individuals to elect the Medicare Choice option during the initial election period described in subsection (e)(1).

"(2) USE OF NONFEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under this subsection.

"(3) SPECIFIC ACTIVITIES.—In carrying out this subsection, the Secretary shall provide for at least the following activities in all areas in which Medicare Choice products are offered:

"(A) INFORMATION BOOKLET.—

"(i) IN GENERAL.—The Secretary shall publish an information booklet and disseminate the booklet to all individuals eligible to elect the Medicare Choice option under this section during coverage election periods.

"(ii) INFORMATION INCLUDED.—The booklet shall include information presented in plain English and in a standardized format regarding—

"(I) the benefits (including cost-sharing) and premiums for the various Medicare Choice products in the areas involved;

"(II) the quality of such products, including consumer satisfaction information; and

"(III) rights and responsibilities of medicare beneficiaries under such products.

"(iii) PERIODIC UPDATING.—The booklet shall be updated on a regular basis (not less often than once every 12 months) to reflect changes in the availability of Medicare Choice products and the benefits and premiums for such products.

"(B) TOLL-FREE NUMBER.—The Secretary shall maintain a toll-free number for inquiries regarding Medicare Choice options and the operation of part C.

"(C) GENERAL INFORMATION IN MEDICARE HANDBOOK.—The Secretary shall include information about the Medicare Choice option provided under this section in the annual notice of medicare benefits under section 1804.

"(e) COVERAGE ELECTION PERIODS.—

"(1) INITIAL CHOICE UPON ELIGIBILITY TO MAKE ELECTION.—

"(A) IN GENERAL.—In the case of an individual who first becomes entitled to benefits under part A and enrolled under part B after the beginning of the transition period (as defined in subparagraph (B)), the individual shall make the election under this section during a period (of a duration and beginning at a time specified by the Secretary) at the first time the individual both is entitled to benefits under part A and enrolled under part B. Such period shall be specified in a manner so that, in the case of an individual who elects a Medicare Choice product during the period, coverage under the product becomes effective as of the first date on which the individual may receive such coverage.

"(B) TRANSITION PERIOD DEFINED.—In this subsection, the term 'transition period' means, with respect to an individual in an area, the period beginning on the first day of the first month in which a Medicare Choice product is first made available to individuals in the area and ending with the month preceding the beginning of the first annual, coordinated election period under paragraph (3).

"(2) DURING TRANSITION PERIOD.—Subject to paragraph (6)—

"(A) CONTINUOUS OPEN ENROLLMENT INTO A MEDICARE CHOICE OPTION.—During the transition period, an individual who is eligible to make an election under this section and who has elected the non-Medicare Choice option may change such election to a Medicare Choice option at any time.

"(B) OPEN DISENROLLMENT BEFORE END OF TRANSITION PERIOD.—During the transition period, an individual who has elected a Medicare Choice option for a Medicare Choice product may change such election to another Medicare Choice product or to the non-Medicare Choice option.

"(3) ANNUAL, COORDINATED ELECTION PERIOD.—

"(A) IN GENERAL.—Subject to paragraph (5), each individual who is eligible to make an election under this section may change such election during annual, coordinated election periods.

"(B) ANNUAL, COORDINATED ELECTION PERIOD.—For purposes of this section, the term 'annual, coordinated election period' means, with respect to a calendar year (beginning with 1998), the month of October before such year.

"(C) MEDICARE CHOICE HEALTH FAIR DURING OCTOBER, 1996.—In the month of October, 1996, the Secretary shall provide for a nationally coordinated educational and publicity campaign to inform individuals, who are eligible to elect Medicare Choice products, about such products and the election process provided under this section (including the annual, coordinated election periods that occur in subsequent years).

"(4) SPECIAL 90-DAY DISENROLLMENT OPTION.—

"(A) IN GENERAL.—In the case of the first time an individual elects a Medicare Choice option under this section, the individual may discontinue such election through the filing of an appropriate notice during the 90-day period beginning on the first day on which the individual's coverage under the Medicare Choice product under such option becomes effective.

"(B) EFFECT OF DISCONTINUATION OF ELECTION.—An individual who discontinues an election under this paragraph shall be deemed at the time of such discontinuation to have elected the Non-Medicare Choice option.

"(5) SPECIAL ELECTION PERIODS.—An individual may discontinue an election of a Medicare Choice product offered by a Medicare Choice organization other than during an annual, coordinated election period and make a new election under this section if—

"(A) the organization's or product's certification under part C has been terminated or the organization has terminated or otherwise discontinued providing the product;

"(B) in the case of an individual who has elected a Medicare Choice product offered by a Medicare Choice organization, the individual is no longer eligible to elect the product because of a change in the individual's place of residence or other change in circumstances (specified by the Secretary, but not including termination of membership in a qualified association in the case of a product offered by a qualified association or termination of the individual's enrollment on the basis described in clause (i) or (ii) section 1852(c)(3)(B));

"(C) the individual demonstrates (in accordance with guidelines established by the Secretary) that—

"(i) the organization offering the product substantially violated a material provision of the organization's contract under part C in relation to the individual and the product; or

"(ii) the organization (or an agent or other entity acting on the organization's behalf) materially misrepresented the product's provisions in marketing the product to the individual; or

"(D) the individual meets such other conditions as the Secretary may provide.

"(f) EFFECTIVENESS OF ELECTIONS.—

"(1) DURING INITIAL COVERAGE ELECTION PERIOD.—An election of coverage made during the initial coverage election period under subsection (e)(1)(A) shall take effect upon the date the individual becomes entitled to benefits under part A and enrolled under part B, except as the Secretary may provide (consistent with section 1838) in order to prevent retroactive coverage.

"(2) DURING TRANSITION; 90-DAY DISENROLLMENT OPTION.—An election of coverage made under subsection (e)(2) and an election to discontinue a Medicare Choice option under subsection (e)(4) at any time shall take effect with the first calendar month following the date on which the election is made.

"(3) ANNUAL, COORDINATED ELECTION PERIOD AND MEDISAVE ELECTION.—An election of coverage made during an annual, coordinated election period (as defined in subsection (e)(3)(B)) in a year shall take effect as of the first day of the following year.

"(4) OTHER PERIODS.—An election of coverage made during any other period under subsection (e)(5) shall take effect in such manner as the Secretary provides in a manner consistent (to the extent practicable) with protecting continuity of health benefit coverage.

"(g) EFFECT OF ELECTION OF MEDICARE CHOICE OPTION.—Subject to the provisions of section 1855(f), payments under a contract with a Medicare Choice organization under section 1858(a) with respect to an individual electing a Medicare Choice product offered by the organization shall be instead of the amounts which (in the absence of the contract) would otherwise be payable under parts A and B for items and services furnished to the individual.

"(h) DEMONSTRATION PROJECTS.—The Secretary shall conduct demonstration projects to test alternative approahces to coordinated open enrollments in different markets, including different annual enrollment periods and models of rolling open enrollment periods. The Secretary may waive previous provisions of this section in order to carry out such projects.".

SEC. 8002. MEDICARE CHOICE PROGRAM.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICARE CHOICE

"REQUIREMENTS FOR MEDICARE CHOICE ORGANIZATIONS

"SEC. 1851. (a) MEDICARE CHOICE ORGANIZATION DEFINED.—In this part, subject to the succeeding provisions of this section, the term 'Medicare Choice organization' means a public or private entity that is certified under section 1857 as meeting the requirements and standards of this part for such an organization.

"(b) ORGANIZED AND LICENSED UNDER STATE LAW.—

"(1) IN GENERAL.—A Medicare Choice organization shall be organized and licensed under State law to offer health insurance or health benefits coverage in each State in which it offers a Medicare Choice product.

"(2) EXCEPTION FOR UNION AND TAFT-HARTLEY SPONSORS.—Paragraph (1) shall not apply to an Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)).

"(3) EXCEPTION FOR PROVIDER-SPONSORED ORGANIZATIONS.—Subject to paragraph (5), paragraph (1) shall not apply to a Medicare Choice organization that is a provider-sponsored organization (as defined in section 1854(a)).

"(4) EXCEPTION FOR QUALIFIED ASSOCIATIONS.—Paragraph (1) shall not apply to a Medicare Choice organization that is a qualified association (as defined in section 1852(c)(4)(B)).

"(5) LIMITATION.—Effective on and after January 1, 2000, paragraph (1) shall only apply (and paragraph (3) shall no longer apply) to a Medicare Choice organization in a State if the standards for licensure of the organization under the law of the State are identical to the standards established under section 1856(b).

"(c) PREPAID PAYMENT.—A Medicare Choice organization shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(d) ASSUMPTION OF FULL FINANCIAL RISK.—The Medicare Choice organization shall assume full financial risk on a prospective basis for the provision of the health care services (other than hospice care) for which benefits are required to be provided under section 1852(a)(1), except that the organization—

"(1) may obtain insurance or make other arrangements for the cost of providing to any enrolled member such services the aggregate value of which exceeds $5,000 in any year,

"(2) may obtain insurance or make other arrangements for the cost of such services provided to its enrolled members other than through the organization because medical necessity required their provision before they could be secured through the organization,

"(3) may obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) may make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

In the case of a Medicare Choice organization that is a union sponsor or Taft-Hartley sponsor (as defined in section 1852(c)(4)) or a qualified association (as defined in section 1852(c)(4)(B)), this subsection shall not apply with respect to Medicare Choice products offered by such organization and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)).

"(e) PROVISION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—Each Medicare Choice organization shall meet standards under section 1856 relating to the financial solvency and capital adequacy of the organization. Such standards shall take into account the nature and type of Medicare Choice products offered by the organization.

"(2) TREATMENT OF TAFT-HARTLEY SPONSORS.—An entity that is a Taft-Hartley sponsor is deemed to meet the requirement of paragraph (1).

"(3) TREATMENT OF CERTAIN QUALIFIED ASSOCIATIONS.—An entity that is a qualified association is deemed to meet the requirement of paragraph (1) with respect to Medicare Choice products offered by such association and issued by an organization to which subsection (b)(1) applies or by a provider-sponsored organization.

"(f) ORGANIZATIONS TREATED AS MEDICAREPLUS ORGANIZATIONS DURING TRANSITION.—Any of the following organizations shall be considered to qualify as a MedicarePlus organization for contract years beginning before January 1, 1997:

"(1) HEALTH MAINTENANCE ORGANIZATIONS.—An organization that is organized under the laws of any State and that is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), an organization recognized under State law as a health maintenance organization, or a similar organization regulated under State law for solvency in the same manner and to the same extent as such a health maintenance organization.

"(2) LICENSED INSURERS.—An organization that is organized under the laws of any State and—

"(A) is licensed by a State agency as an insurer for the offering of health benefit coverage, or

"(B) is licensed by a State agency as a service benefit plan,

but only for individuals residing in an area in which the organization is licensed to offer health insurance coverage.

"(3) CURRENT RISK-CONTRACTORS.—An organization that is an eligible organization (as defined in section 1876(b)) and that has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this section.

"REQUIREMENTS RELATING TO BENEFITS, PROVISION OF SERVICES, ENROLLMENT, AND PREMIUMS

"SEC. 1852. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—Each Medicare Choice product offered under this part shall provide benefits for at least the items and services for which benefits are available under parts A and B consistent with the standards for coverage of such items and services applicable under this title.

"(2) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a Medicare Choice organization may (in the case of the provision of items and services to an individual under this part under circumstances in which payment under this title is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"(3) SATISFACTION OF REQUIREMENT.—A Medicare Choice product offered by a Medicare Choice organization satisfies paragraph (1) with respect to benefits for items and services if the following requirements are met:

"(A) FEE FOR SERVICE PROVIDERS.—In the case of benefits furnished through a provider that does not have a contract with the organization, the product provides for at least the dollar amount of payment for such items and services as would otherwise be provided under parts A and B.

"(B) PARTICIPATING PROVIDERS.—In the case of benefits furnished through a provider that has such a contract, the individual's liability for payment for such items and services does not exceed (after taking into account any deductible, which does not exceed any deductible under parts A and B) the lesser of the following:

"(i) NON-MEDICARE CHOICE LIABILITY.—The amount of the liability that the individual would have had (based on the provider being a participating provider) if the individual had elected the non-Medicare Choice option.

"(ii) MEDICARE COINSURANCE APPLIED TO PRODUCT PAYMENT RATES.—The applicable coinsurance or copayment rate (that would have applied under the non-Medicare Choice option) of the payment rate provided under the contract.

"(b) ANTIDISCRIMINATION.—A Medicare Choice organization may not deny, limit, or condition the coverage or provision of benefits under this part based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual.

"(c) GUARANTEED ISSUE AND RENEWAL.—

"(1) IN GENERAL.—Except as provided in this subsection, a Medicare Choice organization shall provide that at any time during which elections are accepted under section 1805 with respect to a Medicare Choice product offered by the organization, the organization will accept without restrictions individuals who are eligible to make such election.

"(2) PRIORITY.—If the Secretary determines that a Medicare Choice organization, in relation to a Medicare Choice product it offers, has a capacity limit and the number of eligible individuals who elect the product under section 1805 exceeds the capacity limit, the organization may limit the election of individuals of the product under such section but only if priority in election is provided—

"(A) first to such individuals as have elected the product at the time of the determination, and

"(B) then to other such individuals in such a manner that does not discriminate among the individuals (who seek to elect the product) on a basis described in subsection (b).

"(3) LIMITATION ON TERMINATION OF ELECTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a Medicare Choice organization may not for any reason terminate the election of any individual under section 1805 for a Medicare Choice product it offers.

"(B) BASIS FOR TERMINATION OF ELECTION.—A Medicare Choice organization may terminate an individual's election under section 1805 with respect to a Medicare Choice product it offers if—

"(i) any premiums required with respect to such product are not paid on a timely basis (consistent with standards under section 1856 that provide for a grace period for late payment of premiums),

"(ii) the individual has engaged in disruptive behavior (as specified in such standards), or

"(iii) the product is terminated with respect to all individuals under this part.

Any individual whose election is so terminated is deemed to have elected the Non-Medicare Choice option (as defined in section 1805(a)(3)(A)).

"(C) ORGANIZATION OBLIGATION WITH RESPECT TO ELECTION FORMS.—Pursuant to a contract under section 1858, each Medicare Choice organization receiving an election form under section 1805(c)(2) shall transmit to the Secretary (at such time and in such manner as the Secretary may specify) a copy of such form or such other information respecting the election as the Secretary may specify.

"(4) SPECIAL RULES FOR LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATIONS.—

"(A) TAFT-HARTLEY SPONSORS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a Taft-Hartley sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are entitled to obtain benefits through such products under the terms of an applicable collective bargaining agreement.

"(ii) TAFT-HARTLEY SPONSOR.—In this part and section 1805, the term 'Taft-Hartley sponsor' means, in relation to a group health plan that is established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(B) QUALIFIED ASSOCIATIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a Medicare Choice organization that is a qualified association (as defined in clause (iii)) shall limit eligibility of individuals under this part for products it offers to individuals who are members of the association (or who are spouses of such individuals).

"(ii) LIMITATION ON TERMINATION OF COVERAGE.—Such a qualifying association offering a Medicare Choice product to an individual may not terminate coverage of the individual on the basis that the individual is no longer a member of the association except pursuant to a change of election during an open election period occurring on or after the date of the termination of membership.

"(iii) QUALIFIED ASSOCIATION.—In this part and section 1805, the term 'qualified association' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) that the Secretary finds—

"(I) has been formed for purposes other than the sale of any health insurance and does not restrict membership based on the health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability, of an individual,

"(II) does not exist solely or principally for the purpose of selling insurance, and

"(III) has at least 1,000 individual members or 200 employer members.

Such term includes a subsidiary or corporation that is wholly owned by one or more qualified organizations.

"(C) UNIONS.—

"(i) IN GENERAL.—Subject to subparagraph (D), a union sponsor (as defined in clause (ii)) shall limit eligibility of enrollees under this part for Medicare Choice products it offers to individuals who are members of the sponsor and affiliated with the sponsor through an employment relationship with any employer or are the spouses of such members.

"(ii) UNION SPONSOR.—In this part and section 1805, the term 'union sponsor' means an employee organization in relation to a group health plan that is established or maintained by the organization other than pursuant to a collective bargaining agreement.

"(D) LIMITATION.—Rules of eligibility to carry out the previous subparagraphs of this paragraph shall not have the effect of denying eligibility to individuals on the basis of health status, claims experience, receipt of health care, medical history, or lack of evidence of insurability.

"(E) LIMITED ENROLLMENT MEDICARE CHOICE ORGANIZATION.—In this part and section 1805, the term 'limited enrollment Medicare Choice organization' means a Medicare Choice organization that is a union sponsor, a Taft-Hartley sponsor, or a qualified association.

"(F) EMPLOYER, ETC..—In this paragraph, the terms 'employer', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(d) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Each Medicare Choice organization shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary—

"(A) the amount of the monthly premiums for coverage under each Medicare Choice product it offers under this part in each payment area (as determined for purposes of section 1855) in which the product is being offered; and

"(B) the enrollment capacity in relation to the product in each such area.

"(2) AMOUNTS OF PREMIUMS CHARGED.—The amount of the monthly premium charged by a Medicare Choice organization for a Medicare Choice product offered in a payment area to an individual under this part shall be equal to the amount (if any) by which—

"(A) the amount of the monthly premium for the product for the period involved, as established under paragraph (3) and submitted under paragraph (1), exceeds

"(B) 1/12 of the annual Medicare Choice capitation rate specified in section 1855(b)(2) for the area and period involved.

"(3) UNIFORM PREMIUM.—The premiums charged by a Medicare Choice organization under this part may not vary among individuals who reside in the same payment area.

"(4) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each Medicare Choice organization shall permit the payment of monthly premiums on a monthly basis and may terminate election of individuals for a Medicare Choice product for failure to make premium payments only in accordance with subsection (c)(3)(B).

"(5) RELATION OF PREMIUMS AND COST-SHARING TO BENEFITS.—In no case may the portion of a Medicare Choice organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (to the extent attributable to the minimum benefits described in subsection (a)(1) and not counting any amount attributable to balance billing) to individuals who are enrolled under this part with the organization exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B if they were not members of a Medicare Choice organization.

"(e) REQUIREMENT FOR ADDITIONAL BENEFITS, PART B PREMIUM DISCOUNT REBATES, OR BOTH.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Each Medicare Choice organization (in relation to a Medicare Choice product it offers) shall provide that if there is an excess amount (as defined in subparagraph (B)) for the product for a contract year, subject to the succeeding provisions of this subsection, the organization shall provide to individuals such additional benefits (as the organization may specify), a monetary rebate (paid on a monthly basis) of the part B monthly premium, or a combination thereof, in an total value which is at least equal to the adjusted excess amount (as defined in subparagraph (C)).

"(B) EXCESS AMOUNT.—For purposes of this paragraph, the 'excess amount', for an organization for a product, is the amount (if any) by which—

"(i) the average of the capitation payments made to the organization under this part for the product at the beginning of contract year, exceeds

"(ii) the actuarial value of the minimum benefits described in subsection (a)(1) under the product for individuals under this part, as determined based upon an adjusted community rate described in paragraph (5) (as reduced for the actuarial value of the coinsurance and deductibles under parts A and B).

"(C) ADJUSTED EXCESS AMOUNT.—For purposes of this paragraph, the 'adjusted excess amount', for an organization for a product, is the excess amount reduced to reflect any amount withheld and reserved for the organization for the year under paragraph (3).

"(D) UNIFORM APPLICATION.—This paragraph shall be applied uniformly for all enrollees for a product in a service area.

"(E) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing a Medicare Choice organization from providing health care benefits that are in addition to the benefits otherwise required to be provided under this paragraph and from imposing a premium for such additional benefits.

"(2) LIMITATION ON AMOUNT OF PART B PREMIUM DISCOUNT REBATE.—In no case shall the amount of a part B premium discount rebate under paragraph (1)(A) exceed, with respect to a month, the amount of premiums imposed under part B (not taking into account section 1839(b) (relating to penalty for late enrollment) or 1839(h) (relating to affluence testing)), for the individual for the month. Except as provided in the previous sentence, a Medicare Choice organization is not authorized to provide for cash or other monetary rebates as an inducement for enrollment or otherwise.

"(3) STABILIZATION FUND.—A Medicare Choice organization may provide that a part of the value of an excess actuarial amount described in paragraph (1) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits and rebates offered in those subsequent periods by the organization in accordance with such paragraph. Any of such value of amount reserved which is not provided as additional benefits described in paragraph (1)(A) to individuals electing the Medicare Choice product in accordance with such paragraph prior to the end of such periods, shall revert for the use of such trust funds.

"(4) DETERMINATION BASED ON INSUFFICIENT DATA.—For purposes of this subsection, if the Secretary finds that there is insufficient enrollment experience (including no enrollment experience in the case of a provider-sponsored organization) to determine an average of the capitation payments to be made under this part at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(5) ADJUSTED COMMUNITY RATE.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (B), the term 'adjusted community rate' for a service or services means, at the election of a Medicare Choice organization, either—

"(i) the rate of payment for that service or services which the Secretary annually determines would apply to an individual electing a Medicare Choice product under this part if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(ii) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to such an individual, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the individuals electing coverage under this part and the utilization characteristics of the other enrollees with the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of individuals selecting other Medicare Choice coverage, or individuals in the area, in the State, or in the United States, eligible to elect Medicare Choice coverage under this part and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(B) SPECIAL RULE FOR PROVIDER-SPONSORED ORGANIZATIONS.—In the case of a Medicare Choice organization that is a provider-sponsored organization, the adjusted community rate under subparagraph (A) for a Medicare Choice product may be computed (in a manner specified by the Secretary) using data in the general commercial marketplace or (during a transition period) based on the costs incurred by the organization in providing such a product.

"(f) RULES REGARDING PHYSICIAN PARTICIPATION.—

"(1) PROCEDURES.—Each Medicare Choice organization shall establish reasonable procedures relating to the participation (under an agreement between a physician and the organization) of physicians under Medicare Choice products offered by the organization under this part. Such procedures shall include—

"(A) providing notice of the rules regarding participation,

"(B) providing written notice of participation decisions that are adverse to physicians, and

"(C) providing a process within the organization for appealing adverse decisions, including the presentation of information and views of the physician regarding such decision.

"(2) CONSULTATION IN MEDICAL POLICIES.—A Medicare Choice organization shall consult with physicians who have entered into participation agreements with the organization regarding the organization's medical policy, quality, and medical management procedures.

"(3) LIMITATIONS ON PHYSICIAN INCENTIVE PLANS.—

"(A) IN GENERAL.—Each Medicare Choice organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between a Medicare Choice organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization under this part.

"(4) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—The previous provisions of this subsection shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product if the organization does not have agreements between physicians and the organization for the provision of benefits under the product.

"(g) PROVISION OF INFORMATION.—A Medicare Choice organization shall provide the Secretary with such information on the organization and each Medicare Choice product it offers as may be required for the preparation of the information booklet described in section 1805(d)(3)(A).

"(h) COORDINATED ACUTE AND LONG-TERM CARE BENEFITS UNDER A MEDICARE CHOICE PRODUCT.—Nothing in this part shall be construed as preventing a State from coordinating benefits under its medicaid program under title XIX with those provided under a Medicare Choice product in a manner that assures continuity of a full-range of acute care and long-term care services to poor elderly or disabled individuals eligible for benefits under this title and under such program.

"PATIENT PROTECTION STANDARDS

"SEC. 1853. (a) DISCLOSURE TO ENROLLEES.—A Medicare Choice organization shall disclose in clear, accurate, and standardized form, information regarding all of the following for each Medicare Choice product it offers:

"(1) Benefits under the Medicare Choice product offered, including exclusions from coverage.

"(2) Rules regarding prior authorization or other review requirements that could result in nonpayment.

"(3) Potential liability for cost-sharing for out-of-network services.

"(4) The number, mix, and distribution of participating providers.

"(5) The financial obligations of the enrollee, including premiums, deductibles, copayments, and maximum limits on out-of-pocket losses for items and services (both in and out of network).

"(6) Statistics on enrollee satisfaction with the product and organization, including rates of reenrollment.

"(7) Enrollee rights and responsibilities, including the grievance process provided under subsection (f).

"(8) A statement that the use of the 911 emergency telephone number is appropriate in emergency situations and an explanation of what constitutes an emergency situation.

"(9) A description of the organization's quality assurance program under subsection (d).

Such information shall be disclosed to each enrollee under this part at the time of enrollment and at least annually thereafter.

"(b) ACCESS TO SERVICES.—

"(1) IN GENERAL.—A Medicare Choice organization offering a Medicare Choice product may restrict the providers from whom the benefits under the product are provided so long as—

"(A) the organization makes such benefits available and accessible to each individual electing the product within the product service area with reasonable promptness and in a manner which assures continuity in the provision of benefits;

"(B) when medically necessary the organization makes such benefits available and accessible 24 hours a day and 7 days a week;

"(C) the product provides for reimbursement with respect to services which are covered under subparagraphs (A) and (B) and which are provided to such an individual other than through the organization, if—

"(i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(ii) it was not reasonable given the circumstances to obtain the services through the organization; and

"(D) coverage is provided for emergency services (as defined in paragraph (5)) without regard to prior authorization or the emergency care provider's contractual relationship with the organization.

"(2) MINIMUM PAYMENT LEVELS WHERE PROVIDING POINT-OF-SERVICE COVERAGE.—If a Medicare Choice product provides benefits for items and services (not described in paragraph (1)(C)) through a network of providers and also permits payment to be made under the product for such items and services not provided through such a network, the payment level under the product with respect to such items and services furnished outside the network shall be at least 70 percent (or, if the effective cost-sharing rate is 50 percent, at least 35 percent) of the lesser of—

"(A) the payment basis (determined without regard to deductibles and cost-sharing) that would have applied for such items and services under parts A and B, or

"(B) the amount charged by the entity furnishing such items and services.

"(3) PROTECTION OF ENROLLEES FOR CERTAIN OUT-OF-NETWORK SERVICES.—

"(A) PARTICIPATING PROVIDERS.—In the case of physicians' services or renal dialysis services described in subparagraph (C) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with a Medicare Choice organization under this section, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with such an organization under this part.

"(B) NONPARTICIPATING PROVIDERS.—In the case of physicians' services described in subparagraph (C) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with a Medicare Choice organization under this section) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(C) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this subparagraph are physicians' services or renal dialysis services which are furnished to an enrollee of a Medicare Choice organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

"(4) PROTECTION FOR NEEDED SERVICES.—A Medicare Choice organization that provides covered services through a network of providers shall provide coverage of services provided by a provider that is not part of the network if the service cannot be provided by a provider that is part of the network and the organization authorized the service directly or through referral by the primary care physician who is designated by the organization for the individual involved.

"(5) EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital, and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (6)) until the condition is stabilized.

"(6) EMERGENCY MEDICAL CONDITION.—In paragraph (5), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(7) PROTECTION AGAINST BALANCE BILLING.—The limitations on billing that apply to a provider (including a physician) under parts A and B in the case of an individual electing the non-Medicare Choice option shall apply to an individual who elects the Medicare Choice option in the case of any provider that (under the Medicare Choice option) may bill the enrollee directly for for services.

"(c) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—Each Medicare Choice organization shall establish procedures—

"(1) to safeguard the privacy of individually identifiable enrollee information, and

"(2) to maintain accurate and timely medical records for enrollees.

"(d) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—Each Medicare Choice organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals.

"(2) ELEMENTS OF PROGRAM.—The quality assurance program shall—

"(A) stress health outcomes;

"(B) provide for the establishment of written protocols for utilization review, based on current standards of medical practice;

"(C) provide review by physicians and other health care professionals of the process followed in the provision of such health care services;

"(D) monitors and evaluates high volume and high risk services and the care of acute and chronic conditions;

"(E) evaluates the continuity and coordination of care that enrollees receive;

"(F) has mechanisms to detect both underutilization and overutilization of services;

"(G) after identifying areas for improvement, establishes or alters practice parameters;

"(H) takes action to improve quality and assesses the effectiveness of such action through systematic follow-up;

"(I) makes available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate);

"(J) is evaluated on an ongoing basis as to its effectiveness; and

"(K) provide for external accreditation or review, by a utilization and quality control peer review organization under part B of title XI or other qualified independent review organization, of the quality of services furnished by the organization meets professionally recognized standards of health care (including providing adequate access of enrollees to services).

"(3) EXCEPTION FOR CERTAIN FEE-FOR-SERVICE PLANS.—Paragraph (1) and subsection (c)(2) shall not apply in the case of a Medicare Choice organization in relation to a Medicare Choice product to the extent the organization provides for coverage of benefits without restrictions relating to utilization and without regard to whether the provider has a contract or other arrangement with the plan for the provision of such benefits.

"(4) TREATMENT OF ACCREDITATION.—The Secretary shall provide that a Medicare Choice organization is deemed to meet the requirements of paragraphs (1) and (2) of this subsection and subsection (c) if the organization is accredited (and periodically reaccredited) by a private organization under a process that the Secretary has determined assures that the organization meets standards that are no less stringent than the standards established under section 1856 to carry out this subsection and subsection (c).

"(e) COVERAGE DETERMINATIONS.—

"(1) DECISIONS ON NONEMERGENCY CARE.—A Medicare Choice organization shall make determinations regarding authorization requests for nonemergency care on a timely basis, depending on the urgency of the situation.

"(2) APPEALS.—

"(A) IN GENERAL.—Appeals from a determination of an organization denying coverage shall be decided within 30 days of the date of receipt of medical information, but not later than 60 days after the date of the decision.

"(B) PHYSICIAN DECISION ON CERTAIN APPEALS.—Appeal decisions relating to a determination to deny coverage based on a lack of medical necessity shall be made only by a physician.

"(C) EMERGENCY CASES.—Appeals from such a determination involving a life-threatening or emergency situation shall be decided on an expedited basis.

"(f) GRIEVANCES AND APPEALS.—

"(1) GRIEVANCE MECHANISM.—Each Medicare Choice organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and enrollees under this part.

"(2) APPEALS.—An enrollee with an organization under this part who is dissatisfied by reason of the enrollee's failure to receive any health service to which the enrollee believes the enrollee is entitled and at no greater charge than the enrollee believes the enrollee is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the organization a party. If the amount in controversy is $1,000 or more, the individual or organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(3) COORDINATION WITH SECRETARY OF LABOR.—The Secretary shall consult with the Secretary of Labor so as to ensure that the requirements of this subsection, as they apply in the case of grievances referred to in paragraph (1) to which section 503 of the Employee Retirement Income Security Act of 1974 applies, are applied in a manner consistent with the requirements of such section 503.

"(g) INFORMATION ON ADVANCE DIRECTIVES.—Each Medicare Choice organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) APPROVAL OF MARKETING MATERIALS.—

"(1) SUBMISSION.—Each Medicare Choice organization may not distribute marketing materials unless—

"(A) at least 45 days before the date of distribution the organization has submitted the material to the Secretary for review, and

"(B) the Secretary has not disapproved the distribution of such material.

"(2) REVIEW.—The standards established under section 1856 shall include guidelines for the review of all such material submitted and under such guidelines the Secretary shall disapprove such material if the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(3) DEEMED APPROVAL (1-STOP SHOPPING).—In the case of material that is submitted under paragraph (1)(A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of marketing materials under paragraph (1)(B) with respect to a Medicare Choice product in an area, the Secretary is deemed not to have disapproved such distribution in all other areas covered by the product and organization.

"(4) PROHIBITION OF CERTAIN MARKETING PRACTICES.—Each Medicare Choice organization shall conform to fair marketing standards in relation to Medicare Choice products offered under this part, included in the standards established under section 1856. Such standards shall include a prohibition against an organization (or agent of such an organization) completing any portion of any election form under section 1805 on behalf of any individual.

"(i) ADDITIONAL STANDARDIZED INFORMATION ON QUALITY, OUTCOMES, AND OTHER FACTORS.—

"(1) IN GENERAL.—In addition to any other information required to be provided under this part, each Medicare Choice organization shall provide the Secretary (at a time, not less frequently than annually, and in an electronic, standardized form and manner specified by the Secretary) such information as the Secretary determines to be necessary, consistent with this part, to evaluate the performance of the organization in providing benefits to enrollees.

"(2) INFORMATION TO BE INCLUDED.—Subject to paragraph (3), information to be provided under this subsection shall include at least the following:

"(A) Information on the characteristics of enrollees that may affect their need for or use of health services and the determination of risk-adjusted payments under section 1855.

"(B) Information on the types of treatments and outcomes of treatments with respect to the clinical health, functional status, and well-being of enrollees.

"(C) Information on health care expenditures and the volume and prices of procedures.

"(D) Information on the flexibility permitted by plans to enrollees in their selection of providers.

"(3) SPECIAL TREATMENT.—The Secretary may waive the provision of such information under paragraph (2), or require such other information, as the Secretary finds appropriate in the case of a newly established Medicare Choice organization for which such information is not available.

"(j) DEMONSTRATION PROJECTS.—The Secretary shall provide for demonstration projects to determine the effectiveness, cost, and impact of alternative methods of providing comparative information about the performance of Medicare Choice organizations and products and the performance of medicare supplemental policies in relation to such products. Such projects shall include information about health care outcomes resulting from coverage under different products and policies.

"PROVIDER-SPONSORED NETWORKS

"SEC. 1858. (a) PROVIDER-SPONSORED NETWORK DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored network' means a public or private entity is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—for purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) CERTIFICATION PROCESS FOR PROVIDER-SPONSORED NETWORKS.—

"(1) FEDERAL ACTION ON CERTIFICATION.—If—

"(A) a State fails to complete action on a licensing application of an eligible organization that is a provider sponsored network within 90 days of receipt of the completed application, or

"(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

"(2) FEDERAL CERTIFICATION PROCEDURES.—

"(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider sponsored network) and its sponsor as meeting the requirements of this part in cases described in paragraph (1).

"(B) REQUIREMENTS.—Such process shall—

"(i) set forth the standards for certification,

"(ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

"(iii) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under paragraph (1)(A)(ii), and

"(iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later then 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant as to whether the application includes all information necessary to process the application.is received by the Secretary.

"(C) EFFECT OF CERTIFICATIONS.—

"(i) IN GENERAL.—A certificate under this subsection shall be issued for not more than 36 months and may not be renewed, unless the Secretary determines that the State's laws and regulations provide an unreasonable barrier to market entry.

"(ii) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under paragraph (1) during the period the certificate is in effect.

"(D) STATE STANDARDS.—During the first 24 months after the issuance of the Federal rules relating to the Federal certification process established under this paragraph, a State may apply to the Secretary to demonstrate that the State's licensure standards and process are consistent with Federal standards, incorporate appropriate flexibility to reflect the deliver system of provider-sponsored networks, and do not present an unreasonable barrier to market entry. If the Secretary approves the State licensure standards and process under this subparagraph, a provider sponsored network in such a State shall be required to obtain State licenses (as well as meet all other applicable Federal standards).

"(3) REPORT.—Not later then December 31, 1999, the Secretary shall report to Congress on the Federal certification system under paragraph (2), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that provider-sponsored networks provide services directly to enrollees through affiliated providers.".

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION OF SECTION 1876.—Section 1876 (42 U.S.C. 1395mm) is repealed.

(2) GME ADJUSTMENT.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by inserting ", including all days attributable to patients enrolled in an eligible organization with a risk-sharing contract under part C" after "part A".

(c) SUNSET.—No certificate shall be issued under this section after December 31, 2000, and no certificate under this section shall remain in effect after December 31, 2001.

"(2) EXCEPTION FOR IDENTICAL STANDARDS.—Paragraph (1) shall not apply with respect to any State law to the extent that such law provides the application of standards that are identical to the standards established for provider-sponsored organizations under this part.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as affecting the operation of section 514 of the Employee Retirement Income Security Act of 1974.

"PAYMENTS TO MEDICARE CHOICE ORGANIZATIONS

"SEC. 1855. (a) PAYMENTS.—

"(1) IN GENERAL.—Under a contract under section 1858 the Secretary shall pay to each

Medicare Choice organization, with respect to coverage of an individual under this part in a payment area for a month, an amount equal to the monthly adjusted Medicare Choice capitation rate (as provided under subsection (b)) with respect to that individual for that area.

"(2) ANNUAL ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) the annual Medicare Choice capitation rate for each payment area for the year, and

"(B) the factors to be used in adjusting such rates under subsection (b) for payments for months in that year.

"(3) ADVANCE NOTICE OF METHODOLOGICAL CHANGES.—At least 45 days before making the announcement under paragraph (2) for a year, the Secretary shall provide for notice to Medicare Choice organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(4) EXPLANATION OF ASSUMPTIONS.—In each announcement made under paragraph (2) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that Medicare Choice organizations can compute monthly adjusted Medicare Choice capitation rates for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(b) MONTHLY ADJUSTED MEDICARE CHOICE CAPITATION RATE.—

"(1) IN GENERAL.—For purposes of this section, the 'monthly adjusted Medicare Choice capitation rate' under this subsection, for a month in a year for an individual in a payment area (specified under paragraph (3)) and in a class (established under paragraph (4)), is 1/12 of the annual Medicare Choice capitation rate specified in paragraph (2) for that area for the year, adjusted to reflect the actuarial value of benefits under this title with respect to individuals in such class compared to the national average for individuals in all classes.

"(2) ANNUAL MEDICARE CHOICE CAPITATION RATES.—

"(A) IN GENERAL.—For purposes of this section, the annual Medicare Choice capitation rate for a payment area for a year is equal to the annual Medicare Choice capitation rate for the area for the previous year (or, in the case of 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for the area for 1995) increased by the per capita growth rate for that area and year (as determined under subsection (c)).

"(B) SPECIAL RULES FOR 1996.—

"(i) FLOOR AT 85 PERCENT OF NATIONAL AVERAGE.—In no case shall the annual Medicare Choice capitation rate for a payment area for 1996 be less than 85 percent of the national average of such rates for such year for all payment areas (weighted to reflect the number of medicare beneficiaries in each such area).

"(ii) REMOVAL OF MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—In determining the annual Medicare Choice capitation rate for 1996, the average annual per capita rate of payment described in section 1876(a)(1)(C) for 1995 shall be determined as though the Secretary had excluded from such rate any amounts which the Secretary estimated would have been payable under this title during the year for—

"(I) payment adjustments under section 1886(d)(5)(F) for hospitals serving a disproportionate share of low-income patients; and

"(II) the indirect costs of medical education under section 1886(d)(5)(B) or for direct graduate medical education costs under section 1886(h).

"(3) PAYMENT AREA DEFINED.—

"(A) IN GENERAL.—In this section, the term 'payment area' means—

"(i) a metropolitan statistical area, or

"(ii) all areas of a State outside of such an area.

"(B) SPECIAL RULE FOR ESRD BENEFICIARIES.—Such term means, in the case of the population group described in paragraph (5)(C), each State.

"(4) CLASSES.—

"(A) IN GENERAL.—For purposes of this section, the Secretary shall define appropriate classes of enrollees, consistent with paragraph (5), based on age, gender, welfare status, institutionalization, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(B) RESEARCH.—The Secretary shall conduct such research as may be necessary to provide for greater accuracy in the adjustment of capitation rates under this subsection. Such research may include research into the addition or modification of classes under subparagraph (A). The Secretary shall submit to Congress a report on such research by not later than January 1, 1997.

"(5) DIVISION OF MEDICARE POPULATION.—In carrying out paragraph (4) and this section, the Secretary shall recognize the following separate population groups:

"(A) AGED.—Individuals 65 years of age or older who are not described in subparagraph (C).

"(B) DISABLED.—Disabled individuals who are under 65 years of age and not described in subparagraph (C).

"(C) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Individuals who are determined to have end stage renal disease.

"(c) PER CAPITA GROWTH RATES.—

"(1) FOR 1996.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the per capita growth rates for 1996, for a payment area assigned to a service utilization cohort under subsection (d), shall be the following:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the below average service utilization cohort, 9.6 percent.

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—For areas assigned to the above average service utilization cohort, 4.8 percent.

"(iii) HIGHEST SERVICE UTILIZATION COHORT.—For areas assigned to the highest service utilization cohort, 2.1 percent.

"(B) BUDGET NEUTRAL ADJUSTMENT.—The Secretary shall adjust the per capita growth rates specified in subparagraph (A) for all the areas by such uniform factor as may be necessary to assure that the total capitation payments under this section during 1996 are the same as the amount such payments would have been if the per capita growth rate for all such areas for 1996 were equal to the national average per capita growth rate, specified in paragraph (3) for 1996.

"(2) FOR SUBSEQUENT YEARS.—

"(A) IN GENERAL.—For purposes of this section and subject to subparagraph (B), the Secretary shall compute a per capita growth rate for each year after 1996, for each payment area as assigned to a service utilization cohort under subsection (d), consistent with the following rules:

"(i) BELOW AVERAGE SERVICE UTILIZATION COHORT SET AT 143 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the below average service utilization cohort for the year shall be 160 percent of the national average per capita growth rate for the year (as specified under paragraph (3)).

"(ii) ABOVE AVERAGE SERVICE UTILIZATION COHORT SET AT 80 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the above average service utilization cohort for the year shall be 80 percent of the national average per capita growth rate for the year.

"(iii) HIGHEST SERVICE UTILIZATION COHORT SET AT 40 PERCENT OF NATIONAL AVERAGE PER CAPITA GROWTH RATE.—The per capita growth rate for areas assigned to the highest service utilization cohort for the year shall be 35 percent of the national average per capita growth rate for the year.

"(B) AVERAGE PER CAPITA GROWTH RATE AT NATIONAL AVERAGE TO ASSURE BUDGET NEUTRALITY.—The Secretary shall compute per capita growth rates for a year under subparagraph (A) in a manner so that the weighted average per capita growth rate for all areas for the year (weighted to reflect the number of medicare beneficiaries in each area) is equal to the national average per capita growth rate under paragraph (3) for the year.

"(3) NATIONAL AVERAGE PER CAPITA GROWTH RATES.—In this subsection, the 'national average per capita growth rate' for—

"(A) 1996 is 6.0 percent,
"(B) 1997 is 6.0 percent,
"(C) 1998 is 6.0 percent,
"(D) 1999 is 5.5 percent,
"(E) 2000 is 5.5 percent,
"(F) 2001 is 5.5 percent,
"(G) 2002 is 5.5 percent, and
"(H) each subsequent year is 5.5 percent.

"(d) ASSIGNMENT OF PAYMENT AREAS TO SERVICE UTILIZATION COHORTS.—

"(1) IN GENERAL.—For purposes of determining per capita growth rates under subsection (c) for areas for a year, the Secretary shall assign each payment area to a service utilization cohort (based on the service utilization index value for that area determined under paragraph (2)) as follows:

"(A) BELOW AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of less than 1.00 shall be assigned to the below average service utilization cohort.

"(B) ABOVE AVERAGE SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.00 but less than 1.20 shall be assigned to the above average service utilization cohort.

"(C) HIGHEST SERVICE UTILIZATION COHORT.—Areas with a service utilization index value of at least 1.20 shall be assigned to the highest service utilization cohort.

"(2) DETERMINATION OF SERVICE UTILIZATION INDEX VALUES.—In order to determine the per capita growth rate for a payment area for each year (beginning with 1996), the Secretary shall determine for such area and year a service utilization index value, which is equal to—

"(A) the annual Medicare Choice capitation rate under this section for the area for the year in which the determination is made (or, in the case of 1996, the average annual per capita rate of payment (described in section 1876(a)(1)(C)) for the area for 1995); divided by

"(B) the input-price-adjusted annual national Medicare Choice capitation rate (as determined under paragraph (3)) for that area for the year in which the determination is made.

"(3) Determination of input-price-adjusted rates.—

"(A) In general.—For purposes of paragraph (2), the 'input-price-adjusted annual national Medicare Choice capitation rate' for a payment area for a year is equal to the sum, for all the types of medicare services (as classified by the Secretary), of the product (for each such type) of—

"(i) the national standardized Medicare Choice capitation rate (determined under subparagraph (B)) for the year,

"(ii) the proportion of such rate for the year which is attributable to such type of services, and

"(iii) an index that reflects (for that year and that type of services) the relative input price of such services in the area compared to the national average input price of such services.

In applying clause (iii), the Secretary shall, subject to subparagraph (C), apply those indices under this title that are used in applying (or updating) national payment rates for specific areas and localities.

"(B) National standardized medicare choice capitation rate.—In this paragraph, the 'national standardized Medicare Choice capitation rate' for a year is equal to—

"(i) the sum (for all payment areas) of the product of (I) the annual Medicare Choice capitation rate for that year for the area under subsection (b)(2), and (II) the average number of medicare beneficiaries residing in that area in the year; divided by

"(ii) the total average number of medicare beneficiaries residing in all the payment areas for that year.

"(C) Special rules for 1996.—In applying this paragraph for 1996—

"(i) medicare services shall be divided into 2 types of services: part A services and part B services;

"(ii) the proportions described in subparagraph (A)(ii) for such types of services shall be—

"(I) for part A services, the ratio (expressed as a percentage) of the average annual per capita rate of payment for the area for part A for 1995 to the total average annual per capita rate of payment for the area for parts A and B for 1995, and

"(II) for part B services, 100 percent minus the ratio described in subclause (I);

"(iii) for the part A services, 70 percent of payments attributable to such services shall be adjusted by the index used under section 1886(d)(3)(E) to adjust payment rates for relative hospital wage levels for hospitals located in the payment area involved;

"(iv) for part B services—

"(I) 66 percent of payments attributable to such services shall be adjusted by the index of the geographic area factors under section 1848(e) used to adjust payment rates for physicians' services furnished in the payment area, and

"(II) of the remaining 34 percent of the amount of such payments, 70 percent shall be adjusted by the index described in clause (iii);

"(v) the index values shall be computed based only on the beneficiary population described in subsection (b)(5)(A).

The Secretary may continue to apply the rules described in this subparagraph (or similar rules) for 1997.

"(e) Payment Process.—

"(1) In general.—Subject to section 1859(f), the Secretary shall make monthly payments under this section in advance and in accordance with the rate determined under subsection (a) to the plan for each individual enrolled with a Medicare Choice organization under this part.

"(2) Adjustment to reflect number of enrollees.—

"(A) In general.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled with an organization under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) Special rule for certain enrollees.—

"(i) In general.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with a Medicare Choice organization under a product operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the organization under this part, except that for purposes of making such retroactive adjustments under this subparagraph, such period may not exceed 90 days.

"(ii) Exception.—No adjustment may be made under clause (i) with respect to any individual who does not certify that the organization provided the individual with the disclosure statement described in section 1853(a) at the time the individual enrolled with the organization.

"(f) Payments From Trust Fund.—The payment to a Medicare Choice organization under this section for individuals enrolled under this part with the organization, and payments to a Medicare Choice MSA under subsection (f)(1)(B), shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under part A and under part B represents of the actuarial value of the total benefits under this title.

"(g) Special Rule for Certain Inpatient Hospital Stays.—In the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) election under this part of a Medicare Choice product offered by a Medicare Choice organization—

"(A) payment for such services until the date of the individual's discharge shall be made under this title through the Medicare Choice product or Non-Medicare Choice option (as the case may be) elected before the election with such organization,

"(B) the elected organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(2) termination of election with respect to a Medicare Choice organization under this part—

"(A) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d) or by any succeeding Medicare Choice organization, and

"(C) the terminated organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"ESTABLISHMENT OF STANDARDS FOR MEDICARE CHOICE ORGANIZATIONS AND PRODUCTS

"Sec. 1856. (a) Interim Standards.—

"(1) In general.—The Secretary shall issue regulations regarding standards for Medicare Choice organizations and products within 180 days after the date of the enactment of this section. Such regulations shall be issued on an interim basis, but shall become effective upon publication and shall be effective through the end of 1999.

"(2) Solicitation of views.—In developing standards under this subsection relating to solvency of Medicare Choice organizations, the Secretary shall solicit the views of the American Academy of Actuaries.

"(3) Effect on state regulations.—Regulations under this subsection shall not preempt State regulations for Medicare Choice organizations for products not offered under this part.

"(b) Permanent Standards.—

"(1) In general.—The Secretary shall develop permanent standards under this subsection.

"(2) Consultation.—In developing standards under this subsection, the Secretary shall consult with the National Association of Insurance Commissioners, associations representing the various types of Medicare Choice organizations, and medicare beneficiaries.

"(3) Effectiveness.—The standards under this subsection shall take effect for periods beginning on or after January 1, 2000.

"(c) Solvency.—In establishing interim and permanent standards under this section relating to solvency of organizations, the Secretary shall recognize the multiple means of demonstrating solvency, including—

"(1) reinsurance purchased through a recognized commerce company or through a captive company owned directly or indirectly by 3 or more provider-sponsored organizations,

"(2) unrestricted surplus,

"(3) guarantees, and

"(4) letters of credit

In such standards, the Secretary may treat as admitted assets the assets used by a provider-sponsored organization in delivering covered services.

"(d) Application of New Standards to Entities with a Contract.—In the case of a Medicare Choice organization with a contract in effect under this part at the time standards applicable to the organization under this section are changed, the organization may elect not to have such changes apply to the organization until the end of the current contract year (or, if there is less than 6 months remaining in the contract year, until 1 year after the end of the current contract year).

"(e) Relation to State Laws.—The standards established under this section shall supersede any State law. The standard or regulation with respect to Medicare Choice products which are offered by Medicare Choice organizations and are issued by organizations to which section 1851(b)(1) applies, to the extent such law or regulation is inconsistent with such standards.

"MEDICARE CHOICE CERTIFICATION

"SEC. 1857. (a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary shall establish a process for the certification of organizations and products offered by organizations as meeting the applicable standards for Medicare Choice organizations and Medicare Choice products established under section 1856.

"(2) INVOLVEMENT OF SECRETARY OF LABOR.—Such process shall be established and operated in cooperation with the Secretary of Labor with respect to union sponsors and Taft-Hartley sponsors.

"(3) USE OF PRIVATE ACCREDITATION PROCESSES.—

"(A) IN GENERAL.—The process under this subsection shall, to the maximum extent practicable, provide that Medicare Choice organizations and products that are licensed or certified through a qualified private accreditation process that the Secretary finds applies standards that are no less stringent than the requirements of this part are deemed to meet the corresponding requirements of this part for such an organization or product.

"(B) PERIODIC ACCREDITATION.—The use of an accreditation under subparagraph (A) shall be valid only for such period as the Secretary specifies.

"(4) USER FEES.—The Secretary may impose user fees on entities seeking certification under this subsection in such amounts as the Secretary deems sufficient to finance the costs of such certification.

"(b) NOTICE TO ENROLLEES IN CASE OF DECERTIFICATION.—If a Medicare Choice organization or product is decertified under this section, the organization shall notify each enrollee with the organization and product under this part of such decertification.

"(c) QUALIFIED ASSOCIATIONS.—In the case of Medicare Choice products offered by a Medicare Choice organization that is a qualified association (as defined in section 1854(c)(4)(C)) and issued by an organization to which section 1851(b)(1) applies or by a provider-sponsored organization (as defined in section 1854(a)), nothing in this section shall be construed as limiting the authority of States to regulate such products.

"CONTRACTS WITH MEDICARE CHOICE ORGANIZATIONS

"SEC. 1858. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of a Medicare Choice product offered by a Medicare Choice organization under this part, and no payment shall be made under section 1856 to an organization, unless the Secretary has entered into a contract under this section with an organization with respect to the offering of such product. Such a contract with an organization may cover more than one Medicare Choice product. Such contract shall provide that the organization agrees to comply with the applicable requirements and standards of this part and the terms and conditions of payment as provided for in this part.

"(b) ENROLLMENT REQUIREMENTS.—

"(A) MINIMUM ENROLLMENT REQUIREMENT.—Subject to subparagraphs (B) and (C), the Secretary may not enter into a contract under this section with a Medicare Choice organization (other than a union sponsor or Taft-Hartley sponsor) unless the organization has at least 5,000 individuals (or 1,500 individuals in the case of an organization that is a provider-sponsored organization) who are receiving health benefits through the organization, except that the standards under section 1856 may permit the organization to have a lesser number of beneficiaries (but not less than 500 in the case of an organization that is a provider-sponsored organization) if the organization primarily serves individuals residing outside of urbanized areas.

"(B) ALLOWING TRANSITION.—The Secretary may waive the requirement of subparagraph (A) during the first 3 contract years with respect to an organization.

"(C) TREATMENT OF AREAS WITH LOW MANAGED CARE PENETRATION.—The Secretary may waive the requirement of subparagraph (A) in the case of organizations operating in areas in which there is a low proportion of medicare beneficiaries who have made the Medicare Choice election.

"(2) REQUIREMENT FOR ENROLLMENT OF NONMEDICARE BENEFICIARIES.—

"(A) IN GENERAL.—Each Medicare Choice organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to—

"(i) an organization that has been certified by a national organization recognized by the Secretary and has been found to have met performance standards established by the Secretary for at least 2 years, or

"(ii) a provider-sponsored organization for which commercial payments to providers participating in the organization exceed the payments to the organization under this part.

"(C) MODIFICATION AND WAIVER.—The Secretary may modify or waive the requirement imposed by subparagraph (A)—

"(i) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

"(ii) in the case of an organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(D) ENFORCEMENT.—If the Secretary determines that an organization has failed to comply with the requirements of this paragraph, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

"(c) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(2) TERMINATION AUTHORITY.—In accordance with procedures established under subsection (h), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in an applicable paragraph of subsection (g) on the Medicare Choice organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part;

"(C) is operating in a manner that is not in the best interests of the individuals covered under the contract; or

"(D) no longer substantially meets the applicable conditions of this part.

"(3) EFFECTIVE DATE OF CONTRACTS.—The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a contract with a Medicare Choice organization if a previous contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(d) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—

"(1) INSPECTION AND AUDIT.—Each contract under this section shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate (i) the quality, appropriateness, and timeliness of services performed under the contract and (ii) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(B) shall have the right to audit and inspect any books and records of the Medicare Choice organization that pertain (i) to the ability of the organization to bear the risk of potential financial losses, or (ii) to services performed or determinations of amounts payable under the contract.

"(2) ENROLLEE NOTICE AT TIME OF TERMINATION.—Each contract under this section shall require the organization to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled with the organization under this part.

"(3) DISCLOSURE.—

"(A) IN GENERAL.—Each Medicare Choice organization shall, in accordance with regulations of the Secretary, report to the Secretary financial information which shall include the following:

"(i) Such information as the Secretary may require demonstrating that the organization has a fiscally sound operation.

"(ii) A copy of the report, if any, filed with the Health Care Financing Administration containing the information required to be reported under section 1124 by disclosing entities.

"(iii) A description of transactions, as specified by the Secretary, between the organization and a party in interest. Such transactions shall include—

"(I) any sale or exchange, or leasing of any property between the organization and a party in interest;

"(II) any furnishing for consideration of goods, services (including management services), or facilities between the organization and a party in interest, but not including salaries paid to employees for services provided in the normal course of their employment and health services provided to members by hospitals and other providers and by staff, medical group (or groups), individual practice association (or associations), or any combination thereof; and

"(III) any lending of money or other extension of credit between an organization and a party in interest.

The Secretary may require that information reported respecting an organization which controls, is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) PARTY IN INTEREST DEFINED.—For the purposes of this paragraph, the term 'party in interest' means—

"(i) any director, officer, partner, or employee responsible for management or administration of a Medicare Choice organization, any person who is directly or indirectly the beneficial owner of more than 5 percent of the equity of the organization, any person who is the beneficial owner of a mortgage, deed of trust, note, or other interest secured by, and valuing more than 5 percent of the organization, and, in the case of a Medicare Choice organization organized as a nonprofit corporation, an incorporator or member of such corporation under applicable State corporation law;

"(ii) any entity in which a person described in clause (i)—

"(I) is an officer or director;

"(II) is a partner (if such entity is organized as a partnership);

"(III) has directly or indirectly a beneficial interest of more than 5 percent of the equity; or

"(IV) has a mortgage, deed of trust, note, or other interest valuing more than 5 percent of the assets of such entity;

"(iii) any person directly or indirectly controlling, controlled by, or under common control with an organization; and

"(iv) any spouse, child, or parent of an individual described in clause (i).

"(C) ACCESS TO INFORMATION.—Each Medicare Choice organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

"(4) LOAN INFORMATION.—The contract shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties.

"(f) ADDITIONAL CONTRACT TERMS.—The contract shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(g) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a Medicare Choice organization with a contract under this section—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(B) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this part, or

"(ii) to an individual or to any other entity under this part;

"(F) fails to comply with the requirements of section 1852(f)(3); or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such paragraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) OTHER INTERMEDIATE SANCTIONS.—In the case of a Medicare Choice organization for which the Secretary makes a determination under subsection (c)(2) the basis of which is not described in paragraph (1), the Secretary may apply the following intermediate sanctions:

"(A) civil money penalties of not more than $25,000 for each determination under subsection (c)(2) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract;

"(B) civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (h) during which the deficiency that is the basis of a determination under subsection (c)(2) exists; and

"(C) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subsection (c)(2) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEDURES FOR IMPOSING SANCTIONS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (1) or (2) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(h) PROCEDURES FOR IMPOSING SANCTIONS.—The Secretary may terminate a contract with a Medicare Choice organization under this section or may impose the intermediate sanctions described in subsection (g) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(1) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under subsection (c)(2);

"(2) the Secretary shall impose more severe sanctions on organizations that have a history of deficiencies or that have not taken steps to correct deficiencies the Secretary has brought to their attention;

"(3) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(4) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

SEC. 8003. REPORTS.

(a) ALTERNATIVE PAYMENT APPROACHES.—By not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this title referred to as the "Secretary") shall submit to Congress a report on alternative provider payment approaches under the medicare program, including—

(1) combined hospital and physician payments per admission,

(2) partial capitation models for subsets of medicare benefits, and

(3) risk-sharing arrangements in which the Secretary defines the risk corridor and shares in gains and losses.

Such report shall include recommendations for implementing and testing such approaches and legislation that may be required to implement and test such approaches.

(b) COVERAGE OF RETIRED WORKERS.—

(1) IN GENERAL.—The Secretary shall work with employers and health benefit plans to develop standards and payment methodologies to allow retired workers to continue to participate in employer health plans instead of participating in the medicare program. Such standards shall also cover workers covered under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the development of such standards and payment methodologies. The report shall include recommendations relating to such legislation as may be necessary.

SEC. 8004. TRANSITIONAL RULES FOR CURRENT MEDICARE HMO PROGRAM.

(a) TRANSITION FROM CURRENT CONTRACTS.—

(1) LIMITATION ON NEW CONTRACTS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary")

shall not enter into any risk-sharing or cost reimbursement contract under section 1876 of the Social Security Act with an eligible organization for any contract year beginning on or after the date standards for Medicare Choice organizations and products are first established under section 1856(a) of such Act with respect to Medicare Choice organizations that are insurers or health maintenance organizations unless such a contract had been in effect under section 1876 of such Act for the organization for the previous contract year.

(2) Termination of current contracts.—

(A) Risk-sharing contracts.—Notwithstanding any other provision of law, the Secretary shall not extend or continue any risk-sharing contract with an eligible organization under section 1876 of the Social Security Act (for which a contract was entered into consistent with paragraph (1)(A)) for any contract year beginning on or after 1 year after the date standards described in paragraph (1)(A) are established.

(B) Cost reimbursement contracts.—The Secretary shall not extend or continue any reasonable cost reimbursement contract with an eligible organization under section 1876 of the Social Security Act for any contract year beginning on or after January 1, 1998.

(b) Conforming Payment Rates Under Risk-Sharing Contracts.—Notwithstanding any other provision of law, the Secretary shall provide that payment amounts under risk-sharing contracts under section 1876(a) of the Social Security Act for months in a year (beginning with January 1996) shall be computed—

(1) with respect to individuals entitled to benefits under both parts A and B of title XVIII of such Act, by substituting payment rates under section 1855(a) of such Act for the payment rates otherwise established under section 1876(a) of such Act, and

(2) with respect to individuals only entitled to benefits under part B of such title, by substituting an appropriate proportion of such rates (reflecting the relative proportion of payments under such title attributable to such part) for the payment rates otherwise established under section 1876(a) of such Act. For purposes of carrying out this paragraph for payment for months in 1996, the Secretary shall compute, announce, and apply the payment rates under section 1855(a) of such Act (notwithstanding any deadlines specified in such section) in as timely a manner as possible and may (to the extent necessary) provide for retroactive adjustment in payments made not in accordance with such rates.

PART 4—PAYMENT AREAS FOR PHYSICIANS' SERVICES UNDER MEDICARE

SEC. 8151. MODIFICATION OF PAYMENT AREAS USED TO DETERMINE PAYMENTS FOR PHYSICIANS' SERVICES UNDER MEDICARE.

(a) In General.—Section 1848(j)(2) (42 U.S.C. 1395w@4(j)(2)) is amended to read as follows:

"(2) Fee schedule area.—

"(A) General rule.—Except as provided in subparagraph (B), the term 'fee schedule area' means, with respect to physicians' services furnished in a State, the State.

"(B) Exception for states with highest variation among areas.—In the case of the 15 States with the greatest variation in cost associated with physicians' services among various geographic areas of the State (as determined by the Secretary in accordance with such standards as the Secretary considers appropriate), the fee schedule area applicable with respect to physicians' services furnished in the State shall be a locality used under section 1842(b) for purposes of computing payment amounts for physicians' services, except that the Secretary shall revise the localities used under such section so that there are no more than 5 such localities in any State.".

(b) Budget-Neutrality Requirement.—The Secretary of Health and Human Services shall carry out the amendment made by subsection (a) in a manner which ensures that the aggregate amount of payment made for physicians' services under part B of the medicare program in any year does not exceed the aggregate amount of payment which would have been made for such services under part B during the year if the amendment were not in effect.

(c) Effective Date.—The amendment made by subsection (a) shall apply to physicians' services furnished on or after January 1, 1997.

Subtitle C—Medicare Payments to Health Care Providers

PART 1—PROVISIONS AFFECTING ALL PROVIDERS

SEC. 8201. ONE-YEAR FREEZE IN PAYMENTS TO PROVIDERS.

(a) Freeze in Updates.—

(1) In general.—Notwithstanding any other provision of law, except as otherwise provided in paragraph (2), for purposes of determining the amount to paid for an item or service under title XVIII of the Social Security Act, the percentage increase in any economic index by which a payment amount under title XVIII of the Social Security Act is required to be increased during fiscal year 1996 shall be deemed to be zero.

(2) Exceptions.—Paragraph (1) shall not apply—

(A) to payments for the operating costs of inpatient hospital services of a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act); or

(B) to the determination of hospital-specific FTE resident amounts unde section 1886(h) of such Act.

(b) Economic Index.— The term "economic index" includes—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) Extension of Payment Freeze for SNFs and HHAs.—

(1) Skilled nursing facilities.—

(A) No change in cost limits.—Section 13503(a)(1) of OBRA-1993 is amended by striking "1994 and 1995" and inserting "1994, 1995, and 1996".

(B) Delay in updates; no catch up.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking "1995" and inserting "1996", and

(ii) by striking "subsection." and inserting "subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).".

(C) Prospective payments.—Section 13505(b) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996".

(2) Home health agencies.—

(A) No change in cost limits.—Section 13564(a)(1) of OBRA-1993 is amended by striking "1996" and inserting "1997".

(B) Delay in updates; no catch up.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking "1996" and inserting "1997", and

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1,1997.".

PART 2—PROVISIONS AFFECTING DOCTORS

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) Special rule for 1996.—For 1996, the conversion factor under this subsection shall be $36.40 for all physicians' services."

(c) Establishing Upper Limit on MVPS Rewards.—

(1) In general.—Clause (iii) of section 1848(d)(3)(B), as redesignated by subsection (b)(1)(B), is amended by striking "a decrease" and inserting "an increase or decrease".

(2) Effective date.—The amendment made by paragraph

(1) shall apply to physicians' services furnished on or after January 1, 1996.

SEC. 8212. USE OF REAL GDP TO ADJUST FOR VOLUME AND INTENSITY.

Section 1848(f)(2)(B)(iii) (42 U.S.C. 1395w-4(f)(2)(iii), as added by section 8211(a)(2)(C), is amended to read as follows:

"(iii) 1 plus the average per capita growth in the real gross domestic product (divided by 100) for the 5-fiscal-year period ending with the previous fiscal year (increased by 1.5 percentage points for the category of services consisting of primary care services), and".

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS Hospitals.—Seciton 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and"; and

(2) in subclause (XIII), by striking "1998" and inserting "2003".

(b) PPS-Exempt Hospitals.—

(1) In general.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "thorugh 1997" and inserting "through 1996", and

(ii) by striking "and" at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause;

"(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and".

(2) Conforming amendment.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395(i)(3)(b)(i)(II) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following. ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 13951(n)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and increase for all physicians' services for a fiscal year beginning with fiscal year 1996 shall be equal to the performance standard rate of increase determined under this paragraph for the previous fiscal year, increased by the product of—

"(i) 1 plus the Secretary's estimate of the weighted average percentage increase (divided by 100) in the fees for all physicians services under this part for portions of calendar years included in the fiscal year involved,

"(ii) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in the average number of individuals enrolled under this part (other than HMO enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the average annual percentage growth (divided by 100) in volume and intensity of all physicians' services under this part for the 5-fiscal-year period ending with the preceding fiscal year, and

"(iv) 1 plus the Secretary's estimate of the percentage increase or decrease (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) that are estimated to result from changes in law or regulations affecting the percentage increase described in clause (i) and that is not taken into account in the percentage increase described in clause (i) minus 1, multiplied by 100, and reduced by the performance standard factor (specified in subparagraph (C)).".

(b) ANNUAL UPDATE BASED ON CUMULATIVE PERFORMANCE.—

(1) IN GENERAL.—Section 1848(d)(3)(B) (42 U.S.C. 1395w-4(d)(3)(B)) is amended—

(A) in clause (i)—

(i) by striking "IN GENERAL.—" and inserting "For 1992 through 1995",

(ii) by striking "for a year" and inserting "for each of the years 1992 through 1995", and

(iii) by striking ", subject to clause (ii)," and inserting "subject to clause (iii),";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) YEARS BEGINNING AFTER 1996.—

"(I) IN GENERAL.—The update for all physicians" services for a year beginning after 1996 provided under subparagraph (A) shall, subject to clause (iii), be increased or decreased by the same percentage by which the cumulative percentage increase in actual expenditures for all physicians' services in the second previous fiscal year over the third previous fiscal year, was less or greater, respectively, than the performance standard rate of increase (established under subsection (f)) for such services for the second previous fiscal year.

"(II) CUMULATIVE PERCENTAGE INCREASE DEFINED.—In subclause (I), the 'cumulative percentage increase in actual expenditures' for a year shall be equal to the product of the adjusted increases for each year beginning with 1995 up to and including the year involved, minus 1 and multiplied by 100. In the previous sentence, the 'adjusted increase' for a year is equal to 1 plus the percentage increase in actual expenditures for the year (over the preceding year).".

(3) ESTABLISHMENT OF CONVERSION FACTOR FOR 1996.—Section 1848(d)(1) (42 U.S.C. 1395w-4(d)(1)) is amended—

(1) the hospital market basket index (described in section 1886(b)(3)(B)(iii) of the Social Security Act),

(2) the medicare economic index (referred to in the fourth sentence of section 1842(b)(3) of such Act),

(3) the consumer price index for all urban consumers (U.S. city average), and

(4) any other index used to adjust payment amounts under title XVIII of such Act.

(c) EXTENSION OF PAYMENT FREEZE FOR SNFS AND HHAS.—

(1) SKILLED NURSING FACILITIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13503(a)(1) of OBRA—1993 is amended by striking "1994 and 1995" and inserting "1994, 1995, and 1996".

(B) DELAY IN UPDATES; NO CATCH UP.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended—

(i) by striking "1995" and inserting "1996", and

(ii) by striking "subsection." and inserting "subsection (except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities during cost reporting periods which began during fiscal year 1994, 1995, or 1996).".

(C) PROSPECTIVE PAYMENTS.—Section 13505(b) of OBRA-1993 is amended by striking "fiscal years 1994 and 1995" and inserting "fiscal years 1994, 1995, and 1996".

(2) HOME HEALTH AGENCIES.—

(A) NO CHANGE IN COST LIMITS.—Section 13564(a)(1) of OBRA-1993 is amended by striking "1996" and inserting "1997".

(B) DELAY IN UPDATES; NO CATCH UP.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended—

(i) by striking "1996" and inserting "1997", and

(ii) by adding at the end the following: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the routine service costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1997.".

PART 2—PROVISIONS AFFECTING DOCTORS

SEC. 8211. UPDATING FEES FOR PHYSICIANS' SERVICES.

(a) ESTABLISHMENT OF SINGLE, CUMULATIVE MVPS.—Section 1848(f) (42 U.S.C. 1395w- 4(f)) is amended—

(1) in subparagraphs (A) and (C) of paragraph (1), by striking "rates of increase for all physicians' services and for each category of such services" each place it appears and inserting "rate of increase for all physicians' services (and, in the case of fiscal years beginning before fiscal year 1996, for each category of such services)"; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "IN GENERAL.—" and inserting "FISCAL YEARS 1991 THROUGH 1995.—"

(ii) in the matter preceding clause (i), by striking "a fiscal year (beginning with fiscal year 1991)" and inserting "fiscal years 1991 through 1995", and

(iii) in the matter following clause (iv), by striking "subparagraph (B)) and inserting "subparagraph (C))",

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), and

(C) by inserting after subparagraph (A) the following:

"(B) FISCAL YEAR 1996 AND THEREAFTER.—Unless Congress otherwise provides, the performance standard rate of".

PART 3—PROVISIONS AFFECTING HOSPITALS

SEC. 8221. REDUCTION IN UPDATE FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by amending subclause (XII) to read as follows:

"(XII) for each of the fiscal years 1997 through 2002, the market basket percentage increase minus 0.5 percentage point for hospitals in a rural area, and the market basket percentage increase minus 1.5 percentage points for all other hospitals, and"; and

(2) in subclause (XIII), by striking "1998" and inserting "2003".

(b) PPS-EXEMPT HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "thorugh 1997" and inserting "through 1996", and

(ii) by striking "and" at the end;

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V) the following new subclause:

"(VI) fiscal years 1997 through 2002, is the market basket percentage increase minus 1.0 percentage point, and".

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by striking clause (v).

SEC. 8222. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 8223. ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM FOR OUTPATIENT SERVICES.

(a) IN GENERAL.—Section 1833(a)(2)(B) (42 U.S.C. 1395l(a)(2)(B)) is amended by striking "section 1886)—" and all that follows and inserting the following: "section 1886), an amount equal to a prospectively determined payment rate established by the Secretary that provides for payments for such items and services to be based upon a national rate adjusted to take into account the relative costs of furnishing such items and services in various geographic areas, except that for items and services furnished during cost reporting periods (or portions thereof) in years beginning with 1996, such amount shall be equal to 95 percent of the amount that would otherwise have been determined;".

(b) ESTABLISHMENT OF PROSPECTIVE PAYMENT SYSTEM.—Not later than July 1, 1995, the Secretary of Health and Human Services shall establish the prospective payment system for hospital outpatient services necessary to carry out section 1833(a)(2)(B) of the Social Security Act (as amended by subsection (a)).

(c) Effective Date.—The amendment made by subsection (a) shall apply to items and services furnished on or after January 1, 1997.

SEC. 8224. REDUCTION IN MEDICARE PAYMENTS TO HOSPITALS FOR INPATIENT CAPITAL-RELATED COSTS.

(a) PPS Hospitals.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking "1995" and inserting "2002".

(b) PPS-Exempt Hospitals.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 10 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal year 1996 through 2002.".

SEC. 8225. MORATORIUM ON PPS EXEMPTION FOR LONG-TERM CARE HOSPITALS.

(a) In General.—Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking "Secretary)" and inserting "Secretary on or before September 30, 1995)".

(b) Recommendations on Appropriate Standards for Long-Term Care Hospitals.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress recommendations for modifications to the standards used by the Secretary to determine whether a hospital (including a distinct part of another hospital) is classified as a long-term care hospital for purposes of determining the amount of payment to the hospital under part A of the medicare program for the operating costs of inpatient hospital services.

PART 4—PROVISIONS AFFECTING OTHER PROVIDERS

SEC. 8231. REVISION OF PAYMENT METHODOLOGY FOR HOME HEALTH SERVICES.

(a) Additions to Cost Limits.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including non-routine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of Medicare patients for the year subject to the limitation. The limitation shall represent total Medicare reasonable costs divided by the unduplicated census count of Medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitation shall be pro-rated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate Medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(b) Use of Interim Final Regulations.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(c) Studies.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(d) Payments Determined on Prospective Basis.—Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"Sec. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) Per episode rates under the system shall be 15 percent less than those that would otherwise occur under fiscal year 2000 Medicare expenditures for home health services.

"(2) All services covered and paid on a reasonable cost basis under the Medicare home health benefit as of the date of the enactment of the Medicare Enhancement Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode the use of services and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(c) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(d) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(e) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(f) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be pro-rated between home health agencies.".

SEC. 8232. LIMITATION OF HOME HEALTH COVERAGE UNDER PART A.

(a) In General.—Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended by striking the semicolon and inserting "for up to 150 days during any spell of illness;".

(b) Conforming Amendment.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) by striking "or" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(4) home health services furnished to the individual during such spell after such services have been furnished to the individual for 150 days during such spell.".

(c) Exclusion of Additional Part B Costs from Determination of Part B Monthly Premium.—Section 1839(a) (42 U.S.C. 1395r(a)) is amended—

(1) in the second sentence of paragraph (1), by striking "enrollees." and inserting "enrollees (except as provided in paragraph (5)).''; and

(2) by adding at the end the following new paragraph:

"(5) In estimating the benefits and administrative costs which will be payable from the Federal Supplementary Medical Insurance Trust Fund for a year (beginning with 1996), the Secretary shall exclude an estimate of any benefits and costs attributable to home health services for which payment would have been made under part A during the year but for paragraph (4) of section 1812(b).".

(d) Effective Date.—The amendments made by this subsection shall apply to spells of illness beginning on or after October 1, 1995.

SEC. 8233. REDUCTION IN FEE SCHEDULE FOR DURABLE MEDICAL EQUIPMENT.

(a) In General.—

(1) Freeze in Update for Covered Items.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) in subparagraph (B)—

(i) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) for each of the years 1996 through 2002, 0 percent; and

"(D) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year.".

(2) UPDATE FOR ORTHOTICS AND PROSTHETICS.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "each of the years 1994 through 1999".

(b) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9)(C) (42 U.S.C. 1395m(a)(9)(C)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) in clause (iv)—

(A) by striking "a subsequent year" and inserting "1993, 1994, and 1995", and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) in 1996 and each subsequent year, is 90 percent of the national limited monthly payment rate computed under subparagraph (B) for the item for the year.".

SEC. 8234. NURSING HOME BILLING.

(a) PAYMENTS FOR ROUTINE SERVICE COSTS.—

(1) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment limits under section 1888A.".

(2) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

(b) INCENTIVES FOR COST EFFECTIVE MANAGEMENT OF COVERED NONROUTINE SERVICES.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

"INCENTIVES FOR COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to the percentage increase in routine service cost limits for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title to the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES.—

"(1) IN GENERAL.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during a cost reporting period beginning during a fiscal year (after fiscal year 1996) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period limit determined under subsection (c)(1)(B).

"(2) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) RECONCILIATION OF AMOUNTS.—

"(1) LIMIT BASED ON PER STAY LIMIT AND NUMBER OF STAYS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period limit determined under subparagraph (B), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(B) COST REPORTING PERIOD LIMIT.—The cost reporting period limit determined under this subparagraph is an amount equal to the product of—

"(i) the per stay limit applicable to the facility under subsection (d) for the period; and

"(ii) the number of stays beginning during the period for which payment was made to the facility for such services.

"(C) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in subparagraph (A), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period limit for the period determined under this paragraph.

"(2) INCENTIVE PAYMENTS.—

"(A) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in an amount that is less than the amount determined under paragraph (1)(B), the Secretary shall pay the skilled nursing facility in the following fiscal year an incentive payment equal to 50 percent of the difference between such amounts, except that the incentive payment may not exceed 5 percent of the aggregate payments made to the facility under subsection (b) for the previous fiscal year (without regard to subparagraph (B)).

"(B) INSTALLMENT INCENTIVE PAYMENTS.—The Secretary may make installment payments during a fiscal year to a skilled nursing facility based on the estimated incentive payment that the facility would be eligible to receive with respect to such fiscal year.

"(d) DETERMINATION OF FACILITY PER STAY LIMIT.—

"(1) LIMIT FOR FISCAL YEAR 1997.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall establish separate per stay limits for hospital-based and freestanding skilled nursing facilities for the 12-month cost reporting period beginning during fiscal year 1997 that are equal to the sum of—

"(i) 50 percent of the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997; and

"(ii) 50 percent of the average of all facility-specific stay amounts for all hospital-based facilities or all freestanding facilities (whichever is applicable) during the cost reporting period described in clause (i), increased (in a compounded manner) by the SNF market basket percentage increase for fiscal years 1995 through 1997.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay limit for the 12-month cost reporting period beginning during fiscal year 1997 shall be twice the amount determined under subparagraph (A)(ii).

"(2) LIMIT FOR SUBSEQUENT FISCAL YEARS.—The per stay limit for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after fiscal year 1997 is equal to the per stay limit established under this subsection for the 12-month cost reporting period beginning during the previous fiscal year, increased by the SNF market basket percentage increase for such subsequent fiscal year minus 2 percentage points.

"(3) REBASING OF AMOUNTS.—

"(A) IN GENERAL.—The Secretary shall provide for an update to the facility-specific amounts used to determine the per stay limits under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter.

"(B) TREATMENT OF FACILITIES NOT HAVING REBASED COST REPORTING PERIODS.—Paragraph (1)(B) shall apply with respect to a skilled nursing facility for which payments were not made under this title for covered non-routine services for the 12-month cost reporting period used by the Secretary to update facility-specific amounts under subparagraph (A) in the same manner as such paragraph applies with respect to a facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994.

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is the sum of—

"(1) the average amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay (as determined on a per diem basis); and

"(2) the Secretary's best estimate of the average amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered nonroutine services furnished during a stay beginning during a cost reporting period beginning during a fiscal year (beginning with fiscal years after fiscal year 1997) to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay limit for such resident shall be the per stay limit developed under paragraph (2) instead of the per stay limit determined under subsection (d)(1)(A).

"(2) PER STAY LIMIT FOR INTENSIVE NEED RESIDENTS.—Not later than June 30, 1997, the Secretary, after consultation with the Medicare Payment Review Commission and skilled nursing facility experts, shall develop and publish a per stay limit for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered nonroutine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) SPECIAL TREATMENT FOR SMALL SKILLED NURSING FACILITIES.—This section shall not apply with respect to a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(h) EXCEPTIONS AND ADJUSTMENTS TO LIMITS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting limits applicable to a skilled nursing facility under subsection (c)(1)(B) for a cost reporting period, except that the total amount of any additional payments made under this section for covered nonroutine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered nonroutine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered nonroutine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(i) SPECIAL RULE FOR X-RAY SERVICES.—Before furnishing a covered nonroutine service consisting of an X-ray service for which payment may be made under part A or part B to a resident, a skilled nursing facility shall consider whether furnishing the service through a provider of portable X-ray service services would be appropriate, taking into account the cost effectiveness of the service and the convenience to the resident.".

(2) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, and 1888A".

SEC. 8235. FREEZE IN PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "1994 and 1995" and inserting "1994 through 1999".

PART 5—GRADUATE MEDICAL EDUCATION AND TEACHING HOSPITALS

SEC. 8241. TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.

(a) TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND.—The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding at the end the following title:

"TITLE XXI—TEACHING HOSPITAL AND GRADUATE MEDICAL EDUCATION TRUST FUND

"PART A—ESTABLISHMENT OF FUND

"SEC. 2101. ESTABLISHMENT OF FUND.

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the Teaching Hospital and Graduate Medical Education Trust Fund (in this title referred to as the 'Fund'), consisting of amounts transferred to the Fund under subsection (c), amounts appropriated to the Fund pursuant to subsections (d) and (e)(3), and such gifts and bequests as may be deposited in the Fund pursuant to subsection (f). Amounts in the Fund are available until expended.

"(b) EXPENDITURES FROM FUND.—Amounts in the Fund are available to the Secretary for making payments under section 2111.

"(c) TRANSFERS TO FUND.—

"(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1996 and each subsequent fiscal year, transfer to the Fund an amount determined by the Secretary for the fiscal year involved in accordance with paragraph (2).

"(2) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1), the amount determined under this paragraph for a fiscal year is an estimate by the Secretary of an amount equal to 75 percent of the difference between—

"(A) the nationwide total of the amounts that would have been paid under sections 1855 and 1876 during the year but for the operation of section 1855(b)(2)(B)(ii); and

"(B) the nationwide total of the amounts paid under such sections during the year.

"(3) ALLOCATION BETWEEN MEDICARE TRUST FUNDS.—In providing for a transfer under paragraph (1) for a fiscal year, the Secretary shall provide for an allocation of the amounts involved between part A and part B of title XVIII (and the trust funds established under the respective parts) as reasonably reflects the proportion of payments for the indirect costs of medical education and direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary for each of the fiscal years 1996 through 2002.

"(e) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(3) AVAILABILITY OF INCOME.—Any interest derived from obligations acquired by the Fund, and proceeds from any sale or redemption of such obligations, are hereby appropriated to the Fund.

"(f) ACCEPTANCE OF GIFTS AND BEQUESTS.—The Fund may accept on behalf of the United States money gifts and bequests made unconditionally to the Fund for the benefit of the Fund or any activity financed through the Fund.

"PART B—PAYMENTS TO TEACHING HOSPITALS

"SEC. 2111. FORMULA PAYMENTS TO TEACHING HOSPITALS.

"(a) IN GENERAL.—In the case of each teaching hospital that in accordance with subsection (b) submits to the Secretary a payment document for fiscal year 1996 or any subsequent fiscal year, the Secretary shall make payments for the year to the teaching hospital for the direct and indirect costs of operating approved medical residency training programs. Such payments shall be made from the Fund, and shall be made in accordance with a formula established by the Secretary.

"(b) PAYMENT DOCUMENT.—For purposes of subsection (a), a payment document is a document containing such information as may be necessary for the Secretary to make payments under such subsection to a teaching hospital for a fiscal year. The document is submitted in accordance with this subsection if the document is submitted not later than the date specified by the Secretary, and the document is in such form and is made in such manner as the Secretary may require. The Secretary may require that information under this subsection be submitted to the Secretary in periodic reports.".

(b) NATIONAL ADVISORY COUNCIL ON POSTGRADUATE MEDICAL EDUCATION.—

(1) IN GENERAL.—There is established within the Department of Health and Human Services an advisory council to be known as the National Advisory Council on Postgraduate Medical Education (in this title referred to as the "Council").

(2) DUTIES.—The council shall provide advice to the Secretary on appropriate policies for making payments for the support of postgraduate medical education in order to assure an adequate supply of physicians trained in various specialities, consistent with the health care needs of the United States.

(3) COMPOSITION.—

(A) IN GENERAL.—The Secretary shall appoint to the Council 15 individuals who are not officers or employees of the United States. Such individuals shall include not less than 1 individual from each of the following categories of individuals or entities:

(i) Organizations representing consumers of health care services.

(ii) Physicians who are faculty members of medical schools, or who supervise approved physician training programs.

(iii) Physicians in private practice who are not physicians described in clause (ii).

(iv) Practitioners in public health.

(v) Advanced-practice nurses.

(vi) Other health professionals who are not physicians.

(vii) Medical schools.

(viii) Teaching hospitals.

(ix) The Accreditation Council on Graduate Medical Education.

(x) The American Board of Medical Specialities.

(xi) The Council on Postdoctoral Training of the American Osteopathic Association.

(xii) The Council on Podiatric Medical Education of the American Podiatric Medical Association.

(B) REQUIREMENTS REGARDING REPRESENTATIVE MEMBERSHIP.—To the greatest extent feasible, the membership of the Council shall represent the various geographic regions of the United States, shall reflect the racial, ethnic, and gender composition of the population of the United States, and shall be broadly representative of medical schools and teaching hospitals in the United States.

(C) EX OFFICIO MEMBERS; OTHER FEDERAL OFFICERS OR EMPLOYEES.—The membership of the Council shall include individuals designated by the Secretary to serve as members of the Council from among Federal officers or employees who are appointed by the President, or by the Secretary (or by other Federal officers who are appointed by the President with the advice and consent of the Senate). Individuals designated under the preceding sentence shall include each of the following officials (or a designee of the official):

(i) The Secretary of Health and Human Services.

(ii) The Secretary of Veterans Affairs.

(iii) The Secretary of Defense.

(4) CHAIR.—The Secretary shall, from among members of the council appointed under paragraph (3)(A), designate an individual to serve as the chair of the council.

(5) TERMINATION.—The Council terminates December 31, 1999.

(c) REMOVE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FROM CALCULATION OF ADJUSTED AVERAGE PER CAPITA COST.—For provision removing medical education and disproportionate share hospital payments from calculation of payment amounts for organizations paid on a capitated basis, see section 1855(b)(2)(B)(ii).

(2) PAYMENTS TO HOSPITALS OF AMOUNTS ATTRIBUTABLE TO DSH.—Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j)(1) In addition to amounts paid under subsection (d)(5)(F), the Secretary is authorized to pay hospitals which are eligible for such payments for a fiscal year supplemental amounts that do not exceed the limit provided for in paragraph (2).

"(2) The sum of the aggregate amounts paid pursuant to paragraph (1) for a fiscal year shall not exceed the Secretary's estimate of 75 percent of the amount of reductions in payments under section 1855 that are attributable to the operation of subsection (b)(2)(B)(ii) of such section. ".

SEC. 8242. REDUCTION IN PAYMENT ADJUSTMENTS FOR INDIRECT MEDICAL EDUCATION.

(a) MODIFICATION REGARDING 6.8 PERCENT.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) by striking "on or after October 1, 1988," and inserting "on or after October 1, 1999,"; and

(2) by striking "1.89" and inserting "1.68".

(b) SPECIAL RULE REGARDING FISCAL YEARS 1996 THROUGH 1998; MODIFICATION REGARDING 6 PERCENT.—Section 1886(d)(5)(B)(ii), as amended by paragraph (1), is amended by adding at the end the following: "In the case of discharges occurring on or after October 1, 1995, and before October 1, 1999, the preceding sentence applies to the same extent and in the same manner as the sentence applies to discharges occurring on or after October 1, 1999, except that the term '1.68' is deemed to be 1.48.".

Subtitle D—Provisions Relating to Medicare Beneficiaries

SEC. 8301. PART B PREMIUM.

(a) FREEZE IN PREMIUM FOR 1996.—Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "December 1995" and inserting "December 1996"; and

(2) in subparagraph (B)(v), by striking "1995" and inserting "1995 and 1996".

(b) ESTABLISHING PREMIUM AT 25 PERCENT OF PROGRAM COSTS THROUGH 2002.—Section 1839(e)(1)(A) (42 U.S.C. 1395r(e)(1)(A)) is amended by striking "January 1999" and inserting "January 2003".

SEC. 8302. FULL COST OF MEDICARE PART B COVERAGE PAYABLE BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PART B PREMIUMS FOR HIGH-INCOME INDIVIDUALS

"SEC. 59B. SUPPLEMENTAL MEDICARE PART B PREMIUM.

"(a) REQUIREMENT TO PAY PREMIUM.—In the case of an individual to whom this section applies for the taxable year, there is hereby imposed (in addition to any other amount imposed by this subtitle) an amount equal to the aggregate of the supplemental Medicare part B premiums (if any) for months during such year that such individual is covered under Medicare part B.

"(b) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for any taxable year if—

"(1) such individual is covered under Medicare part B for any month during such year, and

"(2) the modified adjusted gross income of the taxpayer for such taxable year exceeds the threshold amount.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—

"(1) IN GENERAL.—For purposes of subsection (a), the supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) subject to adjustment under paragraph (2), 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) of the Social Security Act for such month, over

"(B) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(2) ADJUSTING MONTHLY ACTUARIAL RATE BY GEOGRAPHIC AREA.—

"(A) IN GENERAL.—In determining the amount described in paragraph (1)(A) for an individual residing in a premium area, the Secretary shall adjust such amount for a year by a geographic adjustment factor established by the Secretary which reflects the relative benefits and administrative costs payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in the year with respect to enrollees residing in such are compared to the national average of such benefits and costs.

"(B) PREMIUM AREA.—In this paragraph, a 'premium area' means a metropolitan statistical area or the portion of a State outside of any metropolitan statistical area.

"(d) PHASEIN.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(2) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return, paragraph (1) shall be applied by substituting '$75,000' for '$50,000'.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000,

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined without regard to sections 931 and 933.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the amount imposed by subsection (a) shall be the sum of the amounts so imposed determined separately for each spouse, and

"(B) subsections (a) and (d) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) MEDICARE PART B COVERAGE.—An individual shall be treated as covered under Medicare part B for any month if a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part for the month.

"(5) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703.

"(f) COORDINATION WITH OTHER PROVISIONS.—

"(1) TREATMENT AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental Medicare part B premium imposed by this section shall be treated as an amount paid for insurance covering medical care (as defined in section 213(d)).

"(2) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F (other than section 6654), the supplemental Medicare part B premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental Medicare part B premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(A) the amount of any credit allowable under this chapter, or

"(B) the amount of the minimum tax imposed by section 55."

(b) TRANSFERS TO SUPPLEMENTAL MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Supplemental Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Supplemental Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the portion of the supplemental Medicare part B premium (as defined in such section 59B) which is attributable to months during such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Paragraph (1) of section 6050F(c) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the Secretary of Health and Human Services in the case of the information specified in subsection (a)(1)(D)."

(4) The heading for section 6050F is amended by inserting "and medicare part b coverage" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting "and Medicare part B coverage" before the period.

(d) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VIII—Supplemental Medicare part B premiums for high-income individuals."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months after December 1995 in taxable years ending after December 31, 1995.

SEC. 8303. EXPANDED COVERAGE OF PREVENTIVE BENEFITS.

(a) PROVIDING ANNUAL SCREENING MAMMOGRAPHY FOR WOMEN OVER AGE 49.—Section 1834(c)(2)(A) (42 U.S.C. 1395m(c)(2)(A)) is amended—

(1) in clause (iv), by striking "but under 65 years of age,"; and

(2) by striking clause (v).

(b) COVERAGE OF SCREENING PAP SMEAR AND PELVIC EXAMS.—

(1) COVERAGE OF PELVIC EXAM; INCREASING FREQUENCY OF COVERAGE OF PAP SMEAR.—Section 1861(nn) (42 U.S.C. 1395x(nn)) is amended—

(A) in the heading, by striking "Smear" and inserting "Smear; Screening Pelvic Exam";

(B) by striking "(nn)" and inserting "(nn)(1)";

(C) by striking "3 years" and all that follows and inserting "3 years, or during the preceding year in the case of a woman described in paragraph (3)."; and

(D) by adding at the end the following new paragraphs:

"(2) The term 'screening pelvic exam' means an pelvic examination provided to a woman if the woman involved has not had such an examination during the preceding 3 years, or during the preceding year in the case of a woman described in paragraph (3), and includes a clinical breast examination.

"(3) A woman described in this paragraph is a woman who—

"(A) is of childbearing age and has not had a test described in this subsection during each of the preceding 3 years that did not indicate the presence of cervical cancer; or

"(B) is at high risk of developing cervical cancer (as determined pursuant to factors identified by the Secretary).".

(2) WAIVER OF DEDUCTIBLE.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)), as amended by subsection (a)(2), is amended—

(A) by striking "and (5)" and inserting "(5)"; and

(B) by striking the period at the end and inserting the following: ", and (6) such deductible shall not apply with respect to screening pap smear and screening pelvic exam (as described in section 1861(nn)).".

(3) CONFORMING AMENDMENTS.—(A) Section 1861(s)(14) (42 U.S.C. 1395x(s)(14)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(B) Section 1862(a)(1)(F) (42 U.S.C. 1395y(a)(1)(F)) is amended by inserting "and screening pelvic exam" after "screening pap smear".

(c) COVERAGE OF COLORECTAL SCREENING.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following new subsection:

"(d) FREQUENCY AND PAYMENT LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS, SCREENING FLEXIBLE SIGMOIDOSCOPIES, AND SCREENING COLONOSCOPY.—

"(1) FREQUENCY LIMITS FOR SCREENING FECAL-OCCULT BLOOD TESTS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening fecal-occult blood test provided to an individual for the purpose of early detection of colon cancer if the test is performed—

"(A) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(B) in the case of any other individual, within the 11 months following the month in which a previous screening fecal-occult blood test was performed.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMITS.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer if the procedure is performed—

"(i) in the case of an individual under 65 years of age, more frequently than is provided in a periodicity schedule established by the Secretary for purposes of this subparagraph; or

"(ii) in the case of any other individual, within the 59 months following the month in which a previous screening flexible sigmoidoscopy was performed.

"(3) SCREENING COLONOSCOPY FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—

"(A) PAYMENT AMOUNT.—The Secretary shall establish a payment amount under section 1848 with respect to screening colonoscopy for individuals at high risk for colorectal cancer (as determined in accordance with criteria established by the Secretary) provided for the purpose of early detection of colon cancer that is consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to subsection (a)(2)(A) of such section.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (4), no payment may be made under this part for a screening colonoscopy for individuals at high risk for colorectal cancer provided to an individual for the purpose of early detection of colon cancer if the procedure is performed within the 47 months following the month in which a previous screening colonoscopy was performed.

"(C) FACTORS CONSIDERED IN ESTABLISHING CRITERIA FOR DETERMINING INDIVIDUALS AT HIGH RISK.—In establishing criteria for determining whether an individual is at high risk for colorectal cancer for purposes of this paragraph, the Secretary shall take into consideration family history, prior experience of cancer, a history of chronic digestive disease condition, and the presence of any appropriate recognized gene markers for colorectal cancer.

"(4) Revision of Frequency.—

"(A) Review.—The Secretary shall review periodically the appropriate frequency for performing screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy based on age and such other factors as the Secretary believes to be pertinent.

"(B) Revision of Frequency.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection.".

(2) Conforming Amendments.—(A) Paragraphs (1)(D) and (2)(D) of section 1833(a) (42 U.S.C. 1395l(a)) are each amended by striking "subsection (h)(1)," and inserting "subsection (h)(1) or section 1834(d)(1),".

(B) Clauses (i) and (ii) of section 1848(a)(2)(A) (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by striking "a service" and inserting "a service (other than a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer or a screening colonoscopy provided to an individual at high risk for colorectal cancer for the purpose of early detection of colon cancer)".

(C) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (1)—

(I) in subparagraph (E), by striking "and" at the end;

(II) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(III) by adding at the end the following new subparagraph:

"(G) in the case of screening fecal-occult blood tests, screening flexible sigmoidoscopies, and screening colonoscopy provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(ii) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) Prostate Cancer Screening Tests.—

(1) In General.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (N) and subparagraph (O); and

(B) by inserting after subparagraph (O) the following new subparagraph:

"(P) prostate cancer screening tests (as defined in subsection (oo)); and".

(2) Tests Described.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Prostate Cancer Screening Tests

"(oo) The term 'prostate cancer screening test' means a test that consists of a digital rectal examination or a prostate-specific antigen blood test (or both) provided for the purpose of early detection of prostate cancer to a man over 40 years of age who has not had such a test during the preceding year.".

(3) Payment for Prostate-Specific Antigen Blood Test Under Clinical Diagnostic Laboratory Test Fee Schedules.—Section 1833(h)(1)(A) (42 U.S.C. 1395l(h)(1)(A)) is amended by inserting after "laboratory tests" the following: "(including prostate cancer screening tests under section 1861(oo) consisting of prostate-specific antigen blood tests)".

(4) Conforming Amendment.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by subsection (c)(3)(C), is amended—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "and" at the end,

(ii) in subparagraph (G), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(H) in the case of prostate cancer screening test (as defined in section 1861(oo)) provided for the purpose of early detection of prostate cancer, which are performed more frequently than is covered under such section;"; and

(B) in paragraph (7), by striking "or (G)" and inserting "(G), or (H)".

(e) Diabetes Screening Benefits.—

(1) Diabetes Outpatient Self-Management Training Services.—

(A) In General.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by subsection (d)(1), is amended—

(i) by striking "and" at the end of subparagraph (N);

(ii) by striking "and" at the end of subparagraph (O); and

(iii) by inserting after subparagraph (O) the following new subparagraph:

"(P) diabetes outpatient self-management training services (as defined in subsection (pp)); and".

(B) Definition.—Section 1861 (42 U.S.C. 1395x), as amended by subsection (d)(2), is amended by adding at the end the following new subsection:

"DIABETES OUTPATIENT SELF-MANAGEMENT TRAINING SERVICES

"(pp)(1) The term 'diabetes outpatient self-management training services' means educational and training services furnished to an individual with diabetes by or under arrangements with a certified provider (as described in paragraph (2)(A)) in an outpatient setting by an individual or entity who meets the quality standards described in paragraph (2)(B), but only if the physician who is managing the individual's diabetic condition certifies that such services are needed under a comprehensive plan of care related to the individual's diabetic condition to provide the individual with necessary skills and knowledge (including skills related to the self-administration of injectable drugs) to participate in the management of the individual's condition.

"(2) In paragraph (1)—

"(A) a 'certified provider' is an individual or entity that, in addition to providing diabetes outpatient self-management training services, provides other items or services for which payment may be made under this title; and

"(B) an individual or entity meets the quality standards described in this paragraph if the individual or entity meets quality standards established by the Secretary, except that the individual or entity shall be deemed to have met such standards if the individual or entity meets applicable standards originally established by the National Diabetes Advisory Board and subsequently revised by organizations who participated in the establishment of standards by such Board, or is recognized by the American Diabetes Association as meeting standards for furnishing the services.".

(C) Consultation with Organizations in Establishing Payment Amounts for Services Provided by Physicians.—In establishing payment amounts under section 1848(a) of the Social Security Act for physicians' services consisting of diabetes outpatient self-management training services, the Secretary of Health and Human Services shall consult with appropriate organizations, including the American Diabetes Association, in determining the relative value for such services under section 1848(c)(2) of such Act.

(2) Blood-Testing Strips for Individuals with Diabetes.—

(A) Including Strips as Durable Medical Equipment.—Section 1861(n) (42 U.S.C. 1395x(n)) is amended by striking the semicolon in the first sentence and inserting the following: ", and includes blood-testing strips for individuals with diabetes without regard to whether the individual has Type I or Type II diabetes (as determined under standards established by the Secretary in consultation with the American Diabetes Association);".

(2) Payment for Strips Based on Methodology for Inexpensive and Routinely Purchased Equipment.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(A) by striking "or" at the end of clause (ii);

(B) by adding "or" at the end of clause (iii); and

(C) by inserting after clause (iii) the following new clause:

"(iv) which is a blood-testing strip for an individual with diabetes,".

(e) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1996.

Subtitle E—Medicare Fraud Reduction

SEC. 8401. INCREASING BENEFICIARY AWARENESS OF FRAUD AND ABUSE.

(a) Beneficiary Outreach Efforts.—The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall make ongoing efforts (through public service announcements, publications, and other appropriate methods) to alert individuals entitled to benefits under the medicare program of the existence of fraud and abuse committed against the program and the costs to the program of such fraud and abuse, and of the existence of the toll-free telephone line operated by the Secretary to receive information on fraud and abuse committed against the program.

(b) Clarification of Requirement to Provide Explanation of Medicare Benefits.—The Secretary shall provide an explanation of benefits under the medicare program with respect to each item or service for which payment may be made under the program which is furnished to an individual, without regard to whether or not a deductible or coinsurance may be imposed against the individual with respect to the item or service.

(c) Provider Outreach Efforts; Publication of Fraud Alerts.—

(1) Special Fraud Alerts.—

(A) In General.—

(i) Request for Special Fraud Alerts.—Any person may present, at any time, a request to the Secretary to issue and publish a special fraud alert.

(ii) Special Fraud Alert Defined.—In this section, a "special fraud alert" is a notice which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act).

(B) Issuance and Publication of Special Fraud Alerts.—

(i) INVESTIGATION.—Upon receipt of a request for a special fraud alert under subparagraph (A), the Secretary shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Secretary (in consultation with the Attorney General) shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(ii) CRITERIA FOR ISSUANCE.—In determining whether to issue a special fraud alert upon a request under subparagraph (A), the Secretary may consider—

(I) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subparagraph (C); and

(II) the extent and frequency of the conduct that would be identified in the special fraud alert.

(C) CONSEQUENCES DESCRIBED.—The consequences described in this subparagraph are as follows:

(i) An increase or decrease in access to health care services.

(ii) An increase or decrease in the quality of health care services.

(iii) An increase or decrease in patient freedom of choice among health care providers.

(iv) An increase or decrease in competition among health care providers.

(v) An increase or decrease in the cost to health care programs of the Federal Government.

(vi) An increase or decrease in the potential overutilization of health care services.

(viii) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in health care programs of the Federal Government.

(2) PUBLICATION OF ALL HCFA FRAUD ALERTS IN FEDERAL REGISTER.—Each notice issued by the Health Care Financing Administration which informs the public of practices which the Secretary considers to be suspect or of particular concern under the medicare program or a State health care program (as defined in section 1128(h) of the Social Security Act) shall be published in the Federal Register, without regard to whether or not the notice is issued by a regional office of the Health Care Financing Administration.

SEC. 8402. BENEFICIARY INCENTIVES TO REPORT FRAUD AND ABUSE.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

SEC. 8403. ELIMINATION OF HOME HEALTH OVERPAYMENTS.

(a) REQUIRING BILLING AND PAYMENT TO BE BASED ON SITE WHERE SERVICE FURNISHED.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment for home health services under this title only on the basis of the geographic location at which the service is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished during cost reporting periods beginning on or after October 1, 1995.

SEC. 8404. SKILLED NURSING FACILITIES.

(a) CLARIFICATION OF TREATMENT OF HOSPITAL TRANSFERS.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) In making adjustments under clause (i) for transfer cases, the Secretary shall treat as a transfer any transfer to a hospital (without regard to whether or not the hospital is a subsection (d) hospital), a unit thereof, or a skilled nursing facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 8405. DIRECT SPENDING FOR ANTI-FRAUD ACTIVITIES UNDER MEDICARE.

(a) ESTABLISHMENT OF MEDICARE INTEGRITY PROGRAM.—Title XVIII, as amended by section 8231(d), is further amended by adding at the end the following new section:

"MEDICARE INTEGRITY PROGRAM

"SEC. 1894. (a) ESTABLISHMENT OF PROGRAM.—There is hereby established the Medicare Integrity Program (hereafter in this section referred to as the 'Program') under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible private entities to carry out the activities described in subsection (b).

"(b) ACTIVITIES DESCRIBED.—The activities described in this subsection are as follows:

"(1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this title (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this title as of the date of the enactment of this section).

"(2) Audit of cost reports.

"(3) Determinations as to whether payment should not be, or should not have been, made under this title by reason of section 1862(b), and recovery of payments that should not have been made.

"(4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.

"(c) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

"(1) the entity has demonstrated capability to carry out such activities;

"(2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General of the United States, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities;

"(3) the entity's financial holdings, interests, or relationships will not interfere with its ability to perform the functions to be required by the contract in an effective and impartial manner; and

"(4) the entity meets such other requirements as the Secretary may impose.

"(d) PROCESS FOR ENTERING INTO CONTRACTS.—The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary may by regulation establish, except that such procedures shall include the following:

"(1) The Secretary shall determine the appropriate number of separate contracts which are necessary to carry out the Program and the appropriate times at which the Secretary shall enter into such contracts.

"(2) The provisions of section 1153(e)(1) shall apply to contracts and contracting authority under this section, except that competitive procedures must be used when entering into new contracts under this section, or at any other time considered appropriate by the Secretary.

"(3) A contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

"(e) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

"(f) TRANSFER OF AMOUNTS TO MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—For each fiscal year, the Secretary shall transfer from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Medicare Anti-Fraud and Abuse Trust Fund under subsection (g) such amounts as are necessary to carry out the activities described in subsection (b). Such transfer shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.

"(g) MEDICARE ANTI-FRAUD AND ABUSE TRUST FUND.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—There is hereby established in the Treasury of the United States the Anti-Fraud and Abuse Trust Fund (hereafter in this subsection referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in subparagraph (B) and such amounts as may be deposited in the Trust Fund as provided in subsection (f), paragraph (3), and title XI.

"(B) AUTHORIZATION TO ACCEPT GIFTS AND BEQUESTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Trust Fund or any activity financed through the Trust Fund.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund in government account serial securities.

"(B) USE OF INCOME.—Any interest derived from investments under subparagraph (A) shall be credited to the Fund.

"(3) AMOUNTS DEPOSITED INTO TRUST FUND.—In addition to amounts transferred under subsection (f), there shall be deposited in the Trust Fund—

"(A) that portion of amounts recovered in relation to section 1128A arising out of a claim under title XVIII as remains after application of subsection (f)(2) (relating to repayment of the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund) of that section, as may be applicable,

"(B) fines imposed under section 1128B arising out of a claim under this title, and

"(C) penalties and damages imposed (other than funds awarded to a relator or for restitution) under sections 3729 through 3732 of title 31, United States Code (pertaining to false claims) in cases involving claims relating to programs under title XVIII, XIX, or XXI.

"(4) DIRECT APPROPRIATION OF FUNDS TO CARRY OUT PROGRAM.—

"(A) IN GENERAL.—There are appropriated from the Trust Fund for each fiscal year such amounts as are necessary to carry out the Medicare Integrity Program under this section, subject to subparagraph (B).

"(B) AMOUNTS SPECIFIED.—The amount appropriated under subparagraph (A) for a fiscal year is as follows:

"(i) For fiscal year 1996, such amount shall be not less than $430,000,000 and not more than $440,000,000.

"(ii) For fiscal year 1997, such amount shall be not less than $490,000,000 and not more than $500,000,000.

"(iii) For fiscal year 1998, such amount shall be not less than $550,000,000 and not more than $560,000,000.

"(iv) For fiscal year 1999, such amount shall be not less than $620,000,000 and not more than $630,000,000.

"(v) For fiscal year 2000, such amount shall be not less than $670,000,000 and not more than $680,000,000.

"(vi) For fiscal year 2001, such amount shall be not less than $690,000,000 and not more than $700,000,000.

"(vii) For fiscal year 2002, such amount shall be not less than $710,000,000 and not more than $720,000,000.

"(5) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress on the amount of revenue which is generated and disbursed by the Trust Fund in each fiscal year.".

(b) ELIMINATION OF FI AND CARRIER RESPONSIBILITY FOR CARRYING OUT ACTIVITIES SUBJECT TO PROGRAM.—

(1) RESPONSIBILITIES OF FISCAL INTERMEDIARIES UNDER PART A.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end the following new subsection:

"(l) No agency or organization may carry out (or receive payment for carrying out) any activity pursuant to an agreement under this section to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(2) RESPONSIBILITIES OF CARRIERS UNDER PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(6) No carrier may carry out (or receive payment for carrying out) any activity pursuant to a contract under this subsection to the extent that the activity is carried out pursuant to a contract under the Medicare Integrity Program under section 1894.".

(c) CONFORMING AMENDMENT.—Section 1128A(f)(3) (42 U.S.C. 1320a–7a(f)(3)) is amended by striking "as miscellaneous receipts of the Treasury of the United States" and inserting "in the Anti-Fraud and Abuse Trust Fund established under section 1895(g)".

(d) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—Section 1894, as added by subsection (a), is amended by adding at the end the following new subsection:

"(h) DIRECT SPENDING FOR MEDICARE-RELATED ACTIVITIES OF INSPECTOR GENERAL.—

"(1) IN GENERAL.—There are appropriated from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund to the Inspector General of the Department of Health and Human Services for each fiscal year such amounts as are necessary to enable the Inspector General to carry out activities relating to the medicare program (as described in paragraph (2)), subject to paragraph (3).

"(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are as follows:

"(A) Prosecuting medicare-related matters through criminal, civil, and administrative proceedings.

"(B) Conducting investigations relating to the medicare program.

"(C) Performing financial and performance audits of programs and operations relating to the medicare program.

"(D) Performing inspections and other evaluations relating to the medicare program.

"(E) Conducting provider and conumer education activities regarding the requirements of this title.

"(3) AMOUNTS SPECIFIED.—The amount appropriated under paragraph (1) for a fiscal year is as follows:

"(A) For fiscal year 1996, such amount shall be $130,000,000.

"(B) For fiscal year 1997, such amount shall be $181,000,000.

"(C) For fiscal year 1998, such amount shall be $204,000,000.

"(D) For each subsequent fiscal year, the amount appropriated for the previous fiscal year, increased by the percentage increase in aggregate expenditures under this title for the fiscal year involved over the previous fiscal year.

"(4) ALLOCATION OF PAYMENTS AMONG TRUST FUNDS.—The appropriations made under paragraph (1) shall be in an allocation as reasonably reflects the proportion of such expenditures associated with part A and part B.".

SEC. 8406. FRAUD REDUCTION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Not later than July 1, 1996, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish not less than three demonstration projects under which organizations with a contract under section 1816 or section 1842 of the Social Security Act—

(1) identify practitioners and providers whose patterns of providing care to beneficiaries enrolled under title XVIII of the Social Security Act are consistently outside the norm for other practitioners or providers of the same category, class, or type, and

(2) experiment with ways of identifying fraudulent claims submitted to the program established under such title before they are paid.

(b) DURATION OF PROJECTS.—Each project established under subsection (a) shall last for at least 18 months and shall focus on those categories, classes, or types of providers and practitioners that have been identified by the Inspector General of the Department of Health and Human Services as having a high incidence of fraud and abuse.

(c) REPORT.—Not later than July 1, 1997, the Secretary shall report to the Congress on the demonstration projects established under subsection (a), and shall include in the report an assessment of the effectiveness of, and any recommended legislative changes based on, the projects.

SEC. 8407. REPORT ON COMPETITIVE PRICING.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall submit to Congress a report recommending legislative changes to the medicare program to enable the prices paid for items and services under the medicare program to be established on a more competitive basis.

Subtitle F—Improving Access to Health Care

PART 1—ASSISTANCE FOR RURAL PROVIDERS

Subpart A—Rural Hospitals

SEC. 8501. SOLE COMMUNITY HOSPITALS.

(a) UPDATE.—Section 1886(b)(3)(B)(iv) (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(A) in subclause (III), by striking "and" at the end; and

(B) by striking subclause (IV) and inserting the following:

"(IV) for each of the fiscal years 1996 through 2000, the market basket percentage increase minus 1 percentage points, and

"(V) for fiscal year 2001 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(b) STUDY OF IMPACT OF SOLE COMMUNITY HOSPITAL DESIGNATIONS.—

(1) STUDY.—The Medicare Payment Review Commission shall conduct a study of the impact of the designation of hospitals as sole community hospitals under the medicare program on the delivery of health care services to individuals in rural areas, and shall include in the study an analysis of the characteristics of the hospitals designated as such sole community hospitals under the program.

(2) REPORT.—Not later than 12 months after the date a majority of the members of the Commission are first appointed, the Commission shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 7022. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7023. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: "The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.".

SEC. 7024. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7027. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—A State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 to use the beds designated for inpatient cases pursuant to subsection (d)(2)(A)(iii) for extended care services.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) GRANDFATHERING OF CERTAIN FACILITIES.—

"(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(II) by striking "72" and inserting "96";

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (*l*) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(d) PAYMENT CONTINUED TO DESIGNATED EACHS.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect or designated by the State on January 1, 1996" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect or designated by the State on January 1, 1996" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(e) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—

"(1) IN GENERAL.—The amount of payment for outpatient critical access hospital services provided in a critical access hospital under this part shall be determined by one of the 2 following methods, as elected by the critical access hospital:

"(A) REASONABLE COST.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services

(B) ALL-INCLUSIVE RATE.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs. The amount of payment shall be determined under either method without regard to the amount of the customary or other charge. ".

(f) SWING BEDS.—Section 1883 (42 U.S.C. 1395tt) is amended by adding at the end the following new subsection:

"(g) Nothing in this section shall prohibit the Secretary from entering into an agreement with a critical access hospital.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

SEC. 8504. CLASSIFICATION OF RURAL REFERRAL CENTERS.

(a) PROHIBITING DENIAL OF REQUEST FOR RECLASSIFICATION ON BASIS OF COMPARABILITY OF WAGES.—

(1) IN GENERAL.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended—

(A) by redesignating clause (iii) as clause (iv); and

(B) by inserting after clause (ii) the following new clause:

"(iii) Under the guidelines published by the Secretary under clause (i), in the case of a hospital which is classified by the Secretary as a rural referral center under paragraph (5)(C), the Board may not reject the application of the hospital under this paragraph on the basis of any comparison between the average hourly wage of the hospital and the average hourly wage of hospitals in the area in which it is located.".

(2) EFFECTIVE DATE.—Notwithstanding section 1886(d)(10)(C)(ii) of the Social Security Act, a hospital may submit an application to the Medicare Geographic Classification Review Board during the 30-day period beginning on the date of the enactment of this Act requesting a change in its classification for purposes of determining the area wage index applicable to the hospital under section 1886(d)(3)(D) of such Act for fiscal year 1997, if the hospital would be eligible for such a change in its classification under the standards described in section 1886(d)(10)(D) (as amended by paragraph (1)) but for its failure to meet the deadline for applications under section 1886(d)(10)(C)(ii).

(b) CONTINUING TREATMENT OF PREVIOUSLY DESIGNATED CENTERS.—Any hospital classified as a rural referral center by the Secretary of Health and Human Services under section 1886(d)(5)(C) of the Social Security Act for fiscal year 1994 shall be classified as such a rural referral center for fiscal year 1996 and each subsequent fiscal year.

SEC. 8505. FLOOR ON AREA WAGE INDEX.

(a) IN GENERAL.—For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after October 1, 1995, the area wage index applicable under such section to any hospital which is not located in a rural area (as defined in section 1886(d)(2)(D) of such Act) may not be less than the average of the area wage indices applicable under such section to hospitals located in rural areas in the State in which the hospital is located.

(b) BUDGET-NEUTRALITY IN IMPLEMENTATION.—The Secretary of Health and Human Services shall make any adjustments required under subsection (a) in a manner which assures that the aggregate payments made under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services are not greater or less than those which would have been made in the year without such adjustments.

SEC. 8506. MEDICAL EDUCATION.

(a) STATE AND CONSORTIUM DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—

(A) PARTICIPATION OF STATES AND CONSORTIA.—The Secretary shall establish and conduct a demonstration project to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice under which the Secretary shall make payments in accordance with paragraph (4)—

(i) to not more than 10 States for the purpose of testing and evaluating mechanisms to meet the goals described in subsection (b); and

(ii) to not more than 10 health care training consortia for the purpose of testing and evaluating mechanisms to meet such goals.

(B) EXCLUSION OF CONSORTIA IN PARTICIPATING STATES.—A consortia may not receive payments under the demonstration project under subparagraph (A)(ii) if any of its members is located in a State receiving payments under the project under subparagraph (A)(i).

(2) APPLICATIONS.—

(A) IN GENERAL.—Each State and consortium desiring to conduct a demonstration project under this subsection shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require to assure that the State or consortium will meet the goals described in subsection (b). In the case of an application of a State, the application shall include—

(i) information demonstrating that the State has consulted with interested parties with respect to the project, including State medical associations, State hospital associations, and medical schools located in the State;

(ii) an assurance that no hospital conducting an approved medical residency training program in the State will lose more than 10 percent of such hospital's approved medical residency positions in any year as a result of the project; and

(iii) an explanation of a plan for evaluating the impact of the project in the State.

(B) APPROVAL OF APPLICATIONS.—A State or consortium that submits an application under subparagraph (A) may begin a demonstration project under this subsection—

(i) upon approval of such application by the Secretary; or

(ii) at the end of the 60-day period beginning on the date such application is submitted, unless the Secretary denies the application during such period.

(C) NOTICE AND COMMENT.—A State or consortium shall issue a public notice on the date it submits an application under subparagraph (A) which contains a general description of the proposed demonstration project. Any interested party may comment on the proposed demonstration project to the State or consortium or the Secretary during the 30-day period beginning on the date the public notice is issued.

(3) SPECIFIC REQUIREMENTS FOR PARTICIPANTS.—

(A) REQUIREMENTS FOR STATES.—Each State participating in the demonstration project under this section shall use the payments provided under paragraph (4) to test and evaluate either of the following mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice:

(i) USE OF ALTERNATIVE WEIGHTING FACTORS.—

(I) IN GENERAL.—The State may make payments to hospitals in the State for direct graduate medical education costs in amounts determined under the methodology provided under section 1886(h) of the Social Security Act, except that the State shall apply weighting factors that are different than the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(II) USE OF PAYMENTS FOR PRIMARY CARE RESIDENTS.—In applying different weighting factors under subclause (I), the State shall ensure that the amount of payment made to hospitals for costs attributable to primary care residents shall be greater than the amount that would have been paid to hospitals for costs attributable to such residents if the State had applied the weighting factors otherwise set forth in section 1886(h)(4)(C) of the Social Security Act.

(ii) PAYMENTS FOR MEDICAL EDUCATION THROUGH CONSORTIUM.—The State may make payments for graduate medical education costs through payments to a health care training consortium (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium) that is established in the State but that is not otherwise participating in the demonstration project.

(B) REQUIREMENTS FOR CONSORTIUM.—

(i) IN GENERAL.—In the case of a consortium participating in the demonstration project under this section, the Secretary shall make payments for graduate medical education costs through a health care training consortium whose members provide medical residency training (or through any entity identified by such a consortium as appropriate for receiving payments on behalf of the consortium).

(ii) USE OF PAYMENTS.—

(I) IN GENERAL.—Each consortium receiving payments under clause (i) shall use such funds to conduct activities which test and evaluate mechanisms to increase the number and percentage of medical students entering primary care practice relative to those entering nonprimary care practice, and may use such funds for the operation of the consortium.

(II) PAYMENTS TO PARTICIPATING PROGRAMS.—The consortium shall ensure that the majority of the payments received under clause (i) are directed to consortium members for primary care residency programs, and shall designate for each resident assigned to the consortium a hospital operating an approved medical residency training program for purposes of enabling the Secretary to calculate the consortium's payment amount under the project. Such hospital shall be the hospital where the resident receives the majority of the resident's hospital-based, nonambulatory training experience.

(4) ALLOCATION OF PORTION OF MEDICARE GME PAYMENTS FOR ACTIVITIES UNDER PROJECT.—Notwithstanding any provision of title XVIII of the Social Security Act, the following rules apply with respect to each State and each health care training consortium participating in the demonstration project established under this subsection during a year:

(A) In the case of a State—

(i) the Secretary shall reduce the amount of each payment made to hospitals in the State during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the State an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(B) In the case of a consortium—

(i) the Secretary shall reduce the amount of each payment made to hospitals who are members of the consortium during the year for direct graduate medical education costs under section 1886(h) of the Social Security Act by 3 percent; and

(ii) the Secretary shall pay the consortium an amount equal to the Secretary's estimate of the sum of the reductions made during the year under clause (i) (as adjusted by the Secretary in subsequent years for over- or under-estimations in the amount estimated under this subparagraph in previous years).

(5) DURATION.—A demonstration project under this subsection shall be conducted for a period not to exceed 5 years. The Secretary may terminate a project if the Secretary determines that the State or consortium conducting the project is not in substantial compliance with the terms of the application approved by the Secretary.

(6) EVALUATIONS AND REPORTS.—

(A) EVALUATIONS.—Each State or consortium participating in the demonstration project shall submit to the Secretary a final evaluation within 360 days of the termination of the State or consortium's participation and such interim evaluations as the Secretary may require.

(B) REPORTS TO CONGRESS.—Not later than 360 days after the first demonstration project under this section begins, and annually thereafter for each year in which such a project is conducted, the Secretary shall submit a report to Congress which evaluates the effectiveness of the State and consortium activities conducted under such projects and includes any legislative recommendations determined appropriate by the Secretary.

(7) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(b) GOALS FOR PROJECTS.—The goals referred to in this subsection for a State or consortium participating in the demonstration project under this section are as follows:

(1) The training of an equal number of physician and nonphysician primary care providers.

(2) The recruiting of residents for graduate medical education training programs who received a portion of undergraduate training in a rural area.

(3) The allocation of not less than 50 percent of the training spent in a graduate medical residency training program at sites at which acute care inpatient hospital services are not furnished.

(4) The rotation of residents in approved medical residency training programs among practices that serve residents of rural areas.

(5) The development of a plan under which, after a 5-year transition period, not less than 50 percent of the residents who begin an initial residency period in an approved medical residency training program shall be primary care residents.

(c) DEFINITIONS.—In this section:

(1) APPROVED MEDICAL RESIDENCY TRAINING PROGRAM.—The term "approved medical residency training program" has the meaning given such term in section 1886(h)(5)(A) of the Social Security Act.

(2) HEALTH CARE TRAINING CONSORTIUM.—The term "health care training consortium" means a State, regional, or local entity consisting of at least one of each of the following:

(A) A hospital operating an approved medical residency training program at which residents receive training at ambulatory training sites located in rural areas.

(B) A school of medicine or osteopathic medicine.

(C) A school of allied health or a program for the training of physician assistants (as such terms are defined in section 799 of the Public Health Service Act).

(D) A school of nursing (as defined in section 853 of the Public Health Service Act).

(3) PRIMARY CARE.—The term "primary care" means family practice, general internal medicine, general pediatrics, and obstetrics and gynecology.

(4) RESIDENT.—The term "resident" has the meaning given such term in section 1886(h)(5)(H) of the Social Security Act.

(5) RURAL AREA.—The term "rural area" has the meaning given such term in section 1886(d)(2)(D) of the Social Security Act.

Subpart B—Rural Physicians and Other Providers

SEC. 8511. PROVIDER INCENTIVES.

(a) ADDITIONAL PAYMENTS UNDER MEDICARE FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.—

(1) INCREASE IN AMOUNT OF ADDITIONAL PAYMENT.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".

(2) RESTRICTION TO PRIMARY CARE SERVICES.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(3) EXTENSION OF PAYMENT FOR FORMER SHORTAGE AREAS.—

(A) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(B) Effective date.—The amendment made by subparagraph (A) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(4) Requiring carriers to report on services provided.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (I); and

(B) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary not later than 30 days after the end of the contract year on the types of providers to whom the carrier made additional payments during the year for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers during the year; and".

(5) Study.—

(A) In general.—The Secretary of Health and Human Services shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting and retaining physicians to provide services in such areas.

(B) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subparagraph (A), and shall include in the report such recommendations as the Secretary considers appropriate.

(6) Effective date.—The amendments made by paragraphs (1), (2), and (4) shall apply to physicians' services furnished on or after January 1, 1996.

(b) Development of Model State Scope of Practice Law.—

(1) In general.—The Secretary of Health and Human Services shall develop and publish a model law that may be adopted by States to increase the access of individuals residing in underserved rural areas to health care services by expanding the services which non-physician health care professionals may provide in such areas.

(2) Deadline.—The Secretary shall publish the model law developed under paragraph (1) not later than 1 year after the date of the enactment of this Act.

SEC. 8512. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS EXCLUDED FROM GROSS INCOME.

(a) In General.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENTS.

"(a) General Rule.—Gross income shall not include any qualified loan repayment.

"(b) Qualified Loan Repayment.—For purposes of this section, the term 'qualified loan repayment' means any payment made on behalf of the taxpayer by the National Health Service Corps Loan Repayment Program under section 338B(g) of the Public Health Service Act.".

(b) Conforming Amendment.—Paragraph (3) of section 338B(g) of the Public Health Service Act is amended by striking "Federal, State, or local" and inserting "State or local".

(c) Clerical Amendment.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. National Health Service Corps loan repayments.

"Sec. 138. Cross references to other Acts.".

(d) Effective Date.—The amendments made by this section shall apply to payments made under section 338B(g) of the Public Health Service Act after the date of the enactment of this Act.

SEC. 8513. TELEMEDICINE PAYMENT METHODOLOGY.

The Secretary of Health and Human Services shall establish a methodology for making payments under part B of the medicare program for telemedicine services furnished on an emergency basis to individuals residing in an area designated as a health professional shortage area (under section 332(a) of the Public Health Service Act).

SEC. 8514. DEMONSTRATION PROJECT TO INCREASE CHOICE IN RURAL AREAS.

The Secretary of Health and Human Services (acting through the Administrator of the Health Care Financing Administration) shall conduct a demonstration project to assess the advantages and disadvantages of requiring Medicare Choice organizations under part C of title XVIII of the Social Security Act (as added by section 8002(a)) to market Medicare Choice products in certain underserved areas which are near the standard service area for such products.

PART 2—MEDICARE SUBVENTION

SEC. 8521. MEDICARE PROGRAM PAYMENTS FOR HEALTH CARE SERVICES PROVIDED IN THE MILITARY HEALTH SERVICES SYSTEM.

(a) Payments Under Medicare Risk Contracts Program.—

(1) Current program.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k) Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered an eligible organization under this section, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other eligible organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other eligible organizations with risk sharing contracts under this section.".

(2) Medicare choice program.—Section 1855, as inserted by section 8002(a), by adding at the end the following new subsection:

"(h) Payments to Military Program.—Notwithstanding any other provision of this section, a managed health care plan established by the Secretary of Defense under chapter 55 of title 10, United States Code, shall be considered a Medicare Choice organization under this part, and the Secretary shall make payments to such a managed health care plan during a year on behalf of any individuals entitled to benefits under this title who are enrolled in such a managed health care plan during the year. Such payments shall be equal to 30 percent of the amount otherwise paid to other Medicare Choice organizations under this section, and shall be made under similar terms and conditions under which the Secretary makes payments to other Medicare Choice organizations with contracts in effect under this part.".

(b) Temporary Provision for Waiver of Part B Premium Penalty.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(h) The premium increase required by subsection (b) shall not apply with respect to a person who is enrolled with a managed care plan that is established by the Secretary of Defense under chapter 55 of title 10, United States Code, and is recognized as an eligible organization pursuant to section 1855(h) or section 1876(k), if such person first enrolled in such plan prior to January 1, 1998.".

(c) Payments Under Part A of Medicare.—Section 1814(c) (42 U.S.C. 1395f(c)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.".

(d) Payments Under Part B of Medicare.—Section 1835(d) (42 U.S.C. 1395n(d)) is amended—

(1) by redesignating the current matter as paragraph (1); and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to services provided by facilities of the uniformed services pursuant to chapter 55 of title 10, United States Code, and subject to the provisions of section 1095 of such title. With respect to such services, payments under this title shall be made without regard to whether the beneficiary under this title has paid the deductible and copayments amounts generally required by this title.".

(e) Conforming Amendments to the Third Party Collection Program for Military Medical Facilities.—(1) Section 1095(d) of title 10, United States Code, is amended—

(A) by striking "XVIII or"; and

(B) by striking "1395" and inserting "1396".

(2) Section 1095(h)(2) of such title is amended by inserting after "includes" the following: "plans administered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),".

(f) Effective Date.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date of the enactment of this Act.

Subtitle G—Other Provisions

SEC. 8601. EXTENSION AND EXPANSION OF EXISTING SECONDARY PAYER REQUIREMENTS.

(a) Data Match.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—

(1) IN GENERAL.—Section 1862(b)(1)(B) (42 U.S.C. 1395y(b)(1)(B)) is amended—

(A) in clause (i), by striking "clause (iv)" and inserting "clause (iii)",

(B) by striking clause (iii), and

(C) by redesignating clause (iv) as clause (iii).

(2) CONFORMING AMENDMENTS.—Paragraphs (1) through (3) of section 1837(i) (42 U.S.C. 1395p(i)) and the second sentence of section 1839(b) (42 U.S.C. 1395r(b)) are each amended by striking "1862(b)(1)(B)(iv)" each place it appears and inserting "1862(b)(1)(B)(iii)".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "24-month", and

(2) by striking the second sentence.

SEC. 8602. REPEAL OF MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) IN GENERAL.—Section 1144 (42 U.S.C. 1320b–14) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under—" and all that follows through the end and inserting "subparagraph (A) for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)(i)" and inserting "subparagraph (B)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "including the use of" and all that follows through "any additional measures".

(3) ERISA.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(4) DATA MATCHES.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) by adding "; or" at the end of clause (v),

(B) by striking "or" at the end of clause (vi), and

(C) by striking clause (vii).

SEC. 8603. CLARIFICATION OF MEDICARE COVERAGE OF ITEMS AND SERVICES ASSOCIATED WITH CERTAIN MEDICAL DEVICES APPROVED FOR INVESTIGATIONAL USE.

(a) COVERAGE.—Nothing in title XVIII of the Social Security Act may be construed to prohibit coverage under part A or part B of the medicare program of items and services associated with the use of a medical device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) solely on the grounds that the device is not an approved device, if—

(1) the device is an investigational device; and

(2) the device is used instead of an approved device.

(b) CLARIFICATION OF PAYMENT AMOUNT.—Notwithstanding any other provision of title XVIII of the Social Security Act, the amount of payment made under the medicare program for any item or service associated with the use of an investigational device in the furnishing of inpatient hospital services (as defined for purposes of part A of the medicare program) may not exceed the amount of the payment which would have been made under the program for the item or service if the item or service were associated with the use of an approved device.

(c) DEFINITIONS.—In this section—

(1) the term "approved device" means a medical device which has been approved for marketing under pre-market approval under the Federal Food, Drug, and Cosmetic Act or cleared for marketing under a 510(k) notice under such Act; and

(2) the term "investigational device" means a medical device (other than a device described in paragraph (1)) which is approved for investigational use under section 520(g) of the Federal Food, Drug, and Cosmetic Act.

SEC. 8604. ADDITIONAL EXCLUSION FROM COVERAGE.

(a) IN GENERAL.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14),

(2) by striking the period at the end of paragraph (15) and inserting "; or", and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for items or services, or to assist in the purchase, in whole or in part, of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for items and services furnished on or after the date of the enactment of this Act.

SEC. 8605. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1996.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1997, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendment made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1997, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1997.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) of the Social Security Act (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) of the Social Security Act (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2)."

(3) Section 218 of the Social Security Act (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1996.

ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY

SEC. 7161. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Commission To Prepare For The 21st Century (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with national recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) Meetings.—The Commission shall meet at the call of the Chairman.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Chairperson.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) Analyses and Recommendations.—

(1) In general.—The Commission is charged with long-term strategic planning (for years after 2010) for the medicare program. The Commission shall—

(A) review long-term problems and opportunities facing the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(B) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled,

(ii) overall trends in national health care costs,

(iii) the number of Americans without health insurance,

(iv) the impact of its recommendations on the private sector and on the medicaid program;

(C) consider a range of program improvements, including measures to—

(i) reduce waste, fraud, and abuse,

(ii) improve program efficiency,

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive care and primary care services,

(v) improve beneficiary cost consciousness, including an analysis of proposals that would structure medicare from a defined benefits program to a defined contribution program and other means, and

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice;

(D) prepare findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be made for seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(F) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) Definition of medicare trust funds.—For purposes of this subsection, the term "medicare trust funds" means the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1941 of such Act (42 U.S.C. 1395t).

(b) Report.—The Commission shall submit its report to the President and the Congress not later than July 31, 1996.

SEC. 7163. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearing, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 7164. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—

(1) Officers and employees of the federal government.—ALl members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) Private citizens of the united states.—

(A) In general.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) Travel expenses.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission, to the extent funds are available therefor.

(b) Staff.—

(1) In general.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) Detail of Government Emloyees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) Procurement of Temporary and Intermittent Services.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7165. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 7702(b).

SEC. 7166. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.

TITLE IX—WELFARE REFORM

SEC. 9000. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Temporary Employment Assistance

SEC. 9101. STATE PLAN.

(a) In General.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part A and inserting the following:

"PART A—TEMPORARY EMPLOYMENT ASSISTANCE

"SEC. 400. APPROPRIATION.

"For the purpose of providing assistance to families with needy children and assisting parents of children in such families to obtain and retain private sector work to the extent possible, and public sector or volunteer work if necessary, through the Work First Employment Block Grant program (hereafter in this title referred to as the 'Work First program'), there is hereby authorized to be appropriated, and is hereby appropriated, for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have approved State plans for temporary employment assistance.

"Subpart 1—State Plans for Temporary Employment Assistance

"SEC. 401. ELEMENTS OF STATE PLANS.

"A State plan for temporary employment assistance shall provide a description of the State program which carries out the purpose described in section 400 and shall meet the requirements of the following sections of this subpart.

"SEC. 402. FAMILY ELIGIBILITY FOR TEMPORARY EMPLOYMENT ASSISTANCE.

"(a) In General.—The State plan shall provide that any family—

"(1) with 1 or more children (or any expectant family, at the option of the State), defined as needy by the State; and

"(2) which fulfills the conditions set forth in subsection (b),

shall be eligible for cash assistance under the plan, except as otherwise provided under this part.

"(b) Individual Responsibility Plan.—The State plan shall provide that not later than 30 days after the approval of the application for temporary employment assistance, a parent qualifying for assistance shall execute an individual responsibility plan as described in section 403. If a child otherwise eligible for assistance under this part is residing with a relative other than a parent, the State plan may require the relative to execute such a plan as a condition of the family receiving such assistance.

"(c) Limitations on Eligibility.—

"(1) Length of time.—

"(A) In general.—Except as provided in subparagraphs (B), (C), (D), and (E), the State plan shall provide that the family of an individual who, after attaining age 18 years (or age 19 years, at the option of the State), has received assistance under the plan for 60 months, shall no longer be eligible for cash assistance under the plan.

"(B) HARDSHIP EXCEPTION.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which—

"(i) at the option of the State, the family includes an individual working 20 hours per week (or more, at the option of the State);

"(ii) the family resides in an area with an unemployment rate exceeding 8 percent; or

"(iii) the family is experiencing other special hardship circumstances which make it appropriate for the State to provide an exemption for such month, except that the total number of exemptions under this clause for any month shall not exceed 15 percent of the number of families to which the State is providing assistance under the plan.

"(C) EXCEPTION FOR TEEN PARENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which the parent—

"(i) is under age 18 (or age 19, at the option of the State); and

"(ii) is making satisfactory progress while attending high school or an alternative technical preparation school.

"(D) EXCEPTION FOR INDIVIDUALS EXEMPT FROM WORK REQUIREMENTS.—With respect to any family, the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which 1 or each of the parents—

"(i) is seriously ill, incapacitated, or of advanced age;

"(ii)(I) except for a child described in subclause (II), is responsible for a child under age 1 year (or age 6 months, at the option of the State), or

"(II) in the case of a 2nd or subsequent child born during such period, is responsible for a child under age 3 months;

"(iii) is pregnant in the 3rd trimester; or

"(iv) is caring for a family member who is ill or incapacitated.

"(E) EXCEPTION FOR CHILD-ONLY CASES.—With respect to any child who has not attained age 18 (or age 19, at the option of the State) and who is eligible for assistance under this part, but not as a member of a family otherwise eligible for assistance under this part (determined without regard to this paragraph), the State plan shall not include in the determination of the 60-month period under subparagraph (A) any month in which such child has not attained such age.

"(F) OTHER PROGRAM ELIGIBILITY.—The State plan shall provide that if a family is no longer eligible for cash assistance under the plan due to the imposition of the 60-month period under subparagraph (A) or due to the imposition of a penalty under subparagraph (A)(ii) or (B)(ii) of section 403(e)(1)—

"(i) for purposes of determining eligibility for any other Federal or federally assisted program based on need, such family shall continue to be considered eligible for such cash assistance;

"(ii) for purposes of determining the amount of assistance under any other Federal or federally assisted program based on need, such family shall continue to be considered receiving such cash assistance; and

"(iii) the State may, at the option of the State, after having assessed the needs of the child or children of the family, provide for such needs with a voucher for such family—

"(I) determined on the same basis as the State would provide assistance under the State plan to such a family with 1 less individual,

"(II) designed appropriately to pay third parties for shelter, goods, and services received by the child or children, and

"(III) payable directly to such third parties.

"(2) TREATMENT OF INTERSTATE MIGRANTS.—The State plan may apply to a category of families the rules for such category under a plan of another State approved under this part, if a family in such category has moved to the State from the other State and has resided in the State for less than 12 months.

"(3) INDIVIDUALS ON OLD-AGE ASSISTANCE OR SSI INELIGIBLE FOR TEMPORARY EMPLOYMENT ASSISTANCE.—The State plan shall provide that no assistance shall be furnished any individual under the plan with respect to any period with respect to which such individual is receiving old-age assistance under the State plan approved under section 102 of title I or supplemental security income under title XVI.

"(4) CHILDREN FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE.—A child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a needy child under this part, and such child's income and resources shall be disregarded in determining the eligibility of the family of such child for temporary employment assistance.

"(5) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—The State plan shall provide that no assistance will be furnished any individual under the plan during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits or services simultaneously from 2 or more States under programs that are funded under this part, title XIX, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(6) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(A) IN GENERAL.—The State plan shall provide that no assistance will be furnished any individual under the plan for any period if during such period the State agency has knowledge that such individual is—

"(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(ii) violating a condition of probation or parole imposed under Federal or State law.

"(B) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, the State plan shall provide that the State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of assistance under the plan, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(i) such recipient—

"(I) is described in clause (i) or (ii) of subparagraph (A); or

"(II) has information that is necessary for the officer to conduct the officer's official duties; and

"(ii) the location or apprehension of the recipient is within such officer's official duties.

"(d) DETERMINATION OF ELIGIBILITY.—

"(1) DETERMINATION OF NEED.—The State plan shall provide that the State agency take into consideration any income and resources of any individual the State determines should be considered in determining the need of the child or relative claiming temporary employment assistance, subject to section 407.

"(2) RESOURCE AND INCOME DETERMINATION.—In determining the total resources and income of the family of any needy child, the State plan shall provide the following:

"(A) RESOURCES.—The State's resource limit, including a description of the policy determined by the State regarding any exclusion allowed for vehicles owned by family members, resources set aside for future needs of a child, individual development accounts, or other policies established by the State to encourage savings.

"(B) FAMILY INCOME.—The extent to which earned or unearned income is disregarded in determining eligibility for, and amount of, assistance.

"(C) CHILD SUPPORT.—The State's policy, if any, for determining the extent to which child support received in excess of $50 per month on behalf of a member of the family is disregarded in determining eligibility for, and the amount of, assistance.

"(D) CHILD'S EARNINGS.—The treatment of earnings of a child living in the home.

"(E) EARNED INCOME TAX CREDIT.—The State agency shall disregard any refund of Federal income taxes made to a family receiving temporary employment assistance by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit).

"(3) VERIFICATION SYSTEM.—The State plan shall provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137.

"SEC. 403. INDIVIDUAL RESPONSIBILITY PLAN.

"(a) ASSESSMENT.—The State agency responsible for administering the State plan shall make an initial assessment of the skills, prior work experience, and employability of each applicant for, or recipient of, assistance under the State plan who—

"(1) has attained 18 years of age; or

"(2) has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

"(b) INDIVIDUAL RESPONSIBILITY PLANS.—

"(1) IN GENERAL.—On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, shall develop an individual responsibility plan for the individual, which—

"(A) shall provide that participation by the individual in job search activities shall be a condition of eligibility for assistance under the State plan approved under part A, except during any period for which the individual is employed full-time in an unsubsidized job in the private sector;

"(B) sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;

"(C) sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school-age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;

"(D) may require that the individual enter the State program established under part F, if the caseworker determines that the individual will need education, training, job placement assistance, wage enhancement, or other services to become employed in the private sector;

"(E) shall provide that the individual must—

"(i) assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance; and

"(ii) cooperate with the State—

"(I) in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, and

"(II) in obtaining support payments for the individual and for a child with respect to whom such assistance is claimed, or in obtaining any other payments or property due the individual or the child,

unless (in either case) the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf assistance is claimed.

"(F) to the greatest extent possible shall be designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;

"(G) shall describe what services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and

"(H) at the option of the State, may require the individual to undergo appropriate substance abuse treatment.

"(2) TIMING.—The State agency shall comply with paragraph (1) with respect to an individual—

"(A) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of assistance under the State plan approved under this part; or

"(B) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

"(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—The State shall inform all applicants for and recipients of assistance under the State plan approved under this part of all available services under the State plan for which they are eligible.

"(d) REQUIREMENT THAT RECIPIENTS ENTER THE WORK FIRST PROGRAM.—

"(1) IN GENERAL.—Beginning with fiscal year 2004, the State shall place recipients of assistance under the State plan approved under this part, who have not become employed in the private sector within 1 year after signing an individual responsibility plan, in the first available slot in the State program established under part F, except as provided in paragraph (2).

"(2) EXCEPTIONS.—A State may not be required to place a recipient of such assistance in the State program established under part F if the recipient—

"(A) is ill, incapacitated, or of advanced age;

"(B) has not attained 18 years of age;

"(C) is caring for a child or parent who is ill or incapacitated; or

"(D) is enrolled in school or in educational or training programs that will lead to private sector employment.

"(e) PENALTIES.—

"(1) STATE NOT OPERATING A WORK FIRST OR WORKFARE PROGRAM.—In the case of a State that is not operating a program under part F or G:

"(A) FAILURE TO COMPLY WITH INDIVIDUAL RESPONSIBILITY PLAN OR AGREEMENT OF MUTUAL RESPONSIBILITY.—

"(i) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND FAILURES.—The amount of assistance otherwise to be provided under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan (or, if the State has established a program under subpart 1 of part F and the individual is required to participate in the program, an agreement of mutual responsibility) signed by the individual (other than by reason of conduct described in paragraph (2)) shall be reduced by—

"(I) 33 percent for the 1st such act of noncompliance; or

"(II) 66 percent for the 2nd such act of noncompliance.

"(ii) DENIAL OF ASSISTANCE FOR 3RD FAILURE.—In the case of the 3rd such act of noncompliance, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(iii) ACTS OF NONCOMPLIANCE.—For purposes of this paragraph, a 1st act of noncompliance by an individual continues for more than 1 calendar month shall be considered a 2nd act of noncompliance, and a 2nd act of noncompliance that continues for more than 3 calendar months shall be considered a 3rd act of noncompliance.

"(B) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO WORK, LOOK FOR WORK, OR ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—

"(i) REFUSAL TO WORK OR LOOK FOR WORK.—If an unemployed individual who has attained 18 years of age refuses to work or look for work—

"(I) in the case of the 1st such refusal, assistance under the State plan approved under this part shall not be payable with respect to the individual until the later of—

"(aa) a period of not less than 6 months after the date of the first such refusal; or

"(bb) the first date the individual agrees to work or look for work; or

"(II) in the case of the 2nd such refusal, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(ii) REFUSAL TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—If an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment, the family of which the individual is a member shall not thereafter be eligible for assistance under the State plan approved under this part.

"(2) OTHER STATES.—In the case of any other State, the State shall reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State plan approved under this part to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

"SEC. 404. PAYMENT OF ASSISTANCE.

"(a) STANDARDS OF ASSISTANCE.—The State plan shall specify standards of assistance, including—

"(1) the composition of the unit for which assistance will be provided;

"(2) a standard, expressed in money amounts, to be used in determining the need of applicants and recipients;

"(3) a standard, expressed in money amounts, to be used in determining the amount of the assistance payment; and

"(4) the methodology to be used in determining the payment amount received by assistance units.

"(b) LEVEL OF ASSISTANCE.—Except as otherwise provided in this title, the State plan shall provide that—

"(1) the determination of need and the amount of assistance for all applicants and recipients shall be made on an objective and equitable basis; and

"(2) families of similar composition with similar needs and circumstances shall be treated similarly.

"(c) CORRECTION OF PAYMENTS.—The State plan shall provide that the State agency will promptly take all necessary steps to correct any overpayment or underpayment of assistance under such plan, including the request for Federal tax refund intercepts as provided under section 416.

"(d) OPTIONAL VOLUNTARY DIVERSION PROGRAM.—The State plan shall, at the option of the State, and in such part or parts of the State as the State may select, provide that—

"(1) upon the recommendation of the caseworker who is handling the case of a family eligible for assistance under the State plan, the State shall, in lieu of any other assistance under the State plan to the family during a time period of not more than 3 months, make a lump-sum payment to the family for the time period in an amount not to exceed—

"(A) the value of the monthly benefits that would otherwise be provided to the family under the State plan; multiplied by

"(B) the number of months in the time period;

"(2) a lump-sum payment pursuant to subparagraph (A) shall not be made more than once to any family; and

"(3) if, during a time period for which the State has made a lump-sum payment to a family pursuant to subparagraph (A), the family applies for and (but for the lump-sum payment) would be eligible under the State plan for a monthly benefit that is greater than the value of the monthly benefit which would have been provided to the family under the State plan at the time of the calculation of the lump sum payment, then, notwithstanding subparagraph (A), the State shall, for that part of the time period that remains after the family becomes eligible for the greater monthly benefit, provide monthly benefits to the family in an amount not to exceed—

"(A) the amount by which the value of the greater monthly benefit exceeds the value of the former monthly benefit, multiplied by the number of months in the time period; divided by

"(B) the whole number of months remaining in the time period.".

"SEC. 405. OTHER PROGRAMS.

"(a) WORK FIRST PROGRAM; WORKFARE OR JOB PLACEMENT VOUCHER PROGRAM.—The State plan shall provide that the State has in effect and operation—

"(1) a work first program that meets the requirements of part F; and

"(2) a workfare program that meets the requirements of part G, or a job placement voucher program that meets the requirements of part H, but not both.

"(b) PROVISION OF POSITIONS AND VOUCHERS.—The State plan shall provide that the State shall provide a position in the workfare program established by the State under part G, or a job placement voucher under the job placement voucher program established by the State under part H to any individual who, by reason of section 487(b), is prohibited from participating in the work first program operated by the State, and shall not provide such a position or such a voucher to any other individual.

"(c) PROVISION OF CASE MANAGEMENT SERVICES.—The State plan shall provide that the State shall provide to participants in such programs such case management services as are necessary to ensure the integrated provision of benefits and services under such programs.

"(d) STATE CHILD SUPPORT AGENCY.—The State plan shall—

"(1) provide that the State has in effect a plan approved under part D and operates a child support program in substantial compliance with such plan;

"(2) provide that the State agency administering the plan approved under this part shall be responsible for assuring that—

"(A) the benefits and services provided under plans approved under this part and part D are furnished in an integrated manner, including coordination of intake procedures with the agency administering the plan approved under part D;

"(B) all applicants for, and recipients of, temporary employment assistance are encouraged, assisted, and required (as provided under section 403(b)(1)(E)(ii)) to cooperate in the establishment and enforcement of paternity and child support obligations and are notified about the services available under the State plan approved under part D; and

"(C) procedures require referral of paternity and child support enforcement cases to the agency administering the plan approved under part D not later than 10 days after the application for temporary employment assistance; and

"(3) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency established pursuant to part D of the furnishing of temporary employment assistance with respect to a child who has been deserted or abandoned by a parent (including a child born out-of-wedlock without regard to whether the paternity of such child has been established).

"(e) CHILD WELFARE SERVICES AND FOSTER CARE AND ADOPTION ASSISTANCE.—The State plan shall provide that the State has in effect—

"(1) a State plan for child welfare services approved under part B; and

"(2) a State plan for foster care and adoption assistance approved under part E,

and operates such plans in substantial compliance with the requirements of such parts.

"(f) REPORT OF CHILD ABUSE, ETC.—The State plan shall provide that the State agency will—

"(1) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving assistance under the State plan under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(2) provide such information with respect to a situation described in paragraph (1) as the State agency may have.

"(g) AVAILABILITY OF ASSISTANCE IN RURAL AREAS OF STATE.—The State plan shall consider and address the needs of rural areas in the State to ensure that families in such areas receive assistance to become self-sufficient.

"(h) FAMILY PRESERVATION.—

"(1) IN GENERAL.—The State plan shall describe the efforts by the State to promote family preservation and stability, including efforts—

"(A) to encourage fathers to stay home and be a part of the family;

"(B) to keep families together to the extent possible; and

"(C) except to the extent provided in paragraph (2), to treat 2-parent families and 1-parent families equally with respect to eligibility for assistance.

"(2) MAINTENANCE OF TREATMENT.—The State may impose eligibility limitations relating specifically to 2-parent families to the extent such limitations are no more restrictive than such limitations in effect in the State plan in fiscal year 1995.

"SEC. 406. ADMINISTRATIVE REQUIREMENTS FOR STATE PLAN.

"(a) STATEWIDE PLAN.—The State plan shall be in effect in all political subdivisions of the State, and, if administered by the subdivisions, be mandatory upon such subdivisions. If such plan is not administered uniformly throughout the State, the plan shall describe the administrative variations.

"(b) SINGLE ADMINISTRATING AGENCY.—The State plan shall provide for the establishment or designation of a single State agency to administer the plan or supervise the administration of the plan.

"(c) FINANCIAL PARTICIPATION.—The State plan shall provide for financial participation by the State in the same manner and amount as such State participates under title XIX, except that with respect to the sums expended for the administration of the State plan, the percentage shall be 50 percent.

"(d) REASONABLE PROMPTNESS.—The State plan shall provide that all individuals wishing to make application for temporary employment assistance shall have opportunity to do so, and that such assistance be furnished with reasonable promptness to all eligible individuals.

"(e) AUTOMATED DATA PROCESSING SYSTEM.—The State plan shall, at the option of the State, provide for the establishment and operation of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan approved under this part, so as—

"(1) to control and account for—

"(A) all the factors in the total eligibility determination process under such plan for assistance, and

"(B) the costs, quality, and delivery of payments and services furnished to applicants for and recipients of assistance; and

"(2) to notify the appropriate officials for child support, food stamp, and social service programs, and the medical assistance program approved under title XIX, whenever a recipient becomes ineligible for such assistance or the amount of assistance provided to a recipient under the State plan is changed.

"(f) DISCLOSURE OF INFORMATION.—The State plan shall provide for safeguards which restrict the use or disclosure of information concerning applicants or recipients.

"(g) DETECTION OF FRAUD.—The State plan shall provide, in accordance with regulations issued by the Secretary, for appropriate measures to detect fraudulent applications for temporary employment assistance before the establishment of eligibility for such assistance.

"Subpart 2—Administrative Provisions

"SEC. 411. APPROVAL OF PLAN.

"(a) IN GENERAL.—The Secretary shall approve a State plan which fulfills the requirements under subpart 1 within 120 days of the submission of the plan by the State to the Secretary.

"(b) DEEMED APPROVAL.—If a State plan has not been rejected by the Secretary during the period specified in subsection (a), the plan shall be deemed to have been approved.

"SEC. 412. COMPLIANCE.

In the case of any State plan for temporary employment assistance which has been approved under section 411, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by subpart 1 to be included in the plan, the Secretary shall notify such State agency that further payments will not be made to the State (or in the Secretary's discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until the Secretary is so satisfied the Secretary shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"SEC. 413. PAYMENTS TO STATES.

"(a) COMPUTATION OF AMOUNT.—Subject to section 412, from the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for temporary employment assistance, for each quarter, beginning with the quarter commencing October 1, 1996, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State under such plan.

"(b) METHOD OF COMPUTATION AND PAYMENT.—The method of computing and paying such amounts shall be as follows:

"(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on—

"(A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived;

"(B) records showing the number of needy children in the State; and

"(C) such other information as the Secretary may find necessary.

"(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services—

"(A) reduced or increased, as the case may be, by any sum by which the Secretary of Health and Human Services finds that the estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter;

"(B) reduced by a sum equivalent to the pro rata share to which the Federal Government is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to temporary employment assistance furnished under the State plan; and

"(C) reduced by such amount as is necessary to provide the appropriate reimbursement to the Federal Government that the State is required to make under section 457 out of that portion of child support collections retained by the State pursuant to such section,

except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter.

"(c) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"SEC. 414. QUALITY ASSURANCE, DATA COLLECTION, AND REPORTING SYSTEM.

"(a) QUALITY ASSURANCE.—

"(1) IN GENERAL.—Under the State plan, a quality assurance system shall be developed based upon a collaborative effort involving the Secretary, the State, the political subdivisions of the State, and assistance recipients, and shall include quantifiable program outcomes related to self sufficiency in the categories of welfare-to-work, payment accuracy, and child support.

"(2) MODIFICATIONS TO SYSTEM.—As deemed necessary, but not more often than every 2 years, the Secretary, in consultation with the State, the political subdivisions of the State, and assistance recipients, shall make appropriate changes in the design and administration of the quality assurance system, including changes in benchmarks, measures, and data collection or sampling procedures.

"(b) DATA COLLECTION AND REPORTING.—

"(1) IN GENERAL.—The State plan shall provide for a quarterly report to the Secretary regarding the data described in paragraphs (2) and (3) and such additional data needed for the quality assurance system. The data collection and reporting system under this subsection shall promote accountability, continuous improvement, and integrity in the State plans for temporary employment assistance and Work First.

"(2) DISAGGREGATED DATA.—The State shall collect the following data items on a monthly basis from disaggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

"(A) The age of adults and children (including pregnant women).

"(B) Marital or familial status of cases: married (2-parent family), widowed, divorced, separated, or never married; or child living with other adult relative.

"(C) The gender, race, educational attainment, work experience, disability status (whether the individual is seriously ill, incapacitated, or caring for a disabled or incapacitated child) of adults.

"(D) The amount of cash assistance and the amount and reason for any reduction in such assistance. Any other data necessary to determine the timeliness and accuracy of benefits and welfare diversions.

"(E) Whether any member of the family receives benefits under any of the following:

"(i) Any housing program.

"(ii) The food stamp program under the Food Stamp Act of 1977.

"(iii) The Head Start programs carried out under the Head Start Act.

"(iv) Any job training program.

"(F) The number of months since the most recent application for assistance under the plan.

"(G) The total number of months for which assistance has been provided to the families under the plan.

"(H) The employment status, hours worked, and earnings of individuals while receiving assistance, whether the case was closed due to employment, and other data needed to meet the work performance rate.

"(I) Status in Work First and workfare, including the number of hours an individual participated and the component in which the individual participated.

"(J) The number of persons in the assistance unit and their relationship to the youngest child. Nonrecipients in the household and their relationship to the youngest child.

"(K) Citizenship status.

"(L) Shelter arrangement.

"(M) Unearned income (not including temporary employment assistance), such as child support, and assets.

"(N) The number of children who have a parent who is deceased, incapacitated, or unemployed.

"(O) Geographic location.

"(3) AGGREGATED DATA.—The State shall collect the following data items on a monthly basis from aggregated case records of applicants for and recipients of temporary employment assistance from the previous month:

"(A) The number of adults receiving assistance.

"(B) The number of children receiving assistance.

"(C) The number of families receiving assistance.

"(D) The number of assistance units who had their grants reduced or terminated and the reason for the reduction or termination, including sanction, employment, and meeting the time limit for assistance).

"(E) The number of applications for assistance; the number approved and the number denied and the reason for denial.

"(4) LONGITUDINAL STUDIES.—The State shall submit selected data items for a cohort of individuals who are tracked over time. This longitudinal sample shall be used for selected data items described in paragraphs (2) and (3), as determined appropriate by the Secretary.

"(c) ADDITIONAL DATA.—The report required by subsection (b) for a fiscal year quarter shall also include the following:

"(1) REPORT ON USE OF FEDERAL FUNDS TO COVER ADMINISTRATIVE COSTS AND OVERHEAD.—A statement of—

"(A) the percentage of the Federal funds paid to the State under this part for the fiscal year quarter that are used to cover administrative costs or overhead; and

"(B) the total amount of State funds that are used to cover such costs or overhead.

"(2) REPORT ON STATE EXPENDITURES ON PROGRAMS FOR NEEDY FAMILIES.—A statement of the total amount expended by the State during the fiscal year quarter on programs for needy families, with the amount spent on the program under this part, and the purposes for which such amount was spent, separately stated.

"(3) REPORT ON NONCUSTODIAL PARENTS PARTICIPATING IN WORK ACTIVITIES.—The number of noncustodial parents in the State who participated in work activities during the fiscal year quarter.

"(4) REPORT ON CHILD SUPPORT COLLECTED.—The total amount of child support collected by the State agency administering the State plan under part D on behalf of a family receiving assistance under this part.

"(5) REPORT ON CHILD CARE.—The total amount expended by the State for child care under this part, along with a description of the types of child care provided, such as child care provided in the case of a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, or in the case of a family that is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

"(6) REPORT ON TRANSITIONAL SERVICES.—The total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of increased hours of, or increased income from, employment, along with a description of such services.

"(d) COLLECTION PROCEDURES.—The Secretary shall provide case sampling plans and data collection procedures as deemed necessary to make statistically valid estimates of plan performance.

"(e) VERIFICATION.—The Secretary shall develop and implement procedures for verifying the quality of the data submitted by the State, and shall provide technical assistance, funded by the compliance penalties imposed under section 412, if such data quality falls below acceptable standards.

"SEC. 415. COMPILATION AND REPORTING OF DATA.

"(a) CURRENT PROGRAMS.—The Secretary shall, on the basis of the Secretary's review of the reports received from the States under section 414, compile such data as the Secretary believes necessary, and from time to time, publish the findings as to the effectiveness of the programs developed and administered by the States under this part. The Secretary shall annually report to the Congress on the programs developed and administered by each State under this part.

"(b) RESEARCH, DEMONSTRATION AND EVALUATION.—Of the amount specified under section 413(a), an amount equal to 0.25 percent is authorized to be expended by the Secretary to support the following types of research, demonstrations, and evaluations:

"(1) STATE-INITIATED RESEARCH.—States may apply for grants to cover 90 percent of the costs of self-evaluations of programs under State plans approved under this part.

"(2) DEMONSTRATIONS.—

"(A) IN GENERAL.—The Secretary may implement and evaluate demonstrations of innovative and promising strategies to—

"(i) improve child well-being through reductions in illegitimacy, teen pregnancy, welfare dependency, homelessness, and poverty;

"(ii) test promising strategies by nonprofit and for-profit institutions to increase employment, earning, child support payments, and self-sufficiency with respect to temporary employment assistance clients under State plans; and

"(iii) foster the development of child care.

"(B) ADDITIONAL PARAMETERS.—Demonstrations implemented under this paragraph—

"(i) may provide one-time capital funds to establish, expand, or replicate programs;

"(ii) may test performance-based grant to loan financing in which programs meeting performance targets receive grants while programs not meeting such targets repay funding on a pro-rated basis; and

"(iii) should test stategies in multiple States and types of communities.

"(3) FEDERAL EVALUATIONS.—

"(A) IN GENERAL.—The Secretary shall conduct research on the effects, benefits, and costs of different approaches to operating welfare programs, including an implementation study based on a representative sample of States and localities, documenting what policies were adopted, how such policies were implemented, the types and mix of services provided, and other such factors as the Secretary deems appropriate.

"(B) RESEARCH ON RELATED ISSUES.—The Secretary shall also conduct research on issues related to the purposes of this part, such as strategies for moving welfare recipients into the workforce quickly, reducing teen pregnancies and out-of-wedlock births, and providing adequate child care.

"(C) STATE REIMBURSEMENT.—The Secretary may reimburse a State for any research-related costs incurred pursuant to research conducted under this paragraph.

"(D) USE OF RANDOM ASSIGNMENT.—Evaluations authorized under this paragraph should use random assignment to the maximum extent feasible and appropriate.

"(4) REGIONAL INFORMATION CENTERS.—

"(A) IN GENERAL.—The Secretary shall establish not less than 5, nor more than 7 regional information centers located at major research universities or consortiums of universities to ensure the effective implementation of welfare reform and the efficient dissemination of information about innovations, evaluation outcomes, and training initiatives.

"(B) CENTER RESPONSIBILITIES.—The Centers shall have the following functions:

"(i) Disseminate information about effective income support and related programs, along with suggestions for the replication of such programs.

"(ii) Research the factors that cause and sustain welfare dependency and poverty in the regions served by the respective centers.

"(iii) Assist the States in the region formulate and implement innovative programs and improvements in existing programs that help clients move off welfare and become productive citizens.

"(iv) Provide training as appropriate to staff of State agencies to enhance the ability of the agencies to successfully place Work First clients in productive employment or self-employment.

"(C) CENTER ELIGIBILITY TO PERFORM EVALUATIONS.—The Centers may compete for demonstration and evaluation contracts developed under this section.

"SEC. 416. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

"(a) IN GENERAL.—Upon receiving notice from a State agency administering a plan approved under this part that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, approved by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving temporary employment assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.".

(b) PAYMENTS TO PUERTO RICO.—Section 1108(a)(1) (42 U.S.C. 1308(a)(1)) is amended—

(1) in subparagraph (F), by striking "or"; and

(2) by striking subparagraph (G) and inserting the following:

"(G) $82,000,000 with respect to each of fiscal years 1989 through 1995, or

"(H) $102,500,000 with respect to the fiscal year 1996 and each fiscal year thereafter;".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(g) COLLECTION OF OVERPAYMENTS UNDER TITLE IV-A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 416 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(2) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 416, 464, or 1137 of the Social Security Act".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1996.

(2) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the requirements imposed by the amendment made by subsection (a), the State shall not be regarded as failing to comply with the requirements of such amendment before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this paragraph, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

Subtitle B—Make Work Pay

SEC. 9201. TRANSITIONAL MEDICAID BENEFITS.

(a) STATE OPTION OF EXTENSION OF MEDICAID ENROLLMENT FOR FORMER AFDC RECIPIENTS FOR 1 ADDITIONAL YEAR.—

(1) IN GENERAL.—Section 1925(b)(1) (42 U.S.C. 1396r-6(b)(1)) is amended by striking the period at the end and inserting the following: ", and that the State may, at its option, offer to each such family the option of extending coverage under this subsection for any of the first 2 succeeding 6-month periods, in the same manner and under the same conditions as the option of extending coverage under this subsection for the first succeeding 6-month period.".

(2) CONFORMING AMENDMENTS.—Section 1925(b) (42 U.S.C. 1396r-6(b)) is amended—

(A) in the heading, by striking "EXTENSION" and inserting "EXTENSIONS";

(B) in the heading of paragraph (1), by striking "REQUIREMENT" and inserting "IN GENERAL";

(C) in paragraph (2)(B)(ii)—

(i) in the heading, by striking "PERIOD" and inserting "PERIODS", and

(ii) by striking "in the period" and inserting "in any of the 6-month periods";

(D) in paragraph (3)(A), by striking "the 6-month period" and inserting "any 6-month period";

(E) in paragraph (4)(A), by striking "the extension period" and inserting "any extension period"; and

(F) in paragraph (5)(D)(i), by striking "is a 3-month period" and all that follows and inserting the following: "is, with respect to a particular 6-month additional extension period provided under this subsection, a 3-month period beginning with the 1st or 4th month of such extension period.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after October 1, 1997, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9202. NOTICE OF AVAILABILITY REQUIRED TO BE PROVIDED TO APPLICANTS AND FORMER RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE, FOOD STAMPS, AND MEDICAID.

(a) TEMPORARY FAMILY ASSISTANCE.—Section 406, as added by the amendment made by section 9101(a) of this Act, is amended by adding at the end the following:

"(h) NOTICE OF AVAILABILITY OF EITC.—The State plan shall provide that the State agency referred to in subsection (b) must provide written notice of the existence and availability of the earned income credit under section 32 of the Internal Revenue Code of 1986 to—

"(1) any individual who applies for assistance under the State plan, upon receipt of the application; and

"(2) any individual whose assistance under the State plan (or under the State plan approved under part A of this title (as in effect before the effective date of title IX of the Omnibus Budget Reconciliation Act of 1995) is terminated, in the notice of termination of benefits.".

(b) FOOD STAMPS.—Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24) by striking "and" at the end;

(2) in paragraph (25) by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (25) the following:

"(26) that whenever a household applies for food stamp benefits, and whenever such benefits are terminated with respect to a household, the State agency shall provide to each member of such household notice of—

"(A) the existence of the earned income tax credit under section 32 of the Internal Revenue Code of 1986; and

"(B) the fact that such credit may be applicable to such member.".

(c) MEDICAID.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (61);

(2) by striking the period at the end of paragraph (62) and inserting "; and"; and

(3) by inserting after paragraph (62) the following new paragraph:

"(63) provide that the State shall provide notice of the existence and availability of the earned income tax credit under section 32 of the Internal Revenue Code of 1986 to each individual applying for medical assistance under the State plan and to each individual whose eligibility for medical assistance under the State plan is terminated.".

SEC. 9203. NOTICE OF AVAILABILITY OF EARNED INCOME TAX CREDIT AND DEPENDENT CARE TAX CREDIT TO BE INCLUDED ON W–4 FORM.

(a) IN GENERAL.—Section 11114 of the Omnibus Budget Reconciliation Act of 1990 (26 U.S.C. 21 note), relating to program to increase public awareness, is amended by adding at the end the following new sentence: "Such means shall include printing a notice of the availability of such credits on the forms used by employees to determine the proper number of withholding exemptions under chapter 24 of such Code."

SEC. 9204. ADVANCE PAYMENT OF EARNED INCOME TAX CREDIT THROUGH STATE DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Section 3507 of the Internal Revenue Code of 1986 (relating to the advance payment of the earned income tax credit) is amended by adding at the end the following:

"(g) STATE DEMONSTRATIONS.—

"(1) IN GENERAL.—In lieu of receiving earned income advance amounts from an employer under subsection (a), a participating resident shall receive advance earned income payments from a responsible State agency pursuant to a State Advance Payment Program that is designated pursuant to paragraph (2).

"(2) DESIGNATIONS.—

"(A) IN GENERAL.—From among the States submitting proposals satisfying the requirements of paragraph (3), the Secretary (in consultation with the Secretary of Health and Human Services) may designate not more than 4 State Advance Payment Demonstrations. States selected for the demonstrations may have, in the aggregate, no more than 5 percent of the total number of households participating in the program under the Food Stamp program in the immediately preceding fiscal year. Administrative costs of a State in conducting a demonstration under this section may be included for matching under section 413(a) of the Social Security Act and section 16(a) of the Food Stamp Act of 1977.

"(B) WHEN DESIGNATION MAY BE MADE.—Any designation under this paragraph shall be made no later than December 31, 1996.

"(C) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(i) IN GENERAL.—Designations made under this paragraph shall be effective for advance earned income payments made after December 31, 1996, and before January 1, 2000.

"(ii) SPECIAL RULES.—

"(I) REVOCATION OF DESIGNATIONS.—The Secretary may revoke any designation made under this paragraph if the Secretary determines that the State is not complying substantially with the proposal described in paragraph (3) submitted by the State.

"(II) AUTOMATIC TERMINATION OF DESIGNATIONS.—Any failure by a State to comply with the reporting requirements described in paragraphs (3)(F) and (3)(G) shall have the effect of immediately terminating the designation under this paragraph and rendering paragraph (5)(A)(ii) inapplicable to subsequent payments.

"(3) PROPOSALS.—No State may be designated under paragraph (2) unless the State's proposal for such designation—

"(A) identifies the responsible State agency,

"(B) describes how and when the advance earned income payments will be made by that agency, including a description of any other State or Federal benefits with which such payments will be coordinated,

"(C) describes how the State will obtain the information on which the amount of advance earned income payments made to each participating resident will be determined in accordance with paragraph (4),

"(D) describes how State residents who will be eligible to receive advance earned income payments will be selected, notified of the opportunity to receive advance earned income payments from the responsible State agency, and given the opportunity to elect to participate in the program,

"(E) describes how the State will verify, in addition to receiving the certifications and statement described in paragraph (7)(D)(iv), the eligibility of participating residents for the earned income tax credit,

"(F) commits the State to furnishing to each participating resident by January 31 of each year a written statement showing—

"(i) the name and taxpayer identification number of the participating resident, and

"(ii) the total amount of advance earned income payments made to the participating resident during the prior calendar year,

"(G) commits the State to furnishing to the Secretary by December 1 of each year a written statement showing the name and taxpayer identification number of each participating resident,

"(H) commits the State to treat any advance earned income payments as described in paragraph (5) and any repayments of excessive advance earned income payments as described in paragraph (6),

"(I) commits the State to assess the development and implementation of its State Advance Payment Program, including an agreement to share its findings and lessons with other interested States in a manner to be described by the Secretary, and

"(J) is submitted to the Secretary on or before June 30, 1996.

"(4) AMOUNT AND TIMING OF ADVANCE EARNED INCOME PAYMENTS.—

"(A) AMOUNT.—

"(i) IN GENERAL.—The method for determining the amount of advance earned income payments made to each participating resident shall conform to the fullest extent possible with the provisions of subsection (c).

"(ii) SPECIAL RULE.—A State may, at its election, apply the rules of subsection (c)(2)(B) by substituting 'between 60 percent and 75 percent of the credit percentage in effect under section 32(b)(1) for an individual with the corresponding number of qualifying children' for '60 percent of the credit percentage in effect under section 32(b)(1) for such an eligible individual with 1 qualifying child' in clause (i) and 'the same percentage (as applied in clause (i))' for '60 percent' in clause (ii).

"(B) TIMING.—The frequency of advance earned income payments may be determined on the basis of the payroll periods of participating residents, on a single statewide schedule, or on any other reasonable basis prescribed by the State in its proposal; however, in no event may advance earned income payments be made to any participating resident less frequently than on a calendar-quarter basis.

"(5) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(A) IN GENERAL.—For purposes of this title, advance earned income payments during any calendar quarter—

"(i) shall neither be treated as a payment of compensation nor be included in gross income, and

"(ii) shall be treated as made out of—

"(I) amounts required to be deducted by the State and withheld for the calendar quarter by the State under section 3401 (relating to wage withholding),

"(II) amounts required to be deducted for the calendar quarter under section 3102 (relating to FICA employee taxes), and

"(III) amounts of the taxes imposed on the State for the calendar quarter under section 3111 (relating to FICA employer taxes),

as if the State had paid to the Secretary, on the day on which payments are made to participating residents, an amount equal to such payments.

"(B) IF ADVANCE PAYMENTS EXCEED TAXES DUE.—If for any calendar quarter the aggregate amount of advance earned income payments made by the responsible State agency under a State Advance Payment Program exceeds the sum of the amounts referred to in subparagraph (A)(ii) (without regard to paragraph (6)(A)), each such advance earned income payment shall be reduced by an amount which bears the same ratio to such excess as such advance earned income payment bears to the aggregate amount of all such advance earned income payments.

"(6) STATE REPAYMENT OF EXCESSIVE ADVANCE EARNED INCOME PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of an excessive advance earned income payment a State shall be treated as having deducted and withheld under section 3401 (relating to wage withholding), and as being required to pay to the United States, the repayment amount during the repayment calendar quarter.

"(B) EXCESSIVE ADVANCE EARNED INCOME PAYMENT.—For purposes of this section, the term 'excessive advance income payment' means that portion of any advance earned income payment that, when combined with other advance earned income payments previously made to the same participating resident during the same calendar year, exceeds the amount of earned income tax credit to which that participating resident is entitled under section 32 for that year.

"(C) REPAYMENT AMOUNT.—For purposes of this subsection, the term 'repayment amount' means an amount equal to 50 percent of the excess of—

"(i) excessive advance earned income payments made by a State during a particular calendar year, over

"(ii) the sum of—

"(I) 4 percent of all advance earned income payments made by the State during that calendar year, and

"(II) the excessive advance earned income payments made by the State during that calendar year that have been collected from participating residents by the Secretary.

"(D) REPAYMENT CALENDAR QUARTER.—For purposes of this subsection, the term 'repayment calendar quarter' means the second calendar quarter of the third calendar year beginning after the calendar year in which an excessive earned income payment is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) STATE ADVANCE PAYMENT PROGRAM.—The term 'State Advance Payment Program' means the program described in a proposal submitted for designation under paragraph (1) and designated by the Secretary under paragraph (2).

"(B) RESPONSIBLE STATE AGENCY.—The term 'responsible State agency' means the single State agency that will be making the advance earned income payments to residents of the State who elect to participate in a State Advance Payment Program.

"(C) ADVANCE EARNED INCOME PAYMENTS.—The term 'advance earned income payments' means an amount paid by a responsible State agency to residents of the State pursuant to a State Advance Payment Program.

"(D) PARTICIPATING RESIDENT.—The term 'participating resident' means an individual who—

"(i) is a resident of a State that has in effect a designated State Advance Payment Program,

"(ii) makes the election described in paragraph (3)(D) pursuant to guidelines prescribed by the State,

"(iii) certifies to the State the number of qualifying children the individual has, and

"(iv) provides to the State the certifications and statement described in subsections (b)(1), (b)(2), (b)(3), and (b)(4) (except that for purposes of this clause, the term 'any employer' shall be substituted for 'another employer' in subsection (b)(3)), along with any other information required by the State.".

(b) TECHNICAL ASSISTANCE.—The Secretaries of the Treasury and Health and Human Services shall jointly ensure that technical assistance is provided to State Advance Payment Programs and that these programs are rigorously evaluated.

(c) ANNUAL REPORTS.—The Secretary shall issue annual reports detailing the extent to which—

(1) residents participate in the State Advance Payment Programs,

(2) participating residents file Federal and State tax returns,

(3) participating residents report accurately the amount of the advance earned income payments made to them by the responsible State agency during the year, and

(4) recipients of excessive advance earned income payments repay those amounts.

The report shall also contain an estimate of the amount of advance earned income payments made by each responsible State agency but not reported on the tax returns of a participating resident and the amount of excessive advance earned income payments.

(d) AUTHORIZATION OF APPROPRIATIONS.—For purposes of providing technical assistance described in subsection (b), preparing the reports described in subsection (c), and providing grants to States in support of designated State Advance Payment Programs, there are authorized to be appropriated in advance to the Secretary of the Treasury and the Secretary of Health and Human Services a total of $1,400,000 for fiscal years 1997 through 2000.

Subtitle C—Work First

SEC. 9301. WORK FIRST PROGRAM.

(a) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV (42 U.S.C. 601 et seq.) is amended by striking part F and inserting the following:

"Part F—Work First Program

"SEC. 481. STATE ROLE.

"(a) PROGRAM REQUIREMENTS.—Any State may establish and operate a work first program that meets the following requirements:

"(1) OBJECTIVE.—The objective of the program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

"(2) METHOD.—The method of the program is to connect recipients of assistance under the State plan approved under part A with the private sector labor market as soon as possible and offer them the support and skills necessary to remain in the labor market. Each component of the program should be permeated with an emphasis on employment and with an understanding that minimum wage jobs are a stepping stone to more highly paid employment. The program shall provide recipients with education, training, job search and placement, wage supplementation, temporary subsidized jobs, or such other services that the State deems necessary to help a recipient obtain private sector employment.

"(3) JOB CREATION.—The creation of jobs, with an emphasis on private sector jobs, shall be a component of the program and shall be a priority for each State office with responsibilities under the program.

"(4) FORMS OF ASSISTANCE.—The State shall provide assistance to participants in the program in the form of education, training, job placement services (including vouchers for job placement services), work supplementation programs, temporary subsidized job creation, job counseling, assistance in establishing microenterprises, or other services to provide individuals with the support and skills necessary to obtain and keep employment in the private sector.

"(5) 2-YEAR LIMITATION ON PARTICIPATION.—The program shall comply with section 487(b).

"(6) AGREEMENTS OF MUTUAL RESPONSIBILITY.—

"(A) IN GENERAL.—The State agency shall develop an agreement of mutual responsibility for each program participant, which will be an individualized comprehensive plan, developed by the team and the participant, to move the participant into a full-time unsubsidized job. The agreement should detail the education, training, or skills that the individual will be receiving to obtain a full-time unsubsidized job, and the obligations of the individual.

"(B) HOURS OF PARTICIPATION REQUIREMENT.—The agreement shall provide that the individual shall participate in activities in accordance with the agreement for—

"(i) not fewer than 20 hours per week during fiscal years 1997 and 1998;

"(ii) not fewer than 25 hours per week during fiscal year 1999; and

"(iii) not fewer than 30 hours per week thereafter.

"(7) CASELOAD PARTICIPATION RATES.—The program shall comply with section 488.

"(8) NONDISPLACEMENT.—The program may not be operated in a manner that results in—

"(A) the displacement of a currently employed worker or position by a program participant;

"(B) the replacement of an employee who has been terminated with a program participant; or

"(C) the replacement of an individual who is on layoff from the same position given to a progrm participant or any equivalent position.

"(b) ANNUAL REPORTS.—

"(1) COMPLIANCE WITH PERFORMANCE MEASURES.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under section 488(c).

"(2) COMPLIANCE WITH PARTICIPATION RATES.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

"SEC. 482. REVAMPED JOBS PROGRAM.

"A State that establishes a program under this part may operate a program similar to the program known as the 'GAIN Program' that has been operated by Riverside County, California, under Federal law in effect immediately before the date this part first applies to the State of California.

"SEC. 483. USE OF PLACEMENT COMPANIES.

"(a) IN GENERAL.—A State that establishes a program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance.

"(b) REQUIRED CONTRACT TERMS.—Each contract entered into under this section with a company shall meet the following requirements:

"(1) PROVISION OF JOB READINESS AND SUPPORT SERVICES.—The contract shall require the company to provide, to any program participant who presents to the company a voucher issued under subsection (d) intensive personalized support and job readiness services designed to prepare the individual for employment and ensure the continued success of the individual in employment.

"(2) PAYMENTS.—

"(A) IN GENERAL.—The contract shall provide for payments to be made to the company with respect to each program participant who presents to the company a voucher issued under subsection (d).

"(B) STRUCTURE.—The contract shall provide for the majority of the amounts to be paid under the contract with respect to a program participant, to be paid after the company has placed the participant in a position of full-time employment and the participant has been employed in the position for such period of not less than 5 months as the State deems appropriate.

"(c) COMPETITIVE BIDDING REQUIRED.—Contracts under this section shall be awarded only after competitive bidding.

"(d) VOUCHERS.—The State shall issue a voucher to each program participant whose agreement of mutual responsibility provides for the use of placement companies under this section, indicating that the participant is eligible for the services of such a company.

"SEC. 484. TEMPORARY SUBSIDIZED JOB CREATION.

"A State that establishes a program under this part may establish a program similar to the program known as 'JOBS Plus' that has been operated by the State of Oregon under Federal law in effect immediately before the date this part first applies to the State of Oregon.

"SEC. 485. MICROENTERPRISE.

"(a) Grants and Loans to Nonprofit Organizations for the Provision of Technical Assistance, Training, and Credit to Low Income Entrepreneurs.—A State that establishes a program under this part may make grants and loans to nonprofit organizations to provide technical assistance, training, and credit to low income entrepreneurs for the purpose of establishing microenterprises.

"(b) Microenterprise Defined.—For purposes of this subsection, the term 'microenterprise' means a commercial enterprise which has 5 or fewer employees, 1 or more of whom owns the enterprise.

"SEC. 486. WORK SUPPLEMENTATION PROGRAM.

"(a) In General.—A State that establishes a program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable under the State plan approved under part A to participants in the program and use the sums instead for the purpose of providing and subsidizing jobs for the participants (as described in subsection (c)(3)(A) and (B)), as an alternative to providing such assistance to the participants.

"(b) State Flexibility.—

"(1) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this section and section 484 (as in effect immediately before the date this part first applies to the State).

"(2) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this section.

"(3) Notwithstanding any other provision of law, a State operating a work supplementation program under this section may provide that the need standards in effect in those areas of the State in which the program is in operation may be different from the need standards in effect in the areas in which the program is not in operation, and the State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(4) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of assistance provided under the plan to different categories of recipients (as determined under paragraph (3)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(5) In determining the amounts to be reserved and used for providing and subsidizing jobs under this section as described in subsection (a), the State may use a sampling methodology.

"(6) Notwithstanding any other provision of law, a State operating a work supplementation program under this section, may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(c) Rules Relating to Supplemented Jobs.—

"(1) A work supplementation program operated by a State under this section may provide that any individual who is an eligible individual (as determined under paragraph (2)) shall take a supplemented job (as defined in paragraph (3)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for temporary employment assistance under part A except as limited by subsection (d).

"(2) For purposes of this section, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for assistance under an approved State plan if the State did not have a work supplementation program in effect.

"(3) For purposes of this subsection, a supplemented job is—

"(A) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(B) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by the State or local agency.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(d) Cost Limitation.—The amount of the Federal payment to a State under section 413 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in the State under this section had received the maximum amount of assistance providable under the State plan to such a family with no income (without regard to adjustments under subsection (b) of this section) for the lesser of—

"(1) 9 months; or

"(2) the number of months in which the individual was employed in the program.

"(e) Rules of Interpretation.—

"(1) This section shall not be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom the State or local agency provides a job under the work supplementation program (or with respect to whom the State or local agency provides all or part of the wages paid to the individual by another entity under the program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under the program be provided employee status by the entity during the first 13 weeks the individual fills the position.

"(2) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(f) Preservation of Medicaid Eligibility.—Any State that chooses to operate a work supplementation program under this section shall provide that any individual who participates in the program, and any child or relative of the individual (or other individual living in the same household as the individual) who would be eligible for assistance under the State plan approved under part A if the State did not have a work supplementation program, shall be considered individuals receiving assistance under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"SEC. 487. PARTICIPATION RULES.

"(a) In General.—Except as provided in subsection (b), a State that establishes a program under this part may require any individual receiving assistance under the State plan approved under part A to participate in the program.

"(b) 2-Year Limitation on Participation.—

"(1) In general.—Except as provided in paragraph (2), an individual may not participate in a State program established under this part if the individual has participated in the State program established under this part for 24 months after the date the individual first signed an agreement of mutual responsibility under this part, excluding any month during which the individual worked for an average of at least 25 hours per week in a private sector job.

"(2) Authority to allow repeat participation.—

"(A) In general.—Subject to subparagraph (B) of this paragraph, a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) Limitation on percentage of repeat participants.—

"(i) In general.—Except as provided in clause (ii) of this subparagraph, the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed—

"(I) 10 percent of the total number of individuals who participated in the State program established under this part or the State program established under part H during the immediately preceding program year; or

"(II) in the case of fiscal year 2004 or any succeeding fiscal year, 15 percent of such total number of individuals.

"(ii) Authority to increase limitation.—

"(I) Petition.—A State may request the Secretary to increase to not more than 15 percent the percentage limitation imposed by clause (i)(I) for a fiscal year before fiscal year 2004.

"(II) Authority to grant request.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"SEC. 488. CASELOAD PARTICIPATION RATES; PERFORMANCE MEASURES.

"(a) Participation Rates.—

"(1) Requirement.—A State that operates a program under this part shall achieve a participation rate for the following fiscal years of not less than the following percentage:

"Fiscal year:	Percentage:
1997	20
1998	24
1999	28
2000	32
2001	36
2002	40
2003 or later	52.

"(2) PARTICIPATION RATE DEFINED.—

"(A) IN GENERAL.—As used in this subsection, the term 'participation rate' means, with respect to a State and a fiscal year, an amount equal to—

"(i) the average monthly number of individuals who, during the fiscal year, participate in the State program established under this part or (if applicable) part G or H; divided by

"(ii) the average monthly number of individuals who are not described in section 402(c)(1)(D) and for whom an individual responsibility plan is in effect under section 403 during the fiscal year.

"(B) SPECIAL RULE.—For each of the 1st 12 months after an individual ceases to receive assistance under a State plan approved under part A by reason of having become employed for more than 25 hours per week in an unsubsidized job in the private sector, the individual shall be considered to be participating in the State program established under this part, and to be an adult recipient of such assistance, for purposes of subparagraph (A).

"(3) STATE COMPLIANCE REPORTS.—Each State that operates a program under this part for a fiscal year shall submit to the Secretary a report on the participation rate of the State for the fiscal year.

"(4) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(A) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by paragraph (1) for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(B) SECOND CONSECUTIVE FAILURE.—Notwithstanding subparagraph (A), if a State fails to achieve the participation rate required by paragraph (1) for 2 consecutive fiscal years, the Secretary may—

"(i) require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G; and

"(ii) reduce by 5 percent the amount otherwise payable to the State under section 413.

"(b) PERFORMANCE STANDARDS.—The Secretary shall develop standards to be used to measure the effectiveness of the programs established under this part and part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment.

"(c) PERFORMANCE-BASED MEASURES.—

"(1) ESTABLISHMENT.—The Secretary shall, by regulation, establish measures of the effectiveness of the State programs established under this part and under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(2) ANNUAL COMPLIANCE REPORTS.—Each State that operates a program under this part shall submit to the Secretary annual reports that compare the achievements of the program with the performance-based measures established under paragraph (1).

"SEC. 489. FEDERAL ROLE.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—Within 60 days after the date a State submits to the Secretary a plan that provides for the establishment and operation of a work first program that meets the requirements of section 481, the Secretary shall approve the plan.

"(2) AUTHORITY TO EXTEND APPROVAL DEADLINE.—The 60-day deadline established in paragraph (1) with respect to a State may be extended in accordance with an agreement between the Secretary and the State.

"(b) PERFORMANCE-BASED MEASURES.—The Secretary shall, by regulation, establish measures of the effectiveness of the State program established under this part and (if the State has established a program under part G) the State program established under part G in moving recipients of assistance under the State plan approved under part A into full-time unsubsidized employment, based on the performance of such programs.

"(c) EFFECT OF FAILURE TO MEET PARTICIPATION RATES.—

"(1) IN GENERAL.—If a State reports that the State has failed to achieve the participation rate required by section 488 for the fiscal year, the Secretary may make recommendations for changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G. The State may elect to follow such recommendations, and shall demonstrate to the Secretary how the State will achieve the required participation rates.

"(2) SECOND CONSECUTIVE FAILURE.—Notwithstanding paragraph (1), if the State has failed to achieve the participation rates required by section 488 for 2 consecutive fiscal years, the Secretary may require the State to make changes in the State program established under this part and (if the State has established a program under part G) the State program established under part G.

"Part G—Workfare Program

"SEC. 490. ESTABLISHMENT AND OPERATION OF PROGRAM.

"(a) IN GENERAL.—A State that establishes a work first program under part F may establish and carry out a workfare program that meets the requirements of this part, unless the State has established a job placement voucher program under part H.

"(b) OBJECTIVE.—The objective of the workfare program is for each program participant to find and hold a full-time unsubsidized paid job, and for this goal to be achieved in a cost-effective fashion.

"(c) CASE MANAGEMENT TEAMS.—The State shall assign to each program participant a case management team that shall meet with the participant and assist the participant to choose the most suitable workfare job under subsection (e), (f), or (g) and to eventually obtain a full-time unsubsidized paid job.

"(d) PROVISION OF JOBS.—The State shall provide each participant in the program with a community service job that meets the requirements of subsection (e) or a subsidized job that meets the requirements of subsection (f) or (g).

"(e) COMMUNITY SERVICE JOBS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each participant shall work for not fewer than 30 hours per week (or, at the option of the State, 20 hours per week during fiscal years 1997 and 1998, not fewer than 25 hours per week during fiscal year 1999, not fewer than 30 hours per week during fiscal years 2000 and 2001, and not fewer than 35 hours per week thereafter) in a community service job, and be paid at a rate which is not greater than 75 percent (or, at the option of the State, 100 percent) of the maximum amount of assistance that may be provided under the State plan approved under part A to a family of the same size and composition with no income.

"(2) EXCEPTION.—(A) If the participant has obtained unsubsidized part-time employment in the private sector, the State shall provide the participant with a part-time community service job.

"(B) If the State provides a participant a part-time community service job under subparagraph (A), the State shall ensure that the participant works for not fewer than 30 hours per week.

"(3) WAGES NOT CONSIDERED EARNED INCOME.—Wages paid under a workfare program shall not be considered to be earned income for purposes of any provision of law.

"(4) COMMUNITY SERVICE JOB DEFINED.—For purposes of this section, the term 'community service job' means—

"(A) a job provided to a participant by the State administering the State plan under part A; or

"(B) a job provided to a participant by any other employer for which all or part of the wages are paid by the State.

A State may provide or subsidize under the program any job which the State determines to be appropriate.

"(f) TEMPORARY SUBSIDIZED JOB CREATION.—A State that establishes a workfare program under this part may establish a program similar to the program operated by the State of Oregon, which is known as 'JOBS Plus'.

"(g) WORK SUPPLEMENTATION PROGRAM.—

"(1) IN GENERAL.—A State that establishes a workfare program under this part may institute a work supplementation program under which the State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as a community service minimum wage and use the sums instead for the purpose of providing and subsidizing private sector jobs for the participants.

"(2) EMPLOYER AGREEMENT.—An employer who provides a private sector job to a participant under paragraph (1) shall agree to provide to the participant an amount in wages equal to the poverty threshold for a family of three.

"(h) JOB SEARCH REQUIREMENT.—The State shall require each participant to spend a minimum of 5 hours per week on activities related to securing unsubsidized full-time employment in the private sector.

"(i) DURATION OF PARTICIPATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may not participate for more than 2 years in a workfare program under this part.

"(2) AUTHORITY TO ALLOW REPEATED PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), a State may allow an individual who, by reason of paragraph (1), would be prohibited from participating in the State program established under this part to participate in the program for such additional period or periods as the State determines appropriate.

"(B) LIMITATION ON PERCENTAGE OF REPEAT PARTICIPANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the number of individuals allowed under subparagraph (A) to participate during a program year in a State program established under this part shall not exceed 10 percent of the total number of individuals who participated in the program during the immediately preceding program year.

"(ii) AUTHORITY TO INCREASE LIMITATION.—

"(I) PETITION.—A State may request the Secretary to increase the percentage limitation imposed by clause (i) to not more than 15 percent.

"(II) AUTHORITY TO GRANT REQUEST.—The Secretary may approve a request made pursuant to subclause (I) if the Secretary deems it appropriate. The Secretary shall develop recommendations on the criteria that should be applied in evaluating requests under subclause (I).

"(j) USE OF PLACEMENT COMPANIES.—A State that establishes a workfare program under this part may enter into contracts with private companies (whether operated for profit or not for profit) for the placement of participants in the program in positions of full-time employment, preferably in the private sector, for wages sufficient to eliminate the need of such participants for cash assistance in accordance with section 483.

"(k) MAXIMUM OF 3 COMMUNITY SERVICE JOBS.—A program participant may not receive more than 3 community service jobs under the program.

"Part H—Job Placement Voucher Program

"SEC. 490A. JOB PLACEMENT VOUCHER PROGRAM.

"A State that is not operating a workfare program under part G may establish a job placement voucher program that meets the following requirements:

"(1) The program shall offer each program participant a voucher which the participant may use to obtain employment in the private sector.

"(2) An employer who receives a voucher issued under the program from an individual may redeem the voucher at any time after the individual has been employed by the employer for 6 months, unless another employee of the employer was displaced by the employment of the individual.

"(3) Upon presentation of a voucher by an employer to the State agency responsible for the administration of the program, the State agency shall pay to the employer an amount equal to 50 percent of the total amount of assistance provided under the State plan approved under part A to the family of which the individual is a member for the most recent 12 months for which the family was eligible for such assistance.".

(c) FUNDING.—Section 413(a), as added by section 9101(a) of this Act, is amended—

(1) by striking "Subject to" and inserting the following:

"(1) IN GENERAL.—Subject to"; and

(2) by inserting after and below the end the following:

"(2) WORK FIRST AND OTHER PROGRAMS.—(A) Each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H shall be entitled to payments under paragraph (3) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such paragraph) of its expenditures to carry out such programs (subject to limitations prescribed by or pursuant to such parts or this part on expenditures that may be included for purposes of determining payment under paragraph (3)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under subparagraph (B) with respect to the State.

"(B) The limitation determined under this subparagraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (C) for such fiscal year as the average monthly number of adult recipients (as defined in subparagraph (D)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(C)(i) The amount specified in this subparagraph is—

"(I) $1,600,000,000 for fiscal year 1997;

"(II) $1,600,000,000 for fiscal year 1998;

"(III) $1,900,000,000 for fiscal year 1999;

"(IV) $2,500,000,000 for fiscal year 2000; and

"(V) $3,200,000,000 for fiscal year 2001; and

"(VI) $4,700,000,000 for fiscal year 2002; and

"(VII) the amount determined under clause (ii) for fiscal year 2003 and each succeeding fiscal year.

"(ii) The amount determined under this clause for a fiscal year is the product of the following:

"(I) The amount specified in this subparagraph for the immediately preceding fiscal year.

"(II) 1.00 plus the percentage (if any) by which—

"(aa) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the most recent 12-month period for which such information is available; exceeds

"(bb) the average of the Consumer Price Index (as so defined) for the 12-month period ending on June 30 of the 2nd preceding fiscal year.

"(III) The amount that bears the same ratio to the amount specified in this subparagraph for the immediately preceding fiscal year as the number of individuals whom the Secretary estimates will participate in programs operated under part F, G, or H during the fiscal year bears to the total number of individuals who participated in such programs during such preceding fiscal year.

"(D) For purposes of this paragraph, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with assistance provided under the State plan approved under this part.

"(E) For purposes of subparagraph (D), the term 'dependent child' means a needy child (i) who has been deprived of parental support or care by reason of the death, continued absence from the home (other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States), or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home, and (ii) who is (I) under the age of eighteen, or (II) at the option of the State, under the age of nineteen and a full-time student in a secondary school (or in the equivalent level of vocational or technical training), if, before he attains age nineteen, he may reasonably be expected to complete the program of such secondary school (or such training).

"(F) For purposes of subparagraph (E), the term 'relative with whom any dependent child is living' means the individual who is one of the relatives specified in subparagraph (E) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

"(3)(A) In lieu of any payment under paragraph (1) therefor, the Secretary shall pay to each State that is operating a program in accordance with a plan approved under part F and a program in accordance with part G or H, with respect to expenditures by the State to carry out such programs, an amount equal to—

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such programs for such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services; and

"(II) 60 percent or the Federal medical assistance percentage (as defined in the last sentence of section 1118), whichever is the greater, in the case of expenditures made by a State in operating such programs for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating such programs may be in cash or in kind, fairly evaluated.

"(C) Not more than 10 percent of the amount payable to a State under this paragraph for a quarter may be for expenditures made during the quarter with respect to program participants who are not eligible for assistance under the State plan approved under this part.".

(d) SECRETARY'S SPECIAL ADJUSTMENT FUND.—Section 413(a), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(4) SECRETARY'S SPECIAL ADJUSTMENT FUND.—(A) There shall be available to the Secretary from the amount appropriated for payments under paragraph (2) for States' programs under parts F and G for fiscal year 1996, $300,000,000 for special adjustments to States' limitations on Federal payments for such programs.

"(B) A State may, not later than March 1 and September 1 of each fiscal year, submit to the Secretary a request to adjust the limitation on payments under this section with respect to its program under part F (and, in fiscal years after 1997) its program under part G for the following fiscal year. The Secretary shall only consider such a request from a State which has, or which demonstrates convincingly on the basis of estimates that it will, submit allowable claims for Federal payment in the full amount available to it under paragraph (2) in the current fiscal year and obligated 95 percent of its full amount in the prior fiscal year. The Secretary shall by regulation prescribe criteria for the equitable allocation among the States of Federal payments pursuant to adjustments of the limitations referred to in the preceding sentence in the case where the requests of all States that the Secretary finds reasonable exceed the amount available, and, within 30 days following the dates specified in this paragraph, will notify each State whether one or more of its limitations will be adjusted in accordance with the State's request and the amount of the adjustment (which may be some or all of the amount requested).

"(C) The Secretary may adjust the limitation on Federal payments to a State for a fiscal year under paragraph (2), and upon a determination by the Secretary that (and the amount by which) a State's limitation should be raised, the amount specified in such paragraph shall be considered to be so increased for the following fiscal year.

"(D) The amount made available under subparagraph (A) for special adjustments shall remain available to the Secretary until expended. That amount shall be reduced by the sum of the adjustments approved by the Secretary in any fiscal year, and the amount shall be increased in a fiscal year by the amount by which all States' limitations under paragraph (2) of this subsection and section 2008 for a fiscal year exceeded the sum of the Federal payments under such provisons of law for such fiscal year, but for fiscal years after 1997, such amount at the end of such fiscal year shall not exceed $400,000,000.".

(e) Conforming Amendments.—

(1) Section 1115(b)(2)(A) (42 U.S.C. 1315(b)(2)(A)) is amended by striking ", and 402(a)(19) (relating to the work incentive program)".

(2) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a), by striking "or, in the case of part A of title IV, section 403(k)"; and

(B) in subsection (d), by striking "(exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies)".

(3) Section 1902(a)(10)(A)(i)(I) (42 U.S.C. 1396a(a)(19)(A)(i)(I)) is amended—

(A) by striking "402(a)(37), 406(h), or"; and

(B) by striking "482(e)(6)" and inserting "486(f)".

(4) Section 1928(a)(1) (42 U.S.C. 1396s(a)(1)) is amended by striking "482(e)(6)" and inserting "486(f)".

(f) Intent of the Congress.—The Congress intends for State activities under section 484 of the Social Security Act (as added by the amendment made by section 9301(a) of this Act) to emphasize the use of the funds that would otherwise be used to provide individuals with assistance under part A of title IV of the Social Security Act and with food stamp benefits under the Food Stamp Act of 1977, to subsidize the wages of such individuals in temporary jobs.

(g) Sense of the Congress.—It is the sense of the Congress that States should target individuals who have not attained 25 years of age for participation in the program established by the State under part F of title IV of the Social Security Act (as added by the amendment made by section 9301(a) of this section) in order to break the cycle of welfare dependency.

SEC. 9302. REGULATIONS.

The Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle.

SEC. 9303. APPLICABILITY TO STATES.

(a) State Option to Accelerate Applicability.—If a State formally notifies the Secretary of Health and Human Services that the State desires to accelerate the applicability to the State of the amendments made by this subtitle, the amendments shall apply to the State on and after such earlier date as the State may select.

(b) State Option to Delay Applicability Until Waivers Expire.—The amendments made by this subtitle shall not apply to a State with respect to which there is in effect a waiver issued under section 1115 of the Social Security Act for the State program established under part F of title IV of such Act, until the waiver expires, if the State formally notifies the Secretary of Health and Human Services that the State desires to so delay such effective date.

(c) Authority of the Secretary of Health and Human Services to Delay Applicability to a State.—If a State formally notifies the Secretary of Health and Human Services that the State desires to delay the applicability to the State of the amendments made by this title, the amendments shall apply to the State on and after any later date agreed upon by the Secretary and the State.

Subtitle D—Family Responsibility And Improved Child Support Enforcement

CHAPTER 1—ELIGIBILITY AND OTHER MATTERS CONCERNING TITLE IV-D PROGRAM CLIENTS

SEC. 9401. STATE OBLIGATION TO PROVIDE PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT SERVICES.

(a) State Law Requirements.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

"(12) Use of central case registry and centralized collections unit.—Procedures under which—

"(A) every child support order established or modified in the State on or after October 1, 1998, is recorded in the central case registry established in accordance with section 454A(e); and

"(B) child support payments are collected through the centralized collections unit established in accordance with section 454B—

"(i) on and after October 1, 1998, under each order subject to wage withholding under section 466(b); and

"(ii) on and after October 1, 1999, under each other order required to be recorded in such central case registry under this paragraph or section 454A(e), except as provided in subparagraph (C); and

"(C)(i) parties subject to a child support order described in subparagraph (B)(ii) may opt out of the procedure for payment of support through the centralized collections unit (but not the procedure for inclusion in the central case registry) by filing with the State agency a written agreement, signed by both parties, to an alternative payment procedure; and

"(ii) an agreement described in clause (i) becomes void whenever either party advises the State agency of an intent to vacate the agreement.".

(b) State Plan Requirements.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) provide that such State will undertake—

"(A) to provide appropriate services under this part to—

"(i) each child with respect to whom an assignment is effective under section 403(b)(1)(E)(i), 471(a)(17), or 1912 (except in cases where the State agency determines, in accordance with paragraph (25), that it is against the best interests of the child to do so); and

"(ii) each child not described in clause (i)—

"(I) with respect to whom an individual applies for such services; and

"(II) (on and after October 1, 1998) each child with respect to whom a support order is recorded in the central State case registry established under section 454A, regardless of whether application is made for services under this part; and

"(B) to enforce the support obligation established with respect to the custodial parent of a child described in subparagraph (A) unless the parties to the order which establishes the support obligation have opted, in accordance with section 466(a)(12)(C), for an alternative payment procedure."; and

(2) in paragraph (6)—

(A) by striking subparagraph (A) and inserting the following:

"(A) services under the State plan shall be made available to nonresidents on the same terms as to residents;";

(B) in subparagraph (B)—

(i) by inserting "on individuals not receiving assistance under part A" after "such services shall be imposed"; and

(ii) by inserting "but no fees or costs shall be imposed on any absent or custodial parent or other individual for inclusion in the central State registry maintained pursuant to section 454A(e)"; and

(C) in each of subparagraphs (B), (C), and (D)—

(i) by indenting such subparagraph and aligning its left margin with the left margin of subparagraph (A); and

(ii) by striking the final comma and inserting a semicolon.

(c) Conforming Amendments.—

(1) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(2) Section 454(23) (42 U.S.C. 654(23)) is amended, effective October 1, 1998, by striking "information as to any application fees for such services and".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "or (6)".

SEC. 9402. DISTRIBUTION OF PAYMENTS.

(a) Distributions Through State Child Support Enforcement Agency to Former Assistance Recipients.—Section 454(5) (42 U.S.C. 654(5)) is amended—

(1) in subparagraph (A)—

(A) by striking section 402(a)(26) is effective," and inserting "section 403(b)(1)(E)(i) is effective, except as otherwise specifically provided in section 464 or 466(a)(3),"; and

(B) by striking "except that" and all that follows through the semicolon; and

(2) in subparagraph (B), by striking ", except" and all that follows through "medical assistance".

(b) Distribution to a Family Currently Receiving Temporary Employment Assistance.—Section 457 (42 U.S.C. 657) is amended—

(1) by striking subsection (a) and redesignating subsection (b) as subsection (a);

(2) in subsection (a) (as so redesignated)—

(A) in the matter preceding paragraph (2), to read as follows:

"(a) In the Case of a Family Receiving TEA.—Amounts collected under this part during any month as support of a child who is receiving assistance under part A (or a parent or caretaker relative of such a child) shall (except in the case of a State exercising the option under subsection (b)) be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month

which were made by the absent parent in that prior month;
and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;";

(B) in paragraph (4), by striking "or (B)" and all that follows through the period and inserting "; then (B) from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and then (C) any remainder shall be paid to the family."; and

(3) by inserting after subsection (a) (as so redesignated) the following new subsection:

"(b) ALTERNATIVE DISTRIBUTION IN CASE OF FAMILY RECEIVING TEA.—In the case of a State electing the option under this subsection, amounts collected as described in subsection (a) shall be distributed as follows:

"(1) an amount equal to the amount that will be disregarded pursuant to section 402(d)(2)(C) shall be taken from each of—

"(A) the amounts received in a month which represent payments for that month; and

"(B) the amounts received in a month which represent payments for a prior month which were made by the absent parent in that prior month;
and shall be paid to the family without affecting its eligibility for assistance or decreasing any amount otherwise payable as assistance to such family during such month;

"(2) second, from any remainder, amounts equal to the balance of support owed for the current month shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to the State making the collection shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned, pursuant to part A, to any other State or States shall be paid to such other State or States and used to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(5) fifth, any remainder shall be paid to the family.".

(c) DISTRIBUTION TO A FAMILY NOT RECEIVING TEA.—Section 457(c) (42 U.S.C. 657(c)) is amended to read as follows:

"(c) DISTRIBUTIONS IN CASE OF FAMILY NOT RECEIVING TEA.—Amounts collected by a State agency under this part during any month as support of a child who is not receiving assistance under part A (or of a parent or caretaker relative of such a child) shall (subject to the remaining provisions of this section) be distributed as follows:

"(1) first, amounts equal to the total of such support owed for such month shall be paid to the family;

"(2) second, from any remainder, amounts equal to arrearages of such support obligations for months during which such child did not receive assistance under part A shall be paid to the family;

"(3) third, from any remainder, amounts equal to arrearages of such support obligations assigned to the State making the collection pursuant to part A shall be retained and used by such State to pay any such arrearages (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing); and

"(4) fourth, from any remainder, amounts equal to arrearages of such support obligations assigned to any other State pursuant to part A shall be paid to such other State or States, and used to pay such arrearages, in the order in which such arrearages accrued (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing).".

* * * for each fiscal year beginning on or after October 1, 1998, shall be increased by a factor reflecting the sum of the applicable incentive adjustments (if any) determined in accordance with regulations under this section with respect to Statewide paternity establishment and to overall performance in child support enforcement.

"(2) STANDARDS.—(A) IN GENERAL.—The Secretary shall specify in regulations—

"(i) the levels of accomplishment, and rates of improvement as alternatives to such levels, which States must attain to qualify for incentive adjustments under this section; and

"(ii) the amounts of incentive adjustment that shall be awarded to States achieving specified accomplishment or improvement levels, which amounts shall be graduated, ranging up to—

"(I) 5 percentage points, in connection with Statewide paternity establishment; and

"(II) 10 percentage points, in connection with overall performance in child support enforcement.

"(B) LIMITATION.—In setting performance standards pursuant to subparagraph (A)(i) and adjustment amounts pursuant to subparagraph (A)(ii), the Secretary shall ensure that the aggregate number of percentage point increases as incentive adjustments to all States do not exceed such aggregate increases as assumed by the Secretary in estimates of the cost of this section as of June 1995, unless the aggregate performance of all States exceeds the projected aggregate performance of all States in such cost estimates.

"(3) DETERMINATION OF INCENTIVE ADJUSTMENT.—The Secretary shall determine the amount (if any) of incentive adjustment due each State on the basis of the data submitted by the State pursuant to section 454(15)(B) concerning the levels of accomplishment (and rates of improvement) with respect to performance indicators specified by the Secretary pursuant to this section.

"(4) FISCAL YEAR SUBJECT TO INCENTIVE ADJUSTMENT.—The total percentage point increase determined pursuant to this section with respect to a State program in a fiscal year shall apply as an adjustment to the applicable percent under section 455(a)(2) for payments to such State for the succeeding fiscal year.

"(5) RECYCLING OF INCENTIVE ADJUSTMENT.—A State shall expend in the State program under this part all funds paid to the State by the Federal Government as a result of an incentive adjustment under this section.

"(b) MEANING OF TERMS.—For purposes of this section—

"(1) the term 'Statewide paternity establishment percentage' means, with respect to a fiscal year, the ratio (expressed as a percentage) of—

"(A) the total number of out-of-wedlock children in the State under one year of age for whom paternity is established or acknowledged during the fiscal year, to

"(B) the total number of children born out of wedlock in the State during such fiscal year; and

"(2) the term 'overall performance in child support enforcement' means a measure or measures of the effectiveness of the State agency in a fiscal year which takes into account factors including—

"(A) the percentage of cases requiring a child support order in which such an order was established;

"(B) the percentage of cases in which child support is being paid;

"(C) the ratio of child support collected to child support due; and

"(D) the cost-effectiveness of the State program, as determined in accordance with standards established by the Secretary in regulations.".

(b) ADJUSTMENT OF PAYMENTS UNDER PART D OF TITLE IV.—Section 455(a)(2) (42 U.S.C. 655(a)(2)), as amended by section 9411(a) of this Act, is amended—

(1) by striking the period at the end of subparagraph (C)(ii) and inserting a comma; and

(2) by adding after and below subparagraph (C), flush with the left margin of the subsection, the following:

"increased by the incentive adjustment factor (if any) determined by the Secretary pursuant to section 458.".

(c) CONFORMING AMENDMENTS.—Section 454(22) (42 U.S.C. 654(22)) is amended—

(1) by striking "incentive payments" the first place it appears and inserting "incentive adjustments"; and

(2) by striking "any such incentive payments made to the State for such period" and inserting "any increases in Federal payments to the State resulting from such incentive adjustments".

(d) CALCULATION OF IV-D PATERNITY ESTABLISHMENT PERCENTAGE.—(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended in the matter preceding subparagraph (A) by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,".

(2) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by striking "paternity establishment percentage" and inserting "IV-D paternity establishment percentage"; and

(ii) by striking "(or all States, as the case may be)";

(B) in subparagraph (A)(i), by striking "during the fiscal year";

(C) in subparagraph (A)(ii)(I), by striking "as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(D) in subparagraph (A)(ii)(II), by striking "or (E) as of the end of the fiscal year" and inserting "in the fiscal year or, at the option of the State, as of the end of such year";

(E) in subparagraph (A)(iii)—

(i) by striking "during the fiscal year"; and

(ii) by striking "and" at the end; and

(F) in the matter following subparagraph (A)—

(i) by striking "who were born out of wedlock during the immediately preceding fiscal year" and inserting "born out of wedlock";

(ii) by striking "such preceding fiscal year" both places it appears and inserting "the preceding fiscal year"; and

(iii) by striking "or (E)" the second place it appears.

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A), as redesignated, by striking "the percentage of children born out-of-wedlock in the State" and inserting "the percentage of children in the State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B), as redesignated—

(i) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(ii) by inserting "and securing support" before the period.

(e) REDUCTION OF PAYMENTS UNDER PART D OF TITLE IV.—

(1) NEW REQUIREMENTS.—Section 455 (42 U.S.C. 655) is amended by inserting after subsection (b) the following:

"(c)(1) If the Secretary finds, with respect to a State program under this part in a fiscal year beginning on or after October 1, 1997—

"(A)(i) on the basis of data submitted by a State pursuant to section 454(15)(B), that the State program in such fiscal year failed to achieve the IV–D paternity establishment percentage (as defined in section 452(g)(2)(A)) or the appropriate level of overall performance in child support enforcement (as defined in section 458(b)(2)), or to meet other performance measures that may be established by the Secretary, or

"(ii) on the basis of an audit or audits of such State data conducted pursuant to section 452(a)(4)(C), that the State data submitted pursuant to section 454(15)(B) is incomplete or unreliable; and

"(B) that, with respect to the succeeding fiscal year—

"(i) the State failed to take sufficient corrective action to achieve the appropriate performance levels as described in subparagraph (A)(i) of this paragraph, or

"(ii) the data submitted by the State pursuant to section 454(15)(B) is incomplete or unreliable,

the amounts otherwise payable to the State under this part for quarters following the end of such succeeding fiscal year, prior to quarters following the end of the first quarter throughout which the State program is in compliance with such performance requirement, shall be reduced by the percentage specified in paragraph (2).

"(2) The reductions required under paragraph (1) shall be—

"(A) not less than 6 nor more than 8 percent, or

"(B) not less than 8 nor more than 12 percent, if the finding is the second consecutive finding made pursuant to paragraph (1), or

"(C) not less than 12 nor more than 15 percent, if the finding is the third or a subsequent consecutive such finding.

"(3) For purposes of this subsection, section 405(d), and section 452(a)(4), a State which is determined as a result of an audit to have submitted incomplete or unreliable data pursuant to section 454(15)(B), shall be determined to have submitted adequate data if the Secretary determines that the extent of the incompleteness or unreliability of the data is of a technical nature which does not adversely affect the determination of the level of the State's performance.".

(2) CONFORMING AMENDMENTS.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking "403(h)" each place such term appears and inserting "455(c)".

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking "403(h)" and inserting "455(c)".

(f) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—(A) The amendments made by subsections (a), (b), and (c) shall become effective October 1, 1997, except to the extent provided in subparagraph (B).

(B) Section 458 of the Social Security Act, as in effect prior to the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years prior to fiscal year 1999.

(2) PENALTY REDUCTIONS.—(A) The amendments made by subsection (d) shall become effective with respect to calendar quarters beginning on and after the date of enactment of this Act.

(B) The amendments made by subsection (e) shall become effective with respect to calendar quarters beginning on and after the date one year after the date of enactment of this Act.

SEC. 9413. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program under this part, which shall include such information as may be necessary to measure State compliance with Federal requirements for expedited procedures and timely case processing, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which such program is in conformity with applicable requirements with respect to the operation of State programs under this part (including the status of complaints filed under the procedure required under paragraph (12)(B)); and

"(B) a process of extracting from the State automated data processing system and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of section 452(g) and 458, and determine the amount (if any) of penalty reductions pursuant to section 455(c) to be applied to the State;

"(B) review annual reports by State agencies pursuant to section 454(15)(A) on State program conformity with Federal requirements; evaluate any elements of a State program in which significant deficiencies are indicated by such report on the status of complaints under the State procedure under section 454(12)(B); and, as appropriate, provide to the State agency comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the government auditing standards of the United States Comptroller General—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet requirements of this part, or of regulations implementing such requirements, concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used for the calculations of performance indicators specified in subsection (g) and section 458;

"(ii) of the adequacy of financial management of the State program, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program under this part are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments and program income are carried out correctly and are properly and fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after the date one year after enactment of this section.

SEC. 9414. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes and timely case processing) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 9404(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following:

"(26) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 9415. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—(1) Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"AUTOMATED DATA PROCESSING

"SEC. 454A. (a) IN GENERAL.—In order to meet the requirements of this section, for purposes of the requirement of section 454(16), a State agency shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section, and performs such tasks with the frequency and in the manner specified in this part or in regulations or guidelines of the Secretary.

"(b) Program Management.—The automated system required under this section shall perform such functions as the Secretary may specify relating to management of the program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds to carry out such program; and

"(2) maintaining the data necessary to meet Federal reporting requirements on a timely basis.

"(c) Calculation of Performance Indicators.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV-D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness, and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) Information Integrity and Security.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required under this section, which shall include the following (in addition to such other safeguards as the Secretary specifies in regulations):

"(1) Policies restricting access.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out program responsibilities;

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data; and

"(C) ensure that data obtained or disclosed for a limited program purpose is not used or redisclosed for another, impermissible purpose.

"(2) Systems controls.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies specified under paragraph (1).

"(3) Monitoring of access.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) Training and information.—The State agency shall have in effect procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use sensitive or confidential program data are fully informed of applicable requirements and penalties, and are adequately trained in security procedures.

"(5) Penalties.—The State agency shall have in effect administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) Regulations.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(j) The Secretary shall prescribe final regulations for implementation of the requirements of section 454A not later than 2 years after the date of the enactment of this subsection.".

(4) Implementation Timetable.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 9404(a)(2) and 9414(b)(1) of this Act, is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1995, meeting all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, meeting all requirements of this part enacted on or before the date of enactment of the Omnibus Budget Reconciliation Act of 1995 (but this provision shall not be construed to alter earlier deadlines specified for elements of such system), except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 452(j) of this Act;".

(b) Special Federal Matching Rate for Development Costs of Automated Systems.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(B) by striking "so much of"; and

(C) by striking "which the Secretary" and all that follows and inserting ", and"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal year 1996, 90 percent of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16), or meeting such requirements without regard to clause (D) thereof.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of State expenditures described in subparagraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) and 454A, subject to clause (iii).

"(ii) The percentage specified in this clause, for purposes of clause (i), is the higher of—

"(I) 80 percent, or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(c) Conforming Amendment.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100-485) is repealed.

(d) Additional Provisions.—For additional provisions of section 454A, as added by subsection (a) of this section, see the amendments made by sections 9421, 9422(c), and 9433(d) of this Act.

SEC. 9416. DIRECTOR OF CSE PROGRAM; STAFFING STUDY.

(a) Reporting to Secretary.—Section 452(a) (42 U.S.C. 652(a)) is amended in the matter preceding paragraph (1) by striking "directly".

(b) Staffing Studies.—

(1) Scope.—The Secretary of Health and Human Services shall, directly or by contract, conduct studies of the staffing of each State child support enforcement program under part D of title IV of the Social Security Act. Such studies shall include a review of the staffing needs created by requirements for automated data processing, maintenance of a central case registry and centralized collections of child support, and of changes in these needs resulting from changes in such requirements. Such studies shall examine and report on effective staffing practices used by the States and on recommended staffing procedures.

(2) Frequency of studies.—The Secretary shall complete the first staffing study required under paragraph (1) by October 1, 1997, and may conduct additional studies subsequently at appropriate intervals.

(3) Report to the Congress.—The Secretary shall submit a report to the Congress stating the findings and conclusions of each study conducted under this subsection.

SEC. 9417. FUNDING FOR SECRETARIAL ASSISTANCE TO STATE PROGRAMS.

Section 452 (42 U.S.C. 652), as amended by section 9415(a)(3) of this Act, is amended by adding at the end the following new subsection:

"(k) Funding for Federal Activities Assisting State Programs.—(1) There shall be available to the Secretary, from amounts appropriated for fiscal year 1996 and each succeeding fiscal year for payments to States under this part, the amount specified in paragraph (2) for the costs to the Secretary for—

"(A) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs (including technical assistance concerning State automated systems);

"(B) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part; and

"(C) operation of the Federal Parent Locator Service under section 453, to the extent such costs are not recovered through user fees.

"(2) The amount specified in this paragraph for a fiscal year is the amount equal to a percentage of the reduction in Federal payments to States under part A on account of child support (including arrearages) collected in the preceding fiscal year on behalf of children receiving assistance under State plans approved under part A in such preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the third calendar quarter following the end of such preceding fiscal year), equal to—

"(A) 1 percent, for the activities specified in subparagraphs (A) and (B) of paragraph (1); and

"(B) 2 percent, for the activities specified in subparagraph (C) of paragraph (1).".

SEC. 9418. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) Annual Report to Congress.—(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following indented clauses:

"(i) the total amount of child support payments collected as a result of services furnished during such fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of furnishing such services to those individuals; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under a State plan approved under part A during a month in such fiscal year; and

"(II) with respect to whom a child support payment was received in the same month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 1912" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (I).

(b) DATA COLLECTION AND REPORTING.—Section 469 (42 U.S.C. 669) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) The Secretary shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to services to establish paternity and services to establish child support obligations, the data specified in subsection (b), separately stated, in the case of each such service, with respect to—

"(1) families (or dependent children) receiving assistance under State plans approved under part A (or E); and

"(2) families not receiving such assistance.

"(b) The data referred to in subsection (a) are—

"(1) the number of cases in the caseload of the State agency administering the plan under this part in which such service is needed; and

"(2) the number of such cases in which the service has been provided."; and

(2) in subsection (c), by striking "(a)(2)" and inserting "(b)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 3—LOCATE AND CASE TRACKING

SEC. 9421. CENTRAL STATE AND CASE REGISTRY.

Section 454A, as added by section 9415(a)(2) of this Act, is amended by adding at the end the following:

"(e) CENTRAL CASE REGISTRY.—(1) IN GENERAL.—The automated system required under this section shall perform the functions, in accordance with the provisions of this subsection, of a single central registry containing records with respect to each case in which services are being provided by the State agency (including, on and after October 1, 1998, each order specified in section 466(a)(12)), using such standardized data elements (such as names, social security numbers or other uniform identification numbers, dates of birth, and case identification numbers), and containing such other information (such as information on case status) as the Secretary may require.

"(2) PAYMENT RECORDS.—Each case record in the central registry shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the support order, and other amounts due or overdue (including arrears, interest or late payment penalties, and fees);

"(B) the date on which or circumstances under which the support obligation will terminate under such order;

"(C) all child support and related amounts collected (including such amounts as fees, late payment penalties, and interest on arrearages);

"(D) the distribution of such amounts collected; and

"(E) the birth date of the child for whom the child support order is entered.

"(3) UPDATING AND MONITORING.—The State agency shall promptly establish and maintain, and regularly monitor, case records in the registry required by this subsection, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from matches with Federal, State, or local data sources;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) DATA MATCHES AND OTHER DISCLOSURES OF INFORMATION.—The automated system required under this section shall have the capacity, and be used by the State agency, to extract data at such times, and in such standardized format or formats, as may be required by the Secretary, and to share and match data with, and receive data from, other data bases and data matching services, in order to obtain (or provide) information necessary to enable the State agency (or Secretary or other State or Federal agencies) to carry out responsibilities under this part. Data matching activities of the State agency shall include at least the following:

"(1) DATA BANK OF CHILD SUPPORT ORDERS.—Furnish to the Data Bank of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) minimal information (to be specified by the Secretary) on each child support case in the central case registry.

"(2) FEDERAL PARENT LOCATOR SERVICE.—Exchange data with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) TEMPORARY EMPLOYMENT ASSISTANCE PROGRAM AND MEDICAID AGENCIES.—Exchange data with State agencies (of the State and of other States) administering the programs under part A and title XIX, as necessary for the performance of State agency responsibilities under this part and under such programs.

"(4) INTRA- AND INTERSTATE DATA MATCHES.—Exchange data with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 9422. CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a) and 9414(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that the State agency, on and after October 1, 1998—

"(A) will operate a centralized, automated unit for the collection and disbursement of child support under orders being enforced under this part, in accordance with section 454B; and

"(B) will have sufficient State staff (consisting of State employees), and (at State option) contractors reporting directly to the State agency to monitor and enforce support collections through such centralized unit, including carrying out the automated data processing responsibilities specified in section 454A(g) and to impose, as appropriate in particular cases, the administrative enforcement remedies specified in section 466(c)(1).".

(b) ESTABLISHMENT OF CENTRALIZED COLLECTION UNIT.—Part D of title IV (42 U.S.C. 651–669) is amended by adding after section 454A the following new section:

"CENTRALIZED COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS

"SEC. 454B. (a) IN GENERAL.—In order to meet the requirement of section 454(27), the State agency must operate a single centralized, automated unit for the collection and disbursement of support payments, coordinated with the automated data system required under section 454A, in accordance with the provisions of this section, which shall be—

"(1) operated directly by the State agency (or by two or more State agencies under a regional cooperative agreement), or by a single contractor responsible directly to the State agency; and

"(2) used for the collection and disbursement (including interstate collection and disbursement) of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(b) REQUIRED PROCEDURES.—The centralized collections unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the State agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to either parent, upon request, timely information on the current status of support payments.".

(c) USE OF AUTOMATED SYSTEM.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by section 9421 of this Act, is amended by adding at the end the following new subsection:

"(g) CENTRALIZED COLLECTION AND DISTRIBUTION OF SUPPORT PAYMENTS.—The automated system required under this section shall be used, to the maximum extent feasible, to assist and facilitate collections and disbursement of support payments through the centralized collections unit operated pursuant to section 454B, through the performance of functions including at a minimum—

"(1) generation of orders and notices to employers (and other debtors) for the withholding of wages (and other income)—

"(A) within two working days after receipt (from the directory of New Hires established under section 453(i) or any other source) of notice of and the income source subject to such withholding; and

"(B) using uniform formats directed by the Secretary;

"(2) ongoing monitoring to promptly identify failures to make timely payment; and

"(3) automatic use of enforcement mechanisms (including mechanisms authorized pursuant to section 466(c)) where payments are not timely made.".

(d) Effective Date.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 9423. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) Mandatory Income Withholding.—(1) Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1) Income withholding.—(A) Under orders enforced under the state plan.—Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Under certain orders predating change in requirement.—Procedures under which all child support orders issued (or modified) before October 1, 1996, and which are not otherwise subject to withholding under subsection (b), shall become subject to withholding from wages as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) Section 466(a)(8) (42 U.S.C. 666(a)(8)) is repealed.

(3) Section 466(b) (42 U.S.C. 666(b)) is amended—

(A) in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)";

(B) in paragraph (5), by striking all that follows "administered by" and inserting "the State through the centralized collections unit established pursuant to section 454B, in accordance with the requirements of such section 454B.";

(C) in paragraph (6)(A)(i)—

(i) by inserting ", in accordance with timetables established by the Secretary," after "must be required"; and

(ii) by striking "to the appropriate agency" and all that follows and inserting "to the State centralized collections unit within 5 working days after the date such amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(D) in paragraph (6)(A)(ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(E) in paragraph (6)(D)—

(i) by striking "employer who discharges" and inserting "employer who—(A) discharges";

(ii) by relocating subparagraph (A), as designated, as an indented subparagraph after and below the introductory matter;

(iii) by striking the period at the end; and

(iv) by adding after and below subparagraph (A) the following new subparagraph:

"(B) fails to withhold support from wages, or to pay such amounts to the State centralized collections unit in accordance with this subsection.".

(b) Conforming Amendment.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

(c) Definition of Terms.—The Secretary shall promulgate regulations providing definitions, for purposes of part D of title IV of the Social Security Act, for the term "income" and for such other terms relating to income withholding under section 466(b) of such Act as the Secretary may find it necessary or advisable to define.

SEC. 9424. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 9423(a)(2) of this Act, is amended by inserting after paragraph (7) the following:

"(8) Locator information from interstate networks.—Procedures ensuring that the State will neither provide funding for, nor use for any purpose (including any purpose unrelated to the purposes of this part), any automated interstate network or system used to locate individuals—

"(A) for purposes relating to the use of motor vehicles; or

"(B) providing information for law enforcement purposes (where child support enforcement agencies are otherwise allowed access by State and Federal law),

unless all Federal and State agencies administering programs under this part (including the entities established under section 453) have access to information in such system or network to the same extent as any other user of such system or network.".

SEC. 9425. EXPANDED FEDERAL PARENT LOCATOR SERVICE.

(a) Expanded Authority to Locate Individuals and Assets.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting the following:

", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support;

"(B) against whom such an obligation is sought; or

"(C) to whom such an obligation is owed, including such individual's social security number (or numbers), most recent residential address, and the name, address, and employer identification number of such individual's employer; and

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information specified in subsection (a)"; and

(B) in paragraph (2), by inserting before the period ", or from any consumer reporting agency (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))";

(3) in subsection (e)(1), by inserting before the period ", or by consumer reporting agencies".

(b) Reimbursement for Data From Federal Agencies.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the fourth sentence by inserting before the period "in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data)".

(c) Access to Consumer Reports Under Fair Credit Reporting Act.—(1) Section 608 of the Fair Credit Reporting Act (15 U.S.C. 1681f) is amended—

(A) by striking ", limited to" and inserting "to a governmental agency (including the entire consumer report, in the case of a Federal, State, or local agency administering a program under part D of title IV of the Social Security Act, and limited to"; and

(B) by striking "employment, to a governmental agency" and inserting "employment, in the case of any other governmental agency)".

(2) Reimbursement for Reports by State Agencies and Credit Bureaus.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) The Secretary is authorized to reimburse costs to State agencies and consumer credit reporting agencies the costs incurred by such entities in furnishing information requested by the Secretary pursuant to this section in an amount which the Secretary determines to be reasonable payment for the data exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the data).".

(d) Disclosure of Tax Return Information.—(1) Section 6103(1)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking ", but only if" and all that follows and inserting a period.

(2) Section 6103(1)(8)(A) of the Internal Revenue Code of 1986 is amended by inserting "Federal," before "State or local".

(e) Technical Amendments.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), and 463(e) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), and 663(e)) are each amended by inserting "Federal" before "Parent" each place it appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) New Components.—Section 453 (42 U.S.C. 653), as amended by subsection (c)(2) of this section, is amended by adding at the end the following:

"(h) Data Bank of Child Support Orders.—

"(1) In general.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry to be known as the Data Bank of Child Support Orders, which shall contain abstracts of child support orders and other information described in paragraph (2) on each case in each State central case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) Case information.—The information referred to in paragraph (1), as specified by the Secretary, shall include sufficient information (including names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have established or modified, or are enforcing or seeking to establish, such an order.

"(i) Directory of New Hires.—

"(1) In general.—Not later than October 1, 1998, In order to assist States in administering their State plans under this part and parts A, F, and G, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated directory to be known as the directory of New Hires, containing—

"(A) information supplied by employers on each newly hired individual, in accordance with paragraph (2); and

"(B) information supplied by State agencies administering State unemployment compensation laws, in accordance with paragraph (3).

"(2) EMPLOYER INFORMATION.—

"(A) INFORMATION REQUIRED.—Subject to subparagraph (D), each employer shall furnish to the Secretary, for inclusion in the directory established under this subsection, not later than 10 days after the date (on or after October 1, 1998) on which the employer hires a new employee (as defined in subparagraph (C)), a report containing the name, date of birth, and social security number of such employee, and the employer identification number of the employer.

"(B) REPORTING METHOD AND FORMAT.—The Secretary shall provide for transmission of the reports required under subparagraph (A) using formats and methods which minimize the burden on employers, which shall include—

"(i) automated or electronic transmission of such reports;

"(ii) transmission by regular mail; and

"(iii) transmission of a copy of the form required for purposes of compliance with section 3402 of the Internal Revenue Code of 1986.

"(C) EMPLOYEE DEFINED.—For purposes of this paragraph, the term 'employee' means any individual subject to the requirement of section 3402(f)(2) of the Internal Revenue Code of 1986.

"(D) PAPERWORK REDUCTION REQUIREMENT.—As required by the information resources management policies published by the Director of the Office of Management and Budget pursuant to section 3504(b)(1) of title 44, United States Code, the Secretary, in order to minimize the cost and reporting burden on employers, shall not require reporting pursuant to this paragraph if an alternative reporting mechanism can be developed that either relies on existing Federal or State reporting or enables the Secretary to collect the needed information in a more cost-effective and equally expeditious manner, taking into account the reporting costs on employers.

"(E) CIVIL MONEY PENALTY ON NONCOMPLYING EMPLOYERS.—(i) Any employer that fails to make a timely report in accordance with this paragraph with respect to an individual shall be subject to a civil money penalty, for each calendar year in which the failure occurs, of the lesser of $500 or 1 percent of the wages or other compensation paid by such employer to such individual during such calendar year.

"(ii) Subject to clause (iii), the provisions of section 1128A (other than subsections (a) and (b) thereof) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"(iii) Any employer with respect to whom a penalty under this subparagraph is upheld after an administrative hearing shall be liable to pay all costs of the Secretary with respect to such hearing.

"(3) EMPLOYMENT SECURITY INFORMATION.—

"(A) REPORTING REQUIREMENT.—Each State agency administering a State unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act shall furnish to the Secretary of Health and Human Services extracts of the reports to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals required under section 303(a)(6), in accordance with subparagraph (B).

"(B) MANNER OF COMPLIANCE.—The extracts required under subparagraph (A) shall be furnished to the Secretary of Health and Human Services on a quarterly basis, with respect to calendar quarters beginning on and after October 1, 1996, by such dates, in such format, and containing such information as required by that Secretary in regulations.

"(j) DATA MATCHES AND OTHER DISCLOSURES.—

"(1) VERIFICATION BY SOCIAL SECURITY ADMINISTRATION.—(A) The Secretary shall transmit data on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct or supply to the extent necessary and feasible, and report to the Secretary, the following information in data supplied by the Secretary pursuant to subparagraph (A):

"(i) the name, social security number, and birth date of each individual; and

"(ii) the employer identification number of each employer.

"(2) CHILD SUPPORT LOCATOR MATCHES.—For the purpose of locating individuals for purposes of paternity establishment and establishment and enforcement of child support, the Secretary shall—

"(A) match data in the directory of New Hires against the child support order abstracts in the Data Bank of Child Support Orders not less often than every 2 working days; and

"(B) report information obtained from such a match to concerned State agencies operating programs under this part not later than 2 working days after such match.

"(3) DATA MATCHES AND DISCLOSURES OF DATA IN ALL REGISTRIES FOR TITLE IV PROGRAM PURPOSES.—The Secretary shall—

"(A) perform matches of data in each component of the Federal Parent Locator Service maintained under this section against data in each other such component (other than the matches required pursuant to paragraph (1)), and report information resulting from such matches to State agencies operating programs under this part and parts A, F, and G; and

"(B) disclose data in such registries to such State agencies,

to the extent, and with the frequency, that the Secretary determines to be effective in assisting such States to carry out their responsibilities under such programs.

"(k) FEES.—

"(1) FOR SSA VERIFICATION.—The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, the costs incurred by the Commissioner in performing the verification services specified in subsection (j).

"(2) FOR INFORMATION FROM SESAS.—The Secretary shall reimburse costs incurred by State employment security agencies in furnishing data as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such data).

"(3) FOR INFORMATION FURNISHED TO STATE AND FEDERAL AGENCIES.—State and Federal agencies receiving data or information from the Secretary pursuant to this section shall reimburse the costs incurred by the Secretary in furnishing such data or information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and matching such data or information).

"(l) RESTRICTION ON DISCLOSURE AND USE.—Data in the Federal Parent Locator Service, and information resulting from matches using such data, shall not be used or disclosed except as specifically provided in this section.

"(m) RETENTION OF DATA.—Data in the Federal Parent Locator Service, and data resulting from matches performed pursuant to this section, shall be retained for such period (determined by the Secretary) as appropriate for the data uses specified in this section.

"(n) INFORMATION INTEGRITY AND SECURITY.—The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(o) LIMIT ON LIABILITY.—The Secretary shall not be liable to either a State or an individual for inaccurate information provided to a component of the Federal Parent Locator Service section and disclosed by the Secretary in accordance with this section.".

(g) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Section 303(a) (42 U.S.C. 503(a)) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding after paragraph (9) the following new paragraph:

"(10) The making of quarterly electronic reports, at such dates, in such format, and containing such information, as required by the Secretary of Health and Human Services under section 453(i)(3), and compliance with such provisions as such Secretary may find necessary to ensure the correctness and verification of such reports.".

SEC. 9426. USE OF SOCIAL SECURITY NUMBERS.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 9401(a) of this Act, is amended by inserting after paragraph (12) the following:

"(13) SOCIAL SECURITY NUMBERS REQUIRED.—Procedures requiring the recording of social security numbers—

"(A) of both parties on marriage licenses and divorce decrees; and

"(B) of both parents, on birth records and child support and paternity orders.".

(b) CLARIFICATION OF FEDERAL POLICY.—Section 205(c)(2)(C)(ii) (42 U.S.C. 405(c)(2)(C)(ii)) is amended by striking the third sentence and inserting "This clause shall not be considered to authorize disclosure of such numbers except as provided in the preceding sentence.".

CHAPTER 4—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 9431. ADOPTION OF UNIFORM STATE LAWS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a) and 9426(a) of this Act, is amended inserting after paragraph (13) the following:

"(14) INTERSTATE ENFORCEMENT.—(A) ADOPTION OF UIFSA.—Procedures under which the State adopts in its entirety (with the modifications and additions specified in this paragraph) not later than January 1, 1997, and uses on and after such date, the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August, 1992.

"(B) EXPANDED APPLICATION OF UIFSA.—The State law adopted pursuant to subparagraph (A) shall be applied to any case—

"(i) involving an order established or modified in one State and for which a subsequent modification is sought in another State; or

"(ii) in which interstate activity is required to enforce an order.

"(C) JURISDICTION TO MODIFY ORDERS.—The State law adopted pursuant to subparagraph (A) of this paragraph shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act described in such subparagraph (A):

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) do not reside in the issuing State; and

"'(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

"'(ii) (in any case where another State is exercising or seeks to exercise jurisdiction to modify the order) the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(D) SERVICE OF PROCESS.—The State law adopted pursuant to subparagraph (A) shall recognize as valid, for purposes of any proceeding subject to such State law, service of process upon persons in the State (and proof of such service) by any means acceptable in another State which is the initiating or responding State in such proceeding.

"(E) COOPERATION BY EMPLOYERS.—The State law adopted pursuant to subparagraph (A) shall provide for the use of procedures (including sanctions for noncompliance) under which all entities in the State (including for-profit, nonprofit, and governmental employers) are required to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor.".

SEC. 9432. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If one or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only one court has issued a child support order, the order of that court must be recognized.

"(2) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If two or more courts have issued child support orders for the same obligor and child, and only one of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If two or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 9433. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666) is amended—

(1) in subsection (a)(2), in the first sentence, to read as follows: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by adding after subsection (b) the following new subsection:

"(c) EXPEDITED PROCEDURES.—The procedures specified in this subsection are the following:

"(1) ADMINISTRATIVE ACTION BY STATE AGENCY.—Procedures which give the State agency the authority (and recognize and enforce the authority of State agencies of other States), without the necessity of obtaining an order from any other judicial or administrative tribunal (but subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal), to take the following actions relating to establishment or enforcement of orders:

"(A) GENETIC TESTING.—To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) DEFAULT ORDERS.—To enter a default order, upon a showing of service of process and any additional showing required by State law—

"(i) establishing paternity, in the case of any putative father who refuses to submit to genetic testing; and

"(ii) establishing or modifying a support obligation, in the case of a parent (or other obligor or obligee) who fails to respond to notice to appear at a proceeding for such purpose.

"(C) SUBPOENAS.—To subpoena any financial or other information needed to establish, modify, or enforce an order, and to sanction failure to respond to any such subpoena.

"(D) ACCESS TO PERSONAL AND FINANCIAL INFORMATION.—To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records; and

"(ii) certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access).

"(E) INCOME WITHHOLDING.—To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(F) CHANGE IN PAYEE.—(In cases where support is subject to an assignment under section 403(b)(1)(E)(i), 471(a)(17), or 1912, or to a requirement to pay through the centralized collections unit under section 454B) upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(G) SECURE ASSETS TO SATISFY ARREARAGES.—For the purpose of securing overdue support—

"(i) to intercept and seize any periodic or lump-sum payment to the obligor by or through a State or local government agency, including—

"(I) unemployment compensation, workers' compensation, and other benefits;

"(II) judgments and settlements in cases under the jurisdiction of the State or local government; and

"(III) lottery winnings;

"(ii) to attach and seize assets of the obligor held by financial institutions;

"(iii) to attach public and private retirement funds in appropriate cases, as determined by the Secretary; and

"(iv) to impose liens in accordance with paragraph (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) INCREASE MONTHLY PAYMENTS.—For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages (subject to such conditions or restrictions as the State may provide).

"(I) SUSPENSION OF DRIVERS' LICENSES.—To suspend drivers' licenses of individuals owing past-due support, in accordance with subsection (a)(16).

"(2) SUBSTANTIVE AND PROCEDURAL RULES.—The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) LOCATOR INFORMATION; PRESUMPTIONS CONCERNING NOTICE.—Procedures under which—

"(i) the parties to any paternity or child support proceedings are required (subject to privacy safeguards) to file with the tribunal before entry of an order, and to update as appropriate, information on location and identity (including Social Security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer); and

"(ii) in any subsequent child support enforcement action between the same parties, the tribunal shall be authorized, upon sufficient showing that diligent effort has been made to ascertain such party's current location, to deem due process requirements for notice and service of process to be met, with respect to such party, by delivery to the most recent residential or employer address so filed pursuant to clause (i).

"(B) STATEWIDE JURISDICTION.—Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties, and orders issued in such cases have statewide effect; and

"(ii) (in the case of a State in which orders in such cases are issued by local jurisdictions) a case may be transferred between jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(c) EXCEPTIONS FROM STATE LAW REQUIREMENTS.—Section 466(d) (42 U.S.C. 666(d)) is amended—

(1) by striking "(d) If" and inserting the following:

"(d) EXEMPTIONS FROM REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) NONEXEMPT REQUIREMENTS.—The Secretary shall not grant an exemption from the requirements of—

"(A) subsection (a)(5) (concerning procedures for paternity establishment);

"(B) subsection (a)(10) (concerning modification of orders);

"(C) subsection (a)(12) (concerning recording of orders in the central State case registry);

"(D) subsection (a)(13) (concerning recording of Social Security numbers);

"(E) subsection (a)(14) (concerning interstate enforcement); or

"(F) subsection (c) (concerning expedited procedures), other than paragraph (1)(A) thereof (concerning establishment or modification of support amount).".

(d) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 9415(a)(2) of this Act and as amended by sections 9421 and 9422(c) of this Act, is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required under this section shall be used, to the maximum extent feasible, to implement any expedited administrative procedures required under section 466(c).".

CHAPTER 5—PATERNITY ESTABLISHMENT

SEC. 9441. SENSE OF THE CONGRESS.

It is the sense of the Congress that social services should be provided in hospitals to women who have become pregnant as a result of rape or incest.

SEC. 9442. AVAILABILITY OF PARENTING SOCIAL SERVICES FOR NEW FATHERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), and 9431 of this Act, is amended by inserting after paragraph (14) the following:

"(15) Procedures for providing new fathers with positive parenting counseling that stresses the importance of paying child support in a timely manner, in accordance with regulations prescribed by the Secretary.".

SEC. 9443. COOPERATION REQUIREMENT AND GOOD CAUSE EXCEPTION.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide that the State agency administering the plan under this part—

"(A) will make the determination specified under paragraph (4), as to whether an individual is cooperating with efforts to establish paternity and secure support (or has good cause not to cooperate with such efforts) for purposes of the requirements of sections 403(b)(1)(E)(i) and 1912;

"(B) will advise individuals, both orally and in writing, of the grounds for good cause exceptions to the requirement to cooperate with such efforts;

"(C) will take the best interests of the child into consideration in making the determination whether such individual has good cause not to cooperate with such efforts;

"(D)(i) will make the initial determination as to whether an individual is cooperating (or has good cause not to cooperate) with efforts to establish paternity within 10 days after such individual is referred to such State agency by the State agency administering the program under part A of title XIX;

"(ii) will make redeterminations as to cooperation or good cause at appropriate intervals; and

"(iii) will promptly notify the individual, and the State agencies administering such programs, of each such determination and redetermination;

"(E) with respect to any child born on or after the date 10 months after enactment of this provision, will not determine (or redetermine) the mother (or other custodial relative) of such child to be cooperating with efforts to establish paternity unless such individual furnishes—

"(i) the name of the putative father (or fathers); and

"(ii) sufficient additional information to enable the State agency, if reasonable efforts were made, to verify the identity of the person named as the putative father (including such information as the putative father's present address, telephone number, date of birth, past or present place of employment, school previously or currently attended, and names and addresses of parents, friends, or relatives able to provide location information, or other information that could enable service of process on such person), and

"(F)(i) (where a custodial parent who was initially determined not to be cooperating (or to have good cause not to cooperate) is later determined to be cooperating or to have good cause not to cooperate) will immediately notify the State agencies administering the programs under part A of title XIX that this eligibility condition has been met; and

"(ii) (where a custodial parent was initially determined to be cooperating (or to have good cause not to cooperate)) will not later determine such individual not to be cooperating (or not to have good cause not to cooperate) until such individual has been afforded an opportunity for a hearing.".

(b) MEDICAID AMENDMENTS.—Section 1912(a) (42 U.S.C. 1396k(a)) is amended—

(1) in paragraph (1)(B), by inserting "(except as provided in paragraph (2))" after "to cooperate with the State";

(2) in subparagraphs (B) and (C) of paragraph (1) by striking ", unless" and all that follows and inserting a semicolon; and

(3) by redesignating paragraph (2) as paragraph (5), and inserting after paragraph (1) the following new paragraphs:

"(2) provide that the State agency will immediately refer each applicant or recipient requiring paternity establishment services to the State agency administering the program under part D of title IV;

"(3) provide that an individual will not be required to cooperate with the State, as provided under paragraph (1), if the individual is found to have good cause for refusing to cooperate, as determined in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved—

"(A) to the satisfaction of the State agency administering the program under part D, as determined in accordance with section 454(25), with respect to the requirements to cooperate with efforts to establish paternity and to obtain support (including medical support) from a parent; and

"(B) to the satisfaction of the State agency administering the program under this title, with respect to other requirements to cooperate under paragraph (1);

"(4) provide that (except as provided in paragraph (5)) an applicant requiring paternity establishment services (other than an individual presumptively eligible pursuant to section 1920) shall not be eligible for medical assistance under this title until such applicant—

"(i) has furnished to the agency administering the State plan under part D of title IV the information specified in section 454(25)(E); or

"(ii) has been determined by such agency to have good cause not to cooperate; and

"(5) provide that the provisions of paragraph (4) shall not apply with respect to an applicant—

"(i) if such agency has not, within 10 days after such individual was referred to such agency, provided the notification required by section 454(25)(D)(iii), until such notification is received); and

"(ii) if such individual appeals a determination that the individual lacks good cause for noncooperation, until after such determination is affirmed after notice and opportunity for a hearing.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications filed in or after the first calendar quarter beginning 10 months or more after the date of the enactment of this Act (or such earlier quarter as the State may select) for assistance under a State plan approved under part A of title IV of the Social Security Act or for medical assistance under a State plan approved under title XIX of such Act.

SEC. 9444. FEDERAL MATCHING PAYMENTS.

(a) INCREASED BASE MATCHING RATE.—Section 455(a)(2) (42 U.S.C. 655(a)(2)) is amended to read as follows:

"(2) The applicable percent for a quarter for purposes of paragraph (1)(A) is—

"(A) for fiscal year 1996, 69 percent;

"(B) for fiscal year 1997, 72 percent; and

"(C) for fiscal year 1998 and succeeding fiscal years, 75 percent.".

(b) MAINTENANCE OF EFFORT.—Section 455 (42 U.S.C. 655) is amended—

(1) in subsection (a)(1), in the matter preceding subparagraph (A), by striking "From" and inserting "Subject to subsection (c), from"; and

(2) by inserting after subsection (b) the following:

"(c) MAINTENANCE OF EFFORT.—Notwithstanding subsection (a), total expenditures for the State program under this part for fiscal year 1996 and each succeeding fiscal year, reduced by the percentage specified for such fiscal year under subparagraph (A), (B), or (C)(i) of paragraph (2), shall not be less than such total expenditures for fiscal year 1995, reduced by 66 percent.".

SEC. 9445. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended—

(1) by striking "(5)" and inserting the following:

"(5) PROCEDURES CONCERNING PATERNITY ESTABLISHMENT.—";

(2) in subparagraph (A)—

(A) by striking "(A)(i)" and inserting the following:

"(A) ESTABLISHMENT PROCESS AVAILABLE FROM BIRTH UNTIL AGE EIGHTEEN.—(i)"; and

(B) by indenting clauses (i) and (ii) so that the left margin of such clauses is 2 ems to the right of the left margin of paragraph (4);

(3) in subparagraph (B)—

(A) by striking "(B)" and inserting the following:

"(B) PROCEDURES CONCERNING GENETIC TESTING.—(i)";

(B) in clause (i), as redesignated, by inserting before the period ", where such request is supported by a sworn statement (I) by such party alleging paternity setting forth facts establishing a reasonable possibility of the requisite sexual contact of the parties, or (II) by such party denying paternity setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact of the parties;";

(C) by inserting after and below clause (i) (as redesignated) the following new clause:

"(ii) Procedures which require the State agency, in any case in which such agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the putative father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is disputed, upon request and advance payment by the disputing party.";

(4) by striking subparagraphs (C) and (D) and inserting the following:

"(C) PATERNITY ACKNOWLEDGMENT.—(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the putative father and the mother must be given notice, orally, in writing, and in a language that each can understand, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

"(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(iv) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies. The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as, voluntary paternity establishment programs of hospitals and birth record agencies.

"(v) Such procedures must require the State and those required to establish paternity to use only the affidavit developed under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State.

"(D) STATUS OF SIGNED PATERNITY ACKNOWLEDGMENT.—(i) Procedures under which a signed acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days.

"(ii)(I) Procedures under which, after the 60-day period referred to in clause (i), a signed acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

"(II) Procedures under which, after the 60-day period referred to in clause (i), a minor who signs an acknowledgment of paternity other than in the presence of a parent or court-appointed guardian ad litem may rescind the acknowledgment in a judicial or administrative proceeding, until the earlier of—

"(aa) attaining the age of majority; or

"(bb) the date of the first judicial or administrative proceeding brought (after the signing) to establish a child support obligation, visitation rights, or custody rights with respect to the child whose paternity is the subject of the acknowledgment, and at which the minor is represented by a parent, guardian ad litem, or attorney.";

(5) by striking subparagraph (E) and inserting the following:

"(E) BAR ON ACKNOWLEDGMENT RATIFICATION PROCEEDINGS.—Procedures under which no judicial or administrative proceedings are required or permitted to ratify an unchallenged acknowledgment of paternity.";

(6) by striking subparagraph (F) and inserting the following:

"(F) ADMISSIBILITY OF GENETIC TESTING RESULTS.—Procedures—

"(i) requiring that the State admit into evidence, for purposes of establishing paternity, results of any genetic test that is—

"(I) of a type generally acknowledged, by accreditation bodies designated by the Secretary, as reliable evidence of paternity; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) that any objection to genetic testing results must be made in writing not later than a specified number of days before any hearing at which such results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of such results); and "(iii) that, if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy."; and

(7) by adding after subparagraph (H) the following new subparagraphs:

"(I) NO RIGHT TO JURY TRIAL.—Procedures providing that the parties to an action to establish paternity are not entitled to jury trial.

"(J) TEMPORARY SUPPORT ORDER BASED ON PROBABLE PATERNITY IN CONTESTED CASES.—Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) PROOF OF CERTAIN SUPPORT AND PATERNITY ESTABLISHMENT COSTS.—Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services and testing on behalf of the child.

"(L) WAIVER OF STATE DEBTS FOR COOPERATION.—At the option of the State, procedures under which the tribunal establishing paternity and support has discretion to waive rights to all or part of amounts owed to the State (but not to the mother) for costs related to pregnancy, childbirth, and genetic testing and for public assistance paid to the family where the father cooperates or acknowledges paternity before or after genetic testing.

"(M) STANDING OF PUTATIVE FATHERS.—Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security account number of each parent" before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 9446. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENT.—Section 454(23) (42 U.S.C. 654(23)) is amended by adding at the end the following new subparagraph:

"(C) publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support through a variety of means, which—

"(i) include distribution of written materials at health care facilities (including hospitals and clinics), and other locations such as schools;

"(ii) may include pre-natal programs to educate expectant couples on individual and joint rights and responsibilities with respect to paternity (and may require all expectant recipients of assistance under part A to participate in such pre-natal programs, as an element of cooperation with efforts to establish paternity and child support);

"(iii) include, with respect to each child discharged from a hospital after birth for whom paternity or child support has not been established, reasonable follow-up efforts (including at least one contact of each parent whose whereabouts are known, except where there is reason to believe such follow-up efforts would put mother or child at risk), providing—

"(I) in the case of a child for whom paternity has not been established, information on the benefits of and procedures for establishing paternity; and

"(II) in the case of a child for whom paternity has been established but child support has not been established, information on the benefits of and procedures for establishing a child support order, and an application for child support services;".

(b) ENHANCED FEDERAL MATCHING.—Section 455(a)(1)(C) (42 U.S.C. 655(a)(1)(C)) is amended—

(1) by inserting "(i)" before "laboratory costs", and

(2) by inserting before the semicolon ", and (ii) costs of outreach programs designed to encourage voluntary acknowledgment of paternity".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall become effective October 1, 1997.

(2) The amendments made by subsection (b) shall be effective with respect to calendar quarters beginning on and after October 1, 1996.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 9451. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Child Support Guidelines Commission" (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—The Commission shall develop a national child support guideline for consideration by the Congress that is based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 9452. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) PROCEDURES FOR MODIFICATION OF SUPPORT ORDERS.—

"(A)(i) Procedures under which—

"(I) every 3 years, at the request of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with such guidelines, without a requirement for any other change in circumstances; and

"(II) upon request at any time of either parent subject to a child support order, the State shall review and, as appropriate, adjust the order in accordance with the guidelines established under section 467(a) based on a substantial change in the circumstances of either such parent.

"(ii) Such procedures shall require both parents subject to a child support order to be notified of their rights and responsibilities provided for under clause (i) at the time the order is issued and in the annual information exchange form provided under subparagraph (B).

"(B) Procedures under which each child support order issued or modified in the State after the effective date of this subparagraph shall require the parents subject to the order to provide each other with a complete statement of their respective financial condition annually on a form which shall be established by the Secretary and provided by the State. The Secretary shall establish regulations for the enforcement of such exchange of information.".

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 9461. FEDERAL INCOME TAX REFUND OFFSET.

(a) CHANGED ORDER OF REFUND DISTRIBUTION UNDER INTERNAL REVENUE CODE.—Section 6402(c) of the Internal Revenue Code of 1986 is amended by striking the 3rd sentence.

(b) ELIMINATION OF DISPARITIES IN TREATMENT OF ASSIGNED AND NON-ASSIGNED ARREARAGES.—(1) Section 464(a) (42 U.S.C. 664(a)) is amended—

(A) by striking "(a)" and inserting "(a) OFFSET AUTHORIZED.—";

(B) in paragraph (1)—

(i) in the first sentence, by striking "which has been assigned to such State pursuant to section 402(a)(26) or section 471(a)(17)"; and

(ii) in the second sentence, by striking "in accordance with section 457 (b)(4) or (d)(3)" and inserting "as provided in paragraph (2)";

(C) in paragraph (2), to read as follows:

"(2) The State agency shall distribute amounts paid by the Secretary of the Treasury pursuant to paragraph (1)—

"(A) in accordance with section 457(a)(4) or (d)(3), in the case of past-due support assigned to a State pursuant to section 403(b)(1)(E)(i) or 471(a)(17); and

"(B) to or on behalf of the child to whom the support was owed, in the case of past-due support not so assigned.";

(D) in paragraph (3)—

(i) by striking "or (2)" each place it appears; and

(ii) in subparagraph (B), by striking "under paragraph (2)" and inserting "on account of past-due support described in paragraph (2)(B)".

(2) Section 464(b) (42 U.S.C. 664(b)) is amended—

(A) by striking "(b)(1)" and inserting "(b) REGULATIONS.—"; and

(B) by striking paragraph (2).

(3) Section 464(c) (42 U.S.C. 664(c)) is amended—

(A) by striking "(c)(1) Except as provided in paragraph (2), as" and inserting "(c) DEFINITION.—As"; and

(B) by striking paragraphs (2) and (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1999.

SEC. 9462. INTERNAL REVENUE SERVICE COLLECTION OF ARREARS.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1), by inserting "except as provided in paragraph (5)" after "collected";

(2) by striking "and" at the end of paragraph (3);

(3) by striking the period at the end of paragraph (4) and inserting a comma;

(4) by adding after paragraph (4) the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(5) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 9463. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—

(1) Section 459 (42 U.S.C. 659) is amended in the caption by inserting "INCOME WITHHOLDING," before "GARNISHMENT".

(2) Section 459(a) (42 U.S.C. 659(a)) is amended—

(A) by striking "(a)" and inserting "(a) CONSENT TO SUPPORT ENFORCEMENT.—

(B) by striking "section 207" and inserting "section 207 of this Act and 38 U.S.C. 5301"; and

(C) by striking all that follows "a private person," and inserting "to withholding in accordance with State law pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary thereunder, and to any other legal process brought, by a State agency administering a program under this part or by an individual obligee, to enforce the legal obligation of such individual to provide child support or alimony.".

(3) Section 459(b) (42 U.S.C. 659(b)) is amended to read as follows:

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.— Except as otherwise provided herein, each entity specified in subsection (a) shall be subject, with respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or to any other order or process to enforce support obligations against an individual (if such order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), to the same requirements as would apply if such entity were a private person.".

(4) Section 459(c) (42 U.S.C. 659(c)) is redesignated and relocated as paragraph (2) of subsection (f), and is amended—

(A) by striking "responding to interrogatories pursuant to requirements imposed by section 461(b)(3)" and inserting "taking actions necessary to comply with the requirements of subsection (A) with regard to any individual"; and

(B) by striking "any of his duties" and all that follows and inserting "such duties.".

(5) Section 461 (42 U.S.C. 661) is amended by striking subsection (b), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (b) (as added by paragraph (3) of this subsection) the following:

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS.—(1) The head of each agency subject to the requirements of this section shall—

"(A) designate an agent or agents to receive orders and accept service of process; and

"(B) publish (i) in the appendix of such regulations, (ii) in each subsequent republication of such regulations, and (iii) annually in the Federal Register, the designation of such agent or agents, identified by title of position, mailing address, and telephone number.".

(6) Section 459 (42 U.S.C. 659) is amended by striking subsection (d) and by inserting after subsection (c)(1) (as added by paragraph (5) of this subsection) the following:

"(2) Whenever an agent designated pursuant to paragraph (1) receives notice pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatories, with respect to an individual's child support or alimony payment obligations, such agent shall—

"(A) as soon as possible (but not later than fifteen days) thereafter, send written notice of such notice or service (together with a copy thereof) to such individual at his duty station or last-known home address;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to subsection (a)(1) or (b) of section 466, comply with all applicable provisions of such section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatories, respond thereto.".

(7) Section 461 (42 U.S.C. 661) is amended by striking subsection (c), and section 459 (42 U.S.C. 659) is amended by inserting after subsection (c) (as added by paragraph (5) and amended by paragraph (6) of this subsection) the following:

"(d) PRIORITY OF CLAIMS.—In the event that a governmental entity receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by the provisions of such section 466(b) and regulations thereunder; and

"(3) such moneys as remain after compliance with subparagraphs (A) and (B) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.".

(8) Section 459(e) (42 U.S.C. 659(e)) is amended by striking "(e)" and inserting the following:

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—".

(9) Section 459(f) (42 U.S.C. 659(f)) is amended by striking "(f)" and inserting the following:

"(f) RELIEF FROM LIABILITY.—(1)".

(10) Section 461(a) (42 U.S.C. 661(a)) is redesignated and relocated as section 459(g), and is amended—

(A) by striking "(g)" and inserting the following:

"(g) REGULATIONS.—"; and

(B) by striking "section 459" and inserting "this section".

(11) Section 462 (42 U.S.C. 662) is amended by striking subsection (f), and section 459 (42 U.S.C. 659) is amended by inserting the following after subsection (g) (as added by paragraph (10) of this subsection):

"(h) MONEYS SUBJECT TO PROCESS.—(1) Subject to subsection (i), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by such Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation); and

"(iii) worker's compensation benefits paid under Federal or State law; but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by such individual in carrying out duties associated with his employment; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.".

(12) Section 462(g) (42 U.S.C. 662(g)) is redesignated and relocated as section 459(i) (42 U.S.C. 659(i)).

(13)(A) Section 462 (42 U.S.C. 662) is amended—

(i) in subsection (e)(1), by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii); and

(ii) in subsection (e), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B).

(B) Section 459 (42 U.S.C. 659) is amended by adding at the end the following:

"(j) DEFINITIONS.—For purposes of this section—".

(C) Subsections (a) through (e) of section 462 (42 U.S.C. 662), as amended by subparagraph (A) of this paragraph, are relocated and redesignated as paragraphs (1) through (4), respectively of section 459(j) (as added by subparagraph (B) of this paragraph, (42 U.S.C. 659(j)), and the left margin of each of such paragraphs (1) through (4) is indented 2 ems to the right of the left margin of subsection (i) (as added by paragraph (12) of this subsection).

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661), as amended by subsection (a) of this section, are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new paragraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a State program under part D of title IV of the Social Security Act).";

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement," before "which—".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by striking "to spouse" and inserting "to (or for benefit of)"; and

(B) in paragraph (1), in the first sentence, by inserting "(or for the benefit of such spouse or former spouse to a State central collections unit or other public payee designated by a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving a child support order against a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of the Social Security Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 9464. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order or an order of an administrative process established under State law for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the first sentence the following: "In the case of a spouse or former spouse who, pursuant to section 403(b)(1)(E)(i) of the Social Security Act, assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order or an order of an administrative process established under State law for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisy the amount of child support set forth in a court order or an order of an administrative process established under State law shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

SEC. 9465. MOTOR VEHICLE LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended—

(1) by striking "(4) Procedures" and inserting the following:

"(4) LIENS.—

"(A) IN GENERAL.—Procedures"; and

(2) by adding at the end the following new subparagraph:

"(B) MOTOR VEHICLE LIENS.—Procedures for placing liens for arrears of child support on motor vehicle titles of individuals owing such arrears equal to or exceeding two months of support, under which—

"(i) any person owed such arrears may place such a lien;

"(ii) the State agency administering the program under this part shall systematically place such liens;

"(iii) expedited methods are provided for—

"(I) ascertaining the amount of arrears;

"(II) affording the person owing the arrears or other titleholder to contest the amount of arrears or to obtain a release upon fulfilling the support obligation;

"(iv) such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest; and

"(v) the individual or State agency owed the arrears may execute on, seize, and sell the property in accordance with State law.".

SEC. 9466. VOIDING OF FRAUDULENT TRANSFERS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, and 9442 of this Act, is amended by inserting after paragraph (15) the following:

"(16) FRAUDULENT TRANSFERS.—Procedures under which—

"(A) the State has in effect—

"(i) the Uniform Fraudulent Conveyance Act of 1981,

"(ii) the Uniform Fraudulent Transfer Act of 1984, or

"(iii) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(B) in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(i) seek to void such transfer; or

"(ii) obtain a settlement in the best interests of the child support creditor.".

SEC. 9467. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, and 9466 of this Act, is amended by inserting after paragraph (16) the following:

"(17) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—Procedures under which the State has (and uses in appropriate cases) authority (subject to appropriate due process safeguards) to withhold or suspend, or to restrict the use of driver's licenses, and professional and occupational licenses of individuals owing overdue child support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.".

SEC. 9468. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7) REPORTING ARREARAGES TO CREDIT BUREAUS.—(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent by 90 days or more in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.".

SEC. 9469. EXTENDED STATUTE OF LIMITATION FOR COLLECTION OF ARREARAGES.

(a) AMENDMENTS.—Section 466(a)(9) (42 U.S.C. 666(a)(9)) is amended—

(1) by striking "(9) Procedures" and inserting the following:

"(9) LEGAL TREATMENT OF ARREARS.—

"(A) FINALITY.—Procedures";

(2) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and by indenting each of such clauses 2 additional ems to the right; and

(3) by adding after and below subparagraph (A), as redesignated, the following new subparagraph:

"(B) STATUTE OF LIMITATIONS.—Procedures under which the statute of limitations on any arrearages of child support extends at least until the child owed such support is 30 years of age.".

(b) APPLICATION OF REQUIREMENT.—The amendment made by this section shall not be read to require any State law to revive any payment obligation which had lapsed prior to the effective date of such State law.

SEC. 9470. CHARGES FOR ARREARAGES.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, and 9467 of this Act, is amended by inserting after paragraph (17) the following:

"(18) CHARGES FOR ARREARAGES.—Procedures providing for the calculation and collection of interest or penalties for arrearages of child support, and for distribution of such interest or penalties collected for the benefit of the child (except where the right to support has been assigned to the State).".

(b) REGULATIONS.—The Secretary of Health and Human Services shall establish by regulation a rule to resolve choice of law conflicts arising in the implementation of the amendment made by subsection (a).

(c) CONFORMING AMENDMENT.—Section 454(21) (42 U.S.C. 654(21)) is repealed.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to arrearages accruing on or after October 1, 1998.

SEC. 9471. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by sections 9415(a)(3) and 9417 of this Act, is amended by adding at the end the following new subsection:

"(l) CERTIFICATIONS FOR PURPOSES OF PASSPORT RESTRICTIONS.—

"(1) IN GENERAL.—Where the Secretary receives a certification by a State agency in accordance with the requirements of section 454(28) that an individual owes arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 9471(b) of the Omnibus Budget Reconciliation Act of 1995.

"(2) LIMIT ON LIABILITY.—The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.".

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), and 9422(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (26);

(B) by striking the period at the end of paragraph (27) and inserting "; and"; and

(C) by adding after paragraph (27) the following new paragraph:

"(28) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(l) (concerning denial of passports) determinations that individuals owe arrearages of child support in an amount exceeding $5,000 or in an amount exceeding 24 months' worth of child support, under which procedure—

"(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

"(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.".

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State, upon certification by the Secretary of Health and Human Services, in accordance with section 452(l) of the Social Security Act, that an individual owes arrearages of child support in excess of $5,000, shall refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 9472. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 9404(a), 9414(b), 9422(a), and 9471(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following:

"(29) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.".

SEC. 9473. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, and 9470(a) of this Act, is amended by inserting after paragraph (18) the following:

"(19) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

"(A) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(B) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(C) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(D) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

"(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

"(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.".

"(E) Any person required to make a payment in respect of a decedent shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.".

SEC. 9474. LIABILITY OF GRANDPARENTS FOR FINANCIAL SUPPORT OF CHILDREN OF THEIR MINOR CHILDREN.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 9401(a), 9426(a), 9431, 9442, 9466, 9467, 9470(a), and 9473 of this Act, is amended by inserting after paragraph (19) the following:

"(20) Procedures under which each parent of an individual who has not attained 18 years of age is liable for the financial support of any child of the individual to the extent that the individual is unable to provide such support. The preceding sentence shall not apply to the State if the State plan explicitly provides for such inapplicability.".

SEC. 9475. SENSE OF THE CONGRESS REGARDING PROGRAMS FOR NONCUSTODIAL PARENTS UNABLE TO MEET CHILD SUPPORT OBLIGATIONS.

It is the sense of the Congress that the States should develop programs, such as the program of the State of Wisconsin known as the "Children's First Program", that are designed to work with noncustodial parents who are unable to meet their child support obligations.

CHAPTER 8—MEDICAL SUPPORT

SEC. 9481. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) In General.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.".

(b) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Plan amendments not required until January 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

CHAPTER 9—FOOD STAMP PROGRAM REQUIREMENTS

SEC. 9491. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended adding at the end the following:

"(i) Custodial Parent's Cooperation With Child Support Agencies.—

"(1) In general.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) Good cause for noncooperation.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) Fees.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(j) Non-Custodial Parent's Cooperation With Child Support Agencies.—

"(1) In general.—At the option of a State agency, subject to paragraphs (2) and (3), a putative or identified non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) Refusal to cooperate.—

"(A) Guidelines.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) Procedures.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) Fees.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) Privacy.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 9492. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by section 9491 of this Act, is amended by adding at the end the following:

"(k) Disqualification for Child Support Arrears.—

"(1) In general.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 9498. EFFECTIVE DATES.

(a) In General.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) provisions of this title requiring enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this title shall become effective upon enactment.

(b) Grace Period for State Law Changes.—The provisions of this title shall become effective with respect to a State on the later of—

(1) the date specified in this title, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) Grace Period for State Constitutional Amendment.—A State shall not be found out of compliance with any requirement enacted by this title if it is unable to comply without amending the State constitution until the earlier of—

(1) the date one year after the effective date of the necessary State constitutional amendment, or

(2) the date five years after enactment of this title.

SEC. 9499. SEVERABILITY.

If any provision of this title or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this title which can be given effect without regard to the invalid provision or application, and to this end the provisions of this title shall be severable.

Subtitle E—Teen Pregnancy and Family Stability

SEC. 9502. SUPERVISED LIVING ARRANGEMENTS FOR MINORS.

(a) IN GENERAL.—Section 402(c), as added by section 9101(a) of this Act, is amended by adding at the end the following:

"(8) SUPERVISED LIVING ARRANGEMENTS FOR MINORS.—The State plan shall provide that—

"(A) except as provided in subparagraph (B), in the case of any individual who is under age 18 and has never married, and who has a needy child in his or her care (or is pregnant and is eligible for temporary employment assistance under the State plan)—

"(i) such individual may receive such assistance for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home; and

"(ii) such assistance (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

"(B)(i) in the case of an individual described in clause (ii)—

"(I) the State agency shall assist such individual in locating an appropriate adult-supervised supportive living arrangement taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual (and child, if any) reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate), or

"(II) if the State agency is unable, after making diligent efforts, to locate any such appropriate living arrangement, the State agency shall provide for comprehensive case management, monitoring, and other social services consistent with the best interests of the individual (and child) while living independently (as determined by the State agency); and

"(ii) for purposes of clause (i), an individual is described in this clause if—

"(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(III) the State agency determines that the physical or emotional health of such individual or any needy child of the individual would be jeopardized if such individual and such needy child lived in the same residence with such individual's own parent or legal guardian; or

"(IV) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that it is in the best interest of the needy child to waive the requirement of subparagraph (A) with respect to such individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9503. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

(a) IN GENERAL.—Title XX (42 U.S.C. 1397–1397f), as amended by section 9205(b) of this Act, is amended by adding at the end the following:

"SEC. 2010. NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.

"(a) NATIONAL CLEARINGHOUSE ON ADOLESCENT PREGNANCY.—

"(1) ESTABLISHMENT.—The responsible Federal officials shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to adolescent pregnancy prevention programs, to be known as the 'National Clearinghouse on Adolescent Pregnancy Prevention Programs'.

"(2) FUNCTIONS.—The national center established under paragraph (1) shall serve as a national information and data clearinghouse, and as a training, technical assistance, and material development source for adolescent pregnancy prevention programs. Such center shall—

"(A) develop and maintain a system for disseminating information on all types of adolescent pregnancy prevention program and on the state of adolescent pregnancy prevention program development, including information concerning the most effective model programs;

"(B) develop and sponsor a variety of training institutes and curricula for adolescent pregnancy prevention program staff;

"(C) identify model programs representing the various types of adolescent pregnancy prevention programs;

"(D) develop technical assistance materials and activities to assist other entities in establishing and improving adolescent pregnancy prevention programs;

"(E) develop networks of adolescent pregnancy prevention programs for the purpose of sharing and disseminating information; and

"(F) conduct such other activities as the responsible Federal officials find will assist in developing and carrying out programs or activities to reduce adolescent pregnancy.

"(b) FUNDING.—The responsible Federal officials shall make grants to eligible entities for the establishment and operation of a National Clearinghouse on Adolescent Pregnancy Prevention Programs under subsection (a) so that in the aggregate the expenditures for such grants do not exceed $2,000,000 for fiscal year 1996, $4,000,000 for fiscal year 1997, $8,000,000 for fiscal year 1998, and $10,000,000 for fiscal year 1999 and each subsequent fiscal year.

"(c) DEFINITIONS.—As used in this section:

"(1) ADOLESCENTS.—The term 'adolescents' means youth who are ages 10 through 19.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a partnership that includes—

"(A) a local education agency, acting on behalf of one or more schools, together with

"(B) one or more community-based organizations, institutions of higher education, or public or private agencies or organizations.

"(3) ELIGIBLE AREA.—The term 'eligible area' means a school attendance area in which—

"(A) at least 75 percent of the children are from low-income families as that term is used in part A of title I of the Elementary and Secondary Education Act of 1965; or

"(B) the number of children receiving assistance under a State plan approved under part A of title IV of this Act is substantial as determined by the responsible Federal officials; or

"(C) the unmarried adolescent birth rate is high, as determined by the responsible Federal officials.

"(4) SCHOOL.—The term 'school' means a public elementary, middle, or secondary school.

"(5) RESPONSIBLE FEDERAL OFFICIALS.—The term 'responsible Federal officials' means the Secretary of Education, the Secretary of Health and Human Services, and the Chief Executive Officer of the Corporation for National and Community Service.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective January 1, 1996.

SEC. 9504. REQUIRED COMPLETION OF HIGH SCHOOL OR OTHER TRAINING FOR TEENAGE PARENTS.

(a) IN GENERAL.—Section 403(b)(1)(D), as added by section 9101(a) of this Act, is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following:

"(ii) in the case of a client who is a custodial parent who is under age 18 (or age 19, at the option of the State), has not successfully completed a high-school education (or its equivalent), and is required to participate in the Work First program (including an individual who would otherwise be exempt from participation in the program), shall provide that—

"(I) such parent participate in—

"(aa) educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis; or

"(bb) an alternative educational or training program on a full-time (as defined by the provider) basis; and

"(II) child care be provided in accordance with section 2009 with respect to the family.".

(b) STATE OPTION TO PROVIDE ADDITIONAL INCENTIVES AND PENALTIES TO ENCOURAGE TEEN PARENTS TO COMPLETE HIGH SCHOOL AND PARTICIPATE IN PARENTING ACTIVITIES.—

(1) STATE PLAN.—Section 403(b)(1)(D), as amended by subsection (a) of this section, is amended by adding at the end the following:

"(iii) at the option of the State, may provide that the client who is a custodial parent or pregnant woman who is under age 19 (or age 21, at the option of the State) participate in a program of monetary incentives and penalties which—

"(I) may, at the option of the State, require full-time participation by such custodial parent or pregnant woman in secondary school or equivalent educational activities, or participation in a course or program leading to a skills certificate found appropriate by the State agency or parenting education activities (or any combination of such activities and secondary education);

"(II) shall require that the needs of such custodial parent or pregnant woman be reviewed and the program assure that, either in the initial development or revision of such individual's individual responsibility plan, there will be included a description of the services that will be provided to the client and the way in which the program and service providers will coordinate with the educational or skills training activities in which the client is participating;

"(III) shall provide monetary incentives (to be treated as assistance under the State plan) for more than minimally acceptable performance of required educational activities;

"(IV) shall provide penalties (which may be those required by subsection (e) or, with the approval of the Secretary, other monetary penalties that the State finds will better achieve the objectives of the program) for less than minimally acceptable performance of required activities;

"(V) shall provide that when a monetary incentive is payable because of the more than minimally acceptable performance of required educational activities by a custodial parent, the incentive be paid directly to such parent, regardless of whether the State agency makes payment of assistance under the State plan directly to such parent; and

"(VI) for purposes of any other Federal or federally-assisted program based on need, shall not consider any monetary incentive paid under the State plan as income in determining a family's eligibility for or amount of benefits under such program, and if assistance is reduced by reason of a penalty under this clause, such other program shall treat the family involved as if no such penalty has been applied.".

(c) Effective Date.—The amendments made by this section shall take effect in the same manner as the amendment made by section 9101(a) takes effect.

SEC. 9505. DENIAL OF FEDERAL HOUSING BENEFITS TO MINORS WHO BEAR CHILDREN OUT-OF-WEDLOCK.

(a) Prohibition of Assistance.—Notwithstanding any other provision of law, a household whose head of household is an individual who has borne a child out-of-wedlock before attaining 18 years of age may not be provided Federal housing assistance for a dwelling unit until attaining such age, unless—

(1) after the birth of the child—

(A) the individual marries an individual who has been determined by the relevant State to be the biological father of the child; or

(B) the biological parent of the child has legal custody of the child and marries an individual who legally adopts the child;

(2) the individual is a biological and custodial parent of another child who was not born out-of-wedlock; or

(3) eligibility for such Federal housing assistance is based in whole or in part on any disability or handicap of a member of the household.

(b) Definitions.—For purposes of this section, the following definitions shall apply:

(1) Covered program.—The term "covered program" means—

(A) the program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(B) the public housing program under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

(C) the program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(D) the program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(E) the program for mortgage insurance provided pursuant to sections 221(d) (3) or (4) of the National Housing Act (12 U.S.C. 1715l(d)) for multifamily housing for low- and moderate-income families;

(F) the rural housing loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472);

(G) the rural housing loan guarantee program under section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h));

(H) the loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings;

(I) the program of loans for rental and cooperative rural housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

(J) the program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A));

(K) the loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor;

(L) the program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c);

(M) the program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m); and

(N) the program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(2) Covered project.—The term "covered project" means any housing for which Federal housing assistance is provided that is attached to the project or specific dwelling units in the project.

(3) Federal housing assistance.—The term "Federal housing assistance" means—

(A) assistance provided under a covered program in the form of any contract, grant, loan, subsidy, cooperative agreement, loan or mortgage guarantee or insurance, or other financial assistance; or

(B) occupancy in a dwelling unit that is—

(i) provided assistance under a covered program; or

(ii) located in a covered project and subject to occupancy limitations under a covered program that are based on income.

(4) State.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(c) Limitations on Applicability.—Subsection (a) shall not apply to Federal housing assistance provided for a household pursuant to an application or request for such assistance made by such household before the effective date of this Act if the household was receiving such assistance on the effective date of this Act.

Subtitle F—SSI Reform

SEC. 9601. DEFINITION AND ELIGIBILITY RULES.

(a) Definition of Childhood Disability.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."; and

(5) in subparagraph (F), as so redesignated by paragraph (3) of this subsection, by striking "(D)" and inserting "(E)".

(b) Changes to Childhood SSI Regulations.—

(1) Modification to medical criteria for evaluation of mental and emotional disorders.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) Discontinuance of individualized functional assessment.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) Effective Date; Regulations; Application to Current Recipients.—

(1) In general.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) Regulations.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) Application to current recipients.—

(A) Eligibility determinations.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) Grandfather provision.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) Notice.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

SEC. 9602. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) Continuing Disability Reviews Relating to Certain Children.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act, is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

"(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(b) Disability Eligibility Redeterminations Required for SSI Recipients Who Attain 18 Years of Age.—

(1) In general.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) Conforming repeal.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) Continuing Disability Review Required for Low Birth Weight Babies.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(d) Effective Date.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 9603. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) Tightening of Representative Payee Requirements.—

(1) Clarification of role.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking "and" at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting "; and", and by adding after subclause (IV) the following new subclause:

"(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.".

(2) Documentation of expenditures required.—

(A) In general.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

"(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

"(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

"(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.".

(B) Conforming amendment with respect to parent payees.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking "Clause (i)" and inserting "Subclauses (II) and (III) of clause (i)".

(3) Effective date.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) Dedicated Savings Accounts.—

(1) In general.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following:

"(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

"(I) education and job skills training;

"(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

"(III) appropriate therapy and rehabilitation.".

(2) Disregard of trust funds.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(A) by striking "and" at the end of paragraph (10),

(B) by striking the period at the end of paragraph (11) and inserting "; and", and

(C) by inserting after paragraph (11) the following:

"(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).".

(3) Effective date.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

SEC. 9604. DENIAL OF SSI BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) In General.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 9601(a)(3) of this Act, is amended by adding at the end the following:

"(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(b) Conforming Amendments.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1613(a)(12) (42 U.S.C. 1382b(a)(12)) is amended by striking "1631(a)(2)(B)(xiv)" and inserting "1631(a)(2)(B)(xiii)".

(3) Section 1631(a)(2)(A)(ii) (42 U.S.C. 1383(a)(2)(A)(ii)) is amended—

(A) by striking "(I)"; and

(B) by striking subclause (II).

(4) Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended—

(A) by striking clause (vii);

(B) in clause (viii), by striking "(ix)" and inserting "(viii)";

(C) in clause (ix)—

(i) by striking "(viii)" and inserting "(vii)"; and

(ii) in subclause (II), by striking all that follows "15 years" and inserting a period;

(D) in clause (xiii)—

(i) by striking "(xii)" and inserting "(xi)"; and

(ii) by striking "(xi)" and inserting "(x)";

(E) in clause (xiv) (as added by section 9603(b)(1) of this Act), by striking "(x)" and inserting "(ix)"; and

(F) by redesignating clauses (viii) through (xiv) as clauses (vii) through (xiii), respectively.

(5) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking all that follows "$25.00 per month" and inserting a period.

(6) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(7) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "—" and all that follows through "(A)" the 1st place such term appears;

(B) by striking "and" the 3rd place such term appears;

(C) by striking subparagraph (B);

(D) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(E) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(c) Effective Date.—The amendments made by this section shall take effect on October 1, 1995, and shall apply with respect to months beginning on or after such date.

(d) Funding of Certain Programs for Drug Addicts and Alcoholics.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Director of the National Institute on Drug Abuse—

(1) $95,000,000, for each of fiscal years 1997, 1998, 1999, and 2000, for expenditure through the Federal Capacity Expansion Program to expand the availability of drug treatment; and

(2) $5,000,000 for each of fiscal years 1997, 1998, 1999, and 2000 to be expended solely on the medication development project to improve drug abuse and drug treatment research.

SEC. 9605. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under programs that are funded under part A of title IV, or title XIX of this Act, the consolidated program of food assistance under chapter 2 of subtitle E of title XIV of the Omnibus Budget Reconciliation Act of 1995, or the Food Stamp Act of 1977 (as in effect before the effective date of such chapter), or benefits in 2 or more States under the supplemental security income program under title XVI of this Act.".

SEC. 9606. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 9604(b)(1) of this Act, is amended by inserting after paragraph (2) the following:

"(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if, throughout the month, the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) of such Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties;

"(B) the location or apprehension of the recipient is within the official duties of the officer; and

"(C) the request is made in the proper exercise of such duties.".

SEC. 9607. REAPPLICATION REQUIREMENTS FOR ADULTS RECEIVING SSI BENEFITS BY REASON OF DISABILITY.

(a) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as so redesignated by section 9601(a)(3) of this Act and as amended by section 9602 of this Act, is amended by adding at the end the following:

"(v) In the case of an individual who has attained 18 years of age and for whom a determination has been made of eligibility for a benefit under this title by reason of disability, the following applies:

"(I) Subject to the provisions of this clause, the determination of eligibility is effective for the 3-year period beginning on the date of the determination, and the eligibility of the individual lapses unless a determination of continuing eligibility is made before the end of such period, and before the end of each subsequent 3-year period. This subclause ceases to apply to the individual upon the individual attaining 65 years of age. This subclause does not apply to the individual if the individual has an impairment that is not expected to improve (or a combination of impairments that are not expected to improve).

"(II) With respect to a determination under subclause (I) of whether the individual continues to be eligible for the benefit (in this clause referred to as a 'redetermination'), the Commissioner may not make the redetermination unless the individual submits to the Commissioner an application requesting the redetermination. If such an application is submitted, the Commissioner shall make the redetermination. This subclause is subject to subclause (V).

"(III) If as of the date on which this clause takes effect the individual has been receiving the benefit for three years or less, the first period under subclause (I) for the individual is deemed to end on the expiration of the period beginning on the date on which this clause takes effect and continuing through a number of months equal to 12 plus a number equal to 36 minus the number of months the individual has been receiving the benefit.

"(IV) If as of the date on which this clause takes effect the individual has been receiving the benefit for five years or less, but for more than three years, the first period under subclause (I) for the individual is deemed to end on the expiration of the 1-year period beginning on the date on which this clause takes effect.

"(V) If as of the date on which this clause takes effect the individual has been receiving the benefit for more than five years, the Commissioner shall make redeterminations under subclause (I) and may not require the individual to submit applications for the redeterminations. The first 3-year period under subclause (I) for the individual is deemed to begin upon the expiration of the period beginning on the date on which this clause takes effect and ending upon the termination of a number of years equal to the lowest number (greater than zero) that can be obtained by subtracting the number of years that the individual has been receiving the benefit from a number that is a multiple of three.

"(VI) If the individual first attains 18 years of age on or after the date on which this clause takes effect, the first 3-year period under subclause (I) for the individual is deemed to end on the date on which the individual attains such age.

"(VII) Not later than one year prior to the date on which a determination under subclause (I) expires, the Commissioner shall (except in the case of an individual to whom subclause (V) applies) provide to the individual a written notice explaining the applicability of this clause to the individual, including an explanation of the effect of failing to submit the application. If the individual submits the application not later than 180 days prior to such date and the Commissioner does not make the redetermination before such date, the Commissioner shall continue to provide the benefit pending the redetermination and shall publish in the Federal Register a notice that the Commissioner was unable to make the redetermination by such date.

"(VIII) If the individual fails to submit the application under subclause (II) by the end of the applicable period under subclause (I), the individual may apply for a redetermination. The Commissioner shall make the redetermination for the individual only after making redeterminations for individuals for whom eligibility has not lapsed pursuant to subclause (I).".

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For redeterminations of eligibility pursuant to section 1614(a)(3)(H)(v) of the Social Security Act, there are authorized to be appropriated to the Commissioner of Social Security not more than $100,000,000 for fiscal years 1996 through 2000.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect upon the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 9608. NARROWING OF SSI ELIGIBILITY ON BASIS OF MENTAL IMPAIRMENTS.

(a) IN GENERAL.—Section 1614(a)(3)(A) (42 U.S.C. 1382c(a)(3)(A)) is amended by adding at the end the following sentence: "In making determinations under this clause regarding the severity of mental impairments, the Secretary shall revise the regulations under subpart P of part 404 of title 20, Code of Federal Regulations, to accomplish the result that (relative to such regulations as in effect prior to the date on which this sentence takes effect) less weight is given to criteria regarding concentration, persistence (and pace), and ability to tolerate increased mental demand associated with competitive work, and that, accordingly, the eligibility criteria regarding mental impairments are narrowed.".

(b) FINAL REGULATIONS.—The final rule for the regulations required in subsection (a) shall be issued before the expiration of the 9-month period beginning on the date of the enactment of this Act, and shall take effect upon the expiration of such period.

SEC. 9609. REDUCTION IN UNEARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(3)(A) (42 U.S.C. 1382a(b)(3)(A)) is amended by striking "$20" and inserting "$15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits for months beginning after December 31, 1995.

Subtitle G—Food Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 9701. APPLICATION OF AMENDMENTS.

The amendments made by this chapter shall not apply with respect to certification periods beginning before the effective date of this chapter.

SEC. 9702. AMENDMENTS TO THE FOOD STAMP ACT OF 1977.

(a) CERTIFICATION PERIOD.—(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended to read as follows:

"(c) 'Certification period' means the period specified by the State agency for which households shall be eligible to receive authorization cards, except that such period shall be—

"(1) 24 months for households in which all adult members are elderly or disabled; and

"(2) not more than 12 months for all other households.".

(2) Section 6(c)(1)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)(C)) is amended—

(A) in clause (ii) by adding "and" at the end;

(B) in clause (iii) by striking "; and" at the end and inserting a period; and

(C) by striking clause (iv).

(b) Energy Assistance Counted As Income.—

(1) Limiting exclusion.—Section 5(d)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(11)) is amended—

(A) by striking "(A) under any Federal law, or (B)"; and

(B) by inserting before the comma at the end the following: ", except that no benefits provided under the State program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall be excluded under this clause".

(2) Conforming amendments.—

(A) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking the ninth through the twelfth sentences.

(B) Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (C) and redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

(C) Section 5(k) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)) is amended by adding at the end the following:

"(4) For purposes of subsection (d)(1), any payments or allowances made under any Federal or State law for the purposes of energy assistance shall be treated as money payable directly to the household.".

(D) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8634(f)) is amended—

(i) in paragraph (1), by striking "food stamps";

(ii) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding"; and

(iii) by striking paragraph (2).

(c) Exclusion of Certain JTPA Income.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (d)—

(A) by striking "and (16)" and inserting "(16)"; and

(B) by inserting before the period at the end the following: ", and (17) income received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) by a household member who is less than 19 years of age"; and

(2) in subsection (*l*), by striking "under section 204(b)(1)(C)" and all that follows and inserting "shall be considered earned income for purposes of the food stamp program.".

(d) Exclusion of Life Insurance Policies.—Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(6) The Secretary shall exclude from financial resources the cash value of any life insurance policy owned by a member of a household.".

(e) In-Tandem Exclusions From Income.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end the following:

"(n) Whenever a Federal statute enacted after the date of the enactment of this Act excludes funds from income for purposes of determining eligibility, benefit levels, or both under State plans approved under part A of title IV of the Social Security Act, then such funds shall be excluded from income for purposes of determining eligibility, benefit levels, or both, respectively, under the food stamp program of households all of whose members receive benefits under a State plan approved under part A of title IV of the Social Security Act.".

SEC. 9703. AUTHORITY TO ESTABLISH AUTHORIZATION PERIODS.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)) is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which authorization to accept and redeem coupons under the food stamp program shall be valid.".

SEC. 9704. SPECIFIC PERIOD FOR PROHIBITING PARTICIPATION OF STORES BASED ON LACK OF BUSINESS INTEGRITY.

Section 9(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2018(a)(1)), as amended by section 9703, is amended by adding at the end the following: "The Secretary is authorized to issue regulations establishing specific time periods during which a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied or that has such an approval withdrawn on the basis of business integrity and reputation cannot submit a new application for approval. Such periods shall reflect the severity of business integrity infractions that are the basis of such denials or withdrawals.".

SEC. 9705. INFORMATION FOR VERIFYING ELIGIBILITY FOR AUTHORIZATION.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended—

(1) in the first sentence by inserting ", which may include relevant income and sales tax filing documents," after "submit information" ; and

(2) by inserting after the first sentence the following: "The regulations may require retail food stores and wholesale food concerns to provide written authorization for the Secretary to verify all relevant tax filings with appropriate agencies and to obtain corroborating documentation from other sources in order that the accuracy of information provided by such stores and concerns may be verified.".

SEC. 9706. WAITING PERIOD FOR STORES THAT INITIALLY FAIL TO MEET AUTHORIZATION CRITERIA.

Section 9(d) of the Food Stamp Act of 1977 (7 U.S.C. 2018(d)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall prohibit a retail food store or wholesale food concern that has an application for approval to accept and redeem coupons denied because it does not meet criteria for approval established by the Secretary in regulations from submitting a new application for six months from the date of such denial.".

SEC. 9707. BASES FOR SUSPENSIONS AND DISQUALIFICATIONS.

Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)) is amended by adding at the end the following: "Regulations issued pursuant to this Act shall provide criteria for the finding of violations and the suspension or disqualification of a retail food store or wholesale food concern on the basis of evidence which may include, but is not limited to, facts established through on-site investigations, inconsistent redemption data, or evidence obtained through transaction reports under electronic benefit transfer systems.".

SEC. 9708. AUTHORITY TO SUSPEND STORES VIOLATING PROGRAM REQUIREMENTS PENDING ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) Section 12(a) of the Food Stamp Act of 1977 (7 U.S.C. 2021(a)), as amended by section 9707, is amended by adding at the end the following: "Such regulations may establish criteria under which the authorization of a retail food store or wholesale food concern to accept and redeem coupons may be suspended at the time such store or concern is initially found to have committed violations of program requirements. Such suspension may coincide with the period of a review as provided in section 14. The Secretary shall not be liable for the value of any sales lost during any suspension or disqualification period.".

(b) Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

(1) in the first sentence by inserting "suspended," before "disqualified or subjected";

(2) in the fifth sentence by inserting before the period at the end the following: ", except that in the case of the suspension of a retail food store or wholesale food concern pursuant to section 12(a), such suspension shall remain in effect pending any administrative or judicial review of the proposed disqualification action, and the period of suspension shall be deemed a part of any period of disqualification which is imposed."; and

(3) by striking the last sentence.

SEC. 9709. DISQUALIFICATION OF RETAILERS WHO ARE DISQUALIFIED FROM THE WIC PROGRAM.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021) is amended by adding at the end the following:

"(g) The Secretary shall issue regulations providing criteria for the disqualification of approved retail food stores and wholesale food concerns that are otherwise disqualified from accepting benefits under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized under section 17 of the Child Nutrition Act of 1966. Such disqualification—

"(1) shall be for the same period as the disqualification from the WIC Program;

"(2) may begin at a later date; and

"(3) notwithstanding section 14 of this Act, shall not be subject to administrative or judicial review.".

SEC. 9710. PERMANENT DEBARMENT OF RETAILERS WHO INTENTIONALLY SUBMIT FALSIFIED APPLICATIONS.

Section 12 of the Food Stamp Act of 1977 (7 U.S.C. 2021), as amended by section 9709, is amended by adding at the end the following:

"(h) The Secretary shall issue regulations providing for the permanent disqualification of a retail food store or wholesale food concern that is determined to have knowingly submitted an application for approval to accept and redeem coupons which contains false information about one or more substantive matters which were the basis for providing approval. Any disqualification imposed under this subsection shall be subject to administrative and judicial review pursuant to section 14, but such disqualification shall remain in effect pending such review.".

SEC. 9711. EXPANDED CIVIL AND CRIMINAL FORFEITURE FOR VIOLATIONS OF THE FOOD STAMP ACT.

(a) Forfeiture of Items Exchanged in Food Stamp Trafficking.—Section 15(g) of the Food Stamp Act of 1977 (7 U.S.C. 2024(g)) is amended by striking "or intended to be furnished".

(b) Civil and Criminal Forfeiture.—Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024)) is amended by adding at the end the following:

"(h)(1) Civil Forfeiture for Food Stamp Benefit Violations.—

"(A) Any food stamp benefits and any property, real or personal—

"(i) constituting, derived from, or traceable to any proceeds obtained directly or indirectly from, or

"(ii) used, or intended to be used, to commit, or to facilitate,

the commission of a violation of subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall be subject to forfeiture to the United States.

"(B) The provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to a seizure or forfeiture under this subsection, insofar as applicable and not inconsistent with the provisions of this subsection.

"(2) Criminal Forfeiture for Food Stamp Benefit Violations.—

"(A)(i) Any person convicted of violating subsection (b) or subsection (c) involving food stamp benefits having an aggregate value of not less than $5,000, shall forfeit to the United States, irrespective of any State law—

"(I) any food stamp benefits and any property constituting, or derived from, or traceable to any proceeds such person obtained directly or indirectly as a result of such violation; and

"(II) any food stamp benefits and any of such person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such violation.

"(ii) In imposing sentence on such person, the court shall order that the person forfeit to the United States all property described in this subsection.

"(B) All food stamp benefits and any property subject to forfeiture under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding relating thereto, shall be governed by subsections (b), (c), (e), and (g) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), insofar as applicable and not inconsistent with the provisions of this subsection.

"(3) Applicability.—This subsection shall not apply to property specified in subsection (g) of this section.

"(4) Rules.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this subsection.".

SEC. 9712. EXPANDED AUTHORITY FOR SHARING INFORMATION PROVIDED BY RETAILERS.

(a) Section 205(c)(2)(C)(iii) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(iii)) (as amended by section 316(a) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464) is amended—

(1) by inserting in the first sentence of subclause (II) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) by inserting in the last sentence of subclause (II) immediately after "other Federal" the words "or State"; and

(3) by inserting "or a State" in subclause (III) immediately after "United States".

(b) Section 6109(f)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6109(f)(2)) (as added by section 316(b) of the Social Security Administrative Reform Act of 1994 (Public Law 103–296; 108 Stat. 1464)) is amended—

(1) by inserting in subparagraph (A) after "instrumentality of the United States" the following: ", or State government officers and employees with law enforcement or investigative responsibilities, or State agencies that have the responsibility for administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC)";

(2) in the last sentence of subparagraph (A) by inserting "or State" after "other Federal"; and

(3) in subparagraph (B) by inserting "or a State" after "United States".

SEC. 9713. EXPANDED DEFINITION OF "COUPON".

Section 3(d) of the Food Stamp Act of 1977 (7 U.S.C. 2012(d)) is amended by striking "or type of certificate" and inserting "type of certificate, authorization cards, cash or checks issued of coupons or access devices, including, but not limited to, electronic benefit transfer cards and personal identification numbers".

SEC. 9714. DOUBLED PENALTIES FOR VIOLATING FOOD STAMP PROGRAM REQUIREMENTS.

Section 6(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(b)(1)) is amended—

(1) in clause (i)—

(A) by striking "six months" and inserting "1 year"; and

(B) by adding "and" at the end; and

(2) striking clauses (ii) and (iii) and inserting the following:

"(ii) permanently upon—

"(I) the second occasion of any such determination; or

"(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), firearms, ammunition, or explosives for coupons.".

SEC. 9715. MANDATORY CLAIMS COLLECTION METHODS.

(a) Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the semicolon at the end.

(b) Section 13(d) of the Food Stamp Act of 1977 (7 U.S.C. 2022(d)) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by inserting "or refunds of Federal taxes as authorized pursuant to 31 U.S.C. 3720A" before the period at the end.

(c) Section 6103(1) of the Internal Revenue Code (26 U.S.C. 6103(1)) is amended—

(1) by striking "officers and employees" in paragraph (10)(A) and inserting "officers, employees or agents, including State agencies"; and

(2) by striking "officers and employees" in paragraph (10)(B) and inserting "officers, employees or agents, including State agencies".

SEC. 9716. PROMOTING EXPANSION OF ELECTRONIC BENEFITS TRANSFER.

Section 7(i) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(1)) is amended—

(1) by amending paragraph (1) to read:

"(1)(A) State agencies are encouraged to implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) Subject to paragraph (2), a State agency is authorized to procure and implement an electronic benefit transfer system under the terms, conditions, and design that the State agency deems appropriate.

"(C) The Secretary shall, upon request of a State agency, waive any provision of this subsection prohibiting the effective implementation of an electronic benefit transfer system consistent with the purposes of this Act. The Secretary shall act upon any request for such a waiver within 90 days of receipt of a complete application.";

(2) in paragraph (2), by striking "for the approval"; and

(3) in paragraph (3), by striking "the Secretary shall not approve such a system unless" and inserting "the State agency shall ensure that".

SEC. 9717. REDUCTION OF BASIC BENEFIT LEVEL.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "and (11)" and inserting "(11)";

(2) in clause (11) by inserting "through October 1, 1994" after "each October 1 thereafter"; and

(3) by inserting before the period at the end the following:

", and (12) on October 1, 1995, and on each October 1 thereafter, adjust the cost of such diet to reflect 100 percent of the cost, in the preceding June (without regard to any previous adjustment made under this clause or clauses (4) through (11) of this subsection) and round the result to the nearest lower dollar increment for each household size".

SEC. 9718. 2-YEAR FREEZE OF STANDARD DEDUCTION.

The second sentence of section 5(e)(4) (7 U.S.C. 2014(e)(4)) is amended by inserting ", except October 1, 1995, and October 1, 1996" after "thereafter".

SEC. 9719. PRO-RATING BENEFITS AFTER INTERRUPTIONS IN PARTICIPATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 9720. DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491 and 9492, is amended by adding at the end the following:

"(*l*) Disqualification for Participating in 2 or More States.—An individual shall be ineligible to participate in the food stamp program as a member of any household during a 10-year period beginning on the date the individual is found by a State to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual to receive benefits simultaneously from 2 or more States under—

"(1) the food stamp program;

"(2) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under title XIX of the Act (42 U.S.C. 1396 et seq.); or

"(3) the supplemental security income program under title XVI of the Act (42 U.S.C. 1381 et seq.).".

SEC. 9721. DISQUALIFICATION RELATING TO CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, and 9720, is amended by adding at the end the following:

"(m) Disqualification for Child Support Arrears.—

"(1) In general.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) Exceptions.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 9722. STATE AUTHORIZATION TO ASSIST LAW ENFORCEMENT OFFICERS IN LOCATING FUGITIVE FELONS.

Section 11(e)(8)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)(B)) is amended by striking "Act, and" and inserting "Act or of locating a fugitive felon (as defined by a State), and".

SEC. 9723. WORK REQUIREMENT FOR ABLE-BODIED RECIPIENTS.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015), as amended by sections 9491, 9492, 9720, and 9721, is amended by adding at the end the following:

"(n) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or local government, as determined appropriate by the Secretary.

"(2) WORK REQUIREMENT.—No individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly;

"(B) participate in a workfare program under section 20 or a comparable State or local workfare program;

"(C) participate in and comply with the requirements of an approved employment and training program under subsection (d)(4); or

"(D) participate in and comply with the requirements of a work program for 20 hours or more per week.

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with a dependent child under 18 years of age; or

"(D) otherwise exempt under subsection (d)(2).

"(4) WAIVER.—

"(A) IN GENERAL.—The Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 8 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

(b) WORK AND TRAINING PROGRAMS.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

"(O) REQUIRED PARTICIPATION IN WORK AND TRAINING PROGRAMS.—A State agency shall provide an opportunity to participate in the employment and training program under this paragraph to any individual who would otherwise become subject to disqualification under subsection (i).

"(P) COORDINATING WORK REQUIREMENTS.—

"(i) IN GENERAL.—Notwithstanding any other provision of this paragraph, a State agency that meets the participation requirements of clause (ii) may operate the employment and training program of the State for individuals who are members of households receiving allotments under this Act as part of a program operated by the State under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), subject to the requirements of the Act.

"(ii) PARTICIPATION REQUIREMENTS.—A State agency may exercise the option under clause (i) if the State agency provides an opportunity to participate in an approved employment and training program to an individual who is—

"(I) subject to subsection (i);

"(II) not employed at least an average of 20 hours per week;

"(III) not participating in a workfare program under section 20 (or a comparable State or local program); and

"(IV) not subject to a waiver under subsection (i)(4).".

(c) ENHANCED EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking "$75,000,000 for each of the fiscal years 1991 through 1995" and inserting "$150,000,000 for each of fiscal years 1996 through 2000";

(2) by striking subparagraphs (B), (C), (E), and (F);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking "for each" and all that follows through "of $60,000,000" and inserting ", the Secretary shall allocate funding".

SEC. 9724. COORDINATION OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 8(d) of the Food Stamp Act of 1977 (7 U.S.C. 2019(d)) is amended—

(1) by striking "(d) A household" and inserting the following:

"(d) NONCOMPLIANCE WITH OTHER WELFARE OR WORK PROGRAMS.—

"(1) IN GENERAL.—A household"; and

(2) by inserting "or a work requirement under a welfare or public assistance program" after "assistance program"; and

(3) by adding at the end the following:

"(2) WORK REQUIREMENT.—If a household fails to comply with a work requirement under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of a penalty imposed for the failure to comply; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.".

SEC. 9725. EXTENDING CURRENT CLAIMS RETENTION RATES.

Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "September 30, 1995" each place it appears and inserting "September 30, 2002".

SEC. 9726. NUTRITION ASSISTANCE FOR PUERTO RICO.

Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking "1994, and" and inserting "1994,"; and

(2) by inserting "and $1,143,000,000 for fiscal year 1996," before "to finance".

SEC. 9727. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

CHAPTER 2—COMMODITY DISTRIBUTION

SEC. 9751. SHORT TITLE.

This chapter may be cited as the "Commodity Distribution Act of 1995".

SEC. 9752. AVAILABILITY OF COMMODITIES.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary") is authorized during fiscal years 1996 through 2000 to purchase a variety of nutritious and useful commodities and distribute such commodities to the States for distribution in accordance with this chapter.

(b) In addition to the commodities described in subsection (a), the Secretary may expend funds made available to carry out the section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), which are not expended or needed to carry out such section, to purchase, process, and distribute commodities of the types customarily purchased under such section to the States for distribution in accordance to this chapter.

(c) In addition to the commodities described in subsections (a) and (b), agricultural commodities and the products thereof made available under clause (2) of the second sentence of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), may be made available by the Secretary to the States for distribution in accordance with this chapter.

(d) In addition to the commodities described in subsections (a), (b), and (c), commodities acquired by the Commodity Credit Corporation that the Secretary determines, in the discretion of the Secretary, are in excess of quantities needed to—

(1) carry out other domestic donation programs;

(2) meet other domestic obligations;

(3) meet international market development and food aid commitments, and

(4) carry out the farm price and income stabilization purposes of the Agricultural Adjustment Act of 1938, the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act; shall be made available by the Secretary, without charge or credit for such commodities, to the States for distribution in accordance with this chapter.

(e) During each fiscal year, the types, varieties, and amounts of commodities to be purchased under this chapter shall be determined by the Secretary. In purchasing such commodities, except those commodities purchased pursuant to section 9760, the Secretary shall, to the extent practicable and appropriate, make purchases based on—

(1) agricultural market conditions;

(2) the preferences and needs of States and distributing agencies; and

(3) the preferences of the recipients.

SEC. 9753. STATE, LOCAL AND PRIVATE SUPPLEMENTATION OF COMMODITIES.

(a) The Secretary shall establish procedures under which State and local agencies, recipient agencies, or any other entity or person may supplement the commodities distributed under this chapter for use by recipient agencies with nutritious and wholesome commodities that such entities or persons donate for distribution, in all or part of the State, in addition to the commodities otherwise made available under this chapter.

(b) States and eligible recipient agencies may use—

(1) the funds appropriated for administrative cost under section 9759(b);

(2) equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this chapter; and

(3) the personnel, both paid or volunteer, involved in such storage, handling, or distribution; to store, handle or distribute commodities donated for use under subsection (a).

(c) States and recipient agencies shall continue, to the maximum extent practical, to use volunteer workers, and commodities and other foodstuffs donated by charitable and other organizations, in the distribution of commodities under this chapter.

SEC. 9754. STATE PLAN.

(a) A State seeking to receive commodities under this chapter shall submit a plan of operation and administration every four years to the Secretary for approval. The plan may be amended at any time, with the approval of the Secretary.

(b) The State plan, at a minimum, shall—

(1) designate the State agency responsible for distributing the commodities received under this chapter;

(2) set forth a plan of operation and administration to expeditiously distribute commodities under this chapter in quantities requested to eligible recipient agencies in accordance with sections 9756 and 9760;

(3) set forth the standards of eligibility for recipient agencies; and

(4) set forth the standards of eligibility for individual or household recipients of commodities, which at minimum shall require—

(A) individuals or households to be comprised of needy persons; and

(B) individual or household members to be residing in the geographic location served by the distributing agency at the time of application for assistance.

(c) The Secretary shall encourage each State receiving commodities under this chapter to establish a State advisory board consisting of representatives of all interested entities, both public and private, in the distribution of commodities received under this chapter in the State.

(d) A State agency receiving commodities under this chapter may—

(1)(A) enter into cooperative agreements with State agencies of other States to jointly provide commodities received under this chapter to eligible recipient agencies that serve needy persons in a single geographical area which includes such States; or

(B) transfer commodities received under this chapter to any such eligible recipient agency in the other State under such agreement; and

(2) advise the Secretary of an agreement entered into under this subsection and the transfer of commodities made pursuant to such agreement.

SEC. 9755. ALLOCATION OF COMMODITIES TO STATES.

(a) In each fiscal year, except for those commodities purchased under section 9760, the Secretary shall allocate the commodities distributed under this chapter as follows:

(1) 60 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 60 percent of such total value as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line. Each State shall receive the value of commodities allocated under this paragraph.

(2) 40 percent of such total value of commodities shall be allocated in a manner such that the value of commodities allocated to each State bears the same ratio to 40 percent of such total value as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year. Each State shall receive the value of commodities allocated to the State under this paragraph.

(b)(1) The Secretary shall notify each State of the amount of commodities that such State is allotted to receive under subsection (a) or this subsection, if applicable. Each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute such commodities in a manner the Secretary deems appropriate and equitable. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year in a manner the State determines is appropriate and the Secretary shall reallocate and distribute such allocation as the Secretary deems appropriate and equitable.

(2) In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county, or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities from such unaffected State to States containing areas adversely affected by the disaster.

(c) Purchases of commodities under this chapter shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All commodities so purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allocations and reallocations made under subsections (a) and (b), and or carry out section 9760, not later than December 31 of the following fiscal year.

SEC. 9756. PRIORITY SYSTEM FOR STATE DISTRIBUTION OF COMMODITIES.

(a) In distributing the commodities allocated under subsections (a) and (b) of section 9755, the State agency, under procedures determined by the State agency, shall offer, or otherwise make available, its full allocation of commodities for distribution to emergency feeding organizations.

(b) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsection (a), its remaining allocation of commodities shall be distributed to charitable institutions described in section 9763(3) not receiving commodities under subsection (a).

(c) If the State agency determines that the State will not exhaust the commodities allocated under subsections (a) and (b) of section 9755 through distribution to organizations referred to in subsections (a) and (b), its remaining allocation of commodities shall be distributed to any eligible recipient agency not receiving commodities under subsections (a) and (b).

SEC. 9757. INITIAL PROCESSING COSTS.

The Secretary may use funds of the Commodity Credit Corporation to pay the costs of initial processing and packaging of commodities to be distributed under this chapter into forms and in quantities suitable, as determined by the Secretary, for use by the individual households or eligible recipient agencies, as applicable. The Secretary may pay such costs in the form of Corporation-owned commodities equal in value to such costs. The Secretary shall ensure that any such payments in kind will not displace commercial sales of such commodities.

SEC. 9758. ASSURANCES; ANTICIPATED USE.

(a) The Secretary shall take such precautions as the Secretary deems necessary to ensure that commodities made available under this chapter will not displace commercial sales of such commodities or the products thereof. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate by December 31, 1997, and not less than every two years thereafter, a report as to whether and to what extent such displacements or substitutions are occurring.

(b) The Secretary shall determine that commodities provided under this chapter shall be purchased and distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under this chapter in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

SEC. 9759. AUTHORIZATION OF APPROPRIATIONS.

(a) PURCHASE OF COMMODITIES.—To carry out this chapter, there are authorized to be appropriated $260,000,000 for each of the fiscal years 1996 through 2000 to purchase, process, and distribute commodities to the States in accordance with this chapter.

(b) ADMINISTRATIVE FUNDS.—

(1) There are authorized to be appropriated $40,000,000 for each of the fiscal years 1996 through 2000 for the Secretary to make available to the States for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this chapter, excluding costs associated with the distribution of those commodities distributed under section 9760. Funds appropriated under this paragraph for any fiscal year shall be allocated to the States on an advance basis dividing such funds among the States in the same proportions as the commodities distributed under this chapter for such fiscal year are allocated among the States. If a State agency is unable to use all of the funds so allocated to it, the Secretary shall reallocate such unused funds among the other States in a manner the Secretary deems appropriate and equitable.

(2)(A) A State shall make available in each fiscal year to eligible recipient agencies in the State not less than 40 percent of the funds received by the State under paragraph (1) for such fiscal year, as necessary to pay for, or provide advance payments to cover, the allowable expenses of eligible recipient agencies for distributing commodities to needy persons, but only to the extent such expenses are actually so incurred by such recipient agencies.

(B) As used in this paragraph, the term "allowable expenses" includes—

(i) costs of transporting, storing, handling, repackaging, processing, and distributing commodities incurred after such commodities are received by eligible recipient agencies;

(ii) costs associated with determinations of eligibility, verification, and documentation;

(iii) costs of providing information to persons receiving commodities under this chapter concerning the appropriate storage and preparation of such commodities; and

(iv) costs of recordkeeping, auditing, and other administrative procedures required for participation in the program under this chapter.

(C) If a State makes a payment, using State funds, to cover allowable expenses of eligible recipient agencies, the amount of such payment shall be counted toward the amount a State must make available for allowable expenses of recipient agencies under this paragraph.

(3) States to which funds are allocated for a fiscal year under this subsection shall submit financial reports to the Secretary, on a regular basis, as to the use of such funds. No such funds may be used by States or eligible recipient agencies for costs other than those involved in covering the expenses related to the distribution of commodities by eligible recipient agencies.

(4)(A) Except as provided in subparagraph (B), to be eligible to receive funds under this subsection, a State shall provide in cash or in kind (according to procedures approved by the Secretary for certifying these in-kind contributions) from non-Federal sources a contribution equal to the difference between—

(i) the amount of such funds so received; and

(ii) any part of the amount allocated to the State and paid by the State—

(I) to eligible recipient agencies; or

(II) for the allowable expenses of such recipient agencies; for use in carrying out this chapter.

(B) Funds allocated to a State under this section may, upon State request, be allocated before States satisfy the matching requirement specified in subparagraph (A), based on the estimated contribution required. The Secretary shall periodically reconcile estimated and actual contributions and adjust allocations to the State to correct for overpayments and underpayments.

(C) Any funds distributed for administrative costs under section 9760(b) shall not be covered by this paragraph.

(5) States may not charge for commodities made available to eligible recipient agencies, and may not pass on to such recipient agencies the cost of any matching requirements, under this chapter.

(c) VALUE OF COMMODITIES.—The value of the commodities made available under subsections (c) and (d) of section 9752, and the funds of the Corporation used to pay the costs of initial processing, packaging (including forms suitable for home use), and delivering commodities to the States shall not be charged against appropriations authorized by this section.

SEC. 9760. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

(a) From the funds appropriated under section 9759(a), $94,500,000 shall be used for each fiscal year to purchase and distribute commodities to supplemental feeding programs serving woman, infants, and children or elderly individuals (hereinafter in this section referred to as the "commodity supplemental food program"), or serving both groups wherever located.

(b) Not more than 20 percent of the funds made available under subsection (a) shall be made available to the States for State and local payments of administrative costs associated with the distribution of commodities by eligible recipient agencies under this section. Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(c)(1) During each fiscal year the commodity supplemental food program is in operation, the types, varieties, and amounts of commodities to be purchased under this section shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or amounts from those that were available or were planned at the beginning of the fiscal year the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1996 through 2000 to the Secretary. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(d) The Secretary shall, in each fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons, in areas in which the program currently does not operate, to the full extent that applications can be approved within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (e)) in areas in which the program is in effect.

(e) If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(f)(1) If it is necessary for the Secretary to pay a significantly higher than expected price for one or more types of commodities purchased under this section, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(g) Commodities distributed to States pursuant to this section shall not be considered in determining the commodity allocation to each State under section 9755 or priority of distribution under section 9756.

SEC. 9761. COMMODITIES NOT INCOME.

Notwithstanding any other provision of law, commodities distributed under this chapter shall not be considered income or resources for purposes of determining recipient eligibility under any Federal, State, or local means-tested program.

SEC. 9762. PROHIBITION AGAINST CERTAIN STATE CHARGES.

Whenever a commodity is made available without charge or credit under this chapter by the Secretary for distribution within the States to eligible recipient agencies, the State may not charge recipient agencies any amount that is in excess of the State's direct costs of storing, and transporting to recipient agencies the commodities minus any amount the Secretary provides the State for the costs of storing and transporting such commodities.

SEC. 9763. DEFINITIONS.

As used in this chapter:

(1) The term "average monthly number of unemployed persons" means the average monthly number of unemployed persons within a State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(2) The term "elderly persons" means individuals 60 years of age or older.

(3) The term "eligible recipient agency" means a public or nonprofit organization that administers—

(A) an institution providing commodities to supplemental feeding programs serving women, infants, and children or serving elderly persons, or serving both groups;

(B) an emergency feeding organization;

(C) a charitable institution (including hospitals and retirement homes and excluding penal institutions) to the extent that such institution serves needy persons;

(D) a summer camp for children, or a child nutrition program providing food service;

(E) a nutrition project operating under the Older Americans Act of 1965, including such projects that operate a congregate nutrition site and a project that provides home-delivered meals; or

(F) a disaster relief program; and that has been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the program established under this chapter.

(4) The term "emergency feeding organization" means a public or nonprofit organization that administers activities and projects (including the activities and projects of a charitable institution, a food bank, a food pantry, a hunger relief center, a soup kitchen, or a similar public or private nonprofit eligible recipient agency) providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

(5) The term "food bank" means a public and charitable institution that maintains an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to feed needy persons on a regular basis.

(6) The term "food pantry" means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.

(7) The term "needy persons" means—

(A) individuals who have low incomes or who are unemployed, as determined by the State (in no event shall the income of such individual or household exceed 185 percent of the poverty line);

(B) households certified as eligible to participate in the food stamp program under the

Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(C) individuals or households participating in any other Federal, or federally assisted, means-tested program.

(8) The term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(9) The term "soup kitchen" means a public and charitable institution that, as integral part of its normal activities, maintains an established feeding operation to provide food to needy homeless persons on a regular basis.

SEC. 9764. REGULATIONS.

(a) The Secretary shall issue regulations within 120 days to implement this chapter.

(b) In administering this chapter, the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed on eligible recipient agencies.

(c) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register a nonbinding estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this chapter during the fiscal year.

(d) The regulations issued by the Secretary under this section shall include provisions that set standards with respect to liability for commodity losses for the commodities distributed under this chapter in situations in which there is no evidence of negligence or fraud, and conditions for payment to cover such losses. Such provisions shall take into consideration the special needs and circumstances of eligible recipient agencies.

SEC. 9765. FINALITY OF DETERMINATIONS.

Determinations made by the Secretary under this chapter and the facts constituting the basis for any donation of commodities under this chapter, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government.

SEC. 9766. RELATIONSHIP TO OTHER PROGRAMS.

(a) Section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)) shall not apply with respect to the distribution of commodities under this chapter.

(b) Except as otherwise provided in section 9757, none of the commodities distributed under this chapter shall be sold or otherwise disposed of in commercial channels in any form.

SEC. 9767. SETTLEMENT AND ADJUSTMENT OF CLAIMS.

(a) The Secretary may—

(1) determine the amount of, settle, and adjust any claim arising under this chapter; and

(2) waive such a claim if the Secretary determines that to do so will serve the purposes of this chapter.

(b) Nothing contained in this section shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

SEC. 9768. REPEALERS; AMENDMENTS.

(a) REPEALER.—The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is repealed.

(b) AMENDMENTS.—

(1) The Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by striking section 110; and

(B) by striking section 502.

(2) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking section 4.

(3) The Charitable Assistance and Food Bank Act of 1987 (7 U.S.C. 612c note) is amended by striking section 3.

(4) The Food Security Act of 1985 (7 U.S.C. 612c note) is amended—

(A) by striking section 1562(a) and section 1571; and

(B) in section 1562(d), by striking "section 4 of the Agricultural and Consumer Protection Act of 1973" and inserting "section 9752 of the Commodity Distribution Act of 1995".

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) capital gain net income for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

"(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

"(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

"(d) DEFINITIONS.—For purposes of this section:

"(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose income is verified by a sponsoring organization under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 40 cents for breakfasts, and 20 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section

9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) SPONSOR PAYMENTS.—Section 17(f)(3)(B) of the National School Lunch Act is amended—

(A) by striking the period at the end of the second sentence and all that follows through the end of the subparagraph and inserting the following:", except that the adjustment that otherwise would occur on July 1, 1996, shall be made on August 1, 1996. The maximum allowable levels for administrative expense payments shall be rounded to the nearest lower dollar increment and based on the unrounded adjustment for the preceding 12-month period.";

(B) by striking "(B)" and inserting "(B)(i)"; and

(C) by adding at the end the following new clause:

"(ii) The maximum allowable level of administrative expense payments shall be adjusted by the Secretary—

"(I) to increase by 7.5 percent the monthly payment to family or group day care home sponsoring organizations both for tier I family or group day care homes and for those tier II family or group day care homes for which the sponsoring organization administers a means test as provided under subparagraph (A)(iii); and

"(II) to decrease by 7.5 percent the monthly payment to family or group day care home sponsoring organizations for family or group day care homes that do not meet the criteria for tier I homes and for which a means test is not administered.".

(3) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).".

(4) PROVISION OF DATA.—Section 17(f)(3) of the National School Lunch Act (as amended by paragraph (3)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the program under this section shall annually provide to a family or group day care home sponsoring organizations that request the data, a list of schools serving elementary school children in the State in which at least 50 percent of the children enrolled are certified to receive free or reduced price meals. State agencies administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall collect such data annually and provide such data on a timely basis to the State agency administering the program under this section.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(5) CONFORMING AMENDMENTS.—Section 17(c) of the National School Lunch Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the National School Lunch Act is amended by inserting "(including institutions that are not family or group day care home sponsoring organizations)" after "institutions".

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the National School Lunch Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this

section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

(3) IMPLEMENTATION.—The Secretary of Agriculture shall issue regulations to implement the amendments made by paragraphs (1), (2), (3), and (4) of subsection (b) and the provisions of section 17(f)(3)(C) of the National School Lunch Act (42 U.S.C. 1766(f)(3)(C)) not later than February 1, 1996. If such regulations are issued in interim form, final regulations shall be issued not later than August 1, 1996.

SEC. 9782. RESUMPTION OF DISCRETIONARY FUNDING FOR NUTRITION EDUCATION AND TRAINING PROGRAM.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended—

(1) by striking "Out of" and all that follows through "and $10,000,000" and inserting "To carry out the provisions of this section, there is hereby authorized to be appropriated not to exceed $10,000,000"; and

(2) by striking the last sentence.

Subtitle H—Treatment of Aliens

SEC. 9801. EXTENSION OF DEEMING OF INCOME AND RESOURCES UNDER TEA, SSI, AND FOOD STAMP PROGRAMS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), in applying sections 407 and 1621 of the Social Security Act and section 5(i) of the Food Stamp Act of 1977, the period in which each respective section otherwise applies with respect to an alien shall be extended through the date (if any) on which the alien becomes a citizen of the United States (under chapter 2 of title III of the Immigration and Nationality Act).

(b) EXCEPTION.—Subsection (a) shall not apply to an alien if—

(1) the alien has been lawfully admitted to the United States for permanent residence, has attained 75 years of age, and has resided in the United States for at least 5 years;

(2) the alien—

(A) is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge,

(B) is on active duty (other than active duty for training) in the Armed Forces of the United States, or

(C) is the spouse or unmarried dependent child of an individual described in subparagraph (A) or (B);

(3) the alien is the subject of domestic violence by the alien's spouse and a divorce between the alien and the alien's spouse has been initiated through the filing of an appropriate action in an appropriate court; or

(4) there has been paid with respect to the self-employment income or employment of the alien, or of a parent or spouse of the alien, taxes under chapter 2 or chapter 21 of the Internal Revenue Code of 1986 in each of 20 different calendar quarters.

(c) HOLD HARMLESS FOR MEDICAID ELIGIBILITY.—Subsection (a) shall not apply with respect to determinations of eligibility for benefits under a State plan approved under part A of title IV of the Social Security Act or under the supplemental income security program under title XVI of such Act but only insofar as such determinations provide for eligibility for medical assistance under title XIX of such Act.

(d) RULES REGARDING INCOME AND RESOURCE DEEMING UNDER TEA PROGRAM.—Subpart 1 of part A of title IV of the Social Security Act, as added by section 9101(a) of this Act, is amended by adding at the end the following:

"SEC. 407. ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

"(a) For purposes of determining eligibility for and the amount of assistance under a State plan approved under this part for an individual who is an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 207(c) of the Immigration and Nationality Act (or of section 203(a)(7) of such Act prior to April 1, 1980), or as a result of the application of the provisions of section 208 or 212(d)(5) of such Act), the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the unearned income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States, except that this section is not applicable if such individual is a dependent child and such sponsor (or such sponsor's spouse) is the parent of such child.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any month shall be determined as follows:

"(A) the total amount of earned and unearned income of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such month;

"(B) the amount determined under subparagraph (A) shall be reduced by an amount equal to the sum of—

"(i) the lesser of (I) 20 percent of the total of any amounts received by the sponsor and his spouse in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month, or (II) $175;

"(ii) the cash needs standard established by the State under its plan for a family of the same size and composition as the sponsor and those other individuals living in the same household as the sponsor who are claimed by him as dependents for purposes of determining his Federal personal income tax liability but whose needs are not taken into account in making a determination under section 402(d);

"(iii) any amounts paid by the sponsor (or his spouse) to individuals not living in such household who are claimed by him as dependents for purposes of determining his Federal personal income tax liability; and

"(iv) any payments of alimony or child support with respect to individuals not living in such household.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any month shall be determined as follows:

"(A) the total amount of the resources (determined as if the sponsor were applying for assistance under the State plan approved under this part) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined; and

"(B) the amount determined under subparagraph (A) shall be reduced by $1,500.

"(c)(1) Any individual who is an alien and whose sponsor was a public or private agency shall be ineligible for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States, unless the State agency administering such plan determines that such sponsor either no longer exists or has become unable to meet such individual's needs; and such determination shall be made by the State agency based upon such criteria as it may specify in the State plan, and upon such documentary evidence as it may therein require. Any such individual, and any other individual who is an alien (as a condition of his or her eligibility for assistance under a State plan approved under this part during the period of three years after his or her entry into the United States), shall be required to provide to the State agency administering such plan such information and documentation with respect to his sponsor as may be necessary in order for the State agency to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the State agency such information and documentation as it may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to them and required in order to make any determination under this section will be provided by them to the Secretary (who may, in turn, make such information available, upon request, to a concerned State agency), and whereby the Secretary of State and Attorney General will inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

"(d) Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment of assistance under the State plan made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause of such failure existed. Any such overpayment which is not repaid to the State or recovered in accordance with the procedures generally applicable under the State plan to the recoupment of overpayments shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(e)(1) In any case where a person is the sponsor of two or more alien individuals who are living in the same home, the income and resources of such sponsor (and his spouse), to the extent they would be deemed the income and resources of any one of such individuals under the preceding provisions of this section, shall be divided into two or more equal shares (the number of shares being the same as the number of such alien individuals) and the income and resources of each such individual shall be deemed to include one such share.

"(2) Income and resources of a sponsor (and his spouse) which are deemed under this section to be the income and resources of any alien individual in a family shall not be considered in determining the need of other family members except to the extent such income or resources are actually available to such other members.

"(f) The provisions of this section shall not apply with respect to any alien who is—

"(1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act;

"(2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c) of such Act;

"(3) paroled into the United States as a refugee under section 212(d)(5) of such Act;

"(4) granted political asylum by the Attorney General under section 208 of such Act; or

"(5) a Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422).'.

SEC. 9802. REQUIREMENTS FOR SPONSOR'S AFFIDAVITS OF SUPPORT.

(a) In General.—Title II of the Immigration and Nationality Act is amended by inserting after section 213 the following new section:

"REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

"Sec. 213A. (a) Enforceability.—

"(1) In general.—No affidavit of support may be accepted by the Attorney General or by any consular officer to establish that an alien is not excludable under section 212(a)(4) unless such affidavit is executed as a contract—

"(A) which is legally enforceable against the sponsor by the Federal Government, by a State, or by any political subdivision of a State, providing cash benefits under a public cash assistance program (as defined in subsection (f)(2)), but not later than 5 years after the date the alien last receives any such cash benefit; and

"(B) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (e)(2).

"(2) Expiration of liability.—Such contract shall only apply with respect to cash benefits described in paragraph (1)(A) provided to an alien before the earliest of the following:

"(A) Citizenship.—The date the alien becomes a citizen of the United States under chapter 2 of title III.

"(B) Veteran.—The first date the alien is described in section 9801(b)(2)(A) of the Omnibus Budget Reconciliation Act of 1995.

"(C) Payment of social security taxes.—The first date as of which the condition described in section 9801(b)(4) of the Omnibus Budget Reconciliation Act of 1995 is met with respect to the alien.

"(3) Nonapplication during certain periods.—Such contract also shall not apply with respect to cash benefits described in paragraph (1)(A) provided during any period in which the alien is described in section 9801(b)(2)(B) or 9801(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1995.

"(b) Forms.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Secretary of State and the Secretary of Health and Human Services, shall formulate an affidavit of support consistent with the provisions of this section.

"(c) Notification of Change of Address.—

"(1) Requirement.—The sponsor shall notify the Federal Government and the State in which the sponsored alien is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1)(A).

"(2) Enforcement.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

"(A) not less than $250 or more than $2,000, or

"(B) if such failure occurs with knowledge that the sponsored alien has received any benefit under any means-tested public benefits program, not less than $2,000 or more than $5,000.

"(d) Reimbursement of Government Expenses.—

"(1) Request for reimbursement.—

"(A) In general.—Upon notification that a sponsored alien has received any cash benefits described in subsection (a)(1)(A), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such cash benefits.

"(B) Regulations.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out subparagraph (A).

"(2) Initiation of action.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

"(3) Failure to abide by repayment terms.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

"(4) Limitation on actions.—No cause of action may be brought under this subsection later than 5 years after the date the alien last received any cash benefit described in subsection (a)(1)(A).

"(f) Definitions.—For the purposes of this section:

"(1) Sponsor.—The term 'sponsor' means an individual who—

"(A) is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;

"(B) is 18 years of age or over; and

"(C) is domiciled in any State.

"(2) Public cash assistance program.—The term 'public cash assistance program' means a program of the Federal Government or of a State or political subdivision of a State that provides direct cash assistance for the purpose of income maintenance and in which the eligibility of an individual, household, or family eligibility unit for cash benefits under the program, or the amount of such cash benefits, or both are determined on the basis of income, resources, or financial need of the individual, household, or unit. Such term does not include any program insofar as it provides medical, housing, education, job training, food, or in-kind assistance or social services.".

(b) Clerical Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 213 the following:

"Sec. 213A. Requirements for sponsor's affidavit of support.".

(c) Effective Date.—Subsection (a) of section 213A of the Immigration and Nationality Act, as inserted by subsection (a) of this section, shall apply to affidavits of support executed on or after a date specified by the Attorney General, which date shall be not earlier than 60 days (and not later than 90 days) after the date the Attorney General formulates the form for such affidavits under subsection (b) of such section 213A.

SEC. 9803. EXTENDING REQUIREMENT FOR AFFIDAVITS OF SUPPORT TO FAMILY-RELATED AND DIVERSITY IMMIGRANTS.

(a) In General.—Section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

"(4) Public charge and affidavits of support.—

"(A) Public charge.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(B) Affidavits of support.—Any immigrant who seeks admission or adjustment of status as any of the following is excludable unless there has been executed with respect to the immigrant an affidavit of support pursuant to section 213A:

"(i) As an immediate relative (under section 201(b)(2)).

"(ii) As a family-sponsored immigrant under section 203(a) (or as the spouse or child under section 203(d) of such an immigrant).

"(iii) As the spouse or child (under section 203(d)) of an employment-based immigrant under section 203(b).

"(iv) As a diversity immigrant under section 203(c) (or as the spouse or child under section 203(d) of such an immigrant).".

(b) Effective Date.—The amendment made by subsection (a) shall apply to aliens with respect to whom an immigrant visa is issued (or adjustment of status is granted) after the date specified by the Attorney General under section 9802(c).

Subtitle I—Earned Income Tax Credit

SEC. 9901. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) In General.—Section 32(c)(1) of the Internal Revenue Code of 1986 (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) Identification number requirement.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse."

(b) Special Identification Number.—Section 32 of such Code is amended by adding at the end the following new subsection:

"(l) Identification Numbers.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act)."

(c) Extension of Procedures Applicable to Mathematical or Clerical Errors.—Section 6213(g)(2) of such Code (relating to the definition of mathematical or clerical errors) is amended by striking "and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid."

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE X—REDUCTIONS IN CORPORATE TAX SUBSIDIES AND OTHER REFORMS

SEC. 10001. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—

This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) Table of Contents.—

Sec. 10001. Short title; table of contents.

Subtitle A—Tax Treatment of Expatriation

Sec. 10101. Revision of tax rules on expatriation.

Sec. 10102. Basis of assets of nonresident alien individuals becoming citizens or residents.

Subtitle B—Modification to Earned Income Credit

Sec. 10201. Earned income tax credit denied to individuals with substantial capital gain net income.

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

Sec. 10301. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

Sec. 10401. Tax treatment of certain extraordinary dividends.

Subtitle E—Foreign Trust Tax Compliance

Sec. 10501. Improved information reporting on foreign trusts.

Sec. 10502. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.

Sec. 10503. Foreign persons not to be treated as owners under grantor trust rules.

Sec. 10504. Information reporting regarding foreign gifts.

Sec. 10505. Modification of rules relating to foreign trusts which are not grantor trusts.

Sec. 10506. Residence of estates and trusts, etc.

Subtitle F—Limitation on Section 936 Credit

Sec. 10601. Limitation on section 936 credit.

Subtitle A—Tax Treatment of Expatriation

SEC. 10101. REVISION OF TAX RULES ON EXPATRIATION.

(a) In General.—Subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) General Rules.—For purposes of this subtitle—

"(1) Mark to market.—Except as provided in subsection (f)(2), all property held by an expatriate immediately before the expatriation date shall be treated as sold at such time for its fair market value.

"(2) Recognition of gain or loss.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) Election to continue to be taxed as United States citizen.—

"(A) In general.—If an expatriate elects the application of this paragraph with respect to any property—

"(i) this section (other than this paragraph) shall not apply to such property, but

"(ii) such property shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

"(B) Limitation on amount of estate, gift, and generation-skipping transfer taxes.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of subsection (a)(2)).

"(C) Requirements.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) Election.—An election under subparagraph (A) shall apply only to the property described in the election and, once made, shall be irrevocable.

"(b) Exclusion for Certain Gain.—The amount which would (but for this subsection) be includible in the gross income of any individual by reason of subsection (a) shall be reduced (but not below zero) by $600,000.

"(c) Property Treated as Held.—For purposes of this section, except as otherwise provided by the Secretary, an individual shall be treated as holding—

"(1) all property which would be includible in his gross estate under chapter 11 if such individual were a citizen or resident of the United States (within the meaning of chapter 11) who died at the time the property is treated as sold,

"(2) any other interest in a trust which the individual is treated as holding under the rules of subsection (f)(1), and

"(3) any other interest in property specified by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(d) Exceptions.—The following property shall not be treated as sold for purposes of this section:

"(1) United States real property interests.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).

"(2) Interest in certain retirement plans.—

"(A) In general.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(B) Foreign pension plans.—

"(i) In general.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(ii) Limitation.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) Definitions.—For purposes of this section—

"(1) Expatriate.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

An individual shall not be treated as an expatriate for purposes of this section by reason of the individual relinquishing United States citizenship before attaining the age of 18½ if the individual has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for less than 5 taxable years before the date of relinquishment.

"(2) Expatriation date.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) Relinquishment of citizenship.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) Long-term resident.—

"(A) In general.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) Special Rules Applicable to Beneficiaries' Interests in Trust.—

"(1) Determination of beneficiaries' interest in trust.—For purposes of this section—

"(A) General rule.—A beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) Special rule.—The remaining interests in the trust not determined under subparagraph (A) to be held by any beneficiary shall be allocated first to the grantor, if a beneficiary, and then to other beneficiaries under rules prescribed by the Secretary similar to the rules of intestate succession.

"(C) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(D) Taxpayer return position.—A taxpayer shall clearly indicate on its income tax return—

"(i) the methodology used to determine that taxpayer's trust interest under this section, and

"(ii) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(2) Deemed sale in case of trust interest.—If an individual who is an expatriate is treated under paragraph (1) as holding an interest in a trust for purposes of this section—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(g) Termination of Deferrals, Etc.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) Rules Relating to Payment of Tax.—

"(1) Imposition of tentative tax.—

"(A) In general.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(B) Due date.—The due date for any tax imposed by subparagraph (A) shall be the 90th day after the expatriation date.

"(C) Treatment of tax.—Any tax paid under subparagraph (A) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(2) Deferral of tax.—The payment of any tax attributable to amounts included in gross income under subsection (a) may be deferred to the same extent, and in the same manner, as any tax imposed by chapter 11, except that the Secretary may extend the period for extension of time for paying tax under section 6161 to such number of years as the Secretary determines appropriate.

"(3) Rules relating to security interests.—

"(A) Adequacy of security interests.—In determining the adequacy of any security to be provided under this section, the Secretary may take into account the principles of section 2056A.

"(B) Special rule for trust.—If a taxpayer is required by this section to provide security in connection with any tax imposed by reason of this section with respect to the holding of an interest in a trust and any trustee of such trust is an individual citizen of the United States or a domestic corporation, such trustee shall be required to provide such security upon notification by the taxpayer of such requirement.

"(i) Coordination With Estate and Gift Taxes.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent double taxation by ensuring that—

"(1) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (b),

"(2) no interest in property is treated as held for purposes of this section by more than one taxpayer, and

"(3) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(1)(C).

"(k) Cross Reference.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47)."

(b) Definition of Termination of United States Citizenship.—Section 7701(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(47) Termination of united states citizenship.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

(c) Conforming Amendments.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(f) Application.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995."

(2) Section 2107(c) of such Code is amended by adding at the end the following new paragraph:

"(3) Cross reference.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i)."

(3) Section 2501(a)(3) of such Code is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i)."

(4) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(5) Paragraph (10) of section 7701(b) of such Code is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1))."

(d) Clerical Amendment.—The table of sections for subpart A of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation."

(e) Effective Date.—

(1) In general.—The amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) Due date for tentative tax.—The due date under section 877A(h)(1)(B) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 10102. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

(a) In General.—Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for gain or loss on disposition of property) is amended by redesignating section 1061 as section 1062 and by inserting after section 1060 the following new section:

"SEC. 1061. BASIS OF ASSETS OF NONRESIDENT ALIEN INDIVIDUALS BECOMING CITIZENS OR RESIDENTS.

"(a) General Rule.—If a nonresident alien individual becomes a citizen or resident of the United States, gain or loss on the disposition of any property held on the date the individual becomes such a citizen or resident shall be determined by substituting, as of the applicable date, the fair market value of such property (on the applicable date) for its cost basis.

"(b) EXCEPTION FOR DEPRECIATION.—Any deduction under this chapter for depreciation, depletion, or amortization shall be determined without regard to the application of this section.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE DATE.—The term 'applicable date' means, with respect to any property to which subsection (a) applies, the earlier of—

"(A) the date the individual becomes a citizen or resident of the United States, or

"(B) the date the property first becomes subject to tax under this subtitle by reason of being used in a United States trade or business or by reason of becoming a United States real property interest (within the meaning of section 897(c)(1)).

"(2) RESIDENT.—The term 'resident' does not include an individual who is treated as a resident of a foreign country under the provisions of a tax treaty between the United States and a foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(3) TRUSTS.—A trust shall not be treated as an individual.

"(4) ELECTION NOT TO HAVE SECTION APPLY.—An individual may elect not to have this section apply solely for purposes of determining gain with respect to any property. Such election shall apply only to property specified in the election and, once made, shall be irrevocable.

"(5) SECTION ONLY TO APPLY ONCE.—This section shall apply only with respect to the first time the individual becomes either a citizen or resident of the United States.

"(d) REGULATIONS.—The Secretary shall prescribe regulations for purposes of this section, including regulations—

"(1) for application of this section in the case of property which consists of a direct or indirect interest in a trust, and

"(2) providing look-thru rules in the case of any indirect interest in any United States real property interest (within the meaning of section 897(c)(1)) or property used in a United States trade or business."

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 1061 and inserting the following new items:

"Sec. 1061. Basis of assets of nonresident alien individuals becoming citizens or residents.

"Sec. 1062. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after the date of the enactment of this Act, and to any disposition occurring on or before such date to which section 877A of the Internal Revenue Code of 1986 (as added by section 611) applies.

Subtitle B—Modification to Earned Income Credit

SEC. 10201. EARNED INCOME TAX CREDIT DENIED TO INDIVIDUALS WITH SUBSTANTIAL CAPITAL GAIN NET INCOME.

(a) IN GENERAL.—Paragraph (2) of section 32(i) of the Internal Revenue Code of 1986 (relating to denial of credit for individuals having excessive investment income) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) capital gain net income for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

Title X, Subtitle C

Subtitle C—Alternative Minimum Tax on Corporations Importing Products into the United States at Artificially Inflated Prices

SEC. 10301. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES

"Sec. 59B. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices.

"SEC. 59B. ALTERNATIVE MINIMUM TAX ON CORPORATIONS IMPORTING PRODUCTS INTO THE UNITED STATES AT ARTIFICIALLY INFLATED PRICES.

"(a) IMPOSITION OF TAX.—In the case of a corporation to which this section applies, there is hereby imposed an alternative minimum tax equal to 4 percent of net business receipts of the corporation for the taxable year.

"(b) TAXPAYERS TO WHICH SECTION APPLIES.—This section shall apply to any corporation, foreign or domestic, if—

"(1) gross sales in the United States during the tax year of parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, exceeded $10,000,000,

"(2) during that same tax year parts or products manufactured by the corporation, or any subsidiary or affiliate controlled by the corporation, with a customs value in excess of $10,000,000 were imported into the United States, and

"(3) its tax obligation under this section exceeds its total tax obligation under all other sections of the Internal Revenue Code of 1986.

"(c) CREDIT FOR TAXES PAID.—There shall be a nonrefundable credit against the taxes owed under this section equal to the total of all other taxes paid by the corporation under the Internal Revenue Code of 1986.

"(d) DEFINITIONS.—For purposes of this section:

"(1) NET BUSINESS RECEIPTS.—The term 'net business receipts' means the value of all parts or products sold in the United States, excluding—

"(A) the value of parts or products sold for export,

"(B) expenses paid for parts or products produced in the United States,

"(C) expenses paid for services performed in the United States, and

"(D) amounts paid for income, sales or use taxes imposed by any State, or political subdivision thereof, or by the District of Columbia, Puerto Rico, Guam or the Virgin Islands.

"(2) SUBSIDIARY OR AFFILIATE CONTROLLED BY THE CORPORATION.—An entity shall be considered to be a 'subsidiary or affiliate controlled by the corporation' if the corporation owns 5 percent or more of any class of stock of the entity or if the corporation exercises control over a majority of the board of directors of the entity."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part VIII. Alternative minimum tax on corporations importing products into the United States at artificially inflated prices."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle D—Tax Treatment of Certain Extraordinary Dividends

SEC. 10401. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) of the Internal Revenue Code of 1986 (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received."

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) of such Code (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of—

(A) a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution, or

(B) a tender offer outstanding on May 3, 1995.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall

be applied by substituting "September 13, 1995" for "May 3, 1995".

Subtitle E—Foreign Trust Tax Compliance

SEC. 10501. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 of the Internal Revenue Code of 1986 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 404(a)(4) or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this subsection apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this subsection shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information."

(b) INCREASED PENALTIES.—Section 6677 of such Code (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect.

The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (S), by striking the period at the end of subparagraph (T) and inserting ", or", and by inserting after subparagraph (T) the following new subparagraph:

"(U) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is of such Code amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts."

(3) The table of sections for part I of subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts."

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 10502. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value."

(2) Subsection (a) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(3)) to any grantor or beneficiary of the trust."

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 of such Code is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph."

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 of such Code is amended by adding at the end the following new paragraphs:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

"(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust."

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) of such Code is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 of such Code is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 10503. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 of the Internal Revenue Code of 1986 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

"(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases."

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) of such Code is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income."

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 of such Code is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person."

(2) Section 665 of such Code is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 10504. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.— Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Notice of large gifts received from foreign persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 10505. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 of the Internal Revenue Code of 1986 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for prior taxable years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996."

(b) ABUSIVE TRANSACTIONS.—Section 643(a) of such Code is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes."

(c) TREATMENT OF USE OF TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 of such Code (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) USE OF FOREIGN TRUST PROPERTY.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) USE OF OTHER PROPERTY.—Except as provided in regulations prescribed by the Secretary, any direct or indirect use of trust property (other than cash or marketable securities) by a person referred to in subparagraph (A) or (B) of paragraph (1) shall be treated as a distribution to the grantor or beneficiary (as the case may be) equal to the fair market value of the use of such property. The Secretary may prescribe regulations treating a loan guarantee by the trust as a use of trust property equal to the value of the guarantee.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(4) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title."

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) of such Code is amended by inserting

", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to—

(A) loans of cash or marketable securities after September 19, 1995, and

(B) uses of other trust property after December 31, 1995.

SEC. 10506. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust."

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) of such Code is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 of such Code (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust."

(2) PENALTY.—Section 1494 of such Code is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

Subtitle F—Limitation on Section 936 Credit

SEC. 10601. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Paragraph (4) of section 936(a) of the Internal Revenue Code of 1986 (relating to Puerto Rico and possession tax credit) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking subparagraph (A) and inserting the following new subsections:

"(A) CREDIT FOR ACTIVE BUSINESS INCOME.—The amount of the credit determined under paragraph (1)(A) for any taxable year shall not exceed 60 percent of the aggregate amount of the possession corporation's qualified possession wages for such taxable year.

"(B) CREDIT FOR INVESTMENT INCOME.—

"(i) IN GENERAL.—If—

"(I) the QPSII assets of the possession corporation for any taxable year, exceed

"(II) 80 percent of such possession corporation's qualified tangible business investment for such taxable year,

the credit determined under paragraph (1)(B) for such taxable year shall be reduced by the amount determined under clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction determined under this clause for any taxable year is an amount which bears the same ratio to the credit determined under paragraph (1)(B) for such taxable year (determined without regard to this subparagraph) as—

"(I) the excess determined under clause (i), bears to

"(II) the QPSII assets of the possession corporation for such taxable year."

(b) PHASEDOWN OF CREDIT.—The table contained in clause (ii) of section 936(a)(4)(C) of such Code, as redesigated by subsection (a), is amended to read as follows:

"In the case of taxable years beginning in:	The percentage is:
1994	60
1995	55
1996	40
1997	20
1998 and thereafter	0."

(c) DEFINITIONS AND SPECIAL RULES.—Subsection (i) of section 936 of such Code is amended to read as follows:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession of the United States, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (4) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) QPSII ASSETS.—For purposes of this section—

"(A) IN GENERAL.—The QPSII assets of a possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified investment assets as of the close of each quarter of such taxable year.

"(B) QUALIFIED INVESTMENT ASSETS.—The term 'qualified investment assets' means the aggregate adjusted bases of the assets which are held by the possession corporation and the income from which qualifies as qualified possession source investment income. For purposes of the preceding sentence, the adjusted basis of any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(3) QUALIFIED TANGIBLE BUSINESS INVESTMENT.—For purposes of this section—

"(A) IN GENERAL.—The qualified tangible business investment of any possession corporation for any taxable year is the average of the amounts of the possession corporation's qualified possession investments as of the close of each quarter of such taxable year.

"(B) QUALIFIED POSSESSION INVESTMENTS.—The term 'qualified possession investments' means the aggregate adjusted bases of tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession. For purposes of the preceding sentence, the adjusted basis of any property shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(4) RELOCATED BUSINESSES.—

"(A) IN GENERAL.—In determining—

"(i) the possession corporation's qualified possession wages for any taxable year, and

"(ii) the possession corporation's qualified tangible business investment for such taxable year,

there shall be excluded all wages and all qualified possession investments which are allocable to a disqualified relocated business.

"(B) DISQUALIFIED RELOCATED BUSINESS.—For purposes of subparagraph (A), the term 'disqualified relocated business' means any trade or business commenced by the possession corporation after October 12, 1995, or any addition after such date to an existing trade or business of such possession corporation unless—

"(i) the possession corporation certifies that the commencement of such trade or business or such addition will not result in a decrease in employment at an existing business operation located in the United States, and

"(ii) there is no reason to believe that such commencement or addition was done with the intention of closing down operations of an existing business located in the United States.

"(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b)(4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) TREATMENT OF CERTAIN TAXES.—Notwithstanding subsection (c), if—

"(A) the credit determined under subsection (a)(1) for any taxable year is limited under subsection (a)(4), and

"(B) the possession corporation has paid or accrued any taxes of a possession of the United States for such taxable year which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c), such possession corporation shall be allowed a deduction for such taxable year equal to the portion of such taxes which are allocable (on a pro rata basis) to taxable income of the possession corporation the tax on which is not offset by reason of the limitations of subsection (a)(4). In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(7) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect."

(d) MINIMUM TAX TREATMENT.—Clause (iii) of section 56(g)(4)(C) of such Code is amended by adding at the end thereof the following subclauses:

"(III) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(IV) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.-Subformat:

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Veterans Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The contents of the title are as follows:

TITLE XI—VETERANS' AFFAIRS

Sec. 11001. Short title; table of contents.

Subtitle A—Permanent Extension of Temporary Authorities

Sec. 11011. Authority to require that certain veterans agree to make copayments in exchange for receiving health-care benefits.
Sec. 11012. Medical care cost recovery authority.
Sec. 11013. Income verification authority.
Sec. 11014. Limitation on pension for certain recipients of medicaid-covered nursing home care.
Sec. 11015. Home loan fees.
Sec. 11016. Procedures applicable to liquidation sales on defaulted home loans guaranteed by the Department of Veterans Affairs.

Subtitle B—Other Matters

Sec. 11021. Revised standard for liability for injuries resulting from Department of Veterans Affairs treatment.
Sec. 11022. Enhanced loan asset sale authority.
Sec. 11023. Withholding of payments and benefits.

Subtitle C—Health Care Eligibility Reform

Sec. 11031. Hospital care and medical services.
Sec. 11032. Extension of authority to priority health care for Persian Gulf veterans.
Sec. 11033. Prosthetics.
Sec. 11034. Management of health care.
Sec. 11035. Improved efficiency in health care resource management.
Sec. 11036. Sharing agreements for specialized medical resources.
Sec. 11037. Personnel furnishing shared resources.

Subtitle A—Permanent Extension of Temporary Authorities

SEC. 11011. AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

Section 8013 of the Omnibus Budget Reconciliation Act of 1990 (38 U.S.C. 1710 note) is amended by striking out subsection (e).

SEC. 11012. MEDICAL CARE COST RECOVERY AUTHORITY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998,".

SEC. 11013. INCOME VERIFICATION AUTHORITY.

Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

SEC. 11014. LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (7).

SEC. 11015. HOME LOAN FEES.

Section 3729(a) of title 38, United States Code, is amended—

(1) in paragraph (4), by striking out "and before October 1, 1998"; and

(2) in paragraph (5)(C), by striking out ", and before October 1, 1998".

SEC. 11016. PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

Section 3732(c)(11) of title 38, United States Code, is amended by striking out paragraph (11).

Subtitle B—Other Matters

SEC. 11021. REVISED STANDARD FOR LIABILITY FOR INJURIES RESULTING FROM DEPARTMENT OF VETERANS AFFAIRS TREATMENT.

(a) REVISED STANDARD.—Section 1151 of title 38, United States Code, is amended—

(1) by designating the second sentence as subsection (c);

(2) by striking out the first sentence and inserting in lieu thereof the following:

"(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability of a veteran or the qualifying death of a veteran in the same manner as if such disability or death were service-connected.

"(b)(1) For purposes of this section, a disability or death is a qualifying additional disability or a qualifying death only if the disability or death—

"(A) was caused by Department health care and was a proximate result of—

"(i) negligence on the part of the Department in furnishing the Department health care; or

"(ii) an event not reasonably foreseeable; or

"(B) was incurred as a proximate result of the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of this section, the term 'Department health care' means hospital care, medical or surgical treatment, or an examination that is furnished under any law administered by the Secretary to a veteran by a Department employee or in a Department facility (as defined in section 1701(3)(A) of this title).

"(3) A disability or death of a veteran which is the result of the veteran's willful misconduct is not a qualifying disability or death for purposes of this section."; and

(3) by adding at the end the following:

"(d) Effective with respect to injuries, aggravations of injuries, and deaths occurring after September 30, 2002, a disability or death is a qualifying additional disability or a qualifying death for purposes of this section (notwithstanding the provisions of subsection (b)(1)) if the disability or death—

"(1) was the result of Department health care; or

"(2) was the result of the pursuit of a course of vocational rehabilitation under chapter 31 of this title.".

(b) CONFORMING AMENDMENTS.—Subsection (c) of such section, as designated by subsection (a)(1), is amended—

(1) by striking out ", aggravation," both places it appears; and

(2) by striking out "sentence" and inserting in lieu thereof "subsection".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any administrative or judicial determination of eligibility for benefits under section 1151 of title 38, United States Code, based on a claim that is received by the Secretary on or after October 1, 1995, including any such determination based on an original application or an application seeking to reopen, revise, reconsider, or otherwise readjudicate any claim for benefits under section 1151 of that title or any predecessor provision of law.

SEC. 11022. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "September 30, 1996".

SEC. 11023. WITHHOLDING OF PAYMENTS AND BENEFITS.

(a) NOTICE REQUIRED IN LIEU OF CONSENT OR COURT ORDER.—Section 3726 of title 38, United States Code, is amended by striking out "unless" and all that follows and inserting in lieu thereof the following: "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title. If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title. If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.".

(b) CONFORMING AMENDMENT.—Section 5302(b) of such title is amended by inserting "with return receipt requested" after "certified mail".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of the enactment of this Act.

Subtitle C—Health Care Eligibility Reform

SEC. 11031. HOSPITAL CARE AND MEDICAL SERVICES.

(a) ELIGIBILITY FOR CARE.—Section 1710(a) of title 38, United States Code, is amended by striking out paragraphs (1) and (2) and inserting the following:

"(a)(1) The Secretary shall, to the extent and in the amount provided in advance in appropriations Acts for these purposes, provide hospital care and medical services, and may provide nursing home care, which the Secretary determines is needed to any veteran—

"(A) with a compensable service-connected disability;

"(B) whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty;

"(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

"(D) who is a former prisoner of war;

"(E) of the Mexican border period or of World War I;

"(F) who was exposed to a toxic substance, radiation, or environmental hazard, as provided in subsection (e); and

"(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(2) In the case of a veteran who is not described in paragraph (1), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsection (f), furnish hospital care, medical services, and nursing home care which the Secretary determines is needed.".

(b) CONFORMING AMENDMENTS.—(1) Section 1710(e) of such title is amended—

(A) in paragraph (1), by striking out "hospital care and nursing home care" in subparagraphs (A), (B), and (C) and inserting in lieu thereof "hospital care, medical services, and nursing home care";

(B) in paragraph (2), by inserting "and medical services" after "Hospital and nursing home care"; and

(C) by striking out "subsection (a)(1)(G) of this section" each place it appears and inserting in lieu thereof "subsection (a)(1)(F)".

(2) Chapter 17 of such title is amended—

(A) by redesignating subsection (g) of section 1710 as subsection (h); and

(B) by transferring subsection (f) of section 1712 of such title to section 1710 so as to appear after subsection (f), redesignating such subsection as subsection (g), and amending such subsection by striking out "section 1710(a)(2) of this title" in paragraph (1) and inserting in lieu thereof "subsection (a)(2) of this section".

(3) Section 1712 of such title is amended—

(A) by striking out subsections (a) and (i); and

(B) by redesignating subsections (b), (c), (d), (h) and (j), as subsections (a), (b), (c), (d), and (e), respectively.

SEC. 11032. EXTENSION OF AUTHORITY TO PRIORITY HEALTH CARE FOR PERSIAN GULF VETERANS.

Section 1710(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1995" and inserting in lieu thereof "December 31, 1998".

SEC. 11033. PROSTHETICS.

(a) ELIGIBILITY FOR PROSTHETICS.—Section 1701(6)(A)(i) of title 38, United States Code, is amended—

(1) by striking out "(in the case of a person otherwise receiving care or services under this chapter)" and "(except under the conditions described in section 1712(a)(5)(A) of this title),";

(2) by inserting "(in the case of a person otherwise receiving care or services under this chapter)" before "wheelchairs,"; and

(3) by inserting "except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe," after "reasonable and necessary,".

(b) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 11034. MANAGEMENT OF HEALTH CARE.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1704 the following new sections:

"§ 1705. Management of health care: patient enrollment system

"(a) In managing the provision of hospital care and medical services under section 1710(a)(1) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

"(1) Veterans with service-connected disabilities rated 30 percent or greater.

"(2) Veterans who are former prisoners of war and veterans with service connected disabilities rated 10 percent or 20 percent.

"(3) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

"(4) Veterans not covered by paragraphs (1) through (3) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

"(5) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(1) of this title.

"(b) In the design of an enrollment system under subsection (a), the Secretary—

"(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

"(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

"(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

"§ 1706. Management of health care: other requirements

"(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

"(b) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary—

"(1) may contract for hospital care and medical services when Department facilities are not capable of furnishing such care and services economically, and

"(2) shall make such rules and regulations regarding acquisition procedures or policies as the Secretary considers appropriate to provide such needed care and services.

"(c) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of this title (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (1) affords those veterans reasonable access to care and services for those specialized needs, and (2) ensures that overall capacity of the Department to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of the date of the enactment of this section.

"(d) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall ensure that any veteran with a service-connected disability is provided all benefits under this chapter for which that veteran was eligible before the date of the enactment of this section.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 1704 the following new items:

"1705. Management of health care: patient enrollment system.

"1706. Management of health care: other requirements.".

(b) Conforming Amendments to Section 1703.—(1) Section 1703 of such title is amended—

(A) by striking out subsections (a) and (b); and

(B) in subsection (c) by—

(i) striking out "(c)", and

(ii) striking out "this section, sections" and inserting in lieu thereof "sections 1710,".

(2)(A) The heading of such section is amended to read as follows:

"§ 1703. Annual report on furnishing of care and services by contract".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 of such title is amended to read as follows:

"1703. Annual report on furnishing of care and services by contract.".

SEC. 11035. IMPROVED EFFICIENCY IN HEALTH CARE RESOURCE MANAGEMENT.

(a) Repeal of Sunset Provision.—Section 204 of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4950) is repealed.

(b) Cost Recovery.—Title II of such Act is further amended by adding at the end the following new section:

"SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

"(a) Right To Recover.—In the case of a primary beneficiary (as described in section 201(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

"(b) Enforcement.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.".

SEC. 11036. SHARING AGREEMENTS FOR SPECIALIZED MEDICAL RESOURCES.

(a) Repeal of Section 8151.—(1) Subchapter IV of chapter 81 of title 38, United States Code, is amended—

(A) by striking out section 8151; and

(B) by redesignating sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 as sections 8151, 8152, 8153, 8154, 8155, 8156, and 8157, respectively.

(2) The table of sections at the beginning of chapter 81 is amended—

(A) by striking out the item relating to section 8151; and

(B) by revising the items relating to sections 8152, 8153, 8154, 8155, 8156, 8157, and 8158 to reflect the redesignations by paragraph (1)(B).

(b) Revised Authority for Sharing Agreements.—Section 8152 of such title, as redesignated by subsection (a)(1)(B), is amended—

(1) in subsection (a)(1)(A)—

(A) by striking out "specialized medical resources" and inserting in lieu thereof "health-care resources"; and

(B) by striking out "other" and all that follows through "medical schools" and inserting in lieu thereof "any medical school, health-care provider, health-care plan, insurer, or other entity or individual";

(2) in subsection (a)(2) by striking out "only" and all that follows through "are not" and inserting in lieu thereof "if such resources are not, or would not be,";

(3) in subsection (b), by striking out "reciprocal reimbursement" in the first sentence and all that follows through the period at the end of that sentence and inserting in lieu thereof "payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.";

(4) in subsection (d), by striking out "preclude such payment, in accordance with—" and all that follows through "to such facility therefor" and inserting in lieu thereof "preclude such payment to such facility for such care or services";

(5) by redesignating subsection (e) as subsection (f); and

(6) by inserting after subsection (d) the following new subsection (e):

"(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

"(1) that such an arrangement will not result in the denial of, or a delay in providing access to, care to any veteran at that facility; and

"(2) that such an arrangement—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

"(B) will result in the improvement of services to eligible veterans at that facility.".

(c) Cross-Reference Amendments.—(1) Section 8110(c)(3)(A) of such title is amended by striking out "8153" and inserting in lieu thereof "8152".

(2) Subsection (b) of section 8154 of such title (as redesignated by subsection (a)(1)(B)) is amended by striking out "section 8154" and inserting in lieu thereof "section 8153".

(3) Section 8156 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in subsection (a), by striking out "section 8153(a)" and inserting in lieu thereof "section 8152(a)"; and

(B) in subsection (b)(3), by striking out "section 8153" and inserting in lieu thereof "section 8152".

(4) Subsection (a) of section 8157 of such title (as redesignated by subsection (a)(1)(B)) is amended—

(A) in the matter preceding paragraph (1), by striking out "section 8157" and "section 8153(a)" and inserting in lieu thereof "section 8156" and "section 8152(a)", respectively; and

(B) in paragraph (1), by striking out "section 8157(b)(4)" and inserting in lieu thereof "section 8156(b)(4)".

SEC. 11037. PERSONNEL FURNISHING SHARED RESOURCES.

Section 712(b)(2) of title 38, United States Code, is amended—

(1) by striking out "the sum of—" and inserting in lieu thereof "the sum of the following:";

(2) by capitalizing the first letter of the first word of each of subparagraphs (A) and (B);

(3) by striking out "; and" at the end of subparagraph (A) and inserting in lieu thereof a period; and

(4) by adding at the end the following:

"(C) The number of such positions in the Department during that fiscal year held by persons involved in providing health-care resources under section 8111 or 8152 of this title.".

TITLE XII—LEGISLATIVE BRANCH

SEC. 12101. REQUIREMENT THAT EXCESS FUNDS PROVIDED FOR OFFICIAL ALLOWANCES OF MEMBERS OF THE HOUSE OF REPRESENTATIVES BE DEDICATED TO DEFICIT REDUCTION.

Of the funds made available in any appropriation Act for fiscal year 1996 or any succeeding fiscal year for the official expenses allowance, the clerk hire allowance, or the official mail allowance of a Member of the House of Representatives, any amount that remains unobligated at the end of such fiscal year shall be transferred to the Deficit Reduction Fund established by Executive Order 12858 (58 Fed. Reg. 42185). Any amount so transferred shall be in addition to the amounts specified in section 2(b) of such order, but shall be subject to the requirements and limitations set forth in sections 2(c) and 3 of such order.

Title XIII

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13101. ELIMINATION OF DISPARITY BETWEEN EFFECTIVE DATES FOR MILITARY AND CIVILIAN RETIREE COST-OF-LIVING ADJUSTMENTS FOR FISCAL YEARS 1996, 1997, AND 1998.

(a) Conformance With Schedule for Civil Service COLAs.—Subparagraph (B) of section 1401a(b)(2) of title 10, United States Code, is amended—

(1) by striking out "THROUGH 1998" the first place it appears and all that follows through "In the case of" the second place it appears and inserting in lieu thereof "THROUGH 1996.—In the case of";

(2) by striking "of 1994, 1995, 1996, or 1997" and inserting in lieu thereof "of 1993, 1994, or 1995"; and

(3) by striking out "September" and inserting in lieu thereof "March".

(b) REPEAL OF PRIOR CONDITIONAL ENACTMENT.—Section 8114A(b) of Public Law 103-335 (108 Stat. 2648) is repealed.

SEC. 13102. DISPOSAL OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE FOR DEFICIT REDUCTION.

(a) DISPOSALS REQUIRED.—(1) During fiscal year 1996, the President shall dispose of all cobalt contained in the National Defense Stockpile that, as the date of the enactment of this Act, is authorized for disposal under any law (other than this Act).

(2) In addition to the disposal of cobalt under paragraph (1), the President shall dispose of additional quantities of cobalt and quantities of aluminum, ferro columbium, germanium, palladium, platinum, and rubber contained in the National Defense Stockpile so as to result in receipts to the United States in amounts equal to—

(A) $21,000,000 during the fiscal year ending September 30, 1996;

(B) $338,000,000 during the five-fiscal year period ending on September 30, 2000; and

(C) $649,000,000 during the seven-fiscal year period ending on September 30, 2002.

(3) The President is not required to include the disposal of the materials identified in paragraph (2) in an annual materials plan for the National Defense Stockpile. Disposals made under this section may be made without consideration of the requirements of an annual materials plan.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a)(2) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	62,881 short tons
Cobalt	42,482,323 pounds contained
Ferro Columbium	930,911 pounds contained
Germanium	68,207 kilograms
Palladium	1,264,601 troy ounces
Platinum	452,641 troy ounces
Rubber	125,138 long tons

(c) DEPOSIT OF RECEIPTS.—Notwithstanding section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), funds received as a result of the disposal of materials under subsection (a)(2) shall be deposited into the general fund of the Treasury for the purpose of deficit reduction.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a)(2) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) TERMINATION OF DISPOSAL AUTHORITY.—The President may not use the disposal authority provided in subsection (a)(2) after the date on which the total amount of receipts specified in subparagraph (C) of such subsection is achieved.

(f) DEFINITION.—The term "National Defense Stockpile" means the National Defense Stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 13103. REQUIREMENT THAT CERTAIN AGENCIES PREFUND GOVERNMENT HEALTH BENEFITS CONTRIBUTIONS FOR THEIR ANNUITANTS.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "agency" means any agency or other instrumentality within the executive branch of the Government, the receipts and disbursements of which are not generally included in the totals of the budget of the United States Government submitted by the President;

(2) the term "health benefits plan" means, with respect to an agency, a health benefits plan, established by or under Federal law, in which employees or annuitants of such agency may participate;

(3) the term "health-benefits coverage" means coverage under a health benefits plan;

(4) an individual shall be considered to be an "annuitant of an agency" if such individual is entitled to an annuity, under a retirement system established by or under Federal law, by virtue of—

(A) such individual's service with, and separation from, such agency; or

(B) being the survivor of an annuitant under subparagraph (A) or of an individual who died while employed by such agency; and

(5) the term "Office" means the Office of Personnel Management.

(b) PREFUNDING REQUIREMENT.—

(1) IN GENERAL.—Effective as of October 1, 1996, each agency shall be required to prepay the Government contributions which are or will be required in connection with providing health-benefits coverage for annuitants of such agency.

(2) REGULATIONS.—The Office shall prescribe such regulations as may be necessary to carry out this section. The regulations shall be designed to ensure at least the following:

(A) Amounts paid by each agency shall be sufficient to cover the amounts which would otherwise be payable by such agency (on a "pay-as-you-go" basis), on or after the applicable effective date under paragraph (1), on behalf of—

(i) individuals who are annuitants of the agency as of such effective date; and

(ii) individuals who are employed by the agency as of such effective date, or who become employed by the agency after such effective date, after such individuals have become annuitants of the agency (including their survivors).

(B)(i) For purposes of determining any amounts payable by an agency—

(I) this section shall be treated as if it had taken effect at the beginning of the 20-year period which ends on the effective date applicable under paragraph (1) with respect to such agency; and

(II) in addition to any amounts payable under subparagraph (A), each agency shall also be responsible for paying any amounts for which it would have been responsible, with respect to the 20-year period described in subclause (I), in connection with any individuals who are annuitants or employees of the agency as of the applicable effective date under paragraph (1).

(ii) Any amounts payable under this subparagraph for periods preceding the applicable effective date under paragraph (1) shall be payable in equal installments over the 20-year period beginning on such effective date.

(c) FASB STANDARDS.—Regulations under subsection (b) shall be in conformance with the provisions of standard 106 of the Financial Accounting Standards Board, issued in December 1990.

(d) CLARIFICATION.—Nothing in this section shall be considered to permit or require duplicative payments on behalf of any individuals.

(e) DRAFT LEGISLATION.—The Office shall prepare and submit to Congress any draft legislation which may be necessary in order to carry out this section.

SEC. 13104. APPLICATION OF OMB CIRCULAR A-129.

The provisions of Office of Management and Budget Circular No. A-129, relating to policies for Federal credit programs and nontax receivables, as in effect on the date of enactment of this Act, shall apply as provided in that circular.

SEC. 13105. 7-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND EXCISE TAXES.

(a) EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—Subsection (e) of section 4611 of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 2003."

(2) APPLICATION OF TAX.—Subsection (e) of section 59A (relating to application of environmental tax) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 2003."

(b) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) of such Code is amended by striking "December 31, 1995" and inserting "December 31, 2002".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

TITLE XIV—COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer and a firefighter, and 9.5

percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

"7	After December 31, 1969."

and inserting in lieu thereof the following:

7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½	After December 31, 1969."

and inserting in lieu thereof the following:

"7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(C) in the matter relating to a Member for Member service by striking out

"8	After December 31, 1969."

and inserting in lieu thereof the following:

"8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

and inserting in lieu thereof the following:

"7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.";

(E) in the matter relating to a bankruptcy judge by striking out

8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

"8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(G) in the matter relating to a United States magistrate by striking out

"8	After September 30, 1987."

and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

and

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end thereof the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

	"Percentage of basic pay	Service period
Employee	7	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Congressional employee	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Member	7.5	Before January 1, 1996.
	7.25	January 1, 1996, to December 31, 1996.
	7.4	January 1, 1997, to December 31, 1997.
	7.5	January 1, 1998, to December 31, 2002.
	7	After December 31, 2002.
Law enforcement officer, firefighter, or air traffic controller.	7.5	Before January 1, 1996.
	7.75	January 1, 1996, to December 31, 1996.
	7.9	January 1, 1997, to December 31, 1997.
	8	January 1, 1998, to December 31, 2002.
	7.5	After December 31, 2002.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code, shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "Congressional employee".

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

(2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

NOTICE OF HEARING

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, November 2, 1995, at 10:00 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss Medicare and Medicaid fraud.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, October 26, 1995 to conduct a mark-up of S. 1260, the Public Housing Reform and Empowerment Act of 1995. In addition, the committee will conduct a mark-up of pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 26, 1995 at 9:30 a.m., in room 485 of the Russell Senate Building to conduct a hearing on S. 1327, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, October 26, 1995 at 9:30 a.m., in room 485 of the Russell Senate Building to conduct a hearing on S. 1341, the Saddleback Mountain-Arizona Settlement Act of 1995, a bill to transfer certain lands to the Salt River Pima-Maricopa Indian Community and the City of Scottsdale, AZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 26, 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, October 26, at 9:30 a.m. to hold a hearing to discuss quality of care in nursing homes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ABRAHAM. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, October 26, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9 a.m. The purpose of this hearing is to receive testimony from academicians and State and local officials on alternatives to Federal forest land management. Testimony will also be sought comparing land management cost and benefits on Federal and State lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMERCE, JUSTICE, STATE APPROPRIATIONS

• Mr. ABRAHAM. Mr. President, I would like to take this time to explain my votes on various amendments to the Commerce, Justice, State appropriations bill which passed on September 29.

The Specter amendment sought to strike the language from this bill that prohibited the use of Federal funds for abortions for women in Federal prison except where the life of the mother would be in danger if the fetus were carried to term or in the case of rape.

The House and the Senate have repeatedly upheld the position that when taxpayer funds are used for abortions, the abortions should be restricted to those pregnancies which are the result of rape or incest or which pose a risk to the life of the mother. I do not think these restrictions should be expanded for women in prison and, therefore, I voted to table the Specter amendment.

Senator KERREY offered an amendment to provide $19.8 million for the National Telecommunications and Information Administration's information infrastructure grants by cutting a like amount from the Justice Department's travel account. I opposed this amendment for several reasons. First, many of the NTIA's duties are duplicative of those carried out by the Federal Communications Commission. The underlying bill moves us toward a unified telecommunications entity, and I believe it is the correct path to take. Second, the infrastructure grants are an unauthorized program that have little relation to the job of regulating the telecommunications industry. Legislation I have sponsored to terminate the

Department of Commerce would also eliminate the advisory and grant making functions and transfer the management duties to the FCC.

I also opposed a Domenici amendment to eliminate provisions in the bill which would, in my opinion, vastly improve the Legal Services Corporation.

The Commerce, Justice, State appropriations bill in the Senate eliminated the Federal Corporation and block-granted to the States-Federal funds for the provision of legal services to the poor. The Domenici amendment to this bill would have restored the Federal Corporation and provides additional Federal funding for the Corporation.

I support eliminating the Federal Corporation and block-granting funds for legal assistance for the poor to the States. The Corporation itself provides no legal services to the poor, but rather grants Federal money to local organizations that give legal assistance to the poor. This is a function the States can perform at least as effectively as the Corporation has.

I also opposed an amendment which was sponsored by Senators KOHL and COHEN which took $80 million from funding for the FBI to combat violent crime and terrorism and put it into $30 million for local block grants for various social programs such as boys and girls club, more palatably dubbed by the sponsors of such measures crime prevention programs, $30 million for additional grants made by the Office of Justice Assistance, and $20 million for additional grants for "Weed and Seed" programs.

The initiatives the sponsors sought to fund may well be worthy. In my judgment, however, many of them have no proven record of helping with the fight against crime, the purpose for which Federal crime money should be reserved. To be sure, the sponsors designated between 2 and 3 percent of the money for evaluation of these programs. But in the first place it is unlikely that serious evaluation can be performed with that budget; and in the second place, in my view, we should evaluate the programs before giving them additional funding.•

GOVERNMENT THAT WORKS

• Mr. LEVIN. Mr. President, there has been much talk recently about how our Government is no longer able to solve society's problems, how it is unresponsive to citizens' needs, how people feel they do not have a say in how their country is run, and how it seems that when the Government makes decisions that affect industry, it does not seek their input beforehand. Well, I would like to share with my Senate colleagues a story that should help give a different perception.

It is a story about a mother who suffered a terrible tragedy and through it, summoned the strength and courage to help solve a serious problem across the country. The story is about Thelma Sibley, a woman from Milan, MI, who experienced the worst nightmare of any parent—the death of her child Nancy. Nancy Sibley died from a hidden hazard that no parent could be expected to anticipate. Nancy Sibley was strangled to death by the drawstring of her winter coat when the drawstring caught on a playground slide.

After her child's death, Thelma Sibley became dedicated to ensuring that no other parent would have to relive her experience. Thelma Sibley looked to the Government for help and answers. As it happened, Ann Brown had recently been appointed Chairman of the U.S. Consumer Product Safety Commission. Chairman Brown was well aware of the danger drawstrings presented and reached out to Thelma for help in solving this problem. Working together, Thelma Sibley and Ann Brown were able to bring together representatives from the Nation's 33 leading manufacturers of children's clothing. When these industry officials were presented with the evidence of what these drawstrings were capable of doing, there was no hesitation in their decision to remove drawstrings from virtually all of the 20 million kid's garments manufactured annually in this country.

It is indeed a remarkable story. I commend Thelma Sibley for her courage, and CPSC Chairman Ann Brown for bringing a human face to Government by reaching out personally to Thelma Sibley and working voluntarily with industry to solve this problem. I ask that the text of a Los Angeles Times article detailing this story be printed in the RECORD.

The article follows:

A POWERFUL PAIR

(By Elizabeth Mehren)

BETHESDA, Md.—This could be the story of the bureaucrat and the bereaved mother. Except that neither Ann Brown nor Thelma Sibley comes close to either stereotype.

Brown is a mother of two, grandmother of three and full-time advocate for children. As vice president of the Consumer Federation of America, she was such a thorn in the side of the U.S. Consumer Product Safety Commission that many staffers feared her name. Imagine their reaction in March, 1994, when President Clinton named her to head the agency she so relentlessly watchdogged.

Sibley and her husband, Bob, live on a small farm in Michigan, where for 20 years she has worked as a color and soft-trim designer in the automotive industry. At 46, Sibley is a devout Baptist and projects the kind of calm that bespeaks solid, sensible values. She is probably one of a handful of Americans who refer to Hillary Rodham Clinton as "the First Mom."

On Jan. 4, 1994, Sibley's 5-year-old daughter, Nancy, was killed when the drawstring on her winter coat snagged on a spiral slide at her school playground and strangled her. The paths of Brown and Sibley were tied together by that drawstring. Both women see the friendship and collaboration that has blossomed between them as something organic, something vital and something that was probably preordained.

In her office here on the outskirts of Washington, Brown explained, "Were both strong women, determined women and women of faith. We're also both extremely pragmatic."

With a perfect poker face, Sibley—a full head taller and 12 years younger than the small, compact Brown—remarked, "We're twins. But we were separated at birth."

In Sibley's case, ridding the children's clothing world of the slender string that claimed Nancy's life became a crusade. She remembers all too well how after Nancy's death, her own words—the words of so many parents whose children succumb to tragically preventable accidents—kept pounding in her ears: "If I'd only known."

If she'd only known, she would never have bought a coat with a drawstring. If she'd only known, she would have ripped out the drawstrings on every item in Nancy's wardrobe. Never mind that it was January in Michigan—if she'd only known, she wouldn't have bundled Nancy into a hood that closed tight with a string.

After the death of a child, two extreme reactions are common. In one scenario, mothers and fathers descend into a paralyzing miasma. Even the most ordinary of daily activities drains them. Conversely, some parents spin into a maelstrom of action. Psychologists call the latter response agitated depression.

That description captures the flurry of energy Thelma Sibley experienced after Nancy died. For a full seven months, her grief manifested itself kinetically. She ran on high speed but felt nothing. "I believe God put me in a numb chamber because he knew I had a job to get done," Sibley said.

The job began when, reviewing a report to the school board of Ann Arbor, where Nancy's accident occurred, Sibley came across the name of the Consumer Product Safety Commission. "I had never heard of the agency before that," She said.

While it made sense to Sibley that the school board and possibly her own state might investigate Nancy's death, she had no such expectations from the federal government. She viewed Washington as remote and alien, too tied up with politics to care much about people. "I was very surprised there actually was a federal agency, and that they were actually going to do a report," Sibley said.

She was also stunned to discover that drawstrings had been removed from children's clothing in Great Britain in 1976. In the same report she learned that the Canadian province of Ontario, just across the border from Michigan, had taken similar action in 1988, following the drawstring strangulations of five children. Her research also revealed that Nancy was one of a dozen American children to succumb to drawstrings since 1985. The strings were associated with an additional 27 nonfatal accidents.

"I thought, wait a minute, I live in Ann Arbor, Mich. We're not talking Upper Yukon here. How come I didn't know this?" Sibley said.

Sibley did what she always does in crisis. She prayed. The next thing she knew, she was writing to "the First Mom." She and her husband were not blaming anyone for their daughters death, Sibley wrote, but rather were seeking the voluntary removal of accessories on children's clothing that might cause harm. Since Nancy's accident occurred on an old, outdated slide that was subsequently dismantled, the Sibley's also wanted their child's death to help raise awareness about playground safety.

The White House wasted no time in forwarding Sibley's entreaty to the Consumer Product Safety Commission, the same agency to which Sibley was referred when she contacted the Consumer's Union and Public Citizen, Ralph Nader's organization. This is where the tale takes on a Twilight Zone quality not normally found in stories concerning the federal government, for Brown, newly installed as chairwoman of the agency she once loved to hate, had already taken steps both to ban drawstrings from kids' clothes and to contact Thelma Sibley.

"There was a confluence," Brown said. "Both of us are convinced it was meant to be."

In Michigan, the inquiry into Nancy Sibley's death made headlines in April, 1994, three months after the death and just weeks after Brown began her government job. Although it was a Sunday when Brown came across the Sibley file, she instantly picked up the phone and called Nancy's parents.

As Brown knew from decades of activism, personal contact with parents is often a first step toward enlisting them as catalysts of change. Nearly 30 years ago, Brown took up her mission when her daughter Laura, then 2, began chewing on what looked like a piece of cherry candy—but turned out to be a potentially poisonous paint pellet. Brown and Sibley were soon brainstorming—and later, barnstorming.

By then Brown was well aware of the hazards that drawstrings posed for children. She knew about the steps taken in Britain and thought American children were "just as valuable as British children." In addition, Brown said, "There was already an existing memo about drawstrings, right here, but nothing had been done."

She also understood the perils of bureaucratic blockage. Legislating compliance was an invitation to inaction, Brown maintained. In a congressional setting, a children's issue was likely to be marginalized, watered-down and tacked on to some unrelated measure, she thought.

So Sibley and Brown called upon a secret weapon known by parents to be fearsome, and usually foolproof. "Peer pressure," Sibley said, nodding knowingly. Brown called a manufacturers' summit conference. No pressure, she said to representatives of the 33 leading makers of kids' clothes who came to her office soon after she brought Sibley onto her team. No threats, Sibley added: "no lawyers bugging them."

With no opposition, drawstrings were quietly removed from virtually all of the 20 million children's garments manufactured annually in this country. The low-key, collaborative approach avoided legislative logjams and eliminated any sense of government coercion.

A quick tour of kids' or discount stores shows that where one year ago there were drawstrings, now there is Velcro, elastic or safety flaps to secure a hood or hat.

Compliance was basically a "nobrainer," said Deborah Siegel, general counsel for Baby Guess/Guess Kids in Los Angeles. "I'm not sure how many companies were aware of what had happened [to Nancy Sibley and other children]," she said. But once the problem was pointed out by Brown and Sibley, "it was fairly simple" to make the necessary design changes.

Sibley and Brown agree that the move toward safer childern's clothing was a fitting memorial for Nancy. But it was by no means the end of their teamwork—nor, they hope, their triumphs. Sibley has channeled her determination into a push to improve playground safety.

She and Brown have taped several video spots showing how parents can monitor classroom and playground equipment that may have been produced or installed before current standards were enforced. Much of this equipment is poorly maintained, and a great deal of it is too high off the ground. In many areas, children still tumble onto hard concrete rather than softer wood chips. Tattered old swings can collapse if a child pushes the sky.

In the course of working together, Sibley and Brown have developed a remarkable relationship. They are girlfriends, and both know this form of friendship to be as mighty as any corporate conglomeration. When Sibley is in Washington, she stays at Brown's house. They work a full day together, then go home and throw on their bathrobes. Over a glass of wine, they settle the problems of the planet while Brown's husband fixes dinner.

"I want you to understand," Brown said, "I do not invite every-one I work with at this agency to come and stay at my house."

But here's where the girlfriend connection tugs hard, and where the link of motherhood builds fierce bonds. Ann Brown never met Nancy Sibley. But she knows that the brown-eyed girl Bob and Thelma Sibley adopted in infancy was a long-awaited gift. She has heard how Thelma Sibley did the vacuuming with Nancy in a backpack. She knows how much the Sibleys miss Nancy's zeal, her passion and her empathy for people. She instinctively reaches over and clutches Sibley's hand as Sibley recalls how Nancy used to brag that she looked just like Mommy. At this disclosure, both women's eyes cloud up.

In the pyramid of Washington, Brown's agency is nobody's idea of a powerhouse. The Consumer Product Safety Commission narrowly escaped extermination in recent cutbacks, and its current budget remains close to what it was more than a decade ago. Until Brown took over, the commission was widely viewed as moribund.

"Wrong," Sibley corrected. "Dead."

But Brown and Sibley feel certain that a heavenly cheerleader is breathing life into their efforts. Their work is not just in Nancy's memory, Sibley said, "it's in her honor."

Parents who have not lost children often nod approvingly when mothers like Sibley take up a cause. *Catharsis* is a word you often hear. But parents of dead children know that true catharsis is elusive, if it is attainable at all. The hole in your heart is there forever. Still, said Sibley, who has kept her day job in the auto industry while pursuing her unpaid work with Brown, "You don't cling to 'if only I'd known' "forever.

"That's fine for a few months,' Sibley said. "But for me, that's not inner healing. Inner healing is doing something."

TOP TEN GIVEAWAYS IN SENATE REPUBLICAN BUDGET BILL

• Mr. LEAHY. Mr. President, from the home office in Beebe Plain, VT, I bring you the top 10 giveaways in the Republican budget bill.

10. "What's white and black all over? A polar bear in an Arctic oil field." The bill opens the Arctic National Wildlife Refuge to oil and gas drilling.

9. "You don't go to jail for this?" The bill would permit companies to withdraw excess assets from their pension plans.

8. "One more write-off for the road." The bill would allow convenience stores with a gas pump to depreciate their property over 15 years instead of the less generous 39-year period available for other convenience stores.

7. "And you thought baseball owners were greedy." The bill would allow the American College Football Coaches Association to avoid tax penalties and stop an IRS challenge of its pension plan.

6. "The oil is on the House." The bill eliminates the 12.5-percent royalty oil companies used to pay to drill for deepwater oil.

5. "You can keep the gems—but we're charging you for the dirt." In exchange for taking $2 to $3 billion of minerals each year from public lands, mining corporations return a measly $18 million to taxpayers under this bill.

4. "This should keep' em down on the farm." The bill would lift the current $75,000 cap on profits per farmer under Department of Agriculture marketing loan programs so the sky is the limit for wealthy farmers.

3. "Oh, I thought nurses came with the nursing home." The bill repeals national requirements for nursing homes to provide proper health standards—a loophole that will be seized by some to lower the quality of care and life for grandparents and parents.

2. "Say Aaaah." The bill repeals patient protection against excessive doctors' bills, allowing doctors to go after seniors for charges not reimbursed by Medicare.

1. "Rich guys finish first." The bill would give the top one percent of wealthy Americans an average tax break of $5,600 per year while raising taxes on 51 percent of American families —those who earn less than $30,000 a year.•

HONORING THE MIDDLESEX COUNTY VOCATIONAL AND TECHNICAL HIGH SCHOOL

• Mr. BRADLEY. Mr. President, as Plato stated in his Republic, any society which would be strong and healthy, must ensure that every citizen finds an occupation which best suits his or her individual talents. Such a philosophy resonates through the halls of our Nation's vocational schools, and today I rise to honor the oldest vocational school in the country, the Middlesex County Vocational and Technical High School of New Brunswick, NJ.

In the United States, vocational schools play a vital role in maintaining a balance in occupations that are needed to make our society tick and our economy hum. Vocational schools recognize the fact that young adults have talents that lie in a wide range of areas. A natural bent toward mechanics or carpentry which might be left untapped in the normal high school environment, is brought to light, cultivated and celebrated in a vocational high school.

Therefore, it gives me great pleasure to recognize the Middlesex County Vocational and Technical High School, the Nation's oldest such institution. In 1913, the New Jersey State Legislature of Public Law passed chapter 294, providing for the establishment of county vocational schools. A year later, H. Brewster Willis approved a plan to create a vocational school system in Middlesex County. Soon after, schools were set up in New Brunswick, Perth Amboy and Jamesburg which taught such skills as mechanical drawing, carpentry, printing, cooking, dressmaking and agriculture.

Enrollment increased steadily over the years, and the influx of talented students spurred the board of education to create new schools and to expand existing ones. New courses were added and different age groups included as the program began to grow and realize its full potential. In 1949, the State board of education approved the establishment of the Middlesex County Adult Technical School for the purpose of providing full-time pre-employment training for adults in skilled trades and technical occupations. Today, the Middlesex County Vocational and Technical Schools remain a thriving and essential part of New Jersey's economic community. Therefore, I am pleased today to have the opportunity to honor the Middlesex County Vocational and Technical Schools on the anniversary of its establishment.•

WHAT THE '93 TAX INCREASE REALLY DID

• Mr. KYL. Mr. President, the former Chairman of the President's Council of Economic Advisors, Martin Feldstein, just wrote an article for the Wall Street Journal about the 1993 tax increase.

For many of us, it confirms what we have been saying all along: that tax rate increases and tax cuts change people's behavior. Just because the Government increases taxes doesn't mean that people will pay more to the Treasury. They will respond to the higher rates by earning less, producing less, and investing less.

That is precisely what Mr. Feldstein found. He wrote:

> Because taxpayers responded to the sharply higher marginal tax rates (imposed by President Clinton in 1993) by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

Mr. President, tax rate increases are counterproductive. If the goal is to increase revenues to the Treasury, the better alternative is to cut tax rates.

Lower tax rates stimulate the economy, resulting in more taxable income and transactions, and more revenue to the Treasury. The tax cuts of the early 1980's are a case in point. Revenues increased from $599.3 billion in fiscal year 1981 to $990.7 billion in fiscal year 1989—up about 65 percent.

The tax bill before the Senate today begins to undo some of the damage done by the 1993 tax increase that President Clinton now disavows. As Martin Feldstein points out, however, it does not go far enough. Congress should also revisit the issue next year to consider rolling back the personal tax rate increases that were part of the Clinton tax bill.

I ask that the entire text of Mr. Feldstein's article be printed in the RECORD.

The article follows:

[From The Wall Street Journal]

WHAT THE '93 TAX INCREASES REALLY DID

(By Martin Feldstein)

President Clinton was right when he recently told business groups in Virginia and Texas that he had raised taxes too much in 1993, perhaps more so than he realizes. We now have the first hard evidence on the effect of the Clinton tax rate increases. The new data, published by the Internal Revenue Service, show that the sharp jump in tax rates raised only one-third as much revenue as the Clinton administration had predicted.

Because taxpayers responded to the sharply higher marginal tax rates by reducing their taxable incomes, the Treasury lost two-thirds of the extra revenue that would have been collected if taxpayers had not changed their behavior. Moreover, while the Treasury gained less than $6 billion in additional personal income tax revenue, the distortions to taxpayers' behavior depressed their real incomes by nearly $25 billion.

HOW IT HAPPENS

To understand how taxpayer behavior could produce such a large revenue shortfall, recall that the Clinton plan raised the marginal personal income tax rate to 36% from 31% on incomes between $140,000 ($115,000 for single taxpayers) and $250,000, and to 39.6% on all incomes over $250,000. Relatively small reductions in taxable income in response to these sharply higher rates can eliminate most or all of the additional tax revenue that would result with no behavioral response.

If a couple with $200,000 of taxable income reduces its income by just 5% in response to the higher tax rate, the Treasury loses more from the $10,000 decline in income ($3,100 less revenue at 31%) than it gains from the higher tax rate on the remaining $50,000 of income above the $140,000 floor ($2,500 more revenue at 5%); the net effect is that the Treasury collects $600 less than it would have if there had been no tax rate increase.

Similarly, a couple with $400,000 of taxable income would pay $18,400 in extra taxes if its taxable income remained unchanged. But if that couple responds to the nearly 30% marginal tax rate increase by cutting its taxable income by as little as 8%, the Treasury's revenue gain would fall 67% to less than $6,000.

How can taxpayers reduce their taxable incomes in this way? Self-employed taxpayers, two-earner couples, and senior executives can reduce their taxable earnings by a combination of working fewer hours, taking more vacations, and shifting compensation from taxable cash to untaxed fringe benefits. Investors can shift from taxable bonds and high yield stocks to tax exempt bonds and to stocks with lower dividends. Individuals can increase tax deductible mortgage borrowing and raise charitable contributions. (I ignore reduced realizations of capital gains because the 1993 tax rate changes did not raise the top capital gains rate above its previous 28% level.)

To evaluate the magnitude of the taxpayers' actual responses, Daniel Feenberg at the National Bureau of Economic Research (NBER) and I studied the published IRS estimates of the 1992 and 1993 taxable incomes of high income taxpayers (i.e., taxpayers with adjusted gross incomes over $200,000, corresponding to about $140,000 of taxable income). We compared the growth of such incomes with the corresponding rise in taxable incomes for taxpayers with adjusted gross incomes between $50,000 and $200,000. Since the latter group did not experience a 1993 tax rate change, the increase of their taxable incomes provides a basis for predicting how taxable incomes would have increased in the high income group if its members had not changed their behavior in response to the higher post-1992 tax rates. We calculated this with the help of the NBER's TAXSIM model, a computer analysis of more than 100,000 random, anonymous tax returns provided by the IRS.

We concluded that the high income taxpayers reported 8.5% less taxable income in 1993 than they would have if their tax rates had not increased. This in turn reduced the additional tax liabilities of the high income group to less than one-third of what they would have been if they had not changed their behavior in response to the higher tax rates.

This sensitivity of taxable income to marginal tax rates is quantitatively similar to the magnitude of the response that I found when I studied taxpayers' responses to the tax rate cuts of 1986. It is noteworthy also that such a strong response to the 1993 tax increases occurred within the first year. It would not be surprising if the taxpayer responses get larger as taxpayers have more time to adjust to the higher tax rates by retiring earlier, by choosing less demanding and less remunerative occupations, by buying larger homes and second homes with new mortgage deductions, etc.

The 1993 tax law also eliminated the $135,000 ceiling on the wage and salary income subject to the 2.9% payroll tax for Medicare. When this took effect in January 1994, it raised the tax rate on earnings to 38.9% for taxpayers with incomes between $140,000 and $250,000 and to 42.5% on incomes above $250,000. Although we will have to wait until data are available for 1994 to see the effect of that extra tax rate rise, the evidence for 1993 suggests that taxpayers' responses to the higher marginal tax rates would cut personal income tax revenue by so much that the net additional revenue for eliminating the ceiling on the payroll tax base would be less than $1 billion.

All of this stands in sharp contrast to the official revenue estimates produced by the staffs of the Treasury and of the Congressional Joint Committee on Taxation before the 1993 tax legislation was passed. Their estimates were based on the self-imposed "convention" of ignoring the effects of tax rate changes on the amount that people work and invest. The combination of that obviously false assumption and a gross underestimate of the other ways in which taxpayer behavior reduces taxable income caused the revenue estimators at the Treasury to conclude that taxpayer behavior would reduce the additional tax revenue raised by the higher rates by only 7%. In contrast, the actual experience shows a revenue reduction that is nearly 10 times as large as the Treasury staff assumed.

This experience is directly relevant to the debate about whether Congress should use "dynamic" revenue estimates that take into account the effect of taxpayer behavior on tax revenue. The 1993 experience shows that unless such behavior is taken into account, the revenue estimates presented to Congress can grossly overstate the revenue gains from higher tax rates (and the revenue costs of lower tax rates). Although the official revenue estimating staffs claim that their estimates are dynamic because they take into account some taxpayer behavior, the 1993 experience shows that as a practical matter the official estimates are close to being "static" no-behavioral-response estimates because they explicitly ignore the effect of taxes on work effort and grossly underestimate the magnitude of other taxpayer responses.

CURRENT PROPOSALS

In Congress had known in 1993 that raising top marginal tax rates from 31% to more than 42% would raise less than $7 billion a year, including the payroll tax revenue as well as the personal income tax revenue, it might not have been possible for President Clinton to get the votes to pass his tax increase.

Which brings us back to President Clinton's own statement (half-recanted the next day) that he raised taxes too much in 1993. Congress and the president will soon be negotiating about the final shape of the 1995 tax package. The current congressional tax proposals do nothing to repeal the very harmful rate increases of 1993. Rolling back both the personal tax rates and the Medicare payroll tax base to where they were before 1993 would cost less than $7 billion a year in revenue and would raise real national income by more than $25 billion. Now that the evidence is in, Congress and the president should agree to undo a bad mistake. •

OAK PARK'S 50TH ANNIVERSARY

• Mr. LEVIN. Mr. President, I rise today to commemorate the 50th anniversary of the founding of the city of Oak Park, MI. The Family City is most proud of the fact that, despite its great growth over the past 50 years, it has remained primarily a residential community.

Oak Park, MI, was established when voters approved the proposed city charter on October 29, 1945, and decided that the city should remain a community of families and homes. Over the years, Oak Park residents have remained committed to keeping home as the center of their community. The residents of Oak Park have fought several times to keep large construction projects from changing the face and the feel of their community.

Soon after its inception, Oak Park was dubbed "The City with a Future." In the 1940's, Oak Park had about a thousand residents and a municipality of just over 5 square miles, which was originally developed in the 19th century from a swampy, densely wooded hunting ground. Oak Park grew quickly when many World War II veterans took advantage of GI loans to purchase houses and settle in the area. The city was identified as one of the fastest growing municipalities in the country during the 1950's. It was during this period that the local government structured the municipal services that so effectively serve its residents. During the 1960's, Oak Park had established itself as a mature city with a virtually unchanged population level.

The year 1976 was a turning point in Oak Park's history. When it was named an official Bicentennial City. It is fitting that, during this celebration of the birth of our Nation and the ideals on which it was founded, Oak Park started the transition to the city it is today. Oak Park soon began welcoming newcomers from a variety of backgrounds and adopted a new motto: "The Family City." The city also initiated a program which was dedicated to maintaining the cohesiveness of the community.

Today, Oak Park is a friendly residential community which boasts a population representing over 70 ethnic groups. It celebrated its varied ethnic heritage this year with its 11th Annual International Ethnic Festival.

The city of Oak Park represents the best of what America has to offer—a safe, residential community where all people are welcome.•

WORLD POPULATION AWARENESS WEEK

• Mr. CHAFEE. Mr. President, I rise today in strong support of World Population Awareness Week, which is being observed internationally this week. We are all aware of the challenges we will face in the next century regarding the world's population. According to recent projections by the United Nations, world population is expected to increase by close to 100 million people annually through the year 2015. Within 20 years, the Earth's population will have sharply increased to total 7.7 billion people. Nearly all of this increase will be in the poorest countries in the world, causing overall increases in poverty, illiteracy, environmental problems, hunger, and malnourishment, and a significant strain on the world's natural resources. If area populations continue their rapid growth, the resulting outcome could have a devastating effect on the United States, the world economy, and our planet.

To avoid massive catastrophes, we must begin to reduce run-away population growth through voluntary, rational, humane means. This is the message of World Population Awareness Week, recognized internationally from October 22–29, 1995. I am proud to say that Rhode Island's Governor Lincoln Almond is one of several State Governors to proclaim World Population Awareness Week. In doing so, he asked all Rhode Islanders to join him in "supporting the Cairo Program of Action," a 20-year strategy for stabilizing world population. He also called on "all government and private organizations to do their part to implement the document." I support Governor Almond's proclamation and request that his proclamation be printed in the RECORD.

The 1994 International Conference on Population and Development in Cairo, Egypt was the first important step in the worldwide effort to arrest the huge growth in the world's population. All Americans should be proud of the integral role our delegation played in developing a set of recommendations to curb population growth. We must continue to promote international efforts to inform people about the consequences of dramatic population growth, and I respectfully urge my colleagues to join me in supporting World Population Awareness Week.

The proclamation follows:

THE GOVERNOR OF THE STATE OF RHODE ISLAND—PROCLAMATION

Whereas, world population is currently 5.7 billion, and increasing by nearly 100 million per year, with virtually all of this growth added to the poorest countries and regions; and

Whereas, the annual increment to world population is projected to exceed 86 million through the year 2015, with three billion people, the equivalent of the entire world population as recently as 1960, reaching their reproductive years within the next generation; and

Whereas, the environmental and economic impacts of this level of growth will almost certainly prevent inhabitants of poorer countries from improving their quality of life, and at the same time, affect the standard of living in more affluent regions; and

Whereas, the 1994 International Conference on Population and Development in Cairo, Egypt, crafted a 20-year Program of Action for achieving a more equitable balance between the world's population, environment, and resources, approved by 180 nations, including the United States:

Now, therefore, I, Lincoln Almond, Governor of the State of Rhode Island and Providence Plantations, do hereby proclaim, October 22–29, 1995 as World Population Awareness Week. In the State of Rhode Island and call on all citizens to join with me in recognizing this important week and supporting the Cairo Program of Action and call on all governments and private organizations to do their part to implement the document.•

TRIBUTE TO THE FIFTIETH ANNIVERSARY OF THE SAINT FRANCIS ACADEMY

• Mr. SMITH. Mr. President, I rise today to pay tribute to The Saint Francis Academy in honor of their 50th anniversary. For 50 years now, this outstanding institution has provided guidance and direction to troubled youths and their families through 40 different rehabilitation and therapeutic programs across the United States.

With offices in Kansas, Mississippi, New York, Massachusetts, Ohio, Pennsylvania, and New Mexico, the Saint Francis Academy helps hundreds of children and teenagers develop into responsible and successful adults. Even more impressive is the fact that the Saint Francis Academy program has achieved a scientifically documented success rate of over 70 percent for youth completing residential treatment. This is among the highest success rate in the United States for an organization of this kind.

Founded in 1945 by Father Bob, the academy was originally called the St. Francis Boys' Home. The first residential facility was opened in Ellsworth, KS with the philosophy of therapy in Christ. Within 3 years, another treatment center in Salina, KS opened and began serving conduct disordered youths age 12 through 18. The Saint Francis Academy has grown progressively within the last 50 years with new programs being developed almost every year. In 1990, the academy began an intense 10-day therapeutic wilderness program at Lake Placid called the Adirondack Experience.

In 1945 when Father Bob opened the first facility in Ellsworth, youngsters stayed in the program for an average of 2 to 3 years. Now the average length of time is only 6 to 8 months. The Saint Francis Academy currently helps 150 young men and women achieve success and find personal strength in the spiritual aspect of the programs. They are affiliated with the Episcopal Church.

The Saint Francis Academy staff follow up with the young men and women who graduate from the program three times over a period of 5 years. This is probably one of the most fundamental reasons the academy is so proud of their high success rate. In fact, two graduates of the Camelot program in Lake Placid, NY have gone on to be doctors and lawyers. Father Orville Gatti, a close friend of mine who I greatly admire, is the Chaplain and a therapist at the Lake Placid Academy and has helped a number of youths.

I salute the Saint Francis Academy as it celebrates 50 years of changing the lives of our Nation's young people.•

CLINTON-SOEHARTO MEETING

• Mr. FEINGOLD. Mr. President, as President Clinton prepares for his meeting with President Soeharto of Indonesia tomorrow, we are hearing a lot about Indonesia's recent economic achievements, and its great potential for United States investment. I also salute Indonesia's economic success, and believe there are many valuable lessons in Indonesia's experience which can be applied to other developing countries throughout the world.

But, Mr. President, today I rise to highlight ongoing concerns about Indonesia's continuously dismal record on human rights. Repression, occupation, and brutality, such as that practiced by Indonesia, are ingredients for instability, and undermine long-term, sustainable economic growth. In fact, I would submit that unfortunately, Indonesia's potential will go unrealized until its human rights record improves.

Freedom of expression is under attack by the Indonesian Government. In the past year, gag orders have been placed on controversial figures, prominent journalists have been arrested and sentenced to prison, and seminars of nongovernmental organizations have been broken up. In addition, the country's only independent trade union, the Prosperous Workers Union of Indonesia, is virtually banned, and its members are routinely interrogated and harassed. The Indonesian military regularly intercedes in peaceful gatherings with impunity. Foreign business and professionals cannot function effectively in this kind of environment.

In Irian Jaya, there are numerous credible reports of torture, disappearances, and the killing of 16 indigenous people by Indonesian forces in the last year.

Indonesia's stability also depends upon the military withdrawal from the territory of East Timor. For that reason, it is in the interests of President Clinton, the international business community, and the donors to take an interest and aggressively pursue an effective human rights strategy for Indonesia.

Last year, when Presidents Clinton and Soeharto met in Jakarta, President Clinton gave the issue of human rights attention. However, since then, there has been an escalation of tensions and violence in East Timor.

For example, reports of arbitrary detentions and incidents of torture by Indonesian soldiers have been continuous all year. Forms of Indonesian torture are reported to include electric shocks by cattle prod; slashings with razor blades and knives; sleep deprivation; and hanging people upside down by their feet.

On January 12 of this year, six civilians in Liquicia were reported summarily executed by the Indonesian military. Even the Government-appointed National Commission on Human Rights found that there was "a process of intimidation and torture by security officials" which resulted in "unlawful shootings by the military." For this, two officers were punished not for murder, but for violating an order from a superior.

There has also been an outbreak of gang violence in East Timor. Hooded vigilantes, described by residents and human rights monitors as military-related bands and commonly known as "Ninjas," have been terrorizing, abducting, assaulting, intimidating, and harassing East Timorese civilians. Notably, the Ninjas have not been reigned in by the same military that has so effectively suppressed the East Timorese opposition. There must be an investigation into the operations of these groups, and why they are permitted to continue terrorizing the East Timorese.

These recent incidents underscore the need to accelerate the United Nations sponsored dialog on East Timor with genuine East Timorese participation. The dialog should be the vehicle by which the numerous U.N. resolutions be implemented. The dialog should also be aimed at demilitarizing the territory, and working toward a just resolution that respects the rights of all parties to the conflict.

While administration rhetoric has been supportive of the East Timorese, United States policy has not been forceful enough. For example, the administration has not applied much pressure to encourage the Indonesians to participate seriously in the U.N. talks. It has never devised a strategy, or requested a plan from the Indonesians, for troop withdrawal from East Timor. There have been few, if any suggestions, of what else the United States can do to leverage human rights reform beyond raising the issue.

In fact, I often get the feeling that the administration is trying to placate the same Indonesian military that is guilty of so many horrendous abuses. For example, the administration has lobbied fervently to get the United States taxpayer to subsidize Indonesian military training, when Indonesia has been purchasing IMET courses out of its own pocket for the past four years. Now, the administration is trying to sell Indonesia F-16 aircraft, despite a ban on the sale of small arms which is explicitly linked to human rights violations. Furthermore, I am unclear as to what the administration has actually expressed to Indonesia as to what is our human rights policy regarding linkage to arms sales.

Tiptoeing around the violence and occupation is not going to work. Rather, I believe that publicity and international condemnation would be more effective. As a tiger economy, Jakarta has much invested in its image. And its international image should reflect its potential and accomplishments. But it should also include Indonesia's brutality and disrespect for human rights.

President Clinton has an opportunity here not only to communicate his sincere commitment to human rights, but also to implement a substantive plan of action which can improve the lot of the East Timorese, and also enhance Indonesia's long-term development prospects. President Soeharto, who knows well his own country's battle and victory against Dutch colonialism 50 years ago this year, should understand the principle of self-determination we are advocating for East Timor.•

COMMEMORATING ACHILLE LAURO'S 10TH ANNIVERSARY

• Mr. D'AMATO. Mr. President, I rise to urge you to stand with me against the blight of terrorism that is growing throughout the world. We need legislation to toughen our antiterrorism laws in response to the growth of this scourge. During the tenth anniversary of the hijacking of the Achille Lauro and the killing of one of its passengers Leon Klinghoffer, I ask you to take the time to support my request for such legislation before the United States bears the brunt of another terrorist act.

Americans are the focus for many terrorist acts overseas. Now, we are becoming targets at home. Americans are increasingly exposed to the deadly realities of terrorism. Ten years ago Leon Klinghoffer was singled out by terrorists for execution and summarily dumped over the side of the cruise ship *Achille Lauro*. The mastermind behind this act, Abul Abbas, continues to elude international authorities to this day. We need to be able to run these criminal masterminds to ground wherever they hide.

In 1993, terrorists bombed the World Trade Center murdering six innocent people and injuring over 1,000 more. We were lucky the structure withstood the blast and did not collapse. We could have faced thousands of murdered people. We need to be able to block the actions and designs of international terrorists.

Earlier this year, Oklahoma City was targeted by domestic terrorists. This time, Americans were graphically confronted with the specter of hundreds of mangled bodies. Our children were viciously mauled by the passions of an unstable youth and his accomplices. We need to be able to thwart the evil ambitions of such internal fringe groups.

Just weeks ago, ten Islamic extremists were found guilty of conspiring to carry out a campaign of terrorism and assassination against New York City landmarks and officials.

These incidents highlight the growing threat of terrorism and the need for improved United States' antiterrorism measures. Final passage of comprehensive antiterrorist legislation will represent a concrete step toward extinguishing the threat of terrorism by increasing the difficulty and cost in perpetrating heinous acts such as these. We have seen terrorism become a way of life for many other nations. We cannot allow this complacency to occur in the United States. If anyone such as Abul Abbas or his conspirators can be discovered in our country, perhaps other destructive attacks may be averted.

Mr. President, on this, the tenth anniversary of the *Achille Lauro* tragedy, the threat of terrorism is undiminished. It is our responsibility to act collectively to thwart forces pursuing these acts and to block the financiers condoning international terrorist activity. We need action and we need it now. Our people cannot continue to endure the depredations of these extremist murderers. Thank you, Mr. President.•

UNANIMOUS CONSENT REQUEST—S. 1357

Mr. GRAMS. Mr. President, we have now reached the point where there is no further debate time allowed under the statute that governs this reconciliation bill, including time allotted to Senator ROTH for the Finance Committee amendment. I am informed by the Democratic leader that they will have 30 or more amendments or points of order that they intend to offer and get votes on prior to passage.

Therefore, I ask unanimous consent that all remaining votes after the first vote tomorrow be limited to 7½ minutes and each Senator with an amendment is asked to submit a one-line description of their amendment to the chairman for him to read in explanation of the amendment, and that Senator MIKULSKI be permitted to offer a motion to instruct the conferees prior to the vote on final passage.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Mr. President, I object.

Mr. President, let me take a moment to explain. I am extremely distressed, concerned, and apprehensive about what is going to happen tomorrow. All night I have been asking to see the amendment that the Finance Committee is going to offer as its final amendment in the so-called tier two. And now at 12:17 a.m., we have yet to receive a copy of this amendment.

Under the agreement that was reached previously, we are going to be placed in a situation which this amendment of undetermined length but, I anticipate, significant length and complexity, is going to be offered with 10 minutes to debate equally divided, and then ostensibly a vote.

I object to that procedure, and until a satisfactory resolution can be achieved, either in terms of agreeing to extend the time of debate so there can be reasonable opportunity to understand what is in that Finance Committee amendment or, if there is an unwillingness to provide for that extended debate, then at a minimum, a reading of the Finance Committee amendment, so that we will all have an opportunity to know its contents before we are called on to vote on it, will be insisted upon or at least will be a condition of granting consent to the request which has now been made.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I hope the Senator from Florida will not object. There are three provisions in this unanimous consent request that specifically assist Democratic Senators. First, we want to protect the Senator from Maryland to offer her motion to instruct. Second, we want to give Democratic Senators the opportunity to explain all of the 30-plus amendments that we have available to us. And third, we are accommodating another Senator in starting when we are to assure that she does not miss the first vote.

So I hope that after all the negotiations that we have made in good faith on both sides that the agreement, which has nothing to do with the Roth amendment, would be allowed to be accommodated, and we will, as I have given him my word, deal with the Roth amendment to accord additional time and additional understanding tomorrow.

This agreement has nothing to do with tier two. It only has to do with the third tier, directly affecting virtually every Democratic amendment still pending.

So I hope that the Senator will not object, and we could work with Republican managers tomorrow to accommodate the concerns, legitimate as they are. There are concerns I share in terms of attempting to better understand what the Roth amendment would do.

Mr. GRAHAM. Mr. President, I am still compelled to object, unless as part of this unanimous-consent request some unanimous consent provision is inserted which will deal with the Roth amendment, either a unanimous-consent request to expand the time for consideration of the Roth amendment or a unanimous-consent request that no motion to waive the reading of the Roth amendment would be in order. Either of those two would be acceptable, the first being much more preferable.

When we adopted this unanimous-consent agreement that set up the procedure for the three-tier system of consideration, I did not contemplate that at this late moment we were going to receive a major Finance Committee amendment with no opportunity to know its contents, understand its implications and be in a position to cast an informed vote as to its acceptability.

I am particularly concerned, Mr. President, about the provisions that might relate to Medicare and Medicaid, which I understand are going to be two of the areas covered by the Roth amendment.

These have great importance to all of the citizens of America, and especially to the citizens of my State. I intend to fully understand what the implications of any changes are before the matter is brought before the Senate for a vote.

Mr. DASCHLE. Mr. President, let me reiterate, I have great sympathy for the Senator from Florida. It is his right to ask for a reading, and it would take unanimous consent to dispense with the reading. So the Senator is protected under the rules, should he choose to have the amendment read.

I hope that he will recognize that we will certainly work, as I have throughout this process, with him and all of our Democratic colleagues, to protect our rights, to ensure that Senators are accommodated. I will work with him in this regard as well. We just need to get on with the business of moving this legislation, as it relates to all of our amendments.

This largely is an agreement that we have requested. It would undermine my ability to deal with the leader as it relates to disposing of these amendments were we not to get this unanimous consent request tonight.

Mr. GRAMS. Shall I renew the request?

Mr. GRAHAM. I will object until some provision is inserted that either provides for adequate time to consider the Roth amendment, or a statement that no motion to waive the reading of the Roth amendment would be in order.

Mr. GRAMS. I will tell the Senator from Florida that it will be the majority leader's intention to attempt to shorten the votes from 15 minutes to 7½ minutes beginning tomorrow morning at 9:15.

Mr. GRAHAM. It would be my intention to resist those efforts until such time as we can be assured that there is adequate opportunity to be informed of and knowledgeable about the provisions in the Roth amendment.

I think it is an outrage that now, at 12:22 a.m., we are yet to be provided with a copy of what will probably be the most significant proposal on this most significant legislation.

Mr. GRAMS. Mr. President, again, I would like to say that we will attempt to talk with the majority leader and Chairman ROTH in the morning to try and accommodate the request of the Senator from Florida. We cannot do that any more this evening. Those efforts will be made in the morning.

Mr. GRAHAM. We will all gather.

ORDERS FOR FRIDAY, OCTOBER 27, 1995

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m., Friday, October 27, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, the Senate then immediately resume consideration of the reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRAMS. Mr. President, for the information of all Senators, the Senate will resume the bill at 9:15 a.m. tomorrow and will begin a very lengthy series of stacked rollcall votes in order to complete action on the budget reconciliation bill.

All Members should be reminded that the stacked votes will be shortened; therefore, Members should expect to remain in or around the Chamber during tomorrow's session.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. GRAMS. Mr. President, if there be no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 12:23 a.m., recessed until Friday, October 27, 1995, at 9:15 a.m.

EXTENSIONS OF REMARKS

REINTRODUCTION OF THE GIFT OF LIFE CONGRESSIONAL MEDAL ACT OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. STARK. Mr. Speaker, today I take great pride in reintroducing the Gift of Life Congressional Medal Act of 1995 along with our colleagues FLOYD SPENCE, JOE MOAKLEY, JAMES WALSH, GERALD KLECZKA, NANCY PELOSI, KAREN THURMAN, GEORGE BROWN, RANDY CUNNINGHAM, MARTIN FROST, and VICTOR FRAZER. I believe the enactment of this legislation will not only honor the individual organ donor and their loved ones, but will also heighten the awareness of the organ shortage—ultimately resulting in more organ donation.

Despite the numerous problems that organ donation programs have faced and conquered over the years, a major problem still exists—an undersupply of available and suitable organ donors.

Currently, there are 40,000 individuals waiting for an organ transplant in the United States. A new name is added to the national patient waiting list approximately every 18 minutes. Last year alone, more than 3,000 adults and children died while waiting for an organ. Just yesterday, approximately eight individuals, suitable for a transplant operation, died while waiting for a transplantation.

The demand for organs will continue to grow with the improvement of medical technologies, and without expanded efforts to increase the supply of organ donation, the supply of suitable organs will continue to lag behind the need.

According to some researchers, it may be possible to increase by 80 percent the number of organ donations in the United States through incentive programs and public education. A congressional medal recognizing donors and their families can play a very important and effective role in our efforts to encourage such donation.

Our proposed Gift of Life Medal Program will be administered by regional organ procurement organizations (OPOs) and managed by the entity administering the Organ Procurement and Transplantation Network. Once the very difficult decision to donate an organ has been made, the donor or the family member of the donor will be asked by the regional OPO whether participation in the Gift of Life Medal Program is desired. The OPO will give each donor or family of the donor the option of receiving a Gift of Life Medal, recognizing that some donors and families may not want to participate. If the donor or the family of a donor requests, a public presentation will be made to honor the donor. A presentation by a local official, community leader or Member of Congress would be a tremendous opportunity to increase the awareness concerning the desperate need for organ donation.

Every action has been taken to insure that the issuance of the Gift of Life Medals results in no net cost to the Government. In addition, I am proud to report that the legislation has the strong support of the United Network for Organ Sharing (UNOS) and the National Kidney Foundation.

It is with great pleasure that I ask our colleagues to join with us as cosponsors of the Gift of Life Congressional Medal Act of 1995 and recognize the enormous faith and courage displayed by organ donors and their families. They offer others a second chance by providing the most precious gift imaginable—the gift of life.

H.R.—

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gift of Life Congressional Medal Act of 1995".

SEC. 2. CONGRESSIONAL MEDAL.

The Secretary of the Treasury shall design and strike a bronze medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury, to commemorate organ donors and their families.

SEC. 3. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Any organ donor, or the family of any organ donor, shall be eligible for a medal described in section 2.

(b) DOCUMENTATION.—The Secretary of Health and Human Services shall direct the entity holding the Organ Procurement and Transplantation Network (hereafter in this Act referred to as "OPTN") to contract to—

(1) establish an application procedure requiring the relevant organ procurement organization, as described in section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1)), through which an individual or their family made an organ donation, to submit to the OPTN contractor documentation supporting the eligibility of that individual or their family to receive a medal described in section 2; and

(2) determine, through the documentation provided, and, if necessary, independent investigation, whether the individual or family is eligible to receive a medal described in section 2.

SEC. 4. PRESENTATION.

(a) DELIVERY TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of the Treasury shall deliver medals struck pursuant to this Act to the Secretary of Health and Human Services.

(b) DELIVERY TO ELIGIBLE RECIPIENTS.—The Secretary of Health and Human Services shall direct the OPTN contractor to arrange for the presentation to the relevant organ procurement organization all medals struck pursuant to this Act to individuals or families that, in accordance with section 3, the OPTN contractor has determined to be eligible to receive medals under this Act.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), only 1 medal may be presented to a family under subsection (b).

(2) EXCEPTION.—In the case of a family in which more than 1 member is an organ donor, the OPTN contractor may present an additional medal to each such organ donor or their family.

SEC. 5. DUPLICATE MEDALS.

(a) IN GENERAL.—The Secretary of Health and Human Services or the OPTN contractor may provide duplicates of the medal described in section 2 to any recipient of a medal under section 4(b), under such regulations as the Secretary of Health and Human Services may issue.

(b) LIMITATION.—The price of a duplicate medal shall be sufficient to cover the cost of such duplicates.

SEC. 6. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of section 5111 of title 31, United States Code.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

SEC. 8. SOLICITATION OF DONATIONS.

(a) IN GENERAL.—The Secretary of the Treasury may enter into an agreement with the OPTN contractor to collect funds to offset expenditures relating to the issuance of medals authorized under this Act.

(b) PAYMENT OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), all funds received by the Organ Procurement and Transplantation Network under subsection (a) shall be promptly paid by the Organ Procurement and Transplantation Network to the Secretary of the Treasury.

(2) LIMITATION.—Not more than 5 percent of any funds received under subsection (a) shall be used to pay administrative costs incurred by the OPTN contractor as a result of an agreement established under this section.

(c) NUMISMATIC PUBLIC ENTERPRISE FUND.—Notwithstanding any other provision of law—

(1) all amounts received by the Secretary of the Treasury under subsection (b)(1) shall be deposited in the Numismatic Public Enterprise Fund, as described in section 5134 of title 31, United States Code; and

(2) the Secretary of the Treasury shall charge such fund with all expenditures relating to the issuance of medals authorized under this Act.

(d) START-UP COSTS.—A 1-time amount not to exceed $55,000 shall be provided to the OPTN contractor to cover initial start-up costs. The amount will be paid back in full within 3 years of the date of the enactment of this Act from funds received under subsection (a).

(e) NO NET COST TO THE GOVERNMENT.—The Secretary of the Treasury shall take all actions necessary to ensure that the issuance of medals authorized under section 2 results in no net cost to the Government.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) the term "organ" means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and

eyes) specified by regulation of the Secretary of Health and Human Services or the OPTN contractor; and

(2) the term "Organ Procurement and Transplantation Network" means the Organ Procurement and Transplantation Network established under section 372 of the Public Health Service Act (42 U.S.C. 274).

A SALUTE TO THE CHESTER YWCA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute the 80th anniversary of the Chester YWCA.

In 1914, the YWCA was established at 7th and Sproul, in Chester. Since that time, the YWCA has developed into one of the most significant contributors to the social and cultural vitality of the Chester community. Not only is it a meeting place for friends and relatives, it is also a home and source of comfort for many of the members of the Chester community.

In October 1995, the Chester YWCA proudly celebrated its 80th anniversary at the Ramada Inn in Tinicum. The ongoing success of the YWCA can be attributed to the young people who care for this organization such as its executive director, Vanessa Williams. I have worked with Vanessa on many projects, including the Y's pool and computer literacy programs. Vanessa Williams was honored at the celebration for being the first African-American executive director along with eight other individuals who were presented with "Cement of our Foundation Awards," for their contributions and dedication. In addition, Janet Frisch, board president from 1993 to 1995, Myra King Billups, the first African-American board president, and Joan Taylor, executive director from 1976 to 1992 were honored. To thank contributors, Ms. Billups, the current board of trustees president, recited a poem entitled "Working Gifts".

I hope my colleagues will join me today in wishing the Chester YWCA and its executive director, Vanessa Williams, a very happy 80th anniversary. I wish the Chester YWCA the very best in its continuing years of service to the Chester community.

H.R. 2517—BUDGET RECONCILIATION ACT

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. CALVERT. Mr. Speaker, I rise in strong support of the reconciliation bill Chairman KASICH has brought to the floor today. I wish to take my limited time to speak in rebuttal to my Democratic colleagues' criticism of the Resources Committee's title which occurred around dinner time last night. Listening to it made my stomach churn. It is the big lie, Mr. Chairman, which the five minority Members of the Resources Committee who spoke all reiterated about title IX. I have to hand it to them though, they have been saying it so often they must be starting to believe it themselves.

But, the American public is not fooled. The giveaway mantra echoing down in the well last night rings hollow from these Members. For example, they complain bitterly about our proposed reform of the law governing mining rights on public lands, but where have they been for the last 40 years? My friend from Hawaii, Mr. ABERCROMBIE likened us to bank robbers, but failed to mention that the Democratic alternative we get to vote upon has no mining provisions as far as I can see. And if they think the alternative provision offered in our committee was so worthy, where is it now?

Mr. Chairman, it is missing because it was the same ludicrous job-killing, investment-robbing bill they have pushed for three or more Congresses. It had an 8 percent gross royalty provision that even the Clinton administration's own Interior Department said in 1993 would quickly cost us 1,100 American jobs and lose the U.S. Treasury $11 million in just 3 years. And, other more reputable studies show a far greater negative impact than this.

But, we have opted to levy a net proceeds of mines royalty in our bill. It has a proven formula for generating revenue for the Treasury while at the same time preserves domestic mining jobs. The terms are modeled directly upon the State of Nevada's well-studied net proceeds of mines tax. Mr. ABERCROMBIE maintains that we have expanded the allowable deductions from gross proceeds beyond those of the Nevada tax, but this is simply not the case. We have clarified what is actual practice, which practice resulted in the collection of $48.2 million in 1994.

Mr. Chairman, gross royalties distort the marketplace, encourage high-grading, and cause layoffs and closing of higher cost mines. Net royalties do not. Perhaps this is why gross royalties are fast becoming very rare in the world. The Federal Governments of Canada, Mexico, Chile, Peru, Bolivia, Spain, Sweden, and Zimbabwe do not levy gross royalties on metal mining at all! Instead, they tax mining profits, just as our Government does as well.

Now, Mr. ABERCROMBIE notes that mining royalties paid to private mineral owners in Nevada average 3 percent of gross revenues, but he failed to note that such landowners are unable to levy income taxes—only governments can do that—so the only way an economic rent can be had in such cases is to seek as large a royalty as can possibly be sustained. But for the Federal Government to do the same would be to cut off its nose (corporate and individual income tax revenues) to spite its face (royalty receipts shared with States). Obviously, it is quite possible for Congress to levy a mining royalty which loses money when tax consequences for considered—which budget enforcement rules do not allow to be factored into a CBO score. And that is exactly what would happen if the 8 percent net smelter return royalty touted by the Democrats were enacted.

If my Democratic friends would acknowledge simple economic principles now and then they would not be ranting and raving about Jesse James. Even Fidel Castro is lately talking more sense than our friends across the aisle. But then, he is looking for investment to flow into Cuba not away. Why does not the minority come out and say what we all know—they simply do not want hardrock mining on public lands in the United States. Adios, mineros. Vamos a Mexico!

But, Mr. Chairman, that was not enough. They knocked our efforts to simplify and make fairer the byzantine Federal oil and gas royalty collection system, too. There we go, robbing the Treasury again to give breaks to oil companies. If this were the case, why is it that the CBO says the royalty fairness part makes $57 million for the Feds and $33 million more for the States? It is the very same CBO whose numbers my friends across the aisle will quote until the cows come home when it fits their purpose.

Mr. ABERCROMBIE says we drastically modify the existing statute of limitations on the collection of royalties due taxpayers. But, in truth, our bill does not modify an existing statute of limitations, because there is not one! The Democrats would rather promote the status quo, which is to allow bureaucrats an indefinite period of time to collect royalties. As a result of this inertia, over $450 million worth of royalty collections is outstanding—tied up in red tape and litigation. Our bill requires the Secretary collect all royalties within 6 years accelerating revenues and eliminating expensive bureaucratic delays.

Another falsehood about the royalty fairness provisions is the allegation that lessees of marginal wells could operate without paying any royalty. Absolutely nowhere does this proposal allow this consequence. And the prepayment of future royalty obligations for marginal leases which we encourage in this part requires the agreement of the Secretary of the Interior as well as the Governor of the affected State as to the present value of the future royalty stream. It is bullet proof for the Treasury, and the Democrats should know that.

Furthermore, our friends across the aisle charge that our provisions for equitable treatment of royalty payments on oil and gas leases would cost $60 million over 7 years. But that is not what CBO said. In fact, the policy to treat royalty overpayments in the same manner the IRS treats overpayments—reciprocity of interest obligations—greatly simplifies accounting requirements and directly contributes to the collection of an additional $117 million of royalties offset by the anticipated $60 million cost. That is a net of $57 million to the taxpayer which the Democrats suggest we should walk away from. We believe this sum is worth saving however, and so does the Clinton administration.

The truth is, our royalty simplification bill makes money because it makes everybody—lessee and lessor alike—work to get it right the first time. And, we empower the States to do the job on leases within their boundaries. After all, half the onshore royalty stream goes back to the States, why would they not be just as diligent as the Feds to ensure that the bills are fully paid on time, and for lower collection costs? Of course, the States will be vigilant in protecting their interests. The Governors of the two States with by far the most a stake—Wyoming and New Mexico—support this legislation because it allows them to do the same jobs better, fairer, and less expensively than the

Feds could ever dream of doing. No, it is not a loophole bill, it is a reduce the Federal bureaucracy bill, and that bothers supporters of the status quo.

Mr. Chairman, I urge my colleagues to support the Kasich budget reconciliation bill. The Resources title is sound. It stands the test of increasing direct receipts without bankrupting the Treasury because of lost job opportunities. Vote "aye" on H.R. 2517.

OPPOSITION TO THE HANCOCK AMENDMENT

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. NEY. Mr. Speaker, yesterday I, along with several of my colleagues from both sides of the aisle, appeared before the House Rules Committee in an attempt to delete the Hancock amendment from the reconciliation bill. This amendment threatens the long-term security of coal miner's health care benefits.

I strongly believe that our testimony has sparked a firestorm of debate on this issue that Congress can no longer choose to ignore. I further believe that this debate has hopefully prompted both sides on this issue to begin to come together, and common ground may be found. As we move toward the Senate with this monumental bill, I believe that the healthy debate which has been initiated on this issue can and will carry over to the Senate.

In conclusion, Mr. Speaker, I would urge my colleagues in both the House and Senate to take another look at this important issue. I believe that agreement can be reached that would help those who should not be paying into this fund, while at the same time, secure the long-term stability of this important fund that supplies health care to our retired miners who have worked so hard to build America and make it prosper.

A MESSAGE FROM HIS EMINENCE JOHN CARDINAL O'CONNOR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to the inspiring words and moral leadership of His Eminence John Cardinal O'Connor, the Catholic Archbishop of New York. Throughout the debate over balancing the budget and cutting taxes, both unfortunately at the expense of the most vulnerable of our citizens, Cardinal O'Connor has been a voice in the wilderness, crying out on behalf of the children, the poor, the aged, the sick and the afflicted.

The Cardinal's statement, so desperately needed today as we prepare to vote on the budget reconciliation bill, is in the spirit of the great humanitarian message left with us by Pope John Paul II on his recent visit to the United States. It was a message beyond partisan politics and personal or commercial greed, a plea for compassion and the highest principles of America.

It is a message shared by all of the great religions, but one that has been missing in much of this debate over Medicare and Medicaid. it is a message that should be heeded by all of us as we address political issues which carry with them the greatest moral implications. Therefore, I am offering for the edification of my colleagues, the following message from John Cardinal O'Connor, which first appeared in the New York Post on October 25, 1995.

[From the New York Post, Oct. 25, 1995]

HEALTH CARE IS ABOUT PEOPLE

(By John Cardinal O'Connor)

It is immensely difficult today for hospital and nursing-home administrators—even doctors and nurses—to avoid becoming commercialized, to avoid becoming caught up in the marketing terminology, in quantitative competitiveness.

There is even immense pressure on administrators, doctors and nurses to think of departments and clinics and even patients as "cost centers," to determine how long a patient needs medical or nursing attention strictly in terms of how much the government or an insurance carrier will pay for. There is a grave temptation for health care to become just another industry.

I know the problems. The annual operating costs of 17 Catholic hospitals and 15 Catholic nursing homes in the Archdiocese of New York is $1.7 billion. Why do we struggle to keep our doors open? In order to compete with an industry? Of course not—it's because we care about the human person.

Why did we pioneer in taking care of persons with AIDS, so that shortly after this tragedy struck our city, we rapidly became the largest private-sector caretaker of persons with AIDS in the United States? Why do influential men and women of the Knights of Malta visit and care for persons with AIDS in our Catholic hospitals? Why did we open the first Huntington's Unit to take care of people with a dread disease not reimbursed by the government?

Why did I announce in October, 1984 and many, many times since that any woman—of any religion, of any color, of any ethnic background—who is pregnant and in need could come to us from wherever and we would insure her medical care, her hospitalization, her legal assistance if she needed it, so that she could either keep the baby or have the baby adopted?

Why did we continue doing that, year after year? Because there are thousands and thousands of women in such need who have been helped.

Why do we do whatever we do for the retarded, the handicapped? Why do we did whatever we do for the poor? Why do we specialize in the needs of the poor in our Catholic health-care system? Because of our very passionate belief that every human person is sacred, is precious in the eyes of God, whatever his or her religious belief, ethnic or racial origin. All are persons. All are welcome in our Catholic health-care system.

The ease with which health care can become depersonalized is little short of terrifying, particularly when dealing with the most vulnerable: the unborn, the frail elderly, the comatose, the cancer-ridden. I have told this story before, but I feel compelled to tell it again because it is a shocking reminder of what can happen:

Our own Calvary Hospital is considered by professional observers to be one of the finest hospitals in the U.S. for those ill with cancer which is, from a human perspective, incurable. Until not too many years ago, patients referred to Calvary from acute-care hospitals had an average length of stay of approximately six weeks. They lived for those six weeks in great comfort and love, given tender, gentle care by incredibly warm and dedicated doctors, nurses, administrators and staff.

Now, thanks to various new wonder drugs, patients may live six months or longer in the same loving and virtually pain-free environment, with added time to prepare both materially and spiritually for the death they know is coming, often strengthening bonds with families and finding peace at the end. I have never known a relative or friend of a Calvary patient who has not been deeply grateful for the extraordinary care given their loved one.

Some time back, however, the storm clouds gathered. A major insurance carrier called the leadership of Calvary Hospital to say. "You are keeping your patients alive too long. If you continue to do this, we will discontinue your insurance."

What a chilling effect on people trying to do good. It is so much easier to do evil than good, isn't it? Yet if we give up trying to do good, we lose our very reason for existence—we shrivel up and die.

William Lindsey White, in his "Captives of Korea," gave us all a grim reminder in his study of American Prisoners of war in Korea. Many were beaten and starved—but they cared enough about life to survive. Some prisoners, however, were not similarly tortured—yet they withdrew from all their fellow prisoners, curled into a fetal position and died of no medically identifiable cause.

White puts it startly, "Those who believed in Nothing, died of Nothing at all."

Catholic health care will continue its struggle to survive because we believe in the sacredness of all human life at every stage of existence. We believe in the individual human person, the true heart of this city and every city, made in the Image and Likeness of God, precious infinitely beyond fiscal calculations or financial compensations.

We will struggle to survive because we care. We refuse to be depersonalized. We care too much to compromise our moral and ethical principles, to abandon human persons to inexorable economic forces. We will never withdraw from our obligations to the poor—or to anyone else who needs us. We will not curl up into a fetal position out of fear of hostile forces that may surround us.

We will not shrivel up and die—because we believe.

New York City is still basking in the magnificent glow of the visit of Pope John Paul II. I have received more phone calls and letters than about any other event I have ever experienced, from Jews, Protestants, Catholics, Muslims and people of no religious persuasion. Millions never got near the Pope—but they sat glued to their television sets, watching and listening.

And what are they talking about now? The glamour, the air of power, the immense amount of security, the pageantry? No—that's not what they're writing to me and talking to me about. They are telling me over and over that this man has moved them deeply—even changed their lives—because they have seen how much he cares for everyone. He breathes love, he inspires hope—because he cares.

I conclude with the moving words the same Pope uttered in Central Park. They are equally and beautifully applicable to Catholic health care—indeed, to all of the activities in this great city, which this Pope calls "the capital of the world." I quote him:

"In our bodies, we are a mere speck in the vast created universe, but by virtue of our souls we transcend the whole material world. I invite you to reflect on what makes each one of you truly marvelous and unique. Only a human being like you can think and speak and share your thoughts in different languages with other human beings all over the world, and through that language express the beauty of art and poetry and music and literature and the theater and so many other uniquely human accomplishments.

"And most important of all, only God's precious human beings are capable of loving. Love makes us seek what is good; love makes us better persons . . . Love makes you reach out to others in need, whoever they are. Every genuine human love is a reflection of love that is God Himself . . ."

H.R. 2541, DIPLOMATIC SECURITY IMPROVEMENT ACT OF 1995

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. GILMAN. Mr. Speaker, today I am introducing legislation to support the activities of a key bureau within the Department of State—the Bureau of Diplomatic Security. This is the Bureau that is tasked among other things with maintaining the security of the lives of American diplomatic personnel overseas.

We have been repeatedly reminded that the world is still a very dangerous place. My bill will help strengthen America's defenses against international terrorism targeted against individuals or governments, and will improve our ability to battle this deadly and cowardly scourge.

Recently, we have witnessed several attacks on American personnel and facilities; including the tragic death of two innocent American personnel viciously gunned down while in a United States diplomatic van on the streets of Karachi, Pakistan. There was also the recent grenade attack on the United States embassy in Moscow. It is still an unsafe world for American personnel and facilities abroad.

The Diplomatic Security Bureau is required to provide a secure environment for the conduct of American diplomacy worldwide. Americans are sent to distant and sometimes unfriendly locations around the world to carry out our foreign policy goals. It is our duty to be sure that the best security is provided to these Americans and other nationals, who help carry out and implement our foreign policy abroad.

Unfortunately, there has long been precious little enthusiasm for many of these difficult, and often undiplomatic security type functions and safety efforts within some parts of our State Department. I fear that in the competition for resources, security of all kinds is getting short changed today.

The bill, I am introducing today, will help to provide greater leadership and professionalism within the Diplomatic Security Bureau. This reform is important given the extent of responsibilities assigned to this bureau.

In addition to protection of personnel assigned to U.S. diplomatic missions abroad, the Bureau provides physical protection for Department of State office and residential facilities, communications, and information systems; prevents the penetration of diplomatic facilities by foreign intelligence efforts, and certifies construction security procedures.

Diplomatic Security also conducts personnel background investigations for security clearances, investigates visa and passport fraud, protects resident and visiting foreign dignitaries, and makes semiannual assessments of the threat levels of overseas posts for terrorism, crime, human intelligence, and technical attacks on facilities.

My bill sets out new professional statutory qualifications for the Assistant Secretary of State for Diplomatic Security. This individual is in charge of the important day to day leadership in the State Department protecting our personnel and facilities abroad, as well as a key border security function, dealing with vital travel and entry documents. The bill also insures the Bureau's permanent existence in any possible downgrading scheme.

The Diplomatic Security Bureau, besides these many responsibilities I noted, also investigates passport and visa fraud, which exists on a massive scale today. This fraud seriously threatens our internal security by facilitating the often undetected and easy entry into our Nation of international terrorists, drug traffickers, and other unsavory criminal elements.

The growing problem with visa and passport fraud requires professional law enforcement leadership and experience to help bring about successful prosecute of these criminal offenses in our Federal courts. I was pleased last year to take the lead in the crime bill that raised the criminal penalties for these offenses, especially if done to facilitate terrorism, or drug trafficking.

In addition, we must continue to adhere to high standards for construction and building security at the Diplomatic Security Bureau. We can not afford to have another Moscow Embassy episode that has cost the country in terms of expenditures required to rebuild this building and in terms of national security concerns.

On June 29, 1995, the International Relations Committee held oversight hearings on many of these security problems, including the recent attacks on American personnel overseas in both Karachi, Pakistan, and on our Ambassador in Burundi.

We identified the problem of the Ambassador's driver in Burundi, who because of budget cuts and resource restraints, did not receive the needed defensive driving training as requested earlier out of concern for safety by our Embassy in Bujumbura.

In both instances in Pakistan and Burundi, the embassy vehicle drivers froze when the attacks came, and were not adequately trained to possibly help avoid injury to our United States personnel under transport. While such training would not have guaranteed successful avoidance, its omission, surely did not help matters.

It was plainly evident from those oversight proceedings that in the last few years the Diplomatic Security Bureau has taken far too deep, and disproportionate cuts as part of the State Department's own management initiated resource reductions. The State Department has started to cut into the very bone marrow of its own vital safety and security operations.

The cuts in staff, resources, building and construction security, and other personnel, security training, and/or contract related security activities, such as crisis management training, maybe today needlessly endangering the safety of our personnel, facilities, and overall national security abroad.

This is a cause of serious concern, which cannot be ignored, especially today when we are considering increased American presence in places like Bosnia, and in light of the rise of radical religiously motivated terrorism, often directed at Americans and our interests. Let us hope we have not forgotten the lessons of Beirut in the early 1980's when our Embassy and other facilities abroad faced the deadly terrorist bombs and attacks.

Congress must help put an end to this unacceptable downward slide in diplomatic security at the U.S. State Department. We must help restore it to the priority status it deserves. After all, these are issues of vital national interest. In addition, we do a disservice to those Americans we send abroad to conduct our foreign policy, when we neglect their very security, and personal safety.

Disproportionate cuts in our diplomatic security efforts in the last few years, have been largely accepted without serious protest. The current incumbent in the post of Assistant Secretary for Diplomatic Security has no real formal background in law enforcement, the intelligence services, or the security field.

Professional qualifications related to this important and high level position within the State Department are not now required of any incumbent who holds, or will hold, that top security position in the State Department. Therein lies the potential danger to our national security.

My bill, helps correct this situation. This Assistant Secretary for Diplomatic Security position should be more than a ticket punch in the foreign service on the way up the career ladder at our State Department.

It is vital, especially in the current climate of reduced budgets and cutbacks in the State Department, that the Assistant Secretary for Diplomatic Security have the relevant professional law enforcement, intelligence, and/or security qualifications and experience for this important job.

Professional qualifications that are essential, in order that he or she can carry on the fight for adequate resources and respect in a even more informed, and serious manner, befitting the threat to our national security, and do so, without fear or favor.

The bill, I introduce today, will require professional related qualifications hereafter for anyone appointed Assistant Secretary of Diplomatic Security, and charged with that important responsibility abroad in today's ever dangerous and hostile world.

This reform embodied in my bill (H.R. 2541) is in America's vital interest.

I ask that the full text of the bill be printed hereafter:

H.R. —

SECTION 1. ESTABLISHMENT OF ASSISTANT SECRETARY OF STATE FOR DIPLOMATIC SECURITY.

There shall be in the Department of State an Assistant Secretary of State for Diplomatic Security who shall be responsible to the Secretary of State for matters relating to diplomatic security. The Assistant Secretary shall have substantial professional qualifications in the field of law enforcement, intelligence, or security and shall be appointed and compensated as provided under section 1(c)(1) of the State Department Basic Authorities Act of 1956.

A POINT-OF-LIGHT FOR ALL AMERICANS: NATALIE HELENE JACOBS CAVE

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. OWENS. Mr. Speaker, it is my great privilege and pleasure to take note of an eminent constituent and model American who should serve as a great "point-of-light" for all—Mrs. Natalie Helene Jacobs Cave. After over 50 years of exemplary Federal service to America's veterans, Mrs. Cave is retiring.

For 50 years, Mrs. Cave practices her profession as a certified social worker, beginning with a stint from 1945 to 1948 as a case worker at the Veterans Administration Hospital in Tuskegee, AL. It was here she met her future husband, Dr. Vernal G. Cave. In 1948, she transferred to what became the New York Department of Veterans Affairs Medical Center, where she continued as a case worker. A year later, she and Dr. Cave, a noted dermatologist, married and settled in Brooklyn, NY, where they still reside. In 1959, she was promoted to assistant chief of social work and was put in charge of the department's outpatient service. For the past 14 years she has been chief of social service work.

Mrs. Cave holds membership in a number of professional organizations, including the National Association of Social Workers, the National Association of Black Social Workers, the Society of Hospital Social Work Directors, and the National Social Welfare Forum.

In addition, Mrs. Cave has led an active extracurricular life. Among other positions in the auxiliary of the National Medical Association, she was its national president, 1975–76. Her community activities include membership on the advisory board of the Public Affairs Committee, the Brooklyn Chapter of Links, Inc., the YWCA, the NAACP, the Kings County Medical Society Auxiliary, the Provident Medical Society Auxiliary, the American Medical Association Auxiliary, and the Black Community Council of Crown Heights. She is an active archousa of the Sigma Phi Pi fraternity, trustee of the Brooklyn Botanic Gardens, board member of the United Nations Association of the USA, and an active and devoted member of various other social and civic organizations. She recalls her attendance at the 1963 march on Washington for civil rights as a pivotal event in her quest for social justice.

This daughter of a Baptist minister, Rev. Frank Jacobs, and a school teacher, Mrs. Natalie Taylor Jacobs, was born in Norfolk, VA. Her parents instilled in her a belief in education, a love for people and a philosophy of purposeful living to help others. Mrs. Cave devoted her life to these concepts.

She received her early education at the Alabama State Teachers College Laboratory School and in the public schools of Bridgeport, CT. In 1943, Helene graduated with honors from the preeminent Bennett College, commonly referred to as, "the Vasser of the South," located in Greensboro, NC. Interested in helping people, she continued her formal education and graduated in 1944 with a master's degree in social work from the Atlanta University School of Social Work and pursued additional advance education courses at the University of Michigan School of Social Work.

The family creed of devoting their lives to the enhancement of others is echoed by Mrs. Cave's two sisters and her brother. All three are former government administrators in people-oriented agencies. Mrs. Marie Jacobs Jones was employed by the Social Security Administration in Columbus, OH. Mr. Taylor Jacobs recently retired as manager of the Kalamazoo, MI Social Security office. Mrs. Frankie Jacobs Gillette served as division chief of the community service administration, region IX in San Francisco, CA.

Mr. Speaker, it is important to note that, along with her husband, Vernal, Helene Cave has always found time, despite her busy professional schedule, to contribute to the building of a stronger civic and empowerment infrastructure for the central Brooklyn community. The Caves have consistently supported elected officials who are advocates of greater citizen participation in decisionmaking. Leaders who refuse to compromise with oppression are always guaranteed the support of Vernal and Helene Cave.

In administering to needs of our Nation's veterans and those of society at large, this gracious and empathetic lady was contributed admirably to making this a better world. It is, therefore, my great honor to bring to your attention a life of great accomplishment. I celebrate the much-deserved retirement of Mrs. Natalie Helene J. Cave, a person who, without reservation, deserves to be honored as a "point-of-light" for all Americans.

PURPA REPEAL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. TOWNS. Mr. Speaker, today, I am pleased to join my friend and colleague from Florida, Mr. STEARNS, in the introduction of important and long-overdue legislation to begin to reform the way in which electric utilities in this country are regulated. This bill would repeal section 210 of the Public Utility Regulatory Policies Act of 1978 or PURPA.

Section 210 of PURPA is unusual legislation. It requires utilities to buy power from certain privileged nonutility generators of electricity at a price that is set by the State, with guidance from the Federal Energy Regulatory Commission. This price is supposed to be no higher than a utility avoided cost, the cost which the utility would have paid to generate the electricity itself or to buy the power from other sources. Unfortunately, in most cases, this avoided-cost calculation has turned out to be higher than the market price for electricity and consumers are paying billions of dollars for high-cost power which is not needed. In New York alone, it has been estimated that PURPA has resulted in billions of excess power costs. This harms business, costs jobs, and penalizes residential users who must pay electric bills which are higher than they need be. While this measure will not affect existing above-market contracts, it will eliminate the possibility that the problem will be made worse in the future.

The drafters of PURPA never anticipated the changes which are now sweeping through the electric industry. In large part, these changes were initiated by the passage of the Energy Policy Act of 1992, which opened up the Nation's transmission system and greatly expanded the firms who could compete to supply power. PURPA today stands pat as an outdated moment to a different era in our national energy policy. Simply put, PURPA's time has come and gone.

The restructuring of the electric industry is accelerating both at the State and Federal levels. Mr. Schaefer, chairman of the Energy and Power Subcommittee, has indicated that he intends to hold several hearings on this important issue and I applaud him for his foresight. Further change in the regulation of utilities, including the introduction of greater competition, is inevitable.

Repeal of section 210 of PURPA is an important step in this process of allowing competition to play a greater role in the electric industry. Repeal will also lower future electricity prices to our constituents.

I urge speedy consideration of this legislation.

A SALUTE TO PASTOR JASON COOPER

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Pastor Jason Jerome Cooper on the occasion of his retirement from the Berean Presbyterian Church U.S.A. and to congratulate him on his many years of service to the north Philadelphia community.

Pastor Cooper, educated at Lincoln University, Lincoln University Theological Seminary, New York Theological Seminary, Philadelphia School of Family Therapy, and Eastern Baptist Theological Seminary, began his tenure with the Presbyterian Church over 32 years ago. He has proudly served on many committees within the church including the member of Stewardship, Promotion and Evangelism Committee and as a member of Presbytery's Coordination Committee. Pastor Cooper is an outstanding leader who should be commended for his numerous contributions to the spiritual health of the north Philadelphia community.

Pastor Cooper has also played a vital role in many programs in the Philadelphia community as the interfaith chaplain in the Philadelphia prisons, North Central "Seasoned Citizens" Program, and the Citizens' Model Cities Program. In addition, he served as a member of the board of directors at the Wharton Center, a community center established to promote intergroup harmony, guidance, and education in the artistic and cultural community. As an educator, Pastor Cooper served as president and vice president on the Temple Community Mental Health Administrative Cabinet which was designed to educate the community about comprehensive health programs.

I wish to join today with the Berean Presbyterian Church, Pastor Cooper's family and friends in recognizing him for his many years of service with the Presbyterian Church and the north Philadelphia community. I wish him health, happiness, and prosperity in his retirement years. It is well deserved.

REMARKS ON H.R. 2491

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. CALVERT. Mr. Speaker, the House leadership recently removed from the budget reconciliation legislation a provision to auction the Southeastern Power Administration [SEPA]. I applaud this action as the measure would have increased SEPA customer power rates and established a poor precedent for other Federal power marketing administrations [PMA's].

SEPA ratepayers would be adversely affected by a sale as had been proposed in the original resources package. Simply put, that type of auction sale of SEPA would have almost certainly meant rate increases to consumers, and the larger the sale price, the larger the rate increase. If the facilities were sold to a private power company, the CBO estimates that consumer-owned electric utilities could pay as much as $75 million more for PMA power; costs that would have been passed on to electric consumers.

Though I am not from the SEPA region, I am concerned about the precedent an PMA sale would create for other regions of the country. Millions of customers throughout the Nation are served by PMA's. As a Representative from Riverside, I am worried that the electric customers in southern California who receive their power from the Western Area Power Administration [WAPA] would see their electric payments increase if Western were sold. Costs for water delivered by the metropolitan water district would almost certainly go up, since power from Hoover Dam and Parker Dam is used to pump that water.

The reconciliation package does include language that will institute a study of SEPA, WAPA, and Southwestern Power Administration [SWPA] to evaluate possible sale structures and the effects of such sales. I support this language, and suspect it will bear out that WAPA is not a good candidate for auction and that any sale of WAPA should take into account a number of factors which would not be addressed in an auction sale.

While I do support the defederalization of PMA's, I believe there is a better solution than the one proposed by the Resources Committee—a solution that is fair to those entities that made substantial investments in the projects and facilities that comprise WAPA and the other regions' PMA's while at the same time, protects the customers who receive PMA power. I am in the process of reviewing a number of proposals that achieve these goals. I look forward to seeing that these views are fairly represented in the study called for in the reconciliation package.

GENERALIZED SYSTEM OF PREFERENCES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. NEY. Mr. Speaker, as the House debates budget reconciliation I would like to give my support to the provisions in the bill renewing generalized system of preferences [GSP] duty-free import program. This program was designed as a way to help less-developed nations export into the U.S. market. The GSP program allows duty-free imports of certain products into the U.S. from over 100 GSP-eligible countries. The bill wisely provides that import-sensitive products are not to be subject to GSP treatment. Ceramic tile is a clear example of an "import sensitive" product and is exactly the type of product which should be subject to lower tariffs under the GSP program.

Imports have dominated the U.S. ceramic tile market for the last decade and they currently capture nearly 60 percent of the market. This extraordinary level of import penetration is a result, in part, of over 30 years of documented unfair predatory foreign trade practices including dumping, subsidies, customs fraud, import diversion, and abuse of a loophole in the GSP. The American ceramic tile industry, though relatively small, is efficient and competitive at normal tariff levels.

From its inception in the Trade Act of 1974, the GSP program has provided for the exemption of "articles which the President determines to be import-sensitive." In light of the history of unfair trade in ceramic tile and the significant and growing import participation in the U.S. ceramic tile market, the U.S. industry has been recognized by successive Congresses and administrations as "import-sensitive," dating back to the Dillon and Kennedy Rounds of the General Agreement on Tariffs and Trade [GATT]. During this period the American ceramic tile industry also has been forced to defend itself from over a dozen petitions filed by various designated GSP-eligible counties seeking duty-free treatment for ceramic tile into this market. If just one petitioning nation succeeds in gaining GSP benefits for ceramic tile, then by law, every GSP beneficiary country is also entitled to GSP duty-free benefits for ceramic tile. If any of these petitions were granted, it would eliminate American tile jobs and could destroy the industry.

A major guiding principle of the GSP program has been reciprocal market access. Current GSP-eligible beneficiary countries supply almost one-third of the U.S. ceramic tile imports and they are increasing their sales and market shares. U.S. ceramic tile manufacturers, however, are still denied access to many of these foreign markets. Many developing countries maintain exclusionary tariff and nontariff mechanisms which serve to block the entry of U.S. ceramic tile exports into these markets. Industrial countries, including the European Union [EU], may use less transparent methods such as discriminatory product standards and testing methods to control their ceramic tile imports and, in some cases, to divert ceramic tile manufactured in third countries over to the U.S. market by imposing restrictions on those third country exports to the EU.

I am in support of the reauthorization of the GSP program and trust that import-sensitive products such as tile will not be subject to GSP.

SOCIAL SECURITY EARNINGS RESOLUTION WAS A SHAM

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. SKAGGS. Mr. Speaker, today I cast a lonely vote. I was one of only five members of the House of Representatives to vote against a resolution that expresses the sense of Congress that legislation should be passed before the end of 1995 to raise the Social Security earnings limit.

My vote against this resolution was not a signal of my position on the Social Security earnings limit—because that's not what this amendment was about. I voted against it to protest a cheap political stunt. It's the kind of stunt that makes people cynical about Members of Congress and the promises they make.

The resolution passed today won't do anything to affect the Social Security earnings limit—the amount of money that seniors can earn before their Social Security benefits are reduced. It merely said that Congress thinks that such legislation should be passed this year.

It's no coincidence that the Republicans brought this resolution before the House just moments before we were about to debate their comprehensive budget bill—a bill that failed to make good on their promise in the Contract With America to increase the earnings limit. What a political ploy. Rather than actually proposing to raise the earnings limit in their budget—in the one bill in which such a measure would be included—the Republicans came up with an empty promise in the form of a non-binding resolution. This was a cynical, "CYA" proposition.

Games like this have got to end if we're serious about restoring Congress' credibility with the American people. If Congress wants to pass an increase in the Social Security earnings limit, Congress can do it straight away, with real legislation. But to do that, we'd have to find the approximately $12 billion that it would cost to do it.

On just this point, an Associated Press story after the vote says that Republican DENNIS HASTERT, the sponsor of today's resolution, is still "looking for spending cuts to offset the $12 billion cost but had not yet settled on a proposal." Isn't it quaint? It's hard to imagine a more transparent admission of political chicanery.

It's easy to promise to spend money without making the hard choices about how to pay the bills. It's just this kind of attitude that has created the mountains of Federal debt, and public mistrust, that we're supposed to be addressing today.

I look forward to the day when I'm not in such lonely company on votes like this.

TRIBUTE TO THE CENTER OF MEXICAN-AMERICAN AFFAIRS AT WHITTIER COLLEGE

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. TORRES. Mr. Speaker, I rise today to pay tribute to the Center of Mexican-American Affairs at Whittier College.

With the leadership of its director, Mr. Martin Ortiz, the center has assisted many Latino students achieve academic excellence. Since 1970, the center has made its resources available to current students, as well as high school and junior college transfers, interested in attending Whittier College. Once on campus, students are encouraged to become members of the Hispanic Students Association [HSA]. Since many of these individuals are first generation college students, the HSA is a valuable support group for new students adjusting to the demands of achieving a Whittier College education.

The center, working with its adjunct groups, including the HSA, Hispanic Parents Advisory Council, "Alianza de Los Amigos," the Hispanic Alumni Organization, and the Business Advisory Council, is celebrating its 25th annual tardeada this year. This event brings together students, parents, and family members to spend a festive afternoon with the college's faculty members, administrators, staff, board of trustees, as well as elected officials and other guests. This annual event is always eagerly anticipated by everyone involved.

Because of the efforts of Mr. Martin Ortiz, his assistant Ms. Rose Hernandez, and the administrative staff, the Center of Mexican-American Affairs has continued to provide the resources necessary to assist Latino students. Their tireless efforts help these students succeed in college and become productive members of our community.

Mr. Speaker, I urge my colleagues to join me in paying special tribute to the Center of Mexican-American Affairs at Whittier College and its director, Mr. Martin Ortiz. The efforts deserve special recognition for ensuring educational opportunity for deserving students from the Latino community.

FARM FAILURE ACT OF 1995

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. MINGE. Mr. Speaker, a few weeks ago, a farmer I met summed up the Freedom to Farm Act in a memorable and accurate manner: The only time a farmer is truly free is when he is broke.

Many farmers fear that this bill will drive them out of farming. The Freedom to Farm Act will mean that when violent price swings and volatile markets occur, farmers will lack both a safety net and the tools needed to try to manage risk.

House Agriculture Committee Chairman Pat Roberts is the author of the Freedom to Farm Act. It would reduce agricultural commodity program spending by $13.4 billion over 7 years. Republican congressional leaders want to save this amount from farm programs as a part of their overall tax reduction plan.

Four Republicans joined with the Democratic members of the House Agriculture Committee to defeat the Freedom to Farm Act. Congressional leaders then decided to bypass the Agriculture Committee and fold the Freedom to Farm Act provisions into the overall budget plan the House will consider.

It is tragic that the House Agriculture Committee chairman failed to create a process that would allow for the development of innovative farm policy. Instead of a thoughtful discussion of how farm policy should be revamped, we were asked to vote on a 100-page proposal that we had received only a few days before.

No hearings were held on the Freedom to Farm Act. It is inconceivable that there would be no chance for public comment on the most sweeping change in U.S. farm policy in 60 years. After spending 10 months holding more than 30 town meetings on the farm bill, I did not have a chance to share with other committee members the comments I received at the meetings.

I do support some aspects of the Freedom to Farm Act. This proposal dramatically simplifies farm programs, provides almost complete flexibility in planting, more effectively limits payments to huge farm operations, and provides fair treatment of all major program crops.

However, the faults in the act outweigh its merits. Without a chance to eliminate these tragic flaws it was impossible for me to vote for the proposal.

One flaw is that the act provides no safety net for farmers to control risk. The proposal requires automatic payments to farm operators regardless of crop prices. The real beneficiaries of this policy are landowners, not farmers. Automatic payments will quickly become an important factor in rental rates and land values. This automatic payment approach will discredit farm programs in the eyes of the American people. It is not designed to meet crises faced by family farmers. The devastating impact of plummeting crop or livestock prices has been the underlying justification for farm programs. How can we justify guaranteed payments for landowners if crop and livestock prices are high and the Federal Government has a deficit?

Another problem with the Freedom to Farm Act is that it spends money unnecessarily. The U.S. Department of Agriculture and most others who have studied markets project strong, increasing demand for U.S. commodities. That demand will drive up prices for the next several years. Secretary of Agriculture Dan Glickman, in fact, estimates that if the current farm program were simply extended it would cost $10 billion less than the automatic payments in the freedom to farm proposal. There is no justification or need for automatic payments in such times.

Still, the prospect of good times cannot lead us to strip budget authority for farm programs. We must maintain our readiness for farm programs when they are needed. We cannot unilaterally disarm.

Developing and implementing improved and innovative insurance-based programs is the direction we should take. We can budget for insurance programs and marketing loans. A trust account can be established and funded. Unfortunately, the Republican leadership has no vision and proposes to reduce the budget authority for agricultural programs by 60 percent over 7 years.

We need this budget authority to create an innovative farm policy. Once lost, this is budget authority we will not be able to reclaim. The Freedom to Farm Act really is the demise of farm programs.

TENTH ANNUAL ANTIDRUG NATIONAL RED RIBBON WEEK

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. GILMAN. Mr. Speaker, I call my colleagues attention to important and timely efforts to help bring greater awareness to drug abuse in our Nation, through the excellent work of Red Ribbon Awareness campaigns across America.

I am particularly proud of the work the Alcoholism and Drug Abuse Council of Orange County, NY, is doing in this vital drug awareness program.

The important and critical efforts surrounding Red Ribbon Activity Week in many communities such as in the Mid-Hudson region, are intended to curb the use of drugs before it's too late, and future generations of Americans are adversely impacted by this deadly and costly scourge. These awareness efforts are extremely important, and worthy of our full support.

All across America, communities are tackling this drug abuse problem, and trying to raise awareness of the impact of drug abuse on our citizens, and especially the young.

The rise once again of increased drug use, especially among the young in grade schools and high schools makes these local community awareness efforts, more important than ever, and deserving of our Nation's highest attention and support.

A University of Michigan drug use survey early last year, indicated that drug use among the young was making a clear comeback and was once again on the rise. The rise in drug use among our young was especially sharp as to marijuana use, and sadly also included increase use of stimulants, LSD, and inhalants as well.

The Michigan study went on to find that important attitudes and believes about drugs began to soften for the second year in a row among grade school children. The study indicates that once these attitudes and beliefs as to the dangers associated with drugs and personal disapproval change, a critical deterrent has been lost.

It is evident from these survey results and experience that each new generation must learn the hard lessons surrounding drug use and abuse. It is best that this learning take place before it's too late, and lost lives follow, and future generations are adversely impacted by this destructive behavior.

The costs from this destructive behavior on our society, are enormous. Vice President GORE recently put the annual cost from illicit drugs on American society at $67 billion. I tend to believe it's much higher than that figure. However, whatever figure you might use, we all know the damage from drug use are enormous in the crime, incarceration, lost worker productivity, health care, and other costs associated with drug abuse.

Earlier this year the Congress had former First Lady Nancy Reagan, who was famous for her very effective "Just say No" campaign on drug use, testify on this subject. She appeared before the House Committee on Government Reform and Oversight on which I am proud to sit. She said in very moving and important testimony "* * * I'm worried that this nation is forgetting how endangered our children are by drugs."

As the earlier study I cited on rising teen drug use makes clear, the former First Lady was right on the money, and she voiced the concerns that many of us have today on the problem of drug use among the young.

In moving and powerful testimony Mrs. Reagan went on to say:

> With my own eyes, I've seen the human destruction drugs can cause. During my eight years as First Lady, I travelled hundreds of miles around this country and the world meeting with young people, listening to the heartbreaking stories of what drugs did to their lives. That suffering is something I can never forget.

Let us all never forget the suffering which Mrs. Reagan so eloquently recounted, and together with Red Ribbon Campaigns for A Drug-Free America all across this Nation, work together to help ensure further suffering is not needlessly repeated across our land.

This year, seven counties in the Mid-Hudson region of New York came together to commemorate Red Ribbon Week, October 21–31, with the theme of "Be Healthy and Drug Free!" The Red Ribbon activities were kicked off by the annual Run/Walk Against Drugs in Newbough, NY, on Saturday morning, October 21. This event was followed by a red ribbon caravan across the Hudson, in which citizens from throughout southeastern New York drove across the Newburgh-Beacon Bridge in automobiles marked with large red bows on the antennas, to join in a drug-free riverfront festival in Beacon. Participants from Orange, Rockland, Sullivan, Westchester, Dutchess, Putnam, and Ulster Counties came together to make these events on Saturday, October 21, truly memorable.

Two of my constituents, Joan Fawley, a senior at Goshen High School, and Alma Buffoe, a seventh grader at Greenwood Lake Middle School, delivered remarks which inspired all of those in attendance.

Between now and the conclusion of Red Ribbon Week of October 31—a week so big it needs 10 days—many other activities are planned by our Alcoholism and Drug Abuse Council in Orange County, including pledge and sign up day, rally day, rap about day, a sports weekend, and, finally, just say boo to drugs day on Halloween.

Mr. Speaker, the enthusiasm of all the participants in Red Ribbon Week remind us all that substance abuse remains America's No. 1 enemy. I am pleased that our colleagues (Mr. ZELIFF and Mr. RANGEL) are organizing a bipartisan drug policy group, and I urge all of our colleagues to join with us in this most worthwhile endeavor.

This year, seven counties in the Mid-Hudson region of New York came together to commemorate Red Ribbon Week, October 21–31, with the theme of "Be Healthy and Drug Free!" Some of the red ribbon activities include the annual Run/Walk Against Drugs in Newburgh, NY, a Red Ribbon Caravan Across the Hudson, in which citizens from throughout southeastern New York will drive across the Newburgh-Beacon Bridge in automobiles marked with large red bows on the antennas, to join in a Drug-Free Riverfront Festival and ribbon-tying ceremony in Beacon, and the highly successful Red Ribbon Auto Rally coordinated by Lenny Rifkin each year in Goshen, NY. Lenny is the regional coordinator of DARE [Drug Abuse Resistance Education] and this auto rally raises money annually to conduct the many antinarcotics activities of DARE.

Participants from Orange, Rockland, Sullivan, Westchester, Dutchess, Putnam, and Ulster Counties will come together to make all of these events not only memorable but also inspirational.

Two of my constituents, Joan Fawley, a senior at Goshen High School, and Alma Buffoe, a seventh grader at Greenwood Lake Middle School, have been chosen to deliver remarks giving young people's perspective on the topic of substance abuse.

Between now and the conclusion of Red Ribbon Week on October 31—a week so big it needs 10 days—many other activities are planned by our Alcoholism and Drug Abuse Council in Orange County, including pledge and sign up day, rally day, rap about day, a sports weekend, and, finally, just say boo to drugs day on Halloween.

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KATARINA SCHMOLL'S VISION OF AMERICA

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mrs. SCHROEDER. Mr. Speaker, every year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast script writing contest. I am pleased to announce that one of my constituents, Katarina Schmoll, is this year's European winner. Katarina was born in Denver, CO, and is a senior at Ramstein American High School outside of Frankfurt, Germany. She is active in her student government and plans to pursue a career in broadcast journalism. I would like to include her prize-winning script in the Record.

MY VISION FOR AMERICA

> My vision for America is a hopeful, confident and promising one. It can only be achieved by a great people who themselves are hopeful and confident about the future. Most certainly, our founding fathers exemplified these virtues and without their dedication our country would never have been born. To rest on the laurels of the past however, is not enough. Each generation needs dedicated people to build on the great tradition its founders started.
>
> In my vision for America I perceive a diverse people; each making a vital and positive contribution. I see a strong military where proud people make sacrifices for the good of all. Men and women ready and willing to commit their lives, answering whatever the call of their nation may be; willingly leaving the safety of their own homes to go to unfamiliar areas of the world to protect America and its allies.
>
> I visualize a confident people. Confident because they are educated, contributing members of society. They keep themselves informed through reading and involvement. They form their own opinions critically; not being dominated by the press and media but by an open mind and fairness. I see confidence in the working people of America because they are investing in the national economy, encouraging one another to do their best, challenging themselves through competition, opening new businesses, giving their valuable time to the youth; striving not only for the best in their own lives but looking out for others as well.
>
> In my vision for America I see decisive leaders who make decisions with conviction. The president is supported by both political parties and backed by the American people. Where a difference in political opinion leads to debate, not hate.
>
> I envision the youth of America to be highly motivated and eager to learn because they are encouraged by their parents, teachers and nation's leaders. I see teachers instructing their students with enthusiasm; believing in them and guiding them toward the future. The youth are graduating from high school and college, taking on the challenges and opportunities open to them. I see an optimistic future for those who are willing to learn and be actively involved.
>
> In my vision I picture a nation that is not dominated by technology but rather assisted by it. A nation where the individual is always more important than the machine.
>
> The family is focused and strong in my vision for America. Marriage is a life-long

commitment taken solemnly. Parents are able to effectively communicate with their children and be their most important teachers. No one has more faith in the future than parents themselves because they see children growing and learning every day. Children give hope to the future.

In my vision I see the young and the old sitting together, remembering the past and anticipating the future. The young are often in awe of the past and the old are fearful of the future. Through friendship, the young and the old reassure each other of what has been and what is to come. We learn from everything we do.

My vision for America pictures a hopeful and confident people continuing the neverending process of development and growth: incorporating the knowledge and ideas gained in their own lives with the wisdom that has been passed on to them by their forefathers.

A bright vision is what I see. America keeps on shining! The more we learn, the more we shine on together as a strong nation.

HONORING MODEL UNITED NATIONS AT SPALDING UNIVERSITY

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. WARD. Mr. Speaker, I wish to recognize the Model United Nations that will take place at Spalding University in Louisville, KY on November 10, 1995. This will be the first time that the collegiate level Model United Nations [U.N.] conference will be held in the Commonwealth of Kentucky.

The Model U.N. Conference will give college students a wonderful opportunity to gain insight into the substance of international affairs by having them serve as delegates of assigned countries. The students will also learn about the role of the U.N. in the international community and the internal workings of the U.N. The communication skills practiced during the conference will no doubt prove to be a valuable experience to all of the participants.

I am proud to host the Spalding University Model United Nations Conference in my district. Due to the vital role the United States must play in world affairs, a conference of this nature can only prove to be of worthwhile nature.

SALUTE TO EDDIE DEAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a true legend, a man who has spent his life entertaining people around the world on radio, television, and the big screen—Eddie Dean.

When I was a child growing up in southern California, Eddie Dean was one of my greatest heroes. The singing cowboy who wore the white hat and always saved the fair maiden, he represented everything that was fresh and new and good in America to a child in the 1950's.

One of the five singing cowboys, a group that included the great Gene Autry, Roy Rogers, Rex Allen and Monte Hale, Eddie always represented the good side of people.

There were many Saturday mornings growing up when I could be found sitting in front of a black-and-white television set watching Eddie ride and sing across the West.

Well, over the years that hero became a friend and I had the privilege of spending a good deal of time with Eddie. Sometimes we'd sit and talk about his latest tour, about his golf game, about one of his old movies or just about the music, the ability to deliver a heartfelt song that has never left him.

Mr. Speaker, a group of friends and fans will be presenting Eddie with some long-overdue recognition this weekend in Thousand Oaks, CA. At a time when we in America are searching for heroes and for entertainment that accentuates the positive side of life, this seems entirely appropriate.

I always think of Eddie as the kind of guy who personified the heart and the worthy intentions that are inside all of us. I think it is amazing that he is still at it today—still touring—and still spreading the same positive message he has for more than 50 years. I wish him all the best today and far into the future.

A SALUTE TO REV. RICHARD A. DENT

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute Rev. Richard A. Dent for his many years of dedicated service at the First African Baptist Church in Sharon Hill, PA.

Reverend Dent, educated at Antioch College, Temple University, Cheyney State University, and Eastern Theological Seminary, has been the pastor of the First African Baptist Church for over 10 years. Not only does this spiritual man pastor his flock with compassion, humility, and love, he is always available to anyone in the community.

Reverend Dent has initiated many community outreach programs including the Community Health Program, the Holiday Feeding Program and the Emergency Food Cupboard. In Addition, Reverend Dent is responsible for the Project For The Homeless which provides food, toiletries, and clothing for the homeless in the city of Philadelphia.

Reverend Dent is also an educator. Since his retirement from teaching school, he has become an activist concerned about quality education. Reverend Dent has been the catalyst for many valuable programs such as the Community Tutorial Program and the Satellite Learning Center. Reverend Dent has also played a vital role in the initiation of the B.W. Watkins Scholarship which provides financial assistance to approximately 30 students in college and professional schools. He made available to students such institutions as the Mary E. Watkins Multi Media Purpose Center which consist of a library, computer lab, and modern technology.

I hope my colleagues will join me today in congratulating the Reverend Richard A. Dent for his many years of service with the Baptist Church and the Sharon Hill community. I wish the Reverend Richard A. Dent and the First African Baptist Church the very best as they continue their service to the Baptist community in Sharon Hill, PA.

PROTECTING JOBS IN THE AVIATION INDUSTRY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. DURBIN. Mr. Speaker, there has been some good news recently for the airline industry. After nearly $13 billion in losses since 1990, the loss of nearly 120,000 jobs and millions of dollars in wage and benefit concessions, the airline industry is expected to earn a profit of more than $1 billion this year.

Much of this improvement is due to the economic recovery under the Clinton administration. However, further congressional action is necessary to sustain this growth and to protect the jobs of airline employees. Growth in air travel has slowed in recent months. U.S. airlines face stiff competition from foreign carriers. In addition, U.S. airlines must spend an estimated $75 billion over the next several years for new equipment—mostly new aircraft and engines—both to comply with Federal noise requirements and to increase their competitiveness.

At the same time, the airline industry faces an additional $500 million in costs due to the expiration of the aviation jet fuel tax exemption. The costs of this tax will undermine the economic recovery of U.S. airlines and jeopardize thousands of jobs in the aviation industry.

As a cosponsor of legislation to make this exemption permanent, I believe this exemption is an investment in the economic vitality of the aviation industry and the jobs of thousands of airline employees and aircraft manufacturers.

HONORING NEIGHBORHOOD WATCH GROUPS OF FAIRFAX COUNTY

HON. THOMAS M. DAVIS

OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. DAVIS. Mr. Speaker, we rise today to pay tribute to Fairfax County's Neighborhood Watch Program which will be celebrating its 16th anniversary on October 27, 1995.

In 1979, the Fairfax County Board of Supervisors and the Fairfax County Police Department embraced the concept of citizen participation through Neighborhood Watch and formally endorsed its acceptance and establishment throughout the county. From that beginning 16 years ago, an outstandingly effective community-based crime prevention program has developed.

The growth of Neighborhood Watch in the county has been phenomenal, with more than 250 programs in operation by mid-1982. Expansion has continued at a steady pace, with more than 911 communities organized throughout the county. The number of participating citizen volunteers has increased from several hundred in 1979 to a 1995 total of more than 40,000 neighbors who care.

Even more impressive than the growth of the program has been its impact on the occurrence of crime in Fairfax County. Property crimes, such as burglary, larceny, and vandalism, had been increasingly steadily through 1980, but with the advent of Neighborhood Watch on a widespread basis, such crimes began to decrease sharply, as much as 50 percent in cases of reported vandalism. This program has enabled the county to hold its own against crime, with actual numbers of offenses increasing at a far lower percentage than the growth of the county's population. Overall today, Fairfax County is the safest jurisdiction in the Nation for an entity of its size.

The program's overall success and myriad of accomplishments have brought Fairfax County national and international recognition, including formal citations by the President of the Untied States and visitors from throughout the Nation and around the world to observe first hand the results of this cooperative endeavor between a local police department and citizens it serves.

Mr. Speaker, we know that our colleagues join us in honoring Fairfax County's Neighborhood Watch for its 16 years of dedicated service and commitment to make Fairfax County a better place to live.

TRIBUTE IN MEMORY OF HERMES LUCIANO CARABALLO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to the memory of Hermes Luciano Caraballo, who still remains with us in spirit through the many people he touched and served.

Today his memory will be honored by his family, friends, and members of the community at the First Annual Dinner of the Caraballo Memorial Scholarship Fund.

Born in Yauco, Puerto Rico, Mr. Caraballo started serving the Christian community at the early age of 6 at The Four Square Church of Ponce. One year after his marriage to Ms. Isabel Olan, he came to New York City and became an active member of the Church of God 3:16. He excelled at this church as leader of the men's ministry and was the Assistant District Commander of the Spanish Eastern District, A.G. of the Royal Rangers.

In 1964, Mr. Caraballo obtained the approbation of the Directorship and faculty of the Spanish American Bible Institute of New York after finishing 3 years in theological studies. Eighteen years later he served as an adviser at Glad Tidings Church and an elder of the Spanish Department. In 1995, he was founding trustee of Grace Tabernacle.

Mr. Caraballo's dedication to the well-being of the community was also evident through his involvement with many organizations including, Hunts Point Multi Service, Model Cities, Puerto Rican Community Development Project, "La Hermandad Yaucana Civica y Cultural, Inc.," "Hijos de las Piedras y la Fraternidad Isabelina," The Puerto Rican Day Parade, "La Federacion de los Pueblos," and "La Association del Niño Evangelico." In addition, he served as community liaison to Assemblywoman Carmen Arroyo.

A remarkable human being, Mr. Caraballo left a legacy of hope, encouragement, convictions, and joy. He was a father and a friend to those who needed him. He is survived by his wife and six children.

Mr. Speaker, I ask my colleagues to join me in paying homage to the life of this exceptional individual who was committed to the service of the most vulnerable and of those in need of encouragement and hope.

A NEW DECLARATION OF INDEPENDENCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. CRANE. Mr. Speaker, I would like to bring a certain document to the attention of the House. The document is entitled "A New Declaration of Independence" and was authored by Bill Zimmermannn, a long-time constituent and friend. I think a careful reading of this work would serve all the members of this body quite well.

The document follows:

RALLY FOR FREEDOM—A NEW DECLARATION OF INDEPENDENCE

When, in the course of human events, it becomes necessary for a people to dissolve the political bonds which have unnecessarily restricted them, and to assume the Freedom and Individual Responsibility which the Laws of Nature and of Nature's God placed on them in the first instance, a decent respect for the opinions of mankind requires that they should declare the causes which impel this action.

We hold these truths to be self-evident, that all men are entitled to equal opportunity, that they are endowed by the Creator with certain inalienable rights, that among these are Life, Liberty, and Property.

To secure these rights, our Government was instituted by Free Men, deriving its power from the consent of the governed.

Whenever any Form of Government becomes destructive of the rights of Free People, it is the right of the People to alter it as seems most likely to effect their Safety and Happiness.

Prudence, indeed, will dictate that Government long established should not be changed for light and transient causes; and accordingly, all experience has shown, that mankind is more disposed to suffer while evils are sufferable, than to right them by abolishing the forms to which they are accustomed.

But when a long train of socialistic abuses, invariably pursuing the same objective, threatens to reduce them under a tyranny, it is their right, it is their duty to change their government, and to provide new Guards for their future Security.

Such has been the patient suffering of our citizens; and such is now the necessity which constrains them to alter their system of Government.

They, the Federal Government, have usurped authority never assigned to them by our Constitution, on the basis of which they have passed laws which are destroying our Society, our Economy, and our future as Free Individuals.

They have erected a multitude of New Offices, and sent swarms of Officers to harass our people, and eat out their substance.

They have spent the fruits of our labors without thought of the future. They have imposed harsh and unusual taxes, even with representation.

We, therefore, the sovereign citizens of the United States of America, appealing to the Supreme Judge of the World for the Rectitude of our intentions, do, in the Name, and by the Authority of Future Generations of Sovereign Citizens of America, solemnly publish and declare, that We Command that, during the next seven years, Congress shall pass no New Law, but shall confine its activities to such as will enable it only to Review, Revise, and Repeal such old laws as have oppressed and confounded our citizens, and reduced their Freedom, their Initiative, and their area of Responsibility, to the detriment of our nation.

We further Command that the Supreme Court and all other Federal Courts base their decisions on strict interpretation of our Constitution, and considering that the words "general Welfare" refer only to the nation as a whole and not to the welfare of citizens as individuals or as groups smaller than the whole. Having decided questions of Justice under the law, it should not be necessary for the courts to assume a continuing burden of administration and enforcement of those decisions.

For the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge our Lives, our Fortunes, and our sacred Honor.

TRIBUTE TO DONALD HOLLAND

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the assessor of the Charter Township of Shelby, MI, Mr. Donald J. Holland. After 35 years of devoted service to the people of Shelby Township, Mr. Holland has decided to retire.

For three and a half decades, the residents knew they could count on Donald Holland to perform his responsibilities with professionalism and competence. In his on-going attempt to serve the public more ably, he has taken numerous leadership positions such as the presidency of the Macomb Assessor's Organization, presidency of the Michigan Assessor's Convention, and State representative to the International Association of Assessing Officers. His work record throughout the years has earned him a State level IV certification.

In addition to his role as the township assessor, Donald Holland has selflessly served on numerous township commissions and organizations including the Shelby Township Economic Development Corp. and the Building Authority. His many civic responsibilities did not prevent him from devoting his time, energy, and talents to many community projects through volunteer work. His role with the Y.M.C.A. and the Bicentennial Commission, as well as many other groups has helped make Shelby Township a popular place to live, work, and raise a family.

After 35 years of public service, I thank him for his efforts and commend him for his work. I am sure that many folks will miss Mr. Holland and he deserves all the best in the future. I ask that my colleagues join me in offering sincere congratulations to him and his family on the event of his retirement.

A SPECIAL TRIBUTE TO JUSTICE ANDREW DOUGLAS: A TRUE CHAMPION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. STOKES. Mr. Speaker, the Cleveland AFL–CIO, one of our strongest labor organizations, annually hosts a special reception to honor public officials who are considered champions of working men and women. I was proud to be selected by the AFL–CIO for this honor in 1994. On October 30, 1995, members of the AFL–CIO will gather at Thee Old Factory in Cleveland for the 1995 reception. This year, the Cleveland AFL–CIO will honor Andrew Douglas, an individual who has utilized the high court to champion the cause of justice and fairness.

I am proud to join Cleveland AFL–CIO President, Frank Valenta, and Executive Director, Dick Acton, in saluting Ohio Supreme Court Justice Andrew Douglas. As the Cleveland AFL–CIO prepares to honor this distinguished individual, I want to share some information regarding Justice Douglas with my colleagues in this Chamber and others throughout the Nation.

In November of 1984, Andrew Douglas was elected to the Supreme Court of Ohio. He was reelected to a second term in 1990 with one of the largest victory margins in State history. During his tenure on the bench, Justice Douglas has been a staunch defender of the Constitution. He is known on the Court as the absolutist in the area of the first amendment. Above all, he is a fair and compassionate jurist.

Mr. Speaker, prior to his election to Ohio's highest court, Andrew Douglas was judge of the Sixth District Court of Appeals. His career has also included 20 years of practicing law as a partner with the firm of Winchester and Douglas. Additionally, Andrew Douglas made Ohio history in 1961 when he became the youngest person elected to the Toledo city council. He served as a member of the Council for 19 years. He is also a former special counsel to the attorney general of Ohio.

Justice Douglas is highly respected throughout the state. His memberships include the Toledo, Lucas County, and Ohio State Bar Associations. He is a member of the American Judicature Society, the Ohio State Bar Association, and the International Institute.

Justice Douglas is also the recipient of awards and honors which recognize his untiring dedication and commitment. He was recognized by the Ohio Public Employees Lawyers Association for his vigilant protection of the rights of the working men and women of Ohio. He is the recipient of the Equal Rights Award from the Ohio Employment Lawyers Association, and the Distinguished Alumnus Award from the University of Toledo. Justice Douglas has also been honored by the Ohio Hispanic Institute of Opportunity, Alpha Sigma Phi Fraternity, the Toledo Police Patrolman's Association, and the National Association of Negro Business and Professional Women's Clubs, just to name a few.

Mr. Speaker, I am proud to join the Cleveland AFL–CIO, his colleagues on the bench, and his many friends in saluting Supreme Court Justice Andrew Douglas. He is a true champion and role model. I am honored to count him as a friend and associate. He is an exceptional individual whom I take pride in saluting on this special occasion.

A TRIBUTE TO STUDENT PRINCE AND THE FORT

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. NEAL. Mr. Speaker, I would like to pay tribute today to a Massachusetts institution celebrating its 60th anniversary, a restaurant with old world charm and atmosphere, the downtown Springfield landmark that features German food specialties known fondly as the Student Prince and the Fort.

Since 1935, the Student Prince has opened its doors for business each day for its fiercely loyal patrons. From its familiar Fort Street location, owner Rupprecht Scherff and his family have hosted a generation of satisfied customers who have made dining at the restaurant a continuing tradition. Known for its fine food and service, the Student Prince and the Fort has become a destination point for those accustomed to a good meal in good company.

With its signature stein collection, one of the largest and most interesting in the United States, the Student Prince offers its guests a unique dining experience. From the stained glass windows and original woodwork of the bar area, to the quaintness of the Heidelberg room, the restaurant evokes images of an earlier age. And whether you're enjoying such traditional German fare as Sauerbraten or sipping a boot of Octoberfest, a visit to the Student Prince is always memorable.

Named after Sigmund Romberg's lighthearted operetta of student life, the reputation and lore of the Student Prince and the Fort continues to grow. In September, Rupprecht Scherff celebrated his 81st birthday surrounded by family and friends all of whom look forward to the restaurant's next 60 years.

Mr. Speaker, the face of downtown Springfield has changed dramatically in the last half century, but the Student Prince has thankfully remained the same. An enduring testament to excellence and tradition. On behalf of the U.S. House of Representatives, I congratulate the Sherff family and the entire staff of the Student Prince and the Fort on their 60th anniversary. Ein prosit.

THE 125TH ANNIVERSARY OF THE YWCA OF WESTERN NEW YORK

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. QUINN, Mr. Speaker, I take great pleasure in rising to recognize the outstanding achievements of the YWCA of western New York, which celebrates its 125th Anniversary on October 27, 1995.

The western New York YWCA has taken the lead throughout its history in supporting and fighting for the welfare of children. It was instrumental in working with the New York State Legislature for meaningful child labor laws. The YWCA also established some of the first well baby clinics in the area, and organized child care programs for working parents. Today, the YWCA operates the largest licensed after-school day care center program in western New York.

The YWCA was also in the forefront in working to improve women's health, establishing a health monitoring system for women as early as the First World War.

In the early days of this century, the YWCA established its International Institute to help foreign-born women learn the language and customs of their new homeland. The institute's programs taught them about America and assisted them in their search for employment, housing and education.

It can also boast of being the training ground, through its Institute for Public Leadership, of women who have developed outstanding careers in public service, including mayors, legislators and judges. Recognizing its importance, two Presidents of the United States from western New York, Millard Fillmore and Grover Cleveland, showed their appreciation and respect for the YWCA of western New York and its work by becoming life members. In fact, the YWCA's home in downtown Buffalo has long stood on the site of the residence of our Nation's 13th President, Millard Fillmore, a fitting location for an organization which has so ably served the people.

Mr. Speaker, there are many organizations which receive praise on the floor of the House of Representatives, but I know of few which can match the record of achievement and service shown by the YWCA of western New York. For 125 years this outstanding organization has been in the forefront of providing for the needs of the citizens of the region. I know my colleagues will join with me in wishing it a Happy 125th Anniversary and extending best wishes for centuries more of public service and outreach.

THE SKY IS NOT FALLING

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. DELAY. Mr. Speaker, as many scientists have long suspected, and despite the public scare campaign by environmental extremists, the reports of destructive global warming have been greatly exaggerated.

Paul Harvey, the sage of the airwaves, put it well when he commented on October 17, 1995, that the sky is not falling.

I wish to submit for the RECORD Mr. Harvey's remarks regarding the scare campaign on global warming.

The remarks follow:

THE SKY IS NOT FALLING

Many scholars and institutions secure grant money for research by scaring people.

By producing bad news about population, about resources, about environment.

One recent-years bogey has been the claim by some academics that "the sky is falling."

Specifically, these scaremongers argue that our use of fossil fuels is figuratively burning a hole in the sky, letting in too much sun, threatening global warming.

This year's Nobel Prize was awarded to three disciples of that theory—that chemical actions are breaking down atmospheric ozone.

Robert Balling, Junior, is director of the Office of Climatology at Arizona State University.

He says those pedding this pessimistic prognosis are false-alarmists.

And, he notes, the New York Times is parroting this apocalyptic view of the future, giving its front page to the theory of planetary temperature increases over the past 40 years, retreating glaciers, increasing sea levels and the increase in both drought and heavy rain.

In rebuttal this climatologist responds with satellite measurements. Rather than "global warming," this most accurate of all ways of measuring the Earth's temperature shows a slight "global cooling" since 1979.

The Arctic area, where most warming should be expected, has warmed not at all over the past sixteen years according to our satellite observations. According to the measurement of standard weather stations there has been no measurable warming over the past 50 years.

And, says, this climatologist, while some glaciers have retreated—others have advanced—including large ice sheets in Antarctica and Greenland.

Organizations within the United Nations, anticipating the inevitability of budget cuts, are desperately seeking to justify their existence.

The United Nations Intergovernmental Panel on Climate Change (PCC) is composed of 2,500 scientists around the world.

Its recent book-length report, clearly labeled, "FOR INTERNAL USE ONLY. DO NOT DISTRIBUTE" * * * was nonetheless distributed.

It was intended to be circulated among contributors for their further evaluation and further contributions.

Instead it was "leaked" to media people who focused on the summary section and sounded an alarm which has embarrassed many of the scientists who contributed to the study.

There is just enough "Chicken Little" in all of us so that the tabloids with the most gross headlines are the ones which sell best.

I promise, before the sky falls, to let you know.

COMMENDING OAK LAWN CHAMBER OF COMMERCE RESOLUTION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to commend the Oak Lawn Chamber of Commerce on their resolution expressing support for Midway Airport which is located in my district. In their resolution, the Oak Lawn Chamber of Commerce has stated their opposition to the development of a third Chicago airport or a metropolitan airport authority as both could have negative impacts on the future of Midway Airport. I support the efforts of the Oak Lawn Chamber of Commerce and share with you, my colleagues, the following:

OAK LAWN CHAMBER OF COMMERCE RESOLUTION

Whereas, the development of a third major airport in the Northeast Region on the State of Illinois has been and is the focus of ongoing studies and debate; and

Whereas, the comprehensive planning of a third major airport must encompass the future of the existing metropolitan airports; and

Whereas, Midway Airport, strategically located on the Southwest side of the City of Chicago, is the major economic stabilizing force in the Southwest region of the metropolitan area of the City of Chicago; and

Whereas, the citizens of the Southwest side of the City and the citizens of many nearby Southwest suburbs including Oak Lawn depend on and benefit from the economic development generated by the operations at Midway Airport; and

Whereas, strong support for the continuation of commercial air operations at Midway Airport has been urged by the Southwest Conference of Mayors; therefore, be it resolved that the Oak Lawn Chamber of Commerce is opposed to a proposed Peotone Airport and supports the existing Midway Airport, and

Whereas, we oppose the development of a metropolitan airport authority which would control the operations or finances of either O'Hare or Midway Airports.

IMPROVING AND PRESERVING MEDICARE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. GUNDERSON. Mr. Speaker, over the past few weeks, I am sure we have all read the scary headlines or heard radio and television news stories and commercials about Congress cutting Medicare. People are understandably confused. It is true that Congress is working to reform Medicare as we know it today, but the changes are to improve, not ruin Medicare. Let me try to explain what will be happening to Medicare as it affects beneficiaries in my western Wisconsin district.

First and foremost, there are no cuts of Medicare benefits and services received by beneficiaries. No Medicare beneficiary will receive less than they do now. In fact Federal spending for Medicare will continue to increase from $170 billion in 1996 to $244 billion in 2002, a 40 percent increase over 7 years. How is that a cut?

The confusion comes from the fact that Medicare payments will not increase as fast in the future as they have in the past. We, as a Nation, can no longer afford a Medicare program that continues to grow at 10.5 percent a year. If we maintain this double digit growth, we would face a dilemma of either increasing premiums paid by beneficiaries to an unaffordable rate, turn Medicare into a welfare program funded by general tax revenues, or worse yet, do nothing and bankrupt the Medicare system. None of these options is desirable or responsible public policy.

Most of us agree that Congress needed to find a way to control Medicare growth, update and improve services and maintain the system for today's and tomorrow's beneficiaries.

H.R. 2525, the Medicare Preservation Act passed by the House of Representatives begins our effort to improve and preserve Medicare in a balanced, sensible way. It gives Medicare beneficiaries the right to stay in the traditional fee for service Medicare without an increase in copayments or deductibles. Beneficiaries also will be able to choose from private health care plans available in their community—managed care plans [HMOs], a new Medical Savings Account, or plans offered by new Provider Service Organizations [PSOs], a network of doctor and hospitals, especially important to an area like western Wisconsin where traditional HMOs are not always practical. Beneficiaries will not be forced to change to enroll in an HMO, MSA or PSO. Congress makes it an option that helps control costs.

For rural America, the House passed bill makes some of the most significant improvements to Medicare since the program was created in 1965. One provisions in particular will do much to help establish and begin to make Medicare HMOs and PSOs a choice for beneficiaries throughout western Wisconsin. Pat Robert, chairman of the House Agriculture Committee, and I, as the Republican chairman of the Rural Health Care Coalition along with others negotiated an improved Medicare payment formula with the Leadership in the Adjusted Average Per Capita Cost [AAPCC] for each county. Improving the payment formula will actually allow for greater health care options and competition in rural America.

Right now, in my home county of Trempealeau, beneficiaries do not have the choice of selecting an HMO or PSO. Traditional fee for service is the only delivery system available for Trempealeau County Medicare beneficiaries. Many may be happy with the fee for service system, and it will remain available to them, but an update of improved health care delivery systems is long overdue. It is important that Congress provide Medicare beneficiaries with health care options that are available to other Americans.

What does an increased AAPCC payment formula mean to beneficiaries in Trempealeau County? Currently, the Trempealeau County AAPCC payment is $231 a month per beneficiary. Generally, managed care providers will consider offering a Medicare plan when the monthly payment reaches $320 per beneficiary. The current payment of $231 in Trempealeau County is not attractive enough for an HMO or PSO to offer health care coverage. Under the provisions we negotiated, the Trempealeau County payment will jump to $300 in 1996 and a minimum of $320 in the following year. Below is a chart demonstrating that this new payment formula is beneficial for western Wisconsin as well as other rural communities and efficient markets. Given this payment increase, a managed care provider might actually find it economically viable to set up shop in western Wisconsin.

HEALTH PLAN CONTRIBUTION LEVELS [SIMULATIONS] BY COUNTY UNDER H.R. 2425, THE MEDICARE PRESERVATION ACT [MPA]

County	Current 1995 AAPCC payment	1996 Update percentage	1996 AAPCC payment
Barron	$258	9	$281–$300
Buffalo	238	9	259–300
Chippewa	271	9	295–300
Clark	273	9	297–300
Crawford	245	9	267–300
Dunn	241	9	262–300
Eau Claire	306	8	330
Grant	251	9	273–300
Jackson	246	9	268–300
La Crosse	266	9	289–300
Monroe	225	9	245–300
Pepin	265	9	288–300
Pierce	254	9	276–300
Polk	274	9	298–300
St. Croix	297	9	323
Templealeau	231	9	251–300
Vernon	211	9	229–300

Note: These figures are simulations, which do not include the service index. The actual results could differ, but probably only marginally. For 1997, all counties will achieve a funding floor of $320 or higher.

Some may paint a picture of doom and gloom suggesting that Medicare reform is bad, but nothing could be further from the truth. Working to reform Medicare does not destroy Medicare. Earlier this year the future of Medicare was uncertain. Today because of House passage of the Medicare Preservation Act the future is brighter and more secure. My support of this legislation helped to guarantee Medicare's survival. I hope you will agree with me that Medicare is worth saving.

PAJARO VALLEY WATER LEGISLATION

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. FARR of California. Mr. Speaker, today I am introducing legislation to resolve a major water resource problem in the Pajaro Valley of Santa Cruz and Monterey Counties, CA.

My bill would authorize the Secretary of the Interior to enter into any contracts or agreements he deems necessary to assist the Pajaro Valley Water Management Agency to implement the provisions of their Basin Management Plan for the resolution of the groundwater overdraft problems currently being experienced in the area.

Mr. Speaker, the Pajora Valley is one of the most important agricultural regions in this Nation. Agriculture is the foundation for the local economy. The Pajora Valley is one of the Nation's major producers of strawberries and other vegetable and fruit crops. Last year, the valley produced crops with a value in excess of $460 million.

For over 30 years, however, residents of the area have struggled to find a publicly acceptable solution to the problem of groundwater overdraft. Groundwater is the only major source of water for more than 30,000 acres irrigated in the valley. In 1984, the California State Legislature, and the citizens of the area, authorized establishment of the Pajaro Valley Water Management Agency. The agency was directed to develop a comprehensive plan for the elimination of the groundwater overdraft problem and to find a long-term, stable water supply to preserve agriculture in the valley.

In November, 1993 the Agency finalized the Basin Management Plan which presents a comprehensive strategy for solving the groundwater overdraft problem in a manner acceptable to local residents. The plan—or BMP— is a comprehensive and thorough document. It examined every viable option and provides a reasonable set of solutions acceptable to local residents.

The BMP doesn't's look to someone else to finance or solve the problems of groundwater overdraft. Rather, it presents a series of near- and long-term measures to correct the problem.

Further, the local resident will not send the bill to someone else. The BMP authorizes locally-imposed fees and other charges in order to finance implementation of the preferred alternatives. The local residents are committed to solving this problem, including paying their share of the costs.

There is, however, one major impediment to successful implementation of the BMP. The Secretary of the Interior currently lacks authority to enter into contracts or other agreements to implement various aspects of the BMP. As a result, the agency is not able to take advantage of its entitlement to 19,000 acre-feet of water from the San Felipe Unit, Central Valley Project. Without a contract, it will be difficult, if not impossible, to secure the financing needed to build the facilities outlined in the BMP.

Mr. Speaker, it is absolutely vital that the groundwater overdraft problems of the Pajaro Valley be resolved as soon as possible. The future of the local economy is based on continued supply of high quality groundwater for the production strawberries and other valuable crops.

The local residents have done their part. They have established a local water district, developed a sensible and cost-effective solution, and they are willing to pay for it themselves.

Now it is time for the Federal Government to do its part.

We should authorize the Secretary of the Interior to enter into such contracts or agreements as he deems appropriate to help the local residents solve this critical problem.

Mr. Speaker, I urge prompt passage of this important legislation.

SUPPORT BAHA'IS IN IRAN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. PORTER. Mr. Speaker, on Wednesday September 20, I introduced the "Baha'i Resolution" which condemns Iran's ongoing repression of its Baha'i community. American Baha'is, who reside in every congressional district, are deeply concerned for the fate of more than 300,000 co-religionists in Iran. The survival of the Baha'i community is threatened by the regime's denial of legal recognition and the basic rights to organize, elect community leaders, educate their youth and conduct the normal activities of a law-abiding community.

Since 1982, the U.S. Congress has adopted six resolutions expressing its concern for Iran's religious persecution of Baha'is. There is good evidence that these congressional resolutions, together with appeals by other nations and the United Nations have helped to persuade Iranian officials to moderate their actions against Baha'is. During the 1980's, more than 200 Baha'is were executed and thousands imprisoned solely on the account of their religious beliefs.

While it is encouraging that the Iranian Government has not continued its barbarous policy of executing people simply for their religious beliefs, the ongoing repression of the Baha'i community continues and must be changed. Baha'is are currently being held under sentence of death merely because of their religious beliefs. It is imperative that we keep pressure on the Iranian officials until Baha'i community is no longer threatened by this repressive government.

The following honorable Members of Congress have already cosponsored this legislation: LANTOS, SMITH, HOYER, HAMILTON, HYDE, OBERSTAR, MEEK, WILLIAMS, GEJDENSON, SCHIFF, NEY, KLUG, DURBAN, MORELLA, ROYBAL-ALLARD, KILDEE, MILLER, PELOSI, SPRATT, SLAUGHTER, BATEMAN, MCKINNEY, ENGEL, ABERCROMBIE, and BROWN. I am inserting into the record a copy of the resolution, and I urge my colleges to join me in support of this resolution.

H. CON. RES. 102

Whereas in 1982, 1984, 1988, 1990, 1992, and 1994 the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

Whereas the Congress has deplored the Government of Iran's religious persecution of the Baha'i community in such resolutions and in numerous other appeals, and has condemned Iran's execution of more than 200 Baha'is and the imprisonment of thousands of others solely on account of their religious beliefs;

Whereas the Government of Iran continues to deny individual Baha'is access to higher education and government employment and denies recognition and religious rights to the Baha'i community, according to the policy set forth in a confidential Iranian Government document which was revealed by the United Nations Commission on Human Rights in 1993;

Whereas all Baha'i community properties in Iran have been confiscated by the government and Iranian Baha'is are not permitted to elect their leaders, organize as a community, operate religious schools or conduct other religious community activities guaranteed by the Universal Declaration of Human Rights; and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian Government document that constitutes a blueprint for the destruction of the Baha'i community and reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all it nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policies and actions of the Government of Iran, including the denial of legal recognition to the Baha'i community and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants of human rights, including the freedom of thought, conscience, and religion, and equal protection of the law; and

(5) call upon the President to continue—

(A) to assert the United States Government's concern regarding Iran's violations of the rights of its citizens, including members of the Baha'i community, along with expressions of its concern regarding the Iranian Government's support for international terrorism and its efforts to acquire weapons of mass destruction.

(B) to emphasize that the United States regards the human rights practices of the Government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(C) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(D) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

A THOUGHTFUL PROPOSAL ON UNITED STATES RELATIONS WITH IRAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. LANTOS. Mr. Speaker, relations between the United States and Iran are and have remained for the past 15 years at an all-time low. There are disturbing signs that Iran is seeking to develop a nuclear capacity, and clearly Iran has been an unstable influence throughout the Middle East and Central Asia. The United States has—wisely in my view—pursued a policy of seeking to isolate Iran and to limit economic, political, and diplomatic relations with the extremist Iranian Government. We have undertaken a major diplomatic effort to urge our allies in Western Europe and Japan to join us in economically isolating Iran in order to bring about democratic and rational change in Teheran.

Mr. Speaker, I have been among those who have called for strong sanctions against Iran. Earlier this year, I proposed, and my colleagues on the Committee on International Relations accepted, my amendment to the American Overseas Interests Act which would impose tough sanctions, including reduction of foreign assistance, against Russia if that country goes ahead with reported plans to sell advanced nuclear technology to Iran. I have also supported legislation to impose tougher sanctions against Iran and restrict the ability of international oil corporations to deal with the Iranian companies and the Government of Iran.

The position I have taken on these issues involving Iran are taken because of my serious concern with the policies pursued by the Government of Iran, and not from any sense of irreconcilable problems with Iran. There are possibilities for change in Iran—for the evolution of government institutions that will allow the people of Iran to express their wishes through an open and free and democratic process and there are possibilities that will permit the people of Iran to enjoy the full spectrum of human and civil rights to which they are entitled. I would welcome the end of radical Islamic extremism in Iran and rejoice if we could witness the return to serious and responsible participation of Iran in the international community. The positions I have taken on U.S. policies toward Iran are motivated by that desire.

Mr. Speaker, last summer, the Washington Post, July 9, 1995, published an analysis and a thoughtful, but iconoclastic, proposal about the steps that might be taken by the United States in an effort to produce the domestic changes in Iran that will make it possible to bring an end to United States-Iranian hostility. I am not certain that this proposal will achieve its objectives, but it has been put forward by a gentleman whose experience, insight, and thoughtfulness I admire greatly. For this reason, Mr. Speaker, I ask that this article—"Beyond the Great Satan How the U.S. and Iran Can Mend Their Rift"—be placed in the RECORD, and I urge my colleagues to give it careful and thoughtful consideration.

This excellent article was written by Mr. Hushang Ansary. Mr. Ansary has an extremely distinguished record in business, government service, and diplomacy. He is an international entrepreneur with business interests in the United States, Europe, and the Pacific rim. He worked his way through high school serving as a correspondent for the International News Service and the King Features Syndicate. He later earned a Ph.D. in economics and international relations from the University of Seoul, South Korea. After World War II, Mr. Ansary worked in Japan, initially as a business consultant to Mitsubishi, Japan's largest trading company. In his native Iran under the previous government, Mr. Ansary served as Deputy Minister of Commerce, Minister of Information, Minister of Economics and Finance, and chairman and CEO of the National Iranian Oil Co., which at the time he served as chairman had after-tax earnings of $18.2 billion. In the diplomatic realm, he served as Iran's roving Ambassador to Ethiopia, Kenya, Tanzania, Uganda, Ghana, Nigeria, and the Ivory Coast, and he was also Ambassador to the United States, Sri Lanka, and Pakistan.

Mr. Speaker, I invite my colleagues in the Congress, as well as the leaders of the administration, to read and thoughtfully consider Mr. Ansary's well-reasoned arguments.

BEYOND THE GREAT SATAN

(By Hushang Ansary)

The Clinton administration has taken a series of steps to further isolate Iran and tighten the economic sanctions that could throttle its economy. If successful, these new U.S. initiatives against the Islamic Republic are likely to have a far-reaching impact on the course of events in a region that supplies much of the West's oil needs.

At the same time, U.S. failure to win strong international backing for its containment policy would allow Iran to continue its, pursuit of a nuclear development program, one that continues to raise questions.

President Ali Akbar Hashemi Rafsanjani has retorted that the United States will be the ultimate loser. And so far, America's European allies and Japan have not been supportive.

The latest move to raise the stakes in a decade and a half of hostility between the United States and Iran is no surprise. Secretary of State Warren Christopher has called Iran an outlaw state. President Clinton has used his executive authority to nullify an agreement between Iran and Conoco. A more alarming hint was dropped in February by Gen. Binford Peay, commander of the U.S. Forces in the Middle East, that the two countries might even become involved in military conflict.

By the time the last of the American hostages returned home from Tehran just over 15 years ago, even the most optimistic knew that the historic friendship between the United States and Iran had suffered a terrible setback. Successive U.S. administrations have pursued policies of accommodation, military pressure and sanctions against Iran. Some of these policies have backfired, as in the case of the Iran-contra affair. Some have inadvertently provided trading opportunities for others. By and large, this potpourri of U.S. measures has not altered the fundamental positions of Iran.

These measures have, however, helped to push Iran toward international isolation and accelerated the pace of its mostly self-inflicted social and economic ills. Even a policy of critical cooperation, advocated by Germany with French support, has not had the desired effect.

Now that the Clinton administration and the new Republican majority in Congress appear to agree on placing Iran high on the agenda of U.S. foreign policy, is it not time to address the Iranian dilemma at its roots? The United States may hold to its current course of isolating Iran, but it has to reckon with all the international forces at work on this issue. Russian and Chinese nuclear agreements, and German and Japanese debt refinancing, give evidence of the fragility of the administration's approach.

This appears to be a propitious time for a different approach and it is, therefore, worth considering how relations between the United States and Iran might be set on a new course.

Iran is now facing mass unemployment, double-digit inflation, falling productivity and massive foreign debt. The value of the Iranian currency, the rial, dropped from 75 to the dollar in 1977 to 6,000 at one point. Iran's GNP per capita is now less than half its 1977 level.

Iran is also feeling the weight of diplomatic isolation. Sixteen years after the revolution, the only Western head of state to have paid a visit to Tehran is Kurt Waldheim, the former Austrian-president.

Economic and governmental disorder have unleashed political forces beyond the control of the radical clergy. In recent months, Iran has faced a number of industrial strikes and anti-government demonstrations. Important social groups, including lawyers, doctors, bazaar merchants, retired military officers, writers and journalists, having publicly challenged the government and its policies.

Even the Shiite Muslim clergy, initially the backbone of the revolutionary regime, has asserted its independence. Some senior ayatollahs have said publicly that they would support new policy makers and policies capable of turning the economy around and ending the nation's diplomatic isolation.

The constant theme of these dissenting voices is a call for a new political course, one freely chosen by the Iranian people. As the level of dissent rises, there is reason to believe that even some of the more extreme elements of the regime, their customary rhetoric notwithstanding, may now be inclined to consider a plan that would address the country's economic disorder and diplomatic isolation. General elections are scheduled in 1996 and presidential elections in 1997. A workable plan, properly monitored and performance-related, could have a positive effect on these two crucial events.

Such a plan should let the people of Iran normalize the state of the nation. At home, it should aim for democracy, respect for human rights and an agreeable quality of life. Abroad, it would need to restore the image of Iran as a responsible member of the United Nations, ready to live in peace with all other nations.

In the first phase of such a plan, Iran would have to take appropriate steps, in keeping with its constitution, to dismantle the bureaucracy it created to cope with the problems of the early years of the Islamic revolution. These steps should include the rehabilitation of those unjustly deprived of their civil rights on the basis of their political beliefs, the repeal of laws and regulations that discriminate on the basis of sex, race, ethnicity and faith, and the removal of restrictions, often unconstitutional, on freedom of expression, association and election.

The normalization of political life in Iran would facilitate the no less complex task of bringing the country's foreign policy into line with its international obligations. This would, of necessity, include measures to dispel any notion that Iran supports international terrorism and the assassination of dissidents abroad. Iran would also need to cease its campaign against the Middle East peace process, adhere to the now renewed version of the Nuclear Non-Proliferation Treaty and take steps to make credible its announced decision not to acquire nuclear weapons.

Iran could also facilitate visits by the International Committee of the Red Cross to prisons where it is alleged that prisoners of conscience and members of religious and ethnic minorities are being held, often without charges being filed. It should allow international human rights organizations access to its officials and open itself to the international media in the normal manner.

Linking its response to Iranian performance, the United States would need to give evidence of its own willingness to make positive contributions. First steps would include establishing a timetable for the final settlement of all outstanding claims between the two countries and for the release of the remaining Iranian assets, setting up a procedure in which sanctions against Iran would be lifted in stages and normalizing visa requirements for Iranian nationals visiting the United States.

The United States could encourage the formation of a Council on Trade and Economic Cooperation with Iran with the participation of the leaders of the U.S. business community. The United States might also form an appropriate body to advise on various aspects of U.S. Iranian relations. While policies are obviously formulated by governments, this could help mobilize private resources in the service of the new set of foreign policy objectives as containment gives way to rapprochement.

In the next phase, Iran would resume its quest for democracy that started almost 100 years ago. The Iranian people would be given the opportunity to return to the electoral process and the organization of presidential and parliamentary elections in line with the provisions of Iran's constitution. These elections should be open to political parties of all denominations and conducted in a verifiably fair fashion.

The last phase of the plan would thus begin in an atmosphere of stability, without which all attempts at reviving Iran's economy through domestic and international cooperation will remain tentative and fragile. At this point, the Council on Trade and Economic Cooperation with Iran, having completed its initial studies, would be in a position to sponsor a series of conferences designed to help Iran reintegrate into the world-economy and to realize its economic potential, estimated to reach $100 billion in annual trade and economic opportunities.

The stage could thus be set for the Middle East to open a chapter in regional economic cooperation—possibly including Central Asia, which hungers for peach and development—an enterprise that could foster opportunities not dissimilar to those in the Pacific Rim nations. Moderate Arab nations too would be helped to accelerate the pace of their social and economic transformation, and the way would be paved for a more constructive relationship between the West and the world of Islam as a whole.

Is this farfetched? It is no more farfetched than the thought of a visit to Jerusalem by President Anwar Sadat of Egypt in the aftermath of the Yom Kippur War or the thought in the mid-1980s that the Berlin Wall could be brought down before the end of the decade. The Middle East has always dealt with logjams that block the normal course of its politics through courageous steps that have defied conventional wisdom. History belongs to those who do not merely contemplate the sour aspects of present reality, but labor with persistence to give birth to new possibilities of hope.

INTRODUCTION OF THE CORPORATE RESPONSIBILITY ACT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. SANDERS. Mr. Speaker, it is now crystal clear: when it comes to cutting corporate welfare the Republican majority in charge of the 104th Congress does not get it. They are determined to balance the Federal budget during the next 7 years on the backs of the most vulnerable Americans—our Nation's sick, elderly, and children.

Corporate welfare programs in the Federal budget add as much as $125 billion to the Federal deficit every year.

But Speaker Gingrich and the Republican budget that will probably be approved by the Republican majorities in the House and Senate cut virtually nothing from corporate welfare over the next 7 years. Instead, they prefer to slash Federal funding for programs for millions of Americans who are struggling to provide for themselves and their families and for some measure of economic security.

Like many Americans, the members of the Progressive Caucus ask this fundamental question: Why won't the Republican majority cut the immense corporate welfare benefits provided every year by the Federal Government to very profitable corporations and wealthy Americans as an essential component of any fair plan to balance the Federal budget during the next 7 years?

This is very unfair. There is a better way. That is why today several members of the 49-member Progressive Caucus and myself introduced legislation to cut $800 billion in corporate welfare over the next 7 years. We call our legislation the Corporate Responsibility Act and it represents one of the foundations of the 11-part Progressive Caucus Alternative to the Contract With America and the rest of the GOP agenda in the 104th Congress.

We have identified dozens of tax breaks, subsidies, and other Federal benefits for corporations and upper-income taxpayers which should be considered for cutting or elimination. These cuts would save $570.8 billion over a 5-year period according to estimates by respected economists such as the Congressional Budget Office and the Joint Tax Committee of the Congress.

Some of these programs are outright subsidies, such as for Export-Import Bank loans. Others are indirect subsidies through charging less than market rates or nothing at all for goods and services sold to coporations—e.g., uranium enrichment, irrigation water, use of public land for grazing. Still others are indirect subsidies through government Purchases for unnecessary programs, such as the strategic petroleum reserve or the space station.

Tax expenditures are special provisions of the Tax Code which reduce rates, increased deductions, provide advantageous depreciation, or otherwise reduce the taxes corporations and wealthy individuals pay.

A number of reports have been issued on the subject of corporate welfare in recent months, and we have used data from all of them. However, every selection of programs that can be cut involves choices, and the principles that guided our selection should be made clear. In general, we have chosen to favor: Family farms over agribusiness; small businesses over multinational corporations; domestic investment and job creation as opposed to offshore production; consumer health and safety over short-term profitability; and sustainable economic development over environmental exploitation.

We have emphasized supporting the needs of the average working people of America and cutting programs in which taxpayers' money is used to help companies and wealthy individuals who can, and should, be self-sufficient.

A summary of this 80-page bill is available through my office. In it, the corporate welfare programs re grouped by the industries which benefit from them and are listed with estimates of their cost over a 5-year budget period based on the sources cited at the end of the summary. Projections were then estimated for an additional 2-year period to have some rough frame of reference for different approaches to balancing the Federal budget over the next 7 years.

CONGRATULATIONS TO DR. CHARLES PATTERSON

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. EDWARDS. Mr. Speaker, I rise today to give special tribute to my constituent and dear friend, Dr. Charles Patterson, superintendent of the Killeen Independent School District, Killeen, TX. Dr. Patterson has been named Superintendent of the Year for the State of Texas by the Texas Association of School Boards.

Dr. Patterson has a distinguished list of accomplishments. A past-president of both the Texas Association for the Gifted and Talented and the Texas Association for Supervision and Curriculum Development, he currently serves as president of the American Society for Curriculum Development and as a board member of both the Military Impacted Schools Association and the National Association of Federally Impacted Schools. In these capacities, he is widely known and respected as a champion for impact aid and as someone who cares about studying and expanding curriculum development.

Dr. Patterson has also distinguished himself in civic service to his community. He is a deacon and Sunday school teacher at the First Baptist Church of Killeen, a past-president of the Greater Killeen Chamber of Commerce and a member of the Killeen Exchange Club. He is a fine example of someone who is devoted to serving his community and Nation. I extend my sincere appreciation and congratulations for his dedication to excellence and his commitment to guide the future of our youth toward a brighter future.

Mr. Speaker, my admiration for Dr. Patterson and my appreciation for his leadership and commitment runs deep. That is why I urge my colleagues to join me today in recognizing and honoring a true gentleman for his contribution to the school children of central Texas and of our Nation.

THE WIPE OUT OF THE CRA IS A BAD INVESTMENT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. GONZALEZ. Mr. Speaker, I am compelled to comment on some of the provisions in this ill-conceived bill that embody recommendations of the Committee on Banking and Financial Services.

THE COMMUNITY REINVESTMENT ACT

The bill before us contains a gratuitous and needless attack on the Community Reinvestment Act [CRA]. Without directly repealing the CRA, the bill nonetheless wipes out the CRA. It is clear that the less than $30 million in savings achieved by these amendments to the CRA is not the reason, they were contained in the Banking Committee's recommendations—In fact, the committee exceeded its budget targets by billions of dollars. The amendments' inclusion in the reconciliation package was part of a failed scheme by the chairman to free another, wholly unrelated piece of legislation from these gutting amendments because they were sure to incur a veto.

The CRA is a law that simply requires regulated financial institutions to help meet the credit needs of the communities they are chartered to serve, including low- and moderate-income communities. It is reported that this law has resulted in the infusion of $60 billion into credit-starved communities across our Nation.

As a result of complaints from the banking industry about the burden of demonstrating compliance with the CRA, President Clinton ordered the regulators to revise CRA regulations, with an emphasis on performance over paperwork. After a nearly 2 year effort by the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision the regulations have been issued and have just gone into effect. Each of these regulators have objected to the committee's action to destroy the CRA. Clearly, we should give these regulations a chance to work before we reevaluate the CRA.

Most importantly, at a time when this Congress is slashing the funding that has assisted low- and moderate-income Americans, it is critical that we save a tried-and-true program that relies on private dollars. To do otherwise would be tragic for communities across this country. Moreover, to dismantle the CRA under the ruse that it is a necessary measure to save money is simply shameful.

HOUSING PROVISIONS

The lion's share of the committee's savings comes from affordable housing programs in the Republican majority's relentless political pursuit of savings at the expense of our Nation's low-income families.

The bill before us gratuitously wipes out the Resolution Trust Corporation [RTC] Affordable Housing Programs for a paltry $31 million savings—again a savings that is completely unnecessary to meet the targets of the Banking Committee for budget reconciliation. This home ownership program has been a real success story for the RTC. More than 104,000 dwellings have been sold at a value of $1.5 billion under the RTC Affordable Housing Program, providing shelter to hard-pressed working families of modest means. Although the RTC shuts down after this year, there will still be properties to dispose of after December 31. Once the RTC is shut down, these properties and the Affordable Housing Program will be transferred to the Federal Deposit Insurance Corporation. To wipe out this program will have serious consequences for low-income family home ownership opportunities far beyond the meager savings gained, particularly as direct Federal spending for affordable housing dwindles.

The bill also will permit HUD to sell all HUD-owned multifamily property without providing tenant protections or making any effort to preserve affordable housing. Last year we made significant reforms to the multifamily property disposition program with an overwhelmingly bipartisan vote of 413 to 9. The reforms balanced the need to preserve affordable rental housing, protect low-income tenants from displacement and outlandish rent increases, accelerate the property disposition process and save the Federal Government as much as $475 million. Nothing has changed since then. The committee's contribution to reconciliation saves more than enough money without including the virtual repeal of the Multifamily Property Disposition Reform Act and without harming low-income families who will surely be displaced with no assistance and no place to go.

Finally, the bill requires section 502 single family rural housing borrowers to repay Federal subsidies at the time a home is refinanced. While I concur with the requirement that borrowers repay Federal assistance at the time of sale, I believe that the provision in the committee recommendations provides the best evidence yet that we are engaging in policy by the numbers. Simply to raise $39 million from low-income families, this bill would discourage families from graduating from a Federal Loan Program. A low-income family which has scrimped and saved to purchase a home in our rural communities may be forced to pay not only the principal and interest on a refinanced first mortgage, but would have to pay at least interest on the interest credit subsidy that would now be recaptured upon refinancing.

Like so much else about this bill, much of what is in the banking title makes no sense and is indefensible from any reasonable point of view.

THANKS TO CECIL G. CHRISTIAN, JR., FOR YOUR 42 YEARS OF SERVICE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. CARDIN. Mr. Speaker, I rise today to pay tribute to Cecil G. Christian, Jr., Assistant Commissioner of the Immigration and Naturalization Service [INS] Office of Records. Mr. Christian retired from the INS after 15 years overseeing and managing the INS' records activities. He left his position as the Records Officer on September 29, 1995. In 1990, he received the Commissioner's Award for Promoting Equal Employment Opportunity.

Before joining the INS, Cecil Christian was employed at the National Archives and Records Administration. There, he worked in the Office of Records as Management Analyst and Branch Analyst.

Prior to his time at the National Archives and Records Administration, Mr. Christian served his country with distinction for 20 years as an Army aviator, staff officer and commander. He served in Europe, the Middle East, and Vietnam earning the Legion of Merit, Bronze star, Air Medals, Meritorious Service Medal and Army Commendation Medal.

Cecil G. Christian, Jr. has given 42 years of honorable service to our country. It is with pride and pleasure that I commend him for the good work he performed and his sustained commitment.

BEST OF LUCK TO BOB SCHUFREIDER

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. MEEHAN. Mr. Speaker, I rise today to pay tribute to an outstanding newsman in my district. Bob Schufreider, news director for WCCM–AM in Lawrence, MA, is leaving the station after 8½ years of dedicated service to the listeners of the Merrimack Valley and southern New Hampshire. His talents will sorely be missed.

Bob came to the station from Chicago in 1987. He worked his way up from a part-time on-air personality, to covering fires, storms, and city council meetings full-time. He has hosted numerous public affairs shows, sharing important information on topics of interest to his listeners. In addition, he has broadcast countless high school football and basketball games in communities throughout my district. He will be remembered by his listeners for his smooth play-by-play and uncanny command of statistics and sports trivia.

His is a special craft, Mr. Speaker. In this era of media mergers and superstations, what Bob, and others like him in small and medium-size markets do, is vitally important to stitching together the fabric of a diverse community. It takes a sharp eye, and a good ear, to stay rooted and connected to the community one serves. Bob has demonstrated those abilities time and time again.

He does not depart greater Lawrence with only the memories of persons interviewed and stories filed. He leaves with his wife, Kathleen McEvoy, a native of North Andover, MA, and their daughter Hannah.

On behalf of the many listeners of WCCM–AM, I wish Bob, Kathleen, and Hannah well in their new endeavors, and look forward to their return visits to his many fans in the greater Lawrence area.

TRIBUTE TO JULIA C. HESTER HOUSE

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Ms. JACKSON-LEE. Mr. Speaker, I rise today to pay tribute to the outstanding community service rendered by the Julia C. Hester House in my hometown of Houston, TX.

Hester House, a multiservice agency, was charted by the State of Texas as a nonprofit corporation in June 1943. It was named for Julia C. Hester, a distinguished public servant, who lived and worked in Houston's fifth ward during the early decades of this century. Ms. Hester, a teacher by profession, welcomed neighborhood children into her home and provided a safe location for organized social activities for children of the Houston community. She was also the State leader of a fraternal organization known as Heroines of Jericho.

Unfortunately, Ms. Hester did not live to see her deeds for young people of Houston gain the wide recognition that they deserved and eventually received. In 1943, when the Houston Community Chest, now the United Way, supported the first community center in an African American neighborhood, the fifth ward was chosen, in part, due to the contributions of Ms. Hester.

Today, I am extremely pleased to state that Hester House faithfully carries on the work of its namesake. It has a board of directors composed of 24 members and is affiliated with the United Way of Texas Gulf Coast. On an annual basis, Hester House serves over 10,000 participants, many of which have no other place to turn for assistance.

I salute Hester House for fulfilling their mission, which is "to provide social services that enhance the quality of life for the residents of the fifth ward and surrounding communities."

In a period in which so many families are in transition, I especially commend Hester House for providing services that are extremely vital to families. Hester House offers child care services, before and after school programs for older children, and a 10 week summer day camp.

One outstanding program, the Hester House's kid's way enrichment program, provides guest speakers, educational tours and trips and self-esteem training.

Their successful program for teens provides social and career development, tutorial services, athletics, recreation, alcohol and drug abuse prevention, juvenile delinquency and teenage pregnancy prevention programs during those most influential and impressionable teenage years.

The agency's reach has extended significantly beyond just offering services for children. For seniors, they offer health screening activities, nutritional meals, community service projects, exercise classes, and several other activities.

Hester House also provides emergency food and clothing distribution, student internship placement, volunteer opportunities and emergency rental assistance.

I congratulate the board of directors, the advisory board, and the staff of Julia Hester House for their outstanding and dedicated service to the House community and wish them continued success.

TRIBUTE TO JESUS "CHUEY" GARCIA

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a community leader who passed away this week—Jesus "Chuey" Garcia.

Chuey's life was woven together by his efforts to improve the lives of those around him, especially in the San Diego community of Barrio Logan.

The center of this activity was his Chuey's Numero Uno Restaurant, which became a focal point for friends and family and a site for charitable fundraisers and community meetings. Chuey often offered his restaurant to local community groups, and every Christmas would prepare in his kitchen a holiday meal for orphans in Tijuana.

Chuey Garcia first came to the United States in 1927 from his home in Central Mexico—and he never let circumstances stop him from achieving his dreams. A true reflection of the American dream, he worked as a field worker, cook, and chef's assistant. By 1950, he was head chef, and after running a kitchen for 3 years, he became and entrepreneur and opened the restaurant we all came to know and love.

He made a real difference in the lives of many in the Latino community, and served as a role model for all of us who know that one citizen can make a difference.

In our lifetime, we all come across a small number for special people—those who touch our minds, hearts, and souls with their optimism and dedication to making everyone's life richer. Mr. Garcia was one of those select few.

My thoughts and prayers go out to his family and friends. I know how people looked to Chuey Garcia for guidance and inspiration—and I know how many people share my grief at the loss of this amazing man.

LAPD OFFICERS DONALD LINT AND HONG KIM—TOP COPS

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Ms. HARMAN. Mr. Speaker, what makes the news these days often is very different than what really takes place day after day on the streets of a big city.

This is perhaps no truer than in the coverage the news gives police departments and the men and women who comprise their ranks.

We all know from our personal experiences that the vast majority of police men and women are ordinary individuals doing extraordinary jobs. The news sometimes suggests otherwise. But, fortunately, there are occasions, like the one last night, where we can correct the record and the false impressions the news programs often leave.

Last night, here in Washington, two patrol officers from the Los Angeles Police Department were among 14 men and women honored as the Nation's Top Cops by the National Association of Police Organizations. I am proud to join the Vice President and my fellow Angelenos in extending congratulations to all 14 distinguished public servants, and especially to 2 of LAPD's finest.

Officer Hong Kim and his partner Donald Lint were honored for their selfless bravery in rescuing several individuals hurt and trapped following the 1993 Northridge earthquake. In one instance, they fought through a 150-foot wall of flames to rescue a motorist trapped in a burning truck. Then they rescued an elderly man from a flame-engulfed house.

For them, it may have all been in a day's work. For us, their actions are nonetheless the source of great inspiration.

We place profound responsibilities on our Nation's police officers, asking them to combat crime, uphold the law, and defend our lives and property by risking their own.

At minimum, these courageous and skilled individuals deserve our support and the resources necessary to make their jobs easier, and our safety more certain. In my 3 years of service in Congress, I have supported tough changes strengthening our criminal laws. I have supported removing assault weapons from the streets and making handgun possession more difficult. And I have supported increased funds to assure that our police have the best technological resources available for catching criminals.

But my actions pale in comparison with the contributions Hong Kim, Donald Lint, and all LAPD and South Bay police officers make each day. To all of them, I offer my deep appreciation and heartfelt gratitude.

TRIBUTE TO YOUNG PEER MEDIATORS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. ANDREWS. Mr. Speaker, I rise today to recognize and congratulate an extraordinary group of young people from my district. On Saturday, October 28, 1995, the Hispanic Youth Advisory Board of Camden County, NJ, will honor 30 students from Camden City and Pennsauken by appointing them to the Peer Mediator Program. Peer mediators are chosen to serve as positive role models to their fellow students; they provide academic tutoring, as well as personal counseling, to adolescents who are struggling with pressures at home and school, and in their neighborhoods. The project is staffed by volunteers whose participation represents a profound commitment to their peers and their communities.

The names of the peer mediators are: Michelle Rivera, Neridan Garcia, Evelinda Martinez, Carmen Delia Santos, Angel L. Nieves, Yariana Nater, Henry Martinez, Carlos Parrales, Ivelisse Cruz, Carolyn Dona, Omar Senabria, Noel Caban, Lourdes Caban, David Rivera, Carlos Aponte, Antonella Pagan, Angel Pacheco, Marvin Ruiz, Julio Inostroza, Carlos Martinez, Jr., Willie Rodriguez, Maribel Mendez, Melinda Martinez, Zuejei Quinones, and Evelinda Martinez of Camden; and Madelyn Lopez, Reinaldo Lopez, Melissa Lopez, Ricardo Lopez, and Marisol Reyes of Pennsauken.

As these distinguished young people complete their 4-month training and prepare to enter the Peer Mediator Program, it gives me great pleasure to salute their accomplishments and wish them well in their endeavors.

HONORING THE DEFENSE REUTILIZATION AND MARKETING SERVICE

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. SMITH of Michigan. Mr. Speaker, on May 31, the Michigan Legislature adopted a resolution commending the Defense Reutilization and Marketing Service [DRMS] for its exceptional success fulfilling its mission of selling and reusing surplus property from our armed services. DRMS has instituted reforms over the last several years which have vastly improved the agency's efficiency and have allowed it to attain an operating profit. I join the Michigan Legislature in its praise of DRMS and ask that the text of the resolution be printed in the RECORD as follows:

SENATE CONCURRENT RESOLUTION NO. 109

A concurrent resolution to recognize the success and innovations of the Defense Reutilization and Marketing Service and to memorialize Congress to encourage continued reform efforts throughout the Department of Defense and all of the federal government.

Whereas, In response to the call of officials and citizens alike, the United States Department of Defense, through the Defense Reutilization and Marketing Service, has achieved remarkable success as a pilot project committed to bringing sound business practices to a worldwide governmental operation. This initiative, which has been made more important by the reorganization of military facilities and base closures around the world, has been nominated for major recognition through the Innovations in American Government program coordinated by the Harvard University Kennedy School of Government; and

Whereas, The Defense Reutilization and Marketing Service is charged with the mission of selling Department of Defense assets, reutilizing resources, transferring property and materials, and encouraging the recovery of metals. With the ever-increasing speed of change in technology and the unique demands of military preparedness in our volatile world, the task facing the Defense Reutilization and Marketing Service is a substantial one, representing enormous sums of capital. Fittingly, the Defense Logistics Agency of the Department of Defense selected the Defense Reutilization and Marketing Service as a pilot project under the Government Performance Results Act of 1993. Since that time, this operation has constituted a wonderful example of reinventing policies and attitudes in government; and

Whereas, Michigan has been the recipient of numerous benefits through the efforts of the Defense Reutilization and Marketing Service. Products from around the world have gone to Michigan schools, youth groups, universities, museums, local units of government, and police departments. Several million dollars worth of materials, ranging from camping equipment to heavy machinery, have been put to good use; and

Whereas, The Defense Reutilization and Marketing Service responded to its challenge with true business strategies of putting customers first, improving processes and the use of technologies, empowering employees to get results, and meeting customer requirements at a reduced cost. With emphasis on maximizing return to the taxpayer, the service has achieved remarkable success in increasing total assets by nearly 200 percent and attaining self-sufficiency with an operating profit of $17 million. These impressive figures represent a wonderful beginning. Most importantly, the success of this effort has generated a rethinking of all levels, with employees adopting attitudes consistent with those found in a sound and productive business. We hope all governmental agencies will follow this lead; now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we recognize the achievements of the Defense Reutilization and Marketing Service in being recognized nationally for representing the reinvention potential that exists within the federal government; and be it further

Resolved, That we memorialize the Congress of the United States to continue to encourage the progress of the Defense Reutilization and Marketing Service and similar programs in all governmental units; and be it further

Resolved, That copies of this resolution be transmitted to officials of the National Performance Review, the Department of Defense, the Defense Logistics Agency, and the Defense Reutilization and Marketing Service, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

THE NATIONAL PARKS CHECKOFF ACT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. DUNCAN. Mr. Speaker, today I have introduced the National Parks Check-Off Act.

The National Parks Check-off Act will amend the Internal Revenue Code to require that Federal income tax forms contain a line which will allow taxpayers to donate one or more dollars to the National Park Service. This legislation will provide more money for the care of our National Parks at no cost to the Federal Government.

A recent study released by the National Parks and Conservation Association indicated that nearly 8 out of every 10 people surveyed would be willing to increase their tax contribution by $1 to benefit the National Park System.

A similar checkoff for presidential campaigns raised over $71 million in 1994 alone. I believe that our National Parks are far more popular than presidential campaigns. Therefore, I believe we could raise hundreds of millions of dollars for our National Parks through this type of checkoff on income-tax forms.

Recently, James Duffus, from the Government Accounting Office, testified at a joint hearing before the Senate Subcommittee on Parks, Historical Preservation and Recreation and the House Subcommittee on Parks, Forests and Public Lands. During his testimony, he stated: "Since substantial increases in appropriations are very unlikely in today's tight budget climate, difficult choices need to be made on the future of the national parks."

I believe there is at least one easy choice that can be made which will provide our parks with additional funding—the choice to allow taxpayers the opportunity to donate money for the care of our National Parks.

I hope that my colleagues will join me in supporting this legislation which will help us improve the quality of our National Parks.

REMOVING BARRIERS TO RESEARCH AND DEVELOPMENT

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. COX of California. Mr. Speaker, the House is today considering H.R. 2491, the Seven-Year Balanced Budget Reconciliation Act of 1995. We have a moral responsibility to cease building a flawed Federal bureaucracy on the backs of our children. This legislation, the most important in years, will free our economy from the burden of wasteful Government spending and empower the private sector to build a brighter future for the next generation.

There are few provisions of the Reconciliation Act which do more to unleash the creativity and productivity in the private sector than the research and experimentation tax credit. Since 1981, the R&E tax credit has proven a powerful boost to American competitiveness in our global economy. By extending the R&E tax credit, this legislation will ensure that our Nation's research base continues to be a dynamic source of job creation and technological innovation. Though many of us hoped that this credit might be made permanent, I fully understand the revenue constraints under which we all must operate and therefore applaud the decision to favor an extension.

Mr. Speaker, in addition to extending this useful credit, the Budget Reconciliation Act we're currently considering will hopefully eliminate a Government-created barrier to growth in the electronics and biotechnology industries. As Gordon Steel, V.P. and CEO of the Xilinx Corp., and others have pointed out, the current tax code unfairly denies full eligibility for the R&E tax credit to companies which began operating between 1984 and 1988. This arbitrary policy has proven to be a significant roadblock to U.S. business development.

To correct this inequity, the budget reconciliation bill before us includes commonsense guidelines to determine qualification for startup R&E credit—regardless of the year a company began operations. I am delighted to support this important effort to remove existing penalties for companies that invest in long-term R&D, and I urge all my colleagues to join with me in voting for this landmark legislation.

IN HONOR OF MILDRED ALESSI MIGLIACCIO

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Mildred Alessi Migliaccio, an Italian-American who has made great contributions to American society through her business and community work in the city of Bayonne. She will be honored by the Sicilian Citizen Club of Bayonne on October 28, 1995, at their 68th annual dinner dance.

The Sicilian Citizen Club is a political and social organization for Italian-Americans. Established in 1929, it is the oldest Italian club in the city of Bayonne. Mrs. Migliaccio, a grandmother of three, is an active member of the organization. The leader of the club, Frank Carine, Sr., describes her as "a warm-hearted woman who is always there for everyone."

Mrs. Migliaccio, known to family and friends as "Millie," was born in Bayonne to Sicilian immigrants, Nicola and Guiseppina Alessi. Her father, one of the first members of the Sicilian Citizen Club, taught Millie the value of family, the importance of community and pride in her Sicilian heritage at an early age.

This year is also the 75th anniversary of the Migliaccio Funeral Home, the business she ran with her husband, William R. Migliaccio. At 82 years of age, Millie is still an active part of the business which is now run by her daughter, Carol McNulty. The Migliaccio family has always been community-minded and has sought to contribute to the vitality of Bayonne and its residents. Millie is a parishioner at the Lady of the Assumption Roman Catholic Church in Bayonne and a member of the Saint Anne Society, a women's club connected to the church.

Please join me in saluting a lifetime of achievement and a proud Italian-American, Mildred "Millie" Alessi Migliaccio.

GETTING THE HOT AIR OUT OF GOVERNMENT

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 26, 1995

Mr. COX of California. Mr. Speaker, the Seven-Year Balanced Budget Reconciliation Act of 1995 gives taxpayers plenty to cheer about. Previous speakers have talked about the many ways in which this bill attacks wasteful government spending. I'd like to take this opportunity to talk about one boondoggle in particular which our Balanced Budget bill will eliminate: the National Helium Reserve.

Humorist P.J. O'Rourke once described the National Helium Reserve as "amazingly stupid, even by government standards." First established in 1925 so America could field a fleet of blimps in time of war, the Federal helium program has now piled up a debt of $1.4 billion and loses tens of millions more every year. It's incapable of competing with private industry, which accounts for 90 percent of the nation's helium sales and is fully capable of supplying the entire demand. But no Congress—until this one—had ever taken action to terminate this "poster child of government waste."

Mr. Speaker, I'd also like to point out that the true cost of maintaining this wasteful government anachronism has been much greater than its $1.4 billion debt might indicate. A more accurate price tag might be $250 billion—that's the amount in new taxes the American people had to endure under the 1993 tax bill signed into law by President Clinton.

Why is it appropriate to link the helium reserve to the Clinton tax bill? The answer can be found in Bob Woodward's The Agenda and in numerous other press reports at the time of the 1993 budget debate: President Clinton promised Rep. Bill Sarpalius—the Democrat who until this year represented Amarillo, Texas, the home of the helium reserve—that the reserve would be protected if Sarpalius changed his vote, and voted for the Clinton tax bill. Sarpalius did change his vote, allowing President Clinton a one-vote margin of victory on House passage of his tax bill.

Privatizing the National Helium Reserve, then, is an achievement steeped in symbolism. While I am pleased that President Clinton now supports termination of the helium program—it was one of the few specific budget cuts he mentioned in his 1995 State of the Union address—I'm disappointed that his budget proposed to forgive the reserve's $1.4 billion debt. This is altogether unfair to the American taxpayers who for so long were forced to keep this antiquated dirigible of a program aloft. We must not simply "write off" the reserve's enormous debt.

That's why I am especially pleased that the Budget Reconciliation bill before us today rejects the Clinton Administration's approach, and instead incorporates the language from H.R. 873, the helium privatization legislation I introduced earlier this year along with more than 170 Republican, Democrat, and Independent Members of the House.

The Budget Reconciliation legislation gets the government out of the helium production business, yielding millions in annual savings. It requires the government to provide accurate annual financial statements that will for the first time reflect the reserve's true cost to the taxpayers. It provides firm dates for beginning and completing privatization of the Federal Government's vast helium reserves. Most importantly, it ensures that the reserve's entire $1.4 billion debt to taxpayers will be repaid out of the sale of the helium stockpile.

Mr. Speaker, today's vote on the Seven-Year Balanced Budget Reconciliation Act represents an enormous victory for those of us who have fought for years to get the government out of the helium business. I'd like to thank the many members of this body—including BARNEY FRANK, KEN CALVERT, BARBARA VUCANOVICH, and FRANK CREMEANS—who have worked so hard to help make this proposal a reality, and I urge all my colleagues to join with me in voting in favor of this important legislation.

SENATE—*Friday, October 27, 1995*

(Legislative day of Thursday, October 26, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Almighty God, You have told us that nothing can separate us from You. That is both a source of comfort and challenge. We are comforted by Your love, forgiveness, and constant care. We are challenged by our accountability to You. To whom much is given, much will be required. You are the righteous Judge of our words and our decisions. Help us to seek Your will in all that we do. You have said, "Let him who glories glory in this, that he understands and knows me, that I am the Lord exercising loving kindness, judgment and righteousness in the earth. For in these I delight."—Jeremiah 9:24. We want to do what delights You. We repent of the pride of ever thinking we can lead this Nation without Your priorities of righteousness, purity, truth, and Your power to implement them. May intimate communion with You always be the source of integrity in our leadership. We commit ourselves to live this day to Your glory, totally dependent on the presence and power of our Lord. Amen.

ORDER OF PROCEDURE

Mr. GRAHAM. Mr. President, reserving the right to object, I would like to ask a question. We have been waiting since late yesterday afternoon to receive a copy of the Finance Committee amendment.

Could the manager indicate when that might be available?

Mr. STEVENS. Mr. President, this Senator has no answer to that. There is no time. The schedule is to start voting immediately.

Mr. GRAHAM. Mr. President, I want to—I continue my reservation of objection. I am going to object strenuously if—I would like the floor manager's attention.

The PRESIDENT pro tempore. The regular order is for the clerk to report the bill.

Mr. GRAHAM. Mr. President, I think I have the floor, and I wish to announce that I am going to object strenuously——

The PRESIDENT pro tempore. The Senator does not have the right to the floor at this time.

Mr. GRAHAM. To any attempt——

The PRESIDENT pro tempore. The Senator does not have a right to the floor at this time.

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate resumed consideration of the bill.

The PRESIDENT pro tempore. The clerk will report the bill.

The legislative clerk read as follows:

The bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

Pending:

Gramm amendment No. 2978, to provide States additional flexibility in providing for Medicaid beneficiaries.

Kerry/Kennedy amendment No. 2979, to express the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.

Domenici (for Murkowski/Johnston) amendment No. 2980, of a technical nature.

Kennedy/Kassebaum amendment No. 2981, to strike the provision allowing the transfer of excess pension assets.

Wellstone amendment No. 2982, to eliminate the tax deduction for oil drilling, to eliminate the corporate minimum tax provisions, to eliminate the foreign earned income exclusion, and to eliminate the section 936 possession tax credit.

Pryor/Cohen amendment No. 2983, to provide for the continuation of requirements for nursing facilities in the Medicaid Program.

Simon amendment No. 2984, in the nature of a substitute.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I take 3 minutes and answer the Senator?

Senator Graham, I understand that the staff, Senator DOLE's staff, is in the process of delivering the amendment to you right now.

Mr. GRAHAM. The point I was making, if I could, Mr. President, is that I am going to object strenuously if the 10-minute rule is attempted to be applied to the Finance Committee amendment.

We have not had an adequate opportunity to evaluate and to understand its significance. I am alerting the manager to my intention to protect the rights of those who have been waiting now for almost 18 hours to get a copy of this amendment. We have been denied that opportunity, and soon we will be asked to vote upon a stealth amendment which will quite likely be the most significant amendment on this most significant legislative enactment.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2978

Mr. DOMENICI. The next amendment on our side is Senator GRAMM's. He is not here and asked we set his amendment aside and proceed to the next amendment, which is the Kerry amendment.

Several Senators addressed the Chair.

Mr. CHAFEE. Mr. President, I am interested in this amendment. Are you just skipping it once or what?

Mr. DOMENICI. I am asking that it be set aside for one amendment. If the Senator is not ready——

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Reserving the right to object.

Several Senators addressed the Chair.

Mr. EXON. Reserving the right to object, may I interject a few statements?

Mr. DOMENICI. Of course.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I simply say I share the concerns expressed by my colleague from Florida. I think, if we will check the RECORD, we will find very clearly that the Roth amendment—that is the subject of concern, and I think legitimately so, of the Senator from Florida and others—was supposedly the first amendment we were going to take up when we started this process of voting yesterday. It was laid aside. We were advised late last evening, sometime before midnight, that the measure would be presented to us so we could study it overnight. I remind all it was a rather short night. We still have not received it. I have not received it. Maybe it is in the process of being delivered to us at this time.

Here, it seems to me, we have to exercise some discipline. All day yesterday, this Senator, along with my colleague, the chairman of the committee, kept telling Senators you have to be here to offer your amendments. We cannot run the U.S. Senate for the benefit of every other Senator, regardless of their station in life and regardless of what office they are running for.

It seems to me, if we are going to move this process along, we are going to have to institute a policy that, if the Senator on the list that has been published now for about 24 hours is not here to offer the amendment, then I suggest the amendment should be set aside and disposed of and not considered.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We have to exercise some discipline on everyone. I simply say I hope I can see the Finance Committee amendment. But in the meantime, I am at the mercy of the majority, and I simply ask my colleague if he could not join with me—and I think he will—to try to exercise some discipline on both sides of the aisle, not only with regard to the time constraints that we must maintain, but, also, we cannot move ahead unless Senators put the priority I think is necessary and that we should expect for them to be here to offer their amendments in a timely fashion, if for no other reason than out of consideration for the other Members of the body.

Mr. DOMENICI. Mr. President, Senator GRAMM is here. He does not intend to offer his amendment. He withdraws it.

We are ready to proceed with your amendment.

Mr. ROCKEFELLER addressed the Chair.

Mr. EXON. I appreciate that very much. That is very good news.

Mr. FORD. Should we not make a motion to withdraw the amendment?

The PRESIDING OFFICER. Is there objection to withdrawing?

Mr. DOMENICI. Can the manager of the bill withdraw the amendment?

The PRESIDING OFFICER. Is there objection to withdrawing 2978?

Mr. ROCKEFELLER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I will not object. I will just say, there are a number of Senators here, including the Senator from Rhode Island and the Senator from West Virginia, who note this withdrawal may have been strategically a very good idea because it was going down to a dreadful defeat because it is such a dreadful amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I do not withdraw the amendment and I am ready to speak on behalf of it.

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Texas.

Mr. GRAMM. Mr. President, what we have in this bill is an effort by Senators——

The PRESIDING OFFICER. There is 1 minute equally divided on the amendment.

The Senator from Texas.

Mr. GRAMM. Mr. President, what we have in the bill before us is a double-cross of the States. We reduced the rate of growth in Medicaid spending in agreement with the Governors by $187 billion. But the condition under which the Governors took the reduced rate of growth was that they were going to get to run the program. This is in Medicaid. So, in the Medicaid Program, we reduced the growth of spending in that program by $187 billion. The Governors agreed to it on the condition that they run the Medicaid Program. We now are trying to tell them how to run it.

I do not doubt the Senator from West Virginia and the Senator from Rhode Island have very good intentions. But we should not be telling the States how to run this program.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, we have 30 seconds now?

Mr. EXON. Mr. President, I yield 30 seconds to my colleague from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is yielded 30 seconds.

Mr. ROCKEFELLER. Mr. President, this is the most cruel and unusual amendment of this entire 24-hour fiasco. It rejects the idea of making sure America's poorest children, poorest elderly, pregnant women, disabled, SSI—it decimates people who need help. It is an evisceration of Medicaid. It is a cruel amendment. It ought to be rejected by both sides.

The PRESIDING OFFICER. Is there further debate?

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there is a lot of talk about who is in the wagon these days. If we have no room in the wagon for 12-year-old poor children, pregnant women, the blind, and disabled, we have become an unworthy society.

The PRESIDING OFFICER. All time has expired.

The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent the first vote be 15 minutes and thereafter votes be limited to 7½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The first vote will be 15 minutes. Then further votes will be 7½ minutes.

Mr. DOLE. I thank the Chair.

The PRESIDING OFFICER. The question now is on the Gramm amendment No. 2978.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 23, nays 76, as follows:

[Rollcall Vote No. 518 Leg.]

YEAS—23

Ashcroft
Bennett
Brown
Coats
Cochran
Dole
Faircloth
Gramm
Grams
Grassley
Hatch
Helms
Hutchison
Inhofe
Kyl
Lott
Mack
McCain
Nickles
Roth
Santorum
Smith
Thompson

NAYS—76

Abraham
Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone

So, the amendment (No. 2978) was rejected.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2979

The PRESIDING OFFICER. Under the previous order, No. 2979 offered by the Senator from Massachusetts [Mr. KERRY] will be considered, 1 minute equally divided.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold.

Mr. EXON. Once order is restored in the Senate, I would like to yield 30 seconds on our side to the Senator from Kansas for remarks that I understand she has to make on this measure.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. If I could have the attention of the Senator from Kansas. The Senator from Kansas, I yield her 30 seconds off of our time on the Kennedy amendment. I apologize. We are going to the Kerry amendment at this time.

The PRESIDING OFFICER. The Kerry amendment.

Mr. EXON. I yield 30 seconds to Senator KERRY.

Mr. KERRY. Mr. President, this amendment does not ask Senators to vote on any number. It simply asks Senators, as a sense of the Senate, to say that before the end of the session we will vote and debate on the minimum wage issue.

I will just share with Senators an article in the New York Times today.

It says:

> The income gap between rich and poor was wider in the United States during the 1980s than in any other large industrialized country, according to the most comprehensive international study ever released on income distribution.

Seventy percent of the poverty wage, $8,500, is the current income level.

We simply want to vote and debate on it. And I hope colleagues will agree we ought to do that.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I assume I had 30 seconds under the rule.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. DOMENICI. I yield back my 30 seconds and make a point of order that this violates the Budget Act. I raise a point of order under the provisions of the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable section of that act for the consideration of the pending amendment.

I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to waive the Budget Act.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The yeas and nays resulted—yeas 51, nays 48, as follows:

[Rollcall Vote No. 519 Leg.]

YEAS—51

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

NAYS—48

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER (Mr. STEVENS). On this vote, the yeas are 51; the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2980

The PRESIDING OFFICER. The question is amendment No. 2980, offered by Senator DOMENICI.

The yeas and nays have been ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the yeas and nays be vitiated and that we have a voice vote.

The PRESIDING OFFICER. Does the Senator seek 1 minute, equally divided?

Mr. DOMENICI. I do not think we need any time.

Mr. EXON. Mr. President, I agree with my colleague and yield back our time. I hope we can have a voice vote.

Mr. MOYNIHAN. I object, Mr. President.

Mr. DOLE. That is another amendment.

Mr. MOYNIHAN. I withdraw that objection.

The PRESIDING OFFICER. The question is on agreeing to the Domenici amendment.

The amendment (No. 2980) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2981

Mr. EXON. Mr. President, the next pending amendment is a Kennedy amendment, is that correct?

The PRESIDING OFFICER. The pending amendment is the Kennedy-Kassebaum amendment No. 2981.

Mr. EXON. I yield 30 seconds of our time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I urge my colleagues to support striking this provision from the bill before us, because I believe it is bad pension policy. We are making some assumptions here which we do not really know the consequences of, and I feel that it is absolutely essential that we not begin to make inroads into pension plans in which retirees have counted on without knowing the consequences. I urge all to support the amendment.

Mr. DOMENICI. I think the leader wants some time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, we are prepared to accept the amendment without a rollcall, if we want to speed up the process.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. DOLE. I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. We yield back all time.

The PRESIDING OFFICER. The question is on agreeing the amendment No. 2981.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 520 Leg.]

YEAS—94

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
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Santorum
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Thompson
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Wellstone

NAYS—5

Brown
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Helms
Nickles
Roth

So the amendment (No. 2981) was agreed to.

AMENDMENT NO. 2982

The PRESIDING OFFICER. The next amendment is Wellstone 2982. The yeas and nays have been ordered.

Mr. EXON. Mr. President, I yield 30 seconds of our time to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this amendment is all about plugging tax loopholes, whether we are talking about keeping a strong alternative minimum tax, or getting rid of subsidies for oil companies or pharmaceutical companies.

This all goes for deficit reduction—all the savings go into a lockbox—and the total savings is between $60 to $70 billion. I will tell you right now, regular people are tired of having to pay more in taxes because of these egregious loopholes. I urge my colleagues to vote "aye."

Mr. President, last night I talked briefly about each of the four amendments I was going to offer separately, that I continued in my omnibus amendment.

I now ask unanimous consent that a statement elaborating on each tax loophole, and the reasons for its elimination, which this omnibus amendment proposed to do, be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

REPEAL CORPORATE WELFARE IN THE TAX CODE: ELIMINATE OIL AND GAS TAX BREAKS NOW

Mr. President, I rise to offer an amendment which I know will be controversial with some Senators, but which I think deserves debate and a vote. It is part of my larger effort to help reduce the deficit over the next several years through scaling back corporate welfare, instead of making such unnecessarily large cuts in Medicare, Medicaid, student loans, and other areas, many of the proceeds from which will be used to finance a tax cut primarily for the wealthy.

This Republican budget package is radical, and it fails to meet a basic test of fairness that Americans expect us to apply in order to get to a balanced budget. One of its major failings that has not been much discussed is that it does almost nothing to eliminate the fantastically expensive tax loopholes that have been embedded in the code for years, and that give special treatment to one industry or type of investment over all others. These preferences distort economic decision-making, and because they are so expensive make regular middle-class families, who are struggling to make it these days, pay much higher income taxes than they otherwise would have to pay.

Let me make a simple point here that is often overlooked. We can spend money just as easily through the tax code, through tax loopholes, as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a government check or in the form of a tax break for some special purpose, like a subsidy, a credit, a deduction, or accelerated depreciation for this type of investment or that. These tax loopholes allow some taxpayers to escape paying their fair share, and thus make everyone else pay at higher rates. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes.

I think it is a simple question of fairness. If we are really going to make the spending cuts and other policy changes that we would have to make to meet the balanced budget amendment targets, then we should make sure that wealthy interests in our society, those who have political clout, those who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much as regular middle class folks that you and I represent who receive Social Security or Medicare or Veterans benefits or student loans.

That is just common sense, and I think we ought to signal today that the standard of fairness we will be applying will require elimination of at least some of these tax breaks. Too often, in discussions about low-priority federal spending which ought to be cut, one set of expenditures is notoriously absent. That is tax breaks for wealthy and well-positioned special interests.

Tax subsidies are heavily skewed to corporations and the relatively few people in very high-income brackets, while government benefits and services go in far larger proportions to the middle class and the poor. If it is harder to eliminate tax breaks or other preferences than cut programs, the burdens of deficit reduction are likely to be borne disproportionately by those in the bottom half of the income scale. The effect of this, of course, is a further transfer of political power up the income scale. This imbalance means the system is likely to favor the wealthy and powerful over those in the bottom and middle of the income scale.

Many of these tax breaks are industry-specific, others were designed to encourage particular kinds of activities or investments, or to subsidize consumers of certain products. The General Accounting Office issued a report last year, in which they noted that most of these tax expenditures currently in the tax code are not subject to any annual reauthorization or other kind of systematic periodic review. They observed that many of these special tax breaks were enacted in response to economic conditions that no longer exist. In fact, they found that of the 124 tax expenditures identified by the Committee in 1993, about half were enacted before 1950. The particular oil and gas tax break that my amendment focuses on was enacted in its original form in the 1920's. Many of these industry-specific breaks get embedded in the tax code, and are not looked at again for years.

Now some will vote against this motion reflexively, arguing wrongly that this is simply an attempt to raise taxes. It is not. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes. They are pushed by high-priced lobbyists, who have hired even more highly-paid tax lawyers, to make their special pleadings.

The effect of allowing them to continue is to ensure that hard-working Americans will not be provided much real tax relief, since all of the revenues that might help pay for such relief are being siphoned off by wealthy special interests. This amendment simply calls the question on one small part of the very targeted spending we do through the tax code, spending that is not subject to the annual spending process and is rarely debated on the floor of the Senate.

This amendment would repeal the current special tax treatment for what are called "intangible drilling costs" in the oil and gas industry. Since around 1916, the oil and gas industries have benefitted richly from this special benefit. The Congressional Budget Office has estimated that eliminating this loophole will save US taxpayers at least $2.5 billion over the next five years; and billions more in the years thereafter.

This is how this longstanding special tax benefit works. Companies engaged in oil and gas exploration are allowed to completely deduct from their federal taxes what are termed the "Intangible Drilling Costs", or IDC's, of conducting drilling and related activities as they explore for profitable wells. These include what they pay for labor, fuel, repairs, hauling, supplies, site preparation—many different kinds of expenses they pay when looking for new and more profitable wells. By expensing rather than capitalizing these costs, taxes on much of their income are effectively set to zero.

In most industries, the logic of tax policy requires that a company is allowed to recover its costs of doing business, either through depreciation or a special form of depletion, over the valuable life of the asset. But this special benefit is an exception to these general tax rules. And though decades ago it was argued that these special benefits were necessary to encourage oil exploration, they can no longer be justified—and certainly not in the current budget crunch. Even with the introduction of the alternative minimum tax in the 1980's, when you consider the many other breaks these industries still receive—including the very expensive percentage depletion allowance—this still keeps the effective marginal tax rate on gas and oil companies below that for other industries. That is not fair, and it makes middle income people pay higher income taxes. It should stop, now.

I know that oil and gas companies, and those who represent them here in the Senate, have in the past argued that these special tax breaks should be extended because of the special risks involved in looking for oil and gas wells to drill. While it is true that these are sometimes high-risk ventures, they are also very profitable, or else companies would not be pursuing them. The risks are justified by the large profits to be made. I also wonder whether they are intrinsically any less risky than small business start-ups in new markets, or the launching of new products, or similar entrepreneurial business decisions. I suspect probably not.

Proponents will also argue that capital is hard to come by in the oil and gas industry, and that small producers need to be protected. Of course, everyone who enjoys these kinds of tax breaks are going to try to couch their plight in terms of being the embattled little guy. But that is not what this is about. This is mostly about special tax benefits being showered on large and small producers alike—even though there are somewhat different rules for each—in a single industry that has been consistently showing signs of profitability in recent years. While sometimes volatile oil markets make oil and gas investments risky, that doesn't necessarily justify this special treatment.

In addition to the huge costs to taxpayers that must be considered when looking at this tax break, we should also be aware of the environmental costs that are attached. As with many other energy subsidies, this subsidy encourages drilling in environmentally sensitive areas, and serves as a disincentive for us to explore more environmentally sustainable means of energy production.

And these are areas which have been protected for years by the ravages of thoughtless oil and gas development. For example, I strongly oppose drilling in the Arctic National Wildlife Refuge. This has been an issue that I have been involved in from the time I first came to the Senate. There was a filibuster over ANWR that I led when I was here just a short period of time and now ANWR is back again. The Energy Committee has voted, over the objections of a large bipartisan group of Senators, to open up ANWR for drilling and to use the revenue to meet reconciliation instructions. These large oil and gas company subsidies only encourage those kind of developments by artificially increasing and subsidizing demand for new wells.

It also seems to me that there are compelling energy policy arguments against this tax break. To the extent that these subsidies stimulate drilling of domestic wells, they reduce our short-run dependence on foreign oil—but force us to deplete our own Nation's reserves at a faster rate. While oil is flowing freely to the U.S. from the Middle East and elsewhere, I see no reason to subsidize domestic drilling to such an extent.

Some will argue there are national security considerations here, and that we should preserve this subsidy because it helps to ensure the future of domestic producers. I think if we are so concerned about the national security implications of our reliance on foreign oil, then maybe we should be rethinking provisions to sell off the strategic petroleum reserve that were included in this bill.

Others will claim that eliminating the expensing of IDC's would hamper domestic oil exploration, and that the industry's profit margins have declined steadily over the last 15 years or so as the alternative minimum tax has kicked in on some producers, and various lucrative other tax breaks have been slightly reformed. However, it is clear that most of the reason for this decline was not the increased tax burden, but the worldwide decline in oil prices. Experts from academia to industry analysts to CRS are agreed on that.

Finally, oil and gas companies will also argue that eliminating their expensing provisions will effectively raise costs for the consumer at the gas pump. The Congressional Budget Office has no formal projections of this cost increase, but I suspect that if there is any increase at all, it would only be a fraction of one cent per gallon at the gas pump. Much of any additional costs would be absorbed by oil and gas companies, as they strive to remain competitive in world markets.

Mr. President, this issue is complex, but in the end, it is not even a close call. As a recent CRS study on tax expenditures states, "There is very little, if any, justification for this non-neutral tax treatment of IDCs. Many economists believe that expensing is a costly and inefficient way to increase oil and gas output and enhance energy security . . ."

The oil and gas industry has for decades been enjoying a tax benefit that has not been available to other American industries, and so to eliminate it is really just to "level the playing field." For those who support a flat tax, or even a flatter tax rate structure than we have now made possible by closing special loopholes, this amendment is a good place to start. I urge my colleagues to make good on pledges to fairly and responsibly reduce the federal deficit by voting for this amendment. I yield the floor.

REPEAL CORPORATE WELFARE IN THE TAX CODE: ELIMINATE THE PUERTO RICO CREDIT

Mr. President, I rise to offer an amendment to repeal outright Section 936 of the Internal Revenue Code, which provides certain corporate income tax credits to firms doing business in Puerto Rico and the other U.S. Possessions. This repeal would become effective on January 1, 1997. It speeds up the repeal already provided for in the bill by, in some cases, 9 years, saving over $35 billion dollars in the process.

Let me be clear: the Finance Committee, for the first time in decades, has already acknowledged that this loophole should go; it is simply now a question of when, and how. For those who support a flat tax, or even a flatter tax rate structure than we have now made possible by closing special loopholes, this amendment is a good place to start.

This amendment is part of a larger attack on corporate loopholes to highlight something I have seen over and over in that short time: the political gap between the promise to cut spending, and actual follow-through on that promise. Between the promise of spending restraint, and actual spending restraint. Let me make a simple point here that is often overlooked. We can spend money just as easily through the tax code, through tax loopholes, as we can through the normal appropriations process. Spending is spending, whether it comes in the form of a government check or in the form of a tax break for some special purpose, like a subsidy, a credit, a deduction, or accelerated depreciation for this type of investment or that.

In the last few years, for example, many of us voted for billions in actual cuts on this floor—not gimmicks, not smoke and mirrors, not deficit reduction formulas that never identify precise cuts, but actual reductions in federal spending contained in actual amendments to appropriations bills. We have also voted consistently against continued wasteful and unnecessary defense spending contained in appropriations bills each year. And often it was precisely those who support the balanced budget amendment, and employ elaborate Heritage Foundation-concocted across-the-board spending cut formulas that do not contain any specific cuts, who voted against actual spending cuts on the floor. This is where the rubber meets the road, where the rhetoric meets reality. Many balanced budget amendment proponents have failed the test of political courage on this point, and I think that should be made clear.

These tax loopholes allow some taxpayers to escape paying their fair share, and thus make everyone else pay at higher rates. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes.

I think it is a simple question of fairness. If we are really going to make the over a trillion dollars in spending cuts and other policy changes that we would have to make to meet the balanced budget amendment targets, then we should make sure that wealthy interests in our society, those who have political clout, those who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much as regular middle class folks that you and I represent who receive Social Security or Medicare or Veterans benefits.

That is just common sense, and I think we ought to signal today that the standard of fairness we will be applying will include elimination of at least some of these tax breaks. Too often, in discussions about low-priority federal spending which ought to be cut, one set of expenditures is notoriously absent. That is tax breaks for wealthy and well-positioned special interests.

Tax subsidies are heavily skewed to corporations and the relatively few people in very high-income brackets, while government benefits and services go in far larger proportions to the middle class and the poor. If it is harder to eliminate tax breaks or other preferences than cut programs, the burdens of deficit reduction are likely to be borne disproportionately by those in the bottom half of the income scale. The effect of this, of course, is a further transfer of political power up the income scale.

Many of these tax breaks are industry-specific, others were designed to encourage particular kinds of activities or investments, or to subsidize consumers of certain products. The General Accounting Office issued a report last year, in which they noted that most of these tax expenditures currently in the tax code are not subject to any annual reauthorization or other kind of systematic periodic review. They observed that many of these special tax breaks were enacted in response to economic conditions that no longer exist. In fact, they found that of the 124 tax expenditures identified by the Committee in 1993, about half were enacted before 1950. This one was enacted in its original form in the 1920's. Many of these industry-specific breaks get embedded in the tax code, and are not looked at again for years.

Now some will vote against this motion reflexively, arguing wrongly that this is simply an attempt to raise taxes. It is not. These arcane tax breaks are simply special exceptions to the normal rules, rules that oblige all of us to share the burdens of citizenship by paying our taxes. The effect of allowing them to continue is to ensure that hard-working Americans will not be provided any tax relief, since all of the revenues that would pay for such relief are being soaked up by wealthy special interests. This amendment simply calls the question on one small part of the very targeted spending we do through the tax code, spending that is not subject to the annual spending process and is rarely debated on the floor of the Senate.

I suspect most Americans, if asked, would scale back the Puerto Rico tax break further rather than cut spending on prisons or police or environmental protections or workplace safety or Medicare or Medicaid. For that matter, for the amount of money generated by eliminating this tax break, we could pay for Head Start, meals-on wheels for the elderly, WIC, and the National Park Service for a year, and still have money left over.

This amendment eliminates outright the Puerto Rico subsidy, starting next year. In 1993, as we were preparing to consider the Reconciliation bill, I concluded that this tax credit should be phased out over a short period, given the other strains on the federal budget, and the need for further deficit reduction. While I was concerned that an immediate repeal might have too large and abrupt an impact on the economy of Puerto Rico, which was at the time reeling under a very high unemployment rate, I would have supported a prompt phase-out. While the 1993 Reconciliation Act did scale back somewhat the benefits provided to eligible companies under this provision, it failed to phase out the provision. And so now I think the time has come to repeal it outright, starting in 1996. That will put a stop to efforts by corporations who invest in Puerto Rico and the other U.S. Possessions to shelter profits and avoid paying their fair share of taxes.

Ostensibly a tax credit to encourage economic development in U.S. possessions, primarily Puerto Rico, the Section 936 tax credit has over the years evolved into a huge corporate loophole, providing a multi-billion offshore tax shelter for some of America's most profitable companies. While it has been narrowed, and some of the most egregious abuses addressed, it remains a fantastically expensive subsidy for a few special interests. That is unfair, Mr. President, especially when we consider all of the competing budget claims on these scarce federal funds. It is time to bring a halt to it.

Over the past several decades, as I have mentioned, several efforts were launched to try and bring the section 936 tax credit under control. Rules regulating the allocation of income derived from intangible assets were tightened, but to little avail. Additional loopholes were created, which allow companies to continue the long-established practice of shifting income derived from intangible assets created on shore to Puerto Rico. The 1993 OBRA bill took a step toward trying to reconfigure the section 936 credit as a wage-based credit by tying the amount of the credit, in many cases, to actual wages paid or investments made. But it also allowed corporations to receive the credit according to a generous alternative formula that continues to cost taxpayers billions per year. While this modest linkage between actual investments made and wages paid was a step in the right direction, it is still a credit that is no longer justifiable in this current budget crunch.

In 1993, Finance Committee Chairman Moynihan observed that the 936 program, as it is known, dates back to the 1920's. He said that the changes in the 1993 Reconciliation bill were done in such a way as to "clearly anticipate the phasing out finally of this measure." But that hasn't happened yet, and this amendment is designed to make sure that there is a final, clean termination of the program as soon as possible.

The bill before us today, while it recognizes that this provision must eventually be eliminated, provides for a very long phase-out, in some cases up to 10 years. I am very concerned that if we do not repeal this program now, which has been in the Tax Code in some form since the 1920's, it will continue to cost taxpayers billions of dollars per year, and that clever tax lawyers, lobbyists, and the companies for whom they work might even find ways to retain it in the Tax Code in the next few years.

Section 936 presents a very complicated set of calculations to derive the tax credit against taxable income, but the simple effect of this provision is to reduce the cost of corporate investment in territories, mainly Puerto Rico. Its purpose, quite obviously, was to attract investment in the struggling possessions; instead it has been used as major loophole for U.S.-based corporations to shelter taxable income.

While I recognize the economic impact that repeal of this provision will have on certain U.S. companies doing business in Puerto Rico—some of which are in my own state, the GAO's extensive 1993 report concluded that reliable estimates of the changes in corporate behavior could not responsibly be made, since that would require anticipating how many, if any, beneficiaries of the credit would move to other regions, would relocate or scale back their operations there. Of course, many other factors, including labor costs, productivity, transportation and infrastructure costs, and other tax consequences of their decisions would be considered by these firms.

Given this uncertainty, and the fact that this is a special subsidy available to firms nowhere else, I do not believe we can continue to subsidize the activities of a few large corporations at the expense of millions of American taxpayers. Companies that invest in Minnesota directly would love to benefit from a very generous tax credit like this, but they do not. Nor do firms in any other states, to my knowledge. It only applies to the U.S. possessions, with most of the benefits going to pharmaceutical, food, chemical, and instrument-manufacturing firms in Puerto Rico.

The costs of special interest corporate tax loopholes like this are often astronomical. This one is particularly expensive. The Congressional Budget Office has estimated that repealing this provision outright would save almost $20 billion over just 5 years. $20 billion. And about the same amount in the second 5 years. That money could be used to mitigate the huge cuts in Medicare and Medicaid, or in the EITC, that are made in this bill. It could be used to reduce the federal deficit.

I hope my colleagues will support this effort to scale back this longstanding tax break for a relatively few wealthy companies, and dedicate these funds for deficit reduction. How on earth can we continue to support giving a few major corporations this enormous tax break at the same time that cuts are being made in Medicare, Medicaid, and other programs that affect the most vulnerable among us?

Another problem with this tax credit program is that it draws investment away from the U.S. While this provision has over the years encouraged considerable investment in the possessions, that investment often came at the expense of corporations investing here. These investment effects are now amplified under NAFTA and GATT; just as 936 bleeds investment out of the States and into possessions where labor costs are traditionally cheaper, it may now act as an incentive for manufacturers to hold onto their operations in Puerto Rico, rather than moving to countries like Mexico or Singapore. I have heard over the years from many workers in my state who are upset about the transfer impact of this provision on Minnesota jobs.

Even if this provision could once have been justified as an economic development tool following the Second World War, that is no longer possible. A recent report of the Senate Budget Committee said ". . . the measure's cost in terms of foregone tax collections is high compared to the number of jobs the provision creates in Puerto Rico."

My colleagues will recall, I am sure, that our distinguished colleague, Senator Pryor, released a GAO study done several years ago in which it was pointed out that the primary beneficiaries of this provision are the large pharmaceutical companies that have located in Puerto Rico. Let us call this what it is: corporate welfare of the most stark kind.

The huge Section 936 credit claimed by a number of U.S. pharmaceutical firms are a case in point. A GAO study requested by our colleague Senator Pryor revealed a number of shocking details. According to the GAO:

Since section 936 is intended to be an employment and economic development program for Puerto Rico, the GAO measured the tax credit provided companies for each employee. For pharmaceutical companies, the credit amounted to over $70,000 per employee—267 percent of the wages actually paid the average employee. One pharmaceutical company, Pfizer, received a tax credit equivalent to over $150,000 per employee—amounting to 636 percent of the typical wage paid to its Puerto Rican workers. Now I know that these outrageous disparities were mitigated somewhat by the 1993 changes in the formula, but the fact remains that this is a very inefficient economic development subsidy. And even the more recent GAO report done in 1993 found that the ratio of a firm's tax benefits per employee was still far higher than the total wages paid to these employees.

The time has come to pull the plug on this corporate welfare program. At the same time that historic huge cuts in Medicare and Medicaid are being made, at the same time we are slashing student loans and the earned income tax credit, at the same time that we are slashing economic development funding in our own cities and rural areas, we somehow find the funds to continue a multi-billion dollar tax credit of questionable merit and effectiveness, the prime beneficiaries of which are a small number of large, profitable drug companies.

Mr. President, continuing this credit for years while trying to balance the budget by 2002 is bad public policy. It is bad tax policy. It is bad budget policy. It cannot be allowed to stand, especially in the current budget climate. I urge my colleagues to support this amendment. I yield the floor.

ELIMINATE THE FOREIGN EARNED INCOME TAX EXCLUSION

Mr. President, I have already spent some time here on the Senate floor in an effort to close a number of tax loopholes. Underlying these efforts is a recognition that we must reduce the federal budget deficit in a way that is fair, responsible, and that requires shared sacrifice. Closing corporate welfare loopholes will help us do that.

At this point, I would like to address a loophole that will cost $8.9 billion over the next 5 years in lost receipts, and billions more thereafter. In other words, while American citizens all over this Nation will have to pay taxes over the next 5 years, a certain group of taxpayers will use this loophole during that time to get out of paying $8.9 billion in taxes. And over 10 years, that is about $18.4 billion that the rest of American taxpayers will have to make up in higher taxes or reduced services from their government.

The loophole is called the Foreign-Earned Income Tax Exclusion, and it allows Americans living overseas to earn the first $70,000 of their income entirely free of American taxes. While this Exclusion is related to the Foreign Tax Credit—which allows you to reduce your U.S. taxes by the amount you paid in taxes to a foreign government—the two should not be confused. The Foreign Tax Credit simply protects, on a dollar-for-dollar basis, against paying tax twice on the same income: once to the U.S. and once to a foreign government. The Exclusion entirely ignores the existence of $70,000 of the income you earned abroad, regardless of how much tax you paid on it. In short, it is an overly broad way to protect against double taxation, and it is unnecessary because of the existence of the Credit.

Some will charge that by closing this tax loophole, by restricting this special interest tax break we are somehow proposing to raise taxes. They are wrong. What they fail to understand is that even with the reforms of the mid-1980's, which closed many of the most egregious tax loopholes, the presence of tax breaks in the current tax system forces middle class and working people to pay far more in taxes than they otherwise would have to pay. While some are paying less than their fair share in taxes because of this special tax subsidy for people working abroad, those who work in the U.S. are being forced to pay more in taxes to make up the difference. Closing this tax loophole is not raising taxes.

When taxpayers in my State of Minnesota file their returns every year, they are not allowed to disregard $70,000 of their income. So why do we let Americans living abroad to take advantage of this loophole?

When it first came on the books in 1926, the Exclusion was said to help support U.S. trade because it was a tax break for U.S. citizens living abroad that were promoting trade between the U.S. and foreign countries. However, since then there has been a constant tension between those fighting for tax equity (who want to close the loophole) and those who believe that the loophole actually benefits U.S. trade abroad (who have actually tried, at times, to expand the loophole, i,e, raise the Exclusion above the current $70,000).

Clearly, in deciding whether or not to eliminate a special tax break, we need to balance the good effects against the bad. In this age of telecommunications and global markets we no longer need to give a special tax break in order to promote foreign trade, nor is it clear that this particular tax break does promote foreign trade. To quote from a Senate Budget Committee print:

"The impact of the provision is uncertain. If employment of U.S. labor abroad is a complement to investment by U.S. firms abroad—for example, if U.S. multinationals depend on expertise that can only be provided by U.S. managers and technicians—

then it is possible that the exclusion has the indirect effect of increasing flows of U.S. capital abroad." [Tax Expenditures: Compendium of Background Material on Individual Provisions, Senate Budget Committee Print 103–101, December 1994, p. 22].

Three times between 1962 and 1978, Congress passed laws to limit and finally eliminate the Exclusion. But in 1981, the give-away returned, bigger than ever and with a built-in yearly increase. The enormous cost of the loophole led Congress to enact a 4-year freeze in its size in 1984 at $80,000, with $5,000 annual increases to resume in 1988. That ultimately proved too rich for Congress, and the 1986 Tax Reform Act brought us to where we are today: a hefty $70,000 Exclusion that will cost the Treasury about $1.6 billion before this calendar year is out.

A 1994 Senate Budget Committee print describes one negative effect of the provision:

"The exclusion's impact depends partly on whether foreign taxes paid are higher or lower than U.S. taxes. If an expatriate pays high foreign taxes, the exclusion has little importance; the U.S. person can use foreign tax credits to offset any U.S. taxes in any case. For expatriates who pay little or no foreign taxes, however, the exclusion reduces or eliminates U.S. taxes. Available data suggest that U.S. citizens who work abroad have higher real incomes, on average, than persons working in the United States. Thus, where it does reduce taxes the exclusion reduces tax progressivity." [Tax Expenditures: Compendium of Background Material on Individual Provisions, Senate Budget Committee Print 103–101, December 1994, p. 20]

In other words, if a foreign country has taxes as high or higher than the U.S., the foreign tax credit may help to achieve the goal of preventing double taxation. But where taxes are lower, the Exclusion provides a windfall for people who make more than the average person who stays in the U.S. make a living.

When you see a long-lived whopper of a loophole like this, you have to wonder who is fighting to save it. Some light is shed on this question by the IRS's Statistics of Income Bulletin from Fall 1994. It tells us that while only two-tenths of one percent of people filing individual tax returns in 1991 claimed the Exclusion, 45 percent of those claiming the Exclusion ultimately ended up with no income tax liability. In plain English, that means that almost half of the people who got to use the loophole in 1991 didn't have to pay U.S. income taxes.

Now that we see the substantial benefits this Exclusion can bestow upon a foreign-resident American who takes advantage of it, let us see who those people tend to be. Well, it might interest my colleagues to know that the total foreign-earned salaries and wages in 1991 for Americans living in Saudi Arabia were the third-highest in the world, right behind the United Kingdom and Hong Kong. I am all for Americans making a good living, but there is something particularly interesting about those living in Saudi Arabia: that country charges no income tax on those earnings. Thus we have the exact situation the Budget Committee print warns against: where the foreign taxes are lower than U.S. taxes, the Exclusion reduces U.S. taxes paid; and where higher-than-average earners receive reduced taxes, our income tax system becomes less progressive.

But do not stop there. A smattering of unorganized Americans living in Saudi Arabia is not likely to pack enough political clout to be able to protect a taxpayer give-away like this one. There must be some other force here, somebody with money and political punch. That's where the major multinationals like the oil companies come in. Through private agreements with their employees, these corporations arrange to pocket the windfall that comes to employees when they are detailed to Saudi Arabia and other low-tax countries and become eligible for the Exclusion. These agreements provide that when an employee goes to work overseas, the employee's standard of living will not be changed. While that could mean a generous protection for employees in high-tax countries, in low-tax countries it is the employer who is receiving the benefit, this time at the expense of the American taxpayer.

Now it all makes sense. We have this unjustifiable loophole in our tax system so that huge oil companies and other multinationals can pocket yet another subsidy. Of course, this subsidy is hidden in the tax code because it would be hard (or at least embarrassing) for Congress, in the full light of day, to directly subsidize the oil industry—especially under current budget constraints. By eliminating this tax break, we could make the tax system fairer, flatter and simpler—goals which all of us share.

I urge my colleagues to vote for this amendment. I yield the floor.

ELIMINATE CORPORATE WELFARE BY STRIKING RELAXATION OF ALTERNATIVE MINIMUM TAX

Mr. President, I am offering this amendment to strike from the reconciliation bill the provision to eliminate the Alternative Minimum Tax (AMT), and to use the billions in savings generated from this amendment to reduce the federal deficit.

The AMT was put into the law as part of the 1986 Tax Reform Act. As many of my colleagues will recall, the effort during 1986 tax reform was to simplify the tax code as well as infuse some elements of fairness into the tax code. In 1984, two years before tax reform became law, the non-partisan research group Citizens for Tax Justice did a report that found 130 of 250 of the major American corporations had paid nothing in federal taxes during at least one of the five years from 1981 to 1985. Among the companies were Champion International, Dow Chemical, Phillips Petroleum, Texaco, Shell, and Mobil. We must not return to that scandalous record of tax avoidance by relaxing, and for some firms even repealing, the alternative minimum tax. But that's the way this bill would take us. The Treasury Department estimates that if the AMT is repealed, by the year 2005 we could have more than 76,000 corporations not paying taxes.

Because the other thing that we should remember about 1986 Tax Reform is that together with getting rid of many tax breaks for corporation and wealthy individuals, we lowered tax rates for everyone—it was a trade off.

The Alternative Minimum Tax became law in response to the egregious level of tax avoidance by many large and profitable corporations. Indeed the official summary of the Tax Reform Act of 1986 states: "Congress concluded that the minimum tax should serve one overriding objective: to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions, and credits. . . . It is inherently unfair for high-income taxpayers to pay little or no tax due to their ability to utilize tax preferences." The same holds true now. The AMT is still necessary to prevent abuses, it has worked, and we should not be effectively repealing it.

The AMT ensures that corporations and individuals that receive large tax savings by making use of tax deductions and exemptions pay at least a minimum amount of income tax. In very simple terms this is how it works. If corporations and individuals calculate their tax and find that they owe nothing, the AMT kicks in with a set of rules so these companies and individuals pay at least something. Under the AMT certain items are designated as so-called "preference" and those items are taxed at the regular rate. If the AMT is higher than the regular tax, the higher alternative tax is the tax that is owed.

The AMT imposes a lower tax rate rather than the regular tax rate. However, the AMT tax applies to a broader range of items in the tax base. It negates the benefit of many of the preference and exclusions that a company or individual might benefit from under the regular income tax system.

The Finance Committee provisions of reconciliation make changes to the AMT that in some cases would effectively eliminate it. According to the Joint Tax Committee these provisions could cost an estimated $9.2 billion in corporate tax breaks over then next five years. The House-passed version of this provision will costs taxpayers about $25 billion, so we know that it's only likely to get worse if we don't knock out this provision here.

Beginning next year the AMT would be reduced for both corporations and individuals. It would allow taxpayers to take most of the tax writeoffs which are not currently allowed under the AMT, such as accelerated depreciation and intangible drilling costs, for purposes of the AMT and thus reduce the portion of income that would be taxed under the AMT. This would effectively eliminate the core of the AMT because the tax would be the same under the AMT and the regular tax system.

The bill would allow corporations to apply past payments of the AMT toward the payment of future years tax by up to 50%, as long as a corporation's tax liability was not below the newly-reduced AMT. Under current law, corporations are allowed to use prior tax payments of the AMT to reduce their current regular tax liability, but only down to the amount of AMT tax. In other words, Mr. President, this proposal would eliminate the floor that the AMT was supposed to provide.

Mr. President, I believe reconciliation should be for reducing the deficit, not for giving more aid to dependent corporations in the form of new tax breaks for wealthy individuals and big business. Corporations and wealthy individuals should not escape their fair share of the tax burden through tax shelters. In this day of severe budget cuts, when we are all asked to tighten our belts, we should not excuse the most wealthy of our country from that obligation.

To add insult to injury, this legislation would substantially increases the tax burden on working families and the poor by restricting eligibility for the Earned Income Tax Credit while scaling back the AMT on corporations and wealthy individuals. This is the quintessential shift of tax burden from the very wealthy to low and moderate income working families. How can we in good conscience increase taxes on 17 million low-income working families while at the same time decrease taxes on the wealthiest people in this country, those making hundreds of thousand of dollars annually?

During the debate on the balanced budget amendment, Republicans repeated over and over again that we need to balance the budget to provide for a better future for our children and grandchildren. But now that we have before us the actual plan for balancing the budget (which actually will do no such thing) we can see what they're offering everyone: a tax cut for the well off, and a higher bill for the middle class.

This kind of a tax break benefits the very high-income people with wealth and power and clout, and corporations with high-powered lobbyists. They're the big political campaign contributors, the people who spend $50,000 per person to attend small, intimate dinners to support the pet political causes of certain politicians; they're the wealthy corporate interests who are well-represented in Washington, while average Americans are left out in the cold.

Repealing the AMT would undoubtedly take us back to the days when corporate America was making billions in profits and paying little or no tax. That is not the direction we should be going. It is not good for the economy and it is not good for the citizens of this country.

Some would argue that the AMT has been burdensome on business, especially small business. Some claim that it increases taxes and thus reduces return on capital and makes continued investment difficult. They are wrong. If we are all supposed to be tightening our belts to reduce the budget deficit and ultimately reach a balanced budget, asking profitable firms to pay at least some income tax, as everyone else is required to do, is simple fairness and common sense.

Indeed, our tax code is already filled with too many tax breaks for special classes or categories of taxpayers. We should be repealing those tax breaks instead of considering a bill that adds more giveaways to the rich while increasing the burden on the working families. I think it's a simple question of fairness. If we are really going to cut billions of dollars in government spending and other policy changes to achieve a balanced budget, then we should make sure that wealthy interests in our country, those who have political clout, those who hire lobbyists to make their case every day here in Washington, are asked to sacrifice at least as much as regular middle class folks that you and I represent who receive Social Security or Medicare or Veterans benefits.

I urge my colleagues to vote for this amendment. I yield the floor.

Mr. DOMENICI. Mr. President, we are 51-percent dependent upon imported oil. If you want to become 100-percent dependent, just adopt this amendment.

This amendment violates the Budget Act, is not germane, and I make a point of order under the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act pursuant to the pending amendment, and I ask for the yeas and nays on the motion to waive the act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mrs. FEINSTEIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 25, nays 73, as follows:

[Rollcall Vote No. 521 Leg.]

YEAS—25

Akaka
Boxer
Bradley
Bryan
Conrad
Exon
Feingold
Harkin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Mikulski
Moynihan
Murray
Pell
Reid
Sarbanes
Simon
Snowe
Wellstone

NAYS—73

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brown
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Faircloth
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lautenberg
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Pressler
Pryor
Robb
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—1

Feinstein

The PRESIDING OFFICER. On this vote, the yeas are 25, and the nays are 73. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, Senator EXON and I want about 3 minutes each to address the Senate with reference to the process for the remainder of the time on this bill.

The PRESIDING OFFICER. There is no time left on the bill. It will take a unanimous-consent request.

Mr. DOMENICI. I ask unanimous consent that I and Senator EXON be permitted to speak for 3 minutes each to explain to Senators where we are and what we expect of them in the next couple of hours.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, let me explain to the Senators where we are, and I will then yield obviously to Senator EXON.

We are next going to vote on the substitute budget resolution by Senators SIMON and CONRAD. And then we have only one amendment left in the so-called second tier, the tier about which we have agreed to have 5 minutes on each side of debate. That is the Roth Finance Committee amendment. Excuse me, Senator PRYOR on nursing homes is next, and SIMON-CONRAD on the substitute follows that, and the Roth Finance Committee amendment. They are circulating parts of it to the various staff. And I talked to Senator GRAHAM of Florida. We are trying to get the staff involved very soon. But those are the three that are left on that part.

Then we come to that ominous group, that nebulous group that is called third tier. We have invented that term. But that means all the other amendments that anybody would like to offer.

I might mention that we have been waiting for a list, and we do not have a list. But the minority leader is working to try to get that list.

The minority leader and the majority leader suggest the following: If you have amendments that you intend to call up in that period of time when there is little or no time to discuss them, we would ask Senators to submit their amendments to the desk so that they will be with the clerk, and then submit them to Senator EXON and Senator DOMENICI at our desks so that we will have some idea by the time we finish tier 2 of what amendments we have to consider.

It is very important for everyone, to all Senators—not we as managers—that we establish some order for that series of amendments. So I urge that all Senators who have amendments to get them to the desk, not have them circulating around here, and get them to the manager and the ranking member's desk here in the Senate.

I yield now to Senator EXON.

Mr. EXON. I agree completely with what the chairman has said. I simply remind all that if you file your amendments now in a timely fashion, as we have indicated, giving a copy to each of us, when we get into the voting procedures on these amendments we will try and give priority consideration as nearly as possible with regard to how they were filed to give some incentive for people to file the amendments.

We are trying to get together, as the chairman has said, the definitive list on this side. We do not have a list of all of the amendments that are proposed on the other side. This is a way to get that worked out. Numerous Senators have come to me and have said, "What plan should I make with regard to leaving Washington, DC, this weekend?" I said that is very, very much up in the air.

I would simply say that my best guess at the present time is that we have, as of now, a minimum—I emphasize the word "minimum"—on both sides of the aisle of somewhere around 50 individual separate amendments to be considered. Multiply that out. Even at a limited 10-minute timeframe, you can see we are talking about a minimum of 8 hours of steady voting, which should give everyone pause for consideration if they have any visions of leaving sometime this evening for obligations that they have elsewhere.

Therefore, I hope we can continue to whittle down the amendments. We have been tremendously successful thus far on this side. We started out with about 120. Right now I think we are down to somewhere between 41 and 45. That is still an awful lot. But we have come a long, long way, and we intend to go further. Suffice it to say that if we are going to have the cooperation that is necessary while allowing each Senator rights as guaranteed to offer the amendments, then we are going to have to have some restrictions in the better understanding than we have right now on both sides with regard to limiting the amendments.

So I hope that all will agree with the suggestion made by the chairman, which I agree with completely. We have checked this, as I understand it, with both the minority leader and the majority leader. At least that is the best chance we have of moving forward in as expeditious a fashion as possible. I use that word advisedly.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I want to confirm what the ranking member and the chairman have indicated. The majority leader and I have talked about how we are going to proceed now with the third tier. I urge Senators to accommodate our two ranking members. They have been working with us very carefully and closely.

I think the only way we can accommodate the schedule for the balance of the day is to do what the chairman has suggested. We have talked to all of our colleagues on this side of the aisle. We know approximately what the list is. We do not have the text of any of the amendments. They need to be filed within the next hour. And then the list needs to be provided to the ranking member so we can begin to put the list in order.

So I urge everyone's cooperation to allow us to get through this list as expeditiously as we can but also as knowledgeably as we can. No one on the Republican side has seen the text of any of our amendments. We have not seen the text of their amendments. The only opportunity for us to look at the text is while we are voting on additional amendments.

So it is important that everyone come forth and bring their amendments to the desk, and allow us to list them officially. Then we will begin considering them.

I thank the Chair.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired. There are 40 seconds left to the other side.

Mr. DOMENICI. Would Senator GRAHAM like to ask me a question?

Mr. GRAHAM. If the Senator will yield for a question, does he have any idea when we will have an opportunity to get to review the Finance Committee amendment?

Mr. DOMENICI. Fellow Senators, let me just add to what we said heretofore. I have been asked by Senators what time we can get out of here. So my comments are attempting to accommodate you. I think sometime within the next couple of hours we will have made all the major votes, taken all the major votes, and will have decided all the major issues. So I do not think we should stay around here until 12 o'clock tonight. We are going to do our best to expedite things.

Mr. GRAHAM. The question is, When will we have an opportunity to review the Finance Committee amendment?

Mr. DOMENICI. I just spoke to Senator ROTH. He said that his staff is going to exchange views with your staff and other staff. They are already going to give you parts of the amendment, which are ready. They are going to do that right now. And we will just go from one step to another. But you will have part of it quickly.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EXON. Mr. President, the first amendment has been handed to both sides by Senator SIMON, an important step in the right direction. We hope all will follow.

Second, I would suggest that if possible—we cannot insist on this—I would suggest that Senator SIMON and all that will follow with this process to try to add a one- or two-sentence explanation of what their measure is intended to do. That will help expedite things on all sides.

AMENDMENT NO. 2983

The PRESIDING OFFICER. The next vote occurs on the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered.

There are 30 seconds to each side.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Arkansas.

The PRESIDING OFFICER. Let us listen to the Senator from Arkansas for 30 seconds. Senators clear the well, please.

The Chair cannot hear the Senator from Arkansas.

The Senator from Arkansas is recognized for 30 seconds.

Mr. PRYOR. I thank the Chair.

Mr. President, this amendment is offered by myself and Senator COHEN and several of our colleagues. This amendment very simply reinstates the nursing home standards that we adopted in 1987 with a bipartisan effort. These standards have worked. They have worked well. They have saved money. The nursing home industry is not trying to repeal these standards. And we are going to hear that another proposal from the other side of the aisle is going to fix this issue. But I will say, Mr. President, we have not seen all of the ramifications. We know that there is a gaping hole——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. In the waiver process and that there are no standards going to be submitted on the other side.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator COHEN's proposal with reference to this issue is going to be incorporated in the Republican, in Senator ROTH's, proposal. I urge that Republican Senators vote against this amendment because it is going to be taken care of and in some respects even be better than this amendment. It will be part of the package, and we are sorry we cannot give it to you yet. But it is Senator COHEN's proposal that is incorporated in the Republican package.

Mr. PRYOR. Mr. President, will the Senator from New Mexico yield for a question?

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Senator from Arkansas be given an additional 30 seconds.

Mr. PRYOR. I just want to ask a question, Mr. President.

The PRESIDING OFFICER. Is there objection to additional time?

Mr. DOMENICI. I will not object this time, but I really do not think we can do it every time.

Mr. PRYOR. Mr. President, if I can ask my friend from New Mexico, is the so-called nursing home regulation or standard fix, is this a part of the larger omnibus Finance Committee package that none of us have seen?

Mr. DOMENICI. Yes. That is right.

Mr. PRYOR. I thank the Chair.

Mr. DOMENICI. Senators will see it shortly.

The PRESIDING OFFICER. Is all time yielded back?

All time is yielded back. The question is on agreeing to the Pryor amendment No. 2983. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 522 Leg.]

YEAS—51

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley

Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
DeWine
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

NAYS—48

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

So the amendment (No. 2983) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2984

The PRESIDING OFFICER. The next amendment is the Simon amendment No. 2984 with 30 seconds for each side.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent for 1 minute for an exchange of views between the managers——

The PRESIDING OFFICER. The Senate will come to order. There is a request for additional time. The Senator from Nebraska wants 1 minute; is that the request?

Mr. EXON. After consultation with the two leaders, and the managers of the bill, it is our feeling——

The PRESIDING OFFICER. Is there an objection to the Senator's request?

Without objection, it is so ordered. The Senator's request is granted.

The Senator from Nebraska.

Mr. EXON. After consultation with the two leaders, Senator DOMENICI and myself, and others, we would simply say that we have two amendments left on what we have referred to as tier two. That is the Simon-Conrad deficit-reduction amendment, and then the final one, the Roth Finance Committee amendment.

We are now on Simon-Conrad. We will move ahead in the usual fashion. It is our suggestion then that there be an agreement that the Roth amendment will be put indefinitely aside for later consideration to give all a chance to look at some of the details of that, and allow us to move then to the so-called tier three category, and begin votes, and bring up the Roth Finance Committee amendment at the call of the chairman.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

The Senator from Florida.

Mr. GRAHAM. Was that in the form of a unanimous-consent request?

Mr. EXON. No. That is simply to state what we hope we could do.

The PRESIDING OFFICER. There is no further time for debate unless you ask for it. The Senator from New Mexico is entitled to 30 seconds at this time.

Mr. DOMENICI. Mr. President, I compliment the sponsors of this amendment and make just two observations. We have heard a lot of debate on the floor of the Senate that all we needed to do to save Medicare was $89 billion. Actually, it is interesting to note that this Democratic proposal requires $168 billion in savings for Medicare. It is all too interesting to note that much has been said about us doing too much on the programs of senior citizens.

I just say that this amendment has $268 billion in program reductions that affect senior citizens. That brings it to at least the same level as the Republican package, if not more. We are not going to vote for it on this side. But we commend the Senators for their realism in acknowledging that these kinds of things have to be done.

Mr. EXON. Mr. President, I had hoped that I would hear from the chairman on the suggestion that I made. I have heard nothing from him on that. He went into the debate. I have not yielded the 30 seconds yet that I have, which I will do.

The PRESIDING OFFICER. The two leaders on the floor cannot hear one another. The Senator from New Mexico does not realize, in the Chair's opinion, that he had 30 seconds to respond to the Senator from Nebraska. Does the Senator wish 30 seconds to respond?

Mr. DOMENICI. To respond to his request about setting aside this amendment or this bill?

The PRESIDING OFFICER. The Senator from Nebraska asked for 1 minute, equally divided, to discuss the question that he asked the Senator from New Mexico. Does the Senator wish to respond?

Mr. DOMENICI. Mr. President, with reference to the Roth amendment, we will acknowledge that the other side deserves ample time to review it. We do not intend to call it up next. We intend to set it aside and provide ample time for its review. It will be taken up in due course, but not next under this list.

The PRESIDING OFFICER. All time has expired except for 30 seconds.

Mr. EXON. I yield 30 seconds to Senator SIMON.

MODIFICATION TO AMENDMENT NO. 2984

Mr. SIMON. Mr. President, I send a modification to the desk, and I ask unanimous consent that I may modify my amendment.

I ask unanimous consent to modify my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The modification is as follows:

On page 18 of the amendment delete subtitle B.

Mr. SIMON. Mr. President, this amendment is cosponsored by Senators CONRAD, ROBB, and KERREY. It eliminates the tax cut, reduces the CPI 0.5 percent, which is less than the experts have recommended. That means, for the median person on Social Security, $3.85 a month. For that, you get more than $100 billion in Medicare, more than $100 billion in Medicaid, $36 billion in welfare, and you eliminate the cuts in education. It has bipartisan support in the House, and I hope it can have that here in the Senate.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 2984, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 19, nays 80, as follows:

[Rollcall Vote No. 523 Leg.]

YEAS—19

Akaka
Bradley
Breaux
Conrad
Dodd
Feinstein
Glenn
Graham
Johnston
Kerrey
Leahy
Levin
Lieberman
Moynihan
Nunn
Pell
Pryor
Robb
Simon

NAYS—80

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Pressler
Reid
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So the amendment (No. 2984) was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. KYL. Mr. President, on rollcall vote 518, I voted "no." My intention was to vote "aye." I ask unanimous consent that I be permitted to change my vote, which in no way would change the outcome of the vote.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. If I could inform my colleagues where we are and where we are headed.

The PRESIDING OFFICER. Is the Senator using leader's time?

Mr. DOLE. I will use my leader's time.

We are now ready to proceed to the third tier. So we have some order and know what we are voting on, I will request that the two managers each have 30 seconds to explain their amendment, or maybe they do not need explanation. The votes on the pending amendments will be 7½ minutes in length.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, Mr. President, the last item on tier 2, what is going to be its disposition?

Mr. DOLE. The last item?

The PRESIDING OFFICER. The Chair advises the Senator from Florida there is no amendment before the desk.

Mr. GRAHAM. I was asking a question. We have been proceeding under a unanimous-consent request, taking up amendments under tier 2.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOLE. Under my leader's time, we will postpone action on that, and we have talked to the Democratic leader and the manager of the bill, and that gives everybody a chance to look at it, study it, and bring it up sometime later.

Mr. GRAHAM. Does the majority leader have an indication of when we can see the legislative language?

Mr. DOLE. Probably the time we get to see the list of tier 3 amendments on that side.

Mr. GRAHAM. So we have no indication of when?

Mr. DOLE. As quickly as we can.

The PRESIDING OFFICER. Is there further debate?

Is there any objection to the request of the Senator?

Mr. BRADLEY. Would the Chair restate the Senator's request?

Mr. DOLE. That the two managers have 30 seconds to explain the amendments and then have 7½-minute votes.

Mr. SIMON. Reserving the right to object, why not go to 5 minutes?

Mr. DOLE. It is not possible for the clerk to do it any more quickly than 7½, plus there is always one or two that never get the message and are rolling around out here somewhere.

Mr. WELLSTONE. Reserving the right to object, did the 1 minute apply to the Roth?

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, using my leader time——

Mr. DOLE. All we have is 7½ minutes, so I am asking we have 30 seconds, for the managers to have 30 seconds. I do not include the 7½.

Mr. DASCHLE. Mr. President, using my leader time, let me emphasize we have asked all Senators to turn their lists in, their amendment in—we hope it is not a list, but an amendment—by noon. The amendment ought to be filed by noon, and it ought to be turned in to the managers by noon.

That is the only way I am going to put it on a list. If I do not have that amendment by noon, it is not on the Democratic list. So it is very important everybody cooperate to the extent that we have 40 minutes, now, to file the list and compare our lists so we can get on with our work.

The PRESIDING OFFICER. Is there objection to the majority leader's request for 30 seconds on each side before each amendment?

Mr. GRAHAM. Yes, there is objection.

The PRESIDING OFFICER. Objection is heard. There is no further time for debate.

Mr. DOLE. No debate, no explanation of amendments. Let us vote.

The PRESIDING OFFICER. Is there an amendment to present?

The Senator from Pennsylvania.

AMENDMENT NO. 2985

(Purpose: To restore funding for Medicare disproportionate share hospital payments)

Mr. SPECTER. Mr. President I call up amendment No. 2985. I ask unanimous consent there be 1 minute equally divided to comment on the amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania asks unanimous consent for 1 minute on a side to explain his amendment. Is there objection?

Mr. DOLE. Wait a minute. There has already been an objection. I want to be sure the Senator from Florida has a right to object to this request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania for 1 minute on each side, to explain his amendment and to answer that explanation?

Mr. EXON. I reserve the right to object. Is the Senator suggesting a different proposal than what the majority leader did?

The PRESIDING OFFICER. For the amendment he submitted to the desk, he asks for 1 minute on a side on his amendment.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2985.

On page 539, line 16, strike all that follows through page 541, line 9.

Mr. SPECTER. Mr. President, I ask unanimous consent for 15 seconds to explain this amendment.

Mr. EXON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I ask for 30 seconds for the managers on each side to discuss the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the amendment. All in favor say aye?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me restate my request in a little different way, which has been cleared by the Democratic leader and the two managers: That there be 30 seconds by each manager to explain the amendment, unless they designate the sponsor of the amendment to make that 30-second explanation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair is in doubt. That applies to all further amendments on this bill, is that correct? Does that apply to all further amendments on this bill?

Several Senators addressed the Chair.

Mr. DOLE. Yes, except the Roth amendment.

The PRESIDING OFFICER. Except the Roth amendment. With the exception of the Roth amendment, that is the order for the balance of this bill. All amendments, 30 seconds to each side. The managers to have the right to designate the sponsor or principal objector?

Mr. DOLE. Right. We would hope they would cooperate with the managers and let the managers give a very short explanation. I think the managers are prepared to do that. We are just trying to move the bill along. This will accommodate those who feel strongly about their amendments.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I do not object. The point is that, if an objection is made, there will be no time.

The PRESIDING OFFICER. That is correct. If there is an objection, there will be no time.

Is there an objection?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator has no time. The manager has to designate the sponsor.

Mr. DOMENICI. I yield 30 seconds to Senator SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this bill cuts out—if there may be order, Mr. President—this bill cuts out $14.5 billion from disproportionate share payments, and indirect medical education which cripples the major hospitals and the major teaching institutions. And this amendment reinstates $4.5 billion.

I yield back the remainder of my time.

The PRESIDING OFFICER. Time is yielded back.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

Mr. DOMENICI. In opposition?

The PRESIDING OFFICER. In opposition to the amendment?

Mr. ROCKEFELLER. I am speaking in favor of the amendment.

The PRESIDING OFFICER. No. There is no time for that.

Mr. EXON. Is there anyone who seeks to speak in opposition?

The PRESIDING OFFICER. That is not the agreement. The Senator from Nebraska has the time to designate the spokesman in opposition to the amendment.

Mr. EXON. I yield 30 seconds to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, this would just throw out all of the effort we spent—weeks and weeks trying to deal with this issue. It would put $4.5 billion back into the pot. We have had all this redistribution. We have worked on it very hard in a bipartisan way.

I hope this amendment will be soundly defeated. I regret that it is not subject to a point of order. But it is a motion to strike.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Is there a request for the yeas and nays?

Mr. SPECTER. I request the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 524 Leg.]

YEAS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mack
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

NAYS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

So, the amendment (No. 2985) was rejected.

Mr. EXON. Mr. President, I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair has been requested to ask Senators to stay out of the well during debate.

Is there an amendment?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2992

(Purpose: To amend title 4 of the United States Code to limit State taxation of certain pension income)

Mr. EXON. Mr. President, the following has been cleared by the majority manager.

Mr. President, on behalf of the Senator from Nevada, Senator REID, I send an amendment to the desk on source taxation and ask unanimous consent that further reading of the amendment be dispensed with; that the amendment be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the amendment (No. 2992) was agreed to, as follows:

At the end of subchapter E of chapter 1 of subtitle J of title XII, insert the following new section:

SEC. . LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§ 114. Limitation on State income taxation of certain pension income

"(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b) For purposes of this section—

"(1) The term 'retirement income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code);

"(H) a trust described in section 501(c)(18) of such Code; or

"(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantial equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the receipient and the designated beneficiary of the recipient), or

"(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

AMENDMENT NO. 2993

(Purpose: To provide for additional technical and conforming amendments related to the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, and for other purposes)

The PRESIDING OFFICER. The bill is open to amendment.

Is there an amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I send a technical amendment to the desk on behalf of the Banking Committee and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 2993.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, this is agreed to on both sides. I ask that the amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2993) was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 2994

Mr. DOMENICI. Mr. President, I have an amendment for Senators HUTCHISON, MCCAIN, LIEBERMAN, and others. It has been cleared on both sides, as I understand it. I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mrs. HUTCHISON, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN, proposes an amendment numbered 2994.

Mr. DOMENICI. I send that amendment to the desk and ask unanimous consent that further reading be dispensed with, the amendment be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. BRADLEY. Will the Senator state what the amendment is?

The PRESIDING OFFICER. If the Senate will be in order, the Senator did state that he had an agreement from both sides.

Mr. BRADLEY. Will the Senator state what the amendment is?

The PRESIDING OFFICER. Did the Senator from New Mexico hear the Senator's request?

Mr. DOMENICI. He wants to know what is in the amendment.

This is a sense of the Senate with reference to Yugoslavia that has been cleared on all sides.

Mr. BYRD. Mr. President, unless we have an understanding of what this amendment is, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The legislative clerk read as follows:

Sense of the Senate on continued human rights violations in the former Yugoslavia.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The Senate will be in order.

Mr. DOMENICI. Mr. President, can we withdraw the amendment.

Mr. DOLE. Withdraw the amendment.

The PRESIDING OFFICER. It will take unanimous consent to withdraw the amendment.

Mr. DOMENICI. All right, let us proceed.

The PRESIDING OFFICER. Stop the reading.

Mr. DOMENICI. I ask unanimous consent that we be permitted to withdraw the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is withdrawn.

So the amendment (No. 2994) was withdrawn.

Mr. DOMENICI. I did not do that because I oppose the substance. I just do not want to set a pattern that we are going to waste a lot of time on amendments so that is why I withdraw it.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2988

(Purpose: To strike the provision authorizing oil and gas development in the Arctic National Wildlife Refuge while preserving a balanced budget by 2002)

Mr. EXON. Pursuant to the previous agreement, the Senator from Montana has submitted an amendment to the desk. I would hope that it would be the time when we could let him offer that amendment, and I yield 30 seconds for that purpose to the Senator from Montana.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. DOMENICI. Mr. President, do we have that amendment?

I do not believe we can proceed in this manner. I could not possibly take 30 seconds in opposition because I do not have the amendment.

The PRESIDING OFFICER. The amendment is at the desk.

Is the Senator from Montana calling up his amendment?

Mr. BAUCUS. Mr. President, I call up my amendment.

The PRESIDING OFFICER. Which number does the Senator call up?

Mr. BAUCUS. It is the ANWR amendment, Mr. President.

Mr. DOMENICI. OK, let us proceed.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. BIDEN, and Mr. LAUTENBERG, proposes an amendment numbered 2988.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 272, strike line 21 and all that follows through page 293, line 22.

On page 161, strike line 3 and all that follows through page 178, line 7.

The PRESIDING OFFICER. Thirty seconds on each side.

Mr. BAUCUS. Mr. President, this amendment strikes the provision opening the Arctic National Wildlife Refuge to oil and gas drilling. To offset the loss of revenue from ANWR drilling and to keep the budget balanced in 2002, the amendment also strikes the sale of the naval petroleum reserves.

Opening Arctic Wildlife Refuge to oil drilling will seriously disrupt precious natural resources, will do nothing to enhance our energy independence, and it will not generate the amount of revenue that the proponents claim.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this would increase the deficit by nearly $3 billion over the next 7 years. I think everybody knows the issue with reference to ANWR.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I move to table.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOMENICI. Yes, we yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOLE. Move to table.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 525 Leg.]

YEAS—51

Abraham
Akaka
Ashcroft
Bennett
Bond
Breaux
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Johnston
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thurmond
Warner

NAYS—48

Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Simon
Snowe
Specter
Thompson
Wellstone

So the motion to table the amendment (No. 2988) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, let me say to Senators who contemplate offering amendments that unless we have seen a copy of the amendment before you offer it, we are going to offer a second-degree amendment, because there is no way to state the case if we have never seen it. We have three now that we have seen that are the next three. I am dealt this process; I did not invent it, but we are stuck with it. We are going to make it as orderly as we can. I do not like the disorder that exists in the Senate, but I cannot do anything about it. I am not going to vote on an amendment that I have not seen. There will be a second-degree offered and we will vote on that.

So get the amendments in. It is only in fairness to all of us. I yield back any time I have.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senators will clear the well.

Mr. EXON. Mr. President, I ask for 30 seconds for an inquiry to the chairman.

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska is recognized for 30 seconds.

Mr. EXON. Mr. President, so that we can proceed in an orderly manner, there is a second Baucus amendment regarding Medicare that I understand has been delivered to that side, is that correct?

Mr. DOMENICI. Yes, it has.

Mr. EXON. Would it be in order to bring that up then?

The PRESIDING OFFICER. Yes.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2991

(Purpose: To make various modifications to the tax provisions and transfer the resulting revenues to the Medicare trust fund)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2991.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1469, strike lines 8 through 11, and insert the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

"Taxable year:	Applicable Amount:
1996	$400
1997	450
1998 and thereafter	500."

On page 1470, line 7, strike "$110,000" and insert "$90,000".

On page 1470, line 9, strike "$75,000" and insert "$55,000".

On page 1470, line 11, strike "$55,000" and insert "$45,000".

On page 1472, strike the table between lines 10 and 11, and insert the following:

"For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,700
1997	7,050
1998	7,400
1999	7,850
2000	8,100
2001	8,500
2002	9,000
2003	9,400
2004	9,850
2005 and thereafter	10,800."

On page 1530, strike lines 2 through 5, and insert the following:

"(a) GENERAL RULE. If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the first $100,000 of such gain shall be a deduction from gross income.

On page 1547, beginning on line 20, strike all through page 1550, line 12.

On page 1551, beginning on line 4, strike all through page 1553, line 10.

On page 1867, after line 20, insert the following:

SEC. 12879. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

There is hereby authorized to be appropriated and is appropriated for each fiscal year an amount equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendments made by amendment no. ______, offered on October ______, 1995, with respect to the Balanced Budget Reconciliation Act of 1995 to be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts which bear the same ratio as the balances in each Trust Fund.

Mr. BAUCUS. Mr. President, this amendment strikes the provision of the reconciliation bill that would open the Arctic National Wildlife Refuge up for oil drilling. As an offset, it strikes the provision of the bill that authorizes the sale of the Naval Petroleum Reserve. So it preserves the balanced budget in 2002.

Let me explain why Members should support the amendment.

We've heard a lot of talk, during the budget debate, about the future. About how we should sacrifice today so that our children and grandchildren can benefit tomorrow.

That's well and good. But opening the Arctic National Wildlife Refuge to oil drilling goes in exactly the opposite direction. It puts profits ahead of prudence. As a result, it risks causing serious harm to one of our national treasures, squandering the natural resources that we leave to future generations.

And there's another thing. Opening the refuge to oil drilling is yet another example of public lands policies that favor special interests over the interests of ordinary American families. It opens the Refuge up to drilling. At whose expense? The people who want to hunt, fish, and otherwise enjoy the natural beauty there.

Proponents of oil drilling argue that it will enhance our energy security.

They argue that it will reduce the Nation's budget deficit. And they argue that it won't really pose significant risks to the refuge or its wildlife resources.

I disagree. Let me take the arguments in turn.

First, energy security. According to a 1995 assessment by the U.S. Geological Survey, oil and gas reserves under the refuge may be only about half as large as previously thought. Furthermore, economic analyses show that a lot of the oil won't even be used here in the United States. Instead, if the bills lifting the ban on oil exports passed by the House and Senate are enacted into law, the oil will be shipped overseas. As a result, oil drilling in the Arctic Wildlife Refuge has little, if anything, to do with energy security.

Second, the budget deficit. The Office of Management and Budget has concluded that oil and gas development in the refuge would produce significantly less revenue than predicted by CBO. OMB looked at updated estimates of the amount of recoverable oil reserves. It looked at projected oil. prices. And OMB concluded that drilling likely would generate only $850 million, 35 percent less revenue than predicted by CBO.

And that assumes that taxpayers get the revenue. But if the State of Alaska successfully asserts a claim that it is entitled to 90 percent of all revenues, Federal revenues will decline to about $170 million.

Third, the environmental impact. The Arctic National Wildlife Refuge is unique. It's been referred to, for good reason, as "America's Serengeti." More than 150,000 caribou migrate through the refuge, bearing their young on the coastal plain. The caribou are an important source of food for the native people who live near the refuge and depend on the land to sustain their way of life. In addition, the refuge supports a spectacular array of other wildlife, including polar bears, grizzly bears, wolves, and snow geese.

OMB has stated that "exploration and development activities would bring physical disturbances to the area, unacceptable risks of oil spills and pollution, and long-term effects that would harm wildlife for decades."

Recent opinion polls demonstrate that the American people—by a margin of more than 2 to 1—oppose opening up the refuge to oil and gas development. I urge members to vote for prudence and for open access to public lands. I urge them to vote for this amendment.

Mr. BURNS. Mr. President, I rise today in support of the reconciliation provision to open a small part of the Arctic National Wildlife Refuge to competitive leasing for oil and gas exploration and development. Like many of the other issues we have addressed on this floor in the past ferw weeks, this issue has generated a lot of emotion. We hear about destroying the pristinity of the refuge, the threat to the wildlife of the area, the irreversible changes that such development will cause, the mortal wounding of a national treasure. This is one of the most controversial provisions of the reconciliation package, and the President has threatened a veto over it. The irony is that there is no reason for this. In the final measure, all of the arguments and objections that have been raised over the leasing in ANWR come to nothing. These objections just don't hold water, and I'll tell you why.

The environmental concerns have been raised before, and found wanting. All of the research done on oil development on the North Slope proves that such development can occur without having an adverse effect on wildlife. As a matter of fact, the caribou herds have not only survived during the nearly 30 years of oil development in the Prudhoe Bay area, they have shown strong growth. Some people predicted that the caribou would be disturbed by the development, particularly the pipeline. They argued that the caribou would not cross it and therefore the range of the herd would be cut in half, they would not be able to get to their calving areas and the herd would suffer. Because of the concern over this possibility, the oil companies buried portions of the pipeline at great expense and effort. This has proven to have been a waste of time and money. The caribou were not scared by the pipeline, they did not even ignore it. The fact is they use it. Biologists have found that caribou enjoy the heat that the pipeline provides during the cold winter months, and they can even be found taking advantage of the shade that it provides during the summer on this treeless plain. Some predicted that caribou would be trapped by the pipeline, and that predators would change their behavior to take advantage of the pipeline. But this has not happened either. There has been very little effect on the wolves or bears in the area. Some said that waterfowl and other birds such as hawks and falcons would avoid the area because of the development. Again, this has not happened. Each year thousands of waterfowl and other birds nest in the Prudhoe area. In fact, there has never been an incident of what could even approach being called serious environmental damage in the North Slope oil fields.

This environmental record has been established using old technologies. The methods for oil development on the North Slope have improved to the point that the direct impact area, or footprint of development, will only be a small part of what it has been at Prudhoe Bay. New slant drilling techniques allow wells to reach farther than they could before. Drilling methods now allow 12 wells to be drilled where only one could be drilled before. And the size of the drill pads have been reduced to one eighth of what was needed at Prudhoe. Not only are the drill pads smaller, but there will be fewer of them and they will be spaced farther apart than at Prudhoe. The actual footprint at ANWR will only be about 3,000 acres. That is not much land to commit for all of the benefits that development will provide. We have learned how to improve other aspects of oil development technology through our experiences at Prudhoe and other Arctic oil fields as well. And this technology is getting better every day. The result is that there is even less potential of environmental damage at ANWR than there was at Prudhoe. And there has not been any environmental damage at Prudhoe.

Objections have been raised because of the presumed effect on the native peoples of the region. But the truth is that there is no conflict with the subsistence lifestyle of native Americans. The North Slope residents have grown up with oil development, and they have not suffered a reduction on their reliance on the caribou herds. The people of Barrow have stated in hearings before the Senate that development has improved their lives. It has provided them with the capability of developing community services that other Americans take for granted. North Slope residents will be the most directly affected by oil development, and they support development of ANWR. And this is not because they have been bought off, bullied or coerced by the oil moguls. They are not ignorant on this issue. The fact is that they have seen what oil development will do to their land. They have watched it for almost three decades. And they know what it will not do. It will not destroy the land that they love, like some people keep who have never even seen the area keep trying to tell them. They know that.

The alternative energy argument is bogus as well. Sure, we need to develop alternative sources of energy. Sure, we need to continue to progress and improve our use of resources. Sure, we want to become more energy efficient. But there are no magic solutions. We are not going to replace oil products in our economy overnight. Petroleum will continue to be a primary source of energy and other products for us in the foreseeable future. Millions of people are dependent on petroleum products, and anyone who thinks that this is going to change soon is badly deceiving themselves. To supply this demand we are now importing more oil than we are producing. Production of our older fields like Prudhoe Bay is declining. Without bringing new domestic supplies on line, this will only get worse. Petroleum is crucial to our way of life, and we are becoming more dependent on the production of foreign nations, some much less stable than ours. If you want to know what this means to us, just think about what happened back in the seventies with the oil cartel, or what might have happened if we had not stopped Saddam Hussein.

This raises the issue of the effect of development of ANWR on the economy. Under our present situation with the trade and budget deficits the economic argument is obvious. We need to open ANWR. There is no other conclusion. Leasing ANWR will benefit the economy in almost every aspect. It will reduce the budget deficit by bringing over $1 billion to the Treasury over the next 5 years. It will reduce the trade deficit by reducing our dependence on foreign oil. That money will remain at home to strengthen our own economy and provide good jobs to our own citizens, jobs that are now going overseas. These are jobs that we need. It will create over 75,000 directly related, high paying jobs in the oil industry. It will create as many as three quarters of a million new jobs, directly and indirectly, throughout the Nation. As a result of all of this, opening ANWR will stimulate other sectors of the economy as well. Without opening ANWR all of this will be lost. And our trade deficit will just get worse. We will be less able to pay our debts.

The arguments of the outspoken interest groups on this issue anger me, not just because, like with Prudhoe Bay, they are untrue, and these groups know it. What really angers me is the hypocracy of their arguments. These people rely on oil products, just like everyone else. They heat their homes and drive cars just like the rest of us. They use plastic products just like you and me. They take vacations and recreate using planes and trains and boats just like everyone else. And yet they somehow feel justified, in fact sanctimonious, about opposing our development of oil resources. This in spite of the fact that we have the most environmentally sensitive laws in the world. We have the best record of being able to produce oil with the least environmental risk. The reality is that we will continue to use oil products. Keeping ANWR is not going to reduce the demand for oil in this country, we will just import what we need from other countries. For some irrational reason opponents would rather see us do that, would rather see the environmental degradation that happens in other countries, than see us develop our own resources under our tight environmental controls. They would rather see the benefits of development go to other countries, than allow those benefits to remain here at home. That is the hypocracy that I find so distasteful. It has damaged us. It has damaged the citizens of my State of Montana. And I look forward to this Congress doing something about it, doing the right thing for the country, and opening ANWR to leasing.

Mr. LEAHY. Mr. President, America knows that drilling the Arctic National Wildlife Refuge to balance the budget is wrong. Common sense and a basic concern for the environment is all you need to come to this conclusion. Now all we have to do is convince the Senate of the right thing to do. I am disappointed at the difficulty of what should be a simple task.

The refuge is one of a kind—in fact, it is the last of its kind. The Alaska National Wildlife Refuge is the only place we have left that resembles the kind of land that gave birth to our Nation centuries ago.

I wonder how many people realize that outside this Chamber, 500 years ago, the first Americans could hunt bison and elk in the open forests on the banks of the Potomac. I wonder how many people remember that outside this building passenger pigeons used to roost in American chestnut trees, sometimes in flocks of thousands.

Today the bison and elk are gone, the passenger pigeon is extinct, and the American chestnut has been wiped out in this region by an exotic disease. The first Americans would not recognize this place.

Now we turn to a remote corner of our country, the last expanse of true wildness left, and Congress is saying "we need that too—to balance the budget."

To me it takes only a simple sense of decency, respect, and history to know that drilling ANWR is the wrong thing to do, but there are many other reasons that support the American public's opposition to this provision.

First of all, drilling for oil in Alaska is just a tiny drop in the deficit bucket. The leasing revenues will contribute only one-fifth of 1 percent of the budget gap, provided the residents of Alaska do not sue for a 90-percent share of the royalties. Even the $1.3 billion revenue estimate is flawed because it assumes we will make about $30 a barrel when the rest of the world is actually paying only $20 a barrel. Add to that the fact that the production estimates are outdated, and it is clear that we are selling the orchard for an apple.

Second, we should ask ourselves why the residents of the other 49 States should chip in to support Alaska's welfare state. Alaska is a State that collects no income tax, collects no sales tax, pays each man, woman and child almost $1,000 a year just for being there, has $18 billion in the bank, and enjoys the highest Federal spending per capita. And now the State has come to Congress to ask the American people to dedicate another $1.3 billion to support their welfare state.

Third, we have to look at the huge environmental cost of lacing the arctic plain with truck roads, gravel drill pads, and pipelines. Some argue that Prudhoe Bay proves that drilling can be done in an environmentally sound way. But what is so environmentally benign about 500 oil spills a year, air pollution that exceeds the total emissions of six States, pushing millions of gallons through a rapidly deteriorating pipeline, and littering 9,402 acres of arctic tundra with oil rigs and roads? Prudhoe Bay does not have a track record to emulate.

The Senate should also consider the impact of oil wells on wildlife and people that use the refuge. The coastal plain is the cradle of life for birds that migrate from four different continents, 160,000 caribou that migrate between nations, polar bears, musk ox, grizzly bears, and the Gwich'in Indians. The global significance of the resource is recognized in international agreements including the 1987 Canada-United States Agreement on the Conservation of the Porcupine Caribou Herd and the Agreement on the Conservation of Polar Bears. The Arctic National Wildlife Refuge is, after all, supposed to be refuge for wildlife, not a refuge for desperate Senators looking to fund a tax cut.

Fifth, we should recognize the parody of drilling for 90 days worth of oil to reduce our dependence on oil. It is like curing an alcoholic by serving him vodka instead of his usual whiskey. National security is not served by simply defering our dependence on foreign oil for a mere 90 days. If this same Congress had funded the President's budget for energy conservation and efficiency and refused to gut efficiency standards with environmental riders we would have saved more oil than could be drilled in ANWR. Energy conservation is not a quick fix, it sticks with us for good.

Sixth, I object to the backdoor process to that is being used to pass a law that could not survive the light of day. Drilling for oil in the Alaska Wildlife Refuge has been a controversial issue for almost 10 years. This is not a reason to sneak it into the budget resolution through a legislative trick.

Finally, the Alaska National Wildlife Refuge is an American treasure that does not belong to us. It is the heritage of our country. Just as Vermonters recognize a responsibility to pass on a clean Lake Champlain, our best trout streams, and the Green Mountain National Forest to future generations, Vermonters recognize a responsibility to pass on North America's Arctic plain to future generations.

Despite overwhelming public oppostion, this bill trades an American treasure for $1.3 billion, a mere trinket in a trillion dollar package. We can not let this Congress drill ANWR to balance the budget. I urge bipartisan support of this amendment.

Ms. MIKULSKI. Mr. President, I rise today in support of the Baucus amendment to strike the provision in the Energy Committee's reconciliation instructions which opens the Arctic National Wildlife Refuge to oil drilling activity.

The Arctic Wildlife Refuge is one of this Nation's last great wilderness areas. I have often said that we must forge an environmental ethic in our society—that we must preserve America's natural treasures for generations to come. We are the stewards of this land. We are the ones responsible for ensuring that some part of our planet remains for our children.

Protecting our wilderness yields benefits in ways that we do not always see. Scientists will tell you that a vast amount of the medicines that we take for granted today were first discovered in nature. The Arctic National Wildlife Refuge is unique among America's diverse climate. The secrets this unspoiled land holds may well provide us with benefits beyond what any of us can imagine now.

Some would have us believe that this is just an economic issue. I would disagree based on the hundreds of letters and phone calls I have received from Marylanders who are concerned about opening this land to drilling. I have heard from the native people, both in the United States and Canada, whose culture and livelihoods depend on the caribou that breed within the confines of the refuge. Opening this precious land to oil drilling will wipe these timeless cultures out.

Mr. President, I, for one, am not willing to do that. I am not willing to destroy the lives of thousands of native villagers just so that the oil industry can turn a larger profit next year than it did this year.

I urge my colleagues to support removing this dangerous provision from this bill and vote for the Baucus amendment.

Mr. ROTH. Mr. President, a financial debt is not the only threat that hangs over the heads of future generations. There is a threat to their environment, as well. A threat we must address. We have a moral duty to give them a world that has clean water and clean air, and open vistas where wildlife can thrive. One of the opportunities of every American citizen is to enjoy the wealth of beautiful public lands.

It is my desire that as we work through this budget reconciliation we take great care not to jeopardize one of the most spectacular places in America: The coastal plain of the Arctic National Wildlife Refuge. There is a provision in the budget that provides for oil and gas lease sales in this sanctuary. Located in the northeastern corner of Alaska, this unique piece of our natural heritage is bordered on the north by the Arctic Ocean and Beaufort Sea, and on the south by the snowcapped Brooks Range.

As a lead sponsor of S. 428, the bill that designates the coastal plain of the Arctic National Wildlife Refuge as wilderness area, I am concerned by a provision in this budget reconciliation bill that uses revenues taken from sales of leases to drill the coastal plain.

My concern arises on two levels: first, that the budget is assuming revenue from a pristine wilderness area; and second, that the revenue raised from drilling in this wilderness area will not amount to be such a significant amount of money that it could easily be found elsewhere.

Mr. President, as I have said before, the best thing we have learned from nearly 500 years of contact with the American wilderness is restraint, the need to stay our hand and preserve our precious environment and future resources rather than destroy them for momentary gain.

For this reason, I have been active in the effort to designate the refuge coastal plain of Alaska as a wilderness area. And I am not alone. Only 4 years ago, Congress rejected the idea of sacrificing a prime part of our national heritage, the Arctic National Wildlife Refuge, for what most likely will be a minimal supply of oil. The Arctic National Wildlife Refuge is an invaluable region with wildlife diversity that has been compared to Africa's Serengeti.

As I have said in earlier statements, the Alaskan wilderness area is not only a critical part of our earth's ecosystem—the last remaining region where the complete spectrum of arctic and subarctic ecosystems comes together—but it is a vital part of our national consciousness. It is a place we can cherish and visit for our soul's good. It offers us a sense of well-being and promises that not all dreams have been dreamt.

The Alaskan wilderness is a place of outstanding wildlife, wilderness, and recreation, a land dotted by beautiful forests, dramatic peaks and glaciers, gentle foothills and undulating tundra. It is untamed—rich with Caribou, polar bear, grizzly, wolves, musk oxen, Dall sheep, moose, and hundreds of thousands of birds—snow geese, tundra sands, black brant, and more. In all, about 165 species use the coastal plain. It is an area of intense wildlife activity. Animals give birth, nurse and feed their young, and set about the critical business of fueling up for winters of unspeakable severity.

Addressing my second concern—that the revenue raised from drilling in this wilderness area will not result in such a significant amount of money that it could not be found elsewhere—let me say that the estimated revenue is only two tenths of 1 percent of the total savings.

And that is why I am here today, to support the Baucus amendment that will prohibit the leasing of the coastal plain of ANWR to pay for deficit reduction.

This amendment is consistent with the current law—with the dictates of Congress—law that prohibits oil and gas drilling in the coastal plain of ANWR. It is also consistent with agreements that we have made with Canada to preserve and protect this wilderness area, especially the habitat and culture of the native people who live in the area.

This amendment prevents oil and gas leasing in the coastal plain of ANWR without hearings in Congress. It does not preclude future development of this area, but only prevents Congress from using these savings from oil and gas leasing in the current budget process.

The coastal plain—where the oil and gas leasing would occur—is the biological heart and the center of wildlife activity in the refuge. It is a critical part of our Nation's preeminent wilderness and would be destroyed by oil development.

There are those who may think the northern coast of Alaska is too remote for use to worry about. I urge them to read the CONGRESSIONAL RECORDS from the 1870's. The men who initially urged the Congress to protect a place called Yellowstone were subject to ridicule. Why, critics asked, should we forgo the opportunity to dig up minerals from the area? It is a remote place, and few Americans will ever venture there.

Today, as we wrestle with America's future, let us be as far-sighted as that Congress eventually proved to be. Let us not cash in a unique piece of America for a brief, hoped for a rush of oil. Let us protect the coastal plain of the Arctic National Wildlife Refuge. Forever.

Mr. President, I believe that we should not allow revenues to be used in this budget that are supposed to come from doing something that Congress has not allowed.

This is how is should be done. The Baucus amendment accomplishes this purpose. And I encourage my colleagues to support this important effort.

Mr. DASCHLE. Mr. President, I wish to express my support for this amendment, which will help ensure continued protection for the Arctic National Wildlife Refuge.

The issue of whether or not to allow oil drilling along the Arctic coastal plain has been lobbied heavily for years. I have listened carefully to the various arguments made by my colleagues, by representatives of the oil industry, by a delegation of Gwich'in people who inhabit the area in question, by members of the Arctic Slope Regional Corporation who are veterans of North Slope oil production, by environmentalists, and by the public at large. I appreciate the strong feelings this debate evokes.

The fate of ANWR is far reaching. It involves national and State economics, environmental and social values, and the relationship between the Federal and State government.

Anyone who has visited Alaska knows that the stakes for Alaskans are high. The State and its people depend heavily on oil revenues, and its leaders are sensitive to, and have experience with, the potential environmental tradeoffs of oil development.

This issue has come before Congress in the past. I have consistently opposed opening ANWR during those debates. I remain strongly opposed to disrupting this unique and fragile habitat for the purposes of oil drilling today.

Most opponents of opening up the Arctic National Wildlife Refuge cite the potential environmental tradeoffs of drilling in this fragile ecosystem. I appreciate and share that concern.

As I have said in the past, I take seriously the national obligation embodied in the Alaska lands bill to ensure that these remote 19 million acres continue to achieve their purpose of providing a refuge for wildlife. There is no other place in America or in the world where caribou, polar bears, and wild geese flourish as they do in the Arctic National Wildlife Refuge. And, as we know from both history and recent scientific study, once one component of an ecosystem is adversely affected, then the entire system can become effected by a chain reaction.

Declining populations of polar bears, birds, and caribou, and the animals and Native American communities that depend on them, is a valid fear. A recent article in the Anchorage Daily News reports that the Central Arctic caribou herd that inhabits Prudhoe Bay has suffered a 23 percent reduction from 23,400 to 18,000 animals in just the last 3 years. Although it is difficult to determine the exact reason for this marked decline, the part of the herd that ranges near the oil drilling activity has experienced almost all of the losses.

Nonetheless, the debate over the future of ANWR should not be framed as it all too often is as a face off between elitist environmentalists and rapacious developers. It is also a debate about national energy policy and national values.

It is particularly hard to justify opening the Arctic National Wildlife Refuge to oil drilling, with all the industrial activity and associated disruption that would involve, when the probability of finding oil is so low. Moreover, even if oil were to be found, the potential oil reserve in the Arctic National Wildlife Refuge would at most sustain our country's basic petroleum needs for a mere 6 months. Clearly, then, the Arctic National Wildlife Refuge is not the answer to achieving independence from foreign oil supplies.

Meanwhile, this perpetuation of our national love affair with hydrocarbon fuel has other downsides. Our profligate energy consumption cripples our international competitiveness, pollutes our air and beaches, and increases the trade deficit. We must take serious steps to make ourselves more energy-efficient and to conserve energy whenever and wherever possible. And we should better develop our domestic renewable energy supplies like ethanol and renewable methanol.

Mr. President, last week, representatives of the petroleum, natural gas, automotive, ethanol, and engineering industries met in Washington at the World Conference on Transportation Fuel Quality to review the progress made in just the past few years with reformulating gasoline as required in the Clean Air Act Amendments of 1990. Today, approximately one-third of all the gasoline sold in the United States contains noncrude oil-derived additives called oxygenates, primarily ethers and ethanol from grain. EPA has called the reformulated gasoline program the most significant automobile pollution reduction advance since the removal of lead. The pollution reductions achieved this year amount to the equivalent of taking 8 million cars off the road.

What is little recognized, however, is that the reformulated gasoline program is also the most significant crude oil reduction program ever instituted. The Congressional Research Service has concluded that it could reduce U.S. oil requirements by 500,000 barrels or more per day, and that it represents the most significant means of reducing oil imports in the near to mid-term of any other approach.

Even more exciting is the fact that if the proposal to have a "49 State Fuel"—in other words, a nationwide RFG standard—is adopted, U.S. oil requirements could be reduced by over 1.5 million barrels per day, or more than 20 percent of our daily gasoline demand. At an average $20 per barrel, this would mean that nearly $11 billion annually would remain in the United States rather than be exported to foreign oil producers.

This alternative far overshadows the benefits to the Nation of opening ANWR. It also carries with it the additional advantage of more diversified job creation, and the ongoing benefits of stimulating renewable fuel technologies that cannot be depleted as is the case with finite oil fields.

I believe the case for continuing to protect the Arctic National Wildlife Refuge from oil drilling is strong. Drilling would risk the ecological health of the coastal plain for a relatively small and speculative supply. And, from a national energy policy standpoint, it makes more sense to look to energy conservation and the development of renewable fuels than to seek new reserves of fossil fuels in the Arctic coastal plain.

For most Americans, opposition to oil drilling in the Arctic National Wildlife Refuge is more profound than the mere sum of these concrete arguments might suggest. Our country has a revered tradition of protecting its natural heritage. Through our system of State parks, national parks, wilderness areas, and wildlife refuges, Americans have been in the forefront of conservation, articulating and enforcing a land ethic that embodies the best impulses of our Nation. We have always had a clear sense in this country of the natural heritage that makes our lives so special and worthwhile, and we have been willing to take tangible steps to protect that heritage.

Robert Kennedy, in a speech delivered only 3 months before his death, spoke at the University of Kansas on the measure of America's worth. He noted that too often we pay attention only to the bottom line and judge policies only on their contribution to the gross national product, and that in using that simple measure, we fail to account for that which makes life in America so special. He stated that—and I quote:

> [The] GNP counts air pollution and cigarette advertising, and ambulances to clear our highways of carnage. It counts special locks for our doors and the jails for those who break them. It counts the destruction of our redwoods and the loss of our natural wonder in chaotic sprawl. . . . It measures neither our wit nor our courage; neither our wisdom nor our learning; neither our compassion, nor our devotion to country; it measures everything, in short, except that which makes life worthwhile.

For most Americans, who will never have a chance to see the Arctic coastal plain and witness the thundering herds of caribou in their annual migration, or watch a wolf run down a ptarmigan, the simple knowledge that this special and unique place will remain unspoiled by the heavy footprint of industry will make life richer and more worthwhile. It will also encourage us to invest in domestic alternatives, such as more efficient end-use technologies and new strategies for energy conservation—alternatives that have positive environmental effects and which make us more economically competitive in the international marketplace. The route toward energy independence lies down the road of energy conservation and efficiency, and I believe, greater use of domestic renewable fuels. It does not lie down the road of more consumption of fossil fuels.

This vote is as much a test of our common sense as it is of our common character. We are setting national priorities in this budget, priorities that should reflect our deepest and most closely held values. If we allow this wild and unspoiled refuge to become yet another monument to avarice and addiction to fossil fuels, then we will have lost more than a single wildlife refuge in a remote land; we will have sacrificed part of our character, that intangible part of each of us that values the gentle and respectful treatment of our natural heritage and from which we derive a profound sense of national worth.

If we set this precedent, if we vote to open this remote refuge to oil drilling, then we will have defeated the better part of ourselves. Collectively, we will have failed this important test of national character.

I urge my colleagues to support this amendment and vote to protect the Arctic National Wildlife Refuge.

Mr. WELLSTONE. Mr. President, since I first came to the Senate I have been active in the fight to protect the Arctic National Wildlife Refuge from oil and gas drilling. I intend to continue the fight to save the Arctic Refuge as we debate the reconciliation bill in the Senate.

The Senate reconciliation bill contains a number of provisions that are poor policy, that are unfair to those least able to defend themselves, and that consider only short-term gain and not long-term loss; the proposed plan to open the Arctic Refuge to gas and oil drilling is one such provision. Since I have been in the Senate I have spoken time and time again about the fact that this is poor energy policy, poor environmental policy, and cynical politicking.

The Arctic Refuge is one of the last pristine wilderness areas left in America, it contains the Nation's most significant polar bear denning habitat on land, supports 300,000 snow geese, migratory birds from six continents—some of those birds even make it to my State of Minnesota, and a concentrated porcupine caribou calving ground.

While proponents of drilling in the Arctic Refuge will tell you that the caribou are not harmed by drilling, an October 21, 1995, article in the Anchorage Daily News reports that new information shows a sharp decline in the Central Arctic caribou herd. While nobody knows exactly what caused the decline, most of it has occurred in the part of the herd that lives near the oil field. Despite our uncertainty about the effects oil drilling would have on the animals, there are those who continue to push for oil drilling without an updated environmental impact statement [EIS] as required by current law. An EIS has not been done in the area since 1987. We just do not know what drilling would do to the Arctic Refuge, and barreling ahead with drilling is just poor environmental policy.

The Gwich'in people have relied on those porcupine caribou for thousands of years to provide their food and meet their spiritual needs. I have heard them speak very eloquently and directly about what oil drilling in the Arctic Refuge would do to their way of life. People like the Gwich'in want to save the environment. But they are not the big oil companies. They do not have the money. They do not have the lobbyists, and they do not have the lawyers here every day. In today's Washington environment, that seems to mean that their concerns are less important than the concerns of big industry.

Even if whatever amount of revenue gained were somehow worth destroying this unique land and the lives of the Gwich'in, there are a number of questions regarding whether the Arctic Refuge has oil, how much it has, and what the cost would be to retrieve it. Estimates are broad and disagreements are rampant. Even I, a nonscientist, know one thing for certain: There is no way to tell how much revenue can be gained from drilling in the Arctic Refuge. New information, however, suggests previous figures overestimated possible revenue.

Alice Rivlin, Director of the Office of Management and Budget, stated in an October 25 letter that drilling in the Arctic Refuge would produce "significantly less revenue than has been scored by the Congressional Budget Office." New studies suggest there is less oil than previously thought, the price of oil as projected by the Department of Energy has dropped and serious concerns remain about whether Alaska will stage a court battle to change their share of the revenue from 50 percent to 90 percent as the State claims its statehood act allows. Regardless of who is right, barreling ahead with incomplete information and short-term thinking is just plain poor energy policy.

The administration has indicated that if the bill includes drilling in the Arctic Refuge, the President will veto it. I would wholeheartedly support him if he did.

Throughout the course of my years of work to save the Arctic Refuge, I have heard from many Minnesotans, including many children, about their desire to preserve it. Our natural resources are among the most important things we can leave to these future generations. Our children and our grandchildren deserve more than what this bad energy policy, bad environmental policy, and shortsighted politicking would leave them. I will continue to speak for all Minnesotans, for their sense of fairness and equity and for their love and concern for the environment. I will continue to fight to save the Arctic Refuge from gas and oil drilling. I urge my colleagues to join me.

Mrs. MURRAY. Mr. President, I rise in strong support of this amendment to protect our children's heritage. I rise because this budget reconciliation debate should be about revenues. It should be about how much we have and how much we spend. The Arctic Refuge coastal plain is not about money; it is about values. It is a question of whether we are willing to trade off wilderness and wildlife that are our national heritage and legacy for our children, in order to make a short-term payment on bills we have accumulated.

Future generations will look back on what we might do today with sadness. They will not see this as a matter of shared sacrifice, but as a mark of the selfishness of a generation which, to pay off a minuscule fraction of its debts, sacrificed the inheritance of future generations. Let me explain the several other reasons why I support this amendment.

First, leasing the Refuge does not result in a significant return of money to the Federal Treasury. If the dubious assumptions of the Budget Committee prove correct, the leasing revenues would be a mere two-tenths of 1 percent of our budget gap. If we lease this unique Arctic wilderness that has been called America's Serengeti, it would be permanently destroyed. For most Americans, trading our natural wealth in the Arctic Refuge wilderness for the possibility of oil is not worth it.

Even worse, there is little assurance that the leasing revenues would be at the level assumed by the Budget Committee. Other highly prospective leases nearby in Alaska have been made at considerably less per acre. Lease sales in the Beaufort Sea, immediately offshore the Arctic Refuge, received only $33 to $153 per acre; the most recent onshore State lease sale, located west of the refuge, brought in just $48.41 per acre. This budget provision assumes an astounding $1,733 per acre if the entire coastal plain is leased.

Furthermore, the State of Alaska, not the Federal Government, is likely to reap a significant amount of the financial benefit of the leases. The Budget Committee assumes that only 50 percent of the leasing proceeds will go to the State of Alaska. However, Alaska currently receives 90 percent of the leasing revenues from Federal lands. It is unlikely that the citizens of Alaska—who receive annual dividend checks of nearly $1,000—would willingly forfeit proceeds they believe they are due; a lawsuit to recover the difference would be much more likely.

Second, the public could lose access to this remarkable area. A handful of major oil companies stand not only to make enormous profits, but to have the right to exclude the rest of us from their leased refuge lands. Today, public access in the Prudhoe Bay oil fields is strictly prohibited without an oil company escort. So hikers, rafters, fishers, hunters, and solitude seekers will likely be excluded from their Arctic Refuge. One more wild place will be closed.

Third, the Budget Committee suggests that the square acreage impacted by oil and gas leasing would be relatively small. However, this area is the biological heart of the refuge. It is the most coveted by oil companies and the most critical for wildlife. The coastal plain is an integral part of the only conservation area in North America that protects a full spectrum of Arctic and sub-Arctic ecosystems. While only 13,000 acres would be affected, the wilderness in the entire coastal plain would be impacted by oil development. The massive industrial complex would not be in a compact area, but would sprawl over hundreds of square miles in a network of roads, pipelines, airports, and processing plants.

Fourth, budget reconciliation is the wrong place to decide such an important issue. We should have a full and fair airing of all views about the leasing of our Arctic Refuge. Money is not the only value we should consider. Before we drill holes and pave portions of the refuge, we should consider all of its value, not just its infinitesimal contribution to the budget deficit. I believe its sponsors know that they could not win in the light of full debate. A massive spending bill provides them the cover of darkness that they know they must have to win.

In closing, I quote the great writer and naturalist Margaret Murie, "Wilderness itself is the basis of all of our civilization. I wonder if we have enough reverence for life to concede to wilderness the right to live on?"

I will cast my vote to protect the Arctic National Wildlife Refuge—for wilderness and for my children.

Mr. BAUCUS. Mr. President, my amendment would reallocate the tax credits in the reconciliation bill toward the middle-income taxpayers and apply the savings to reduce the Medicare spending cuts. It specifically strikes capital gains for corporations and gives some relief for individuals who make capital gains over $100,000 a year. It is geared more toward the million-dollar income taxpayers.

Mr. DOMENICI. Mr. President, this amendment adds new language. It is not germane and is subject to a point of order.

I make a point of order that this amendment violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 526 Leg.]

YEAS—43

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—56

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pell
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the ayes are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is well-taken and the amendment is rejected.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2995

(Purpose: To provide that the repeal of the exclusion for punitive damages shall not apply to punitive damages in a wrongful death action in a State where on September 13, 1995, only punitive damages may be awarded in such an action)

Mr. DOMENICI. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. HEFLIN, for himself and Mr. SHELBY, proposes an amendment numbered 2995.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1773, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

Mr. HEFLIN. Mr. President, in my State of Alabama, the courts have consistently held that the damages recoverable under the wrongful death statute are punitive as distinguished from actual or compensatory damages. For the past 140 years, the Alabama Supreme Court has interpreted this statute as imposing punitive damages for any conduct which causes death, regardless of the degree of negligence or capability. The premise for this interpretation is the belief that all people are worth the same, and this interpretation stimulates diligence in protection of natural right to live, without respect to personal condition or disability of the person so protected. *Breed* v. *Atlanta*, B & CRR, 241 Ala. 640, 4 So.2d 315 (1941). Therefore, the entire focus of a wrongful death civil action in Alabama is on the cause of the death.

The amendment I am offering provides that punitive damage awards made in wrongful death cases should not be included in gross income Alabama where only punitive damages can be recovered for a wrongful death. Taking into account the revenue aspects of the Finance Committee provision, I have narrowly drafted this amendment.

This amendment would only affect my State of Alabama. Of all the 50 States, Alabama has a different and unique recovery in the event a decision is made by a court or jury in regard to the death of an individual, whether it be brought by negligence or any form of action. A person cannot prove, in a wrongful death case in Alabama, compensatory damages. An Alabama plaintiff cannot show his wages, his doctor bills, or anything similar of an economic or noneconomic nature. Therefore the award granted in such a case would be fully taxable by the Internal Revenue Service. For this reason I see the tax effect of the current provision as unfair to those Alabama victims and their families and the amendment as an equitable solution.

I strongly support this amendment. I think it is the correct language to narrowly address what would be an intolerable tax burden on the grieving families of Alabama victims who are killed by negligence or by gross negligence or recklessness or wantonness or any type of proof that is necessary to prove a cause of action. I think the Senate ought to adopt this fair and equitable amendment.

Mr. DOMENICI. I will take the 30 seconds allowed to explain this amendment.

This is agreed to on both sides. It is for the two Senators from Alabama and it relates only to an 1852 statute with reference to damages for wrongful deaths—civil damages for wrongful death. It will correct a very old law.

Mr. EXON. Mr. President, we have checked. We have found no objections on our side. If there are any, I would like to hear them at this time.

Hearing none, I yield back the balance of our time. We support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2995) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Senator, do you have an amendment on your side?

Mr. EXON. I yield to Senator KENNEDY for an amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

AMENDMENT NO. 2996

(Purpose: To prohibit balance billing by providers participating in Medicare choice plans)

Mr. KENNEDY. Mr. President, this amendment will maintain provisions of current law that protect Medicare beneficiaries who join a Medicare HMO or other private insurance plans under the new Medicare choice program from excess charges by physicians or other providers. All we are saying is what is the current law today will be the current law tomorrow in terms of the HMO's or other health delivery systems. That protection is not included in the legislation that is before us. This will provide that kind of protection for the seniors of this country. It is absolutely necessary.

The PRESIDING OFFICER. Will the Senator from Massachusetts or the Senator from Nebraska send that amendment to the desk?

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2996.

The PRESIDING OFFICER. Is there objection to the dispensing of the reading of the amendment?

Without objection, it is so ordered.

The amendment is as follows:

On page 469, between lines 8 and 9, insert the following:

"(g) PROHIBITION OF BALANCE BILLING.—Notwithstanding any other provision of law, an individual who is enrolled in a medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance, and deductibles required by such plan in accordance with subsection (c).

Mr. DOMENICI. Mr. President, I gather Senator KENNEDY has spoken to the amendment. We are not going to give him double time.

Mr. KENNEDY. That is fine.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand the amendment before us does nothing to change the prohibition on balance billing in the traditional Medicare Program. It does not extend price controls to the private Medicare choice plans. In short, the Finance Committee thinks they did a good job on this and there is no need for this amendment.

The PRESIDING OFFICER. All time has been consumed. The question is on agreeing to the amendment.

Mr. DOMENICI. I move to table the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, at the suggestion of the majority leader, I ask that after this vote we have a quorum call to last until 1 o'clock, and that be for purposes of Senators getting some relief from the floor and perhaps getting more of the amendments prepared so we can know what we are doing.

The PRESIDING OFFICER. That will be the order.

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts, amendment No. 2996.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 527 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the motion to lay on the table the amendment (No. 2996) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

RECESS

Mr. DOLE. Mr. President, so that we can give staff on each side time to sort of bring the amendments together in some order on each side so we will know precisely where we are—it makes it very difficult if we are not quite certain, and if we have not seen the amendment—I think we can save time by taking a brief recess now to give them that opportunity.

So I ask unanimous consent that we stand in recess until the hour of 1:20 p.m. and that when we come back we resume voting immediately after reconvening with 7½-minute votes, the same as we have now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Senate, at 12:33 p.m., recessed until the hour of 1:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAMS].

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I will just use a minute of my leader's time.

I am now advised that there are at least 40 amendments on the other side that will be offered, after we were at least hopeful yesterday and we agreed to have up-and-down amendments on tier 1. We will probably end up with maybe 25 tier 3 amendments. We have already disposed of a number. So it seems we are going to exceed almost up to 50 amendments in that category.

If you just took the votes themselves, you allowed 10 minutes, that is 400 minutes. That is 7 hours. I am not going to stick around here very long tonight, but I am very happy to come back early tomorrow morning. We will go along and see how many of these—we have 13 over here, so that is another couple hours. So if that is what we want to do, we will have plenty of time this weekend to do it. We are going to do it this weekend, but we are not going to stay up half the night to accommodate somebody who has to be somewhere tomorrow.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Senator KENNEDY has an amendment that we would like to bring up at this time, so I yield him the 30 seconds to explain his amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the reconciliation bill raises the Medicare age of eligibility to 67.

The PRESIDING OFFICER. Will the Senator please send the amendment to the desk.

POINT OF ORDER

Mr. KENNEDY. I raise a point of order that section 7171, raising the age of Medicare eligibility, violates section 313(b)(1)(a) of the Congressional Budget Act.

It has been submitted to the Budget Committee, so I make that point of order at this time.

The PRESIDING OFFICER. The point of order is sustained.

The Senator from Massachusetts.

Mr. KENNEDY. If I could have order, Mr. President.

The PRESIDING OFFICER. Will the Senate please come to order so we can hear the amendment offered by the Senator from Massachusetts.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the reconciliation bill raises the Medicare age of eligibility to 67 beginning in the year 2003.

While the reconciliation provision is described as conforming to the Social Security change enacted in 1983, it has significant differences. Individuals affected by the Social Security change had a minimum of 20 years to adjust their retirement plans, while individuals affected by this change have only 7 years. Social Security change continued to allow individuals to receive benefits at 62.

The PRESIDING OFFICER. The Senator from Massachusetts must send his amendment to the desk.

Mr. KENNEDY. I ask that the Budget Committee, where I submitted it—if I could have their attention, please.

As I understand, the point of order was sustained, so I wonder why I need to send something——

The PRESIDING OFFICER. The Senator has a time limit of 30 seconds on the amendment. And if the amendment is not at the desk, the Senator does not have any time.

Mr. KENNEDY. I made the point of order. It was sustained.

I ask, in place of sending the amendment, that I be entitled to the same amount of time to speak on the point of order.

The PRESIDING OFFICER. The Senator has used his 30 seconds.

Mr. DOMENICI. Mr. President, the Senator has prevailed.

Mr. KENNEDY addressed the Chair.

Mr. DOMENICI. He has prevailed.

Mr. KENNEDY. I just say, if we are going to be taken off our feet when the parliamentary situation is not clear, we will be staying around for a long time.

I am asking for fairness, for the 30 seconds we were entitled to, that I was told I am entitled to by the Budget Committee.

The PRESIDING OFFICER. The Senator has used his 30 seconds.

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senator have an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

Mr. KENNEDY. Mr. President, the Social Security change continued to allow individuals to receive benefits at age 62; the age of early retirement, and age 65, the normal retirement age, although at reduced levels.

Under this proposal, no Medicare benefits at all will be provided until the individual is 67. The provision breaks faith with American workers who paid into the Medicare system in the expectation they will be provided health security at the age of 65 and will leave millions of senior citizens without health insurance coverage.

Mr. DOMENICI. Mr. President, I hope——

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I hope for purposes of management that Senators on our side would leave it up to one of us, either the leader or I, in terms of asking that people be recognized or granted time. I understand the Senator, but I hope in the future the Senator will leave that up to us. He has prevailed. We had no intention of stopping him. So I think this matter is over. We yield back any time we might have had on the point of order. It has already been granted.

The next amendment, I understand, is on our side by Senator COCHRAN.

AMENDMENT NO. 3004

(Purpose: To require the Secretary of Agriculture to establish a special marketing order to equalize returns on all milk used to produce Class IV final products, to consent to the Northeast Interstate Dairy Compact, and to require the Secretary to carry out an agricultural competitiveness initiative)

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. JEFFORDS, proposes an amendment numbered 3004.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. COCHRAN. Mr. President, this amendment helps farmers and markets adjust to the changes in Federal dairy policy in this bill. It does so by creating an export class for dairy products and establishing a farmer-financed mechanism to boost exports. It saves money and provides for research to make our products more competitive.

It will also grant the consent of Congress to the Northeast Interstate Dairy Compact, which is supported by all the Governors and legislatures in New England.

I urge Senators to support the amendment.

The PRESIDING OFFICER. The Senator's 30 seconds has expired.

Mr. JEFFORDS. Mr. President, I join my colleagues Senator COCHRAN, Senator LEAHY, Senator GORTON, Senator COHEN, and Senator SNOWE in supporting the creation of an export class for dairy products, and granting the consent of Congress to the Northeast Interstate Dairy Compact. This amendment is vital to the future of the New England dairy industry and the national dairy industry as a whole.

Mr. President, the Senate reconciliation bill cuts the cost of the dairy program by 49 percent over the next 7 years. This comes on top of a reduction of 69 percent in the last decade. While the dairy industry is willing to accept some cuts, and I realize the need to cut, the industry has already pulled its load. As it stands, this bill does not address the critical need to increase sales of butter and nonfat dry milk in the world market.

As the support prices for butter and nonfat dry milk are eliminated, their prices will fall and cause a glut of those products. This surplus will either be cleared on the world market at a very reduced price, or be converted into cheese. In either case, this will case a substantial drag on the return to dairy farmers and manufacturers of these products. This amendment will expand U.S. dairy markets by providing a way for all producers to share the cost of moving those products to the export market. It is GATT-legal, plus will reduce U.S. reliance on export subsidies.

The Congressional Budget Office estimates that the conversion from powder to cheese will increase Commodity Credit Corporation purchases by $230 million. This amendment will help farmers and taxpayers—by ensuring dairy products will be exported instead of being purchased by the Government.

This amendment will also grant consent to the Northeast Interstate Dairy Compact, an agreement among the six New England States to create a commission that will have the authority to oversee the pricing for fluid milk produced in the New England region. The compact will not affect milk prices outside the compact region. In fact, it will act as a useful pilot project for other regions, and is strongly supported by many groups and individuals across the country.

Mr. President, the New England States have joined together to do what many States do already on their own. If America had grown from west to east I would not be standing here because New England would likely be one large State and would not have to ask for consent of Congress.

All six States' Governors—Republican, Democrat, and independent and their legislatures strongly support this amendment. On vote after vote this year we have acted to give more responsibility back to the States. Here is an opportunity for the Senate to do just that—in precisely the manner the Founders laid out in the Constitution.

Mr. President, the National Milk Producers Federation strongly supports this amendment as well as Mid-America, AMPI, Darigold, Milk Marketing Inc., and many other farmer cooperatives and dairy farmers from throughout the country. Supporting it is an opportunity to vote for States' rights, and to vote for dairy farmers and to vote for our taxpayers. I urge my colleagues to support our amendment.

Mr. GORTON. Mr. President, I join my colleagues, Senator JEFFORDS, Senator COHEN, Senator SNOWE, and Senator LEAHY, as a cosponsor of this amendment.

Mr. President, the Senate Agriculture Committee has eliminated dairy price support purchases for butter and nonfat dry milk, and retains such purchases for cheese. The dairy farmers in my State support this provision, but only if a farmer funded class IV export program is established. The Agriculture Committee failed to address export sales of butter and nonfat dry milk to the world market. Our amendment addresses this issue and according to CBO will save an additional $233 million in the next 7 years. These savings are in addition to $1 billion the Government will save during the same 7 years by the elimination of dairy support for butter and nonfat dry milk.

This farmer funded class IV export program has the support of many, including; Darigold—80 percent of all Washington State producers, National Milk Producers Federation, Mid-America Dairymen, Milk Marketing Inc., AMPI, American Farm Bureau, Kansas Dairymen Association, Utah Dairymen Association, NE Council of Farmer Cooperatives, Michigan Milk Producers Association, Florida Dairy Farmers Association, Dairlylee Cooperatives, United Dairymen Association, Western Dairymen Cooperatives, and a legion of other farmer cooperatives and dairy farmers across the country.

In closing, Mr. President, I urge my colleagues to vote in favor of this amendment.

Ms. SNOWE. Mr. President, I am pleased to be a cosponsor of the amendment offered by the gentleman from Vermont, and I rise in strong support of the amendment.

Family dairy farms are facing hard times across the country, and this amendment is designed to assist these farmers while protecting the interests of the taxpayers and consumers.

The Jeffords amendment does two things. First, it creates a class IV pool for nonfat dry milk and butter. This pool will help to offset the financial impact on farmers of the reconciliation bill's repeal of the price support program for these two products. The new pool would be GATT-legal, allowing a greater volume of U.S. butter and nonfat dry milk to be exported than would be the case if we do not create the new pool. In short, the class IV pool will help farmers maintain their incomes without increasing Federal expenditures.

Mr. President, the second provision of the amendment provides the consent of the Congress to the Northeast Interstate Dairy Compact. Like the class IV proposal, the compact is designed to help family dairy farmers survive in a very difficult market environment. But unlike the class IV proposal, the compact does not involve the Federal Government. It represents a regional, State-based solution to a regional problem, and the Federal Government need only give its assent and then step out of the way.

Today, New England is practically bleeding dairy farms. In Maine, for instance, we have lost more than 200 farms since 1988, and this number would have been far higher if Maine had not instituted a dairy vendor's fee to help stabilize farm income. Unfortunately, that vendor's fee has been invalidated by a Federal court, and farmers are exceedingly vulnerable once again.

The decline in New England's dairy farms can be attributed to low and volatile dairy prices under the Federal marketing order program that do not reflect the costs of production in the region. Because New England farmers sell much of their milk in the fluid milk market, they face substantially higher costs to get their milk to the plant, and they do not have access to subsidized electricity like farmers in some other parts of the country. Consequently, New England's dairy farmers receive some of the lowest mailbox prices of any dairy farmers in the country.

In response to this farm crisis, the six New England States negotiated an interstate compact in 1993 that allows them to add, if they choose, an additional increment to the Federal marketing order price in the New England region. These increments would have to be approved by a commission created under the compact which consists of representatives from each of the New England States, and which includes both producer and consumer interests.

Mr. President, this compact is a regional solution to a regional problem in the most literal sense. With very few exceptions, it affects only the consumers, farmers, and dairy processors of New England. The compact applies only to fluid, or class I, milk, and 97 percent of the fluid milk consumed in New England is processed by New England-based processors.

Approximately 75 percent of the milk processed by these processors comes from New England farmers. The remainder comes from New York, whose farmers would receive the same prices for their milk under the compact as farmers in New England.

Although the compact only affects the participating States, the cosponsors of the amendment have included explicit assurances to remove any doubt. These assurances further clarify that the compact only applies to class I fluid milk, that no new States can join the compact without the formal approval of both Houses of Congress, that out-of-region farmers who sell milk in the compact region will get the same price as New England farmers, and that the compact commission will take active measures to prevent increases in production.

Mr. President, the Jeffords amendment is profarmer, protaxpayer, and pro-States' rights. It will help to ensure that good farmers have a reasonable chance to stay in business, but at less cost to the Federal Government. I urge my colleagues to support the amendment.

Mr. FEINGOLD. Mr. President, I rise in strong opposition to the amendment offered by Senator COCHRAN to grant the consent of Congress to the Northeast Interstate Dairy Compact and to create a class IV pricing system for milk used to make butter or powder.

Both of these provisions would take dairy policy in the opposite direction in which congressional reformers are attempting to take all agricultural policy—this amendment provides more market intervention, more regulation, and more inequity.

It is unfortunate that the major changes that this amendment makes and the enormous precedent that it sets will not be fully debated by this Chamber. I am certain that few Members of this Chamber will have an opportunity to actually learn and understand just what it is they are voting on. I am also certain that this amendment will be approved.

This amendment balkanizes the U.S. dairy industry by insulating the Northeast dairy industry from the market conditions that all other farmers in this country must face.

This amendment will provide congressional consent to an interstate compact, the like of which has never been approved by the Congress. It is, Mr. President, unprecedented.

This compact will allow a Commission in the Northeast to set fluid milk prices artificially high for the six States in the compact. It allows dairy farmers in six States in the Northeast to enjoy higher prices for their milk, erects barriers to keep out lower cost milk from outside the compact walls, and will result in lower prices for producers in the rest of the United States.

The compact would allow for an increase in the fluid milk differential up to $17.40 per hundred pounds of milk, or in terms of gallons—$1.50 per gallon. This is well over $3 greater than the price producers in the New England order enjoy currently for fluid milk.

However, the compact we are being asked to approve also allows that price to be increased with inflation, as measured by the CPI, since 1990. By the year 2,000 the cap could be well over to $20 if inflation increases by 3 percent per year.

With those kinds of price increases, we can expect producers in Vermont and elsewhere to increase their milk production in response to those higher prices. And, Mr. President, as far too many dairy farmers know, production increases in one region of the country drive down milk prices for producers throughout the Nation.

One might ask why producers in the Northeast should be allowed to have their milk prices adjusted for inflation each year, when that privilege is given to no other commodity in any other region. One might ask why we should allow one region of the country to increase consumer costs when virtually every other effort in this Congress has attempted to eliminate the burden on consumers from overly regulatory agricultural policies.

We must ask, why should the Congress grant its approval to the Northeast Interstate Dairy Compact?

The answer is that Congress should not provide its consent for an interstate price fixing compact.

The supporters of this amendment have tried to present this as a very simple idea—that of a simple interstate compact designed to help the struggling producers of that region in isolation from national markets and having no effects on non-compact producers.

But, Mr. President, producers in the upper Midwest have learned through painful lessons that regional changes in milk prices have national effects and national implications.

The Northeast Dairy Compact is not a simple proposal. It is not an innocuous interstate compact isolated to the participating States and it will have national implications.

Mr. President, it is time to remove the artificial fluid milk price differentials that discriminate against certain regions to the benefit of others, distort markets, and cost consumers millions of dollars in food costs annually—It is not time to enhance them.

I would urge my colleagues to think seriously about whether or not this body wishes to endorse price-fixing compacts of any nature.

The precedent that congressional approval of the Northeast Interstate Dairy Compact would set is very serious indeed—we will be allowing a small group of States to fix prices for a product produced and marketed nationally.

The second half of this amendment establishes a class IV pricing system which benefits a few producers on the other coast of the United States—the west coast powder-producing States, to the detriment of producers elsewhere. This class IV pricing system is not necessary for the U.S. dairy industry to expand exports. I have 30,000 dairy farmers in Wisconsin that want to expand exports and are planning to do so, but Wisconsin dairy producers oppose class IV pricing.

Why? Because it forces them to pay a tax to support producers on the west coast. In fact, producers throughout the country will likely pay a minimum of 15 cents per hundredweight to help producers on the west coast continue to overproduce milk powder which will no longer be supported by the Federal Government which is no longer demanded by the domestic market. I would urge my colleagues to look with a skeptical eye on projections that this amendment will greatly enhance producer revenues to compensate for powder tax that all producers will pay. If such projections were realistic, the thousands of milk producers in the upper Midwest—the heart of this Nation's dairy country—would be embracing this proposal, not opposing it.

Mr. President, this amendment provides help to producers in eight States—the six Northeastern States that will benefit from the Compact, and two west coast States that will benefit from the class IV system. All other producers in between are the big losers.

I urge my colleagues to oppose this amendment. It creates more regulation, more market distortions, and discriminates against all but a few producers in the country. Mr. President, this is bad policy.

Mr. KOHL. Mr. President, it is difficult for me to oppose my friends from the Northeast in their efforts to help the dairy farmers of that region. But it is on behalf of the dairy farmers of my State that I feel that I must. Not only because I believe his compact will have a negative effect on the dairy farmers of regions outside the Northeast, but also because I believe it to be an inappropriate method of addressing the problems of the dairy industry, which are national in nature.

This measure is a regional compact. It is an effort by six Northeastern States to require artificially increased milk prices for the farmers in those States exclusively. It is at its heart anticompetitive, and I believe that it is market distorting.

The sponsors of this measure claim that the Northeast is an island unto itself, and that this compact will not affect any other region. I believe that that statement ignores the complexities of dairy markets, which are national in nature.

To predict the exact effects of the compact on other regions is nearly impossible. But to assume that there will be none is to turn a blind eye to the history of agricultural policy.

My region of the country, the upper Midwest, has learned this lesson all too well. We, in this region, have seen our dairy industry become the victim of unforeseen market distortions caused by the milk marketing order system. This system, which was instituted in the 1930's, requires that higher minimum prices be paid to producers the farther they are from Wisconsin. Since the upper Midwest was the traditional hub of dairy production, the purpose of this regional discrimination was to help dairy industries outside the upper Midwest develop, so that every region could have a locally produced supply of fluid milk.

But that goal has been largely accomplished, and the policy that was intended to give other regions an artificial "leg up" over the upper Midwest, is now contributing to the decline of dairy farming in the upper Midwest.

But make no mistake about it. This debate is not only about the upper Midwest. And it is not only about dairy policy. This debate is about the future direction of all agricultural policies.

I and many of my colleagues from farm States have been willing to promote farm programs that we believe will provide a safety net to farm prices, to help provide some security for the family farmers of this Nation.

But the Northeast Dairy Compact goes beyond anything ever done in a farm bill. And it goes far beyond any other regional compact presented to the Congress for approval.

It is the product of one region's frustration with national policies, and an effort by that region to remove themselves from that national system and establish a regional dairy policy.

So why is this compact before the Senate? The answer is that the Northeast needs Congress' approval in order to interfere with interstate commerce.

The commerce clause of the U.S. Constitution makes it clear that States cannot infringe on interstate commerce. Court case after court case has turned down efforts by individual States to do so. Most recently, in the 1994 West Lynn Creamery, Inc. versus Healy decision, the Supreme Court turned down a Massachusetts milk pricing policy that would have artificially increased the price of milk sold in Massachusetts in order to bolster the dairy farmers of that State alone. The Supreme Court turned down that effort as being a clear violation of the commerce clause of the Constitution. At that time, even the State of Vermont argued in opposition to the Massachusetts effort, claiming that it was "economic protectionism that burdens interstate commerce by interfering with competition."

But now all six Northeastern States have banded together to do something very similar to what Massachusetts tried to do on its own, and that its to artificially increase milk prices in that region for the benefit of the farmers in that region, and to protect their higher milk price by placing a protectionist tariff on all milk coming into the region from outside.

Clearly this too would be considered a violation of the commerce clause if subject to the scrutiny of the courts.

However understanding the threat that this constitutionality question poses to their efforts, the Northeast have been very clever in getting around that question by packaging the pricing scheme as a compact.

The Constitution allows States to enter into a compact with other States, as long as those compacts are approved by Congress. This authority has been used many times, without controversy, by States that seek to address multistate environmental or transportation concerns. But it has never been used to allow States to engage in price-fixing activities. And it has never been used as a way to circumvent the commerce clause of the Constitution.

Make no mistake about it. This compact is unprecedented in the history of the Nation.

While the context of this compact may be milk pricing, its ramifications are far more significant. Congressional approval of this compact is an invitation for all sorts of economic balkanization.

Our forefathers had the foresight to see the dangers of allowing States and regions to erect economic barriers against other States in the Union. They asked the question "What are we, as a nation, if we do not have a unified economic market?"

Last year, when the Northeast Dairy Compact was considered in the Senate Judiciary Committee, many of my colleagues raised constitutional concerns with the compact.

Senator HATCH commented on this matter. He stated:

> I am afraid that this is the kind of precedent-setting compact that will lead other States to seek the same type of protection, to the economic detriment of all their bordering States. More importantly, I would expect that other industries will line up seeking compacts as a means of protecting their particular States' interests, and we just can't go down that route.

On the same matter, Senator THURMOND stated:

> I believe that Congressional approval of this compact would set a bad precedent. Approval would encourage other regions of our country to form compacts to assist regional producers in a variety of industries at the expense of those outside the region. A breakdown of our nation into regional cartels and economic infighting would be very harmful and should be opposed.

At that same markup in the Judiciary Committee last year, Senator GRASSLEY stated:

> Historically, these compacts have dealt with border issues, environmental cooperation, and other subjects limited to the member States not having an impact on the rest of the country. . . . Without Congressional approval, I believe that the compact would be unconstitutional. Clearly, if one of the States in the compact enacted State legislation along these lines, the Commerce Clause would be violated. Protection of in-state industry against out-of-State industry is prohibited. I think that we should be very hesitant to allow a group of States to do what a single State could not do under our Constitution.

And lastly, my good friend from Illinois, Senator SIMON, added:

> I tend to agree with Senator GRASSLEY that this [Compact] is probably constitutional. . . . But what is constitutional is not necessarily wise.

Mr. President, the Senate Agriculture Committee has already started the debate on the reauthorization of national farm programs through the 1995 farm bill. It is my sincere hope that as we begin that debate, we can craft dairy policy changes that are beneficial to all the dairy farmers of this country, not just those of one region.

I too want to help the farmers of this Nation. But I firmly believe that the Northeast Dairy Compact is the wrong approach.

Another provision of this amendment authorizes a class IV price for milk. The rationale for this provision is that since the Senate Agriculture Committee eliminated the price support for milk powder and butter, the prices for those products will fall to world prices. However, the problem is that the class IV price would merely create a tax on all dairy farmers nationwide, to be transferred to the farmers in those few States that have excess milk production, and put that excess milk into butter and powder. In short, this imposes a butter/powder tax on the dairy farmers of all States, to be transferred to the dairy farmers of those States producing those products.

I urge my colleagues to join me in strong opposition to this compact and the class IV pricing provisions.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I raise a point of order against the amendment offered by the Senator as not being germane.

Mr. STEVENS. Will the Senator use his microphone. We cannot hear him.

Mr. EXON. Mr. President, I raise a point of order against the amendment offered by the Senator on the basis it is not germane.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to waive the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 65, nays 34, as follows:

[Rollcall Vote No. 528 Leg.]

YEAS—65

Akaka
Ashcroft
Baucus
Biden
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Coverdell
Craig
D'Amato
Daschle
Dodd
Domenici
Faircloth
Feinstein
Ford
Gorton
Graham
Gramm
Gregg
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Shelby
Smith
Snowe
Stevens
Thomas
Thurmond
Warner

NAYS—34

Abraham
Bennett
Bingaman
Bradley
Brown
Coats
Conrad
DeWine
Dole
Dorgan
Exon
Feingold
Frist
Glenn
Grams
Grassley
Harkin
Hatch
Hatfield
Kerrey
Kohl
Kyl
Lautenberg
Levin
Moseley-Braun
Nickles
Pressler
Roth
Santorum
Simon
Simpson
Specter
Thompson
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 65, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the amendment.

The amendment (No. 3004) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, it is our turn to offer an amendment. I yield to the Senator from New Jersey 30 seconds for the purpose of explaining and introducing his motion.

MOTION TO COMMIT

Mr. LAUTENBERG. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

> The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and

to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

Mr. LAUTENBERG. Mr. President, this is a fairly simple motion. It is to recommit, to cut the tax breaks for those who make over a million dollars a year, and to have the savings that occur apply to reduce the cuts that are contemplated in Medicare and Medicaid. I hope that we can finally reach a point at which we say across the board here that at some point we are not going to give tax breaks to those with the enormous incomes. We are talking about a million dollars a year on this.

The PRESIDING OFFICER. The time of the Senator has expired.

AMENDMENT NO. 3005 TO THE LAUTENBERG motion to commit

(Purpose: To provide a $5,000 tax credit for the adoption of a child)

Mr. CRAIG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3005 to the Lautenberg motion to commit.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment:

At the end of the bill, add the following title:

TITLE XIII—CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995.

AMENDMENT NO. 3006 TO AMENDMENT NO. 3005

(Purpose: To provide a $5,000 tax credit for the adoption of a child)

Mr. DOLE. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 3006 to amendment No. 3005.

Mr. CRAIG. Mr. President, this is a very important, yet understandable amendment. It changes the adoption tax credit of $5,000, and we are offering this in this reconciliation package to an effective date of January, and I believe the second-degree moves it to February 1995.

Mr. KENNEDY. Parliamentary inquiry; could we have a reading of the second-degree amendment? Was it waived?

The PRESIDING OFFICER (Mr. GORTON). The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. CRAIG. I ask unanimous consent reading of the amendment be dispensed with.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. EXON. Mr. President, I believe under the agreement we have 30 seconds to respond to this amendment. For that purpose——

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section.

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section,the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

Mr. EXON. Mr. President I yield the 30 seconds of our time to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, what is happening here is quite clear: Instead of just letting us vote on whether or not the other side is willing to accept some level at which we are saying we will not give tax breaks to those individuals, instead we are going to try to keep the cuts in Medicare and Medicaid from being as high as they are.

Why, I do not understand, why can we not simply have a vote on it? I think by not permitting a vote they are absolutely voting on the Republican side. They are saying that we are not even going to cut off our friends who make $1 million a year or more.

I hope we can get to a vote on my amendment, Mr. President.

Mr. DOMENICI. Mr. President, the fact is that the tax bill before the U.S. Senate, 90 percent of the tax cut goes to Americans earning $100,000 or less. That is the fact.

This is a political amendment. We have a right to offer second degree and when we find amendments like this we will do that.

The PRESIDING OFFICER. All time is expired on the second-degree amendment.

AMENDMENT NO. 3007 TO AMENDMENT NO. 3005

Mr. LAUTENBERG. I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3007 to amendment No. 3005.

Strike all after instructions and insert the following: "to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid."

Mr. DOMENICI. Mr. President, we have not seen the amendment.

Mr. LAUTENBERG. Mr. President, if the manager would permit me, it is exactly the same as the amendment that

I sent up originally, and I am asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Can we substitute for this amendment?

The PRESIDING OFFICER. No further amendments are in order.

Mr. DOMENICI. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 529 Leg.]

YEAS—55

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

So the motion to lay on the table the amendment (No. 3007) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3005

The PRESIDING OFFICER. The question occurs on amendment No. 3005.

The majority leader.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Could you get a little order?

Mr. LAUTENBERG. Can we have order in the Senate please, Mr. President?

Mr. DOLE. Mr. President, is it appropriate to withdraw the amendment at this time?

The PRESIDING OFFICER. The Senate is not in order. Members cannot hear.

Mr. DOLE. We withdraw the amendment.

The amendment (No. 3005) was withdrawn.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico has the floor.

Mr. DOMENICI. Mr. President, I am trying to find out what they desire to do at this point.

Mr. LAUTENBERG. Mr. President, if I am given the floor for a moment——

Mr. DOMENICI. I yield part of my time.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to withdraw my motion to commit.

The PRESIDING OFFICER. Without objection, the motion is withdrawn.

The motion was withdrawn.

Mr. DOMENICI. I think Senator NICKLES is ready for an amendment on our side.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 3008

(Purpose: To provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES), for himself, Mr. DOLE, Mr. ROTH, Ms. SNOWE, and Mr. CHAFEE, proposes an amendment numbered 3008.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1332, beginning with line 5, strike all through page 1336, line 17.

Mr. NICKLES. Mr. President, this amendment I send to the desk on behalf of myself, Senator DOLE, Senator ROTH, Senator SNOWE, and Senator CHAFEE is an amendment that would eliminate section 7573, which would require States to collect an annual amount equal to a $25 application fee and 6.6 percent of collections for non-AFDC families, if they use child support enforcement services.

I think this provision should not have been in the bill. I mentioned that during the Finance Committee hearings. I have worked with the majority leader, and, also, Senator ROTH says this section should be stricken. That is what this amendment would do.

The Governors strongly support this amendment. They do not think that they should be mandated to have the child support enforcement check fees in this bill. I agree.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, here we are. I am fearful. I am making inquiry. Are we violating the agreement that we should have a copy of this amendment? I thought we had agreed earlier they had been filed.

Mr. NICKLES. Mr. President, the question was asked, Is this a 10-percent tax? My colleague from New Jersey raised this as well. Originally, this was a 10-percent tax. I think the committee made adjustments and made it 6.6 percent. I happen to agree with him that even at 6.6 percent, the tax is too high.

Also, Mr. President, I ask unanimous consent Senator CHAFEE be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. We are eliminating the 6.6-percent tax.

Mr. DOMENICI. We do not need a vote.

Mr. EXON. It would appear to me, with the 30 seconds that I have on this side of the aisle, that as of now this Senator has not been advised that there is any opposition to this matter on this side.

Evidently, we have found this was given to us in a different order.

Does anyone wish to oppose?

Mr. BRADLEY. As I understand it, the amendment offered by Senator NICKLES is the exact content of the amendment that I was going to offer. So I have no opposition.

Mr. EXON. Hearing no objection on this side, I yield back the remainder of my time and suggest possibly this could be voice voted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 3008) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the next amendment that we have agreed to consider would be by the Senator from New York. I yield the required time allotted to us to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Might we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Chair asks that conversations be taken off the floor.

Does the Senator from New York have an amendment at the desk?

AMENDMENT NO. 3009

(Purpose: To strike the reduction of indirect medical education payments to teaching hospitals)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 3009.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 541, strike line 10, and all that follows through page 542, line 8.

Mr. MOYNIHAN. Mr. President, this amendment would strike the 40-percent reduction in indirect medical education payments in the reconciliation bill and restore $9.9 billion to teaching hospitals in the years 1996 to 2002. This reconciliation bill seriously threatens the future of medical research, physician training and care for the indigent. Teaching hospitals are a national treasure. To abandon them now would be a tragedy.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this amendment adds $9.9 billion to the deficit. In the Finance Committee bill, $1.7 billion is added back to this. I think we ought to table this amendment and move on to the next one.

Mr. President, I move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay on the table the amendment of the Senator from New York. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 530 Leg.]

YEAS—51

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feingold
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Santorum
Sarbanes
Simon
Specter
Wellstone

So, the motion to lay on the table the amendment (No. 3009) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3010 THROUGH 3014, EN BLOC

Mr. DOMENICI. Mr. President, I am going to send to the desk, with the full concurrence of the ranking member and no objection that I am aware of, six amendments en bloc. Let me just list them: a Dole-Kohl-Grassley amendment with reference to truckers that has been agreed to on both sides; the Hutchison amendment that we had a little while ago that was withdrawn—it has been cleared on both sides—a Senator D'AMATO sense of the Senate.

Mr. BYRD. That amendment has not been cleared on both sides. I have just been talking with Mrs. HUTCHISON.

Mr. DOMENICI. We withdraw it. I say to Senator HUTCHISON, that has not been cleared on their side.

Senator D'AMATO has an amendment cleared on both sides, a sense of the Senate; Senator GRASSLEY has one with reference to an advisory task force; Senator BOXER has one on no pay—what do you call it, I say to the Senator?

Mrs. BOXER. No pay. We already passed it.

Mr. DOMENICI. We already passed it. Senator GRAHAM, an amendment to ensure Medicare beneficiaries have urgent Medicare treatment. We have no objection to it.

I send all five to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DOMENICI. I ask they be reported en bloc and accepted en bloc.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes amendments numbered 3010 through 3014, en bloc.

The amendments, en bloc, are as follows:

AMENDMENT NO. 3010

(Purpose: To increase the deductibility of business meal expenses for individuals subject to Federal limitations on hours of service and to provide offsetting revenues)

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. KOHL. Mr. President, the amendment that I am offering with Senator DOLE will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers, and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

Mr. INOUYE. Mr. President, I understand Senator KOHL is expected to offer an amendment that would restore the business meals deduction from 50 to 80 percent for workers using Department of Transportation [DOT] hours-of-service regulations. The amendment specifically targets only the segment of middle-income Americans who, due to the nature of their employment, must eat away from home. Such individuals include truckers, busdrivers, and some railworkers. The deduction for business meals and entertainment expenses was reduced from 80 to 50 percent under the Omnibus Budget Reconciliation Act of 1993 and went into effect on January 1, 1994.

I support Senator KOHL's efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. However, I strongly believe that the amendment should go further than the transportation segment of the population. I, along with Senator HATCH and others, have introduced S. 216, which would restore the business meals deduction to 80 percent of all industries.

The restoration of this deduction is essential to the livelihood of the food service, travel and tourism, and entertainment industries throughout the United States. These industries are being economically harmed as a result of this reduction. All are major industries employing millions of people, many of whom are already feeling the effects of the reduction.

Contrary to what many might believe, most individuals who purchase business means are small business persons: 70 percent have incomes below $50,000, 39 percent have incomes below $35,000, and 25 percent are self-employed. Moreover, 78 percent of business lunches and 50 percent of business dinners are purchased in low to moderately priced restaurants. The average amount spent on a business meal, per person, is about $9.39 for lunch and $19.58 for dinner. The business meal deduction is hardly the exclusive realm of the fat cats.

Again, I commend Senator KOHL for his efforts to restore the business meals deduction to 80 percent for workers on DOT service hours. I urge my colleagues to also support my bill, S. 216, which would restore the business meals deduction to 80 percent for all industries.

AMENDMENT NO. 3011

(Purpose: Expressing the sense of the Senate regarding the tax treatment of conversions of thrift charters to bank charters)

At the end of chapter 8 of subtitle I of title XII, insert:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

Mr. D'AMATO. MR. President, this sense-of-the-Senate resolution would express the will of the Senate that Congress should eliminate a significant disincentive in the current law which prevents thrift institutions from changing their charters. It also prevents thrifts from diversifying into other lending opportunities. Given developments in financial institutions and the debate in Congress over the future of the thrift industry, it is desirable for Congress to seriously examine this aspect of the tax law that applies only to thrifts.

AMENDMENT NO. 3012

On pages 764 and 765, section 2106, Medicaid Task Force, under subsection (c) "Advisory Group for the Task Force" and new number (14) to read:

"(14) AMERICAN OSTEOPATHIC ASSOCIATION.

Redesignate old (14) to be (15); redesignate old (15) to be (16); redesignate old (16) to be (17); redesignate old (17) to be (18).

AMENDMENT NO. 3013

(Purpose: To provide that Members of Congress and the President shall not be paid during Federal Government shutdowns)

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

Mrs. BOXER. Mr. President, this amendment is identical to one offered to the D.C. appropriations bill that passed the Senate unanimously and was cosponsored by both the majority and minority leaders, among others.

Because this issue is so important and because the D.C. bill appears to have stalled in the House, I believe it is important for the Senate to revisit this proposal.

Under my amendment, if there is a lapse in appropriations for any Federal department or agency or if the Government is unable to operate because of a default caused by a failure to raise the Federal debt ceiling, the pay for Members of Congress and the President will be docked.

I believe this legislation is important for two key reasons:

First, it will help avert the predicted Government shutdown by helping Members of Congress understand the fear and uncertainty now being felt by the millions of Americans who rely on Government services.

Second, it codifies a principle that all other workers in America live by: If you do not do your job, you should not get paid. One of Congress' most important functions is to pass the Nation's budget. If we fail in that critically important task, it simply makes sense that our pay should be docked.

Mr. President, this amendment makes common sense, and I thank the managers for accepting it.

AMENDMENT NO. 3014

(Purpose: to ensure medicare beneficiaries have emergency or urgent care provided and paid for by medicare choice plans by establishing a definition of an emergency medical condition that is based upon the prudent layperson standard)

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization for the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

Mr. EXON. Mr. President, I yield back all time assigned to us.

Mr. DOMENICI. I yield back any time I have.

The PRESIDING OFFICER. The question is on agreeing to the amendments numbered 3010 through 3014, en bloc.

The amendments (Nos. 3010 through 3014, en bloc) were agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, could I yield myself 1 minute for a discussion with the Senators?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I think we sort of set a pattern here. If the Senators could look at the remaining amendments—I say this to both sides; we will do it on ours—if the Senators could look at theirs, maybe they could package them with reference to subject matter. If the Senators package them with reference to subject matter, then we might get five amendments all of which deal with the subject. We think we know how they are going to turn out, but that is not terribly relevant. We could offer them en bloc.

Mr. BYRD. Mr. President, I hope that we will be careful that we do not try to streamline this silly process further. Now we are really flying deaf, dumb, and blind. So I hope we will look at these so-called packages with four or five amendments. I want to see them.

I am not going to set myself up as a traffic cop, but this process is just entirely out of control. We do not know what we are voting on now. Now we are just voting on amendments. They do not know what is in this bill.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. DOMENICI. Mr. President, I want to thank Senator BYRD for his concern. We discussed this concern on the whole process, and, hopefully, this is the last time we will have it under this process. We should change it. But I have to get a bill through under this process. We will be as careful as we can. If we need to, we will certainly consult with a broad array of Senators before we proceed.

Is another amendment ready?

Mr. EXON. Mr. President, whose turn is it?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I recognize the Senator from Connecticut for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and I thank my friend from Nebraska.

LIEBERMAN MOTION TO COMMIT

Mr. LIEBERMAN. Mr. President, I have a motion at the desk which I offer on behalf of myself, and Senators DASCHLE, HARKIN, GRAHAM, ROCKEFELLER, BREAUX, and KENNEDY, who are members of a Medicare working group.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], moves to commit the bill to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, with the following amendment, and to make sufficient reductions in the tax cuts to maintain deficit neutrality.

(Purpose: To restore the solvency of the Medicare part A Hospital Insurance Trust Fund for the next 10 years. To reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plans available, providing better information so that beneficiaries can act as informed consumers and to require strategic planning for the demographic changes that will come with the retirement of the "babyboom" generation)

On page 442, beginning on line 1, strike all through page 748, line 18, and insert:

Subtitle A—Medicare

SEC. 7001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Medicare Improvement and Solvency Protection Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

CHAPTER 1—PROVISIONS TO IMPROVE AND EXPAND MEDICARE CHOICES

Sec. 7002. Increasing choice under medicare.
Sec. 7003. Provisions relating to medicare coordinated care contracting options.
Sec. 7004. Provisions relating to medicare supplemental policies.
Sec. 7005. Special rule for calculation of payment rates for 1996.
Sec. 7006. Graduate medical education and disproportionate share payment adjustments to hospitals providing services to enrollees in eligible organizations.
Sec. 7007. Effective date.

CHAPTER 2—PROVISIONS RELATING TO QUALITY IMPROVEMENT AND DISTRIBUTION OF INFORMATION

Sec. 7011. Quality report cards.

CHAPTER 3—PROVISIONS TO STRENGTHEN RURAL AND UNDER-SERVED AREAS

Sec. 7021. Rural referral centers.
Sec. 7022. Medicare-dependent, small, rural hospital payment extension.
Sec. 7023. PROPAC recommendations on urban medicare dependent hospitals.
Sec. 7024. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 7025. Improving health care access and reducing health care costs through telemedicine.
Sec. 7026. Establishment of rural health outreach grant program.
Sec. 7027. Medicare rural hospital flexibility program.
Sec. 7028. Parity for rural hospitals for disproportionate share payments.

CHAPTER 4—GENERAL PROGRAM IMPROVEMENTS AND REFORM

Sec. 7031. Increased flexibility in contracting for medicare claims processing.
Sec. 7032. Expansion of centers of excellence.
Sec. 7033. Selective contracting.

CHAPTER 5—REDUCTION OF WASTE, FRAUD, AND ABUSE

SUBCHAPTER A—IMPROVING COORDINATION, COMMUNICATION, AND ENFORCEMENT

PART I—MEDICARE ANTI-FRAUD AND ABUSE PROGRAM

Sec. 7041. Medicare anti-fraud and abuse program.
Sec. 7042. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health programs.
Sec. 7043. Health care fraud and abuse provider guidance.
Sec. 7044. Medicare/medicaid beneficiary protection program.
Sec. 7045. Medicare benefit quality assurance.
Sec. 7046. Medicare benefit integrity system.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 7051. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 7052. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 7053. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 7054. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 7055. Sanctions against providers for excessive fees or prices.
Sec. 7056. Applicability of the bankruptcy code to program sanctions.
Sec. 7057. Agreements with peer review organizations for medicare coordinated care organizations.
Sec. 7058. Effective date.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 7061. Establishment of the health care fraud and abuse data collection program.
Sec. 7062. Inspector general access to additional practitioner data bank.
Sec. 7063. Corporate whistleblower program.

PART IV—CIVIL MONETARY PENALTIES

Sec. 7071. Social Security Act civil monetary penalties.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

Sec. 7081. Health care fraud.
Sec. 7082. Forfeitures for Federal health care offenses.
Sec. 7083. Injunctive relief relating to Federal health care offenses.
Sec. 7084. Grand jury disclosure.
Sec. 7085. False Statements.
Sec. 7086. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.
Sec. 7087. Theft or embezzlement.
Sec. 7088. Laundering of monetary instruments.
Sec. 7089. Authorized investigative demand procedures.

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 7091. State health care fraud control units.

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

Sec. 7101. Uniform medicare/medicaid application process.
Sec. 7102. Standards for uniform claims.

Sec. 7103. Unique provider identification code.
Sec. 7104. Use of new procedures.
Sec. 7105. Required billing, payment, and cost limit calculation to be based on site where service is furnished.

SUBCHAPTER B—ADDITIONAL PROVISIONS TO COMBAT WASTE, FRAUD, AND ABUSE

PART I—WASTE AND ABUSE REDUCTION

Sec. 7111. Prohibiting unnecessary and wasteful medicare payments for certain items.
Sec. 7112. Application of competitive acquisition process for Part B items and services.
Sec. 7113. Interim reduction in excessive payments.
Sec. 7114. Reducing excessive billings and utilization for certain items.
Sec. 7115. Improved carrier authority to reduce excessive medicare payments.
Sec. 7116. Effective date.

PART II—MEDICARE BILLING ABUSE PREVENTION

Sec. 7121. Implementation of General Accounting Office recommendations regarding medicare claims processing.
Sec. 7122. Minimum software requirements.
Sec. 7123. Disclosure.
Sec. 7124. Review and modification of regulations.
Sec. 7125. Definitions.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

Sec. 7131. Reforming payments for ambulance services.

PART IV—REWARDS FOR INFORMATION

Sec. 7141. Rewards for information leading to health care fraud prosecution and conviction.

CHAPTER 6—ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY

Sec. 7161. Establishment.
Sec. 7162. Duties of the Commission.
Sec. 7163. Powers of the Commission.
Sec. 7164. Commission personnel matters.
Sec. 7165. Termination of the Commission.
Sec. 7166. Funding for the Commission.

CHAPTER 7—MEASURES TO IMPROVE THE SOLVENCY OF THE TRUST FUNDS

SUBCHAPTER A—PROVISIONS RELATING TO PART A

PART I—GENERAL PROVISIONS

Sec. 7171. PPS hospital payment update.
Sec. 7172. Modification in payment policies regarding graduate medical education.
Sec. 7173. Elimination of DSH and IME for outliers.
Sec. 7174. Capital payments for PPS inpatient hospitals.
Sec. 7175. Treatment of PPS-exempt hospitals.
Sec. 7176. PPS-exempt capital payments.
Sec. 7177. Prohibition of PPS exemption for new long-term hospitals.
Sec. 7178. Revision of definition of transfers from hospitals to post-acute facilities.
Sec. 7179. Direction of savings to hospital insurance trust fund.

PART II—SKILLED NURSING FACILITIES

Sec. 7181. Prospective payment for skilled nursing facilities.
Sec. 7182. Maintaining savings resulting from temporary freeze on payment increases for skilled nursing facilities.
Sec. 7183. Consolidated billing.

SUBCHAPTER B—PROVISIONS RELATING TO PART B

Sec. 7184. Physician update for 1996.
Sec. 7185. Practice expense relative value units.
Sec. 7186. Correction of MVPS upward bias.
Sec. 7187. Limitations on payment for physicians' services furnished by high-cost hospital medical staffs.
Sec. 7188. Elimination of certain anomalies in payments for surgery.
Sec. 7189. Upgraded durable medical equipment.

SUBCHAPTER C—PROVISIONS RELATING TO PARTS A AND B

PART I—SECONDARY PAYOR

Sec. 7189A. Extension and expansion of existing medicare secondary payor requirements.

PART II—HOME HEALTH AGENCIES

Sec. 7189B. Interim payments for home health services.
Sec. 7189C. Prospective payments.
Sec. 7189D. Maintaining savings resulting from temporary freeze on payment increases.
Sec. 7189E. Elimination of periodic interim payments for home health agencies.
Sec. 7189F. Effective date.

CHAPTER 1—PROVISIONS TO IMPROVE AND EXPAND MEDICARE CHOICES

SEC. 7002. INCREASING CHOICE UNDER MEDICARE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1804 the following new section:

"PROVIDING FOR CHOICE OF COVERAGE

"SEC. 1805. (a) CHOICE OF COVERAGE.—

"(1) IN GENERAL.—Subject to the provisions of this section, every individual who is entitled to benefits under part A and enrolled under part B shall elect to receive benefits under this title through one of the following:

"(A) THROUGH TRADITIONAL MEDICARE SYSTEM.—Through the provisions of parts A and B (hereafter in this section, referred to as the 'traditional medicare option').

"(B) THROUGH AN ELIGIBLE ORGANIZATION.—Through an eligible organization with a contract under part C.

"(b) PROCESS FOR EXERCISING CHOICE.—

"(1) IN GENERAL.—The Secretary shall establish a process through which elections described in subsection (a) are made and changed, including the form and manner in which such elections are made and changed. Such elections shall be made or changed during enrollment periods specified under part C.

"(4) DEFAULT.—

"(A) INITIAL ELECTION.—

"(i) IN GENERAL.—Subject to clause (ii), an individual who fails to make an election during an open enrollment period described in section 1852(b)(3) is deemed to have chosen the traditional medicare option.

"(ii) SEAMLESS CONTINUATION OF COVERAGE.—The Secretary shall establish procedures under which individuals who are enrolled with an eligible organization at the time of an open enrollment period described in section 1852(b)(3) and who fail to elect to receive coverage other than through the organization are deemed to have elected to have enrolled in a plan offered by the organization.

"(B) CONTINUING PERIODS.—An individual who has made (or deemed to have made) an election under this section is considered to have continued to make such election until such time as—

"(i) the individual changes the election under this section, or

"(ii) an eligible organization's plan is discontinued, if the individual had elected such plan at the time of the discontinuation.

"(5) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY TO PROMOTE EFFICIENT ADMINISTRATION.—In order to promote the efficient administration of this section and the program under part C, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment in eligible organizations under this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts effective on and after January 1, 1997.

SEC. 7003. PROVISIONS RELATING TO MEDICARE COORDINATED CARE CONTRACTING OPTIONS.

(a) IN GENERAL.—Title XVIII is amended by redesignating part C as part D and by inserting after part B the following new part:

"PART C—PROVISIONS RELATING TO MEDICARE COORDINATED CARE CONTRACTING OPTIONS

"DEFINITIONS

"SEC. 1851. For purposes of this part:

"(a) ADJUSTED COMMUNITY RATE.—The term 'adjusted community rate' for a service or services means, at the election of an eligible organization, either—

"(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this part with an eligible organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this part with the eligible organization, as the Secretary annually estimates is attributable to that service or services,

but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this part and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this part with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(b) ELIGIBLE ORGANIZATION.—

"(1) IN GENERAL.—The term 'eligible organization' shall include any of the public or private entities described in paragraph (2), organized under the laws of any State:

"(2) ENTITIES DESCRIBED.—The entities described in this paragraph are the following:

"(A) COORDINATED CARE PLANS.—

"(i) IN GENERAL.—Private managed or coordinated care plans which provide health care services through an integrated network of providers, including—

"(I) qualified health maintenance organizations as defined in section 1310(d) of the Public Health Service Act; and

"(II) beginning with services provided on or after January 1, 1997, preferred provider organization plans, point of service plans, provider-sponsored network plans, or other integrated health plans (subject to approval by the Secretary).

"(ii) REQUIREMENTS FOR CERTAIN COORDINATED CARE PLANS.—A coordinated care plan described in clause (i)(II) shall meet the following requirements:

"(I) The plan shall be in the business of providing a plan of health insurance or health benefits and be organized under the laws of any State.

"(II) The plan shall provide physician's services directly or through physicians who are either employees or partners of such an organization or through contracts or agreements with individual physicians or one or more groups of physicians.

"(III) The plan has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(IV) The plan has effective procedures, satisfactory to the Secretary, to monitor utilization and to control the costs of services.

"(V) The plan shall offer all services covered under parts A and B (or B only, as applicable) and such preventive health services designated by the Secretary under section 1853(a)(1).

"(VI) The plan shall provide all enrollees under this part with a comprehensive out-of-plan service benefit (point-of-service) that allows enrollees to obtain all services covered under parts A and B (or B only, as applicable) and such preventive health services designated by the Secretary under section 1853(a)(1) from a provider with whom the plan does not have a contract.

"(VII) The plan shall provide that cost-sharing for services described in subclause (VI) may not exceed the deductibles and coinsurance amounts applicable to services under part A or B.

"(VIII) A provider under contract with the plan may not bill an enrollee under this part an amount in excess of the applicable cost-sharing amount of the rate negotiated between the provider and the plan.

"(IX) The plan shall meet quality and access standards under this part.

"(iii) POINT-OF-SERVICE OPTION.—Not later than January 1, 1996, the Secretary shall issue guidelines that would permit a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) to offer a point-of-service option under a risk-sharing contract under this part.

"(B) COMPETITIVE MEDICAL PLAN.—A competitive medical plan that meets the following requirements:

"(i) The entity provides to enrolled members at least the following health care services:

"(I) Physicians' services performed by physicians (as defined in section 1861(r)(1)).

"(II) Inpatient hospital services (except in the case of an entity that had contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970).

"(III) Laboratory, X-ray, emergency, and preventive services.

"(IV) Out-of-area coverage.

"(ii) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(iii) The entity provides physicians' services primarily—

"(I) directly through physicians who are either employees or partners of such organization, or

"(II) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(iv) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in clause (i), except that such entity may—

"(I) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in clause (i) the aggregate value of which exceeds $5,000 in any year,

"(II) obtain insurance or make other arrangements for the cost of health care service listed in clause (i) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

"(III) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(IV) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(v) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

"(3) PROVIDER SPONSORED NETWORK.—The term 'provider sponsored network' has the meaning given such term in section 1858(a).

"(c) CONTRACTS.—The term—

"(1) 'risk-sharing contract' means a contract entered into under section 1856(b); and

"(2) 'reasonable cost reimbursement contract' means a contract entered into under section 1856(c).

"(d) AREAS.—

"(1) PAYMENT AREA.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'payment area' means an entire metropolitan statistical area or single statewide area that does not include a metropolitan statistical area.

"(B) EXCEPTION.—The Secretary may modify the geographic area covered by a payment area if the application of paragraph (1) would result in a substantial disruption of services provided to enrollees under this part by eligible organizations in an area.

"(2) SERVICE AREA.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'service area' means, with respect to an eligible organization, the payment area for such organization.

"(B) EXCLUSION.—The Secretary may permit an organization's service area to exclude any portion of a payment area (other than the central county of a metropolitan statistical area) if—

"(i) the organization demonstrates that it lacks the financial or administrative capacity to serve the entire payment area; and

"(ii) the Secretary finds that the composition of the organization's service area does not reduce the financial risk to the organization of providing services to enrollees because of the health status or other demographic characteristics of individuals residing in the service area (as compared to the health status or demographic characteristics of individuals residing in the portion of the payment area which the organization seeks to exclude from its service area).

"ELIGIBILITY, ENROLLMENT AND DISENROLLMENT, AND INFORMATION

"SEC. 1852. (a) ELIGIBILITY FOR ENROLLMENT.—Subject to the provisions of subsection (b), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this part with any eligible organization with which the Secretary has entered into a contract under this part and which serves the geographic area in which the individual resides.

"(b) COORDINATED OPEN ENROLLMENT PERIOD.—

"(1) IN GENERAL.—Each eligible organization must have an open enrollment period (which shall be specified by the Secretary for each payment area), for the enrollment of individuals under this part, of at least 30 days duration every year and including the period or periods specified under paragraphs (2) through (4), and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (a) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of section 1855(k) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the service area of the organization.

"(2) OPEN ENROLLMENT PERIODS IF CONTRACT NOT RENEWED OR TERMINATED.—

"(A) IN GENERAL.—If a risk-sharing contract under this part is not renewed or is otherwise terminated, eligible organizations with risk-sharing contracts under this part and serving a part of the same service area as under the terminated contract are required to have an open enrollment period for individuals who were enrolled under the terminated contract as of the date of notice of such termination. If a risk-sharing contract under this part is renewed in a manner that discontinues coverage for individuals residing in part of the service area, eligible organizations with risk-sharing contracts under this part and enrolling individuals residing in that part of the service area are required to have an open enrollment period for individuals residing in the part of the service area who were enrolled under the contract as of the date of notice of such discontinued coverage.

"(B) DURATION OF PERIOD.—The open enrollment periods required under subparagraph (A) shall be for 30 days and shall begin 30 days after the date that the Secretary provides notice of such requirement.

"(C) EFFECT OF ENROLLMENT.—Enrollment under this paragraph shall be effective 30 days after the end of the open enrollment period, or, if the Secretary determines that such date is not feasible, such other date as the Secretary specifies.

"(3) ENROLLMENT UPON MEDICARE ELIGIBILITY.—Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (a) during any enrollment period specified by section 1837 that applies to that individual.

Enrollment under this paragraph shall be effective as specified by section 1838.

"(4) MOVED FROM GEOGRAPHIC AREA OR DISENROLLED FROM ANOTHER ORGANIZATION.—Each eligible organization shall have an open enrollment period for each individual eligible to enroll under subsection (a) who has previously resided outside the organization's service area or who has disenrolled from another organization. The enrollment period shall begin with the beginning of the month that precedes the month in which the individual becomes a resident of that service area or disenrolls from another plan and shall end at the end of the following month. Enrollment under this paragraph shall be effective as of the first of the month following the month in which the individual enrolls.

"(5) PROCEDURES FOR ENROLLMENT AND DISENROLLMENT.—An individual may enroll under this part with an eligible organization in such manner as may be prescribed in regulations (including enrollment through a third party) and may terminate the individual's enrollment with the eligible organization as of the beginning of the first calendar month following the date on which the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations. In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.

"(6) ENROLLMENT AND DISENROLLMENT BY MAIL, PHONE, OR LOCAL SOCIAL SECURITY OFFICE.—

"(A) IN GENERAL.—Each eligible organization that provides items and services pursuant to a contract under this part shall permit an individual eligible to enroll under this part—

"(i) to obtain enrollment forms and information by mail, telephone, or from local social security offices, and

"(ii) to enroll or disenroll by mail or at a local social security office.

"(B) NO VISITS BY AGENTS.—No agent of an eligible organization may visit the residence of such an individual for purposes of enrolling the individual under this part or providing enrollment information to the individual.

"(c) INFORMATION.—

"(1) INFORMATION DISTRIBUTED BY ORGANIZATION.—The Secretary shall prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this part may inform individuals eligible to enroll under this part with the organization about the organization, or may enroll such individuals with the organization. No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this part unless—

"(A) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review; and

"(B) the Secretary has not disapproved the distribution of the material.

The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(2) DISTRIBUTION OF COMPARATIVE MATERIALS BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall develop and distribute comparative materials during the enrollment periods described in paragraphs (1) and (3) of subsection (b) to individuals eligible to enroll under this part. Such comparative materials shall present comparative information (in a standardized format and in language easily understandable by the target population) about all eligible organizations with contracts under this part and medicare supplemental policies under section 1882 available in the individual's payment area. The Secretary shall allocate the costs for developing and distributing such materials to such eligible organizations and issues medicare supplemental policies represented in such materials.

"(B) MATERIAL DESCRIBED.—The comparative materials distributed under subparagraph (A) shall include where applicable, with respect to eligible organizations and medicare supplemental policies, the following information:

"(i) Benefits, including maximums limitations and exclusions.

"(ii) Premiums, cost-sharing, administrative charges and availability of out-of-plan services.

"(iii) Coordination of care.

"(iv) Procedures for obtaining benefits including the locations, qualifications, and availability of participating providers.

"(v) Grievance and appeal procedures, including the right to address grievances with the organization to the Secretary and the appropriate peer review entity.

"(vi) Programs for health promotion, the prevention of diseases, disorders, disabilities, injuries and other health conditions.

"(vii) Rights and responsibilities of enrollees.

"(viii) Prior authorization requirements.

"(ix) Procedures used to monitor and control utilization of services and expenditures.

"(x) Procedures for assuring and improving quality of care.

"(xi) Risk and referral arrangements under the plan.

"(xii) Loss ratios and an easily understandable explanation that such ratio reflects the percentage of premiums spent on health services compared to total premiums paid.

"(xiii) Whether the organization is out-of-compliance with standards (as defined by the Secretary).

"(xiv) In the case of medicare supplemental policies, underwriting policies and projected premiums in age-bands.

"BENEFITS AND PREMIUMS

"SEC. 1853. (a) BENEFITS COVERED.—

"(1) IN GENERAL.—

"(A) COVERED SERVICES.—Except as provided in subparagraph (B), the organization must provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(i) only those services covered under parts A and B of this title (and such preventive health services and reduced cost-sharing as the Secretary may designate) for those members entitled to benefits under part A and enrolled under part B, or

"(ii) only those services covered under part B of this title (and such preventive health services and reduced cost-sharing designated under clause (i)) for those members enrolled only under such part.

"(B) ADDITIONAL SERVICES.—The organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and in the case of an organization with a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

"(C) PAYMENTS IN LIEU OF OTHER AMOUNTS.—Subject to paragraph (2)(B) and section 1857(h), payments under a contract to an eligible organization under subsection (a) or (b) of section 1857 shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this part.

"(2) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1857(a)(1) and ending on the date of the next announcement under such section that the Secretary projects will result in a significant change in the costs to the organization of providing the benefits that are the subject of such national coverage determination and that was not incorporated in the determination of the per capita rate of payment included in the announcement made at the beginning of such period—

"(A) such determination shall not apply to risk-sharing contracts under this part until the first contract year that begins after the end of such period; and

"(B) if such coverage determination provides for coverage of additional benefits or under additional circumstances, paragraph (1)(C) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

"(b) PREMIUMS, DEDUCTIBLES, COINSURANCE, AND COPAYMENTS.—

"(1) IN GENERAL.—In no case may—

"(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B, preventive services designated under section 1853(a)(1), and, if applicable, the point-of-service benefit described in section 1851(b)(2)(A)(ii)(VI)) to individuals who are enrolled under this part with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under part B, preventive services designated under section 1853(a)(1) and the point-of-service benefit described in section, if applicable, 1851(b)(2)(A)(ii)(VI)) to individuals who are enrolled under this part with the organization and enrolled under part B only,

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this part with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this part with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

"(2) ADDITIONAL SERVICES.—If the eligible organization provides to its members enrolled under this part services in addition to services covered under parts A and B of this title and such preventive health services designated by the Secretary under subsection (a)(1)(A), election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (a)(1)(B)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

"(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this part, and

"(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members,

exceed the adjusted community rate for such services.

"(c) SECONDARY PAYER.—Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this part for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(2) such member to the extent that the member has been paid under such law, plan, or policy for such services."

"PATIENT PROTECTIONS

"SEC. 1855. (a) ANTIDISCRIMINATION.—The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(b) EXPLANATION OF RIGHTS.—Each eligible organization shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this part, including an explanation of—

"(1) the enrollee's rights to benefits from the organization,

"(2) if any the restrictions on payments under this title for services furnished other than by or through the organization,

"(3) out-of-area coverage provided by the organization,

"(4) the organization's coverage of emergency services and urgently needed care, and

"(5) appeal rights of enrollees.

"(c) ASSURANCES RELATING TO PREEXISTING CONDITION.—Each eligible organization that provides items and services pursuant to a contract under this part shall provide assurances to the Secretary that in the event the organization ceases to provide such items and services, the organization shall provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of 6 months or the duration of such period.

"(d) NOTICE OF RIGHT TO TERMINATE CONTRACT OR REFUSE TO RENEW.—

"(1) IN GENERAL.—Each eligible organization having a risk-sharing contract under this part shall notify individuals eligible to enroll with the organization under this part and individuals enrolled with the organization under this part that—

"(A) the organization is authorized by law to terminate or refuse to renew the contract, and

"(B) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this part.

"(2) NOTICE INCLUDED.—The notice required by paragraph (1) shall be included in—

"(A) any marketing materials described in section 1852(c)(1) that are distributed by an eligible organization to individuals eligible to enroll under this part with the organization, and

"(B) any explanation provided to enrollees by the organization pursuant to subsection (b).

"(e) ACCESS.—

"(1) IN GENERAL.—The organization must—

"(A) make the services described in section 1853(a)(1)(A) (and such other health care services as such individuals have contracted for)—

"(i) available and accessible to each such individual, within the area served by the organization, with reasonable promptness and in a manner which assures continuity, and

"(ii) when medically necessary, available and accessible 24 hours a day and 7 days a week, and

"(B) provide for reimbursement with respect to emergency services which are provided to such an individual other than through the organization.

"(2) EMERGENCY SERVICES DEFINED.—For purposes of this subsection, the term 'emergency services' means services provided to an individual after the sudden onset of a medical condition that manifests itself by symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected by a prudent layperson (possessing an average knowledge of health and medicine) to result in placing the individual's health in serious jeopardy, the serious impairment of a bodily function, or the serious dysfunction of any bodily organ or part, and includes services furnished as a result of a call through the 911 emergency system.

"(3) NO PRIOR AUTHORIZATION.—An eligible organization with a contract under this part may not require prior authorization for emergency services.

"(f) HEARING AND GRIEVANCES.—

"(1) IN GENERAL.—The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this part.

"(2) HEARING BEFORE THE SECRETARY.—A member enrolled with an eligible organization under this part who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is $1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(g) ARRANGEMENTS FOR ONGOING QUALITY ASSURANCE.—The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program—

"(1) stresses health outcomes; and

"(2) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(h) ADVANCE DIRECTIVES.—A contract under this part shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(i) UTILIZATION REVIEW PROGRAM.—

"(1) IN GENERAL.—An eligible organization may not deny coverage of or payment for items and services on the basis of a utilization review program unless the program meets the standards established by the Secretary under paragraph (2).

"(2) STANDARDS.—The Secretary shall establish standards for utilization review programs of eligible organizations, consistent with paragraph (3), and shall periodically review and update such standards to reflect changes in the delivery of health care services. The Secretary shall establish such standards in consultation with appropriate parties.

"(3) CONTENTS OF STANDARDS.—Under the standards established under paragraph (2)—

"(A) individuals performing utilization review may not receive financial compensation based upon the number of denials of coverage; and

"(B) determinations regarding requests for authorization for service shall be made in a timely manner, based on the urgency of the request.

"(j) QUALIFIED HEALTH PROVIDERS.—

"(1) IN GENERAL.—The eligible organization shall demonstrate to the Secretary that the organization has a sufficient number, distribution, and variety of qualified health care providers to ensure that all covered health care services will be available and accessible in a timely manner to all individuals enrolled in the organization.

"(2) SPECIALISTS.—The eligible organization shall demonstrate to the Secretary that organization enrollees have access, when medically or clinically indicated in the judgment of the treating health professional, to specialized treatment expertise.

"(3) DISTANCE.—In order to meet the requirements of paragraph (1), any eligible organization that restricts an enrollee's choice of doctor shall provide that primary care services for each enrollee who lives in a rural area (as defined in section 1886(d)(2)(D)) are not more than 30 miles or 30 minutes in travel time from the enrollee's residence. The Secretary may provide for exceptions from this paragraph on a case-by-case basis.

"(k) 50/50 RULE.—

"(1) IN GENERAL.—Each eligible organization with which the Secretary enters into a contract under this part shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(2) MODIFICATION OR WAIVER.—Subject to paragraph (3), the Secretary may modify or waive the requirement imposed by paragraph (1) only—

"(A) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX,

"(B) in the case of an eligible organization that is owned and operated by a governmental entity, only with respect to a period of 3 years beginning on the date the organization first enters into a contract under this part, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX, or

"(C) the Secretary determines (in accordance with criteria developed by the Secretary not later than January 1, 1997) that individuals who are entitled to benefits under this title who are enrolled with the eligible organization with a contract under this part in the organization's payment area receive the same quality of service as enrollees in private sector health plans in the same payment area.

"(4) FAILURE TO COMPLY.—If the Secretary determines that an eligible organization has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this part or of payment to the organization under this part for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.

"CONTRACTS WITH ELIGIBLE ORGANIZATIONS

"SEC. 1856. (a) IN GENERAL.—The Secretary shall not permit the election under section 1805 of enrollment in an eligible organization under this part, and no payment shall be made under section 1857 to an organization, unless the Secretary has entered into a contract under this part with the organization. Such contract shall provide that the organization agrees to comply with the requirements of this part and the terms of conditions of payment as provided for in this part.

"(b) REQUIREMENTS RELATING TO RISK-SHARING CONTRACTS.—

"(1) MINIMUM ENROLLMENT.—The Secretary may enter a risk-sharing contract with any eligible organization which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urban areas.

"(2) PROVISION OF ADDITIONAL BENEFITS IF ADJUSTED COMMUNITY RATE LESS THAN PER CAPITA RATE OF PAYMENT.—

"(A) IN GENERAL.—Each risk-sharing contract shall provide that—

"(i) if the adjusted community rate, as defined in section 1851(a), for services under parts A and B and such preventive services designated by the Secretary under section 1853(a)(1) (as reduced for the actuarial value of the coinsurance and deductibles under those parts and such reduced cost-sharing designated by the Secretary under such section) for members enrolled under this part with the organization and entitled to benefits under part A and enrolled in part B, or

"(ii) if the adjusted community rate for services under part B and such preventive services (as reduced for the actuarial value of the coinsurance and deductibles under that part and such reduced cost-sharing) for members enrolled under this part with the organization and entitled to benefits under part B only,

is less than the average of the per capita rates of payment to be made under section 1857(a) at the beginning of an annual contract period for members enrolled under this part with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this part with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

"(B) EXCEPTIONS.—

"(i) RECEIPT OF LESSER PAYMENT.—Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

"(ii) STABILIZATION FUND.—An organization (with the approval of the Secretary) may provide that a part of the value of such additional benefits be withheld and reserved by the Secretary as provided in paragraph (4).

"(C) CALCULATION OF PER CAPITA RATES OF PAYMENT.—If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under section 1857(a) at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this part.

"(3) ADDITIONAL BENEFITS DESCRIBED.—The additional benefits referred to in paragraph (2) are—

"(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this part, or

"(B) the provision of additional health benefits,

or both.

"(4) STABILIZATION FUND.—An organization having a risk-sharing contract under this part may (with the approval of the Secretary) provide that a part of the value of additional benefits otherwise required to be provided by reason of paragraph (2) be withheld and reserved in the Federal Hospital Insurance Trust Fund and in the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate) by the Secretary for subsequent annual contract periods, to the extent required to stabilize and prevent undue fluctuations in the additional benefits offered in those subsequent periods by the organization in accordance with paragraph (3). Any of such value of additional benefits which is not provided to members of the organization in accordance with paragraph (3) prior to the end of such period, shall revert for the use of such trust funds.

"(5) PROMPT PAYMENT.—

"(A) IN GENERAL.—A risk-sharing contract under this part shall require the eligible organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

"(B) FAILURE TO MAKE PROMPT PAYMENT.—In the case of an eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this part under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this part to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

"(c) REASONABLE COST REIMBURSEMENT CONTRACT.—

"(1) IN GENERAL.—If—

"(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this part, or

"(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (b)(1),

the Secretary may, if the Secretary is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

"(2) REIMBURSEMENT.—A reasonable cost reimbursement contract under this part may, at the option of such organization, provide that the Secretary—

"(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to section 1852(a), and

"(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.

If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

"(3) RETROACTIVE ADJUSTMENT.—Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in section 1853(a)(1).

"(4) FINANCIAL STATEMENT.—Any reasonable cost reimbursement contract with an eligible organization under this part shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

"(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in section 1853(a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this part and other individuals enrolled with such organization;

"(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

"(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

"(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

"(d) CONTRACT PERIOD AND EFFECTIVENESS.—

"(1) PERIOD.—

"(A) IN GENERAL.—Each contract under this part shall be for a term of at least 1 year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(B) TERMINATION OR IMMEDIATE SANCTIONS FOR CAUSE.—The Secretary, in accordance with procedures established under paragraph (9), may terminate any such contract at any time, or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable), if the Secretary finds that the organization—

"(i) has failed substantially to carry out the contract,

"(ii) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, or

"(iii) no longer substantially meets the applicable conditions of this part.

"(2) EFFECTIVE DATE OF CONTRACT.—The effective date of any contract executed pursuant to this part shall be specified in the contract.

"(3) PROTECTIONS AGAINST FRAUD AND BENEFICIARY PROTECTIONS.—Each contract under this part—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate—

"(I) the quality, appropriateness, and timeliness of services performed under the contract, and

"(II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain—

"(I) to the ability of the organization to bear the risk of potential financial losses, or

"(II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this part with the organization; and

"(C)(i) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members);

"(ii) shall require the organization to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section;

"(iii) shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties; and

"(D) shall contain such other terms and conditions not inconsistent with this part (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) PREVIOUS TERMINATIONS.—The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this part was terminated at the request of the organization within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) NO CONTRACTING AUTHORITY.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(6) INTERMEDIATE SANCTIONS.—

"(A) IN GENERAL.—If the Secretary determines that an eligible organization with a contract under this part—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this part in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this part, or

"(II) to an individual or to any other entity under this part;

"(vi) fails to comply with the requirements of section 1856(b)(5); or

"(vii) in the case of a risk-sharing contract, employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services;

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in subparagraph (B).

"(B) REMEDIES DESCRIBED.—The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A) or, with respect to a determination under clause (iv) or (v)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,

"(ii) suspension of enrollment of individuals under this part after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this part for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1)(B) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the

Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128(a).

"(7) UTILIZATION AND PEER REVIEW ORGANIZATION.—

"(A) IN GENERAL.—Each risk-sharing contract with an eligible organization under this part shall provide that the organization will maintain a written agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the eligible organization is located) or with an entity selected by the Secretary under section 1154(a)(4)(C) under which the review organization will perform functions under section 1154(a)(4)(B) and section 1154(a)(14) (other than those performed under contracts described in section 1866(a)(1)(F)) with respect to services, furnished by the eligible organization, for which payment may be made under this title.

"(B) COST OF AGREEMENT.—For purposes of payment under this title, the cost of such agreement to the eligible organization shall be considered a cost incurred by a provider of services in providing covered services under this title and shall be paid directly by the Secretary to the review organization on behalf of such eligible organization in accordance with a schedule established by the Secretary.

"(C) SOURCE OF PAYMENTS.—Such payments—

"(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

"(ii) shall not be less in the aggregate for such organizations for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting activities described in subparagraph (A) with respect to such eligible organizations under part B of title XI.

"(8) PHYSICIAN INCENTIVE PLAN.—

"(A) IN GENERAL.—Each contract with an eligible organization under this part shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) PHYSICIAN INCENTIVE PLAN DEFINED.—In this paragraph, the term 'physician incentive plan' means any compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

(e) SERVICES NOT FURNISHED BY ORGANIZATION.—

"(1) PARTICIPATING PHYSICIAN.—In the case of physicians' services or renal dialysis services described in paragraph (2) which are furnished by a participating physician or provider of services or renal dialysis facility to an individual enrolled with an eligible organization under this part and enrolled under part B, the applicable participation agreement is deemed to provide that the physician or provider of services or renal dialysis facility will accept as payment in full from the eligible organization the amount that would be payable to the physician or provider of services or renal dialysis facility under part B and from the individual under such part, if the individual were not enrolled with an eligible organization under this part.

"(2) NONPARTICIPATING PHYSICIAN.—In the case of physicians' services described in paragraph (3) which are furnished by a nonparticipating physician, the limitations on actual charges for such services otherwise applicable under part B (to services furnished by individuals not enrolled with an eligible organization under this part) shall apply in the same manner as such limitations apply to services furnished to individuals not enrolled with such an organization.

"(3) SERVICES DESCRIBED.—The physicians' services or renal dialysis services described in this paragraph are physicians' services or renal dialysis services which are furnished to an enrollee of an eligible organization under this part by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.

"(4) EXCEPTION FOR EMERGENCY SERVICES.—In the case of emergency services described in section 1855(e)(2), which are furnished by a provider that does not have a contractual relationship with the organization, the organization shall be required to reimburse the provider for the reasonable costs of providing such services.

"PAYMENT TO ELIGIBLE ORGANIZATIONS

"SEC. 1857. (a) MONTHLY PAYMENTS IN ADVANCE TO ORGANIZATION WITH RISK-SHARING CONTRACTS.—

"(1) ANNOUNCEMENT.—The Secretary shall annually determine, and shall announce (in a manner intended to provide notice to interested parties) not later than September 7 before the calendar year concerned—

"(A) a per capita rate of payment for each class of individuals who are enrolled under this part with an eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

"(B) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

(2) IN GENERAL.—

"(A) MONTHLY PAYMENT.—In the case of an eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (B) and except as provided in section 1856(b)(2), to the organization for each individual enrolled with the organization under this part.

"(B) METHOD OF DETERMINING PAYMENT.—

"(i) 1997.—For 1997, the modified per capita rate of payment for each class defined under clause (iii) shall be equal to the annual per capita rate of payment for such class which would have been determined under section 1876(a)(1)(C) for 1996 if—

"(I) the applicable geographic area were the payment area; and

"(II) 50 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures)..

"(ii) SUCCEEDING YEARS.—

"(I) IN GENERAL.—For 1998 and each succeeding calendar year, the modified per capita rate of payment for each class defined under clause (iii) shall be equal to the modified per capita rate of payment determined for such area for the preceding year, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures).

"(II) PHASE-OUT OF SPECIAL PAYMENTS.—In applying this clause for 1998, the modified per capita rate of payment for each such class for 1997 shall be the amount that would have been determined for 1997 if clause (i)(II) had been applied by substituting '100 percent' for '50 percent'.

"(iii) CLASSES.—The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence and not later then January 1, 1997, the Secretary shall implement risk-adjusters that were not in effect under section 1876 (as in effect on December 31, 1996.

"(iv) ADJUSTMENTS.—The Secretary shall adjust modified per capita rates of payment for a payment area under this subparagraph such that—

"(I) the portion of such rate attributable to part B shall not result in a modified per capita rate of payment for an area that is less than 85 percent of portion of the weighted average of the modified per capita rates determined under clause (i) or (ii) attributable to part B services for all payment areas for 1996; and

"(II) such rate reflects the cost of providing the benefits described in section 1853(a)(1) to enrollees.

Such adjustments shall be made to ensure that total payments under this subsection to eligible organizations do not exceed the amount that would have been paid under this subsection in the absence of such adjustments.

"(3) PAYMENTS ONLY TO ELIGIBLE ORGANIZATIONS.—Subject to paragraph (6) and section 1853(a)(2), if an individual is enrolled under this part with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(4) RETROACTIVE ADJUSTMENT.—

"(A) IN GENERAL.—The amount of payment under this subsection may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this part and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(B) SPECIAL RULE FOR CERTAIN ENROLLEES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may make retroactive adjustments under subparagraph (A) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this part) under a health benefit plan operated, sponsored, or contributed to by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this part, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(ii) EXPLANATION.—No adjustment may be made under clause (ii) with respect to any individual who does not certify that the organization provided the individual with the explanation described in section 1855(b) at the time the individual enrolled with the organization.

"(5) NOTICE OF PROPOSED CHANGES.—

"(A) IN GENERAL.—At least 45 days before making the announcement under paragraph (1) for a year the Secretary shall provide for notice to eligible organizations of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such organizations an opportunity to comment on such proposed changes.

"(B) EXPLANATION.—In each announcement made under paragraph (1) for a year, the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that eligible organizations can compute per capita rates of payment for classes of individuals located in each payment area which is in whole or in part within the service area of such an organization.

"(6) INPATIENT OF HOSPITAL AT TIME OF ENROLLMENT.—A risk-sharing contract under this part shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(A) enrollment with an eligible organization under this part—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this part; or

"(B) termination of enrollment with an eligible organization under this part—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"(b) REASONABLE COST CONTRACT.—With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with section 1856(c) rather than subsection (a).

"(c) PAYMENT FROM TRUST FUNDS.—The payment to an eligible organization under this part for individuals enrolled under this part with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by each trust fund shall be determined as follows:

"(1) In regard to expenditures by eligible organizations having risk-sharing contracts, the allocation shall be determined each year by the Secretary based on the relative weight that benefits from each fund contribute to the adjusted average per capita cost.

"(2) In regard to expenditures by eligible organizations operating under a reasonable cost reimbursement contract, the initial allocation shall be based on the plan's most recent budget, such allocation to be adjusted, as needed, after cost settlement to reflect the distribution of actual expenditures.

The remainder of that payment shall be paid by the former trust fund.

"(d) TESTING THE USE OF COMPETITIVE PRICING PRIOR TO IMPLEMENTATION.—

"(1) IN GENERAL.—Not later than January 1, 1997, the Secretary shall implement alternative payment methodologies for determining the monthly rate that will be paid to eligible organizations with risk-sharing contracts in payment areas designated by the Secretary in accordance with paragraph (2). Such alternative payment methodologies shall be based on competitive price and include a method that determines rates based on the commercial, competitively determined rates of the organizations.

"(2) CRITERIA FOR SELECTION.—The Secretary shall develop criteria for designating payment areas, determining the minimum number of bidders necessary to effectively implement and test alternative payment methodologies, and utilizing any additional health status adjusters that may be necessary to implement such methodologies. The criteria for designating payment areas shall provide that the Secretary designate relatively high and low payment areas, relatively high and low market penetration areas, and urban and rural areas.

"(3) BIDS.—Each eligible organization desiring to enter into a risk-sharing contract under this part shall place a bid on the benefits covered under section 1853(a)(1)(A) under a methodology implemented under this paragraph. The premium structure included in the bid shall consist of enrollee cost-sharing amounts and the monthly amount to be paid from the Federal Hospital Insurance Trust Fund and Federal Supplementary Medical Insurance Trust Fund under this section. Each organization shall be required to adhere to the premium structure included in the organization's bid. An organization may offer additional benefits at a separately determined price. An organization shall not be prevented from entering into a contract under this section solely based on the level of the organization's premium bid.

"(4) REQUIRED PARTICIPATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), each eligible organization that desires to enter into a risk-sharing contract under this part in a payment area designated under this subsection shall receive payment under this part in accordance with this subsection, instead of subsection (a).

"(B) EXCEPTION.—The Secretary may, at the Secretary's discretion, permit an eligible organization to receive payment under this title (without regard to this part).

"(5) PROHIBITION OF REASONABLE COST CONTRACTS.—The Secretary may prohibit the use of reasonable cost contracts in payment areas designated under this subsection.

"(6) AGGREGATE PAYMENTS.—Aggregate payments under this subsection across payment areas under this subsection shall not exceed the amount that would have, in the absence of this subsection, been paid under subsection (a) to such organization for individuals enrolled under this part. Payments to eligible organizations with risk-sharing contracts in a single payment area may exceed the amount described in the preceding sentence but may not exceed 100 percent of the adjusted average per capita cost (as defined in subsection (a)(1)(B)(ii)) that would have, in the absence of this subsection, been determined for all individuals enrolled under this part.

"(7) TRANSITION RULES.—The Secretary shall develop transition rules for payment areas in which risk-sharing plan enrollees pay minimal or no premiums in order to prevent substantial increases in premiums as a result of an alternative payment methodology implemented under this subsection.

"(8) REPORT.—Not later then January 1, 2000, the Secretary shall report to Congress on specific recommendations for a new payment methodology under this part to be based on the results of the alternate methodologies implemented under this subsection.

"(e) PARTIAL CAPITATION DEMONSTRATION.—The Secretary shall conduct a demonstration project on the alternative partial risk-sharing arrangements between the Secretary and health care providers. Not later then December 31, 1998, the Secretary shall report to the Congress on the administrative feasibility of such partial capitation methods and the information necessary to implement such methods.

"PROVIDER-SPONSORED NETWORKS

"SEC. 1858. (a) PROVIDER-SPONSORED NETWORK DEFINED.—

"(1) IN GENERAL.—In this part, the term 'provider-sponsored network' means a public or private entity is a provider, or group of affiliated providers, that provides a substantial proportion (as defined by the Secretary) of the health care items and services under the contract under this part directly through the provider or affiliated group of providers.

"(2) SUBSTANTIAL PROPORTION.—In defining what is a 'substantial proportion' for purposes of paragraph (1), the Secretary—

"(A) shall take into account the need for such an organization to assume responsibility for a substantial proportion of services in order to assure financial stability and the practical difficulties in such an organization integrating a very wide range of service providers; and

"(B) may vary such proportion based upon relevant differences among organizations, such as their location in an urban or rural area.

"(3) AFFILIATION.—For purposes of this subsection, a provider is 'affiliated' with another provider if, through contract, ownership, or otherwise—

"(A) one provider, directly or indirectly, controls, is controlled by, or is under common control with the other,

"(B) each provider is a participant in a lawful combination under which each provider shares, directly or indirectly, substantial financial risk in connection with their operations,

"(C) both providers are part of a controlled group of corporations under section 1563 of the Internal Revenue Code of 1986, or

"(D) both providers are part of an affiliated service group under section 414 of such Code.

"(4) CONTROL.—for purposes of paragraph (3), control is presumed to exist if one party, directly or indirectly, owns, controls, or holds the power to vote, or proxies for, not less than 51 percent of the voting rights or governance rights of another.

"(b) CERTIFICATION PROCESS FOR PROVIDER-SPONSORED NETWORKS.—

"(1) FEDERAL ACTION ON CERTIFICATION.—If—

"(A) a State fails to complete action on a licensing application of an eligible organization that is a provider-sponsored network within 90 days of receipt of the completed application, or

"(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under paragraph (2).

"(2) FEDERAL CERTIFICATION PROCEDURES.—

"(A) IN GENERAL.—The Secretary shall establish a process for certification of an eligible organization that is a provider sponsored network) and its sponsor as meeting the requirements of this part in cases described in paragraph (1).

"(B) REQUIREMENTS.—Such process shall—

"(i) set forth the standards for certification,

"(ii) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

"(iii) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under paragraph (1)(A)(ii), and

"(iv) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

Not later then 5 business days after receipt of an application under this subsection, the Secretary shall notify the applicant as to whether the application includes all information necessary to process the application.is received by the Secretary.

"(C) EFFECT OF CERTIFICATIONS.—

"(i) IN GENERAL.—A certificate under this subsection shall be issued for not more than 36 months and may not be renewed, unless the Secretary determines that the State's laws and regulations provide an unreasonable barrier to market entry.

"(ii) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under paragraph (1) during the period the certificate is in effect.

"(D) STATE STANDARDS.—During the first 24 months after the issuance of the Federal rules relating to the Federal certification process established under this paragraph, a State may apply to the Secretary to demonstrate that the State's licensure standards and process are consistent with Federal standards, incorporate appropriate flexibility to reflect the deliver system of provider-sponsored networks, and do not present an unreasonable barrier to market entry. If the Secretary approves the State licensure standards and process under this subparagraph, a provider sponsored network in such a State shall be required to obtain State licenses (as well as meet all other applicable Federal standards).

"(3) REPORT.—Not later then December 31, 1999, the Secretary shall report to Congress on the Federal certification system under paragraph (2), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that provider-sponsored networks provide services directly to enrollees through affiliated providers.".

(b) CONFORMING AMENDMENTS.—

(1) TERMINATION OF SECTION 1876.—Section 1876 (42 U.S.C. 1395mm) is repealed.

(2) GME ADJUSTMENT.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended by inserting ", including all days attributable to patients enrolled in an eligible organization with a risk-sharing contract under part C" after "part A".

SEC. 7004. PROVISIONS RELATING TO MEDICARE SUPPLEMENTAL POLICIES.

Section 1882(s) (42 U.S.C. 1395ss(s)) is amended—

(1) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "paragraph (1), (2), or (3)",

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) Each issuer of a medicare supplemental policy shall have an open enrollment period (which shall be the period specified for each geographic area by the Secretary under section 1852(b)(1)), of at least 30 days duration every year, during which the issuer may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy because of age, health status, claims experience, past or anticipated receipt of health care, or presence of a medical condition. The policy may not exclude benefits relating to the existence of any preexisting condition. The Secretary may require enrollment and disenrollment through a third party designated under section 1876(c)(3)(B). Each issuer of a medicare supplemental policy shall have an additional open enrollment period which shall be the period specified in section 1852(b)(4).".

SEC. 7005. SPECIAL RULE FOR CALCULATION OF PAYMENT RATES FOR 1996.

(a) IN GENERAL.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the per capita rate under section 1876 of the Social Security Act (42 U.S.C. 1395ww) for 1996 for any class for a geographic area shall be equal to the amount determined for such class for such area in 1995, increased by 7 percent (to reflect the projected per capita rate of growth in private health care expenditures).

(2) FLOOR.—The Secretary shall adjust a per capita rate of payment for a geographic area determined under this subsection for a class such that the portion of such rate attributable to part B shall not be less than 85 percent of the weighted average of the portion of the per capita rates attributable to part B services for such class determined under this subsection for all geographic areas. Such adjustments shall be made to ensure that total payments under this subsection to eligible organizations do not exceed the amount that would have been paid under this subsection in the absence of such adjustments.

(b) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than 30 days after the date of the enactment of this Act.

(c) REPORT.—Not later then July 1, 1996, the Prospective Payment Assessment Commission and the Physician Payment Review Commission shall jointly report to Congress on geographically based variations in payments to eligible organizations with a risk-sharing contract under section 1876 of the Social Security Act (42 U.S.C. 1395mm).

(d) EFFECTIVE DATE.—This section shall apply on and after the date of the enactment of this Act.

SEC. 7006. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS TO HOSPITALS PROVIDING SERVICES TO ENROLLEES IN ELIGIBLE ORGANIZATIONS.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

"(1) IN GENERAL.—For discharges occurring on or after January 1, 1997, a subsection (d) hospital that is a qualified provider shall receive payment for each discharge of an individual enrolled under part C with an eligible organization as follows:

"(A) For a qualified provider that qualifies for the indirect medical education adjustment under subsection (d)(5)(B), payment shall be made on a per discharge basis for each individual enrolled in an eligible organization with a risk-sharing contract who receives inpatient care at that provider as though such provider was receiving the applicable percentage of the amount such provider would receive as direct payment under this title on the basis of a diagnosis related group.

"(B) For a qualified provider that qualifies for the disproportionate share adjustment under subsection (d)(5)(F), payment shall be made on a per discharge basis for each individual enrolled in an eligible organization with a risk-sharing contract who receives inpatient care at that provider as though such provider was receiving the applicable percentage of the amount such provider would receive as direct payment under this title on the basis of a diagnosis related group.

"(C) For a qualified provider that qualifies for payment for direct graduate medical education under subsection (h), payment shall be made by counting as medicare inpatient days the applicable percentage of those days attributable to individuals enrolled in an eligible organization with a risk-sharing contract when determining the provider's medicare patient load.

"(2) QUALIFIED PROVIDER.—For purposes of paragraph (1), the term 'qualified provider' means a provider that—

"(A) qualifies for any or all payments under subsection (d)(5)(B), (d)(5)(F) or (h); and

"(B) provides inpatient services either as an eligible organization or under a contract with an eligible organization, to individuals enrolled with an eligible organization under part C.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) for calendar year 1997, 50 percent; and

"(B) for calendar years after 1997, 100 percent.".

SEC. 7007. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this title shall apply with respect to services furnished under a contract on or after January 1, 1997.

CHAPTER 2—PROVISIONS RELATING TO QUALITY IMPROVEMENT AND DISTRIBUTION OF INFORMATION

SEC. 7011. QUALITY REPORT CARDS.

Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7002, is amended by inserting after section 1805 the following new section:

"QUALITY REPORT CARDS

"SEC. 1806. (a) DISTRIBUTION OF QUALITY REPORT CARDS.—Beginning with calendar year 1997, the Secretary shall include a quality report card with the comparative materials distributed under section 1852(c)(2). The quality report card shall contain information designed to assist medicare beneficiaries in choosing eligible organizations including, as appropriate, the performance measures developed under subsection (b).

"(b) DEVELOPMENT OF PERFORMANCE MEASURES.—

"(1) DELEGATION.—

"(A) IN GENERAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall, in cooperation with nonprofit organizations—

"(i) develop standardized performance measures for eligible organizations and providers which are designed to achieve the purposes described in subparagraph (B); and

"(ii) examine the feasibility of using risk adjusters to validate the performance measures developed.

"(B) PURPOSES DESCRIBED.—The purposes described in this subparagraph are as follows:

"(i) To develop a quality report card for medicare beneficiaries that will assist such beneficiaries' decisionmaking regarding health care and treatment by allowing the beneficiaries to compare quality information.

"(ii) To establish performance measures that will assist eligible organizations and providers in providing high quality health care.

"(iii) To provide information to eligible organizations and providers regarding such organizations' and providers' performance and health care processes.

"(C) PERFORMANCE MEASURES DESCRIBED.—The performance measures developed under subparagraph (A) may include the following:

"(i) The number of members of an eligible organization who disenroll from the organization, and to the extent possible, the reasons for such disenrollment.

"(ii) Outcomes of care.

"(iii) Population health status.

"(iv) Appropriateness of care.

"(v) Consumer satisfaction for general and subgroup populations.

"(vi) Access to care, including access to emergency care, waiting time for scheduled appointments, and provider location convenience.

"(vii) Prevention of diseases, disorders, disabilities, injuries, and other health conditions.

"(D) ONGOING BASIS.—Development of performance measures and risk adjusters shall be done on an ongoing basis.

"(2) COLLECTION OF DATA.—

"(A) VALIDITY PREREQUISITE.—The performance measures developed under this subsection shall not be disseminated to eligible organizations and providers before the validity of such performance measures is established.

"(B) COLLECTION SCHEDULE.—Beginning 6 months after the first dissemination of the performance measures to eligible organizations, data regarding specific performance measures shall be collected from the eligible organizations on a regular rotating basis that coincides with data collection requirements for private sector health care systems.

"(C) COMPLIANCE.—Each eligible organization shall disclose performance measure data as requested. The Administrator of the Health Care Financing Administration or an entity designated by the Secretary shall audit eligible organizations for compliance with the data collection requirements and shall enforce any noncompliance in accordance with regulations promulgated by the Secretary.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible organization' means an organization with a contract under part C;

"(2) the term 'medicare beneficiary' means an individual entitled to benefits under part A or enrolled under part B; and

"(3) the term 'provider' means hospitals, physicians, nursing homes, and providers of ancillary services to medicare beneficiaries.".

CHAPTER 3—PROVISIONS TO STRENGTHEN RURAL AND UNDER-SERVED AREAS

SEC. 7021. RURAL REFERRAL CENTERS.

(a) PERMANENT GRANDFATHERING OF RURAL REFERRAL CENTER STATUS.—Section 1886(d)(5)(C) (42 U.S.C. 1395ww(d)(5)(C)) is amended by adding at the end the following new clause:

"(iii) Notwithstanding any other provision of law, any hospital that was classified as a rural referral center under clause (i) on September 30, 1991, shall continue to be classified or, as applicable, shall be reclassified, as a rural referral center and such classification or reclassification shall be effective on and after October 1, 1991, with respect to payments under this title.".

(b) GRADUATED AREA WAGE INDEX FOR RURAL REFERRAL CENTERS.—Section 1886(d)(10)(D) (42 U.S.C. 1395ww(d)(10)(D)) is amended by adding at the end the following new clauses:

"(iv) Notwithstanding section 412.230(e)(iii) of title 42, Code of Federal Regulations (relating to criteria for use of an area's wage index)—

"(I) in the case of an eligible hospital that pays an average hourly wage that is equal to or greater than 104 percent and less than 108 percent of the average hourly wage of the hospitals in the area in which the hospital is located, the wage index of such hospital shall be equal to the sum of—

"(aa) the wage index of the area in which the hospital is located; and

"(bb) 66 percent of the difference between the higher wage index area which the hospital would receive if it was reclassified (if the hospital's average hourly wage was 108 percent or more of the average hourly wage of hospitals in the area in which the hospital is located in accordance with the provisions of section 1886(d)(8)(C)) and the amount determined under item (aa); and

"(II) in the case of an eligible hospital that pays an average hourly wage that is equal to or greater than 100 percent and less than 104 percent of the average hourly wage of the hospitals in the area in which the hospital is located, the wage index of such hospital shall be determined under subclause (I) as if the reference to '66 percent' in such subclause were a reference to '33 percent'.

"(v) For purposes of clause (iv), the term 'eligible hospital' means a hospital that is classified as a rural referral center under paragraph (5)(C)(i) that would be reclassified to a higher area wage index if the hospital's average hourly wage was 108 percent or more of the average hourly wage in the area in which the hospital is located and meets all other applicable Federal standards.".

(c) BUDGET NEUTRALITY.—Notwithstanding any other provision of law, for cost reporting periods beginning on or after October 1, 1995, the Secretary of Health and Human Services shall provide for such equal proportional adjustment in payments under section 1886 of the Social Security Act (42 U.S.C. 1395ww) to subsection (d) hospitals and subsection (d) Puerto Rico hospitals (as defined under such section) as may be necessary to assure that the aggregate payments to such hospitals under such section are not increased or decreased by reason of the amendments made by subsections (a) and (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to cost reporting periods beginning on or after October 1, 1995.

SEC. 7022. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7023. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: "The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.".

SEC. 7024. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) COVERAGE IN OUTPATIENT OR HOME SETTINGS FOR PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) IN GENERAL.—Section 1833(r)(1) (42 U.S.C. 1395*l*(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) CONFORMING AMENDMENT.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) PAYMENT UNDER THE FEE SCHEDULE TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS IN OUTPATIENT OR HOME SETTINGS.—

(1) PHYSICIAN ASSISTANTS.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) TECHNICAL AMENDMENT.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7025. IMPROVING HEALTH CARE ACCESS AND REDUCING HEALTH CARE COSTS THROUGH TELEMEDICINE.

(a) IN GENERAL.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended—

(1) in the title heading by striking out "AND HEALTH PROMOTION" and inserting ", HEALTH PROMOTION AND TELEMEDICINE DEVELOPMENT";

(2) by inserting after the title heading the following:

"PART A—HEALTH INFORMATION AND HEALTH PROMOTION";

and

(3) by adding at the end thereof the following new part:

"PART B—TELEMEDICINE DEVELOPMENT

"SEC. 1711. GRANT PROGRAM FOR PROMOTING THE DEVELOPMENT OF RURAL TELEMEDICINE NETWORKS.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible entities in accordance with this subsection to promote the development of rural telemedicine networks.

"(b) GRANTS FOR DEVELOPMENT OF RURAL TELEMEDICINE.—The Secretary of Health and Human Services, acting through the Office of Rural Health Policy, shall award grants to eligible entities that have applications approved under subsection (d) for the purpose of expanding access to health care services for individuals in rural areas through the use of telemedicine. Grants shall be awarded under this section to—

"(1) encourage the initial development of rural telemedicine networks;

"(2) expand existing networks;

"(3) link existing networks together; or

"(4) link such networks to existing fiber optic telecommunications systems.

"(c) ELIGIBLE ENTITY DEFINED.—For the purposes of this section the term 'eligible entity' means hospitals and other health care providers operating in a health care network of community-based providers that includes at least three of the following—

"(1) community or migrant health centers;

"(2) local health departments;

"(3) community mental health centers;

"(4) nonprofit hospitals;

"(5) private practice health professionals, including rural health clinics; or

"(6) other publicly funded health or social services agencies.

"(d) APPLICATION.—To be eligible to receive a grant under this section an eligible entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including a description of—

"(1) the need of the entity for the grant;

"(2) the use to which the entity would apply any amounts received under such grant;

"(3) the source and amount of non-Federal funds that the entity will pledge for the project funded under the grant;

"(4) the long-term viability of the project and evidence of the providers commitment to the network.

"(e) PREFERENCE IN AWARDING GRANTS.—In awarding grants under this section, the Secretary shall give preference to applicants that—

"(1) are health care providers operating in rural health care networks or that propose to form such networks with the majority of the providers in such networks being located in a medically undeserved area or health professional shortage area;

"(2) can demonstrate broad geographic coverage in the rural areas of the State, or States in which the applicant is located; and

"(3) propose to use funds received under the grant to develop plans for, or to establish, telemedicine systems that will link rural hospitals and rural health care providers to other hospitals and health care providers;

"(4) will use the amounts provided under the grant for a range of health care applications and to promote greater efficiency in the use of health care resources;

"(5) demonstrate the long term viability of projects through use of local matching funds (in cash or in-kind); and

"(6) demonstrate financial, institutional, and community support and the long range viability of the network.

"(f) USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall be utilized for the development of telemedicine networks. Such amounts may be used to cover the costs associated with the development of telemedicine networks and the acquisition of telemedicine equipment and modifications or improvements of telecommunications facilities, including—

"(1) the development and acquisition through lease or purchase of computer hardware and software, audio and visual equipment, computer network equipment, modification or improvements to telecommunications transmission facilities, telecommunications terminal equipments, interactive video equipment, data terminal equipment, and other facilities and equipment that would further the purposes of this section;

"(2) the provision of technical assistance and instruction for the development and use of such programming equipment or facilities;

"(3) the development and acquisition of instructional programming;

"(4) the development of projects for teaching or training medical students, residents, and other health professions students in rural training sites about the application of telemedicine;

"(5) transmission costs, maintenance of equipment, and compensation of specialists and referring practitioners;

"(6) the development of projects to use telemedicine to facilitate collaboration between health care providers; and

"(7) such other uses that are consistent with achieving the purposes of this section as approved by the Secretary.

"(g) PROHIBITED USE OF AMOUNTS.—Amounts received under a grant awarded under this section shall not be used for—

"(1) expenditures to purchase or lease equipment to the extent the expenditures would exceed more than 60 percent of the total grant funds; or

"(2) expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 10 percent of the total grant funds.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

"(i) DEFINITION.—For the purposes of this section, the term 'rural health care network' means a group of rural hospitals or other rural health care providers (including clinics, physicians and non-physicians primary care providers) that have entered into a relationship with each other or with nonrural hospitals and health care providers for the purpose of strengthening the delivery of health care services in rural areas or specifically to improve their patients' access to telemedicine services. At least 75 percent of hospitals and other health care providers participating in the network shall be located in rural areas.

"(j) REGULATIONS ON REIMBURSEMENT OF TELEMEDICINE.—Not later than July 1, 1996, the Secretary, in consultation with the Office of Rural Health and the Health Care Financing Administration, shall develop and submit to Congress a recommendation on a methodology for determining payments under title XVIII of the Social Security Act for telemedicine services.".

SEC. 7026. ESTABLISHMENT OF RURAL HEALTH OUTREACH GRANT PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART O—RURAL HEALTH OUTREACH GRANTS

"SEC. 399O. RURAL HEALTH OUTREACH GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary may make grants to demonstrate the effectiveness of outreach to populations in rural areas that do not normally seek or do not have access to health or mental health services. Grants shall be awarded to enhance linkages, integration, and cooperation in order to provide health or mental health services, to enhance services, or increase access to or utilization of health or mental health services.

"(b) MISSION OF THE OUTREACH PROJECTS.—Projects funded under subsection (a) should be designed to facilitate the integration and coordination of services in or among rural communities in order to address the needs of populations living in rural or frontier communities.

"(c) COMPOSITION OF PROGRAM.—

"(1) CONSORTIUM ARRANGEMENT.—To be eligible to participate in the grant program established under subsection (a), an applicant entity shall be a consortium of three or more separate and distinct entities formed to carry out an outreach project under subsection (b).

"(2) CERTAIN REQUIREMENTS.—A consortium under paragraph (1) shall be composed of three or more public or private nonprofit health care or social service providers. Consortium members may include local health departments, community or migrant health centers, community mental health centers, hospitals or private practices, or other publicly funded health or social service agencies.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.".

SEC. 7027. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(3) DEEMED TO HAVE ESTABLISHED A PROGRAM.—A State that received a grant under this section on or before December 31, 1995, and the State of Montana shall be deemed to have established a program under this subsection.

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a critical access hospital from entering into an agreement with the Secretary under section 1883 to use the beds designated for inpatient cases pursuant to subsection (d)(2)(A)(iii) for extended care services.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) GRANDFATHERING OF CERTAIN FACILITIES.—

"(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(b) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Section 1814 (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(II) by striking "72" and inserting "96";

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (*l*) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(d) Payment Continued to Designated EACHs.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect or designated by the State on January 1, 1996" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect or designated by the State on January 1, 1996" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(e) Part B Amendments Relating to Critical Access Hospitals.—

(1) Coverage.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) Payment.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows:

"(g) Payment for Outpatient Critical Access Hospital Services.—

"(1) In general.—The amount of payment for outpatient critical access hospital services provided in a critical access hospital under this part shall be determined by one of the 2 following methods, as elected by the critical access hospital:

"(A) Reasonable cost.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.

"(B) All-inclusive rate.—With respect to both facility services and professional medical services, there shall be paid amounts equal to the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, less the amount the hospital may charge as described in clause (i) of section 1866(a)(2)(A), but in no case may the payment for such services (other than for items and services described in section 1861(s)(10)(A)) exceed 80 percent of such costs.

The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) Swing Beds.—Section 1883 (42 U.S.C. 1395tt) is amended by adding at the end the following new subsection:

"(g) Nothing in this section shall prohibit the Secretary from entering into an agreement with a critical access hospital.".

(g) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1996.

SEC. 7028. PARITY FOR RURAL HOSPITALS FOR DISPROPORTIONATE SHARE PAYMENTS.

(a) Disproportionate Share Adjustment Percentage.—Section 1886(d)(5)(F)(iv) (42 U.S.C. 1395ww(d)(5)(F)(iv)) is amended—

(1) in subclause (I), by inserting "or rural" after "urban",

(2) in subclause (II), by inserting "or rural" after "urban",

(3) by striking subclause (III) and redesignating subclauses (IV), (V), and (VI), as subclauses (III), (IV), and (V), respectively,

(4) in subclause (III), as redesignated, by striking "10 percent" and inserting "15 percent",

(5) in subclause (IV), as redesignated, to read as follows:

"(IV) is located in a rural area, is classified as a rural referral center under subparagraph (C), is not classified as a sole community hospital under subparagraph (D) and—

"(aa) has 100 or more beds, is equal to the percent determined in accordance with the applicable formula described in clause (vii), or

"(bb) has less than 100 beds, is equal to 5 percent; or", and

(6) in subclause (V), as redesignated, by striking "10 percent" and inserting "15 percent".

(b) Serves a Significantly Disproportionate Number of Low-Income Patients.—Section 1886(d)(5)(F)(v) (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended by striking subclauses (II) through (IV) and inserting the following subclauses:

"(II) 20 percent, if the hospital is located in a rural area and has 100 or more beds,

"(III) 40 percent, if the hospital is located in a rural area and has less than 100 beds,

"(IV) 20 percent, if the hospital is located in a rural area and is classified as a sole community hospital under subparagraph (D),

"(V) 15 percent, if the hospital is located in a rural area, is classified as a rural referral center, is not classified as a sole community hospital under subparagraph (D), and has 100 or more beds, or

"(VI) 40 percent, if the hospital is located in a rural area, is classified as a rural referral center, is not classified as a sole community hospital under subparagraph (D), and has less than 100 beds.".

(c) Effective Date.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1995.

CHAPTER 4—GENERAL PROGRAM IMPROVEMENTS AND REFORM

SEC. 7031. INCREASED FLEXIBILITY IN CONTRACTING FOR MEDICARE CLAIMS PROCESSING.

(a) Carriers To Include Entities That Are Not Insurance Companies.—

(1) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking "with carriers" and inserting "with agencies and organizations (hereafter in this section referred to as 'carriers')".

(2) Section 1842(f) (42 U.S.C. 1395u(f)) is repealed.

(b) Choice of Fiscal Intermediaries by Providers of Services; Secretarial Flexibility in Assigning Functions to Intermediaries and Carriers.—

(1) Section 1816(a) (42 U.S.C. 1395h(a)) to read as follows:

"(a)(1) The Secretary may enter into contracts with agencies or organizations to perform any or all of the following functions, or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other organizations):

"(A) Determination (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this part to be made to providers of services.

"(B) Making payments described in subparagraph (A).

"(C) Provision of consultative services to institutions or agencies to enable them to establish and maintain fiscal records necessary for purposes of this part and otherwise to qualify as providers of services.

"(D) Serving as a center for, and communicate to individuals entitled to benefits under this part and to providers of services, any information or instructions furnished to the agency or organization by the Secretary, and serve as a channel of communication from individuals entitled to benefits under this part and from providers of services to the Secretary.

"(E) Making such audits of the records of providers of services as may be necessary to ensure that proper payments are made under this part.

"(F) Performance of the functions described under subsection (d).

"(G) Performance of such other functions as are necessary to carry out the purposes of this part.

"(2) As used in this title and title XI, the term 'fiscal intermediary' means an agency or organization with a contract under this section.".

(2) Subsections (d) and (e) of section 1816 (42 U.S.C. 1395h) are amended to read as follows:

"(d) Each provider of services shall have a fiscal intermediary that—

"(1) acts as a single point of contact for the provider of services under this part,

"(2) makes its services sufficiently available to meet the needs of the provider of services, and

"(3) is responsible and accountable for arranging the resolution of issues raised under this part by the provider of services.

"(e)(1)(A) The Secretary shall, at least every 5 years, permit each provider of services (other than a home health agency or a hospice program) to choose an agency or organization (from at least 3 proposed by the Secretary, of which at least 1 shall have an office in the geographic area of the provider of services, except as provided by subparagraph (B)(ii)(II)) as the fiscal intermediary under subsection (d) for that provider of services. If a contract with that fiscal intermediary is discontinued, the Secretary shall permit the provider of services to choose under the same conditions from 3 other agencies or organizations.

"(B)(i) The Secretary, in carrying out subparagraph (A), shall permit a group of hospitals (or a group of another class of providers other than home health agencies or hospice programs) under common ownership by, or control of, a particular entity to choose one agency or organization (from at least 3 proposed by the Secretary) as the fiscal intermediary under subsection (d) for all the providers in that group if the conditions specified in clause (ii) are met.

"(ii) The conditions specified in this clause are that—

"(I) the group includes all the providers of services of that class that are under common ownership by, or control of, that particular entity, and

"(II) all the providers of services in that group agree that none of the agencies or organizations proposed by the Secretary is required to have an office in any particular geographic area.

"(2) The Secretary, in evaluating the performance of a fiscal intermediary, shall solicit comments from providers of services.".

(3)(A) Section 1816(b)(1)(A) (42 U.S.C. 1395h(b)(1)(A)) is amended by striking "after applying the standards, criteria, and procedures" and inserting "after evaluating the ability of the agency or organization to fulfill the contract performance requirements".

(B) The first sentence of section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended—

(i) by striking "develop standards, criteria, and procedures" and inserting ", after public notice and opportunity for comment, develop contract performance requirements", and

(ii) by striking ", and the Secretary shall establish standards and criteria with respect to the efficient and effective administration of this part".

(C) The second sentence of section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended to read as follows: "The Secretary shall, after public notice and opportunity for comment, develop contract performance requirements for the efficient and effective performance of contract obligations under this section.".

(D) Section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by striking the third sentence.

(E) Section 1842(b)(2)(B) (42 U.S.C. 1395u(b)(2)(B)) is amended in the matter preceding clause (i) by striking "establish standards" and inserting "develop contract performance requirements".

(F) Section 1842(b)(2)(D) (42 U.S.C. 1395u(b)(2)(D)) is amended by striking "standards and criteria" each place it appears and inserting "contract performance requirements".

(4)(A) Section 1816(b) (42 U.S.C. 1395h(b)) is amended in the matter preceding paragraph (1) by striking "an agreement" and inserting "a contract".

(B) Paragraphs (1)(B) and (2)(A) of section 1816(b) (42 U.S.C. 1395h(b)) are each amended by striking "agreement" and inserting "contract".

(C) The first sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking "An agreement" and inserting "A contract".

(D) The last sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking "an agreement" and inserting "a contract".

(E) Section 1816(c)(2)(A) (42 U.S.C. 1395h(c)(2)(A)) is amended in the matter preceding clause (i) by striking "agreement" and inserting "contract".

(F) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is amended by striking "agreement" and inserting "contract".

(G) The first sentence of section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended by striking "an agreement" and inserting "a contract".

(H) Section 1816(h) (42 U.S.C. 1395h(h)) is amended—

(i) by striking "An agreement" and inserting "A contract", and

(ii) by striking "the agreement" each place it appears and inserting "the contract".

(I) Section 1816(i)(1) (42 U.S.C. 1395h(i)(1)) is amended by striking "an agreement" and inserting "a contract".

(J) Section 1816(j) (42 U.S.C. 1395h(j)) is amended by striking "An agreement" and inserting "A contract".

(K) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by striking "An agreement" and inserting "A contract".

(L) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) is amended by striking "agreements" and inserting "contracts".

(M) Section 1842(h)(3)(A) (42 U.S.C. 1395u(h)(3)(A)) is amended by striking "an agreement" and inserting "a contract".

(5) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended by striking the second sentence.

(6)(A) Section 1816(c)(2)(A) (42 U.S.C. 1395h(c)(2)(A)) is amended in the matter preceding clause (i) by inserting "that provides for making payments under this part" after "this section".

(B) Section 1816(c)(3)(A) (42 U.S.C. 1395h(c)(3)(A)) is amended by inserting "that provides for making payments under this part" after "this section".

(C) Section 1816(k) (42 U.S.C. 1395h(k)) is amended by inserting "(as appropriate)" after "submit".

(D) Section 1842(a) (42 U.S.C. 1395u(a)) is amended in the matter preceding paragraph (1) by striking "some or all of the following functions" and inserting "any or all of the following functions, or parts of those functions".

(E) The first sentence of section 1842(b)(2)(C) (42 U.S.C. 1395u(b)(2)(C)) is amended by inserting "(as appropriate)" after "carriers".

(F) Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended in the matter preceding subparagraph (A) by inserting "(as appropriate)" after "contract".

(G) Section 1842(b)(7)(A) (42 U.S.C. 1395u(b)(7)(A)) is amended in the matter preceding clause (i) by striking "the carrier" and inserting "a carrier".

(H) Section 1842(b)(11)(A) (42 U.S.C. 1395u(b)(11)(A)) is amended in the matter preceding clause (i) by inserting "(as appropriate)" after "each carrier".

(I) Section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended in the first sentence by inserting "(as appropriate)" after "shall".

(J) Section 1842(h)(5)(A) (42 U.S.C. 1395u(h)(5)(A)) is amended by inserting "(as appropriate)" after "carriers".

(7)(A) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "hospital, rural primary care hospital, skilled nursing facility, home health agency, hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency" and inserting "provider of services".

(B) Section 1816(j) (42 U.S.C. 1395h(j)) is amended in the matter preceding paragraph (1) by striking "for home health services, extended care services, or post-hospital extended care services".

(8) Section 1842(a)(3) (42 U.S.C. 1395u(a)(3)) is amended by inserting "(to and from individuals enrolled under this part and to and from physicians and other entities that furnish items and services)" after "communication".

(c) ELIMINATION OF SPECIAL PROVISIONS FOR TERMINATIONS OF CONTRACTS.—

(1) Section 1816(b) (42 U.S.C. 1395h(b)) is amended in the matter preceding paragraph (1) is amended by striking "or renew".

(2) The last sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended by striking "or renewing".

(3) Section 1816(f)(1) (42 U.S.C. 1395h(f)(1)) is amended—

(A) by striking ", renew, or terminate", and

(B) by striking ", whether the Secretary should assign or reassign a provider of services to an agency or organization,".

(4) Section 1816(g) (42 U.S.C. 1395h(g)) is repealed.

(5) The last sentence of section 1842(b)(2)(A) (42 U.S.C. 1395u(b)(2)(A)) is amended by striking "or renewing".

(6) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking paragraph (5).

(d) REPEAL OF FISCAL INTERMEDIARY REQUIREMENTS THAT ARE NOT COST-EFFECTIVE.—Section 1816(f)(2) (42 U.S.C. 1395h(f)(2)) is amended to read as follows:

"(2) The contract performance requirements developed under paragraph (1) shall include, with respect to claims for services furnished under this part by any provider of services other than a hospital, whether such agency or organization is able to process 75 percent of reconsiderations within 60 days and 90 percent of reconsiderations within 90 days.".

(e) REPEAL OF COST REIMBURSEMENT REQUIREMENTS.—

(1) The first sentence of section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is amended—

(A) by striking the comma after "appropriate" and inserting "and", and

(B) by striking "subsection (a)"and all that follows through the period and inserting "subsection (a).".

(2) Section 1816(c)(1) (42 U.S.C. 1395h(c)(1)) is further amended by striking the second and third sentences.

(3) The first sentence of section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is amended—

(A) by striking "shall provide" the first place it appears and inserting "may provide", and

(B) by striking "this part" and all that follows through the period and inserting "this part.".

(4) Section 1842(c)(1) (42 U.S.C. 1395u(c)(1)) is further amended by striking the second and third sentences.

(5) Section 2326(a) of the Deficit Reduction Act of 1984 is repealed.

(f) COMPETITION REQUIRED FOR NEW CONTRACTS AND IN CASES OF POOR PERFORMANCE.—

(1) Section 1816(c) (42 U.S.C. 1395h(c)) is amended by adding at the end the following new paragraph:

"(4)(A) A contract with a fiscal intermediary under this section may be renewed from term to term without regard to any provision of law requiring competition if the fiscal intermediary has met or exceeded the performance requirements established in the current contract.

"(B) Functions may be transferred among fiscal intermediaries without regard to any provision of law requiring competition.".

(2) Section 1842(b)(1) (42 U.S.C. 1395u(b)(1)) is amended to read as follows:

"(b)(1)(A) A contract with a carrier under subsection (a) may be renewed from term to term without regard to any provision of law requiring competition if the carrier has met or exceeded the performance requirements established in the current contract.

"(B) Functions may be transferred among carriers without regard to any provision of law requiring competition.".

(g) WAIVER OF COMPETITIVE REQUIREMENTS FOR INITIAL CONTRACTS.—

(1) Contracts that have periods that begin during the 1-year period that begins on the first day of the fourth calendar month that begins after the date of enactment of this Act may be entered into under section 1816(a) of the Social Security Act (42 U.S.C. 1395h(a)) without regard to any provision of law requiring competition.

(2) The amendments made by subsection (f) apply to contracts that have periods beginning after the end of the 1-year period specified in paragraph (1).

(h) Effective Dates.—

(1) The amendments made by subsection (c) apply to contracts that have periods ending on, or after, the end of the third calendar month that begins after the date of enactment of this Act.

(2) The amendments made by subsections (a), (b), (d), and (e) apply to contracts that have periods beginning after the third calendar month that begins after the date of enactment of this Act.

SEC. 7032. EXPANSION OF CENTERS OF EXCELLENCE.

(a) In General.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall use a competitive process to contract with centers of excellence for cataract surgery and coronary artery bypass surgery, and any other appropriate services designated by the Secretary. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts on the basis of negotiated or all-inclusive rates as follows:

(1) The center shall cover services provided in an urban area (as defined in section 1886(d)(2)(D) of the Social Security Act) for years beginning with fiscal year 1996.

(2) The amount of payment made by the Secretary to the center under title XVIII of the Social Security Act for services covered under the contract shall be less than the aggregate amount of the payments that the Secretary would have made to the center for such services had the contract not been in effect.

(3) The Secretary shall make payments to the center on such a basis for the following services furnished to individuals entitled to benefits under such title:

(A) Facility, professional, and related services relating to cataract surgery.

(B) Coronary artery bypass surgery and related services.

(b) Rebate of Portion of Savings.—In the case of any services provided under a contract conducted under subsection (a), the Secretary shall make a payment to each individual to whom such services are furnished (at such time and in such manner as the Secretary may provide) in an amount equal to 10 percent of the amount by which—

(1) the amount of payment that would have been made by the Secretary under title XVIII of the Social Security Act to the center for such services if the services had not been provided under the contract, exceeds

(2) the amount of payment made by the Secretary under such title to the center for such services.

(c) Information.—The Secretary shall include in the annual notice mailed under section 1804 of the Social Security Act (42 U.S.C. 1395b-2) information regarding the availability of centers of excellence under this section and notification that an individual may be directed to local centers of excellence by calling the toll-free number established under subsection (b) of such section.

SEC. 7033. SELECTIVE CONTRACTING.

(a) In General.—The Secretary of Health and Human Services (hereafter referred to as the "Secretary") may selectively contract with specialized programs that manage chronic diseases, complex acute care needs, and the needs of disabled medicare beneficiaries. Payment under title XVIII of the Social Security Act will be made for services subject to such contracts subject to such contracts on the basis of negotiated rates. The Secretary shall ensure that such contracts do not limit access to services in rural and undesirable areas.

(b) Basis of Contracts.—The Secretary shall enter into contracts under subsection (a) on the basis of objective measures of quality, service, and cost.

(c) Innovations.—A specialized program with a contract under this section may use alternatives to inpatient or institutional care and may use specialized networks of caregivers.

(d) No Requirement To Obtain Services From Programs.—No medicare beneficiary shall be required to receive health care services from a specialized program with a contract under this section.

CHAPTER 5—REDUCTION OF WASTE, FRAUD, AND ABUSE

Subchapter A—Improving Coordination, Communication, and Enforcement

PART I—MEDICARE ANTI-FRAUD AND ABUSE PROGRAM

SEC. 7041. MEDICARE ANTI-FRAUD AND ABUSE PROGRAM.

(a) Findings and Statement of Purpose.—

(1) Findings.—The Congress finds that—

(A) a significant amount of funds expended on the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are lost to fraud, medically unnecessary services, and other abuse;

(B) the Office of Inspector General of the Department of Health and Human Services (hereinafter referred to as the Inspector General) and the Attorney General is effective in combating fraud and abuse under the medicare program and returning misspent funds to the Federal Treasury at a rate many times the amount invested in Inspector General and Attorney General activities; and

(C) the investigations, audits, and other activities of the Inspector General and the Attorney General have been severely curtailed by budget constraints, particularly the limits imposed by the ceilings on discretionary spending.

(2) Purpose.—It is the purpose of this Act to ensure a continued and adequate source of funding for the medicare anti-fraud and abuse activities of the Inspector General and the Attorney General.

(b) Establishment of Program.—Title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

SEC. . FRAUD AND ABUSE CONTROL PROGRAM.

(a) Establishment of Program.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"Sec. 1128C. (a) Establishment of Program.—

"(1) In general.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) Coordination with health plans.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) Guidelines.—

"(A) In general.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) Information guidelines.—

"(i) In general.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) Confidentiality.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) Qualified immunity for providing information.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) Ensuring access to documentation.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) Authority of inspector general.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) Additional Use of Funds by Inspector General.—

"(1) Reimbursements for investigations.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) Crediting.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) Health Plan Defined.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7042. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program"; and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b)—

(i) by striking "and willfully" each place it appears;

(ii) by striking "$25,000" each place it appears and inserting "$50,000";

(iii) by striking "title XVIII or a State health care program" each place it appears and inserting "Federal health care program";

(iv) in paragraph (1) in the matter preceding subparagraph (A), by striking "kind—" and inserting "kind with intent to be influenced—";

(v) in paragraph (1)(A), by striking "in return for referring" and inserting "to refer";

(vi) in paragraph (1)(B), by striking "in return for purchasing, leasing, ordering, or arranging for or recommending" and inserting "to purchase, lease, order, or arrange for or recommend";

(vii) in paragraph (2) in the matter proceeding subparagraph (A), by striking "to induce such person" and inserting "with intent to influence such person";

(viii) by adding at the end of paragraphs (1) and (2) the following sentence: "A violation exists under this paragraph if one or more purposes of the remuneration is unlawful under this paragraph.";

(ix) by redesignating paragraph (3) as paragraph (4);

(x) in paragraph (4) (as redesignated), by striking "Paragraphs (1) and (2)" and inserting "Paragraphs (1), (2), and (3)"; and

(xi) by inserting after paragraph (2) the following new paragraph:

"(3)(A) The Attorney General may bring an action in the district courts to impose upon any person who carries out any activity in violation of this subsection a civil penalty of not less than $25,000 and not more than $50,000 for each such violation, plus three times the total remuneration offered, paid, solicited, or received.

"(B) A violation exists under this paragraph if one or more purposes of the remuneration is unlawful, and the damages shall be the full amount of such remuneration.

"(C) Section 3731 of title 31, United States Code, and the Federal Rules of Civil Procedure shall apply to actions brought under this paragraph.

"(D) The provisions of this paragraph do not affect the availability of other criminal and civil remedies for such violations.".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsections:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).

"(g)(1) The Secretary and Administrator of the departments and agencies with a Federal health care program may conduct an investigation or audit relating to violations of this section and claims within the jurisdiction of other Federal departments or agencies if the following conditions are satisfied:

"(A) The investigation or audit involves primarily claims submitted to the Federal health care programs of the department or agency conducting the investigation or audit.

"(B) The Secretary or Administrator of the department or agency conducting the investigation or audit gives notice and an opportunity to participate in the investigation or audit to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(2) If the conditions specified in paragraph (1) are fulfilled, the Inspector General of the department or agency conducting the investigation or audit may exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(h) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7043. HEALTH CARE FRAUD AND ABUSE PROVIDER GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)).

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Federal health care programs (as so defined).

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (42 U.S.C. 1320a–7a and 1320a–7b) (in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 120 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 120 days after receiving such a request and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. 7044. MEDICARE/MEDICAID BENEFICIARY PROTECTION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Not later than January 1, 1996, the Secretary (through the Administrator of the Health Care Financing Administration and the Inspector General of the Department of Health and Human Services) shall establish the Medicare/Medicaid Beneficiary Protection Program. Under such program the Secretary shall—

(1) educate medicare and medicaid beneficiaries regarding—

(A) medicare and medicaid program coverage;

(B) fraudulent and abusive practices;

(C) medically unnecessary health care items and services; and

(D) substandard health care items and services;

(2) identify and publicize fraudulent and abusive practices with respect to the delivery of health care items and services; and

(3) establish a procedure for the reporting of fraudulent and abusive health care providers, practitioners, claims, items, and services to appropriate law enforcement and payer agencies.

(b) RECOGNITION AND PUBLICATION OF CONTRIBUTIONS.—The program established by the Secretary under this section shall recognize and publicize significant contributions made by individual health care patients toward the combating of health care fraud and abuse.

(c) DISSEMINATION OF INFORMATION.—The Secretary shall provide for the broad dissemination of information regarding the Medicare/Medicaid Beneficiary Protection Program.

PART II—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. 7051. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a-7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7052. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7053. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7054. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7055. SANCTIONS AGAINST PROVIDERS FOR EXCESSIVE FEES OR PRICES.

Section 1128(b)(6)(A) (42 U.S.C. 1320a-7(b)(6)(A)) is amended—

(1) by inserting "(as specified by the Secretary in regulations)" after "substantially in excess of such individual's or entity's usual charges"; and

(2) striking "(or, in applicable cases, substantially in excess of such individual's or entity's costs)" and inserting ", costs or fees".

SEC. 7056. APPLICABILITY OF THE BANKRUPTCY CODE TO PROGRAM SANCTIONS.

(a) EXCLUSION OF INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN FEDERAL HEALTH CARE PROGRAMS.—Section 1128 (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

"(j) APPLICABILITY OF BANKRUPTCY PROVISIONS.—An exclusion imposed under this section is not subject to the automatic stay imposed under section 362 of title 11, United States Code.".

(b) CIVIL MONETARY PENALTIES.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended by adding at the end the following sentence: "An exclusion imposed under this subsection is not subject to the automatic stay imposed under section 362 of title 11, United States Code, and any penalties and assessments imposed under this section shall be nondischargeable under the provisions of such title.".

(c) OFFSET OF PAYMENTS TO INDIVIDUALS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following sentence: "An exclusion imposed under paragraph (2)(C)(ii) or paragraph (3)(B) is not subject to the automatic stay imposed under section 362 of title 11, United States Code."

SEC. 7057. AGREEMENTS WITH PEER REVIEW ORGANIZATIONS FOR MEDICARE COORDINATED CARE ORGANIZATIONS.

(a) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1996, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under part C of title XVIII of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1856(d)(7)(A) of such Act, as added by section 7003(a).

(b) REPORT BY GAO.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under part C of title XVIII of the Social Security Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(2) REPORT TO CONGRESS.—Not later than July 1, 1998, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under paragraph (1).

SEC. 7058. EFFECTIVE DATE.

The amendments made by this chapter shall take effect January 1, 1996.

PART III—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 7061. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action and whether such action is on appeal.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies, health plans, and the public pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee may be sufficient to recover the full costs of carrying out the provisions of this section, including reporting, disclosure, and administration. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1)(A) The term "final adverse action" includes:

(i) Civil judgments against a health care provider or practitioner in Federal or State court related to the delivery of a health care item or service.

(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(II) any other loss of license, or the right to apply for or renew a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, nonrenewability, or otherwise, or

(III) any other negative action or finding by such Federal or State agency that is publicly available information.

(iv) Exclusion from participation in Federal or State health care programs.

(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(B) The term does not include any action with respect to a malpractice claim.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act (42 U.S.C. 1395x(u)), and any person or entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act (42 U.S.C. 1395i-3(a) and (b), and 1395x).

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

(A) a policy of health insurance;

(B) a contract of a service benefit organization;

(C) a membership agreement with a health maintenance organization or other prepaid health plan; and

(D) an employee welfare benefit plan or a multiple employer welfare plan (as such terms are defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(7) For purposes of paragraph (1), the existence of a conviction shall be determined under section 1128(i) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) (42 U.S.C. 1396r-2(d)) is amended by inserting "and section 7061 of the Medicare Improvement and Solvency Protection Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

SEC. 7062. INSPECTOR GENERAL ACCESS TO ADDITIONAL PRACTITIONER DATA BANK.

Section 427 of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11137) is amended—

(1) in subsection (a), by adding at the end the following sentence: "Information reported under this part shall also be made available, upon request, to the Inspector General of the Departments of Health and Human Services, Defense, and Labor, the Office of Personnel Management, and the Railroad Retirement Board."; and

(2) by amending subsection (b)(4) to read as follows:

"(4) FEES.—The Secretary may impose fees for the disclosure of information under this part sufficient to recover the full costs of carrying out the provisions of this part, including reporting, disclosure, and administration, except that a fee may not be imposed for requests made by the Inspector General of the Department of Health and Human Services. Such fees shall remain available to the Secretary (or, in the Secretary's discretion, to the agency designated in section 424(b)) until expended.".

SEC. 7063. CORPORATE WHISTLEBLOWER PROGRAM.

Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"CORPORATE WHISTLEBLOWER PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Inspector General of the Department of Health and Human Services, shall establish a procedure whereby corporations, partnerships, and other legal entities specified by the Secretary, may voluntarily disclose instances of unlawful conduct and seek to resolve liability for such conduct through means specified by the Secretary.

"(b) LIMITATION.—No person may bring an action under section 3730(b) of title 31, United States Code, if, on the date of filing—

"(1) the matter set forth in the complaint has been voluntarily disclosed to the United States by the proposed defendant and the defendant has been accepted into the voluntary disclosure program established pursuant to subsection (a); and

"(2) any new information provided in the complaint under such section does not add substantial grounds for additional recovery beyond those encompassed within the scope of the voluntary disclosure.".

PART IV—CIVIL MONETARY PENALTIES

SEC. 7071. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a-7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(b)(f))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Medicare Improvement and Solvency Protection Act of 1995 (as estimated by the Secretary) shall be deposited into the general fund of the Treasury.".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))";

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)"; and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) EMPLOYER BILLING FOR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED EMPLOYEE.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking "; or" at the end of subparagraph (D) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(E) is for a medical or other item or service furnished, directed, or prescribed by an individual who is an employee or agent of the person during a period in which such employee or agent was excluded from the program under which the claim was made on any of the grounds for exclusion described in subparagraph (D);".

(d) CIVIL MONEY PENALTIES FOR ITEMS OR SERVICES FURNISHED, DIRECTED, OR PRESCRIBED BY AN EXCLUDED INDIVIDUAL.—Section 1128A(a)(1)(D) (42 U.S.C. 1320a-7a(a)(1)(D)) is amended by inserting ", directed, or prescribed" after "furnished".

(e) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(f) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(g) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a-7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(h) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c-5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(i) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payors, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

PART V—CHAPTER 5—AMENDMENTS TO CRIMINAL LAW

SEC. 7081. HEALTH CARE FRAUD.

(a) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under he custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

SEC. 7082. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

SEC. 7083. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting "or a Federal health care offense (as defined in section 982(a)(6)(B))" after "title)".

SEC. 7084. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

"(1) received in the course of duty as an attorney for the Government; or

"(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;

may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.".

SEC. 7085. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47, of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1035. False statements relating to health care matters

"(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

"1035. False statements relating to health care matters.".

SEC. 7086. OBSTRUCTION OF CRIMINAL INVESTIGATIONS, AUDITS, OR INSPECTIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses

"(a) IN GENERAL.—Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a Federal agent or employee involved in an investigation, audit, inspection, or other activity related to such an offense, shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) FEDERAL HEALTH CARE OFFENSE.—As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

"(c) CRIMINAL INVESTIGATOR.—As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of criminal investigations, audits, or inspections of Federal health care offenses.".

SEC. 7087. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 669. Theft or embezzlement in connection with health care

"(a) IN GENERAL.—Whoever willfully embezzles, steals, or otherwise without authority willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or embezzlement in connection with health care.".

SEC. 7088. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7089. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§ 3486. Authorized investigative demand procedures

"(a) AUTHORIZATION.—

"(1) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control. A custodian of records may be required to give testimony concerning the production and authentication of such records. The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b) SERVICE.—A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to such person. Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c) ENFORCEMENT.—In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if go ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

"(d) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e) USE IN ACTION AGAINST INDIVIDUALS.—

"(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) HEALTH PLAN.—As used in this section the term 'health plan' has the same meaning given such term in section 7061(f)(6) of the Medicare Improvement and Solvency Protection Act of 1995.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3485 the following new item:

"3486. Authorized investigative demand procedures.".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

PART VI—STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. 7091. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Section 1903(q)(3) (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "title." and inserting "title; and (B) in cases where the entity's function is also described by subparagraph (A), and upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(b)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

PART VII—MEDICARE/MEDICAID BILLING ABUSE PREVENTION

SEC. 7101. UNIFORM MEDICARE/MEDICAID APPLICATION PROCESS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish procedures and a uniform application form for use by any individual or entity that seeks to participate in the programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.). The procedures established shall include the following:

(1) Execution of a standard authorization form by all individuals and entities prior to submission of claims for payment which shall include the social security number of the beneficiary and the TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner providing items or services under the claim.

(2) Assumption of responsibility and liability for all claims submitted.

(3) A right of access by the Secretary to provider records relating to items and services rendered to beneficiaries of such programs.

(4) Retention of source documentation.

(5) Provision of complete and accurate documentation to support all claims for payment.

(6) A statement of the legal consequences for the submission of false or fraudulent claims for payment.

SEC. 7102. STANDARDS FOR UNIFORM CLAIMS.

(a) ESTABLISHMENT OF STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish standards for the form and submission of claims for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(b) ENSURING PROVIDER RESPONSIBILITY.—In establishing standards under subsection (a), the Secretary, in consultation with appropriate agencies including the Department of Justice, shall include such methods of ensuring provider responsibility and accountability for claims submitted as necessary to control fraud and abuse.

(c) USE OF ELECTRONIC MEDIA.—The Secretary shall develop specific standards which govern the submission of claims through electronic media in order to control fraud and abuse in the submission of such claims.

SEC. 7103. UNIQUE PROVIDER IDENTIFICATION CODE.

(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a system which provides for the issuance of a unique identifier code for each individual or entity furnishing items or services for which payment may be made under title XVIII or XIX of the Social Security (42 U.S.C. 1395 et seq.; 1396 et seq.), and the notation of such unique identifier codes on all claims for payment.

(b) APPLICATION FEE.—The Secretary shall require an individual applying for a unique identifier code under subsection (a) to submit a fee in an amount determined by the Secretary to be sufficient to cover the cost of investigating the information on the application and the individual's suitability for receiving such a code.

SEC. 7104. USE OF NEW PROCEDURES.

No payment may be made under either title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 42 U.S.C. 1396 et seq.) for any item or service furnished by an individual or entity unless the requirements of sections 7102 and 7103 are satisfied.

SEC. 7105. REQUIRED BILLING, PAYMENT, AND COST LIMIT CALCULATION TO BE BASED ON SITE WHERE SERVICE IS FURNISHED.

(a) CONDITIONS OF PARTICIPATION.—Section 1891 (42 U.S.C. 1395bbb) is amended by adding at the end the following new subsection:

"(g) A home health agency shall submit claims for payment of home health services under this title only on the basis of the geographic location at which the service is furnished, as determined by the Secretary.".

(b) WAGE ADJUSTMENT.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "agency is located" and inserting "service is furnished".

Subchapter B—Additional Provisions to Combat Waste, Fraud, and Abuse

PART I—WASTE AND ABUSE REDUCTION

SEC. 7111. PROHIBITING UNNECESSARY AND WASTEFUL MEDICARE PAYMENTS FOR CERTAIN ITEMS.

Notwithstanding any other provision of law, including any regulation or payment policy, the following categories of charges shall not be reimbursable under title XVIII of the Social Security Act:

(1) Tickets to sporting or other entertainment events.

(2) Gifts or donations.

(3) Costs related to team sports.

(4) Personal use of motor vehicles.

(5) Costs for fines and penalties resulting from violations of Federal, State, or local laws.

(6) Tuition or other education fees for spouses or dependents of providers of services, their employees, or contractors.

SEC. 7112. APPLICATION OF COMPETITIVE ACQUISITION PROCESS FOR PART B ITEMS AND SERVICES.

(a) GENERAL RULE.—Part B of title XVIII is amended by inserting after section 1846 the following new section:

"COMPETITION ACQUISITION FOR ITEMS AND SERVICES

"SEC. 1847. (a) ESTABLISHMENT OF BIDDING AREAS.—

"(1) IN GENERAL.—The Secretary shall establish competitive acquisition areas for the purpose of awarding a contract or contracts for the furnishing under this part of the items and services described in subsection (c) on or after January 1, 1996. The Secretary may establish different competitive acquisition areas under this subsection for different classes of items and services under this part.

"(2) CRITERIA FOR ESTABLISHMENT.—The competitive acquisition areas established under paragraph (1) shall—

"(A) initially be within, or be centered around metropolitan statistical areas;

"(B) be chosen based on the availability and accessibility of suppliers and the probable savings to be realized by the use of competitive bidding in the furnishing of items and services in the area; and

"(C) be chosen so as to not reduce access to such items and services to individuals residing in rural and other underserved areas..

"(b) AWARDING OF CONTRACTS IN AREAS.—

"(1) IN GENERAL.—The Secretary shall conduct a competition among individuals and entities supplying items and services under this part for each competitive acquisition area established under subsection (a) for each class of items and services.

"(2) CONDITIONS FOR AWARDING CONTRACT.—The Secretary may not award a contract to any individual or entity under the competition conducted pursuant to paragraph (1) to furnish an item or service under this part unless the Secretary finds that the individual or entity—

"(A) meets quality standards specified by the Secretary for the furnishing of such item or service; and

"(B) offers to furnish a total quantity of such item or service that is sufficient to meet the expected need within the competitive acquisition area and to assure that access to such items (including appropriate customized items) and services to individuals residing in rural and other underserved areas is not reduced.

"(3) CONTENTS OF CONTRACT.—A contract entered into with an individual or entity under the competition conducted pursuant to paragraph (1) shall specify (for all of the items and services within a class)—

"(A) the quantity of items and services the entity shall provide; and

"(B) such other terms and conditions as the Secretary may require.

"(c) SERVICES DESCRIBED.—The items and services to which the provisions of this section shall apply are as follows:

"(1) Durable medical equipment and medical supplies.

"(2) Oxygen and oxygen equipment.

"(3) Such other items and services with respect to which the Secretary determines the use of competitive acquisition under this section to be appropriate and cost-effective.".

(b) ITEMS AND SERVICES TO BE FURNISHED ONLY THROUGH COMPETITIVE ACQUISITION.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for an item or service furnished in a competitive acquisition area (as established by the Secretary under section 1847(a)) by an individual or entity other than the supplier with whom the Secretary has entered into a contract under section 1847(b) for the furnishing of such item or service in that area, unless the Secretary finds that such expenses were incurred in a case of urgent need.".

(c) REDUCTION IN PAYMENT AMOUNTS IF COMPETITIVE ACQUISITION FAILS TO ACHIEVE MINIMUM REDUCTION IN PAYMENTS.—Notwithstanding any other provision of title XVIII of the Social Security Act, if the establishment of competitive acquisition areas under section 1847 of such Act (as added by subsection (a)) and the limitation of coverage for items and services under part B of such title to items and services furnished by providers with competitive acquisition contracts under such section does not result in a reduction, beginning on January 1, 1997, of at least 20 percent (30 percent in the case of oxygen and oxygen equipment) in the projected payment amount that would have applied to an item or service under part B if the item or service had not been furnished through competitive acquisition under such section, the Secretary shall reduce such payment amount by such percentage as the Secretary determines necessary to result in such a reduction.

SEC. 7113. INTERIM REDUCTION IN EXCESSIVE PAYMENTS.

Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by adding at the end the following new sentence: "With respect to services described in section 1847(c) furnished between January 1, 1996, and the date on which competitive acquisition under section 1847 is fully implemented, the Secretary shall reduce the payment amount applied for such services by 10 percent, except that with respect to oxygen and oxygen equipment items, the Secretary shall reduce the payment amount applied for such items by 20 percent.".

SEC. 7114. REDUCING EXCESSIVE BILLINGS AND UTILIZATION FOR CERTAIN ITEMS.

Section 1834(a)(15) (42 U.S.C. 1395m(a)(15)) is amended by striking "Secretary may" both places it appears and inserting "Secretary shall".

SEC. 7115. IMPROVED CARRIER AUTHORITY TO REDUCE EXCESSIVE MEDICARE PAYMENTS.

(a) GENERAL RULE.—Section 1834(a)(10)(B) (42 U.S.C. 1395m(a)(10)(B)) is amended by striking "paragraphs (8) and (9)" and all that follows through the end of the sentence and inserting "section 1842(b)(8) to covered items and suppliers of such items and payments under this subsection as such provisions (relating to determinations of grossly excessive payment amounts) apply to items and services and entities and a reasonable charge under section 1842(b)".

(b) REPEAL OF OBSOLETE PROVISIONS.—

(1) Section 1842(b)(8) (42 U.S.C. 1395u(b)(8)) is amended—

(A) by striking subparagraphs (B) and (C),

(B) by striking "(8)(A)" and inserting "(8)", and

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(2) Section 1842(b)(9) (42 U.S.C. 1395u(b)(9)) is repealed.

(c) PAYMENT FOR SURGICAL DRESSINGS.—Section 1834(i) (42 U.S.C. 1395m(i)) is amended by adding at the end the following new paragraph:

"(3) GROSSLY EXCESSIVE PAYMENT AMOUNTS.—Notwithstanding paragraph (1), the Secretary may apply the provisions of section 1842(b)(8) to payments under this subsection.".

SEC. 7116. EFFECTIVE DATE.

The amendments made by this chapter shall apply to items and services furnished under title XVIII of the Social Security Act on or after January 1, 1996.

PART II—MEDICARE BILLING ABUSE PREVENTION

SEC. 7121. IMPLEMENTATION OF GENERAL ACCOUNTING OFFICE RECOMMENDATIONS REGARDING MEDICARE CLAIMS PROCESSING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, by regulation, contract, change order, or otherwise, require medicare carriers to acquire commercial automatic data processing equipment (in this subchapter referred to as "ADPE") meeting the requirements of section 7122 to process medicare part B claims for the purpose of identifying billing code abuse.

(b) SUPPLEMENTATION.—Any ADPE acquired in accordance with subsection (a) shall be used as a supplement to any other ADPE used in claims processing by medicare carriers.

(c) STANDARDIZATION.—In order to ensure uniformity, the Secretary may require that medicare carriers that use a common claims processing system acquire common ADPE in implementing subsection (a).

(d) IMPLEMENTATION DATE.—Any ADPE acquired in accordance with subsection (a) shall be in use by medicare carriers not later than 180 days after the date of the enactment of this Act.

SEC. 7122. MINIMUM SOFTWARE REQUIREMENTS.

(a) IN GENERAL.—The requirements described in this section are as follows:

(1) The ADPE shall be a commercial item.

(2) The ADPE shall surpass the capability of ADPE used in the processing of medicare part B claims for identification of code manipulation on the day before the date of the enactment of this Act.

(3) The ADPE shall be capable of being modified to—

(A) satisfy pertinent statutory requirements of the medicare program; and

(B) conform to general policies of the Health Care Financing Administration regarding claims processing.

(b) MINIMUM STANDARDS.—Nothing in this subchapter shall be construed as preventing the use of ADPE which exceeds the minimum requirements described in subsection (a).

SEC. 7123. DISCLOSURE.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) shall not be subject to public disclosure.

(b) EXCEPTION.—The Secretary may authorize the public disclosure of any ADPE or data related thereto acquired by medicare carriers in accordance with section 7121(a) if the Secretary determines that—

(1) release of such information is in the public interest; and

(2) the information to be released is not protected from disclosure under section 552(b) of title 5, United States Code.

SEC. 7124. REVIEW AND MODIFICATION OF REGULATIONS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall order a review of existing regulations, guidelines, and other guidance governing medicare payment policies and billing code abuse to determine if revision of or addition to those regulations, guidelines, or guidance is necessary to maximize the benefits to the Federal Government of the use of ADPE acquired pursuant to section 7121.

SEC. 7125. DEFINITIONS.

For purposes of this chapter—

(1) The term "automatic data processing equipment" (ADPE) has the same meaning as in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2)).

(2) The term "billing code abuse" means the submission to medicare carriers of claims for services that include procedure codes that do not appropriately describe the total services provided or otherwise violate medicare payment policies.

(3) The term "commercial item" has the same meaning as in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(4) The term "medicare part B" means the supplementary medical insurance program authorized under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j–1395w–4).

(5) The term "medicare carrier" means an entity that has a contract with the Health Care Financing Administration to determine and make medicare payments for medicare part B benefits payable on a charge basis and to perform other related functions.

(6) The term "payment policies" means regulations and other rules that govern billing code abuses such as unbundling, global service violations, double billing, and unnecessary use of assistants at surgery.

(7) The term "Secretary" means the Secretary of Health and Human Services.

PART III—REFORMING PAYMENTS FOR AMBULANCE SERVICES

SEC. 7131. REFORMING PAYMENTS FOR AMBULANCE SERVICES.

(a) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(k) PAYMENT FOR AMBULANCE SERVICES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, with respect to ambulance services described in section 1861(s)(7), payment shall be made based on the lesser of—

"(A) the actual charges for the services; or

"(B) the amount determined by a fee schedule developed by the Secretary.

"(2) FEE SCHEDULE.—The fee schedule established under paragraph (1) shall be established on a regional, statewide, or carrier service area basis (as the Secretary may determine to be appropriate) for services performed on or after January 1, 1996.

"(3) SEPARATE PAYMENT LEVELS.—

"(A) IN GENERAL.—In establishing the fee schedule under paragraph (2), the Secretary shall establish separate payment rates for advanced life support and basic life support services. Payment levels shall be restricted to the basic life support level unless the patient's medical condition or other circumstance necessitates (as determined by the Secretary in regulations) the provisions of advanced life support services.

"(B) NONROUTINE BASIS.—The Secretary shall also establish appropriate payment levels for the provision of ambulance services that are provided on a routine or scheduled basis. Such payment levels shall not exceed 80 percent of the applicable rate for unscheduled transports.

"(4) ANNUAL ADJUSTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee schedules shall be adjusted annually (to become effective on January 1 of each year) by a percentage increase or decrease equal to the percentage increase or decrease in the consumer price index for all urban consumers (United States city average).

"(B) SPECIAL RULE.—Notwithstanding subparagraph (B), the annual adjustment in the fee schedules determined under such subparagraph for each of the years 1996 through 2002 shall be such consumer price index for the year minus 1 percentage point.

"(5) FURTHER ADJUSTMENTS.—The Secretary shall adjust the fee schedule to the extent necessary to ensure that the fee schedule takes into consideration the costs incurred in providing the transportation and associated services as well as technological changes.

"(6) SPECIAL RULE FOR END STAGE RENAL DISEASE BENEFICIARIES.—The Secretary shall direct the carriers to identify end stage renal disease beneficiaries who receive ambulance transports and—

"(A) make no payment for scheduled ambulance transports unless authorized in advance by the carrier; or

"(B) make no additional payment for scheduled ambulance transports for beneficiaries that have utilized ambulance services twice within 4 continuous days, or 7 times within a continuous 15-day period, unless authorized in advance by the carrier; or

"(C) institute other such safeguards as the Secretary may determine are necessary to ensure appropriate utilization of ambulance transports by such beneficiaries.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished under title XVIII of the Social Security Act on and after January 1, 1997.

PART IV—REWARDS FOR INFORMATION

SEC. 7141. REWARDS FOR INFORMATION LEADING TO HEALTH CARE FRAUD PROSECUTION AND CONVICTION.

(a) IN GENERAL.—In special circumstances, the Secretary of Health and Human Services and the Attorney General of the United States may jointly make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution for health care fraud.

(b) INELIGIBLE PERSONS.—A person is not eligible for a payment under subsection (a) if—

(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

(2) the person knowingly participated in the offense;

(3) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

(A) in a criminal, civil, or administrative proceeding;

(B) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

(C) by the news media, unless the person is the original source of the information; or

(4) in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

(c) DEFINITIONS.—

(1) HEALTH CARE FRAUD.—For purposes of this section, the term "health care fraud" means health care fraud within the meaning of section 1347 of title 18, United States Code.

(2) ORIGINAL SOURCE.—For the purposes of subsection (b)(3)(C), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

(d) NO JUDICIAL REVIEW.—Neither the failure of the Secretary of Health and Human Services and the Attorney General to authorize a payment under subsection (a) nor the amount authorized shall be subject to judicial review.

SEC. . INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

CHAPTER 6—ESTABLISHMENT OF COMMISSION TO PREPARE FOR THE 21ST CENTURY.

SEC. 7161. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established a commission to be known as the Medicare Commission To Prepare For The 21st Century (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 7 members appointed by the President and confirmed by the Senate. Not more than 4 members selected by the President shall be members of the same political party.

(2) EXPERTISE.—The membership of the Commission shall include individuals with national recognition for their expertise on health matters.

(3) DATE.—The appointments of the members of the Commission shall be made no later than December 31, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON.—The President shall designate one person as Chairperson from among its members.

SEC. 7162. DUTIES OF THE COMMISSION.

(a) ANALYSES AND RECOMMENDATIONS.—

(1) IN GENERAL.—The Commission is charged with long-term strategic planning (for years after 2010) for the medicare program. The Commission shall—

(A) review long-term problems and opportunities facing the medicare program within the context of the overall health care system, including an analysis of the long-term financial condition of the medicare trust funds;

(B) analyze potential measures to assure continued adequacy of financing of the medicare program within the context of comprehensive health care reform and to guarantee medicare beneficiaries affordable and high quality health care services that takes into account—

(i) the health needs and financial status of senior citizens and the disabled,

(ii) overall trends in national health care costs,

(iii) the number of Americans without health insurance, and

(iv) the impact of its recommendations on the private sector and on the medicaid program;

(C) consider a range of program improvements, including measures to—

(i) reduce waste, fraud, and abuse,

(ii) improve program efficiency,

(iii) improve quality of care and access, and

(iv) examine ways to improve access to preventive care and primary care services,

(v) improve beneficiary cost consciousness, including an analysis of proposals that would restructure medicare from a defined benefits program to a defined contribution program and other means, and

(vi) measures to maintain a medicare beneficiary's ability to select a health care provider of the beneficiary's choice;

(D) prepare findings on the impact of all proposals on senior citizens' out-of-pocket health care costs and on any special considerations that should be made for seniors that live in rural areas and inner cities;

(E) recognize the uncertainties of long range estimates; and

(F) provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress.

(2) DEFINITION OF MEDICARE TRUST FUNDS.—For purposes of this subsection, the term "medicare trust funds" means the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t).

(b) REPORT.—The Commission shall submit its report to the President and the Congress not later than July 31, 1996.

SEC. 7163. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

SEC. 7164. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) OFFICERS AND EMPLOYEES OF THE FEDERAL GOVERNMENT.—All members of the Commission who are officers or employees of the Federal Government shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) PRIVATE CITIZENS OF THE UNITED STATES.—

(A) IN GENERAL.—Subject to subparagraph (B), all members of the Commission who are not officers or employees of the Federal Government shall serve without compensation for their work on the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission who are not officers or employees of the Federal Government shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission, to the extent funds are available therefor.

(b) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. At the request of the Chairman, the Secretary of Health and Human Services shall provide the Commission with any necessary administrative and support services. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 7165. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 7702(b).

SEC. 7166. FUNDING FOR THE COMMISSION.

Any expenses of the Commission shall be paid from such funds as may be otherwise available to the Secretary of Health and Human Services.

CHAPTER 7—MEASURES TO IMPROVE THE SOLVENCY OF THE TRUST FUNDS

Subchapter A—Provisions Relating to Part A

PART I—GENERAL PROVISIONS

SEC. 7171. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XII) and (XIII) and inserting the following new subclauses:

"(XII) for fiscal year 1997 through 2002, the market basket percentage increase minus 1.0

percentage point for hospitals located in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area, and

"(XIII) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

SEC. 7172. MODIFICATION IN PAYMENT POLICIES REGARDING GRADUATE MEDICAL EDUCATION.

(a) Indirect Costs of Medical Education; Applicable Percentage.—

(1) In general.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) – 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89; and

"(II) October 1, 1995, 'c' is equal to 1.48.

(2) No restandardization of payment amounts required.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 7172(a)(1) of the Medicare Improvement and Solvency Protection Act of 1995".

(b) Limitation on Number of Residents.—

(1) Direct graduate medical education.—Section 1886(h)(4) (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end the following new subparagraph:

"(F) Limitation on number of residents for certain fiscal years.—Such rules shall provide that for purposes of a cost reporting period beginning on or after October 1, 1995, and on or before September 30, 2002, the number of full-time-equivalent residents (and full-time-equivalent residents who are not primary care residents) determined under this paragraph with respect to an approved medical residency training program may not exceed the number of full-time-equivalent residents (and full-time-equivalent residents who are not primary care residents) with respect to the program as of August 1, 1995. This subparagraph does not apply to any nonphysician postgraduate training program that, under paragraph (5)(A), is an approved medical residency training program.".

(2) Indirect medical education.—Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(A) in clause (ii), by striking "to beds" and inserting "to beds (subject to clause (v))"; and

(B) by adding at the end the following new clauses:

"(v) For purposes of this subparagraph, as of July 1, 1996, "r" may not exceed the ratio of the number of interns and residents as determined under section 1886(h)(4) with respect to the hospital as of August 1, 1995, to the hospital's number of usable beds as of August 1, 1995.

"(vi) In determining such adjustment with respect to discharges of a hospital occurring on or after October 1, 1995, and on or before September 30, 2002, the number of interns and residents determined under clause (ii) with respect to a hospital may not exceed a number determined by the Secretary by applying rules similar to the rules of subsection (h)(4)(F).".

SEC. 7173. ELIMINATION OF DSH AND IME FOR OUTLIERS.

(a) Indirect Medical Education Adjustments.—Section 1886(d)(5)(B)(i)(I) (42 U.S.C. 1395ww(d)(5)(B)(i)(I)) is amended by striking "and the amount paid to the hospital under subparagraph (A)".

(b) Disproportionate Share Adjustment.—Section 1886(d)(5)(F)(ii)(I) (42 U.S.C. 1395ww(d)(5)(F)(ii)(I)) is amended by striking "and the amount paid to the hospital under subparagraph (A) for that discharge".

(c) Effective Date.—The amendments made by this section shall apply with respect to discharges occurring on or after October 1, 1995.

SEC. 7174. CAPITAL PAYMENTS FOR PPS INPATIENT HOSPITALS.

Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by—

(1) by striking "through 1995" and inserting "through 2002"; and

(2) by inserting after "reduction" the following: "(or a 15 percent reduction in the case of payments during fiscal years 1996 through 2002)".

SEC. 7175. TREATMENT OF PPS-EXEMPT HOSPITALS.

(a) Rebasing for PPS-Exempt Hospitals.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amended to read as follows:

"(A)(i) Subject to clause (ii), and except as provided in subparagraphs (C), (D), and (E), for purposes of this subsection, the term 'target amount' means—

"(I) with respect to the first 12-month cost reporting period in which this subparagraph is applied to the hospital, the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the hospital's 2 most recent 12-month cost reporting periods beginning on or after October 1, 1990, increased in a compounded manner by the applicable percentage increases determined under subparagraph (B)(ii) for the hospital's succeeding cost reporting periods through fiscal year 1996; or

"(II) with respect to a later cost reporting period, the target amount for the preceding cost reporting period, increased by the applicable percentage increase under subparagraph (B)(ii) for that later cost reporting period.

"(ii) Notwithstanding subsection (a), in the case of a hospital (or unit) that did not have a cost reporting period beginning on or before October 1, 1990—

"(I) with respect to cost reporting periods beginning during the hospital's first fiscal year of operation, the amount of payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in subsection (a)(4)) shall be the reasonable costs for providing such services, except that such amount may not exceed 150 percent of the national average allowable operating costs of inpatient hospital services for a hospital (or unit) of the same grouping as such hospital for the hospital's first fiscal year of operation;

"(II) with respect to cost reporting periods beginning during the hospital's second fiscal year of operation, the amount determined under subclause (I), increased by the market basket percentage increase for such year (determined under subparagraph (B)(iii); and

"(III) with respect to succeeding cost reporting periods, clause (i) shall apply to such hospital except that the 'target amount' for such hospital shall be the average allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for the hospital for the hospital's 2 12-month cost reporting periods beginning 1 year after the hospital accepts its first patient.".

(b) Non-PPS Hospital Payment Update.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(1) in subclause (V)—

(A) by striking "1997" and inserting "1995"; and

(B) by striking "and" at the end; and

(2) by striking subclause (VI) and inserting the following subclauses:

"(VI) for fiscal year 1996, the market basket percentage increase minus 2 percentage points for hospitals located in all areas,

"(VII) for fiscal years 1997 through 2002, the market basket percentage increase minus 1.0 percentage point for hospitals located in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage point for hospitals located in a rural area, and

"(IX) for fiscal year 2003 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

(c) Exceptions and Adjustments.—Section 1886(b)(4)(A)(i) (42 U.S.C. 1395ww(b)(4)(A)(i)) is amended by striking the first sentence and inserting the following: "The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under his subsection for determining the amount of payment to a hospital with respect to the hospital's 12-month cost reporting period beginning in a fiscal year where the hospital's allowable operating costs of inpatient hospital services recognized under this title for the hospital's 12-month cost reporting period beginning in the preceding fiscal year, exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period by at least 50 percent.".

(d) Elimination of Incentive Payments.—Section 1886(b)(1) (42 U.S.C. 1395ww(b)(1)) is amended to read as follows:

"(b)(1)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813 and paragraph (2), if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital (other than a subsection (d) hospital, as defined in subsection (d)(1)(B)) for a cost reporting period subject to this paragraph are greater than the target amount by at least 10 percent, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the sum of—

"(i) the target amount, plus

"(ii) an additional amount equal to 50 percent of the amount by which the operating costs exceed 110 percent of the target amount (except that such additional amount may not exceed 20 percent of the target amount) after any exceptions or adjustments are made to such target amount for the cost reporting period.

"(B) In no case may the amount payable under this title (other than on the basis of a DRG prospective payment rate determined under subsection (d)) with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).".

(e) Floors and Ceilings for Target Amounts.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)), as amended by subsection (a), is amended by adding at the end the following new clauses:

"(ii) Notwithstanding clause (i), in the case of a hospital (or unit thereof)—

"(I) the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 70 percent of the national mean (weighted by caseload) of the target amounts determined under this paragraph for all hospitals (and units thereof) of such grouping for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) such target amount may not be greater than 130 percent of the national mean (weighted by caseload) of the target amounts for such hospitals (and units thereof) of such grouping for cost reporting periods beginning during such fiscal year.".

(f) EFFECTIVE DATE.—The amendment made by this section shall apply to discharges occurring during cost reporting periods beginning on or after October 1, 1995.

SEC. 7176. PPS-EXEMPT CAPITAL PAYMENTS.

Section 1886(g) (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2005 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 7177. PROHIBITION OF PPS EXEMPTION FOR NEW LONG-TERM HOSPITALS.

Section 1886(d)(1)(B)(iv) (42 U.S.C. 1395ww(d)(1)(B)(iv)) is amended by striking "25 days" and inserting "25 days and which received payment under this section on or before November 30, 1995".

SEC. 7178. REVISION OF DEFINITION OF TRANSFERS FROM HOSPITALS TO POST-ACUTE FACILITIES.

(a) IN GENERAL.—Section 1886(d)(5)(I) (42 U.S.C. 1395ww(d)(5)(I)) is amended by adding at the end the following new clause:

"(iii) Effective for discharges occurring on or after October 1, 1995, transfer cases (as otherwise defined by the Secretary) shall also include cases in which a patient is transferred from a subsection (d) hospital to a hospital or hospital unit that is not a subsection (d) hospital (under section 1886(d)(1)(B)) or to a skilled nursing facility.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges occurring on or after October 1, 1995.

SEC. 7179. DIRECTION OF SAVINGS TO HOSPITAL INSURANCE TRUST FUND.

Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following new subsection:

"(j) There are hereby appropriated for each fiscal year to the Federal Hospital Insurance Trust Fund amounts equal to the estimated savings to the general fund of the Treasury for such year resulting from the provisions of and amendments made by the Medicare Improvement and Solvency Protection Act of 1995. The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund amounts equal to such estimated savings in the form of public-debt obligations issued exclusively to the Federal Hospital Insurance Trust Fund.".

PART II—SKILLED NURSING FACILITIES

SEC. 7181. PROSPECTIVE PAYMENT FOR SKILLED NURSING FACILITIES.

Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsections:

"(e) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1996, provide for payment for routine costs of extended care services in accordance with a prospective payment system established by the Secretary, subject to the limitations in subsections (f) through (h).

"(f)(1) The amount of payment under subsection (e) shall be determined on a per diem basis.

"(2) The Secretary shall compute the routine costs per diem in a base year (determined by the Secretary) for each skilled nursing facility, and shall update the per diem rate on the basis of a market basket and other factors as the Secretary determines appropriate.

"(3) The per diem rate applicable to a skilled nursing facility may not exceed the following limits:

"(A) With respect to skilled nursing facilities located in rural areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in rural areas within the same region, as updated by the same percentage determined under paragraph (2).

"(B) With respect to skilled nursing facilities located in urban areas, the limit shall be equal to 112 percent of the mean per diem routine costs in a base year (determined by the Secretary) for freestanding skilled nursing facilities located in urban areas within the same region, updated by the same percentage determined under paragraph (2).

"(C) With respect a skilled nursing facility that does not have a base year (determined by the Secretary under subparagraph (A) or (B)), the limit for such facility for cost reporting periods (or portions of cost reporting periods) beginning prior to October 1, 1998, shall be equal to 100 percent of the mean costs of freestanding skilled nursing facilities located in rural or urban areas (as applicable).

For purposes of this paragraph, the terms 'urban', 'rural', and 'region' have the meaning given such terms in section 1886(d)(2)(D).

"(4)(A) Subject to subparagraph (B), the Secretary may not make adjustments or exceptions to the limits determined under paragraph (3).

"(B) For periods prior to October 1, 1998, a facility's payment for routine costs shall be the greater of—

"(i) the facility's limit as of the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995; or

"(ii) the regional limit determined under this paragraph (3) (including any exception amounts that were in effect in the base year), updated in accordance with paragraph (2).

"(C) The Secretary shall not provide for new provider exemptions under this subsection under section 413.30(e)(2) of title 42 of the Code of Federal Regulations and shall not include such exemption amounts determined in the base year for purposes of subparagraph (B)(ii).

"(1) In the case of a skilled nursing facility which received an adjustment to the facility's limit in the base year (determined by the Secretary under paragraph (3)), the facility shall receive an adjustment to the limit determined under paragraph (3) for a fiscal year if the magnitude and scope of the case mix or circumstances resulting in the base year adjustment are at least as great for such fiscal year.

"(g)(1) In the case of a hospital-based skilled nursing facility receiving payments under this title as of the date of enactment of this subsection, the amount of payment to the facility based on application of subsections (e) and (f) may not be less than the per diem rate applicable to the facility for routine costs on the date of enactment of this subsection.

"(2) In the case of a skilled nursing facility receiving payment under subsection (d) as of the date of enactment of this subsection, such facility may elect, in lieu of payment otherwise determined under this section for routine service costs, to receive payments under this section in an amount equal to a rate equal to 100 percent of the mean routine service costs of free standing skilled nursing facilities by rural or urban area, as applicable.

"(h) The Secretary shall, for cost reporting periods beginning on or after October 1, 1996, and before the prospective payment system is established under subsection (i), the Secretary shall not provide for payment for ancillary costs of extended care services in accordance with section 1861(v) in excess of the amount that would be paid under the fee schedules applicable to such services under sections 1834 and 1848.

"(i)(1) Notwithstanding any other provision of this title, the Secretary shall, for cost reporting periods beginning on or after October 1, 1998, provide for payment for all costs of extended care services (including routine service costs, ancillary costs, and capital-related costs) in accordance with a prospective payment system established by the Secretary.

"(2)(A) Prior to implementing the prospective system described in paragraph (1) in a budget-neutral fashion, the Secretary shall reduce by 5 percent the per diem rates for routine costs, and the cost limits for ancillary services and capital for skilled nursing facilities as such rates and costs are in effect on September 30, 1998.

"(B) Subject to the reduction under subparagraph (B), the Secretary shall establish the prospective payment system described in paragraph (1) such that aggregate payments under such system for a fiscal year shall not exceed the payments that would have otherwise been made for such fiscal year.

"(j) Each skilled nursing facility shall be required to include uniform coding (including HCPCS codes, if applicable) on the facility's cost reports".

SEC. 7182. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR SKILLED NURSING FACILITIES.

(a) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(1) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(2) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by paragraph (1) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

SEC. 7183. CONSOLIDATED BILLING.

(a) REQUIREMENT OF ARRANGEMENTS.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting the following:

"(16) which are other than physicians' services, services described by clauses (i) or (ii) of section 1861(s)(2)(K), certified nurse-midwife services, qualified psychologist services, or services of a certified registered nurse anesthetist, and which are furnished to an individual who is a resident of a skilled nursing facility by an entity other than the skilled nursing facility, unless the services are furnished under arrangements (as defined in section 1861(w)(1)) with the entity made by the skilled nursing facility.".

(b) AGREEMENTS WITH PROVIDERS OF SERVICES.—Section 1866(a)(1)(H) (42 U.S.c. 1395cc(a)(1)(H)) is amended—

(1) by redesignating clauses (i) and (ii), as subclauses (I) and (II), respectively;

(2) by inserting "(i)" after "(H)"; and

(3) by adding at the end the following new clause:

"(ii) in the case of skilled nursing facilities which provide services for which payment may be made under this title, to have all items and services (other than physicians services, and other than services described by sections 1861(s)(2)(K) (i) or (ii), certified nurse-midwife services, qualified psychologist services, or services of a certified registered nurse anesthetist—

"(I) that are furnished to an individual who is a resident of the skilled nursing facility, and

"(II) for which the individual is entitled to have payment made under this title, furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1861(w)(1)) made by the skilled nursing facility,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1996.

Subchapter B—Provisions Relating to Part B

SEC. 7184. PHYSICIAN UPDATE FOR 1996.

(a) SPECIAL RULE FOR 1996.—Section 1848(d)(3) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—In determining the update under subparagraphs (A) and (B) for 1996, the Secretary shall use the same percentage increase for all categories of service, determined in a budget-neutral manner, weighting the percentage increase for each of the 3 categories of service by the category's respective share of expenditures. The update determined in the previous sentence shall be reduced by 0.8 percentage points for all physicians' services, except for primary care services (as defined in section 1842(i)(4)".

SEC. 7185. PRACTICE EXPENSE RELATIVE VALUE UNITS.

(a) EXTENSION TO 1997.—Section 1848(c)(2)(E) is amended—

(1) by striking "and" at the end of clause (i)(II),

(2) by striking the period at the end of clause (i)(III) and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) 1997, by an additional 25 percent of such excess."

(b) CHANGE IN FLOOR ON REDUCTIONS AND SERVICES COVERED.—Clauses (ii) and (iii)(II) of section 1848(c)(2)(E) are amended by inserting "(or 115 percent in the case of 1997)" after "128 percent".

SEC. 7186. CORRECTION OF MVPS UPWARD BIAS.

(a) IN GENERAL.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w–4(f)(2)(A)(iv)) is amended by striking "including changes in law and regulations affecting the percentage increase described in clause (i)" and inserting "excluding anticipated responses to such changes".

(b) REPEAL OF RESTRICTION ON MAXIMUM REDUCTION.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in the heading by inserting "IN CERTAIN YEARS" after "ADJUSTMENT";

(2) in the matter preceding subclause (I), by striking "for a year";

(3) in subclause (II), by striking "and"; and

(4) in subclause (III), by striking "any succeeding year" and inserting "1995, 1996, and 1997".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to performance standard rates of increase determined for fiscal year 1996 and succeeding fiscal years.

SEC. 7187. LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS.

(a) IN GENERAL.—

(1) LIMITATIONS DESCRIBED.—Part B of title XVIII, is amended by inserting after section 1848 the following new section:

"LIMITATIONS ON PAYMENT FOR PHYSICIANS' SERVICES FURNISHED BY HIGH-COST HOSPITAL MEDICAL STAFFS

"SEC. 1849. (a) SERVICES SUBJECT TO REDUCTION.—

"(1) DETERMINATION OF HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with 1997), the Secretary shall determine for each hospital—

"(A) the hospital-specific per admission relative value under subsection (b)(2) for the following year; and

"(B) whether such hospital-specific relative value is projected to exceed the allowable average per admission relative value applicable to the hospital for the following year under subsection (b)(1).

"(2) REDUCTION FOR SERVICES AT HOSPITALS EXCEEDING ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—If the Secretary determines (under paragraph (1)) that a medical staff's hospital-specific per admission relative value for a year (beginning with 1998) is projected to exceed the allowable average per admission relative value applicable to the medical staff for the year, the Secretary shall reduce (in accordance with subsection (c)) the amount of payment otherwise determined under this part for each physician's service furnished during the year to an inpatient of the hospital by an individual who is a member of the hospital's medical staff.

"(3) TIMING OF DETERMINATION; NOTICE TO HOSPITALS AND CARRIERS.—Not later than October 1 of each year (beginning with 1997), the Secretary shall notify the medical executive committee of each hospital (as set forth in the Standards of the Joint Commission on the Accreditation of Health Organizations) of the determinations made with respect to the medical staff under paragraph (1).

"(b) DETERMINATION OF ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE AND HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUES.—

"(1) ALLOWABLE AVERAGE PER ADMISSION RELATIVE VALUE.—

"(A) URBAN HOSPITALS.—In the case of a hospital located in an urban area, the allowable average per admission relative value established under this subsection for a year is equal to 125 percent (or 120 percent for years after 1999) of the median of 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(B) RURAL HOSPITALS.—In the case of a hospital located in a rural area, the allowable average per admission relative value established under this subsection for 1998 and each succeeding year, is equal to 140 percent of the median of the 1996 hospital-specific per admission relative values determined under paragraph (2) for all hospital medical staffs.

"(2) HOSPITAL-SPECIFIC PER ADMISSION RELATIVE VALUE.—

"(A) IN GENERAL.—The hospital-specific per admission relative value projected for a hospital (other than a teaching hospital) for a calendar year, shall be equal to the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second calendar year preceding such calendar year, adjusted for variations in case-mix and disproportionate share status among hospitals (as determined by the Secretary under subparagraph (C)).

"(B) SPECIAL RULE FOR TEACHING HOSPITALS.—The hospital-specific relative value projected for a teaching hospital in a calendar year shall be equal to the sum of—

"(i) the average per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by the hospital's medical staff (excluding interns and residents) during the second year preceding such calendar year; and

"(ii) the equivalent per admission relative value (as determined under section 1848(c)(2)) for physicians' services furnished to inpatients of the hospital by interns and residents of the hospital during the second year preceding such calendar year, adjusted for variations in case-mix, disproportionate share status, and teaching status among hospitals (as determined by the Secretary under subparagraph (C)). The Secretary shall determine such equivalent relative value unit per admission for interns and residents based on the best available data for teaching hospitals and may make such adjustment in the aggregate.

"(C) ADJUSTMENT FOR TEACHING AND DISPROPORTIONATE SHARE HOSPITALS.—The Secretary shall adjust the allowable per admission relative values otherwise determined under this paragraph to take into account the needs of teaching hospitals and hospitals receiving additional payments under subparagraphs (F) and (G) of section 1886(d)(5). The adjustment for teaching status or disproportionate share shall not be less than zero.

"(c) AMOUNT OF REDUCTION.—The amount of payment otherwise made under this part for a physician's service that is subject to a reduction under subsection (a) during a year shall be reduced 15 percent, in the case of a service furnished by a member of the medical staff of the hospital for which the Secretary determines under subsection (a)(1) that the hospital medical staff's projected relative value per admission exceeds the allowable average per admission relative value.

"(d) RECONCILIATION OF REDUCTIONS BASED ON HOSPITAL-SPECIFIC RELATIVE VALUE PER ADMISSION WITH ACTUAL RELATIVE VALUES.—

"(1) DETERMINATION OF ACTUAL AVERAGE PER ADMISSION RELATIVE VALUE.—Not later than October 1 of each year (beginning with

1999), the Secretary shall determine the actual average per admission relative value (as determined pursuant to section 1848(c)(2)) for the physicians' services furnished by members of a hospital's medical staff to inpatients of the hospital during the previous year, on the basis of claims for payment for such services that are submitted to the Secretary not later than 90 days after the last day of such previous year. The actual average per admission shall be adjusted by the appropriate case-mix, disproportionate share factor, and teaching factor for the hospital medical staff (as determined by the Secretary under subsection (b)(2)(C)). Notwithstanding any other provision of this title, no payment may be made under this part for any physician's service furnished by a member of a hospital's medical staff to an inpatient of the hospital during a year unless the hospital submits a claim to the Secretary for payment for such service not later than 90 days after the last day of the year.

"(2) RECONCILIATION WITH REDUCTIONS TAKEN.—In the case of a hospital for which the payment amounts for physicians' services furnished by members of the hospital's medical staff to inpatients of the hospital were reduced under this section for a year—

"(A) if the actual average per admission relative value for such hospital's medical staff during the year (as determined by the Secretary under paragraph (1)) did not exceed the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff by the amount by which payments for such services were reduced for the year under subsection (c), including interest at an appropriate rate determined by the Secretary;

"(B) if the actual average per admission relative value for such hospital's medical staff during the year is less than 15 percentage points above the allowable average per admission relative value applicable to the hospital's medical staff under subsection (b)(1) for the year, the Secretary shall reimburse the fiduciary agent for the medical staff, as a percent of the total allowed charges for physicians' services performed in such hospital (prior to the withhold), the difference between 15 percentage points and the actual number of percentage points that the staff exceeds the limit allowable average per admission relative value, including interest at an appropriate rate determined by the Secretary; and

"(C) if the actual average per admission relative value for such hospital's medical staff during the year exceeded the allowable average per admission relative value applicable to the hospital's medical staff by 15 percentage points or more, none of the withhold is paid to the fiduciary agent for the medical staff.

"(3) MEDICAL EXECUTIVE COMMITTEE OF A HOSPITAL.—Each medical executive committee of a hospital whose medical staff is projected to exceed the allowable relative value per admission for a year, shall have one year from the date of notification that such medical staff is projected to exceed the allowable relative value per admission to designate a fiduciary agent for the medical staff to receive and disburse any appropriate withhold amount made by the carrier.

"(4) ALTERNATIVE REIMBURSEMENT TO MEMBERS OF STAFF.—At the request of a fiduciary agent for the medical staff, if the fiduciary agent for the medical staff is owed the reimbursement described in paragraph (2)(B) for excess reductions in payments during a year, the Secretary shall make such reimbursement to the members of the hospital's medical staff, on a pro-rata basis according to the proportion of physicians' services furnished to inpatients of the hospital during the year that were furnished by each member of the medical staff.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) MEDICAL STAFF.—An individual furnishing a physician's service is considered to be on the medical staff of a hospital—

"(A) if (in accordance with requirements for hospitals established by the Joint Commission on Accreditation of Health Organizations)—

"(i) the individual is subject to bylaws, rules, and regulations established by the hospital to provide a framework for the self-governance of medical staff activities;

"(ii) subject to such bylaws, rules, and regulations, the individual has clinical privileges granted by the hospital's governing body; and

"(iii) under such clinical privileges, the individual may provide physicians' services independently within the scope of the individual's clinical privileges, or

"(B) if such physician provides at least one service to a medicare beneficiary in such hospital.

"(2) RURAL AREA; URBAN AREA.—The terms 'rural area' and 'urban area' have the meaning given such terms under section 1886(d)(2)(D).

"(3) TEACHING HOSPITAL.—The term 'teaching hospital' means a hospital which has a teaching program approved as specified in section 1861(b)(6).".

(2) CONFORMING AMENDMENTS.—(A) Section 1833(a)(1)(N) (42 U.S.C. 1395l(a)(1)(N)) is amended by inserting "(subject to reduction under section 1849)" after "1848(a)(1)".

(B) Section 1848(a)(1)(B) (42 U.S.C. 1395w-4(a)(1)(B)) is amended by striking "this subsection," and inserting "this subsection and section 1849,".

(b) REQUIRING PHYSICIANS TO IDENTIFY HOSPITAL AT WHICH SERVICE FURNISHED.—Section 1848(g)(4)(A)(i) (42 U.S.C. 1395w-4(g)(4)(A)(i)) is amended by striking "beneficiary," and inserting "beneficiary (and, in the case of a service furnished to an inpatient of a hospital, report the hospital identification number on such claim form),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1998.

SEC. 7188. ELIMINATION OF CERTAIN ANOMALIES IN PAYMENTS FOR SURGERY.

(a) GENERAL RULE.—

(1) Part B of title XVIII is amended by inserting after section 1846 the following section:

"ELIMINATION OF CERTAIN ANOMALIES IN PAYMENTS FOR SURGERY

"SEC. 1847. (a) IN GENERAL.—Payment under this part for surgical services (as defined by the Secretary under section 1848(j)(1)), when a separate payment is also made for the services of a physician or physician assistant acting as an assistant at surgery, may not (except as provided by subsection (b)), when added to the separate payment made for the services of that other practitioner, exceed the amount that would be paid for the surgical services if a separate payment were not made for the services of that other practitioner.

"(b) ESTABLISHMENT OF EXCEPTIONS.—The Secretary may specify surgery procedures or situations to which subsection (a) shall not apply.".

(2) Section 1848(g)(2)(D) is amended by inserting "(or the lower amount determined under section 1847)" after "subsection (a)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to services furnished after calendar year 1995.

SEC. 7189. UPGRADED DURABLE MEDICAL EQUIPMENT.

Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i). In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

Subchapter C—Provisions Relating to Parts A and B

PART I—SECONDARY PAYOR

SEC. 7189A. EXTENSION AND EXPANSION OF EXISTING MEDICARE SECONDARY PAYOR REQUIREMENTS.

(a) DATA MATCH.—

(1) Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(b) APPLICATION TO DISABLED INDIVIDUALS IN LARGE GROUP HEALTH PLANS.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "and before October 1, 1998".

(c) EXPANSION OF PERIOD OF APPLICATION TO INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the first sentence, by striking "12-month" each place it appears and inserting "30-month", and

(2) by striking the second sentence.

PART II—HOME HEALTH AGENCIES

SEC. 7189B. INTERIM PAYMENTS FOR HOME HEALTH SERVICES.

(a) REDUCTIONS IN COST LIMITS.—Section 1861(v)(1)(L)(i) (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) by inserting "and before October 1, 1996," after "July 1, 1987" in subclause (III),

(2) by striking the period at the end of the matter following subclause (III), and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) October 1, 1996, 105 percent of the median of the labor-related and nonlabor per visit costs for freestanding home health agencies.".

(b) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "July 1, 1996" and inserting "October 1, 1996".

(c) ADDITIONS TO COST LIMITS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clauses:

"(iv) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the Secretary shall provide for an interim system of limits. Payment shall be the lower of—

"(I) costs determined under the preceding provisions of this subparagraph, or

"(II) an agency-specific per beneficiary annual limit calculated from the agency's 12-month cost reporting period ending on or after January 1, 1994 and on or before December 31, 1994 based on reasonable costs (including nonroutine medical supplies), updated by the home health market basket index. The per beneficiary limitation shall be multiplied by the agency's unduplicated census count of medicare patients for the year subject to the limitation. The limitation shall represent total medicare reasonable costs divided by the unduplicated census count of medicare patients.

"(v) For services furnished by home health agencies for cost reporting periods beginning on or after October 1, 1996, the following rules shall apply:

"(I) For new providers and those providers without a 12-month cost reporting period ending in calendar year 1994, the per beneficiary limit shall be equal to the mean of these limits (or the Secretary's best estimates thereof) applied to home health agencies as determined by the Secretary. Home health agencies that have altered their corporate structure or name may not be considered new providers for payment purposes.

"(II) For beneficiaries who use services furnished by more than one home health agency, the per beneficiary limitations shall be prorated among agencies.

"(vi) Home health agencies whose cost or utilization experience is below 125 percent of the mean national or census region aggregate per beneficiary cost or utilization experience for 1994, or best estimates thereof, and whose year-end reasonable costs are below the agency-specific per beneficiary limit, shall receive payment equal to 50 percent of the difference between the agency's reasonable costs and its limit for fiscal years 1996, 1997, 1998, and 1999. Such payments may not exceed 5 percent of an agency's aggregate medicare reasonable cost in a year.

"(vii) Effective January 1, 1997, or as soon as feasible, the Secretary shall modify the agency-specific per beneficiary annual limit described in clause (iv) to provide for regional or national variations in utilization. For purposes of determining payment under clause (iv), the limit shall be calculated through a blend of 75 percent of the agency-specific cost or utilization experience in 1994 with 25 percent of the national or census region cost or utilization experience in 1994, or the Secretary's best estimates thereof.".

(d) USE OF INTERIM FINAL REGULATIONS.—The Secretary shall implement the payment limits described in section 1861(v)(1)(L)(iv) of the Social Security Act by publishing in the Federal Register a notice of interim final payment limits by August 1, 1996 and allowing for a period of public comments thereon. Payments subject to these limits will be effective for cost reporting periods beginning on or after October 1, 1996, without the necessity for consideration of comments received, but the Secretary shall, by Federal Register notice, affirm or modify the limits after considering those comments.

(e) STUDIES.—The Secretary shall expand research on a prospective payment system for home health agencies that shall tie prospective payments to an episode of care, including an intensive effort to develop a reliable case mix adjuster that explains a significant amount of the variances in costs. The Secretary shall develop such a system for implementation in fiscal year 2000.

(f) SUBMISSION OF DATA FOR CASE-MIX SYSTEM.—Effective for cost reporting periods beginning on or after October 1, 1998, the Secretary shall require all home health agencies to submit such additional information as the Secretary may deem necessary for the development of a reliable case-mix adjuster.

SEC. 7189C. PROSPECTIVE PAYMENTS.

Title XVIII is amended by adding at the end the following new section:

"PROSPECTIVE PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) Notwithstanding section 1861(v), the Secretary shall, for cost reporting periods beginning on or after fiscal year 2000, provide for payments for home health services in accordance with a prospective payment system, which pays home health agencies on a per episode basis, established by the Secretary.

"(b) Such a system shall include the following:

"(1) All services covered and paid on a reasonable cost basis under the medicare home health benefit as of the date of the enactment of the Medicare Improvement and Solvency Protection Act of 1995, including medical supplies, shall be subject to the per episode amount. In defining an episode of care, the Secretary shall consider an appropriate length of time for an episode, the use of services, and the number of visits provided within an episode, potential changes in the mix of services provided within an episode and their cost, and a general system design that will provide for continued access to quality services. The per episode amount shall be based on the most current audited cost report data available to the Secretary.

"(2) The Secretary shall employ an appropriate case mix adjuster that explains a significant amount of the variation in cost.

"(3) The episode payment amount shall be adjusted annually by the home health market basket index. The labor portion of the episode amount shall be adjusted for geographic differences in labor-related costs based on the most current hospital wage index.

"(4) The Secretary may designate a payment provision for outliers, recognizing the need to adjust payments due to unusual variations in the type or amount of medically necessary care.

"(5) A home health agency shall be responsible for coordinating all care for a beneficiary. If a beneficiary elects to transfer to, or receive services from, another home health agency within an episode period, the episode payment shall be prorated between home health agencies.".

"(c) Prior to implementing the prospective system described in subsections (a) and (b) in a budget-neutral fashion, the Secretary shall first reduce, by 15 percent, the cost limits, per beneficiary limits, and actual costs, described in section 1861(v)(1)(L)(iv), as such limits are in effect on September 30, 1999.".

SEC. 7189D. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 7189E. ELIMINATION OF PERIODIC INTERIM PAYMENTS FOR HOME HEALTH AGENCIES.

(a) IN GENERAL.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(1) by inserting "and" at the end of subparagraph (C);

(2) by striking subparagraph (D); and

(3) by redesignating subparagraph (E) as subparagraph (D).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made on or after October 1, 1999.

SEC. 7189F. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this subtitle shall apply to items and services provided on or after October 1, 1995.

Amend the table of contents for title VII accordingly.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, the purpose of this amendment is to restore the solvency of the Medicare part A trust fund for the next 10 years and then to go on, beyond dealing with that immediate, obvious deficit looming, to reform the Medicare Program and provide real choices to Medicare beneficiaries by increasing the range of health plan options available, providing better information so that beneficiaries can act as informed consumers, and to require planning and action for the changes that will come with the retirement, later in the first decade of the next century, of the baby-boom generation.

This is a constructive Medicare alternative.

Mr. President, what we have here is a missed opportunity. Democrats and Republicans agree generally that there are some problems with the Medicare Program that we must address:

Problem No. 1. Our Republican colleagues argue that the Medicare Program must be saved from impending bankruptcy in the part A trust fund. Democrats agree that we must act to restore the solvency of the part A trust fund. The Health Care Financing Administration's Actuary tells us that it will take $89 billion in spending reductions to assure solvency through the next 10 years—through 2006. Democrats have put forward a strong proposal that would do this in a fair manner. It has been scored by CBO and achieves solvency for at least the next 10 years.

Problem No. 2. The rate of increase in the cost of the Medicare Program is unsustainable at 10 percent each and every year. We all agree that this problem must be dealt with. Democrats and Republicans have both put forward proposals that begin to bring competitive market forces into the Medicare Program. I would argue that the Democratic proposal is much stronger in this regard. We would strongly move the Medicare Program toward competitive bidding among the private health plans participating in Medicare. We would also tie rates of increase in payments to private health plans to the private sector market place, rather than to arbitrary budget targets. Ultimately, I am convinced that competition among an expanded range of private health plans serving Medicare patients will be the key to reducing long term rates of growth in the Medicare Program.

We recognize that the Medicare Program is 30 years old and is showing signs of its age. We have proposed changes that would bring the program into the rapidly changing health care system of the 1990's and the next century.

Problem No. 3. The most difficult problem looming on the horizon, Mr. President, is the coming retirement of the baby boom generation—a relatively huge number of Americans will begin to turn 65 starting around the year 2010. There are 76 million individuals in the baby boom generation. They outnumber by 50 percent the generation that preceded them into retirement. Over the next 5 years, only about 10 percent of Medicare cost increases will be attributable to more beneficiaries. Once the baby boomers retire, however, the combination of, one, a declining base of workers and, two, longer lifespans will double the combined costs of Medicare and Medicaid even if medical inflation, above CPI is eliminated altogether.

If Medicare is not prepared for the implications of this demographic shift, it may not be able to weather the storm. Democrats and Republicans have both put forward Medicare reform plans that would set up a high level, bipartisan commission to make the tough recommendations that are needed to prepare for this historical shift.

The differences between the parties, nevertheless, remain stark. The bill that is on the Senate floor today would cut $280 billion out of the Medicare Program over the next 7 years. The problem, Mr. President, is that this figure is based solely on a series of budget targets that lead to a balanced budget and reductions in taxes of $254 billion over the next 7 years.

The reconciliation bill before us is too long on squeezing beneficiaries and too short on genuine reform. It treats Medicare as a cash cow to be milked to keep promises of deficit and tax reduction made in the campaigns of 1994.

The figure of $280 billion in Medicare cuts is not good for the Medicare Program and the population it serves—those who depend on it today and those who will depend on it in future generations.

In the end, Mr. President, I am convinced that we can find a solution to all of these problems. What we have on the Senate floor today, however, is not the solution. It maintains all of the problems of the existing Medicare Program and underfunds them. It is a package of cuts, not reforms.

Mr. President, I ask unanimous consent to have a Democratic Medicare plan printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD as follows:

A DEMOCRATIC MEDICARE PLAN FOR THE 21ST CENTURY

Since Democrats created Medicare thirty years ago over GOP opposition, protecting this program has been a top Democratic priority. Today, as Republicans propose the largest cuts in Medicare's history—cuts made in the name of "saving" Medicare—Democrats once again are coming to Medicare's defense.

Our proposal: To ensure that Medicare remains solvent and strong by implementing reforms that strengthen and improve the program.

Our position: That the GOP Medicare plan cuts Medicare three times more than is necessary to restore Trust Fund solvency—and raids Medicare to pay for their scheme of tax breaks for the wealthiest.

Rejecting the Republican plan is not enough. Democrats will offer a proposal which:

Preserves seniors' right to keep their own doctor while giving them more choices of private health plans that provide high-quality and comprehensive benefits;

Improves Medicare's traditional fee-for-service program by making it more efficient and responsive to beneficiary needs, without imposing unnecessary and unfair increases in out-of-pocket Medicare expenses;

Tackles Medicare waste, fraud and abuse through programs applauded by law enforcement officials; and

Guarantees solvency of the Medicare Trust Fund through the year 2006 and prepares for the long-run challenge of the baby boom generation that will begin to retire in 2010.

The GOP claims we must cut $270 billion in order to save Medicare. That's just not true. According to the Health Care Financing Administration's Chief Actuary—who produced the estimates relied upon by the Medicare trustees—only $89 billion in cost reductions are needed to extend the life of the trust fund through the fourth quarter of the calendar year 2006.

In this proposal, we show that we can preserve and protect Medicare without slashing needed services for the elderly or increasing their out-of-pocket costs. Our plan places no new burdens on seniors—and our hospital cuts are half the Republicans'.

SUMMARY OF DEMOCRATIC PROPOSAL TO ENSURE SOLVENCY

I. Providing real choices

Medicare beneficiaries currently may choose from only two options—the traditional fee-for-service program and health maintenance organizations. Since 19 states have no Medicare HMOs, seniors in many states have no choice at all. This plan would ensure beneficiaries have access to a wide variety of health plans. Specific reforms include the following:

Expand private health plan choices: Medicare's current options would be expanded to allow the participation of preferred provider organizations, point-of-service plans, and provider sponsored networks. Plans would offer a basic benefit package equal to the fee-for-service plan with additional preventive services and lower cost-sharing.

Preserve a vital and affordable fee-for-service option: The GOP's $270 billion in cuts will spell disaster for hospitals and other health care providers all across the country, particularly in rural and underserved areas. The Democratic plan protects and improves fee-for-service Medicare—so seniors will continue to have a real choice. It keeps premiums affordable, saving seniors hundreds of dollars a year.

Reform payments to private health plans: Medicare would pay HMOs and other health plans a rate which would increase at the cost of other private health plans, unlike the GOP plan which arbitrarily caps payments at 4.3% and the current outmoded system which ties payments to fee-for-service costs. The Democratic plan would also require Medicare to test and recommend options to Congress on ways to pay private health plans through a market-based competitive bidding process.

Provide information on health plan options: Medicare would provide to all beneficiaries information comparing plans available in their region. The comparative plan information would be in a standardized format, in language that is easily understood. Such information would be provided to beneficiaries before they become eligible for Medicare and yearly after that during an open enrollment period.

Strengthen Consumer Quality Protections: Medicare would enhance health plan quality standards to prevent improper marketing and inappropriate incentives for utilization reviewers and to ensure access to the full range of Medicare covered services, including emergency and urgent care.

II. Strengthening traditional (fee-for-service) Medicare

Currently, 90% of Medicare beneficiaries are in Medicare's traditional fee-for-service program. The vast majority of seniors are likely to continue to enroll in this part of the program, even with the new options available to them. Given these trends, it makes sense to strengthen and improve Medicare's fee for service sector.

Under this proposal, a series of reforms would transform the fee-for-service program from a bill-paying insurance program into a responsive health plan that uses a variety of techniques to improve quality and service, restrain costs, and hold providers accountable for improving the health of their patients. To achieve this goal, Congress would provide authority to Medicare to adopt the same types of successful purchasing and quality techniques pioneered by private sector payers. Specific reforms include the following:

Establish quality performance standards: Require Medicare to establish explicit performance standards to allow enrollees to assess the program's performance on the basis of cost, quality, outcomes, and service. "Report cards" disseminated to beneficiaries would allow patients to compare providers against professional benchmarks.

Streamline rule-making process for purchasing: Develop options for simplifying the rule-making process and increasing Medicare's flexibility in negotiating contracts for specific services and categories of services.

Allow selective contracting with specialized programs: Allow Medicare to contract with specialized programs that manage chronic diseases like diabetes and congestive heart failure, complex acute care needs and the needs of disabled beneficiaries. Such specialized programs may include the use of alternatives to inpatient or institutional care or the use of specialized networks of caregivers. Private sector efforts along these lines have resulted in higher quality care, reductions in the need for institutional care and lower costs.

Provide authority to designate and contract with centers of excellence: Allow Medicare to use centers of excellence for additional complex and expensive services like surgery and cancer care. Medicare currently contracts with such centers for heart and liver transplant operations.

III. Attacking waste, fraud, and abuse

The General Accounting Office and others have estimated that up to 10 percent of health care expenditures and billions of dollars in Medicare payments are lost every year to fraud, waste, and abuse. These losses must be the first target of any responsible plan to reduce Medicare expenditures. This plan would take the most aggressive and comprehensive steps ever proposed to stamp out Medicare waste, fraud and abuse.

Specific measures include the following:

Expand abuse-fighting activities: Much abuse goes undetected and unpunished because there are not enough inspectors, auditors and prosecutors to do the job. Estimates indicate that every dollar invested in antifraud activities by the HHS Inspector General and Medicare contractors results in up to ten dollars in savings to Medicare. The Democratic Medicare plan more than doubles the current investment in fighting fraud and abuse. The plan also requires greater coordination of Federal, State and local law enforcement efforts to combat health care fraud.

Strengthen penalties for committing fraud: The Democratic plan would impose stiff penalties on those convicted of health care fraud, illegally distributing controlled substances, providing kickbacks, charging Medicare excessive fees, submitting false claims, or engaging in other abusive activities. This plan also strengthens available criminal remedies.

End wasteful Medicare spending for certain items and services: For example, Medicare pays $2.32 for gauze pads that the Veterans Administration purchases for four cents. The Democratic Medicare plan would make Medicare a more prudent buyer of certain types of durable medical equipment, medical supplies, and other services while assuring continued access to these important services.

Improve collection of inappropriate Medicare payments: The Democratic Medicare plan would strengthen the Medicare Secondary Payor Program, requiring Medicare to more aggressively to collect payments due from private insurers. It would also extend Medicare secondary payor provisions for ESRD beneficiaries.

Employ more sophisticated, private sector computer technology: Require Medicare contractors to employ code manipulation detection software such as that widely used in the private sector.

Increase incentives to expose Medicare fraud and abuse: Establish rewards for reports by consumers that lead to criminal convictions for health care fraud and encourage the voluntary disclosure of fraud and abuse by health care providers.

Simplify administration and reduce paperwork: Require a uniform application process for health care providers seeking to participate in Medicare.

IV. Ensuring Medicare's solvency

Only $89 billion in savings—not the $270 billion proposed by the GOP—are needed to keep the Medicare Trust Fund solvent through at least the next decade. The Chief Actuary of the Health Care Financing Administration (HCFA), whose estimates form the basis of the Medicare Trustees' recommendations, has certified that an $89 billion reduction in the rate of growth of Part A expenditures over the period 1996–2002 would extend the life of the Medicare Hospital Insurance Trust Fund through at least the fourth quarter of calendar year 2006.

This proposal would call for a series of measures to reduce Medicare spending by $89 billion over the next seven years. Savings would be achieved through the above-mentioned reforms to Medicare's fee-for-service program and Medicare's private health plan options, while slowing the rate of growth of payments to providers. Special provisions are included to assist rural hospitals. No new costs would be imposed on beneficiaries.

This plan provides more reasonable reductions in all categories:

SENATE MEDICARE PLANS

[In billions of dollars]

	Democrats	Republicans
Seniors and the disabled	0	68
Hospitals	42	86
Skilled nursing facilities	6	10
Home health	9	18
Physicians	11	23
HMO's	23	50

While preserving Medicare's solvency until 2006, the plan would help Medicare prepare for the challenges it will face when the baby boom generation begins to retire in 2010. A commission would be created, charged with conducting strategic planning for the Medicare program to ensure that recipients in the 21st century have available to them the high quality and secure coverage that current beneficiaries enjoy.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is the amendment. It is very difficult to understand what is in it. But let me make a point. This pending amendment is not germane to the Budget Reconciliation Act. I raise a point of order against the pending amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, subject to section 904 of the Congressional Budget Act of 1974, I move to waive the section for the purpose of considering this amendment.

I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the purpose of considering the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that [Mr. LAUTENBERG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 531 Leg.]

YEAS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone

NAYS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is sustained and the amendment falls.

Mr. DOLE. Let me indicate we are 6 minutes over on that vote. We could almost have had a second vote. I think there is a feeling we ought to try and finish this as quickly as we can. We are going to try to stick to the 7½ minutes. I want everybody to have a fair warning. We will try to do that.

Obviously, there is always some flexibility, but we would appreciate everyone's cooperation.

AMENDMENT NO. 3015

Mr. DOMENICI. Mr. President, I understand now that if I send the

Hutchison amendment to the desk, which had previously been withdrawn—Senator BYRD objected, and he now has no objection. I send it to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mrs. HUTCHISON, for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS, proposes an amendment numbered 3015.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "Some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovena.

(2) with peace talks scheduled to begin in the United States on October 11, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the former Yugoslavia.

(8) ethnic cleansing by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

Mr. EXON. I yield back our time and support the amendment.

Mr. DOMENICI. We yield back our time

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 3015) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3016

(Purpose: To amend the Internal Revenue Code of 1986 to allow qualified retiring farmers to rollover the gain from the sale of farm assets into an individual retirement account, provide an offset by improving the application of the capital gains tax to sales of stock in domestic corporations by 10 percent foreign shareholders, and for other purposes)

Mr. DOMENICI. Mr. President, in agreement with the other side, I am sending an amendment to the desk on behalf of Senator KOHL on farmer IRA's. It has been approved by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. KOHL proposes an amendment numbered 3016.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. We yield back any time.

Mr. EXON. Mr. President, let me thank Senator KOHL, who has worked on this for a long, long time. It is a very good amendment. He has worked with the majority leader on this. We are enthusiastic about this on our side.

Mr. DOMENICI. Senator BYRD would like to have the amendment explained.

Mr. KOHL. This amendment will allow family farmers—not farmers who are not farming the land, family farmers—who farm the land for generations, when they sell their farm to roll over up to $500,000 of the proceeds into an IRA account. It only applies to hard-working family farmers.

We offset it by requiring those individuals from foreign lands or corporations, foreign lands who own U.S. stocks who are not now subject to tax, when they sell that stock, they will in the future be required to pay a U.S. tax on the sale of that U.S. corporation stock that they own.

I think the offset is an outstanding offset and I think the purpose of the IRA is to reward hard-working family farmers. I think it is a really good amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3016) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3017

(Purpose: To require the President to include a generational acounting in the President's budget)

Mr. DOMENICI. Mr. President, I send a Simpson amendment to the desk in his behalf.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. SIMPSON proposes an amendment numbered 3017.

Mr. SIMPSON. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

Mr. SIMPSON. Mr. President, I rise today to offer an amendment that all Senators should be able to agree on. It would require that the President's annual budget continue to include a chapter on generational accounting.

"Generational accounting" is a way to consider the fiscal treatment of different generations. Specifically, it indicates what the members of each generation can expect to pay on average, now and in the future, in taxes, as a result of current budget expenditures and revenues.

President Bush included a chapter on generational accounting in his 1993 fiscal year budget and President Clinton included a chapter on generational accounting in his 1995 fiscal year budget—but he failed to include any mention of generational accounting in this year's budget.

Thirty of the 32 of us on the bipartisan commission on entitlements and tax reform concluded that if we do nothing about the impending entitlements crisis, by 2012 every penny of our Federal revenues will be necessary to pay for entitlements and interest on our national debt. In 2040, our children and grandchildren will be forced to pay 40 percent of the national payroll tax base in taxes.

It is crucial that we begin to take a longer term view of the future and consider how the impact of our decisions today will affect our children and grandchildren. If you truly are concerned about the burden of taxes on those we love, then you will support this amendment.

For 2 days now, I have listened to my colleagues wail about the poor, the young, the disenfranchised while they ignore the biggest crisis—the impending bankruptcy of the Social Security Program. It is like crying about slipping on a banana peel on the deck of the *Titanic*.

Our temporary fix for the Medicare Program is nothing more than delaying the inevitable. My colleagues are cheering that Medicare will not go broke in 2002, but rather in 2008. Now that is something to be proud of. Yet, we only have ourselves to blame.

In the past, the Social Security Advisory Council provided guidance on Social Security and Medicare issues. However, we got rid of the Advisory Council and instead created an Advisory Board—except that they no longer provide guidance on Medicare issues. How ironic. The program that is going to the dogs first, is the program we decided we do not want any guidance on.

So we have done it to ourselves. But we can stop this game-playing if we are forced to consider what we are doing to future generations—and this is why generational accounting is so important.

Mr. President, this amendment would simply require the annual budget of the President include a chapter on generational accounting.

The President of the United States, President Clinton, did a nice job on that in the first budget message. It was left completely out of the second one.

I think it is vitally important we tell the American people 20 and 30 years down the line who is paying the bills. I hope we can get back what President Clinton put in his first budget. This requires that so that we know what is out there 20 or 30 years from now—generational accounting, who is paying the bills, who really cares about the children of the country and also deals with that issue in an upfront way.

Mr. EXON. We yield back our time and accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3017) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3018

(Purpose: To provide States with the flexibility to continue to provide medical assistance under the Medicaid program to certain disabled individuals with incomes over 250 percent of poverty)

Mr. EXON. Mr. President, we have agreed on an amendment that has been worked on for a long time by Senator WELLSTONE.

I yield 30 seconds to him for the purpose of introducing the amendment which both sides have agreed to accept.

Mr. WELLSTONE. Mr. President, this is a Wellstone-Chafee amendment. I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. CHAFEE proposes an amendment numbered 3018.

Mr. WELLSTONE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

"The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3)."

Mr. WELLSTONE. Mr. President, this amendment that I send to the desk with Senator CHAFEE would just provide States with the flexibility to continue to provide medical assistance under the Medicaid Program to disabled individuals, especially children that are staying home, in order to make sure that they can continue to stay at home.

It is very important in the disability communities, and I am very pleased to have the support from both sides of the aisle.

Mr. DOMENICI. Mr. President, I think we ought to accept this amendment. This says States have the right to continue the same kind of service they are giving now for disabled people.

It eliminates any concern that they might now have and mandates nothing. I think we should accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3018) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. I advise the Senate and the chairman of the committee that the next four amendments all have to do with medical matters. We think we have those bundled into one amendment that can be offered.

If required, though, I would like unanimous consent that we have tentatively agreed to; roughly, that if we have situations like this—in this case there are four introducers—if the introducers would like 30 seconds each, we would grant them that to encourage further melding of these amendments that are similar into one amendment and therefore expedite the process.

Mr. DOMENICI. Does the minority leader agree with that? I had talked to him. It sounded a little different when he was proposing it.

Mr. DASCHLE. Mr. President, I have no objection to that approach. I think all Senators need to have the opportunity to express themselves, whether it is a block of time or one person does it or individual blocks of time.

I know the distinguished Senator from West Virginia is very concerned that everybody have a complete appreciation of what it is that these amendments include. In this case, all of the amendments deal with Medicaid. They are interrelated and in some cases the original amendments were overlapping. So it is our view it expedites not only the process but the issue, in order to allow us to bring them up together.

So I think all concerns are served in this particular amendment. I hope we can support it.

Mr. DOMENICI. Let me just address this for a moment. Senator BYRD, as I understand it, if they would have sent their amendments up singly, they would have had 30 seconds. That is the agreement. They are going to send up four together—three—and they will have 30 seconds on each of those and we will have 30 seconds to respond on each of those, which I think does nothing more than save us the time of three votes. The rest of the rights are all intact, as we have agreed to them here in the Senate.

Mr. EXON. I was explaining that rather than four, we set aside the Dodd matter, which will be considered separately. The Feingold, Moseley-Braun, and Rockefeller amendments are embodied under the agreement that we have worked out.

Pending final working out of some details, I suggest, since Senator DODD, whom I earlier thought was included in this, is not and since he is next on my list, at this time I yield 30 seconds to Senator DODD for an explanation and the introduction of his motion that both sides have received some time ago.

DODD MOTION TO COMMIT

Mr. DODD. Mr. President, I send a motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes a motion to commit.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) making changes in legislation within that Committee's jurisdiction to reduce revenue reductions for upper income taxpayers by $51,000,000,000 in order to—

(1) restore current law Medicaid eligibility for children and pregnant women;

(2) include coverage of prenatal care and delivery services for pregnant women and Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) for children;

(3) strike the 20 percent cut from title XX of the Social Security Act;

(4) strike the cap on foster care administrative expenses;

Mr. DODD. This does three things. It restores Medicaid coverage for pregnant women and children, both eligibility and benefits; it restores the cut in title 20, which States are widely using for child care assistance; and, third, it restores the cut in foster care funds that States use to investigate reports of child abuse and to recruit foster parents. Again, these are three issues I think most people here believe are critically important. This would restore those parts of the bill.

CHILDREN: CARING HAS A COST

Mrs. MURRAY. Mr. President, I want to speak today about the children of this Nation, about my hope they will not give up hope, and my wish they will look forward to a brighter future. I want to tell the children of this country and of my state—despite what is going on in this current budget fight—there are adults who care about them.

I do not want to say the adults in the majority party don't care about our children. This budget plan does make me wonder, however, whether some Members of this austere body remember what it is like to raise children:

It makes me wonder whether some Members have ever really had to deal with the modest problems and costs every working family has to deal with: the costs of child care, the costs of medical care, the costs of school lunch. I would simply remind those Members: caring does have a cost, and the cost is in no way reflected in this budget.

Children in this country feel like they have less to look forward to than ever before. Many adults on this floor have decried the state of our children's present and future, and many of us have felt the eyes of these kids upon us as we have cast a vote or made a speech.

So, here is what the majority will do for our kids in this budget: they will take away the health care coverage that allows kids to be healthy and ready to learn and grow. They will take away the child care that allows kids' parents to work. And, they will take away the foster care that helps kids in serious need.

Well, we have an amendment to this budget reconciliation bill to repair the damage: it will restore current Medicaid coverage for pregnant women and their kids, restore child care, and restore foster care funding.

On Medicaid, we need to preserve a basic safety net for children born into families of modest means. Medicaid is not free tummy-tucks for folks who don't need it.

Medicaid provides preventive and emergency care for needy kids, and long-term care for disabled children—who could be the children of any American family. We are restoring Medicaid coverage for these children, on a per-capita basis, instead of a block-grant that would cause them to compete against the elderly or other groups.

On child care, we cannot say to working mothers, struggling to stay off public assistance, "Oh, by the way, we are cutting money that allows you to work for a living." The Republicans have cut $3.3 billion in title XX child care grants to States at the same time they are promising $3 billion under welfare reform. Do not try and trick anyone. They are cutting child care—our amendment restores the cut.

On foster care, the majority is now going after children who do not even have birth-parents to rely upon. This cut is a classic: it tells a child, "we're really sorry that it's not working out with your folks, and that this is the toughest time in your life, but we cannot afford to pay for your foster care." Meanwhile, of course, the Republicans want to give tax breaks to people who can already afford to leave their children in the care of a high paid nanny every day.

Mr. President, our children are more important to us than a number on a balance sheet. I understand and agree we must balance the budget. We must preserve a future for our children, by not handing down our debts. But let us keep families alive, and able to work to support and raise their kids. Otherwise, we will shackle future generations with a much worse kind of debt.

The PRESIDING OFFICER (Mr. SMITH). Who yields time?

Mr. DOMENICI. Mr. President, I move to table the Dodd motion.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table the Dodd motion.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 50, nays 49, as follows:

[Rollcall Vote No. 532 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

So, the motion to lay on the table the Dodd motion to commit was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, earlier we had suggested that three Medicare amendments by Senator FEINGOLD, Senator MOSELEY-BRAUN, and Senator ROCKEFELLER be combined into one. We agreed that each Senator would have 30 seconds to explain their joint amendment.

At this time, I ask the Chair to recognize Senator FEINGOLD, then Senator MOSELEY-BRAUN, and then Senator ROCKEFELLER.

I congratulate them for expediting the process.

Mr. BYRD. Mr. President, I do not believe consent has been given to package amendments.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BYRD. Reserving the right to object, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

The senior Senator from West Virginia.

Mr. BYRD. Mr. President, if this were the only time we would have a request for three amendments in one package, it might be all right. My problem with this is two or threefold. One, if we start down this road of packaging three amendments, the next time it will be four, and the next time five. Suppose someone objects, and would like to vote against one of the amendments in the package? He has to vote against the whole package. That is No. 1.

No. 2, if permission is given for this request, then I would assume our friends on the other side of the aisle will think they are entitled to package three or four amendments, but there may then be some objections over here.

So it seems to me to at least prevent ill will, hard feelings, and streamlining the process further—we do not know what we are voting on now. It is an absolute absurdity what is going on here.

I am not going to object in this one instance. But who is going to be the next to make such a request?

I do not object in this one instance.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 3019

(Purpose: To retain 1-year Medicaid coverage for recipients of assistance under State plans funded under part A of title IV who lose medicaid eligibility because of income when the recipient enters the work force)

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROCKEFELLER), for himself, Mr. FEINGOLD, and Ms. MOSELEY-BRAUN proposes an amendment numbered 3019.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. ROCKEFELLER. Mr. President, I am proud to offer this amendment with Senator MOSELEY-BRAUN and also Senator FEINGOLD. It basically does three things, and we combine them for the sake of efficiency.

We propose several improvements to the Medicaid Program. One is to help low-income families get health care when they move from welfare to work. Second is to help seniors get long-term care. And third is to make it much better for pregnant women and children——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. ROCKEFELLER. Twelve years and under to have standards for their health benefit packages.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment provides for flexible community and home-based, long-term care programs for individuals with disabilities of any age that have been Medicaid funded by striking provisions in the bill providing new tax expenditures for long-term care insurance and expanded IRA's.

The amendment would save $2.3 billion over 7 years. It is based on a very successful program in Wisconsin that has saved us hundreds of millions of dollars by keeping people in the community rather than in nursing homes.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 20 seconds.

Ms. MOSELEY-BRAUN. Mr. President, the other part of the amendment has to do with people who are transitioning from welfare to work so we can provide that they will not lose health coverage, and particularly that the children will not be put in jeopardy of losing their health care when their parents go into the work force. Over a million children will be involved with this, Mr. President, and I encourage support for providing a minimal safety net for them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI addressed the Chair.

Ms. MOSELEY-BRAUN. Mr. President, I appreciate your graciousness. Senator FEINSTEIN had an amendment like this and would like to be a cosponsor, and I ask unanimous consent she be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, Senator MOSELEY-BRAUN's amendment creates new entitlements, not germane, mandates on the States that are not found in the bill. Senator FEINGOLD's long-term care amendment which has been added here—is that correct? Whose long-term care amendment is here?

Mr. EXON. Senator FEINGOLD.

Mr. DOMENICI. Senator FEINGOLD, excuse me. He would destroy the badly needed relief proposals and spend the money on Medicaid. The amendments are filled with these kinds of things, but overall they violate the Budget Act for germaneness, and I make a point of order.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that act for the purpose of considering the amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act for the consideration of the amendment. The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 45, nays 54, as follows:

[Rollcall Vote No. 533 Leg.]

YEAS—45

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

NAYS—54

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerrey
Kyl
Lott

Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote the yeas are 45, the nays are 54. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Is Senator PRESSLER here? We are next on this side and want to do his wheat amendment.

Has the Senator an amendment ready on his side?

Mr. EXON. Yes. I am ready.

Mr. DOMENICI. I might announce on our side, if Senator PRESSLER would come to the floor. If he cannot make it for some reason, let us take Senator GRASSLEY. Senator GRASSLEY will be next after the Democrat amendment. All right.

Does the Senator have an amendment ready?

Mr. EXON. We do have the Mikulski amendment.

I recognize Senator MIKULSKI from Maryland for the purpose of—before I recognize her, I ask unanimous consent that it be in order that the Senator from Maryland be permitted to offer a motion to instruct conferees on the clinical lab standards at this time.

Mr. DOMENICI. Was that a consent request?

Mr. EXON. Yes.

Mr. DOMENICI. I have to object while I speak for a minute on it.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. I object.

You have something else?

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thought it—recognizing the Senator's right, certainly, to object—I thought it had been cleared that I could offer my amendment and that it had been cleared with the Republican leadership. So I am happy to wait and let another amendment go by. I think we need to clarify this situation.

Mr. DOMENICI. Why does the Senator need consent to proceed with an amendment? Why? Does the Senator need unanimous consent?

Ms. MIKULSKI. No.

I thought it was agreed that no one would object to this coming up, I say to the Senator. I am surprised the Senator objected.

Mr. DOMENICI. Mr. President, I think we are going to be able to agree with the Senator shortly. Can the Senator wait a little bit?

Ms. MIKULSKI. I will be happy to wait.

Mr. DOMENICI. I thank the Senator very much.

Mr. EXON. Mr. President, since the Mikulski matter has been set aside temporarily, the next amendment is an amendment regarding dairy, offered by the Senator from Wisconsin, Senator FEINGOLD. I yield 30 seconds on our side to him for that stated purpose.

AMENDMENT NO. 2999

(Purpose: To strike the provision relating to the milk manufacturing marketing adjustment which provides special treatment to California cheese processors at a budget cost of $20 million)

Mr. FEINGOLD. Mr. President, I offer an amendment on behalf of myself, Senator PRESSLER, Senator GRAMS, Senator MCCAIN, and Senator KOHL, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, and Mr. KOHL, proposes an amendment numbered 2999.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, strike lines 21 through 24.

Mr. FEINGOLD. Mr. President, the 1990 farm bill contains a provision designed to prevent California cheese processors from receiving artificial milk manufacturing incentives which are significantly higher than those allowed in the rest of the country under the Federal milk product support program.

The reconciliation bill repeals this provision resulting in a $20 million cost to the Federal taxpayer by the purchase of additional cheese surpluses from California. This amendment strikes that provision and leaves current law intact and saves $20 million.

The PRESIDING OFFICER. The pending question is amendment No. 2999.

Mr. DOMENICI. That is the amendment that was just described?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Do I not have 30 seconds to respond?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, the Agriculture Committee bill would repeal section 102 of the 1990 farm bill. Section 102 was put in that bill to override State operating orders. It has been in existence for 5 years and has never been used.

It seems to me we ought to remain consistent and we ought to defeat the amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2999. The yeas and nays have been ordered. The clerk will call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 534 Leg.]

YEAS—57

Baucus
Bennett
Bond
Boxer
Breaux
Brown
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Dodd
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Roth
Santorum
Shelby
Simpson
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—42

Abraham
Akaka
Ashcroft
Biden
Bingaman
Bradley
Bryan
Bumpers
Burns
Byrd
Conrad
Daschle
DeWine
Dorgan
Exon
Feingold
Glenn
Grams
Grassley
Gregg
Harkin
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
McCain
Moseley-Braun
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Smith
Stevens
Wellstone

So the motion to lay on the table the amendment (No. 2999) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I am not quite certain where we are in the process. Some have suggested that we take a couple hours recess here to try to get the amendments into a little group. I do not know how many are left. We do not have any idea how much longer it is going to take.

We are trying to decide whether to leave here at six and come back at nine in the morning, or whether to take an hour break and see if we cannot further winnow down the number of amendments. We would like to finish it sometime tomorrow.

RECESS

Mr. DOLE. I ask that we stand in recess for 20 minutes.

There being no objection, the Senate, at 3:56 p.m., recessed until 4:17 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The majority leader is recognized.,

Mr. DOLE. Mr. President, I had a discussion with the Democratic leader, Senator DASCHLE. We have had discussions here with Members on both sides.

It is my understanding we can now, maybe shortly, propound a list of amendments and only those amendments would be in order. Hopefully, they will not all be offered, but that is where we are right now.

I think, in the meantime, I am prepared to consent to the request of the Senator from Maryland, Senator MIKULSKI, who made a unanimous-consent request that we might have a vote on a motion to instruct before passage rather than after passage.

I have no objection to that request. We are trying to work out the motion itself.

Ms. MIKULSKI. I thank the leader for his consideration. What, then, would he advise me to do? Just wait patiently, as is my temperament?

Mr. DOLE. The Senator has always been patient. But I would ask that the Senator be permitted to offer it before the vote rather than after the vote. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. We will try to work it out so maybe it will go very quickly.

Ms. MIKULSKI. I thank the leader.

Mr. DOLE. In the meantime, I guess we can just continue back and forth.

Mr. DOMENICI. I think I have one here which I would like to go ahead and get done, which is an amendment of Senator GRASSLEY regarding Indian health.

Mr. EXON. It has been approved.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2955

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRASSLEY, proposes an amendment numbered 2955.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 862, line 16.

Subsection (e) of Section 2123 is amended by adding ", other than a program operated or financed by the Indian Health Service," after "other federally operated or financed health care program".

Mr. DOMENICI. Mr. President, this has been cleared on both sides. Senator GRASSLEY has taken an interest in a concern of the Indian Health Service with reference to Medicaid and other third party reimbursement programs. This gives them permission to get involved in that program as a health delivery system.

Mr. EXON. Mr. President, I yield the remainder of my time. We agree with the amendment. I ask for the vote.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2955) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, moving ahead in the fashion in which we have been plowing ahead and making some progress, the next amendment on this side would be by the Senator from Iowa, Senator HARKIN.

I yield our time on his amendment to him for the description and introduction of the amendment.

AMENDMENT NO. 3020

(Purpose: To support the President's promise in 1993 to not require significant additional cuts in programs that affect rural America, to preserve the safety net for family farmers which represent the backbone of American Agriculture, to maintain the competitiveness of American Agriculture, and to ensure a future supply of American Agricultural products)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, Mr. DASCHLE, Mr. DORGAN, Mr. WELLSTONE, Mr. HEFLIN, and Mr. BUMPERS, proposes an amendment numbered 3020.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. HARKIN. Mr. President, I offer this amendment on behalf of myself and Senators DASCHLE, DORGAN, WELLSTONE, HEFLIN, and BUMPERS.

Basically, Mr. President, this is an agricultural substitute. It cuts $4.2 billion out of agriculture, not the $12.6 billion that is in the bill. It provides for a two-tier marketing loan system for wheat and feed grains. And we offset the cost of the bill by striking the provisions of the bill affecting the alternative minimum tax.

So basically, if you want a fairer farm bill for our farmers and rural people, this is it. It only cuts $4.2 billion, not the $12.6 billion in the bill. And we do have an offset.

Mr. DOMENICI. Mr. President, this is a rewrite of the farm bill which is in this reconciliation bill. After much concern and consideration, the Committee on Agriculture provided a farm bill which reforms much of agriculture in America.

I do not believe we ought to be undoing that here with a total substitute. It is not germane and is subject to a point of order under the Budget Act. And I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 31, nays 68, as follows:

[Rollcall Vote No. 535 Leg.]

YEAS—31

Akaka
Baucus
Boxer
Bryan
Bumpers
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Leahy
Mikulski
Moseley-Braun
Moynihan
Murray
Pryor
Robb
Simon
Wellstone

NAYS—68

Abraham
Ashcroft
Bennett
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pell
Pressler
Reid
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

This amendment adds new subject matter and therefore is not germane. The point of order is sustained. The amendment fails.

Mr. DOLE. Are there further amendments?

The PRESIDING OFFICER. Are there further amendments?

AMENDMENT NO. 2986

Mr. DOMENICI. Senator SPECTER has a sense of the Senate amendment.

Mr. SPECTER. Mr. President, I call up amendment 2986.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, is it in order to modify the amendment?

AMENDMENT NO. 2986, AS MODIFIED

(Purpose: To express the sense of the Senate concerning a flat tax and reform of the current Tax Code)

Mr. SPECTER. I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes amendment numbered 2986, as modified.

Mr. SPECTER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section: SEC. . Sense of the Senate.—

(a) FINDINGS.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filing out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits;

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate.

Mr. SPECTER. Mr. President—within 30 seconds—this amendment expresses the sense of the Senate that Congress should proceed to adopt a flat tax. It does not specify the precise type of a flat tax. There has been a lot of expression in favor of a flat tax as being progrowth, not regressive with a substantial exemption for individuals.

And I ask my colleagues to support this concept in general terms with this sense of the Senate resolution.

I yield back the balance of my time.

Mr. EXON. Mr. President, this amendment has no effect on reducing the deficit, which is what this bill is all about. It is a good political statement for people who are involved in politics at this particular time in the year. I think we do not have the time to look at this. I may be for a flat tax at some time in the future, but this is not the place or the time to put the Senate on record.

Therefore, Mr. President, I raise a point of order that the pending amendment is extraneous and violates the Byrd Rule, section 313(b)(1)(A) of the Congressional Budget Act of 1974.

Mr. SPECTER. Mr. President, I move to waive that section.

The PRESIDING OFFICER. The motion is made to waive.

Mr. SPECTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to waive the Budget Act.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 17, nays 82.

[Rollcall Vote No. 536 Leg.]

YEAS—17

Baucus
Breaux
Brown
Campbell
Craig
Dole
Grams
Grassley
Helms
Inhofe
Kempthorne
Lott
Murkowski
Nickles
Pressler
Reid
Specter

NAYS—82

Abraham
Akaka
Ashcroft
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 17, the nays are 82. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Pennsylvania presents nonbinding sense-of-the-Senate language and has no budgetary effect. Therefore, it is out of order under section 313(b)(1)(A) of the Budget Act.

The point of order is sustained. The amendment falls.

CHANGE OF VOTE

Mr. PRESSLER. Mr. President, on rollcall vote 534, I voted "yea." It was my intention to vote "nay." Therefore, I ask unanimous consent to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing talley has been changed to reflect the above order.)

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next amendment will be offered by Senator WELLSTONE, the Senator from Minnesota. I yield him 30 seconds for that purpose at this time.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 30 seconds.

AMENDMENT NO. 3021

(Purpose: To target commodity-program benefits to small and moderate-sized farm operations, and to ensure that large farm operations contribute to deficit reduction, by requiring that agricultural payment limitations be directly attributed to individuals and set at a maximum of $40,000 per person for payments, with resulting savings applied to the purpose of reducing the number of unpaid flex acres for farm-program participants within the payment limitations, and for reducing the size of the budget reduction in the Conservation Reserve Program)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3021.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. 1. PAYMENT LIMITATION

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) LIMITATION.—

"(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446t) may not exceed $40,000.

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(b) CONFORMING AMENDMENT.—

"(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(A)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

"(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv)) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

"(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103B(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'.

"(4) Section 1001C(a) of the Act (7 U.S.C. 1308–3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'."

SEC. 2. COMMODITY PROGRAMS

(a) Strike section 1103(4)(c)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';

(b) Strike section 1104(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';

(c) Strike section 1105(4)(c)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent'; and

(d) Strike section 1106(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent'."

SEC. 3. CONSERVATION RESERVE PROGRAM

Amend section 1201(a) by striking "(1) $1,787,000,000 for fiscal year 1996" and all that follows through "$974,000,000 for fiscal year 2002" and insert the following—

"(1) $1,802,000,000 for the fiscal year 1996;
"(2) $1,811,000,000 for the fiscal year 1997;
"(3) $1,476,000,000 for the fiscal year 1998;
"(4) $1,277,000,000 for the fiscal year 1999;
"(5) $1,131,000,000 for the fiscal year 2000;
"(6) $1,029,000,000 for the fiscal year 2001; and
"(7) $1,004,000,000 for the fiscal year 2002."

Mr. WELLSTONE. Mr. President, may I have order in the Chamber first, please?

The PRESIDING OFFICER. The Senate will please be in order. Senators please take their conversations elsewhere.

Mr. WELLSTONE. Mr. President, this would limit the farm payments to $40,000 a year. Over the last 10 years, only 2 percent of the recipients have received more than that.

It saves $1.6 billion over 7 years. It assures that the larger farmers are a part of deficit reduction and from these savings, this goes back to help some of the mid-sized farmers and also the Conservation Reserve Program.

I send this amendment to the desk with Senator LIEBERMAN as a cosponsor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, this is another attempt, in a slightly different way, to restructure the agricultural reform provisions in this bill, worked on at length by our committee.

I do not believe it violates the Budget Act, so I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3021. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 537 Leg.]

YEAS—64

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Breaux
Brown
Bumpers
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Gregg
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Nunn
Pryor
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—35

Bingaman
Bradley
Bryan
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Glenn
Grassley
Harkin
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Pell
Pressler
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

So the motion to lay on the table the amendment (No. 3021) was agreed to.

AMENDMENT NO. 3022

(Purpose: To make the "manager's" amendments to the bill)

Mr. EXON. Mr. President, I send an amendment to the desk on behalf of Senator BROWN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BROWN, proposes an amendment numbered 3022.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, strike lines 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission: and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad" account).

Mr. DOMENICI. Mr. President I think this has been cleared on both sides. This has to do with lease-purchase agreements and authority to do that interagency, between agencies, of the Government.

Mr. EXON. Mr. President, I yield back the remainder of my time. We approve of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3022) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I believe the next amendment that we have would be by the Senator from New Jersey.

I yield 30 seconds for the purpose of an explanation of the amendment to the Senator from New Jersey.

AMENDMENT NO. 3023

(Purpose: To strike sections 5400 and 5401 of the reconciliation bill, sections which provide for the discounted prepayment of construction costs currently owed by farmers to the Federal government for irrigation water provided under the Reclamation program, thereby relieving them of the 960 acre limitation on delivery of federally subsidized water contained in the Reclamation Reform Act of 1982)

Mr. BRADLEY. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], proposes an amendment numbered 3023.

Strike sections 5400 and 5401.

Mr. BRADLEY. Mr. President, I move to strike sections 5400 and 5401 of the reconciliation bill. These provisions represent corporate welfare at its worst. They direct costly Federal irrigation subsidies—originally intended to support small family farmers—to the largest farm operations in the West. They will benefit only a handful of wealthy individuals. I oppose granting additional subsidies to those least in need of Federal handouts, and ask my colleagues to do the same.

When the Reclamation Program began in 1902, Congress provided low cost irrigation water to small, 160 acres or less, family farms. The policy was intended to help small farmers; large farms were explicitly excluded from the subsidies.

In 1982, Congress recognized that the average family farm had grown, and increased the acreage limitations from 160 acres to the present 960 acres. Holders larger than 960 acres were required to pay full cost for irrigating their excess holdings.

The reconciliation bill creates a loophole permitting the wealthiest farmers to avoid paying full cost instead of the subsidized price. It allows farmers with excess holdings to prepay for their water—nothing wrong with that—but at the subsidized rates intended for small family farms. For these large farm operations, the cost of prepaying could be less than the cost of 1 year's irrigation water. These individuals would then be exempt forever from acreage limitations and full-cost pricing, even if the Federal Government makes new investments that would enhance their water projects. The net present value of the benefits to these individuals—and loss to the U.S. Treasury—could exceed $1,000 an acre. How can we justify such welfare for the wealthiest?

As a result of this provision, the very family farmers for whom the Reclamation Program was designed will face ever-larger competitors who obtain even greater subsidies than the small farmer. This change in policy would be accomplished without hearings and without any meaningful analysis of impacts, taxpayer costs, winners or losers. It also is not fair to the many farmers throughout the West who have complied with the letter and intent of reclamation law, and did not seek additional discounts or waivers of key provisions of Federal law. I believe that allowing people to buy their way out of Federal regulations is fundamentally unfair; to offer them a discount just compounds the inequity.

Mr. CRAIG. Mr. President, I rise in strong opposition to the motion by the Senator from New Jersey to strike the provisions in the title of the Committee on Energy and Natural Resources that would repeal the prohibition on prepayment of construction charges.

I read with some interest the "Dear Colleague" sent around by the Senator from New Jersey. It presents a curious and inaccurate history of reclamation provisions. Its description of the committee provision is also flawed. The letter uses the rhetoric of "corporate welfare" and "costly * * * subsidies" as if they were some magic incantation that would transform the true intent of the motion. The committee language does not create a loophole; it terminates a foolish restriction inserted in the 1982 Reclamation Reform Act to prevent irrigation districts and individuals who hold repayment or water service contracts from prepaying their debt. Prior to 1982, that limitation did not exist.

The letter is not correct about the history of reclamation law that led to the 1982 act. The letter states that when the reclamation program began in 1902, Congress provided low cost irrigation water to small—160 acres or less—family farms. That sounds nice, but it simply is not true. First of all, Congress decided that unlike other public works projects that had been fully funded by the Congress, in the case of reclamation projects, the beneficiaries would have to repay the Federal Government for their allocable costs. The irrigation component would be without interest, but it would have to repaid. Contrast that with the complete subsidy given to farmers who benefit from Corps projects in New Jersey and elsewhere who repay nothing because their benefits are called flood control.

The statement is also inaccurate in suggesting that Congress provided the water, since in many of the early projects, such as the Newlands Project, the water users held, and still hold, the water rights. What the Federal Government did was provide the financing for the storage and conveyance systems. Even where the Federal Government obtained the water rights for a project, the Reclamation Act specifically required the rights to be obtained in full compliance with State law, and the Supreme Court made it clear that the Federal Government held those rights as a trustee for the water users. Congress did not provide water. In addition, the suggestion that Congress was providing low-cost water would come as a surprise to the water users who were required to reimburse the Federal Government annually for all operation and maintenance costs as well as a portion of the capital construction costs. Granted the Federal Government was not seeking to make a profit, but repayment was a new concept imposed on the reclamation program.

The statement also says that the program was limited to "small (160 acres or less) family farms". In fact, the reclamation program spoke of individual ownership limitations. Each person could own 160 acres. So could that person's spouse and so could each of that person's children. A family with four children could own 960 acres. In addition, there were no limitations on how much additional land could be leased. That family could lease an additional thousand acres in addition to the 960 acres it owned. One major problem that the 1982 reclamation reform sought to resolve was whether those acreage provisions applied only on a district by district basis or Westwide. When the letter speaks of the 1982 act easing "the acreage limitations, raising them from 160 acres to the present 960 acres", it is not being completely honest. In the 1982 act, we set the acreage limit at 960 acres for an entire family including both owned and leased lands and then applied the limit Westwide. That was reform; it was not necessarily good news for large families.

The letter describes the provision in the committee reconciliation bill—Part I of Subtitle E—as creating a loophole for large farmers. In fact, the provision simply repeals a foolish limitation on prepayment that was inserted in the Reclamation Reform Act in 1982. That limitation excluded any contract that already contained a prepayment provision, so it was discriminatory on its face.

The letter suggests that enactment is bad for family farmers who will face ever-large competitors who obtain even greater subsidies. That statement is simply disingenuous. The reason for opposition to the committee provision has nothing whatsoever to do with concern for family farmers—or farmers in general. Prepayment eliminates the construction debt and the false accusation that the repayment is a subsidy. What the proponents of this motion fear is the loss of their rhetoric. Upon payment of the construction debt, the operation of the project is turned over to the water users. Section 6 of the 1902 Reclamation Act provides in relevant part that "when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense." That is what really bothers the authors of this motion. They fear the loss of control and their ability to load totally unnecessary costs onto the farmers in the Western States under the guise of operations.

Operation and maintenance will pass to the project beneficiaries as soon as repayment is complete, and the acreage limitations will no longer apply. It is not a concern for the family farmer that lies behind this motion, but rather a desire to keep Federal control over family farmers for as long as possible. No one should misunderstand the true motives of those who support this motion. All you have to do is look at the proposed regulations issued by Secretary Babbitt to see what the objective is. The regulations, which depend solely on continuing the construction debt, are part of the savage and unrelenting attack on water users in the West by this administration and its allies in the Congress.

The letter states that this is a change in policy that would be accomplished without hearings and without any meaningful analysis. In fact, the limitation on prepayment was specifically raised during our hearings on S. 602 earlier this year when witnesses noted the prohibition on prepayment as an obstacle to transfer of certain project features. It was implicit in our field hearings on the Department's proposed regulations that were conducted in Twin Falls, ID, and in Riverton, WY. I hope my colleagues who truly care about the farmers in this Nation pay close attention to what this administration has proposed in these regulations. Under the guise of defining what constitutes a lease, Secretary Babbitt is seeking to impose a new and onerous intrusion into individual farm operations.

Reclamation law speaks to ownership, land owned or leased, and Congress explicitly adopted an economic benefits test to distinguish a lease from a management agreement. Secretary Babbitt ignored the legislation and its history to conduct his campaign of aggression on Western farmers, and it is that campaign the authors of this motion seek to perpetuate. We have gone down that road several times. We have faced efforts in the Energy Committee to use the mere sharing and equipment by farmers as an indicia of a lease, so we know what the real intent is.

Despite Congress' explicit adoption of the economic benefit test, on April 3, 1995, Secretary Babbitt proposed new regulations that would adopt a far broader and more intrusive standard.

According to the proposed regulations:

> Lease means any agreement between a landholder (the lessor) and another party (the lessee) under which possession of the lessor's land is partially or wholly transferred to the lessee. Possession means the authority to make, or prevent the lessor from making decisions concerning the farming enterprise on the land; or the assumption of economic risk with respect to the farming enterprise on the land. In situations where possession has been partially transferred from a landholder to another party, a lease will be considered to exist if the majority of possession is not held by the potential lessor. In situations where possession has been transferred from a landholder to more than one other party, a lease will be considered to exist between the lessor and the party holding the greatest degree of possession.

In its analysis of the proposed rules (60 Fed. Reg. 16924) Interior explains the lease definition change as follows:

> Lease would be substantially modified. Under the existing regulation, one of the key elements in the definition of lease is the assumption of economic risk by the reputed lessee. This definition permits the development of arrangements under which an individual or legal entity is paid a fixed fee for operating a farming enterprise. Since the operator under these arrangements assumes no economic risk, Reclamation currently does not deem the operator to be in a lease relationship. Therefore, under the existing rules, operators are not subject to full cost irrigation water rates.
>
> The new definition would make possession the singular element indicating the existence of a lease. The definition would eliminate economic interest as an essential element of a lease (although economic risk would remain a factor indicating the existence of a lease). Thus, under the proposed regulation, whenever someone other than the landowner has possession of non-exempt land, a lease would exist. Reclamation would consider fixed-fee operations leases and would subject the parties to full cost pricing if possession of the land has been transferred, and if non-full cost entitlements are exceeded.
>
> The second and third sentences of the definition would address the situation where more than one party has some degree of possession; for example, a landowner may contract with a farm manager but may retain some decisionmaking authority.
>
> Reclamation intends the proposed definition of the term lease to exclude arrangements between landowners and custom operators, employees, lenders, and other landholders with whom farm equipment is shared.

Interior's examples show that even if a landowner "retains all economic risk associated with" farming his land, if he does not "make all major decisions concerning the farming operation," a lease will exist, and full cost will be charged (60 16929).

During our field hearings in Twin Falls, ID, this August, Senator McClure, the chairman of the Energy Committee when the Reclamation Reform Act was adopted, made a very eloquent statement on the effect and propriety of the proposed regulations. He stated:

> Under the proposed regulations, if a farmer were to fall ill and his children or neighbors were to take over the management of the farm until he recovered, they would get a bill for full cost from Secretary Babbitt.
>
> If a farmer were to die and his children took over the management of the farm so that their mother would not have to sell off the homestead, Secretary Babbitt would send a bill for full cost even if the children were not even reimbursed for their costs.
>
> If a farmer were called to military service and his father took over the farm while he served his country, the President would present him a medal and Secretary Babbitt would send him a bill for full cost.
>
> At the rate EPA is trying to regulate every aspect of our lives, I guess we could send the bill for full cost to Carol Browner.
>
> The point I want to make is Congress settled this issue. The test is beneficial interest measured solely by economic benefit. That is the law and Secretary Babbitt lost.
>
> Mr. Chairman, you have other witnesses who can testify to equivalency, trusts, involuntary acquisitions, and other provisions of these new rules. I will not go into them at this time. What I want to emphasize is that these rules have no foundation in law or legislative history. They are symptoms of a larger struggle of federalism in which this Administration seeks to abuse its authority and impose its social agenda on the West. While there is an underlying preoccupation with certain farm arrangements in California, there is also a philosophy that Secretary Babbitt represents that believes Washington should dictate the future of the West. It is a philosophy that wants control of water and an end to irrigated agriculture. It is a philosophy that hides behind the need for conservation in the arid west to drive its particular vision. This is an ongoing struggle that surfaces here with attempts to make farming uneconomic and municipal water supplies prohibitively expensive. It surfaces elsewhere on grazing, on mining, on mineral leasing.
>
> I take great pride in what I was able to accomplish in returning salmon runs to portions of Idaho that had not seen salmon in years. I managed to do that while respecting State law and the primacy of State water law. I take great pride in moving the Hells Canyon legislation through the Congress, but I did that in full compliance with State law including subjecting federal reserved rights to future upstream beneficial uses. As anyone can see, we have not dried up the Snake.
>
> Mr. Chairman, the federal-state relationship is not one of master-servant, as much as Secretary Babbitt may want it to be. Federalism means a respect for the rule of law and a recognition that this is a Republic of sovereign States with a central government of limited delegated powers. These rules violate that trust.

Mr. President, the sole reason behind the motion to strike is a desire to continue the predation undertaken by Secretary Babbitt on Western farmers. There is not the slightest concern for farmers, small or large, family or corporate. What the committee did was solely to permit individuals or districts holding repayment or water service contracts to pay off the intolerable subsidy that the proponents of the motion to strike have complained of for so long. The outrageous discount that the "Dear Colleague" complains of is language imposed by the Senator from New Jersey on the prepayments that he has agreed to over the past 6 years—it is his language. The language also includes a provision that requires a premium if the district were to use tax exempt bonding—as many of them could. There is no such requirement in reclamation law or in any of the existing contracts that provide for prepayment or accelerated payment. That is a requirement also insisted on by the Senator from New Jersey in our recent legislation and we have included it here.

In short, Mr. President, the cries of "corporate welfare" and "unwarranted subsidies" ring very hollow when the true motivation is simply to protect the scorched earth assault on the West being conducted by this administration through Secretary Babbitt and his allies. Even Director Rivlin plaintively objects to this provision as an unjustified provision allowing prepayment—unjustified solely because farmers might be able to go back to farming without fear that this administration will succeed in driving them off their land.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I yield my 30 seconds to Senator CRAIG in opposition to the amendment.

Mr. CRAIG. Mr. President I hope we could oppose this amendment.

In the bill we are attempting to pass, we are asking reclamation projects ready to prepay to repay now upon a negotiated relationship with the Bureau of Reclamation, to return money to the Treasury now.

The Senator from New Jersey is striking that. We think we have crafted good law, which is exactly the intent of the original reclamation law, only we advance the opportunity to pay it out and then turn those authorities to the owners of the property according to those within the projects.

Mr. DOMENICI. Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced— yeas 60, nays 39, as follows:

[Rollcall Vote No. 538 Leg.]

YEAS—60

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bond
Boxer
Breaux
Brown
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—39

Biden
Bingaman
Bradley
Bryan
Bumpers
Byrd
Chafee
Cohen
Daschle
Feingold
Glenn
Graham
Gregg
Harkin
Hollings
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

So the motion to lay on the table the amendment (No. 3023) was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I have a unanimous consent request that has been cleared by all parties, if I might make that?

The PRESIDING OFFICER. May we have order, please. I did not hear the Senator from New Jersey.

POSITION ON VOTE

Mr. LAUTENBERG. Mr. President, I have cleared a unanimous consent request with the managers of the bill. It is simply to state on rollcall 531 I was present, voted aye. The official RECORD has me listed absent. There was some confusion at the front.

Therefore, I ask unanimous consent that the official RECORD be corrected to accurately reflect my vote. There is no change in the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3024

(Purpose: To ensure the health of newborn children by allowing low-income unemployed pregnant women otherwise in compliance with food stamp work requirements and all other requirements of the Food Stamp Act to receive food stamps throughout pregnancy; to provide nutrition funding for American Samoa; and to provide an offset by implementing the reduction in the food stamp standard deduction one month earlier than otherwise would have occurred under S. 1357)

Mr. EXON. Mr. President, the following unanimous consent request has been cleared with the majority managers.

On behalf of the Senator from Vermont, Senator LEAHY, I send an amendment to the desk and ask for its consideration, and further, I ask unanimous consent that further reading be dispensed with after it is started, the amendment be agreed to, and the motion to table the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for Mr. LEAHY, proposes an amendment numbered 3024.

The PRESIDING OFFICER. The agreement was it not be read.

The amendment is as follows:

On page 103, on line 6, strike "(D)" and insert ("E)".

On page 103, strike line 5 and insert the following:

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

On page 130, strike line 14 and insert the following:

"SEC. 1430. PROVIDING FUNDING FOR AMERICAN SAMOA.

Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96–597 during that fiscal year.'.

SEC. 1431. EFFECTIVE DATE."

On page 152, line 7, strike "December 31, 1995" and insert "November 30, 1995".

On page 152, line 8, strike "January 1, 1996" and insert "December 1, 1995".

The PRESIDING OFFICER. Is there any further explanation of this amendment?

Mr. BYRD. Mr. President, may we have an explanation?

The PRESIDING OFFICER. The Chair has just requested that, I say to the Senator from West Virginia.

What is the explanation of the amendment.

Mr. EXON. This amendment allows pregnant women to stay on food stamps, if they otherwise are eligible for food stamps, even after 6 months if they cannot find a job. This treats pregnant women with their first child in the same manner as women who care for dependent children. The amendment is paid for by cuts in the standard deductions. The amendment saves money.

Without this change, pregnant women will be taken off food stamps in their third trimester of pregnancy if they cannot find a job.

That is a brief explanation of the amendment that has been agreed to.

The PRESIDING OFFICER. Is there objection to the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 3024) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

POINT OF ORDER

Mr. CHAFEE. Mr. President, the reconciliation bill contains a provision which would put the Hyde language permanently into law. This is the first time that this has been done. The Hyde language has always appeared in annual appropriations bills which are open to modification.

This provision, subsection 2123(g) of the Social Security Act, as added by section 7191(a) in the reconciliation measure, does not produce a change in outlays or revenues and is not necessary to implement a provision that does change outlays or revenues.

I, therefore, raise a point of order under section 313(b)(1)(a) of the Budget Act against that provision.

Mrs. MURRAY. Mr. President, I rise in strong support for the amendment offered by the Senator from Rhode Island, Senator CHAFEE, to strike certain restrictive language from the Medicaid block grant portion of this bill, and I am proud to be a co-sponsor of this important amendment. I consider the inclusion of this language to be yet another attack on poor women waged by this Congress, and I urge my colleagues to support this motion to strike.

The Medicaid block grant proposal approved by the Senate Finance Committee includes a provision which bars States from using Federal funds to pay for most abortions for poor women. The bill allows States to use Federal dollars to fund abortions only in cases of rape, incest or where the mother's life is in danger. This is not a new idea—we have seen restrictions like this one, known as the Hyde amendment, added to appropriations bills year after year. The key difference is that, now, this discriminatory ban could be made permanent—and I urge my colleagues to join us in ensuring this does not happen.

Including this ban as a component of Medicaid law is an unprecedented and alarming evolution in the attempt to restrict women's access to abortion, and will have devastating effects on the women who rely on the Medicaid program to provide health care coverage. Even more offensive, the target in this case is low-income women, who deserve the same access to critical reproductive health services available to other women in this country. If we do not strike this language from the bill, we are allowing Congress to single out poor women, and this sends a very strong message to the women of this country.

This ban is shortsighted, careless, and insulting to women across our Nation. Voting to include the Hyde language tells these women—we do not care. Without providing coverage for abortion services, we will be sending low-income and poor women straight to the back alley where they will be forced to choose unsafe alternatives and risky procedures—and make no mistake, Mr. President—women will die.

Women who receive an average of $400 a month from public assistance cannot raise the estimated $300 for a first-trimester abortion. What do you think a woman in this position will do? Will she divert money she should be spending on rent? Will she be forced to use the money she sets aside to feed herself or her child she already has? Or will she choose the cheaper, albeit unsanitary and dangerous, alternative? I do not want to place poor women in the position of having to make this kind of choice. It is wrong and it is cold-hearted.

And lastly, Mr. President, how does this federally-mandated restriction on how States can spend block granted funds fit into the mantra of the Republican reform agenda—State flexibility? This ban does not foster State innovation, and it certainly is not about getting Washington, DC out of local policy decision-making. In fact, this ban ties the State's hands and is really nothing short of the kind of Federal micromanagement the Republicans are usually so quick to attack.

I want to commend Senator CHAFEE for his commitment and his leadership on this issue. I know he tried to strike this restrictive and discriminatory language in Committee, but was unfortunately defeated. I thank him for trying again here on the floor, and I am proud to join in his efforts. I urge my colleageus to support this amendment.

Thank you.

The PRESIDING OFFICER. The time for the debate is over.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, pursuant to section 904(d) of the Budget Act, I move to waive the Budget Act for this provision if included in the conference report on this measure.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 55, nays 44, as follows:

[Rollcall Vote No. 539 Leg.]

YEAS—55

Abraham
Ashcroft
Bennett
Biden
Bond
Breaux
Brown
Burns
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Baucus
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Daschle
Dodd
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Stevens
Wellstone

The PRESIDING OFFICER. On this vote, there are 55 yeas, 44 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The point of order is well taken.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3025

(Purpose: To strike the sale of 25 millions of barrels of Strategic Petroleum Reserve oil in order to protect our national energy security and to fully offset the revenue loss by imposing a 2.5 percent net smelter return royalty on certain hardrock mines)

Mr. EXON. Mr. President, I believe the next amendment to be brought up per agreement is Senator BUMPERS with a Strategic Petroleum Reserve amendment, and I yield the 30 seconds to Senator BUMPERS for the purpose of proposing the amendment and appropriate remarks.

Mr. DOMENICI. Did not the Chair have to rule on that?

The PRESIDING OFFICER. The Chair did rule. The provision has been stricken.

Mr. DOMENICI. I apologize to the Chair.

The PRESIDING OFFICER. The clerk will report the Bumpers amendment.

The assistant legislative clerk read as follows.

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3025.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BUMPERS. Mr. President, in the last 133 years, the mining companies of America have mined $254 billion worth of gold and silver off Federal lands and have not paid 1 cent in royalty.

This amendment provides for a royalty of approximately 50 percent of what they pay in the private sector, and it offsets the sale of the Strategic Petroleum Reserve, which loses $600 million.

I agree with the Senator from Texas. It is time these corporate welfare people in the back of the wagon get out and help the rest of us pull it. I strongly urge your support.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this Senate has asked for 4 years for major mining law reform. In this legislation for the first time is a complete rewrite of the 1872 mining law, with new royalties, new reversionary clauses, and all that you have asked for and scored by CBO to yield $150 million.

You asked for mining law reform, and we have given it to you in a fair and balanced way that allows the public land to yield to the taxpayers what you would want it to yield.

I hope you would stay with us on this very important provision.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote is on the motion by the Senator from New Mexico to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 540 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Coats
Cohen
Conrad
Dodd
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Hollings
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Smith
Snowe
Wellstone

So the motion to table the amendment (No. 3025) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, how long was that last vote?

The PRESIDING OFFICER. Approximately 8 minutes. The Chair stands corrected: 11 minutes.

Mr. DOLE. That is what I thought. We have been running over 4 or 5 minutes on each vote. With five or six votes, that is a half hour. Again, let me say to my colleagues, this next time, we are going to shut it down. I hope we do not make anybody upset over it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The clerk can call the roll and record Senators better if Senators do not block the clerks' view. I ask again Senators not come into the well during the time the clerk is tallying the vote.

Mr. DOMENICI. Mr. President, I have two unanimous consent requests that I believe will be acceptable. Senator MIKULSKI asked us to approve a unanimous consent request in her behalf, and Senator NICKLES has a similar one in terms of what we would be agreeing to.

So I want to pose these unanimous consent requests. We agreed to Senator MIKULSKI's? Correct my remarks. We want to do the same for Senator NICKLES that we did for Senator MIKULSKI.

I ask unanimous consent that it be in order for Senator NICKLES, immediately after Senator MIKULSKI offers her motion to instruct, to move to instruct the conferees with reference to the Hyde amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from Maryland.

MIKULSKI MOTION TO INSTRUCT CONFEREES

Ms. MIKULSKI. Mr. President, I send a motion to the desk on behalf of myself, Senator KASSEBAUM, Senator SNOWE, Senator BOXER, Senator FEINSTEIN, Senator MURRAY, and Senator MOSELEY-BRAUN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Maryland [Ms. MIKULSKI] moves to instruct the conferees on the part of the Senate to insist upon guaranteeing to the American public that the quality and effectiveness standards set forth by the Clinical Laboratory Improvement Amendments of 1988 will be maintained by striking certain provisions in the House amendment relating to section 353 of the Public Health Service Act (standards that ensure quality in testing for risk factors such as a heart attack or stroke, kidney disease, prostate and colon cancer, gout and strep).

The PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Ms. MIKULSKI. Mr. President, the purpose is to instruct conferees to reject the provisions in the House bill to repeal the Clinical Lab Improvement Amendments of 1988.

Before 1988, clinical labs lacked uniform standards. Dirty labs were tolerated. Tests were misread. Diseases were misdiagnosed. Staff was inadequately trained and overworked. People died of sloppy work.

What does the House bill do? It repeals CLIA '88 for all physicians' labs except when the labs conduct Pap smears. I urge conferees to stick with the Senate position and to reject the House repeal of CLIA '88.

Let me tell my colleagues what CLIA is. And why it is so important.

CLIA '88 set for the first time uniform quality standards for all clinical labs. I am proud that this law, which I authored, was passed with broad bipartisan support.

CLIA was passed in 1988 and implemented in 1992 to address serious and life-threatening conditions in clinical labs.

To now even suggest we turn back the clock to pre-1988 will have devastating results. Do we really want to:

Turn back to a time when tests were misread and diseases misdiagnosed.

Turn back to the bad old days of misdiagnosis of the HIV/AIDS virus, when doctors were using inferior methods of reading slides; when people with the virus went undetected because the virus was mutating and was unrecognized by physicians.

Or turn back to a time when the lab technicians were overworked and undersupervised, when slides were taken home, when dirty labs were tolerated, when lab technicians had little or no formal training, resulting in many diseases going undetected.

My colleagues, CLIA works. It works because CLIA saves lives.

Prior to CLIA, women were dying after having pap smears misread 2 or 3 years in a row.

Prior to CLIA, complex tests for heart disease, conducted improperly, put patients at risk of serious impairment or death. As we know, medical conditions like heart disease not detected early, not only are more expensive to treat but result in certain disability or death.

Today, the stakes are high for quality lab tests and diagnosis. The need for quality testing for HIV and AIDS and the impact this has on our communities is without question. We are talking here about a matter of life and death.

CLIA ensures quality testing and quality laboratories.

For the first time, all labs that perform similar tests must meet similar standards, whether located in a hospital, a doctor's office or other site.

Americans must be assured that all labs are of the highest quality and performance standards.

CLIA saves tax dollars by curbing fraud and abuse.

An unexpected benefit of the CLIA law has been to weed out the most unscrupulous of labs that run scams and take advantage of the most vulnerable members of our society.

Today, CLIA is threatened. Why?

The House Reconciliation bill repeals CLIA for all physician labs except when the lab conducts pap smears. No hearings, no review of the Inspector General's report on the impact of CLIA, no opportunity for the public to respond.

The House even recognized the importance of CLIA by carving out one exemption—for labs that conduct pap smears.

My question is this: Does the Senate really want to tell somebody facing the prospect of heart attack or diabetes, that we do not care that your tests are performed adequately?

That we only care if quality standards are met for one particular test and not the entire battery of other life-saving tests being conducted? I do not think so.

Quality standards in labs are critical to saving lives. Uniformity is the key. Safe and effective standards are the goals of CLIA—no matter where the lab is located—in a hospital, doctor's office or other health setting.

My colleagues, the Senate position is right. The Senate wisely left CLIA alone.

Changes in CLIA should not be done in the context of Reconciliation, but should be done with careful and deliberate consideration in the Labor and Human Resources Committee.

CLIA is so important. We should not act hastily. To do otherwise, puts lives in danger, puts families at risk. I am not willing to take that chance, are you?

My motion is simple. Stick with the Senate position. Leave CLIA alone.

I urge support for the Mikulski motion.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I urge my colleagues to vote no on this motion, because the House had some provisions to allow some flexibility for physicians to conduct tests in their offices.

Frankly, we are talking about some simple tests; in some cases, strep tests or blood tests. CLIA, the Clinical Laboratory Improvement Act, drives up the cost of doing a lot of these tests, in some cases makes it prohibitive to do it, so they have to send off the test to the bigger cities. That wastes time, it wastes money, it makes health care a lot more expensive and dangerous in many areas of the country.

The PRESIDING OFFICER. Time has expired.

Ms. MIKULSKI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 541 Leg.]

YEAS—49

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

NAYS—50

Abraham
Ashcroft
Baucus
Bennett
Bond
Brown
Bryan
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

So the motion was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SMITH MOTION TO INSTRUCT CONFEREES

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized to make a motion to instruct conferees.

Mr. SMITH. On behalf of the Senator from Oklahoma, [Mr. NICKLES] and myself, I send a motion to instruct conferees to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

> The Senator from New Hampshire [Mr. SMITH] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the amendments to the bill S. 1357 be instructed to recede to the House amendment relating to the prohibition on federal funding for Medicaid Abortions except to save the life of the mother or in cases of rape or incest.

Mr. SMITH. Mr. President, the Chafee point of order, a few minutes ago, removed the Hyde language, which is no Federal funding for abortions except in the case of rape, incest, or life to the mother, which has been on the books a long, long time.

Basically, the Nickles and Smith motion would instruct the conferees to preserve the status quo on Federal funding of abortions.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, the Senate just sustained a point of order, we are only going to reverse this and bring it up when the bill comes back. I hope you will vote against the motion.

The PRESIDING OFFICER. Does the Senator yield the balance of his time?

Mr. EXON. Yes.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 542 Leg.]

YEAS—56

Abraham
Ashcroft
Bennett
Biden
Bond
Breaux
Brown
Burns
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—43

Akaka
Baucus
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Daschle
Dodd
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Stevens
Wellstone

So the motion was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. It is my understanding and agreement with the chairman I will recognize the Senator from North Dakota and yield to him for 30 seconds.

CONRAD MOTION TO COMMIT

Mr. CONRAD. I have a fair share balanced budget plan at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], moves to commit.

Mr. CONRAD. I ask unanimous consent reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the motion follows:

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with the following changes to legislation in the Committee's jurisdiction:

(1) Modify the medicare provision to achieve $156,000,000,000 in savings instead of the excessive $270,000,000,000 in the Republican plan.

(2) Modify the medicaid provisions to achieve $125,000,000,000 in savings instead of the excessive $182,000,000,000 in the Republican plan.

(3) Modify the welfare provisions to achieve $26,000,000,000 in savings instead of the excessive $65,000,000,000 in the Republican plan.

(4) Modify the tax provisions by eliminating the tax cuts totalling $245,000,000,000 and instead raise revenue beyond the corporate welfare provisions in title XII be eliminating $228,000,000,000 in tax loopholes, breaks, and preferences without affecting taxpayers with incomes below $140,000.

The changes in the legislation shall be made in a manner that achieves the same deficit or surplus in fiscal year 2002 as the current bill, balances the budget without counting Social Security surpluses in 2004, and accomplishes the following:

(1) A reduction in agriculture programs by no more than $4,000,000,000 instead of the $13,000,000,000 reduction in the Republican plan.

(2) A reduction in food and nutrition programs by no more than $19,000,000,000 instead of the $35,000,000,000 reduction in the Republican plan.

(3) No reductions in student loan programs instead of the $10,000,000,000 reduction in the Republican plan.

(4) A reduction in veterans programs by no more than $5,000,000,000 instead of the $6,000,000,000 reduction in the Republican plan.

(5) No reductions in domestic discretionary programs beyond a hard freeze instead of slashing investments in our economic future $191,000,000,000 below a hard freeze as in the Republican plan.

Mr. CONRAD. Mr. President, we previously voted on my plan during consideration of the budget resolution. I received 39 votes. Today, if we held a vote, I might add a few votes to that total but I am under no illusion that I would prevail.

In order to spare my colleagues another rollcall vote and in the fleeting hope that I might inspire some of my other colleagues to withdraw amendments that are not absolutely necessary we vote on this evening, I withdraw my motion.

The PRESIDING OFFICER. The motion is withdrawn.

So the motion was withdrawn.

Mr. EXON. Mr. President, I thank my friend and colleague for his fine statement.

I might suggest we move two other matters I understand we have clearance on—the Lott amendment and the Bingaman amendment.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, I ask unanimous consent on behalf of Senator HELMS that on rollcall vote 520 wherein he voted no be changed to aye. He made a mistake, and the changing of this vote will not affect the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3026

(Purpose: To eliminate reasonable cost reimbursement under the Medicare Program of legal fees after an unsuccessful appeal of denied claims)

Mr. DOMENICI. On behalf of Senator BINGAMAN and myself, I offer an amendment looked at by our Finance Committee, and which is obviously satisfactory on that side.

We believe the Medicare law already prohibits payments to providers for legal fees when the providers lose an appeal.

However, the GAO has reported some loopholes in the Medicare law so that this might not be the effect out in the field—even losers may collect losers' fees.

This will correct the situation. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN proposes an amendment numbered 3026.

Mr. EXON. Mr. President I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 139x(v)(1)(R) is amended by striking "section 1869(b)" and inserting "section 1869(a) or (b)".

Mr. BINGAMAN. Mr. President, the purpose of this amendment is to prohibit the payment of legal expenses to providers when they appeal the denial of a claim or cost adjustment and lose that appeal. Providers would still be able to recover other legal expenses, including the cost of an appeal if they prevail on the appeal under the provisions of this amendment.

The amendment would save money for Medicare part A and prevent a potentially large abuse of the current system. The Federal Government should not be paying for individuals or corporations to sue the Federal Government especially when they sue and lose their appeal.

Mr. EXON. Mr. President, I yield back our 30 seconds. I agree with the understanding that has been made.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 3026) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

(Purpose: To amend the Civil War Battlefield Commemorative Coin Act of 1992, and for other purposes)

Mr. DOMENICI. On behalf of Senator LOTT and Senator JEFFORDS, I send another amendment to the desk.

This is to amend the Civil War Battlefield Commemorative Coin Act of 1992, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. LOTT, for himself, and Mr. JEFFORDS proposes an amendment numbered 3027.

Mr. DOMENICI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern Hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Corinth, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7) not more than $250,000 to acquire sites at Berryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and;

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

Mr. LOTT. Mr. President, the Congress passed commemorative coin legislation in 1992. These funds were to be used for the preservation and acquisition of Civil War battlefields.

Proceeds from the sale of the coins have been accumulating in the trust fund, rather than being spent to purchase land.

This amendment will not add to the deficit; it merely will require that these funds be used for their original purposes.

Under this amendment, the funds would be used to purchase land only in places where there is already a commitment of private matching funds. The $4.8 million designated here will purchase $24.1 million in battlefield land; that is 20 percent coin revenues leverages the remaining 80 percent from other sources.

If these funds are not expended, options on the land will be lost and the battlefields will be developed rather than preserved.

Mr. EXON. I have to advise my colleague, I thought this was cleared. I am now advised we have one Senator that has asked to be consulted on this yet.

I am wondering if we could hold this up momentarily.

Mr. DOMENICI. Mr. President, I wonder if we could accept the amendment without reconsideration.

Mr. EXON. I apologize. I thought it was cleared. I think we can clear it if we can hold it over temporarily.

Mr. DOMENICI. I ask unanimous consent that it be temporarily set aside, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I believe the next amendment is another amendment by the Senator from Arkansas with regard to asset sales. For the purpose of introducing that amendment and explaining it, I yield our 30 seconds to the Senator from Arkansas.

AMENDMENT NO. 3028

(Purpose: To restore fiscal sanity to the budget process by prohibiting the scoring of asset sales to ensure that taxpayers are adequately protected)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY, proposes an amendment numbered 3028.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

Mr. BUMPERS. Mr. President, from 1987 until 1995 we had a specific prohibition against scoring asset sales for a very good reason. You cannot balance the budget by selling off all our assets. It is like Rudolph Penner who talked about the lawyer coming home one night and told his wife he had a great day. She said, "What happened?" He said, "I sold my desk."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, did we miss something?

Mr. EXON. Yes. But it is all right.

Mrs. MURRAY. Mr. President, I rise in support of the asset sale scoring prohibition amendment jointly offered by Senators BUMPERS, BRADLEY, and me.

The budget resolution before us has been termed an historic document. It certainly is. For the last decade, the Congress of the United States has recognized that our public lands and other Federal assets were too precious to sell or lease unless Congress or the Administration decided that so doing was in the best interest of the public. That is good policy and one that traditionally has enjoyed strong bipartisan support.

But it is a new day. Today, we may well vote to sell our children's heritage to pay our debts. I reject this approach to debt reduction, and I reject this approach to disposition of our Federal assets.

While this bill only puts up for sale the rights to develop oil and gas in the Arctic National Wildlife Refuge, these wilderness lands are only the beginning. Other public lands, national treasures and assets are being proposed for sale in the House budget reconciliation bill and more likely will be targeted next year and the year after. Henceforth, unless this amendment is adopted, any public lands or Federal assets can be sold for the quick cash and political capital gained from balancing the budget in a given year. It is a dangerous, bad precedent.

Mr. President, our assets should not be sold simply to reduce the deficit. Instead, our Federal assets should be sold only when, after reasoned debate and a full public airing, we decide their sale is in the best interest not only of our generation—but of every generation that follows. We owe our children much more than a balanced budget. We owe them their heritage.

Mr. President, I urge my colleagues to support our important amendment and thwart efforts to sell our heritage for quick cash.

Mr. BRADLEY. Mr. President, I rise in support of the Bumpers/Bradley amendment to restore the traditional method of scoring asset sales that the Congress changed last June in the Budget Resolution. The change allows Congress to count the sale of public assets—parks, powerplants, buildings, the Arctic National Wildlife Refuge, even oil in national storage facilities—as deficit reductions despite the fact that such sales are actually money-losers.

This budgetary innovation opened the floodgates for proposals to unload valuable Federal assets in return for the fast buck, often at fire-sale prices. Many of these proposals, in fact, will lead to reduced revenues in the future, and higher deficits. This approach relies on political myopia—a simple-minded scoring of sales revenue within the limited budget window—and fails to withstand the straight face test. Only by railroading these proposals through the Senate, under the very restrictive and controlled conditions of budget reconciliation, would many of these proposals ever have a chance of becoming law.

The Energy Committee's title is loaded down with asset sales that follow the same pattern. While they produce deficit reductions in their first few years, as valuable assets are sold off, after a few years the pattern reverses and deficit reductions are turned into increases. In most cases the red ink continues far out into the future, easily dwarfing the deficit reductions of the early years. Thus asset sales are both short term and short sighted.

Why we produce these budget resolutions in the first place? The reason is not to balance the budget. If it were, I am sure we could create some appropriate fiction which showed budgetary balance by definition.

But that is not what we were supposed to be doing here. We are supposed to be systematic. We are supposed to be honest. We are supposed to be consistent. We are supposed to address the substantive, structural issues which keep the Federal Government spending—year in, year out—more money than it takes in.

So what do we have here, buried deep in this bill? We have a trick, a gimmick. We cut spending, by redefining what a cut is. Now, for the first time since we gave this budget process teeth—with the passage of Gramm-Rudman—we can sell off national property—national assets—and include the proceeds as deficit reduction.

Mr. President, because of these cynically clever changes, we can now propose all sorts of asset sales, from ANWR to the Strategic Petroleum Reserve, and chalk that up to deficit reduction.

This asset sale formula leads to all sorts of questionable proposals. Because even outrageously low sales prices would still score as deficit reductions for the short period of the budget window, asset giveaways could receive a budget blessing.

In fact, I doubt that any business accountant or economist would agree with the underlying budgetary premise—that liquidating public assets adds to public wealth. If I sell my stock portfolio and put the returns in my checking account, do I become wealthier? Have I protected my children? It may make sense to sell my stocks, but the transaction itself produces no wealth—except for my broker.

Consider the Arctic National Wildlife Refuge. We can lease the Refuge to oil developers and sell any oil that might be underground to them. We will get some money. The companies will get the rights to oil. If they find oil, probably it will be shipped to the Pacific rim and burned completely. Have we done a lot for our kids? You must be joking.

At best, we can claim for our children a neutral financial transaction. But what about the larger issues? If we go ahead with the development of ANWR, we damage probably irrevocably a unique, world-class ecosystem. We consume utterly a non-renewable resource. We get some cash.

If we forego the drilling of ANWR, we preserve intact this ecosystem. We preserve intact any oil underground and the possibility of future development. We do not get the cash.

I, frankly, reject any claim that our children will thank us for using up this oil and running oil rigs and oil pipelines across the Arctic Plain.

Mr. President, what the American public expects, and what our children expect, is for us to get our fiscal house in order. Our children are not asking us to sell off their collective inheritance. Our children are not asking us to look narrowly at some budget window and forget that many of these assets produce public value—and I do not just mean financial value—beyond the window.

When one Member from the other side of the aisle, Senator CRAIG, considered this issue as a House Member, he said, "Asset sales are in fact blue smoke and mirrors at best. If they are to happen, they should be set off budget." Exactly right.

Mr. DOMENICI. I do not think I will even address the amendment.

Mr. President, the amendment does not produce a change in outlays or revenues and is not necessary to implement the provisions of this budget. Therefore, I raise a point of order that the amendment violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 49, nays 50, as follows:

[Rollcall Vote No. 543 Leg.]

YEAS—49

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

NAYS—50

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On the motion, the yeas are 49, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment falls.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

Mr. DOMENICI. Mr. President, I believe we laid aside the Lott-Jeffords amendment with reference to Federal commemorative coins. I think we have clearance from the Senator that they have approved it; is that correct?

Mr. EXON. That is correct.

Mr. DOMENICI. So we ask we proceed with it.

I yield back my time on it.

Mr. EXON. I yield back my time and call for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3027 offered by the Senator from Mississippi.

The amendment (No. 3027) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 2942

(Purpose: To amend the Congressional Budget Act of 1974 to extend the hours of debate permitted on a reconciliation bill)

Mr. EXON. Mr. President, the next in order, according to the list that we have agreed to, is recognition of the Senator from West Virginia for an amendment.

I yield our 30 seconds to him for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. BYRD. I thank the Chair. I ask that the amendment be called up at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2974.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I know of no legal or constitutionally binding reason why the Senate has to ever pass a reconciliation bill. It may have some budgetary consequences if the Senate does not. But as long as we are going to pass such a bill—and I assume that we will continue to do so for a while—we should lengthen the time for debate.

This is not a partisan amendment. It is not a political amendment. It is for the good of the institution——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. The budget process, and the good of the American people.

I hope Senators will vote for this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President and fellow Senators, it is with greatest respect and some degree of sorrow that I have to raise the Byrd rule against the amendment.

But Senator BYRD has made sure under the rules that you cannot change the budget or the Budget Act without sending the matter through the committee of jurisdiction. So this amendment will increase from 20 to 50 hours the time limitation on debate on future reconciliation measures; increase the time limitation from 10 to 20 hours on Senate consideration of conference reports; and, therefore, it violates the Budget Act.

I make a point of order against it.

Mr. BYRD. Mr. President, I believe the clerk read the wrong amendment.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Chair will correct it. The amendment is 2942, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. DORGAN, proposes an amendment numbered 2942.

The text of the amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DEBATE ON A RECONCILIATION BILL AND CONFERENCE REPORT.

(a) CONSIDERATION OF A BILL.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by striking "20 hours" and inserting "50 hours".

(b) CONSIDERATION OF A CONFERENCE REPORT.—Section 310(e)(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "Debate in the Senate on a conference report on any reconciliation bill reported under subsection (b), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.".

Mr. DOMENICI. Does the Senator want to do this one?

Mr. BYRD. I want the amendment that I wanted called up.

Mr. DOMENICI. We assumed that was the amendment.

I ask for 30 seconds.

Mr. BYRD. This is the amendment that extends the time for debate from 20 to 50 hours on reconciliation measures and from 10 to 20 hours on conference reports.

Mr. DOMENICI. Mr. President, that is what I addressed. That violates the Byrd rule, and I, therefore, raise a point of order against the amendment under section 313(b)(1)(A) of the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable section of that act for the consideration of the pending amendment.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 544 Leg.]

YEAS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this motion, the ayes are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion fails.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. STEVENS. Mr. President, on rollcall vote No. 539, I voted "aye." It was my intention to vote "no." Therefore, I ask unanimous consent to change my vote. It will not affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have been waiting to do the Biden amendment. I understand that has been worked out. So I yield at this time to Senator BIDEN for the offering of his amendment, including the 30 seconds which is a part of my time.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3029

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 3029.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

Mr. BIDEN. Mr. President, following the admonition of Senator Long years ago, if the amendment is accepted, I have nothing to say.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

So the amendment (No. 3029) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXON POINT OF ORDER

Mr. EXON. Mr. President, the next item on the agenda is the Exon point of order with regard to the Byrd rule.

Because of the Budget Act of 1974, I raise a point of order that several provisions——

Mr. BYRD. Mr. President, may we hear the Senator on this very important matter?

The PRESIDING OFFICER. The Senator from West Virginia is correct. The

Senate will please come to order. The Senator from Nebraska has 22 seconds remaining.

Mr. EXON. Mr. President, pursuant to section 313(d) of the Congressional Budget Act of 1974, I raise a point of order that several provisions in the list I now send to the desk are extraneous and violate the Byrd rule, section 313(b)(1) of that act.

My point of order objects to about 50 provisions that the Parliamentarian has confirmed violate the Byrd rule against extraneous matter in reconciliation because they have nothing to do with deficit reduction, worsen the deficit, or otherwise violate the rule.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might request of the Senator from Nebraska, this is a very important subject matter and the Senator has been selective. There are many. I wonder, if the Senator would give us a little time to review it.

Mr. EXON. Yes, I will be glad to do that.

Mr. DOMENICI. We will not take a long time. We would like to review it and discuss it with the Senator.

Mr. EXON. That is perfectly reasonable.

Mr. DOMENICI. I thank the Senator.

Mr. EXON. We will lay that temporarily aside.

The PRESIDING OFFICER. Without objection, the point of order will be set aside.

Mr. EXON. Mr. President, the next amendment is an amendment that the Senator from Arkansas is prepared to offer—I do not see the Senator from Arkansas on the floor—with regard to mining payments and royalties. I have not been advised by the Senator he does not wish to offer the amendment.

Mr. President, I advise my friend from Arkansas that he is up next on the mining patents and royalties amendment. Does the Senator wish to offer that amendment?

Mr. BUMPERS. I do.

Mr. EXON. I yield 30 seconds of my time to the Senator from Arkansas for that purpose.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3030

(Purpose: To clarify the Senate's intent that hardrock mining companies pay fair market value for the purchase of Federal lands and minerals pursuant to the 1872 mining law and to strike the sham hardrock mining industry sponsored royalty provisions from the bill which would continue the giveaway of taxpayer owned minerals to some of the richest companies in the world)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY, proposes an amendment numbered 3030.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike "for" on line 4 of page 369 through "thereby" on line 19 on page 395.

Mr. BUMPERS. Mr. President, there is some confusion about what fair market value is in this bill. This amendment simply says that the mining industry, when they apply for patents from the Interior Department for land, will pay fair market value.

Fair market value means just what it says: Land and minerals. Is that fair? All you have to do is vote "aye" and the U.S. Government will receive fair market value.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, this is the same item we have already dealt with in budget reconciliation. In fact, we already voted on this. It will be a repeat of the same amendment my friend from Arkansas proposed previously.

Given Senator BUMPERS' rhetoric and the "we only print one-side of the issue" perspective of the national media, it is difficult to get a clear understanding of what's going on with mining law reform in the 104th Congress.

Senator BUMPERS, Secretary of the Interior Bruce Babbitt, and the national media are long on mining law rhetoric but short on substance.

Senator BUMPERS often argues the goal of mining law reform should be significantly revise patenting, to impose a royalty on the production of hardrock minerals, and to establish a mechanism to clean up abandoned mines throughout the country.

I happen to agree, but would quickly add one more essential point. Any reform bill passed by Congress should also aim to preserve the economic foundation of hardrock mining in this country—a critical industry that provides high-paying jobs for tens of thousands of American men and women.

It is on this point that legislation sponsored by mining critics like Mr. BUMPERS falls flat on its face. The punitive royalties and onerous environmental provisions he favors would make future mining on Federal lands nearly impossible.

Economic analyses of Senator BUMPERS' comprehensive mining law reform legislation, including in-house studies done by the Department of the Interior, conclude that the punitive royalty supported by Senator BUMPERS will cost thousands of U.S. jobs. His legislation would shift exploration and development capital over seas, export U.S. jobs, decrease our tax base, and increase our balance of trade deficit.

I take strong exception to criticisms that members representing western mining States oppose mining law reform legislation. What we oppose is punitive legislation that would cause unnecessary economic harm to rural mining communities across working America.

In our effort to impose a royalty on the hardrock mining industry we should not presume that more is better.

One would hope that Congress would learn from history. In 1990, when Congress enacted the Omnibus Budget Reconciliation Act, we imposed a significant tax on luxury items, including high-end luxury yachts. Unfortunately, instead of taxing the rich, this recklessness destroyed the yacht building industry and eliminated thousands of jobs in this country.

In addition, we should learn from our foreign competitors. In 1974, British Columbia enacted the Mineral Royalties Act, which imposed royalties on mines located on Crown Lands and the Mineral Land tax Act which subjected owners of private mineral rights to royalties equivalent to those applied to Crown Lands. The result was a disaster.

During the period the royalty was in effect, no new mines went into production and several mines closed. Two years later, after thousands of mine related jobs were lost, the royalty was repealed.

Should the hardrock mining industry pay a royalty to the Federal Government? The answer is yes. But let's not make it so punitive that we destroy the industry or run it off-shore. We need to remember, just like Arkansas rice farmers, the domestic mining industry must compete in a worldwide market.

At the outset of the 104th Congress, I cosponsored the Mining Law Reform Act of 1995 (S. 506), a bipartisan bill that recognizes the world of change in which we now live. The bill balances economic reality with the environmental concerns facing today's hardrock mining industry. I've actively pursued enactment of this legislation during the past several months.

It's worth noting that Secretary of the Interior Bruce Babbitt continues to issue press releases decrying the shortcomings of the existing mining law. Yet he offers no reform proposal of his own. Why? Very simply, it is much easier to be critical than to be constructive.

It's no secret this is a divisive issue. In an effort to strike an acceptable compromise, the Senate Energy Committee included mining law reform provisions in its budget reconciliation package.

Those provisions represent significant compromise by both sides in this debate.

For the first time in history, the legislation would require miners to pay fair market value for the surface estate of patented land.

For the first time in history, the legislation requires patented land used for nonmining purposes to revert back to the Federal Government.

This would end the so-called Federal land give-away.

For the first time in history, miners would be required to pay a royalty to the Federal Government for the production of minerals on Federal land.

The Congressional Budget Office estimates the royalty will generate over $36 million dollars during the first 7 years. As new projects come into production, revenues received from the royalty are expected to increase to $25–$50 million per year.

Finally, for the first time in history, we would create an abandoned mine land fund [AML fund], establishing a mechanism to clean up old mines, many of which were abandoned in the 1800's.

The program will be financed by one half of the royalty receipts. As royalty revenues increase, funds for the AML fund will also grow.

The legislation contained in the committee's reconciliation package answers the urgent call for increased Federal revenue without adding layers of crippling new Federal regulations or usurping the rights and responsibilities of individual States to oversee mining operations within their own jurisdictions.

Simply put, it would significantly revise the existing patenting system; impose a royalty on the production of minerals; and create a mechanism to fund the cleanup of abandoned mines; all while allowing Americans to enjoy the benefits of a strong domestic mining industry.

It's time for mining critics to stop the rhetoric and begin working to enact reform.

Senator BUMPERS' amendment is not a good faith effort at enacting responsible reform. His claims of a Federal land give-away cannot hold water in the face of the dual requirements in budget reconciliation of fair market value for the surface of patented lands and a royalty on produced minerals from the subsurface.

The time is right for reform. The language in the budget reconciliation package represents comprehensive reform that ends the so-called Federal give-away, and according to CBO, raises $148 million dollars.

I urge critics of the mining industry to support the mining law provisions in the budget reconciliation package and oppose the amendment being offered by Senator BUMPERS.

Mr. DOMENICI. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3030. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 545 Leg.]

YEAS—55

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Cohen
Conrad
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Smith
Snowe
Wellstone

So the motion to lay on the table the amendment (No. 3030) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3031

(Purpose: To modify the estate tax reform proposals by striking the provisions excluding up to $3.25 million in business assets from the estate tax and by inserting a package of reforms specifically designed to ease the burden of estate taxes for true small businesses and family farms)

Mr. BRADLEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 3031.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking "$345,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate."

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.",

(2) by striking subparagraph (B),

(3) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(4) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

On page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Mr. EXON. I yield 30 seconds if the Senator would like to have it.

Mr. BRADLEY. Mr. President, under the pending bill, estates worth $5 million or more would receive a tax break of $1.7 million. This is because the bill effectively shields the first $3.25 million from tax.

This amendment would strike these provisions and substitute a package of reforms that are designed to ease the burden of estate taxes on true small businesses and family farms.

Mr. DOLE. The estate tax provision of the bill has strong bipartisan support. I think 20 to 30 Senators—we had this discussion in committee. We believe we are on the right track, trying to save farms, ranches, small businesses held by one family, two families or three families.

Mr. DOMENICI. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 27, as follows:

[Rollcall Vote No. 546 Leg.]

YEAS—72

Abraham
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Ford
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Roth
Santorum
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—27

Akaka
Boxer
Bradley
Breaux
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Feingold
Feinstein
Graham
Hollings
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Robb
Rockefeller
Sarbanes
Wellstone

So the motion to lay on the table the amendment (No. 3031) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I tell all that we are moving along at a reasonably rapid pace.

The next amendment is the last amendment that I have for Senator BRADLEY of New Jersey.

I yield my 30 seconds to him.

AMENDMENT NO. 3032

(Purpose: To provide additional funds to the medicaid program by using the revenues resulting from the disallowance of deductions for advertising and promotional expenses for tobacco products)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY), for himself and Mr. HARKIN, proposes an amendment numbered 3032.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

"(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995."

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable year beginning after December 31, 1995.

Mr. BRADLEY. Mr. President, the amendment that I have offered denies a tax deduction for the expense of advertising tobacco products. Federal savings of $3.2 billion would be used to offset cuts in Medicaid. Currently tobacco manufacturers deduct the cost of their advertisements from their taxable income. In other words, it favors the Joe Camel ad. This amendment would eliminate that deduction.

The amendment would not prohibit tobacco manufacturers from advertising their products. It only removes the Federal subsidy through the Tax Code for their advertising.

Mr. FORD. Mr. President, this denies a legitimate business from taking a deduction under legitimate costs. And it will go to all companies in the future, if we allow this one to prevail.

So, Mr. President, I raise a point of order against the pending amendment. It violates section 305(b) of the Congressional Budget Act of 1994 because it is not germane.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1994, I move to waive the applicable sections of the act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 22, nays 77, as follows:

[Rollcall Vote No. 547 Leg.]

YEAS—22

Bennett
Bingaman
Boxer
Bradley
Bumpers
Byrd
Cohen
DeWine
Glenn
Harkin
Hatch
Hatfield
Hollings
Kennedy
Kerry
Lautenberg
Moseley-Braun
Murray
Pell
Rockefeller
Snowe
Wellstone

NAYS—77

Abraham
Akaka
Ashcroft
Baucus
Biden
Bond
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Heflin
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER (Mr. STEVENS). On this vote, there are 23 yeas, 76 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order has been sustained, and the provision fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3033

(Purpose: To limit the capital gains deduction to gain on assets held for more than 10 years and to impose a $250,000 lifetime limit)

Mr. EXON. Mr. President, I am pleased to report that two Senators have been successful in working together to offer two amendments in a joint form. The two Senators are Senator DORGAN and Senator HARKIN. I yield each of them 30 seconds as per the previous arrangement.

Mr. DORGAN. Mr. President. I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. The clerk will still report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HARKIN, and Mr. KENNEDY, proposes an amendment numbered 3033.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DORGAN. Mr. President, this amendment is very simple. It changes the capital gains portion of the legislation. It would provide that if you hold an asset for 10 years, this would exclude up to $250,000 of capital gains—an exclusion, twice as much benefit for the first quarter of a million dollars in capital gains. But that is what the limit would be. It actually saves $10 billion over the capital gains provisions in the bill.

I yield to Senator HARKIN for the explanation of the second provision in the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is the so-called Benedict Arnold amendment. Many of the very wealthy individuals who renounce their U.S. citizenship then later reside in the United States for up to 180 days. Under this amendment, such individuals would resume paying taxes in the United States as if they were resident aliens similar to U.S. citizens if they would stay in the United States for 30 days.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senator has 30 seconds.

Mr. DOMENICI. As to Senator HARKIN's portion of the bill, let me remind Senators, Senator MOYNIHAN had put this provision together. And it strikes an appropriate balance. This would essentially do away with the Moynihan balance in this bill.

The Dorgan part of this limits the capital gains tax to a lifetime of $250,000. This would be incredibly difficult to keep track of and almost impossible to enforce if it was fair.

I move to table both amendments. They are both en bloc.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table the amendment numbered 3033. This is on both amendments in tandem.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 33, as follows:

[Rollcall Vote No. 548 Leg.]

YEAS—66

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Bradley
Breaux
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kerrey
Kohl
Kyl
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Nunn
Pell
Reid
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—33

Akaka
Bingaman
Boxer
Bumpers
Byrd
Cohen
Conrad
Craig
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Harkin
Hollings
Inouye
Kempthorne
Kennedy
Kerry
Lautenberg
Leahy
Mikulski
Murray
Pressler
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Wellstone

So, the motion to lay on the table the amendment (No. 3033) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, the next amendment is an amendment by Senator FEINGOLD, from Wisconsin, with regard to tax loopholes. I yield to him at this time the 30 seconds we have for each amendment.

The PRESIDING OFFICER. Senator FEINGOLD.

AMENDMENT NO. 3034

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for mercury, uranium, lead and asbestos)

Mr. FEINGOLD. Mr. President, on behalf of myself, Senator WELLSTONE and Senator BUMPERS, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. WELLSTONE, and Mr. BUMPERS, proposes an amendment numbered 3034.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) General Rule.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or unranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestocs (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by inserting after subparagraph (C) the following new subparagraph:

(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Mr. President, this amendment eliminates the special 22 percent percentage depletion allowance for certain mine substances—asbestos, lead, mercury, and uranium.

It would allow mining companies to deduct only the cost of their capital investments as other businesses have to do. The amendment would save $83 million over 5 years, and the bulk of this tax break goes to lead mining. I do not think that makes any sense to have this kind of subsidy when State and local and Federal health officials and environmental agencies are spending precious resources for lead abatement and testing.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to use my 30 seconds. I just now make a point of order against the amendment under section 305(b)(2) of the Budget Act.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 549 Leg.]

YEAS—43

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Sarbanes
Simon
Smith
Snowe
Wellstone

NAYS—56

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Ford
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Santorum
Shelby
Simpson
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained, and the amendment falls.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

CHANGE OF VOTE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that my vote on the Bradley amendment No. 3032 be changed from "yea" to "nay." This request will not change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

CHANGE OF VOTE

Ms. MOSELEY-BRAUN. On rollcall vote No. 548, I voted "no." It was my intention to vote "yea." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I wonder if we can take a short reading on what may be happening tonight or tomorrow.

I have had a discussion with the distinguished Democratic leader, Senator DASCHLE, and I think he is prepared to give us a fairly optimistic report on amendments left on that side.

I will be happy to yield to the Democratic leader.

Mr. DASCHLE. Mr. President, I have consulted with colleagues, and I think we are down to five amendments. One of those may fall. We are within reach now. That is the total on our side.

Mr. DOLE. Mr. President, I think on this side we have just the Finance Committee amendment. As I have indicated, there would be some additional debate on that—probably not more than 10 minutes will be allotted—because it is a 46-page amendment.

I know the Senator from Florida was suggesting additional debate time.

I say to my colleagues, if we can move as quickly as we can here and finish this bill at a reasonable time tonight, we will not be in tomorrow and we will be not be in on Monday. I think it would depend on how quickly we can complete action on the bill.

In addition, we are now looking at the Byrd-Exon package on different matters that have been subjected to the Byrd rule. We have not had that list very long, but we have people working on it now to match it against our list to see why some are left out and some are put in. It is a rather selective list.

I suggest that may require some additional votes. I am not certain.

Mr. DASCHLE. Would the majority leader yield?

Mr. DOLE. I yield.

Mr. DASCHLE. Did I hear the majority leader say if we can expedite this and come to final passage tonight on the bill, we would not be in session on Monday. Is that correct?

Mr. DOLE. That is correct. We have some conference reports, but I think they can be disposed of very quickly on Tuesday morning.

I have also discussed this with the distinguished Senator from West Virginia, who has a very important appointment on Monday. I want to try to accommodate every Senator where I can. I think I can.

Mr. DOMENICI. Might I discuss the points of order that were submitted as a package by Senator EXON?

Senator, as you might know, since it is a very selective list, it has caused a lot of concern on our side; some are just working with me to see what they want to do about it. The first step we are taking so we will know is, we are comparing your selected list with our list to first find out whether there are any that we do not think should be in there.

We would like to handle those in a way—by presenting those to you on the basis that if they do not properly belong in that we might drop them out. We are not sure there are a lot but there are some and they are of concern.

I might also suggest a goodly number of the motions of the Byrd rule problems come from the welfare bill—not all, but many.

I might reflect for a moment how that happened. The Senate cleared a welfare bill with how many votes? Mr. President, 87–12. That bill was put in the reconciliation bill and it has its own track going. It was never perfected by the U.S. Senate or by any committees in a way that made it absent the Byrd rule problems.

In other words, we handled that on the floor. It turns out when you put it in reconciliation, obviously it has a lot of points of order.

We are concerned because most of the SenatorPremiums on the other side of the aisle and this side voted for that bill. In fact, 87 voted for it. We might want to present to the Senate a package of those Byrd rule violations and see if you all want to waive them on the basis that they got 87 votes, or if you might want to reconsider since they got 87 votes.

After all, we are the ones who vote on the 60-vote number that is required under the law. We can make that decision.

It is not simple. Frankly, it comes late, which is no one's fault. Everybody on our side knew or should have known that, as they moved their committee work law, the Byrd rule was imperative. If we did not know it on the welfare bill—because we were not preparing the welfare bill for reconciliation.

I think we may take a little time tonight because I have a lot of concern on my side for the Senators, and I want to make sure they understand and get a chance to evaluate it. I do not think you would deny us that. We will give you adequate time on our major amendment. This is major, major to some people on our side.

With that explanation, let us proceed, and we will do the best we can.

Mr. DOLE. I indicated before, I know we will do these things, but if we do them as quickly as we can, then it will make things easier for all of us and make it possible to leave here tonight by 10:30 or 11 o'clock and not be here on Monday.

Mr. EXON. May I have 30 seconds? I simply say that I will be glad to listen and look at anything that is presented to us. I simply point out to my colleagues that the points raised were the most serious, in my view, of the violations of the Byrd rule. We believe they are all valid points of order and the Parliamentarian has so told us.

We published a comprehensive list of all budget rule violations in yesterday's RECORD. This is no surprise deal.

I certainly say that I will look forward to hearing from your side and, as usual, take a careful look at your proposition.

LAUTENBERG MOTION TO COMMIT

Mr. EXON. The next motion would be by the Senator from New Jersey, Senator LAUTENBERG.

I yield to him the 30 seconds I have as part of my time for his disposition.

Mr. LAUTENBERG. This is to commit the bill to the Finance Committee with instructions to report back on an amendment that would expand the deductibility of expenses that occurred in connection with business that one conducts in one's moment.

In 1993, the Supreme Court decision drastically reduced the deductibility of items in connection with a home/office kind of business.

If one was a plumber or electrician or an accountant and operated out of home, they would lose their deductibility because their clients would not have visited the home.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from New Jersey [Mr. LAUTENBERG] moves to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days, not to include any day the Senate is not in session, inserting provisions to expand the deductibility of expenses incurred in connection with the business use of one's home, and to offset the resulting costs by adjusting the corporate capital gains tax rate.

MOTION TO EXPAND THE HOME OFFICE DEDUCTION

Mr. LAUTENBERG. Mr. President, I rise today to offer a motion that would benefit home-based small business owners. My motion would send the Senate reconciliation bill back to the Committee on Finance and would instruct the committee to insert language expanding the home office deduction. For a relatively small sum, to be offset by a modification to the corporate capital gains tax rate, Congress can remedy a 2-year-old court holding that interpreted a section of our Tax Code too narrowly.

Under current law, a taxpayer may only obtain a home office deduction in one of the following ways: First, If the office is the principal place of business for a trade or business; second, if the office is a place of business used to meet with patients, clients, or customers in the normal course of the taxpayer's trade or business; or third, if the office is physically separate from the home. A 1993 Supreme Court holding interpreted the principal place of business too narrowly, thus effectively denying this deduction to taxpayers unless their offices were physically separate from their homes or unless their clients physically visited their offices.

This court decision, and the IRS's subsequent application of it, have prevented taxpayers from obtaining a deduction Congress intended them to have. The Government should not be providing a disincentive to those persons who have made the decision to work at home, a decision that was most likely based upon economic constraints and family considerations.

Women-owned businesses are being disproportionately hurt by this narrow interpretation of section 280A of our Tax Code. Women are more apt to work out of their homes than men and they should not be punished for choosing to work near their families. By voting for my motion, my colleagues will be sending a profamily message to their constituents.

Expanding this deduction would also help workers who have been displaced by corporate downsizing to remain in the work force and avoid welfare by defraying some of their startup costs should they decide to go into business for themselves. My motion would also benefit the elderly and persons with physical disabilities who want to work but for whom commuting to traditional offices is simply too difficult.

Mr. President, expanding the home office deduction was endorsed by the recently held White House Conference on Small Business, which had participants from every State. The Committee on Finance held a hearing on this matter in June and it has strong support in the small business community. Legislation was introduced earlier this year that would accomplish the same goal I am seeking today. I would ask unanimous consent that a letter written to the Majority Leader DOLE by dozens of small business groups supporting this goal be inserted into the RECORD. I strongly urge my colleagues on both sides of the aisle to support my motion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 11, 1995.

Hon. ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The undersigned associations strongly urge you to cosponsor S. 327, the Home Office Deduction Act. The original sponsors of the bill are Senators ORRIN G. HATCH, MAX BAUCUS, CHARLES E. GRASSLEY, JAMES J. EXON, ROBERT J. KERREY, JOSEPH I. LIEBERMAN, BENNETT J. JOHNSON, and JOHN H. CHAFEE.

S. 327 will promote economic growth and help create prosperity for the nation's work force. It is designed to ameliorate the economic hardships caused by the 1993 U.S. Supreme Court decision in the *Commissioner* v. *Soliman* case.

Tens of thousands of persons stand to lose the home office deduction as a result of the *Soliman* decision; particularly if (a) these people visit customers outside the home and (b) they generate revenues of the business outside the home. The list of people potentially losing the deduction includes independent sales persons, plumbers, electricians, remodeling contractors, home builders, veterinarians, travel agents and others. The bill would put home-based businesses like these on a more equal footing with other businesses.

S. 327 is an excellent response to the current spate of corporate downsizings which have resulted in the layoffs of tens of thousands of workers. They, like many other people, are now attempting to live the American dream by starting businesses out of their homes.

The bill shows a clear appreciation for the convenience offered American families by home-based businesses. A home-based business provides a spouse (including a single parent) the emotional benefits of taking care of his or her children at home while earning money at the same time. S. 327 also takes into account modern telecommunications equipment (such as personal computers, facsimile machines, and modems) which can make home-based business technologically competitive with any commercially leased space.

Thank you for considering cosponsoring S. 327. If you would like to cosponsor the bill, please call West Coulam (4-0134) of Senator Hatch's office.

Sincerely,

Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Home-Based Businesses.
American Society of Media Photographers.
American Society of Travel Agents.
American Veterinary Medical Association.
Associated Builders and Contractors, Inc.
Bureau of Wholesale Sales Representatives.
Communicating for Agriculture.
Communicating for Health Consumers.
Council of Fleet Specialists.
Direct Selling Association.
Family Research Council.
Home Office & Business Opportunities Association of California
Illinois Women's Economic Development Summit.
National Association for the Cottage Industry.
National Association for the Self-Employed.
National Association of Home Builders.
National Association of Private Enterprise.
National Association of the Remodeling Industry.
National Association of Women Business Owners.
National Electrical Manufacturers Representative Association.
National Federation of Independent Business.
National Small Business United.
National Society of Public Accountants.

Promotional Products Association International.

Retail Bakers of America.

Small Business Legislative Council.

SMC—"The Voice of Small Business."

Mr. DOMENICI. Mr. President, this would increase corporate tax rates from 28 to 32 percent in order to expand the deduction of home business expenses, and I believe it adds new language to the bill by way of the home-business expenses.

Therefore, it is subject to a point of order on germaneness. I raise that point under the Budget Act.

Mr. EXON. Pursuant to section 904 of the Congressional Budget Act, I move to waive the sections of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 39, nays 60, as follows:

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 550 Leg.]

YEAS—39

Akaka
Baucus
Boxer
Breaux
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—60

Abraham
Ashcroft
Bennett
Biden
Bingaman
Bond
Bradley
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER (Mr. SANTORUM). On this vote, the yeas are 39, the nays are 60. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the motion falls.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3035

(Purpose: To delay for 2 years the repeal of the 50-percent interest exclusion for employee stock ownership plans)

Mr. EXON. The next amendment I have is an ESOP amendment that will be offered by the Senator from Illinois [Mr. SIMON]. I yield him the 30 seconds of our time for however he wishes to use it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I offer this amendment in behalf of Senator STEVENS, Senator BREAUX, and myself. The employee stock option plan——

The PRESIDING OFFICER. The Senator will suspend.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. STEVENS, and Mr. BREAUX, proposes an amendment numbered 3035.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

The PRESIDING OFFICER. The Senator from Illinois is recognized for 30 seconds.

Mr. SIMON. Mr. President, I offer this in behalf of Senator STEVENS, Senator BREAUX, and myself. Our former colleague, Russell Long, helped to develop the employee stock option plan. Even the Chamber of Commerce says when it is enacted in companies, it increases productivity 3 to 17 percent.

What this bill does, without my amendment, it starts to strangle the ESOP's. CBO says it will cost $27 million. Let me just add——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMON. Not a single hearing has been had on this. This would just delay the date 2 years.

Mr. BINGAMAN. Mr. President, I rise today as a cosponsor and strong supporter of Senator SIMON's amendment to strike a provision ending favorable consideration for banks providing loans to employee stock ownership plans.

This provision, known as section 133, was originally put in place by Senator Long, when he was the honorable chairman of the Senate Finance Committee. It allows banks making loans for the establishment of employee stock ownership plans [ESOP's] to deduct half of the interest received from that loan from income. In practice, this provision has lowered the costs of establishing an ESOP, and thus expanded employee ownership. It is estimated that about 50 ESOP's are established in this manner each year.

Mr. President, I support the current provision because I support employee ownership. In a time when corporations are enjoying soaring profits and wages remain stagnant, employee ownership gives workers a means to share in the profits of their labor. In cases in which employee ownership is significant and in which voting rights are extended to employee owners, as required by section 133, it also can give workers an important voice in corporate decisions.

Beyond helping individual workers, there is significant evidence that employee ownership enhances the competitiveness of corporations. Several studies, including a 1995 study by Douglas Kruse of Rutgers University, have established a positive link between employee ownership and corporate performance. It is no surprise that workers are more productive when they own the fruits of that productivity. In a global economy, shouldn't we be doing everything we can to encourage corporations to be more competitive?

Beyond these substantive policy reasons for striking the anti-ESOP provision in this legislation, I believe that there are budgetary reasons for striking this language. Most notably, it is my understanding that the revenue estimates attached to this provision are grossly overstated. No hearings have been held on the provision or its revenue effects, and the ESOP Association has done an analysis showing the anticipated revenue is extremely unrealistic. I ask that a copy of that analysis be included at the conclusion of my remarks.

In summary, Mr. President, I believe that the provision in the legislation before disallowing the preferential tax treatment of ESOP loans is bad policy, and I urge support of Senator SIMON's amendment to strike it.

There being no objection, this material was ordered to be printed in the RECORD, as follows:

THE ESOP ASSOCIATION,
Washington, DC, October 17, 1995.

To: Tax Staff of the U.S. Senate.

From: The ESOP Association.

Re incredible revenue estimate on repeal of ESOP provision.

The revenue estimate for the proposed repeal of the ESOP tax provision known as the ESOP lenders interest exclusion (Code Section 133) is unbelievable for each year estimated.

Fact, the average ESOP leveraged transaction, where borrowed money is used to acquire stock for employee owners, is at most, $5 million per transaction.

Fact, at the highest, only 50 transactions a year since January 1, 1990, have used the tax incentive that is proposed to be repealed.

Fact, 50 times 5 equals 250. If the interest rate on the $250 million in ESOP loans is 10%, the interest paid on these loans is $25 million per year. The lender may exclude $12.5 million of this interest from its income tax. The revenue loss to the Treasury is $3.5 million per year.

The revenue estimates that in the year FY '99, for example, that the revenue loss is $149 million is ridiculous. To reach this level of revenue loss, the amount of 50% plus ESOP transactions would be $8.6 billion per year! Never, ever, has the value of ESOP transactions where employees acquired 50% or more, and use borrowed money, come close to this level.

The ESOP community in its wildest dreams would wish that there were that many 50% plus ESOP transactions a year to justify such an estimate. Sadly for America there is not.

The ESOP Association knows how many transactions a year there are. Obviously those wishing to damage employee ownership are not informed as to the facts.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, this amendment would lose $500 million over 7 years. It would chip away at the deficit reduction package of corporate welfare reforms and loophole closures. This is a big, big ESOP loophole.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. Whatever time we have we release.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 551 Leg.]

YEAS—56

Abraham
Ashcroft
Bennett
Bond
Bradley
Brown
Bryan
Burns
Campbell
Chafee
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Dorgan
Faircloth
Feingold
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bumpers
Byrd
Coats
Conrad
Daschle
Dodd
Exon
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Stevens
Wellstone

NOT VOTING—1

Kassebaum

So the motion to lay on the table the amendment (No. 3035) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we have now had 34 amendments considered today. And I have an amendment. I am going to ask to be permitted to yield to the Senator from West Virginia, and that he may proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized for 10 minutes.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

May we have order in the Senate?

The PRESIDING OFFICER. The Senate will please come to order. Senators will take their conversations to the Cloakroom.

The Senator from West Virginia.

Mr. BYRD. Mr. President, 31 years ago the Senate, on June 16, 1964, broke the record for the number of rollcall votes cast in one calendar day by casting 34 rollcall votes. I should say that the record number of votes in any one legislative day was made in 1977, when the Senate debated the Natural Gas Deregulation Act. There were 38 rollcall votes cast on that legislative day, 26 before midnight, and 12 after midnight, so that there were parts of 2 calendar days included in one legislative day. That was 38 total votes on one legislative day.

But for the record number of votes cast on any single calendar day, that occurred, as I say, on June 16, 1964. We are about to cast the 35th rollcall vote to occur in one calendar day—a new record.

Let me reminisce, if I just might, for a moment about that occasion.

June 16th was 3 days before the final action occurred on the Civil Rights Act of 1964. I filibustered against that bill. I spoke for 14 hours and 13 minutes. I was the only non-Southern Democrat to vote against the bill. Alan Bible of Nevada and Carl Hayden and I were the only three Non-Southern Democrats to vote against cloture on June 10.

Now, so that I might not impose on the time of the Senate, let me just read from Volume II of my history of the Senate.

"When the bill arrived from the House on February 26, 1964, it went directly to the Senate calendar." On March 9, Majority Leader Mike Mansfield moved to take up the bill, "and the motion was debated until March 26"—therefore, the debate on the motion to proceed required 17 days—"when the Senate voted, 67–17, for the motion [to proceed] . . . From March 26 [then, when the bill was first brought before the Senate, following the debate on the motion to proceed,] until cloture was invoked on June 10, the bill was before the Senate for a total of 77 days—including Saturdays, Sundays, and holidays—and was actually debated for 57 days, 6 of which were Saturdays. Still, the bill was not passed until 9 days after cloture was voted. Hence, 103 days had passed between March 9, the day that the motion was first made to proceed to take up the bill, "and final passage on June 19."

That was a very historic occasion. The vote on cloture occurred on June 10, which was the 100th anniversary of Abraham Lincoln's nomination for a second presidential term. The 34 rollcall votes occurred on June 16, and the bill passed on June 19 by a vote of 73 to 27.

Mr. President, this is another historic occasion today. We are about to cast 35 rollcall votes, which will, of course, set a new record, the first such new record in 31 years.

I wish we would pause just a moment and think about the contrast between the bill that was before the Senate then and the bill that is before the Senate now—not the subject matter at this point, but the procedural aspects.

On that occasion, we had one bill which was before the Senate. There had been hearings on that bill. There had been 17 days of debate on a motion to proceed to take the bill up. There had been 57 days of actual debate, including Saturdays. There had been scores of amendments offered thereon and cloture was finally invoked. And then more amendments were called up and additional votes occurred.

Think of the time that it took the Senate to dispose of that bill: 103 days. It was a historic bill. I voted against it, to my regret today. I have said that many times. But here we have a bill that has been before the Senate now 2 days—3 days; only 3 days—and we are limited to 20 hours on this bill—20 hours.

On that bill in 1964, we had 103 days; on this bill the limit is 20 hours and only 2 hours on an amendment, and the motion to proceed to this bill was nondebatable. But we are down to the point now where we have only 30 seconds to the side for debate on an amendment—30 seconds for debate. I am not criticizing either party or anybody in either party, in saying this. I am just concerned and discouraged by what we have seen taking place here in the Senate on this bill.

It is a historic bill also, but we have gone from 103 days on a massive bill—

one bill—to 20 hours on what consists of a number of bills, not just one bill. No hearings. No hearings on this bill. There were hearings by committees on parts of it, but no single committee had hearings on the whole bill, 1,949 pages.

I am concerned with what we are doing to the Senate, what we are doing to the legislative process. We are inhibited from calling up amendments. We have had a very insufficient time for debate on this massive, comprehensive bill, a bill that may be even more far-reaching in some respects than was the civil rights bill of 1964.

I hope that we will, in the coming days and weeks and next year, consider revising the reconciliation process, that part of the legislative process dealing with the Budget Act. I was here when we adopted the Budget Act of 1974. I never comprehended, never could I have imagined that the reconciliation process would have been used as it is being used here, a reconciliation process in which we bring several bills into one massive bill, on which the time for debate is severely restricted. Cloture is nothing as compared with the time limitation on the reconciliation bill. Cloture is but a speck on the distant horizon as compared with this bear trap.

It is most unfortunate. I do not think it is in the best interests of the institution. I do not think it is in the best interests of the legislative process. I do not think it is in the best interests of the American people, because we Senators do not know—to a very considerable degree—what we are voting for. There is not a Senator in this body—not one—who knows everything that is in this bill. Not one. And so that is the situation we are in. It troubles me.

I thank the distinguished majority leader for asking that I be recognized for 10 minutes. It is a special honor for me to be able to offer the amendment on which the record will be broken. I regret that we had to break the record in a situation such as I have described, but it is an honor to me. This is a historic occasion. I lived on that occasion—Senator THURMOND, Senator PELL, Senator KENNEDY, Senator INOUYE, and I are the only Senators who were here when the 1964 record vote was cast.

I say to the leader, may I proceed with my amendment?

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. I hope Senators will now provide the second historic occasion that will take place today. [Laughter.]

AMENDMENT NO. 2974

(Purpose: To strike the provisions in title XII reducing revenues)

Mr. BYRD. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. FEINGOLD, Mr. HOLLINGS, Mr. SIMON, Mr. DORGAN, Mr. ROBB, and Mr. BUMPERS, proposes an amendment numbered 2974.

On page 1469, strike beginning with line 1 and all that follows through page 1650, line 9.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, How can we possibly tell the American people that the budget will be balanced in 2002, even if we carry out the provisions of this reconciliation measure? CBO's deficit estimates have been off the mark by an average of $45 billion per year since 1980.

Yet, we are not only being asked to accept CBO's projections for seven years (as opposed to the usual five-year projections)—we are being asked to then take a so-called "fiscal dividend" that will occur if CBO's projections of a balanced budget turn out to be correct seven years down the road and to use that as the basis for enacting a huge $245 billion tax cut for the wealthy right now. Not later, after the budget is actually balanced, but now. Let us give Americans a tax cut now and promise them a balanced budget seven years from now. Why? Because it makes good politics. It fooled the American people in 1981. Why not do it to them again in 1995? If we are serious about balancing the budget, let us use the spending cuts that will occur this year and in the coming seven years to cut the deficit and only to cut the deficit. The current drag race that is going on between the administration and the Republican Congressional leadership to see who can get to the tax cut finish line first with the most is discouraging and will, I fear ultimately result in a repeat of the failures of Reaganomics—a return to using the American people's credit card to pay for never ending deficits.

There is no fiscal dividend with which to cut taxes. It is a hoax.

I urge Senators to reject the hoax by voting for the pending amendment which eliminates the $245 billion tax cut from this bill and applies the moneys to the deficit.

Mr. President, the amendment speaks for itself. It eliminates the tax cut in the bill and applies the savings that are projected—and we know how the projections have been in error so many times, and that is not to be critical of CBO—but it applies the savings to the deficit.

I thank all Senators for listening.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think everybody understands this amendment. It would strike all the tax cuts that were provided for children, those where we want to correct the marriage penalty and the like.

Let me suggest rather than talk about that, I say to Senator BYRD, your speech was eloquent, and I thank you for it. But I must suggest that you were part of putting this together, and we thank you for it, because if you had not helped us put this kind of process together, we could never change the country.

I guarantee you that if we did not have a reconciliation process, what we wanted to change would take 30 years. Any piece of this amendment could be subject to the exact same 69, 79, 89 days as that legislation, which the distinguished former majority leader brought to our attention. That is just too long to change things and turn things around.

So once a year, we get an opportunity to proceed to change the country and vote on very large, significant, substantial changes under the privilege of a reconciliation bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent that I be permitted to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, it is true this is not the cleanest of processes, and I submit a clear reading of the Budget Act, which, again, the Senator from West Virginia had a very big hand in drawing, that clearly it was intended that when you put a budget of the United States together, that the U.S. Congress would not avail itself of delaying tactics to implement it. As a matter of fact, the implementing of it to make it reconcile with the budget is from whence the word "reconciliation" comes.

So maybe it is being used for too many things, and maybe it is too difficult, and perhaps we ought to fix that process a bit. But I guarantee you, if you do not find something to take its place and abolish it, you will not change America in important matters for year after year after year.

I like the rules. But I think once a year you ought to comply with the budget of the United States and change the laws to change the country, to comply with the fiscal policy. That is why we are here. It is difficult. I am glad that I am chairman when we broke the record—I am not sure of that, although I am very pleased with the record. We won almost every vote and, for that, I thank the Republicans. I think they knew what they were voting about and for. Essentially, the truth of the matter is that we have no other way to get it done, as imperfect as it is. I yield the floor.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

Mr. DOMENICI. I move to table the Byrd amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 552 Leg.]

YEAS—53

Abraham
Ashcroft
Baucus
Bennett
Biden
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

So the motion to lay on the table the amendment (No. 2974) was agreed to.

Mr. SIMPSON. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 15 seconds out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. A little earlier I stated that Senator THURMOND and I were the only two Senators who voted on June 16, 1964, and I inadvertently overlooked Mr. PELL who was here, Mr. KENNEDY, and Mr. INOUYE. Those three Senators also were here on that record date.

I thank the Chair.

Mr. EXON. Mr. President, when the vote was announced on the last amendment, was that reconsidered and tabled?

The PRESIDING OFFICER (Mr. STEVENS). It was.

Mr. EXON. As near as I can tell, and I stand to be corrected if I am in error, we have three amendments and possibly one that I do not think will be offered.

The three amendments upcoming are the Wellstone amendment, then the Exon amendment with regard to the violations of the Byrd rules, and then the Finance package. So I think we only have three with the possibility of one more.

At this time, then, to move along, I suggest that we recognize the Senator from Minnesota, who has an amendment to offer. I yield him the 30 seconds off of our bill.

AMENDMENT NO. 3036

(Purpose: To strike the deep water regulatory relief provision for a number of reasons, including: (1) although the provision is estimated to save $130 million over seven years, the Congressional Budget Office estimates that the provision will cost the Treasury $550 million in lost receipts over the next 25 years, leading to a net loss of $420 million; (2) the provision provides yet another unneeded subsidy for the oil and gas industry, which was described by the Wall Street Journal on October 24, 1995 as experiencing a "Gush of Profits", and by Business Week in the October 30, 1995 issue as benefiting from new technologies that cut the cost of deep-water drilling; and (3) a short-term savings of $130 million over seven years does not justify the ultimate giveaway of $420 million over 25 years)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], proposes an amendment numbered 3036.

Mr. WELLSTONE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike sections 5930, 5931, and 5932.

Mr. WELLSTONE. Mr. President, this amendment knocks out what is euphemistically called the deep water royalty relief. It in fact is probably the most brazen subsidy that goes to oil companies that are doing very well. So well, Mr. President, that in the House of Representatives, 261 Representatives voted against this—100 Republicans.

That is why it got put in reconciliation. That is why somehow it wound up in this reconciliation bill. It ought to be knocked out.

This is not public interest. This is special interest. It is brazen. It is really a scandalous subsidy when we are asking all sorts of citizens to tighten their belt. I hope we will vote to knock this out.

Mr. DOMENICI. I yield our time to Senator JOHNSTON of Louisiana.

Mr. JOHNSTON. Mr. President, according to the Mineral Management Service, this provision which Senator WELLSTONE would seek to knock from this bill would produce 320 million barrels of oil in the central gulf which would otherwise not be produced.

Need I remind my colleagues that the Mineral Management Service is part of the Department of the Interior. Bruce Babbitt, a Secretary who has never been known as being in the pocket of the oil companies—this is backed by Secretary Babbitt. It is backed by Secretary O'Leary.

I ask unanimous consent that her letter backing this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, October 19, 1995.

Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: The Administration reiterates its support for the title providing deepwater royalty relief to the central and western Gulf of Mexico.

In the energy policy plan, "Sustainable Energy Strategy: Clean and Secure Energy for a Competitive Economy" in July 1995, the Administration outlined its overall energy policy stressing the goals of increased energy productivity, pollution prevention, and enhanced national security. To achieve these goals, "the Nation must make the most efficient us of a diverse portfolio of domestic energy resources that will allow us to meet our energy needs today, tomorrow, and well into the 21st century. The Administration continues to promote the economically beneficial and environmentally sound expansion of domestic energy resources." (page 33) In furtherance of this objective, "The Administration's policy is to improve the economics of domestic oil production by reducing costs, in order to lessen the impact on this industry of low and volatile oil prices." (page 35) One of the ways indicated to lower these costs is, "providing appropriate tax and other fiscal incentives to support our domestic energy resource industries." (page 34) Finally, the "Strategy" specifically targets the opportunities in the Gulf of Mexico.

"One of our best opportunities for adding large new oil reserves can be found in the central and western Gulf of Mexico, particularly in deeper water. Royalty relief can be a key to timely access to this important resource. The Administration supports targeted royalty relief to encourage the production of domestic oil and natural gas resources in deep water in the Gulf of Mexico. This step will help to unlock the estimated 15 billion barrels of oil-equivalent in the deepwater Gulf of Mexico, providing new energy supplies for the future, spurring the development of new technologies, and supporting thousands of jobs in the gas and oil industries. (emphasis in original, page 36)"

The royalty relief provision in S. 395 as adopted by the conference committee is a targeted, deepwater royalty relief provision that the Administration supports. For existing leases, it targets relief for only those leases that would not be economic to develop without the relief. For new leases, the provision is targeted for a specific time period for only a specific number of barrels of production, and could be offset by increased bonus bids.

The Minerals Management Service has estimated the revenue impacts of new leasing under section 304 of S. 395. For lease sales in the central and western Gulf of Mexico between 1996 and 2000, the deepwater royalty relief provisions would result in increased bonuses of $485 million—$135 million in additional bonuses on tracts that would have been leased without relief; and $350 million in bonuses from tracts that would not have been leased until after the year 2000, if at all, without the relief. This translates to a present value of $420 million, if the time value of money is taken into account. However, the Treasury would forego an estimated $553 million in royalties that would otherwise have been collected through the year 2018. But again taking into account the time value of money, this offset in today's dollars is only $220 million. Comparing this loss with the gain from the bonus bids on a net present value basis, the Federal government would be ahead by $200 million.

It is important to note that affected OCS projects would still pay a substantial upfront bonus and then be required to pay a royalty when and if production exceeds their royalty-free period. A royalty-free period, such as that proposed in S. 395, would help enable marginally viable OCS projects to be developed, thus providing additional energy, jobs, and other important benefits to the nation.

In contrast, in the absence of thorough reform of the 1872 Mining Law, hard rock mining projects on Federal lands can be initiated without paying a substantial bonus and are never required to pay a royalty on the resources developed. The end result is that the public is denied its fair share of the benefits from the resources developed.

The ability to lower costs of domestic production in the central and western Gulf of Mexico by providing appropriate fiscal incentives will lead to an expansion of domestic energy resources, enhance national security, and reduce the deficit. Therefore, the Administration supports the deepwater royalty relief provision of S. 395.

The Office of Management and Budget has advised that it has no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely,

HAZEL R. O'LEARY.

REVENUE IMPACT OF DEEP WATER ROYALTY RELIEF

MMS estimates—(In millions of dollars)

	Nominal dollars		Present value		Interest saved by retiring $200 mil. of debt by 2000
	Increased bonus revenues	Foregone royalties	Bonus revenues	Foregone royalties	
1996	97		97		
1997	97		90		
1998	97		83		
1999	97		77		
2000	97		71		
2001		(2.4)		(1.6)	16
2002		(7.1)		(4.5)	17
2003		(16.4)		(9.6)	19
2004		(29.6)		(16.0)	20
2005		(44.4)		(22.2)	22
2006		(57.4)		(26.6)	24
2007		(65.7)		(28.2)	25
2008		(67.2)		(26.7)	27
2009		(62.6)		(23.0)	30
2010		(54.8)		(18.7)	32
2011		(44.1)		(13.9)	35
2012		(34.9)		(10.2)	37
2013		(25.8)		(7.0)	40
2014		(18.5)		(4.6)	44
2015		(11.5)		(2.7)	47
2016		(6.7)		(1.4)	51
2017		(2.9)		(0.6)	55
2018		(1.3)		(0.2)	59
Total ...	485	(553)	418	(218)	599

Present Value: 8% discount rate.

The present value of a stream of revenues is the amount of current dollars that would have to be invested in a risk-free asset in order to end up with the same stream of dollars in future years. If the government were to invest $218 million in T-bonds, it could draw down the investment each year between 2001 and 2018 to offset the foregone royalties in that year. The government would still have $200 million left for deficit reduction in the five-year budget. (This is comparable to an individual planning for reduced income in retirement by investing in an annuity to replace the lost income in the future.)

To analyze fully the impact on the Treasury over 25 years, the impact of reducing the debt by $200 million has to be included. By the year 2018, the taxpayers would be ahead by an additional $599 million, the amount of interest that would not have to be paid to finance $200 million of debt from 2000 to 2018.

If you have any question, contact Shirley Neff.

Mr. JOHNSTON. It raised $200 million for the Treasury, according to the Mineral Management Service, which that report shows. It is supported by the administration.

It is necessary to meet our target, and it came out of the Energy Committee by 17 to 2.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation. I raise a point of order against it pursuant to the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act, I move to waive the section of that Act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays were ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted— yeas 28, nays 71, as follows:

[Rollcall Vote No. 553 Leg.]

YEAS—28

Boxer
Bradley
Bryan
Bumpers
Byrd
Cohen
Dodd
Feingold
Glenn
Graham
Harkin
Hollings
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Moynihan
Murray
Pell
Pryor
Sarbanes
Simon
Snowe
Wellstone

NAYS—71

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Inhofe
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Nickles
Nunn
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Shelby
Simpson
Smith
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote the yeas are 28, the nays are 71. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken and the amendment fails.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are still examining the different items of the package, the so-called Byrd-Exon package on the Byrd rule.

I wonder if we might proceed on the Finance Committee amendment. Senator ROTH I think is prepared to proceed on that amendment. We would be prepared to enter into some lengthier time agreement than the 10 minutes we were allotted under yesterday's unanimous-consent agreement. We would like to keep it as tight as possible, but we understand the Senator from Florida in particular wanted some additional time.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. I have consulted with a number of our colleagues, and I think that a half-hour on either side might accommodate the needs of Senators interested in participating in debate on the Roth amendment if that would accord with the majority leader.

Mr. DOLE. Half-hour on each side.

Mr. DASCHLE. Half-hour on each side.

Mr. DOLE. I ask unanimous consent there be an hour equally divided.

The PRESIDING OFFICER. Is there objection to an hour equally divided?

Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3037

Mr. DOMENICI. Mr. President, I had been trying to clear a correcting amendment to the D'Amato amendment that had heretofore been adopted. I understand it has been cleared on both sides.

Mr. EXON. It has been cleared on both sides.

Mr. DOMENICI. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. D'AMATO, proposes an amendment numbered 3037.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 187, line 3, and on page 187, line 22, strike "5" and insert "10."

Mr. DOMENICI. Mr. President, I yield back any time I have on the amendment.

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Is there objection to the amendment? Without objection, the amendment is agreed to.

So the amendment (No. 3037) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, buried in this gigantic reconciliation bill is a provision, Section 12874, that would amend a carefully wrought bipartisan measure enacted in 1992 to protect the health benefits promised to retired coal miners and their dependents. This provision would jeopardize these health benefits and put the 92,000 retired miners and their dependents at risk. I understand this provision was added at the last minute and is a modification of a bill, S. 878, which has not been the subject of hearings by the Finance Committee. Hiding this provision, that has not received careful review or consideration, in a 1,949-page bill is an outrage.

Section 12874 represents a major policy change that would overturn existing statute and case law in order to provide a two-year tax break to a select group of coal companies at the expense of other coal companies. In so doing, this provision would not only change a major provision of the Coal Act of 1992, it would also overturn dozens of district and Federal court decisions.

Under the 1992 Coal Act and case law, companies are required to pay health insurance premiums for their former workers, with whom they contractually committed to pay lifetime health benefits. Section 12874 would relieve certain coal companies from this commitment by allowing them to forego these premiums for 2 years.

According to the Congressional Budget Office (CBO), over the 7-year period, 1996–2002, this provision would produce a net increase of only $8 million.

In light of the fact that Section 12874 represents a major policy change, which would overturn existing statutory and case law, while having a minor budgetary impact of only $8 million over 7 years, it is clearly a violation of section 313(b)(1)(D) of the Congressional Budget Act of 1974, which reads as follows:

> A provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision;.

Therefore, it is my view that Section 12874 should be stricken from the reconciliation bill as being in violation of the Byrd Rule.

In addition to the blatant violation of the Byrd rule, Mr. President, this provision is just bad policy.

The 1992 Coal Act was enacted to save the health benefits of over 120,000 miners and their dependents. The situation which led to the need for enactment of the Coal Act was the impending crisis resulting from the dwindling number of coal companies left to pay for the health benefits promised to coal miners and their dependents. This situation put miners' health benefits in jeopardy. The Coal Act averted this crisis by requiring companies to pay the health benefit premiums of their former employees, and further solidified the promises made to the miners that they would keep their lifetime health benefits.

Miners' health benefits have a unique history in that the Federal Government has played a role since the coal strike of 1946. Over the years, miners gave up increases in wages and pensions and in return were promised lifetime health benefits by the coal companies. Health benefits are important to coal miners. The coal miner lives dangerously, working in cramped, hazardous conditions. The brutal nature of mine work and the risks to miners' health that go hand in hand with this labor make good health benefits extremely important to miners.

The provision included in the Reconciliation legislation would, for two years, provide relief to reachback companies, those companies that were not signatories to the 1988 National Bituminous Coal Wage Agreement, by reducing the premiums they are required to pay to the Combined Fund if it is calculated that the Fund has a surplus. The calculation of a surplus would be done on the cash method of accounting, not the accrual method, and the surplus would be reduced by 10 percent of benefits and administrative costs. Requiring the calculation of a surplus using the cash method of accounting is unwise, could lead to a misleading statement of surplus, and is not the standard practice with regard to health plans. Further, the provision provides that if a shortfall in the Fund occurs, all companies' premiums would be increased, even though only a specific group of companies would get relief.

The financial status of the Combined Fund is precarious. Guy King, the former chief actuary for the Health Care Financing Administration, in an analysis of the Combined Fund, suggests that all of the net assets in the Fund will be necessary to pay benefits for the next 10 years. The annual growth in the premium rates will be insufficient to cover the anticipated rate of increase in expenses of the Fund; therefore, the surplus in the Fund is necessary for the Fund to remain solvent in the years ahead. It is patently absurd to absolve certain companies, who can clearly afford to keep their promises, of responsibility for their former employees and, thus, jeopardize the financial status of the Fund. Given the uncertainty surrounding the Combined Fund, I must adamantly oppose this provision to relieve certain companies of their responsibility to their former employees.

Section 12874 is a violation of the Byrd rule because the savings attributed to the provision are solely incidental to the goal of policy change. In addition, this provision does not adequately safeguard the financial status of the Combined Fund, and would jeopardize the health benefits of 92,000 retired miners and widows, including approximately 27,000 who live in West Virginia. I hope that the Senate will vote to remove this ill-advised provision from the Reconciliation legislation.

The PRESIDING OFFICER. Who yields time?

There will be 30 minutes on a side. The Chair asks the Senate to be in order.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much time does the Senator desire on the amendment? We have 30 minutes on our side.

Mr. ROTH. Five minutes.

Mr. DOMENICI. I yield 5 minutes to Senator ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Will the Senate please be in order.

AMENDMENT NO. 3038

(Purpose: To make various changes in the spending control provisions in the matter under the jurisdiction of the Committee on Finance)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

It is very difficult for the Chair to hear even. If the staff does not stay quiet, we will order that the staff be removed.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Parliamentary inquiry. Are we about to debate the Finance Committee amendment?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. And how much time is there on that?

The PRESIDING OFFICER. There is 1 hour equally divided.

Mr. BUMPERS. I wonder if we could get the people who are speaking on it to tell us whether they are going use the entire hour or not.

The PRESIDING OFFICER. The Chair does not think that is a parliamentary inquiry. I do not think that is within the province of the Chair, to demand in advance whether time will be used.

Mr. BUMPERS. Would I be within my rights to ask the distinguished chairman of the Finance Committee how much time he intends to take?

The PRESIDING OFFICER. Will the Senator yield for a question?

Will the Senator from Nebraska yield for a question? The Senator from Arkansas has a question.

Mr. BUMPERS. The question is, how much time does the Senator from Nebraska intend to use, if he knows?

Mr. EXON. Is the Senator asking about the half-hour time?

Mr. BUMPERS. Yes.

Mr. EXON. I will try to allocate the time as best I can.

I just have had a brief meeting with the Senator from Florida, who said he would wish to begin debate. He asked for more time. I said I will have to be a tough traffic cop. We have a half an hour. I have agreed to give 10 minutes to the Senator from Florida. I will allot the rest of the time as we can. Anybody who wishes to speak on this, I wish they would come over and visit with me about it, and I will try to accommodate as many Senators as possible.

Mr. BUMPERS. I am not asking for time. I am curious whether or not we are going to be here for another hour before we vote.

Mr. EXON. There will be at least another hour before we vote.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 3038.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROTH. Mr. President, this amendment includes modifications in Medicare and Medicaid. The first change in the Medicare provisions establishes a fully prospective payment system for skilled nursing facilities within 2 years.

Now, until this new skilled nursing home prospective system is implemented, the amendment changes how Medicare will pay nursing homes for nonroutine services. The change establishes payments based on each nursing home's cost in 1994 with an inflation adjustment.

The second change in the Medicare provisions is a slower phase-in for changes in Medicare's indirect medical education payments to teaching hospitals.

Mr. President, this amendment also makes several modifications to the Medicaid provisions in the bill.

The PRESIDING OFFICER. Would the Senator suspend?

Would the Senators take their conversations off the floor, please?

Mr. ROTH. The——

The PRESIDING OFFICER. Will the Senator suspend? The Chair will start naming names. Please take the conversations off the floor.

Mr. THURMOND. That is right.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. The first modification would modify the Federal quality standards for nursing homes under Medicaid. We have worked with Senator COHEN on this modification, and he is supportive of these changes. The modification would reduce the costly and duplicate requirement that States perform preadmission screening and annual resident review. In addition, a modification to the nurse aide training requirements would make it easier to train nurse aides in rural areas.

The amendment would allow States with equal or stricter nursing home standards to seek a waiver from the Secretary of HHS to use the State standards in lieu of the Federal standards. However, the Secretary of HHS would continue to enforce State compliance with the Federal standards. States not in compliance with the Federal standards would be assessed a penalty of up to 2 percent of their Federal Medicaid funds.

Second, the amendment creates a Medicare-Medicaid integration demonstration project to permit Medicare and Medicaid funding to be combined to provide comprehensive services through integrated systems of care to elderly and disabled individuals who are eligible for both programs.

Third, the amendment creates a separate set-aside for low-income Medicare beneficiaries. This set-aside would be in addition to the set-asides already in the bill for pregnant women and children, the disabled and the elderly. Under this provision States would be required to spend a minimum amount on Medicare premiums for low-income Medicare beneficiaries. The amount States must spend must be at least 90 percent of the average percentage spent on Medicare premiums under Medicaid over fiscal years 1993 through 1995.

Fourth, the amendment requires States to apply the same solvency standards for health plans under Medicaid as the States set for health plans in the private sector.

And, fifth, the amendment modifies the distribution formula under the Medicaid program.

Let me start by saying we have worked very hard to improve the Medicaid formula——

The PRESIDING OFFICER. The Senator's 5 minutes has expired.

Mr. DOMENICI. I yield 2 additional minutes.

Mr. ROTH. To improve the Medicaid formula which was adopted by the Finance Committee. Under the modification, each State's base would be the higher of, first, fiscal year 1995 spending, minus all payments to disproportionate share hospitals; second, fiscal year 1994 spending, including all disproportionate share hospital payments, plus 3.4 percent; or, third, 95 percent of fiscal year 1993 spending minus all disproportionate share hospital payments.

Each State's funding would increase by 9 percent for fiscal year 1996. And beginning in fiscal year 1997, each State's base would be increased by a growth rate determined by a formula subject to floors and ceilings. The ceilings have been modified by this amendment. We have tried to give more funds to the high-growth States by raising the growth ceilings in future years. States would be able to carry over a credit of unused Federal funds for 2 consecutive years on a rolling basis. And after 2 years, unused funds from the previous years would begin to go into a redistribution pool. States can apply for additional funds from this redistribution pool.

Finally, the amendment strikes section 2116 of the bill limiting causes of action under Federal law.

Finally, the provisions in this amendment are paid for by adopting the 2.6 percent cost-of-living adjustment recently——

Thirty seconds?

Mr. DOMENICI. Fine.

Mr. ROTH. Recently announced by the administration for 1996 for programs under the Finance Committee's jurisdiction that are updated by the CPI–W. The CBO baseline assumes the CPI–W would be 3.1 percent.

Mr. DOLE. I seek a clarification from my colleague, the esteemed chairman of the Finance Committee, Mr. ROTH. It is my understanding that, in making these revolutionary and necessary changes to the Medicare program to preserve it for our Nation's seniors, we are concerned about the effects these changes may have on inner-city access to health care services. It is my understanding that it is the Finance Committee's intention to have ProPAC study the effects of these changes on the access and quality of care to the Medicare beneficiaries served by the Nation's urban hospitals who serve large numbers of Medicare patients. I understand from the chairman that whatever changes do occur in the Medicare Program, it is in the best interests of this Nation to ensure the health and financial viability of these inner-city hospitals so as not to undermine the health of the residents in those urban areas.

Mr. ROTH. The Senator, my good friend from Kansas, is correct. I share his concern for residents of the inner cities across the country. The Finance Committee does indeed intend for ProPAC to study the effects of these changes on inner-city hospitals that provide the access to care for those areas.

Mr. DOLE. It is, therefore, my understanding that the chairman of the Finance Committee intends to continue to address these concerns during the House-Senate conference by including language which would require ProPAC's annual report to Congress to include recommendations to ensure that beneficiaries served by the Nation's urban hospitals would maintain access and quality of care.

In designing the study we would hope that ProPAC would also include recommendations on those hospitals that serve large populations of both Medicare and Medicaid patients.

Mr. ROTH. The Senator is correct. As part of the Senate Finance Committee's deliberation with the House on the Medicare provisions of the conference, we intend to request, and ultimately, include that requirement in ProPAC's annual report to Congress.

Mr. DOLE. I thank the chairman for his clarification and for sharing my concern about the health and wellbeing of our inner-city residents and the hospitals that serve their needs.

OREGON HEALTH PLAN

Mr. HATFIELD. Will my colleague from Delaware yield for the purpose of entering into a colloquy?

Mr. ROTH. I would be happy to yield to the Senator from Oregon.

Mr. HATFIELD. It is my understanding that additional funds have been made available and added to the Medicaid Program. As a result, Oregon will receive more funding during the 7 year budget period than originally expected under the Senate formula.

Mr. ROTH. That is correct.

Mr. HATFIELD. As my colleague knows, Oregon is currently in the middle of a 5-year Medicaid demonstration project known as the Oregon Health Plan which began in 1994. This plan has had an enormous effect on improving access to basic health care to low-income Oregonians. As a result of the cuts to Medicaid funding included in the original Finance Committee proposal, Oregon's ability to carry out this innovative plan was threatened. Is it your understanding that under the new Senate Medicaid formula, Oregon will receive more money than the State estimates it will need during the years 1996 through 1999 to operate the Oregon Health Plan under its current Medicaid waiver?

Mr. ROTH. Yes.

Mr. HATFIELD. I want to thank the Senator from Delaware and your staff for your assistance in ensuring that Oregon will be able to continue its innovative experiment. I truly believe other States can learn from Oregon's experience, and you have helped to guarantee that this will happen.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

Mr. President, could I seek 1 minute from the manager?

Mr. DOMENICI. Indeed. I yield 1 minute to the Senator from Virginia.

Mr. WARNER. I rise in support of this landmark Medicare reform provision, S. 1357, the Balanced Budget Reconciliation Act of 1995. For the first time in the 30-year history of the Medicare program, Congress is preparing to give the Nation's 38 million elderly and disabled Medicare beneficiaries the opportunity to play a greater role in the design of their health benefits. That opportunity is the Medicare Choice program.

Largely because of its status as a government program, Medicare has fallen behind the times. When it was established in 1965, Medicare was based on the prevailing private sector indemnity health insurance plan—what we have come to know as fee-for-service.

For the first 15 years or so, there was little change in the utilization of American health care, but beginning in the late 1970's, health care price inflation began to skyrocket. Within a decade, American employers were staggering under the weight of rising health care costs. It is important to remember, as well, that by far, health care costs were fully carried by employers.

By the early 1980's we began to see the advent of managed care. Basically, the American business community demanded a more affordable health insurance product, and the insurance industry responded. The best company plans were and remain those which were able to offer a choice of coverage to their employees, not unlike the manner in which the Federal Government does today in the Federal Employee Health Benefit Plan (FEHBP).

Meanwhile, in 1983, the Medicare Program also abandoned traditional cost-based reimbursement and replaced it with what we have come to know as the prospective payment system. The Health Care Financing Administration at the Department of Health and Human Services devised a special payment for every medical procedure in advance and, in general, that was all Medicare would pay. It was and is the biggest and most expensive health care regulatory system in America.

The problem we face today is that Medicare is going broke. The pre-set payments we put into place in 1983 were based on a measure of private health care costs which have continued to rise at a rate beyond any other sector of the economy. Furthermore, Americans are getting older—more beneficiaries with fewer and fewer workers paying the FICA taxes that maintain the Hospitalization Insurance [HI] trust fund.

The combination of these conditions, together with the never dreamed of costs of medical high technology, have worked to undermine the financial strength of Medicare. The major hospitalization fund goes into deficit in just a very few years, and is projected to use up whatever surplus we have accumulated by the year 2002.

So what should be our policy? The first priority is to secure the future of the program for the beneficiaries. Medicare will have more demands upon it than ever before when the baby boom generation begins retiring around the year 2010. Our plan is to limit or cap the built-in automatic growth of the program which, as I mentioned, has been based on medical price inflation and is one of the principal contributing factors to approaching insolvency. Rather than letting the program grow, as it would, at a rate of 10 to 16 percent per year, we will hold the line at an average of 6.2 percent. I repeat, the program will grow by an average rate of 6.2 percent a year.

This translates into some important numbers that Medicare beneficiaries need to know. In 1995, Federal spending on Medicare will reach $157.7 billion. By the year 2002, the program will have grown by 52 percent to $239.6 billion. This equals for every beneficiary an annual increase in the value of their benefit from $4,800 in 1995 to over $7,000 in 2002. This is growth, Mr. President, not cuts, and we should make every effort to make sure that our constituents fully understand.

Our next priority has been to actually improve Medicare benefits, and much, much work has gone in to determining our course. Should we pursue another top-down big government strategy as we did in 1983, or should we return to the roots of the program and follow the private sector.

As I said before, the best private employers are able to offer their employees a variety of health care choices—choices which best suit the needs of their employees and their families. The Congress is now striving to do the same for Medicare, putting together an array of health insurance options second to none. Older and disabled Americans have earned their Medicare entitlement, and it is our responsibility to maintain and improve it in the best possible manner.

Older people being what they are—and I am over 65 myself so I can say it—many are naturally reluctant to change. We therefore guarantee their No. 1 option to stay in the present system. Furthermore, we guarantee that their share of the principal expense of the program—the part B premium—will be maintained at 31 percent of program costs. The U.S. Treasury pays for 69 percent of Medicare part B today, and it will as well in the year 2002.

Medicare is not a bargain. Beneficiaries today are asked to pay for 20 percent of doctor visits. The program does not pay for prescription drugs. Millions of beneficiaries have had to purchase medigap insurance at further costs to pay for what Medicare does not.

We will offer a selection of managed care options which can be far more affordable for older Americans living on fixed incomes. These will be options for beneficiaries to study and discuss with their families to see if they would in fact present a better health care choice than the standard plan. Beneficiaries will be given an annual open season to join if they feel that it is right for them. All options will include, for a reasonable copayment, the right to see a favorite physician who might not be in their local plan.

Perhaps the most innovative option will be access to newly available medical savings accounts [MSA's].

In my State of Virginia, which has a reputation for fiscal conservatism, MSA's have prompted a great deal of interest and support by doctors and patients alike.

Medicare would offer a catastrophic health insurance policy which, for example, would cover all costs over $3,000 per year. Remember that today, Medicare hospitalization begins to run out after 60 days in the hospital.

The beneficiary would then be given an annual Medicare allotment, in this scenario, of $1,500 a year which they could use to directly pay for physician visits, prescription drugs or even new eyeglasses. There would be no redtape between the doctor and the patient, no burdensome insurance forms, no lengthy waits for reimbursement. Beneficiaries could even use a simple debit card to pay for care directly from their MSA.

Moneys not utilized by the end of the year could be rolled over to the next, without tax consequences, or withdrawn as taxable income for personal use. The only possible out-of-pocket expense, as compared with the copayments and Medigap insurance used by current beneficiaries, would be that measure of $1,500 between the MSA and the catastrophic plan. If the beneficiary chooses to save his or her unused MSA funds, as many thrifty Americans will no doubt do, the $1,500 amount could easily be accumulated in the MSA in just a few years.

While an MSA will not be suitable for everyone, I believe it can have a real impact on the medical marketplace and consumer choice. Beneficiaries can shop around for the best price, and providers will want their business. With the prospect of no Medicare redtape, I imagine that doctors will jump at the chance to care for MSA beneficiaries.

Mr. President, we are veritably on the brink of a new day in Medicare. We hope to restore long-term solvency to the program by curtailing exorbitant growth, and open the door for beneficiaries to the modern health care marketplace. Millions of Medicare beneficiaries are already educated consumers, and it is my great hope that they will lead the way in demonstrating the value of Medicare choice.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, to start out the debate, we will yield 5 minutes to Senator ROCKEFELLER. Following that, depending on the flow of business, I intend to, at my discretion, allow 5 minutes to Senator PRYOR, 4 minutes to Senator KENNEDY, 3 minutes to Senator WELLSTONE, and then the closing arguments will be made by Senator GRAHAM from Florida.

So, at this time I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. I thank the Senator from Nebraska and the Presiding Officer.

Mr. President, I find it noteworthy that sometime very recently all of a sudden we get 46 pages of actual legislative language, the manager's amendment. I guess we should be grateful for small deeds. The amendment magically comes up with about $10 billion. We believe there is a very good chance that comes from Social Security, which is most interesting, for more Medicare aid, more Medicaid money, parcels it out to various health care institutions, HMO's, et cetera.

I think there are a number of reasons to reject this bill, which will be my recommendation. One, to protest what is underneath this amendment, a bill that will cut Medicare and Medicaid by unprecedented amounts of money. No last-minute amendments by the managers are going to soften the blow of this combination of Medicaid and Medicare cuts put together. It is a stunning—a stunning—cut.

I think we have to question how all of a sudden this new money appeared. I suspect it came from Social Security. But we will hear more about that. HMO's, nursing homes, got money. Different people were accommodated. We had that process a little bit in the House, and it was not generally given very high marks.

I find it, again, amazing that money is falling from the sky to satisfy different folks, and yet these are the same folks who said $270 billion in cuts for Medicare, for example, was the only possible way to save Medicare.

So before yielding to three other Senators, I will say, where did all this money come from, and is it from Social Security, for example? Or is it from some other place?

There is a very bizarre formula for Medicaid in which I think the Republican States somehow end up doing much better than the Democratic States, but I may be wrong on that. Senator GRAHAM will speak on that.

Also, the amendment weakens the nursing home standards, a subject which is incredibly important to me. The Senator from Arkansas will speak on that subject.

At this point, with the permission of the Senator from Nebraska, I suggest that we go to the Senator from Arkansas, if that is all right with the Senator from Nebraska.

The PRESIDING OFFICER. The Senator does not wish to use his time.

Mr. EXON. Yes, I wish to use my time.

I yield 5 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished manager for recognizing me and allowing me a few moments.

This morning, by a vote of 51 to 48, the U.S. Senate voted in a bipartisan way to restore the OBRA 1987 nursing home regulations. They have worked well. They have served residents well. They have served the taxpayers well, and I am strongly committed to achieving that end once again.

Mr. President, with all due respect to the distinguished manager's amendment that we now have before the Senate, even though the distinguished manager says we are fixing or even improving upon current Federal nursing home standards, over the course of today I have been in contact with numerous consumer groups and nursing home reform advocates who are extremely critical of the language offered in the so-called manager's amendment.

First, this so-called "fix" does not indicate in any way the length of time for which a State could operate under a waiver and opt out of the Federal standards. Would the waiver last for 1 month where there would be no Federal standards applying to a nursing home or to a State? Would the waiver be for 1 year or 2 years or 10 years? There is nothing in the amendment to address this issue. Basic question.

Also, in the manager's amendment, there is absolutely no guidance whatsoever as to how the Director of HCFA or HHS would determine that a state's standards were sufficient to opt out of the Federal standards; there is no guidance whatsoever as to what the rules or the guidelines would be in granting making that determination.

Also, Mr. President, there is a major flaw in this amendment, I say with all due respect. I am just wondering if the distinguished manager knows that under this particular proposal that unless the Federal Government revokes a State's waiver, it could take—I repeat this—the Federal Government could take no action whatsoever against an individual facility, no matter what was going on in a particular nursing home.

No action whatsoever means that the Federal Government's hands are tied, notwithstanding the fact that we are appropriating billions and billions and billions of dollars for the safety and well-keeping of the some 2 million nursing home residents out there in our country.

The very worst facilities in America could be getting away with just about anything, and the Federal Government would have absolutely no power, no recourse, no opportunity to go in and correct the wrongs in a particular home, simply because the State would have a waiver from Federal regulations and all of the Federal involvement allowing it.

Also—and finally, Mr. President—the Roth amendment provides a 120-day period during which the Secretary must review a State's waiver proposal to make sure that it contains all the essential elements, which would be insufficient time to go out and investigate that State's nursing homes or a particular nursing home.

This timeframe, 120 days, to decide whether or not a State could get a waiver, opt out of the programs, free of Federal regulations is going to be an impossible time to meet.

Let me say once again that the regulations that we adopted on a bipartisan basis in 1987 have worked and they have worked well. I do not know of one Member on either side of the aisle who can argue against that. I am very hopeful that we will make certain that when this process is over, that we will have the very strongest standards, and I truly believe that those strongest standards were supported this morning by the vote of 51 to 48 for the so-called Pryor-Cohen amendment adopted by the U.S. Senate.

I hope that will ultimately be the language that will be retained and that we will follow in the decades to come.

Mr. President, I yield the floor.

CHANGE OF VOTE

Mr. REID. Mr. President, I have a unanimous consent request.

On rollcall vote No. 553, I voted "no." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this amendment purports to improve a very bad bill, but it does nothing, absolutely nothing, to address the fundamental problem. This Republican program slashes Medicare and Medicaid to pay for tax cuts for the wealthy. It sacrifices working families, children and senior citizens on the altar of sweetheart deals and tax breaks for the powerful special interests.

This amendment symbolizes what is worst about the 2,000 pages of the bill as a whole. Every time you turn one of those pages, something ugly scuttles out. Look at what is in the so-called perfecting amendment.

It weakens the nursing home standards we adopted just this morning. This morning we restored the strong standards that are in current law and that the Republican bill would have repealed. This evening, our Republican colleagues are trying to water those standards down.

The Medicaid formula changes are the last piece needed to put together a majority. Vote against seniors, vote against children, vote against families and, in return, we will rig the Medicaid formula so the disaster in your State is not quite as bad as in some other State. Like the underlying bill, this amendment was put together in the dark of night, and no wonder there is nothing to be proud of here.

The issue is clear: Who stands for senior citizens; who stands for working families; who stands for children; and who stands for the special interests against the interests of the Americans who work so hard to support their families, educate their children and build this country?

This amendment is a disgrace, and it does not deserve to be adopted. The underlying bill is an outrage. It deserves to be rejected by the Senate, vetoed by the President and condemned by the American people. Greed is not a family value.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. What is the status of the time, Mr. President?

The PRESIDING OFFICER. The majority has 21 minutes, 45 seconds; the minority has 19 minutes, 46 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator D'AMATO. How much would Senator COHEN like? And 5 minutes to Senator COHEN, in that sequence.

The PRESIDING OFFICER. Senator D'AMATO is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, I want to commend the manager and all those who have helped us come so far on this historic occasion.

Senator DOMENICI and Senator ROTH have done an incredible job. I believe some of us have done a rather poor job of letting the American people know exactly what is in this package. If you listen to some of the demagoguery that we hear about "greed" and "special interests," and "tax breaks for the wealthy," you would not really know what is in this package.

When I hear this business that "they are weakening nursing home standards," that is nonsense. Bull. I want to know how we can weaken nursing home standards when you must meet the Federal levels that you have today. You must have at least that or better. If that is not demagoguery, I do not know what is.

It is out and out fear and deception that is being practiced. When 90 percent of the tax cuts go to families earning under $100,000, I defy you to tell me that that is going to the wealthy. Let me be a little more particular: $141 billion in tax cuts goes to families that have children. Those families have to earn under $110,000. The bulk of that goes to families in the $50,000 to $60,000 range. Now, let us stop the nonsense about greed and wealthy people. That is working middle-class families.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield another minute to the Senator from New York.

Mr. D'AMATO. We are attempting to keep the promise that was broken by the President of the United States when he said, "We are going to give tax cuts to the middle class." Then he went and raised those taxes. And now he says, "Well, maybe I made a mistake."

Well, he did make a mistake. We are returning IRA's to working middle-class families. And we are doing something about the marriage penalty. We always complained about that. There has not been anybody here on the floor who has run and did not say we need to do something about the marriage penalty. That is $12 billion in relief—a move in the right direction. And in student loans, a billion dollars to help pay for the interest.

Mr. President, this is a good bill, and it deserves our support.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, I want to take this opportunity to address some of the Medicare and Medicaid provisions of this budget reconciliation legislation.

For the past few months, the debate on Medicare has been rife with partisan fingerpointing. Democrats accuse Republicans of ravaging Medicare, while Republicans counter with charges that the Democrats are failing to restore solvency to the program.

But the simple fact is that the Medicare hospital trust fund is going broke, and spending for Medicare part B—the optional program that covers seniors' doctor bills—is increasing at an unsustainable rate. Reasonable minds may disagree on how to resolve the looming crisis. But we cannot take the easy route and pretend to senior citizens—or Medicare providers—that the crisis will go away if we simply look the other way.

Changes in Medicare are crucial if it is to survive at all for current and future senior citizens. The Republican budget plan takes the tough steps necessary not only to restore solvency to the trust fund but also to prepare Medicare for the 21st century.

The President and congressional Democrats claim that $90 or $100 billion in savings will be sufficient to "fix" Medicare, and that the $270 billion in savings proposed in this bill cut too far and too deep.

What the Democrats have proposed would certainly be more politically palatable. But their proposal falls far short of the reforms that will be necessary to prepare Medicare for the future.

Guy King, the former chief actuary for the Health Care Financing Administration agrees with the Democrats that $90 billion will keep the trust fund solvent until 2006. But, by 2010, the year the baby boomers begin to retire, it will leave Medicare $309 billion in the red. It will be difficult enough to cope with this tidal wave of retirees when Medicare is solvent. It will be impossible if the program is over $300 billion short.

Under Republican budget, Medicare spending will continue to grow at an average annual rate of 6.2 percent over the next 7 years—less than the current 10 percent rate of growth, but still twice the rate of inflation. In fact, per beneficiary spending in Maine will increase by almost $2,000 over the next 7 years.

Equally important to controlling growth, the proposal will give beneficiaries more choice. The "Medicare Choice" plan contained in the bill closely resembles the Federal Employee Health Benefit program. Each year, Medicare beneficiaries will be given information on a number of plans available in their areas. They will then be able to elect to remain in the traditional fee-for-service plan or they can choose from a variety of other insurance options, such as health maintenance organizations, physician and hospital sponsored networks, or medical savings accounts.

The proposal does include, for the first time, an "affluence test" that would require the wealthiest beneficiaries to pay a fairer share of the costs of the Medicare program.

Taxpayers currently subsidize about 70 percent of the costs of Medicare beneficiaries' part B premium cost. The Republican plan phases out these taxpayer subsidies for upper-income retirees and eliminates them completely for individuals with incomes over $100,000 and couples over $175,000.

I believe that this is fair. There is no good reason why a working family with an income of $40,000 should be subsidizing wealthy retirees earning more than four times as much. Further, the vast majority of Medicare beneficiaries will be unaffected by the change—about 98 percent of all Maine Medicare beneficiaries have an income below the "affluence test" threshold.

I am very pleased that this budget bill includes tough anti-fraud legislation that I introduced earlier this year to help rid Medicare of the fraud and abuse that robs the program of as much as $15 billion a year.

Specifically, the proposal creates tough new criminal statutes to help prosecutors pursue health care fraud more swiftly and efficiently, increases fines and penalties for billing Medicare and Medicaid for unnecessary services, over billing, and for other frauds against these and all federal health care programs, and makes it easier to kick fraudulent providers out of the Medicare and Medicaid program, so they do not continue to rip off the system.

More importantly, the bill establishes an anti-fraud and abuse program to coordinate Federal and State efforts against health care fraud, and substantially increases funding for investigative efforts, auditors, and prosecutors by flowing back a portion of fines and penalties collected from health care fraud efforts to law enforcement.

According to the Congressional Budget Office, these provisions will yield over $4 billion in scorable savings to Medicare—without costing a penny to senior citizens. I am convinced that the long-term savings are much greater, and that billions more will be saved once dishonest providers realize that we are cracking down on fraud, and that they can no longer get away with illegally padding their bills to pad their own pockets.

The proposal also makes significant reforms in the Medicaid program. Like Medicare, Medicaid is one of our fastest growing entitlement programs. Over the past few years, Medicare spending has increased at an alarming rate. Between 1988 and 1993, program costs have more than doubled. From 1990 to 1992, Medicaid grew at an average annual rate of 28 percent, while private health care and Medicare costs grew at less than one half that rate.

The current growth in Medicaid spending clearly cannot be sustained by either Federal or State budgets. In Maine, 22 cents out of every dollar spent by the State goes to pay for Medicaid, and next year, it may be even more. We simply cannot sit back and watch the program consumer get bigger and bigger bites out of the taxpayer dollar each year.

Under this budget plan, the growth in Federal Medicaid spending—which is now just over 10 percent a year—would be limited to a 7.2 percent growth rate in 1996, 6.8 percent in 1997, and 4 percent for the remaining 5 years. The plan achieves the necessary savings by converting Medicaid into a block grant which would guarantee only a lump sum payment to the States with very little in the way of strings.

While I strongly support increased State flexibility with regard to Medicaid, I believe that some Federal standards should remain in place to help ensure quality and to maintain some protections for vulnerable populations. This is especially important given the fact that the Federal Government will be committing nearly $800 billion in Federal dollars over the next 7 years toward the Medicaid program.

Therefore, I worked to ensure that guarantees of coverage for low-income children, pregnant women and the disabled—including the disabled elderly—were included in the final package. I am pleased that the bill as amended by the Senate includes provisions to provide these minimum guarantees to our vulnerable citziens.

I am also pleased that the final bill includes provisions that I and other moderate Republican Members authored, namely, a requirement that States continue to pay Medicare premiums for low-income Medicaid beneficiaries and requirements that States apply the same solvency requirements on Medicaid providers as on private sector plans.

I am also pleased that this package provides has incorporated several of the provisions included in my legislation. The Private Long-Term Care Family Protection Act of 1995 to improve access to long-term care services. The legislation takes a big step forward in creating incentives for older Americans and their families to plan for future long-term care expenses and removes tax barriers that stifle the private long-term care insurance market.

As Chairman of the Senate Special Committee on Aging, I know the obstacles many disabled older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long term care.

Sadly, many families are under the erroneous impression that their current insurance or Medicare will cover necessary long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is limited to acute medical care and that long nursing home stays and extended home care services must be paid for out-of-pocket.

This bill encourages personal responsibility and makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care insurance policies so quality products will be affordable and accessible to more Americans.

A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons need long-term care services.

In addition to providing better access to long-term care services, this bill incorporates a demonstration project I introduced last year to explore ways to better integrate long-term care with the rest of the health care system. Today, many of the most expensive, chronically-ill elderly and disabled Americans are eligible for both Medicare and Medicaid services. While these programs may cover most of their necessary care, patients are often faced with a bias toward institutional care and a maze of complex and often incompatible policies and rules.

The demonstration project included in this bill will allow up to 10 States to pool Medicare and Medicaid dollars for the purpose of creating a more balanced and cost-effective acute and long-term care delivery system. These projects will help States develop ways to better manage the care of high cost beneficiaries and offer elderly and disabled Americans full integration of services, including case management, preventive care and interventions to avoid institutionalization whenever possible.

I am also very pleased that this bill now maintains the tough Federal standards that are currently in place to protect elderly and disabled individuals living in nursing homes. Placing a parent, spouse, disabled child, or other loved one in a nursing home is one of the most agonizing decisions a family ever faces. Even once at peace with that decision, the nagging fear that a loved one may not receive adequate care, or may be abused or neglected in a nursing home, continues to haunt families nationwide. The continuation of OBRA '87 nursing home regulations is a major victory for today's two million nursing home residents, and tomorrow's growing elderly and disabled population.

This week I chaired a hearing of the Senate Special Committee on Aging to examine the need for strong Federal quality of care standards in nursing homes. The testimony from family members and expert witnesses convinced me more than ever that the Federal Government must continue a central role in monitoring and enforcing nursing home standards. Witnesses shared with me heart-wrenching stories of how their family members were overdrugged, placed in physical restraints, and left to sit in their own waste while in nursing homes. I was also handed a picture by a daughter of one nursing home patient that showed a bloody, oozing bed sore that I will not soon forget.

The basis for this Federal nursing home standards law is simple, strong, and clear: that residents in nursing homes which receive Federal Medicare or Medicaid dollars should be treated with care and dignity. The law provides a framework through which facilities can help each resident reach his or her highest practicable physical, mental, and general well-being. It also provides critical oversight and enforcement of nursing home standards, following years of evidence that the states simply did not make enforcement of nursing home standards a high priority.

While the Finance Committee bill required that states include certain quality of care provisions in their Medigrant State plans, I had strong concerns that many of the important OBRA '87 provisions were eliminated that the bill lacked adequate Federal oversight and enforcement of nursing home standards.

Over the past few days I have worked with the Republican leadership and many of my colleagues on both sides of the aisle to ensure that this bill keeps intact the standards, enforcement and Federal oversight now contained in current law. No family member should have to lie awake at night worrying if their loved-ones are being abused or neglected in a nursing home. This bill gives nursing home residents and families peace of mind that their rights are protected and that the Federal Government will be ensuring States continue to enforce quality standards for nursing home care.

The bill provides for states to receive waivers from the Federal nursing home reform law only in tightly crafted circumstances. Specifically, a State may apply for a waiver of standards only if its standards are equal to or more stringent than the Federal requirements. The amendment clearly indicates that no such waiver is allowed unless the Secretary approves the waiver, and only if each standard is equal to or more stringent than the Federal standard. Further, the provision specifies that waivers allowed under this section in no way waives or limits the Federal Government's enforcement of tough nursing home standards, patient protections, and other provisions of OBRA 87.

Mr. President, while I believe that this package includes many important steps toward reforming Medicare and Medicaid, there are some elements of the proposals that I do not support.

During the course of the debate on the bill, I have supported amendments and worked to incorporate provisions aimed at striking a more appropriate balance between Federal responsibility and State flexibility, and ensuring protections for our most vulnerable populations. This effort is far from complete and I will continue to work toward achieving the goals of deficit reduction and Medicare and Medicaid reform.

Mr. President, let me address the issues raised by my colleague from Arkansas, since he and I have worked for many years in dealing with the nursing home reform. It was called OBRA 87, but it is basically the nursing home reform that we worked 15 to 17 years to get passed. We held a hearing this week in the Aging Committee in which we, once again, reaffirmed the need and saw the need to maintain strong Federal standards over nursing homes in our country—not only standards, but enforcement, oversight and enforcement procedures.

This is not, as some might think, a last-minute attempt to weaken and dilute what was done this morning. I should tell my colleagues that I have been working for the past 3 or 4 days with the majority leader and his staff, anticipating that we would have a debate, understanding the House of Representatives wants no standards imposed. They want to turn it over to the States entirely.

In anticipating that, I went to the majority leader saying, this is important to me, it is important to us, it is important to the country. We need to develop these standards and do it in a way that we can have broad, bipartisan support. So that has been something we have worked on for the past 3 days. In fact, we worked until last night midnight trying to work out the language.

So I just want to assure my colleagues on the other side, this is not something that has been concocted in the dark of the night in order to weaken what was done this morning. I supported strongly what was done this morning.

This particular measure reaffirms the need to have OBRA 87 standards. We want the nursing home reform standards we passed in 1987. We finally started to get the civil monetary penalties imposed as of July of this year. We finally have some bite into those standards. I do not want to see those thrown overboard.

I said to my colleagues on this side of the aisle that we need these standards. Let us reaffirm our support for them. Let us reinsert OBRA 87, as such, and we can make some changes in some of the paperwork and the burdens that the nursing home industry has complained to us about.

I think my colleague from Arkansas will agree that we have had these complaints. No law is perfect. We have tried to modify laws over the years to make sure that, if we overreach, if something is too burdensome, too costly, or duplicative, we make changes. So we made some minor changes which I think are positive as far as I am concerned.

The one apprehension I had is in the point raised by my friend from Arkansas; that is, "If States show that they have standards equal to or greater than. . ."—I saw that as a red flag and said, wait a minute, I do not want to create that much of an exemption. I am not sure where the enforcement is going to lie.

I worked very hard late last night with my staff and with the majority staff to make sure that any State—and I do not know of any State that has the same or better ones than the Federal ones. But assuming States come forward, as they have not in the past, and raise their standards to those at the Federal level, if they can establish that, and if they can satisfy the Secretary of Health and Human Services that they have done that, that does not mean they are free and clear to go forward and then abuse their patients. I insisted that the Federal Government still retain oversight and still retain enforcement responsibilities.

I believe that is in the law itself, in the language—that the Federal Government would still have the ability to go in to find out if there are violations and to enforce penalties. I know my colleague from Arkansas disagrees with that interpretation. But that is specifically what we worked out last evening. I believe that is in the language itself. I will yield to my friend if he has a question.

Mr. PRYOR. If my good friend from Maine, who has worked very hard on this bill, would point out where in this language it says that after a State receives a waiver—where in the world the Senator might even infer that the Federal Government would have an opportunity to impose fines, penalties, or to have any jurisdiction on individual facilities? In fact, if I might, on page 37, it says, ". . . State oversight and enforcement authority over nursing facilities," not Federal.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes, equally divided between the two Senators to respond.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I ask unanimous consent for 2 more minutes so that the Senators can respond.

Mr. DOMENICI. Mr. President, I yield an additional minute to Senator COHEN.

Mr. COHEN. If you look on page 38 under section (D):

> No Waiver of Enforcement. A State granted a waiver under subparagraph (A) shall be subject to (i) the penalty described in subsection (b); (ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

What we have done in this section is to say that just because you get a waiver, you are not free from the enforcement provisions here. The Federal Government retains the authority to go in and impose those penalties. Were that not in there, I would not be supporting this.

Let me say one other thing to my colleagues. As I indicated before, the House has no such protection. We passed the measure we supported this morning by, I think, three votes. It is my belief—and I support what we did this morning, and I reaffirm that action—that we are going to be in a much stronger position with a majority endorsing what we are doing here and going to the conferees and saying we want this provision, and it will remain in the bill, and we will have it when it goes to the President.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. I yield 1 minute to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the manager. Mr. President, on page 38 in section (C)—let me say to my good colleague and friend from Maine that, according to this section and the sections preceding it, if a State has opted out, if they have been granted a waiver for an indeterminate amount of time—and it could be 30 days or 30 years; who knows?—but if that State is under a waiver of the requirement, the Federal Government cannot fine any nursing home in that particular State, the Federal Government cannot penalize, cannot say you cannot take in any more Medicaid patients. Only the State has this jurisdiction.

I am trying to impress upon my friend that, he not knowingly, not willingly, is helping to weaken drastically the nursing home standards that have worked so well since 1987.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I do not think we should be voting on this amendment.

In the last several hours, my State of Minnesota just discovered that it will be faced with $500 million more in reductions on top of the $2.4 billion. What happened, Senators, in the last several hours? What kind of decision-making process is this?

It does seem to me that people in Minnesota and across this country have a right to know what in the world is going on here. These are the lives of our children—they are covered. These are the lives of elderly people, nursing homes—they are covered. These are the lives of people with disabilities—they are covered.

We should not even be voting tonight. This is back-room deals. This is not a democratic—with a small "d"—process.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I yield 1 minute to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Nebraska.

I have listened carefully to the debate this evening, but I think the simple fact is that no State in the Union is impacted by this amendment and this bill to the extent that California is.

Senator ROCKEFELLER asked earlier where the money comes from to pay for this amendment. Mr. President, I'll tell you where the money comes from.

$4.2 billion of it comes from Medicaid that in the earlier version went to California. California is the biggest loser in this amendment. This will affect more than 8.6 million people in the State of California.

This bill, I believe, is immoral, egregious, and in my 2½ years I never thought I would stand here on the floor of the Senate and see the largest State in the Union treated the way it is in this bill.

The PRESIDING OFFICER. The majority has 12 minutes and 32 seconds remaining, and the Democrats have 16 minutes and 32 seconds.

Mr. EXON. Mr. President, in the time that I have remaining, I wish to allocate 2 additional minutes whenever he wishes to use it to the Senator from West Virginia, and I yield 12 minutes to the Senator from Florida for use whenever he thinks appropriate.

Mr. GRAHAM. Mr. President, when Harry Truman was running for President in 1948, at one of his whistle stops the people cried out, "Give 'em hell, Harry." He said, "Friend, I don't have to give them hell. I just tell them the truth and the truth gives them hell."

That is what we are talking about tonight. The truth gives them hell.

We have heard from Senator PRYOR what this does to rape the standards that have made life tolerable for hundreds of thousands of persons—our most vulnerable people—in nursing homes.

Let me talk about two other features of this bill. Let me talk about how we are going to allocate over $770 billion of your American taxpayers' money over the next 7 years and the standards by which those allocation decisions were made.

There is no rationale to the allocation formula which is in this bill. I have been asking for better than 36 hours to get the legislative language. Finally, at 6:25 p.m., we got the first version of the legislation but not the last version. The last version came at 9:45.

Let me direct your attention, if you have the 6:25 version, to page 36. I ask someone on the Republican side to explain the theory and philosophy behind this allocation.

On page 36, line 11, it says, "Additional Amounts Described. The additional amounts described in this paragraph are as follows," these are additional amounts that go to States just because they are the States.

Arizona gets $63 million; Florida gets $250 million, thank you; Georgia gets $34 million; Kentucky, $76.5 million; South Carolina, $181 million; the State of Washington, $250 million.

That was the list as of 6:25. But by 9:45, Vermont has come on for $50 million.

Friends, we have talked a lot about balanced budget, about fiscal prudence and responsible use of taxpayers' money. That is how your money is being used.

Let me tell you another little fact in terms of the rationale of distribution. Of the States which have two Democratic Senators, the difference between what those States would have received out of a pool of dollars that was $10 billion less—$10 billion less—total money to be distributed. Those States which have two Democratic Senators lost $3.605 billion. Of the States that have two Republican Senators, they gained $11.222 billion.

That is the rationale way in which we are distributing $770 billion of the taxpayers' money.

Now, how did we arrive at these absurd allocations? We did it largely because, unlike the Finance Committee which very thoughtfully made the decision to restrict the amount of money that a State could continue to take into its base for allocation, those funds which were derived from what is called disproportionate share, disproportionate share.

What is disproportionate share? It was the amount of money that was distributed to States over the periods of the 1970's and 1980's theoretically to make up for the hospitals that had a high incidence of poor and underserved populations. That became the fastest growing element of the Medicare program. In fact, in 1990, disproportionate share was only $1 billion; by 1992, it had gone to $17.4 billion.

Why had we seen this enormous increase? We had seen the enormous increase according to a GAO report, General Accounting Office report, dated April of this year, because there were States which were scheming this money. The swapping and redirecting of revenues among providers, the State and the Federal Government resulted in increased Federal spending, increased funds for providers, and in some cases additional revenue for State treasuries.

So States were manipulating this disproportionate share to their benefit. Under the original Finance Committee, we would have retained and limited the benefit that could have been gained by that previous predatory action. We have now taken all of the constraints off. We have now said that a State can go back to 1994 and count every dollar that they had gotten under that disproportionate share.

Let me tell you something, Mr. President, that may be surprising. The GAO did a report, a special report, on three States. I will be blunt and say who they were: Michigan, Tennessee and Texas. Michigan, Tennessee, and Texas.

Of all of the new money that came into this plan in the last 24 hours, the $10 billion, how much do you think Michigan, Texas and Tennessee got? Mr. President, $6.5 billion. They got almost 2 out of every 3 new dollars that went to those States which have been identified as the principal perverters of the system.

What kind of policy is that? We are going to reward and benefit those States which have been ripping off the Federal taxpayers? What kind of a plan is this? I would be very interested to get a response from our Republican colleagues on that issue.

Friends, the fact that we are about to rape the elderly nursing home, the fact we are raping the Federal Treasury and rewarding inappropriate, I would say criminal past behavior is not the end of it.

Where are we getting the $10 billion from? We are getting the $10 billion by raiding Social Security.

The last position of this legislation states that how we are going to fund this $10 billion, where it will come from, is because we are going to say that we will break our previous practice of using the Congressional Budget Office as the means of calculating what our deficit position is, and we will for this year take the lower cost-of-living number, which has just recently been reported, leave everything else in our revenue estimates the same, but plug in that new number, which is a 2.6 cost-of-living factor rather than a 3.1.

Now, we are not going to do this as it relates to revenue. You know there are some rich people that benefit by this cost of living because their taxes are indexed. They get held down by virtue of a higher cost of living. We are only going to use this against the old folks—primarily Social Security and other Federal retirement programs—who are going to have their money used as the basis of funding this raid in order to benefit a handful of politically powerful—and I would say probably politically greedy—States in order to pass this atrocious proposition.

What has the Congressional Budget Office had to say about this particular raid on the Federal Treasury? The Congressional Budget Office has stated—this is Paul Van de Water, who is the Assistant Director for Budget of the Congressional Budget Office. He states that the Congressional Budget Office and the Office of Management and Budget "do not score savings for legislating a COLA that would happen anyway under current law. This rule was applied to veterans compensation in 1991 and to food stamps in 1992."

In other words, we are changing our previous Congressional Budget Office policy.

But, friends, it gets worse. Mr. Van de Water goes on to say that:

> At the request of the Budget Committees, the CBO has from time to time updated the baseline to reflect recent economic and technical developments. In such circumstances, however, we insist on incorporating all relevant new information, not just selected items, such as COLAs. In this instance . . .

Friends, listen to this sentence.

> . . . if we were to include all of the information in our August baseline, plus the actual 1996 COLA, our estimate of the 2002 deficit . . . would be higher.

It would be higher, not lower.

So we are using a fraudulent method in order to calculate what is presented to be savings in order to fund this atrocious raid on the public Treasury when the Congressional Budget Office said, if they were asked the right question they would not only not have scored this as creating any additional money, but they would have said that we would have a greater deficit than we started with.

So, friends, that is what we are about with this amendment in the Finance Committee that we have waited 36 hours to get. If you want to know why this stealth bomber was out there all those hours when we kept asking, Can we see what is in this proposal, can we see the legislative language, can we see the State-by-State numbers—we could not get any answer. Sorry, it is too complicated. It is being worked. The technicians are pouring over it.

I am certain the technicians came up with a formula that gave $11 billion of additional funds to States that just happened to be represented by Republicans and cut the funds from the States that happened to be represented by Democrats. That was just a technical oversight.

And then to have the gall to raid our Social Security fund as a means of financing this, is there no limit to what we ask our older people to do? We are cutting their Medicare. We are eliminating other important programs for the elderly. And now we are using their Social Security in this back-door means as the basis to fund an additional $10 billion which does not exist, which is going to add further to the deficit, to give money to a few favorite States so that they can corral the votes to pass this steamy mess.

My friends, I wish this thing would stay the stealth bomber. It is better if we did not see it than if it finally appeared on the radar scope and we are able to look and appreciate the details.

Mr. President, fellow colleagues, the answer tonight is a simple answer; that is, to defeat this amendment. As bad as the proposal passed by the Finance Committee was, it looked so much better than what we are about to vote upon. We have converted a frog into a beauty with this amendment.

So I urge my colleagues to vote this amendment down, and let us at least send the conference something that we in the Senate can have some degree of satisfaction as it is taken up in conference.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from New Mexico has 12 minutes and 32 seconds, and the Senator from Nebraska has 4 minutes, 24 seconds.

Mr. DOMENICI. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, with reference to the formula, let me just state for the record that 46 States are better off under this formula than the House formula. Many of those have Democratic Governors and many of those have Democratic Senators. Many of those have Republican Governors and Republican Senators.

Let me repeat. Under this formula, 46 States are better off than in the House formula.

Mr. President, Senator COHEN has adequately answered the remarks with reference to nursing homes. I do not know how anybody could stand on the floor of the U.S. Senate and say that we are raping the nursing homes when we have just heard Senator COHEN, one of the strongest and best advocates, say that has been fixed in this bill. He just said it. He repeated it. He read the language. And so we hear it from that side over and over again.

Let me tell you with reference to the money in this budget that is used for some of the reallocation, that there is nothing wrong with it. It is not phony. It is plain and simple, the fact: We have already established in the United States of America that the Consumer Price Index is not 3.1 percent, but, rather, 2.6 percent. We are not talking about 3 years from now. We are talking about right now. It is not 3.1, as estimated in this budget. It is 2.6. The reality is that is not going to change. It is 2.6 for the rest of the year. It just happens, if you do the numbers, that saves $13.1 billion. That means $13.1 billion less is being spent because of the real Consumer Price Index—not speculation and not changing anything. That is where you get $13.1 billion.

The reason we only use $13.1 billion is because we did not want to use the tax revenues and spend them. We left them there. So we only used the revenues that I have just described. It does not mean we changed anything on the Tax Code. The taxes are going to come out at the 2.6 level in terms of the bracket creep that will be adjusted. So that argument just misunderstands what we have done and what the reality is.

Having said that, Mr. President, I am led to believe that, in spite of this interoffice memorandum, there is nothing from the Director of the Congressional Budget Office. This is somebody that works there named Paul Van de Water, writing to somebody named Sue Nelson, who is on the staff of the Budget Committee, and gives a little history of what has and has not been done.

The truth of the matter is that Chairman Sasser last year came to the floor—in 1993, excuse me—and he said, "I want to adjust the numbers for reality, for the real thing." And, in fact, he adjusted two items in the budget for what he perceived to be the real numbers. In doing that, revenues and moneys were found to make their budget come out as planned.

Frankly, ours is absolutely real because the Consumer Price Index is not 3.1 percent. The checks are going out at 2.6. We are not taking money away from anyone.

I am led to believe this is not subject to a point of order, and we decided that we were going to reallocate some money because a number of States felt that they had not been treated fairly here. Some said they had been treated fairly in the House. Others said they had not, and we still have to go to conference in order to come out with the final formula and final distribution.

So as far as that part is concerned, how the allocations came about, I was not part of that committee. I trust them. I think they did a good job. And the chairman is here. They all worked together on it. Perhaps he wants to explain in more detail.

But let me suggest that we in no way—in no way—are attempting to defraud anyone. As a matter of fact, this budget will be balanced in the year 2002, and if you need a letter on that from June O'Neill, we will get it for you.

This does not unbalance the budget, because we have a $13 billion surplus in 2002, and we do not use up that surplus. You do not even come close to using it, so we will still be in balance.

If I have not used my time, I wish to yield it back. And I want to ask Senator ROTH if he wants to talk for a couple minutes, or Senator DOLE.

The PRESIDING OFFICER. The Senator has 7 minutes 35 seconds.

Mr. DOMENICI. How much time do we have?

The PRESIDING OFFICER. Seven minutes 35 seconds.

Mr. DOMENICI. We will reserve our time.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 24 seconds and previously yielded time, I believe 2 minutes.

Does the Senator wish to reallocate his time?

Mr. EXON. The Senator from West Virginia is not interested in additional time.

I wish to yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. PRYOR. Mr. President, I will not use all my 2 minutes.

Mr. President, I rise to ask a parliamentary inquiry.

Mr. President, this morning by a vote of 51 to 48, the Senate voted for an amendment offered by myself and Senator COHEN of Maine. The amendment was adopted and agreed to. Presently pending is another amendment with different language proposed by the distinguished chairman of the Finance Committee, Senator ROTH, in the manager's amendment. Should the manager's amendment pass, does the manager's amendment encompassing or including the nursing home provisions of Senator ROTH, does it prevail over the amendment passed this morning by a vote of the Senate?

The PRESIDING OFFICER. The Chair is informed that by virtue of the fact that this amendment covers a broader spectrum of the bill, if the Senate adopts this amendment, it would prevail over the previous text that was included in the smaller reaching amendment that was voted upon this morning.

Mr. PRYOR. Mr. President, then if I have any time remaining, I would simply ask my colleagues on the other side of the aisle, why? Why are we obliterating these nursing home standards that have worked so well for these years, that my colleague from Maine was saying just now are having their bite? Why are we taking that bite out?

I think, Mr. President, we are going to be committing a terrible mistake if we do. I hope we will not adopt the chairman's amendment.

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds.

Mr. EXON. I yield 2 minutes 50 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized for 2 minutes 50 seconds.

Mr. GRAHAM. Mr. President, I would like to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. GRAHAM. Are outlay reductions to Social Security used to offset the spending of this amendment?

The PRESIDING OFFICER. The Chair is not in a position to answer that question.

Mr. GRAHAM. Would the Chair like to be informed on that matter so that he might be in a position to answer that question?

The PRESIDING OFFICER. The Chair would be happy to listen to the Senator from Florida.

The Senator has 2 minutes 30 seconds. The parliamentary inquiry does not come out of the time.

Mr. GRAHAM. Mr. President, I send to the desk for the review of the Chair as well as for inclusion in the RECORD the 1996 COLA versus conference resolution baseline assumptions data, October 16, 1995.

I would like to ask that these be compared with the projections which are utilized to produce the revenue for purposes of supporting the funding contained in this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

All Cash Benefit Programs Indexed to the CPI

ACTUAL 1996 COLA VERSUS CONFERENCE RESOLUTION BASELINE ASSUMPTIONS

[Outlays shown by fiscal year, In millions of dollars]

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Social Security	−1,273	−1,729	−1,769	−1,782	−1,788	−1,788	−1,795	−1,811	−1,836	−1,867
Railroad Tier I	−18	−25	−26	−26	−26	−26	−27	−27	−28	−28
Railroad Tier II	−4	−5	−5	−5	−5	−5	−5	−5	−5	−5
SSI	−83	−110	−127	−135	−215	−150	−217	−248	−260	−271
Food Stamp Offset	16	23	24	25	34	27	34	38	39	41
Military Retirement	−11	−144	−150	−160	−167	−174	−182	−190	−198	−206
Vets Compensation	−50	−81	−78	−74	−90	−100	−111	−124	−138	−153
Vets Pensions	−10	−13	−12	−11	−12	−12	−12	−12	−12	−12
Civilian Retirement	−94	−188	−189	−191	−193	−196	−198	−201	−203	−206
FECA	−3	−5	−3	−1	−1	−1	−1	−1	−1	−1
Foreigr Service	−1	−2	−2	−3	−3	−3	−3	−3	−3	−3
PHS Retire	0	−1	−1	−1	−1	−1	−1	−1	−1	−1
Coast Guard Retire	0	−2	−3	−3	−3	−3	−3	−3	−3	−3
SMI Offset	0	0	0	0	0	0	0	0	0	0
Medicaid Offset	0	0	0	0	0	0	0	0	0	0
Total	−1,529	−2,290	−2,340	−2,365	−2,468	−2,431	−2,520	−2,587	−2,648	−2,716
Cola Assumptions (in percent):										
Actual 1996	2.6	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2
Resolution Baseline	3.1	3.4	3.4	3.2	3.2	3.2	3.2	3.2	3.2	3.2

The PRESIDING OFFICER. The Senator's time is running.

Mr. GRAHAM. Mr. President, it was my understanding that time for points of order and parliamentary inquiry is not charged against the time. Is that correct?

The PRESIDING OFFICER. Respectfully, the Senator has been answered as far as the parliamentary inquiry is concerned. The Chair is not capable of making the comparisons the Senator wishes.

Mr. GRAHAM. I wonder if the Senator from New Mexico or the Senator from Delaware as chairs of the respective committees would like to comment whether they believe there are outlay reductions to Social Security used to offset the spending in this amendment.

Mr. DOMENICI. I am satisfied with the ruling of the Chair. I have no comment on that.

Mr. GRAHAM. Mr. President, I raise a point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment.

The PRESIDING OFFICER. The Chair might inform the Senator from Florida, and will not use the time but give back his time, until the time is all used, it is not yet in order to make a point of order.

Mr. GRAHAM. Mr. President, I will withhold, but reserving the time to make a point of order at the appropriate time.

The PRESIDING OFFICER. The Senator will have that time. He has 45 seconds remaining.

Mr. GRAHAM. Mr. President, just to prepare for the consideration of the point of order that will be made, I would draw the attention of the Chair to subtitle (c) of the Social Security Act, section 13301 which states:

> Off budget status of Social Security Trust Funds. Exclusion of Social Security from all budgets. Notwithstanding any other provisions of law, the receipts and disbursements of the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, for deficit or surplus, for the purposes of the budget of the U.S. Government submitted by the President, the Congressional Budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I wonder who wants time on this side.

I yield 2 minutes to the chairman of the Finance Committee.

The PRESIDING OFFICER. Two minutes to the Senator from Delaware.

Mr. ROTH. First of all, Mr. President, I think it is important to understand that 45—45—of the 50 States are better off under the Senate amendment than they are under the House. And I would just like to make passing reference to the three States that are said to have Democratic Senators.

Just let me point out that in the case of California, it is up $700 million from the House; Florida is up $1.3 billion from the House, and Minnesota is up $500 million from the House.

Now, one of my distinguished colleagues on the other side mentioned the treatment for seven States on page 36. And I just want to point out that six of these seven States that get additional amounts have one Republican Senator and one Democratic Senator. That was not based on partisanship. It was based upon need. And that is the point I wish to make.

In concluding, the statement was made that we are using the savings from Medicare and Medicaid for a tax cut. That is pure demagoguery. There is no truth to that.

As a matter of fact, the President's board of trustees, long before we talked about tax cuts, said we had to do something about the trust funds for Medicare. And that is what we are doing with this legislation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. How much time is left on our side?

The PRESIDING OFFICER. Five minutes twelve seconds.

Mr. DOMENICI. The other side has used all their time?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. I yield 3 minutes to Senator COHEN.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. COHEN. I thank the Senator for yielding.

If I could point out what is also in this measure that has not been talked about in the last few moments.

No. 1, there are set-asides for the QMB program. I think everyone is familiar with what I am talking about. That is in the manager's amendment. There is a requirement that States impose strong solvency standards on Medicaid providers. That is in this amendment. There is an increase in Medicaid funding. That is in this amendment. There is more money for Medicare in direct education payments, and allows for more causes of action to enforce Medicaid provisions.

What was not talked about in terms of this measure is the following: We, under this measure, are imposing the nursing home reforms on the States. OBRA 1987 will remain in effect. That is what this amendment contains.

No. 2, not only do we have the same standards in effect, we also have enforcement in effect. Those two key points have to be made. The States are required to comply with the national standards, and those enforcement standards remain in effect.

There is a waiver provision contained on page 38. And I call all of the attention of my colleagues to it. What it says is, if a State does in fact have equal to or greater standards, they may qualify or try to apply for a waiver. They can do that. If they have penalties that are equal to or greater than what is in the Federal law, they can apply for the waiver.

The Secretary of HHS has 120 days, in which time he either grants it or denies it. And assuming he or she grants it, he or she still retains the authority to go in there and impose penalties upon the State if there is any deviation from the standards. They can suspend and terminate the institution. They can terminate the waiver.

No. 3, at the bottom of the page, please look at it. "Any other authority available to the Secretary to enforce requirements of section 1919." That is OBRA. That says the Secretary of HHS still has all of the authority to enforce every single provision in OBRA '87, all the way up to the change we made as of this date.

So, I want to assure my colleagues I would not be supporting this if I did not believe that we for the first time have the majority saying we want to maintain OBRA '87. We want the same standards. We want the same enforcement levels. We will provide some opportunities for a waiver, but only if they measure up to what we expect, and then the Secretary retains the authority to impose every single penalty. So in many ways we give more authority to the Secretary under these circumstances.

So, please, I hope everyone will not mischaracterize what is being done here.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico has 2 minutes 13 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator DOLE.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I just want to say I think we had a fair discussion of this amendment, and we indicated to the Senator from Florida this morning we would have that discussion. He did have access, as he indicated, to the information at about 6:27. So, I believe we had adequate time to take a look at it.

We made a lot of changes. Changes are always made in a big, big package like this by either party, both parties, whatever. I believe the Senator from Maine and the Senator from Delaware and others pointed out these have been very constructive changes.

We always have these formula fights. And there is always someone running around with a sheet of paper saying how much one State got over the other State. I can name a State with two Republican Senators where they are getting $500 million less than they had in the middle of the week. They were not very happy about it, but that is the way the formula worked. Florida gets $1 billion more, California $700 million more than we had in the committee. Minnesota gets $508 million more than we had on the House side.

So we believe we are making progress. We are going to go to conference. We discussed this with the Governor from Minnesota, I might add. He is aware of it. He was concerned we were going to adopt a House formula which was $508 million less.

So, I say to my colleagues, it is time, I think, we wrap it up around here. And I hope that we will have every—all the votes. Everybody ought to vote for this amendment. This is a very constructive amendment, whether it is nursing homes, whatever it is. I know there is a lot of politics about nursing homes. I know the liberal media bought into the spin put on by the Democrats.

But the Senator from Maine would not be standing up here making these statements if they were not accurate. If anybody wants to question the integrity or the credibility of the Senator from Maine, they ought to stand up and do it. They are not going to do it because he has total integrity and total credibility on this issue.

I believe that we have made constructive changes. I hope we will have, if not any support from that side, solid support on this side of the aisle for this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am directing my attention to section 7482 of the legislation, which begins on page 45 and states:

> Cost-of-Living Adjustments During Fiscal Year 1996.
>
> Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average of all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

It is to that section, Mr. President, that I direct the point of order. I raise the point of order under section 310(d) of the Congressional Budget Act of 1974 against the pending amendment because it counts $12 billion in cuts to Social Security which is off budget to offset spending in the amendment.

The PRESIDING OFFICER. Does the Senator from New Mexico wish to be heard on this point of order?

Mr. DOMENICI. I want to say the dollar numbers being referred to are actual. That is all I want to say.

Mr. GRAHAM. Mr. President, could I respond to the—do you wish further debate on the point of order?

The PRESIDING OFFICER. It is not debatable. I note the Senator from New Mexico wishes not to make a statement.

The scoring of this bill under the Budget Act is under the control of the chairman of the Budget Committee, and the precedents of the Senate do not go beyond that. The point of order is not well taken.

Mr. HARKIN addressed the Chair.

Mr. DOMENICI. I ask for the yeas and nays.

Mr. HARKIN. I raise a point of order under section 310(g) of the Budget Act because the pending amendment achieves its savings by changing the cost-of-living provisions of section 215 of the Social Security Act, and changing title II of that act violates section 310(g) of the Congressional Budget Act.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. CPI was not changed as referred in that Act.

The PRESIDING OFFICER. The Chair is informed that the provisions in the act cited are not applicable to this instance and that the point of order is not well taken.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. HARKIN. Section 7482 on page 45 of the pending amendment, line 22, states: "Notwithstanding any other provision of law . . ." Parliamentary inquiry. Is this not referencing title II of Social Security?

The PRESIDING OFFICER. The Chair is informed that that would not be interpreted as referencing anything. That is to indicate that without regard to any other provision of law, this provision of this bill would become law.

Mr. HARKIN. Further parliamentary inquiry.

Is the Chair then ruling that by that very sentence, "Notwithstanding any other provision of law," that that would, in fact, cover title II of Social Security since it is law? And that, "Notwithstanding any other provision of law," therefore, that overcomes title II of Social Security?

The PRESIDING OFFICER. The Chair would state that that interpretation—I must yield to the Senator's inquiry. The Senator is asking this Chair to act as a court and make a determination of law and the conflicts of law, and that is not within the proper prerogative of this Chair.

Mr. HARKIN. Further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Yes.

Mr. HARKIN. Is the Chair ruling, as pertains to the ruling on Senator GRAHAM's point of order, is the Chair ruling that the Social Security Act, title II, may be changed within the reconciliation process by drafting a provision to read, "notwithstanding any other provision of law"?

The PRESIDING OFFICER. The Chair's ruling with regard to the point of order of the Senator from Florida was on the basis of the issues he stated. The Chair is not ruling—the Chair is not ruling—as the Senator indicated, that there is any indication here before the Chair of a provision to change the Social Security Act.

Mr. HARKIN. One last——

Mr. GREGG. What is the regular order?

Mr. HARKIN. One last parliamentary inquiry.

Mr. GREGG. I am asking for the regular order.

Mr. HARKIN. One last parliamentary inquiry.

The PRESIDING OFFICER. The regular order is for the Chair to determine if there is a bona fide parliamentary inquiry being presented to the Chair. One further inquiry.

Mr. HARKIN. If that is the ruling of the Chair, the Social Security law must be naked to attack under reconciliation.

Would not section 310(g) of the Budget Act be now rendered meaningless by the precedent the Chair is now setting?

The PRESIDING OFFICER. The Chair has no intention of rendering meaningless any provision of the Budget Act. We are attempting to comply with the Budget Act. The Chair is informing that the chairman of the Budget Committee has the authority, as did the previous chairman, to make the determination that has been made with regard to this aspect of this bill.

Mr. DOMENICI. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 554 Leg.]

YEAS—57

Abraham
Ashcroft
Bennett
Biden
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lautenberg
Levin
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Leahy
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So the amendment (No. 3038) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there any other amendments to this bill?

Mr. EXON. Mr. President, I think we may be down to the last vote. Our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed——

The PRESIDING OFFICER. If the Senator will withhold. The Senate is not in order.

Mr. EXON. Mr. President, our bipartisan staffs have visited with the office of the Parliamentarian. That office has confirmed that each and every provision in our point of order is indeed a violation of the Byrd rule. So I renew my point of order under the Byrd rule.

The PRESIDING OFFICER. The chair is informed that the Parliamentarian's office has indicated it has reviewed the presentation made concerning extraneous provisions, some 49 provisions. On the basis and advice of the Parliamentarian, the Chair sustains 46 of those.

Mr. DOMENICI. Mr. President, I move to waive some or all of these.

The PRESIDING OFFICER. The Senator has that right.

Mr. EXON. Mr. President, could we have a ruling of the Chair?

Mr. DOMENICI. If you do the ruling, we cannot appeal it.

The PRESIDING OFFICER. The Chair is informed the motion to waive would take precedence over the ruling. The Chair is prepared to rule.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. State the inquiry.

Mr. DOMENICI. If I move to waive and send that to the desk with an attached list of the points of order but not all of them, what governs the debate on that proposal?

Is there any debate?

The PRESIDING OFFICER. There is no time left for debate without agreement. The point of order has been raised. The motion to waive is in order. The motion to waive is not debatable. It is subject to a vote by the Senate.

Mr. DOLE. I wonder if the Democratic leader would have, say, 10 minutes equally divided.

Mr. DASCHLE. We have no objection.

The PRESIDING OFFICER. Is there objection to the request of 10 minutes equally divided on this issue?

Does the Chair interpret the leader to mean on the motion to waive the point of order? Is there objection?

Five minutes on a side, then, on this issue.

DOMENICI MOTION TO WAIVE THE BUDGET ACT

Mr. DOMENICI. Mr. President, I send a list of the points of order that I am moving to waive—a partial list of the Exon points of order.

Mr. President, pursuant to section 904(c) of the Budget Act, I move to waive the Budget Act for the consideration of the following provisions and for the language of the provisions if included in the conference report:

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C—Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to states with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former States.	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(6)	State Option to Deny Assistance For Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to states that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.

TITLE VII.—FINANCE, MEDICAID AND WELFARE EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
Subtitle D—SSI:			
Chapter 5:			
7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the state.
Chapter 6:			
7295	Eligiblity for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle G—Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J—COLA's:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.

Mr. DOMENICI. Let me explain what is in it: only provisions included in the welfare bill.

The reason I did that is because the Senate approved the welfare bill—87 votes on the welfare side.

The PRESIDING OFFICER. There is no time for debate.

Mr. DOMENICI. I send it to the desk.

The PRESIDING OFFICER. The Chair will have to look and see whether there are any of these provisions not covered by the ruling that the Chair was prepared to make.

Mr. KERRY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Hold up for a minute, please.

What is the parliamentary inquiry?

Mr. KERRY. The parliamentary inquiry was whether or not the Chair was in the process of giving a ruling which would assist us to know what the relevancy of the waiver is. The Senator would certainly appreciate hearing the ruling.

The PRESIDING OFFICER. The Chair will inform the Senate that the Parliamentarian has indicated the proper procedure would be to act on the motion of the Senator from New Mexico to waive the point of order.

It is a partial waiver, he sees. During the vote on that matter, we will assert whether the items that the Parliamentarian informed the Chair were not acceptable were covered by this motion.

If they are not, we will then proceed to rule. There were three items that the Parliamentarian indicated should be dropped from the statement of extraneous provisions provided by the Senator from Nebraska.

There is now 10 minutes equally divided, 5 minutes on a side.

Mrs. BOXER. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

We have a time agreement now. There can be no further parliamentary inquiry without using the time.

Mr. EXON. I yield 1 minute.

Mrs. BOXER. I want to know which three the Chair has ruled on.

The PRESIDING OFFICER. The Chair has not ruled and will not rule under the Parliamentarian's advice until the Chair acts on the motion to waive the point of order on a series of these items.

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. KERRY. Parliamentary inquiry.

The PRESIDING OFFICER. There is no time until we use this 10 minutes, except for that purpose.

Mr. KERRY. Parliamentary inquiry takes precedence over request for time.

The PRESIDING OFFICER. Not unless—

Mr. DOMENICI. I yield 3 minutes to the Senator from Pennsylvania.

Mr. SANTORUM. I want to let people know what is in this motion. What this motion would do, what the motion of the Senator from Nebraska would do is strike the 5-year limit. There will no longer be a time limit on welfare.

Some people would like that, but we voted 87 to 12. You want to end welfare as we know it, in what the President said he campaigned on, put a time limit on welfare. If this motion is not waived, we will not have a time limit on welfare.

The growth formula—we worked very long and hard on trying to find money to be able to give to the States as they grow under the welfare system. All the growth formulas are struck—no more money. Whatever you get in the original formula, you do not get any additional money. We do not take into account any growth in welfare population. They strike it all.

Want to provide for assisted suicide payments? You can do that. Under the original bill, you cannot actually reimburse people who actually tried to go out and help people kill somebody else. Now you can. You can do it because we will strike it under this provision.

There is a laundry list of things here that are just punitive. We had a vote, an overwhelming vote, on doing something about illegitimacy. We talked long and hard about how we wanted to do something on illegitimacy. The bonus for States who reduce their out-of-wedlock birth rate is struck from the welfare. Everyone will come back home and say we care about it and strike it.

So, no time limit on welfare. No growth formula for States —and many of you profit very well on both sides of the aisle from the growth formula put in place—for more money. It is gone.

I just want people to think long and hard. You have basically gutted the welfare bill. There is no way this thing will be able to survive and States will be able to survive under the rules that you will put into effect here.

I hope that we would stand by the 87–12 vote on this welfare and stand by the Senate vote before and vote with the chairman of the Budget Committee on his motion.

The PRESIDING OFFICER. The Senator has 3 minutes and 12 seconds left. The Senator from Nebraska has 4 minutes and 47 seconds left.

Mr. EXON. Mr. President, I yield myself 2 minutes.

I rise to oppose a motion to waive, including a major welfare bill in this massive, multi-page bill under a fast-track procedure. It is a gross violation of the process. It is extremism.

Yes, most of us voted for the welfare bill, as did this Senator. But putting this major policy change in a bill whose sole purpose is to reduce the deficit is abuse. This is just the sort of thing that the Byrd rule was designed to prevent.

I urge my colleagues to reject this motion to waive.

I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. Mr. President, about 2 weeks ago we made a profound mistake in voting the welfare measure we did. A report now surfaces from the White House that says it will instantly plunge 1.1 million children into poverty.

If that is the desire of this body, vote not to waive. You have a chance of redemption.

The PRESIDING OFFICER. The Senator has 3½ minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I voted for the welfare bill, as well.

Let me say I do not hold the same view as the distinguished Senator from New York about the consequences of the bill that we passed here in the Senate.

Obviously, I would like to see a lot more done in welfare reform, and ultimately I think we will do a lot more. If we feel strongly about welfare, it is important enough to separate out from reconciliation. It ought to stand on its own. It ought to be considered policy for policy sake, not a source of revenue, referred out of current welfare programs into other things.

That is what we are doing in the reconciliation package. That is why I support the point of order raised by the ranking member, the Senator from Nebraska.

Mr. DOMENICI. I yield back the balance of our time. I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. The Senator from Nebraska has 2 minutes remaining.

Mr. EXON. I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD. Mr. President, I voted for the welfare bill, but I did not vote on each of the items, which may be in violation of the Byrd rule on this bill. That is what we are narrowing it down to at this point. Is it extraneous to the reconciliation bill?

A point of order has been made against certain areas, against certain amendments, as being in violation of the Byrd rule. That is the question to be decided.

The Senator from New Mexico, the distinguished manager, has moved to waive this Byrd rule point of order.

The Senate will vote one way or the other. If the Senate votes to waive the point of order, then there is no point of order. It falls. But if the Senate votes not to waive the point of order, then the Chair will rule on each of the amendments, either en bloc, or, if there are one or two that the Chair disagrees with, he can so state, as he sees it.

I hope the Senate will uphold the Byrd rule, the intention of which was to rule out extraneous matter in reconciliation bills. No matter what your thinking is on the welfare bill—and the point of order has now been made—is that bill extraneous in the context of the interpretations that have been made, the precedents, the definitions, and the rule itself?

I hope the Senate will vote against the motion to waive so that the Chair may rule on the point of order.

Mr. DOMENICI. Mr. President, I wonder if I could reclaim 45 seconds of my time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, every rule, including the Byrd rule, is made for waiver. It is not a rule that Senators cannot apply any judgment to. And the reason we think this is appropriate is because 87 Senators have already voted for these provisions. I mean, I do not bring a waiver of the Byrd rule here willy-nilly just to defy the very admirable efforts of the Byrd rule to keep a bill rather clean. But I do not think leaving in a welfare bill, which is in this reconciliation bill, provisions that you already voted for with 87 votes, I do not believe that is a trivial matter for those who voted for it, if they are going to vote the opposite way tonight as they choose to strip the welfare bill of provisions they voted for before.

If I have any time remaining, I yield it back.

Mr. CONRAD. Will the Senator yield for a question?

Mr. President, I ask unanimous consent for just a moment for a question of the Senator from New Mexico?

The PRESIDING OFFICER. State the request.

Mr. CONRAD. The question that I would have——

The PRESIDING OFFICER. How much time?

Mr. CONRAD. Thirty seconds.

The PRESIDING OFFICER. Is their objection?

Mr. CONRAD. Does the waiver of the Senator from New Mexico only apply to welfare provisions?

Mr. DOMENICI. That is correct. I have taken out of the large package purposefully only those that apply to welfare and ask that we waive them. Then we will go on to vote and see what we want to do about it.

Mr. CONRAD. Do we have a list of what those provisions are?

Mr. DOMENICI. Yes, we do.

Mr. CONRAD. Could Senators have a copy of that before they vote?

Mr. DOMENICI. Sure. I had 10 or 12 made. I will be happy to give them to you.

The PRESIDING OFFICER. Did the Senator say he wished time to deliver a copy to every Senator before the Senate votes?

Mr. DOMENICI. No. I said if any Senators want to see it, we have it available.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 555 Leg.]

YEAS—53

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

The PRESIDING OFFICER. On this vote, there are 53 yeas, 46 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Now, if the Senate will be in order.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold for the Chair to state one problem?

Mr. DOLE. The Chair is not going to rule.

The PRESIDING OFFICER. No, but I wish to state that the Chair has been informed that each of these extraneous provisions is subject to a motion to waive. It would be incumbent on the Chair somehow to get an agreement with the Senate how to handle this. We have never handled such a massive list of extraneous provisions before.

The majority leader has suggested a quorum. The clerk will call the roll. There is this problem.

The legislative clerk proceeded to call the roll.

Mr. DOLE. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. Will Senators please take their seats?

Mr. DOLE. I ask to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think rather than take further time of the Senate tonight, we can knock all the other provisions out in conference with the Byrd rule, the very selective list sent up by the Democrats. We can take care of the other provisions in a conference. They are also subject to the Byrd rule. So, I think rather than do that here this evening, we will take care of those in conference.

Let the Chair rule, en bloc.

The PRESIDING OFFICER. The Chair is prepared to rule pursuant to the general order provisions that were added to the Byrd rule in 1990. And the Chair, on the advice of the Parliamentarian, does rule that of the 49 items listed on extraneous provisions, 46 are well taken, 3 are not.

One is the provision regarding exemption of agriculture and horticultural organizations from unrelated business income tax on associate dues.

The second is the tree assistance program under the Committee on Agriculture.

And the third is the provision of the Commerce Committee dealing with the Spectrum language on page 207.

Those are the three items.

The Chair must advise that after such a ruling any Senator may appeal the ruling of the Chair.

Mr. DASCHLE. Mr. President, just a point of inquiry.

If this material would be incorporated in the conference report, when it comes back would it be subject to the same point of order?

The PRESIDING OFFICER. The Chair is advised it would be.

Mr. DASCHLE. I thank the Chair.

Mr. DOMENICI. Did you rule?

The PRESIDING OFFICER. The Chair ruled that 46 items listed on the extraneous provisions are subject to the Byrd rule. Those items are individually appealable.

The clerk will enter in the RECORD those items presented to the Chair and those that were ruled upon pursuant to the advice of the Parliamentarian.

The extraneous provisions are as follows:

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
TITLE I.—AGRICULTURE			
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate.	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustments to prorate payments to farmers if deficit targets aren't met.	313(b)(1)(A)	No budgetary impact.
TITLE II.—ARMED SERVICES			
Sec 2001	Sale of Naval Petroleum Reserves	313(b)(1)(E)	The sale of Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421a., and the sale of naval petroleum reserves other than Naval Petroleum Reserve Numbered 1 (Elk Hills), as provided in 7421b., produce a loss of offsetting receipts in the outyears that is not offset within the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
TITLE III.—BANKING AND URBAN AFFAIRS			
3002	Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate).
TITLE IV.—COMMERCE, SCIENCE, AND TRANSPORTATION			
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate).
TITLE V.—ENERGY AND NATURAL RESOURCES			
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the state of California for the purpose of creating a low-level radioactive waste site.
Park K:			
5920	Radio and TV Site Communication Fees	Byrd 313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by the level beginning in 1996.
Subtitle F, Oil and Gas:			
5509	Royalty in Kind	Byrd 313(b)(1)(A)	Non-budgetary. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	Byrd 313(b)(1)(A)	Non budgetary. Requires the Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	Byrd 313(b)(1)(A)	Delegates various auditing responsibilities to the States.
TITLE VI.—ENVIRONMENT AND PUBLIC WORKS			
Section 6002(c)	Rescission of highway demonstration projects	313(b)(1)(C)	This section is not within EPW's jurisdiction.
TITLE VII.—FINANCE, SPENDING			
1895A(b)(1)(B)(iii)	Medical savings accounts of the Social Security Act as added by sec. 7001 of the bill.	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
TITLE VII.—FINANCE, MEDICAID AND WELFARE			
Subtitle B, Medicaid:			
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2122(g)	Authority to Use Portion of Payment for Other Purposes	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows State to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2174	Individual Entitlement	313(b)(1)(A)	Extraneous; no budgetary impact. This title shall not be construed as providing for an entitlement.
Subtitle C, Welfare:			
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former State if the family has resided in the current State less than 12 months.
405(b)(1)	No assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
406(b)	State option to Deny Assistance For Out of Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
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7202	Services Provided by Charitable, Religious, or Private Organizations.	313(b)(1)(A)	Extraneous; no cost impact. Allows States to provide services through contracts with charitable, religious, or private organizations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.

EXTRANEOUS PROVISIONS, RECONCILIATION, 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle D, SSI:			
Chapter 5: 7291	Repeal of Maintenance of Effort Requirements Applicable to Optional State Programs for Supplementation of SSI.	313(b)(1)(A)	Extraneous; no cost impact. Savings accrues to the State.
Chapter 6: 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle G, Other welfare:			
Chapter 1:			
7412	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs:			
7481	SoS Regarding Corrections of Cost of Living Adjustments	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the U.S., and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X.—LABOR AND HUMAN RESOURCES	
§ 10002(c) (1) "(a)(2)(C)"	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1)"(a)(1)(A)", therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
		TITLE XII.—FINANCE	
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12705	Provides exceptions to the notification requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as "negligible."
12874	Reduces insurance premiums to reachback companies	313(b)(1)(D)	Merely incidental.
12131b	Exempts Simple retirement from ERISA	313(b)(1)(A), 313(b)(1)(C)	No budgetary impact. Jurisdiction of Labor Committee.
12202d	Medicare Consumer Protection Act—regulation of health care insurance duplication.	313(b)(1)(A), 313(b)(1)(D)	No budgetary impact. Merely incidental.

Mrs. MURRAY. President, we have been debating this budget reconciliation for several days now, and I must say it looks no better now than it did when we were debating the budget resolution 5 months ago. In fact, its details are more troubling than I could have imagined, and, not surprisingly, the concern in my home State is much greater than I ever predicted.

What concerns me most is this budget seems to have no core values or principles that mean anything to American families. Its principles seem to be program cuts for the sake of program cuts, and tax cuts for the sake of tax cuts, with little regard for the consequences. I cannot understand the philosophy that prevails here that we have to somehow scorch the Earth in order to balance the budget.

Mr. President, I, too, want to balance this Nation's budget. In fact, I am proud to say I supported the 1993 budget package. That plan has this Nation on the right track; since its passage, our annual deficits have declined in each consecutive year. Earlier in this debate, I supported a balanced budget proposal put forth by my colleague from North Dakota, Senator CONRAD. His plan would have balanced our Nation's deficit in a fair and equitable manner. It would have maintained a commitment to education, health care and retirees. It would have brought our spending in line with our national priorities, and it would have postponed the tax breaks until we can afford them. It was a responsible and realistic alternative; most importantly, it had core values and principles that are important to every citizen in this country.

And, I, too, want to reduce taxes. Believe me, I know what it takes to raise a family, balance the family books and pay taxes. I know how badly my friends and neighbors want tax relief, and I understand how difficult it can be for families to cope with their tax burdens. I also know how expensive it is for small, family-owned businesses to keep their businesses in the family, and I believe targeted estate tax relief is one example of good tax reform; as is allowing first-time homebuyers to make tax-free IRA withdrawals for the purchase of a new home.

But, there is a right way and there is a wrong way to balance the budget, and the plan before us balances our budget the wrong way. We cannot afford to balance this Nation's budget on the backs of our children and the elderly, so that those who are already better off can put more cash in their checking accounts. We cannot afford to give tax breaks to people who don't need them, and then increase taxes on the working poor and health insurance on the elderly.

It is interesting to note that many of my colleagues argue on behalf of this budget package by claiming it will benefit our children and grandchildren in the long run. They claim we will give our children a better economy and lower interest rates tomorrow by balancing the budget today. They fail to note that this plan cuts our investments in the future to do so; programs like head Start and WIC and college loans and AmeriCorps.

I ask, what good will lower interest rates do for my children and grandchildren if we reduce their access to higher education and vocational training, ultimately limiting their ability to acquire the skills they will need to find a family wage job?

Moreover, the proponents argue these tax breaks will enable families to save more for the future. However, current estimates reveal that these tax breaks will increase our Nation's debt by roughly $93 billion. That's $93 billion our children and grandchildren will be paying back through higher taxes later. This sounds like the 1980's all over again.

It is imperative that we understand how this budget plan really impacts our children and families. How does it impact average Americans? Does this budget provide hope, or does it tell hardworking Americans they're on their own? Does it provide security and safety for our children and elderly, or does it lead to uncertainty and anxiousness? These are just a few of the important questions I considered when looking at this budget reconciliation. We should be providing hope for the families that are struggling to pay their rent, feed their children and care for their elderly parents. Instead, we are showing these families and their children that the only way to address these difficult issues is to cut the heart out of what they need to survive—education, health care and good jobs.

Last month, I held a forum back in Washington State to talk about the varied issues surrounding Medicare. I expected one or two dozen to attend. Instead, over 500 people showed up to express their views. people are concerned. They are anxious, and not quite certain what a $270 billion Medicare cut means to them. How much more money will be taken out of their Social Security check each month? And what are seniors on a fixed income going to get for their sacrifice? I hope it is more than a tax break for somebody else. This budget is not providing certainty or hope. My constituents see difficult times ahead. They are wondering how they will pay for health care.

And then there's Medicaid. This program serves the elderly in nursing homes, the adult disabled, pregnant women, and children—the most vulnerable in our society, and the working families that support them and care for them every day. This budget will take $187 billion out of Medicaid, do away with the standards of care, block grant the program, and let States decide who won't have their medical costs covered.

The fears that working families have about the Medicaid cuts can best be summed up by a letter I recently received from a worried mother:

> What will happen to our family when my mother, who has Alzheimer's disease and lives with us, has no more funds and we can no longer care for her at home? My children's education depends on both my husband and me working. If one of us becomes unemployed or must take on full-time care taking responsibilities, we risk grave financial consequences for all of us.

The lack of social priorities isn't the only problem in this budget. It fundamentally stalls the best economic development initiatives this country has in order to compete in the global marketplace.

There are over 30,000 Boeing employees in my home State on strike as we speak. There No. 1 issue is job security. The global economy and increased competition has made these employees, and many others like them, uncertain about the future. They increasingly look to us for support. They want to know what the Federal Government will do to help them compete in the global marketplace.

This budget provides no security or hope. Instead, it proposes deep cuts in trade promotion programs and trade adjustment assistance. It demolishes the Commerce Department at a time when Secretary Brown has maximized its effectiveness on behalf of American businesses. This budget sends the message that the Federal Government will provide no leadership in international competition, and has no role in cultivating good, high-paying jobs that will lead our families into the 21st century.

And what about the tax increases in this budget? This budget says working families do not count in the scope of principles governing this budget.

Many families will see tax increases because of the proposed cuts to the earned income tax credit. We all know how important the EITC is, and we're all aware of the bipartisan support it has received over the years. As President Reagan once said, "this credit is one of the most successful profamily, prowork initiatives ever to come out of Congress." The budget before us will reduce the EITC by $43.5 billion over 7 years. In my home State, low-income working families with two children will see a $452 tax increase in 2002 and a $522 tax increase in 2005.

The worst aspect of this tax proposal is that it increases taxes on approximately 17 million hard-working Americans while the top 13 percent of income earners will reap 40 percent of the tax breaks. Does this provide security and hope for our low- and middle-income taxpayers? It does not. Reducing the EITC simply will drop many working families into poverty, and make it more difficult for families to take care of their children and parents.

The environment doesn't escape this budget, either.

I am concerned about the impacts this bill will have on public lands and other national assets. For decades, the Congress of the United States has recognized that our public lands and assets are too precious to sell unless their sale is in the best interest of the public. But it appears to be a new day. Today, this committee may vote to sell—or lease—our children's heritage to pay our debts. The leasing of the Arctic National Wildlife Refuge in particular is not an issue of revenues. It's a question of values. It's a question of whether we are willing to trade off open space, parks, wilderness, and wildlife values—the natural legacy for our children—for a short-term payment toward the bills we have accumulated—or worse, for a tax cut for ourselves.

There truly is a right way to balance the budget; a way that provides security and hope and a way that assures average Americans that we are looking out for them. I tried to instill some of this common sense into the budget resolution, and I am pleased the Senate responded to my amendment calling for an appropriate level of Impact Aid funding. I only wish we could have had more cooperation across the board on other education needs like Head Start, School-to-Work, and Safe and Drug Free Schools, and AmeriCorps.

Mr. President, given the fundamental disrespect for families in this budget, I am forced to oppose this reconciliation package. It does not have important core principles, and I'm afraid it is leading toward an America far different from the one I grew up in. I am alarmed at its shortsightedness. I fear it was motivated by a desire to balance the budget by a given date, regardless of the consequences.

This budget leads us down a new road; a road none of us have traveled. It says the Federal Government is no longer responsible for the welfare of its people. But, yet, who will be? Who will rise to the occasion? Who will pick up the slack? None of us know, but each of us should be prepared. Prepared, because this budget is calling each of us to be more vigilant, more aware of the needs of our families and neighbors, more willing to pay for the health care needs of our parents, children, and friends. Those of us in this room may be able to pick up the slack, but many in our home States will be hard pressed to meet this challenge.

This budget is not good public policy. It is not why I was elected, and it's certainly not what the families in Washington State want.

Mr. HOLLINGS. Mr. President, once again, we are lying to the American people. Instead of a serious attempt to get our fiscal house in order, the reconciliation bill that we are now considering is little more than a political document. It is more about getting a Republican in the White House than getting rid of red ink. The American people will not be fooled. The Republican reconciliation bill does not balance the budget—it merely front loads goodies such as the tax cuts and back loads all the tough decisions. Mr. President, I ask unanimous consent that two tables that I have prepared exposing the realities of the GOP budget be included in the RECORD at this time.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

"Here We Go Again": Senator Ernest F. Hollings

[In billions of dollars]

1995 CBO outlays	1,530
1996 CBO outlays	1,583
Increased spending	+53

GOP "SOLID," "NO SMOKE AND MIRRORS" BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	1,583	1,355	−228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

DEBT ([1] OFF CBO'S APRIL BASELINE)

[In billions of dollars]

	National debt	Interest costs
1995	4,927.0	336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0
	1996	2002
[1] Debt includes (off CBO's August-baseline):		
1. Owed to the trust funds	1,361.8	2,355.7

DEBT ([1] OFF CBO'S APRIL BASELINE)—Continued

[In billions of dollars]

	National debt	Interest costs
2. Owed to Government accts	• 81.9	([2])
3. Owed to additional borrowing	3,794.3	4,372.7
[Note: No "unified" debt; just total debt]	5,238.0	6,728.4
"Paper" Balancing:		
1. By borrowing and increasing debt (1995–2002)—Includes $636 billion "embezzlement" of the Social Security Trust Fund		1,801.0
2. Smoke and Mirrors		

[2] Included above.

[In billions of dollars]

	Outlays	Revenues
2002 CBO BASELINE BUDGET	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
[1996 cuts, $45 B] spending reductions (in 2002)		−347
Using SS Trust Fund		−115
Total reductions (in 2002)		−462
+ Increased Borrowing from tax cut		−93

[In billions of dollars]

	Outlays	Revenues
Grand total		−555

Promised balanced budgets

[In billions of dollars]

1981 budget	[1]0
1985 GRH budget	[2]0
1990 budget	[3]20.5

[1] By fiscal year 1984.
[2] By fiscal year 1991.
[3] By fiscal year 1995.

BUDGET TABLES: SENATOR ERNEST F. HOLLINGS

Year	Government budget (outlays in billions)	Trust funds	Unified deficit	Real deficit	Gross Federal debt	Gross interest
1968	178.1	3.1	−25.2	−28.3	368.7	14.6
1969	183.6	−0.3	+3.2	+2.9	365.8	16.6
1970	195.6	12.3	−2.8	−15.1	380.9	19.3
1971	210.2	4.3	−23.0	−27.3	408.2	21.0
1972	230.7	4.3	−23.4	−27.7	435.9	21.8
1973	245.7	15.5	−14.9	−30.4	466.3	24.2
1974	269.4	11.5	−6.1	−17.6	483.9	29.3
1975	332.3	4.8	−53.2	−58.0	541.9	32.7
1976	371.8	13.4	−73.7	−87.1	629.0	37.1
1977	409.2	23.7	−53.7	−77.4	706.4	41.9
1978	458.7	11.0	−59.2	−70.2	776.6	48.7
1979	504.0	12.2	−40.7	−52.9	829.5	59.9
1980	590.9	5.8	−73.8	−79.6	909.1	74.8
1981	678.2	6.7	−79.0	−85.7	994.8	95.5
1982	745.8	14.5	−128.0	−142.5	1,137.3	117.2
1983	808.4	26.6	−207.8	−234.4	1,371.7	128.7
1984	851.8	7.6	−185.4	−193.0	1,564.7	153.9
1985	946.4	40.6	−212.3	−252.9	1,817.6	178.9
1986	990.3	81.8	−221.2	−303.0	2,120.6	190.3
1987	1,003.9	75.7	−149.8	−225.5	2,346.1	195.3
1988	1,064.1	100.0	−155.2	−255.2	2,601.3	214.1
1989	1,143.2	114.2	−152.5	−266.7	2,868.0	240.9
1990	1,252.7	117.2	−221.4	−338.6	3,206.6	264.7
1991	1,323.8	122.7	−269.2	−391.9	3,598.5	285.5
1992	1,380.9	113.2	−290.4	−403.6	4,002.1	292.3
1993	1,408.2	94.2	−255.1	−349.3	4,351.4	292.5
1994	1,460.6	89.1	−203.2	−292.3	4,643.7	296.3
1995	1,530.0	121.9	−161.4	−283.3	4,927.0	336.0
1996 estimate	1,583.0	121.8	−189.3	−331.1	5,238.0	348.0

Source: CBO's January, April, and August 1995 Reports

[In billions of dollars]

	Year 2002
1996 budget:	
Kasich Conf. Report, p. 3 [Deficit]	−108
1996 budget outlays (CBO est.)	1,583.0
1995 budget outlays	1,530.0
Increased spending	+53.0

[In billions of dollars]

	Outlays	Revenues
CBO baseline assuming budget resolution	1,874	1,884
This assumes:		
1. Discretionary freeze plus discretionary cuts (in 2002)		−121
2. Entitlement cuts and interest savings (in 2002)		−226
3. Using SS Trust Fund (in 2002)		−115
Total reductions (in 2002)		−462

ENERGY PROVISIONS

Mr. CRAIG. Mr. President, as a member of the Energy and Natural Resources Committee, I am pleased the distinguished chairman, Mr. MURKOWSKI, has agreed to participate in a colloquy with me and my colleague from Idaho, Senator KEMPTHORNE, concerning the energy provisions of S. 1357. Has the chairman reviewed our proposed amendment concerning aircraft services for the Department of the Interior?

Mr. MURKOWSKI. Mr. President, I have reviewed the amendment submitted by the Senators from Idaho, and it reads as follows:

On page 395, line 24, after "shall" insert ", unless it would be more cost-effective for the Department to use government-owned and operated aircraft,".

On page 396, lines 8 and 9, after "suppression" insert "and those that it would be more cost effective to retain under subsection (a).".

Mr. KEMPTHORNE. As the chairman knows, the Energy provisions of S. 1357 would change Department of the Interior practices relating to aircraft services by requiring the Secretary to sell all DOI aircraft and related equipment and facilities—except those whose primary purpose is fire suppression—and instead contract necessary aircraft services from private entities. Am I correct that this provision is targeted at saving tax dollars and stopping Government waste?

Mr. MURKOWSKI. The Senator is correct.

Mr. CRAIG. Mr. President, an independent study of the Bureau of Reclamation's Government-owned, Government-operated aircraft service in Boise, ID, found that it saved more tax dollars than other options, including contracting out. Would the chairman agree that the committee did not intend to eliminate truly cost-effective programs that happened to be Government-owned and operated, such as that of the Bureau of Reclamation in Idaho?

Mr. MURKOWSKI. The Senator is correct. Let me assure the Senators from Idaho that we are committed to achieving the best and fairest deal for American taxpayers. We will work in conference to further clarify the changes in S. 1357 to address the concerns of my colleagues from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the chairman for making a clarification that I believe will serve the best interests of taxpayers and the efficient delivery of Government services.

Mr. CRAIG. Mr. President, I also thank my chairman for accommodating our concerns while preserving the fairness and cost savings of the Energy Committee's provisions.

Mr. LIEBERMAN. Mr. President, I am pleased that this bill contains the essential elements of S. 959, the Capital Formation Act of 1995.

That bill, which I cosponsored with Senator HATCH, had over 40 cosponsors. I am pleased that the bill before us contains a broad-based capital gains tax cut as well as a targeted provision which provides a sweetened incentive to invest in small businesses. I would have liked it if the real estate loss provision had been included by the Senate Finance Committee and I intend to work to see that that provision is included in conference.

I think it is important to understand that the benefits of a capital gains cut are not limited to the wealthy. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan has a state in this debate. We are talking about millions and millions of American families.

Unlike most other industrialized nations, we stifle savings and investment by overtaxing that savings and investment.

This capital gains bill rewards those who are willing to invest their money and not spend it. It rewards people who put their money in places where it will add to our national pool of savings. Businesses can draw on this pool of savings to meet their capital needs, expand their businesses, and hire more workers.

Of course, people who are wealthy can benefit from this proposal capital gains cut but only because they are willing to put their money in places where that money will create wealth.

I would like to close with a quote from this year's Nobel Prize winner in economics, Robert Lucas. He said, and I quote, "When I left graduate school in 1963, I believed that the single most desirable change in the U.S. tax structure would be the taxation of gains as ordinary income. I now believe that neither capital gains nor any of the income from capital should be taxed at all." Professor Lucas goes on to say that his analysis shows that even under conservative assumptions, eliminating capital gains taxes would increase available capital in this country by about 35 percent.

I could not agree more on the need to increase available capital and I would invite anyone who does not think we have a problem with available capital to visit any of the thousands of economically distressed urban and rural countries across this country. While the capital gains provision before us reduces, but does not eliminate the tax on capital gains as Professor Lucas would prefer, I hope that you will join in supporting this provision.

AMENDMENT NO. 2985

Mr. BAUCUS. Mr. President, I voted for the resolution offered by the senior Senator from Pennsylvania which expresses the sense of the Senate that this body should enact a flat tax.

Our current Tax Code is complicated and almost incomprehensible to many of our citizens who must comply with its provisions.

It is high time that we simplify the Tax Code. Simplification should and must be on the front burner.

We need to consider a flat tax in our search for simplification. But, whatever we do, we must not abandon fundamental fairness and progressivity.

A number of questions remain to be answered with respect to the flat tax. What will be the impact of disallowing the mortgage interest deduction or the charitable deduction? If companies can no longer deduct their contributions to employee pension plans or health care plans—will they continue to make those contributions?

There are a lot of questions that need to be answered about a flat tax. But it does have one thing going for it. It has to be simpler than our current code.

As we develop an alternative to the current tax structure, we want to keep an eye on simplicity and fairness.

We need an alternative to our current Tax Code. This sense-of-the-Senate resolution starts us on our way to structuring a simplified tax system.

ENHANCED ENTERPRISE ZONE

Mr. LIEBERMAN. Mr. President, I had intended to offer an amendment with Senator ABRAHAM to supercharge the enterprise communities and empowerment zones we created in 1993

This amendment builds on S. 1252, the Enhanced Enterprise Zone Act of 1995, which I have introduced with Senator ABRAHAM. Our effort has been very bipartisan—to date Senators SANTORUM, MOSELEY-BRAUN, DEWINE, BREAUX, and FRIST have all agreed to sign on as cosponsors of 1252.

Across this country, there are differing views on the state of race relations, affirmative action, and minority set-aside programs like the 8(a) program. Racial divisions in this country have been highlighted by the O.J. Simpson trial and to some extent, I believe, healed by the message that came out of the Million Man March.

The differences across America on issues like affirmative action and 8(a) also exist among Members of the U.S. Senate. That being said, I believe that each and every Member of the Senate believes the following: that regardless of what we each believe we should do about the racial divisions in this country, what to do about affirmative action, and what to do about minority set-aside programs, we all believe that not enough is being done to help those people who live and work in and want to start business in the economically distressed urban and rural areas of this country. Any response to the economic distress in urban and rural areas which does not include a mechanism to attract businesses and jobs back to these areas is a response that is destined for failure.

Last week the Senate Small Business Committee held a hearing on S. 1252 and former Housing Secretary Jack Kemp had this to say:

> The train wreck is not so much the inability to reconcile the differences between the House and the Senate over the budget . . . The real train wreck is what those 400,000 men were saying on the Mall a few days ago: that there are not enough jobs in America. We are not creating enough opportunities for people to become entrepreneurs, to become owners, to become homeowners, to become business owners. To get jobs not only as truck drivers, but someday to own the truck and maybe start a little trucking company.

We took a step toward identifying and helping these areas of economic distress by passing the Empowerment Zone and Enterprise Communities Act in 1993 with much-needed help from this President. With the passage of that legislation, Congress recognized something that our States have acknowledged for many years: Government loses the war on poverty when it fights alone. What we really need to do is figure out a way to pull the people and the places with little or no stake in our economic system, into our system.

The 1993 legislation was a fundamental change in urban policy. It was a recognition that American business can and must play a role in revitalizing poor neighborhoods.

The 1993 legislation was a critical step in the right direction. But we need to go further, particularly in helping the existing 94 enterprise communities. This amendment is designed to supercharge these zones. We propose to add tax incentives and other Federal assistance to these zones with an eye toward the creation of economic opportunities for the urban and rural poor.

Very briefly, this amendment provides a zero capital gains tax on the sale of any qualified zone stock, business property, or partnership interest that has been held for at least 5 years within an EZ or EC; it allows individuals to deduct the purchase of qualified enterprise zone stock from their incomes—up to $100,000 in 1 year and $500,000 in their lifetime and it allows businesses to double the maximum allowable expensing for purchases of plant and equipment in enterprise zones.

This amendment also includes a modified version of a proposal which Senator HUTCHISON has been working on to provide a limited tax credit to businesses to help defray the cost of construction, expansion, and renovation. While revenue constraints have forced us to scale back that proposal we hope it will work so well that we will want to expand it in the future.

A third initiative embraced by this package is low-income home ownership and residential management of public housing. Jack Kemp has been instrumental in pressing us to make this happen.

Setting down a stake in the system has been out of reach for the poorest among us for far too long. We believe this amendment will create opportunity for those who work hard, ownership opportunities for those who want to own property and support for those families who need it.

Last week, the New York Times carried a story about Mr. Lavale Thomas, a former Green Bay Packer running back and current black entrepreneur, speaking to a group of high school students in Washington, DC. And here are the questions the students asked Thomas: "How did you get a loan? Was it harder for a black man to get banks to lend money than a white man? Would blacks buy from other blacks? What did he give back to the community?"

These are great questions for kids to be asking. They all get at the issue of, "How do I become part of the system?" This amendment is designed to make it easier for these students to become part of the system and to build a better future for themselves.

While we will not be offering this amendment today, I hope my colleagues will join me in supporting much-needed help for our economically distressed areas by supporting S. 1252.

NURSING HOME STANDARDS

Mr. BAUCUS. Mr. President, I voted yes today on the Cohen-Pryor amendment to reinstate Federal nursing home standards. I did so in part because the so-called Finance Committee manager's amendment, which included a provision on nursing home standards, was not completed and available at the time of the vote on Cohen-Pryor. The language in the manager's amendment may be preferable over Cohen-Pryor. But, because the amendment was not available for review, I was not able to compare the language of Cohen-Pryor with the manager's amendment to see which is the better version for seniors and nursing homes in Montana.

My vote on Cohen-Pryor in no way means that I favor the Cohen-Pryor amendment over the nursing home provisions in the manager's amendment, which the Senate hopefully will be able to review later today.

Mr. LIEBERMAN. Mr. President, I would like to take a moment to talk about a proposal I have been working on to make the child tax credit better. This proposal, called Kid$ave, would do much to address a number of the fundamental problems we face today as well as the problems our children will face in the future. I had hoped to offer this proposals as an amendment to the bill before us but I am not convinced there is adequate time in this process to give this proposal a thorough airing. For this reason, I would like to outline this proposal and ask that the conferees on this bill review this proposal in conference.

Kid$ave would transform the $500 middle-class tax credit being considered by the Finance Committee into a long-term retirement savings account. In addition to providing for the economic security of the next generation, the proposal would buttress savings and investment for the economic security of this generation.

Kid$ave allows parents to set aside an annual $500 credit in an IRA in their child's name. The tax-deferred account would be governed by IRA rules, with one exception: children would be allowed to take a 10-year loan against this money for their higher education. Thanks to the wonders of compound interest, $500 a year set aside from birth to age 18 would, at 10 percent interest a year, grow to $1.3 million by the time the child reached age 59½, the age at which IRA funds can start to be withdrawn with no penalty.

One of our greatest challenges is how to create economic opportunity and wealth for the working families of this country. I believe Kid$ave helps us meet that challenge in an affordable, responsible way. If there is going to be a tax credit to help families with children, I believe there is no better way to provide that help than to offer parents the opportunity to ensure a sound financial future for their children.

That is good news for the future. But Kid$ave is good news for the present, as well. Kid$ave will help our economy today by creating a pool of savings available for investment. As you know, savings and investment rates in the United States are at historic lows: our household savings rate is 4.6 percent of disposable income, compared to Japan's 14.8 percent and Germany's 12.3 percent. When government deficits are factored in, U.S. net national savings falls to 2.07 percent. When our historic trade deficits are added to our plummeting savings rates, the result is an immense disinvestment in our economic future.

While the Social Security trust fund is locked into Federal securities, Kid$ave would create a savings pool that would soon be the largest in the country, available for investment directly in our economy. It would deal directly with our national savings problem by assuring a long term capital source for economic growth and job creation. In other words, Kid$ave can help children when they retire, and it can help them find work until they retire.

The proposal speaks to the problems we will face from changing national demographics. Because the baby boom is such a large population group, we will be imposing a vast financial burden on our children's generation to fund upcoming social security, pension and health care obligations, jeopardizing the long term availability of those programs to the following generations of Americans. This will create what Professor Rudy Dornbusch of MIT calls a true crunch in world capital markets, since we share that demographics problem with our industrial competitors in Europe and Asia. That capital shortage—which means major government and private sector borrowing to meet social and pension obligations and resulting sky high interest rates—will have serious ramifications for future economic growth unless we act now to head it off. The best course to take is to encourage a large buildup in private savings rates. Kid$ave tackles that problem head on.

One additional advantage of Kid$ave should be noted, although it is harder to quantify at this time. This is the effect of encouraging Americans to save. The ethic of thriftiness seems to have been lost in recent decades, replaced by a credit car mentality. We would compound our problems if we pass such bad habits on to future generations. Kid$ave can help us turn the tide of indebtedness into a groundswell of savings and can transform our whole attitude toward money and how to use it to best advantage. That will yield incalculable dividends for our nation down the road.

I would like to offer Kid$ave to all children in America. But I understand that revenue targets may require limits on who receives the credit, at least at the outset. I also understand that the Senate is divided between those who would like to cut taxes for middle-class families now and those who would prefer to balance the budget first. I believe Kid$ave can bridge that divide because it is a better kind of tax cut, one that helps us address the Nation's savings and investment crisis even as it provides tax relief.

But best of all, unlike any other proposal on the table, Kid$ave gives our children a tangible, financial head start on the rest of their lives.

In closing, let me say that whether or not you believe a family tax cut is a good idea at this time, this is an idea that improves on that credit. Last week's Baltimore Sun carried an article coauthored by an unlikely pair: John Rother of the AARP and Martha Philips of the Concord Coalition As they point out, they do not agree on much, but they do agree that a Kid$ave-like approach to a tax cut makes sense. Mr. President, I ask unanimous consent that the text of their article be printed in the RECORD and I would encourage my colleagues to take a close look at this idea.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Oct. 17, 1995]

IF WE MUST HAVE A TAX CREDIT FOR CHILDREN, DO IT THIS WAY

(By Martha Phillips and John Rother)

WASHINGTON.—You can probably count on half the fingers of one hand the number of times recently that the Concord Coalition, which works for a balanced budget, and the American Association of Retired Persons, which advocates for the elderly, have been on the same side of a public-policy battle. The current debate over the child tax credit is one of those rare instances of common ground.

We are dismayed at the prospect of enacting an unnecessary and large tax cut at this time—even one benignly labeled a "child tax credit." A large tax cut only makes the job of reducing the deficit that much tougher and leads to deeper program cuts than otherwise would be necessary, including cuts in programs that help children. The economy is not faltering, so there is little justification for stimulating it by pumping another $500 a year per child into consumer spending. Over the long term, the economy needs more savings, which is the chief rationale for balancing the budget in the first place.

Congress and the president nevertheless have signed on to the child tax credit notion, so some version seems likely to be enacted. If there is to be a new children's tax credit, we think an idea that Senators Bob Kerrey and Joe Lieberman and several others have been working on is much better than anything else we have seen.

Although the specific details remain to be worked out, their central idea is simple. Allow a $500 tax-refundable credit for children under age 18 only if the money is invested in qualified retirement accounts for that child's old-age security. Funds in the accounts would not be taxed until they were withdrawn by the child at retirement age.

If the child saves the $500 credit every year from birth for 18 years, there would be a retirement nest egg of $9,000, plus another $4,000 to $16,000 in compounded earnings by the time the child reached age 18. That's nice, but it gets much better. Over every 40-year period since the Great Depression, diversified equity funds have generated returns of somewhere between 6 percent and 10 percent. Even if another penny were never added to the account after age 18, by the time the child reached age 65, the account would be worth a quarter of a million dollars at a 6 percent real rate of return, and three quarters of a million dollars at 8 percent. Leaving the initial $9,000 untouched until age 70 would result in $1.1 million at an average 8 percent return.

These savings would be available to fuel long-term economic growth and could help provide not only future jobs but an improving standard of living for today's children when they are grown. The impressive results of compound earnings over 65 or 70 years would help assure old-age economic security for a generation whose prospects today appear uncertain. Since private pensions today cover fewer than half of all workers, and since economic surveys show most households with inadequate levels of private retirement savings, it is clear that we need a new approach. The income from these individually-owned retirement savings would permit everyone in future generations to supplement Social Security benefits, as originally intended.

In order to minimize unnecessary risk and overhead, these retirement accounts could be administered in the same way as the federal-employee retirement-savings program. There could be a wide range of investment options combined with the efficiencies and safety of large pools of investment funds.

There will inevitably be pressure to permit non-retirement withdrawals from such accounts. Withdrawals for education or health-care needs may very well be in the child's best long-term interests, but any exceptions permitting early withdrawals must be narrow. The full retirement-income benefit to the individual will be at risk for early withdrawal, and one exception leads to pressures for another, undermining the long-term benefit of this approach.

A PHASE-OUT FOR THE RICH

There is no need, of course, to give a $500-per-child contribution to children whose parents can already provide for their futures. So the tax credit should be phased out for higher-income families with the option for those parents to contribute $500 yearly on an after-tax basis.

The intangible benefits of this approach may be hard to measure, but may ultimately be more important. Children who today see little prospect for their future will have a tangible stake in thinking longer term. The fact that these accounts exist in their names and are growing over time will reinforce the importance of other types of deferred-gratification behavior. We shouldn't discount the impact that such accounts will have on our children, even though they cannot use them immediately.

Any legislative proposal must be evaluated in context as part of a budget package. We need to be especially sensitive to the impact of proposed spending reductions and other tax changes on programs for children, working families and vulnerable seniors. Again, our organizations do not think we should be considering major tax cuts at this point. But if Congress is determined to enact a tax cut, we think it should consider this proposal first. It's good for our children, for the economy and for the long-term needs of future retirement-age Americans.

The concept that Senators Kerrey, Lieberman and others are working on hasn't been introduced as legislation, and we may well disagree with the particulars they finally devise. But at bottom, the general proposal remains a very compelling option. Properly structured, the children's saving credit offers a way to leave a legacy of savings, responsibility and security to Americans of all ages and income levels.

STOP THE BILLION DOLLAR GOLDEN GIVEAWAYS

Mr. BIDEN. Mr. President, the reconciliation bill promises to cut corporate welfare, save taxpayers' money and balance the Federal budget. Yet, tucked away, deep in the more than 2,000 pages of the bill, is a golden give-away of billions of taxpayers' dollars to a powerful special interest lobby.

Initially passed to encourage settlement of the West, the anachronistic 1872 mining law enables gigantic mining interests—many of which are foreign-owned—to purchase the right to mine Federal land for as little as $5 per acre. Literally, for the price of a McDonalds value meal you can buy an acre of Federal land, loaded with gold, silver, platinum and palladium. If this was not enough of a ripoff, the law does not require mining concerns to pay any royalties to American taxpayers for these minerals, an annual loss of roughly $100 million. The net effect of this law is simple: Foreign mining companies get the gold, and American taxpayers get the shaft.

The sham reform contained in the bill does little to change the current situation. Though the bill requires that fair market value be paid, it only applies this standard to the surface of, what is often times, barren desert land. No consideration is given to the minerals, to the gold, silver and platinum, which are buried underneath the ground. It sounds good on its face—paying fair market value—but this alleged reform is nothing more than face-saving.

Our conservative colleagues argue endlessly that we need to run the Federal Government, more like a business. But how could any business survive, even for a day, by opening its warehouse doors and giving away its products?

On top of these fraudulent prospective changes, the bill's grand fathering provisions guarantee the status quo for over 200 claims currently pending with the Interior Department. These applications, involving over 130,000 acres of public land, 18 national parks, and more than $15 billion in precious minerals, would be granted without the rightful payment to the taxpayers who own the land. Again, billions of taxpayers' money is given away, just handed over due to this antiquated law.

Just last month, Secretary of the Interior Babbitt was forced to sign away over 100 acres of land, containing 1 billion dollars' worth of minerals to a Danish mining conglomerate which paid an embarrassing $275—Federal couch change. This century-old practice has become eerily reminiscent of the Teapot Dome scandal during the 1920's.

Unlike farmers and ranches who have a vested interest in preserving their land, miners have virtually no stake in using the land in an environmentally sound manner. After the gold is taken, the shaft is plugged, and the company abandons the land, often times we are left with dangerous, toxic abandoned mines, which require millions of taxpayers' dollars to clean up. In fact, the Superfund national priority list of hazardous waste sites contains 59 properties associated with mining.

The cosmetic mining law reform in this bill is exactly the type of nonsensical policy that has angered many Americans and caused them to lose faith in Government's ability to improve the lives of ordinary people. It ought to be rejected: The pot of gold should be found at the end of the rainbow, not at the end of a patent application. Americans deserve better.

EITC

Mr. LIEBERMAN. Mr. President, I rise with a few thoughts on this bill overall, and on the cuts we are contemplating in the earned income tax credit [EITC] in particular.

This bill has a lot to recommend it. It provides incentives in the tax code for positive goals. The super IRA provisions will encourage savings. That is a constructive step forward. The capital gains piece will encourage people to put money where it will create wealth—that is to say it will encourage investment. While I've supported a middle-class tax credit, I think we could have made the credit even better by giving it to parents who set up retirement accounts for the kids. Those accounts would be governed by IRA rules with one exception—children would be allowed to take a 10-year loan against their account for higher education. And I'm not enthusiastic about what this bill does to Medicare—not because this bill does too much, but because it does too little to change the built-in flaws in this program.

Overall, I'm encouraged by what this bill does to provide incentives for savings and investment and the creation of jobs and capital. However, in terms of incentives it falls woefully short in one area. That is in the dramatic and misguided cuts this bill makes in the earned income tax credit [EITC].

Let me tell you why I like the EITC and why I think that the Republican Party should embrace, not eviscerate this program. Put simply, the EITC provides an incentive to work. It promotes work over welfare and it does so through the Tax Code, not through a new social service program run by bureaucrats in Washington. That is something both parties should be able to support and indeed, in the past, both supported the EITC.

President Reagan championed this program as the "best antipoverty, the best pro-family, the best job-creation measure to come out of Congress." Last week in testimony before the Senate Small Business Committee, former HUD Secretary Kemp cautioned against cutting back too far on the EITC "because that is a tax increase on low income workers and the poor which is unconscionable at this time * * *"

I am particularly troubled that the Senate has cut $43 billion out of this program over 7 years—this figure is nearly doublt what the House has cut from the EITC in their reconciliation package. And this cut of $43 billion is a dramatic increase in the cuts this Chamber agreed on during consideration of the budget resolution just 5 months ago. That resolution assumed $21 billion in EITC cuts. I found that proposed cut distressing. We are now talking about nearly tripling that cut. I find that downright alarming.

Here are the people we will hurt the most with these proposals: Workers without children who receive the EITC. These are workers with incomes under $10,000; EITC families with one child and incomes above $12,000 and; EITC families with two or more children regardless of how low their income.

In practical terms, about 17 million low- and moderate-income families—including nearly 13 million low-income families with children will feel the impact of these changes. In my home State of Connecticut alone, these changes would amount to an average increase of $311 for over 92,000 families. This simply makes no sense. It takes us further away from our goal of encouraging work and self-sufficiency.

Of course we ought to get rid of waste and fraud in this program. I believe the administration has done a commendable job in helping in that effort. But the increase in this program in recent years has been by design not by fraud and deviousness. Congress voted to expand this program in 1986, 1990, and 1993. When the changes we made to the program in 1993 are fully phased in at the end of fiscal year 1996, the EITC will actually grow by very modest rate of 4.5 percent a year.

This program has had bipartisan support because both sides of this aisle have been able to agree that we should use both hands to applaud those who are working to lift themselves out of poverty and then use one of those hands to give them the help and support they deserve.

The Democratic Leadership Council, which I am pleased to chair, has a long history of support for this program. The research and writing arm of the DLC, the Progressive Policy Institute [PPI] has done a lot of excellent work on the issue. At this point, I ask unanimous consent that an article by Mr. Jeff Hammond on the EITC, which appeared in the September 29 Washington Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 29, 1995]

RELIEF FOR THE HARD-WORKING POOR

(By M. Jeff Hamond)

This year, both House and Senate have proposed reforms to the Earned Income Tax Credit (EITC) with the intent to save money rather than make the program work better. The EITC—which helps millions of low-income working families escape poverty—is an example of Congress targeting the good as well as the bad in its quest to reduce social welfare spending.

This is a program that should not go quietly into the night. Unlike traditional welfare programs, the EITC is based on the principle of reciprocal responsibility: It says that the government is there to help, but only if you give something back or help yourself in the process. Republicans have supported the credit in the past; in fact, its biggest one-year boost occurred under President Reagan, in 1986. Why change now?

Specifically, the EITC assists low-wage workers by providing a wage supplement up to a certain level of earnings, at which the credit reaches a maximum and then begins to phase out. President Clinton's five-year, $21 billion expansion of the EITC, approved in 1993, was designed to guarantee that families with full-time, year-round workers would not live in poverty.

By promoting work over welfare with virtually no overhead costs or added bureaucracy, the EITC provides the foundation for any serious effort at welfare reform. The program could use some fine-tuning, but most of the charges leveled by critics are exaggerated or plainly incorrect.

Rising costs. Some critics of the EITC, most notably Sen. Don Nickles, Oklahoma Republican, depict it as another out-of-control entitlement program, since its costs have grown quickly. "The EITC is the fastest-growing government program, period," Mr. Nickles has said. "It's growing much faster than Medicare or Medicaid."

Detractors conveniently ignore, however, that Congress voted to expand the program in 1986, 1990, and 1993, in part as an alternative to increasing the minimum wage. This is in stark contrast to the major entitlement programs such as Medicare, which automatically grow every year with no congressional action. To depict the EITC as simply another exploding entitlement program is simply wrong.

Waste, Fraud and Abuse. Critics of the EITC claim the program has a fraud rate of 35 to 45 percent, costing taxpayers billions of dollars in fraudulent refunds. This statistic is based on a January 1994 IRS study, and is inaccurate and misleading for several reasons.

First, that statistic is an error rate, not a fraud rate. If a worker claimed the credit but was $1 off—or claimed too little—this was included in the statistic. Many of these inadvertent mistakes are corrected by the IRS. Nearly half of the supposed "fraudulent" claims were unintentional errors of this type.

Second, some taxpayers who claimed the credit in error (i.e., when they did not qualify) may have done so unintentionally, due to the complicated tax laws.

Third, the study was based on 1993 returns. Since than, the IRS has implemented new procedures to cut down on fraud, such as double-checking the Social Security numbers of all dependents claimed. Thus, the fraud and error rate will be much lower for 1994 and future tax years.

Work Disincentive. Some critics assert that the EITC is actually a net work disincentive, because the phase-out of the credit in effect applies an additional 16 to 21 percent tax to earnings within the phase-out range.

It is true that effective marginal tax rates are high in this range, and that the maximum allowable income to be eligible for the credit may be set too high. Nevertheless, recent research shows that the EITC still provides a large net positive work incentive. One recent estimate shows that if market entrants work only 400 hours annually, the expanded credit will increase the labor supply of low-income workers by 20 million hours per year. Since the average EITC recipient worked 1,300 hours in 1993, the final net benefit is probably much larger.

Suggested Reforms. We can get people to move from welfare to work only if work pays, and the EITC ensures that it will. This is why many Republican governors insist that the EITC is an indispensable part of welfare reform. Yet, the program is not perfect. Sensible reforms include:

Adjusting the phase-in and phase-out ranges to maximize the number of families in the former and minimize the number in the latter. These changes will place more families in the work incentive range of the EITC without increasing its total cost. (Shortening the phase-out will increase the marginal tax rate within the range, but it will affect fewer families. Texas Republican Rep. Bill Archer's tax proposal—which passed the Ways and Means Committee last Tuesday—does shorten the phase-out range.)

Implementing further policies designed to cut down on fraud, such as requiring valid Social Security numbers for all applicants to prevent undocumented workers from claiming the credit.

Finally, requiring firms to notify their low-wage workers that the credit can be applied to each paycheck, rather than collected at year's end. Less than one percent of EITC recipients utilize this option. Since firms have an incentive to verify hours worked (or else they will overpay payroll taxes), such a requirement could further reduce fraud.

At a time when phrases like "shared sacrifice" and "welfare-to-work" are wielded on both sides of the isle, the EITC stands as an item that should unite both parties. The program needs some changes, but it has been one of our most successful social policies. If conservatives are serious about promoting work and ensuring that full-time workers escape poverty, they will help improve and preserve this program—not cut it simply to reach a budget target.

Mr. CAMPBELL. Mr. President, this bill includes a measure directing the sale and transfer of the federally owned Collbran project, located near Grand Junction, CO. The provision is similar to S. 1109, which I introduced earlier this year with Senator BROWN.

Since the introduction of this legislation I have worked with the citizens of the Plateau Valley, with Mesa County officials, with various departments of the State of Colorado, and with the local and national staff of the Federal Reclamation, Forest Service, and BLM.

In that process I have agreed to make dozens of changes to the bill; however, at the request of my colleagues on the Energy and Natural Resources Committee I will not take up the Senate's time and will instead have the changes made during conference on the budget bill.

I do want to take a moment to describe the changes to the Collbran bill that I intend to make in conference.

From the start I have wanted to make sure the bill protects the longstanding commitment to provide top quality public recreation at Vega Reservoir. I have worked with the State to make sure that the Federal commitment to make major improvements at Vega is retained, and to provide for State ownership of the recreation facilities and open space at the reservoir.

The Forest Service and BLM wanted to make sure the bill would not affect recreation or any other multiple use of the national forest, and the agencies also wanted to avoid the creation of private inholdings within the Federal lands. In response, the bill will provide for easements to the water facilities, and provide a specific role for the Forest Service in preparing the annual operating plan for the project.

The State asked, and I have agreed, that money contributed by the districts toward the recovery of endangered fish be spent on recovery efforts in Colorado.

Many folks in the Plateau Valley have raised a concern with me that there will be insufficient opportunity for the public to be involved with the operation of the project. I understand this concern, it is legitimate, and I have tried to address it in various ways. The issue is "To what extent will the Ute and Collbran Water Conservancy Districts be publicly accountable in their operation of this Federal water project?"

First, the bill states that "the power component and facilities of the project shall be operated in substantial conformity with the historic operations of the power component and facilities." That will be the law. The language is plain.

Second, the bill requires annual reporting to the Secretaries of the Interior and Agriculture as to the operating plan for the project in the coming year. The purpose of this provision is for full public disclosure of annual operations.

I will amend that provision to increase accountability by requiring full consultation with the Mesa County Commissioners and with the Forest Service in preparation of the annual operating plan. This will allow the public to raise issues through the Commissioners and through the Forest Service and get action on those issues through the annual planning process.

Part of the concern that has been raised involves the extent to which the bill can affect the disposition of water between the Plateau Valley and the Grand Valley, and this is an issue on which I have broadly consulted with state officials and water lawyers. There are several reasons that federal legislation on this point would be unworkable.

First, all changes in water use are subject to state water law and are adjudicated through the state water court process. The water court is charged with protecting the interests of all associated water users when a change in use is considered or requested.

Second, the holding of a water right is a private property right and one in which I frankly would oppose Federal interference.

And third, the Ute and Collbran Water Conservation Districts are publicly accountable organizations created in accordance with Colorado law. Colorado Law includes a number of provisions providing for public accountability, including the ability to elect board members. It would be inappropriate for the Congress to interfere with that structure.

I will, however, amend my bill to prohibit any out of state transaction involving water from this project.

I have appreciated the willingness of citizens and agency staff to work with me on the development of this legislation. I am open minded about making further changes to the bill, in addition to the many that have already been made.

Thank you, Mr. President. I yield the floor.

HORMONAL CANCER DRUGS

Mr. D'AMATO. Mr. President, I rise today to discuss Senator OLYMPIA SNOWE's amendment that I and my colleagues sponsored and the Senate passed last night as part of the Budget Reconciliation bill.

With prostate cancer striking 1 out of every 11 American men and breast cancer attacking 1 out of every 8 American women, we have an obligation to do everything we can to ensure that the best, most effective treatments are available to as many patients as possible.

The amendment expresses the sense of the Senate that Medicare should cover oral hormonal cancer drugs. Oral hormonal drug therapy is critical in treating cancers that have spread beyond the prostate and in treating estrogen-receptor-positive breast cancer tumors. These drugs can play a vital role in the postsurgical treatment of this type of breast and prostate cancer because they help prevent the recurrence of these tumors and improve the quality of life for thousands of cancer patients each year.

In the Omnibus Reconciliation Act of 1993, we directed Medicare to cover some oral cancer drugs. However, the statute requires that those drugs be chemotherapeutic in nature and have been available in injectable or intravenous form. Oral hormonal cancer drugs do not fall within this category. I believe this is an unintended result of a well-intentioned provision.

The result is that Medicare currently discriminates against half of all women afflicted with breast cancer by denying coverage for postsurgical drug treatments to those with estrogen receptor positive tumors. Because estrogen-sensitive tumors are more likely to strike post-menopausal women, this type of cancer disproportionately afflicts Medicare beneficiaries. Denying Medicare coverage for orally administered hormonal therapy is an obvious case of being penny-wise and pound-foolish. Hormonal therapy is a less expensive treatment option when measured against the risk of treating new tumors which can result in the absence of such therapy.

This relatively simple and straightforward amendment puts the Senate on record in support of correcting this oversight from the 1993 reconciliation bill. I believe that the conference report on the 1995 reconciliation bill should include a provision to cover oral cancer drugs used in hormonal therapy. I am glad that the Senate passed this amendment, and I am glad to have been an original cosponsor.

Mr. CAMPBELL. Mr. President, I am delighted to learn the Finance Committee adopted a provision that would allow tax exempt organizations to be eligible to maintain pensions under section 401(k). It is my understanding that tribal governments would be allowed to sponsor 401(k) plans under the budget reconciliation proposal reported by the Finance Committee.

In order to ensure that I am clear that tribal governments would, in fact, be included under this provision I would like to ask the distinguished chairman of the Finance Committee a question to clarify the Finance Committee's budget reconciliation proposal.

Mr. ROTH. I thank Senator CAMPBELL. I would be happy to answer his question.

Mr. CAMPBELL. Is my understanding correct that tribal governments are eligible to sponsor 401(k) plans under the Finance Committee budget reconciliation proposal?

Mr. ROTH. Yes; that is a correct statement.

Mr. CAMPBELL. I note the presence of the chairman of the Indian Affairs Committee, Senator McCAIN, and ask if he would have any comments.

Mr. McCAIN. Senator CAMPBELL, has long been a great advocate for Indian people. I would also like to extend my thanks to Senator ROTH for his efforts to clarify this portion of the pension simplification proposal included in the budget reconciliation measure.

I also wish to take this opportunity to thank Chairman ROTH for including language affecting section 403(b) plans in the pension simplification section of the bill that will remove a very difficult problem that arose from a misunderstanding about earlier authority provided to tribal education organizations. Several years ago some tribal governments began to purchase plans provided under section 403(b) of the code and promoted by insurance companies only later to find that such plans were not expressly intended for the use of government employees involved in activities other than education. Those retirement funds, affecting several tribes and the retirement savings of thousands of tribal employees, are now in jeopardy. I introduced S. 1304 to fix this problem. Chairman ROTH included a similar provision in section 12941 of the bill, and I thank him for that.

MFN STATUS FOR CAMBODIA

Mr. McCAIN. For the past 2 years, I have been involved in an effort to grant most favored nations [MFN] trade status to Cambodia. Today, I intended to accomplish this by offering an amendment identical to the language already approved by the House. The chairman of the Finance Committee, Senator ROTH, has informed me, however, that he would prefer that trade provisions not be included in the reconciliation bill. In deference to his opinion and his responsibility for guiding this bill through the process, I have decided to withhold my amendment.

Mr. ROTH. I thank the Senator from Arizona. I know that this is a very important issue for him. It is among a number of trade issues which must be dealt with by the committee in coming months. The Senator from Arizona has my assurance that the Fiance Committee will take up H.R. 1642—the House-passed bill dealing with this issue—the next time it meets to deal with trade issues, and that I will make every effort to have it reported out favorably.

Mr. McCAIN. I thank the chairman for his cooperation and for his interest in the issue. Cambodia has come a long way from the dire situation it faced just a few years ago. We can help the Cambodian people overcome the remaining challenges they face by empowering them to help themselves through economic development. This is what makes MFN such an important issue. An economically developed, prosperous Cambodia will be better able to create the foundations for democracy and contribute to the stability of Southeast Asia.

Mr. SMITH. Mr. President, this is a historic moment in the history of our country. Over the past several weeks, we have heard vicious attacks on the balanced budget bill that is before the Senate today. The Republican balanced budget has been called immoral and irresponsible. The American people have been warned of devastating cuts in spending. To the casual observer, it might appear that the sky is about to fall.

The truth is quite different. In fact, the budget before the Senate today is the only chance to save our country from an immoral, irresponsible, and devastating future. We are acting now only because previous Congresses have failed the American people.

At the end of this year, our national debt will exceed $5 trillion. We are adding to the debt at the rate of $9,600 per second. Right now, every man, woman, and child in America is more than $18,000 in debt. The current trends are not sustainable.

Mr. President, our balanced budget plan is not perfect. If there was an easy solution to our fiscal problems, you can rest assured that Congress would have found it along ago. I do not agree with every provision in the bill before the Senate. If I could pick and choose, there are many priorities that I would change. On the balance, however, I think the product is a good one. It gets the job done. To my colleagues who disagree, I would say the following: you can't beat something with nothing. If you do not like our balanced budget, you have an obligation to produce an alternative. President Clinton's plan was recently rejected by the Senate, 96 to 0.

The benefits of a balanced budget far outweigh any temporary pain. The Congressional Budget Office estimates that a balanced budget will result in a reduction of long-term interest rates between 1 and 2 percent. On a typical student loan, that reduction would save American students $8,885. On a typical car loan, it would save the consumer $676. On a 30-year, $80,000 mortgage, lower interest rates would save the homeowner $38,653 over the life of the mortgage.

The bill before the Senate will balance the Federal budget in 7 years. That fact has been certified by the Congressional Budget Office. The budget will save Medicare from bankruptcy, and strengthen and protect the program for future generations. The legislation completely overhauls our broken welfare system. It transfers power away from Washington bureaucrats and returns it to State and local officials.

Mr. President, the Senate bill also provides significant tax relief. I know that many of my colleagues have expressed disdain at the idea of cutting taxes. They find it offensive to let American taxpayers keep more of their hard-earned money. I would ask, is it offensive to provide a $500 per child tax credit? Is it offensive to create a tax credit for adoption expenses? Is it offensive to provide a tax credit for interest paid on a student loan?

I certainly do not think so.

The critics of tax cuts think Members of Congress can spend money better than a family of four in Berlin, NH, or Cleveland, OH, or Atlanta, GA. I find that position arrogant, and I am not alone. As is now well known, the President now regrets his decision to raise taxes. Presumably, the President realized that the Government in Washington has enough tax dollars to spend. Those who oppose the tax cuts contained in the bill before the Senate today should understand this fact: the budget before the Senate today would reduce taxes by $245 billion. It does not even completely refund the Clinton tax increase.

Mr. President, we are witnessing the last gasp of air of big-government, Washington-knows-best liberalism. It may come as a shock to many, but Uncle Sam is not the solution to every problem in America.

I have held a good many town meetings in New Hampshire to talk about the budget, taxes, welfare reform, and Medicare. Often, when I say that Congress intends to balance the budget in 7 years, my constituents ask why we are waiting that long. The danger is not going "too far, too fast," as many would have us believe. The real risk to all Americans is the risk that we will not get the job done.

I urge my colleagues to support this budget. It is bold; it is real, and it stands alone as the only solution to our Nation's fiscal problems. The time for talking is over. The time for acting is now.

USEC PRIVATIZATION

Mr. WARNER. In title V of the bill before the Senate there are provisions that will provide for the privatization of the U.S. Enrichment Corporation. I understand the Energy Committee is also reporting this language out as a substitute to S. 755, a bill originally introduced by Senator DOMENICI to accomplish the same purpose.

Mr. President, I commend Senators DOMENICI, MURKOWSKI, JOHNSTON, FORD, and others for their efforts to produce legislation that balances our country's need for a private uranium enrichment company with a nonproliferation solution that assists Russia in its weapons dismantlement. However, I seek a few clarifications, as well as your assurance, that the language in the reconciliation bill will allow the Russian Federation an opportunity to be able to fulfill its obligations easily with options, perhaps those offered by U.S. private industry to assist where possible.

With regard to section 5007(c) of the reconciliation bill, the exclusion of U.S. Department of Energy facilities from production of highly enriched uranium, I want to urge the U.S. Enrichment Corporation to make use of sector services and facilities prior to making any contractual work agreements with the U.S. Government.

Mr. MURKOWSKI. Mr. President, it is true that our language allows USEC to contract with existing DOE facilities for activities and services other than the production of highly enriched uranium. To the extent that there is a longstanding government policy that the Federal Government not compete for work that the private industry can supply, I agree that the DOE should defer opportunities to the private sector.

Mr. WARNER. I thank the Senator, I wish now for clarification of section 5012(b), regarding Russian HEU. Does this language provide for contingency private industry provisions to assist the Russians in meeting their obligations in the government-to-government agreement of providing the United States with low enriched uranium derived from highly enriched uranium?

Mr. MURKOWSKI. The government-to-government agreement for the 500 metric tons of highly enriched uranium contemplates the participation of the United States private sector and Russian enterprises in implementation of the agreement. Section 5012(b) facilitates this implementation by providing mechanisms for private sector entities to purchase the natural uranium component of LEU derived from Russian HEU, either directly from Russia or in an auction process, in an open and competitive manner. The United States and Russia also have the ability to increase the quantities delivered in any given year and accelerate the delivery schedule of this material to the United States, provided that this material is introduced into the U.S. commercial fuel market in full accordance with this legislation.

Furthermore, neither this legislation nor the government-to-government agreement limits the ability of Russia to sell additional quantities of enriched uranium, in excess of 500 metric tons called for by the government-to-government agreement, to third parties for delivery to the United States, subject to the market restrictions as stated in the bill before us and other applicable law.

Overall, this legislation and its provisions will: First, advance the world's nonproliferation goals; second, provide the Russian Federation immediate hard currency and; third, assist the Russians in meeting future continuing obligations.

Mr. WARNER. My last question. Are there provisions in this bill to allow either the change of executive agent or nominating more than one U.S. executive marketing agent to help facilitate these uranium transactions?

Mr. MURKOWSKI. Our language recognizes and does not change the right of the U.S. Government under the government-to-government agreement to exercise its option of changing the U.S. executive agent or allowing for more than one after consultation with and upon 30 days notice to the Russian Federation.

Mr. WARNER. Again, I commend you on this legislation that will promote the United States and Russia's nonproliferation goals, offer each country an opportunity to use private industry to meet these goals, and present to the world a concerted effort to denuclearize.

Mr. LIEBERMAN. Mr. President, I would like to set the record straight on the need to reform the corporate alternative minimum tax.

What we have under current law is a nightmare for investment for businesses of all sizes. The AMT is not working as Congress intended when it was adopted in 1986. We never intended to so harshly penalize investment in equipment needed to modernize our factories; nor did we intend to force companies that have no profit to borrow money to pay their AMT. Yet this is precisely what current law does to some companies.

There is bipartisan agreement on the need to fix AMT. President Clinton in 1993 recognized the need to fix the AMT and proposed shortening AMT depreciation recovery periods. To date, we have not adopted the President's proposal in full. For this reason, earlier this year, I joined with Democrats and Republican cosponsors of S. 1000, a reasonable piece of legislation, to help correct this antiinvestment tax system.

While I commend the Finance Committee for taking some action on this issue, that action falls short of what ultimately needs to be done. There are two parts to AMT depreciation—method and recovery period. This bill fixes the method of depreciation, but does not do enough for the recovery period. Yet it is the unreasonably long recovery period for most investments under the AMT that creates the severe penalty on investment.

S. 1000 fixes both parts of the AMT depreciation problem and I believe it is the right policy on AMT. I hope in conference and in negotiations with the White House that we can come up with a bill that will truly fix the antiinvestment nature of the AMT depreciation rules. This can be done in a way that preserves the integrity of the tax collection process by not letting truly profitable firms totally escape taxation while at the same time encouraging economic growth and job creation which I believe is essential to an improved standard of living for all Americans.

Mr. CAMPBELL. I would like to confirm with my colleague from Alaska the committee's intent with respect to part E, subpart III of S. 1357, which provides for the sale and transfer of the Collbran project located in western Colorado. This legislation directs the Secretary of the Interior to transfer the Collbran project to the Collbran Conservancy District and Ute Water Conservancy District in the last fiscal quarter of the year 2000 in return for the payment of $12.9 million by the districts to the United States. The transfer to the districts includes the listed facilities and other assets that comprise the Collbran project, but excludes the Vega recreation facilities owned by the United States or the State of Colorado. Several questions have been raised regarding the legislation. First, some have raised a concern that it may include or affect the Plateau Creek pipeline replacement project which has been proposed independently by the Ute Water Conservancy District.

Mr. MURKOWSKI. The Committee carefully defined the scope of the transfer so that this legislation will have no affect on the proposed Plateau Creek pipeline replacement project, which will be subject to all requirements of Federal and State law which would exist if the transfer did not occur.

Mr. CAMPBELL. Another issue that has arisen is regarding the relationship between the legislation and the Endangered Species Act. In particular, questions have been raised regarding the effect of the payment of $600,000 by the districts for use as a part of the Colorado River Endangered Species Fish Recovery Program, and whether a section 7 consultation will be required for the transfer. My understanding of the legislation is that it has no effect on the Endangered Species Act, and that no determination has been made regarding the existence of any obligation or liability of the Collbran project or other existing water supply projects in the Colorado River Basin in Colorado with respect to species listed and critical habitat designated under the Endangered Species Act. In addition, because the transfer is mandatory, and will not involve any change in project operations or additional review or approval by any Federal agency, there is no need for a section 7 consultation on the transfer.

Mr. MURKOWSKI. That is correct. The legislation provides that, as a condition of the mandatory transfer,

$600,000 of the total payment of $12.9 million be provided to the U.S. Fish & Wildlife Service for use in the Recovery Implementation Program for the endangered fish apecies in the Upper Colorado River Basin, which is intended to serve as a reasonable and prudent alternative for water depletions from all existing and future water projects in the Colorado River Basin in Colorado. In the event that any such determination is made in the future, and if the Recovery Implementation Program no longer serves its intended purpose, the Collbran project will be treated the same as any other existing, similarly situated nonfederal project in western Colorado, and the districts will be able to claim credit for this contribution to the same extent as any other entities which have made cash contributions to the Recovery Implementation Program.

Mr. CAMPBELL. The transfer of the Collbran project is based on the requirement that the water and power resources produced by the project will continue to be used for the purposes for which the project was authorized for a period of 40 years from the date of enactment of the legislation. This requirement ensures that the transfer will not cause any significant change in project operations or distribution of benefits, and obviates any need for any further study or review of the transfer. However, some have sought assurance that the legislation does not interfere with the district's ability to negotiate a contract with preference power customers in the Salt Lake City Area Integrated projects office of WAPA or their designee for operation and maintenance of the power features of the Collbran project.

Mr. MURKOWSKI. The legislation does not affect the ability of the districts to obtain additional cost savings by contracting with third parties in order to achieve more efficient operation of the power features of the project or for other purposes.

Mr. CAMPBELL. I would also like to confirm my understanding that the transfer renders moot the pending litigation by the Department of Justice regarding water rights for Vega Reservoir.

Mr. MURKOWSKI. That is correct. The pending litigation initiated by the Department of Justice for the purpose of obtaining water rights in the name of the United States for the Collbran project should be dismissed in light of the mandatory requirement for the transfer of the Collbran project to the districts.

Mr. CAMPBELL. Finally, the legislation provides that the Vega recreation facilities be transferred to the State of Colorado at a future date, which includes lands currently owned by the United States in sections 31, 32, and 33 of township 9 south, range 93 west, 6th principal meridian, and sections 4, 5, 6, and 7 of township 10 south, range 93 west, 6th principal meridian. Does the transfer of these facilities to the State include any of Collbran project facilities, and does the transfer of the project provide the districts with any land that could be sold in the future for residential development?

Mr. MURKOWSKI. No, the Collbran project facilities, and the lands upon which they are located, are to be transferred to the districts. However, the lands to be conveyed to the districts do not include the undeveloped lands surrounding Vega Reservoir, as these lands are to be conveyed to the State of Colorado.

Mr. CAMPBELL. I thank my colleague.

TAX CREDIT FOR RESEARCH AND DEVELOPMENT PROJECTS

Mr. HATCH. Mr. President, I rise today to speak in support of a bipartisan effort to extend the tax credit for research and development projects engaged in by American industry. I want to commend the chairman of the Finance Committee for his excellent leadership on this measure because I wholeheartedly believe that this program is critical to the future of our economy. We are the world leader in research and development, and I believe that technology is the engine for economic growth. This measure helps keep our competitive advantage on the world R&D market. The bill before us today extends the R&E tax credit for 20 months, retroactive to July 1, 1995. Ideally, we wanted to extend the credit permanently and thus remove the uncertainty that has characterized the credit in recent years. Unfortunately, due to limited resources, we have had to go with a temporary extension instead. However, this is still a significant step forward, and I am glad to be a part of this effort.

I want to express my concern for the companies engaged in significant research and development activity in the United States that are unable to qualify for the current credit. Several of my colleagues share this concern, and I would now like to engage Senator BAUCUS from Montana and Senator LIEBERMAN from Connecticut on this point. We support extending the R&E tax credit for another 20 months. We also support providing those companies that currently do not qualify for the R&E credit, and that are engaged in significant R&D activity, with an elective alternative incremental research credit [AIRC], as provided in the House tax bill. I look forward to my colleagues' remarks on this point.

Mr. BAUCUS. Mr. President, research and development keeps us competitive with our foreign trading partners. It supports high wage and high skilled jobs in the United States and enables us to compete in developing products that increase our quality of life. We must support our American industry here at home or face losing our edge in research and development to our foreign trading partners. Other countries offer much more generous R&E tax incentives: for example, Canada has a 20-percent credit for all R&E expenditures; Japan and our European competitors all offer significant tax incentives to encourage research and development activity.

A strong R&E tax credit not only maintains research and development activity here in the United States but it also contributes to the development of high-skilled jobs. It is my understanding that a substantial portion of the R&E credit is comprised of wages and salaries paid to our research employees. We need to continue this trend. In this age of global markets we need a research and development strategy that is competitive and strong. R&D grows our economy, it raises our living standards and develops a high skilled work force.

Mr. LIEBERMAN. Mr. President, I echo my colleagues' sentiments and add that while our current R&E program supports many fine research and development activities, a number of significant R&D investors are ineligible to use this credit under our current law. The alternative incremental credit approved by the House enables those companies to take advantage of this resource, and while I am disappointed that the alternative credit is not part of the package before us today, I hope that the conferees will look kindly on this proposal.

I am concerned that many U.S. companies engaged in high-technology research are unable to stay competitive in the global market due to declining Federal research dollars. By extending the tax credit for 20 months and offering the AIRC program, we can provide our industries with some certainty in helping them plan their research and development strategy.

Mr. HATCH. Mr. president, I hope that our colleague, the chairman of the Senate Finance Committee, shares many of the concerns that we have expressed. I would respectfully ask that he take a careful look at the alternative incremental credit in the House package when the bill goes to conference.

BIPARTISAN CAPITAL GAINS

Mr. LIEBERMAN. Mr. President, I wanted to express my concerns about one provision that the Finance Committee was unable to include in its final tax package. It is a provision that was contained in the bipartisan capital gains legislation that Senator HATCH and I introduced, S. 959. The provision would change current law in ways that would be extremely helpful to families in my region of the country.

Under current law, when an individual or family sells its principal residence for a gain, and for whatever reason, does not reinvest all of the proceeds in another home, any gain from that transaction is generally treated as a capital gain, and is taxed at more favorable capital gains rates. Special rules apply to individuals over age 55. They are permitted to completely exclude from tax up to $125,000 of their gains from sales of their residences. By contrast, if an individual or family sells a personal residence at a loss, that loss is treated as a personal loss, and no part of the loss may be recovered. No capital loss rules for losses on residences are provided under current law. No way presently exists for a family to be made whole from a genuine economic loss.

S. 959, a bipartisan bill that has 45 cosponsors, included a provision to provide some relief to individuals who have experienced these true losses. S. 959 would permit capital loss treatment for loss on the sale of a principal residence. This proposal is fair, because it provides that both losses and gains on sale will be treated as capital, not ordinary.

Until the 1980's, the possibility of suffering a loss on the sale of a principal residence was all but unthinkable. Then, starting with the oil price shocks of the early 1980's, we have experienced a series of regional economic slowdowns and recessions that have caused the prices of housing to fall. These occurred first in the Southwest, and more recently in California and New England.

Several things—all bad—can happen when the value of a residence falls. In southern California and in New England in the early 1990's, homeowners began to experience what came to be known as the upside-down mortgage. Homeowners found that the value of their homes had fallen so much that the home was worth less than the outstanding debt of the mortgage. Thus, if the homeowners were forced to sell, they would come out of the deal actually owing their lender more money than they had from the sale. Then, if the banker forgave some portion of the debt, the homeowners actually owned income tax on the transaction. In 1992, it was estimated that 41 percent of the sales in California were in this upside down position. The problem of upside down mortgages in resolving itself in California, but it is a disaster for people caught in that bind. In New England, the downward trend in home values continues; thus, the problem of upside down mortgages persists.

In my home State of Connecticut, many areas have experienced steep price declines since 1989. For example, the median sales price for an existing home in Hartford was $165,900 in 1989. The median home price has since declined to $133,400. The purchaser of a median priced home in Hartford, in 1989, has lost, on average $32,500 or over 24 percent of their home value over a 5-year period. This represent a loss of roughly $6,500 per year.

Similarly, the median purchase price for an existing home in the New Haven-Meriden Metropolitan Area was $163,400 in 1989. The median home price in New Haven-Meriden metro areas has since declined to $139,600. The purchaser of a median priced home in New Haven-Meriden, in 1989 would have lost $23,800 or slightly more than 17 percent of their home value by 1994. This represents an average annual decline in home equity of $4,760.

If people sell their homes at a loss, they have suffered a true economic loss. Moreover, it is a loss that may represent the loss of their biggest source of savings. People who experience a loss on the sale of their home are often wiped out financially. The provision that Senator HATCH and I included in S. 959 permits capital loss treatment for these painful situations. Because of the mechanical operation of the capital loss rules, it may take many years for a family to recoup the true losses they have experienced. Still, the relief in S. 959 is only partial relief for some individuals. Because of the serious impact on families of these losses, it is only fair that we provide at least the capital loss relief as a form of rough justice so that these families can have some relief from the true losses they have incurred.

This important provision is contained in the House bill. It is my hope that the chairman and the conferees will be able to accept this provision during the conference. It would provide critical relief to families that have sustained genuine losses, and is in the best interests of fairness and family.

Mr. HATCH. Mr. President, I understand the concerns of my friend and colleague from Connecticut and am sympathetic to his position. This provision is an important one and is the right thing to do. A home is often the biggest and most significant investment that most families ever make. It is only fair that an economic loss on that investment be treated the same as economic losses on other investments. This is especially so since we tax the gain from a sale of that home. Like Senator LIEBERMAN, I urge the chairman and the conferees to adopt this provision when it is considered in conference.

AMENDMENT NO. 297

Mr. KYL. Mr. President, there are a number of good things in this amendment, which was offered by my colleague from Arizona, JOHN MCCAIN. If the amendment were crafted differently and was more limited in scope, I would support it.

For example, I have consistently supported efforts to eliminate funding for the Market Promotion Program [MPP], a program that provides subsidies to companies that advertise American agricultural products abroad. Such promotional activities are a reasonable and fundamental cost of doing business for any industry.

If the return on every dollar spent on export promotion is as good as MPP proponents suggest in terms of jobs and exports, then it would seem to be in the industry's own best interest to bear that cost itself.

I understand that the industry's resources are finite. One more dollar could always be spent on promotional activities, particularly if each dollar produces significant gains in sales. But at some point, the agricultural industry, like any other industry, decides that it cannot expend any more; that the marginal gains do not justify the additional cost. Once the industry defines that point of diminishing returns, it is not appropriate to ask taxpayers to subsidize additional promotional efforts that the industry itself is unwilling to finance.

The amendment also eliminates funding for 266 highway demonstration projects. I strongly support that. Earmarking scarce dollars for politically well-connected projects is one of the most unfair, least efficient, ways of allocating scarce transportation dollars.

The earmarkings in the House version of last year's National Highway System bill totaled more than $2 billion—funds that would otherwise have been allocated according to the more equitable distribution formula established by ISTEA. I am talking about the House version because I served in the House of Representatives when that bill arose, and I was 1 of only 12 who voted against it at the time.

The regular formula for distributing highway dollars is based on such objective factors as population, miles of roads, and vehicle miles traveled. Earmarking, however, is based largely on politics. For example, last year's House bill, just 10 States got 55 percent of the total funds available. Not coincidentally, those States were represented by 36 of the 64 Public Works Committee members. California, home State of the chairman of the House Public Works and Transportation Committee which produced the bill, took 15 percent of the total, about $290 million, for 51 projects. Arizona, by contrast, got just three projects, for a total of $15 million.

Had the earmarkings been eliminated and the funding been distributed according to the ISTEA formula instead, Arizona would have gotten between $800,000 and $7.6 million more than it did under the bill. The three Arizona projects would most certainly be funded under this alternative approach—they all have merit, and are all of high priority—but the State would have had more to devote to other worthy projects as well. Twenty-seven other States would also have done better under the formula than they did under earmarking.

The Senate refrained from such earmarking last year, and I am pleased that both the House and Senate have refrained this year. I support the provisions of the McCain amendment that would terminate 266 unstarted highway demonstration projects that were authorized or appropriated in prior years.

The amendment also eliminates funding for the U.S. Travel and Tourism Administration [USTTA]. Like the Market Promotion Program that offers subsidies to the agricultural industry, the USTTA offers subsidies to the travel industry for promotional activities that I believe the industry ought to bear on its own.

There are other programs, however, that, in my opinion, should not be a part of this package. They are not pork. They are not corporate subsidies.

I am talking primarily about the B-2 bomber. This is a program that is in the national interest. This is not an Arizona project, so I am not here to defend it because my State has a major economic interest in its production. I do not differ with my colleague from Arizona very often, but on this issue, I must.

Mr. President, the Nation's long-range bomber force consists primarily of two aircraft: the B-52 and the B-1. The 95 B-52's are all over 30 years old, and their ability to penetrate modern air defenses is doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

For 40 years, the United States relied on forward presence, or the deployment of large forces in bases around the world engaged in almost constant maneuvers or exercises. With the decline in defense spending and the withdrawal of U.S. forces for overseas bases, the United States will rely increasingly on smaller military forces, operating principally from North America. In the past 6 years alone, the U.S. Air Force has reduced its major overseas bases from 38 to 15—a reduction of 61 percent.

Rather than forward presence, current strategy calls for American power to be projected abroad in response to aggression in regional conflicts. The combination of a bomber with stealthy low observable, long-range, and precision strike capabilities provides the Nation with a competency never before achieved. With its range and large payload, B-2's can penetrate enemy air defenses and disrupt enemy advances in the critical early hours of conflict, before other forces arrive. Later in the conflict, B-2's can strike deep to interdict enemy follow-on forces or high-value strategic targets without fight escort.

I have two letters that I ask unanimous consent be printed in the RECORD—one from seven former Secretaries of Defense, and the other from the former air commander of the Desert Shield/Desert Storm Air Forces—that further expand on the vital importance of the B-2 bomber to the future Armed Forces of the United States.

For these reasons, I believe that the B-2 remains an integral component of our future national security, and I must, therefore, oppose the amendment.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing you to express our concern about the impending termination of the B-2 bomber production line. After spending over $20 billion to develop this revolutionary aircraft, current plans call for closing out the program with a purchase of only twenty bombers. We believe this plan does not adequately consider the challenges to U.S. security that may arise in the next century, and the central role that the B-2 may play in meeting those challenges.

At present the nation's long-range bomber force consists primarily of two aircraft the B-52 and the B-1. The 95 B-52's are all over thirty years old, and their ability to penetrate modern air defenses is very doubtful. The 96 B-1's were procured as an interim bomber until B-2's were available.

Even after all twenty B-2's are delivered, the inventory of long-range bombers will total barely 200 aircraft. This is not enough to meet future requirements, particularly in view of the attrition that would occur in a conflict and the eventual need to retire the B-52's. As the number of forward-deployed aircraft carriers declines and the U.S. gradually withdraws from its overseas bases, it will become increasingly difficult to use tactical aircraft in bombing missions. It therefore is essential that steps be taken now to preserve an adequate long-range bomber force.

The B-2 was originally conceived to be the nation's next generation bomber, and it remains the most-effective means of rapidly projecting force over great distances. Its range will enable it to reach any point on earth within hours after launch while being deployed at only three secure bases around the world. Its payload and array of munitions will permit it to destroy numerous time-sensitive targets in a single sortie. And perhaps most importantly, its low-observable characteristics will allow it to reach intended targets without fear of interception.

The logic of continuing low-rate production of the B-2 thus is both fiscal and operational. It is already apparent that the end of the Cold War was neither the end of history nor the end of danger. We hope it also will not be the end of the B-2. We urge you to consider the purchase of more such aircraft while the option still exists.

MELVIN LAIRD.
DONALD RUMSFELD.
CASPAR WEINBERGER.
DICK CHENEY.
JAMES SCHLESINGER.
HAROLD BROWN.
FRANK CARLUCCI.

JUNE 22, 1995.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Earlier this month I wrote to your colleagues in the House of Representatives about the need to continue the B-2 program. The debate has now shifted to the Senate and my concern with our future security compels me to share the same thoughts with you. This is a difficult letter for me to write as in more than thirty years of service in the Air Force, I have always concentrated on military operations, and refrained from commenting on issues such as whether or not to purchase a specific aircraft. However, the Pentagon recently released a study based on assumptions, constraints, and methodology that can lead to the conclusion that the United States can safely terminate B-2 stealth bomber production at 20 aircraft. As the former Air Commander of the Desert Shield/Desert Storm Air Forces, I feel a duty to put the B-2 debate in perspective, and sound a warning on any recommendation to stop production of this aircraft. To put it bluntly, halting this nation's B-2 production capability is dangerously short-sighted and would lead ultimately to the extinction of the long-range bomber force, at the very time when bombers are emerging as America's most critical 21st Century military asset.

Since B-2 is the only bomber in production or development, and the Pentagon has no plans for a new bomber program in the future, the B-2 program and America's bomber production capability are one and the same. If this sole remaining bomber capability is lost, replacing our aging bombers will become unaffordable. Inevitably, the nation may lose its manned bomber force, and the unique capabilities it provides. A new bomber would take from 15-20 years to go from the drawing board to the battlefield and cost tens of billions of dollars just to design. With the current administration balking at spending a fraction of this amount on a finished, proven product, there is little likelihood of a future government sinking many times that amount into a new program. Even if a new program was initiated in the near term, most of our existing bombers would be obsolete before the first "B-3" entered service. The next Desert Storm Air Commander could be sending Americans into war aboard a 70-year-old bomber, an act I find unconscionable.

In my opinion, the B-2 is now more important than ever. Heavy bombers have always possessed two capabilities—long range and large payload—not found in other elements of our military forces. As we base more and more of our forces in our homeland, the bomber's intercontinental range enables us to respond immediately to regional aggression with a rapid, conclusive military capability. Just as important, this capability may deter aggressors even as the bombers sit on the air base parking ramps in the United States. In war, the large bomber payloads provide a critical punch throughout the conflict—just ask General Schwarzkopf what he wanted from the Air Force when he was under attack in Vietnam, or whenever our ground forces faced danger during Desert Storm.

When the B-2 adds to this equation are two revolutionary capabilities not available in any other long-range bomber—precision and stealth. The Gulf War showed how precision weapons delivery from stealthy platforms provides a devastating military capability. The F-117 stealth fighter proved its effectiveness on the first day of the war when 36 aircraft flew just 2.5 percent of the sorties, but attacked almost 31 percent of the targets.

In the past, employing bombers for critical missions against modern air defenses required large, costly packages of air escort and defense suppression aircraft. The B-2's unmatched survivability reduces the need for escorts and defense suppression aircraft. As we found in the Gulf War with the F-117, stealth allows the U.S. to strike any target with both surprise and near impunity. Analysis of the Gulf War air campaign reveals that each F-117 sortie was worth approximately eight non-stealth sorties. To put B-2 capabilities into perspective, consider that the B-2 carries eight times the precision payload of the F-117, has up to six times the range, and will be able to accurately deliver its weapons through clouds or smoke. What does all of this mean? It means that a single B-2 can accomplish missions that required dozens of non-stealthy aircraft in the past.

Many may wonder why the Department of Defense would advocate terminating the most advanced weapon system ever developed. The B-2 program was cut by the Bush Administration for budget-related political reasons, and some concern that the program would not meet expectations. Since then, delivered aircraft have demonstrated, without qualification, that the B-2 is a superb weapon system—performing even better than expected.

Yet, defense spending has declined, bomber expertise has been funneled out of the Air Force, and people's careers have been vested in other programs. Unfortunately, some in the Army and Navy believe the B-2's revolutionary capability is a threat to their own services' continuing relevancy. Just the opposite is true, long-range, survivable bombers will contribute to the effectiveness of the shorter range carrier air by striking those targets which pose the greatest threat to our ships. The troops on the ground have long recognized the value of air support, especially the tremendous impact that large bomb loads have on enemy soldiers. This was again demonstrated by the B-52 strikes used to demoralize the Iraqi Army. If anyone needs B-2s, it's our soldiers and sailors. Some people harp on the issue of the B-2's cost. The Air Force, at times, seems at odds about asking for this much needed aircraft because they fear it could endanger their number one priority program, the F-22. All miss the point. True the B-2 has a high initial cost, but its capabilities allow it to accomplish mission objectives at a lower total cost than other alternatives. And keep in mind, the true cost of any weapons system is how many or how few lives of our service personnel are lost. The B-2 lowers the risk to our men and women. The B-2 will allow us to accept lower levels of overall military spending without compromising our security.

As we approach this year's critical defense budget decisions, it is important that we understand the long-term national and international security ramifications of the quantum leap in military capabilities offered by the B-2. If we don't, it may disappear when we need it most, and can buy it most cheaply. Make no mistake about this: the B-2 is designed to extend America's defense capabilities into the next Century. Can we afford to do less?

Sincerely,

CHARLES A. HORNER,
General, USAF (Ret.).

LOW-INCOME HOUSING TAX CREDIT

Mr. D'AMATO. Mr. President, I would like to express to my colleagues my deep concern regarding the House Ways and Means Committee's proposal to sunset the low-income housing tax credit in 1997, pending a GAO review of the management of the program.

The low-income housing tax credit is the Federal Government's principal rental housing production program that results in significant private capital for the development of affordable rental housing. Since its inception, as part of the 1986 Tax Reform Act, the low-income housing tax credit has enjoyed broad bi-partisan support in both the House and the Senate. In fact, that support became very clear when 75 percent of the House and nearly 90 percent of the Senate went on record as recently as 1992 in support of legislation to make the credit permanent. It was made permanent in 1993.

Since 1986 the credit has mobilized private capital for public benefit, attracting more than $12 billion in private investment. Nearly 800,000 units of rental housing for lower income working families and the elderly have been constructed or rehabilitated with the low-income housing tax credit. This has lead to the creation of 90,000 jobs each year and resulted in $2.8 billion in wages and $1.3 billion in additional tax revenues.

According to the New York State Housing Finance Agency, in 1994, in our home State, over 6,100 units of rental housing were made possible because of the credit. Over 77 percent of those units, 4,700, were for low-income families, and the production of those units directly resulted in an estimated $520 million of housing investment in the State of New York.

That being said, does the Senator from New York find it as puzzling as I do that the Way and Means Committee would propose to terminate the low-income housing tax credit without benefit of hearings; without any authoritative evidence that the program is not working in an effective manner, and, especially before any review or study?

Mr. MOYNIHAN. Mr. President, I agree with the comments of my friend and colleague, Senator D'AMATO, and I share his concern of the proposed sunset of the low-income housing tax credit.

The credit is a principal incentive which Congress makes available to individuals and corporations to invest in apartment construction and rehabilitation devoted to low-income renters. In fact, when the credit became permanent in 1993, it attracted many new, high quality developers to the construction of lower income rental housing. Today, the credit accounts for one out of every four apartments constructed nationwide and virtually all of the production of affordable rental housing.

More importantly, State agencies, acting under Federal guidelines, manage the low-income housing tax credit program with a minimum of red tape. Under current law, the credit is limited to $1.25 per capita per State and is administered by the States on behalf of the Federal Government. Investors provide equity to projects in exchange for the credits to facilitate the development of affordable units. For 1995, based upon our Nation's current population, the States will allocate $325 million in credits, resulting in about $1.85 billion of private equity being invested in affordable housing. I could not agree more that to sunset one of the best examples of public-private partnership and Federal-State partnership would be a grave error.

Mr. D'AMATO. Mr. President, I would like to express to Chairman ROTH and Senator MOYNIHAN my hope that when we go into Conference on this matter, that the Senate will be firm in its resolve not to recede to the House on any proposal that would sunset the low-income housing tax credit.

Mr. ROTH. Mr. President, I certainly understand and sympathize with the concerns raised by Senators D'AMATO and MOYNIHAN. I have received a number of letters from Members on both sides of the aisle that reflect the concerns you have voiced today. In addition, I have received many letters from Governors noting their strong opposition to terminating the low-income housing tax credit.

ANWR

Mr. JOHNSTON. Mr. President, I strongly support the provisions of this legislation opening the coastal plain of the Arctic National Wildlife Refuge in Alaska for oil and gas leasing, exploration and development.

Mr. President, the Arctic National Wildlife Refuge [ANWR] is seen by many as a place of great beauty. It is a place of vastness, a place where the land stretches farther than the eye can see. It provides important habitat for muskoxen, brown bears, polar bears, wolverines and a multitude of migrating and other birds. It is a place where, in the summer months, the porcupine caribou herd roams, and rainbows arch over the Beaufort Sea.

But a different kind of national treasure is thought to underlie the surface of a small portion of ANWR. That national treasure is oil—huge quantities of oil. Simply put, the coastal plain of ANWR represents the most highly prospective onshore oil and gas region remaining in the United States.

Mr. President, if developing the large quantities of oil thought to underlie the coastal plain would, as some suggest, destroy the 19 million-acre Arctic National Wildlife Refuge, then the question of proceeding would be much more difficult. But that is not the issue. The coastal plain can and should be developed in an environmentally sound and sensitive way that does not despoil the wildlife and other environmental values of ANWR.

Mr. President, the case for authorizing oil and gas leasing in ANWR is as compelling as it is straightforward.

First, oil and gas activity would be limited to only a small portion of the refuge—the 1.5 million-acre coastal plain—also known as the "1002 area—" an area some 30 miles wide by 100 miles long. Absolutely no oil and gas activity would take place on the remaining 17.5 million acres that comprise the refuge. In fact, approximately eight million acres of ANWR, have already been designated as wilderness, including 450,000 acres of the coastal plain region between the Aichilik River and the Canadian border.

In addition, the technology and the environmental sensitivity of oil field development in the Arctic have evolved steadily in the 25 years since the oil and gas facilities at Prudhoe Bay, which are located directly west of ANWR, were designed and constructed. Given these advances, and with the environmental safeguards that are currently applicable to all oil and gas activities in the Arctic, development can take place on the coastal plain in an environmentally sound manner without lasting effects.

It is a serious misconception that oil and gas development would destroy the habitat functions of the coastal plain. In reality, full leasing, development and production from three oil fields, for example, would affect less than 1 percent of the area's land surface by both direct habitat alteration and by indirect effects such as road dust or local impoundments of water along a road. Ninety-nine percent of the area would remain untouched; and the area's habitat will not be altered sufficiently to affect the size, growth rate, or regional distribution of fish and wildlife populations. The area will continue to be used by caribou for calving and will continue to provide habitat for polar bears, brown bears, wolves, muskoxen, and millions of birds.

The only significant change on the coastal plain would be aesthetic. If oil is discovered, widely spaced roads, pipelines, drilling structures, and support facilities would be visible on the coastal plain. Of course, even these facilities would be removed and graveled areas rehabilitated when production ceased. During the years of exploration and production, the coastal plain region will still support wildlife, provide recreational opportunities, and be home to the Inupiat Eskimo.

Mr. President, the vegetation and wildlife inhabiting the coastal plain are well adapted to the extreme Arctic environment. Biological evidence does not support the popular notion that wildlife and plants in the region are fragile things, living on the edge of survival. After a decade of study, there is no evidence that oil development at Prudhoe Bay had an adverse effect on significant numbers of wildlife. The central arctic caribou herd uses Prudhoe Bay and the surrounding area for calving. This herd has grown from 3,000 to 18,000 animals since oil development activities began at Prudhoe Bay in the early 1970's. The caribou live alongside the structures related to oil and gas activity, such as roads, pipelines, and drilling pads, with no ill effects.

While it is true that the porcupine caribou herd uses a portion of the coastal plain for 6 to 8 weeks each year, it is not true that this area contains core calving areas critical to the survival of the 150,000 animals which currently comprise the herd. In the first place, the herd calves throughout a huge expanse of territory in Canada and Alaska, including portions of ANWR. In some years, probably as a result of snow conditions or the presence of predators, only a very few caribou calve in the coastal plain at all. In other years, there is a higher concentration of calving in certain areas of the coastal plain. The widespread and annually variable distribution of calving strongly suggests that no one small portion of this huge calving area is critical to maintaining the viability of the porcupine caribou herd.

Finally, the human activity resulting from oil production would not be new to the coastal plain. Although human presence in the coastal plain region has been relatively light, there has been, and continues to be, evidence of man in the area. There have been three DEW. line stations—one of which is still active—there is a Native village, Kaktovik, which has been relocated in the area three times in recent history, and there have been, and continue to be considerable subsistence activities in the area.

Mr. President, let me now turn to the crucial importance to our Nation of the oil thought to underlie the coastal plain. For the foreseeable future, oil will remain a critical fuel for the United States and other industrialized nations. Currently, the United States consumes approximately 17 million barrels of oil per day. The Department of Energy projects that under current policies, this may well increase to almost 23 million barrels per day by the year 2010. At the same time, domestic production will decline, resulting in a significant increase in foreign oil imports. DOE projects that domestic production of crude oil will fall from today's level of 6.8 million barrels per day to 5.4 million barrels per day in 2010, a decrease of 21 percent.

Imports of foreign oil are projected to increase substantially by the year 2010, making our Nation dependent on foreign oil for more than 60 percent of our oil needs. This level of import dependence is extremely dangerous for our country.

More significantly, as the Persian Gulf war tragically demonstrated, oil is an important strategic resource, and the struggle to control that region's vast oil reserves can disrupt the delicate balance of peace in the Middle East.

United States oil imports are so massive, and the use of oil is so ingrained in our economy, that a substantial demand for oil will exist for the foreseeable future—certainly well into the early decades of the 21st century. This conclusion remains firm in the face of even the most optimistic assumptions about increases in energy efficiency and the substitution of alternative fuels. These policies alone will not suffice. Unless domestic oil production is encouraged and pursued, oil imports will continue to rise, and rise significantly.

By any measure, the coastal plain of ANWR represents the primary prospect for domestic onshore oil and gas exploration in the United States. The opponents of opening the coastal plain argue that the amount of oil at stake is not significant, that it is only a 200-day supply. However, a single field large enough to supply this country with all of the oil it consumes for 200 days represents a huge reservoir of oil. Eighty percent of all onshore oil fields discovered in the lower 48 States over the last 100 years have contained less than 1 day's supply.

According to the BLM, the mean estimate of oil thought to be economically recoverable from the coastal plain of the ANWR is 3.2 billion barrels. The range of estimated economically recoverable reserves runs from 400 million barrels to over 9 billion barrels. The probability of discovering economically recoverable oil has been estimated by that agency at 46 percent. The oil industry routinely considers probabilities of discovery in the range of 10 percent worth the payment of substantial bonuses for the right to explore for oil.

As many of my colleagues know, the USGS has recently completed its 1995 assessment of onshore oil and gas resources for the United States. In general, the assessment shows an increase in the amount of natural gas thought to be present in northern Alaska and a decrease in the amount of oil thought to be present in that area. The USGS has prepared a preliminary analysis of the oil potential of the coastal plain and has concluded in a draft memorandum that the mean estimate for oil in the 1002 area is slightly less than a billion barrels, with a 1 in 20 chance that some 4 billion barrels are present. The agency is currently in the process of gathering more information from the 1002 area to refine its very preliminary estimate. The BLM, it should be noted, continues to have confidence in its earlier mean estimate of 3.2 billion barrels for the 1002 area.

Since 1980, when we began to debate the issue of opening the coastal plain of ANWR, there have been numerous studies and estimates of the amount of oil likely to be found if the area is opened to leasing. These estimates have been made by the BLM, USGS, the Energy Information Administration, the GAO, the State of Alaska, the American Association of Petroleum Geologists, and others. These estimates vary considerably due to different methodologies employed, different interpretations of geologic data, and differing geologic engineering and economic assumptions that are made relative to the methodology.

As a result, it is very difficult to directly compare these estimates. However, two important conclusions can be drawn from these estimates.

First, they all reflect a wide range of uncertainty, which is expected for an area that has not been drilled. Until we have reliable well data from the 1002 area, we simply have no way of knowing how great the potential of the area is. Second, all these estimates show a very large potential for oil and gas, with even the lowest estimates that have been made having an upside potential of at least 4 billion barrels.

In addition to the benefits to the country provided by the oil itself, the Federal Treasury will also benefit. Under the ANWR provisions contained in the bill currently before the Senate, the CBO estimates that two lease sales in the coastal plain will occur between now and the year 2000 which will result in bonus bids totalling $2.6 billion. The legislation requires a 50–50 revenue split with the State of Alaska—the same as other western States—which will mean that the Federal Treasury will receive $1.3 billion in new revenue during the next 7 years if the coastal plain is leased. Should oil be discovered and produced from ANWR in significant amounts, a steady stream of royalty income will also accrue to the Federal Treasury for many years to come.

In addition to the direct budget plus for the Treasury, this measure provides that the Federal share—50%—of bonus bid revenues in excess of $2.6 billion will be made directly available for maintenance, repair and rehabilitation projects at our Nation's national parks and refuges. This provision will provide a significant funding source for our parks that so desperately need more money.

Mr. President, oil and gas development on the coastal plain is a step that must not be postponed any longer. Most experts agree that it will take up to 10 or 15 years before commercial production could begin if the area is leased this year. Sometime between 2008 and 2014, the DOE estimates that production from Prudhoe Bay and adjacent fields, which currently account for nearly 25 percent of our domestic oil production, is projected to decline to approximately 300,000 barrels per day, the minimum level needed to operate the Trans-Alaska Pipeline System [TAPS]. If we continue to delay exploring for oil on the coastal plain and developing what we find there, the TAPS could be forced to shut down, and we will have lost our ability to transport billions of barrels of Alaskan oil to waiting consumers.

When Congress enacted the Alaska National Interest Lands Conservation Act in 1980, we declined to designate this portion of ANWR as wilderness and specifically reserved for ourselves the decision on whether that area should be made available for oil and gas leasing. We directed the Secretary of the Interior to study the area and to make recommendations on whether to allow oil and gas development. In 1987, the Secretary recommended that oil and gas development be allowed to take place. Since that report was issued, the Senate Energy and Natural Resources Committee alone has conducted 11 hearings and built a solid and thorough record on this issue. Our committee has voted on three separate occasions, on a bipartisan basis, to proceed with oil and gas leasing.

It is now time for the Senate to exercise its responsibility and make a decision with respect to oil and gas development on the coastal plain. Our Nation can have the benefit of the oil from ANWR, the revenues leasing will generate, and still preserve the beauty and the vastness of the Refuge.

THE BUDGET RECONCILIATION BILL—A MISSED OPPORTUNITY TO MAKE SMART CHOICES

Mr. DORGAN. Mr. President, during the past few days, we have had extensive debate on the Senate floor about what this budget reconciliation package will mean for the Medicare and Medicaid programs. Now, as we reach the conclusion of this debate, I want to explain some of the reasons why I must oppose it.

I want to say right off that I am deeply committed to ensuring that the Medicare and Medicaid programs will be here for the millions of older Americans, children, and individuals with disabilities who have come to rely on the services they provide. Thanks to Medicare, 99 percent of senior citizens, who have paid into the program during their working years, now have affordable, guaranteed health care coverage. Likewise, Medicaid provides a much-needed safety net for 36 million low-income elderly nursing home patients, the disabled, and pregnant women and children.

WHAT IS THIS DEBATE ABOUT

The debate on Medicare and Medicaid has centered not so much around whether projected spending for these programs should be reduced, because Members of both parties agree that this should be done. Instead the focus has been on how much spending should be cut. I believe we should limit the rate of growth of both of these programs to a more sustainable level so that they will continue to be here for the beneficiaries who depend on them.

However, I am convinced that the bill before us—which will cut projected Medicare spending by $270 billion and Medicaid spending by $182 billion—goes far beyond what should be done to achieve this goal, and instead will jeopardize the very programs the reductions are intended to protect. This drastic level of cuts would require that Medicare spending per beneficiary be held to a growth rate of 4.9 percent, while private health insurance will continue to grow at a rate of 7.6 percent per person. It is just not reasonable to expect Medicare to grow by such a small amount, especially when you consider that 200,000 Americans become eligible for the program each month. Just within the 7 years covered by this budget reconciliation bill, Medicare will insure 3.7 million more people than it does today.

We have been told repeatedly by the majority that these $450 billion in cuts are necessary, particularly to save the Medicare program from insolvency. But according to Medicare actuaries, only $89 billion is needed to extend the Medicare trust fund for 10 years.

So why does this bill cut Medicare by $181 billion more than the experts say is necessary—and cut Medicaid by $182 billion? Because this budget reconciliation bill also contains $245 billion in new tax breaks, which will largely benefit the wealthiest in our country.

It is wrong to be making an unprecedented level of cuts to Medicare, Medicaid, and other critical programs while granting tax relief to people making over $100,000 per year and to large corporations taking advantage of tax loopholes.

THE IMPACT OF THIS BILL ON SENIORS

Under this bill, older Americans will be asked to pay more for their health care but can expect to get less for their money. The premiums that seniors pay out of their Social Security checks for their physician services will double and could exceed $100 per month in the year 2002. On top of that, their deductible would also increase from $100 to $220.

I fear that these premium and deductible increases could make Medicare coverage out of reach for some seniors. Most older Americans have very modest incomes. Seventy-five percent of seniors on Medicare live on less than $25,000 a year. And in North Dakota, older Americans get by on even less: 70 percent of our State's seniors have incomes of under $15,000.

Already, seniors spend 21 percent of their income for health care. In 1994, the average older American spent $2,500 for medical care, prescription drugs, and other health care expenses not covered by Medicare—and this figure does not even include the cost of long-term nursing home care, which averages nearly $40,000 a year.

In addition to costing more, the quality of health care older Americans receive could very well decline. That is because the portion of the cuts that do not fall directly on beneficiaries will be borne by doctors, hospitals, and other health care providers, who even now are reimbursed at only 68 percent of the amount they get from private payors. As a result, these cuts could create a second-class health care system for the elderly.

This budget bill, with its $182 billion cut in projected Medicaid spending, could force hundreds of thousands of middle-income seniors and their families to shoulder the substantial burden of nursing home costs also. It turns the Medicaid program over to the States in the form of a block grant and repeals the Federal guarantee for nursing home care for the 60 percent of nursing home patients who qualify for Medicaid—many of whom have already used up their life savings in paying for their care.

CONSEQUENCES OF MEDICAID "BLOCK GRANT" FOR THE NEEDY

Our Nation's seniors are not the only ones who are being asked to pay the bill for tax breaks for wealthy individuals and corporations. Children will also lose under this plan to turn Medicaid over to the States as a block grant. One in five children currently receive their health care through Medicaid. Their care is not expensive—they represent 50 percent of all Medicaid beneficiaries but receive only 15 percent of the benefits—but it is important. The immunizations and preventive care that these kids receive help them to grow up to be healthy, productive adults. I think it is also worthwhile to note that fully half of the kids now covered by Medicaid are members of working families.

Under the block-grant plan, North Dakota will receive 22 percent less Medicaid funding over the next 7 years than our State is projected to need. Cutting provider reimbursement rates and enrolling more beneficiaries in managed care simply will not generate enough savings to offset the loss in Federal funding, so States will have no choice but to terminate coverage for some current recipients or to reduce the benefits offered.

IMPACT ON THE HEALTH CARE SYSTEM

I believe cuts of the magnitude called for under this bill will also devastate the health care system, particularly in rural areas. The majority of the savings achieved in Medicare will come through reducing payments to hospitals, home health care providers, and other health care professionals.

One-quarter of all rural hospitals are already operating at a loss and are in danger of being shut down if their payments are reduced further. Rural hospitals are dependent largely on Medicare and Medicaid patients for their livelihood. Between 1983 and 1993, the number of rural hospitals dropped by 17 percent, compared to a 2-percent drop in urban hospitals. Rural residents already suffer from a lack of access to medical care, and additional hospital closings in rural areas will further exacerbate this problem.

Cuts of this magnitude cannot be absorbed within the Medicare system alone, so health care providers may have no choice but to shift the burden for their uncompensated costs onto their other patients in the form of higher fees. I do not think it makes much sense to force higher costs for medical bills and health insurance onto the rest of the population, thereby pricing health care out of reach for even more Americans.

A RESPONSIBLE MEDICARE ALTERNATIVE

I believe it is possible to balance the budget and protect Medicare at the same time, and I supported Senator ROCKEFELLER's amendment that would have accomplished this goal. Under Senator ROCKEFELLER's amendment, Medicare's projected spending would have been reduced by $89 billion, ensuring the solvency of the Medicare trust fund through 2006. This $89 billion is a far more reasonable reduction and could have been achieved without new increases in costs for people who simply cannot afford to pay more for health care and without damaging our world-class health care system.

Senator ROCKEFELLER's amendment would have been paid for by scaling back the tax breaks provided in this bill for wealthy Americans. I thought that was the responsible course of action, but unfortunately, a majority of my colleagues did not agree, and the Rockefeller amendment was rejected by a 53–46 vote.

A BETTER CHOICE FOR MEDICAID

As with Medicare, I agree that we must control Medicaid's rate of growth, but I cannot support the block-grant approach provided for in this bill. As an alternative, I voted for Senator BOB GRAHAM of Florida's amendment to reduce Medicaid's projected spending by a more reasonable $62 billion over 7 years. This amendment would have maintained the guaranteed safety net that Medicaid provides for more than 36 million needy older Americans, the disabled, pregnant women, and children. At the same time, the Graham amendment would have restrained the rate of growth of the Medicaid program by placing a cap on Federal funding based on per person spending, rather than by a flat block grant. But, as with the Rockefeller amendment for Medicare, Senator GRAHAM's amendment was defeated by a narrow 51–48 margin.

I am very disappointed that a majority of my colleagues have let these opportunities for responsibly controlling Medicare and Medicaid spending pass them by, and I simply cannot support the more drastic, and unnecessary, cuts to spending still called for in this bill.

President Clinton has indicated that he will veto this bill unless these severe cuts are moderated before it reaches his desk. It is my sincere hope that, after this bill is vetoed, Congress and the President will be able to work together to achieve a reasonable compromise that will provide the fiscal discipline the American people want from the Federal Government without sacrificing the health security they deserve.

Mr. ROCKEFELLER. Mr. President, in my view, every United States Senator will be making a statement about their fundamental priorities as they cast their vote on this reconciliation package. While each and every vote cast on this floor is key, today's vote on the reconciliation bill is a pivotal one about the future of our country, and the role that our Federal Government can and should play in the lives and well-being of American families.

While most of our debates have focused on budget numbers, I have tried to talk about the families and the real people who depend on Medicare, Medicaid, student loans and all the other major programs affected by this legislation in many serious ways. The provisions of this bill will have enormous impact on children, families, and seniors in West Virginia and every State in this Nation. We should be mindful of them as we cast our votes.

I want to be clear. I believe we can and should balance the Federal budget and eliminate the Federal deficit. This is a vital goal, but it is equally important to ensure that the burdens of achieving a balanced budget are responsibly and fairly shared among all Americans. I strongly feel that we should not balance the budget on the backs of seniors, poor children, and working families.

The programs that would be drastically cut and changed by this reconciliation bill often are the difference between security and insecurity, health and illness, and sometimes life or death for seniors and American families who depend on Federal programs for their health care security.

I was proud to take the lead in offering the first major amendment to this budget, designed to save Medicare, a historic program that has provided seniors with health care security since 1965, giving them peace of mind and a higher quality of life. While some may cast aspersions on Medicare, I believe it is one of America's proudest achievements.

Our amendment was not to retain the status quo. We know we must make changes in the system to restore the solvency of the Medicare trust fund. But the solvency of the trust fund does not require cutting Medicare by $270 billion. Such extreme cuts will threaten health care for 30 million seniors—330,000 of them living in West Virginia—and further erode our health care system.

For seniors, the reconciliation package means that their Medicare deductibles will double and their premiums will skyrocket. When the average income of seniors citizens is $17,750, and they pay 21 percent of their income on health care, they are incredulous and petrified to hear that their Medicare is being used to pay for tax breaks and tax give-aways to far, far wealthier Americans and every imaginable kind of corporation.

I cannot go back to West Virginia and hold town meetings in senior centers as I often do, and justify a vote to slash Medicare by $270 billion in order to finance tax breaks for the wealthy. West Virginians believe in fairness and common sense, and this attack on Medicare flunks that test.

Seniors will not be the only ones hurt by the budget's Medicare cuts. West Virginia hospitals are threatened with the possibility of losing $25 million in 1996 and more than $681 million over the next 7 years, and I fear that some of our hospitals may not survive such cuts.

For real people in West Virginia who depend on Medicare for their health care coverage, the Republican rhetoric about Medicare reform rings hollow.

And Medicare is not the only health care program slated for harsh cuts under this Republican plan. This reconciliation package also seeks to cut Medicaid funding by a whopping $187 billion over 7 years.

People need to understand what such harsh cuts mean. Medicaid covers poor children, pregnant women, the disabled, and low-income seniors who need nursing home care. What happens to these people and their families when we slash Medicaid funding?

Coming from West Virginia, when I think of a family, I think about children, parents and grandparents. What happens to parents struggling to balance raising children and caring for aging parents?

If a working family gets a new child tax credit but loses Medicaid nursing home coverage for an aging parent, what is the overall effect on that family? The child tax credit is $500 a year for "some" families lucky enough to qualify, but the loss of Medicaid nursing home coverage will cost those same families $16,000 to $30,000 a year.

For example, Julie Sayres of Charleston, WV cared for her mother who suffers with Alzheimer's Disease as long as she could at home. But as her mother's illness got worse, she had to move to a local nursing home where Julie can visit her daily. Julie may get a partial child tax credit of $500 under this package, but if she cannot get Medicaid coverage for her mother in the nursing home when her mother's meager savings are exhausted, Julie and her family with be much, much worse off. That child tax credit will not cover even a month of nursing home care for her mother.

This is real story about a family hurt, not helped by drastic health care cuts in this package. In my State of West Virginia, over 21 percent of our residents rely on Medicaid so their are countless more stories and fears about what will happen to aging parents.

And it will not just be individual families hurt by the Medicaid cuts. The health care system in my State is fragile, rural hospitals are already closing, and West Virginia cannot absorb more than $4 billion in cuts without cutting necessary health care services, including basic issues like infant mortality. A recent newspaper article made this point, clearly with a headline: "[Medicaid] Cuts may affect infant mortality." The article reports that my State, thanks to Medicaid-funded programs, has reduced its infant mortality death rate from 18.4 deaths per 1,000 in 1975 to 6.2 deaths per 1,000 in 1994 which is even better than the national rate of 8.0 deaths per 1,000 births. As Governor, I helped start the effort to reduce infant mortality, and I must protest any action that turns back the clock.

We should not tolerate backwards steps on basic health care objectives like reducing infant mortality.

I understand that Medicaid needs reform and Democrats offered an amendment that suggested reducing the growth in Medicaid spending in a responsible way with a per capita cap. I truly want meaningful reform of health care, but I do not believe that creating a Medicaid block grant is serious reform, it is merely passing the buck—or actually passes far fewer dollars and far greater problems onto States. This is not fair to states or to the Americans who desperately need health care from Federal programs.

The assault on families in this budget package is not limited to the attacks on federal health care programs. Republican rhetoric claims that this legislation will help families, because of its $500 child tax credit.

As chairman of the National Commission on Children, I am clearly on record in support of a child tax credit, but it must be a refundable credit so that children in all families can benefit. Unfortunately, the child tax credit in this legislation is not refundable, and every amendment offered to make it even partially refundable was rejected. Consequently, over 20 million children are excluded from this child tax credit, and I do not think this is fair. These children are in families earning less that $30,000 a year and their parents clearly need and deserve a tax break.

To add insult to injury, not only do Republicans deny the credit to such hard working, low-wage families, Republicans are paying for the credit by imposing a tax increase on working families by cutting $43 billion from the earned income tax credit (EITC).

There has been much debate about the EITC, and I want to clearly state that EITC is tax relief only available to working families, and it is designed to offset payroll taxes, which often are a greater tax burden for low wage families than personal income taxes.

The Republican leadership dismisses these arguments, saying that their tax package helps middle class American families. And this sounds good, but I want to know how they define the middle class?

In my State of West Virginia, we believe that parents who go to work every day and struggle to raise their children are middle class, admirable and deserving of support and encouragement. More than 65 percent of our taxpayers are working hard but earn less—less than $30,000. For many of these families, they will worse off, not better, under this bill.

Just 2 years ago, these working families were promised tax relief. Now Republicans are reneging on that deal and raising taxes on families earning less than $30,000. For families with two or more children, their taxes will go up an average of $483. For families with one child, taxes will keep an average of $410. This will hit more than 77,000 families with children in my state of West Virginia alone.

But such numbers can be numbing. We need to get beyond the rhetoric and look at real families.

A real family, like the Helmick family of New Milton, WV, will be worse off, not better. The Helmick family has 6 children, ranging in age from 15 to four. Mr. Helmick works full-time as a truck driver for a local construction company, and Mrs. Helmick is a full-time homemaker. In the past, they have used their EITC for baby furniture and to buy a used truck so Mr. Helmick has reliable transportation to get to work. Mr. Helmick will not get to claim the full tax credit for his children, and he will lose EITC benefits under the Republican plan.

This is a real working family that will be hurt, not helped.

Families like the Helmicks cannot claim all of the child tax credit, and they will be hurt by the cuts in EITC; and I doubt that they will be claiming capital gains tax breaks either. For them, this package does little more than renew their cynicism since it reneges on promises made just two years ago when we told families to play by the rules, go to work instead of on welfare, and we will offset your payroll taxes so that you do not have to raise your children in poverty.

Mr. President, I am not against the idea of tax cuts. In fact, I would support a limited tax cut for the most needy families and some relief from burdensome taxes for companies that need it. But when you look at this bill, while it was artfully crafted to appear to have something for everyone, it is really a farce. It is full of tax pork for the wealthy and goodies for those who do not really need it.

On the surface, how can anyone oppose tax relief for families? The Republican rhetoric is, as always, good—tax relief for families, and help for companies to create jobs. It sounds so tempting to give hundreds of billions of dollars away, but when you look at what

Republicans are really doing, and how they are doing it, you say "wait a minute." Their rhetoric is one thing, but reality is another.

They say they are balancing the budget, but they will add nearly a trillion dollars to our national debt in the next seven years. They say the tax cut is "paid-for" by an economic dividend of balancing the budget; but the truth is, they are adding $224 billion to our accumulated debt over the next 7 years. In fact, if you add interest, the total is more like $268 billion. Republicans are borrowing money from the middle class they claim to be championing in order to give money away to their fat-cat friends.

Think of it as a new credit card with a credit line of $1,000. Every month you take home $1,500 after taxes and spend $1,600. You can do that because you have the credit card. You are charging $100 every month to your credit line. Well, after 5 months, you owe the $500 you borrowed on your credit card, plus interest. Then you decide, you don't like spending more than you are making, so you force yourself to spend less. For the next 7 months, you bring your spending down from $1,600 a month to $1,585 a month, then $1,570 a month, then $1,570 a month, and so on until at the end of the year, you are spending $1,500 a month. You have a Balanced Budget. You are making $1,500 a month and spending $1,500 a month. Then you look at your balance you owe on your credit card, and guess what—you owe $800, plus interest. How did that happen? You went on a path to balance in June when you owed $500 plus interest, but in December you owe more than $800. It is because every month on the way to balance, you borrowed more to cover your over spending. You borrowed $85 dollars one month, $70 the next, $55 the month after that, and so on.

That is what this bill does. Sure, it gets us to balance by 2002, but along the way, we are going to overspend what we take in by nearly $1 trillion. Every year between now and 2002 we spend more than we take in. We borrow more to pay for this tax cut. That is $1 trillion added to our accumulated debt. And of that $1 trillion added to the debt, $224 billion is this tax cut ($268 billion, if you add the interest). If we got rid of this tax cut, or reduced the tax cut down to size of the real economic dividend, our deficit every year would be less, and the accumulated debt, the amount the American people owe, would be less.

This debate is about priorities. Do we want to run up the bill on all of us in order to give money to the wealthy to buy goodies? We are running up our national credit card so the richest Americans—those who earn more than $350,000 a year—get a tax cut of $5,600. Do we want to spend $40 billion on capital gains tax cuts for the richest Americans and recklessly slash health care for the most needy and the elderly? Do we want to cut taxes by more than $1.7 million on estates worth over $5 million by raising taxes on the working poor?

Again, West Virginians have a basic sense of fairness. How can I tell them that families are helped, when the result of this whole bill will mean that poorest fifth of Americans would shoulder fully half of the program cuts with an average loss of nearly $2,500 per family in 2002.

At the same time, the Treasury estimates that almost two thirds of the proposed tax breaks would go to the wealthiest fifth of the population, who would gain almost $1,400 per family.

In fact, the top one percent of families—those with incomes greater than $350,000 per year, would get an average tax break of $5,600. The capital gains tax break will benefit taxpayers with incomes between $20,000 and $30,000 by about $5 on average. Those making more than $200,000 will receive an average cut of nearly $1,500. How is that fair?

How can the authors of this bill look at themselves in the mirror, let alone look into the faces of the most needy in America, and say they are doing the right thing? I cannot go to town meetings in my state and tell West Virginians that I supported such an unbalanced, unfair deal.

I could support tax cuts that were honestly paid for. I could support tax cuts that are fair. But I am not going to support tax cuts paid for by raising the money from those least able to pay. I even think we should consider giving some limited tax relief to American companies that need it. In fact, I am proud to be the author of a bill that helps capital intensive industries such as steel, chemicals and wood-paper compete in the international market place. That bill fixes something called the Alternative Minimum Tax (AMT) by changing the way companies calculate the value of their property. Unfortunately, even in this bill of tax goodies, and big corporate give-aways, the Republicans could not do it right, they only did a half measure.

The problem these companies have is that under the AMT, the tax code does not recognize in any real-world way, how to depreciate their assets. Steel, chemicals, wood-paper, any capital intensive industry, where the costs are high and the margins are low, these companies need to change the length of time they have to depreciate their assets. This is known as lives. Under the current tax law, after 5 years, a U.S. steel maker under AMT recovers only 37 percent on its investment in new plant and equipment, versus 58 percent in Japan, 81 percent in Germany, 90 percent in Korea, and 100 percent in Brazil. This is largely a result of the AMT. It is my strong hope that conferees will look at this with an understanding eye. I am hopeful that they will. When you look at how the AMT puts our companies in such a competitive disadvantage, I think the need for corrective action is clear.

Another disturbing provision tucked into this package is the proposal to eliminate the 50 percent interest exclusion on loans to purchase employees stock ownership plans (ESOPs). As Governor of West Virginia, I worked closely with the workers of Weirton Steel to establish an ESOP that kept the mill open, and the community alive. Weirton officials question if they could have secured the financing necessary in the early 1980's to create this ESOP without this tax incentive. Weirton Steel is the largest private employer in West Virginia in my State. Despite the rocky roads that the American steel industry has faced, Weirton Steel has not only survived, it has invested almost half a billion dollars in modernization so that it will be internationally competitive into the next century—and it remains an ESOP with involved employee owners. There are other successful ESOPs in West Virginia, and I hope there will be more in future. We should not slam the door shut on such future ESOPs by eliminating the incentives for start-up loans, in my view.

Mr. President, this legislation is nearly 2000 pages long—I shudder to think about other provisions tucked quietly into this bill. It was presented to the Senate on October 23, 1995, and we are expected to vote on the legislation with only four days of review. There has not been time to carefully analyze this massive legislation or to learn what is on each and every page—much less understand the complicated interactions of the policies and programs.

I do know that on page 1851 there is a proposal that I cannot support. It is a secret deal in the Republican budget that fundamentally breaks the promise of lifetime health benefits to retired coal miners and their widows—nearly 30,000 of whom live in the State of West Virginia. More than 60,000 more older miners and their widows are living in almost every other State in this union.

I am obligated to expose the secret and to call it what it is—a pay-off for a set of greedy corporate interests that will not stop until they have bled the miners' health trust fund of every last dollar needed to protect miners benefits. Republicans say they will restore the miners' trust fund—the miners' only real guarantee that their health care will be there for them when they need it. I am not willing to gamble with the health security of 92,000 miners and their widows.

I cannot abide such a tawdry provision in this or any reconciliation package. I appeal to whatever sense of justice my Republican colleagues have. I ask them to give up this corporate payoff before any more damage is done.

This cruel little provision might have escaped the notice of many. In a package that gives away billions, this provision only deals with tens of million of dollars. But these millions mean security to the older miners and their widows. This small trust fund is all they have, and it stands between their health security and a peace of mind, and financial ruin and destitution when illness strikes these aging miners.

This is a complicated issue with a long history, and I could go into excruciating detail. But the bottom line is that Republicans want to hand over the money that is keeping the retired miners' health trust fund solvent to a group of special interests represented by high priced lobbyists.

As I have said earlier, I want my colleagues to think about the real families that could be truly hurt by this package.

The day after the Finance Committee reported out their handiwork that demolishes the health security of more than 92,000 miners and their widows for the sake of a few of the biggest and most profitable companies in this country, I went back home to West Virginia. I went back to tell miners and their wives what happened.

The miners I met with were reserved, as many miners are, especially older ones who have seen it all, strikes and cave-ins, shut-downs and lay-offs. They have learned to accept a lot in life. They have seen their coworkers killed, or mangled, or dismembered. They have suffered the loss of their own lungs and limbs. They do not have a lot to pass onto their families in temporal terms, but they have good hearts and an incomparable work ethic. They have the values they hold dear—their emphasis is on community and family and caring. And until the Senate Finance Committee action, they had their UMW health card to get their health benefits and knew that it would protect their wives when they died too hard and too soon.

One miner who worked for decades in the mines told me starkly, "We're worried to death." He said, "Now it seems like the company is the one running the whole show. They want to do away with us when we were the ones that worked and built everything else."

His question was this, "What's going to happen to me if I lose my benefits?" And he answered his own question with, "They'll probably put me in my grave before my time."

Another miner, characteristically, worried about his wife who is a diabetic. "Gosh, if I had to buy her medicine, I do not know what would happen." Today retired miners' health benefits pay for prescription drug medication after they meet a modest deductible.

Under this reconciliation package, on page 1851, we are taking away the health care security of these miners, and we are reneging on a promise made more than 40 years ago by President Truman and reaffirmed just 2 years ago and signed into law by an act of Congress.

If this Senate and this society renege on this promise to a group of old frail miners, their wives and their widows, what are we worth?

Does a promise have no meaning? Does a contract not matter? Can a law be repealed when it becomes inconvenient for a profitable, influential businesses?

Promises do have meaning for me.

When I was elected by the people of West Virginia, I made promises to West Virginians. I vowed to fight for their priorities and do my best to serve them and respond to their concerns.

This reconciliation bill simply does not respond to the real needs of West Virginia families, or even West Virginia businesses.

The Republican rhetoric is good, but the reality is that this bill will undermine health care for seniors, raise taxes on working families, and jeopardizes the health care for retired coal miners and their families.

This is a harsh package that hurts real people, and I strongly oppose it. With this legislation, we are walking away from basic commitments to some of the most needy individuals in our society, and the debate over this package has saddened me greatly. We can, and we should, do better as public servants. I will vote no, and continue to fight against such unfair legislation.

Mr. FRIST. Mr. President, before we vote on final passage of S. 1327, a historic piece of legislation, I wanted to submit for the RECORD materials presented to me by the United States Chamber of Commerce. The Chamber of Commerce is an ardent supporter of S. 1327 and believes that the time is now to balance the Federal budget, streamline Government programs and, importantly, save the Medicare Program. Included in these materials is a study prepared by the Chamber of Commerce regarding the economic impacts of Medicare. I commend this study to my colleagues and thank the chair.

I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the U.S. Chamber of Commerce, Economic Policy Division]

THE MEDICARE CRISIS: THE TAX SOLUTION IS NO SOLUTION

The only solution detailed by the Medicare Board of Trustees for achieving financial balance in Medicare Part A is to raise taxes. Unfortunately, this is no solution at all. Higher taxes will rob working individuals of their hard-won dollars, significantly increase costs on small and large businesses alike and bring the economy to the brink of recession.

The Trustees calculate that balancing the Medicare trust fund for the next 75 years requires us to immediately hike the Medicare payroll tax from 2.90% to 6.42%. While the tax increase may seem to amount to only a few percentage points, it amounts to hundreds of dollars to the typical worker, thousands of dollars to the small business, and billions of dollars for the economy. Analysis by the Economic Policy Division of the U.S. Chamber of Commerce suggests the following impacts on individuals, businesses and the economy:

For a worker making $30,000 a year, total Medicare payroll taxes paid would jump to $1,926 from the current $870.

A small business employing 25 such workers would be liable for an additional $13,200 tax payment per year.

When aggregated across the entire economy, the effect would be to lower real GDP by $179.4 billion within two years and hold GDP about $95 billion lower 10 years later. This amount to a 3.1% decline in GDP in the short run. With economic growth projected to average less than 3% over the next five years, this decline could easily result in a recession.

These results are even more startling when you consider that they represent an optimistic evaluation, not a worst-case scenario.

OVERVIEW OF MEDICARE: WHY REFORM IS NECESSARY

Medicare is a nationwide health insurance program for older Americans and certain disabled persons. It is composed of two parts: Part A, the hospital insurance (HI) program, and Part B, the supplementary medical insurance (SMI) program.

Part A covers expenses for the first sixty days of inpatient care less a deductible ($716 in 1995) for those age 65 and older and for the long-term disabled. It also covers skilled nursing care, home health care and hospice care. The HI program is financed primarily by payroll taxes. Employees and employers each pay 1.45% of taxable earnings, while self-employed persons pay 2.90%. In 1994, the HI earnings caps were eliminated, meaning that the HI tax applies to all payroll earnings.

Part B is a voluntary program which pays for physicians' services, outpatient hospital services, and other medical expenses for persons aged 65 and over and for the long-term disabled. It generally pays 80% of the approved amount for covered services in excess of an annual deductible ($100). About a quarter of the funding comes from monthly premiums ($46.10 in 1995); the remainder comes from general tax revenues and interest.

Medicare is not a means-tested program. That is, income is not a factor in determining an individual's eligibility or, for Part B, premium levels. Age is the primary eligibility criteria, with the program also extending to qualified disabled individuals younger than 65.

Over the years, tax revenues for Medicare Part A have exceeded disbursements, and so the remaining revenues have been credited to the Medicare HI Trust Fund. At the end of 1994, the trust fund held $132.8 billion.

CONCLUSION OF THE TRUSTEES

Each year, trustees of Medicare's Hospital Insurance Trust Fund analyze the current status and the long-term outlook for the trust fund, and their findings are published in an annual report. The 1995 edition, issued in April, demonstrated that the Medicare system is in serious financial trouble. The program's six trustees—four of whom are Clinton appointees (cabinet secretaries Robert Rubin, Robert Reich and Donna Shalala, and commissioner of Social Security, Shirley Chater)—reported the following conclusions:

Based on the financial projections developed for this report, the Trustees apply an explicit test of short-range financial adequacy. The HI trust fund fails this test by a wide margin. In particular, the trust fund is projected to become insolvent within the next 6 to 11 years. . . (HI Annual Report, pg. 2)

Under the Trustees intermediate assumptions, the present financing schedule for the HI program is sufficient to ensure the payment of benefits only over the next 7 years. (pg. 3)

The program is severely out of financial balance and substantial measures will be required to increase revenues and/or reduce expenditures. (pg. 18)

. . . the HI program is severely out of financial balance and the Trustees believe that the Congress must take timely action to establish long-term financial stability for the program. (pg. 28)

The Trustees believe that prompt, effective and decisive action is necessary. (pg. 28)

The same set of Trustees also oversees the Medicare Part B program. In their 1995 Annual Report, they wrote: "Although the SMI program (Medicare Part B) is currently actuarially sound, the Trustees note with great concern the past and projected rapid growth in the cost of the program. . . Growth rates have been so rapid that outlays of the program have increased 53% in the aggregate and 40% per enrollee in the last 5 years." (SMI Annual Report, pg. 3).

"The Trustees believe that prompt, effective and decisive action is necessary." (pg. 3)

Obviously, the Trustees believe that the Medicare program deserves our careful, immediate attention. The following pages present the figures that led the Trustees to their conclusions.

WHERE MEDICARE STANDS TODAY

Medicare is a huge federal program. In 1994: Medicare expenditures reached $160 billion, just over half the size of Social Security; Expenditures grew 11.4% from 1993; Eleven cents of every dollar spent by the federal government went to Medicare; Medicare represented one-fifth of total entitlement spending.

Between 1990 and 1994, Medicare grew at a 10.4% average annual rate, almost three times the 3.6% average inflation rate over the same period and twice the 5.1% average annual growth of the economy as a whole.

MEDICARE AND THE FEDERAL BUDGET

Medicare spending must be addressed as part of the solution to balancing the federal budget. That's because spending on federal entitlements—such as Medicare, Medicaid and Social Security—soared 8.4% annually on average between 1990 and 1994. Spending on discretionary, annually appropriated programs—such as defense, education and infrastructure—increased 2.2%, which is less than the rate of inflation. Coming decades will see even more pressure for entitlement growth, as the leading edge of the Baby Boom generation reaches 65 in 2011.

Entitlements are not only the fastest growing portion of the federal budget, they're already its largest component, as shown in the accompanying chart. Just over half of all federal expenditures is spent on entitlements; only a third go to discretionary programs. If we are going to balance the federal budget—and keep it in balance over the long term—entitlement reform must be part of the solution.

WHERE MEDICARE IS HEADED IF WE DO NOTHING

Under current law, Medicare is projected by the Congressional Budget Office to grow at a 10.4% average annual rate over the next seven years. In 2002, the CBO projects Medicare spending will reach $344 billion, claiming almost 16 cents of every dollar spent by the federal government.

Moreover, beginning next year, Medicare HI expenditures will exceed the program's revenues. The HI Trust fund, which at year-end 1994 held $132.8 billion, will have to be tapped to cover the projected $867 million difference.

However, according to the Trustees' Annual Report, this shortfall isn't temporary. Instead, it will balloon to be about seven times larger in 1997, which is just the following year, and more than twenty times larger by 1999. Under assumptions reflecting the most likely demographic and economic trends, 1996 will be the first year of hemorrhage that will deplete the entire trust fund by 2002—just seven years away. The optimistic set of assumptions buys us only a little time, with trust fund depletion projected in 2006. Under the pessimistic scenario, the fund is exhausted as early as 2001. In other words, within the next 6 to 11 years, it's virtually certain that Medicare will be insolvent—unless we take action.

The danger of inaction was made clear last winter when the President's Bipartisan Commission on Entitlement and Tax Reform, chaired by Sen. Bob Kerrey and then-Sen. John Danforth, issued its final report. The focus of the report was to look not years ahead, but decades ahead to assess the impact of federal budget trends. The report is sobering: Under current trends, virtually all federal government revenues are absorbed by entitlement spending and net interest by 2010, as shown in Chart 2. Deficit-financing will be required to cover almost all of the discretionary programs, including defense, health research, the FBI, support for education, and the federal judicial system.

Ten years later, the situation is worse. Growth in entitlements is so explosive that not only would the government have to borrow to pay for discretionary expenses, it would have to borrow funds to pay the lion's share of interest payments on the national debt.

MEDICARE'S IMPACT ON THE PAY STUB

In addition to detailing the projected dissipation of Trust Fund under current law, the Trustees' Report also describes the measures that would be necessary to shore up the trust fund over the next 25, 50 and 75 years. If the expenditure formulas are not altered, then preserving the trust fund can only be done through increases in the payroll tax or additional subsidies from general revenues. Table 1 illustrates the payroll tax increases that would be necessary to balance the trust fund.

CURRENT LAW

Currently, the combined (employee and employer) Medicare tax rate is 2.90%, applied to all payroll earnings. A worker earning $30,000 a year in salary or wages, for instance, is directly taxed 1.45%, or $435 annually, for Medicare Part A, the hospital insurance program. Employers then match that payment with another $435, resulting in $870 of tax revenue earmarked for the Medicare HI trust fund generated by having that worker on the payroll.

The Medicare contributions from both the worker and firm don't stop there, however. Because two-thirds of Medicare Part B (SMI) is financed through general revenues (the other third coming from Medicare premiums and interest), a portion of the worker's and the firm's general income taxes are also financing Medicare. The Trustees reported that $36.2 billion of general funds were used to pay Medicare Part B claims in 1994.

TABLE 1.—MEDICARE HOSPITAL INSURANCE PAYROLL TAXES

	Current law employee plus employer	To balance the HI trust fund over the next—					
		25 yrs.		50 yrs.		75 yrs.	
		Additional tax	Total HI tax	Additional tax	Total HI tax	Additional tax	Total HI tax
Tax rates (pct.)	2.90	1.33	4.23	2.68	5.58	3.52	6.42
Pct. increase over current law			45.9		92.4		121.4
Payroll earnings:							
$10,000	$290	$133	$423	$268	$558	$352	$642
20,000	580	266	846	536	1,116	704	1,284
30,000	870	399	1,269	804	1,674	1,056	1,926
40,000	1,160	532	1,692	1,072	2,232	1,408	2,568
50,000	1,450	665	2,115	1,340	2,790	1,760	3,210
60,000	1,740	798	2,538	1,608	3,348	2,112	3,852
70,000	2,030	931	2,961	1,876	3,906	2,464	4,494
80,000	2,320	1,064	3,384	2,144	4,464	2,816	5,136
90,000	2,610	1,197	3,807	2,412	5,022	3,168	5,778
100,000	2,900	1,330	4,230	2,680	5,580	3,520	6,420

Source (for all tables): 1995 Annual Report of the Board of Trustees. Medicare Hospital Insurance Trust Fund. Table 1.D3, page 22. Calculations and macroeconomics simulations by the U.S. Chamber of Commerce.

To Balance the Medicare HI Trust Fund for the Next 25 Years (through 2019): According to the Trustees' analysis, the hospital insurance payroll tax would have to rise from 2.90% to 4.23% (a 46% increase) to keep the HI trust fund in balance for the next 25 years. Further, the increase would have to be made immediately and maintained through the entire 25-year period.

For our $30,000/year worker for whom $870 is currently provided to Medicare HI, this increase means an additional tax of $399, bringing total annual hospital insurance payroll taxes to $1,269. And that's before any other federal and state payroll taxes (such as unemployment insurance and Social Security) or federal and state income taxes.

However, even this increase in payroll taxes still leaves the trust fund exhausted in 2019, with the oldest of the baby boomers just shy of reaching their life expectancy. Because of this demographic bulge, balancing the HI trust fund over a longer period would require even higher payroll taxes.

To Balance the Medicare Trust Fund for the Next 50 Years (through 2044): Balancing the trust fund over the next fifty years—a span long enough to see most of the Baby Boomers through their lifetimes—would require virtually doubling the hospital insurance payroll tax from 2.90% to 5.58%. The increase would have to be made immediately and remain permanent through the entire 50-year period. Again, for the worker earning $30,000 a year, the total HI payroll tax rises from $870 to $1,674, an increase of 92.4%.

To Balance the Medicare Trust Fund for the Next 75 Years (through 2069): Balancing the trust fund over the next seventy-five years—roughly through the life expectancy of an individual born this year, and the usual period for long-term fiscal solvency—would require an immediate boost in the Medicare tax rate of 121.4%, from 2.90% to 6.42%. Total HI payroll taxes for a worker earning $30,000 a year would rise from $870 to $1,926.

MEDICARE'S IMPACT ON BUSINESS

Because it's levied on employment levels, not income, the payroll tax due remains the same through both good and bad economic times. This feature accentuates the pain of a downturn on employers, who need to pay the tax regardless of profitability. Consequently, relative to the income tax, a payroll tax can be particularly punishing to start-up firms or companies trying to weather a drop in business.

Table 2 shows the liability for Medicare HI payroll taxes that would be faced by firms of various sizes. Total liability is shown under current law and under the three tax rates computed by the Trustees to bring the HI trust fund in balance over periods of 25, 50 and 75 years.

For instance, a 25-person firm where the average worker earns $20,000 per year is currently liable for a $7,250 tax payment for the Medicare HI program (for their contribution, the workers themselves would be taxed an identical amount). To balance the trust fund over the next 25 years, the combined employee and employer tax rate would have to rise from the current 2.90% to 4.23%. Assuming that the liability continues to be evenly split between the employee and employer, the firm will face an HI payroll tax of about 2.11% per worker. For our 25-person firm, the total HI payroll tax would rise from $7,250 to $10,575 per year.

TABLE 2.—MEDICARE HOSPITAL INSURANCE PAYROLL TAX ANNUAL EMPLOYER TAX LIABILITY

[In dollars]

	Number of employees—						
	5	10	25	50	100	500	1,000
Average salary: $20,000:							
Current law	1,450	2,900	7,250	14,500	29,000	145,000	290,000
To balance Medicare HI over the next:							
25 yrs	2,115	4,230	10,575	21,150	42,300	211,500	423,000
50 yrs	2,790	5,580	13,950	27,900	55,800	279,000	558,000
75 yrs	3,210	6,420	16,050	32,100	64,200	321,000	642,000
Average salary: $30,000:							
Current law	2,175	4,350	10,875	21,750	43,500	217,500	435,000
To balance Medicare HI over the next:							
25 yrs	3,173	6,345	15,862	31,725	63,450	317,250	634,500
50 yrs	4,185	8,370	20,925	41,850	83,700	418,500	837,000
75 yrs	4,815	9,630	24,075	48,150	96,300	481,500	963,000

MEDICARE'S IMPACT ON THE ECONOMY

Raising payroll taxes to keep the Medicare Hospital Insurance trust fund afloat imposes substantial burdens on both workers and firms. To measure what that means for the economy as a whole, we conducted several policy simulations using the highly respected Washington University Macro Model from Laurence H. Meyer & Associates of St. Louis, MO.

The results are striking: The economy would suffer through sharply slower economic growth and higher unemployment in the near term. Over a longer period, the economy is saddled with a permanent loss of production and employment. As shown in Tables 3 and 4, the degree of severity for GDP and employment depends upon the increase in Medicare taxes enacted.

The tables compare each of three alternative tax simulations specified in the Trustees' Annual Report to LHM&A's June 1995 baseline forecast. To demonstrate the policy change working its way through the economy, we display the results for three of the ten years of our simulation: 1997, 2000 and 2004. This gives us snapshots of the short-term, intermediate-term and long-term impacts on economic output and employment. In each case, the imposition of the Medicare payroll tax increase takes place in the fourth quarter of 1995.

TABLE 3.—IMPACT ON GROSS DOMESTIC PRODUCT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, billions of 1987 dollars			Percent difference from baseline in given year		
		1997	2000	2004	1997	2000	2004
25 Years	4.23	−68.4	−30.1	−36.1	−1.2	−0.5	−0.5
50 Years	5.58	−137.1	−60.5	−72.1	−2.4	−1.0	−1.1
75 Years	6.42	−179.4	−79.4	−95.6	−3.1	−1.3	−1.4

As shown in Table 3, if the government imposed the most modest payroll tax increase—enough to keep the Medicare trust fund in balance for the next 25 years—production in the economy would be 1.2%, or almost $70 billion, lower in 1997 than it would have been otherwise. By 2000, the percentage-point gap between the alternative closes to within 0.5% of the baseline level of production, but that distance is maintained even ten years after the tax increase took effect.

The short-term loss in output translates into 1.2 million fewer jobs relative to what we would have had otherwise, as shown in Table 4. While this decline, amounting to about 1% of the economy's jobs, moderates over time, the economy appears to have lost over 0.5% of its jobs permanently.

Of course, all of this economic turbulence puts the Medicare HI trust fund in actuarial balance for only the next 25 years. To generate long-term actuarial balance for the full 75-year period, the Medicare payroll tax rate would have to jump from 2.90% to 6.42%, triggering even stronger economic impacts than those described above. Production in the economy would be about 3% lower in 1997 than it would have been otherwise, with the long-term loss in output projected at 1.5%. Over 3 million jobs would be eliminated in 1997 relative to the baseline, with a projected permanent loss of about 1.5% of total employment over the long term.

TABLE 4.—IMPACT ON EMPLOYMENT

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
25 Yrs	4.23	−1.2	−0.6	−0.8	−0.9	−0.4	−0.6
50 Yrs	5.58	−2.4	−1.2	−1.6	−1.9	−0.9	−1.2

TABLE 4.—IMPACT ON EMPLOYMENT—Continued

[Balancing the HI Trust Fund Through Raising Payroll Tax Rates]

Years to balance HI trust fund	Required Medicare tax rate (pct.)	Difference from baseline in given year, millions of jobs			Percent difference from baseline in given year (pct.)		
		1997	2000	2004	1997	2000	2004
75 Yrs	6.42	−3.2	−1.5	−2.2	−2.5	−1.2	−1.5

As dramatic as these figures are, there's good reason to believe that they are optimistic estimates. Because the macro model used in these simulations treats the Medicare payroll tax like the Social Security payroll tax, the increases in the tax rates apply only to the first $61,200 earned (in 1995, and rising afterward). That is, the model is not picking up the economic impact of applying the higher tax rates to incomes over the taxable base. Thus, these results should be considered a minimum measure of the economic impact of raising Medicare payroll taxes. Attempts to account for this problem yield significantly greater job loss and lower GDP. These results are available from the Economic Policy Division of the U.S. Chamber of Commerce.

It is important to note that, even with the set of numbers presented here with its inherent bias toward underestimating the economic impact, we can see that using payroll taxes to balance the Medicare trust fund imposes severe costs on the U.S. economy. These results clearly indicate that the Medicare problem must be solved by fundamental program reform, not tax increases.

U.S. Chamber of Commerce—Medicare FAX Poll Results

On October 11, 1995, the U.S. Chamber surveyed 9,700 business, chamber and association members on their attitudes concerning Medicare reform and specific reform elements. Responses to the Chamber survey (nearly 10 percent responded, 68.9% of which employ fewer than 50 workers) indicated strong support for market-oriented Medicare reform comparable to the House and Senate Majority plans for Medicare reform. The complete survey and results are provided below.

Medicare is "severely out of financial balance and the Trustees believe that . . . prompt, effective and decisive action is necessary".

Medicare reform has become a focal point of the budget debate. Medicare—the national health insurance program for seniors—will run out of money in 7 years, according to the system's trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Trustee's Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium size businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

We need your help. Please review the following questions on Medicare reform and FAX back your answers by close of business October 16.

1. Medicare should be modernized by adopting the market-based strategies private employers and health plans are using successfully to improve health care quality and control costs. These strategies include improving the quality of care provided to enrollees, increasing enrollee choice by expanding health plan options, and reducing the rate of growth of Medicare spending.

Agree, 98.9 percent; Disagree, 0.6 percent.

2. Two competing approaches to Medicare reform have emerged in Congress. One more limited approach addresses the Medicare Part A trust fund, delaying insolvency for an additional 2 years through $89 billion in Medicare savings, primarily from reducing the rate of growth in Medicare payments to providers. A second approach is more comprehensive in nature, addressing both Medicare part A (hospital bills) and Part B (doctors' bills). Medicare Part A would be protected at least an additional 10 years through $270 billion in Medicare savings achieved through increased competition and reducing the rate of growth in Medicare payments to providers. Which approach would you favor?

Limited, 4.3 percent; Comprehensive, 94.6 percent.

3. Do you favor or oppose the following elements of Medicare reform?

a. Provide seniors choices between competing health plans including existing fee-for-service benefits.

Favor, 97.4 percent; Oppose, 1.6 percent.

b. Contain Medicare spending by increasing competition and reducing the rate of growth in Medicare payments.

Favor, 97.4 percent; Oppose 2.0 percent.

c. Increase managed care options for seniors.

Favor, 93.8 percent; Oppose, 4.3 percent.

d. Provide seniors a medical savings account option.

Favor, 88.2 percent; Oppose, 7.3 percent.

e. Allow provider groups (i.e., doctors and hospitals) to offer health coverage (similar to managed care networks) directly to seniors—a new proposal known as provider sponsored networks or PSNs.

Favor, 91.9 percent; Oppose, 5.7 percent.

f. Require managed care plans to provide out-of-network benefits at a higher cost to the beneficiary.

Favor, 72.4 percent; Oppose, 18.2 percent.

4. For purposes of tabulation: Type of Organization: Business, 93.2 percent; Chamber, 4.3 percent; Other, 2.0 percent. Approximate Number of Employees: under 10, 29.4 percent; 10–49, 39.5 percent; 50–99, 12.5 percent; 100–249, 8.6 percent; 250–499, 3.7 percent; 500–4,999, 3.7 percent; 5,000 +, 1.4 percent.

U.S. Chamber of Commerce

MEDICARE REFORM—THE RIGHT SOLUTION

Medicare reform is at the crux of the balanced budget battle. Medicare—the national health insurance program for seniors—will run out of money in seven years, according to The Board of Trustees. Spending on Medicare and other entitlements threatens to crowd out all other budget priorities and increase the budget deficit.

Previous approaches to Medicare reform have failed to slow Medicare's growth. Worse, these approaches have increased the burden on businesses and their employees through higher payroll taxes and higher insurance premiums.

Since 1970, Congress has raised payroll taxes over 20 times and the Medicare Trustees 1995 Report pointed out that payroll taxes would have to be raised by another 1.3 to 3.5 percentage points to bring the system into balance. When you consider that many small and medium-sized businesses already pay more in payroll taxes than income taxes and that payroll taxes must be paid regardless of economic conditions, it becomes clear why Medicare requires solutions other than tax increases.

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year old Medicare program by increasing competition while restraining the growth in spending. Key elements include:

New choices for Medicare beneficiaries.—Beneficiaries will have the right to choose traditional Medicare, as well as the right to choose from a range of private health plan options including managed care and medical savings accounts. These options will provide beneficiaries access to expanded benefits—such as prescription drugs, preventative care, vision and hearing care.

Restrained growth in Medicare spending.—Increases in Medicare spending are inevitable, given the growing Medicare population and the advance of medical technology. However, controlling the rate at which Medicare spending increases is as important to our Nation's future financial health as Medicare itself is to seniors' health care. Introducing competition to Medicare through beneficiary choice of health plans will help control costs and allocate resources more fairly and efficiently than Washington bureaucrats.

Accountability.—The Republican plan allows seniors to take responsibility for making their own health care decisions. Instead of relying on a bureaucratic, one-size-fits-all approach, seniors will decide which health plans are best for them. Doctors and hospitals are also held accountable. The bill rewards beneficiaries who report incidences of waste, fraud and abuse, and strengthens penalties for anyone who defrauds Medicare.

By passing this legislation Congress will have taken timely, critical action that will avert the program's bankruptcy and preserve and protect it for current recipients and future generations.

Medicare Reform

MYTHS VS. FACTS

Myth. The House and Senate Republican Medicare reform plans will cut $270 billion from Medicare in order to finance a tax cut for the wealthy.

Fact. The Medicare Trustees' 1995 Annual Report urged Congress to take "prompt and decisive action" to address the solvency of the Medicare Part A (hospital insurance) Trust Fund and the continued growth of Medicare Part B (supplemental medical insurance).

The House and Senate Majority has proposed market-oriented alternatives to traditional Medicare reform, an approach that modernizes the 30-year-old Medicare program by increasing competition while restraining the growth in spending. Under the Republican plan, spending per beneficiary will still *increase* 40% by 2002 ($4,800 to $6,700).

Tax cuts provided for in the budget resolution were considered and passed independent of Medicare. Whether or not taxes are cut, Medicare will still go broke in 2002.

Myth. It's not fair for Congress to take away benefits from seniors who have faithfully paid into the system.

Fact. The average Medicare beneficiaries receive far more than they put in. The average two-earner couple receives $117,200 more in benefits than it contributes to the program. The average single-earner couple receives $126,700 more.

By encouraging competition among private health plans based on quality and innovation, the Republican plan may lead to increased benefits.

Myth. The business community is a latecomer to the Medicare debate.

Fact. Medicare's influence is felt throughout the business community—from payroll taxes paid to finance the system to insurance premiums inflated by consistent shortfalls in Medicare reimbursements to providers who in turn shift the cost to private health plans.

Myth. Medicare is in trouble because doctors and hospitals charge too much. The Republican plan fails to address this problem.

Fact. Solving the Medicare crisis will require the participation of all—doctors, hospitals, seniors and other taxpayers—particularly the business community. Just as no one factor led to the Medicare crisis, a single-minded focus on providers won't get us out. Further, cost controls have failed miserably whenever they have been tried—particularly in the context of health care.

ECONOMIC ACTIVITY AND JOB CREATION IN PUERTO RICO

Mr. DOLE. Mr. President, as the Congress moves toward final action on budget reconciliation legislation for this year, I want to call special attention to an initiative by Gov. Pedro Rossello of Puerto Rico which seeks to establish a wage credit-based economic program as an alternative to the current law section 936 tax credit.

Neither the House nor Senate was able to give the Governor's proposal an extensive examination before either body adopted revisions to the section 936 credit. Together with my colleague from New York, Senator D'AMATO, I was pleased to ensure that the Senate version more appropriately recognizes the positive impact that many U.S. companies have on the Puerto Rican economy and the jobs they provide.

I commend Governor Rossello's efforts to enhance economic opportunity in Puerto Rico through the creation of new jobs, and I would hope that the Congress will continue to give serious consideration to the Rossello program as an alternative to programs such as under section 936. It is important to ensure that any program focused on Puerto Rico will create new jobs and encourage self-reliance and economic growth.

ANWR

Mr. LIEBERMAN. Mr. President, the Arctic National Wildlife Refuge has been managed as one of the great wilderness systems on this continent since the Eisenhower administration. It is on par with other great places in our natural history, including the Grand Canyon, Yellowstone, Jackson Hole, the Badlands, Glacier Bay, Denali, and others. Opening the Arctic Refuge to oil and gas development violates our stewardship commitment to future generations, fails to use common sense about balancing the budget, and destroys a highly threatened piece of our American heritage. This is a unique and treasured land that must serve our entire Nation for the next century, not just a few for the next few years.

Unnecessary development of significant Federal lands like the Arctic Refuge is not the way to balance the budget. The amount of oil that can potentially be recovered from the Arctic Refuge is simply too small to affect our energy security, and too destructive to the environment, to be worth it. The U.S. Geological Service estimates a 95-percent chance of only 148 million barrels of oil in the refuge. The Congressional Budget Office assumed 3.2 billion barrels in its budget scoring of oil and gas leases, more than 20 times this recent USGS estimate. Worse yet, CBO assumed oil prices of $38.60 in 2000, compared to Energy information administration estimates of only $19.13—less than half.

And, it is possible that 90 percent of the lease revenues could go to Alaska instead of balancing the Federal budget. Under the most favorable scenario, only 50 percent of the revenues go to balancing the budget.

Clearly, the $1.3 billion we have been promised by CBO in return for developing this pristine area is a massive fiction, like so many other bogus asset sales in this budget. The OMB has estimated oil and gas revenues more realistically to be between $750 million and $850 million, assuming Alaska does not sue for a 90-percent split. If the State does, these revenues fall another 40 percent.

We all hope for another strike like Prudhoe Bay. But the simple reality, based on the very best geological science and economics available today, is that the next Prudhoe Bay is expansion of Prudhoe Bay itself, and the continued implementation of national energy conservation programs. The next major source of energy is not a long-shot wildcat strike in an undeveloped Alaskan wilderness area, and it is incorrect to suggest otherwise. And it is ironic that we would consider opening this refuge to oil drilling now that the oil export ban will be lifted, as the House and Senate have voted to do. If the ban is lifted, a substantial percentage of the oil that is recovered, if any, would be exported to Asia, according to the Cato Institute, the Congressional Research Service, and others. The Arctic Refuge oil supplies would do almost nothing to help our energy security.

Make no mistake, environmental impacts to the refuge would be severe and irreversible. The Arctic National Wildlife Refuge includes the calving grounds for one of the largest caribou herds in North America, the porcupine herd of 152,000. It supports several thousand native Americans whose hunter-gatherer culture depends directly on it today as it has for 20,000 years. Over 200 species of plants and animals thrive in the refuge, including Muskoxen, Snow Geese, Arctic Foxes, Arctic Grayling and Arctic Char. It is the only natural area in the United States with all three species of North American bears—the black bear, the grizzly bear, and the polar bear. It is one of the most pristine areas in our Nation, untouched by development, and the last of its kind. Environmental studies repeatedly show that oil development is not compatible with the protection of these resources. Biologists from Federal and State agencies and universities conclude that oil development will harm the calving success of the caribou herd, and reduce its long term numbers very significantly.

The remaining 90 percent of the Alaskan North Slope is already open to oil and gas leasing. Is it too much to protect what little we have left? Let us honor our history of conservation, and the future of generations to come, by protecting this last Arctic Refuge.

I ask unanimous consent that a letter from the President on this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 26, 1995.

The Hon. JOSEPH I. LIEBERMAN,
U.S. Senate, Washington, DC.

DEAR JOE: Thank you for your letter today seeking my views on striking the provision in the reconciliation bill that would open the coastal plain of the Arctic National Wildlife Refuge [ANWR] to oil and gas drilling.

Because you stated that the Senate is expected to vote on that motion in the near future, let me be clear: I will veto any reconciliation bill that opens ANWR to drilling. Consequently, I strongly support your and your colleagues' efforts to remove this provision from the bill. In my view, this is one of the most significant environmental votes facing Congress, posing a clear choice between protecting a unique, biologically-rich wilderness and pursuing a misguided energy policy.

I appreciate and support your efforts to preserve ANWR.

Sincerely,

BILL.

Mr. LEVIN. Mr. President, I voted against the combined Harkin and Dorgan amendments. The constraints imposed by the rules under which the budget reconciliation bill is being considered create an absurd situation in which important, complex, and difficult amendments are decided without debate. In addition, because a long stack of votes are occurring at 7½ minute intervals, there is little time to properly consider each provision. This is exacerbated when amendments are quickly patched together with little warning on the floor.

In this case, I oppose the capital gains portion of the Dorgan-Harkin combined amendment. While I do favor capital gains reform, focused on long-term capital gains investment, in my view, the provision goes too far by imposing a lifetime limit of $250,000 on capital gains deductions. The Tax Code is complex enough without adding a restrictive difficult to administer, lifetime provision such as this.

I do support the Harkin portion of the amendment which attempts to further restrict the so-called Benedict Arnold loophole.

Because the two amendments were joined together on the Senate floor, I could not vote on one and against the other. Therefore, I voted no on the amendment.

Mr. FRIST. Mr. President, I would like to speak briefly in support of the antitrust reform provisions of section 15021 of the House Medicare bill. While these provisions are not in the Senate Medicare bill, they are important, because they permit doctors to form Provider Service Networks without having to go through an institutional intermediary such as another HMO or an insurance company. I urge my colleagues to support the provisions when this bill goes into conference, as they are modest antitrust law reforms that will improve the quality and lower the cost of our health care system.

I would first like to discuss how the House Medicare bill defines a Provider Service Network (or, as it is more commonly known, a "PSN"). In the House Medicare bill, a PSN is one of the new organizations that provides Medicare beneficiaries with an option called MedicarePlus. That option allows a beneficiary to select a health plan called a MedicarePlus Product that would be offered by a MedicarePlus Organization. A MedicarePlus Organization is a private sector organization, such as an HMO, that offers a health plan that meets Federal Medicare standards. A Provider Sponsored Organization is a type of MedicarePlus Organization which is owned and operated by affiliated providers, such as hospitals and physicians. A PSN is an organization owned and operated by providers that contract with a Provider Sponsored Organization to provide services to Medicare beneficiaries.

Current antitrust law effectively makes it automatically illegal for a group of physicians to set up a PSN or Provider Sponsored Organization, yet permits insurance companies, HMO's and other nonphysicians to do so. This does not make sense.

Why do we want to reform the antitrust restriction so that physicians can form PSN's and directly compete with insurers and HMO's for Medicare beneficiaries? Because permitting physicians to do so will bring physicians to the table and will encourage increased competition that will provide Americans with better quality health care at a lower price. By permitting physicians—rather than just accountants—to oversee the treatment systems, Medicare beneficiaries will receive better quality care. By removing an insurance company's significant administrative costs from the picture, Medicare beneficiaries will likely see more of their health care premium dollars go to patient care and less to overhead.

It should be made clear that section 15021 of the House bill does not exempt physician networks from antitrust law. I, for one, would oppose it if it did. I too believe that physicians must be held accountable under the antitrust laws if they in any way engage in anticompetitive price fixing.

Under the House Medicare bill, physician networks would remain subject to all of the antitrust statutes that currently exist. The only limitation on antitrust enforcement is that physician created networks which meet the standards for PSN's (as set forth in section 15021(b)(6) of the House bill) would not be considered automatically unlawful. If the formation or operation of these networks can be shown to harm competition, then the DOJ, FTC, or a private party could challenge them. This is precisely the same rule which applies to the formation and operation of joint ventures in other industries in America. This provision does not exempt physician networks from the law. It holds them accountable for their actions, while giving them the opportunity to compete.

I again urge all of my colleagues to support the antitrust provisions of section 15021 of the House Medicare bill.

Mr. HATCH. Mr. President, while we are considering the manager's amendment to S. 1357, the Balanced Budget Reconciliation Act, I want to take this opportunity to comment on the health provisions contained within the bill and on some of the changes made therein.

First of all, I know there is a great deal of consternation about the impact of the reductions in spending growth for Medicare and Medicaid contained within this bill.

Medicare and Medicaid have been tremendously successful programs by anyone's measure, providing life-saving and life-sustaining services to literally millions of persons over the last three decades. These programs need to be continued.

What we cannot continue, though, is the high rate of growth in these entitlement programs. This growth, quite simply, is contributing significantly to the deficit situation which is bankrupting our country.

Mr. President, there is no disagreement on either of these points.

As I see it, the question before us today is not whether to act but, rather, how to act.

The question is not "Why?," as some assert, but rather the more critical "Who, what where, when, and how?" we bring these programs under fiscal control while preserving vital services for the people who need them.

It is clear that we are poised to act on a bill with very far-reaching ramifications. This is not a responsibility I take lightly.

Indeed, the prospect of reforming programs which have become such an integral part of America's health care delivery infrastructure over the past 30 years is a daunting one. The implications are enormous—enormous for all participants in the health care system, be it patients or those who provide services to patients.

Consider how intertwined the Medicare and Medicaid programs have become with our health care delivery system.

A whole generation of facilities has been built based on funding from the Federal Government. A whole generation of health care professionals has been trained with funding from the Federal Government, with many academic health institutions continuing to rely heavily upon Medicare graduate medical education funds for their viability. Facilities providing care to the underserved in both rural and urban areas count on Medicare revenues to keep from closing their doors. And, coverage policy in many private health care plans and our military health care system have been designed around Medicare policy.

Viewed from another perspective, more than a generation of Americans has come to rely on the vital services provided under Medicare and Medicaid. This is true for our seniors and disabled who are eligible for Medicare, and for the pregnant women and children, the aged, the blind, and the disabled who receive services under Medicaid.

The prospect of the reforming this system can be threatening to all I have mentioned, because it represents a change, a change from the norm we have all come to accept.

But I ask you to consider how different the America of 1995 is from the America of 1965. The health care of today is very different from that of 30 years ago. We have come a long way. Life expectancy has improved dramatically thanks to the fruits of medical research and technology. Fee-for-service medicine is no longer the only option for delivery of services.

But we have paid a heavy price for those improvements. Continued increases in health care costs run rampant have fueled the deficit, and have priced health care out of the reach of many, with a concomitant impact on the Medicaid roles and the States' ability to provide services.

I implore my colleagues to see the changes in this bill today as an opportunity to make the system better and more responsive to our national needs, needs which extend beyond health care services to, indeed, the health of our country as a whole.

The deficit situation cannot be ignored any longer. It is unfair to our children, and to their parents and grandparents.

The alternative to change is foreboding. The costs of these entitlement programs is running out of sight, endangering the future viability of the programs as well as the Federal and State budgets. By all recognition, Medicare's hospitalization trust fund could go bankrupt, starting as early as next year. The work of the Medicare Trustees, reinforced by testimony the Finance Committee heard from the former Chief Actuary of Medicare, Guy King, indicates that we will need at least $165 billion for the hospitalization fund alone to stave off bankruptcy by 2002. Payment for physician services under Medicare, funded 68.5 percent from tax revenues, is rising in double digits.

Medicaid spending also remains troublesome.

The Congressional Budget Office has estimated that the Federal share of Medicare will grow over 10 percent a year between now and 2002, about three times the projected rate of inflation.

The changes made in S. 1357 are a good start to resolve these problems.

For Medicare, the bill provides greater opportunity for seniors and the disabled to participate in innovative coordinated care programs, many offering the possibility of benefits beyond the traditional Medicare package such as preventive services, eyeglasses, and prescription drugs.

It is clear that the health care marketplace has been undergoing dramatic changes over the last several years and that further changes will occur.

As new types of provider organizations and reimbursement practices have evolved over recent years, many observers note that the traditional doctor-patient relationship is being redefined.

There are complex and novel issues presented by the introduction of many new nonphysician decisionmakers in the care of patients.

Tensions often are apparent between the twin goals of providing high quality care and providing this care at reasonable costs. That became evident in our consideration of S. 1357, as we struggled to make certain that the bill afforded Medicare beneficiaries the opportunity to participate more in the medical marketplace, while still maintaining a marketplace which allows doctors, nurses and other health care professionals to continue to practice traditional medicine.

There is no doubt that coordinated care offers abundant opportunities for our citizens, including those who participate in the Medicare and Medicaid programs, to receive quality health care services in the most cost-effective setting.

On the other hand, as we enter this new era in which managed care becomes the norm, it is imperative that the overriding goal be to save lives, not dollars.

What I am saying is that managed care is an important option in the health care delivery continuum, but so is traditional medicine.

Fee-for-service medicine must be maintained as an option for patients who are more comfortable with that kind of care, as well as for providers who do not wish to join the managed care environment.

One of the major innovations in this reconciliation bill is that it will encourage the further participation of Medicare enrollees in managed care plans. A key feature of the legislation is that it allows individuals to choose the type of health care delivery system which best meets their needs. This bill allows American citizens, not the Federal Government, the freedom to make this choice.

I think it critical that Medicare beneficiaries be allowed to choose the provider of their choice, if this is important to them. In fact, the bill contains a provision I authored which will make certain that beneficiaries are provided with the information they need to gauge whether the Choice plan they contemplate joining allows them this freedom.

At the same time, I do not think it is fair for the Congress to require that all plans mandate this option, since participants in Medicare do have flexibility under the current bill.

I also want to note, in turn, that health care providers will face individual choices with respect to which type of health care delivery system best meets their career plans. Some will prefer a managed care environment, while others will not. They, too, must have the freedom to make that choice.

And that freedom must not be in name only.

For some time, I have been concerned that we are destroying the incentives providers have to practice good medicine in America. Liability concerns, cost constraints, regulations which impede technology development, change in medical education reimbursement—all these can have a stifling effect on the ability of health care professionals to be satisfied with the work environment.

That is one reason I was so pleased about the House inclusion of a medical liability reform proposal. Medical liability reform is something I have been fighting for for some time, and I am pleased at the House action.

We had a good deal of debate about this "creative tension" in the health care delivery system during development of the physician service network (PSN) provision contained in this bill. Doctors and hospitals were rightly concerned that because of time-consuming state certification requirements, they would not have the ability to form networks to compete as providers under the new choice plans.

On the other hand, insurers were equally concerned that we not create a system which put them on an uneven footing, by allowing certain organizations to escape the solvency requirements and antitrust requirements in current law.

The challenge we face is to find the right balance between two competing interests—our intention to provide seniors with real health care choices, especially in rural areas, and our interest in making sure that those who provide that care have the incentives to do so, but to do so with accountability. I am satisfied that the bill before us meets these goals, but I will be monitoring its implementation carefully to see that it continues to measure up.

The bill before us today also provides beneficiaries with the option of establishing medical savings accounts, something I have long favored.

Under the proposed legislation, Medicare recipients would have new options, including the choice to remain in the traditional Medicare program, enroll in a health maintenance organization or select a high-deductible health insurance plan with a Medical Savings Account [MSA].

I support the MSA provisions in the pending bill and hope they will remain in the final measure as signed into law.

MSA's are personal, individual accounts used to pay for routine and preventive health care and are combined with high-deductible, catastrophic health insurance that pays for major expenses. Beneficiaries pay all medical bills up to the deductible with the MSA and out-of-pocket funds. Catastrophic insurance pays all expenses above the deductible.

Among the benefits of MSA's for seniors will be that they will have first-dollar coverage for such services as primary and preventive care, in contrast to Medicare, which has deductibles and copayments. Seniors could use their MSA's for items not covered by Medicare, such as eyeglasses and prescription drugs. In addition, patients would have incentives to make prudent choices because they would have a larger voice in deciding how their health care dollars were spent.

Medical Savings Accounts incorporate sound economics while encouraging individual responsibility and choice.

Mr. President, I want to point out that, contrary to many reports, the

Balanced Budget Reconciliation Act does not cut Medicare spending. It does not reduce benefits. It does not breech our contract on Medicare. ,

And contrary to the assertions of many, Medicare spending will increase each year under this budget. It will rise from $181 billion this year, to $277 billion on fiscal year 2002, a $96 billion or 53 percent increase. Expressed differently, Medicare benefits will increase from an average of $4,800 per person this year, to $6,700 in fiscal year 2002, hardly a cut.

For Medicaid, S. 1357 allows a 5 percent rate of growth over the next 7 years, with the program rising from $157 billion this year to about $220 billion in 2002. I don't believe this increase of 40 percent can be termed a "cut", either.

Many of my constituents have visited with me, offering both praise and criticism about the provisions in this bill.

On a positive note, I have received much positive feedback about the provisions in this bill which inject a greater measure of private market competition in Medicare. I have received warm endorsement of the provisions in the bill which allow the States to tailor their Medicaid programs to their own individual needs. In particular, many in my home State are pleased about the opportunity to work cooperatively together with our Governor to craft a Medicaid program which meets the needs of Utahns, not the needs of those in States across the Nation.

I have been troubled for some time about the inflexibility of the Medicaid program, and the innumerable, burdensome requirements placed on the programs at the Federal level. This has served to drive up costs as well as to hamstring innovators—such as our Governor, Mike Leavitt, who have some wonderfully creative ideas on how to deliver services in a cost-efficient manner.

I recall the story Governor Leavitt related to me about the Medicaid waiver he was trying to submit to the Health Care Financing Administration. Utah had determined that it could provide services to more citizens if it restricted the dental benefit to children and adult emergencies. HCFA turned him down cold.

Later, at a briefing with my staff, HCFA said they had not turned any States down on coverage requests such as this. When queried, they admitted that they had told the State not even to submit the request, because it would be turned down.

This bureaucratic gamesmanship is a prime example of why Utah should not have to seek approval from Washington of its State Medicaid plan. The changes made in this bill, which will allow Utah to design its own coverage program without a Federal waiver—with continued coverage for the aged, disabled, and pregnant women and children—are in important step and a needed step.

That being said, I want to acknowledge openly and frankly my understanding of the tremendous unease the prospects of major change cast upon our citizenry.

This is a natural reaction to change.

I make the pledge that if we receive evidence that these reforms are not working, I will do everything I can to seek an immediate legislative solution in this Chamber.

I want to make that perfectly clear.

I, too, am not completely satisfied with each and every provision, as I will discuss in a moment. I am hopeful that in the conference we can improve these provisions.

But first of all, I want to discuss how the changes in this bill affect Native Americans. This is a subject in which I have a great interest.

NATIVE AMERICANS

Mr. President, I am especially pleased that the pending legislation contains needed provisions, which I sponsored in the Finance Committee, relating to the impact of Medicare and Medicaid reform on Native Americans.

As we debate this important legislation, I want to be sure that we do not lose sight of how these reforms will affect Indian Country.

And, I would point out to my colleagues that Congress has recognized the severely depressed health conditions existing among Native Americans. But there is a need to do more.

The current health status of Native Americans and Alaska Natives remains disproportionately low compared to the rest of the population. The Native American (IHS Service Area) age-adjusted mortality rates remain considerably higher than for the rest of the U.S. population.

Between 1989 and 1991 the mortality rates for Native Americans were 440 percent greater for tuberculosis; 430 percent greater for alcoholism; 165 percent greater for accidents; 154 percent greater for diabetes mellitus; and 46 percent greater for pneumonia and influenza.

These rates are simply unacceptable. The bottom line is this: per capita spending for Indian health care is approximately one-half that of the national average. In 1992, the U.S. National Health Expenditures per capita was $3,155 compared with an IHS Health Expenditures per capita of $1,489.

The Native American provisions contained in this bill serve to reaffirm our Nation's commitment with respect to Medicare and Medicaid reimbursement for Indian Health Service (IHS) programs.

In effect, these provisions will help ensure that Indian health care continues to improve even as the Medicare and Medicaid programs undergo reform. Given the limited budget within which the Indian Health Service (IHS) and tribes must operate their health care programs, third-party income such as Medicare and Medicaid collections allow the IHS to supplement their already limited Federal appropriation.

The IHS estimates that it will collect $54,250,000 in Medicare and $120,750,000 in Medicaid reimbursements in fiscal year 1995. These collections allow the IHS and tribal programs to improve the conditions of their facilities and free-up financial resources to provide critical health care services which they could not otherwise provide.

In fiscal year 1995, Medicaid funds were used to pay the salaries and benefits for 1,379 FTEs. These staff positions include physicians, nurses, pharmacists, lab technicians, and support staff. The loss of Medicaid funds would mean that these health care providers would have to be laid off due to a lack of money to pay salaries and benefits.

The impact of the loss of this money would be tremendous because these funds supplement direct clinical care to Native Americans and Alaska Natives. It would result in the closure of critical inpatient services in some of the most remote parts of the country. The outcome would be truly devastating to the already poor health status of Native Americans.

Under existing law, IHS facilities like other health care providers are eligible to receive Medicaid and Medicare payments for services provided to eligible Indians. The provisions I sponsored will ensure that these arrangements remain in place in the new world of reformed Medicaid.

In addition, my language expands coverage to tribally owned and operated health care facilities as well as urban Indian organizations that serve Medicaid-eligible Indian patients.

Approximately 1.4 million Native Americans receive health care services from the IHS and from Indian owned and operated health care facilities.

In an effort to address the poor health conditions of Native Americans and because of the fact that Indian health programs are almost entirely dependent upon Federal appropriations, Congress made two exceptions to allow the IHS and tribal health facilities to participate in the Medicare program and use their reimbursements to improve facility conditions.

First, Congress made an exception to the general ban against payments to Federal providers of services for IHS and tribal health providers pursuant to Section 401 of the Indian Health Care Improvement Act and Section 1880 of the Social Security Act.

Second, Congress made an exception to the requirement that the IHS and tribal health facilities meet all of the conditions and requirements for participation in the Medicare program, as long as those facilities provided the Secretary with a plan for achieving compliance.

Pursuant to Section 1880 of the Social Security Act, hospitals and skilled nursing facilities owned by the IHS may receive reimbursement from Medicare for services provided to eligible Indians.

Pursuant to Section 1861(aa)(4)(D) of the Social Security Act, outpatient facilities that are owned by the IHS are eligible to be Federally Qualified Health Centers and participate in the Medicare program, but only if those facilities are operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, or by urban Indian organizations.

Tribally-owned health care facilities are able to participate in the Medicare program subject to the same conditions and requirements as any other provider in the State in which those facilities are located.

As this bill moves through the legislative process, I hope these provisions can be maintained, because I believe we should do all we can to enhance the level of health care provided to Native Americans through the Medicare and Medicaid programs. I thank my colleagues on the Finance Committee and the Committee on Indian Affairs for their support and assistance in developing these important provisions.

Another issue in which I have a great interest is the Federal effort to prevent health care fraud.

FRAUD AND ABUSE

The problem of health care fraud and abuse is certainly one of the most troubling aspects in our Nation's health care delivery system. By most estimates, the costs of health care in the United States approach $1 trillion annually. By the turn of the century, the figure will exceed $1.5 trillion annually, consuming up to 16 percent of the Nation's gross domestic product.

Even by most conservative estimates, billions of dollars are lost to waste, fraud and abuse. Health insurance experts, the FBI and other agencies agree that fraud and abuse account for as mush as 5 to 10 percent of total health care expenditures. As much as $27 billion taxpayer dollars are lost to fraud and abuse in the Medicare and Medicaid programs. These losses are clearly not insignificant.

Clearly, the Federal Government must take steps to put a halt to the deliberate and unscrupulous act of defrauding individuals, health care providers, and State and Federal Governments in the provision of health care.

The anti-fraud and abuse provisions contained in this legislation essentially represent the provisions contained in S. 1088, which was developed by our colleague from Maine, Senator COHEN.

I am extremely pleased that the final compromise addressed my concerns about provisions in S. 1088 which would have authorized the use of health care fraud related fines and penalties to finance investigative and enforcement efforts of the HHS IG's Office and efforts at the Justice Department.

I have long opposed this so-called bounty hunter provision, as I strongly feel it would create an incentive for Federal investigators to forgo prosecution or exclusion where warranted in favor of large civil penalties that would provide additional funding for investigators.

Under the new language as contained in the bill, all penalties, fines and damages collected will be deposited into the Medicare trust fund. Under this arrangement, the original purpose to strengthen the financial solvency of the Medicare program is further achieved. I strongly believe this approach serves to address my concerns as well as ensuring the integrity of the anti-fraud and abuse provisions.

I do have remaining concerns, which I will work to address in conference.

First, I would note that the bill does not uniformly punish those who would attempt to defraud a health care plan or provider or those who would conspire with others to do so. Nor does it appear to criminalize attempts or conspiracies to embezzle.

I think it is vitally important that those who conspire with others to cheat our health care plans should be punished to the full extent of the law. Otherwise, a conspiracy to defraud or embezzle will be uncovered before the crime is actually completed. Those situations should be addressed by this statute.

Second, while we provide for the forfeiture of property, real or personal of persons convicted of health care fraud, it is unclear whether the bill would also permit the forfeiture of the fraudulently obtained proceeds. While it is certainly important to obtain fraudulently obtained property, it is even more vital to divest criminals of their unlawfully obtained proceeds. We must be careful to craft legislation that will destroy the financial incentive for criminals to abuse our health care system.

In the same vein, the bill only permits forfeiture of property from persons actually convicted of a crime. Thus, if someone perpetuates a fraud against a health care plan or provider, and then flees outside the jurisdiction of the United States, it may be difficult to obtain their ill-gotten gains remaining in this country unless we permit the government to bring a civil forfeiture action.

Civil forfeiture must be available even if a conviction cannot be obtained. This is an important, complex issue. Indeed, I am currently working on legislation that would affect forfeiture law, and want to be able to craft responsible language.

I also have several technical concerns with the fraud and abuse provisions. For example, section 7141 punishes those who commit health care fraud with a maximum 10-year penalty. If serious bodily injury results, the criminal can be punished for any term of years.

Unfortunately, the statute does not appear to address a crime leading to someone's death. Serious bodily injury is not defined to include death, so the possibility of a death occurring as a result of the crime must be taken into account.

Finally, we need to ensure that this bill does not improperly extend Federal criminal jurisdiction and that it conforms to accepted investigative demand procedures. In light of the Lopez decision issued by the Supreme Court last term, we must be careful to draft legislation that contains the proper legislative nexus to the Constitution's commerce clause. We must put an end to the days of federalizing crime without giving any thought to the legitimate prosecutorial interests of the States.

We must also guarantee that appropriate, established, investigative demand procedures are followed. The administrative subpoena is a powerful tool that should not be used unless accepted procedures are followed.

In addition, I have continuing concerns about the provisions relating to the anti-kickback statute. I have been concerned about the discount exception to the statute as currently interpreted, and the discount safe harbor regulation which is, in effect, impeding the implementation of commercially reasonable and non-abusive marketing practices.

One such practice is the combining for discount purposes of various products and/or services supplied by a company to a provider. Another example involves the provision of discounts based upon the volume purchased during a fixed time period.

Hospitals and health plans purchase medical devices, pharmaceutical products and other health care products and services from one manufacturer, and thereby receive a percentage price discount on the total products purchased. The discount is allocated on a flat across-the-board basis for all products. Similarly, hospitals and health plans routinely purchase all products used for treatment of a particular disease from a supplier, at a fixed rate for all products.

In addition, manufacturers want to be certain that they can lawfully bundle products into a single procedure kit which contains all items needed to perform a specific procedure or treatment, and to offer the kit for purchase at a discount. Without the discount exceptions, such arrangements can be construed as a sale of one product tied to another and, therefore, a kickback under Medicare law, even when practiced lawfully in the treatment of patients.

These arrangements are appropriate and create no potential for abuse so long as there is adequate disclosure of the financial parameters of these arrangements so that the Medicare and State health care programs are able to ascertain cost data for purposes of revising payment rates and are able to evaluate the impact of these arrangements.

While these arrangements may differ from pure time-of-sale price discounts on a single item or service, they are appropriate in the current health care environment.

Discount arrangements are, in fact, commonplace in the private sector and have resulted in substantial savings to hospitals, managed care companies and, most importantly, consumers.

Unfortunately, current Medicare law is vague in this area and implies potential illegality of certain innovative purchasing practices common in the private sector. These types of purchasing arrangements enable hospitals and managed care companies to purchase medical supplies and drugs at a discount when they are sold as a package or in volume.

The success of Medicare reform relies heavily on the ability of health plans to replicate successful private sector practices—including innovative arrangements between providers and drug and device manufacturers that result in savings to beneficiaries and ultimately to the Medicare trust fund.

Accordingly, it is my desire to clarify that these innovative purchasing arrangements are allowable under the existing Medicare antikickback rules. Although we have made some progress in this respect in the bill as reported by the Finance Committee, it is my desire to pursue clarifications in all these areas as the bill moves forward.

CHIROPRACTIC SERVICES

During consideration of the reconciliation bill an the Finance Committee, I offered an amendment to allow chiropractors to practice their profession under Medicare to the full extent of the scope of practice permitted under State law. The Committee agreed to accept this amendment subject to working out the financing provisions with the Congressional Budget Office. However, due to the press of business, it has not yet been possible to complete the task of fine tuning a mechanism that would achieve this goal without significantly increasing the cost to the Medicare program.

This is unfortunate because I believe that the time is ripe to discard the antiquated restrictions on chiropractors that permeate current law. Today, chiropractic is recognized by the medical profession, and, indeed, a recent government report concluded that chiropractic treatment is among the most effective for the treatment of certain types of ailments. Many of us in this Chamber did not need a government study to tell us what we already know.

I am committed to work with my colleagues on the Finance Committee to effectuate a change in the limitations on chiropractors. I believe—and I am confident that a majority of my colleagues both on the Finance Committee and in this chamber agree with me—that chiropractors should be allowed to be reimbursed under Medicare as long as the service they provided is an existing covered service, and that they are operating within the scope of their license as defined by State law.

ORTHOTIC AND PROSTHETIC SERVICES

I wanted to take this opportunity to mention another amendment I authored in Finance Committee, which was approved but later dropped because we could not find a suitable offset. That amendment would have allowed a 1 percent update in the reimbursement rate for orthotics and prosthetics providers, in particular for artificial limbs and braces.

Orthotics and prosthetics providers design, fit and fabricate custom orthopedic braces and artificial limbs for a wide variety of persons with physical disabilities.

I understand that the O&P fee schedule has been frozen for a number of years, resulting in only a 1 percent update factor per year since 1985. The bill freezes the update.

I am sympathetic to concerns which have been raised about the growth in reimbursement for this industry, and I would only note that this is a highly specialized segment of the health care industry; where utilization controls should not be an issue. In addition, while the Congressional Budget Office cites large growth in O&P since 1990, part of this growth is due to parenteral and enteral nutrition [PEN], urological supplies and other non-custom devices which would have not been covered by my amendment.

I am hopeful that the final bill can include the one percent update.

ABSTINENCE EDUCATION

Providing education to young adults about the value of abstinence is extremely important and I applaud the effort that this bill makes in this area. Many of us share the belief that abstinence is the best and healthiest method for our young people to avoid the risks associated with early sexual activity—dangers that have both physical and psychological manifestations.

I am concerned, however, that the language defining abstinence education in section 7445 of S. 1357 may be interpreted by some as being so restrictive that some excellent abstinence-based programs, including some programs operating in my State, would not be eligible for funding. This issue turns on the interpretation of the term exclusive purpose in section 7445(c)(5)(A) and whether this will be read as encompassing programs, such as operated by the Community of Caring in Utah, for which abstinence is a primary goal. This program exists in 50 schools in Utah and has been successful in achieving abstinence by teaching and reinforcing it within the values of caring, respect, responsibility, trust and family. I would hope that a family values-based program this effective would not be excluded from funding.

PRESCRIPTION DRUG REBATES

Many of us opposed the Medicaid drug rebate program when it was first enacted in 1990, although I recognize that it has provided a valuable source of revenue for financially strapped State Medicaid programs. The theory behind this program is that it would constrain the costs of pharmaceuticals by guaranteeing State Medicaid programs the best price.

Because of the growing move toward Medicaid managed care, with its inherent cost containment strategies, the importance of the rebate program is now overstated.

I have been concerned that rebates are anticompetitive and constrain the ability of hospitals, HMOs, and other private sector purchasers of prescription drugs to negotiate discounts from pharmaceutical manufacturers. In addition, overly high rebates can act as a disincentive to provider participation in Medicaid, as well as to the pharmaceutical research and development necessary to foster breakthrough drug products.

Under the current Medicaid program, States receive a manufacturer's best price for a drug, plus an additional rebate reflecting any differences between price increases and inflation—as measured by the Consumer Price Index. Under the original Finance bill, the Federal rebate program would have been retained for 3 years, after which the States could choose whether to implement programs on their own. An amendment adopted in committee removed that sunset.

I believe it is important to clarify what was intended by an amendment that I offered at the Senate Finance Committee on the topic of prescription drug rebates.

Currently, several States require rebates from prescription drug manufacturers over and above what is required under the Federal Medicaid program. The bill that we will ultimately send to the President will also be likely to retain the authority for States to continue to collect rebates. My personal belief, and I think that most of my colleagues on Finance would concur, is that this authority should be along the lines of the original Finance Committee bill which included a transition period of 3 years allotted to States to integrate drug rebate programs into their overall health care programs.

At the Finance Committee there was discussion as to whether the language adopted would preclude States that choose to opt out of the Medigrant Program from collecting supplemental or additional rebates on top of the rebate amount authorized under the program. The Senate Finance Committee voted that States would be precluded from collecting unlimited rebates. At the committee level the point was made that the pharmaceutical industry is expected to spend about $15 billion on research and development in 1995 alone. States may choose to opt out of the drug rebate program but will be prohibited from collecting unlimited rebates from this research and development-intensive industry.

FDA EXPORT

I was pleased to learn this morning that the House adopted as part of its reconciliation bill legislation I authored with Representative FRED UPTON and Senator JUDD GREGG (H.R. 1300/S. 597) a bill which would dramatically expand export opportunities abroad for American manufacturers of pharmaceuticals and medical devices. That bill, the FDA Export Reform and Enhancement Act of 1995, will both create jobs in the United States, as well as provide incentives for us to enhance our technological capacity to develop new medical products.

I intend to work concertedly to ensure that this provision becomes law, and I commend my colleagues in the House, especially Representative UPTON, for their work in this area.

REIMBURSEMENT FOR EXPERIMENTAL MEDICAL DEVICES

On June 22, 1995, Senators GREGG, FRIST, KENNEDY, KASSEBAUM, GRAMS, WELLSTONE, CHAFEE, HUTCHISON, D'AMATO and I introduced the Medical Devices Access Assurance Act of 1995. A companion measure, H.R. 1744, was introduced in the House by Chairman BILL THOMAS, the first in Congress to step forward in this area.

This legislation addresses two serious threats to our health care system: restricted access for our senior citizens to the most advanced experimental medical technologies and our country's loss of clinical research activities to overseas facilities. This bill helps harmonize our reimbursement policies for experimental medical devices with those governing payment for experimental drugs. This is good policy that is fair and advances the public health.

Because of "Byrd rule" considerations we are not able to pursue this matter in the bill today, even though the measure is included in the House-passed bill. It is my intention to pursue this legislation vigorously throughout the remainder of this congressional term, either as part of the reconciliation bill, or on the Medicare/Medicaid technicals bill which I understand the Chairman intends to consider later this year.

OXYGEN THERAPY

As part of the Medicare reform legislation, the Finance Committee reported a 40 percent reduction of the home oxygen benefit payment. In contrast, the House Ways and Means Committee reported a 20 percent reduction.

While I recognize that these provisions, to a certain extent, mirror Health Care Financing Administration efforts under an inherent reasonableness proceedings, nevertheless I am concerned about the impact of such a significant reduction on patients in Utah who require a higher level of service, particularly those patients in rural or remote areas of the State.

In addition, I have met with numerous small home oxygen providers who believe that with their slim profit margins they cannot possibly sustain a 40 percent payment reduction. And for many patients, the small provider may be the only nearby source of home oxygen therapy.

As the legislative process moves forward, I hope that we can reexamine this proposal.

HOSPICE CARE

I would also like to mention my deep interest in making sure that Federal support for hospice care remains as strong as possible.

Hospice care provides palliative care for terminally ill individuals with a life expectancy of 6 months or less if the terminal illness runs its normal course. Specifically, hospice care provides relief of pain and uncomfortable symptoms through a specially qualified interdisciplinary group of medical, psychosocial and spiritual professionals. Besides being certified as terminally ill, an individual must be entitled to part A of Medicare in order to be eligible to elect hospice care under Medicare. Under the Medicare hospice benefits, a terminally ill individual can receive comprehensive high-quality care at a lower cost.

While I recognize the need to hold back the growth in spending for all components of the Medicare program, I am concerned that the effective and efficient service of hospice care currently available to Medicare beneficiaries may be compromised by the proposed 2.5 percent budget reduction.

Hospice care is in effect comprehensive managed care for a specialized population, the terminally ill, since the current Medicare hospice benefit is reimbursed on a fixed, all-inclusive per diem basis.

As a recent Lewin-VHI study indicated, "efforts to control Medicare expenditures [that] discourage hospice providers from offering their services to Medicare beneficiaries, Medicare expenditures would likely increase." We must monitor this situation closely to assure that the benefits of hospice care are not undermined by this proposal.

In addition, I also think we need to clarify how the hospice benefit will interact with the managed care opportunities provided in both the House and Senate bills. The House language is explicit in stating that Medicare contractors will assume full financial liability for services other than hospice care. The Senate language is silent on this point and I am hopeful this can be addressed in conference.

HOME HEALTH CARE

I am also concerned about the impact of this legislation on the provision of home health care.

As my colleagues are aware, home health has long been a personal priority of mine. I have seen time after time how gratified Utah families are to be able to care for their loved ones in the home. This compassionate, caring alternative to institutionalization can make all the difference in the lives of those who are ill.

At the same time, I recognize that the rapid growth of these services in recent years attests to the fact that patients prefer home health care over traditional institutional care.

I have had the opportunity to talk to patients and their families who receive these services. Almost without exception the family setting enhances the patients morale and serves as a positive influence in speeding recovery or sustaining the critical nature of an illness.

Accordingly, as we reform Medicare we should be careful not to limit access artificially.

The legislation before us today proposes significant changes to the home health care industry. One provision will require that home health care services be paid on a prospective pay system. This is something I have favored for a long time; I think this provision will serve to address concerns regarding costs as well as to promote cost efficiency and effectiveness among providers without compromising the quality of care.

While I support the enactment of a PPS for home health, I do have concerns about some of the provisions contained in the Senate and House proposals which could have unintended consequences of erecting barriers to care for several categories of the elderly.

For instance, the greatest deficiency in the respective House and Senate plans, and one which will cause the greatest financial hardship to agencies as well as impact on patients, is the treatment of extended care/outlier cases; that is, patients who require more than 120 days of care.

According to some industry sources who have contacted me, as much as 30 percent of the national caseload falls into this category. The discrepancy between the per episode cap—based on the average regional cost of providing 120 days of care—and the per agency limit based on 165 days of care—must be addressed and eliminated.

If the episode cap is limited to 120 days, then additional payments, where warranted and approved by the fiscal intermediary, should begin on day 121. Or, alternatively, the per episode cap should be based on the regional average costs of providing 165 days of care.

The financial impact on providers of the discrepancy is obvious. The impact on patients is no less obvious. In the first place, the plan effectively—albeit certainly unintentionally—discriminates against patients with certain medical needs and conditions. While Medicare will pay providers the full cost of furnishing care to some patients whose needs fall within the arbitrarily day limits, it will pay for only part of the care for patients who are either more acutely ill or have chronic conditions.

Additionally, it is reasonable to assume that agencies with large caseloads of patients needing care beyond 120 days—but less than 165—cannot long operate under this system. The logical result will be limited access to care in some areas as agencies close.

With respect to the home health market basket updates, payment rates should be based on actual reasonable costs. The provision which would adjust payments by the home health market basket minus 2 percent is clearly unreasonable. Per visit payment directly affects per episode limits, so the limitation has a compounded effect.

Also punitive, particularly in light of the 45-day window of vulnerability/discrepancy, is the limitation of the savings share to 5 percent of an agency's aggregate Medicare patients. I think this is something we may need to examine, especially since the limitation serves as a disincentive to bring overall costs to a level that will yield savings greater than 5 percent.

The limitation could ultimately hurt the Medicare program, whose level of savings would increase if real incentives were in place for home health agencies to work to produce saving beyond the 5 percent limit.

Another issue regards the break in care between a particular illness or episode. Any required break in the delivery of home health services before a new episode can begin would, by definition, be arbitrary. A 60-day break seems to be unnecessarily long, given the nature of the Medicare home health care population. I think that 45 days might be more reasonable.

Another question I have about our proposal is that it leaves open the question of what responsibility, if any, a home health agency would carry for a patient who is discharged—for example at 120 days—and then who needs services for another condition 50 days later. This issue needs to be clarified. If patients cannot receive the care they need through home health, it is reasonable to assume they will obtain it in a more costly institutional setting.

Finally, I note that the House bill extends the waiver provision until the implementation of the PPS system on October 1, 1996. I hope this is something we can reexamine.

CHILDREN'S HEALTH

Nothing can be more important to our future than the health of our children. Too often that fact is left out of our debate on entitlement programs.

This debate has underscored that there is obvious disagreement over whether Medicaid should remain an entitlement, but I am certain there is no disagreement that children should be a primary focus no matter how we reform Medicaid.

In particular, children with special health care needs—those with serious chronic conditions or disabilities such as those with cerebral palsy, cystic fibrosis, cancer or heart conditions—are fortunately very small in number. In fact, they represent only 2 percent of all children. But, it will take special attention to make sure their needs are being met.

For example, managed care can offer these children and their families better access to care and better coordination of services, but—as the managed care industry's own National Committee on Quality Assurance has recognized—managed care has little experience with children with special needs.

The bill we have before us today contains an amendment which would have States outline in their plans how they will serve children, and in particular, how they will serve children with special health care needs. While I am certain the Governors will devote appropriate attention to children with special needs, I think that outlining how this will be accomplished in the State plans will give us all the peace of mind that these very vulnerable children will not fall through the cracks.

In addition, the bill contains a provision I coauthored with Sen. GRAHAM to clarify that States are required within their Medigrant plans to describe the methodology to be used to continue disproportionate share payments to hospitals. An explicit methodology is important for hospitals such as Primary Children's in Salt Lake City, which receives 7 percent of its Medicaid revenues from disproportionate share payments.

NURSING HOMES

One of the reasons I have introduced S. 1177, the Quality Care for Life Act, is that I firmly believe we need to adopt a national policy for long-term care. That policy need not be a Federal-only solution. Indeed, any plan to provide comprehensive long-term care services for Americans citizens must embrace a mix of private and public solutions, including incentives for long-term care insurance development.

There are 17,000 nursing homes in this country, who serve 1.7 million residents. The care of two-thirds of these residents, some 1.13 million, is paid by Medicaid, and the care of 100,000 is paid by Medicare.

The impact of this bill on the provision of long-term care services is immeasurable, since we are reforming the Medicaid system which provides a good deal of the long-term care services in this country, as well as making substantial changes to Medicare reimbursement for skilled nursing facilities [SNF's].

There is no doubt that savings from SNF reimbursement should be included in a reconciliation bill; I think that all involved —providers, patients, and policymakers—recognize that fact. However, I have had some concerns about the way the provisions were crafted in the proposal that we considered in Finance Committee.

I have very much appreciated the willingness of Chairman ROTH, and his most capable staff, to work with me to address my concerns.

Two weeks ago, I received a letter from 28 organizations, representing a broad spectrum of companies and health professionals providing care to 1 million Medicare beneficiaries. These organizations, which include nursing homes, subacute facilities, ancillary service providers and health care professionals serving nursing home patients, were opposed to the committee proposal which would have established a flat, per-stay reimbursement rate for all ancillary services based on a blend of a facility-specific and a national average rate.

The basis of concern was that the move toward a national average could cause wide shifts in reimbursement, which could jeopardize patient care especially for those with severe illnesses. In addition, the funding mechanism could jeopardize the trend toward using subacute care as a cost effective alternative to hospital care.

I also think that, despite the Health Care Financing Administration's lack of priority in developing a prospective payment system for SNF's, there is consensus that future payment must be made on a prospective basis. The only practical solution to the funding problem for nursing homes under the fee-for-service sector of the Medicare Program is to implement a prospective payment system that contains the necessary cost containment incentives. This will take some time to develop. Under the most rosy scenario, such a PPS system could not be implemented before October 1, 1997.

To me, the goals in developing a SNF reimbursement proposal should be twofold. We must make certain that any proposal we approve maintains appropriate incentives for high quality services. At the same time, it must also provide reimbursement in the most equitable way, especially during the transition period as we move to a PPS system.

The key to designing a new system is to get a handle, not only on the price the Medicare Program is paying for the nursing home service package, but also on the amount of services provided in the coverage package. Control over the latter can only be accomplished by paying SNF's prospectively on a per episode, per case, or per spell of illness basis—as opposed to the per diem or per day approach that has been traditionally employed in the nursing home industry.

Faced with prospective per episode payments, skilled nursing facilities will be able to economize on the amount of services provided during each Medicare covered stay by adjusting the intensity of services provided during each day of the patient's stay in the facility and by making sure that the Medicare covered stay is no longer than necessary. Of course, other mechanisms outside of the payment system must be relied upon to control the number of Medicare covered admissions, but I expect we will be addressing these concerns through controls on coverage decisions, shifts to managed care, and modifications in eligibility rules.

These prospective episodic payments should cover all of the reasonable costs that skilled nursing facilities incur when providing Medicare covered services, including both operating costs (both routine and non-routine) and property costs. The prospective episodic payments under this system are intended to cover the entire cost of services provided during the period of Medicare part A coverage. This means that the payments are to cover both part A and part B services that are provided to the patients during their Medicare part A covered stays.

Additionally, the prospective episodic payments need not be the same for all patients in all facilities. For example, the prospective payments should be case-mix sensitive so that patients with varying service needs are associated with varying levels of payments. Skilled nursing facilities operating in different labor markets also should have their prospective payment schedules adjusted to account for these market differences. Finally, special consideration should be given to the prospective payments for patients in skilled nursing facilities with very low volumes of Medicare activity so as to preserve the access to SNF services that these providers afford. This can be done either by preserving the current low volume prospective per diem Medicare SNF payment system or by adjusting the prospective episodic payment levels for these facilities to recognize their higher costs of operation. No payment adjustments should be authorized other than those just described.

With this kind of approach to prospective Medicare SNF payment, we can expect to finally get a handle on one of the most rapidly expanding sectors of the Medicare Program.

I am extremely appreciative of the efforts that Senator ROTH and his staff have made to work with me to address concerns I have had about the SNF provisions in the bill.

There is one other SNF issue I wish to address. The Finance Committee amendment we considered today differed somewhat from an earlier draft I reviewed with respect to section 7037. In the previous draft, the language made it clear that the Secretary of HHS should establish salary equivalency limits based on "recent and accurate data relevant to the specific types of therapists and providers, subject to the salary guidelines." This language also specified that the existing guidelines for physical therapy and respiratory therapy would be updated to conform to that guidance. As my colleagues may be aware, the current guidelines for physical therapy and respiratory therapy are based on 1981 data and they are outdated.

This language was not included in the draft of this morning. I am hopeful that we can work to clarify this section during conference to make certain that the Secretary shall use accurate, timely, and relevant data in developing occupational therapy and speech language pathology guidelines and to assure that the Secretary will rebase the existing guidelines for physical therapy and respiratory therapy based upon timely, accurate, and relevant data.

CLINICAL LABORATORIES

Another provision about which I have some concern is the provision on reimbursement of clinical labs contained within this bill. I have no objection to reducing the level of spending under this category, and I am very appreciative of the fact that the bill does not contain the unwise proposal from 1993 to impose a copayment on lab services.

In committee, I had suggested a provision similar to the Ways and Means bill which would only freeze updates for lab payments and include much-needed administrative simplifications which could provide efficiency and cost-effectiveness in the delivery of lab services, a key regulatory reform goal of this Congress.

We were not able to work out the scoring on this proposal, but I am hopeful the issue of lab reimbursement, and especially administrative simplification, can be reexamined in conference.

FEDERALLY QUALIFIED HEALTH CENTERS

During Finance consideration of this bill, the committee adopted without objection a provision I authored with Senators CHAFEE and GRASSLEY which would allocate 1 percent of Federal Medicaid spending for the preservation of what I believe is really the Nation's primary care infrastructure—community health centers and rural health clinics. Since the bill rewrites title IX of the Social Security Act, Medicaid, it eliminates the cost-based reimbursement they would have received under Medicaid as Federally-Qualified Health Centers (FQHCs).

Let me make perfectly clear that I am extremely sensitive to the concerns that our Nation's Governors have raised about using a Medicaid set-aside as a funding source for this amendment; I want to work to address these concerns as the process moves forward.

Under our amendment, one half of the amount allocated would be used for payments to community health centers, and the other half for rural health clinics. The Secretary of HHS would determine the methodology for determining payments to these centers and would make payments directly to the centers. Payments made to centers by the Secretary would be in addition to any other revenues the centers receive from Medicaid, either directly from States or from managed care plans.

Mr. President, over 1000 community health centers and 2500 rural health clinics play a unique role in the health care system. In inner-city areas, community health centers are often the only providers of care to Medicaid patients and the uninsured. In rural areas, community health centers and rural health clinics are often the only providers for the residents of the area, whether they are on Medicaid or Medicare, have private insurance, or are uninsured.

Community health centers and rural health clinics serve over 16 percent of Medicaid patients nationwide. My colleagues might be surprised to know that 36 percent of community health center patients are on Medicaid; 44 percent are uninsured; 8 percent are on Medicare; and 12 percent have private insurance.

For rural health clinics, 27.7 percent of the patients are on Medicaid; 29.4 percent are on Medicare; 14.4 percent are uninsured; and 28.5 percent have private insurance.

The current Medicaid Program recognizes the unique role of these centers, and provides them with cost-based reimbursement, in order to assure that the payments are sufficient to meet the health care needs of Medicaid patients they serve.

Unlike providers with large numbers of privately insured patients, these centers do not have reserves or available capital, and do not have the ability to cost-shift losses from insufficient payments under public programs.

Under many current Medicaid managed care programs, these centers have not received sufficient payments from managed care plans to meet their costs of caring from Medicaid patients.

Some of my colleagues may ask why these centers need special consideration. A major reason is that many will be forced to close their doors or reduce services if their reimbursement is not maintained.

Centers are committed to serve all in their communities. Without a sufficient flow of funds to meet the needs of their Medicaid patients, centers will be forced to substantially reduce their patient loads, and many will go out of business. Other providers will not enter these underserved communities because the economic base will not support them, and the community will be left with no remaining health care infrastructure.

Another reason is that Medicaid patients (particularly those seen by centers) often are more difficult to treat than the privately insured patient enrolled in a managed care plan because Medicaid health center patients have more serious health conditions and poorer overall indicators of health status.

In addition to traditional medical services, centers provide other services (such as outreach, transportation, health education, and translation) which enable Medicaid patients to better utilize care and comply with medical direction. These services are not generally included in a capitated payment which a health center receives from a health plan.

There are many benefits which would result from this legislation.

Since these centers must be located by law in underserved areas, access to cost-effective preventive and primary care services will be assured.

These centers deliver health care which is one of the best bargains anywhere. For example, the total annual cost of community health center comprehensive primary and preventive care is, on average, less than $300 per patient.

I would also like to reassure my colleagues that this provision could result in substantial savings for State Medicaid Programs. Several recent studies have found that Medicaid patients who regularly use health centers have lower total annual health care costs than Medicaid patients who use other primary care providers, such as HMOs, hospital outpatient units, or private physicians. These studies show that health center patients were 22 percent to 33 percent less expensive overall and had between 27 percent to 44 percent lower inpatient costs and days.

Other providers could also benefit from this provision. These centers serve disproportionate numbers of high-risk patients, and adequately compensating the health centers for their care can make risk levels more reasonable for other providers in communities with more than one provider.

As we prepare to vote on this landmark legislation, I want to express my deep personal appreciation to the Finance Committee health staff, who have labored long and hard under the most difficult circumstances to bring us a solid piece of legislation. In particular I want to cite the hard work of Julie James, Roy Ramthun, Alec Vachon, Susan Nestor, and Donna Norton. I would be remiss if I did not also mention the monumental efforts of Lindy Paull, Rick Grafmeyer, and last, but not least, Gioia Bonmartini.

In conclusion, Mr. President, unfortunately, there is no easy nor painless way to effect reductions in the growth of Medicare and Medicaid. But it has to be done.

My message is simple. I wish we lived in a world in which we had unlimited resources so that all—aged, disabled, poor—could have the services they desire. But such a world does not exist.

We must be fair to our Nation's disabled, to our seniors, and to the low-income. But we must also be fair to our children, and their children. In short, we just have to do the best we can and this bill is a good start.

BALANCED BUDGET RECONCILIATION ACT

Mr. PRESSLER. Mr. President, I am pleased to be voting today for the Balanced Budget Reconciliation Act. For the first time in a generation, the United States Senate will be voting to end fiscal irresponsibility. Today, we have the opportunity to leave the next generation not mountains of debt, but the prospect of a stronger economy and a better standard of living.

Many of us have fought this battle to end runaway deficit spending for decades. I have done what I can. I have kept my votes within a balanced budget. I have cosponsored constitutional amendments to balance the budget, and measures to grant the President line item veto authority. When I assumed the chairmanship of the Committee on Commerce, Science and Transportation, I voluntarily reduced my staff budget by 15 percent. Those of us who believe in common sense budgeting fought tenaciously to reverse years of liberal excess and largess that has left the United States a debtor nation. For years, the only things I have had to show for my efforts to balance the budget are awards from grassroots, fiscal watchdog organizations. Today, with passage of this legislation, I have my eyes on the ultimate prize: a balanced federal budget. It is about time.

Of course, the people who deserve most of the credit are the American people. As they have done in so many instances throughout our Nation's history, the American people made the difference. Last November they said enough is enough. They sent home many liberal caretakers of a run-down, bloated Federal Government, and sent to Washington a new corps of members that share my common sense approach to government. American families, working hard to provide for their children's future, knew that the Federal debt stood as an ominous threat to their efforts and their way of life.

The people of South Dakota long ago made clear they do not tolerate wasteful deficit spending. South Dakotans believe that the Federal Government should live within its means—just like every family, every farm, and every business large and small. They are absolutely right.

No single act this Congress can take could have a more positive impact on more Americans than a vote to balance the Federal budget. The facts are clear. A balanced Federal budget and a lower debt free up investment dollars that have gone toward financing the debt or making interest payments on the debt. In practical terms, a balanced budget would mean three key things: First, it would mean lower interest rates by up to two percent, making loans for new businesses, a new home or car, or a college education more affordable; second, it would mean at least 6.1 million new jobs; and third, it would mean a higher standard of living. In fact, a balanced budget would result in per-family incomes rising on average by $1,000 a year.

With all the clear benefits, it is no wonder that the American people strongly favor a balanced budget. Americans recognize that fiscal irresponsibility has been a stifling barrier to progress—a barrier that gets larger, more onerous and more oppressive unless we act. Today, we are acting. A balanced budget is not just a restoration of common sense government. It is nothing less than economic liberation for every American family and business.

The balanced budget bill we pass today maintains our commitment to vital programs, such as student loans and national security. It also preserves and improves outdated, costly social programs that threaten to spiral our country into bankruptcy. Chief among them is Medicare.

Medicare reform is critical. I support Medicare. It provides essential hospital and health care services to 37 million Americans, including 113,000 South Dakotans. My mother depends on Medicare for basic health care.

As all of us know, earlier this year, we received troubling news from the trustees in charge of Medicare. They said that Medicare would be bankrupt in 7 years. Without action by the year 2002, there would be no money to pay senior citizens' hospital bills. Seniors would be stuck for the entire bill because Medicare would not be around to help. That must not happen. If we enact the Medicare reforms contained in S. 1357, that will not happen.

This bill would save Medicare by making a number of key reforms. First, the bill would slow the rate at which Medicare is spending our tax dollars. At present, Medicare is growing at an annual rate of 10.4 percent. That is too fast. It is like forcing a person to run a marathon at a sprinter's pace. If allowed to grow at this pace, Medicare will burn out and run out of money in 7 years. Like the marathon runner, we need to slow the pace of Medicare growth so it can run longer. That is just what this bill would do. It would slow Medicare growth to a more manageable 6.4 percent—still twice the rate of inflation, but at a pace that would enable Medicare to stay solvent for years to come.

In terms of dollars and cents, total Medicare spending would increase from $178 billion this year to $274 billion by the year 2002—that is a total of $1.6 trillion invested in Medicare and an increase of 54 percent over 7 years. This growth rate is faster than any other major Government program. Spending per South Dakota Medicare beneficiary would increase as well, from $4,816 this year to $6,734 in the year 2002—an increase of $1,918.

This bill would improve Medicare as well. The Republican Medicare reform plan rests on three basic principles: First, every senior would be able to choose the same fee-for-service Medicare plan they have now, with all of Medicare's benefits. Second, senior citizens would continue to be able to choose their own doctor. Third, seniors would have a new option—the option to choose from a variety of health plans, as do younger Americans and Members of Congress. Seniors could stay on Medicare, or opt for a health plan offered by a Health Maintenance Organization (HMO), a Provider Sponsored Network (PSN), or even a health plan sponsored by a pool of physicians.

For the first time, seniors would be given a greater choice over health care options. They would have leverage as health care consumers in a newly competitive health care market. This option of choice would offer senior citizens more benefits, such as eyeglasses, prescription drugs and hearing aids, at a lower cost.

In short, Republicans intend to improve Medicare by preserving its best elements, and empowering senior citizens, not the Government, to choose the health plan that suits them best.

This legislation also contains much-needed reforms in the Medicaid program. Like Medicare, the Medicaid program is growing at an excessive rate that threatens funding levels for other vital social programs. The core element of Medicaid reform is to slow the rate of growth in the program, from 10.5 percent to just under 5 percent. We further reform Medicaid by giving the States greater authority to administer the program, while maintaining our traditional commitments to cover pregnant women and children, as well as the disabled.

The balanced budget legislation also maintains our commitment to young Americans who need financial assistance for college. Much misinformation has been circulated by the liberals, but the reality is student financial aid enjoys wide bipartisan support. This was made evident just yesterday, when the Senate overwhelming approved an amendment I cosponsored to provide an additional $5 billion for student financial aid. This amendment would preserve the in-school interest subsidy for both undergraduate and graduate students. It also would prevent any increases in the interest rate on PLUS loans for parents and it eliminated a misguided .85 percent fee on student loan volume on colleges and universities.

I am very pleased the Senate adopted this amendment. During the Senate Labor Committee's consideration of its provisions in the balanced budget legislation, I contacted Chairman KASSEBAUM to express my opposition to any new fees on higher education institutions as a way to preserve our commitment to Federal student loan programs.

Frankly, we could do even more for our financial aid programs by repealing the wasteful direct lending program. This bill takes a step in that direction by capping the direct lending program at 20 percent. This program is a very inefficient and costly attempt to remove the private sector from the student loan process. The Congressional Budget Office [CBO] estimated that the elimination of direct lending would save taxpayers $1.5 billion over 7 years. In addition, students and families are better served by their local banks than faceless bureaucrats in Washington.

I have heard from many young South Dakotans on the importance of financial aid for higher education. I personally identify with their concerns. I relied on student loans to get through college. Let me assure them and their parents that the balanced budget bill before us today is a winner in two respects —first, it maintains the Federal commitment to federal student loan programs; second, by balancing the budget, young South Dakotans will inherit an American economy and a standard of living second to none.

Finally, Mr. President, the balanced budget bill brings much-needed tax relief to the American people—tax relief that is balanced, reasonable and fair. We need tax relief for a number of reasons. First, the current tax code is unfair to working Americans. Since 1950, the tax burden has risen dramatically. Today, average Americans see up to 40 percent of their hard-earned income go toward taxes. In a nation where the average family has both parents on the job, Americans are working harder than ever before. Yet, they have less and less to show for it. That is not right. A heavy tax burden stalls economic growth, prevents savings and investment, and hinders a family's ability to provide for the well-being of their children.

Second, we need tax relief to reverse the adverse affects of the 1993 tax increase—the largest in American history. This tax increase is the main reason why the current economic recovery has been much slower than previous recoveries. As I stated, a balanced budget provides our economy a much-needed boost. Tax relief would empower working Americans with the means to further boost our economy. Indeed, this tax relief bill is good for all Americans—families, small businesses, farmers and seniors.

We have carefully crafted a bill that takes a big step toward fairness and empowers Americans to contribute to the health of our country, our communities and our families. And we do so without leaving a Federal deficit.

The largest component of this tax package would provide a $500 per child tax credit for low- and middle-income families. This is money that can go where it can do the most good—in family budgets to serve a number of purposes, ranging from child care to saving for a college education.

This tax credit is great news for tens of thousands of South Dakota families. Specifically, more than 84,000 South Dakota families would benefit from the tax credit. Of that number, more than 31,000 South Dakota taxpayers would have their tax liability eliminated completely. This is a true middle class tax cut. In fact 84 percent of the tax relief in this bill would go to Americans making less than $100,000 a year.

The bill would provide even more tax relief for the middle-class by creating a student loan deduction for up to 20 percent of interest—up to $500—paid on a student loan.

The bill would create an adoption credit to encourage and reward those who reach out to open their hearts and homes to a child in need of a home. And we have strengthened our commitment to families by relieving the unfair burden of the marriage tax penalty.

The bill would encourage middle class families to save and invest by creating a new Individual Retirement Account. Current use of tax-deductible IRAs would be expanded through an increase in the income limits, which would encourage Americans to save more and secure their futures. Homemakers would be allowed participation in IRAs. Finally, penalty-free withdrawals would be allowed for first time home purchases, medical expenses, periods of unemployment and higher education expenses. I have long been a strong advocate for making IRAs more flexible for families. I am proud to be a co-sponsor of the original legislation, which was incorporated in S. 1357.

Our economy would be further stimulated by the capital gains tax cut contained in this bill. More often than not, capital gains taxes hurt middle income families. The vast majority of capital gains is realized from those individuals who have held a family home or farm for decades or even generations, and are severely punished by the tax code when they finally sell their primary assets to pay for retirement. This bill would cut the capital gains tax rate by

50 percent for individuals. This would allow individuals who now are holding assets for fear of the capital gains tax to put those assets to a more productive use.

Our small businesses—the true engines of our economy—would benefit from the capital gains reforms, but also from other specific items in our bill that were created for their benefit. Many small businesses do not offer pension plans to their employees due to the administrative costs and unnecessary paperwork that is required. For those businesses with less than 100 employees and limited resources, the bill would create a simple 401(k) plan where employees can contribute up to $6000 of wages, and employers must match up to 3 percent of the employee's pay.

One portion of this bill that I am particularly proud of is estate tax relief for family farms and businesses. Too often, people work their entire lives to build a successful farm, ranch or other small business, with the hopes of passing it along to their children. Unfortunately, the estate tax laws take away the fruits of their labor by imposing a tax of up to 55 percent upon the family estates. This frequently forces the family to sell all or part of the business simply to pay estate taxes. Earlier this year, after months of preparation, Chairman ROTH, Senator DOLE, Senator PRYOR and I introduced legislation that would exempt the first $1.5 million of qualified family-owned business assets from estate taxes, and then to provide a 50 percent rate cut beyond that.

The continuation of family-owned businesses is critical to the strength of our communities. This is true in South Dakota, where family farms and businesses have been the heart and soul of our economic development since statehood. Family-owned businesses give our kids something to work toward—and it helps our towns and neighborhoods by providing an active business commitment to their stability. The estate tax reforms in this legislation would end the imposition of estate taxes for virtually every family-owned family farm and small business in South Dakota.

I also worked to include in the bill a modest, but much-needed change to the Generation-Skipping Transfer Tax laws that would free up more options for contributing estate assets to charity.

I am pleased that this bill would retain the ethanol tax credit and extend the recently expired ethanol blenders tax credit, which is very important to South Dakota corn farmers and ethanol blenders. Both provisions are important for rural America and farm income. These kinds of credits are essential in order to provide new market opportunities for farmers. Ethanol is a fuel source that is cleaner for the environment, reduces dependency on foreign oil and strengthens our agricultural sector.

This tax package is a solid, reasonable approach to tax relief. It stimulates the economy and helps those who are trying to make a better life for themselves. Having the ability to plan ahead for retirement and other, unexpected, life changes benefits the society as a whole.

In order to assist those who seek to provide for their long-term health needs, the bill would clarify the treatment of long-term care insurance so that it would be treated like medical insurance and receive favorable tax treatment. The more we can encourage people to plan ahead for themselves, the stronger all of our futures will be. We have created Medical Savings Accounts [MSAs] so that everyone can plan for medical crises. The earnings on these accounts would be tax-free as are the withdrawals for certain purposes.

Mr. President, the driving principle behind this entire legislation is fairness—fairness to hard-working Americans and particularly to our children, who stand to inherit this country. Without this legislation, Americans would be subjected to egregious forms of unfairness on many fronts. Unless we balance the budget, young Americans will inherit a nation submerged in debt. A child born today already owes $187,000 just on interest on the Federal debt. That is more than $3,500 in taxes every year of her working life—a lifetime tax rate of 84 percent. This debt stands to threaten the very foundations of our economy and our country.

Without this legislation, Medicare will go bankrupt in the year 2002. Americans not yet of retirement age, who are contributing a significant portion of their pay to Medicare, deserve to know that Medicare will be there for them when they retire.

Without this legislation, hard-working Americans would be saddled with a tax system that punishes their ability to save, invest and provide for their families.

This legislation restores fairness to fiscal policy, seniors' health care and tax policy. Most Americans play by a common sense set of values. Americans work hard. They obey the law. They look out for their family and community. They try to provide for their future and their children's future.

For more than a generation, the Federal Government has stood in stark contrast to these values. The Federal Government taxes far too much and spends even more. It does not live within its means. It stifles individual initiative and ingenuity. This liberal tax and spend philosophy stands to threaten the livelihoods and the values that embody them of future generations.

Today, we take a significant step to right the wrongs of an irresponsible legacy of tax and spend. It is a historic occasion. Today, we set the stage for a new legacy of fiscal responsibility and fairness to American families. The American people made history last November by giving the Republicans control of Congress for the first time in more than a generation. They called for fair, common sense government. Tonight, for the first time in more than a generation, we in the Republican party will give the American people what they asked for: A fair, common sense government that lives within its means.

NAVAL PETROLEUM RESERVES

Mr. DOMENICI. Mr. President, there was a point of order sustained against the provision in the bill providing for the sale of the naval petroleum reserves [NPR], it is a technical violation of the Byrd rule.

The budget resolution included a reconciliation instruction based on the gross proceeds from the sale of the naval petroleum reserves. For reconciliation purposes, the Senate Budget Committee has scored the gross proceeds to the Armed Services Committee consistent with the budget resolution.

Under reconciliation scoring, there is no violation under the Byrd rule.

For the purposes of scoring under sections 302 and 311 of the Budget Act and determining whether the budget is balanced we do take into account the forgone receipts from the sale of the naval petroleum reserve. So, under that scoring there would be a net outlay increase in the out-years.

Even so, no one should be under the impression that the sale of the NPR will lose the Government money.

Under CBO's scoring, the sale of the naval petroleum reserves [NPR] leads to three budgetary impacts: $1.6 billion increase in gross proceeds to the Government from the sale of the NPR; $2.5 billion in forgone receipts over the next 7 years from the sale of the reserves; and at least $1.0 billion in discretionary spending savings associated with the fact that the Government no longer will need to spend money to operate and maintain the reserves.

None of these figures take into account the interest savings the Government will earn or the tax revenues that will be generated by the private operation of this oil venture. Even without these additional savings, the sale still generates savings to the Federal Government over a 7-year time period.

The point of order against this provision is clearly a technical violation. I will work to ensure the sale of the NPR's is incorporated into the conference report and there is no Byrd rule violation.

The irony here is that a Democratic point of order will defeat the President's proposal to sell the naval petroleum reserves. If we don't sell it, the President's plan is even more out of balance.

Mr. President, the NPR has outlived the original purpose for which it was established around the turn of the century—a fuel reserve for the Navy.

Since 1976, the Department of Energy has been operating NPR as a commercial oil venture. The quality of oil produced from the NPR is not suitable for use by the modern Navy and instead is sold to the private market.

There is no national security rationale for the Federal Government to continue managing NPR oil production, either in terms of military or domestic energy requirements. The private sector can run NPR more efficiently than the Federal Government.

INTERNATIONAL SIMPLIFICATION

Mr. DOLE. Mr. President, I would like to state my support for including several international tax simplification measures in the conference report. There is an urgent need to address certain issues now before businesses make operational decisions that may negatively impact the growth of those industries for years to come, and, as a result, harm the U.S. economy. I know that Senators HATCH, D'AMATO, CHAFEE, GRASSLEY, and MACK also have strong concerns in this area, and I hope we can all work together to see that these issues are addressed in the conference report on this bill.

The provisions to which I refer include various international simplification measures, some of which are in the House bill, including a measure that would permit foreign tax credits to be applied to taxes paid by fourth-, fifth and sixth-tier controlled foreign corporations (CFCs), as well as the repeal of Section 956A of the Internal Revenue Code, the clarification of the application of the foreign sales corporation (FSC) rules with respect to software exports, and a reevaluation of the deferral rules for foreign shipping income of CFC's.

One of the provisions on which I believe we should act is section 956A, which was one of the tax increases included in President Clinton's 1993 tax bill. Contrary to the stated reason for enacting this provision, in many cases it has created an incentive for U.S. multinationals to invest overseas rather than in the United States. This is because by having its foreign subsidiary invest in active foreign assets, a U.S. multinational reduces its tax liability. Thus, section 956A essentially provides a 35 percent investment tax credit for foreign investment by U.S. companies. Similar problems arise from a provision that today could cause a CFC to be treated as a PFIC because current law generally does not recognize the value of a company's intangible assets. These and other international tax simplification issues should be addressed in the conference agreement to this bill.

Mr. HATCH. Mr. President, I share the concerns expressed by the majority leader regarding the need to repeal Section 956A and the application of the PFIC rules to CFC's in connection with intangible assets. I would also like to express my concern about the problem of the overlap between subpart F and the PFIC provisions in general. I look forward to working together with the leader to correct all of these problems in the conference report on this bill. These provisions have the effect of hindering competitiveness of U.S. multinationals and distorting investment decisions that properly should be governed by economic considerations alone. Thus, they put at risk U.S.-based jobs. The 956A and PFIC rules have an especially harsh effect on research-intensive companies, which tend to accumulate capital before making major investments. As a result, I am particularly concerned that research activities may be moved overseas in order to avoid the impact of these rules. I believe this Nation may gradually lose its competitive edge in the technology field if through ill-conceived tax rules we provide incentives for this technology to be developed and owned outside the United States. As you know, technology industries are very important to my State of Utah, and I am concerned about Tax Code provisions that have the effect of causing those industries to move their high-paying jobs out of the United States. For that reason, I would like to ask the leader's support for addressing in conference a problem that has arisen because of a narrow and ill-conceived IRS interpretation of the foreign sales corporation (FSC) provisions as they apply to exports of software, which I fear could also result in the movement of software development jobs overseas.

The FSC rules were enacted to address competitive disadvantages faced by U.S. exporters vis-a-vis exports from other countries that have more favorable tax systems, particularly those that effectively exempt export sales from home country tax. The goal of the FSC provisions was to remove an incentive to move manufacturing and production jobs out of the United States. Unfortunately, a narrow IRS interpretation of these rules could preclude exports of software copyrights from qualifying for export treatment under the FSC rules when those exports are accompanied by a right to reproduce the software overseas. I am very concerned because software companies are already examining opportunities to move high-paying software development jobs overseas where highly skilled labor is available at much lower wages. FSC benefits help offset higher U.S. labor costs by providing benefits on the export of products developed in the United States. I believe it is very important to clarify these rules to reflect the Congress' intent with respect to software, not only to protect U.S. software development jobs, but also to preserve ownership of this technology in the United States.

The narrow IRS interpretation of the application of the FSC rules to software was included in 1987 temporary and proposed regulations, which were never finalized. The Treasury Department has broad authority under current law to implement congressional intent by providing that a copyright on software qualifies as export property even if the software is accompanied by a right to reproduce. I believe that the Treasury Department should take action on its regulations to so provide this result. However, Treasury has indicated that it prefers congressional action to resolve this issue. In any event, 8 years is too long to wait for Treasury to take action on its temporary regulations, especially given the fact that the software industry regularly receives solicitations to move their software development to other countries, such as Ireland and India. Therefore, I hope that the majority leader will support legislative clarification of this issue in the context of international tax simplification measures that will be considered by the conference committee. This clarification of the FSC rules is an important simplification measure because it will implement the intent of Congress and help taxpayers and the IRS avoid years of litigation over the current regulations and help to avert complicated restructuring activities.

Mr. DOLE. Mr. President, I, too, am concerned about the Treasury Department's interpretation of the FSC rules with respect to computer software and do not believe that the FSC statute precludes the application of the FSC provisions to computer software in the case described by the Senator from Utah. Given the Treasury's unwillingness to resolve this issue, I agree that we should address this issue in conference.

Mr. D'AMATO. Mr. President, I share the views of the majority leader and the Senator from Utah with respect to the urgent need to provide long-overdue improvements to our international tax system, especially when existing law hampers our industries as they expand their operations in the global marketplace.

The need for simplification and reform is illustrated by section 956 of the Internal Revenue Code—a section introduced in the 1960's and designed to prevent taxpayers from avoiding taxation on the repatriation of foreign earnings through disguised dividends in the form, for example, of loans to affiliates. In general, ordinary course of business financing transactions appropriately were exempted from this provision. Since section 956 first was introduced, however, the scope and complexity of international business have expanded rapidly, but the ordinary course of business exceptions to section 956 have not been updated.

For example, U.S.-based securities firms typically had negligible foreign earnings at the time section 956 was introduced, and therefore the ordinary course of business exceptions to that provision did not reflect standard commercial practices in that industry. In recent years, however, many U.S.-based securities firms have transformed themselves into global institutions by developing substantial international operations (just as many foreign-based institutions now compete in the United States). Section 956 has never been updated to reflect this surge in the international activities of the U.S. securities industry, thus forcing the industry into complex uneconomic transactions.

This is just one example of how U.S. taxation has not kept up with the political, economic and technical changes that have created new opportunities and broken down old barriers as national markets are replaced with global markets. Our tax laws should reflect and support these changes in a similar fashion, or they will force undue complexity on U.S.-based companies.

I join with the Senators from Kansas and Utah in supporting the principal of tax reform in the international area and the inclusion of international simplification and reform in the conference report.

Mr. DOLE. Mr. President, I agree that we should try to address these measures in conference.

BAUCUS MOTION TO STRIKE

Mr. BIDEN. Mr. President, there is a stretch of coastal plain in northeastern Alaska which has been called North America's Serengeti. Nestled between the towering 10-thousand foot peaks of the Brooks Range and the frigid Arctic Ocean on the North Slope of Alaska, lies the Arctic Coastal Plain, the 1½-million-acre crown jewel of the 19-million-acre Arctic National Wildlife Refuge. According to the Fish and Wildlife Service, the coastal plain area is the biological heart and the center of wildlife activity in the refuge. This pristine and complex Arctic ecosystem is habitat for a complete spectrum of wildlife, including polar and grizzly bears, wolves and snow geese. A 160,000-member porcupine caribou herd has used the coastal plain as a calving area for centuries. In all, more than 200 animal species call the refuge home.

Tragically, the bill before us today threatens to permanently mar Alaska's Coastal Plain by permitting destructive oil and natural gas exploration. Under a broad pretext of jobs, economic development, and international security, some want to enable gigantic energy interests to irreparably harm the sanctity of this area. What will be taken can never be replaced, and we ought not allow exploration to occur.

The State of Alaska has been blessed with abundant natural resources, and on the whole we, as a nation, are stronger for much of the enormous development which has occurred there.

Depending on who you ask naturally, the prospects for a substantial oil find on the coastal plain vary. Nineteen percent, Forty percent, the estimates, by definition, are inexact. Proponents of development believe that under the tundra lies the next Prudhoe Bay discovery, the next North Sea field. Fueled by projections of a skyrocketing demand for oil by the developing world, energy interests are waiting with bated breath.

Yet, of the more than 1,100 miles of northern Alaska's coastline, the coastal plain is the only 125 miles closed to development. Isn't this a small, justifiable sacrifice. Isn't there a point where we draw the line and protect a unique area because there is value beyond the price per barrel.

Let us assume for the moment that perhaps there is some merit in development, and let us further use Prudhoe Bay as a case study of likely consequences. Though for the most part drilling in the bay is reasonably managed, oil spills still average 500 annually—that is nearly 10 spills per week. This activity seems to also be having an impact on the surrounding wildlife. An article in the October 21 edition of the Anchorage Daily News noted that a new State caribou survey has found a sharp decline in the central Arctic caribou herd indigenous to the area. The cause is unknown, however, recent research by the University of Alaska has found that caribou living near the oil fields have far fewer calves than those away from the facilities.

If this is in fact the case, the adverse effects of oil activity would be magnified in the coastal plain. What will exploration bring? Hundreds of miles of roads and pipelines leading to dozens of oil fields, blocking wildlife migration. Toxic wastes leaking into the soil. Rivers and streambeds robbed of millions of tons of their gravel to construct roads and runways.

According to Interior Department estimates, oil exploration would likely result in a decrease or change in distribution of 20 to 40 percent in the caribou population, 50 percent in the numbers of snow geese, and 25 to 50 percent in the muskox populations.

And after the oil has dried up, after the companies have gone, what will be left? The footprint of industrial development: abandoned drilling equipment scarring the landscape; toxic contamination; lost wildlife; a horizon permanently altered.

I have heard proponents argue that opening the coastal plan is a critical step toward decreasing our growing dependence on foreign oil. Yet, many of these same proponents are now moving a bill through the Congress to start exporting the oil presently extracted from Alaska's North Slope.

Mysteriously, this concern about our dependence on foreign oil also seems to evaporate when it comes to investment in research and development of alternative fuels, such as solar and wind energy.

Protection of our wilderness should not be a Democratic issue, or a Republican issue. In fact, the entire National Wildlife Refugee System, of which the Arctic Refuge is a part, was begun in 1903 by one of the greatest conservationists in our history, President Teddy Roosevelt, a Republican. The coastal plain was part of the original wildlife refuge established by President Eisenhower in 1960. Regrettably, red ink bleeding from Alaska's budget and the power of a few special interests have polarized this debate.

Every American has a stake in our National Wilderness Areas, in the preservation of the environment in which we all live, Every acre offering the possibility of oil ought not be drilled, every mountain offering the possibility of gold ought not be mined, every mile of wilderness ought not be stripped bare just because its value can be quantified, just because revenue can be raised.

Due to the fragile and complex interconnection of ecosystems, our future is inextricably linked to nature's vitality. If the scale is tipped too far by overdevelopment and we lose our balance, no amount of money will enable us to restore what we have lost.

We must remember that we are but visitors in this land, existing by the good grace of Mother Nature—a lasting, sustainable society for all future generations depends upon it.

Mr. COHEN. Mr. President, I have enormous respect for my Republican colleagues for producing this historic budget. For the first time in a generation the Senate is presented with a plan that actually balances the budget.

Earlier this year, opponents of the balanced budget amendment charged that the amendment was a gimmick designed to allow Members to say they support a balanced budget without having to explain exactly how to achieve this.

I am proud that these critics have been proven wrong. Despite the loss of the balanced budget amendment, this Republican Congress has persevered in producing a specific plan to balance the budget in 2002—the same year called for in the balanced budget amendment.

The spending cuts called for in this plan are significant, and many of them are well overdue. My concern is with the tax cuts. I do not think we should be cutting taxes at the same time we are trying to balance the budget.

Trying to do both at once is like driving with one foot on the gas and the other on the brake.

I think the tough cuts proposed in this plan would be more easily justified without the tax cuts.

Any way you look at it, because of these tax cuts, the Federal Government will have to borrow $245 billion more over the next 7 years than it otherwise would. This is particularly troubling in light of the fact that, if no changes are made in the Federal budget, children born today will face a lifetime tax burden of 82 percent. Such a tax burden is clearly unsustainable and intolerable.

Paying for tax cuts with borrowed money is really more of a tax deferral than a tax cut. At some point, future taxpayers will be forced to pay back the $245 billion and their tax burden will be higher than it otherwise might be.

If the effect of borrowing money for tax cuts today is to increase the tax burden on future generations, the entire purpose of balancing the budget is undermined. We will still be asking our children to foot the bill. Balancing the budget is itself a tax cut in that it would relieve families of the hidden taxes associated with servicing the national debt. Interest on this debt costs the average household over $800 a year. Balancing the budget more quickly and forgoing a deficit-financed tax cut would ease the burden of these hidden taxes. Balancing the budget more quickly would also lower interest costs for mortgages and student loans—saving families thousands of dollars.

Congress must focus on increasing the national savings rate. The surest way to achieve this goal is by reducing the deficit and by fundamentally reforming the tax code. The tax cuts proposed in the pending bill would frustrate both of these goals. The Tax Code would be complicated further and the deficit would be $245 billion larger.

Let me be clear. If not for the budget deficit, I too would support a broad-based tax cut. I am no fan of higher taxes. I opposed President Clinton's deficit plan because it relied too heavily on tax increases and not enough on spending cuts. It is one thing to oppose further tax increases. It is quite another, however, to support large tax cuts in the face of looming deficits.

While the size of the tax cuts prevent me from voting for this budget, I appreciate the willingness of the majority leader, Senator DOMENICI and Senator ROTH to work with me and other Senators to make some important changes to the bill affecting the education and Medicaid programs. In addition, important Federal nursing home standards were maintained. While these improvements were substantial, they could not offset my overarching concerns with cutting taxes by $245 billion at this time.

I am confident that the Senate will have an opportunity to consider another balanced budget plan this year. The budget in its current form will almost certainly be vetoed by the President. Subsequent to this veto, I look forward to working with my colleagues to craft a new plan that maintains the goal of balancing the budget without cutting taxes by $245 billion.

Mr. SPECTER. Mr. President, I am voting in favor of final passage of the budget reconciliation bill because I believe the prospective benefits of balancing the budget outweigh the concerns expressed in my floor statement of October 24, 1995. As indicated by that statement and my votes on individual amendments, I believe the bill would have been fairer with more funding for Medicare, education, and Medicaid without the tax cuts. OK, the tax cuts should have gone to deficit reduction. But, on balance, the bill should be passed.

At the insistence of our group of centrist Senators, this bill has been materially improved by floor amendments which did add some significant supplemental funding for Medicaid, Medicare, and education.

It is my expectation that further improvements are likely in the House-Senate conference with additional funding for Medicare and recipients of the earned income tax credit, because the House of Representatives has higher figures in those accounts.

After the House-Senate conference and the expected Presidential veto, it is likely that the ultimate legislation will better address the fairness issue and provide better assurances that tax cuts will not undermine a balanced budget.

Passage of this bill by the Senate today will move the process forward and promote the primary objective of balancing the federal budget by the targeted year of 2002.

Mr. BIDEN. Mr. President, a nation's budget reveals its fundamental values, its priorities, the problems that most concern its people. A budget can tell us a lot about how a nation's resources will be shared—which people, what activities will bear the tax burdens, and which people, which activities will be encouraged and rewarded.

We are debating here today perhaps the most important budget plan in my public career. This is the first time we have committed ourselves to a 7-year budget plan, and the first time we have committed ourselves to a path which ends in a balanced budget. If—and this is a big if—we stick to it, this budget will control our actions through the end of this century and beyond.

What statement does this document make about our country? What does this reconciliation bill say about our concerns, what does it say about our values?

Mr. President, as we debate this bill we face a number of fundamental problems in our country. High on the list of worries of the middle-class men and women I talk to in my State of Delaware is the need to restore faith in the American dream—a belief that their own hard work will earn them a decent living today, that their mothers and fathers will enjoy a secure and dignified retirement, and that there will be a better world for their sons and daughters.

And just as high on that list of Americans' concerns is a need to restore Americans' sense of fairness—a sense that we have a system that gives the average guy a fair shake, that does not turn its back on those who are less fortunate, a system in which the most fortunate meet their obligation to contribute to our shared needs.

This is a value increasingly at risk today.

How does this budget respond to those concerns, Mr. President? How does it reflect those middle-class values?

I am sorry to say that this budget will give middle-class Americans more reason to worry about the future. It weakens the foundation of future growth by making it harder for our children to get the education they need to become part of a high wage, high productivity, world class work force.

The lower, slower growth that is the inevitable result of this reconciliation bill will contribute to a further hollowing out of our middle class—an expanding gap between the few whose families can afford a more expensive ticket to a better future and those who cannot.

A weakened middle class increases social instability, and leads to the very real concerns about the future that we now see in the polls, and in our streets.

It threatens Americans' ability to control their own fate—no matter how hard they work, a weaker, slower growing economy will mean smaller wages and salaries, a bleaker future.

As unwise, as reckless as this bill is in its threat to our current and future standard of living, Mr. President, it is unconscionable in its abandonment of our commitment to our parents' generation.

It raises the cost of getting old in America, Mr. President. This reconciliation bill is a dark cloud over what should be the golden years of the generation that made us into a world power, that passed on to us the richest, most powerful country in the history of the world. How do we repay their hard work and sacrifice on our behalf?

This bill raises the cost of Medicare and Medicaid, and removes nursing home standards that demand basic human decency. It cuts more than $270 billion from Medicare over the next 7 years. Already today, seniors pay an average of 20 percent of their income for health care. This plan, will increase the premiums of a senior couple an additional $2,800 over the next 7 years.

This reconciliation bill continues to dump the burden on a middle class that is already getting clobbered. For more than a decade and a half, the median income in this country has been stuck in neutral—along with housing, the costs of education and health care are squeezing everything else out of middle-class budgets.

This bill increases health care costs of the retired parents of hard-working middle-class families. What are they going to do when grandma and grandpa come home and tell them that they will have to pay more out of their own fixed incomes to visit their own doctor? Will they turn their parents away? We all know the answer to that question, Mr. President—thank God, those middle-class families are going to remember their parents' sacrifices for them and for this country, and they are going to reach into their pockets and cover the new costs imposed by this bill.

At the same time, they are going to have to pick up the tab for more expensive college loans. It is the old squeeze play, Mr. President, and guess who is in the middle?

The saddest thing about this reconciliation bill may well be the missed opportunity it represents. I voted for the balanced budget amendment. I support not one, but two different budget resolutions that could have brought us to a balanced budget by the year 2002, the same target at which this reconciliation bill is aimed.

So I wish I could vote for a plan that would reach that goal. There are many possible plans, many possible paths to that goal. Some of those paths to a balanced budget would leave us a stronger, more competitive, and fairer country.

This one will not.

The question is not whether we should balance the budget. The question is not whether there must be sacrifice and change in the way we do business here. And for me, there is no question that we should make room for tax cuts, though more carefully drawn and targeted than those here before us today.

The question is how should we share the burden of the necessary sacrifice among the American people, and how should we allocate the necessary spending cuts to assure stronger, faster economic growth in the future.

This reconciliation bill has the wrong answers to those questions, Mr. President. It dumps the burdens of deficit reduction on those least able to bear it—deepening, not healing, the growing rifts in our society. And its shortsighted priorities—raising the cost of education, reducing health care and nutrition to the poorest children—weaken our ability to respond with a healthy, smarter workforce to the challenge of international economic competition.

I tried, along with a lot of my colleagues, to fix this bill. I offered an amendment that would give a $10,000 tax deduction to help middle-class families pay for the rising costs of a college education. I tried to reduce the fraud in the Medicare system—to save money that could have prevented some of the worst cuts this bill will impose. I supported many other attempts to restore some fairness, some common sense, some more balanced priorities to this bill. Those attempts were defeated.

We are left with this fatally flawed bill.

And a final point, Mr. President. As someone who voted for the balanced budget constitutional amendment, I might be moved to overlook some flaws in a plan that offered real promise of bringing the Federal deficit down to zero. Unfortunately, this plan uses a bunch of budget gimmicks too long to list here to maintain an appearance of budget balance that may well never become a reality.

Most disturbing to me is the fact that only by counting the surplus in the Social Security System will this plan bring the deficit to zero in the year 2002. Without counting Social Security funds as part of the Federal Government's everyday income, something that is not permitted under our current budget laws, the Republicans' own Budget Office has told them that this budget will be out of balance by $105 billion in 2002.

But there are other problems, Mr. President—such as the heavy "back loading" of the spending cuts. This budget saves the real pain for the 6th and 7th years of this plan—a point when virtually no one here today would have to face the need to cut over $200 billion each of the last 2 years. Let us hope there will be more enthusiasm for those choices then, than there appears to be now.

This bill's gimmicks include asset sales—to make the books look better in the short run, but that will leave us poorer in the future. Again, this is a practice that should not be allowed under budget law, but it is in here nonetheless.

So this reconciliation bill does not express the values of the Americans I know, the values of the people of Delaware. It does not embody the principles of mutual obligation, of family continuity that the Americans I know share. It is an affront to any notion of family values.

It does not address middle-class Americans' valid concerns about the future of our economy, and it does nothing to help us build the well-paid, high-productivity work force that will allow us to take control of our destiny.

Because I know we can do better, Mr. President, and because the American people deserve better, I will vote against this bill.

Mr. CHAFEE. Mr. President, this reconciliation bill is the culmination of the congressional budget process. It provides for a balanced budget within 7 years, a truly remarkable feat.

The next step will undoubtedly be direct negotiations between congressional principals and the President to reach a final budget accord. However, that cannot occur until this legislation has been passed in final form, and sent to the President. And the quicker, the better, in my view.

While I do not agree with every aspect of this reconciliation bill, the objective of achieving a balanced budget far outweighs any misgivings I have about various of its provisions. We do not always get everything we want in the legislative process. Achieving the greater good must also be a consideration; and, here, the greater good is to obtain a balanced budget.

For 33 straight years this Government has spent more than it has taken in. The cumulative consequence of our annual budgetary sins is an incredible $5 trillion national debt—literally, a mortgage on the economic future of our children and grandchildren. This is immoral, and must stop.

Every week, the Treasury Department must issue debt securities to keep the Government afloat. This past Monday, for example, Treasury borrowed $27 billion to cover maturing securities, and to raise needed cash. The Department must hold monthly, quarterly, and annual auctions just to maintain solvency. If we make no changes to the course we are currently on, we will run $200 billion deficits each year well into the next century. Fully 15 percent of our annual Federal budget—$235 billion—must now go to paying the interest on this massive debt, without a penny of that going to reduce the principal. Within 10 years annual interest costs will jump to $400 billion.

This must stop.

Those of us in Congress, who have struggled over the years to reverse this ruinous course, are rightfully frustrated. In 1985, we passed the Emergency Deficit Control Act, also known as Gramm-Rudman-Hollings. That law was supposed to deliver a balanced budget by 1991. It did not happen. In 1990, we passed the Budget Enforcement Act, establishing the discretionary spending caps and the pay-as-you-go rules for entitlement spending and tax cuts. The results are barely measurable. Despite our best efforts, deficit control continues to elude us.

Regrettably, we cannot balance the budget this year or next. However, with the bill before us, we will balance the budget by the year 2002. And, from there, we can hopefully go on to commence retiring the staggering national debt that will remain.

Is this bill perfect? No, it is not. I am not aware of any Senator who is satisfied with every aspect of this 1,900-page bill. In my view, at a time when we are struggling to reduce the deficit and asking people to sacrifice, the tax cuts are ill-timed. Earlier this year, during the debate on the Budget Resolution, a number of moderate Republicans—myself included—sought to discourage the tax cuts. That effort was complicated by the fact that the President's own budget called for tax cuts totaling more than $105 billion. During the Finance Committee deliberations last week, I was the lone Republican voting to eliminate or scale-back the tax cuts. Unfortunately, my view did not prevail.

I have also been clear in my objections to block granting the Medicaid Program. I took steps in the Finance Committee to ensure that, at a minimum, pregnant women and children with incomes below the poverty level, as well as the disabled, retain some minimum guarantee of services.

In that regard, I am pleased my amendment to clarify the definition of "disability" passed the Senate yesterday by a vote of 60–39. Similarly, I am gratified the Senate this morning rejected, by a vote of 21–78, an amendment to strike my guarantee provisions for low-income pregnant women and children, as well as the disabled. These votes place the Senate squarely on record in support of requiring states to guarantee services to these vulnerable populations.

As a result of negotiations with the majority leader, moderate Republicans have been able to obtain a number of other improvements to the Medicaid package over the past several days. These include retaining Federal standards for nursing homes, a set-aside for low-income Medicare beneficiaries, and requiring that the same solvency standards a State applies to private plans must also be applied to Medicaid plans. We were also able to obtain a provision to permit the integration of services for elderly and disabled individuals who are both Medicare and Medicaid-eligible. Finally, we also won inclusion of an additional $10 billion in funding to the States under the revised Medicaid Program, and $2 billion more in Medicare payments to teaching hospitals.

I am also pleased that we were able to reach an agreement with the majority leader to eliminate the proposed reductions in Federal student loan programs that most directly effect students, parents, and schools. This occurred yesterday with the passage of the Kassebaum amendment, which restores the interest exemption "grace period" for newly guaranteed students, retains the current interest rates on "plus" loans to parents, and drops the new fee based on student loan volume that schools would be required to pay. We must not burden families further by making student loans more costly.

Despite these improvements, I still have some serious objections to S. 1357. Nonetheless, I will vote for this reconciliation measure. Moreover, I will vote against any amendments which I believe will delay or prevent this legislation from reaching the President's desk at the earliest possible time.

The new fiscal year started over 3 weeks ago, numerous appropriations bills remain outstanding, and the short term continuing resolution we passed last month will soon expire. My objective is to expedite getting to the endgame—to the bargaining table with President Clinton—where the real negotiations and work can commence on the terms of a final agreement to balance the budget.

While one may or may not agree with this package, it definitely does not represent business as usual. In fact, it is a bold, politically risky initiative, without precedent in my memory. This is the first serious attempt to constrain the explosive growth of Medicare and Medicaid; to cap and reform farm subsidies; and to delay the cost of living adjustments for Federal retirees. These deficits are a cancer, and this bill is the chemotherapy. It's painful medicine, but it is necessary.

During hearings earlier this year in the Finance Committee, a number of distinguished economists testified on fiscal policy and the state of our economy. Nearly every one of these witnesses, including Federal Reserve Board Chairman Alan Greenspan, said that balancing the budget is the single most important step we in Congress can take to help the economy. The benefits that flow from balancing the budget include increased employment and wages, greater investment and productivity, and lower long term interest rates.

Once we get on a glide path to a balanced budget, which can only come from hard negotiations with the President, our economy will begin to see some of these improvements. As interest rates drop, borrowing to buy a house, or to finance a college education will become more affordable. With less government borrowing, there will be more capital available for small businesses to expand, and to hire more people. Real wages, now stagnant, will begin to grow again, and our standard of living will gradually begin to improve.

In summary, Mr. President, we must take bold steps now. We cannot continue to pile ever greater debt burdens on our children and grandchildren. Thank goodness we finally have a legislative proposal that will reverse this ruinous course.

Mr. FEINGOLD. Mr. President, the 2000 page reconciliation measure that the Senate passed is deeply flawed.

It is a massive work, and difficult to comment on in any serious, detailed way because making an assessment of the reconciliation bill really amounts to assessing the individual components of the measure, as well as the proposal as a whole.

On both counts, this bill is troubling.

Mr. President, last May, during consideration of the budget resolution, I shared my own perspective about the direction we should pursue to balance the budget.

I argued that part of our effort should include changes to Medicare, and I identified areas where some savings could be realized.

I also noted that some in the majority party were undermining our ability to make these reforms by failing to play straight with the American people, implying that cuts to Medicare are needed solely to keep the Medicare Hospital Insurance Trust Fund solvent.

That portrayal was, and is, entirely misleading, as, of course, it was meant to be.

For though some changes are needed to keep the Hospital Insurance fund solvent, that trust fund is not the entire story.

Savings in Medicare must also be found as part of the broader effort to reduce the deficit and balance the Federal budget.

Mr. President, I made this point last May, and I make it again today because I fear that the political spin doctors who have chosen to depict Medicare cuts as being apart and separate from the rest of the budget are doing a great disservice to the cause of deficit reduction.

In an effort to minimize the political fallout that is inevitable if Congress cuts Medicare, they may undermine any chance for a budget package that will achieve the consensus it must have if we are to make the politically tough decisions needed to balance the Federal budget.

Mr. President, we need to be honest with the American people.

The Hospital Insurance Trust Fund does need to be shored up, but that is not the only reason we need to find savings in Medicare.

Nor is the impending insolvency of the trust fund something new.

The Hospital Insurance Trust Fund has been within a few years of insolvency every year since 1970.

Mr. President, Congress has been dealing with that problem off and on for 25 years now. I understand that it will take about $90 billion in savings over the next 7 years to extend the trust fund's solvency to 10 years, about one-third of the total reduction proposed by the majority party.

But the trust fund solvency is not the whole story, despite what some want the American people to believe.

Medicare clearly has an impact on the budget, and part of the reason cuts are being proposed stems from our Federal budget deficit. And rightly so.

Mr. President, Medicare is not Social Security. It should be on the table with other areas of Federal spending.

Mr. President, I have sponsored legislation that includes Medicare changes. Medicare changes were part of the 82-point plan to reduce the deficit I offered during my campaign for the U.S. Senate in 1992.

More importantly, I have voted for legislation that contained significant, specific changes to Medicare twice during the 103d Congress.

The reconciliation legislation we passed as part of the President's deficit reduction package included nearly $60 billion in Medicare cuts.

I also voted for, and was proud to cosponsor, the bipartisan Kerrey-Brown deficit reduction package which also included significant, specific Medicare cuts.

And, Mr. President, I am willing to vote for Medicare cuts again. But not the $270 billion in cuts that are proposed in this measure.

Mr. President, last May I laid out a number of specific areas in which I thought savings could be realized. I was pleased to see a number of those ideas included in the Medicare provisions of the reconciliation bills that have been made by the Senate Finance Committee.

These included changes in the reimbursement of capital-related costs of inpatient services; repairing the flawed reimbursement formula that results in overpayments for some outpatient services; and, establishing a new prospective payment approach for home health care services.

I was pleased as well to see that the Finance Committee proposal includes some improvement in the reimbursement formula for Medicare HMOs.

The current formula rewards inefficient health care markets and punishes efficient health care markets and those areas, like many rural areas, that have inadequate service capacity.

For Vernon County, WI, about an hour west of my home, the Medicare formula would reimburse an HMO about $211 per month per enrollee. That is just a little bit more than half of the national average of $400 per month.

Mr. President, it should not surprise my colleagues to know that there are no Medicare HMOs in Vernon County. By contrast, in Miami, Medicare HMOs receive about $615 per month for every enrollee, nearly three times as much as in Vernon County.

At triple the reimbursement of Vernon County, it is little wonder that HMOs in places like Miami are able to offer the wonderful additional benefits to which proponents of Medicare HMOs point when arguing for expanded use of managed care in Medicare, benefits like prescription drugs, eye glasses, and dental services.

Though it remains to be seen whether or not the Finance Committee's changes to the formula will be sufficient, the blended formula approach appears to move in the right direction.

I also want to commend the authors of the Senate proposal, and of the Ways and Means plan, for asking higher income Medicare beneficiaries to pay a larger share of the cost of their Medicare part B services.

I proposed that very reform in 1992, as part of my 82-point plan to reduce the deficit and balance the budget, and am glad to see it included in the two proposals.

Mr. President, I endorse this change. It should be made in order to help reduce the deficit.

But those who have sought to avoid criticism of this and other Medicare changes have used the pretense of the impending insolvency of the Medicare trust fund, and in doing so they have done no favors to the cause of deficit reduction.

Far from it.

By misrepresenting the facts to the American people, they have undermined and jeopardized the already politically difficult, but nevertheless necessary task, of reforming Medicare.

Mr. President, the problems created by deliberately misleading people about the real need for Medicare reforms are compounded by a number of flawed, even harsh provisions.

These include the across-the-board increase in part B premiums and deductibles.

Unlike the means-tested premium increase on upper income beneficiaries, which I support, the across the board increases in premiums and deductibles hits lower income seniors and disabled.

Mr. President, the median income of elderly households is less than half that of non-elderly households. And incomes for the oldest old are by far the lowest of any age group.

Households headed by someone aged 75 or older had annual median incomes of less than $13,622 in 1992—$4,000 lower than the next lowest income group, those of households headed by people between age 15 and 24.

And over one-fourth of the elderly households have incomes of less than $10,000 per year.

Mr. President, while the elderly are disproportionately poor, they also spend far more on health care as a group than anyone else, and this should not surprise us.

What may be surprising to some, however, is just how much our seniors do pay already even with Medicare. In 1995, the average older beneficiary will spend about $2,750 out-of-pocket for premiums, deductibles, copayments, and for services not covered by Medicare.

I might add, Mr. President, that these costs do not include the potentially crushing costs of long-term care which can total nearly $40,000 in some areas for nursing home care.

The across-the-board increases in premiums and deductibles will only add to these already high out-of-pocket costs.

Mr. President, let me add that under the current protections in our Medicaid program for lower income Medicare beneficiaries, some of the impact on the poorest of our elderly would be softened, but the reconciliation measure eliminates the guarantee of help for those beneficiaries.

Mr. President, rural seniors are among the most at risk under this legislation.

Because rural areas depend on Medicare to support an already inadequate health care service capacity, the massive Medicare cuts hit rural seniors and providers especially hard.

Making matters worse is the so-called Budget Expenditure Limit Tool, or "BELT" provision included in the bill which provides for automatic cuts in the traditional Medicare fee-for-service program if budget targets are not met.

Despite the improvements made to the Medicare HMO reimbursement formula, rural beneficiaries will continue to rely much more heavily on the traditional Medicare fee-for-service program than their urban counterparts, placing them at special risk because of the BELT provision.

Mr. President, as bad as the Medicare cuts are, the Medicaid cuts may be even worse.

Again, reforms to the current Medicaid program are clearly needed, not only to improve services for those lower income families needing health care, but also to reduce the pressure on our budget deficit.

But the $182 billion in cuts proposed in this bill are unacceptable, as is the loss of the current Federal protections that ensure safe nursing home care, guarantee help for the poorest Medicare beneficiaries, and provide the critical safety net of health care services to poor women, children, and the disabled of all ages.

Though spousal impoverishment protections were retained in the provisions reported by the Finance Committee, I am extremely concerned about the prospects for spousal impoverishment when this measure goes to conference.

Comments made by the Speaker indicate that spousal impoverishment protections are very much at risk.

Mr. President, I am equally concerned about reports of a little known change in the law that permits States to bill the adult children of those elderly needing long-term care services.

This smacks of a return to the days of bills of attainder and workhouses for the families of those unable pay their debts.

Much has been said on other protections that have been eliminated and I will not repeat the arguments that have been made.

But, Mr. President, it is apparent that those seeking to tame our Medicaid budget do not understand the underlying forces which contribute to the bulk of Medicaid growth, namely the rapidly increasing need for long-term care services.

Though the elderly and disabled make up about one quarter of the Medicaid population, they account for 59 percent of the Medicaid budget, with the bulk of expenditures for them going to long-term care services.

Pressure on the long-term care budget will only increase.

Our Nation faces a rapidly growing population needing long-term care services, a population which is disproportionately poor.

The answer, Mr. President, is not to turn Medicaid into a block grant program, imposing a unilateral cut, and shoving responsibility for those left without services onto the States.

The answer is fundamental long-term care reform.

Along with Senator PAUL SIMON, I introduced a comprehensive long-term care reform measure, S. 85, that would be an important first step in helping States deal with this growing problem.

It is based on the bipartisan reforms we made in Wisconsin during the 1980's, where we established consumer-oriented and consumer-directed home and community-based services that allow those needing long-term care to remain in their own homes and communities.

Those reforms helped bring Wisconsin's Medicaid budget under control, and saved taxpayers hundreds of millions of dollars. Between 1980 and 1993, while Medicaid nursing home use increased by 47 percent nationally, in Wisconsin Medicaid nursing home use actually dropped 15 percent.

This is the kind of national long-term care reform that is needed to tame the Medicaid budget, offered a version of that proposal as an amendment to this bill, but that amendment was defeated.

Mr. President, other provisions of the reconciliation bill are significantly flawed.

According to the Treasury Department, the bill's cuts to the Earned Income Tax Credit amount to nothing more or less than a tax increase on 17 million low-income, working Americans.

In my own State of Wisconsin, some 206,000 families will experience a tax increase of $330 on average in 2002, according to Treasury figures.

The assault on the Student Loan Program is also troubling.

The new limitation on direct lending programs adds real injury to this insult, making it even more difficult for families to send their children to college.

Mr. President, as disturbing as the provisions contained in the measure are those which are not such as the lack of effective change to the Federal Milk Marketing Order system.

Mr. President, the provisions in this bill with respect to dairy policy could not be any worse for the Upper Midwest. The provisions reported by the Agriculture Committee dramatically reduce the support price for milk, cutting the dairy price support program more than any other commodity on a proportionate basis. The dairy program which accounted for less than two percent of commodity program spending in 1994, took 9% of the cuts made by the Agriculture Committee in this bill. Those cuts could have been acceptable, Mr. President, if the inequities and market distortions of the Federal Milk Marketing Order system that have discriminated against the Upper Midwest had been addressed by the Committee.

Unfortunately, the Agriculture Committee abdicated their responsibility on Market Order reform and left the system intact, leaving in place a bill that pulled the rug out from under manufacturing prices for the Upper Midwest, and leaving in place the excessive subsidies for fluid milk in other regions of the country.

Unfortunately, Mr. President, this bill did not stop there. Instead, during floor action, the Senate granted its approval to the Northeast Interstate Dairy Compact which will allow six northeastern states to set artificially high prices for milk paid to their producers. Mr. President, to my knowledge, this is the first time that Congress has granted approval to a price-fixing Interstate Compact. The Compact erects walls around the Compact states, preventing lower cost milk produced outside the Compact region from entering those six states. It is protectionism in its worst form. This compact also provides a subsidy to Compact-state processors who are forced to pay this higher price for milk, in order to allow them to ship their products outside the compact and remain competitive. Those compact products, produced and exported with the subsidy, will then compete with products produced by processors and producers in other states that have not been granted this special privilege.

The Compact, Mr. President, is inherently market distorting, regionally discriminatory, and overly regulatory. I think this body will regret providing its approval to this arrangement.

Unfortunately, the Senate included another provision during floor debate that further worsens the inequities of the current system. The Senate approved a Class IV pricing scheme for inclusion in Federal Milk Marketing Orders which taxes all producers nationwide to support the overproduction of a couple of West Coast states. The Upper Midwest dairy producers and processors overwhelmingly oppose this provision because it adds just another layer of regulation to the already discriminatory milk marketing order system. It will reduce prices for all producers nationwide in order to pay for the surpluses produced on the west coast. Wisconsin producers, while being denied an opportunity to share in the benefits of the highest class of milk, Class I milk, will now be required to suffer the loss of the lowest priced class of milk, even though they are not responsible for its production.

Mr. President, this bill represents the worst possible outcome for the Upper Midwest dairy industry, and in particular, for Wisconsin dairy farmers. In short, Mr. President, the Senate approved some very bad policy which appears inconsistent with the principles of many members of this chamber and which is completely out of step with the dairy marketing conditions of the 1990's.

Another area in which this bill remains far too silent relates to the lack of discipline imposed on our U.S. tax code. I am particularly disappointed at the weak effort made to address the rapidly growing spending done through the tax code.

Along with tax cuts and defense spending, these tax loopholes are sacred cows in this budget.

At $400 billion and growing, these tax expenditures are among the most important areas of Federal spending, and they are hardly touched in the reconciliation bill before the body.

Mr. President, many of the tax expenditures are certainly worthy, but others are hard to justify.

Just like the inappropriate subsidies made through direct appropriations, many tax expenditures not only put pressure on the budget deficit, they also distort the market place, lowering overall economic efficiency of the Nation.

But, despite the clear need for careful scrutiny in this area, made all the more timely by our common goal of reducing the deficit, tax expenditures are largely given a free pass.

Mr. President, it is obvious to all that the massive cuts to Medicare and Medicaid—nearly a half trillion dollars over the next 7 years—are far more than are necessary to address our budget deficit, and in fact make it more difficult to enact a budget plan that will balance the Federal books.

Nor can the health care system that provides care for the most vulnerable in our Nation be safely and prudently sustained with this kind of revenue loss.

The question occurs—why are these harsh cuts being proposed to the health care programs for our most vulnerable?

Mr. President, the inescapable conclusion is to fund a fiscally irresponsible quarter of a trillion dollar tax cut.

Mr. President, this tax cut not only jeopardizes the fundamental missions of Medicare and Medicaid to provide health care for retirees, poor women, children, and the disabled of all ages, it also jeopardizes efforts to balance the Federal books.

Mr. President, if there were no quarter of a trillion dollar tax cut, we could develop a bipartisan budget plan, including reductions in Medicare and Medicaid, that would balance the Federal books by 2002 or even sooner.

Mr. President, if there were no quarter of a trillion dollar tax cut, Medicare and Medicaid beneficiaries, and others, would be far more receptive to calls for sacrifice, especially if they are told, honestly and straightforwardly, that those sacrifices are intended not just to bolster the Trust Fund, but to help get our Federal budget out of the red.

More importantly, Mr. President, if there were no quarter of a trillion dollar tax cut, we could fashion a budget plan that would be politically sustainable for the time it takes to reach balance and eliminate the Federal budget deficit.

I have no doubt that the deep flaws in the reconciliation measure before us jeopardize the very goal the supporters of that measure profess—a balanced Federal budget.

Mr. President, I find similar fault, though to a much lesser degree, with the President's original budget as well as his later offering, both of which retain a fiscally reckless tax cut, though one which, admittedly, is much more modest than is being proposed by the Republican leadership.

We cannot afford either the Democratic tax cut or the Republican tax cut, and we could go a long way toward reaching a politically sustainable budget agreement that would balance the Federal books by 2002, and even sooner, if both parties scrapped their tax cut proposals and instead focused on eliminating the deficit.

Mr. President, contrary to the image portrayed by the spin doctors, it is the Senate that has produced the most significant reform in this Congress.

Bipartisan efforts in the area of gift ban, lobbying reform, and the beginnings of campaign finance reform all have their roots here, in the United States Senate.

I earnestly hope this body will eventually put together the kind of sustainable, bipartisan deficit reduction plan that will balance the Federal budget before 2002, and do so without harming the most vulnerable in society. The key is to eliminate the absolutely irresponsible quarter of a trillion dollar tax cut.

If we can agree to do that, restrain the growth of tax loopholes, and put the Defense budget back on the budget table, we will have moved a long way toward establishing a responsible glidepath to a balanced Federal budget, and elimination of the Federal budget deficit.

Mr. GLENN. Mr. President, I rise in opposition to the bill. Along with many Ohioans, I oppose the large Medicare cuts contained in the reconciliation bill and am concerned about their impact on all Americans.

MEDICARE AND TAX CUTS

This bill calls for a $270 billion cut to the Medicare program yet gives away $245 billion in tax breaks—which disproportionately benefit wealthy Americans. I find it alarming that in order to achieve a $245 billion reduction in taxes, we will slash services for seniors who choose to keep their current Medicare coverage.

This enormous Medicare cut will not balance the budget because it goes for a $245 billion tax break. To keep its Contract With America, Republicans will break our thirty-year contract that has successfully helped older Americans. The lesson here is the old story so often reflected in Republican economics: those who have, get; those who do not, get stuck.

The tragedy here is that this massive Medicare cut is unnecessary. We all know the 1995 Medicare Board of Trustees report projected that the Medicare Part A Hospital Insurance (HI) trust fund will run out of reserves in the year 2002. However, the Trustees also reported that only $89 billion in savings are necessary to restore the trust fund's solvency through 2006.

The budget plan before us, which was drawn up behind closed doors, achieves much of its $270 billion in Medicare savings by cutting spending in the areas of inpatient and outpatient services, home health, hospice and extended care, physician and ambulatory facility services, and diagnostic test and durable medical equipment. For the people in my home State of Ohio, this means there will be $8.9 billion fewer dollars for health care. For beneficiaries, this cut will mean increased premiums, deductibles and copayments for Medicare Part B services—which include many of the services I just mentioned.

And how are we paying for it? We are going to cut taxes. We squeeze $270 billion from the elderly so that we can turn around and give $245 billion of it away in tax cuts.

Now we have heard a lot of talk about how this side of the aisle is just engaging in demagoguery and class warfare. They tell us their bill is not slanted toward the wealthy. They say that this bill distributes tax cuts equally, regardless of your income.

But, the American people know better. They know that just because someone says it is so, does not make it so.

The real horror story of this reconciliation bill lies in the numbers. And the numbers the other side has produced just do not add up. The numbers do not add up because not only does this proposal cut medical care for America's seniors, but it raises taxes on the working poor by gutting the Earned Income Tax Credit [EITC]. So you need to factor in the Republican EITC tax increase when making any distributional comparisons.

When you do that, you will find that people with less than $30,000 will actually be worse off, come tax time, under this plan. But very wealthy taxpayers would be big winners. The wealthiest 13 percent of taxpayers—those with incomes above $75,000—would receive 53 percent of the Senate tax cut. So the wealthiest 13 percent get 53 percent of the benefits. Those making more than $200,000 would gain an average of $5,088 per taxpayer in the year 2000. By contrast, those with incomes between $20,000 and $75,000 would receive an average tax cut of only $320.

MEDICAID

The budget reconciliation's treatment of Medicaid is truly alarming. Republicans would repeal the current Medicaid program and turn it over to the States as a fixed dollar amount block grant—eliminating the safety net for more than eight million pregnant women, children, disabled and elderly Americans, and weakening Federal nursing home regulations that protect the indigent and their families.

The Federal Government and the State of Ohio currently share in the funding of the Medicaid Program and provide more than 1.85 million poor, elderly, and disabled Ohioans with physician, hospital, and nursing home care. Under the Republican proposal, Ohio would lose nearly $8 billion in Federal Medicaid dollars over the next 7 years. To offset these cuts, Ohio would be forced to slash or eliminate health services for low-income families and seniors, divert resources from other important programs, or raise taxes.

Many people do not realize that nearly 70 percent of Medicaid spending goes toward long-term care for the elderly and disabled. These recipients are mostly middle-class Americans who are not aware that Medicare and most private insurance policies do not cover long-term care. Many become eligible for Medicaid when they quickly deplete their income and assets after entering a nursing home where costs average $3000 per month. Republican proposals would have abolished laws that protect spouses from having to sell their homes and assets to pay for nursing home bills, but due to widespread opposition both the House and the Senate wisely voted to retain spousal impoverishment protection.

However, the House version of the Republican Medicaid reform bill repeals Federal standards for nursing home and institutional care. This plan repeals such essential standards as quality assurance systems, staffing requirements, restrictions on physical and chemical restraints, and nutrition guidelines. I was pleased to support a successful Senate amendment which provides for the continuation of Federal nursing home regulations and I will urge conferees to maintain Federal standards.

I support efforts to control the growth of Federal health care spending, but I do not believe that Republicans should balance the budget, and give tax breaks, at the expense of our Nation's most vulnerable citizens. Reform of Medicare and Medicaid should concentrate on strengthening and improving these important programs, not on squeezing out the maximum amount of budget savings. Today, when millions of Americans face limited access to medical care and live with the fear that an illness or loss of a job will leave them without health care coverage and expose their families to financial ruin, I feel it is essential to expand, rather than limit, access to medical care.

There has been a great deal of debate about priorities in the Senate. I am not convinced the plan before the Senate is a fair reflection of America's priorities. In fact, it is Robin Hood in reverse. This plan to take from the poor and give to the rich might make the Sheriff of Nottingham proud, but it will not balance the budget.

EDUCATION

The Republican budget cuts student loans by $10.8 billion. This makes it much harder for working families and their children to finance a college education. If these cuts became law, the schoolhouse door will be closed for many students willing but unable to afford a college education. Other students and their families will see their choices for an education narrowed.

The Republican proposal increases the interest rate on PLUS loans taken out by parents. The interest rate on parental loans would increase by 1 percent. Families considering PLUS loans are mostly working middle income who make too much to qualify for full scholarships but not enough to write a check for tuition.

The 6-month grace period for graduating students would be eliminated. Interest would pile up during that period and would be added to the loan balance. The bill also charges schools a 0.85 percent fee on loans taken out by their students. This new tax on student loans will be passed on to students and their families, either financially or through cuts in school programs and services.

I supported the amendment offered by Senator KASSEBAUM which restored some of the cuts in the student loan program, but it is only a step in the right direction and does not go far enough to ensure that working middle-income families can afford to provide higher educational opportunities for their children.

ENVIRONMENT

I oppose the provision to allow oil and gas leasing of the coastal plain of the Arctic National Wildlife Refuge [ANWR].

The coastal plain of the ANWR is one of our remaining ecological treasures, containing 18 major rivers, and providing habitat for 36 species of land mammals and more than 30 fish species. This pristine wilderness cannot be replaced. The impact of oil and gas leasing would forever alter this region. While proponents of leasing the ANWR argue that America's oil dependency requires this resource, they also advocate lifting the ban on exports of Alaska North Slope oil which is contained in this legislation. Americans are committed to protecting national parks and public lands. This commitment extends to protecting the ANWR even if the revenues from leasing the area would be dedicated to deficit reduction. The U.S. Geological Survey recently reduced its estimate of the potential oil yield from this area; therefore, the revenue assumptions in this bill may be grossly overstated. However, Mr. President, the environmental value of this natural area is far greater than any short term economic gain from oil and gas development. I am also opposed to provisions in the bill that will override existing environmental laws and cripple public health and environmental protections.

At the same time, this measure contains provisions that continue to provide millions in annual Federal subsidies to timber, mining, and ranching industries. These subsidies not only lack economic justification but often cause environmental damage. Several of these provisions have been previously defeated or have delayed consideration of other bills. Yet, in an effort to escape the notice of the American people and circumvent the legislative process these dangerous measures have been inserted into this massive reconciliation bill.

Although this bill contains provisions regarding the mining law of 1872, it fails to reform the patenting process and continues to allow the taxpayers of this country to lose millions in revenues from publicly owned lands. In contrast to Federal coal, oil, and gas leases for which the Government receives substantial royalty payments, hardrock minerals are virtually given away under a law that has not been significantly revised since 1872. This situation is unconscionable.

This measure also contains provisions from a Federal grazing bill under consideration in the House. These provisions codify grazing regulations that were in place prior to Secretary Babbitt's proposed grazing revisions. Again, the American taxpayer and our Nation's environment are the losers.

For all these reasons Mr. President, I have concluded that I cannot support the passage of this legislation and I urge my colleagues to oppose the bill.

Mr. DOLE. Mr. President, this debate has been lengthy, and I will not delay a final vote much longer. But I do want to take a minute or two to comment on what is a very historic day for the U.S. Senate.

I have cast over 12,000 votes during my years in the Capitol. Many of those didn't have a great deal of impact on Americans, and are hard to recall. But some votes you remember forever—they are the votes that touch the life of every American, and that change the course of history.

I remember the vote on President Reagan's historic tax cut bill—and the vote against President Clinton's historic tax increase bill.

I remember the vote which made Martin Luther King's birthday a Federal holiday—and I was pleased to lead the debate in favor of that bill.

And I vividly recall the vote authorizing President Bush to send troops to the Persian Gulf.

And no doubt about it, the vote we will cast in just a few minutes is one we will remember forever.

It is a vote for putting America on a path to a balanced budget.

It is a vote for low interest rates, so more Americans can own a house, buy a car, and send their children to college.

It is a vote that will give new life to the 10th amendment, because we are transferring power out of Washington, and returning it to the people, where it belongs.

It is a vote for cutting taxes, and allowing American families to keep more of their hard earned money, and to make their own decisions on how best they can spend it.

It is a vote for securing, strengthening, and preserving the Medicare Program, on which so many of our seniors depend.

It is a vote for real, meaningful, and fundamental change.

And, above all, Mr. President, it is a vote for America's future. For our children and grandchildren—and their children and grandchildren.

It is a vote for the teenager who was in my office a few years back with a group of high school students from across the country. And this young man said to me, "Senator, everyone has someone in Washington who represents them. Someone speaks for labor, for the farmers, for business . . . but no one speaks for us. No one speaks for America's future."

I do not know where that young man is today, but if he happens to be listening, I want to tell him that at long last, someone is speaking for you, some one is speaking for American's future. This Republican Congress had the courage to look beyond the next election, and ask what is best for the next generation.

But I would also tell this young man that our battle on behalf of the next generation is far from over. President Clinton will veto the final reconciliation bill that will be reported out of conference, the forces of the status quo will do all in their power to return to business as usual.

President Clinton says he wants change. But his actions speak much louder than his words.

He says he wants to balance the budget, and at various times, he says he can do it in either 5 years, 10 years, 8 years, or 7 years—but each budget he has proposed doesn't balance the budget in 100 years.

He says he wants to cut taxes for the middle class, but he inflicted the largest tax increase in history on the American people.

He says he wants to save Medicare from its impending bankruptcy, but he has refused again and again to join in a bipartisan effort to do so.

Instead of providing leadership, the President has been content to sit on the sidelines and use increasingly harsh rhetoric to scare the American people.

And that rhetoric reached new lows yesterday with the sad remarks of the President's press secretary, which I will not dignify by repeating.

And there is no doubt that these past few days of debate on the Senate floor have created quite a few sound bites for the nightly news.

Some of my friends on the other side of the aisle would have you believe that each and every Republican Senator has it out for Americans in need.

I just wish that each time the media reported one of these phony accusations, they would follow it up by reporting the truth.

And the truth is, the Republican plan reins in government spending by slowing its rate of growth. The truth is, more than 70 percent of our tax cuts go to working families making less than $75,000 per year. The truth is, the Republican budget allows Medicare to grow by an average of 7 percent per year. Medicare beneficiaries will receive more money next year than they do this year, and they will keep on receiving more year after year after year.

It truly shows you just how ingrained the status quo is here in Washington, how accustomed the liberals have become to spending American's money, when they attack us for wanting to slow the budget's rate of growth.

I remember a few years back, when we were having a serious national debate on the proposal by former Senators Rudman and Tsongas—one a Republican and one a Democrat—to freeze the Federal budget. Just think what the rhetoric would be like if we had proposed a freeze. But we have not. Instead, we've proposed limiting Government's growth to $350 billion over the next 7 years.

So I say to my friends in the media: You have a duty to report the truth to the American people. Report that Medicare will grow, not get cut. Report that Republicans are giving working families a tax cut, and not a giveaway to the rich.

Let me close by saluting Senator DOMENICI for the outstanding job he has done throughout this debate. I know how much time and energy he has invested over the years in the quest for a balanced budget, and I like to think that I know how much this vote means to him.

Congratulations, as well, to Senator ROTH, for his leadership in achieving the historic tax cuts contained in this budget, as well as the Medicare provisions, which involved a tremendous amount of work.

Mr. President, it's no secret this vote is not the end of the budget process. We have repeatedly said that if President Clinton has constructive ideas to offer, we are ready to listen. But, with or without the President's help, we're determined to deliver the change the American people voted for, determined to move America forward, and determined to continue speaking for America's future.

The PRESIDING OFFICER. Is there any further amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 2491, the House-passed reconciliation bill; that all after the enacting clause be stricken and the text of S. 1357, as amended, be inserted in lieu thereof. Further, I ask unanimous consent that the bill be read for the third time, and the Senate then vote on passage of the bill, with the above occurring without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me just indicate to my colleagues there will not be a session on Monday. If there is, it will be pro forma only. Let me thank my colleagues for their cooperation. This has been a very important, very historic vote. There is a lot taking place here on this vote. I hope we can have a unanimous vote.

Mr. DOMENICI. Midnight.

Mr. DOLE. Midnight.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOMENICI. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 556 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone

So, the bill (H.R. 2491), as amended, was passed.

Mr. EXON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. I ask unanimous consent that S. 1537 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to take a moment, if I might, to thank all Senators on both sides of the aisle, especially my friend and colleague, the chairman of the committee, for his consideration all the way through this process. We have had a great deal of help from the leader, from Senator DORGAN, Senator KERREY, Senator FORD; the whole Democratic leadership has been very helpful and supportive all the way through this most difficult process.

In the end, though, as we always do, and should, I will take time out to thank the very dedicated staff. I have been on the Budget Committee for the 17 years that I have been in the U.S. Senate. I think we have been particularly well blessed with excellent staff on both sides of the aisle that work very, very well together.

So I congratulate the chairman of the committee, whom it is my pleasure to work with. We will be working together in the future on a whole series of matters.

I want to end up tonight by taking a moment to thank the Democratic staff members of the Budget Committee for the truly outstanding job they did during the consideration of the reconciliation bill and through all of the procedures that we had in the Budget Committee. I would like to extend my appreciation, therefore, on our side to the key members of our staff: Amy Abraham, Andy Blocker, Kelly Dimock, Tony Dresden, Jodi Grant, Matt Greenwald, Joan Huffer, Bill Dauster, Jim Klumpner, Nell Mays, Sue Nelson, John Rosenwasser, and Jerry Slominski.

Mr. President, these were outstanding people that do an outstanding job. I thank them for their dedication, talent, and for all the help that they give not only to the ranking Democrat but all Democratic members of the committee. I thank them very much.

If I did, I did not leave out Phil Karsting intentionally. The leader of that group, of course, is Phil Karsting, who has been there for several years now as the central director of everything that we do on the Budget Committee. He has been sitting here advising Members of the Democratic side and working closely with many people on the other side of the aisle. I have always been particularly impressed with the good working relationship that Bill has with the Bill on that side. That is what makes things work in the end. I am very proud of all of the staff.

Mr. DOLE. Mr. President, I just want to thank all Members, as I did before. I thank the Democratic leader. We were able to work together. We had 58 votes. We were on the bill 42 hours. As the Senator from West Virginia pointed out, we had a record number of votes today—39. So we exceeded both records that the Senator from West Virginia talked about earlier.

I particularly thank the distinguished Senator from New Mexico, Senator DOMENICI, his staff, my staff, and all the staff on this side. Also, a special thanks to the Senator from Alaska, who has been presiding much of the day. We appreciate the way he has handled the duties of the chair. It has made it much easier for all of us.

Also, I thank my colleague from Mississippi, Senator LOTT, who has actively been working on a daily basis to find out how many votes we would have on these various amendments, and for all the cooperation we have had on this side of the aisle.

This is a historic vote. We have to go to conference, and it is not going to be easy. We need to pass the conference report. There is an indication that the President may veto the bill. I hope that is not the case. Any way you look at it, this is a historic vote. We watched the House yesterday sail through theirs in about 6 or 8 hours. It took us a little longer, but the results were the same.

Mr. President, 52 out of 53 Republicans have voted for this historic package, which is going to mean a lot of things to a lot of people, whether it is preserving and strengthening Medicare, or reforming welfare, or cutting taxes for families with children—not the rich, but families with children and, most importantly, balance the budget by 2002. I do not care where you are, who you are, what your politics are, people want to balance the budget. That is precisely the reason we have gone through this effort day after day, week after week, in all the committees, and that is why all the chairmen and all the others have been working so hard.

Now it becomes a special responsibility for the Budget Committee chairman in the conference, working with Republicans and Democrats. We are not going to waste any time. We are going to start on Monday. We have work being done this weekend by the staff. Monday, I will meet with the Speaker, and we will be talking about how we can speed up the conference and how we can, if possible, meet the deadline by November 13 to have a conference report. So we are working on the conference already. We have had staff looking into some of the areas in sort of a pre-conference effort. I believe we will be able to complete our work.

Again, I say to the President of the United States: If you want to make some arrangement, or negotiate, whatever, I think both the Speaker and I have said, again this morning, we are prepared to meet. We think it would be a little presumptuous of us to call the President. But if he wants to call us, obviously, we are more than willing to sit down with the President of the United States to talk about what we are doing, what he hopes to do and see if there is any common ground.

Again, I thank all my colleagues.

Mr. DOMENICI. Mr. President, might I thank Senator DOLE for his kind words, and might I say to more people than I can mention how much I appreciate their efforts. I say with a bit of pride that the Budget Committee is frequently not liked around here. They seem to always be telling somebody what to do. Those who serve on the Budget Committee know that this all started there. Without that budget resolution and this process, we would clearly not be changing the country from the way it is being run today, from the way Government is run to the way we would like it. I am very proud of it.

I have been working at it about 22 years, and I never thought we would get to this night. We still have some work to do, but there can be no doubt that we have proven that using the procedures of the U.S. Congress, as onerous and difficult as they are, we can get a balanced budget; that we can change programs to meet the goals and objectives of our people, and to do that which is best for America.

It is obvious to everyone that America cannot continue to spend $482 million a day more than it takes in. The real goal is to pay our bills as we accrue those bills, and let the adults take care of the problems of our country and not pass them on to our children and grandchildren. That is the issue. Do we want strong money and a strong economy, lower interest rates and our standard of living going up? Or do we want to watch it dwindle away, little by little, as that gigantic deficit will do? We have shown that we can change things enough to change the course of the economic history of our Nation, I think, for the better.

Obviously, none of this could be done without some fantastic staff people. I do not have a list of all of ours, but I am going to just say that without Bill Hoagland at our side, we probably would not be here. He comes up with the ideas, and I get credit for it, or Senator DOLE does, or even Sheila does. Everybody gets ideas from Bill Hoagland, and they are right more times than not.

There are a few Senators to thank. Hard work was done in one committee, the Committee on Finance. I am sorry we instructed you to save so many dollars and cut so many taxes. But the Finance Committee, led by BILL ROTH, did a magnificent job. That was obvious here today. A special thanks to SPENCER ABRAHAM, a member of our committee, who worked hard. I asked him to do a special job for me, in a special way, and he did it very well. I thank him so much for that.

With that, let me say one more time, as I have many times in the past, thanks to Senator EXON, whom I frequently slip and call Governor, for the wonderful job that he does in representing his side of the aisle in getting this work done.

He and his staff also are nothing but quality and excellence, and to the minority leader who is standing here now, I want to say thank you. It was difficult at first to reach some accommodation.

It was sort of like we were shadowboxing maybe for the first 7 or 8 hours. In fact, you might have wondered whether we would ever get in the ring. That was by design. Yet, you got much of what you wanted by way of votes for your people, and we got what we wanted: Final passage of a great bill.

I want to begin by thanking my colleagues. I wish to thank the staff and all members of the Budget Committee for their hard work. I would also like to thank all of the committee chairmen who worked so diligently to meet the terms of the budget resolution and add flesh to its bones.

Also, I would thank the able ranking member, Senator EXON, he is a fine friend and an able adversary. The Senate will be a poorer institution when he departs next year.

And, finally, I would like to take a moment to acknowledge the constant and determined leadership of the majority leader, Senator DOLE. We all know, he is a remarkable American. And his commitment to keeping his promise to the American people—to give them the first balanced Federal budget in 26 years—is the reason we are here tonight. As always, he has kept his word and has provided this Nation the honest, effective, and steadfast leadership that has defined his tenure in this body.

I speak about Senator DOLE's leadership because that's what the vote we are about to cast is all about. Leadership. Honest leadership that protects America today, and tomorrow.

Leaders, it's been said, are the custodians of a nation. Of its ideals, its values, its hopes and aspirations. Those things which bind a nation, and make it more than a mere aggregation of individuals.

But governing for today is much easier than leading for the future. It does not take a great deal of talent or courage to solve the immediate need. It's not a lot harder to pave a pathway for the future.

Yet, we who serve in public office have a responsibility to protect the future. We must work on behalf of those who will follow us, our children and grandchildren. We are the trustees of their future, of their legacy of their opportunities.

Leadership requires courage. It requires boldness and foresight to safeguard a nation's ambitions and confront its challenges.

President John Kennedy put it this way when he said: "To those to whom much is given, much is required." And he reminded us that, as public servants, we would be judged, at least in part, by our courage.

I couldn't agree more.

Eight months ago my Republican colleagues and I began a courageous effort to throttle runaway Federal spending and give the American people the first balanced Federal budget in more than a quarter century.

We knew it would be difficult. We knew it would require determination and endurance. But we had promised the American people we would balance the budget and put an end to the persistent deficit spending that has been bleeding our Nation dry.

A deficit growing by $482 million a day; $335 thousand a minute; and $55 hundred every second. Let me repeat that last figure again—our deficit is currently growing at $5,500 a second.

Deficit spending is draining the economic lifeblood of our country.

It's heaping mountains of debt upon our children and which will drag them down. We are irresponsibly shackling our kids with our bills. And, left unchanged, they will be the first generation of Americans to suffer a lower standard of living and less opportunity than their parents.

Yet, if we pass the budget before us, we can reverse this tide.

This budget will restore our Nation's fiscal equilibrium and preserve America as the "land of opportunity" for this and future generations. It reflects a commitment to fiscal responsibility, generating economic growth, creating family-wage jobs, and protecting the "American Dream" for all our citizens—young and old alike.

This is not just rhetoric. A recent DEI study concluded a balanced budget would boost America's yearly output by 2.5 percent over the next 10 years. And it would mean 2.4 million more jobs by 2005.

Further, a recent GAO study suggests that an average family's income will increase as much as $11,200 over the next 30 years. And the CBO says interest rates will decline by as much as 1.7 percentage points by 2002.

That means less debt for our children and more money in the pockets of working Americans today.

Opponents of this budget have employed every trick, every political maneuver, and every scare tactic to halt our march to a balanced budget and forging a more efficient and more responsive Federal Government.

But here are the unvarnished facts:

Under our budget, Federal spending will continue to grow, We'll spend $12 trillion over the next 7 years. That's only $890 billion less than we would otherwise spend.

We balance the budget without touching Social Security.

This budget shrinks the Federal bureaucracy, eliminating many Federal departments, agencies, and programs.

We move money and power out of Washington and back to citizens in their States and communities.

This budget reforms the welfare system while maintaining a safety net for those in true need, especially children.

And it preserves, improves, and protects Medicare.

We began this debate by calling for unity in this effort. It was our hope that all of us, Republican and Democrat alike, would shoulder our basic responsibilities. We asked colleagues on both sides of the aisle to work together in the bipartisan spirit the American people are looking for.

We only requested that we move swiftly, while we still have time, to confront the debt crisis that threatens to suffocate our Nation's vitality and snuff out its economic growth.

But rather than cooperation, we were met with confrontation. That's too bad. Because at every turn in this process, this Senator has tried to reach out to my Democrat colleagues and to the White House in hopes they would work with us.

Yet, they declined. I believed they did so because they underestimated Republicans stamina and the determination of the American people on this issue. They didn't think we would do it. They thought we would fold.

Instead, we persevered. We did something rare in this town. We have kept out word, stuck to our objectives, and, despite the misleading rhetorical flack fired by the guardians of the status quo, kept our word.

So as we prepare to take the final vote on this package I want to say to my colleagues you may not agree with every item in this package. There may be some portions you would like to change. That may happen.

But I want to also remind you that it is an honest, straightforward balanced budget. No smoke. No mirrors. No rosy scenario. Just balance.

The President says he'll veto this budget. I wish he wouldn't but I think I understand the game the White House is playing.

He says he has a kinder, gentler budget that somehow magically gets to balance while spending nearly $300 billion more in domestic programs. He says he can get to balance by spending more and cutting less.

Sound phony? That is because it is. The President's so-called budget hides $475 billion in blue smoke and mirrors.

It's a political document, hastily thrown together last June in response to Republican determination and our passage of the budget resolution.

That is why if we don't pass this budget tonight, we will not have a balanced budget. Because the reality is that throughout this debate we have had to drag this White House kicking and screaming toward a balanced budget.

The chronology is clear. This White House opposed the balanced budget constitutional amendment, its first budget waved the white flag of surrender at the deficit, and, as I said, it only offered a fig-leaf balanced budget after Republicans passed the real thing.

I believe there is still hope. I am ready to meet with budget leaders at the White House anytime so they might join with us in fashioning a budget that gets to balance in 7 years.

I'm ready to do it now. Tonight. This weekend. Yet the White House has it's veto strategy and, apparently, feels we must go through this little mating dance before we get down to business.

But if we don't pass this budget tonight that will never happen. The born-again budget balancers at the White House will quickly fall off the wagon and deficits will continue.

So we can not be swayed by veto threats. We must continue to move forward.

Senators, this is a historic vote. I've waited years for this vote. It is one more step toward the balanced budget the American people have been screaming for. It is a vote for responsibility. It is a vote for accountability. And it's a vote to stop this Government from borrowing $5,500 a second to buy everything it wants and begin considering what it can afford.

Admiral Halsey told us: "There aren't great men. There are just great challenges that ordinary men like you and me are forced by circumstances to meet."

Tonight this Senate faces a great challenge. Let us—ordinary men and women—have the courage to meet that challenge and, in doing so, preserve America's promise of opportunity.

I ask unanimous consent that the bill that we passed be printed. We do not have it printed yet.

The PRESIDING OFFICER. Without objection, it is so ordered.

[The bill was not available for printing. It will appear in the RECORD of Monday, October 30, 1995.]

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Nebraska for the remarkable job that he did in representing our side during these very difficult days. He has worked with all of the Members of this caucus, as he always does, with professionalism and leadership.

I personally appreciate the contribution that he has made, along with his excellent staff. They have done all the work on this bill from our side in representing us and they have done an outstanding job. I applaud them as well.

Mr. President, the tragedy underlying the passage of this reconciliation bill is that it fails completely to reflect political consensus. We all agree on the need to balance the budget, but there has been no effort by the Republican majority to address Democrats' concerns and the very real concerns of the American people.

We have stated time and again that we want to work with the majority to produce a bipartisan solution to the deficit problem. The President of the United States has held out his hand in an offer of cooperation. Instead of cooperation, we have been cut out, shut out, and our concerns have been ignored.

Along with us, the American people have been shut out of this process, and their values have been trampled upon. As people are realizing how they and their families will be affected in a real way, they are increasingly rejecting the Republican budget plan.

The plain fact is that Democrats have a clear and successful track record of reducing the deficit. In 1993, we achieved $600 billion in deficit reduction without a single Republican vote. The result is that the deficit, as a percentage of the economy, is this year at the lowest level since 1979.

The deficit has fallen for 3 years in a row for the first time since Harry Truman was President. In fact, the 1993 economic plan is working better than even the Administration or the Congressional Budget Office had projected. That is because the economy has performed better than projected since 1993 due to the success of the President's economic plan.

While we seek to balance the budget, we also understand that there is a right way and a wrong way to do it. The budget plan before us is the wrong way. Unlike the Republicans in 1993, this year we offered to cooperate in good faith so long as our basic concerns were on table.

We said $270 billion in Medicare cuts to pay for $245 billion in tax breaks for the wealthy was unacceptable. And we asked that the priorities in this budget be changed to protect children, the elderly, those with disabilities, working families, rural America, and the environment. This debate is about people: seniors who need Medicare, young people who need an education, families who need a fair income—and greater stability, and rural people who want to preserve their way of life.

That is why we are here. It is what unites us as Democrats. It is why we have fought so hard and so long against the harmful provisions of this bill.

None of our concerns was addressed. The majority did not budge one inch on any of the extreme proposals they made.

As a result, this budget is "DBA"—dead before arrival—and is certain to get the veto it so richly deserves.

This is a "reconciliation" bill in name only. Certainly there was no reconciliation with Democrats. There were no hearings, no consultation with Democrats, and virtually no time for debate.

Senate Republicans held a private markup in the Finance Committee, locking out committee Democrats for the first time in history. The congressional majority has exercised rigid party discipline, forcing every one of its members to march in lockstep even if they disagree with the fundamental direction of their leadership.

The Senate received its first look at this package only one week ago. It was not printed and available to all Senators and the public until this Tuesday. The result is a 2000-page abomination we are only now beginning to understand.

This far-reaching, extreme package is being rushed through Congress before public opposition can bring it down. The authors of this budget have not built a consensus with anyone, except themselves. They claim a mandate for their radical course—as if wishing would make it so.

This budget does not reflect the hopes and needs of most Americans. Nor have we reconciled our problems with the deficit.

Under this budget, in the year 2002, there will still be a deficit of over $100 billion, and we will use Social Security money to pay it off. Maybe that is why 80 percent of the American people, in a recent poll, said they believe this bill will not balance the budget. They know it, and we know it.

The only reconciliation that has taken place has occurred in the Speaker's office—in backroom deals between the right and the far right—and between the Republican leadership and a line of special interests that just keeps getting longer. And longer.

Mr. President, our country deserves better than this. This is not what the American people voted for last year.

The American people did not vote last year to cut $457 billion in health benefits to give tax handouts to those who do not need them. They did not vote last year to cut education to millions of students so that some of America's largest and wealthiest corporations could pay no taxes at all. The American people did not vote last year to raise taxes on American families making less than $30,000 so the richest Americans could pay $6,000 less. Nor did they vote not to have a farm bill for the first time in 80 years.

They did not vote for this budget plan then, and they do not support it now.

Mr. President, this bill is not a product of the reconciliation process. It is an abuse of the reconciliation process.

What is in this monstrous package? It contains the largest health care cuts in American history. Two hundred seventy billion dollars in Medicare cuts alone. The mask is off those who have argued that their intention is to "save" Medicare. Their real purpose is to dismantle Medicare.

Three days ago the Republican leaders of both Houses of Congress made clear their real intentions. One stated that creating Medicare was a mistake in the first place, and the other said that Medicare as we know it will "wither on the vine." Their recent statements help explain why they insist on cutting $270 billion from Medicare, when only $89 billion is needed to restore its solvency for the next 11 years. As a first step toward abolishing the program, they are cutting Medicare three times more than necessary to pay for their "crown jewel" offering to the special interests: $245 billion in tax breaks.

Mr. President, this attack on Medicare reveals how far out of touch with the American people the proponents of this bill have become. Medicare is one of the greatest success stories of our time. The American people know that, even if some of their politicians have forgotten.

In 1965, before the creation of Medicare, 46 percent of seniors had health care coverage. Today, 99 percent are covered. Does the majority want to bring us back to the "good old days" when only half of our senior citizens had health insurance? It would be heartless to go back to the age when our older citizens suffered needlessly from disease and even premature death because they had no access to health care.

The consequences of these Medicare cuts will be severe. Hospitals will be forced to close. Couples will be forced to pay an average of $2,800 more for health care by 2002. Clearly, Medicare is being used as a piggy bank to fund tax cuts for the wealthiest Americans, with no regard to the damage to the health care of senior citizens in America.

This bill dismantles Medicaid. At a time when we have unacceptably high numbers of Americans with no health care coverage, it would deprive an additional 36 million Americans guaranteed health care coverage under Medicaid.

A recent study by the Consumers Union and the National Health Law Program estimates that 12 million Americans—half of them children—would lose their health care coverage under this proposal. Surely the majority doesn't think the American people voted last year to increase the number of uninsured.

Older Americans and their families also have reason to fear the destruction of Medicaid. One-half of the nursing home patients in the U.S., including over 1 million senior citizens, rely on Medicaid. What will happen to the quality of their care under this bill? What justifies putting the spouses and adult children of nursing home residents at risk of bankruptcy?

That is not what the American people voted for last year either.

The majority is telling these people and their families, "You're on your own."

Republicans say, "Don't worry about those details. Think about the tax relief in this bill." But there is no tax relief in this bill for average Americans. There are only new tax burdens for them.

Despite the Republican promises, the typical family in this country earning less than $30,000 will see their taxes increase under this bill. And half of all families in the United States have incomes below $30,000.

This bill represents the biggest transfer of income from the lower and middle income levels to the wealthy that we have ever seen. In one fell swoop, it destroys 30 years of investment in our people.

Most of the pain in the budget—affecting seniors, children, working families, rural America, and the environment—is driven by the insatiable greed on the part of the congressional majority for tax breaks that benefit the wealthiest Americans and large corporations. The richest 1 percent of Americans—those earning over $350,000—will get an average tax break of $5,626.

Many large corporations will pay no taxes at all under this bill.

Not only do these generous handouts to the wealthy require huge cuts in education and health care and so many other areas, they are fiscally irresponsible. The tax breaks will add $293 billion to the debt over the next 7 years—$293 billion in added debt that our children will have to pay off. The costs of those tax breaks will explode after the 7 years covered in this budget. To those who profess that this effort is intended to save our children from the crushing burden of our debts, I would ask them to explain this hypocrisy.

For all the talk we have heard about how this plan is intended to benefit children and future generations, the actual provisions of the bill reveal a different story.

The bill launches an assault on education in this country. By cutting billions for student loans, this bill closes the door on a college education for many Americans.

Other children's priorities are savaged as well. By 2002, up to 6.5 million children could lose health coverage. Food stamps will be cut. Foster care payments will be capped, threatening to throw us back to dependence on the orphanages the Speaker proposes. Countless children threatened with abuse may never benefit from investigations of their situations. This bill plays a shell game with the $3 billion in child care funds that were included in the Senate welfare reform bill. It cuts title XX, the States' primary source of child care money, by $3.3 billion. It is "Home Alone II" for children whose families are trying to work their way off welfare.

Another giant item stuffed into this package is the 1995 farm bill, which drops a bomb on rural America. For the first time in history, the farm bill was included in the reconciliation package. There were no hearings on the Republican plan.

The bill cuts farm programs by 25 percent. Net farm income will decline under this measure by $9 billion. This devastating blow comes on top of the other hits on rural America in the bill —ravaging rural health care and closing hospitals, tax increases on working families, elimination of rural educational opportunities.

Taken as a whole, this package amounts to a raid on rural America that will devastate our rural way of life—perhaps forevermore.

Have we learned nothing from our recent history?

This bill asks us to take another riverboat gamble, like the one Ronald Reagan took when he called for huge tax breaks for the wealthy in 1981. We all lost that gamble when deficits soared in the 1980's as a result. In fact, if it were not for the cost of interest payments on the debt built up under Presidents Reagan and Bush, the budget would be balanced today.

No wonder the American people fear another roll of the dice. According to a recent poll, the public rejects the tax break proposals in this budget by a margin of nearly 3 to 1. The American people have learned a costly lesson from Reagan's riverboat gamble. Eighty-one percent said they believed that even if the Republican plan is enacted, the budget will not be balanced by 2002.

We are saying no to another riverboat gamble, and we will do so with one voice. Unlike 1981, every Senate Democrat will oppose this budget.

This budget is fundamentally flawed. It does not strengthen America. It weakens America. It does not bring us together, it moves us apart. The "haves" will have more, and the rest will have less.

Worst of all, this budget does not reflect the priorities of the American people. The American people reject the idea of cutting taxes before the budget is balanced. They disapprove of the Republican Medicare plan. As the American people are learning whose side this budget is on, they are demanding we change it.

Senate Democrats offered a series of amendments to correct these gross inequities in this bill, both in committee and on the Senate floor. Virtually every one was defeated on a party-line vote. As a result, the destructive, dangerous excesses contained in this bill will not receive a single vote from our side of the aisle. This bill deserves a veto by the President of the United States—and vetoed it will be.

This budget is mean and extreme. It rewards the rich and ravages the rest. It punishes families who need our help most to pay for tax breaks for those who need handouts the least.

It is the wrong plan, for the wrong reason, done the wrong way, to help the wrong people.

Mr. LOTT. Mr. President, much of what the minority leader just had to say has been said over and over again. It, I think, has been answered sufficiently, but it is very hard to sit here and listen to that speech after all that we have been through for the last 3 days.

MORNING BUSINESS

Mr. LOTT. In the interest of wrapping up business after a historic day, I ask unanimous consent that there be a period for the transaction of routine morning business with Senators permitted to speak for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-JAPAN AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the critically important issue of United States aviation relations with the Government of Japan.

Last month, the United States commenced talks with the Japanese aimed at liberalizing the transpacific cargo market. This is a welcome development and I hope an agreement liberalizing cargo service opportunities can be reached by no later than March of next year—the mutually agreed upon timetable. Clearly, consumers of cargo services on both sides of the Pacific would be the big winners if such an agreement is struck. Talks on more contentious passenger carrier issues have not been scheduled.

As should now be clear from the numerous floor statements I have made in this body in recent months, I have a keen interest in United States-Japan aviation relations. As chairman of the Committee on Commerce, Science, and Transportation, I will continue to make it a priority. At the outset of my remarks today, let me emphasize several related points. Although these remarks refer primarily to passenger carrier issues, they apply with equal force to cargo relations with the Japanese.

First, from a long-term perspective and due to its key strategic location in the Asia-Pacific aviation market, aviation relations with the Japanese unquestionably are our single most important international aviation relationship. At the same time service opportunities in Japan are expanding, air service markets in Asian countries best accessed through Japanese gateway airports are growing at an astounding rate.

Simply put, meaningful participation in the rapidly expanding Asia-Pacific market is absolutely critical for the long-term profitability of our airline industry. For instance, the International Air Transport Association estimates that between 1993 and 2010 scheduled international passenger service in Vietnam will grow at an average annual rate of 17.3 percent. International air service opportunities in China are expected to grow at an annual rate of 12.6 percent over the same period. Overall, it is expected the Asia-Pacific market will account for approximately 50 percent of world air traffic by 2010.

Second, geographic factors coupled with the limited range of commercial aircraft make it essential that carriers seeking to effectively serve these rapidly expanding Asia-Pacific markets can provide that service from Japan either directly or indirectly through a Japanese code-sharing partner. As distinguished from the bottleneck at London's Heathrow International Airport, overflight to markets beyond Japan is not an option since the distances to these markets from the United States are too great. Moreover, as shown by recent unsuccessful experiences, serving the Pacific-Asian market through other gateway countries does not appear to be a viable alternative.

Third, aviation relations with Japan are a very important national trade issue and it is imperative they be treated as such. Indeed, discussion of air service opportunities to and beyond Japan is one of the United States' most important trade issues being discussed with any of our trading partners. The stakes in these talks are enormous. For example, the United States currently enjoys an approximately $5 billion net trade surplus with Japan for passenger air travel in the Asia-Pacific market.

I cannot emphasize strongly enough the importance of our current and future aviation negotiations with the Japanese. Handled properly, air service negotiations with the Japanese could enhance the ability of our passenger and cargo carriers to participate in the rapidly expanding Asia-Pacific market. Handled poorly, the adverse trade consequences could be colossal.

Fourth, what the Japanese are seeking in these negotiations is not to level the playing field as they suggest. Let there be no mistake, the Japanese are seeking no less than to tilt the competitive playing field in such a way as to enable their less efficient carriers to compete more effectively against our carriers. Our passenger carriers serving the Asia-Pacific market have operating costs approximately half those of their Japanese counterparts.

The Government of Japan claims the United States-Japan bilateral aviation agreement is fundamentally unfair and is solely responsible for the greater market share our passenger carriers enjoy on service between the United States and Japan. The facts do not support such a position. Just 10 years ago, under the very same bilateral agreement the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than United States competitors. What is the truth? As a June 1994 report by Japan's Council for Civil Aviation noted, the fact is our carriers became more competitive by lowering operating costs while Japanese carriers continue to be high cost carriers.

Similarly, the Government of Japan claims our carriers have abused their beyond rights and unfairly dominate beyond markets. Again, a claim without merit. Currently, Japanese passenger carriers have a 34 percent share of the Japan-Asia market while United States passenger carriers have just 13 percent of that market. Moreover, our cargo carriers have only approximately 14 percent of the Japan-Asia market. The facts speak for themselves.

Having made these points—points I believe are critical to the United States-Japan air service relations debate—let me turn to the question of what our goal should be in current and future negotiations with the Japanese. Uncharacteristically, our carriers seem to speak with one voice in saying we need to seek to liberalize passenger and cargo carrier opportunities with the Japanese. There is disagreement, however, with regard to what strategy our negotiators should pursue to accomplish this goal.

In recent weeks it has become readily apparent the debate regarding negotiating strategy will be shaped by two fundamentally different views. To better understand these views, one must remember that our carriers which currently serve Japan can be separated into two distinct groups based on the types of service they are authorized to provide.

The first group of carriers are the so-called MOU carriers. These carriers—American Airlines, Delta Air Lines, Continental Airlines and United Parcel Service—are permitted by a Memorandum of Understanding signed in 1985 to provide service from specific cities in the United States to specific Japanese cities. MOU carriers cannot use Japan as a base of operation to directly serve emerging Asian markets beyond Japan. They can, however, participate in those markets through code-sharing alliances with Japanese carriers. In fact, Delta's recently announced alliance with All Nippon Airways will permit it to do precisely that.

The second group of carriers, whose rights are derived from the United States-Japan bilateral agreement signed in 1952, are permitted to fly to Japan, take on and unload passengers and/or cargo, and to fly on to cities throughout Asia. Unlike the MOU carriers, the so-called 1952 carriers—Northwest Airlines, United Airlines and Federal Express Corp.—have beyond rights. Northwest was a party to the 1952 agreement. In 1985, United Airlines purchased its beyond rights from Pan Am in a $750 million transaction and Federal Express acquired the beyond rights of Tiger International, Inc. in a 1989 transaction valued at more than $1 billion.

In a recent speech, Bob Crandall, the Chairman of American Airlines, set out a possible negotiating strategy for United States-Japan aviation relations. I anticipate other MOU carriers will embrace the strategy Mr. Crandall advocated and I therefore refer to it as the "MOU carrier approach."

Recognizing the Japanese are unlikely to grant beyond rights to MOU carriers, Mr. Crandall urged our negotiators to focus on increasing transpacific opportunities between the United States and Japan. In addition to tapping expanding service opportunities in Japan itself, Mr. Crandall explained such an approach would enhance the ability of United States carriers to feed traffic into Asia-Pacific networks, including the planes of Japanese code-sharing partners who serve markets beyond Japan.

What makes Mr. Crandall's speech notable is not so much his insightful view of the focus our negotiators should take. Rather, it is the strategy he recommends that is remarkable. In exchange for increased transpacific routes, Mr. Crandall recommends our negotiators should offer to cap the beyond rights of United Airlines and Northwest Airlines. As Mr. Crandall put it, "[s]uch an agreement would trade beyond-Japan rights that Northwest and United do not use, and may never use, for authorities that American and other 'have-not' U.S. carriers are prepared to operate today." I ask unanimous consent that a copy of Mr. Crandall's speech to which I have referred be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, not surprisingly, Stuart Oran, United Airlines' Executive Vice President for Corporate Affairs and General Counsel, recently offered a markedly different view of what our negotiating approach should be with the Japanese. I predict other 1952 carriers will endorse Mr. Oran's view and therefore refer to it as the "1952 carrier approach."

According to Mr. Oran, it would be economic folly for the United States to cap the 1952 carriers' beyond rights and thereby prevent them from growing within the rapidly expanding Asia-Pacific market. In fact, Mr. Oran warned the United States would be playing into the Government of Japan's hands were we to follow the negotiating strategy Mr. Crandall recommends.

To illustrate the point that trading away the beyond rights held by 1952 carriers would be tantamount to ceding the Pacific-Asian market to Japanese and other foreign carriers, Mr. Oran described a recent study by Booz Allen & Hamilton which United Airlines commissioned. That study, which assessed the value of beyond rights in Japan to the United States economy, concluded "the U.S. would suffer a trade loss in excess of $100 billion over the next twenty years—the bulk of which would be transferred to Japan" if the United States agreed to surrender our passenger carriers' beyond rights. Mr. Oran characterized the approach Mr. Crandall recommends as a "sucker deal that would put all U.S. businesses at a permanent disadvantage in the exploding Asian market." I ask unanimous consent that a copy of Mr. Oran's speech be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, as the debate between MOU carriers and 1952 carriers intensifies, I look forward to learning more about each position and urge my colleagues to do the same. For example, I am anxious to see economic analysis from the MOU carriers regarding their claim that trading our passenger carriers' beyond rights in Japan for increased transpacific opportunities would be in the best economic interest of our Nation. I hope any such study or report would address the findings of the Booz Allen study.

With respect to the 1952 carriers, I am particularly curious what leverage, short of trading existing rights, we have to offer the Japanese in exchange for new transpacific routes. For instance, as United States carriers form alliances with Japanese carriers, will the Government of Japan have a self-interested motive to increase transpacific routes to maximize the feed of passengers originating in the United States onto Japanese carriers who code-share with our carriers?

Of course, the impact each approach has on consumers must be given great weight. I look forward to learning from MOU carriers and 1952 carriers what effect the approaches they advocate will have on consumer choice and the fares that consumers pay.

As I have said repeatedly, I believe our international aviation policy decisions should be based on a careful weighing of national economic benefits and costs. Simply put, the goal of international aviation policy should be to maximize national wealth. In light of our more than $65 billion trade deficit with Japan, it is absolutely essential that approach be the guiding principle in current and future aviation negotiations with the Japanese.

EXHIBIT 1

REMARKS BY ROBERT L. CRANDALL

Thank you, Bruce, and good afternoon, Ladies and Gentlemen. It's a pleasure to be here and as always, I am pleased to have an opportunity to talk with you about the ever-changing * * * and always challenging * * * business of international aviation.

I'd like to spend our time together today on the subject of bilateral negotiations, an aspect of our usually fast-paced industry about which most of the news has to do with what's not happening, as some either drag on, and on, and on, and on—and others simply don't take place at all.

Bilateral aviation discussions between the U.S. and other countries are invariably intense and difficult, for a variety of reasons. One of the most important is that the United States is a very large country, with many competing airlines—which typically offer various competing agendas to U.S. negotiators. Conversely, most other countries are, at least by comparison to the U.S., relatively small and, in most cases, have only one international airline.

The result is that in most bilateral situations, our opponents have far more focused goals than we do.

With respect to Japan, a country with which the U.S. has been unwilling even to launch passenger negotiations, the situation is similar, but modestly different. Japan is a very consensual society and although there are two international airlines, both are willing to accept administrative guidance—or something akin to it—from their government. In the U.S., on the other hand, there is little consensus on any aspect of international aviation and no agreement whatever as to either the tactics or strategy our Government should pursue with respect to Japan. Northwest and United, which have extensive rights, are vehemently opposed to changes while carriers like American, Delta and Continental, which have few rights to Japan and little access to the rest of Asia, think dramatic change is clearly called for.

And passions run high, for access to Japan, and the rest of Asia, is critically important to every internationally oriented U.S. carrier. To compete effectively here in the United States, each such carrier seeks to build the strength of its route network by maximizing the number of origination-and-destination combinations it can offer its customers—and each wishes to include as many international points as possible.

From Americans' perspective, the U.S. Government's unwillingness to open passenger negotiations with Japan, and our consequent inability to gain any meaningful access to the huge and fast-growing Asian market, is extraordinarily frustrating. That is particularly so since we think substantial progress could be made—if only our Government would act in accordance with its own, very recently articulated international aviation policy statement—a point I'll come back to in a minute.

Let me take a moment first to examine the stakes of the game. As I think everyone here probably understands, service rights to Japan are the indispensable key to participation in Asian markets, for several reasons:

One is that today's aircraft do not have the range to fly from most major U.S. hubs to most Asian capitals. Thus, U.S. carriers without the right to use Japan's airports as intermediate hubs are simply unable to participate in the U.S. Asia market.

While the Japanese probably will not grant U.S. carriers like American and Delta the beyond rights we need to solve this problem directly, it seems quite likely that if we had adequate rights across the North Pacific, we could participate in Asia by means of code-sharing agreements with Japanese carriers. Thus, we think additional transpacific rights and the key to broadened American participation in Asia's aviation future.

Second, Japan is Asia's pre-eminent economic power, by a wide margin. Given its dominance, a very high percentage of those traveling to and from Asia want to include Japan in their itineraries. As a consequence, Tokyo and Osaka are the only cities that can effectively serve as intermediate points between the major U.S. hubs and the principal cities of Asia—a point with which even the incumbent U.S. carriers agree.

In addition to being an essential component of any global network, there is lots of evidence that Japan is woefully underserved from the United States. Consider these facts:

Although Japan has a larger economy than Germany, the U.K. and France combined, fewer U.S. cities have nonstop service to Japan than to any one of those countries.

Fares between the U.S. and Japan—on a revenue-per-passenger-mile basis—average 29% more than fares between the same U.S. cities and the principal cities of Europe.

Despite being badly underserved, the U.S.-Japan market numbers 1.0 million passengers per year and is the world's second largest intercontinental market, exceeded in size only by that between the U.S. and the U.K. one can only imagine how large it will be when it is properly served!

Unfortunately, it is not clear it ever will be, for our aviation relationship with Japan is prey to two severely complicating factors:

The first is the unique route rights established by the U.S.-Japan aviation bilateral, which dates from 1952 and enables two U.S.

carriers—Northwest and United—to exercise virtually unrestricted authority to fly from almost anywhere in the U.S. to Japan—and beyond Japan to other points in Asia. To illustrate that point, let me point out that during the last 18 months, Northwest has added more new flights to Japan than American operates in total.

The beyond rights held by United and Northwest are startlingly different from those granted by any other nation to third-country carriers and have enabled Northwest and United to build cohesive Asian networks and establish hubs on both sides of the Pacific. Using this structure, the two carriers can thus participate in all four types of network traffic: First * * * between gateways—from Chicago to Tokyo, for example: Second * * * from behind a U.S. gateway to the foreign gateway—from Cleveland to Tokyo, via Chicago. Third * * * from a U.S. gateway to beyond the foreign gateway—from Los Angeles to Bangkok, via Tokyo.

And finally: From behind a U.S. gateway to beyond a foreign gateway—as in from Boston to Singapore, via Detroit and Tokyo.

Their fifth freedom rights also allow Northwest and United to carry large amounts of traffic between Japan and other points in Asia, thus depriving the Japanese carriers of traffic they regard as theirs, and complicating Japan's aviation relationships with some of its Pacific neighbors—notably China, Thailand, and Australia.

Not surprisingly, both the Japanese Government and the Japanese airlines regard these arrangements as unbalanced—and by the standards of international aviation, they are, indeed, unbalanced.

Other U.S. carriers have much more limited rights. While the 1952 agreement permits both countries to designate multiple airlines, Japan has essentially ignored that proviso for nearly 20 years. Since 1982, Japan has consented to only three very limited grants of additional routes, each memorialized in a memorandum of understanding. The net effect has been to create two classes of U.S. airlines serving Japan:

The two so-called "1952 agreement" carriers, which have very broad rights, and three other airlines—American, Continental and Delta—known collectively as the "M.O.U. carriers"—each of which is subject to substantial restrictions on routes and frequencies, and none of which can operate beyond Japan.

Now as we all know, airlines are network businesses. To optimize traffic flows, each of the major U.S. carriers operates a number of hubs, which it uses to provide nonstop service to as many places as economically feasible in order to maximize the number of origin-destination markets it can offer its customers. The fact that only two U.S. carriers can offer customers in the United States a variety of Asian destinations has significant, adverse competitive consequences for those who can't.

The other factor complicating our aviation relationship with Japan is the unwillingness of the U.S. Government to apply its recently articulated statement of international aviation policy to relationships with that country. Our government's international air transportation policy statement, issued last April, clearly enunciates the most important U.S. policy objective as—and I quote—to "increase the variety of price and service options available to consumers." A second objective is to—and here I am quoting again—"provide carriers with unrestricted opportunities to develop types of services and systems based on their assessment of marketplace demand."

Unfortunately, the U.S. has declined to pursue those objectives in its aviation negotiations with Japan. Apparently mesmerized by the notion that the beyond rights held by Northwest and United are uniquely valuable, the U.S. has adopted a civil aviation policy toward Japan that seems intended to protect the economic interests of two carriers—and let competition, competitors and consumers take the hindmost.

In my view, ladies and gentlemen, that's bad policy—and particularly so since it stands in sharp contrast to our government's aggressive application of pro-consumer policies in other negotiations.

Moreover, this pattern of protectionism is not new. Successive U.S. Transportation Secretaries have pledged to eliminate the disparity between the have-not carriers and the Northwest/United duopoly.

In 1985, D.O.T. premised its approval for United's acquisition of Pan Am's Pacific routes on United being made ineligible for new Japan routes in future D.O.T. proceedings.

During the 1989 U.S.-Japan negotiations, then-Secretary Sam Skinner gave as one of his objectives: "The enhancement of the operating rights of the so-called M.O.U.-carriers."

When it instituted the 1990 U.S.-Japan route proceeding, D.O.T. said it would base awards on—I am quoting now—"The overall structure and level of competition in the U.S.-Japan market," end of quote—and would also give weight, and again I quote, "To expanded service by those with only limited U.S.-Japan authority"—unquote.

All those promises notwithstanding, our Government's actions in recent years have only enhanced the market domination of the United-Northwest duopoly. In the 1990 proceeding, our Government granted the most important new route—Chicago-Tokyo—to United, and then proceeded to give two of the remaining routes to airlines unable or unwilling to fly them—which promptly sold them to Northwest. The bottom line: three of the six routes available in 1990 ended up in the hands of the Northwest/United duopoly—despite D.O.T.'s promise to strengthen the M.O.U. carriers.

So here we sit. Since deregulation—which sometimes seems like just yesterday, but which actually occurred 17 years ago this month—we have transformed American from a domestic airline to a global competitor—but we remain shut out of Asia. Delta and Continental have had equally little success.

It is time for a change—and if the U.S. will apply its stated international aviation policy, we think change is possible. For more than a year now, the Japanese Government has been signaling a willingness to expand service between the U.S. and Japan, and to work out arrangements to rebalance our relationship. We believe Japan's Government recognizes that it cannot realistically hope to withdraw the beyond rights Northwest and United already operate—but that it does want to constrain the further growth of their beyond operations.

In our view, a U.S.-Japan agreement premised on limiting the expansion of beyond operations by the duopolists, in exchange for a substantial increase in operating rights between various U.S. cities and Tokyo and Osaka, would be good for consumers, good for competition within the U.S. and across the North Pacific, good for the U.S. trade balance with Asia overall, and fully consistent with the D.O.T's international aviation policy statement.

Such an agreement would trade beyond-Japan rights that Northwest and United do not now use, and may never use, for authorities that American and other "have-not" U.S. carriers are prepared to operate today. These new U.S.-Japan services would have many favorable effects: (1) more competition within the U.S., (2) more competition, and lower prices, across the North Pacific, (3) more travel, by more visitors, to and within the U.S., with all the attendant increased employment and wealth creation such increases create, (4) and more orders for U.S.-built aircraft.

In addition to seeking a rational accommodation with Japan, which will provide more transpacific opportunities for more U.S. carriers, the U.S. can—and should—act affirmatively to optimize the value of its route rights with other Asian countries. For example, the use of Japan as an intermediate point has long been a bone of contention between the U.S. and China—and thus, our negotiators have had little success in modifying the U.S.-China bilateral.

China's Government wants nonstop service—which American and others stand ready to provide—but has not been willing to allow any new U.S. carriers to provide it so long as Northwest and United insist on serving their country via Tokyo.

By accepting China's position that a Japanese intermediate point may not be used in U.S.-China service, the U.S. would improve its aviation relationships with both Japan and China. Bettering both flight links and other relationships with China, with which the U.S. already has a huge and growing trade deficit—and whose future seems limitless—is clearly very important—and everyone wants a better relationship with Japan.

Aviation disagreements do not defy resolution. Countries that dislike bilaterals enough eventually renounce them—as the U.K., France, Italy, Peru, Thailand, India and others have done with respect to the U.S. at one time or another. In a comparative sense, Japan certainly has a far more legitimate complaint than the U.K. had in 1976, when it renounced Bermuda I.

Japan has already begun to restrict various rights held by U.S. carriers and the recently launched U.S.-Japan cargo negotiations are making little if any progress. In my view, the U.S. would be wise to initiate comprehensive negotiations now. Although proceeding under provocation is not ordinarily an advisable course, I do not see how U.S. interests are well served by protecting doupolies at the expense of reason, consumers and competition.

This is especially true since the Japanese Government apparently seeks more comprehensive discussions, which would lead us to believe that mutual accommodation is likely. Assuming the U.S. is willing to adopt a stance consistent with its international aviation policy statement, as it has in other bilateral negotiations, we believe the time is right for a settlement consistent with the best interests of all parties.

A passage from Shakespeare's "Julius Caesar" says it far more eloquently than I can:

There is a tide in the affairs of men,
Which, taken at the flood, leads on to fortune;
Omitted, all the voyage of their life
Is bound in shallows and in miseries.
On such a full sea are we now afloat,
And we must take the current when it serves . . .——

EXHIBIT 2

REMARKS BY STUART I. ORAN

Good morning. It's a pleasure to be with you today.

I am delighted to have this opportunity to talk about United's vision of aviation in the next century—global networks providing seamless service for our customers.

Perhaps we can look to the telecommunications industry for a model of our vision for the future of global aviation. There, U.S. companies have developed a truly global service network. You can pick up your phone and call anywhere in the world, yet deal only with one of a number of companies. This network, which we take for granted, is the product of carefully integrated systems, cross-border alliances, realistic government regulation and forward thinking telecommunications companies.

We believe that consumers are entitled to that kind of ease and convenience from airlines as well. A passenger should be able to deal with a single carrier for an itinerary that takes him anywhere in the world. To do this, we need a network of alliances—of rights and beyond rights—for carriers.

Everyone understand the importance of beyond rights of networks today, but they didn't in 1976, when Bermuda II was under discussion.

Ambassdor Alan Boyd of the U.K. offered testimony to the House Subcommittee on Aviation on the need to renegotiate the Bermuda I Agreement of 1952, calling it unfair to the U.K. He told committee members that under the agreement, U.S. airline revenues were twice those of the U.K. And he concluded that the only way to rectify the disparity was to rewrite the Bermuda Agreement substantially.

Ambassador Boyd was correct on one point—a significant revenue imbalance did exist between the U.K. and the U.S. But the reason for the imbalance had little to do with route assignments or agreements. It had to do with competitive market forces and the then inability of a bloated, protected, government-owned British Airways to compete. How times have changed.

Unfortunately, Congress and government regulators went along with Ambassador Boyd.

The results, as we know too well today, was Bermuda II. That new agreement created dramatic structural advantages for the U.K. out of a growing European market. Since then, the U.S. market share between the U.K. and the U.S. had dropped 25%. But even more important, that agreement effectively locked the U.S. carriers out of the key connecting complex in Europe—Heathrow. In effect, U.S. carriers were punished for their efficiency. We've spent the past 19 years trying to correct the Bermuda II mistakes.

I recount this today not to rub new salt into old wounds, but to look at the lessons of the European market. We would like to make sure that history does not repeat itself—this time in Asia.

For nearly 25 years, the 1952 Japan Air Service Agreement enabled competitive parity between U.S. and Japanese carriers. It was not until 1986, when United acquired Pan Am's rights in the Pacific, that the parity began to dissolve. The reason was simple—United took the necessary and often painful steps to becoming more efficient in the newly deregulated U.S. market. Meanwhile, the Japanese carriers, operating in a highly protected environment, avoided similar changes. The result today is that Japanese costs are considerably higher than those of their U.S. competitors.

Let me underscore just how much higher those costs are. We commissioned Booz-Allen & Hamilton to conduct a major study—to be released today—on the value of Asian beyond rights to the U.S. economy. Among their key findings was that Japanese carriers' cost are now roughly double that of U.S. carriers at comparable stage lengths.

The fact that the Japanese flights are more expensive is not lost on the traveling public. Because of our efficiency, we have developed fares and schedules preferred by the Japanese consumers. As a result, the parity that long existed between U.S. and Japanese carriers is gone. Today, U.S. carriers provide 61% of the capacity serving Japan and the U.S. enjoys a $4.8 billion net trade surplus with Japan for passenger air travel in Asia.

Rather than respond to this competitive challenge by restructuring their airlines—a change that is unavoidable at some point and that will benefit the Japanese people in the long run—the Japan Ministry of Transportation (MOT) has chosen instead to vilify the 1952 Air Service Agreement. Their claim is that the '52 agreement is unfair and gives the U.S. a competitive advantage.

Does this sound familiar? Like the British did in the '70's, the MOT is blaming the agreement rather than their own protectionist aviation policies for their declining transpacific market share.

So MOT has decided not to honor the '52 agreement. Most recently, the MOT has denied a request by United Airlines to begin flights between Osaka and Seoul, despite our right to fly unlimited routes between Japan into Asia. By denying this request, the MOT is abrogating the treaty, and attempting to force the U.S. to negotiate for a right its carriers already have. To add insult to injury, JAL is at the same time seeking to expand flights from Sendai to Honolulu. We are asking the Department of Transportation today to deny any increase in JAL's service until our Osaka-Seoul business plan has been approved by MOT.

MOT's position ignores an important lesson we learned with British Air and Bermuda I. Competitive positions are not static. Of course, the Japanese carriers will improve efficiency over time as they continue to cut costs and improve service. For the U.S. to overreact now, and surrender critical U.S. carrier beyond rights, would be a sucker deal that would put all U.S. businesses at a permanent disadvantage in the exploding Asian market.

I cannot underscore this important idea strongly enough. Ultimately, this is not just about United. It's about trade and MOT's approach to trade disputes in the aviation sector. It's about Japan's drive to monopolize the U.S.-Asia and Japan-Asia markets. In this case, MOT believes it can unilaterally interpret or simply ignore agreements with impunity when it suits them. And they have little regard for the damage this strategy causes to international relationships, or the havoc it wreaks on the marketplace.

And just how much havoc will MOT cause? According to Booz-Allen, if the U.S. gives up its beyond rights as MOT wants, Japan would receive a virtual monopoly on U.S.-Asian routes through Japan; Japanese carriers would gain up to $5 billion in present value from the earnings stream lost by U.S. carriers, and the U.S. would suffer a trade loss in excess of $100 billion over the next twenty years, the bulk of which would be transferred to Japan—$100 billion.

Let me describe some more of the consequences of MOT's strategy.

MOT's strategy will hurt the U.S. economy.—If MOT succeeds in blocking U.S. beyond rights, the Booz-Allen estimates of a cumulative trade loss of $100 billion dollars is actually conservative. That impact would be compounded by the multiplier effect on U.S. jobs and economic activity. As a result, the entire U.S. economy would feel the sting of MOT's aviation whip.

MOT's strategy will hurt consumers.—Booz-Allen predicts that if the U.S. carriers lost all or any of their rights to carry passengers beyond Japan to other Asian cities, capacity will drop and fares will increase. Consumers will lose service alternatives, not only between the U.S. and Japan, but to other Asian cities as well. Travelers will pay more and get less.

MOT's strategy hurts U.S.-Japanese relations.—Their plan makes a mockery of the 1952 Air Service Agreement. If MOT is allowed to dishonor the 1952 accord, how can it be trusted to respect other bilateral agreements? And we certainly can't expand their routes into and beyond the United States if they won't honor existing treaties.

MOT's strategy will impose a stranglehold over Asian aviation.—MOT is trying to position Japan as the gatekeeper of Asia, by controlling traffic both into and out of the continent. If it is successful in hobbling U.S. carriers, it will then turn its attention to the other competition, the Asian Carriers. In short order, we would see a steady stream of Asian carriers—Chinese, Indonesian, Korean, Malay, Taiwanese, Thai and Singaporean—forced to beg MOT for beyond rights to North and South America. And without the counterweight of U.S. competition, Asian carriers would become prey in their home markets to the predatory Japanese airlines.

MOT's strategy hurts U.S. carriers.—U.S. carriers will lose the right to grow in Asia—the region projected to have the highest growth in air passenger transportation over the next 15 years.

How does United see the preferred course for the future?

Using Europe as a model, we see 4 or 5 major alliances forming the core of services in Asia, with many niche players finding important roles. There is no reason why this model can't be a win-win situation for everyone in Asia. The alliances into which United has entered are designed to achieve a global network, including Asia. We have no problem with others entering the same kind of alliances, for example, the two principal Japanese carriers with U.S. carriers—because we believe that when equitably administered, we can beat the competition.

But first, MOT must honor the existing terms of the 1952 accord. This must be a prerequisite for passenger talks.

Once all parties involved agree to respect the 1952 pact, we would encourage the U.S. Department of Transportation to develop a detailed economic analysis of Japanese aviation and its relationship to U.S. carrier competitiveness in Asia. We would urge that DOT use that analysis as a starting point for negotiations with MOT.

Japan's carriers may today be overpriced and unresponsive to consumers' needs just as British Airways was 20 years ago. But the solution is not to lock up the skies and give Tokyo the key. To do so would simply recreate the mistakes of Bermuda II.

The solution to this dispute must respect the principle of open competition. We see it working in Europe, where competitive alliances provide a blueprint for global aviation.

The solution must acknowledge that competitive position are not static. One way or another, Japan's carriers will have to modernize and those changes will affect their standing in the air travel marketplace.

And above all, the solution to this dispute must honor existing agreements before creating new ones.

Going back to our telecommunications analogy, we want to provide a "seamless" journey for passengers. With a progressive, sound, and resolute U.S. approach to international aviation matters, we believe that this goal can be achieved on a global basis. But as long as we allow one nation to control international air space, there can be no global aviation. Not today. And certainly not in the year 2010.

Thank you. I look forward to your questions.

U.S. SUGAR PROGRAM

Mr. INOUYE. Mr. President, I agree that debate and open scrutiny of the Sugar Program is important this year. I would like my position to be clear. Though I accept that some level of reform to the program is inevitable and necessary, I do not believe emasculation or outright elimination is wise.

My grandfather and grandmother emigrated from Japan to work at McBryde Sugar Co. on the Island of Kauai in 1899. In my office here in Washington I have a framed copy of the contract on which my grandfather, Asakichi Inouye, placed his "X." The contract includes a photograph of this brave young man and his wife, and a little baby boy they are holding. My father.

Nearly a century later, Asakichi Inouye's grandson is proud to be representing the State of Hawaii in the U.S. Senate. McBryde Sugar is phasing over to coffee production, but sugar is still the biggest agricultural activity in Hawaii. Sugar is still the third biggest business in Hawaii, trailing only tourism and defense spending.

I am proud to represent the 6,000 men and women in Hawaii who still work directly or indirectly for the sugar industry, and their families. All these people's livelihoods are at risk if the U.S. sugar policy is eliminated.

I am proud to represent agricultural workers who are among the world's most productive. Hawaii produces more sugar per worker, and per acre, than anywhere in the world.

Our workers have enjoyed collective bargaining for decades and are rewarded for their productivity with good wages, with some of the best health care benefits in the country, and with generous benefits for insurance, retirement, and in many cases, housing. Their safety and their health are bolstered by some of the strictest worker protection rules and highest environmental standards in the nation, and possibly in the world.

These workers, many of whose families have been in sugar for three or four generations, lead comfortable, but by no means extravagant lives, can put their children through college, and can look forward to a decent retirement.

Sadly, Hawaii sugar production has dropped nearly in half in just the past 7 years as half our sugarcane plantations have shut down. Why have these farms closed? Because producer prices for sugar have been flat, or even declining, for the past decade. Despite their extraordinary productivity, these farmers cannot reduce costs rapidly enough to cope with inflationary prices for their inputs and flat or declining prices for their output.

In the absence of U.S. sugar policy, an abrupt decline in U.S. producer prices for sugar is a virtual certainty. If U.S. producer prices for sugar decline further, Hawaii's remaining sugarcane farms will close. Thousands more of my constituents will lose their livelihoods.

This sad situation will not be unique to Hawaii if we lose the Sugar Program. Similar scenes will be played out in the many rural areas of this country dependent on the sugar industry.

Let me say, however, that I would not object to the elimination of the Sugar Program if other nations also eliminated any and all measures to favor their domestic sugar producers, processors and consumers. However, we must consider the realities of world market conditions such as the sugar price support in the European Union, which is 35 percent higher than that of the United States. A U.S. Sugar Program is a necessary response to generous production and export subsidy programs in other countries.

Opponents of the Sugar Program say that it costs Americans over a billion dollars annually and point to the low world price of sugar, which hovers around $0.14 per pound, as the savior of the American sugar consumer. However, this fictitious world price is created by the direct financial subsidies and export incentives provided to foreign producers by their own governments, which in turn allow these producers to dump excess sugar on the supposed world market at substantially below production cost. If we think there is an endless supply of this dump-priced sugar, we are fooling ourselves into relinquishing control of our domestic market to foreign producers.

I believe that if we had a level playing field, we could play at the highest level of competition with anybody. While the GATT, the NAFTA, and the Canadian Free-Trade Agreement are moving us in that direction, I do not believe we are there yet.

I would also ask, "How has the U.S. Sugar Program fared as a domestic public policy?" While there are several dimensions to such an evaluation, I focus on three particular aspects: impact on the American consumer, impact on the innovativeness of the producing and processing components of the U.S. sugar industry, and impact on the Federal Treasury.

Under the U.S. Sugar Program, American consumers have enjoyed a retail price of refined sugar that is lower than that paid by consumers in other developed countries. On average, sugar prices paid by Americans are nearly 30 percent lower than in other developed nations.

In April of this year, the average retail price of a pound of sugar in developed nations was $0.54; the price was only $0.39 a pound in the U.S., but over $1.00 in Japan and about $0.69 in France. Relative to other developed countries, U.S. consumers save approximately $2.6 billion annually on purchases of sugar and products sweetened with sugar.

However, besides price, American consumers demand consistent quantity and quality. In other words, when consumers go to the grocery store to purchase sugar, they expect a high quality product that is safe and contaminant free, and identical with every purchase. They also expect to find such products on the shelf whenever they want to buy them. This is exactly what the American consumer gets from the U.S. sugar industry—so much so that we take it for granted. However, one need only recall the shortages in the former Soviet Union to know that this is not a universal occurrence. Thus, from a consumer viewpoint, I give high marks to the sugar program as domestic public policy.

Another aspect of public policy is how well it stimulates innovation in the production and processing components of the industry. Simply looking at the increasing productivity of domestic sugar producers and processors will clearly signal the fact that the sugar program has not stifled innovation.

You do not get the deserved reputation as one of the most efficient sugar producing nations in the world by suppressing innovation. Support of domestic sugar production and processing has been maintained at a level to protect against unfair competition, but not at a level to preclude fair competition. Thus, from the innovation-encouraging perspective, I give high marks to the sugar program as domestic public policy.

Finally, Federal law requires that the sugar program operate at no cost to the Federal Treasury. U.S. sugar growers receive absolutely no subsidy from the Government. The only payments are from the producers to the Government. In fact, through a congressionally mandated marketing assessment, the U.S. sugar industry actually contributes more than $30 million annually to the Federal Treasury. So, considering its benefit to the Federal Government's economic condition, I again give high marks to the Sugar Program as domestic public policy.

Let me close by saying again that I am not opposed to necessary and useful reform to the U.S. Sugar Program this year; though I do not think that unilateral disarmament is the solution. The sugar industry has committed itself to supporting an elimination of the Sugar Program if and when other sugar producing nations take the same action. I will make this commitment as well. Until we reach that time, however, we must protect our industry, our market, and our consumers from subsidized competition from abroad.

SOME SECOND THOUGHTS ON THE FIRST AMENDMENT AND CENSORSHIP

Mr. LIEBERMAN. Mr. President, I rise today to call my colleagues' attention to a thought-provoking speech recently given by Judge Robert Bork about the media, and our perceptions of the first amendment and censorship.

Judge Bork, who is now a resident scholar at the American Enterprise Institute, made these remarks at a forum sponsored by AEI entitled, "Sex and Hollywood: What Should Be the Government's Role?", at which I had the privilege of speaking. As the title suggests, this forum sought to examine what effect the media's bombardment of sexual messages is having on our children and our culture, and what steps the Government can and should take to address the public's growing concern about the threat posed by these increasingly explicit messages.

In his comments, Judge Bork argued that this threat puts not only our children at risk, but our civil society as well. If the entertainment industry's standards continue to drop, he suggested, the Government would be well within its constitutional bounds to take more active steps to protect children by regulating lewd and indecent content. In making this argument, Judge Bork reminded the audience that the Government has regularly played the role of censor—albeit a limited one—for most of our history, and that in recent years the general notion of what forms of expression are fully protected by the first amendment has, in Judge Bork's eyes, become distorted. Judge Bork's comments remind us that our commitment to free expression must be balanced by our commitment to protect our children and the moral health of our Nation.

With that, Mr. President, I ask unanimous consent that the text of Judge Bork's statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEX AND HOLLYWOOD: WHAT SHOULD THE GOVERNMENT'S ROLE BE?

(Remarks at the Sexuality and American Social Policy Seminar, Washington, DC, Friday, September 29, 1995)

Lionel Chetwynd is surely correct in reminding us that motion pictures and television are not solely, perhaps not even primarily, responsible for the social pathologies that are rampant in America today.

An interesting fact that tends to bear out that conclusion is that in both the United States and the United Kingdom the rates of illegitimacy and violent crime, after long periods of stability, began rising in 1960. That was well before movies and television became as sex- and violence-drenched as they are today.

It is also true that Hollywood's selling of sex has to be seen in the context of all the sexual messages that flood our culture.

That said, it is impossible to believe that Hollywood's sexual messages have no significant impact on sexual behavior. I find persuasive Jane Brown's and Jeanne Steele's giving of a qualified "yes" to the questions whether the sexual messages being sent promote irresponsible sexual behavior, encourage unwanted pregnancies, and lead to teenagers having sex earlier, more frequently, and outside of marriage.

One of the most persuasive items of evidence is the effect movies and television have had on levels of violence. Why images and words would affect one form of activity and not the other is unclear, particularly since one who contemplates violence must also contemplate the possibility that he is the one who will be hurt. There is no such deterrent to one contemplating sex. The prospect of pregnancy is unlikely to deter teenagers with a short time horizon.

I am unpersuaded by the argument that the market will take care of the problem. We are told that there is more sex on prime time TV this year than ever before. As for the movies, we will have to wait to see whether "Showgirls" is commercially successful. If it is, the market will ensure that the floodgates open.

There is a major problem caused by the fact that Hollywood must compete with other modes of delivering sexual messages, messages that are increasingly perverted. Some of this is the material on cable channels, which are, I suppose, part of the generic term "Hollywood." But there is also Internet, which supplies prose and pictures of small boys and girls being kidnapped, mutilated, raped, and killed, and even supplies instructions on the best time of day to wait outside a girls' school, how best to bundle a girl into your van, and the rest that follows. Soon it will be possible to get digital films of such materials on home computers.

The market will not take care of that problem. We already have the evidence for that conclusion. The pornographic film business exploded in profitability when it was no longer necessary to go to an "adult" theater to see pornography. It has been possible for some time to avoid the embarrassment of being seen entering such a theater by renting pornographic video tapes. The business is making billions of dollars annually and is expanding rapidly.

But when pornographic and frequently perverted films are available on home computers, the customer will not even have to face a clerk in getting a videocassette or be seen browsing the X-rated film racks. What we have learned is that the more private viewing becomes, the more salacious and perverted the material will be. On Internet, people are downloading still pictures of pedophilia, sadomasochism, defecation, and worse. Among the most popular pictures are sex acts with a wide variety of animals, nude children, and incest.

I don't think there is any doubt that competition from pornographic digital films, which can be sent from anywhere in the world, will pull Hollywood in the direction of more and more shocking sexual films and television.

Is there a role for government? I think the answer is yes. It may be impossible to do anything about Internet and films on home computers. Technology, it is said, is on the side of anarchy. But it is possible to do something about movies, television, and rap music.

There are those who say the solution is rebuild a stable and decent public culture. How one does that when the institutions we have long relied on to maintain and transmit such a culture—the two-parent family, schools, churches, and popular entertainment itself—are all themselves in decline it is not easy to say.

It is also no answer to say, "If you don't like it, don't go to the offensive movies, use the remote to change the television channel, don't listen to rap." Whether or not you watch and listen, others will, and you and your family will be greatly affected by them. The aesthetic and moral environment in which you and your family live will be coarsened and degraded. Michael Medved put it well: "To say that if you don't like the popular culture to turn it off, is like saying, if you don't like the smog, stop breathing. . . . There are Amish kids in Pennsylvania who know about Madonna."

The cultural smog has several bad effects. I have mentioned the ugliness of the aesthetic and moral environment, which includes everything from the use in public of language that used to be confined to the barracks and was sometimes frowned upon there to attitudes about sexuality which must translate into attitudes about fidelity and preserving marriages.

Stanley Brubaker argues that in a republican form of government, where the people rule, it is crucial that the character of the citizenry not be debased. The late Christopher Lasch pointed out that democracy cannot dispense with virtue. He said that we forget "the degree to which liberal democracy has lived off the borrowed capital of moral and religious traditions antedating the rise of liberalism." Those traditions are dissipated by the kinds of entertainments we have been discussing.

There is, however, a third point. The attitudes and actions expressed in rap lyrics, on Internet, and soon on home computer movies are incitements to action. Do we really think that a heavy diet of pornography, of rape scenes, of coercing children to have sex cannot ever trigger action? If we do not think that, then some form of regulation is called for. The pleasure that a million addicts get from a thousand depictions of rape is not worth one actual rape.

What, then, can government do? This brings us to the topic of censorship. Almost everybody has been so influenced by liberal ideology that censorship is considered unthinkable. Irving Kristol, who also favors censorship, says it might be more palatable if we spoke of the regulation of public morals, but I don't think anybody would be fooled.

Somebody is bound to say that any regulation of pornography would violate the First Amendment. That view is a recent development and ignores the historical understanding. Until very recently, not even pornographers thought the First Amendment was relevant in prosecutions for producing and selling the stuff. They raised no such defense.

As recently as 1942, a unanimous Supreme Court said in Chaplinsky v. New Hampshire: "There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem.

These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any explosion of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

That Supreme Court understood that the Amendment intended to protect the expression of ideas and that lewd and obscene were no necessary part of such expression.

We don't have to imagine what censorship would be like. We lived with it for over three hundred years on this continent and for about 175 years as a nation. And we had a far healthier public culture. Ratings systems for recordings and movies have proved a farce. The era of the Hayes office in Hollywood was also the golden age of the motion pictures. And maybe something like the Hayes office would be the way to start. Government could encourage the producers of movies, television, and music to set up such self-policing bodies. We could see if those industries would comply. If not, or if the modern version of Hayes offices proved ineffective, we could contemplate the next step. That next step would be direct government action, which is what we used to have.

One thing seems clear, however, if the depravity of popular culture continues and worsens, we must either attempt one or another form of censorship or resign ourselves to an increasingly ugly and dangerous society.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, as of the close of business yesterday, October 26, the federal debt stood at $4,973,674,803,905.53. We are still about $27 billion away from the $5 trillion mark, unfortunately, we anticipate hitting this mark sometime later this year or early next year.

On a per capita basis, every man, woman, and child in America owes $18,880.15 as his or her share of that debt.

ORIGINAL COSPONSORS OF THE LIBERTAD ACT

Mr. HELMS. Mr. President, the printed record of the October 11 debate contains an error in the listing of original cosponsors of amendment number 2898 to H.R. 927, the Senate substitute version of the Cuban Liberty and Democratic Solidarity (Libertad) Act of 1995. For the information of my colleagues, the original cosponsors of the amendment are as follows: Senators DOLE, HELMS, MACK, COVERDELL, GRAHAM, D'AMATO, HATCH, GRAMM, THURMOND, FAIRCLOTH, GREGG, INHOFE, HOLLINGS, SNOWE, KYL, THOMAS, SMITH, LIEBERMAN, WARNER, NICKLES, ROBB, CRAIG, COHEN, BURNS, REID, LOTT, STEVENS, SPECTER, SHELBY, and PRESSLER.

SENATOR CHARLES GRASSLEY

Mr. THURMOND. Mr. President, Senator GRASSLEY is not only an able and dedicated U.S. Senator, but he is also a progressive, scientific, and outstanding farmer. His colleagues in the Senate hold him in high esteem, not only for these qualities but also for his integrity, courage, and ability. We are proud of him and the great service he is rendering our country.

I ask unanimous consent that the article contained in the Hill be printed in the RECORD so that others will learn more about this fine American.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Hill, Oct. 25, 1995]

SENATOR CHARLES GRASSLEY

(By Albert Eisele)

You can't get much more grassroots than Sen. Charles Grassley (R-Iowa).

Early this month, the 62-year-old crusader against federal waste was at the wheel of an International Harvester 1450 tractor, hauling a load of soybeans to a grain elevator near his family farm in northeastern Iowa.

The only working farmer in the Senate, Grassley interrupted his farming chores to issue a press release informing his constituents he had regained his Agriculture Committee seat, which he was forced to give up in January when committee assignments were redistributed after Republicans took control of the Senate.

But last week, Grassley was back in the Senate, behind the closed doors of the Finance Committee helping Republicans work out disagreements over their controversial $245-billion tax cut package, and then defending that package from Democratic criticism in full committee.

"If you're concerned about balancing the budget, you'll be for this program," Grassley declared as he and his GOP colleagues sent their historic tax package to the Senate floor as part of the even more historic budget reconciliation bill.

Then, using a metaphor appropriate to his Iowa origins and his parochial view of his role in the Senate, once described by Congressional Quarterly as "pigs and pork," Grassley said, "The people of this country are tired of living high on the hog, and not worrying about our children or grandchildren paying for it."

For the man who is the philosophical heir of the late Rep. H. R. Gross (R), the quintessential penny-pinching legislator whom Grassley succeeded in the House in 1974, it was a characteristic moment.

Never hailed as an intellectual giant or an inspiring orator, the easy-going third-term senator has made his name, and compiled a truly imposing campaign record, by balancing the needs of Iowa farmers and small businesses with the national yearning for fiscal discipline in government.

Despite one of the lowest profiles in the Senate, Grassley has managed, by stint of sheer hard work, country-bred political smarts and a low-octane ego, to place himself in the middle of the Senate debate over the big ticket issues of tax cuts, budget balancing and welfare reform at the heart of the Republican revolution.

As a member of the Finance Committee, the number two Republican on the Budget Committee behind Chairman Pete Domenici (R-N.M.), and a member of the House-Senate conference committee on welfare reform which holds its first meeting today, Grassley is perfectly positioned to add to his already impressive electoral achievements in Iowa, where he has never lost a race.

Elected to the state legislature while studying for a doctorate at the University of Iowa—he left school after he was elected and never returned—Grassley took over his family farm after his father died in 1960.

By 1974, when he won a narrow victory over a Democratic opponent to replace the retiring Rep. Gross, Grassley had bought additional acreage—It's now just under 600 acres—and turned the farm over to his son Robin, who still farms it, with weekend help from his father in the fall and spring.

Then, in 1980, after Iowa voters dumped liberal Democratic Sen. Dick Clark in favor of conservative Republican Roger Jepson two years earlier, Grassley took on Clark's liberal Democratic colleague, John Culver, after winning 90 of the state's 99 counties in the GOP primary.

His emphasis on pocketbook issues and his earnest demeanor, which belied Culver's charges that he was a tool of the Moral Majority and New Right, earned Grassley an unexpectedly comfortable victory with 54 percent of the vote.

Amazingly, for someone whose name and accomplishments are little-known outside of Iowa, and widely discounted inside the Washington Beltway, Grassley has one of the best records as a campaigner of anyone in the Senate. Of the 43 senators who have run for three or more terms, Grassley is the only one, other than John Warner (R-Va.) and two others who ran unopposed, who has significantly improved his electoral margin in each of the last three elections.

After winning 54 percent of the vote in 1980, he easily disposed of his Democratic challenger in 1986 by taking 66 percent of the vote, and crushed his opponent in 1992, highly touted state Sen. Jean Lloyd-Jones, by winning 70 percent of the vote.

The latter victory was one of historic proportions as he carried every single county while winning by the largest statewide margin in the country, and winning more votes than any candidate in the history of the state—President Eisenhower had the old record.

Grassley has an uncanny ability to translate national issues, such as defense fraud, tax reform, out-of-control government spending, congressional accountability, and international trade—especially for Iowa farm and manufacturing products—into issues of local appeal.

Grassley scored one of his major successes earlier this year when the 104th Congress enacted its first piece of legislation, the Congressional Accountability Act that made Congress subject to the same labor and antidiscrimination laws that apply to all Americans. Grassley has been pushing for such a law since 1989.

But it was his attack on government waste and fraud that first brought him public attention. In 1984, as chairman of the Judiciary Subcommittee on Administrative Practices, he publicized the notorious $47,600 coffee maker bought by the Air Force. Then, in 1990, he won headlines by uncovering Pentagon purchases of $999 screwdrivers and $1,868 toilet seats.

Grassley is proudest of two major achievements, passage of the Congressional Accountability Act and his work with Rep. Howard Berman (D-Calif.) in promoting the 1986 "whistle blower" provisions, known as the "qui tam" amendments to the False Claims Act, which enabled the Justice Department to recover more than $1 billion in civil fraud cases since 1986.

Over breakfast in the Senate Dining Room last week, Grassley, who had a very unIowalike breakfast—a grapfruit with honey and black coffee—commented, almost apologetically, on the fact that very little major legislation bears his name.

"Sometimes I think the passage of legislation might not necessarily be the best way to measure a person's most important accomplishments," he said. "Sometimes, it's what you might do to stop a bad administrative action or get an amicus brief before the Supreme Court on child pornography."

Grassley has already signed on-to Senate Majority Leader Bob Dole's (Kan.) presidential bandwagon, so it's no surprise he predicts Dole will win the bellwether Iowa caucuses next February. But he concedes that Dole will have to beat the 38-percent figure he got in 1986.

And for those who want to bet a long shot, the most successful politician in Iowa history offers this startling advice: "Keep an eye on Phil Gramm [R-Texas]. He's the one to watch."

GAMBLING IMPACT STUDY COMMISSION ACT

Mr. WARNER. Mr. President, legalized gambling in this country is growing at a phenomenal rate. In 1975, only one State allowed casino gambling. Today, 20 years later, 23 States have legal casino gambling. Forty-eight States have legal gambling in some form. Gambling is a huge industry, but we know very little about its economic and social impacts.

As a result of my deep concerns, I have become a cosponsor of S. 704, the Gambling Impact Study Commission Act. This bill, sponsored by Senators SIMON and LUGAR, will establish an 18-month commission to study the effects of legalized gambling and its impact on local communities. The commission would report its findings to the President and Congress, providing administrative recommendations and proposals for legislation, if called for.

Mr. President, I am a strong believer in the free market and I believe the Federal Government's zeal to regulate business in this country must be reined in. The American people sent a clear signal with the 1994 elections. That is why many of us in Congress are working overtime to cut Government red tape that is stifling our businesses and industry.

But this national gambling commission is not about Government interference. As I mentioned, 48 States have some form of legalized gambling, including 23 with operating casinos. There is even gambling on the Internet. I am not opposed to State lotteries but I note that today, gambling is done on river boats, Indian reservations, and in well-established downtowns. There are even proposals to put video gambling machines on airlines and to have gambling cars on passenger trains.

According to a study by U.S. News & World Report, Americans in 1992 legally wagered $330 billion in casinos, race tracks, lotteries, et cetera. This represents an 1,800-percent increase since 1976. Mr. President, I believe Congress must recognize that legalized gambling is now a huge industry, and we must take steps to learn about this industry and to provide credible and objective facts for our States and communities.

Many towns and cities are in tight budgetary situations and are looking for new dollars without increasing local taxes. Legalized gambling has been seen by some as a panacea, not just as a means to avoid tax increases, but as a means to provide new jobs and stimulate economic growth.

Frankly, Mr. President, there is very little unbiased information about gambling's true economic and social impact in America. The gaming industry has produced its studies, which predictably paint a rosy picture for States and local governments. The opponents of gambling have likewise produced reports about the problems legalized casinos and other forms of gambling have brought to communities. We do not know who to believe.

In short, there is a real lack of unbiased information. An independent national gambling commission, as I envision it, will be fair-minded and provide information across a wide spectrum. It will examine the social impacts of gambling, including the impact on crime rates, political corruption, and family life. It will also examine its economic costs and benefits.

From the work of this commission, Congress will learn a great deal about this relatively unknown industry. Moreover, Virginia and her counterparts, and just as importantly local communities, will be able to use this information while making future decisions about creating or expanding legalized gambling.

I look forward to Senate consideration of this bill, and will work to ensure its passage.

IN HONOR OF HENRY WINKLER'S 50TH BIRTHDAY

Mr. PRESSLER. Mr. President, as a long-standing member and now Chairman of the Commerce, Science and Transportation Committee, I have been an outspoken critic of movie and television programs that have a negative impact on our children. However, I do make a point to single out those who make a positive contribution to quality programming. Today I want not only to pay tribute to an individual who has worked diligently to create programs that uplift and instruct our children, but also to extend congratulatory birthday greetings. Henry Winkler, an individual who already has established a milestone in television history, will celebrate another milestone on October 30, when he turns a golden fifty years of age.

All of us know Henry Winkler as the "Fonz" on the long running TV show "Happy Days." His famous motorcycle jacket is a permanent piece of the Smithsonian Institute's collection. As an actor, Mr. Winkler created a national icon. Today, he has established himself as one of Hollywood's most respected producers of family-oriented entertainment, and has drawn attention to humanitarian and family causes. In the 1970s, he won the prestigious Humanitas Award for his program "Who Are the DeBolts?", a documentary on a family with nineteen children, many of them adopted with special needs. In the 1980s, Henry brought back the "Fonz" to host the video "Strong Kids, Safe Kids," a widely distributed cassette that addressed child abuse. His production company, "JZM"—the initials derived from each first name of his three children—produced children's specials addressing a variety of important issues such as divorce and teenage drunk driving. Families also have enjoyed the exploits of "MacGyver," the story of an action hero who solved crimes with creativity and scientific knowledge, rather than guns or brute violence. Henry also continues to act, portraying characters who invariably learn or teach a heartwarming lesson, including last year's "Truman Capote's One Christmas," in which Henry co-starred with the legendary Katherine Hepburn. As both actor and producer, Henry has proven that good, clean programming can be entertaining, and as the "Fonz" would say, cool.

Henry Winkler's devotion and commitment to quality programming stems from clear fact: Henry Winkler is a quality human being. He has applied this same energy to the welfare of all children. He is a founding member of the Children's Action Network, dedicated to raising the profile of children's issues through the media. He has been national chairman of the annual Toys for Tots campaign, honorary chairman of the Epilepsy Foundation of America, the Special Olympics, and numerous teenage alcohol and drug abuse programs.

In recognition of his many humanitarian efforts, Henry Winkler has been honored by the United Nations, B'nai B'rith, Women in Film, and Cedars-Sinai Medical Center. Also honored by Hollywood, Mr. Winkler has his own star on the "Walk of Stars." In both his personal and professional life, Henry Winkler set a positive and highly respected standard for the entertainment industry. My wife, Harriett, and I join Henry's family and friends in wishing him a very happy birthday, good health and best wishes for another half-century of continued success.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 109. Concurrent resolution expressing the sense of the Congress regarding the need for raising the social security earnings limit.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104–165).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By MR. LIEBERMAN:

S. 1367. A bill to amend the Food Security Act of 1985 to strengthen the payment limitations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY:

S. Res. 188. A bill to designate October 30, 1995, as "National Drug Awareness Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 1367. A bill to amend the Food Security Act of 1985 to strengthen the payment limitations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FARM FAIRNESS ACT OF 1995

• Mr. LIEBERMAN. Mr. President, the commitment we have made to balancing the budget has forced each of us to reassess a wide variety of Federal programs. We are asking tough but necessary questions about welfare, Medicare, funding for the arts, and so forth, all with an eye toward determining whether we are truly doing right by the taxpayer, and whether we can afford to continue the status quo.

One corner of the budget that I believe deserves this kind of heightened scrutiny is the U.S. Department of Agriculture's farm subsidy programs. Each year about $10 billion gets plowed into price and income supports for commodities, in the name of helping the struggling family farmer. But there's substantial evidence to show that these programs are not serving the interests of those small farmers, nor are they doing justice to America's taxpayers.

The current system for distributing commodity payments is too complicated, plagued by too many loopholes, and permits far too many tax dollars to flow to wealthy landowners, passive investors, and others who the programs are not designed to serve. Perhaps worst of all, the system in place today actually encourages farmers to try to circumvent the laws governing who is eligible for program payments and the limits on how much they can receive. The resulting waste and abuse is not fair to the taxpayer, nor is it fair to the overwhelming majority of hard-working farmers who are obeying the spirit as well as the letter of the law.

That is why I rise today to introduce the Farm Fairness Act of 1995, a plan to dramatically reform the payment limit and eligibility laws, and restore some basic fairness to the way subsidies are distributed. This legislation would go a long way toward rooting out the waste and abuse in the commodity programs while strengthening our commitment to the family farmer these programs are meant to support. What's more, it would save hundreds of millions of dollars each year, which would enable us to significantly reduce the cuts in the commodity programs we are asking the small- and medium-sized farmer to absorb over the next budget cycle.

Mr. President, the need for the kind of changes I am proposing has been well established by the USDA inspector general. Over the last few years, the IG's office has produced dozens of investigative reports documenting widespread attempts to cash in on loopholes in the law. These plans invariably involve the creation of shell corporations set up for the sole purpose of getting around the $50,000 cap on payments that was set by Congress. These efforts have been effective, too: in 1993, nearly 10,000 farms received payments above the $50,000 limit.

The law is so full of loopholes that these excessive payments are technically legal, even though they make a mockery of the $50,000 cap. In fact, a U.S. Attorney's Office recently declined to prosecute a substantial fraud case against a big farming group because, in the judgment of the U.S. Attorney, the law seemed to sanction the group's deceptive behavior. "[T]he program rules are not simply complex, but actually invite the creation of complicated entities, and numerous federal payments, that arguably do not correspond to a common sense notion of farming," the U.S. Attorney wrote.

Perhaps the most notorious case of abuse is that of landowner profiled a few years ago on "60 Minutes," whose family exploited several loopholes in the eligibility laws to receive almost $3 million in USDA money over a 2 year period. He did it by creating an ornate ownership structure that looked like a Christmas tree, but this tree was trimmed with phony partners: among them were three churches and a local boy scout council that the landowner used to maximize his payments.

Like this landowner, many farmers are enticed by these loopholes to concentrate more on farming the government than farming their land. This trend of farming the government is so pervasive that one former Agriculture Secretary called it "the principal problem" in the farming community today.

As a result of these flaws in the law, you don't have to be a farmer to receive farm subsidies. In fact, a recent study showed that at least $2 billion in crop payments have been made to individuals living in America's 50 biggest cities over the last decade. We cannot think of any justification for crop subsidies going to Manhattan, Greenwich, and Beverly Hills.

More farm subsidies are going to nonfarming locales than any taxpayer would ever guess. That's because, in spite of the rhetoric about the family farmer, these programs are disproportionately benefiting wealthy landowners and off-farm investors: The richest 4 percent of program participants receive more than 40 percent of all payments.

If we are to justify a continued investment in the commodity programs, I believe there must be some fundamental reforms. The legislation I am introducing today would do just that. It is designed to restore some common sense to the administration of these programs, to remove the incentives for farming the government, and ultimately to better target the subsidies to those who were meant to receive them.

Among other things, this proposal would: Close the loopholes that allow huge sums of farm subsidies to flow to nonfarmers; eliminate the shell corporations the current rules encourage farmers to create; set tough penalties for cheating the Government to add a real deterrent for engaging in fraudulent behavior; bring some simplicity into a system that is nearly unintelligible to anyone but a well-trained lawyer; and reduce the budget in a way that minimizes the pain for the small family farmer who is playing by the rules.

The Congressional Budget Office estimates that the Farm Fairness Act would save approximately $1.8 billion over the next 7 years. I believe that is a conservative estimate, and that if the reforms I am proposing are properly enforced, this legislation would reduce commodity payments anywhere from $2 billion to $3 billion over 7 years. That amounts to a significant chunk of the $13.4 billion in commodity program cuts called for in the budget reconciliation package we are in the process of considering.

Without a proposal like this, those cuts will be made across the board, meaning the small wheat farmer in Fargo will suffer as much as the passive investor in Key Largo. To prevent that from happening, I intend to offer a version of the Farm Fairness Act as an amendment to the budget reconciliation bill this week.

This proposal is called the Farm Fairness Act because it will restore some fairness to the way we support farmers, by targeting payments to the people who are actually plowing the fields and harvesting the crops. And it will make sure that taxpayers finally get a fair return for the tax dollars we spend on the commodity programs. It is a balanced measure, one that Members from both farm and nonfarm States can support, and I would urge my colleagues to do so.

Mr. President, I ask unanimous consent that the full text of this legislation be included in the RECORD, along with a section-by-section summary that I have prepared explaining the contents of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Fairness Act of 1995".

SEC. 2. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraphs (1) through (3) and inserting the following:

"(1)(A) Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of payments specified in subparagraph (B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice, and oilseeds may not exceed $35,000.

"(B) In subparagraph (A), the term 'payments' means—

"(i) deficiency payments;

"(ii) land diversion payments;

"(iii) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment or public access for recreation;

"(iv) any gain realized by a producer from repaying a loan for a crop of any commodity (other than honey) at a lower level than the original loan level established under the Agricultural Act of 1949;

"(v) any deficiency payment received for a crop of wheat or feed grains under the Agricultural Act of 1949 as the result of a reduction of the loan level for the crop under the Act;

"(vi) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, rice, or oilseeds under the Agricultural Act of 1949; and

"(vii) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under the Agricultural Act of 1949.

"(2) In applying the limitation specified in paragraph (1)(A) to payments specified in paragraph (1)(B):

"(A) The Secretary shall attribute the payments directly to persons who receive the payments.

"(B) In the case of payments that are received by an entity, the Secretary shall attribute the payments to individuals who own the entity in proportion to the ownership interest of the individuals in the entity.".

SEC. 3. DEFINITION OF PERSON.

Section 1001(5)(B)(i)(II) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(B)(i)(II)) is amended by inserting "general partnership, joint venture," after "limited partnership,".

SEC. 4. REMOVAL OF 3-ENTITY RULE.

Subsection (a) of section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended to read as follows:

"(a) PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS.—The Secretary shall attribute payments specified in section 1001(1)(B) to persons in accordance with section 1001(2).".

SEC. 5. ACTIVELY ENGAGED IN FARMING.

(a) PERSONAL LABOR AND ACTIVE PERSONAL MANAGEMENT.—

(1) INDIVIDUALS.—Section 1001A(b)(2)(A)(i) of the Food Security Act of 1985 (7 U.S.C. 1308–1(b)(2)(A)(i)) is amended by striking subclause (II) and inserting the following:

"(II) personal labor and active personal management;".

(2) CORPORATIONS OR OTHER ENTITIES.—Section 1001A(b)(2)(B) of the Act is amended to read as follows:

"(B) CORPORATIONS OR OTHER ENTITIES.—

"(i) SIGNIFICANT CONTRIBUTION.—A corporation or other entity shall be considered as actively engaged in farming with respect to a farming operation if—

"(I) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(II) stockholders or members who individually or collectively own at least a 50 percent interest in the operation make a significant contribution of personal labor and active personal management to the operation; and

"(III) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the entity, are met by the entity.

"(ii) NO SIGNIFICANT CONTRIBUTION.—Notwithstanding clause (i), if the stockholders or members who are not described in clause (i)(II) do not individually or collectively make a significant contribution of personal labor or active personal management to the operation, the payments to the entity shall be reduced by a percentage equal to the percentage ownership in the entity of the members.

"(iii) TRANSITION RULE.—A family farm corporation shall meet the requirements of clause (i)(II) during the 10-year period beginning on October 1, 1996, if—

"(I) the corporation met the requirements of this subparagraph (as in effect prior to the amendment made by section 5(a)(2) of the Farm Fairness Act of 1995) during at least the 5-year period ending on the date of enactment of the Act;

"(II) the corporation ceases as a result of the death, disability, or retirement of a stockholder or member of the corporation to meet the requirements of clause (i)(II); and

"(III) stockholders or members who individually or collectively own at least a 10 percent interest in the operation make a significant contribution of personal labor and active personal management to the operation.".

(3) ENTITIES MAKING SIGNIFICANT CONTRIBUTIONS.—Section 1001A(b)(2) of the Act is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C).

(4) FAMILY MEMBERS.—The first sentence of section 1001A(b)(3)(B) of the Act is amended by striking "active personal management or personal labor" and inserting "active personal management and personal labor".

(b) LANDOWNERS.—Section 1001A(b)(3)(A) of the Act is amended to read as follows:

"(A) LANDOWNERS.—A person that is a landowner contributing the owned land to the farming operation, if the person demonstrates to the satisfaction of the Secretary that the person—

"(i) receives rent for the use of the land based on the production of the land or the operating results of the operation;

"(ii) rents the land only to persons who are considered actively engaged in farming under this section; and

"(iii) meets the standards provided in clauses (ii) and (iii) of paragraph (2)(A).".

(c) DEFINITIONS.—Section 1001A(b) of the Act is amended by adding at the end the following:

"(7) DEFINITIONS.—In this subsection and section 1001(5)(D) (7 U.S.C. 1308(5)(D)):

"(A) ACTIVE PERSONAL MANAGEMENT.—The term 'active personal management' means personally providing, on a daily basis as required during the entire growing season for a crop—

"(i) direct supervision and direction of activities and labor involved in a farming operation; or

"(ii) on-site services that are directly related and necessary to a farming operation.

"(B) CAPITAL.—The term 'capital' does not include any payment described in paragraph (1) or (2) of section 1001 (7 U.S.C. 1308). The Secretary shall establish procedures to ensure that the term is applied in a manner that does not include any such payment.

"(C) SIGNIFICANT CONTRIBUTION.—The term 'significant contribution' means—

"(i) in the case of land, capital, or equipment contributed by a person to an operation, a percentage of the land, capital, or equipment, respectively, to the operation that is at least equal to the percentage interest of the person in the operation; and

"(ii) in the case of personal labor and personal active management contributed by a person to an operation, at least 1,000 hours annually or 50 percent of the commensurate share, whichever is less.''.

(d) CONFORMING AMENDMENTS.—Section 1001(5) of the Act (7 U.S.C. 1308(5)) is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraph (E) as subparagraph (D).

SEC. 6. SCHEMES OR DEVICES.

Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended by striking "applicable to" and all that follows through "succeeding crop year" and inserting "applicable to—

"(1) the crop year for which the scheme or device was adopted and the succeeding 5 crop years; and

"(2) if fraud was committed in connection with a scheme or device involving a price support, production adjustment, or conservation program administered by the Secretary of Agriculture, the crop year for which the scheme or device was adopted and the succeeding 10 crop years".

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on October 1, 1996.

THE FARM FAIRNESS ACT OF 1995—SECTION-BY-SECTION SUMMARY

SECTION 1

[Bill title.]

SECTION 2

Payment limits: This section would set a new, single payment limit of $35,000 for any individual, corporation or any other legal "entity" seeking to enroll in the USDA's main crop subsidy programs. This limit would apply to all commodity payments, but it would not include the various conservation programs.

Under current law, there is a confusing multi-tier system of various payment limits. An individual or corporation can receive up to $50,000 in deficiency payments; up to $75,000 in several other price support payments (marketing loan gains, loan deficiency payments, and the sporadically-used "Findlay" payments); and up to a total of $250,000 for all payments.

In light of the fact that fewer than 2% of all program participants receive more than $40,000 in deficiency payments, creating a single $35,000 cap seems a reasonable step that would impact very few families while producing significant budget savings.

Direct attribution: One of the biggest problems with the current system of payment limits is that it has established different limit levels depending on how the farming operation is structured. This makes it relatively easy for large producers to receive payments several times the current $50,000 and $75,000 limits.

This section would solve that problem by requiring the attribution of all crop subsidy payments directly to individuals, via social security numbers. For corporations, payments would still be distributed to the legal entity, but it would be attributed to the individual shareholders based on their respective interests in the corporation.

SECTION 3

This section would close a widely-exploited loophole in the existing rules by adding general partnerships and joint ventures to the list of business organizations that are subject to the payment limitations.

Under current law, general partnerships and joint ventures are not listed under the definition of legal "persons" and are thus exempt from the payment limitations. This exemption gives farming operations a heavy incentive to structure their businesses under the aegis of a general partnership: the more "entities" included in the partnership, the more payments the operation can receive.

SECTION 4

This section would repeal the most flagrantly-abused provision in the payment limit laws: the "Three-Entity Rule."

This rule was passed by Congress in 1987 purportedly to limit the number of sources from which a farmer could receive payments. In reality, though, it has mostly been an invitation for farmers to structure their operations in such a way as to maximize payments.

This section would allow farmers to receive payments from any number of sources. But because of the strict $35,000 limit we establish, and the direct attribution system, there will be few remaining incentives for farmers to form multiple corporations and "shell" entities that exist only on paper.

SECTION 5

For any payment limitation reforms to work, the loopholes in the rules defining who is "actively engaged in farming" need to be tightened. Otherwise, significant dollars will continue to flow to off-farm investors, and big operations will continue to flout the payment limits.

This section contains several sensible changes in the eligibility rules. Among others, it would:

Require any individual or majority shareholder(s) in a corporation to make a significant contribution of "active personal management" and "active personal labor." Current rules require only one or the other.

Require minority shareholders to contribute at least "active management" or "active labor" on the farm. Current rules allow too many passive stockholders to receive payments just by making a contribution of capital, land or equipment, i.e., money. If a minority shareholder does not meet this threshold, the corporation's payments will be reduced in proportion to that shareholders stake in the venture.

Redefine "active personal management" to demand a regular and consistent presence on the farm during the growing season, to guarantee that payees are closely involved in the day-to-day operations of the farming venture. The current definition is exceedingly vague, requiring only that the contribution be "critical to the farm's profitability."

Toughen the requirements on landowners. Under current law, landowners are essentially exempt from the labor and management contribution requirements, as long as they are engaged in a true share-lease arrangement with a tenant. This provision would require that the tenant actually be "actively engaged" for the landowner to qualify for payments.

Lastly, this section would expressly prohibit individuals or shareholders from using their subsidy payments to account for their required capital contribution. Under current rules, farmers can apply their advanced deficiency payments toward their capital contribution, which undercuts the legal requirement that a recipient be at risk.

SECTION 6

This section would increase the penalties for engaging in a "scheme or device"—creating bogus corporations, etc.—and defrauding the government.

Under current law, any individual or entity found by the USDA to be engaged in a scheme or device is prohibited from receiving payments for the rest of that crop year as well as the next crop year. This provision would ban payments for the succeeding five crop years. In addition, any individual or entity participating in commodity programs that is convicted of defrauding the government would be banned from receiving payments for the next 10 years. (There is currently no additional punishment for persons convicted of fraud.)

These steps are designed to create a real deterrent against attempts to milk the system and deceive the government. The existing penalties are clearly not having any impact.

SECTION 7

This section would establish the effective date of these changes as October 1, 1996.●

ADDITIONAL COSPONSORS

S. 545

At the request of Mr. BUMPERS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 545, a bill to authorize collection of certain State and local taxes with respect to the sale, delivery, and use of tangible personal property.

S. 949

At the request of Mr. GRAHAM, the names of the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 1095

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1095, a bill to amend the Internal Revenue Code of 1986 to extend permanently the exclusion for educational assistance provided by employers to employees.

S. 1136

At the request of Mr. LEAHY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1136, a bill to control and prevent commercial counterfeiting, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1326

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1326, a bill respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

S. 1360

At the request of Mr. BENNETT, the name of the Senator from Wyoming

[Mr. Simpson] was added as a cosponsor of S. 1360, a bill to ensure personal privacy with respect to medical records and health-care-related information, and for other purposes.

AMENDMENT NO. 2942

At the request of Mr. Byrd, the names of the Senator from South Dakota [Mr. Daschle], the Senator from Virginia [Mr. Robb], the Senator from Illinois [Mr. Simon], the Senator from Minnesota [Mr. Wellstone], the Senator from Nevada [Mr. Reid], the Senator from Arkansas [Mr. Pryor], the Senator from Arkansas [Mr. Bumpers], the Senator from New Mexico [Mr. Bingaman], the Senator from Massachusetts [Mr. Kennedy], the Senator from Rhode Island [Mr. Pell], the Senator from Washington [Mrs. Murray], the Senator from Montana [Mr. Baucus], the Senator from Wisconsin [Mr. Feingold], the Senator from West Virginia [Mr. Rockefeller], the Senator from Hawaii [Mr. Akaka], the Senator from Delaware [Mr. Biden], the Senator from Massachusetts [Mr. Kerry], the Senator from Louisiana [Mr. Johnston], the Senator from Maryland [Mr. Sarbanes], the Senator from Maryland (Ms. Mikulski], the Senator from Connecticut [Mr. Dodd], the Senator from Wisconsin [Mr. Kohl], the Senator from Kentucky [Mr. Ford], the Senator from North Dakota [Mr. Conrad], the Senator from Georgia [Mr. Nunn], and the Senator from California [Mrs. Boxer] were added as cosponsors of Amendment No. 2942 proposed to S. 1357, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

AMENDMENT NO. 2974

At the request of Mr. Byrd, the names of the Senator from Wisconsin [Mr. Feingold], the Senator from Illinois [Mr. Simon], the Senator from North Dakota [Mr. Dorgan], the Senator from Virginia [Mr. Robb], the Senator from South Carolina [Mr. Hollings], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of Amendment No. 2974 proposed to S. 1357, an original bill to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

SENATE RESOLUTION 188—NATIONAL DRUG AWARENESS DAY

Mr GRASSLEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. Res. 188

Whereas illegal drug use among the youth of America is on the increase;

Whereas illegal drug use is a major health problem, ruining thousands of lives and costing billions of dollars;

Whereas illegal drug use contributes to crime on the streets and in the homes of this nation;

Whereas national attention has turned from illegal drug use to other issues, and support for sustained programs has decreased;

Whereas public awareness and sustained programs are essential to combat an on-gong social problem;

Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free and to encourage personal responsibility;

Whereas the annual Red Ribbon Celebration, coordinated by the National Family Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and community awareness efforts contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drugs use: Now, therefore, be it

Resolved, That the Senate designate October 30, 1995, as "National Drug Awareness Day".

AMENDMENTS SUBMITTED

THE BALANCED BUDGET RECONCILIATION ACT OF 1995

SPECTER AMENDMENT NO. 2985

Mr. SPECTER proposed an amendment to the bill (S. 1357) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996; as follows:

On page 539, line 16, strike all that follows through page 541, line 9.

SPECTER AMENDMENT NO. 2986

Mr. SPECTER proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF THE SENATE.

(a) Findings.—The Senate finds that—

(1) The current Internal Revenue Code, with its myriad deductions, credits and schedules, and over 12,000 pages of rules and regulations, is long overdue for a complete overhaul;

(2) It is an unacceptable waste of our nation's precious resources when Americans spend an estimated 5.4 billion hours every year compiling information and filling out Internal Revenue Code tax forms, and in addition, spend hundreds of billions of dollars every year in tax code compliance. America's resources could be dedicated to far more productive pursuits.

(3) The primary goal of any tax reform must be to unleash growth and remove the inefficiencies of the current tax code, with a flat tax that will expand the economy by an estimated $2 trillion over seven years;

(4) Another important goal of tax reform is to achieve fairness, with a single low flat tax rate for all individuals and businesses and an increase in personal and dependent exemptions, is preferable to the current tax code;

(5) Simplicity is another critically important goal of tax reform, and it is in the public interest to have a ten-lined tax form that fits on a postcard and takes 10 minutes to fill out;

(6) The home mortgage interest deduction is an important element in the financial planning of millions of American families and must be retained in a limited form; and

(7) Charitable organizations play a vital role in our nation's social fabric and any tax reform package must include a limited deduction for charitable contributions.

(b) Sense of the Senate.—It is the sense of the Senate that Congress should proceed expeditiously to adopt flat tax legislation which would replace the current tax code with a fairer, simpler, pro-growth and deficit neutral flat tax with a low, single rate and limited deductions for home mortgage interest and charitable contributions.

GRASSLEY AMENDMENT NO. 2987

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

Before "; and" at the end of sec. 2111 (a)(1)(D), insert the following: "; however, the payment of burial and/or funeral expenses of the individual shall be subject to 42 U.S.C. §§1382b(a)(2)(B) and 1382b(d)".

BAUCUS (AND OTHERS) AMENDMENT NO. 2988

Mr. BAUCUS (for himself, Mr. Roth, Mr. Lieberman, Mr. Wellstone, Mr. Biden, and Mr. Lautenberg) proposed an amendment to the bill S. 1357, supra, as follows:

On page 272, strike line 21 and all that follows through page 293, line 22.

On page 161, strike line 3 and all that follows through page 178, line 7.

ABRAHAM (AND OTHERS) AMENDMENT NO. 2989

(Ordered to lie on the table.)

Mr. ABRAHAM (for himself, Mr. Lieberman, Mr. DeWine, and Mr. Breaux) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of title XII, add the following new subtitle:

Subtitle K—Enhanced Enterprise Zones

SEC. 12971. SHORT TITLE.

This subtitle may be cited as the "Enhanced Enterprise Zones Act of 1995".

SEC. 12972. FINDINGS AND PURPOSE.

(a) Findings.—The Congress makes the following findings:

(1) Many of the Nation's urban centers are places with high levels of poverty, high rates of welfare dependency, high crime rates, poor schools, and joblessness.

(2) Federal tax incentives and regulatory reforms can encourage economic growth, job creation and small business formation in many urban centers.

(3) Encouraging private sector investment in America's economically distressed urban and rural areas is essential to breaking the cycle of poverty and the related ills of crime, drug abuse, illiteracy, welfare dependency, and unemployment.

(4) The provisions creating empowerment zones that were enacted in 1993 should be enhanced by providing incentives to increase entrepreneurial growth, capital formation,

job creation, educational opportunities, and homeownership in designated enterprise communities and empowerment zones.

(b) PURPOSE.—The purpose of this subtitle is to increase job creation, small business expansion and formation, educational opportunities, and homeownership in economically depressed areas by providing Federal tax incentives, regulatory reforms, school reform pilot projects, and homeownership incentives.

CHAPTER 1—FEDERAL TAX INCENTIVES

SEC. 12973. AMENDMENTS TO SUBCHAPTER U.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to designation and treatment of empowerment zones, enterprise communities, and rural development investment areas) is amended—

(1) by redesignating part IV as part V,

(2) by redesignating section 1397D as section 1397F, and

(3) by inserting after part III the following new part:

"PART IV—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1397D. Empowerment zone and enterprise community capital gain.

"Sec. 1397E. Empowerment zone and enterprise community stock.

"SEC. 1397D. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY CAPITAL GAIN.

"(a) GENERAL RULE.—Gross income does not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(b) QUALIFIED ZONE ASSET.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone asset' means—

"(A) any qualified zone stock,

"(B) any qualified zone business property, and

"(C) any qualified zone partnership interest.

"(2) QUALIFIED ZONE STOCK.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified zone stock' means any stock in a domestic corporation if—

"(i) such stock is acquired by the taxpayer on original issue from the corporation solely in exchange for cash,

"(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

"(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

"(B) EXCLUSION OF STOCK FOR WHICH DEDUCTION UNDER SECTION 1397E ALLOWED.—The term 'qualified zone stock' shall not include any stock the basis of which is reduced under section 1397E.

"(C) REDEMPTIONS.—The term 'qualified zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(3) QUALIFIED ZONE BUSINESS PROPERTY.—

"(A) IN GENERAL.—The term 'qualified zone business property' means tangible property if—

"(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone or enterprise community took effect,

"(ii) the original use of such property in the empowerment zone or enterprise community commences with the taxpayer, and

"(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in an enterprise zone business of the taxpayer.

"(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—

"(i) IN GENERAL.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

"(I) property which is substantially improved by the taxpayer, and

"(II) any land on which such property is located.

"(ii) SUBSTANTIAL IMPROVEMENT.—For purposes of clause (i), property shall be treated as substantially improved by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone or enterprise community took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

"(I) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or

"(II) $5,000.

"(C) LIMITATION ON LAND.—The term 'qualified zone business property' shall not include land which is not an integral part of an enterprise zone business.

"(4) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from the partnership solely in exchange for cash,

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

"(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of paragraph (2)(C) shall apply for purposes of this paragraph.

"(5) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified zone asset' includes any property which would be a qualified zone asset but for paragraph (2)(A)(i), (3)(A)(ii), or (4)(A) in the hands of the taxpayer if such property was a qualified zone asset in the hands of all prior holders.

"(6) 10-YEAR SAFE HARBOR.—If any property ceases to be a qualified zone asset by reason of paragraph (2)(A)(iii), (3)(A)(iii), or (4)(C) after the 10-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

"(7) TREATMENT OF ZONE TERMINATIONS.—The termination of any designation of an area as an empowerment zone or enterprise community shall be disregarded for purposes of determining whether any property is a qualified zone asset.

"(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any long-term capital gain recognized on the sale or exchange of a qualified zone asset held for more than 5 years.

"(2) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

"(3) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF ZONE DESIGNATION NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods after the termination of any designation of an area as an empowerment zone or enterprise community.

"(4) RELATED PARTY TRANSACTIONS.—The term 'qualified capital gain' shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person.

"(5) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' has the meaning given such term by section 1394(b)(3), except that, in applying section 1394(b)(3), the term 'qualified business' shall not include any trade or business of producing property of a character subject to the allowance for depletion under section 611.

"(d) TREATMENT OF PASS-THRU ENTITIES.—

"(1) SALES AND EXCHANGES.—Gain on the sale or exchange of an interest in a pass-thru entity held by the taxpayer (other than an interest in an entity which was an enterprise zone business during substantially all of the period the taxpayer held such interest) for more than 5 years shall be treated as gain described in subsection (a) to the extent such gain is attributable to amounts which would be qualified capital gain on qualified zone assets (determined as if such assets had been sold on the date of the sale or exchange) held by such entity for more than 5 years and throughout the period the taxpayer held such interest. A rule similar to the rule of paragraph (2)(C) shall apply for purposes of the preceding sentence.

"(2) INCOME INCLUSIONS.—

"(A) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity (other than an entity which was an enterprise zone business during substantially all of the period the taxpayer held the interest to which such inclusion relates) shall be treated as gain described in subsection (a) if such amount meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—An amount meets the requirements of this subparagraph if—

"(i) such amount is attributable to qualified capital gain recognized on the sale or exchange by the pass-thru entity of property which is a qualified zone asset in the hands of such entity and which was held by such entity for the period required under subsection (a), and

"(ii) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such asset and at all times thereafter before the disposition of such asset by such pass-thru entity.

"(C) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Subparagraph (A) shall not apply to any amount to the extent such amount exceeds the amount to which subparagraph (A) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified zone asset was acquired.

"(3) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(e) SALES AND EXCHANGES OF INTERESTS IN PARTNERSHIPS AND S CORPORATIONS WHICH ARE QUALIFIED ZONE BUSINESSES.—In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was an enterprise zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

"(1) any intangible, and any land, which is not an integral part of any qualified business (as defined in section 1397B(b) except that references to empowerment zones shall be treated as including references to enterprise communities), and

"(2) gain attributable to periods before the designation of an area as an empowerment zone or enterprise community.

"(f) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of a qualified zone asset to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such asset in the same manner as the transferor, and

"(B) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner thereof of a qualified zone asset with respect to which the requirements of subsection (d)(2) are met at the time of the transfer (without regard to the 5-year holding requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"SEC. 1397E. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY STOCK.

"(a) GENERAL RULE.—At the election of any individual, the aggregate amount paid by such taxpayer during the taxable year for the purchase of enterprise zone stock on the original issue of such stock by a qualified issuer shall be allowed as a deduction.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed—

"(i) $100,000 for any taxable year, and

"(ii) when added to the aggregate amount allowed as a deduction under this section in all prior years, $500,000.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under—

"(i) subparagraph (A)(i), the amount of such excess shall be treated as an amount paid in the next taxable year, and

"(ii) subparagraph (A), the deduction allowed for any taxable year shall be allocated proportionately among the enterprise zone stock purchased by such person on the basis of the respective purchase prices per share.

"(2) RELATED PERSON.—The taxpayer and members of the taxpayer's family shall be treated as one person for purposes of paragraph (1) and the limitations contained in such paragraph shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock. For purposes of this paragraph, an individual's family includes only such individual's spouse and minor children.

"(3) PARTIAL TAXABLE YEAR.—If designation of an area as an empowerment zone or enterprise community occurs, expires, or is revoked pursuant to section 1391 on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year, the limitations specified in paragraph (1) shall be adjusted on a pro rata basis (based upon the number of days).

"(c) ENTERPRISE ZONE STOCK.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock is acquired on original issue from the corporation, and

"(B) such corporation is, at the time of issue, a qualified enterprise zone issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—Such term shall include such stock only to the extent that the proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to purchase (as defined in section 179(d)(2)) qualified enterprise zone property.

"(B) QUALIFIED ENTERPRISE ZONE PROPERTY.—For purposes of this section, the term 'qualified enterprise zone property' means property to which section 168 applies (or would apply but for section 179)—

"(i) the original use of which commences in an empowerment zone or enterprise community with the issuer, and

"(ii) substantially all of the use of which is in such empowerment zone or enterprise community.

"(3) REDEMPTIONS.—The term 'enterprise zone stock' shall not include any stock acquired from a corporation which made a substantial stock redemption or distribution (without a bona fide business purpose therefor) in an attempt to avoid the purposes of this section.

"(d) QUALIFIED ENTERPRISE ZONE ISSUER.—For purposes of this section, the term 'qualified enterprise zone issuer' means any domestic C corporation if—

"(1) such corporation is a corporation described in section 1397B(b) (except that in applying such section the references to empowerment zones shall be treated as including references to enterprise communities) or, in the case of a new corporation, such corporation is being organized for purposes of being such a corporation,

"(2) such corporation does not have more than one class of stock,

"(3) the sum of—

"(A) the money,

"(B) the aggregate unadjusted bases of property owned by such corporation, and

"(C) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $50,000,000, and

"(4) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned directly by individuals or estates or indirectly by individuals through partnerships or trusts.

The determination under paragraph (3) shall be made as of the time of issuance of the stock in question but shall include amounts received for such stock.

"(e) DISPOSITIONS OF STOCK.—

"(1) BASIS REDUCTION.—For purposes of this title, the basis of any enterprise zone stock shall be reduced by the amount of the deduction allowed under this section with respect to such stock.

"(2) DEDUCTION RECAPTURED AS ORDINARY INCOME.—For purposes of section 1245—

"(A) any stock the basis of which is reduced under paragraph (1) (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(B) any reduction under paragraph (1) shall be treated as a deduction allowed for depreciation.

If an exchange of any stock described in paragraph (1) qualifies under section 354(a), 355(a), or 356(a), the amount of gain recognized under section 1245 by reason of this paragraph shall not exceed the amount of gain recognized in the exchange (determined without regard to this paragraph).

"(3) CERTAIN EVENTS TREATED AS DISPOSITIONS.—For purposes of determining the amount treated as ordinary income under section 1245 by reason of paragraph (2), paragraph (3) of section 1245(b) (relating to certain tax-free transactions) shall not apply.

"(4) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If—

"(i) a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) (or any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, and

"(ii) section 1245(a) applies to such disposition by reason of paragraph (2),

then the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date of such disposition by the taxpayer, and

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to such stock.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(f) DISQUALIFICATION.—

"(1) ISSUER CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer, the issuer of such stock ceases to be a qualified enterprise zone issuer (determined without regard to subsection (d)(3)), then notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (e) as disposing of such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) during the taxable year during which such cessation occurs at its fair market value as of the 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified enterprise zone issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a designation as an empowerment zone or enterprise community, as the case may be.

"(g) OTHER SPECIAL RULES.—

"(1) APPLICATION OF LIMITS TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or an S corporation, the limitations under subsection (b) shall apply at the partner and shareholder level and shall not apply at the partnership or corporation level.

"(2) DEDUCTION NOT ALLOWED TO ESTATES AND TRUSTS.—Estates and trusts shall not be treated as individuals for purposes of this section."

(b) ADDITIONAL EXPENSING.—Section 1397A (relating to increase in expensing under section 179) is amended—

(1) in subparagraph (A) of subsection (a)(1), by striking "$20,000" and inserting "$35,000", and

(2) by adding at the end the following new subsection:

"(c) ENTERPRISE ZONE BUSINESS.—For purposes of this section, the term 'enterprise zone business' has the meaning given such term by section 1397B, except that in applying such section references to empowerment zones shall be treated as including references to enterprise communities."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and"; and by adding at the end the following new paragraph:

"(26) to the extent provided in section 1397E(b), in the case of stock with respect to which a deduction was allowed or allowable under section 1397E(a)."

(d) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter U is amended by striking the item relating to part IV and inserting the following new items:

"Part IV. Additional incentives for empowerment zones and enterprise communities.
"Part V. Regulations."

(2) The table of sections for part V of subchapter U of chapter 1, as redesignated by subsection (a)(1), is amended by redesignating the item relating to section 1397D as section 1397F.

(3) Section 1397F, as so redesignated, is amended by striking "and III" each place it appears and inserting ", III, and IV".

(e) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1995.

SEC. 12974. COMMERCIAL REVITALIZATION TAX CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 46 (relating to investment credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding at the end the following new paragraph:

"(4) the commercial revitalization credit."

(b) COMMERCIAL REVITALIZATION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

"SEC. 48A. COMMERCIAL REVITALIZATION CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, except as provided in subsection (e), the commercial revitalization credit for any taxable year is an amount equal to the applicable percentage of the qualified revitalization expenditures with respect to any qualified revitalization building.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means—

"(A) 20 percent, or

"(B) at the election of the taxpayer, 5 percent for each taxable year in the credit period.

The election under subparagraph (B), once made, shall be irrevocable.

"(2) CREDIT PERIOD.—

"(A) IN GENERAL.—The term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with the taxable year in which the building is placed in service.

"(B) APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) and (4) of section 42(f) shall apply.

"(c) QUALIFIED REVITALIZATION BUILDINGS AND EXPENDITURES.—For purposes of this section—

"(1) QUALIFIED REVITALIZATION BUILDING.—The term 'qualified revitalization building' means any building (and its structural components) if—

"(A) such building is located in an eligible commercial revitalization area,

"(B) a commercial revitalization credit amount is allocated to the building under subsection (e), and

"(C) depreciation (or amortization in lieu of depreciation) is allowable with respect to the building.

"(2) QUALIFIED REHABILITATION EXPENDITURE.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property, or

"(II) an addition or improvement to property described in subclause (I),

"(ii) in connection with the construction or substantial rehabilitation or reconstruction of a qualified revitalization building, and

"(iii) for the acquisition of land in connection with the qualified revitalization building.

"(B) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified revitalization expenditures with respect to any qualified revitalization building for any taxable year shall not exceed $10,000,000, reduced by any such expenditures with respect to the building taken into account by the taxpayer or any predecessor in determining the amount of the credit under this section for all preceding taxable years.

"(C) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified revitalization expenditure' does not include—

"(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure (other than with respect to land acquisitions) with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

"(ii) ACQUISITION COSTS.—The costs of acquiring any building or interest therein and any land in connection with such building to the extent that such costs exceed 30 percent of the qualified revitalization expenditures determined without regard to this clause.

"(iii) OTHER CREDITS.—Any expenditure which the taxpayer may take into account in computing any other credit allowable under this part unless the taxpayer elects to take the expenditure into account only for purposes of this section.

"(3) ELIGIBLE COMMERCIAL REVITALIZATION AREA.—The term 'eligible commercial revitalization area' means an empowerment zone or enterprise community designated under subchapter U.

"(4) SUBSTANTIAL REHABILITATION OR RECONSTRUCTION.—For purposes of this subsection, a rehabilitation or reconstruction shall be treated as a substantial rehabilitation or reconstruction only if the qualified revitalization expenditures in connection with the rehabilitation or reconstruction exceed 25 percent of the fair market value of the building (and its structural components) immediately before the rehabilitation or reconstruction.

"(d) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—Qualified revitalization expenditures with respect to any qualified revitalization building shall be taken into account for the taxable year in which the qualified rehabilitated building is placed in service. For purposes of the preceding sentence, a substantial rehabilitation or reconstruction of a building shall be treated as a separate building.

"(2) PROGRESS EXPENDITURE PAYMENTS.—Rules similar to the rules of subsections (b)(2) and (d) of section 47 shall apply for purposes of this section.

"(e) LIMITATION ON AGGREGATE CREDITS ALLOWABLE WITH RESPECT TO BUILDINGS LOCATED IN A STATE.—

"(1) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the commercial revitalization credit amount (in the case of an amount determined under subsection (b)(1)(B), the present value of such amount as determined under the rules of section 42(b)(2)(C)) allocated to such building under this subsection by the commercial revitalization credit agency. Such allocation shall be made at the same time and in the same manner as under paragraphs (1) and (7) of section 42(h).

"(2) COMMERCIAL REVITALIZATION CREDIT AMOUNT FOR AGENCIES.—

"(A) IN GENERAL.—The aggregate commercial revitalization credit amount which a commercial revitalization credit agency may allocate for any calendar year is the amount of the State commercial revitalization credit ceiling determined under this paragraph for such calendar year for such agency.

"(B) STATE COMMERCIAL REVITALIZATION CREDIT CEILING.—

"(i) IN GENERAL.—The State commercial revitalization credit ceiling applicable to any State for any calendar year is $2,000,000 for each empowerment zone and enterprise community in the State designated under subchapter U.

"(ii) SPECIAL RULE WHERE ZONE OR COMMUNITY LOCATED IN MORE THAN 1 STATE.—If an empowerment zone or enterprise community is located in more than 1 State, a State's share of the amount specified in clause (i) with respect to such zone or community shall be an amount that bears the same ratio to $2,000,000 as the population in the State bears to the population in all States in which such zone or community is located.

"(iii) OTHER SPECIAL RULES.—Rules similar to the rules of subparagraphs (D), (E), (F), and (G) of section 42(h)(3) shall apply for purposes of this subsection.

"(C) COMMERCIAL REVITALIZATION CREDIT AGENCY.—For purposes of this section, the term 'commercial revitalization credit agency' means any agency authorized by a State to carry out this section.

"(f) RESPONSIBILITIES OF COMMERCIAL REVITALIZATION CREDIT AGENCIES.—

"(1) PLANS FOR ALLOCATION.—Notwithstanding any other provision of this section, the commercial revitalization credit dollar amount with respect to any building shall be zero unless—

"(A) such amount was allocated pursuant to a qualified allocation plan of the commercial revitalization credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

"(B) such agency notifies the chief executive officer (or its equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

"(2) QUALIFIED ALLOCATION PLAN.—For purposes of this subsection, the term 'qualified allocation plan' means any plan—

"(A) which sets forth selection criteria to be used to determine priorities of the commercial revitalization credit agency which are appropriate to local conditions,

"(B) which considers—

"(i) the degree to which a project contributes to the implementation of a strategic plan that is devised for an eligible commercial revitalization area through a citizen participation process,

"(ii) the amount of any increase in permanent, full-time employment by reason of any project, and

"(iii) the active involvement of residents and nonprofit groups within the eligible commercial revitalization area, and

"(C) which provides a procedure that the agency (or its agent) will follow in monitoring for compliance with this section.

"(g) TERMINATION.—This section shall not apply to any building placed in service after December 31, 2000."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 48A CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to any commercial revitalization credit determined under section 48A may be carried back to a taxable year ending before the date of the enactment of section 48A."

(2) Subparagraph (B) of section 48(a)(2) is amended by inserting "or commercial revitalization" after "rehabilitation" each place it appears in the text and heading thereof.

(3) Subparagraph (C) of section 49(a)(1) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) the basis of any qualified revitalization building attributable to qualified revitalization expenditures."

(4) Paragraph (2) of section 50(a) is amended by inserting "or 48A(d)(2)" after "section 47(d)" each place it appears.

(5) Subparagraph (B) of section 50(a)(2) is amended by adding at the end the following new sentence: "A similar rule shall apply for purposes of section 48A."

(6) Paragraph (2) of section 50(b) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified revitalization building to the extent of the portion of the basis which is attributable to qualified revitalization expenditures."

(7) Subparagraph (C) of section 50(b)(4) is amended by inserting "or commercial revitalization" after "rehabilitated" each place it appears in the text or heading thereof.

(8) Subparagraph (C) of section 469(i)(3) is amended—

(A) by inserting "or section 48A" after "section 42"; and

(B) by striking "CREDIT" in the heading and inserting "AND COMMERCIAL REVITALIZATION CREDITS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1995.

CHAPTER 2—REGULATORY FLEXIBILITY

SEC. 12975. DEFINITION OF SMALL ENTITIES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES FOR ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5); and

(2) by striking paragraph (6) and inserting the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction defined in paragraphs (3), (4), and (5) of this section; and

"(B)(i) any enterprise zone business (as defined by section 1394(b)(3) of the Internal Revenue Code of 1986);

"(ii) any unit of government that nominated an area which the appropriate Secretary designates as an empowerment zone or enterprise community (within the meaning of section 1391 of the Internal Revenue Code of 1986) that has a rule pertaining to the carrying out of any project, activity, or undertaking within such zone or community; and

"(iii) any not-for-profit enterprise carrying out a significant portion of its activities within such a zone or community.

For purposes of subparagraph (B)(ii), the term 'appropriate Secretary' has the meaning given such term by section 1393(a)(1) of the Internal Revenue Code of 1986."

SEC. 12976. WAIVER OR MODIFICATION OF AGENCY RULES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding after section 612 the following new section:

"§ 613. Waiver or modification of agency rules in empowerment zones and enterprise communities

"(a) Upon the written request of any government which nominated an area that the appropriate Secretary has designated as an empowerment zone or enterprise community under section 1391 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives with respect to such zone or community, to waive or modify all or part of any rule which such agency has authority to promulgate, as such rule pertains to the carrying out of projects, activities, or undertakings within such zone or community.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, familial status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the empowerment zone or enterprise community. If such a request is made to any agency other than the Department of Housing and Urban Development or the Department of Agriculture, the requesting government shall send a copy of the request to the Secretary of Housing and Urban Development or to the Secretary of Agriculture, whichever is appropriate, at the time the request is made.

"(d) Any petition for a modification or waiver shall—

"(i) identify the requirements for which the modification or waiver is sought;

"(ii) identify the existing or proposed business or type of business to which the modification or waiver would pertain;

"(iii) demonstrate that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve;

"(iv) demonstrate the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the empowerment zone or enterprise community against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change; and

"(v) demonstrate that the waiver or modification is necessary because the existing rule impedes the implementation of an existing or proposed business or type of business that furthers job creation, community development, or economic revitalization.

"(e) The agency may approve, in its discretion, a petition upon determining that the petition meets the above-stated criteria. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) violate a statutory requirement (including any requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental or occupational health or safety or of environmental pollution.

"(f) A modified rule shall be enforceable as if it were the issuance of an amendment to the rule being modified or waived.

"(g) If a request is disapproved, the agency shall inform all the requesting governments, and the appropriate Secretary (as defined in section 1393(a)(1) of the Internal Revenue Code of 1986), in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(h) No later than the date on which the petitioner submits the petition to the agency, the petitioner shall inform the public of the submission of such petition (including a brief description of the petition) through publication of a notice in newspapers of general circulation in the area in which the facility is located. The agency may authorize or require petitioners to use additional or alternative means of informing the public of the submission of such petitions. If the agency proposes to grant the petitions, the agency shall provide public notice and opportunity to comment. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section, the time such waiver or modification takes effect and its duration, and the scope of the applicability of such waiver or modification, consistent with the Administrative Procedure Act requirements.

"(i) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary. Such determinations shall be published with the proposal to amend such rule.

"(j) No waiver or modification of a rule under this section shall remain in effect with respect to an empowerment zone or enterprise community after the zone or community designation has expired or has been revoked.

"(k) For purposes of this section, the term 'rule' means—

"(1) any rule as defined in section 551(4) of this title, or

"(2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title."

(b) Clerical Amendment.—The analysis for chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 612, the following new item:

"613. Waiver or modification of agency rules in empowerment zones and enterprise communities."

(c) Conforming Amendments.—

(1) Section 601(2) of such title 5 is amended by inserting "(except for purposes of section 613)" before "means".

(2) Section 612 of such title 5 is amended—

(A) in subsection (a), by inserting "(except section 613)" after "chapter"; and

(B) in subsection (b), by inserting "as defined in section 601(2)" before the period at the end of the first sentence.

CHAPTER 3—RESIDENT MANAGEMENT AND HOMEOWNERSHIP INCENTIVES

SEC. 12977. ENTERPRISE ZONE OPPORTUNITY GRANTS.

(a) In General.—Section 186 of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a) is amended by striking the section designation and the section heading and inserting the following:

"SEC. 186. ENTERPRISE ZONE GRANTS."

(b) Statement of Purpose.—Section 186(a) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3)—

(A) by striking "federally approved and equivalent State-approved"; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to encourage the development of resident management corporations and resident councils in enterprise zones."

(c) Definitions.—Section 186(b) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(b)) is amended by adding at the end the following new paragraphs:

"(7) Enterprise zone.—The term 'enterprise zone' means an area designated as an enterprise community or an empowerment zone under section 1391 of the Internal Revenue Code of 1986.

"(8) Resident management corporation.—The term 'resident management corporation' has the same meaning as in section 24(h) of the United States Housing Act of 1937."

(d) Assistance to Nonprofit Organizations.—Section 186(c)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(c)(1)) is amended to read as follows:

"(1) In general.—In carrying out this section, the Secretary may make grants to nonprofit organizations—

"(A) to carry out enterprise zone homeownership opportunity programs to promote homeownership in enterprise zones in accordance with this section; and

"(B) to promote the development of resident management corporations in enterprise zones."

(e) Eligible Uses of Assistance.—Section 186(d) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(d)) is amended—

(1) in paragraph (1)—

(A) by striking "assistance to provide" and inserting the following: "assistance to—

"(A) provide";

(B) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) to promote the development of resident management corporations in enterprise zones."; and

(2) in paragraph (2), by striking "under this subsection" and inserting "under paragraph (1)(A)".

(f) Program Requirements.—Section 186(e) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(e)) is amended—

(1) in paragraph (2), by striking "under this section" and inserting "under subsection (d)(1)(A)"; and

(2) in paragraph (3), by striking "federally approved or State-approved".

(g) Terms and Conditions of Assistance.—Section 186(f)(2) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(f)(2)) is amended by striking "under this section" and inserting "under subsection (c)(1)(A)".

(h) Program Selection Criteria.—Section 186(g)(1) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(g)(1)) is amended by striking "under this section" and inserting "under subsection (d)(1)(A)".

(i) Authorization of Appropriations.—Section 186(i) of the Housing and Community Development Act of 1992 (42 U.S.C. 12898a(i)) is amended to read as follows:

"(i) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

"(1) $100,000,000 for fiscal year 1997; and

"(2) such sums as may be necessary for each of fiscal years 1998, 1999, and 2000."

CHAPTER 4—MODIFICATION OF CPI CALCULATION

SEC. 12978. MODIFICATION OF CPI CALCULATION.

(a) In General.—Notwithstanding any other provision of law, with respect to calculations made after December 31, 1995, the Bureau of Labor Statistics of the Department of Labor shall reduce the annual percentage change in the Consumer Price Indexes, as determined without regard to this section, by .05 percentage point.

(b) Exception.—The reduction described in subsection (a) shall not apply for purposes of calculating the cost-of-living increases under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.).

SIMON (AND OTHERS) AMENDMENT NO. 2990

(Ordered to lie on the table.)

Mr. SIMON (for himself, Mr. Stevens, and Mr. Breaux) submitted an amendment intended to be proposed by them to the bill S. 1357, supra as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

BAUCUS AMENDMENT NO. 2991

Mr. BAUCUS proposed an amendment to the bill S. 1357, supra as follows:

On page 1469, strike lines 8 through 11, and insert the following:

"(a) Allowance of Credit.—

"(1) In general.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount multiplied by the number of qualifying children of the taxpayer.

"(2) Applicable amount.—For purposes of paragraph (1), the applicable amount shall be determined in the following table:

"Taxable year:	Applicable Amount:
1996	$400
1997	450
1998 and thereafter	500.

On page 1470, line 7, strike "$110,000" and insert "$90,000".

On page 1470, line 9, strike "$75,000" and insert "$55,000".

On page 1470, line 11, strike "$55,000" and insert "$45,000".

On page 1472, strike the table between lines 10 and 11, and insert the following:

"For taxable years beginning in calendar year—	The applicable dollar amount is—
1996	$6,700
1997	7,050
1998	7,400
1999	7,850
2000	8,100
2001	8,500
2002	9,000
2003	9,400
2004	9,850
2005 and thereafter	10,800."

On page 1530, strike lines 2 through 5, and insert the following:

"(a) General Rule.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the first $100,000 of such gain shall be a deduction from gross income.

On page 1547, beginning on line 20, strike all through page 1550, line 12.

On page 1551, beginning on line 4, strike all through page 1553, line 10.

On page 1867, after line 20, insert the following:

SEC. 12879. DEPOSIT ADDITIONAL REVENUES IN MEDICARE TRUST FUNDS.

There is hereby authorized to be appropriated and is appropriated for each fiscal year an amount equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendments made by amendment no. ——.

offered on October ——, 1995, with respect to the Balanced Budget Reconciliation Act of 1995 to be deposited in the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in amounts which bear the same ratio as the balances in each Trust Fund.

REID (AND OTHERS) AMENDMENT NO. 2992

Mr. EXON (for Mr. REID for himself, Mr. BRYAN, Mr. BUMPERS, and Mr. CRAIG) proposed on amendment to the bill S. 1357, supra, as follows:

At the end of subchapter E of chapter 1 of subtitle J of title XII, insert the following new section:

SEC. . LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

§ 114. Limitation on State income taxation of certain pension income

"(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b) For purposes of this section—

"(1) The term 'retirement income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code);

"(H) a trust described in section 501(c)(18) of such Code; or

"(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

"(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

D'AMATO AMENDMENT NO. 2993

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

On page 183, between lines 17 and 18, insert the following:

(C) EXEMPTION FOR CERTAIN NEWLY CHARTERED INSTITUTIONS.—

(i) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under subparagraph (A), the Board of Directors shall, by order, exempt any insured depository institution from payment of the special assessment if the institution was in existence on October 1, 1995, and held no Savings Association Insurance Fund insured deposits prior to January 1, 1993.

(ii) DEFINITION.—For purposes of this subparagraph, an institution shall be deemed to have held Savings Association Insurance Fund insured deposits prior to January 1, 1993, if it directly held Savings Association Insurance Fund insured deposits prior to that date, or it succeeded to, acquired, purchased, or otherwise holds any Savings Association Insurance Fund insured deposits as of the date of enactment of this Act that were Savings Association Insurance Fund insured prior to January 1, 1993.

On page 183, line 18, strike "(C)" and insert "(D)".

On page 199, line 9, insert "and subsection (e)" after "subsection".

On page 199, between lines 11 and 12, insert the following:

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(2) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(4) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(5) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(6) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(7) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(8) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) in paragraph (2)(D) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(v) by striking paragraph (2)(E) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act);

(vi) in paragraph (2)(F) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B)."; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 7(d) (12 U.S.C. 1817(d)) (as added by section 3001(c)(1) of this Act)—

(i) in the subsection heading, by striking "BANK" and inserting "DEPOSIT"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(I) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(J) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(K) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(L) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(M) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(O) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(P) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(Q) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(R) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(S) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(T) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(V) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(W) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(X) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Z) by striking section 31 (12 U.S.C. 1831h);

(AA) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(BB) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(CC) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(DD) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii)'as subparagraphs (A) and (B), respectively.

(9) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(10) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(11) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

On page 199, line 12, strike "(e)" and insert "(f)".

HUTCHISON (AND OTHERS) AMENDMENT NO. 2994

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the Former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some six thousand refugees recently reached Zenica and reported that nearly two thousand family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crime Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eye witness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzogovenia.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, and with the President clearly indicating his willingness to send American forces into the heart of this conflict, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovenia.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) the United States should ensure that any negotiated peace agreements in former Yugoslavia, particularly with respect to Bosnia, require all states of the former Yugoslavia to cooperate fully with the War Crimes Tribunal and apprehend and turn over for trial any indicted persons found in their territories.

(8) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

HEFLIN (AND SHELBY) AMENDMENT NO. 2995

Mr. DOMENICI (for Mr. HEFLIN, for himself, and Mr. SHELBY) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1773, strike line 24, and insert the following:

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

KENNEDY AMENDMENT NO. 2996

Mr. KENNEDY proposed an amendment to the bill S. 1357, supra, as follows:

On page 469, between lines 8 and 9, insert the following:

"(g) PROHIBITION OF BALANCE BILLING.—Notwithstanding any other provision of law an individual who is enrolled in a medicare choice plan under this part shall not be liable for a provider's charges for items or services furnished under the plan if such charges are in excess of the copayments, coinsurance and deductibles required by such plan in accordance with subsection (c)

D'AMATO (AND OTHERS) AMENDMENT NO. 2997

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. GRAMS, and Mr. SHELBY) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert:

SEC.—. SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

FAIRCLOTH AMENDMENT NO. 2998

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

On page 187, line 3:
On page 187, line 22:
Strike "5" and insert "10."

FEINGOLD (AND OTHERS) AMENDMENT NO. 2999

Mr. FEINGOLD (for himself, Mr. PRESSLER, Mr. GRAMS, Mr. MCCAIN, Mr.

KOHN, and Mr. WELLSTONE) proposed an amendment to the bill S. 1357, supra; as follows:

On page 33, strike lines 21 through 24.

FEINGOLD (AND WELLSTONE) AMENDMENT NO. 3000

(Ordered to lie on the table.)

Mr. FEINGOLD (for himself and Mr. WELLSTONE) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead," and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

FEINGOLD AMENDMENT NO. 3001

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1357, supra, as follows:

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals with Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995".

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 7500. Purposes, short title; table of contents.
Sec. 7501. State programs for home and community-based services for individuals with disabilities.
Sec. 7502. State plans
Sec. 7503. Individuals with disabilities defined.
Sec. 7504. Home and community-based services covered under State plan.
Sec. 7505. Cost sharing.
Sec. 7506. Quality assurance and safeguards.
Sec. 7507. Advisory groups.
Sec. 7508. Payments to States.
Sec. 7509. Appropriations; allotments to States.
Sec. 7510. Repeals.

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—Nothing in this subtitle shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this subtitle.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than;

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

((B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIRMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) EXCEPTION.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance of Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the Medicare program.

(g) PAYMENT FOR SERVICES.—IN ORDER TO PAY FOR COVERED SERVICES, A STATE PLAN MAY PROVIDE FOR THE USE OF—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this subtitle, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this subtitle:

(A) IN GENERAL.—The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this subtitle, the term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) OFFICIAL POVERTY LEVEL.—For purposes of paragraph (1), the term "official poverty level applicable to a family of the size involved" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less that 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representatives payees) of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term "Federal home and community-based services matching percentage" means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000, $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATIONS.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

KOHL AMENDMENT NO. 3002

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "contracts".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3)."

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

DOLE (AND OTHERS) AMENDMENT NO. 3003

(Ordered to lie on the table.)

Mr. DOLE (for himself, Mr. Kohl, Mr. Grassley, and Mr. Roth) submitted an amendment intended to be proposed by them to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) In General.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) Special rule for individuals subject to federal limitations on hours of service.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of study which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) Repeal of Special Transition Rule to Financial Institution Exception to Interest Allocation Rules.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

COCHRAN (AND OTHERS) AMENDMENTS NO. 3004

Mr. COCHRAN (for himself, Mr. Jeffords, Mr. Gorton, Mr. Leahy, Mr. Cohen, and Mr. Snowe) proposed an amendment to the bill S. 1357, supra, as follows:

On page 33, after line 24, insert the following:

(c) Class IV Account.—Effective January 1, 1996, section 8c(5), of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following: "Each marketing order issued pursuant to this section for milk and milk products shall include all skim milk and butterfat used to produce butter, nonfat dry milk, and dry whole milk as part of a Class IV classification."; and

(2) by adding at the end the following:

"(M) Class IV account.—

"(i) Definitions.—In this paragraph:

"(I) Account.—The term 'Account' means the Account for Class IV final products established under clause (ii).

"(II) Administrator.—The term 'Administrator' means the Administrator of the Account appointed under clause (vii).

"(III) Class IV final product.—The term 'Class IV final product' means butter, nonfat dry milk, and dry whole milk.

"(IV) Milk marketing order.—The term 'milk marketing order' means a milk marketing order issued pursuant to this section and any comparable State milk marketing order or system.

"(ii) Establishment of account.—Notwithstanding any other provision of law, the Secretary shall establish an Account for Class IV final products to equalize returns from all milk used in the 48 contiguous States to produce Class IV final products among all milk marketed by producers for commercial use.

"(iii) Class IV price and differential; proration.—

"(I) Price.—The Secretary shall determine a milk equivalent value per hundredweight for Class IV final products each month based on the average wholesale market prices during the month for Class IV final products. The milk equivalent value at 3.67 percent milkfat shall be the per hundredweight Class IV price under the Account.

"(II) Differential.—The Administrator of the Account shall announce, on the first business day of each month, the per hundredweight Class IV differential applicable to the preceding month. The monthly Class IV differential shall be the amount, if any, by which the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) exceeds the Class IV price established pursuant to subclause (I).

"(III) Proration.—On or before the twentieth day after the end of each month, the Administrator of the Account shall—

"(aa) determine the quantity of milk produced in the 48 contiguous States of the United States and marketed for commercial use in producing Class IV final products during the preceding month;

"(bb) calculate the quantity equal to the number of hundredweights of milk used for Class IV final products during the preceding month (as determined under item (aa)) multiplied by the Class IV differential for the month established under subclause (II), and add to that amount the cost of administering the Account during the current month; and

"(cc) prorate the amount established under item (bb) among the total amount, in hundredweights, of milk produced in the 48 contiguous States and marketed for commercial use during the preceding month.

"(iv) Account obligations.—On or before the twenty-fifth day after the end of each month:

"(I) Each person making payment to a producer for milk produced in any of the 48 contiguous States of the United States and marketed for commercial use shall collect from each producer the amount determined by multiplying the quantity of milk handled for the account of the producer during the preceding month by the Class IV differential proration established pursuant to clause (iii)(III)(ccc). The amount shall be remitted to the Administrator of the Account.

"(II) Any producer marketing milk of the producer's own production in the form of milk or dairy products to consumers, either directly or through retail or wholesale outlets, shall remit to the Administrator of the Account the amount determined by multiplying the quantity of the milk marketed by the producer by the Class IV differential proration established under clause (iii)(III)(ccc).

"(v) Distribution of account proceeds.—On or before the thirtieth day after the end of each month, the Administrator of the Account shall pay to each person that used skim milk and butterfat to produce Class IV final products during the preceding month a proportionate share of the total Account proceeds for the month. The proportion of the total proceeds payable to each person shall be the same proportion that the skim milk and butterfat used by the person to produce Class IV final products during the preceding month is of the total skim milk and butterfat used by all persons during the preceding month to produce Class IV final products.

"(vi) Effect on blend prices.—Producer blend prices under a milk marketing order shall be adjusted to account for revenue distributions required under clauses (iv) and (v).

"(vii) Administration of class IV account.—The Secretary shall appoint a person to serve as the Administrator of the Account and shall delegate to the Administrator such powers as are needed to carry out the duties of Administrator.

"(viii) Enforcement.—

"(I) Collection.—The amounts specified in clause (iv) shall be collected and remitted to the Administrator in the manner prescribed by the Secretary.

"(II) Penalties.—If any person fails to remit the amounts required under clause (iv) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subparagraph, the person shall be liable to the Secretary for a civil penalty up to, as determined by the Secretary, an amount determined by multiplying—

"(i) the quantity of milk involved in the violation; by

"(ii) the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) for the applicable calendar year.

"(III) Enforcement.—The Secretary may enforce this clause in the courts of the United States.

"(ix) Regulations.—The Secretary shall issue regulations to establish the Account without regard to the notice and comment requirements of section 553 of title 5, United States Code.".

(d) Northeast Interstate Dairy Compact.—Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) Compensation of ccc.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for the cost of any purchases of milk and milk products by the Corporation that result from projected fluid milk production for the fiscal year within the Compact region in excess of the national average rate of purchases of milk and milk products by the Corporation.

(2) Milk market order administrator.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the compact Commission, and be reimbursed for the assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C.608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) Termination and renewal.—The consent for the Compact shall—

(A) terminate on the date that is 7 years after the date of enactment of this Act, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior ratification by the States' legislatures.

On page 33, after line 24, insert the following:

(c) Agricultural Competitiveness Grants.—

The Secretary of Agriculture (referred to in this subtitle as the "Secretary") shall, in accordance with this subtitle, award a grant to a grantee eligible under section 1502 to promote a purpose of this subtitle.

(d) ELIGIBLE GRANTEE.—

The Secretary may make a grant under section 1501 to—

(1) a college or university;

(2) a State agricultural experiment station;

(3) a State Cooperative Extension Service;

(4) a research institution or organization;

(5) a private organization or person; or

(6) a Federal agency.

(e) USE OF GRANT.—

A grant made under section 1501 may be used by a grantee for 1 or more of the following uses:

(1) Research, ranging from discovery to principles of application.

(2) Extension and related private-sector activities.

(3) Education.

(f) PRIORITY.—

In administering this subtitle, the Secretary shall—

(1) establish priorities for allocating grants, based on needs and opportunities of the food and agriculture system in the United States;

(2) seek and accept proposals for grants;

(3) determine the relevance and merit of proposals through a system of peer review; and

(4) award grants on the basis of merit and quality.

(g) ADMINISTRATION.—

(1) COMPETITIVE GRANT.—A grant under section 1501 shall be awarded on a competitive basis.

(2) TERMS.—A grant under section 1501 shall have a term that does not exceed 5 years.

(3) MATCHING FUNDS.—As a condition of receipt of a grant under section 1501, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(1) for applied research that is commodity-specific; and

(2) not of national scope.

(4) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available under section 1506 for administrative costs incurred by the Secretary in carrying out this subtitle.

(5) CONSTRUCTION COSTS.—None of the funds made available under section 1507 may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(h) REGULATIONS.—

The Secretary shall issue such regulations as are necessary to carry out this subtitle.

(i) USE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) IN GENERAL.—Subject to subsection (b), the Secretary shall use $30,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2002 to carry out this title.

(2) LIMITATION.—The Secretary may use less than $30,000,000 of the funds of the Commodity Credit Corporation for any fiscal year if the Secretary determines that the full funding level is not necessary to fund all qualifying applications for agricultural competitiveness grants that satisfy the priority criteria established under section 1504.

(3) POWERS OF THE CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) (as amended by section 1201(c)(1)) is amended by inserting after subsection (g) the following:

"(4) Carry out research, extension, and education related to agriculture by using not more than $30,000,000 of the funds of the Corporation in any fiscal year for any function or activity relating to agricultural research, extension, or education.".

(j) EFFECTIVE DATE.—

This subtitle and the amendment made by this subtitle shall become effective upon enactment.

CRAIG AMENDMENT NO. 3005

Mr. CRAIG proposed an amendment to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

In lieu of the instructions offered by Mr. LAUTENBERG, insert the following with instructions to report the following amendment;

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.

"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after January 2, 1995."

Mr. President, I move to commit S. 1357 to the Committee on Finance with instructions to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid.

DOLE AMENDMENT NO. 3006

Mr. DOLE proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

At the end of the bill, add the following title:

TITLE XIII: CREDIT FOR ADOPTION EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWNACE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with record to paragraph (1)) as—

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses."

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs."

"Sec. 138. Cross reference to other Acts."

(d) EFFECTIVE DATE.—The amendment shall be effective after February 1, 1995.

LAUTENBERG AMENDMENT NO. 3007

Mr. LAUTENBERG proposed an amendment to amendment No. 3005 proposed by Mr. CRAIG to the motion to commit proposed by Mr. LAUTENBERG to the bill S. 1357, supra, as follows:

Strike all after instructions and insert the following: "to report the bill back to the Senate within 3 days and insert provisions to limit any individual income tax break provided in the bill to those with incomes under $1 million, and to apply any resulting savings to reduce proposed cuts in Medicare and Medicaid."

NICKLES (AND OTHERS) AMENDMENT NO. 3008

Mr. NICKLES (for himself, Mr. DOLE, and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1332, beginning with line 5, strike all through page 1336, line 17.

MOYNIHAN AMENDMENT NO. 3009

Mr. MOYNIHAN proposed an amendment to the bill S. 1357, supra, as follows:

On page 541, strike line 10, and all that follows through page 542, line 8.

DOLE (AND OTHERS) AMENDMENT NO. 3010

Mr. DOMENICI (for Mr. DOLE for himself, Mr. KOHL, Mr. GRASSLEY, Mr. ROTH, Mr. BOND, Mr. ASHCROFT, and Mr. KEMPTHORNE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new section:

SEC. . INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. President, the amendment that I am offering will restore the business meal deduction to 80 percent for truckers, long-haul bus drivers and others subject to Department of Transportation hours of service regulations. My amendment would cost $673 million over 7 years and would be offset by repealing the special transition rule to financial institution exception to interest allocation rules.

I urge my colleagues to support the amendment and I yield the floor.

D'AMATO AMENDMENT NO. 3011

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert:

SEC. . SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

GRASSLEY AMENDMENT NO. 3012

Mr. DOMENICI (for Mr. GRASSLEY) proposed an amendment to the bill S. 1357, supra, as follows:

On pages 764 and 765, section 2106. Medicaid Task Force, under subsection (c) "ADVISORY GROUP FOR THE TASK FORCE" add new number (14) to read:

"(14) AMERICAN OSTEOPATHIC ASSOCIATION".

Redesignate old (14) to be (15);

Redesignate old (15) to be (16);

Redesignate old (16) to be (17);

Redesignate old (17) to be new (18).

BOXER AMENDMENT NO. 3013

Mr. DOMENICI (for Mrs. BOXER) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

GRAHAM AMENDMENT NO. 3014

Mr. DOMENICI (for Mr. GRAHAM) proposed an amendment to the bill S. 1357, supra, as follows:

Beginning on page 476, strike line 20 and all that follows through page 477, line 3 and insert the following: such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity.

On page 481, between lines 15 and 16, insert the following:

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

HUTCHISON (AND OTHERS) AMENDMENT NO. 3015

Mr. DOMENICI (for Mrs. HUTCHISON for herself, Mr. MCCAIN, Mr. LIEBERMAN, Mr. STEVENS, Mr. LEVIN, Mr. COVERDELL, Ms. SNOWE, Mr. KERREY, Mr. THURMOND, and Mr. THOMAS) proposed an amendment to the bill S. 1357, supra; as follows:

(a) The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soliders.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some 6,000 refugees recently reached Zenica and reported that nearly 2,000 family members from this group are still unaccounted for.

(5) The U.N. spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped." Elderly, sick and very young refugees have

been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eyewitness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal."

(8) The U.N. High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable."

(10) President Clinton also observed on October 16, 1995, "some people are concerned about pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzogovina.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crime Tribunal for the Former Yugoslavia.

(7) ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable.

KOHL AMENDMENT NO. 3016

Mr. DOMENICI (for Mr. KOHL) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following new sections:

SEC. 12879. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12880 and 12881 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS**," after "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12880. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor, shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12881).

SEC. 12881. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person."

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

SIMPSON (AND ROBB) AMENDMENT NO. 3017

Mr. DOMENICI (for Mr. SIMPSON for himself and Mr. ROBB) proposed an amendment to the bill S. 1357, supra, as follows:

At the appropriate place in the bill add the following:

SEC. . GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

WELLSTONE (AND CHAFEE) AMENDMENT NO. 3018

Mr. WELLSTONE (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of section 2171(b) of the Social Security Act, as added by section 7191(a), insert:

"The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3)."

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 3019

Mr. ROCKEFELLER (for himself, Mr. FEINGOLD, Ms. MOSELEY-BRAUN, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1357, supra, as follows:

At the end of part B of title XXI of the Social Security Act, as added by section 7191, add the following new section:

"SEC. 2118. EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE.

"(a) 12-MONTH EXTENSION.—

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title provide that each family which was receiving assistance pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such assistance, because of hours of, or income from, employment of the parent or caretaker relative (as defined in subsection (d)), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 12-month period in accordance with this subsection

"(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of assistance under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be modified or terminated and the reporting requirements under paragraph (5); and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3) MODIFICATION OR TERMINATION OF EXTENSION.—

"(A) MODIFICATION.—Subject to subparagraph (C), and, if the modification relates to the imposition of cost-sharing or premiums, subject to section 2113, the State may modify the terms of the extension of assistance during the 12-month period described in paragraph (1).

"(B) TERMINATION.—

"(i) NO DEPENDENT CHILD.—Subject to clause (ii) and subparagraph (C), extension of assistance during the 12-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child, whether or not the child is a needy child under part A of title IV.

"(ii) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of clause (i) but who may be eligible for assistance under the State plan because the child is described in section 2111(a)(2), the State may not discontinue such assistance under such clause until the State has determined that the child is not eligible for assistance under the plan.

"(C) NOTICE BEFORE MODIFICATION OR TERMINATION.—No modification or termination of assistance shall become effective under this paragraph until the State has provided the family with a 60-day notice of the grounds for the modification or termination, which notice shall include (in the case of termination) a description of how the family may reestablish eligibility for medical assistance under the State plan. No such termination shall be effective earlier than 10 days after the date of mailing of such notice.

"(4) SCOPE OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), during the 12-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving assistance under the plan approved under part A of title IV.

"(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) non-acute care benefits.

"(C) STATE MEDICAID 'WRAP-AROUND' OPTION.—A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the parent or caretaker relative or by an employer of the absent parent of a needy child. In the case of such coverage offered by an employer of the parent or caretaker relative—

"(i) the State may require the parent or caretaker relative, as a condition of extension of coverage under this subsection for the parent or caretaker and the parent's or caretaker's family, to make application for such employer coverage, but only if—

"(I) the parent caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

"(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 2135).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

"(D) ALTERNATIVE ASSISTANCE.—At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

"(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option of the group health plan offered to the parent or caretaker relative.

"(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the parent or caretaker relative and needy children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the parent or caretaker relative and needy children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) ENROLLMENT IN HMO, ETC.—Enrollment of the parent or caretaker relative and needy children in a capitated health care organization (as defined in section 2114(c)(1)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enrollment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a capitated health care organization in accordance with section 2114.

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 2122(a), to be payments for medical assistance.

"(5) REPORTING REQUIREMENTS.—Each State shall require (as a condition for extended assistance under this subsection) that a family receiving such extended assistance report to the State such eligibility verification as the State deems necessary. A State may permit such extended assistance under this subsection notwithstanding a failure to report under this paragraph if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.

"(b) APPLICABILITY IN STATES AND TERRITORIES.—

"(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.—The provisions of this section shall only apply to the 50 States and the District of Columbia.

"(c) GENERAL DISQUALIFICATION FOR FRAUD.—

"(1) INELIGIBILITY FOR ASSISTANCE.—This section shall not apply to an individual who is a member of a family which has received assistance under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such assistance before otherwise being provided extended eligibility under this section, the individual was ineligible for such assistance because of fraud.

"(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B.

"(d) CARETAKER RELATIVE DEFINED.—In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

At the end of title VII add the following new subtitle:

Subtitle K—Home and Community-Based Services for Individuals With Disabilities

SEC. 7500. PURPOSES; SHORT TITLE; TABLE OF CONTENTS.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to provide States with a capped source of funding to establish a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age;

(2) to ensure that all individuals with severe disabilities have access to such services while protecting taxpayers and maximizing program benefits by including significant cost-sharing provisions that require individuals with higher incomes to pay a greater share of the cost of their care;

(3) to build on the experience of Wisconsin's home and community-based long-term care program, the Community Options Program (COP), which has been a national model of reform, and the keystone of Wisconsin's long-term care reforms that have saved Wisconsin taxpayers hundreds of millions of dollars; and

(4) to continue the recent bipartisan efforts to establish this kind of long-term care reform, including the excellent long-term care proposal included in President Clinton's health care reform bill last year, as well as the provisions establishing home and community-based long-term care benefits in the versions of the President's bill that were reported out of the Senate Committee on Labor and Human Resources and the Senate Community on Finance last session, provisions which had, in both cases, strong bipartisan support.

(b) SHORT TITLE.—This subtitle may be cited as the "Long-Term Care Reform and Deficit Reduction Act of 1995".

(c) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 7500. Purposes; short title; table of contents.
Sec. 7501. State programs for home and community-based services for individuals with disabilities.
Sec. 7502. State plans.
Sec. 7503. Individuals with disabilities defined.
Sec. 7504. Home and community-based services covered under State plan.
Sec. 7505. Cost sharing.
Sec. 7506. Quality assurance and safeguards.
Sec. 7507. Advisory groups.
Sec. 7508. Payments to States.
Sec. 7509. Appropriations; allotments to States.
Sec. 7510. Repeals.

SEC. 7501. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 7502(b) may receive payment in accordance with section 7508.

(b) ENTITLEMENT TO SERVICES.—NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO CREATE A RIGHT TO SERVICES FOR INDIVIDUALS OR A REQUIREMENT THAT A STATE WITH AN APPROVED PLAN EXPEND THE ENTIRE AMOUNT OF FUNDS TO WHICH IT IS ENTITLED UNDER THIS SUBTITLE.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this subtitle.

SEC. 7502. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this subtitle shall provide that the State will, during any fiscal year that the State is furnishing services under this subtitle, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this subtitle or the State plan under title XXI of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1997, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index that reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act (42 U.S.C. 1396d(a)(24)), as in effect on the day before the date of the enactment of this Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act (42 U.S.C. 1396n), as so in effect.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act (42 U.S.C. 1396t), as so in effect.

(iv) Community supported living arrangements services under section 1930 of such Act (42 U.S.C. 1396u), as so in effect.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 7508 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 7503(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 7503(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2005, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) Institutional setting.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) Continuation of services.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State Medicaid plan under title XXI of the Social Security Act (42 U.S.C. 1396 et seq.) as of the date a State's plan is approved under this subtitle, the State will continue to make available (either under this plan, under the State Medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) Services.—

(A) Needs assessment.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this subtitle, and the services available to meet the needs of such individuals.

(B) Specification.—Consistent with section 7504, the plan shall specify—

(i) the services made available under the plan;

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities; and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) Taking into account informal case.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 7504(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) Allocation.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities;

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding;

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions;

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A); and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) Limitation on licensure or certification.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements that the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) Consumer choice.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) Cost sharing.—The plan shall impose cost sharing with respect to covered services in accordance with section 7505.

(5) Types of providers and requirements for participation.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVII of the Social Security Act (42 U.S.C. 1395 et seq.); and

(B) any requirements for participation applicable to each type of service provider.

(6) Provider reimbursement.—

(A) Payment methods.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) Payment rate.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) Plan payment as payment in full.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B) and any cost sharing permitted or provided for under section 7505 as payment in full for services furnished under the plan.

(7) Quality assurance and safeguards.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 7506.

(8) Advisory group.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 7507(b); and

(B) include the documentation prepared by the group under section 7507(b)(4).

(9) Administration and access.—

(A) State agency.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) Coordination.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this subtitle with the State medicaid plan under title XXI of the Social Security Act, titles V and XX of such Act (42 U.S.C. 701 et seq. and 1397 et seq.), programs under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), programs under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities; and

(ii) coordinate with health plans.

(C) Administrative expenditures.—Effective beginning with fiscal year 2005, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) Information and assistance.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) Reports and information to Secretary; audits.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this subtitle, including the processing of claims under the plan; and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) Use of state funds for matching.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this subtitle.

(12) Health care worker redeployment.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) Terminology.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) Approval of Plans.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days; and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1997, shall be effective as of January 1, 1997). In order to budget funds allotted under this subtitle, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this subtitle according to specified performance standards. In accordance with section 7508(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 7508(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this subtitle on a timely basis.

SEC. 7503. INDIVIDUALS WITH DISABILITIES DEFINED.

(A) IN GENERAL.—For purposes of this subtitle, the term "individual with disabilities" means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)); and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living;

(ii) requires hand-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies; or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) that create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3); and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this subtitle may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 7504(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this subtitle, the term "activity of daily living" means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 7504. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this subtitle shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals); and

(B) any limits with respect to such services.

(2) FLEXIBLITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area; and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this subtitle, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this subtitle residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this subtitle;

(II) identify (to he extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan;

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual; and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) Requirement for Care Management.—

(1) In general.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services; and

(B) monitoring of the delivery of services.

(2) Care management services.—

(A) In general.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this subtitle.

(B) Exception.—A person who provides home and community-based services under this subtitle may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this subtitle residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) Mandatory Coverage of Personal Assistance Services.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) Additional Services.—

(1) Types of services.—Subject to subsection (f), services available under a State plan under this subtitle may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive technology devices, as defined in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)).

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) Criteria for selection of services.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities; and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) Exclusions and Limitations.—A State plan may not provide for coverage of—

(1) room and board;

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary; or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) Payment for Services.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers;

(2) cash payments directly to individuals with disabilities;

(3) capitation payments to health plans; and

(4) payment to providers.

(h) Personal Assistance Services.—

(1) In general.—For purposes of this subtitle, the term "personal assistance services" means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) Consumer-directed.—For purposes of this subtitle:

(A) In general.—The term "consumer-directed" means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) State responsibilities.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) Right of consumers.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) Agency administered.—For purposes of this subtitle, the term "agency-administered" means, with respect to such services, services that are not consumer-directed.

SEC. 7505. COST SHARING.

(a) No Cost Sharing for Poorest.—

(1) In general.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level applicable to a family of the size involved (referred to in paragraph (2)).

(2) Official poverty level.—For purposes of paragraph (1), the term "official poverty level applicable to a family of the size involved" means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2) applicable to a family of the size involved.

(b) Sliding Scale for Remainder.—

(1) Required coinsurance.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) Required annual deductible.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) Recommendation of the Secretary.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize their ability to take advantage of the services offered under this subtitle. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this subtitle.

(d) Determination of Income for Purposes of Cost Sharing.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 7506. QUALITY ASSURANCE AND SAFEGUARDS.

(a) Quality Assurance.—

(1) In general.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities;

(B) setting the minimum standards for agency providers and how such standards will be enforced;

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this subtitle and how the competency of such employees will be enforced;

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services;

(E) establishing a process to receive, investigate, and resolve allegations of neglect or abuse;

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services;

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities; and

(I) specifying the role of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) Issuance of regulations.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) Federal Standards.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on State or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training program for informal caregivers.

(c) Client Advocacy.—

(1) In general.—The State plan shall provide that the State will expend the amount allocated under section 7509(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the Long-Term Care Ombudsman (under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) and the protection and advocacy system (established under section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042)) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) Client advocacy office.—

(A) In general.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this subtitle.

(B) Contracts and arrangements.—

(i) In general.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) Licensing and certification organizations; associations.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing certifying, or providing long-term care services in the State.

(d) Safeguards.—

(1) Confidentiality.—The State plan shall provide safeguards that restrict the use or disclosure of information concerning applications and beneficiaries to purposes directly connected with the administration of the plan.

(2) Safeguards against abuse.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits in made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) Regulations.—Not later than January 1, 1997, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) Specified Rights.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances;

(B) be told how to complain to State and local authorities; and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 7507. ADVISORY GROUPS.

(a) Federal Advisory Group.—

(1) Establishment.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this subtitle.

(2) Composition.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) State Advisory Groups.—

(1) In general.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this subtitle.

(2) Composition.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from those nominated as described in paragraph (3).

(3) Selection of members.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) Particular concerns.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan;

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan;

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable;

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan;

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed; and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 7508. PAYMENTS TO STATES.

(a) In General.—Subject to section 7502(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this subtitle, for each quarter (beginning on or after January 1, 1997), from its allotment under section 7509(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 7509(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 7509(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2005, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term "Federal home and community-based services matching percentage" means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 2122(c) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount that should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE-RELATED TAXES.—The provisions of section 2122(d) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 2122(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this subtitle fails to comply with the State plan approved under this subtitle, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 7509. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1997 THROUGH 2005.—Subject to paragraph (5)(C), for purposes of this subtitle, the appropriation authorized under this subtitle for each of fiscal years 1997 through 2005 is the following:

(A) For fiscal year 1997, $800,000,000.
(B) For fiscal year 1998, $1,600,000,000.
(C) For fiscal year 1999, $2,600,000,000.
(D) For fiscal year 2000, $3,700,000,000.
(E) For fiscal year 2001, $5,000,000,000.
(F) For fiscal year 2002, $6,500,000,000.
(G) For fiscal year 2003, $8,200,000,000.
(H) For fiscal year 2004, $10,100,000,000.
(I) For fiscal year 2005, $12,100,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this subtitle, the appropriation authorized for State plans under this subtitle for each fiscal year after fiscal year 2005 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year; and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this subtitle, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this subtitle and before each subsequent fiscal year (through fiscal year 2005), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2005), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this subtitle shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1997 and ending with fiscal year 2005) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XXI of the Social Security Act but for the provision of home and community-based services under the program under this subtitle.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this subtitle.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this subtitle in accordance with an allocation formula developed by the Secretary that takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 7505(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this subtitle shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 7506(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 2122(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this subtitle and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this subtitle, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 2122(c) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1997, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1997 by the estimated percentage change in the index described in section 7502(a)(1)(B)(iii) during the period beginning on October 1, 1995, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) during fiscal year 1995 with respect to medical assistance consisting of the services described in section 7502(a)(1)(C).

(c) STATE ENTITLEMENT.—This subtitle constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 7510. REPEALS.

Section 12111 and chapter 1 of subtitle C of title XII of this Act are hereby repealed.

SEC. . It is the sense of the Senate that the Congress shall define a basic health benefit package for pregnant women, all children up to age 12 years, and individuals with disabilities living under 100% of federal poverty in order to ensure that these groups are entitled to a federal guarantee of health care services for a meaningful set of benefits.

HARKIN (AND OTHERS) AMENDMENT NO. 3020

Mr. HARKIN (for himself, Mr. DORGAN, Mr. WELLSTONE, Mr. DASCHLE, Mr. HEFLIN, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra, as follows:

(a) In Title I strike Subtitles A, B, and C and insert the following:

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SECTION 1001. SHORT TITLE.

This title may be cited as the "Farm Security Act of 1995".

Subtitle A—Commodity Programs

SEC. 1101. WHEAT, FEED GRAIN, AND OILSEED PROGRAM.

(a) IN GENERAL.—Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended by adding the end the following:

"SEC. 116. MARKETING LOANS AND LOAN DEFICIENCY PAYMENTS FOR 1996 THROUGH 2002 CROPS OF WHEAT, FEED GRAINS, AND OILSEEDS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED COMMODITIES.—The term 'covered commodities' means wheat, feed grains, and oilseeds.

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) OILSEEDS.—The term 'oilseeds' means soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or as designated by the Secretary, other oilseeds.

"(b) ADJUSTMENT ACCOUNT.—

"(1) DEFINITION OF PAYMENT BUSHEL OF PRODUCTION.—In this subsection, the term 'payment bushel of production' means—

"(A) in the case of wheat, $\frac{7}{10}$ of a bushel;

"(B) in the case of corn, a bushel; and

"(C) in the case of other feed grains, a quantity determined by the Secretary.

"(2) ESTABLISHMENT.—The Secretary shall establish an Adjustment Account (referred to in this subsection as the 'Account') for making—

"(A) payments to producers of the 1996 through 2002 crops of covered commodities who participate in the marketing loan program established under subsection (c); and

"(B) payments to producers of the 1994 and 1995 crops of covered commodities that are authorized, but not paid, under sections 105B and 107B prior to the date of enactment of this section.

"(3) AMOUNT IN ACCOUNT.—The Secretary shall transfer from funds of the Commodity Credit Corporation into the Account—

"(A) $4,500,000,000 for fiscal year 1996; and

"(B) $2,800,000,000 for each of fiscal years 1997 through 2002;

to remain available until expended.

"(4) PAYMENTS.—The Secretary shall use funds in the Account to make payments to producers of wheat and feed grains in accordance with this subsection.

"(5) TIER 1 SUPPORT.—

"(A) IN GENERAL.—The producers on a farm referred to in paragraph (2) shall be entitled to a payment computed by multiplying—

"(i) the payment quantity determined under subparagraph (B); by

"(ii) the payment factor determined under subparagraph (C).

"(B) PAYMENT QUANTITY.—

"(i) IN GENERAL.—Subject to clause (ii), the payment quantity for payments under subparagraph (A) shall be determined by the Secretary based on—

"(I) 90 percent of the 5-year average of the quantity of wheat and feed grains produced on the farm;

"(II) an adjustment to reflect any disaster or other circumstance beyond the control of the producers that adversely affected production of wheat or feed grains, as determined by the Secretary; and

"(III) an adjustment for planting resource conservation crops on the crop acreage base for covered commodities, and adopting conserving uses, on the base not enrolled in the environmental reserve program provided in paragraph (6).

"(ii) LIMITATIONS.—The quantity determined under clause (i) for an individual, directly or indirectly, shall not exceed 22,000 payment bushels of wheat or feed grains and may be adjusted by the Secretary to reflect the availability of funds.

"(C) PAYMENT FACTOR.—

"(i) WHEAT.—The payment factor for wheat under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $4.00 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of wheat; or

"(II) the average domestic price for wheat for the crop for the calendar year in which the crop is normally harvested.

"(ii) CORN.—The payment factor for corn under subparagraph (A) shall be equal to the difference between a price established by the Secretary, of not to exceed $2.75 per bushel, and the greater of—

"(I) the marketing loan rate for the crop of corn; or

"(II) the average domestic price for corn for the crop for the calendar year in which the crop is normally harvested;

"(iii) OTHER FEED GRAINS.—The payment factor for other feed grains under subparagraph (A) shall be established by the Secretary at such level as the Secretary determines is fair and reasonable in relation to the payment factor for corn.

"(D) ADVANCE PAYMENT.—The Secretary shall make available to producers on a farm 50 percent of the projected payment under this subsection at the time the producers agree to participate in the program.

"(6) ENVIRONMENTAL RESERVE PROGRAM.—

"(A) IN GENERAL.—The Secretary may enter into 1 to 5 year contracts with producers on a farm referred to in paragraph (2) for the purposes of enrolling flexible acreage base for conserving use purposes.

"(B) LIMITATION.—Flexible acreage base enrolled in the environmental reserve program shall not be eligible for benefits provided in paragraph (5)(B).

"(c) MARKETING LOANS.—

"(1) IN GENERAL.—The Secretary shall make available to producers on a farm marketing loans for each of the 1996 through 2002 crops of covered commodities produced on the farm.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—To be eligible for a loan under this subsection, the producers on a farm may not plant covered commodities on the farm in excess of the flexible acreage base of the farm determined under section 502.

"(B) AMOUNT.—The Secretary shall provide marketing loans for their normal production of covered commodities produced on a farm.

"(3) LOAN RATE.—Loans made under this subsection shall be made at the rate of 95 percent of the average price for the commodity for the previous 5 crop years, as determined by the Secretary.

"(4) REPAYMENT.—

"(A) CALCULATION.—Producers on a farm may repay loans made under this subsection for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing domestic market price for the commodity (adjusted to location and quality), as determined by the Secretary.

"(B) PREVAILING DOMESTIC MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing domestic market price for each covered commodity; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing domestic market prices established under this subsection.

"(d) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1996 through 2002 crops of covered commodities, make payments (referred to in this subsection as 'loan deficiency payments') available to producers who, although eligible to obtain a marketing loan under subsection (c), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of a covered commodity the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—

"(A) IN GENERAL.—For the purposes of this subsection, the loan payment rate shall be the amount by which—

"(i) the marketing loan rate determined for the crop under subsection (c)(3); exceeds

"(ii) the level at which a loan may be repaid under subsection (c)(4).

"(B) DATE.—The date on which the calculation required under subparagraph (A) for the producers on a farm shall be determined by the producers, except that the date may not be later than the earlier of—

"(i) the date the producers lost beneficial interest in the crop; or

"(ii) the end of the marketing year for the crop.

"(4) APPLICATION.—Producers on a farm may apply for a payment for a covered commodity under this subsection at any time prior to the end of the marketing year for the commodity.

"(e) PROGRAM COST LIMITATION.—

"(1) IN GENERAL.—If the Secretary determines that the costs of providing marketing loans and loan deficiency payments for covered commodities under this section will exceed an amount of $9,000,000,000 for the 1996 through 2002 fiscal years, the Secretary shall carry out a program cost limitation program to ensure that the cost of providing marketing loans and loan deficiency payments do not exceed the amount.

"(2) TERMS.—If the Secretary determines that a program cost limitation program is required for a crop year, the Secretary shall carry out for the crop year—

"(A) a proportionate reduction in the number of bushels that a producer may directly or indirectly place under loan;

"(B) a limitation on the number of bushels the producers on a farm may directly or indirectly place under loan;

"(C) an acreage limitation program; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(3) LIMITATION.—The program cost limitation program may only be applied to a crop of a covered commodity for which the domestic price is projected, by the Secretary, to be less than the 5-year average price for the commodity.

"(4) ANNOUNCEMENTS.—If the Secretary elects to implement a program cost limitation program for any crop year, the Secretary shall make an announcement of the program not later than—

"(A) in the case of wheat, June 1 of the calendar year preceding the year in which the crop is harvested; and

"(B) in the case of feed grains and oilseeds, September 30 of the calendar year preceding the year in which the crop is harvested, and

"(f) EQUITABLE RELIEF.—If the failure of a producer to comply fully with the terms and conditions of programs conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(i) TENANTS AND SHARECROPPERS.—In carrying out this section, the Secretary shall provide adequate safeguards to protect the interest of tenants and sharecroppers.

"(j) CROPS.—This section shall be effective only for the 1996 through 2002 crops of a covered commodity.".

(b) FLEXIBLE ACREAGE BASE.—

(1) DEFINITIONS.—Section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462) is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) FEED GRAINS.—The term 'feed grains' means corn, grain sorghum, barley, oats, millet, rye, or as designated by the Secretary, other feed grains.

"(3) GO CROPS.—The term 'GO crops' means wheat, feed grains, and oilseeds.

"(4) OILSEEDS.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(5) PROGRAM CROP.—The term 'program crop' means a GO crop and a crop of upland cotton or rice.".

(2) CROP ACREAGE BASES.—Section 503(a) of the Act (7 U.S.C. 1463(a)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—

"(A) GO CROPS.—The Secretary shall provide for the establishment and maintenance of a single crop acreage base for GO crops, including any GO crops produced under an established practice of double cropping.

"(B) COTTON AND RICE.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for cotton and rice crops, including any program crop produced under an established practice of double cropping.".

SEC. 1102. UPLAND COTTON PROGRAM.

(a) EXTENSION.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

(1) in the section heading, by striking "1997" and inserting "2002";

(2) in subsections (a)(1), (b)(1), (c)(1), and (o), by striking "1997" each place it appears and inserting "2002";

(3) in subsection (a)(5), by striking "1998" each place it appears and inserting "2002";

(4) in the heading of subsection (c)(1)(D)(v)(II), by striking "1997" and inserting "2002";

(5) in subsection (e)(1)(D), by striking "the 1997 crop" and inserting "each of the 1997 through 2002 crops"; and

(6) in subsections (e)(3)(A) and (f)(1), by striking "1995" each place it appears and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 103B(c)(1)(C) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1996 through 2002 crops".

SEC. 1103. RICE PROGRAM.

(a) EXTENSION.—Section 101B of the Agricultural Act of 1949 (7 U.S.C. 1441-2) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (a)(1), (a)(3), (b)(1), (c)(1)(A), (c)(1)(B)(iii), (e)(3)(A), (f)(1), and (n), by striking "1995" each place it appears and inserting "2002";

(3) in subsection (a)(5)(D)(i), by striking "1996" and inserting "2003"; and

(4) in subsection (c)(1)—

(A) in subparagraph (B)(ii)—

(i) by striking "AND 1995" and inserting "THROUGH 2002"; and

(ii) by striking "and 1995" and inserting "through 2002"; and

(B) in subparagraph (D)—

(i) in clauses (i) and (v)(II), by striking "1997" each place it appears and inserting "2002"; and

(ii) in the heading of clause (v)(II), by striking "1997" and inserting "2002".

(b) INCREASE IN NONPAYMENT ACRES.—Section 101B(c)(1)(C)(ii) of the Act is amended by striking "85 percent" and inserting "77.5 percent for each of the 1998 through 2002 crops".

SEC. 1104. PEANUT PROGRAM.

(a) EXTENSION.—

(1) AGRICULTURAL ACT OF 1949.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3) is amended—

(A) in the section heading, by striking "1997" and inserting "2002";

(B) in subsection (a)(1), (b)(1), and (h), by striking "1997" each place it appears and inserting "2002"; and

(C) in subsection (g)—

(i) by striking "1997" in paragraphs (1) and (2)(A)(ii)(II) and inserting "2002"; and

(ii) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2002 crops".

(2) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(A) in section 358-1 (7 U.S.C. 1358-1)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsections (a)(1), (b), and (f), by striking "1997" each place it appears and inserting "2002";

(B) in section 358b (7 U.S.C. 1358b)—

(i) in the section heading, by striking "1995" and inserting "2002"; and

(ii) in subsection (c), by striking "1995" and inserting "2002";

(C) in section 358c(d) (7 U.S.C. 1358c(d)), by striking "1995" and inserting "2002"; and

(D) in section 358e (7 U.S.C. 1359a)—

(i) in the section heading, by striking "1997" and inserting "2002"; and

(ii) in subsection (i), by striking "1997" and inserting "2002".

(b) SUPPORT RATES FOR PEANUTS.—Section 108B(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445c-3(a)(2)) is amended—

(1) by striking "(2) SUPPORT RATES.—The" and inserting the following:

"(2) SUPPORT RATES.—

"(A) 1991–1995 CROPS.—The"; and

(2) by adding at the end the following:

"(B) 1996–2002 CROPS.—The national average quota support rate for each of the 1996 through 2002 crops of quota peanuts shall be $678 per ton.".

(c) UNDERMARKETINGS.—

(1) IN GENERAL.—Section 358-1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)) is amended—

(A) in paragraph (7), by adding at the end the following::

"(C) TRANSFER OF ADDITIONAL PEANUTS.—Additional peanuts on a farm from which the quota poundage was not harvested or marketed may be transferred to the quota loan pool for pricing purposes at the quota price on such basis as the Secretary shall be regulation provide, except that the poundage of the peanuts so transferred shall not exceed the difference in the total quantity of peanuts meeting quality requirements for domestic edible use, as determined by the Secretary, marketed from the farm and the total farm poundage quota."; and

(B) by striking paragraphs (8) and (9).

(2) CONFORMING AMENDMENTS.—Section 358b(a) of the Act (7 U.S.C. 1358b(a)) is amended—

(A) in paragraph (1)(A), by striking "undermarketings and"; and

(B) in paragraph (3), by striking "(including any applicable undermarketings)".

SEC. 1105. DAIRY PROGRAM.

(a) PRICE SUPPORT.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "1996" and inserting "2002";

(2) in subsections (a), (b), (f), (g), and (k), by striking "1996" each place it appears and inserting "2002";

(3) in subsection (h)(2)(C), by striking "and 1997" and inserting "through 2002".

(b) SUPPORT PRICE FOR BUTTER AND POWDERED MILK.—Section 204(c)(3) of the Act is amended—

(1) in subparagraph (A), by striking "Subject to subparagraph (B), the" and inserting "The";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) SUPPORT RATE.—Section 204(d) of the Act is amended—

(1) by striking paragraphs (1) through (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (1) and (2) respectively.

SEC. 1106. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended to read as follows:

"SEC. 206. SUGAR SUPPORT FOR 1996 THROUGH 2002 CROPS.

"(a) DEFINITIONS.—In this section:

"(1) AGREEMENT ON AGRICULTURE.—The term 'Agreement on Agriculture' means the Agreement on Agriculture resulting from the Uruguay Round of Multilateral Trade Negotiations.

"(2) MAJOR COUNTRY.—The term 'major country' includes—

"(A) a country that is allocated a share of the tariff rate quota for imported sugars and syrups by the United States Trade Representative pursuant to additional U.S. note 5 to chapter 17 of the Harmonized Tariff Schedule;

"(B) a country of the European Union; and

"(C) the People's Republic of China.

"(3) MARKET.—The term 'market' means to sell or otherwise dispose of in commerce in the United States (including, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process) and delivery to a buyer.

"(4) TOTAL ESTIMATED DISAPPEARANCE.—The term 'total estimated disappearance' means the quantity of sugar, as estimated by the Secretary, that will be consumed in the United States during a fiscal year (other than sugar imported for the production of polyhydric alcohol or to be refined and reexported in refined form or in a sugar-containing product), plus the quantity of sugar that would provide for adequate carryover stocks.

"(b) PRICE SUPPORT.—The price of each of the 1996 through 2002 crops of sugar beets and sugarcane shall be supported in accordance with this section.

"(c) SUGARCANE.—Subject to subsection (e), the Secretary shall support the price of domestically grown sugarcane through loans at a support level of 18 cents per pound for raw cane sugar.

"(d) SUGAR BEETS.—Subject to subsection (e), the Secretary shall support the price of each crop of domestically grown sugar beets through loans at the level provided for refined beet sugar produced from the 1995 crop of domestically grown sugar beets.

"(e) ADJUSTMENT IN SUPPORT LEVEL.—

"(1) DOWNWARD ADJUSTMENT IN SUPPORT LEVEL.—

"(A) IN GENERAL.—The Secretary shall decrease the support price of domestically grown sugarcane and sugar beets from the level determined for the preceding crop, as determined under this section, if the quantity of negotiated reductions in export and domestic subsidies of sugar that apply to the European Union and other major countries in the aggregate exceed the quantity of the reductions in the subsidies agreed to under the Agreement of Agriculture.

"(B) EXTENT OF REDUCTION.—The Secretary shall not reduce the level of price support under subparagraph (A) below a level that provides an equal measure of support to the level provided by the European Union or any other major country through domestic and export subsidies that are subject to reduction under the Agreement on Agriculture.

"(2) INCREASES IN SUPPORT LEVEL.—The Secretary may increase the support level for each crop of domestically grown sugarcane and sugar beets from the level determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, the amount of any applicable assessments, and other factors or circumstances that may adversely affect domestic sugar production.

"(f) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section by making recourse loans to sugar producers.

"(2) MODIFICATION.—During any fiscal year in which the tariff rate quota for imports of sugar into the United States is established at, or is increased to, a level that exceeds the minimum level for the imports committed to by the United States under the Agreement on Agriculture, the Secretary shall carry out this section by making nonrecourse loans available to sugar producers. Any recourse loan previously made available by the Secretary and not repaid under this section during the fiscal year shall be converted into a nonrecourse loan.

"(3) PROCESSOR ASSURANCES.—To effectively support the prices of sugar beets and sugarcane received by a producer, the Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate that, if the Secretary is required under paragraph (2) to make nonrecourse loans available, or convert recourse loans into nonrecourse loans, each producer served by the processor will receive the appropriate minimum payment for sugar beets and sugarcane delivered by the producer, as determined by the Secretary.

"(g) ANNOUNCEMENTS.—The Secretary shall announce the type of loans available and the loan rates for beet and cane sugar for any fiscal year under this section as far in advance as is practicable.

"(h) LOAN TERM.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (i), a loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the end of 3 months.

"(2) EXTENSION.—The maturity of a loan under this section may be extended for up to 2 additional 3-month periods, at the option of the borrower, except that the maturity of a loan may not be extended under this paragraph beyond the end of the fiscal year.

"(i) SUPPLEMENTARY LOANS.—Subject to subsection (e), the Secretary shall make available to eligible processors price support loans with respect to sugar processed from sugar beets and sugarcane harvested in the last 3 months of a fiscal year. The loans shall mature at the end of the fiscal year. The processor may repledge the sugar as collateral for a price support loan in the subsequent fiscal year, except that the second loan shall—

"(1) be made at the loan rate in effect at the time the second loan is made; and

"(2) mature in not more than 9 months, less the quantity of time that the first loan was in effect.

"(j) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(k) MARKETING ASSESSMENTS.—

"(1) IN GENERAL.—Assessments shall be collected in accordance with this subsection with respect to all sugar marketed within the United States during the 1996 through 2002 fiscal years.

"(2) BEET SUGAR.—The first seller of beet sugar produced from domestic sugar beets or domestic sugar beet molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.1894 percent of the loan level established under subsection (d) per pound of sugar marketed.

"(3) CANE SUGAR.—The first seller of raw cane sugar produced from domestic sugarcane or domestic sugarcane molasses shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to 1.11 percent of the loan level established under subsection (c) per pound of sugar marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).

"(4) COLLECTION.—

"(A) TIMING.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation not later than 30 days after the date that the sugar is marketed.

"(B) MANNER.—Subject to subparagraph (A), marketing assessments shall be collected under this subsection in the manner prescribed by the Secretary and shall be nonrefundable.

"(5) PENALTIES.—If any person fails to remit an assessment required by this subsection or fails to comply with such requirements for recordkeeping or otherwise fails to comply with this subsection, the person shall be liable to the Secretary for a civil penalty of not more than an amount determined by multiplying—

"(A) the quantity of sugar involved in the violation; by

"(B) the loan level for the applicable crop of sugarcane or sugar beets from which the sugar is produced.

For the purposes of this paragraph, refined sugar shall be treated as produced from sugar beets.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

"(l) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—To efficiently and effectively carry out the program under this section, the Secretary may require a producer of sugarcane or sugar beets to report, in the manner prescribed by the Secretary, the producer's sugarcane or sugar beet yields and acres planted to sugarcane or sugar beets, respectively.

"(3) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, required under this subsection shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(4) MONTHLY REPORTS.—Taking into consideration the information received under paragraph (1), the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(m) SUGAR ESTIMATES.—

"(1) DOMESTIC REQUIREMENT.—Before the beginning of each fiscal year, the Secretary shall estimate the domestic sugar requirement of the United States in an amount that is equal to the total estimated disappearance, minus the quantity of sugar that will be available from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, stocks, production, and imports for a fiscal year not later than the beginning of each of the second through fourth quarters of the fiscal year.

"(n) CROPS.—This section shall be effective only for the 1996 through 2002 crops of sugar beets and sugarcane.".

(b) MARKETING QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 1107. SHEEP INDUSTRY TRANSITION PROGRAM.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended by adding at the end the following:

"SEC. 208. SHEEP INDUSTRY TRANSITION PROGRAM.

"(a) LOSS.—

"(1) IN GENERAL.—The Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title as determined by the Secretary, make available for each of the 1996 through 1999 marketing years recourse loans for wool at a loan level, per pound, that is not less than the smaller of—

"(A) the average price (weighted by market and month) of the base quality of wool at average location in the United States as quoted during the 5-marketing year period preceding the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average price for wool projected for the marketing year in which the loan level is announced, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any marketing year determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding marketing year, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any marketing year the average projected price determined under paragraph (1)(B) is less than the average United States market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States market price determined under paragraph (1)(A).

"(C) ADJUSTMENT FOR QUALITY.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the Secretary may adjust the loan level of a loan made under this section with respect to a quantity of wool to more accurately reflect the quality of the wool, as determined by the Secretary.

"(ii) ESTABLISHMENT OF GRADING SYSTEM.—To allow producers to establish the quality of wool produced on a farm, the Secretary shall establish a grading system for wool, based on micron diameter of the fibers in the wool.

"(iii) FEES.—The Secretary may charge each person that requests a grade for a quantity of wool a fee to offset the costs of testing and establishing a grade for the wool.

"(iv) TESTING FACILITIES.—To the extent practicable, the Secretary may certify State, local, or private facilities to carry out the grading of wool for the purpose of carrying out this subparagraph.

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any marketing year of wool shall be determined and announced by the Secretary not later than December 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1996 marketing year, as soon as is practicable after December 1, 1995.

"(4) TERM OF LOAN.—

"(A) IN GENERAL.—Recourse loans provided for in this section may be made for an initial term of 9 months from the first day of the month in which the loan is made.

"(B) EXTENSIONS.—Except as provided in subparagraph (C), recourse loans provided for in this section shall, on request of the producer during the 9th month of the loan period for the wool, be made available for an additional term of 8 months.

"(C) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of wool, as determined by the Secretary, in the designated markets for the preceding month exceeded 130 percent of the average price of the base quality of wool in the designated United States markets for the preceding 36-month period

"(5) MARKETING LOAN PROVISIONS.—If the Secretary determines that the prevailing world market price for wool (adjusted to United States quality and location) is below the loan level determined under paragraphs (1) through (4), to make United States wool competitive, the Secretary shall permit a producer to repay a loan made for any marketing year at the lesser of—

"(A) the loan level determined for the marketing year; or

"(B) the higher of—

"(i) the loan level determined for the marketing year multiplied by 70 percent; or

"(ii) the prevailing world market price for wool (adjusted to United States quality and location), as determined by the Secretary.

"(6) PREVAILING WORLD MARKET PRICE.—

"(A) IN GENERAL.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for wool (adjusted to United States quality and location); and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wool (adjusted to United States quality and location).

"(B) USE.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be used to carry out paragraph (5).

"(C) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.—

"(i) IN GENERAL.—The prevailing world market price for wool (adjusted to United States quality and location) established under this paragraph shall be further adjusted if the adjusted prevailing world market price is less than 115 percent of the current marketing year loan level for the base quality of wool, as determined by the Secretary.

"(ii) FURTHER ADJUSTMENT.—The adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of wool export sales and wool export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for wool (adjusted to United States quality and location).

"(D) MARKET PRICE QUOTATION.—The Secretary may establish a system to monitor and make available on a weekly basis information with respect to the most recent average domestic and world market prices for wool.

"(7) PARTICIPATION.—The Secretary may make loans available under this subsection to producers, cooperatives, or marketing pools.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1996 through 1999 marketing years of wool, make payments available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wool the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the marketing year under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make available to producers deficiency payments for each of the 1996 through 1999 marketing years of wool in an amount computed by multiplying—

"(A) the payment rate; by

"(B) the payment quantity of wool for the marketing year.

"(2) PAYMENT RATE.—

"(A) IN GENERAL.—The payment rate for wool shall be the amount by which the established price for the marketing year of wool exceeds the higher of—

"(i) the national average market price received by producers during the marketing year, as determined by the Secretary; or

"(ii) the loan level determined for the marketing year.

"(B) MINIMUM ESTABLISHED PRICE.—The established price for wool shall not be less than $2.12 per pound on a grease wool basis for each of the 1996 through 1999 marketing years.

"(3) PAYMENT QUANTITY.—Payment quantity of wool for a marketing year shall be the number of pounds of wool produced during the marketing year.

"(d) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make the loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

“(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

“(e) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

“(f) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

“(g) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

“(h) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

“(i) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

“(j) CROSS-COMPLIANCE.—

“(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with marketing year acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

“(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the wool program with respect to any other farm operated by the producers.

“(k) LIMITATION ON OUTLAYS.—

“(1) IN GENERAL.—The total amount of payments that may be made available to all producers under this section may not exceed—

“(A) $75,000,000, during any single marketing year; or

“(B) $200,000,000 in the aggregate for marketing years 1996 through 1999.

“(2) PRORATION OF BENEFITS.—To the extent that the total amount of benefits for which producers are eligible under this section exceeds the limitations in paragraph (1), funds made available under this section shall be prorated among all eligible producers.

“(3) PERSON LIMITATION.—

“(A) LOANS.—No person may realize gains or receive payments under subsection (a) or (b) that exceed $75,000 during any marketing year.

“(B) DEFICIENCY PAYMENTS.—No person may receive payments under subsection (c) that exceed $50,000 during any marketing year.

“(l) MARKETING YEARS.—Notwithstanding any other provision of law, this section shall be effective only for the 1996 through 1999 marketing years for wool.”.

SEC. 1108. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) WHEAT.—

(1) NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.—Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d–1379j) shall not be applicable to wheat processors or exporters during the period June 1, 1995, through May 31, 2003.

(2) SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.—Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1996 through 2002 crops of wheat.

(3) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled “A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended”, approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 1996 through 2002.

(4) NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949.—Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1996 through 2002 crops of wheat.

(b) FEED GRAINS.—

(1) NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949.—Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1996 through 2002 crops of feed grains.

(2) RECOURSE LOAN PROGRAM FOR SILAGE.—Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e–1) is amended by striking “1996” and inserting “2002”.

(c) OILSEEDS.—Section 201(a) of the Agricultural Act of 1949 (7 U.S.C. 1446(a)) is amended by striking “oilseeds” and all that follows through “determine),”.

(d) UPLAND COTTON.—

(1) SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.—Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1996 through 2002 crops of upland cotton.

(2) MISCELLANEOUS COTTON PROVISIONS.—Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1996 through 2002 crops.

(e) PEANUTS.—

(1) SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1996 through 2002 crops of peanuts:

(A) Subsections (a) through (j) of section 358 (7 U.S.C. 1358).

(B) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a).

(C) Subsections (a), (b), (d), and (e) of section 358d (7 U.S.C. 1359).

(D) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.).

(E) Section 371 (7 U.S.C. 1371).

(2) REPORTS AND RECORDS.—Effective only for the 1996 through 2002 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before “all brokers and dealers in peanuts” the following: “all producers engaged in the production of peanuts,”.

(3) SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1996 through 2002 crops of peanuts.

SEC. 1109. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

(a) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended—

(1) in subsections (a)(1) and (c), by striking “1997” each place it appears and inserting “2002”; and

(2) in subsection (b), by striking “1995” and inserting “2002”;

(b) ADJUSTMENT OF ESTABLISHED PRICES.—Section 402(b) of the Agricultural Act of 1949 (7 U.S.C. 1422(b)) is amended by striking “1995” and inserting “2002”.

(c) ADJUSTMENT OF SUPPORT PRICES.—Section 403(c) of the Agricultural Act of 1949 (7 U.S.C. 1423(c)) is amended by striking “1995” and inserting “2002”.

(d) APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.—Section 408(k)(3) of the Agricultural Act of 1949 (7 U.S.C. 1428(k)(3)) is amended by striking “1995” and inserting “2002”.

(e) ACREAGE BASE AND YIELD SYSTEM.—Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in subsections (c)(3) and (h)(2)(A) of section 503 (7 U.S.C. 1463), by striking “1997” each place it appears and inserting “2002”;

(2) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking “1997” each place it appears and inserting “2002”; and

(3) in section 509 (7 U.S.C. 1469), by striking “1997” and inserting “2002”.

(f) PAYMENT LIMITATIONS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking “1997” each place it appears and inserting “2002”.

(g) NORMALLY PLANTED ACREAGE.—Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended by striking “1995” each place it appears in subsections (a), (b)(1), and (c) and inserting “2002”.

(h) OPTIONS PILOT PROGRAM.—The Options Pilot Program Act of 1990 (subtitle E of title XI of Public Law 101–624; 104 Stat. 3518; 7 U.S.C. 1421 note) is amended—

(1) in subsections (a) and (b) of section 1153, by striking “1995” each place it appears and inserting “2002”; and

(2) in section 1154(b)(1)(A), by striking “1995” each place it appears and inserting “2002”.

(i) FOOD SECURITY WHEAT RESERVE.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f–1(i)) is amended by striking “1995” each place it appears and inserting “2002”.

SEC. 1110. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the 1996 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support, production adjustment, or payment program for—

(1) any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law as in effect immediately before the enactment of this Act; or

(2) the 1996 crop of an agricultural commodity established under section 406(b) of the Agricultural Act of 1949 (7 U.S.C. 1426(b)).

Subtitle B—Conservation

SEC. 1201. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.) is amended to read as follows:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or another land management practice the Secretary determines is needed to protect soil, water, or related resources in the most cost efficient manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 100,000 laying hens or broilers;

"(iv) 55,000 turkeys;

"(v) 2,500 swine; or

"(vi) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or another structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2006 fiscal years, the Secretary shall enter into contracts with operators to provide technical assistance, cost-sharing payments, and incentive payments to operators, who enter into contracts with the Secretary, through an environmental quality incentives program in accordance with this chapter.

"(2) CONSOLIDATION OF EXISTING PROGRAMS.—In establishing the environmental quality incentives program authorized under this chapter, the Secretary shall combine into a single program the functions of—

"(A) the agricultural conservation program authorized by sections 7 and 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g and 590h) (as in effect before the amendments made by section 201(b)(1) of the Agricultural Reconciliation Act of 1995);

"(B) the Great Plains conservation program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) (as in effect before the amendment made by section 201(b)(2) of the Agricultural Reconciliation Act of 1995);

"(C) the water quality incentives program established under this chapter (as in effect before amendment made by section 201(a) of the Agricultural Reconciliation Act of 1995); and

"(D) the Colorado River Basin salinity control program established under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)) (as in effect before the amendment made by section 201(b)(3) of the Agricultural Reconciliation Act of 1995).

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) CONTRACT EFFECTIVE DATE.—A contract between an operator and the Secretary under this chapter shall become effective on October 1st following the date the contract is fully entered into.

"(c) COST-SHARING AND INCENTIVE PAYMENTS.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be more than 75 percent of the projected cost of the practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(d) TECHNICAL ASSISTANCE.—

"(1) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided in a fiscal year. The allocated amount may vary according to the type of expertise required quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided in a fiscal year.

"(2) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(e) FUNDING.—The Secretary shall use to carry out this chapter not less than—

"(1) $200,000,000 for fiscal year 1997; and

"(2) $250,000,000 for each of fiscal years 1998 through 2002.

"(f) COMMODITY CREDIT CORPORATION.—The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subchapter.

"SEC. 1238B. CONSERVATION PRIORITY AREAS.

"(a) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay region (located in Pennsylvania, Maryland, and Virginia), the Great Lakes region, the Long Island Sound region, prairie pothole region (located in North Dakota, South Dakota, and Minnesota), Rainwater Basin (located in Nebraska), and other areas the Secretary considers appropriate, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 1.

"(b) APPLICABILITY.—A designation shall be made under this section if an application is made by a State agency and agricultural practices within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary.

"SEC. 1238C. EVALUATION OF OFFERS AND PAYMENTS.

"(a) REGIONAL PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area under this chapter based on the significance of soil, water, and related natural resources problems in the region, watershed, or area, and the structural practices or land management practices that best address the problems, as determined by the Secretary.

"(b) MAXIMIZATION OF ENVIRONMENTAL BENEFITS.—

"(1) IN GENERAL.—In providing technical assistance, cost-sharing payments, and incentive payments to operators in regions, watersheds, or conservation priority areas under this chapter, the Secretary shall accord a higher priority to assistance and payments that maximize environmental benefits per dollar expended.

"(2) STATE OR LOCAL CONTRIBUTIONS.—The Secretary shall accord a higher priority to operators whose agricultural operations are located within watersheds, regions, or conservation priority areas in which State or local governments have provided, or will provide, financial or technical assistance to the operators for the same conservation or environmental purposes.

"SEC. 1238D. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

"(a) IN GENERAL.—Prior to approving cost-share or incentive payments authorized under this chapter, the Secretary shall require the preparation and evaluation of an environmental quality incentives program plan described in subsection (b), unless the Secretary determines that such a plan is not necessary to evaluate the application for the payments.

"(b) TERMS.—An environmental quality incentives program plan shall include (as determined by the Secretary) a description of relevant—

"(1) farming or ranching practices on the farm;

"(2) characteristics of natural resources on the farm;

"(3) specific conservation and environmental objectives to be achieved including those that will assist the operator in complying with Federal and State environmental laws;

"(4) dates for, and sequences of, events for implementing the practices for which payments will be received under this chapter; and

"(5) information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives, and that will enable evaluation of the degree to which the plan has been implemented.

"SEC. 1238E. LIMITATION ON PAYMENTS.

"(a) PAYMENTS.—The total amount of cost-share and incentive payments paid to a person under this chapter may not exceed—

"(1) $10,000 for any fiscal year; or

"(2) $50,000 for any multiyear contract.

"(b) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(1) defining the term 'person' as used in subsection (a); and

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations contained in subsection (a).".

(b) Strike sections 12161 and 12162.

WELLSTONE (AND LIEBERMAN) AMENDMENT NO. 3021

Mr. WELLSTONE (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 1357, supra as follows:

SEC. 1. PAYMENT LIMITATION.

Strike section 1110 and insert the following:

"SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

"(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (1) and inserting the following:

"(1) LIMITATION.—

"(A) PAYMENTS.—Subject to sections 1001A through 1001C, for each of the 1996 and subsequent crops, the total amount of deficiency payments and land diversion payments and payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under 1 or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, rice and oilseeds (as defined in section 205(a) of the Act (7 U.S.C. 1446f) may not exceed $40,000.

"(B) DIRECT ATTRIBUTION.—The Secretary shall attribute payments specified in subparagraphs (A) and (B) and paragraph (2) to persons who receive the payments directly and attribute the payments received by entities to individuals who own the entities in proportion to their ownership interest in the entity.

"(b) CONFORMING AMENDMENTS.—

"(1) Section 1001(2)(A) of the Act (7 U.S.C. 1308(2)(a)) is amended by striking '1991 through 1997' and inserting '1996 and subsequent'.

"(2) Section 1001(2)(B)(iv) of the Act (7 U.S.C. 1308(2)(B)(iv) is amended by striking '107B(a)(3) or 105B(a)(3)' and insert '304(a)(3) or 305(a)(3)'.

"(3) Section 1001(2)(B)(v) of the Act (7 U.S.C. 1308(2)(B)(v)) is amended by striking '107B(b), 105B(b), 103(B)(b), 101B(b), 101B(b),' and insert '302, 303, 304, 305,'

"(4) Section 1001C(a) of the Act (7 U.S.C. 1308-3(a)) is amended by striking '1991 through 1997' each place it appears and inserting '1996 and subsequent'."

SEC. 2. COMMODITY PROGRAMS.

(a) Strike section 1103(4)(C)(ii)(I) and insert the following:

"(I) by striking '85 percent' and inserting '72.5 percent';".

(b) Strike section 1104(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent';".

(c) Strike section 1105(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent';" and

(d) Strike section 1106(4)(C)(ii)(I) and inserting the following:

"(I) by striking '85 percent' and inserting '72.5 percent'.".

SEC. 3. CONSERVATION RESERVE PROGRAM.

Amend section 1201(a) by striking "(1) $1,787,000,000 for fiscal year 1996" and all that follows through "$974,000,000 for fiscal year 2002" and insert the following—

"(1) $1,802,000,000 for the fiscal year 1996;

"(2) $1,811,000,000 for the fiscal year 1997;

(3) "$1,476,000,000 for the fiscal year 1998;

(4) "$1,277,000,000 for the fiscal year 1999;

(5) "$1,131,000,000 for the fiscal year 2000;

(6) "$1,029,000,000 for the fiscal year 2001; and

(7) "$1,004,000,000 for the fiscal year 2002."

BROWN AMENDMENT NO. 3022

Mr. DOMENICI (for Mr. BROWN) proposed an amendment to the bill S. 1357, supra; as follows:

On page 13, strike line 6 through 12 and insert the following:

SEC. 121. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget.

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (related to the Acquisition and Maintenance of Buildings Abroad" account).

BRADLEY AMENDMENT NO. 3023

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5400 and 5401.

LEAHY AMENDMENT NO 3024

Mr. EXON (for Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

On page 103, on line 6, strike "(D)" and insert "(E)".

On page 103, strike line 5 and insert the following:

"(D) until October 1, 1998, a pregnant woman not otherwise exempt under this paragraph; or"

On page 130, strike line 14 and insert the following:

"SEC. 1430. PROVIDING FUNDING FOR AMERICA SAMOA.

"Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended by adding the following new subsection—

'(e) From the sums appropriated under this Act, the Secretary shall pay to the Territory of American Samoa up to $5,300,000 for each of the 1996 and 1997 fiscal years to finance 100 percent of the expenditures of a nutrition assistance program extended under P.L. 96-597 during that fiscal year.'.".

SEC. 1431. EFFECTIVE DATE."

On page 152, line 7, strike "December 31, 1995" and insert "November 30, 1995".

On page 152, line 8, strike "January 1, 1996" and insert "December 1, 1995".

BUMPERS (AND OTHERS) AMENDMENT NO. 3025

Mr. BUMPERS (for himself, Mr. BRADLEY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike pages 360-382 and insert the following in lieu thereof: Property Act of 1944 (50 U.S.C. App. sec. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7 million per year, the remainder of the proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy shall draw down and sell 7 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility.

SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 to 6422) is amended by adding the following new section after section 167:

"SEC. 168. USE OF UNDERUTILIZED FACILITIES.

"(a) Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

"(b) Petroleum product stored under this section is not part of the Reserve and may be exported from the United States.".

"(c) Beginning in fiscal year 2001 and in each fiscal year thereafter, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".

Subtitle H—Mining

SEC. 5700. SHORT TITLE.

This subtitle may be cited as "The Mining Law Revenue Act of 1995".

SEC. 5701. DEFINITIONS.

When used in this subtitle:

(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing

Acts, and the judicial and administrative decisions interpreting such Acts.

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this Subtitle, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) "Mineral activities" means any activity on Federal lands related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to this Subtitle.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(10) "Secretary" means the Secretary of the Interior.

SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.

(a) Maintenance Fee.—After the date of enactment of this Subtitle, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Subtitle, shall pay in advance to the Secretary annually on or before September 1, and until a patent has been issued therefor, a maintenance fee of $100 per mining claim or site. The owner of each unpatented mining claim or site located after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), in addition to the location fee required under subsection (c) of this section, an initial maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site. If a mining claim or site is located within 90 days before September 1 and the copy of the notice or certificate of location is timely filed with the Bureau of Land Management under subsection 314(b) of the Federal Land Policy and Management Act of 1976 after September 1, the annual maintenance fee payable under the first sentence of this subsection shall be paid at the time such notice or certificate of location is filed, in addition to the location fee and the initial $100 maintenance fee. No maintenance fee shall be required if the fee is waived or the owner of the mining claim or site is exempt as provided in section 5703 of this Subtitle.

(b) Maintenance Fee Statement.—Each payment under subsection (a) of this section shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. Such statement may include the name of the mining claim or site, the serial number assigned by the Secretary to such mining claim or site, the description of the book and page in which the notice or certificate of location for such mining claim or site is recorded under State law, any combination of the foregoing, or any other information that reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(c) Location Fee.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per claim.

(d) Credit Against Royalty.—The annual claim maintenance fee paid for any unpatented mining claim or site on or before September 1 of any year shall be credited against the amount of royalty required to be paid under Section 5705 for such mining claim or site during the following assessment year.

(e) Failure To Comply.—The failure of the owner of the mining claim or site to pay the claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under subsection (a) or subsection (c) of this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: *Provided, however*, That, if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection (a) or subsection (c) of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(f) Repeal of Omnibus Budget Reconciliation Act Fee Requirements.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f through 28k) are hereby repealed.

(g) Amendment of FLPMA Filing Requirements.—Section 314 (a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed.

SEC. 5703. WAIVER AND EXEMPTION.

(a) Waiver of Fee.—The maintenance fee provided for in subsection 5702(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(b) Related Persons.—As used in subsection (a), the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(c) Exemption.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal Governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the maintenance fee requirement of subsection (a) of section 5702 for the assessment year following the filing of the certification.

SEC. 5704. PATENTS.

(a) In General.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this Subtitle shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) Right of Reentry.—

(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, a patent issued pursuant to this section shall be subject to a right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mineral activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(2) If the surface of the patented estate is used by the patentee, or any subsequent owners, for any purpose other than for conducting mineral activities in good faith, the Secretary shall serve on all owners of interests in such patented estate, in the manner prescribed for service of a summons and complaint under the Federal Rules of Civil Procedure, notice specifying such unauthorized use and providing not more than 90 days in which such unauthorized use must be terminated. The giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate. The Secretary may exercise the right of reentry as provided in paragraph (3) of this subsection if such unauthorized use has not been terminated in the time provided in this paragraph, and only after all appeal rights have expired and any appeals of such notice have been finally determined.

(3) The Secretary may exercise the right of the United States to reenter such patented estate by filing a declaration of reentry in the office of the Bureau of Land Management designated by the Secretary and recording such declaration where the notice or certificate of location for the patented claim or site is recorded under State law. Upon the filing and recording of such declaration, all right, title and interest in such patented estate shall revert to the United States. Lands and interests in lands for which the United States exercises its right of reentry under this section shall remain open to the location of mining claims and mill sites, unless withdrawn under other applicable law.

(c) PATENT TRANSITION.—Notwithstanding any other provision of law, the requirements of this subtitle (except the payment of maintenance and location fees in accordance with sections 5702 and 5703) shall not apply to those patent applications pending at the Department of the Interior as of September 30, 1995. Such patents shall be issued under or subject to the general mining laws in effect prior to the date of enactment of this subtitle.

SEC. 5705. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Production of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5704(c) applies) or any mining claim patented under subsection 5704(a), including mineral concentrates and products derived from locatable minerals, shall be subject to the payment of a royalty of 2.5 percent on the Net Smelter Return of all ores, minerals, metals, and materials mined and removed and sold.

(2) WAIVER.—If the Secretary determines that the Secretary's cost of accounting for and collecting a royalty for any mineral exceeds or is likely to exceed the amount of royalty to be collected, the Secretary shall waive such royalty. The obligation to pay royalties hereunder shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) EXEMPTION.—Any mine with an annual Revenues Received of less than $500,000 shall be exempt from the requirement to pay a royalty under this section.

(5) REVENUES RECEIVED.—All Revenues Received shall be determined in accordance with generally accepted accounting principles and practices consistently applied. Revenues Received shall be determined by the accrual method.

(7) COMMINGLING.—The payor shall have the right to commingle ore and minerals from the claim, group of claims, or patent comprising an operation, with ore from other lands and properties: *Provided, however*, That the payor shall calculate from representative samples the average grade of the ore before commingling. If concentrates are produced from the commingled ores, the payor shall calculate from representative samples calculating the average grade of the ore, and calculating average recovery percentages the payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

(8) EFFECTIVE DATE.—

(A) IN GENERAL.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(C) TIME FOR PAYMENT.—Any royalty payment attributable to production during the first 15 calendar months after the date of enactment of this subtitle shall be due on the date that is 12 months after the date of enactment of this subtitle.

(10) SPLIT ESTATES.—For circumstances where a claim, group of claims or patent is subject to this section but does not comprise the entirety of a mine, the Annual Revenues and Costs of Produc- * * *

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3026

Mr. DOMENICI (for Mr. BINGAMAN, for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1357, supra; as follows:

At the appropriate place in subtitle A of title VII, insert the following new section:

SEC. . ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R)) is amended by striking "section 1869(b)" and inserting "section 1869 (a) or (b)".

LOTTS (AND JEFFORDS) AMENDMENT NO. 3027

Mr. DOMENICI (for Mr. LOTT, for himself and Mr. JEFFORDS) proposed an amendment to the bill S. 1357, supra; as follows:

On page 205, between lines 13 and 14, insert the following:

SEC. 3005. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7)not more than $250,000 to acquire sites at Perryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

BUMPERS (AND OTHERS) AMENDMENT NO. 3028

Mr. BUMPERS (for himself, Mr. BRADLEY, Mrs. MURRAY, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of the bill add the following new title:

"TITLE XIII—BUDGET PROCESS

"For purposes of the Congressional Budget Act of 1974, the amounts realized from sales of assets shall not be scored with respect to the level of budget authority, outlays or revenues."

BIDEN AMENDMENT NO. 3029

Mr. BIDEN proposed an amendment to the bill S. 1357, supra; as follows:

On page 1463, between lines 2 and 3, insert the following:

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (b) is owned by a State or by an agency or political subdivision of a State,

the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

BUMPERS (AND OTHERS) AMENDMENT NO. 3030

Mr. BUMPERS (for himself, Mr. BRADLEY, Mr. LAUTENBERG, and Mr. LEAHY) proposed an amendment to the bill S. 1357, supra; as follows:

Strike "for" on line 4 of page 369 through "thereby" on line 19 on page 395.

BRADLEY AMENDMENT NO. 3031

Mr. BRADLEY proposed an amendment to the bill S. 1357, supra; as follows:

On page 1622, beginning on line 8, strike all through page 1636, line 12, and insert the following:

SEC. 12301. MODIFICATIONS TO TIME EXTENSION PROVISIONS FOR CLOSELY HELD BUSINESSES.

(a) INCREASED CAP ON 4 PERCENT INTEREST RATE.—Subparagraph (A) of section 6601(j)(2) (relating to 4-percent portion) is amended by striking "$345,800" and inserting "$780,800".

(b) PARTNERSHIP, ETC., RESTRICTIONS LIFTED.—Subparagraph (A) of section 6166(b)(7) (relating to partnership interests and stock which is not readily tradable) is amended to read as follows:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any non-readily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate."

(c) HOLDING COMPANY RESTRICTIONS LIFTED.—Paragraph (8) of section 6166(b) (relating to stock in holding company treated as business company stock in certain cases) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph, then for purposes of this section, the portion of the stock of any holding company which represents direct ownership (or indirect ownership through 1 or more other holding companies) by such company in a business company shall be deemed to be stock in such business company.",

(2) by striking subparagraph (B),

(3) by striking "any corporation" in subparagraph (D)(i) and inserting "any entity", and

(4) by redesigning subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

One page 1639, beginning on line 10, strike all through page 1649, line 9, and insert the following:

SEC. 12304. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor but)—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

BRADLEY (AND HARKIN) AMENDMENT NO. 3032

Mr. BRADLEY (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1357, supra, as follows:

On page 1772, after line 23, add the following new section:

SEC. 12809. DISALLOWANCE OF DEDUCTIONS FOR ADVERTISING AND PROMOTIONAL EXPENSES RELATING TO TOBACCO PRODUCT USE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of subtitle A (relating to items not deductible) is amended by adding at the end the following new section:

"SEC. 280I. DISALLOWANCE OF DEDUCTION FOR TOBACCO ADVERTISING AND PROMOTIONAL EXPENSES.

No deduction shall be allowed under this chapter for expenses relating to advertising or promoting cigars, cigarettes, smokeless tobacco, pipe tobacco, or any similar tobacco product. For purposes of this section, any term used in this section which is also used in section 5702 shall have the same meaning given such term by section 5702."

(b) USE OF FUNDS FOR MEDICAID PROGRAM.—Section 2121(b) of the Social Security Act, as added by section 7901 of this Act is amended by adding at the end the following new paragraph:

"(3) APPROPRIATION OF ADDITIONAL AMOUNTS FOR POOL AMOUNTS.—For purposes of paragraph (1), the pool amount for each fiscal year is increased by an amount that is hereby authorized to be appropriated and is appropriated equal to the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment made by section 12809(a) of the Balanced Budget Reconciliation Act of 1995."

(c) CONFORMING AMENDMENT.—The table of sections for such part IX is amended by adding after the item relating to section 280H the following new item:

"Sec. 280I. Disallowance of deduction for tobacco advertising and promotion expenses."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

DORGAN (AND OTHERS) AMENDMENT NO. 3033

Mr. DORGAN (for himself, Mr. HARKIN, and Mr. KENNEDY) proposed an amendment to the bill S. 1357, supra, as follows:

AMENDMENT NO. 3033

Strike section 12141 and insert:

SEC. 12141. CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the lesser of—

"(1) the qualified capital gain of the taxpayer for the taxable year, or

"(2) the excess of—

"(A) $250,000, over

"(B) the aggregate amount allowable as a deduction under this section for prior taxable years.

"(b) QUALIFIED CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) gain for the taxable year from sales or exchanges after October 13, 1995, of capital assets held more than 10 years.

"(2) SALES BETWEEN RELATED PARTIES.—Gains from sales and exchanges to any related person (within the meaning of section 267(b) or 707(b)(1)) shall not be taken into account in determining qualified capital gain.

"(3) SPECIAL RULE FOR SECTION 1250 PROPERTY.—Solely for purposes of this section, in applying section 1250 to any disposition of section 1250 property, all depreciation adjustments in respect of the property shall be treated as additional depreciation.

"(c) SECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—No deduction shall be allowed under this section to—

"(1) an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

"(2) a married individual (within the meaning of section 7703) filing a separate return for the taxable year, or

"(3) an estate or trust.

"(d) SPECIAL RULES.—

"(1) JOINT RETURNS.—The amount of the qualified capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under subsection (a)(2) for any succeeding taxable year.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying this section with respect to any pass-thru entity, the determination of when the sale or exchange occurs shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes October 14, 1995, the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 14, 1995."

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATE.—Subsection (h) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) COORDINATION WITH OTHER PROVISIONS.—For purposes of paragraph (1), the amount of the net capital gain shall be reduced (but not below zero) by the sum of—

"(A) the amount of the qualified capital gain (as defined in section 1202(b)) for the taxable year to the extent taken into account under section 1202(a) for the taxable year, plus

"(B) the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(c) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(d) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1) (relating to limitations on deductions of individuals) is amended by adding at the end the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION REDUCED.—In determining the deduction allowable under section 1202, section 1202(a) shall be applied by substituting '25 percent' for '50 percent' ".

(2) CONFORMING AMENDMENT.—Section 57(a)(7) is amended by striking "1202" and inserting "1203".

(e) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(f) TECHNICAL AND CONFORMING CHANGES.—

(1) Clause (iii) of section 163(d)(4)(B) is amended to read as follows:

"(iii) the sum of—

"(I) the portion of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net capital gain referred to in clause (ii)(I)) taken into account under section 1202, reduced by the amount of the deduction allowed with respect to such gain under section 1202, plus

"(II) so much of the gain described in subclause (I) which is not taken into account under section 1202 and which the taxpayer elects to take into account under this clause."

(2) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(3) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 and the exclusion under section 1203 (whichever is appropriate) shall be taken into account."

(4) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(5) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account."

(6) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account".

(7) Paragraph (4) of section 691(c) is amended by inserting "1203," after "1202,".

(8) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202".

(9)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(10) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(11)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995."

(12) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply" before the period at the end thereof.

(13) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(14)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent in the case of a corporation" and inserting "19.8 percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent in the case of a corporation" and inserting "19.8

percent (28 percent in the case of a corporation or a taxpayer who has exceeded the limitation under section 1202(a)(2)".

(15) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see section 1202."

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.

"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) COLLECTIBLES.—The amendments made by subsection (e) shall apply to sales and exchanges after October 13, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (f)(11) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (f)(13) shall apply only to amounts paid after the date of the enactment of this Act.

On page 1703, between lines 17 and 18, insert:

(g) CITIZENS BECOMING COVERED EXPATRIATES TO BE TAXED AS RESIDENTS UPON RETURN TO UNITED STATES.—Paragraph (3) of section 7701(b) is amended by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR COVERED EXPATRIATES.—Notwithstanding any other provision of this paragraph, in the case of an individual who is treated as a covered expatriate under section 877A by reason of relinquishing the individual's United States citizenship, such individual shall be treated as meeting the substantial presence test of this paragraph with respect to any calendar year if the individual is present in the United States for more than 30 days during the calendar year. The preceding sentence shall not apply to the extent that the Secretary determines its application would contravene any treaty of the United States."

SEC. . SENSE OF THE SENATE.

It is the sense of the Senate that (a) the Senate conferees should not recede to the House on the provisions of this chapter eliminating the tax loophole for billionaires and other wealthy individuals who renounce their United States citizenship in order to avoid their fair share of United States taxes; and (b) the Senate reaffirms its commitment to eliminate this tax loophole.

FEINGOLD (AND OTHERS) AMENDMENT NO. 3034

Mr. FEINGOLD (for himself, Mr. WELLSTONE, and Mr. BUMPERS) proposed an amendment to the bill S. 1357, supra; as follows:

At the end of chapter 8 of subtitle I of title XII add the following new section:

SEC. . CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SIMON (AND OTHERS) AMENDMENT NO. 3035

Mr. SIMON (for himself, Mr. STEVENS, and Mr. BREAUX) proposed an amendment to the bill S. 1357, supra; as follows:

On page 1771, line 25, strike "1995" and insert "1997".

On page 1772, line 3, strike "1995" and insert "1997".

WELLSTONE AMENDMENT NO. 3036

Mr. WELLSTONE proposed an amendment to the bill S. 1357, supra; as follows:

Strike sections 5930, 5931, and 5932.

D'AMATO AMENDMENT NO. 3037

Mr. DOMENICI (for Mr. D'AMATO) proposed an amendment to the bill S. 1357, supra; as follows:

On page 187, line 3: and on page 187, line 22, strike "5" and insert "10."

ROTH AMENDMENT NO. 3038

Mr. ROTH proposed an amendment to the bill S. 1357, supra; as follows:

On page 541, strike line 22, and all that follows through page 542, line 2, and insert:

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

"(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.48;

"(IV) October 1, 1997, and before October 1, 1998, 'c' is equal to 1.33; and

"(V) October 1, 1998, and before October 1, 2002, 'c' is equal to 1.23.".

On page 548, between lines 2 and 3, insert the following new section:

SEC. 7019. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN OTHER CONDITIONS.

Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)) is amended, in the matter preceding item (a), by striking "by or in a skilled nursing facility" and inserting "by a skilled nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

On page 548, strike line 3, and all that follows through page 568, line 13, and insert the following:

Subchapter B—Payments to Skilled Nursing Facilities

PART I—PROSPECTIVE PAYMENT SYSTEM

SEC. 7025. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

PART II—INTERIM PAYMENT SYSTEM

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

"(A) the per stay amount applicable to the facility under subsection (d) for the period; and

"(B) the number of stays beginning during the period for which payment was made to the facility for such services.

"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

"(1) AMOUNT FOR FISCAL YEAR 1996.—

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the greater of—

"(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(B) 1.2 percent (1.1 percent for fiscal years after 1997).

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

"(1) the sum of—

"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

"(2) the average number of days per stay for all residents of the skilled nursing facility.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—The Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(i) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 7031, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(T) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

"(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REVISED SALARY EQUIVALENCE LIMITS.

The Secretary of Health and Human Services shall determine the non-routine per stay payment amounts for each skilled nursing facility established under section 1888A of the Social Security Act, as added by section 7032, as if salary equivalence guidelines were in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7025) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 7038. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

On page 774, between lines 2 and 3, insert the following:

"(g) SOLVENCY STANDARDS.—A medicaid plan shall provide that any State law solvency requirements that apply to private sector health plans and providers shall apply to the State medicaid plan and providers under such plan.

Beginning on page 775, strike line 14 and all that follows through page 776, line 10, and insert the following:

"(1) SET-ASIDES.—Subject to subsection (e)—

"(A) GENERAL SET-ASIDE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The medicaid plan shall provide priority for making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 (not including expenditures for such fiscal year taken into account under subparagraph (B)) which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'targeted low-income elderly individual' means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

On page 813, strike lines 4 through 10, and insert the following:

"(A) fiscal year 1996 is $97,245,440,000;
"(B) fiscal year 1997 is $102,607,730,702;
"(C) fiscal year 1998 is $106,712,039,930;
"(D) fiscal year 1999 is $110,980,521,527;
"(E) fiscal year 2000 is $115,419,742,389;
"(F) fiscal year 2001 is $120,036,532,084;
"(G) fiscal year 2002 is $124,837,993,367;

On page 814, strike lines 9 through 24, and insert the following:

fiscal year 1996, subject to paragraph (4), is 109 percent of—

"(i) the greatest of—

"(I) the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1995,

"(II) 103.379859 percent of the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994, or

"(III) 95 percent of the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1993; multiplied by

"(ii) the scalar factor described in subparagraph (D).

Beginning on page 815, line 10, strike all through page 816, line 13 and insert the following:

"(D) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is the ratio of $89,216,000,000 to the total amount of Federal expenditures (minus the amount paid under section 1923) made to all States and the District of Columbia for the 4 quarters in fiscal year 1995.

Beginning on page 818, line 12, strike all through page 819, line 8, and insert the following:

"(A) FLOOR.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

"(I) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

"(II) .24 percent of the pool amount for such fiscal year; or

"(III) in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.9 percent of such State's or District's outlay allotment for 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the preceding fiscal year.

"(ii) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

"(I) For fiscal year 1999, 104.25 percent.

"(II) For fiscal years 2000 and 2001, 104 percent.

"(III) For fiscal year 2002, 103.4 percent.

"(B) CEILING.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

"(II) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage is—

"(I) for fiscal year 1997, 125.5 percent;
"(II) for fiscal year 1998, 132 percent;
"(III) for fiscal year 1999, 151 percent;
"(IV) for fiscal year 2000, 156 percent;
"(V) for fiscal year 2001, 144 percent.
"(VI) for fiscal year 2002, 146 percent.

On page 833, line 21, after "section 2121" insert ", plus any additional amount available to such State under subsection (g) or (h),".

On page 858, before line 19, insert the following new subsection:

"(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) CARRYOVER OF ALLOTMENT PERMITTED.—

"(A) IN GENERAL.—If the amount of the payment to a State under this section for a fiscal year does not exceed—

"(i) the amount of the allotment provided to such State under section 2121 for such fiscal year, plus

"(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2)) resulting from the application of this subparagraph in the preceding fiscal year,

then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

"(B) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference described in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 to a State may not exceed the total amount for the 2 immediately preceding fiscal years of the difference in each such fiscal year between the payment to a State under this section and the amount of the allotment provided under section 2121.

"(2) EXCESS AMOUNTS REALLOCATED.—

"(A) IN GENERAL.—The sum of the amounts in excess of the maximum carryover amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and the District of Columbia shall be available for payment in such fiscal year to qualified States on a quarterly basis as otherwise determined under this section.

"(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

"(i) with a State outlay allotment under section 2121 which is—

"(I) subject to the ceiling determined under section 2121(c)(3)(B) for the fiscal year,

"(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

"(III) subject to such floor;

"(ii) which has no amount of difference as determined under paragraph (1) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year; and

"(iii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

"(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments applied for by all qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate such payments among groups of qualified States in the following order:

"(i) All qualified States described in subparagraph (B)(i)(I).

"(ii) All qualified States described in subparagraph (B)(i)(II).

"(iii) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

"(h) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) APPROPRIATION.—There is hereby authorized to be appropriated and there are appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

"(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

"(A) For Arizona, $63,000,000.

"(B) For Florida, $250,000,000.

"(C) For Georgia, $34,000,000.

"(D) For Kentucky, $76,500,000.

"(E) For South Carolina, $181,000,000.

"(F) For Washington, $250,000,000.

"(G) For Vermont, $50,000,000.

On page 858, line 19, strike "(g)" and insert "(i)".

At the end of Subtitle B of Title VII insert:

SEC. 7196: ADJUSTMENT OF POOL AMOUNTS

Notwithstanding any other provisions in law, the Secretary shall adjust Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 for each state by a proportionate amount such that total Medicaid pool amounts in FY 1996, FY 1997, FY 2000, and FY 2001 shall not exceed the amounts provided in section 2121(b)(1) of Social Security Act as added by section 7191(a) of this Act,

a. reduced by $1,900,000,000 in FY 1996, and increased by a similar amount in the subsequent fiscal year; and

2b. reduced by $2,300,000,000 in FY 2000, and increased by a similar amount in the subsequent fiscal year.

Beginning on page 889, line 20, strike all through page 897, line 19, and insert the following: collected shall be paid to such individual.

"(c) EFFECTIVE DATE+—Notwithstanding any other provision of law, subsection (b) shall be effective on and after January 1, 1996.

"SEC. 2137. REQUIREMENTS FOR NURSING FACILITIES.

"(a) REQUIREMENTS FOR NURSING FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day after the date of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

"(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

"(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

"(i) are equivalent to or stricter than the requirements imposed under paragraph (1); and

"(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect,

may apply to the Secretary for a waiver of the requirements imposed under paragraph (1).

"(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under subparagraph (A) not later than 120 days after the date the application is submitted.

"(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

"(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

"(i) the penalty described in subsection (b);

"(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

"(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

"(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 2 percent of the State outlay allotment under section 2121(c) for such fiscal year if the Secretary makes a determination that a State medicaid plan has failed to comply with a provision of section 1919, as so in effect, or any State law requirements applicable to such plan under a waiver granted under subsection (a)(2)(A).

On page 980, between lines 2 and 3, insert the following new sections:

SEC. 7196. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(iii) (42 U.S.C. 1396r(e)(7)(B)(iii)) is amended to read as follows:

"(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.".

(2) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking "ANNUAL".

(3) The heading for section 1919(e)(7)(D)(i) (42 U.S.C. 1396r(e)(7)(D)(i)) is amended by striking "ANNUAL".

SEC. 7197. NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

SEC. 7198. MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicaid program under title XXI of such Act (in this section referred to as the "medicare and medicaid programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 10 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year quarter occurring during a demonstration project

conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and medicaid programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the day before the date of the enactment of this Act), of any items and services provided to chronically-ill elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section.

(g) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicaid and medicare programs as a result of the demonstration project.

On page 1394, after line 19, insert the following:

SEC. 7482. COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEAR 1996.

Notwithstanding any other provision of law, in the case of any program within the jurisdiction of the Committee on Finance of the United States Senate which is adjusted for any increase in the consumer price index for all urban wage earners and clerical workers (CPI-W) for the United States city average for all items, any such adjustment which takes effect during fiscal year 1996 shall be equal to 2.6 percent.

Beginning on page 786, strike line 9 and all that follows through page 788, line 6.

ADDITIONAL STATEMENTS

COMMERCIAL AVIATION FUEL TAX EXEMPTION

• Mr. SANTORUM. Mr. President, on January 31, 1995, I introduced my first bill as a U.S. Senator, S. 3004, the Commercial Aviation Fuel Tax Repeal Act. We are now on the verge of passing a budget which, for the first time in 26 years, will balance the Federal budget and eliminate the Federal deficit. I am proud to note that S. 304 has been incorporated to a great extent into this historic budget. As a result, I wish to take this time to mention the thousands of workers and the many unions and business professionals who have provided consistent support for this crucial piece of legislation.

First, I wish to submit for the record a resolution as passed by the National Aerospace Workforce Coalition. Throughout the debate on the aviation fuel tax issue, I worked closely with the National Aerospace Workforce Coalition. This organization consists of local unions and workforce associations. The coalition represents some 42 different unions in 29 States. Many of my colleagues have received letters and phone calls from coalition members in their States. The coalition believes, as I do, that a commercial aviation fuel tax will be extremely harmful to America's manufacturing base.

The resolution which I have submitted goes to the heart of the relationship between a tax on jet fuel and commercial aircraft orders, namely, that every increase in taxes on commercial jet fuel will be followed by more cancellations and deferred orders of American made engines and aircraft.

The labor unions supporting the repeal of this fuel tax include the spectrum of America's aerospace industrial base. This resolution has been passed by unions representing scientists and engineers, production workers, as well as unions engaged in casting and fabricating the specialized metals used in the production of modern aircraft.

Further, I wish to note that the International Association of Machinist and Aerospace Workers, District Lodge 141 passed a similarly worded resolution on October 24, 1995. This union represents 34,000 members at 13 airlines, and their delegates unanimously passed this resolution at their annual convention.

The balanced budget which the Senate will pass shortly relieves the airline industry from any unfair tax, but only for a limited time. Currently, the House of Representatives has extended the aviation fuel tax exemption for 2 years and the Senate shall extend it for only 17 months. I am pleased that in these difficult budgetary times both Chambers have recognized not only the unfairness of this unprecedented tax, but the critical need to avoid further hindering a struggling industry. However, absent outright repeal, I strongly believe that any extension of the exemption must run for at least 2 years. I will work hard during the House-Senate conference on the budget to ensure that the extension extends for at least this long. Further, it is critical for the Congress to address broader taxation and fee issues with respect to the airline industry during the next session of the 104th Congress. I will work to hold hearings on this issue in the spring of 1996.

The reasons for at least a 2-year extension are clear. U.S. airlines have lost money every year since 1990, with losses for the period totaling almost $13 billion. Almost one-half of all major U.S. airlines have filed for chapter 11 bankruptcy protection during the crisis, including America West, Continental, twice, TWA, twice, Eastern, Pan Am, and Midway. The last three have ceased operations altogether. Cumulative industry debt since 1990 has increased from $9 billion to $46 billion, and the bonds of all major U.S. airlines are rated as junk bonds. Airlines are facing Government-mandated fleet replacement costs to upgrade fleets to quiet technology aircraft that will exceed $15 billion a year through the rest of the decade. Imposing a fuel tax now, at a cost of $527 million a year, would wreak havoc on an industry struggling to survive.

In addition, the airline industry has historically paid excise and cargo fees in lieu of any fuel tax. These fees will exceed $6.9 billion in 1995. Imposing a fuel tax absent any broader effort at reassessing these other taxes would be both unprecedented and unfair.

Hence, for both fiscal and fairness reasons, an extension of the aviation fuel tax exemption is greatly needed. While we in the Senate have taken steps in the right direction by incorporating S. 304, in part, into this year's budget act, we must continue to ensure that the airline industry is taxed fairly. This industry is one of our Nation's last great manufacturing gains, and its tens of thousands of workers deserve the right to continue to uphold America's predominance in this critical industry.

I ask that the National Aerospace Workforce Coalition resolution referred to earlier be printed in the RECORD.

The resolution follows:

Aviation Fuel Tax Resolution

Whereas our country's airline industry has suffered enormous losses over the last five years, reducing airline employment by more than 120,000 workers and forcing remaining workers to accept reductions in wages and benefits;

Whereas several years ago government mandates required the airline companies to pay excise taxes and fees in lieu of a fuel tax, which today collectively amounts to more than 52 cents per gallon of fuel and places our nation's airline companies at a competitive disadvantage;

Whereas there is a direct relationship between a healthy airline industry and a healthy aerospace industry, and that only profitable airlines can modernize their fleets with American-built engines and aircraft to help revive an aerospace industry already devastated by drastic cuts in defense;

Whereas over 1,000 commercial aircraft orders have been canceled or deferred in the past five years, because of losses in the airline industry resulting in a cost of 125,000 airframe and aerospace jobs;

Whereas every increase in taxes on commercial airline fuel will be followed by more cancellations and deferred orders of American-made aircraft;

Therefore the National Aerospace Workforce Coalition urges the Senate to repeal the aviation fuel tax as it will only cause more hardship for American workers and further erode our country's aerospace industrial base.•

CONSECRATION CELEBRATION

• Mr. SARBANES. Mr. President, I rise today to call to the attention of my colleagues the activities that are underway to commemorate the consecration celebration of the St. Demetrios Greek Orthodox Church of Baltimore, MD. This indeed is a major achievement for this community and culminates 25 years of dedication, hard work, and energetic involvement.

His Excellency Metropolitan Silas of New Jersey will join with Father Ernest Arambiges, pastor of St. Demetrios, and the parishioners and friends of the community to celebrate the ancient ceremony of consecration. This signifies that the church is formally dedicated to its spiritual mission.

Founded in 1970, St. Demetrios is one of three centers of worship for the Greek Orthodox community in Baltimore. Located in northern Baltimore County, St. Demetrios is a product of the love and labor of its parishioners. It took the 300 families of St. Demetrios almost 8 years of fundraising before they had the means to build their church's edifice. Before that, they worshipped in the auditorium of Parkville High School. The community has worshipped in the present edifice for over a decade and has found itself a permanent and lasting home.

The consecration marks a new chapter in the history of Orthodoxy in Maryland as the St. Demetrios community is the first in the Baltimore area located outside the central city area. It is a focal point for wholesome community life where young and old can pray, learn, and grow together both socially and spiritually.

I want to congratulate the entire St. Demetrios family for their dedication and for enriching our Baltimore community with this inspiring church building.

Mr. President, I request that an article from the Baltimore Sun which records this important event be printed in the RECORD.

The article follows:

[From the Baltimore Sun]

St. Demetrios Consecration Planned Sunday

In what Greek Orthodox clergy say is "a once-in-lifetime event," Baltimore County's St. Demetrios Church will be consecrated this weekend by two of the denomination's revered leaders, who will encase relics of three early Christian saints in the altar table.

His Eminence Archbishop Iskovos and His Excellency Metropolitan Silas will preside at the consecration service at 9 a.m. Sunday, the culmination of a series of ancient rites this week at the domed church at 2504 Cub Hill Road.

Construction of the church, decorated in the Byzantine style, began in 1983 on a 30-acre site in the Cub Hill section of the county north of Carney.

Bones of Saints Boniface, Cyril of Alexandria and Panteleimon will be brought to the church tomorrow and set on a paten. The relics will be covered with a veil until Sunday morning, when they will be interred in a 1,600-year-old ceremony.

During the services Sunday, Archbishop Iakovos, Primate of the Greek Orthodox Archdiocese of North and South America, will be assisted by Metropolitan Silas, who has immediate jurisdiction over the parish. They will carry the relics around the church three times in a procession of the congregation.

Water and oil will be used in the consecration service, which will include the lighting of the vigil lamp before the tabernacle.

The congregation's worship and celebrations this week began with the St. Demetrios Feast Day Vesper Service and a reception Wednesday evening, and continued with a Divine Liturgy yesterday morning. The Great and Solemn Vespers of Consecration at 7 p.m. tomorrow will be followed by another reception in the church's Fellowship Hall.

The congregation has planned a third reception and a dinner-dance beginning at 5 p.m. Sunday at the Sheraton Baltimore North Hotel, 903 Dulaney Valley Road, Towson.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate go into Executive session and immediately proceed to consideration to calendar nominations 316 and 328. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc, are as follows:

Navy

The following named captains of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral (lower half) in the line and staff corps, as indicated, pursuant to the provision of Title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Kenneth Peter Barausk[redacted], U.S. Naval Reserve

Capt. Martin Edward Jancza[redacted], U.S. Naval Reserve

Capt. Pierce Jarvis Johnso[redacted], U.S. Naval Reserve

Capt. Michael Robert Scot[redacted], U.S. Naval Reserve.

INTELLIGENCE OFFICER

To be rear admiral (lower half)

Capt. Larry Lafayette P[redacted], U.S. Naval Reserve

PUBLIC AFFAIRS OFFICER

to be rear admiral (lower half)

Capt. Richard Harry Well[redacted], U.S. Naval Reserve

MEDICAL CORPS OFFICER

To be rear admiral (lower half)

Capt. John Bert Cotto[redacted], U.S. Naval Reserve

Capt. John Conant Weed, J[redacted], U.S. Naval Reserve

SUPPLY CORPS

To be rear admiral (lower half)

Capt. Fred Joseph Schuber I[redacted], U.S. Naval Reserve

CHAPLAIN CORPS

To be rear admiral (lower half)

Capt. Peter Hess Beckwit[redacted], U.S. Naval Reserve

DEPARTMENT OF DEFENSE

John Wade Douglass, of Virginia, to be an Assistant Secretary of the Navy.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR TUESDAY, OCTOBER 31, 1995

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m., Tuesday, October 31; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use at their choice later in the day, and the Senate then proceed to a period for the transaction of routine morning business until 10 a.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I further ask that following the period for morning business the Senate proceed to the consideration of the Transportation appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, the Senate will consider the Transportation conference report, and other available appropriations conference reports and bills, and possibly available authorizations bills. At least a couple of hours of debate is anticipated for the appropriations conference report, and a rollcall vote may be requested on adoption of the conference report. However, that vote would not occur until after the policy luncheons some time after 2 o'clock.

I ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TUESDAY, OCTOBER 31, 1995

Mr. LOTT. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 12:29 a.m. adjourned until Tuesday, October 31, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 27, 1995:

THE JUDICIARY

CHARLES R. STACK, OF FLORIDA, TO BE U.S. CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE PETER T. FAY, RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. NAVY IN THE GRADE INDICATED UNDER SECTION 1370 OF TITLE 10, UNITED STATES CODE.

To be vice admiral

VICE ADM. RICHARD C. ALLEN [redacted]

IN THE ARMY

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

RAYMOND W. CARPENTER [redacted]
STEVEN C. CORDON [redacted]
ERNEST A. FITE [redacted]
HAROLD E. KING, JR. [redacted]
EARL E. LAUER [redacted]
HOWARD E. MAYHEW [redacted]
KIPP O. MILLER [redacted]
THOMAS R. OWENS [redacted]
DENNIS W. PIKE [redacted]
KENNETH B. ROBINSON [redacted]
CHARLES H. SCHLUTER [redacted]
FRANK J. SMITH [redacted]
LARRY S. STROUD [redacted]
JAMES A. WHITEHEAD [redacted]
KENNETH F. WONDRACK [redacted]

THE JUDGE ADVOCATE GENERAL'S CORPS

To be colonel

THOMAS G. SCHUMACHER [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

DAVID K. APPEL [redacted]
RODNEY J. BARHAM [redacted]
COURTLAND C. BIVENS III [redacted]
JOHN L. BRACKLIN [redacted]
ALONZO BRONSON [redacted]
RUSSELL A. CATALANO [redacted]
GERARD R. COGLIANO [redacted]
WILLIAM H. FINCK [redacted]
EARNEST L. HARRINGTON, JR. [redacted]
JOHN W. HELTZEL [redacted]
DUDLEY B. HODGES III [redacted]
STEPHAN K. HUCAL [redacted]
HAROLD D. IRELAND [redacted]
JAMES R. LILE [redacted]
CASEY B. LOWE [redacted]
LARRY J. MASSEY [redacted]
LARRY W. MASSEY [redacted]
WILLIAM C. MATHERS, JR. [redacted]
ROBERT J. MITCHELL [redacted]
KENNETH NIELSEN [redacted]
NORRIS D. PFEIFER [redacted]
PRICE L. REINERT [redacted]
CARLON L. SMITH [redacted]
MICHAEL G. TEMME [redacted]
JACOB A. VAN GOOR [redacted]
GARY W. VARNEY [redacted]
HERBERT R. WATERS III [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

DONNA Y. CRUZE [redacted]
KAREN H. PRICE [redacted]
OLGA C. RODRIGUEZ [redacted]

MEDICAL CORPS

To be lieutenant colonel

TERRENCE J. IHNAT [redacted]
DONALD G. WARD, JR. [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 28, 1995:

DEPARTMENT OF DEFENSE

JOHN WADE DOUGLASS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

CAPT. KENNETH PETER BARAUSKY, [redacted] U.S. NAVAL RESERVE.

CAPT. MARTIN EDWARD JANCZAK [redacted] U.S. NAVAL RESERVE.

CAPT. PIERCE JARVIS JOHNSON [redacted] U.S. NAVAL RESERVE.

CAPT. MICHAEL ROBERT SCOTT [redacted] U.S. NAVAL RESERVE.

INTELLIGENCE OFFICER

To be rear admiral (lower half)

CAPT. LARRY LAFAYETTE POE [redacted] U.S. NAVAL RESERVE.

PUBLIC AFFAIRS OFFICER

To be rear admiral (lower half)

CAPT. RICHARD HARRY WELLS, [redacted] U.S. NAVAL RESERVE.

MEDICAL CORPS OFFICER

To be rear admiral (lower half)

CAPT. JOHN BERT COTTON, [redacted] U.S. NAVAL RESERVE.

CAPT. JOHN CONANT WEED, JR. [redacted] U.S. NAVAL RESERVE.

SUPPLY CORPS

To be rear admiral (lower half)

CAPT. FRED JOSEPH SCHUBER, III [redacted] U.S. NAVAL RESERVE.

CHAPLAIN CORPS

To be rear admiral (lower half)

CAPT. PETER HESS BECKWITH [redacted] U.S. NAVAL RESERVE.

SENATE—*Monday, October 30, 1995*

Following is the text of H.R. 2491, as passed on October 28, 1995:

Resolved, That the bill from the House of Representatives (H.R. 2491) entitled "An Act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Reconciliation Act of 1995".

SEC. 2. TABLE OF TITLES.

The table of titles for this Act is as follows:

Title I. Committee on Agriculture, Nutrition, and Forestry.
Title II. Committee on Armed Services.
Title III. Committee on Banking, Housing, and Urban Affairs.
Title IV. Committee on Commerce, Science, and Transportation.
Title V. Committee on Energy and Natural Resources.
Title VI. Committee on Environment and Public Works.
Title VII. Committee on Finance—Spending Control Provisions.
Title VIII. Committee on Governmental Affairs.
Title IX. Committee on the Judiciary.
Title X. Committee on Labor and Human Resources.
Title XI. Committee on Veterans' Affairs.
Title XII. Committee on Finance—Revenue Provisions.
Title XIII. Miscellaneous Provisions.

TITLE I—COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Eligibility for enrollment in annual programs.
Sec. 1102. Rice program.
Sec. 1103. Cotton program.
Sec. 1104. Feed grain program.
Sec. 1105. Wheat program.
Sec. 1106. Milk program.
Sec. 1107. Oilseeds program.
Sec. 1108. Sugar program.
Sec. 1109. Acreage base and yield system.
Sec. 1110. Extension of related price support provisions.
Sec. 1111. Repeal of miscellaneous authorities.
Sec. 1112. Commodity Credit Corporation interest rate.
Sec. 1113. Peanut program.
Sec. 1114. Catastrophic crop insurance coverage.
Sec. 1115. Savings adjustment.
Sec. 1116. Sense of the Senate regarding tax provisions relating to ethanol.
Sec. 1117. Effective date.

Subtitle B—Conservation

Sec. 1201. Conservation.

Subtitle C—Agricultural Promotion and Export Programs

Sec. 1301. Market promotion program.
Sec. 1302. Export enhancement program.
Sec. 1303. Export of sunflowerseed oil and cottonseed oil.

Subtitle D—Nutrition Assistance

CHAPTER 1—FOOD STAMP PROGRAM

Sec. 1401. Treatment of children living at home.
Sec. 1402. Optional additional criteria for separate household determinations.
Sec. 1403. Adjustment of thrifty food plan.
Sec. 1404. Definition of homeless individual.
Sec. 1405. State options in regulations.
Sec. 1406. Energy assistance.
Sec. 1407. Deductions from income.
Sec. 1408. Amount of vehicle asset limitation.
Sec. 1409. Benefits for aliens.
Sec. 1410. Disqualification.
Sec. 1411. Employment and training.
Sec. 1412. Income calculation.
Sec. 1413. Comparable treatment for disqualification.
Sec. 1414. Cooperation with child support agencies.
Sec. 1415. Disqualification for child support arrears.
Sec. 1416. Permanent disqualification for participating in 2 or more States.
Sec. 1417. Work requirement.
Sec. 1418. Disqualification of fleeing felons.
Sec. 1419. Electronic benefit transfers.
Sec. 1420. Minimum benefit.
Sec. 1421. Benefits on recertification.
Sec. 1422. Failure to comply with other welfare and public assistance programs.
Sec. 1423. Allotments for households residing in institutions.
Sec. 1424. Collection of overissuances.
Sec. 1425. Termination of Federal match for optional information activities.
Sec. 1426. Work supplementation or support program.
Sec. 1427. Private sector employment initiatives.
Sec. 1428. Reauthorization of appropriations.
Sec. 1429. Optional State food assistance block grant.
Sec. 1430. Effective date.

CHAPTER 2—CHILD NUTRITION PROGRAMS

PART I—REIMBURSEMENT RATES

Sec. 1441. Termination of additional payment for lunches served in high free and reduced price participation schools.
Sec. 1442. Lunches, breakfasts, and supplements.
Sec. 1443. Free and reduced price breakfasts.
Sec. 1444. Conforming reimbursement for paid breakfasts and lunches.

PART II—GRANT PROGRAMS

Sec. 1451. School breakfast startup grants.

PART III—OTHER AMENDMENTS

Sec. 1461. Child and adult care food program.

CHAPTER 3—ADDITIONAL SAVINGS

Sec. 1471. Earnings of students.
Sec. 1472. Standard deduction.
Sec. 1473. Vendor payments for transitional housing counted as income.
Sec. 1474. Extending claims retention rates.
Sec. 1475. Reauthorization of Puerto Rico nutrition assistance program.
Sec. 1476. Value of food assistance.
Sec. 1477. Commodity assistance.
Sec. 1478. Summer food service program for children.
Sec. 1479. Special milk program.
Sec. 1480. Nutrition education and training programs.
Sec. 1481. Effective date.

CHAPTER 4—EFFECTIVE DATE

Sec. 1491. Effective date.

Subtitle A—Commodity Programs

SEC. 1101. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PROGRAMS.

(a) IN GENERAL.—Title III of the Agricultural Act of 1949 (7 U.S.C. 1447 et seq.) is amended to read as follows:

"TITLE III—ANNUAL PROGRAMS FOR 1996 THROUGH 2002 CROPS

"SEC. 301. ELIGIBILITY FOR ENROLLMENT IN ANNUAL PROGRAMS.

"(a) IN GENERAL.—To be eligible for enrollment in 1 or more of the annual programs established under this title, the land on a farm must have been enrolled in 1 or more of the annual programs established under this Act for rice, upland cotton, feed grains, or wheat for a total of at least 3 of the 1991 through 1995 crop years, as determined by the Secretary.

"(b) ADDITIONAL CRITERIA.—In addition to the requirements of subsection (a), for the purpose of determining the eligibility of land for enrollment in 1 or more of the annual programs established under this title, the Secretary shall include acreage on the farm considered planted under section 503(c), including a certification of crop acreage base filed with the Secretary in order to preserve base history, for any of the 1991 through 1995 crops.

"(c) ELIGIBILITY TO RECEIVE PAYMENTS AND LOANS.—Enrollment in the annual program for a program crop shall be required as a condition of the receipt of any payment or loan under this title for the program crop.".

(b) CONFORMING AMENDMENTS.—The Agricultural Act of 1949 is amended—

(1) in title I (7 U.S.C. 1441 et seq.)—

(A) by striking all sections other than sections 101B, 103B, 104(d), 105B, 106, 106A, 106B, 107B, 108B, 111, 114, and 115; and

(B) by moving sections 101B, 103B, 105B, and 107B to the end of title III (as amended by subsection (a)) and redesignating the sections as sections 302, 303, 304, and 305, respectively;

(2) in title II (7 U.S.C. 1446 et seq.), by striking all sections other than sections 202, 204, 205, and 206; and

(3) by striking title VI (7 U.S.C. 1471 et seq.).

SEC. 1102. RICE PROGRAM.

Section 302 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 302. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF RICE.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1995" and inserting "2002";

(B) in paragraph (3), by striking "1995" and inserting "2002"; and

(C) in paragraph (5)(D)(i), by striking "August 1, 1991, and ending July 31, 1996" and inserting "August 1, 1996, and ending July 31, 2003";

(3) in subsection (b)(1), by striking "1995" and inserting "2002";

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking "1995" and inserting "2002";

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) in the clause heading, by striking "AND 1995" and inserting "THROUGH 2002"; and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

(II) by striking "and 1995" and inserting "through 2002";

(ii) by redesignating clause (iii) as clause (iv);

(iii) by inserting after clause (ii) the following:

"(iii) MAXIMUM PAYMENT RATE.—The payment rate for rice under this subsection shall not exceed (per hundredweight) $4.21 for the 1996 crop, $4.19 for the 1997 crop, $3.86 for the 1998 crop, $3.48 for the 1999 crop, $3.23 for the 2000 crop, $2.89 for the 2001 crop, and $2.66 for the 2002 crop."; and

(iv) in clause (iv) (as so redesignated), by striking "1995" and inserting "2002";

(C) in subparagraph (C)—

(i) in clause (i), by striking "within the permitted acreage"; and

(ii) in clause (ii)—

(I) by striking "85 percent" and inserting "70 percent"; and

(II) by striking "less the quantity" and all that follows through "(e)(2)(D))";

(D) in subparagraph (D)—

(i) in the subparagraph heading, by striking "50/85" and inserting "25/75";

(ii) in clause (i)—

(I) by striking "an acreage" and all that follows through "rice and";

(II) by striking "15 percent" each place it appears and inserting "25 percent";

(III) by striking "1997 crops (except as provided in clause (v)(II))" each place it appears and inserting "2002 crops";

(IV) by striking "(except as provided in subparagraph (E))" each place it appears and inserting "or alternative crops described in subparagraph (E)"; and

(V) in subclause (I), by striking "for the purpose" and all that follows through "(e)(2)(D)";

(iii) in clause (ii), by striking "50 percent" and inserting "25 percent";

(iv) in clause (iii), by striking "(or other uses as provided in subparagraph (E))" and inserting "or alternative crops described in subparagraph (E)";

(v) in clause (v)—

(I) in the clause heading, by striking "PREVENTED PLANTING AND REDUCED" and inserting "REDUCED";

(II) in the first sentence of subclause (I), by striking "under subsection (e)"; and

(III) in subclause (II)—

(aa) in the subclause heading, by striking "1997" and inserting "2002";

(bb) by striking "1997" and inserting "2002";

(cc) by striking "if an acreage limitation" and all that follows through "(aa) the" and inserting "if the";

(dd) by striking "be prevented from planting the crop or";

(ee) by striking "8 percent" the first place it appears and inserting "25 percent"; and

(ff) by striking "uses; or" and all that follows through the period at the end of the subclause and inserting "uses.";

(vi) in clause (vi), by striking "permitted rice" and all that follows through "this subparagraph" and inserting "rice payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (E)"; and

(vii) by striking clause (viii); and

(E) in the first sentence of subparagraph (E)(ii), by inserting before the period at the end the following: "or other oilseeds as determined by the Secretary";

(5) by striking subsection (e) and inserting the following:

"(e) HAYING AND GRAZING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.";

(6) in subsection (f)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)(C), by striking "reduced by" and all that follows through "subsection (e)"; and

(7) in subsection (n), by striking "1995" and inserting "2002".

SEC. 1103. COTTON PROGRAM.

Section 303 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 303. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF UPLAND COTTON.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1997" and inserting "2002";

(B) by striking paragraph (4) and inserting the following:

"(4) STORAGE PAYMENTS.—The producer shall pay the cost of all storage payments incurred for a 10-month nonrecourse loan."; and

(C) in paragraph (5)—

(i) by striking "August 1, 1991, and ending July 31, 1998" each place it appears and inserting "August 1, 1996, and ending July 31, 2003";

(ii) in subparagraph (E), by striking "1.25 cents" each place it appears and inserting "2.50 cents"; and

(iii) in subparagraph (F)(i), by striking "August 1991 and ending July 31, 1998" and inserting "August 1, 1996, and ending July 31, 2003";

(3) in subsection (b)(1), by striking "1997" and inserting "2002";

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking "1997" and inserting "2002";

(B) in subparagraph (B)—

(i) by redesignating clause (ii) as clause (iii);

(ii) by inserting after clause (i) the following:

"(ii) MAXIMUM PAYMENT RATE.—The payment rate for upland cotton under this subsection shall not exceed (per pound) 8.6 cents for the 1996 crop, 12.1 cents for the 1997 crop, 13.1 cents for the 1998 crop, 13.6 cents for the 1999 crop, 13.0 cents for the 2000 crop, 12.0 cents for the 2001 crop, and 11.5 cents for the 2002 crop."; and

(iii) in clause (iii) (as so redesignated), by striking "1997" and inserting "2002";

(C) in subparagraph (C)—

(i) in clause (i), by striking "within the permitted acreage"; and

(ii) in clause (ii)—

(I) by striking "85 percent" and inserting "70 percent"; and

(II) by striking "less the quantity" and all that follows through "(e)(2)(D))";

(D) in subparagraph (D)—

(i) in the subparagraph heading, by striking "50/85" and inserting "0/85";

(ii) in clause (i)—

(I) by striking "an acreage" and all that follows through "cotton and";

(II) by striking "1997 crops (except as provided in clause (v)(II))" each place it appears and inserting "2002 crops";

(III) by striking "(except as provided in subparagraph (E))" each place it appears and inserting "or alternative crops described in subparagraph (E)";

(IV) in subclause (I), by striking "for the purpose" and all that follows through "(e)(2)(D)"; and

(V) in subclause (II), by striking ", subject to the compliance of the producers with clause (ii)";

(iii) by striking clauses (ii) and (viii);

(iv) by redesignating clauses (iii) through (vii) and clause (ix) as clauses (ii) through (vi) and clause (vii), respectively;

(v) in clause (ii) (as so redesignated), by striking "(or other uses as provided in subparagraph (E))" and inserting "or alternative crops described in subparagraph (E)";

(vi) in clause (iii) (as so redesignated), by striking ", without regard to the requirement imposed under clause (ii),";

(vii) in clause (iv) (as so redesignated)—

(I) in the clause heading, by striking "PREVENTED PLANTING AND REDUCED" and inserting "REDUCED";

(II) in the first sentence of subclause (I)—

(aa) by striking "under subsection (e)"; and

(bb) by striking "without regard to the requirement imposed under clause (ii)"; and

(III) in subclause (II)—

(aa) in the subclause heading, by striking "1997" and inserting "2002";

(bb) by striking "1997" and inserting "2002";

(cc) by striking "clause (iii) without regard" and all that follows through "(aa) the" and inserting "clause (ii) if the";

(dd) by striking "be prevented from planting the crop or";

(ee) by striking "8 percent" the first place it appears and inserting "15 percent"; and

(ff) by striking "uses; or" and all that follows through the period at the end of the subclause and inserting "uses.";

(viii) in clause (v) (as so redesignated), by striking "permitted cotton" and all that follows through "this subparagraph" and inserting "cotton payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (E)"; and

(ix) in clause (vi) (as so redesignated), by striking "(vi)" and inserting "(v)"; and

(E) in the first sentence of subparagraph (E)(ii), by inserting before the period at the end the following: "or other oilseeds as determined by the Secretary";

(5) by striking subsection (e) and inserting the following:

"(e) HAYING AND GRAZING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.";

(6) in subsection (f)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)(C), by striking "reduced by" and all that follows through "subsection (e)"; and

(7) in subsection (o), by striking "1997" and inserting "2002".

SEC. 1104. FEED GRAIN PROGRAM.

Section 304 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 304. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF FEED GRAINS.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1995" and inserting "2002";

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by striking "may" and inserting "shall";

(II) in clause (i), by inserting "or" after the semicolon; and

(III) in clause (iii), by striking "(iii) the" and inserting the following:

"(III) the"; and

(ii) in subparagraph (C), by striking "1995" and inserting "2002"; and

(C) in paragraph (6), by striking "1995" and inserting "2002";

(3) in subsection (b)(1), by striking "1995" and inserting "2002";

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking "1995" and inserting "2002";

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) in the clause heading, by striking "AND 1995" and inserting "THROUGH 2002"; and

(II) by striking "and 1995" and inserting "through 2002";

(ii) by redesignating clause (iii) as clause (iv);

(iii) by inserting after clause (ii) the following:

"(iii) MAXIMUM PAYMENT RATE.—The payment rates under this subsection shall not exceed (per bushel)—

"(I) in the case of corn, $.53 for the 1996 crop, $.53 for the 1997 crop, $.57 for the 1998 crop, $.56 for the 1999 crop, $.53 for the 2000 crop, $.54 for the 2001 crop, and $.55 for the 2002 crop;

"(II) in the case of grain sorghums, $.59 for the 1996 crop, $.59 for the 1997 crop, $.63 for the 1998 crop, $.61 for the 1999 crop, $.59 for the 2000 crop, $.60 for the 2001 crop, and $.61 for the 2002 crop;

"(III) in the case of oats, $.12 for the 1996 crop, $.11 for the 1997 crop, $.12 for the 1998 crop, $.11 for the 1999 crop, $.09 for the 2000 crop, $.09 for the 2001 crop, and $.10 for the 2002 crop; and

"(IV) in the case of barley, $.45 for the 1996 crop, $.43 for the 1997 crop, $.44 for the 1998 crop, $.42 for the 1999 crop, $.39 for the 2000 crop, $.39 for the 2001 crop, and $.40 for the 2002 crop."; and

(iv) in clause (iv) (as so redesignated), by striking "1995" each place it appears and inserting "2002";

(C) in subparagraph (C)—

(i) in clause (i)—

(I) by inserting after "crop" the following: "or to a commodity permitted under section 504(b)"; and

(II) by striking "within the permitted acreage"; and

(ii) in clause (ii)—

(I) by striking "85 percent" and inserting "70 percent"; and

(II) by striking "less the quantity" and all that follows through "(e)(2)(D))";

(D) in subparagraph (D)(i), by striking "Notwithstanding the foregoing provisions of this section, if" and inserting "If"; and

(E) in subparagraph (E)—

(i) in clause (i)—

(I) by striking "an acreage" and all that follows through "grains and";

(II) by striking "1997 crops (except as provided in clause (vii))" each place it appears and inserting "2002 crops";

(III) by striking "(except as provided in subparagraph (F))" each place it appears and inserting "or alternative crops described in subparagraph (F)"; and

(IV) in subclause (I), by striking "for the purpose" and all that follows through "(e)(2)(D)";

(ii) in clause (ii), by striking "(or other uses as provided in subparagraph (F))" and inserting "or alternative crops described in subparagraph (F)";

(iii) in clause (iv), by striking "permitted feed grain" and all that follows through "this subparagraph" and inserting "feed grain payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (F)";

(iv) by striking clause (vi);

(v) by redesignating clause (vii) as clause (vi); and

(vi) in clause (vi) (as so redesignated)—

(I) in the clause heading, by striking "EXCEPTIONS TO 0/85" and inserting "REDUCED YIELDS";

(II) by striking "an acreage" and all that follows through "crop and";

(III) by striking subclause (II);

(IV) in subclause (I)(aa)—

(aa) by striking "(aa)"; and

(bb) by striking "be prevented from planting the crop or"; and

(V) in subclause (I)(bb)—

(aa) by striking "(bb)" and inserting "(II)";

(bb) by striking "8 percent" and inserting "15 percent"; and

(cc) by striking "; or" and inserting a period;

(5) by striking subsection (e) and inserting the following:

"(e) HAYING AND GRAZING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.";

(6) in subsection (f)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)(C), by striking "reduced by" and all that follows through "subsection (e)";

(7) in subsection (g)(1), by striking "under subsection (e)";

(8) in subsection (o)(1), by striking "and acreage reduction";

(9) in subsection (p)(1), by striking "1995" and inserting "2002";

(10) in subsection (q)(1)—

(A) by striking "1995" and inserting "2002";

(B) in subparagraph (C), by inserting "and" after the semicolon at the end;

(C) in subparagraph (D), by striking "; and" and inserting a period; and

(D) by striking subparagraph (E); and

(11) in subsection (r), by striking "1995" and inserting "2002".

SEC. 1105. WHEAT PROGRAM.

Section 305 of the Agricultural Act of 1949 (as redesignated by section 1101(b)(1)(B)) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 305. LOANS AND PAYMENTS FOR THE 1991 THROUGH 2002 CROPS OF WHEAT.";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1995" and inserting "2002"; and

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by striking "may" and inserting "shall";

(II) in clause (i), by inserting "or" after the semicolon; and

(III) in clause (iii), by striking "(iii) the" and inserting the following:

"(III) the"; and

(ii) in subparagraph (C), by striking "1995" and inserting "2002";

(3) in subsection (b)(1), by striking "1995" and inserting "2002";

(4) in subsection (c)(1)—

(A) in subparagraph (A), by striking "1995" and inserting "2002";

(B) in subparagraph (B)—

(i) in clause (ii)—

(I) in the clause heading, by striking "AND 1995" and inserting "THROUGH 2002"; and

(II) by striking "and 1995" and inserting "through 2002";

(ii) by redesignating clause (iii) as clause (iv);

(iii) by inserting after clause (ii) the following:

"(iii) MAXIMUM PAYMENT RATE.—The payment rate for wheat under this subsection shall not exceed (per bushel) $.89 for the 1996 crop, $.94 for the 1997 crop, $.95 for the 1998 crop, $.89 for the 1999 crop, $.79 for the 2000 crop, $.78 for the 2001 crop, and $.71 for the 2002 crop."; and

(iv) in clause (iv) (as so redesignated), by striking "1995" and inserting "2002";

(C) in subparagraph (C)—

(i) in clause (i)—

(I) by inserting after "crop" the following: "or to a commodity permitted under section 504(b)"; and

(II) by striking "within the permitted acreage"; and

(ii) in clause (ii)—

(I) by striking "85 percent" and inserting "70 percent"; and

(II) by striking "less the quantity" and all that follows through "(e)(2)(D))";

(D) in subparagraph (D)(i), by striking "Notwithstanding the foregoing provisions of this section, if" and inserting "If"; and

(E) in subparagraph (E)—

(i) in clause (i)—

(I) by striking "an acreage" and all that follows through "wheat and";

(II) by striking "1997 crops (except as provided in clause (vii))" each place it appears and inserting "2002 crops";

(III) by striking "(except as provided in subparagraph (F))" each place it appears and inserting "or alternative crops described in subparagraph (F)"; and

(IV) in subclause (I), by striking "for the purpose" and all that follows through "(e)(2)(D)";

(ii) in clause (ii), by striking "(or other uses as provided in subparagraph (F))" and inserting "or alternative crops described in subparagraph (F)";

(iii) in clause (iv), by striking "permitted wheat" and all that follows through "this subparagraph" and inserting "wheat grain payment acres of the farm was devoted to conserving uses or alternative crops described in subparagraph (F)";

(iv) by striking clause (vi);

(v) by redesignating clause (vii) as clause (vi); and

(vi) in clause (vi) (as so redesignated)—

(I) in the clause heading, by striking "EXCEPTIONS TO 0/85" and inserting "REDUCED YIELDS";

(II) by striking "an acreage" and all that follows through "crop and";

(III) by striking subclause (II);

(IV) in subclause (I)(aa)—

(aa) by striking "(aa)"; and

(bb) by striking "be prevented from planting the crop or"; and

(V) in subclause (I)(bb)—

(aa) by striking "(bb)" and inserting "(II)";

(bb) by striking "8 percent" and inserting "15 percent"; and

(cc) by striking "; or" and inserting a period;

(5) by striking subsection (e) and inserting the following:

"(e) HAYING AND GRAZING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), haying and grazing of acreage under subsection (c)(1)(C) shall be permitted, except during any consecutive 5-month period that is

established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

''(2) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted to alfalfa when exercising the authority under this paragraph.'';

(6) in subsection (f)—

(A) in paragraph (1), by striking ''1995'' and inserting ''2002''; and

(B) in paragraph (4)(C), by striking ''reduced by'' and all that follows through ''subsection (e)'';

(7) in subsection (g)(1), by striking ''under subsection (e)'';

(8) in subsection (o)(1), by striking ''and acreage reduction'';

(9) in subsection (p)(2)(B), by striking ''less the quantity'' and all that follows through ''(e)(2)(D))''; and

(10) in subsection (q), by striking ''1995'' and inserting ''2002''.

SEC. 1106. MILK PROGRAM.

(a) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended to read as follows:

''SEC. 204. MILK PRICE SUPPORT PROGRAM FOR CALENDAR YEARS 1996 THROUGH 2002.

''(a) IN GENERAL.—During the period beginning January 1, 1996, and ending December 31, 2002, the price of milk produced in the 48 contiguous States shall be supported as provided in this section.

''(b) SUPPORT PRICE.—

''(1) IN GENERAL.—During the period referred to in subsection (a), the price of milk used for cheese shall be supported at a rate equal to $10.00 per hundredweight for calendar year 1996, subject to subsection (d). Milk used for nonfat dry milk or butter shall not be supported under this section.

''(2) ANNUAL REDUCTION.—For each of calendar years 1997 through 2002, the Secretary shall reduce the rate of price support for milk used for cheese by 10 cents per hundredweight.

''(c) PURCHASES.—

''(1) IN GENERAL.—The price of milk used for cheese shall be supported through the purchase of cheese and based on the support price in effect during the applicable calendar year.

''(2) SALES THROUGH DEIP.—All sales for export under the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14) shall be considered as total purchases under subsection (d).

''(d) SUPPORT RATE ADJUSTMENTS.—Effective January 1 of each of the calendar years 1996 through 2002, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), through direct purchases or through sales under the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14), as estimated by the Secretary by November 20 of the preceding calendar year, will exceed 1,500,000,000 pounds (milk equivalent, total milk solids basis), the Secretary shall decrease by 25 cents per hundredweight, in addition to the annual reduction under subsection (b)(2), the rate of price support for milk used for cheese in effect for the calendar year. The support rate adjustment provided under this subsection shall be effective only for the calendar year applicable to the estimate of the Secretary. After the support rate adjustment terminates, the support price shall be the level provided under subsection (b)(2).

''(e) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

''(f) PERIOD.—This section shall be effective only during the period beginning January 1, 1996, and ending December 31, 2002.''.

(b) MILK MANUFACTURING MARKETING ADJUSTMENT.—Section 102 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e-1) is repealed.

(c) CLASS IV ACCOUNT.—Effective January 1, 1996, section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A), by adding at the end the following: ''Each marketing order issued pursuant to this section for milk and milk products shall include all skim milk and butterfat used to produce butter, nonfat dry milk, and dry whole milk as part of a Class IV classification.''; and

(2) by adding at the end the following:

''(M) CLASS IV ACCOUNT.—

''(i) DEFINITIONS.—In this paragraph:

''(I) ACCOUNT.—The term 'Account' means the Account for Class IV final products established under clause (ii).

''(II) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Account appointed under clause (vii).

''(III) CLASS IV FINAL PRODUCT.—The term 'Class IV final product' means butter, nonfat dry milk, and dry whole milk.

''(IV) MILK MARKETING ORDER.—The term 'milk marketing order' means a milk marketing order issued pursuant to this section and any comparable State milk marketing order or system.

''(ii) ESTABLISHMENT OF ACCOUNT.—Notwithstanding any other provision of law, the Secretary shall establish an Account for Class IV final products to equalize returns from all milk used in the 48 contiguous States to produce Class IV final products among all milk marketed by producers for commercial use.

''(iii) CLASS IV PRICE AND DIFFERENTIAL; PRORATION.—

''(I) PRICE.—The Secretary shall determine a milk equivalent value per hundredweight for Class IV final products each month based on the average wholesale market prices during the month for Class IV final products. The milk equivalent value at 3.67 percent milkfat shall be the per hundredweight Class IV price under the Account.

''(II) DIFFERENTIAL.—The Administrator of the Account shall announce, on the first business day of each month, the per hundredweight Class IV differential applicable to the preceding month. The monthly Class IV differential shall be the amount, if any, by which the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) exceeds the Class IV price established pursuant to subclause (I).

''(III) PRORATION.—On or before the twentieth day after the end of each month, the Administrator of the Account shall—

''(aa) determine the quantity of milk produced in the 48 contiguous States of the United States and marketed for commercial use in producing Class IV final products during the preceding month;

''(bb) calculate the quantity equal to the number of hundredweights of milk used for Class IV final products during the preceding month (as determined under item (aa)) multiplied by the Class IV differential for the month established under subclause (II), and add to that amount the cost of administering the Account during the current month; and

''(cc) prorate the amount established under item (bb) among the total amount, in hundredweights, of milk produced in the 48 contiguous States and marketed for commercial use during the preceding month.

''(iv) ACCOUNT OBLIGATIONS.—On or before the twenty-fifth day after the end of each month:

''(I) Each person making payment to a producer for milk produced in any of the 48 contiguous States of the United States and marketed for commercial use shall collect from each producer the amount determined by multiplying the quantity of milk handled for the account of the producer during the preceding month by the Class IV differential proration established pursuant to clause (iii)(III)(ccc). The amount shall be remitted to the Administrator of the Account.

''(II) Any producer marketing milk of the producer's own production in the form of milk or dairy products to consumers, either directly or through retail or wholesale outlets, shall remit to the Administrator of the Account the amount determined by multiplying the quantity of the milk marketed by the producer by the Class IV differential proration established under clause (iii)(III)(ccc).

''(v) DISTRIBUTION OF ACCOUNT PROCEEDS.—On or before the thirtieth day after the end of each month, the Administrator of the Account shall pay to each person that used skim milk and butterfat to produce Class IV final products during the preceding month a proportionate share of the total Account proceeds for the month. The proportion of the total proceeds payable to each person shall be the same proportion that the skim milk and butterfat used by the person to produce Class IV final products during the preceding month is of the total skim milk and butterfat used by all persons during the preceding month to produce Class IV final products.

''(vi) EFFECT ON BLEND PRICES.—Producer blend prices under a milk marketing order shall be adjusted to account for revenue distributions required under clauses (iv) and (v).

''(vii) ADMINISTRATION OF CLASS IV ACCOUNT.—The Secretary shall appoint a person to serve as the Administrator of the Account and shall delegate to the Administrator such powers as are needed to carry out the duties of Administrator.

''(viii) ENFORCEMENT.—

''(I) COLLECTION.—The amounts specified in clause (iv) shall be collected and remitted to the Administrator in the manner prescribed by the Secretary.

''(II) PENALTIES.—If any person fails to remit the amounts required under clause (iv) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subparagraph, the person shall be liable to the Secretary for a civil penalty up to, as determined by the Secretary, an amount determined by multiplying—

''(i) the quantity of milk involved in the violation; by

''(ii) the support rate for milk in effect under section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) for the applicable calendar year.

''(III) ENFORCEMENT.—The Secretary may enforce this clause in the courts of the United States.

''(ix) REGULATIONS.—The Secretary shall issue regulations to establish the Account without regard to the notice and comment requirements of section 553 of title 5, United States Code.''.

(d) NORTHEAST INTERSTATE DAIRY COMPACT.—Congress consents to the Northeast Interstate Dairy Compact entered into among the States of Vermont, New Hampshire, Maine, Connecticut, Rhode Island, and Massachusetts, subject to the following conditions:

(1) COMPENSATION OF CCC.—Before the end of each fiscal year that a Compact price regulation is in effect, the Compact Commission shall compensate the Commodity Credit Corporation for

the cost of any purchases of milk and milk products by the Corporation that result from projected fluid milk production for the fiscal year within the Compact region in excess of the national average rate of purchases of milk and milk products by the Corporation.

(2) MILK MARKET ORDER ADMINISTRATOR.—By agreement among the States and the Secretary of Agriculture, the Administrator shall provide technical assistance to the compact Commission, and be reimbursed for the assistance, with respect to the applicable milk marketing order issued under section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) TERMINATION AND RENEWAL.—The consent for the Compact shall—

(A) terminate on the date that is 7 years after the date of enactment of this Act, subject to subparagraph (B); and

(B) may be renewed by Congress, without prior ratification by the States' legislatures.

(e) AGRICULTURAL COMPETITIVENESS GRANTS.—The Secretary of Agriculture (referred to in this subtitle as the "Secretary") shall, in accordance with this subtitle, award a grant to a grantee eligible under section 1502 to promote a purpose of this subtitle.

(f) ELIGIBLE GRANTEE.—The Secretary may make a grant under section 1501 to—

(1) a college or university;

(2) a State agricultural experiment station;

(3) a State Cooperative Extension Service;

(4) a research institution or organization;

(5) a private organization or person; or

(6) a Federal agency.

(g) USE OF GRANT.—A grant made under section 1501 may be used by a grantee for 1 or more of the following uses:

(1) Research, ranging from discovery to principles of application.

(2) Extension and related private-sector activities.

(3) Education.

(h) PRIORITY.—In administering this subtitle, the Secretary shall—

(1) establish priorities for allocating grants, based on needs and opportunities of the food and agriculture system in the United States;

(2) seek and accept proposals for grants;

(3) determine the relevance and merit of proposals through a system of peer review; and

(4) award grants on the basis of merit and quality.

(i) ADMINISTRATION.—

(1) COMPETITIVE GRANT.—A grant under section 1501 shall be awarded on a competitive basis.

(2) TERM.—A grant under section 1501 shall have a term that does not exceed 5 years.

(3) MATCHING FUNDS.—As a condition of receipt of a grant under section 1501, the Secretary shall require the funding of the grant with equal matching funds from a non-Federal source if the grant is—

(A) for applied research that is commodity-specific; and

(B) not of national scope.

(4) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available under section 1506 for administrative costs incurred by the Secretary in carrying out this subtitle.

(5) CONSTRUCTION COSTS.—None of the funds made available under section 1507 may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(j) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subtitle.

(k) USE OF COMMODITY CREDIT CORPORATION FUNDS.—

(1) IN GENERAL.—Subject to subsection (b), the Secretary shall use $30,000,000 of the funds of the Commodity Credit Corporation for each of fiscal years 1996 through 2002 to carry out this title.

(2) LIMITATION.—The Secretary may use less than $30,000,000 of the funds of the Commodity Credit Corporation for any fiscal year if the Secretary determines that the full funding level is not necessary to fund all qualifying applications for agricultural competitiveness grants that satisfy the priority criteria established under section 1504.

(3) POWERS OF THE CORPORATION.—Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) (as amended by section 1201(c)(1)) is amended by inserting after subsection (g) the following:

"(h) Carry out research, extension, and education related to agriculture by using not more than $30,000,000 of the funds of the Corporation in any fiscal year for any function or activity relating to agricultural research, extension, or education.".

(l) EFFECTIVE DATE.—This subtitle and the amendment made by this subtitle shall become effective upon enactment.

SEC. 1107. OILSEEDS PROGRAM.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in the section heading, by striking "1995" and inserting "2002";

(2) in subsections (b), (c), (e)(1), and (n), by striking "1995" each place it appears and inserting "2002"; and

(3) in subsections (c) and (h)(2), by striking "1997" each places it appears and inserting "2002".

SEC. 1108. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

(1) in the section heading, by striking "1997" and inserting "2002";

(2) in subsection (a), by striking "1997" and inserting "2002";

(3) in subsection (b), by striking "nonrecourse";

(4) in subsection (c)—

(A) by striking "1997" and inserting "2002"; and

(B) by striking "nonrecourse";

(5) by redesignating subsections (d) through (j) as subsections (f) through (l), respectively;

(6) by inserting after subsection (c) the following:

"(d) LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall carry out this section through the use of recourse loans.

"(2) IMPORT TRIGGER FOR NONRECOURSE LOANS.—If in any fiscal year the tariff rate quota for imports of sugar into the United States is established at a level equal to 1,340,000 or more short tons, raw value, the Secretary shall for the duration of the fiscal year make available nonrecourse loans under this section. A recourse loan made during the fiscal year prior to the tariff rate quota being established at 1,340,000 or more short tons, raw value, under this section shall be modified by the Secretary into a nonrecourse loan for the remainder of the term of the loan.

"(3) PROCESSOR ASSURANCES.—The Secretary shall obtain from each processor that obtains either a recourse or nonrecourse loan under this section such assurances as the Secretary considers necessary to ensure that producers of sugarcane and sugar beets will receive payments that are proportional to the value of the loan received by the processor, as determined by the Secretary.

"(e) FORFEITURES.—A penalty shall be assessed on the forfeiture of any sugar pledged as collateral for a nonrecourse loan. The penalty for cane sugar shall be equivalent to 1 cent per pound. The penalty for beet sugar shall bear the same relation to the penalty for cane sugar as the marketing assessment for sugar beets bears to the marketing assessment for sugarcane.";

(7) in subsection (f)(1) (as so redesignated), by striking "1997" and inserting "2002";

(8) in subsection (h) (as so redesignated), by striking "subsection (g)" and inserting "subsection (i)";

(9) in subsection (i) (as so redesignated)—

(A) in the subsection heading, by striking "NONRECOURSE"; and

(B) by striking "price support" each place it appears;

(10) in subsection (k) (as so redesignated)—

(A) in the subsection heading, by striking "MARKETING ASSESSMENT" and inserting "ASSESSMENTS ON ALL MARKETED SUGAR";

(B) in paragraph (1)—

(i) by striking "1996" and inserting "2002";

(ii) in subparagraph (A)—

(I) by striking "each of fiscal years 1992 through 1994, 1.0" and inserting "fiscal year 1996, 1.1"; and

(II) by striking "(but" and all that follows through "sugar),"; and

(iii) in subparagraph (B)—

(I) by striking "1995 through 1998, 1.1" and inserting "1997 through 2003, 1.375"; and

(II) by striking "(but" and all that follows through "sugar),"; and

(C) in paragraph (2)—

(i) by striking "1996" and inserting "2002";

(ii) in subparagraph (A)—

(I) by striking "each of fiscal years 1992 through 1994, 1.0722" and inserting "fiscal year 1996, 1.1794"; and

(II) by striking "(but" and all that follows through "sugar),"; and

(iii) in subparagraph (B)—

(I) by striking "1995 through 1998, 1.1794" and inserting "1997 through 2003, 1.47425"; and

(II) by striking "(but" and all that follows through "sugar),"; and

(D) by striking paragraph (6); and

(11) in subsection (l) (as so redesignated), by striking "1997" and inserting "2002".

(b) LOAN PROVISIONS.—Section 401(e)(1) of the Agricultural Act of 1949 (7 U.S.C. 1421(e)(1)) is amended by adding at the end the following: "In the case of price support for sugarcane or sugar beets, the payment owed producers by a processor shall be reduced in proportion to the loan forfeiture penalty amounts incurred by the processor as provided in section 206(e).".

(c) MARKETING ALLOTMENTS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is repealed.

SEC. 1109. ACREAGE BASE AND YIELD SYSTEM.

Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended—

(1) in section 503 (7 U.S.C. 1463)—

(A) in subsection (a)—

(i) in paragraph (2), by adding "and historical soybean acreage" after "crop acreage bases"; and

(ii) by adding at the end the following:

"(4) HISTORICAL SOYBEAN ACREAGE.—

"(A) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of an historical soybean acreage for each farm.

"(B) QUANTITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the historical soybean acreage for a farm for a crop year shall be equal to the average of the acreage planted to soybeans for harvest on the farm in each of the previous 5 crop years.

"(ii) EXCEPTION.—In determining the historical soybean acreage for a farm for a crop year, the Secretary shall exclude from the acreage any soybean plantings that were considered

planted to a program crop or are planted for harvest on a crop acreage base.";

(B) in subsection (b)—

(i) by striking "CALCULATION.—" and all that follows through "paragraph (2), the" in paragraph (1) and inserting "CALCULATION.—The"; and

(ii) by striking paragraph (2);

(C) in subsection (c)—

(i) in paragraph (1), by inserting "in the case of each of the 1991 through 1995 crops," after "(1)";

(ii) in paragraph (3), by striking "1997" and inserting "1995";

(iii) in paragraph (4)—

(I) by inserting "in the case of the 1991 through 1995 crops, and base acreage in the case of the 1996 through 2002 crops," after "permitted acreage"; and

(II) by inserting "or conservation uses or related commodity production permitted by the Secretary" after "section 504"; and

(iv) in paragraph (6), by inserting "in the case of each of the 1991 through 1995 crops," after "(6)"; and

(D) by striking subsection (h);

(2) in section 504 (7 U.S.C. 1464)—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the paragraph heading, by striking "PERMITTED CROPS" and inserting "PAYMENT ACRES";

(II) by striking "for purposes of this section,";

(III) by striking "a crop acreage base" and inserting "the payment acres of a crop acreage base";

(IV) in subparagraph (D), by striking "and" at the end;

(V) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(VI) by adding at the end the following:

"(F) peas and lentils."; and

(ii) by adding at the end the following:

"(4) CROP ACREAGE BASE NOT ELIGIBLE FOR PAYMENT.—Any crop or conserving crop that is planted on the acres of a crop acreage base that are not eligible for payments shall be eligible for loans. Haying and grazing on the acres shall not be restricted.";

(B) by striking subsection (c) and inserting the following:

"(c) LIMITATIONS ON ACREAGE AND PAYMENTS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the planting of a program crop may exceed 100 percent of the crop acreage base of the program crop. The program crop shall be eligible for loans.

"(2) UPLAND COTTON AND RICE.—In the case of upland cotton and rice, any crop other than upland cotton or rice that is planted on an upland cotton or rice crop acreage base shall not be eligible for payments.

"(3) WHEAT AND FEED GRAINS.—In the case of wheat and feed grains, except as provided in paragraph (4), any crop planted on a wheat or feed grain crop acreage base shall be eligible for payments that are attributable to the payment acres of the wheat or feed grain crop acreage base.

"(4) EXCEPTIONS.—

"(A) PAYMENTS ON MULTIPLE CROP ACREAGE BASES.—Producers on a farm with wheat or feed grain crop acreage base and upland cotton or rice crop acreage base may not receive payments with respect to the rice or upland cotton planted on the wheat or feed grain crop acreage base.

"(B) UPLAND COTTON OR RICE PAYMENTS.—Upland cotton or rice shall not be eligible for payments if planted in excess of the respective crop acreage base, except that—

"(i) upland cotton or rice planted on acreage not eligible for payments under subsection (b)(4) shall not affect the eligibility for payments under this subparagraph, but shall be eligible for loans; and

"(ii) acreage described in subsection (e)(1) shall be eligible for loans, but not for payments.";

(C) by striking subsection (d);

(D) by redesignating subsection (e) as subsection (d);

(E) in subsection (d)(2) (as so redesignated)—

(i) by striking "the producers—" and all that follows through "(A) plant" and inserting "the producers plant";

(ii) by striking "25 percent" and inserting "100 percent"; and

(iii) by striking "crop; and" all that follows through the period at the end and inserting "crop."; and

(F) by adding at the end the following:

"(e) TWO-WAY FLEXIBILITY.—Producers of a crop of upland cotton or rice on a farm who are participating in the annual program for upland cotton or rice may plant the crop without losing eligibility for loans with respect to the crop if the acreage planted to the crop on the farm does not exceed the sum of—

"(1) 25 percent of the historical soybean acreage on the farm; and

"(2) 100 percent of the crop acreage base.";

(3) in section 505 (7 U.S.C. 1465)—

(A) in subsection (a), by striking "or (c)";

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)"; and

(II) by striking "1997" and inserting "2002";

(ii) in paragraph (2), by striking "1997" and inserting "2002"; and

(iii) by striking paragraphs (3), (4), and (5); and

(C) by striking subsections (c), (d), and (e); and

(4) in section 509 (7 U.S.C. 1469), by striking "1997" and inserting "2002".

SEC. 1110. EXTENSION OF RELATED PRICE SUPPORT PROVISIONS.

Title X of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1444) is amended—

(1) in section 1001 (7 U.S.C. 1308), by striking "1997" each place it appears in paragraphs (1)(A), (1)(B), and (2)(A) and inserting "2002"; and

(2) in section 1001C(a) (7 U.S.C. 1308–3(a)), by striking "1997" each place it appears and inserting "2002".

SEC. 1111. REPEAL OF MISCELLANEOUS AUTHORITIES.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—Title III of the Agricultural Adjustment Act of 1938 is amended—

(1) in subtitle B—

(A) by striking parts II through V (7 U.S.C. 1326 et seq.); and

(B) in part VI, by striking sections 358, 358a, and 358d (7 U.S.C. 1358, 1358a, and 1359); and

(2) by striking subtitle D (7 U.S.C. 1379a et seq.).

(b) TREE ASSISTANCE PROGRAM.—The Secretary of Agriculture shall terminate the tree assistance program established under part 1478 of title 7, Code of Federal Regulations.

SEC. 1112. COMMODITY CREDIT CORPORATION INTEREST RATE.

Notwithstanding any other provision of law, the monthly Commodity Credit Corporation interest rate applicable to loans provided for agricultural commodities by the Corporation shall be 100 basis points greater than the rate determined under the applicable interest rate formula in effect on October 1, 1995.

SEC. 1113. PEANUT PROGRAM.

(a) PRICE SUPPORT.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

(1) in the section heading, by striking "1997" and inserting "2000";

(2) in subsection (a)—

(A) in paragraph (1), by striking "1997" and inserting "2000"; and

(B) by striking paragraph (2) and inserting the following:

"(2) SUPPORT RATE.—The national average quota support rate for each of the 1996 through 2000 crops of quota peanuts shall be $628 per ton.";

(3) in subsection (b)(1), by striking "1997" and inserting "2000";

(4) in the first sentence of subsection (c)(2)(A), by inserting before the period at the end the following: "and that, in the case of the 1996 and subsequent crops, Valencia peanuts not produced in the State shall not be eligible to participate in the pools of the State";

(5) in subsection (g)—

(A) in paragraphs (1) and (2)(A)(ii)(II), by striking "1997 crops" each place it appears and inserting "2000 crops"; and

(B) by striking "the 1997 crop" each place it appears and inserting "each of the 1997 through 2000 crops"; and

(6) in subsection (h), by striking "1997" and inserting "2000".

(b) POUNDAGE QUOTAS.—Section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) is amended—

(1) in the section heading, by striking "1997" and inserting "2000";

(2) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—The Secretary shall establish the national poundage quota for peanuts for each of the 1991 through 2000 marketing years.

"(2) LEVEL.—The Secretary shall establish the national poundage quota at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each marketing year to domestic edible and related uses, excluding seed, plus a reasonable quantity of peanuts for carryover to ensure continuity of supply between marketing years. Undermarketings of quota peanuts from the previous year shall not be considered. In establishing the quota, the Secretary shall take into account—

"(A) any stocks of peanuts on hand in the inventory of the Commodity Credit Corporation; and

"(B) peanuts or products of peanuts imported into the United States;"; and

(C) in paragraph (4) (as so redesignated), by striking "established under paragraph (1)";

(3) in subsection (b)—

(A) by striking "1997" each place it appears and inserting "2000";

(B) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) TEMPORARY QUOTA ALLOCATION.—

"(i) IN GENERAL.—Subject to clause (iv), temporary allocation of a poundage quota for the marketing year in which a crop of peanuts is planted shall be made to producers for each of the 1991 through 2000 marketing years in accordance with this subparagraph.

"(ii) QUANTITY.—The temporary quota allocation shall be equal to the quantity of seed peanuts (in pounds) planted on a farm, as determined in accordance with regulations issued by the Secretary.

"(iii) ALLOCATION.—The allocation of quota pounds to producers under this subparagraph shall be performed in such a manner as will not result in a net decrease in quota pounds on a farm in excess of 3 percent, after the temporary seed quota is added, from the basic farm quota for the 1995 marketing year. A decrease shall occur only once, and shall be applicable only to the 1996 marketing year.

"(iv) NO INCREASED COSTS.—The Secretary may carry out this subparagraph only if this subparagraph does not result in—

"(I) an increased cost to the Commodity Credit Corporation through displacement of quota peanuts by additional peanuts in the domestic market;

"(II) an increased loss in a loan pool of an area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445c–3(c)(1)); or

"(III) other increased costs.

"(v) USE OF QUOTA AND ADDITIONAL PEANUTS.—Nothing in this subparagraph affects the requirements of section 358b(b).

"(vi) ADDITIONAL ALLOCATION.—The temporary allocation of quota pounds under this subparagraph shall be in addition to the farm poundage quota established under this subsection and shall be credited to the producers of the peanuts on the farm in accordance with regulations issued by the Secretary."; and

(C) by striking paragraphs (8) and (9); and

(4) in subsection (f), by striking "1997" and inserting "2000".

(c) SALE, LEASE, OR TRANSFER.—Section 358b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358b) is amended to read as follows:

"SEC. 358b. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA FOR 1991 THROUGH 2000 CROPS OF PEANUTS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this Act may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within counties of a State for transfer to the farm, except that any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(i) if not less than 90 percent of the basic quota (consisting of the farm quota and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or considered planted on the farm from which the quota is to be leased; and

"(ii) under such terms and conditions as the Secretary may prescribe by regulation.

"(B) FALL TRANSFERS.—

"(i) NO TRANSFER AUTHORIZATION.—In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization.

"(ii) TIME LIMITATION.—A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(iii) LESSEES.—In the case of a fall transfer, poundage quota from a farm may be leased to an owner or operator of another farm within the same county or to an owner or operator of another farm in any other county within the State.

"(iv) EFFECT OF TRANSFER.—A fall transfer of poundage quota shall not affect the farm quota history for the transferring or receiving farm and shall not result in the reduction of the farm poundage quota on the transferring farm.

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same State and that had a farm poundage quota for the crop of the preceding year, if both the transferring and receiving farms were under the control of the owner or operator for at least 3 crop years prior to the crop year in which the farm poundage quota is to be transferred. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if sufficient acreage is planted on the receiving farm to produce the quota pounds transferred.

"(3) TRANSFERS IN STATES WITH SMALL QUOTAS.—In the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the crop of the preceding year, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in 1 county to a farm in another county in the State.

"(4) TRANSFERS BY SALE IN STATES HAVING QUOTAS OF 10,000 TONS OR MORE.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and such terms and conditions as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm quota has been established under this Act in a State for which the poundage quota allocated to the State was 10,000 tons or more may sell poundage quota to any other eligible owner or operator of a farm within the State.

"(B) LIMITATIONS BASED ON TOTAL POUNDAGE QUOTA.—

"(i) 1996 MARKETING YEAR.—Not more than 15 percent of the total poundage quota within a county as of January 1, 1996, may be sold and transferred under this paragraph during the 1996 marketing year.

"(ii) 1997–2000 MARKETING YEARS.—

"(I) IN GENERAL.—Except as provided in subclause (II), not more than 5 percent of the quota pounds remaining in a county as of January 1, 1997, and each January 1 thereafter through January 1, 2000, may be sold and transferred under this paragraph during the applicable marketing year.

"(II) CARRYOVER.—Any eligible quota that is not sold or transferred under clause (i) shall be eligible for sale or transfer under subclause (I).

"(C) COUNTY LIMITATION.—Not more than 35 percent of the total poundage quota within a county may be sold and transferred under this paragraph.

"(D) SUBSEQUENT LEASES OR SALES.—Quota pounds sold and transferred to a farm under this paragraph may not be leased or sold by the farm to another owner or operator of a farm within the same State for a period of 5 years following the date of the original transfer to the farm.

"(E) APPLICATION.—This paragraph shall not apply to a sale within the same county or to any sale, lease, or transfer described in paragraph (1).

"(b) CONDITIONS.—Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

"(1) LIENHOLDERS.—No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

"(2) TILLABLE CROPLAND.—No transfer of the farm poundage quota shall be permitted if the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

"(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record of the transfer is filed with the county committee of each county to, and from, which the transfer is made and each committee determines that the transfer complies with this section.

"(4) OTHER TERMS.—The Secretary may establish by regulation other terms and conditions.

"(c) CROPS.—This section shall be effective only for the 1991 through 2000 crops of peanuts.".

(d) EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.—Section 358c(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358c(d)) is amended by striking "1995" and inserting "2000".

(e) MARKETING PENALTIES AND DISPOSITION OF ADDITIONAL PEANUTS.—Section 358e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359a) is amended—

(1) in the section heading, by striking "1997" and inserting "2000"; and

(2) in subsection (i), by striking "1997" and inserting "2000".

SEC. 1114. CATASTROPHIC CROP INSURANCE COVERAGE.

(a) IN GENERAL.—Section 427 of the Agricultural Act of 1949 (7 U.S.C. 1433f) is amended by striking "subsequent" and inserting "1996".

(b) CONFORMING AMENDMENTS.—Section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)) is amended—

(1) by striking paragraph (6); and

(2) by redesignating paragraphs (7) through (10) as paragraphs (6) through (9), respectively.

(c) CROPS.—The amendments made by subsection (b) shall apply beginning with the 1997 crop of an insurable commodity.

SEC. 1115. SAVINGS ADJUSTMENT.

(a) PAYMENT RATES.—If the Director estimates that total direct spending savings described in subsection (a)(1) are less than $13,400,000,000, the Secretary of Agriculture shall reduce the maximum payment rates for deficiency payments for rice, upland cotton, feed grains, and wheat provided in sections 302, 303, 304, and 305 of the Agricultural Act of 1949 (as amended by this subtitle) by an equal percentage for each of the 1996 through 2002 crops of the commodity, to acheive total direct spending savings described in subsection (a)(1) of $13,400,000,000.

(b) MAXIMUM REDUCTION.—The maximum deficiency payment rate reduction under subsection (a) shall not exceed 2 percent.

SEC. 1116. SENSE OF THE SENATE REGARDING TAX PROVISIONS RELATING TO ETHANOL.

(a) IN GENERAL.—The Senate finds that—

(1) ethanol and its derivative ethyl tertiary butyl ether (ETBE) are used as fuels or additives to fuels for motor vehicles;

(2) ethanol and ETBE have been shown to improve air quality when used as fuels or fuel additives;

(3) ethanol and ETBE are primarily made from renewable resources and produced domestically;

(4) studies, including a study very recently released by the Department of Agriculture, have shown that when used as fuel, ethanol and ETBE yield more energy than is required to produce them;

(5) the use of domestically produced ethanol and ETBE can thus reduce our nation's reliance on energy imports and improve our energy security;

(6) the use of ethanol and ETBE adds significantly to market opportunities for corn, which constitutes about 95 percent of the feedstock for ethanol production, thereby improving corn prices and farm income;

(7) the production of ethanol and ETBE contributes substantially to improved economic and job growth, particularly in rural communities;

(8) ethanol and ETBE currently qualify for tax incentives which facilitate and promote the use of these clean-burning, renewable, and domestically-produced fuels; and

(9) a recently-released report from the General Accounting Office confirmed the results of numerous previous reports demonstrating that the ethanol tax incentives result in net savings to

the Federal Government as farm program costs are reduced through improved grain prices.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any legislation enacted by Congress should not eliminate or in any way weaken or diminish incentives under Federal tax laws or regulations that facilitate or promote the production, blending, or use of ethanol and ETBE.

SEC. 1117. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection and as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall apply beginning with the earlier of—

(A) the 1996 crop of an agricultural commodity; or

(B) November 1, 1995.

(2) MILK.—This subtitle and the amendments made by this subtitle shall apply to milk and dairy products beginning on January 1, 1996.

(b) PRIOR CROPS.—

(1) IN GENERAL.—Except as otherwise specifically provided and notwithstanding any other provision of law, this subtitle and the amendments made by this subtitle shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1991 through 1995 crops of an agricultural commodity established under a provision of law in effect immediately before the applicable effective date specified in subsection (a).

(2) LIABILITY.—A provision of this subtitle or an amendment made by this subtitle shall not affect the liability of any person under any provision of law as in effect before the application of the provision in accordance with subsection (a).

Subtitle B—Conservation

SEC. 1201. CONSERVATION.

(a) FUNDING.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 2 of subtitle D for practices related to livestock production.

"(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—For each of fiscal years 1996 through 2002, $100,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the environmental quality incentives program.

"(c) WETLANDS RESERVE PROGRAM.—Spending to carry out the wetlands reserve program under subchapter C of chapter 1 of subtitle D shall be not greater than $614,000,000 for fiscal years 1996 through 2002.

"(d) CONSERVATION RESERVE PROGRAM.—Spending for the conservation reserve program (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note)) shall be not greater than—

"(1) $1,787,000,000 for fiscal year 1996;

"(2) $1,784,000,000 for fiscal year 1997;

"(3) $1,445,000,000 for fiscal year 1998;

"(4) $1,246,000,000 for fiscal year 1999;

"(5) $1,101,000,000 for fiscal year 2000;

"(6) $999,000,000 for fiscal year 2001; and

"(7) $974,000,000 for fiscal year 2002.".

(b) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—To carry out the programs funded under the amendment made by subsection (a), subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by striking chapter 2 (16 U.S.C. 3838 et seq.) and inserting the following:

"CHAPTER 2—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

"SEC. 1238. DEFINITIONS.

"In this chapter:

"(1) LAND MANAGEMENT PRACTICE.—The term 'land management practice' means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, or other land management practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"(2) LARGE CONFINED LIVESTOCK OPERATION.—The term 'large confined livestock operation' means a farm or ranch that—

"(A) is a confined animal feeding operation; and

"(B) has more than—

"(i) 700 mature dairy cattle;

"(ii) 1,000 beef cattle;

"(iii) 30,000 laying hens or broilers (if the facility has continuous overflow watering);

"(iv) 100,000 laying hens or broilers (if the facility has a liquid manure system);

"(v) 55,000 turkeys;

"(vi) 2,500 swine; or

"(vii) 10,000 sheep or lambs.

"(3) LIVESTOCK.—The term 'livestock' means mature dairy cows, beef cattle, laying hens, broilers, turkeys, swine, sheep, or lambs.

"(4) OPERATOR.—The term 'operator' means a person who is engaged in crop or livestock production (as defined by the Secretary).

"(5) STRUCTURAL PRACTICE.—The term 'structural practice' means the establishment of an animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, permanent wildlife habitat, or other structural practice that the Secretary determines is needed to protect soil, water, or related resources in the most cost effective manner.

"SEC. 1238A. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—During the 1996 through 2002 fiscal years, the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators who enter into contracts with the Secretary, through an environmental quality incentives program that replaces the functions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program.

"(2) ELIGIBLE PRACTICES.—

"(A) STRUCTURAL PRACTICES.—An operator who implements a structural practice shall be eligible for technical assistance or cost-sharing payments, or both.

"(B) LAND MANAGEMENT PRACTICES.—An operator who performs a land management practice shall be eligible for technical assistance or incentive payments, or both.

"(3) ELIGIBLE LANDS.—Land on which structural and land management practices may be performed under this chapter includes agricultural land (including cropland, rangeland, pasture, and other land on which crops or livestock are produced) that the Secretary determines poses a serious threat to soil, water, or related resources by reason of the soil types, terrain, climatic, soil, topographic, flood, or saline characteristics, or other factors or natural hazards.

"(4) PRIORITIES.—The Secretary shall provide technical assistance, cost-sharing payments, and incentive payments to operators in a region, watershed, or conservation priority area in which an agricultural operation is located, as determined by the Secretary, based on national and regional priorities that include—

"(A) the significance of the soil, water, and related natural resource problems;

"(B) structural or land management practices for which State or local governments have provided, or will provide, financial or technical assistance to the operators;

"(C) structural practices or land management practices on lands on which agricultural production has been determined to contribute to, or create, the potential for failure to meet applicable water quality standards or other environmental objectives of a Federal or State law; and

"(D) maximization of environmental benefits per dollar expended.

"(b) APPLICATION AND TERM.—

"(1) IN GENERAL.—A contract between an operator and the Secretary under this chapter may—

"(A) apply to 1 or more structural practices or 1 or more land management practices, or both; and

"(B) have a term of not less than 5, nor more than 10, years, as determined appropriate by the Secretary, depending on the practice or practices that are the basis of the contract.

"(2) DUTIES OF OPERATORS AND SECRETARY.—To receive cost sharing or incentive payments, or technical assistance, participating operators shall comply with all terms and conditions of the contract and a plan, as established by the Secretary.

"(c) STRUCTURAL PRACTICES.—

"(1) COMPETITIVE OFFER.—The Secretary shall administer a competitive offer system for operators proposing to receive cost-sharing payments in exchange for the implementation of 1 or more structural practices by the operator. The competitive offer system shall consist of—

"(A) the submission of a competitive offer by the operator in such manner as the Secretary may prescribe; and

"(B) evaluation of the offer in light of the priorities established by subsection (a)(4) and the projected cost of the proposal, as determined by the Secretary.

"(2) CONCURRENCE OF OWNER.—If the operator making an offer to implement a structural practice is a tenant of the land involved in agricultural production, for the offer to be acceptable, the operator shall obtain the concurrence of the owner of the land with respect to the offer.

"(d) LAND MANAGEMENT PRACTICES.—The Secretary shall establish an application and evaluation process for awarding technical assistance or incentive payments, or both, to an operator in exchange for the performance of 1 or more land management practices by the operator.

"(e) COST-SHARING, INCENTIVE PAYMENTS, AND TECHNICAL ASSISTANCE.—

"(1) COST-SHARING PAYMENTS.—

"(A) IN GENERAL.—The Federal share of cost-sharing payments to an operator proposing to implement 1 or more structural practices shall not be greater than 75 percent of the projected cost of each practice, as determined by the Secretary, taking into consideration any payment received by the operator from a State or local government.

"(B) LIMITATION.—An operator of a large confined livestock operation shall not be eligible for cost-sharing payments to construct an animal waste management facility.

"(C) OTHER PAYMENTS.—An operator shall not be eligible for cost-sharing payments for structural practices on eligible land under this chapter if the operator receives cost-sharing payments or other benefits for the same land under chapter 1 or 3.

"(2) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage an operator to perform 1 or more land management practices.

"(3) TECHNICAL ASSISTANCE.—

"(A) FUNDING.—The Secretary shall allocate funding under this chapter for the provision of technical assistance according to the purpose and projected cost for which the technical assistance is provided for a fiscal year. The allocated amount may vary according to the type of expertise required, quantity of time involved, and other factors as determined appropriate by the Secretary. Funding shall not exceed the projected cost to the Secretary of the technical assistance provided for a fiscal year.

"(B) OTHER AUTHORITIES.—The receipt of technical assistance under this chapter shall not affect the eligibility of the operator to receive technical assistance under other authorities of law available to the Secretary.

"(f) LIMITATION ON PAYMENTS.—

"(1) IN GENERAL.—The total amount of cost-sharing and incentive payments paid to a person under this chapter may not exceed—

"(A) $10,000 for any fiscal year; or

"(B) $50,000 for any multiyear contract.

"(2) REGULATIONS.—The Secretary shall issue regulations that are consistent with section 1001 for the purpose of—

"(A) defining the term 'person' as used in paragraph (1); and

"(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection.

"(g) REGULATIONS.—Not later than 180 days after the effective date of this subsection, the Secretary shall issue regulations to implement the environmental quality incentives program established under this chapter.

"SEC. 1238B. TEMPORARY ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

"(a) INTERIM ADMINISTRATION.—

"(1) IN GENERAL.—During the period beginning on the date of enactment of the Agricultural Reconciliation Act of 1995 and ending on the later of the dates specified in paragraph (2), to ensure that technical assistance, cost-sharing payments, and incentive payments continue to be administered in an orderly manner until such time as assistance can be provided through final regulations issued to implement the environmental quality incentives program established under this chapter, the Secretary shall continue to provide technical assistance, cost-sharing payments, and incentive payments under the terms and conditions of the agricultural conservation program, the Great Plains conservation program, the water quality incentives program, and the Colorado River Basin salinity control program, to the extent that the terms and conditions of the programs are consistent with the environmental quality incentives program.

"(2) EXPIRATION OF AUTHORITY.—The authority of the Secretary to carry out paragraph (1) shall terminate on the later of—

"(A) the date that is 180 days after the date of enactment of the Agricultural Reconciliation Act of 1995; or

"(B) March 31, 1996.

"(b) PERMANENT ADMINISTRATION.—Effective beginning on the later of the dates specified in subsection (a)(2), the Secretary shall provide technical assistance, cost-sharing payments, and incentive payments for structural practices and land management practices related to crop and livestock production in accordance with final regulations issued to carry out the environmental quality incentives program.".

(c) CONFORMING AMENDMENTS.—

(1) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

"(g) Carry out conservation functions and programs.".

(2) WETLANDS RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

(i) in subsection (b)(2)—

(I) by striking "not less" and inserting "not more"; and

(II) by striking "2000" and inserting "2002"; and

(ii) in subsection (c), by striking "2000" and inserting "2002".

(B) LENGTH OF EASEMENT.—Section 1237A(e) of the Food Security Act of 1985 (16 U.S.C. 3837a(e)) is amended by striking paragraph (2) and inserting the following:

"(2) shall be for 20 or 30 years, but in no case shall be a permanent easement.".

(3) CONSERVATION RESERVE PROGRAM.—

(A) IN GENERAL.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(i) in subsections (a) and (b)(3), by striking "1995" each place it appears and inserting "2002"; and

(ii) in subsection (d), by striking "total of" and all that follows through the period at the end of the subsection and inserting "total of 36,400,000 acres during the 1986 through 2002 calendar years (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 16 U.S.C. 3831 note), except that in no case may total spending for the conservation reserve exceed the spending limitations in section 1241(d).".

(B) CONFORMING AMENDMENT.—Section 1232(c) of the Food Security Act of 1985 (16 U.S.C. 3832(c)) is amended by striking "1995" and inserting "2002".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall become effective on the later of—

(A) the date of enactment of this Act; or

(B) November 1, 1995.

(2) TRANSITION PROVISIONS.—

(A) IN GENERAL.—Section 1238B of the Food Security Act of 1985 (as added by subsection (b)) shall become effective on the date of enactment of this Act.

(B) 1991 THROUGH 1995 CALENDAR YEARS.—Notwithstanding any other provision of law, this section and the amendments made by this section shall not affect the authority of the Secretary of Agriculture to carry out a program for any of the 1991 through 1995 calendar years under a provision of law in effect immediately before the effective dates specified in this subsection.

Subtitle C—Agricultural Promotion and Export Programs

SEC. 1301. MARKET PROMOTION PROGRAM.

Effective October 1, 1995, section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended—

(1) by striking "and" after "1991 through 1993,"; and

(2) by striking "through 1997," and inserting "through 1995, and not more than $75,000,000 for each of fiscal years 1996 through 2002,".

SEC. 1302. EXPORT ENHANCEMENT PROGRAM.

Effective October 1, 1995, section 301(e)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)) is amended to read as follows:

"(1) IN GENERAL.—The Commodity Credit Corporation shall make available to carry out the program established under this section not more than—

"(A) $767,200,000 for fiscal year 1996;

"(B) $705,600,000 for fiscal year 1997;

"(C) $624,800,000 for fiscal year 1998;

"(D) $544,000,000 for fiscal year 1999;

"(E) $463,200,000 for fiscal year 2000;

"(F) $382,400,000 for fiscal year 2001; and

"(G) $382,400,000 for fiscal year 2002.".

SEC. 1303. EXPORT OF SUNFLOWERSEED OIL AND COTTONSEED OIL.

(a) IN GENERAL.—Effective September 30, 1995, section 301 of the Disaster Assistance Act of 1988 (Public Law 100–387; 7 U.S.C. 1464 note) is repealed.

(b) FUNDING.—Notwithstanding any other provision of law, the Secretary of Agriculture shall not spend any funds made available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), to carry out the programs established under section 301(b) of the Disaster Assistance Act of 1988 (Public Law 100–387; 7 U.S.C. 1464 note) (as in effect prior to the amendment made by subsection (a)).

Subtitle D—Nutrition Assistance

CHAPTER 1—FOOD STAMP PROGRAM

SEC. 1401. TREATMENT OF CHILDREN LIVING AT HOME.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 1402. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the third sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the common purchase of food and preparation of meals.".

SEC. 1403. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "and (11)" and inserting "(11)";

(2) by inserting "through October 1, 1994" after "1990, and each October 1 thereafter"; and

(3) by inserting before the period at the end the following: ", and (12) on October 1, 1995, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1995, the Secretary may not reduce the cost of the diet in effect on September 30, 1995".

SEC. 1404. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 1405. STATE OPTIONS IN REGULATIONS.

Section 5(b) of the Food Stamp Act of 1977 (7 U.S.C. 2014(b)) is amended—

(1) by striking "(b) The Secretary" and inserting the following:

"(b) UNIFORM STANDARDS.—Except as otherwise provided in this Act, the Secretary"; and

(2) by striking "No plan" and inserting "Except as otherwise provided in this Act, no plan".

SEC. 1406. ENERGY ASSISTANCE.

(a) In General.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) through (15) as paragraphs (11) through (14), respectively.

(b) Conforming Amendments.—

(1) Section 5(k) of the Act (7 U.S.C. 2014(k)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(ii) in subparagraph (B), by striking ", not including energy or utility-cost assistance,";

(B) in paragraph (2)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively; and

(C) by adding at the end the following:

"(4) Third Party Energy Assistance Payments.—

"(A) Energy Assistance Payments.—For purposes of subsection (d)(1), a payment made under a Federal or State law to provide energy assistance to a household shall be considered money payable directly to the household.

"(B) Energy Assistance Expenses.—For purposes of subsection (e), an expense paid on behalf of a household under a Federal or State law to provide energy assistance shall be considered an out-of-pocket expense incurred and paid by the household.".

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 1407. DEDUCTIONS FROM INCOME.

(a) In General.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) in the second sentence—

(A) by striking "and (4)" and inserting "(4)";

(B) by inserting "through October 1, 1994" after "October 1 thereafter"; and

(C) by inserting before the period at the end the following: ", and (5) on October 1, 2002, and each October 1 thereafter, the Secretary shall adjust the standard deduction to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food, for the 12-month period ending the preceding June 30";

(2) in the third sentence, by striking "willfully or fraudulently" and all that follows through "to report" and inserting "has not reported";

(3) in the seventh sentence, by striking "may use a standard" and all that follows through "except that a" and inserting "may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling and the Secretary finds that the standards will not result in an increased cost to the Secretary. A State agency that has not made the use of a standard utility allowance mandatory under the preceding sentence shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household. A"; and

(4) by striking "A State agency shall allow a household to switch" and all that follows through "twelve-month period.".

(b) Homeless Shelter Deduction.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking the last 3 sentences and inserting the following: "A State agency may develop a standard homeless shelter deduction, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the deduction may use the deduction in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the deduction for households with extremely low shelter costs;".

SEC. 1408. AMOUNT OF VEHICLE ASSET LIMITATION.

The first sentence of section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking "through September 30, 1995" and all that follows through "such date and on" and inserting "and shall be adjusted on October 1, 1996, and".

SEC. 1409. BENEFITS FOR ALIENS.

Section 5(i) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by inserting "or who executed such an affidavit or similar agreement to enable the individual to lawfully remain in the United States," after "respect to such individual,"; and

(B) by striking "for a period" and ail that follows through the period at the end of the sentence and inserting "until the end of the period ending on the later of the date agreed to in the affidavit or agreement or the date that is 5 years after the date on which the individual was first lawfully admitted into the United States following the execution of the affidavit or agreement.";

(2) in paragraph (2)—

(A) in the first sentence of subparagraph (C)(i), by striking "of three years after entry into the United States" and inserting "determined under paragraph (1)";

(B) in the first sentence of subparagraph (D), by striking "of three years after such alien's entry into the United States" and inserting "determined under paragraph (1)"; and

(C) by adding at the end the following:

"(F) Limitation on Measurement of Attributed Income and Resources.—

"(i) In General.—Notwithstanding any other provision of this subsection, if a determination described in clause (ii) is made, the amount of income and resources of the sponsor or the sponsor's spouse that shall be attributed to the sponsored individual shall not exceed the amount actually provided to the individual, for—

"(I) the 12-month period beginning on the date of the determination; or

"(II) if the address of the sponsor is unknown to the sponsored individual on the date of the determination, the 12-month period beginning on the date the address becomes known to the sponsored individual or to the Secretary (who shall inform the individual of the address not later than 7 days after learning the address).

"(ii) Determination.—The determination described in this clause shall be a determination by the Secretary that a sponsored individual would, in the absence of the assistance provided by this Act, be unable to obtain food, taking into account the individual's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor."; and

(3) by adding at the end the following:

"(3) Treatment of Noncitizens.—

"(A) In General.—Notwithstanding any other provision of law, a noncitizen who has entered into the United States on or after the date of the enactment of this paragraph shall not, during the 5-year period beginning on the date of the noncitizen's entry into the United States, be eligible to receive any benefits under this Act.

"(B) Exceptions.—Subparagraph (A) shall not apply to any individual who is—

"(i) a noncitizen granted asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) or whose deportation has been withheld under section 243(h) of the Act (8 U.S.C. 1253(b)) for a period of not more than 5 years after the date the noncitizen arrived in the United States;

"(ii) a noncitizen admitted to the United States as a refugee under section 207 of the Act (8 U.S.C. 1157) for not more than 5 years after the date the noncitizen arrived in the United States; or

"(iii) a noncitizen, lawfully present in any State (or any territory or possession of the United States), who is—

"(I) a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage; or

"(II) the spouse or unmarried dependent child of a veteran described in subclause (I).".

SEC. 1410. DISQUALIFICATION.

(a) In General.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended—

(1) by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through "shall be ninety days. The" and inserting the following:

"(d) Conditions of Participation.—

"(1) Work Requirements.—

"(A) In General.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) Household Ineligibility.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) Duration of Ineligibility.—

"(i) First Violation.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph

(A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) OTHER CONDITIONS.—The"; and

(2) in paragraph (1), by striking "Any period of ineligibility" and all that follows through "violated.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".

SEC. 1411. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended by adding at the end the following:

"(O) LIMITATION ON FUNDING.—Notwithstanding any other provision of this paragraph, the amount of funds a State agency uses to carry out this paragraph (including under subparagraph (I)) for participants who are receiving benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall not exceed the amount of funds the State agency used in fiscal year 1995 to carry out this paragraph for participants who were receiving benefits in fiscal year 1995 under a State program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.).".

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking "(h)(1)(A) The Secretary" and all that follows through the end of paragraph (1) and inserting the following:

"(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $77,000,000;

"(ii) for fiscal year 1997, $80,000,000;

"(iii) for fiscal year 1998, $83,000,000;

"(iv) for fiscal year 1999, $86,000,000;

"(v) for fiscal year 2000, $89,000,000;

"(vi) for fiscal year 2001, $92,000,000; and

"(vii) for fiscal year 2002, $95,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(n).

"(C) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 for each fiscal year.".

SEC. 1412. INCOME CALCULATION.

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended by striking the third sentence and inserting the following: "The State agency may consider either all income and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection, or the income, less a pro rata share, and the financial resources of the ineligible individual, to determine the eligibility and the value of the allotment of the household of which the individual is a member.".

SEC. 1413. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end the following:

"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for a failure of the member to perform an action required under a Federal, State, or local law relating to a welfare or public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant, except that a prior disqualification under subsection (d) shall be considered in determining eligibility.".

(b) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 1414. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1413) is further amended by adding at the end the following:

"(j) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NONCOOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).".

SEC. 1415. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1414) is further amended by adding at the end the following:

"(k) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 1416. PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1415) is further amended by adding at the end the following:

"(l) PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be permanently ineligible to participate in the food stamp program as a member of any household if the individual is found by a State agency to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under the food stamp program.".

SEC. 1417. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1416) is further amended by adding at the end the following:

"(m) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under subsection (d)(4) other than a job search program or a job search training program under clause (i) or (ii) of subsection (d)(4)(B).

"(2) WORK REQUIREMENT.—Except as otherwise provided in this subsection, no individual

shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12-month period, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly; or

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency.

"(3) EXCEPTIONS.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with responsibility for a dependent child; or

"(D) otherwise exempt under subsection (d)(2).

"(4) WAIVER.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(A) has an unemployment rate of over 8 percent; or

"(B) does not have a sufficient number of jobs to provide employment for the individuals.".

(b) TRANSITION PROVISION.—Prior to October 1, 1996, the term "preceding 12-month period" in section 6(m)(2) of the Food Stamp Act of 1977 (as added by subsection (a)) means the preceding period that begins on October 1, 1995.

SEC. 1418. DISQUALIFICATION OF FLEEING FELONS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 1417) is further amended by adding at the end the following:

"(n) DISQUALIFICATION OF FLEEING FELONS.—No member of a household who is otherwise eligible to participate in the food stamp program shall be eligible to participate in the program as a member of that or any other household during any period during which the individual is—

"(1) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of the State; or

"(2) violating a condition of probation or parole imposed under a Federal or State law.".

SEC. 1419. ELECTRONIC BENEFIT TRANSFERS.

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:

"(j) ELECTRONIC BENEFIT TRANSFERS.—

"(1) APPLICABLE LAW.—

"(A) IN GENERAL.—Disclosures, protections, responsibilities, and remedies established by the Federal Reserve Board under section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) shall not apply to benefits under this Act delivered through any electronic benefit transfer system.

"(B) DEFINITION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—In this paragraph, the term 'electronic benefit transfer system' means a system under which a governmental entity distributes benefits under this Act or other benefits or payments by establishing accounts to be accessed by recipients of the benefits electronically, including through the use of an automated teller machine, a point-of-sale terminal, or an intelligent benefit card.

"(2) CHARGING FOR ELECTRONIC BENEFIT TRANSFER CARD REPLACEMENT.—

"(A) IN GENERAL.—A State agency may charge an individual for the cost of replacing a lost or stolen electronic benefit transfer card.

"(B) REDUCING ALLOTMENT.—A State agency may collect a charge imposed under subparagraph (A) by reducing the monthly allotment of the household of which the individual is a member.".

SEC. 1420. MINIMUM BENEFIT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 1421. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 1422. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—If the benefits of a household are reduced under a Federal, State, or local law relating to a welfare or public assistance program for the failure to perform an action required under the law or program, for the duration of the reduction—

"(1) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(2) the State agency may reduce the allotment of the household by not more than 25 percent.".

SEC. 1423. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.—In the case of an individual who resides in a homeless shelter, or in an institution or center for the purpose of a drug or alcoholic treatment program, described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(1) the institution as an authorized representative for the individual for a period that is less than 1 month; and

"(2) the individual, if the individual leaves the institution.".

SEC. 1424. COLLECTION OF OVERISSUANCES.

(a) IN GENERAL.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) HARDSHIPS.—A State agency may not use an allotment reduction under paragraph (1)(A) as a means of collecting an overissuance from a household if the allotment reduction would cause a hardship on the household, as determined by the State agency.

"(4) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall reduce the monthly allotment of the household under paragraph (1)(A) by the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) $10.

"(5) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENT.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

SEC. 1425. TERMINATION OF FEDERAL MATCH FOR OPTIONAL INFORMATION ACTIVITIES.

(a) IN GENERAL.—Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) CONFORMING AMENDMENT.—Section 16(g) of the Act (7 U.S.C. 2025(g)) is amended by striking "an amount equal to" and all that follows through "1991, of" and inserting "the amount provided under subsection (a)(5) for".

SEC. 1426. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following:

"(k) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION.—In this subsection, the term 'work supplementation or support program' means a program in which, as determined by the Secretary, public assistance (including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a new employee who is a public assistance recipient.

"(2) PROGRAM.—A State agency may elect to use amounts equal to the allotment that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting jobs under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount paid under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) MAXIMUM LENGTH OF PARTICIPATION.—A work supplementation or support program may not allow the participation of any individual for longer than 1 year, unless the Secretary approves a longer period.".

SEC. 1427. PRIVATE SECTOR EMPLOYMENT INITIATIVES.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end the following:

"(m) PRIVATE SECTOR EMPLOYMENT INITIATIVES.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out a private sector employment initiative program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out a private sector employment initiative under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—A State that has elected to carry out a private sector employment initiative under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment in the private sector for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employment referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.".

SEC. 1428. REAUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "2002".

SEC. 1429. OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.

The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. OPTIONAL STATE FOOD ASSISTANCE BLOCK GRANT.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to make grants to States in accordance with this section to provide—

"(1) food assistance to needy individuals and families residing in the State;

"(2) at the option of a State, wage subsidies and payments in return for work for needy individuals under the program;

"(3) funds to operate an employment and training program under subsection (g)(2) for needy individuals under the program; and

"(4) funds for administrative costs incurred in providing the assistance.

"(b) ELECTION.—

"(1) IN GENERAL.—A State may elect to participate in the program established under subsection (a).

"(2) ELECTION REVOCABLE.—A State that elects to participate in the program established under subsection (a) may subsequently reverse the election of the State only once thereafter. Following the reversal, the State shall only be eligible to participate in the food stamp program in accordance with the other sections of this Act and shall not receive a block grant under this section.

"(3) PROGRAM EXCLUSIVE.—A State that is participating in the program established under subsection (a) shall not be subject to, or receive any benefit under, this Act except as provided in this section.

"(c) LEAD AGENCY.—

"(1) DESIGNATION.—A State desiring to participate in the program established under this section shall designate, in an application submitted to the Secretary under subsection (d)(1), an appropriate State agency that complies with paragraph (2) to act as the lead agency for the State.

"(2) DUTIES.—The lead agency shall—

"(A) administer, either directly, through other State agencies, or through local agencies, the assistance received under this section by the State;

"(B) develop the State plan to be submitted to the Secretary under subsection (d)(1); and

"(C) coordinate the provision of food assistance under this section with other Federal, State, and local programs.

"(d) APPLICATION AND PLAN.—

"(1) APPLICATION.—To be eligible to receive assistance under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by regulation require, including—

"(A) an assurance that the State will comply with the requirements of this section;

"(B) a State plan that meets the requirements of paragraph (3); and

"(C) an assurance that the State will comply with the requirements of the State plan under paragraph (3).

"(2) ANNUAL PLAN.—The State plan contained in the application under paragraph (1) shall be submitted for approval annually.

"(3) REQUIREMENTS OF PLAN.—

"(A) LEAD AGENCY.—The State plan shall identify the lead agency.

"(B) USE OF BLOCK GRANT FUNDS.—The State plan shall provide that the State shall use the amounts provided to the State for each fiscal year under this section—

"(i) to provide food assistance to needy individuals and families residing in the State, other than residents of institutions who are ineligible for food stamps under section 3(i);

"(ii) at the option of a State, to provide wage subsidies or workfare under section 20(a) (except that any reference in section 20(a) to an allotment shall be considered a reference to the food assistance or benefits in lieu of food assistance received by an individual or family during a month under this section) for needy individuals and families participating in the program;

"(iii) to administer an employment and training program under subsection (g)(2) for needy individuals under the program and to provide reimbursements to needy individuals and families as would be allowed under section 16(h)(3); and

"(iv) to pay administrative costs incurred in providing the assistance.

"(C) ASSISTANCE FOR ENTIRE STATE.—The State plan shall provide that benefits under this section shall be available throughout the entire State.

"(D) NOTICE AND HEARINGS.—The State plan shall provide that an individual or family who applies for, or receives, assistance under this section shall be provided with notice of, and an opportunity for a hearing on, any action under this section that adversely affects the individual or family.

"(E) OTHER ASSISTANCE.—

"(i) COORDINATION.—The State plan may coordinate assistance received under this section with assistance provided under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(ii) PENALTIES.—If an individual or family is penalized for violating part A of title IV of the Act, the State plan may reduce the amount of assistance provided under this section or otherwise penalize the individual or family.

"(F) ELIGIBILITY LIMITATIONS.—The State plan shall describe the income and resource eligibility limitations that are established for the receipt of assistance under this section.

"(G) RECEIVING BENEFITS IN MORE THAN 1 JURISDICTION.—The State plan shall establish a system to verify and otherwise ensure that no individual or family shall receive benefits under this section in more than 1 jurisdiction within the State.

"(H) PRIVACY.—The State plan shall provide for safeguarding and restricting the use and disclosure of information about any individual or family receiving assistance under this section.

"(I) OTHER INFORMATION.—The State plan shall contain such other information as may be required by the Secretary.

"(4) APPROVAL OF APPLICATION AND PLAN.—The Secretary shall approve an application and State plan that satisfies the requirements of this section.

"(e) LIMITATIONS ON STATE ALLOTMENTS.—

"(1) NO INDIVIDUAL OR FAMILY ENTITLEMENT TO ASSISTANCE.—Nothing in this section—

"(A) entitles any individual or family to assistance under this section; or

"(B) limits the right of a State to impose additional limitations or conditions on assistance under this section.

"(2) CONSTRUCTION OF FACILITIES.—No funds made available under this section shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement of any building or facility.

"(f) BENEFITS FOR ALIENS.—

"(1) ELIGIBILITY.—No individual shall be eligible to receive benefits under a State plan approved under subsection (d)(4) if the individual is not eligible to participate in the food stamp program under section 6(f).

"(2) INCOME.—The State plan shall provide that the income of an alien shall be determined in accordance with section 5(i).

"(g) EMPLOYMENT AND TRAINING.—

"(1) WORK REQUIREMENTS.—No individual or member of a family shall be eligible to receive benefits under a State plan funded under this section if the individual is not eligible to participate in the food stamp program under subsection (d) or (m) of section 6.

"(2) WORK PROGRAMS.—Each State shall implement an employment and training program *described in section 6(d)(4) for needy individuals under the program.*

"(h) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this section and the State plan approved under subsection (d)(4).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the State plan approved under subsection (d)(4); or

"(ii) in the operation of any program or activity for which assistance is provided under this section, there is a failure by the State to comply substantially with any provision of this section; the Secretary shall notify the State of the finding and that no further payments will be made to the State under this section (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to the program or activity) until the Secretary is satisfied that there is no longer any failure to comply or that the noncompliance will be promptly corrected.

"(B) OTHER SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to, or in lieu of, imposing the sanctions described in subparagraph (A), impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this section and disqualification from the receipt of financial assistance under this section.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

"(3) ISSUANCE OF REGULATIONS.—The Secretary shall establish by regulation procedures for—

"(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this section; and

"(B) imposing sanctions under this section.

"(4) INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—The Secretary may withhold not more than 5 percent of the amount allotted to a State under subsection (l)(2) if the State does not use an income and eligibility verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b–7).

"(i) PAYMENTS.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall pay to a State that has an application approved by the Secretary under subsection (d)(4) an amount that is equal to the allotment of the State under subsection (l)(2) for the fiscal year.

"(2) METHOD OF PAYMENT.—The Secretary shall make payments to a State for a fiscal year under this section by issuing 1 or more letters of credit for the fiscal year, with necessary adjustments on account of overpayments or underpayments, as determined by the Secretary.

"(3) SPENDING OF FUNDS BY STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), payments to a State from an allotment under subsection (l)(2) for a fiscal year may be expended by the State only in the fiscal year.

"(B) CARRYOVER.—The State may reserve up to 10 percent of an allotment under subsection (l)(2) for a fiscal year to provide assistance under this section in subsequent fiscal years, except that the reserved funds may not exceed 30 percent of the total allotment received under this section for a fiscal year.

"(4) FOOD ASSISTANCE AND ADMINISTRATIVE EXPENDITURES.—In each fiscal year, of the Federal funds expended by a State under this section—

"(A) not less than 80 percent shall be for food assistance; and

"(B) not more than 6 percent shall be for administrative expenses.

"(5) PROVISION OF FOOD ASSISTANCE.—A State may provide food assistance under this section in any manner determined appropriate by the State to provide food assistance to needy individuals and families in the State, such as electronic benefits transfer limited to food purchases, coupons limited to food purchases, or direct provision of commodities.

"(6) DEFINITION OF FOOD ASSISTANCE.—In this section, the term 'food assistance' means assistance that may be used only to obtain food, as defined in section 3(g).

"(j) AUDITS.—

"(1) REQUIREMENT.—After the close of each fiscal year, a State shall arrange for an audit of the expenditures of the State during the program period from amounts received under this section.

"(2) INDEPENDENT AUDITOR.—An audit under this section shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this section and be in accordance with generally accepted auditing principles.

"(3) PAYMENT ACCURACY.—Each annual audit under this section shall include an audit of payment accuracy under this section that shall be based on a statistically valid sample of the caseload in the State.

"(4) SUBMISSION.—Not later than 30 days after the completion of an audit under this section, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

"(5) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this section to have not been expended in accordance with this section or to have not been expended in accordance with the State plan, or the Secretary may offset the amounts against any other amount paid to the State under this section.

"(k) NONDISCRIMINATION.—

"(1) IN GENERAL.—The Secretary shall not provide financial assistance for any program, project, or activity under this section if any person with responsibilities for the operation of the program, project, or activity discriminates with respect to the program, project, or activity because of race, religion, color, national origin, sex, or disability.

"(2) ENFORCEMENT.—The powers, remedies, and procedures set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) may be used by the Secretary to enforce paragraph (1).

"(l) ALLOTMENTS.—

"(1) DEFINITION OF STATE.—In this section, the term 'State' means each of the 50 States, the District of Columbia, Guam, and the Virgin Islands of the United States.

"(2) STATE ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amounts made available under section 18 of this Act for each fiscal year, the Secretary shall allot to each State participating in the program established under this section an amount that is equal to the sum of—

"(i) the greater of, as determined by the Secretary—

"(I) the total dollar value of all benefits issued under the food stamp program established under this Act by the State during fiscal year 1994; or

"(II) the average per fiscal year of the total dollar value of all benefits issued under the food stamp program by the State during each of fiscal years 1992 through 1994; and

"(ii) the greater of, as determined by the Secretary—

"(I) the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (h), respectively, of section 16 of this Act for fiscal year 1994; or

"(II) the average per fiscal year of the total amount received by the State for administrative costs and the employment and training program under subsections (a) and (h), respectively, of section 16 of this Act for each of fiscal years 1992 through 1994.

"(B) INSUFFICIENT FUNDS.—If the Secretary finds that the total amount of allotments to which States would otherwise be entitled for a fiscal year under subparagraph (A) will exceed the amount of funds that will be made available to provide the allotments for the fiscal year, the Secretary shall reduce the allotments made to States under this subsection, on a pro rata basis, to the extent necessary to allot under this subsection a total amount that is equal to the funds that will be made available.".

SEC. 1430. EFFECTIVE DATE.

Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall become effective on October 1, 1995.

CHAPTER 2—CHILD NUTRITION PROGRAMS

PART I—REIMBURSEMENT RATES

SEC. 1441. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

(a) IN GENERAL.—Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1753(b)(2)) is amended by striking "except that" and all that follows through "2 cents more".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 1442. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.

(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—

(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

(2) by striking subparagraph (D) (as so designated) and inserting the following:

"(D) ROUNDING.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with subparagraphs (B) and (C); and

"(iii) round the result to the nearest lower cent increment.

"(E) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the rates and factor for the remainder of the school year by rounding the previously established rates and factor to the nearest lower cent increment.

"(F) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(G) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustments made under this paragraph for—

"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid

lunches for the school year beginning July 1, 1995; and

"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the school year beginning July 1, 1995;

"(ii) adjust each resulting amount in accordance with subparagraph (C); and

"(iii) round each result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1443. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(1) in paragraph (1)(B)—

(A) in the first sentence, by striking "section 11(a)" and inserting "subparagraphs (B) through (E) of section 11(a)(3)"; and

(B) in the second sentence, by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to subparagraphs (B) through (E) of section 11(a)(3) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)))"; and

(2) in paragraph (2)(B)(ii)—

(A) by striking "nearest one-fourth cent" and inserting "nearest lower cent increment for the applicable school year"; and

(B) by inserting before the period at the end the following: ", and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1996.

SEC. 1444. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) is amended by striking "8.25 cents" and all that follows through "Act)" and inserting "the same as the national average lunch payment for paid meals established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

PART II—GRANT PROGRAMS

SEC. 1451. SCHOOL BREAKFAST STARTUP GRANTS.

(a) IN GENERAL.—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsection (g).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1996.

PART III—OTHER AMENDMENTS

SEC. 1461. CHILD AND ADULT CARE FOOD PROGRAM.

(a) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the National School Lunch Act (42 U.S.C. 1766(f)(3)) is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 30 cents for breakfasts, and 15 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 1461(a)(1) of the Agricultural Reconciliation Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(I)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State during fiscal year 1994 as a percentage of the number of all family day care homes participating in the program during fiscal year 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for fiscal year 1996 under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 1461(a)(1) of the Agricultural Reconciliation Act of 1995).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(b) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (a) shall become effective on August 1, 1996.

CHAPTER 3—ADDITIONAL SAVINGS

SEC. 1471. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "17".

SEC. 1472. STANDARD DEDUCTION.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by adding at the end the following: "Notwithstanding any other provision of this subsection, the Secretary shall allow a standard deduction of $134 for fiscal year 1995, $132 for the period consisting of October 1, 1995, through December 31, 1995, and $116 for the period consisting of January 1, 1996, through fiscal year 2002, except that households in Alaska, Hawaii, Guam, and the Virgin Islands of the United States shall be allowed a standard deduction of $229, $189, $269, and $118, respectively, for fiscal year 1995; $225, $186, $265, and $116, respectively, for the period consisting of October 1, 1995, through December 31, 1995; and $198, $164, $233, and $102, respectively, for the period consisting of January 1, 1996, through fiscal year 2002.".

SEC. 1473. VENDOR PAYMENTS FOR TRANSITIONAL HOUSING COUNTED AS INCOME.

Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) (as amended by section 1406(b)(1)(B)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively.

SEC. 1474. EXTENDING CLAIMS RETENTION RATES.

The first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "1995" each place it appears and inserting "2002".

SEC. 1475. REAUTHORIZATION OF PUERTO RICO NUTRITION ASSISTANCE PROGRAM.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting "$1,143,000,000 for each of fiscal years 1995 and 1996, $1,171,000,000 for fiscal year 1997, $1,212,000,000 for fiscal year 1998, $1,255,000,000 for fiscal year 1999, $1,299,000,000 for fiscal year 2000, $1,342,000,000 for fiscal year 2001, and $1,376,000,000 for fiscal year 2002".

SEC. 1476. VALUE OF FOOD ASSISTANCE.

(a) IN GENERAL.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B) ADJUSTMENTS.—

"(i) IN GENERAL.—The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.

"(ii) ADJUSTMENTS.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;

"(II) adjust the resulting amount in accordance with clause (i); and

"(III) round the result to the nearest lower cent increment.

"(iii) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the value of food assistance for the remainder of the school year by rounding the previously established value of food assistance to the nearest lower cent increment.

"(iv) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the value of food assistance shall be the same as the value of food assistance in effect on June 30, 1996.

"(v) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the value of food assistance for the school year beginning July 1, 1995;

"(II) adjust the resulting amount to reflect the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May for the most recent 12-month period for which the data are available; and

"(III) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 1477. COMMODITY ASSISTANCE.

(a) IN GENERAL.—Section 6(g) of the National School Lunch Act (42 U.S.C. 1755(g)) is amended by striking "12 percent" and inserting "10 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 1478. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13(b) of the National School Lunch Act (42 U.S.C. 1761(b)) is amended—

(1) by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) SERVICE INSTITUTIONS.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service

operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $1.82 for each lunch and supper served;

"(ii) $1.13 for each breakfast served; and

"(iii) 46 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.";

(2) in the second sentence of paragraph (3), by striking "levels determined" and all that follows through "this subsection" and inserting "level determined by the Secretary"; and

(3) by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 1479. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended by striking paragraph (8) and inserting the following:

"(8) ADJUSTMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with paragraph (7); and

"(iii) round the result to the nearest lower cent increment.

"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall adjust the minimum rate for the remainder of the school year by rounding the previously established minimum rate to the nearest lower cent increment.

"(C) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the minimum rate shall be the same as the minimum rate in effect on June 30, 1996.

"(D) ADJUSTMENT FOR SCHOOL YEAR BEGINNING JULY 1, 1998.—In the case of the school year beginning July 1, 1998, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;

"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

"(iii) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 1480. NUTRITION EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended by striking "$10,000,000" and inserting "$7,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1996.

SEC. 1481. EFFECTIVE DATE.

Except as otherwise provided in this chapter, this chapter and the amendments made by this chapter shall become effective on October 1, 1995.

CHAPTER 4—EFFECTIVE DATE

SEC. 1491. EFFECTIVE DATE.

Notwithstanding any other provision of this subtitle, if the Act entitled "An Act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence" is enacted on or before December 31, 1996, the amendments made by chapters 1 and 2 of this subtitle shall be effective only during the period prior to the date of enactment of such Act.

TITLE II—COMMITTEE ON ARMED SERVICES

SEC. 2001. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL AUTHORIZED.—During the 7-year period beginning on October 1, 1995, the President shall sell in accordance with this section such quantities of materials currently contained in the National Defense Stockpile (within the limits of subsection (c)) as are necessary to achieve proceeds in the total amount of $649,000,000.

(b) MINIMUM SALES EACH YEAR.—The President shall sell materials under subsection (a) as necessary in a fiscal year to ensure that, by the end of that fiscal year, the total amount of the proceeds received by the United States from such sales and from the sales under subsection (a) during preceding fiscal years equals or exceeds the amount indicated for that fiscal year as follows:

(1) By the end of fiscal year 1996, $71,000,000.

(2) By the end of fiscal year 1997, $115,000,000.

(3) By the end of fiscal year 1998, $181,000,000.

(4) By the end of fiscal year 1999, $272,000,000.

(5) By the end of fiscal year 2000, $388,000,000.

(6) By the end of fiscal year 2001, $530,000,000.

(7) By the end of fiscal year 2002, $649,000,000.

(c) MATERIALS COVERED.— The materials subject to sale under this section and the maximum quantity of each material authorized to be sold by the President are set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum	20,000 short tons
Chromium Metal	2,000 short tons
Cobalt	30,000,000 pounds of contained cobalt
Columbium Carbide	10,000 pounds of contained columbium
Columbium Ferro	500,000 pounds of contained columbium
Diamond, Bort	40,000 carats
Diamond Stones	2,500,000 carats
Germanium Metal	40,000 kilograms
Indium	35,000 troy ounces
Mica, Phlogopite Block	65,000 pounds
Platinum	25,000 troy ounces
Palladium	55,000 troy ounces
Rubber, Natural	75,000 long tons
Tantalum, Carbide Powder	6,000 pounds of contained tantalum
Tantalum, Minerals	750,000 pounds of contained tantalum
Tantalum, Oxide	40,000 pounds of contained tantalum
Titanium Sponge	15,000 short tons
Tungsten, Ore and Concentrate	19,850,000 pounds of contained tungsten
Tungsten Carbide	50,000 pounds of contained tungsten
Tungsten Metal Powder	50,000 pounds of contained tungsten
Tungsten Ferro	50,000 pounds of contained tungsten
Vegetable Tannin, Chestnut	2,500 long tons
Vegetable Tannin, Quebracho	35,000 long tons
Vegetable Tannin, Wattle	3,000 long tons

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—(1) The disposal authority provided in this section is in addition to any other disposal authority provided by law.

(2) The President may not sell materials under this section before disposing of the maximum quantities of materials in the National Defense Stockpile that the President is authorized to dispose of under laws enacted before the date of the enactment of this Act (except the Strategic and Critical Materials Stock Piling Act).

(e) DISPOSITION OF PROCEEDS.—Proceeds of sales under this section shall be credited to the general fund of the Treasury for reduction of budget deficits.

TITLE III—COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

SEC. 3001. STABILIZATION OF THE SAVINGS ASSOCIATION INSURANCE FUND.

(a) SPECIAL ASSESSMENT TO CAPITALIZE SAIF.—

(1) IN GENERAL.—Except as provided in paragraph (6), the Board of Directors shall impose a special assessment on the SAIF-assessable deposits of each insured depository institution at a rate that the Board of Directors, in its sole discretion, determines will cause the Savings Association Insurance Fund to achieve the designated reserve ratio on the first business day of January 1996.

(2) FACTORS TO BE CONSIDERED.—In carrying out paragraph (1), the Board of Directors shall base its determination on—

(A) the monthly Savings Association Insurance Fund balance most recently calculated;

(B) data on insured deposits reported in the most recent reports of condition filed not later than 70 days before the date of enactment of this Act by insured depository institutions; and

(C) any other factors that the Board of Directors deems appropriate.

(3) DATE OF DETERMINATION.—For purposes of paragraph (1), the amount of the SAIF-assessable deposits of an insured depository institution shall be determined as of March 31, 1995.

(4) DATE PAYMENT DUE.—The special assessment imposed under this section shall be—

(A) due on the first business day of January 1996; and

(B) paid to the Corporation on the later of—

(i) the first business day of January 1996; or

(ii) such other date as the Corporation shall prescribe, but not later than 60 days after the date of enactment of this Act.

(5) ASSESSMENT DEPOSITED IN SAIF.—Notwithstanding any other provision of law, the proceeds of the special assessment imposed under this subsection shall be deposited in the Savings Association Insurance Fund.

(6) DISCRETION TO EXEMPT WEAK INSTITUTIONS.—

(A) IN GENERAL.—The Board of Directors may, by order, in its sole discretion, exempt any insured depository institution that the Board of Directors determines to be weak from paying the special assessment imposed under this subsection if the Board of Directors determines that the exemption would reduce risk to the Savings Association Insurance Fund.

(B) GUIDELINES REQUIRED.—Not later than 30 days after the date of enactment of this Act, the Board of Directors shall prescribe guidelines setting forth the criteria that the Board of Directors will use in exempting institutions under subparagraph (A). Such guidelines shall be published in the Federal Register.

(C) EXEMPTION FOR CERTAIN NEWLY CHARTERED INSTITUTIONS.—

(i) IN GENERAL.—In addition to the institutions exempted from paying the special assessment under subparagraph (A), the Board of Directors shall, by order, exempt any insured depository institution from payment of the special assessment if the institution was in existence on October 1, 1995, and held no Savings Association Insurance Fund insured deposits prior to January 1, 1993.

(ii) DEFINITION.—For purposes of this subparagraph, an institution shall be deemed to have held Savings Association Insurance Fund insured deposits prior to January 1, 1993, if it directly held Savings Association Insurance Fund insured deposits prior to that date, or it succeeded to, acquired, purchased, or otherwise holds any Savings Association Insurance Fund insured deposits as of the date of enactment of this Act that were Savings Association Insurance Fund insured prior to January 1, 1993.

(D) EXEMPT INSTITUTIONS REQUIRED TO PAY ASSESSMENTS AT FORMER RATES.—

(i) PAYMENTS TO SAIF AND DIF.—Any insured depository institution that the Board of Directors exempts under this paragraph from paying the special assessment imposed under this subsection shall pay semiannual assessments—

(I) into the Savings Association Insurance Fund during calendar years 1996 and 1997, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995; and

(II) into the Deposit Insurance Fund during the period beginning on January 1, 1998 and ending on December 31, 1999, based on SAIF-assessable deposits of that institution, at assessment rates calculated under the schedule in effect for Savings Association Insurance Fund members on June 30, 1995, except that subclause (I) shall continue to apply if and only so long as the Bank Insurance Fund and the Savings Association Insurance Fund are not merged into the Deposit Insurance Fund.

(ii) OPTIONAL PRO RATA PAYMENT OF SPECIAL ASSESSMENT.—This subparagraph shall not apply with respect to any insured depository institution (or successor insured depository institution) that has paid, during any calendar year from 1997 through 1999, upon such terms as the Corporation may announce, an amount equal to the product of—

(I) 12.5 percent of the special assessment that the institution would have been required to pay under paragraph (1), if the Board of Directors had not exempted the institution; and

(II) the number of full semiannual periods remaining between the date of the payment and December 31, 1999.

(7) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—

(A) IN GENERAL.—For purposes of computing the special assessment imposed under this subsection with respect to a Bank Insurance Fund member bank, the amount of any deposits which section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund shall be reduced by 5 percent, if the adjusted attributable deposit amount of the Bank Insurance Fund member bank is less than 50 percent of the total deposits of that member bank as of June 30, 1995.

(B) ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—For purposes of this paragraph, the "adjusted attributable deposit amount" shall be determined in accordance with section 5(d)(3)(C) of the Federal Deposit Insurance Act.

(8) ADJUSTMENT TO THE ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT FOR CERTAIN BANK INSURANCE FUND MEMBER BANKS.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

(A) in subparagraph (C), by striking "The adjusted attributable deposit amount" and inserting "Except as provided in subparagraph (K), the adjusted attributable deposit amount"; and

(B) by adding at the end the following new subparagraph:

"(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 10 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period after December 31, 1995 (other than the special assessment imposed under section 3001(a) of the Balanced Budged Reconciliation Act of 1995), for a Bank Insurance Fund member bank that had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank as of June 30, 1995.".

(9) ADJUSTMENT OF SPECIAL ASSESSMENT FOR CERTAIN SAVINGS ASSOCIATIONS.—

(A) SPECIAL ASSESSMENT REDUCTION.—For purposes of computing the special assessment imposed under this subsection, in the case of any converted association, the amount of any deposits of such association which were insured by the Savings Association Insurance Fund as of March 31, 1995, shall be reduced by 10 percent.

(B) CONVERTED ASSOCIATION.—For purposes of this paragraph, the term "converted association" means—

(i) any Federal savings association that is a member of the Savings Association Insurance Fund and that had been, or has acquired by merger, consolidation, or otherwise the deposits of an institution that had been, a State savings bank, the deposits of which were insured under the Federal Deposit Insurance Act prior to August 9, 1989; and

(ii) a State depository institution that is a member of the Savings Association Insurance Fund that had been a State savings bank prior to October 1, 1992, and was a Federal savings association on August 9, 1989.

(b) FINANCING CORPORATION ASSESSMENTS SHARED PROPORTIONALLY BY ALL INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 21 of the Federal Home Loan Bank Act (12 U.S.C. 1441) is amended—

(A) in subsection (f)(2)—

(i) in the matter immediately preceding subparagraph (A)—

(I) by striking "Savings Association Insurance Fund member" and inserting "insured depository institution"; and

(II) by striking "members" and inserting "institutions"; and

(ii) in subparagraph (A), by striking "against Savings Association Insurance Fund members" and inserting "against insured depository institutions";

(B) in subsection (k)—

(i) by striking "section—" and inserting "section, the following definitions shall apply:";

(ii) by striking paragraph (1);

(iii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(iv) by adding at the end the following new paragraph:

"(3) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.".

(2) CONFORMING AMENDMENT.—Section 7(b)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(D)) is amended by striking "against Savings Association Insurance Fund members" and inserting "against insured depository institutions".

(3) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall become effective on January 1, 1996.

(c) INSURANCE PREMIUMS FOR CAPITALIZED INSURANCE FUNDS.—

(1) REBATES FOR CAPITALIZED FUND.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(A) by redesignating subsections (d) through (n) as subsections (e) through (o), respectively; and

(B) by inserting after subsection (c) the following new subsection:

"(d) BANK INSURANCE FUND ASSESSMENT CREDITS.—

"(1) CREDIT AMOUNT.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, if the Corporation determines, after considering the operating costs and expenses, case resolution expenditures, investment income, and assessment income of the Bank Insurance Fund, that the reserve ratio of the Bank Insurance Fund is expected to exceed the designated reserve ratio during the succeeding semiannual period, the Board of Directors may, in its sole discretion, provide an assessment credit with respect to Bank Insurance Fund assessments (for that succeeding semiannual period)—

"(i) in an amount that the Corporation determines will reduce the reserve ratio of the Bank Insurance Fund to the designated reserve ratio; or

"(ii) in a lesser amount, as determined by the Corporation.

"(B) LIMIT.—The amount of assessment credit under subparagraph (A) shall not exceed 100 percent of the net assessment income to be received with respect to the Bank Insurance Fund in the succeeding semiannual period.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'net assessment income', 'operating costs and expenses', 'insurance costs', *and 'investment income' shall have the same meanings as in paragraphs (4) and (5) of section 7(d) of the Federal Deposit Insurance Act, as in effect on the day before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, except that the term 'semiannual period' shall be substituted for the term 'calendar year' wherever that term appears.".*

(2) STABILIZING PREMIUMS FOR BIF AND SAIF.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end the following new paragraph:

"(8) RATE COMPARABILITY.—Notwithstanding any other provision of law, assessment rates for members of the Savings Association Insurance Fund shall not be lower than assessment rates for members of the Bank Insurance Fund of comparable risk until the first full semiannual period following the last maturity date of all obligations issued by the Financing Corporation pursuant to section 21(c) of the Federal Home Loan Bank Act.".

(d) MERGER OF BIF AND SAIF.—

(1) IN GENERAL.—Effective as provided in paragraph (4)—

(A) the Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this subsection;

(B) all assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund; and

(C) the separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

(2) SPECIAL RESERVE OF THE DEPOSIT INSURANCE FUND.—Effective as provided in paragraph (4), if, immediately before the merger of the Bank Insurance Fund and the Savings Association Insurance Fund, the reserve ratio of the Savings Association Insurance Fund exceeds the designated reserve ratio, the amount by which that reserve ratio exceeds the designated reserve ratio shall be placed in the Special Reserve of the Deposit Insurance Fund, established under section 11(a)(5) of the Federal Deposit Insurance Act, as amended by this subsection.

(3) CONFORMING AMENDMENTS.—

(A) DEPOSIT INSURANCE FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended—

(i) by redesignating subparagraph (B) as subparagraph (C);

(ii) by striking subparagraph (A) and inserting the following:

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members."; and

(iii) by striking "(4) GENERAL PROVISIONS RELATING TO FUNDS.—" and inserting the following:

"(4) DEPOSIT INSURANCE FUND.—".

(B) OTHER REFERENCES.—Section 11(a)(4)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(C) (as redesignated by subparagraph (A) of this paragraph)) is amended by striking "Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

(C) DEPOSITS INTO FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended by adding at the end the following new subparagraph:

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.".

(D) SPECIAL RESERVE OF DEPOSITS.—Section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)) is amended to read as follows:

"(5) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND.—

"(A) SPECIAL RESERVE OF DEPOSIT INSURANCE FUND ESTABLISHED.—

"(i) ESTABLISHMENT.—There is established a Special Reserve of the Deposit Insurance Fund, which shall be administered by the Corporation and shall be invested in accordance with section 13(a).

"(ii) LIMITATION.—The Corporation shall not provide any assessment credit, refund, or other payment from any amount in the Special Reserve.

"(B) EMERGENCY USE OF SPECIAL RESERVE.—Notwithstanding subparagraph (A)(ii), the Corporation may, in its sole discretion, transfer amounts from the Special Reserve to the Deposit Insurance Fund, for the purposes set forth in paragraph (4), only if—

"(i) the reserve ratio of the Deposit Insurance Fund is less than 50 percent of the designated reserve ratio; and

"(ii) the Corporation expects the reserve ratio of the Deposit Insurance Fund to remain less than 50 percent of the designated reserve ratio for each of the next 4 calendar quarters.

"(C) EXCLUSION OF SPECIAL RESERVE IN CALCULATING RESERVE RATIO.—Notwithstanding any other provision of law, any amounts in the Special Reserve shall be excluded in calculating the reserve ratio of the Deposit Insurance Fund under section 7.".

(E) FEDERAL HOME LOAN BANK ACT.—Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

(i) in subclause (I), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995"; and

(ii) in subclause (II), by striking "to Savings Associations Insurance Fund members" and inserting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995".

(F) REPEALS.—

(i) SECTION 3.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended—

(I) by striking subsection (y); and

(II) by redesignating subsection (z) as subsection (y).

(ii) SECTION 7.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

(I) by striking subsection (l);

(II) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively;

(III) in subsection (b)(2), by striking subparagraph (B); and

(IV) in subsection (b)(2), by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

(iii) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1121(a)) is amended—

(I) by striking paragraphs (6) and (7); and

(II) by redesignating paragraph (8) as paragraph (6).

(iv) RATE COMPARABILITY.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (8) (as added by subsection (c) of this section).

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection and subsection (e) shall become effective on January 1, 1998, if no insured depository institution is a savings association on that date.

(e) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 5136 OF THE REVISED STATUTES.—Paragraph Eleventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended in the fifth sentence by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(2) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the fourth sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(4) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

(5) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(A) in section 11(k) (12 U.S.C. 1431(k))—

(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(E) in section 21B(e) (12 U.S.C. 1441b(e))—

(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

(ii) by striking paragraph (7); and

(iii) by redesignating paragraph (8) as paragraph (7); and

(F) in section 21B(k) (12 U.S.C. 1441b(k))—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(6) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(A) in section 5 (12 U.S.C. 1464)—

(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(B) in section 10 (12 U.S.C. 1467a)—

(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(7) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(8) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

"(B) includes any former savings association.";

(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

(ii) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively and moving the margins 2 ems to the left;

(E) in section 5(e) (12 U.S.C. 1815(e))—

(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(ii) by striking paragraph (6); and

(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in section 7(b) (12 U.S.C. 1817(b))—

(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(iv) in paragraph (2)(D) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(v) by striking paragraph (2)(E) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act);

(vi) in paragraph (2)(F) (as redesignated by section 3001(d)(3)(F)(ii)(IV) of this Act)—

(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(vii) in paragraph (3)—

(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

(III) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

(IV) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(V) by striking subparagraphs (C) and (D) and inserting the following:

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B)."; and

(viii) in paragraph (6)—

(I) by striking "any such assessment" and inserting "any such assessment is necessary";

(II) by striking "(A) is necessary—";

(III) by striking subparagraph (B);

(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

(H) in section 7(d) (12 U.S.C. 1817(d)) (as added by section 3001(c)(1) of this Act)—

(i) in the subsection heading, by striking "BANK" and inserting "DEPOSIT"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(I) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(J) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(i) by striking subparagraph (B);

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(K) in section 11A(a) (12 U.S.C. 1821a(a))—

(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(ii) by striking paragraph (2)(B); and

(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(L) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(M) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(N) in section 13 (12 U.S.C. 1823)—

(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

(ii) in subsection (c)(4)(E)—

(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(iii) in subsection (c)(4)(G)(ii)—

(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(III) by striking "each member's" and inserting "each insured depository institution's"; and

(IV) by striking "the member's" each place such term appears and inserting "the institution's";

(iv) in subsection (c), by striking paragraph (11);

(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(O) in section 14(a) (12 U.S.C. 1824(a)) in the fifth sentence—

(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(P) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(Q) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(R) in section 14(d) (12 U.S.C. 1824(d))—

(i) by striking "BIF" each place such term appears and inserting "DIF"; and

(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(S) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(T) in section 17(a) (12 U.S.C. 1827(a))—

(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(U) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

(V) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

(W) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(X) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Y) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

(Z) by striking section 31 (12 U.S.C. 1831h);

(AA) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(BB) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

(CC) in section 38(k) (12 U.S.C. 1831o(k))—

(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(ii) in paragraph (2)(A)—

(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

(DD) in section 38(o) (12 U.S.C. 1831o(o))—

(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively.

(9) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act (Public Law 101–73; 103 Stat. 183) is amended—

(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(10) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

(11) AMENDMENT TO THE BANK HOLDING COMPANY ACT.—Section 2(j)(2) of the Bank Holding Company Act (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".

(f) DEFINITIONS.—For purposes of this section—

(1) the term "Bank Insurance Fund" means the fund established pursuant to section (11)(a)(5)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act;

(2) the terms "Board of Directors", "Corporation", "insured depository institution", "Federal savings association", "savings association", "State savings bank", and "State depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act;

(3) the term "Deposit Insurance Fund" means the fund established under section 11(a)(4) of the Federal Deposit Insurance Act, as amended by subsection (d) of this section;

(4) the term "designated reserve ratio" has the same meaning as in section 7(b)(2)(A)(iv) of the Federal Deposit Insurance Act;

(5) the term "Savings Association Insurance Fund" means the fund established pursuant to section 11(a)(6)(A) of the Federal Deposit Insurance Act, as that section existed on the day before the date of enactment of this Act; and

(6) the term "SAIF-assessable deposit" means—

(A) a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act; and

(B) a deposit that section 5(d)(3) of the Federal Deposit Insurance Act treats as insured by the Savings Association Insurance Fund.

SEC. 3002. ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY; RESTRAINT ON SECTION 8 RENT INCREASES FOR STAYERS IN THE CERTIFICATE PROGRAM.

(a) ANNUAL ADJUSTMENT FACTORS FOR OPERATING COSTS ONLY.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) is amended—

(1) by striking "(2)(A)" and inserting "(2)(A)(i)";

(2) by striking the second sentence and all that follows through the end of the subparagraph; and

(3) by adding at the end the following new clause:

"(ii)(I) Except as provided in subclause (II), if the maximum monthly rent for a unit in a new construction or substantial rehabilitation project to be adjusted using an annual adjustment factor exceeds 100 percent of the fair market rent for an existing dwelling unit in the market area, the Secretary shall adjust the rent using an operating costs factor that increases the rent to reflect increases in operating costs in the market area.

"(II) If the owner of a unit in a project described in subclause (I) demonstrates that the adjusted rent determined under subclause (I) would not exceed the rent for an unassisted unit of similar quality, type, and age in the same market area, as determined by the Secretary, the Secretary shall use the otherwise applicable annual adjustment factor.".

(b) RESTRAINT ON SECTION 8 RENT INCREASES FOR STAYERS IN THE CERTIFICATE PROGRAM.—Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) In the case of assistance under the certificate program under this section, 0.01 shall be subtracted from the amount of the annual adjustment factor, except that the annual adjustment factor shall not be reduced to less than 1.0.".

(c) APPLICABILITY.—The amendments made by subsection (a) shall apply to all contracts for new construction or substantial rehabilitation projects under which rents are adjusted under section 8(c)(2)(A) of the United States Housing Act of 1937, by applying an annual adjustment factor.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective on October 1, 1996.

SEC. 3003. WORKING FAMILY PREFERENCE FOR ADMISSION TO ASSISTED HOUSING.

Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended to read as follows:

"(i) provide that not less than 50 percent of the units shall be made available for occupancy by families that include one or more adult members who are employed on a full- or part-time basis;".

SEC. 3004. AMENDMENTS TO THE CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT OF 1992.

(a) DISTRIBUTION AND USE OF SURCHARGES.—

(1) IN GENERAL.—Section 6 of the Civil War Battlefield Commemorative Coin Act of 1992 (31 U.S.C. 5112 note) is amended to read as follows:

"SEC. 6. DISTRIBUTION AND USE OF SURCHARGES.

"(a) DISTRIBUTION.—An amount equal to $5,300,000 of the surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Association for the Preservation of Civil War Sites, Incorporated (hereafter in this Act referred to as the 'Association'), to be used for the acquisition of historically significant and threatened Civil War sites selected by the Association.

"(b) CIVIL WAR SITES INCLUDED.—In using amounts paid to the Association under subsection (a), the Association may spend—

"(1) not more than $500,000 to acquire sites at Malvern Hill, Virginia;

"(2) not more than $1,000,000 to acquire sites at Cornith, Mississippi;

"(3) not more than $300,000 to acquire sites at Spring Hill, Tennessee;

"(4) not more than $1,000,000 to acquire sites at Winchester, Virginia;

"(5) not more than $500,000 to acquire sites at Resaca, Georgia;

"(6) not more than $250,000 to acquire sites at Brice's Cross Roads, Mississippi;

"(7) not more than $250,000 to acquire sites at Perryville, Kentucky;

"(8) not more than $1,000,000 to acquire sites at Brandy Station, Virginia;

"(9) not more than $250,000 to acquire sites at Kernstown, Virginia; and

"(10) not more than $250,000 to acquire sites at Glendale, Virginia.".

(2) TRANSFER OF SURCHARGES.—

(A) TO TREASURY.—Not later than 10 days after the date of enactment of this Act, the Civil War Trust, formerly called the Civil War Battlefield Foundation (hereafter in this section referred to as the "Foundation") shall transfer to the Secretary of the Treasury an amount equal to $5,300,000.

(B) TO THE ASSOCIATION.—Not later than 10 days after the transfer under subparagraph (A) is completed, the Secretary of the Treasury shall transfer to the Association an amount equal to the amount transferred under subparagraph (A).

TITLE IV—COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Subtitle A—Communications

SEC. 4001. SPECTRUM AUCTIONS.

(a) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—

(1) AMENDMENTS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) GENERAL AUTHORITY.—If, consistent with the obligations described in paragraph (6)(E), mutually exclusive applications are accepted for any initial license or construction permit which will involve an exclusive use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection.

"(2) EXCEPTIONS.—The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission—

"(A) that, as the result of the Commission carrying out the obligations described in paragraph (6)(E), are not mutually exclusive;

"(B) for public safety radio services, including non-Government uses that protect the safety of life, health, and property and that are not made commercially available to the public; or

"(C) for initial licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their existing television licenses, unless the Commission—

"(i) not later than 180 days after the date of enactment of the Omnibus Budget Reconciliation Act of 1995, after notice and public comment, submits to Congress a proposal to use the authority provided in this subsection for the assignment of initial licenses or construction permits for use of the electromagnetic spectrum allocated but not assigned as of the date of enactment of that Act for television broadcast services; and

"(ii) the Congress takes action to approve the plan or to authorize the use of the authority provided by this subsection for such licenses or permits.

Except as provided in this subparagraph, the Commission may not assign initial licenses or construction permits under this title to terrestrial commercial television broadcast licensees to replace their existing broadcast licenses before January 1, 1998."; and

(B) by striking "1998" in paragraph (11) and inserting "2002".

(2) Conforming amendment.—Subsection (i) of section 309 of such Act is repealed.

(b) Commission Obligation To Make Additional Spectrum Available by Auction.—

(1) In general.—The Federal Communications Commission shall complete all actions necessary to permit the assignment, by September 30, 2002, by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 25 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 100 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been assigned or designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) reserved for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

The Commission shall conduct the competitive bidding for not less than one-half of such aggregate spectrum by September 30, 2000.

(2) Criteria for reassignment.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) take into account the costs to satellite service providers that could result from multiple auctions of like spectrum internationally for global satellite systems.

(3) Notification to NTIA.—The Commission shall notify the Secretary of Commerce if—

(A) the Commission is not able to provide for the effective relocation of incumbent licensees to bands of frequencies that are available to the Commission for assignment; and

(B) the Commission has identified bands of frequencies that are—

(i) suitable for the relocation of such licensees; and

(ii) allocated for Federal Government use, but that could be reallocated pursuant to part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.), as amended by this Act.

(c) Identification and Reallocation of Frequencies; Relocation of Federal Government Stations.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) by adding at the end of section 113 the following:

"(f) Additional Reallocation Report.—If the Secretary receives a notice from the Commission pursuant to section 4001(b)(3) of the Omnibus Budget Reconciliation Act of 1995, the Secretary shall prepare and submit to the President and the Congress a report recommending for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that are suitable for the uses identified in the Commission's notice.

"(g) Relocation of Federal Government Stations.—

"(1) In general.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept payment in advance or in-kind reimbursement of costs, or a combination of payment in advance and in-kind reimbursement, from any person to defray entirely the expenses of relocating the Federal entity's operations from one or more radio spectrum frequencies to any other frequency or frequencies, including, without limitation, the costs of any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity. Any such payment shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

"(2) Process for relocation.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

"(A) the person seeking relocation of the Federal Government station has guaranteed to defray entirely, through payment in advance, in-kind reimbursement of costs, or a combination thereof, all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use);

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes; and

"(D) NTIA has determined that the proposed use of the spectrum frequency band to which the Federal entity will relocate its operations is—

"(i) consistent with obligations undertaken by the United States in international agreements and with United States national security and public safety interests; and

"(ii) suitable for the technical characteristics of the band and consistent with other uses of the band.

In exercising its authority under subparagraph (D) with respect to issues that could have national security or foreign relations implications, NTIA shall consult with the Secretary of Defense or the Secretary of State, or both, as appropriate.

"(3) Right to reclaim.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or pay the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(h) Federal Action To Expedite Spectrum Transfer.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (g) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (g).

"(i) Definitions.—For purposes of this section—

"(1) Federal entity.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

"(2) Spectrum reallocation final report.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a)."; and

(2) by striking "(a) or (d)(1)" in section 114(a)(1) and inserting "(a), (d)(1), or (f)".

(d) Identification and Reallocation of Auctionable Frequencies.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.), as amended by this Act, is amended—

(1) by striking the heading of paragraph (1) of section 113(b) and inserting "Initial reallocation report.—";

(2) by inserting "in the first report required by subsection (a)" after "recommend for reallocation" in such paragraph;

(3) by inserting "or (3)" after "paragraph (1)" each place it appears in paragraph (2) of section 113(b);

(4) by adding at the end of section 113(b) the following:

"(3) Second reallocation report.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), a single frequency band that spans not less than an additional 20 megahertz, that is located below 3 gigahertz, and that meets the criteria specified in paragraphs (1) through (5) of subsection (a).";

(5) by striking "the report required by section 113(a)" in section 115(b) and inserting "the initial reallocation report required by section 113(a)"; and

(6) by adding at the end of section 115 the following:

"(c) ALLOCATION AND ASSIGNMENT OF FREQUENCIES IDENTIFIED IN THE SECOND REALLOCATION REPORT.—With respect to the frequencies made available for reallocation pursuant to section 113(b)(3), the Commission shall, not later than 1 year after receipt of the second reallocation report required by such section, prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall propose the immediate allocation and assignment of all such frequencies in accordance with section 309(j) of the 1934 Act (47 U.S.C. 309(j)).".

Subtitle B—Oceans and Fisheries

SEC. 4021. LIMITS ON COAST GUARD USER FEES.

Section 10401(g) of the Omnibus Budget Reconciliation Act of 1990 (46 U.S.C. 2110(a)(2)) is amended by adding after "annually." the following: "The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than $300 annually for such vessels under 65 feet in length, or more than $600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.".

SEC. 4022. OIL SPILL RECOVERY INSTITUTE.

(a) FUNDING.—Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended by—

(1) striking subsection (a), redesignating subsection (b) as subsection "(a)";

(2) striking "5003" in the caption of subsection (a), as redesignated, and inserting "5001, 5003,";

(3) inserting "to carry out section 5001 in the amount as determined in section 5006(b), and" after "limitation," in the text of subsection (a), as redesignated; and

(4) adding at the end thereof the following:

"(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund's investment of the $22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising the Fund.

"(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1995, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "5006(b)" and inserting "5006".

(2) Section 7001(c)(9) the Oil Pollution Act of 1990 (33 U.S.C. 2761(c)(9)) is amended by striking the period at the end thereof and inserting "until the authorization for funding under section 5006(b) expires".

Subtitle C—Rail Infrastructure

SEC. 4031. RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM.

(a) ISSUANCE OF OBLIGATIONS.—The Secretary of Transportation shall issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 832) in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of that Act (45 U.S.C. 831 through 833) as long as any such guaranteed obligation is outstanding.

(b) LIMITATION.—Notwithstanding any other provision of law, the Secretary of Transportation may not make loan guarantee commitments under section 511 of that Act (45 U.S.C. 831) in excess of $100,000,000 during each fiscal year from 1996 through 2002, and $10,000,000 is hereby made available for loan guarantee commitments made during each of those fiscal years.

SEC. 4032. LOCAL RAIL FREIGHT ASSISTANCE.

Section 22108(a) of title 49, United States Code, is amended—

(1) by adding at the end of paragraph (1) the following:

"(C) $25,000,000 for each of the fiscal years ending September 30, 1995, 1996, and 1997, which is authorized and hereby made available."; and

(2) by striking "1994," in paragraph (3) and inserting "1997,".

SEC. 4033. DISASTER FUNDING FOR RAILROADS.

Section 22101 of title 49, United States Code, is amended by redesignating subsection (d) as (e), and by inserting after subsection (c) the following:

"(d) DISASTER FUNDING FOR RAILROADS.—

"(1) The Secretary may declare that a disaster has occurred and that it is necessary to repair and rebuild rail lines damaged as a result of such disaster. If the Secretary makes a declaration under this paragraph, the Secretary may—

"(A) waive the requirements of this section;

"(B) consider the extent to which the State has available unexpended local rail freight assistance funds or available repaid loans; and

"(C) prescribe the form and time for applications for assistance made available herein.

"(2) The Secretary may not provide assistance under this subsection unless emergency disaster relief funds are appropriated for that purpose.

"(3) Funds provided under this subsection shall remain available until expended.".

SEC. 4034. GRADE-CROSSING ELIGIBILITY.

Section 22101(a) of title 49, United States Code, is amended—

(1) by striking "and" after the semicolon in paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) closing or improving a railroad grade crossing or series of railroad grade crossings; and

"(5) creating a State supervised grain car pool.".

TITLE V—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—United States Enrichment Corporation

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "USEC Privatization Act".

SEC. 5002. PURPOSE.

The purpose of this subtitle is to transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining and enrichment services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

SEC. 5003. DEFINITIONS.

For purposes of this subtitle:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 5005.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 5004.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 5004. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 5005 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the laws of the state of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining a reliable and economical domestic uranium mining and enrichment industries.

(c) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(d) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be—

(1) deposited in the general fund of the Treasury;

(2) included in the budget baseline required by the Balanced Budget and Emergency Deficit Control Act of 1985; and

(3) counted as an offset to direct spending for purposes of section 252 of such Act, notwithstanding section 257(e) of such Act.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 5005. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subtitle.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of 18 U.S.C. 205.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this Subtitle, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions of 18 U.S.C. 207(a), (b), (c), and (d) shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 5006. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 5007,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 5008(a),

(4) the Corporation's right to purchase power from the Secretary under section 5008(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 5007. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c-2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 5008. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 5009. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this Subtitle, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 5008 or any other action the Corporation is required to take under this subtitle.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this subtitle, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 5010. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plans participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act, any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for persons employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) Persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(ii) Persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) Employees of the Corporation who were subject to either the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) on the day immediately preceding the privatization date shall elect—

(i) to retain their coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) Those employees electing subparagraph (A)(ii) shall have the option to transfer the balance in their Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed 2 percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (FEHBP) on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 5011. OWNERSHIP LIMITATIONS.

No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

SEC. 5012. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U235. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this subtitle, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States; or

(C) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3 million pounds U3O8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6), and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U3O8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U235. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Year:	*Annual maximum deliveries to end users (millions lbs. U3O8 equivalent)*
1998	*2*
1999	*4*
2000	*6*
2001	*8*
2002	*10*
2003	*12*
2004	*14*
2005	*16*
2006	*17*
2007	*18*
2008	*19*
2009 and each year thereafter	*20.*

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluroide. Material sold pursuant to paragraph 5 shall not be swapped, exchanged or loaned.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The U.S. Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4 million pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e) no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary to national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this subtitle shall be read to modify the terms of the Russian HEU Agreement.

SEC. 5013. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged

by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mixed waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 5014. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954, the President shall transfer without charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 5015. GASEOUS DIFFUSION TECHNOLOGY.

(a) TRANSFER OF RIGHTS.—The Corporation shall have the exclusive commercial rights for both uranium enrichment and non-uranium enrichment uses of any patents, patent applications, trade secrets, and other technical information related to the gaseous diffusion technology owned or controlled by the Department of Energy, or by the United States but under control or custody of the Department of Energy. The Corporation shall enter into an exclusive licensing agreement with the Department of Energy providing for—

(1) the payment of royalties of 3 percent of the gross, pre-tax revenues realized by the Corporation from its non-uranium enrichment commercial uses of such patents, patent applications, trade secrets, and other technical information,

(2) the reduction of such royalties to offset any payments, awards, settlements, or judgments rendered against the Corporation in its deployment or licensing of the exclusive commercial rights under this section, and

(3) the reservation of a non-exclusive, royalty-free right to the United States Government to use such patents, patent applications, trade secrets, and other technical information solely for Governmental purposes.

(b) IMPROVEMENTS.—New patents, trade secrets, and other technical information developed for commercial applications that derive from the gaseous diffusion technology initially licensed by the Corporation shall be at the Corporation's expense and shall be free from royalties to the Department of Energy.

SEC. 5016. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the enactment of this subtitle, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 5017. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 1201–1608) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under section 53, 63, 193, or 1701, if in the opinion of the Commission, the issuance of such a license or certificate of compliance—

"(1) would be inimical to the common defense and security of the United States; or

"(2) would be inimical to the maintenance of a reliable and economical domestic source of enrichment services because of the nature and extent of the ownership, control, or domination of the Corporation by a foreign corporation or a foreign government or any other relevant factors or circumstances.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a)) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 5018. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N).

(b) DEFINITION OF THE CORPORATION.—Section 1018 (1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1)) is amended by adding at the end "or its successor.".

Subtitle B—Department of the Interior Conveyances

SEC. 5101. SHORT TITLE.

This subtitle may be cited as the "Helium Act of 1995".

SEC. 5102. AMENDMENT OF HELIUM ACT.

Except as otherwise expressly provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal *of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Helium Act (50 U.S.C. 167 to 167n).*

SEC. 5103. AUTHORITY OF SECRETARY.

Sections 3, 4, and 5 are amended to read as follows:

"SEC. 3. AUTHORITY OF SECRETARY.

"(a) EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.—

"(1) IN GENERAL.—The Secretary may enter into agreements with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.

"(2) LEASEHOLD RIGHTS.—The Secretary may grant leasehold rights to any such helium.

"(3) LIMITATION.—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

"(4) REGULATIONS.—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

"(5) EXISTING RIGHTS.—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

"(6) TERMS AND CONDITIONS.—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

"(7) PRIOR AGREEMENTS.—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Act of 1995 except to the extent that such agreements are renewed or extended after that date.

"(b) STORAGE, TRANSPORTATION AND SALE.—The Secretary may store, transport, and sell helium only in accordance with this Act.

"SEC. 4. STORAGE, TRANSPORTATION, AND WITHDRAWAL OF CRUDE HELIUM.

"(a) STORAGE, TRANSPORTATION AND WITHDRAWAL.—The Secretary may store, transport and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Act of 1995 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

"(b) CESSATION OF PRODUCTION, REFINING, AND MARKETING.—Not later than 18 months after the date of enactment of the Helium Act of 1995, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Act of 1995, except activities described in subsection (a).

"(c) DISPOSAL OF FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (5), not later than 18 months after the cessation of activities referred to in section (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

"(2) APPLICABLE LAW.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.

"(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

"(4) COSTS.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production fund established under section 6(f).

"(5) EXCEPTION.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.

"(d) EXISTING CONTRACTS.—

"(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Act of 1995 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).

"(2) COSTS.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

"SEC. 5. FEES FOR STORAGE, TRANSPORTATION AND WITHDRAWAL.

"(a) IN GENERAL.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.

"(b) TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).".

SEC. 5104. SALE OF CRUDE HELIUM.

(a) Subsection 6(a) is amended by striking "from the Secretary" and inserting "from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary".

(b) Subsection 6(b) is amended—

(1) by inserting "crude" before "helium"; and

(2) by adding the following at the end: "Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.".

(c) Subsection 6(c) is amended—

(1) by inserting "crude" after "Sales of"; and

(2) by striking "together with interest as provided in this subsection" and all that follows through the end of the subsection and inserting "all funds required to be repaid to the United States as of October 1, 1994 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—

"(i) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and

"(ii) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1994.".

(d) Subsection 6(d) is amended to read as follows:

"(d) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LANDS.—All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).".

(e) Subsection 6(e) is repealed.

(f) Subsection (f) is amended—

(A) by striking "(f)" and inserting "(e)(1)"; and

(B) by adding the following at the end:

"(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of $2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

"(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.".

SEC. 5105. ELIMINATION OF STOCKPILE.

Section 8 is amended to read as follows:

"SEC. 8. ELIMINATION OF STOCKPILE.

"(a) STOCKPILE SALES.—

"(1) COMMENCEMENT.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as may be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet by January 1, 2015.

"(2) TIMES OF SALE.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

"(3) PRICE.—The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).

"(b) DISCOVERY OF ADDITIONAL RESERVES.—The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).".

SEC. 5106. REPEAL OF AUTHORITY TO BORROW.

Sections 12 and 15 are repealed.

Subtitle C—Arctic Coastal Plain Leasing and Revenue Act

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Arctic Coastal Plain Leasing and Revenue Act of 1995".

SEC. 5202. PURPOSE AND POLICY.

The Congress hereby declares that it is the purpose and policy of this subtitle to authorize competitive oil and gas leasing and development to proceed on the Coastal Plain in a manner consistent with protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users, and in a manner that will reduce the Federal deficit by an estimated $1.3 billion over the next seven years.

SEC. 5203. DEFINITIONS.

When used in this subtitle the term—

(1) "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142(b)(1)) comprising approximately 1,549,000 ACRES acres; and

(2) "Secretary" means the Secretary of the Interior or the Secretary's designee.

SEC. 5204. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) AUTHORIZATION.—The Congress hereby authorizes and directs the Secretary and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development,

and production of the oil and gas resources of the Coastal Plain, and no further findings or decisions shall be required to implement this authorization. The Secretary shall administer the provisions of this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations, and in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) Repeal.—The prohibitions and limitations contained in section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) are hereby repealed.

(c) Sole Authority.—This subtitle shall be the sole authority for leasing on the Coastal Plain.

(d) Federal Land.—The Coastal Plain shall be considered "Federal land" for the purposes of the Federal Oil and Gas Royalty Management Act of 1982.

SEC. 5205. RULES AND REGULATIONS.

(a) Promulgation.—The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this subtitle, including rules and regulations relating to protection of the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such rules and regulations shall be promulgated within eighteen months after the date of enactment of this subtitle and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subtitle and all operations on the Coastal Plain related to the leasing, exploration, development and production of oil and gas.

(b) Revision of Regulations.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 5206. ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.

The "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is hereby found by the Congress to be adequate to satisfy the legal requirements under the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle and to conduct the first lease sale authorized by this subtitle.

SEC. 5207. LEASE SALES.

(a) Lease Sales.—Lands may be leased pursuant to the provisions of this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. 181).

(b) Procedures.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (d)) from, a lease sale; and

(2) public notice of and comment on designation of areas to be included in, or excluded per subsection (d) from, a lease sale.

(c) Lease Sales on Coastal Plain.—The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of three hundred thousand acres. If the total acreage nominated is less than three hundred thousand acres, the Secretary shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. Thereafter, no more than three hundred thousand acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within twenty-four months of the date of enactment of this subtitle. The second lease sale shall be held twenty-four months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

(d) Special Areas.—The Secretary, after consultation with the State of Alaska, City of Kaktovik, and the North Slope Borough, is authorized to designate up to a total of 60,000 acres of the Coastal Plain as Special Areas and close it to leasing if the Secretary determines that these lands are of such unique character and interest so as to require special management and regulatory protection. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives ninety days in advance of making such designations. The Secretary may permit leasing of all or portions of any lands within the Coastal Plain designated as Special Areas by setting lease terms that limit or condition surface use and occupancy by lessees of such lands but permit the use of horizontal drilling technology from sites on leases located outside the designated Special Areas.

SEC. 5208. GRANT OF LEASES BY THE SECRETARY.

(a) In General.—The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive cash bonus bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) Antitrust Review.—Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to perform an antitrust review of the results of such lease sale on the likely effects the issuance of such leases would have on competition and shall advise the Secretary with respect to such review, including any recommendation for the nonacceptance of any bid or the imposition of terms or conditions on any lease, as may be appropriate to prevent any situation inconsistent with the antitrust laws.

(c) Subsequent Transfers.—No lease issued under this subtitle may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

(d) Immunity.—Nothing in this subtitle shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(e) Definitions.—As used in this section, the term—

(1) "antitrust review" shall be deemed an "antitrust investigation" for the purposes of the Antitrust Civil Process Act (15 U.S.C. 1311); and

(2) "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12) as amended.

SEC. 5209. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this subtitle shall—

(1) be for a tract consisting of a compact area not to exceed five thousand seven hundred sixty acres, or nine surveyed or protracted sections which shall be as compact in form as possible;

(2) be for an initial period of ten years and shall be extended for so long thereafter as oil or gas is produced in paying quantities from the lease or unit area to which the lease is committed or for so long as drilling or reworking operations, as approved by the Secretary, are conducted on the lease or unit area;

(3) require the payment of royalty as provided for in section 5208 of this subtitle;

(4) require that exploration activities pursuant to any lease issued or maintained under this subtitle shall be conducted in accordance with an exploration plan or a revision of such plan approved by the Secretary;

(5) require that all development and production pursuant to a lease issued or maintained pursuant to this subtitle shall be conducted in accordance with a development and production plan approved by the Secretary;

(6) require posting of bond as required by section 5210 of this subtitle;

(7) forbid the flaring of natural gas from any well unless the Secretary finds that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations;

(8) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease;

(9) provide that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this subtitle in the interest of conservation of the resource or where there is no available system to transport the resource. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto;

(10) provide that whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subtitle, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this subtitle, such lease may be canceled by the Secretary if such default continues for more than thirty days after mailing of notice by registered letter to the lease owner at the lease owner's record post office address of record;

(11) provide that whenever the owner of any producing lease fails to comply with any of the provisions of this subtitle, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this subtitle, such lease may be forfeited and canceled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this subtitle;

(12) provide that cancellation of a lease under this subtitle shall in no way release the owner of the lease from the obligation to provide for reclamation of the lease site;

(13) require that no lease issued under the authority of this subtitle shall be assigned or sublet, except with the consent of the Secretary;

(14) allow the lessee, at the discretion of the Secretary, to make written relinquishment of all

rights under any lease issued pursuant to this subtitle, and the Secretary shall accept the relinquishment by the lessee of any lease issued under this subtitle where there has not been surface disturbance on the lands covered by the lease;

(15) provide that for the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof, and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require that, to the greatest extent practicable, lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof, and the Secretary is also authorized and directed to enter into such agreements as are necessary or appropriate for the protection of the United States against drainage;

(16) require that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, production or transportation activities on a lease within the Coastal Plain by the holder of a lease or as a result of activities conducted on the lease by any of the leaseholder's subcontractors or agents;

(17) provide that the holder of a lease may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another party without the express written approval of the Secretary;

(18) provide that the standard of reclamation for lands required to be reclaimed under this subtitle be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(19) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by section 5204 (a) of this subtitle; and

(20) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this subtitle and the regulations issued thereunder.

SEC. 5210. BONDING REQUIREMENTS TO ENSURE FINANCIAL RESPONSIBILITY OF LESSEE AND AVOID FEDERAL LIABILITY.

(a) REQUIREMENT.—The Secretary shall, by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease. Such bond, surety, or financial arrangement is in addition to, and not in lieu, of any bond, surety, or financial arrangement required by any other regulatory authority or required by any other provision of law.

(b) AMOUNT.—The bond, surety, or financial arrangement shall be in an amount—

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) an amount set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities.

(c) ADJUSTMENT.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond, surety, or other financial arrangement to conform to such modified plan.

(d) DURATION.—The responsibility and liability of the lessee and its surety under the bond, surety, or other financial arrangement shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

(e) TERMINATION.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary, after consultation with affected Federal and State agencies, shall notify the lessee that the period of liability under the bond, surety, or other financial arrangement has been terminated.

SEC. 5211. OIL AND GAS INFORMATION.

(a) IN GENERAL.—(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this subtitle shall provide the Secretary access to all data and information from any lease granted pursuant to this subtitle (including processed and analyzed) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If processed and analyzed information provided pursuant to paragraph (1) of this subsection is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such processed and analyzed information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1) of this subsection—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information; or

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) REGULATIONS.—The Secretary shall prescribe regulations to:

(1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and

(2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 5212. EXPEDITED JUDICIAL REVIEW.

Any complaint seeking judicial review of an action of the Secretary in promulgating any regulation under this subtitle may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within ninety days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any other actions of the Secretary under this subtitle may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 5213. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

Notwithstanding title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized and directed to grant, in accordance with the provisions of section 28 (c) through (t) and (v) through (y) of the Mineral Leasing Act of 1920 (30 U.S.C. 185), rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The regulations issued pursuant to this subtitle shall include provisions granting of rights-of-way across the Coastal Plain.

SEC. 5214. ENFORCEMENT OF SAFETY AND ENVIRONMENTAL REGULATIONS TO ENSURE COMPLIANCE WITH TERMS AND CONDITIONS OF LEASE.

(a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this subtitle.

(b) RESPONSIBILITY OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this subtitle to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this subtitle to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ON-SITE INSPECTION.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this subtitle or conditions contained in any lease issued pursuant to this subtitle to assure compliance with such environmental or safety regulations or conditions; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

SEC. 5215. NEW REVENUES.

(a) DISTRIBUTION OF REVENUES.—Notwithstanding any other provision of law, all revenues received by the Federal Government from competitive bids, sales, bonuses, royalties, rents, fees, interest or other income derived from the leasing of oil and gas resources within the Coastal Plain shall be deposited into the Treasury of the United States: Provided, That 50 per centum of all such revenues shall be paid by the Secretary of the Treasury semiannually, on March 30th and on September 30th of each year, to the State of Alaska: Provided further, That the Secretary of the Treasury shall monitor the total amount of bonus bid revenue deposited into the Treasury from oil and gas leases issued

under the authority of this subtitle. All bonus bid revenue deposited in the Treasury in excess of $2,600,000,000 shall be distributed as follows: 50 per centum to the State of Alaska in the manner provided in this subsection and 50 per centum into a special fund established in the Treasury of the United States known as the "National Park and Wildlife Refuge Renewal Fund" (Renewal Fund).

(b) USE OF RENEWAL FUND.—Funds from the Renewal Fund shall be made available to the Secretary of the Interior, without further appropriation, at the beginning of each fiscal year in which funds are available, and may be expended by the Secretary for infrastructure needs at units of the National Park and Wildlife Refuge Systems, including but not limited to facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement and infrastructure projects associated with park and wildlife refuge resource protection: Provided, That such amounts shall remain available until expended, and that the Secretary shall develop procedures for the use of the Renewal Fund that ensure accountability and demonstrated results. Such procedures shall not take effect until 90 days after transmittal to the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and the appropriate Committees of the House of Representatives: Provided further, That beginning the first full fiscal year after funds are deposited in the Renewal Fund, the Secretary shall submit an annual report to the Congress, on a unit-by-unit basis, detailing the expenditures of such receipts, and that any revenues made available pursuant to this section shall be in addition to funds appropriated in the preceding fiscal year for the Park Service and Fish and Wildlife Service and shall not result in a reduction or offset of such appropriated funds.

Subtitle D—Park Entrance Fees

SEC. 5300. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(a)) is amended:

(1) By deleting "fee-free travel areas" and "lifetime admission permit" from the subsection.

(2) By striking "$25" in the first sentence of paragraph (1)(a)(i), and inserting "$50".

(3) By adding at the end of clause (ii) of paragraph (1)(A) the following: "Such receipts shall be made available, subject to appropriation, for authorized resource protection, rehabilitation and conservation projects as provided for by subsection (I), including projects to be carried out by the Public Land Corps or any other conservation corps pursuant to the Youth Conservation Corps Act of 1970 (16 U.S.C. 1701 and following), or other related programs or authorities, on lands administered by the Secretary of the Interior and the Secretary of Agriculture.".

(4) By striking "$15" in paragraph (a)(1)(B), and inserting "$25".

(5) By striking the fifth and sixth sentences in paragraph (a)(2), and by amending the fourth sentence to read as follows: "The fee for a single-visit permit at any designated area shall be collected on a per person basis, not to exceed $6 per person, including for those entering by private, noncommercial vehicle.".

(6) By inserting the word "Great" before "Smoky" in the third sentence of paragraph (a)(3), and by striking the last sentence.

(7) By striking the second sentence in paragraph (a)(4), in its entirety and inserting: "Such permit shall be nontransferable, shall be issued for a one-time charge of $10, and shall entitle the permittee to free admission into any area designated pursuant to this subsection.".

(8) By amending the third sentence in paragraph (a)(4), to read as follows: "No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local government business.".

(9) By striking paragraph (a)(5), in its entirety and inserting: "The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be permanently disabled. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.".

(10) By striking subparagraph (a)(6)(A), in its entirety and inserting: "No later than 30 days after the enactment date of this sentence, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a report on the admission fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the admission fee proposed to be charged at each unit. The Secretary of the Interior shall also identify areas where such fees are authorized but not collected, including an explanation of the reasons that such fees are not collected.".

(11) By striking paragraph (a)(9) in its entirety and by renumbering current paragraph (10) as "(9)".

(12) By striking all but the last sentence in paragraph (a)(11), and renumbering the remaining sentence as "(a)(10)".

(13) By renumbering paragraph (a)(12) as "(a)(11)".

(b) RECREATION FEES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965; 16 U.S.C. 460l–6a(b)), is amended:

(1) By striking "fees for Golden Age Passport permittees" from the heading.

(2) By striking "personal collection of the fee by an employee or agent of the Federal agency operating the facility,".

(3) By striking "Any Golden Age Passport permittee, or" and inserting "Any".

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(d)) is amended by striking from the first sentence, "recreation fees charged by non-Federal public agencies," and inserting: "fees charged by other public and private entities,".

(d) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(e)) is amended by deleting "of not more than $100." and inserting: "as provided by law.".

(e) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(h)), is amended—

(1) by striking "Bureau of Outdoor Recreation" and inserting: "National Park Service";

(2) by striking "Natural" in the phrase "Committee on Natural Resources of the House of Representatives"; and

(3) by striking "Bureau" and inserting: "National Park Service";

(f) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(i)) is amended:

(1) By amending the subsection heading to read as follows: "USE OF FEES.—".

(2) By striking "fee collection costs for that fiscal year" in the first sentence of subparagraph (B) and inserting: "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting in lieu thereof, "section in such immediately preceding fiscal year.".

(3) By striking "in that fiscal year" in the second sentence of subparagraph (B).

(4) By striking paragraph (4), and subparagraphs (A) and (B) in their entirety and inserting: "Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) of this section for obligation or expenditure by the Director of the National Park Service for park operations.".

(g) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(k)) is amended by striking the last sentence in its entirety.

(h) CHARGES FOR TRANSPORTATION PROVIDED BY THE NATIONAL PARK SERVICE.—Section 4(l)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(1)) is amended—

(1) by striking the word "viewing" from the section heading and inserting "visiting", and

(2) by striking the word "view" from the first sentence of subparagraph (1) and inserting "visit".

(i) COMMERCIAL TOUR USE FEES.—Section 4(n) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(n)) is further amended—

(1) By striking the first sentence of subsection (n)(1) and inserting: "In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1995, a commercial tour use fee in lieu of a per person admission fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit.".

(2) By striking the period at the end of subsection (n)(3) and inserting: "with written notification of such adjustments provided to commercial tour operators twelve months in advance of implementation.".

(j) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a)), is further amended by adding at the end the following:

"(o) FEES FOR COMMERCIAL/NON-RECREATIONAL USES.—The Secretary of the Interior shall establish reasonable fees for uses of National Park System units that require special arrangements, including permits. Such fees shall be set at a level as the Secretary deems necessary to ensure that the United States will receive fair market value for such use, and shall, at a minimum, cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any nonprofit organization or any organization using an area within the National Park System for educational purposes. That portion of such fee which exceeds the cost of providing necessary services associated with such use shall be deposited into the Park Renewal Fund.".

(k) CONFORMING AMENDMENTS.—

(1) Section 3 of Public Law 70–805 (45 Stat. 1300), is amended by striking the last sentence.

(2) Section 5(e) of Public Law 87–657 (76 Stat. 540; 16 U.S.C. 459c–5), is repealed.

(3) Section 3(b) of Public Law 87–750 (76 Stat. 747; 16 U.S.C. 398e(b)) is repealed.

(4) Section 4(e) of Public Law 92–589 (86 Stat. 1299; 16 U.S.C. 460bb–3), is amended by striking the first sentence.

(5) Section 6(j) of Public Law 95–348 (92 Stat. 487; 16 U.S.C. 410dd(j)) is repealed.

(6) Section 207 of Public Law 96–199 (94 Stat. 77; 16 U.S.C. 410ff–6) is repealed.

(7) Section 106 of Public Law 96–287 (94 Stat. 600; 16 U.S.C. 410gg–5) is amended by striking the last sentence.

(8) Section 204 of Public Law 96-287 (94 Stat. 601) is amended by striking the last sentence.

(9) Section 5 of Public Law 96-428 (94 Stat. 1843; 16 U.S.C. 461 note) is repealed.

(10) Public Law 100-55 (101 Stat. 371; U.S.C. 460l-6a note) is repealed.

SEC. 5301. CHALLENGE COST-SHARE AGREEMENTS.

The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with any State or local government, public or private agency, organization, institution, corporation, individual, or other entity for the purpose of sharing costs or services in carrying out any authorized functions and responsibilities of the Secretary with respect to any unit of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or designated National Scenic or Historic Trail.

SEC. 5302. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

(a) DEFINITION OF PARK SYSTEM RESOURCE.—Section 1 (d) of the National Park System Visitor Facilities Fund Act (16 U.S.C. 19jj(d)) is amended to read as follows:

"(d) 'Park system resource' means any living or nonliving resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(b) DEFINITION OF MARINE OR AQUATIC PARK SYSTEM RESOURCE.—Section 1 of the National Park System Visitor Facilities Fund Act (16 U.S.C. 19jj) is amended by adding at the end the following:

"(g) 'Marine or aquatic park system resource' means any living or non-living resource that is located within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(c) LIABILITY IN REM.—Section 2(b) of the National Park System Visitor Facilities Fund Act (16 U.S.C. 19jj-1(b)) is amended by striking "any park" and inserting "any marine or aquatic park".

SEC. 5303. SPECIAL ACCOUNT.

A special account is hereby established in the Treasury of the United States that shall be called the Park Renewal Fund (hereinafter referred to in this subtitle as "the fund").

SEC. 5304. COVERING OF FEES INTO PARK RENEWAL FUND.

Notwithstanding section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)), beginning in fiscal year 1996, there shall be deposited into the fund eighty percent of all revenues received from admission, recreation use, commercial tour use, and commercial/non-recreational use fees collected by units of the National Park System in excess of:

(1) $82,000,000 for fiscal year 1996;
(2) $85,000,000 for fiscal year 1997;
(3) $88,000,000 for fiscal year 1998;
(4) $91,000,000 for fiscal year 1999;
(5) $94,000,000 for fiscal year 2000;
(6) $97,000,000 for fiscal year 2001; and
(7) $100,000,000 for fiscal year 2002.

SEC. 5305. ALLOCATION AND USE OF FEES.

(a) ALLOCATION.—Beginning in fiscal year 1997, receipts in the fund from the previous fiscal year shall be available to the Secretary without further appropriation and shall be allocated as follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2006):

(1) Seventy-five percent shall be allocated among the units of the National Park System in the same proportion as admission, recreation use, commercial tour use and commercial/non-recreational use fees collected from a specific unit bears to the total amount of such fees collected from all units of the National Park System for each fiscal year.

(2) Twenty-five percent shall be allocated among the units of the National Park System on the basis of need, as determined by the Secretary.

(b) USE.—Expenditures from the fund shall be used solely for infrastructure and operational needs by units of the National Park System. By January 1 of each year, the Secretary shall provide to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a list of proposed expenditures from the fund for each unit for that fiscal year and a report detailing expenditures, by unit, for the previous fiscal year.

Subtitle E—Water Projects

SEC. 5400. AUTHORIZATION FOR PREPAYMENT OF CONSTRUCTION CHARGES.

Subsection 213(a) of the Reclamation Reform Act of 1982 (96 Stat.1269, 43 U.S.C. 390mm(a)) is amended:

(a) By adding at the beginning:

"Notwithstanding any provision of Reclamation law or limitation contained in any repayment or water service contract, any person or district holding such a contract or receiving water under such a contract with the United States may prepay the construction costs referred to in this section either through accelerated or lump sum payments. For the purposes of such prepayment only, the project to which such contract applies is declared to be complete and the Secretary shall determine the repayment obligations associated with the construction costs of the project facilities so that accelerated payments or a lump sum payment may be made. The amount of any prepayment shall be calculated by discounting the remaining payments due under a contract in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget: Provided, That the discount shall be adjusted by any amounts necessary to compensate the Federal Government for the direct or indirect loss of future tax revenues if the individual or district plans to use federally tax-exempt financing for such prepayment.".

(b) By deleting "lands in a district" and inserting: "lands in a district, or lands owned or leased by a person".

(c) By deleting "obligation of a district" and inserting: "obligation of a district or a person".

(d) By deleting "enactment of this Act." and inserting: "enactment of this Act or as otherwise provided for in this section. Any additional capital costs incurred after the date of such prepayment shall be recoverable as a separate obligation and shall not be considered to be a new or supplemental benefit for the purposes of this act nor cause the full cost pricing limitation of this act or the ownership limitations contained in any provision of Federal reclamation law to apply to the lands to which such capital costs apply.".

SEC. 5401. CONFORMING AMENDMENT.

Subsection 213(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(c)) is repealed.

SEC. 5410. HETCH HETCHY DAM.

Section 7 of the Act of December 13, 1913 (38 Stat. 242), is amended—

(1) By striking "pay the sum of $30,000" and all that follows in the first sentence and inserting "pay an amount determined annually by the Secretary in accordance with the formula used by the Federal Energy Regulatory Commission for application to licenses of hydroelectric projects under the Federal Power Act (16 U.S.C. 791 et seq.), provided that, in no event shall such amount be less than $597,000.00. Said amount to be paid on the first day of July of each year.".

(2) By amending the second and third sentences to read as follows: "These funds shall be placed in a separate fund by the United States and, notwithstanding any other provision of law, shall not be available for obligation or expenditure until appropriated by Congress. The highest priority use of the funds shall be for annual operation of Yosemite National Park, with the remainder of any funds to be used to fund operations of other national parks in the State of California.".

SEC. 5420. COLLBRAN PROJECT.

(a) SHORT TITLE.—This section may be cited as the "Collbran Project Unit Conveyance Act".

(b) DEFINITIONS.—For purposes of this section:

(1) DISTRICTS.—The term "Districts" means the Ute Water Conservancy District and the Collbran Conservancy District (including their successors and assigns).

(2) FEDERAL RECLAMATION LAWS.—The term "Federal reclamation laws" means the Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted pursuant to those Acts).

(3) PROJECT.—The term "Project" means the Collbran Reclamation Project, as constructed and operated under the Act of July 3, 1952 (66 Stat. 325, chapter 565), including all property, equipment, and assets of or relating to the Project that are owned by the United States, including—

(A) Vega Dam and Reservoir (but not including recreation facilities owned by the United States or the State of Colorado);

(B) Leon-Park Dams and Feeder Canal;

(C) Southside Canal;

(D) East Fork Diversion Dam and Feeder Canal;

(E) Bonham-Cottonwood Pipeline;

(F) Snowcat Shed and Diesel Storage;

(G) Upper Molina Penstock and Power Plant;

(H) Lower Molina Penstock and Power Plant;

(I) the diversion structure in the tailrace of the Lower Molina Power Plant;

(J) all substations and switchyards;

(K) a perpetual, non-exclusive easement for the use of easements or rights-of-way owned by the United States on or across non-Federal lands which are necessary for access to Project facilities;

(L) a perpetual, non-exclusive easement on and across National Forest lands for access to existing Project facilities and access to and the operation, use repair, and replacement of the existing storage reservoirs on the Grand Mesa which are operated as a part of the Project;

(M) title to lands reasonably necessary for all Project facilities except for those described in subparagraphs (3)(K) and (3)(L);

(N) all permits and contract rights;

(O) all equipment, parts inventories, and tools;

(P) all additions, replacements, betterments, and appurtenances to any of the above; and

(Q) a copy of all data, plans designs, reports, records, or other materials, whether in writing or in any form of electronic storage relating specifically to the Project.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(c) CONVEYANCE OF THE COLLBRAN PROJECT.—

(1) IN GENERAL.—The Secretary shall convey to the Districts all right, title, and interest of the United States in and to the Project, as described in this section, by quitclaim deed and bill of sale, without warranties, during the last quarter of fiscal year 2000, subject only to the requirements of this section: Provided, That such conveyance shall reserve to the United States all minerals, including hydrocarbons, and a perpetual right of public access over, across, under, and to the portions of the Project which on the date of enactment of this Act were

open to public use for purposes such as grazing, mineral development and logging: Provided further, That the United States may allow for the continued public use and enjoyment of such portions of the Project for recreational activities and other public uses conducted as of the date of enactment of this Act.

(2) PAYMENT.—

(A) IN GENERAL.—At the time of transfer, the Districts shall pay to the United States $12,900,000 ($12,300,000 of which represents the net present value of the outstanding repayment obligations of the Districts), of which—

(i) $12,300,000 shall be deposited in the general fund of the United States Treasury; and

(ii) $600,000 shall be deposited in a special account in the United States Treasury and shall be available to the United States Fish and Wildlife Service, region 6, without further appropriation, for use in funding Colorado operations and capital expenditures associated with the Recovery Implementation Program for Endangered Fish Species in the Upper Colorado River Basin.

(B) SOURCE OF FUNDS.—Funds for the payment to the extent of the amount specified in the paragraph (1)(A) shall not be derived from the issuance or sale, prior to the conveyance, of State or local bonds the interest on which is exempt from taxation under section 103 of the Internal Revenue Code of 1986 (26 U.S.C. 103).

(3) OPERATION OF PROJECT.—

(A) IN GENERAL.—The Project shall be operated and used by the Districts for a period of 40 years after the date of enactment of this section for the purposes for which the Project was authorized under the Act of July 3, 1952 (66 Stat. 325, chapter 565).

(B) REQUIREMENTS.—During the 40-year period described in paragraph (1)—

(i) the Districts shall annually submit to the Secretary a plan for operation of the Project, which plan shall—

(I) report on Project operations for the previous year;

(II) provide a description of the manner of Project operations anticipated for the forthcoming year; and

(III) certify that the Districts have operated and will operate and maintain the Project facilities in accordance with sound engineering practices; and

(ii) provide that, subject to subsection (d), all electric power generated by operation of the Project shall be made available to and be marketed by the Western Area Power Administration (including its successors and assigns).

(4) AGREEMENTS.—Conveyance of the Project shall be subject to the agreements between the United States and the State of Colorado dated August 22, 1994, and September 23, 1994, relating to the construction and operation of recreational facilities at Vega Reservoir, which agreements shall continue to be performed by the parties thereto according to the terms of the agreements.

(d) OPERATION.—

(1) CONFORMITY TO HISTORIC OPERATIONS.—The power component and facilities of the Project shall be operated in substantial conformity with the historic operations of the power component and facilities (including recent operations in a peaking mode).

(2) POWER MARKETING.—

(A) UNDER EXISTING AGREEMENTS.—The Districts shall be bound by the agreements between the Bureau of Reclamation and the Western Area Power Administration in existence on the date of enactment of this section, which provide for the marketing of power generated by the power component of the Project as part of the output of the Salt Lake City Area Integrated Projects under the Post 1989 Operating Criteria, until those agreements expire or are terminated.

(B) AFTER EXPIRATION OF EXISTING AGREEMENT.—

(i) After the agreements described in paragraph (1) expire or are terminated, the Districts shall offer all power produced by the power component of the Project to the Western Area Power Administration or its successors or assigns ("Western"), which, in consultation with its affected preference customers, shall have the first right to purchase such power at the rates established in accordance with Subparagraph (ii) of this paragraph. If Western declines to purchase the power after consultation with its affected preference customers, such power shall then be offered at the same rates first to Western's preference customers located in the Salt Lake City Area Integrated Projects marketing area ("SLCAIP preference customers"). Thereafter, such power may be sold to any other party: Provided, however, That no such sale may occur at rates less than established in accordance with subparagraph (ii) of this paragraph unless such power is first offered at such lesser rate first to Western and then to its SLCAIP preference customers.

(ii) The rate for power initially offered to Western and its SLCAIP preference customers under this paragraph shall not exceed that required to produce revenues sufficient to provide for

(I) annual debt service and/or recoupment of the cost of capital for the amount specified in subsection (c)(2) of this section, less the sum of $220,000 (which is the net present value of the outstanding repayment obligation of the Collbran Conservancy District), and

(II) the cost of operation, maintenance and replacement of the power component of the Project.

(iii) Such costs and rate shall be determined in a manner consistent with the current principles followed by the Secretary of the Interior and by Western in its annual power and repayment study.

(3) LICENSE.—The Districts are by this section granted a license under the Federal Power Act (16 U.S.C. 791a et seq.) for the operation of the Project in accordance with the requirement of subsection (c)(3) of this section, for a period of 40 years after the date of conveyance of the Project, after which period the license may be renewed in accordance with applicable law.

(e) INAPPLICABILITY OF NEPA.—The conveyance of the Project does not constitute a major Federal action within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including any regulations issued under such Act.

(f) INAPPLICABILITY OF PRIOR AGREEMENTS AND OF FEDERAL RECLAMATION LAWS.—On conveyance of the Project to the Districts—

(1) the Repayment Contract dated May 27, 1957, as amended April 12, 1962, between the Collbran Conservancy District and the United States, and the Contract for use of Project facilities for Diversion of Water dated January 11, 1962, as amended November 10, 1977, between the Ute Water Conservancy District and the United States, shall be terminated and of no further force or effect; and

(2) the Project shall no longer be subject to or governed by the Federal reclamation laws.

(g) DISTRICTS' LIABILITY.—The Districts shall be liable for all acts or omissions relating to the operation and use of the Project that occur subsequent to the conveyance.

Subtitle F—Federal Oil and Gas Royalties

SEC. 5500. SHORT TITLE.

This subtitle may be cited as the "Federal Oil and Gas Royalty Simplification and Fairness Act of 1995".

SEC. 5501. DEFINITIONS.

Section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by striking "and" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting a semicolon, and by adding at the end the following:

"(17) 'adjustment' means an amendment to a previously filed report on an obligation, and any additional payment or credit, if any, applicable thereto, to rectify an underpayment or overpayment on a lease;

"(18) 'administrative proceeding' means any agency process in which a demand, decision or order issued by the Secretary is subject to appeal or has been appealed;

"(19) 'assessment' means any fee or charge levied or imposed by the Secretary or the United States other than—

"(A) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(B) any interest; or

"(C) any civil or criminal penalty;

"(20) 'commence' means—

"(A) with respect to a judicial proceeding, the service of a complaint, petition, counterclaim, crossclaim, or other pleading seeking affirmative relief or seeking credit or recoupment; or

"(B) with respect to a demand, the receipt by the Secretary or a lessee of the demand;

"(21) 'credit' means the application of an overpayment (in whole or in part) against an obligation which has become due to discharge, cancel or reduce the obligation;

"(22) 'demand' means—

"(A) an order to pay issued by the Secretary; or

"(B) a separate written request by a lessee which asserts an obligation due the lessee, but does not mean any royalty or production report, or any information contained therein, required by the Secretary;

"(23) 'obligation' means—

"(A) any duty of the Secretary or the United States—

"(i) to take oil or gas royalty in kind; or

"(ii) to pay, refund, offset, or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale; or

"(II) any interest;

"(B) any duty of a lessee—

"(i) to deliver oil or gas royalty in kind; or

"(ii) to pay, offset or credit monies including but not limited to—

"(I) the principal amount of any royalty, minimum royalty, rental, bonus, net profit share or proceed of sale;

"(II) any interest;

"(III) any penalty; or

"(IV) any assessment,

which arises from or relates to any lease administered by the Secretary for, or any mineral leasing law related to, the exploration, production and development of oil or gas on Federal lands or the Outer Continental Shelf;

"(24) 'order to pay' means a written order issued by the Secretary or the United States which—

"(A) asserts a definite and quantified obligation due the Secretary or the United States; and

"(B) specifically identifies the obligation by lease, production month and amount of such obligation ordered to be paid, as well as the reason or reasons such obligation is claimed to be due, but such term does not include any other communication or action by or on behalf of the Secretary or the United States;

"(25) 'order to perform a restructured accounting' means a written order issued by the Secretary during a full and complete audit of a lessee to recalculate royalty due on an obligation based upon the Secretary's finding that the lessee has made identified underpayments or overpayments which are demonstrated by the Secretary to be based upon repeated, systemic reporting errors for a significant number of

leases for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either a significant underpayment or overpayment. The term 'order to perform a restructured accounting' shall not include any other communication or action by or on behalf of the Secretary or the United States;

"(26) 'overpayment' means any payment by a lessee in excess of an amount legally required to be paid on an obligation and includes the portion of any estimated payment for a production month that is in excess of the royalties due for that month;

"(27) 'payment' means satisfaction, in whole or in part, of an obligation due the Secretary or the United States;

"(28) 'penalty' means a statutorily authorized civil fine levied or imposed by the Secretary or the United States for a violation of this Act, any mineral leasing law, or a term or provision of a lease administered by the Secretary;

"(29) 'refund' means the return of an overpayment by the Secretary or the United States by the drawing of funds from the United States Treasury;

"(30) 'State concerned' means, with respect to a lease, a State which receives a portion of royalties under this Act from such lease;

"(31) 'underpayment' means any payment or nonpayment by a lessee that is less than the amount legally required to be paid on an obligation; and

"(32) 'United States' means the United States Government and any department, agency, or instrumentality thereof, and the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.".

SEC. 5502. LIMITATION PERIODS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 114 the following new section:

"SEC. 115. LIMITATION PERIODS AND AGENCY ACTIONS.

"(a) IN GENERAL.—A judicial proceeding or demand which arises from, or relates to an obligation, shall be commenced within six years from the date on which the obligation becomes due and if not so commenced shall be barred, except as otherwise provided by this section.

"(b) OBLIGATION BECOMES DUE.—

"(1) IN GENERAL.—For purposes of this Act, an obligation becomes due when the right to enforce the obligation is fixed.

"(2) ROYALTY OBLIGATIONS.—The right to enforce the royalty obligation for a production month for a lease is fixed for purposes of this Act on the last day of the calendar month following the month in which oil or gas is produced.

"(c) TOLLING LIMITATIONS PERIOD.—The running of the limitation period under subsection (a) shall not be suspended, tolled, extended, or enlarged for any obligation for any reason by any action, including an action by the Secretary or the United States, other than the following:

"(1) TOLLING AGREEMENT.—A written agreement executed during the limitation period between the Secretary and a lessee which tolls the limitation period for the amount of time during which the agreement is in effect.

"(2) SUBPOENA.—(A) The issuance of a subpoena in accordance with the provisions of section 107(c) shall toll the limitation period with respect to the obligation which is the subject of a subpoena only for the period beginning on the date the lessee receives the subpoena and ending on the date on which—

"(i) the lessee has produced such subpoenaed records for the subject obligation,

"(ii) the Secretary receives written notice that the subpoenaed records for the subject obligation are not in existence or are not in the lessee's possession or control, or

"(iii) a court has determined in a final decision that such records are not required to be produced, whichever occurs first.

"(B) If a State has been delegated authority pursuant to section 205 and pursuant to said delegation executes a cooperative agreement under section 202, the Secretary shall issue a subpoena hereunder upon the request of the highest ranking State official having ultimate authority over the collection of royalties on State owned lands.

"(3) FRAUD OR CONCEALMENT.—Any fraud or concealment by a lessee in an attempt to defeat or evade an obligation in which case the limitation period shall be tolled for the period of such fraud or such concealment.

"(4) TOLLING REQUEST.—A written tolling request from a lessee based upon the lessee's representation that the lessee's entitlement to an overpayment has not been finally determined. The limitation period shall be tolled pursuant to this paragraph from the date the Secretary receives the tolling request until the earlier of the end of the requested period or 12 months after the date the Secretary receives the tolling request, but is subject to successive 12-month renewals by the lessee made prior to the expiration of the then applicable 12-month period. The tolling request shall be sufficient if it identifies—

"(A) the person who made the potential overpayment;

"(B) the leases and production months involved in the potential overpayment; and

"(C) the reasons the lessee believes that it may later be entitled to a refund of the overpayment.

"(5) ORDER TO PERFORM A RESTRUCTURED ACCOUNTING.—

"(A) The issuance of an order to perform a restructured accounting by the Secretary necessary for an audit. The limitation period under subsection (a) shall be tolled for the obligation which is the subject of the order only for the time period commencing on the date the lessee receives such order until—

"(i) 120 days after the Secretary has received written notice that the accounting (or other requirement) has been performed, or

"(ii) the issuance of a final decision that the lessee is not required to perform the accounting, whichever is earlier.

"(B) The Secretary is not precluded during a full and complete audit from issuing an order to perform a restructured accounting by the Secretary for a single lease upon a finding that the lessee has made identified underpayments or overpayments which are demonstrated to be based upon repeated, systemic reporting errors on that lease for a significant number of reporting months with the same type of error which constitutes a pattern of violations and which are likely to result in either a significant underpayment or overpayment. The power of the Secretary to issue an order to perform a restructured accounting may not be delegated below the most senior career professional position having responsibility for the royalty management program, which position is currently designated as the 'Associate Director for Royalty Management'. An order to perform a restructured accounting shall—

"(i) be issued within a reasonable period of time from when the audit identifies the systemic, reporting errors;

"(ii) specify the reasons and factual bases for such order; and

"(iii) be specifically identified as an 'order to perform a restructured accounting'.

"(d) TERMINATION OF LIMITATIONS PERIOD.—The limitations period shall be terminated in the event—

"(1) the Secretary has notified the lessee in writing that a time period is closed to further audit; or

"(2) the Secretary and a lessee have so agreed in writing.

"(e) FINAL AGENCY ACTION.—

"(1) 3-YEAR PERIOD.—The Secretary shall issue a final decision in any administrative proceeding, including any administrative proceedings pending on the date of enactment of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1995, within three years from the date such proceeding was initiated or three years from the date of such enactment, whichever is later. The three-year period may be extended by any period of time agreed upon in writing by the Secretary and the lessee.

"(2) EFFECT OF FAILURE TO ISSUE DECISION.—

"(A) IN GENERAL.—If no such decision has been issued by the Secretary within the three-year period referred to in paragraph (1)—

"(i) the Secretary shall be deemed to have issued and granted a decision in favor of the lessee or lessees as to any nonmonetary obligation and any monetary obligation the principal amount of which is less than $2,500; and

"(ii) the Secretary shall be deemed to have issued a final decision in favor of the Secretary, which decision shall be deemed to affirm those issues for which the agency rendered a decision prior to the end of such period, as to any monetary obligation the principal amount of which is $2,500 or more, and the lessee shall have a right to a de novo judicial review of such deemed final decision.

"(B) NO PRECEDENTIAL EFFECT ON OTHER PROCEEDINGS.—Deemed decisions under subparagraph (A) shall have no precedential effect in any judicial or administrative proceeding or for any other purpose.

"(f) ADMINISTRATIVE SETTLEMENT.—During the pendency of any administrative proceeding, the parties shall hold at least one settlement consultation for the purpose of discussing disputed matters between the parties. For purposes of settlement, the Secretary may waive interest required and may allow offsetting of obligations among leases. The Secretary and the State concerned shall seek to resolve disputes with a lessee in as expeditious a manner as possible, through settlement negotiations and other alternative dispute resolution processes methods. If any dispute involving an obligation due is not resolved by the end of the six-year period beginning on the date the obligation became due, the amount of interest otherwise payable with respect to the obligation shall accrue after such six-year period at the rate—

"(1) for purposes of section 111(h), reduced each year thereafter by two additional percentage points from the rate in effect under this subsection for the previous year (but not less than zero); and

"(2) for purposes of section 111(a), reduced each year thereafter by one additional percentage point from the rate in effect under this subsection for the previous year (but not less than zero).

"(g) LIMITATION ON CERTAIN ACTIONS BY THE UNITED STATES.—When an action on or enforcement of an obligation under the mineral leasing laws is barred under this section the United States or an officer or agency thereof may not take any other or further action regarding that obligation, including (but not limited to) the issuance of any order, request, demand or other communication seeking any document, accounting, determination, calculation, recalculation, payment, principal, interest, assessment, or penalty or the initiation, pursuit or completion of an audit with respect to that obligation.

"(h) JUDICIAL REVIEW.—In the event a demand subject to this section is timely commenced, a judicial proceeding challenging the final agency action with respect to such demand shall be deemed timely so long as such judicial proceeding is commenced within 180 days from

receipt of notice by the lessee of the final agency action.

"(i) IMPLEMENTATION OF FINAL DECISION.—In the event a judicial proceeding or demand subject to this section is timely commenced and thereafter the limitation period in this section lapses during the pendency of such proceeding, any party to such proceeding shall not be barred from taking such action as is required or necessary to implement a final unappealable judicial or administrative decision, including any action required or necessary to implement such decision by the recovery or recoupment of an underpayment or overpayment by means of refund or credit.

"(j) STAY OF PAYMENT OBLIGATION PENDING REVIEW.—Any party ordered by the Secretary or the United States to pay any obligation (other than an assessment) shall be entitled to a stay of such payment without bond or other surety instrument pending an administrative or judicial proceeding if the party periodically demonstrates to the satisfaction of the Secretary that such party is financially solvent or otherwise able to pay the obligation. In the event the party is not able to so demonstrate, the Secretary may require a bond or other surety instrument satisfactory to cover the obligation. Any party ordered by the Secretary to pay an assessment shall be entitled to a stay without bond or other surety instrument.

"(k) INAPPLICABILITY OF THE OTHER STATUTES OF LIMITATION.—The limitations set forth in sections 2401, 2415, 2416, and 2462 of title 28, United States Code, and section 42 of the Mineral Leasing Act (30 U.S.C. 226–2) shall not apply to any obligation to which this Act applies.".

(b) SUBPOENA.—Section 107 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1717) is amended by adding at the end the following:

"(c) RULES REGARDING ISSUANCE OF SUBPOENA RELATING TO REPORTING AND PAYMENT OF AN OBLIGATION DUE.—

"(1) IN GENERAL.—A subpoena which requires a lessee to produce records necessary to determine the proper reporting and payment of an obligation due the Secretary may be issued under this section only by the Solicitor, an Assistant Secretary of the Interior, or an acting Assistant Secretary of the Interior who is a schedule C employee (as defined by section 213.3301 of title 5, Code of Federal Regulations) and may not be delegated.

"(2) PRIOR WRITTEN REQUEST REQUIRED.—A subpoena described in paragraph (1) may only be issued against a lessee during the limitation period provided in section 115 and only after the Secretary has in writing requested the records from the lessee related to the obligation which is the subject of the subpoena and has determined that—

"(A) the lessee has failed to respond within a reasonable period of time to the Secretary's written request for such records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act;

"(B) the lessee has in writing denied the Secretary's written request to produce such records in the lessee's possession or control necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act; or

"(C) the lessee has unreasonably delayed in producing records necessary for an audit, investigation or other inquiry made in accordance with the Secretary's responsibilities under this Act after the Secretary's written request.

"(3) REASONABLE PERIOD FOR COMPLIANCE WITH WRITTEN REQUEST.—In seeking records, the Secretary shall afford the lessee a reasonable period of time after a written request by the Secretary in which to provide such records prior to the issuance of any subpoena.".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (30 U.S.C. 1701) is amended by adding after the item relating to section 114 the following new item:

"Sec. 115. Limitation periods and agency actions.".

SEC. 5503. ADJUSTMENT AND REFUNDS.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) is amended by adding after section 111 the following new section:

"SEC. 111A. ADJUSTMENTS AND REFUNDS.

"(a) ADJUSTMENTS.—

"(1) If, during the adjustment period, a lessee determines that an adjustment or refund request is necessary to correct an underpayment or overpayment of an obligation, the lessee shall make such adjustment or request a refund within a reasonable period of time and only during the adjustment period. Any such adjustment shall not require prior notice to or approval of the Secretary.

"(2)(A) For any adjustment, the lessee shall calculate and report the interest due attributable to such adjustment at the same time the lessee adjusts the principal amount of the subject obligation, except as provided by subparagraph (B).

"(B) In the case of a lessee on whom the Secretary determines that subparagraph (A) would impose a hardship, the Secretary shall calculate the interest due and notify the lessee within a reasonable time of the amount of interest due, unless such lessee elects to calculate and report interest in accordance with subparagraph (A).

"(3) An adjustment or a request for a refund for an obligation may be made after the adjustment period only upon written notice to and approval by the Secretary during an audit of the period which includes the production month for which the adjustment is being made. If an overpayment is identified during an audit, then the Secretary shall allow a credit or refund in the amount of the overpayment.

"(4) For purposes of this section, the adjustment period for any obligation shall be the five-year period following the date on which an obligation became due. The adjustment period shall be suspended, tolled, extended, enlarged, or terminated by the same actions as the limitation period in section 115.

"(b) REFUNDS.—

"(1) IN GENERAL.—A request for refund is sufficient if it—

"(A) is made in writing to the Secretary and, for purposes of section 115, is specifically identified as a demand;

"(B) identifies the person entitled to such refund;

"(C) provides the Secretary information that reasonably enables the Secretary to identify the overpayment for which such refund is sought; and

"(D) provides the reasons why the payment was an overpayment.

"(2) PAYMENT BY SECRETARY OF THE TREASURY.—The Secretary shall certify the amount of the refund to be paid under paragraph (1) to the Secretary of the Treasury who shall make such refund. Such refund shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such refund attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any recipient prescribed by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.

"(3) PAYMENT PERIOD.—A refund under this subsection shall be paid or denied (with an explanation of the reasons for the denial) within 120 days of the date on which the request for refund is received by the Secretary. Such refund shall be subject to later audit by the Secretary and subject to the provisions of this Act.

"(4) PROHIBITION AGAINST REDUCTION OF REFUNDS OR CREDITS.—In no event shall the Secretary directly or indirectly claim any amount or amounts against, or reduce any refund or credit (or interest accrued thereon) by the amount of any obligation the enforcement of which is barred by section 115.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of Act (30 U.S.C. 1701) is amended by adding after the item relating to section 111 the following new item:

"Sec. 111A. Adjustments and refunds.".

SEC. 5504. REQUIRED RECORDKEEPING.

Section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713(b)) is amended by adding at the end the following:

"(c) records required by the Secretary for the purpose of determining compliance with any applicable mineral leasing law, lease provision, regulation or order with respect to oil and gas leases from Federal lands or the Outer Continental Shelf shall be maintained for the same period of time during which a judicial proceeding or demand may be commenced under section 115(a). If a judicial proceeding or demand is timely commenced, the record holder shall maintain such records until the final nonappealable decision in such judicial proceeding is made, or with respect to that demand is rendered, unless the Secretary authorizes in writing an earlier release of the requirement to maintain such records. Notwithstanding anything herein to the contrary, under no circumstance shall a record holder be required to maintain or produce any record relating to an obligation for any time period which is barred by the applicable limitation in section 115.".

SEC. 5505. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.

(a) PERIOD.—Section 111(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(f)) is amended to read as follows:

"(f) The Secretary may waive or forego such interest in whole or in part. Interest shall be charged under this section only for the number of days a payment is late.".

(b) LESSEE INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721) is amended by adding after subsection (g) the following:

"(h) Interest shall be allowed and the Secretary shall pay or credit such interest on any overpayment, with such interest to accrue from the date such overpayment was made, at the rate applicable under section 6621(a)(2) of the Internal Revenue Code of 1986. Interest which has accrued on any overpayment may be applied to reduce an underpayment. This subsection applies to overpayments made later than six months after the date of enactment of this subsection or September 1, 1996, whichever is later. Such interest shall be paid from amounts received as current receipts from sales, bonuses, royalties (including interest charges collected under this section) and rentals of the public lands and the Outer Continental Shelf under the provisions of the Mineral Leasing Act, and the Outer Continental Shelf Lands Act, which are not payable to a State or the Reclamation Fund. The portion of any such interest payment attributable to any amounts previously disbursed to a State, the Reclamation Fund, or any other recipient designated by law shall be deducted from the next disbursements to that recipient made under the applicable law. Such

amounts deducted from subsequent disbursements shall be credited to miscellaneous receipts in the Treasury.".

(c) LIMITATION ON INTEREST.—Section 111 of the Federal Oil and Gas Royalty Management Act, as amended by subsection (b) of this Act, is further amended by adding at the end the following:

"(i) Upon a determination by the Secretary that an excessive overpayment (based upon all obligations of a lessee for a given reporting month) was made for the sole purpose of receiving interest, interest shall not be paid on the excessive amount of such overpayment. For purposes of this Act, an 'excessive overpayment' shall be the amount that any overpayment a lessee pays for a given reporting month (excluding payments for demands for obligations as a result of judicial or administrative proceedings for settlement agreements and for other similar payments) for the aggregate of all of its Federal leases exceeds 25 percent of the total royalties paid that month for those leases.".

(d) ESTIMATED PAYMENT.—Section 111 of the Federal Oil and Gas Royalty Management Act, as amended by subsections (b) and (c) of this Act, is further amended by adding at the end the following:

"(j) A lessee may make a payment for the approximate amount of royalties (hereinafter in this subsection "estimated payment') that would otherwise be due to the Secretary for such lease to avoid underpayment or nonpayment interest charges. When an estimated payment is made, actual royalties become due at the end of the month following the period covered by the estimated payment. If the lessee makes a payment for such actual royalties, the lessee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee.".

(e) VOLUME ALLOCATION OF OIL AND GAS PRODUCTION.—Section 111 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1721), as amended by subsections (b) through (d) of this Act, is amended by adding at the end the following:

"(k)(1) Except as otherwise provided by this subsection—

"(A) a lessee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

"(B) a lessee of a lease in any other unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

"(C) a lessee of a lease that is not contained in a unit or communitization agreement must report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

"(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

"(3) For any unit or communitization agreement, if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

"(4) The Secretary shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term "marginal property' means a lease that produces on average the combined equivalent of less than 15 barrels of oil per day or 90 thousand cubic feet of gas per day, or a combination thereof, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that an amount which is a nonsubstantive variation thereof is more appropriate.

"(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.".

(f) PRODUCTION ALLOCATION.—Section 111 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1721), as amended by subsections (b) through (e) of this Act, is further amended by adding at the end the following:

"(l) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.".

SEC. 5506. LIMITATION ON ASSESSMENTS.

Section 111 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721), as amended by section 5505 of this Act, is further amended by adding at the end the following:

"(l)(1) After the date of enactment of this subsection, the Secretary shall not impose any assessment for any late payment or underpayment. After the date of enactment of this subsection, the Secretary may impose an assessment only for erroneous reports submitted by lessees subject to the limitations of paragraph (2). Nothing in this section shall prohibit the Secretary from imposing penalties or interest under other sections of this Act for late payments or underpayments.

"(2) No assessment for erroneous reports shall be imposed for 18 months following the date of enactment of this subsection, or until the Secretary issues a final rule which provides for imposition of an assessment only on a lessee who chronically submits erroneous reports and which establishes what constitutes chronic errors for a lessee, whichever is later. However, if the Secretary determines during that 18-month period that the reporting error rate for all reporters for all Federal leases has increased by one-third for three consecutive report months for either production reporting or royalty reporting over the 12 months preceding the date of enactment of this subsection, the Secretary may impose an assessment for erroneous reports only for the increased category of report under regulations in effect on the date of enactment of this subsection.".

SEC. 5507. ALTERNATIVES FOR MARGINAL PROPERTIES.

(a) IN GENERAL.—The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), as amended by section 5502 of this Act, is further amended by adding at the end the following:

"SEC. 116. ALTERNATIVES FOR MARGINAL PROPERTIES.

"(a) SELLING REVENUE STREAM.—

"(1) IN GENERAL.—Notwithstanding the provisions of any lease to the contrary, upon request of the lessee and a State under section 205(g), the Secretary shall authorize a lessee for a marginal property and for a lease, the administration of which is not cost-effective for the Secretary to administer, to make a prepayment in lieu of royalty payments under the lease for the remainder of the lease term. For the purposes of this section, the term 'marginal property' has the same meaning given such term in section 111(k)(4), unless the Secretary, together with each State in which such marginal production occurs, determines otherwise to better achieve the purpose of this section.

"(2) MARGINAL PROPERTIES.—For marginal properties, prepayments under paragraph (1) shall begin—

"(A) in the case of those properties producing on average $500 or less per month in total royalties to the United States, two years after the date of the enactment of this section;

"(B) in the case of those properties producing on average more than $500 but $1,000 or less per month in total royalties to the United States, three years after the date of the enactment of this section;

"(C) in the case of those properties producing on average more than $1,000 but $1,500 or less per month in total royalties to the United States, four years after the date of the enactment of this section; and

"(D) in the case of those properties not described in subparagraphs (A) through (C), five years after the date of the enactment of this section.

"(3) ADMINISTRATION NOT COST-EFFECTIVE.—For a lease, the administration of which is not cost-effective for the Secretary to administer, prepayments under paragraph (1) shall begin on the date of the enactment of this section.

"(4) SATISFACTION OF ROYALTY OBLIGATION.—A lessee who makes a prepayment under this section shall have satisfied in full its obligation to pay royalty on production from the lease or a portion of a lease and shall not be required to submit any royalty reports to the Secretary. The prepayment shall be shared by the Secretary with any State or other recipient to the same extent as any royalty payment for such lease.

"(5) VALUATION.—The prepayment authorized under this section shall only occur if the Secretary, the State concerned, and the lessee determine that such prepayment is based on the present value of the projected remaining royalties from the production from the lease, based on appropriate nominal discount rate for a comparable term, as provided in Office of Management and Budget Circular A-94.

"(b) ALTERNATIVE ACCOUNTING AND ALTERNATIVE ACCOUNTING AND AUDITING REQUIREMENTS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, for the marginal properties referenced in subsection (a)(1), the Secretary shall provide accounting, reporting, and auditing relief that will encourage lessees to continue to produce and develop such properties: Provided, That such relief will only be available to lessees in a State that concurs.

"(2) PAYMENT DATE.—For leases subject to this section, the Secretary may allow royalties to be paid later than the time specified in the lease.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of the Federal Oil and Gas Royalty Management Act (30 U.S.C. 1701) is amended by adding after the item relating to section 115 the following new item:

"Sec. 116. Alternatives for marginal properties.".

SEC. 5508. NOTICE REQUIREMENT.

Section 23(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as follows:

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.".

SEC. 5509. REPEALS.

(a) FOGRMA.—Section 307 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1755), is repealed. Section 1 of such Act (relating out the table of contents) is amended by striking out the item relating to section 307.

(b) OCSLA.—Effective on the date of the enactment of this Act, section 10 of the Outer Continental Shelf Lands Act (43 U.S.C. 1339) is repealed.

SEC. 5510. PERFORMANCE STANDARD.

Section 109 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1719) is amended in subsections (c) and (d), by striking "knowingly or willfully" and inserting "by willful misconduct or gross negligence" each place it appears.

SEC. 5511. INDIAN LANDS.

The amendments made by this subtitle shall not apply with respect to Indian lands, and the provisions of the Federal Oil and Gas Royalty Management Act of 1982 as in effect on the day before the date of enactment of this Act shall continue to apply after such date with respect to Indian lands. The provisions of the Federal Oil and Gas Royalty Management Act of 1982, as amended by this subtitle, shall apply as of the date of enactment with respect to Federal lands and the Outer Continental Shelf.

SEC. 5512. PRIVATE LANDS.

This subtitle shall not apply to any privately owned minerals.

SEC. 5513. EFFECTIVE DATE.

Except as provided by section 115(e), section 111(h), section 111(k)(5), and section 116 of the Federal Oil and Gas Royalty Management Act of 1982 (as added by this subtitle), this subtitle, and the amendments made by this subtitle, shall apply with respect to the production of oil and gas after the first day of the month following the date of the enactment of this Act.

Subtitle G—Department of Energy

SEC. 5600. SALE OF DOE ASSETS.

(a) IN GENERAL.—

(1) In order to maximize the use of Department of Energy assets and to reduce overhead and other costs related to asset management at the Department's facilities and laboratories, the Secretary of Energy shall conduct an asset management and disposition program that will result in no less than $225 million in receipts and savings by October 1, 2000.

(2) The program shall include an inventory of assets in the care of the Department and its contractors; the recovery, reuse, and stewardship of assets; and disposition of a minimum of 1,139,000,000 pounds of fuel, 136,000 tons of chemicals and industrial gases, 557,000 tons of scrap metal, 14,000 radiation sources, 17,000 pieces of major equipment, 11,000 pounds of precious metals (not including the Research Materials Collection), and 91,000,000 pounds of base metals.

(b) EXEMPTIONS.—The disposition of assets under this section is not subject to sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. secs. 483 and 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. sec. 1622). In order to avoid market disruptions, the Secretary shall consult with appropriate executive agencies with respect to dispositions under this section.

(c) DISPOSITION OF PROCEEDS.—After deduction of administrative costs of disposition under this section not to exceed $7 million per year, the remainder of the proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts. There shall be established a new receipt account in the Treasury for proceeds of asset sales under this section.

SEC. 5651. WEEKS ISLAND.

Notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary of Energy shall draw down and sell 32 million barrels of oil contained in the Weeks Island Strategic Petroleum Reserve Facility.

SEC. 5652. LEASE OF EXCESS SPRO CAPACITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 to 6422) is amended by adding the following new section after section 167:

"SEC. 168. USE OF UNDERUTILIZED FACILITIES.

"(a) Notwithstanding any other provision of this title, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product owned by a foreign government or its representative.

"(b) Petroleum product stored under this section is not part of the Reserve and may be exported from the United States.".

"(c) Beginning in fiscal year 2001 and in each fiscal year thereafter, except for fiscal years 2003 and 2004, 50 percent of the funds resulting from the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) shall be available to the Secretary of Energy without further appropriation for the purchase of oil for the Strategic Petroleum Reserve.".

Subtitle H—Mining

SEC. 5700. SHORT TITLE.

This subtitle may be cited as "The Mining Law Revenue Act of 1995".

SEC. 5701. DEFINITIONS.

When used in this subtitle:

(1) "Assessment year" means the annual period commencing at 12 o'clock noon on the 1st day of September and ending at 12 o'clock noon on the 1st day of September of the following year.

(2) "Federal lands" means lands and interests in lands owned by the United States that are open to mineral location, or that were open to mineral location when a mining claim or site was located and which have not been patented under the general mining laws.

(3) "General mining laws" means those Acts which generally comprise chapters 2, 11, 12, 12A, 15, and 16, and sections 161 and 162, of Title 30 of the United States Code, all Acts heretofore enacted which are amendatory of or supplementary to any of the foregoing Acts, and the judicial and administrative decisions interpreting such Acts.

(4) "Locatable minerals" means those minerals owned by the United States and subject to location and disposition under the general mining laws on or after the effective date of this Subtitle, but not including any mineral held in trust by the United States for any Indian or Indian tribe, as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101), or any mineral owned by any Indian or Indian tribe, as defined in that section, that is subject to a restriction against alienation imposed by the United States, or any mineral owned by any incorporated Native group, village corporation, or regional corporation and acquired by the group or corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(5) "Mineral activities" means any activity on Federal lands related to, or incidental to, exploration for or development, mining, production, beneficiation, or processing of any locatable mineral, or reclamation of the impacts of such activities.

(6) "Mining claim or site", except where provided otherwise, means a lode mining claim, placer mining claim, mill site or tunnel site.

(7) "Operator" means any person conducting mineral activities subject to this Subtitle.

(8) "Person" means an individual, Indian tribe, partnership, association, society, joint venture, joint stock company, firm, company, limited liability company, corporation, cooperative or other organization, and any instrumentality of State or local government, including any publicly owned utility or publicly owned corporation of State or local government.

(9) "Processing and treatment cost" means any activity following mining including but not limited to, crushing, milling, leaching, flotation, grinding, solvent extraction, electrolytic deposition, roasting, calcining thermal or electric smelting, refining, treatment effecting a chemical change, or product fabrication. Direct and indirect cost such as maintenance, depreciation, environmental, labor and consumable cost associated with these activities shall be included in this definition.

(10) "Secretary" means the Secretary of the Interior.

SEC. 5702. CLAIM MAINTENANCE REQUIREMENTS.

(a) MAINTENANCE FEE.—After the date of enactment of this Subtitle, the owner of each unpatented mining claim or site located pursuant to the general mining laws, whether located before or after the enactment of this Subtitle, shall pay in advance to the Secretary annually on or before September 1, and until a patent has been issued therefor, a maintenance fee of $100 per mining claim or site. The owner of each unpatented mining claim or site located after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the copy of the notice or certificate of location is filed with the Bureau of Land Management pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), in addition to the location fee required under subsection (c) of this section, an initial maintenance fee of $100 per mining claim or site for the assessment year which includes the date of location of such mining claim or site. If a mining claim or site is located within 90 days before September 1 and the copy of the notice or certificate of location is timely filed with the Bureau of Land Management under subsection 314(b) of the Federal Land Policy and Management Act of 1976 after September 1, the annual maintenance fee payable under the first sentence of this subsection shall be paid at the time such notice or certificate of location is filed, in addition to the location fee and the initial $100 maintenance fee. No maintenance fee shall be required if the fee is waived or the owner of the mining claim or site is exempt as provided in section 5703 of this Subtitle.

(b) MAINTENANCE FEE STATEMENT.—Each payment under subsection (a) of this section

shall be accompanied by a statement which reasonably identifies the mining claim or site for which the maintenance fee is being paid. Such statement may include the name of the mining claim or site, the serial number assigned by the Secretary to such mining claim or site, the description of the book and page in which the notice or certificate of location for such mining claim or site is recorded under State law, any combination of the foregoing, or any other information that reasonably identifies the mining claim or site for which the maintenance fee is being paid. The statement required under this subsection shall be in lieu of any annual filing requirements for mining claims or sites, under any other Federal law, but shall not supersede any such filing requirement under applicable State law.

(c) LOCATION FEE.—The owner of each unpatented mining claim or site located on or after the date of enactment of this Subtitle pursuant to the general mining laws shall pay to the Secretary, at the time the notice or certificate of location is filed with the Bureau of Land Management pursuant to subsection 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), a location fee of $25.00 per claim.

(d) CREDIT AGAINST ROYALTY.—The annual claim maintenance fee paid for any unpatented mining claim or site on or before September 1 of any year shall be credited against the amount of royalty required to be paid under Section 5705 for such mining claim or site during the following assessment year.

(e) FAILURE TO COMPLY.—The failure of the owner of the mining claim or site to pay the claim maintenance fee or location fee for a mining claim or site on or before the date such payment is due under subsection (a) or subsection (c) of this section shall constitute forfeiture of the mining claim or site and such mining claim or site shall be null and void, effective as of the day after the date such payment is due: Provided, however, That, if such maintenance fee or location fee is paid or tendered on or before the 30th day after such payment was due under subsection (a) or subsection (c) of this section, such mining claim or site shall not be forfeited or null or void, and such maintenance fee or location fee shall be deemed timely paid.

(f) REPEAL OF OMNIBUS BUDGET RECONCILIATION ACT FEE REQUIREMENTS.—Sections 10101 through 10106 of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f through 28k) are hereby repealed.

(g) AMENDMENT OF FLPMA FILING REQUIREMENTS.—Section 314 (a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744 (a)) is hereby repealed.

SEC. 5703. WAIVER AND EXEMPTION.

(a) WAIVER OF FEE.—The maintenance fee provided for in subsection 5702(a) shall be waived for the owner of a mining claim or site who certifies in writing to the Secretary, on or before the date the payment is due, that, as of the date such payment is due, such owner and all related persons own not more than twenty-five unpatented mining claims or sites. Any owner of a mining claim or site that is not required to pay a maintenance fee under this subsection shall continue to be subject to the assessment work requirements of the general mining laws or of any other State or Federal law, subject to any suspension or deferment of annual assessment work provided by law, for the assessment year following the filing of the certification required by this subsection.

(b) RELATED PERSONS.—As used in subsection (a), the term "related persons" includes—

(1) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the owner of the mining claim or site; and

(2) a person controlled by, controlling, or under common control with the owner of the mining claim or site.

(c) EXEMPTION.—The owner of any mining claim or site who certifies in writing to the Secretary on or before the first day of any assessment year that access to such mining claim or site was denied or impeded during the prior assessment year by the action or inaction of any local, State, or Federal Governmental officer, agency, or court, or by any Indian tribal authority, shall be exempt from the maintenance fee requirement of subsection (a) of section 5702 for the assessment year following the filing of the certification.

SEC. 5704. PATENTS.

(a) IN GENERAL.—Except as provided in subsection (c), any patent issued by the United States under the general mining laws after the date of enactment of this Subtitle shall be issued only—

(1) upon payment by the owner of the claim of the fair market value for the interest in the land owned by the United States exclusive of and without regard to the mineral deposits in the land or the use of the land for mineral activities; and

(2) subject to reservation by the United States of the royalty provided in section 5705.

(b) RIGHT OF REENTRY.—

(1) Except as provided in subsection 5704(c), and notwithstanding any other provision of law, a patent issued pursuant to this section shall be subject to a right of reentry by the United States if the patented estate is used by the patentee for any purpose other than for conducting mineral activities in good faith and such unauthorized use is not discontinued as provided in this subsection.

(2) If the surface of the patented estate is used by the patentee, or any subsequent owners, for any purpose other than for conducting mineral activities in good faith, the Secretary shall serve on all owners of interests in such patented estate, in the manner prescribed for service of a summons and complaint under the Federal Rules of Civil Procedure, notice specifying such unauthorized use and providing not more than 90 days in which such unauthorized use must be terminated. The giving of such notice shall constitute final agency action appealable by any owner of an interest in such patented estate. The Secretary may exercise the right of reentry as provided in paragraph (3) of this subsection if such unauthorized use has not been terminated in the time provided in this paragraph, and only after all appeal rights have expired and any appeals of such notice have been finally determined.

(3) The Secretary may exercise the right of the United States to reenter such patented estate by filing a declaration of reentry in the office of the Bureau of Land Management designated by the Secretary and recording such declaration where the notice or certificate of location for the patented claim or site is recorded under State law. Upon the filing and recording of such declaration, all right, title and interest in such patented estate shall revert to the United States. Lands and interests in lands for which the United States exercises its right of reentry under this section shall remain open to the location of mining claims and mill sites, unless withdrawn under other applicable law.

(c) PATENT TRANSITION.—Notwithstanding any other provision of law, the requirements of this subtitle (except the payment of maintenance and location fees in accordance with sections 5702 and 5703) shall not apply to those patent applications pending at the Department of the Interior as of September 30, 1995. Such patents shall be issued under or subject to the general mining laws in effect prior to the date of enactment of this subtitle.

SEC. 5705. ROYALTY.

(a) RESERVATION OF ROYALTY.—

(1) IN GENERAL.—Production of locatable minerals (including associated minerals) from any unpatented mining claim (other than those from Federal lands to which subsection 5704(c) applies) or any mining claim patented under subsection 5704(a), including mineral concentrates and products derived from locatable minerals, shall be subject to the payment of a royalty of 2.5 percent on the Net Smelter Return of all ores, minerals, metals, and materials mined and removed and sold.

(2) WAIVER.—If the Secretary determines that the Secretary's cost of accounting for and collecting a royalty for any mineral exceeds or is likely to exceed the amount of royalty to be collected, the Secretary shall waive such royalty. The obligation to pay royalties hereunder shall accrue only upon the sale of locatable minerals or mineral products produced from a mining claim subject to such royalty, and not upon the stockpiling of the same for future processing.

(3) EXEMPTION.—Any mine with an annual Revenues Received of less than $500,000 shall be exempt from the requirement to pay a royalty under this section.

(4) DEFINITION.—

(A) "Net Smelter Return" means the "Revenues Received" for such ores, minerals, metals or materials, less the "Allowable Deductions" for any calendar year.

(B) "Revenues Received" means the proceeds from the sale of ores mined from the claims or patents before subtracting the "Allowable Deductions", or, in the case of sales of beneficiated products from locatable minerals such as cathode, anode or copper rod or wire, or other products fabricated from the locatable minerals, the gross income from mining derived from the first commercially marketable product determined in the same manner as under Section 613 of the Internal Revenue Code, before subtracting the "Allowable Deductions." Sales or transfers of ores to affiliates shall be valued at the fair market value of the products sold or transferred. Without limiting the foregoing, the profits or losses incurred in connection with forward sales, futures or commodity options trading, metal loans, or any other price hedging or speculative activity or arrangement shall not be included in Revenues Received.

(C) "Allowable Deductions" means the following costs and expenses actually incurred or paid to third parties by the royalty payor: processing and treatment cost, costs for all transportation and insurance for ores or products produced from ores mined from the claim, group of claims or patents comprising an operation, between the mine and processing facilities, from one processing facility to another, and from processing facilities to the point of delivery of said ores or products; assaying charges, umpire charges, independent representative charges; all charges by purchasers of said ores or products; all taxes (except income taxes) measured by or valued upon production.

(5) REVENUES RECEIVED.—All Revenues Received and Allowable Deductions shall be determined in accordance with generally accepted accounting principles and practices consistently applied. Revenues Received and Allowable Deductions shall be determined by the accrual method.

(6) ALLOWABLE DEDUCTIONS.—Where any Allowable Deductions are incurred in conjunction with like costs for mineral products from other properties controlled by the payor such costs shall be fairly allocated and apportioned in accordance with generally accepted practices in the mining industry.

(7) COMMINGLING.—The payor shall have the right to commingle ore and minerals from the claim, group of claims, or patent comprising an

operation, with ore from other lands and properties: Provided, however, That the payor shall calculate from representative samples the average grade of the ore before commingling. If concentrates are produced from the commingled ores, the payor shall calculate from representative samples calculating the average grade of the ore, and calculating average recovery percentages the payor shall use procedures accepted in the mining and metallurgical industry suitable for the type of mining and processing activity being conducted.

(8) EFFECTIVE DATE.—

(A) IN GENERAL.—The royalty required under this section shall take effect with respect to production on or after the first day of the first month following the date of enactment of this subtitle.

(B) PHASE-IN.—The royalty payments required under this section shall be reduced—

(i) by 66⅔ percent for the first 12 months following the date of enactment of this subtitle for which royalties are due on production pursuant to this subtitle; and

(ii) by 33⅓ percent for the second 12 months that royalties are due on production pursuant to this subtitle.

(C) TIME FOR PAYMENT.—Any royalty payment attributable to production during the first 15 calendar months after the date of enactment of this subtitle, after any reduction under paragraph (B), shall be due on the date that is 12 months after the date of enactment of this subtitle.

(D) NO MARKETABLE QUANTITY PRIOR TO DATE OF ENACTMENT.—For a claim, group of claims, or patents comprising an operation that has not produced a marketable quantity prior to the date of enactment of this subtitle, the royalty payments required pursuant to this section shall be reduced—

(i) by 66⅔ percent for the first 12 months following the date of enactment of this subtitle for which royalties are due on production pursuant to this subtitle; and

(ii) by 33⅓ percent for the second 12 months that royalties are due on production pursuant to this subtitle.

(9) ROYALTY REDUCTION FOR MARGINAL OPERATIONS.—

(A) APPLICATION.—A person that is required to make a royalty payment under this section may file for a reduction or waiver of the royalty by demonstrating that payment of the royalty would preclude recovery of costs of production, including invested capital, for a claim, group of claims or patents comprising an operation for the remaining reasonable life of the operation: Provided, That the Secretary shall not consider royalty reduction effective during the phase-in periods under paragraph (8). For purposes of this initial application, "Projected Revenues" shall be calculated using the operator's current and projected rates of production at the average price for the preceding 12 months.

(B) DEFINITION.—For purposes of an application under subparagraph (A)—

(i) "Projected Revenues" shall be the net present value of the expected revenues for the remaining reasonable life of the operation calculated using the average mineral price received for the preceding 12 month calendar year.

(ii) "Costs of Production" shall mean the net present value of the following costs based on the expected rate of production for the remaining reasonable life of the operation—

(I) the projected cost of extracting the locatable mineral;

(II) the projected cost of transporting the locatable mineral to the place or places of reduction, beneficiation, refining and sale;

(III) the projected cost of reduction, beneficiation, refining and sale of the locatable mineral;

(IV) the projected cost of marketing and delivering the locatable mineral and the conversion of the locatable mineral into money;

(V) the projected cost of maintenance and repairs of all machinery, equipment, apparatus, and facilities used in the mine; all crushing, milling, leaching, refining, smelting, and reduction works, plants, and facilities; and all facilities and equipment for transportation;

(VI) the projected cost for support personnel and support services at the mine site, including without limitation, accounting, assaying, drafting, and mapping, computer services, surveying, housing, camp and office expenses, safety and security;

(VII) the projected cost of engineering, sampling, and assaying pertaining to development and production;

(VIII) the projected cost of permitting, reclamation, environmental compliance and monitoring;

(IX) the projected cost of fire and other insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in subclause (B)(ii)(V);

(X) depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants, and facilities listed in subclause (B)(ii)(V), considering the probable life of the property in computing the annual depreciation charge;

(XI) all money expended for premiums for industrial insurance, and the owner-paid cost of hospital and medical attention and accident benefits and group insurance for all employees engaged in the production or processing of locatable minerals;

(XII) all money paid as contributions or payments under State unemployment compensation law, all money paid as contributions under the Federal Social Security Act, and all money paid to State government in real property taxes measured or levied on production, or Federal excise tax payments and payments as fees or charges for use of the Federal lands from which the locatable minerals are produced; and

(XIII) the projected cost of developmental work in or about the mine or upon a group of mines when operated as a unit.

(C) For purposes of the annual depreciation charge under paragraph (B)(ii)X)—

(i) Any expenditure not otherwise described in this clause which is not deductible in the year paid or incurred pursuant to the Internal Revenue Code of 1986, and which is:

(I) attributable to the direct acquisition of mining claims purchased separately or as part of a group of assets, or

(II) attributable to the indirect acquisition of mining property or mining claims by reason of being a portion of the consideration for an interest in a corporation, partnership or trust (in connection with an ownership change of such entity determined under the principles of Section 382(g) of the Internal Revenue Code of 1986) allocable to such property or claims of such entity, shall be allowable as a depreciation deduction to the purchaser in the case of an expenditure described in (I) or to the acquired corporation, partnership or trust in the case of an expenditure described in (II), ratably over a period based on the probable life of the property, beginning with the taxable year in which such expenditure was made.

(ii) The deduction allowed for costs attributable to mining property or claims is available only at the election of the purchaser in the case of expenditures described in (i)(I), or at the election of both the purchaser and acquired corporation, partnership or trust in the case of expenditures described in (i)(II), and is in lieu of any other deduction otherwise allowable under this section with respect to such expenditure.

(D) If the Costs of Production for the operation exceed the Projected Revenues, the Secretary shall waive in full the royalty obligation. If the Projected Revenues exceed the Costs of Production by less than the full royalty obligation under subsection (a), the Secretary shall reduce the royalty rate to a level allowing the recovery of the Costs of Production, including invested capital, over the remaining reasonable life of the operation.

(10) SPLIT ESTATES.—For circumstances where a claim, group of claims or patent is subject to this section but does not comprise the entirety of a mine, the Annual Revenues and Costs of Production shall be allocated for royalty purposes in proportion to the value of production recovered from the claim, group of claims or patent.

(11) JUDICIAL REVIEW.—A determination by the Secretary under paragraph (9) shall be judicially reviewable under section 702 of title 5, United States Code, only for actions filed within 180 days of the Secretary's determination.

(12) ANNUAL FILING OF DATA.—If a reduction in royalty is provided under this paragraph, the royalty payor shall file cost and revenue data with the Secretary annually during the period of royalty waiver or reduction.

(b) DUTIES OF CLAIM HOLDERS, OPERATORS AND TRANSPORTERS.—A person that is required to make a royalty payment under this section shall make quarterly estimates of the royalty obligation and shall make the payment to the United States annually in such manner as the Secretary of the Interior may by rule prescribe. The owner or co-owners of a mining claim shall be liable for royalty on locatable minerals produced and sold during the period of ownership to the extent of the interest in such claim owned. As used in this subsection, "owner" or "co-owner" shall mean the person or persons owning the right to mine locatable minerals from such claim and receiving the revenues of sale. Any person who makes any royalty payment attributable to the interest of the owner or co-owners liable therefor shall not become liable to the United States for such royalty as a result.

(c) MANNER OF PAYMENT.—

(1) Each royalty payment or adjustment shall be accompanied by a statement containing:

(A) the name and Bureau of Land Management serial number of the mining claim or claims from which ores, concentrates, solutions or beneficiated products of locatable minerals subject to the royalty required in this section were produced and sold for the period covered by such payment or adjustment;

(B) the estimated (or actual, if determined) quantity of such ore, concentrates, solutions or beneficiated or fabricated products produced and sold from such mining claim or claims for such period;

(C) the estimated (or actual, if determined) Gross Yield from the production and sale of such ore, concentrates, solutions or beneficiated products for such period;

(D) the estimated (or actual, if determined) Net Smelter Return from the production and sale of such ores, concentrates, solutions or beneficiated products for such period, including an itemization of the applicable deductions described in paragraph 20(a)(4)(A); and

(E) the estimated (or actual, if determined) royalty due to the United States, or adjustment due to the United States or such owner or co-owners, for such period.

(2) In lieu of receiving a refund under subsection (e), the owner or co-owners may elect to apply any adjustment due to such owner or co-owners as an offset against royalties due from such owner or co-owners to the United States under this Subtitle, regardless of whether such royalties are due for production and sale from the same mining claim or claims.

(d) RECORDKEEPING AND REPORTING REQUIREMENTS.—

(1) An owner, operator, or other person directly involved in the conduct of mineral activities, transportation, purchase, or sale of

locatable minerals, concentrates, or products derived therefrom, subject to the royalty required in this section, through the point of royalty computation, shall establish and maintain any records, make any reports, and provide any information that the Secretary may reasonably require for the purposes of implementing this section or determining compliance with regulations or orders under this section. Upon the request of the Secretary when conducting an audit or investigation pursuant to subsection (f), the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by the Secretary.

(2) Records required by the Secretary under this section shall be maintained for three years after the records are generated unless the Secretary notifies the record holder that he or she has initiated an audit or investigation specifically identifying and involving such records and that such records must be maintained for a longer period. When an audit or investigation is under way, such records shall be maintained until the earlier of the date that the Secretary releases the record holder of the obligation to maintain such records or the date that the limitations period applicable to such audit or investigation under subsection (f) expires.

(e) INTEREST ASSESSMENTS.—In any case in which royalty payments are not received by the Secretary on the date that such payments are due, or when such payments are less than the amount due, the Secretary shall charge interest on such late payments computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate." In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount, and only for the number of days such payment is late. No other late payment or underpayment charge or penalty shall be charged. In any case in which royalty payments are made in excess of the amount due, or amounts are held by the Secretary pending the outcome of any appeal in which the Secretary does not prevail, the Secretary shall promptly refund such overpayments or pay such amounts to the person or persons entitled thereto, together with interest thereon for the number of days such overpayment or amounts were held by the Secretary, with the addition of interest charged against the United States computed at the rate published by the Department of the Treasury as the "Treasury Current Value of Funds Rate".

(f) AUDITS, PAYMENT DEMANDS AND LIMITATIONS.—

(1) The Secretary may conduct, after notice, any audit reasonably necessary and appropriate to verify the payments required under this section.

(2) Any billing or demand letter for royalty due on locatable minerals produced and sold from any mining claim subject to royalty required by this section must be sent or issued not later than three years after the date such royalty was due and must specifically identify the production involved, the royalty allegedly due and the basis for the claim. No action, proceeding or claim for royalty due on locatable minerals produced and sold, or relating to such production, may be brought by the United States, including but not limited to any claim for additional royalties or claim of the right to offset the amount of such additional royalties against amounts owed to any person by the United States, unless judicial suit or administrative proceedings are commenced to recover specific amounts claimed to be due prior to the expiration of three years from the date such royalty is alleged to have been due.

(g) PENALTIES.—Any person who withholds payment of royalties under this section after a final, nonappealable determination of liability may be liable for civil penalties of up to $5,000 per day that payment is withheld after becoming due.

(h) DISBURSEMENT OF REVENUES.—The receipts from royalties collected under this section shall be disbursed as follows:

(1) One-half of such receipts shall be paid into the Treasury of the United States and deposited as miscellaneous receipts; and

(2) One-half of such receipts shall be paid into a State Fund or the Federal Fund in accordance with section 5706; until termination as provided in section 5710.

SEC. 5706. ABANDONED LOCATABLE MINERALS MINE RECLAMATION FUND.

(a) STATE FUND.—Any State within which royalties are collected pursuant to section 5705 from a mining claim and which wishes to become eligible to receive such proceeds allocated by paragraph 5705(h)(2) shall establish and maintain an interest-bearing abandoned locatable mineral mine reclamation fund (hereinafter referred to in this subtitle as "State Fund") to accomplish the purposes of this subtitle.

(b) FEDERAL FUND.—There is established on the books of the Treasury of the United States an interest-bearing fund to be known as the Abandoned Locatable Minerals Mine Reclamation Fund (hereinafter referred to in this subtitle as "Federal Fund") which shall consist of royalty proceeds allocated by paragraph 5705(h)(2) from mining claims in a State where a State Fund has not been established or maintained under subsection (a).

SEC. 5707. ALLOCATION AND PAYMENTS.

(a) STATE FUND.—Royalties collected pursuant to section 5705 and allocated by paragraph 5705(h)(2) shall be paid by the Secretary of the Treasury to the State Fund established pursuant to subsection 5706(a) for the State where the mining claim from which the production occurred is located. Payments to States under this subsection with respect to any royalties received by the United States, shall be made not later than the last business day of the month in which such royalties are warranted by the United States Treasury to the Secretary of the Interior as having been received, except for any portion of such royalties which is under challenge, which shall be placed in a suspense account pending resolution of such challenge. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such royalties by the Treasury. Royalties placed in a suspense account which are determined to be due the United States shall be payable to a State Fund not later than fifteen days after such challenge is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the challenge is resolved. In determining the amount of payments to State Funds under this section, the amount of such payments shall not be reduced by any administrative or other costs incurred by the United States.

(b) FEDERAL FUND.—Royalties collected pursuant to section 5705, and allocated by paragraph 5705(h)(2), from mining claims located in a State which has not established or maintained a State Fund, and such royalties from mining claims located in a State for which the Secretary's authority has expired under subsection 5710(a), shall be credited to the Federal Fund and distributed in accordance with subsection (c).

(c) TRANSITION.—Prior to the time a State establishes a State Fund pursuant to subsection 5706(a), any royalties collected from a mining claim within such State shall be deposited into the Federal Fund and allocated to such State. Once a State establishes a State Fund under subsection 5706(a), the State allocation in the Federal Fund with accrued interest shall be paid by the Secretary of the Treasury to the State Fund in accordance with subsection (a). Commencing three years after the date of enactment of this subtitle, the Secretary of the Treasury shall distribute royalty proceeds then accrued or which are thereafter credited to the Federal Fund equally among all States which maintain a State Fund established under subsection 5706(a), and for which the Secretary of the Treasury's authority has not expired under subsection 5710(a).

SEC. 5708. ELIGIBLE AREA.

(a) IN GENERAL.—Subject to subsection (b), lands and water eligible for reclamation under this subtitle shall be Federal lands or private lands patented under the general mining laws that—

(1) have been adversely affected by past mineral activities on lands abandoned and left inadequately reclaimed prior to the date of enactment of this Subtitle; and

(2) for which the State determines there is no identifiable party with a continuing reclamation responsibility under State or Federal laws.

(b) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—The following areas shall not be eligible for expenditures from a State Fund:

(1) Any area subject to a plan of operations submitted or approved prior to, on or after the date of enactment of this subtitle which includes remining or reclamation of the area adversely affected by past locatable mineral activities.

(2) Any area affected by coal mining eligible for reclamation expenditures pursuant to section 404 of the Surface Mining Control and Reclamation Act (30 U.S.C. 1234).

(3) Any area designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912).

(4) Any area that was listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9605) prior to the date of enactment of this subtitle, or where the Environmental Protection Agency has initiated or caused to be initiated a response action pursuant to that Act.

SEC. 5709. USES AND OBJECTIVES OF FUNDS.

(a) USE OF FUNDS.—Royalty proceeds in a State Fund shall be used for the reclamation of eligible areas. For purposes of this section, reclamation includes—

(1) backfilling, fencing, sealing, or otherwise controlling abandoned underground mine entries to protect public health and safety;

(2) abatement, treatment or control of water pollution;

(3) shaping, grading, contouring and revegetation of land to prevent erosion and sedimentation, or to enhance fish and wildlife habitat;

(4) removal or control of toxic or hazardous materials; and

(5) control or reclamation of surface subsidence due to abandoned underground mines.

(b) PRIORITIES.—Expenditures of royalty proceeds from a State Fund shall reflect the following priorities in the order stated, but shall not preclude, where feasible and appropriate, a combination of these priorities for cost-effective reclamation:

(1) The protection of public health, safety, general welfare and property from extreme danger from the adverse effects of past mineral activities.

(2) The protection of public health, safety, and general welfare from the adverse effects of past mineral activities.

SEC. 5710. SUNSET PROVISIONS.

(a) TERMINATION OF AUTHORITY.—The Secretary of the Treasury's authority to allocate funds to a State Fund under section 5707 shall expire on the date that the State submits a report to the Congress which states that there are

no areas in the State which remain to be reclaimed.

(b) TERMINATION OF FUND.—Upon the termination of authority as provided in subsection (a) with respect to all State Funds, the Federal Fund shall also be terminated, and all royalty proceeds thereafter remaining in the Federal Fund shall be paid into the Treasury of the United States and deposited as miscellaneous receipts.

SEC. 5711. EFFECT ON THE GENERAL MINING LAWS.

The provisions of this Subtitle shall supersede the general mining laws only to the extent such laws conflict with the requirements of this Subtitle. Where no such conflict exists, the general mining laws, including all judicial and administrative decisions interpreting them, shall remain in full force and effect.

SEC. 5712. SEVERABILITY.

If any provision of this subtitle or the applicability thereof to any person or circumstances is held invalid, the remainder of this Subtitle and the application of such provision to other persons or circumstances shall not be affected thereby.

Subtitle I—Department of the Interior

SEC. 5800. AIRCRAFT SERVICES.

(a) USE OF PRIVATE CONTRACTORS.—By not later than October 1, 1996, the Secretary of the Interior shall contract with private entities for the provision of all aircraft services required by the Department of the Interior, other than those available from existing DOI aircraft whose primary purpose is fire suppression.

(b) SALE OF FEDERAL AIRCRAFT.—By September 30, 1998, the Secretary of the Interior is authorized and directed to sell all aircraft owned by the Department of the Interior, and all associated equipment and facilities, other than those whose primary purpose is fire suppression.

(c) EXEMPTIONS.—The disposition of assets under this section is not subject to section 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484) or section 13 of the Surplus Property Act of 1944 (50 U.S.C. App. 1622).

(d) DISPOSITION OF PROCEEDS.—The proceeds from dispositions under this section shall be returned to the Treasury as miscellaneous receipts and all savings from reduced overhead and other costs related to the management of the assets sold shall be returned to the Treasury.

Subtitle J—Power Marketing Administrations

PART I—BONNEVILLE POWER ADMINISTRATION REFINANCING

SEC. 5900. DEFINITIONS.

For the purposes of this subtitle—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C.838(k));

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995;

(4) "old capital investment" means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 5901. NEW PRINCIPAL AMOUNTS.

(a) PRINCIPAL AMOUNT.—Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) DETERMINATION.—With the approval of the Secretary of the Treasury based solely on consistency with this part the Administrator shall determine the new principal amounts under section 5901 and the assignment of interest rates to the new principal amounts under section 5902.

(c) OLD PAYMENT AMOUNT.—For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1995, if this part were not enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 5902. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 5901 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5903. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 5901 is no earlier than the repayment date for the old capital investment assumed in section 5901(c)(1).

SEC. 5904. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 5901, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 5905. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 5906. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 5907. APPROPRIATED AMOUNTS.

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law No. 103-436) is amended by striking section 6 and its catchline and inserting the following:

"SEC. 6. APPROPRIATED AMOUNTS.

"(a) APPROPRIATED AMOUNTS.—Without fiscal year limitation, there are appropriated to the Administrator $15.25 million in fiscal year 1996, $15.86 million in fiscal year 1997, $16.49 million in fiscal year 1998, $17.15 million in fiscal year 1999, $17.84 million in fiscal year 2000, and $4.10 million in each succeeding fiscal year so long as the Administrator makes annual payments to the Tribes under the settlement agreement.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) 'settlement agreement' means that settlement agreement between the United States of America and the Confederated Tribes of the

Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181–D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

"(2) 'Tribes' means the Confederated Tribes of the Colville Reservation, a federally recognized Indian Tribe.".

SEC. 5908. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 5901 of this part;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 5902 of this part;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 5901 of this part and to pay the interest on the principal amount under section 5902 of this part, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this part; and

(4) the contract provisions specified in this part do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 5909. SAVINGS PROVISIONS.

(a) REPAYMENT.—This part does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in section 5904 of this part, this part does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

PART II—ALASKA POWER MARKETING ADMINISTRATION SALE

SEC. 5910. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) SALE OF SNETTISHAM.—The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this part as "Snettisham") to the State of Alaska in accordance with the terms of this part and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Alaska Power Authority and the Authority's successors.

(b) SALE OF EKLUTNA.—The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this part as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc. (referred to in this part as "Eklutna Purchasers"), in accordance with the terms of this part and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Alaska Power Administration of the United States Department of Energy and the Eklutna Purchasers.

(c) FEDERAL SALE ASSISTANCE.—The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this part.

(d) DISPOSITION OF PROCEEDS.—Proceeds from the sales required by this part shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) PREPARATION OF EKLUTNA AND SNETTISHAM FOR SALE.—The Secretary of Energy is authorized and directed to use such funds from the sale of electric power by the Alaska Power Administration as may be necessary to prepare, survey and acquire Eklutna and Snettisham assets for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchaser.

SEC. 5911. EXEMPTION AND OTHER PROVISIONS.

(a) FEDERAL POWER ACT EXEMPTION.—

(1) After the sales authorized by this part occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et seq.) as amended.

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this part or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) JUDICIAL REVIEW.—

(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than ninety days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than ninety days after the challenged act implementing the Program, or be barred.

(c) TRANSFER OF EKLUTNA.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued use of the rights-of-way on lands managed by the Bureau of Land Management and military lands in accordance with existing law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(4) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(d) TRANSFER OF SNETTISHAM.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85–508, 72 Stat. 339, as amended).

(e) APA TERMINATION.—Not later than one year after both of the sales authorized in section 102 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) REPEAL.—The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, that all Eklutna assets have been conveyed to the Eklutna Purchasers.

(g) REPEAL.—Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, that all Snettisham assets have been conveyed to the State of Alaska.

(h) CONFORMITY CHANGES TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.—As of the later of the two dates determined in subsections (f) and (g), section 302(a) of the Department of

Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out "and the Alaska Power Administration" and by inserting "and" after "Southwestern Power Administration,".

(i) REPEAL.—The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(j) ASSET DISPOSAL.—The sales of Eklutna and Snettisham under this part are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the "Surplus Property Act of 1944" (50 U.S.C. App. 1622).

(k) For purposes of section 147(d) of the Internal Revenue Code, "1st use" of Snettisham shall be considered to occur upon acquisition of the property by or on behalf of the State of Alaska.

Subtitle K—Radio and Television Communication Site Fees

SEC. 5920. RADIO AND TELEVISION COMMUNICATION SITE FEES.

(a) ADDITIONAL USERS OF COMMUNICATION SITES.—(1) If the radio or television communications site user is permitted under the terms of its site use authorization from the Bureau of Land Management or the Forest Service to grant access to the site to additional users, then the radio or television communications site user shall pay annually to the Bureau of Land Management or the Forest Service an amount equal to 25 percent of the gross income it receives from each such additional user during that year.

(2) Authorizations to radio and television communications site users shall require such site users to provide the Bureau of Land Management or the Forest Service with a certified list which identifies all additional users of such sites and all gross revenues received from such additional users. The Bureau of Land Management and the Forest Service shall not require any additional user of a radio or television communications site to obtain a separate authorization to use such a site.

(b) REGULATIONS.—(1) The Secretaries shall prescribe appropriate rules and regulations to carry out the provisions of this section.

(2) Ten years after the date of enactment of this section, the Secretaries shall establish a broad-based advisory group, including representatives from the radio and television broadcast industry, to review the schedule of charges and other acceptable criteria for determining fair market value for radio and television communications site users. The advisory group shall report its findings to the Congress no later than 1 year after it is established.

(c) INITIAL SCHEDULE OF CHARGES.—(1) Until modified pursuant to subsection (b) of this section, the schedule of charges for television communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 3, (television rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(2) Until modified pursuant to subsection (b) of this section, the schedule of charges for radio communications site users which the Secretaries shall prescribe pursuant to subsection (a) of this section shall be as listed in exhibit 4, (radio rental fee schedule) in the report of the radio and television broadcast use fee advisory committee dated December 1992.

(d) ADVISORY GROUP.—(1) The Secretaries are directed to jointly establish a broad-based advisory group comprised of representatives from the non-broadcast communications industry (users of both private and public communication sites) and the two agencies to review recommendations on acceptable criteria for determining fair market values and next best alternative use.

(2) The advisory group shall review the methodology used in any previous studies and reach concurrence on such methodology.

(3) The advisory group shall also assess the validity of the results of such studies, taking into account all reasonable options for the establishment of fair market values and next best alternative use.

(4) The advisory group shall report its findings to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives within one year after the enactment of this Act.

Subtitle L—Amendments to Outer Continental Shelf Lands Act

SEC. 5930. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a) of the Outer Continental Shelf Lands Act, (43 U.S.C. 1337(a)(3)), is amended by striking paragraph (3) in its entirety and inserting the following:

"(3)(A) The Secretary may, through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases;

"(B)(i) Notwithstanding any other provision of this Act, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(aa), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act, 5 U.S.C. Sec. 702, only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(aa) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(bb) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for Light Sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New

York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.".

SEC. 5931. NEW LEASES.

(a) Amendments.—Section 8(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)) is amended as follows:

(1) Redesignate section 8(a)(1)(H) as section 8(a)(1)(I);

(2) Add a new section 8(a)(1)(H) as follows:

"(H) cash bonus bid with royalty at no less than 12 and 1/2 per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary. Such suspensions may vary based on the price of production from the lease.".

(b) Production.—For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Ares of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within seven years of the date of enactment of this Act, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this Act, except that the suspension of royalties shall be set at a volume of not less than the following:

(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

SEC. 5932. REGULATIONS.

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this Act within 180 days after the enactment of this Act.

TITLE VI—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 6001. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Public Works Reconciliation Act of 1995".

(b) Table of Contents.—The table of contents of this title is as follows:

Sec. 6001. Short title; table of contents.
Sec. 6002. Highway demonstration projects.
Sec. 6003. Technical correction concerning minimum allocation.
Sec. 6004. Nuclear Regulatory Commission annual charges.
Sec. 6005. Radiological emergency preparedness fees.

SEC. 6002. HIGHWAY DEMONSTRATION PROJECTS.

(a) Projects Authorized for Fiscal Years 1996 and 1997.—

(1) Reductions.—Subject to paragraph (2), notwithstanding any other law, for each of fiscal years 1996 and 1997 and with respect to each State, the total of the amounts authorized, allocated, or unallocated to the State for highway demonstration projects under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027) shall be reduced by 15 percent.

(2) Order of Reductions.—For fiscal year 1996, the reductions required by paragraph (1) shall be made after any reduction required for the fiscal year under section 1003(c) of the Act (Public Law 102–240; 105 Stat. 1921).

(b) Projects Previously Authorized Under Certain Transportation Laws.—

(1) Reductions.—Subject to paragraph (2), notwithstanding any other law, with respect to each State, the total unobligated balance as of September 30, 1995, of the amounts authorized, allocated, unallocated, or otherwise provided to the State for highway demonstration projects under all of the following laws shall be reduced by 15 percent:

(A) For each of fiscal years 1992 through 1995, sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027).

(B) Section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181).

(C) Section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119).

(2) Effect on Other Reductions.—A reduction under paragraph (1) made with respect to a law described in paragraph (1)(A) shall not affect any reduction required for a fiscal year under section 1003(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1921).

SEC. 6003. TECHNICAL CORRECTION CONCERNING MINIMUM ALLOCATION.

(a) Findings.—Congress finds that—

(1) under the amendments made by section 1013(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1940), each State receives back from the Federal-aid highway program not less than 90 percent of the State's percentage of all contributions to the Highway Account of the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986;

(2) for fiscal year 1995, the amount apportioned under section 157(a)(4) of title 23, United States Code, was $1,427,000,000;

(3) in fiscal year 1996, the Interstate construction program under the title will be terminated and replaced with a new reimbursement program; and

(4) as a result of the termination of the Interstate construction program, the number of States receiving funds under section 157(a)(4) of the title for fiscal year 1996 may decrease and the amount of funds some States will require will decrease, and, therefore, the amount of funds necessary to ensure that each State receives not less than 90 percent will be reduced from $1,427,000,000 to an estimated $565,000,000.

(b) Correction.—

(1) In General.—With respect to the first fiscal year beginning after September 30, 1995—

(A) the Secretary of Transportation shall determine, in accordance with the policies established by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1914)—

(i) which of the States will no longer require an apportionment under section 157(a)(4) of title 23, United States Code; and

(ii) which of the States will require decreased funding under section 157(a)(4) of the title;

as a result of the termination of the Interstate construction program; and

(B) as a result of the reduced number of States that may require an apportionment under section 157(a)(4) of the title, and the decrease in the amount of funds some States will require under section 157(a)(4) of the title, the amount apportioned under section 157(a)(4) of the title shall be reduced from the amount apportioned for fiscal year 1995 by 60.4 percent.

(2) Effect on Certain Calculations.—The correction made by paragraph (1) shall not be taken into account in making the calculations required under sections 1003(c), 1013(c), and 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1921, 1940, and 1943).

SEC. 6004. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1998" and inserting "September 30, 2005".

SEC. 6005. RADIOLOGICAL EMERGENCY PREPAREDNESS FEES.

The first paragraph of the matter under the heading "Administrative Provisions" under the heading "Federal Emergency Management Agency" in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103–327; 108 Stat. 2325), is amended—

(1) in the first and second sentences, by striking "fiscal year 1995" each place it appears and inserting "each of fiscal years 1995 through 2005"; and

(2) in the last sentence, by striking "only authorized during fiscal year 1995" and inserting "authorized only during fiscal years 1995 through 2005".

TITLE VII—COMMITTEE ON FINANCE—SPENDING CONTROL PROVISIONS

SEC. 7000. REFERENCES; TABLE OF CONTENTS.

(a) Amendments to Social Security Act.—Except as otherwise specifically provided, whenever in subtitles A through G of this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) References to OBRA.—In this title, the terms "OBRA–1986", "OBRA–1987", "OBRA–1990", and "OBRA–1993" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66), respectively.

(c) Table of Contents of Subtitles A Through J.—The table of contents of subtitles A through J of this title is as follows:

TITLE VII—COMMITTEE ON FINANCE—SPENDING CONTROL PROVISIONS

Sec. 7000. References; table of contents.

Subtitle A—Medicare

Chapter 1—Medicare Choice Plans

Subchapter A—Establishment of Medicare Choice Plans

Sec. 7001. Medicare choice plans.
Sec. 7002. Treatment of 1876 organizations.
Sec. 7003. Special rule for calculation of payment rates for 1996.

Subchapter B—Tax Provisions Relating to Medicare Choice Plans

Sec. 7006. Medicare Choice Accounts.
Sec. 7007. Certain rebates included in gross income.

Chapter 2—Provisions Relating to Part A

Subchapter A—General Provisions Relating to Part A

Sec. 7011. PPS hospital payment update.
Sec. 7012. PPS-exempt hospital payments.
Sec. 7013. Capital payments for PPS hospitals.

Sec. 7014. Disproportionate share hospital payments.
Sec. 7015. Indirect medical education payments.
Sec. 7016. Graduate medical education and disproportionate share payment adjustments for medicare choice.
Sec. 7017. Payments for hospice services.
Sec. 7018. Extending medicare coverage of, and application of hospital insurance tax to, all State and local government employees.
Sec. 7019. Nurse aide training in skilled nursing facilities subject to extended survey and certain other conditions.

SUBCHAPTER B—PAYMENTS TO SKILLED NURSING FACILITIES

PART I—PROSPECTIVE PAYMENT SYSTEM

Sec. 7025. Prospective payment system for skilled nursing facilities.

PART II—INTERIM PAYMENT SYSTEM

Sec. 7031. Payments for routine service costs.
Sec. 7032. Cost-effective management of covered non-routine services.
Sec. 7033. Payments for routine service costs.
Sec. 7034. Reductions in payment for capital-related costs.
Sec. 7035. Treatment of items and services paid for under part B.
Sec. 7036. Medical review process.
Sec. 7037. Revised salary equivalence limits.
Sec. 7038. Report by Prospective Payment Assessment Commission.
Sec. 7039. Effective date.

CHAPTER 3—PROVISIONS RELATING TO PART B

Sec. 7041. Payments for physicians' services.
Sec. 7042. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 7043. Payment for clinical laboratory diagnostic services.
Sec. 7044. Durable medical equipment.
Sec. 7045. Updates for orthotics and prosthetics.
Sec. 7046. Payments for capital-related costs of outpatient hospital services.
Sec. 7047. Payments for non-capital costs of outpatient hospital services.
Sec. 7048. Updates for ambulatory surgical services.
Sec. 7049. Payment for ambulance services.
Sec. 7050. Physician supervision of nurse anesthetists.
Sec. 7051. Part B deductible.
Sec. 7052. Part B premium.
Sec. 7053. Increase in medicare part B premium for high income individuals.

CHAPTER 4—PROVISIONS RELATING TO PARTS A AND B

SUBCHAPTER A—GENERAL PROVISIONS RELATING TO PARTS A AND B

Sec. 7055. Secondary payor provisions.
Sec. 7056. Treatment of assisted suicide.
Sec. 7057. Administrative provisions.
Sec. 7058. Sense of Senate regarding coverage for treatment of breast and prostate cancer under medicare.

SUBCHAPTER B—PAYMENTS FOR HOME HEALTH SERVICES

Sec. 7061. Payment for home health services.
Sec. 7062. Maintaining savings resulting from temporary freeze on payment increases for home health services.
Sec. 7063. Extension of waiver of presumption of lack of knowledge of exclusion from coverage for home health agencies.

CHAPTER 5—RURAL AREAS

Sec. 7071. Medicare-dependent, small, rural hospital payment extension.
Sec. 7072. Medicare rural hospital flexibility program.
Sec. 7073. Establishment of rural emergency access care hospitals.
Sec. 7074. Additional payments for physicians' services furnished in shortage areas.
Sec. 7075. Payments to physician assistants and nurse practitioners for services furnished in outpatient or home settings.
Sec. 7076. Demonstration projects to promote telemedicine.
Sec. 7077. PROPAC recommendations on urban medicare dependent hospitals.

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

Sec. 7100. Short title.

SUBCHAPTER A—FRAUD AND ABUSE CONTROL PROGRAM

Sec. 7101. Fraud and abuse control program.
Sec. 7102. Application of certain health anti-fraud and abuse sanctions to fraud and abuse against Federal health programs.
Sec. 7103. Health care fraud and abuse guidance.

SUBCHAPTER B—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

Sec. 7111. Mandatory exclusion from participation in medicare and State health care programs.
Sec. 7112. Establishment of minimum period of exclusion for certain individuals and entities subject to permissive exclusion from medicare and State health care programs.
Sec. 7113. Permissive exclusion of individuals with ownership or control interest in sanctioned entities.
Sec. 7114. Sanctions against practitioners and persons for failure to comply with statutory obligations.
Sec. 7115. Intermediate sanctions for medicare health maintenance organizations.
Sec. 7116. Clarification of and additions to exceptions to anti-kickback penalties.
Sec. 7117. Effective date.

SUBCHAPTER C—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Sec. 7121. Establishment of the health care fraud and abuse data collection program.
Sec. 7122. Elimination of reasonable cost reimbursement for certain legal fees.

SUBCHAPTER D—CIVIL MONETARY PENALTIES

Sec. 7131. Social Security Act civil monetary penalties.

SUBCHAPTER E—AMENDMENTS TO CRIMINAL LAW

Sec. 7141. Health care fraud.
Sec. 7142. Forfeitures for Federal health care offenses.
Sec. 7143. Injunctive relief relating to Federal health care offenses.
Sec. 7144. Grand jury disclosure.
Sec. 7145. False statements.
Sec. 7146. Obstruction of criminal investigations of Federal health care offenses.
Sec. 7147. Theft or embezzlement.
Sec. 7148. Laundering of monetary instruments.
Sec. 7149. Authorized investigative demand procedures.

SUBCHAPTER F—STATE HEALTH CARE FRAUD CONTROL UNITS

Sec. 7151. State health care fraud control units.

CHAPTER 7—OTHER PROVISIONS FOR TRUST FUND SOLVENCY

Sec. 7171. Nondischargeability of certain medicare debts.
Sec. 7172. Transfers of certain part B savings to hospital insurance trust fund.

Subtitle B—Transformation of the Medicaid Program

Sec. 7190. Short title.
Sec. 7191. Transformation of medicaid program.
Sec. 7192. Medicaid drug rebate program.
Sec. 7193. Waivers.
Sec. 7194. Children with special health care needs.
Sec. 7195. CBO reports.
Sec. 7196. Adjustments of pool amounts.
Sec. 7197. State review of mentally ill or retarded nursing facility residents upon change in physical or mental condition.
Sec. 7198. Nurse aide training in nursing facilities subject to extended survey and under certain other conditions.
Sec. 7199. Nurse aide training in nursing facilities subject to extended survey and under certain other conditions.

Subtitle C—Block Grants for Temporary Assistance for Needy Families

Sec. 7200. Short title.
Sec. 7201. Block grants to States.
Sec. 7202. Limitations on use of funds for certain purposes.
Sec. 7203. Census data on grandparents as primary caregivers for their grandchildren.
Sec. 7204. Study of effect of welfare reform on grandparents as primary caregivers.
Sec. 7205. Development of prototype of counterfeit-resistant social security card required.
Sec. 7206. Modifications to the job opportunities for certain low-income individuals program.
Sec. 7207. Demonstration projects for school utilization.
Sec. 7208. Corrective compliance plan.
Sec. 7209. Parental responsibility contracts.
Sec. 7210. Expenditure of Federal funds in accordance with laws and procedures applicable to expenditure of State funds.
Sec. 7211. Conforming amendments to the Social Security Act.
Sec. 7212. Conforming amendments to the Food Stamp Act of 1977 and related provisions.
Sec. 7213. Conforming amendments to other laws.
Sec. 7214. Secretarial submission of legislative proposal for technical and conforming amendments.
Sec. 7215. Effective date; transition rule.

Subtitle D—Supplemental Security Income

CHAPTER 1—ELIGIBILITY RESTRICTIONS

Sec. 7251. Denial of supplemental security income benefits by reason of disability to drug addicts and alcoholics.
Sec. 7252. Denial of SSI benefits for 10 years to individuals found to have fraudulently misrepresented residence in order to obtain benefits simultaneously in 2 or more States.
Sec. 7253. Denial of SSI benefits for fugitive felons and probation and parole violators.
Sec. 7254. Effective dates; application to current recipients.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

Sec. 7261. Definition and eligibility rules.
Sec. 7262. Eligibility redeterminations and continuing disability reviews.
Sec. 7263. Additional accountability requirements.

CHAPTER 3—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 7271. Annual report on the supplemental security income program.
Sec. 7272. Improvements to disability evaluation.

Sec. 7273. Study of disability determination process.
Sec. 7274. Study by General Accounting Office.
CHAPTER 4—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY
Sec. 7281. Establishment.
Sec. 7282. Duties of the Commission.
Sec. 7283. Membership.
Sec. 7284. Staff and support services.
Sec. 7285. Powers of Commission.
Sec. 7286. Reports.
Sec. 7287. Termination.
Subtitle E—Child Support
CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS
Sec. 7301. State obligation to provide child support enforcement services.
Sec. 7302. Distribution of child support collections.
Sec. 7303. Rights to notification and hearings.
Sec. 7304. Privacy safeguards.
CHAPTER 2—LOCATE AND CASE TRACKING
Sec. 7311. State case registry.
Sec. 7312. Collection and disbursement of support payments.
Sec. 7313. State directory of new hires.
Sec. 7314. Amendments concerning income withholding.
Sec. 7315. Locator information from interstate networks.
Sec. 7316. Expansion of the Federal parent locator service.
Sec. 7317. Collection and use of social security numbers for use in child support enforcement.
CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES
Sec. 7321. Adoption of uniform State laws.
Sec. 7322. Improvements to full faith and credit for child support orders.
Sec. 7323. Administrative enforcement in interstate cases.
Sec. 7324. Use of forms in interstate enforcement.
Sec. 7325. State laws providing expedited procedures.
CHAPTER 4—PATERNITY ESTABLISHMENT
Sec. 7331. State laws concerning paternity establishment.
Sec. 7332. Outreach for voluntary paternity establishment.
Sec. 7333. Cooperation by applicants for and recipients of temporary family assistance.
CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING
Sec. 7341. Performance-based incentives and penalties.
Sec. 7342. Federal and State reviews and audits.
Sec. 7343. Required reporting procedures.
Sec. 7344. Automated data processing requirements.
Sec. 7345. Technical assistance.
Sec. 7346. Reports and data collection by the Secretary.
CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS
Sec. 7351. National Child Support Guidelines Commission.
Sec. 7352. Simplified process for review and adjustment of child support orders.
Sec. 7353. Furnishing consumer reports for certain purposes relating to child support.
Sec. 7354. Nonliability for depository institutions providing financial records to State child support enforcement agencies in child support cases.
CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS
Sec. 7361. Internal Revenue Service collection of arrearages.
Sec. 7362. Authority to collect support from Federal employees.
Sec. 7363. Enforcement of child support obligations of members of the armed forces.
Sec. 7364. Voiding of fraudulent transfers.
Sec. 7365. Work requirement for persons owing child support.
Sec. 7366. Definition of support order.
Sec. 7367. Reporting arrearages to credit bureaus.
Sec. 7368. Liens.
Sec. 7369. State law authorizing suspension of licenses.
Sec. 7370. Denial of passports for nonpayment of child support.
Sec. 7371. International child support enforcement.
Sec. 7372. Denial of means-tested Federal benefits to noncustodial parents who are delinquent in paying child support.
Sec. 7373. Child support enforcement for Indian tribes.
Sec. 7374. Financial institution data matches.
Sec. 7375. Enforcement of orders against paternal grandparents in cases of minor parents.
Sec. 7376. Sense of the Senate regarding the inability of the non-custodial parent to pay child support.
CHAPTER 8—MEDICAL SUPPORT
Sec. 7378. Technical correction to ERISA definition of medical child support order.
Sec. 7379. Enforcement of orders for health care coverage.
CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONRESIDENTIAL PARENTS
Sec. 7381. Grants to States for access and visitation programs.
CHAPTER 10—EFFECT OF ENACTMENT
Sec. 7391. Effective dates.
Subtitle F—Noncitizens
Sec. 7401. State option to prohibit assistance for certain aliens.
Sec. 7402. Deemed income requirement for Federal and federally funded programs.
Sec. 7403. Requirements for sponsor's affidavit of support.
Sec. 7404. Limited eligibility of noncitizens for SSI benefits.
Sec. 7405. Treatment of noncitizens.
Sec. 7406. Information reporting.
Sec. 7407. Prohibition on payment of Federal benefits to certain persons.
Subtitle G—Additional Provisions Relating To Welfare Reform
CHAPTER 1—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS
Sec. 7411. Reductions.
Sec. 7412. Reducing personnel in Washington, D.C. area.
CHAPTER 2—BLOCK GRANT FOR SOCIAL SERVICES.
Sec. 7421. Reduction in block grant for social services.
Sec. 7422. Establishing national goals to prevent teenage pregnancies.
CHAPTER 3—FOSTER CARE MAINTENANCE PAYMENTS PROGRAM
Sec. 7431. Limitation on growth of administrative expenses for foster care maintenance payments program.
CHAPTER 4—MISCELLANEOUS PROVISIONS
Sec. 7441. Exemption of battered individuals from certain requirements.
Sec. 7442. Sense of the Senate on legislative accountability for unfunded mandates in welfare reform legislation.
Sec. 7443. Sense of the Senate regarding enforcement of statutory rape laws.
Sec. 7444. Sanctioning for testing positive for controlled substances.
Sec. 7445. Fraud under means-tested welfare and public assistance programs.
Subtitle H—Reform of the Earned Income Tax Credit
Sec. 7460. Amendment of 1986 code.
Sec. 7461. Earned income credit denied to individuals not authorized to be employed in the United States.
Sec. 7462. Repeal of earned income credit for individuals without children.
Sec. 7463. Modification of earned income credit amount and phaseout.
Sec. 7464. Rules relating to denial of earned income credit on basis of disqualified income.
Sec. 7465. Modification of adjusted gross income definition for earned income credit.
Sec. 7466. Provisions to improve tax compliance.
Subtitle I—Increase in Public Debt Limit
Sec. 7471. Increase in public debt limit.

Subtitle A—Medicare

CHAPTER 1—MEDICARE CHOICE PLANS

Subchapter A—Establishment of Medicare Choice Plans

SEC. 7001. MEDICARE CHOICE PLANS.

(a) Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new part:

"PART D—MEDICARE CHOICE PLANS

"SUBPART 1—DEFINITIONS
"Sec. 1895A. Definitions.
"SUBPART 2—ENTITLEMENT OF MEDICARE CHOICE ELIGIBLE INDIVIDUALS TO HEALTH CARE CHOICES
"Sec. 1895B. Entitlement to medicare choices.
"Sec. 1895C. Enrollment procedures.
"Sec. 1895D. Effect of enrollment.
"SUBPART 3—MEDICARE CHOICE PLAN REQUIREMENTS
"Sec. 1895G. Availability and enrollment.
"Sec. 1895H. Benefits provided to individuals.
"Sec. 1895I. Licensing and financial requirements.
"Sec. 1895J. Health plan standards.
"SUBPART 4—DETERMINATION OF MEDICARE PAYMENT AMOUNTS AND REBATES
"Sec. 1895M. Medicare payment amounts.
"Sec. 1895N. Premiums and rebates.
"Sec. 1895O. Payments to plan sponsors.
"SUBPART 5—CONTRACTUAL AUTHORITY; TEMPORARY CERTIFICATION; REGULATIONS
"Sec. 1895P. General permission to contract.
"Sec. 1895Q. Renewal and termination of contract.
"Sec. 1895R. Temporary certification process for coordinated care plans.
"Sec. 1895S. Regulations.

"Subpart 1—Definitions

"SEC. 1895A. DEFINITIONS.

"(a) MEDICARE CHOICE PLAN.—In this part—

"(1) IN GENERAL.—The term 'medicare choice plan' means an eligible health plan with respect to which there is a contract in effect under this part to provide health benefits coverage to medicare choice eligible individuals.

"(2) MEDICARE CHOICE PLAN SPONSOR.—The terms 'medicare choice plan sponsor' and 'plan sponsor' mean a public or private entity which establishes or maintains a medicare choice plan.

"(b) TERMS RELATING TO HEALTH PLANS.—In this part:

"(1) ELIGIBLE HEALTH PLAN.—

"(A) IN GENERAL.—The term 'eligible health plan' means a policy, contract, or plan which is capable of providing health benefits coverage of items and services provided under the traditional medicare program to medicare choice eligible individuals.

"(B) TYPES OF INSURANCE.—The term 'eligible health plan' shall include any of the following types of plans of health insurance:

"(i) INDEMNITY OR FEE-FOR-SERVICE PLANS.—Private indemnity plans that reimburse hospitals, physicians, and other providers on the basis of a privately determined fee schedule.

"(ii) COORDINATED CARE PLANS.—Private managed or coordinated care plans which provide health care services through an integrated network of providers, including—

"(I) qualified health maintenance organizations as defined in section 1310(d) of the Public Health Service Act; and

"(II) preferred provider organization plans, point of service plans, provider-sponsored network plans, or other coordinated care plans.

"(iii) OTHER HEALTH CARE PLANS.—Any other private plan for the delivery of health care items and services that is not described in clause (i), or (ii).

"(2) UNION OR ASSOCIATION PLAN.—

"(A) IN GENERAL.—The term 'union or association plan' means an eligible health plan with a union sponsor, a Taft-Hartley sponsor, or a qualified association sponsor that—

"(i) is organized for purposes other than to market a health plan;

"(ii) may not condition its membership on health status, health claims experience, receipt of health care, medical history, or lack of evidence of insurability of a potential member;

"(iii) may not exclude a member or spouse of a member from health plan coverage based on factors described in clause (ii);

"(iv) is a permanent entity which receives a substantial majority of its financial support from active members; and

"(v) may not be owned or controlled by an insurance company.

"(B) UNION SPONSOR.—The term 'union sponsor' means an employee organization that establishes or maintains an eligible health plan other than pursuant to a collective bargaining agreement.

"(C) TAFT-HARTLEY SPONSOR.—The term 'Taft-Hartley sponsor' means, with respect to a group health plan established or maintained by 2 or more employees or jointly by 1 or more employees and 1 or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of parties who establish or maintain the plan.

"(D) QUALIFIED ASSOCIATION SPONSOR.—The term 'qualified association sponsor' means an association, religious fraternal organization, or other organization (which may be a trade, industry, or professional association, a chamber of commerce, or a public entity association) which establishes or maintains an eligible health plan.

"(E) TERMS.—In this paragraph, the terms 'employee', 'employee organization', and 'group health plan' have the meanings given such terms for purposes of part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974.

"(c) OTHER DEFINITIONS.—In this part:

"(1) AREAS.—

"(A) MEDICARE PAYMENT AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'medicare payment area' means—

"(I) a metropolitan statistical area (whether or not such area is in a single State) or in the case of a consolidated metropolitan statistical area, each primary metropolitan statistical area within the consolidated area; or

"(II) one area within each State composed of all areas that do not fall within a metropolitan statistical area.

"(ii) GEOGRAPHIC ADJUSTMENT.—Upon request of a State, the Secretary may make a geographic adjustment to a medicare payment area otherwise determined under clause (i).

"(iii) AREAS.—In this subparagraph, the terms 'metropolitan statistical area', 'consolidated metropolitan statistical area', and 'primary metropolitan statistical area' mean any area designated as such by the Secretary of Commerce.

"(B) MEDICARE SERVICE AREA.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'medicare service area' means a medicare payment area.

"(ii) GEOGRAPHIC ADJUSTMENT.—The Secretary may designate a medicare service area other than a medicare payment area for a medicare choice plan if the Secretary determines that such designation would not result in the enrollment of enrollees in the plan in such area which are substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the medicare payment area.

"(2) MEDICARE CHOICE ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'medicare choice eligible individual' means an individual who is entitled to benefits under part A and enrolled under part B.

"(B) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—Such term shall not include an individual medically determined to have end-stage renal disease, except that an individual who develops end-stage renal disease while enrolled in a medicare choice plan may continue to be enrolled in that plan. Not later than December 31, 1999, the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' to include individuals with end-stage renal disease and the enrollment of such individuals in medicare choice plans.

"(3) TRADITIONAL MEDICARE PROGRAM.—The term 'traditional medicare program' means the program of benefits available to individuals entitled to benefits under part A and enrolled under part B of this title, other than enrollment in a medicare choice plan under this part.

"Subpart 2—Entitlement of Medicare Choice Eligible Individuals to Health Care Choices

"SEC. 1895B. ENTITLEMENT TO MEDICARE CHOICES.

"Each medicare choice eligible individual is entitled to choose to receive health care items and services covered under parts A and B—

"(1) through the traditional medicare program; or

"(2) by receiving payments toward the individual's enrollment in a medicare choice plan under this part.

"SEC. 1895C. ENROLLMENT PROCEDURES.

"(a) IN GENERAL.—Except as provided in section 1895G(a)(2), each medicare choice eligible individual shall be entitled to enroll in any medicare choice plan with a medicare service area including the geographic area in which the individual resides during—

"(1) the annual open enrollment period described in section 1895G(b)(1); or

"(2) any other enrollment period described in section 1895G(b)(2) applicable to the individual.

"(b) METHOD OF ENROLLMENT AND DISENROLLMENT.—

"(1) NOTICE PROVIDED TO THE SECRETARY.—Each medicare choice eligible individual desiring to enroll or terminate enrollment in a medicare choice plan shall provide the Secretary with notice of such enrollment or disenrollment during any enrollment period applicable to the individual. The Secretary shall, to the extent feasible, provide for the receipt of such notice by telephone, through the mail, and in person at local social security offices.

"(2) INFORMATION FORWARDED TO THE PLAN.—The Secretary shall promptly provide each medicare choice plan with notice of an individual's enrollment or disenrollment with the plan.

"(c) NOTICES TO INDIVIDUALS TO ASSIST IN ENROLLMENT.—

"(1) OPEN SEASON NOTIFICATION.—

"(A) MAILING OF NOTICE.—By September 30 of each year beginning after 1995, the Secretary shall mail a notice of eligibility to each medicare choice eligible individual and each individual entitled to benefits under part A prior to the end of the annual open enrollment period described in section 1895G(b)(1).

"(B) NOTICE DESCRIBED.—The notice described in subparagraph (A) shall include an informational brochure that includes the information described in this section, and any other information that the Secretary determines will assist the individual's enrollment decision.

"(2) NOTIFICATION TO NEWLY MEDICARE CHOICE ELIGIBLE INDIVIDUALS.—With respect to an individual who becomes eligible to enroll in a medicare choice plan during the period described in section 1895G(b)(2)(A) and to whom paragraph (1) does not apply, the Secretary shall, not later than 2 months before the date on which the individual becomes eligible, mail to the individual the notice of eligibility described in paragraph (1).

"(d) SECRETARY'S MATERIALS; CONTENTS.—The notice and informational materials mailed by the Secretary under subsection (c) shall be written and formatted in the most easily understandable manner possible, and shall include, at a minimum, the following:

"(1) GENERAL INFORMATION.—General information with respect to coverage under this part during the next calendar year, including—

"(A) the part B premium rates that will be charged for part B coverage,

"(B) the deductible, copayment, and coinsurance amounts for coverage under the traditional medicare program,

"(C) a description of the coverage under the traditional medicare program and any changes in coverage under the program from the prior year,

"(D) a description of the individual's medicare payment area, and the standardized medicare payment amount available with respect to such individual,

"(E) information and instructions on how to enroll in a medicare choice plan,

"(F) the right of each medicare choice plan sponsor by law to terminate or refuse to renew its contract and the effect the termination or nonrenewal of its contract may have on individuals enrolled with the medicare choice plan under this part, and

"(G) to the extent available, quality indicators for the traditional medicare program and each medicare choice plan, including—

"(i) disenrollment rates for medicare enrollees for the previous 2 years (excluding disenrollment due to death or moving outside the plan's medicare service area), and

"(ii) information on medicare enrollee satisfaction and health outcomes.

"(2) PLAN-SPECIFIC INFORMATION.—Information for the next calendar year for each medicare choice plan in the individual's medicare payment area, including—

"(A) the plan's medicare service area,

"(B) the enrollee's rights to benefits under the plan, including—

"(i) covered items and services,

"(ii) deductible, coinsurance, and copayment amounts, and

"(iii) the enrollee's liability for payment amounts billed in excess of the plan's fee schedule,

"(C) the extent to which enrollees may select the providers of their choice (from within or outside the plan's network of providers if applicable) and the restrictions (if any) on the plan's payment for services furnished to the enrollees by other than the plan's participating providers,

"(D) out-of-area coverage provided by the plan,

"(E) coverage of emergency services and urgently needed care,

"(F) appeal rights of enrollees, including the right to address grievances to the Secretary or the applicable external review entity,

"(G) whether the plan is out-of-compliance with any requirements of this part (as determined by the Secretary),

"(H) the plan's premium price submitted under section 1895N(a)(1) and an indication of the difference between such premium price and the standardized medicare payment amount, and

"(I) optional supplemental coverage available from the plan, including—

"(i) the supplemental items and services covered, and

"(ii) the premium price for the optional supplemental benefits.

"(e) ASSISTANCE.—

"(1) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY.—In order to promote the efficient administration of this section and this part, the Secretary may enter into an agreement with the Commissioner of Social Security under which the Commissioner performs administrative responsibilities relating to enrollment and disenrollment under this section.

"(2) USE OF NON-FEDERAL ENTITIES.—The Secretary shall, to the maximum extent feasible, enter into contracts with appropriate non-Federal entities to carry out activities under subsection (d).

"(3) PLANS.—Each medicare choice plan sponsor shall provide such information as the Secretary requests with respect to a medicare choice plan in order to carry out activities under subsection (d).

"SEC. 1895D. EFFECT OF ENROLLMENT.

"(a) PREMIUM DIFFERENTIALS.—If a medicare choice eligible individual enrolls in a medicare choice plan, the individual—

"(1) shall receive a rebate in the amount determined under section 1895N(b) if the plan's premium is less than the standardized medicare payment amount; and

"(2) shall be required to pay the plan's premium in excess of the standardized medicare payment amount.

"(b) PERIOD OF ENROLLMENT.—

"(1) ANNUAL ENROLLMENT PERIOD.—An individual enrolling in a medicare choice plan during the annual open enrollment period under section 1895G(b)(1) shall be enrolled in the plan for the calendar year following the open enrollment period.

"(2) SPECIAL ENROLLMENT PERIODS.—An individual enrolling in a plan under section 1895G(b)(2) shall be enrolled in the plan for the portion of the calender year on and after the date on which the enrollment becomes effective (as specified by the Secretary).

"(3) TERMINATIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, an individual may not terminate enrollment in a medicare choice plan before the next annual open enrollment period applicable to the individual.

"(B) QUALIFYING EVENTS.—Notwithstanding subparagraph (A), an individual may terminate enrollment in a medicare choice plan if—

"(i) the individual moves to a new medicare service area, or

"(ii) the individual has experienced a qualifying event (as determined by the Secretary).

"(C) FOR CAUSE.—Notwithstanding subparagraph (A), an individual may terminate enrollment in a medicare choice plan if the plan fails to meet quality or capacity standards or for other cause as determined by the Secretary.

"(D) TERMINATION AFTER INITIAL ENROLLMENT.—An individual may terminate enrollment in a medicare choice plan within 90 days of the individual's initial enrollment in such medicare choice plan and enroll in another medicare choice plan or the traditional medicare program.

"(4) SEAMLESS ENROLLMENT.—If a medicare choice eligible individual is enrolled in a medicare choice plan under this part and such individual fails to provide the Secretary with notice of the individual's enrollment or disenrollment under section 1895C(b)(1) during any open enrollment period applicable to the individual, the individual shall be deemed to have reenrolled in the plan.

"(5) SPECIAL RULES FOR HIGH DEDUCTIBLE PLANS.—In the case of a high deductible plan described in section 1895A(b)(1)(B)(iii) operated in connection with a medicare choice account, an individual may not terminate enrollment in the plan (other than under paragraph (3) (B), (C), or (D)) without at least 12 months notice given during the annual open enrollment period under section 1895G(b)(1).

"(6) SPECIAL RULES FOR UNION, TAFT-HARTLEY, OR ASSOCIATION PLANS.—The Secretary shall establish special enrollment rules for the enrollment of individuals in medicare choice plans that are union or association-sponsored health plans described in section 1895A(b)(2).

"(c) SOLE PAYMENTS.—Subject to subsections (d)(2) and (e) of section 1895H, payments under a contract to a medicare choice plan under section 1895O and for rebates under section 1895N(b) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable under the traditional medicare program for items or services furnished to individuals enrolled with the plan under this section.

"Subpart 3—Medicare Choice Plan Requirements

"SEC. 1895G. AVAILABILITY AND ENROLLMENT.

"(a) GENERAL AVAILABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each medicare choice plan sponsor shall provide that each medicare choice eligible individual shall be eligible to enroll under this part in a medicare choice plan of the sponsor during an enrollment period applicable to such individual if the plan's medicare service area includes the geographic area in which the individual resides.

"(2) EXCEPTIONS.—

"(A) ACCEPTANCE TO LIMITS OF CAPACITY.—Each medicare choice plan sponsor shall provide that, at any time during which enrollments are accepted, the plan sponsor will accept medicare choice eligible individuals in the order in which they apply for enrollment up to the limits of the medicare choice plan's capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations. The preceding sentence shall not apply if it would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the medicare population in the medicare service area of the plan.

"(B) UNION, TAFT-HARTLEY, OR ASSOCIATION HEALTH PLAN.—A medicare choice plan sponsor of a union or association plan described in section 1895A(b)(2) shall limit its enrollment to members of the sponsoring group who are entitled to all rights and privileges of any other members of the group and spouses of such members. An association plan which is sponsored by a religious fraternal benefit society may limit membership to individuals who share the same religious convictions as the society.

"(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsor, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the individual.

"(b) ENROLLMENT PERIODS.—

"(1) ANNUAL OPEN ENROLLMENT PERIOD.—Each medicare choice plan sponsor shall offer an annual open enrollment period in November of each year for the enrollment and termination of enrollment of medicare choice eligible individuals for the next year.

"(2) ADDITIONAL PERIODS.—Each medicare choice plan sponsor shall accept the enrollment of an individual in the medicare choice plan—

"(A) during the initial medicare enrollment period specified by section 1837 that applies to the individual (effective as specified by section 1838), and

"(B) during the period specified by the Secretary following any termination of the enrollment of the individual in a medicare choice plan under subparagraph (B), (C), or (D) of section 1895D(b)(3).

"(c) PLAN PARTICIPATION IN ENROLLMENT PROCESS.—

"(1) IN GENERAL.—In addition to any informational materials distributed by the Secretary under section 1895C(c), a medicare choice plan sponsor may develop and distribute marketing materials and engage in marketing strategies in accordance with this subsection.

"(2) PLAN MARKETING AND ADVERTISING STANDARDS.—Any marketing material developed or distributed by a medicare choice plan sponsor and any marketing strategy developed by such plan sponsor—

"(A) shall accurately describe differences between health care coverage available under the plan and the health care coverage available under the traditional medicare program,

"(B) shall be pursued in a manner not intended to violate the nondiscrimination requirement of section 1895J(e)(1), and

"(C) shall not contain false or materially misleading information, and shall conform to any other fair marketing and advertising standards and requirements applicable to such plans under law.

"(3) PRIOR APPROVAL BY SECRETARY.—

"(A) IN GENERAL.—No marketing materials may be distributed by a medicare choice plan sponsor to (or for the use of) individuals eligible to enroll with the plan under this part unless—

"(i) at least 45 days before its distribution, the plan has submitted the material to the Secretary for review, and

"(ii) the Secretary has not disapproved the distribution of the material.

"(B) REVIEW.—The Secretary shall review all marketing materials submitted under guidelines established by the Secretary and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.

"(C) DEEMED APPROVAL.—If marketing material has been submitted under subparagraph (A) to the Secretary or a regional office of the Department of Health and Human Services and the Secretary or the office has not disapproved the distribution of the materials under subparagraph (B) with respect to an area, the Secretary is deemed not to have disapproved such distribution in all areas covered by the plan.

"SEC. 1895H. BENEFITS PROVIDED TO INDIVIDUALS.

"(a) BASIC BENEFITS.—Each medicare choice plan shall provide to members enrolled under this part, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(1) those items and services covered under parts A and B of this title which are available to individuals residing in the medicare service area of the plan, and

"(2) additional health services as the Secretary may approve.

The Secretary shall approve any such additional health care services which the plan proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by medicare choice eligible individuals with the plan.

"(b) SUPPLEMENTAL BENEFITS.—Each medicare choice plan may offer optional supplemental benefits to each individual enrolled in the plan under this part for an additional premium amount. If the supplemental benefits are offered only to individuals enrolled in the sponsor's plan under this part, the additional premium amount shall be the same for all enrolled individuals in the medicare payment area. Such benefits may be marketed and sold by the medicare choice plan sponsor outside of the enrollment process described in section 1895D(b).

"(c) COST-SHARING.—

"(1) ENROLLEE COST-SHARING UNDER CHOICE PLAN MAY NOT EXCEED MEDICARE ENROLLEE COST.—Except as provided in paragraph (2), in no event may the average total amount of deductibles, coinsurance, and copayments charged an individual under a medicare choice plan with respect to basic benefits described in subsection (a)(1) for a year exceed the average total amount of deductibles, coinsurance, and copayments charged an individual under the traditional medicare program for a year.

"(2) HIGH DEDUCTIBLE PLANS.—Subparagraph (A) shall not apply to a high deductible plan described in section 1895A(b)(1)(B)(iii).

"(3) DETERMINATION ON OTHER BASIS.—If the Secretary determines that adequate data are not available to determine the average amount under paragraph (1), the Secretary may determine such amount with respect to all individuals in the medicare payment area, the State, or in the United States, eligible to enroll in such plan under this part or on the basis of other appropriate data.

"(d) NATIONAL COVERAGE DETERMINATION.—If there is a national coverage determination made in the period beginning on the date of an announcement under section 1895M(a) and ending on the date of the next announcement under such section and the Secretary projects that the determination will result in a significant change in the costs to the medicare choice plan of providing the benefits that are the subject of such national coverage determination and that such change in costs was not incorporated in the determination of the medicare payment amount included in the announcement made at the beginning of such period—

"(1) such determination shall not apply to contracts under this part until the first contract year that begins after the end of such period, and

"(2) if such coverage determination provides for coverage of additional benefits or coverage under additional circumstances, section 1895I(b)(2) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.

"(e) OVERLAPPING PERIODS OF COVERAGE.—A contract under this part shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

"(1) enrollment with a medicare choice plan under this part—

"(A) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the plan,

"(B) the plan sponsor shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and

"(C) the plan sponsor shall nonetheless be paid the full amount otherwise payable to the plan under this part, or

"(2) termination of enrollment with a medicare choice plan under this part—

"(A) the plan sponsor shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(B) payment for such services during the stay shall not be made under section 1886(d), and

"(C) the plan sponsor shall not receive any payment with respect to the individual under this part during the period the individual is not enrolled.

"(f) ORGANIZATION AS SECONDARY PAYER.—Notwithstanding any other provision of law, a medicare choice plan sponsor may (in the case of the provision of services to an individual under this part under circumstances in which payment is made secondary pursuant to section 1862(b)(2)) charge or authorize the provider of such services to charge, in accordance with the charges allowed under the law, plan, or policy which is the primary payer under such circumstances—

"(1) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(2) such individual to the extent that the individual has been paid under such law, plan, or policy for such services.

"SEC. 1895I. LICENSING AND FINANCIAL REQUIREMENTS.

"(a) LICENSING REQUIREMENT.—

"(1) IN GENERAL.—A medicare choice plan sponsor shall be organized and licensed under applicable State law as a risk-bearing entity eligible to offer health insurance or health benefits coverage in each State in which the medicare choice plan enrolls individuals under this part.

"(2) EXCEPTION FOR UNION, TAFT-HARTLEY, OR ASSOCIATION PLANS.—Paragraph (1) shall not apply to a union or association plan described in section 1895A(b)(2) if such plan is exempt from such requirements under the Employee Retirement Income Security Act of 1974.

"(3) COORDINATED CARE PLANS.—Paragraph (1) shall apply to a coordinated care plan except to the extent provided in section 1895R.

"(b) ASSUMPTION OF FULL FINANCIAL RISK.—A medicare choice plan sponsor shall assume full financial risk on a prospective basis for the provision of health care services for which benefits are required to be provided under section 1895H(a)(1), except that such plan sponsor may—

"(1) obtain insurance or make other arrangements for the cost of such health care services the aggregate value of which exceeds $5,000 in any year,

"(2) obtain insurance or make other arrangements for the cost of such health care services provided to its enrolled members other than through the plan sponsor because medical necessity required their provision before they could be secured through the plan sponsor,

"(3) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(4) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(c) PROTECTION AGAINST RISK OF INSOLVENCY.—

"(1) IN GENERAL.—A medicare choice plan sponsor shall make adequate provision against the risk of insolvency (including provision to prevent enrollees from being held liable to any person or entity for the plan sponsor's debts in the event of the plan sponsor's insolvency)—

"(A) as determined by the Secretary, or

"(B) as determined by a State which the Secretary determines requires solvency standards at least as stringent as the standards under subparagraph (A).

"(2) FACTORS TO CONSIDER.—In establishing standards under paragraph (1) for coordinated care plans described in section 1895A(b)(1)(B)(ii), the Secretary shall consult with interested parties and shall take into account—

"(A) a coordinated care plan sponsor's delivery system assets and its ability to provide services directly to enrollees through affiliated providers, and

"(B) alternative means of protecting against insolvency, including reinsurance, unrestricted surplus, letters of credit, guarantees, organizational insurance coverage, and partnerships with other licensed entities.

The Secretary is not required to include alternative means described in subparagraph (B) in the standards but may consider such alternatives where consistent with the standards.

"(d) PAYMENTS TO THE PLAN.—

"(1) PREPAID PAYMENT.—A medicare choice plan sponsor shall be compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to individuals enrolled under this part by a payment by the Secretary (and if applicable, the individual) which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(2) SOLE PAYMENTS.—Subject to subsections (d)(2) and (e) of section 1895H, if an individual is enrolled under this part with a medicare choice plan, only the plan sponsor shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"SEC. 1895J. HEALTH PLAN STANDARDS.

"(a) IN GENERAL.—Each medicare choice plan sponsor shall meet the requirements of this section.

"(b) QUALITY ASSURANCE AND ACCREDITATION.—

"(1) INTERNAL REVIEW.—

"(A) IN GENERAL.—Each medicare choice plan sponsor must establish an ongoing quality assurance program (in accordance with regulations established by the Secretary) for health care services it provides to such individuals.

"(B) ELEMENTS OF PROGRAM.—The quality assurance program established under subparagraph (A) shall—

"(i) stress health outcomes,

"(ii) provide for the establishment of written protocols for utilization review, based on current standards of medical practice,

"(iii) provide review by physicians and other health care professionals of the process followed in the provision of such health care services,

"(iv) monitor and evaluate high-volume and high-risk services and the care of acute and chronic conditions,

"(v) evaluate the continuity and coordination of care that enrollees receive,

"(vi) have mechanisms to detect both underutilization and overutilization of services,

"(vii) after identifying areas for improvement, establish or alter practice parameters,

"(viii) take action to improve quality and assess the effectiveness of such action through systematic followup,

"(ix) make available information on quality and outcomes measures to facilitate beneficiary comparison and choice of health coverage options (in such form and on such quality and outcomes measures as the Secretary determines to be appropriate), and

"(x) provide that the program is evaluated on an ongoing basis as to its effectiveness.

"(2) EXTERNAL REVIEW.—

"(A) IN GENERAL.—Each medicare choice plan sponsor shall, for each medicare choice plan it operates, have an agreement with an independent quality review and improvement organization approved by the Secretary.

"(B) FUNCTIONS OF ORGANIZATION.—Each independent quality review and improvement organization with an agreement under subparagraph (A) shall—

"(i) provide an alternative mechanism for addressing enrollee grievances,

"(ii) review plan performance based on accepted quality performance criteria,

"(iii) promote and make plans accountable for improved plan performance,

"(iv) integrate into ongoing external quality assurance activities a new set of quality indicators and standards developed specifically for the medicare population that would be used to determine whether a plan is providing quality care and appropriate continuity and coordination of care, and

"(v) report to the Secretary on those plans that have demonstrated unwillingness or inability to improve their performance.

"(3) ACCREDITATION.—Each medicare choice plan sponsor shall be required—

"(A) to meet accreditation standards established by the Secretary, or

"(B) to be accredited by an external independent accrediting organization, recognized by the Secretary as requiring standards at least as stringent as the standards established under subparagraph (A).

"(4) ENCOUNTER DATA.—The Secretary shall create incentives for medicare choice plan sponsors to report aggregate encounter data, including data on physician visits, nursing home days, home health days, hospital inpatient days, and rehabilitation services.

"(c) ACCESS.—Each medicare choice plan sponsor shall—

"(1) make the services described in section 1895H(a) (and such other health care services as such individuals have contracted for) available and accessible to each such individual, within the medicare service area of the plan, with reasonable promptness, and in a manner which assures continuity,

"(2) provide for reimbursement with respect to such services which are provided to such an individual other than through the plan's providers, if—

"(A) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition, and

"(B) it was not reasonable given the circumstances to obtain the services through the plan's providers,

"(3) provide access to appropriate providers, including credentialed specialists, for all medically necessary treatment and services, and

"(4) except as provided by the Secretary on a case-by-case basis, in the case of a coordinated care plan described in section 1895A(b)(1)(B)(ii), provide primary care services within 30 minutes or 30 miles from an enrollee's place of residence if the enrollee resides in a rural area.

"(d) CAPACITY.—Each medicare choice plan sponsor shall provide the Secretary with a demonstration of the plan's capacity to adequately service the plan's expected enrollment of individuals under this part.

"(e) CONSUMER PROTECTIONS.—

"(1) NONDISCRIMINATION.—Each medicare choice plan sponsor shall provide assurances to the Secretary that it will not deny enrollment to, expel, or refuse to reenroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment. A medicare choice plan sponsor may not cancel or refuse to renew a beneficiary except in the case of fraud or nonpayment of premium amounts due the plan.

"(2) GRIEVANCE PROCEDURES.—

"(A) IN GENERAL.—Each medicare choice plan sponsor shall provide meaningful procedures for hearing and resolving grievances between the plan (including any entity or individual through which the plan provides health care services) and members enrolled with the plan under this part.

"(B) HEARING REQUIREMENT.—A member enrolled with a medicare choice plan under this part who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the plan sponsor a party. If the amount in controversy is $1,000 or more, the individual or plan sponsor shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the plan sponsor shall be entitled to be parties to that judicial review. In applying sections 205(b) and 205(g) as provided in this subparagraph, and in applying section 205(l) thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

"(C) EXPEDITED REVIEW.—The Secretary shall provide an expedited review procedure under subparagraph (B) where a failure to receive any health care service or payment for such service would result in significant harm.

"(3) SUPPLEMENTAL COVERAGE IF PLAN TERMINATES THE CONTRACT.—Each medicare choice plan sponsor that provides items and services pursuant to a contract under this part shall provide assurances to the Secretary that in the event the contract is terminated, the sponsor shall provide or arrange for supplemental coverage of benefits under this title related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive benefits under this title, for the lesser of 6 months or the duration of such period.

"(f) PROMPT PAYMENT.—

"(1) IN GENERAL.—Each medicare choice plan sponsor shall provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the plan and the provider or supplier.

"(2) DIRECT PAYMENT.—In the case of a medicare choice plan sponsor which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with paragraph (1), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this part under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the plan sponsor under this part to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).

"(g) ADVANCE DIRECTIVES.—A contract under this part shall provide that a medicare choice plan sponsor shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).

"(h) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OF REQUIRED SCREENING EVALUATION.—

"(1) ACCESS TO PROCESS.—A medicare choice plan sponsor shall provide access 24 hours a day, 7 days a week to such persons as may be authorized to make any prior authorizations required by the plan sponsor for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

"(2) DEEMED APPROVAL.—A medicare choice plan sponsor is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

"(A) has made a reasonable effort to contact such a person for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in paragraph (1)), or

"(B) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

"(3) EFFECT OF APPROVAL.—Approval of a request for a prior authorization determination (including a deemed approval under paragraph (2)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

"(4) DEFINITION OF EMERGENCY SERVICES.—In this subsection, the term 'emergency services' means—

"(A) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

"(B) ancillary services routinely available to such department,

to the extent they are required to evaluate and treat an emergency medical condition (as defined in paragraph (5)) until the condition is stabilized.

"(5) EMERGENCY MEDICAL CONDITION.—In paragraph (4), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

"(A) placing the person's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"Subpart 4—Determination of Medicare Payment Amounts and Rebates

"SEC. 1895M. MEDICARE PAYMENT AMOUNTS.

"(a) IN GENERAL.—Not later than July 31 of each calendar year (beginning with 1996), the Secretary shall determine, and announce in a manner intended to provide notice to interested parties, a standardized medicare payment amount determined in accordance with this section for the following calendar year for each medicare payment area.

"(b) CALCULATION OF STANDARDIZED MEDICARE PAYMENT AMOUNTS.—For purposes of this part—

"(1) 1997.—

"(A) IN GENERAL.—The standardized medicare payment amount for calendar yeqr 1997 for a medicare payment area shall be equal to the sum of—

"(i) 50 percent of the modified per capita rate for calendar year 1996, and

"(ii) 50 percent of the adjusted average national per capita rate for calendar year 1996,

increased by the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30, 1996.

"(B) MODIFIED PER CAPITA RATE.—For purposes of subparagraph (A)(i), the modified per capita rate for calendar year 1996 for a medicare payment area shall be equal to the per capita rate which would have been determined (without regard to class) under section 1876(a)(1)(C) for 1995 if—

"(i) the applicable geographic area were the medicare payment area, and

"(ii) 50 percent of any payments attributable to sections 1886(d)(5)(B), 1886(h), and 1886(d)(5)(F) (relating to IME, GME, and DSH payments) were not taken into account,

increased by the percentage increase which the Secretary estimates will occur in medicare expenditures per capita for 1996 over medicare expenditures per capita for 1995.

"(C) ADJUSTED AVERAGE NATIONAL PER CAPITA RATE.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the adjusted average national per capita rate for a medicare payment area for calendar year 1996 shall be equal to the sum, for all types of medicare services (as classified by the Secretary), of the product for each such type of—

"(I) the average national per capita rate for 1996,

"(II) the proportion of such rate for the year which is attributable to such type of services, and

"(III) an index that reflects for 1996 and that type of service the relative input price of such services in the medicare payment area as compared to the national average input price of such services.

In applying subclause (III), the Secretary shall apply those indices that are used in applying (or updating) medicare payment rates for specific areas and localities.

"(ii) AVERAGE NATIONAL PER CAPITA RATE.—For purposes of clause (i), the average national per capita rate for 1996 is the weighted average of the modified per capita rates determined under subparagraph (B) for all medicare payment areas for 1996.

"(2) SUCCEEDING YEARS.—

"(A) IN GENERAL.—The standardized medicare payment amount for any calendar year after 1997 in a medicare payment area shall be an amount equal to the standardized medicare payment amount determined for such area for the preceding year, increased by the percentage increase in the gross domestic product per capita for the 12-month period ending on June 30 of the preceding calendar year.

"(B) SPECIAL RULE FOR 1998.—In applying subparagraph (A) for 1998, the standardized medicare payment amount for the preceding calendar year shall be the amount which would have been determined if clause (ii) of paragraph (1)(B) had been applied by substituting '100 percent' for '50 percent'.

"(3) SPECIAL RULE FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—In computing the standardized medicare payment amount for any medicare payment area, there shall not be taken into account any individuals with end-stage renal disease or any medicare expenditures for such individuals.

"(c) ADJUSTMENTS FOR PAYMENTS TO PLAN SPONSORS.—

"(1) IN GENERAL.—The rate of payment under section 1895O to a medicare choice plan sponsor with respect to any individual enrolled in a medicare choice plan of the sponsor shall be equal to the standardized medicare payment amount for the medicare payment area, adjusted for such risk factors as age, disability status, gender, institutional status, health status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(2) SPECIAL RULE FOR END-STAGE RENAL DISEASE.—The Secretary shall establish a separate rate of payment under section 1895O to a medicare choice plan sponsor with respect to any individual with end-stage renal disease enrolled in a medicare choice plan of the sponsor. Such rate of payment shall be actuarially equivalent to rates paid to other enrollees in the medicare payment area (or such other area as specified by the Secretary).

"(d) GEOGRAPHICAL ADJUSTMENTS.—

"(1) ANNUAL ADJUSTMENTS.—

"(A) IN GENERAL.—Unless Congress provides otherwise, beginning with calendar years after 1999, the Secretary shall, based on the analysis under paragraph (2) and to the extent the Secretary determines necessary, make annual differential adjustments to the standardized medicare payment amounts determined under subsection (b)(2) for calendar years 2000 and 2001 in a manner designed to achieve appropriate and equitable variation in standardized medicare payment amounts across medicare payment areas by calendar year 2002. Such variation shall be reasonably related to measurable geographic differences in medicare payment areas.

"(B) BUDGET NEUTRALITY.—The Secretary shall adjust the standardized medicare payment amounts under subsection (b) in a manner that ensures that total payments under this section for a year are not greater or less than total payments under this section would have been but for the application of subparagraph (A).

"(2) ANALYSIS.—The Secretary, in consultation with interested parties, shall conduct an analysis of the measurable input cost differences across medicare payment areas, including wage differentials, and other measurable variables identified by the Secretary. The Secretary shall also determine the degree to which medicare beneficiaries, including beneficiaries in rural and underserved areas, have access to more health plan choices by calendar year 2000 under this part, and the extent to which standardized medicare payment amounts have limited or enhanced such choices.

"(3) REPORT TO CONGRESS.—Not later than March 1, 1999, the Secretary shall submit a report to the appropriate committees of Congress that includes the results of the analysis described in paragraph (2) and the annual differential adjustments that the Secretary intends to implement under paragraph (1) for calendar years 2000 and 2001.

"(e) NOTICE IN CHANGES TO BENEFIT ASSUMPTIONS.—

"(1) IN GENERAL.—At least 45 days before making the announcement under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall provide for notice to medicare choice plans of proposed changes to be made in the methodology or benefit coverage assumptions from the methodology and assumptions used in the previous announcement and shall provide such plans an opportunity to comment on such proposed changes.

"(2) EXPLANATION.—In each announcement made under subsection (a) for a year (beginning with the announcement for 1998), the Secretary shall include an explanation of the assumptions (including any benefit coverage assumptions) and changes in methodology used in the announcement in sufficient detail so that medicare choice plans can compute medicare payment rates under subsection (d) for classes of individuals located in each medicare payment area which is in whole or in part within the medicare service area of such a plan.

"(f) DEMONSTRATION PROJECT ON MARKET-BASED REIMBURSEMENT AND COMPETITIVE PRICING.—The Secretary shall establish 1 or more demonstration projects to determine the standardized medicare payment amounts described in subsection (b) through competitive bidding by medicare choice plans in a medicare payment area. Not later than December 31, 2001, the Secretary shall submit a report to the Congress on the success of such projects in determining standardized medicare payment amounts that are reflective of market price.

"SEC. 1895N. PREMIUMS AND REBATES.

"(a) SUBMISSION AND CHARGING OF PREMIUMS.—

"(1) IN GENERAL.—Each medicare choice plan sponsor shall file with the Secretary each year, in a form and manner and at a time specified by the Secretary, the amount of the monthly premium for coverage under each medicare choice plan it offers under this part in each medicare payment area in which the plan is being offered.

"(2) UNIFORM PREMIUM.—The premiums charged by a medicare choice plan sponsor under this part may not vary among individuals who reside in the same medicare payment area.

"(3) TERMS AND CONDITIONS OF IMPOSING PREMIUMS.—Each medicare choice plan sponsor shall permit the payment of monthly premiums on a monthly basis.

"(b) REBATES.—

"(1) IN GENERAL.—If the standardized medicare payment amount for the medicare payment area in which an individual resides exceeds the amount of the monthly premium for the plan in which the individual is enrolled (as submitted under subsection (a)(1)), the Secretary shall—

"(A) in the case of an individual—

"(i) who is enrolled in a high deductible health plan described in section 1895A(b)(1)(B)(iii), deposit 100 percent of such excess in the medicare choice account specified by the individual, or

"(ii) who is not so enrolled but who elects the application of this clause, deposit 100 percent of such excess in the medicare choice account specified by the individual; or

"(B)(i) pay to the medicare choice plan sponsor on behalf of such individual the monthly amount equal to 100 percent of such excess up to the amount of the premium amount of such individual for supplemental benefits described in section 1895H(b),

"(ii) pay to such individual an amount equal to 75 percent of the remainder of such excess, and

"(iii) deposit the remainder of such excess in the Federal Hospital Insurance Trust Fund.

"(2) TIME FOR PAYMENT.—

"(A) IN GENERAL.—A rebate under paragraph (1)(B)(ii) shall be paid as of the close of the calendar year to which the enrollment applied.

"(B) DEPOSITS IN MEDICARE CHOICE ACCOUNTS.—Deposits described in paragraph (1)(A) shall be made on a monthly basis.

"(C) OTHER PAYMENTS AND DEPOSITS.—Payments and deposits described in subparagraphs (B)(i) and (iii) shall be made on a monthly basis.

"(3) SOURCE OF REBATES.—Deposits and payments described in paragraph (1) shall be made in the same manner as payments are made under section 1895O(b).

"SEC. 1895O. PAYMENTS TO PLAN SPONSORS.

"(a) MONTHLY PAYMENTS.—

"(1) IN GENERAL.—For each individual enrolled with a plan under this part, the Secretary *shall make monthly payments in advance to the medicare choice plan sponsor of the medicare choice plan with which the individual is enrolled in an amount equal to the medicare payment rate determined with respect to such individual under section 1895M(c).*

"(2) RETROACTIVE ADJUSTMENTS.—The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(b) PAYMENTS FROM TRUST FUNDS.—The payment to a medicare choice plan sponsor under this section for a medicare-eligible individual shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines reflects the relative weight that benefits under parts A and B are representative of the actuarial value of the total benefits under this part.

"Subpart 5—Contractual Authority; Temporary Certification; Regulations

"SEC. 1895P. GENERAL PERMISSION TO CONTRACT.

"The Secretary shall enter into a contract with any medicare choice plan sponsor in a medicare payment area if the requirements of this part are met with respect to the medicare choice plan and the plan sponsor.

"SEC. 1895Q. RENEWAL AND TERMINATION OF CONTRACT.

"(a) IN GENERAL.—Except as provided in subsection (b), each contract under this part may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term.

"(b) TERMINATION FOR CAUSE.—

"(1) IN GENERAL.—In accordance with procedures established under paragraph (2), the Secretary may terminate any contact with a medicare choice plan sponsor at any time or may impose the intermediate sanctions described in paragraph (2) or (3) or subsection (f) (whichever is applicable) on the plan sponsor, if the Secretary finds that the plan sponsor—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this part, or

"(C) no longer substantially meets the applicable conditions of this part.

"(2) PROCEDURES.—The Secretary may terminate a contract with a medicare choice plan sponsor under this part or may impose the intermediate sanctions described in subsection (f)(3) on the plan in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the medicare choice plan sponsor with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the medicare choice plan sponsor fails to develop or implement such a corrective action plan,

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether a plan sponsor has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the plan sponsor's attention,

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions, and

"(D) the Secretary provides the plan sponsor with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.

"(c) TERMS OF CONTRACT.—Each contract under this part—

"(1) shall provide that the Secretary, or any person or organization designated by the Secretary—

"(A) shall have the right to inspect or otherwise evaluate—

"(i) the quality, appropriateness, and timeliness of services performed under the contract, and

"(ii) the facilities of the plan sponsor when there is reasonable evidence of some need for such inspection,

"(B) shall have the right to audit and inspect any books and records of the plan sponsor that pertain—

"(i) to the ability of the plan sponsor to bear the risk of potential financial losses, and

"(ii) shall require the plan sponsor with a contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this part with the plan sponsor,

"(C)(i) except as provided by the Secretary, shall require the plan sponsor to comply with requirements similar to the requirements of subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and section 1301(c)(8) of such Act (relating to liability arrangements to protect members),

"(ii) shall require the plan sponsor to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section, and

"(iii) shall require the plan sponsor to notify the Secretary of loans and other special financial arrangements which are made between the plan sponsor and subcontractors, affiliates, and related parties, and

"(D) shall contain such other terms and conditions not inconsistent with this part (including requiring the plan sponsor to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(d) 5-YEAR LOCKOUT.—The Secretary may not enter into a contract under this part with a medicare choice plan sponsor if a previous contract with that plan sponsor under this part was terminated at the request of the plan sponsor within the preceding 5-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(e) APPLICATION OF OTHER FEDERAL LAWS.—The authority vested in the Secretary by this part may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.

"(f) REMEDIES FOR FAILURE TO COMPLY.—

"(1) FAILURE OF PLAN SPONSOR TO COMPLY WITH CONTRACT.—If the Secretary determines that a medicare choice plan sponsor—

"(A) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, and the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual,

"(B) imposes cost sharing on individuals enrolled under this part in excess of the cost sharing permitted,

"(C) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this part,

"(D) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this part) by eligible individuals with the plan whose medical condition or history indicates a need for substantial future medical services,

"(E) misrepresents or falsifies information that is furnished—

"(i) to the Secretary under this section, or

"(ii) to an individual or to any other entity under this section,

"(F) fails to comply with the requirements of section 1895J(f), or

"(G) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services,

the Secretary may provide, in addition to any other remedies authorized by law, for any of the remedies described in paragraph (2).

"(2) REMEDIES.—The remedies described in this paragraph are—

"(A) civil money penalties of not more than $25,000 for each determination under paragraph (1) or, with respect to a determination under subparagraph (D) or (E)(i) of such paragraph, of not more than $100,000 for each such determination, plus, with respect to a determination under paragraph (1)(B), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under paragraph (1)(D), $15,000 for each individual not enrolled as a result of the practice involved,

"(B) suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(C) suspension of payment to the plan sponsor under this section for individuals enrolled after the date the Secretary notifies the plan sponsor of a determination under paragraph (1) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

"(3) INTERMEDIATE SANCTIONS.—In the case of a medicare choice plan sponsor for which the Secretary makes a determination under subsection (b)(1) the basis of which is not described in subparagraph (A) thereof, the Secretary may apply the following intermediate sanctions:

"(A) Civil money penalties of not more than $25,000 for each determination under subsection (b)(1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the plan's contract.

"(B) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under subsection (b)(2) during which the deficiency that is the basis of a determination under subsection (b)(1) exists.

"(C) Suspension of enrollment of individuals under this section after the date the Secretary notifies the plan sponsor of a determination under subsection (b)(1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.

"(4) PROCEEDINGS.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under paragraph (2)(A) or (3)(A) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).

"SEC. 1895R. TEMPORARY CERTIFICATION PROCESS FOR COORDINATED CARE PLANS.

"(a) FEDERAL ACTION ON CERTIFICATION.—

"(1) IN GENERAL.—If—

"(A) a State fails to substantially complete action on a licensing application of a coordinated care plan sponsor within 90 days of receipt of the completed application, or

"(B) a State denies a licensing application and the Secretary determines that the State's licensing standards or review process create an unreasonable barrier to market entry,

the Secretary shall evaluate such application pursuant to the procedures established under subsection (b).

"(2) UNREASONABLE BARRIERS TO MARKET ENTRY.—A State's licensing standards and review process shall not be treated as unreasonable barriers to market entry under paragraph (1) if—

"(A) they are applied consistently to all coordinated care medicare choice plan applications,

"(B) are not directly in conflict, or inconsistent with, the Federal standards.

"(b) FEDERAL CERTIFICATION PROCEDURES.—

"(1) IN GENERAL.—The Secretary shall establish a process for certification of a coordinated care plan and its sponsor as meeting the requirements of this part in cases described in subsection (a)(1).

"(2) REQUIREMENTS.—Such process shall—

"(A) set forth the standards for certification,

"(B) provide that final action will be taken on an application for certification within 120 business days of receipt of the completed application,

"(C) provide that State law and regulations shall apply to the extent they have not been found to be an unreasonable barrier to market entry under subsection (a)(1)(B), and

"(D) require any person receiving a certificate to provide the Secretary with all reasonable information in order to ensure compliance with the certification.

"(3) EFFECT OF CERTIFICATIONS.—

"(A) IN GENERAL.—A certificate under this section shall be issued for not more than 36 months and may not be renewed.

"(B) COORDINATION WITH STATE.—A person receiving a certificate under this section shall continue to seek State licensure under subsection (a) during the period the certificate is in effect.

"(C) SUNSET.—No certificate shall be issued under this section after December 31, 2000, and no certificate under this section shall remain in effect after December 31, 2001.

"(c) REPORT.—Not later than December 31, 1998, the Secretary shall report to Congress on the temporary Federal certification system under subsection (b), including an analysis of State efforts to adopt licensing standards and review processes that take into account the fact that coordinated care plan sponsors provide services directly to enrollees through affiliated providers.

"(d) COORDINATED CARE PLAN.—In this section, the term 'coordinated care plan' means a plan described in section 1895A(b)(1)(B)(ii).

"(e) TRANSITION RULE FOR CERTAIN RISK CONTRACTORS.—A medicare choice plan sponsor that is an eligible organization (as defined in section 1876(b)) and that—

"(1) has a risk-sharing contract in effect under section 1876 as of the date of the enactment of this part, or

"(2) has an application for such a contract filed before such date and the contract is entered into before July 1, 1996,

shall be treated as meeting the Federal standards in effect under this section for any contract year beginning before January 1, 2000.

"(f) PARTIAL CAPITATION DEMONSTRATION.—The Secretary shall conduct a demonstration on alternative partial risk-sharing arrangements between the Secretary and health care providers. The Secretary shall report to Congress no later than December 31, 1998, on the administrative feasibility of such partial capitation methods and the information necessary to implement such arrangements.

"SEC. 1895S. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall establish such regulations as may be necessary to carry out the purposes of this part, including regulations setting forth the requirements to meet all quality, access, and solvency standards specified in sections 18951 and 1895J.

"(b) USE OF INTERIM, FINAL REGULATIONS.—In order to carry out the provisions of this part in a timely manner, the Secretary may, within 120 days after the date of the enactment of this part, promulgate regulations described in subsection (a) that take effect on an interim basis, after notice and opportunity for public comment.".

(b) COORDINATION WITH FEHBP.—Notwithstanding any provision of part D of title XVIII of the Social Security Act (as added by subsection (a)), individuals who are enrolled in a health benefit plan under chapter 89 of title 5, United States Code, shall not be eligible to enroll in high deductible medicare choice plans described in section 1895A(b)(1)(B)(iii) of such Act until such time as the Director of the Office of Management and Budget certifies to the Secretary of Health and Human Services that the Office of Personnel Management has adopted policies which will ensure that the enrollment of such individuals in such plans will not result in increased expenditures for the Federal Government for health benefit plans under such chapter.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this chapter.

(2) OTHER AMENDMENTS.—(A) Section 1866(a)(1)(O) (42 U.S.C. 1395cc(a)(1)(O)) is amended—

(i) in the matter preceding clause (i), by inserting "or medicare choice plan under part D" after "eligible organization", and

(ii) in clause (i), by inserting "or under a contract under part D, " after "1972,".

(B) Section 1882(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended in the first sentence by inserting ", or under a medicare choice plan under part D" before the end period.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contracts effective on and after January 1, 1997.

SEC. 7002. TREATMENT OF 1876 ORGANIZATIONS.

(a) TERMINATION OF 1876 RISK-SHARING ORGANIZATIONS.—Section 1876 (42 U.S.C. 1395mm) is amended by adding at the end the following new subsection:

"(k)(1) Except as provided in paragraph (2), this section shall not apply to risk-sharing contracts effective for contract years beginning on or after January 1, 1997.

"(2) An individual who is enrolled in part B only and is enrolled in an eligible organization with a risk-sharing contract under this section on December 31, 1996, may continue enrollment in such organization. Not later then July 1, 1996, the Secretary shall issue regulations relating to such individuals and such organizations.".

(b) HMO LIMITS LIFTED.—Section 1301(b) of the Public Health Service Act (42 U.S.C. 300e(b)) is amended by adding at the end the following new paragraph:

"(6)(A) Effective January 1, 1997, if a member certifies that a medicare choice account has been established for the benefit of such member, a health maintenance organization may reduce the basic health services payment otherwise determined under paragraph (1) by requiring the payment of a deductible by the member for basic health services.

"(B) For purposes of this paragraph, the term 'medicare choice account' has the meaning given such term by section 7705 of the Internal Revenue Code of 1986.".

SEC. 7003. SPECIAL RULE FOR CALCULATION OF PAYMENT RATES FOR 1996.

(a) IN GENERAL.—Notwithstanding any other provision of law, the per capita rate under section 1876 of the Social Security Act for 1996 for any class for a geographic area shall be equal to the sum of—

(1) 75 percent of the updated per capita rate for such class for such area, and

(2) 25 percent of the weighted average of the updated per capita rates for such class for all geographic areas, adjusted in the same manner as under section 1895M(b)(1)(C)(i) of the Social Security Act (as added by section 7001 of this Act) to reflect differences in input prices in the geographic area as compared to the national average input prices.

In no event shall any average per capita rate in a geographic area determined under the preceding sentence be less than such rate determined under section 1876 of such Act for 1995.

(b) UPDATED PER CAPITA RATES.—For purposes of subsection (a), the updated per capita rate for any class is the per capita rate of payment for 1995 determined under section 1876(a)(1)(C) of the Social Security Act for a county (or equivalent area), increased by the percentage increase which the Secretary estimates will occur in medicare expenditures per capita for 1996 over medicare expenditures per capita for 1995.

(c) PUBLICATION.—The Secretary shall publish the rates determined under subsection (a) no later than 30 days after the date of the enactment of this Act.

Subchapter B—Tax Provisions Relating to Medicare Choice Plans

SEC. 7006. MEDICARE CHOICE ACCOUNTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. MEDICARE CHOICE ACCOUNTS.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include any payment to the medicare choice account of an individual by the Secretary of Health and Human Services under section 1895N(b)(1) of the Social Security Act.

"(2) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an individual solely because the individual may choose between—

"(A) the payment described in paragraph (1) or a rebate under section 1895N(b) of the Social Security Act, or

"(B) the payment of the individual's premium for supplemental benefits described in section 1895H(b) of such Act or such a rebate.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MEDICARE CHOICE ACCOUNT.—The term 'medicare choice account' means a trust created or organized in the United States exclusively for the purpose of paying qualified medical expenses, but only if the written governing instrument creating the trust meets the following requirements:

"(A) Except in the case of a trustee-to-trustee transfer described in subsection (d)(4), no contribution will be accepted unless it is made by

the Secretary of Health and Human Services under section 1895N(b)(1) of the Social Security Act.

"(B) The trustee is a bank (as defined in section 408(n)), an insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts.

"(D) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(E) The interest of an individual in the balance in his account is nonforfeitable.

"(F) Trustee-to-trustee transfers described in subsection (d)(4) may be made to and from the trust.

"(2) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means, with respect to an account beneficiary, amounts paid by such beneficiary—

"(i) for medical care (as defined in section 213(d)) for—

"(I) the account beneficiary, or

"(II) the spouse of the account beneficiary if the spouse is entitled to benefits under part A of title XVIII of the Social Security Act and enrolled under part B of such title,

but only to the extent such amounts are not compensated for by insurance or otherwise, or

"(ii) for qualified long-term care services for the account beneficiary or such spouse.

"(B) HEALTH INSURANCE MAY NOT BE PURCHASED FROM ACCOUNT.—Subparagraph (A) shall not apply to any payment for insurance other than insurance providing coverage for qualified long-term care services.

"(C) QUALIFIED LONG-TERM CARE SERVICES.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, rehabilitative, and maintenance (including personal care) services which are required by an individual during any period during which such individual is a functionally impaired individual (as determined in the manner prescribed by the Secretary).

"(3) ACCOUNT BENEFICIARY.—

"(A) IN GENERAL.—The term 'account beneficiary' means the individual on whose behalf the medicare choice account is maintained.

"(B) JOINT ACCOUNTS.—If married individuals are both enrolled in a medicare choice plan, they may establish a joint account and each spouse shall be treated as an account beneficiary.

"(4) MEDICARE CHOICE PLAN.—The term 'medicare choice plan' has the meaning given such term by section 1895A(a) of the Social Security Act.

"(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (g) and (h) of section 408 shall apply for purposes of this section.

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medicare choice account is exempt from taxation under this subtitle unless such account has ceased to be a medicare choice account by reason of paragraph (2). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT ASSETS TREATED AS DISTRIBUTED IN THE CASE OF PROHIBITED TRANSACTIONS OR ACCOUNT PLEDGED AS SECURITY FOR LOAN.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medicare choice accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount paid or distributed out of a medicare choice account to an account beneficiary which is used exclusively to pay qualified medical expenses shall not be includible in gross income. Any amount paid or distributed out of a medicare choice account to an account beneficiary which is not used exclusively to pay qualified medical expenses shall be included in the gross income of the account beneficiary.

"(2) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by this chapter on an account beneficiary for any taxable year in which there is a payment or distribution to the account beneficiary from a medicare choice account which is not used exclusively to pay the qualified medical expenses shall be increased by 10 percent of the amount of such payment or distribution.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is made on or after the date the account beneficiary—

"(i) becomes disabled within the meaning of section 72(m)(7), or

"(ii) dies.

"(C) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medicare choice accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions not used exclusively to pay qualified medical expenses during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) WITHDRAWAL OF ERRONEOUS CONTRIBUTIONS.—Paragraphs (1) and (2) shall not apply to any payment or distribution from a medicare choice account to the Secretary of Health and Human Services of an erroneous contribution to such account and of the net income attributable to such contribution.

"(4) TRUSTEE-TO-TRUSTEE TRANSFERS.—Paragraphs (1) and (2) shall not apply to any trustee-to-trustee transfer from a medicare choice account of an account beneficiary to another medicare choice account of such account beneficiary.

"(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a medicare choice account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(e) TREATMENT OF ACCOUNT AFTER DEATH OF ACCOUNT BENEFICIARY.—

"(1) TREATMENT IF DESIGNATED BENEFICIARY IS SPOUSE.—

"(A) IN GENERAL.—In the case of an account beneficiary's interest in a medicare choice account which is payable to (or for the benefit of) such beneficiary's spouse upon the death of such beneficiary, such account shall be treated as a medicare choice account of such spouse as of the date of such death.

"(B) SPECIAL RULES IF SPOUSE NOT MEDICARE ELIGIBLE.—If, as of the date of such death, such spouse is not entitled to benefits under title XVIII of the Social Security Act, then after the date of such death—

"(i) the Secretary of Health and Human Services may not make any payments to such account, other than payments attributable to periods before such date, and

"(ii) in applying subsection (b)(2) with respect to such account, references to the account beneficiary shall be treated as including references to any dependent (as defined in section 152) of such spouse and any subsequent spouse of such spouse.

"(2) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account beneficiary's interest in a medicare choice account which is payable to (or for the benefit of) any person other than such beneficiary's spouse upon the death of such beneficiary—

"(A) such account shall cease to be a medicare choice account as of the date of death, and

"(B) an amount equal to the fair market value of the assets in such account on such date shall be includible—

"(i) if such person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or

"(ii) if such person is the estate of such beneficiary, in such beneficiary's gross income for last taxable year of such beneficiary.

"(f) REPORTS.—

"(1) IN GENERAL.—The trustee of a medicare choice account shall make such reports regarding such account to the Secretary and to the account beneficiary with respect to—

"(A) the fair market value of the assets in such account as of the close of each calendar year, and

"(B) contributions, distributions, and other matters,

as the Secretary may require by regulations.

"(2) TIME AND MANNER OF REPORTS.—The reports required by this subsection—

"(A) shall be filed at such time and in such manner as the Secretary prescribes in such regulations, and

"(B) shall be furnished to the account beneficiary—

"(i) not later than January 31 of the calendar year following the calendar year to which such reports relate, and

"(ii) in such manner as the Secretary prescribes in such regulations.".

(b) EXCLUSION OF MEDICARE CHOICE ACCOUNTS FROM ESTATE TAX.—Part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new section:

"SEC. 2057. MEDICARE CHOICE ACCOUNTS.

"For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to the value of any medicare choice account (as defined in section 137(b)) included in the gross estate.".

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Section 4975 of such Code (relating to tax on prohibited transactions) is amended by adding at the end of subsection (c) the following new paragraph:

"(5) SPECIAL RULE FOR MEDICARE CHOICE ACCOUNTS.—An individual for whose benefit a medicare choice account (within the meaning of section 137(b)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medicare choice account by reason of the application of section 137(c)(2) to such account.".

(2) Paragraph (1) of section 4975(e) of such Code is amended to read as follows:

"(1) PLAN.—For purposes of this section, the term 'plan' means—

"(A) a trust described in section 401(a) which forms a part of a plan, or a plan described in section 403(a), which trust or plan is exempt from tax under section 501(a),

"(B) an individual retirement account described in section 408(a),

"(C) an individual retirement annuity described in section 408(b),

"(D) a medicare choice account described in section 137(b), or

"(E) a trust, plan, account, or annuity which, at any time, has been determined by the Secretary to be described in any preceding subparagraph of this paragraph.".

(d) FAILURE TO PROVIDE REPORTS ON MEDICARE CHOICE ACCOUNTS.—

(1) Subsection (a) of section 6693 of such Code (relating to failure to provide reports on individual retirement accounts or annuities) is amended to read as follows:

"(a) REPORTS.—

"(1) IN GENERAL.—If a person required to file a report under a provision referred to in paragraph (2) fails to file such report at the time and in the manner required by such provision, such person shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.

"(2) PROVISIONS.—The provisions referred to in this paragraph are—

"(A) subsections (i) and (l) of section 408 (relating to individual retirement plans), and

"(B) section 137(f) (relating to medicare choice accounts).".

(2) The section heading for section 6693 of such Code is amended to read as follows:

"SEC. 6693. FAILURE TO FILE REPORTS ON INDIVIDUAL RETIREMENT PLANS AND CERTAIN OTHER TAX-FAVORED ACCOUNTS; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.".

(e) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) of such Code (defining specified insurance contract) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any contract which is a medicare choice account (as defined in section 137(b)).".

(f) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following:

"Sec. 137. Medicare choice accounts.
"Sec. 138. Cross references to other Acts.".

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by striking the item relating to section 6693 and inserting the following new item:

"Sec. 6693. Failure to file reports on individual retirement plans and certain other tax-favored accounts; penalties relating to designated nondeductible contributions.".

(3) The table of sections for part IV of subchapter A of chapter 11 of such Code is amended by adding at the end the following new item:

"Sec. 2057. Medicare choice accounts.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 7007. CERTAIN REBATES INCLUDED IN GROSS INCOME.

(a) IN GENERAL.—Section 61(a) of the Internal Revenue Code of 1986 (defining gross income) is amended by striking "and" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting "; and", and by adding at the end the following new paragraph:

"(16) Payments under section 1895N(b)(1)(B)(ii) of the Social Security Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

CHAPTER 2—PROVISIONS RELATING TO PART A

Subchapter A—General Provisions Relating to Part A

SEC. 7011. PPS HOSPITAL PAYMENT UPDATE.

Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking subclauses (XI), (XII), and (XIII) and inserting the following new subclauses:

"(XI) for fiscal years 1996 through 2002 for hospitals in all areas, the greater of—

"(aa) the market basket percentage increase minus 2.5 percentage points, or

"(bb) 1.1 percent (1.3 percent for discharges during fiscal year 1996 and 1.2 percent for discharges during fiscal year 1997), and

"(XII) for fiscal year 2003 and each subsequent fiscal year for hospitals in all areas, the market basket percentage increase.".

SEC. 7012. PPS-EXEMPT HOSPITAL PAYMENTS.

(a) UPDATE.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(ii) (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "1997" and inserting "1995", and

(ii) by striking "and" at the end,

(B) by redesignating subclause (VI) as subclause (VII); and

(C) by inserting after subclause (V), the following subclause:

"(VI) for fiscal years 1996 through 2002—

"(aa) the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)),

"(bb) in the case of a hospital for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, or

"(cc) in the case of a hospital for which 150 percent of the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available is less than the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, 0 percent,

except that the applicable percentage increase determined under item (aa) or (bb) may not be less than 1.4 percent for fiscal year 1996, 1.3 percent for fiscal year 1997, and 1.1 percent for fiscal years 1998 through 2002, and".

(2) DEFINITIONS.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI)—

"(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the most recent cost reporting period for which information is available exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, and

"(II) the 'applicable reduction' with respect to a hospital for a fiscal year is 2.5 percentage points, reduced by 0.25 percentage point for each percentage point (if any) the hospital's update adjustment percentage for the fiscal year is less than 10 percentage points.".

(3) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A)(ii) (42 U.S.C. 1395ww(b)(4)(A)(ii)) is amended by striking "paragraph (3)(B)(ii)(V)" and inserting "subclause (V) or (VI) of paragraph (3)(B)(ii)".

(b) TARGET AMOUNTS FOR NEW REHABILITATION HOSPITALS AND LONG-TERM CARE HOSPITALS.—Section 1886(b)(3)(A) (42 U.S.C. 1395ww(b)(3)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by inserting "(i)" after "(3)(A)"; and

(3) by adding at the end the following new clauses:

"(ii) Notwithstanding clause (i), in the case of a rehabilitation hospital (or unit thereof) which first receives payments under this section—

"(I) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital or unit for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all rehabilitation hospitals (and units thereof) for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) on or after October 1, 1995, such target amount may not be greater than 130 percent of the national mean of the target amounts for such hospitals (and units thereof) for cost reporting periods beginning during fiscal year 1991.

"(iii) Notwithstanding clause (i), in the case of a hospital which has an average inpatient length of stay of greater than 25 days—

"(I) which first receives payments under this section as a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)) on or before October 1, 1995, the target amount determined under this subparagraph for such hospital for a cost reporting period beginning during a fiscal year shall not be less than 50 percent of the national mean of the target amounts determined under this paragraph for all such hospitals for cost reporting periods beginning during such fiscal year (determined without regard to this clause); and

"(II) which first receives payment under this section as a hospital described in subclause (I) on or after October 1, 1995, such target amount may not be greater than 130 percent of such national mean of the target amounts for such hospitals for cost reporting periods beginning during fiscal year 1991.

"(iv) The Secretary shall, if the Secretary determines it is appropriate, calculate and implement a separate ceiling under clause (iii)(II) based on case-mix and DRG category.".

(c) DEVELOPMENT NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, appropriate providers of services, health plans, and other experts, shall develop a proposal to replace the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program with a prospective payment system.

(2) DEVELOPMENT OF SYSTEM FOR REHABILITATION AND LONG TERM CARE HOSPITALS.—

(A) IN GENERAL.—Not later then June 1, 1996, the Secretary of Health and Human Services shall submit a report to the Congress providing recommendations on a prospective payment system for rehabilitation hospitals (and units thereof) and hospitals which have an average inpatient length of stay of greater than 25 days.

(B) MATTERS INCLUDED.—The report submitted under subparagraph (A) shall include—

(i) the available and preferred systems of classifying rehabilitation patients relative to duration and intensity of inpatient services;

(ii) the means of calculating medicare program payments to reflect such patient requirements;

(iii) other adjustments deemed appropriate such as geographic variations in wages and other costs and outliers;

(iv) a schedule upon which it is deemed feasible to introduce a prospective payment system for such providers and whether any such system should be applied to other types of providers of rehabilitation services; and

(v) any other matters the Secretary determines are relevant including recommendations for other types of hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act).

(d) CAPITAL PAYMENTS FOR PPS-EXEMPT HOSPITALS.—Section 1886(g) (42 U.S.C. 1395ww(g)) is

amended by adding at the end the following new paragraph:

"(4) In determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services furnished during fiscal years 1996 through 2002 of a hospital which is not a subsection (d) hospital or a subsection (d) Puerto Rico hospital, the Secretary shall reduce the amounts of such payments otherwise determined under this title by 15 percent.".

SEC. 7013. CAPITAL PAYMENTS FOR PPS HOSPITALS.

(a) IN GENERAL.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.47 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Balanced Budget Reconciliation Act of 1995) and shall reduce by 8.27 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of such Act).".

(b) BUDGET NEUTRALITY ADJUSTMENT.—

(1) IN GENERAL.—The second sentence of section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(A) by striking "fiscal years 1992 through 1995" and inserting "fiscal years 1996 through 2002"; and

(B) by striking "10 percent" and inserting "15 percent".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply on and after October 1, 1995.

(c) HOSPITAL-SPECIFIC ADJUSTMENT FOR CAPITAL-RELATED TAX COSTS.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D), and

(2) by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For discharges occurring after September 30, 1995, such system shall provide for an adjustment in an amount equal to the amount determined under clause (iv) for capital-related tax costs for each hospital that is eligible for such adjustment.

"(ii) Subject to clause (iii), a hospital is eligible for an adjustment under this subparagraph, with respect to discharges occurring in a fiscal year, if the hospital—

"(I) is a hospital that may otherwise receive payments under this subsection,

"(II) is not a public hospital, and

"(III) incurs capital-related tax costs for the fiscal year.

"(iii)(I) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change from nonproprietary to proprietary status or because the hospital commenced operation after such fiscal year, the first fiscal year for which the hospital shall be eligible for such adjustment is the second full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(II) In the case of a hospital that first incurs capital-related tax costs in a fiscal year after fiscal year 1992 because of a change in State or local tax laws, the first fiscal year for which the hospital shall be eligible for such adjustment is the fourth full fiscal year following the fiscal year in which the hospital first incurs such costs.

"(iv) The per discharge adjustment under this clause shall be equal to the hospital-specific capital-related tax costs per discharge of a hospital for fiscal year 1992 (or, in the case of a hospital that first incurs capital-related tax costs for a fiscal year after fiscal year 1992, for the first full fiscal year for which such costs are incurred), updated to the fiscal year to which the adjustment applies. Such per discharge adjustment shall be added to the Federal capital rate, after such rate has been adjusted as described in 42 CFR 412.312 (as in effect on the date of the enactment of the Balanced Budget Reconciliation Act of 1995), and before such rate is multiplied by the applicable Federal rate percentage.

"(v) For purposes of this subparagraph, capital-related tax costs include—

"(I) the costs of taxes on land and depreciable assets owned by a hospital and used for patient care,

"(II) payments in lieu of such taxes (made by hospitals that are exempt from taxation), and

"(III) the costs of taxes paid by a hospital as lessee of land, buildings, or fixed equipment from a lessor that is unrelated to the hospital under the terms of a lease that requires the lessee to pay all expenses (including mortgage, interest, and amortization) and leaves the lessor with an amount free of all claims (sometimes referred to as a 'net net net' or 'triple net' lease). In determining the adjustment required under clause (i), the Secretary shall not take into account any capital-related tax costs of a hospital to the extent that such costs are based on tax rates and assessments that exceed those for similar commercial properties.

"(vi) The system shall provide that the Federal capital rate for any fiscal year after September 30, 1995, shall be reduced by a percentage sufficient to ensure that the adjustments required to be paid under clause (i) for a fiscal year neither increase nor decrease the total amount that would have been paid under this system but for the payment of such adjustments for such fiscal year.".

(d) REVISION OF EXCEPTIONS PROCESS UNDER PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Section 1886(g)(1) (42 U.S.C. 1395ww(g)(1)), as amended by subsection (c), is amended—

(A) by redesignating subparagraph (D) as subparagraph (E), and

(B) by inserting after subparagraph (C) the following subparagraph:

"(D) The exceptions under the system provided by the Secretary under subparagraph (B)(iii) shall include the provision of exception payments under the special exceptions process provided under 42 CFR 412.348(g) (as in effect on September 1, 1995), except that the Secretary shall revise such process as follows:

"(i) A hospital with at least 100 beds which is located in an urban area shall be eligible under such process without regard to its disproportionate patient percentage under subsection (d)(5)(F) or whether it qualifies for additional payment amounts under such subsection.

"(ii) The minimum payment level for qualifying hospitals shall be 80 percent.

"(iii) A hospital shall be considered to meet the requirement that it completes the project involved no later than the end of the hospital's last cost reporting period beginning after October 1, 2001, if—

"(I) the hospital has obtained a certificate of need for the project approved by the State or a local planning authority by September 1, 1995, and

"(II) by September 1, 1995, the hospital has expended on the project at least $750,000 or 10 percent of the estimated cost of the project.

"(iv) Offsetting amounts, as described in 42 CFR 412.348(g)(8)(ii), shall apply except that subparagraph (B) of such section shall be revised to require that the additional payment that would otherwise be payable for the cost reporting period shall be reduced by the amount (if any) by which the hospital's current year medicare capital payments (excluding, if applicable, 75 percent of the hospital's capital-related disproportionate share payments) exceeds its medicare capital costs for such year.".

(2) LIMIT TO ADDITIONAL PAYMENTS.—The amendment made by subsection (a) shall not result in aggregate additional payments under the special exception process described in section 1886(b)(1)(D) for fiscal years 1996 through 2000 in excess of an amount equal to the sum of $50,000,000 per year more than would have been paid in such fiscal years if such amendment had not been enacted.

(3) CONFORMING AMENDMENT.—Section 1886(g)(1)(B) (42 U.S.C. 1395ww(g)(1)(B)) is amended by striking "may provide" and inserting "shall provide (in accordance with subparagraph (D)".

SEC. 7014. DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(F)(ii) (42 U.S.C. 1395ww(d)(5)(F)(ii)) is amended—

(1) by striking "The" and inserting "Subject to clause (ix), the";

(2) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(3) by inserting "(I)" after "(ii)";

(4) by inserting "the applicable percentage determined under subclause (II) of the amount" after "discharge shall be";

(5) by adding at the end the following new subclause:

"(II) For purposes of subclause (I), the applicable percentage for discharges occurring during a fiscal year is 95 percent in fiscal year 1996, 90 percent in fiscal year 1997, 85 percent in fiscal year 1998, 80 percent in fiscal year 1999, and 75 percent in fiscal years 2000, 2001, and 2002."; and

(6) by adding at the end the following new clause:

"(ix) With respect to discharges occurring on or after October 1, 1995, the Secretary shall adjust the additional payment amounts provided in accordance with this subparagraph for each discharge such that the total amount of such additional payment amounts for discharges occurring over the 7-year period beginning on October 1, 1995, does not exceed an average 5 percent of the sum of the total estimated payments under this subsection over such 7-year period (other than payments under subparagraph (B) or this subparagraph).".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking "1990" and inserting ", 1990, and the modifications made to such paragraph by section 7014(a) of the Balanced Budget Reconciliation Act of 1995.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1995.

SEC. 7015. INDIRECT MEDICAL EDUCATION PAYMENTS.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c (((1+r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1995, 'c' is equal to 1.89;

"(II) October 1, 1995, and before October 1, 1996, 'c' is equal to 1.65;

"(III) October 1, 1996, and before October 1, 1997, 'c' is equal to 1.48;

"(IV) October 1, 1997, and before October 1, 1998, 'c' is equal to 1.33; and

"(V) October 1, 1998, and before October 1, 2002, 'c' is equal to 1.23.".

(b) NO RESTANDARDIZATION OF PAYMENT AMOUNTS REQUIRED.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended by striking "of 1985" and inserting "of 1985, but not taking into account the amendments made by section 7015(a) of the Balanced Budget Reconciliation Act of 1995".

SEC. 7016. GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.

Section 1886 (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(j) GRADUATE MEDICAL EDUCATION AND DISPROPORTIONATE SHARE PAYMENT ADJUSTMENTS FOR MEDICARE CHOICE.—

"(1) IN GENERAL.—For discharges occurring on or after January 1, 1997, a subsection (d) hospital shall receive payment for each discharge of an individual enrolled under part D with a medicare choice plan in an amount equal to the applicable percentage of the amount that the hospital would have received for such discharge under subsections (d)(5)(B), (relating to indirect medical education), (d)(5)(F) (relating to disproportionate share), and (h) (relating to direct graduate medical education), if such individual was enrolled in the traditional medicare program (as defined in section 1895A(c)(3)).

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

"(A) for calendar year 1997, 50 percent; and

"(B) for calendar years after 1997, 100 percent.".

SEC. 7017. PAYMENTS FOR HOSPICE SERVICES.

Section 1814(i)(1)(C)(ii) (42 U.S.C. 1395f(i)(1)(C)(ii)) is amended by striking subclauses (IV), (V), and (VI), and inserting the following subclauses:

"(IV) for each of fiscal years 1996 through 2002, the greater of—

"(aa) the market basket percentage increase for the fiscal year minus 2.5 percentage points, or

"(bb) 1.1 percent (1.3 percent in fiscal year 1996 and 1.2 percent in fiscal year 1997); and

"(V) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.".

SEC. 7018. EXTENDING MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, ALL STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—

(1) APPLICATION OF HOSPITAL INSURANCE TAX.—Section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraphs (C) and (D).

(2) COVERAGE UNDER MEDICARE.—Section 210(p) (42 U.S.C. 410(p)) is amended by striking paragraphs (3) and (4).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services performed after December 31, 1995.

(b) TRANSITION IN BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES AND FORMER EMPLOYEES.—

(1) IN GENERAL.—

(A) EMPLOYEES NEWLY SUBJECT TO TAX.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs services during the calendar quarter beginning January 1, 1996, the wages for which are subject to the tax imposed by section 3101(b) of the Internal Revenue Code of 1986 only because of the amendments made by subsection (a), the individual's medicare qualified State or local government employment (as defined in subparagraph (B)) performed before January 1, 1996, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for purposes of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act for months beginning with January 1996.

(B) MEDICARE QUALIFIED STATE OR LOCAL GOVERNMENT EMPLOYMENT DEFINED.—In this paragraph, the term "medicare qualified State or local government employment" means medicare qualified government employment described in section 210(p)(1)(B) of the Social Security Act (determined without regard to section 210(p)(3) of such Act, as in effect before its repeal under subsection (a)(2)).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1),

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts, in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

(3) INFORMATION TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON STATE AND LOCAL GOVERNMENT EMPLOYMENT.—Section 226(g) (42 U.S.C. 426(g)) is amended—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively,

(B) by inserting "(1)" after "(g)", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary, in consultation with State and local governments, shall provide procedures designed to assure that individuals who perform medicare qualified government employment by virtue of service described in section 210(a)(7) are fully informed with respect to (A) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (B) the requirements for, and conditions of, such eligibility, and (C) the necessity of timely application as a condition of becoming entitled under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity or retirement benefit and whose eligibility for such annuity or retirement benefit is based on a disability.".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 3121(u)(2) of the Internal Revenue Code of 1986 is amended by striking "subparagraphs (B) and (C)," and inserting "subparagraph (B),".

(2) Subparagraph (B) of section 210(p)(1) (42 U.S.C. 410(p)(1)) is amended by striking "paragraphs (2) and (3)." and inserting "paragraph (2).".

(3) Section 218 (42 U.S.C. 418) is amended by striking subsection (n).

(4) The amendments made by this subsection shall apply after December 31, 1995.

SEC. 7019. NURSE AIDE TRAINING IN SKILLED NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND CERTAIN OTHER CONDITIONS.

Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i–3(f)(2)(B)(iii)(I)) is amended, in the matter preceding item (a), by striking "by or in a skilled nursing facility" and inserting "by a skilled nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

Subchapter B—Payments to Skilled Nursing Facilities

PART I—PROSPECTIVE PAYMENT SYSTEM

SEC. 7025. PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by adding the following new section after section 1888:

"PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES

"SEC. 1889. (a) ESTABLISHMENT OF SYSTEM.—Notwithstanding any other provision of this title, the Secretary shall establish a prospective payment system under which fixed payments for episodes of care shall be made, instead of payments determined under section 1861(v), section 1888, or section 1888A, to skilled nursing facilities for all extended care services furnished during the benefit period established under section 1812(a)(2). Such payments shall constitute payment for capital costs and all routine and non-routine service costs covered under this title that are furnished to individuals who are inpatients of skilled nursing facilities during such benefit period, except for physicians' services. The payment amounts shall vary depending on case-mix, patient acuity, and such other factors as the Secretary determines are appropriate. The prospective payment system shall apply for cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1997.

"(b) 90 PERCENT OF LEVELS OTHERWISE IN EFFECT.—The Secretary shall establish the prospective payment amounts under subsection (a) at levels such that, in the Secretary's estimation, the amount of total payments under this title shall not exceed 90 percent of the amount of payments that would have been made under this title for all routine and non-routine services and capital expenditures if this section had not been enacted.

"(c) ADJUSTMENT IN RATES TO TAKE INTO ACCOUNT BENEFICIARY COST-SHARING.—The Secretary shall reduce the prospective payment rates established under this section to take into account the beneficiary coinsurance amount required under section 1813(a)(3).".

PART II—INTERIM PAYMENT SYSTEM

SEC. 7031. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) CLARIFICATION OF DEFINITION OF ROUTINE SERVICE COSTS.—Section 1888 (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the 'routine service costs' of a skilled nursing facility are all costs which are attributable to nursing services, room and board, administrative costs, other overhead costs, and all other ancillary services (including supplies and equipment), excluding costs attributable to covered non-routine services subject to payment amounts under section 1888A.".

(b) CONFORMING AMENDMENT.—Section 1888 (42 U.S.C. 1395yy) is amended in the heading by inserting "AND CERTAIN ANCILLARY" after "SERVICE".

SEC. 7032. COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 7025, is amended by inserting after section 1888 the following new section:

"COST-EFFECTIVE MANAGEMENT OF COVERED NON-ROUTINE SERVICES OF SKILLED NURSING FACILITIES

"SEC. 1888A. (a) DEFINITIONS.—For purposes of this section:

"(1) COVERED NON-ROUTINE SERVICES.—The term 'covered non-routine services' means post-hospital extended care services consisting of any of the following:

"(A) Physical or occupational therapy or speech-language pathology services, or respiratory therapy.

"(B) Prescription drugs.

"(C) Complex medical equipment.

"(D) Intravenous therapy and solutions (including enteral and parenteral nutrients, supplies, and equipment).

"(E) Radiation therapy.

"(F) Diagnostic services, including laboratory, radiology (including computerized tomography services and imaging services), and pulmonary services.

"(2) SNF MARKET BASKET PERCENTAGE INCREASE.—The term 'SNF market basket percentage increase' for a fiscal year means a percentage equal to input price changes in routine service costs for the year under section 1888(a).

"(3) STAY.—The term 'stay' means, with respect to an individual who is a resident of a skilled nursing facility, a period of continuous days during which the facility provides extended care services for which payment may be made under this title for the individual during the individual's spell of illness.

"(b) NEW PAYMENT METHOD FOR COVERED NON-ROUTINE SERVICES BEGINNING IN FISCAL YEAR 1996.—

"(1) IN GENERAL.—The payment method established under this section shall apply with respect to covered non-routine services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1995.

"(2) INTERIM PAYMENTS.—Subject to subsection (c), a skilled nursing facility shall receive interim payments under this title for covered non-routine services furnished to an individual during cost reporting periods (or portions of cost reporting periods) described in paragraph (1) in an amount equal to the reasonable cost of providing such services in accordance with section 1861(v). The Secretary may adjust such payments if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this paragraph for a cost reporting period would substantially exceed the cost reporting period amount determined under subsection (c)(2).

"(3) RESPONSIBILITY OF SKILLED NURSING FACILITY TO MANAGE BILLINGS.—

"(A) CLARIFICATION RELATING TO PART A BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is entitled to coverage under section 1812(a)(2) for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part A (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(B) PART B BILLING.—In the case of a covered non-routine service furnished to an individual who (at the time the service is furnished) is a resident of a skilled nursing facility who is not entitled to coverage under section 1812(a)(2) for such service but is entitled to coverage under part B for such service, the skilled nursing facility shall submit a claim for payment under this title for such service under part B (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(C) MAINTAINING RECORDS ON SERVICES FURNISHED TO RESIDENTS.—Each skilled nursing facility receiving payments for extended care services under this title shall document on the facility's cost report all covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during a fiscal year (beginning with fiscal year 1996) (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise).

"(c) NO PAYMENT IN EXCESS OF PRODUCT OF PER STAY AMOUNT AND NUMBER OF STAYS.—

"(1) IN GENERAL.—If a skilled nursing facility has received aggregate payments under subsection (b) for covered non-routine services during a cost reporting period beginning during a fiscal year in excess of an amount equal to the cost reporting period amount determined under paragraph (2), the Secretary shall reduce the payments made to the facility with respect to such services for cost reporting periods beginning during the following fiscal year in an amount equal to such excess. The Secretary shall reduce payments under this subparagraph at such times and in such manner during a fiscal year as the Secretary finds necessary to meet the requirement of this subparagraph.

"(2) COST REPORTING PERIOD AMOUNT.—The cost reporting period amount determined under this subparagraph is an amount equal to the product of—

"(A) the per stay amount applicable to the facility under subsection (d) for the period; and

"(B) the number of stays beginning during the period for which payment was made to the facility for such services.

"(3) PROSPECTIVE REDUCTION IN PAYMENTS.—In addition to the process for reducing payments described in paragraph (1), the Secretary may reduce payments made to a facility under this section during a cost reporting period if the Secretary determines (on the basis of such estimated information as the Secretary considers appropriate) that payments to the facility under this section for the period will substantially exceed the cost reporting period amount for the period determined under this paragraph.

"(d) DETERMINATION OF FACILITY PER STAY AMOUNT.—

"(1) AMOUNT FOR FISCAL YEAR 1996.—

"(A) IN GENERAL.—

"(i) ESTABLISHMENT.—Except as provided in subparagraph (B) and clause (ii), the Secretary shall establish a per stay amount for each nursing facility for the 12-month cost reporting period beginning during fiscal year 1996 that is the facility-specific stay amount for the facility (as determined under subsection (e)) for the last 12-month cost reporting period ending on or before September 30, 1994, increased (in a compounded manner) by the SNF market basket percentage increase (as defined in subsection (a)(2)) for each fiscal year through fiscal year 1996.

"(ii) ADJUSTMENT IF IMPLEMENTATION DELAYED.—If the amount under clause (i) is not established prior to the cost reporting period described in clause (i), the Secretary shall adjust such amount for stays after such amount is established in such a manner so as to recover any amounts in excess of the amounts which would have been paid for stays before such date if the amount had been in effect for such stays.

"(B) FACILITIES NOT HAVING 1994 COST REPORTING PERIOD.—In the case of a skilled nursing facility for which payments were not made under this title for covered non-routine services for the last 12-month cost reporting period ending on or before September 30, 1994, the per stay amount for the 12-month cost reporting period beginning during fiscal year 1996 shall be the average of all per stay amounts determined under subparagraph (A).

"(2) AMOUNT FOR FISCAL YEAR 1997 AND SUBSEQUENT FISCAL YEARS.—The per stay amount for a skilled nursing facility for a 12-month cost reporting period beginning during a fiscal year after 1996 is equal to the per stay amount established under this subsection for the 12-month cost reporting period beginning during the preceding fiscal year (without regard to any adjustment under paragraph (1)(A)(ii)), increased by the greater of—

"(A) the SNF market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(B) 1.2 percent (1.1 percent for fiscal years after 1997).

"(e) DETERMINATION OF FACILITY-SPECIFIC STAY AMOUNTS.—The 'facility-specific stay amount' for a skilled nursing facility for a cost reporting period is—

"(1) the sum of—

"(A) the amount of payments made to the facility under part A during the period which are attributable to covered non-routine services furnished during a stay; and

"(B) the Secretary's best estimate of the amount of payments made under part B during the period for covered non-routine services furnished to all residents of the facility to whom the facility provided extended care services for which payment was made under part A during the period (without regard to whether or not the services were furnished by the facility, by others under arrangement with them made by the facility under any other contracting or consulting arrangement, or otherwise), as estimated by the Secretary; divided by

"(2) the average number of days per stay for all residents of the skilled nursing facility.

"(f) INTENSIVE NURSING OR THERAPY NEEDS.—

"(1) IN GENERAL.—In applying subsection (b) to covered non-routine services furnished during a stay beginning during a cost reporting period to a resident of a skilled nursing facility who requires intensive nursing or therapy services, the per stay amount for such resident shall be the per stay amount developed under paragraph (2) instead of the per stay amount determined under subsection (d)(1)(A).

"(2) PER STAY AMOUNT FOR INTENSIVE NEED RESIDENTS.—The Secretary, after consultation with the Prospective Payment Assessment Commission and skilled nursing facility experts, shall develop and publish a per stay amount for residents of a skilled nursing facility who require intensive nursing or therapy services.

"(3) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(g) EXCEPTIONS AND ADJUSTMENTS TO AMOUNTS.—

"(1) IN GENERAL.—The Secretary may make exceptions and adjustments to the cost reporting period amounts applicable to a skilled nursing facility under subsection (c)(2) for a cost reporting period, except that the total amount of any additional payments made under this section for covered non-routine services during the cost reporting period as a result of such exceptions and adjustments may not exceed 5 percent of the aggregate payments made to all skilled nursing facilities for covered non-routine services during the cost reporting period (determined without regard to this paragraph).

"(2) BUDGET NEUTRALITY.—The Secretary shall adjust payments under subsection (b) in a manner that ensures that total payments for covered non-routine services under this section are not greater or less than total payments for such services would have been but for the application of paragraph (1).

"(h) SPECIAL TREATMENT FOR MEDICARE LOW VOLUME SKILLED NURSING FACILITIES.—The Secretary shall determine an appropriate manner in which to apply this section, taking into account the purposes of this section, to non-routine costs of a skilled nursing facility for which

payment is made for routine service costs during a cost reporting period on the basis of prospective payments under section 1888(d).

"(i) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 shall reflect the payment methodology established under this section for covered non-routine services.".

(b) CONFORMING AMENDMENT.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended in the matter preceding paragraph (1) by striking "1813 and 1886" and inserting "1813, 1886, 1888, 1888A, and 1889".

SEC. 7033. PAYMENTS FOR ROUTINE SERVICE COSTS.

(a) MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES.—

(1) BASING UPDATES TO PER DIEM COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—

(A) IN GENERAL.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by adding at the end the following: "(except that such updates may not take into account any changes in the routine service costs of skilled nursing facilities occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995).".

(B) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subparagraph (A) in making any adjustments pursuant to section 1888(c) of the Social Security Act.

(2) PAYMENTS TO LOW MEDICARE VOLUME SKILLED NURSING FACILITIES.—Any change made by the Secretary of Health and Human Services in the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for cost reporting periods beginning on or after October 1, 1995, may not take into account any changes in the costs of services occurring during cost reporting periods which began during fiscal year 1994 or fiscal year 1995.

(b) BASING 1996 LIMITS ON NEW DEFINITION OF ROUTINE COSTS.—The Secretary of Health and Human Services shall take into account the new definition of routine service costs under section 1888(e) of the Social Security Act, as added by section 7031, in determining the routine per diem cost limits under section 1888(a) for fiscal year 1996 and each fiscal year thereafter.

(c) ESTABLISHMENT OF SCHEDULE FOR MAKING ADJUSTMENTS TO LIMITS.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended by striking the period at the end of the second sentence and inserting ", and may only make adjustments under this subsection with respect to a facility which applies for an adjustment during an annual application period established by the Secretary.".

(d) LIMITATION TO EXCEPTIONS PROCESS OF THE SECRETARY.—Section 1888(c) (42 U.S.C. 1395yy(c)) is amended—

(1) by striking "(c) The Secretary" and inserting "(c)(1) Subject to paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may not make any adjustments under this subsection in the limits set forth in subsection (a) for a cost reporting period beginning during a fiscal year to the extent that the total amount of the additional payments made under this title as a result of such adjustments is greater than an amount equal to—

"(A) for cost reporting periods beginning during fiscal year 1996, the total amount of the additional payments made under this title as a result of adjustments under this subsection for cost reporting periods beginning during fiscal year 1994 increased (on a compounded basis) by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year; and

"(B) for cost reporting periods beginning during a subsequent fiscal year, the amount determined under this paragraph for the preceding fiscal year, increased by the SNF market basket percentage increase (as defined in section 1888A(a)(2)) for each fiscal year.".

(e) MAINTAINING SAVINGS FROM PAYMENT SYSTEM.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025, shall reflect the routine per diem cost limits under section 1888(a) of such Act.

SEC. 7034. REDUCTIONS IN PAYMENT FOR CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of skilled nursing facilities, the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring beginning in fiscal years 1996 through 2002.".

(b) MAINTAINING SAVINGS RESULTING FROM 15 PERCENT CAPITAL REDUCTION.—The prospective payment system established under section 1889 of the Social Security Act, as added by section 7025 of the Balanced Budget Reconciliation Act of 1995, shall reflect the 15 percent reduction in payments for capital-related costs of skilled nursing facilities as such reduction is in effect under section 1861(v)(1)(T) of such Act, as added by subsection (a).

SEC. 7035. TREATMENT OF ITEMS AND SERVICES PAID FOR UNDER PART B.

(a) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO FACILITY.—

(1) IN GENERAL.—The first sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended—

(A) by striking "and (D)" and inserting "(D)"; and

(B) by striking the period at the end and inserting the following: ", and (E) in the case of an item or service furnished to an individual who (at the time the item or service is furnished) is a resident of a skilled nursing facility, payment shall be made to the facility (without regard to whether or not the item or service was furnished by the facility, by others under arrangement with them made by the facility, under any other contracting or consulting arrangement, or otherwise), except that this subparagraph shall not preclude a physician from providing evaluation and management services to patients under the physician's care.".

(2) EXCLUSION FOR ITEMS AND SERVICES NOT BILLED BY FACILITY.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) by striking "or" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting "; or"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) where such expenses are for covered non-routine services (as defined in section 1888A(a)(1)) furnished to an individual who is a resident of a skilled nursing facility and for which the claim for payment under this title is not submitted by the facility.".

(3) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(E);".

(b) REDUCTION IN PAYMENTS FOR ITEMS AND SERVICES FURNISHED BY OR UNDER ARRANGEMENTS WITH FACILITIES.—Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by section 7034, is amended by adding at the end the following new subparagraph:

"(U) In the case of an item or service furnished by a skilled nursing facility (or by others under arrangement with them made by a skilled nursing facility or under any other contracting or consulting arrangement or otherwise) for which payment is made under part B in an amount determined in accordance with section 1833(a)(2)(B), the Secretary shall reduce the reasonable cost for such item or service otherwise determined under clause (i)(I) of such section by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7036. MEDICAL REVIEW PROCESS.

In order to ensure that medicare beneficiaries are furnished appropriate extended care services, the Secretary of Health and Human Services shall establish and implement a thorough medical review process to examine the effects of the amendments made by this subchapter on the quality of extended care services furnished to medicare beneficiaries. In developing such a medical review process, the Secretary shall place a particular emphasis on the quality of non-routine covered services for which payment is made under section 1888A of the Social Security Act.

SEC. 7037. REVISED SALARY EQUIVALENCE LIMITS.

The Secretary of Health and Human Services shall determine the non-routine per stay payment amounts for each skilled nursing facility established under section 1888A of the Social Security Act, as added by section 7032, as if salary equivalence guidelines were in effect for occupational, physical, respiratory, and speech pathology therapy services for the last 12-month cost reporting period of the facility ending on or before September 30, 1994.

SEC. 7038. REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

Not later than October 1, 1997, the Prospective Payment Assessment Commission shall submit to Congress a report on the system under which payment is made under the medicare program for extended care services furnished by skilled nursing facilities, and shall include in the report the following:

(1) An analysis of the effect of the methodology established under section 1888A of the Social Security Act (as added by section 7032) on the payments for, and the quality of, extended care services under the medicare program.

(2) An analysis of the advisability of determining the amount of payment for covered non-routine services of facilities (as described in such section) on the basis of the amounts paid for such services when furnished by suppliers under part B of the medicare program.

(3) An analysis of the desirability of maintaining separate routine cost-limits for hospital-based and freestanding facilities in the costs of extended care services recognized as reasonable under the medicare program.

(4) An analysis of the quality of services furnished by skilled nursing facilities.

(5) An analysis of the adequacy of the process and standards used to provide exceptions to the limits described in paragraph (3).

(6) An analysis of the effect of the prospective payment methodology established under section 1889 of the Social Security Act (as added by section 7025) on the payments for, and the quality of, extended care services under the medicare program, including an evaluation of the baseline used in establishing a system for payment for extended care services furnished by skilled nursing facilities.

SEC. 7039. EFFECTIVE DATE.

Except as otherwise provided in this part, the amendments made by this part shall apply to services furnished during cost reporting periods (or portions of cost reporting periods) beginning on or after October 1, 1996.

CHAPTER 3—PROVISIONS RELATING TO PART B

SEC. 7041. PAYMENTS FOR PHYSICIANS' SERVICES.

(a) ESTABLISHING UPDATE TO CONVERSION FACTOR TO MATCH SPENDING UNDER SUSTAINABLE GROWTH RATE.—

(1) Section 1848(d)(2) (42 U.S.C. 1395ww(d)(2)) is amended to read as follows:

"(2) RECOMMENDATION OF UPDATE.—

"(A) IN GENERAL.—Not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a report that includes a recommendation on the appropriate update in the conversion factor for all physicians' services (as defined in subsection (f)(3)(A)) in the following year. In making the recommendation, the Secretary shall consider—

"(i) the percentage change in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for that year;

"(ii) such factors as enter into the calculation of the update adjustment factor as described in paragraph (3)(B); and

"(iii) access to services.

"(B) ADDITIONAL CONSIDERATIONS.—In making recommendations under subparagraph (A), the Secretary may also consider—

"(i) unexpected changes by physicians in response to the implementation of the fee schedule;

"(ii) unexpected changes in outlay projections;

"(iii) changes in the quality or appropriateness of care;

"(iv) any other relevant factors not measured in the resource-based payment methodology; and

"(v) changes in volume or intensity of services.

"(C) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the report submitted under subparagraph (A) in a year and shall submit to the Congress, by not later than May 15 of the year, a report including its recommendations respecting the update in the conversion factor for the following year.".

(2) UPDATE.—Section 1848(d)(3) (42 U.S.C. 1395w–4(d)(3)) is amended to read as follows:

"(3) UPDATE.—

"(A) IN GENERAL.—Unless Congress otherwise provides, subject to subparagraph (E), for purposes of this section the update for a year (beginning with 1997) is equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), and

"(ii) 1 plus the Secretary's estimate of the update adjustment factor for the year (divided by 100),

minus 1 and multiplied by 100.

"(B) UPDATE ADJUSTMENT FACTOR.—The 'update adjustment factor' for a year is equal to the quotient of—

"(i) the difference between (I) the sum of the allowed expenditures for physicians' services furnished during each of the years 1995 through the year involved and (II) the sum of the amount of actual expenditures for physicians' services furnished during each of the years 1995 through the previous year; divided by

"(ii) the Secretary's estimate of allowed expenditures for physicians' services furnished during the year.

"(C) DETERMINATION OF ALLOWED EXPENDITURES.—For purposes of subparagraph (B), allowed expenditures for physicians' services shall be determined as follows (as estimated by the Secretary):

"(i) In the case of allowed expenditures for 1995, such expenditures shall be equal to actual expenditures for services furnished during the 12-month period ending with June 30, 1995.

"(ii) In the case of allowed expenditures for 1996 and each subsequent year, such expenditures shall be equal to allowed expenditures for the previous year, increased by the sustainable growth rate under subsection (f) for the fiscal year which begins during the year.

"(D) DETERMINATION OF ACTUAL EXPENDITURES.—For purposes of subparagraph (B), the amount of actual expenditures for physicians' services furnished during a year shall be equal to the amount of expenditures for such services during the 12-month period ending with June of the previous year.

"(E) RESTRICTION ON VARIATION FROM MEDICARE ECONOMIC INDEX.—Notwithstanding the amount of the update adjustment factor determined under subparagraph (B) for a year, the update in the conversion factor under this paragraph for the year may not be—

"(i) greater than 103 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100; or

"(ii) less than 93 percent of 1 plus the Secretary's estimate of the percentage increase in the medicare economic index (described in the fourth sentence of section 1842(b)(3)) for the year (divided by 100), minus 1 and multiplied by 100.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to physicians' services furnished on or after January 1, 1997.

(b) REPLACEMENT OF VOLUME PERFORMANCE STANDARD WITH SUSTAINABLE GROWTH RATE.—Section 1848(f) (42 U.S.C. 1395w–4(f)) is amended to read as follows:

"(f) SUSTAINABLE GROWTH RATE.—

"(1) PROCESS FOR ESTABLISHING SUSTAINABLE GROWTH RATE OF INCREASE.—

"(A) SECRETARY'S RECOMMENDATION.—By not later than April 15 of each year (beginning with 1996), the Secretary shall transmit to the Congress a recommendation on the sustainable growth rate for the fiscal year beginning in such year. In making the recommendation, the Secretary shall confer with organizations representing physicians and shall consider—

"(i) inflation,

"(ii) changes in numbers of enrollees (other than private plan enrollees) under this part,

"(iii) changes in the age composition of enrollees (other than private plan enrollees) under this part,

"(iv) changes in technology,

"(v) evidence of inappropriate utilization of services,

"(vi) evidence of lack of access to necessary physicians' services, and

"(vii) such other factors as the Secretary considers appropriate.

"(B) COMMISSION REVIEW.—The Physician Payment Review Commission shall review the recommendation transmitted during a year under subparagraph (A) and shall make its recommendation to Congress, by not later than May 15 of the year, respecting the sustainable growth rate for the fiscal year beginning in that year.

"(C) PUBLICATION OF SUSTAINABLE GROWTH RATE.—The Secretary shall cause to have the sustainable growth rate published in the Federal Register, in the last 15 days of October of each calendar year (beginning with 1997), for the fiscal year beginning in that year. The Secretary shall cause to have published in the Federal Register, by not later than January 1, 1997, the paragraph (2) for fiscal year 1997.

"(2) SPECIFICATION OF GROWTH RATE.—

"(A) FISCAL YEAR 1996.—The sustainable growth rate for all physicians' services for fiscal year 1996 shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for 1996 (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from fiscal year 1995 to fiscal year 1996,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from fiscal year 1995 to fiscal year 1996, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in fiscal year 1996 (compared with fiscal year 1995) which will result from changes in law (including the Balanced Budget Reconciliation Act of 1995), determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d),

minus 1 and multiplied by 100.

"(B) SUBSEQUENT FISCAL YEARS.—The sustainable growth rate for all physicians' services for fiscal year 1997 and each subsequent fiscal year shall be equal to the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the medicare economic index for the fiscal year involved (described in the fourth sentence of section 1842(b)(3)) (divided by 100),

"(ii) 1 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of individuals enrolled under this part (other than private plan enrollees) from the previous fiscal year to the fiscal year involved,

"(iii) 1 plus the Secretary's estimate of the projected percentage growth in real gross domestic product per capita (divided by 100) from the previous fiscal year to the fiscal year involved, plus 2 percentage points, and

"(iv) 1 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services in the fiscal year (compared with the previous fiscal year) which will result from changes in law, determined without taking into account estimated changes in expenditures due to changes in the volume and intensity of physicians' services or changes in expenditures resulting from changes in the update to the conversion factor under subsection (d)(3),

minus 1 and multiplied by 100.

"(3) DEFINITIONS.—In this subsection:

"(A) SERVICES INCLUDED IN PHYSICIANS' SERVICES.—The term 'physicians' services' includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a private plan enrollee.

"(B) PRIVATE PLAN ENROLLEE.—The term 'private plan enrollee' means, with respect to a fiscal year, an individual enrolled under this part who has elected to receive benefits under this title for the fiscal year through a medicare choice plan offered under part D or through enrollment with an eligible organization with a risk-sharing contract under section 1876.".

(c) ESTABLISHMENT OF SINGLE CONVERSION FACTOR FOR 1996.—

(1) IN GENERAL.—Section 1848(d)(1) (42 U.S.C. 1395w–4(d)(1)) is amended—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR 1996.—For 1996, the conversion factor under this subsection shall be $35.42 for all physicians' services.".

(2) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4) is amended—

(A) by striking "(or factors)" each place it appears in subsection (d)(1)(A) and (d)(1)(C)(ii);

(B) in subsection (d)(1)(A), by striking "or updates";

(C) in subsection (d)(1)(C)(ii), by striking "(or updates)"; and

(D) in subsection (i)(1)(C), by striking "conversion factors" and inserting "the conversion factor".

SEC. 7042. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after October 1, 1995.

SEC. 7043. PAYMENTS FOR CLINICAL LABORATORY DIAGNOSTIC SERVICES.

(a) FREEZE IN UPDATE.—Section 1833(h)(2)(A)(ii)(IV) (42 U.S.C. 1395l(h)(2)(A)(ii)(IV)) is amended by striking "and 1995" and inserting "through 2002".

(b) REDUCTION OF NATIONAL CAPS.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (vi);

(2) in clause (vii)—

(A) by inserting "and before January 1, 1997," after "December 31, 1995,"; and

(B) by striking the period and inserting ", and"; and

(3) by adding at the end the following new clause:

"(viii) after December 31, 1996, is equal to 65 percent of such median.".

(c) STUDY AND REPORT TO CONGRESS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of—

(A) the fee schedule determined under section 1833(h)(1) of the Social Security Act (42 U.S.C. 1395l(h)(1)) relating to clinical laboratory services; and

(B) options for rebasing or otherwise revising the amounts payable for such services under such fee schedule, taking into account the amounts paid for such services by other large volume purchasers.

(2) REPORT.—Not later then 1 year after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, the Secretary shall submit to Congress a report on the study conducted under paragraph (1).

SEC. 7044. DURABLE MEDICAL EQUIPMENT.

(a) FREEZE IN UPDATES.—Section 1834(a)(14) (42 U.S.C. 1395m(a)(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A), the following subparagraph:

"(B) for 1996 through 2002, the percentage increase is 0 percent; and".

(b) OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5)(A) (42 U.S.C. 1395m(a)(5)(A)) is amended to read as follows:

"(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (E), payment for—

"(i) oxygen shall be made on a monthly basis in the monthly payment amount recognized under paragraph (9) for oxygen; and

"(ii) oxygen equipment (other than portable oxygen equipment) shall be made on a monthly basis in an amount equal to 60 percent of the monthly payment amount recognized under paragraph (9) for oxygen equipment.".

(2) PORTABLE OXYGEN EQUIPMENT.—Section 1834(a)(5)(B) (42 U.S.C. 1395m(a)(5)(B)) is amended by inserting "60 percent of" after "increased by".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 1996.

(c) UPGRADED DURABLE MEDICAL EQUIPMENT.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (15) the following new paragraph:

"(16) CERTAIN UPGRADED ITEMS.—

"(A) INDIVIDUAL'S RIGHT TO CHOOSE UPGRADED ITEM.—Notwithstanding any other provision of law, effective on the date on which the Secretary issues regulations under subparagraph (C), an individual may purchase or rent from a supplier an item of upgraded durable medical equipment for which payment would be made under this subsection if the item were a standard item.

"(B) PAYMENTS TO SUPPLIER.—In the case of the purchase or rental of an upgraded item under subparagraph (A)—

"(i) the supplier shall receive payment under this subsection with respect to such item as if such item were a standard item; and

"(ii) the individual purchasing or renting the item shall pay the supplier an amount equal to the difference between the supplier's charge and the amount under clause (i).

In no event may the supplier's charge for an upgraded item exceed the applicable fee schedule amount (if any) for such item.

"(C) CONSUMER PROTECTION SAFEGUARDS.—The Secretary shall issue regulations providing for consumer protection standards with respect to the furnishing of upgraded equipment under subparagraph (A). Such regulations shall provide for—

"(i) determination of fair market prices with respect to an upgraded item;

"(ii) full disclosure of the availability and price of standard items and proof of receipt of such disclosure information by the beneficiary before the furnishing of the upgraded item;

"(iii) conditions of participation for suppliers in the simplified billing arrangement;

"(iv) sanctions of suppliers who are determined to engage in coercive or abusive practices, including exclusion; and

"(v) such other safeguards as the Secretary determines are necessary.".

SEC. 7045. UPDATES FOR ORTHOTICS AND PROSTHETICS.

(a) IN GENERAL.—Section 1834(h)(4)(A)(iii) (42 U.S.C. 1395m(h)(4)(A)(iii)) is amended by striking "1994 and 1995" and inserting "1994 through 2002".

(b) EXTENSION OF FREEZE ON PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT.—In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during 1996 through 2002, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1995 (as such charges were determined in accordance with section 13541 of OBRA—1993).

SEC. 7046. PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking ", and by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1992 through 1998" and inserting "by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1992 through 1995, and by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1996 through 2002.".

SEC. 7047. PAYMENTS FOR NON-CAPITAL COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "through 1998" and inserting "through 2002".

SEC. 7048. UPDATES FOR AMBULATORY SURGICAL SERVICES.

Section 1833(i)(2)(C) (42 U.S.C. 1395l(i)(2)(C)) is amended—

(1) by striking "1996" and inserting "2003"; and

(2) by inserting before the first sentence the following new sentence: "Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), the Secretary shall not update amounts established under such subparagraphs for fiscal years 1996 through 2002."

SEC. 7049. PAYMENTS FOR AMBULANCE SERVICES.

Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)), as amended by sections 7034 and 7035(b), is amended by adding at the end the following new subparagraph:

"(V) In determining the reasonable cost or charge of ambulance services for fiscal years 1996 through 2002, the Secretary shall not recognize any costs in excess of costs recognized as reasonable for fiscal year 1995.".

SEC. 7050. PHYSICIAN SUPERVISION OF NURSE ANESTHETISTS.

(a) PROMULGATION OF REVISED REGULATIONS.—The Secretary of Health and Human Services shall revise any regulations describing the conditions under which payment may be made for anesthesia services under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to provide that payment may be made under the medicare program for anesthesia services furnished in a hospital or an ambulatory surgical center by a certified registered nurse anesthetist who, under the law of the State in which the service is furnished, is permitted to administer anesthesia services without supervision by the physician performing the operation or the anesthesiologist.

(b) EFFECTIVE DATE.—The revisions to the regulations referred to in subsection (a) shall apply with respect to anesthesia services furnished on or after January 1, 1996.

SEC. 7051. PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 1395l(b)) is amended in the first sentence by striking "and $100 for 1991 and subsequent years" and inserting ", $100 for calendar years 1991 through 1995, $150 for calendar year 1996, and for calendar years after 1996, an amount equal to the deductible amount determined under this subsection in the prior calendar year, increased by $10.00".

SEC. 7052. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) in subparagraph (A), by striking "after December 1995 and prior to January 1999" and inserting "after December 2002"; and

(2) in subparagraph (B)—

(A) by striking "and" at the end of clause (iv),

(B) in clause (v), by striking the period and inserting a comma, and

(C) by adding at the end the following new clauses:

"(vi) 1996 shall be $53.00,
"(vii) 1997 shall be $57.00,
"(viii) 1998 shall be $61.00,
"(ix) 1999 shall be $66.00,
"(x) 2000 shall be $74.00,
"(xi) 2001 shall be $80.00, and
"(xii) 2002 shall be $89.00.".

SEC. 7053. INCREASE IN MEDICARE PART B PREMIUM FOR HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1839 the following new section:

"INCREASE IN PREMIUM FOR HIGH-INCOME INDIVIDUALS

"SEC. 1839A. (a) INCREASE IN PREMIUM.—

"(1) IN GENERAL.—If this section applies to an individual for any calendar year, the monthly premium otherwise applicable under section 1839 for each month during the calendar year shall be increased by an amount equal to the supplemental Medicare part B premium.

"(2) INDIVIDUALS TO WHOM SECTION APPLIES.—This section shall apply to any individual for a calendar year if—

"(A) the individual is covered under this part for any month during the calendar year, and

"(B) the modified adjusted gross income of the taxpayer for the taxable year beginning in the calendar year exceeds the threshold amount.

"(b) PREMIUMS TO BE DEDUCTED BASED ON ESTIMATED AMOUNTS.—

"(1) IN GENERAL.—Each individual shall—

"(A) during the medicare open enrollment period under section 1895G(b)(1), or

"(B) during any other medicare enrollment period applicable to the individual under section 1895G(b)(2),

include with the medicare enrollment an estimate of the taxpayer's modified adjusted gross income for the following calendar year.

"(2) INDIVIDUALS NOT FILING ENROLLMENT FORM.—If an individual does not file a medicare enrollment form for any enrollment period applicable to the individual and the individual's coverage under this part continues without modification by reason of the failure to file, the individual's modified adjusted gross income shall be determined on the basis of the most recent information available to the Secretary from prior enrollment forms, the Secretary of the Treasury under section 6103(l)(15), or otherwise.

"(3) INDIVIDUALS FILING INCORRECT ENROLLMENT FORMS.—If, on the basis of information obtained from the Secretary of the Treasury under section 6103(l)(15), the Secretary determines that the information included with a medicare enrollment form under paragraph (1) is incorrect, the individual's modified adjusted gross income shall be determined on the basis of the information obtained from the Secretary of the Treasury.

"(4) TRANSFER OF INFORMATION.—The Secretary shall notify the applicable agency under section 1840 of—

"(A) the estimates received under paragraph (1) or the determinations under paragraph (2) or (3), and

"(B) the amount of the premiums to be deducted under section 1840.

The premiums under subparagraph (B) shall be effective with respect to months beginning with the later of the month for which the enrollment is effective or the month following the month in which the notice is received. Such premium shall remain in effect until another premium takes effect under this subsection or there is an increase in the premium determined without regard to this section.

"(c) SUPPLEMENTAL MEDICARE PART B PREMIUM.—For purposes of subsection (a)—

"(1) IN GENERAL.—The supplemental Medicare part B premium for any month is an amount equal to the excess of—

"(A) 200 percent of the monthly actuarial rate for enrollees age 65 and over determined under subsection 1839(a)(1) for such month, over

"(B) the total monthly premium under section 1839 (determined without regard to subsections (b) and (f) of section 1839).

"(2) PHASEIN OF SUPPLEMENTAL PREMIUM.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $50,000, the supplemental Medicare part B premium under this section for months in the calendar year in which the taxable year begins shall be an amount which bears the same ratio to the amount of the premium (without regard to this paragraph) as such excess bears to $50,000. The preceding sentence shall not apply to any individual whose threshold amount is zero.

"(B) PHASEIN RANGE FOR JOINT RETURNS.—In the case of a joint return under section 6013 of the Internal Revenue Code of 1986, subparagraph (A) shall be applied by substituting '$75,000' for '$50,000' each place it appears.

"(d) VERIFICATION AND ADJUSTMENTS OF SUPPLEMENTAL PREMIUMS.—

"(1) VERIFICATION.—Each individual to whom this section applies shall, on the basis of information shown on the return of tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year, determine the difference (if any) between—

"(A) the aggregate supplemental Medicare part B premiums imposed by this section for months during the calendar year in which the taxable year begins, and

"(B) the aggregate amount of premiums deducted and paid under section 1840 for such months with respect to the individual.

Such determination shall be included on a form prescribed by the Secretary and the form shall be submitted to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) DEFICIENCY ADJUSTMENTS.—

"(A) IN GENERAL.—If the amount under paragraph (1)(A) exceeds the amount under paragraph (1)(B), the individual shall include with the form required to be filed under paragraph (1) a separate check made payable to the Secretary in an amount equal to such excess plus interest determined under subparagraph (B).

"(B) INTEREST ON UNDERPAYMENTS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The amount of interest taken into account shall be the sum of the amounts determined under clause (ii) for each of the months in the taxable year.

"(ii) MONTHLY INTEREST.—Interest shall be computed for any month in an amount determined by applying the underpayment rate established under section 6621 of the Internal Revenue Code of 1986 to any portion of the underpayment for the period beginning on the first day of the following month and ending on the date the portion is paid. For purposes of this clause, payments shall be applied to months in order, beginning with the earliest.

"(iii) SAFE-HARBOR EXCEPTION.—No interest shall be imposed for any month if the individual's estimate of modified adjusted gross income under subsection (b) on which the supplemental Medicare part B premium for the month was based was not less than the individual's modified adjusted gross income determined on the basis of information shown on the return of tax imposed by chapter 1 of such Code for the taxable year ending with or within the calendar year preceding the calendar year in which the estimate was made.

"(3) OVERPAYMENT ADJUSTMENTS.—If the amount under paragraph (1)(B) exceeds the amount under paragraph (1)(A), the Secretary shall, at the Secretary's discretion—

"(A) credit such excess against any supplemental premium required under this section, or

"(B) make a payment to the individual in the amount of such excess.

"(4) ADJUSTMENTS BY SECRETARY.—If the Secretary determines, on the basis of information received from the Secretary of the Treasury under section 6103(l)(15), that there was an underpayment or overpayment of the aggregate supplemental Medicare part B premiums for months during any taxable year (after any other adjustment under this subsection), the Secretary shall—

"(A) notify the individual of such underpayment or overpayment,

"(B) in the case of an underpayment, give such individual an opportunity for a hearing with respect to such underpayment and a reasonable time for payment of such underpayment and interest determined under paragraph (2)(B), and

"(C)(i) collect the amount of any underpayment and interest not paid under subparagraph (B) in such manner as the Secretary may prescribe, and

"(ii) take the actions described in paragraph (3) with respect to any overpayment.

"(5) TRANSFERS TO TRUST FUND.—Amounts equal to amounts paid under paragraphs (2)(A), (4)(B), and (4)(C)(i) shall be deposited into the Federal Supplementary Medical Insurance Trust Fund.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $50,000,

"(B) $75,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined under section 62 of the Internal Revenue Code of 1986—

"(A) determined without regard to sections 135, 911, 931, and 933 of such Code, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return under section 6013 of such Code, this section shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) MARRIED INDIVIDUAL.—The determination of whether an individual is married shall be made in accordance with section 7703 of such Code.

"(5) AGREEMENTS.—In order to promote the efficient administration of this section, the Secretary may enter into agreements with the Commissioner of the Social Security Administration or the head of any other appropriate Federal agency under which such agency performs administrative responsibilities under this section.".

(b) DISCLOSURE OF INFORMATION.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(15) DISCLOSURE OF TAXPAYER RETURN INFORMATION TO SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF COLLECTING SUPPLEMENTAL PART B PREMIUMS.—

"(A) IN GENERAL.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to the Secretary with respect to any medicare beneficiary (as defined in paragraph (12)(E)(i)) identified in the request whether or not (and the amount by which) the individual's modified adjusted gross income for any taxable year specified in the request exceeded the threshold amount.

"(B) RESTRICTION ON USE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services (or of any other Federal agency if an agreement under section 1839A(e)(5) of the Social Security Act is in effect) only for the purposes of, and to the extent necessary in, establishing an individual's correct supplemental Medicare part B premium under section 1839A of the such Act.

"(C) DEFINITIONS.—For purposes of this paragraph, any term used which is also used in section 1839A of the Social Security Act shall have the meaning given such term by such section.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1839(a) (42 U.S.C. 1395r(a)(2)) is amended by inserting "or section 1839A" after "subsections (b) and (e)".

(2) Paragraph (3) of section 1839(a) (42 U.S.C. 1395r(a)(3)) is amended by inserting "or section 1839A" after "subsection (e)".

(3) Section 1839(b) (42 U.S.C. 1395r(b)) is amended by inserting "(and as increased under section 1839A)" after "subsection (a) or (e)".

(4) Section 1839(f) (42 U.S.C. 1395r(f)) is amended by adding at the end the following new sentence: "This subsection shall not apply to the portion of the premium attributable to the supplemental premium under section 1839A.".

(5) Section 1840(c) (42 U.S.C. 1395r(c)) is amended by inserting "or an individual determines that the estimate of modified adjusted gross income used in determining the supplemental premium under section 1839A is too low and results in a portion of the premium not being deducted," before "he may".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to months after December 1996.

(2) INFORMATION FOR PRIOR YEARS.—The Secretary of Health and Human Services may request information under section 6013(l)(15) of the Social Security Act (as added by subsection (b)) for taxable years beginning after December 31, 1993.

CHAPTER 4—PROVISIONS RELATING TO PARTS A AND B

Subchapter A—General Provisions Relating to Parts A and B

SEC. 7055. SECONDARY PAYOR PROVISIONS.

(a) PERMANENT EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking ", and before October 1, 1998".

(b) INDIVIDUALS WITH END STAGE RENAL DISEASE.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(1) in the last sentence by striking "October 1, 1998" and inserting "the date of the enactment of the Balanced Budget Reconciliation Act of 1995"; and

(2) by adding at the end the following new sentence: "Effective for items and services furnished on or after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, (with respect to periods beginning on or after the date that is 18 months prior to such date), clauses (i) and (ii) shall be applied by substituting '30-month' for '12-month' each place it appears.".

(c) EXTENSION OF TRANSFER OF DATA.—

(1) ELIMINATION OF SUNSET.—Section 1862(b)(5)(C) (42 U.S.C. 1395y(b)(5)(C)) is amended by striking clause (iii).

(2) ELIMINATION OF TERMINATION.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(d) NO RETROACTIVE APPLICATION OF ESRD SECONDARY PAYER INTERPRETATION.—Notwithstanding any other provision of law, the April 1995 interpretation of section 1862(b)(1)(C) of the Social Security Act (42 U.S.C. 1395y(b)(1)(C)) issued by the Health Care Financing Administration shall not apply retroactively, to a group health plan that paid benefits primary to title XVIII of such Act (42 U.S.C. 1395 et seq.) (but would have paid benefits secondary to such title in the absence of such section) on or after August 10, 1993, and before April 24, 1995, on behalf of an individual who, during such period—

(1) was entitled to benefits under such title under subsection (a) or (b) of section 226 of such Act (42 U.S.C. 426); and

(2) subsequently became entitled or eligible for benefits under such title under section 226A of such Act (42 U.S.C. 426–1).

SEC. 7056. TREATMENT OF ASSISTED SUICIDE.

(a) PROHIBITION OF PAYMENT.—Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(1) by striking "or" at the end of paragraph (14);

(2) by striking the period at the end of paragraph (15) and inserting "; or"; and

(3) by inserting after paragraph (15) and before the flush language at the end the following new paragraph:

"(16) where such expenses are for items and services, or to assist in the purchase in whole or in part of health benefit coverage that includes items or services, for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of an individual.".

(b) NO REQUIREMENT THAT HEALTH CARE PROVIDERS INFORM PATIENTS CONCERNING ASSISTING SUICIDE.—Section 1866(f)(1)(A)(i) (42 U.S.C. 1395cc(f)(1)(A)(i)) is amended by striking "paragraph (3))" and inserting "paragraph (3)), except that no health care provider or employee of a health care provider be required under this section to inform or counsel a patient regarding assisted suicide, euthanasia, mercy killing, or other service which purposefully causes the death of a person".

SEC. 7057. ADMINISTRATIVE PROVISIONS.

(a) INDIAN HEALTH SERVICE FACILITIES.—Nothing in this Act shall be construed to change the status under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of—

(1) a Federally qualified health center (as defined in section 1861(aa)(4) of such Act) which is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act; or

(2) hospitals or skilled nursing facilities of the Indian Health Service, whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), that are eligible for payments under title XVIII of the Social Security Act, in accordance with section 1880 of such Act (42 U.S.C. 1395qq).

(b) CONFORMING AMENDMENT TO CERTIFICATION OF CHRISTIAN SCIENCE PROVIDERS.—

(1) HOSPITALS.—Section 1861(e) (42 U.S.C. 1395x(e)) is amended in the sixth sentence by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(2) SKILLED NURSING FACILITIES.—Section 1861(y)(1) (42 U.S.C. 1395x(y)(1)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts," and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.,".

(3) GENERAL PROVISIONS.—

(A) UNIFORM REPORTING SYSTEMS.—Section 1122(h) (42 U.S.C. 1320a–1(h)) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(B) PEER REVIEW.—Section 1162 (42 U.S.C. 1320c–11) is amended by striking "the First Church of Christ, Scientist, Boston, Massachusetts" and inserting "the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 1997.

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE.

(a) FINDINGS.—The Senate finds that—

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded medicare to cover self-administered chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) SENSE OF SENATE.—It is the sense of the Senate that medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend medicare to provide coverage for these important cancer drug treatments.

Subchapter B—Payments for Home Health Services

SEC. 7061. PAYMENT FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Part C of title XVIII (42 U.S.C. 1395x et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR HOME HEALTH SERVICES

"SEC. 1893. (a) IN GENERAL.—

"(1) PER VISIT PAYMENTS.—Subject to subsection (c), the Secretary shall make per visit payments beginning with fiscal year 1997 to a home health agency in accordance with this section for each type of home health service described in paragraph (2) furnished to an individual who at the time the service is furnished is under a plan of care by the home health agency under this title (without regard to whether or not the item or service was furnished by the agency or by others under arrangement with them made by the agency, under any other contracting or consulting arrangement, or otherwise).

"(2) TYPES OF SERVICES.—The types of home health services described in this paragraph are the following:

"(A) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse.

"(B) Physical therapy.

"(C) Occupational therapy.

"(D) Speech-language pathology services.

"(E) Medical social services under the direction of a physician.

"(F) To the extent permitted in regulations, part-time or intermittent services of a home health aide who has successfully completed a training program approved by the Secretary.

"(b) ESTABLISHMENT OF PER VISIT RATE FOR EACH TYPE OF SERVICES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), establish a per visit payment rate for a home health agency in an area (which *shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) for each type of home health service described in subsection (a)(2). Such rate shall be equal to the national per visit payment rate determined under paragraph (2) for each such type, except that the labor-related portion of such rate shall be adjusted by the area wage index applicable under section 1886(d)(3)(E) for the area in which the agency is located.*

"(2) NATIONAL PER VISIT PAYMENT RATE.—The national per visit payment rate for each type of service described in subsection (a)(2)—

"(A) for fiscal year 1997, is an amount equal to the national average amount paid per visit under this title to home health agencies for such type of service during the most recent 12-month cost reporting period ending on or before June 30, 1994; and

"(B) for each subsequent fiscal year, is an amount equal to the national per visit payment rate in effect for the preceding fiscal year, increased by the greater of—

"(i) the home health market basket percentage increase for such subsequent fiscal year minus 2.5 percentage points; or

"(ii) 1.1 percent (1.2 percent in fiscal year 1997).

"(3) REBASING OF RATES.—The Secretary shall adjust the national per visit payment rates under this subsection for cost reporting periods beginning on or after October 1, 1999, and every 2 years thereafter, to reflect the most recent available data.

"(4) HOME HEALTH MARKET BASKET PERCENTAGE INCREASE.—For purposes of this subsection, the term 'home health market basket percentage increase' means, with respect to a fiscal year, a percentage (estimated by the Secretary before the beginning of the fiscal year) determined and applied with respect to the types of home health services described in subsection (a)(2) in the same manner as the market basket percentage increase under section 1886(b)(3)(B)(iii) is determined and applied to inpatient hospital services for the fiscal year.

"(c) PER EPISODE LIMIT.—

"(1) AGGREGATE LIMIT.—

"(A) IN GENERAL.—Except as provided in paragraph (2), a home health agency may not receive aggregate per visit payments under subsection (a) for a fiscal year in excess of an amount equal to the sum of the following products determined for each case-mix category for which the agency receives payments:

"(i) The number of episodes of each such case-mix category during the fiscal year; multiplied by

"(ii) the per episode limit determined for such case-mix category for such fiscal year.

"(B) ESTABLISHMENT OF PER EPISODE LIMITS.—

"(i) IN GENERAL.—The per episode limit for a fiscal year for any case-mix category for the area in which a home health agency is located (which shall be the same area used to determine the area wage index applicable to hospitals under section 1886(d)(3)(E)) is equal to—

"(I) the mean number of visits for each type of home health service described in subsection (a)(2) furnished during an episode of such case-mix category in such area during fiscal year 1994, adjusted by the case-mix adjustment factor determined in clause (ii) for the fiscal year involved; multiplied by

"(II) the per visit payment rate established under subsection (b) for such type of home health service for the fiscal year for which the determination is being made.

"(ii) CASE-MIX ADJUSTMENT FACTOR.—For purposes of clause (i), the case-mix adjustment factor for—

"(I) each of fiscal years 1997 through 2000 is the factor determined by the Secretary to assure that aggregate payments for home health services under this section during the year will not exceed the payment for such services during the previous year as a result of changes in the number and type of home health visits within case-mix categories over the previous year; and

"(II) each subsequent fiscal year, is the factor determined by the Secretary to necessary remove the effects of case-mix increases due to reporting improvements instead of real changes in patients' resource usage.

"(iii) REBASING OF PER EPISODE LIMITS.—Beginning with fiscal year 1999 and every 2 years thereafter, the Secretary shall revise the mean number of home health visits determined under clause (i)(I) for each type of home health service visit described in subsection (a)(2) furnished during an episode in a case-mix category to reflect the most recently available data on the number of visits.

"(iv) DETERMINATION OF AREA.—In the case of an area which the Secretary determines has insufficient number of home health agencies to establish an appropriate per episode limit, the Secretary may establish an area other than the area used to determine the area wage under section 1886(d)(3)(E)) for purposes of establishing an appropriate per episode limit.

"(C) CASE-MIX CATEGORY.—For purposes of this paragraph, the term 'case-mix category' means each of the 18 case-mix categories established under the Home Health Agency Prospective Payment Demonstration Project conducted by the Health Care Financing Administration. The Secretary may develop an alternate methodology for determining case-mix categories.

"(D) EPISODE.—For purposes of this paragraph, the term 'episode' means, with respect to a cost reporting period, the continuous 120-day period that—

"(i) begins on the date of an individual's first visit for a type of home health service described in subsection (a)(2) for a case-mix category, and

"(ii) is immediately preceded by a 60-day period in which the individual did not receive visits for a type of home health service described in subsection (a)(2).

"(E) EXEMPTIONS AND EXCEPTIONS.—The Secretary may provide for exemptions and exceptions to the limits established under this paragraph for a fiscal year as the Secretary deems appropriate, to the extent such exemptions and exceptions do not result in greater payments under this section than the exemptions and exceptions provided under section 1861(v)(1)(L)(ii) in fiscal year 1994, increased by the home health market basket percentage increase for the fiscal year involved (as defined in subsection (b)(4)).

"(2) RECONCILIATION OF AMOUNTS.—

"(A) PAYMENTS IN EXCESS OF LIMITS.—Subject to subparagraph (B), if a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in excess of the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall, in such manner as the Secretary considers appropriate, reduce the payments under this section to the home health agency in the following fiscal year by the amount of such excess.

"(B) EXCEPTION FOR HOME HEALTH SERVICES FURNISHED OVER A PERIOD GREATER THAN 165 DAYS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount of aggregate per visit payments determined under subsection (a) shall not include payments for home health visits furnished to an individual on or after a continuous period of more than 165 days after an individual begins an episode described in subsection (c)(1)(D) (if such period is not interrupted by the beginning of a new episode).

"(ii) REQUIREMENT OF CERTIFICATION.—Clause (i) shall not apply if the agency has not obtained a physician's certification with respect to the individual requiring such visits that includes a statement that the individual requires such continued visits, the reason for the need for such visits, and a description of such services furnished during such visits.

"(C) SHARE OF SAVINGS.—

"(i) BONUS PAYMENTS.—If a home health agency has received aggregate per visit payments under subsection (a) for a fiscal year in an amount less than the amount determined under paragraph (1) with respect to such home health agency for such fiscal year, the Secretary shall pay such home health agency a bonus payment equal to 50 percent of the difference between such amounts in the following fiscal year, except that the bonus payment may not exceed 5 percent of the aggregate per visit payments made to the agency for the prior year without regard to clause (ii).

"(ii) INSTALLMENT BONUS PAYMENTS.—The Secretary may make installment payments during a fiscal year to a home health agency based on the estimated bonus payment that the agency would be eligible to receive with respect to such fiscal year.

"(d) MEDICAL REVIEW PROCESS.—

"(1) IN GENERAL.—The Secretary shall implement a medical review process (with a particular emphasis on fiscal years 1997 and 1998) for the system of payments described in this section that shall provide an assessment of the pattern of care furnished to individuals receiving home health services for which payments are made under this section to ensure that such individuals receive appropriate home health services. Such review process shall focus on low-cost cases described in subsection (e)(3) and cases described in subsection (c)(2)(B) and shall require recertification by intermediaries at 30, 60, 90, 120, and 165 days into an episode described in subsection (c)(1)(D).

"(2) USING OF ORGANIZATIONS TO CONDUCT REVIEWS.—The Secretary may use public or private organizations to conduct medical reviews in accordance with this subsection.

"(e) ADJUSTMENT OF PAYMENTS TO AVOID CIRCUMVENTION OF LIMITS.—

"(1) IN GENERAL.—The Secretary shall provide for appropriate adjustments to payments to home health agencies under this section to ensure that agencies do not circumvent the purpose of this section by—

"(A) discharging patients to another home health agency or similar provider;

"(B) altering corporate structure or name to avoid being subject to this section or for the purpose of increasing payments under this title; or

"(C) undertaking other actions considered unnecessary for effective patient care and intended to achieve maximum payments under this title.

"(2) TRACKING OF PATIENTS THAT SWITCH HOME HEALTH AGENCIES DURING EPISODE.—

"(A) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a system that tracks home health patients that receive home health services described in subsection (a)(2) from more than 1 home health agency during an episode described in subsection (c)(1)(D).

"(B) ADJUSTMENT OF PAYMENTS.—The Secretary shall adjust payments under this section to each home health agency that furnishes an individual with a type of home health service described in subsection (a)(2) to ensure that aggregate payments on behalf of such individual during such episode do not exceed the amount that would be paid under this section if the individual received such services from a single home health agency.

"(3) LOW-COST CASES.—

"(A) IN GENERAL.—The Secretary shall develop and implement a system designed to adjust payments to a home health agency for a fiscal year to eliminate any increase in growth of the

percentage distribution of low-cost episodes for which home health services are furnished by the agency over such percentage distribution determined for the agency under subparagraph (B).

"(B) DISTRIBUTION.—The Secretary shall profile each home health agency to determine the distribution of all episodes by length of stay for each agency during the agency's first 12-month cost reporting period beginning during fiscal year 1994. The Secretary shall calculate the 25th percentile distribution for each agency for low-cost episodes.

"(C) LOW-COST EPISODE.—For purposes of this paragraph, the Secretary shall define a low-cost episode in a manner that provides that a home health agency has an incentive to be cost efficient in delivering home health services and that the volume of such services does not increase as a result of factors other than patient needs.

"(f) REPORT BY PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—During the first 3 years in which payments are made under this section, the Prospective Payment Assessment Commission shall annually submit a report to Congress on the effectiveness of the payment methodology established under this section that shall include recommendations regarding the following:

"(1) Case-mix and volume increases.

"(2) Quality monitoring of home health agency practices.

"(3) Whether a capitated payment for home care patients receiving care during a continuous period exceeding 165 days is warranted.

"(4) Whether public providers of service are adequately reimbursed.

"(5) On the adequacy of the exemptions and exceptions to the limits provided under subsection (c)(1)(E).

"(6) The appropriateness of the methods provided under this section to adjust the per episode limits and annual payment updates to reflect changes in the mix of services, number of visits, and assignment to case categories to reflect changing patterns of home health care.

"(7) The geographic areas used to determine the per episode limits.".

(b) PAYMENT FOR PROSTHETICS AND ORTHOTICS UNDER PART A.—Section 1814(k) (42 U.S.C. 1395f(k)) is amended—

(1) by inserting "and prosthetics and orthotics" after "durable medical equipment"; and

(2) by inserting "and 1834(h), respectively" after "1834(a)(1)".

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS UNDER PART A.—Section 1814(b) (42 U.S.C. 1395f(b)), as amended by section 7032(b), is amended in the matter preceding paragraph (1) by striking "1888 and 1888A" and inserting "1888, 1888A, and 1893".

(2) TREATMENT OF ITEMS AND SERVICES PAID UNDER PART B.—

(A) PAYMENTS UNDER PART B.—Section 1833(a)(2) (42 U.S.C. 1395l(a)(2)) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) with respect to home health services—

"(i) that are a type of home health service described in section 1893(a)(2), and which are furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, the amount determined under section 1893;

"(ii) that are not described in clause (i) (other than a covered osteoporosis drug) (as defined in section 1861(kk)), the lesser of—

"(I) the reasonable cost of such services, as determined under section 1861(v), or

"(II) the customary charges with respect to such services;".

(ii) by striking "and" at the end of subparagraph (E);

(iii) by adding "and" at the end of subparagraph (F); and

(iv) by adding at the end the following new subparagraph:

"(G) with respect to items and services described in section 1861(s)(10)(A), the lesser of—

"(i) the reasonable cost of such services, as determined under section 1861(v), or

"(ii) the customary charges with respect to such services,

or, if such services are furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this provision), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2);".

(B) REQUIRING PAYMENT FOR ALL ITEMS AND SERVICES TO BE MADE TO AGENCY.—

(i) IN GENERAL.—The first sentence of section 1842(b)(6), as amended by section 7035(a)(1), (42 U.S.C. 1395u(b)(6)) is amended—

(I) by striking "and (E)" and inserting "(E)"; and

(II) by striking the period at the end and inserting the following: ", and (F) in the case of types of home health services described in section 1893(a)(2) furnished to an individual who (at the time the item or service is furnished) is under a plan of care of a home health agency, payment shall be made to the agency (without regard to whether or not the item or service was furnished by the agency, by others under arrangement with them made by the agency, or when any other contracting or consulting arrangement, or otherwise).".

(ii) CONFORMING AMENDMENT.—Section 1832(a)(1) (42 U.S.C. 1395k(a)(1)) is amended by striking "(2);" and inserting "(2) and section 1842(b)(6)(F);".

(C) EXCLUSIONS FROM COVERAGE.—Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 7035(a)(2)(C), is amended—

(i) by striking "or" at the end of paragraph (15);

(ii) by striking the period at the end of paragraph (16) and inserting "or"; and

(iii) by adding at the end the following new paragraph:

"(17) where such expenses are for home health services furnished to an individual who is under a plan of care of the home health agency if the claim for payment for such services is not submitted by the agency.".

(3) SUNSET OF REASONABLE COST LIMITATIONS.—Section 1861(v)(1)(L) (42 U.S.C. 1395x(v)(1)(L)) is amended by adding at the end the following new clause:

"(iv) This subparagraph shall apply only to services furnished by home health agencies during cost reporting periods ending on or before September 30, 1996.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to cost reporting periods beginning on or after October 1, 1996.

SEC. 7062. MAINTAINING SAVINGS RESULTING FROM TEMPORARY FREEZE ON PAYMENT INCREASES FOR HOME HEALTH SERVICES.

(a) BASING UPDATES TO PER VISIT COST LIMITS ON LIMITS FOR FISCAL YEAR 1993.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by adding at the end the following sentence: "In establishing limits under this subparagraph, the Secretary may not take into account any changes in the costs of the provision of services furnished by home health agencies with respect to cost reporting periods which began on or after July 1, 1994, and before July 1, 1996.".

(b) NO EXCEPTIONS PERMITTED BASED ON AMENDMENT.—The Secretary of Health and Human Services shall not consider the amendment made by subsection (a) in making any exemptions and exceptions pursuant to section 1861(v)(1)(L)(ii) of the Social Security Act.

SEC. 7063. EXTENSION OF WAIVER OF PRESUMPTION OF LACK OF KNOWLEDGE OF EXCLUSION FROM COVERAGE FOR HOME HEALTH AGENCIES.

Section 9305(g)(3) of OBRA—1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988 and section 4207(b)(3) of the OBRA—1990 (as renumbered by section 160(d)(4) of the Social Security Act Amendments of 1994), is amended by striking "December 31, 1995" and inserting "September 30, 1996.".

CHAPTER 5—RURAL AREAS

SEC. 7071. MEDICARE-DEPENDENT, SMALL, RURAL HOSPITAL PAYMENT EXTENSION.

(a) SPECIAL TREATMENT EXTENDED.—

(1) PAYMENT METHODOLOGY.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(A) in clause (i), by striking "October 1, 1994," and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,"; and

(B) in clause (ii)(II), by striking "October 1, 1994" and inserting "October 1, 1994, or beginning on or after September 1, 1995, and before October 1, 2000,".

(2) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) (42 U.S.C. 1395ww(b)(3)(D)) is amended—

(A) in the matter preceding clause (i), by striking "September 30, 1994," and inserting "September 30, 1994, and for cost reporting periods beginning on or after September 1, 1995, and before October 1, 2000,";

(B) in clause (ii), by striking "and" at the end;

(C) in clause (iii), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new clause:

"(iv) with respect to discharges occurring during September 1995 through fiscal year 1999, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of OBRA–93 (42 U.S.C. 1395ww note) is amended by striking "or fiscal year 1994" and inserting ", fiscal year 1994, fiscal year 1995, fiscal year 1996, fiscal year 1997, fiscal year 1998, or fiscal year 1999".

(4) TECHNICAL CORRECTION.—Section 1886(d)(5)(G)(i) (42 U.S.C. 1395ww(d)(5)(G)(i)), as in effect before the amendment made by paragraph (1), is amended by striking all that follows the first period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to discharges occurring on or after September 1, 1995.

SEC. 7072. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 (42 U.S.C. 1395i–4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area;

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 6 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 72-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed 12 beds (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (d)(2)(B)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) TREATMENT OF RURAL PRIMARY CARE HOSPITALS.—A rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Balanced Budget Reconciliation Act of 1995 shall receive payment under this title in the same manner and amount as critical access hospital certified by the Secretary under subsection (f) receives payment for such services.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(b) REPORT ON ALTERNATIVE TO 72-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 72-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(c) CONTINUATION OF MAF'S.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall extend the Montana Medical Assistance Facility Demonstration Project until December 31, 2002. The demonstration project shall provide that new medical assistance facilities may be designated and that all medical assistance facilities shall receive reasonable cost reimbursement under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for services provided to medicare beneficiaries.

(d) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Sections 1813(a) and section 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient rural primary care hospital services" each place it appears, and inserting "inpatient critical access hospital services".

(C) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services".

(D) Section 1814 (42 U.S.C. 1395f) is amended—

(i) in subsection (a)(8) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (l) to read as follows:

"(l) PAYMENT FOR INPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) TREATMENT OF CRITICAL ACCESS HOSPITALS AS PROVIDERS OF SERVICES.—(A) Section 1861(u) (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) CONFORMING AMENDMENTS.—(A) Section 1128A(b)(1) (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 (42 U.S.C. 1395l) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (l)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (l)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(I) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "inpatient rural primary care hospital services" and inserting "inpatient critical access hospital services"; and

(II) in paragraph (2), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iv) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(v) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary care hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(e) PAYMENT CONTINUED TO DESIGNATED EACHs.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(f) PART B AMENDMENTS RELATING TO CRITICAL ACCESS HOSPITALS.—

(1) COVERAGE.—(A) Section 1861(mm) (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) PAYMENT.—(A) Section 1833(a) (42 U.S.C. 1395l(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access hospital services".

(B) Section 1834(g) (42 U.S.C. 1395m(g)) is amended to read as follows—

"(g) PAYMENT FOR OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7073. ESTABLISHMENT OF RURAL EMERGENCY ACCESS CARE HOSPITALS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Rural Emergency Access Care Hospital; Rural Emergency Access Care Hospital Services

"(oo)(1) The term 'rural emergency access care hospital' means, for a fiscal year, a facility with respect to which the Secretary finds the following:

"(A) The facility is located in a rural area (as defined in section 1886(d)(2)(D)).

"(B) The facility was a hospital under this title at any time during the 5-year period that ends on the date of the enactment of this subsection.

"(C) The facility is in danger of closing due to low inpatient utilization rates and operating losses, and the closure of the facility would limit the access to emergency services of individuals residing in the facility's service area.

"(D) The facility has entered into (or plans to enter into) an agreement with a hospital with a participation agreement in effect under section 1866(a), and under such agreement the hospital shall accept patients transferred to the hospital from the facility and receive data from and transmit data to the facility.

"(E) There is a practitioner who is qualified to provide advanced cardiac life support services (as determined by the State in which the facility is located) on-site at the facility on a 24-hour basis.

"(F) A physician is available on-call to provide emergency medical services on a 24-hour basis.

"(G) The facility meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(i) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open, except insofar as the facility is required to provide emergency care on a 24-hour basis under subparagraphs (E) and (F); and

"(ii) the facility may provide any services otherwise required to be provided by a full-time, on-site dietitian, pharmacist, laboratory technician, medical technologist, or radiological technologist on a part-time, off-site basis.

"(H) The facility meets the requirements applicable to clinics and facilities under subparagraphs (C) through (J) of paragraph (2) of section 1861(aa) and of clauses (ii) and (iv) of the second sentence of such paragraph (or, in the case of the requirements of subparagraph (E), (F), or (J) of such paragraph, would meet the requirements if any reference in such subparagraph to a 'nurse practitioner' or to 'nurse practitioners' were deemed to be a reference to a 'nurse practitioner or nurse' or to 'nurse practitioners or nurses'); except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).

"(2) The term 'rural emergency access care hospital services' means the following services provided by a rural emergency access care hospital and furnished to an individual over a continuous period not to exceed 24 hours (except that such services may be furnished over a longer period in the case of an individual who is unable to leave the hospital because of inclement weather):

"(A) An appropriate medical screening examination (as described in section 1867(a)).

"(B) Necessary stabilizing examination and treatment services for an emergency medical condition and labor (as described in section 1867(b)).".

(b) Requiring Rural Emergency Access Care Hospitals To Meet Hospital Anti-Dumping Requirements.—Section 1867(e)(5) (42 U.S.C. 1395dd(e)(5)) is amended by striking "1861(mm)(1))" and inserting "1861(mm)(1)) and a rural emergency access care hospital (as defined in section 1861(oo)(1))".

(c) Coverage and Payment for Services.—

(1) Coverage.—Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (I);

(B) by striking the period at the end of subparagraph (J) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) rural emergency access care hospital services (as defined in section 1861(oo)(2)).".

(2) Payment based on payment for outpatient critical access hospital services.—

(A) In general.—Section 1833(a)(6) (42 U.S.C. 1395l(a)(6)), as amended by section 7072(f)(2), is amended by striking "services," and inserting "services and rural emergency access care hospital services,".

(B) Payment methodology described.—Section 1834(g) (42 U.S.C. 1395m(g)), as amended by section 7072(f)(2)(B), is amended—

(i) in the heading, by striking "Services" and inserting "Services and Rural Emergency Access Care Hospital Services"; and

(ii) by adding at the end the following new sentence: "The amount of payment for rural emergency access care hospital services provided during a year shall be determined using the applicable method provided under this subsection for determining payment for outpatient rural primary care hospital services during the year.".

(d) Effective Date.—The amendments made by this section shall apply to fiscal years beginning on or after October 1, 1995.

SEC. 7074. ADDITIONAL PAYMENTS FOR PHYSICIANS' SERVICES FURNISHED IN SHORTAGE AREAS.

(a) Increase in Amount of Additional Payment.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "10 percent" and inserting "20 percent".

(b) Restriction to Primary Care Services.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by inserting after "physicians' services" the following: "consisting of primary care services (as defined in section 1842(i)(4))".

(c) Extension of Payment for Former Shortage Areas.—

(1) In general.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended by striking "area," and inserting "area (or, in the case of an area for which the designation as a health professional shortage area under such section is withdrawn, in the case of physicians' services furnished to such an individual during the 3-year period beginning on the effective date of the withdrawal of such designation),".

(2) Effective date.—The amendment made by paragraph (1) shall apply to physicians' services furnished in an area for which the designation as a health professional shortage area under section 332(a)(1)(A) of the Public Health Service Act is withdrawn on or after January 1, 1996.

(d) Requiring Carriers to Report on Services Provided.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (I); and

(2) by inserting after subparagraph (I) the following new subparagraph:

"(J) will provide information to the Secretary (on such periodic basis as the Secretary may require) on the types of providers to whom the carrier makes additional payments for certain physicians' services pursuant to section 1833(m), together with a description of the services furnished by such providers; and".

(e) Study.—

(1) In general.—The Physician Payment Review Commission shall conduct a study analyzing the effectiveness of the provision of additional payments under part B of the medicare program for physicians' services provided in health professional shortage areas in recruiting physicians to provide services in such areas.

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), and shall include in the report such recommendations as the Secretary considers appropriate.

(f) Effective Date.—The amendments made by subsections (a), (b), and (d) shall apply to physicians' services furnished on or after October 1, 1995.

SEC. 7075. PAYMENTS TO PHYSICIAN ASSISTANTS AND NURSE PRACTITIONERS FOR SERVICES FURNISHED IN OUTPATIENT OR HOME SETTINGS.

(a) Coverage in Outpatient or Home Settings for Physician Assistants and Nurse Practitioners.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (i)—

(A) by striking "or" at the end of subclause (II); and

(B) by inserting "or (IV) in an outpatient or home setting as defined by the Secretary" following "shortage area,"; and

(2) in clause (ii)—

(A) by striking "in a skilled" and inserting "in (I) a skilled"; and

(B) by inserting ", or (II) in an outpatient or home setting (as defined by the Secretary)," after "(as defined in section 1919(a))".

(b) Payments to Physician Assistants and Nurse Practitioners in Outpatient or Home Settings.—

(1) In general.—Section 1833(r)(1) (42 U.S.C. 1395l(r)(1)) is amended—

(A) by inserting "services described in section 1861(s)(2)(K)(ii)(II) (relating to nurse practitioner services furnished in outpatient or home settings), and services described in section 1861(s)(2)(K)(i)(IV) (relating to physician assistant services furnished in an outpatient or home setting" after "rural area),"; and

(B) by striking "or clinical nurse specialist" and inserting "clinical nurse specialist, or physician assistant".

(2) Conforming amendment.—Section 1842(b)(6)(C) (42 U.S.C. 1395u(b)(6)(C)) is amended by striking "clauses (i), (ii), or (iv)" and inserting "subclauses (I), (II), or (III) of clause (i), clause (ii)(I), or clause (iv)".

(c) Payment Under the Fee Schedule to Physician Assistants and Nurse Practitioners in Outpatient or Home Settings.—

(1) Physician assistants.—Section 1842(b)(12) (42 U.S.C. 1395u(b)(12)) is amended by adding at the end the following new subparagraph:

"(C) With respect to services described in clauses (i)(IV), (ii)(II), and (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners furnishing services in outpatient or home settings)—

"(i) payment under this part may only be made on an assignment-related basis; and

"(ii) the amounts paid under this part shall be equal to 80 percent of (I) the lesser of the actual charge or 85 percent of the fee schedule amount provided under section 1848 for the same service provided by a physician who is not a specialist; or (II) in the case of services as an assistant at surgery, the lesser of the actual charge or 85 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery.".

(2) Conforming amendment.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "(i), (ii)," and inserting "subclauses (I), (II), or (III) of clause (i), or subclause (I) of clause (ii)".

(3) Technical amendment.—Section 1842(b)(12)(A) (42 U.S.C. 1395u(b)(12)(A)) is amended in the matter preceding clause (i) by striking "a physician assistants" and inserting "physician assistants".

(d) Effective Date.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 7076. DEMONSTRATION PROJECTS TO PROMOTE TELEMEDICINE.

(a) Definitions.—For purposes of this section:

(1) Rural health care provider.—The term "rural health care provider" means any public or private health care provider located in a rural area.

(2) Nonhealth care entity.—The term "nonhealth care entity" means any entity that is not involved in the provision of health care, including a business, educational institution, library, and prison.

(b) Establishment.—The Secretary, acting through the Office of Rural Health, shall award grants to eligible entities to establish demonstration projects under which an eligible entity establishes a rural-based consortium that enables members of the consortium to utilize the telecommunications network—

(1) to strengthen the delivery of health care services in the rural area through the use of telemedicine;

(2) to provide for consultations involving transmissions of detailed data about the patient that serves as a reasonable substitute for face-to-face interaction between the patient and consultant; and

(3) to make outside resources or business interaction more available to the rural area.

(c) Eligible Entity.—To be eligible to receive a grant under this section an applicant entity shall propose a consortium that includes as members at least—

(1) one rural health care provider; and

(2) one nonhealth care entity located in the same rural area as the rural health care provider described in paragraph (1).

The Secretary may waive the membership requirement under paragraph (2) if the members described in paragraph (1) are unable to locate a nonhealth care entity located in the same rural area to participate in the demonstration project.

(d) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity described in subsection (c) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the use to which the eligible entity would apply any amounts received under such grant, the source and amount of non-Federal funds the entity would pledge for the project, and a showing of the long-term sustainability of the project.

(e) GRANTS.—Grants under this section shall be distributed in accordance with the following requirements:

(1) GRANT LIMIT.—The Secretary may not make a grant to an eligible entity under this section in excess of $500,000 for each fiscal year in which an eligible entity conducts a project under this section.

(2) MATCHING FUNDS.—

(A) IN GENERAL.—The Secretary may not make a grant to an eligible entity under this section unless the eligible entity agrees to provide non-Federal funds in an amount equal to not less than 20 percent of the total amount to be expended by the eligible entity in any fiscal year for the purpose of conducting the project under this section.

(B) ADJUSTMENTS.—The Secretary shall make necessary adjustments to the amount that an eligible entity may receive in a subsequent fiscal year if the eligible entity does not meet the requirements of subparagraph (A) in the preceding fiscal year.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Amounts received under a grant awarded under this section shall be utilized for the development and operation of telemedicine systems that serve rural areas. All such grant funds must be used to further the provision of health services to rural areas.

(2) RULES OF USE.—

(A) PERMISSIBLE USAGES.—Grant funds awarded under this section—

(i) shall primarily be used to support the costs of establishing and operating a telemedicine system that provides specialty consultations to rural communities;

(ii) may be used to demonstrate the application of telemedicine for preceptorship of medical students, residents, and other health professions students in rural training sites;

(iii) may be used for transmission costs, salaries, maintenance of equipment, and compensation of specialists and referring practitioners;

(iv) may be used to pay the fees of consultants, but only to the extent that the total of such fees does not exceed 5 percent of the amount of the grant;

(v) may be used to demonstrate the use of telemedicine to facilitate collaboration between nonphysician primary care practitioners (including physician assistants, nurse practitioners, certified nurse-midwives, and clinical nurse specialists) and physicians; and

(vi) may be used to test reimbursement methodologies under the medicare program under title XVIII of the Social Security Act for practitioners participating in telemedicine activities.

(B) PROHIBITED USE OF FUNDS.—Grant funds shall not be used by members of a rural-based consortium for any of the following:

(i) Expenditures to purchase or lease equipment.

(ii) In the case of a member of a consortium that is an isolated rural facility, purchase of high-cost telecommunications technologies for the furnishing of telemedicine services that—

(I) incur high cost per minute of usage charges; or

(II) require consultants to be available at the same time as the patient and the referring physician.

(iii) Purchase or installation of transmission equipment or establishment or operation of a telecommunications common carrier network.

(iv) Expenditures for indirect costs (as determined by the Secretary) to the extent the expenditures would exceed more than 20 percent of the total grant funds.

(v) Construction (except for minor renovations related to the installation of equipment), or the acquisition or building of real property.

(g) MAINTENANCE OF EFFORT.—Any funds available for the activities covered by a demonstration project conducted under this section shall supplement, and shall not supplant, funds that are expended for similar purposes under any State, regional, or local program.

(h) EVALUATIONS.—Each eligible entity that conducts a demonstration project under this section shall submit to the Secretary such information and interim evaluations as the Secretary may require.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for each of the fiscal years 1996 through 1998.

SEC. 7077. PROPAC RECOMMENDATIONS ON URBAN MEDICARE DEPENDENT HOSPITALS.

Section 1886(e)(3)(A) (42 U.S.C. 1395ww(e)(3)(A)) is amended by adding at the end the following new sentence: "The Commission shall, beginning in 1996, report its recommendations to Congress on an appropriate update to be used for urban hospitals with a high proportion of medicare patient days and on actions to ensure that medicare beneficiaries served by such hospitals retain the same access and quality of care as medicare beneficiaries nationwide.".

CHAPTER 6—HEALTH CARE FRAUD AND ABUSE PREVENTION

SEC. 7100. SHORT TITLE.

This chapter may be cited as the "Health Care Fraud and Abuse Prevention Act of 1995".

Subchapter A—Fraud and Abuse Control Program

SEC. 7101. FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1128B the following new section:

"FRAUD AND ABUSE CONTROL PROGRAM

"SEC. 1128C. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Not later than January 1, 1996, the Secretary, acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

"(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

"(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

"(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B and other statutes applicable to health care fraud and abuse, and

"(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section 1128D.

"(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary and the Attorney General shall issue guidelines to carry out the program under paragraph (1). The provisions of sections 553, 556, and 557 of title 5, United States Code, shall not apply in the issuance of such guidelines.

"(B) INFORMATION GUIDELINES.—

"(i) IN GENERAL.—Such guidelines shall include guidelines relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

"(ii) CONFIDENTIALITY.—Such guidelines shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

"(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section.

"(4) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise such authority described in paragraphs (3) through (9) of section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) as necessary with respect to the activities under the fraud and abuse control program established under this subsection.

"(5) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978 (5 U.S.C. App.).

"(b) ADDITIONAL USE OF FUNDS BY INSPECTOR GENERAL.—

"(1) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General of the Department of Health and Human Services is authorized to receive and retain for current use reimbursement for the costs of conducting investigations and audits and for monitoring compliance plans when such costs are ordered by a court, voluntarily agreed to by the payer, or otherwise.

"(2) CREDITING.—Funds received by the Inspector General under paragraph (1) as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of the deposit of such funds.

"(c) HEALTH PLAN DEFINED.—For purposes of this section, the term 'health plan' means a plan or program that provides health benefits, whether directly, through insurance, or otherwise, and includes—

"(1) a policy of health insurance;

"(2) a contract of a service benefit organization; and

"(3) a membership agreement with a health maintenance organization or other prepaid health plan.".

(b) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—Section 1817 (42 U.S.C. 1395i) is amended by adding at the end the following new subsection:

"(k) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

"(1) ESTABLISHMENT.—There is hereby established in the Trust Fund an expenditure account to be known as the 'Health Care Fraud

and Abuse Control Account' (in this subsection referred to as the 'Account').

"(2) APPROPRIATED AMOUNTS TO TRUST FUND.—

"(A) IN GENERAL.—There are hereby appropriated to the Trust Fund—

"(i) such gifts and bequests as may be made as provided in subparagraph (B);

"(ii) such amounts as may be deposited in the Trust Fund as provided in sections 7141(b) and 7142(c) of the Balanced Budget Reconciliation Act of 1995, and title XI; and

"(iii) such amounts as are transferred to the Trust Fund under subparagraph (C).

"(B) AUTHORIZATION TO ACCEPT GIFTS.—The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the Account or any activity financed through the Account.

"(C) TRANSFER OF AMOUNTS.—The Managing Trustee shall transfer to the Trust Fund, under rules similar to the rules in section 9601 of the Internal Revenue Code of 1986, an amount equal to the sum of the following:

"(i) Criminal fines recovered in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

"(ii) Civil monetary penalties and assessments imposed in health care cases, including amounts recovered under titles XI, XVIII, and XXI, and chapter 38 of title 31, United States Code (except as otherwise provided by law).

"(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

"(iv) Penalties and damages obtained and otherwise creditable to miscellaneous receipts of the general fund of the Treasury obtained under sections 3729 through 3733 of title 31, United States Code (known as the False Claims Act), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator, for restitution or otherwise authorized by law).

"(3) APPROPRIATED AMOUNTS TO ACCOUNT.—

"(A) IN GENERAL.—There are hereby appropriated to the Account from the Trust Fund such sums as the Secretary and the Attorney General certify are necessary to carry out the purposes described in subparagraph (B), to be available without further appropriation, in an amount—

"(i) with respect to activities of the Office of the Inspector General of the Department of Health and Human Services and the Federal Bureau of Investigations in carrying out such purposes, not less than—

"(I) for fiscal year 1996, $110,000,000,

"(II) for fiscal year 1997, $140,000,000,

"(III) for fiscal year 1998, $160,000,000,

"(IV) for fiscal year 1999, $185,000,000,

"(V) for fiscal year 2000, $215,000,000,

"(VI) for fiscal year 2001, $240,000,000, and

"(VII) for fiscal year 2002, $270,000,000; and

"(ii) with respect to all activities (including the activities described in clause (i)) in carrying out such purposes, not more than—

"(I) for fiscal year 1996, $200,000,000, and

"(II) for each of the fiscal years 1997 through 2002, the limit for the preceding fiscal year, increased by 15 percent; and

"(iii) for each fiscal year after fiscal year 2002, within the limits for fiscal year 2002 as determined under clauses (i) and (ii).

"(B) USE OF FUNDS.—The purposes described in this subparagraph are as follows:

"(i) GENERAL USE.—To cover the costs (including equipment, salaries and benefits, and travel and training) of the administration and operation of the health care fraud and abuse control program established under section 1128C(a), including the costs of—

"(I) prosecuting health care matters (through criminal, civil, and administrative proceedings);

"(II) investigations;

"(III) financial and performance audits of health care programs and operations;

"(IV) inspections and other evaluations; and

"(V) provider and consumer education regarding compliance with the provisions of title XI.

"(ii) USE BY STATE MEDICAID FRAUD CONTROL UNITS FOR INVESTIGATION REIMBURSEMENTS.—To reimburse the various State medicaid fraud control units upon request to the Secretary for the costs of the activities authorized under section 2134(b).

"(4) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed, and the justification for such disbursements, by the Account in each fiscal year.".

SEC. 7102. APPLICATION OF CERTAIN HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO FRAUD AND ABUSE AGAINST FEDERAL HEALTH PROGRAMS.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by striking "MEDICARE OR STATE HEALTH CARE PROGRAMS" and inserting "FEDERAL HEALTH CARE PROGRAMS".

(B) In subsection (a)(1), by striking "a program under title XVIII or a State health care program (as defined in section 1128(h))" and inserting "a Federal health care program".

(C) In subsection (a)(5), by striking "a program under title XVIII or a State health care program" and inserting "a Federal health care program".

(D) In the second sentence of subsection (a)—

(i) by striking "a State plan approved under title XIX" and inserting "a Federal health care program", and

(ii) by striking "the State may at its option (notwithstanding any other provision of that title or of such plan)" and inserting "the administrator of such program may at its option (notwithstanding any other provision of such program)".

(E) In subsection (b), by striking "title XVIII or a State health care program" each place it appears and inserting "a Federal health care program".

(F) In subsection (c), by inserting "(as defined in section 1128(h))" after "a State health care program".

(G) By adding at the end the following new subsection:

"(f) For purposes of this section, the term 'Federal health care program' means—

"(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded, in whole or in part, by the United States Government; or

"(2) any State health care program, as defined in section 1128(h).".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 7103. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

Title XI (42 U.S.C. 1301 et seq.), as amended by section 7101, is amended by inserting after section 1128C the following new section:

"HEALTH CARE FRAUD AND ABUSE GUIDANCE

"SEC. 1128D. (a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

"(1) IN GENERAL.—

"(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1996, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

"(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

"(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) and shall not serve as the basis for an exclusion under section 1128(b)(7);

"(iii) interpretive rulings to be issued pursuant to subsection (b); and

"(iv) special fraud alerts to be issued pursuant to subsection (c).

"(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL SAFE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

"(C) REPORT.—The Inspector General of the Department of Health and Human Services (in this section referred to as the 'Inspector General') shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

"(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

"(A) An increase or decrease in access to health care services.

"(B) An increase or decrease in the quality of health care services.

"(C) An increase or decrease in patient freedom of choice among health care providers.

"(D) An increase or decrease in competition among health care providers.

"(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

"(F) An increase or decrease in the cost to Federal health care programs (as defined in section 1128B(f)).

"(G) An increase or decrease in the potential overutilization of health care services.

"(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

"(i) whether to order a health care item or service; or

"(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

"(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and

abuse in Federal health care programs (as so defined).

"(b) INTERPRETIVE RULINGS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B (in this section referred to as an 'interpretive ruling').

"(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

"(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling not later than 90 days after receiving a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this clause shall be published in the Federal Register or otherwise made available for public inspection.

"(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision not later than 60 days after receiving such a request and shall identify the reasons for such decision.

"(2) CRITERIA FOR INTERPRETIVE RULINGS.—

"(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

"(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

"(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling (as defined in section 552 of title 5, United States Code) not authorized under this subsection.

"(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

"(c) SPECIAL FRAUD ALERTS.—

"(1) IN GENERAL.—

"(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) (in this subsection referred to as a 'special fraud alert').

"(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

"(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

"(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

"(B) the volume and frequency of the conduct that would be identified in the special fraud alert.".

Subchapter B—Revisions to Current Sanctions for Fraud and Abuse

SEC. 7111. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO HEALTH CARE FRAUD.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO HEALTH CARE FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 1128(b) (42 U.S.C. 1320a-7(b)) is amended to read as follows:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law—

"(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

"(i) in connection with the delivery of a health care item or service, or

"(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

"(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) (42 U.S.C. 1320a-7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) (42 U.S.C. 1320a-7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. 7112. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) (42 U.S.C. 1320a-7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. 7113. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) (42 U.S.C. 1320a-7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection; or

"(B) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. 7114. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. 7115. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner substantially inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section

1876(i)(6) (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary first provides the organization with the reasonable opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1) and the organization fails to develop or implement such a plan;

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an organization has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to the organization's attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—Section 1876(i)(7)(A) (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1996.

SEC. 7116. CLARIFICATION OF AND ADDITIONS TO EXCEPTIONS TO ANTI-KICKBACK PENALTIES.

(a) STUDY.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study evaluating the benefits of volume and combination discounts to the medicare program under title XVIII of the Social Security Act.

(b) CONTENTS OF STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with health care providers and manufacturers, shall specifically examine the issues associated with the discounting or other reductions in price (including reductions in price applied to combinations of items or services or both, and reductions made available as part of capitation, risk sharing, decrease management or similar programs) obtained by a provider of services or other entity under title XVIII of the Social Security Act or a State health care program (as defined in section 1128(h) of such Act).

(2) SPECIFIC EVALUATION AND IDENTIFICATION.—The Secretary shall evaluate the provision of discounts on the medicare program under title XVIII of the Social Security Act and specifically identify mechanisms to assure that the medicare program benefits from such discounts.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall report the findings of the study to the Committees on Finance and the Judiciary of the Senate and the Committees on Ways and Means, Commerce, and the Judiciary of the House of Representatives.

(d) REGULATIONS.—The Secretary shall develop regulations regarding the acceptability of such discounts based on the findings of the study described in this subsection. Such regulations shall not become effective unless such regulations are budget neutral.

SEC. 7117. EFFECTIVE DATE.

The amendments made by this subchapter shall take effect January 1, 1996.

Subchapter C—Administrative and Miscellaneous Provisions

SEC. 7121. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) IN GENERAL.—Title XI (42 U.S.C. 1301 et seq.), as amended by sections 7101 and 7103, is amended by inserting after section 1128D the following new section:

"HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM

"SEC. 1128E. (a) GENERAL PURPOSE.—Not later than January 1, 1996, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

"(b) REPORTING OF INFORMATION.—

"(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

"(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

"(A) The name and TIN (as defined in section 7701(a)(41) of the Internal Revenue Code of 1986) of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

"(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

"(C) The nature of the final adverse action and whether such action is on appeal.

"(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

"(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

"(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

"(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

"(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

"(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

"(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

"(B) procedures in the case of disputed accuracy of the information.

"(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

"(d) ACCESS TO REPORTED INFORMATION.—

"(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

"(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database (other than with respect to requests by Federal agencies). The amount of such a fee shall be sufficient to recover the full costs of operating the database. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

"(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) FINAL ADVERSE ACTION.—

"(A) IN GENERAL.—The term 'final adverse action' includes:

"(i) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service.

"(ii) Federal or State criminal convictions related to the delivery of a health care item or service.

"(iii) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

"(I) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

"(II) any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or

"(III) any other negative action or finding by such Federal or State agency that is publicly available information.

"(iv) Exclusion from participation in Federal or State health care programs.

"(v) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

"(B) EXCEPTION.—The term does not include any action with respect to a malpractice claim.

"(2) PRACTITIONER.—The terms 'licensed health care practitioner', 'licensed practitioner', and 'practitioner' mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means a provider of services as defined in section 1861(u), and any entity, including a health maintenance organization, group medical practice, or any other individual or entity listed by the Secretary in regulation, that provides health care services.

"(4) SUPPLIER.—The term 'supplier' means a supplier of health care items and services described in subsections (a) and (b) of section 1819 and section 1861.

"(5) GOVERNMENT AGENCY.—The term 'Government agency' shall include:

"(A) The Department of Justice.

"(B) The Department of Health and Human Services.

"(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

"(D) State law enforcement agencies.

"(E) State medicaid fraud control units.

"(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

"(6) HEALTH PLAN.—The term 'health plan' has the meaning given such term by section 1128C(c).

"(7) DETERMINATION OF CONVICTION.—For purposes of paragraph (1), the existence of a conviction shall be determined under paragraph (4) of section 1128(j).".

(b) IMPROVED PREVENTION IN ISSUANCE OF MEDICARE PROVIDER NUMBERS.—Section 1842(r) (42 U.S.C. 1395u(r)) is amended by adding at the end the following new sentence: "Under such system, the Secretary may impose appropriate fees on such physicians to cover the costs of investigation and recertification activities with respect to the issuance of the identifiers.".

SEC. 7122. ELIMINATION OF REASONABLE COST REIMBURSEMENT FOR CERTAIN LEGAL FEES.

Section 1861(v)(1)(R) (42 U.S.C. 1395x(v)(1)(R)) is amended by striking "section 1869(b)" and inserting "section 1869(a) or (b)".

Subchapter D—Civil Monetary Penalties

SEC. 7131. SOCIAL SECURITY ACT CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A (42 U.S.C. 1320a–7a) is amended as follows:

(1) In the third sentence of subsection (a), by striking "programs under title XVIII" and inserting "Federal health care programs (as defined in section 1128B(f)(1))".

(2) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a Federal health care program (as defined in section 1128B(f)), the portion of such amounts as is determined to have been paid by the program shall be repaid to the program, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by the Health Care Fraud and Abuse Prevention Act of 1995 (as estimated by the Secretary) shall be deposited into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C).".

(3) In subsection (i)—

(A) in paragraph (2), by striking "title V, XVIII, XIX, or XX of this Act" and inserting "a Federal health care program (as defined in section 1128B(f))",

(B) in paragraph (4), by striking "a health insurance or medical services program under title XVIII or XIX of this Act" and inserting "a Federal health care program (as so defined)", and

(C) in paragraph (5), by striking "title V, XVIII, XIX, or XX" and inserting "a Federal health care program (as so defined)".

(4) By adding at the end the following new subsection:

"(m)(1) For purposes of this section, with respect to a Federal health care program not contained in this Act, references to the Secretary in this section shall be deemed to be references to the Secretary or Administrator of the department or agency with jurisdiction over such program and references to the Inspector General of the Department of Health and Human Services in this section shall be deemed to be references to the Inspector General of the applicable department or agency.

"(2)(A) The Secretary and Administrator of the departments and agencies referred to in paragraph (1) may include in any action pursuant to this section, claims within the jurisdiction of other Federal departments or agencies as long as the following conditions are satisfied:

"(i) The case involves primarily claims submitted to the Federal health care programs of the department or agency initiating the action.

"(ii) The Secretary or Administrator of the department or agency initiating the action gives notice and an opportunity to participate in the investigation to the Inspector General of the department or agency with primary jurisdiction over the Federal health care programs to which the claims were submitted.

"(B) If the conditions specified in subparagraph (A) are fulfilled, the Inspector General of the department or agency initiating the action is authorized to exercise all powers granted under the Inspector General Act of 1978 with respect to the claims submitted to the other departments or agencies to the same manner and extent as provided in that Act with respect to claims submitted to such departments or agencies.".

(b) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(1) by striking "or" at the end of paragraph (1)(D);

(2) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(3) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(4) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(c) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is amended in the matter following paragraph (4)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each day the prohibited relationship occurs" after "false or misleading information was given"; and

(3) by striking "twice the amount" and inserting "3 times the amount".

(d) CLAIM FOR ITEM OR SERVICE BASED ON INCORRECT CODING OR MEDICALLY UNNECESSARY SERVICES.—Section 1128A(a)(1) (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting "claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or has reason to know will result in a greater payment to the person than the code the person knows or has reason to know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person knows or has reason to know is not medically necessary; or".

(e) PERMITTING SECRETARY TO IMPOSE CIVIL MONETARY PENALTY.—Section 1128A(b) (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(f) SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.—Section 1156(b)(3) (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting "up to $10,000 for each instance".

(g) PROCEDURAL PROVISIONS.—Section 1876(i)(6) (42 U.S.C. 1395mm(i)(6)), as amended by section 7115(a)(2), is amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (B)(i) or (C)(i) in the same manner as such provisions apply to a civil money penalty or proceeding under section 1128A(a).".

(h) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a

particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;''.

(2) REMUNERATION DEFINED.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

''(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

''(A) the waiver of coinsurance and deductible amounts by a person, if—

''(i) the waiver is not offered as part of any advertisement or solicitation;

''(ii) the person does not routinely waive coinsurance or deductible amounts; and

''(iii) the person—

''(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

''(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

''(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

''(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all beneficiaries, third party payers, and providers, to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary not later than 180 days after the date of the enactment of the Health Care Fraud and Abuse Prevention Act of 1995; or

''(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations so promulgated.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1996.

Subchapter E—Amendments to Criminal Law

SEC. 7141. HEALTH CARE FRAUD.

(a) IN GENERAL.—

(1) FINES AND IMPRISONMENT FOR HEALTH CARE FRAUD VIOLATIONS.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

''§1347. Health care fraud

''(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice—

''(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

''(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services; shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person may be imprisoned for any term of years.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

''1347. Health care fraud.''.

(b) CRIMINAL FINES DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—The Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. 7142. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

''(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense.

''(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

''(i) section 1347 of this title;

''(ii) section 1128B of the Social Security Act; and

''(iii) sections 287, 371, 664, 666, 669, 1001, 1027, 1341, 1343, 1920, or 1954 of this title if the violation or conspiracy relates to health care fraud.''.

(b) CONFORMING AMENDMENT.—Section 982(b)(1)(A) of title 18, United States Code, is amended by inserting ''or (a)(6)'' after ''(a)(1)''.

(c) PROPERTY FORFEITED DEPOSITED IN FEDERAL HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—After the payment of the costs of asset forfeiture has been made, and notwithstanding any other provision of law, the Secretary of the Treasury shall deposit into the Federal Hospital Insurance Trust Fund pursuant to section 1817(k)(2)(C) of the Social Security Act, as added by section 7101(b), an amount equal to the net amount realized from the forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

(2) COSTS OF ASSET FORFEITURE.—For purposes of paragraph (1), the term ''payment of the costs of asset forfeiture'' means—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited, or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for—

(i) contract services,

(ii) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph;

(B) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Health Care Fraud and Abuse Control Account;

(C) the compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(D) payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(E) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

SEC. 7143. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by inserting ''or'' at the end of subparagraph (B); and

(3) by adding at the end the following new subparagraph:

''(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);''.

(b) FREEZING OF ASSETS.—Section 1345(a)(2) of title 18, United States Code, is amended by inserting ''or a Federal health care offense (as defined in section 982(a)(6)(B))'' after ''title)''.

SEC. 7144. GRAND JURY DISCLOSURE.

Section 3322 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

''(c) A person who is privy to grand jury information concerning a Federal health care offense (as defined in section 982(a)(6)(B))—

''(1) received in the course of duty as an attorney for the Government; or

''(2) disclosed under rule 6(e)(3)(A)(ii) of the Federal Rules of Criminal Procedure;
may disclose that information to an attorney for the Government to use in any investigation or civil proceeding relating to health care fraud.''.

SEC. 7145. FALSE STATEMENTS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

''§1033. False statements relating to health care matters

''(a) Whoever, in any matter involving a health plan, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, in amended by adding at the end the following:

''1033. False statements relating to health care matters.''.

SEC. 7146. OBSTRUCTION OF CRIMINAL INVESTIGATIONS OF FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following new section:

''§1518. Obstruction of criminal investigations of Federal health care offenses

''(a) Whoever willfully prevents, obstructs, misleads, delays or attempts to prevent, obstruct, mislead, or delay the communication of information or records relating to a Federal health care offense to a criminal investigator shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) As used in this section the term 'Federal health care offense' has the same meaning given such term in section 982(a)(6)(B) of this title.

''(c) As used in this section the term 'criminal investigator' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations for prosecutions for violations of health care offenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"1518. Obstruction of Criminal Investigations of Federal Health Care Offenses.".

SEC. 7147. THEFT OR EMBEZZLEMENT.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following new section:

"§669. Theft or embezzlement in connection with health care

"(a) Whoever willfully embezzles, steals, or otherwise willfully and unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health plan, shall be fined under this title or imprisoned not more than 10 years, or both.

"(b) As used in this section the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by adding at the end the following:

"669. Theft or Embezzlement in Connection with Health Care.".

SEC. 7148. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any act or activity constituting an offense involving a Federal health care offense as that term is defined in section 982(a)(6)(B) of this title.".

SEC. 7149. AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.

(a) IN GENERAL.—Chapter 233 of title 18, United States Code, is amended by adding after section 3485 the following new section:

"§3486. Authorized investigative demand procedures

"(a)(1)(A) In any investigation relating to functions set forth in paragraph (2), the Attorney General or designee may issue in writing and cause to be served a subpoena compelling production of any records (including any books, papers, documents, electronic media, or other objects or tangible things), which may be relevant to an authorized law enforcement inquiry, that a person or legal entity may possess or have care, custody, or control.

"(B) A custodian of records may be required to give testimony concerning the production and authentication of such records.

"(C) The production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place; except that such production shall not be required more than 500 miles distant from the place where the subpoena is served.

"(D) Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(E) A subpoena requiring the production of records shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(2) Investigative demands utilizing an administrative subpoena are authorized for any investigation with respect to any act or activity constituting or involving health care fraud, including a scheme or artifice—

"(A) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(B) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control or, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services.

"(b)(1) A subpoena issued under this section may be served by any person designated in the subpoena to serve it.

"(2) Service upon a natural person may be made by personal delivery of the subpoena to such person.

"(3) Service may be made upon a domestic or foreign association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(4) The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

"(c)(1) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which such person carries on business or may be found, to compel compliance with the subpoena.

"(2) The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony required under subsection (a)(1)(B).

"(3) Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(4) All process in any such case may be served in any judicial district in which such person may be found.

"(d) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.

"(e)(1) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

"(2) In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

"(3) Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(f) As used in this section the term 'health plan' has the same meaning given such term in section 1128C(c) of the Social Security Act.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United States Code, is amended by inserting after the item relating to section 3405 the following new item:

"§3486. Authorized investigative demand procedures".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Department of Justice subpoena (issued under section 3486)," after "subpoena".

Subchapter F—State Health Care Fraud Control Units

SEC. 7151. STATE HEALTH CARE FRAUD CONTROL UNITS.

(a) EXTENSION OF CONCURRENT AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL PROGRAMS.—Paragraph (3) of section 2134(b), as added by section 7191(a) of this Act, is amended—

(1) by inserting "(A)" after "in connection with"; and

(2) by striking "plan." and inserting "plan; and (B) upon the approval of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)).".

(b) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE PATIENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Paragraph (4) of section 2134(b), as added by section 7191(a) of this Act, is amended to read as follows:

"(4)(A) The entity has—

"(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the medicaid plan under this title;

"(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

"(iii) where appropriate, procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

"(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

"(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

"(ii) Personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.".

SEC. 7152. BENEFICIARY INCENTIVE PROGRAMS.

(a) PROGRAM TO COLLECT INFORMATION ON FRAUD AND ABUSE.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a program under which the Secretary shall encourage individuals to report to the Secretary information on individuals and entities who are engaging or who have engaged in acts or omissions which constitute grounds for the imposition of a sanction under section 1128, section 1128A, or section 1128B of the Social Security Act, or who have otherwise engaged in fraud and abuse against the medicare program for which there is a sanction provided under law. The program shall discourage provision of, and not consider, information which is frivolous or otherwise not relevant or material to the imposition of such a sanction.

(2) PAYMENT OF PORTION OF AMOUNTS COLLECTED.—If an individual reports information to the Secretary under the program established under paragraph (1) which serves as the basis for the collection by the Secretary or the Attorney General of any amount of at least $100 (other than any amount paid as a penalty under section 1128B of the Social Security Act), the Secretary may pay a portion of the amount

collected to the individual (under procedures similar to those applicable under section 7623 of the Internal Revenue Code of 1986 to payments to individuals providing information on violations of such Code).

(b) PROGRAM TO COLLECT INFORMATION ON PROGRAM EFFICIENCY.—

(1) ESTABLISHMENT OF PROGRAM.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish a program under which the Secretary shall encourage individuals to submit to the Secretary suggestions on methods to improve the efficiency of the medicare program.

(2) PAYMENT OF PORTION OF PROGRAM SAVINGS.—If an individual submits a suggestion to the Secretary under the program established under paragraph (1) which is adopted by the Secretary and which results in savings to the program, the Secretary may make a payment to the individual of such amount as the Secretary considers appropriate.

CHAPTER 7—OTHER PROVISIONS FOR TRUST FUND SOLVENCY

SEC. 7171. NONDISCHARGEABILITY OF CERTAIN MEDICARE DEBTS.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking "; or" at the end of paragraph (12);

(2) by inserting "or" at the end of paragraph (15)(B);

(3) by striking the period at the end of paragraph (16) and inserting "or"; and

(4) by adding at the end the following new paragraph:

"(17) for an overpayment to a provider or supplier made from the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund.".

SEC. 7172. TRANSFERS OF CERTAIN PART B SAVINGS TO HOSPITAL INSURANCE TRUST FUND.

Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following new subsection:

"(j) There are hereby appropriated for each fiscal year to the Federal Hospital Insurance Trust Fund amounts equal to the estimated savings to the general fund of the Treasury for such year resulting from the amendments made by sections 7051 (relating to the part B deductible), 7052 (relating to the part B premium), and 7053 (relating to the part B premium for high-income individuals) of the Balanced Budget Reconciliation Act of 1995. The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the Federal Hospital Insurance Trust Fund amounts equal to such estimated savings in the form of public-debt obligations issued exclusively to the Federal Hospital Insurance Trust Fund.".

Subtitle B—Transformation of the Medicaid Program

SEC. 7190. SHORT TITLE.

This subtitle may be cited as the "Medicaid Transformation Act of 1995".

SEC. 7191. TRANSFORMATION OF MEDICAID PROGRAM.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

"TITLE XXI—MEDICAID PROGRAM FOR LOW-INCOME INDIVIDUALS AND FAMILIES

"TABLE OF CONTENTS OF TITLE

"Sec. 2100. Purpose; State medicaid plans.
"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS
"Sec. 2101. Description of strategic objectives and performance goals.
"Sec. 2102. Annual reports.
"Sec. 2103. Periodic, independent evaluations.
"Sec. 2104. Description of process for medicaid plan development.
"Sec. 2105. Consultation in medicaid plan development.
"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES
"Sec. 2111. Eligibility and benefits.
"Sec. 2112. Set-asides of funds for population groups.
"Sec. 2113. Premiums and cost-sharing.
"Sec. 2114. Description of process for developing capitation payment rates.
"Sec. 2115. Construction.
"Sec. 2116. Treatment of income and resources for certain institutionalized spouses.
"PART C—PAYMENTS TO STATES
"Sec. 2121. Allotment of funds among States.
"Sec. 2122. Payments to States.
"Sec. 2123. Limitation on use of funds; disallowance.
"Sec. 2124. Grant program for community health centers and rural health clinics.
"PART D—PROGRAM INTEGRITY AND QUALITY
"Sec. 2131. Use of audits to achieve fiscal integrity.
"Sec. 2132. Fraud prevention program.
"Sec. 2133. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
"Sec. 2134. State medicaid fraud control units.
"Sec. 2135. Recoveries from third parties and others.
"Sec. 2136. Assignment of rights of payment.
"Sec. 2137. Requirements for nursing facilities.
"Sec. 2138. Other provisions promoting program integrity.
"PART E—ESTABLISHMENT AND AMENDMENT OF MEDICAID PLANS
"Sec. 2151. Submittal and approval of medicaid plans.
"Sec. 2152. Submittal and approval of plan amendments.
"Sec. 2153. Sanctions for substantial noncompliance.
"Sec. 2154. Secretarial authority.
"PART F—GENERAL PROVISIONS
"Sec. 2171. Definitions.
"Sec. 2172. Treatment of territories.
"Sec. 2173. Description of treatment of Indian health programs.
"Sec. 2174. Application of certain general provisions.

"SEC. 2100. PURPOSE; STATE MEDICAID PLANS.

"(a) PURPOSE.—The purpose of this title is to provide funds to States to enable them to provide medical assistance to low-income individuals and families in a more effective, efficient, and responsive manner.

"(b) STATE PLAN REQUIRED.—A State is not eligible for payment under section 2122 of this title unless the State has submitted to the Secretary under part E a plan (in this title referred to as a 'medicaid plan') that—

"(1) sets forth how the State intends to use the funds provided under this title to provide medical assistance to needy individuals and families consistent with the provisions of this title; and

"(2) is approved under such part.

"(c) CONTINUED APPROVAL.—An approved medicaid plan shall continue in effect unless and until—

"(1) the State amends the plan under section 2152;

"(2) the State terminates participation under this title; or

"(3) the Secretary finds substantial noncompliance of the plan with the requirements of this title under section 2153.

"(d) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under part C.

"PART A—OBJECTIVES, GOALS, AND PERFORMANCE UNDER STATE PLANS

"SEC. 2101. DESCRIPTION OF STRATEGIC OBJECTIVES AND PERFORMANCE GOALS.

"(a) DESCRIPTION.—A medicaid plan shall include a description of the strategic objectives and performance goals the State has established for providing health care services to low-income populations under this title, including a general description of the manner in which the plan is designed to meet these objectives and goals.

"(b) CERTAIN OBJECTIVES AND GOALS REQUIRED.—A medicaid plan shall include strategic objectives and performance goals relating to—

"(1) rates of childhood immunizations;

"(2) reductions in infant mortality and morbidity; and

"(3) standards of care and access to services for children with special health care needs as defined by the State.

"(c) CONSIDERATIONS.—In specifying these objectives and goals the State may consider factors such as the following:

"(1) The State's priorities with respect to providing assistance to low-income populations.

"(2) The State's priorities with respect to the general public health and the health status of individuals eligible for assistance under the medicaid plan.

"(3) The State's financial resources, the particular economic conditions in the State, and relative adequacy of the health care infrastructure in different regions of the State.

"(d) PERFORMANCE MEASURES.—To the extent practicable—

"(1) one or more performance goals shall be established by the State for each strategic objective identified in the medicaid plan; and

"(2) the medicaid plan shall describe how program performance will be—

"(A) measured through objective, independently verifiable means, and

"(B) compared against performance goals, in order to determine the State's performance under this title.

"(e) PERIOD COVERED.—

"(1) STRATEGIC OBJECTIVES.—The strategic objectives shall cover a period of not less than 5 years and shall be updated and revised at least every 3 years.

"(2) PERFORMANCE GOALS.—The performance goals shall be established for dates that are not more than 3 years apart.

"SEC. 2102. ANNUAL REPORTS.

"(a) IN GENERAL.—In the case of a State with a medicaid plan that is in effect for part or all of a fiscal year, no later than March 31 following such fiscal year (or March 31, 1998, in the case of fiscal year 1996) the State shall prepare and submit to the Secretary and the Congress a report on program activities and performance under this title for such fiscal year.

"(b) CONTENTS.—Each annual report under this section for a fiscal year shall include the following:

"(1) EXPENDITURE AND BENEFICIARY SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), a summary of all expenditures under the medicaid plan during the fiscal year (and during any portions of fiscal year 1996 during which the medicaid plan was in effect under this title) as follows:

"(i) Aggregate medical assistance expenditures, disaggregated to the extent required to determine compliance with the set-aside requirements of subsections (a) through (c) of section 2112 and to compute the case mix index under section 2121(d)(3).

"(ii) For each general category of eligible individuals specified in subsection (c)(1), aggregate medical assistance expenditures and the total and average number of eligible individuals under the medicaid plan.

"(iii) By each general category of eligible individuals, total expenditures for each of the categories of health care items and services specified in subsection (c)(2) which are covered under the medicaid plan and provided on a fee-for-service basis.

"(iv) By each general category of eligible individuals, total expenditures for payments to capitated health care organizations (as defined in section 2114(c)(1)).

"(v) Total administrative expenditures.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, a summary of—

"(i) all expenditures under the medicaid plan consistent with the reporting format specified by the Medicaid Task Force under section 2106(d)(1); and

"(ii) the total and average number of eligible individuals under the medicaid plan for each general category of eligible individuals.

"(2) UTILIZATION SUMMARY.—

"(A) INITIAL SUMMARY.—For the report for fiscal year 1997 (and, if applicable, fiscal year 1996), summary statistics on the utilization of health care services under the medicaid plan during the year (and during any portions of fiscal year 1996 during which the medicaid plan was in effect under this title) as follows:

"(i) For each general category of eligible individuals and for each of the categories of health care items and services which are covered under the medicaid plan and provided on a fee-for-service basis, the number and percentage of persons who received such a type of service or item during the period covered by the report.

"(ii) Summary of health care utilization data reported to the State by capitated health care organizations.

"(B) SUBSEQUENT SUMMARIES.—For reports for each succeeding fiscal year, summary statistics on the utilization of health care services under the medicaid plan consistent with the reporting format specified by the Medicaid Task Force under section 2106(d)(1).

"(3) ACHIEVEMENT OF PERFORMANCE GOALS.—With respect to each performance goal established under section 2101 and applicable to the year involved—

"(A) a brief description of the goal;

"(B) a description of the methods to be used to measure the attainment of such goal;

"(C) data on the actual performance with respect to the goal;

"(D) a review of the extent to which the goal was achieved, based on such data; and

"(E) if a performance goal has not been met—

"(i) why the goal was not met, and

"(ii) actions to be taken in response to such performance, including adjustments in performance goals or program activities for subsequent years.

"(4) PROGRAM EVALUATIONS.—A summary of the findings of evaluations under section 2103 completed during the fiscal year covered by the report.

"(5) FRAUD AND ABUSE AND QUALITY CONTROL ACTIVITIES.—A general description of the State's activities under part D to detect and deter fraud and abuse and to assure quality of services provided under the program.

"(6) PLAN ADMINISTRATION.—

"(A) A description of the administrative roles and responsibilities of entities in the State responsible for administration of this title.

"(B) Organizational charts for each entity in the State primarily responsible for activities under this title.

"(C) An estimate of the percentage of expenditures to be used for plan administration.

"(D) A brief description of each interstate compact (if any) the State has entered into with other States with respect to activities under this title.

"(E) General citations to the State statutes and administrative rules governing the State's activities under this title.

"(7) INPATIENT HOSPITAL PAYMENTS.—With respect to inpatient hospital services provided under the medicaid plan on a fee-for-service basis, a description of the average amount paid per discharge in the fiscal year compared either to the average charge for such services or to the State's estimate of the average amount paid per discharge by commercial health insurers in the State.

"(c) SPECIAL RULES.—For purposes of this section:

"(1) IDENTIFICATION OF GENERAL CATEGORIES OF INDIVIDUALS.—Each of the following is a general category of eligible individuals:

"(A) Pregnant women.

"(B) Children.

"(C) Blind or disabled adults under retirement age.

"(D) Persons who have attained retirement age.

"(E) Other adults.

"(2) TREATMENT OF HEALTH CARE ITEMS AND SERVICES.—The health care items and services described in each subparagraph of section 2171(a)(1) shall be considered a separate category of health care items and services.

"SEC. 2103. PERIODIC, INDEPENDENT EVALUATIONS.

"(a) IN GENERAL.—During fiscal year 1998 and every third fiscal year thereafter, each State shall provide for an evaluation of the operation of its medicaid plan approved under this title.

"(b) INDEPENDENT.—Each such evaluation with respect to an activity under the medicaid plan shall be conducted by an entity that is neither responsible under State law for the submission of the State plan (or part thereof) nor responsible for administering (or supervising the administration of) the activity. If consistent with the previous sentence, such an entity may be a college or university, a State agency, a legislative branch agency in a State, or an independent contractor.

"(c) RESEARCH DESIGN.—Each such evaluation shall be conducted in accordance with a research design that is based on generally accepted models of survey design and sampling and statistical analysis.

"SEC. 2104. DESCRIPTION OF PROCESS FOR MEDICAID PLAN DEVELOPMENT.

"Each medicaid plan shall include a description of the process under which the plan shall be developed and implemented in the State (consistent with section 2105).

"SEC. 2105. CONSULTATION IN MEDICAID PLAN DEVELOPMENT.

"(a) PUBLIC PROCESS.—

"(1) IN GENERAL.—Before submitting a medicaid plan or a plan amendment described in paragraph (3) to the Secretary under part E, a State shall provide—

"(A) public notice respecting the submittal of the proposed plan or amendment, including a general description of the plan or amendment;

"(B) a means for the public to inspect or obtain a copy (at reasonable charge) of the proposed plan or amendment; and

"(C) an opportunity for submittal and consideration of public comments on the proposed plan or amendment.

The previous sentence shall not apply to a revision of a medicaid plan (or revision of an amendment to a plan) made by a State under section 2153(c)(1) or to a plan amendment withdrawal described in section 2153(c)(4).

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1)(A) for a proposed plan or amendment shall include a description of—

"(A) the general purpose of the proposed plan or amendment, including applicable effective dates;

"(B) where the public may inspect the proposed plan or amendment;

"(C) how the public may obtain a copy of the proposed plan or amendment and the applicable charge (if any) for the copy; and

"(D) how the public may submit comments on the proposed plan or amendment, including any deadlines applicable to consideration of such comments.

"(3) AMENDMENTS DESCRIBED.—An amendment to a medicaid plan described in this paragraph is an amendment which makes a material and substantial change in eligibility under the medicaid plan or the benefits provided under the plan.

"(4) PUBLICATION.—Notices under this subsection may be published (as selected by the State) in one or more daily newspapers of general circulation in the State or in any publication used by the State to publish State statutes or rules.

"(5) COMPARABLE PROCESS.—A separate notice, or notices, shall not be required under this subsection for a State if notice of the medicaid plan or an amendment to the plan will be provided under a process specified in State law that is substantially equivalent to the notice process specified in this subsection.

"(b) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—Each State with a medicaid plan shall establish and maintain an advisory committee.

"(2) CONSULTATION.—The State shall periodically consult with the advisory committee in the development, revision, and monitoring the performance of the medicaid plan, including—

"(A) the development of strategic objectives and performance goals under section 2101;

"(B) the annual report under section 2102; and

"(C) the research design under section 2103(c).

"(3) GEOGRAPHIC DIVERSITY.—The composition of the advisory committee shall be chosen in a manner that assures some representation on the advisory committee of the different general geographic regions of the State. Nothing in the previous sentence shall be construed as requiring proportional representation of geographic areas in a State.

"(4) CONSTRUCTION.—Nothing in this title shall be construed as preventing a State from establishing more than 1 advisory committee, including specialized advisory committees that focus on specific population groups, provider groups, or geographic areas.

"PART B—ELIGIBILITY, BENEFITS, AND SET-ASIDES

"SEC. 2111. ELIGIBILITY AND BENEFITS.

"(a) IN GENERAL.—Each medicaid plan shall—

"(1) be designed to serve all political subdivisions in the State;

"(2) provide for making medical assistance available (subject to the State flexibility described in section 2115) to any pregnant woman or child under the age of 13 whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved;

"(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and

"(4) describe how the State will provide medical assistance to any other population group.

"(b) DESCRIPTION OF GENERAL ELEMENTS.—Each medicaid plan shall include a description (consistent with this title) of the following:

"(1) ELEMENTS RELATING TO ELIGIBILITY.—The general eligibility standards of the plan, including—

"(A) any limitations as to the duration of eligibility;

"(B) any eligibility standards relating to age, income and resources (including any standards relating to spenddowns), residency, disability status, immigration status, or employment status of individuals;

"(C) methods of establishing and continuing eligibility and enrollment, including the methodology for computing family income;

"(D) the eligibility standards in the plan that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of the community spouse; and

"(E) any other standards relating to eligibility for medical assistance under the plan.

"(2) SCOPE OF ASSISTANCE.—The amount, duration, and scope of health care services and items covered under the plan, including differences among different eligible population groups.

"(3) DELIVERY METHOD.—The State's approach to delivery of medical assistance, including a general description of—

"(A) the use (or intended use) of vouchers, fee-for-service, or managed care arrangements (such as capitated health care plans, case management, and case coordination); and

"(B) utilization control systems.

"(4) FEE-FOR-SERVICE BENEFITS.—To the extent that medical assistance is furnished on a fee-for-service basis—

"(A) how the State determines the qualifications of health care providers eligible to provide such assistance; and

"(B) how the State determines rates of reimbursement for providing such assistance.

"(5) COST-SHARING.—Beneficiary cost-sharing (if any), including variations in such cost-sharing by population group or type of service and financial responsibilities of parents of recipients under 19 years of age and the spouses of recipients.

"(6) UTILIZATION INCENTIVES.—Incentives or requirements (if any) to encourage the appropriate utilization of services.

"(7) SUPPORT FOR CERTAIN HOSPITALS.—

"(A) IN GENERAL.—With respect to hospitals described in subparagraph (B) located in the State, as reported to the State by the Secretary, the medicaid plan shall include a description of the extent to which provisions have been made for expenditures for items and services furnished by such hospitals and covered under the plan.

"(B) HOSPITALS DESCRIBED.—

"(i) IN GENERAL.—Except as provided in clause (iii), a hospital described in this subparagraph is a hospital determined to be eligible for purposes of this title in accordance with the criteria described in clause (ii) and such procedures as the Secretary may require, including such reporting requirements as the Secretary determines necessary to ensure continuing eligibility.

"(ii) CRITERIA FOR ELIGIBILITY.—A hospital meets the criteria described in this clause if the hospital is a short-term acute care general hospital or a children's hospital and the hospital's low-income utilization rate exceeds the lesser of—

"(I) 1 standard deviation above the mean low-income utilization rate for hospitals receiving payments under a medicaid plan in the State in which such hospital is located; or

"(II) 1¼ standard deviation above the mean low-income utilization rate for hospitals receiving such payments in all States.

"(iii) SPECIAL ELIGIBILITY.—A hospital not described in clause (i) may be eligible for purposes of this title, if upon application to the Secretary, such hospital is determined by the Secretary to be a hospital which provides essential access to vulnerable populations, offers special services to such populations, or meets other criteria consistent with this title as determined by the Secretary.

"(iv) LOW-INCOME UTILIZATION RATE.—For purposes of clause (i), the term 'low-income utilization rate' means, for a hospital, a fraction (expressed as a percentage), the numerator of which is the hospital's number of patient days attributable to patients who (for such days) were eligible for medical assistance under a medicaid plan or were uninsured in a period, and the denominator of which is the total number of the hospital's patient days in that period.

"(v) PATIENT DAYS.—For purposes of clause (iv), the term 'patient day' includes each day in which—

"(I) an individual, including a newborn, is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere; or

"(II) an individual makes one or more outpatient visits to the hospital.

"(c) IMMUNIZATIONS FOR CHILDREN.—The medicaid plan shall provide medical assistance for immunizations for children eligible for any medical assistance under the medicaid plan, in accordance with a schedule for immunizations established by the Health Department of the State in consultation with the individuals and entities in the State responsible for the administration of the plan.

"(d) FAMILY PLANNING SERVICES.—The medicaid plan shall provide prepregnancy planning services and supplies as specified by the State.

"(e) PREEXISTING CONDITION EXCLUSIONS.—Notwithstanding any other provision of this title—

"(1) a medicaid plan may not deny or exclude coverage of any item or service for an eligible individual for benefits under the medicaid plan for such item or service on the basis of a preexisting condition; and

"(2) if a State contracts or makes other arrangements (through the eligible individual or through another entity) with a capitated health care organization, insurer, or other entity, for the provision of items or services to eligible individuals under the medicaid plan and the State permits such organization, insurer, or other entity to exclude coverage of a covered item or service on the basis of a preexisting condition, the State shall provide, through its medicaid plan, for such coverage (through direct payment or otherwise) for any such covered item or service denied or excluded on the basis of a preexisting condition.

"(f) MENTAL HEALTH SERVICES.—A medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.

"(g) SOLVENCY STANDARDS.—A medicaid plan shall provide that any State law solvency requirements that apply to private sector health plans and providers shall apply to the State medicaid plan and providers under such plan.

"SEC. 2112. SET-ASIDES OF FUNDS FOR POPULATION GROUPS.

"(a) FOR TARGETED LOW-INCOME FAMILIES.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for targeted low-income families (as defined in paragraph (3)) for a fiscal year shall be not less than the minimum low-income-family amount specified in paragraph (2).

"(2) MINIMUM LOW-INCOME-FAMILY AMOUNT.—The minimum low-income-family amount specified in this paragraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits (as defined in subsection (h)) furnished to individuals—

"(A) who (at the time of furnishing the assistance) were under 65 years of age;

"(B) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(C) whose eligibility for such coverage (at such time) was not on a basis directly related to disability status, including being blind.

"(3) TARGETED LOW-INCOME FAMILY DEFINED.—For purposes of this subsection, the term 'targeted low-income family' means a family (which may be an individual)—

"(A) which includes a child or a pregnant woman; and

"(B) the income of which does not exceed 185 percent of the poverty line applicable to a family of the size involved.

"(b) FOR LOW-INCOME ELDERLY.—

"(1) SET-ASIDES.—Subject to subsection (e)—

"(A) GENERAL SET-ASIDE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have attained retirement age for a fiscal year shall be not less than the minimum low-income-elderly percentage specified in paragraph (2)(A) of the total funds expended under the plan for all medical assistance for the fiscal year.

"(B) SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—A medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for medicare cost-sharing described in section 2171(c)(1) for a fiscal year shall be not less than the minimum medicare premium assistance percentage specified in paragraph (2)(B) of the total funds expended under the plan for all medical assistance for the fiscal year. The medicaid plan shall provide priority for making such assistance available for targeted low-income elderly individuals (as defined in paragraph (3)).

"(2) MINIMUM PERCENTAGES.—

"(A) FOR GENERAL SET-ASIDE.—The minimum low-income-elderly percentage specified in this subparagraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 (not including expenditures for such fiscal year taken into account under subparagraph (B)) which was attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(i) whose eligibility for such assistance was based on their being 65 years of age or older; and

"(ii)(I) whose coverage (at such time) under a State plan under title XIX was required under Federal law, or (II) who (at such time) were residents of a nursing facility.

"(B) FOR SET-ASIDE FOR MEDICARE PREMIUM ASSISTANCE.—The minimum medicare premium assistance percentage specified in this subparagraph for a State is equal to 90 percent of the average percentage of the expenditures under title XIX for medical assistance in the State during Federal fiscal years 1993 through 1995 which was attributable to expenditures for medical assistance for medicare premiums described in section 1905(p)(3)(A) for individuals whose coverage (at such time) for such assistance for such premiums under a State plan under title XIX was required under Federal law.

"(3) TARGETED LOW-INCOME ELDERLY INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'targeted low-income elderly individual' means an individual who has attained retirement age and whose income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) FOR LOW-INCOME DISABLED PERSONS.—

"(1) IN GENERAL.—Subject to subsection (e), a medicaid plan shall provide that the amount of funds expended under the plan for medical assistance for eligible low-income individuals who have not attained retirement age and are eligible for such assistance on the basis of a disability, including being blind, for a fiscal year is not less than the minimum low-income-disabled amount specified in paragraph (2).

"(2) MINIMUM LOW-INCOME-DISABLED AMOUNT.—The minimum low-income-disabled amount specified in this paragraph for a State is equal to 85 percent of the expenditures under title XIX for medical assistance in the State during Federal fiscal year 1995 which were attributable to expenditures for medical assistance for mandated benefits furnished to individuals—

"(A) whose coverage (at such time) under a State plan under title XIX was required under Federal law; and

"(B) whose coverage (at such time) was on a basis directly related to disability status, including being blind, and not to age status.

"(d) USE OF RESIDUAL FUNDS.—

"(1) IN GENERAL.—Subject to limitations on payment under section 2123, any funds not required to be expended under the set-asides under the previous subsections may only be expended under the medicaid plan for any of the following:

"(A) ADDITIONAL MEDICAL ASSISTANCE.—Medical assistance for eligible low-income individuals (as defined in section 2171(b)), in addition to any medical assistance made available under a previous subsection.

"(B) MEDICALLY-RELATED SERVICES.—Payment for medically-related services (as defined in paragraph (2)).

"(C) ADMINISTRATION.—Payment for the administration of the medicaid plan.

"(2) MEDICALLY-RELATED SERVICES DEFINED.—For purposes of this title, the term 'medically-related services' means services reasonably related to, or in direct support of, the State's attainment of one or more of the strategic objectives and performance goals established under section 2101, but does not include items and services included on the list under section 2171(a)(1) (relating to the definition of medical assistance).

"(e) COMPUTATIONS.—

"(1) MINIMUM AMOUNTS.—States shall calculate the minimum amounts under subsections (a)(2), (b)(2), and (c)(2) in a reasonable manner consistent with reports submitted to the Secretary for the fiscal years involved.

"(2) EXCLUSION OF PAYMENTS FOR CERTAIN ALIENS.—For purposes of this section, medical assistance attributable to the exception provided under section 1903(v)(2) shall not be considered to be expenditures for medical assistance.

"(f) BENEFITS INCLUDED FOR PURPOSES OF COMPUTING SET ASIDES.—For purposes of this section, the term 'mandated benefits'—

"(1) means medical assistance for items and services described in section 1905(a) to the extent such assistance with respect to such items and services was required to be provided under title XIX; and

"(2) does not include expenditures attributable to disproportionate share payment adjustments described in section 1923.

"SEC. 2113. PREMIUMS AND COST-SHARING.

"(a) IN GENERAL.—Subject to subsection (b), if any charges are imposed under the medicaid plan for cost-sharing (as defined in subsection (d)), such cost-sharing shall be pursuant to a public cost-sharing schedule.

"(b) LIMITATION ON PREMIUM AND CERTAIN COST-SHARING FOR LOW-INCOME FAMILIES INCLUDING CHILDREN OR PREGNANT WOMEN.—

"(1) IN GENERAL.—In the case of a family described in paragraph (2)—

"(A) the plan shall not impose any premium; and

"(B) the plan shall not (except as provided in subsection (c)(1)) impose any cost-sharing with respect to primary and preventive care services (as defined by the State) covered under the medicaid plan for children or pregnant women unless such cost-sharing is nominal in nature.

"(2) FAMILY DESCRIBED.—A family described in this paragraph is a family (which may be an individual) which—

"(A) includes a child or a pregnant woman;

"(B) is made eligible for medical assistance under the medicaid plan; and

"(C) the income of which does not exceed 100 percent of the poverty line applicable to a family of the size involved.

"(c) CERTAIN COST-SHARING PERMITTED.—Nothing in this section shall be construed as preventing a medicaid plan (consistent with subsection (b))—

"(1) from imposing cost-sharing to discourage the inappropriate use of emergency medical services delivered through a hospital emergency room, a medical transportation provider, or otherwise;

"(2) from imposing premiums and cost-sharing differentially in order to encourage the use of primary and preventive care and discourage unnecessary or less economical care;

"(3) from scaling cost-sharing in a manner that reflects economic factors, employment status, and family size;

"(4) from scaling cost-sharing based on the availability to the individual or family of other health insurance coverage; or

"(5) from scaling cost-sharing based on participation in employment training program, drug or alcohol abuse treatment, counseling programs, or other programs promoting personal responsibility.

"(d) COST-SHARING DEFINED.—For purposes of this section, the term 'cost-sharing' includes copayments, deductibles, coinsurance, and other charges for the provision of health care services.

"SEC. 2114. DESCRIPTION OF PROCESS FOR DEVELOPING CAPITATION PAYMENT RATES.

"(a) IN GENERAL.—If a State contracts (or intends to contract) with a capitated health care organization (as defined in subsection (c)(1)) under which the State makes a capitation payment (as defined in subsection (c)(2)) to the organization for providing or arranging for the provision of medical assistance under the medicaid plan for a group of services, including at least inpatient hospital services and physicians' services, the plan shall include a description of the following:

"(1) USE OF ACTUARIAL SCIENCE.—The extent and manner in which the State uses actuarial science—

"(A) to analyze and project health care expenditures and utilization for individuals enrolled (or to be enrolled) in such an organization under the medicaid plan; and

"(B) to develop capitation payment rates, including a brief description of the general methodologies used by actuaries.

"(2) QUALIFICATIONS OF ORGANIZATIONS.—The general qualifications, including any accreditation, State licensure or certification, or provider network standards, required by the State for participation of capitated health care organizations under the medicaid plan.

"(3) DISSEMINATION PROCESS.—The process used by the State under subsection (b) and otherwise to disseminate, before entering into contracts with capitated health care organizations, actuarial information to such organizations on the historical fee-for-service costs (or, if not available, other recent financial data associated with providing covered services) and utilization associated with individuals described in paragraph (1)(A).

"(4) IDENTIFICATION OF ENROLLEES IN CAPITATED HEALTH CARE ORGANIZATIONS.—The method used by the State by which hospitals may identify enrollees in capitated health care organizations for the purposes of qualifying and billing for disproportionate share payments under the medicaid plan approved under this title as described in section 2111(b)(7).

"(b) PUBLIC NOTICE AND COMMENT.—Under the medicaid plan the State shall provide a process for providing, before the beginning of each contract year—

"(1) public notice of—

"(A) the amounts of the capitation payments (if any) made under the plan for the contract year preceding the public notice, and

"(B)(i) the information described under subsection (a)(1) with respect to capitation payments for the contract year involved or (ii) the amounts of the capitation payments the State expects to make for the contract year involved, unless such information is designated as proprietary and not subject to public disclosure under State law; and

"(2) an opportunity for receiving public comment on the amounts and information for which notice is provided under paragraph (1).

"(c) DEFINITIONS.—For purposes of this title:

"(1) CAPITATED HEALTH CARE ORGANIZATION.—The term 'capitated health care organization' means a health maintenance organization or any other entity (including a health insuring organization, managed care organization, prepaid health plan, integrated service network, or similar entity) which under State law is permitted to accept capitation payments for providing (or arranging for the provision of) a group of items and services including at least inpatient hospital services and physicians' services.

"(2) CAPITATION PAYMENT.—The term 'capitation payment' means, with respect to payment, payment on a prepaid capitation basis or any other risk basis to an entity for the entity's provision (or arranging for the provision) of a group of items and services, including at least inpatient hospital services and physicians' services.

"SEC. 2115. CONSTRUCTION.

"(a) STATE FLEXIBILITY IN BENEFITS, PROVIDER PAYMENTS, GEOGRAPHICAL COVERAGE AREA, AND SELECTION OF PROVIDERS.—Nothing in this title (other than subsections (c) and (d) of section 2111) shall be construed as requiring a State—

"(1) to provide medical assistance for any particular items or services;

"(2) to provide for any payments with respect to any specific health care providers or any level of payments for any services;

"(3) to provide for the same medical assistance in all geographical areas or political subdivisions of the State;

"(4) to provide that the medical assistance made available to any individual eligible for medical assistance must not be less in amount, duration, or scope than the medical assistance made available to any other such individual; or

"(5) to provide that any individual eligible for medical assistance with respect to an item or service may choose to obtain such assistance from any institution, agency, or person qualified to provide the item or service.

"(b) STATE FLEXIBILITY WITH RESPECT TO MANAGED CARE.—Nothing in this title shall be construed—

"(1) to limit a State's ability to contract with, on a capitated basis or otherwise, health care *plans or individual health care providers for the provision or arrangement of medical assistance;*

"(2) to limit a State's ability to contract with health care plans or other entities for case management services or for coordination of medical assistance; or

"(3) to restrict a State from establishing capitation rates on the basis of competition among health care plans or negotiations between the State and one or more health care plans.

"SEC. 2116. *TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES.*

"(a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title which is inconsistent with them.

"(2) NO COMPARABLE TREATMENT REQUIRED.—Any different treatment provided under this section for institutionalized spouses shall not require such treatment for other individuals.

"(3) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources; or

"(B) the methodology and standards for determining and evaluating income and resources.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse for purposes of the post-eligibility income determination described in subsection (d), except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title; and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse,

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, ½ of the income shall be considered available to each of them, and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, ½ of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), ½ of the income shall be considered to be available to the institutionalized spouse and ½ to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

"(ii) a spousal share which is equal to ½ of such total value.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under a medicaid plan approved under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse will have a right to a fair hearing under subsection (e)(2).

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for benefits under a medicaid plan approved under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse; and

"(B) resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds the amount computed under subsection (f)(2)(A) (as of the time of application for benefits).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under a medicaid plan approved under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—For purposes of this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613; and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined or redetermined to be eligible for medical assistance under a medicaid plan approved under this title, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in paragraph (2)(A)), in an amount not less than the amount specified in paragraph (2)(B).

"(B) A community spouse monthly income allowance (as defined in subparagraph (3)), but only to the extent income of the institutionalized spouse is made available to, or for the benefit of, the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (4)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse as provided under paragraph (6).

For purposes of subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) PERSONAL NEEDS ALLOWANCE.—

"(A) IN GENERAL.—For purposes of this section, the term 'personal needs allowance' means an allowance—

"(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution; and

"(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in subparagraph (B).

"(B) MINIMUM MONTHLY PERSONAL NEEDS ALLOWANCE.—The minimum monthly personal needs allowance described in this subparagraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

"(3) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—

"(A) IN GENERAL.—For purposes of this section (except as provided in subparagraph (B)), the community spouse monthly income allowance for a community spouse is an amount by which—

"(i) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (4)) for the spouse; exceeds

"(ii) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(B) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(4) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (C), is equal to or exceeds—

"(i) the applicable percent (described in subparagraph (B)) of $1/12$ of the poverty line applicable to a family unit of two members); plus

"(ii) an excess shelter allowance (as defined in paragraph (5)).

A revision of the poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the applicable percent described in this paragraph, effective as of July 1, 1992, is 150 percent.

"(C) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(5) EXCESS SHELTER ALLOWANCE DEFINED.—For purposes of paragraph (4)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence; and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (4)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) INCURRED EXPENSES.—For purposes of this section, with respect to the post-eligibility treatment of income of individuals who are institutionalized or who would otherwise require institutionalization but for the provision of home or community-based services, there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance; and

"(B) necessary medical or remedial care recognized under State law but not covered under the medicaid plan approved under this title, subject to reasonable limits the State may establish on the amount of these expenses.

"(e) NOTICE AND FAIR HEARING.—

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance under a medicaid plan approved under this title of an institutionalized spouse; or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse;

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under this subsection respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(2)(B));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as determined under subsection (f)(2));

such spouse is entitled to a fair hearing with respect to such determination if an application for benefits under a medicaid plan approved under this title has been made on behalf of the institutionalized spouse. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may transfer an amount equal to the community spouse resource allowance (as determined under paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to, or for the sole benefit of, the community spouse. The transfer under the preceding sentence shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DETERMINED.—For purposes of paragraph (1), the community spouse resource allowance for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—For purposes of this section:

"(1) INSTITUTIONALIZED SPOUSE.—The term 'institutionalized spouse' means an individual who is in a medical institution or nursing facility and is married to a spouse who is not in a medical institution or nursing facility. The term does not include any such individual who is not likely to meet the requirements of the preceding sentence for at least 30 consecutive days.

"(2) COMMUNITY SPOUSE.—The term 'community spouse' means the spouse of an institutionalized spouse.

"PART C—PAYMENTS TO STATES

"SEC. 2121. ALLOTMENT OF FUNDS AMONG STATES.

"(a) ALLOTMENTS.—

"(1) COMPUTATION.—The Secretary shall provide for the computation of State obligation and outlay allotments in accordance with this section for each fiscal year beginning with fiscal year 1996.

"(2) LIMITATION ON OBLIGATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not enter into obligations with any State under this title for a fiscal year in excess of the obligation allotment for that State for the fiscal year under paragraph (4). The sum of such obligation allotments for all States in any fiscal year (excluding amounts carried over under subparagraph (B) and excluding changes in allotments effected under paragraph (4)(D)) shall not exceed the aggregate limit on new obligation authority specified in paragraph (3) for that fiscal year.

"(B) ADJUSTMENTS.—

"(i) CARRYOVER OF ALLOTMENT PERMITTED.—If the amount of obligations entered into under this part with a State for quarters in a fiscal year is less than the amount of the obligation allotment under this section to the State for the fiscal year, the amount of the difference shall be added to the amount of the State obligation allotment otherwise provided under this section for the succeeding fiscal year.

"(ii) REDUCTION FOR POST-ENACTMENT NEW OBLIGATIONS UNDER TITLE XIX IN FISCAL YEAR 1996.—The amount of the obligation allotment otherwise provided under this section for fiscal year 1996 for a State shall be reduced by the amount of the obligations entered into with respect to the State under section 1903(a) after the date of the enactment of this title.

"(3) AGGREGATE LIMIT ON NEW OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—For purposes of this subsection, subject to subparagraph (C), the aggregate limit on new obligation authority, for a fiscal year, is the pool amount under subsection (b) for the fiscal year, divided by the payout adjustment factor (described in subparagraph (B)) for the fiscal year.

"(B) PAYOUT ADJUSTMENT FACTOR.—For purposes of this subsection, the payout adjustment factor—

"(i) for fiscal year 1996 is .950;

"(ii) for fiscal year 1997 is .986; and

"(iii) for a subsequent fiscal year is .998.

"(C) TRANSITIONAL ADJUSTMENT FOR PRE-ENACTMENT-OBLIGATION OUTLAYS.—In order to account for pre-enactment-obligation outlays described in paragraph (4)(C)(iv), in determining the aggregate limit on new obligation authority under subparagraph (A) for fiscal year 1996, the pool amount for such fiscal year is equal to—

"(i) the pool amount for such year; reduced by

"(ii) $24.624 billion.

"(4) OBLIGATION ALLOTMENTS.—

"(A) GENERAL RULE FOR 50 STATES AND THE DISTRICT OF COLUMBIA.—Except as provided in this paragraph, the obligation allotment for any of the 50 States or the District of Columbia for a fiscal year (beginning with fiscal year 1997) is an amount that bears the same ratio to the outlay allotment under subsection (c)(2) for such State or District (not taking into account any adjustment due to an election under paragraph (4)) for the fiscal year as the ratio of—

"(i) the aggregate limit on new obligation authority (less the total of the obligation allotments under subparagraph (B)) for the fiscal year; to

"(ii) the pool amount (less the sum of the outlay allotments for the territories) for such fiscal year.

"(B) TERRITORIES.—The obligation allotment for each of the Commonwealths and territories for a fiscal year is the outlay allotment for such Commonwealth or territory (as determined under subsection (c)(5)) for the fiscal year divided by the payout adjustment factor for the fiscal year (as defined in paragraph (3)(B)).

"(C) TRANSITIONAL RULE FOR FISCAL YEAR 1996.—

"(i) IN GENERAL.—The obligation amount for fiscal year 1996 for any State, including the District of Columbia, a Commonwealth, or territory, is determined according to the formula: A=(B-C)/D, where—

"(I) 'A' is the obligation amount for such State;

"(II) 'B' is the outlay allotment of such State for fiscal year 1996 (as determined under subsection (c));

"(III) 'C' is the amount of the pre-enactment-obligation outlays (as established for such State under clause (ii)); and

"(IV) 'D' is the payout adjustment factor for such fiscal year (as defined in paragraph (3)(B)).

"(ii) PRE-ENACTMENT-OBLIGATION OUTLAY AMOUNTS.—Within 30 days after the date of the enactment of this title, the Secretary shall estimate (based on the best data available) and publish in the Federal Register the amount of the pre-enactment-obligation outlays (as defined in clause (iv)) for each State, including the District of Columbia, Commonwealths, and territories. The total of such amounts shall equal the dollar amount specified in paragraph (3)(C)(ii).

"(iii) AGREEMENT.—The submission of a medicaid plan by a State under this title is deemed to constitute the State's acceptance of the obligation allotment limitations under this subsection, including the formula for computing the amount of such obligation allotment.

"(iv) PRE-ENACTMENT-OBLIGATION OUTLAYS DEFINED.—For purposes of this subsection, the term 'pre-enactment-obligation outlays' means, for a State, the outlays of the Federal Government that result from obligations that have been incurred under title XIX with respect to the State before the date of the enactment of this title, but for which payments to States have not been made as of such date of enactment.

"(D) ADJUSTMENT TO REFLECT ADOPTION OF ALTERNATIVE GROWTH FORMULA.—Any State that has elected an alternative growth formula under subsection (c)(4) which increases or decreases the dollar amount of an outlay allotment for a fiscal year is deemed to have increased or decreased, respectively, its obligation amount for such fiscal year by the amount of such increase or decrease.

"(b) POOL OF AVAILABLE FUNDS.—

"(1) IN GENERAL.—For purposes of this section and subject to section 2124, the pool amount under this subsection for—

"(A) fiscal year 1996 is $97,245,440,000;

"(B) fiscal year 1997 is $102,607,730,702;

"(C) fiscal year 1998 is $106,712,039,930;

"(D) fiscal year 1999 is $110,980,521,527;

"(E) fiscal year 2000 is $115,419,742,389;

"(F) fiscal year 2001 is $120,036,532,084;

"(G) fiscal year 2002 is $124,837,993,367; and

"(H) each subsequent fiscal year is the pool amount under this paragraph for the previous fiscal year increased by the lesser of 4 percent or the annual percentage increase in the gross domestic product for the 12-month period ending in June before the beginning of that subsequent fiscal year.

"(2) NATIONAL MEDICAID GROWTH PERCENTAGE.—For purposes of this section for a fiscal year (beginning with fiscal year 1997), the national medicaid growth percentage is the percentage by which—

"(A) the pool amount under paragraph (1) for the fiscal year; exceeds

"(B) such pool amount for the previous fiscal year.

"(c) STATE OUTLAY ALLOTMENTS.—

"(1) FISCAL YEAR 1996.—

"(A) IN GENERAL.—Except as provided in paragraph (6), for each of the 50 States and the District of Columbia, the amount of the State outlay allotment under this subsection for fiscal year 1996, subject to paragraph (4), is 109 percent of—

"(i) the greatest of—

"(I) the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1995,

"(II) 103.379859 percent of the total amount of Federal expenditures made to such State or District under title XIX for the 4 quarters in fiscal year 1994, or

"(III) 95 percent of the total amount of Federal expenditures (minus the amount paid under section 1923) made to such State or District under title XIX for the 4 quarters in fiscal year 1993; multiplied by

"(ii) the scalar factor described in subparagraph (D).

"(B) COMPUTATION OF EXPENDITURES.—The amount of Federal expenditures described in subparagraph (A)(i) shall be computed, using data reported for the appropriate fiscal year on line 11 of the HCFA Form 64.

"(C) LIMITATION ON ADJUSTMENT.—The amount computed under subparagraph (B) shall not be subject to adjustment (based on any subsequent disallowances or otherwise).

"(D) SCALAR FACTOR.—The scalar factor under this subparagraph for fiscal year 1996 is the ratio of $89,216,000,000 to the total amount of Federal expenditures (minus the amount paid under section 1923) made to all States and the District of Columbia for the 4 quarters in fiscal year 1995.

"(2) COMPUTATION OF STATE OUTLAY ALLOTMENTS.—

"(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, the amount of the State outlay allotment under this subsection for each of the 50 States and the District of Columbia for a fiscal year (beginning with fiscal year 1997) is equal to the product of—

"(i) the needs-based amount determined under subparagraph (B) for such State or District for the fiscal year; and

"(ii) the scalar factor described in subparagraph (C) for the fiscal year.

"(B) NEEDS-BASED AMOUNT.—The needs-based amount under this subparagraph for a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the State's or District's aggregate expenditure need for the fiscal year (as determined under subsection (d)); and

"(ii) the State's or District's Federal medical assistance percentage (as determined under section 2122(c) (without regard to paragraph (3)(A)(i) thereof)) for the previous fiscal year (or, in the case of fiscal year 1997, the Federal medical assistance percentage determined under section 1905(b) for fiscal year 1996).

"(C) SCALAR FACTOR.—The scalar factor under this subparagraph for a fiscal year is such proportion so that, when it is applied under subparagraph (A)(ii) for the fiscal year (taking into account the floors and ceilings under paragraph (3)), the total of the outlay allotments under this subsection for all the 50 States and the District of Columbia for the fiscal year (not taking into account any increase or decrease in an outlay allotment for a fiscal year attributable to the election of an alternative growth formula under paragraph (4)) is equal to the amount by which (i) the pool amount for the fiscal year (as determined under subsection (b)), exceeds (ii) the sum of the outlay allotments provided under paragraph (5) for the Commonwealths and territories for the fiscal year.

"(3) FLOORS AND CEILINGS.—

"(A) FLOOR.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be less than the greatest of—

"(I) 102 percent of the amount of the State outlay allotment under this subsection for the preceding fiscal year;

"(II) .26 percent of the pool amount for such fiscal year; or

"(III) in the case of a State or District with an outlay allotment under this subsection for fiscal year 1998 that exceeds 103.8 percent of such State's or District's outlay allotment for 1997, the applicable percentage, as determined under clause (ii), of the amount of the State outlay allotment under this subsection for the preceding fiscal year.

"(ii) APPLICABLE PERCENTAGE.—The applicable percentage determined under this clause is as follows:

"(I) For fiscal year 1999, 104.25 percent.

"(II) For fiscal years 2000 and 2001, 104 percent.

"(III) For fiscal year 2002, 103.4 percent.

"(B) CEILING.—

"(i) IN GENERAL.—In no case shall the amount of the State outlay allotment under paragraph (2) for a fiscal year be greater than the product of—

"(I) the State outlay allotment under this subsection for the State or the District of Columbia for the preceding fiscal year; and

"(II) the applicable percentage of the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year involved.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(II), the applicable percentage is—

"(I) for fiscal year 1997, 125.5 percent;

"(II) for fiscal year 1998, 132 percent;

"(III) for fiscal year 1999, 151 percent;

"(IV) for fiscal year 2000, 156 percent;

"(V) for fiscal year 2001, 144 percent;

"(VI) for fiscal year 2002, 146 percent.

"(4) ELECTION OF ALTERNATIVE GROWTH FORMULA.—

"(A) ELECTION.—In order to reduce variations in increases or decreases in outlay allotments over time, any of the 50 States or the District of Columbia may elect (by notice provided to the

Secretary by not later than April 1, 1996) to adopt an alternative growth rate formula under this paragraph for the determination of such State's or District's outlay allotment in fiscal year 1996 and for the increase or decrease in the amount of such allotment in subsequent fiscal years.

"(B) FORMULA.—The alternative growth formula under this paragraph may be any formula under which—

"(i) a portion of the State outlay allotment for fiscal year 1996 under paragraph (1) is deferred and applied to increase the amount of its outlay allotment for one or more subsequent fiscal years, so long as the total amount of such increases for all such subsequent fiscal years does not exceed the amount of the outlay allotment deferred from fiscal year 1996; or

"(ii) a portion of the State outlay allotment for one or more of the 3 fiscal years immediately following fiscal year 1996 under paragraph (2) is applied to increase the amount of its outlay allotment for fiscal year 1996, so long as the total amount of such increase does not exceed 25 percent of the amount of the outlay allotment for fiscal year 1996 otherwise determined under paragraph (1).

"(5) COMMONWEALTHS AND TERRITORIES.—The outlay allotment for each of the Commonwealths and territories for a fiscal year is the maximum amount that could have been certified under section 1108(c) with respect to the Commonwealth or territory for the fiscal year with respect to title XIX, if the national medicaid growth percentage (as determined under subsection (b)(2)) for the fiscal year had been substituted (beginning with fiscal year 1997) for the percentage increase referred to in section 1108(c)(1)(B).

"(6) SPECIAL RULE.—

"(A) IN GENERAL.—Notwithstanding the preceding paragraphs of this subsection, the State outlay allotment for—

"(i) New Hampshire for each of the fiscal years 1996 through 2000, is $360,000,000; and

"(ii) Louisiana for each of the fiscal years 1996 through 2000, is $2.622 billion.

"(B) EXCEPTION.—A State described in subparagraph (A) may apply to the Secretary for use of the State outlay allotment otherwise determined under this subsection for any fiscal year, if such State notifies the Secretary not later than March 1 preceding such fiscal year that such State will be able to expend sufficient State funds in such fiscal year to qualify for such allotment.

"(d) AGGREGATE EXPENDITURE NEED DETERMINED.—

"(1) IN GENERAL.—For purposes of subsection (c), the aggregate expenditure need for a State or the District of Columbia for a fiscal year is equal to the product of the following 4 factors:

"(A) RESIDENTS IN POVERTY.—The average annual number of residents in poverty of such State or District with respect to the fiscal year (as determined under paragraph (2)).

"(B) CASE MIX INDEX.—The average of the case mix indexes for such State or District (as determined under paragraph (3)) for the 3 most recent fiscal years for which data are available.

"(C) INPUT COST INDEX.—The average of the input cost indexes for such State or District (as determined under paragraph (4)) for the 3 most recent fiscal years for which data are available.

"(D) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—The national average spending per resident in poverty (as determined under paragraph (5)).

"(2) RESIDENTS IN POVERTY.—For purposes of this section:

"(A) IN GENERAL.—The term 'average annual number of residents in poverty' means, with respect to a State or the District of Columbia and a fiscal year, the average annual number of residents in poverty (as defined in subparagraph (B)) in such State or District (based on data made generally available by the Bureau of the Census from the Current Population Survey) for the most recent 3-calendar-year period (ending before the fiscal year) for which such data are available.

"(B) RESIDENT IN POVERTY DEFINED.—The term 'resident in poverty' means an individual described in section 1614(a)(1)(B)(i) whose family income does not exceed 100 percent of the poverty line for the year involved applicable to a family of the size involved threshold.

"(3) CASE MIX INDEX.—

"(A) IN GENERAL.—For purposes of this subsection, the case mix index for a State or the District of Columbia for a fiscal year is equal to—

"(i) the sum of—

"(I) the per recipient expenditures with respect to elderly individuals in such State or District for the fiscal year (determined under subparagraph (B)),

"(II) the per recipient expenditures with respect to the blind and disabled individuals in such State or District for the fiscal year (determined under subparagraph (C)), and

"(III) the per recipient expenditures with respect to other individuals in such State or District (determined under subparagraph (D));

divided by—

"(ii) the national average spending per recipient determined under subparagraph (E) for the fiscal year involved.

"(B) PER RECIPIENT EXPENDITURES FOR THE ELDERLY.—For purposes of subparagraph (A)(I)(i), the per recipient expenditures with respect to elderly individuals in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who have attained retirement age; and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(C) PER RECIPIENT EXPENDITURES FOR THE BLIND AND DISABLED.—For purposes of subparagraph (A)(i)(II), the per recipient expenditures with respect to blind and disabled individuals in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are eligible for medical assistance because such individuals are blind or disabled and under retirement age; and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(D) PER RECIPIENT EXPENDITURES FOR OTHER INDIVIDUALS.—For purposes of subparagraph (A)(i)(III), the per recipient expenditures with respect to other individuals in a State or the District of Columbia for a fiscal year is equal to the product of—

"(i) the national average per recipient expenditures under this title in the 50 States and the District of Columbia for the most recent fiscal year for which data are available for individuals who are not described in subparagraph (B)(i) or (C)(i); and

"(ii) the proportion, of all individuals who received medical assistance under this title in such State or District in the most recent fiscal year referred to in clause (i), that were individuals described in such clause.

"(E) NATIONAL AVERAGE SPENDING PER RECIPIENT.—For purposes of this paragraph, the national average expenditures per recipient for a fiscal year is equal to the sum of—

"(i) the product of (I) the national average described in subparagraph (B)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph;

"(ii) the product of (I) the national average described in subparagraph (C)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph; and

"(iii) the product of (I) the national average described in subparagraph (D)(i), and (II) the proportion, of all individuals who received medical assistance under this title in any of the 50 States or the District of Columbia in the fiscal year referred to in such subparagraph, who are described in such subparagraph.

"(F) DETERMINATION OF NATIONAL AVERAGES AND PROPORTIONS.—

"(i) IN GENERAL.—The national averages per recipient and the proportions referred to in clauses (i) and (ii), respectively, of subparagraphs (B), (C), and (D) and subparagraph (E) shall be determined by the Secretary using the most recent data available.

"(ii) USE OF MEDICAID DATA.—If for a fiscal year there is inadequate data to compute such averages and proportions based on expenditures and numbers of individuals receiving medical assistance under this title, the Secretary may compute such averages based on expenditures and numbers of such individuals under title XIX for the most recent fiscal year for which data are available and, for this purpose—

"(I) any reference in subparagraph (B)(i) to 'individuals who have attained retirement age' is deemed a reference to 'individuals whose eligibility for medical assistance is based on having attained retirement age';

"(II) the reference in subparagraph (C)(i) to 'and under retirement age' shall be considered to be deleted; and

"(III) individuals whose basis for eligibility for medical assistance was reported as unknown shall not be counted as individuals under subparagraph (D)(i).

"(iii) EXPENDITURE DEFINED.—For purposes of this paragraph, the term 'expenditure' means expenditures for medical assistance under the medicaid plan, other than medical assistance attributable to disproportionate share payment adjustments described in section 2111(b)(7) (or section 1923, in the case of fiscal year 1995).

"(4) INPUT COST INDEX.—

"(A) IN GENERAL.—For purposes of this section, the input cost index for a State or the District of Columbia for a fiscal year is the sum of—

"(i) 0.15; and

"(ii) 0.85 multiplied by the ratio of (I) the annual average wages for hospital employees in such State or District for the fiscal year (as determined under subparagraph (B)), to (II) the annual average wages for hospital employees in the 50 States and the District of Columbia for such year (as determined under such subparagraph).

"(B) DETERMINATION OF ANNUAL AVERAGE WAGES OF HOSPITAL EMPLOYEES.—The Secretary shall provide for the determination of annual average wages for hospital employees in a State or the District of Columbia and, collectively, in the 50 States and the District of Columbia for a fiscal year based on the area wage data applicable to hospitals under 1886(d)(2)(E) (or, if such data no longer exists, comparable data of hospital wages) for the fiscal year involved.

"(5) NATIONAL AVERAGE SPENDING PER RESIDENT IN POVERTY.—For purposes of this subsection, the national average spending per resident in poverty—

"(A) for fiscal year 1997 is equal to—

"(i) the sum (for each of the 50 States and the District of Columbia) of the total of the Federal and State expenditures under title XIX for medical assistance for calendar quarters in fiscal year 1995 (other than such expenditures under section 1923), increased by the percentage specified in subsection (c)(1)(A)(ii), divided by

"(ii) the average of the sum of the number of residents in poverty (as defined in paragraph (2)(A)) for all of the 50 States and the District of Columbia for the 3 most recent fiscal years for which data are available, and increased by

"(iii) the national medicaid growth percentage (as defined in subsection (b)(2)) for fiscal year 1997;

"(B) for a succeeding fiscal year is equal to the national average spending per resident in poverty under this paragraph for the preceding fiscal year increased by the national medicaid growth percentage (as so defined) for the fiscal year involved.

"(e) PUBLICATION OF OBLIGATION AND OUTLAY ALLOTMENTS.—

"(1) NOTICE OF PRELIMINARY ALLOTMENTS.—Not later than April 1 before the beginning of each fiscal year (beginning with fiscal year 1997), the Secretary shall initially compute and publish in the Federal Register notice of the proposed obligation and outlay allotments for each State and the District of Columbia under this section (not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of the methodology and data used in deriving such allotments for the year.

"(2) REVIEW BY GAO.—The Comptroller General shall submit to Congress by not later than May 15 of each such fiscal year, a report analyzing such allotments and the extent to which such allotments comply with the precise requirements of this section.

"(3) NOTICE OF FINAL ALLOTMENTS.—Not later than July 1 before the beginning of each such fiscal year, the Secretary, taking into consideration the analysis contained in the report of the Comptroller General under paragraph (2), shall compute and publish in the Federal Register notice of the final allotments under this section (both taking into account and not taking into account subsection (a)(2)(B)) for the fiscal year. The Secretary shall include in the notice a description of any changes in such allotments from the initial allotments published under paragraph (1) for the fiscal year and the reasons for such changes. Once published under this paragraph, the Secretary is not authorized to change such allotments.

"(4) GAO REPORT ON FINAL ALLOTMENTS.—The Comptroller General shall submit to Congress by not later than August 1 of each such fiscal year, a report analyzing the final allotments under paragraph (3) and the extent to which such allotments comply with the precise requirements of this section.

"SEC. 2122. PAYMENTS TO STATES.

"(a) AMOUNT OF PAYMENT.—From the allotment of a State under section 2121, plus any additional amount available to such State under subsection (g) or (h), for a fiscal year, subject to the succeeding provisions of this title, the Secretary shall pay to each State which has a medicaid plan approved under part E, for each quarter in the fiscal year—

"(1) an amount equal to the Federal medical assistance percentage (as defined in subsection (c)) of the total amount expended during such quarter as medical assistance under the plan; plus

"(2) an amount equal to the Federal medical assistance percentage of the total amount expended during such quarter for medically-related services (as defined in section 2112(d)(2)); plus

"(3) an amount equal to—

"(A) 90 percent of the amounts expended during such quarter for the design, development, and installation of information systems and for providing incentives to promote the enforcement of medical support orders, plus

"(B) 75 percent of the amounts expended during such quarter for medical personnel, administrative support of medical personnel, operation and maintenance of information systems, modification of information systems, quality assurance activities, utilization review, medical and peer review, anti-fraud activities, independent evaluations, coordination of benefits, and meeting reporting requirements under this title, plus

"(C) 50 percent of so much of the remainder of the amounts expended during such quarter as are expended by the State in the administration of the State plan.

"(b) PAYMENT PROCESS.—

"(1) QUARTERLY ESTIMATES.—Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) PAYMENT.—

"(A) IN GENERAL.—The Secretary shall then pay to the State, in such installments as the Secretary may determine and in accordance with section 6503(a) of title 31, United States Code, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section (or section 1903) to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection (or under section 1903(d)).

"(B) TREATMENT AS OVERPAYMENTS.—Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 2135.

"(C) RECOVERY OF OVERPAYMENTS.—For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

"(D) NO ADJUSTMENT FOR UNCOLLECTABLES.—In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

"(3) FEDERAL SHARE OF RECOVERIES.—The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

"(4) TIMING OF OBLIGATION OF FUNDS.—Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(5) DISALLOWANCES.—In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

"(c) FEDERAL MEDICAL ASSISTANCE PERCENTAGE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, except as provided in subsection (f), the Federal medical assistance percentage, with respect to each of the 50 States or the District of Columbia, is 100 percent less the State percentage.

"(2) STATE PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State percentage is that percentage which bears the same ratio to 45 percent as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii.

"(B) EXCEPTION.—For purposes of this title only, for Alaska, the State percentage is that percentage which bears the same ratio to 45 percent as the square of the adjusted per capita income of such State bears to the square of the per capita income of the continental United States. For purposes of the preceding sentence, the adjusted per capita income for Alaska shall be determined by dividing the State's most recent 3-year average per capita by the input cost index for such State (as determined in section 2121(d)(4)).

"(3) LIMITATION ON RANGE.—In no case shall the Federal medical assistance percentage be—

"(A) less than—

"(i) 60 percent, or

"(ii) 50 percent, in the case of any other provision of law other than this title; or

"(B) more than 83 percent.

"(4) PROMULGATION.—The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B).

"(d) PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—

"(1) GENERAL LIMITATIONS.—

"(A) REDUCTION IN MEDICAL ASSISTANCE EXPENDITURES.—Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State (as defined in paragraph (5)(D)) under this section for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the medicaid plan (as determined

without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

"(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

"(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

"(II) donations described in paragraph (2)(C);

"(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B)); or

"(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax.

"(B) REDUCTION IN ADMINISTRATIVE EXPENDITURES.—Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a State under this section for all quarters in a Federal fiscal year (beginning with fiscal year 1996), the total amount expended during the fiscal year for administrative expenditures under the medicaid plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the medicaid plan approved under this title during the fiscal year for purposes described in subsection (a)(3).

"(2) PROVIDER-RELATED DONATIONS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'provider-related donation' means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

"(i) a health care provider (as defined in paragraph (5)(B));

"(ii) an entity related to a health care provider (as defined in paragraph (5)(C)); or

"(iii) an entity providing goods or services under the State plan for which payment is made to the State under subsection (a)(3).

"(B) BONA FIDE PROVIDER-RELATED DONATIONS.—For purposes of paragraph (1)(A)(i)(I), the term 'bona fide provider-related donation' means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

"(C) DONATIONS DESCRIBED.—For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under a medicaid plan approved under this title and to provide outreach services to eligible or potentially eligible individuals.

"(3) HEALTH CARE RELATED TAXES.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'health care related tax' means a tax (as defined in paragraph (5)(F)) that—

"(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services; or

"(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

"(B) BROAD-BASED HEALTH CARE RELATED TAX.—For purposes of this subsection, the term 'broad-based health care related tax' means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (5)(A)) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

"(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

"(ii) is imposed uniformly (in accordance with subparagraph (C)).

"(C) UNIFORM IMPOSITION OF TAX.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

"(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

"(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, or the number of patient days or other unit of service, the amount of the tax is the same for each bed, or each unit of service, of each provider of such items or services in the class;

"(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items or services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

"(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

"(ii) DETERMINATION OF NONUNIFORMITY.—Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or provides for a hold harmless provision described in paragraph (4).

"(D) EXCEPTIONS TO NONUNIFORMITY DETERMINATIONS.—A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

"(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a medicaid plan approved under this title or title XVIII; or

"(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a medicaid plan approved under this title or title XVIII.

"(E) WAIVER APPLICATION FOR TREATMENTS AS BROAD-BASED TAX.—

"(i) IN GENERAL.—A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraph (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

"(ii) WAIVER APPROVAL REQUIREMENTS.—The Secretary shall approve such an application if the State establishes to the satisfaction of the Secretary that—

"(I) the net impact of the tax and associated expenditures under the medicaid plan approved under this title as proposed by the State is generally redistributive in nature; and

"(II) the amount of the tax is not directly correlated to payments under such plan for items or services with respect to which the tax is imposed.

"(iii) DETERMINATION OF REDISTRIBUTIVE NATURE.—In determining whether a tax for which a waiver is sought is generally redistributive in nature, the Secretary shall, if requested by the State—

"(I) compare the tax to a tax that meets any of the uniformity requirements of subparagraphs (C) or (D); and

"(II) consider in the aggregate all classes (or providers) of health care items or services that are subject to the same tax.

"(iv) TERM OF WAIVER.—A tax for which the Secretary has approved an application for waiver shall not be subject to the requirements of a further waiver application solely because a change in the rate of tax.

"(F) TREATMENT OF MANAGED CARE PREMIUMS.—No tax on the payment or receipt of premiums or similar periodic payments to health maintenance organizations or health care insurers shall be treated as a health care related tax unless and until the Secretary, after consultation with the States pursuant to section 5(c) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, adopts a final regulation specifically subjecting such taxes, or any of such taxes, to the provisions of this subsection.

"(4) HOLD HARMLESS DETERMINATION.—For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

"(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under a medicaid plan approved under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the medicaid plan.

"(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

"(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax.

Notwithstanding the provisions of this paragraph, no hold harmless shall be found to be in effect with respect to a tax enacted or extended prior to October 1, 1995, because of the existence in the State of a program of financial aid or of tax credits for recipients of health care items or services from providers that are subject to an otherwise valid health care related tax.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

"(A) CLASSES OF HEALTH CARE ITEMS AND SERVICES.—Each of the following shall be considered a separate class of health care items and services:

"(i) Inpatient hospital services.

"(ii) Outpatient hospital services.

"(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

"(iv) Services of intermediate care facilities for the mentally retarded.

"(v) Physicians' services.

"(vi) Home health care services.

"(vii) Outpatient prescription drugs.

"(viii) Services of health maintenance organizations (and other organizations with contracts under section 2114) not otherwise subject to a tax described in this subsection.

"(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

"(B) HEALTH CARE PROVIDER.—The term 'health care provider' means an individual or person that receives payments for the provision of health care items or services.

"(C) RELATED ENTITIES.—An entity is considered to be 'related' to a health care provider if the entity—

"(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

"(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

"(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

"(iv) has a similar, close relationship (as defined in regulations) to the provider.

"(D) STATE.—The term 'State' means only the 50 States and the District of Columbia.

"(E) STATE FISCAL YEAR.—The 'State fiscal year' means, with respect to a specified year, a State fiscal year ending in that specified year.

"(F) TAX.—The term 'tax' includes any licensing fee, assessment, or other mandatory payment, but does not include any fee or charge associated with a State regulatory, authorizing, financial assistance, or other program in which health care providers are eligible to participate, or payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

"(G) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.

"(6) CERTAIN IMPOSITION OF HEALTH CARE RELATED TAXES PROHIBITED.—No payment may be made to a State under this section with respect to State expenditures attributable to health care related taxes or broad-based health care related taxes imposed on hospitals described in section 501(c)(3) of the Internal Revenue Code of 1986 which do not accept reimbursement under a medicaid plan.

"(e) TREATMENT OF STATE EXPENDITURES.—

"(1) IN GENERAL.—No payment may be made to a State under this section unless such State provides not less than 40 percent of the non-Federal share of the expenditures under the medicaid plan.

"(2) TREATMENT OF CERTAIN EXPENDITURES.—In determining State expenditures under this section:

"(A) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—Such expenditures shall not include funding supplanted by transfers from other State and local programs.

"(B) EXCLUSION OF FEDERAL AMOUNTS.—Such expenditures shall not include amounts made available by the Federal Government and any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under this title.

"(f) SPECIAL RULES.—For purposes of this title:

"(1) COMMONWEALTHS AND TERRITORIES.—In the case of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa, the Federal medical assistance percentages are 50 percent.

"(2) INDIAN HEALTH PROGRAMS.—The Federal medical assistance percentages shall be 100 percent with respect to the amounts expended as medical assistance for services which are provided by—

"(A) the Indian Health Service;

"(B) an Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service under authority of the Indian Self-Determination Act (25 U.S.C. 450 et seq.); or

"(C) an urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service under authority of title V of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"(3) NO STATE MATCHING REQUIRED FOR CERTAIN EXPENDITURES.—In applying subsection (a)(1) with respect to medical assistance provided to unlawful aliens pursuant to the exception specified in section 2123(f)(2), payment shall be made for the amount of such assistance without regard to any need for a State match.

"(4) SPECIAL RULE.—

"(A) IN GENERAL.—Notwithstanding subsection (a), in order to receive the full State outlay allotment described in section 2121(c)(6), a State shall expend State funds in a fiscal year under a medicaid plan approved under this title in an amount not less than the adjusted base year State expenditures, plus an applicable percentage of the difference between such expenditures and the amount necessary to qualify for the full State outlay allotment so described in such fiscal year as determined under this section without regard to this paragraph.

"(B) REDUCTION IN ALLOTMENT IF EXPENDITURE LIMIT NOT MET.—In the event a State fails to expend State funds in an amount required by subparagraph (A) for a fiscal year, the outlay allotment described in section 2121(c)(6) for such year shall be reduced by an amount which bears the same ratio to such outlay allotment as the State funds expended in such fiscal year bears to the amount required by subparagraph (A).

"(C) ADJUSTED BASE YEAR STATE EXPENDITURES.—For purposes of this paragraph, the term 'adjusted base year State expenditures' means—

"(i) for New Hampshire, $203,000,000; and

"(ii) for Louisiana, $355,000,000.

"(D) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage for any fiscal year is specified in the following table:

"Fiscal year:	Applicable Percentage:
1996	20
1997	40
1998	60
1999	80
2000	100.

"(g) CARRYOVER AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) CARRYOVER OF ALLOTMENT PERMITTED.—

"(A) IN GENERAL.—If the amount of the payment to a State under this section for a fiscal year does not exceed—

"(i) the amount of the allotment provided to such State under section 2121 for such fiscal year, plus

"(ii) subject to subparagraph (B), the amount available to the State for such fiscal year (other than amounts available under paragraph (2)) resulting from the application of this subparagraph in the preceding fiscal year,

then the amount of the difference shall be added to the amount of the allotment otherwise provided under section 2121 for the succeeding fiscal year.

"(B) MAXIMUM CARRYOVER AMOUNT.—With respect to each fiscal year, the maximum amount of the difference described in subparagraph (A) which may be added to the allotment otherwise provided under section 2121 to a State may not exceed the total amount for the 2 immediately preceding fiscal years of the difference in each such fiscal year between the payment to a State under this section and the amount of the allotment provided under section 2121.

"(2) EXCESS AMOUNTS REALLOCATED.—

"(A) IN GENERAL.—The sum of the amounts in excess of the maximum carryover amounts determined under paragraph (1)(B) for any fiscal year for all of the 50 States and the District of Columbia shall be available for payment in such fiscal year to qualified States on a quarterly basis as otherwise determined under this section.

"(B) QUALIFIED STATE.—For purposes of subparagraph (A), in the case of any fiscal year, a qualified State is a State—

"(i) with a State outlay allotment under section 2121 which is—

"(I) subject to the ceiling determined under section 2121(c)(3)(B) for the fiscal year,

"(II) not subject to such ceiling or to the floor determined under section 2121(c)(3)(A), or

"(III) subject to such floor;

"(ii) which has no amount of difference as determined under paragraph (1) for any preceding fiscal year which may be added to the amount of the allotment provided under section 2121 for the fiscal year; and

"(iii) which applies for payments under subparagraph (A) in such manner as the Secretary determines.

"(C) ALLOCATION RULES.—For any fiscal year, in the event the total amount of payments applied for by all qualified States under subparagraph (B) exceeds the excess amount available for such fiscal year under subparagraph (A), the Secretary shall allocate such payments among groups of qualified States in the following order:

"(i) All qualified States described in subparagraph (B)(i)(I).

"(ii) All qualified States described in subparagraph (B)(i)(II).

"(iii) All qualified States described in subparagraph (B)(i)(III).

If such excess amount is not sufficient with respect to any group of qualified States, the Secretary shall allocate such payments proportionately among the qualified States in such group.

"(h) ADDITIONAL AMOUNTS AVAILABLE FOR PAYMENT.—

"(1) APPROPRIATION.—There is hereby authorized to be appropriated and there are appropriated additional amounts described in paragraph (2) which shall be paid to the States described in such paragraph and may be used without fiscal year limitation.

"(2) ADDITIONAL AMOUNTS DESCRIBED.—The additional amounts described in this paragraph are as follows:

"(A) For Arizona, $63,000,000.

"(B) For Florida, $250,000,000.

"(C) For Georgia, $34,000,000.

"(D) For Kentucky, $76,500,000.

"(E) For South Carolina, $181,000,000.

"(F) For Washington, $250,000,000.

"(G) For Vermont, $50,000,000.

"SEC. 2123. LIMITATION ON USE OF FUNDS; DISALLOWANCE.

"(a) IN GENERAL.—Funds provided to a State under this title shall only be used to carry out the purposes of this title.

"(b) DISALLOWANCES FOR EXCLUDED PROVIDERS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for expenditures for items and services furnished—

"(A) by a provider who was excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2); or

"(B) under the medical direction or on the prescription of a physician who was so excluded, if the provider of the services knew or had reason to know of the exclusion.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Paragraph (1) shall not apply to emergency items or services, not including hospital emergency room services.

"(c) LIMITATION.—No Federal financial assistance is available for expenditures under the medicaid plan for medically-related services for a quarter to the extent such expenditures exceed 5 percent of the total expenditures under the plan for the quarter.

"(d) TREATMENT OF THIRD PARTY LIABILITY.—No payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its medicaid plan to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

"(e) MEDICAID AS SECONDARY PAYER.—Except as otherwise provided by law, no payment shall be made to a State under this part for expenditures for medical assistance provided for an individual under its medicaid plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care program, other than a program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this subsection, rules similar to the rules for overpayments under section 2122(b) shall apply.

"(f) LIMITATION ON PAYMENTS TO EMERGENCY SERVICES FOR NONLAWFUL ALIENS.—

"(1) IN GENERAL.—Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment shall be made to a State under this part for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) EXCEPTION FOR EMERGENCY SERVICES.—Payment may be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien;

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the medicaid plan (other than a requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment); and

"(C) such care and services are not related to an organ transplant procedure.

"(3) EMERGENCY MEDICAL CONDITION DEFINED.—For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy;

"(B) serious impairment to bodily functions; or

"(C) serious dysfunction of any bodily organ or part.

"(g) UNAUTHORIZED USE OF FUNDS.—No payment shall be made to a State under this part with respect to State expenditures—

"(1) to purchase or improve land or construct or remodel buildings;

"(2) to pay basic room and board costs, except when provided as part of a temporary, respite care service in a facility approved by the State which is not a private residence;

"(3) to provide educational services which the State makes generally available to its residents without cost and without regard to income; or

"(4) to provide vocational rehabilitation or other employment training and related services which are available to eligible individuals through other Federal, State or local programs and funding sources.

"SEC. 2124. GRANT PROGRAM FOR COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.

"(a) IN GENERAL.—From the pool amount determined under section 2121(b)(1) for a fiscal year, the Secretary shall set aside an amount equal to 1 percent of such amount.

"(b) USE OF FUNDS.—Fifty percent of the amount set aside by the Secretary under subsection (a) shall only be used for grants for primary and preventive health care services provided at rural health clinics (as defined in section 1861(aa)(2)) and 50 percent of such amount shall only be used for grants for such services provided at Federally-qualified health centers (as defined in section 1861(aa)(4)).

"(c) GRANT AMOUNTS.—The Secretary shall provide the methodology for determining the amount of each grant made under subsection (b).

"PART D—PROGRAM INTEGRITY AND QUALITY

"SEC. 2131. USE OF AUDITS TO ACHIEVE FISCAL INTEGRITY.

"(a) FINANCIAL AUDITS OF PROGRAM.—

"(1) IN GENERAL.—Each medicaid plan shall provide for an annual audit of the State's expenditures from amounts received under this title, in compliance with chapter 75 of title 31, United States Code.

"(2) VERIFICATION AUDITS.—If, after consultation with the State and the Comptroller General and after a fair hearing, the Secretary determines that a State's audit under paragraph (1) was performed in substantial violation of chapter 75 of title 31, United States Code, the Secretary may—

"(A) require that the State provide for a verification audit in compliance with such chapter; or

"(B) conduct such a verification audit.

"(3) AVAILABILITY OF AUDIT REPORTS.—Within 30 days after completion of each audit or verification audit under this subsection, the State shall—

"(A) provide the Secretary with a copy of the audit report, including the State's response to any recommendations of the auditor; and

"(B) make the audit report available for public inspection in the same manner as proposed medicaid plan amendments are made available under section 2105.

"(b) FISCAL CONTROLS.—

"(1) IN GENERAL.—With respect to the accounting and expenditure of funds under this title, each State shall adopt and maintain such fiscal controls, accounting procedures, and data processing safeguards as the State deems reasonably necessary to assure the fiscal integrity of the State's activities under this title.

"(2) CONSISTENCY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—Such controls and procedures shall be generally consistent with generally accepted accounting principles as recognized by the Governmental Accounting Standards Board or the Comptroller General.

"(c) AUDITS OF PROVIDERS.—Each medicaid plan shall provide that the records of any entity providing items or services for which payment may be made under the plan may be audited as necessary to ensure that proper payments are made under the plan.

"SEC. 2132. FRAUD PREVENTION PROGRAM.

"(a) ESTABLISHMENT.—Each medicaid plan shall provide for the establishment and maintenance of an effective program for the detection and prevention of fraud and abuse by beneficiaries, providers, and others in connection with the operation of the program.

"(b) PROGRAM REQUIREMENTS.—The program established pursuant to subsection (a) shall include at least the following requirements:

"(1) DISCLOSURE OF INFORMATION.—Any disclosing entity (as defined in section 1124(a)) receiving payments under the medicaid plan shall comply with the requirements of section 1124.

"(2) SUPPLY OF INFORMATION.—An entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, an item or service under the medicaid plan shall supply upon request specifically addressed to the entity by the Secretary or the State agency the information described in section 1128(b)(9).

"(3) EXCLUSION.—

"(A) IN GENERAL.—The medicaid plan shall exclude any specified individual or entity from participation in the plan for the period specified by the Secretary when required by the Secretary to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period.

"(B) AUTHORITY.—In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the medicaid plan for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII or under section 1128, 1128A, or 1866(b)(2).

"(4) NOTICE.—The medicaid plan shall provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the plan, the State agency responsible for administering the plan shall promptly notify the Secretary and, in the case of a physician, the State medical licensing board of such action.

"(5) ACCESS TO INFORMATION.—The medicaid plan shall provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 2133.

"SEC. 2133. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

"(a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 2132(b)(5) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State

(or of a political subdivision thereof) responsible for the licensing of health care practitioners (or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners) or entities:

''(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

''(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

''(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

''(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.

''(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

''(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

''(1) to agencies administering Federal health care programs, including private entities administering such programs under contract;

''(2) to licensing authorities described in subsection (a)(1);

''(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h));

''(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts;

''(5) to State medicaid fraud control units (as defined in section 2134(b));

''(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act);

''(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate; and

''(8) upon request, to the Comptroller General, in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

''(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

''(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986 and section 1128E.

"SEC. 2134. STATE MEDICAID FRAUD CONTROL UNITS.

''(a) IN GENERAL.—Each medicaid plan shall provide for a State medicaid fraud control unit that effectively carries out the functions and requirements described in such subsection, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.

''(b) UNITS DESCRIBED.—For purposes of this section, the term 'State medicaid fraud control unit' means a single identifiable entity of the State government which meets the following requirements:

''(1) ORGANIZATION.—The entity—

''(A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

''(B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures that—

''(i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution, and

''(ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

''(C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

''(2) INDEPENDENCE.—The entity is separate and distinct from any State agency that has principal responsibilities for administering or supervising the administration of the medicaid plan.

''(3) FUNCTION.—The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance under the medicaid plan.

''(4) REVIEW OF COMPLAINTS.—The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the medicaid plan approved under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

''(5) OVERPAYMENTS.—

''(A) IN GENERAL.—The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the medicaid plan to health care providers and that are discovered by the entity in carrying out its activities.

''(B) TREATMENT OF CERTAIN OVERPAYMENTS.—If an overpayment is the direct result of the failure of the provider (or the provider's billing agent) to adhere to a change in the State's billing instructions, the entity may recover the overpayment only if the entity demonstrates that the provider (or the provider's billing agent) received reasonable written or electronic notice of the change in the billing instructions before the submission of the claims on which the overpayment is based.

''(6) PERSONNEL.—The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

"SEC. 2135. RECOVERIES FROM THIRD PARTIES AND OTHERS.

''(a) THIRD PARTY LIABILITY.—Each medicaid plan shall provide for reasonable steps—

''(1) to ascertain the legal liability of third parties to pay for care and services available under the plan, including the collection of sufficient information to enable States to pursue claims against third parties; and

''(2) to seek reimbursement for medical assistance provided to the extent legal liability is established if the amount expected to be recovered exceeds the costs of the recovery.

''(b) BENEFICIARY PROTECTION.—

''(1) IN GENERAL.—Each medicaid plan shall provide that in the case of a person furnishing services under the plan for which a third party may be liable for payment—

''(A) the person may not seek to collect from the individual (or financially responsible relative) payment of an amount for the service more than could be collected under the plan in the absence of such third party liability; and

''(B) may not refuse to furnish services to such an individual because of a third party's potential liability for payment for the service.

''(2) PENALTY.—A medicaid plan may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to 3 times the amount of any payment sought to be collected by that person in violation of paragraph (1)(A).

''(c) GENERAL LIABILITY.—The State shall prohibit any health insurer, including a group health plan as defined in section 607 of the Employee Retirement Income Security Act of 1974, a service benefit plan, or a health maintenance organization, in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a medicaid plan for any State.

''(d) ACQUISITION OF RIGHTS OF BENEFICIARIES.—To the extent that payment has been made under a medicaid plan in any case where a third party has a legal liability to make payment for such assistance, the State shall have in effect laws under which, to the extent that payment has been made under the plan for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services.

''(e) ASSIGNMENT OF MEDICAL SUPPORT RIGHTS.—The medicaid plan shall provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients in accordance with section 2136.

''(f) REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT.—

''(1) IN GENERAL.— Each State with a medicaid plan shall have in effect the following laws:

''(A) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

''(i) the child was born out of wedlock;

"(ii) the child is not claimed as a dependent on the parent's Federal income tax return; or

"(iii) the child does not reside with the parent or in the insurer's service area.

"(B) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, such a child unless the insurer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(C) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(i) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(ii) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(iii) not to disenroll, or eliminate coverage of, any such child unless—

"(I) the employer is provided satisfactory written evidence that such court or administrative order is no longer in effect, or the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(II) the employer has eliminated family health coverage for all of its employees; and

"(iv) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(D) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under a medicaid plan approved under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(E) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(i) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(ii) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(iii) to make payment on claims submitted in accordance with clause (ii) directly to such custodial parent, the provider, or the State agency.

"(F) A law that permits the State agency under the medicaid plan approved under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(i) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under a medicaid plan approved under this title;

"(ii) has received payment from a third party for the costs of such services to such child; but

"(iii) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(2) DEFINITION.—For purposes of this subsection, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.

"(g) ESTATE RECOVERIES AND LIENS PERMITTED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State may take such actions as it considers appropriate to adjust or recover from the individual or the individual's estate any amounts paid as medical assistance to or on behalf of the individual under the medicaid plan, including through the imposition of liens against the property or estate of the individual.

"(2) NO LIEN ON HOMES OR FAMILY FARMS.—For purposes of paragraph (1), a State may not impose a lien on the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of moderate value or the family farm owned by the individual as a condition of the spouse of the individual receiving nursing facility or other long term care benefits under its medicaid plan.

"SEC. 2136. ASSIGNMENT OF RIGHTS OF PAYMENT.

"(a) IN GENERAL.—For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the medicaid plan, each medicaid plan shall—

"(1) provide that, as a condition of eligibility for medical assistance under the plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

"(A) to assign the State any rights, of the individual or of any other person who is eligible for medical assistance under the plan and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party,

"(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is a pregnant woman or the individual is found to have good cause for refusing to cooperate as determined by the State, and

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State; and

"(2) provide for entering into cooperative arrangements, including financial arrangements, with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 454(3)) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the plan with respect to—

"(A) the enforcement and collection of rights to support or payment assigned under this section, and

"(B) any other matters of common concern.

"(b) USE OF AMOUNTS COLLECTED.—Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

"(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, subsection (b) shall be effective on and after January 1, 1996.

"SEC. 2137. REQUIREMENTS FOR NURSING FACILITIES.

"(a) REQUIREMENTS FOR NURSING FACILITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 1919, as in effect on the day after the date of the enactment of this title shall apply to nursing facilities which furnish services under the State plan.

"(2) WAIVER FOR STATES WITH STRICTER REQUIREMENTS.—

"(A) AUTHORITY TO SEEK WAIVER.—Any State with State law requirements for nursing facilities that, as determined by the Secretary—

"(i) are equivalent to or stricter than the requirements imposed under paragraph (1); and

"(ii) contain State oversight and enforcement authority over nursing facilities, including penalty provisions, that are equivalent to or stricter than such oversight and enforcement authority in section 1919, as so in effect,

may apply to the Secretary for a waiver of the requirements imposed under paragraph (1).

"(B) 120-DAY APPROVAL PERIOD.—The Secretary shall approve or deny an application submitted under subparagraph (A) not later than 120 days after the date the application is submitted.

"(C) APPROVAL AFTER PUBLIC COMMENT.—The Secretary shall approve or deny an application for a waiver under subparagraph (A) after providing for public comment on such application during the 120-day approval period.

"(D) NO WAIVER OF ENFORCEMENT.—A State granted a waiver under subparagraph (A) shall be subject to—

"(i) the penalty described in subsection (b);

"(ii) suspension or termination, as determined by the Secretary, of the waiver granted under subparagraph (A); and

"(iii) any other authority available to the Secretary to enforce the requirements of section 1919, as so in effect.

"(b) PENALTY FOR NONCOMPLIANCE.—For any fiscal year, the Secretary shall withhold up to but not more than 2 percent of the State outlay allotment under section 2121(c) for such fiscal year if the Secretary makes a determination that a State medicaid plan has failed to comply with a provision of section 1919, as so in effect, or *any State law requirements applicable to such plan under a waiver granted under subsection (a)(2)(A).*

"SEC. 2138. OTHER PROVISIONS PROMOTING PROGRAM INTEGRITY.

"(a) PUBLIC ACCESS TO SURVEY RESULTS.—Each medicaid plan shall provide that upon completion of a survey of any health care facility or organization by a State agency to carry out the plan, the agency shall make public in readily available form and place the pertinent findings of the survey relating to the compliance of the facility or organization with requirements of law.

"(b) RECORD KEEPING.—Each medicaid plan shall provide for agreements with persons or institutions providing services under the plan under which the person or institution agrees—

"(1) to keep such records, including ledgers, books, and original evidence of costs, as are necessary to fully disclose the extent of the services provided to individuals receiving assistance under the plan; and

"(2) to furnish the State agency with such information regarding any payments claimed by such person or institution for providing services under the plan, as the State agency may from time to time request.

"PART E—ESTABLISHMENT AND AMENDMENT OF MEDICAID PLANS

"SEC. 2151. SUBMITTAL AND APPROVAL OF MEDICAID PLANS.

"(a) SUBMITTAL.—As a condition of receiving funding under part C, each State shall submit to the Secretary a medicaid plan that meets the applicable requirements of this title.

"(b) APPROVAL.—Except as the Secretary may provide under section 2153, a medicaid plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title; and

"(2) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than the first calendar quarter that begins at least 60 days after the date the plan is submitted.

"SEC. 2152. SUBMITTAL AND APPROVAL OF PLAN AMENDMENTS.

"(a) SUBMITTAL OF AMENDMENTS.—A State may amend, in whole or in part, its medicaid plan at any time through transmittal of a plan amendment under this section.

"(b) APPROVAL.—Except as the Secretary may provide under section 2153, an amendment to a medicaid plan submitted under subsection (a)—

"(1) shall be approved for purposes of this title; and

"(2) shall be effective as provided in subsection (c).

"(c) EFFECTIVE DATES FOR AMENDMENTS.—

"(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, an amendment to medicaid plan shall take effect on one or more effective dates specified in the amendment.

"(2) AMENDMENTS RELATING TO ELIGIBILITY OR BENEFITS.—Except as provided in paragraph (4):

"(A) NOTICE REQUIREMENT.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior or contemporaneous public notice of the change, in a form and manner provided under applicable State law.

"(B) TIMELY TRANSMITTAL.—Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

"(3) OTHER AMENDMENTS.—Subject to paragraph (4), any plan amendment that is not described in paragraph (2) that becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

"(4) EXCEPTION.—The requirements of paragraphs (2) and (3) shall not apply to a plan amendment that is submitted on a timely basis pursuant to a court order or an order of the Secretary.

"SEC. 2153. SANCTIONS FOR SUBSTANTIAL NONCOMPLIANCE.

"(a) PROMPT REVIEW OF PLAN SUBMITTALS.—The Secretary shall promptly review medicaid plans and plan amendments submitted under this part to determine if they substantially comply with the requirements of this title.

"(b) DETERMINATIONS OF SUBSTANTIAL NONCOMPLIANCE.—

"(1) AT TIME OF PLAN OR AMENDMENT SUBMITTAL.—

"(A) IN GENERAL.—If the Secretary, during the 30-day period beginning on the date of submittal of a medicaid plan or plan amendment—

"(i) determines that the plan or amendment substantially violates (within the meaning of subsection (c)) a requirement of this title; and

"(ii) provides written notice of such determination to the State,

the Secretary shall issue an order specifying that the plan or amendment, insofar as it is in substantial violation of such a requirement, shall not be effective, except as provided in subsection (c), beginning at the end of a period of not less than 30 days (or 120 days in the case of the initial submission of the medicaid plan) specified in the order beginning on the date of the notice of the determination.

"(B) EXTENSION OF TIME PERIODS.—The time periods specified in subparagraph (A) may be extended by written agreement of the Secretary and the State involved.

"(2) VIOLATIONS IN ADMINISTRATION OF PLAN.—

"(A) IN GENERAL.—If the Secretary determines, after reasonable notice and opportunity for a hearing for the State, that in the administration of a medicaid plan there is a substantial violation of a requirement of this title, the Secretary shall provide the State with written notice of the determination and with an order to remedy such violation. Such an order shall become effective prospectively, as specified in the order, after the date of receipt of such written notice. Such an order may include the withholding of funds, consistent with subsection (f), for parts of the medicaid plan affected by such violation, until the Secretary is satisfied that the violation has been corrected.

"(B) EFFECTIVENESS.—If the Secretary issues an order under paragraph (1), the order shall become effective, except as provided in subsection (c), beginning at the end of a period (of not less than 30 days) specified in the order beginning on the date of the notice of the determination to the State.

"(C) TIMELINESS OF DETERMINATIONS RELATING TO REPORT-BASED COMPLIANCE.—The Secretary shall make determinations under this paragraph respecting violations relating to information contained in an annual report under section 2102, an independent evaluation under section 2103, or an audit report under section 2131 not later than 30 days after the date of transmittal of the report or evaluation to the Secretary.

"(3) CONSULTATION WITH STATE.—Before making a determination adverse to a State under this section, the Secretary shall (within any time periods provided under this section)—

"(A) reasonably consult with the State involved;

"(B) offer the State a reasonable opportunity to clarify the submission and submit further information to substantiate compliance with the requirements of this title; and

"(C) reasonably consider any such clarifications and information submitted.

"(4) JUSTIFICATION OF ANY INCONSISTENCIES IN DETERMINATIONS.—If the Secretary makes a determination under this section that is, in whole or in part, inconsistent with any previous determination issued by the Secretary under this title, the Secretary shall include in the determination a detailed explanation and justification for any such difference.

"(5) SUBSTANTIAL VIOLATION DEFINED.—For purposes of this title, a medicaid plan (or amendment to such a plan) or the administration of the medicaid plan is considered to 'substantially violate' a requirement of this title if a provision of the plan or amendment (or an omission from the plan or amendment) or the administration of the plan—

"(A) is material and substantial in nature and effect; and

"(B) is inconsistent with an express requirement of this title.

A failure to meet a strategic objective or performance goal (as described in section 2101) shall not be considered to substantially violate a requirement of this title.

"(c) STATE RESPONSE TO ORDERS.—

"(1) STATE RESPONSE BY REVISING PLAN.—

"(A) IN GENERAL.—Insofar as an order under subsection (b)(1) relates to a substantial violation by a medicaid plan or plan amendment, a State may respond (before the date the order becomes effective) to such an order by submitting a written revision of the plan or plan amendment to substantially comply with the requirements of this part.

"(B) REVIEW OF REVISION.—In the case of submission of such a revision, the Secretary shall promptly review the submission and shall withhold any action on the order during the period of such review.

"(C) SECRETARIAL RESPONSE.—The revision shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the revision, that the plan or amendment, as proposed to be revised, still substantially violates a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(D) REVISION RETROACTIVE.—If the revision provides for substantial compliance, the revision may be treated, at the option of the State, as being effective either as of the effective date of the provision to which it relates or such later date as the State and Secretary may agree.

"(2) STATE RESPONSE BY SEEKING RECONSIDERATION OR AN ADMINISTRATIVE HEARING.—A State may respond to an order under subsection (b) by filing a request with the Secretary for—

"(A) a reconsideration of the determination, pursuant to subsection (d)(1); or

"(B) a review of the determination through an administrative hearing, pursuant to subsection (d)(2).

In such case, the order shall not take effect before the completion of the reconsideration or hearing.

"(3) STATE RESPONSE BY CORRECTIVE ACTION PLAN.—

"(A) IN GENERAL.—In the case of an order described in subsection (b)(2) that relates to a substantial violation in the administration of the medicaid plan, a State may respond to such an order by submitting a corrective action plan with the Secretary to correct deficiencies in the administration of the plan which are the subject of the order.

"(B) REVIEW OF CORRECTIVE ACTION PLAN.—In such case, the Secretary shall withhold any action on the order for a period (not to exceed 30 days) during which the Secretary reviews the corrective action plan.

"(C) SECRETARIAL RESPONSE.—The corrective action plan shall be considered to have corrected the deficiency (and the order rescinded insofar as it relates to such deficiency) unless the Secretary determines and notifies the State in writing, within 15 days after the date the Secretary receives the corrective action plan, that the State's administration of the medicaid plan, as proposed to be corrected in the plan, will still substantially violate a requirement of this title. In such case the State may respond by seeking reconsideration or a hearing under paragraph (2).

"(4) STATE RESPONSE BY WITHDRAWAL OF PLAN AMENDMENT; FAILURE TO RESPOND.—Insofar as an order relates to a substantial violation in a plan amendment submitted, a State may respond to such an order by withdrawing the plan amendment and the medicaid plan shall be treated as though the amendment had not been made.

"(d) ADMINISTRATIVE REVIEW AND HEARING.—

"(1) RECONSIDERATION.—Within 30 days after the date of receipt of a request under subsection (b)(2)(A), the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse the original determination within 60 days of the conclusion of the hearing.

"(2) ADMINISTRATIVE HEARING.—Within 30 days after the date of receipt of a request under subsection (b)(2)(B), an administrative law judge shall schedule a hearing for the purpose of reviewing the Secretary's determination. The hearing shall be held not less than 20 days nor more than 60 days after the date notice of the hearing is furnished to the State, unless the Secretary and the State agree in writing to holding the hearing at another time. The administrative law judge shall affirm, modify, or reverse the determination within 60 days of the conclusion of the hearing.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—A State which is dissatisfied with a final determination made by the Secretary under subsection (d)(1) or a final determination of an administrative law judge under subsection (d)(2) may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which the State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary and, in the case of a determination under subsection (d)(2), to the administrative law judge involved. The Secretary (or judge involved) thereupon shall file in the court the record of the proceedings on which the final determination was based, as provided in section 2112 of title 28, United States Code.

"(2) STANDARD FOR REVIEW.—The findings of fact by the Secretary or administrative law judge, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary or judge to take further evidence, and the Secretary or judge may thereupon make new or modified findings of fact and may modify a previous determination, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION OF APPELLATE COURT.—The court shall have jurisdiction to affirm the action of the Secretary or judge or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(f) WITHHOLDING OF FUNDS.—

"(1) IN GENERAL.—Any order under this section relating to the withholding of funds shall be effective not earlier than the effective date of the order and shall only relate to the portions of a medicaid plan or administration thereof which substantially violate a requirement of this title. In the case of a failure to meet a set-aside requirement under section 2112, any withholding shall only apply to the extent of such failure.

"(2) SUSPENSION OF WITHHOLDING.—The Secretary may suspend withholding of funds under paragraph (1) during the period reconsideration or administrative and judicial review is pending under subsection (d) or (e).

"(3) RESTORATION OF FUNDS.—Any funds withheld under this subsection under an order shall be immediately restored to a State—

"(A) to the extent and at the time the order is—

"(i) modified or withdrawn by the Secretary upon reconsideration,

"(ii) modified or reversed by an administrative law judge, or

"(iii) set aside (in whole or in part) by an appellate court; or

"(B) when the Secretary determines that the deficiency which was the basis for the order is corrected;

"(C) when the Secretary determines that violation which was the basis for the order is resolved or the amendment which was the basis for the order is withdrawn; or

"(D) at any time upon the initiative of the Secretary.

"SEC. 2154. SECRETARIAL AUTHORITY.

"(a) NEGOTIATED AGREEMENT AND DISPUTE RESOLUTION.—

"(1) NEGOTIATIONS.—Nothing in this part shall be construed as preventing the Secretary and a State from at any time negotiating a satisfactory resolution to any dispute concerning the approval of a medicaid plan (or amendments to a medicaid plan) or the compliance of a medicaid plan (including its administration) with requirements of this title.

"(2) COOPERATION.—The Secretary shall act in a cooperative manner with the States in carrying out this title. In the event of a dispute between a State and the Secretary, the Secretary shall, whenever practicable, engage in informal dispute resolution activities in lieu of formal enforcement or sanctions under section 2153.

"(b) LIMITATIONS ON DELEGATION OF DECISION-MAKING AUTHORITY.—The Secretary may not delegate (other than to the Administrator of the Health Care Financing Administration) the authority to make determinations or reconsiderations respecting the approval of medicaid plans (or amendments to such plans) or the compliance of a medicaid plan (including its administration) with requirements of this title. Such Administrator may not further delegate such authority to any individual, including any regional official of such Administration.

"(c) REQUIRING FORMAL RULEMAKING FOR CHANGES IN SECRETARIAL ADMINISTRATION.—The Secretary shall carry out the administration of the program under this title only through a prospective formal rulemaking process, including issuing notices of proposed rule making, publishing proposed rules or modifications to rules in the Federal Register, and soliciting public comment.

"PART F—GENERAL PROVISIONS

"SEC. 2171. DEFINITIONS.

"(a) MEDICAL ASSISTANCE.—

"(1) IN GENERAL.—For purposes of this title, except as provided in paragraphs (2) and (3), the term 'medical assistance' means payment of part or all the cost of any of the following for eligible low-income individuals (as defined in subsection (b)) as specified under the medicaid plan:

"(A) Inpatient hospital services.

"(B) Outpatient hospital services.

"(C) Physician services.

"(D) Surgical services.

"(E) Clinic services and other ambulatory health care services.

"(F) Nursing facility services.

"(G) Intermediate care facility services for the mentally retarded.

"(H) Prescription drugs and biologicals.

"(I) Over-the-counter medications.

"(J) Laboratory and radiological services.

"(K) Family planning services and supplies.

"(L) Acute inpatient mental health services, including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services in the case of a child.

"(M) Outpatient and intensive community-based mental health services, including psychiatrist rehabilitation, day treatment, intensive in-home services for children, and partial hospitalization.

"(N) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).

"(O) Disposable medical supplies.

"(P) Home and community-based services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).

"(Q) Community supported living arrangements.

"(R) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.

"(S) Dental services.

"(T) Inpatient substance abuse treatment services and residential substance abuse treatment services.

"(U) Outpatient substance abuse treatment services.

"(V) Case management services.

"(W) Care coordination services.

"(X) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

"(Y) Hospice care.

"(Z) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and if the service is—

"(i) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

"(ii) performed under the general supervision or at the direction of a physician, or

"(iii) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

"(AA) Premiums for private health care insurance coverage, including private long-term care insurance coverage.

"(BB) Medical transportation.

"(CC) Medicare cost-sharing (as defined in subsection (c)).

"(DD) Enabling services (such as transportation, translation, and outreach services) designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

"(EE) Any other health care services or items specified by the Secretary.

"(2) EXCLUSION OF CERTAIN PAYMENTS.—Such term does not include the payment with respect to care or services for—

"(A) any individual who is an inmate of a public institution (except as a patient in a State psychiatric hospital); and

"(B) any individual who is not an eligible low-income individual.

"(3) CLARIFICATION OF VACCINE PURCHASES.—Such term includes, for any fiscal year, payment for the purchase of vaccines through contracts negotiated with the Centers for Disease Control and Prevention under section 317 of the Public Health Service Act, but only if—

"(A) the State has expended all grant funds available for such purchase under such section 317 for all fiscal years preceding such fiscal year; and

"(B) the total number of doses of each vaccine purchased during such year does not exceed—

"(i) the number of doses of each vaccine sufficient to immunize, according to the immunization schedule specified by the State, the annual birth cohort of children in targeted low-income families (as defined in section 2112(a)(3)), less

"(ii) 75 percent of the number of doses of each vaccine purchased by the State during the preceding fiscal year with funds available under such section 317.

"(b) ELIGIBLE LOW-INCOME INDIVIDUAL.—For purposes of this title, the term 'eligible low-income individual' means an individual who has been determined eligible by the State for medical assistance under the medicaid plan and whose family income (as determined under the plan) does not exceed a percentage (specified in the medicaid plan and not to exceed 250 percent) of the poverty line applicable to a family of the size involved. In determining the amount of income under the previous sentence, a State may exclude costs incurred for medical care or other types of remedial care recognized by the State. The Secretary may waive this section at the request of the State for any category of individuals who, as of the date of enactment of this title, would have qualified for coverage under section 1915(c) and 1902(e)(3).

"(c) MEDICARE COST-SHARING.—For purposes of this title, the term 'medicare cost-sharing' means any of the following:

"(1)(A) Premiums under section 1839.

"(B) Premiums under section 1818 or 1818A.

"(2) Coinsurance under title XVIII, including coinsurance described in section 1813.

"(3) Deductibles established under title XVIII, including those described in section 1813 and section 1833(b).

"(4) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

"(5) Premiums for enrollment of an individual with an eligible organization under section 1876 or with a Medicare Choice organization under part D of title XVIII.

"(d) ADDITIONAL DEFINITIONS.—For purposes of this title:

"(1) CHILD.—The term 'child' means an individual under 19 years of age.

"(2) POVERTY LINE DEFINED.—The term 'poverty line' has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by such section).

"(3) PREGNANT WOMAN.—The term 'pregnant woman' includes a woman during the 60-day period beginning on the last day of the pregnancy.

"(4) RETIREMENT AGE.—The term 'retirement age' has the meaning given such term by section 216(l)(1).

"SEC. 2172. TREATMENT OF TERRITORIES.

"Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program for a State other than the 50 States and the District of Columbia, other than a waiver of—

"(1) the Federal medical assistance percentage;

"(2) the limitation on total payments in a fiscal year to the amount of the allotment under section 2121(c); or

"(3) the requirement that payment may be made for medical assistance only with respect to amounts expended by the State for care and services described in paragraph (1) of section 2171(a) and medically-related services (as defined in section 2112(d)(2)).

"SEC. 2173. DESCRIPTION OF TREATMENT OF INDIAN HEALTH PROGRAMS.

"In the case of a State in which one or more Indian health programs described in section 2122(f)(2) are operated, the medicaid plan shall include a description of—

"(1) what provision (if any) has been made for payment for items and services furnished by such programs; and

"(2) the manner in which medical assistance for low-income eligible individuals who are Indians will be provided, as determined by the State in consultation with the appropriate Indian tribes and tribal organizations.

"SEC. 2174. APPLICATION OF CERTAIN GENERAL PROVISIONS.

"The following sections in part A of title XI shall apply to States under this title in the same manner as they applied to a State under title XIX:

"(1) Section 1101(a)(1) (relating to definition of State).

"(2) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with the provisions of part C.

"(3) Section 1124 (relating to disclosure of ownership and related information).

"(4) Section 1126 (relating to disclosure of information about certain convicted individuals).

"(5) Section 1132 (relating to periods within which claims must be filed).".

(b) ANTI-FRAUD PROVISIONS.—

(1) IN GENERAL.—Section 1128(h)(1) (42 U.S.C. 1320a-7(h)(1)) is amended by inserting "or a medicaid plan under title XXI" after "title XIX".

(2) PENALTIES FOR THE FRAUDULENT CONVERSION OF ASSETS IN ORDER TO OBTAIN MEDICAID BENEFITS.—Section 1128B(b) (42 U.S.C. 1320a-7b(b)) is amended by striking "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) knowingly and willfully converts assets, by transfer (including any transfer in trust), aiding in such a transfer, or otherwise, in order for an individual to become eligible for benefits under a State health care program,".

(3) CONTINUED ROLE OF INSPECTOR GENERAL.—The Inspector General in the Department of Health and Human Services shall have the same responsibilities and duties in relation to fraud and abuse and related matters under the medicaid program under title XXI of the Social Security Act as such Inspector General has had in relation to the medicaid program under title XIX of such Act before the date of the enactment of this Act.

(c) CERTIFIED AMOUNT FOR PUERTO RICO.—Paragraph (1) of section 1108(c) (42 U.S.C. 1308(c)) is amended by striking "$116,500,000 for fiscal year 1994" and inserting "$200,000,000 for fiscal year 1996".

(d) TERMINATION OF PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

(1) IN GENERAL.—Subject to paragraph (2), section 1928 (42 U.S.C. 1396s) is repealed, effective on the date of the enactment of this Act.

(2) TRANSITION.—

(A) NO EFFECT ON CERTAIN DISTRIBUTIONS.—Such repeal shall not affect the distribution of vaccines purchased and delivered to the States before the date of the enactment of this Act.

(B) NO PURCHASES AFTER ENACTMENT.—No vaccine may be purchased after the date of the enactment of this Act by the Federal Government or any State under section 1928(d) of the Social Security Act.

(e) TERMINATION OF CURRENT PROGRAM; LIMITATION ON MEDICAID PAYMENTS IN FISCAL YEAR 1996.—

(1) IN GENERAL.—Title XIX is amended—

(A) by redesignating section 1931 as section 1932; and

(B) by inserting after section 1930 the following new section:

"TERMINATION OF PROGRAM; LIMITATION ON NEW OBLIGATION AUTHORITY

"SEC. 1931. (a) LIMITATION ON OBLIGATION AUTHORITY.—Notwithstanding any other provision of this title—

"(1) AFTER ENACTMENT, BEFORE NEW MEDICAID.—Subject to paragraph (2), the Secretary is authorized to enter into obligations with any State under this title for expenses incurred after the date of the enactment of this section and during fiscal year 1996, but not in excess of the obligation allotment for that State for fiscal year 1996 under section 2121(a)(4)(C).

"(2) NONE AFTER NEW MEDICAID.—The Secretary is not authorized to enter into any obligation with any State under this title for expenses incurred on or after the earlier of—

"(A) October 1, 1996; or

"(B) the first day of the first quarter on which the State plan under title XXI is first effective.

"(3) AGREEMENT.—A State's submission of claims for payment under section 1903 after the date of the enactment of this section with respect to which the limitation described in paragraph (1) applies is deemed to constitute the State's acceptance of the obligation limitation under such paragraph, including the formula for computing the amount of such obligation limitation.

"(b) REQUIREMENT FOR TIMELY SUBMITTAL OF CLAIMS.—No payment shall be made to a State under this title with respect to an obligation incurred before the date of the enactment of this section, unless the State has submitted to the Secretary, by not later than June 30, 1996, a claim for Federal financial participation for expenses paid by the State with respect to such obligations. Nothing in subsection (a) or (b) shall be construed as affecting the obligation of the Federal Government to pay claims described in the previous sentence.".

(2) REPEAL OF TITLE.—Title XIX is repealed effective October 1, 1996.

(f) MEDICAID TRANSITION.—

(1) TREATMENT OF CERTAIN CAUSES OF ACTION.—No cause of action under title XIX of the Social Security Act which seeks to require a State to establish or maintain minimum payment rates under such title or claim which seeks reimbursement for any period before the date of the enactment of this Act based on the alleged failure of the State to comply with title XIX and which has not become final as of such date shall be brought or continued.

(2) TREATMENT OF CERTAIN DISALLOWANCES.—Notwithstanding any provision of law, in the case where payment has been made under section 1903(a) of the Social Security Act to a State before October 1, 1995, and for which a disallowance has not been taken as of such date (or, if so taken, has not been completed (including judicial review) by such date), the Secretary of Health and Human Services shall discontinue the disallowance proceeding and, if such disallowance has been taken as of the date of the enactment of this Act, any payment reductions

effected shall be rescinded and the payments returned to the State.

(3) EXTENSION OF MORATORIUM.—Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993, is amended by striking "December 31, 1995" and inserting "the first day of the first quarter on which the medicaid plan for the State of Michigan is first effective under title XXI of such Act".

(g) NO APPLICATION OF PRIOR MEDICAID JUDGMENTS TO NEW MEDICAID PROGRAM.—No judicial or administrative decision rendered regarding requirements imposed under title XIX of the Social Security Act with respect to a State shall have any application to the medicaid plan of the State title XXI of such Act. A State may, pursuant to the previous sentence, seek the abrogation or modification of any such decision after the date of termination of the State plan under title XIX of such Act.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of, and amendments made by, sections 7191 and 7192.

(2) TRANSITIONAL RULE.—Any reference in any provision of law to title XIX of the Social Security Act or any provision thereof shall be deemed to be a reference to such title or provision as in effect on the day before the date of the enactment of this Act.

SEC. 7192. MEDICAID DRUG REBATE PROGRAM.

(a) IN GENERAL.—Title XXI, as added by section 7191, is amended—

(1) in section 2123, by adding at the end the following new subsection:

"(j) LIMITATION ON PAYMENT FOR CERTAIN OUTPATIENT PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—No payment shall be made to a State under this part for medical assistance for covered outpatient drugs (as defined in section 2175(j)(2)) of a manufacturer provided under the medicaid plan unless the manufacturer (as defined in section 2175(j)(5)) of the drug—

"(A) has entered into a medicaid rebate agreement with the Secretary under section 2175; and

"(B) is otherwise complying with the provisions of such section.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State to participate in the medicaid rebate agreement under section 2175.

"(3) USE OF SUPPLEMENTAL REBATES PROHIBITED.—No payment shall be made under this part to a State that requires manufacturer rebates for covered outpatient drugs (as so defined) in excess of the rebate amount payable under section 2175."; and

(2) by adding at the end the following new section:

"SEC. 2175. MEDICAID DRUG REBATE AGREEMENTS.

"(a) REQUIREMENT FOR REBATE AGREEMENT.—

"(1) IN GENERAL.—Pursuant to section 2123(j), in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with a manufacturer), and must meet the requirements of paragraph (5) (with respect to drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992 and paragraph (6). Any such agreement entered into prior to May 1, 1991, shall be deemed to have been entered into on January 1, 1991, and the amount of the rebate to be paid by the manufacturer under such agreement shall be calculated as if the agreement had been entered into on January 1, 1991. If a manufacturer has not entered into such an agreement before May 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall apply to drugs dispensed under this title on or after January 1, 1991, except that such paragraph shall not apply to drugs dispensed before May 1, 1991, if the Secretary determines that there were extenuating circumstances with respect to the first calendar quarter of 1991.

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug if—

"(A) the State has made a determination that the availability of such drug is essential to the health of beneficiaries under the medicaid plan;

"(B) the drug has been given a rating of 1–A or 1–P by the Food and Drug Administration; and

"(C)(i) the physician has obtained approval for the use of the drug in advance of dispensing such drug in accordance with a prior authorization program described in subsection (d)(5), or

"(ii) the Secretary has reviewed and approved the State's determination under subparagraph (A).

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1) shall not apply to the dispensing of a covered outpatient drug if (A)(i) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the medicaid plan for medical assistance; (ii) such drug has been given a rating of 1-A by the Food and Drug Administration; and (iii)(I) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (II) the Secretary has reviewed and approved the State's determination under subparagraph (A); or (B) the Secretary determines that in the first calendar quarter of 1991, there were extenuating circumstances.

"(4) EFFECT ON EXISTING AGREEMENTS.—

"(A) IN GENERAL.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of title IV of the Omnibus Budget Reconciliation Act of 1990, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in effect under this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement and such agreement provides for a minimum aggregate rebate of 10 percent of the sum of the amounts determined under subparagraph (B) for all of the manufacturer's drugs paid for by the State under the agreement. If, after the initial agreement period, the State establishes to the satisfaction of the Secretary that an agreement in effect on the date of the enactment of title IV of the Omnibus Budget Reconciliation Act of 1990 provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

"(B) AMOUNT DETERMINED.—The amount determined under this subparagraph with respect to a manufacturer's drug paid for by a State under an agreement described in the first sentence of subparagraph (A) is an amount equal to the product of—

"(i) the average manufacturer's price for such drug; and

"(ii) the number of dosage units of such drug paid for by the State under such agreement.

"(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) Each covered entity shall inform the single State agency under this title when it is seeking reimbursement from the medicaid plan for medical assistance with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment title VI of the Veterans Health Care Act of 1992, and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

"(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 of title 38, United States Code, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(C) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of title VI of the Veterans Health Care Act of 1992) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after such enactment.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each medicaid plan approved under this title, a rebate for a rebate period in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed after December 31, 1990, for which payment was made under the medicaid plan for such period. Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount expended under the medicaid plan in the quarter for medical assistance for purposes of this title.

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each rebate period and in a form consistent with a standard reporting format established by the Secretary, information on the total number of units of each dosage form and strength and package size of each covered outpatient drug dispensed after December 31, 1990, for which payment was made under the plan for the period, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each rebate period under the agreement (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (j)(1)) and, for single source drugs and innovator multiple source drugs, the manufacturer's best price (as defined in subsection (c)(1)(C)) for each covered outpatient drug for the rebate period under the agreement; and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (j)(1)) as of October 1, 1990, for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $10,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information by the Secretary in connection with a survey under this subparagraph. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury. If such information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section, or a wholesaler or direct seller, that knowingly provides false information under subparagraph (A) or (B) is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Any such civil money penalty shall be in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii) is confidential and shall not be disclosed by the Secretary or the Secretary of Veterans Affairs or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler or the prices charged for drugs by such manufacturer or wholesaler, except—

"(i) as the Secretary determines to be necessary to carry out this section;

"(ii) to permit the Comptroller General to review the information provided; and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than 1 year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination. Failure of a State to provide any advance notice of such a termination as required by regulation shall not affect the State's right to terminate coverage of the drugs affected by such termination as of the effective date of such termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until the calendar quarter beginning at least 60 days after the date the manufacturer provides notice to the Secretary.

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of agreements described in section 340B(a)(1) of the Public Health Service Act and master agreements described in section 8126(a) of title 38, United States Code.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(5) SETTLEMENT OF DISPUTES.—

"(A) SECRETARY.—The Secretary shall have the authority to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section.

"(B) STATE.—Each State, with respect to covered outpatient drugs paid for under the State's medicaid plan, shall have authority, independent of the Secretary' authority under subparagraph (A), to resolve, settle, and compromise disputes regarding the amounts of rebates owed under this section. Any such action shall be deemed to comply with the requirements of this title, and such covered outpatient drugs shall be eligible for payment under the medicaid plan approved under this title.

"(C) AMOUNT OF REBATE.—The Secretary shall limit the amount of the rebate payable in any case in which the Secretary determines that, because of unusual circumstances or questionable data, the provisions of subsection (c) result in a rebate amount that is inequitable or otherwise inconsistent with the purposes of this section.

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection for a rebate period (as defined in subsection (j)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the medicaid plan in the rebate period (as reported by the State); and

"(ii) subject to subparagraph (B)(ii), the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)(i)) of such average manufacturer price,

of or the rebate period.

"(B) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the minimum rebate percentage for rebate periods beginning after December 31, 1995, is 15.1 percent.

"(C) BEST PRICE DEFINED.—For purposes of this section:

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B);

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

"(III) any prices used under a State pharmaceutical assistance program; and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package; and

"(III) shall not take into account prices that are merely nominal in amount.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the medicaid plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the consumer price index for all urban consumers (United States city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period; and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the medicaid plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' is 11 percent.

"(4) REBATE LIMITED TO AMOUNT OF STATE PAYMENT IF DRUG PRIMARILY DISPENSED TO NURSING FACILITY PATIENTS.—

"(A) IN GENERAL.—Upon request of the manufacturer of a covered outpatient drug, the Secretary shall limit, in accordance with subparagraph (B), the amount of the rebate under this subsection with respect to a dosage form and strength of such drug if the majority of the estimated number of units of such dosage form and strength that are subject to rebates under this section were dispensed to inpatients of nursing facilities.

"(B) AMOUNT OF REBATE.—In the case of a covered outpatient drug subject to subparagraph (A), the amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of such drug, shall not exceed the amount paid under the medicaid plan with respect to such dosage form and strength of the drug in the rebate period (without consideration of any dispensing fees paid).

"(5) SUPPLEMENTAL REBATES PROHIBITED.—No rebates shall be required to be paid by manufacturers with respect to covered outpatient drugs furnished to individuals in any State that provides for the collection of such rebates in excess of the rebate amount payable under this section.

"(d) LIMITATIONS ON COVERAGE OF DRUGS.—

"(1) PERMISSIBLE RESTRICTIONS.—

"(A) IN GENERAL.—A State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).

"(B) ADDITIONAL RESTRICTIONS.—A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

"(i) the drug is contained in the list referred to in paragraph (2);

"(ii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4); or

"(iii) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) ADDITIONS TO DRUG LISTINGS.—The Secretary shall, by regulation, periodically add to the list of drugs or classes of drugs described in paragraph (2), or their medical uses, which the Secretary has determined to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, the State's drug use review board established under subsection (f)(3)).

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (j)(6)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The medicaid plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—A medicaid plan approved under this title may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, with respect to drugs dispensed on or after July 1, 1991, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (j)(6)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—The Health Care Financing Administration shall establish a Federal upper reimbursement limit for each multiple source drug for which the FDA has rated three or more products therapeutically and pharmaceutically equivalent, regardless of whether all such additional

formulations are rated as such and shall use only such formulations when determining any such upper limit.

"(f) DRUG USE REVIEW.—

"(1) IN GENERAL.—A State participating in the medicaid rebate agreement may provide for a drug use review program to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs.

"(2) APPLICATION OF STATE STANDARDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a State with a drug use review program under this subsection shall establish and operate the program under such standards as it may establish.

"(B) DATA ON DRUG USE.—The program shall assess data on drug use against predetermined standards, consistent with—

"(i) compendia which shall consist of—

"(I) American Hospital Formulary Service Drug Information,

"(II) United States Pharmacopeia-Drug Information,

"(III) the DRUGDEX Information System, and

"(IV) American Medical Association Drug Evaluations; and

"(ii) the peer-reviewed medical literature.

"(g) ELECTRONIC CLAIMS MANAGEMENT.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State to establish, as its principal means of processing claims for covered outpatient drugs under its medicaid plan, a point-of-sale electronic claims management system, for the purpose of performing on-line, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall transmit to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives a report on the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) the effect of inflation on the value of rebates required under this section;

"(D) trends in prices paid under this title for covered outpatient drugs; and

"(E) Federal and State administrative costs associated with compliance with the provisions of this title.

"(i) EXEMPTION FOR CAPITATED HEALTH CARE ORGANIZATIONS, HOSPITALS, AND NURSING FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the requirements of the medicaid rebate agreement under this section shall not apply with respect to covered outpatient drugs dispensed by or through—

"(A) a capitated health care organization (as defined in section 2114(c)(1)); or

"(B) a hospital or nursing facility that dispenses covered outpatient drugs using a drug formulary system and bills the State no more than the hospital's purchasing costs for covered outpatient drugs.

"(2) CONSTRUCTION IN DETERMINING BEST PRICE.—Nothing in paragraph (1) shall be construed as excluding amounts paid by the entities described in such paragraph for covered outpatient drugs from the determination of the best price (as defined in subsection (c)(1)(C)) for such drugs.

"(j) DEFINITIONS.—For purposes of this section:

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a rebate period, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade, after deducting customary prompt pay discounts.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of this title, a drug which may be dispensed only upon prescription (except as provided in subparagraph (D)); and—

"(i) which is approved as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act,

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act, or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product;

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; and

"(D) a drug which may be sold without a prescription (commonly referred to as an 'over-the-counter drug'), if the drug is prescribed by a physician (or other person authorized to prescribe under State law).

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the medicaid plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians' services.

"(E) Outpatient hospital services.

"(F) Nursing facility services and services provided by an intermediate care facility for the mentally retarded.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis services.

Such term also does not include any such drug or product for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used for a medical indication which is not a medically accepted indication. Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.

"(4) OVER-THE-COUNTER DRUG.—The term 'over-the-counter drug' means a drug that may be sold without a prescription.

"(5) MANUFACTURER.—The term 'manufacturer' means, with respect to a covered outpatient drug, the entity holding legal title to or possession of the National Drug Code number for such drug.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, or the use of which is supported by one or more citations included or approved for inclusion in any of the compendia described in subsection (f)(2)(B)(i).

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a rebate period, a covered outpatient drug (not including any drug described in paragraph (2)(D)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations');

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration; and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under a new drug application or product licensing application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug (not including any drug described in paragraph (2)(D)) which is produced or distributed under a new drug application or product licensing application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributors operating under the new drug application or product licensing application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) SPECIAL RULES.—For purposes of this paragraph—

"(i) drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, if the listed product is generally available to the public through retail pharmacies in that State.

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.

"(9) STATE AGENCY.—The term 'State agency' means the agency designated under this title to administer or supervise the administration of the medicaid plan for medical assistance.".

(b) MEDICAID DRUG REBATE PROGRAM TASK FORCE.—

(1) IN GENERAL.—Not later than June 1, 1998, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall provide for the establishment of a Medicaid Drug Rebate Program Task Force (in this subsection referred to as the "Task Force").

(2) COMPOSITION.—The Task Force shall consist of volunteer representatives appointed by—

(A) the chair and vice chair of the National Governors Association (NGA);

(B) the National Association of State Medicaid Directors;

(C) associations representing the prescription and generic drug industries;

(D) an association representing pharmacies; and

(E) an association representing the interests of medicaid recipients.

(3) DUTIES.—The Task Force shall study whether the medicaid drug rebate program under section 2175 of the Social Security Act, as added by this section, should be retained or repealed. The study shall assess—

(A) the extent to which State medicaid programs rely on the drug rebate program to manage prescription drug expenditures;

(B) the impact of repealing the program on recipient access to prescription drugs and pharmacy services;

(C) the impact of retaining the program on the prescription and generic drug industries; and

(D) the likely actions States would take to manage prescription drug expenditures in the absence of drug rebate revenue.

(4) ADMINISTRATIVE ASSISTANCE.—Administrative support for the Task Force shall be provided by the Agency for Health Care Policy and Research (or, in the absence of such Agency, the Secretary).

(5) REPORT.—Not later than October 1, 1998, the Task Force shall report the results of the study to the Secretary. The report shall be transmitted to the Committee on Finance and Special Committee on Aging of the Senate and the Committee on Commerce of the House of Representatives.

(c) CLERICAL AMENDMENT.—The table of sections for title XXI, as added by section 7191(a), is amended by adding at the end the following new item:

"Sec. 2175. Medicaid drug rebate agreements.".

(d) SPECIAL EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the amendment made by section 7191.

(2) RETROACTIVE APPLICATION OF CERTAIN PROVISIONS.—Subsections (b)(5), (c)(4), and (c)(5) of section 2175 of the Social Security Act, as added by this section, shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

SEC. 7193. WAIVERS.

(a) CONTINUATION OF WAIVERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 of the Social Security Act (42 U.S.C. 1315) or otherwise which relates to the provision of assistance under a State plan under title XIX of such Act has been implemented as of September 1, 1995, the waiver may continue, at the option of the State, subject to the terms and conditions of such waiver.

(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment provided for in the waiver to the extent such payment does not exceed the payment under title XXI of the Social Security Act, as added by section 7191(a), such State would otherwise receive for the fiscal year.

(b) STATE OPTION TO TERMINATE WAIVER.—

(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary of Health and Human Services summarizing the waiver and any available information concerning the result or effect of such waiver.

(3) HOLD HARMLESS PROVISION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

(i) January 1, 1996; or

(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

SEC. 7194. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) CLASSIFICATION SYSTEM TO IDENTIFY CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall, through the Health Care Financing Administration, develop a national, quantifiable classification system to identify children with special health care needs.

(2) CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—For purposes of this section, children with special health care needs are children—

(A) with conditions which are, or can be anticipated to be, of at least a year's duration, and

(B) who require services significantly greater than well children.

(3) REQUIREMENTS OF CLASSIFICATION SYSTEM.—The classification system developed in accordance with this section—

(A) shall be based on commonly recognized diagnostic codes;

(B) shall be compatible with State and health plan data systems;

(C) shall be capable of serving as a basis for identifying such children and their medical expenditures and monitoring the quality of care received; and

(D) shall incorporate the consideration of the severity status, prognosis, and desired outcome for each such child, including tertiary prevention, maintenance of function, or improvement of function.

(b) DEMONSTRATION PROJECTS TO USE CLASSIFICATION SYSTEM AND TO PROVIDE METHODS OF ASSURING QUALITY CARE FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.—

(1) IN GENERAL.—Upon completion of the development of the classification system under subsection (a), the Secretary shall make grants to not more than 5 States to conduct 5-year demonstration projects in accordance with this subsection for the purpose of—

(A) testing the reliability and validity of such classification system;

(B) developing methods of assuring quality care for children with special health care needs; and

(C) providing for initial methods for identifying children with special health care needs based on diagnoses accounting for the majority of the chronic conditions affecting children in the State which are likely to require significant medical interventions whether in number of interventions or costs.

Each State grant may be used without fiscal year limitation.

(2) REQUIREMENTS OF PROJECT.—

(A) IN GENERAL.—A project conducted in accordance with this subsection shall provide that the State in developing methods described in paragraph (1)(B), shall develop—

(i) adequate capitation rates specific to children with special health care needs; and

(ii) quality indicators, including system performance standards, care guidelines for specific populations, outcomes measures, and patient and parent satisfaction.

(B) APPROPRIATE REPRESENTATIVES.—The design and implementation of such a project shall include representatives of providers of services to such children and appropriate State agencies and programs.

(3) APPLICATIONS.—Each State desiring to conduct a demonstration project under this subsection, including projects which are statewide, substate, or regional in cooperation with a contiguous State or States, shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(4) REPORTS.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary annual and final reports in such form and containing such information as the Secretary may require.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001 for the purpose of conducting demonstration projects in accordance with this subsection.

SEC. 7195. CBO REPORTS.

(a) STUDY.—The Director of the Congressional Budget Office shall prepare an annual analysis of the effects of the amendments made by section 7191 on the health insurance status of children, individuals who have attained retirement age, and the disabled.

(b) REPORT.—The Director of the Congressional Budget Office shall submit a report of the results of the analysis required under subsection (a) by May 15 of each year to the Committee on Finance of the Senate and the Committee on Commerce of the House of Representatives.

SEC. 7196. ADJUSTMENTS OF POOL AMOUNTS.

Notwithstanding any other provision in law, the Secretary shall adjust Medicaid pool amounts in fiscal year 1996, fiscal year 1997, fiscal year 2000, and fiscal year 2001 for each State by a proportionate amount such that total Medicaid pool amounts in fiscal year 1996, fiscal year 1997, fiscal year 2000, and fiscal year 2001 shall not exceed the amounts provided in section 2121(b)(1) of the Social Security Act as added by section 7191(a) of this Act—

(1) reduced by $1,900,000,000 in fiscal year 1996, and increased by a similar amount in the subsequent fiscal year; and

(2) reduced by $2,300,000,000 in fiscal year 2000, and increased by a similar amount in the subsequent fiscal year.

SEC. 7197. STATE REVIEW OF MENTALLY ILL OR RETARDED NURSING FACILITY RESIDENTS UPON CHANGE IN PHYSICAL OR MENTAL CONDITION.

(a) STATE REVIEW ON CHANGE IN RESIDENT'S CONDITION.—Section 1919(e)(7)(B)(iii) (42 U.S.C. 1396r(e)(7)(B)(iii)) is amended to read as follows:

"(iii) REVIEW REQUIRED UPON CHANGE IN RESIDENT'S CONDITION.—A review and determination under clause (i) or (ii) shall be conducted promptly after a nursing facility has notified the State mental health authority or State mental retardation or developmental disability authority, as applicable, with respect to a mentally ill or mentally retarded resident that there has been a significant change in the resident's physical or mental condition.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1919(b)(3)(E) (42 U.S.C. 1396r(b)(3)(E)) is amended by adding at the end the following new sentence: "In addition, a nursing facility shall notify the State mental health authority or State mental retardation or developmental disability authority, as applicable, promptly after a significant change in the physical or mental condition of a resident who is mentally ill or mentally retarded.".

(2) The heading for section 1919(e)(7)(B) (42 U.S.C. 1396r(e)(7)(B)) is amended by striking "ANNUAL".

(3) The heading for section 1919(e)(7)(D)(i) (42 U.S.C. 1396r(e)(7)(D)(i)) is amended by striking "ANNUAL".

SEC. 7198. NURSE AIDE TRAINING IN NURSING FACILITIES SUBJECT TO EXTENDED SURVEY AND UNDER CERTAIN OTHER CONDITIONS.

Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended in the matter preceding item (a), by striking "by or in a nursing facility" and inserting "by a nursing facility (or in such a facility, unless the State determines that there is no other such program offered within a reasonable distance, provides notice of the approval to the State long term care ombudsman, and assures, through an oversight effort, that an adequate environment exists for such a program)".

SEC. 7199. MEDICARE/MEDICAID INTEGRATION DEMONSTRATION PROJECT.

(a) DESCRIPTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct demonstration projects under this section to demonstrate the manner in which States may use funds from the medicare program under title XVIII of the Social Security Act and the medicaid program under title XXI of such Act (in this section referred to as the "medicare and medicaid programs") for the purpose of providing a more cost-effective full continuum of care for delivering services to meet the needs of chronically-ill elderly and disabled beneficiaries who are eligible for items and services under such programs, through integrated systems of care, with an emphasis on case management, prevention, and interventions designed to avoid institutionalization whenever possible. The Secretary shall use funds from the amounts appropriated for the medicare and medicaid programs to make the payments required under subsection (d)(1).

(2) OPTION TO PARTICIPATE.—A State, or a coalition of States, may not require an individual eligible to receive items and services under the medicare and medicaid programs to participate in a demonstration project under this section.

(b) ESTABLISHMENT.—The Secretary shall make payments in accordance with subsection (d) to not more than 10 States, or coalitions of States, for the conduct of demonstration projects that provide for integrated systems of care in accordance with subsection (a).

(c) APPLICATIONS.—Each State, or a coalition of States, desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an explanation of a plan for evaluating the project. The Secretary shall approve or deny an application not later than 90 days after the receipt of such application.

(d) PAYMENTS.—

(1) IN GENERAL.—For each fiscal year quarter occurring during a demonstration project conducted under this section, the Secretary shall pay to each entity designated under paragraph (3) an amount equal to the Federal capitated payment rate determined under paragraph (2).

(2) FEDERAL CAPITATED PAYMENT RATE.—The Secretary shall determine the Federal capitated payment rate for purposes of this section based on the anticipated Federal quarterly cost of providing care to chronically-ill elderly and disabled beneficiaries who are eligible for items and services under the medicare and medicaid programs and who have opted to participate in a demonstration project under this section.

(3) DESIGNATION OF ENTITY.—

(A) IN GENERAL.—Each State, or coalition of States, shall designate entities to directly receive the payments described in paragraph (1).

(B) REQUIREMENT.—A State, or a coalition of States, may not designate an entity under subparagraph (A) unless such entity meets the quality, solvency, and coverage standards applicable to providers of items and services under the medicare and medicaid programs.

(4) STATE PAYMENTS.—Each State conducting, or in the case of a coalition of States, participating in a demonstration project under this section shall pay to the entities designated under paragraph (3) the State percentage, as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) (as such section is in effect on the day before the date of the enactment of this Act), of any items and services provided to chronically-ill elderly and disabled beneficiaries who have opted to participate in a demonstration project under this section.

(5) BUDGET NEUTRALITY.—The aggregate amount of Federal payments to entities designated by a State, or coalition of States, under paragraph (3) for a fiscal year shall not exceed the aggregate amount of such payments that would otherwise have been made under the medicare and medicaid programs for such fiscal year for items and services provided to beneficiaries under such programs but for the election of such beneficiaries to participate in a demonstration project under this section.

(e) DURATION.—

(1) IN GENERAL.—The demonstration projects conducted under this section shall be conducted for a 5-year period, subject to annual review and approval by the Secretary.

(2) TERMINATION.—The Secretary may, with 90 days' notice, terminate any demonstration project conducted under this section that is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(f) OVERSIGHT.—The Secretary shall establish quality standards for evaluating and monitoring the demonstration projects conducted under this section.

(g) REPORTS.—Not later than 90 days after the conclusion of a demonstration project conducted under this section, the Secretary shall submit to the Congress a report containing the following:

(1) A description of the demonstration project.

(2) An analysis of beneficiary satisfaction under such project.

(3) An analysis of the quality of the services delivered under the project.

(4) A description of the savings to the medicaid and medicare programs as a result of the demonstration project.

Subtitle C—Block Grants for Temporary Assistance for Needy Families

SEC. 7200. SHORT TITLE.

This subtitle may be cited as the "Work Opportunity Act of 1995".

SEC. 7201. BLOCK GRANTS TO STATES.

(a) REPEALS.—

(1) IN GENERAL.—Parts A and F of title IV (42 U.S.C. 601 et seq. and 682 et seq.) are hereby repealed.

(2) RULES AND REGULATIONS.—The Secretary of Health and Human Services shall ensure that any rules and regulations relating to the provisions of law repealed in paragraph (1) shall cease to have effect on and after the date of the repeal of such provisions.

(b) BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES WITH MINOR CHILDREN.—Title IV (42 U.S.C. 601 et seq.) is amended by inserting before part B the following:

"PART A—BLOCK GRANTS TO STATES FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES WITH MINOR CHILDREN

"SEC. 400. NO INDIVIDUAL ENTITLEMENT.

"Notwithstanding any other provision of law, no individual is entitled to any assistance under this part.

"SEC. 401. PURPOSE.

"The purpose of this part is to increase the flexibility of States in operating a program designed to—

"(1) provide assistance to needy families with minor children;

"(2) provide job preparation and opportunities for such families; and

"(3) prevent and reduce the incidence of out-of-wedlock pregnancies, with a special emphasis on teenage pregnancies, and establish annual goals for preventing and reducing such pregnancies with respect to fiscal years 1996 through 2000.

"SEC. 402. ELIGIBLE STATES; STATE PLAN.

"(a) IN GENERAL.—As used in this part, the term 'eligible State' means, with respect to a fiscal year, a State that has submitted to the Secretary a plan that includes the following:

"(1) OUTLINE OF FAMILY ASSISTANCE PROGRAM.—A written document that outlines how the State intends to do the following:

"(A) Conduct a program designed to serve all political subdivisions in the State to—

"(i) provide assistance to needy families with not less than 1 minor child (or any expectant family); and

"(ii) provide a parent or caretaker in such families with work experience, assistance in finding employment, and other work preparation activities and support services that the State considers appropriate to enable such families to leave the program and become self-sufficient.

"(B) Require a parent or caretaker receiving assistance under the program to engage in work (as defined by the State) when the State determines the parent or caretaker is ready to engage in work, or after 24 months (whether or not consecutive) of receiving assistance under the program, whichever is earlier.

"(C) Satisfy the minimum participation rates specified in section 404.

"(D) Treat—

"(i) families with minor children moving into the State from another State; and

"(ii) noncitizens of the United States.

"(E) Safeguard and restrict the use and disclosure of information about individuals and families receiving assistance under the program.

"(F) Establish goals and take action to prevent and reduce the incidence of out-of-wedlock pregnancies, with special emphasis on teenage pregnancies.

"(G) COMMUNITY SERVICE.—Not later than 2 years after the date of the enactment of this Act, consistent with the exception provided in section 404(d), require participation by, and offer to, unless the State opts out of this provision by notifying the Secretary, a parent or caretaker receiving assistance under the program, after receiving such assistance for 3 months—

"(i) is not exempt from work requirements; and

"(ii) is not engaged in work as determined under section 404(c),

in community service employment, with minimum hours per week and tasks to be determined by the State.

"(2) FAMILY ASSISTANCE PROGRAM STRATEGIC PLAN.—

"(A) IN GENERAL.—A single comprehensive State Family Assistance Program Strategic Plan (hereafter referred to in this section as the 'State Plan') describing a 3-year strategic plan for the statewide program designed to meet the State goals and reach the State benchmarks for program activities of the family assistance program.

"(B) CONTENTS OF THE STATE PLAN.—The State plan shall include:

"(i) STATE GOALS.—A description of the goals of the 3-year plan, including outcome related goals of and benchmarks for program activities of the family assistance program.

"(ii) CURRENT YEAR PLAN.—A description of how the goals and benchmarks described in clause (i) will be achieved, or how progress toward the goals and benchmarks will be achieved, during the fiscal year in which the plan has been submitted.

"(iii) PERFORMANCE INDICATORS.—A description of performance indicators to be used in measuring or assessing the relevant output service levels and outcomes of relevant program activities.

"(iv) EXTERNAL FACTORS.—Information on those key factors external to the program and beyond the control of the State that could significantly affect the attainment of the goals and benchmarks.

"(v) EVALUATION MECHANISMS.—Information on a mechanism for conducting program evaluation, to be used to compare actual results with the goals and benchmarks and designate the results on a scale ranging from highly successful to failing to reach the goals and benchmarks of the program.

"(vi) MINIMUM PARTICIPATION RATES.—Information on how the minimum participation rates specified in section 404 will be satisfied.

"(vii) ESTIMATE OF EXPENDITURES.—An estimate of the total amount of State or local expenditures under the program for the fiscal year in which the plan is submitted.

"(3) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD SUPPORT ENFORCEMENT PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child support enforcement program under the State plan approved under part D.

"(4) CERTIFICATION THAT THE STATE WILL OPERATE A CHILD PROTECTION PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a child protection program under the State plan approved under part B.

"(5) CERTIFICATION THAT THE STATE WILL OPERATE A FOSTER CARE AND ADOPTION ASSISTANCE PROGRAM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will operate a foster care and adoption assistance program under the State plan approved under part E.

"(6) CERTIFICATION THAT THE STATE WILL PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—A certification by the chief executive officer of the State that, during the fiscal year, the State will participate in the income and eligibility verification system required by section 1137.

"(7) CERTIFICATION OF THE ADMINISTRATION OF THE PROGRAM.—A certification by the chief executive officer of the State specifying which State agency or agencies are responsible for the administration and supervision of the State program for the fiscal year and ensuring that local governments and private sector organizations have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations.

"(8) CERTIFICATION THAT REQUIRED REPORTS WILL BE SUBMITTED.—A certification by the chief executive officer of the State that the State shall provide the Secretary with any reports required under this part.

"(b) CERTIFICATION THAT THE STATE WILL PROVIDE ACCESS TO INDIANS.—

"(1) IN GENERAL.—In recognition of the Federal Government's trust responsibility to, and government-to-government relationship with, Indian tribes, the Secretary shall ensure that Indians receive at least their equitable share of services under the State program, by requiring a certification by the chief executive officer of each State described in paragraph (2) that, during the fiscal year, the State shall provide Indians in each Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year with equitable access to assistance under the State program funded under this part.

"(2) STATE DESCRIBED.—For purposes of paragraph (1), a State described in this paragraph is a State in which there is an Indian tribe that does not have a tribal family assistance plan approved under section 414 for a fiscal year.

"(c) DISTRIBUTION OF STATE PLAN.—

"(1) PUBLIC AVAILABILITY OF SUMMARY.—The State shall make available to the public a summary of the State plan submitted under this section.

"(2) COPY TO AUDITOR.—The State shall provide the approved entity conducting the audit under section 408 with a copy of the State plan submitted under this section.

"(d) DEFINITIONS.—For purposes of this part, the following definitions shall apply:

"(1) ADULT.—The term 'adult' means an individual who is not a minor child.

"(2) MINOR CHILD.—The term 'minor child' means an individual—

"(A) who—

"(i) has not attained 18 years of age; or

"(ii) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training); and

"(B) who resides with such individual's custodial parent or other caretaker relative.

"(3) FISCAL YEAR.—The term 'fiscal year' means any 12-month period ending on September 30 of a calendar year.

"(4) INDIAN, INDIAN TRIBE, AND TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the terms 'Indian', 'Indian tribe', and 'tribal organization' have the meaning given such terms by section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) IN ALASKA.—For purposes of making tribal family assistance grants under section 414 on behalf of Indians in Alaska, the term 'Indian tribe' shall mean only the following Alaska Native regional nonprofit corporations:

"(i) Arctic Slope Native Association.

"(ii) Kawerak, Inc.

"(iii) Maniilaq Association.

"(iv) Association of Village Council Presidents.

"(v) Tanana Chiefs Conference.

"(vi) Cook Inlet Tribal Council.

"(vii) Bristol Bay Native Association.

"(viii) Aleutian and Pribilof Island Association.

"(ix) Chugachmuit.

"(x) Tlingit Haida Central Council.

"(xi) Kodiak Area Native Association.

"(xii) Copper River Native Association.

"(5) STATE.—Except as otherwise specifically provided, the term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

"SEC. 403. PAYMENTS TO STATES AND INDIAN TRIBES.

"(a) GRANT AMOUNT.—

"(1) IN GENERAL.—Subject to the provisions of paragraphs (3) and (5), section 407 (relating to penalties), and section 414(g), for each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Secretary shall pay—

"(A) each eligible State a grant in an amount equal to the State family assistance grant for the fiscal year, for each of fiscal years 1998 and 1999, the amount of the State's job placement performance bonus determined under subsection (f)(1) for the fiscal year, and for fiscal year 2000, the amount of the State's share of the performance bonus and high performance bonus determined under section 418 for such fiscal year; and

"(B) each Indian tribe with an approved tribal family assistance plan a tribal family assistance grant in accordance with section 414.

"(2) STATE FAMILY ASSISTANCE GRANT.—

"(A) IN GENERAL.—

"(i) BASIC AMOUNT.—For purposes of paragraph (1)(A), a State family assistance grant for any State for a fiscal year is an amount equal to the sum of—

"(I) the total amount of the Federal payments to the State under section 403 (other than Federal payments to the State described in subparagraphs (A), (B) and (C) of section 418(a)(2)) for fiscal year 1994 (as such section 403 was in effect during such fiscal year), plus

"(II) the total amount of the Federal payments to the State under subparagraphs (A), (B) and (C) of section 418(a)(2),

as such payments were reported by the State on February 14, 1995, and as adjusted under clause (ii).

"(ii) ADJUSTMENTS.—The payments described in clause (i) shall be—

"(I) reduced by the amount, if any, determined under subparagraph (B);

"(II) reduced by the amount determined under subsection (f)(2)(B);

"(III) reduced by the amount, if any, determined under subsection (i)(3)(C)(iii);

"(IV) for fiscal year 2000, reduced by the amount determined under section 418(a)(3); and

"(V) increased by the amount, if any, determined under subparagraph (D).

"(B) AMOUNT ATTRIBUTABLE TO CERTAIN INDIAN FAMILIES SERVED BY INDIAN TRIBES.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the amount determined under this subparagraph is an amount equal to the Federal payments to the State under this section for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State under parts A and F of this title (as so in effect) for Indian families described in clause (ii).

"(ii) INDIAN FAMILIES DESCRIBED.—For purposes of clause (i), Indian families described in this clause are Indian families who reside in a service area or areas of an Indian tribe receiving a tribal family assistance grant under section 414.

"(C) NOTIFICATION.—Not later than 3 months prior to the payment of each quarterly installment of a State grant under subsection (a)(1), the Secretary shall notify the State of the amount of the reduction determined under subparagraph (B) with respect to the State.

"(D) AMOUNT ATTRIBUTABLE TO STATE PLAN AMENDMENTS.—

"(i) IN GENERAL.—For purposes of subparagraph (A) and subject to the limitation in clause (ii), the amount determined under this subparagraph is an amount equal to the Federal payment under section 403(a)(5) to the State for emergency assistance in fiscal year 1995 under any State plan amendment made under section 402 during fiscal year 1994 (as such sections were in effect before the date of the enactment of the Work Opportunity Act of 1995).

"(ii) LIMITATION.—Amounts made available under clause (i) to all States shall not exceed $800,000,000 for the 5-fiscal year period beginning in fiscal year 1996. If amounts available under this subparagraph are less than the total amount of emergency assistance payments referred to in clause (i), the amount payable to a State shall be equal to an amount which bears the same relationship to the total amount available under this clause as the State emergency assistance payment bears to the total amount of such payments.

"(iii) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subparagraph after fiscal year 2000.

"(3) APPROPRIATION.—

"(A) STATES.—There are authorized to be appropriated and there are appropriated $16,803,769,000 for each fiscal year described in paragraph (1) for the purpose of paying—

"(i) grants to States under paragraph (1)(A); and

"(ii) tribal family assistance grants under paragraph (1)(B).

"(B) ADJUSTMENT FOR QUALIFYING STATES.—For the purpose of increasing the amount of the grant payable to a State under paragraph (1) in accordance with paragraph (3), there are authorized to be appropriated and there are appropriated—

"(i) for fiscal year 1997, $85,860,000;

"(ii) for fiscal year 1998, $173,276,000;

"(iii) for fiscal year 1999, $263,468,000; and

"(iv) for fiscal year 2000, $355,310,000.

"(4) WELFARE PARTNERSHIP.—

"(A) IN GENERAL.—The amount of the grant otherwise determined under paragraph (1) for fiscal year 1997, 1998, 1999, or 2000 shall be reduced by the amount by which State expenditures under the State program funded under this part for the preceding fiscal year is less than 80 percent of historic State expenditures.

"(B) HISTORIC STATE EXPENDITURES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'historic State expenditures' means expenditures by a State under parts A and F of title IV for fiscal year 1994, as in effect during such fiscal year.

"(ii) HOLD HARMLESS.—In no event shall the historic State expenditures applicable to any fiscal year exceed the amount which bears the same ratio to the amount determined under clause (i) as—

"(I) the grant amount otherwise determined under paragraph (1) for the preceding fiscal year (without regard to section 407), bears to

"(II) the total amount of Federal payments to the State under section 403 for fiscal year 1994 (as in effect during such fiscal year).

"(C) DETERMINATION OF STATE EXPENDITURES FOR PRECEDING FISCAL YEAR.—

"(i) IN GENERAL.—For purposes of this paragraph, the expenditures of a State under the State program funded under this part for a preceding fiscal year shall be equal to the sum of the State's expenditures under the program in the preceding fiscal year for—

"(I) cash assistance;

"(II) child care assistance;

"(III) education, job training, and work;

"(IV) administrative costs; and

"(V) any other use of funds allowable under section 403(b)(1).

"(ii) TRANSFERS FROM OTHER STATE AND LOCAL PROGRAMS.—In determining State expenditures under clause (i), such expenditures shall not include funding supplanted by transfers from other State and local programs.

"(D) EXCLUSION OF FEDERAL AMOUNTS.—For purposes of this paragraph, State expenditures shall not include any expenditures from amounts made available by the Federal Government, State funds expended for the medicaid program under title XIX of this Act or any successor to such program, and any State funds which are used to match Federal funds or are expended as a condition of receiving Federal funds under Federal programs other than under this part.

"(b) USE OF GRANT.—

"(1) IN GENERAL.—Subject to this part, a State to which a grant is made under this section may use the grant—

"(A) in any manner that is reasonably calculated to accomplish the purpose of this part; or

"(B) in any manner that such State used amounts received under part A or F of this title, as such parts were in effect before October 1, 1995;

except that not more than 15 percent of the grant may be used for administrative purposes.

"(2) AUTHORITY TO RESERVE CERTAIN AMOUNTS FOR ASSISTANCE.—A State may reserve amounts paid to the State under this part for any fiscal year for the purpose of providing, without fiscal year limitation, assistance under the State program operated under this part. In the case of amounts paid to the State that are set aside in accordance with section 418(a), the State may reserve such amounts for any fiscal year only for the purpose of providing without fiscal year limitation child care assistance under this part.

"(3) AUTHORITY TO OPERATE EMPLOYMENT PLACEMENT PROGRAM.—A State to which a grant is made under this section may use a portion of the grant to make payments (or provide job placement vouchers) to State-approved public and private job placement agencies that provide employment placement services to individuals who receive assistance under the State program funded under this part.

"(4) TRANSFERABILITY OF GRANT AMOUNTS.—A State may use up to 30 percent of amounts received from a grant under this part for a fiscal year to carry out State activities under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (relating to child care block grants).

"(c) TIMING OF PAYMENTS.—The Secretary shall pay each grant payable to a State under this section in quarterly installments.

"(d) FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a revolving loan fund which shall be known as the 'Federal Loan Fund for State Welfare Programs' (hereafter for purposes of this section referred to as the 'fund').

"(2) DEPOSITS INTO FUND.—

"(A) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, $1,700,000,000 are hereby appropriated for fiscal year 1996 for payment to the fund.

"(B) LOAN REPAYMENTS.—The Secretary shall deposit into the fund any principal or interest payment received with respect to a loan made under this subsection.

"(3) AVAILABILITY.—Amounts in the fund are authorized to remain available without fiscal year limitation for the purpose of making loans and receiving payments of principal and interest on such loans, in accordance with this subsection.

"(4) USE OF FUND.—

"(A) LOANS TO STATES.—The Secretary shall make loans from the fund to any loan-eligible State, as defined in subparagraph (D), for a period to maturity of not more than 3 years.

"(B) RATE OF INTEREST.—The Secretary shall charge and collect interest on any loan made under subparagraph (A) at a rate equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the period to maturity of the loan.

"(C) MAXIMUM LOAN.—The cumulative amount of any loans made to a State under subparagraph (A) during fiscal years 1996 through 2000 shall not exceed 10 percent of the State family assistance grant under subsection (a)(2) for a fiscal year.

"(D) LOAN-ELIGIBLE STATE.—For purposes of subparagraph (A), a loan-eligible State is a State which has not had a penalty described in section 407(a)(1) imposed against it at any time prior to the loan being made.

"(5) LIMITATION ON USE OF LOAN.—A State shall use a loan received under this subsection only for any purpose for which grant amounts received by the State under subsection (a) may be used including—

"(A) welfare anti-fraud activities; and

"(B) the provision of assistance under the State program to Indian families that have moved from the service area of an Indian tribe with a tribal family assistance plan approved under section 414.

"(e) SPECIAL RULE FOR INDIAN TRIBES THAT RECEIVED JOBS Funds.—

"(1) IN GENERAL.—The Secretary shall pay to each eligible Indian tribe for each of fiscal years 1996, 1997, 1998, 1999, and 2000 a grant in an amount equal to the amount received by such Indian tribe in fiscal year 1994 under section 482(i) (as in effect during such fiscal year) for the purpose of operating a program to make work activities available to members of the Indian tribe.

"(2) ELIGIBLE INDIAN TRIBE.—For purposes of paragraph (1), the term 'eligible Indian tribe' means an Indian tribe or Alaska Native organization that conducted a job opportunities and basic skills training program in fiscal year 1995 under section 482(i) (as in effect during such fiscal year).

"(3) APPROPRIATION.—There are authorized to be appropriated and there are hereby appropriated $7,638,474 for each fiscal year described in paragraph (1) for the purpose of paying grants in accordance with such paragraph.

"(f) JOB PLACEMENT PERFORMANCE BONUS.—

"(1) IN GENERAL.—The job placement performance bonus determined with respect to a State and a fiscal year in an amount equal to the amount of the State's allocation of the job placement performance fund determined in accordance with the formula developed under paragraph (2).

"(2) ALLOCATION FORMULA; BONUS FUND.—

"(A) ALLOCATION FORMULA.—

"(i) IN GENERAL.—Not later than September 30, 1996, the Secretary of Health and Human Services shall develop and publish in the Federal Register a formula for allocating amounts

in the job placement performance bonus fund to States based on the number of families that received assistance under a State program funded under this part in the preceding fiscal year that became ineligible for assistance under the State program as a result of unsubsidized employment during such year.

"(ii) FACTORS TO CONSIDER.—In developing the allocation formula under clause (i), the Secretary shall—

"(I) provide a greater financial bonus for individuals in families described in clause (i) who remain employed for greater periods of time or are at greater risk of long-term welfare dependency; and

"(II) take into account the unemployment conditions of each State or geographic area.

"(B) JOB PLACEMENT PERFORMANCE BONUS FUND.—

"(i) IN GENERAL.—The amount in the job placement performance bonus fund for a fiscal year shall be an amount equal to the applicable percentage of the amount appropriated under section 403(a)(2)(A)(i) for such fiscal year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i)(I), the applicable percentage shall be determined in accordance with the following table:

"For fiscal year:	***The applicable percentage is:***
1998	*3*
1999	*4.*

"(g) SECRETARY.—For purposes of this section, the term 'Secretary' means the Secretary of the Treasury.

"(h) CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'Contingency Fund for State Welfare Programs' (hereafter in this section referred to as the 'Fund').

"(2) DEPOSITS INTO FUND.—Out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as are necessary for payment to the Fund in a total amount not to exceed $1,000,000,000.

"(3) COMPUTATION OF GRANT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary of the Treasury shall pay to each eligible State in a fiscal year an amount equal to the Federal medical assistance percentage for such State for such fiscal year (as defined in section 2122(c)) of so much of the expenditures by the State in such year under the State program funded under this part as exceed the historic State expenditures for such State.

"(B) LIMITATION.—The total amount paid to a State under subparagraph (A) for any fiscal year shall not exceed an amount equal to 20 percent of the annual amount determined for such State under the State program funded under this part (without regard to this subsection) for such fiscal year.

"(C) METHOD OF COMPUTATION, PAYMENT, AND RECONCILIATION.—

"(i) METHOD OF COMPUTATION.—The method of computing and paying such amounts shall be as follows:

"(I) The Secretary of Health and Human Services shall estimate the amount to be paid to the State for each quarter under the provisions of subparagraph (A), such estimate to be based on a report filed by the State containing its estimate of the total sum to be expended in such quarter and such other information as the Secretary may find necessary.

"(II) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services.

"(ii) METHOD OF PAYMENT.—The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

"(iii) METHOD OF RECONCILIATION.—If at the end of each fiscal year, the Secretary of Health and Human Services finds that a State which received amounts from the Fund in such fiscal year did not meet the maintenance of effort requirement under paragraph (5)(B) for such fiscal year, the Secretary shall reduce the State family assistance grant for such State for the succeeding fiscal year by such amounts.

"(4) USE OF GRANT.—

"(A) IN GENERAL.—An eligible State may use the grant—

"(i) in any manner that is reasonably calculated to accomplish the purpose of this part; or

"(ii) in any manner that such State used amounts received under part A or F of this title, as such parts were in effect before October 1, 1995.

"(B) REFUND OF UNUSED PORTION.—Any amount of a grant under this subsection not used during the fiscal year shall be returned to the Fund.

"(5) ELIGIBLE STATE.—

"(A) IN GENERAL.—For purposes of this subsection, a State is an eligible State with respect to a fiscal year, if—

"(i)(I) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published equals or exceeds 6.5 percent, and

"(II) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(ii) has met the maintenance of effort requirement under subparagraph (B) for the State program funded under this part for the fiscal year.

"(B) MAINTENANCE OF EFFORT.—The maintenance of effort requirement for any State under this subparagraph for any fiscal year is the expenditure of an amount at least equal to 100 percent of the level of historic State expenditures for such State (as determined under subsection (a)(5)).

"(6) ANNUAL REPORTS.—The Secretary of the Treasury shall annually report to the Congress on the status of the Fund.

"SEC. 404. MANDATORY WORK REQUIREMENTS.

"(a) PARTICIPATION RATE REQUIREMENTS.—A State to which a grant is made under section 403 for a fiscal year shall achieve the minimum participation rate specified in the following tables for the fiscal year with respect to—

"(1) all families receiving assistance under the State program funded under this part:

"If the fiscal year is:	***The minimum participation rate for all families is:***
1996	*25*
1997	*30*
1998	*35*
1999	*40*
2000 or thereafter	*50;*

and

"(2) with respect to 2-parent families receiving such assistance:

"If the fiscal year is:	***The minimum participation rate is:***
1996	*60*
1997 or 1998	*75*
1999 or thereafter	*90.*

"(b) CALCULATION OF PARTICIPATION RATES.—

"(1) FOR ALL FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(1), the participation rate for all families of a State for a fiscal year is the average of the participation rates for all families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for all families of the State for a month, expressed as a percentage, is—

"(i) the sum of—

"(I) the number of all families receiving assistance under the State program funded under this part that include an adult who is engaged in work for the month;

"(II) the number of all families receiving assistance under the State program funded under this part that are subject in such month to a penalty described in paragraph (1)(A) or (2)(A) of subsection (d) but have not been subject to such penalty for more than 3 months within the preceding 12-month period (whether or not consecutive); and

"(III) the number of all families that received assistance under the State program under this part during the previous 6-month period that have become ineligible to receive assistance during such period because of employment and which include an adult who is employed for the month; divided by

"(ii) the total number of all families receiving assistance under the State program funded under this part during the month that include an adult receiving assistance.

"(2) 2-PARENT FAMILIES.—

"(A) AVERAGE MONTHLY RATE.—For purposes of subsection (a)(2), the participation rate for 2-parent families of a State for a fiscal year is the average of the participation rates for 2-parent families of the State for each month in the fiscal year.

"(B) MONTHLY PARTICIPATION RATES.—The participation rate of a State for 2-parent families of the State for a month, expressed as a percentage, is—

"(i) the total number of 2-parent families described in paragraph (1)(B)(i); divided by

"(ii) the total number of 2-parent families receiving assistance under the State program funded under this part during the month that include an adult.

"(3) PRO RATA REDUCTION OF PARTICIPATION RATE DUE TO CASELOAD REDUCTIONS NOT REQUIRED BY FEDERAL LAW.—

"(A) IN GENERAL.—The Secretary shall prescribe regulations for reducing the minimum participation rate otherwise required by this section for a fiscal year by the number of percentage points equal to the number of percentage points (if any) by which—

"(i) the number of families receiving assistance during the fiscal year under the State program funded under this part is less than

"(ii) the number of families that received aid under the State plan approved under part A of this title (as in effect before October 1, 1995) during the fiscal year immediately preceding such effective date.

The minimum participation rate shall not be reduced to the extent that the Secretary determines that the reduction in the number of families receiving such assistance is required by Federal law.

"(B) ELIGIBILITY CHANGES NOT COUNTED.—The regulations described in subparagraph (A) shall not take into account families that are diverted from a State program funded under this part as a result of differences in eligibility criteria under a State program funded under this part and eligibility criteria under such State's plan under the aid to families with dependent children program, as such plan was in effect on the day before the date of the enactment of the Work Opportunity Act of 1995.

"(4) STATE OPTION TO INCLUDE INDIVIDUALS RECEIVING ASSISTANCE UNDER A TRIBAL FAMILY ASSISTANCE PLAN.—For purposes of paragraphs (1)(B) and (2)(B), a State may, at its option, include families receiving assistance under a tribal family assistance plan approved under section 414. For purposes of the previous sentence, an individual who receives assistance under a tribal family assistance plan approved under section 414 shall be treated as being engaged in work if the individual is participating in work under standards that are comparable to State standards for being engaged in work.

"(5) STATE OPTION FOR PARTICIPATION REQUIREMENT EXEMPTIONS.—For any fiscal year, a State may, at its option, not require an individual who is the parent or caretaker relative of a minor child who is less than 12 months of age to engage in work and may exclude such an individual from the determination of the minimum participation rate specified for such fiscal year in subsection (a).

"(c) ENGAGED IN WORK.—

"(1) ALL FAMILIES.—For purposes of subsection (b)(1)(B)(i)(I), an adult is engaged in work for a month in a fiscal year if the adult is participating in work for at least the minimum average number of hours per week specified in the following table during the month, not fewer than 20 hours per week of which are attributable to a work activity:

"If the month is in fiscal year:	***The minimum average number of hours per week is:***
1996	*20*
1997	*20*
1998	*20*
1999	*25*
2000	*30*
2001	*30*
2002	*35*
2003 or thereafter	*35.*

"(2) 2-PARENT FAMILIES.—For purposes of subsection (b)(2)(A), an adult is engaged in work for a month in a fiscal year if the adult is participating in work for at least 35 hours per week during the month, not fewer than 30 hours per week of which are attributable to work activities described in paragraph (3).

"(3) DEFINITION OF WORK ACTIVITIES.—For purposes of this subsection, the term 'work activities' means—

"(A) unsubsidized employment;

"(B) subsidized employment;

"(C) on-the-job training;

"(D) community service programs;

"(E) job search (only for the first 4 weeks in which an individual is required to participate in work activities under this section); and

"(F) vocational educational training (not to exceed 12 months with respect to any individual).

"(4) LIMITATION ON VOCATIONAL EDUCATION ACTIVITIES COUNTED AS WORK.—For purposes of determining monthly participation rates under paragraphs (1)(B)(i)(I) and (2)(B)(i) of subsection (b), not more than 25 percent of adults in all families and in 2-parent families determined to be engaged in work in the State for a month may meet the work activity requirement through participation in vocational educational training.

"(d) PENALTIES AGAINST INDIVIDUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an adult in a family receiving assistance under the State program funded under this part refuses to engage in work required under subsection (c)(1) or (c)(2), a State to which a grant is made under section 403 shall—

"(A) reduce the amount of assistance otherwise payable to the family pro rata (or more, at the option of the State) with respect to any period during a month in which the adult so refuses; or

"(B) terminate such assistance,

subject to such good cause and other exceptions as the State may establish.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may not reduce or terminate assistance under the State program based on a refusal of an adult to work if such adult is a single custodial parent caring for a child age 5 or under and has a demonstrated inability (as determined by the State) to obtain needed child care, for one or more of the following reasons:

"(A) Unavailability of appropriate child care within a reasonable distance of the individual's home or work site.

"(B) Unavailability or unsuitability of informal child care by a relative or under other arrangements.

"(C) Unavailability of appropriate and affordable formal child care arrangements.

"(e) NONDISPLACEMENT IN WORK ACTIVITIES.—

"(1) IN GENERAL.—Subject to paragraph (2), an adult in a family receiving assistance under this part may fill a vacant employment position in order to engage in a work activity described in subsection (c)(3).

"(2) NO FILLING OF CERTAIN VACANCIES.—No adult in a work activity described in subsection (c)(3) shall be employed or assigned—

"(A) when any other individual is on layoff from the same or any substantially equivalent job; or

"(B) when the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult described in paragraph (1).

"(3) NO PREEMPTION.—Nothing in this subsection shall preempt or supersede any provision of State or local law that provides greater protection for employees from displacement.

"(f) SENSE OF THE CONGRESS.—It is the sense of the Congress that in complying with this section, each State that operates a program funded under this part is encouraged to assign the highest priority to requiring adults in 2-parent families and adults in single-parent families that include older preschool or school-age children to be engaged in work activities.

"(g) ENCOURAGEMENT TO PROVIDE CHILD CARE SERVICES.—An individual participating in a State community service program may be treated as being engaged in work under subsection (c) if such individual provides child care services to other individuals participating in the community service program in the manner, and for the period of time each week, determined appropriate by the State.

"SEC. 405. REQUIREMENTS AND LIMITATIONS.

"(a) STATE REQUIRED TO ENTER INTO A PERSONAL RESPONSIBILITY CONTRACT WITH EACH FAMILY RECEIVING ASSISTANCE.—

"(1) IN GENERAL.—Each State to which a grant is made under section 403 shall require each family receiving assistance under the State program funded under this part to enter into—

"(A) a personal responsibility contract (as developed by the State) with the State; or

"(B) a limited benefit plan.

"(2) PERSONAL RESPONSIBILITY CONTRACT.—For purposes of this subsection, the term 'personal responsibility contract' means a binding contract between the State and each family receiving assistance under the State program funded under this part that—

"(A) outlines the steps each family and the State will take to get the family off of welfare and to become self-sufficient;

"(B) specifies a negotiated time-limited period of eligibility for receipt of assistance that is consistent with unique family circumstances and is based on a reasonable plan to facilitate the transition of the family to self-sufficiency;

"(C) provides that the family will automatically enter into a limited benefit plan if the family is out of compliance with the personal responsibility contract; and

"(D) provides that the contract shall be invalid if the State agency fails to comply with the contract.

"(3) LIMITED BENEFIT PLAN.—For purposes of this subsection, the term 'limited benefit plan' means a plan which provides for a reduced level of assistance and later termination of assistance to a family that has entered into the plan in accordance with a schedule to be determined by the State.

"(4) ASSESSMENT.—The State agency shall provide, through a case manager, an initial and thorough assessment of the skills, prior work experience, and employability of each parent for use in developing and negotiating a personal responsibility contract.

"(5) DISPUTE RESOLUTION.—The State agency described in section 402(a)(7) shall establish a dispute resolution procedure for disputes related to participation in the personal responsibility contract that provides the opportunity for a hearing.

"(b) NO ASSISTANCE FOR MORE THAN 5 YEARS.—

"(1) MINOR CHILD EXCEPTION.—If an individual received assistance under the State program operated under this part as a minor child in a needy family, any period during which such individual's family received assistance shall not be counted for purposes of applying the limitation described in paragraph (1) to an application for assistance under such program by such individual as the head of a household of a needy family with minor children.

"(2) HARDSHIP EXCEPTION.—

"(A) IN GENERAL.—The State may exempt a family from the application of paragraph (1) by reason of hardship.

"(B) LIMITATION.—The number of families with respect to which an exemption made by a State under subparagraph (A) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which the State is providing assistance under the program operated under this part.

"(c) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES.—An individual shall not be considered an eligible individual for the purposes of this part during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this title, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.

"(d) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.—

"(1) IN GENERAL.—An individual shall not be considered an eligible individual for the purposes of this part if such individual is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.

"(2) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Notwithstanding any other provision of law, a State shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current

address, Social Security number, and photograph (if applicable) of any recipient of assistance under this part, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) such recipient—

"(i) is described in subparagraph (A) or (B) of paragraph (1); or

"(ii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within such officer's official duties.

"(e) STATE OPTION TO REQUIRE ASSIGNMENT OF SUPPORT.—At the option of the State, a State to which a grant is made under section 403 may provide that an individual applying for or receiving assistance under the State program funded under this part shall be required to assign to the State any rights to support from any other person the individual may have in such individual's own behalf or in behalf of any other family member for whom the individual is applying for or receiving assistance.

"(f) DENIAL OF ASSISTANCE FOR ABSENT CHILD.—Each State to which a grant is made under section 403—

"(1) may not use any part of the grant to provide assistance to a family with respect to any minor child who has been, or is expected by the caretaker relative in the family to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 90 consecutive days as the State may provide for in the State plan;

"(2) at the option of the State, may establish such good cause exceptions to paragraph (1) as the State considers appropriate if such exceptions are provided for in the State plan; and

"(3) shall provide that a caretaker relative shall not be considered an eligible individual for purposes of this part if the caretaker relative fails to notify the State agency of an absence of a minor child from the home for the period specified in or provided for under paragraph (1), by the end of the 5-day period that begins on the date that it becomes clear to the caretaker relative that the minor child will be absent for the period so specified or provided for in paragraph (1).

"SEC. 406. PROMOTING RESPONSIBLE PARENTING.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Marriage is the foundation of a successful society.

"(2) Marriage is an essential institution of a successful society which promotes the interests of children.

"(3) Promotion of responsible fatherhood and motherhood is integral to successful child rearing and the wellbeing of children.

"(4) In 1992, only 54 percent of single-parent families with children had a child support order established and, of that 54 percent, only about one half received the full amount due. Of the cases enforced through the public child support enforcement system, only 18 percent of the caseload has a collection.

"(5) The number of individuals receiving aid to families with dependent children (hereafter in this subsection referred to as 'AFDC') has more than tripled since 1965. More than two-thirds of these recipients are children. Eighty-nine percent of children receiving AFDC benefits now live in homes in which no father is present.

"(A)(i) The average monthly number of children receiving AFDC benefits—

"(I) was 3,300,000 in 1965;

"(II) was 6,200,000 in 1970;

"(III) was 7,400,000 in 1980; and

"(IV) was 9,300,000 in 1992.

"(ii) While the number of children receiving AFDC benefits increased nearly threefold between 1965 and 1992, the total number of children in the United States aged 0 to 18 has declined by 5.5 percent.

"(B) The Department of Health and Human Services has estimated that 12,000,000 children will receive AFDC benefits within 10 years.

"(C) The increase in the number of children receiving public assistance is closely related to the increase in births to unmarried women. Between 1970 and 1991, the percentage of live births to unmarried women increased nearly threefold, from 10.7 percent to 29.5 percent.

"(6) The increase of out-of-wedlock pregnancies and births is well documented as follows:

"(A) It is estimated that the rate of nonmarital teen pregnancy rose 23 percent from 54 pregnancies per 1,000 unmarried teenagers in 1976 to 66.7 pregnancies in 1991. The overall rate of nonmarital pregnancy rose 14 percent from 90.8 pregnancies per 1,000 unmarried women in 1980 to 103 in both 1991 and 1992. In contrast, the overall pregnancy rate for married couples decreased 7.3 percent between 1980 and 1991, from 126.9 pregnancies per 1,000 married women in 1980 to 117.6 pregnancies in 1991.

"(B) The total of all out-of-wedlock births between 1970 and 1991 has risen from 10.7 percent to 29.5 percent and if the current trend continues, 50 percent of all births by the year 2015 will be out-of-wedlock.

"(7) The negative consequences of an out-of-wedlock birth on the mother, the child, the family, and society are well documented as follows:

"(A) Young women 17 and under who give birth outside of marriage are more likely to go on public assistance and to spend more years on welfare once enrolled. These combined effects of 'younger and longer' increase total AFDC costs per household by 25 percent to 30 percent for 17-year olds.

"(B) Children born out-of-wedlock have a substantially higher risk of being born at a very low or moderately low birth weight.

"(C) Children born out-of-wedlock are more likely to experience low verbal cognitive attainment, as well as more child abuse, and neglect.

"(D) Children born out-of-wedlock were more likely to have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

"(E) Being born out-of-wedlock significantly reduces the chances of the child growing up to have an intact marriage.

"(F) Children born out-of-wedlock are 3 times more likely to be on welfare when they grow up.

"(8) Currently 35 percent of children in single-parent homes were born out-of-wedlock, nearly the same percentage as that of children in single-parent homes whose parents are divorced (37 percent). While many parents find themselves, through divorce or tragic circumstances beyond their control, facing the difficult task of raising children alone, nevertheless, the negative consequences of raising children in single-parent homes are well documented as follows:

"(A) Only 9 percent of married-couple families with children under 18 years of age have income below the national poverty level. In contrast, 46 percent of female-headed households with children under 18 years of age are below the national poverty level.

"(B) Among single-parent families, nearly ½ of the mothers who never married received AFDC while only ⅕ of divorced mothers received AFDC.

"(C) Children born into families receiving welfare assistance are 3 times more likely to be on welfare when they reach adulthood than children not born into families receiving welfare.

"(D) Mothers under 20 years of age are at the greatest risk of bearing low birth-weight babies.

"(E) The younger the single parent mother, the less likely she is to finish high school.

"(F) Young women who have children before finishing high school are more likely to receive welfare assistance for a longer period of time.

"(G) Between 1985 and 1990, the public cost of births to teenage mothers under the aid to families with dependent children program, the food stamp program, and the medicaid program has been estimated at $120,000,000,000.

"(H) The absence of a father in the life of a child has a negative effect on school performance and peer adjustment.

"(I) Children of teenage single parents have lower cognitive scores, lower educational aspirations, and a greater likelihood of becoming teenage parents themselves.

"(J) Children of single-parent homes are 3 times more likely to fail and repeat a year in grade school than are children from intact two-parent families.

"(K) Children from single-parent homes are almost 4 times more likely to be expelled or suspended from school.

"(L) Neighborhoods with larger percentages of youth aged 12 through 20 and areas with higher percentages of single-parent households have higher rates of violent crime.

"(M) Of those youth held for criminal offenses within the State juvenile justice system, only 29.8 percent lived primarily in a home with both parents. In contrast to these incarcerated youth, 73.9 percent of the 62,800,000 children in the Nation's resident population were living with both parents.

"(9) Therefore, in light of this demonstration of the crisis in our Nation, it is the sense of the Congress that prevention of out-of-wedlock pregnancy and reduction in out-of-wedlock birth are very important Government interests and the policy contained in provisions of this title is intended to address the crisis.

"(b) REQUIREMENT THAT TEENAGE PARENTS LIVE IN ADULT-SUPERVISED SETTINGS.—

"(1) IN GENERAL.—

"(A) REQUIREMENT.—Except as provided in paragraph (2), if a State provides assistance under the State program funded under this part to an individual described in subparagraph (B), such individual may only receive assistance under the program if such individual and the child of the individual reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home.

"(B) INDIVIDUAL DESCRIBED.— For purposes of subparagraph (A), an individual described in this subparagraph is an individual who is—

"(i) under the age of 18; and

"(ii) not married and has a minor child in his or her care.

"(2) EXCEPTION.—

"(A) PROVISION OF, OR ASSISTANCE IN LOCATING, ADULT-SUPERVISED LIVING ARRANGEMENT.—In the case of an individual who is described in subparagraph (B), the State agency shall provide, or assist such individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of such individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that such parent and the child of such parent reside in such living arrangement as a condition of the continued receipt of assistance under the plan (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

"(B) INDIVIDUAL DESCRIBED.—For purposes of subparagraph (A), an individual is described in this subparagraph if the individual is described in paragraph (1)(B) and—

"(i) such individual has no parent, legal guardian or other appropriate adult relative as

described in (ii) of his or her own who is living or whose whereabouts are known;

"(ii) no living parent, legal guardian, or other appropriate adult relative who would otherwise meet applicable State criteria to act as such individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;

"(iii) the State agency determines that—

"(I) the individual or the individual's custodial minor child is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of such individual's own parent or legal guardian; or

"(II) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if such individual and such individual's minor child lived in the same residence with such individual's own parent or legal guardian; or

"(iv) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of paragraph (1) with respect to such individual or minor child.

"(C) SECOND-CHANCE HOME.—For purposes of this paragraph, the term 'second-chance home' means an entity that provides individuals described in subparagraph (B) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

"(3) ASSISTANCE TO STATES IN PROVIDING OR LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING ARRANGEMENTS FOR UNMARRIED TEENAGE PARENTS.—

"(A) IN GENERAL.—For each of fiscal years 1996 through 2002, each State that provides assistance under the State program to individuals described in paragraph (1)(B) shall be entitled to receive a grant in an amount determined under subparagraph (B) for the purpose of providing or locating adult-supervised supportive living arrangements for individuals described in paragraph (1)(B) in accordance with this subsection.

"(B) AMOUNT DETERMINED.—

"(i) IN GENERAL.—The amount determined under this subparagraph is an amount that bears the same ratio to the amount specified under clause (ii) as the amount of the State family assistance grant for the State for such fiscal year (described in section 403(a)(2)) bears to the amount appropriated for such fiscal year in accordance with section 403(a)(4)(A).

"(ii) AMOUNT SPECIFIED.—The amount specified in this subparagraph is—

"(I) for fiscal year 1996, $25,000,000;

"(II) for fiscal year 1997, $25,000,000; and

"(III) for each of fiscal years 1998, 1999, 2000, 2001, and 2002, $20,000,000.

"(C) ASSISTANCE TO STATES IN PROVIDING OR LOCATING ADULT-SUPERVISED SUPPORTIVE LIVING ARRANGEMENTS FOR UNMARRIED TEENAGE PARENTS.—There are authorized to be appropriated and there are appropriated for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums specified in subparagraph (B)(ii) for the purpose of paying grants to States in accordance with the provisions of this paragraph.

"(c) REQUIREMENT THAT TEENAGE PARENTS ATTEND HIGH SCHOOL OR OTHER EQUIVALENT TRAINING PROGRAM.—If a State provides assistance under the State program funded under this part to an individual described in subsection (b)(1)(B) who has not successfully completed a high-school education (or its equivalent) and whose minor child is at least 12 weeks of age, the State shall not provide such individual with assistance under the program (or, at the option of the State, shall provide a reduced level of such assistance) if the individual does not participate in—

"(1) educational activities directed toward the attainment of a high school diploma or its equivalent; or

"(2) an alternative educational or training program that has been approved by the State.

"(d) STATE OPTION TO DENY ASSISTANCE IN CERTAIN SITUATIONS.—Nothing in this subsection shall be construed to restrict the authority of a State to exercise its option to limit assistance under this part to individuals if such limitation is not inconsistent with the provisions of this part.

"SEC. 407. STATE PENALTIES.

"(a) IN GENERAL.—Subject to the provisions of subsection (b), the Secretary shall deduct from the grant otherwise payable under section 403 the following penalties:

"(1) FOR USE OF GRANT IN VIOLATION OF THIS PART.—If an audit conducted under section 408 finds that an amount paid to a State under section 403 for a fiscal year has been used in violation of this part, then the Secretary shall reduce the amount of the grant otherwise payable to the State under such section for the immediately succeeding fiscal year quarter by the amount so used. If the State does not prove to the satisfaction of the Secretary that such unlawful expenditure was not made by the State in intentional violation of the requirements of this part, then the Secretary shall impose an additional penalty of 5 percent of such grant (determined without regard to this section).

"(2) FOR FAILURE TO SUBMIT REQUIRED REPORT.—

"(A) IN GENERAL.—If the Secretary determines that a State has not, within 6 months after the end of a fiscal year, submitted the report required by section 409 for the fiscal year, the Secretary shall reduce by 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(B) RESCISSION OF PENALTY.—The Secretary shall rescind a penalty imposed on a State under subparagraph (A) with respect to a report for a fiscal year if the State submits the report before the end of the immediately succeeding fiscal year.

"(3) FOR FAILURE TO SATISFY MINIMUM PARTICIPATION RATES.—

"(A) IN GENERAL.—If the Secretary determines that a State has failed to satisfy the minimum participation rates specified in section 404(a) for a fiscal year, the Secretary shall reduce the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year by—

"(i) in the first year in which the State fails to satisfy such rates, 5 percent; and

"(ii) in subsequent years in which the State fails to satisfy such rates, the percent reduction determined under this subparagraph (if any) in the preceding year, increased by 5 percent.

"(B) PENALTY BASED ON SEVERITY OF FAILURE.—The Secretary shall impose reductions under subparagraph (A) on the basis of the degree of noncompliance.

"(4) FOR FAILURE TO PARTICIPATE IN THE INCOME AND ELIGIBILITY VERIFICATION SYSTEM.—If the Secretary determines that a State program funded under this part is not participating during a fiscal year in the income and eligibility verification system required by section 1137, the Secretary shall reduce by not more than 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(5) FOR FAILURE TO COMPLY WITH PATERNITY ESTABLISHMENT AND CHILD SUPPORT ENFORCEMENT REQUIREMENTS UNDER PART D.—Notwithstanding any other provision of this Act, if the Secretary determines that the State agency that administers a program funded under this part does not enforce the penalties requested by the agency administering part D against recipients of assistance under the State program who fail to cooperate in establishing paternity in accordance with such part, the Secretary shall reduce by not more than 5 percent the amount of the grant that would (in the absence of this section) be payable to the State under section 403 for the immediately succeeding fiscal year.

"(6) FOR FAILURE TO TIMELY REPAY A FEDERAL LOAN FUND FOR STATE WELFARE PROGRAMS.—If the Secretary determines that a State has failed to repay any amount borrowed from the Federal Loan Fund for State Welfare Programs established under section 403(d) within the period of maturity applicable to such loan, plus any interest owed on such loan, then the Secretary shall reduce the amount of the grant otherwise payable to the State under section 403 for the immediately succeeding fiscal year quarter by the outstanding loan amount, plus the interest owed on such outstanding amount. The Secretary may not forgive any outstanding loan amount nor interest owed thereon.

"(b) REQUIREMENTS.—

"(1) LIMITATION ON AMOUNT OF PENALTY.—

"(A) IN GENERAL.—In imposing the penalties described in subsection (a), the Secretary shall not reduce any quarterly payment to a State by more than 25 percent.

"(B) CARRYFORWARD OF UNRECOVERED PENALTIES.—To the extent that subparagraph (A) prevents the Secretary from recovering during a fiscal year the full amount of all penalties imposed on a State under subsection (a) for a prior fiscal year, the Secretary shall apply any remaining amount of such penalties to the grant otherwise payable to the State under section 403 for the immediately succeeding fiscal year.

"(2) STATE FUNDS TO REPLACE REDUCTIONS IN GRANT.—A State which has a penalty imposed against it under subsection (a) shall expend additional State funds in an amount equal to the amount of the penalty for the purpose of providing assistance under the State program under this part.

"(3) REASONABLE CAUSE FOR NONCOMPLIANCE.—The Secretary may not impose a penalty on a State under subsection (a) if the Secretary determines that the State has reasonable cause for failing to comply with a requirement for which a penalty is imposed under such subsection.

"(c) CERTIFICATION OF AMOUNT OF PENALTIES.—If the Secretary is required to reduce the amount of any grant under this section, the Secretary shall certify the amount of such reduction to the Secretary of the Treasury and the Secretary of the Treasury shall reduce the amount paid to the State under section 403 by such amount.

"(d) EFFECTIVE DATES.—

"(1) IN GENERAL.—The penalties described in paragraphs (2) through (6) of subsection (a) shall apply—

"(A) with respect to periods beginning 6 months after the Secretary issues final rules with respect to such penalties; or

"(B) with respect to fiscal years beginning on or after October 1, 1996;

whichever is later.

"(2) MISUSE OF FUNDS.—The penalties described in subsection (a)(1) shall apply with respect to fiscal years beginning on or after October 1, 1995.

"SEC. 408. AUDITS.

"(a) IN GENERAL.—Each State shall, not less than annually, audit the State expenditures from amounts received under this part. Such audit shall—

"(1) determine the extent to which such expenditures were or were not expended in accordance with this part; and

“(2) be conducted by an approved entity (as defined in subsection (b)) in accordance with generally accepted auditing principles.

“(b) Approved Entity.—For purposes of subsection (a), the term ‘approved entity’ means an entity that—

“(1) is approved by the Secretary of the Treasury;

“(2) is approved by the chief executive officer of the State; and

“(3) is independent of any agency administering activities funded under this part.

“(c) Audit Report.—Not later than 30 days following the completion of an audit under this subsection, a State shall submit a copy of the audit to the State legislature, the Secretary of the Treasury, and the Secretary of Health and Human Services.

“(d) Additional Accounting Requirements.—The provisions of chapter 75 of title 31, United States Code, shall apply to the audit requirements of this section.

“SEC. 409. DATA COLLECTION AND REPORTING.

“(a) In general.—The Secretary, in consultation with State and local government officials and other interested persons, shall develop a quality assurance system of data collection and reporting that promotes accountability and ensures the improvement and integrity of programs funded under this part.

“(b) State Submissions.—

“(1) In general.—Not later than the 15th day of the first month of each calendar quarter, each State to which a grant is made under section 410(h) shall submit to the Secretary the data described in paragraphs (2) and (3) with respect to families described in paragraph (4).

“(2) Disaggregated data described.—The data described in this paragraph with respect to families described in paragraph (4) is a sample of monthly disaggregated case record data containing the following:

“(A) The age of the adults and children (including pregnant women) in each family.

“(B) The marital and familial status of each member of the family (including whether the family is a 2-parent family and whether a child is living with an adult relative other than a parent).

“(C) The gender, educational level, work experience, and race of the head of each family.

“(D) The health status of each member of the family (including whether any member of the family is seriously ill, disabled, or incapacitated and is being cared for by another member of the family).

“(E) The type and amount of any benefit or assistance received by the family, including—

“(i) the amount of and reason for any reduction in assistance, and

“(ii) if assistance is terminated, whether termination is due to employment, sanction, or time limit.

“(F) Any benefit or assistance received by a member of the family with respect to housing, food stamps, job training, or the Head Start program.

“(G) The number of months since the family filed the most recent application for assistance under the program and if assistance was denied, the reason for the denial.

“(H) The number of times a family has applied for and received assistance under the State program and the number of months assistance has been received each time assistance has been provided to the family.

“(I) The employment status of the adults in the family (including the number of hours worked and the amount earned).

“(J) The date on which an adult in the family began to engage in work, the number of hours the adult engaged in work, the work activity in which the adult participated, and the amount of child care assistance provided to the adult (if any).

“(K) The number of individuals in each family receiving assistance and the number of individuals in each family not receiving assistance, and the relationship of each individual to the youngest child in the family.

“(L) The citizenship status of each member of the family.

“(M) The housing arrangement of each member of the family.

“(N) The amount of unearned income, child support, assets, and other financial factors considered in determining eligibility for assistance under the State program.

“(O) The location in the State of each family receiving assistance.

“(P) Any other data that the Secretary determines is necessary to ensure efficient and effective program administration.

“(3) Aggregated monthly data.—The data described in this paragraph is the following aggregated monthly data with respect to the families described in paragraph (4):

“(A) The number of families.

“(B) The number of adults in each family.

“(C) The number of children in each family.

“(D) The number of families for which assistance has been terminated because of employment, sanctions, or time limits.

“(4) Families described.—The families described in this paragraph are—

“(A) families receiving assistance under a State program funded under this part for each month in the calendar quarter preceding the calendar quarter in which the data is submitted;

“(B) families applying for such assistance during such preceding calendar quarter; and

“(C) families that became ineligible to receive such assistance during such preceding calendar quarter.

“(5) Appropriate subsets of data collected.—The Secretary shall determine appropriate subsets of the data described in paragraphs (2) and (3) that a State is required to submit under paragraph (1) with respect to families described in subparagraphs (B) and (C) of paragraph (4).

“(6) Sampling and other methods.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid estimates of each State's program performance. The Secretary is authorized to develop and implement procedures for verifying the quality of data submitted by the States.

“(c) Report on Use of Federal Funds To Cover Administrative Costs and Overhead.—The report required by subsection (a) for a fiscal year shall include a statement of—

“(1) the total amount and percentage of the Federal funds paid to the State under this part for the fiscal year that are used to cover administrative costs or overhead; and

“(2) the total amount of State funds that are used to cover such costs or overhead.

“(d) Report on State Expenditures on Programs for Needy Families.—The report required by subsection (a) for a fiscal year shall include a statement of the total amount expended by the State during the fiscal year on the program under this part and the purposes for which such amount was spent.

“(e) Report on Noncustodial Parents Participating in Work Activities.—The report required by subsection (a) for a fiscal year shall include the number of noncustodial parents in the State who participated in work activities during the fiscal year.

“(f) Report on Child Support Collected.—The report required by subsection (a) for a fiscal year shall include the total amount of child support collected by the State agency administering the State program under part D on behalf of a family receiving assistance under this part.

“(g) Report on Child Care.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for child care under the program under this part, along with a description of the types of child care provided, including child care provided in the case of a family that—

“(1) has ceased to receive assistance under this part because of employment; or

“(2) is not receiving assistance under this part but would be at risk of becoming eligible for such assistance if child care was not provided.

“(h) Report on Transitional Services.—The report required by subsection (a) for a fiscal year shall include the total amount expended by the State for providing transitional services to a family that has ceased to receive assistance under this part because of employment, along with a description of such services.

“(i) Secretary's Report on Data Processing.—

“(1) In general.—Not later than 6 months after the date of the enactment of the Work Opportunity Act of 1995, the Secretary shall prepare and submit to the Congress a report on—

“(A) the status of the automated data processing systems operated by the States to assist management in the administration of State programs under this part (whether in effect before or after October 1, 1995); and

“(B) what would be required to establish a system capable of—

“(i) tracking participants in public programs over time; and

“(ii) checking case records of the States to determine whether individuals are participating in public programs in 2 or more States.

“(2) Preferred contents.—The report required by paragraph (1) should include—

“(A) a plan for building on the automated data processing systems of the States to establish a system with the capabilities described in paragraph (1)(B); and

“(B) an estimate of the amount of time required to establish such a system and of the cost of establishing such a system.

“(j) Report to Congress.—Not later than 6 months after the end of fiscal year 1997, and each fiscal year thereafter, the Secretary shall transmit to the Congress a report describing—

“(1) whether the States are meeting—

“(A) the participation rates described in section 404(a); and

“(B) the objectives of—

“(i) increasing employment and earnings of needy families, and child support collections; and

“(ii) decreasing out-of-wedlock pregnancies and child poverty;

“(3) the demographic and financial characteristics of families applying for assistance, families receiving assistance, and families that become ineligible to receive assistance;

“(4) the characteristics of each State program funded under this part; and

“(5) the trends in employment and earnings of needy families with minor children.

“SEC. 410. RESEARCH, EVALUATIONS, AND NATIONAL STUDIES.

“(a) Research.—The Secretary shall conduct research on the benefits, effects, and costs of operating different State programs funded under this part, including time limits relating to eligibility for assistance. The research shall include studies on the effects of different programs and the operation of such programs on welfare dependency, illegitimacy, teen pregnancy, employment rates, child well-being, and any other area the Secretary deems appropriate.

“(b) Development and Evaluation of Innovative Approaches To Reducing Welfare Dependency and Increasing Child Well-Being.—

“(1) In general.—The Secretary may assist States in developing, and shall evaluate, innovative approaches for reducing welfare dependency and increasing the well-being of minor

children with respect to recipients of assistance under programs funded under this part. The Secretary may provide funds for training and technical assistance to carry out the approaches developed pursuant to this paragraph.

"(2) EVALUATIONS.—In performing the evaluations under paragraph (1), the Secretary shall, to the maximum extent feasible, use random assignment as an evaluation methodology.

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall develop innovative methods of disseminating information on any research, evaluations, and studies conducted under this section, including the facilitation of the sharing of information and best practices among States and localities through the use of computers and other technologies.

"(d) ANNUAL RANKING OF STATES AND REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—

"(1) ANNUAL RANKING OF STATES.—The Secretary shall rank annually the States to which grants are paid under section 403 in the order of their success in placing recipients of assistance under the State program funded under this part into long-term private sector jobs, reducing the overall welfare caseload, and, when a practicable method for calculating this information becomes available, diverting individuals from formally applying to the State program and receiving assistance. In ranking States under this subsection, the Secretary shall take into account the average number of minor children in families in the State that have incomes below the poverty line and the amount of funding provided each State for such families.

"(2) ANNUAL REVIEW OF MOST AND LEAST SUCCESSFUL WORK PROGRAMS.—The Secretary shall review the programs of the 3 States most recently ranked highest under paragraph (1) and the 3 States most recently ranked lowest under paragraph (1) that provide parents with work experience, assistance in finding employment, and other work preparation activities and support services to enable the families of such parents to leave the program and become self-sufficient.

"(e) ANNUAL RANKING OF STATES AND REVIEW OF ISSUES RELATING TO OUT-OF-WEDLOCK BIRTHS.—

"(1) ANNUAL RANKING OF STATES.—

"(A) IN GENERAL.—The Secretary shall annually rank States to which grants are paid under section 403 based on the following ranking factors (developed with information reported by the State under section 406(f)):

"(i) ABSOLUTE OUT-OF-WEDLOCK RATIOS.—The ratio represented by—

"(I) the total number of out-of-wedlock births in families receiving assistance under the State program under this part in the State for the most recent fiscal year for which information is available; over

"(II) the total number of births in families receiving assistance under the State program under this part in the State for such year.

"(ii) NET CHANGES IN THE OUT-OF-WEDLOCK RATIO.—The difference between the ratio described in subparagraph (A)(i) for the most recent fiscal year for which information is available and such State's ratio determined for the preceding year.

"(2) ANNUAL REVIEW.—The Secretary shall review the programs of the 5 States most recently ranked highest under paragraph (1) and the 5 States most recently ranked the lowest under paragraph (1).

"(f) STUDY ON ALTERNATIVE OUTCOMES MEASURES.—

"(1) STUDY.—The Secretary shall, in cooperation with the States, study and analyze outcomes measures for evaluating the success of a State in moving individuals out of the welfare system through employment as an alternative to the minimum participation rates described in section 404. The study shall include a determination as to whether such alternative outcomes measures should be applied on a national or a State-by-State basis and a preliminary assessment of the job placement performance bonus established under section 403(f).

"(2) REPORT.—Not later than September 30, 1998, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing the findings of the study described in paragraph (1).

"(g) STATE-INITIATED STUDIES.—A State shall be eligible to receive funding to evaluate the State's family assistance program funded under this part if—

"(1) the State submits a proposal to the Secretary for such evaluation,

"(2) the Secretary determines that the design and approach of the evaluation is rigorous and is likely to yield information that is credible and will be useful to other States, and

"(3) unless otherwise waived by the Secretary, the State provides a non-Federal share of at least 10 percent of the cost of such study.

"(h) ADDITIONAL AMOUNT FOR STUDIES AND DEMONSTRATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated for each fiscal year described in section 403(a)(1) an additional $20,000,000 for the purpose of paying—

"(A) the Federal share of any State-initiated study approved under subsection (g);

"(B) an amount determined by the Secretary to be necessary to operate and evaluate demonstration projects, relating to part A of title IV of this Act, that are in effect or approved under section 1115 as of October 1, 1995, and are continued after such date;

"(C) the cost of conducting the research described in subsection (a); and

"(D) the cost of developing and evaluating innovative approaches for reducing welfare dependency and increasing the well-being of minor children under subsection (b).

"(2) ALLOCATION.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) 50 percent shall be allocated for the purposes described in subparagraphs (A) and (B) of paragraph (1), and

"(B) 50 percent shall be allocated for the purposes described in subparagraphs (C) and (D) of paragraph (1).

"SEC. 411. STUDY BY THE CENSUS BUREAU.

"(a) IN GENERAL.—The Bureau of the Census shall expand the Survey of Income and Program Participation as necessary to obtain such information as will enable interested persons to evaluate the impact of the amendments made by the Work Opportunity Act of 1995 on a random national sample of recipients of assistance under State programs funded under this part and (as appropriate) other low-income families, and in doing so, shall pay particular attention to the issues of out-of-wedlock births, welfare dependency, the beginning and end of welfare spells, and the causes of repeat welfare spells.

"(b) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, the Secretary of the Treasury shall pay to the Bureau of the Census $10,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to carry out subsection (a).

"SEC. 412. WAIVERS.

"(a) CONTINUATION OF WAIVERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any waiver granted to a State under section 1115 or otherwise which relates to the provision of assistance under a State plan under this part is in effect or approved by the Secretary as of October 1, 1995, the amendments made by subtitle D of title I and subtitles C, D, E, F, and G of title VII of the Balanced Budget Reconciliation Act of 1995 shall not apply with respect to the State before the expiration (determined without regard to any extensions) of the waiver to the extent such amendments are inconsistent with the terms of the waiver.

"(2) FINANCING LIMITATION.—Notwithstanding any other provision of law, beginning with fiscal year 1996, a State operating under a waiver described in paragraph (1) shall receive the payment described for such State for such fiscal year under section 403, in lieu of any other payment provided for in the waiver.

"(b) STATE OPTION TO TERMINATE WAIVER.—

"(1) IN GENERAL.—A State may terminate a waiver described in subsection (a) before the expiration of the waiver.

"(2) REPORT.—A State which terminates a waiver under paragraph (1) shall submit a report to the Secretary summarizing the waiver and any available information concerning the result or effect of such waiver.

"(3) HOLD HARMLESS PROVISION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State that, not later than the date described in subparagraph (B), submits a written request to terminate a waiver described in subsection (a) shall be held harmless for accrued cost neutrality liabilities incurred under the terms and conditions of such waiver.

"(B) DATE DESCRIBED.—The date described in this subparagraph is the later of—

"(i) January 1, 1996; or

"(ii) 90 days following the adjournment of the first regular session of the State legislature that begins after the date of the enactment of the Work Opportunity Act of 1995.

"(c) SECRETARIAL ENCOURAGEMENT OF CURRENT WAIVERS.—The Secretary shall encourage any State operating a waiver described in subsection (a) to continue such waiver and to evaluate, using random sampling and other characteristics of accepted scientific evaluations, the result or effect of such waiver.

"(d) CONTINUATION OF INDIVIDUAL WAIVERS.—A State may elect to continue one or more individual waivers described in subsection (a)(1).

"SEC. 413. STATE AND COUNTY DEMONSTRATION PROGRAMS.

"(a) NO LIMITATION OF STATE DEMONSTRATION PROJECTS.—Nothing in this part shall be construed as limiting a State's ability to conduct demonstration projects for the purpose of identifying innovative or effective program designs in 1 or more political subdivisions of the State: Provided, That such State contains more than one county with a population of greater than 500,000.

"(b) COUNTY WELFARE DEMONSTRATION PROJECT.—

"(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Agriculture shall jointly enter into negotiations with all counties having a population greater than 500,000 desiring to conduct a demonstration project described in paragraph (2) for the purpose of establishing appropriate rules to govern the establishment and operation of such project.

"(2) DEMONSTRATION PROJECT DESCRIBED.—The demonstration project described in this paragraph shall provide that—

"(A) a county participating in the demonstration project shall have the authority and duty to administer the operation of the program described under this part as if the county were considered a State for the purpose of this part;

"(B) the State in which the county participating in the demonstration project is located shall pass through directly to the county the portion of the grant received by the State under section 403 which the State determines is attributable to the residents of such county; and

"(C) the duration of the project shall be for 5 years.

"(3) COMMENCEMENT OF PROJECT.—After the conclusion of the negotiations described in paragraph (2), the Secretary of Health and Human Services and the Secretary of Agriculture may authorize a county to conduct the demonstration project described in paragraph (2) in accordance with the rules established during the negotiations.

"(4) REPORT.—Not later than 6 months after the termination of a demonstration project operated under this subsection, the Secretary of Health and Human Services and the Secretary of Agriculture shall submit to the Congress a report that includes—

"(A) a description of the demonstration project;

"(B) the rules negotiated with respect to the project; and

"(C) the innovations (if any) that the county was able to initiate under the project.

"(5) ELIGIBLE COUNTY.—A county may participate in a demonstration project under this subsection if the county is—

"(A) a county that is already administering the welfare program under this part;

"(B) represents less than 25 percent of the State's total welfare caseload.

"SEC. 414. DIRECT FUNDING AND ADMINISTRATION BY INDIAN TRIBES.

"(a) PURPOSE.—The purpose of this section is—

"(1) to strengthen and enhance the control and flexibility of local governments over local programs; and

"(2) in recognition of the principles contained in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)—

"(A) to provide direct Federal funding to Indian tribes for the tribal administration of the program funded under this part; or

"(B) to enable Indian tribes to enter into agreements, contracts, or compacts with intertribal consortia, States, or other entities for the administration of such program on behalf of the Indian tribe.

"(b) GRANT AMOUNTS FOR INDIAN TRIBES.—

"(1) IN GENERAL.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, the Secretary shall pay to each Indian tribe that has an approved tribal family assistance plan a tribal family assistance grant for the fiscal year in an amount equal to the amount determined under paragraph (2).

"(2) AMOUNT DETERMINED.—

"(A) IN GENERAL.—The amount determined under this paragraph is an amount equal to the total amount of the Federal payments to a State or States under section 403 for fiscal year 1994 (as in effect during such fiscal year) attributable to expenditures by the State or States under part A and part F of this title (as so in effect) in such year for Indian families residing in the service area or areas identified by the Indian tribe in subsection (c)(1)(C).

"(B) USE OF STATE SUBMITTED DATA.—

"(i) IN GENERAL.—The Secretary shall use State submitted data to make each determination under subparagraph (A).

"(ii) DISAGREEMENT WITH DETERMINATION.—If an Indian tribe or tribal organization disagrees with State submitted data described under clause (i), the Indian tribe or tribal organization may submit to the Secretary such additional information as may be relevant to making the determination under subparagraph (A) and the Secretary may consider such information before making such determination.

"(c) 3-YEAR TRIBAL FAMILY ASSISTANCE PLAN.—

"(1) IN GENERAL.—Any Indian tribe that desires to receive a tribal family assistance grant shall submit to the Secretary a 3-year tribal family assistance plan that—

"(A) outlines the Indian tribe's approach to providing welfare-related services for the 3-year period, consistent with the purposes of this section;

"(B) specifies whether the welfare-related services provided under the plan will be provided by the Indian tribe or through agreements, contracts, or compacts with intertribal consortia, States, or other entities;

"(C) identifies the population and service area or areas to be served by such plan;

"(D) provides that a family receiving assistance under the plan may not receive duplicative assistance from other State or tribal programs funded under this part;

"(E) identifies the employment opportunities in or near the service area or areas of the Indian tribe and the manner in which the Indian tribe will cooperate and participate in enhancing such opportunities for recipients of assistance under the plan consistent with any applicable State standards; and

"(F) applies the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) APPROVAL.—The Secretary shall approve each tribal family assistance plan submitted in accordance with paragraph (1).

"(3) CONSORTIUM OF TRIBES.—Nothing in this section shall preclude the development and submission of a single plan by the participating Indian tribes of an intertribal consortium.

"(d) MINIMUM WORK PARTICIPATION REQUIREMENTS AND TIME LIMITS.—The Secretary, with the participation of Indian tribes, shall establish for each Indian tribe receiving a grant under this section minimum work participation requirements, appropriate time limits for receipt of welfare-related services under such grant, and penalties against individuals—

"(1) consistent with the purposes of this section;

"(2) consistent with the economic conditions and resources available to each tribe; and

"(3) similar to comparable provisions in section 404(d).

"(e) EMERGENCY ASSISTANCE.—Nothing in this section shall preclude an Indian tribe from seeking emergency assistance from any Federal loan program or emergency fund.

"(f) ACCOUNTABILITY.—Nothing in this section shall be construed to limit the ability of the Secretary to maintain program funding accountability consistent with—

"(1) generally accepted accounting principles; and

"(2) the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(g) TRIBAL PENALTIES.—For the purpose of ensuring the proper use of tribal family assistance grants, the following provisions shall apply to an Indian tribe with an approved tribal assistance plan:

"(1) The provisions of subsections (a)(1), (a)(6), and (b) of section 407, in the same manner as such subsections apply to a State.

"(2) The provisions of section 407(a)(3), except that such subsection shall be applied by substituting 'the minimum requirements established under subsection (d) of section 414' for 'the minimum participation rates specified in section 404'.

"(h) DATA COLLECTION AND REPORTING.—For the purpose of ensuring uniformity in data collection, section 409 shall apply to an Indian tribe with an approved tribal family assistance plan.

"(i) SPECIAL RULE FOR INDIAN TRIBES IN ALASKA.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, and except as provided in paragraph (2), an Indian tribe in the State of Alaska that receives a tribal family assistance grant under this section shall use such grant to operate a program in accordance with the requirements applicable to the program of the State of Alaska funded under this part.

"(2) WAIVER.—An Indian tribe described in paragraph (1) may apply to the appropriate State authority to receive a waiver of the requirement of paragraph (1).

"SEC. 415. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

"The programs under this part and part D of this title shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.

"SEC. 416. LIMITATION ON FEDERAL AUTHORITY.

"The Secretary of Health and Human Services and the Secretary of the Treasury may not regulate the conduct of States under this part or enforce any provision of this part, except to the extent expressly provided in this part.

"SEC. 417. APPEAL OF ADVERSE DECISION.

"(a) IN GENERAL.—The Secretary shall notify the chief executive officer of a State of any adverse decision or action under this part, including any decision with respect to the State's plan or the imposition of a penalty under section 407.

"(b) ADMINISTRATIVE REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 60 days after the date a State receives notice of an adverse decision under this section, the State may appeal the decision, in whole or in part, to the Departmental Appeals Board established in the Department of Health and Human Services (hereafter referred to in this section as the 'Board') by filing an appeal with the Board.

"(2) PROCEDURAL RULES.—The Board shall consider a State's appeal on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold an adverse decision or any portion thereof, the Board shall conduct a thorough review of the issues and take into account all relevant evidence. The Board shall make a final determination with respect to an appeal filed under this paragraph not less than 60 days after the date the appeal is filed.

"(c) JUDICIAL REVIEW OF ADVERSE DECISION.—

"(1) IN GENERAL.—Within 90 days after the date of a final decision by the Board with respect to an adverse decision regarding a State under this section, the State may obtain judicial review of the final decision (and the findings incorporated into the final decision) by filing an action in—

"(A) the district court of the United States for the judicial district in which the principal or headquarters office of the State agency is located; or

"(B) the United States District Court for the District of Columbia.

"(2) PROCEDURAL RULES.—The district court in which an action is filed shall review the final decision of the Board on the record established in the administrative proceeding, in accordance with the standards of review prescribed by subparagraphs (A) through (E) of section 706(2) of title 5, United States Code. The review shall be on the basis of the documents and supporting data submitted to the Board.

"SEC. 418. AMOUNTS FOR CHILD CARE.

"(a) CHILD CARE ALLOCATION.—

"(1) IN GENERAL.—From the amount appropriated under section 403(a)(4)(A) for a fiscal year, the Secretary shall set aside an amount *equal to the total amount of the Federal payments for fiscal year 1994 to States under section—*

"(A) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section;

"(B) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as so in effect), in the case of a State with respect to which section 1108 of this Act applies; and

"(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act (as so in effect).

"(2) DISTRIBUTION.—From amounts set aside for a fiscal year under paragraph (1), the Secretary shall pay to a State an amount equal to the total amounts of Federal payments for fiscal year 1994 to the State under section—

"(A) 402(g)(3)(A) of this Act (as such section was in effect before October 1, 1995) for amounts expended for child care pursuant to paragraph (1) of such section;

"(B) 403(l)(1)(A) of this Act (as so in effect) for amounts expended for child care pursuant to section 402(g)(1)(A) of this Act (as so in effect), in the case of a State with respect to which section 1108 of this Act applies; and

"(C) 403(n) of this Act (as so in effect) for child care services pursuant to section 402(i) of this Act (as so in effect).

"(3) USE OF FUNDS.—Amounts received by a State under paragraph (2) shall only be used to provide child care assistance under this part.

"(4) FEDERAL PAYMENTS.—For purposes of paragraphs (1) and (2), Federal payments for fiscal year 1994 means such payments as reported by the State on February 14, 1995.

"(b) ADDITIONAL APPROPRIATION.—

"(1) IN GENERAL.—There are authorized to be appropriated and there are appropriated, $3,000,000,000 to be distributed to the States during the 5-fiscal year period beginning in fiscal year 1996 for the provision of child care assistance.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—The Secretary shall use amounts made available under paragraph (1) to make grants to States. The total amount of grants awarded to a State under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State for fiscal year 1994 under section 403(n) (as such section was in effect before October 1, 1995) for child care services pursuant to section 402(i) (as so in effect) as such amount relates to the total amount of such Federal payments to all States for such fiscal year.

"(B) FISCAL YEAR 2000.—With respect to the last quarter of fiscal year 2000, if the Secretary determines that any allotment to a State under this subsection will not be used by such State for carrying out the purpose for which the allotment is available, the Secretary shall make such allotment available for carrying out such purpose to 1 or more other States which apply for such funds to the extent the Secretary determines that such other States will be able to use such additional allotments for carrying out such purpose. Such available allotments shall be reallocated to a State pursuant to section 402(i) (as such section was in effect before October 1, 1995) by substituting 'the number of children residing in all States applying for such funds' for 'the number of children residing in the United States in the second preceding fiscal year'. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for such year.

"(3) AMOUNT OF FUNDS.—The Secretary shall pay to each eligible State in a fiscal year an amount equal to the Federal medical assistance percentage for such State for such fiscal year (as defined in section 2122(c)) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under subsection (a) for such year and the amount of State expenditures in fiscal year 1994 that equal the non-Federal share for the programs described in subparagraphs (A), (B) and (C) of subsection (a)(1).

"(4) BUDGET SCORING.—Notwithstanding section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, the baseline shall assume that no grant shall be made under this subsection after fiscal year 2000.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) STATE OPTION.—For purposes of section 402(a)(1)(B), a State may, at its option, not require a single parent with a child under the age of 6 to participate in work for more than an average of 20 hours per week during a month and may count such parent as being engaged in work for a month for purposes of section 404(c)(1) if such parent participates in work for an average of 20 hours per week during such month.

"(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide an entitlement to child care services to any child.

"SEC. 419. ELIGIBILITY FOR CHILD CARE ASSISTANCE.

Notwithstanding section 658T of the Child Care and Development Block Grant Act of 1990, the State agency specified in section 402(a)(7) shall determine eligibility for child care assistance provided under this part in accordance with criteria determined by the State.

"SEC. 420. COLLECTION OF OVERPAYMENTS FROM FEDERAL TAX REFUNDS.

"(a) IN GENERAL.—Upon receiving notice from the Secretary of Health and Human Services that a State agency administering a plan approved under this part has notified the Secretary that a named individual has been overpaid under the State plan approved under this part, the Secretary of the Treasury shall determine whether any amounts as refunds of Federal taxes paid are payable to such individual, regardless of whether such individual filed a tax return as a married or unmarried individual. If the Secretary of the Treasury finds that any such amount is payable, the Secretary shall withhold from such refunds an amount equal to the overpayment sought to be collected by the State and pay such amount to the State agency.

"(b) REGULATIONS.—The Secretary of the Treasury shall issue regulations, after review by the Secretary of Health and Human Services, that provide—

"(1) that a State may only submit under subsection (a) requests for collection of overpayments with respect to individuals—

"(A) who are no longer receiving assistance under the State plan approved under this part,

"(B) with respect to whom the State has already taken appropriate action under State law against the income or resources of the individuals or families involved to collect the past-due legally enforceable debt; and

"(C) to whom the State agency has given notice of its intent to request withholding by the Secretary of the Treasury from the income tax refunds of such individuals;

"(2) that the Secretary of the Treasury will give a timely and appropriate notice to any other person filing a joint return with the individual whose refund is subject to withholding under subsection (a); and

"(3) the procedures that the State and the Secretary of the Treasury will follow in carrying out this section which, to the maximum extent feasible and consistent with the specific provisions of this section, will be the same as those issued pursuant to section 464(b) applicable to collection of past-due child support.".

(c) CONFORMING AMENDMENTS RELATING TO COLLECTION OF OVERPAYMENTS.—

(1) Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(A) in subsection (a), by striking "(c) and (d)" and inserting "(c), (d), and (e)";

(B) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(C) by inserting after subsection (d) the following:

"(e) COLLECTION OF OVERPAYMENTS UNDER TITLE IV–A OF THE SOCIAL SECURITY ACT.—The amount of any overpayment to be refunded to the person making the overpayment shall be reduced (after reductions pursuant to subsections (c) and (d), but before a credit against future liability for an internal revenue tax) in accordance with section 421 of the Social Security Act (concerning recovery of overpayments to individuals under State plans approved under part A of title IV of such Act).".

(2) Paragraph (10) of section 6103(l) of such Code is amended—

(A) by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)"; and

(B) by adding at the end of subparagraph (B) the following new sentence: "Any return information disclosed with respect to section 6402(e) shall only be disclosed to officers and employees of the State agency requesting such information.".

(3) The matter preceding subparagraph (A) of section 6103(p)(4) of such Code is amended—

(A) by striking "(5), (10)" and inserting "(5)"; and

(B) by striking "(9), or (12)" and inserting "(9), (10), or (12)".

(4) Section 552a(a)(8)(B)(iv)(III) of title 5, United States Code, is amended by striking "section 464 or 1137 of the Social Security Act" and inserting "section 421, 464, or 1137 of the Social Security Act.".

SEC. 7202. LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.

No funds provided directly to institutions or organizations to provide services and administer programs described in section 7202(a)(2) and programs established or modified under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title shall be expended for sectarian worship or instruction. This section shall not apply to financial assistance provided to or on behalf of beneficiaries of assistance in the form of certificates, vouchers, or other forms of disbursement, if such beneficiary may choose where such assistance shall be redeemed.

SEC. 7203. CENSUS DATA ON GRANDPARENTS AS PRIMARY CAREGIVERS FOR THEIR GRANDCHILDREN.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce (hereafter in this section referred to as the "Secretary"), in carrying out the provisions of section 141 of title 13, United States Code, shall expand the data collection efforts of the Bureau of the Census (hereafter in this section referred to as the "Bureau") to enable the Bureau to collect statistically significant data, in connection with its decennial census and its mid-decade census, concerning the growing trend of grandparents who are the primary caregivers for their grandchildren.

(b) EXPANDED CENSUS QUESTION.—In carrying out the provisions of subsection (a), the Secretary shall expand the Bureau's census question that details households which include both grandparents and their grandchildren. The expanded question shall be formulated to distinguish between the following households:

(1) A household in which a grandparent temporarily provides a home for a grandchild for a period of weeks or months during periods of parental distress.

(2) A household in which a grandparent provides a home for a grandchild and serves as the primary caregiver for the grandchild.

SEC. 7204. STUDY OF EFFECT OF WELFARE REFORM ON GRANDPARENTS AS PRIMARY CAREGIVERS.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study evaluating the impact of amendments made by subtitle D of title I of this Act, this subtitle, and subtitles D, E, F, and G of this title on grandparents who have assumed the responsibility of providing care to their grandchildren. In such study, the Secretary shall identify barriers to participation in public programs including inconsistent policies, standards, and definitions used by programs and agencies in the administration of medicaid, assistance under a State program funded under part A of title IV of the Social Security Act, child support enforcement, and foster care programs on grandparents who have assumed the care-giving role for children whose natural parents are unable to provide care.

(b) REPORT.—Not later than December 31, 1997, the Secretary shall submit a report setting forth the findings of the study described in subsection (a) to the Committee on Ways and Means and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Finance, the Committee on Labor and Human Resources, and the Special Committee on Aging of the Senate. The report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.

SEC. 7205. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the "Commissioner") shall in accordance with the provisions of this section develop a prototype of a counterfeit-resistant social security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits, and

(C) be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General of the United States shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Commissioner shall conduct a study and issue a report to Congress which examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDY.—The study shall include an evaluation of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The study shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORT.—Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate within 1 year of the date of the enactment of this Act.

SEC. 7206. MODIFICATIONS TO THE JOB OPPORTUNITIES FOR CERTAIN LOW-INCOME INDIVIDUALS PROGRAM.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315 note) is amended—

(1) in the heading, by striking "demonstration";

(2) by striking "demonstration" each place it appears;

(3) in subsection (a), by striking "in each of fiscal years" and all that follows through "10" and inserting "shall enter into agreements with";

(4) in subsection (b)(3), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act in the State in which the individual resides";

(5) in subsection (c)—

(A) in paragraph (1)(C), by striking "aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(B) in paragraph (2), by striking "aid to families with dependent children under title IV of such Act" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(6) in subsection (d), by striking "job opportunities and basic skills training program (as provided for under title IV of the Social Security Act" and inserting "the State program funded under part A of title IV of the Social Security Act"; and

(7) by striking subsections (e) through (g) and inserting the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of conducting projects under this section, there is authorized to be appropriated an amount not to exceed $25,000,000 for any fiscal year.".

SEC. 7207. DEMONSTRATION PROJECTS FOR SCHOOL UTILIZATION.

(a) FINDINGS.—It is the goal of the United States that children grow to be self-sufficient citizens, that parents equip themselves to provide the best parental care and guidance to their children, and that welfare dependency, crime, and the deterioration of neighborhoods be eliminated. It will contribute to these goals to increase the level of parents' involvement in their children's school and other activities, to increase the amount of time parents spend with or in close proximity to their children, to increase the portion of the day and night when children are in a safe and healthy environment and not exposed to unfavorable influences, to increase the opportunities for children to participate in safe, healthy, and enjoyable extracurricular and organized developmental and recreational activities, and to make more accessible the opportunities for parents, especially those dependent on public assistance, to increase and enhance their parenting and living skills. All of these contributions can be facilitated by establishing the neighborhood public school as a focal point for such activities and by extending the hours of the day in which its facilities are available for such activities.

(b) GRANTS.—The Secretary of Education (hereafter in this section referred to as the "Secretary") shall make demonstration grants as provided in subsection (c) to States to enable them to increase the number of hours during each day when existing public school facilities are available for use for the purposes set forth in subsection (d).

(c) SELECTION OF STATES.—The Secretary shall make grants to not more than 5 States for demonstration projects in accordance with this section. Each State shall select the number and location of schools based on the amount of funds it deems necessary for a school properly to achieve the goals of this program. The schools selected must have a significant percentage of students receiving benefits under part A of title IV of the Social Security Act. No more than 2 percent of the grant to any State shall be used for administrative expenses of any kind by any entity (except that none of the activities set forth in paragraphs (1) and (2) of subsection (d) shall be considered an administrative activity the expenses for which are limited by this subsection).

(d) USE OF FUNDS.—The grants made under subsection (b), in order that school facilities can be more fully utilized, shall be used to provide funding for, among other things—

(1) extending the length of the school day, expanding the scope of student programs offered before and after pre-existing school hours, enabling volunteers and parents or professionals paid from other sources to teach, tutor, coach, organize, advise, or monitor students before and after pre-existing school hours, and providing security, supplies, utilities, and janitorial services before and after pre-existing school hours for these programs,

(2) making the school facilities available for community and neighborhood clubs, civic associations and organizations, Boy and Girl Scouts and similar organizations, adult education classes, organized sports, parental education classes, and other educational, recreational, and social activities.

None of the funds provided under this section can be used to supplant funds already provided to a school facility for services, equipment, personnel, or utilities nor can funds be used to pay costs associated with operating school facilities during hours those facilities are already available for student or community use.

(e) APPLICATIONS.—

(1) IN GENERAL.—The Governor of each State desiring to conduct a demonstration project under this section shall prepare and submit to the Secretary an application in such manner and containing such information as the Secretary may require. The Secretary shall actively encourage States to submit such applications.

(2) APPROVAL.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve such applications in a number of States to be determined by the Secretary (not to exceed 5), taking into account the overall funding levels available under this section.

(f) DURATION.—A demonstration project under this section shall be conducted for not more than 4 years plus an additional time period of up to 12 months for final evaluation and reporting. The Secretary may terminate a project if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(g) EVALUATION PLAN.—

(1) STANDARDS.—Not later than 3 months after the date of the enactment of this section, the Secretary shall develop standards for evaluating the effectiveness of each demonstration project in contributing toward meeting the objectives set forth in subsection (a), which shall include the requirement that an independent expert entity selected by the Secretary provide an evaluation of all demonstration projects, which evaluations shall be included in the appropriate State's annual and final reports to the Secretary under subsection (h)(1).

(2) SUBMISSION OF PLAN.—Each State conducting a demonstration project under this section shall submit an evaluation plan (meeting the standards developed by the Secretary under paragraph (1)) to the Secretary not later than 90

days after the State is notified of the Secretary's approval for such project. A State shall not receive any Federal funds for the operation of the demonstration project until the Secretary approves such evaluation plan.

(h) REPORTS.—

(1) STATE.—A State that conducts a demonstration project under this section shall prepare and submit to the Secretary annual and final reports in accordance with the State's evaluation plan under subsection (g)(2) for such demonstration project.

(2) SECRETARY.—The Secretary shall prepare and submit to the Congress annual reports concerning each demonstration project under this section.

(i) AUTHORIZATIONS.—

(1) GRANTS.—There are authorized to be appropriated for grants under subsection (b) for each of fiscal years 1996, 1997, 1998, 1999, and 2000, $10,000,000.

(2) ADMINISTRATION.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000 for the administration of this section by the Secretary, including development of standards and evaluation of all demonstration projects by an independent expert entity under subsection (g)(1).

SEC. 7208. CORRECTIVE COMPLIANCE PLAN.

(a) IN GENERAL.—

(1) NOTIFICATION OF VIOLATION.—Notwithstanding any other provision of law, the Federal Government shall, prior to assessing a penalty against a State under any program established or modified under subtitle D of title I of this Act, this subtitle, or subtitle D, E, F, or G of this title, notify the State of the violation of law for which such penalty would be assessed and allow the State the opportunity to enter into a corrective compliance plan in accordance with this section which outlines how the State will correct any violations for which such penalty would be assessed and how the State will insure continuing compliance with the requirements of such program.

(2) 60-DAY PERIOD TO PROPOSE A CORRECTIVE COMPLIANCE PLAN.—Any State notified under paragraph (1) shall have 60 days in which to submit to the Federal Government a corrective compliance plan to correct any violations described in such paragraph.

(3) ACCEPTANCE OF PLAN.—The Federal Government shall have 60 days to accept or reject the State's corrective compliance plan and may consult with the State during this period to modify the plan. If the Federal Government does not accept or reject the corrective compliance plan during the period, the corrective compliance plan shall be deemed to be accepted.

(b) FAILURE TO CORRECT.—If a corrective compliance plan is accepted by the Federal Government, no penalty shall be imposed with respect to a violation described in subsection (a) if the State corrects the violation pursuant to the plan. If a State has not corrected the violation in a timely manner under the plan, some or all of the penalty shall be assessed.

SEC. 7209. PARENTAL RESPONSIBILITY CONTRACTS.

(a) ASSESSMENT.—Notwithstanding any other provision of, or amendment made by, this subtitle, each State to which a grant is made under section 403 of the Social Security Act shall provide that the State agency, through a case manager, shall make an initial assessment of the education level, parenting skills, and history of parenting activities and involvement of each parent who is applying for financial assistance under the State plan funded under part A of title IV of the Social Security Act.

(b) PARENTAL RESPONSIBILITY CONTRACTS.—On the basis of the assessment made under subsection (a) with respect to each parent applicant, the case manager, in consultation with the parent applicant (hereafter in this subsection referred to as the "client") and, if possible, the client's spouse if one is present, shall develop a parental responsibility contract for the client, which meets the following requirements:

(1) Sets forth the obligations of the client, including all of the following the case manager believes are within the ability and capacity of the client, are not incompatible with the employment or school activities of the client, and are not inconsistent with each other in the client's case or with the well being of the client's children:

(A) Attend school, if necessary, and maintain certain grades and attendance.

(B) Keep school-age children of the client in school.

(C) Immunize children of the client.

(D) Attend parenting and money management classes.

(E) Participate in parent and teacher associations and other activities intended to involve parents in their children's school activities and in the affairs of their children's school.

(F) Attend school activities with their children where attendance or participation by both children and parents is appropriate.

(G) Undergo appropriate substance abuse treatment counseling.

(H) Any other appropriate activity, at the option of the State.

(2) Provides that the client shall accept any bona fide offer of unsubsidized full-time employment, unless the client has good cause for not doing so.

(c) PENALTIES FOR NONCOMPLIANCE WITH PARENTAL RESPONSIBILITY CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the following penalties shall apply:

(A) PROGRESSIVE REDUCTIONS IN ASSISTANCE FOR 1ST AND 2ND ACTS OF NON-COMPLIANCE.—The State plan described in section 402 of the Social Security Act shall provide that the amount of assistance otherwise payable under part A of title IV of such Act to a family that includes a client who, with respect to a parental responsibility contract signed by the client, commits an act of noncompliance without good cause, shall be reduced by—

(i) 33 percent for the 1st such act of noncompliance; or

(ii) 66 percent for the 2nd such act of noncompliance.

(B) DENIAL OF ASSISTANCE FOR 3RD AND SUBSEQUENT ACTS OF NONCOMPLIANCE.—The State shall provide that in the case of the 3rd or subsequent such act of noncompliance, the family of which the client is a member shall not thereafter be eligible for assistance under this part.

(C) LENGTH OF PENALTIES.—The penalty for an act of noncompliance shall not exceed the greater of—

(i) in the case of—

(I) the 1st act of noncompliance, 1 month,

(II) the 2nd act of noncompliance, 3 months, or

(III) the 3rd or subsequent act of noncompliance, 6 months; or

(ii) the period ending with the cessation of such act of noncompliance.

(D) DENIAL OF ASSISTANCE TO ADULTS REFUSING TO ACCEPT A BONA FIDE OFFER OF EMPLOYMENT.—The State plan shall provide that if an unemployed individual who has attained 18 years of age refuses to accept a bona fide offer of employment without good cause, such act of noncompliance shall be considered a 3rd or subsequent act of noncompliance.

(2) STATE FLEXIBILITY.—The State plan may provide for different penalties than those specified in paragraph (1).

SEC. 7210. EXPENDITURE OF FEDERAL FUNDS IN ACCORDANCE WITH LAWS AND PROCEDURES APPLICABLE TO EXPENDITURE OF STATE FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, any funds received by a State under the provisions of law specified in subsection (b) shall be expended only in accordance with the laws and procedures applicable to expenditures of the State's own revenues, including appropriation by the State legislature, consistent with the terms and conditions required under such provisions of law.

(b) PROVISIONS OF LAW.—The provisions of law specified in this subsection are the following:

(1) Part A of title IV of the Social Security Act (relating to block grants for temporary assistance to needy families).

(2) The section of the Food Stamp Act of 1977 relating to the optional State food assistance block grants.

(3) The Child Care and Development Block Grant Act of 1990 (relating to block grants for child care).

SEC. 7211. CONFORMING AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) AMENDMENTS TO TITLE II.—

(1) Section 205(c)(2)(C)(vi) (42 U.S.C. 405(c)(2)(C)(vi)), as so redesignated by section 321(a)(9)(B) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(A) by inserting "an agency administering a program funded under part A of title IV or" before "an agency operating"; and

(B) by striking "A or D of title IV of this Act" and inserting "D of such title".

(2) Section 228(d)(1) (42 U.S.C. 428(d)(1)) is amended by inserting "under a State program funded under" before "part A of title IV".

(b) AMENDMENT TO PART B OF TITLE IV.—Section 422(b)(2) (42 U.S.C. 622(b)(2)) is amended by striking "under the State plan approved" and inserting "under the State program funded.".

(c) AMENDMENTS TO PART D OF TITLE IV.—

(1) Section 451 (42 U.S.C. 651) is amended by striking "aid" and inserting "assistance under a State program funded".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A";

(B) by striking "such aid" and inserting "such assistance"; and

(C) by striking "402(a)(26) or".

(3) Section 452(a)(10)(F) (42 U.S.C. 652(a)(10)(F)) is amended—

(A) by striking "aid under a State plan approved" and inserting "assistance under a State program funded"; and

(B) by striking "in accordance with the standards referred to in section 402(a)(26)(B)(ii)" and inserting "by the State".

(4) Section 452(b) (42 U.S.C. 652(b)) is amended in the first sentence by striking "aid under the State plan approved under part A" and inserting "assistance under a State program funded under part A".

(5) Section 452(d)(3)(B)(i) (42 U.S.C. 652(d)(3)(B)(i)) is amended by striking "1115(c)" and inserting "1115(b)".

(6) Section 452(g)(2)(A)(ii)(I) (42 U.S.C. 652(g)(2)(A)(ii)(I)) is amended by striking "aid is being paid under the State's plan approved under part A or E" and inserting "assistance is being provided under the State program funded under part A or aid is being paid under the State's plan approved under part E".

(7) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter following clause (iii) by striking "aid was being paid under the State's plan approved under part A or E" and inserting "assistance was being provided under the State program funded under part A or aid was being paid under the State's plan approved under part E".

(8) Section 452(g)(2) (42 U.S.C. 652(g)(2)) is amended in the matter following subparagraph (B)—

(A) by striking "who is a dependent child" and inserting "with respect to whom assistance is being provided under the State program funded under part A";

(B) by inserting "by the State agency administering the State plan approved under this part" after "found"; and

(C) by striking "under section 402(a)(26)" and inserting "with the State in establishing paternity".

(9) Section 452(h) (42 U.S.C. 652(h)) is amended by striking "under section 402(a)(26)".

(10) Section 453(c)(3) (42 U.S.C. 653(c)(3)) is amended by striking "aid" and inserting "assistance under a State program funded".

(11) Section 454 (42 U.S.C. 654)) is amended—

(A) in paragraph (5)(A)—

(i) by striking "under section 402(a)(26)"; and

(ii) by striking "except that this paragraph shall not apply to such payments for any month following the first month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;"; and

(B) in paragraph (6)(D), by striking "aid under a State plan approved" and inserting "assistance under a State program funded".

(12) Section 456 (42 U.S.C. 656) is amended—

(A) in subsection (a)(1), by striking "under section 402(a)(26)"; and

(B) by striking subsection (b) and inserting the following:

"(b) A debt which is a support obligation enforceable under this title is not released by a discharge in bankruptcy under title 11, United States Code.".

(13) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "402(a)(26) or".

(14) Section 466(b)(2) (42 U.S.C. 666(b)(2)) is amended by striking "aid" and inserting "assistance under a State program funded".

(15) Section 469(a) (42 U.S.C. 669(a)) is amended—

(A) by striking "aid under plans approved" and inserting "assistance under State programs funded"; and

(B) by striking "such aid" and inserting "such assistance".

(d) AMENDMENTS TO PART E OF TITLE IV.—

(1) Section 470 (42 U.S.C. 670) is amended—

(A) by striking "would be" and inserting "would have been"; and

(B) by inserting "(as such plan was in effect on June 1, 1995)" after "part A".

(2) Section 471(17) (42 U.S.C. 671(17)) is amended by striking "plans approved under parts A and D" and inserting "program funded under part A and plan approved under part D".

(3) Section 472(a) (42 U.S.C. 672(a)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking "would meet" and inserting "would have met";

(ii) by inserting "(as such sections were in effect on June 1, 1995)" after "407"; and

(iii) by inserting "(as so in effect)" after "406(a)"; and

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) by inserting "would have" after "(A)"; and

(II) by inserting "(as in effect on June 1, 1995)" after "section 402"; and

(ii) in subparagraph (B)(ii), by inserting "(as in effect on June 1, 1995)" after "406(a)".

(4) Section 472(h) (42 U.S.C. 672(h)) is amended to read as follows:

"(h)(1) For purposes of the medicaid program under title XIX of this Act or any successor to such program, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and shall be deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of title XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a minor child in a needy family under a State program funded under part A and shall be deemed to be a recipient of assistance under such part.

"(2) For purposes of paragraph (1), a child whose costs in a foster family home or child care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(5) Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended—

(A) in subparagraph (A)(i)—

(i) by inserting "(as such sections were in effect on June 1, 1995)" after "407";

(ii) by inserting "(as so in effect)" after "specified in section 406(a)"; and

(iii) by inserting "(as such section was in effect on June 1, 1995)" after "403";

(B) in subparagraph (B)(i)—

(i) by inserting "would have" after "(B)(i)"; and

(ii) by inserting "(as in effect on June 1, 1995)" after "section 402"; and

(C) in subparagraph (B)(ii)(II), by inserting "(as in effect on June 1, 1995)" after "406(a)".

(6) Section 473(b) (42 U.S.C. 673(b)) is amended to read as follows:

"(b)(1) For purposes of the medicaid program under title XIX of this Act or any successor to such program, any child who is described in paragraph (3) shall be deemed to be a dependent child as defined in section 406 (as in effect as of June 1, 1995) and shall be deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

"(2) For purposes of title XX, any child who is described in paragraph (3) shall be deemed to be a minor child in a needy family under a State program funded under part A and shall be deemed to be a recipient of assistance under such part.

"(3) A child described in this paragraph is any child—

"(A)(i) who is a child described in subsection (a)(2), and

"(ii) with respect to whom an adoption assistance agreement is in effect under this section (whether or nor adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

"(B) with respect to whom foster care maintenance payments are being made under section 472.

"(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(e) AMENDMENT TO TITLE X.—Section 1002(a)(7) (42 U.S.C. 1202(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(f) AMENDMENTS TO TITLE XI.—

(1) Section 1109 (42 U.S.C. 1309) is amended by striking "or part A of title IV,".

(2) Section 1115 (42 U.S.C. 1315) is amended—

(A) in subsection (a)(2)—

(i) by inserting "(A)" after "(2)";

(ii) by striking "403,";

(iii) by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subparagraph:

"(B) costs of such project which would not otherwise be a permissible use of funds under part A of title IV and which are not included as part of the costs of projects under section 1110, shall to the extent and for the period prescribed by the Secretary, be regarded as a permissible use of funds under such part."; and

(B) in subsection (c)(3), by striking "under the program of aid to families with dependent children" and inserting "part A of such title".

(3) Section 1116 (42 U.S.C. 1316) is amended—

(A) in each of subsections (a)(1), (b), and (d), by striking "or part A of title IV,"; and

(B) in subsection (a)(3), by striking "404,".

(4) Section 1118 (42 U.S.C. 1318) is amended—

(A) by striking "403(a),";

(B) by striking "and part A of title IV,"; and

(C) by striking ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

(5) Section 1119 (42 U.S.C. 1319) is amended—

(A) by striking "or part A of title IV"; and

(B) by striking "403(a),".

(6) Section 1133(a) (42 U.S.C. 1320b–3(a)) is amended by striking "or part A of title IV,".

(7) Section 1136 (42 U.S.C. 1320b–6) is repealed.

(8) Section 1137 (42 U.S.C. 1320b–7) is amended—

(A) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) any State program funded under part A of title IV of this Act;"; and

(B) in subsection (d)(1)(B)—

(i) by striking "In this subsection—" and all that follows through "(ii) in" and inserting "In this subsection, in";

(ii) by redesignating subclauses (I), (II), and (III) as clauses (i), (ii), and (iii); and

(iii) by moving such redesignated material 2 ems to the left.

(9) Section 1108 (42 U.S.C. 1308) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1)—

(I) by inserting "(or paid, in the case of part A of title IV)" after "certified"; and

(II) by striking "or, in the case of" and all that follows through "section 403(k)";

(ii) in paragraph (1)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter;" and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $100,039,000 with respect to fiscal year 1996 and each fiscal year thereafter;";

(iii) in paragraph (2)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter;" and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $3,489,000 with respect to fiscal year 1996 and each fiscal year thereafter;"; and

(iv) in paragraph (3)—

(I) in subparagraph (F), by striking "or";

(II) in subparagraph (G), by striking "the fiscal year 1989 and each fiscal year thereafter." and inserting "each of the fiscal years 1989 through 1995, or"; and

(III) by inserting after subparagraph (G), the following new subparagraph:

"(H) $4,593,000 with respect to fiscal year 1996 and each fiscal year thereafter."; and

(B) in subsection (d), by striking "(exclusive of any amounts" and all that follows through "section 403(k) applies)".

(g) AMENDMENT TO TITLE XIV.—Section 1402(a)(7) (42 U.S.C. 1352(a)(7)) is amended by striking "aid to families with dependent children under the State plan approved under section 402 of this Act" and inserting "assistance under a State program funded under part A of title IV".

(h) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE TERRITORIES.—Section 1602(a)(11), as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972 (42 U.S.C. 1382 note), is amended by striking "aid under the State plan approved" and inserting "assistance under a State program funded".

(i) AMENDMENT TO TITLE XVI AS IN EFFECT WITH RESPECT TO THE STATES.—Section 1611(c)(5)(A) (42 U.S.C. 1382(c)(5)(A)) is amended to read as follows: "(A) a State program funded under part A of title IV,".

SEC. 7212. CONFORMING AMENDMENTS TO THE FOOD STAMP ACT OF 1977 AND RELATED PROVISIONS.

(a) Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in the second sentence of subsection (a), by striking "plan approved" and all that follows through "title IV of the Social Security Act" and inserting "program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";

(2) in subsection (d)(5)—

(A) by striking "assistance to families with dependent children" and inserting "assistance under a State program funded"; and

(B) by striking paragraph (13) and redesignating paragraphs (14), (15), and (16) as paragraphs (13), (14), and (15), respectively;

(3) in subsection (j), by striking "plan approved under part A of title IV of such Act (42 U.S.C. 601 et seq.)" and inserting "program funded under part A of title IV of the Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(b) Section 6 of such Act (7 U.S.C. 2015) is amended—

(1) in subsection (c)(5), by striking "the State plan approved" and inserting "the State program funded";

(2) in subsection (e)—

(A) by striking "aid to families with dependent children" and inserting "benefits under a State program funded"; and

(B) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(3) by adding at the end the following new subsection:

"(i) Notwithstanding any other provision of this Act, a household may not receive benefits under this Act as a result of the household's eligibility under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), unless the Secretary determines that any household with income above 130 percent of the poverty guidelines is not eligible for the program.".

(c) Section 16(g)(4) of such Act (7 U.S.C. 2025(g)(4)) is amended by striking "State plans under the Aid to Families with Dependent Children Program under" and inserting "State programs funded under part A of".

(d) Section 17 of such Act (7 U.S.C. 2026) is amended—

(1) in the first sentence of subsection (b)(1)(A), by striking "to aid to families with dependent children under part A of title IV of the Social Security Act" and inserting "or are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)"; and

(2) in subsection (b)(3), by adding at the end the following new subparagraph:

"(I) The Secretary may not grant a waiver under this paragraph on or after October 1, 1995. Any reference in this paragraph to a provision of title IV of the Social Security Act shall be deemed to be a reference to such provision as in effect on September 30, 1995.";

(e) Section 20 of such Act (7 U.S.C. 2029) is amended—

(1) in subsection (a)(2)(B) by striking "operating—" and all that follows through "(ii) any other" and inserting "operating any"; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(b)(1) A household" and inserting "(b) A household"; and

(ii) in subparagraph (B), by striking "training program" and inserting "activity";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively.

(f) Section 5(h)(1) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93–186; 7 U.S.C. 612c note) is amended by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(g) Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(C)(ii)(II)—

(i) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(ii) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(B) in paragraph (6)—

(i) in subparagraph (A)(ii)—

(I) by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded"; and

(II) by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(ii) in subparagraph (B), by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995"; and

(2) in subsection (d)(2)(C)—

(A) by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(B) by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

(h) Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (d)(2)(A)(ii)(II)—

(A) by striking "program for aid to families with dependent children established" and inserting "State program funded"; and

(B) by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995";

(2) in subsection (e)(4)(A), by striking "program for aid to families with dependent children" and inserting "State program funded"; and

(3) in subsection (f)(1)(C)(iii), by striking "aid to families with dependent children," and inserting "State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and with the".

SEC. 7213. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) Subsection (b) of section 508 of the Unemployment Compensation Amendments of 1976 (Public Law 94–566; 90 Stat. 2689) is amended to read as follows:

"(b) PROVISION FOR REIMBURSEMENT OF EXPENSES.—For purposes of section 455 of the Social Security Act, expenses incurred to reimburse State employment offices for furnishing information requested of such offices—

"(1) pursuant to the third sentence of section 3(a) of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (29 U.S.C. 49b(a)), or

"(2) by a State or local agency charged with the duty of carrying a State plan for child support approved under part D of title IV of the Social Security Act,

shall be considered to constitute expenses incurred in the administration of such State plan.".

(b) Section 9121 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(c) Section 9122 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 602 note) is repealed.

(d) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 602 note), relating to treatment under AFDC of certain rental payments for federally assisted housing, is repealed.

(e) Section 159 of the Tax Equity and Fiscal Responsibility Act of 1982 (42 U.S.C. 602 note) is repealed.

(f) Section 202(d) of the Social Security Amendments of 1967 (81 Stat. 882; 42 U.S.C. 602 note) is repealed.

(g) Section 903 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 11381 note), relating to demonstration projects to reduce number of AFDC families in welfare hotels, is amended—

(1) in subsection (a), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded"; and

(2) in subsection (c), by striking "aid to families with dependent children in the State under a State plan approved" and inserting "assistance in the State under a State program funded".

(h) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

(1) in section 404C(c)(3) (20 U.S.C. 1070a–23(c)(3)), by striking "(Aid to Families with Dependent Children)"; and

(2) in section 480(b)(2) (20 U.S.C. 1087vv(b)(2)), by striking "aid to families with dependent children under a State plan approved" and inserting "assistance under a State program funded".

(i) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in section 231(d)(3)(A)(ii) (20 U.S.C. 2341(d)(3)(A)(ii)), by striking "the program for aid to dependent children" and inserting "the State program funded";

(2) in section 232(b)(2)(B) (20 U.S.C. 2341a(b)(2)(B)), by striking "the program for aid to families with dependent children" and inserting "the State program funded"; and

(3) in section 521(14)(B)(iii) (20 U.S.C. 2471(14)(B)(iii)), by striking "the program for aid to families with dependent children" and inserting "the State program funded".

(j) The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in section 1113(a)(5) (20 U.S.C. 6313(a)(5)), by striking "Aid to Families with Dependent Children Program" and inserting "State program funded under part A of title IV of the Social Security Act";

(2) in section 1124(c)(5) (20 U.S.C. 6333(c)(5)), by striking "the program of aid to families with dependent children under a State plan approved under" and inserting "a State program funded under part A of"; and

(3) in section 5203(b)(2) (20 U.S.C. 7233(b)(2))—

(A) in subparagraph (A)(xi), by striking "Aid to Families with Dependent Children benefits" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(B) in subparagraph (B)(viii), by striking "Aid to Families with Dependent Children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act".

(k) Chapter VII of title I of Public Law 99–88 (25 U.S.C. 13d–1) is amended to read as follows: "Provided further, That general assistance payments made by the Bureau of Indian Affairs shall be made—

"(1) after April 29, 1985, and before October 1, 1995, on the basis of Aid to Families with Dependent Children (AFDC) standards of need; and

"(2) on and after October 1, 1995, on the basis of standards of need established under the State program funded under part A of title IV of the Social Security Act,

except that where a State ratably reduces its AFDC or State program payments, the Bureau shall reduce general assistance payments in such State by the same percentage as the State has reduced the AFDC or State program payment.".

(l) The Internal Revenue Code of 1986 is amended—

(1) in section 51(d)(9), by striking all that follows "agency as" and inserting "being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer.";

(2) in section 3304(a)(16), by striking "eligibility for aid or services," and all that follows through "children approved" and inserting "eligibility for assistance, or the amount of such assistance, under a State program funded";

(3) in section 6103(l)(7)(D)(i), by striking "aid to families with dependent children provided under a State plan approved" and inserting "a State program funded";

(4) in section 6334(a)(11)(A), by striking "(relating to aid to families with dependent children)"; and

(5) in section 7523(b)(3)(C), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act".

(m) Section 3(b) of the Wagner-Peyser Act (29 U.S.C. 49b(b)) is amended by striking "State plan approved under part A of title IV" and inserting "State program funded under part A of title IV".

(n) The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4(29)(A)(i) (29 U.S.C. 1503(29)(A)(i)), by striking "(42 U.S.C. 601 et seq.)";

(2) in section 106(b)(6)(C) (29 U.S.C. 1516(b)(6)(C)), by striking "State aid to families with dependent children records," and inserting "records collected under the State program funded under part A of title IV of the Social Security Act,";

(3) in section 121(b)(2) (29 U.S.C. 1531(b)(2))—

(A) by striking "the JOBS program" and inserting "the work activities required under title IV of the Social Security Act"; and

(B) by striking the second sentence;

(4) in section 123(c) (29 U.S.C. 1533(c))—

(A) in paragraph (1)(E), by repealing clause (vi); and

(B) in paragraph (2)(D), by repealing clause (v);

(5) in section 203(b)(3) (29 U.S.C. 1603(b)(3)), by striking ", including recipients under the JOBS program";

(6) in subparagraphs (A) and (B) of section 204(a)(1) (29 U.S.C. 1604(a)(1) (A) and (B)), by striking "(such as the JOBS program)" each place it appears;

(7) in section 205(a) (29 U.S.C. 1605(a)), by striking paragraph (4) and inserting the following:

"(4) the portions of title IV of the Social Security Act relating to work activities;";

(8) in section 253 (29 U.S.C. 1632)—

(A) in subsection (b)(2), by repealing subparagraph (C); and

(B) in paragraphs (1)(B) and (2)(B) of subsection (c), by striking "the JOBS program or" each place it appears;

(9) in section 264 (29 U.S.C. 1644)—

(A) in subparagraphs (A) and (B) of subsection (b)(1), by striking "(such as the JOBS program)" each place it appears; and

(B) in subparagraphs (A) and (B) of subsection (d)(3), by striking "and the JOBS program" each place it appears;

(10) in section 265(b) (29 U.S.C. 1645(b)), by striking paragraph (6) and inserting the following:

"(6) the portion of title IV of the Social Security Act relating to work activities;";

(11) in the second sentence of section 429(e) (29 U.S.C. 1699(e)), by striking "and shall be in an amount that does not exceed the maximum amount that may be provided by the State pursuant to section 402(g)(1)(C) of the Social Security Act (42 U.S.C. 602(g)(1)(C))";

(12) in section 454(c) (29 U.S.C. 1734(c)), by striking "JOBS and";

(13) in section 455(b) (29 U.S.C. 1735(b)), by striking "the JOBS program,";

(14) in section 501(1) (29 U.S.C. 1791(1)), by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act";

(15) in section 506(1)(A) (29 U.S.C. 1791e(1)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded";

(16) in section 508(a)(2)(A) (29 U.S.C. 1791g(a)(2)(A)), by striking "aid to families with dependent children" and inserting "assistance under the State program funded"; and

(17) in section 701(b)(2)(A) (29 U.S.C. 1792(b)(2)(A))—

(A) in clause (v), by striking the semicolon and inserting "; and"; and

(B) by striking clause (vi).

(o) Section 3803(c)(2)(C)(iv) of title 31, United States Code, is amended to read as follows:

"(iv) assistance under a State program funded under part A of title IV of the Social Security Act".

(p) Section 2605(b)(2)(A)(i) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)(A)(i)) is amended to read as follows:

"(i) assistance under the State program funded under part A of title IV of the Social Security Act;".

(q) Section 303(f)(2) of the Family Support Act of 1988 (42 U.S.C. 602 note) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) and (C).

(r) The Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is amended—

(1) in section 255(h) (2 U.S.C. 905(h), by striking "Aid to families with dependent children (75–0412–0–1–609);" and inserting "Block grants to States for temporary assistance for needy families;"; and

(2) in section 256 (2 U.S.C. 906)—

(A) by striking subsection (k); and

(B) by redesignating subsection (l) as subsection (k).

(s) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 210(f) (8 U.S.C. 1160(f)), by striking "aid under a State plan approved under" each place it appears and inserting "assistance under a State program funded under";

(2) in section 245A(h) (8 U.S.C. 1255a(h))—

(A) in paragraph (1)(A)(i), by striking "program of aid to families with dependent children" and inserting "State program of assistance"; and

(B) in paragraph (2)(B), by striking "aid to families with dependent children" and inserting "assistance under a State program funded under part A of title IV of the Social Security Act"; and

(3) in section 412(e)(4) (8 U.S.C. 1522(e)(4)), by striking "State plan approved" and inserting "State program funded".

(t) Section 640(a)(4)(B)(i) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)) is amended by striking "program of aid to families with dependent children under a State plan approved" and inserting "State program of assistance funded".

(u) Section 9 of the Act of April 19, 1950 (64 Stat. 47, chapter 92; 25 U.S.C. 639) is repealed.

(v) Subparagraph (E) of section 213(d)(6) of the School-To-Work Opportunities Act of 1994 (20 U.S.C. 6143(d)(6)) is amended to read as follows:

"(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;".

SEC. 7214. SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation, as appropriate, with the heads of other Federal agencies, shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of subtitle D of title I of this Act, this subtitle, and subtitles D, E, F, and G of this title.

SEC. 7215. EFFECTIVE DATE; TRANSITION RULE.

(a) In General.—Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall take effect on October 1, 1995.

(b) Transition Rule.—

(1) State option to continue AFDC program.—

(A) 9-month extension.—A State may continue a State program under parts A and F of

title IV of the Social Security Act, as in effect on September 30, 1995 (for purposes of this paragraph, the "State AFDC program") until June 30, 1996.

(B) REDUCTION OF FISCAL YEAR 1996 GRANT.—In the case of any State opting to continue the State AFDC program pursuant to subparagraph (A), the State family assistance grant paid to such State under section 403(a) of the Social Security Act (as added by section 7201 and as in effect on and after October 1, 1995) for fiscal year 1996 (after the termination of the State AFDC program) shall be reduced by an amount equal to the total Federal payment to such State under section 403 of the Social Security Act (as in effect on September 30, 1995) for such fiscal year.

(2) CLAIMS, ACTIONS, AND PROCEEDINGS.—The amendments made by this subtitle shall not apply with respect to—

(A) powers, duties, functions, rights, claims, penalties, or obligations applicable to aid, assistance, or services provided before the effective date of this subtitle under the provisions amended; and

(B) administrative actions and proceedings commenced before such date, or authorized before such date to be commenced, under such provisions.

(3) CLOSING OUT ACCOUNT FOR THOSE PROGRAMS TERMINATED OR SUBSTANTIALLY MODIFIED BY THIS SUBTITLE.—In closing out accounts, Federal and State officials may use scientifically acceptable statistical sampling techniques. Claims made under programs which are repealed or substantially amended in this subtitle and which involve State expenditures in cases where assistance or services were provided during a prior fiscal year, shall be treated as expenditures during fiscal year 1995 for purposes of reimbursement even if payment was made by a State on or after October 1, 1995. States shall complete the filing of all claims no later than September 30, 1997. Federal department heads shall—

(A) use the single audit procedure to review and resolve any claims in connection with the close out of programs, and

(B) reimburse States for any payments made for assistance or services provided during a prior fiscal year from funds for fiscal year 1995, rather than the funds authorized by this subtitle.

(c) SUNSET.—The amendment made by section 7201(b) shall be effective only during the 5-year period beginning on October 1, 1995.

Subtitle D—Supplemental Security Income

CHAPTER 1—ELIGIBILITY RESTRICTIONS

SEC. 7251. DENIAL OF SUPPLEMENTAL SECURITY INCOME BENEFITS BY REASON OF DISABILITY TO DRUG ADDICTS AND ALCOHOLICS.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(I) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this title if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.".

(b) REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) Section 1631(a)(2)(A)(ii)(II) (42 U.S.C. 1383(a)(2)(A)(ii)(II)) is amended to read as follows:

"(II) In the case of an individual eligible for benefits under this title by reason of disability, if such individual also has an alcoholism or drug addiction condition (as determined by the Commissioner of Social Security), the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Commissioner shall include, in the individual's notification of such eligibility, a notice that such alcoholism or drug addiction condition accompanies the disability upon which such eligibility is based and that the Commissioner is therefore required to pay the individual's benefits to a representative payee.".

(2) Section 1631(a)(2)(B)(vii) (42 U.S.C. 1383(a)(2)(B)(vii)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(3) Section 1631(a)(2)(B)(ix)(II) (42 U.S.C. 1383(a)(2)(B)(ix)(II)) is amended by striking all that follows "15 years, or" and inserting "described in subparagraph (A)(ii)(II)".

(4) Section 1631(a)(2)(D)(i)(II) (42 U.S.C. 1383(a)(2)(D)(i)(II)) is amended by striking "eligible for benefits" and all that follows through "is disabled" and inserting "described in subparagraph (A)(ii)(II)".

(c) TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION.—

(1) IN GENERAL.—Title XVI (42 U.S.C. 1381 et seq.) is amended by adding at the end the following new section:

"TREATMENT SERVICES FOR INDIVIDUALS WITH A SUBSTANCE ABUSE CONDITION

"SEC. 1636. (a) In the case of any individual eligible for benefits under this title by reason of disability who is identified as having a substance abuse condition, the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x–21 et seq.).

"(b) No individual described in subsection (a) shall be an eligible individual or eligible spouse for purposes of this title if such individual refuses without good cause to accept the referred services described under subsection (a).

(2) CONFORMING AMENDMENT.—Section 1614(a)(4) (42 U.S.C. 1382c(a)(4)) is amended by inserting after the second sentence the following new sentence: "For purposes of the preceding sentence, any individual identified by the Commissioner as having a substance abuse condition shall seek and complete appropriate treatment as needed.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) (42 U.S.C. 1382(e)) is amended by striking paragraph (3).

(2) Section 1634 (42 U.S.C. 1383c) is amended by striking subsection (e).

(3) Section 201(c)(1) of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 425 note) is amended—

(A) by striking "—" and all that follows through "(A)" the 1st place it appears;

(B) by striking "and" the 3rd place it appears;

(C) by striking subparagraph (B);

(D) by striking "either subparagraph (A) or subparagraph (B)" and inserting "the preceding sentence"; and

(E) by striking "subparagraph (A) or (B)" and inserting "the preceding sentence".

(e) SUPPLEMENTAL FUNDING FOR ALCOHOL AND SUBSTANCE ABUSE TREATMENT PROGRAMS.—

(1) IN GENERAL.—Out of any money in the Treasury not otherwise appropriated, there are hereby appropriated to supplement State and Tribal programs funded under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33), $50,000,000 for each of the fiscal years 1997 and 1998.

(2) ADDITIONAL FUNDS.—Amounts appropriated under paragraph (1) shall be in addition to any funds otherwise appropriated for allotments under section 1933 of the Public Health Service Act (42 U.S.C. 300x–33) and shall be allocated pursuant to such section 1933.

(3) USE OF FUNDS.—A State or Tribal government receiving an allotment under this subsection shall consider as priorities, for purposes of expending funds allotted under this subsection, activities relating to the treatment of the abuse of alcohol and other drugs.

SEC. 7252. DENIAL OF SSI BENEFITS FOR 10 YEARS TO INDIVIDUALS FOUND TO HAVE FRAUDULENTLY MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN BENEFITS SIMULTANEOUSLY IN 2 OR MORE STATES.

Section 1614(a) (42 U.S.C. 1382c(a)) is amended by adding at the end the following new paragraph:

"(5) An individual shall not be considered an eligible individual for purposes of this title during the 10-year period beginning on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under part A of title IV, title XXI, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under title XVI.".

SEC. 7253. DENIAL OF SSI BENEFITS FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.

(a) IN GENERAL.—Section 1611(e) (42 U.S.C. 1382(e)), as amended by section 7251(c)(1), is amended by inserting after paragraph (2) the following new paragraph:

"(3) A person shall not be an eligible individual or eligible spouse for purposes of this title with respect to any month if during such month the person is—

"(A) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

"(B) violating a condition of probation or parole imposed under Federal or State law.".

(b) EXCHANGE OF INFORMATION WITH LAW ENFORCEMENT AGENCIES.—Section 1631(e) (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Notwithstanding any other provision of law, the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this title, if the officer furnishes the agency with the name of the recipient and notifies the agency that—

"(A) the recipient—

"(i) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State;

"(ii) is violating a condition of probation or parole imposed under Federal or State law; or

"(iii) has information that is necessary for the officer to conduct the officer's official duties; and

"(B) the location or apprehension of the recipient is within the officer's official duties.".

SEC. 7254. EFFECTIVE DATES; APPLICATION TO CURRENT RECIPIENTS.

(a) SECTION 7251.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by section 7251 shall apply to applicants for benefits for months beginning on or after the date of

the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by section 7251, such amendments shall apply with respect to the benefits of such individual, including such individual's treatment (if any) provided pursuant to such title as in effect on the day before the date of such enactment, for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act, as amended by this title, shall reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under clause (i) pursuant to the procedures of such title.

(3) ADDITIONAL APPLICATION OF PAYEE REPRESENTATIVE REQUIREMENTS.—The amendments made by section 7251(b) shall also apply—

(A) in the case of any individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act, on and after the date of such individual's first continuing disability review occurring after such date of enactment, and

(B) in the case of any individual who receives supplemental security income benefits under title XVI of the Social Security Act and has attained age 65, in such manner as determined appropriate by the Commissioner of Social Security.

(b) OTHER AMENDMENTS.—The amendments made by sections 7252 and 7253 shall take effect on the date of the enactment of this Act.

CHAPTER 2—BENEFITS FOR DISABLED CHILDREN

SEC. 7261. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 7251(a), is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavorial function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) EFFECTIVE DATE; REGULATIONS; APPLICATION TO CURRENT RECIPIENTS.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) REGULATIONS.—The Commissioner of Social Security shall issue such regulations as the Commissioner determines to be necessary to implement the amendments made by subsections (a) and (b) not later than 60 days after the date of the enactment of this Act.

(3) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY DETERMINATIONS.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is receiving supplemental security income benefits based on a disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the amendments made by subsection (a) or (b). With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security Act.

(B) GRANDFATHER PROVISION.—The amendments made by subsections (a) and (b), and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after January 1, 1997.

(C) NOTICE.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

SEC. 7262. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 7261(a)(3), is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which may improve (or, which is unlikely to improve, at the option of the Commissioner).

"(II) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a), is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who have attained the age of 18 years.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A parent or guardian of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 7263. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) TIGHTENING OF REPRESENTATIVE PAYEE REQUIREMENTS.—

(1) CLARIFICATION OF ROLE.—Section 1631(a)(2)(B)(ii) (42 U.S.C. 1383(a)(2)(B)(ii)) is amended by striking "and" at the end of subclause (II), by striking the period at the end of subclause (IV) and inserting "; and", and by adding after subclause (IV) the following new subclause:

"(V) advise such person through the notice of award of benefits, and at such other times as the Commissioner of Social Security deems appropriate, of specific examples of appropriate expenditures of benefits under this title and the proper role of a representative payee.".

(2) DOCUMENTATION OF EXPENDITURES REQUIRED.—

(A) IN GENERAL.—Subparagraph (C)(i) of section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended to read as follows:

"(C)(i) In any case where payment is made to a representative payee of an individual or spouse, the Commissioner of Social Security shall—

"(I) require such representative payee to document expenditures and keep contemporaneous records of transactions made using such payment; and

"(II) implement statistically valid procedures for reviewing a sample of such contemporaneous records in order to identify instances in which such representative payee is not properly using such payment.".

(B) CONFORMING AMENDMENT WITH RESPECT TO PARENT PAYEES.—Clause (ii) of section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended by striking "Clause (i)" and inserting "Subclauses (II) and (III) of clause (i)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to benefits paid after the date of the enactment of this Act.

(b) DEDICATED SAVINGS ACCOUNTS.—

(1) IN GENERAL.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended by adding at the end the following new clause:

"(xiv) Notwithstanding clause (x), the Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—

"(I) education and job skills training;

"(II) special equipment or housing modifications or both specifically related to, and required by the nature of, the child's disability; and

"(III) appropriate therapy and rehabilitation.".

(2) DISREGARD OF TRUST FUNDS.—Section 1613(a) (42 U.S.C. 1382b) is amended—

(A) by striking "and" at the end of paragraph (9),

(B) by striking the period at the end of paragraph (10) the first place it appears and inserting a semicolon,

(C) by redesignating paragraph (10) the second place it appears as paragraph (11) and striking the period at the end of such paragraph and inserting "; and", and

(D) by inserting after paragraph (11), as so redesignated, the following new paragraph:

"(12) all amounts deposited in, or interest credited to, a dedicated savings account described in section 1631(a)(2)(B)(xiv).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after the date of the enactment of this Act.

CHAPTER 3—STUDIES REGARDING SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 7271. ANNUAL REPORT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Title XVI is amended by adding at the end the following new section:

"SEC. 1636. ANNUAL REPORT ON PROGRAM.

"(a) DESCRIPTION OF REPORT.—Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this title, including—

"(1) a comprehensive description of the program;

"(2) historical and current data on allowances and denials, including number of applications and allowance rates at initial determinations, reconsiderations, administrative law judge hearings, council of appeals hearings, and Federal court appeal hearings;

"(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, work disabled adults, and children);

"(4) projections of future number of recipients and program costs, through at least 25 years;

"(5) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

"(6) data on the utilization of work incentives;

"(7) detailed information on administrative and other program operation costs;

"(8) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

"(9) State supplementation program operations;

"(10) a historical summary of statutory changes to this title; and

"(11) such other information as the Commissioner deems useful.

"(b) VIEWS OF MEMBERS OF THE SOCIAL SECURITY ADVISORY COUNCIL.—Each member of the Social Security Advisory Council shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this title, to be included in the annual report under this section.".

SEC. 7272. IMPROVEMENTS TO DISABILITY EVALUATION.

(a) REQUEST FOR COMMENTS.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Commissioner of Social Security shall issue a request for comments in the Federal Register regarding improvements to the disability evaluation and determination procedures for individuals under age 18 to ensure the comprehensive assessment of such individuals, including—

(A) additions to conditions which should be presumptively disabling at birth or ages 0 through 3 years;

(B) specific changes in individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations;

(C) improvements in regulations regarding determinations based on regulations providing for medical and functional equivalence to such Listing of Impairments, and consideration of multiple impairments; and

(D) any other changes to the disability determination procedures.

(2) REVIEW AND REGULATORY ACTION.—The Commissioner of Social Security shall promptly review such comments and issue any regulations implementing any necessary changes not later than 18 months after the date of the enactment of this Act.

SEC. 7273. STUDY OF DISABILITY DETERMINATION PROCESS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and from funds otherwise appropriated, the Commissioner of Social Security shall make arrangements with the National Academy of Sciences, or other independent entity, to conduct a study of the disability determination process under titles II and XVI of the Social Security Act. This study shall be undertaken in consultation with professionals representing appropriate disciplines.

(b) STUDY COMPONENTS.—The study described in subsection (a) shall include—

(1) an initial phase examining the appropriateness of, and making recommendations regarding—

(A) the definitions of disability in effect on the date of the enactment of this Act and the advantages and disadvantages of alternative definitions; and

(B) the operation of the disability determination process, including the appropriate method of performing comprehensive assessments of individuals under age 18 with physical and mental impairments;

(2) a second phase, which may be concurrent with the initial phase, examining the validity, reliability, and consistency with current scientific knowledge of the standards and individual listings in the Listing of Impairments set forth in appendix 1 of subpart P of part 404 of title 20, Code of Federal Regulations, and of related evaluation procedures as promulgated by the Commissioner of Social Security; and

(3) such other issues as the applicable entity considers appropriate.

(c) REPORTS AND REGULATIONS.—

(1) REPORTS.—The Commissioner of Social Security shall request the applicable entity, to submit an interim report and a final report of the findings and recommendations resulting from the study described in this section to the President and the Congress not later than 18 months and 24 months, respectively, from the date of the contract for such study, and such additional reports as the Commissioner deems appropriate after consultation with the applicable entity.

(2) REGULATIONS.—The Commissioner of Social Security shall review both the interim and final reports, and shall issue regulations implementing any necessary changes following each report.

SEC. 7274. STUDY BY GENERAL ACCOUNTING OFFICE.

Not later than January 1, 1998, the Comptroller General of the United States shall study and report on the impact of the amendments made by, and the provisions of, this title on the supplemental security income program under title XVI of the Social Security Act.

CHAPTER 4—NATIONAL COMMISSION ON THE FUTURE OF DISABILITY

SEC. 7281. ESTABLISHMENT.

There is established a commission to be known as the National Commission on the Future of Disability (referred to in this subtitle as the "Commission"), the expenses of which shall be paid from funds otherwise appropriated for the Social Security Administration.

SEC. 7282. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall develop and carry out a comprehensive study of all matters related to the nature, purpose, and adequacy of all Federal programs serving individuals with disabilities. In particular, the Commission shall study the disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act.

(b) MATTERS STUDIED.—The Commission shall prepare an inventory of Federal programs serving individuals with disabilities, and shall examine—

(1) trends and projections regarding the size and characteristics of the population of individuals with disabilities, and the implications of such analyses for program planning;

(2) the feasibility and design of performance standards for the Nation's disability programs;

(3) the adequacy of Federal efforts in rehabilitation research and training, and opportunities to improve the lives of individuals with disabilities through all manners of scientific and engineering research; and

(4) the adequacy of policy research available to the Federal Government, and what actions might be undertaken to improve the quality and scope of such research.

(c) RECOMMENDATIONS.—The Commission shall submit to the appropriate committees of the Congress and to the President recommendations and, as appropriate, proposals for legislation, regarding—

(1) which (if any) Federal disability programs should be eliminated or augmented;

(2) what new Federal disability programs (if any) should be established;

(3) the suitability of the organization and location of disability programs within the Federal Government;

(4) other actions the Federal Government should take to prevent disabilities and disadvantages associated with disabilities; and

(5) such other matters as the Commission considers appropriate.

SEC. 7283. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) five shall be appointed by the President, of whom not more than 3 shall be of the same major political party;

(B) three shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the Senate;

(D) three shall be appointed by the Speaker of the House of Representatives; and

(E) two shall be appointed by the Minority Leader of the House of Representatives.

(2) REPRESENTATION.—The Commission members shall be chosen based on their education, training, or experience. In appointing individuals as members of the Commission, the President and the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives shall seek to ensure that the membership of the Commission reflects the diversity of individuals with disabilities in the United States.

(b) COMPTROLLER GENERAL.—The Comptroller General shall serve on the Commission as an ex officio member of the Commission to advise and oversee the methodology and approach of the study of the Commission.

(c) PROHIBITION AGAINST OFFICER OR EMPLOYEE.—No officer or employee of any government shall be appointed under subsection (a).

(d) DEADLINE FOR APPOINTMENT; TERM OF APPOINTMENT.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this Act. The members shall serve on the Commission for the life of the Commission.

(e) MEETINGS.—The Commission shall locate its headquarters in the District of Columbia, and shall meet at the call of the Chairperson, but not less than 4 times each year during the life of the Commission.

(f) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—Not later than 15 days after the members of the Commission are appointed, such members shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

(h) CONTINUATION OF MEMBERSHIP.—If a member of the Commission becomes an officer or employee of any government after appointment to the Commission, the individual may continue as a member until a successor member is appointed.

(i) VACANCIES.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made not later than 30 days after the Commission is given notice of the vacancy.

(j) COMPENSATION.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(k) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 7284. STAFF AND SUPPORT SERVICES.

(a) DIRECTOR.—

(1) APPOINTMENT.—Upon consultation with the members of the Commission, the Chairperson shall appoint a Director of the Commission.

(2) COMPENSATION.—The Director shall be paid the rate of basic pay for level V of the Executive Schedule.

(b) STAFF.—With the approval of the Commission, the Director may appoint such personnel as the Director considers appropriate.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(e) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission under this subtitle.

(f) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

(g) PHYSICAL FACILITIES.—The Administrator of the General Services Administration shall locate suitable office space for the operation of the Commission. The facilities shall serve as the headquarters of the Commission and shall include all necessary equipment and incidentals required for proper functioning of the Commission.

SEC. 7285. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may conduct public hearings or forums at the discretion of the Commission, at any time and place the Commission is able to secure facilities and witnesses, for the purpose of carrying out the duties of the Commission under this subtitle.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable the Commission to carry out its duties under this subtitle. Upon request of the Chairperson or Vice Chairperson of the Commission, the head of a Federal agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 7286. REPORTS.

(a) INTERIM REPORT.—Not later than 1 year prior to the date on which the Commission terminates pursuant to section 7287, the Commission shall submit an interim report to the President and to the Congress. The interim report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for legislative and administrative action, based on the activities of the Commission.

(b) FINAL REPORT.—Not later than the date on which the Commission terminates, the Commission shall submit to the Congress and to the President a final report containing—

(1) a detailed statement of final findings, conclusions, and recommendations; and

(2) an assessment of the extent to which recommendations of the Commission included in the interim report under subsection (a) have been implemented.

(c) PRINTING AND PUBLIC DISTRIBUTION.—Upon receipt of each report of the Commission under this section, the President shall—

(1) order the report to be printed; and

(2) make the report available to the public upon request.

SEC. 7287. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date on which the members of the Commission have met and designated a Chairperson and Vice Chairperson.

Subtitle E—Child Support

CHAPTER 1—ELIGIBILITY FOR SERVICES; DISTRIBUTION OF PAYMENTS

SEC. 7301. STATE OBLIGATION TO PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

"(4) provide that the State will—

"(A) provide services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations, as appropriate, under the plan with respect to—

"(i) each child for whom (I) assistance is provided under the State program funded under part A of this title, (II) benefits or services are provided under the State program funded under part E of this title, or (III) medical assistance is provided under the State plan approved under title XXI, unless the State agency administering the plan determines (in accordance with paragraph (29)) that it is against the best interests of the child to do so; and

"(ii) any other child, if an individual applies for such services with respect to the child; and

"(B) enforce any support obligation established with respect to—

"(i) a child with respect to whom the State provides services under the plan; or

"(ii) the custodial parent of such a child."; and

(2) by striking paragraph (6) and inserting the following new subparagraph:

"(6) provide that—

"(A) services under the plan shall be made available to nonresidents on the same terms as to residents; and

"(B) application and collection fees are imposed and collected and costs in excess of such fees are collected in accordance with section 454C with respect to services under the plan for—

"(i) any individual not receiving assistance under any State program funded under part A; or

"(ii) any individual receiving such assistance but solely through a program funded under section 418);".

(b) CONTINUATION OF SERVICES FOR FAMILIES CEASING TO RECEIVE ASSISTANCE UNDER THE STATE PROGRAM FUNDED UNDER PART A.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding after paragraph (24) the following new paragraph:

"(25) provide that when a family with respect to which services are provided under the plan ceases to receive assistance under the State program funded under part A, the State shall provide appropriate notice to the family and continue to provide such services, subject to the same conditions and on the same basis as in the case of individuals to whom services are furnished under this section, except that an application or other request to continue services shall not be required of such a family and certain fees shall be imposed with respect to such family under section 454C(a)(1).".

(c) CONFORMING AMENDMENTS.—

(1) Section 452(b) (42 U.S.C. 652(b)) is amended by striking "454(6)" and inserting "454(4)".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended by striking "454(6)" each place it appears and inserting "454(4)(A)(ii)".

(3) Section 466(a)(3)(B) (42 U.S.C. 666(a)(3)(B)) is amended by striking "in the case of overdue support which a State has agreed to collect under section 454(6)" and inserting "in any other case".

(4) Section 466(e) (42 U.S.C. 666(e)) is amended by striking "paragraph (4) or (6) of section 454" and inserting "section 454(4)".

SEC. 7302. DISTRIBUTION OF CHILD SUPPORT COLLECTIONS.

(a) IN GENERAL.—Section 457 (42 U.S.C. 657) is amended to read as follows:

"SEC. 457. DISTRIBUTION OF COLLECTED SUPPORT.

"(a) IN GENERAL.—An amount collected on behalf of a family as support by a State pursuant to a plan approved under this part shall be distributed as follows:

"(1) FAMILIES RECEIVING ASSISTANCE.—In the case of a family receiving assistance from the State, the State shall—

"(A) retain, or distribute to the family, the State share of the amount so collected; and

"(B) pay to the Federal Government the Federal share of the amount so collected.

"(2) FAMILIES THAT FORMERLY RECEIVED ASSISTANCE.—In the case of a family that formerly received assistance from the State:

"(A) CURRENT SUPPORT PAYMENTS.—The State shall, with regard to amounts collected which represent amounts owed for the current month, distribute the amounts so collected to the family.

"(B) PAYMENT OF ARREARAGES.—The State shall, with regard to amounts collected which exceed amounts owed for the current month, distribute the amounts so collected as follows:

"(i) DISTRIBUTION TO THE FAMILY TO SATISFY ARREARAGES THAT ACCRUED AFTER THE FAMILY RECEIVED ASSISTANCE.—The State shall distribute the amount so collected to the family to the extent necessary to satisfy any support arrearages with respect to the family that accrued after the family stopped receiving assistance from the State.

"(ii) DISTRIBUTION TO THE FAMILY TO SATISFY ARREARAGES THAT ACCRUED BEFORE OR WHILE THE FAMILY RECEIVED ASSISTANCE TO THE EXTENT PAYMENTS EXCEED ASSISTANCE RECEIVED.—In the case of arrearages of support obligations with respect to the family that were assigned to the State making or receiving the collection, as a condition of receiving assistance from the State, and which accrued before or while the family received such assistance, the State may retain all or a part of the State share and if the State does so retain, shall retain and pay to the Federal Government the Federal share of amounts so collected, to the extent the amount so retained does not exceed the amount of assistance provided to the family by the State.

"(iii) DISTRIBUTION OF THE REMAINDER TO THE FAMILY.—To the extent that neither clause (i) nor clause (ii) applies to the amount so collected, the State shall distribute the amount to the family.

"(3) FAMILIES THAT NEVER RECEIVED ASSISTANCE.—In the case of any other family, the State shall distribute the amount so collected to the family.

"(4) FAMILIES UNDER CERTAIN AGREEMENTS.—In the case of a family receiving assistance from an Indian tribe, distribute the amount so collected pursuant to an agreement entered into pursuant to a State plan under section 454(32).

"(b) TRANSITION RULE.—Any rights to support obligations which were assigned to a State as a condition of receiving assistance from the State under part A before the effective date of the Balanced Budget Reconciliation Act of 1995 shall remain assigned after such date.

"(c) DEFINITIONS.—As used in subsection (a):

"(1) ASSISTANCE.—The term 'assistance from the State' means—

"(A) assistance under the State program funded under part A or under the State plan approved under part A of this title (as in effect before October 1, 1995); or

"(B) benefits under the State plan approved under part E of this title.

"(2) FEDERAL SHARE.—The term 'Federal share' means, with respect to an amount collected by the State to satisfy a support obligation owed to a family for a time period—

"(A) the greatest Federal medical assistance percentage in effect for the State for fiscal year 1995 or any succeeding fiscal year; or

"(B) if support is not owed to the family for any month for which the family received aid to families with dependent children under the State plan approved under part A of this title (as in effect before October 1, 1995), the Federal reimbursement percentage for the fiscal year in which the time period occurs.

"(3) FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The term 'Federal medical assistance percentage' means—

"(A) the Federal medical assistance percentage (as defined in section 2122(c)) in the case of any State for which subparagraph (B) does not apply; or

"(B) the Federal medical assistance percentage (as defined in section 1118), in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(4) FEDERAL REIMBURSEMENT PERCENTAGE.—The term 'Federal reimbursement percentage' means, with respect to a fiscal year—

"(A) the total amount paid to the State under section 403 for the fiscal year; divided by

"(B) the total amount expended by the State to carry out the State program under part A during the fiscal year.

"(5) STATE SHARE.—The term 'State share' means 100 percent minus the Federal share.".

(b) CONFORMING AMENDMENT.—Section 464(a)(1) (42 U.S.C. 664(a)(1)) is amended by striking "section 457(b)(4) or (d)(3)" and inserting "section 457".

(c) CLERICAL AMENDMENTS.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (11)—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by inserting after the semicolon "and"; and

(2) by redesignating paragraph (12) as subparagraph (B) of paragraph (11).

(d) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective on October 1, 1999.

(2) EARLIER EFFECTIVE DATE FOR RULES RELATING TO DISTRIBUTION OF SUPPORT COLLECTED FOR FAMILIES RECEIVING ASSISTANCE.—Section 457(a)(1) of the Social Security Act, as added by the amendment made by subsection (a), shall become effective on October 1, 1995.

(3) SPECIAL RULE.—A State may elect to have the amendment made by subsection (a) become effective on a date earlier than October 1, 1999, which date shall coincide with the operation of the single statewide automated data processing and information retrieval system required by section 454A of the Social Security Act (as added by section 7344(a)(2)) and the State disbursement unit required by section 454B of the Social Security Act (as added by section 7312(b)), and the existence of State requirements for assignment of support as a condition of eligibility for assistance under part A of the Social Security Act (as added by subtitle C).

(4) CLERICAL AMENDMENTS.—The amendments made by subsection (b) shall become effective on October 1, 1995.

SEC. 7303. RIGHTS TO NOTIFICATION AND HEARINGS.

(a) IN GENERAL.—Section 454 (42 U.S.C. 654), as amended by section 7302(b), is amended by inserting after paragraph (11) the following new paragraph:

"(12) establish procedures to provide that—

"(A) individuals who are applying for or receiving services under this part, or are parties to cases in which services are being provided under this part—

"(i) receive notice of all proceedings in which support obligations might be established or modified; and

"(ii) receive a copy of any order establishing or modifying a child support obligation, or (in the case of a petition for modification) a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination; and

"(B) individuals applying for or receiving services under this part have access to a fair hearing or other formal complaint procedure that meets standards established by the Secretary and ensures prompt consideration and resolution of complaints (but the resort to such procedure shall not stay the enforcement of any support order);".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

SEC. 7304. PRIVACY SAFEGUARDS.

(a) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by section 7301(b), is amended—

(1) by striking "and" at the end of paragraph (24);

(2) by striking the period at the end of paragraph (25) and inserting "; and"; and

(3) by adding after paragraph (25) the following new paragraph:

"(26) will have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including—

"(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish or enforce support;

"(B) prohibitions against the release of information on the whereabouts of 1 party to another party against whom a protective order with respect to the former party has been entered; and

"(C) prohibitions against the release of information on the whereabouts of 1 party to another party if the State has reason to believe that the release of the information may result in physical or emotional harm to the former party.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1997.

CHAPTER 2—LOCATE AND CASE TRACKING

SEC. 7311. STATE CASE REGISTRY.

Section 454A, as added by section 7344(a)(2), is amended by adding at the end the following new subsections:

"(e) State Case Registry.—

"(1) Contents.—The automated system required by this section shall include a registry (which shall be known as the 'State case registry') that contains records with respect to—

"(A) each case in which services are being provided by the State agency under the State plan approved under this part; and

"(B) each support order established or modified in the State on or after October 1, 1998.

"(2) Linking of local registries.—The State case registry may be established by linking local case registries of support orders through an automated information network, subject to this section.

"(3) Use of standardized data elements.—Such records shall use standardized data elements for both parents (such as names, social security numbers and other uniform identification numbers, dates of birth, and case identification numbers), and contain such other information (such as on-case status) as the Secretary may require.

"(4) Payment records.—Each case record in the State case registry with respect to which services are being provided under the State plan approved under this part and with respect to which a support order has been established shall include a record of—

"(A) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

"(B) any amount described in subparagraph (A) that has been collected;

"(C) the distribution of such collected amounts;

"(D) the birth date of any child for whom the order requires the provision of support; and

"(E) the amount of any lien imposed with respect to the order pursuant to section 466(a)(4).

"(5) Updating and monitoring.—The State agency operating the automated system required by this section shall promptly establish and maintain, and regularly monitor, case records in the State case registry with respect to which services are being provided under the State plan approved under this part, on the basis of—

"(A) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

"(B) information obtained from comparison with Federal, State, or local sources of information;

"(C) information on support collections and distributions; and

"(D) any other relevant information.

"(f) Information Comparisons and Other Disclosures of Information.—The State shall use the automated system required by this section to extract information from (at such times, and in such standardized format or formats, as may be required by the Secretary), to share and compare information with, and to receive information from, other data bases and information comparison services, in order to obtain (or provide) information necessary to enable the State agency (or the Secretary or other State or Federal agencies) to carry out this part, subject to section 6103 of the Internal Revenue Code of 1986. Such information comparison activities shall include the following:

"(1) Federal case registry of child support orders.—Furnishing to the Federal Case Registry of Child Support Orders established under section 453(h) (and update as necessary, with information including notice of expiration of orders) the minimum amount of information on child support cases recorded in the State case registry that is necessary to operate the registry (as specified by the Secretary in regulations).

"(2) Federal parent locator service.—Exchanging information with the Federal Parent Locator Service for the purposes specified in section 453.

"(3) Temporary family assistance and medicaid agencies.—Exchanging information with State agencies (of the State and of other States) administering programs funded under part A, programs operated under State plans under title XXI, and other programs designated by the Secretary, as necessary to perform State agency responsibilities under this part and under such programs.

"(4) Intrastate and interstate information comparisons.—Exchanging information with other agencies of the State, agencies of other States, and interstate information networks, as necessary and appropriate to carry out (or assist other States to carry out) the purposes of this part.".

SEC. 7312. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

(a) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b) and 7304(a), is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by adding after paragraph (26) the following new paragraph:

"(27) provide that, on and after October 1, 1998, the State agency will—

"(A) operate a State disbursement unit in accordance with section 454B; and

"(B) have sufficient State staff (consisting of State employees), and (at State option) private or governmental contractors reporting directly to the State agency, to—

"(i) provide automated monitoring and enforcement of support collections through the unit (including carrying out the automated data processing responsibilities described in section 454A(g)); and

"(ii) take the actions described in section 466(c)(1) in appropriate cases.".

(b) Establishment of State Disbursement Unit.—Part D of title IV (42 U.S.C. 651–669), as amended by section 7344(a)(2), is amended by inserting after section 454A the following new section:

"SEC. 454B. COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS.

"(a) State Disbursement Unit.—

"(1) In general.—In order for a State to meet the requirements of this section, the State agency must establish and operate a unit (which shall be known as the 'State disbursement unit') for the collection and disbursement of payments under support orders in all cases being enforced by the State pursuant to section 454(4).

"(2) Operation.—The State disbursement unit shall be operated—

"(A) directly by the State agency (or 2 or more State agencies under a regional cooperative agreement), or (to the extent appropriate) by a contractor responsible directly to the State agency; and

"(B) in coordination with the automated system established by the State pursuant to section 454A.

"(3) Linking of local disbursement units.—The State disbursement unit may be established by linking local disbursement units through an automated information network, subject to this section. The Secretary must agree that the system will not cost more nor take more time to establish or operate than a centralized system. In addition, employers shall be given 1 location to which income withholding is sent.

"(b) Required Procedures.—The State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical, for the collection and disbursement of support payments, including procedures—

"(1) for receipt of payments from parents, employers, and other States, and for disbursements to custodial parents and other obligees, the State agency, and the agencies of other States;

"(2) for accurate identification of payments;

"(3) to ensure prompt disbursement of the custodial parent's share of any payment; and

"(4) to furnish to any parent, upon request, timely information on the current status of support payments under an order requiring payments to be made by or to the parent.

"(c) Timing of Disbursements.—

"(1) In general.—Except as provided in paragraph (2), the State disbursement unit shall distribute all amounts payable under section 457(a) within 2 business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided.

"(2) Permissive retention of arrearages.—The State disbursement unit may delay the distribution of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

"(d) Business Day Defined.—As used in this section, the term 'business day' means a day on which State offices are open for regular business.".

(c) Use of Automated System.—Section 454A, as added by section 7344(a)(2) and as amended by section 7311, is amended by adding at the end the following new subsection:

"(g) Collection and Distribution of Support Payments.—

"(1) In general.—The State shall use the automated system required by this section, to the maximum extent feasible, to assist and facilitate the collection and disbursement of support payments through the State disbursement unit operated under section 454B, through the performance of functions, including, at a minimum—

"(A) transmission of orders and notices to employers (and other debtors) for the withholding of wages and other income—

"(i) within 2 business days after receipt from a court, another State, an employer, the Federal Parent Locator Service, or another source recognized by the State of notice of, and the income source subject to, such withholding; and

"(ii) using uniform formats prescribed by the Secretary;

"(B) ongoing monitoring to promptly identify failures to make timely payment of support; and

"(C) automatic use of enforcement procedures (including procedures authorized pursuant to section 466(c)) where payments are not timely made.

"(2) Business day defined.—As used in paragraph (1), the term 'business day' means a day on which State offices are open for regular business.".

(d) Effective Date.—The amendments made by this section shall become effective on October 1, 1998.

SEC. 7313. STATE DIRECTORY OF NEW HIRES.

(a) State Plan Requirement.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a) and 7312(a), is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by adding after paragraph (27) the following new paragraph:

"(28) provide that, on and after October 1, 1997, the State will operate a State Directory of New Hires in accordance with section 453A.".

(b) State Directory of New Hires.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 453 the following new section:

"SEC. 453A. STATE DIRECTORY OF NEW HIRES.

"(a) Establishment.—

"(1) IN GENERAL.—Not later than October 1, 1997, each State shall establish an automated directory (to be known as the 'State Directory of New Hires') which shall contain information supplied in accordance with subsection (b) by employers on each newly hired employee.

"(2) DEFINITIONS.—As used in this section:

"(A) EMPLOYEE.—The term 'employee'—

"(i) means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986; and

"(ii) does not include an employee of a Federal or State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting pursuant to paragraph (1) with respect to the employee could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

"(B) EMPLOYER.—The term 'employer' includes—

"(i) any governmental entity, and

"(ii) any labor organization.

"(C) LABOR ORGANIZATION.—The term 'labor organization' shall have the meaning given such term in section 2(5) of the National Labor Relations Act, and includes any entity (also known as a 'hiring hall') which is used by the organization and an employer to carry out requirements described in section 8(f)(3) of such Act of an agreement between the organization and the employer.

"(b) EMPLOYER INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), each employer shall furnish to the Directory of New Hires of the State in which a newly hired employee works, a report that contains the name, address, and social security number of the employee, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(B) MULTISTATE EMPLOYERS.—An employer that has employees who are employed in 2 or more States and that transmits reports magnetically or electronically may comply with subparagraph (A) by designating 1 State in which such employer has employees to which it will transmit the report described in subparagraph (A), and transmitting such report to such State. Any employer that transmits reports pursuant to this subparagraph shall notify the Secretary in writing as to which State such employer designates for the purpose of sending reports.

"(C) FEDERAL GOVERNMENT EMPLOYERS.—Any department, agency, or instrumentality of the United States shall comply with subparagraph (A) by transmitting the report described in subparagraph (A) to the National Directory of New Hires established pursuant to section 453.

"(2) TIMING OF REPORT.—The report required by paragraph (1) with respect to an employee shall be made not later than the later of—

"(A) 30 days after the date the employer hires the employee; or

"(B) in the case of an employer that reports by magnetic or electronic means, the 1st business day of the week following the date on which the employee 1st receives wages or other compensation from the employer.

"(c) REPORTING FORMAT AND METHOD.—Each report required by subsection (b) shall be made on a W-4 form and may be transmitted by 1st class mail, magnetically, or electronically.

"(d) CIVIL MONEY PENALTIES ON NONCOMPLYING EMPLOYERS.—The State shall have the option to set a State civil money penalty which shall be less than—

"(1) $25; or

"(2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

"(e) ENTRY OF EMPLOYER INFORMATION.—Information shall be entered into the data base maintained by the State Directory of New Hires within 5 business days of receipt from an employer pursuant to subsection (b).

"(f) INFORMATION COMPARISONS.—

"(1) IN GENERAL.—Not later than October 1, 1998, an agency designated by the State shall, directly or by contract, conduct automated comparisons of the social security numbers reported by employers pursuant to subsection (b) and the social security numbers appearing in the records of the State case registry for cases being enforced under the State plan.

"(2) NOTICE OF MATCH.—When an information comparison conducted under paragraph (1) reveals a match with respect to the social security number of an individual required to provide support under a support order, the State Directory of New Hires shall provide the agency administering the State plan approved under this part of the appropriate State with the name, address, and social security number of the employee to whom the social security number is assigned, and the name of, and identifying number assigned under section 6109 of the Internal Revenue Code of 1986 to, the employer.

"(g) TRANSMISSION OF INFORMATION.—

"(1) TRANSMISSION OF WAGE WITHHOLDING NOTICES TO EMPLOYERS.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State agency enforcing the employee's child support obligation shall transmit a notice to the employer of the employee directing the employer to withhold from the wages of the employee an amount equal to the monthly (or other periodic) child support obligation of the employee, unless the employee's wages are not subject to withholding pursuant to section 466(b)(3).

"(2) TRANSMISSIONS TO THE NATIONAL DIRECTORY OF NEW HIRES.—

"(A) NEW HIRE INFORMATION.—Within 2 business days after the date information regarding a newly hired employee is entered into the State Directory of New Hires, the State Directory of New Hires shall furnish the information to the National Directory of New Hires.

"(B) WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The State Directory of New Hires shall, on a quarterly basis, furnish to the National Directory of New Hires extracts of the reports required under section 303(a)(6) to be made to the Secretary of Labor concerning the wages and unemployment compensation paid to individuals, by such dates, in such format, and containing such information as the Secretary of Health and Human Services shall specify in regulations.

"(3) BUSINESS DAY DEFINED.—As used in this subsection, the term 'business day' means a day on which State offices are open for regular business.

"(h) OTHER USES OF NEW HIRE INFORMATION.—

"(1) LOCATION OF CHILD SUPPORT OBLIGORS.—The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations.

"(2) VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.—A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

"(3) ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.—State agencies operating employment security and workers' compensation programs shall have access to information reported by employers pursuant to subsection (b) for the purposes of administering such programs.".

(c) QUARTERLY WAGE REPORTING.—Section 1137(a)(3) (42 U.S.C. 1320b-7(a)(3)) is amended—

(1) by inserting "(including State and local governmental entities)" after "employers"; and

(2) by inserting ", and except that no report shall be filed with respect to an employee of a State agency performing intelligence or counterintelligence functions, if the head of such agency has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission" after "paragraph (2)".

SEC. 7314. AMENDMENTS CONCERNING INCOME WITHHOLDING.

(a) MANDATORY INCOME WITHHOLDING.—

(1) IN GENERAL.—Section 466(a)(1) (42 U.S.C. 666(a)(1)) is amended to read as follows:

"(1)(A) Procedures described in subsection (b) for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

"(B) Procedures under which the wages of a person with a support obligation imposed by a support order issued (or modified) in the State before October 1, 1996, if not otherwise subject to withholding under subsection (b), shall become subject to withholding as provided in subsection (b) if arrearages occur, without the need for a judicial or administrative hearing.".

(2) CONFORMING AMENDMENTS.—

(A) Section 466(b) (42 U.S.C. 666(b)) is amended in the matter preceding paragraph (1), by striking "subsection (a)(1)" and inserting "subsection (a)(1)(A)".

(B) Section 466(b)(4) (42 U.S.C. 666(b)(4)) is amended to read as follows:

"(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each absent parent to whom paragraph (1) applies—

"(i) that the withholding has commenced; and

"(ii) of the procedures to follow if the absent parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

"(B) The notice under subparagraph (A) shall include the information provided to the employer under paragraph (6)(A).".

(C) Section 466(b)(5) (42 U.S.C. 666(b)(5)) is amended by striking all that follows "administered by" and inserting "the State through the State disbursement unit established pursuant to section 454B, in accordance with the requirements of section 454B.".

(D) Section 466(b)(6)(A) (42 U.S.C. 666(b)(6)(A)) is amended—

(i) in clause (i), by striking "to the appropriate agency" and all that follows and inserting "to the State disbursement unit within 2 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part.";

(ii) in clause (ii), by inserting "be in a standard format prescribed by the Secretary, and" after "shall"; and

(iii) by adding at the end the following new clause:

"(iii) As used in this subparagraph, the term 'business day' means a day on which State offices are open for regular business.".

(E) Section 466(b)(6)(D) (42 U.S.C. 666(b)(6)(D)) is amended by striking "any employer" and all that follows and inserting "any employer who—

"(i) discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding required by this subsection because of the existence of such withholding and the obligations or

additional obligations which it imposes upon the employer; or

"(ii) fails to withhold support from wages, or to pay such amounts to the State disbursement unit in accordance with this subsection.".

(F) Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following new paragraph:

"(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order through electronic means and without advance notice to the obligor.".

(b) CONFORMING AMENDMENT.—Section 466(c) (42 U.S.C. 666(c)) is repealed.

SEC. 7315. LOCATOR INFORMATION FROM INTERSTATE NETWORKS.

Section 466(a) (42 U.S.C. 666(a)) is amended by adding at the end the following new paragraph:

"(12) Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.".

SEC. 7316. EXPANSION OF THE FEDERAL PARENT LOCATOR SERVICE.

(a) EXPANDED AUTHORITY TO LOCATE INDIVIDUALS AND ASSETS.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (a), by striking all that follows "subsection (c))" and inserting ", for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing child visitation orders—

"(1) information on, or facilitating the discovery of, the location of any individual—

"(A) who is under an obligation to pay child support or provide child visitation rights;

"(B) against whom such an obligation is sought;

"(C) to whom such an obligation is owed, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;

"(2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and

"(3) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual."; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking "social security" and all that follows through "absent parent" and inserting "information described in subsection (a)".

(b) AUTHORIZED PERSON FOR INFORMATION REGARDING VISITATION RIGHTS.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) in paragraph (1), by striking "support" and inserting "support or to seek to enforce orders providing child visitation rights";

(2) in paragraph (2), by striking ", or any agent of such court; and" and inserting "or to issue an order against a resident parent for visitation rights, or any agent of such court;";

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) the absent parent, only with regard to a court order against a resident parent for child visitation rights.".

(c) REIMBURSEMENT FOR INFORMATION FROM FEDERAL AGENCIES.—Section 453(e)(2) (42 U.S.C. 653(e)(2)) is amended in the 4th sentence by inserting "in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information)" before the period.

(d) REIMBURSEMENT FOR REPORTS BY STATE AGENCIES.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following new subsection:

"(g) The Secretary may reimburse Federal and State agencies for the costs incurred by such entities in furnishing information requested by the Secretary under this section in an amount which the Secretary determines to be reasonable payment for the information exchange (which amount shall not include payment for the costs of obtaining, compiling, or maintaining the information).".

(e) TECHNICAL AMENDMENTS.—

(1) Sections 452(a)(9), 453(a), 453(b), 463(a), 463(e), and 463(f) (42 U.S.C. 652(a)(9), 653(a), 653(b), 663(a), 663(e), and 663(f)) are each amended by inserting "Federal" before "Parent" each place such term appears.

(2) Section 453 (42 U.S.C. 653) is amended in the heading by adding "FEDERAL" before "PARENT".

(f) NEW COMPONENTS.—Section 453 (42 U.S.C. 653), as amended by subsection (d) of this section, is amended by adding at the end the following new subsection:

"(h)(1) Not later than October 1, 1998, in order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall establish and maintain in the Federal Parent Locator Service an automated registry (which shall be known as the 'Federal Case Registry of Child Support Orders'), which shall contain abstracts of support orders and other information described in paragraph (2) with respect to each case in each State case registry maintained pursuant to section 454A(e), as furnished (and regularly updated), pursuant to section 454A(f), by State agencies administering programs under this part.

"(2) The information referred to in paragraph (1) with respect to a case shall be such information as the Secretary may specify in regulations (including the names, social security numbers or other uniform identification numbers, and State case identification numbers) to identify the individuals who owe or are owed support (or with respect to or on behalf of whom support obligations are sought to be established), and the State or States which have the case.

"(i)(1) In order to assist States in administering programs under State plans approved under this part and programs funded under part A, and for the other purposes specified in this section, the Secretary shall, not later than October 1, 1996, establish and maintain in the Federal Parent Locator Service an automated directory to be known as the National Directory of New Hires, which shall contain the information supplied pursuant to section 453A(g)(2).

"(2) Information shall be entered into the data base maintained by the National Directory of New Hires within 2 business days of receipt pursuant to section 453A(g)(2).

"(3) The Secretary of the Treasury shall have access to the information in the National Directory of New Hires for purposes of administering section 32 of the Internal Revenue Code of 1986, or the advance payment of the earned income tax credit under section 3507 of such Code, and verifying a claim with respect to employment in a tax return.

"(4) The Secretary shall maintain within the National Directory of New Hires a list of multistate employers that report information regarding newly hired employees pursuant to section 453A(b)(1)(B), and the State which each such employer has designated to receive such information.

"(j)(1)(A) The Secretary shall transmit information on individuals and employers maintained under this section to the Social Security Administration to the extent necessary for verification in accordance with subparagraph (B).

"(B) The Social Security Administration shall verify the accuracy of, correct, or supply to the extent possible, and report to the Secretary, the following information supplied by the Secretary pursuant to subparagraph (A):

"(i) The name, social security number, and birth date of each such individual.

"(ii) The employer identification number of each such employer.

"(2) For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

"(A) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

"(B) within 2 such days after such a comparison reveals a match with respect to an individual, report the information to the State agency responsible for the case.

"(3) To the extent and with the frequency that the Secretary determines to be effective in assisting States to carry out their responsibilities under programs operated under this part and programs funded under part A, the Secretary shall—

"(A) compare the information in each component of the Federal Parent Locator Service maintained under this section against the information in each other such component (other than the comparison required by paragraph (2)), and report instances in which such a comparison reveals a match with respect to an individual to State agencies operating such programs; and

"(B) disclose information in such registries to such State agencies.

"(4) The National Directory of New Hires shall provide the Commissioner of Social Security with all information in the National Directory, which shall be used to determine the accuracy of payments under the supplemental security income program under title XVI and in connection with benefits under title II.

"(5) The Secretary may provide access to information reported by employers pursuant to section 453A(b) for research purposes found by the Secretary to be likely to contribute to achieving the purposes of part A or this part, but without personal identifiers.

"(k)(1) The Secretary shall reimburse the Commissioner of Social Security, at a rate negotiated between the Secretary and the Commissioner, for the costs incurred by the Commissioner in performing the verification services described in subsection (j).

"(2) The Secretary shall reimburse costs incurred by State directories of new hires in furnishing information as required by subsection (j)(3), at rates which the Secretary determines to be reasonable (which rates shall not include payment for the costs of obtaining, compiling, or maintaining such information).

"(3) A State or Federal agency that receives information from the Secretary pursuant to this section shall reimburse the Secretary for costs incurred by the Secretary in furnishing the information, at rates which the Secretary determines to be reasonable (which rates shall include payment for the costs of obtaining, verifying, maintaining, and comparing the information).

"(l) Information in the Federal Parent Locator Service, and information resulting from comparisons using such information, shall not be used or disclosed except as expressly provided in this section, subject to section 6103 of the Internal Revenue Code of 1986.

"(m) The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to—

"(1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

"(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

"(n) Each department, agency, and instrumentality of the United States shall on a quarterly basis report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that no report shall be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.".

(f) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 454(8)(B) (42 U.S.C. 654(8)(B)) is amended to read as follows:

"(B) the Federal Parent Locator Service established under section 453;".

(2) TO FEDERAL UNEMPLOYMENT TAX ACT.—Section 3304(a)(16) of the Internal Revenue Code of 1986 is amended—

(A) by striking "Secretary of Health, Education, and Welfare" each place such term appears and inserting "Secretary of Health and Human Services";

(B) in subparagraph (B), by striking "such information" and all that follows and inserting "information furnished under subparagraph (A) or (B) is used only for the purposes authorized under such subparagraph;";

(C) by striking "and" at the end of subparagraph (A);

(D) by redesignating subparagraph (B) as subparagraph (C); and

(E) by inserting after subparagraph (A) the following new subparagraph:

"(B) wage and unemployment compensation information contained in the records of such agency shall be furnished to the Secretary of Health and Human Services (in accordance with regulations promulgated by such Secretary) as necessary for the purposes of the National Directory of New Hires established under section 453(i) of the Social Security Act, and".

(3) TO STATE GRANT PROGRAM UNDER TITLE III OF THE SOCIAL SECURITY ACT.—Subsection (h) of section 303 (42 U.S.C. 503) is amended to read as follows:

"(h)(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

"(A) disclose quarterly, to the Secretary of Health and Human Services wage and claim information, as required pursuant to section 453(i)(1), contained in the records of such agency;

"(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

"(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of section 453(i)(1) in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

"(3) For purposes of this subsection—

"(A) the term 'wage information' means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

"(B) the term 'claim information' means information regarding whether an individual is receiving, has received, or has made application for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.".

SEC. 7317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.

(a) STATE LAW REQUIREMENT.—Section 466(a) (42 U.S.C. 666(a)), as amended by section 7315, is amended by adding at the end the following new paragraph:

"(13) Procedures requiring that the social security number of—

"(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

"(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

"(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.".

(b) CONFORMING AMENDMENTS.—Section 205(c)(2)(C) (42 U.S.C. 405(c)(2)(C)), as amended by section 321(a)(9) of the Social Security Independence and Program Improvements Act of 1994, is amended—

(1) in clause (i), by striking "may require" and inserting "shall require";

(2) in clause (ii), by inserting after the 1st sentence the following: "In the administration of any law involving the issuance of a marriage certificate or license, each State shall require each party named in the certificate or license to furnish to the State (or political subdivision thereof), or any State agency having administrative responsibility for the law involved, the social security number of the party.";

(3) in clause (ii), by inserting "or marriage certificate" after "Such numbers shall not be recorded on the birth certificate";

(4) in clause (vi), by striking "may" and inserting "shall"; and

(5) by adding at the end the following new clauses:

"(x) An agency of a State (or a political subdivision thereof) charged with the administration of any law concerning the issuance or renewal of a license, certificate, permit, or other authorization to engage in a profession, an occupation, or a commercial activity shall require all applicants for issuance or renewal of the license, certificate, permit, or other authorization to provide the applicant's social security number to the agency for the purpose of administering such laws, and for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.

"(xi) All divorce decrees, support orders, and paternity determinations issued, and all paternity acknowledgments made, in each State shall include the social security number of each party to the decree, order, determination, or acknowledgement in the records relating to the matter, for the purpose of responding to requests for information from an agency operating pursuant to part D of title IV.".

CHAPTER 3—STREAMLINING AND UNIFORMITY OF PROCEDURES

SEC. 7321. ADOPTION OF UNIFORM STATE LAWS.

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

"(f)(1) In order to satisfy section 454(20)(A) on or after January 1, 1997, each State must have in effect the Uniform Interstate Family Support Act, as approved by the National Conference of Commissioners on Uniform State Laws in August 1992 (with the modifications and additions specified in this subsection), and the procedures required to implement such Act.

"(2) The State law enacted pursuant to paragraph (1) may be applied to any case involving an order which is established or modified in a State and which is sought to be modified or enforced in another State.

"(3) The State law enacted pursuant to paragraph (1) of this subsection shall contain the following provision in lieu of section 611(a)(1) of the Uniform Interstate Family Support Act:

"'(1) the following requirements are met:

"'(i) the child, the individual obligee, and the obligor—

"'(I) do not reside in the issuing State; and

"'(II) either reside in this State or are subject to the jurisdiction of this State pursuant to section 201; and

"'(ii) in any case where another State is exercising or seeks to exercise jurisdiction to modify the order, the conditions of section 204 are met to the same extent as required for proceedings to establish orders; or'.

"(4) The State law enacted pursuant to paragraph (1) shall provide that, in any proceeding subject to the law, process may be served (and proved) upon persons in the State by any means acceptable in any State which is the initiating or responding State in the proceeding.".

SEC. 7322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

Section 1738B of title 28, United States Code, is amended—

(1) in subsection (a)(2), by striking "subsection (e)" and inserting "subsections (e), (f), and (i)";

(2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

"'child's home State' means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month period.";

(3) in subsection (c), by inserting "by a court of a State" before "is made";

(4) in subsection (c)(1), by inserting "and subsections (e), (f), and (g)" after "located";

(5) in subsection (d)—

(A) by inserting "individual" before "contestant"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(6) in subsection (e), by striking "make a modification of a child support order with respect to a child that is made" and inserting "modify a child support order issued";

(7) in subsection (e)(1), by inserting "pursuant to subsection (i)" before the semicolon;

(8) in subsection (e)(2)—

(A) by inserting "individual" before "contestant" each place such term appears; and

(B) by striking "to that court's making the modification and assuming" and inserting "with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume";

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(10) by inserting after subsection (e) the following new subsection:

"(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued in this or another State with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

"(1) If only 1 court has issued a child support order, the order of that court must be recognized.

"(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

"(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

"(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court may issue a child support order, which must be recognized.

"(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction.";

(11) in subsection (g) (as so redesignated)—

(A) by striking "PRIOR" and inserting "MODIFIED"; and

(B) by striking "subsection (e)" and inserting "subsections (e) and (f)";

(12) in subsection (h) (as so redesignated)—

(A) in paragraph (2), by inserting "including the duration of current payments and other obligations of support" before the comma; and

(B) in paragraph (3), by inserting "arrears under" after "enforce"; and

(13) by adding at the end the following new subsection:

"(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another State shall register that order in a State with jurisdiction over the nonmovant for the purpose of modification.".

SEC. 7323. ADMINISTRATIVE ENFORCEMENT IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315 and 7317(a), is amended by adding at the end the following new paragraph:

"(14) Procedures under which—

"(A)(i) the State shall respond within 5 business days to a request made by another State to enforce a support order; and

"(ii) the term 'business day' means a day on which State offices are open for regular business;

"(B) the State may, by electronic or other means, transmit to another State a request for assistance in a case involving the enforcement of a support order, which request—

"(i) shall include such information as will enable the State to which the request is transmitted to compare the information about the case to the information in the data bases of the State; and

"(ii) shall constitute a certification by the requesting State—

"(I) of the amount of support under the order the payment of which is in arrears; and

"(II) that the requesting State has complied with all procedural due process requirements applicable to the case;

"(C) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State; and

"(D) the State shall maintain records of—

"(i) the number of such requests for assistance received by the State;

"(ii) the number of cases for which the State collected support in response to such a request; and

"(iii) the amount of such collected support.".

SEC. 7324. USE OF FORMS IN INTERSTATE ENFORCEMENT.

(a) PROMULGATION.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11) not later than 60 days after the date of the enactment of the Balance Budget Reconciliation Act of 1995, establish an advisory committee, which shall include State directors of programs under this part, and not later than June 30, 1996, after consultation with the advisory committee, promulgate forms to be used by States in interstate cases for—

"(A) collection of child support through income withholding;

"(B) imposition of liens; and

"(C) administrative subpoenas.".

(b) USE BY STATES.—Section 454(9) (42 U.S.C. 654(9)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by inserting "and" at the end of subparagraph (D); and

(3) by adding at the end the following new subparagraph:

"(E) no later than October 1, 1996, in using the forms promulgated pursuant to section 452(a)(11) for income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases;".

SEC. 7325. STATE LAWS PROVIDING EXPEDITED PROCEDURES.

(a) STATE LAW REQUIREMENTS.—Section 466 (42 U.S.C. 666), as amended by section 7314, is amended—

(1) in subsection (a)(2), by striking the 1st sentence and inserting the following: "Expedited administrative and judicial procedures (including the procedures specified in subsection (c)) for establishing paternity and for establishing, modifying, and enforcing support obligations."; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The procedures specified in this subsection are the following:

"(1) Procedures which give the State agency the authority to take the following actions relating to establishment or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States) to take the following actions:

"(A) To order genetic testing for the purpose of paternity establishment as provided in section 466(a)(5).

"(B) To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

"(C) To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

"(D) To obtain access, subject to safeguards on privacy and information security, to the following records (including automated access, in the case of records maintained in automated data bases):

"(i) Records of other State and local government agencies, including—

"(I) vital statistics (including records of marriage, birth, and divorce);

"(II) State and local tax and revenue records (including information on residence address, employer, income and assets);

"(III) records concerning real and titled personal property;

"(IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;

"(V) employment security records;

"(VI) records of agencies administering public assistance programs;

"(VII) records of the motor vehicle department; and

"(VIII) corrections records.

"(ii) Certain records held by private entities, including—

"(I) customer records of public utilities and cable television companies; and

"(II) information (including information on assets and liabilities) on individuals who owe or are owed support (or against or with respect to whom a support obligation is sought) held by financial institutions (subject to limitations on liability of such entities arising from affording such access), as provided pursuant to agreements described in subsection (a)(18).

"(E) In cases where support is subject to an assignment in order to comply with a requirement imposed pursuant to part A or section 2136, or to a requirement to pay through the State disbursement unit established pursuant to section 454B, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

"(F) To order income withholding in accordance with subsections (a)(1) and (b) of section 466.

"(G) In cases in which there is a support arrearage, to secure assets to satisfy the arrearage by—

"(i) intercepting or seizing periodic or lump-sum payments from—

"(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

"(II) judgments, settlements, and lotteries;

"(ii) attaching and seizing assets of the obligor held in financial institutions;

"(iii) attaching public and private retirement funds; and

"(iv) imposing liens in accordance with subsection (a)(4) and, in appropriate cases, to force sale of property and distribution of proceeds.

"(H) For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

"(2) The expedited procedures required under subsection (a)(2) shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

"(A) Procedures under which—

"(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the tribunal and the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and name and telephone number of employer; and

"(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal pursuant to clause (i).

"(B) Procedures under which—

"(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

"(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.".

(b) AUTOMATION OF STATE AGENCY FUNCTIONS.—Section 454A, as added by section 7344(a)(2) and as amended by sections 7311 and 7312(c), is amended by adding at the end the following new subsection:

"(h) EXPEDITED ADMINISTRATIVE PROCEDURES.—The automated system required by this section shall be used, to the maximum extent feasible, to implement the expedited administrative procedures required by section 466(c).".

CHAPTER 4—PATERNITY ESTABLISHMENT

SEC. 7331. STATE LAWS CONCERNING PATERNITY ESTABLISHMENT.

(a) STATE LAWS REQUIRED.—Section 466(a)(5) (42 U.S.C. 666(a)(5)) is amended to read as follows:

"(5)(A)(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 21 years of age.

"(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 21 years was then in effect in the State.

"(B)(i) Procedures under which the State is required, in a contested paternity case, unless otherwise barred by State law, to require the child and all other parties (other than individuals found under section 454(29) to have good cause for refusing to cooperate) to submit to genetic tests upon the request of any such party if the request is supported by a sworn statement by the party—

"(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

"(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

"(ii) Procedures which require the State agency in any case in which the agency orders genetic testing—

"(I) to pay costs of such tests, subject to recoupment (where the State so elects) from the alleged father if paternity is established; and

"(II) to obtain additional testing in any case where an original test result is contested, upon request and advance payment by the contestant.

"(C)(i) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

"(ii) Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child, subject to such good cause and other exceptions as the State shall establish and taking into account the best interests of the child.

"(iii)(I) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(II)(aa) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

"(bb) The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

"(iv) Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit developed by the Secretary under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

"(D)(i) Procedures under which the name of the father shall be included on the record of birth of the child only—

"(I) if the father and mother have signed a voluntary acknowledgment of paternity; or

"(II) pursuant to an order issued in a judicial or administrative proceeding.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit an order issued in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

"(ii) Procedures under which—

"(I) a voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within 60 days;

"(II) after the 60-day period referred to in subclause (I), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown; and

"(III) judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(E) Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

"(F) Procedures—

"(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is—

"(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

"(II) performed by a laboratory approved by such an accreditation body;

"(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

"(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

"(I) Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

"(J) Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, where there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

"(K) Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

"(L) Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

"(M) Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.".

(b) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity which shall include the social security number of each parent" before the semicolon.

(c) TECHNICAL AMENDMENT.—Section 468 (42 U.S.C. 668) is amended by striking "a simple civil process for voluntarily acknowledging paternity and".

SEC. 7332. OUTREACH FOR VOLUNTARY PATERNITY ESTABLISHMENT.

Section 454(23) (42 U.S.C. 654(23)) is amended by inserting "and will publicize the availability and encourage the use of procedures for voluntary establishment of paternity and child support by means the State deems appropriate" before the semicolon.

SEC. 7333. COOPERATION BY APPLICANTS FOR AND RECIPIENTS OF TEMPORARY FAMILY ASSISTANCE.

Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(a), and 7313(a), is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following new paragraph:

"(29) provide that the State agency responsible for administering the State plan—

"(A) shall make the determination (and redetermination at appropriate intervals) as to whether an individual who has applied for or is receiving assistance under the State program funded under part A or the State program under title XXI is cooperating in good faith with the State in establishing the paternity of, or in establishing, modifying, or enforcing a support order for, any child of the individual by providing the State agency with the name of, and such other information as the State agency may require with respect to, the noncustodial parent of the child, subject to such good cause and other exceptions as the State shall establish and taking into account the best interests of the child;

"(B) shall require the individual to supply additional necessary information and appear at interviews, hearings, and legal proceedings;

"(C) shall require the individual and the child to submit to genetic tests pursuant to judicial or administrative order; and

"(D) shall promptly notify the individual and the State agency administering the State program funded under part A and the State agency administering the State program under title XXI of each such determination, and if noncooperation is determined, the basis therefore.".

CHAPTER 5—PROGRAM ADMINISTRATION AND FUNDING

SEC. 7341. PERFORMANCE-BASED INCENTIVES AND PENALTIES.

(a) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Section 458 (42 U.S.C. 658) is amended—

(A) in subsection (a), by striking "aid to families" and all through the end period, and inserting "assistance under a program funded under part A, and regardless of the economic circumstances of their parents, the Secretary shall, from the support collected which would otherwise represent the reimbursement to the Federal government under section 457, pay to each State for each fiscal year, on a quarterly basis (as described in subsection (e)) beginning with the quarter commencing October 1, 1999, an incentive payment in an amount determined under subsections (b) and (c).";

(B) by striking subsections (b) and (c) and inserting the following:

"(b)(1) Not later than 60 days after the date of the enactment of the Balanced Budget Reconciliation Act of 1995, the Secretary shall establish a committee which shall include State directors of programs under this part and which shall develop for the Secretary's approval a formula for the distribution of incentive payments to the States.

"(2) The formula developed and approved under paragraph (1)—

"(A) shall result in a percentage of the collections described in subsection (a) being distributed to each State based on the State's comparative performance in the following areas and any other areas approved by the Secretary under this subsection:

"(i) The IV-D paternity establishment percentage, as defined in section 452(g)(2).

"(ii) The percentage of cases with a support order with respect to which services are being provided under the State plan approved under this part.

"(iii) The percentage of cases with a support order in which child support is paid with respect to which services are being so provided.

"(iv) In cases receiving services under the State plan approved under this part, the amount of child support collected compared to the amount of outstanding child support owed.

"(v) The cost-effectiveness of the State program;

"(B) shall take into consideration—

"(i) the impact that incentives can have on reducing the need to provide public assistance and on permanently removing families from public assistance;

"(ii) the need to balance accuracy and fairness with simplicity of understanding and data gathering;

"(iii) the need to reward performance which improves short- and long-term program outcomes, especially establishing paternity and support orders and encouraging the timely payment of support;

"(iv) the Statewide paternity establishment percentage;

"(v) baseline data on current performance and projected costs of performance increases to assure that top performing States can actually achieve the top incentive levels with a reasonable resource investment;

"(vi) performance outcomes which would warrant an increase in the total incentive payments made to the States; and

"(vii) the use or distribution of any portion of the total incentive payments in excess of the total of the payments which may be distributed under subsection (c);

"(C) shall be determined so as to distribute to the States total incentive payments equal to the total incentive payments for all States in fiscal year 1994, plus a portion of any increase in the reimbursement to the Federal Government under section 457 from fiscal year 1999 or any other increase based on other performance outcomes approved by the Secretary under this subsection;

"(D) shall use a definition of the term 'State' which does not include any area within the jurisdiction of an Indian tribal government; and

"(E) shall use a definition of the term 'Statewide paternity establishment percentage' to mean with respect to a State and a fiscal year—

"(i) the total number of children in the State who were born out of wedlock, who have not attained 1 year of age and for whom paternity is established or acknowledged during the fiscal year; divided by

"(ii) the total number of children born out of wedlock in the State during the fiscal year.

"(c) The total amount of the incentives payment made by the Secretary to a State in a fiscal year shall not exceed 90 percent of the total amounts expended by such State during such year for the operation of the plan approved under section 454, less payments to the State pursuant to section 455 for such year.";

(2) in subsection (d), by striking ", and any amounts" through "shall be excluded".

(b) PAYMENTS TO POLITICAL SUBDIVISIONS.—Section 454(22) (42 U.S.C. 654(22)) is amended by inserting before the semicolon the following: ", but a political subdivision shall not be entitled to receive, and the State may retain, any amount in excess of the amount the political subdivision expends on the State program under this part, less the amount equal to the percentage of that expenditure paid by the Secretary under section 455".

(c) CALCULATION OF IV–D PATERNITY ESTABLISHMENT PERCENTAGE.—

(1) Section 452(g)(1) (42 U.S.C. 652(g)(1)) is amended—

(A) in the matter preceding subparagraph (A) by inserting "its overall performance in child support enforcement is satisfactory (as defined in section 458(b) and regulations of the Secretary), and" after "1994,"; and

(B) in each of subparagraphs (A) and (B), by striking "75" and inserting "90".

(2) Section 452(g)(2)(A) (42 U.S.C. 652(g)(2)(A)) is amended in the matter preceding clause (i)—

(A) by striking "paternity establishment percentage" and inserting "IV–D paternity establishment percentage"; and

(B) by striking "(or all States, as the case may be)".

(3) Section 452(g)(3) (42 U.S.C. 652(g)(3)) is amended—

(A) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in subparagraph (A) (as so redesignated), by striking "the percentage of children born out-of-wedlock in a State" and inserting "the percentage of children in a State who are born out of wedlock or for whom support has not been established"; and

(C) in subparagraph (B) (as so redesignated)—

(i) by inserting "and overall performance in child support enforcement" after "paternity establishment percentages"; and

(ii) by inserting "and securing support" before the period.

(d) EFFECTIVE DATES.—

(1) INCENTIVE ADJUSTMENTS.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall become effective on the date of the enactment of this Act, except to the extent provided in subparagraph (B).

(B) EXCEPTION.—Section 458 of the Social Security Act, as in effect before the date of the enactment of this section, shall be effective for purposes of incentive payments to States for fiscal years before fiscal year 2000.

(2) PENALTY REDUCTIONS.—The amendments made by subsection (c) shall become effective with respect to calendar quarters beginning on and after the date of the enactment of this Act.

SEC. 7342. FEDERAL AND STATE REVIEWS AND AUDITS.

(a) STATE AGENCY ACTIVITIES.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (14), by striking "(14)" and inserting "(14)(A)";

(2) by redesignating paragraph (15) as subparagraph (B) of paragraph (14); and

(3) by inserting after paragraph (14) the following new paragraph:

"(15) provide for—

"(A) a process for annual reviews of and reports to the Secretary on the State program operated under the State plan approved under this part, including such information as may be necessary to measure State compliance with Federal requirements for expedited procedures, using such standards and procedures as are required by the Secretary, under which the State agency will determine the extent to which the program is operated in compliance with this part; and

"(B) a process of extracting from the automated data processing system required by paragraph (16) and transmitting to the Secretary data and calculations concerning the levels of accomplishment (and rates of improvement) with respect to applicable performance indicators (including IV–D paternity establishment percentages and overall performance in child support enforcement) to the extent necessary for purposes of sections 452(g) and 458.".

(b) FEDERAL ACTIVITIES.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended to read as follows:

"(4)(A) review data and calculations transmitted by State agencies pursuant to section 454(15)(B) on State program accomplishments with respect to performance indicators for purposes of subsection (g) of this section and section 458;

"(B) review annual reports submitted pursuant to section 454(15)(A) and, as appropriate, provide to the State comments, recommendations for additional or alternative corrective actions, and technical assistance; and

"(C) conduct audits, in accordance with the Government auditing standards of the Comptroller General of the United States—

"(i) at least once every 3 years (or more frequently, in the case of a State which fails to meet the requirements of this part concerning performance standards and reliability of program data) to assess the completeness, reliability, and security of the data, and the accuracy of the reporting systems, used in calculating performance indicators under subsection (g) of this section and section 458;

"(ii) of the adequacy of financial management of the State program operated under the State plan approved under this part, including assessments of—

"(I) whether Federal and other funds made available to carry out the State program are being appropriately expended, and are properly and fully accounted for; and

"(II) whether collections and disbursements of support payments are carried out correctly and are fully accounted for; and

"(iii) for such other purposes as the Secretary may find necessary;".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning 12 months or more after the date of the enactment of this Act.

SEC. 7343. REQUIRED REPORTING PROCEDURES.

(a) ESTABLISHMENT.—Section 452(a)(5) (42 U.S.C. 652(a)(5)) is amended by inserting ", and establish procedures to be followed by States for collecting and reporting information required to be provided under this part, and establish uniform definitions (including those necessary to enable the measurement of State compliance with the requirements of this part relating to expedited processes) to be applied in following such procedures" before the semicolon.

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(a), 7313(a), and 7333, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by adding after paragraph (29) the following new paragraph:

"(30) provide that the State shall use the definitions established under section 452(a)(5) in collecting and reporting information as required under this part.".

SEC. 7344. AUTOMATED DATA PROCESSING REQUIREMENTS.

(a) REVISED REQUIREMENTS.—

(1) IN GENERAL.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(A) by striking ", at the option of the State,";

(B) by inserting "and operation by the State agency" after "for the establishment";

(C) by inserting "meeting the requirements of section 454A" after "information retrieval system";

(D) by striking "in the State and localities thereof, so as (A)" and inserting "so as";

(E) by striking "(i)"; and

(F) by striking "(including" and all that follows and inserting a semicolon.

(2) AUTOMATED DATA PROCESSING.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 454 the following new section:

"SEC. 454A. AUTOMATED DATA PROCESSING.

"(a) IN GENERAL.—In order for a State to meet the requirements of this section, the State agency administering the State program under this part shall have in operation a single statewide automated data processing and information retrieval system which has the capability to perform the tasks specified in this section with the frequency and in the manner required by or under this part.

"(b) PROGRAM MANAGEMENT.—The automated system required by this section shall perform such functions as the Secretary may specify relating to management of the State program under this part, including—

"(1) controlling and accounting for use of Federal, State, and local funds in carrying out the program; and

"(2) maintaining the data necessary to meet Federal reporting requirements under this part on a timely basis.

"(c) CALCULATION OF PERFORMANCE INDICATORS.—In order to enable the Secretary to determine the incentive and penalty adjustments required by sections 452(g) and 458, the State agency shall—

"(1) use the automated system—

"(A) to maintain the requisite data on State performance with respect to paternity establishment and child support enforcement in the State; and

"(B) to calculate the IV–D paternity establishment percentage and overall performance in child support enforcement for the State for each fiscal year; and

"(2) have in place systems controls to ensure the completeness and reliability of, and ready access to, the data described in paragraph (1)(A), and the accuracy of the calculations described in paragraph (1)(B).

"(d) INFORMATION INTEGRITY AND SECURITY.—The State agency shall have in effect safeguards on the integrity, accuracy, and completeness of, access to, and use of data in the automated system required by this section, which shall include the following (in addition to such other safeguards as the Secretary may specify in regulations):

"(1) POLICIES RESTRICTING ACCESS.—Written policies concerning access to data by State agency personnel, and sharing of data with other persons, which—

"(A) permit access to and use of data only to the extent necessary to carry out the State program under this part; and

"(B) specify the data which may be used for particular program purposes, and the personnel permitted access to such data.

"(2) SYSTEMS CONTROLS.—Systems controls (such as passwords or blocking of fields) to ensure strict adherence to the policies described in paragraph (1).

"(3) MONITORING OF ACCESS.—Routine monitoring of access to and use of the automated system, through methods such as audit trails and feedback mechanisms, to guard against and promptly identify unauthorized access or use.

"(4) TRAINING AND INFORMATION.—Procedures to ensure that all personnel (including State and local agency staff and contractors) who may have access to or be required to use confidential program data are informed of applicable requirements and penalties (including those in section 6103 of the Internal Revenue Code of 1986), and are adequately trained in security procedures.

"(5) PENALTIES.—Administrative penalties (up to and including dismissal from employment) for unauthorized access to, or disclosure or use of, confidential data.".

(3) REGULATIONS.—The Secretary of Health and Human Services shall prescribe final regulations for implementation of section 454A of the Social Security Act not later than 2 years after the date of the enactment of this Act.

(4) IMPLEMENTATION TIMETABLE.—Section 454(24) (42 U.S.C. 654(24)), as amended by sections 7304(a)(2) and 7312(a)(1), is amended to read as follows:

"(24) provide that the State will have in effect an automated data processing and information retrieval system—

"(A) by October 1, 1997, which meets all requirements of this part which were enacted on or before the date of enactment of the Family Support Act of 1988; and

"(B) by October 1, 1999, which meets all requirements of this part enacted on or before the date of the enactment of the Balanced Budget Reconciliation Act of 1995, except that such deadline shall be extended by 1 day for each day (if any) by which the Secretary fails to meet the deadline imposed by section 7344(a)(3) of the Balanced Budget Reconciliation Act of 1995.".

(b) SPECIAL FEDERAL MATCHING RATE FOR DEVELOPMENT COSTS OF AUTOMATED SYSTEMS.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)(B)—

(i) by striking "90 percent" and inserting "the percent specified in paragraph (3)";

(ii) by striking "so much of"; and

(iii) by striking "which the Secretary" and all that follows and inserting ", and"; and

(B) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall pay to each State, for each quarter in fiscal years 1996 and 1997, 90 percent of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements specified in section 454(16) (as in effect on the day before the date of the enactment of the Balanced Budget Reconciliation Act of 1995), but limited to the amount approved for States in the advance planning documents of such States submitted on or before May 1, 1995.

"(B)(i) The Secretary shall pay to each State, for each quarter in fiscal years 1997 through 2001, the percentage specified in clause (ii) of so much of the State expenditures described in paragraph (1)(B) as the Secretary finds are for a system meeting the requirements of sections 454(16) and 454A.

"(ii) The percentage specified in this clause is the greater of—

"(I) 80 percent; or

"(II) the percentage otherwise applicable to Federal payments to the State under subparagraph (A) (as adjusted pursuant to section 458).".

(2) TEMPORARY LIMITATION ON PAYMENTS UNDER SPECIAL FEDERAL MATCHING RATE.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not pay more than $260,000,000 in the aggregate under section 455(a)(3) of the Social Security Act for fiscal years 1996, 1997, 1998, 1999, and 2000.

(B) ALLOCATION OF LIMITATION AMONG STATES.—The total amount payable to a State under section 455(a)(3) of such Act for fiscal years 1996, 1997, 1998, 1999, and 2000 shall not exceed the limitation determined for the State by the Secretary of Health and Human Services in regulations.

(C) ALLOCATION FORMULA.—The regulations referred to in subparagraph (B) shall prescribe a formula for allocating the amount specified in subparagraph (A) among States with plans approved under part D of title IV of the Social Security Act, which shall take into account—

(i) the relative size of State caseloads under such part; and

(ii) the level of automation needed to meet the automated data processing requirements of such part.

(c) CONFORMING AMENDMENT.—Section 123(c) of the Family Support Act of 1988 (102 Stat. 2352; Public Law 100–485) is repealed.

SEC. 7345. TECHNICAL ASSISTANCE.

(a) FOR TRAINING OF FEDERAL AND STATE STAFF, RESEARCH AND DEMONSTRATION PROGRAMS, AND SPECIAL PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following new subsection:

"(j) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 1 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on

the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for—

"(1) information dissemination and technical assistance to States, training of State and Federal staff, staffing studies, and related activities needed to improve programs under this part (including technical assistance concerning State automated systems required by this part); and

"(2) research, demonstration, and special projects of regional or national significance relating to the operation of State programs under this part.".

(b) OPERATION OF FEDERAL PARENT LOCATOR SERVICE.—Section 453 (42 U.S.C. 653), as amended by section 7316(f), is amended by adding at the end the following new subsection:

"(n) Out of any money in the Treasury of the United States not otherwise appropriated, there is hereby appropriated to the Secretary for each fiscal year an amount equal to 2 percent of the total amount paid to the Federal Government pursuant to section 457(a) during the immediately preceding fiscal year (as determined on the basis of the most recent reliable data available to the Secretary as of the end of the 3rd calendar quarter following the end of such preceding fiscal year), to cover costs incurred by the Secretary for operation of the Federal Parent Locator Service under this section, to the extent such costs are not recovered through user fees.".

SEC. 7346. REPORTS AND DATA COLLECTION BY THE SECRETARY.

(a) ANNUAL REPORT TO CONGRESS.—

(1) Section 452(a)(10)(A) (42 U.S.C. 652(a)(10)(A)) is amended—

(A) by striking "this part;" and inserting "this part, including—"; and

(B) by adding at the end the following new clauses:

"(i) the total amount of child support payments collected as a result of services furnished during the fiscal year to individuals receiving services under this part;

"(ii) the cost to the States and to the Federal Government of so furnishing the services; and

"(iii) the number of cases involving families—

"(I) who became ineligible for assistance under State programs funded under part A during a month in the fiscal year; and

"(II) with respect to whom a child support payment was received in the month;".

(2) Section 452(a)(10)(C) (42 U.S.C. 652(a)(10)(C)) is amended—

(A) in the matter preceding clause (i)—

(i) by striking "with the data required under each clause being separately stated for cases" and inserting "separately stated for (1) cases";

(ii) by striking "cases where the child was formerly receiving" and inserting "or formerly received";

(iii) by inserting "or 2136" after "471(a)(17)"; and

(iv) by inserting "(2)" before "all other";

(B) in each of clauses (i) and (ii), by striking ", and the total amount of such obligations";

(C) in clause (iii), by striking "described in" and all that follows and inserting "in which support was collected during the fiscal year;";

(D) by striking clause (iv); and

(E) by redesignating clause (v) as clause (vii), and inserting after clause (iii) the following new clauses:

"(iv) the total amount of support collected during such fiscal year and distributed as current support;

"(v) the total amount of support collected during such fiscal year and distributed as arrearages;

"(vi) the total amount of support due and unpaid for all fiscal years; and".

(3) Section 452(a)(10)(G) (42 U.S.C. 652(a)(10)(G)) is amended by striking "on the use of Federal courts and".

(4) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended—

(A) in subparagraph (H), by striking "and";

(B) in subparagraph (I), by striking the period and inserting "; and"; and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) compliance, by State, with the standards established pursuant to subsections (h) and (i).".

(5) Section 452(a)(10) (42 U.S.C. 652(a)(10)) is amended by striking all that follows subparagraph (J), as added by paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to fiscal year 1996 and succeeding fiscal years.

CHAPTER 6—ESTABLISHMENT AND MODIFICATION OF SUPPORT ORDERS

SEC. 7351. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Child Support Guidelines Commission (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—

(1) IN GENERAL.—The Commission shall determine—

(A) whether it is appropriate to develop a national child support guideline for consideration by the Congress or for adoption by individual States; or

(B) based on a study of various guideline models, the benefits and deficiencies of such models, and any needed improvements.

(2) DEVELOPMENT OF MODELS.—If the Commission determines under paragraph (1)(A) that a national child support guideline is needed or under paragraph (1)(B) that improvements to guideline models are needed, the Commission shall develop such national guideline or improvements.

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required under subsection (b), the Commission shall consider—

(1) the adequacy of State child support guidelines established pursuant to section 467;

(2) matters generally applicable to all support orders, including—

(A) the feasibility of adopting uniform terms in all child support orders;

(B) how to define income and under what circumstances income should be imputed; and

(C) tax treatment of child support payments;

(3) the appropriate treatment of cases in which either or both parents have financial obligations to more than 1 family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(4) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(5) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(6) the appropriate duration of support by 1 or both parents, including—

(A) support (including shared support) for postsecondary or vocational education; and

(B) support for disabled adult children;

(7) procedures to automatically adjust child support orders periodically to address changed economic circumstances, including changes in the Consumer Price Index or either parent's income and expenses in particular cases;

(8) procedures to help noncustodial parents address grievances regarding visitation and custody orders to prevent such parents from withholding child support payments until such grievances are resolved; and

(9) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed not later than January 15, 1997, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The 1st sentence of subparagraph (C), the 1st and 3rd sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(f) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a recommended national child support guideline and a final assessment of issues relating to such a proposed national child support guideline.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

SEC. 7352. SIMPLIFIED PROCESS FOR REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS.

Section 466(a)(10) (42 U.S.C. 666(a)(10)) is amended to read as follows:

"(10) Procedures under which the State shall review and adjust each support order being enforced under this part upon the request of either parent or the State if there is an assignment. Such procedures shall provide the following:

"(A) The State shall review and, as appropriate, adjust the support order every 3 years, taking into account the best interests of the child involved.

"(B)(i) The State may elect to review and, if appropriate, adjust an order pursuant to subparagraph (A) by—

"(I) reviewing and, if appropriate, adjusting the order in accordance with the guidelines established pursuant to section 467(a) if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines; or

"(II) applying a cost-of-living adjustment to the order in accordance with a formula developed by the State and permit either party to *contest the adjustment, within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 467(a).*

"(ii) Any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.

"(C) The State may use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under the threshold established by the State.

"(D)(i) The State shall, at the request of either parent subject to such an order or of any State child support enforcement agency, review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 467(a) based upon a substantial change in the circumstances of either parent.

"(ii) The State shall provide notice to the parents subject to such an order informing them of their right to request the State to review and, if appropriate, adjust the order pursuant to clause (i). The notice may be included in the order.".

SEC. 7353. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award.".

SEC. 7354. NONLIABILITY FOR DEPOSITORY INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a depository institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs (including attorney's fees) of the action.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "depository institution" means—

(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(v)); and

(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)).

(2) The term "financial record" has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

(3) The term "State child support enforcement agency" means a State agency which administers a State program for establishing and enforcing child support obligations.

CHAPTER 7—ENFORCEMENT OF SUPPORT ORDERS

SEC. 7361. INTERNAL REVENUE SERVICE COLLECTION OF ARREARAGES.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 6305(a) of the Internal Revenue Code of 1986 (relating to collection of certain liability) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ", and";

(3) by adding at the end the following new paragraph:

"(5) no additional fee may be assessed for adjustments to an amount previously certified pursuant to such section 452(b) with respect to the same obligor."; and

(4) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1997.

SEC. 7362. AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES.

(a) CONSOLIDATION AND STREAMLINING OF AUTHORITIES.—Section 459 (42 U.S.C. 659) is amended to read as follows:

"SEC. 459. CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING, GARNISHMENT, AND SIMILAR PROCEEDINGS FOR ENFORCEMENT OF CHILD SUPPORT AND ALIMONY OBLIGATIONS.

"(a) CONSENT TO SUPPORT ENFORCEMENT.—Notwithstanding any other provision of law (including section 207 of this Act and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a)(1) and (b) of section 466 and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

"(b) CONSENT TO REQUIREMENTS APPLICABLE TO PRIVATE PERSON.—With respect to notice to withhold income pursuant to subsection (a)(1) or (b) of section 466, or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

"(c) DESIGNATION OF AGENT; RESPONSE TO NOTICE OR PROCESS—

"(1) DESIGNATION OF AGENT.—The head of each agency subject to this section shall—

"(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

"(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

"(2) RESPONSE TO NOTICE OR PROCESS.—If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a)(1) or (b) of section 466, or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall—

"(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

"(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466; and

"(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

"(d) PRIORITY OF CLAIMS.—If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person—

"(1) support collection under section 466(b) must be given priority over any other process, as provided in section 466(b)(7);

"(2) allocation of moneys due or payable to an individual among claimants under section 466(b) shall be governed by section 466(b) and the regulations prescribed under such section; and

"(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a 1st-come, 1st-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

"(e) NO REQUIREMENT TO VARY PAY CYCLES.—A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

"(f) RELIEF FROM LIABILITY.—

"(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

"(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

"(g) REGULATIONS.—Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)—

"(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

"(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

"(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

"(h) MONEYS SUBJECT TO PROCESS.—

"(1) IN GENERAL.—Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section—

"(A) consist of—

"(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

"(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3)) or other payments—

"(I) under the insurance system established by title II;

"(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

"(III) as compensation for death under any Federal program;

"(IV) under any Federal program established to provide 'black lung' benefits; or

"(V) by the Secretary of Veterans Affairs as pension, or as compensation for a service-connected disability or death (except any compensation paid by the Secretary to a member of the Armed Forces who is in receipt of retired or retainer pay if the member has waived a portion of the retired pay of the member in order to receive the compensation); and

"(iii) workers' compensation benefits paid under Federal or State law; but

"(B) do not include any payment—

"(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

"(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

"(2) CERTAIN AMOUNTS EXCLUDED.—In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

"(A) are owed by the individual to the United States;

"(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

"(D) are deducted as health insurance premiums;

"(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

"(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

"(i) DEFINITIONS.—As used in this section:

"(1) UNITED STATES.—The term 'United States' includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

"(2) CHILD SUPPORT.—The term 'child support', when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which the individual has such an obligation, and (subject to and in accordance with State law) includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children, and includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

"(3) ALIMONY.—The term 'alimony', when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. Such term does not include any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

"(4) PRIVATE PERSON.—The term 'private person' means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

"(5) LEGAL PROCESS.—The term 'legal process' means any writ, order, summons, or other similar process in the nature of garnishment—

"(A) which is issued by—

"(i) a court of competent jurisdiction in any State, territory, or possession of the United States;

"(ii) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

"(iii) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law; and

"(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.".

(b) CONFORMING AMENDMENTS.—

(1) TO PART D OF TITLE IV.—Sections 461 and 462 (42 U.S.C. 661 and 662) are repealed.

(2) TO TITLE 5, UNITED STATES CODE.—Section 5520a of title 5, United States Code, is amended, in subsections (h)(2) and (i), by striking "sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, and 662)" and inserting "section 459 of the Social Security Act (42 U.S.C. 659)".

(c) MILITARY RETIRED AND RETAINER PAY.—

(1) DEFINITION OF COURT.—Section 1408(a)(1) of title 10, United States Code, is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) any administrative or judicial tribunal of a State competent to enter orders for support or maintenance (including a State agency administering a program under a State plan approved under part D of title IV of the Social Security Act), and, for purposes of this subparagraph, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.".

(2) DEFINITION OF COURT ORDER.—Section 1408(a)(2) of such title is amended by inserting "or a court order for the payment of child support not included in or accompanied by such a decree or settlement," before "which—".

(3) PUBLIC PAYEE.—Section 1408(d) of such title is amended—

(A) in the heading, by inserting "(OR FOR BENEFIT OF)" before "SPOUSE OR"; and

(B) in paragraph (1), in the 1st sentence, by inserting "(or for the benefit of such spouse or former spouse to a State disbursement unit established pursuant to section 454B of the Social Security Act or other public payee designated by

a State, in accordance with part D of title IV of the Social Security Act, as directed by court order, or as otherwise directed in accordance with such part D)" before "in an amount sufficient".

(4) RELATIONSHIP TO PART D OF TITLE IV.—Section 1408 of such title is amended by adding at the end the following new subsection:

"(j) RELATIONSHIP TO OTHER LAWS.—In any case involving an order providing for payment of child support (as defined in section 459(i)(2) of the Social Security Act) by a member who has never been married to the other parent of the child, the provisions of this section shall not apply, and the case shall be subject to the provisions of section 459 of such Act.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 6 months after the date of the enactment of this Act.

SEC. 7363. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED HEARINGS.—Paragraph (1) applies to a hearing that is conducted by a court or pursuant to an administrative process established under State law, in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 459(i) of the Social Security Act (42 U.S.C. 659(i)).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH CHILD SUPPORT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, as amended by section 7362(c)(4), is amended—

(A) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(B) by inserting after subsection (h) the following new subsection:

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Section 1408(d)(1) of such title is amended by inserting after the 1st sentence the following: "In the case of a spouse or former spouse who assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of such title is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the order, the authority provided in paragraph (1) to make payments from the disposable retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that order as well as to amounts of child support that currently become due.".

(4) PAYROLL DEDUCTIONS.—The Secretary of Defense shall begin payroll deductions within 30 days after receiving notice of withholding, or for the 1st pay period that begins after such 30-day period.

SEC. 7364. VOIDING OF FRAUDULENT TRANSFERS.

Section 466 (42 U.S.C. 666), as amended by section 7321, is amended by adding at the end the following new subsection:

"(g) In order to satisfy section 454(20)(A), each State must have in effect—

"(1)(A) the Uniform Fraudulent Conveyance Act of 1981;

"(B) the Uniform Fraudulent Transfer Act of 1984; or

"(C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor.".

SEC. 7365. WORK REQUIREMENT FOR PERSONS OWING CHILD SUPPORT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7301(a), 7315, 7317(a), and 7323, is amended by adding at the end the following new paragraph:

"(15) Procedures requiring the State, in any case in which an individual owes support with respect to a child receiving services under this part, to seek a court order or administrative order that requires the individual to—

"(A) pay such support in accordance with a plan approved by the court; or

"(B) if the individual is not working and is not incapacitated, participate in work activities (including, at State option, work activities as defined in section 482) as the court deems appropriate.".

SEC. 7366. DEFINITION OF SUPPORT ORDER.

Section 453 (42 U.S.C. 653) as amended by sections 7316 and 7345(b), is amended by adding at the end the following new subsection:

"(o) As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.".

SEC. 7367. REPORTING ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7) (42 U.S.C. 666(a)(7)) is amended to read as follows:

"(7)(A) Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) the name of any absent parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

"(B) Procedures ensuring that, in carrying out subparagraph (A), information with respect to an absent parent is reported—

"(i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and

"(ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency.".

SEC. 7368. LIENS.

Section 466(a)(4) (42 U.S.C. 666(a)(4)) is amended to read as follows:

"(4) Procedures under which—

"(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by an absent parent who resides or owns property in the State; and

"(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, without registration of the underlying order.".

SEC. 7369. STATE LAW AUTHORIZING SUSPENSION OF LICENSES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, and 7365, is amended by adding at the end the following new paragraph:

"(16) Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of, driver's licenses, professional and occupational licenses, and recreational licenses of individuals

owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.''.

SEC. 7370. DENIAL OF PASSPORTS FOR NONPAYMENT OF CHILD SUPPORT.

(a) HHS CERTIFICATION PROCEDURE.—

(1) SECRETARIAL RESPONSIBILITY.—Section 452 (42 U.S.C. 652), as amended by section 7345, is amended by adding at the end the following new subsection:

''(k)(1) If the Secretary receives a certification by a State agency in accordance with the requirements of section 454(31) that an individual owes arrearages of child support in an amount exceeding $5,000, the Secretary shall transmit such certification to the Secretary of State for action (with respect to denial, revocation, or limitation of passports) pursuant to section 7370(b) of the Balanced Budget Reconciliation Act of 1995.

''(2) The Secretary shall not be liable to an individual for any action with respect to a certification by a State agency under this section.''.

(2) STATE CSE AGENCY RESPONSIBILITY.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(b), 7313(a), 7333, and 7343(a), is amended—

(A) by striking ''and'' at the end of paragraph (29);

(B) by striking the period at the end of paragraph (30) and inserting ''; and''; and

(C) by adding after paragraph (30) the following new paragraph:

''(31) provide that the State agency will have in effect a procedure (which may be combined with the procedure for tax refund offset under section 464) for certifying to the Secretary, for purposes of the procedure under section 452(k) (concerning denial of passports), determinations that individuals owe arrearages of child support in an amount exceeding $5,000, under which procedure—

''(A) each individual concerned is afforded notice of such determination and the consequences thereof, and an opportunity to contest the determination; and

''(B) the certification by the State agency is furnished to the Secretary in such format, and accompanied by such supporting documentation, as the Secretary may require.''.

(b) STATE DEPARTMENT PROCEDURE FOR DENIAL OF PASSPORTS.—

(1) IN GENERAL.—The Secretary of State shall, upon certification by the Secretary of Health and Human Services transmitted under section 452(k) of the Social Security Act, refuse to issue a passport to such individual, and may revoke, restrict, or limit a passport issued previously to such individual.

(2) LIMIT ON LIABILITY.—The Secretary of State shall not be liable to an individual for any action with respect to a certification by a State agency under this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective October 1, 1996.

SEC. 7371. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

The Secretary of State is authorized to negotiate reciprocal agreements with foreign nations on behalf of the States, territories, and possessions of the United States regarding the international enforcement of child support obligations and designating the Department of Health and Human Services as the central authority for such enforcement.

SEC. 7372. DENIAL OF MEANS-TESTED FEDERAL BENEFITS TO NONCUSTODIAL PARENTS WHO ARE DELINQUENT IN PAYING CHILD SUPPORT.

(a) IN GENERAL.—Notwithstanding any other provision of law, a non-custodial parent who is more then 2 months delinquent in paying child support shall not be eligible to receive any means-tested Federal benefits.

(b) EXCEPTION.—

(1) IN GENERAL.—Subsection (a) shall not apply to an unemployed non-custodial parent who is more then 2 months delinquent in paying child support if such parent—

(A) enters into a schedule of repayment for past due child support with the entity that issued the underlying child support order; and

(B) meets all of the terms of repayment specified in the schedule of repayment as enforced by the appropriate disbursing entity.

(2) 2-YEAR EXCLUSION.—(A) A non-custodial parent who becomes delinquent in child support a second time or any subsequent time shall not be eligible to receive any means-tested Federal benefits for a 2-year period beginning on the date that such parent failed to meet such terms.

(B) At the end of that two-year period, paragraph (A) shall once again apply to that individual.

(c) MEANS-TESTED FEDERAL BENEFITS.— For purposes of this section, the term ''means-tested Federal benefits'' means benefits under any program of assistance, funded in whole or in part, by the Federal Government, for which eligibility for benefits is based on need.

SEC. 7373. CHILD SUPPORT ENFORCEMENT FOR INDIAN TRIBES.

(a) CHILD SUPPORT ENFORCEMENT AGREEMENTS.—Section 454 (42 U.S.C. 654), as amended by sections 7301(b), 7304(a), 7312(b), 9313(a), 7333, 7343(a), and 7370(a)(2) is amended—

(1) by striking ''and'' at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting ''; and''; and

(3) by adding after paragraph (31) the following new paragraph:

''(32) provide that a State that receives funding pursuant to section 429 and that has within its borders Indian country (as defined in section 1151 of title 18, United States Code) shall, through the State administering agency, make reasonable efforts to enter into cooperative agreements with an Indian tribe or tribal organization (as defined in paragraphs (1) and (2) of section 428(c)), if the Indian tribe or tribal organization demonstrates that such tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to establish paternity, establish and enforce support orders, and to enter support orders in accordance with child support guidelines established by such tribe or organization, under which the State and tribe or organization shall provide for the cooperative delivery of child support enforcement services in Indian country and for the forwarding of all funding collected pursuant to the functions performed by the tribe or organization to the State agency, or conversely, by the State agency to the tribe or organization, which shall distribute such funding in accordance with such agreement.''.

(b) DIRECT FEDERAL FUNDING TO INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Section 455 (42 U.S.C. 655) is amended by adding at the end the following new subsection:

''(b) The Secretary may, in appropriate cases, make direct payments under this part to an Indian tribe or tribal organization which has an approved child support enforcement plan under this title. In determining whether such payments are appropriate, the Secretary shall, at a minimum, consider whether services are being provided to eligible Indian recipients by the State agency through an agreement entered into pursuant to section 454(32). The Secretary shall provide for an appropriate adjustment to the State allotment under this section to take into account any payments made under this subsection to Indian tribes or tribal organizations located within such State.''.

(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—Paragraph (7) of section 454 (42 U.S.C. 654) is amended by inserting ''and Indian tribes or tribal organizations (as defined in section 450(b) of title 25, United States Code)'' after ''law enforcement officials''.

SEC. 7374. FINANCIAL INSTITUTION DATA MATCHES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, and 7369, is amended by adding at the end the following new paragraph:

''(17) Procedures under which the State agency shall enter into agreements with financial institutions doing business within the State to develop and operate a data match system, using automated data exchanges to the maximum extent feasible, in which such financial institutions are required to provide for each calendar quarter the name, record address, social security number, and other identifying information for each absent parent identified by the State who maintains an account at such institution and, in response to a notice of lien or levy, to encumber or surrender, as the case may be, assets held by such institution on behalf of any absent parent who is subject to a child support lien pursuant to paragraph (4). For purposes of this paragraph, the term 'financial institution' means Federal and State commercial savings banks, including savings and loan associations and cooperative banks, Federal and State chartered credit unions, benefit associations, insurance companies, safe deposit companies, money-market mutual funds, and any similar entity authorized to do business in the State, and the term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.''.

SEC. 7375. ENFORCEMENT OF ORDERS AGAINST PATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, 7369, and 7374, is amended by adding at the end the following new paragraph:

''(18) Procedures under which any child support order enforced under this part with respect to a child of minor parents, if the mother of such child is receiving assistance under the State grant under part A, shall be enforceable, jointly and severally, against the paternal grandparents of such child.''.

SEC. 7376. SENSE OF THE SENATE REGARDING THE INABILITY OF THE NON-CUSTODIAL PARENT TO PAY CHILD SUPPORT.

It is the sense of the Senate that—

(a) States should diligently continue their efforts to enforce child support payments by the non-custodial parent to the custodial parent, regardless of the employment status or location of the non-custodial parent; and

(b) States are encouraged to pursue pilot programs in which the parents of a non-adult, non-custodial parent who refuses to or is unable to pay child support must—

(1) pay or contribute to the child support owed by the non-custodial parent; or

(2) otherwise fulfill all financial obligations and meet all conditions imposed on the non-custodial parent, such as participation in a work program or other related activity.

CHAPTER 8—MEDICAL SUPPORT

SEC. 7378. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking ''issued by a court of competent jurisdiction'';

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1996.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the 1st plan year beginning on or after January 1, 1996, if—

(A) during the period after the date before the date of the enactment of this Act and before such 1st plan year, the plan is operated in accordance with the requirements of the amendments made by this section; and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such 1st plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 7379. ENFORCEMENT OF ORDERS FOR HEALTH CARE COVERAGE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 7315, 7317(a), 7323, 7365, 7369, 7374, and 7376, is amended by adding at the end the following new paragraph:

"(19) Procedures under which all child support orders enforced under this part shall include a provision for the health care coverage of the child, and in the case in which an absent parent provides such coverage and changes employment, and the new employer provides health care coverage, the State agency shall transfer notice of the provision to the employer, which notice shall operate to enroll the child in the absent parent's health plan, unless the absent parent contests the notice.".

CHAPTER 9—ENHANCING RESPONSIBILITY AND OPPORTUNITY FOR NONRESIDENTIAL PARENTS

SEC. 7381. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

Part D of title IV (42 U.S.C. 651–669) is amended by adding at the end the following new section:

"SEC. 469A. GRANTS TO STATES FOR ACCESS AND VISITATION PROGRAMS.

"(a) IN GENERAL.—The Administration for Children and Families shall make grants under this section to enable States to establish and administer programs to support and facilitate absent parents' access to and visitation of their children, by means of activities including mediation (both voluntary and mandatory), counseling, education, development of parenting plans, visitation enforcement (including monitoring, supervision and neutral drop-off and pickup), and development of guidelines for visitation and alternative custody arrangements.

"(b) AMOUNT OF GRANT.—The amount of the grant to be made to a State under this section for a fiscal year shall be an amount equal to the lesser of—

"(1) 90 percent of State expenditures during the fiscal year for activities described in subsection (a); or

"(2) the allotment of the State under subsection (c) for the fiscal year.

"(c) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—The allotment of a State for a fiscal year is the amount that bears the same ratio to the amount appropriated for grants under this section for the fiscal year as the number of children in the State living with only 1 biological parent bears to the total number of such children in all States.

"(2) MINIMUM ALLOTMENT.—The Administration for Children and Families shall adjust allotments to States under paragraph (1) as necessary to ensure that no State is allotted less than—

"(A) $50,000 for fiscal year 1996 or 1997; or

"(B) $100,000 for any succeeding fiscal year.

"(d) NO SUPPLANTATION OF STATE EXPENDITURES FOR SIMILAR ACTIVITIES.—A State to which a grant is made under this section may not use the grant to supplant expenditures by the State for activities specified in subsection (a), but shall use the grant to supplement such expenditures at a level at least equal to the level of such expenditures for fiscal year 1995.

"(e) STATE ADMINISTRATION.—Each State to which a grant is made under this section—

"(1) may administer State programs funded with the grant, directly or through grants to or contracts with courts, local public agencies, or nonprofit private entities;

"(2) shall not be required to operate such programs on a statewide basis; and

"(3) shall monitor, evaluate, and report on such programs in accordance with regulations prescribed by the Secretary.".

CHAPTER 10—EFFECT OF ENACTMENT

SEC. 7391. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise specifically provided (but subject to subsections (b) and (c))—

(1) the provisions of this subtitle requiring the enactment or amendment of State laws under section 466 of the Social Security Act, or revision of State plans under section 454 of such Act, shall be effective with respect to periods beginning on and after October 1, 1996; and

(2) all other provisions of this subtitle shall become effective upon the date of the enactment of this Act.

(b) GRACE PERIOD FOR STATE LAW CHANGES.—The provisions of this subtitle shall become effective with respect to a State on the later of—

(1) the date specified in this subtitle, or

(2) the effective date of laws enacted by the legislature of such State implementing such provisions,

but in no event later than the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) GRACE PERIOD FOR STATE CONSTITUTIONAL AMENDMENT.—A State shall not be found out of compliance with any requirement enacted by this subtitle if the State is unable to so comply without amending the State constitution until the earlier of—

(1) 1 year after the effective date of the necessary State constitutional amendment; or

(2) 5 years after the date of the enactment of this subtitle.

Subtitle F—Noncitizens

SEC. 7401. STATE OPTION TO PROHIBIT ASSISTANCE FOR CERTAIN ALIENS.

(a) IN GENERAL.—A State may, at its option, prohibit the use of any Federal funds received for the provision of assistance under any means-tested public assistance program for any individual who is a noncitizen of the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any individual who is described in subclause (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i)); and

(2) any program described in section 7402(f)(2).

SEC. 7402. DEEMED INCOME REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.

(a) DEEMING REQUIREMENT FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Subject to subsection (d), for purposes of determining the eligibility of an individual (whether a citizen or national of the United States or an alien) for assistance and the amount of assistance, under any Federal program of assistance provided or funded, in whole or in part, by the Federal Government for which eligibility is based on need, the income and resources described in subsection (b) shall, notwithstanding any other provision of law, be deemed to be the income and resources of such individual.

(b) DEEMED INCOME AND RESOURCES.—The income and resources described in this subsection include the following:

(1) The income and resources of any person who, as a sponsor of such individual's entry into the United States, or in order to enable such individual lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such individual.

(2) The income and resources of the sponsor's spouse.

(c) LENGTH OF DEEMING PERIOD.—The requirement of subsection (a) shall apply for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such individual, or for a period of 5 years beginning on the date such individual was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(d) LIMITATION ON MEASUREMENT OF DEEMED INCOME AND RESOURCES.—

(1) IN GENERAL.—If a determination described in paragraph (2) is made, the amount of income and resources of the sponsor or the sponsor's spouse which shall be attributed to the sponsored individual shall not exceed the amount actually provided, for a period beginning on the date of such determination and lasting 12 months or, if the address of the sponsor is unknown to the sponsored individual on the date of such determination, for 12 months after the address becomes known to the sponsored individual or to the agency (which shall inform such individual within 7 days).

(2) DETERMINATION.—The determination described in this paragraph is a determination by an agency that a sponsored individual would, in the absence of the assistance provided by the agency, be unable to obtain food and shelter, taking into account the individual's own income, plus any cash, food, housing, or other assistance provided by other individuals, including the sponsor.

(e) DEEMING AUTHORITY TO STATE AND LOCAL AGENCIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, but subject to an exception equivalent to that in subsection (d), the State or local government may, for purposes of determining the eligibility of an individual (whether a citizen or national of the United States or an alien) for assistance, and the amount of assistance, under any State or local program of assistance for which eligibility is based on need, or any need-based program of assistance administered by a State or local government other than a program described in subsection (a), require that the income and resources described in paragraph (2) be deemed to be the income and resources of such individual.

(2) DEEMED INCOME AND RESOURCES.—The income and resources described in this paragraph include the following:

(A) The income and resources of any person who, as a sponsor of such individual's entry

into the United States, or in order to enable such individual lawfully to remain in the United States, executed an affidavit of support or similar agreement with respect to such individual.

(B) The income and resources of the sponsor's spouse.

(3) LENGTH OF DEEMED INCOME PERIOD.—Subject to an exception equivalent to subsection (d), a State or local government may impose a requirement described in paragraph (1) for the period for which the sponsor has agreed, in such affidavit or agreement, to provide support for such individual, or for a period of 5 years beginning on the date such individual was first lawfully in the United States after the execution of such affidavit or agreement, whichever period is longer.

(f) APPLICABILITY OF SECTION.—

(1) INDIVIDUALS.—The provisions of this section shall not apply to the eligibility of any individual who is described in subclause (II), (III), or (IV) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i)).

(2) PROGRAMS.—The provisions of this section shall not apply to eligibility for—

(A) emergency medical services under title XXI of the Social Security Act;

(B) short-term emergency disaster relief;

(C) assistance or benefits under the National School Lunch Act;

(D) assistance or benefits under the Child Nutrition Act of 1966;

(E) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases if the Secretary of Health and Human Services determines that such testing and treatment is necessary;

(F) the Head Start program (42 U.S.C. 9801); and

(G) programs specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (i) deliver services at the community level, including through public or private nonprofit agencies; (ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (iii) are necessary for the protection of life, safety, or public health.

(g) CONFORMING AMENDMENTS.—

(1) Section 1621 (42 U.S.C. 1382j) is repealed.

(2) Section 1614(f)(3) (42 U.S.C. 1382c(f)(3)) is amended by striking "section 1621" and inserting "section 7402 of the Balanced Budget Reconciliation Act of 1995".

SEC. 7403. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

(a) ENFORCEABILITY.—No affidavit of support may be relied upon by the Attorney General or by any consular officer to establish that an alien is not excludable as a public charge under section 212(a)(4) of the Immigration and Nationality Act unless such affidavit is executed as a contract—

(1) which is legally enforceable against the sponsor by the sponsored individual, by the Federal Government, and by any State, district, territory, or possession of the United States (or any subdivision of such State, district, territory, or possession of the United States) which provides any benefit under a program described in subsection (d)(2), but not later than 10 years after the sponsored individual last receives any such benefit;

(2) in which the sponsor agrees to financially support the sponsored individual, so that he or she will not become a public charge, until the sponsored individual has worked in the United States for 40 qualifying quarters; and

(3) in which the sponsor agrees to submit to the jurisdiction of any Federal or State court for the purpose of actions brought under subsection (d)(4).

(b) FORMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, the Attorney General, and the Secretary of Health and Human Services shall jointly formulate the affidavit of support described in this section.

(c) NOTIFICATION OF CHANGE OF ADDRESS.—

(1) IN GENERAL.—The sponsor shall notify the Attorney General and the State, district, territory, or possession in which the sponsored individual is currently resident within 30 days of any change of address of the sponsor during the period specified in subsection (a)(1).

(2) PENALTY.—Any person subject to the requirement of paragraph (1) who fails to satisfy such requirement shall be subject to a civil penalty of—

(A) not less than $250 or more than $2,000, or

(B) if such failure occurs with knowledge that the sponsored individual has received any benefit described in section 241(a)(5)(C) of the Immigration and Nationality Act, not less than $2,000 or more than $5,000.

(d) REIMBURSEMENT OF GOVERNMENT EXPENSES.—

(1) IN GENERAL.—Upon notification that a sponsored individual has received any benefit under a program described in paragraph (2), the appropriate Federal, State, or local official shall request reimbursement by the sponsor in the amount of such assistance.

(2) PROGRAMS DESCRIBED.—The programs described in this paragraph include the following:

(A) Assistance under a State program funded under part A of title IV of the Social Security Act.

(B) The medicaid program under title XXI of the Social Security Act.

(C) The food stamp program under the Food Stamp Act of 1977.

(D) The supplemental security income program under title XVI of the Social Security Act.

(E) Any State general assistance program.

(F) Any other program of assistance funded, in whole or in part, by the Federal Government or any State or local government entity, for which eligibility for benefits is based on need, except the programs specified in section 7402(f)(2).

(3) REGULATIONS.—The Commissioner of Social Security shall prescribe such regulations as may be necessary to carry out paragraph (1). Such regulations shall provide for notification to the sponsor by certified mail to the sponsor's last known address.

(4) REIMBURSEMENT.—If within 45 days after requesting reimbursement, the appropriate Federal, State, or local agency has not received a response from the sponsor indicating a willingness to commence payments, an action may be brought against the sponsor pursuant to the affidavit of support.

(5) ACTION IN CASE OF FAILURE.—If the sponsor fails to abide by the repayment terms established by such agency, the agency may, within 60 days of such failure, bring an action against the sponsor pursuant to the affidavit of support.

(6) STATUTE OF LIMITATIONS.—No cause of action may be brought under this subsection later than 10 years after the sponsored individual last received any benefit under a program described in paragraph (2).

(e) JURISDICTION.—For purposes of this section, no State court shall decline for lack of jurisdiction to hear any action brought against a sponsor for reimbursement of the cost of any benefit under a program described in subsection (d)(2) if the sponsored individual received public assistance while residing in the State.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "sponsor" means an individual who—

(A) is a United States citizen or national or an alien who is lawfully admitted to the United States for permanent residence;

(B) is 18 years of age or over;

(C) is domiciled in any of the several States of the United States, the District of Columbia, or any territory or possession of the United States; and

(D) demonstrates the means to maintain an annual income equal to at least 200 percent of the poverty line for the individual and the individual's family (including the sponsored individual), through evidence that shall include a copy of the individual's Federal income tax returns for his or her most recent two taxable years and a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, that the copies are true copies of such returns;

(2) the term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

(3) the term "qualifying quarter" means a three-month period in which the sponsored individual has—

(A) earned at least the minimum necessary for the period to count as one of the 40 calendar quarters required to qualify for social security retirement benefits;

(B) not received need-based public assistance; and

(C) had income tax liability for the tax year of which the period was part.

SEC. 7404. LIMITED ELIGIBILITY OF NONCITIZENS FOR SSI BENEFITS.

(a) IN GENERAL.—Paragraph (1) of section 1614(a) (42 U.S.C. 1382c(a)) is amended—

(1) in subparagraph (B)(i), by striking "either" and all that follows through ", or" and inserting "(I) a citizen; (II) a noncitizen who is granted asylum under section 208 of the Immigration and Nationality Act or whose deportation has been withheld under section 243(h) of such Act for a period of not more than 5 years after the date of arrival into the United States; (III) a noncitizen who is admitted to the United States as a refugee under section 207 of such Act for not more than such 5-year period; (IV) a noncitizen, lawfully present in any State (or any territory or possession of the United States), who is a veteran (as defined in section 101 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage or who is the spouse or unmarried dependent child of such veteran; or (V) a noncitizen who has worked sufficient calendar quarters of coverage to be a fully insured individual for benefits under title II, or"; and

(2) by adding at the end the following new flush sentence:

"For purposes of subparagraph (B)(i)(IV), the determination of whether a noncitizen is lawfully present in the United States shall be made in accordance with regulations of the Attorney General. A noncitizen shall not be considered to be lawfully present in the United States for purposes of this title merely because the noncitizen may be considered to be permanently residing in the United States under color of law for purposes of any particular program.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to applicants for benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) APPLICATION AND NOTICE.—Notwithstanding any other provision of law, in the case of an

individual who is receiving supplemental security income benefits under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits would terminate by reason of the amendments made by subsection (a), such amendments shall apply with respect to the benefits of such individual for months beginning on or after January 1, 1997, and the Commissioner of Social Security shall so notify the individual not later than 90 days after the date of the enactment of this Act.

(B) REAPPLICATION.—

(i) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, each individual notified pursuant to subparagraph (A) who desires to reapply for benefits under title XVI of the Social Security Act shall reapply to the Commissioner of Social Security.

(ii) DETERMINATION OF ELIGIBILITY.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall determine the eligibility of each individual who reapplies for benefits under clause (i) pursuant to the procedures of such title XVI.

SEC. 7405. TREATMENT OF NONCITIZENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, a noncitizen who has entered into the United States on or after the date of the enactment of this Act shall not, during the 5-year period beginning on the date of such noncitizen's entry into the United States, be eligible to receive any benefits under any program of assistance provided, or funded, in whole or in part, by the Federal Government, for which eligibility for benefits is based on need.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) any individual who is described in subclause (II), (III), (IV), or (V) of section 1614(a)(1)(B)(i) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(i));

(2) any program described in section 7402(f)(2); and

(3) payments for foster care and adoption assistance under part E of title IV of the Social Security Act for a child who would, in the absence of this section, be eligible to have such payments made on the child's behalf under such part, but only if the foster or adoptive parent or parents of such child are not noncitizens described in subsection (a).

SEC. 7406. INFORMATION REPORTING.

(a) TITLE IV OF THE SOCIAL SECURITY ACT.—Section 405 of the Social Security Act, as added by section 7201(b), is amended by adding at the end the following new subsection:

"(g) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION.—Each State to which a grant is made under section 403 shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is unlawfully in the United States.".

(b) SSI.—Section 1631(e) (42 U.S.C. 1383(e)) is amended—

(1) by redesignating the paragraphs (6) and (7) inserted by sections 206(d)(2) and 206(f)(1) of the Social Security Independence and Programs Improvement Act of 1994 (Public Law 103-296; 108 Stat. 1514, 1515) as paragraphs (7) and (8), respectively; and

(2) by adding at the end the following new paragraph:

"(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner knows is unlawfully in the United States, and shall ensure that each agreement entered into under section 1616(a) with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is unlawfully in the United States.".

(c) HOUSING PROGRAMS.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 27. PROVISION OF INFORMATION TO LAW ENFORCEMENT AND OTHER AGENCIES.

"(a) NOTICE TO IMMIGRATION AND NATURALIZATION SERVICE OF ILLEGAL ALIENS.—Notwithstanding any other provision of law, the Secretary shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this subsection referred to as the 'Service'), furnish the Service with the name and address of, and other identifying information on, any individual who the Secretary knows is unlawfully in the United States, and shall ensure that each contract for assistance entered into under section 6 or 8 of this Act with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency knows is unlawfully in the United States.".

SEC. 7407. PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO CERTAIN PERSONS.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), Federal benefits shall not be paid or provided to any person who is not a person lawfully present within the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following benefits:

(1) Emergency medical services under title XXI of the Social Security Act.

(2) Short-term emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations and, if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of a serious communicable disease, for testing and treatment of such disease.

(c) DEFINITIONS.—For purposes of this section:

(1) FEDERAL BENEFIT.—The term "Federal benefit" means—

(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, Social Security, health, disability, public housing, post-secondary education, food stamps, unemployment benefit, or any other similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States.

(2) PERSON LAWFULLY PRESENT WITHIN THE UNITED STATES.—The term "person lawfully present within the United States" means a person who, at the time the person applies for, receives, or attempts to receive a Federal benefit, is a United States citizen, a permanent resident alien, an alien whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)), an asylee, a refugee, a parolee who has been paroled for a period of at least 1 year, a national, or a national of the United States for purposes of the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(d) STATE OBLIGATION.—Notwithstanding any other provision of law, a State that administers a program that provides a Federal benefit (described in subsection (c)(1)) or provides State benefits pursuant to such a program shall not be required to provide such benefit to a person who is not a person lawfully present within the United States (as defined in subsection (c)(2)) through a State agency or with appropriated funds of such State.

(e) VERIFICATION OF ELIGIBILITY.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal benefit, including a benefit described in subsection (b), is a person lawfully present within the United States and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(2) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in paragraph (1) are adopted, a State that administers a program that provides a Federal benefit described in such paragraph shall have in effect a verification system that complies with the regulations.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

(f) SEVERABILITY.—If any provision of this section or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this section and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle G—Additional Provisions Relating to Welfare Reform

CHAPTER 1—REDUCTIONS IN FEDERAL GOVERNMENT POSITIONS

SEC. 7411. REDUCTIONS.

(a) DEFINITIONS.—As used in this section:

(1) APPROPRIATE EFFECTIVE DATE.—The term "appropriate effective date", used with respect to a Department referred to in this section, means the date on which all provisions of subtitle D of title I, this subtitle, or subtitles C, D, E, and F of this title that the Department is required to carry out, and amendments and repeals made by such titles and subtitles to provisions of Federal law that the Department is required to carry out, are effective.

(2) COVERED ACTIVITY.—The term "covered activity", used with respect to a Department referred to in this section, means an activity that the Department is required to carry out under—

(A) a provision of subtitle D of title I, this subtitle, or subtitle C, D, E, or F of this title; or

(B) a provision of Federal law that is amended or repealed by any such title or subtitles.

(b) REPORTS.—

(1) CONTENTS.—Not later than December 31, 1995, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant committees described in paragraph (3) a report containing—

(A) the determinations described in subsection (c);

(B) appropriate documentation in support of such determinations; and

(C) a description of the methodology used in making such determinations.

(2) SECRETARY.—The Secretaries referred to in this paragraph are—

(A) the Secretary of Agriculture;

(B) the Secretary of Education;

(C) the Secretary of Labor;

(D) the Secretary of Housing and Urban Development; and

(E) the Secretary of Health and Human Services.

(3) RELEVANT COMMITTEES.—The relevant Committees described in this paragraph are the following:

(A) With respect to each Secretary described in paragraph (2), the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(B) With respect to the Secretary of Agriculture, the Committee on Agriculture and the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) With respect to the Secretary of Education, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(D) With respect to the Secretary of Labor, the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(E) With respect to the Secretary of Housing and Urban Development, the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(F) With respect to the Secretary of Health and Human Services, the Committee on Economic and Educational Opportunities of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate.

(4) REPORT ON CHANGES.—Not later than December 31, 1996, and each December 31 thereafter, each Secretary referred to in paragraph (2) shall prepare and submit to the relevant Committees described in paragraph (3), a report concerning any changes with respect to the determinations made under subsection (c) for the year in which the report is being submitted.

(c) DETERMINATIONS.—Not later than December 31, 1995, each Secretary referred to in subsection (b)(2) shall determine—

(1) the number of full-time equivalent positions required by the Department headed by such Secretary to carry out the covered activities of the Department, as of the day before the date of enactment of this Act;

(2) the number of such positions required by the Department to carry out the activities, as of the appropriate effective date for the Department; and

(3) the difference obtained by subtracting the number referred to in paragraph (2) from the number referred to in paragraph (1).

(d) ACTIONS.—Not later than 30 days after the appropriate effective date for the Department involved, each Secretary referred to in subsection (b)(2) shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to reduce the number of positions of personnel of the Department by at least the difference referred to in subsection (c)(3).

(e) CONSISTENCY.—

(1) EDUCATION.—The Secretary of Education shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(2) LABOR.—The Secretary of Labor shall carry out this section in a manner that enables the Secretary to meet the requirements of this section.

(3) HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall carry out this section in a manner that enables the Secretary to meet the requirements of this section and section 7412.

(f) CALCULATION.—In determining, under subsection (c), the number of full-time equivalent positions required by a Department to carry out a covered activity, a Secretary referred to in subsection (b)(2), shall include the number of such positions occupied by personnel carrying out program functions or other functions (including budgetary, legislative, administrative, planning, evaluation, and legal functions) related to the activity.

(g) GENERAL ACCOUNTING OFFICE REPORT.—Not later than July 1, 1996, the Comptroller General of the United States shall prepare and submit to the committees described in subsection (b)(3), a report concerning the determinations made by each Secretary under subsection (c). Such report shall contain an analysis of the determinations made by each Secretary under subsection (c) and a determination as to whether further reductions in full-time equivalent positions are appropriate.

SEC. 7412. REDUCING PERSONNEL IN WASHINGTON, D.C. AREA.

In making reductions in full-time equivalent positions, the Secretary of Health and Human Services is encouraged to reduce personnel in the Washington, DC, area office (agency headquarters) before reducing field personnel.

CHAPTER 2—BLOCK GRANTS FOR SOCIAL SERVICES

SEC. 7421. REDUCTION IN BLOCK GRANTS FOR SOCIAL SERVICES.

Section 2003(c) (42 U.S.C. 1397b) is amended—

(1) by striking "and" at the end of paragraph (4); and

(2) by striking paragraph (5) and inserting the following:

"(5) $2,800,000,000 for each of the fiscal years 1990 through 1996; and

"(6) $2,240,000,000 for each fiscal year after fiscal year 1996.".

SEC. 7422. ESTABLISHING NATIONAL GOALS TO PREVENT TEENAGE PREGNANCIES.

(a) IN GENERAL.—Not later than January 1, 1997, the Secretary of Health and Human Services shall establish and implement a strategy for—

(1) preventing an additional 2 percent of out-of-wedlock teenage pregnancies a year, and

(2) assuring that at least 25 percent of the communities in the United States have teenage pregnancy prevention programs in place.

(b) REPORT.—Not later than June 30, 1998, and annually thereafter, the Secretary shall report to the Congress with respect to the progress that has been made in meeting the goals described in paragraphs (1) and (2) of subsection (a).

(c) OUT-OF-WEDLOCK AND TEENAGE PREGNANCY PREVENTION PROGRAMS.—Section 2002 (42 U.S.C. 1397a) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall conduct a study with respect to State programs that have been implemented to determine the relative effectiveness of the different approaches for reducing out-of-wedlock pregnancies and preventing teenage pregnancy and the approaches that can be best replicated by other States.

"(2) Each State shall provide to the Secretary, in such form and with such frequency as the Secretary requires, data from the programs the State has implemented. The Secretary shall report to the Congress annually on the progress of the programs and shall, not later than June 30, 1998, submit to the Congress a report on the study required under paragraph (1).".

CHAPTER 3—FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

SEC. 7431. LIMITATION ON GROWTH OF ADMINISTRATIVE EXPENSES FOR FOSTER CARE MAINTENANCE PAYMENTS PROGRAM.

Section 474(b) (42 U.S.C. 674) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding the provisions of subparagraphs (D) and (E) of subsection (a)(3), the total amount of the payment under such subparagraphs with respect to the foster care maintenance payments program for any fiscal year beginning with fiscal year 1996 shall not exceed 110 percent of the total amount of such payment for the preceding fiscal year.".

CHAPTER 4—MISCELLANEOUS PROVISIONS

SEC. 7441. EXEMPTION OF BATTERED INDIVIDUALS FROM CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding any other provision of, or amendment made by, subtitle D of title I of this Act, this subtitle, or subtitle C, D, E, or F of this title, the applicable administering authority of any specified provision may exempt from (or modify) the application of such provision to any individual who was battered or subjected to extreme cruelty if the physical, mental, or emotional well-being of the individual would be endangered by the application of such provision to such individual. The applicable administering authority may take into consideration the family circumstances and the counseling and other supportive service needs of the individual.

(b) SPECIFIED PROVISIONS.—For purposes of this section, the term "specified provision" means any requirement, limitation, or penalty under any of the following:

(1) Sections 404, 405 (a) and (b), 406 (b), (c), and (d), 414(d), 453(c), 469A, and 1614(a)(1) of the Social Security Act.

(2) Sections 5(i) (other than paragraph (3) thereof) and 6 (d) and (j), and the provision relating to work requirements in section 6 of the Food Stamp Act of 1977.

(3) Sections 7401(a) and 7402 of this Act.

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) BATTERED OR SUBJECTED TO EXTREME CRUELTY.—The term "battered or subjected to extreme cruelty" includes, but is not limited to—

(A) physical acts resulting in, or threatening to result in, physical injury;

(B) sexual abuse, sexual activity involving a dependent child, forcing the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities, or threats of or attempts at physical or sexual abuse;

(C) mental abuse; and

(D) neglect or deprivation of medical care.

(2) CALCULATION OF PARTICIPATION RATES.—An individual exempted from the work requirements under section 404 of the Social Security Act by reason of subsection (a) shall not be included for purposes of calculating the State's participation rate under such section.

SEC. 7442. SENSE OF THE SENATE ON LEGISLATIVE ACCOUNTABILITY FOR UNFUNDED MANDATES IN WELFARE REFORM LEGISLATION.

(a) FINDINGS.—The Senate finds that the purposes of the Unfunded Mandates Reform Act of 1995 are—

(1) to strengthen the partnership between the Federal Government and State, local and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting State, local and tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance; and

(5) to require that Congress consider whether to provide funding to assist State, local and tribal governments in complying with Federal mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that prior to the Senate acting on the conference report on either H.R. 4 or any other legislation including welfare reform provisions, the Congressional Budget Office shall prepare an analysis of the conference report to include—

(1) estimates, over each of the next 7 fiscal years, by State and in total, of—

(A) the costs to States of meeting all work requirements in the conference report, including those for single-parent families, two-parent families, and those who have received cash assistance for 2 years;

(B) the resources available to the States to meet these work requirements, defined as Federal appropriations authorized in the conference report for this purpose in addition to what States are projected to spend under current welfare law; and

(C) the amount of any additional revenue needed by the States to meet the work requirements in the conference report, beyond resources available as defined under subparagraph (B);

(2) an estimate, based on the analysis in paragraph (1), of how many States would opt to pay any penalty provided for by the conference report rather than raise the additional revenue needed to meet the work requirements in the conference report; and

(3) estimates, over each of the next 7 fiscal years, of the costs to States of any other requirements imposed on them by such legislation.

SEC. 7443. SENSE OF THE SENATE REGARDING ENFORCEMENT OF STATUTORY RAPE LAWS.

It is the sense of the Senate that States and local jurisdictions should aggressively enforce statutory rape laws.

SEC. 7444. SANCTIONING FOR TESTING POSITIVE FOR CONTROLLED SUBSTANCES.

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from sanctioning welfare recipients who test positive for use of controlled substances.

SEC. 7445. FRAUD UNDER MEANS-TESTED WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

(a) IN GENERAL.—If an individual's benefits under a Federal, State, or local law relating to a means-tested welfare or a public assistance program are reduced because of an act of fraud by the individual under the law or program, the individual may not, for the duration of the reduction, receive an increased benefit under any other means-tested welfare or public assistance program for which Federal funds are appropriated as a result of a decrease in the income of the individual (determined under the applicable program) attributable to such reduction.

(b) WELFARE OR PUBLIC ASSISTANCE PROGRAMS FOR WHICH FEDERAL FUNDS ARE APPROPRIATED.—For purposes of subsection (a), the term "means-tested welfare or public assistance program for which Federal funds are appropriated" shall include the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), any program of public or assisted housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), and State programs funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

Subtitle H—Reform of the Earned Income Tax Credit

SEC. 7460. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 7461. EARNED INCOME CREDIT DENIED TO INDIVIDUALS NOT AUTHORIZED TO BE EMPLOYED IN THE UNITED STATES.

(a) IN GENERAL.—Section 32(c)(1) (relating to individuals eligible to claim the earned income tax credit) is amended by adding at the end the following new subparagraph:

"(F) IDENTIFICATION NUMBER REQUIREMENT.—The term 'eligible individual' does not include any individual who does not include on the return of tax for the taxable year—

"(i) such individual's taxpayer identification number, and

"(ii) if the individual is married (within the meaning of section 7703), the taxpayer identification number of such individual's spouse.".

(b) SPECIAL IDENTIFICATION NUMBER.—Section 32 is amended by adding at the end the following new subsection:

"(l) IDENTIFICATION NUMBERS.—Solely for purposes of subsections (c)(1)(F) and (c)(3)(D), a taxpayer identification number means a social security number issued to an individual by the Social Security Administration (other than a social security number issued pursuant to clause (II) (or that portion of clause (III) that relates to clause (II)) of section 205(c)(2)(B)(i) of the Social Security Act).".

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting after subparagraph (E) the following new subparagraphs:

"(F) an omission of a correct taxpayer identification number required under section 32 (relating to the earned income tax credit) to be included on a return, and

"(G) an entry on a return claiming the credit under section 32 with respect to net earnings from self-employment described in section 32(c)(2)(A) to the extent the tax imposed by section 1401 (relating to self-employment tax) on such net earnings has not been paid.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7462. REPEAL OF EARNED INCOME CREDIT FOR INDIVIDUALS WITHOUT CHILDREN.

(a) IN GENERAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.".

(b) CONFORMING AMENDMENTS.—Each of the tables contained in paragraphs (1) and (2) of section 32(b) are amended by striking the items relating to no qualifying children.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7463. MODIFICATION OF EARNED INCOME CREDIT AMOUNT AND PHASEOUT.

(a) DECREASE IN CREDIT RATE.—

(1) IN GENERAL.—Subsection (b) of section 32, as amended by section 7462(b), is amended to read as follows:

"(b) PERCENTAGES AND AMOUNTS.—

"(1) IN GENERAL.—The credit percentage shall be determined as follows:

"In the case of an eligible individual with:	**The credit percentage is:**
1 qualifying child	34
2 or more qualifying children	36

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"In the case of an eligible individual with:	**The earned income amount is:**	**The phaseout amount is:**
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,425	$11,000."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 32(j) is amended by striking "subsection (b)(2)(A)" and inserting "subsection (b)(2)".

(b) PHASEOUT.—Paragraph (2) of section 32(a) (relating to limitation) is amended to read as follows:

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall be reduced by 0.66 percent (0.86 percent if only 1 qualifying child) for each $100 or fraction thereof by which the taxpayer's adjusted gross income (or, if greater, earned income) for the taxable year exceeds the phaseout amount.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7464. RULES RELATING TO DENIAL OF EARNED INCOME CREDIT ON BASIS OF DISQUALIFIED INCOME.

(a) DEFINITION OF DISQUALIFIED INCOME.—Paragraph (2) of section 32(i) (defining disqualified income) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding at the end the following new subparagraphs:

"(D) capital gain net income, and

"(E) the excess (if any) of—

"(i) the aggregate income from all passive activities for the taxable year (determined without regard to any amount described in a preceding subparagraph), over

"(ii) the aggregate losses from all passive activities for the taxable year (as so determined). For purposes of subparagraph (E), the term 'passive activity' has the meaning given such term by section 469.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7465. MODIFICATION OF ADJUSTED GROSS INCOME DEFINITION FOR EARNED INCOME CREDIT.

(a) IN GENERAL.—Subsections (a)(2), (c)(1)(C), and (f)(2)(B) of section 32 are each amended by striking "adjusted gross income" and inserting "modified adjusted gross income".

(b) MODIFIED ADJUSTED GROSS INCOME DEFINED.—Section 32(c) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the sum of the amounts described in subparagraph (B), and

"(ii) determined without regard to—

"(I) the amounts described in subparagraph (C), or

"(II) the deduction allowed under section 172.

"(B) NONTAXABLE INCOME TAKEN INTO ACCOUNT.—Amounts described in this subparagraph are—

"(i) social security benefits (as defined in section 86(d)) received by the taxpayer during the taxable year to the extent not included in gross income,

"(ii) amounts which—

"(I) are received during the taxable year by (or on behalf of) a spouse pursuant to a divorce or separation instrument (as defined in section 71(b)(2)), and

"(II) under the terms of the instrument are fixed as payable for the support of the children of the payor spouse (as determined under section 71(c)),

but only to the extent such amounts exceed $6,000,

"(iii) interest received or accrued during the taxable year which is exempt from tax imposed by this chapter, and

"(iv) amounts received as a pension or annuity, and any distributions or payments received from an individual retirement plan, by the taxpayer during the taxable year to the extent not included in gross income.

Clause (iv) shall not include any amount which is not includible in gross income by reason of section 402(c), 403(a)(4), 403(b)(8), 408(d) (3), (4), or (5), or 457(e)(10).

"(C) CERTAIN AMOUNTS DISREGARDED.—An amount is described in this subparagraph if it is—

"(i) the amount of losses from sales or exchanges of capital assets in excess of gains from such sales or exchanges to the extent such amount does not exceed the amount under section 1211(b)(1),

"(ii) the net loss from the carrying on of trades or businesses, computed separately with respect to—

"(I) trades or businesses (other than farming) conducted as sole proprietorships,

"(II) trades or businesses of farming conducted as sole proprietorships, and

"(III) other trades or business,

"(iii) the net loss from estates and trusts, and

"(iv) the excess (if any) of amounts described in subsection (i)(2)(C)(ii) over the amounts described in subsection (i)(2)(C)(i) (relating to nonbusiness rents and royalties).

For purposes of clause (ii), there shall not be taken into account items which are attributable to a trade or business which consists of the performance of services by the taxpayer as an employee.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 7466. PROVISIONS TO IMPROVE TAX COMPLIANCE.

(a) INCREASE IN PENALTIES FOR RETURN PREPARERS.—

(1) UNDERSTATEMENT PENALTY.—Section 6694 (relating to understatement of income tax liability by income tax return preparer) is amended—

(A) by striking "$250" in subsection (a) and inserting "$500", and

(B) by striking "$1,000" in subsection (b) and inserting "$2,000".

(2) OTHER ASSESSABLE PENALTIES.—Section 6695 (relating to other assessable penalties) is amended—

(A) by striking "$50" and "$25,000" in subsections (a), (b), (c), (d), and (e) and inserting "$100" and "$50,000", respectively, and

(B) by striking "$500" in subsection (f) and inserting "$1,000".

(b) AIDING AND ABETTING PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by striking "$1,000" in paragraph (1) and inserting "2,000", and

(2) by striking "10,000" in paragraph (2) and inserting "20,000".

(c) REVIEW OF ELECTRONIC FILING OF EARNED INCOME CREDIT CLAIMS.—The Secretary of the Treasury shall use the maximum review process that is administratively feasible to ensure that originators of electronic returns involving the earned income credit under section 32 of the Internal Revenue Code of 1986 comply with the law.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties with respect to taxable years beginning after December 31, 1995.

Subtitle I—Increase in Public Debt

SEC. 7471. INCREASE IN PUBLIC DEBT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar amount contained therein and inserting "$5,500,000,000,000".

TITLE VIII—COMMITTEE ON GOVERNMENTAL AFFAIRS

SEC. 8001. EXTENSION OF DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS THROUGH FISCAL YEAR 2002.

Section 11001(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 408) is amended in the matter preceding paragraph (1) by striking out "or 1996," and inserting in lieu thereof "1996, 1997, 1998, 1999, 2000, 2001, or 2002,".

SEC. 8002. INCREASED CONTRIBUTIONS TO FEDERAL CIVILIAN RETIREMENT SYSTEMS.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEDUCTIONS.—The first sentence of section 8334(a)(1) of title 5, United States Code, is amended to read as follows: "The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, or Claims Court judge, as the case may be, the percentage of basic pay applicable under subsection (c).".

(2) AGENCY CONTRIBUTIONS.—

(A) INCREASE IN AGENCY CONTRIBUTIONS DURING CALENDAR YEARS 1996 THROUGH 2002.—Section 8334(a)(1) of title 5, United States Code (as amended by this section) is further amended—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B)(i) Notwithstanding subparagraph (A), the agency contribution under the second sentence of such subparagraph, during the period beginning on January 1, 1996, through December 31, 2002—

"(I) for each employing agency (other than the United States Postal Service) shall be 8.5 percent of the basic pay of an employee, Congressional employee, and a Member of Congress, 9 percent of the basic pay of a law enforcement officer and a firefighter, and 9.5 percent of the basic pay of a Claims Court judge, a United States magistrate, a judge of the United States Court of Appeals for the Armed Services, and a bankruptcy judge, as the case may be; and

"(II) for the United States Postal Service shall be 7 percent of the basic pay of an employee and 9 percent of the basic pay of a law enforcement officer.".

(B) NO REDUCTION IN AGENCY CONTRIBUTIONS BY THE POSTAL SERVICE.—Agency contributions by the United States Postal Service under section 8348(h) of title 5, United States Code—

(i) shall not be reduced as a result of the amendments made under paragraph (3) of this subsection; and

(ii) shall be computed as though such amendments had not been enacted.

(3) INDIVIDUAL DEDUCTIONS, WITHHOLDINGS, AND DEPOSITS.—The table under section 8334(c) of title 5, United States Code, is amended—

(A) in the matter relating to an employee by striking out

"7	After December 31, 1969."

and inserting in lieu thereof the following:

"7	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(B) in the matter relating to a Member or employee for Congressional employee service by striking out

"7½	After December 31, 1969."

and inserting in lieu thereof the following:

"7.5	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(C) in the matter relating to a Member for Member service by striking out

"8	After December 31, 1969."

and inserting in lieu thereof the following:

"8	January 1, 1970, to December 31, 1995.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.";

(D) in the matter relating to a law enforcement officer for law enforcement service and firefighter for firefighter service by striking out

"7½	After December 31, 1974."

and inserting in lieu thereof the following:

"7.5	January 1, 1975, to December 31, 1995.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.";

(E) in the matter relating to a bankruptcy judge by striking out

"8	After December 31, 1983."

and inserting in lieu thereof the following:

"8	January 1, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(F) in the matter relating to a judge of the United States Court of Appeals for the Armed Forces for service as a judge of that court by striking out

"8	On and after the date of the enactment of the Department of Defense Authorization Act, 1984."

and inserting in lieu thereof the following:

"8	The date of the enactment of the Department of Defense Authorization Act, 1984, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

(G) in the matter relating to a United States magistrate by striking out

"8	After September 30, 1987."

and inserting in lieu thereof the following:

"8	October 1, 1987, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.";

and

(H) in the matter relating to a Claims Court judge by striking out

"8	After September 30, 1988."

and inserting in lieu thereof the following:

"8	October 1, 1988, to December 31, 1995.
8.25	January 1, 1996, to December 31, 1996.
8.4	January 1, 1997, to December 31, 1997.
8.5	January 1, 1998, to December 31, 2002.
8	After December 31, 2002.".

(4) OTHER SERVICE.—

(A) MILITARY SERVICE.—Section 8334(j) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (5)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following new paragraph:

"(5) Effective with respect to any period of military service after December 31, 1995, the percentage of basic pay under section 204 of title 37 payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee, subject to paragraph (1)(B).".

(B) VOLUNTEER SERVICE.—Section 8334(l) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end thereof the following new paragraph:

"(4) Effective with respect to any period of service after December 31, 1995, the percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1) shall be equal to the same percentage as would be applicable under section 8334(c) for that same period for service as an employee.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—

(A) IN GENERAL.—Section 8422(a) of title 5, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The percentage to be deducted and withheld from basic pay for any pay period shall be equal to—

"(A) the applicable percentage under paragraph (3), minus

"(B) the percentage then in effect under section 3101(a) of the Internal Revenue Code of 1986 (relating to rate of tax for old-age, survivors, and disability insurance).

"(3) The applicable percentage under this paragraph, for civilian service shall be as follows:

Employee	7 Before January 1, 1996.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.
Congressional employee	7.5 Before January 1, 1996.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.
Member	7.5 Before January 1, 1996.
7.25	January 1, 1996, to December 31, 1996.
7.4	January 1, 1997, to December 31, 1997.
7.5	January 1, 1998, to December 31, 2002.
7	After December 31, 2002.
Law enforcement officer, firefighter, or air traffic controller	7.5 Before January 1, 1996.
7.75	January 1, 1996, to December 31, 1996.
7.9	January 1, 1997, to December 31, 1997.
8	January 1, 1998, to December 31, 2002.
7.5	After December 31, 2002.

(B) MILITARY SERVICE.—Section 8422(e) of title 5, United States Code, is amended—

(i) in paragraph (1)(A) by inserting "and subject to paragraph (6)," after "Except as provided in subparagraph (B),"; and

(ii) by adding at the end thereof the following:

"(6) The percentage of basic pay under section 204 of title 37 payable under paragraph (1), with respect to any period of military service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(C) VOLUNTEER SERVICE.—Section 8422(f) of title 5, United States Code, is amended—

(i) in paragraph (1) by adding at the end thereof the following: "This paragraph shall be subject to paragraph (4)."; and

(ii) by adding at the end the following:

"(4) The percentage of the readjustment allowance or stipend (as the case may be) payable under paragraph (1), with respect to any period of volunteer service performed during—

"(A) January 1, 1996, through December 31, 1996, shall be 3.25 percent;

"(B) January 1, 1997, through December 31, 1997, shall be 3.4 percent; and

"(C) January 1, 1998, through December 31, 2002, shall be 3.5 percent.".

(2) NO REDUCTION IN AGENCY CONTRIBUTIONS.—Agency contributions under section 8423 (a) and (b) of title 5, United States Code , shall not be reduced as a result of the amendments made under paragraph (1) of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after January 1, 1996.

SEC. 8003. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting "or Member" after "employee"; and

(B) by striking out subsections (b) and (c).

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking out subsections (b) and (c);

(B) in subsections (a) and (g) by inserting "or Member" after "employee" each place it appears; and

(C) in subsection (g)(2) by striking out "Congressional employee".

(b) ADMINISTRATIVE REGULATIONS.—The Secretary of the Senate and the Clerk of the House of Representatives, in consultation with the Office of Personnel Management, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(c) EFFECTIVE DATES.—

(1) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only with respect to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed on or after January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee performed on or after January 1, 1996.

(B) An annuity shall be computed as though the amendments made under subsection (a) had not been enacted with respect to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before January 1, 1996; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before January 1, 1996.

11 (2) REGULATIONS.—The provisions of subsection (b) shall take effect on the date of the enactment of this Act.

TITLE IX—COMMITTEE ON THE JUDICIARY

SEC. 9001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1998" and inserting "2002";

(2) in subsection (b)(2) by striking "1998" and inserting "2002"; and

(3) in subsection (c)—

(A) by striking "through 1998" and inserting "through 2002"; and

(B) by adding at the end the following:

"(9) $119,000,000 in fiscal year 1999.

"(10) $119,000,000 in fiscal year 2000.

"(11) $119,000,000 in fiscal year 2001.

"(12) $119,000,000 in fiscal year 2002.".

TITLE X—COMMITTEE ON LABOR AND HUMAN RESOURCES

SECTION 10001. REFERENCES; GENERAL EFFECTIVE DATE.

(a) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(b) GENERAL EFFECTIVE DATE.—Unless otherwise specified in this title, the amendments made by this title shall take effect on January 1, 1996.

SEC. 10002. PARTICIPATION OF INSTITUTIONS AND ADMINISTRATION OF LOAN PROGRAMS.

(a) LIMITATION ON PROPORTION OF LOANS MADE UNDER THE DIRECT LOAN PROGRAM.—Section 453(a) (20 U.S.C. 1087c(a)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) DETERMINATION OF NUMBER OF AGREEMENTS.—The Secretary may enter into agreements under subsections (a) and (b) of section 454 with institutions for participation in the direct loan program under this part, subject to the following:

"(A) For academic year 1994–1995, loans made under this part shall represent not more than 5 percent of new student loan volume for such year.

"(B) For academic year 1995–1996, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 30 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.

"(C) For academic year 1996–1997 and for each succeeding academic year, loans made under this part, including Federal Direct Consolidation Loans, shall represent not more than 20 percent of the new student loan volume for such year, except that the Secretary shall not enter into such an agreement with an eligible institution that has not applied and been accepted for participation in the direct loan program under this part on or before September 30, 1995.";

(2) by striking paragraph (3);

(3) by redesignating paragraph (4) as paragraph (3); and

(4) in the second sentence of paragraph (3) (as redesignated by paragraph (3)), by striking "on the most recent program data available" and inserting "on data from the academic year preceding the academic year for which the estimate is made".

(b) ELIMINATION OF CONSCRIPTION.—Section 453(b)(2) (20 U.S.C. 1087c(b)(2)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) by striking "(i) categorizing" and inserting "categorizing";

(B) in clause (ii)—

(i) by striking "beginning"; and

(ii) by striking "; and" and inserting a period; and

(C) by redesignating clause (ii) (as amended by subparagraph (B)) as subparagraph (B).

(c) CONTROL OF ADMINISTRATIVE EXPENSES.—Section 458 (10 U.S.C. 1087h) is amended—

(1) by amending subsection (a) to read as follows:

"(a) EXPENSES.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each fiscal year there shall be available to the Secretary from funds not otherwise appropriated, funds to be obligated for subsidy costs under this part. There shall also be available from funds not otherwise appropriated, funds to be obligated for indirect administrative expenses under this part and part B, not to exceed (from such funds not otherwise appropriated) $260,000,000 for fiscal year 1994, $345,000,000 for fiscal year 1995, $85,000,000 (and such sums as may be necessary for administrative cost allowances for guaranty agencies for costs accrued prior to January 1, 1996) for fiscal year 1996, and $85,000,000 for each of the fiscal years 1997 through 2002.

"(B) REDUCTION.—The amount authorized to be made available for fiscal year 1997 under subparagraph (A) shall be reduced by the amount of any unobligated unexpended funds available to carry out this subsection for any fiscal year prior to fiscal year 1996.

"(C) PROHIBITION.—Notwithstanding any other provision of this subsection, funds made available under this subsection shall not be available for subsidy costs or direct administrative expenses under part B.

"(2) DIRECT AND INDIRECT ADMINISTRATIVE EXPENSES.—

"(A) DIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the term 'direct administrative expenses' means the cost of—

"(i) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

"(ii) collection of delinquent loans; and

"(iii) write-off and closeout of loans.

"(B) INDIRECT ADMINISTRATIVE EXPENSES.—For purposes of this subsection the term 'indirect administrative expenses' means the cost of—

"(i) personnel engaged in developing program regulations, policy and administrative guidance;

"(ii) audits of institutions and contractors;

"(iii) program reviews; and

"(iv) other oversight of the program under this part or under part B."; and

(2) by striking subsection (d).

(d) DEFAULT RATE LIMITATIONS ON DIRECT LENDING.—

(1) INSTITUTIONAL ELIGIBILITY BASED ON DEFAULT RATES.—The first sentence of section 435(a)(2)(A) (20 U.S.C. 1085(a)(2)(A)) is amended by inserting "or part D" after "under this part".

(2) COHORT DEFAULT RATE.—Section 435(m)(1) (20 U.S.C. 1085(m)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking "428, 428A, or 428H" and inserting "428, 428A, 428H, or part D (other than Federal Direct PLUS Loans)"; and

(ii) by striking "428C" and inserting "428C or 455(g)";

(B) in subparagraph (B)—

(i) by striking "only"; and

(ii) by inserting "and loans made under part D determined by the Secretary to be in default," after "for insurance," and

(C) in subparagraph (C), by striking "428C" and inserting "428C or 455(g)".

(3) TERMINATION OF INSTITUTIONAL PARTICIPATION.—Section 455 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

"(l) TERMINATION OF INSTITUTIONS FOR HIGH DEFAULT RATES.—

"(1) METHODOLOGY AND CRITERIA.—After consultation with institutions of higher education and other members of the higher education community, the Secretary shall develop—

"(A) a methodology for the calculation of institutional default rates under the loan programs operated pursuant to this part;

"(B) criteria for the initiation of termination proceedings on the basis of such default rates; and

"(C) procedures for the conduct of such termination proceedings.

"(2) DATA COLLECTION.—

"(A) IN GENERAL.—The Secretary shall compile data on loans subject to repayment schedules under sections 428(b)(1)(E)(i), 428C(c)(2)(A), and 455(e)(4) at the end of each fiscal year setting forth for such year by institution, and by programs under parts B and D individually and combined—

"(i) the number and amount of loans scheduled for payments that did not equal the interest accruing on the loans;

"(ii) the number and amount of loans where no payment was scheduled to be received from the borrower due to their low-income status;

"(iii) the number and amount of loans where a scheduled payment was more than 90 days delinquent; and

"(iv) the projected amount of interest and principal to be forgiven at the end of the 25 year repayment period, based on the projected payment schedule for the borrower over that period.

"(B) ANNUAL COLLECTION AND USE.—Such data shall be compiled annually and used in developing the methodology, criteria and procedures required by paragraph (1). Such data shall be available for review by institutions of higher education, members of the higher education community, and the Advisory Committee on Student Financial Assistance established under section 491.

"(3) COMPARABILITY TO PART B.—In developing the methodology, criteria, and procedures required by paragraph (1), the Secretary, to the maximum extent possible, shall establish standards for the termination of institutions from participation in loan programs under this part that are comparable to the standards established for the termination of institutions from participation in the loan programs under part B. Such procedures shall include provisions for the appeal of default rate calculations based on deficiencies in the servicing of loans under this part that are comparable to the provisions for such appeals based on deficiencies in the servicing of loans under part B.

"(4) LIMITATIONS ON AUTHORIZATION TO ISSUE NEW LOANS UNDER THIS PART.—The methodology, criteria, procedures and standards required by paragraphs (1) and (3) shall be promulgated in final form not later than 120 days after the date of enactment of this paragraph. Notwithstanding any other provision of this part, if such methodology, criteria, procedures and standards have not been promulgated in final form within 120 days after the date of enactment of this paragraph, then no loans under this part shall be made until the Secretary promulgates such methodology, criteria, procedures and standards.".

(e) ELIMINATION OF TRANSITION TO DIRECT LOANS.—The Act (20 U.S.C. 1001 et seq.) is further amended—

(1) in section 422(c)(7) (20 U.S.C. 1072(c)(7)—

(A) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title"; and

(B) in subparagraph (B), by striking "section 428(c)(10)(F)(v)" and inserting "section 428(c)(9)(F)(v)";

(2) in section 428(c)(8) (20 U.S.C. 1078(c)(8))—

(A) by striking subparagraph (B); and

(B) by striking "(A) If" and inserting "If";

(3) in clause (vii) of section 428(c)(9)(F) (20 U.S.C. 1078(c)(9)(F))—

(A) by inserting "and" before "to avoid disruption"; and

(B) by striking ", and to ensure an orderly transition" and all that follows through the end of such clause and inserting a period;

(4) in section 428(c)(9)(K) (20 U.S.C. 1078(c)(9)(K)), by striking "the progress of the transition from the loan programs under this part to" and inserting "the integrity and administration of";

(5) in section 428(e)(1)(B)(ii) (20 U.S.C. 1078(e)(1)(B)(ii)), by striking "during the transition" and all that follows through "under part D of this title";

(6) in section 428(e)(3) (20 U.S.C. 1078(e)(3)), by striking "of transition";

(7) in section 428(j)(3) (20 U.S.C. 1078(j)(3))—

(A) in the heading for paragraph (3), by striking "DURING TRANSITION TO DIRECT LENDING"; and

(B) in subparagraph (A), by striking "during the transition" and all that follows through "part D of this title";

(8) in the heading for paragraph (2) of section 453(c) (20 U.S.C. 1078c(c)), by striking "Transition" and inserting "Institutional";

(9) in the heading for paragraph (3) of section 453(c) (20 U.S.C. 1078c(c)), by striking "AFTER TRANSITION";

(10) in section 456(b) (20 U.S.C. 1087f(b))—

(A) in paragraph (3), by inserting "and" after the semicolon;

(B) by striking paragraph (4);

(C) by redesignating paragraph (5) as paragraph (4);

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking "successful operation" and inserting "integrity and efficiency"; and

(11) in paragraph (1) of section 422(g)—

(A) in the first sentence, by striking "or the program authorized by part D of this title"; and

(B) in the second sentence, by striking "or the program authorized by part D of this title".

(f) Fees for Origination Services.—Subsection (b) of section 452 (20 U.S.C. 1087b) is repealed.

(g) Risk Sharing.—Section 428(n) (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

SEC. 10003. LOAN TERMS AND CONDITIONS.

(a) Comparability Provisions.—Paragraph (1) of section 455(a) (20 U.S.C. 1087e(a)) is amended to read as follows:

"(1) Parallel terms, conditions, eligibility requirements, benefits and amounts.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, eligibility requirements and benefits, be subject to the same administrative requirements for origination, payment and processing of applications, deferments and forbearances, be available in the same amounts, and be subject to the same interest rates and same amount of fees, as the corresponding types of loans made to borrowers under sections 428, 428B, and 428H. The Secretary shall promulgate regulations implementing this paragraph not later than 120 days after the date of enactment of the Balanced Budget Reconciliation Act of 1995.".

(b) Ability of Part D Borrowers To Obtain Federal Stafford Consolidation Loans.—Section 428C(a)(4) (20 U.S.C. 1078–3(a)(4)) is amended—

(1) by redesignating subparagraphs (B), (C) and (D) as subparagraphs (C), (D) and (E), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) made under part D of this title;".

(c) Ability of Part B Borrowers To Obtain Federal Direct Consolidation Loans.—Paragraph (5) of section 428C(b) (20 U.S.C. 1078–3(b)) is amended to read as follows:

"(5) Direct consolidation loans for borrowers in specified circumstances.—

"(A) Subject to section 453(a)(2)(B), the Secretary may offer a borrower a Federal Direct Consolidation loan if a borrower otherwise eligible for a consolidation loan pursuant to this section is—

"(i) unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1); or

"(ii) unable to obtain a consolidation loan with income contingent repayment terms from a lender with an agreement under subsection (a)(1).

"(B) The Secretary shall establish appropriate certification procedures to verify the eligibility of borrowers for consolidation loans under this paragraph.

"(C) The Secretary shall not offer consolidation loans under this paragraph if, in the Secretary's judgment, the Department does not have the necessary origination and servicing arrangements in place for such loans, or the projected volume in such loans will be destabilizing to the availability of loans otherwise available under this part.".

(d) Income Contingent Repayment in the Federal Family Education Loan Program.—

(1) Insurance program agreements.—Section 428(b)(1)(E)(i) (20 U.S.C. 1078(b)(1)(E)(i)) is amended by striking "or income sensitive-repayment schedule" and inserting "repayment schedule, an income-sensitive repayment schedule, or an income contingent repayment schedule,".

(2) Repayment schedules.—The matter preceding clause (i) of section 428C(c)(2)(A) (20 U.S.C. 1078–3(c)(2)(A)) is amended—

(A) in the first sentence, by striking "or income-sensitive repayment schedules" and inserting "repayment schedules, income-sensitive repayment schedules, or income contingent repayment schedules"; and

(B) in the second sentence, by striking "income-sensitive" and inserting "graduated, income-sensitive, or income contingent".

(3) Comparable terms and conditions.—Section 428(m) (20 U.S.C. 1078(m)) is amended by adding at the end the following new paragraph:

"(3) Income contingent repayment schedules.—For the purpose of this part, income contingent repayment schedules established pursuant to subsections (b)(1)(E)(i) and (c)(2)(A) may have terms and conditions comparable to the terms and conditions established by the Secretary pursuant to section 455(e)(4).".

SEC. 10004. AMENDMENTS AFFECTING FFELP LENDERS AND LOAN HOLDERS.

(a) Risk Sharing by the Loan Holders.—

(1) Amendment.—Section 428(b)(1)(G) (20 U.S.C. 1078(b)(1)(G)) is amended by striking "98 percent" and inserting "95 percent".

(2) Effective date.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(b) Exceptional Performance Insurance Reduction.—Section 428I(b)(1) (20 U.S.C. 1078–9(b)(1)) is amended—

(1) in the paragraph heading, by striking "100 PERCENT"; and

(2) by striking "100 percent of" and inserting "95 percent of".

(c) Loan Fees From Lenders.—

(1) Amendment.—Section 438(d)(2) (20 U.S.C. 1087–1(d)(2)) is amended by striking "0.50 percent" and inserting "1.0 percent".

(2) Effective date.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(d) Lender and Holder Rebate.—

(1) Amendment.—Section 438 (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(g) Subsidy Rebate on Stafford Loans.—

"(1) Rebate.—Each holder of a subsidized or unsubsidized Federal Stafford loan under this part shall pay to the Secretary, on a biannual basis, a subsidy rebate in an amount equal to .025 percent of the unpaid principal amount of each such loan in repayment that such holder holds.

"(2) Deposit.—The Secretary shall deposit all subsidy rebates collected under paragraph (1) into the insurance fund established in section 431.".

(2) Effective date.—The amendment made by this subsection shall apply with respect to loans for which the first disbursement is made on or after January 1, 1996.

(e) Small Lender Audit Exemption.—Section 428(b)(1)(U)(iii) (20 U.S.C. 1078(b)(1)(U)(iii)) is amended—

(1) by inserting "in the case of any lender that originates or holds more than $5,000,000 in principal on loans made under this title in any fiscal year," before "for (I)";

(2) by inserting "such" before "lender at least once";

(3) by inserting "such" before "a lender that is audited"; and

(4) by striking "if the lender" and inserting "if such lender".

SEC. 10005. AMENDMENTS AFFECTING GUARANTY AGENCIES.

(a) Use of Reserve Funds to Purchase Defaulted Loans.—Section 422 (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(h) Use of Reserve Funds to Purchase Defaulted Loans.—

"(1) In general.—Except as provided in paragraph (2), a guaranty agency shall use not less than 50 percent of such agency's reserve funds to purchase and hold defaulted loans that are guaranteed by such agency and for which a claim for insurance is filed with such agency by an eligible lender. The amount of such purchases shall be considered as reserve funds under this section and used in the calculation of the minimum reserve level under section 428(c)(9).

"(2) Special rule.—A guaranty agency shall not be required to use its reserve funds to purchase and hold defaulted loans in accordance with paragraph (1) to the extent that—

"(A) the dollar volume of insurance claims filed with such agency does not amount to 50 percent of such agency's available reserve funds;

"(B) such use is prohibited by State law; or

"(C) such use will compromise the ability of the guaranty agency to pay program expenses.".

(b) Extension of Period a Guaranty Agency Must Hold a Defaulted Loan.—

(1) Exemption for extended holding period.—The last sentence of section 428(c)(1)(A) (20 U.S.C. 1078(c)(1)(A)) is amended by striking "A guaranty agency" and inserting "Except as provided in section 428K, a guaranty agency".

(2) New extended holding period program.—

(A) AMENDMENT.—Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J the following new section:

"SEC. 428K. GUARANTOR PURCHASE OF CLAIMS WITH RESERVE FUNDS.

"(a) LOANS SUBJECT TO EXTENDED HOLDING PERIOD.—Except as provided in subsection (b), a guaranty agency shall file a claim for reimbursement with respect to losses (resulting from the default of a borrower) subject to reimbursement by the Secretary pursuant to section 428(c)(1) not less than 180 days nor more than 225 days after the guaranty agency discharges such agency's insurance obligation on a loan insured under this part. Such claim shall include losses on the unpaid principal and accrued interest of any such loan, including interest accrued from the date of such discharge to the date such agency files the claim for reimbursement from the Secretary.

"(b) LOANS EXCLUDED FROM EXTENDED HOLDING.—A guaranty agency may file a claim with respect to losses subject to reimbursement by the Secretary pursuant to section 428(c)(1) prior to 180 days after the date the guaranty agency discharges such agency's insurance obligation on a loan insured under this part, if—

"(1) such agency used 50 percent or more of such agency's reserve funds to purchase or hold loans in accordance with section 422(h);

"(2) such claim is based on an inability to locate the borrower and the guaranty agency certifies to the Secretary that—

"(A) diligent attempts were made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with section 428(c)(2)(G); and

"(B) such skip-tracing attempts to locate the borrower were unsuccessful; or

"(3) the guaranty agency determines that the borrower is unlikely to possess the financial resources to begin repaying the loan prior to 180 days after default by the borrower.

"(c) GUARANTY AGENCY EFFORTS DURING EXTENDED HOLDING PERIOD.—A guaranty agency shall attempt to bring a loan described in subsection (a) into repayment status during the period prior to 180 days after the date the guaranty agency discharges its insurance obligation on such loan, so that no claim for reimbursement by the Secretary is necessary. Upon securing payments satisfactory to the guaranty agency during such period, such agency shall, if practicable, sell such loan to an eligible lender. Such loan shall not be sold to an eligible lender that the guaranty agency determines has substantially failed to exercise the due diligence required of lenders under this part.

"(d) REGULATION PROHIBITED.—The Secretary shall not promulgate regulations regarding the collection activity of a guaranty agency with respect to a loan described in subsection (a) for which reinsurance has not been paid under section 428(c)(1).".

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply with respect to loans for which claims for insurance are filed by eligible lenders on or after January 1, 1996.

(c) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f)(1) (20 U.S.C. 1078(f)(1)) is amended—

(1) in the matter preceding clause (i) of subparagraph (A), by striking "For a fiscal year prior to fiscal year 1994, the" and inserting "The"; and

(2) by amending subparagraph (B) to read as follows:

"(B)(i) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency.

"(ii) For fiscal year 1996 and each succeeding fiscal year, each guaranty agency shall elect to receive an administrative cost allowance, payable quarterly, for such fiscal year calculated on the basis of either of the following:

"(I) 0.85 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency; or

"(II) 0.08 percent of the original principal amount of loans under this part guaranteed by the guaranty agency that was outstanding at the end of the previous fiscal year.

"(iii) The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(iv) Notwithstanding clauses (ii) and (iii), for each of the fiscal years 1996 through 2002, the Secretary shall pay an aggregate amount for such year of not more than $180,000,000 to all guaranty agencies receiving administrative cost allowances under this subparagraph.

(d) SECRETARY'S EQUITABLE SHARE OF COLLECTIONS ON CONSOLIDATED DEFAULTED LOANS.—Section 428(c)(6)(A) (20 U.S.C. 1078(C)(6)(A) is amended—

(1) in the matter preceding clause (i)—

(A) by inserting "or on behalf of" after "made by"; and

(B) by inserting ", including payments made to discharge loans made under this title to obtain a consolidation loan pursuant to this part or part D," after "borrower"; and

(2) in clause (ii), by inserting after "an amount equal to" the following: "—

"(I) for defaulted loans consolidated pursuant to this part or part D on or after January 1, 1996, 25 percent of the amount of the balance of the principal and accrued interest outstanding at the time of such consolidation; or

"(II) for all other loans,".

(e) RESERVE FUND REFORMS.—

(1) STRENGTHENING AND STABILIZING GUARANTY AGENCIES.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(A) in paragraph (8) (as amended by section 10002(e)(2)), by adding at the end the following new sentences: "Prior to making such determination for guaranty agencies, the Secretary shall, in consultation with guaranty agencies, develop criteria to determine whether such agencies have made adequate collection efforts. Such criteria shall be prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider such agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.";

(B) in subparagraph (9)(C), by striking "80 percent" and inserting "78 percent";

(C) by amending subparagraph (9)(E) to read as follows:

"(E) After providing a guaranty agency notice and opportunity for a hearing on the record, the Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

"(i) such guaranty agency is required to submit a management plan under this paragraph and fails to submit a plan that is acceptable to the Secretary;

"(ii) the Secretary determines that such guaranty agency has failed to improve substantially its administrative and financial condition and that such guaranty agency is in danger of financial collapse; or

"(iii) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers."; and

(D) in paragraph (9)(F)—

(i) in clause (i), by inserting "in accordance with any recommendation, submitted by a State, for a successor agency if such successor agency is not subject to an outstanding limitation, suspension, or termination action" before the semicolon;

(ii) in clause (ii), by inserting "in accordance with any recommendation, submitted by a State, for a successor agency if such successor agency is not subject to an outstanding limitation, suspension, or termination action" before the semicolon;

(iii) in clause (iii), by inserting "and if no guaranty agency is willing to act as a successor guaranty agency under clause (i) or (ii)" before the semicolon; and

(iv) in clause (vi), by inserting "dedicated to the functions of the guaranty agency under the loan insurance program under this part" after "assets of the guaranty agency".

(2) STRENGTHENING GUARANTY AGENCY RESERVES.—Section 422(g) (20 U.S.C. 1072(g)) is amended—

(A) in paragraph (1)—

(i) in the sentence preceding subparagraph (A), by inserting "current and future" before "program expenses"; and

(ii) in subparagraph (D)—

(I) by striking "(A) or" and inserting "(A),"; and

(II) by inserting "or (C)" before "shall be based"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting ", after notice and an opportunity for a hearing," after "Secretary determines"; and

(ii) in subparagraph (B), by inserting ", after notice and an opportunity for a hearing," after "direct a guaranty agency".

(3) ADDITIONAL AMENDMENTS.—Section 422 (20 U.S.C. 1072) is further amended—

(A) in the last sentence of subsection (a)(2), by striking "Except as provided in section 428(c)(10) (E) or (F), such" and inserting "Except as provided in subparagraph (E) or (F) of section 428(c)(9), such"; and

(B) in subsection (g), by amending paragraph (4) to read as follows:

"(4) DISPOSITION OF FUNDS RETURNED TO OR RECOVERED BY THE SECRETARY.—Any funds that are returned to or otherwise recovered by the Secretary pursuant to this subsection shall be returned to the Treasury of the United States for purposes of reducing the Federal debt and shall be deposited into the special account under section 3113(d) of title 31, United States Code.".

(f) ELIMINATION OF SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

(1) AMENDMENT.—Section 428(l) (20 U.S.C. 1078(l)) is amended—

(A) by striking paragraph (2); and

(B) by striking "(l) PRECLAIMS" and all that follows through "Upon receipt" and inserting "(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—Upon receipt".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to loans for which the first delinquency occurs on or after January 1, 1996.

SEC. 10006. REAUTHORIZATION.

Notwithstanding any other provision of law, the authorization of appropriations for each program under part B of title IV (20 U.S.C. 1071 et seq.) and the duration of such program, is extended through fiscal year 2002.

SEC. 10007. CONNIE LEE PRIVATIZATION.

(a) STATUS OF THE CORPORATION AND CORPORATE POWERS; OBLIGATIONS NOT FEDERALLY GUARANTEED.—

(1) STATUS OF THE CORPORATION.—The College Construction Loan Insurance Association (hereafter in this section referred to as the "Corporation") shall not be an agency, instrumentality,

or establishment of the United States Government, nor a Government corporation nor a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) CORPORATE POWERS.—The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct its affairs as a private, for-profit corporation and to carry out its purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of its affairs and the efficient operation of a private, for-profit business.

(3) LIMITATION ON OWNERSHIP OF STOCK.—

(A) SECRETARY OF THE TREASURY.—The Secretary of the Treasury, in completing the sale of stock pursuant to subsection (c), may not sell or issue the stock held by the Secretary of Education to an agency, instrumentality, or establishment of the United States Government, or to a Government corporation or a Government controlled corporation as such terms are defined in section 103 of title 5, United States Code, or to a government-sponsored enterprise as such term is defined in section 622 of title 2, United States Code.

(B) STUDENT LOAN MARKETING ASSOCIATION.—The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on the date of enactment of this Act. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise its right to appoint directors under section 754 of the Higher Education Act of 1965 (20 U.S.C. 1132f–3) as long as that section is in effect.

(4) NO FEDERAL GUARANTEE.—

(A) OBLIGATIONS INSURED BY THE CORPORATION.—

(i) FULL FAITH AND CREDIT OF THE UNITED STATES.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) STUDENT LOAN MARKETING ASSOCIATION.—No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) SPECIAL RULE.—This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) SECURITIES OFFERED BY THE CORPORATION.—No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) DEFINITION.—The term "Corporation" as used in this section shall refer to the College Construction Loan Insurance Association as in existence as of the day before the date of enactment of this Act, and to any successor corporation.

(b) RELATED PRIVATIZATION REQUIREMENTS.—

(1) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—During the six-year period following the date of enactment of this Act, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) ADDITIONAL NOTICE.—During the five-year period following the sale of stock pursuant to subsection (c)(1), in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) CORPORATE CHARTER.—The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) CORPORATE NAME.—The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term "College Construction Loan Insurance Association", or any substantially similar variation thereof.

(4) TRANSITIONAL REQUIREMENTS.—

(A) REQUIREMENTS UNTIL STOCK SALE.—Notwithstanding subsection (d), the requirements of sections 754 and 760 of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), as such Act was in existence on the day before the date of enactment of this Act, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.

(B) REPORTS AFTER STOCK SALE.—The Corporation shall, not later than March 30 of the first full calendar year immediately following the sale pursuant to subsection (c)(1), and each of the two succeeding years, submit to the Secretary of Education a report describing the Corporation's efforts to assist in the financing of education facilities projects, including projects for elementary, secondary, and postsecondary educational institution infrastructure, and detailing, on a project-by-project basis, the Corporation's business dealings with educational institutions that are rated by a nationally recognized statistical rating organization at or below the organization's third highest rating.

(c) SALE OF FEDERALLY OWNED STOCK.—

(1) SALE OF STOCK REQUIRED.—The Secretary of the Treasury shall sell, pursuant to section 324 of title 31, United States Code, the stock of the Corporation owned by the Secretary of Education as soon as possible after the date of enactment of this Act, but not later than six months after such date.

(2) PURCHASE BY THE CORPORATION.—In the event that the Secretary of the Treasury is unable to sell the stock, or any portion thereof, at a price acceptable to the Secretary of Education and the Secretary of the Treasury, the Corporation shall purchase, within 9 months after the date of enactment of this Act, such stock at a price determined by the Secretary of the Treasury and acceptable to the Corporation based on the independent appraisal of one or more nationally recognized financial firms, except that such price shall not exceed the value of the Secretary of Education's stock as determined by the Congressional Budget Office in House Report 104–153, dated June 22, 1995.

(3) REIMBURSEMENT OF COSTS OF SALE.—The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs related to such sale, including all reasonable expenses relating to one or more independent appraisals under this subsection.

(4) ASSISTANCE BY THE CORPORATION.—The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(e) REPEAL OF STATUTORY RESTRICTIONS AND RELATED PROVISIONS.—Part D of title VII of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is repealed.

TITLE XI—COMMITTEE ON VETERANS' AFFAIRS

SEC. 11001. SHORT TITLE.

This title may be cited as the "Veterans Reconciliation Act of 1995".

Subtitle A—Extension of Certain Authorities

SEC. 11011. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING OUTPATIENT MEDICATIONS.

Section 1722A(c) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11012. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting in lieu thereof "before October 1, 2002,".

SEC. 11013. LOAN FEES.

(a) INCREASE IN HOME LOAN FEES.—Paragraph (4) of section 3729(a) of title 38, United States Code, is amended by striking out "before October 1, 1998," and inserting in lieu thereof "before October 1, 2002,"

(b) FEE FOR MULTIPLE USE OF HOUSING ASSISTANCE.—Paragraph (5)(C) of such section is amended by striking out "before October 1, 1998" and inserting in lieu thereof "before October 1, 2002".

SEC. 11014. EXTENSION OF CERTAIN INCOME VERIFICATION AUTHORITY.

(a) EXTENSION.—Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

(b) CONFORMING AMENDMENT.—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(7)(D)) is amended in the second sentence of the flush matter after clause (ix) by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

SEC. 11015. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2002".

Subtitle B—Cost-of-Living Adjustments in Compensation Rates

SEC. 11021. POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES.

In each of fiscal years 1996 through 2002, the cost-of-living adjustments in the rates and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased as of December 1 of the fiscal year *concerned as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.*

Subtitle C—Educational Benefits

SEC. 11031. LIMITATION REGARDING COST-OF-LIVING ADJUSTMENTS FOR MONTGOMERY GI BILL BENEFITS.

With respect to each of fiscal years 1996 through 2002, the cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of title 38, United States Code, shall be the percentage equal to 50 percent of the percentage by which such assistance would be increased under section 3015(g) of such title with respect to such fiscal year but for this section.

SEC. 11032. INCREASE IN AMOUNT OF CONTRIBUTION FOR PARTICIPATION IN MONTGOMERY GI BILL PROGRAM.

(a) ACTIVE DUTY SERVICE.—Section 3011(b) of title 38, United States Code, is amended to read as follows:

"(b)(1) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during the period beginning on October 1, 1995, and ending on September 30, 1996, and who does not make an election under subsection (c)(1) of this section shall be reduced by $134.96 for each of the first 12 months that such individual is entitled to such pay.

"(2) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during any fiscal year beginning on or after October 1, 1996, and before September 30, 2002, and who does not make an election under subsection (c)(1) of this section, shall be reduced, for each of the first 12 months that such individual is entitled to such pay, by an amount equal to the amount of the reduction required under this subsection during the preceding fiscal year increased by the percentage, if any, by which rates payable for educational assistance are increased under section 3015(g) of this title with respect to the fiscal year during which the individual first becomes a member of the Armed Forces or enters on active duty.

"(3) Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.".

(b) SERVICE IN THE SELECTED RESERVE.—Section 3012(c) of such title is amended to read as follows:

"(c)(1) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during the period beginning on October 1, 1995, and ending on September 30, 1996, and who does not make an election under subsection (d)(1) of this section shall be reduced by $134.96 for each of the first 12 months that such individual is entitled to such pay.

"(2) The basic pay of any individual described in subsection (a)(1)(A) of this section who first becomes a member of the Armed Forces or enters on active duty during any fiscal year beginning on or after October 1, 1996, and before September 30, 2002, and who does not make an election under subsection (d)(1) of this section, shall be reduced, for each of the first 12 months that such individual is entitled to such pay, by an amount equal to the amount of the reduction required under this subsection during the preceding fiscal year increased by the percentage, if any, by which rates payable for educational assistance are increased under section 3015(g) of this title with respect to the fiscal year during which the individual first becomes a member of the Armed Forces or enters on active duty.

"(3) Any amount by which the basic pay of an individual is reduced under this chapter shall revert to the Treasury and shall not, for purposes of any Federal law, be considered to have been received by or to be within the control of such individual.".

Subtitle D—Miscellaneous

SEC. 11041. CLARIFICATION OF ENTITLEMENT FOR BENEFITS FOR DISABILITY RESULTING FROM TREATMENT OR VOCATIONAL SERVICES PROVIDED BY DEPARTMENT OF VETERANS AFFAIRS.

(a) CLARIFICATION.—The text of section 1151 of title 38, United States Code, is amended to read as follows:

"(a)(1) Disability or death compensation shall be awarded under this chapter, and dependency and indemnity compensation shall be awarded under chapter 13 of this title, for additional disability or death of a veteran in the same manner as if such additional disability or death, as the case may be, were service-connected if such additional disability or death—

"(A) is not the result of the veteran's willful misconduct; and

"(B) results from—

"(i) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault in any hospital care, medical or surgical treatment, or examination furnished either by a Department employee or in a Department facility under any of the laws administered by the Secretary;

"(ii) an event in such hospital care, medical or surgical treatment, or examination that is not reasonably foreseeable; or

"(iii) the provision of training and rehabilitative services by the Secretary (or by a service-provider used by the Secretary for such provision under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title.

"(2) For purposes of paragraph (1), the term 'Department facility' means a facility over which the Secretary has direct jurisdiction.

"(b) Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28 by reason of a disability or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability or death becomes final until the aggregate amount of benefits which would be paid but for this subsection equals the total amount included in such judgment, settlement, or compromise.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to claims filed (including original claims and applications to reopen, revise, reconsider, or otherwise readjudicate claims previously filed) for disability or death compensation, or dependency and indemnity compensation, on or after that date, regardless of the date of the occurrence of the additional disability or death upon which the claims are based.

SEC. 11042. AUTHORITY TO PAY PLOT OR INTERMENT ALLOWANCE FOR VETERANS BURIED IN STATE CEMETERIES.

Section 2303 of title 38, United States Code, is amended by adding at the end the following:

"(c) Subject to the availability of funds appropriated, in addition to the benefits provided for under section 2302 of this title, section 2307 of this title, and subsection (a) of this section, in the case of a veteran who—

"(1) is eligible for burial in a national cemetery under section 2402 of this title, and

"(2) is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons eligible for burial in a national cemetery, and (B) is owned by a State or by an agency or political subdivision of a State, the Secretary may pay to such State, agency, or political subdivision the sum of $150 as a plot or interment allowance for such veteran, provided that payment was not made under clause (1) of subsection (b) of this section.".

TITLE XII—COMMITTEE ON FINANCE—REVENUE PROVISIONS

SEC. 12000. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1995".

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise specifically provided, wherever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents of this title is as follows:

TITLE XII—COMMITTEE ON FINANCE—REVENUE PROVISIONS
Sec. 12000. Short title; references; table of contents.
Subtitle A—Family Tax Relief
Sec. 12001. Child tax credit.
Sec. 12002. Reduction in marriage penalty.
Sec. 12003. Credit for adoption expenses.
Sec. 12004. Credit for interest on education loans.
Subtitle B—Savings And Investment Incentives
CHAPTER 1—RETIREMENT SAVINGS INCENTIVES
SUBCHAPTER A—INDIVIDUAL RETIREMENT PLANS
PART I—RESTORATION OF IRA DEDUCTION
Sec. 12101. Restoration of IRA deduction.
Sec. 12102. Inflation adjustment for deductible amount.
Sec. 12103. Homemakers eligible for full IRA deduction.
PART II—NONDEDUCTIBLE TAX-FREE IRAS
Sec. 12111. Establishment of nondeductible tax-free individual retirement accounts.
SUBCHAPTER B—PENALTY-FREE DISTRIBUTIONS
Sec. 12121. Distributions from certain plans may be used without penalty to purchase first homes or to pay higher education or financially devastating medical expenses.
SUBCHAPTER C—SIMPLE SAVINGS PLANS
Sec. 12131. Establishment of savings incentive match plans for employees of small employers.
Sec. 12132. Extension of simple plan to 401(k) arrangements.
CHAPTER 2—CAPITAL GAINS REFORM
SUBCHAPTER A—TAXPAYERS OTHER THAN CORPORATIONS
Sec. 12141. Capital gains deduction.
Sec. 12142. Modifications to exclusion of gain on certain small business stock.
Sec. 12143. Rollover of gain from sale of qualified stock.
SUBCHAPTER B—CORPORATE CAPITAL GAINS
Sec. 12151. Reduction of alternative capital gain tax for corporations.
CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM
Sec. 12161. Modification of depreciation rules under minimum tax.

Sec. 12162. Long-term unused credits allowed against minimum tax.

Subtitle C— Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

SUBCHAPTER A—LONG-TERM CARE SERVICES AND CONTRACTS

PART I—GENERAL PROVISIONS

Sec. 12201. Qualified long-term care services treated as medical care.
Sec. 12202. Treatment of long-term care insurance or plans.
Sec. 12203. Reporting requirements.
Sec. 12204. Effective dates.

PART II—CONSUMER PROTECTION PROVISIONS

Sec. 12211. Policy requirements.
Sec. 12212. Requirements for issuers of long-term care insurance policies.
Sec. 12213. Coordination with State requirements.
Sec. 12214. Effective dates.

SUBCHAPTER B—TREATMENT OF ACCELERATED DEATH BENEFITS

Sec. 12221. Treatment of accelerated death benefits under life insurance contracts.
Sec. 12222. Treatment of companies issuing qualified accelerated death benefit riders.

SUBCHAPTER C—MEDICAL SAVINGS ACCOUNTS

Sec. 12231. Deduction for contributions to medical savings accounts.
Sec. 12232. Exclusion from income of employer contributions to medical savings accounts.
Sec. 12233. Medical savings accounts.

SUBCHAPTER D—OTHER PROVISIONS

Sec. 12241. Increase in deduction for health insurance costs of self-employed individuals.
Sec. 12242. Adjustment of death benefit limits for certain policies.
Sec. 12243. Organizations subject to section 833.

Subtitle D—Estate Tax Reform

Sec. 12301. Family-owned business exclusion.
Sec. 12302. Increase in unified estate and gift tax credit.
Sec. 12303. Treatment of land subject to a qualified conservation easement.
Sec. 12304. Expansion of exception from generation-skipping transfer tax for transfers to individuals with deceased parents.
Sec. 12305. Extension of treatment of certain rents under section 2032A to lineal descendants.

Subtitle E—Extension Of Expiring Provisions

CHAPTER 1—EXTENSIONS THROUGH FEBRUARY 28, 1997

Sec. 12401. Employer-provided educational assistance programs.
Sec. 12402. Research credit.
Sec. 12403. Employer-provided group legal services.
Sec. 12404. Orphan drug tax credit.
Sec. 12405. Contributions of stock to private foundations.
Sec. 12406. Delay of scheduled increase in tax on fuel used in commercial aviation.

CHAPTER 2—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

Sec. 12411. Extension of hazardous substance superfund.
Sec. 12412. Extension of oil spill liability tax.

CHAPTER 3—EXTENSIONS RELATING TO FUEL TAXES

Sec. 12421. Ethanol blender refunds.
Sec. 12422. Extension of binding contract date for biomass and coal facilities.

CHAPTER 4—DIESEL DYEING PROVISIONS

Sec. 12431. Moratorium for excise tax on diesel fuel sold for use or used in diesel-powered motorboats.

CHAPTER 5—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

Sec. 12441. Revision of tax rules on expatriation.
Sec. 12442. Information on individuals expatriating.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

Sec. 12501. Expansion of authority to abate interest.
Sec. 12502. Review of IRS failure to abate interest.
Sec. 12503. Joint return may be made after separate returns without full payment of tax.
Sec. 12504. Modifications to certain levy exemption amounts.
Sec. 12505. Offers-in-compromise.
Sec. 12506. Award of litigation costs permitted in declaratory judgment proceedings.
Sec. 12507. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.
Sec. 12508. Enrolled agents included as third-party recordkeepers.
Sec. 12509. Safeguards relating to designated summonses.
Sec. 12510. Annual reminders to taxpayers with outstanding delinquent accounts.

Subtitle G—Casualty And Involuntary Conversion Provisions

Sec. 12601. Basis adjustment to property held by corporation where stock in corporation is replacement property under involuntary conversion rules.
Sec. 12602. Expansion of requirement that involuntarily converted property be replaced with property acquired from an unrelated person.
Sec. 12603. Special rule for crop insurance proceeds and disaster payments.
Sec. 12604. Application of involuntary exclusion rules to presidentially declared disasters.

Subtitle H—Exempt Organizations and Charitable Reforms

Sec. 12701. Cooperative service organizations for certain foundations.
Sec. 12702. Exclusion from unrelated business taxable income for certain sponsorship payments.
Sec. 12703. Treatment of dues paid to agricultural or horticultural organizations.
Sec. 12704. Repeal of credit for contributions to community development corporations.
Sec. 12705. Clarification of treatment of qualified football coaches plans.

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

Sec. 12801. Tax treatment of certain extraordinary dividends.
Sec. 12802. Registration of confidential corporate tax shelters.
Sec. 12803. Denial of deduction for interest on loans with respect to company-owned insurance.
Sec. 12804. Termination of suspense accounts for family corporations required to use accrual method of accounting.
Sec. 12805. Termination of Puerto Rico and possession tax credit.
Sec. 12806. Depreciation under income forecast method.
Sec. 12807. Repeal of exclusion for interest on loans used to acquire employer securities.

CHAPTER 2—LEGAL REFORMS

Sec. 12811. Repeal of exclusion for punitive damages and for damages not attributable to physical injuries or sickness.
Sec. 12812. Reporting of certain payments made to attorneys.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

Sec. 12821. No rollover or exclusion of gain on sale of principal residence which is attributable to depreciation deductions.
Sec. 12822. Nonrecognition of gain on sale of principal residence by noncitizens limited to new residences located in the United States.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

Sec. 12831. Repeal of diesel fuel tax rebate to purchasers of diesel-powered automobiles and light trucks.
Sec. 12832. Repeal of wine and flavors content credit.
Sec. 12833. Modifications to excise tax on ozone-depleting chemicals.
Sec. 12834. Election to avoid tax-exempt bond penalties for local furnishers of electricity and gas.
Sec. 12835. Tax-exempt bonds for sale of Alaska Power Administration facility.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

Sec. 12841. Improved information reporting on foreign trusts.
Sec. 12842. Modifications of rules relating to foreign trusts having one or more United States beneficiaries.
Sec. 12843. Foreign persons not to be treated as owners under grantor trust rules.
Sec. 12844. Information reporting regarding foreign gifts.
Sec. 12845. Modification of rules relating to foreign trusts which are not grantor trusts.
Sec. 12846. Residence of estates and trusts, etc.

CHAPTER 6—FINANCIAL ASSET SECURITIZATION INVESTMENTS

Sec. 12851. Financial asset securitization investment trusts.

CHAPTER 7—DEPRECIATION PROVISIONS

Sec. 12861. Treatment of contributions in aid of construction.
Sec. 12862. Deduction for certain operating authority.
Sec. 12863. Class life for gas station convenience stores and similar structures.

CHAPTER 8—OTHER PROVISIONS

Sec. 12871. Application of failure-to-pay penalty to substitute returns.
Sec. 12872. Extension of withholding to certain gambling winnings.
Sec. 12873. Losses from foreclosure property.
Sec. 12874. Newspaper distributors treated as direct sellers.
Sec. 12875. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.
Sec. 12876. Treatment of certain insurance contracts on retired lives.
Sec. 12877. Treatment of modified guaranteed contracts.
Sec. 12878. $1,000,000 compensation deduction limit extended to all employees of all corporations.
Sec. 12879. Sense of the Senate.
Sec. 12880. Increased deductibility of business meal expenses for individuals subject to Federal limitations on hours of service.
Sec. 12881. Rollover of gain from sale of farm assets to individual retirement plans.

Sec. 12882. Disposition of stock in domestic corporations by 10-percent foreign shareholders.
Sec. 12883. Limitation on treaty benefits.
Sec. 12884. Sense of the Senate regarding tax treatment of conversions of thrift charters to bank charters.

Subtitle J—Pension Simplification

CHAPTER 1—GENERAL PROVISIONS

SUBCHAPTER A—SIMPLIFICATION OF NONDISCRIMINATION PROVISIONS

Sec. 12901. Definition of highly compensated employees; repeal of family aggregation.
Sec. 12902. Definition of compensation for section 415 purposes.
Sec. 12903. Modification of additional participation requirements.
Sec. 12904. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

SUBCHAPTER B—SIMPLIFIED DISTRIBUTION RULES

Sec. 12911. Repeal of 5-year income averaging for lump-sum distributions.
Sec. 12912. Repeal of $5,000 exclusion of employees' death benefits.
Sec. 12913. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 12914. Required distributions.

SUBCHAPTER C—TARGETED ACCESS TO PENSION PLANS FOR SMALL EMPLOYERS

Sec. 12916. Credit for pension plan start-up costs of small employers.
Sec. 12917. Tax-exempt organizations eligible under section 401(k).

SUBCHAPTER D—PAPERWORK REDUCTION

Sec. 12921. Limitation on combined section 415 limit.

SUBCHAPTER E—MISCELLANEOUS SIMPLIFICATION

Sec. 12931. Treatment of leased employees.
Sec. 12932. Plans covering self-employed individuals.
Sec. 12933. Elimination of special vesting rule for multiemployer plans.
Sec. 12934. Full-funding limitation of multiemployer plans.
Sec. 12935. Treatment of governmental and multiemployer plans under section 415.
Sec. 12936. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 12937. Contributions on behalf of disabled employees.
Sec. 12938. Distributions under rural cooperative plans.
Sec. 12939. Tenured faculty.
Sec. 12940. Uniform retirement age.
Sec. 12941. Modifications of section 403(b).
Sec. 12942. Tax on prohibited transactions.
Sec. 12943. Extension of Internal Revenue Service user fees.
Sec. 12944. Limitation on State income taxation of certain pension income.

CHAPTER 2—CHURCH PLANS

Sec. 12951. New qualification provision for church plans.
Sec. 12952. Retirement income accounts of churches.
Sec. 12953. Contracts purchased by a church.
Sec. 12954. Change in distribution requirement for retirement income accounts.
Sec. 12955. Required beginning date for distributions under church plans.
Sec. 12956. Participation of ministers in church plans.
Sec. 12957. Certain rules aggregating employees not to apply to churches, etc.
Sec. 12958. Self-employed ministers treated as employees for purposes of certain welfare benefit plans and retirement income accounts.
Sec. 12959. Deductions for contributions by certain ministers to retirement income accounts.
Sec. 12960. Modification for church plans of rules for plans maintained by more than one employer.
Sec. 12961. Section 457 not to apply to deferred compensation of a church.
Sec. 12962. Church plan modification to separate account requirement of section 401(h).
Sec. 12963. Rule relating to investment in contract not to apply to foreign missionaries.
Sec. 12964. Repeal of elective deferral catch-up limitation for retirement income accounts.
Sec. 12965. Church plans may annuitize benefits.
Sec. 12966. Church plans may increase benefit payments.
Sec. 12967. Rules applicable to self-insured medical reimbursement plans not to apply to plans of churches.
Sec. 12968. Retirement benefits of ministers not subject to tax on net earnings from self-employment.

Subtitle A—Family Tax Relief

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. CHILD TAX CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

"(b) LIMITATION.—

"(1) IN GENERAL.—The amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by $25 for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income exceeds the threshold amount.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $110,000 in the case of a joint return,

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(c) QUALIFYING CHILD.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualifying child' means any individual if—

"(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

"(B) such individual has not attained the age of 18 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

"(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

"(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

"(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Child tax credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12002. REDUCTION IN MARRIAGE PENALTY.

(a) INCREASE IN BASIC STANDARD DEDUCTION FOR MARRIED INDIVIDUALS.—Section 63(c) (relating to standard deduction) is amended—

(1) by striking "$5,000" in paragraph (2)(A) and inserting "the applicable dollar amount",

(2) by striking "$2,500" in paragraph (2)(D) and inserting "½ of the applicable dollar amount", and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (2), the applicable dollar amount shall be determined under the following table:

"For taxable years beginning in calendar year—	**The applicable dollar amount is—**
1996	$6,800
1997	7,150
1998	7,500
1999	7,950
2000	8,200
2001	8,600
2002	9,100
2003	9,500
2004	9,950
2005 and thereafter	10,800

(b) COST-OF-LIVING ADJUSTMENTS.—Section 63(c)(4) (relating to adjustments for inflation) is amended by adding at the end the following new flush sentence:

"This paragraph shall also apply to the $10,800 amount in paragraph (7) for taxable years beginning after 2005, except that subparagraph (B) shall be applied by substituting '2004' for '1987'.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12003. CREDIT FOR ADOPTION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 12001, is amended by inserting after section 23 the following new section:

"SEC. 24. ADOPTION EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount of qualified adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a credit under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income exceeds $60,000, bears to

"(B) $40,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No credit shall be allowed under subsection (a) for any expense to the extent that funds for such expense are received under any Federal, State, or local program.

"(C) REIMBURSEMENT.—No credit shall be allowed under subsection (a) for any expense to the extent that such expense is reimbursed and the reimbursement is excluded from gross income under section 137.

"(c) CARRYFORWARDS OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose.

"(d) QUALIFIED ADOPTION EXPENSES.—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses—

"(A) which are directly related to, and the principal purpose of which is for, the legal and final adoption of an eligible child by the taxpayer, and

"(B) which are not incurred in violation of State or Federal law or in carrying out any surrogate parenting arrangement.

"(2) EXPENSES FOR ADOPTION OF SPOUSE'S CHILD NOT ELIGIBLE.—The term 'qualified adoption expenses' shall not include any expenses in connection with the adoption by an individual of a child who is the child of such individual's spouse.

"(3) ELIGIBLE CHILD.—The term 'eligible child' means any individual—

"(A) who has not attained age 18 as of the time of the adoption, or

"(B) who is physically or mentally incapable of caring for himself.

"(e) MARRIED COUPLES MUST FILE JOINT RETURNS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.".

(b) EXCLUSION OF AMOUNTS RECEIVED UNDER EMPLOYER'S ADOPTION ASSISTANCE PROGRAMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section) exceeds $60,000, bears to

"(B) $40,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

An adoption reimbursement program operated under section 1052 of title 10, United States Code (relating to armed forces) or section 514 of title 14, United States Code (relating to members of the Coast Guard) shall be treated as an adoption assistance program for purposes of this section.

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 24(d).".

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 12001, is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Adoption expenses.".

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 137 and inserting the following:

"Sec. 137. Adoption assistance programs.
"Sec. 138. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12004. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by sections 12001 and 12003, is amended by inserting after section 24 the following new section:

"SEC. 24A. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the credit allowed by subsection (a) for the taxable year shall not exceed $500 ($1,000 if the taxpayer has 1 or more qualified education loans covering the qualified higher education expenses of more than 1 individual).

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($60,000 in the case of a joint return), the amount which would (but for this paragraph) be allowable as a credit under this section shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so allowable as such excess bears to $15,000.

"(B) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income determined—

"(i) without regard to sections 135, 911, 931, and 933, and

"(ii) after application of sections 86, 219, and 469.

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after 1996, the $40,000 and $60,000 amounts referred to in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section (1)(f)(3) for the calendar year in which the taxable year begins, by substituting '1995' for '1992'.

"(D) ROUNDING.—If any amount as adjusted under subparagraph (C) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50.

"(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(2) DEPENDENT.—If the qualified education loan was used to pay qualified higher education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution, reduced by the sum of—

"(A) the amount excluded from gross income under section 135 by reason of such expenses, and

"(B) the amount of the reduction described in section 135(d)(1).

For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.".

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6050P the following new section:

"SEC. 6050Q. RETURNS RELATING TO EDUCATION LOAN INTEREST RECEIVED IN TRADE OR BUSINESS FROM INDIVIDUALS.

"(a) EDUCATION LOAN INTEREST OF $600 OR MORE.—Any person—

"(1) who is engaged in a trade or business, and

"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 1 or more qualified education loans,

shall make the return described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

"(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary may prescribe,

"(2) contains—

"(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

"(B) the amount of such interest received for the calendar year, and

"(C) such other information as the Secretary may prescribe.

"(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of a governmental unit or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, the term 'qualified education loan' has the meaning given such term by section 24A(e)(1).

"(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return under subsection (a).".

(2) ASSESSABLE PENALTIES.—Section 6724(d) (relating to definitions) is amended—

(A) by redesignating clauses (ix) through (xiv) as clauses (x) through (xv), respectively, in paragraph (1)(B) and by inserting after clause (viii) of such paragraph the following new clause:

"(ix) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),", and

(B) by redesignating subparagraphs (Q) through (T) as subparagraphs (R) through (U), respectively, in paragraph (2) and by inserting after subparagraph (P) of such paragraph the following new subparagraph:

"(Q) section 6050Q (relating to returns relating to education loan interest received in trade or business from individuals),".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by sections 12001 and 12003, is amended by inserting after the item relating to section 24 the following new item:

"Sec. 24A. Interest on education loans.".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050P the following new item:

"Sec. 6050Q. Returns relating to education loan interest received in trade or business from individuals.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 24A(e)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1995.

Subtitle B—Savings and Investment Incentives

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

Subchapter A—Individual Retirement Plans

PART I—RESTORATION OF IRA DEDUCTION

SEC. 12101. RESTORATION OF IRA DEDUCTION.

(a) INCREASE IN INCOME LIMITS FOR ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subparagraph (B) of section 219(g)(3) (relating to applicable dollar amount) is amended to read as follows:

"(B) APPLICABLE DOLLAR AMOUNT.—The term 'applicable dollar amount' means the following:

"(i) In the case of a taxpayer filing a joint return:

"For taxable years beginning in:	The applicable dollar amount is:
1996	$45,000
1997	50,000
1998	55,000
1999	60,000
2000	65,000
2001	70,000
2002	75,000
2003	80,000
2004	85,000
2005	90,000
2006	95,000
2007 and thereafter	100,000.

"(ii) In the case of any other taxpayer (other than a married individual filing a separate return):

"For taxable years beginning in:	The applicable dollar amount is:
1996	$30,000
1997	35,000
1998	40,000
1999	45,000
2000	50,000
2001	55,000
2002	60,000
2003	65,000
2004	70,000
2005	75,000
2006	80,000
2007 and thereafter	85,000.

"(iii) In the case of a married individual filing a separate return, zero.".

(2) INCREASE IN PHASE-OUT RANGE FOR JOINT RETURNS.—Clause (ii) of section 219(g)(2)(A) is amended by inserting "($20,000 in the case of a joint return)" after "$10,000".

(3) COST-OF-LIVING ADJUSTMENTS.—Section 219(g)(3) is amended by adding at the end the following new subparagraph:

"(C) COST-OF-LIVING ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 2007, the $100,000 and $85,000 amounts in clauses (i) and (ii) of subparagraph (B) shall each be increased by an amount equal to the product of such dollar amount and the cost-of-living adjustment for the calendar year determined under subsection (h)(3), except that subsection (h)(3)(A)(ii) shall be applied by substituting '2006' for '1994'. If any amount to which either such amount is increased is not a multiple of $5,000, such amount shall be rounded to the next lower multiple of $5,000.".

(b) INDIVIDUAL NOT DISQUALIFIED BY SPOUSE'S PARTICIPATION.—Paragraph (1) of section 219(g) (relating to limitation on deduction for active participants in certain pension plans) is amended by striking "or the individual's spouse".

(c) REPEAL OF NONDEDUCTIBLE CONTRIBUTIONS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end the following new paragraph.

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1995.".

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12102. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) COST-OF-LIVING ADJUSTMENTS.—

"(1) DEDUCTION AMOUNT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1996, the $2,000 amount under subsection (b)(1)(A) shall be increased by an amount equal to the product of $2,000 and the cost-of-living adjustment for the calendar year.

"(B) ROUNDING TO NEXT LOWER $500.—If the amount to which $2,000 would be increased under subparagraph (A) is not a multiple of $500, such amount shall be rounded to the next lower multiple of $500.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds "(ii) the CPI for 1995.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).".

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

SEC. 12103. HOMEMAKERS ELIGIBLE FOR FULL IRA DEDUCTION.

(a) SPOUSAL IRA COMPUTED ON BASIS OF COMPENSATION OF BOTH SPOUSES.—Subsection (c) of section 219 (relating to special rules for certain married individuals) is amended to read as follows:

"(c) SPECIAL RULES FOR CERTAIN MARRIED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this paragraph applies for the taxable year, the limitation of paragraph (1) of subsection (b) shall be equal to the lesser of—

"(A) the dollar amount in effect under subsection (b)(1)(A) for the taxable year, or

"(B) the sum of—

"(i) the compensation includible in such individual's gross income for the taxable year, plus

"(ii) the compensation includible in the gross income of such individual's spouse for the taxable year reduced by—

"(I) the amount allowable as a deduction under subsection (a) to such spouse for such taxable year, and

"(II) the amount of any contribution on behalf of such spouse to an IRA Plus account under section 408A for such taxable year.

"(2) INDIVIDUALS TO WHOM PARAGRAPH (1) APPLIES.—Paragraph (1) shall apply to any individual if—

"(A) such individual files a joint return for the taxable year, and

"(B) the amount of compensation (if any) includible in such individual's gross income for the taxable year is less than the compensation includible in the gross income of such individual's spouse for the taxable year.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 219(f) (relating to other definitions and special rules) is amended by striking "subsections (b) and (c)" and inserting "subsection (b)".

(2) Section 408(d)(5) is amended by striking "$2,250" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 219(g)(1) is amended by striking "(c)(2)" and inserting "(c)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

PART II—NONDEDUCTIBLE TAX-FREE IRAS

SEC. 12111. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. IRA PLUS ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, an IRA Plus account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) IRA PLUS ACCOUNT.—For purposes of this title, the term 'IRA Plus account' means an individual retirement plan which is designated at the time of establishment of the plan as an IRA Plus account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an IRA Plus account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all IRA Plus accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year (computed without regard to subsection (g) of such section), over

"(B) the amount so allowed.

"(3) ROLLOVER CONTRIBUTIONS.—

"(A) IN GENERAL.—No rollover contribution may be made to an IRA Plus account unless it is a qualified rollover contribution.

"(B) COORDINATION WITH LIMIT.—A qualified rollover contribution shall not be taken into account for purposes of paragraph (2).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of an IRA Plus account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed out of an IRA Plus account which consists of earnings shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) EXCEPTIONS FOR EARNINGS ON CONTRIBUTIONS HELD AT LEAST 5 YEARS.—Subparagraph (A) shall not apply to earnings allocable to contributions held in an IRA Plus account for at least 5 years as of the date of the distribution but only if—

"(i) such distribution occurs on or after the date on which the individual for whom the account was established attains age 59½, or

"(ii) in any case where such distribution occurs before such date, the distribution is described in any subparagraph of section 72(t)(2) (other than subparagraph (A)(i) thereof).

"(C) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from an IRA Plus account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—For purposes of this subparagraph and section 72(t)(8), all contributions made for the same taxable year shall be treated as 1 contribution made on the first day of the taxable year.

"(D) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) ROLLOVERS.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified rollover contribution to another IRA Plus account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the IRA Plus account to which any contributions are transferred from another IRA Plus account shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the account from which transferred.

"(4) SPECIAL RULES RELATING TO QUALIFIED ROLLOVERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified rollover contribution to an IRA Plus account from an individual retirement plan which is not an IRA Plus account—

"(i) there shall be included in gross income any amount which, but for the qualified rollover contribution, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified rollover contribution which occurs before January 1, 1998, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution to an IRA Plus account from another such account, or from an individual retirement plan but only if such rollover contribution meets the requirements of section 408(d)(3). For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan to an IRA plus account.".

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 12121(c), is amended by adding at the end the following new paragraph:

"(8) SPECIAL RULES FOR DISTRIBUTIONS FROM IRA PLUS ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (1) shall apply to any amount received from an IRA Plus account to the extent such amount is required to be included in gross income under section 408A(d)(2) unless such amount is part of a distribution required under section 401(a)(9).".

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A.".

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. IRA Plus accounts.".

(e) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter B—Penalty-Free Distributions

SEC. 12121. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY TO PURCHASE FIRST HOMES OR TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(D) DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

"(i) which are qualified first-time homebuyer distributions (as defined in paragraph (6)), or

"(ii) to the extent such distributions do not exceed the qualified higher education expenses *(as defined in paragraph (7)) of the taxpayer for the taxable year.".*

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—Section 72(t)(3)(A) is amended by striking "(B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) in the case of an individual retirement plan, by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse.".

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(c) DEFINITIONS.—Section 72(t) is amended by adding at the end the following new paragraphs:

"(6) QUALIFIED FIRST-TIME HOMEBUYER DISTRIBUTIONS.—For purposes of paragraph (2)(D)(i)—

"(A) IN GENERAL.—The term 'qualified first-time homebuyer distribution' means any payment or distribution received by an individual to the extent such payment or distribution is used by the individual before the close of the 60th day after the day on which such payment or distribution is received to pay qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is such individual, the spouse of such individual, or any child, grandchild, or ancestor of such individual or the individual's spouse.

"(B) LIFETIME DOLLAR LIMITATION.—The aggregate amount of payments or distributions received by an individual which may be treated as qualified first-time homebuyer distributions for any taxable year shall not exceed the excess (if any) of—

"(i) $10,000, over

"(ii) the aggregate amounts treated as qualified first-time homebuyer distributions with respect to such individual for all prior taxable years.

"(C) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term 'qualified acquisition costs' means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(D) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) FIRST-TIME HOMEBUYER.—The term 'first-time homebuyer' means any individual if—

"(I) such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies, and

"(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(ii) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—The term 'date of acquisition' means the date—

"(I) on which a binding contract to acquire the principal residence to which subparagraph (A) applies is entered into, or

"(II) on which construction or reconstruction of such a principal residence is commenced.

"(E) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from any individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) applies to any other amount.

"(7) QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of paragraph (2)(D)(ii)—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any child (as defined in section 151(c)(3)), grandchild, or ancestor of the taxpayer or the taxpayer's spouse,

at an eligible educational institution (as defined in section 135(c)(3)).

"(B) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses for any taxable year shall be reduced by any amount excludable from gross income under section 135.".

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end the following new subparagraph:

"(E) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.

To the extent provided in regulations, a self-employed individual shall be treated as meeting the requirements of clause (i) if, under Federal or State law, the individual would have received unemployment compensation but for the fact the individual was self-employed.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subchapter C—Simple Savings Plans

SEC. 12131. ESTABLISHMENT OF SAVINGS INCENTIVE MATCH PLANS FOR EMPLOYEES OF SMALL EMPLOYERS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—For purposes of this title, the term 'simple retirement account' means an individual retirement plan—

"(A) with respect to which the requirements of paragraphs (3), (4), and (5) are met; and

"(B) with respect to which the only contributions allowed are contributions under a qualified salary reduction arrangement.

"(2) QUALIFIED SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified salary reduction arrangement' means a written arrangement of an eligible employer under which—

"(i) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(I) as elective employer contributions to a simple retirement account on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) the amount which an employee may elect under clause (i) for any year is required to be expressed as a percentage of compensation and may not exceed a total of $6,000 for any year,

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to so much of the amount the employee elects under clause (i)(I) as does not exceed the applicable percentage of compensation for the year, and

"(iv) no contributions may be made other than contributions described in clause (i) or (iii).

"(B) DEFINITIONS.—For purposes of this subsection—

"(i) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an employer who normally employs 100 or fewer employees on any day during the year.

"(ii) APPLICABLE PERCENTAGE.—

"(I) IN GENERAL.—The term 'applicable percentage' means 3 percent.

"(II) ELECTION OF LOWER PERCENTAGE.—An employer may elect to apply a lower percentage (not less than 1 percent) for any year for all employees eligible to participate in the plan for such year if the employer notifies the employees of such lower percentage within a reasonable period of time before the 60-day election period for such year under paragraph (5)(C). An employer may not elect a lower percentage under this subclause for any year if that election would result in the applicable percentage being lower than 3 percent in more than 2 of the years in the 5-year period ending with such year.

"(III) SPECIAL RULE FOR YEARS ARRANGEMENT NOT IN EFFECT.—If any year in the 5-year period described in subclause (II) is a year prior to the first year for which any qualified salary reduction arrangement is in effect with respect to the employer (or any predecessor), the employer shall be treated as if the level of the employer matching contribution was at 3 percent of compensation for such year.

"(C) ARRANGEMENT MAY BE ONLY PLAN OF EMPLOYER.—

"(i) IN GENERAL.—An arrangement shall not be treated as a qualified salary reduction arrangement for any year if the employer (or any predecessor employer) maintained a qualified plan with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such arrangement became effective and ending with the year for which the determination is being made.

"(ii) QUALIFIED PLAN.—For purposes of this subparagraph, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).

"(D) NO FEE OR PENALTY ON EMPLOYEE'S INITIAL INVESTMENT DETERMINATION.—An arrangement shall not be treated as a qualified salary reduction arrangement unless it provides that no fee or penalty will be imposed on an employee's initial determination with respect to the investment of any contribution.

"(E) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $6,000 amount under subparagraph (A)(ii) at the same time and in the same manner as under section 415(d), except that the base period taken into account shall be the calendar quarter ending September 30, 1995, and any increase under this subparagraph which is not a multiple of $500 shall be rounded to the next lower multiple of $500.

"(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met with respect to a simple retirement account if the employee's rights to any contribution to the simple retirement account are nonforfeitable. For purposes

of this paragraph, the rules similar to the rules of subsection (k)(4) shall apply.

"(4) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to any simple retirement account for a year only if, under the qualified salary reduction arrangement, all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during each of the 2 preceding years, and

"(ii) who are reasonably expected to receive at least $5,000 in compensation during the year,

are eligible to make the election under paragraph (2)(A)(i).

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirement under subparagraph (A) employees described in section 410(b)(3).

"(5) ADMINISTRATIVE REQUIREMENTS.—The requirements of this paragraph are met with respect to any simplified retirement account if, under the qualified salary reduction arrangement—

"(A) an employer must—

"(i) make the elective employer contributions under paragraph (2)(A)(i) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made, and

"(ii) make the matching contributions under paragraph (2)(A)(iii) not later than the date described in section 404(m)(2)(B),

"(B) an employee may elect to terminate participation in such arrangement at any time during the year, except that if an employee so terminates, the arrangement may provide that the employee may not elect to resume participation until the beginning of the next year, and

"(C) each employee eligible to participate may elect, during the 60-day period before the beginning of any year, to participate in the arrangement, or to modify the amounts subject to such arrangement, for such year.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) COMPENSATION.—

"(i) IN GENERAL.—The term 'compensation' means amounts described in paragraphs (3) and (8) of section 6051(a).

"(ii) SELF-EMPLOYED.—In the case of an employee described in subparagraph (B), compensation means net earnings from self-employment determined under section 1402(a) without regard to any contribution under this subsection.

"(B) EMPLOYEE.—The term 'employee' includes an employee as defined in section 401(c)(1).

"(C) YEAR.—The term 'year' means the calendar year.".

(b) TAX TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—

(1) DEDUCTIBILITY OF CONTRIBUTIONS BY EMPLOYEES.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR SIMPLE RETIREMENT ACCOUNTS.—This section shall not apply with respect to any amount contributed to a simple retirement account established under section 408(p).".

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (iv) and by adding at the end the following new clause:

"(vi) any simple retirement account (within the meaning of section 408(p)), or".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc. plans) is amended by adding at the end the following new subsection:

"(m) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—

"(1) IN GENERAL.—Employer contributions to a simple retirement account shall be treated as if they are made to a plan subject to the requirements of this section.

"(2) TIMING.—

"(A) DEDUCTION.—Contributions described in paragraph (1) shall be deductible in the taxable year of the employer with or within which the calendar year for which the contributions were made ends.

"(B) CONTRIBUTIONS AFTER END OF YEAR.—For purposes of this subsection, contributions shall be treated as made for a taxable year if they are made on account of the taxable year and are made not later than the time prescribed by law for filing the return for the taxable year (including extensions thereof).".

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—

(A) Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(k) TREATMENT OF SIMPLE RETIREMENT ACCOUNTS.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to a simple retirement account under section 408(p).".

(B) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—This paragraph shall not apply to any amount paid or distributed out of a simple retirement account (as defined in section 408(p)) unless it is paid into another simple retirement account.".

(C) Clause (i) of section 457(c)(2)(B) is amended by striking "section 402(h)(1)(B)" and inserting "section 402(h)(1)(B) or (k)".

(4) PENALTIES.—

(A) EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax in early distributions), as amended by sections 12111(b) and 12121(c), is amended by adding at the end the following new paragraph:

"(9) SPECIAL RULES FOR SIMPLE RETIREMENT ACCOUNTS.—In the case of any amount received from a simple retirement account (within the meaning of section 408(p)) during the 2-year period beginning on the date such individual first participated in any qualified salary reduction arrangement maintained by the individual's employer under section 408(p)(2), paragraph (1) shall be applied by substituting '25 percent' for '10 percent'.".

(B) FAILURE TO REPORT.—Section 6693 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) PENALTIES RELATING TO SIMPLE RETIREMENT ACCOUNTS.—

"(1) EMPLOYER PENALTIES.—An employer who fails to provide 1 or more notices required by section 408(l)(2)(C) shall pay a penalty of $50 for each day on which such failures continue.

"(2) TRUSTEE PENALTIES.—A trustee who fails—

"(A) to provide 1 or more statements required by the last sentence of section 408(i) shall pay a penalty of $50 for each day on which such failures continue, or

"(B) to provide 1 or more summary descriptions required by section 408(l)(2)(B) shall pay a penalty of $50 for each day on which such failures continue.

"(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection with respect to any failure which the taxpayer shows was due to reasonable cause.".

(5) REPORTING REQUIREMENTS.—

(A)(i) Section 408(l) is amended by adding at the end the following new paragraph:

"(2) SIMPLE RETIREMENT ACCOUNTS.—

"(A) NO EMPLOYER REPORTS.—Except as provided in this paragraph, no report shall be required under this section by an employer maintaining a qualified salary reduction arrangement under subsection (p).

"(B) SUMMARY DESCRIPTION.—The trustee of any simple retirement account established pursuant to a qualified salary reduction arrangement under subsection (p) shall provide to the employer maintaining the arrangement, each year a description containing the following information:

"(i) The name and address of the employer and the trustee.

"(ii) The requirements for eligibility for participation.

"(iii) The benefits provided with respect to the arrangement.

"(iv) The time and method of making elections with respect to the arrangement.

"(v) The procedures for, and effects of, withdrawals from the arrangement.

"(C) EMPLOYEE NOTIFICATION.—The employer shall notify each employee immediately before the period for which an election described in subsection (p)(5)(C) may be made of the employee's opportunity to make such election. Such notice shall include a copy of the description described in subparagraph (B).".

(ii) Section 408(l) is amended by striking "An employer" and inserting—

"(1) IN GENERAL.—An employer".

(B) Section 408(i) is amended by adding at the end the following new flush sentence:

"In the case of a simple retirement account under subsection (p), only one report under this subsection shall be required to be submitted each calendar year to the Secretary (at the time provided under paragraph (2)) but, in addition to the report under this subsection, there shall be furnished, within 30 days after each calendar year, to the individual on whose behalf the account is maintained a statement with respect to the account balance as of the close of, and the account activity during, such calendar year.".

(6) EXEMPTION FROM TOP-HEAVY PLAN RULES.—Section 416(g)(4) (relating to special rules for top-heavy plans) is amended by adding at the end the following new subparagraph:

"(G) SIMPLE RETIREMENT ACCOUNTS.—The term 'top-heavy plan' shall not include a simple retirement account under section 408(p).".

(7) CONFORMING AMENDMENTS.—

(A) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or" and by adding after subparagraph (C) the following new subparagraph:

"(D) a simple retirement account described in section 408(p).".

(B) Section 402(g)(3) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) any elective employer contribution under section 408(p)(2)(A)(i).".

(C) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408(p)," after "408(k),".

(D) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding after clause (iii) the following new clause:

"(iv) any simple retirement account (within the meaning of section 408(p)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12132. EXTENSION OF SIMPLE PLAN TO 401(k) ARRANGEMENTS.

(a) ALTERNATIVE METHOD OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end the following new paragraph:

"(11) ADOPTION OF SIMPLE PLAN TO MEET NONDISCRIMINATION TESTS.—

"(A) IN GENERAL.—A cash or deferred arrangement maintained by an eligible employer shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement meets—

"(i) the contribution requirements of subparagraph (B),

"(ii) the exclusive benefit requirements of subparagraph (C), and

"(iii) the vesting requirements of section 408(p)(3).

"(B) CONTRIBUTION REQUIREMENTS.—The requirements of this subparagraph are met if, under the arrangement—

"(i) an employee may elect to have the employer make elective contributions for the year on behalf of the employee to a trust under the plan in an amount which is expressed as a percentage of compensation of the employee but which in no event exceeds $6,000,

"(ii) the employer is required to make a matching contribution to the trust for the year in an amount equal to so much of the amount the employee elects under clause (i) as does not exceed 3 percent of compensation for the year, and

"(iii) no other contributions may be made other than contributions described in clause (i) or (ii).

"(C) EXCLUSIVE BENEFIT.—The requirements of this subparagraph are met for any year to which this paragraph applies if no contributions were made, or benefits were accrued, for services during such year under any qualified plan of the employer on behalf of any employee eligible to participate in the cash or deferred arrangement, other than contributions described in subparagraph (B).

"(D) DEFINITIONS AND SPECIAL RULE.—

"(i) DEFINITIONS.—For purposes of this paragraph, any term used in this paragraph which is also used in section 408(p) shall have the meaning given such term by such section.

"(ii) COORDINATION WITH TOP-HEAVY RULES.—A plan meeting the requirements of this paragraph for any year shall not be treated as a top-heavy plan under section 416 for such year.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraph (B) of subsection (k)(11),

"(B) meets the exclusive benefit requirements of subsection (k)(11)(C), and

"(C) meets the vesting requirements of section 408(p)(3).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1995.

CHAPTER 2—CAPITAL GAINS REFORM

Subchapter A—Taxpayers Other Than Corporations

SEC. 12141. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) SPECIAL RULE FOR COLLECTIBLES.—The rate of tax imposed by section 1 on the excess of—

"(1) the net capital gain for the taxable year determined as if section 1222(12) had not applied to any collectible sold or exchanged during the taxable year, over

"(2) the net capital gain for the taxable year, shall not exceed 28 percent.

"(e) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes October 14, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after October 14, 1995, and

"(B) the amount of the net capital gain taken into account in applying section 1(h) for such year shall be reduced by the amount taken into account under subsection (a) for such year.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund.".

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202.".

(c) ALTERNATIVE MINIMUM TAX.—

(1) HALF OF DEDUCTION DISALLOWED.—Section 56(b)(1) (relating to limitations on deductions of individuals) is amended by adding at the end the following new subparagraph:

"(G) CAPITAL GAINS DEDUCTION REDUCED.—In determining the deduction allowable under section 1202, section 1202(a) shall be applied by substituting '25 percent' for '50 percent' ".

(2) CONFORMING AMENDMENT.—Section 57(a)(7) is amended by striking "1202" and inserting "1203".

(d) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof).".

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles).".

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(e) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent ($^{28}/_{35}$ in the case of a corporation) of the amount of gain".

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed.".

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 and the exclusion under section 1203 (whichever is appropriate) shall be taken into account.".

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).".

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account.".

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account".

(8) Paragraph (4) of section 691(c) is amended by striking "sections 1(h), 1201, 1202, and 1211" and inserting "sections 1201, 1202, 1203, and 1211".

(9) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202".

(10)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.".

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b).".

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(11) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(12)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.".

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.".

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995.".

(13) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply" before the period at the end thereof.

(14) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "28 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "28 percent".

(15)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (28 percent".

(16) Section 1203, as redesignated by subsection (a), is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see section 1202.".

(f) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) COLLECTIBLES.—The amendments made by subsection (d) shall apply to sales and exchanges after October 13, 1995.

(3) REPEAL OF SECTION 1(h).—The amendment made by subsection (e)(1) shall apply to taxable years beginning after October 13, 1995.

(4) CONTRIBUTIONS.—The amendment made by subsection (e)(2) shall apply to contributions after October 13, 1995.

(5) USE OF LONG-TERM LOSSES.—The amendments made by subsection (e)(12) shall apply to taxable years beginning after December 31, 1995.

(6) WITHHOLDING.—The amendment made by subsection (e)(14) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 12142. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—Paragraph (1) of section 1203(d), as redesignated by section 12141, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(b) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as so redesignated, is amended by striking subsection (b).

(c) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as so redesignated, is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section.".

(d) EFFECTIVE DATES.—

(1) INCREASE IN SIZE.—The amendment made by subsection (a) shall apply to stock issued after the date of the enactment of this Act.

(2) OTHER RULES.—The amendments made by subsections (b) and (c) shall apply to stock issued after August 10, 1993.

SEC. 12143. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—If a taxpayer other than a corporation elects the application of this section to any sale of qualified small business stock, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c).

"(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

"(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

"(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

"(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as eligible gain to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

"(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated as eligible gain for purposes of subsection (a).

"(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(23) is amended—

(A) by striking "or 1044" and inserting ", 1044, or 1045", and

(B) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(b)(4)".

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock sold or exchanged after the date of the enactment of this Act.

Subchapter B—Corporate Capital Gains

SEC. 12151. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain.

"(b) SPECIAL RULES FOR QUALIFIED SMALL BUSINESS GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has gain from the sale or exchange of any qualified small business stock held for more than 5 years, the amount determined under subsection (a)(2) for such taxable year shall be equal to the sum of—

"(A) 21 percent of the lesser of such gain or the corporation's net capital gain, plus

"(B) 28 percent of the net capital gain reduced by the gain taken into account under subparagraph (A).

"(2) QUALIFIED SMALL BUSINESS STOCK.—For purposes of paragraph (1), the term 'qualified small business stock' has the meaning given such term by section 1203(c), except that stock shall not be treated as qualified small business stock if such stock was at any time held by a member of a parent-subsidiary controlled group (as defined in section 1203(d)(3)).

"(c) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In applying this section, net capital gain for any taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after October 13, 1995.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(e)(2) shall apply for purposes of paragraph (1).

"(d) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A).".

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "72 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after October 13, 1995.

(2) QUALIFIED SMALL BUSINESS STOCK.—Section 1201(b) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to gain from qualified small business stock acquired on or after the date of the enactment of this Act.

CHAPTER 3—CORPORATE ALTERNATIVE MINIMUM TAX REFORM

SEC. 12161. MODIFICATION OF DEPRECIATION RULES UNDER MINIMUM TAX.

(a) IN GENERAL.—Clause (i) of section 56(a)(1)(A) is amended by striking "under the alternative system of section 168(g)" and inserting "under section 168 except that the recovery period used shall be the period determined under section 168(g)".

(b) CONFORMING AMENDMENT.—Clause (ii) of section 56(a)(1)(A) is amended by striking "The method" and inserting "In the case of property placed in service before January 1, 1996, the method".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 12162. LONG-TERM UNUSED CREDITS ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 53(c) (relating to limitation) is amended by adding at the end the following new paragraph:

"(2) SPECIAL RULE FOR TAXPAYERS WITH LONG-TERM UNUSED CREDITS.—

"(A) IN GENERAL.—If—

"(i) a corporation to which section 56(g) applies has a long-term unused minimum tax credit for a taxable year, and

"(ii) no credit would be allowable under this section for the taxable year by reason of paragraph (1),

then there shall be allowed a credit under subsection (a) for the taxable year in the amount determined under subparagraph (B).

"(B) AMOUNT OF CREDIT.—For purposes of subparagraph (A), the amount of the credit shall be equal to the least of the following for the taxable year:

"(i) The long-term unused minimum tax credit.

"(ii) 50 percent of the taxpayer's tentative minimum tax.

"(iii) The excess (if any) of the amount under paragraph (1)(B) over the amount under paragraph (1)(A).

"(C) LONG-TERM UNUSED MINIMUM TAX CREDIT.—For purposes of this paragraph—

"(i) IN GENERAL.—The long-term unused minimum tax credit for any taxable year is the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years beginning after 1986 and ending before the 5th taxable year immediately preceding the taxable year for which the determination is being made.

"(ii) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of clause (i), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.".

(b) CONFORMING AMENDMENTS.—(1) Section 53(c) (as in effect before the amendment made by subsection (a)) is amended—

(A) by striking "The" and inserting:

"(1) IN GENERAL.—The", and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(2) Subparagraph (C) of section 108(b)(4) is amended by striking "and (G)" in the text and heading thereof and inserting ", (C), and (G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Subtitle C—Health Related Provisions

CHAPTER 1—LONG-TERM CARE PROVISIONS

Subchapter A—Long-Term Care Services and Contracts

PART I—GENERAL PROVISIONS

SEC. 12201. QUALIFIED LONG-TERM CARE SERVICES TREATED AS MEDICAL CARE.

(a) GENERAL RULE.—Paragraph (1) of section 213(d) (defining medical care) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) for qualified long-term care services (as defined in section 7702B(e)), or".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 213(d)(1) (as redesignated by subsection (a)) is amended to read as follows:

"(D) for insurance (including amounts paid as premiums under part B of title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged)—

"(i) covering medical care referred to in subparagraphs (A) and (B), or

"(ii) covering medical care referred to in subparagraph (C), but only if such coverage is provided under a qualified long-term care insurance contract (as defined in section 7702B(b)).".

(2) Paragraph (6) of section 213(d) is amended—

(A) by striking "subparagraphs (A) and (B)" in the matter preceding subparagraph (A) and inserting "subparagraphs (A), (B), and (C)", and

(B) by striking "paragraph (1)(C)" in subparagraph (A) and inserting "paragraph (1)(D)".

(3) Paragraph (7) of section 213(d) is amended by striking "subparagraphs (A) and (B)" and inserting "subparagraphs (A), (B), and (C)".

SEC. 12202. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

(a) GENERAL RULE.—Chapter 79 (relating to definitions) is amended by inserting after section 7702A the following new section:

"SEC. 7702B. TREATMENT OF LONG-TERM CARE INSURANCE OR PLANS.

"(a) GENERAL RULE.—For purposes of this title—

"(1) a qualified long-term care insurance contract shall be treated as an accident or health insurance contract,

"(2) any plan of an employer providing coverage of qualified long-term care services shall be treated as an accident or health plan with respect to such services,

"(3) amounts (other than policyholder dividends, as defined in section 808, or premium refunds) received under such a contract or plan shall be treated as amounts received for personal injuries or sickness and shall be treated as reimbursement for expenses actually incurred for medical care (as defined in section 213(d)),

"(4) payments described in subsection (b)(5) shall be treated as payments made with respect to qualified long-term care services, and

"(5) a qualified long-term care insurance contract shall be treated as a guaranteed renewable contract subject to the rules of section 816(e).

"(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—

"(1) IN GENERAL.—For purposes of this title, the term 'qualified long-term care insurance contract' means any insurance contract if—

"(A) the only insurance protection provided under such contract is coverage of qualified long-term care services, and

"(B) such contract meets the requirements of paragraphs (2), (3), and (4).

"(2) PREMIUM REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a contract if such contract provides that—

"(i) premium payments may not be made earlier than the date such payments would have been made if the contract provided for level annual payments over the life of the contract (or, if shorter, 20 years), and

"(ii) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

A contract shall not be treated as failing to meet the requirements of clause (i) solely by reason of a provision providing for a waiver of premiums if the insured becomes a functionally impaired individual.

"(B) REFUNDS UPON DEATH OR COMPLETE SURRENDER OR CANCELLATION.—Subparagraph (A)(ii) shall not apply to any refund on the death of the insured, or on any complete surrender or cancellation of the contract, if, under the contract, the amount refunded may not exceed the amount of the premiums paid under the contract. For purposes of this title, any refund described in the preceding sentence shall be includible in gross income to the extent that any deduction or exclusion was allowed with respect to the refund.

"(3) BORROWING, PLEDGING, OR ASSIGNING PROHIBITED.—The requirements of this paragraph are met with respect to a contract if such contract provides that no money may be borrowed under such contract and that such contract (or any portion thereof) may not be assigned or pledged as collateral for a loan.

"(4) PROHIBITION OF DUPLICATE PAYMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a contract if such contract does not pay or reimburse expenses incurred to the extent that such expenses are reimbursable under title XVIII of the Social Security Act, or would be so reimbursable but for the application of a deductible or coinsurance amount.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(C) COORDINATION WITH OTHER LAWS.—No provision of law shall be construed or applied so as to prohibit the offering of a qualified long-term care insurance contract on the basis that it coordinates its benefits with those provided under title XVIII of the Social Security Act.

"(5) PER DIEM AND OTHER PERIODIC PAYMENTS PERMITTED.—For purposes of subsection (a)(4), payments are described in this paragraph for any calendar year if, under the contract, such payments are made to (or on behalf of) a functionally impaired individual on a per diem or other periodic basis without regard to the expenses incurred or services rendered during the period to which the payments relate.

"(c) SPECIAL RULES FOR TREATMENT OF INSUREDS.—For purposes of this title, solely with respect to the insured under any qualified long-term care insurance contract—

"(1) AGGREGATE PAYMENTS IN EXCESS OF LIMITS.—

"(A) IN GENERAL.—If the aggregate payments under all qualified long-term care insurance contracts with respect to an insured for any period (whether on a periodic basis or otherwise) exceed the dollar amount in effect for such period under subparagraph (B), such excess payments shall be treated as made for qualified long-term care services only if made with respect to such services provided during such period.

"(B) DOLLAR AMOUNT.—The dollar amount in effect under this paragraph shall be $150 per day (or the equivalent amount in the case of payments on another periodic basis).

"(C) ADJUSTMENTS FOR INCREASED COSTS.—

"(i) IN GENERAL.—In the case of any calendar year after 1997, the dollar amount in effect under subparagraph (B) for any period occurring during such calendar year shall be equal to the sum of—

"(I) the amount in effect under subparagraph (B) for the preceding calendar year (after application of this subparagraph), plus

"(II) the applicable percentage of the amount under subclause (I).

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term 'applicable percentage' means, with respect to any calendar year, the lesser of—

"(I) 5 percent, or

"(II) the cost-of-living adjustment for such calendar year.

"(iii) COST-OF-LIVING ADJUSTMENT.—For purposes of clause (ii), the cost-of-living adjustment for any calendar year is the percentage (if any) by which the cost index under clause (iv) for the preceding calendar year exceeds such index for the second preceding calendar year. In the case of any calendar year beginning before 1999, this clause shall be applied by substituting the Consumer Price Index (as defined in section 1(f)(5)) for the cost index under clause (iv).

"(iv) COST INDEX.—The Secretary, in consultation with the Secretary of Health and Human Services, shall before January 1, 1999, establish a cost index to measure increases in costs of nursing home and similar facilities. The Secretary may from time to time revise such index to the extent necessary to accurately measure increases or decreases in such costs.

"(2) ASSIGNMENT OR PLEDGE.—Such contract shall not be treated as a qualified long-term care insurance contract during any period on or after the date on which the contract (or any portion thereof) is assigned or pledged as collateral for a loan.

"(d) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage provided under a life insurance contract—

"(1) IN GENERAL.—This section shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) APPLICATION OF SECTION 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to a life insurance contract, as of any date—

"(A) by the sum of the charges against the contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for such coverage made to that date under the contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the contract (within the meaning of section 7702(f)(1)).

"(3) APPLICATION OF SECTION 213.—No deduction shall be allowed under section 213(a) for charges against the life insurance contract's cash surrender value described in paragraph (2), unless such charges are includible in income as a result of the application of section 72(e)(10) and the rider is a qualified long-term care insurance contract under subsection (b).

"(4) PORTION.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract that are in addition to the terms and benefits under the contract without regard to the coverage of qualified long-term care services, except that the payment of benefits shall not result in the benefits failing to be treated as long-term care insurance by reason of a reduction in the contract's death benefit or cash surrender value resulting from any such payment.

"(e) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, or rehabilitative services, and maintenance or personal care services, which—

"(A) are required by an individual during any period during which such individual is a functionally impaired individual,

"(B) have as their primary purpose the provision of—

"(i) needed assistance with 1 or more activities of daily living which a functionally impaired individual is certified as being unable to perform under paragraph (2), or

"(ii) substantial supervision which the individual is certified under paragraph (2) as needing to protect the individual from threats to health and safety due to substantial cognitive impairment, and

"(C) are provided pursuant to a continuing plan of care prescribed by a licensed health care practitioner.

"(2) FUNCTIONALLY IMPAIRED INDIVIDUAL.—The term 'functionally impaired individual' means any individual who is certified by a licensed health care practitioner as—

"(A) being unable to perform, without substantial assistance from another individual (including assistance involving verbal reminding or physical cuing), at least 2 activities of daily living described in paragraph (3), or

"(B) requiring substantial supervision to protect such individual from threats to health and safety due to substantial cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless, within the preceding 12-month period, a licensed health care practitioner has certified that such individual meets such requirements.

"(3) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(A) Eating.

"(B) Transferring.

"(C) Toileting.

"(D) Dressing.

"(E) Bathing.

"(F) Continence.

"(4) LICENSED HEALTH CARE PRACTITIONER.—

"(A) IN GENERAL.—The term 'licensed health care practitioner' means any individual—

"(i) who is—

"(I) a physician (as defined in section 1861(r)(1) of the Social Security Act) or registered professional nurse,

"(II) a qualified community care case manager (as defined in subparagraph (B)), or

"(III) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services, and

"(ii) who is not a relative of the individual receiving care.

"(B) QUALIFIED COMMUNITY CARE CASE MANAGER.—The term 'qualified community care case manager' means an individual or entity which—

"(i) has experience or has been trained in providing case management services and in preparing individual care plans;

"(ii) has experience in assessing individuals to determine their functional and cognitive impairment; and

"(iii) meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(5) RELATIVE.—The term 'relative' means an individual bearing a relationship to another individual which is described in paragraphs (1) through (8) of section 152(a).

"(f) CONTINUATION COVERAGE TREATMENT NOT TO APPLY.—Section 4980B shall not apply to—

"(1) qualified long-term care insurance contracts, or

"(2) plans described in subsection (a)(2).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the requirements of this section, including regulations to prevent the avoidance of *this section by providing qualified long-term care services under a life insurance contract.".*

(b) Long-Term Care Insurance Not Permitted Under Cafeteria Plans or Flexible Spending Arrangements.—

(1) Cafeteria plans.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any qualified long-term care insurance contract (as defined in section 7702B(b)).".

(2) Flexible spending arrangements.—The text of section 106 (relating to contributions by employer to accident and health plans) is amended to read as follows:

"(a) General Rule.—Except as provided in subsection (b), gross income of an employee does not include employer-provided coverage under an accident or health plan.

"(b) Inclusion of Long-Term Care Benefits Provided Through Flexible Spending Arrangements.—

"(1) In general.—Effective on and after January 1, 1996, gross income of an employee shall include employer-provided coverage for qualified long-term care services (as defined in section 7702B(e)) to the extent that such coverage is provided through a flexible spending or similar arrangement.

"(2) Flexible spending arrangement.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

"(A) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

"(B) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.".

(c) Reserves.—Clause (iii) of section 807(d)(3)(A) is amended by inserting "(other than a qualified long-term care insurance contract within the meaning of section 7702B)" after "contract".

(d) Clerical Amendment.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7702A the following new item:

"Sec. 7702B. Treatment of long-term care insurance or plans.".

SEC. 12203. REPORTING REQUIREMENTS.

(a) In General.—Subpart B of part III of subchapter A of chapter 61, as amended by section 12004(b), is amended by adding at the end the following new section:

"SEC. 6050R. CERTAIN LONG-TERM CARE BENEFITS.

"(a) Requirement of Reporting.—Any person who pays long-term care benefits shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the aggregate amount of such benefits paid by such person to any individual during any calendar year, and

"(2) the name, address, and TIN of such individual.

"(b) Statements To Be Furnished To Persons With Respect To Whom Information Is Required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the person making the payments, and

"(2) the aggregate amount of long-term care benefits paid to the individual which are required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

"(c) Long-Term Care Benefits.—For purposes of this section, the term 'long-term care benefit' means any amount paid under a long-term care insurance policy (within the meaning of section 4980C(e)).".

(b) Penalties.—

(1) Subparagraph (B) of section 6724(d)(1), as amended by section 12004, is amended by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively, and by inserting after clause (ix) the following new clause:

"(x) section 6050R (relating to certain long-term care benefits),".

(2) Paragraph (2) of section 6724(d), as so amended, is amended by redesignating subparagraphs (R) through (U) as subparagraphs (S) through (V), respectively, and by inserting after subparagraph (Q) the following new subparagraph:

"(R) section 6050R(b) (relating to certain long-term care benefits),".

(c) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050R. Certain long-term care benefits.".

SEC. 12204. EFFECTIVE DATES.

(a) Section 12201.—The amendments made by section 12201 shall apply to taxable years beginning after December 31, 1995.

(b) Section 12202.—The amendments made by section 12202 shall apply to contracts issued after December 31, 1995.

(c) Section 12203.—The amendments made by section 12203 shall apply to benefits paid after December 31, 1995.

(d) Transition Rule.—If, after the date of the enactment of this Act and before January 1, 1997, a contract providing coverage for services which are similar to qualified long-term care services (as defined in section 7702B(e) of the Internal Revenue Code of 1986) and issued on or before such date of enactment, is exchanged for a qualified long-term care insurance contract (as defined in section 7702B(b) of such Code), such exchange shall be treated as an exchange to which section 1035 of such Code applies.

(e) Issuance of Certain Riders Permitted.—For purposes of section 101(f), 7702, or 7702A of the Internal Revenue Code of 1986, the issuance of a rider on a life insurance contract providing coverage of qualified long-term care services, or the conformance of such a rider to the requirements of this Act, shall not be treated as a modification or material change of such contract.

(f) No Inference.—No inference shall be drawn from the amendments made by this subpart as to how the Internal Revenue Code of 1986 is to be applied before the effective date of such amendments to qualified long-term care services or contracts.

PART II—CONSUMER PROTECTION PROVISIONS

SEC. 12211. POLICY REQUIREMENTS.

(a) In General.—Section 7702B (as added by section 12202) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) Consumer Protection Provisions.—

"(1) In general.—The requirements of this subsection are met with respect to any contract if any long-term care insurance policy issued under the contract meets—

"(A) the requirements of the model regulation and model Act described in paragraph (2),

"(B) the disclosure requirement of paragraph (3), and

"(C) the requirements relating to nonforfeitability under paragraph (4).

"(2) Requirements of model regulation and act.—

"(A) In general.—The requirements of this paragraph are met with respect to any policy if such policy meets—

"(i) Model regulation.—The following requirements of the model regulation:

"(I) Section 7A (relating to guaranteed renewal or noncancellability), and the requirements of section 6B of the model Act relating to such section 7A.

"(II) Section 7B (relating to prohibitions on limitations and exclusions).

"(III) Section 7C (relating to extension of benefits).

"(IV) Section 7D (relating to continuation or conversion of coverage).

"(V) Section 7E (relating to discontinuance and replacement of policies).

"(VI) Section 8 (relating to unintentional lapse).

"(VII) Section 9 (relating to disclosure), other than section 9F thereof.

"(VIII) Section 10 (relating to prohibitions against post-claims underwriting).

"(IX) Section 11 (relating to minimum standards).

"(X) Section 12 (relating to requirement to offer inflation protection), except that any requirement for a signature on a rejection of inflation protection shall permit the signature to be on an application or on a separate form.

"(XI) Section 23 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

"(ii) Model act.—The following requirements of the model Act:

"(I) Section 6C (relating to preexisting conditions).

"(II) Section 6D (relating to prior hospitalization).

"(B) Definitions.—For purposes of this paragraph—

"(i) Model provisions.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of January 1993).

"(ii) Coordination.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

"(3) Disclosure requirement.—The requirement of this paragraph is met with respect to any policy if such policy meets the requirements of section 4980C(d)(1).

"(4) Nonforfeiture requirements.—

"(A) In general.—The requirements of this paragraph are met with respect to any level premium long-term care insurance policy, if the issuer of such policy offers to the policyholder, including any group policyholder, a nonforfeiture provision meeting the requirements of subparagraph (B).

"(B) Requirements of provision.—The nonforfeiture provision required under subparagraph (A) shall meet the following requirements:

"(i) The nonforfeiture provision shall be appropriately captioned.

"(ii) The nonforfeiture provision shall provide for a benefit available in the event of a default in the payment of any premiums and the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency, and interest as reflected in changes in rates for premium paying policies approved by the Secretary for the same policy form.

"(iii) The nonforfeiture provision shall provide at least one of the following:

"(I) Reduced paid-up insurance.

"(II) Extended term insurance.

"(III) Shortened benefit period.

"(IV) Other similar offerings approved by the Secretary.

"(5) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this subsection, the term 'long-term care insurance policy' has the meaning given such term by section 4980C(e).".

(b) CONFORMING AMENDMENT.—Section 7702B(b)(1)(B) (as added by section 12202) is amended by inserting "and of subsection (g)" after "and (4)".

SEC. 12212. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Chapter 43 is amended by adding at the end the following new section:

"SEC. 4980C. REQUIREMENTS FOR ISSUERS OF LONG-TERM CARE INSURANCE POLICIES.

"(a) GENERAL RULE.—There is hereby imposed on any person failing to meet the requirements of subsection (c) or (d) a tax in the amount determined under subsection (b).

"(b) AMOUNT.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be $100 per policy for each day any requirements of subsection (c) or (d) are not met with respect to each long-term care insurance policy.

"(2) WAIVER.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that payment of the tax would be excessive relative to the failure involved.

"(c) RESPONSIBILITIES.—The requirements of this subsection are as follows:

"(1) REQUIREMENTS OF MODEL PROVISIONS.—

"(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

"(i) Section 13 (relating to application forms and replacement coverage).

"(ii) Section 14 (relating to reporting requirements), except that the issuer shall also report at least annually the number of claims denied during the reporting period for each class of business (expressed as a percentage of claims denied), other than claims denied for failure to meet the waiting period or because of any applicable preexisting condition.

"(iii) Section 20 (relating to filing requirements for marketing).

"(iv) Section 21 (relating to standards for marketing), including inaccurate completion of medical histories, other than sections 21C(1) and 21C(6) thereof, except that—

"(I) in addition to such requirements, no person shall, in selling or offering to sell a long-term care insurance policy, misrepresent a material fact; and

"(II) no such requirements shall include a requirement to inquire or identify whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance.

"(v) Section 22 (relating to appropriateness of recommended purchase).

"(vi) Section 24 (relating to standard format outline of coverage).

"(vii) Section 25 (relating to requirement to deliver shopper's guide).

"(B) MODEL ACT.—The following requirements of the model Act must be met:

"(i) Section 6F (relating to right to return), except that such section shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial.

"(ii) Section 6G (relating to outline of coverage).

"(iii) Section 6H (relating to requirements for certificates under group plans).

"(iv) Section 6I (relating to policy summary).

"(v) Section 6J (relating to monthly reports on accelerated death benefits).

"(vi) Section 7 (relating to incontestability period).

"(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(g)(2)(B).

"(2) DELIVERY OF POLICY.—If an application for a long-term care insurance policy (or for a certificate under a group long-term care insurance policy) is approved, the issuer shall deliver to the applicant (or policyholder or certificateholder) the policy (or certificate) of insurance not later than 30 days after the date of the approval.

"(3) INFORMATION ON DENIALS OF CLAIMS.—If a claim under a long-term care insurance policy is denied, the issuer shall, within 60 days of the date of a written request by the policyholder or certificateholder (or representative)—

"(A) provide a written explanation of the reasons for the denial, and

"(B) make available all information directly relating to such denial.

"(d) DISCLOSURE.—The requirements of this subsection are met if the issuer of a long-term care insurance policy discloses in such policy and in the outline of coverage required under subsection (c)(1)(B)(ii) that the policy is intended to be a qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code of 1986.

"(e) LONG-TERM CARE INSURANCE POLICY DEFINED.—For purposes of this section, the term 'long-term care insurance policy' means any product which is advertised, marketed, or offered as long-term care insurance.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end the following new item:

"Sec. 4980C. Requirements for issuers of long-term care insurance policies.".

SEC. 12213. COORDINATION WITH STATE REQUIREMENTS.

Nothing in this part shall prevent a State from establishing, implementing, or continuing in effect standards related to the protection of policyholders of long-term care insurance policies (as defined in section 4980C(e) of the Internal Revenue Code of 1986), if such standards are not in conflict with or inconsistent with the standards established under such Code.

SEC. 12214. EFFECTIVE DATES.

(a) IN GENERAL.—The provisions of, and amendments made by, this part shall apply to contracts issued after December 31, 1995. The provisions of section 12204(d) of this Act (relating to transition rule) shall apply to such contracts.

(b) ISSUERS.—The amendments made by section 12212 shall apply to actions taken after December 31, 1995.

Subchapter B—Treatment of Accelerated Death Benefits

SEC. 12221. TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) GENERAL RULE.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount received under a life insurance contract on the life of an insured who is a terminally ill individual shall be treated as an amount paid by reason of the death of such insured.

"(2) NECESSARY CONDITIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount received unless—

"(i) the total amount received is not less than the present value (determined under subparagraph (B)) of the reduction in the death benefit otherwise payable in the event of the death of the insured, and

"(ii) the percentage reduction in the cash surrender value of the contract by reason of the distribution does not exceed the percentage reduction in the death benefit payable under the contract by reason of such distribution.

"(B) PRESENT VALUE.—The present value of the reduction in the death benefit shall be determined by—

"(i) using a discount rate which is based on an interest rate which does not exceed the highest interest rate set forth in subparagraph (C), and

"(ii) assuming that the death benefit (or the portion thereof) would have been paid on the date which is 12 months after the date of the certification referred to in paragraph (3).

"(C) RATES.—The interest rates set forth in this subparagraph are the following:

"(i) The 90-day Treasury bill yield.

"(ii) The rate described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for the calendar month ending 2 months before the date on which the rate is determined.

"(iii) The rate used to compute the cash surrender values under the contract during the applicable period plus 1 percent per annum.

"(D) SPECIAL RULES RELATING TO LIENS.—If a lien is imposed against a life insurance contract with respect to any amount referred to in paragraph (1)—

"(i) for purposes of subparagraph (A), the amount of such lien shall be treated as a reduction (at the time of receipt) in the death benefit or cash surrender value to the extent that such benefit or value, as the case may be, is (or may become) subject to the lien, and

"(ii) paragraph (1) shall not apply to the amount received unless any rate of interest with respect to any amount in connection with which such lien is imposed does not exceed the highest rate set forth in subparagraph (C).

"(3) TREATMENT OF VIATICAL SETTLEMENTS.—

"(A) IN GENERAL.—In the case of a life insurance contract on the life of an insured described in paragraph (1), if—

"(i) any portion of such contract is sold to any viatical settlement provider, or

"(ii) any portion of the death benefit is assigned to such a provider,

the amount paid for such sale or assignment shall be treated as an amount paid under the life insurance contract by reason of the death of such insured.

"(B) VIATICAL SETTLEMENT PROVIDER.—The term 'viatical settlement provider' means any person regularly engaged in the trade or business of purchasing, or taking assignments of, life insurance contracts on the lives of insureds described in paragraph (1) if—

"(i) such person is licensed for such purposes in the State in which the insured resides, or

"(ii) in the case of an insured who resides in a State not requiring the licensing of such persons for such purposes, such person—

"(I) meets the requirements of sections 8 and 9 of the Viatical Settlements Model Act of the National Association of Insurance Commissioners, and

"(II) meets the requirements of the Model Regulations of the National Association of Insurance Commissioners (relating to standards for evaluation of reasonable payments) in determining amounts paid by such person in connection with such purchases or assignments.

"(4) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who the insurer has determined, after receipt of an acceptable certification by a licensed physician (as defined in section 1861(r)(1) of the Social Security Act),

has an illness or physical condition which is reasonably expected to result in death within 12 months after the date of certification.

"(5) EXCEPTION FOR BUSINESS-RELATED POLICIES.—This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured having a financial interest in any trade or business carried on by the taxpayer.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to amounts received after December 31, 1995.

(2) DELAY IN APPLICATION OF DISCOUNT RULES.—Clause (i) of section 101(g)(2)(A) of the Internal Revenue Code of 1986 shall not apply to any amount received before July 1, 1996.

(3) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying section 101(f), 7702, or 7702A of the Internal Revenue Code of 1986 to any contract, the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), or the conformance of such a rider to the requirements of such section, shall not be treated as a modification or material change of such contract.

SEC. 12222. TREATMENT OF COMPANIES ISSUING QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.

(a) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider on a life insurance contract which provides for a distribution to an individual upon the insured becoming a terminally ill individual (as defined in section 101(g)(3)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subchapter C—Medical Savings Accounts

SEC. 12231. DEDUCTION FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an eligible individual, the amounts paid in cash during the taxable year by such individual to a medical savings account for the benefit of such individual or for the benefit of such individual and any spouse or dependent of such individual who is an eligible individual shall be treated for purposes of sections 162(l) and 213 as amounts paid for insurance which constitutes medical care.

"(b) LIMITATIONS.—

"(1) ONLY 1 ACCOUNT PER FAMILY.—Except as provided in regulations prescribed by the Secretary, no amount shall be treated as paid for insurance by reason of subsection (a) for amounts paid to any medical savings account if the account beneficiary, or such beneficiary's spouse or dependent, is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—Except as otherwise provided in this subsection, the aggregate amount which may be treated as paid for insurance under subsection (a) with respect to any account beneficiary shall not exceed the lesser of—

"(i) $2,000, or

"(ii) the deductible under the high deductible health plan covering such individual.

"(B) FAMILY ACCOUNT.—If the high deductible health plan covering an eligible individual provides coverage for any other eligible individual who is the spouse or any dependent (as defined in section 152) of the taxpayer, the limitation under subparagraph (A) shall be equal to the lesser of—

"(i) $4,000, or

"(ii) the annual limit under the high deductible health plan on the aggregate amount of deductibles required to be paid by all individuals.

"(3) PRORATION OF LIMITATION.—

"(A) IN GENERAL.—The limitation under paragraph (2) shall be the sum of the monthly limitations for months during the taxable year that the individual is an eligible individual if—

"(i) such individual is not an eligible individual for all months of the taxable year,

"(ii) the deductible under the high deductible health plan covering such individual is not the same throughout such taxable year, or

"(iii) such limitation is determined under paragraph (2)(B) for some but not all months during such taxable year.

"(B) MONTHLY LIMITATION.—The monthly limitation for any month shall be an amount equal to 1/12 of the limitation which would (but for this paragraph) be determined under paragraph (2) if the facts and circumstances as of the first day of such month that such individual is covered under a high deductible health plan were true for the entire taxable year.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to any month, any individual—

"(A) who is covered under a high deductible health plan during such month, and

"(B) who is not eligible during such month—

"(i) to participate in an employer-subsidized health plan maintained by an employer of the individual, the individual's spouse, or any dependent of either, or

"(ii) to receive any employer contribution to a medical savings account.

For purposes of subparagraph (B), a self-employed individual (within the meaning of section 401(c)) shall not be treated as his own employer.

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' means a health plan which—

"(A) has an annual deductible limit for each individual covered by the plan which is not less than $1,500, and

"(B) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $3,000.

"(3) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after December 31, 1996, each dollar amount contained in paragraph (2) and subsection (b)(2) shall be increased by an amount equal to the product of—

"(A) such dollar amount, and

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that such section shall be applied by substituting 'the medical component of the CPI' for 'the CPI' each place it appears and by substituting '1995' for '1992' in subparagraph (B).

If any amount under this paragraph is not a multiple of $50, such amount shall be rounded to the next lower multiple of $50.

"(4) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' has the meaning given such term by section 7705.

"(5) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).".

(b) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new item:

"Sec. 220. Contributions to medical savings accounts.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12232. EXCLUSION FROM INCOME OF EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 106 (relating to contributions by employers to accident and health plans), as amended by section 12202(b), is amended by adding at the end the following new subsection:

"(c) CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—

"(1) TREATMENT OF CONTRIBUTIONS.—

"(A) IN GENERAL.—Gross income of an employee who is covered by a high deductible health plan of an employer shall not include any employer contribution to a medical savings account on behalf of the employee or the employee's spouse or dependents.

"(B) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions described in subparagraph (A) and employer contributions to a health plan of the employer.

"(2) LIMITATIONS.—

"(A) ONLY 1 ACCOUNT PER FAMILY.—Except as provided in regulations, no amount may be excluded under subsection (a) for contributions to a medical savings account if the employee, or such employee's spouse or dependent, is a beneficiary of any other medical savings account.

"(B) DOLLAR LIMITATION.—The amount which may be excluded under paragraph (1) for any taxable year shall not exceed the limitation under section 220(b)(2) (without regard to this subsection) which is applicable to such employee for such taxable year.

"(3) SPECIAL RULE FOR DEDUCTION OF EMPLOYER CONTRIBUTIONS.—Any employer contribution to a medical savings account, if otherwise allowable as a deduction under this chapter, shall be allowed only for the taxable year in which paid.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) HIGH DEDUCTIBLE HEALTH PLAN.—The term 'high deductible health plan' has the meaning given such term by section 220(c)(2).

"(B) MEDICAL SAVINGS ACCOUNT.—The term 'medical savings account' has the meaning given such term by section 7705.".

(b) EXCLUSION OF EMPLOYER PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any payment made to or for the benefit of an employee with respect to which, at the time of the payment, it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c) shall be treated in the same manner as payments to or for the benefit of an employee on account of sickness or accident.

(2) RAILROAD RETIREMENT TAX.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) MEDICAL SAVINGS ACCOUNT CONTRIBUTIONS.—The term 'compensation' shall not include any payment made to or for the benefit of

an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c).".

(3) UNEMPLOYMENT TAX.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c).".

(4) WITHHOLDING TAX.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(c).".

(c) MEDICAL SAVINGS ACCOUNTS NOT PERMITTED UNDER CAFETERIA PLANS.—Section 125(f) is amended by adding at the end the following new sentence: "Such term shall not include any contribution to a medical savings account under section 7705.".

(d) CONFORMING AMENDMENT.—Section 106(a), as designated by section 12202(b), is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12233. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Chapter 79 is amended by adding at the end the following new section:

"SEC. 7705. MEDICAL SAVINGS ACCOUNTS.

"(a) GENERAL RULE.—The term 'medical savings account' means a trust created or organized in the United States for the exclusive benefit of the beneficiaries of the trust, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (c)(5)—

"(A) no contribution will be accepted unless—

"(i) it is in cash, and

"(ii) it is made for a period during which the individual on whose behalf it is made is covered under a high deductible health plan, and

"(B) contributions will not be accepted for any taxable year in excess of the amount determined under section 220(b)(2) for such taxable year.

"(2) The trustee is a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(3) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(4) No part of the trust assets will be invested in life insurance contracts.

"(5) The interest of an individual in the balance in the individual's account is nonforfeitable.

"(b) TAX TREATMENT OF ACCOUNTS.—

"(1) IN GENERAL.—A medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TERMINATIONS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to medical savings accounts, and any amount treated as distributed under such rules shall be treated as not used to pay qualified medical expenses.

"(3) FAILURE TO REMAIN IN HEALTH PLAN.—

"(A) IN GENERAL.—If, at any time during the 2-taxable year period beginning with the first taxable year in which an individual was an account beneficiary in a medical savings account, the account beneficiary becomes a participant in a health plan which has a lower individual (or aggregate) deductible limit than the lowest individual (or aggregate) limit permitted under a high deductible health plan, the account shall cease to be a medical savings account as of the first day of the taxable year in which the individual ceases to be so covered.

"(B) EXCEPTION.—This paragraph shall not apply to any account beneficiary who becomes a participant in a plan described in subparagraph (A) by reason of separation from employment.

"(C) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, subsection (c) shall be applied as if—

"(i) there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day), and

"(ii) no portion of such distribution were used to pay qualified medical expenses.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) AMOUNTS USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is used exclusively to pay qualified medical expenses of any account beneficiary (or any spouse or dependent of the beneficiary) shall not be includible in gross income.

"(B) TREATMENT AFTER DEATH OF ACCOUNT BENEFICIARY.—

"(i) TREATMENT IF BENEFICIARY IS SPOUSE.—If, after the death of the account beneficiary, the account beneficiary's interest is payable to (or for the benefit of) the beneficiary's spouse, the medical savings account shall be treated as if the spouse were the account beneficiary.

"(ii) TREATMENT IF DESIGNATED BENEFICIARY IS NOT SPOUSE.—In the case of an account beneficiary's interest in a medical savings account which is payable to (or for the benefit of) any person other than such beneficiary's spouse upon the death of such beneficiary—

"(I) such account shall cease to be a medical savings account as of the date of death, and

"(II) an amount equal to the fair market value of the assets in such account on such date shall be includible if such person is not the estate of such beneficiary, in such person's gross income for the taxable year which includes such date, or if such person is the estate of such beneficiary, in such beneficiary's gross income for last taxable year of such beneficiary.

"(2) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account beneficiary or of the spouse or dependents of such beneficiary shall be included in the gross income of such beneficiary to the extent such amount does not exceed the excess of—

"(i) the aggregate contributions to such account which were allowed as a deduction under section 162(l) or 213 or which were excluded under section 106(c), over

"(ii) the aggregate prior payments or distributions from such account which were includible in gross income under this paragraph.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all medical savings accounts of the account beneficiary shall be treated as 1 account,

"(ii) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(iii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (2) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount under subsection (a)(1)(B) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(4) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by chapter 1 on the account beneficiary for any taxable year in which there is a payment or distribution from a medical savings account of such beneficiary which is includible in gross income under paragraph (2) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account beneficiary attains age 59½.

"(5) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (2) shall not apply to any amount paid or distributed from a medical savings account to the account beneficiary to the extent the amount received is paid into a medical savings account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(6) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of determining the amount of the deduction under section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care.

"(7) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest shall, after such transfer, be treated as a medical savings account with respect to which the spouse is the account beneficiary.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means any expense for medical care (as defined in section 213(d)).

"(B) EXCEPTION FOR INSURANCE.—

"(i) IN GENERAL.—Such term shall not include any expense for insurance.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for—

"(I) coverage under a health plan during a period of continuation coverage described in section 4980B(f)(2)(B),

"(II) coverage under a qualified long-term care contract (as defined in section 7702B(b)), or

"(III) coverage under a health plan during a period in which the individual is receiving unemployment compensation under any Federal or State law.

"(2) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual for whose benefit the medical savings account is maintained.

"(e) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (a). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(f) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) EXCLUSION OF ACCOUNTS FROM ESTATE TAX.—

(1) IN GENERAL.—Section 2057, as added by section 7006, is amended—

(A) by inserting "or medical savings account (as defined in section 7705)" before "included", and

*(B) by inserting "**OR MEDICAL SAVINGS**" after "**CHOICE**" in the heading.*

(2) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 is amended by inserting "or medical savings" after "choice".

(c) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

*(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,*

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 7705(a)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 7705(a)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount which may be contributed to the account under section 7705(a)(1)(B) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 7705(c)(3) applies shall be treated as an amount not contributed.".

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions), as amended by section 7006(c), is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(5) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 7705(a)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 7705(b)(2)(A)(i) to such account.", and

(2) by striking "or" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) a medical savings account described in section 7705(a), or".

(e) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693(a)(2) (relating to failure to provide reports on individual retirement accounts or annuities), as amended by section 7006, is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following subparagraph:

"(C) section 7705(f) (relating to medical savings accounts).".

(f) EXCEPTION FROM CAPITALIZATION OF POLICY ACQUISITION EXPENSES.—Subparagraph (B) of section 848(e)(1) (defining specified insurance contract), as amended by 7006, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) any contract which is a medical savings account (as defined in section 7705).".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

Subchapter D—Other Provisions

SEC. 12241. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended by striking "30 percent" in paragraph (1) and inserting "55 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12242. ADJUSTMENT OF DEATH BENEFIT LIMITS FOR CERTAIN POLICIES.

(a) IN GENERAL.—Subparagraph (C)(i) of section 7702(e)(2) (relating to limited increases in death benefit permitted) is amended by striking "$5,000" and inserting "$7,000" and by striking "$25,000" and inserting "$30,000".

(b) INFLATION ADJUSTMENTS.—Section 7702(e) (relating to computational rules) is amended by adding at the end the following new paragraph:

"(3) INFLATION ADJUSTMENT TO DEATH BENEFIT LIMITS FOR YEARS AFTER 1996.—In the case of any taxable year beginning in a calendar year after 1996, each dollar amount contained in paragraph (2)(C)(i) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.".

(c) CONFORMING AMENDMENT.—Section 72(e)(10)(B) is amended by striking "$25,000" and inserting "$30,000 (adjusted at the same time and in the same manner as under section 7702(e)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into after December 31, 1995.

SEC. 12243. ORGANIZATIONS SUBJECT TO SECTION 833.

(a) IN GENERAL.—Section 833(c) (relating to organization to which section applies) is amended by adding at the end the following new paragraph:

"(4) TREATMENT AS EXISTING BLUE CROSS OR BLUE SHIELD ORGANIZATION.—

"(A) IN GENERAL.—Paragraph (2) shall be applied to an organization described in subparagraph (B) as if it were a Blue Cross or Blue Shield organization.

"(B) APPLICABLE ORGANIZATION.—An organization is described in this subparagraph if it—

"(i) is organized under, and governed by, State laws which are specifically and exclusively applicable to not-for-profit health insurance or health service type organizations, and

"(ii) is not a Blue Cross or Blue Shield organization or health maintenance organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after October 13, 1995.

Subtitle D—Estate Tax Reform

SEC. 12301. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

"SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

"(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) the sum of—

"(A) $1,500,000, plus

"(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000, but not over $5,000,000.

"(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if—

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3),

exceeds 50 percent of the adjusted gross estate, and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are the interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the sum of—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2001(b)(1)(B), plus

"(ii) the amount of such gifts otherwise excluded under section 2503(b),

to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

"(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term 'adjusted gross estate' means the value of the gross estate (determined without regard to this section)—

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (ii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includible in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

"(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any indebtedness on any qualified residence of the decedent the interest on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

"(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified family-owned business interest' means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a trade or business, if—

"(i) at least—

"(I) 50 percent of such entity is owned (directly or indirectly) by the decedent and members of the decedent's family,

"(II) 70 percent of such entity is so owned by members of 2 families, or

"(III) 90 percent of such entity is so owned by members of 3 families, and

"(ii) for purposes of subclause (II) or (III) of clause (i), at least 30 percent of such entity is so owned by the decedent and members of the decedent's family.

"(2) LIMITATION.—Such term shall not include—

"(A) any interest in a trade or business the principal place of business of which is not located in the United States,

"(B) any interest in an entity, if the stock or debt of such entity or a controlled group (as defined in section 267(f)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market (as defined by the Secretary) at any time within 3 years of the date of the decedent's death,

"(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year which includes the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

"(D) that portion of an interest in a trade or business that is attributable to—

"(i) cash or marketable securities, or both, in excess of the reasonably expected day-to-day working capital needs of such trade or business, and

"(ii) any other assets of the trade or business (other than assets used in the active conduct of a trade or business described in section 542(c)(2)), the income of which is described in section 543(a) or in subparagraph (B), (C), (D), or (E) of section 954(c)(1) (determined by substituting 'trade or business' for 'controlled foreign corporation)'.

"(3) RULES REGARDING OWNERSHIP.—

"(A) OWNERSHIP OF ENTITIES.—For purposes of paragraph (1)(B)—

"(i) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of shares of all classes of stock.

"(ii) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest or the profits interest in such partnership.

"(B) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent or any member of the decedent's family is treated as holding an interest in any other trade or business—

"(i) such ownership interest in the other trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

"(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest.

"(C) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in paragraph (1)(B) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A person shall be treated as a beneficiary of any trust only if such person has a present interest in such trust.

"(f) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

"(1) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the date of the decedent's death and before the date of the qualified heir's death—

"(A) the material participation requirements described in section 2032A(c)(6)(B) are not met with respect to the qualified family-owned business interest which was acquired (or passed) from the decedent,

"(B) the qualified heir disposes of any portion of a qualified family-owned business interest (other than by a disposition to a member of the qualified heir's family or through a qualified conservation contribution under section 170(h)),

"(C) the qualified heir loses United States citizenship (within the meaning of section 877A) or with respect to whom an event described in subparagraph (A) or (B) of section 877A(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

"(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

"(2) ADDITIONAL ESTATE TAX.—

"(A) IN GENERAL.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

"(i) the applicable percentage of the adjusted tax difference attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

"(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

"If the event described in paragraph (1) occurs in the following year of material participation:	***The applicable percentage is:***
1 through 6	*100*
7	*80*
8	*60*
9	*40*
10	*20.*

"(g) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

"(1) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir (including any interest held by such heir at a time described in subsection (f)(1)(C)) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or is held) in a qualified trust.

"(2) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(A) which is organized under, and governed by, the laws of the United States or a State, and

"(B) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(h) OTHER DEFINITIONS AND APPLICABLE RULES.—For purposes of this section—

"(1) QUALIFIED HEIR.—The term 'qualified heir'—

"(A) has the meaning given to such term by section 2032A(e)(1), and

"(B) includes any active employee of the trade or business to which the qualified family-owned business interest relates if such employee has

been employed by such trade or business for a period of at least 10 years before the date of the decedent's death.

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' has the meaning given to such term by section 2032A(e)(2).

"(3) APPLICABLE RULES.—Rules similar to the following rules shall apply:

"(A) Section 2032A(b)(4) (relating to decedents who are retired or disabled).

"(B) Section 2032A(b)(5) (relating to special rules for surviving spouses).

"(C) Section 2032A(c)(2)(D) (relating to partial dispositions).

"(D) Section 2032A(c)(3) (relating to only 1 additional tax imposed with respect to any 1 portion).

"(E) Section 2032A(c)(4) (relating to due date).

"(F) Section 2032A(c)(5) (relating to liability for tax; furnishing of bond).

"(G) Section 2032A(c)(7) (relating to no tax if use begins within 2 years; active management by eligible qualified heir treated as material participation).

"(H) Section 2032A(e)(10) (relating to community property).

"(I) Section 2032A(e)(14) (relating to treatment of replacement property acquired in section 1031 or 1033 transactions).

"(J) Section 2032A(f) (relating to statute of limitations).

"(K) Section 6166(b)(3) (relating to farmhouses and certain other structures taken into account).

"(L) Subparagraphs (B), (C), and (D) of section 6166(g)(1) (relating to acceleration of payment).

"(M) Section 6324B (relating to special lien for additional estate tax).".

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by inserting after the item relating to section 2033 the following new item:

"Sec. 2033A. Family-owned business exclusion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 12302. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) ESTATE TAX CREDIT.—

(1) IN GENERAL.—Section 2010 (relating to unified credit against estate tax) is amended—

(A) by striking "$192,800" in subsection (a) and inserting "$248,300", and

(B) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PHASE-IN OF CREDIT.—

"In the case of decedents dying in:	**Subsection (a) shall be applied by substituting for '$248,300' the following amount:**
1996	$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 6018 is amended—

(i) by striking "$600,000" in paragraph (1) and inserting "$750,000", and

(ii) by adding at the end the following new paragraph:

"(5) PHASE-IN OF FILING REQUIREMENT AMOUNT.—

"In the case of decedents dying in:	**Paragraph (1) shall be applied by substituting for '$750,000' the following amount:**
1996	$625,000
1997	650,000
1998	675,000
1999	700,000
2000	725,000

(B) Section 2001(c)(2) is amended to read as follows:

"(2) PHASEOUT OF GRADUATED RATES AND UNIFIED CREDIT.—

"(A) IN GENERAL.—The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative is to be computed) as exceeds $10,000,000 but does not exceed $22,150,000.

"(B) PHASE-IN OF END POINT OF PHASEOUT RANGE.—

"In the case of decedents dying in:	**Subparagraph (A) shall be applied by substituting for '$22,150,000' the following amount:**
1996	$21,225,000
1997	21,410,000
1998	21,595,000
1999	21,780,000
2000	21,965,000.".

(C) Paragraph (3) of section 2102(c) is amended—

(i) by striking "$192,800" in subparagraph (A) and inserting "$248,300", and

(ii) by adding at the end the following new subparagraph:

"(C) PHASE-IN OF CREDIT.—

"In the case of decedents dying in:	**Subparagraph (A) shall be applied by substituting for '$248,300' the following amount:**
1996	$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050.".

(b) UNIFIED GIFT TAX CREDIT.—Section 2505 (relating to unified credit against gift tax) is amended—

(1) by striking "$192,800" in subsection (a)(1) and inserting "$248,300", and

(2) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) PHASE-IN OF CREDIT.—

"In the case of gifts made in:	**Subsection (a)(1) shall be applied by substituting for '$248,300' the following amount:**
1996	$202,050
1997	211,300
1998	220,550
1999	229,800
2000	239,050

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

SEC. 12303. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (5), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the applicable percentage of the lesser of—

"(A) the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land, or

"(B) the excess (if any) of—

"(i) $5,000,000, over

"(ii) the adjusted value of the qualified family-owned business interests of the decedent determined under section 2033A.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means 50 percent reduced (but not below zero) by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right (as defined in paragraph (4)).

"(3) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(4) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

"(i) the date which is 2 years after the date of the decedent's death, or

"(ii) the date of the sale of such land subject to the qualified conservation easement),

shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such date.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 6420(c).

"(5) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(6) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (5) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (4)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located in or within 25 miles of an area which, on the date of the decedent's death, is—

"(I) a metropolitan area (as defined by the Office of Management and Budget), or

"(II) a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 25 miles of such a park or wilderness area is not under significant development pressure),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement is or has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

"(8) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2033A(e)(3).".

(b) CARRYOVER BASIS.—Section 1014(a) (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent.".

(c) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A (relating to alternative valuation method) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 12304. EXPANSION OF EXCEPTION FROM GENERATION-SKIPPING TRANSFER TAX FOR TRANSFERS TO INDIVIDUALS WITH DECEASED PARENTS.

(a) IN GENERAL.—Section 2651 (relating to generation assignment) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULE FOR PERSONS WITH A DECEASED PARENT.—

"(1) IN GENERAL.—For purposes of determining whether any transfer is a generation-skipping transfer, if—

"(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

"(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer from which such interest is established or derived is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

"(2) LIMITED APPLICATION OF SUBSECTION TO COLLATERAL HEIRS.—This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.".

(b) CONFORMING AMENDMENTS.—

(1) Section 2612(c) (defining direct skip) is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Section 2612(c)(2) (as so redesignated) is amended by striking "section 2651(e)(2)" and inserting "section 2651(f)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1994.

SEC. 12305. EXTENSION OF TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A TO LINEAL DESCENDANTS.

(a) GENERAL RULE.—Paragraph (7) of section 2032A(c) (relating to special rules for tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new subparagraph:

"(E) CERTAIN RENTS TREATED AS QUALIFIED USE.—For purposes of this subsection, a surviving spouse or lineal descendant of the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant rents such property to a member of the family of such spouse or descendant on a net cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.".

(b) CONFORMING AMENDMENT.—Section 2032A(b)(5)(A) is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to leases entered into after December 31, 1995.

Subtitle E—Extension of Expiring Provisions

CHAPTER 1—EXTENSIONS THROUGH FEBRUARY 28, 1997

SEC. 12401. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXTENSION.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "December 31, 1994" and inserting "February 28, 1997".

(b) CONFORMING AMENDMENTS.—Paragraph (2) of section 127(a) is amended—

(1) by inserting "($875 in calendar year 1997)" after "$5,250" the second and third place it appears, and

(2) by striking "$5,250" in the heading.

(c) SPECIAL RULE.—In the case of any taxable year beginning in 1997, only amounts paid before March 1, 1997, by the employer for educational assistance for the employee shall be taken into account in determining the amount excluded under section 127 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1994.

SEC. 12402. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(1) by striking "June 30, 1995" each place it appears and inserting "February 28, 1997", and

(2) by striking "July 1, 1995" each place it appears and inserting "March 1, 1997".

(b) BASE AMOUNT FOR START-UP COMPANIES.—Clause (i) of section 41(c)(3)(B) (relating to start-up companies) is amended to read as follows:

"(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The fixed-base percentage shall be determined under this subparagraph if—

"(I) the first taxable year in which a taxpayer had both gross receipts and qualified research expenses begins after December 31, 1983, or

"(II) there are fewer than 3 taxable years beginning after December 31, 1983, and before January 1, 1989, in which the taxpayer had both gross receipts and qualified research expenses.".

(c) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1995" and inserting "February 28, 1997".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1995.

SEC. 12403. EMPLOYER-PROVIDED GROUP LEGAL SERVICES.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended to read as follows:

"(e) APPLICATION OF SECTIONS.—This section and section 501(c)(20) shall not apply to any taxable year beginning before January 1, 1996, or after February 28, 1997."

(b) CONFORMING AMENDMENTS.—Subsection (a) of section 120 is amended by inserting "($12 in taxable years beginning in 1997)" after "$70".

(c) SPECIAL RULE.—In the case of any taxable year beginning in 1997, only amounts paid before March 1, 1997, by the employer for coverage for the employee, the employee's spouse, or the employee's dependents, under a qualified group legal services plan for periods before March 1, 1997, shall be taken into account in determining the amount excluded under section 120 of the Internal Revenue Code of 1986 with respect to such employee for such taxable year.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1995.

SEC. 12404. ORPHAN DRUG TAX CREDIT.

(a) RECATEGORIZED AS A BUSINESS CREDIT.—

(1) IN GENERAL.—Section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is transferred to subpart D of part IV of subchapter A of chapter 1, inserted after section 45B, and redesignated as section 45C.

(2) CONFORMING AMENDMENT.—Subsection (b) of section 38 (relating to general business credit) is amended by striking "plus" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", plus", and by adding at the end the following new paragraph:

"(12) the orphan drug credit determined under section 45C(a).".

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subpart B of such part IV is amended by striking the item relating to section 28.

(B) The table of sections for subpart D of such part IV is amended by adding at the end the following new item:

"Sec. 45C. Clinical testing expenses for certain drugs for rare diseases or conditions.".

(b) CREDIT TERMINATION.—Subsection (e) of section 45C, as redesignated by subsection (a)(1), is amended by striking "December 31, 1994" and inserting "February 28, 1997".

(c) NO PRE-1995 CARRYBACKS.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following new paragraph:

"(7) NO CARRYBACK OF SECTION 45C CREDIT BEFORE 1995.—No portion of the unused business credit for any taxable year which is attributable to the orphan drug credit determined under section 45C may be carried back to a taxable year beginning before January 1, 1995.".

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 45C(a), as redesignated by subsection (a)(1), is amended by striking "There shall be allowed as a credit against the tax imposed by this chapter for the taxable year" and inserting "For purposes of section 38, the credit determined under this section for the taxable year is".

(2) Section 45C(d), as so redesignated, is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4).

(3) Section 29(b)(6)(A) is amended by striking "sections 27 and 28" and inserting "section 27".

(4) Section 30(b)(3)(A) is amended by striking "sections 27, 28, and 29" and inserting "sections 27 and 29".

(5) Section 53(d)(1)(B) is amended—

(A) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)," in clause (iii), and

(B) by striking "or not allowed under section 28 solely by reason of the application of section 28(d)(2)(B)" in clause (iv)(II).

(6) Section 55(c)(2) is amended by striking "28(d)(2),".

(7) Section 280C(b) is amended—

(A) by striking "section 28(b)" in paragraph (1) and inserting "section 45C(b)",

(B) by striking "section 28" in paragraphs (1) and (2)(A) and inserting "section 45C(b)", and

(C) by striking "subsection (d)(2) thereof" in paragraphs (1) and (2)(A) and inserting "section 38(c)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

SEC. 12405. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subparagraph (D) of section 170(e)(5) (relating to special rule for contributions of stock for which market quotations are readily available) is amended by striking "December 31, 1994" and inserting "February 28, 1997".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 1994.

SEC. 12406. DELAY OF SCHEDULED INCREASE IN TAX ON FUEL USED IN COMMERCIAL AVIATION.

(a) IN GENERAL.—Sections 4092(b)(2), 6421(f)(2)(B), and 6427(l)(4)(B) are each amended by striking "September 30, 1995" and inserting "February 28, 1997".

(b) CONFORMING AMENDMENT.—Section 13245 of the Omnibus Budget Reconciliation Act of 1993 is hereby repealed.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect after September 30, 1995.

(2) CROSS REFERENCE.—

For refund of tax paid on commercial aviation fuel before the date of the enactment of this Act, see section 6427(l) of the Internal Revenue Code of 1986.

(d) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of commercial aviation fuel which is held by any person on March 1, 1997, there is hereby imposed a floor stocks tax equal to 4.3 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on March 1, 1997, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before September 30, 1997.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) COMMERCIAL AVIATION FUEL.—The term "commercial aviation fuel" means aviation fuel (as defined in section 4093 of such Code) which is held on March 1, 1997, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the Secretary's delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code (other than the rate imposed by section 4091(b)(2) of such Code) is allowable for aviation fuel so used.

(5) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on aviation fuel held on March 1, 1997, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4091.

CHAPTER 2—EXTENSIONS OF SUPERFUND AND OIL SPILL LIABILITY TAXES

SEC. 12411. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1998.".

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before October 1, 2002.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 12412. EXTENSION OF OIL SPILL LIABILITY TAX.

(a) IN GENERAL.—Section 4611(f)(1) (relating to application of oil spill liability trust fund financing rate) is amended by striking "after December 31, 1989, and before January 1, 1995" and inserting "after December 31, 1995, and before October 1, 2002".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1996.

CHAPTER 3—EXTENSIONS RELATING TO FUEL TAXES

SEC. 12421. ETHANOL BLENDER REFUNDS.

(a) IN GENERAL.—Paragraph (4) of section 6427(f) (relating to gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels) is amended by striking "1995" and inserting "1999".

(b) SPECIAL RULE.—With respect to refund claims which could have been filed under section 6427(f) of the Internal Revenue Code of 1986 during the period beginning on October 8, 1995, and ending on the date of the enactment of this Act, but for the expiration of such section after September 30, 1995, interest shall accrue on such claims from the date which is the later of—

(1) November 1, 1995, or

(2) 20 days after the claim could have been filed under such section as in effect on September 30, 1995.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12422. EXTENSION OF BINDING CONTRACT DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Subparagraph (A) of section 29(g)(1) (relating to extension of certain facilities) is amended by striking "January 1, 1997" and inserting "January 1, 1998" and by striking "January 1, 1996" and inserting "January 1, 1997".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 4—DIESEL DYEING PROVISIONS

SEC. 12431. MORATORIUM FOR EXCISE TAX ON DIESEL FUEL SOLD FOR USE OR USED IN DIESEL-POWERED MOTORBOATS.

(a) IN GENERAL.—Subparagraph (D) of section 4041(a)(1) (relating to the imposition of tax on diesel fuel and special motor fuels) is amended to read as follows:

"(D) DIESEL FUEL USED IN MOTORBOATS.—

"(i) MORATORIUM.—No tax shall be imposed by subsection (a) or (d)(1) on diesel fuel sold for use or used in a diesel-powered motorboat during the period after December 31, 1995, and before March 1, 1997.

"(ii) SPECIAL TERMINATION DATE.—In the case of any sale for use, or use, of fuel in a diesel-powered motorboat—

"(I) effective during the period after September 30, 1999, and before January 1, 2000, the rate of tax imposed by this paragraph is 24.3 cents per gallon, and

"(II) the termination of the tax under subsection (d) shall not occur before January 1, 2000.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after December 31, 1995.

CHAPTER 5—Treatment of Individuals Who Expatriate

SEC. 12441. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.

"(a) GENERAL RULES.—For purposes of this subtitle—

"(1) MARK TO MARKET.—Except as provided in subsection (f), all property of a covered expatriate to which this section applies shall be treated as sold on the expatriation date for its fair market value.

"(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

"(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale unless such gain is excluded from gross income under part III of subchapter B, and

"(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply (and section 1092 shall apply) to any such loss.

"(3) EXCLUSION FOR CERTAIN GAIN.—The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

"(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

"(A) IN GENERAL.—If an expatriate elects the application of this paragraph—

"(i) this section (other than this paragraph) shall not apply to the expatriate, but

"(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

"(B) LIMITATION ON AMOUNT OF ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFER TAXES.—The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value immediately before the time of the transfer or death (taking into account the rules of paragraph (2)).

"(C) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

"(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

"(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

"(iii) complies with such other requirements as the Secretary may prescribe.

"(D) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

"(b) ELECTION TO DEFER TAX.—

"(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property—

"(A) no amount shall be required to be included in gross income under subsection (a)(1) with respect to the gain from such property for the taxable year of the sale, but

"(B) the taxpayer's tax for the taxable year in which such property is disposed of shall be increased by the deferred tax amount with respect to the property.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part on the disposition.

"(2) DEFERRED TAX AMOUNT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'deferred tax amount' means, with respect to any property, an amount equal to the sum of—

"(i) the difference between the amount of tax paid for the taxable year described in paragraph (1)(A) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property, plus

"(ii) an amount of interest on the amount described in clause (i) determined for the period—

"(I) beginning on the 91st day after the expatriation date, and

"(II) ending on the due date for the taxable year described in paragraph (1)(B),

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

"(B) ALLOCATION OF LOSSES.—For purposes of subparagraph (A), any losses described in subsection (a)(2)(B) shall be allocated ratably among the gains described in subsection (a)(2)(A).

"(3) SECURITY.—

"(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

"(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

"(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

"(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

"(4) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

"(5) DISPOSITIONS.—For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

"(A) immediately before death if such property is held at such time, and

"(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (3) and the taxpayer does not correct such failure within the time specified by the Secretary.

"(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

"(c) COVERED EXPATRIATE.—For purposes of this section—

"(1) IN GENERAL.—The term 'covered expatriate' means an expatriate—

"(A) whose average annual net income tax (as defined in section 38(c)(1)) for the period of 5 taxable years ending before the expatriation date is greater than $100,000, or

"(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $100,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '1995' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.

"(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

"(A) the individual—

"(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

"(ii) has been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) for not more than 8 taxable years during the 15-taxable year period ending with the taxable year during which the expatriation date occurs, or

"(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

"(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

"(d) PROPERTY TO WHICH SECTION APPLIES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided by the Secretary, this section shall apply to—

"(A) any interest in property held by a covered expatriate on the expatriation date the gain from which would be includible in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

"(B) any other interest in a trust to which subsection (f) applies.

"(2) EXCEPTIONS.—This section shall not apply to the following property:

"(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding *corporation which does not, on the expatriation date, meet the requirements of section 897(c)(2).*

"(B) INTEREST IN CERTAIN ,RETIREMENT PLANS.—

"(i) IN GENERAL.—Any interest in a qualified retirement plan (as defined in section 4974(c)), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

"(ii) FOREIGN PENSION PLANS.—

"(I) IN GENERAL.—Under regulations prescribed by the Secretary, interests in foreign pension plans or similar retirement arrangements or programs.

"(II) LIMITATION.—The value of property which is treated as not sold by reason of this subparagraph shall not exceed $500,000.

"(e) DEFINITIONS.—For purposes of this section—

"(1) EXPATRIATE.—The term 'expatriate' means—

"(A) any United States citizen who relinquishes his citizenship, or

"(B) any long-term resident of the United States who—

"(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

"(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

"(2) EXPATRIATION DATE.—The term 'expatriation date' means—

"(A) the date an individual relinquishes United States citizenship, or

"(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

"(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

"(A) the date the individual renounces his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

"(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

"(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

"(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

"(4) LONG-TERM RESIDENT.—

"(A) IN GENERAL.—The term 'long-term resident' means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the expatriation date occurs. For purposes of the preceding sentence, an individual shall not be treated as a lawful permanent resident for any taxable year if such individual is treated as a resident of a foreign country for the taxable year under the provisions of a tax treaty between the United States and the foreign country and does not waive the benefits of such treaty applicable to residents of the foreign country.

"(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

"(ii) any taxable year prior to the taxable year referred to in clause (i).

"(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust—

"(A) the individual shall not be treated as having sold such interest,

"(B) such interest shall be treated as a separate share in the trust, and

"(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

"(ii) the separate trust shall be treated as having sold its assets immediately before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

"(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii).

"(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

"(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

"(i) paragraph (1) and subsection (a) shall not apply, and

"(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

"(i) the highest rate of tax imposed by section 1(e) for the taxable year in which the expatriation date occurs, multiplied by the amount of the distribution, or

"(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

"(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

"(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

"(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods.

"(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

"(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

"(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

"(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

"(E) TAX DEDUCTED AND WITHHELD.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

"(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

"(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

"(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

"(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

"(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

"(G) DEFINITIONS AND SPECIAL RULE.—For purposes of this paragraph—

"(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust—

"(I) which is organized under, and governed by, the laws of the United States or a State, and

"(II) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation.

"(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the expatriation date, is vested in the beneficiary.

"(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

"(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) OTHER DETERMINATIONS.—For purposes of this section—

"(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

"(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—If subsection (a) applies to property held by an individual for any taxable year and—

"(1) such property is includible in the gross estate of such individual solely by reason of section 2107, or

"(2) section 2501 applies to a transfer of such property by such individual solely by reason of section 2501(a)(3),

then there shall be allowed as a credit against the additional tax imposed by section 2101 or 2501, whichever is applicable, solely by reason of section 2107 or 2501(a)(3) an amount equal to the increase in the tax imposed by this chapter for such taxable year by reason of this section.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis to reflect gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed sale under subsection (a) of an interest in a corporation, partnership, trust, or estate is reduced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(i), and

"(2) which provide for the proper allocation of the exclusion under subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For income tax treatment of individuals who terminate United States citizenship, see section 7701(a)(47).".

(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.".

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).".

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes (within the meaning of section 877A(e)(3)) United States citizenship on or after February 6, 1995.".

(2) Section 2107(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expatriation tax, see section 877A(i).".

(3) Section 2501(a)(3) is amended by adding at the end the following new flush sentence:

"For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i).".

(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "This paragraph shall not apply to any long-term resident of the United States who is an expatriate (as defined in section 877A(e)(1)).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

"Sec. 877A. Tax responsibilities of expatriation.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs on or after February 6, 1995.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to amounts received from expatriates (as so defined) whose expatriation date (as so defined) occurs on and after February 6, 1995.

(3) SPECIAL RULES RELATING TO CERTAIN ACTS OCCURRING BEFORE FEBRUARY 6, 1995.—In the case of an individual who took an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a) (1)–(4)) before February 6, 1995, but whose expatriation date (as so defined) occurs after February 6, 1995—

(A) the amendment made by subsection (c) shall not apply,

(B) the amendment made by subsection (d)(1) shall not apply for any period prior to the expatriation date, and

(C) the other amendments made by this section shall apply as of the expatriation date.

(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

SEC. 12442. INFORMATION ON INDIVIDUALS EXPATRIATING.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039E the following new section:

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, any expatriate (within the meaning of section 877A(e)(1)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—

"(A) CITIZENS.—In the case of an expatriate described in section 877(e)(1)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person or court referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(1)(B), such statement shall be provided to the Secretary with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) the mailing address of such individual's principal foreign residence,

"(3) the foreign country in which such individual is residing,

"(4) the foreign country of which such individual is a citizen,

"(5) in the case of an individual having a net worth of at least the dollar amount applicable under section 877A(c)(1)(B), information detailing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, or

"(2) $1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),

"(2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the

Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877A(e)(3)) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

"(e) Exemption.—The Secretary may by regulations exempt any class of individuals from the requirements of this section if the Secretary determines that applying this section to such individuals is not necessary to carry out the purposes of this section.".

(b) Clerical Amendment.—The table of sections for such subpart A is amended by inserting after the item relating to section 6039E the following new item:

"Sec. 6039F. Information on individuals expatriating.".

(c) Effective Date.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of the enactment of this Act.

Subtitle F—Taxpayer Bill of Rights 2 Provisions

SEC. 12501. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) General Rule.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting "unreasonable" before "error" each place it appears in subparagraphs (A) and (B), and

(2) by striking "in performing a ministerial act" each place it appears and inserting "in performing a ministerial or managerial act".

(b) Clerical Amendment.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking "ASSESSMENTS" and inserting "ABATEMENT", and

(2) by inserting "UNREASONABLE" before "ERRORS".

(c) Effective Date.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 12502. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) In General.—Section 6404 is amended by adding at the end the following new subsection:

"(g) Review of Denial of Request for Abatement of Interest.—The Tax Court shall have jurisdiction over any action brought by a taxpayer who meets the requirements referred to in section 7430(c)(4)(A)(iii) to determine whether the Secretary's failure to abate interest under this section was an abuse of discretion if such action is brought within 6 months after the date of the Secretary's final determination not to abate such interest.".

(b) Effective Date.—The amendment made by this section shall apply to requests for abatement after the date of the enactment of this Act.

SEC. 12503. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) General Rule.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 12504. MODIFICATIONS TO CERTAIN LEVY EXEMPTION AMOUNTS.

(a) Fuel, Etc.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(1) by striking "If the taxpayer is the head of a family, so" and inserting "So",

(2) by striking "his household" and inserting "the taxpayer's household", and

(3) by striking "$1,650 ($1,550 in the case of levies issued during 1989)" and inserting "$2,500".

(b) Books, Etc.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,250".

(c) Inflation Adjustment.—Section 6334 (relating to property exempt from levy) is amended by adding at the end the following new subsection:

"(f) Inflation Adjustment.—

"(1) In general.—In the case of any calendar year beginning after 1996, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

"(2) Rounding.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.".

(d) Effective Date.—The amendments made by this section shall take effect with respect to levies issued after December 31, 1995.

SEC. 12505. OFFERS-IN-COMPROMISE.

(a) Review Requirements.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 12506. AWARD OF LITIGATION COSTS PERMITTED IN DECLARATORY JUDGMENT PROCEEDINGS.

(a) In General.—Subsection (b) of section 7430 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(b) Effective Date.—The amendments made by this section shall apply with respect to proceedings commenced after the date of the enactment of this Act.

SEC. 12507. COURT DISCRETION TO REDUCE AWARD FOR LITIGATION COSTS FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES.

(a) General Rule.—Paragraph (1) of section 7433(d) (relating to civil damages for certain unauthorized collection actions) is amended to read as follows:

"(1) Award for damages may be reduced if administrative remedies not exhausted.—The amount of damages awarded under subsection (b) may be reduced if the court determines that the plaintiff has not exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.".

(b) Effective Date.—The amendment made by this section shall apply with respect to proceedings commenced after the date of the enactment of this Act.

SEC. 12508. ENROLLED AGENTS INCLUDED AS THIRD-PARTY RECORDKEEPERS.

(a) In General.—Paragraph (3) of section 7609(a) (relating to third-party recordkeeper defined) is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting "; and", and by adding at the end the following new subparagraph:

"(I) any enrolled agent.".

(b) Effective Date.—The amendments made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 12509. SAFEGUARDS RELATING TO DESIGNATED SUMMONSES.

(a) Limitation on Persons to Whom Designated Summons May Be Issued.—Paragraph (1) of section 6503(k), as added by section 11311(a) of the Omnibus Budget Reconciliation Act of 1990, is amended by striking "with respect to any return of tax by a corporation" and inserting "to a corporation (or to any other person to whom the corporation has transferred records) with respect to any return of tax by such corporation for a taxable year (or other period) for which such corporation is being examined under the coordinated examination program (or any successor program) of the Internal Revenue Service".

(b) Effective Date.—The amendment made by this section shall apply to summonses issued after the date of the enactment of this Act.

SEC. 12510. ANNUAL REMINDERS TO TAXPAYERS WITH OUTSTANDING DELINQUENT ACCOUNTS.

(a) In General.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.

"Not less often than annually, the Secretary shall send a written notice to each taxpayer who has a tax delinquent account of the amount of the tax delinquency as of the date of the notice.".

(b) Clerical Amendment.—The table of sections for chapter 77 is amended by adding at the end the following new item:

"Sec. 7524. Annual notice of tax delinquency.".

(c) Effective Date.—The amendments made by this section shall apply to calendar years after 1995.

Subtitle G—Casualty and Involuntary Conversion Provisions

SEC. 12601. BASIS ADJUSTMENT TO PROPERTY HELD BY CORPORATION WHERE STOCK IN CORPORATION IS REPLACEMENT PROPERTY UNDER INVOLUNTARY CONVERSION RULES.

(a) In General.—Subsection (b) of section 1033 is amended to read as follows:

"(b) Basis of Property Acquired Through Involuntary Conversion.—

"(1) Conversions described in subsection (a)(1).—If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

"(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

"(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

"(2) Conversions described in subsection (a)(2).—In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of

more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

"(3) PROPERTY HELD BY CORPORATION THE STOCK OF WHICH IS REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

"(B) LIMITATION.—Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

"(C) ALLOCATION OF BASIS REDUCTION.—The decrease required under subparagraph (A) shall be allocated—

"(i) first to property which is similar or related in service or use to the converted property,

"(ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and

"(iii) then to other property.

"(D) SPECIAL RULES.—

"(i) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

"(ii) ALLOCATION OF REDUCTION AMONG PROPERTIES.—If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated among such property in proportion to the adjusted bases of such property (as so determined).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 12602. EXPANSION OF REQUIREMENT THAT INVOLUNTARILY CONVERTED PROPERTY BE REPLACED WITH PROPERTY ACQUIRED FROM AN UNRELATED PERSON.

(a) IN GENERAL.—Subsection (i) of section 1033 is amended to read as follows:

"(i) REPLACEMENT PROPERTY MUST BE ACQUIRED FROM UNRELATED PERSON IN CERTAIN CASES.—

"(1) IN GENERAL.—If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

"(2) TAXPAYERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) a C corporation,

"(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

"(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds $100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(3) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to involuntary conversions occurring after September 13, 1995.

SEC. 12603. SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.

(a) IN GENERAL.—Section 451(d) (relating to special rule for crop insurance proceeds and disaster payments) is amended to read as follows:

"(d) SPECIAL RULE FOR CROP INSURANCE PROCEEDS AND DISASTER PAYMENTS.—

"(1) GENERAL RULE.—In the case of any payment described in paragraph (2), a taxpayer reporting on the cash receipts and disbursements method of accounting—

"(A) may elect to treat any such payment received in the taxable year of destruction or damage of crops as having been received in the following taxable year if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in a following taxable year, or

"(B) may elect to treat any such payment received in a taxable year following the taxable year of the destruction or damage of crops as having been received in the taxable year of destruction or damage, if the taxpayer establishes that, under the taxpayer's practice, income from such crops involved would have been reported in the taxable year of destruction or damage.

"(2) PAYMENTS DESCRIBED.—For purposes of this subsection, a payment is described in this paragraph if such payment—

"(A) is insurance proceeds received on account of destruction or damage to crops, or

"(B) is disaster assistance received under any Federal law as a result of—

"(i) destruction or damage to crops caused by drought, flood, or other natural disaster, or

"(ii) inability to plant crops because of such a disaster.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to payments received after December 31, 1992, as a result of destruction or damage occurring after such date.

SEC. 12604. APPLICATION OF INVOLUNTARY EXCLUSION RULES TO PRESIDENTIALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 1033(h) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) TRADE OR BUSINESS AND INVESTMENT PROPERTY.—If a taxpayer's property held for productive use in a trade or business or for investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in use to the property so converted.".

(b) CONFORMING AMENDMENTS.—Section 1033(h) is amended—

(1) by striking "residence" in paragraph (3) (as redesignated by subsection (a)) and inserting "property",

(2) by striking "Principal Residences" in the heading and inserting "Property", and

(3) by striking "(1) IN GENERAL.—" and inserting "(1) PRINCIPAL RESIDENCES.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared after December 31, 1994, in taxable years ending after such date.

Subtitle H—Exempt Organizations and Charitable Reforms

SEC. 12701. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1),

"(B) is composed solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization or, if later, beginning after the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is organized and controlled by its members but is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisers, following reasonable notice, if members holding a majority of interest in the account managed by such adviser vote to remove such adviser,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends (and such private foundation shall take into account its allocable share of the deductions referred to in section 4940(c)(3) of the organization).

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 4945(d) is amended by adding at the end the following new flush sentence:

"Paragraph (4)(B) shall not apply to a grant to an organization described in section 501(n)."

(2) Section 4942(g)(1)(A) is amended by inserting "or an organization described in section 501(n)" after "subsection (j)(3))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 12702. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 (relating to unrelated trade or business income) is amended by adding at the end the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified sponsorship payment' means any payment made by

any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than the use or acknowledgement of the name or logo (or product lines) of such person's trade or business in connection with the activities of the organization that receives such payment. Such a use or acknowledgement does not include advertising such person's products or services (including messages containing qualitative or comparative language, price information or other indications of savings or value, an endorsement, or an inducement to purchase, sell, or use such products or services).

"(B) LIMITATIONS.—

"(i) CONTINGENT PAYMENTS.—The term 'qualified sponsorship payment' does not include any payment if the amount of such payment is contingent upon the level of attendance at one or more events, broadcast ratings, or other factors indicating the degree of public exposure to one or more events.

"(ii) ACKNOWLEDGEMENTS OR ADVERTISING IN PERIODICALS.—The term 'qualified sponsorship payment' does not include any payment which entitles the payor to an acknowledgement or advertising in regularly scheduled and printed material that is not related to and primarily distributed in connection with a specific event conducted by the payee organization.

"(3) ALLOCATION OF PORTIONS OF SINGLE PAYMENT.—For purposes of this subsection, to the extent that a portion of a payment would (if made as a separate payment) be a qualified sponsorship payment, such portion of such payment and the other portion of such payment shall be treated as separate payments.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments solicited or received after December 31, 1995.

SEC. 12703. TREATMENT OF DUES PAID TO AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.

(a) GENERAL RULE.—Section 512 (defining unrelated business taxable income) is amended by adding at the end the following new subsection:

"(d) TREATMENT OF DUES OF AGRICULTURAL OR HORTICULTURAL ORGANIZATIONS.—

"(1) IN GENERAL.—If—

"(A) an agricultural or horticultural organization described in section 501(c)(5) requires annual dues to be paid in order to be a member of such organization, and

"(B) the amount of such required annual dues does not exceed $100,

in no event shall any portion of such dues be treated as derived by such organization from an unrelated trade or business by reason of any benefits or privileges to which members of such organization are entitled.

"(2) INDEXATION OF $100 AMOUNT.—In the case of any taxable year beginning in a calendar year after 1995, the $100 amount in paragraph (1) shall be increased by an amount equal to—

"(A) $100, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof.

"(3) DUES.—For purposes of this subsection, the term 'dues' means any payment required to be made in order to be recognized by the organization as a member of the organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12704. REPEAL OF CREDIT FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—Section 13311 of the Revenue Reconciliation Act of 1993 (relating to credit for contributions to certain community development corporations) is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act (other than contributions made pursuant to a legally enforceable agreement which is effect on the date of the enactment of this Act).

SEC. 12705. CLARIFICATION OF TREATMENT OF QUALIFIED FOOTBALL COACHES PLANS.

(a) IN GENERAL.—Subparagraph (F) of section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37)(F)) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii) For purposes of the Internal Revenue Code of 1986—

"(I) clause (i) shall apply, and

"(II) a qualified football coaches plan shall be treated as a multiemployer collectively bargained plan.".

(b) IMPOSITION OF EXCISE TAX.—

(1) IN GENERAL.—For purposes of reinstatement as a qualified football coaches plan under the Internal Revenue Code of 1986, there is hereby imposed on the cash or deferred arrangement maintained by an organization described in section 501(c)(6) of such Code, an excise tax equal to $25,000, to be paid in the first plan year of the arrangement beginning after the date of the enactment of this Act.

(2) APPLICATION OF CERTAIN RULES.—For purposes of the Internal Revenue Code of 1986, the tax imposed under paragraph (1) shall be treated as a tax imposed under subtitle D of such Code.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 22, 1987.

Subtitle I—Tax Reform and Other Provisions

CHAPTER 1—PROVISIONS RELATING TO BUSINESSES

SEC. 12801. TAX TREATMENT OF CERTAIN EXTRAORDINARY DIVIDENDS.

(a) TREATMENT OF EXTRAORDINARY DIVIDENDS IN EXCESS OF BASIS.—Paragraph (2) of section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(2) AMOUNTS IN EXCESS OF BASIS.—If the nontaxed portion of such dividends exceeds such basis, such excess shall be treated as gain from the sale or exchange of such stock for the taxable year in which the extraordinary dividend is received.".

(b) TREATMENT OF REDEMPTIONS WHERE OPTIONS INVOLVED.—Paragraph (1) of section 1059(e) (relating to treatment of partial liquidations and non-pro rata redemptions) is amended to read as follows:

"(1) TREATMENT OF PARTIAL LIQUIDATIONS AND CERTAIN REDEMPTIONS.—Except as otherwise provided in regulations—

"(A) REDEMPTIONS.—In the case of any redemption of stock—

"(i) which is part of a partial liquidation (within the meaning of section 302(e)) of the redeeming corporation,

"(ii) which is not pro rata as to all shareholders, or

"(iii) which would not have been treated (in whole or in part) as a dividend if any options had not been taken into account under section 318(a)(4),

any amount treated as a dividend with respect to such redemption shall be treated as an extraordinary dividend to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock. In the case of a redemption described in clause (iii), only the basis in the stock redeemed shall be taken into account under subsection (a).

"(B) REORGANIZATIONS, ETC.—An exchange described in section 356(a)(1) which is treated as a dividend under section 356(a)(2) shall be treated as a redemption of stock for purposes of applying subparagraph (A).".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after May 3, 1995.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any distribution made pursuant to the terms of a written binding contract in effect on May 3, 1995, and at all times thereafter before such distribution.

(3) CERTAIN DIVIDENDS NOT PURSUANT TO CERTAIN REDEMPTIONS.—In determining whether the amendment made by subsection (a) applies to any extraordinary dividend other than a dividend treated as an extraordinary dividend under section 1059(e)(1) of the Internal Revenue Code of 1986 (as amended by this Act), paragraphs (1) and (2) shall be applied by substituting "September 13, 1995" for "May 3, 1995".

SEC. 12802. REGISTRATION OF CONFIDENTIAL CORPORATE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN CONFIDENTIAL ARRANGEMENTS TREATED AS TAX SHELTERS.—

"(1) IN GENERAL.—For purposes of this section, the term 'tax shelter' includes any entity, plan, arrangement, or transaction—

"(A) a significant purpose of the structure of which is the avoidance or evasion of Federal income tax for a participant which is a corporation,

"(B) which is offered to any potential participant under conditions of confidentiality, and

"(C) for which the tax shelter promoters may receive fees in excess of $100,000 in the aggregate.

"(2) CONDITIONS OF CONFIDENTIALITY.—For purposes of paragraph (1)(B), an offer is under conditions of confidentiality if—

"(A) the potential participant to whom the offer is made (or any other person acting on behalf of such participant) has an understanding or agreement with or for the benefit of any promoter of the tax shelter that such participant (or other person) will limit disclosure of the tax shelter or any significant tax features of the tax shelter, or

"(B) any promoter of the tax shelter—

"(i) claims, knows, or has reason to know,

"(ii) knows or has reason to know that any other person (other than the potential participant) claims, or

"(iii) causes another person to claim,

that the tax shelter (or any aspect thereof) is proprietary to any person other than the potential participant or is otherwise protected from disclosure to or use by others.

For purposes of this subsection, the term 'promoter' means any person or any related person (within the meaning of section 267 or 707) who participates in the organization, management, or sale of the tax shelter.

"(3) PERSONS OTHER THAN PROMOTER REQUIRED TO REGISTER IN CERTAIN CASES.—

"(A) IN GENERAL.—If—

"(i) the requirements of subsection (a) are not met with respect to any tax shelter (as defined in paragraph (1)) by any tax shelter promoter, and

"(ii) no tax shelter promoter is a United States person,

then each United States person who discussed participation in such shelter shall register such shelter under subsection (a).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a United States person who discussed participation in a tax shelter if—

"(i) such person notified the promoter in writing (not later than the close of the seventh day after the day on which such discussions began) that such person would not participate in such shelter, and

"(ii) such person does not participate in such shelter.

"(4) OFFER TO PARTICIPATE TREATED AS OFFER FOR SALE.—For purposes of subsections (a) and (b), an offer to participate in a tax shelter (as defined in paragraph (1)) shall be treated as an offer for sale.".

(b) PENALTY.—Subsection (a) of section 6707 (relating to failure to furnish information regarding tax shelters) is amended by adding at the end the following new paragraph:

"(3) CONFIDENTIAL ARRANGEMENTS.—

"(A) IN GENERAL.—In the case of a tax shelter (as defined in section 6111(d)), the penalty imposed under paragraph (1) shall be an amount equal to the greater of—

"(i) 50 percent of the fees paid to any promoter of the tax shelter with respect to offerings made before the date such shelter is registered under section 6111, or

"(ii) $10,000.

Clause (i) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in paragraph (1).

"(B) SPECIAL RULE FOR PARTICIPANTS REQUIRED TO REGISTER SHELTER.—In the case of a person required to register such a tax shelter by reason of section 6111(d)(3)—

"(i) such person shall be required to pay the penalty under paragraph (1) only if such person actually participated in such shelter,

"(ii) the amount of such penalty shall be determined by taking into account under subparagraph (A)(i) only the fees paid by such person, and

"(iii) such penalty shall be in addition to the penalty imposed on any other person for failing to register such shelter.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6707(a) is amended by striking "The penalty" and inserting "Except as provided in paragraph (3), the penalty".

(2) Subparagraph (A) of section 6707(a)(1) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3), as the case may be".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any tax shelter (as defined in section 6111(d) of the Internal Revenue Code of 1986, as amended by this section) interests in which are offered to potential participants after the date of the enactment of this Act.

(2) DUE DATE FOR REGISTRATION.—The due date for registering any tax shelter required to be registered by reason of the amendments made by this section shall be not earlier than the close of a reasonable period after the Secretary of the Treasury prescribes guidance with respect to meeting such requirements.

SEC. 12803. DENIAL OF DEDUCTION FOR INTEREST ON LOANS WITH RESPECT TO COMPANY-OWNED INSURANCE.

(a) IN GENERAL.—Paragraph (4) of section 264(a) is amended—

(1) by inserting ", or any endowment or annuity contracts owned by the taxpayer covering any individual," after "the life of any individual", and

(2) by striking all that follows "carried on by the taxpayer" and inserting a period.

(b) EXCEPTION FOR CONTRACTS RELATING TO KEY PERSONS; PERMISSIBLE INTEREST RATES.—Section 264 is amended—

(1) by striking "Any" in subsection (a)(4) and inserting "Except as provided in subsection (d), any", and

(2) by adding at the end the following new subsection:

"(d) SPECIAL RULES FOR APPLICATION OF SUBSECTION (a)(4).—

"(1) EXCEPTION FOR KEY PERSONS.—Subsection (a)(4) shall not apply to any interest paid or accrued on any indebtedness with respect to policies or contracts covering an individual who is a key person to the extent that the aggregate amount of such indebtedness with respect to policies and contracts covering such individual does not exceed $50,000.

"(2) INTEREST RATE CAP ON KEY PERSONS AND PRE-1986 CONTRACTS.—No deduction shall be allowed by reason of paragraph (1) or the last sentence of subsection (a) with respect to interest paid or accrued for any month to the extent the amount of such interest exceeds the amount which would have been determined if the rate of interest for such month were the rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

"(3) KEY PERSON.—For purposes of paragraph (1), the term 'key person' means an officer or 20-percent owner, except that the number of individuals who may be treated as key persons with respect to any taxpayer shall not exceed the greater of—

"(A) 5 individuals, or

"(B) the lesser of 5 percent of the total officers and employees of the taxpayer or 25 individuals.

"(4) 20-PERCENT OWNER.—For purposes of this subsection, the term '20-percent owner' means—

"(A) if the taxpayer is a corporation, any person who owns directly 20 percent or more of the outstanding stock of the corporation or stock possessing 20 percent or more of the total combined voting power of all stock of the corporation, or

"(B) if the taxpayer is not a corporation, any person who owns 20 percent or more of the capital or profits interest in the employer.

"(5) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(A) and applying the $50,000 limitation in paragraph (1)—

"(i) all members of a controlled group shall be treated as 1 taxpayer, and

"(ii) such limitation shall be allocated among the members of such group in such manner as the Secretary may prescribe.

"(B) CONTROLLED GROUP.—For purposes of this paragraph, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as members of a controlled group.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1995.

(2) TRANSITION RULE FOR EXISTING INDEBTEDNESS.—

(A) IN GENERAL.—In the case of indebtedness incurred before January 1, 1996, the amendments made by this section shall not apply to qualified interest paid or accrued on such indebtedness after October 13, 1995, and before January 1, 2001.

(B) QUALIFIED INTEREST.—For purposes of subparagraph (A), the qualified interest with respect to any indebtedness for any month is the amount of interest which would be paid or accrued for such month on such indebtedness if the lesser of the following rates of interest were used for such month:

(i) The rate of interest specified under the terms of the indebtedness as in effect on October 13, 1995 (and without regard to modification of such terms after such date).

(ii) The applicable percentage rate of interest described as Moody's Corporate Bond Yield Average-Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto, for such month.

(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (B), the applicable percentage is as follows:

"For calendar year:	The percentage is:
1995 or 1996	100 percent
1997	95 percent
1998	90 percent
1999	85 percent
2000	80 percent."

(3) SPECIAL RULE FOR GRANDFATHERED CONTRACTS.—This section shall not apply to any contract purchased on or before June 20, 1986, except that—

(A) paragraph (2) shall apply to interest on indebtedness incurred in connection with such contract which is paid or accrued after October 13, 1995, and before January 1, 1996, and

(B) section 264(d)(2) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to such interest paid or accrued after December 31, 1995.

(d) SPREAD OF INCOME INCLUSION ON SURRENDER, ETC. OF CONTRACTS.—

(1) IN GENERAL.—If any amount is received under any life insurance policy or endowment or annuity contract described in paragraph (4) of section 264(a) of the Internal Revenue Code of 1986—

(A) on the complete surrender, redemption, or maturity of such policy or contract during calendar year 1996, 1997, 1998, 1999, 2000, or 2001, or

(B) in full discharge during any such calendar year of the obligation under the policy or contract which is in the nature of a refund of the consideration paid for the policy or contract,

then (in lieu of any other inclusion in gross income) such amount shall be includible in gross income ratably over the 4-taxable year period beginning with the taxable year such amount would (but for this paragraph) be includible. The preceding sentence shall only apply to the extent the amount is includible in gross income for the taxable year in which the event described in subparagraph (A) or (B) occurs.

(2) SPECIAL RULES FOR APPLYING SECTION 264.—A contract shall not be treated as failing—

(A) to meet the requirement of section 264(c)(1) of the Internal Revenue Code of 1986, or

(B) to be treated as a single premium contract under section 264(b)(1) of such Code,

solely by reason of an occurrence described in subparagraph (A) or (B) of paragraph (1) of this subsection or solely by reason of no additional premiums being received under the contract by reason of a lapse occurring after October 13, 1995.

(3) SPECIAL RULE FOR DEFERRED ACQUISITION COSTS.—In the case of the occurrence of any event described in subparagraph (A) or (B) of paragraph (1) of this subsection with respect to any policy or contract—

(A) section 848 of the Internal Revenue Code of 1986 shall not apply to the unamortized balance (if any) of the specified policy acquisition expenses attributable to such policy or contract immediately before the insurance company's taxable year in which such event occurs, and

(B) there shall be allowed as a deduction to such company for such taxable year under chapter 1 of such Code an amount equal to such unamortized balance.

SEC. 12804. TERMINATION OF SUSPENSE ACCOUNTS FOR FAMILY CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) IN GENERAL.—Subsection (i) of section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end the following new paragraph:

"(7) TERMINATION.—

"(A) IN GENERAL.—No suspense account may be established under this subsection by any corporation required by this section to change its method of accounting for any taxable year ending after September 13, 1995.

"(B) 20-YEAR PHASEOUT OF EXISTING SUSPENSE ACCOUNTS.—Each suspense account under this *subsection shall be reduced (but not below zero) for each of the first 20 taxable years beginning after September 13, 1995, by an amount equal to the applicable portion of such account. Any reduction in a suspense account under this paragraph shall be included in gross income for the taxable year of the reduction. The amount of the reduction required under this paragraph for any taxable year shall be reduced (but not below zero) by the amount of any reduction required for such taxable year under any other provision of this subsection.*

"(C) APPLICABLE PORTION.—For purposes of subparagraph (B), the term 'applicable portion' means, for any taxable year, the amount which would ratably reduce the amount in the account (after taking into account prior reductions) to zero over the period consisting of such taxable year and the remaining taxable years in such first 20 taxable years.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after September 13, 1995.

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) IN GENERAL.—Section 936 is amended by adding at the end the following new subsection:

"(j) TERMINATION.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this section shall not apply to any taxable year beginning after December 31, 1995.

"(2) TRANSITION RULES FOR ACTIVE BUSINESS INCOME CREDIT.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to a possession, the credit determined under subsection (a)(1)(A) for that possession shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2002.

"(B) PHASEDOWN OF REDUCED CREDIT.—

"(i) IN GENERAL.—In the case of an existing credit claimant to which subsection (a)(4)(B) applies, the applicable percentage under clause (ii) thereof shall be reduced by—

"(I) 10 percentage points for taxable years beginning in 1999,

"(II) 20 percentage points for taxable years beginning in 2000, and

"(III) 30 percentage points for taxable years beginning in 2001.

"(ii) REDUCTION NOT TAKEN INTO ACCOUNT FOR LOCAL TAX DEDUCTION.—The reduction under clause (i) shall not be taken into account for purposes of the last sentence of subsection (a)(4)(B)(i).

"(iii) ELECTION IRREVOCABLE AFTER 1997.—An election under subsection (a)(4)(B)(iii) which is in effect for the taxpayer's last taxable year beginning before 1997 may not be revoked unless it is revoked for the taxpayer's first taxable year beginning in 1997 and all subsequent taxable years.

"(3) RESTRICTIONS ON QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to a possession, the credit determined under subsection (a)(1)(B) for that possession shall be allowed for taxable years beginning after December 31, 1995, and before January 1, 2001, except that only qualified possession source investment income derived from a qualifying asset may be taken into account in computing the amount of such credit.

"(B) QUALIFYING ASSET.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualifying asset' means—

"(I) an asset held by the possession corporation on October 13, 1995, or

"(II) an asset which was purchased from the proceeds of an asset described in subclause (I) or this subclause.

"(ii) RESTRICTION ON REINVESTMENT.—An asset shall not be treated as a qualifying asset under clause (i) with respect to income derived from such asset for periods after the date on which the existing credit claimant has held such asset (and all prior assets the proceeds of which have been rolled into such asset) for the shortest period which results in the maximum reduction of possession taxes under the laws of the possession in effect on October 13, 1995.

"(4) SPECIAL RULES FOR CERTAIN POSSESSIONS.—

"(A) IN GENERAL.—In the case of an existing credit claimant with respect to an applicable possession, this section (other than the preceding paragraphs of this subsection) shall apply to taxable years beginning after December 31, 1995, and before January 1, 2006.

"(B) APPLICABLE POSSESSION.—For purposes of this paragraph, the term 'applicable possession' means Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(5) EXISTING CREDIT CLAIMANT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'existing credit claimant' means, with respect to any possession, a corporation—

"(i) which was actively conducting a trade or business in that possession on October 13, 1995, and

"(ii) with respect to which an election under this section was in effect for the corporation's taxable year which includes October 13, 1995.

"(B) NEW LINES OF BUSINESS PROHIBITED.—If, after October 13, 1995, a corporation which would (but for this subparagraph) be an existing credit claimant with respect to a possession adds a substantial new line of business with respect to a trade or business conducted in that possession, such corporation shall cease to be treated as an existing credit claimant with respect to that possession as of the close of the taxable year ending before the date of such addition.

"(C) BINDING CONTRACT EXCEPTION.—If, on October 13, 1995, and at all times thereafter, there is in effect with respect to a corporation a binding contract for the acquisition of assets to be used in, or for the sale of assets to be produced from, a trade or business within a possession, the corporation shall be treated for purposes of this paragraph as actively conducting such trade or business on October 13, 1995. The preceding sentence shall not apply if such trade or business is not actively conducted before January 1, 1996.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12806. DEPRECIATION UNDER INCOME FORECAST METHOD.

(a) GENERAL RULE.—Section 167 (relating to depreciation) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) DEPRECIATION UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method or any similar method—

"(A) in determining the amount of the depreciation deduction under such method, the estimated income from the property shall include all income earned in connection with the property before the close of the 10th taxable year following the taxable year in which the property was placed in service,

"(B) the adjusted basis of the property shall only include amounts with respect to which the requirements of section 461(h) are satisfied,

"(C) the depreciation deduction under such method for the 10th taxable year beginning after the taxable year in which the property was placed in service shall be equal to the adjusted basis of such property as of the beginning of such 10th taxable year, and

"(D) such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

"(i) the actual income from such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the adjusted overpayment rate (as defined in section 460(b)(7)), compounded daily, on the overpayment or underpayment determined under subparagraph (B).

For purposes of the preceding sentence, any cost incurred after the property is placed in service (which is not treated as a separate property under paragraph (5)) shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such cost is incurred) such cost to its value as of the date the property is placed in service. The taxpayer may elect with respect to any property to have the preceding sentence not apply to such property.

"(3) EXCEPTION FROM LOOK-BACK METHOD.—Paragraph (1)(D) shall not apply with respect to any property which, when placed in service by the taxpayer, had a basis of $100,000 or less.

"(4) RECOMPUTATION YEAR.—For purposes of this subsection, except as provided in regulations, the term 'recomputation year' means, with respect to any property, the third and the 10th taxable years beginning after the taxable year in which the property was placed in service, unless the actual income from the property for the period before the close of such third or 10th taxable year is within 10 percent of the estimated income from the property for such period which was taken into account under paragraph (1)(A).

"(5) SPECIAL RULES.—

"(A) CERTAIN COSTS TREATED AS SEPARATE PROPERTY.—For purposes of this subsection, the following costs shall be treated as separate properties:

"(i) Any costs incurred with respect to any property after the 10th taxable year beginning after the taxable year in which the property was placed in service.

"(ii) Any costs incurred after the property is placed in service and before the close of such 10th taxable year if such costs are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

"(B) SYNDICATION INCOME FROM TELEVISION SERIES.—In the case of property which is an episode in a television series, income from syndicating such series shall not be required to be taken into account under this subsection before the earlier of—

"(i) the 4th taxable year beginning after the date the first episode in such series is placed in service, or

"(ii) the earliest taxable year in which the taxpayer has an arrangement relating to the future syndication of such series.

"(C) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(D) DETERMINATIONS.—For purposes of this subsection, determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(E) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to property placed in service after September 13, 1995.

(2) BINDING CONTRACTS.—The amendment made by subsection (a) shall not apply to any property produced or acquired by the taxpayer pursuant to a written contract which was binding on September 13, 1995, and at all times thereafter before such production or acquisition.

SEC. 12807. REPEAL OF EXCLUSION FOR INTEREST ON LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 133 (relating to interest on certain loans used to acquire employer securities) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 291(e)(1) is amended by striking clause (iv) and by redesignating clause (v) as clause (iv).

(2) Section 812 is amended by striking subsection (g).

(3) Paragraph (5) of section 852(b) is amended by striking subparagraph (C).

(4) Paragraph (2) of section 4978(b) is amended by striking subparagraph (A) and all that follows and inserting the following:

"(A) first from qualified securities to which section 1042 applied acquired during the 3-year period ending on the date of the disposition, beginning with the securities first so acquired, and

"(B) then from any other employer securities.

If subsection (d) applies to a disposition, the disposition shall be treated as made from employer securities in the opposite order of the preceding sentence.".

(5)(A) Section 4978B (relating to tax on disposition of employer securities to which section 133 applied) is hereby repealed.

(B) The table of sections for chapter 43 is amended by striking the item relating to section 4978B.

(6) Subsection (e) of section 6047 is amended by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) any employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, an employee stock ownership plan which holds stock with respect to which section 404(k) applies to dividends paid on such stock, or

"(2) both such employer or plan administrator,".

(7) Subsection (f) of section 7872 is amended by striking paragraph (12).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans made after October 13, 1995.

(2) REFINANCINGS.—The amendments made by this section shall not apply to loans made after October 13, 1995, to refinance securities acquisition loans (determined without regard to section 133(b)(1)(B) of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act) made on or before such date or to refinance loans described in this paragraph if—

(A) the refinancing loans meet the requirements of section 133 of such Code (as so in effect),

(B) immediately after the refinancing the principal amount of the loan resulting from the refinancing does not exceed the principal amount of the refinanced loan (immediately before the refinancing), and

(C) the term of such refinancing loan does not extend beyond the last day of the term of the original securities acquisition loan.

For purposes of this paragraph, the term "securities acquisition loan" includes a loan from a corporation to an employee stock ownership plan described in section 133(b)(3) of such Code (as so in effect).

CHAPTER 2—LEGAL REFORMS

SEC. 12811. REPEAL OF EXCLUSION FOR PUNITIVE DAMAGES AND FOR DAMAGES NOT ATTRIBUTABLE TO PHYSICAL INJURIES OR SICKNESS.

(a) IN GENERAL.—Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended to read as follows:

"(2) the amount of any damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness;".

(b) EMOTIONAL DISTRESS AS SUCH TREATED AS NOT PHYSICAL INJURY OR PHYSICAL SICKNESS.—Section 104(a) is amended by striking the last sentence and inserting the following new sentence: "For purposes of paragraph (2), emotional distress shall not be treated as a physical injury or physical sickness. The preceding sentence shall not apply to an amount of damages not in excess of the amount paid for medical care (described in subparagraph (A) or (B) of section 213(d)(1)) attributable to emotional distress.".

(c) SPECIAL RULE FOR STATES IN WHICH ONLY PUNITIVE DAMAGES MAY BE AWARDED IN WRONGFUL DEATH ACTIONS.—Section 104 is amended by redesignating subsection (c) as subsection (d) and by inserting after the subsection (b) the following new subsection:

"(c) RESTRICTION ON PUNITIVE DAMAGES NOT TO APPLY IN CERTAIN CASES.—The restriction on the application of subsection (a)(2) to punitive damages shall not apply to punitive damages awarded in a civil action—

"(1) which is a wrongful death action, and

"(2) with respect to which applicable State law (as in effect on September 13, 1995 and without regard to any modification after such date) provides, or has been construed to provide by a court of competent jurisdiction pursuant to a decision issued on or before September 13, 1995, that only punitive damages may be awarded in such an action.

This subsection shall cease to apply to any civil action filed on or after the first date on which the applicable State law ceases to provide (or is no longer construed to provide) the treatment described in paragraph (2)."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after December 31, 1995, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to any amount received under a written binding agreement, court decree, or mediation award in effect on (or issued on or before) September 13, 1995.

SEC. 12812. REPORTING OF CERTAIN PAYMENTS MADE TO ATTORNEYS.

(a) IN GENERAL.—Section 6045 (relating to returns of brokers) is amended by adding at the end the following new subsection:

"(f) RETURN REQUIRED IN THE CASE OF PAYMENTS TO ATTORNEYS.—

"(1) IN GENERAL.—Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

"(2) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

"(B) EXCEPTION.—This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051.".

(b) REPORTING OF ATTORNEYS' FEES PAYABLE TO CORPORATIONS.—The regulations providing an exception under section 6041 of the Internal Revenue Code of 1986 for payments made to corporations shall not apply to payments of attorneys' fees.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 1995.

CHAPTER 3—REFORMS RELATING TO NONRECOGNITION PROVISIONS

SEC. 12821. NO ROLLOVER OR EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE WHICH IS ATTRIBUTABLE TO DEPRECIATION DEDUCTIONS.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) is amended by adding at the end the following new paragraph:

"(3) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—Subsection (a) shall not apply to so much of the gain from the sale of any residence as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such residence.".

(b) COMPARABLE TREATMENT UNDER 1-TIME EXCLUSION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end the following new paragraph:

"(10) RECOGNITION OF GAIN ATTRIBUTABLE TO DEPRECIATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of the depreciation adjustments (as defined in section 1250(b)(3)) attributable to periods after December 31, 1995, in respect of such property.

"(B) COORDINATION WITH PARAGRAPH (5).—If this section does not apply to gain attributable to a portion of a residence by reason of paragraph (5), subparagraph (A) shall not apply to depreciation adjustments attributable to such portion.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1995.

SEC. 12822. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE BY NONCITIZENS LIMITED TO NEW RESIDENCES LOCATED IN THE UNITED STATES.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to limitations) (as amended by section 12821) is amended by adding at the end the following new paragraph:

"(4) NEW RESIDENCE MUST BE LOCATED IN UNITED STATES IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of a sale of an old residence by a taxpayer—

"(i) who is not a citizen of the United States at the time of sale, and

"(ii) who is not a citizen or resident of the United States on the date which is 2 years after the date of the sale of such old residence,

subsection (a) shall apply only if the new residence is located in the United States or a possession of the United States.

"(B) PROPERTY HELD JOINTLY BY HUSBAND AND WIFE.—Subparagraph (A) shall not apply if—

"(i) the old residence is held by a husband and wife as joint tenants, tenants by the entirety, or community property,

"(ii) such husband and wife make a joint return for the taxable year of the sale or exchange, and

"(iii) one spouse is a citizen of the United States at the time of sale.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to sales of old residences after December 31, 1995.

(2) TREATMENT OF PURCHASES OF NEW RESIDENCES.—The amendment made by this section shall not apply to new residences—

(A) purchased before September 13, 1995, or

(B) purchased on or after such date pursuant to a binding contract in effect on such date and at all times thereafter before such purchase.

(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of paragraphs (1), (2), and (3) of section 1034(c) of the Internal Revenue Code of 1986 shall apply.

CHAPTER 4—EXCISE TAX AND TAX-EXEMPT BOND PROVISIONS

SEC. 12831. REPEAL OF DIESEL FUEL TAX REBATE TO PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Section 6427 (relating to fuels not used for taxable purposes) is amended by striking subsection (g).

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 34(a) is amended to read as follows:

"(3) under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(k)).".

(2) Paragraphs (1) and (2)(A) of section 6427(i) are each amended—

(A) by striking "(g),", and

(B) by striking "(or a qualified diesel powered highway vehicle purchased)" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles purchased after December 31, 1995.

SEC. 12832. REPEAL OF WINE AND FLAVORS CONTENT CREDIT.

(a) IN GENERAL.—Section 5010 (relating to credit for wine content and for flavors content) is repealed.

(b) EFFECTIVE DATE.—The repeal made by this section shall take effect with respect to distilled spirits (as defined in section 5002(a)(8) of the Internal Revenue Code of 1986) removed from bonded premises (as defined in section 5002(a)(3) of such Code) after December 31, 1995.

SEC. 12833. MODIFICATIONS TO EXCISE TAX ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Section 4682(d)(1) (relating to recycling) is amended by inserting "(including any halon imported from any country which is a signatory to the Montreal Protocol on Substances that Deplete the Ozone Layer)" after "ozone-depleting chemical".

(b) CERTIFICATION SYSTEM.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall develop a certification system to ensure compliance with the recycling requirement for imported halon under section 4682(d)(1) of the Internal Revenue Code of 1986, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 12834. ELECTION TO AVOID TAX-EXEMPT BOND PENALTIES FOR LOCAL FURNISHERS OF ELECTRICITY AND GAS.

Section 142(f) (relating to local furnishing of electric energy or gas) is amended by adding at the end the following new paragraphs:

"(3) ELECTION TO AVOID PENALTIES FOR CERTAIN FURNISHERS.—

"(A) IN GENERAL.—If—

"(i) the principal user of facilities for the local furnishing of electric energy or gas financed such facilities in whole or in part with exempt facility bonds described in subsection (a)(8) issued before the date of the enactment of this paragraph,

"(ii) such bonds would (but for this paragraph) cease to be tax-exempt by reason of such user failing to meet the local furnishing requirement of such section as a result of a service area expansion by such user, and

"(iii) an election described in subparagraph (B) is made by such user with respect to all such facilities of the user,

then such bonds shall not cease to be tax-exempt by reason of such expansion (and section 150(b)(4) shall not apply to interest on such bonds).

"(B) ELECTION.—An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such user agrees that—

"(i) no bonds exempt from tax under section 103 may be issued on or after the date of the enactment of this paragraph with respect to the facilities or any other facilities with respect to which such user is a principal user,

"(ii) the expansion of the service area—

"(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

"(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

"(iii) all outstanding bonds used to finance the facilities are redeemed not later than 6 months after the later of—

"(I) the earliest date on which such bonds may be redeemed, or

"(II) the date of the agreement.

"(C) PRINCIPAL USER.—For purposes of this paragraph, the term 'principal user' means any person or a group of related persons (within the meaning of section 144(a)(3)) which includes such person.

"(4) APPLICATION OF SECTION.—For purposes of this section, no person may qualify as a local furnisher of electric energy or gas unless such person is such a local furnisher on the date of the enactment of this paragraph.".

SEC. 12835. TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY.

Sections 142(f)(4) (as added by section 12834(a)) and 147(d) of the Internal Revenue Code of 1986 shall not apply with respect to any private activity bond issued after the date of the enactment of this Act and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration in determining if such bond is a qualified bond for purposes of such Code.

CHAPTER 5—FOREIGN TRUST TAX COMPLIANCE

SEC. 12841. IMPROVED INFORMATION REPORTING ON FOREIGN TRUSTS.

(a) IN GENERAL.—Section 6048 (relating to returns as to certain foreign trusts) is amended to read as follows:

"SEC. 6048. INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) NOTICE OF CERTAIN EVENTS.—

"(1) GENERAL RULE.—On or before the 90th day (or such later day as the Secretary may prescribe) after any reportable event, the responsible party shall provide written notice of such event to the Secretary in accordance with paragraph (2).

"(2) CONTENTS OF NOTICE.—The notice required by paragraph (1) shall contain such information as the Secretary may prescribe, including—

"(A) the amount of money or other property (if any) transferred to the trust in connection with the reportable event, and

"(B) the identity of the trust and of each trustee and beneficiary (or class of beneficiaries) of the trust.

"(3) REPORTABLE EVENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'reportable event' means—

"(i) the creation of any foreign trust by a United States person,

"(ii) the transfer of any money or property (directly or indirectly) to a foreign trust by a United States person, including a transfer by reason of death, and

"(iii) the death of a citizen or resident of the United States if—

"(I) the decedent was treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, or

"(II) any portion of a foreign trust was included in the gross estate of the decedent.

"(B) EXCEPTIONS.—

"(i) FAIR MARKET VALUE SALES.—Subparagraph (A)(ii) shall not apply to any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value and the rules of section 679(a)(3) shall apply.

"(ii) PENSION AND CHARITABLE TRUSTS.—Subparagraph (A) shall not apply with respect to a trust which is—

"(I) described in section 404(a)(4) or 404A, or

"(II) determined by the Secretary to be described in section 501(c)(3).

"(4) RESPONSIBLE PARTY.—For purposes of this subsection, the term 'responsible party' means—

"(A) the grantor in the case of the creation of an inter vivos trust,

"(B) the transferor in the case of a reportable event described in paragraph (3)(A)(ii) other than a transfer by reason of death, and

"(C) the executor of the decedent's estate in any other case.

"(b) UNITED STATES GRANTOR OF FOREIGN TRUST.—

"(1) IN GENERAL.—If, at any time during any taxable year of a United States person, such person is treated as the owner of any portion of a foreign trust under the rules of subpart E of part I of subchapter J of chapter 1, such person shall be responsible to ensure that—

"(A) such trust makes a return for such year which sets forth a full and complete accounting of all trust activities and operations for the year, the name of the United States agent for such trust, and such other information as the Secretary may prescribe, and

"(B) such trust furnishes such information as the Secretary may prescribe to each United States person (i) who is treated as the owner of any portion of such trust or (ii) who receives (directly or indirectly) any distribution from the trust.

"(2) TRUSTS NOT HAVING UNITED STATES AGENT.—

"(A) IN GENERAL.—If the rules of this paragraph apply to any foreign trust, the determination of amounts required to be taken into account with respect to such trust by a United States person under the rules of subpart E of part I of subchapter J of chapter 1 shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(B) UNITED STATES AGENT REQUIRED.—The rules of this paragraph shall apply to any foreign trust to which paragraph (1) applies unless such trust agrees (in such manner, subject to such conditions, and at such time as the Secretary shall prescribe) to authorize a United States person to act as such trust's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to—

"(i) any request by the Secretary to examine records or produce testimony related to the proper treatment of amounts required to be taken into account under the rules referred to in subparagraph (A), or

"(ii) any summons by the Secretary for such records or testimony.

The appearance of persons or production of records by reason of a United States person being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of the amounts required to be taken into account under the rules referred to in subparagraph (A). A foreign trust which appoints an agent described in this subparagraph shall not be considered to have an office or a permanent establishment in the United States, or to be engaged in a trade or business in the United States, solely because of the activities of such agent pursuant to this subsection.

"(C) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (4) of section 6038A(e) shall apply for purposes of this paragraph.

"(c) REPORTING BY UNITED STATES BENEFICIARIES OF FOREIGN TRUSTS.—

"(1) IN GENERAL.—If any United States person receives (directly or indirectly) during any taxable year of such person any distribution from a foreign trust, such person shall make a return with respect to such trust for such year which includes—

"(A) the name of such trust,

"(B) the aggregate amount of the distributions so received from such trust during such taxable year, and

"(C) such other information as the Secretary may prescribe.

"(2) INCLUSION IN INCOME IF RECORDS NOT PROVIDED.—If adequate records are not provided to the Secretary to determine the proper treatment of any distribution from a foreign trust, such distribution shall be treated as an accumulation distribution includible in the gross income of the distributee under chapter 1. To the extent provided in regulations, the preceding sentence shall not apply if the foreign trust elects to be subject to rules similar to the rules of subsection (b)(2)(B).

"(d) SPECIAL RULES.—

"(1) DETERMINATION OF WHETHER UNITED STATES PERSON RECEIVES DISTRIBUTION.—For purposes of this section, in determining whether a United States person receives a distribution from a foreign trust, the fact that a portion of such trust is treated as owned by another person under the rules of subpart E of part I of subchapter J of chapter 1 shall be disregarded.

"(2) DOMESTIC TRUSTS WITH FOREIGN ACTIVITIES.—To the extent provided in regulations, a trust which is a United States person shall be treated as a foreign trust for purposes of this section and section 6677 if such trust has substantial activities, or holds substantial property, outside the United States.

"(3) TIME AND MANNER OF FILING INFORMATION.—Any notice or return required under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(4) MODIFICATION OF RETURN REQUIREMENTS.—The Secretary is authorized to suspend or modify any requirement of this section if the Secretary determines that the United States has no significant tax interest in obtaining the required information.".

(b) INCREASED PENALTIES.—Section 6677 (relating to failure to file information returns with respect to certain foreign trusts) is amended to read as follows:

"SEC. 6677. FAILURE TO FILE INFORMATION WITH RESPECT TO CERTAIN FOREIGN TRUSTS.

"(a) CIVIL PENALTY.—In addition to any criminal penalty provided by law, if any notice or return required to be filed by section 6048—

"(1) is not filed on or before the time provided in such section, or

"(2) does not include all the information required pursuant to such section or includes incorrect information,

the person required to file such notice or return shall pay a penalty equal to 35 percent of the gross reportable amount. If any failure described in the preceding sentence continues for more than 90 days after the day on which the Secretary mails notice of such failure to the person required to pay such penalty, such person shall pay a penalty (in addition to the amount determined under the preceding sentence) of $10,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. In no event shall the penalty under this subsection with respect to any failure exceed the gross reportable amount.

"(b) SPECIAL RULES FOR RETURNS UNDER SECTION 6048(b).—In the case of a return required under section 6048(b)—

"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and

"(2) subsection (a) shall be applied by substituting '5 percent' for '35 percent'.

"(c) GROSS REPORTABLE AMOUNT.—For purposes of subsection (a), the term 'gross reportable amount' means—

"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(a),

"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(b)(1), and

"(3) the gross amount of the distributions in the case of a failure relating to section 6048(c).

"(d) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect. The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.

"(e) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6724(d), as amended by section 12203, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ", or", and by inserting after subparagraph (V) the following new subparagraph:

"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).".

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6048 and inserting the following new item:

"Sec. 6048. Information with respect to certain foreign trusts.".

(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6677 and inserting the following new item:

"Sec. 6677. Failure to file information with respect to certain foreign trusts.".

(d) EFFECTIVE DATES.—

(1) REPORTABLE EVENTS.—To the extent related to subsection (a) of section 6048 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.

(2) GRANTOR TRUST REPORTING.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to taxable years of United States persons beginning after the date of the enactment of this Act.

(3) REPORTING BY UNITED STATES BENEFICIARIES.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 12842. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) TREATMENT OF TRUST OBLIGATIONS, ETC.—

(1) Paragraph (2) of section 679(a) is amended by striking subparagraph (B) and inserting the following:

"(B) TRANSFERS AT FAIR MARKET VALUE.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property. For purposes of the preceding sentence, consideration other than cash shall be taken into account at its fair market value.".

(2) Subsection (a) of section 679 (relating to foreign trusts having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:

"(3) CERTAIN OBLIGATIONS NOT TAKEN INTO ACCOUNT UNDER FAIR MARKET VALUE EXCEPTION.—

"(A) IN GENERAL.—In determining whether paragraph (2)(B) applies to any transfer by a person described in clause (ii) or (iii) of subparagraph (C), there shall not be taken into account—

"(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and

"(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C).

"(B) TREATMENT OF PRINCIPAL PAYMENTS ON OBLIGATION.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.

"(C) PERSONS DESCRIBED.—The persons described in this subparagraph are—

"(i) the trust,

"(ii) any grantor or beneficiary of the trust, and

"(iii) any person who is related (within the meaning of section 643(i)(2)(B)) to any grantor or beneficiary of the trust.".

(b) EXEMPTION OF TRANSFERS TO CHARITABLE TRUSTS.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A" and inserting "section 6048(a)(3)(B)(ii)".

(c) OTHER MODIFICATIONS.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:

"(4) SPECIAL RULES APPLICABLE TO FOREIGN GRANTOR WHO LATER BECOMES A UNITED STATES PERSON.—

"(A) IN GENERAL.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section and section 6048 shall be applied as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.

"(B) TREATMENT OF UNDISTRIBUTED INCOME.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.

"(C) RESIDENCY STARTING DATE.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7701(b)(2)(A).

"(5) OUTBOUND TRUST MIGRATIONS.—If—

"(A) an individual who is a citizen or resident of the United States transferred property to a trust which was not a foreign trust, and

"(B) such trust becomes a foreign trust while such individual is alive,

then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust an amount equal to the portion of such trust attributable to the property previously transferred by such individual to such trust. A rule similar to the rule of paragraph (4)(B) shall apply for purposes of this paragraph.".

(d) MODIFICATIONS RELATING TO WHETHER TRUST HAS UNITED STATES BENEFICIARIES.—Subsection (c) of section 679 is amended by adding at the end the following new paragraphs:

"(3) CERTAIN UNITED STATES BENEFICIARIES DISREGARDED.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

"(4) TREATMENT OF FORMER UNITED STATES PERSONS.—To the extent provided by the Secretary, for purposes of this subsection, the term 'United States person' includes any person who was a United States person at any time during the existence of the trust.".

(e) TECHNICAL AMENDMENT.—Subparagraph (A) of section 679(c)(2) is amended to read as follows:

"(A) in the case of a foreign corporation, such corporation is a controlled foreign corporation (as defined in section 957(a)),".

(f) REGULATIONS.—Section 679 is amended by adding at the end the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers of property after February 6, 1995.

SEC. 12843. FOREIGN PERSONS NOT TO BE TREATED AS OWNERS UNDER GRANTOR TRUST RULES.

(a) GENERAL RULE.—

(1) Subsection (f) of section 672 (relating to special rule where grantor is foreign person) is amended to read as follows:

"(f) SUBPART NOT TO RESULT IN FOREIGN OWNERSHIP.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, this subpart shall apply only to the extent such application results in an amount being currently taken into account (directly or through 1 or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

"(2) EXCEPTIONS.—

"(A) CERTAIN REVOCABLE AND IRREVOCABLE TRUSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any trust if—

"(I) the power to revest absolutely in the grantor title to the trust property is exercisable solely by the grantor without the approval or consent of any other person or with the consent of a related or subordinate party who is subservient to the grantor, or

"(II) the only amounts distributable from such trust (whether income or corpus) during the lifetime of the grantor are amounts distributable to the grantor or the spouse of the grantor.

"(ii) EXCEPTION.—Clause (i) shall not apply to any trust which has a beneficiary who is a United States person to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to a foreign person who is the grantor of such trust. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift is excluded from taxable gifts under section 2503(b).

"(B) COMPENSATORY TRUSTS.—Except as provided in regulations, paragraph (1) shall not apply to any portion of a trust distributions from which are taxable as compensation for services rendered.

"(3) SPECIAL RULES.—Except as otherwise provided in regulations prescribed by the Secretary—

"(A) a controlled foreign corporation (as defined in section 957) shall be treated as a domestic corporation for purposes of paragraph (1), and

"(B) paragraph (1) shall not apply for purposes of applying part III of subchapter G (relating to foreign personal holding companies) and part VI of subchapter P (relating to treatment of certain passive foreign investment companies).

"(4) RECHARACTERIZATION OF PURPORTED GIFTS.—In the case of any transfer directly or indirectly from a partnership or foreign corporation which the transferee treats as a gift or bequest, the Secretary may recharacterize such transfer in such circumstances as the Secretary determines to be appropriate to prevent the avoidance of the purposes of this subsection.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing that paragraph (1) shall not apply in appropriate cases.".

(2) The last sentence of subsection (c) of section 672 of such Code is amended by inserting "subsection (f) and" before "sections 674".

(b) CREDIT FOR CERTAIN TAXES.—Paragraph (2) of section 665(d) is amended by adding at the end the following new sentence: "Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term 'taxes imposed on the trust' includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust gross income.".

(c) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—

(1) Section 643 is amended by adding at the end the following new subsection:

"(h) DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS THROUGH NOMINEES.—For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.".

(2) Section 665 is amended by striking subsection (c).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

(A) which is treated as owned by the grantor or another person under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.

(e) TRANSITIONAL RULE.—If—

(1) by reason of the amendments made by this section, any person other than a United States person ceases to be treated as the owner of a portion of a domestic trust, and

(2) before January 1, 1997, such trust becomes a foreign trust, or the assets of such trust are transferred to a foreign trust,

no tax shall be imposed by section 1491 of the Internal Revenue Code of 1986 by reason of such trust becoming a foreign trust or the assets of such trust being transferred to a foreign trust.

SEC. 12844. INFORMATION REPORTING REGARDING FOREIGN GIFTS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61, as amended by section 12442, is amended by inserting after section 6039F the following new section:

"SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

"(a) IN GENERAL.—If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

"(b) FOREIGN GIFT.—For purposes of this section, the term 'foreign gift' means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)).

"(c) PENALTY FOR FAILURE TO FILE INFORMATION.—

"(1) IN GENERAL.—If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

"(A) the tax consequences of the receipt of such gift shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise, and

"(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

"(2) REASONABLE CAUSE EXCEPTION.—Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by inserting after the item relating to section 6039F the following new item:

"Sec. 6039G. Notice of large gifts received from foreign persons.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 12845. MODIFICATION OF RULES RELATING TO FOREIGN TRUSTS WHICH ARE NOT GRANTOR TRUSTS.

(a) MODIFICATION OF INTEREST CHARGE ON ACCUMULATION DISTRIBUTIONS.—Subsection (a) of section 668 (relating to interest charge on accumulation distributions from foreign trusts) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of the tax determined under section 667(a)—

"(1) INTEREST DETERMINED USING UNDERPAYMENT RATES.—The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

"(2) PERIOD.—For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

"(3) APPLICABLE NUMBER OF YEARS.—For purposes of paragraph (2)—

"(A) IN GENERAL.—The applicable number of years with respect to a distribution is the number determined by dividing—

"(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

"(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

"(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

"(i) the undistributed net income for such year, and

"(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

"(4) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

"(5) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

"(6) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

"(A) by using an interest rate of 6 percent, and

"(B) without compounding until January 1, 1996.".

(b) ABUSIVE TRANSACTIONS.—Section 643(a) is amended by inserting after paragraph (6) the following new paragraph:

"(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.".

(c) TREATMENT OF LOANS FROM TRUST PROPERTY.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended by adding at the end the following new subsection:

"(i) LOANS FROM FOREIGN TRUSTS.—For purposes of subparts B, C, and D—

"(1) GENERAL RULE.—If a foreign trust makes a loan of cash or marketable securities directly or indirectly to—

"(A) any grantor or beneficiary of such trust who is a United States person, or

"(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

"(B) RELATED PERSON.—

"(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

"(ii) ALLOCATION OF USE.—If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

"(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

"(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

"(3) SUBSEQUENT TRANSACTIONS REGARDING LOAN PRINCIPAL.—If any loan is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) shall be disregarded for purposes of this title.".

(2) TECHNICAL AMENDMENT.—Paragraph (8) of section 7872(f) is amended by inserting ", 643(i)," before "or 1274" each place it appears.

(d) EFFECTIVE DATES.—

(1) INTEREST CHARGE.—The amendment made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

(3) USE OF TRUST PROPERTY.—The amendment made by subsection (c) shall apply to loans of cash or marketable securities after September 19, 1995.

SEC. 12846. RESIDENCE OF ESTATES AND TRUSTS, ETC.

(a) TREATMENT AS UNITED STATES PERSON.—

(1) IN GENERAL.—Paragraph (30) of section 7701(a) is amended by striking subparagraph (D) and by inserting after subparagraph (C) the following:

"(D) any estate or trust if—

"(i) a court within the United States is able to exercise primary supervision over the administration of the estate or trust, and

"(ii) in the case of a trust, one or more United States fiduciaries have the authority to control all substantial decisions of the trust.".

(2) CONFORMING AMENDMENT.—Paragraph (31) of section 7701(a) is amended to read as follows:

"(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply—

(A) to taxable years beginning after December 31, 1996, or

(B) at the election of the trustee of a trust, to taxable years ending after the date of the enactment of this Act.

Such an election, once made, shall be irrevocable.

(b) DOMESTIC TRUSTS WHICH BECOME FOREIGN TRUSTS.—

(1) IN GENERAL.—Section 1491 (relating to imposition of tax on transfers to avoid income tax) is amended by adding at the end the following new flush sentence:

"If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.".

(2) PENALTY.—Section 1494 is amended by adding at the end the following new subsection:

"(c) PENALTY.—In the case of any failure to file a return required by the Secretary with respect to any transfer described in section 1491 with respect to a trust, the person required to file such return shall be liable for the penalties provided in section 6677 in the same manner as if such failure were a failure to file a return under section 6048(a).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

CHAPTER 6—FINANCIAL ASSET SECURITIZATION INVESTMENTS

SEC. 12851. FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS.

(a) IN GENERAL.—Subchapter M of chapter 1 is amended by adding at the end the following new part:

"PART V—FINANCIAL ASSET SECURITIZATION INVESTMENT TRUSTS

"Sec. 860H. Taxation of FASIT's.
"Sec. 860I. Taxation of holders of regular interests.
"Sec. 860J. Taxation of holder of ownership interest.
"Sec. 860K. Non-FASIT losses not to offset certain FASIT inclusions.
"Sec. 860L. Treatment of transfers of high-yield interests to disqualified holders.
"Sec. 860M. Definitions and other rules.

"SEC. 860H. TAXATION OF FASIT'S.

"(a) GENERAL RULE.—Except as otherwise provided in this part, solely for purposes of this title, a FASIT shall be treated as a partnership and shall not be treated as a taxable mortgage pool.

"(b) INCOME TAXABLE TO HOLDERS.—The income of any FASIT shall be taxable to the holder of the ownership interest in such FASIT as provided in this part.

"SEC. 860I. TAXATION OF HOLDERS OF REGULAR INTERESTS.

"(a) GENERAL RULE.—In determining the tax under this chapter of any holder of a regular interest in a FASIT, such interest shall be treated—

"(1) if not otherwise a debt instrument, as a debt instrument, and

"(2) for purposes of section 165(g), as issued by a corporation.

"(b) HOLDERS MUST USE ACCRUAL METHOD.—The amounts includible in gross income with respect to any regular interest in a FASIT shall be determined under the accrual method of accounting.

"SEC. 860J. TAXATION OF HOLDER OF OWNERSHIP INTEREST.

"(a) GENERAL RULE.—Except as otherwise provided in this subtitle, the tax under this chapter of the holder of the ownership interest in a FASIT shall be determined as if—

"(1) such holder were a partner in such FASIT, and

"(2) such FASIT had filed an election under section 754.

"(b) CERTAIN PROVISIONS OF SUBCHAPTER K NOT TO APPLY.—The following provisions shall not apply under subsection (a): Section 704 (other than subsection (d)) and sections 708, 721, 724, 735, 737, and 751.

"(c) OTHER RULES FOR DETERMINING TAXABLE INCOME OF FASIT.—For purposes of this subtitle, the taxable income of a FASIT shall be determined under an accrual method of accounting, and in determining such taxable income—

"(1) regular interests in such FASIT (if not otherwise debt instruments) shall be treated as indebtedness of such FASIT,

"(2) the constant yield method (including the rules of section 1272(a)(6)) shall be applied in determining all interest, acquisition discount, original issue discount, and market discount and all premium deductions or adjustments with respect to all debt instruments held by the FASIT,

"(3) the amount of the tax imposed by section 860M(e) (relating to tax on income from foreclosure property) shall be allowed as a deduction, and

"(4) there shall not be taken into account any item of income, gain, loss, or deduction allocable to prohibited income.

"(d) RECOGNITION OF GAIN ON CONTRIBUTIONS TO FASIT.—

"(1) IN GENERAL.—If property is contributed to a FASIT by the holder of the ownership interest in such FASIT—

"(A) notwithstanding any other provision of this subtitle, gain shall be recognized to the holder of such interest in the same manner as if such holder had sold such property to the FASIT at its fair market value on the date of such contribution, and

"(B) the basis of the FASIT in such property shall be such fair market value.

To the extent provided in regulations, gain recognized under the preceding sentence shall not be includible in gross income before the earliest date on which such property supports any regular interest in such FASIT or any indebtedness of the holder of the ownership interest (or by any person related to such holder).

"(2) GAIN RECOGNITION ON PROPERTY SUPPORTING REGULAR INTERESTS.—Solely for purposes of determining gain, property held by the holder of the ownership interest in a FASIT (or by any person related to such holder) which supports any regular interest in such FASIT shall be treated as sold on the earliest date such property supports such an interest at its fair market value on such date and as reacquired by such holder (or person) immediately thereafter.

"(3) VALUATION OF PROPERTY.—For purposes of this subsection and subsection (e)—

"(A) IN GENERAL.—In the case of any property contributed to a FASIT (other than cash equivalents), the fair market value of such property shall be equal to the sum of the present values of the reasonably expected payments under such property determined in the manner provided by regulations prescribed by the Secretary—

"(i) as of the date of the contribution or the earliest date of such support (as the case may be), and

"(ii) by using a discount rate equal to 130 percent of the applicable Federal rate (as defined in section 1274(d)), or such other discount rate specified in such regulations, compounded semiannually.

"(B) SPECIAL RULE FOR REVOLVING LOAN ACCOUNTS.—For purposes of subparagraph (A), in the case of extensions of credit on revolving loan accounts having substantially the same terms—

"(i) each extension of credit shall be treated as a separate debt instrument, and

"(ii) the reasonably expected payments under such an instrument shall be determined using a periodic principal payment rate equal to the reasonably anticipated periodic rate at which principal payments on the accounts will be made, as a proportion of their aggregate outstanding principal balances.

"(e) GAIN RECOGNITION ON CERTAIN DISTRIBUTIONS.—If a FASIT makes a distribution of property with respect to any regular or ownership interest—

"(1) notwithstanding any other provision of this subtitle, gain shall be recognized to such FASIT on the distribution in the same manner as if the FASIT had sold such property to the distributee at its fair market value on the date of such distribution, and

"(2) the basis of the distributee in such property shall be such fair market value.

"(f) TAX-EXEMPT INTEREST LOSES CHARACTER.—Interest accrued by the FASIT which is exempt from tax imposed by this subtitle shall, when taken into account by the holder of the ownership interest in the FASIT, be treated as ordinary income.

"SEC. 860K. NON-FASIT LOSSES NOT TO OFFSET CERTAIN FASIT INCLUSIONS.

"(a) IN GENERAL.—The taxable income of the holder of the ownership interest or high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests.

"(b) COORDINATION WITH SECTION 172.—Any increase in the taxable income of any holder of an ownership interest or high-yield interest in a FASIT for any taxable year by reason of subsection (a) shall be disregarded—

"(1) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(2) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2).

"(c) COORDINATION WITH MINIMUM TAX.—For purposes of part VI of subchapter A of this chapter—

"(1) the reference in section 55(b)(2) to taxable income shall be treated as a reference to taxable income determined without regard to this section,

"(2) the alternative minimum taxable income of any holder of the ownership interest or high-yield interest in a FASIT for any taxable year shall in no event be less than such holder's taxable income determined solely with respect to such interests, and

"(3) any increase in taxable income under this section shall be disregarded for purposes of computing the alternative tax net operating loss deduction.

"SEC. 860L. TREATMENT OF TRANSFERS OF HIGH-YIELD INTERESTS TO DISQUALIFIED HOLDERS.

"(a) GENERAL RULE.—If any high-yield interest is held by a disqualified holder, this chapter shall be applied as if the transferor of such interest to such holder had not transferred such interest.

"(b) EXCEPTIONS.—Rules similar to the rules of paragraphs (4) and (7) of section 860E(e) shall apply to the tax imposed by reason of subsection (a).

"(c) DISQUALIFIED HOLDER.—For purposes of this section, the term 'disqualified holder' means any holder other than an eligible corporation (as defined in section 860M(a)(2)).

"(d) TREATMENT OF INTERESTS HELD BY CERTAIN DEALERS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any high-yield interest held by a disqualified holder if—

"(A) such holder is a dealer in goods or services and such interest exclusively represents an interest supported by—

"(i) loans made by the dealer to finance a customer's acquisition of goods or services from such dealer in the ordinary course of business, and

"(ii) assets described in section 860M(c)(1)(D) that are incidental to the securitization of such loans, or

"(B) such holder is a dealer in securities who acquired such interest exclusively for sale to customers in the ordinary course of business (and not for investment).

"(2) CHANGE IN DEALER STATUS.—

"(A) IN GENERAL.—In the case of a dealer described in paragraph (1)(B) which is not an eligible corporation (as defined in section 860M(a)(2)), if—

"(i) such dealer ceases to be a dealer in securities, or

"(ii) such dealer commences holding the high-yield interest for investment,

there is hereby imposed (in addition to other taxes) an excise tax equal to the product of the highest rate of tax specified in section 11(b)(1) and the income of such dealer attributable to such interest for periods after the date of such cessation or commencement.

"(B) HOLDING FOR 31 DAYS OR LESS.—For purposes of subparagraph (A)(ii), a dealer shall not be treated as holding an interest for investment before the 32d day after the date such dealer acquired such interest unless such interest is so held as part of a plan to avoid the purposes of this paragraph.

"(C) ADMINISTRATIVE PROVISIONS.—The deficiency procedures of subtitle F shall apply to the tax imposed by this paragraph.

"SEC. 860M. DEFINITIONS AND OTHER RULES.

"(a) FASIT.—

"(1) IN GENERAL.—For purposes of this title, the terms 'financial asset securitization investment trust' and 'FASIT' mean any entity—

"(A) for which an election to be treated as a FASIT applies for the taxable year and all prior taxable years,

"(B) all of the interests in which are regular interests or the ownership interest,

"(C) which has 1 (and only 1) ownership interest and such ownership interest is held directly by an eligible corporation,

"(D) as of the close of the 3rd month beginning after the day of its formation and at all times thereafter, substantially all of the assets of which consist of permitted assets,

"(E) which has a taxable year which is the taxable year of the holder of the ownership interest in the FASIT, and

"(F) which is not described in section 851(a).

A rule similar to the rule of the last sentence of section 860D(a) shall apply for purposes of this paragraph.

"(2) ELIGIBLE CORPORATION.—For purposes of paragraph (1)(C), the term 'eligible corporation' means any domestic C corporation other than—

"(A) a corporation which is exempt from tax under this chapter, and

"(B) an entity described in section 851(a) or 856(a).

"(3) FAILURE TO QUALIFY AS FASIT IF RIGHTS TO EXCESSIVE SERVICING FEES HELD BY OTHERS.—For purposes of this subtitle, an entity shall not be treated as a FASIT if any person (other than such entity) retains a stripped interest or has a right to receive excessive servicing fees with respect to any debt instrument held by such entity. A right is described in the preceding sentence only if such right was created at the time such instrument was contributed to such entity (or in anticipation of such right being contributed) or is held by the contributor of such instrument or by any person who is related to such contributor.

"(4) ELECTION.—An entity (otherwise meeting the requirements of paragraph (1)) may elect to be treated as a FASIT for its 1st taxable year. Such an election shall be made on its return for such 1st taxable year. Except as provided in paragraph (5), such an election shall apply to the taxable year for which made and all subsequent taxable years.

"(5) TERMINATION.—If any entity ceases to be a FASIT at any time during the taxable year, such entity shall not be treated as a FASIT for such taxable year or any succeeding taxable year.

"(6) INADVERTENT TERMINATIONS, ETC.—Rules similar to the rules of section 860D(b)(2)(B) shall apply to inadvertent failures to qualify or remain qualified as a FASIT.

"(b) INTERESTS IN FASIT.—For purposes of this subpart—

"(1) REGULAR INTEREST.—

"(A) IN GENERAL.—The term 'regular interest' means any interest which is issued by a FASIT with fixed terms and which is designated as a regular interest if—

"(i) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount),

"(ii) except as otherwise provided by the Secretary—

"(I) in the case of a FASIT which would be treated as a REMIC if an election under section 860D(b) had been made, interest payments (or other similar amounts), if any, with respect to such interest at or before maturity meet the requirements applicable under clause (i) or (ii) of section 860G(a)(1)(B), or

"(II) in the case of any other FASIT, interest payments (or other similar amounts), if any, with respect to such interest would not be treated as contingent payments (as defined in regulations prescribed by the Secretary under section 1275,

"(iii) such interest does not have a stated maturity (including options to renew) greater than 30 years (or such longer period as may be permitted by regulations),

"(iv) the issue price of such interest does not exceed 125 percent of its stated principal amount, and

"(v) the yield to maturity on such interest is less than the sum determined under section 163(i)(1)(B) with respect to such interest.

Interest shall not fail to meet the requirements of clause (i) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent that payments on debt instruments held by the FASIT are made in advance of anticipated payments and on the amount of income from permitted assets.

"(B) HIGH-YIELD INTERESTS.—

"(i) IN GENERAL.—The term 'regular interest' includes any high-yield interest.

"(ii) HIGH-YIELD INTEREST.—The term 'high-yield interest' means any interest which would be described in subparagraph (A) but for failing to meet the requirements of one or more of clauses (i), (iv), or (v) thereof.

"(2) OWNERSHIP INTEREST.—The term 'ownership interest' means the interest issued by a FASIT which is designated as an ownership interest and which is not a regular interest.

"(c) PERMITTED ASSETS.—For purposes of this part—

"(1) IN GENERAL.—The term 'permitted asset' means—

"(A) any investment of amounts received under debt instruments described in subparagraph (B) for a temporary period before distribution to holders of interests in the FASIT,

"(B) debt instruments (as defined in section 1275(a)(1)) under which interest, if any, is payable—

"(i) at a fixed rate,

"(ii) at a qualified variable rate (as defined in regulations prescribed by the Secretary under section 860G(a)(1)(B)(i), or

"(iii) at any other varying rate permitted under regulations prescribed by the Secretary,

"(C) foreclosure property,

"(D) any asset—

"(i) which is an interest rate or foreign currency notional principal contract, letter of credit, insurance, guarantee against payment defaults, or other similar instrument, permitted by the Secretary, and

"(ii) which is a reasonably required to guarantee or hedge against the FASIT's risks associated with being the obligor on interests issued by the FASIT,

"(E) any interest in a partnership if—

"(i) all of the assets of the partnership are debt instruments described in subparagraph (B), and

"(ii) such interest is an undivided pro rata interest in such assets, and

"(F) contract rights to acquire debt instruments described in subparagraph (B) or assets described in subparagraph (D).

"(2) DEBT ISSUED BY HOLDER OF OWNERSHIP INTEREST NOT PERMITTED ASSET.—The term 'permitted asset' shall not include any debt instrument issued by the holder of the ownership interest in the FASIT or by any person related to such holder or any direct or indirect interest in such a debt instrument.

"(3) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

"(A) which would be foreclosure property under section 856(e) (determined without regard to paragraph (5) thereof) if acquired by a real estate investment trust, and

"(B) which is acquired in connection with the default or imminent default of a debt instrument held by the FASIT unless the security interest in such property was created for the principal purpose of permitting the FASIT to invest in such property.

Solely for purposes of subsection (a)(1), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4).

"(d) TAX ON PROHIBITED TRANSACTIONS.—

"(1) IN GENERAL.—There is hereby imposed for each taxable year of a FASIT a tax equal to 100 percent of the net income derived from prohibited transactions.

"(2) PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' means—

"(A) the receipt of any income derived from any asset that is not a permitted asset,

"(B) except as provided in paragraph (3), the disposition of any permitted asset,

"(C) the receipt of any income derived from any activity other than—

"(i) the acquisition of existing debt instruments,

"(ii) the holding of existing debt instruments, and

"(iii) the processing of payments received on debt instruments held by the FASIT and the distribution of amounts to holders of interests in the FASIT, and

"(D) the receipt of any income representing a fee or other compensation for services (other than any fee received as compensation for a waiver, amendment, or consent under permitted assets (other than foreclosure property) held by the FASIT).

"(3) EXCEPTION FOR INCOME FROM CERTAIN DISPOSITIONS.—

"(A) IN GENERAL.—Paragraph (2)(B) shall not apply to a disposition which would not be a prohibited transaction (as defined in section 860F(a)(2)) by reason of—

"(i) clause (ii), (iii), or (iv) of section 860F(a)(2)(A), or

"(ii) section 860F(a)(5),

if the FASIT were treated as a REMIC and debt instruments described in subsection (c)(1)(B) were treated as qualified mortgages.

"(B) SUBSTITUTION OF DEBT INSTRUMENTS; REDUCTION OF OVER-COLLATERALIZATION.—Paragraph (2)(B) shall not apply to—

"(i) the substitution of a debt instrument described in subsection (c)(1)(B) for another debt instrument which is a permitted asset, or

"(ii) the distribution of a debt instrument contributed by the holder of the ownership interest to such holder in order to reduce over-collateralization of the FASIT,

but only if a principal purpose of acquiring the debt instrument which is disposed of was not the recognition of gain (or the reduction of a loss) as a result of an increase in the market value of the debt instrument after its acquisition by the FASIT.

"(C) LIQUIDATION OF CLASS OF REGULAR INTERESTS.—Paragraph (2)(B) shall not apply to the complete liquidation of any class of regular interests.

"(4) NET INCOME.—For purposes of this subsection, net income shall be determined in accordance with section 860F(a)(3).

"(e) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each FASIT. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the FASIT's net income from foreclosure property under section 857(b)(4)(B) if the FASIT were a real estate investment trust.

"(f) COORDINATION WITH WASH SALES RULES.—Rules similar to the rules of section 860F(d) shall apply to the ownership interest in a FASIT.

"(g) RELATED PERSON.—For purposes of this part, a person (hereinafter in this subsection referred to as the 'related person') is related to any person if—

"(1) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(2) the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of paragraph (1), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent the abuse of the purposes of this part through transactions which are not primarily related to securitization of debt instruments by a FASIT.".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (2) of section 26(b) is amended by striking "and" at the end of subparagraph (M), by striking the period at the end of subparagraph (N) and inserting ", and", and by adding at the end the following new subparagraph:

"(O) section 860L (relating to treatment of transfers of high-yield interests to disqualified holders).".

(2) Paragraph (6) of section 56(g) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(3) Clause (ii) of section 382(l)(4)(B) is amended by striking "or a REMIC to which part IV of subchapter M applies" and inserting "a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies".

(4) Paragraph (1) of section 582(c) is amended by inserting ", and any regular or ownership interest in a FASIT," after "REMIC".

(5) Paragraph (4) of section 593(d) is amended—

(A) by adding at the end the following new sentence: "References in the preceding provisions of this paragraph to a REMIC shall be treated as including a reference to a FASIT.", and

(B) by inserting "OR FASIT'S" after "REMIC'S" in the heading.

(6) Subparagraph (E) of section 856(c)(6) is amended by adding at the end the following new sentence: "References in the preceding provisions of this subparagraph to a REMIC shall be treated as including a reference to a FASIT.".

(7) Subparagraph (C) of section 1202(e)(4) is amended by striking "or REMIC" and inserting "REMIC, or FASIT".

(8) Clause (xi) of section 7701(a)(19)(C) is amended to read as follows:

"(xi) any regular or residual interest in a REMIC, and any regular or ownership interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.".

(9) Subparagraph (A) of section 7701(i)(2) is amended by inserting "or a FASIT" after "a REMIC".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter M of chapter 1 is amended by adding at the end the following new item:

"Part V. Financial asset securitization investment trusts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 7—DEPRECIATION PROVISIONS

SEC. 12861. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION.—

(1) IN GENERAL.—Section 118 (relating to contributions to the capital of a corporation) is amended—

(A) by redesignating subsection (c) as subsection (e), and

(B) by inserting after subsection (b) the following new subsections:

"(c) SPECIAL RULES FOR WATER AND SEWAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is a contribution in aid of construction,

"(B) in the case of contribution of property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDIT; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2); and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(2) CONFORMING AMENDMENT.—Section 118(b) is amended by inserting "except as provided in subsection (c)," before "the term".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received after the date of the enactment of this Act.

(b) RECOVERY METHOD AND PERIOD FOR WATER UTILITY PROPERTY.—

(1) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

"(F) Water utility property described in subsection (e)(5).".

(2) 25-YEAR RECOVERY PERIOD.—The table contained in section 168(c)(1) is amended by inserting the following item after the item relating to 20-year property:

"Water utility property .... 25 years".

(3) WATER UTILITY PROPERTY.—

(A) IN GENERAL.—Section 168(e) is amended by adding at the end the following new paragraph:

"(5) WATER UTILITY PROPERTY.—The term 'water utility property' means property—

"(A) which is an integral part of the gathering, treatment, or commercial distribution of water, and which, without regard to this paragraph, would be 20-year property, and

"(B) any municipal sewer.".

(B) CONFORMING AMENDMENTS.—Section 168 is amended—

(i) by striking subparagraph (F) of subsection (e)(3), and

(ii) by striking the item relating to subparagraph (F) in the table in subsection (g)(3).

(4) ALTERNATIVE SYSTEM.—Clause (iv) of section 168(g)(2)(C) is amended by inserting "or water utility property" after "tunnel bore".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, other than property placed in service pursuant to a binding contract in effect on such date and at all times thereafter before the property is placed in service.

SEC. 12862. DEDUCTION FOR CERTAIN OPERATING AUTHORITY.

(a) GENERAL RULE.—For purpose of chapter 1 of the Internal Revenue Code of 1986, in computing the taxable income of a taxpayer who, on January 1, 1995, held one or more operating authorities preempted by section 601 of the Federal Aviation Administration Authorization Act of 1994, the taxpayer shall be entitled to deduct ratably over the 36-month period beginning with January 1995 an amount equal to the aggregate adjusted bases of such operating authorities held by the taxpayer on January 1, 1995.

(b) TREATMENT AS DEPRECIATION.—Any deduction under subsection (a) shall be treated as a deduction for depreciation for purposes of the Internal Revenue Code of 1986.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1994.

SEC. 12863. CLASS LIFE FOR GAS STATION CONVENIENCE STORES AND SIMILAR STRUCTURES.

(a) IN GENERAL.—Section 168(e)(3)(E) (classifying certain property as 15-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any section 1250 property which is a retail motor fuels outlet (whether or not food or other convenience items are sold at the outlet).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property which is placed in service on or after the date of the enactment of this Act and to which section 168 of the Internal Revenue Code of 1986 applies after the amendment made by section 201 of the Tax Reform Act of 1986. A taxpayer may elect to have such amendments apply with respect to any property placed in service before such date and to which such section so applies.

CHAPTER 8—OTHER PROVISIONS

SEC. 12871. APPLICATION OF FAILURE-TO-PAY PENALTY TO SUBSTITUTE RETURNS.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 12872. EXTENSION OF WITHHOLDING TO CERTAIN GAMBLING WINNINGS.

(a) REPEAL OF EXEMPTION FOR BINGO AND KENO.—Paragraph (5) of section 3402(q) is amended to read as follows:

"(5) EXEMPTION FOR SLOT MACHINES.—The tax imposed under paragraph (1) shall not apply to winnings from a slot machine.".

(b) THRESHOLD AMOUNT.—Paragraph (3) of section 3402(q) is amended—

(1) by striking "(B) and (C)" in subparagraph (A) and inserting "(B), (C), and (D)", and

(2) by adding at the end the following new subparagraph:

"(D) BINGO AND KENO.—Proceeds of more than $5,000 from a wager placed in a bingo or keno game.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 12873. LOSSES FROM FORECLOSURE PROPERTY.

(a) IN GENERAL.—Section 818(b) is amended by adding at the end the following new paragraph:

"(2) LOSSES FROM FORECLOSURE PROPERTY.—

"(A) IN GENERAL.—In the case of any loss arising from the sale or exchange of foreclosure property which (without regard to this paragraph) is treated as a capital loss—

"(i) only 15 percent of the amount of such loss shall be treated as a capital loss, and

"(ii) the remainder shall be treated as a loss from the sale or exchange of real property used in carrying on an insurance business which is recognized ratably over the 10-taxable year period beginning with the taxable year following the taxable year in which the sale or exchange of the foreclosure property occurred.

"(B) FORECLOSURE PROPERTY.—For purposes of this paragraph, the term "foreclosure property" means any real property used in a trade or businesses (as defined in section 1231(b) without regard to this subsection) which is acquired by a life insurance company as the result of—

"(i) such company having bid on such property at foreclosure, or

"(ii) such company having otherwise reduced such property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on indebtedness which such property secured.".

(b) CONFORMING AMENDMENTS.—Section 818(b) is amended—

(1) by striking "In the" and inserting:

"(1) IN GENERAL.—In the ", and

(2) by redesignating paragraphs (1) and (2) and subparagraphs (A) and (B) of paragraph (1) as subparagraphs (A) and (B) and clauses (i) and (ii) of subparagraph (A), respectively.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1994.

SEC. 12874. NEWSPAPER DISTRIBUTORS TREATED AS DIRECT SELLERS.

(a) IN GENERAL.—Section 3508(b)(2)(A) in amended by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) is engaged in the trade or business of the delivering or distribution of newspapers or shopping news (including any services directly related to such trade or business),".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed after December 31, 1995.

SEC. 12875. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS TO REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If—

"(A) pursuant to a single plan, a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) BASIS RULES.—

"(A) REGULATED INVESTMENT COMPANY.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) PARTICIPANTS.—The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

"(3) TREATMENT OF ASSUMPTIONS OF LIABILITY.—

"(A) IN GENERAL.—In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund, and the fact that any property transferred by the common trust fund is subject to a liability, shall be disregarded.

"(B) SPECIAL RULE WHERE ASSUMED LIABILITIES EXCEED BASIS.—

"(i) IN GENERAL.—If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

"(I) notwithstanding paragraph (1), gain shall be recognized to the common trust fund on such transfer in an amount equal to such excess,

"(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

"(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

"(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

"(II) any liability to which property so transferred is subject.

"(4) COMMON TRUST FUND MUST MEET DIVERSIFICATION RULES.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1995.

SEC. 12876. TREATMENT OF CERTAIN INSURANCE CONTRACTS ON RETIRED LIVES.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 817(d) (defining variable contract) is amended by striking "or" at the end of subparagraph (A), by striking "and" at the end of subparagraph (B) and inserting "or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) provides for funding of insurance on retired lives as described in section 807(c)(6), and".

(2) Paragraph (3) of section 817(d) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of funds held under a contract described in paragraph (2)(C), the amounts paid in, or the amounts paid out, reflect the investment return and the market value of the segregated asset account.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12877. TREATMENT OF MODIFIED GUARANTEED CONTRACTS.

(a) GENERAL RULE.—Subpart E of part I of subchapter L of chapter 1 (relating to definitions and special rules) is amended by inserting after section 817 the following new section:

"SEC. 817A. SPECIAL RULES FOR MODIFIED GUARANTEED CONTRACTS.

"(a) COMPUTATION OF RESERVES.—In the case of a modified guaranteed contract, clause (ii) of section 807(e)(1)(A) shall not apply.

"(b) SEGREGATED ASSETS UNDER MODIFIED GUARANTEED CONTRACTS MARKED TO MARKET.—

"(1) IN GENERAL.—In the case of any life insurance company, for purposes of this subtitle—

"(A) Any gain or loss with respect to a segregated asset shall be treated as ordinary income or loss, as the case may be.

"(B) If any segregated asset is held by such company as of the close of any taxable year—

"(i) such company shall recognize gain or loss as if such asset were sold for its fair market value on the last business day of such taxable year, and

"(ii) any such gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this subparagraph at times other than the times provided in this subparagraph.

"(2) SEGREGATED ASSET.—For purposes of paragraph (1), the term 'segregated asset' means any asset held as part of a segregated account referred to in subsection (d)(1) under a modified guaranteed contract.

"(c) SPECIAL RULE IN COMPUTING LIFE INSURANCE RESERVES.—For purposes of applying section 816(b)(1)(A) to any modified guaranteed contract, an assumed rate of interest shall include a rate of interest determined, from time to time, with reference to a market rate of interest.

"(d) MODIFIED GUARANTEED CONTRACT DEFINED.—For purposes of this section, the term 'modified guaranteed contract' means a contract not described in section 817—

"(1) all or part of the amounts received under which are allocated to an account which, pursuant to State law or regulation, is segregated from the general asset accounts of the company and is valued from time to time with reference to market values,

"(2) which—

"(A) provides for the payment of annuities,

"(B) is a life insurance contract, or

"(C) is a pension plan contract which is not a life, accident, or health, property, casualty, or liability contract,

"(3) for which reserves are valued at market for annual statement purposes, and

"(4) which provides for a net surrender value or a policyholder's fund (as defined in section 807(e)(1)).

If only a portion of a contract is not described in section 817, such portion shall be treated for purposes of this section as a separate contract.

"(e) REGULATIONS.—The Secretary may prescribe regulations—

"(1) to provide for the treatment of market value adjustments under sections 72, 7702, 7702A, and 807(e)(1)(B),

"(2) to determine the interest rates applicable under sections 807(c)(3), 807(d)(2)(B), and 812 with respect to a modified guaranteed contract annually, in a manner appropriate for modified guaranteed contracts and, to the extent appropriate for such a contract, to modify or waive the applicability of section 811(d),

"(3) to provide rules to limit ordinary gain or loss treatment to assets constituting reserves for modified guaranteed contracts (and not other assets) of the company,

"(4) to provide appropriate treatment of transfers of assets to and from the segregated account, and

"(5) as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by inserting after the item relating to section 817 the following new item:

"Sec. 817A. Special rules for modified guaranteed contracts.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) TREATMENT OF NET ADJUSTMENTS.—In the case of any taxpayer required by the amendments made by this section to change its calculation of reserves to take into account market value adjustments and to mark segregated assets to market for any taxable year—

(A) such changes shall be treated as a change in method of accounting initiated by the taxpayer,

(B) such changes shall be treated as made with the consent of the Secretary, and

(C) the adjustments required by reason of section 481 of the Internal Revenue Code of 1986 shall be taken into account as ordinary income or loss by the taxpayer for the taxpayer's first taxable year beginning after December 31, 1995.

SEC. 12878. $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYEES OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking "publicly held corporation" in paragraph (1) and inserting "taxpayer (other than personal service corporations)",

(2) by striking "covered employee" each place it appears in paragraphs (1) and (4) and inserting "employee", and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

SEC. 12879. SENSE OF THE SENATE.

The Senate finds that:

(1) The Senate has held hearings on the social security earnings limit in 1994 and 1995 and the House has held two hearings on the social security earnings limit in 1995;

(2) The Senate has overwhelmingly passed sense of the Senate language calling for substantial reform of the social security earnings limit;

(3) The House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the social security earnings limit three times, in 1989, 1992, and 1995;

(4) Such legislation is a key provision of the Contract with America;

(5) The President in his 1992 campaign document "Putting People First" pledged to lift the social security earnings limit;

(6) The social security earnings limit is a depression-era relic that unfairly punishes working seniors; therefore,

(7) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

SEC. 12880. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Section 274(n) (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed by an individual during, or incident to, any period of duty which is subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) REPEAL OF SPECIAL TRANSITION RULE TO FINANCIAL INSTITUTION EXCEPTION TO INTEREST ALLOCATION RULES.—Paragraph (5) of section 1215(c) of the Tax Reform Act of 1986 (Public Law 99-514, 100 Stat. 2548) is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12881. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

"SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.

"(a) NONRECOGNITION OF GAIN.—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

"(b) ASSET ROLLOVER ACCOUNT.—

"(1) GENERAL RULE.—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(2) ASSET ROLLOVER ACCOUNT.—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

"(c) CONTRIBUTION RULES.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to an asset rollover account.

"(2) AGGREGATE CONTRIBUTION LIMITATION.—Except in the case of rollover contributions, the aggregate amount for all taxable years which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

"(A) $500,000 ($250,000 in the case of a separate return by a married individual), reduced by

"(B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

"(3) ANNUAL CONTRIBUTION LIMITATIONS.—

"(A) GENERAL RULE.—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed 100 percent of the lesser of—

"(i) the qualified net farm gain for the taxable year, or

"(ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

"(B) SPOUSE.—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied by substituting '$20,000' for '$10,000' for each year the taxpayer's spouse is a qualified farmer.

"(4) ADJUSTMENT TO ANNUAL CONTRIBUTION LIMITATION.—The Secretary may reduce the percentage limitation in paragraph (3)(A) to such lower percentage as the Secretary determines necessary to assure that the aggregate amount of deductions for all individuals for a taxable year does not exceed the aggregate amount of the increases in receipts for the taxable year by reason of the amendments made by sections 12883 and 12884 of the Balanced Budget Reconciliation Act of 1995.

"(5) TIME WHEN CONTRIBUTION DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an asset rollover account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) QUALIFIED NET FARM GAIN; ETC.—For purposes of this section—

"(1) QUALIFIED NET FARM GAIN.—The term 'qualified net farm gain' means the lesser of—

"(A) the net capital gain of the taxpayer for the taxable year, or

"(B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset.

"(2) QUALIFIED FARM ASSET.—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or

business of farming (as defined in section 2032A(e)).

"(3) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means a taxpayer who—

"(i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

"(ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

"(B) MATERIAL PARTICIPATION.—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

"(4) ROLLOVER CONTRIBUTIONS.—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

"(e) DISTRIBUTION RULES.—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

"(f) INDIVIDUAL REQUIRED TO REPORT QUALIFIED CONTRIBUTIONS.—

"(1) IN GENERAL.—Any individual who—

"(A) makes a contribution to any asset rollover account for any taxable year, or

"(B) receives any amount from any asset rollover account for any taxable year,

shall include on the return of tax imposed by chapter 1 for such taxable year and any succeeding taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

"(2) INFORMATION REQUIRED TO BE SUPPLIED.—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

"(3) PENALTIES.—For penalties relating to reports under this paragraph, see section 6693(b).".

(b) CONTRIBUTIONS NOT DEDUCTIBLE.—Section 219(d) (relating to other limitations and restrictions) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO ASSET ROLLOVER ACCOUNTS.—No deduction shall be allowed under this section with respect to a contribution under section 1034A.".

(c) EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended by adding at the end the following new subsection:

"(d) ASSET ROLLOVER ACCOUNTS.—For purposes of this section, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed for the taxable year to such account over the amount which may be contributed under section 1034A.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4973(a)(1) is amended by striking "or" and inserting "an asset rollover account (within the meaning of section 1034A), or".

(B) The heading for section 4973 is amended by inserting "**ASSET ROLLOVER ACCOUNTS**," *after* "**CONTRACTS**".

(C) The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts" in the item relating to section 4973.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 408(a) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A," before "no contribution".

(2) Subparagraph (A) of section 408(d)(5) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions".

(3)(A) Subparagraph (A) of section 6693(b)(1) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(B) Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(o)(4)".

(4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

"Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

SEC. 12882. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter N of chapter 1 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

"SEC. 899. DISPOSITION OF STOCK IN DOMESTIC CORPORATIONS BY 10-PERCENT FOREIGN SHAREHOLDERS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, if any nonresident alien individual or foreign corporation is a 10-percent shareholder in any domestic corporation, any gain or loss of such individual or foreign corporation from the disposition of any stock in such domestic corporation shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(b)(1), or

"(B) in the case of a foreign corporation, under section 882(a)(1),

as if the taxpayer were engaged during the taxable year in a trade or business within the United States through a permanent establishment in the United States and as if such gain or loss were effectively connected with such trade or business and attributable to such permanent establishment. Notwithstanding section 865, any such gain or loss shall be treated as from sources in the United States.

"(2) 24-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(b)(1)(A) shall not be less than 24 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(2)) for the taxable year, or

"(ii) the individual's net taxable stock gain for the taxable year.

"(B) NET TAXABLE STOCK GAIN.—For purposes of subparagraph (A), the term 'net taxable stock gain' means the excess of—

"(i) the aggregate gains for the taxable year from dispositions of stock in domestic corporations with respect to which such individual is a 10-percent shareholder, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such stock.

"(C) COORDINATION WITH SECTION 897(a)(2).—Section 897(a)(2)(A) shall not apply to any nonresident alien individual for any taxable year for which such individual has a net taxable stock gain, but the amount of such net taxable stock gain shall be increased by the amount of such individual's net United States real property gain (as defined in section 897(a)(2)(B)) for such taxable year.

"(b) 10-PERCENT SHAREHOLDER.—

"(1) IN GENERAL.—For purposes of this section, the term '10-percent shareholder' means any person who at any time during the shorter of—

"(A) the period beginning on January 1, 1996, and ending on the date of the disposition, or

"(B) the 5-year period ending on the date of the disposition,

owned 10 percent or more (by vote or value) of the stock in the domestic corporation.

"(2) CONSTRUCTIVE OWNERSHIP.—

"(A) IN GENERAL.—Section 318(a) (relating to constructive ownership of stock) shall apply for purposes of paragraph (1).

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) paragraph (2)(C) of section 318(a) shall be applied by substituting '10 percent' for '50 percent', and

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '10 percent' for '50 percent', and

"(II) in any case where such paragraph would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation.

"(3) TREATMENT OF STOCK HELD BY CERTAIN PARTNERSHIPS.—

"(A) IN GENERAL.—For purposes of this section, if—

"(i) a partnership is a 10-percent shareholder in any domestic corporation, and

"(ii) 10 percent or more of the capital or profits interests in such partnership is held (directly or indirectly) by nonresident alien individuals or foreign corporations,

each partner in such partnership who is not otherwise a 10-percent shareholder in such corporation shall, with respect to the stock in such corporation held by the partnership, be treated as a 10-percent shareholder in such corporation.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to stock in a domestic corporation held by any partnership if, at all times during the 5-year period ending on the date of the disposition involved—

"(I) the aggregate bases of the stock and securities in such domestic corporation held by such partnership was less than 25 percent of the partnership's net adjusted asset cost, and

"(II) the partnership did not own 50 percent or more (by vote or value) of the stock in such domestic corporation.

The Secretary may by regulations disregard any failure to meet the requirements of subclause (I) where the partnership normally met such requirements during such 5-year period.

"(ii) NET ADJUSTED ASSET COST.—For purposes of clause (i), the term 'net adjusted asset cost' means—

"(I) the aggregate bases of all of the assets of the partnership other than cash and cash items, reduced by

"(II) the portion of the liabilities of the partnership not allocable (on a proportionate basis) to assets excluded under subclause (I).

"(C) EXCEPTION NOT TO APPLY TO 50-PERCENT PARTNERS.—Subparagraph (B) shall not apply in the case of any partner owning (directly or indirectly) more than 50 percent of the capital or profits interests in the partnership at any time during the 5-year period ending on the date of the disposition.

"(D) SPECIAL RULES.—For purposes of subparagraph (B) and (C)—

"(i) TREATMENT OF PREDECESSORS.—Any reference to a partnership or corporation shall be treated as including a reference to any predecessor thereof.

"(ii) PARTNERSHIP NOT IN EXISTENCE.—If any partnership was not in existence throughout the

entire 5-year period ending on the date of the disposition, only the portion of such period during which the partnership (or any predecessor) was in existence shall be taken into account.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of the preceding provisions of this paragraph shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(c) COORDINATION WITH NONRECOGNITION PROVISIONS; ETC.—

"(1) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of—

"(i) an exchange of stock in a domestic corporation for other property the sale of which would be subject to taxation under this chapter, or

"(ii) a distribution with respect to which gain or loss would not be recognized under section 336 if the sale of the distributed property by the distributee would be subject to tax under this chapter.

"(B) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(i) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(ii) the extent to which—

"(I) transfers of property in a reorganization, and

"(II) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(C) NONRECOGNITION PROVISION.—For purposes of this paragraph, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(2) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of subsections (g) and (j) of section 897 shall apply.

"(d) CERTAIN INTEREST TREATED AS STOCK.—For purposes of this section—

"(1) any option or other right to acquire stock in a domestic corporation,

"(2) the conversion feature of any debt instrument issued by a domestic corporation, and

"(3) to the extent provided in regulations, any other interest in a domestic corporation other than an interest solely as creditor,

shall be treated as stock in such corporation.

"(e) TREATMENT OF CERTAIN GAIN AS A DIVIDEND.—In the case of any gain which would be subject to tax by reason of this section but for a treaty and which results from any distribution in liquidation or redemption, for purposes of this subtitle, such gain shall be treated as a dividend to the extent of the earnings and profits of the domestic corporation attributable to the stock. Rules similar to the rules of section 1248(c) (determined without regard to paragraph (2)(D) thereof) shall apply for purposes of the preceding sentence.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including—

"(1) regulations coordinating the provisions of this section with the provisions of section 897, and

"(2) regulations aggregating stock held by a group of persons acting together."

(b) WITHHOLDING OF TAX.—Subchapter A of chapter 3 is amended by adding at the end the following new section:

"SEC. 1447. WITHHOLDING OF TAX ON CERTAIN STOCK DISPOSITIONS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of any disposition of stock in a domestic corporation by a foreign person who is a 10-percent shareholder in such corporation, the withholding agent shall deduct and withhold a tax equal to 10 percent of the amount realized on the disposition.

"(b) EXCEPTIONS.—

"(1) STOCK WHICH IS NOT REGULARLY TRADED.—In the case of a disposition of stock which is not regularly traded, a withholding agent shall not be required to deduct and withhold any amount under subsection (a) if—

"(A) the transferor furnishes to such withholding agent an affidavit by such transferor stating, under penalty of perjury, that section 899 does not apply to such disposition because—

"(i) the transferor is not a foreign person, or

"(ii) the transferor is not a 10-percent shareholder, and

"(B) such withholding agent does not know (or have reason to know) that such affidavit is not correct.

"(2) STOCK WHICH IS REGULARLY TRADED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a withholding agent shall not be required to deduct and withhold any amount under subsection (a) with respect to any disposition of regularly traded stock if such withholding agent does not know (or have reason to know) that section 899 applies to such disposition.

"(B) SPECIAL RULE WHERE SUBSTANTIAL DISPOSITION.—If—

"(i) there is a disposition of regularly traded stock in a corporation, and

"(ii) the amount of stock involved in such disposition constitutes 1 percent or more (by vote or value) of the stock in such corporation,

subparagraph (A) shall not apply but paragraph (1) shall apply as if the disposition involved stock which was not regularly traded.

"(C) NOTIFICATION BY FOREIGN PERSON.—If section 899 applies to any disposition by a foreign person of regularly traded stock, such foreign person shall notify the withholding agent that section 899 applies to such disposition.

"(3) NONRECOGNITION TRANSACTIONS.—A withholding agent shall not be required to deduct and withhold any amount under subsection (a) in any case where gain or loss is not recognized by reason of section 899(c) (or the regulations prescribed under such section).

"(c) SPECIAL RULE WHERE NO WITHHOLDING.—If

"(1) there is no amount deducted and withheld under this section with respect to any disposition to which section 899 applies, and

"(2) the foreign person does not pay the tax imposed by this subtitle to the extent attributable to such disposition on the date prescribed therefor,

for purposes of determining the amount of such tax, the foreign person's basis in the stock disposed of shall be treated as zero or such other amount as the Secretary may determine (and, for purposes of section 6501, the underpayment of such tax shall be treated as due to a willful attempt to evade such tax).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WITHHOLDING AGENT.—The term 'withholding agent' means—

"(A) the last United States person to have the control, receipt, custody, disposal, or payment of the amount realized on the disposition, or

"(B) if there is no such United States person, the person prescribed in regulations.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person other than a United States person.

"(3) REGULARLY TRADED STOCK.—The term 'regularly traded stock' means any stock of a class which is regularly traded on an established securities market.

"(4) AUTHORITY TO PRESCRIBE REDUCED AMOUNT.—At the request of the person making the disposition or the withholding agent, the Secretary may prescribe a reduced amount to be withheld under this section if the Secretary determines that to substitute such reduced amount will not jeopardize the collection of the tax imposed by section 871(b)(1) or 882(a)(1).

"(5) OTHER TERMS.—Except as provided in this section, terms used in this section shall have the same respective meanings as when used in section 899.

"(6) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1445(e) shall apply for purposes of this section.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations coordinating the provisions of this section with the provisions of sections 1445 and 1446."

(c) EXCEPTION FROM BRANCH PROFITS TAX.—Subparagraph (C) of section 884(d)(2) is amended to read as follows:

"(C) gain treated as effectively connected with the conduct of a trade or business within the United States under—

"(i) section 897 in the case of the disposition of a United States real property interest described in section 897(c)(1)(A)(ii), or

"(ii) section 899,".

(d) REPORTS WITH RESPECT TO CERTAIN DISTRIBUTIONS.—Paragraph (2) of section 6038B(a) (relating to notice of certain transfers to foreign person) is amended by striking "section 336" and inserting "section 302, 331, or 336".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart D of part II of subchapter N of chapter 1 is amended by adding at the end the following new item:

"Sec. 899. Dispositions of stock in domestic corporations by 10-percent foreign shareholders."

(2) The table of sections for subchapter A of chapter 3 is amended by adding at the end the following new item:

"Sec. 1447. Withholding of tax on certain stock dispositions."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dispositions after December 31, 1995, except that section 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition before the date that is 6 months after the date of the enactment of this Act.

(2) COORDINATION WITH TREATIES.—Sections 899 (other than subsection (e) thereof) and 1447 of the Internal Revenue Code of 1986 (as added by this section) shall not apply to any disposition by any person if the application of such sections to such disposition would be contrary to any treaty between the United States and a foreign country which was in effect on the date of the enactment of this Act, and at the time of such disposition and if the person making such disposition is entitled to the benefits of such treaty determined after the application of section 894(c) of the Internal Revenue Code of 1986 (as added by section 12883).

SEC. 12883. LIMITATION ON TREATY BENEFITS.

(a) GENERAL RULE.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

"(c) LIMITATION ON TREATY BENEFITS.—

"(1) TREATY SHOPPING.—No foreign entity shall be entitled to any benefits granted by the United States under any treaty between the United States and a foreign country unless such entity is a qualified resident of such foreign country.

"(2) TAX FAVORED INCOME.—No person shall be entitled to any benefits granted by the United States under any treaty between the United

States and a foreign country with respect to any income of such person if such income bears a significantly lower tax under the laws of such foreign country than similar income arising from sources within such foreign country derived by residents of such foreign country.

"(3) QUALIFIED RESIDENT.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified resident' means, with respect to any foreign country, any foreign entity which is a resident of such foreign country unless—

"(i) 50 percent or more (by value) of the stock or beneficial interests in such entity are owned (directly or indirectly) by individuals who are not residents of such foreign country and who are not United States citizens or resident aliens, or

"(ii) 50 percent or more of its income is used (directly or indirectly) to meet liabilities to persons who are not residents of such foreign country or citizens or residents of the United States.

"(B) SPECIAL RULE FOR PUBLICLY TRADED ENTITIES.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) interests in such entity are primarily and regularly traded on an established securities market in such country, or

"(ii) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned by another foreign entity which is organized in such foreign country and the interests in which are so traded.

"(C) ENTITIES OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign entity which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such entity is not described in subparagraph (A)(ii) and such entity is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States.

"(D) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign entity as being a qualified resident of a foreign country if such entity establishes to the satisfaction of the Secretary that such entity meets such requirements as the Secretary may establish to ensure that individuals who are not residents of such foreign country do not use the treaty between such foreign country and the United States in a manner consistent with the purposes of this subsection.

"(4) FOREIGN ENTITY.—For purposes of this subsection, the term 'foreign entity' means any corporation, partnership, trust, estate, or other entity which is not a United States person.".

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 884(e) is amended to read as follows:

"(4) QUALIFIED RESIDENT.—For purposes of this subsection, the term 'qualified resident' has the meaning given to such term by section 894(c)(3).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996, and shall apply to any treaty whether entered into before, on, or after such date.

SEC. 12884. SENSE OF THE SENATE REGARDING TAX TREATMENT OF CONVERSIONS OF THRIFT CHARTERS TO BANK CHARTERS.

In order to facilitate sound national banking policy and assist in the conversion of thrift charters to bank charters, it is the sense of the Senate that section 593 of the Internal Revenue Code of 1986 (relating to reserves for losses on loans) should be repealed and appropriate relief should be granted for the pre-1988 portion of any bad debt reserves of a thrift charter.

Subtitle J—Pension Simplification

CHAPTER 1—GENERAL PROVISIONS

Subchapter A—Simplification of Nondiscrimination Provisions

SEC. 12901. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES; REPEAL OF FAMILY AGGREGATION.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year,

"(B) had compensation for the preceding year from the employer in excess of $80,000, or

"(C) was the most highly compensated officer of the employer for the preceding year.

The Secretary shall adjust the $80,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1996.".

(b) SPECIAL RULE FOR TAX EXEMPT AND GOVERNMENTAL PLANS.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE FOR TAX EXEMPT AND GOVERNMENTAL PLANS.—Solely for purposes of applying subsections (k) and (m) of section 401, paragraph (1)(C) shall not apply to a plan maintained by—

"(A) a State or local government or political subdivision thereof, or any agency or instrumentality thereof, or

"(B) any organization exempt from tax under this subtitle.".

(c) REPEAL OF FAMILY AGGREGATION RULES.—

(1) IN GENERAL.—Paragraph (6) of section 414(q) is hereby repealed.

(2) COMPENSATION LIMIT.—Paragraph (17)(A) of section 401(a) is amended by striking the last sentence.

(3) DEDUCTION.—Subsection (l) of section 404 is amended by striking the last sentence.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph.".

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Section 1114(c)(4) of the Tax Reform Act of 1986 is amended by adding at the end the following new sentence: "Any reference in this paragraph to section 414(q) shall be treated as a reference to such section as in effect before the Revenue Reconciliation Act of 1995.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1996, except that in determining whether an employee is a highly compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996.

(2) FAMILY AGGREGATION.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1995.

SEC. 12902. DEFINITION OF COMPENSATION FOR SECTION 415 PURPOSES.

(a) GENERAL RULE.—Section 415(c)(3) (defining participant's compensation) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN DEFERRALS INCLUDED.—The term 'participant's compensation' shall include—

"(i) any elective deferral (as defined in section 402(g)(3)), and

"(ii) any amount which is contributed by the employer of the election of the employee and which is not includible in the gross income of the employee under section 125 or 457.".

(b) CONFORMING AMENDMENTS.—

(1) Section 414(q)(7) is amended to read as follows:

"(7) COMPENSATION.—For purposes of this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3).".

(2) Section 414(s)(2) is amended by inserting "not" after "elect" in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 12903. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee).".

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1995.

SEC. 12904. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a

highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to all employer contributions (including matching contributions).

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.".

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions), as amended by this Act, is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(11) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(12),

"(ii) meets the notice requirements of subsection (k)(12)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee.".

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year",

(B) by striking "for such plan year" and inserting "the preceding plan year", and

(C) by adding at the end the following new sentence: "An arrangement may apply this clause by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided by the Secretary.".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee",

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii), and

(C) by adding at the end the following flush sentence: "This subparagraph may be applied by using the plan year rather than the preceding plan year if the employer so elects, except that if such an election is made, it may not be changed except as provided the Secretary.".

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the actual deferral percentage of nonhighly compensated employees determined for such first plan year.".

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

Subchapter B—Simplified Distribution Rules

SEC. 12911. REPEAL OF 5-YEAR INCOME AVERAGING FOR LUMP-SUM DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (d) of section 402 (relating to taxability of beneficiary of employees' trust) is amended to read as follows:

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 402(e)(4) (relating to other rules applicable to exempt trusts) is amended to read as follows:

"(D) LUMP-SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution

plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.".

(2) Section 402(c) (relating to rules applicable to rollovers from exempt trusts) is amended by striking paragraph (10).

(3) Paragraph (1) of section 55(c) (defining regular tax) is amended by striking "shall not include any tax imposed by section 402(d) and".

(4) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(d)) is hereby repealed.

(5) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(6) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP-SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump-sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution.".

(7) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(8) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(9) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(10) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(11) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(d)(1)" and inserting "section 1 or 55".

(12) Section 4980A(c)(4) is amended—

(A) by striking "to which an election under section 402(d)(4)(B) applies" and inserting "(as defined in section 402(e)(4)(D)) with respect to which the individual elects to have this paragraph apply",

(B) by adding at the end the following new flush sentence:

"An individual may elect to have this paragraph apply to only one lump-sum distribution.", and

(C) by striking the heading and inserting:

"(4) SPECIAL ONE-TIME ELECTION.—".

(13) Section 402(e) is amended by striking paragraph (5).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to any distribution for which the taxpayer elects the benefits of section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986. For purposes of the preceding sentence, the rules of sections 402(c)(10) and 402(d) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this Act) shall apply.

SEC. 12912. REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 101 is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsection (c) of section 101 is amended by striking "subsection (a) or (b)" and inserting "subsection (a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12913. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	*The number of anticipated payments is:*
Not more than 55	*360*
More than 55 but not more than 60	*310*
More than 60 but not more than 65	*260*
More than 65 but not more than 70	*210*
More than 70	*160*

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1995.

SEC. 12914. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½, or

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408 (a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995.

(c) DATE FOR ADOPTION OF PLAN AMENDMENTS.—If any amendment made by this section or any other provision of this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first day of the first plan year beginning on or after January 1, 1997, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this subsection shall be applied by substituting "1999" for "1997".

Subchapter C—Targeted Access to Pension Plans For Small Employers

SEC. 12916. CREDIT FOR PENSION PLAN START-UP COSTS OF SMALL EMPLOYERS.

(a) ALLOWANCE OF CREDIT.—Section 38(b) (defining current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12), and inserting ", plus", and by adding at the end the following new paragraph:

"(13) the small employer pension plan start-up cost credit.".

(b) SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45D. SMALL EMPLOYER PENSION PLAN START-UP COST CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38—

"(1) IN GENERAL.—The small employer pension plan start-up cost credit for any taxable year is an amount equal to 50 percent of the qualified start-up costs of an eligible employer in establishing a qualified pension plan.

"(2) AGGREGATE LIMITATION.—The amount of the credit under paragraph (1) for any taxable year shall not exceed $500, reduced by the aggregate amount determined under this section for all preceding taxable years of the taxpayer.

"(b) QUALIFIED START-UP COSTS; QUALIFIED PENSION PLAN.—For purposes of this section—

"(1) QUALIFIED START-UP COSTS.—The term 'qualified start-up costs' means any ordinary and necessary expenses of an eligible employer which—

"(A) are paid or incurred in connection with the establishment of a qualified pension plan, and

"(B) are of a nonrecurring nature.

"(2) QUALIFIED PENSION PLAN.—The term 'qualified pension plan' means—

"(A) a qualified salary reduction arrangement described in section 408(p) (relating to simple retirement accounts), or

"(B) an arrangement described in section 401(k)(11).

"(c) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' means an employer which did not make any contributions on behalf of any employee to—

"(A) a qualified pension plan,

"(B) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or

"(C) a simplified employee pension (as defined in section 408(k)),

during the 2 taxable years immediately preceding the taxable year.

"(2) PROFESSIONAL SERVICE EMPLOYERS EXCLUDED.—Such term shall not include an employer substantially all of the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, financial services, or consulting.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (n) or (o) of section 414 shall be treated as one person.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a).".

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan start-up cost credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan start-up cost credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 12917. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Clause (ii) of section 401(k)(4)(B) is amended to read as follows:

"(ii) any organization described in section 501(c)(3) which is exempt from tax under section 501(a).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1997, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

Subchapter D—Paperwork Reduction

SEC. 12921. LIMITATION ON COMBINED SECTION 415 LIMIT.

(a) IN GENERAL.—Section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by adding at the end the following new paragraph:

"(7) LIMITATION ON APPLICATION OF SUBSECTION.—In the case of years beginning after December 31, 1998, this subsection shall only apply to plans maintained by an employer described in section 45D(c)(2).".

(b) EXCESS DISTRIBUTIONS.—Section 4980A is amended by adding at the end the following new subsection:

"(g) LIMITATION ON APPLICATION.—This section shall not apply to distributions during years beginning after December 31, 1995, and before January 1, 1999, and such distributions shall be treated as made first from amounts not described in subsection (f).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

Subchapter E—Miscellaneous Simplification

SEC. 12931. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under primary direction or control by the recipient.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1995, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 12932. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12933. ELIMINATION OF SPECIAL VESTING RULE FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended—

(1) by striking "subparagraph (A), (B), or (C)" and inserting "subparagraph (A) or (B)"; and

(2) by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1996, or

(B) the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 1998.

Such amendments shall not apply to any individual who does not have more than 1 hour of service under the plan on or after the 1st day of the 1st plan year to which such amendments apply.

SEC. 12934. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1997.

SEC. 12935. TREATMENT OF GOVERNMENTAL AND MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan, subparagraph (B) of paragraph (1) shall not apply. This paragraph shall not apply to any benefit provided under the plan to a State or local legislator.".

(b) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which

such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.".

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end the following new paragraph:

"(14) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting ", and", and by adding at the end the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m).".

(c) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL AND ENVIRONMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) or a multiemployer plan as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from either such plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(d) REVOCATION OF GRANDFATHER ELECTION.—

(1) IN GENERAL.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end the following new clause:

"(ii) REVOCATION OF ELECTION.—An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.".

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 415(b)(10) is amended by striking "This" and inserting:

"(i) IN GENERAL.—This".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to years beginning after December 31, 1995. The amendments made by subsection (d) shall apply with respect to revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—Nothing in the amendments made by this section shall be construed to infer that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before the date of the enactment of this Act.

(3) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, the amendments made by subsections (a) and (c) shall apply to years beginning after December 31, 1995.

SEC. 12936. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

"(A) TOTAL AMOUNT PAYABLE IS $3,500 OR LESS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) ELECTION TO DEFER COMMENCEMENT OF DISTRIBUTIONS.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election.".

(b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—Subsection (e) of section 457, as amended by section 12935(b)(2), is amended by adding at the end the following new paragraph:

"(15) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DEFERRAL AMOUNT.—The Secretary shall adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter ending September 30, 1994.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 12937. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12938. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) or of paragraph (2) merely by reason of a hardship distribution or a distribution to a participant after attainment of age 59½. For purposes of this section, the term 'hardship distribution' means a distribution described in paragraph (2)(B)(i)(IV) (without regard to the limit of its application to profit-sharing or stock bonus plans).".

(b) DEFINITION OF RURAL COOPERATIVE PLANS.—

(1) PUBLIC UTILITY DISTRICTS.—Clause (i) of section 401(k)(7)(B) (defining rural cooperative) is amended to read as follows:

"(i) any organization which—

"(I) is engaged primarily in providing electric service on a mutual or cooperative basis, or

"(II) is engaged primarily in providing electric service to the public in its area of service and which is exempt from tax under this subtitle or which is a State or local government (or an agency or instrumentality thereof), other than a municipality (or an agency or instrumentality thereof)."

(2) RELATED ORGANIZATIONS.—Subparagraph (B) of section 401(k)(7), as amended by paragraph (1), is amended by striking clause (iv) and inserting the following new clauses:

"(iv) an organization which is a national association of organizations described in any other clause of this subparagraph, or

"(v) any other organization which provides services which are related to the activities of an organization described in clause (i), (ii), (iii), or (iv), but only in the case of a plan with respect to which substantially all of the organizations maintaining it are described in clause (i), (ii), (iii), or (iv).".

(c) EFFECTIVE DATES.—

(1) DISTRIBUTIONS.—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

(2) RURAL COOPERATIVE.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 1994.

SEC. 12939. TENURED FACULTY.

(a) IN GENERAL.—Section 457(e)(11) is amended by inserting "eligible faculty voluntary retirement incentive pay," after "disability pay,".

(b) DEFINITION.—Section 457(e), as amended by sections 12935(b)(2) and 12936(b), is amended by adding at the end the following new paragraph:

"(16) DEFINITION OF ELIGIBLE FACULTY VOLUNTARY RETIREMENT INCENTIVE PAY.—For purposes of this section, the term 'eligible faculty

voluntary retirement incentive pay' means payments under a plan established for employees serving under contracts of unlimited tenure (or similar arrangements providing for unlimited tenure) at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) which—

"(A) provides—

"(i) payment to employees electing to retire during a specified period of time of limited duration, or

"(ii) payment to employees who elect to retire prior to normal retirement age,

"(B) provides that the total amount of payments to an employee does not exceed the equivalent of twice the employee's annual compensation (within the meaning of section 415(c)(3)) during the year immediately preceding the employee's termination of service, and

"(C) provides that all payments to an employee must be completed within 5 years after the employee's termination of service.".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12940. UNIFORM RETIREMENT AGE.

(a) Discrimination Testing.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end the following new subparagraph:

"(F) Social security retirement age.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined).".

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1995.

SEC. 12941. MODIFICATIONS OF SECTION 403(b).

(a) Multiple Salary Reduction Agreements Permitted.—

(1) General rule.—For purposes of section 403(b) of the Internal Revenue Code of 1986, the frequency that an employee is permitted to enter into a salary reduction agreement, the salary to which such an agreement may apply, and the ability to revoke such an agreement shall be determined under the rules applicable to cash or deferred elections under section 401(k) of such Code.

(2) Effective date.—This subsection shall apply to taxable years beginning after December 31, 1995.

(b) Treatment of Indian Tribal Governments.—In the case of any contract purchased in a plan year beginning before January 1, 1995, section 403(b) of the Internal Revenue Code of 1986 shall be applied as if any reference to an employer described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from tax under section 501 of such Code included a reference to an employer which is an Indian tribal government (as defined by section 7701(a)(40) of such Code), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or a corporation chartered under Federal, State, or tribal law which is owned in whole or in part by any of the foregoing.

(c) Elective Deferrals.—

(1) In general.—Section 403(b)(1) is amended by inserting "and" at the end of subparagraph (C), by striking "and" at the end of subparagraph (D), and by striking subparagraph (E).

(2) Effective date.—The amendment made by this subsection shall apply to years beginning after December 31, 1995.

SEC. 12942. TAX ON PROHIBITED TRANSACTIONS.

(a) In General.—Section 4975(a) is amended by striking "5 percent" and inserting "10 percent".

(b) Effective Date.—The amendment made by this section shall apply to prohibited transactions occurring after December 31, 1995.

SEC. 12943. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking "October 1, 2000" and by inserting "October 1, 2002".

SEC. 12944. LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) In General.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"§114. Limitation on State income taxation of certain pension income

"(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b) For purposes of this section—

"(1) The term 'retirement income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code);

"(H) a trust described in section 501(c)(18) of such Code; or

"(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

"(i) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

"(ii) a period of not less than 10 years.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(c) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.".

(b) Conforming Amendment.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income".

(c) Effective Date.—The amendments made by this section shall apply to amounts received after December 31, 1994.

CHAPTER 2—CHURCH PLANS

SEC. 12951. NEW QUALIFICATION PROVISION FOR CHURCH PLANS.

(a) In General.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding after section 401 the following new section:

"SEC. 401A. QUALIFIED CHURCH PLAN.

"(a) General Rule.—For purposes of all Federal laws, including this title, a qualified church plan shall be treated as satisfying the requirements of section 401(a), and all references in (or pertaining to) this title and such laws to a plan described in section 401(a) shall include a qualified church plan. Except as otherwise provided in this section, no paragraph of section 401(a) shall apply to a qualified church plan.

"(b) Definition of Qualified Church Plan.—A plan is a qualified church plan if such plan meets the following requirements:

"(1) Church plan requirement.—The plan is a church plan (within the meaning of section 414(e)), and the election provided by section 410(d) has not been made with respect to such plan.

"(2) Employee contributions are nonforfeitable.—An employee's rights in the employee's accrued benefit derived from the employee's own contributions are nonforfeitable.

"(3) Vesting requirements.—The plan satisfies the requirements of subparagraph (A) or (B).

"(A) 10-year vesting.—A plan satisfies the requirements of this paragraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) 5- to 15-year vesting.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions which is not less than the percentage determined under the following table:

"Years of service	***Nonforfeitable percentage***
5	*25*
6	*30*
7	*35*
8	*40*
9	*45*
10	*50*
11	*60*
12	*70*
13	*80*
14	*90*
15 or more	*100.*

"(C) Years of service.—For purposes of this paragraph, an employee's years of service shall be determined in accordance with any reasonable method selected by the plan administrator.

"(4) Funding requirements.—The plan meets the funding requirements of section 401(a)(7) as in effect on September 1, 1974.

"(5) Additional requirements.—

"(A) The plan meets the requirements of paragraphs (1), (2), (8), (9), (16), (17), (25), (27), and (30) of section 401(a).

"(B) If the plan includes employees of an organization which is not a church, the plan meets the requirements of sections 401(a)(3) and 401(a)(6) (as in effect on September 1, 1974) and sections 401(a)(4), 401(a)(5), and 401(m).

For purposes of subparagraph (B), the plan administrator may elect to treat the portion of the plan maintained by any organization (or organizations) described in subparagraph (B) as a separate plan (or plans).

"(c) Definitions and Special Rules.—

"(1) Church.—For purposes of this section, the term 'church' means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) and an organization described in section 414(e)(3)(B)(ii), other than—

"(A) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training), or

"(B) an organization described in section 170(b)(1)(A)(iii)—

"(i) which provides community service for inpatient medical care of the sick or injured (including obstetrical care); and

"(ii) not more than 50 percent of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, and care for the aged.

"(2) SATISFACTION OF TRUST PROVISION.—A plan shall not fail to be described in this section merely because such plan is funded through an organization described in section 414(e)(3)(A) if—

"(A) such organization is subject to fiduciary requirements under applicable State law;

"(B) such organization is separately incorporated from the church or convention or association of churches which controls it or with which it is associated;

"(C) the assets which equitably belong to the plan are separately accounted for; and

"(D) under the plan, at any time prior to the satisfaction of all liabilities with respect to participants and their beneficiaries, such assets cannot be used for, or diverted to, purposes other than for the exclusive benefit of participants and their beneficiaries (except that this paragraph shall not be construed to preclude the use of plan assets to defray the reasonable costs associated with administering the plan and informing employees and employers of the availability of the plan).

"(3) CERTAIN SECTIONS APPLY.—Section 401 (b), (c), and (h) shall apply to a qualified church plan.

"(4) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—If one or more organizations maintaining a church plan fail to satisfy the requirements of subsection (b), such plan shall not be treated as failing to satisfy the requirements of this section with respect to other organizations maintaining such plan.

"(5) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—For purposes of this section, no employee shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee if such employee during the year or the preceding year received compensation from the employer of less than $50,000. For purposes of this section, there shall be excluded from consideration employees described in section 410(b)(3)(A). The Secretary shall adjust the $50,000 amount under this paragraph at the same time and in the same manner as under section 415(d).

"(6) TIME FOR DETERMINATION OF APPLICABLE LAW.—Except where otherwise specified, the determination of whether a plan meets the requirements of subsection (b) shall be made in accordance with the provisions of this title as in effect immediately following enactment of the Revenue Reconciliation Act of 1995.".

(b) EFFECT ON EXISTING PLANS.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1986) which is otherwise subject to the applicable requirements of section 401(a) of such Code and which has not made the election provided by section 410(d) of such Code shall not be subject to section 401A of such Code, and shall remain subject to the applicable requirements of section 401(a) of such Code, unless the board of directors or trustees of an organization described in section 414(e)(3)(A) of such Code, or other appropriate governing body responsible for maintaining the plan, adopts a resolution under which the church plan is made subject to section 401A of such Code.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall be effective for years beginning after December 31, 1994, except that the provisions of section 401A(b)(3) of the Internal Revenue Code of 1986 shall be effective for years beginning after December 31, 1996. No regulation or ruling under section 401(a) of such Code issued after December 31, 1994, shall apply to a qualified church plan described in section 401A of such Code unless such regulation or ruling is specifically made applicable by its terms to qualified church plans.

(2) PRIOR YEARS.—Nothing in the amendment made by this section shall be construed to infer that a church plan (within the meaning of section 414(e) of such Code) fails to satisfy the applicable requirements of section 401(a) of such Code for any year beginning prior to January 1, 1995.

SEC. 12952. RETIREMENT INCOME ACCOUNTS OF CHURCHES.

(a) IN GENERAL.—Section 403(b)(9) is amended to read as follows:

"(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) or by a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) or 414(e)(3)(B)(ii), to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term 'retirement income account' means a program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under this subsection for an employee described in paragraph (1) or an individual described in paragraph (13)(F), or their beneficiaries.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

(2) PRIOR YEARS.—Nothing in the amendment made by this section shall be construed to infer that a church plan (within the meaning of section 414(e)) fails to satisfy the applicable requirements of section 403(b) for any year beginning prior to January 1, 1995.

SEC. 12953. CONTRACTS PURCHASED BY A CHURCH.

(a) CLARIFICATION OF APPLICABLE NONDISCRIMINATION REQUIREMENTS.—Subparagraph (D) of section 403(b)(1) is amended to read as follows:

"(D) except in the case of a contract purchased by a church, such contract is purchased under a plan which meets the nondiscrimination requirements of paragraph (12)(A), and".

(b) CERTAIN COVERAGE RULES APPLY.—Subparagraph (B) of section 403(b)(12) is amended to read as follows:

"(B) CERTAIN REQUIREMENTS.—If a contract purchased by a church is purchased under a church plan (within the meaning of section 414(e)) by—

"(i) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training), or

"(ii) an organization described in section 170(b)(1)(A)(iii)—

"(I) which provides community service for inpatient medical care of the sick or injured (including obstetrical care), and

"(II) no more than 50 percent of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, and care for the aged, the plan meets the requirements of sections 401(a)(3) and 401(a)(6), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(17), and 401(m).

For purposes of this subparagraph, the plan administrator may elect to treat the portion of the plan maintained by any organization (or organizations) described in this subparagraph as a separate plan (or plans).".

(c) SPECIAL RULES FOR CHURCHES.—Section 403(b) is amended by adding at the end the following new paragraph:

"(13) DEFINITIONS AND SPECIAL RULES.—

"(A) CONTRACT PURCHASED BY A CHURCH.—For purposes of this subsection, the term 'contract purchased by a church' includes an annuity described in section 403(b)(1), a custodial account described in section 403(b)(7), and a retirement income account described in section 403(b)(9).

"(B) CHURCH.—For purposes of this subsection, the term 'church' means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) or section 414(e)(3)(B)(ii).

"(C) VESTING.—In the case of a contract purchased by a church under a church plan (within the meaning of section 414(e))—

"(i) sections 403(b)(1)(C) and 403(b)(6) shall not apply;

"(ii) such contract is not described in this subsection unless an employee's rights in the employee's accrued benefit under such contract which is attributable to contributions made pursuant to a salary reduction agreement are nonforfeitable; and

"(iii) such contract is not described in this subsection unless the plan satisfies the requirements of either of the following:

"(I) The plan provides that an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(II) The plan provides that an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

"Years of service	**Nonforfeitable percentage**
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100.

For purposes of clause (iii), an employee's years of service shall be determined in accordance with any reasonable method selected by the plan administrator.

"(D) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—In the case of a contract purchased by a church under a church plan (within the meaning of section 414(e)), if one or more organizations maintaining the church plan fails to satisfy the requirements of this section, such plan shall not be *treated as failing to satisfy the requirements of this section with respect to other organizations maintaining such plan.*

"(E) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—For purposes of this subsection, no employee for whom a contract is purchased by a church shall be considered an officer, person whose principal duties consist in supervising the work of other employees, or highly compensated employee if such employee during the year or the preceding year received compensation from the employer of less than $50,000. For purposes of this subsection, there shall be excluded employees described in section 410(b)(3)(A). The Secretary shall adjust the $50,000 amount under this subparagraph at the same time and in the same manner as under section 415(d).

"(F) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or any duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry who is employed by an organization other than an organization described in section 501(c)(3).

"(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—A self-employed minister described in clause (i) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a). Such an employee who is employed by an organization other than an organization described in section 501(c)(3) shall be treated as employed by an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

"(iii) COMPENSATION.—In determining the compensation of a self-employed minister described in clause (i), the earned income (within the meaning of section 401(c)(2)) of such minister shall be substituted for 'the amount of compensation which is received from the employer' under paragraph (3).

In determining the years of service of a self-employed minister described in clause (i), the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) shall be included for purposes of paragraph (4).

"(G) TIME FOR DETERMINATION OF APPLICABLE LAW.—Except where otherwise specified, the determination of whether a contract purchased by a church meets the requirements of this subsection shall be made in accordance with the provisions of this title as in effect immediately following enactment of the Revenue Reconciliation Act of 1993.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall be effective for years beginning after December 31, 1994, except that the provisions of section 403(b)(13)(C)(iii) of the Internal Revenue Code of 1986 shall be effective for years beginning after December 31, 1996. No regulation or ruling issued under section 401(a) or 403(b) of such Code after December 31, 1994, shall apply to a contract purchased by a church unless such regulation or ruling is specifically made applicable by its terms to such contracts. For purposes of applying the exclusion allowance of section 403(b)(2) of such Code and the limitations of section 415 of such Code, any contribution made after December 31, 1996, which is forfeitable pursuant to section 403(b)(13)(C) of such Code shall be treated as an amount contributed to the contract in the year for which such contribution is made and not in the year the contribution becomes nonforfeitable.

(2) PRIOR YEARS.—Nothing in the amendments made by this section shall be construed to infer that a church plan (within the meaning of section 414(e) of such Code) fails to satisfy the applicable requirements of section 403(b) of such Code for any year beginning prior to January 1, 1995.

SEC. 12954. CHANGE IN DISTRIBUTION REQUIREMENT FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Subparagraph (A) of section 403(b)(11) is amended by inserting "or, in the case of a retirement income account described in paragraph (9), within the meaning of section 401(k)(2)" after "section 72(m)(7)".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12955. REQUIRED BEGINNING DATE FOR DISTRIBUTIONS UNDER CHURCH PLANS.

(a) IN GENERAL.—Subparagraph (C) of section 401(a)(9) is amended by striking the last sentence and inserting the following new sentence: "For purposes of this subparagraph, the term 'church plan' has the meaning given such term by section 414(e).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years after December 31, 1994.

SEC. 12956. PARTICIPATION OF MINISTERS IN CHURCH PLANS.

(a) IN GENERAL.—Section 414 is amended by adding the following new subsection:

"(u) SPECIAL RULES FOR MINISTERS.—Notwithstanding any other provision of this title, if a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of section 414(e)), then—

"(1) such minister shall be excluded from consideration for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)) described in this part. For purposes of this part, the church plan in which such minister participates shall be treated as a plan or contract meeting the requirements of section 401(a), 401A, or 403(b) (including section 403(b)(9)) with respect to such minister's participation; and

"(2) such minister shall be excluded from consideration for purposes of applying an applicable section to any plan providing benefits described in an applicable section.

For purposes of paragraph (2), the term 'applicable section' means section 79(d), section 105(h), paragraphs (1), (2), and (3) of section 120(c), section 125(b), section 127(b)(2), and paragraphs (2), (3), and (8) of section 129(d).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1995.

SEC. 12957. CERTAIN RULES AGGREGATING EMPLOYEES NOT TO APPLY TO CHURCHES, ETC.

(a) IN GENERAL.—Section 414 is amended by adding at the end the following new subsection:

"(v) CERTAIN RULES AGGREGATING EMPLOYEES NOT TO APPLY TO CHURCHES, ETC.—

"(1) IN GENERAL.—If the election provided by paragraph (3) is made, for purposes of sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(17), 401(a)(26), 401(h), 401(m), 410(b), 411(d)(1), and 416, subsections (b), (c), (m), (o), and (t) of this section shall not apply to treat the employees of church-related organizations as employed by a single employer, except in the case of employees of church-related organizations which are not exempt from tax under section 501(a) and which have a common, immediate parent.

"(2) DEFINITION OF CHURCH-RELATED ORGANIZATION.—For purposes of this subsection, the term 'church-related organization' means a church or a convention or association of churches, an organization described in section 414(e)(3)(A), an organization described in section 414(e)(3)(B)(ii), or an organization the employees of which would be aggregated with the employees of such organizations but for the election provided by paragraph (3).

"(3) ELECTION TO DISAGGREGATE.—The provisions of this subsection shall apply if a church-related organization makes an election for itself and other church-related organizations (in such form and manner as the Secretary may by regulations prescribe) on or before the last day of the first plan year beginning on or after January 1, 1998.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12958. SELF-EMPLOYED MINISTERS TREATED AS EMPLOYEES FOR PURPOSES OF CERTAIN WELFARE BENEFIT PLANS AND RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 7701(a)(20) is amended to read as follows:

"(20) EMPLOYEE.—For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident or health insurance or accident or health plans, for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits, for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12959. DEDUCTIONS FOR CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 404(a) is amended by adding the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—If contributions are made by a minister described in section 403(b)(13)(F) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as made to a trust which is exempt from tax under section 501(a) which is part of a plan which is described in section 401(a) and shall be deductible under this subsection to the extent such contributions do not exceed the exclusion allowance of such minister, determined under section 403(b)(2).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12960. MODIFICATION FOR CHURCH PLANS OF RULES FOR PLANS MAINTAINED BY MORE THAN ONE EMPLOYER.

(a) IN GENERAL.—Section 413(c) is amended by adding at the end the following new paragraph:

"(8) CHURCH PLANS MAINTAINED BY MORE THAN ONE EMPLOYER.—A church plan (within

the meaning of section 414(e)) maintained by more than one employer, and with respect to which the election provided by section 410(d) has not been made, which commingles assets solely for purposes of investment and pooling for mortality experience to provide to participants annuities computed with reference to the balance in the participants' accounts when such accounts become payable shall not be treated as a single plan maintained by more than one employer under this subsection. The rules provided by this paragraph shall apply for purposes of applying section 403(b)(12) to such church plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12961. SECTION 457 NOT TO APPLY TO DEFERRED COMPENSATION OF A CHURCH.

(a) IN GENERAL.—Paragraph (13) of section 457(e) is amended to read as follows:

"(13) SPECIAL RULE FOR CHURCHES.—The term 'eligible employer' shall not include a church (within the meaning of section 401A(c)(1)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12962. CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).

(a) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).".

(b) APPLICATION OF SECTION 415(l).—Section 415(l)(1) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

"(A) Contributions allocated to any individual medical account which is part of a pension or annuity plan.

"(B) The actuarially determined amount of prefunding for the insurance value of benefits which are—

"(i) described in section 401(h);

"(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(iii) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12963. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended to read as follows: "The preceding sentence shall not apply to amounts which were contributed by the employer, as determined under regulations prescribed by the Secretary, to provide pension or annuity credits, to the extent such credits are attributable to services performed before January 1, 1963, and are provided pursuant to pension or annuity plan provisions in existence on March 12, 1962, and on that date applicable to such services, or to provide pension or annuity credits for foreign missionaries (within the meaning of section 403(b)(2)(D)(iii)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 12964. REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

"(iii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1994.

SEC. 12965. CHURCH PLANS MAY ANNUITIZE BENEFITS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) or 401A of such Code, or an account which consists of qualified voluntary employee contributions described in section 219(e)(2) of such Code (as in effect before the date of the enactment of the Tax Reform Act of 1986) and earnings thereon, shall not fail to be described in such sections merely because it pays benefits to participants (and their beneficiaries) from a pool of assets administered or funded by an organization described in section 414(e)(3)(A) of such Code, rather than through the purchase of annuities from an insurance company.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

SEC. 12966. CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) or 401A of such Code, or an account which consists of qualified voluntary employee contributions described in section 219(e)(2) of such Code (as in effect before the date of the enactment of the Tax Reform Act of 1986) and earnings thereon, shall not fail to be described in such sections merely because it provides benefit payments to participants (and their beneficiaries)—

(1) to take into account the investment performance of the underlying assets or favorable interest or mortality experience, or

(2) that increase in an amount not in excess of 5 percent per year.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning after December 31, 1994.

SEC. 12967. RULES APPLICABLE TO SELF-INSURED MEDICAL REIMBURSEMENT PLANS NOT TO APPLY TO PLANS OF CHURCHES.

(a) IN GENERAL.—Section 105(h) is amended by adding at the end the following new paragraph:

"(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 401A(c)(1)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1994.

SEC. 12968. RETIREMENT BENEFITS OF MINISTERS NOT SUBJECT TO TAX ON NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a)(8) (defining net earning from self-employment) is amended by inserting ", but shall not include in such net earning from self-employment any retirement benefit received by such individual from a church plan (as defined in section 414(e))" before the semicolon at the end.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning before, on, or after December 31, 1994.

TITLE XIII—MISCELLANEOUS PROVISIONS

SEC. 13001. GENERATIONAL ACCOUNTING IN PRESIDENT'S BUDGET.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(32) an analysis of the generational accounting consequences of the budget including the projected Federal deficit, at current spending levels, in the fiscal year that is 20 years after the fiscal year for which the budget is submitted and the revenue levels (including the increase required in current levels) required to eliminate the projected Federal deficit.".

SEC. 13002. LEASE-PURCHASE OF OVERSEAS PROPERTY.

(a) AUTHORITY FOR LEASE-PURCHASE.—Subject to subsections (b) and (c), the Secretary is authorized to acquire by lease-purchase such properties as are described in subsection (b), if—

(1) the Secretary of State, and

(2) the Director of the Office of Management and Budget,

certify and notify the appropriate committees of Congress that the lease-purchase arrangement will result in a net cost savings to the Federal government when compared to a lease, a direct purchase, or direct construction of comparable property.

(b) LOCATIONS AND LIMITATIONS.—The authority granted in subsection (a) may be exercised only—

(1) to acquire appropriate housing for Department of State personnel stationed abroad and for the acquisition of other facilities, in locations in which the United States has a diplomatic mission; and

(2) during fiscal years 1996 through 1999.

(c) AUTHORIZATION OF FUNDING.—Funds for lease-purchase arrangements made pursuant to subsection (a) shall be available from amounts appropriated under the authority of section 111(a)(3) (relating to the Acquisition and Maintenance of Buildings Abroad" account).

SEC. 13003. PAY OF MEMBERS OF CONGRESS AND THE PRESIDENT DURING GOVERNMENT SHUTDOWNS.

(a) IN GENERAL.—Members of Congress and the President shall not receive basic pay for any period in which—

(1) there is more than a 24-hour lapse in appropriations for any Federal agency or department as a result of a failure to enact a regular appropriations bill or continuing resolution; or

(2) the Federal Government is unable to make payments or meet obligations because the public debt limit under section 3101 of title 31, United States Code has been reached.

(b) RETROACTIVE PAY PROHIBITED.—No pay forfeited in accordance with subsection (a) may be paid retroactively.

SEC. 13004. SENSE OF THE SENATE ON CONTINUED HUMAN RIGHTS VIOLATIONS IN THE FORMER YUGOSLAVIA.

(a) FINDINGS.—The Senate makes the following findings:

(1) Human rights violations and atrocities continue unabated in the former Yugoslavia.

(2) The Assistant Secretary of State for Human Rights recently reported that starting in mid-September and intensifying between October 6 and October 12, 1995 many thousands of Bosnian Muslims and Croats in Northwest Bosnia were systematically forced from their homes by paramilitary units, local police and in some instances, Bosnian Serb Army officials and soldiers.

(3) Despite the October 12, 1995 cease-fire which went into effect by agreement of the warring parties in the former Yugoslavia, Bosnian Serbs continue to conduct a brutal campaign to expel non-Serb civilians who remain in Northwest Bosnia, and are subjecting non-Serbs to untold horror—murder, rape, robbery and other violence.

(4) Horrible examples of "ethnic cleansing" persist in Northwest Bosnia. Some 6,000 refugees recently reached Zenica and reported that nearly 2,000 family members from this group are still unaccounted for.

(5) The United Nations spokesman in Zagreb reported that many refugees have been given only a few minutes to leave their homes and that "girls as young as 17 are reported to have been taken into wooded areas and raped". Elderly, sick and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

(6) The War Crimes Tribunal for the former Yugoslavia has collected volumes of evidence of atrocities, including the establishment of death camps, mass executions and systematic campaigns of rape and terror. This War Crimes Tribunal has already issued 43 indictments on the basis of this evidence.

(7) The Assistant Secretary of State for Human Rights has described the eyewitness accounts as "prima facia evidence of war crimes which, if confirmed, could very well lead to further indictments by the War Crimes Tribunal".

(8) The United Nations High Commissioner for Refugees estimates that more than 22,000 Muslims and Croats have been forced from their homes since mid-September in Bosnian Serb controlled areas.

(9) In opening the Dodd Center Symposium on the topic of "50 Years After Nuremburg" on October 16, 1995, President Clinton cited the "excellent progress" of the War Crimes Tribunal for the former Yugoslavia and said, "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable.".

(10) President Clinton also observed on October 16, 1995, "some people are concerned that pursuing peace in Bosnia and prosecuting war criminals are incompatible goals. But I believe they are wrong. There must be peace for justice to prevail, but there must be justice when peace prevails".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina.

(2) with peace talks scheduled to begin in the United States on October 31, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.

(3) the Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families.

(4) the International Red Cross, United Nations agencies and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.

(5) the Bosnian Serb leadership should fully cooperate to facilitate the complete investigation of the above allegations so that those responsible may be held accountable under international treaties, conventions, obligations and law.

(6) the United States should continue to support the work of the War Crimes Tribunal for the former Yugoslavia.

(7) "ethnic cleansing" by any faction, group, leader, or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in the former Yugoslavia must be held accountable.

HOUSE OF REPRESENTATIVES—Monday, October 30, 1995

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. EVERETT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 30, 1995.

I hereby designate the Honorable TERRY EVERETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from California [Mr. HORN] for 5 minutes.

THE UNITED STATES SHOULD STAY OUT OF THE BAFFLING BOSNIAN CONFLICT

Mr. HORN. Mr. Speaker, it is the time in a Presidential term when, whether Republican or Democrat, Presidents and their advisers begin to think about major feats that might be accomplished in foreign affairs. Sometimes, there are achievements. Often, it is mostly symbolism. It is much easier than staying in town and relating to Congress.

Some Presidents have seen themselves as Franklin Roosevelt, with cape flying, standing on the bridge of a naval vessel in the North Atlantic. Others have seen themselves as Winston Churchill, the lone voice alerting the world to the rising power of Adolf Hitler and the danger to all Europe in the mid-1930's.

Sometimes our Presidents are right, but sometimes they are very, very wrong.

If I were to give advice to our current President, I would ask him to read the brilliant memoir of General Colin Powell. The General provides some very wise advice in "My American Journey." At page 291 he says:

> What I saw from my perch in the Pentagon was America sticking its hand into a thousand-year-old hornet's nest with the expectation that our mere presence might pacify the hornets.

In 1991, when "well-meaning Americans thought we should do something in Bosnia," General Powell remembered "the shattered bodies of Marines at the Beirut airport," and he argued "for caution."

At pages 291 and 292, he comments:

> Foreign policy cannot be paralyzed by the prospect of casualties. But lives must not be risked until we can face a parent or a spouse or a child with a clear answer to the question of why a member of that family had to die. To provide a "symbol" or a "presence".

The General added, "is not good enough."

Those are wise words.

Where is the defined mission of American forces in Bosnia? Many of us have argued for years—under two Presidents of the United States, one of each party—for lifting the arms embargo and letting the Bosnians fight for their own freedom. That has not been done.

Our executive and legislative energies should be on the major problems we have. The major problem where the American interest is directly affected is the world's remaining superpower, which is the Soviet Union, now the former Soviet states, now Russia. That is the country that should occupy our interest in relation to NATO, in relation to ties to the West in the years ahead. if we fail in that, all else we do will be for naught.

At page 577, General Powell says:

> No American President could defend to the American people the heavy sacrifice of lives it would cost to resolve this baffling conflict, the Bosnian baffling conflict. Nor could a President likely sustain long-term involvement necessary to keep the protagonists from going at each other's throats all over again at the first opportunity.
>
> American GI's are not toy soldiers,

Powell observed,

> to be moved around on some sort of global game board. [page 576]

We have to ask, where is the American interest? What are our objectives? What are our tactics? Are they worth endangering American lives?

Mr. Speaker, I say it is not worth endangering American lives, even though we can all grieve for the tragedies we see in the former Yugoslavia, in Bosnia. But when Bosnians are willing to pretend to be Serbs and Croatians are willing to pretend to be Serbs and Bosnians and Serbs pretending to be Croatians and Bosnians, it would be rather confusing to send American troops into that chaotic situation. And we must not do it.

Mr. Speaker, the article of Charles Krauthammer this last Friday in the Washington Post entitled "Clinton's Folly" also provides quite a bit of wisdom on this subject.

Mr. Speaker, I include the article for the RECORD, as follows:

[From the Washington Post, Oct. 27, 1995]

CLINTON'S FOLLY

(By Charles Krauthammer)

The first law of peacekeeping is that when you have real peace, you don't need peacekeepers. When both parties are in military equilibrium and have no intention of fighting each other—Israel and Egypt, for example—peacekeepers are nice to have around but they are mere window dressing.

The second law of peacekeeping is that were there is no peace, sending peacekeepers is a disaster. When the parties remained unreconciled—as in Beirut and Somalia, for example—peacekeepers simply become targets.

The third law of peacekeeping is that Americans make the best targets. If you are unhappy with the imposed peace, there is nothing like blowing up 241 Marines or killing 18 U.S. Army Rangers to make your point. Killing Americans is a faster way to victory than killing your traditional enemy.

From which follows one of the rare absolutes in foreign policy: Never send peacekeepers—and certainly never send American peacekeepers—to police a continuing, unsettled war. Yet President Clinton long ago committed the United States to sending 25,000 peacekeeping troops to police a Bosnian peace.

He made this offer in his usual foreign policy way: unreflective offhandedness in the service of expediency. And now, as a Bosnian agreement of sorts approaches, his bluff is about to be called. Must the country go along with his folly?

If in the coming peace talks at an Air Force base in Dayton, Ohio, Richard Holbrooke can manage to get the Serbs, the Croats and the Bosnians to agree to a real peace—one they will be satisfied with and truly respect—that would be wonderful. But why would we need Americans to police such a peace? Such a peace could be policed by Fijians or Pakistanis or Canadians wearing U.N. blue helmets or some other multinational attire.

Why are the Bosnians demanding American ground troops instead? Because none of the three vengeful, irredentist parties expects anything resembling a real peace. They are not even pretending. Croatia, for example, announced just Tuesday that if it does not get Eastern Slavonia it will go to war with Serbia at the end of November to get it.

At Dayton, the parties may grudgingly sign on to a "peace" that all know will amount to a limited, temporary cessation of hostilities—a hiatus long enough to allow the quick interposition of heavily armed NATO and American ground troops. And then what?

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

And the, insanely, we have made ourselves parties to the conflict. There will be no avoiding it.

Whom are we going to fight? Congress asked administration spokesmen at hearings last week. The administration answer: just rogue elements of the different militias who might violate the agreements their political leaders had signed. But if any of the three parties sent regular troops against us, we would presumably just give up and get out.

As if giving up and getting out can be accomplished without needless casualties, self-inflicted humiliation and grave tensions with allies who might be left behind. And as if the job of housebreaking overambitious "rogue" militias is the job of the U.S. Army and not of the Balkan parties' own political and military leadership.

And what kind of neutrality—the one indispensable for any peacekeepers—are we bringing to the conflict? Our sympathies for the Bosnian government side are pretty obvious, particularly to the Serbs who have been on the receiving end of NATO air strikes and U.S. Navy cruise missiles. Even more absurd, the administration intends to simultaneously "peace-keep" and arm and train the Muslims.

Let's be clear: U.S. troops will be in Bosnia not to peacekeep but to protect the Bosnian government side. Our job will be to serve as human tripwires for the Bosnians. If Serbs or Croats move against the Bosnians, they will henceforth have to roll over the bodies of Americans first—and risk involving the United States even more heavily on the side of the Sarajevo government.

Bosnia is about to see the transformation of an impotent UNPROFOR (U.N. Protection Force) into a heavily armed USPROFOR (U.S. protection force). And the administration knows it. Secretary of Defense William Perry boasts that our force in Bosnia will be "the meanest dog in town." But real peacekeepers are not supposed to be mean dogs. Real peacekeepers, like the ones in Sinai or Cyprus, are warm puppies. Their job is to carry binoculars and smile and reassure everyone. You send heavily armed infantry when you are going to protect and enforce.

It is hard to think of a greater folly than trying to enforce a peace among unreconciled Balkan enemies. It is a folly that Clinton's fitful meanderings on Bosnia have backed us into, a folly that must be firmly rejected now before it is too late.

PARTIAL-BIRTH ABORTION BAN ACT A BAD IDEA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, it is with great sorrow that I take the floor today to talk about this issue of partial-birth abortions. There really is no such medical term, and I think it is terribly unfortunate this House is going to be dealing with a bill on that this week.

I think one of the reasons it is coming up is because Members do not understand childbearing and birth. We all got here the same way, but it is absolutely amazing how little we understand about the birth process.

Let me say, first of all, in 1920, 800 women in this country died for every 100,000 live births. There were all sorts of risks in having children. In 1990, that came down from 800 to 8. That is something we are very proud of, the great strides we made in safe motherhood.

But this Congress, because of playing politics with this issue and trying to think of 30-second ads and all sorts of distortions we can run against people on this issue, is about to start turning back the clock on safe motherhood.

Let me talk a little bit about late abortions and what a nightmare they are. When we look at the number nationwide, there are fewer than 600 abortions a year in this country done in the final term, fewer than 600 in this huge country. So just a handful of people are affected. Maybe that is why it is so easy to politically target them. But as I have been talking to my colleagues about this bill, I find there are all sorts of things that they do not really understand. So let me talk a bit about what doctors say the reason for these abortions are.

First, we can find that sometimes a woman's health deteriorates very rapidly, and this is the only thing that can be done to save the life of the mother. There are things like severe heart disease or kidney failure or rapidly advancing cancer. Those are some instances where it is, unfortunately, the awful, awful, awful decision of the mother's life or continuing on.

The second is even more grisly to talk about, and those are the discovery of fetal anomalies that are inconsistent with life.

What am I talking about there? I am talking about a child that has no kidneys or a fetus that they find only has one chamber in the heart or that it has large amounts of brain tissue missing or the brain is on the outside or it does not have a head. All of these conditions are inconsistent with life. Again, we cannot usually determine these until late in the pregnancy because sonograms are not that accurate until the fetus is larger.

So when we have either of those alternatives, medical officials and families are faced with some of the most gut-wrenching decisions any American could ever be faced with.

When I have talked to people about this bill, they come up with all sorts of questions about why can they not.

Well, you cannot do a caesarean because you have to cut through the muscle wall. The muscle does not thin out until 36 weeks, so you really are seriously damaging the woman's ability to have future children. You cannot do a dilation because the cervix just is programmed not to dilate until about 36 weeks, and so it is a very long, long, long and painful process that may go on to 4 or 5 days. And if the child dies in utero, it starts to disintegrate and can become a great life threat to the mother because she will lose her ability to clot and bleeding and other things.

These are the serious things this House will be tampering with if we start telling doctors what they can and cannot do. I hope Members really look at this and say this is not our role as Members of Congress.

RESTORING EARNED INCOME TAX CREDIT TO ORIGINAL INTENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. KIM] is recognized during morning business for 5 minutes.

Mr. KIM. Mr. Speaker, today I want to talk about the so-called EITC, [earned income tax credit]. I hope that my folks from California are listening to me this morning.

I did not know anything about EITC until I joined Congress. I was busy running my own business, trying to support my family. I did not know what the EITC is. I know welfare. I know food stamps. I know a little bit about Medicare and Medicaid, but EITC, what does it do? That is what I would like to talk about this morning.

Before I do, last week, this House passed the 1996 budget reconciliation bill. The bill was historic. It contains the spending cuts necessary to balance the budget by the year 2002, 7 years. During this process, we have been hearing all kinds of misrepresentation, all kinds of distortion, sometimes flatout lies. Let me give some examples.

They say we are cutting Medicare, when we are actually allowing Medicare spending to grow by $80 billion a year.

They say we are cutting Medicaid, when we are actually allowing Medicaid spending to grow by $30 billion a year.

They say we are cutting school lunches, when our plan increases spending on school lunches by over $1 billion over the next 5 years.

What we are trying to do is slow down the growth of out-of-control spending. We have been spending and spending, and it has become out of control.

But the biggest distortion, the biggest misrepresentation, is on the EITC. Let me talk about it this morning for a couple of minutes.

What is the EITC? It was passed back in 1975. It is called earned income tax credit.

What does it do? Well, the Government tries to help those people who work but do not earn enough money to support their families, children. Therefore, the Government helps them.

If you make less than $26,000 a year, with kids, then the Government will match up to 36 percent of a person's income with a tax credit. In other words, as I said earlier, if you work full time but you cannot support your family, then Government supports you.

How many people know about this EITC? I bet not that many.

What is wrong with this program? Nothing. I think it is an excellent idea. I would rather see that we help the people who work every day than just give free handouts to folks who are not working. The free Government handouts, why would anyone try to work?

It is an excellent program. We support it. Republicans support it. Democrats support it. I think it is a pretty good idea.

What is wrong with it? The program has gone out of control. It is way out of control. Why? Because we keep adding more and more provisions, adding some other language, trying to add more people in it, gradually expanding it and expanding it. This EITC program, as a result, becomes out of control.

□ 1245

The original intent was to help those folks who have a family, children. But what happened? Now, anybody, even though you do not have a family, can get EITC credit. Look at this chart in here. It used to be sort of flat, about this time. About that time, we changed the laws so that anybody can claim, even if you are single, even if you do not have any family.

It went up. It has gone up a thousand percent. The cost has gone up a thousand percent. The cost has gone up a thousand percent in the last 10 years, totally out of control. That is what is wrong with it. It is not the program itself. It just has gone out of control.

Why? Because waste and fraud in EITC had grown faster than the program itself. This is really a shame. IRS says that 1 million EITC recipients are illegally receiving this. One million people should not receive a penny of it. GAO says 40 percent of EITC recipients are illegally receiving more money than they deserve, more money, more than they are entitled to. That is what is wrong with this. That is why it has gone up a thousand percent.

The waste and fraud in the program has gotten so bad that IRS lately had to stop issuing electronic tax refunds because of EITC fraud schemes.

Mr. Speaker, I will continue tomorrow.

FEDERAL-TERRITORIAL RELATIONS

The SPEAKER pro tempore (Mr. EVERETT). Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, as a Delegate to Congress representing the people of Guam, a great deal of my work here in Washington revolves around the Federal-territorial relationship and how that relationship impacts on our island.

On October 17, a joint hearing was held by the Subcommittee on Native American and Insular Affairs and the Subcommittee on Western Hemisphere to discuss the political status plebiscite held in Puerto Rico last year. While Guam was not the focus of the hearing, any talk of political status change is of great interest to our island due to our own efforts to improve our own relationship through the establishment of a Commonwealth of Guam. Any talk in Congress of improving the relationship between the territories and the Federal Government has to be viewed as constructive. It is far more damaging to have the Congress be oblivious to the desires of the territories. While the discussion on Puerto Rico is dominated by the statehood question, no such statehood option is realistically being offered to the smaller territories such as Guam, the U.S. Virgin Islands, and American Samoa.

This means any discussion of reinventing government, political devolution to the states is not being considered seriously for the small territories, and the small territories must take their own steps to get involved in the debate.

The issue for Guam, then, is that if statehood is not a viable option for the foreseeable future, what can we do within the framework of the Constitution to improve on this political relationship? We have proposed a commonwealth document, which I introduced earlier this year as H.R. 1056, the Guam Commonwealth Act, that describes our vision of a new commonwealth based on the consent of the governed.

The Guam Commonwealth Act is a roadmap for the Federal Government to navigate the many issues that are important to Guam. It addresses everything from self-determination for the indigenous people of Guam to telecommunications, air rights, and shipping. It is as much an economic blueprint for the future as it is a political blueprint.

The United States has a tremendous national interest in Guam, and likewise, Guam has an equally important interest in this political relationship.

It has not always been a balanced relationship. What has motivated the Federal interest more than anything else has been Guam's military value to the United States. This continues to be the bottom line for many Federal decisions. But lately, this Federal interest has taken some bizarre twists and turns since the end of the cold war.

The 1995 Defense Base Closure and Realignment Commission recommended that severe cutbacks on Guam that include closing our ship repair facility and our fleet and industrial supply center. We stand to lose more jobs per capita than any other American community hit by BRAC 95. And yet, the Department of Defense is now in the awkward position of renegotiating the Status of Forces Agreement with Japan, an agreement that includes the bases on Okinawa where the American presence is under fire by the local community.

These events send mixed signals to the people of Guam. They say on one hand that the military chooses to leave Guam to save a few bucks, and chooses to give the benefits of forward deployment in our region to other foreign communities where their presence is not welcomed. We, on Guam, meanwhile, will have to find a way to restructure our economy and take care of those Federal employees at the SRF and supply center on Guam while the military finds a way to keep the SRF at Yokosuka operating and the bases at Okinawa open. The message seems to be that Guam is American, therefore, no special effort needs to be expended by the military for the privilege of using our island.

This week, the Lieutenant Governor of Guam, the Honorable Madeleine Bordallo, is in Washington to meet with Defense and Navy officials to discuss the transition issues for the facilities to be closed on Guam. It is unfortunate that we must continue to go to great lengths to persuade the Navy what should be obvious to everyone—that Guam is their best insurance policy for an American military presence in Asia, and that the people of Guam are watching with great interest their handling of all the BRAC-related closure issues on our island.

The Federal-territorial relationship is strained—now is a very good time for the military, which has a vested interest in this relationship, to cooperate with the Government of Guam on the base closure transition. Now is a good time for the administration to exert an effort to complete the discussions on the Guam Commonwealth. And now is a good time for Congress to consider how it is going to deal with the small insular territories as it considers a political status process for Puerto Rico.

As I said earlier, any discussion of political status and the territories is good. Any discussion of Okinawa and the Japanese bases has to be good for Guam too. I hope that those in the White House and the Pentagon who are supposed to be paying attention to these issues are making the right connections between all these issues. I would hope so, because otherwise, it would seem to us that these Federal policies are being made in a very shortsighted manner.

Now is a good time for the administration to exert an effort to complete the negotiations on the Commonwealth, and now is a good time for Congress to consider how it is going to deal with the small, insular territories as it considers a political process for Puerto Rico.

NOW IS THE TIME TO ACT ON LOBBY REFORM AND GIFT BAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DOGGETT] is recognized during morning business for 5 minutes.

Mr. DOGGETT. Mr. Speaker, today is the time for this House to act on lobby reform and a gift ban for Members of this House. It is not only today that I have offered those remarks, because today we take up the legislative branch appropriations bill, but it, in fact, was the first day of this session that many of us urged the House to reform itself in an attempt to pass lobby and gift ban reform on January 4 from this very spot, and yet the next day, Speaker NEWT GINGRICH had this to say of the effort. He described it as "an astonishingly narrow and self-destructive act."

With that background, we proceeded once again in the spring to attempt to reform this House and the way it handles itself both with regard to lobbies and with regard to gift bans. The Speaker responded again in a preadjournment news conference, saying, "We have not had the mental energy and the time this summer to do anything about this issue of ethics and gift ban and lobby reform."

Apparently the Speaker has still not been able to muster the mental energy. Apparently he still suffers from great mental fatigue, because although the Senate referred to this Speaker's podium on July 26 a lobby reform act, reforming and rewriting the legislation that had not been significantly reformed since the year of my birth, 1946, that bill has been sitting and is sitting at this very moment at the Speaker's rostrum from July 26 to today, July, August, September, October.

That is, indeed, super fatigue, I suppose. I would not think that it takes a considerable amount of mental energy to simply be able to go through the act of referring the bill to a committee so that it could be studied. But Speaker GINGRICH, perhaps referring back to his suggestion that reform was a self-destructive act, has not been able to muster the energy to even refer the bill.

It is little wonder then that Gerald Seib, writing in the Wall Street Journal this past month, had this to say, "The new Republican leaders of Congress have flat out blown it this year in one area, cleaning up the political system." Then he refers to Senator JOHN MCCAIN, who played such a significant role in the 98 to zero victory for lobby and gift-ban reform over in the U.S. Senate, where there is still a little bipartisanship when it comes to cleaning up the place. He says the signals that the House will not get to the gift ban this year makes Senator MCCAIN worry that his Republican House colleagues may have developed a tin ear that will prevent them from making reforms that are in their own political interest in the long run. "I detect over there a kind of heady environment that maybe is not as sensitive to public opinion as you would think."

Indeed, that is what has happened here, because our Republican colleagues, rather than join us in a bipartisan effort to clean up this House when they had an opportunity to do that on January 4, voted "no" against gift-ban reform. When they had an opportunity to do that on June 20, on a vote on this floor, they voted "no" against gift-ban reform of the very type of character that their colleagues in the Senate would vote to approve unanimously only 1 week later. On June 22, a third time, they voted "no" when the issue was gift-ban and lobby reform, and then on September 6, you would think after Speaker GINGRICH and his colleagues had had significant time to rest up over the August recess, no, they voted "no" consistently again one more time against gift-ban and lobby reform.

So it was that last Wednesday, on October 25, many of us thought there would finally be an opportunity to address this issue once again, when the legislative branch appropriations was here on the floor of the House. But instead, the Republican leadership jerked that bill off the floor, afraid that real reform might occur. What did we get instead of an opportunity to vote on the issue of gift-ban and lobby reform? We got a press conference on Friday which represented simply more hem, hedge, and haw when it came to reforming this House, the possibility that there might be action by November 16, but the suggestion that they did not want to adopt what the Senate had done on a bipartisan basis; they wanted to strengthen the bill.

How do they proposed to strengthen it? Well, they are considering an exemption for the golf caucus. That is their form of strengthening. I suggest that strengthening by exemption is the equivalent to the leadership by example we have seen when it comes to cleaning up this House. We have had, instead, the same timekeeper on that kind of reform that the House Ethics Committee has used with reference to the ethical complaints against the Speaker: Wait, wait, wait.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 57 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. EVERETT] at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

All of us, wherever we are, join together in our petitions and place before You, O God, that which burdens our hearts or gladdens our souls. As you have promised to hear our words and heed our voices, we make known in our prayers that which encourages us or troubles us, those feelings that we withhold from all else. We pray, O God, that You would so free us by Your grace and by Your pardon that we will reflect Your light and serve our neighbor and our Nation with a renewed commitment to justice for every person. For all Your good gifts and for the marvel and majesty of each new day, we offer these words of petition and thanksgiving. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina [Mr. BALLENGER] come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

BALANCING THE BUDGET FOR OUR CHILDREN AND GRANDCHILDREN

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Washington. Mr. Speaker, keeping promises is what it is all about, no more excuses, no more Washington gimmicks. It is time to do the right thing for America's future. Balancing the budget; that is what we have to do.

Just a few days ago we took an historic step by taking a vote to balance the budget. Unlike the past, when Americans were treated to empty promises and broken commitments, we are delivering.

A balanced budget is more than an accounting gimmick. It is about the future of my grandchildren and my colleagues' grandchildren, and it is about lower interest rates, it is about lower car loans, and it is about removing the crushing debt from our children and grandchildren.

Alan Greenspan said it best. He said, "Families' real incomes and purchasing power would be significantly improved; they would look forward to their children doing better than they," and that is what it is all about.

Mr. Speaker, when we balance the budget, we are securing the future of our children and grandchildren, and that is what families of America sent us here to do.

TAXPAYER-FUNDED POLITICAL ADVOCACY

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise today in strong support of the latest effort to keep the Republican's promise to the American people to end business as usual in Washington. Specifically, I am referring to the Istook-McIntosh-Ehrlich amendment, which would put an end to taxpayer-subsidized lobbying. Currently, over $39 billion is distributed to nearly 40,000 groups in the form of Federal grants. These funds are distributed under the guise of assisting charities. What these grants really amount to, however, is a taxpayer-funded subsidy to engage in political activity, otherwise known as welfare for lobbyists. Let me present an example of a politically active grantee and the amount that group receives.

The National Council of Senior Citizens receives nearly $73 million—96 percent of its funds—from taxpayers. What do they do with that money? Well, let me quote from their latest progress report, issued January 1995, in which the National Council of Senior Citizens explicitly states that it "vigorously lobbies the Congress, public officials and other organizations engaged in legislative debate."

Mr. Speaker, I would like to see this group, and all of the other groups who exploit their status as nonprofit organizations, to use their grants for their intended purpose to help those in need. The National Council of Senior Citizens could do much more to assist seniors if they would devote all of their time and money walking the halls of nursing homes, rather than walking the Halls of Congress.

WE SHOULD NOT INTERFERE WITH DELICATE NEGOTIATIONS REGARDING PEACE IN BOSNIA TODAY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today we will be taking up a resolution dealing with troops in Bosnia. This is highly premature and irresponsible, to be dealing with such a sensitive issue a day before the President is convening a session in Dayton, OH, among the warring parties in Bosnia to construct a peace agreement. We should not be dealing with this issue at a time when negotiations tomorrow will determine whether there will be a peace agreement or not.

Mr. Speaker, the administration deserves credit for coming forth with a peace plan that has brought a partition of this area that appears to be supported by the Serbs, by the Croatians, and by the Moslems. We should not interfere with this very sensitive process, and this legislation should be taken off the Calendar for today.

IT IS TIME FOR THE PRESIDENT TO SIGN A REAL BALANCED BUDGET

(Mr. JONES of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. JONES of North Carolina. Mr. Speaker, it is almost impossible to keep track of where Bill Clinton stands on balancing the budget.

In 1992, candidate Clinton said he would present a 5-year plan to balance the budget.

In his book "Putting People First," candidate Clinton said that the deficit could be cut in half in 4 years.

This year President Clinton has said that the budget could be balanced in 10 years, in 9 years, in 8 years, and, now, 7 years.

Everyone knows that Bill Clinton has been AWOL on the budget. He says one thing one day, another thing another day. Not even leaders in his own party can predict with any degree of accuracy what Bill Clinton will do or say.

Mr. Speaker, the time for excuses and double-talk are over. It is time for the President to show courage and leadership and sign a real balanced budget.

PUTTING GROUND FORCES INTO BOSNIA WOULD BE A WASTE OF AMERICAN LIVES

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, I wish my friend from New Mexico was right because the House, as my colleagues know, has not scheduled a vote on Bosnia.

Mr. Speaker, a week and 1 day ago I was visiting the troops in what was Yugoslavia and what now is Macedonia. They expressed concern over the introduction of ground forces into Bosnia.

In addition to all the other reasons not to put ground forces into Bosnia, it seems that from about December 1 until April 1, from 10 o'clock at night until 6 in the morning, the fog is so bad that smart weapons do not work. So we are putting troops in harm's way with no clear-cut purpose where there are three serial killers, one who has killed 15, one who has killed 10, and one who has killed 5. That is a waste of American lives.

Mr. Speaker, it is our job to vote on this issue. Give this Congress the vote. Let us fulfill our constitutional responsibilities.

THE REPUBLICANS ARE DELIVERING ON THE PROMISES THEY MADE

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, one of the definitive marks of the modern Republican Party is that we believe taxes are too high and that they should be cut. Since the beginning of this Congress, Republicans have put those beliefs into reality and soon they will become law.

For generations, public policy has been based on the premise that government could better redistribute wealth and resources in the economy. People who believed in free markets were written off as economic relics.

Well, the game is up and a generation of economic policy making has literally blown up in the faces of the liberals who created it. We have a massive, but ineffective government and a $5 trillion national debt. The American people are demanding changes and Republicans are delivering on the promises we made last year to shrink the Federal Government, and, we will not back away from our promise to cut taxes for American families and small businesses.

REMOVAL OF NAME OF MEMBERS AS COSPONSOR OF H.R. 1745

Mr. TORKILDSEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1745.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMENDING IMMIGRATION AND NATIONALITY ACT TO UPDATE CLASSIFICATION OF CHILDREN IN U.S. IMMIGRATION LAWS

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 457) to amend the Immigration and Nationality Act to update references in the classification of children for purposes of U.S. immigration laws, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. GEKAS. Reserving the right to object, Mr. Speaker, I would ask the gentleman from Texas if he would mind explaining the contents of the legislation briefly or lengthily.

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Speaker, S. 457 amends the immigration laws to change the term "legitimate child" to a "child born in wedlock," as well as change the term "illegitimate child" to "a child born out of wedlock." This change in terminology does not provide a substantive change in the immigration laws. However, while technical, the change will help to facilitate the adoptions of foreign national children by American couples.

Mr. GEKAS. Continuing my reservation of objection, Mr. Speaker, I thank the gentleman from Texas [Mr. SMITH] for explaining the content of the bill, and for a brief expansion of his remarks I want him to know, and our colleagues, as he would know, the history of this legislation.

Mr. Speaker, the Senate had already passed something, actually had been in contact with us earlier on it, and that was the consequences then of what happened over in the Senate. We here in the House would have to go through a lengthier procedure in order to arrive at the same final tunnel, so we are simply acceding to the Senate version at this time.

Mr. Speaker, the measure we are here considering changes language dealing with children in the Immigration and Nationality Act and has enormous impact in the area of international child adoption. Passage of this legislation is one of those small but incredibly important successes in improving government for the citizens of the United States in which we must take pride. Its effect will be felt nationwide.

As noted, S. 457, sponsored in the other body by our former House colleague, Senator Paul Simon of Illinois, is a carbon copy of a bill, H.R. 1204, which I sponsored here in the 104th Congress. The language of H.R. 1204 has been considered and approved in the House by the Judiciary Subcommittee on Immigration and Claims, chaired by Mr. LAMAR SMITH of Texas, and by the full Committee on the Judiciary, Chaired by Mr. HYDE of Illinois, as part of H.R. 2202, the "Immigration in the National Interest Act of 1995" and is awaiting floor action. However, because the Senate acted first on their measure we are obliged to take up S. 457 as the most expeditious route to getting the measure signed into law by the President. This member has no pride of authorship problem, no concerns about credit. My main concern is that we make the changes embodied in the bill as quickly as possible so that families involved in international adoptions will have some relief from the problems they have heretofore encountered. Consideration of the House bill at this time would require referral back to the Senate, possibly adding months of required parliamentary action before achieving the language changes needed, months of unnecessary agony for the families and children we seek to help.

Let me explain to my colleagues in the House just what the language of S. 457/H.R. 1204 does. International adoption has become a very popular method for those individuals who must use the adoption route. However, for the thousands of Americans who pursue them every year (about 15 percent of total U.S. adoptions) international adoptions can be very complicated.

Current U.S. law regarding international adoptions is in a state of some confusion. Our law requires that a child be certified as an "orphan" in order to be eligible for adoption by an American and for an immigrant visa to the United States. This orphan certification can be accomplished in one of two ways: proof that both parents are dead or an irrevocable release for adoption and emigration by a "sole parent". Under U.S. law, a sole parent is defined as the mother of an "illegitimate child". But many countries have stopped using the term "illegitimate" and "legitimate" and instead use "born out of wedlock" and "born in wedlock". Since children born out of wedlock are regarded as legitimate in many countries, and under U.S. law a legitimate child is not eligible for orphan classification based solely on the mother's release (unless the father has died), a problem of definitions occurs which has ground to a halt international adoptions by U.S. families.

The simple solution to this problem is to substitute in the section of the INS Act that defines "child" for immigration purposes the terms "legitimate child" and "illegitimate child" with "child born in wedlock" and "child born out of wedlock". With this change, we can ensure that Americans will be able to proceed with international adoptions that meet the legal definitions of both the host country and the United States.

I have attached a May 31, 1995 letter from the Department of State and the Immigration and Naturalization Service—DOJ—which indicates their strong support for this change. And, in a June 8, 1995, letter to Ms. Mary Thomas, Romanian Children's Connection, Alexandria, Virginia, from Maura Harty, Managing Director, Office of Overseas Citizens Services, U.S. Department of State, Ms. Harty states.

As you may also know, the Department of State has included in its Consular efficiency legislation proposal of 1995 a request for an amendment to section 101(b) of the Immigration and Nationality Act. This change will prevent U.S. citizens from being disadvantaged by the increasing worldwide trend to declare all children legitimate, regardless of whether born in or out of wedlock. We anticipate this change will relieve the problem at its source.

Additionally, the attached letter from Wendy R. Sherman, Assistant Secretary, Legislative Affairs, U.S. Department of State, to the Honorable Charles E. Grassley, United States Senator, illuminates further on the need for the changes made by S. 457/H.R. 1204 with specific mention that the amendment "should not adversely affect the rights of natural fathers."

Mr. Speaker, I commend the House of Representatives and the other body for its passage of this measure and encourage the President to quickly sign this correction into law.

DEPARTMENT OF STATE,
Washington, DC, May 31, 1995.

Hon. GEORGE W. GEKAS,
House of Representatives,
Washington, DC.

DEAR MR. GEKAS: We are pleased to learn of your sponsorship through House Bill 1204 of a "technical correction" to the Immigration and Nationality Act (INA).

This bill would amend the INA by substituting "a child born out of wedlock" for current language which describes a child as "legitimate" or "illegitimate" under the Act. The substituted terminology will permit a foreign child released unequivocally for adoption to qualify for an immigrant visa.

We are writing to let you know that this legislation has the unqualified support of both the Immigration and Naturalization Service and the Department of State. We hope that it is enacted in the very near future. Thank you for your assistance.

DORIS MEISSNER,
Commissioner Immigration and Naturalization Service, Department of Justice.

MARY A. RYAN,
Assistant Secretary Bureau of Consular Affairs, Department of State.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: You have asked whether legislative proposal S. 457 would adversely affect the rights of a foreign child's natural father in the context of an adoption. This proposal would amend Sections 101(b)(1) and (b)(2) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(b)(1) and (b)(2), by replacing the words "legitimate child" with "child born in wedlock" and "Illegitimate child" with "child born out of wedlock."

INA Sections 101(b)(1) and (b)(2) define the terms "child" and "parent", thereby establishing the conditions that must be met in order for an individual to qualify for U.S. immigration benefits on the basis of a parent-child relationship with a U.S. citizen. Specifically, subsections 101(b)(1)(E) and (F) set forth the three definitions of "child" that by virtue of which a foreign child adopted by U.S. citizen parents may qualify for an immigrant visa. One of these definitions, in subsection 101(b)(1)(F), requires that the child be irrevocably released for adoption by the sole or surviving parent. The use of this provision has been particularly important in the context of private adoptions, where a child is released for adoption to a specified family.

As the statute is currently drafted, however, all parents of legitimate children are considered to be a "parent" for INA purposes. In recent years, many countries from which U.S. citizens adopt children have eliminated the distinction between legitimate and illegitimate children, making all children born within that jurisdiction legitimate by action of law. A child born in such a country cannot be considered to have a "sole parent," even if the child was born out of wedlock and even if the child's father has disappeared completely.

A child's ability to qualify for an immigrant visa under the "sole parent" provision has thus come to depend in many instances on where the child happens to have been born rather than on the nature of the child's relationship with his or her natural parents. In countries where all children are "legitimate," a private placement adoption becomes extremely difficult. The child may be issued an immigrant visa only under one of the other two definitions in INA section 101(b)(1): the child must either be abandoned unconditionally by the mother, usually to an orphanage (Subsection 101(b)(1)(F)), or the adopting U.S. parents must complete the adoption in the foreign country and reside in the country with the adopted child for two full years (Subsection. 101(b)(1)(E)). It seems pointless to put adopting parents through such protracted procedures simply because under local law the child is considered "legitimate" even though its parents were never married and its father has played no role in its life. In a different country where on the same facts the child would be "illegitimate," an immigrant visa could be issued relatively easily under the "sole parent" provision of INA Section 101(b)(1)(F).

While the proposed amendment will, therefore, facilitate private adoptions in countries where all children are considered "legitimate," it should not adversely affect the rights of natural fathers. Rather it will restore flexibility to the visa process and permit adoption and visa decisions to be made on the basis of all relevant facts, rather than predetermined by the happenstance of whether local law regards the child as "legitimate" or "illegitimate." The interests of the natural father will be protected in a variety of ways. First, as is already the case with "illegitimate" children, the "sole parent" provision will not be available in the case of a children born out of wedlock unless the father has "disappeared or abandoned or deserted the child or . . . has in writing irrevocably released the child for emigration and adoption." (INA Section 101(b)(2).) The consular officer will have to apply this standard in deciding whether the required visa can be issued under the "sole parent" provision. In addition, the INA contemplates that U.S. parents adopting a foreign child will either adopt the child abroad or comply with preadoption requirements and then adopt the child in the United States. Under either scenario, the foreign country's adoption and/or emigration procedures will presumably ensure that any rights of the natural father under foreign law are respected.

I hope this information is useful to you, and that you will support early consideration of the legislation.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF CHILD.

Section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "legitimate child" and inserting "child born in wedlock"; and

(B) in subparagraph (D), by striking "an illegitimate child" and inserting "a child born out of wedlock"; and

(2) in paragraph (2), by striking "an illegitimate child" and inserting "a child born out of wedlock".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

NATIONAL CHILDREN'S ISLAND ACT OF 1995

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1508) to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park, as amended.

The Clerk read as follows:

H.R. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Children's Island Act of 1995".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "plat" means the plat filed in the Office of the Surveyor of the District of Columbia under S.O. 92–252.

(2) The term "District" means the District of Columbia.

(3) The term "Islands" means Heritage Island and all of that portion of Kingman Island located south of Benning Road and within the District of Columbia and the Anacostia River, being a portion of United States Reservation 343, Section F, as specified and legally described on the Survey.

(4) The term "National Children's Island" means a cultural, educational, and family-oriented recreation park, together with a children's playground, to be developed and operated in accordance with the Children's Island Development Plan Act of 1993, D.C. Act 10–110.

(5) The term "playground" means the children's playground that is part of National Children's Island and includes all lands on the Islands located south of East Capitol Street.

(6) The term "recreation park" means the cultural, educational, and family-oriented recreation park that is part of National Children's Island.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Survey" means the ALTA/ACSM Land Title Survey prepared by Dewberry & Davis and dated February 12, 1994.

SEC. 3. PROPERTY TRANSFER.

(a) TRANSFER OF TITLE.—In order to facilitate the construction, development, and operation of National Children's Island, the Secretary shall, not later than six months after the date of enactment of this Act and subject to this Act, transfer by quitclaim deed, without consideration, to the District all right, title, and interest of the United States in and to the Islands. Unbudgeted actual costs incurred by the Secretary for such transfer shall be borne by the District. The District may seek reimbursement from any third party for such costs.

(b) GRANT OF EASEMENTS.—(1) The Secretary shall, not later than six months after the date of enactment of this Act, grant, without consideration, to the District, permanent easements across the waterways and bed of the Anacostia River as described in the Survey as Leased Riverbed Areas A, B, C, and D, and across the shoreline of the Anacostia River as depicted on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252.

(2) Easements granted under paragraph (1) shall run with the land and shall be for the purposes of—

(A) constructing, reconstructing, maintaining, operating, and otherwise using only such bridges, roads, and other improvements as are necessary or desirable for vehicular and pedestrian egress and ingress to and from the Islands and which satisfy the District Building Code and applicable safety requirements;

(B) installing, reinstalling, maintaining, and operating utility transmission corridors, including (but not limited to) all necessary electricity, water, sewer, gas, necessary or desirable for the construction, reconstruction, maintenance, and operation of the Islands and any and all improvements located thereon from time to time; and

(C) constructing, reconstructing, maintaining, operating, and otherwise providing necessary informational kiosk, ticketing booth, and security for the Islands.

(3) Easements granted under paragraph (1) shall be assignable by the District to any lessee, sublessee, or operator, or any combination thereof, of the Islands.

(c) DEVELOPMENT.—The development of National Children's Island shall proceed as specified in paragraph 3 of the legend on the plat or as otherwise authorized by the District by agreement, lease, resolution, appropriate executive action, or otherwise.

(d) REVERSION.—(1) The transfer under subsection (a) and the grant of easements under subsection (b) shall be subject to the condition that the Islands only be used for the purposes of National Children's Island. Title in the property transferred under subsection (a) and the easements granted under subsection (b), shall revert to the United States 60 days after the date on which the Secretary provides written notice of the reversion to the District based on the Secretary's determination, which shall be made in

accordance with chapter 5 of title 5, United States Code (relating to administrative procedures), that one of the following has occurred:

(A) Failure to commence improvements in the recreational park within the earlier of—

(i) three years after building permits are obtained for construction of such improvements; or

(ii) four years after title has been transferred, as provided in subsection (a).

(B) Failure to commence operation of the recreation park within the earlier of—

(i) five years after building permits are obtained for construction of such improvements; or

(ii) seven years after title has been transferred, as provided in subsection (a).

(C) After completion of construction and commencement of operation, the abandonment or non-use of the recreation park for a period of two years.

(D) After completion of construction and commencement of operation, conversion of the Islands to a use other than that specified in this Act or conversion to a parking use not in accordance with section 4(b).

(2) The periods referred to in paragraph (1) shall be extended during the pendency of any lawsuit which seeks to enjoin the development or operation of National Children's Island or the administrative process leading to such development or operation.

(3) Following any reconveyance or reversion to the National Park Service, any and all claims and judgments arising during the period the District holds title to the Islands, the playground, and premises shall remain the responsibility of the District, and such reconveyance or reversion shall extinguish any and all leases, rights or privileges to the Islands and the playground granted by the District.

(4) The District shall require any nongovernmental entity authorized to construct, develop, and operate National Children's Island to establish an escrow fund, post a surety bond, provide a letter of credit or otherwise provide such security for the benefit of the National Park Service, substantially equivalent to that specified in paragraph 11 of the legend on the plat, to serve as the sole source of funding for restoration of the recreation park to a condition suitable for National Park Service purposes (namely, the removal of all buildings and grading, seeding and landscaping of the recreation park) upon reversion of the property. If, on the date which is two years from the date of reversion of the property, the National Park Service has not commenced restoration or is not diligently proceeding with such restoration, any amount in the escrow fund shall be distributed to such nongovernmental entity.

SEC. 4. PROVISIONS RELATING TO LANDS TRANSFERRED AND EASEMENTS GRANTED.

(a) PLAYGROUND.—Operation of the recreation park may only commence simultaneously with or subsequent to improvement and opening of a children's playground at National Children's Island that is available to the public free of charge. The playground shall only include those improvements traditionally or ordinarily included in a publicly maintained children's playground. Operation of the recreation park is at all times dependent on the continued maintenance of the children's playground.

(b) PUBLIC PARKING.—Public parking on the Islands is prohibited, except for handicapped parking, emergency and government vehicles, and parking related to constructing, and servicing National Children's Island.

(c) REQUIRED APPROVALS.—Before construction commences, the final design plans for the recreation park and playground, and all related structures, including bridges and roads, are subject to the review and approval of the National Capital Planning Commission and of the District of Columbia in accordance with the Children's Island Development Plan Act of 1993 (D.C. Act 10–110). The District of Columbia shall carry out its review of this project in full compliance with all applicable provisions of the National Environmental Policy Act of 1969.

SEC. 5. EFFECT OF PROPERTY TRANSFER.

(a) EFFECT OF PROPERTY TRANSFER.—Upon the transfer of the Islands to the District pursuant to this Act:

(1) The Transfer of Jurisdiction concerning the Islands from the National Park Service to the District dated February 1993, as set out on the plat map recorded in the Office of the Surveyor of the District as S.O. 92–252 and as approved by the Council of the District by Resolution 10–91, shall become null and void and of no further force and effect, except for the references in this Act to paragraphs 3 and 11 of the legend on the plat.

(2) The Islands shall no longer be considered to be part of Anacostia Park and shall not be considered to be within the park system of the District; therefore, the provisions of section 2 of the Act entitled "An Act to vest in the Commissioners of the District of Columbia control of street parking in said District", approved July 1, 1898 (ch. 543, 30 Stat. 570; D.C. Code 8–104), shall not apply to the Islands, and the District shall have exclusive charge and control over the Islands and easements transferred.

(3) The Islands shall cease to be a reservation, park, or public grounds of the United States for the purposes of the Act of August 24, 1912 (ch. 355, 37 Stat. 444; 40 U.S.C. 68; 8–128 D.C. Code).

(b) USE OF CERTAIN LANDS FOR PARKING AND OTHER PURPOSES.—Notwithstanding any other provision of law, the District is hereby authorized to grant via appropriate instrument to a nongovernmental individual or entity any and all of its rights to use the lands currently being leased by the United States to the District pursuant to the District of Columbia Stadium Act of 1957 (Public Law 85–300, September 7, 1957, 71 Stat. 619) for parking facilities (and necessary informational kiosk, ticketing booth, and security) as the Mayor of the District in his discretion may determine necessary or appropriate in connection with or in support of National Children's Island.

SEC. 6. SAVINGS PROVISIONS.

No provision of this Act shall be construed—

(1) as an express or implied endorsement or approval by the Congress of any such construction, development, or operation of National Children's Island;

(2) except as provided in section 5, to exempt the recreational park and playground from the laws of the United States or the District, including laws relating to the environment, health, and safety; or

(3) to prevent additional conditions on the National Children's Island development or operation to mitigate adverse impacts on adjacent residential neighborhoods and park lands and the Anacostia River.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise in support of H.R. 1508, the National Children's Island Act of 1995, introduced by Delegate ELEANOR HOLMES NORTON of the District of Columbia.

Mr. Speaker, this is a good bill, which transfers title of the manmade Kingman and Heritage Islands in the Anacostia River, from the United States to the District of Columbia, for the purpose of establishing a cultural, educational, and family-oriented theme park. While this is not the normal manner of transferring land between the Federal Government and the District, I support this title transfer because it offers the best chance for the National Children's Island Foundation to realize their vision. It has been my experience that Federal agencies do not handle either land exchanges or transfers in a very efficient manner. For that very reason, we are currently working on legislation in my subcommittee to make the administrative process more efficient.

The project which this legislation helps facilitate offers important economic opportunity to the District of Columbia. It has been estimated that development of National Children's Island will create over 1,700 full and part-time jobs and generate $8.9 million in annual sales tax revenue. This bill represents a tremendous opportunity to develop a project on lands which are currently being used to dump construction rubble.

As always, Ms. NORTON has done a good job of working with her various constituencies on this legislation and I believe that the bill, as amended, addresses the concerns of all interested parties, except those looking for an excuse to stop the project. Therefore, I commend the bill to my colleagues and ask for their support for H.R. 1508.

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Mr. Speaker, I reserve the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield 4 minutes to the gentlewoman from the District of Columbia, ELEANOR HOLMES NORTON, the distinguished author of this bill, who has worked very hard and fashioned this bill with the chairman today.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, may I express my sincere appreciation to Chairman JIM HANSEN of the Subcommittee on National Parks, Forests, and Lands, Subcommittee Ranking Member BILL RICHARDSON, Resources Committee Chairman DON YOUNG, and Ranking Member GEORGE MILLER for moving this bill through the Resources Committee in an expeditious manner. On April 6, 1995, I introduced H.R. 1508, the National Children's Island Act of 1995, at the request of the District of Columbia. This bipartisan bill calls for the transfer of Heritage and a portion of Kingman Islands, currently an artificial landfill and dumpsite, from the National Park Service to the District for the purposes of creating a cultural, educational, and family-oriented park. This is the essential initial step in a process that, by law, will require other local and Federal review steps before the project proceeds.

The District is pressing this legislation at this time of local financial crisis. The park will create 1700 new full and part-time jobs, 51.1 percent of which will go to District residents. Likewise, the park will generate approximately $8.9 million in annual sales tax revenues, and earmark a share of its revenues for educational grants, scholarships and other programs for District youth and businesses.

The city council approved this project by a vote of 11 to 1. The project is fully privately funded with no cost to the District or the Federal Governments. As a result of improvements made in committee, a Federal level environmental impact statement in compliance with the National Environmental Policy Act will be conducted with review and approval by the National Capitol Planning Commission.

Again, I thank the Resources Committee for its bipartisan leadership in bringing this bill to the floor today, and urge all Members of the House to support the bill.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1508 is a complicated measure that shows that land transfers are not simple matters. Numerous changes and refinements were made to the bill in an attempt to deal with the concerns of the many parties to this legislation. I want to commend the chairman and the gentlewoman from the District of Columbia [Ms. NORTON] for arriving at what I consider to be a suitable compromise.

There is still some concern about this bill within the local community, but I do think that what the bill now has, through the compromise worked out by the chairman and the gentlewoman, is to make sure that there is local input, community input throughout this process on the zoning permitting actions of the District government.

The amendment in the nature of a substitute adopted by the committee incorporates several of the amendments that I wanted to see included in the bill. We should be careful about negating previous agreements and making moot a current court order, both of which this legislation does.

However, the bill's requirement for approval of the development plans by the National Capital Planning Commission and the preparation of a Federal EIS by the D.C. government does go a long way in protecting the public interest. I would note that the gentlewoman from the District of Columbia [Ms. NORTON], who represents the area in question, wants to see this legislation move forward. She has worked very hard on this. She has put forth some constructive proposals to develop this land as a recreational area for children and the general public.

This property is currently used as a leaf and stump dumping site. Given this history and present use. I want to make sure that we pass this bill, give the District government the opportunity to manage the site, subject to some of the constructive safeguards in the bill protecting the public interest.

I urge strong support for this legislation, and once again commend the gentlewoman from District of Columbia [Ms. NORTON], who represents zealously the interests of her constituents, and my good friend, most of the time, the gentleman from Utah [Mr. HANSEN].

Mr. DAVIS. Mr. Speaker, I rise in support of H.R. 1508, the National Children's Island Act. Ms. ELEANOR HOLMES NORTON, the Delegate from the District of Columbia and the author of this legislation, is to be commended for her strong advocacy of this project. Her role in shepherding this legislation through the 104th Congress shows the importance of skillful advocacy in behalf of worthwhile legislation.

The act is of significance for three reasons. First, it is a splendid example of how the Republicans of the 104th Congress are working together with the District of Columbia to make our Nation's Capital a more attractive place to live, work, and visit. This act transfers property from the National Park Service to the District of Columbia. This transfer has the effect of making the city the lead agency for the development of this property. This is the way Congress should relate to the city. It is not prudent for Congress to be deeply involved in the details of the development of Children's Island. The city, working together with the private sector, is fully capable of bringing this project to a timely and successful completion.

This project is also significant because of the way Congress has handled it internally. This legislation deals with the transfer of National Park Service property. It is entirely proper that the Resources Committee had primary jurisdiction over H.R. 1508. I want to commend the work of both the Subcommittee on National Parks, Forests, and Lands under the able leadership of Mr. HANSEN and the full Resources Committee under the able leadership of Mr. YOUNG. Their outstanding work made it possible for the Government Reform and Oversight Committee to waive jurisdiction over this bill. By waiving jurisdiction, this project will be able to go forward in a timely manner without any prejudice to the Federal interest. I would also like to point out that in past Congresses the former District of Columbia Committee examined this issue. I have found no opposition to this legislation among members of the former Committee.

Finally, I think it is fitting that we pass this legislation and enable this project on the first day of the White House Conference on Travel and Tourism. This conference points to the importance of the tourist industry for our Nation generally and our capital region specifically. Tourism is crucial to the economic well being of the entire Washington Metropolitan Area. Tourism is the number one private sector employer in the District of Columbia and is second only to the Government itself as an employer. As the Federal Government continues to shrink it is vital that we do what we can in both the Congress and the executive branch to boost the region's economic development in areas outside Government. The Republicans of the 104th Congress working with Democrats in Congress and the city have already taken significant steps to strengthen tourism as a regional industry. We approved legislation which enabled the city to proceed with the new MCI Center at Gallery Place and to plan for a new convention center. The Children's Island project is another example of the positive partnership we are establishing. Once again, I want to commend the able leadership Ms. NORTON has shown on this project.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. EVERETT). The question is on the motion offered by the gentleman from Utah [Mr. HANSEN] that the House suspend the rules and pass the bill, H.R. 1508, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS IN COASTAL BARRIER RESOURCES SYSTEM MAP

Mr. TORKILDSEN. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2005, to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System.

The Clerk read as follows:

H.R. 2005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION TO MAP.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the map described in subsection (b) as are necessary—

(1) to move on that map the eastern boundary of the excluded area covering Ocean Beach, Seaview, Ocean Bay Park, and part of Point O'Woods to the western boundary of the Sunken Forest Preserve; and

(2) to ensure that on that map the depiction of areas as "otherwise protected areas" does not include any area that is owned by the Point O'Woods Association (a privately held corporation under the laws of the State of New York).

(b) MAP DESCRIBED.—The map described in this subsection is the map that is included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990, that relates to the unit of the Coastal Barrier Resources System entitled Fire Island Unit NY-59P.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. TORKILDSEN] will be recognized for 20 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I begin, I would like to applaud the work of my colleague, the gentleman from Massachusetts [Mr. STUDDS], who has announced he will not be seeking another term in this Chamber. He has done great work for both the environment and to advocate for the interests of those who make their living in the fishing industry. We all appreciate what he has done, and I know we are going to miss him here, but wish him well in his future endeavors.

Mr. Speaker, I support H.R. 2005, which makes a technical correction to the Coastal Barrier Resources Act by removing an incorrectly mapped portion of unit NY-59P from the Coastal Barrier Resources System.

When unit NY-59P was created, a portion of privately owned land was incorrectly mapped as being part of an adjacent otherwise protected area, the Fire Island National Seashore. This 88-acre tract is owned by a private homeowner association, the Point O' Woods Association, and has never been a part of the National Seashore.

This noncontroversial legislation is supported by both the Fire Island National Seashore and the U.S. Fish and Wildlife Service.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I promise not to consume much time. I want to thank my colleague, the gentleman from Massachusetts, for his very kind words. Perhaps now that the Commonwealth of Massachusetts totally controls the floor, we should call up the Boston Harbor Islands National Park. I would also like to ask the gentleman where he got this tie.

Mr. TORKILDSEN. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Massachusetts.

Mr. TORKILDSEN. My fiance picked it out.

Mr. STUDDS. See? It is very nice.

Mr. Speaker, everything the gentleman said, at least about this bill is correct. It is a thing we should do. It is precisely the kind of correction that is in order. We strongly support it.

Mr. Speaker, I yield back the balance of my time.

Mr. TORKILDSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I would like to join my colleague, the gentleman from Massachusetts [Mr. TORKILDSEN], in saluting our distinguished colleague, the gentleman from Massachusetts [Mr. STUDDS]. It is a rare opportunity to salute somebody who has been such a champion, particularly for the fishing industry in particular, and I join my colleague in regret at losing a distinguished Member from this body at the conclusion of his term.

Mr. Speaker, I rise in support of H.R. 2005. This legislation became necessary, and while I certainly wholeheartedly embraced the coastal barrier resources systems map legislation that was enacted in 1990, there was a need to made this technical correction.

In 1990, the legislation codified a map that designated open space in Point of Woods as covered under the Coastal Barrier Resources Act of 1982, and the Coastal Barrier Improvement Act of 1990, and inadvertently excluded Point of Woods from the national flood insurance program and restricted Federal development assistance.

The Coastal Barrier Resources Act was designed to prevent the development of undeveloped segments of the coastal barrier. A good act, as I have previously stated is designed: The Point of Woods community of 160 acres, with 140 homes, a hotel, a store, a firehouse, a church, community activity buildings, and tennis courts. The area affected by the legislation is 80 acres, with 22 houses and plots under development.

In 1991, 1992, and 1993 Fire Island suffered brutal damage in three major east coastal storms. These storms destroyed many homes on Fire Island, but because of good planning, Point of Woods only lost two homes. For many years Point of Woods has discouraged beach front home construction. It has moved homes back from the ocean front when possible, and bulldozed sand to build dunes.

After the storms, Mr. Speaker, Point of Woods developed a unique plan, together with our local town of Brookhaven and Federal flood administrators of the Federal Emergency Management Agency, to move from the beach up to 17 homes and to permit rebuilding of the dunes for the future protection of the community.

As they were about to relocate the homes, Point of Woods residents learned that half of the homes were included in the Coastal Barrier Improvement Act, making them ineligible for flood insurance for new construction or for the relocated houses.

The result is that 30 years of thoughtful community land use planning will not proceed without this technical correction. Home builders and mortgage lenders have said that they would not offer loans for construction, and they would not make that opportunity available without flood insurance, which is prohibited under the technical aspects of the bill previously passed in 1990.

Point of Woods never received notice of the mapping process, and were not able to make the corrections at the time the legislation passed. This much-needed legislation will correct the mapping error that designated private property on Fire Island as an otherwise protected area on the coastal barrier resources system map of the Fire Island National Seashore.

The coastal barriers' resources system boundaries cannot be adjusted without congressional approval, and I appreciate the Committee on Resources taking up this legislation and my colleagues embracing these technical corrections. I urge its adoption.

Mr. LAZIO of New York. Mr. Speaker, I rise today to express my strong support of H.R. 2005, which will correct a mapping error which designated the private community of Point O' Woods on Fire Island as an "otherwise protected area" on the Coastal Barrier Resources System map.

In 1990, the Coastal Barrier Resources Act was amended and during the mapping, half of the Point O' Woods community was inadvertently grouped together with a federally owned wildlife preserve adjacent to Point O' Woods.

These otherwise protected areas on this map are areas within the Coastal Barrier Resources System units that include national wildlife refuges, national parks and seashores, State parks and conservation lands owned by private organizations. The inclusion of the Point O' Woods property in otherwise protected land prohibits the issuance of flood insurance, which is so vital to these homeowners. It also restricts the availability of Federal development assistance. These units boundaries must be adjusted by congressional approval.

This was an oversight by the Government that Congress seeks to correct and will benefit the homeowners of Point O' Woods. Though this particular affected area lies in New York's First Congressional District, I share the representation of the Fire Island with my colleague, Mr. FORBES, and congratulate him on his efforts to correct this unfortunate mistake by the Government. I urge the rest of my colleagues to support H.R. 2005.

Mr. TORKILDSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. TORKILDSEN] that the House suspend the rules and pass the bill, H.R. 2005.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONVEYANCE OF NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MA

Mr. TORKILDSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1358) to require the Secretary of Commerce to convey to the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, MA, as amended.

The Clerk read as follows:

H.R. 1358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF NATIONAL MARINE FISHERIES SERVICE LABORATORY AT GLOUCESTER, MASSACHUSETTS.

(a) CONVEYANCE REQUIRED.—

(1) IN GENERAL.—The Secretary of Commerce shall convey to the Commonwealth of Massachusetts, all right, title, and interest of the United States in and to the property comprising the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

(2) TERMS.—A conveyance of property under paragraph (1) shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions specified under subsections (b) and (c).

(b) CONDITIONS FOR TRANSFER.—

(1) IN GENERAL.—As a condition of any conveyance of property under this section, the Commonwealth of Massachusetts shall assume full responsibility for maintenance of the property for as long as the Commonwealth retains the rights and title to that property.

(2) CONTINUED USE OF PROPERTY BY NMFS.—The Secretary may enter into a memorandum of understanding with the Commonwealth of Massachusetts under which the National Marine Fisheries Service is authorized to occupy existing laboratory space on the property conveyed under this section, if—

(A) the term of the memorandum of understanding is for a period of not longer than 5 years beginning on the date of enactment of this Act; and

(B) the square footage of the space to be occupied by the National Marine Fisheries Service does not conflict with the needs of, and is agreeable to, the Commonwealth of Massachusetts.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on the date on which the Commonwealth of Massachusetts uses any of the property for any purpose other than the Commonwealth of Massachusetts Division of Marine Fisheries resource management program.

(d) RESTRICTION.—Amounts provided by the South Essex Sewage District may not be used by the Commonwealth of Massachusetts to transfer existing activities to, or conduct activities at, property conveyed under this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. TORKILDSEN] will be recognized for 5 minutes, and the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes.

The Chair, recognizes the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1358 is noncontroversial legislation to transfer the National Marine Fisheries Service Laboratory in Gloucester, MA, to the Commonwealth of Massachusetts. This legislation has been worked out on both sides of the aisle, and has the support of Governor Weld and the administration.

The National Marine Fisheries Service Laboratory in Gloucester has been an important component of the fishing community in New England, since its construction in 1968. Due to the National Marine Fisheries Service restructuring, many of the duties performed at the lab have been transferred to other labs along the coast. It was believed the Gloucester lab would shut its doors forever. However, I worked closely with State officials to ensure the lab would remain open. The Commonwealth was looking for space for their new State fisheries lab and the Gloucester lab was a good match.

The Commonwealth has formed an academic consortium with the University of Massachusetts and Salem State College to investigate the many challenges the fishing community faces. Specifically, the consortium will focus on the manufacturing of value-added seafood products from underutilized species such as Atlantic mackerel, herring, whiting, and dogfish.

Currently, Georges Bank is closed to fishing for valuable groundfish such as haddock, cod, and flounder. Fishing families are facing the extra burden of trying to make ends meet in a time when they cannot fish. However, all is not lost. There is an abundance of underutilized species which do not currently have a market. The consortium will maximize the resources at the lab to investigate new products made from these underutilized species. These value-added products will enable New England fishing families to work while the haddock, cod, and flounder stocks have time to recover. The new lab will continue to be an important component of the New England fishing community.

This legislation requires the Commonwealth of Massachusetts to conduct fisheries research; otherwise, the laboratory will revert back to the control of the Federal taxpayers.

As I previously stated, this legislation has been worked out on both sides of the aisle, and the administration supports this transfer.

I urge my colleagues to support this legislation, and I look forward to its passage today.

Mr. Speaker, I reserve the balance of my time.

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Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, believe it or not, the gentleman from Massachusetts [Mr. TORKILDSEN] has said all there is to be said on this subject. This is a bill which the House passed in essentially this form in the last Congress. We should continue to pass it, and hope that the other body recognizes the wisdom of it. I commend the gentleman for doing it.

Mr. Speaker, I rise in strong support of the bill.

Is has been almost 3 years since the Commonwealth of Massachusetts first approached me about the possibility of taking over the operations of the Gloucester lab. The Division of Marine Fisheries' lab was to be closed and the Commonwealth was in search of a new facility. The Gloucester lab, which had been slated for closure by NMFS for several years seemed a perfect fit. Legislation was introduced and passed by the House to transfer the title of the property, but it never became law, forcing the bill to be reintroduced this year.

This legislation is modeled after the multitude of hatchery transfer bills that have been considered by the House in the past. The Commonwealth will assume title to the property and responsibility for all improvements and modifications to the facility. The interests of the Federal Government are protected by a reversionary clause that requires the property to revert to Federal ownership should it no longer be used for a fishery lab. The Division of Marine Fisheries has also agreed to provide office and lab space to NMFS scientists as needed. This is a win-win situation for Massachusetts and the National Marine Fisheries Service, and I urge Members to support it today.

Mr. SAXTON. Mr. Speaker, I rise in strong support of H.R. 1358, introduced by our distinguished colleague from Massachusetts, Congressman PETER TORKILDSEN.

This legislation will convey all right, title, and interest to the National Marine Fisheries Service Laboratory in Gloucester to the Commonwealth of Massachusetts.

The Federal Government acquired this land from the city of Gloucester over 60 years ago for $1. It has now been classified as surplus Federal property, and the National Marine Fisheries Service will soon transfer its few remaining scientists from that facility.

Instead of closing this laboratory, however, the Commonwealth of Massachusetts has indicated its desire to move its Division of Marine Fisheries to Gloucester and to undertake shellfish and water quality testing, striped bass and northern shrimp management, sea sampling, and field biological studies. In fact, the Commonwealth has testified that the Gloucester laboratory is ideally suited for its marine fishery programs.

This bill is an important partnership with the Commonwealth of Massachusetts, and its marine fisheries program will benefit many Americans. Furthermore, the property will revert back to the Federal Government if the Commonwealth attempts to use the facilities for any other purpose.

It is my understanding that both the Clinton administration and the Commonwealth of Massachusetts strongly support H.R. 1358. I urge an "aye" vote on the bill, and I compliment PETER TORKILDSEN for his outstanding leadership in this matter.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts

[Mr. TORKILDSEN] that the House suspend the rules and pass the bill, H.R. 1358, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TORKILDSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1508, H.R. 2005, and H.R. 1358.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until approximately 4:30 p.m.

Accordingly (at 2 o'clock and 36 minutes p.m.), the House stood in recess until approximately 4:30 p.m.

□ 1640

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. EVERETT) at 4 o'clock and 40 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

The message also announced that pursuant to Public Law 86-380, the Chair, on behalf of the Vice President, appoints Mr. THOMAS to the Advisory Commission on Intergovernmental Relations, vice Mr. DORGAN.

HOMESTEADING AND NEIGHBORHOOD RESTORATION ACT OF 1995

Mr. LAZIO of New York. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 1691, to provide for innovative approaches for home ownership opportunity and provide for the temporary extension of the rural rental housing program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1691

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homesteading and Neighborhood Restoration Act of 1995".

SEC. 2. ASSISTANCE FOR HABITAT FOR HUMANITY AND OTHER SELF-HELP HOUSING PROVIDERS.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development shall, to the extent amounts are available to carry out this section and the requirements of this section are met, make grants for use in accordance with this section to—

(1) Habitat for Humanity International, whose organizational headquarters are located in Americus, Georgia; and

(2) other national or regional organizations or consortia that have experience in providing or facilitating self-help housing homeownership opportunities.

(b) GOALS AND ACCOUNTABILITY.—In making grants under this section, the Secretary shall take such actions as may be necessary to ensure that—

(1) assistance provided under this section is used to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing, under which the homeowner contributes a significant amount of sweat equity toward the construction of the new dwelling;

(2) assistance provided under this section for land acquisition and infrastructure development results in the development of not less than 5,000 new dwellings;

(3) the dwellings constructed in connection with assistance provided under this section are quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market prices;

(4) the provision of assistance under this section establishes and fosters a partnership between the Federal Government and Habitat for Humanity International, its affiliates, and other organizations and consortia, resulting in efficient development of affordable housing with minimal Governmental intervention, limited Governmental regulation, and significant involvement by private entities;

(5) activities to develop housing assisted pursuant to this section involve community participation similar to the homeownership program carried out by Habitat for Humanity International, in which volunteers assist in the construction of dwellings; and

(6) dwellings are developed in connection with assistance under this section on a geographically diverse basis, which includes areas having high housing costs, rural areas, and areas underserved by other homeownership opportunities that are populated by low-income families unable to otherwise afford housing.

If, at any time, the Secretary determines that the goals under this subsection cannot be met by providing assistance in accordance with the terms of this section, the Secretary shall immediately notify the applicable Committees in writing of such determination and any proposed changes for such goals or this section.

(c) ALLOCATION.—Of any amounts available for grants under this section—

(1) 50 percent shall be used for a grant to the organization specified in subsection (a)(1); and

(2) 50 percent shall be used for grants to organizations and consortia under subsection (a)(2).

(d) USE.—

(1) PURPOSE.—Amounts from grants made under this section shall be used only for eligible expenses in connection with developing new decent, safe, and sanitary nonluxury dwellings in the United States for families and persons who otherwise would be unable to afford to purchase a dwelling.

(2) ELIGIBLE EXPENSES.—For purposes of paragraph (1), the term "eligible expenses" means costs only for the following activities:

(A) LAND ACQUISITION.—Acquiring land (including financing and closing costs).

(B) INFRASTRUCTURE IMPROVEMENT.—Installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure.

Such term does not include any costs for the rehabilitation, improvement, or construction of dwellings.

(e) ESTABLISHMENT OF GRANT FUND.—

(1) IN GENERAL.—Any amounts from any grant made under this section shall be deposited by the grantee organization or consortium in a fund that is established by such organization or consortium for such amounts, administered by such organization or consortium, and available for use only for the purposes under subsection (d). Any interest, fees, or other earnings of the fund shall be deposited in the fund and shall be considered grant amounts for purposes of this section.

(2) ASSISTANCE TO HABITAT FOR HUMANITY AFFILIATES.—Habitat for Humanity International may use amounts in the fund established for such organization pursuant to paragraph (1) for the purposes under subsection (d) by providing assistance from the fund to local affiliates of such organization.

(f) REQUIREMENTS FOR ASSISTANCE TO OTHER ORGANIZATIONS.—The Secretary may make a grant to an organization or consortium under subsection (a)(2) only pursuant to—

(1) an expression of interest by such organization or consortia to the Secretary for a grant for such purposes;

(2) a determination by the Secretary that the organization or consortia has the capability and has obtained financial commitments (or has the capacity to obtain financial commitments) necessary to—

(A) develop not less than 30 dwellings in connection with the grant amounts; and

(B) otherwise comply with a grant agreement under subsection (i); and

(3) a grant agreement entered into under subsection (i).

(g) TREATMENT OF UNUSED AMOUNTS.—Upon the expiration of the 6-month period beginning upon the Secretary first providing notice of the availability of amounts for grants under subsection (a)(2), the Secretary shall determine whether the amount remaining from the aggregate amount reserved under subsection (c)(2) exceeds the amount needed to provide funding in connection with any expressions of interest under subsection (f)(1) made by such date that are likely to result in grant agreements under subsection (i). If the Secretary determines that such excess amounts remain, the Secretary shall provide the excess amounts to Habitat for Humanity International by making a grant to such organization in accordance with this section.

(h) GEOGRAPHICAL DIVERSITY.—In using grant amounts provided under subsection (a)(1), Habitat for Humanity International shall ensure that the amounts are used in a manner that results in national geographic diversity among housing developed using such amounts. In making grants under subsection (a)(2), the Secretary shall ensure that grants are provided and grant amounts are used in a manner that results in national geographic diversity among housing developed using grant amounts under this section.

(i) GRANT AGREEMENT.—A grant under this section shall be made only pursuant to a grant agreement entered into by the Secretary and the organization or consortia receiving the grant, which shall—

(1) require such organization or consortia to use grant amounts only as provided in this section;

(2) provide for the organization or consortia to develop a specific and reasonable number of dwellings using the grant amounts, which number shall be established taking into consideration costs and economic conditions in the areas in which the dwellings will be developed, but in no case shall be less than 30;

(3) require the organization or consortia to use the grant amounts in a manner that leverages other sources of funding (other than grants under this section), including private or public funds, in developing the dwellings;

(4) require the organization or consortia to comply with the other provisions of this section;

(5) provide that if the organization or consortia has not used any grant amounts within 24 months after such amounts are first disbursed to the organization or consortia, the Secretary shall recapture such unused amounts; and

(6) contain such other terms as the Secretary may require to provide for compliance with subsection (b) and the requirements of this section.

(j) GRANT PAYMENTS.—

(1) 1-STEP DISBURSEMENT.—With respect to any grant under subsection (a)(2) in an amount less than $8,000,000, the Secretary shall make the total amount of the grant available to the grantee organization or consortia upon entering into the grant agreement under subsection (i) and providing notice under paragraph (3).

(2) 2-STEP DISBURSEMENT.—With respect to the grant under subsection (a)(1) and any grant under subsection (a)(2) in an amount equal to or exceeding $8,000,000, the Secretary shall disburse the grant amounts in 2 equal payments, as follows:

(A) INITIAL PAYMENT.—The first payment shall be made available to the grantee organization or consortia upon entering into the grant agreement under subsection (i) and providing notice under paragraph (3).

(B) FINAL PAYMENT.—The second payment shall be made available to the organization or consortia subject to the following requirements:

(i) NOTICE.—The amounts may not be made available until 30 days after the Secretary certifies to the applicable Committees that the grant amounts provided under subparagraph (A) to the organization or consortia have been used in accordance with this section to develop the new dwellings required under the grant agreement.

(ii) FULFILLMENT OF GRANT AGREEMENT.—If the Secretary determines that the organization or consortia has not, within 24 months after amounts are first made available under subparagraph (A) to the organization or consortia, substantially fulfilled the obligations under the grant agreement, including development of the appropriate number of dwellings under the agreement, the Secretary shall use any such undisbursed amounts remaining from such grant for other grants in accordance with this section.

(3) NOTIFICATION TO CONGRESS.—Notification under this paragraph is written notification to the applicable Committees of a grant, the amount of the grant, and the terms of the grant agreement.

(4) FAILURE TO REPORT.—If at any time the Secretary fails to report to the applicable Committees as required in this subsection, the Secretary may not subsequently make any grant under this section and may not subsequently disburse any amounts under any grant previously made.

(k) RECORDS AND AUDITS.—During the period beginning upon the making of a grant under this section and ending upon close-out of the grant under subsection (l)—

(1) the organization awarded the grant under subsection (a)(1) or (a)(2) shall keep such records and adopt such administrative practices as the Secretary may require to ensure compliance with the provisions of this section and the grant agreement; and

(2) the Secretary and the Comptroller General of the United States, and any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee organization or consortia and its affiliates that are pertinent to the grant made under this section.

(l) CLOSE-OUT.—

(1) IN GENERAL.—The Secretary shall close out a grant made under this section upon determining that the aggregate amount of any assistance provided from the fund established under subsection (e)(1) by the grantee organization or consortium exceeds the amount of the grant. For purposes of this paragraph, any interest, fees, and other earnings of the fund shall be excluded from the amount of the grant.

(2) EFFECT.—After such close-out, no grantee organization or consortia, or its affiliates, may be required to comply with any provision of this section or the grant agreement or to account to the Secretary for use of grant amounts.

(m) ENVIRONMENTAL REVIEW.—A grant under this section shall be considered to be funds for a special project for purposes of section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994.

(n) REPORT TO CONGRESS.—Not later than 90 days after close-out of all grants under this section is completed, the Secretary shall submit a report to the applicable Committees describing the grants made under this section, the grantees, the housing developed in connection with the grant amounts, and the purposes for which the grant amounts were used.

(o) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICABLE COMMITTEES.—The term "applicable Committees" means the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(3) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

(p) FUNDING.—Of any amounts previously made available for annual contributions for assisted housing, $50,000,000 shall be used by the Secretary to carry out this section, subject to existing laws and rules governing reprogramming of amounts. Any such amounts shall remain available for such purposes until expended.

(q) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than 30 days after the date of the enactment of this Act. The regulations shall take effect upon issuance and may not exceed, in length, 5 full pages in the Federal Register.

SEC. 3. EXTENSION OF MULTIFAMILY RURAL HOUSING LOAN PROGRAM.

(a) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1994" and inserting "September 30, 1996".

(b) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 is amended by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1996".

SEC. 4. REFORMS FOR MULTIFAMILY RURAL HOUSING LOAN PROGRAM.

(a) LIMITATION ON PROJECT TRANSFERS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by inserting after subsection (g) the following new subsection:

"(h) PROJECT TRANSFERS.—After the date of the enactment of the Homesteading and Neighborhood Restoration Act of 1995, any interest in the ownership of a project for which a loan is made or insured under this section may be transferred only if the Secretary determines that such transfer would be in the best interests of the tenants of the housing for which the loan was made or insured and of the Federal Government.".

(b) EQUITY LOANS.—Section 515(t) of the Housing Act of 1949 is amended—

(1) by striking paragraphs (4) and (5); and

(2) by redesignating paragraphs (6) through (8) as paragraphs (4) through (6), respectively.

(c) REPEAL OF PROHIBITIONS.—Section 515 of the Housing Act of 1949 is amended by striking subsection (z).

(d) LOCATION OF PROJECTS.—Section 532 of the Housing Act of 1949 (42 U.S.C. 1490l) is amended—

(1) in subsection (a), by inserting "other than assistance under section 515" after "in making assistance"; and

(2) by adding at the end the following new subsection:

"(c) ALLOCATION OF SECTION 515 LOANS.—

"(1) PROCEDURE.—The Secretary shall make assistance under section 515 available pursuant to an objective procedure established by the Secretary, under which the Secretary shall identify counties and communities having the greatest need for such assistance and designate such counties and communities to receive such assistance. Under such procedure, the Secretary shall use objective measures to determine the need for rental housing assistance, which may include the incidence of poverty, substandard housing, lack of mortgage credit, lack or insufficient amount of affordable housing, and other factors demonstrating a need for affordable housing.

"(2) INFORMATION.—The Secretary shall use information from the decennial censuses of the United States, relevant comprehensive affordable housing strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act, and other reliable sources obtained by the Secretary which demonstrate the need for affordable rental housing in rural areas.

"(3) DESIGNATION.—A designation under paragraph (1) shall not be effective for a period of more than 3 years, but may be renewed by the Secretary under the procedure under paragraph (1). The Secretary shall cause to be published in the Federal Register a list of areas designated under paragraph (1) and a reasonable timetable for submission of preapplications. The Secretary shall take such other reasonable actions as the Secretary considers appropriate to notify the public of such designations.''.

(e) Equity Takeout Loans To Extend Low-Income Use.—

(1) Authority and limitation.—Section 502(c)(4)(B)(iv) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)(iv)) is amended by inserting before the period at the end the following: "or under paragraphs (1) and (2) of section 514(j), except that an equity loan referred to in this clause may not be made available after the date of the enactment of the Homesteading and Neighborhood Restoration Act of 1995 unless the Secretary determines that the other incentives available under this subparagraph are not adequate to provide a fair return on the investment of the borrower, to prevent prepayment of the loan insured under section 514 or 515, or to prevent the displacement of tenants of the housing for which the loan was made".

(2) Approval of assistance.—Subparagraph (C) of section 502(c)(4) of the Housing Act of 1949 is amended by striking the matter preceding clause (i) and inserting the following:

"(C) Approval of Assistance.—The Secretary may approve assistance under subparagraph (B) for assisted housing only if the restrictive period has expired for any loan for the housing made or insured under section 514 or 515 pursuant to a contract entered into after December 21, 1979, but before the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989, and the Secretary determines that the combination of assistance provided—".

(3) Technical correction.—Section 515(c)(1) of the Housing Act of 1949 (42 U.S.C. 1485(c)(1)) is amended by striking "December 21, 1979" and inserting "December 15, 1989".

SEC. 5. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.

(a) In General.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by inserting after section 537 the following new section:

"SEC. 538. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.

"(a) Authority.—The Secretary may make commitments to guarantee eligible loans for the development costs of eligible housing and related facilities, and may guarantee such eligible loans, in accordance with this section.

"(b) Extent of Guarantee.—A guarantee made under this section shall guarantee repayment of an amount not exceeding the total of the amount of the unpaid principal and interest of the loan for which the guarantee is made. The liability of the United States under any guarantee under this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

"(c) Eligible Borrowers.—A loan guaranteed under this section may be made to a nonprofit organization, an agency or body of any State government or political subdivision thereof, or a private entity.

"(d) Eligible Housing.—A loan may be guaranteed under this section only if the loan is used for the development costs of housing and related facilities (as such terms are defined in section 515(e)) that—

"(1) consists of 5 or more adequate dwellings;

"(2) is available for occupancy only by low or moderate income families or persons, whose incomes at the time of initial occupancy do not exceed 115 percent of the median income of the area, as determined by the Secretary;

"(3) will remain available as provided in paragraph (2), according to such binding commitments as the Secretary may require, for the period of the original term of the loan guaranteed, unless the housing is acquired by foreclosure (or instrument in lieu of foreclosure) or the Secretary waives the applicability of such requirement for the loan only after determining, based on objective information, that—

"(A) there is no longer a need for low- and moderate-income housing in the market area in which the housing is located;

"(B) housing opportunities for low-income households and minorities will not be reduced as a result of the waiver; and

"(C) additional Federal assistance will not be necessary as a result of the waiver; and

"(4) is located in a rural area.

"(e) Eligible Lenders.—

"(1) Requirement.—A loan may be guaranteed under this section only if the loan is made by a lender that the Secretary determines—

"(A) meets the qualifications, and has been approved by the Secretary of Housing and Urban Development, to make loans for multifamily housing that are to be insured under the National Housing Act;

"(B) meets the qualifications, and has been approved by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, to make loans for multifamily housing that are to be sold to such corporations; or

"(C) meets any qualifications that the Secretary may, by regulation, establish for participation of lenders in the loan guarantee program under this section.

"(2) Eligibility list and annual audit.—The Secretary shall establish a list of eligible lenders and shall annually conduct an audit of each lender included in the list for purposes of determining whether such lender continues to be an eligible lender.

"(f) Loan Terms.—Each loan guaranteed pursuant to this section shall—

"(1) provide for complete amortization by periodic payments to be made for a term not to exceed 40 years;

"(2) involve a rate of interest agreed upon by the borrower and the lender that does not exceed the maximum allowable rate established by the Secretary for purposes of this section and is fixed over the term of the loan;

"(3) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve) not to exceed—

"(A) in the case of a borrower that is a nonprofit organization or an agency or body of any State or local government, 97 percent of the development costs of the housing and related facilities or the value of the housing and facilities, whichever is less;

"(B) in the case of a borrower that is a for-profit entity not referred to in subparagraph (A), 90 percent of the development costs of the housing and related facilities or the value of the housing and facilities, whichever is less; and

"(C) in the case of any borrower, for such part of the property as may be attributable to dwelling use, the applicable maximum per unit dollar amount limitations under section 207(c) of the National Housing Act;

"(4) be secured by a first mortgage on the housing and related facilities for which the loan is made, or otherwise, as the Secretary may determine necessary to ensure repayment of the obligation; and

"(5) for at least 20 percent of the loans made under this section, the Secretary shall provide the borrower with assistance in the form of credits pursuant to section 521(a)(1)(B) to the extent necessary to reduce the rate of interest under paragraph (2) to the applicable Federal rate, as such term is used in section 42(i)(2)(D) of the Internal Revenue Code of 1986.

"(g) Guarantee Fee.—At the time of issuance of a loan guaranteed under this section, the Secretary may collect from the lender a fee equal to not more than 1 percent of the principal obligation of the loan.

"(h) Authority for Lenders To Issue Certificates of Guarantee.—The Secretary may authorize certain eligible lenders to determine whether a loan meets the requirements for guarantee under this section and, subject to the availability of authority to enter into guarantees under this section, execute a firm commitment for a guarantee binding upon the Secretary and issue a certificate of guarantee evidencing a guarantee, without review and approval by the Secretary of the specific loan. The Secretary may establish standards for approving eligible lenders for a delegation of authority under this subsection.

"(i) Payment Under Guarantee.—

"(1) Notice of default.—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate for the loan shall provide written notice of the default to the Secretary.

"(2) Foreclosure.—After receiving notice under paragraph (1) and providing written notice of action under this paragraph to the Secretary, the holder of the guarantee certificate for the loan may initiate foreclosure proceedings for the loan in a court of competent jurisdiction, in accordance with regulations issued by the Secretary, to obtain possession of the security property. After the court issues a final order authorizing foreclosure on the property, the holder of the certificate shall be entitled to payment by the Secretary under the guarantee (in the amount provided under subsection (b)) upon (A) conveyance to the Secretary of title to the security property, (B) submission to the Secretary of a claim for payment under the guarantee, and (C) assignment to the Secretary of all the claims of the holder of the guarantee against the borrower or others arising out of the loan transaction or foreclosure proceedings, except claims released with the consent of the Secretary.

"(3) Assignment by secretary.—After receiving notice under paragraph (1), the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Assignment of a loan under this paragraph shall include conveyance to the Secretary of title to the security property, assignment to the Secretary of all rights and interests arising under the loan, and assignment to the Secretary of all claims against the borrower or others arising out of the loan transaction. Upon assignment of a loan under this paragraph, the holder of a guarantee certificate for the loan shall be entitled to payment by the Secretary under the guarantee (in the amount provided under subsection (b)).

"(4) Requirements.—Before any payment under a guarantee is made under paragraph (2) or (3), the holder of the guarantee certificate shall exhaust all reasonable possibilities of collection on the loan guaranteed. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

"(j) Violation of Guarantee Requirements by Lenders Issuing Guarantees.—

"(1) Indemnification.—If the Secretary determines that a loan guaranteed by an eligible lender pursuant to delegation of authority under subsection (h) was not originated in accordance with the requirements under this section and the Secretary pays a claim under the guarantee for the loan, the Secretary may require the eligible lender authorized under subsection (h) to issue the guarantee certificate for the loan—

"(A) to indemnify the Secretary for the loss, if the payment under the guarantee was made within a reasonable period specified by the Secretary; or

"(B) to indemnify the Secretary for the loss regardless of when payment under the guarantee was made, if the Secretary determines that fraud or misrepresentation was involved in connection with the origination of the loan.

"(2) Termination of authority to issue guarantees.—The Secretary may cancel a delegation of authority under subsection (h) to an eligible lender if the Secretary determines that the lender has violated the requirements and procedures for guaranteed loans under this section or for other good cause. Any such cancellation shall be made by giving notice to the eligible lender and shall take effect upon receipt of the notice by the mortgagee or at a later date, as the Secretary may provide. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

"(k) Refinancing.—Any loan guaranteed under this section may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term that exceeds the limitations under subsection (f).

"(l) Nonassumption.—The borrower under a loan that is guaranteed under this section and under which any portion of the principal obligation or interest remains outstanding may not be relieved of liability with respect to the loan, notwithstanding the transfer of property for which the loan was made.

"(m) Geographical Targeting.—

"(1) Study.—The Secretary shall provide for an independent entity to conduct a study to determine the extent to which borrowers in the United States will utilize loan guarantees under this section, the rural areas in the United States in which borrowers can best utilize and most need loans guaranteed under this section, and the rural areas in the United States in which housing of the type eligible for a loan guarantee under this section is most needed by low- and moderate-income families. The Secretary shall require the independent entity conducting the study to submit a report to the Secretary and to the Congress describing the results of the study not later than the expiration of the 90-day period beginning on the date of the enactment of the Homesteading and Neighborhood Restoration Act of 1995.

"(2) Targeting.—In providing loan guarantees under this section, the Secretary shall establish standards to target and give priority to rural areas in which borrowers can best utilize and most need loans guaranteed under this section, as determined by the Secretary based on the results of the study under paragraph (1) and any other information the Secretary considers appropriate.

"(n) Inapplicability of Credit-Elsewhere Test.—Section 501(c) shall not apply to guarantees, or loans guaranteed, under this section.

"(o) Tenant Protections.—The Secretary shall establish standards for the treatment of tenants of housing developed using amounts from a loan guaranteed under this section, which shall incorporate, to the extent applicable, existing standards applicable to tenants of housing developed with loans made under section 515. Such standards shall include standards for fair housing and equal opportunity, lease and grievance procedures, and tenant appeals of adverse actions.

"(p) Housing Standards.—The standards established under section 515(m) for housing and related facilities assisted under section 515 shall apply to housing and related facilities the development costs of which are financed in whole or in part with a loan guaranteed under this section.

"(q) Limitation on Commitments To Guarantee Loans.—

"(1) Requirement of appropriations for cost subsidy.—The authority of the Secretary to enter into commitments to guarantee loans under this section, and to guarantee loans, shall be effective for each fiscal year only to the extent that appropriations of budget authority to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of the guarantees are made in advance for such fiscal year.

"(2) Annual limitation on amount of loan guarantees.—In fiscal year 1996, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed $1,000,000.

"(r) Report.—

"(1) In general.—The Secretary shall submit a report to the Congress, not later than the expiration of the 2-year period beginning on the date of the enactment of the Homesteading and Neighborhood Restoration Act of 1995, describing the program under this section for guaranteeing loans.

"(2) Contents.—The report shall—

"(A) describe the types of borrowers providing housing with loans guaranteed under this section, the areas served by the housing provided and the geographical distribution of the housing, the levels of income of the residents of the housing, the number of dwelling units provided, the extent to which borrowers under such loans have obtained other financial assistance for development costs of housing provided with the loans, and the extent to which borrowers under such loans have used low-income housing tax credits provided under section 42 of the Internal Revenue Code of 1986 in connection with the housing provided with the loans;

"(B) analyze the financial viability of the housing provided with loans guaranteed under this section and the need for project-based rental assistance for such housing;

"(C) include any recommendations of the Secretary for expanding or improving the program under this section for guaranteeing loans; and

"(D) include any other information regarding the program for guaranteeing loans under this section that the Secretary considers appropriate.

"(s) Definitions.—For purposes of this section, the following definitions shall apply:

"(1) The term 'development cost' has the meaning given the term in section 515(e).

"(2) The term 'eligible lender' means a lender determined by the Secretary to meet the requirements of subparagraph (A), (B), (C), or (D) of subsection (e)(1).

"(3) The terms 'housing' and 'related facilities' have the meanings given such terms in section 515(e).

"(t) Authorization of Appropriations.—There is authorized to be appropriated for fiscal year 1996 $1,000,000 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section.

"(u) Termination Date.—A loan may not be guaranteed under this section after September 30, 1996.".

(b) Effect of Authorizing Legislation.—The enactment of this section shall be considered the enactment of authorizing legislation referred to in the 3d undesignated paragraph under the head "Rural Housing and Community Development Service—rural housing insurance fund program account" in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Public Law 104-37; 109 Stat. 299 et seq.; approved October 21, 1995).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. Lazio] and the gentleman from Texas [Mr. Gonzales] will each be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. Lazio].

Mr. LAZIO of New York. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, these are contentious times on Capitol Hill. The need to balance the Federal budget, the need to return accountability to Government and the need to provide better services to the American taxpayers all weigh very heavily on the minds of Members of this House.

In the midst of this, however, we have before us today a tremendous example of how Government can work well, how Government can provide a service without a big bureaucracy or huge Federal subsidies.

H.R. 1691, the Homesteading and Neighborhood Restoration Act of 1995, signals an important change for Government's role in housing.

Despite the success groups like Habitat for Humanity International have had, these initiatives are often hampered by the high costs of acquiring land and providing infrastructure.

H.R. 1691 provides a one-time grant of $50 million for land acquisition and infrastructure development so that Habitat and other national and regional organizations who performed similar types of homeownership programs can be more effective. This funding comes from reprogramming unused HUD funds, resulting in no increased cost to the Government or the deficit.

By allocating 50 percent of the funds to Habitat for Humanity, we acknowledge the fine work this organization has done by providing 30,000 homes to low-income people since its founding in 1976.

Clearly, Government has a role in housing. But ultimately, success depends on the involvement of local communities—neighbors helping neighbors—to make our efforts in Congress work.

There is a lot of talk in Washington right now about where we will go with housing legislation and what will happen to HUD. Habitat, with minimal management overhead and strong partnerships with communities nationwide, is providing quality housing and solid homes for tens of thousands of people. This is a model of how Government and the private sector can work together.

H.R. 1691 also reauthorizes the Section 515 housing program under the Rural Housing and Community Development Service of the Department of Agriculture. The legislation addresses some of the concerns we faced about the program's operation during the 103d Congress and also heralds a change for this program by providing for a loan guarantee demonstration program, sponsored by my very distinguished colleague and vice chairman of the Housing Subcommittee, Congressman BEREUTER. I believe this demonstration will show how Federal dollars can be used more effectively to leverage private dollars. In essence, getting more housing bang for every taxpayer buck.

H.R. 1691 has very broad bi-partisan support from Speaker GINGRICH, HUD Secretary Cisneros—both of whom testified before the Housing Subcommittee on May 25, 1995—and former President Jimmy Carter. When the subcommittee marked up H.R. 1691 it received strong support from both Republicans and Democrats.

Before I finish, I would like to make a personal statement about Habitat for Humanity. Last year I had the opportunity to join my neighbors on Long Island to build the first Habitat for Humanity home in Babylon, NY. I encourage Members of the House to get involved in the work of this fine organization, both by passing this bill and by working with Habitat in their own districts.

Mr. Speaker, I include for the RECORD the following documents regarding the Homesteading and Neighborhood Restoration Act of 1995.

HOMESTEADING AND NEIGHBORHOOD RESTORATION ACT OF 1995

SECTION-BY-SECTION ANALYSIS

Section 1. Designates legislation as the "Homesteading and Neighborhood Restoration Act of 1995."

Section 2. Assistance for Habitat for Humanity and Other Self Help Housing Providers.

The Secretary of Housing and Urban Development is authorized to provide $50 million in grants for land acquisition and infrastructure extensions and developments for self help homeownership opportunities. Fifty percent (50%) of funds are allocated to Habitat and the remainder with other national and regional organizations (or consortia) that perform similar type homeownership programs. Besides Habitat, each organization will be required to express their interest, within six months of enactment, to the HUD Secretary and enter into agreements to provide a reasonable amount of new dwellings (at least 30), consistent with the costs and economic conditions of the area. The HUD Secretary is required to ensure geographic diversity and that each organization leverages other funds, including private or public sources.

Payments to Habitat will be split with 50% up-front, followed by a second 50% payment after Habitat certifies and the HUD Secretary confirms that it has met the terms of the grant agreement. Other organizations that receive in excess of $8 million will be required, similar to Habitat, to certify and confirm that the terms of the grant agreement were met before the remaining funds (50%) are allotted. All other organizations will receive a one-time payment.

The funds will come from unused program amounts from existing HUD accounts and build at least 5,000 new dwellings.

Section 3. Extension of Multifamily Rural Housing Loan Program.

The rural multifamily housing loan program, authorized under Sec. 515 of the Housing Act of 1949 is extended through FY 1996. The accompanying non-profit set aside is also extended through FY 1996. Additionally, reforms, originally included in the 103rd House-passed H.R. 3838 as follows: (1) limits ownership transferability of Sec. 515 multifamily developments to circumstances where the transfer is in the best interest of the tenants; (2) prohibits equity loans unless the USDA Secretary determines that other incentives are not adequate to provide a fair return, to prevent payment, or to prevent displacement of tenants; (3) requires location and allocation of Sec. 515 projects with the greatest need in terms of county poverty, substandard housing and lack of affordable housing rates; and, (4) repeals prohibitions related to remote rural areas, areas without essential services, or certain geographic locations.

Additionally, this section authorizes a rural multifamily loan guarantee program, through FY 1996, where the USDA Secretary guarantees a Sec. 515 loan made by a lender, which would serve families up to 115% of median area income with a loan-to-value ration of 90% (97% for non-profit groups). Eligible lenders are HUD-, Fannie Mae-, Freddi Mac- or USDA-approved mortgagees. The loans may be amortized up to 40 years; 20% of loans would be provided credits to "buy down" the rate of interest to the applicable Federal rate (approximately 7%). Guarantee fees are limited to 1%.

In the event of loan guarantee defaults, the lender notifies the USDA Secretary and then initiates foreclosure procedures. Payment of a claim is made upon assignment of the program where the lender has made all reasonable efforts of collection. In cases where the lender has originated a Sec. 515 loan improperly, the USDA Secretary may require indemnification and/or cancel a lender's authority to issue certificates of guarantee.

U.S. DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, February 22, 1995.

Hon. RICK LAZIO,
Chairman, Subcommittee on Housing and Community Development, Washington, DC.

DEAR MR. CHAIRMAN: This weekend I joined Millard Fuller, President of Habitat for Humanity International, for the dedication of their new headquarters in Americus, Georgia and the dedication of the 200th home they have built in Sumpter County, part of a plan to eliminate all sub-standard housing in Sumpter County by the year 2000. I have long had great admiration for Habitat's unique work as a builder not only of homes, but of strong, dignified communities and individuals. I am writing to apprise you of their current plans and to request you to consider making available $50 million to assist them.

Since its founding in 1976 Habitat has used a creative combination of private sector donations, homeowner sweat equity and volunteer service to create over 35,000 homes for low income persons worldwide. The Habitat model of building with, not for, low income homeowners has created homeownership opportunities for thousands of low income families in the United States.

Through volunteer labor, management expertise, and tax-deductible donations of money and materials, Habitat builds and rehabilitates homes with the help of homeowners. Houses are sold at no profit to partner families, and no-interest mortgages are issued over a fixed period. Costs for the homes differ relative to location, land, labor and materials.

Habitat has never requested government funds for construction of new houses, renovation or repair of existing houses, or the general operating expenses of projects. However, Habitat has identified a need for government assistance with land acquisition and infrastructure development costs because these costs are seldom available on a donated basis. Moreover, acquisition funds would permit the purchase of land where it makes sense, not where it happens to be donated. Provision of acquisition funds would be "recycled". Habitat would require homeowners to repay the grants over time and create a fund for additional land acquisition, thereby creating new homeownership opportunities for additional low income families.

This is a unique opportunity to leverage federal dollars to provide thousands of low income homes nationwide and to build on volunteer efforts. For every $10,000 provided for land acquisition costs, Habitat will obtain donations and volunteer assistance to construct a single-family home. Therefore, this $50 million would lead to the construction of 5,000 new affordable homes and homeowners.

Some may argue that Habitat could use HOME and CDBG funds for land acquisition and infrastructure development. Habitat has tried this, successfully in some cases, however it has been problematic. Habitat is unique in that it has 1,125 affiliates that are primarily staffed by volunteers. Therefore, they often do not have the capacity to apply for HOME and CDBG funds. Providing this grant would hold Habitat for Humanity International accountable for equitable distribution nationwide.

Mr. Chairman, providing federal funds in this way would enable this vital private initiative to proceed at a more rapid pace. We are not asking to be partners in housing construction, but in making land resources available so that this private initiative can function more efficiently.

I would greatly appreciate your consideration of the appropriate vehicle to provide $50 million to Habitat for land acquisition/infrastructure development.

Sincerely,

HENRY G. CISNEROS.

MARCH 16, 1995.

Hon. RICK LAZIO,
Chair, Housing and Community Opportunity Subcommittee, Banking and Financial Services Committee, U.S. House of Representatives, Washington, DC.

It is not possible for me to testify in the proposed hearing before your committee relative to the proposal for Habitat For Humanity International to receive a grant to establish a revolving loan fund to be used to secure land and infrastructure in all fifty states. However, I wish to express my support for this concept which will allow Habitat to increase greatly our unique service to families who otherwise could not experience the American dream of owning a home. This approach will insure and increase the diversity of partnerships of individuals and groups from the private, the non-profit and the public sectors of our society for support in the now over 1,100 cities and communities in the United States where Habitat is building homes with low income persons.

I continue my personal commitment to Habitat For Humanity International and its mission to make it possible for all persons to have a simple, decent home. My experiences in Habitat have been very positive and fulfilling. Thousands of Americans who would not otherwise have this experience now own homes, with all the positive benefits, both for themselves and for society as a whole. One major reality is the large number of persons in all parts of our country who qualify for the Habitat program and cannot participate until the Habitat capacity can increase. This proposed grant for land and infrastructure will increase the capacity in ways which are consistent with "the Habitat Way."

Thank you for your leadership role in facilitating the achievement of these goals we hold for our society.

Sincerely,

JIMMY CARTER.

NATIONAL RURAL HOUSING COALITION,
Washington, DC, October 27, 1995.

Hon. RICK LAZIO,
Chairman, Subcommittee on Housing and Community Opportunity, Committee on Banking and Financial Services, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you to indicate our support for H.R. 1691, the Homesteading and Neighborhood Restoration Act of 1995.

We support passage of HR 1691 because of the provisions of the bill related to rural rental housing. HR 1691 extends the section 515 rural rental housing program which is the only federal program providing rental housing to rural low income families and the elderly.

In addition, the legislation contains important provisions which will improve program operations by better targeting funds, preventing abuses, limiting uses of funds for refinancing, and clarifying the law regarding equity loans. These provisions will ensure that limited federal funds are used in the best, most appropriate manner to provide assistance to rural households needing decent housing.

Extension of section 515 authority is particularly important because of a limitation in HR 1976, the Fiscal Year 1996 Agriculture Appropriations Act. This legislation bars the use of funds appropriations for section 515 for new construction until enactment of authorization legislation. So, without passage of HR 1691, there will be no new rental housing construction in rural areas through section 515.

Thank you for your leadership on this important issue.

Sincerely yours,

ROBERT A. RAPOZA.

NATIONAL ASSOCIATION OF
HOME BUILDERS,
Washington, DC, October 27, 1995.

Hon. RICK LAZIO,
Subcommittee on Housing and Community Opportunity, Committee on Banking and Financial Services, Washington, DC.

DEAR CHAIRMAN LAZIO: On behalf of the 185,000 member firms of the National Association of Home Builders, as you recall, we supported the Homesteading and Neighborhood Restoration Act, HR 1691, in your Subcommittee. We are pleased to support passage of this bill on Monday, October 30, under suspension of the rules.

The rural multifamily housing loan program authorization, Section 515, expired at the end of fiscal year 1994, and this bill would extend the program authority through the end of fiscal year 1996. Funds for this program were appropriated last year and currently are being expended by the Department of Agriculture.

Additionally, the legislation authorizes the Secretary of HUD to provide $50 million to expand self-help homeownership opportunities. NAHB supports this as one of many approaches available to increase homeownership.

Best regards,

JAMES R. IRVINE.

Mr. LAZIO of New York. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member is pleased to rise in support of H.R. 1691, the Homesteading and Neighborhood Restoration Act. This Member would like to thank the distinguished gentleman from Iowa [Mr. LEACH], the chairman of the House Banking Committee, and the distinguished gentleman from Texas [Mr. GONZALEZ], the ranking member of the House Banking Committee, for bringing this measure to the House floor. This Member also extends his special appreciation to the gentleman from New York [Mr. LAZIO], the chairman of the Banking Subcommittee on Housing, and the gentleman from Massachusetts [Mr. KENNEDY], for their support for this legislation.

This Member is pleased to be here today supporting legislation which contains the authorization of a program this Member has proposed to provide multifamily housing loan guarantees in rural areas.

On Tuesday, January 4, 1995, this Member reintroduced legislation to authorize a demonstration program for a new Federal loan guarantee program for the construction of multi-family rental housing units in small cities, towns, and rural areas. The text of that legislation (H.R. 66) has been incorporated into the Homesteading and Neighborhood Restoration Act of 1995.

The language in this measure is in effect identical to this Member's legislation which was passed by the House in the 103d Congress as part of H.R. 3838, the Housing and Community Development Act of 1994—passed July 22, 1994. This legislation would have created a demonstration program for a new Federal loan guarantee program for the construction of multifamily rental housing units. Because H.R. 3838 died when the Senate failed to act on it in the last hours of the 103d Congress, this Member reintroduced legislation to authorize the loan guarantee program in the 104th Congress.

Currently, the only Federal program allowing development of this type of housing is the Rural Housing and Community Development Service's—formerly the Farmers Home Administration—Section 515 program, a direct loan program which has, unfortunately, been plagued with problems. Because Federal funds become more scarce every year, the direct loan program is almost certain to shrink. Therefore, this Member saw the need for a new approach that would cost taxpayers less but still provide equal or greater housing opportunity in rural areas. The new program will be known as the Section 515 Loan Guarantee Program.

Mr. Speaker, this bill has two or three major parts to it.

The one I am most interested in speaking about today has been made reference to by the gentleman from New York [Mr. LAZIO], and it is the loan guaranty program called the 515 Loan Guarantee Program. It has been a part of the Farmers Home Administration, now renamed a component of the United States Department of Agriculture.

We have had a direct loan program, the 515 Program, for multifamily rental housing. This legislation will make some reforms in that program, and we intend, I am sure, to try to do further work in the 515 direct loan program next year.

However, Mr. Speaker, the initiative on which I am pleased to have the support of my colleagues is an effort to establish a 2-year demonstration 515 Loan Guarantee Program, for 25 projects per year.

At this point this Member is not advocating that this demonstration program replace the existing program, but only augment it, at a lower cost, in order to provide adequate rental housing opportunities for a segment of America's population living in smaller communities. The demonstration program will provide a Federal guarantee on loans made to eligible persons by private lenders. In fiscal year 1996 25 new developments will be guaranteed by the Rural Housing and Community Development Service. Developers will bring 10 percent of the cost of the project to the table, and private lenders will make loans for the balance. The lenders will be given a 100 percent Federal guarantee on the loans they make. Unlike the current 515 program, where the full costs are borne by the Federal Government, the only costs to the Federal Government under the 515 Loan Guarantee Program will be for administrative costs and potential defaults. It should be noted that this program is based on the recent experience with the very successful FmHA 502 Middle Income Loan Guarantee Program for home ownership. That program, which this Member first proposed, has a default rate of only 2.33 percent with over 41,000 units financed since 1991.

Also, this Member asks you to note that, with bipartisan support on the Appropriations Committee, H.R. 1976, the fiscal year 1996 Agriculture Appropriations bill, which was signed by the President on October 21, 1995, appropriates $1 million in credit subsidy for the Section 515 loan guarantee demonstration program. Therefore, the program can move forward as soon as it is authorized, but the appropriation will be recaptured if the demonstration is not authorized in fiscal 1995.

This Member is convinced by experience that loan guarantee programs for housing are typically a much more effective use of scare Federal dollars than existing programs. As budgets are slashed, this type of program promises to continue to make Federal assistance available for housing development in America's non-metropolitan cities.

Again, Mr. Speaker, this Member supports H.R. 2491 and asks that his colleagues also vote in support of this legislation.

□ 1645

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first and above all, I want to thank my distinguished colleague, the gentleman from Nebraska [Mr. BEREUTER] for his kind words and his very, very tremendous contribution in this respect, in housing, and on the committee.

Mr. Speaker, the bill before us is simple enough: it provides $25 million to the Habitat for Humanity organization and sets aside another $25 million that similar self-help housing groups can compete for. In addition, the bill reauthorizes certain rural rental housing programs, as was provided for in H.R. 3838, the housing bill that the House passed overwhelmingly last year, but which was stopped by the failure of the other body to act.

The idea of self-help housing is not new; community roof raising and barn-raising is as old as this country. What is new is the adaptation of these old community building ideas for our time—which is what Habitat for Humanity and other organizations do. And they are successful, not only in building new houses for an affordable price, but in rehabilitating old houses and making them available for an affordable price. The secret is very simple: donated materials and volunteer labor. In my own community of San Antonio, Habitat has built 81 new homes in the space of 16 years—one about every two months. This is an important contribution, and a significant effort toward meeting one of our greatest needs, which is affordable housing. This bill would enhance the much-needed efforts of community building groups like Habitat.

But there is considerable irony here. In the past decade or so, the country has lost about 1 million affordable housing units. And, the same Republicans who a few weeks ago voted to save $30 million or so by killing the Resolution Trust Corporation's very successful affordable housing program 3 months earlier than it would have died anyway, are in this bill claiming a commitment to affordable housing.

And there is further irony: Republicans have bitterly complained over the proliferation of small programs, and so they have insisted on creating vast block grants. In fact one of the earliest block grants was in the area of urban renewal, which was a Nixon-era innovation. But here we are, with a bill that creates a brand-new small program. Certainly it is worthy, but the irony of the block grant party's support for this tiny program is rich indeed.

Of course if we were to talk about housing funding in general, the fact is that this bill would authorize a program that provides about $1,000 for every $1 million that the Republicans are cutting from the Nation's housing programs. It is a pitifully small gesture. Yes, it's worthy, and yes, I support this bill because it is at least a recognition that this country's housing needs cannot be met even by the best of completely unaided volunteer efforts. But, I submit that if you subtract $1 million from housing, and then put in $1,000 to replace it, no one can believe that we will end up with more housing at the end of the day.

And, if you consider all the cuts in medical care, the cuts in education, the cuts in all kinds of programs that help the poor, the irony is complete: a possible $1 million per State, to address the problems that will be created by the cuts in the thousands of millions.

But, I am happy to see this small gesture toward decency and community responsibility. I am happy to see this encouragement of those who want to help, and who are doing their best to provide that help. I am glad to see this effort to expand the efforts of the volunteers who help people build their own housing, efforts that are clearly in keeping with the quintessential American spirit of community. This legislation will make a difference in a much needed direction; it is a good thing to do, and it deserves our support.

I reserve the balance of my time.

Mr. LAZIO of New York. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, this is truly a historic vote in the true sense of the word. This is the first time Habitat for Humanity will receive approval for Federal funding, and again it is for infrastructure; it is for the most difficult type of funding, frankly, for Habitat for Humanity to be able to get in terms of contributions and charitable donations. This is everything that we talk about. It is leveraging, it is private/public partnerships, it is people working with people, it is getting self-help housing off the ground, and it is true value for the American taxpayers.

We are going to be in a position where we can provide not just a rental apartment, but a house per family for as little as $6,000, and this will be replicated throughout America with geographic diversity.

I thank the distinguished gentleman from Texas [Mr. GONZALEZ] for working with me and rounding off the edges of this bill; it has gone so smoothly, and again, I would like to express my appreciation for my distinguished colleague from Nebraska [Mr. BEREUTER] for all of his hard work on the 515 program.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAZIO] that the House suspend the rules and pass the bill, H.R. 1691, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SENSE OF HOUSE RELATING TO DEPLOYMENT OF ARMED FORCES IN BOSNIA AND HERZEGOVINA

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 247) expressing the sense of the House of Representatives relating to the deployment of United States Armed Forces on the ground in the territory of the Republic of Bosnia and Herzegovina to enforce a peace agreement.

The Clerk read as follows:

H. RES. 247

Resolved, That it is the sense of the House of Representatives that—

(1) in the negotiation of any peace agreement between the parties to the conflict in the Republic of Bosnia and Herzegovina, there should not be a presumption, and it should not be considered to be a prerequisite to the successful conclusion of such a negotiation, that enforcement of such an agreement will involve deployment of United States Armed Forces on the ground in the territory of the Republic of Bosnia and Herzegovina; and

(2) no United States Armed Forces should be deployed on the ground in the territory of the Republic of Bosnia and Herzagovina to enforce a peace agreement until the Congress has approved such a deployment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we are here today to consider a resolution offered by the gentleman from Indiana [Mr. BUYER] and the gentleman from Pennsylvania

[Mr. MCHALE] expressing the sense of the House regarding President Clinton's announced plan to deploy up to 25,000 of our United States Armed Forces personnel to Bosnia to enforce a peace agreement that may be negotiated among the parties to the conflict.

The negotiators are to meet in Dayton, OH, beginning 2 days from now, and we have been told that they may reach a peace agreement in as little as a week or two.

The problem, from our point of view as elected representatives of the American people, is that we have been told that United States personnel may begin deploying to Bosnia as soon as 96 hours after a peace agreement is reached. Ninety-six hours is not enough time for the Congress to examine the peace agreement and decide a matter as important as whether United States forces should go to Bosnia to enforce it.

So, let us be clear: those who urge us not to pass this resolution today are really urging that the Congress not act at all.

In my opinion, it would be irresponsible for us not to act. The resolution before us does not take a position on the ultimate question whether United States forces should be deployed to Bosnia. Rather, it seeks only to preserve the prerogatives of the Congress in this matter.

This, I believe, accurately reflects the sentiment of the Congress. We are not isolationists, as proponents of sending United States forces to Bosnia have argued. We are prepared to carefully consider a request from the President—but we want to ask some hard questions about the costs, the nature of the mission, the risk to our forces, the rules of engagement, and the likelihood of success.

But we will not write any blank check, and we will not sit on our hands while the President alone decides matters of war and peace. That is why we have brought this resolution to the floor, and that is why I urge my colleagues to give it their enthusiastic support.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Indiana [Mr. HAMILTON] for yielding time to me.

Mr. Speaker, in this past week, major newspapers in this country have detailed, once again, the brutal atrocities in Bosnia.

In Srebrenica, 6,000 Moslems were lined up and shot by the Bosnian Serb Army. The Bosnian Serbs tried to cover up their crimes by scattering the corpses and disintegrating them with acid.

But the details of such brutality would not stay hidden. Who can forget the faces of these children herded into refugee camps?

Who can forget the stories of Banja Luka—where Bosnian Serb soldiers went door to door in search of Moslems?

In a disturbing reminder of Nazism, the Serbs forced Moslems to wear white arm bands. White strips were painted on their houses. People were systematically expelled. Many of them were beaten and robbed. The women were raped and thousands of boys and men are still missing.

That is what is at stake in Bosnia today.

Will the bloodshed continue, or will we act to put a stop to it?

These are just the latest atrocities committed during the past 3 years of terror in Bosnia.

Mr. Speaker, we have turned our backs for too long.

We should defeat this resolution today because it sends the wrong message at the wrong time.

On Wednesday of this week, in the city of Dayton, OH, the leaders of Croatia, Serbia, and Bosnia will work with Americans, Russians, and Europeans to try to bring a lasting peace.

This is a historic opportunity to bring an end to the bloodshed.

We shouldn't prejudge their work.

We must show that we will not turn our eyes from what has happened.

I believe this resolution is a mistake.

It was announced at the last minute on Friday. It was put on the suspension calendar.

It is a travesty to debate a resolution that will mean life or death for millions of people in just 40 short minutes.

Mr. Speaker, I am opposed to this resolution.

But whatever we do on this resolution today, we must send a strong signal that the American people will not close our eyes to the slaughter of innocent people.

We must support a peace process that can bring the killing to an end.

□ 1700

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Speaker, after a speech such as that, just delivered by my friend, the gentleman from Michigan [Mr. BONIOR], so strongly condemning the Serbs, how can we plausibly claim neutrality? The gentleman from Michigan makes my point.

In his introduction to the Constitution and National Security, former Secretary of State Edmund Muskie wrote:

> The initial decision to commit U.S. troops abroad in the face of imminent hostilities is often the most critical decision of all. If that decision is ill-advised, it can rarely be reversed quickly. That's the nightmare about a bad policy decision: Other bad decisions are almost sure to follow in due course. When this happens, and when American casualties begin to mount, it is extraordinarily difficult for either the President or the Congress to extricate our fighting men.
>
> Some people urge Congress to absent itself from the process, so the President can execute policies more effectively.
>
> These prescriptions amount to an abandonment of constitutional control over warmaking. These notions presume that combat forces can solve the problem for which they were dispatched. But what if the decision to use force is not well-conceived to begin with? What if the problem is not amenable to a solution by U.S. combat units in the field?
>
> The best way to avoid such national tragedies is to avoid the first momentous lapse in judgment.

Mr. Speaker, I believe that the President's decision to deploy 25,000 American ground forces for a 1-year period of time at a cost of $1.2 billion in order to carry out the completely inconsistent mission of training and equipping just one combatant party while pleading neutrality to the other is a potentially tragic misjudgment. Military forces should not be used merely to establish a diplomatic presence or to accomplish tactical missions unrelated to a clearly defined and achievable strategic purpose.

Did we learn nothing from the deaths of our Marines in Lebanon and the loss of our soldiers in Somalia? That is the issue before the House today.

Secretary Perry has said that the U.S. ground forces would be the meanest dog on the block.

In closing, Mr. Speaker, I would respond with the words of Thomas Jefferson who once said, "We have one effective check on the dog of war, by transferring the power of letting him loose from the Executive to the Legislative body."

I urge an affirmative vote on the resolution.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, could I ask the gentleman from New York [Mr. GILMAN], the chairman of the committee, what effect does this have on the law?

Mr. GILMAN. If the gentleman will yield, the effect is that it is a sense of Congress resolution.

Mr. MURTHA. It has no effect at all.

Mr. GILMAN. It just expresses the House feeling about an important measure.

Mr. MURTHA. I understand. But I wanted to make sure.

What I am concerned about, Mr. Chairman, is the possibility of the people who are negotiating after 4 years, and I have been to Bosnia 5 times and I know the Chairman has been over there.

I am concerned they may misunderstand us trying to actually resolve this situation by all at once sending the wrong kind of message.

There is no question that in a sense of Congress, we are saying that American troops ought to be authorized before they are sent.

We are not cutting off funds. We are not doing anything to stop the deployment of troops. We are just saying that a sense of Congress is not to count on it. That is what we are saying.

Mr. GILMAN. If the gentleman would further yield, the second paragraph in the resolution really speaks for all of us, that no U.S. Armed Forces should be deployed on the ground in a territory of the Republic of Bosnia and Herzegovina to enforce a peace agreement until the Congress has approved such a deployment.

To answer the gentleman's question, there is no mandate or no prohibition, but it is a sense of the Congress asking the President to come to us for approval.

Mr. MURTHA. The reason that I asked the gentleman the question is because of my concern of mixed signals that we could be sending. I think all of us have the same mission. All of us want to stop the fighting. All of us want to contain the fighting.

When I was in Bosnia just a few weeks ago, the people were so happy that the fighting had stopped, the fact that they could continue their lives in some sort of normalcy. I just did not want there to be any mistake by the negotiators that we were actually doing something that would prohibit the U.S. troops. I have a great concern myself about U.S. troops being deployed and at this point would not agree until I saw what the agreement is, and I think we should all take that situation.

I think the President should ask for authorization. But I wanted to make sure that the negotiators did not misunderstand that this is only a sense of Congress and that we have a concern about stopping the fighting, and this does not prohibit in any way American troops from being deployed if the President finally decides to deploy troops.

Mr. GILMAN. If the gentleman would further yield, I thank him for underscoring the position of the House with regard to this measure.

Mr. MURTHA. It is a sense of Congress resolution, it has no effect in law, and I would ask the Members to vote against it in order not to confuse the negotiators and reduce our ability to have an impact on settling this peaceably.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER], one of the sponsors of the measure.

Mr. BUYER. I thank the gentleman from New York for yielding me the time.

Mr. Speaker, leave no doubt that the gentleman from Pennsylvania [Mr. McHALE] and I in a bipartisan effort support the peace process with regard to Bosnia and Herzegovina.

The United States has a key role to play in brokering these talks and providing the leadership not only in NATO, but what we should be doing is providing our air power, sea power, our air lift and sea lift along with our logistical support in the Balkans. That is the role we can play.

There are 3 reasons why I oppose the administration's assumption there can be no peace in the Balkans without U.S. ground troops.

No. 1. The President's premature commitment of United States ground troops to Bosnia without knowing the circumstances surrounding that deployment is ill-conceived and dangerous.

No. 2. It is wrong to send United States ground troops into Bosnia as peacekeepers when there is no peace to keep. This is the lesson of Lebanon and Somalia.

No. 3. History has shown that no long-term military commitment is sustainable without the support of the American people. The Congress as representatives of the people must speak on the issue before troops are deployed.

The gentleman from Pennsylvania [Mr. MURTHA] asked some very good questions. The message of this House resolution to the leaders of the warring parties when they sit down to negotiate this peace at Wright-Patterson Air Force Base is the syllogism for peace should not be based on the presence of U.S. ground troops to implement whatever agreement is reached. They should focus on the real reasons as to why they are killing each other. Once those are resolved, they will begin to focus on the real reasons of peace.

If United States troops are deployed, do not get the image that 25,000 United States troops will be going to Bosnia with flowers in their M-16's, when in the kill zone peacekeeping looks a lot like combat.

That is why the Secretary of Defense said to us the U.S. troops will be going as combatants to implement an agreement and make peace. U.S. troops will become targets because they have lost the protection of neutrality.

To those that say that this undermines the peace process, it is extremely important that the United States, this Congress, the people's voice, go on the record so we send the correct message to the warring parties to negotiate a peace so that they will stop killing each other.

Support this resolution.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, the statement by the gentleman from New York [Mr. GILMAN], the chairman of the full committee, is instructive.

The gentleman from New York [Mr. GILMAN] was concerned that there would only be 96 hours before a peace agreement were to be achieved and that would not give Congress enough time to act.

Ninety-six hours seems like eternity compared to the time we are getting to consider this resolution laid before the House on Friday when most Members were already back in their districts, 20 minutes of debate equally divided. That is a thoughtful foreign policy debate on the floor. Are we fearful the President will be successful in this peace process?

We were told air power was not going to work. Many of the geniuses in this House got up, "You can't win this war with air power," on both sides of the aisle.

Air power has taken this war to a turn that has brought them to the peace process. The President almost single-handedly has marched forward with that policy and that we now see the potential for an end of mass graves.

I ask the gentleman from New York [Mr. GILMAN], why are we in such a rush that without hearings, without a committee markup, without notice to the Members of the House, that we have to vote on this with 20 minutes of debate? Twenty minutes of debate on whether or not years of effort by the United States, thousands of civilians having died will come to an end.

We have a situation here where 2 weeks in a row resolutions that reserve more time for consideration unless there is some political motive are not given the time for Members of this Congress to examine the resolutions and to debate them in committee.

The SPEAKER pro tempore (Mr. EVERETT). The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the gentleman be granted another minute so that we can respond.

The SPEAKER pro tempore. Does the gentleman yield time? The Chair has divided the time equally between the two parties. Is there an additional request for time?

Mr. COX of California. Mr. Speaker, I believe that a good point was just made by my colleague from the other side of the aisle. This is an important issue.

I ask unanimous consent that an additional 60 minutes of time be devoted to this topic to be divided equally on either side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMILTON. Mr. Speaker, I reserve the right to object.

Mr. COX of California. If the gentleman will yield, my object here is to extend the time so that we debate it for a full hour. That is 20 additional minutes.

The SPEAKER pro tempore. Twenty additional minutes would be 10 additional minutes on each side.

Mr. COX of California. To be equally divided by each side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation, let me say that what the gentleman requests is that we have additional time today. Very frankly I learned about this at about noontime today. I want to make it clear that I am opposed to this resolution and believe it is not timely. Having said that, the gentleman asked for unanimous consent to extend——

Mr. SOLOMON. He wants an extension of 20 minutes. Do you object to that or not?

Mr. HOYER. Further reserving the right to object, I understand that, if we want to extend it to 60 minutes.

I think I am going to raise a legitimate point with the gentleman from California. If somebody is going to object, then I cannot speak any longer.

Mr. COX of California. If the gentleman would yield for a moment, to clarify the point, the reason that we are here on the floor now without hearings, without any further opportunity beyond the hearings we have already had, and we have had hearings in our committee, the President and the administration are going to, in Ohio, within 48 hours commit or begin possibly to commit ground troops.

We want to make sure before they go into those negotiations that we are on record saying do this only with congressional authorization.

It is important that we act tonight. Else we will abdicate. But because it is such an important point, I thought I would ask for an additional 10 minutes on either side, and I would repeat my unanimous-consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HASTINGS of Florida. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding me the time.

Mr. Speaker, if Congress is going to be there at the crash landing, then Congress ought to be there at the takeoff.

We have experience in Lebanon and Somalia. We also have experience in Vietnam. The very people today who say, no, Congress should not have a voice in it are the very people who in the 1960's and the 1970's were screaming we should get out of Vietnam. Let us think before we get involved.

It is easy to get involved in a war, but it is awfully difficult to extricate yourself.

When the Secretary of State was up here on Capitol Hill before the Committee on International Relations and Chairman GILMAN did such a fine job on that day last April, he said before we put troops into any country, there are four criteria.

What are those four criteria? First of all, you had to have a clear mission. Do you have a clear mission in Bosnia? Do you know what we are supposed to be doing in Bosnia?

The second criteria is that a reasonable chance of success. Who could say we are going to have a reasonable chance of success in Bosnia? They have had three peace agreements so far. Every one has meant nothing.

The third criteria is that support of the American people and a way to sustain that support.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ROTH. I ask the gentleman from New York if I could have at least 30 more seconds, because I think it is important to go over these 4 points.

Mr. GILMAN. I regret that we do not have additional time at this time. We have too many speakers. If we have additional time at the end of the debate, I will be pleased to yield the gentleman additional time.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Speaker, parliamentary inquiry. Before I take the 3 minutes, can I make a unanimous-consent request? Is that in order?

The SPEAKER pro tempore. The gentleman will state his request.

□ 1715

Mr. HOYER. Mr. Speaker, I ask unanimous consent, and this is the point I wanted to make, that this debate which is an important debate for us to have, but it is an important debate to have with notice to Members in time to reflect and frankly time to hear from the public, that we delay this debate and set aside 2 hours for debate on this resolution, that it be open for at least one amendment, 1 week from tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. BUNNING of Kentucky. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. EVERETT). Objection is heard.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Maryland [Mr. HOYER] for 3 minutes.

Mr. HOYER. Mr. Speaker, the American public again sent us all here to reflect and to be responsible. There was much discussion about that last week.

This is probably as serious a foreign policy issue as confronts the United States of America that will be discussed in terms of topography and all of those things, and that is important to do. "Anybody who moved or screamed was killed. Genocide goes on unabated in the midst of Europe."

The President of the United States and others are trying to bring that to a close. It is difficult to do. I have not, as most of you know, agreed with the President's policies and have, in fact, opposed his policies and supported very strongly the unilateral lifting of the arms embargo. That issue was deserving of serious debate, and it received it. It had extensive hearings and was debated over months of time before we voted on it.

On this noon, I received notice that we were going to debate this resolution on the floor of the House. Fully debate it? No. Under suspension of the rules? Suspension of the rules is designed for the most part for those issues of little dispute and of general agreement. This issue is not one of those. This is a shameful, irresponsible, precipitous action to be proposed in this, the House of the people.

I suggest to my friend from New York, my good friend, that if we were in 1938 or 1939 or 1940 and we were to tell Franklin Roosevelt to not lend lease, "Do not give any aid and comfort to the British, for after all we may get involved," ladies and gentlemen of this House, this is one of the most serious issues that we confront.

I disagree with some of my colleagues. Indeed, the chairman of the committee or the ranking member of the committee and I have seriously disagreed on Bosnian policy. But what we do not disagree on is that we ought to give this considered and thoughtful debate and effort.

The American public expects no less of us, and indeed, my friends, the world expects much more of us. If we are the leaders of the free world, as I believe we are, I would hope that we would reject this resolution at this time.

Mr. GILMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. SOLOMON], the chairman of our Committee on Rules.

Mr. SOLOMON. Mr. Speaker, let me say this is the first resolution. There will be another much tougher than this.

You know, I have been, I guess, editorialized as one of the toughest hawks in this Chamber over the last 18 years. I am going to tell you, when I stand up here in support of this resolution and in total opposition to sending troops into Bosnia, you know that there is something wrong, because I am concerned about it.

Once again, this administration stands on the verge of putting young men and women in harms' way in this Balkan conflict in which America does not have a vital national interest. This time it may be real, and this is why we in Congress should do everything we can to stop this ill-advised, poorly defined mission, Mr. Speaker, America's children should only be deployed in zones of conflict when and if vital American national interests are at stake, and until this administration, this has always been U.S. foreign policy for all Presidents of this country.

Among other things, our policy has been to come to the defense of sovereign democratic allies that come under external military aggression: That means invaded by a foreign country. Members, Bosnia does not meet this test. It is essentially a civil war, a conflict.

Mr. Speaker, as heartwrenching as those pictures were, as this tragedy has been, and as despicable as the Serb aggression has been, this conflict does not justify putting one single American soldier in combat. Mr. Speaker, the answer to this conflict is not U.S. ground troops. The answer is the same as it has always been, lift the embargo and let them defend themselves. They have already shown they can do it, and that is what we ought to be doing here today. The next resolution will show that.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, as Bosnian, Croat and Serbian leaders gather around the conference table, there will be one seat for the United States of America, one seat, because we should be speaking with one voice, and only the President of the United States in those discussions can represent this country. That is not indeed to say what the outcome should be.

There is a time and a place when the President of the United States will come to this body with his judgment and express to us what commitments were made on behalf of our country. This resolution today is an entirely different matter. It prejudges what the President of the United States might say. It is an attempt of force our will to that table in those negotiations as if we were two countries, two people, with two different concepts of how to deal with the crisis.

My friends, I understand when we disagree on Medicare, I understand we have different ideas on the budget, I understand we have different concepts about all manner of domestic policy. But this is different. This is the President of the United States attempting to deal with a crisis which could at some point engulf Europe, just cause unspeakable deaths, 200,000 casualties, a massive loss of life, a test of the Western alliance.

At this moment, can we not indeed as one country allow this President, on behalf of all of our people, to at least attempt a settlement and then return to this Congress, where we have a right to insist upon passing judgment upon what commitments he might make for our country? At that time, I cannot say that I would not stand with you and ask questions about his judgment. But at this moment, as these people gather, let him do his will as one President of one people.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING of Kentucky. Mr. Speaker, I rise today in support of the resolution.

Mr. Speaker, I rise today in support of the resolution H. 247, and in opposition to any attempt to send American forces into Bosnia without the authorization of the U.S. Congress. The American people do not support this adventure and their will should not be thwarted.

The history of the Balkans is gory enough for Hollywood to make movies about until the second coming. The Region is torn by religious and territorial rivalries that span the centuries and one injustice has been answered by another. The United States should not presume to interject itself into this morass.

Many seem to have forgotten that this area has not historically been a unified country which has suddenly come apart. Bosnia has been part of many of the great empires of Eurasia which have come and gone over the centuries. Each time that it has changed hands there has been bloodshed involved.

The region is so well known for its savagery that as long ago as the 15th Century the Ottoman Turks recruited soldiers from that area because of their ferocity. It is folly indeed to think that we will save the Balkans by putting 20,000 young American lives at risk.

The lesson to be learned from previous so-called peacekeeping missions is that the troops are not needed if there is truly peace and that they cannot keep the peace if it does not already exist. Did we learn nothing from our ill-advised adventure in Somalia? Did we learn nothing from the mission to Beirut?

Mr. Speaker, the President likes to claim that this is a NATO problem and if we do not act NATO's credibility will collapse. What nonsense!

The last time I checked NATO was a defensive alliance designed to protect the member states from attack by a non-member, specifically, the now defunct Soviet Union. NATO was not designed to act as Europe's policeman. NATO is supposed to be a shield for Western Europe, not a sword to be used unprovoked, regardless of the beneficent intent.

We should not be a party to this misuse of the alliance. We entered into the NATO alliance for our mutual defense and not one member state is at risk because of the horrors in Bosnia.

What has happened in Bosnia is indeed a human tragedy but it is not a NATO problem and it is not a U.S. problem. It is a problem that the people who live there must solve for themselves. If France and England have determined that they have a vital interest in this war and choose to send their soldiers into Bosnia that is their business. It is not ours.

We need to remind Mr. Clinton that even though the Constitution makes him the Commander in Chief of our Military Forces, the Constitution reserves the right to Congress for committing our people to military action. Article 1 of the Constitution firmly places power in the hands of the Congress when it comes to declaring war, raising, supporting and regulating the military forces of this Nation. This resolution simply reminds him that we must be consulted before American forces are put at risk.

My colleagues, we must support the resolution and let Mr. Clinton know that we will not quietly sit by while he sends out troops on an ill-advised adventure.

Mr. GILMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Nebraska [Mr. BEREUTER], a senior member of our Committee on International Relations.

Mr. BEREUTER. Mr. Speaker, I rise in support of this resolution and emphasize that this Member is deeply troubled by a number of aspects of the proposed troop deployment that is being proposed today. Let me use President Clinton's own words to emphasize my concern.

I rise in support of the resolution. It is important that Congress express its view at this time, because the plan that is presented by the Administration as it has been described to committees of this Congress is tragically flawed in many respects, and we need to make it precisely clear now that we are not on board. We are not on board on this tragically flawed plan.

The Congress should have a role in discussion of this important issue. Let me give you two major examples of why it is flawed. The one proposal is that we train and arm the Bosnian Federation. That violates the cardinal rule of peacekeeping or peace enforcement. You cannot be anything other than neutral if you expect to implement that peace enforcement policy.

The second problem is that we have been given a specific period of time when our peace enforcement is to be pulled out, 12 months hence. Maybe they are going to change that time period. But an exit strategy, which is admittedly all-important, as the President himself said at the United Nations, must be strategically linked. It must be linked to strategic objectives not to a time certain.

I cannot imagine, as a former infantry officer, putting our troops in harm's way when we are both involved in arming one side while we are also supposed to be neutral or peace enforcers. It is important for Congress to express its view on this issue at this time.

We want the Congress of the United States involved in this issue before American troops are deployed. We want to be involved in the composition of this plan.

In the President's 1993 speech to the United Nations—delivered only days after the loss of United States lives at that infamous ambush in Mogadishu—President Clinton laid out several basic criteria that he claimed would be the standard for future U.S. peacekeeping activities. The criteria set forth by the President included: "Does the proposed mission have clear objectives?" "Can an end point be identified for those who will be asked to participate?" "How much will the mission cost?" In addition, a later criteria was wisely added—Is it in the U.S. national interest?

At the time that President Clinton made that speech, it seemed to this Member he had laid out pretty sensible criteria. What has troubled me, and what has troubled a great many in this body, is that these criteria seem to have been addressed in only the most superficial manner.

There are a great many defects in the administrative plans to involve American land forces in Bosnia.

First, look at the question of whether the proposed mission has clear objectives. As Secretary of State Christopher has made clear, our mission is to enforce an end of the hostilities that have plagued Bosnia for centuries. It is proposed that we are going to interject ourselves between heavily armed factions that seem incapable of living in peace. Presumably we are to serve as neutral honest brokers to prevent the three sides from killing one another. Again, this is a peace enforcement mission, not peacekeeping.

But Defense Secretary Perry has testified that we will be prepared to train Bosnian forces and try to bring about arms control if the Bosnian state is to exist after the year of NATO occupation is over. In contrast to the peace enforcement mission—which presumably is not designed to take sides—the arming and training of Bosnian Moslem or Bosnian federation forces is taking sides. Arming the Bosnian federation is not the act of a neutral. I understand the desire to level the playing field, but one can hardly expect the Bosnian Serbs to quietly sit back while their peacekeepers are arming their enemy.

This Member would also say, as a former infantry officer, that it is almost inconceivable to me that rules of engagement can be crafted that will permit us to act as a neutral peace enforcer at the same time that we are arming one specific faction.

It is this type of fuzzy logic and contradictory objectives that can lead to mission creep and, regrettably, the unnecessary loss of American lives.

Now, second, let me turn to the notion of a proper exit strategy—again, one of the fundamental criteria laid out for any United States peacekeeping operation in the President's speech to the United Nations.

This body has been told the exit strategy is to withdraw in a year. But this commitment is not linked to strategic objectives; nor is it linked to any tangible political results. Indeed, it seems that the only criteria in this exit strategy is the belief that 1 year is the extreme outer limit of American tolerance. The administration may be right about that, but it is entirely beside the point.

In moments of candor it has been suggested to be by some of NATO's leading planners and operations people that this 1-year peace enforcement mission will at best provide the region with a brief, NATO-enforced respite during which time the Serbs and Croatians fine-tune plans for the ultimate dismemberment of Bosnia. Then, as soon as United States and other NATO forces depart, war returns and the final vestiges of Bosnia are dismembered.

This Member must tell his colleagues that there is no reason to take comfort in a mission that lacks specified strategic objectives, and is likely at best to buy a year of tenuous and imperfect peace. Unfortunately, American, British, French, other allied lives surely will be lost in the process. This Member, for one, cannot justify this inevitable loss of life.

Last, Mr. Speaker, this Member just does not see the clear U.S. national interest in deploying tens of thousands of American troops to Bosnia. Pointing to our role as an international leader and the critical role importance of preserving NATO seems to me to miss the point. If our pre-announced goal is to stay in Bosnia for no more than 1 year, then are we to be world leader only for a year? Does it serve our reputation to briefly restore order and then permit the violent dismemberment of Bosnia as soon as we depart?

This Member is concerned about the damage to U.S. prestige that could be done by the Congress failing to support the President on such an important foreign policy decision, but I must tell you that this administration went out of its way to avoid consulting with the Congress. It has avoided consulting with Congress because the Clinton administration is fully aware that Congress does not support the proposed adventurism. And I must say that it is the Clinton administration, and not Congress, that threatens deep damage to U.S. international prestige by launching a tragic failure.

It is for these and numerous other reasons, Mr. Speaker, that this Member supports their resolution.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, I rise today to urge my colleagues to defeat this resolution, which will only make it harder for America to achieve a real and lasting peace in worn-torn Bosnia—a peace that may finally be within our grasp.

Mr. Speaker, none of us wants to see American troops in Bosnia without the prior approval of this body. None of us wants to see America's children sent to Bosnia without a peace agreement that has the full commitment of all parties, and minimizes the risks to our forces. If we are ultimately confronted with that choice, then this Congress—the branch of our Government that is closest to the people of this country—must have a role in deciding and authorizing America's course.

That is why I have no trouble supporting the second part of this resolution. But the first part would do something much different, and much more dangerous, than affirming Congress' rightful role.

On the eve of delicate negotiations in Ohio, this resolution would say to the Serbs and the Moslems: Our negotiations do not have the support of the Congress, or the country. Take their words with a grain of salt. And we stand ready to revoke their promises before they are even made or before they are even discussed in the Congress.

How can we possibly tie America's hands at the very moment when peace is within reach?

If we try to weigh our negotiators down with terms and conditions before they even negotiate, we jeopardize what must be our ultimate goal in Bosnia:

To finally stop the death and destruction. To end what have been the worst atrocities since World War II itself. To stand up for peace throughout Europe, which has always been in America's best interests.

To second guess the peace process would be more than wrong—it would endanger any hope of a solution to this international tragedy. And it simply is not necessary. The President has already committed himself to consulting Congress, and seeking our support for any U.S. role in securing peace.

This is the wrong resolution, and the wrong time to pass it.

I urge Members to vote no, so that peace talks can at least proceed, without the damaging baggage this kind of bill would be.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH], a senior member of our Committee on International Relations.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of the bipartisan resolution before the House which succinctly encapsulates the concerns of many in this Congress that deployment of United States troops to the former Yugoslavia is a presumed option in the quiver of United States negotiators. Before United States troops are committed to such a mission, the President must make his case to the American people and Congress.

Last August, the President decided to launch a United States peace initiative which was prompted by the sudden shifts caused by the Croatian military gains and by NATO bombing.

Let me remind my colleagues that it was not until Congress overwhelmingly and along bipartisan lines voted to lift the arms embargo on Bosnia that President Clinton finally began to engage on the crisis in the former Yugoslavia. Mr. Clinton vetoed that bill, depriving the Bosnians of the ability to defend themselves.

In recent weeks this same administration which has vacillated for nearly 3 years over what United States interests were at stake in Bosnia is now prepared to send some 25,000 troops to a country to enforce the peace that has yet to be written.

Mr. Speaker, I am particularly troubled by the comments by key members of the administration that all but promise that U.S. troops deployed to Bosnia would be home within a year. Such claims raise suspicions that the administration's full-court press for a peace settlement is indeed being driven by an electoral timetable. They also reveal the limits of the White House's commitment to its own plan even before it is fully negotiated. Assuming that the sides are able to reach a peace agreement, which is far from certain, the process of consolidating peace in Bosnia will take years, not months, to complete.

This is not a partisan debate. There are skeptics on both sides of the aisle.

Mr. Speaker, it is incumbent upon the President to make a persuasive case to the American people and to Congress, which clearly defines the mission, mandate, and modalities for a force which would be placed in harm's way. Ambiguity, as former Secretary of State Henry Kissinger has noted, is dangerous and, in the end, self-defeating. The deployment of American troops to Bosnia, as he correctly points out, is a fateful decision requiring a full national debate led by the President. "As a first step, the administration must answer these threshold questions: What exactly is the peacekeeping force supposed to protect? And how do we measure success?" Kissinger has asked.

In fact, Mr. Speaker, I have cosponsored legislation, H.R. 2550, which would prohibit the use of DOD funds for placing ground troops in Bosnia for peacekeeping or peace implementation. The President has not made his case for deployment. And, considering proximity talks and negotiations begin on Wednesday, the White House and Clinton's negotiators need to clearly understand that they must not presume the deployment of U.S. troops is politically sustainable.

Prudence, Mr. Speaker, dictated, deliberate and timely consideration of such fundamental points before a commitment of U.S. troops can or should be made. Thorough review and deliberation is prerequisite, rather than rushing into a decision that cannot be sustained over a period of time.

□ 1730

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California [Mr. ROHRABACHER], a member of the Committee on International Relations.

Mr. ROHRABACHER. Mr. Speaker, the people of this country should know that the debate on this issue was limited by an objection from the other side, and the reason we cannot wait for a week to discuss this for 2 hours is because the President of the United States at this moment may be in the process of preparing to send young Americans into the meat grinder of the Balkans. We need to discuss this tonight. We need to discuss this in depth, and we are prevented from doing so by the other side of the aisle.

American policy has been directed by a foreign policy elite that has failed time and time again in the last 3 years. The screams of horror coming from the Balkans have been met with deaf ears in our own State Department and by our own policy makers. They have failed. There has been a moral equivalency to the victims and the aggressors. They pleaded with us, "Please, lift the arms embargo, so we can defend ourselves." That policy that we have followed has been a failure, and now they plan to send American lives.

Mr. Speaker, we have to got to stop the deployment of American troops in the Balkans, and stop the sacrifice of young Americans on the alter of globalism.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Ohio [Mr. CHABOT], a member of the Committee on International Relations.

Mr. CHABOT. Mr. Speaker, I rise in strong support of the resolution. As the Clinton administration makes its final preparations for the Bosnia talks set to begin on Wednesday, it is of paramount importance that the President gets a strong message from the Congress that the American people do not support the commitment of United States ground troops in Bosnia. A strong bipartisan vote of approval for this resolution will send that message.

This resolution is an important first step, but I emphasize first step Mr. Speaker, I and my colleagues on both sides of the aisle intend to take up binding legislation that will exercise Congress' power of the purse by prohibiting the use of funds for this dangerous and ill-conceived idea.

Put American lives at risk on the ground in the middle of the bloody mess in Bosnia? Have we not learned anything from Vietnam, from Lebanon, from Somalia?

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I appreciate the gentleman yielding this time.

Mr. Speaker, I want to make it clear, I do hope at the right time to help the President in his Commander-in-Chief duties. But this issue, as it comes before us now, is a fuzzy issue, and, of course, if I were to write this less resolution, I would write it a bit differently. But we have before us a proposal for the NATO forces to participate in so-called peacekeeping in Bosnia and Herzegovina, and the United States forces would be part of it. I thoroughly agree that the Congress of the United States should be part of this decision, and I hope we can have a full and fair debate at the time.

But as we look at it as of this moment, there are so many unanswered questions, I feel I must vote for this resolution. We must look forward as we ask these questions, what will the agreement say? What is our mission to be as troops? Will they be peacekeepers or peacemakers? What will the rules of engagement be? When can we say we have a successful mission? Will the peacekeepers, if we are as peacekeepers, be evenhanded to enforce the peace against both the Serbs and the Muslims? Will the rules of engagement apply to both? And the most serious unanswered question, Mr. Speaker, that I have in my own mind, is whether at the same time we are there as peacekeepers, we will also be having American troops training, equipping, and arming the Muslims?

Mr. GILMAN. Mr. Speaker, in order to grant our colleagues the opportunity to more fully debate this important measure, I ask unanimous consent that the time for debate on this measure be extended by an additional 20 minutes, to be equally divided between the proponents and opponents of this measure.

The SPEAKER pro tempore (Mr. EVERETT). Is there objection to the request of the gentleman from New York?

Mr. HASTINGS of Florida. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I rise as a Member who has voted not just once, but twice to support the administration's policy in Bosnia. But I have to stand in support of the resolution that is on the floor today.

Mr. Speaker, Congress has a major oversight responsibility in this area, and I have a grave concern over the two assumptions that we have built into our policy. First, it assumes the use of American forces going into the negotiations, as is spelled out in the resolution. Second, it assumes that we will take a partisan role in support of the Bosnians and the Croats, in training and equipping their forces, when I believe it is our objective and should be to remain neutral in the conflict.

Mr. Speaker, I think that the resolution is very constructive. It does not dictate anything to the administration other than that in the negotiation of any peace agreement, it should not be considered a presumption that implementation of such an agreement will include the deployment of U.S. Armed Forces.

Mr. HAMILTON. Mr. Speaker, I yield myself the balance on my time.

The SPEAKER pro tempore. The gentleman from Indiana is recognized for 6 minutes.

Mr. HAMILTON. Mr. Speaker, I rise in opposition to the resolution. The first point I want to make relates to process. I think all of us in this Chamber would agree that this is an important, serious foreign policy question. No hearings were held on this resolution, no committee consideration took place, the administration was not given a chance to state its case before Members, no amendments are in order, the resolution was placed on the suspension calendar without consulting the minority, which is a direct violation of the majority's conference rules, and no opportunity has been given to assess the impact of this resolution on the peace talks that are scheduled to begin on Wednesday.

Now, I understand that they on the other side have made a request for 20 additional minutes, and I appreciate that, but I really do not think that that makes right the process that has been followed here.

We have done this now for 2 weeks in a row on important foreign policy questions. Let me say again that I think it demands the role of the House of Representatives in its role in making American foreign policy by the quick and cursory way in which this matter has been handled today. Most Members were not advised of it until Friday afternoon, some not until this morning.

I am told that Secretary Christopher tried three times from the Middle East this weekend to talk to the Speaker, and the National Security Advisor, Mr. Lake, also tried. I am not aware that those phone calls were returned.

So much for process. Let me say a word about substance. I agree that the Congress should vote on the question of whether to send United States ground troops to Bosnia to implement an agreement among the parties to the conflict, and ideally that vote should be an authorization vote. But no one should mistake that statement with what this resolution says.

This resolution raises a serious constitutional problem. It is one thing to say that the House of Representatives should vote on authorization before the President commits troops to Bosnia. I agree with that statement. But that is not what this resolution says. This resolution says that no United States Armed Forces should be deployed on the ground in the territory of the Republic of Bosnia and Herzegovina to enforce a peace agreement until the Congress has approved such a deployment. That resolution says no United States troops should be sent to Bosnia until the Congress approves it, and that is a very different statement.

What we do by that statement is prevent the President from acting as a commander-in-chief, and, when you do that, you raise very grave constitutional issues. If this were simply a statement that we should approve whether to send United States ground troops to Bosnia to implement an agreement, I would agree with it.

Now, there are other reasons to vote against the resolution. It is premature. There is no peace agreement. The resolution presumes to speak about the result of that agreement.

We cannot decide today whether it is wise or whether it is foolish to send United States troops to enforce a Bosnia peace agreement, because there is no peace agreement. That is no request from the President.

This resolution sends the wrong signal to the negotiators to end this terrible war. My friends, we put the Secretary of State into the field to negotiate. We put the Assistant Secretary of European Affairs in the field to negotiate. We applaud what they have accomplished in these least few days. They tell us today, and I quote Secretary Christopher, "This resolution could be seen by the parties and the world as an indication that the House will not support an ultimate peace agreement." The chief negotiator, Mr. Holbrook, says that this resolution is extremely unhelpful and we come along and pass this resolution and undercut our negotiators at a very sensitive time. The Secretary of State says that this resolution is potentially dangerous.

They are the ones that have been negotiating. They are the ones in the field. They are the ones trying to speak for the American national interests. And we just come in and undercut it, by their words. I do not think that is a wise thing for the Congress of the United States to do.

Mr. Speaker, I think this resolution does not pay any attention to reality. It says that we will address the presumption of the parties to the negotiations. How can we do that? We say in the resolution that there shall not be a presumption. These parties come to the table with a presumption. They have already stated the presumption. How can we in the U.S. Congress tell the negotiating parties, when we are the negotiating party, how can we tell them what kind of presumptions they must have before they come to the table? The Congress has no power to do that.

These are clearly matters beyond the purview of the House. We do not have the power to tell them what their presumptions are. That is precisely what the resolution does. The Members of this body cannot tell the negotiators from Bosnia and from Croatia and from Serbia what they should presume. But that is precisely what we try to do in this resolution. We certainly cannot determine what are our perquisites to a successful negotiation.

Mr. Speaker, this administration has worked very hard in the last few months to end this war in Bosnia, and I urge a vote against the resolution.

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that the time for debate on this measure be extended by an additional 20 minutes, to be equally divided by the proponents and opponents of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. HASTINGS of Florida. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that debate on this resolution be extended by 5 minutes on each side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. HASTINGS of Florida. Mr. Speaker, I continue to object.

The SPEAKER pro tempore. Objection is heard.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I would have to say that if we sit quietly by while this action takes place, then it will be too late for this Congress to be heard on this issue. Now is the time for us to express our frustration with sending troops to Bosnia, not after an agreement has been made by the President. Then it will be too late. So today and this resolution is absolutely the time to do it.

The American people do not want troops in Bosnia. If the President wants to send them there, I suggest he come to this body and to this Congress and get approval before he tries to do it. Let us not forget the message and the lesson of Vietnam.

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Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, we were told about the process. In 48 hours the President is going to ask our troops to go to war. Yes, any process to tell the President that we disagree should be moved up. A lengthy debate should follow. But take a look at our record in Somalia, in Haiti, in the bombing of Somalia and Bosnia, just recently. The lasting effect is zero. We killed Americans and we spent billions of dollars.

Mr. Speaker, this is going to cost us $1 to $5 billion. The President will come back and ask for an emergency supplemental. Is it wise? Well, this is Afghanistan with trees. General MacKenzie said he would not touch it with a 10-foot pole. Today, the French President said plan on a 20-year American occupation. Twenty years. Are we ready to make that commitment when we are trying to take care of our own house in this country?

Mr. Speaker, I advise a yes vote on this resolution.

Mr. GILMAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in support of this resolution. There are serious questions about this possible deployment that must be answered before any leader can in good conscience allow young American men and women to be sent in harm's way.

Mr. Speaker, I rise in support of this resolution. Congress should vote before 20,000 to 25,000 American ground troops are sent to Bosnia. There are serious questions about this possible deployment that must be answered before any American leader can, in good conscience, allow young American men and women to be sent in harm's way. Unfortunately, the Clinton administration has not answered those questions.

The administration has not articulated a coherent strategy for our deployment, or expressed what the objective of such a deployment would be. A date on a calendar is not an exit strategy. Secretary Perry and General Shalikashvili have stated our mission would be accomplished in a year. That would make sense if our mission were simply to occupy a patch of territory in Bosnia for a year and then leave. We have to know what changes in Bosnia our troops are supposed to accomplish. We would then have to consider whether it is indeed within the realm of possibility that our forces could accomplish that mission and consider how long it would probably take.

We cannot even get agreement from within the administration as to where our troops would be deployed. Secretaries Perry and Christopher, and General Shalikashvili, testified before Congress earlier this month saying that our forces would patrol the buffer zone between the Croat-Bosnian Federation and the Bosnian Serb Republic in order to keep the opposing armies separated. This weekend, Ambassador Holbrooke said that our forces would be stationed on Bosnia's international borders. We need to have this information, if only to be assured that the administration knows what its plans are itself, and it is not merely drifting into a quagmire.

We must pass this resolution, and then Congress must insist on having its vote on this deployment before it actually takes place.

Mr. GILMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. COX].

Mr. COX of California. The resolution before us, Mr. Speaker, is clear and unambiguous. The President should not unilaterally commit 25,000 United States ground troops to Bosnia without congressional approval. Congressional approval for sending U.S. troops into war is no mere formality. It is not a constitutional question, it is a question of whether we want our troops to succeed. It is a question of whether we want the military mission to succeed. It is a question of whether they deserve the support of the American people before rather than in the middle or after. It is a question of protecting our constitutional process under which the Congress, not the President, presumes to commit billions of dollars in U.S. funds to support such an operation.

Mr. Speaker, there is no peace to support. We are sending our troops into the middle. Right now we all know the situation on the ground in northwest Bosnia. There is nothing that distinguishes this, the 35th cease-fire, from the 34th or the 36th. And when this one breaks down the only military mission of our troops, purported neutrals, will be to get shot at just as it was in Lebanon. The Clinton doctrine now emerging is that we will commit U.S. troops to protect the gains of a military aggressor.

Yes, Mr. Speaker, those were the pictures that we saw, naked military aggression committed by such as Slobodan Milosevic. Now we are told it is wise to trust Milosevic's signature on a piece of paper and U.S. troops will risk their lives to plot his gains and his conquests for a precise period of 1 year, following which he will be free to advance.

U.S. troops should not be committed cavalierly. The question is, Should U.S. troops be committed by the President without congressional approval? If we believe the answer to that question is no, vote for this resolution. Vote for this resolution to require congressional authorization.

Mr. GILMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I rise in support of the resolution.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON], a senior member of our Committee on International Relations.

Mr. BURTON of Indiana. Mr. Speaker, there is a full court press by this administration to put young Americans in harm's way in Bosnia, 25,000 of them. No matter that the American people do not want us involved.

Does the President remember what happened in Beirut when 235 Marines were blown apart because they were sitting ducks? Does the President remember the body of a young American, naked and being dragged through the streets of Somalia? And today the problems are just as bad in Somalia as they were back then.

I would just say to the President, if he were here, this a grave mistake. The people of the United States, through their elected representatives, have said clearly do not send our troops into harm's way in Bosnia. It is not in our national interest. Mr. President, listen to the people of this country. Do not send our troops into harm's way. It is going to be a tragic mistake.

Mr. President, you demonstrated against Vietnam and you are about to put us in another situation in another part of the world that is not in our national interest. Do not make this mistake. A lot of young people are going to die. The Chairman of the Joint Chiefs of Staff has said very clearly there are going to be casualties, there are going to be deaths. It need not happen, Mr. President.

The SPEAKER pro tempore (Mr. EVERETT). All Members are reminded to address their remarks to the Chair and not the President.

Mrs. FOWLER. Mr. Speaker, as a cosponsor of this resolution, I rise today in strong support.

The measure we are considering states clearly that there should be no presumption by any of the parties to the Bosnian peace negotiations that United States troops should be deployed to Bosnia to participate in peacekeeping operations without congressional consent.

I am strongly opposed to the deployment of United States ground troops to Bosnia. I believe there are ways that our Nation can and should help end the bloodshed there. Indeed, we have already played a major military and diplomatic role, and we will soon be hosting peace negotiations. The United States ought to continue to provide air, sea, intelligence, and logistical support to NATO forces in Bosnia. This is a significant contribution.

But the fact of the matter is that none of the combatants view the United States as a neutral party, which is essential to playing an effective peacekeeping role. The administration is attempting to put our forces on the ground under much the same circumstances that our Marines found themselves in Lebanon in 1983. We should have learned from that tragic experience.

Even if we are not targeted because of someone's belief that we are biased, I can easily see one or more of the combatants staging attacks on U.S. personnel designed to look like another party was responsible. They know that the United States has the ability to impose serious damage on any perceived aggressor. They will target our troops in the hope of drawing us into striking hard at one of their adversaries. In Bosnia today this is not even a matter of slipping undetected past enemy lines to launch a false attack; as Canadian Gen. Lewis MacKenzie, the former commander of UNPROFOR, told the National Security Committee in hearings this month, it is more likely to be accomplished by simple bribery.

Mr. Speaker, the President must know that the Congress has grave reservations about the deployment of our troops to Bosnia. It is my strong hope that this vote will succeed in focusing his attention on the level of concern that resides in the Congress and lead him to rethink his policies.

Mr. LANTOS. Mr. Speaker, I rise in strongest opposition to this ill-conceived and flawed resolution. I wish to outline for may colleagues the reasons for my strong opposition.

A FLAWED PROCESS FOR CONSIDERING THIS RESOLUTION

First, serious procedural irregularities along justify rejection of this resolution. Mr. Speaker, the difference between a democracy and an authoritarian regime lies principally in the procedural rules that are followed to reach decisions. In a democracy we have rules that assure that full, open and fair discussion and consideration are given to an issue before a decision is taken.

With great fanfare the Republican majority in this House adopted rules at the beginning of this Congress that were supposed to bring greater democracy to the House of Representatives. In practice, however, the Republican majority flaunts these rules and procedures. Today, we are considering this resolution on Bosnia without following House rules that call for committee deliberation before legislation is considered. We are supposed to have proper consultation with the minority before issues are placed upon the House calendar. None of these rules has been followed in this case.

Mr. Speaker, this resolution has not even been considered by the Committee on International Relations—the committee which has principal jurisdiction. The International Relations Committee and the National Security

Committee have each held one initial hearing with the Secretary of State, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. Those two hearings were held last week. There has been no committee consideration at all of this specific resolution.

There has been no opportunity for the administration to review the text and make its position on this resolution known to the Congress.

The resolution itself was only added to the schedule late on Friday of last week, and until late this afternoon, we did not even have a resolution number or a text of the resolution to review. This is hardly the way a serious deliberative legislative body should be considering major issues of foreign policy and national security. The total of 40 minutes allocated for consideration of this resolution this afternoon hardly can be regarded as adequate deliberation of an issue of this importance.

Unfortunately, Mr. Speaker, this is not the first such flagrant breach of the rules of this body. Last week the House also considered legislation moving the U.S. Embassy from Tel Aviv to Jerusalem. That bill was brought to the floor without committee hearings or committee consideration. While I strongly agreed with that legislation, I cannot agree to the blatant abuse of power and the flagrant ignoring of procedure by the Republican leadership. Later today we will see yet another such example when the House Rules Committee will present a completely closed rule on the legislative branch appropriations bill.

If such an egregious violation of the rules of the House had taken place under a Democratic majority in this body, the shrieks of outrage from my distinguished colleagues on the other side of the aisle would still be echoing. This is the wrong way to conduct the serious business of the United States. These procedures are reminiscent of the regimes whose overthrow we celebrated just 5 years ago.

THE TEXT OF THIS RESOLUTION IS FUNDAMENTALLY FLAWED AND FACTUALLY INACCURATE

Second, Mr. Speaker, I am opposed to this resolution because it is flawed; it is a document that simply boggles the mind. It puts the House on record as making a statement of the views of this House that is blatantly and completely inaccurate. The resolution says that "there should not be a presumption, and it should not be considered to be a prerequisite to the successful conclusion of such a negotiation, that enforcement of such an agreement will involve deployment of United States Armed Forces on the ground" in Bosnia.

In fact, Mr. Speaker, there is such a presumption, and this resolution can and will do nothing to change that presumption. The truce agreement that was negotiated with the involvement of the United States, Britain, France, Germany, and Russia, as well as the parties to the conflict—the Bosnian Government, the Croatian Government, the Serbian Government, and representatives of the Bosnian Serbs—agreed to participate in the peace negotiations that are to begin later this week in Ohio because they received assurances that the United States and other partners would participate in a peace-keeping force.

If the House passes this resolution, it does not change that fact. To call black white or to call white black does not make it so—even if it is done by a resolution of the U.S. House of Representatives.

THE PURPOSE OF THIS RESOLUTION IS TO UNDERMINE THE PRESIDENT'S ABILITY TO CONDUCT FOREIGN POLICY

Third, the purpose of this resolution is to undermine the President's authority to conduct foreign policy. No final peace agreement is in place. The President and his representatives who are dealing with the festering problem of Bosnia have made clear in public hearings with members of this body and with members of the Senate as well as in numerous public statements that no American troops will be sent to Bosnia until and unless a peace agreement has been negotiated and accepted by the parties in question. Clearly we have not reached that point. The negotiations are not to begin until Wednesday and they will take some time to conclude, U.S. troops will not be a question until a peace agreement has been reached.

This resolution today is clearly intended to undermine the President's ability to deal with the problem of Bosnia. It is an effort to prevent the possible commitment of U.S. troops at some time in the future, regardless of the conditions under which they might be sent. It is an irresponsible and reckless effort to raise doubts in the minds of the participants in the peace negotiations and ultimately to undermine these negotiations.

This resolution is being rushed through the House in stark contrast to the way in which the Congress considered the involvement of U.S. troops in the gulf war. On that occasion, President George Bush sent 500,000 American troops to Saudi Arabia. These were not troops on a sight-seeking expedition; these were troops which were positioned on the borders of Kuwait with the clear intention of preventing an Iraqi invasion of Saudi Arabia. They were in harms way; they were in danger. The Congress considered the use of U.S. troops in the gulf area in numerous hearings and in numerous meetings with administration officials. When the President and his advisors had clearly defined the scope of what was intended in that conflict, the Congress was asked to consider the use of United States troops against Iraq. The House and Senate debated that issue for 2 full days, and then voted to authorize the use of U.S. troops.

The House of Representatives should reject this present ill-considered resolution because this is the wrong time to consider such an issue. The resolution is poorly worded and is solely intended to undermine the President's authority to conduct our Nation's foreign policy.

THIS RESOLUTION ARTICULATES THE WRONG POLICY FOR THE UNITED STATES

Fourth, Mr. Speaker, the resolution before us today articulates the wrong policy for the United States to follow. We are considering this resolution because 4 years ago the previous administration, in an incomprehensible and excusable fashion, failed to provide NATO the leadership that is now being provided. Let no one make a mistake about this. The 200,000 dead would still be alive. The million refugees would not now be refugees, but would be living in their homes. And the viable multi-ethnic, multi-cultural, multi-religious community of Bosnia would continue to be a thriving community. It is important, Mr. Speaker, to realize that we did not just arrive at this point yesterday.

It is vitually important for the United States to show leadership within NATO. As we have seen so clearly, NATO works when the United States exercises leadership. It is essential for the United States role in Europe and in the world that we exercise leadership. If we had shown the leadership 4 years ago, as I said earlier, we would not be facing the problems that we now face. Now that the administration is pursuing a policy that demonstrates U.S. leadership, it is important that we not undermine that effort.

I am one of those—and we are a vanishing breed—that does believe that politics should stop at the water's edge. I was one of the handful of Democrats in this House to support President Bush on the uses of U.S. troops in the Gulf war. It is my sincere hope that our Republican colleagues will also see fit to support a Democratic President who is pursuing the correct course of action.

Mr. Speaker, for all of these reasons, I urge my colleagues to reject the resolution before us today.

Mr. SPENCE. Mr. Speaker, I rise in support of House Resolution 247, sponsored by Congressman STEVE BUYER, an able member of the House National Security Committee.

This resolution represents a sensible approach to a fast-moving, complex situation. It neither infringes upon the President's powers nor ties his hands in upcoming negotiations. At the same time, it preserves congressional prerogatives that ought to be carefully guarded.

This resolution represents an attempt by the House to put the administration on notice that it has failed to make the case for its proposed course of action. It also makes it clear that the administration's prior commitment of United States ground forces as a critical element underpinning a proposed peace agreement in the former Yugoslavia is an inappropriate and questionable premise for the upcoming negotiations in Dayton.

To date, the administration has advanced a number of arguments as to why the United States must provide ground troops in enforcing any peace agreement in Bosnia, but all of them seem to raise more questions than they answer.

For instance, the administration has failed to answer the basic question of how American forces can serve as neutral implementors of a peace agreement among parties that view the United States neither neutrally nor impartially. We crossed the line of impartiality in Bosnia quite some time ago by resorting to the effective use of force to compel the conditions that may now actually yield a cease-fire and a peace accord.

However, it is those capabilities and actions that the United States was uniquely suited to contribute that are also the reason why we are uniquely unsuited to serve as neutral peacekeepers. The first rule of peacekeeping is "take no sides, make no enemies." As a result of the application of airpower over the past several months, we have violated the conditions that would permit us to safely and effectively deploy as peacekeepers.

In response, the administration has advanced a number of alternative arguments.

First, we are told that European stability is in the balance. Indeed, Secretary Christopher has not been bashful about invoking the specters of this century's world wars and the role of "the Balkan tinderbox" in igniting those conflicts. But badly parsed history is not a substitute for hard analysis. There are no great powers ready to go to war over the Balkans, as there were in 1914. And we've been threatened with the prospect of a wider war now for several years—although it has not occurred. There is a strong burden of proof on those who argue that now, when at last the Balkans are moving toward something like a more natural balance of power, is the moment of greatest danger.

A second argument we have heard is that NATO solidarity is at stake. But many of the wounds inflicted upon the Atlantic alliance can be traced to inconsistent policy in Bosnia from both past and present administrations. These inconsistent policies have undermined any previous hopes for a cessation of hostilities in Bosnia without offering sustained leadership. And one may reasonably ask whether the solidarity of NATO—still our greatest strategic alliance—even ought to be put at risk to bring peace to the Balkans. The most important future test of NATO solidarity will come over the alliance's expansion. But if relations are being soured through mismanagement or mischance relative Bosnia, NATO will have been broken in pursuit of a secondary issue.

A third concern we hear concerns American credibility. Again, this must be regarded as a self-inflicted wound. Our President took office at the unipolar moment, with American global power unchallenged after victories of the Gulf war and the cold war. Now we are told America must salvage its credibility by bringing peace to the Balkans; how far have we fallen? And, more profoundly, what lessons will other nations draw about an America that has trouble distinguishing what is, and what is not, a vital national security interest.

Finally, we have been told that there will be no peace without American participation on the ground. This suggests that the warring parties don't have much genuine interest in making peace. Knowing that American participation will only last 1 year is more likely than not to undermine whatever commitment to peace they may have. Advertising, in advance, the short-term duration of any American ground presence in Bosnia may only undermine the mission and endanger American lives.

Mr. Speaker, in sum, this resolution is a manifestation of the growing concerns over unanswered questions concerning the administration's Bosnia policy. I believe it is the least we can do at this point, as we continue to work through the many important issues associated with the President's plan to send over 20,000 Americans into the Balkans.

Mr. CAMP. Mr. Speaker, I rise in support of House Resolution 247, to express the House of Representatives' sense that we not rush into the midst of the Balkan quagmire without careful and measured congressional consideration. Peace in Bosnia and Herzegovina is of importance to Europe and to the world. But, as long-time observers of the Balkans will note, peace has never come easily to this troubled corner of the globe.

The ability of the Congress to conduct a national debate on questions of national interest is unparalleled. Look no further than the congressional debate of January 11–12, 1991, on the eve of the Persian Gulf war. Congress, and the Nation, debated whether the national interest called for deployment of military force against Iraq. Without that debate, Congress would have abrogated its constitutional responsibilities to give assent and legal authority to the President to meet his own constitutional responsibilities. I participated in that debate—a debate that I then believed, and today confirm, was absolutely vital to a successful U.S. mission.

I have grave reservations about the need for United States troops in the Balkans. The mission of 25,000 U.S. troops and up to 80,000 NATO troops is uncertain. The commitment of the warring parties to live in peace is questionable. Debate on those questions, however, is for another day—another day soon, I would hope. Today, the question is on whether that debate should happen at all—whether the Congress should debate the United States national interest in the Balkans. The Congress can do no less. Support House Resolution 247.

Mr. MORAN. Mr. Speaker, I am pleased that the administration—President Clinton—is taking an active leadership role in working to resolve the terrible conflict in the Balkans. I agree with many of my colleagues and the administration that we have reached a historical, defining moment in finding an effective strategy to the peace process. Together, the United States and the international community is resolved to press for an equitable, negotiated settlement between the parties to end this terrible war. I applaud the President for unequivocally demanding and working for this peace and for exercising strong U.S. leadership to realize it.

This dreadful conflict in the former Yugoslavia will not solve itself. Much is at stake. This conflict is a threat to our interests in the region: It undermines European stability, our efforts to promote democracy and fee markets, respect for human rights, and ethnic and religious tolerance. The war threatens to spread to other countries. I have visited the region, and can speak firsthand of the severe repression, the systematic rape, beatings, torture, and persecution of the non-Serbian ethnic populations by the Serbs. The torrent of inhumanity is numbing. Not since Nazi Germany has the presence of genocide been so apparent, or the need to stop it been so pressing.

Up until very recently, we have acted cautiously, and to my mind, too carefully throughout this war. This Congress, on August 1, by voting the arms embargo on the Bosnians, made a strong statement of support for strong United States leadership and intervention in the process toward peace in the region. Now, because of U.S. leadership and effective diplomacy, we have a cease-fire and a real chance to mediate a peace. What works is when this Government is willing to back up diplomacy with action—and that is what I see us doing now. The Serbs did not respect the U.N. safe havens, the embargoes failed, the U.N. peacekeepers were routinely fired upon and even taken hostage. The idea of peace talks were only taken seriously by the Serbs when NATO bombed Serbian heavy artillery sites and this was coupled with hardnosed negotiating by our diplomats. We have lost good men—diplomats who lost their lives in the pursuit of this peace. We are serious about helping all of the parties reach a peaceful settlement to the conflict. And, the Serbs, Croats, and Bosnians now recognize that they have an overriding interest in finding a peaceful settlement.

Now is the time to take these actions that can lead to peace and not to preclude the necessity of providing troops to the region. Without U.S. leadership there will be no peace. Thank you. I urge you to vote against any bill that would harm this historical opportunity for peace in Bosnia.

Mr. Roemer. Mr. Speaker, as a cosponsor of this important resolution, I firmly support House Resolution 247 in the interest of keeping the Congress and the American people fully involved in any decision regarding U.S. troop deployment. The presence of United States troops in Bosnia should not be a precondition to peace. Furthermore, no U.S. troops should be deployed to enforce a peace agreement until the Congress has enacted such a measure into law.

A deployment of American troops to Bosnia would be a major long-term commitment of our military personnel. It is our responsibility to debate this.

Last Week, Secretary Christopher and General Shalikashvili briefed Congress on the administration's deployment plan. After hearing their testimony, it is evident that the plan is developing into a situation which could cost lives. The American military position on this should be clear—are the troops keeping the peace or making a peace? What are the rules of engagement for our troops? What is our national interest in this region of the world?

Congress must have a stronger vice in whether our Armed Forces are deployed overseas to engage in foreign conflicts, particularly in peacekeeping situations. We should assert our constitutional authority before American lives are put at risk in Bosnia. Congress should have the opportunity to approve a troop commitment to the Balkans before the first soldier sets foot in Bosnia. A Bosnian Deployment would be a major long-term commitment of American military personnel. It should not be done without a debate and a vote in Congress.

We all agree that current policy has not worked and it is clear that we cannot accept the status quo. The killings continue while the number of refugees increases. The efforts of NATO, the United Nations, and the United States have not worked.

Introducing as many as 25,000 troops into the Bosnian conflict would severely intensify the situation, and immerse the United States in training and logistic operations for the foreseeable future. Intensified fighting will certainly risk a wider conflict in the Balkans with far-reaching implications for regional peace. We have worked hard to contain the conflict within Bosnia, and we have seen very limited success to date. However, if the fighting spreads as a result of our decision to escalate with the presence of troops, it will be our responsibility to deal with the consequences of our interference. If the conflict spreads to other parts of the former Yugoslavia, Greece, and Turkey, then other regional powers are likely to get involved, which is likely to damage the entire European security structure.

The majority of Americans are opposed to United States ground troops in Bosnia for a variety of reasons, and Congress should not be willing to overlook the concerns of our European allies who have the most to lose in an escalated conflict. American troops will be symbolic targets for those who oppose peace or the partition of Bosnia.

Mr. Speaker, I voted earlier this year against lifting the arms embargo for the same reason that I support House Resolution 247: to prevent the Americanization of the Bosnian conflict and the loss of American lives. I strongly urge all of my colleagues to support this resolution.

Mr. DEFAZIO. Mr. Speaker, I stand in support of the resolution regarding sending United States troops to the former Yugoslavia. The language makes a simple statement: no United States ground forces should be employed in Bosnia to enforce a future peace agreement until the Congress has approved such a deployment, nor should United States negotiators assume that United States forces will be committed. The constitutional principle is simple and sound: before the Nation commits its young men and women into foreign military adventures, Congress must act to authorize their presence.

I am appalled by the destruction and loss of life that has taken place over the past several years in the former Yugoslavia. Tens of thousands of people have been killed in the fighting and more than a million made homeless.

There are no easy answers to the bitter ethnic divisions in the region. As with any negotiating process, no solution will prove effective until the various military factions stand ready for a peaceful solution. It is my sincere hope that recent developments will move all sides in the conflict to a lasting ceasefire and eventual peace. I support U.S. efforts in facilitating the negotiations toward this goal.

However, I remain skeptical about the use of U.S. troops to enforce a peaceful solution in a conflict that has been raging for well over 700 years. We have seen all too often how placing U.S. soldiers into a conflict—even with the best of intentions—can easily become a nightmare for our country. Just as important, United States military presence in Bosnia could become merely a target for both sides to vent their anger.

Although I welcome and support this resolution, it is my hope that Congress will take a more universal approach to its constitutional role. For more than 40 years, Congress has allowed the Executive to continuously broaden its authority to put U.S. troops into harm's way. Congress' exclusive constitutional authority to initiate war is routinely ignored by Congress and Presidents alike.

Unfortunately, the current War Powers Resolution implicitly grants broad authority to the President to engage in wars of any size without advance congressional authorization. It requires the President to come to Congress only after he has put the prestige of our Nation and the lives of its soldiers on the line.

I have introduced a joint resolution (H.J. Res. 95) that seeks to reform the War Powers Resolution. The House of Representatives to address the balance of presidential and congressional authority to make war. Indeed, the Constitution demands the collective judgment of the President and Congress on the grave question of war. The time is ripe for a congressional debate on the need to restore the balance of powers between the Executive and Legislature as envisioned by the Framers of the Constitution.

Mr. DINGELL. Mr. Speaker, hearings have not been held on House Resolution 247. The chief participant in the Bosian peace negotiations, the administration, has not been consulted on House Resolution 247. The American public has not had the opportunity to discuss House Resolution 247 with their Representatives. Common sense tells me that evaluating the merits of a resolution—before passing it—is an essential step in crafting good legislation.

Under the cover of night, hidden away in a back room of the Capitol late last Friday, NEWT GINGRICH and his Republicans decided, once again, to abuse the legislative process for political purposes. This time they are risking peace in Bosnia with their behavior.

Simply put, the Republican leadership has crafted a political document. They are rushing it to the floor without proper consideration. If we are to interfere legislatively with the peace process, let's at least proceed with proper legislative process. Let's have hearings, let's let the people hear the administration and others, and let's hear from the people. None of this has been done.

I wish Serbian President Slobodan Milosevic, Croatian President Franjo Tudjman, Bosnian President Alija Izetbegovic, and Secretary of State Warren Christopher Godspeed in the negotiations. Their efforts can make the world a safer place, and can return peace and democracy to a desperately troubled area.

There will be a time when it is appropriate for Congress to enter the peace process. That time is not now—this resolution is not how. With serious constitutional and territorial questions for Bosnia hanging in the balance of the Dayton negotiations, Congress should not charge into the middle of the process demanding that all parties bend to our will, or weaken our President's effort to achieve a negotiated settlement.

I do not oppose this resolution on its merits. Peace, with congressional approval, is good. Military deployment, with congressional approval, is good. I oppose the resolution because of the process in which it is being considered. No hearings, no committee consideration, no adequate debate, or discussion.

Let us allow the negotiators to negotiate. If and when they are able to come to an agreement for peace in Bosnia, then let the Congress judge the merits of that settlement.

And in the meantime, let us process important business like this in a proper legislative fashion.

Mr. GALLEGLY. Mr. Speaker, as an original cosponsor, I rise in strong support of the resolution regarding the commitment of United States ground forces as a precondition to peace in Bosnia.

Two weeks ago, Secretaries Perry and Christopher as well as the Chairman of the Joint Chiefs testified before the International Relations Committee as part of their effort to consult with the Congress on this difficult issue of Bosnia.

Much to my surprise, all of the witnesses seemed to suggest that no peace agreement between the Serbs and the Moslems would be possible unless the United States agreed to send ground forces to the region.

To me, this was nothing short of international political blackmail and suggested that the warring parties were more interested in guaranteeing that U.S. soldiers would be sent into harm's way than they were in securing a lasting peace agreement.

It comes as no surprise that I share the strong skepticism and opposition of many of my colleagues in the Congress with respect to the commitment of United States ground forces to Bosnia. But to suggest that only the commitment of United States Forces to the area can guarantee a peace agreement is dubious at best. If we fail to send those forces will the Moslems and Serbs begin shooting again?

While I do not share the administration's position and do support this resolution today, I do appreciate the dilemma the administration faces as a full partner in the NATO alliance and the responsibilities which come with that partnership.

To me, however, there is absolutely no domestic political or military advantage to sending American troops into harm's way in Bosnia. Make no mistake, this is dangerous territory and lives could well be lost no matter what is written on the eventual peace agreement. If anyone thinks Bosnia will somehow be less dangerous if an agreement is reached they need only recall our experience in Somalia where the warlords were not nearly as organized or well armed.

This resolution before us today is very simple. It says that a peace agreement between the Serbs and the Moslems should not be conditioned on whether the United States will send troops into the region or not.

Peace in Bosnia must come because the two sides want to end the killing and to allow their citizens to resume a normal and risk free life. Peace should come to the region whether the forces helping to implement the agreement come from Britain, France, Germany, or the United States.

I urge a yes vote on the resolution.

Mr. DICKS. Mr. Speaker, at this delicate period of negotiations between the warring parties in the former Yugoslavia, I believe that it is extremely counterproductive for the House to be considering this resolution. The Administration is showing great leadership by bringing the factions together to attempt to resolve these ancient hostilities which, in their most recent manifestations, have devastated the region and left more than 200 thousand dead. I believe that if this House approves the resolution before us, it will hinder the peace process by shaking the confidence of the combatants in the ability of the United States to follow through on any commitments to which it agrees.

No one in this Congress wants to insert American troops into an ongoing conflict, nor do I believe that this is the desire of our President. Most in the House also agree that Congress should be consulted prior to the commitment of any ground troops to a peacekeeping effort in Bosnia. Many of us on both sides of the aisle have asserted this prerogative to the President and to Administration officials during recent months. The President and the U.S. negotiators know Congress's wishes on this issue; there is no need for the House to approve a resolution today to restate what has been made quite apparent by various Members of Congress.

If it is unnecessary to explain to the President the position of the House on this issue, what purpose will this resolution serve? I believe that the only function of this resolution will be to undermine the credibility of the Administration as it enters into negotiations which could have dramatic effects on the outcome of the peace process.

I understand that Members have widely differing opinions on the issue of utilizing U.S. troops in peacekeeping missions, and I respect the sincere convictions upon which these opinions have been formed. However, the peace process in the Balkans will suffer if this resolution passes. It vividly emphasizes the distinct possibility that the United States will not honor what it has agreed to at the negotiating table. I do not see how the conflicting parties can have faith in the peace process if the House causes them to question the commitment of the United States.

I have always believed that Congress must not deliberately undermine the ability of the President to conduct foreign relations. I have supported this policy for Presidents from both parties. If approved, this resolution will hinder the ability of this President to negotiate an end to the horrible warfare in southeastern Europe. I urge my colleagues to put aside their partisan sentiments and to support the process toward peace by opposing House Resolution 247.

Mr. CLEMENT. Mr. Speaker, after three and a half years of bloody conflict in Bosnia-Herzegovina, long anticipated peace negotiations will begin today at the Wright-Patterson Air Force Base in Dayton, OH. I applaud the efforts of President Clinton, Secretary of State Warren Christopher, and the participating leaders from Bosnia, Croatia, and Serbia, for these negotiations may be the last best chance for peace in this war torn part of our world.

It is unfortunate that Congress tarnished the optimistic spirit of this summit on Monday by considering H. Res. 247. Mr. Speaker, this resolution was a deliberate partisan attempt to undermine the President and call into question his credibility on matters relating to foreign affairs. With hardly an hour's debate and no hearings, on the eve of this historic conference, Congress has already tied one hand behind the President's back, and jeopardized the success of these talks.

I was the only member in the Tennessee delegation to vote against this resolution, which we only learned would be considered last Friday. Taking into account the short notice before voting on this legislation, lack of intelligent debate and investigation, and the premature timing for such an edict from Congress, I felt clearly this was not the right message to send to our President and the Balkan negotiators.

This vote was not the last vote regarding United States policy for deploying Armed Forces in Bosnia. Whatever proposals or agreements result from the Dayton peace talks, which involve the lives of U.S. servicemen, they will have to pass before the judgment of this body. This is inherent in our beloved Constitution. However, I pray this blatant, political attempt to embarrass the President, has not imperiled a peaceful resolution to this grisly conflict.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, House Resolution 247.

The question was taken.

Mr. GILMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 247.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. QUILLEN, from the Committee on Rules, submitted a privileged report (Rept. No. 104–297) on the resolution (H. Res. 248) waiving points of order against the conference report to accompany the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MOTION TO GO TO CONFERENCE ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

Mr. KASICH. Mr. Speaker, pursuant to House rule XX, and at the direction of the Committee on the Budget, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. KASICH moves to take from the Speaker's table the bill (H.R. 2491), to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. KASICH] is recognized for 1 hour on his motion.

Mr. KASICH. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the distinguished gentleman from Minnesota [Mr. SABO] and I ask unanimous consent that the gentleman have the right to yield blocks of time for purposes of debate.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KASICH. Mr. Speaker, I reserve the balance of my time.

□ 1800

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume, and I yield to the gentleman from Ohio [Mr. KASICH] to engage in a colloquy.

Mr. Speaker, I ask the gentleman if am I correct that will be five Republican and three Democratic conferees for all titles of the bill under current plans?

Mr. KASICH. The answer is yes.

Mr. SABO. Mr. Speaker, in the case of other committees, in most cases, except for those issues relating to tax, trade, and Medicare and Medicaid, there will only be two majority and one minority conferee?

Mr. KASICH. In most cases that would be correct.

Mr. SABO. So, the agreement in those conferences would really be governed by the general conferees, the five Republicans and three Democrats, and then the two from that particular committee of the majority and one for the minority?

Mr. KASICH. Mr. Speaker, the gentleman is correct.

Mr. SABO. So that in an area like agriculture, where we are doing a major rewrite of agriculture policy, there would be 11 conferees; and 3 of them, 2 majority and 1 minority, from the Committee on Agriculture?

Mr. KASICH. Mr. Speaker, in the case of agriculture, the Republicans would have three, the Democratic Party would have two.

Mr. SABO. Then that's changed recently?

Mr. KASICH. Correct.

Mr. SABO. But, Mr. Speaker, I would still be eight general conferees and only five from the Committee on Agriculture?

Mr. KASICH. Mr. Speaker, the gentleman is correct.

Mr. SABO. So, the general conferees, if they agreed, would outvote the Committee on Agriculture members 8 to 5?

Mr. KASICH. Mr. Speaker, I would not anticipate that happening, but theoretically that would be possible.

Mr. SABO. Mr. Speaker, as I think everyone agrees, this is a major rewrite of agriculture policy in this country then being done by five members from that committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from

Texas [Mr. DE LA GARZA], the ranking member on the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I come to protest the composition of the conference and to object to going to conference.

Mr. Speaker, the word I had, up until the distinguished gentleman from Ohio [Mr. KASICH] mentioned, was that we would have one conferee from the minority from the Committee on Agriculture. I am now informed that it would be two. Nonetheless, Mr. Speaker, there was a book written once by a great American called "The Arrogance of Power." We are experiencing that at this precise moment.

Mr. Speaker, the Committee on Agriculture debated and voted three times. None of the measures prevailed, therefore, the Committee on Agriculture did not submit a measure by a majority vote to the conference committee. But there is something called the Freedom to Farm Act that was then placed by either the Committee on the Budget or the Committee on Rules in the legislation without any contribution, debate, or participation of the Committee on Agriculture. It was done by the leadership; by the leadership of the Committee on the Budget and by the leadership of the Committee on Rules.

Mr. Speaker, I protest that move vehemently. I think it is an insult to American agriculture. I think it is an insult to the American consumers who are the ultimate recipients of the legislation enacted heretofore by the Committee on Agriculture.

Mr. Speaker, I want my colleagues to know that this is not only demeaning but insulting, that a revamping of the farm legislation is being done with only two members of the minority in the Committee on Agriculture and that they would be outvoted, nonetheless, by non-Committee on Agriculture general members of the conference.

Mr. Speaker, since the beginning of the Department of Agriculture established by President Lincoln, this has not happened. In our bipartisan handling of legislation, my experience here has always been that we come up with a bipartisan approach, consensus approach to the legislation by which agriculture, to some extent rural America, and the consumers would be serving under or receive the benefit thereof.

Mr. speaker, I protest. I know that I have heard it for so many years from our colleagues on the other side that we do not have the votes, so all we can do is expose, Mr. Speaker, the damage that has been done that can be done, that damage that it will do to the legislative system. I think that it basically begins the erosion of this great institution called the House of Representatives, which we once called, and still call, the people's House.

Mr. Speaker, no longer will it be the people's House, but rather it will be by ad hoc committees at the whim of whoever is in the leadership. And if this is the way that we will act heretofore, then the people have lost. The people have lost their ability to participate. The people have lost their ability to provide counsel to the members of the different committees. It is the people's loss, it will be if we go to conference with these numbers and this distribution. It will be the people's loss and the people are the ones that hopefully will rebel at the appropriate time.

But as of now, the dismantling of the people's House, this great institution called the House of Representatives, that is being nullified by what we do this evening. And I feel sad, really, and aggrieved that this would happen with such little ability to protest, to challenge, and the disruption that will happen in the future.

Mr. Speaker, I have the ability only to address this House for 5 minutes. This is not right. This is not fair. This is an arrogant abuse of power, and this is an insult to the history of this House and to the American people.

I have had my say, Mr. Speaker, but I hope that the people out there realize, all of those involved in agriculture, all of those involved in rural America, all of those that are looking forward to bettering their lives, to bettering the environment, to bringing water into the countryside, to continue bringing electricity, to continue bringing telephone, to continue providing these things that enhance the quality of life.

The American people are the best-fed people in the world for the least amount of disposable income of any major industrialized nation in the world. That has been done because of the system of this House, the system of the committee, and we have done and followed through with precedent that has been laid heretofore.

So, Mr. Speaker, it is with sadness in my heart that I make this statement that the people of the United States of America lose tonight. Especially those in agriculture and rural America lose tonight, because they will not have an opportunity to address the issues fairly, equitably.

Mr. Speaker, I understand the numbers, but the numbers are not what we are challenging per se; that there is a majority and that there is a minority. But the ability to represent the people has been denied, has been denied, and the people lose. The people will be the losers tonight. It is so said—the arrogance of power prevails and the people lose.

Mr. SABO. Mr. Speaker, does the gentleman from Ohio [Mr. KASICH] want to yield to anyone?

Mr. KASICH. Mr. Speaker, I would like to say to the gentleman from Minnesota [Mr. SABO], that we are kind of reserving our time. Unless we hear something that we think we need to really make a point on, we are going to reserve our time and hold our fire until the motion to instruct.

Mr. SABO. Mr. Speaker, I would ask the gentleman if he is planning on a 30-minute speech.

Mr. KASICH. Mr. Speaker, right now we are not, but as the gentleman knows, these things are always subject to dramatic change. But at this point we are going to reserve our time.

Mr. SABO. Unless the gentleman gets motivated?

Mr. KASICH. Mr. Speaker, we are very motivated; we are waiting for some good points to be made by the other side. No, I am just kidding.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, now I am personally aggrieved that I would not even move the gentleman's inner feelings of his heart when he is preparing, here at Halloween, to dismantle American agriculture, to cut its throat, to bleed it to the last drop of blood, and it had no impact.

Mr. Speaker, that is what I call the arrogance of power. The gentleman has just demonstrated that very well.

Mr. Speaker, very respectively and kindly and with the admiration and respect that I have for the gentleman, I am personally aggrieved that I would not move the gentleman at this point.

Mr. KASICH. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would say to the gentleman we are confident at the end of the day we are going to, of course, have a plan that will emerge from the conference committee that will be a plan that people across the country will continue to support, and we feel we are on the right track.

Mr. Speaker, the distinguished gentleman from Texas, I know, feels strongly about this area. He has been chairman of the committee that has been under the control of the Democratic Party for 40 straight years. I appreciate the points that the gentleman has made, but we really believe at the end of the day the farmers of this country will be happy with what we have.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 4 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I want to speak to the agriculture component of the conference committee as well, and I suggest straight out that a conference committee of five is an insult to rural America.

Mr. Speaker, the component of the Budget Reconciliation Act relating to agriculture has been handled in a way unlike any other for development of a farm bill in the history of farm bills in this country.

I represent more production agriculture than any other Member of this House. I also come to this issue as a member of the Committee on Agriculture and as a member of the Committee on the Budget. Mr. Speaker, let me briefly recap the very curious turn of events that has followed the development of this legislation.

Mr. Speaker, in August, not until August but in early August the chairman dropped a bill called the Freedom to Farm Act. We were told that was going to be the Budget component of the 1995 farm bill. The bill did not receive a single hearing in the Committee on Agriculture or the subcommittee. No hearings.

On the day of the markup, after a long day, protracted debate, the bill was defeated with Republicans and Democrats voting against the Freedom to Farm Act. The committee was reconvened the next morning and informed that there would be no more committee meetings on the agriculture component of the budget. In other words, the House Committee on Agriculture was to have nothing to say about the critical part of the budget relating to agriculture.

Mr. Speaker, it has never been like that. It is the House Committee on Agriculture that knows something about agriculture. That is why it ought to come through the House Committee on Agriculture, not go around it.

When the Committee on the Budget marked up the reconciliation act, there was something, by my eyes very important, missing and that was the agriculture part of the budget. It was nowhere to be seen. The chairman of the Committee on the Budget told us that he would get it added when he went to the Committee on Rules. Again no involvement of the Committee on the Budget at that stage.

We have the Committee on Agriculture excluded and the Committee on the Budget excluded. The gentleman went to the Committee on Rules and got Freedom to Farm included in the bill that was voted on last week as part of the Budget Reconciliation Act, but the morning papers the day of the budget vote said that a deal had been cut, and Speaker GINGRICH announced that this would be rewritten in conference committee.

In other words, Mr. Speaker, what was voted on by the House last week did not mean anything. Now we have excluded the House Committee on Agriculture, the House Committee on the Budget and the House of Representatives.

Mr. Speaker, we learned this afternoon that it will be decided by a committee of five representing the House; three Republicans, two Democrats. No hearings. No language. No legislative proposal.

Mr. Speaker, what are we talking about here? Agriculture in this country represents one out of six jobs involved in the production of food and fiber for all Americans. It is the single greatest component where we export more than we import. It is truly of vital interest to this country and the legislative process has at every stage of the game flowed solely from the Speaker's office and shut off all meaningful input from those of us representing rural America.

□ 1815

This is no way for the legislative process to unfold. It is no way to leave rural America tonight, wondering what in the world is going to come out of the conference committee, where the House position is at.

This thing reminds me of a fish. You put a fish in the sun. It starts to stink. You put some sunlight on the process that has involved the formation of agriculture policy in this budget, and it stinks to high heaven. Let me tell my colleagues, rural America deserves a whole lot better than this.

Mr. HERGER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from California [Mr. HERGER] reserves the balance of his time as the floor manager's designee.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut, [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, last week this House passed the radical Gingrich plan that will devastate essential services to millions of middle class Americans—all in the name of giving a massive tax break to the wealthiest few.

The Gingrich plan to cut $270 billion out of Medicare to hand out $245 billion to corporations and wealthy individuals is an outrage. The American people will not stand for this Gingrich plan.

But now the Republicans say they can't afford to pay the political price to kill Medicare outright. So the Gingrich plan will gut Medicare but will do it covertly so that it will as he says, "wither on the vine."

For millions of Americans, Medicare has stood the test of time as a sacred compact between our Government and our seniors. Medicare embodies the principle that citizens who work hard all their lives, raise their children, pay their bills, and play by the rules will not be thrown out into the streets in their sunset years.

We must not allow the Gingrich Republicans to balance the budget on the backs of America's seniors. We must not allow Medicare to become the political football it is in the Gingrich plan. I call on this House to support the motion to instruct the conferees and reject the Gingrich plan.

Mr. SABO. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, I thank the Democratic chair of the Committee on the Budget for yielding time to me.

Mr. Speaker, I just noticed in an article in "Roll Call" magazine, it was just published today, the title of it is "SOLOMON Wants Rewrite of Three-Fifths Tax Hike Rule, After the GOP Has Waived It Twice." I want to put into the RECORD a statement by my good friend and the respected chairman of the Committee on Rules, when this rule was passed.

He said,

> Mr. Speaker, the tax and spend Democrats are at it again. Do you believe it? The Democrats are suing the Republicans to overturn our rules change that requires a three-fifths majority to raise taxes.

Now, this is the gentleman from New York [Mr. SOLOMON] speaking: "The three-fifths majority vote to raise taxes will stand as a hindrance to any Democrat's attempt to foist more taxes on the American people. There aren't going to be any more." He actually said "There ain't going to be any more," but I wanted to correct his language.

Mr. Speaker, that is the same chairman of the Committee on Rules that now wants to rewrite the rule that we passed on the first day of this session. I have 20 quotes from 20 different Members of the Republican leadership, such as "We required a three-fifths vote to pass any kind of tax increase." I've got the Speaker's quote on it. I will not bore you with all the quotes because they all pretty much say the same thing, that any time there is any kind of tax increase, there will be a requirement that there be a three-fifths vote to pass that.

There are actually five tax increases in this budget reconciliation bill that we will be taking to conference. The reason why we were able to take it to conference is that the chairman of the Committee on Rules decided to waive that rule that applied to the House as of the first day of the session. He waived that particular three-fifths rule as it applies to this reconciliation bill. That was the same technique that was applied to the $270 billion Medicare bill when it came before us a few days earlier.

Now, there was not a waiver when the original Tax Act came before us, the Contract With America Tax Act. I raised it at that time that it really should have required a three-fifths vote because of the tax increases in it. We got a ruling that subsequently has been reconsidered, and the Parliamentarian agrees that in fact the three-fifths requirement should have applied.

It should have applied here, too, because, when we pass rules for ourselves, we ought to abide by them. I do not think we ought to have the discretion to simply waive them when they are inconvenient. We passed a rule on the same day that says, when we write rules for the private sector, they ought to apply to us as well.

Well, it seems to me, when we pass any kind of Federal rule, we do not waive it for the private sector. We should not waive it for ourselves. There are actually five tax increases in this bill. One would increase for some people by 50 percent the tax on Medicare part B premiums. There is an increase for some on capital gains. There is a repeal of the 5-year income averaging for others. There is an increase in taxes on income for others. Three is an increase in taxes on income that Indian tribes receive. There is increased taxes on expatriates, which I happen to agree with.

But the biggest tax increase is on the people who can least afford it. There is a tax increase on those who qualify for the earned income tax credit. That is the most shameful. I wish that this House one day would apply the rules that it makes for itself consistently, and not hypocritically.

Mr. HERGER. Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me. I hope everybody votes for his motion to instruct the conferees.

What is this all about? Well, we have got the House with one position and the other body with the other body's position. What we are saying is at least on their side they showed that they have a little bit bigger heart than the Members on our side. We would like our conferees to go along with those provisions.

What are they saying? Well, in the other body, thank goodness, they stood up and insisted that Medicaid coverage be there for pregnant women and children. I believe that. I certainly hope this body does not turn its back on low-income pregnant women and their children. It also says Medicaid coverage should go to those who are disabled and low income. I believe that, and I think it would be terrible if we went along with this House's position.

They also in the other body came forward and said they insisted that they continue to apply Federal standards to nursing homes. Well, I hope we do not roll back to where we used to be; but, if we stay with our position, that is where we will be going. They can do anything they want to, to people in nursing homes, and there will not be a thing we can say about it.

Listen, there was a reason those regulations went in, and that was because we needed them. There was scandal after scandal. I think, if Federal money goes there, we ought to make sure that there are standards there.

The other issue that the other body did much better on was pensions. Do you realize that this body is going to allow folks to go play with your pension money? Now, let me tell you, if that does not get your attention, you deserve to lose your pension. It is just about that clear.

So let us get your attention. This is about your pension. People who vote no on this are saying they want to stay with our position and trust those moguls. They will do whatever they want with your pension. Wait until you try and go get it.

So vote yes, this is very critical.

Mr. HERGER. Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, indeed, perhaps since the inevitable was that this was going to pass last week, pass both Houses, and in some ways I welcome that, because it makes it real. There is something about the Halloween season where we do not really worry about these ghouls and goblins and whatnot because it does not really seem real. This is real. Now that it has passed, the American people have a chance to see firsthand what is in these packages and what can really be happening.

It was interesting, I remember this debate taking place 2 years ago on the President's budget deficit reduction plan and the other side making a lot of statements from some fly-by-night organization about the job loss that would result. They were dead wrong and, in fact, the economy did not get worse as a result of that package, it got better.

These are the same Members that are not bringing this plan, a plan with a $245 billion tax cut, over 51 percent of the benefits in the House plan going to people making over $100,000 a year. This is the same group that has now brought us a pension grab plan so that corporations can go and take assets from a pension plan while the stock market is high, but if that stock market fails or falls, then you are going to see a reduction in the value of that pension and it may be then undervalued. This is the same group that brought us relaxation, not relaxation, obliteration of Federal nursing home regulations.

In West Virginia, we did an analysis with the West Virginia State tax department to conclude that 85 percent of all West Virginians will pay more out of pocket with this plan. We like sacrifice. We appreciate sacrifice, but it needs to be evenhanded.

I guess what concerns me finally, Mr. Speaker, is this is not a plan that will balance the Federal budget. I do not think it will do that. Actually, I think it is going to worsen the economy, not make it better. But it is a plan that will definitely unbalance a lot of family budgets. Unbalance family budgets that depend upon student loans. Unbalance family budgets that are looking toward retirement and having that pension there. Unbalance family budgets that need assistance keeping a loved one in a nursing home or long-term care. Unbalance family budgets that are wondering how their loved one, senior citizen, is going to get medical care.

Bad budget, Mr. Speaker. I urge its rejection.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from Minnesota for yielding time to me.

I hope that we can be constructive this evening for we have failed to address the crisis that has been represented in the national discussion on this issue.

First of all, we have misrepresented to the American people that this budget deficit will be helped by $270 billion in tax cuts. In doing those tax cuts, we will find that those making over $100,000, $200,000, or $350,000 will be getting a tax cut which they have not requested. But those who are making under $50,000 and particularly low- and middle-income families will experience a tax increase.

We will lose the earned income tax credit and, in particular, some 60,000 families in the city of Houston will lose the benefit of receiving an earned income tax credit because of this budget reconciliation proposal out of the House of Representatives, those very working people who are working with children, one or more children in the family, who are trying to make ends meet with rent or mortgage payments, trying to cover their health insurance, and yet this Congress has now burdened them with a tax increase.

At the same time we have $270 billion taken out of our Medicare program in particular, denying many of our senior citizens choice, denying them the opportunity for good health care and subjecting them to long hours and long appointments and lack of care.

I would ask that we listen to the debate on this motion to instruct conferees that would ensure that we minimize the tax increases on those who are low and middle income and particularly cut the tax cuts for the wealthy, because as Members recall, in 1981, when under the Reagan administration those cuts came into play, we went into the worst recession that we could have ever imagined. That does not help budget deficits, when we can document from 1992 to 1995 that the deficit has been coming down.

Vote for this motion to instruct and support children, the disabled, and those senior citizens who need good health care.

□ 1830

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, for those who will not be able to stay tuned and follow this House debate, let me tell them how it is going to end.

My colleagues are going to hear a lot of comments and speeches from this side of the aisle pleading with the Republicans to show some moderation when it comes to the Gingrich budget bill which we passed last week. We will be urging the Republicans in all of our speeches to try to be sensitive to the needs of working families to try to make sure that any tax cuts go directly to real middle-class families and not to the wealthiest people in America. My colleagues will hear our speeches as we urge them to maintain standards for nursing homes so across America each of us with a parent or grandparent who may end up there one day has the peace of mind to know that they are at least going to be in an institution holding to some Federal standards. My colleagues will hear us plead with the Republicans, "Please protect the pension plans of working Americans. Don't go through with the Gingrich proposal to take away the protection of pensions." Once a person is retired, they are at the mercy of the people who manage the pension plans. Our Federal laws protect those people, and we will then be urging during the course of this debate that the people on the Republican side of the aisle come around and help these folks as well as the poorest among us, the children who depend on Medicaid for basic hospital care who will be disadvantaged by the Gingrich budget of last week.

Mr. Speaker, my colleagues will hear all these speeches, and let me tell my colleagues how it will end if they cannot stay tuned. We are going to lose. The Democrats are going to lose. The motion to instruct will do down. The Republicans who marched off the cliff with Speaker GINGRICH last week in the Gingrich Republican bill are going to stick with their Speaker even though they know what we are suggesting is reasonable to most Americans, it sounds like common sense. They are going to stick to their program.

Let me tell my colleagues this. Ultimately President Clinton will veto this terrible bill and we will finally get down to the business on a bipartisan basis of coming up with a commonsense solution to reducing this Nation's budget deficit.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, what should be the goal of this conference? It should be to minimize both tax giveaways for the wealthy and tax increases on low- and middle-income working families. We should try to do something to preserve and protect the health and income security of senior citizens, and we should also avoid increasing the number of Americans lacking access to health care.

So what do we need to do in this conference committee? I think as a priority, accede to the Senate-passed provisions requiring continued Medicaid coverage for low-income pregnant women and children and for the disabled. At the very least what the gentleman from, senior Senator from, Rhode Island has proposed, a member of the majority party. We should agree to the Senate-passed provisions applying to Federal nursing home standards, and we should recede to the Senate position on pension reversions, continuing current-law protections for worker pensions.

What we have is a reconciliation bill that makes deep cuts in long-term care that is going to raise the costs of nursing homes and force seniors out of nursing homes or bankrupt their families who are trying to care for their parents and grandparents. It is also going to eliminate the guarantee of Medicaid by threatening the health care of over 36 million low-income children. Elderly and disabled Americans are most vulnerable Americans. It is going to curb the quality of nursing homes for elderly Americans by repealing the minimum, and I say the minimum, Federal requirements. But worst, it is going to cut the earned income tax credit a tax increase for working families, the working poor who had a modest tax break, and all of a sudden this is going to be severely dissipated.

Mr. Speaker, there is a good motion to instruct conferees. We should try to send a strong signal. The President should veto this bill, and then serious negotiations should start. Let us get rid of this bizarre atmosphere, bizarre and bazaar atmosphere, that is pervading this legislation.

Mr. SABO. Mr. Speaker, would the gentleman yield for a question on process and procedure?

Mr. KASICH. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, we do not intend to ask for a recorded vote on this, and I am curious. Is the intent to move to the vote on Bosnia before we go to the motion to instruct?

Mr. KASICH. No, I think we are going to move right into the motion to instruct.

Mr. SABO. So, for anyone who is interested, that vote then would probably come after the vote on the motion to instruct.

Mr. KASICH. That is correct.

Mr. SABO. We have 1 minute remaining, Mr. Speaker?

The SPEAKER pro tempore (Mr. RIGGS). Yes, the gentleman is correct.

Mr. SABO. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this is again the final minute of our consideration of the "wreckonciliation," that is spelled "wreck" as in car wreck or disaster for the families that are most directly affected by this bill, those who will be impacted by the new sick tax; that is, Medicare recipients who will suffer under that aspect of the bill and those who will be affected adversely by the new work tax; that is, working families struggling, dependent on one of the tax provisions they have now that will see their taxes go up if they are a family earning $30,000 or less. Under either the House or the Senate bill they will be wrecked by the reconciliation bill, but, as we consider what will happen in conference, it is important to know that at least on the Senate side some of the more extremist provisions of this Gingrich House were rejected soundly in the Senate, and one would hope the same thing would be done by the conference committee.

For example, the proposal that while we are increasing a tax on work, we would eliminate entirely the alternative minimum tax for some of the richest corporations in this country; that has been removed by the Senate, and I would hope it would be removed by the conference.

The SPEAKER pro tempore. Does the gentleman from Ohio [Mr. KASICH] yield back the balance of his time? .

Mr. KASICH. The only thing, Mr. Speaker, is I do not know what the gentleman from Minnesota [Mr. SABO] would say if I yielded myself 29 minutes to counter all that.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Minnesota.

Mr. SABO. I listened to the gentleman from Ohio tell us that, after he had been in front of the Committee on Rules for 2½ hours, he was tired of hearing himself, so I assume he would not yield himself 29 minutes.

Mr. KASICH. All I want to know is, is the gentleman from Minnesota [Mr. SABO] going to kindly sit here and listen to a 29-minute harangue?

Mr. SABO. I notice the gentleman from Ohio did not listen through all the 30 minutes of speeches on our side.

Mr. KASICH. Mr. Speaker, on that lack of bipartisanship, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. KASICH].

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SABO moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2491, be instructed to do everything possible, within the scope of the conference, to minimize both tax cuts for the wealthy and tax increases on low- and middle-income working families, to preserve and protect the health and income security of senior citizens, and to avoid increasing the number of

Americans lacking access to health care; and that the House conferees be further instructed to—

(1) agree to the Senate-passed provisions requiring continued Medicaid coverage for low-income pregnant women and children and for disabled persons,

(2) agree to the Senate-passed provisions continuing to apply federal nursing home standards, and

(3) recede to the Senate position on pension reversions, thereby continuing current law protections for workers' pensions.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. SABO] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker and Members, this is not an easy bill to devise a motion to instruct on because the reality is we have a bad House bill and we have a bad Senate bill. So most of the options are pretty bad. So our motion in some cases says, "If you've got a bad provision and there is a worse provision, please stick with the bad provision." It does not get us anyplace, but, as my colleagues know, what the House did with the earned income tax credit is incredibly bad. What the Senate did is much worse. So stick with the House provision.

There are some parts of the bill, Mr. Speaker, it is impossible to offer a motion to instruct on. Both the House and the Senate deal very poorly with low-income seniors who today qualify for having their premiums paid and their deductibles paid by Medicaid. Neither of them are adequate; they are the same. It is impossible within the scope of conference to say to improve it because they are the same.

But there are a few things, a few items, we might suggest to our House conferees: Do the Senate provision; they are not quite as bad. They slightly improve a bad bill. Do not do this dumb pension reversion that raises $9 billion temporarily, but takes $40 billion out of trust funds for pensions for American workers. The reality is, even to balance the budget, it does not do us much good because in the year 2002 it is scored as an asterisk that actually loses a little bit of money, so it gives us some temporary receipts, creates a raid on pension funds.

Just simply do not do it. Follow the Senate's lead, overwhelming vote on the Senate floor.

Mr. Speaker, as my colleagues know, Federal nursing home regulations did not happen just because somebody wanted to pass some Federal laws. They emerged because over the years there was very serious, fundamental problems in nursing homes as they dealt with the disabled and the elderly population of this country. They emerged because there was a clear need. If they need reform, reform it, but do not throw them out. My colleagues, stick with what the Senate said. Let us keep those Federal standards.

Mr. Speaker and Members, we are going to have a new Medicaid or medigrant program on which we are going to spend over a hundred billion dollars a year. Most certainly the Federal Government can say there are a few things we should do. Stick with the Federal regulations of nursing homes unless there are more comprehensive ones at the State level, but let us make sure that in structuring this program the States at a minimum keep coverage for low-income pregnant women, and children and disabled people.

□ 1845

That is not asking too much. Over $100 billion of Federal funds, and the suggestion is that we should sort of sit back and be oblivious of what any requirement of those funds are.

Mr. Speaker, I have spent many years in my life dealing with the question of Federalism. This kind of Federalism of this much Federal money, and no expectation that these basic requirements should be part of it, is just nuts. So our motion to instruct is very basic. Do not do that dump pension deal. Keep the Federal nursing home standards so our disabled and elderly can be in safe surroundings when they have to go to a nursing home.

As we provide over $100 billion a year to the States, let us simply say that low-income pregnant women and children and disabled people should be able to get health coverage.

Mr. Speaker, I urge a "yes" vote for the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct conferees has good things, some not so good things, some inaccurate statements. I would argue, Mr. Speaker, that rather than picking and choosing, but beyond that, tying the hands of the conferees of the House as they move into negotiations with the Senate, that we provide, obviously, as much flexibility as we possibly can to our conferees, but we should keep in mind some of the issues that have been argued in this motion to instruct.

I think the gentleman makes a legitimate point. We will, in fact, spend time taking a look at a number of the provisions that have, up until now, been dictated by the Federal Government and we intend to turn over to the States. In the course of trying to decide how much of this we turn over to the States and how much of it we preserve, that is clearly going to be a subject of this conference committee. Nothing is ever done 100 percent.

For example, in our Medigrant program, I believe it is up to 85 percent of all the mandatory spending must continue to be spent on women, children, and disabled persons. That is one of the requirements that we have on the House side as it relates to the Medigrant program. I feel strongly that that be maintained.

As to whether that needs to be maintained, and at the same time call that an entitlement and have the folks here dictate even further to my Governor, the Governor of Ohio, that is a matter for debate and discussion within the conference committee.

Pension provisions, of course, get a little bit more complicated, because the pension provisions require that these funds that are in excess of between 125 and the maximum allowed at 150 percent, that the companies would be permitted to draw down those funds.

The chairman of the Committee on Ways and Means would argue that, in fact, giving companies flexibility between 125 percent and 150 percent would bring about additional defined pension plans, which we do not see much of now. Companies are worried they are going to lock their money in the box between 125 and 150 percent.

What is interesting is if you are at 124 percent of liability, you are not affected; only if you are between 125 and 150. However, we have concern on this side, and we want to talk about this as we get into the conference.

What I would ask the Members to do is to not accept the motion to instruct, because if we do, that is it. That is the end of the day. We would take the motion seriously. Frankly, as we move into discussions between the House and Senate, the House has some concerns about Senate provisions and vice versa. We need to work them out as part of a package, to be mandated in two or three specific areas. To lose the ability of the House of Representatives to drive the best program, to drive the best agreement, I personally believe would be a mistake.

I would ask the Members of the House to reject this motion to instruct, preserve flexibility on the part of the conferees here in the House. We will in fact pay attention to some of the suggestions in this motion, some positive suggestions in this motion, but I would ask that we defeat the motion to instruct. Let us have the flexibility to work out the best program we possibly can.

Mr. Speaker, I reserve the balance of my time.

Mr. SABO. Mr. Speaker, if I did not convince the gentleman from Ohio, the next person will.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Speaker, I strongly support and ask the House with their strong sense of compassion and realism to vote yes on the motion to instruct. I think that the conferees need to broaden their knowledge of what is going on in this country with the poor and with the near-poor. I think the conferees need some up-to-date information and sensitivity as to what happens in many of the homes in this country.

Mr. Speaker, I feel very, very embarrassed that the Senate has been, certainly, more sensitive to the needs of the poor than has my dearly beloved House. What they have done, as my ranking Member said, they have not done the best, but they have done much better than we have in the House. They have required Medicaid coverage for nursing homes. That was not done just in a vacuum. There is a history behind that, the many horror stories throughout history of what has happened in the nursing homes in this country. We need Federal regulation, and we need Federal oversight of nursing homes.

The Senate went on further to take care of pregnant women and children. I do not think there is any Member of this House who would want to go back to their home State and say to their home constituents that we would leave it up to someone else to take care of poor children, nursing mothers, and Medicaid-protected children.

I have begged for some consideration for Medicaid not only in the Committee on Rules, but in my home committee that my chairman has turned me down several times on, but I know that I am right, Mr. Speaker, I know we must look out more for the poor children in this country through Medicaid, to be sure they get health protection and be sure that they are taken care of on Medicaid. We should be sure these nursing home standards stay. The Senate has at least guaranteed health care. Why can we not do it?

It is a situation now that nursing home reform did not just happen. We must keep it going. Our chairman must be sure and our ranking member must be sure that House Members are instructed to concur with the Senate recommendations. They have studied all this, the Committee on Commerce. Their committee has information which shows that there are certain States which will not be able to take care of their Medicaid patients if they were not to improve Medicare through the years it has taken this program to get as far as it is now.

Do you want to keep going? Do you want poor children to be handicapped by what we do in the House? Do you want the House to have that stigma? I do not. I am a Member of this proud House, I am a member of the Committee on the Budget. I know that we can do better by the children of this country.

Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio, [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I rise in opposition to this motion to instruct. Like the gentlewoman from Florida, [Mrs. MEEK], I spent a lot of time on the State legislature. I have served on the Committee on the Budget. I was chairman of the Committee on Health, Human Services and Aging for many years in the State Senate.

I can tell the Members that I had Governors tell me, other people tell me, "If we could just get the Federal Government off of our backs, we could do better, we will do better." This is a difference of philosophies here. We believe that there is a better way to do things for those children than is happening today. We believe in those children, and we want to help those children, but we do not think putting on burdens from the Federal Government time and time again and increasing costs as a result of duplicate regulations is the way to do it. We would be better, we think, in going back and to allow States to do that, and allow States to do it with a certain amount of regulation. There are some good things here and we are going to look at those, but we do not want to be tied into this particular type of instruction at this point on those things that relate to children.

There are some other things. We want to help pregnant women and children with disabilities. I think I have a good record of doing that. I think I will continue to do that.

Mrs. MEEK of Florida. Mr. Speaker, will the gentleman yield?

Mr. HOBSON. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Speaker, I would say to the gentleman from Ohio [Mr. HOBSON], we are both friends and members of the Committee on the Budget. Would the gentleman believe that I would never have been admitted to a State university if it were left up to the State? Would he also believe I would never have received some of the benefits if it were left up to the State?

Mr. HOBSON. I would tell the gentlewoman, Mr. Speaker, I would believe that. I think that was a number of years ago. I think the States have gotten better; maybe not Florida, I understand. I do not know about Florida. I could tell the Members about Ohio. The gentleman from Florida [Mr. GIBBONS] is laughing. Maybe he comes from a State where that is not true. In my State, that is true. I have until recently sat on the board of the oldest African-American university in the country, and on the board of the public school there, run by the State of Ohio. We have a good record. We have worked on it.

I am just saying we want to preserve these things, we want to do these things, and we are going to try to do that in the conference committee. We are going to do a number of issues where we will go in and we will work to try to get them better than what we have done here and they have done there, but we are not going to impose this particular restraint upon our conference committee at this point.

Mr. KENNEDY of Massachusetts. Mr. Speaker will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Massachusetts.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I would say to the gentleman from Ohio [Mr. HOBSON], I think everybody respects the gentleman's stature in the House, but the truth of the matter is what we are doing is providing these block grants to the States and we are doing it with less money. Then what we are doing is eliminating standards, basic standards in terms of nursing home care, basic standards in terms of how we treat pregnant women, basic standards that go toward whether or not people can get the assurances.

The gentleman does not work for the State of Ohio any longer. He now works for the Federal Government. It does matter what happens in the State of Florida versus the State of Ohio. That is what we are doing.

Mr. HOBSON. Mr. Speaker, first of all, I would say to the gentleman, I do not work for the Federal Government. I work for the people of the Seventh Congressional District. I work for the people.

Mr. KENNEDY of Massachusetts. The gentleman is paid by the Federal Government.

Mr. HOBSON. The other inconsistency in the gentleman's statement is that we are not spending less money, we are spending more money. I know $1 trillion is an increase that is difficult for the other side to understand, but that is what we are spending.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. HOBSON. I yield to the gentleman from Ohio.

Mr. KASICH. Let me say, Mr. Speaker, that in our Medigrant Program, that 85 percent of all the money currently being spent on mandatory programs for women, children, disabled, is a provision that is contained in our bill. The interesting thing, though, is that 30 Governors across the States, 30 Governors across the country, have asked the Republicans to limit the rules and regulations and the dictates from Washington. Do Members know why? Because they are being required to comply with rules and regulations dictated by this city that get in the way of their ability to serve their needy population.

I will give one example. First of all, the Governors around this country have been begging bureaucrats in Washington to give them waivers to spend their people's money inside of their States to take care of their populations the way they see fit.

The Governor of Ohio believed if in fact he could have greater flexibility, he could not only attend to the poor population in the State of Ohio, but at the same time he could begin to cover people who do not have health care coverage. In fact, our Governor believes he can serve more people more effectively in the State of Ohio if he did not have to come down here on bended hands and knees to ask the bureaucrats, who do not even know what time zone we are in, as to whether he could deliver services to his own populations within the boundaries of the State of Ohio.

Frankly, I think the Governor of the State of Florida is a fine man, Lawton Chiles. He used to be a U.S. Senator. I do not believe Lawton Chiles will pass laws in the State of Florida that are not going to be designed to help the people of the State of Florida. It is really a matter of whether you have confidence in yourself, where you live. That philosphical point needs to be made here.

Mr. HOBSON. Let me say one thing about this, Mr. Speaker. The plan the gentleman is talking about is a plan that I worked on in the legislature with a Democratic Governor. It is called the Dayton area health plan. It started as a plan for ADC mothers and their children. That program had to come down here on bended knee to get an HCFA waiver in order to do that program for these people. It took months. We had to come back time and time again to do that program.

Right now as a matter of fact, in this bill is a provision extending that, because we are worried about a time factor on it. This Governor thought that the previous Democratic Governor did such a good job that that program is now, as John said, going statewide.

☐ 1900

So the States can do things. The problem is, we want more money to go back to the States; the gentleman wants to leave it all here with some bureaucrat here that we have to come down and fight with all of the time. We do not want to do that.

Mr. SABO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have talked a lot about State government. I spent 18 years in State government. The Federal Government at times frustrated me. There are rules and regulations that need revision, and we need to work on that.

I would have never dreamed of coming to the Federal Government and saying give me $100 billion, no conditions. That is what we are doing in this bill. Nursing homes, Federal standards, go, forget about history, forget about history. Those standards came because the conditions were atrocious. Those of us in State government did not do our job, so we got the Federal standards. We did not just throw them out in the wake of history of why they were created, of dealing with the most vulnerable people in our society.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the debate tonight is not about whether we have a balanced budget or not, or how it is done; the debate is really about who is going to carry the burden for this balanced budget. Is the product of the House and the product of the Senate the kind of product that we want to impose on the American public.

A great heavy vote in the House, a great heavy vote in the Senate have said no. Unfortunately, those votes were not quite enough to carry the day, but there were an awful lot of dissent in that. The President has said that he is going to veto what comes out of this effort that we are about to undertake of trying to reconcile the differences between the House and the Senate.

Mr. Speaker, the question tonight is a very fundamental question, which is, who shall carry the burden of this balanced budget? How do we get there? Every time you look at any analysis, outside analysis of who carries the burden in all of this, the burden of this balanced budget comes down on the backs of the sick, the poor, the aged, children, and low-income working Americans.

Now, that is not fair. Let us take a for instance. Let us take the crown jewel, the tax cut. First of all, there is no need for a tax cut today. All of us know we have an unbalanced budget, and why add to the burden of balancing the budget by adding $250 billion worth of tax cuts to it, particularly when you distribute the tax cuts as they are done.

Let us take probably the most expensive item in there, which is the so-many-dollars-per-child tax cut for families with children under 18 years of age. That is a very, very expensive program.

The first thing about it is that it is not $500, as has been so widely advertised, but $365. The second bad thing about the $365 is that only the upper income people get it. The lower-income, working people do not get anything. In fact, 33 percent of all of the people in the United States with children in their family less than 18 years of age get absolutely nothing, not a penny. Another 10 percent get less than the $365 that all of the upper income people get.

Now, that is not fair. If we were trying to balance this budget and to deliver a tax cut, we would never deliver a tax cut in that kind of manner.

With all of the other provisions in the tax bill, and the limited time does not permit me to go through all of the outrages that are in there, we would say, we can put this off, we will debate that at some other time, but let us get on with balancing the budget now. Let us get on with balancing the budget now. It we have to do something for those rich, political friends of my Republican colleagues over there, we will talk about that in a different time frame, a different environment than we are talking about now.

Mr. Speaker, we are talking about balancing the budget; we are talking about who is going to pay for this balanced budget. The sick, the poor, the aged, children, and the working poor are paying for this balanced budget. That is unfair.

This motion to instruct the conferees should be adopted, and the whole thing should be rejected. We should go back to the very beginning and get this done right.

Mr. KASICH. Mr. Speaker, I yield 30 seconds to the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this is a philosophical difference, and I want to say that State government has changed since many of the Members came to this body; I think the State government was in trouble, and I think State government has improved dramatically.

In my State we had large institutions where we used to put the mentally ill. We reversed that, we changed that. Our State changed that. I think there is a different philosophical understanding between our two sides here. The Democratic side still thinks that the answer to everything is the Federal Government. We do not believe that.

Mr. SABO. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I have described my politics a little bit different. I describe myself as a liberal decentralist. There may not be that many of us around. The best memories of my life, the most fulfilling time of my life was the time I spent in State government.

On the other hand, fully understanding the capability of good State government, and most of them are good today, and they were 20 years ago. Still, for States to come and say, we expect to have a blank check of $100 billion, without the basic requirements that you take care of poor children and disabled people; that you throw out, with all the political pressures that exist, nursing home regulations, that is just crazy.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY of Massachusetts. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think the world of my good friend from the State of Ohio, Mr. KASICH, but as much as I think of him, I do not think that he can perform the miracles of the loaves and the fishes, and that is what he is talking about doing.

What we are doing here is we are embarking on a process of saying that we are interested in balancing the budget of this country, which I am strongly in favor of and have been strongly in favor of for many years. What we ought not to do is balance the budget on the backs of the poorest, most vulnerable people in this country, and that is what this budget does.

The gentleman from Ohio [Mr. KASICH] made a wonderful speech about reconciliation the other day, but reconciliation implies caring for the poor. It implies a conciliation, a sense that we are going to get together as a people, not pick on the vulnerable. This budget picks on the vulnerable.

All we are asking the House of Representatives and the gentleman from Ohio [Mr. KASICH], who I am trying to have a conversation with, all we are trying to do is ask the gentleman to please pay attention to the Senate that is not picking on poor, vulnerable, pregnant women. We are just asking to please concede to the Senate in terms of cutting off pregnant women. We are asking to pay attention to the fact that when we say these Governors are going to be so careful in terms of their ability to provide these services at greater degrees than they do now for less money.

Mr. Speaker, the truth of the matter is, I got a letter from 24 Governors saying that they wanted to get rid of the spousal impoverishment protections that are contained in the current law. They are doing that because the Republicans are cutting their programs so much that they need the flexibility to be able to cut off senior citizens, they need to be able to cut off elderly widows in order to be able to maintain the Republicans' sense of how to get to a balanced budget.

Why not go after the F-22? Why not go after the B-2 bomber? Why not go after some of the rich pork that is in this program, pork that exists in the budget of the United States that the Republicans side is unwilling to go after.

Mr. KASICH. Mr. Speaker, I yield myself 2 minutes and 10 seconds.

Mr. Speaker, first of all, I did not know we were going to have to go back and start setting the facts straight again, but let me try.

In order to qualify for the Medicaid or the Medigrant program, the State will have to match just like they have. We are not going to take the money and spend it on something other than poor people. The question is, can the State of Ohio figure out how to spend it on poor people in their States better, better, than we have from here.

Let me just suggest to my dear friend from Massachusetts, Mr. KENNEDY, that the closest that we have come to eliminating the B-2 Bomber has been since the Republicans have taken control of the House. We could not get the votes, we could not get the votes to kill the B-2 Bomber when the Democrat majority was in charge.

Now we lost this probably by about 3 or 4 votes, and that is because, frankly, we got more Republicans than we have ever gotten before, and the simple fact of the matter is that we are the ones that have closed loopholes on large corporations. I mean the Puerto Rican 936 giveaway, the large pharmaceutical firms, the point is that we closed that loophole here in the first 9 months. It just took the Republicans about 9 months to close the loophole that corporations used on COLI, the Company Owned Life Insurance. The Democrats had 40 years to do it. We did it in 9 months.

Are there other improvements that need to be made? Dramatic improvements that need to be made. To argue, for example, that we are going to give Medigrant money to the States and they do not have to use it on poor people, that are not the facts. We have to have some semblance of facts to go with the statements.

I have already pointed out that 85 percent of all of the mandatory spending for women and children and the disabled have to continue to be spent, but the Governor of Ohio believes that if we give him the money that the people of Ohio sent to this city, and we give it back to him without all of the bureaucratic rules and regulations and redtape, he will, with great compassion, take care of the poor and expand the program to take care of people who currently, many of the people who currently do not have health care coverage.

So I do not want to get into a tit-for-tat of what we are doing, but the simple fact of the matter is it is having confidence in people where we live. I have confidence in people where I live. I do not think I have to pass this on to people who live 500 miles away to solve my problem. I like to solve the problem in my neighborhood, entrusting the people who I live in the neighborhood with. That is what the program is all about.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, just a quick point of reference to a statement that was made by the gentleman from Ohio [Mr. HOBSON] before. The gentleman said that he did not work for the Federal Government of the United States, that he worked for the people of the Seventh District of Ohio.

Mr. Speaker, we all come here based upon the district we represent, but what the gentleman suggested represents the very threat to the national principle that many of us on this side of the aisle are fearful of.

Mr. Speaker, let me call to specific attention tonight to the viewing audience an issue that I think that they ought to be concerned about. Last Friday the other body overwhelmingly removed a corporate pension.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman will suspend for a reminder from the Chair that the gentleman will address his comments to the Chair and not the viewing audience.

The gentleman will proceed.

Mr. NEAL of Massachusetts. Mr. Speaker, one of the most onerous provisions in this bill that is before us, and this motion to instruct corrects it, would take away, I think, an issue, if I might remind viewers of tonight, similar to the S&L issue when I first came here.

☐ 1915

There is a threat to pensions across this country offered by this reconciliation proposal of the Republican Party. Simply put, their provision allows corporations to raid the pension funds of their hard-working employees.

We should not allow this to stand. Allowing corporations to use their excess pension funds is bad retirement policy, and pension funds would unnecessarily be put at risk. A corporation could take funds out of a pension fund that should be used to improve employee benefits. Some companies have excess current liability in their pension funds and cannot currently pay all of the benefits owed to their employees if the plan is terminated.

Ask yourself tonight what would happen if $40 billion came out of the stock market tomorrow. That represents a real threat to the pensions of hard-working Americans. The PBGC could be faced with a bailout of pension funds that not only would lead to a taxpayer bailout but it would be the ghost of S&L past.

We can protect the pension funds of American workers, as the gentleman from Ohio [Mr. KASICH] said, by taking this motion to instruct seriously and instructing the conferees to leave the pension benefits of hard-working Americans alone.

Mr. KASICH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Connecticut [Mr. SHAYS], a member of the Committee on the Budget.

Mr. SHAYS. I thank the gentleman for yielding me the time.

Mr. Speaker, we have a major task. Our task is to get our financial house in order and balance our budget, and we are going to do it with the help of our colleagues on the other side or without it, but we are going to do our job.

I would just like to reemphasize the fact that my esteemed chairman has made a point of, and that is that we have only had eight months to deal with a problem that has existed for a long time. I readily agree with my colleagues on the other side of the aisle that both Republicans and Democrats have their fingers in this problem that has existed with the deficits going higher and higher and higher.

The bottom line is, we had a Republican President, we had a Democratic Congress for much of that, and both sides simply could not agree. Republicans wanted to spend more on defense, and Democrats did not want to control the growth of entitlements, and they both agreed to disagree and end up with large deficits.

That was then, and this is now. Now is, we have a chance to deal with the problem. The way we are dealing with this problem is to slow the growth in spending so, ultimately, it intersects revenue seven years out. We are still going to have over a trillion dollar increase in our national debt, but it will not be $3 trillion or it will not be $2.5 trillion. We are going to slow that growth so, ultimately, in the seventh year, we have a balanced budget.

In the process, we are going to save our trust funds. Our trust funds are going bankrupt, particularly Social Security. It becomes insolvent next year. It goes bankrupt in 7 years. We are going to stretch that out so it does not go bankrupt in the year 2002. It is going to get up to the year 2010.

The third thing we are going to do, and the most important, is we are going to transform this social and corporate welfare state into an opportunity society. We know we have welfare that we focused attention on in the social side of our budget, but we also have corporate welfare as well that we are getting at, to the tune of $29 billion. When I hear things about cutting and I know we are spending more, I just do not know how you can keep saying that.

The bottom line to this issue is that we hear comments about how we are cutting Medicare, and I know we are not cutting it. We are going to spend 73 percent more in the next 7 years than we did in the last seven. I know we are going to spend over $674 billion additional in Medicare.

I also know, at the same time, that we do not have an increase in copayments. We do not have an increase in deductibles. I know the premium stays at 31.5 percent. It means the taxpayers are going to pay 68.5 percent; and as health care costs go up, as they have in the past, that 31.5 percent will go up as it has in the past.

I know we are not forcing people out of Medicare. They can stay where they are. They can get the traditional fee-for-service program they have gotten for the last 30 years. But if they want to, we have a plan that enables them to get private care and get better eye care or better dental care or maybe get a rebate, a refund in their premium, getting into the private sector plans. So I know we are not cutting Medicare. I know we are not cutting Medicaid.

Then I hear about school loans. School loans go up from $24 billion this year to $36 billion in the seventh year. I think about that, and I think only in this place and where the virus has spread, when you go from $24 billion to $36 billion in school loans, do people call that a cut.

What are we asking? We are saying that grace period that students will have to pay the interest when they get out of school for that next 6 months, that grace period, they are going to have to pay the interest. It amounts to $9 more a month for those students who have borrowed $17,000. So I am thinking, $9 more a month, and that is a cut. We are going from $24 billion to $36 billion. Replete in our budget, time in, time out, we are spending more, but you call it a cut, and it is not a cut. It is an increase.

Bottom line, we are going to get our financial house in order, we are going to balance our budget, we are going to save our trust funds with or without your help, and we are going to transfer this social and corporate welfare state into an opportunity society. It would be nice to have your help, but if it is not there, we will just have to proceed on our own.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, it is always fun to remind my Republican colleagues that in the last Bush budget there was a deficit of $290 billion. The budget deficit, having fallen 3 years running, is now down to a little over $164 billion.

Think of that, my Republican colleagues. But I do not rise to talk about that. I rise to talk about something else. It is something which will not save a nickel of money for the taxpayers of the United States but which will do irresponsible and unlimited harm and hurt to one of the most helpless groups in our society. I refer to the nursing home patients. This bill absolutely does away with the nursing home protections for patients who are incarcerated in nursing homes.

In the 1980's our Committee on Oversight Investigations conducted a lengthy investigation of this. We found nursing home patients lying in their own human excrement, covered with bedsores. We found them tied to their beds. We found them drugged. We found their assets stolen. And we found them impoverished improperly by raids upon their assets. We also found that they were in fire traps which burned, and they were burned to death in these fire traps. We found inadequate care. We found inadequate facilities. We found people who were not able to get the care they needed because there was neither an adequate number of employees nor properly qualified employees. These are the most helpless people in this country. We passed bipartisan legislation to do away with those abuses.

That bipartisan legislation is repealed by the legislation before us. This legislation is rich in hortatory language that, like the Tale of the Idiot in Shakespeare, is full of sound and fury but signifies nothing because it does nothing. It is long on hortatory language.

What this bill will do if the motion to instruct is not adopted is to return to those sad, unfortunate, unsavory days when the most helpless in our society were abused. That is the kind of legislation we have before us.

Adopt the motion to instruct.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER], the chairman of the Committee on Science.

Mr. WALKER. I thank the gentleman for yielding me the time.

Mr. Speaker, it is interesting to come here to the floor and hear that the Democrats are going to present some rational arguments against what has been done and then listen to them come on the floor and emote.

The fact is that what we have heard in a couple of instances has been kind of interesting here this evening. For example, the talk about the fact that middle-income and low-income people are having their taxes increased. The fact is that what they are doing is basing that on a calculation with regard to the earned income tax credit. The earned income tax credit is actually going up under our plan over the next 7 years by 40 percent. There is going to be a massive increase in the amount of money that people are going to get. This is not taxes that they are having to pay. This is money that the Government takes and hands back to them. It is low-income people who actually get money handed to them through a check handed to them by the Government. That is going to go up 40 percent over the next 7 years under our plan and so the Democrats seem to think that that is a cut. It is just kind of interesting.

The other thing I am interested in hearing them talk about is pensions. It is fascinating to hear them come to the floor and hear them talk about how we are doing something to pensions when the fact is that the greatest danger to pensioners in this country is being done by this administration that is trying to take the pension money and sink it into public housing and other public projects. Under Secretary Reich, the Democrats have put forward a plan that would have the money taken out of the pension plans and invested in high-risk, low-interest investments.

Mr. POMEROY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will not yield.

Mr. POMEROY. Your facts are not correct.

Mr. KASICH. Mr. Speaker, regular order.

Mr. WALKER. I am not going to yield. I am going to make my statement. I have heard a lot of ridiculous talk.

The Democrats are doing a job on the pensioners of this country. Now what they have found is that Republicans actually want to try to reform the system and do something better for pension plans in this country and guess what? It is going to take money away from where they want to put money in for public housing. The Democrats have figured out that we are lowering the amount of money being put into social welfare in these budgets and now what they want to do is they want to raid the pension funds and they have figured out that under our plans they are not going to be able to raid those pension funds for social welfare spending. It is absolutely amazing to hear what we are hearing on the floor tonight. The fact is the real danger is the social welfare philosophy of the Democrats.

Mr. SABO. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] is dead wrong. We increased the earned income tax credit last year. You are cutting it. You are raiding the employees trust funds, taking pension assets out of them.

Your characterization of what the President and others have suggested on pension funds is total distortion.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Speaker, let me also compliment the gentleman from Pennsylvania for bringing that up and if he would look at what Secretary Reich has said.

That bill that we passed here, there is no mandate from the Department of Labor on any of those investments in housing. But the argument should be I would rather them invest in housing here than in Beirut, Lebanon where some of them may get the same rate of return they would instead of downtown Houston.

I rise tonight to support the motion to instruct. I support a balanced budget but not the effort that the majority is trying to do. It is ironic that our Speaker and supporters approved this budget plan just a few days before Halloween and here we are going to have it tomorrow.

When one looks at the facts, it is clear that their budget and their rhetoric are the ones that are scaring the American people. They are scaring seniors on Medicare, college students and the workers who are depending on those pensions instead of this raid on the pension plans.

Perhaps the single biggest trick is that the Republicans are cutting Medicare by $270 billion in order to pay for the $245 billion budget-busting tax cut.

The fact is that Medicare is cut to pay for tax cuts is highlighted by the Medicare cuts are 3 times greater than what the Medicare trustees have said they needed to do to ensure Medicare solvency to the year 2006.

If you do not think that is scary enough, listen to this from a distinguished Member from the other body:

I was there fighting the fight, voting against Medicare, 1 out of about 12 because we knew it would not work in 1965.

And from a Member of our own body: "Now we don't get rid of it," that is being the Medicare they are trying to save supposedly, "in round one because we don't think that's politically smart and we don't think it's the right way to go through a transition period. But we believe it's going to wither on the vine because we think people are voluntarily going to leave it."

Voluntarily leave Medicare? The budget plan will force seniors out of Medicare. That is not voluntary. It is forcing them out.

The promises from the Republicans to strengthen and preserve Medicare are scary Halloween tricks on senior citizens.

Let me remind Members what the gentleman from Michigan [Mr. DINGELL] said, that in 1990 we had a $290 billion deficit on a yearly basis. This last year without one Republican vote we had $164 billion.

□ 1930

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I just want to point out again, under our plan, EITC goes up by 40 percent. The gentleman from Minnesota seems to think that is a cut. A 40-percent increase seems to me to be a pretty good increase.

Mr. POMEROY. Mr. Speaker will the gentleman yield?

Mr. WALKER. No. I am going to make my statement.

Mr. KASICH. Mr. Speaker, I want to just——

The SPEAKER pro tempore. [Mr. RIGGS] The gentleman from Pennsylvania will suspend so the Chair can get order.

PARLIAMENTARY INQUIRY

Mr. KASICH. Mr. Speaker, I want to make a parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania yield to the gentleman from Ohio?

Mr. WALKER. The gentleman yields for a parliamentary inquiry.

Mr. KASICH. I want to make a parliamentary inquiry.

Under the rules of the House, is the Speaker supposed to maintain order in here?

The SPEAKER pro tempore. Yes; the Speaker is to maintain order in the House at all times, and the Speaker will remind Members that the gentleman from Pennsylvania controls the time, and the House will proceed under regular order.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his parliamentary inquiry.

I just wanted to also point out, I come back and say exactly the point again, that the President has issued an Executive order. Secretary Reich is in the process of implementing the Executive order that is designed to raid the pension system of this country, and take money out of productive investments where that money can actually earn real money and put it into public housing. I think the workers of this country would be absolutely appalled if they understood what this administration is about to do, and that is take their money out of places where it is actually leading to productive investment in the country and going into public housing.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Speaker, I am happy to correct some absolute misstatements by the preceding speaker, the gentleman from Pennsylvania.

The administration has proposed nothing that involves the use of pension in any high risk venture. Nothing has been proposed in that respect.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. POMEROY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Is public housing a high risk investment?

Mr. POMEROY. Reclaiming my time, I will explain it to you, so listen. No investment may be used unless it is equal in return and risk to any other investment to be made by a prudent investor. That is the only standard of consideration by the Treasury Department.

Let me proceed with what has been proposed in the budget that every member of the majority, with a few exceptions, voted for: a raid on pension plans that has been estimated to bring in 40, that has been estimated to allow $40 billion in pension fund assets to fly out of pension funds. During the 1980's we saw pension funds being used to finance hostile takeovers of corporations. It was the money of the pensioners that was used to finance these pensions.

On three different occasions Congress enacted safeguards so this could never happen again. Without a hearing, Ways and Means removes all of those safeguards for a windfall window for corporations to make a pension grab up until July 1, 1996, and a 6.5-percent penalty thereafter.

What will happen is one of three scenarios: Hostile takeovers kick in again, they raid the corporations, they use the workers' pension funds to finance the takeover; second scenario, a corporation wanting to fend off a hostile takeover, caring about their workers but wanting to fend off a hostile takeover, has to take out of the pension funds to remove themselves as a target; or, third, a corporation that is in financial trouble begins to dip in the cookie jar, the pension funds reserved for the workers.

I know about this. I for 8 years regulated the solvency of insurance companies. I am the only Member of this body that has spent 8 years regulating solvency. This is a solvency protection issue. It goes at the heart of the pension security of millions of working men and women across this country.

When this came before the floor of the Senate, in their budget debate, they rejected this ill-thought-out proposal by a vote of 95 to 4.

We urge this body to approve this and yield to the Senate position, restore worker pension security.

The SPEAKER pro tempore. At this point in the debate, the gentleman from Ohio [Mr. KASICH] has 8 minutes 50 seconds remaining, and the gentleman from Minnesota [Mr. SABO] has 6 minutes remaining.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to urge support for the motion to instruct offered by the gentleman from Minnesota [Mr. SABO].

Let me point out to my colleagues on the other side that all this motion does is to ask the conferees to recede to the Senate position on the pension reversions. So essentially what we are saying is these pension provisions in the House bill are not wise, and the Senate, to their credit, has essentially said they are not wise, and that was done by the majority party. I think that is a recognition of the fact that the concerns that we have over the pension provisions in the House bill are real and, therefore, the conferees should listen to what the Senate has done because of their concern.

I just wanted to go back and point out from the very beginning that the reason why I support this motion to instruct is primarily because it recognizes the fact that we should not destroy Medicare by providing tax cuts for the wealthy. What the motion said is that we can provide more money for Medicare, more money for Medicaid if we simply decrease the amount of tax cuts that are going for wealthy Americans. At the same time the motion also says do not increase taxes on poor people. The earned income tax credit, which has been the subject of much of the debate here today, put more money back into the earned income tax credit, the way the current law would provide, so that we do not have a higher tax in this budget bill on poor people; the same thing with regard to Medicare part B. Medicare part B is doubled in this legislation.

Let us avoid some of those increases. Let us avoid taxing poor people or poor elderly or elderly in general, who cannot afford to pay for that tax increase.

The other recognition I think that in this motion to instruct is that a lot of people may simply not get health coverage, may not have access to health care because of what is in this legislation, low-income seniors who no longer will be eligible for part B and have their Medicare part B premiums paid, States that may decide they are not going to provide the guarantee of Medicaid coverage in certain categories.

I urge support for the motion. It makes sense and takes away from some of the terrible things that are in this bill that are passed last week in the House.

The SPEAKER pro tempore. The Chair would remind the gentleman from Minnesota [Mr. SABO] that he has the right to close the debate.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado. [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, this is very simple, what we are talking about. We are talking about "wreckonciliation" and we have a little bit of progress tonight if we pass this motion to instruct.

If we do not pass this motion to instruct, we are going to wreck all of the regulations dealing with nursing homes. We are going to wreck the fact that Medicaid goes for women, children and disabled, and we are going to wreck the pension part.

The other body voted on these very strongly, and all we are saying to our side is, please, please go along with the Senate on what they strongly voted on.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I am glad the gentlewoman mentioned pension. The gentleman from Pennsylvania made the preposterous statement we are putting pension money into public housing. That is, of course, literally impossible. Public housing is wholly public funding. What he may be talking about, and I have to say on this issue, if a little knowledge is a dangerous thing, the gentleman from Pennsylvania is quite safe, because he has none whatsoever.

This House voted, with support of Republicans on the Committee on Banking and Financial Services, to allow building trades to invest their own pension funds in housing, not public housing but assisted housing, which would help build housing and help their jobs. Some of those projects have already been built. He made that argument before; he was repudiated by the Republicans on the Committee on Banking and Financial Services, as well as over two-thirds of the House.

Some of that has been done, and there is not any evidence whatsoever that anybody is trying to put any money into public housing. It is a matter that involves poor people and so, therefore, it is one he is not familiar with.

Mrs. SCHROEDER. The gentleman from Massachusetts is absolutely correct. I think we ought to listen to that, because not only the vote in the Senate was 95 Senators agreed with the gentleman from Massachusetts and everyone else. So if you do not want your pension wrecked, if you do not want to do away with standards for nursing homes, and if you do not want to undercut Medicaid benefits for the disabled and low-income women and children, vote "yes" on this motion to instruct. It is time we show we have a heart larger than a swollen pea.

Mr. KASICH. Mr. Speaker, I yield myself the balance of the time.

Let me say, Mr. Speaker, that I do understand the emotional attachment that some in the House have towards believing that the only way to solve problems in this country is to send more money and influence and power to people in this city.

What I am a little mystified about is the fact that our philosophy simply is this: We think that if we send or if we keep our money and our power and influence and we invest it in our neighbors, our friends, our families, our local elected officials, that they frankly are capable of showing as much or more compassion than those folks who have been vested, with money, power and influence in this city.

Let me say, Mr. Speaker, if in fact we do not return power and money and influence back to our local communities, then in fact the country is on a road towards bankruptcy. I would say that the Democratic side here has made some legitimate points tonight that we, in fact, will consider in the conference. The conference is a matter of being able to take the provisions that we have passed in this body, to be able to sit down with those in the other body and work out the big picture in terms of what best is going to help solve the problems of this country.

As I have already pointed out, our Medicaid plan already has a requirement that 85 percent of all the mandatory spending that affects the children and the poor and the disabled be maintained, that a State match be maintained, and we are going to continue to have discussions in areas where we have some disagreement. But at the end of the day, we are going to pass a plan that gives increased flexibility, more money on entitlement programs, not less, more money on entitlement programs, and restores a big part of common sense. It is about the pendulum coming back from too many rules being dictated here to more decisions being made at the local level.

I would ask my colleagues to allow us to maintain this, the flexibility, as we go to the conference, reject the specific motion to instruct conferees, allow us to get on with our job. Within the period of hopefully 2 weeks, we will all be back up here with a wrapped-up reconciliation bill that will in fact accomplish our objectives.

Mr. Speaker, I ask for a "no" vote on the motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. SABO. Mr. Speaker, I yield 2 minutes, the remainder of my time, to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, we have heard some sounds of reasonableness from the gentleman from Ohio [Mr. KASICH] and from a few others. But we have also heard tonight some notes of meanness.

Let me say a word about the pension issue, for example. Look, the Democrats have not asked that any fund be able to spend this money for public housing, as stated. All we have said is let management-labor trust funds spend money within the industry in which they labor, and we have said to you, do not let employers take back money that employees earned for their pensions. That is what we have said.

I sit on the Committee on Ways and Means, and why was the $40 billion proposed? In order to raise $10 billion in taxes.

I think it is mean to steal pension money from people who worked for it in order to pay for a tax cut for very wealthy Americans.

□ 1945

Let me say just a word about this corporate welfare suggestion to the gentleman from Connecticut. Look, there is not an attack on corporate welfare here. Sixty-nine percent of this is EITC pension and low income housing credit programs. EITC is not giving money back to people. They worked for it. It is not the Government's money. Now some are proposing to reduce it.

What we are trying to do through this motion is to bring some common sense to this process, and to take America back from the extremism that we have brought to these deliberations.

Vote for this motion to instruct. The Senate did better, but we have to send a message to the House and Senate conferees: Do not listen to the extremism in this budget. Vote for this motion to instruct.

Mr. SABO. Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. RIGGS). The question is on the motion to instruct offered by the gentleman from Minnesota [Mr. SABO].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 219, not voting 15, as follows:

[Roll No. 744]

AYES—198

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—219

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—15

Bishop
Chapman
Dickey
Fields (LA)
Ford
Hall (OH)
Hansen
Johnson (CT)
Lincoln
McHugh
McInnis
Solomon
Tucker
Weldon (PA)
Young (FL)

□ 2005

Ms. WATERS, Mr. MOAKLEY, and Mr. ENGEL changed their vote from "no" to "aye".

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. RIGGS). The Chair wishes to announce that it will appoint conferees to the House-Senate budget reconciliation conference after the next vote.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–298) on the resolution (H. Res. 249) waiving points of order against the conference report to accompany the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBERS AS COSPONSOR OF H.R. 359

Mr. PAXON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 359.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SENSE OF HOUSE RELATING TO DEPLOYMENT OF ARMED FORCES IN BOSNIA AND HERZEGOVINA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 247.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GILMAN] that the House suspend the rules and agree to the resolution, H.R. 247, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 315, nays 103, not voting 14, as follows:

[Roll No. 745]

YEAS—315

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fields (TX)
Filner
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Manton
Manzullo
Markey
Martini
Mascara
McCollum
McCrery
McDade
McHale
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Young (AK)
Zeliff
Zimmer

NAYS—103

Ackerman
Becerra
Beilenson
Berman
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Engel
Fattah
Fazio
Flake
Foglietta
Frost
Gejdenson
Gephardt
Gibbons
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Houghton
Hoyer
Johnson, E. B.
Johnston
Kanjorski
Kennelly
Kildee
King
LaFalce
Lantos
Levin
Lewis (GA)
Lowey
Maloney
Martinez
Matsui
McCarthy
McDermott
McKinney
Meek
Mfume
Mollohan
Moran
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rahall
Rangel
Richardson
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Stokes
Studds
Thompson
Thornton
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wynn
Yates

NOT VOTING—14

Bishop
Chapman
Clinger
Fields (LA)
Ford
Hall (OH)
Hansen
Johnson (CT)
McHugh
McInnis
Smith (TX)
Tucker
Weldon (PA)
Young (FL)

☐ 2025

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. YOUNG of Florida. Mr. Speaker, I was not recorded on rollcalls 745. Had I been recorded, I would have voted "yes".

Mr. Speaker, I was inadvertently delayed Monday evening, October 30, 1995, during the consideration of House Resolution 247, expressing the concern of the House about the possible deployment of American troops in Bosnia. Had I been present, I would have voted "yes" on rollcall No. 745 in support of this resolution.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on Government Reform and Oversight, Committee on International Relations, Committee on the Judiciary, Committee on Resources, Committee on Science, Committee on Small Business, Committee on Transportation and Infrastructure, and Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. RIGGS). Is there objection to the request of the gentleman from Florida?

There was no objection.

IN HONOR OF TOM EBERLEIN

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, on October 27, the Office of the Sergeant at Arms, in particular, and the House of Representatives as a whole, lost a friend and coworker.

Tom Eberlein was a valued member of the Sergeant at Arms Chamber security unit since 1992. Prior to that, Tom spent 20 years in the security field, including 17 years as a detective with the Metropolitan Police Department.

He is survived by his mother, Pat, his brother, Timothy and his nephew, Justin.

Those of us who knew Tom came to appreciate his genuine enthusiasm for his job. He was proud of the knowledge he acquired of the workings of this institution and eagerly shared it with others in order to better serve the House.

His most memorable trait was his unflagging good humor, through the long days and nights, that he shared freely with one and all. Anyone entering the Chamber through the main doors can't have failed to notice Tom's cheerful, yet professional presence. The long hours and constant pressure never diminished his ability to perform his duties while lifting the spirits of those fortunate enough to serve with him.

These words alone cannot adequately convey our sense of loss. His coworkers, especially will feel the loss as they must carry on now without him. Tom set a high standard for all of us. His smiling face and ready laugh will missed by all.

APPOINTMENT OF CONFEREES ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

The SPEAKER pro tempore (Mr. RIGGS). Without objection, the Chair appoints the following conferees:

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

Messrs. KASICH, WALKER, ARMEY, DELAY, BOEHNER, SABO, BONIOR, and STENHOLM.

As additional conferees from the Committee on the Budget, for consideration of title XX of the House bill, and modifications committed to conference:

Messrs. KOLBE, SHAYS, HOBSON, Ms. SLAUGHTER, and Mr. COYNE.

As additional conferees from the Committee on Agriculture, for consideration of title I of the House bill, and subtitles A–C of title I of the Senate amendment, and modifications committed to conference:

Messrs. ROBERTS, EMERSON, GUNDERSON, and DE LA GARZA.

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the House bill, and title III of the Senate amendment, and modifications committed to conference:

Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. GONZALEZ and Mr. LAFALCE.

As additional conferees from the Committee on Commerce, for consideration of title III of the House bill, and subtitle A of title IV, subtitles A and G of title V, and section 6004 of the Senate amendment, and modifications committed to conference:

Messrs. BLILEY, SCHAEFER, and DINGELL.

As additional conferees from the Committee on Commerce, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference:

Messrs. BLILEY, BILIRAKIS, HASTERT, GREENWOOD, DINGELL, WAXMAN, and PALLONE.

As additional conferees from the Committee on Commerce, for consideration of title XVI of the House bill, and subtitle B of title VII of the Senate amendment, and modifications committed to conference:

Messrs. BLILEY, BILIRAKIS, TAUZIN, BARTON of Texas, PAXON, HALL of Texas, DINGELL, WAXMAN, WYDEN, and PALLONE.

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title IV of the House bill, and title X of the Senate amendment, and modifications committed to conference:

Messrs. GOODLING, MCKEON, and CLAY.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of title V of the House bill, and title VIII and sections 13001 and 13003 of the Senate amendment, and modifications committed to conference:

Mr. CLINGER, Mr. SCHIFF, and Mrs. COLLINS of Illinois.

As additional conferees from the Committee on International Relations, for consideration of title VI of the House bill, and section 13002 of the Senate amendment, and modifications committed to conference:

Messrs. GILMAN, BURTON of Indiana, and HAMILTON.

As additional conferees from the Committee on the Judiciary, for consideration of title VII of the House bill, and title IX and section 12944 of the Senate amendment, and modifications committed to conference:

Messrs. HYDE, MOORHEAD, and CONYERS.

As additional conferees from the Committee on National Security, for consideration of title VIII of the House bill, and title II of the Senate amendment, and modifications committed to conference:

Messrs. SPENCE, HUNTER, and DELLUMS.

As additional conferees from the Committee on Resources, for consideration of title IX of the House bill, and title V (except subtitles A and G) of the Senate amendment, and modifications committed to conference:

Messrs. YOUNG of Alaska, TAUZIN, and MILLER of California.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of title X of the House bill, and subtitles B and C of title IV and title VI (except section 6004) of the Senate amendment, and modifications committed to conference:

Messrs. SHUSTER, CLINGER, and OBERSTAR.

As additional conferees from the Committee on Veterans' Affairs, for consideration of title XI of the House bill, and title XI of the Senate amendment, and modifications committed to conference:

Messrs. STUMP, HUTCHINSON, and MONTGOMERY.

As additional conferees from the Committee on Ways and Means, for consideration of titles XII, XIII, XIV, and XIX of the House bill, and subtitles H and I of title VII and title XII (except section 12944) of the Senate amendment, and modifications committed to the conference:

Messrs. ARCHER, CRANE, THOMAS, SHAW, BUNNING of Kentucky, GIBBONS, RANGEL, and STARK.

Provided that Mr. MATSUI is appointed in lieu of Mr. STARK for consideration of title XII of the House bill.

As additional conferees from the Committee on Ways and Means, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference:

Mr. ARCHER, Mr. THOMAS, Mrs. JOHNSON of Connecticut, and Messrs. MCCRERY, GIBBONS, STARK, and CARDIN.

There was no objection.

□ 2030

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. SEASTRAND). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRIBUTE TO BONNIE L. HAYS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Oregon [Ms. FURSE] is recognized for 5 minutes.

Ms. FURSE. Madam Speaker, I rise today to pay tribute to Bonnie L. Hays, of Washington County, OR, who has selflessly given of herself through 20 years of community service. From her days as a high school teacher to her recent 8-year tenure as the chairwoman of the Washington County Board of Commissioners, Ms. Hays exemplifies the virtues of commitment, hard-work, and compassion. Her extensive community involvement is testament to her belief in public service.

As Chairwoman, Bonnie oversaw the implementation of the Major Street Transportation Improvement Plan, overwhelmingly approved by voters. This program has allowed for Washington County to maintain its roadway infrastructure while dealing with incredible growth. Her work in mental health and juvenile corrections has resulted in streamlining and making more efficient those county agencies that deal with the complex issues related to community health and safety. Her service to El Centro Cultural and A Child's Place have brought greater attention to minority and children's needs.

Now, as Bonnie faces her toughest battle we remember her spirit and strength. She is in our hearts and minds today. I am privileged to have this opportunity to recognize her before this body and I am honored to call her a friend.

IN MEMORIAM: HON. B.F. "BERNIE" SISK (1910–1995)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RADANOVICH] is recognized for 5 minutes.

Mr. RADANOVICH. Madam Speaker, it is my sad duty to inform the House of the loss of one of our former Members, the Honorable Bernice Frederic Sisk. "Bernie," as he was widely and popularly known was first elected to Congress in 1954. His service began in the 84th Congress and continued for 11 succeeding Congresses. He was not a candidate for re-election in 1978, returning to his Fresno, California home where he lived and served the community in many ways until he went to his final rest on Wednesday of this week—October 25.

Mr. Speaker, I have the honor to represent today much of the area of California that Congressman Sisk served during his near quarter century in this House. Thus, I am familiar with his legacy and I know from countless constituents the admiration and respect in which he was held.

What was written by Capital commentators over time about Congressman Sisk is worth recalling as we honor his memory. In the 1972 Almanac of American Politics, reference is made to how his ingratiating personality and conservative record saw him, an important figure in the House, become a candidate for Majority Leader in late 1970.

I feel a kinship with my late predecessor, Mr. Speaker, not only because of geographical identity and his conservatism—even though my party was not his—but also because of his main legislative interest, namely, agriculture, and his sponsorship of major water projects for California's Central Valley. Indeed, the San Luis Dam of the Central Valley Project is named for him.

Our community also applauded "Bernie" Sisk's legislative leadership in 1977 when he moved to the fore in connection with health care cost control related to Medicare. According to Congressional Quarterly Almanac, he relayed concerns from his district about the effects of an administration plan. He said, according to CQ, "hospitals must have some way to control the cost of their supplies if they were required to control their revenues." The publication reports that Congressman Sisk said hospitals in his area had complained that Federal regulations had become too binding, preventing economy measures that the hospitals wanted to institute. "There must be more flexibility," he is reported as saying.

Probably no better statement of the legacy of Congressman Sisk could be expressed than that of our former colleague, Congressman Tony Coelho, who once served as Congressman Sisk's administrative assistant here on the Hill. Tony told me today, "No single individual did more to advance the economy and growth of the Central Valley than Bernie Sisk."

Mr. Speaker, Congressman Sisk's passing is a loss to our community and country. To his family, friends, and all he served with great distinction, I express my sincerest sympathy.

In further esteem for his memory, I ask that there be included with my remarks the published obituary from the Fresno Bee of October 26, 1995, entitled "Congressman Leaves Legacy."

CONGRESSMAN LEAVES LEGACY

(By Felicia Cousart and Michael Doyle)

Former Congressman B.F. Sisk, who emerged from a Dust Bowl childhood to become a longtime political power broker in the nation's capital, died Wednesday in Fresno after a lengthy illness.

He was 84.

Mr. Sisk, a moderate Democrat from Fresno who served in Congress from 1955 to 1979, worked with six presidents and four House speakers during his long tenure representing the Valley.

The one-time tire salesman was one of the most influential lawmakers to come from the region, benefiting not only Valley interests but shaping national policy as well.

"There's nobody who had a greater impact on the San Joaquin Valley than Bernie Sisk," said Tony Coelho, former House majority whip and Mr. Sisk's one-time administrative assistant. "You can go up and down the Valley and find the projects he put there."

But Mr. Sisk's story is much more than the legacy of a political mover-and-shaker. How he got there is just as fascinating, especially for a man who professed to never have any political ambitions until that day in 1954 when Mr. Sisk, then 43, decided to run for office.

He upset Republican Oakley Hunter in what was then California's 12th District and never looked back.

'POLITICAL ACCIDENT'

Mr. Sisk's years in Congress stretched from the laid-back days of Eisenhower to the turmoil of Vietnam and Nixon's Watergate to the early years of the Carter administration.

"I was a political accident," Mr. Sisk said in his easy Texas drawl in 1978 when he announced he would retire. He said he never caught what is called "Potomac fever."

For a "political accident," Mr. Sisk's work had far-reaching consequences, from his relentless pursuit of the San Luis water project in the Valley to serving on a committee that helped land the first man on the moon.

He showed a remarkable aptitude for the political game and became a consummate player. As a member of the House Rules Committee and House Administration Committee, he did for other lawmakers so that they could do for him.

"That gave him a very powerful place," said former Sen. Alan Cranston. "He'd start something in the House, or I'd start something in the Senate and then we'd work together."

Mr. Sisk's greatest single Valley contribution is the San Luis Unit of the Central Valley Project. Recently, the San Luis Dam was re-named B.F. Sisk San Luis Dam. The project includes the vast reservoir near Los Banos and 115 miles of canals that help irrigate farmland between Los Banos and Kettleman City.

At more than 2 million acre-feet, the San Luis Reservoir is the largest reservoir in the world without a natural stream.

"I'm not sure anybody else could have gotten it through," Coelho said.

And there are other projects that exist because of Mr. Sisk.

Communities like Sanger, Selma, Madera and others tapped into federal funds because of him. The huge Internal Revenue Service center in Fresno, with its 3,500 permanent employees, is in Fresno because of Mr. Sisk. The federal building in downtown Fresno is named after Mr. Sisk.

But his reach went far beyond the Valley. When the Soviet Union sent Sputnik into orbit in 1957, Washington went into a tailspin. Within hours, House Speaker Sam Rayburn of Texas put together a blue-ribbon committee on science and astronautics and appointed Mr. Sisk.

The committee acted to create the National Aeronautics and Space Administration, a move that climaxed with the United States landing Apollo 11 on the moon in 1969.

In 1961, Rayburn again picked Mr. Sisk for another plum assignment: serving on the power-wielding Rules Committee.

The panel is for insiders only—its members set the rules for debate and decide which amendments can be voted on.

That committee in the early 1960's helped change history. President Kennedy pushed to add Mr. Sisk and five other members to dilute the power of the Southern Democratic chairman who was blocking Kennedy's agenda.

With the balance shifted, the committee moved ahead on more progressive Democratic proposals that included civil rights, minimum wage and education aid legislation.

IMPORTANT ISSUES

Not all of Mr. Sisk's efforts were of such weighty magnitude, but they were just as important to him.

A baseball fanatic who played the game in high school and college, Mr. Sisk campaigned fervently to keep a professional baseball team in Washington, D.C., when the Senators announced they were leaving in 1971. He and other congressmen even got a committee together.

In 1973, The Touchtown Club of Washington, one of the major athletic clubs in the nation, gave Mr. Sisk its "Mr. Sam Award" in recognition of his efforts.

Mr. Sisk had the ability to separate his personal relationships from his political positions. For example, even as he resisted Southern California's recurring bids for water, he maintained good relations with all sides.

"He used to hate my client but he and I got along great," said Bob Will, a longtime lobbyist for the Metropolitan Water District of Southern California.

"He was one of the fairest guys I ever dealt with. If he had a problem, he summoned me to his office and we tried to work it out," Will said. "Bernie was one of the real doers."

He did not always get what he wanted. He tried for the position of House majority leader once and failed. Then he tried for the chairmanship of the House Democratic caucus and failed.

He had his rivals for power in California, like the late San Francisco Congressman Phil Burton and they would maneuver for advantage against one another.

But Mr. Sisk was never short of admirers.

"Congressman Sisk helped establish a tradition of moderate Democrats from the Valley who are committed to furthering the cause of Valley agriculture," said Rep. Cal Dooley, D-Hanford. "His tradition is one that I and other valley legislators have tried to follow."

His Republican colleague, Rep. George Radanovich of Mariposa, said the community and nation lost a leader.

"Bernie Sisk's service and his special concerns for California's Central Valley set a standard that all of us respect and will long remember," he said.

"I wouldn't even call him a politician," said Tim Dillon, former lobbyist for the Westlands Water District. "He would never connive. Bernie was just a fine person from the standpoint of integrity"

HIS BEGINNINGS

He was born Bernice Frederick Sisk on Dec. 14, 1910, in a house in rural Montague County in Texas. It was a family of traditional Southern Democrats.

His father, Arthur Lee Sisk, was a farmer and his mother was the former Lavina Thomas. He was the oldest of three children.

It was a time when young Bernie rode to school on a horse named Beauty, and he remembered at the age of 7 "going with my parents in the Model T to the Baptist Church in Alanreed to listen to a new invention called a radio."

In school, history was his favorite subject. He finished high school in Meadow, Texas, where he was class valedictorian.

It is also where he met his first wife, Reta. It was not exactly love at first sight. Mr. Sisk had fallen for another and ended up on a double date. Reta was the date of the other fellow.

"Well, Reta and I soon found out we liked each other better and became engaged to be married before we graduated from high school," Mr. Sisk recalled.

They were wed on April 20, 1931, and were married for 54 years until her death in January 1986.

Reta helped keep him a down-to-earth man. She would play annual April Fool's Day jokes on him that rarely failed to get his goat.

After high school, Mr. Sisk enrolled in a business college and later attended Abilene Christian College.

The Depression and drought in Texas made times tough for the Sisks and everyone else. Their first child, Bobbye, was born in February 1932, and their second child, Marilyn, was born in February 1935.

Mr. Sisk found different kinds of jobs, like running a service station and working for his father at a cotton gin, but it got to the point where there "were just no jobs to be had." He managed to get work as a truck driver but it meant long hours away from the family.

By 1937, it was time to move and California seemed the best destination.

His first job paid 30 cents an hour to thin nectarines. From there, he picked other crops until he landed a job at California Growers Wineries near Cutler. He helped organize a union there and was its first shop steward.

When the Japanese attacked Pearl Harbor in 1941, Mr. Sisk was 31 and volunteered for officer candidate school. He went to work as a flight dispatcher at Sequoia Field in Visalia.

After the war, the Sisks moved to Fresno, and Mr. Sisk found a job as a tire salesman, eventually becoming general manager for the General Tire and Rubber Co.

IN TUNE WITH VALLEY

It was this job that put Mr. Sisk in tune with what was happening throughout the county. As he visited with farmers on the Valley's west side, he learned of their water problems.

Mr. Sisk also noted there were few Democratic leaders in the area and complained about it.

Then one day in 1954, Mr. Sisk was invited by lawyer Ken Andreen and labor newspaper editor Charles Clough to meet at the old Sequoia Hotel on Van Ness Avenue.

Mr. Sisk thought he was going to make another tire sale. But they wanted to sell him on something—running for Congress.

"Man, I almost fell out of my chair," Mr. Sisk recalled, "I said, 'You people are mixed up. I work for General Tire and Rubber Company.'"

They said: "We understand that's the work you do, but we have been told that you're a Democrat and frankly we're needing a candidate."

The rest is history.

Mr. Sisk worked with some of the most powerful men in America's political history. He worshiped Rayburn, who appointed him to those prized spots on the Rules Committee and the aeronautics committee.

He said his favorite president was Kennedy. "I was a disciple of Camelot," he said. "I came to love that guy. I never felt more of a personal attachment for a president."

Once retired, Mr. Sisk returned to Fresno and threw himself into a number of projects.

After Reta's death, Mr. Sisk married again seven months later to Virgie Mitchell, whose late husband was a brother of Reta.

For Mr. Sisk, responding to thousands of constituents' queries was just as important as running in the high-powered circles of Washington.

Andreen, who became a justice for the 5th District Court of Appeals, would share a story at a 1978 testimonial dinner for Mr. Sisk about the farmer whose tractor was stuck in the mud because the Friant-Kern Canal was flooding his land.

Mr. Sisk, just elected, was in the process of moving into his Washington office. In 2½ hours, Mr. Sisk called the farmer back.

"He did not say, 'I'm going to get on it' or 'I told so-and-so to do something,'" Andreen said. "No, he told the farmer, 'The leak is fixed and your tractor is out of the mud.' Nothing happens that fast in government—unless it comes to the attention of Bernie Sisk."

TRIBUTES

"Bernie was everybody's congressman. He was always enormously helpful to his constituents. He knew when to leave partisan politics outside the room. . . . His heart and mind were always back home."—Charles "Chip" Pashayan, former U.S. representative.

"Congressman Sisk helped establish a tradition of moderate Democrats from the Valley who are committed to furthering the cause of Valley agriculture. His tradition is one that I and other Valley legislators have tried to follow."—Rep. Cal Dooley, D-Hanford.

"Our community and our country have lost a leader. Bernie Sisk's service and his special concerns for California's Central Valley set a standard that all of us respect and will long remember."—Rep. George Radanovich, R-Mariposa.

"Bernie Sisk will go down in history as a person that probably has done more for agriculture, particularly in terms of helping to provide irrigation water. He was very instrumental in the construction of the San Luis Dam. And those who served with him, whether they agreed with him or not, will always remember him as a true gentleman."—John Krebs, former U.S. representative.

"There's nobody who had a greater impact on the San Joaquin Valley than Bernie Sisk. You can go up and down the Valley and find the projects he put there."—Tony Coelho, former House majority whip and B.F. Sisk's one-time administrative assistant.

"He was one of the fairest guys I ever dealth with. If he had a problem, he summoned me to his office and we tried to work it out. Bernie was one of the real doers."—Bob Will, a longtime lobbyist for the Metropolitan Water District of Southern California.

"I wouldn't even call him a politician. He would never connive. Bernie was just a fine person from the standpoint of integrity."—Tim Dillon, former lobbyist for the Westlands Water District.

"Man, I almost fell out of my chair. I said 'You people are mixed up. I work for General Tire and Rubber Company.'"—Sisk, when asked to run for Congress.

"His number one thing was to take care of the constituents. He never held himself out to be a world leader. What Bernie had, that very few folks have, was the ability to disagree with you without making you angry."—Gordon Nelson, Sisk's former administrative assistant.

MORE ON THE MOTION TO INSTRUCT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I just wanted to take this opportunity to talk a little bit more about the motion to instruct the conferees on the budget reconciliation bill which we voted on just a few moments ago, actually.

I felt very strongly, I had a chance to talk a little bit about it, but I just wanted to elaborate a little more. I felt very strongly during the debate today on this motion that the motion really got to the heart of the issue on Medicare, the cuts in Medicare, the cuts in Medicaid, and the cuts essentially to our health care system in general and how this Republican budget has essentially targeted, if you will, Medicare and Medicaid in order to primarily pay for tax cuts for wealthy Americans.

The motion to instruct the conferees pays attention to that and essentially says that the conferees should try to do whatever they can to minimize both tax cuts for the wealthy and tax increases on low- and middle-income working families in order to preserve and protect the health and income security of senior citizens and to avoid increasing the number of Americans lacking access to health care.

From the very beginning of this debate on the budget, on the one side concern about Medicare and Medicaid, on the other side the issue of where tax cuts are going to go and how those two are going to interplay, from the very beginning I thought it was possible and the point needed to be made that there was a relationship, a direct relationship between the cuts in Medicare and Medicaid and the tax cuts that were going to be implemented for wealthy Americans. In fact, if you eliminate a lot of the tax cuts for the wealthy Americans or for those of us who happen to have higher incomes, if you eliminate those tax cuts or you cut back on those tax cuts, you could add more money into Medicare and Medicaid and not have the situation where both of those health care programs for seniors as well as for low-income people are seriously threatened by this Congress and by this budget bill.

The other thing that is in this motion to instruct that I thought was so important is that it pointed out that there are a lot of people who simply will not have any health care coverage if these cuts in Medicare and Medicaid go through. Let me explain why I feel very strongly about that.

First of all, right now Medicaid, which is the health care program for low-income people in this country, is basically an entitlement. In other words, if your income falls below a certain amount, you are entitled to Medicaid, to health care coverage. Well, no longer under this Republican budget bill is Medicaid an entitlement. In fact, it is left up to the States with money that they get in a block grant from the Federal Government to decide who they are going to cover in various categories for low-income people. So it is very possible that a lot of low-income people, seniors, children, disabled people, will simply not have health care coverage at all if the States decide not to provide it.

Now, on the Senate side, on the Senate side they decided to continue the entitlement for pregnant women, children, and for disabled persons. So one of the points that the motion to instruct makes is that we should agree with the Senate version to at least guarantee health care coverage for low-income people who fall into those three categories.

There are also a lot of people on Medicare. There are also a lot of senior citizens on Medicare who may not get health care coverage under this bill because you have to remember that part B of Medicare, which pays for your doctor bills, is not a guarantee. Right now if you are a low-income senior, part B of your Medicare is paid for by the Federal Government. But this bill has eliminated that guarantee. So if you are a low-income senior who is eligible for Medicaid, you no longer have the guarantee of part B, and you have to pay for it out of your pocket possibly unless the States decide to pay it for you.

Again, a large group, in this case low-income seniors, may not have health care in terms of having physician care.

These are the problems that we face unless in this conference an effort is made to try to cut back on this tax cut for wealthy Americans and put more money back into the Medicare Program and back into the Medicaid Program.

The other issue that came up, and I think it is a very important issue again, is on the pensions. In the Senate bill there is no change with regard to pension funds. But in the House-passed bill we have this provision that basically allows corporations to raid pension funds of their employees and use it for almost any purpose that they want, perhaps for a hostile takeover. Again, the Senate has seen that that language is not the way to go. Our motion to instruct, which did not pass today, urges that the conferees go along with the Senate bill to guarantee some protection for workers and for their pensions.

I think that is safe to say that some of these provisions where there has been disagreement between the House and the Senate, particularly when it comes to providing Medicaid-guaranteed coverage for a lot of low-income people, providing the protection for workers and their pensions and also with regard to nursing homes, right now the House-passed bill does not provide any guarantees that nursing homes are going to be up to standard, because the standards are essentially eliminated.

We hope that we will see the conferees adopt the better Senate language.

POSSIBLE VIOLATION OF HOUSE RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

Mr. RIGGS. Madam Speaker, I actually rise to inform my colleagues that lost in all the discussion in recent weeks back here in Washington over some very important and pressing issues has been the revelation that the House Inspector General, Mr. John Lainhart, who was appointed as House Inspector General by the former Democratic majority, in fact by the former Speaker of the House, Tom Foley, has indicated that he will soon be reporting to the House Committee on Oversight and the House Committee on Standards of Official Conduct the names of those Members of Congress past and present as well as House officers who may have violated either House rules or the laws of the United States of America in conjunction with the ongoing audit into congressional finances.

I just want to refresh the memory of my colleagues that back on January 4, the opening day of this session, in one of our first acts as the new majority party in the House of Representatives, we Republicans, joined by almost all of our colleagues on the minority side of the aisle, commissioned an independent audit of House finances. The international accounting firm Price Waterhouse, one of the Big Six accounting firms, was ultimately selected to conduct this audit. What they found, to put it simply, was a complete and total mess.

House congressional finances in fact were in such disarray that the Price Waterhouse accounting firm was unable to render an opinion on the financial condition of the House of Representatives. In fact, reading between their lines, I think one can conclude that, if any American business kept its records and managed its money the way the House of Representatives has for many, many years, under the previous leadership, that business would have been bankrupt and its owners would have been in jail.

In fact the audit, which again we promised to the American people and American taxpayers as part of the Contract with America, found 14 significant control weaknesses. These are internal management controls and financial records that were in such disarray that the auditors would not even issue an opinion on the management of House finances because of the gross lack of information.

This is the worst conclusion that an auditor can reach. In one example the poor financial management by the House under the previous Democratic control, Price Waterhouse found that handwritten ledgers were used in the House finance office which process $700 million in taxpayer funds for salaries and expenses.

So, as I mentioned in recent days, the Inspector General has informed the House, and this was reported in the Washington Times last week, the House Inspector General has informed the House that he is preparing to present findings that will identify Members and House officers who have abused travel and salary accounts.

I want to let my colleagues know that, at the appropriate time, I will press for full disclosure of all abusers. I am sure my colleagues here tonight agree with me that we have a duty and an obligation to the American people to identify those who have abused the public trust. I urge my colleagues to join me in this effort.

Again, I just want to point out that I will press for full disclosure of the names. The public has a right to know and a right to demand accountability. I do not want this to get lost in our efforts at other reforms and in our efforts to get a balanced budget plan enacted into law. But again, I think we have an absolute duty and responsibility to pursue this matter, again, given the report that has been presented to the House in phase 1 of the audit by Price Waterhouse.

I will just remind my colleagues that those auditors were professional auditors who conduct large-scale accounting or auditing efforts in the private sector. Those auditors would not even issue an opinion on the soundness of the House's finances or the reliability of financial statements filed by House Democrat leaders who managed the Congress' budget during the period of the audit, which was the last Congress.

□ 2100

So, I ask my colleagues to join me in demanding full disclosure of abuses of House finances. These are the taxpayers' dollars, and the American people have a right to know who is responsible for mismanaging their money and abusing the public trust.

H.R. 1833, THE PARTIAL-BIRTH ABORTION BAN ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. CANADAY] is recognized for 60 minutes as the designee of the majority leader.

Mr. CANADY of Florida. Madam Speaker, while every abortion sadly takes a human life, the partial-birth abortion method takes that life as the baby emerges from the mother's womb—while the baby is only partially in the birth canal. The difference between the partial-birth abortion procedure and homicide is a mere three inches.

Partial-birth abortion goes a step beyond abortion on demand. The baby involved is not "unborn." His or her life is taken during a breach delivery. A procedure which obstetricians use in some circumstances to bring a healthy child into the world is perverted to result in a dead child. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

This is partial-birth abortion: (1) Guided by ultrasound, the abortionist grabs the live baby's legs with forceps. (2) The baby's legs are pulled out into the birth canal. (3) The abortionist delivers the baby's entire body, except for the head. (4) Then, the abortionist jams scissors into the baby's skull. The scissors are then opened to enlarge the hole. (5) The scissors are then removed and a suction catheter is inserted. The child's brains are sucked out causing the skull to collapse so the delivery of the child can be completed.

Because we believe that this procedure is an inhuman act, the gentlewoman from Nevada [Mrs. VUCANOVICH], the gentleman from Ohio [Mr. HALL], the gentleman from Illinois [Mr. HYDE], and I introduced a bipartisan bill to ban the performance of partial-birth abortion. We now have 162 Members from both sides of the aisle who have requested to cosponsor H.R. 1833.

Opponents of H.R. 1833 now claim that the babies who are the victims of partial-birth abortion die, either before the procedure begins or shortly thereafter. But the "Partial-Birth Abortion Ban Act" does not cover a procedure in which the baby is delivered after he or she is dead. The definition of partial-birth abortion requires that the baby be partially delivered alive, then killed.

Our opponents' argument that the baby is already dead when these abortions are performed betrays their desperation. They support abortion at any time, in any manner, for any reason. But they know the American people do not support this extreme position. They realize that this inhuman procedure which we have seen depicted here and the results of which we see in this chart, this inhuman procedure in which a body is partially delivered alive, then stabbed in the back of the head, cannot be justified. So, instead of defending the procedure as the practitioners have described it, they change their story and attempt to conceal the reality of this terrible procedure.

However, the new claims of those who defend partial-birth abortion are directly contradicted by past statements of abortionists and by those who have witnessed the procedure. Brenda Shafer, a registered nurse who witnessed the procedure while working with Dr. Martin Haskell, an Ohio abortionist, wrote a letter to Congressman TONY HALL dated July 9, 1995 in which she described the procedure. Nurse Shafer wrote that witnessing the procedure was "the most horrible experience of my life." She described watching one baby and again I quote nurse Shafer:

> The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he opened the scissors up. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out. * * *
>
> Next, Dr. Haskell delivered the baby's head, cut the umbilical cord and delivered the placenta.

Dr. Haskell and Dr. McMahon, two abortionists who prefer the partial-birth abortion method, were interviewed by the American Medical News in 1993. These doctors "told the AM News that the majority of fetuses aborted this way are alive until the end of the procedure."

Dr. Dru Carlson—of Cedar-Sinai Medical Center in Los Angeles—wrote to Chairman HYDE in support of Dr. McMahon's use of partial-birth abortions. In the letter to Chairman HYDE she states that she has personally observed Dr. McMahon performing this procedure. She writes that after Dr. McMahon delivers the fetus up to the shoulders, he removes "cerebrospinal fluid from the brain causing instant brain herniation and death."

Once again, if the baby is not alive when it is delivered, H.R. 1833 does not cover the procedure. But the statements of the practitioners and eyewitness accounts make it clear that these procedures are performed on living babies.

Abortion advocates also claim that H.R. 1833 would "jail doctors who perform life-saving abortions." This statement truly makes me wonder whether the opponents of the bill have bothered to read the bill. H.R. 1833 explicitly makes allowance for a practitioner who reasonably believes a partial-birth abortion is necessary to save the life of the mother.

Of course, there is not a shred of evidence to suggest that a partial-birth abortion is ever necessary to save a mother's life. In fact, few doctors even know the procedure exists. The American Medical Association's Council on Legislation—which includes 12 doctors—voted unanimously to recommend that the AMA Board of Trustees endorse H.R. 1833. The Council on Legislation of the AMA said partial-birth abortion was not a recognized medical procedure and agreed that the procedure is basically repulsive, and anyone who has seen this procedure described, anyone who understands the way this procedure is performed, would have to come to that conclusion in the end. The AMA board, which is on record in support of abortion rights, decided to remain neutral on H.R. 1833. But it is indeed significant that the council of 12 doctors chosen by the AMA as an advisory board to the AMA Board of Governors did not recognize partial-birth abortion as a proper medical technique.

Proponents of the partial-birth abortion method have also claimed that the majority of babies killed by this method of abortion have disabilities. Focusing the debate on babies with disabilities is a blatant attempt to avoid addressing the reality of this horrible inhuman procedure. In a partial-birth abortion the baby is partially delivered alive, then stabbed through the skull. No baby's life should be taken in this manner. It does not matter whether that baby is perfectly healthy or suffers from the most tragic of disabilities.

Further, neither Dr. Haskell nor Dr. McMahon claims that this technique is used only in limited circumstances. In fact, their writings advocate this method as the preferred method for late-term abortions. Dr. Haskell advocates the method from 20 to 26 weeks into the pregnancy and told the American Medical News that most of the partial-birth abortions he performs are elective. In fact, he told the reporter, "I'll be quite frank: most of my abortions are elective in that 20-24 week range . . . 80 percent are purely elective."

Dr. McMahon uses the partial-birth abortion method through the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are non-elective, but his definition of non-elective is extremely broad. Dr. McMahon sent a letter to the Constitution Subcommittee in which he described abortions performed because of a mother's youth or depression as "non-elective." I do not believe the American people support aborting babies in the second and third trimesters for reasons such as youth or depression.

Dr. McMahon also sent the subcommittee a graph which shows the percentage of, quote, "flawed fetuses," that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks of gestation half the babies Dr. McMahon aborted were perfectly healthy and many of the babies he described as "flawed" had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed 9 partial-birth abortions performed because the baby had a cleft lip.

The National Abortion Federation, a group representing abortionists, also seemed to recognize that partial-birth abortions were performed for many reasons other than fetal abnormalities. In 1993 the National Abortion Federation counseled its members, "Don't apologize: this is a legal abortion procedure," and went on to state:

> There are many reasons why women have late abortions: life endangerment, fetal indications, lack of money or health insurance, social-psychological crises, lack of knowledge about human reproduction, etc.

Now the National Abortion Federation is emphasizing only one of those reasons. In fact, NAF sent a letter to Members of Congress with pictures of babies with severe disabilities urging them to support the use of partial-birth abortion.

I find it offensive to suggest that taking a baby's life in this manner is justified because that baby has abnormalities. The abortionist partially delivers the baby. Remember again this is the way the procedure is performed. The abortionist partially delivers the baby, stabs scissors through the baby's skull, and sucks the baby's brains out. Abnormalities do not make babies any less human or any less deserving of humane treatment. No baby's life should be taken in this manner.

Abortion advocates are claiming that by banning partial-birth abortion we are mounting a direct attack on Roe versus Wade. Yet, in Roe, the Court explicitly rejected the argument that the right to an abortion is absolute and that a woman is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses.

The question I would raise to my friends who support abortion on demand is this: is there ever an instance when abortion, or a particular type of abortion, is inappropriate? Abortion advocates' vehement opposition to H.R. 1833 makes their answer to my question clear. For them there is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist chooses.

I do not believe that the American people accept that position. I do not believe that the American people wish to see this sort of procedure performed in this country. This is a procedure which should not be allowed. It is a procedure which is not necessary, it is a procedure which is an offense to the conscience of mankind, it is a procedure that this Congress should prohibit, and I am hopeful that when this bill comes to the floor on Wednesday of this week, we will see a resounding vote of support in favor of H.R. 1833, the Partial-Birth Abortion Ban Act of 1995. This is a bill that this House needs to pass, this Congress needs to pass, and President Clinton needs to sign into law.

Madam Speaker, now I yield to my colleague, the gentleman from Florida [Mr. WELDON].

□ 2100

Mr. WELDON of Florida. Madam Speaker, I would like to thank the gentleman from Florida [Mr. CANADY] for introducing this bill. I remember first reading about this bill in the American medical news. I am a physician. I practice internal medicine. I still try to practice, occasionally seeing patients; and when I first read about this procedure, honestly, I was quite appalled, though I must say, I have been appalled for years at the United States abortion policies.

As a physician, I took an oath when I graduated from medical school. It is called the Hippocratic oath: "Do no harm." I have always felt that performing an abortion procedure is a direct violation of that Hippocratic oath.

Probably nothing more graphically brings that to focus than doing the partial birth abortion. To take a baby, even if the baby has a disability, and I just want to touch briefly on this claim that these babies have disabilities. It is so ironic to me that some of the same people who would speak out against this bill and claim that it is used only on babies with disabilities, which has clearly been shown not to be true, are the same people who would seek so often to increase funding for programs for the disabled. I have found that to be so ironic, that so many of the liberal-leaning Members of this body, and people in government who are frequently some of the most vocal advocates for the disabled, are the ones who will say, This procedure is okay if the baby has a disability, which to me seems like the height of hypocrisy.

Actually, before I took my Hippocratic oath, Mr. Speaker, I became quite convinced that abortion was wrong when I actually had the opportunity to see an abortion as a medical student. It was a 15-year-old girl in her second trimester, and of course, this procedure had not been devised at that time. They were doing a saline abortion on her. To see that personally, for me, was absolutely moving and convincing that this procedure is wrong, it is morally wrong, it is ethically wrong, and there is no way to justify it. However, this particular procedure is horrifying.

I very much rise in support of this bill. Making this procedure illegal I think is mandatory. Even many people who advocate in support of abortion rights recognize that this is beyond the pale. To take a developed infant and partially deliver the child, where the baby has moving arms and moving legs, and is 3 inches away from being recognized by the Supreme Court of the United States as being a person and being protected by the full rights of the Constitution, and sucking its brains out so that it can be delivered through the undeveloped cervix, I think is just an outrage, a total outrage. To live in the United States, the land of the free and the home of the brave, the Nation that the rest of the world looks to for leadership, especially in the area of human rights and the dignity of human life, and to make a procedure like this legal I think is horrifying, and I very much speak out in support of the bill offered by the gentleman from Florida [Mr. CANADY].

However, I will say that I do that with a certain amount of grief in my heart, because when we make this procedure illegal, they will keep aborting these babies, but they will keep aborting these babies, but they will do it by a different procedure called dilation and extraction, where they dilate the cervix and then they tear the baby apart, limb by limb, and that, to me, is as evil as this is. But I very much, nonetheless, rise in strong support of the bill of the gentleman from Florida [Mr. CANADY]. I highly urge all my colleagues to support this bill, and end this ghastly procedure.

Mr. CANADY of Florida. Madam Speaker, I thank the gentleman from Florida. I now yield to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I would like to thank the gentleman from Florida [Mr. CANADY] for taking on something that is not easy, because the American people do not want to talk about this subject. It takes brave people to stand and talk about what the Nation has not wanted to face.

This week we will be voting on the partial birth abortion ban legislation. I suspect the majority of the American people will never have heard of this heinous procedure. This is not surprising, because, as a Nation, we have created a veil of silence when it comes to the reality of abortion procedures. I know until about 10 years ago that I would not even talk about the procedure, saying it was the choice of a woman. However, tonight, if I had had this procedure before me, and had to be faced with the humanity of the baby, I would have changed to being for life sooner, because no woman who has delivered a baby, who has felt that baby inside of her and held a baby, could allow this procedure, whether she was for choice of abortion or adamantly against abortion.

Madam Speaker, I was a breech baby. I did not know that. I did not know what it meant. My mother said "You came out backward, and that meant you were backward for many years." It was a family joke. I just about did not make it. America needs to realize that this procedure we are talking about tonight, if it had been me, they would have stopped the birth. My mother would have gone into labor, my feet would have come out, and they would have stopped my head from coming out.

Because we were pretty poor at that time and my mother had physical problems, she probably would have qualified for this if she could get a doctor to do it. They would have been able to kill me and then deliver me, and say that I had never been living. This is what we are facing tonight, with this procedure.

Madam Speaker, I was thinking about America and how we have decided to hide from this. But I think tonight I am willing to stand here and say to the American people and to my colleagues, no matter where you are, the humanity and the inhumanity of man has to be reckoned with.

There is an example that I am going to use. It was Gen. Dwight Eisenhower. After the war he required the allied soldiers to walk through Buchenwald, to see the inhumanity, and to see the damage, and to see the hate, and what this had done. He said, "I made the visit deliberately and required my soldiers to, in order to be in a position to give firsthand evidence of these things if ever in the future there develops a tendency to charge these allegations merely to propaganda."

General Eisenhower was not discussing abortion or this particular procedure, but he was understanding the necessity to look death in the face and call it for what it was, and it is certainly timely. While we may prefer to look away from abortion, the reality demands otherwise. I call on my colleagues to look at the humanity of these babies, see the pictures—that is not a blob, those are little legs and feet hanging out, that is a head—and make a decision, is that a baby; and if it is, vote today to protect that baby's life at least in this procedure; if you cannot protect him in others, at least in this.

Mr. CANADY of Florida. Madam Speaker, I yield to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. I thank the gentleman from Florida [Mr. CANADY] for yielding to me, Madam Speaker.

Madam Speaker, I want to thank the gentleman for his efforts. On behalf of my profession as a physician, I am extremely disgusted that such a procedure would ever come about.

As I thought about this procedure tonight and the discussions that we would have about it, I thought it would be very important for us to try to get a mental picture of it. As a practicing obstetrician delivering babies, I delivered two babies this weekend, to think that at times we inadvertently have to deliver babies at 24 and 25 weeks, if we think about it, those of us who know what that is like, of holding a small infant, an infant somewhat larger than this model, somewhat larger than this model in our hands and see it struggle for life, and know that in institutions throughout this country that we see efforts, great strides being made to save those infants, and now infants at 23½ weeks have made it to living, fully functional, capable adults, and healthy children; to know that we hold in our hands a child that, through this method, would no longer be viable.

The difference is that we will spend untold hundreds of thousands of dollars when this accidentally falls in our lap to save this child, and then we allow a procedure such as this.

I think one of the important points that needs to be made about this procedure, this procedure does not have anything to do with women. It has to do with the convenience of a doctor. For us to lose sight of that point will be a tragedy. If we want to terminate a pregnancy at 20 to 24 weeks, there are many ways to do it. We do not have to do it this way. This way has been developed so that it is easy for the physician, it is easy for the operator to complete the task and collect their fee of terminating the life. I think it must not be lost sight of, as this was developed as a technology to make it efficient to kill babies.

Finally, I wanted to just comment on a Dear Colleague letter that I got today, which so misstates this bill that it somewhat disappoints me in our Chamber that we would try to confuse situations away from the truth.

This comes from one of our colleagues in California. It talks about how some of his constituents would not be allowed, because they had a trisomy 13 baby, a baby that had three 13 chromosomes, that their child, they would never have been able to abort their child should they have wanted to, if this procedure is banned.

Of course, as the gentleman knows, that is not the case. If in fact there is a medical indication for this procedure it can be performed, although nobody can think of a medical indication now, not the 12 doctors that are on the advisory panel, the scientific panel for the AMA, not anybody else out there can think of a medical reason why we should use this procedure.

I also wanted to share with you also, one of my patients, his name is Kelsey Goss, Kelsey is 47 years old. Kelsey has Down syndrome. Kelsey has lived a wonderful life. The last 20 years or so has not been great in terms of the stroke that he had, but he has been a joy to his mother, a joy to his father until he died. To say that he was not valued, to say that he, because he had three chromosomes in the wrong place, did not contribute to our society to me speaks at the very issue that we tend to want to cover up in our society.

I want to thank the gentleman again for bringing this forward. As a physician who has performed abortions to save the life of a mother, I can think of no other reason why we should ever participate in any type of effort to terminate a life that is so helpless, so innocent, and this cannot be allowed to happen anymore. I will just tell you that I will fight hard to see that this is banned, I will fight hard to make sure that we expose those that continue to do it afterwards, to make sure that it is not carried out, because in fact when we hold that little 22-week baby, we know it can feel, it is gasping for air, it has pain fibers, it knows and senses the very precarious situation that it is in.

Mr. CANADY of Florida. I want to thank my colleague, the gentleman from Oklahoma [Mr. COBURN], a doctor, for his valuable insight into this procedure and what it really means. I think the gentleman from Oklahoma brings a unique perspective to this as an obstetrician, and I am very grateful for his support for this important legislation.

Madam Speaker, I yield to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Speaker, I thank the gentleman from Florida. I, too, join in expressing my appreciation to the gentleman for introducing this bill.

As one who brings a different perspective to this podium, Madam Speaker, a practicing attorney in civil law, and also a former U.S. attorney, as a Federal prosecutor I am very familiar with the concepts of due process of law and when life begins and these kinds of things. It is amazing to me that you can talk about a number of very divisive and emotional issues in the debate of abortions, but eventually it comes down in all instances to the issue of when does life begin.

□ 2115

As a prosecutor, I was always amazed to see the most heinous of murderers, the John Wayne Gacys, the Ted Bundys, many of the people on death row today who were given years and years of due process of law, furnished with lawyers to represent them; they are furnished with the idea, the concept, of guilt beyond a reasonable doubt, a presumption of innocence, all of these processes of due process of law under our government, and years and years of appeal.

On the other hand, we have an unquestionably, undeniably innocent preborn baby who is given none of this due process of law, and in fact, is subjected in this instance to the type of procedure that your bill attempts to outlaw.

I believe the gentleman from Florida [Mr. CANADY] is a practicing attorney, and I would like to see if maybe the gentleman could answer this question for me, and I think I know the answer. If they brought a Ted Bundy into the electric chair or were about to execute him after these years of appeal and all of this, and the power failed and you had the media there and you had the victim's relatives there and you had the family members there observing this intended execution and the power failed, and someone came out and asked Mr. Bundy to put his head down and they hit him over the head with a screwdriver and knocked a hole in his head and drained out his brain, sucked out his brain, does the gentleman from Florida think that would be any cause for the civil libertarians in terms of cruel and inhuman punishment via this type of execution?

Mr. CANADY of Florida. Madam Speaker, I do believe that there would be a rush to claim that that was cruel and unusual punishment. I believe that that sort of procedure would be universally condemned by people who are concerned about civil liberties in this country.

Mr. BRYANT of Tennessee. Well, I think the gentleman is right. We know as attorneys and have studied cases in law school about cruel and inhuman treatment. In fact, there have been appeals in the past that have tried to hold the death penalty illegal, because of the type, the manner, of execution.

It just astounds me that we could draw the law into play like we do for someone like a John Wayne Gacy or a Ted Bundy or people on death row who have committed the most heinous of murders, and yet we somehow allow this type of procedure to exist.

I am pleased to see, and I will close my comments with this, that the fact that the American Medical Association, its council on legislation, as has been alluded to earlier tonight, has voted unanimously, 12 to nothing, after reviewing this procedure and has found that there is no medical need for this type of act to be done. I think that comes a long way, and I think that says a lot for the people in the medical field, the people who control the AMA, even though the AMA itself, as I understand, did not take a position on this. However, I am pleased that they have joined on with us and, in fact, look forward to a vote on this next Wednesday at a time when I understand many of our colleagues who are so-called pro choice will also join with us in outlawing this type of procedure.

Madam Speaker, at this point I will simply thank the gentleman from Florida [Mr. CANADY] for being the point man for us on this issue.

Mr. CANADY of Florida. Madam Speaker, I thank the gentleman from Tennessee for his helpful comments.

I would now recognize the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Madam Speaker, I first want to thank my colleague from Florida, Mr. CANADY, for his courage in introducing H.R. 1333 and I rise in support of it and encourage all of our colleagues to support it on Wednesday when it comes to the floor for a vote.

I would like to say first of all that I think there is no humane way to end the life of a preborn baby, and I know many of my colleagues agree, but certainly not this technique that we are debating or discussing this evening that H.R. 1833 would ban.

The folks in my district and in my State understand that this bill is not about health care, it is not about women's issues, it is not about the ability for doctors to practice medicine, it is about babies, and it is about a very inhumane way to end their lives.

What I would like to do is, it has been said that originality is when you forget where you heard it first, and I will not forget where I heard this first. This is actually a story that I would like to read that was printed in the Daily Oklahoman as an editorial. It is entitled, "The Littlest Angel" and it is regarding H.R. 1333.

It says:

> She remembers the baby. He had the most perfect, angelic face she had even seen. Nurses working in obstetrics see lots of babies, but this one stood out. Brenda Shafer still sees that face, nearly 2 years later.
>
> The mother held the infant, wrapped in a blanket, and cried, Shafer also cried. Tears come easily at births, but these were tears of grief. The child with the face of an angel had Down syndrome. "I never realized," Shafer says, "how perfect these babies really are at this point."
>
> Too perfect to die.
>
> In September 1993, Shafer went to work at the Women's Medical Center in Dayton, OH. Pro choice and proud of it, the nurse once told her daughters that if one of them got pregnant while a teen, she would see to it they aborted.
>
> On the third day of her new job, Shafer assisted with the delivery of the Down syndrome baby, who had gestated for more than 26 weeks. She saw his heart beating on a monitor. She saw him delivered in pieces, in chunks. He feet came out first, then his legs, and then his little belly and arms.
>
> He was moving, his fingers were clasped together. He was kicking his feet. But his head was still inside. Then the doctor stuck some scissors in the back of the baby's neck. Shafer almost threw up. The heart monitor went silent after the baby's brains were sucked out.
>
> The baby with the face of an angel was placed in a medical pan, but the mother wanted to see him. She insisted. Wrapped in the blanket, the child got the only cuddling he would ever have in this world. Later, a lab employee came by to dispose of his remains.
>
> On Tuesday, the U.S. House Judiciary Committee voted to impose jail terms of up to 2 years for performing the type of abortion described above. To a person, Republicans on the committee voted for a ban on these "partial birth" abortions. Democrats on the panel voted against it.
>
> "This is the beginning of the end of Roe versus Wade," lamented Representative Pat Schroeder, Democrat, Colorado, who held her face in her hands during the vote. "They've just taken a big chunk out of it and clearly want to go after the whole thing."
>
> How ironic. Her words perfectly describe the very procedure she seeks to protect.
>
> Had he been given another 12 weeks, the baby with the face of an angel could have survived outside of the womb. Had he been aborted 12 weeks earlier, he would have been just another fetus, courtesy of Roe versus Wade.
>
> But this baby stood out. "I still have nightmares about what I saw," Shafer said. It has changed her life. Now Shafer is trying to change the law. She needs your help.

Our colleagues, we ask you to vote in favor of H.R. 1833.

Mr. CANADY of Florida. I thank the gentleman from Oklahoma.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Madam Speaker, I thank my good friend for yielding.

Madam Speaker, we are here this week to debate what some might call a simple medical question. Specifically, whether a certain procedure known as partial birth abortion should be left alone as good and permissible medicine, or legally banned as brutality, masquerading as medicine.

This week the 22-year coverup of abortion methods is over. I applaud Chairman CANADY for his courage in bringing this very thoughtful legislation to the floor and for exposing this particular abuse of little kids.

For more than two decades the abortion industry has sanitized abortion methods by aggressively employing the shrewdest and most benign euphemisms market research can buy. They have engaged, without question, in coverup.

Throughout the country there have been proposals at the State legislative level for informed consent legislation to provide, before the woman submits to abortion, a clear understanding of the child's humanity. Pictures, anatomically correct, about the child in utero.

NARAL and the Abortion Rights lobby has opposed each and every one of those efforts to inform the woman about the humanity of the unborn child and about any possible deleterious effects that abortion could have on her life. Gov. Bob Casey recently told me that in Pennsylvania, where informed consent is the law, there has been a 13-percent drop in abortions, and Dr. Bernard Nathanson, a former abortionist himself, has said that if wombs had windows, women would run out of abortion clinics, because they would see that the child that they carry is a little baby.

Now we find ourselves in the midst of a sea change regarding how abortion is addressed by this House. This week, in addition to the debates on whether or not the Federal Government should fund abortions, we will, for the first time, begin to debate whether or not a particular heinous method of abortion, partial birth abortions, should continue to be legal in our land.

This is serious business, Madam Speaker. It is therefore especially fitting that this debate in particular should not be about philosophical abstractions like choice, the rights of women and privacy, all of them laudable when considered only in the abstract. This debate, if it is to shed any light on the serious question at hand, if it is to be honest and thereby worthy of this House, must be about the very behavior, the methods themselves, and that is why the descriptions of this type of abortion needs to go forward without being gagged.

Madam Speaker, as the gentleman from Florida [Mr. CANADY] pointed out earlier, Dr. Martin Haskell, a medical doctor who unashamedly performs these methods of abortions by the hundreds, unashamedly does this kind of abuse to children, let him describe it in his own words as he told the National Abortion Federation's risk management seminar a couple of years ago.

I quote him:

> The surgeon introduces a large, grasping forcep through the vaginal and cervical canals into the corpus of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully toward the fetal lower extremities. When the instrument appears on the sonogram screen, the surgeon is able to open and close its jaws to firmly and reliably grasp a lower extremity. The surgeon than applies firm traction to the instrument causing a version of the fetus and pulls the extremity into the vagina.

Dr. Haskell goes on to say:

> The surgeon uses his fingers to deliver the lower extremity, then the torso, then the shoulders, and then the upper extremities. The skull lodges at the internal cervical os. Usually there is not enough dilation for it to pass through. The fetus is oriented dorsum or spine up.
>
> The surgeon then takes a bear of blunt, curved Metzenbaum scissors in the right hand. He carefully advances the tip, curved down, along the spine and under his middle finger until he feels it contact at the base of the skull under the tip of his middle finger.
>
> The surgeon then forces the scissors into the base of the skull. Having safely entered the skull, he spreads the scissors to enlarge the opening.
>
> The surgeon removes the scissors and introduces a suction catheter into this hole and evacuates the skull contents. With the catheter still in place, he applies traction to the fetus, removing it completely from the patient.

Madam Speaker, that clinical description of child abuse is what is in the table and will be debated this week. Whether individuals should be permitted to pull a living child out of her mother's womb and stick a scissors through the back of her head and then suck her brains out until she is dead is the brunt and the crux of this legislation. Should that behavior be legal, or should it be criminal is what we must decide this week.

This week, this legislation will, for the first time ever in this debate in this House or in the Senate, finally say whether or not we will approve or disapprove of legalized abortion, particularly in this method.

It was mentioned earlier by my good friend, Mr. CANADY, and also by some other Members during this special order, that one particular nurse saw this and got deathly sick from what she saw. She saw that living child, the heart beating, the feet kicking, the hands grasping and making little fists, and she walked out of there never to go back, and now she has turned State's evidence to bring a witness to the Congress and to the American people about partial birth abortions.

It was pointed out earlier that the American Medical Association's legislative council saw fit to join in supporting this legislation, and shame on the American Medical Association when that recommendation came forward for not saying yes, we will stand for children as we have done so historically, going back to the 1860's and beyond, when they said that abortion takes the life of a baby. Unfortunately, politics intervened with its ugly head and unfortunately, they have now become "neutral" on this particular legislation.

The gentleman from Florida [Mr. CANADY] is a great leader, and he is bringing this debate to this House, and I hope many people who call themselves pro choice will take a good, hard look at the reality of what abortion actually is.

Madam Speaker, when you look at the methods of abortion, this is one of many that is a heinous act. If you look at D&C abortions where the baby is literally dismembered in utero, not so much different from this method. The suction methods which the other side likes to talk about with all kinds of euphemisms, suction curettage and all of those words they use, clinical words, to kill the baby, usually around the 12th week.

□ 2130

Those methods, too, destroy a living growing developing little baby boy or little baby girl.

This legislation is human rights legislation. I hope this whole House, and I know it is hoping against hope because some Members are under instructions from the abortion lobby to oppose it and to speak out against it, but in their heart of hearts, that small still voice will say, that is a crime. That is child abuse.

We need to speak out loudly and clearly because we have an affirmative obligation to protect children from that kind of abuse. I applaud the gentleman from Florida [Mr. CANADY] for his leadership. It is a good bill and deserves the support of every Member of this House.

Mr. CANADY of Florida. I thank the gentleman from New Jersey for his comments tonight. I want to also thank the gentleman from New Jersey for his long-standing leadership in defense of the unborn. There is no one in the Congress who has fought harder and more consistently to protect the rights of the unborn than our colleague from New Jersey, Mr. SMITH. We all owe a debt of gratitude to him for his leadership.

GENERAL LEAVE

Mr. CANADY of Florida. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. (Mrs. SEASTRAND). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to my good friend the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. I thank the gentleman for yielding. I appreciate, CHARLES, your leadership on this very, very difficult subject. I know it is not pleasant and I know this discussion this evening has not been easy and this has been difficult for you and that you do sponsor this and take the lead on this out of a deep sense of conviction. I admire you for it.

Make no mistake about it, this hideous procedure should be outlawed and it should be outlawed now. It is a procedure that is predicated on stabbing the partially born baby's skull with surgical scissors and suctioning the child's brain out and it should not be tolerated in what professes to be a civilized society.

The description that Mr. SMITH from New Jersey gave is horrible but the reality as we know is far more horrible. Beyond the most important aspect of what we are doing in this legislation, in saving the lives of several hundred unborn children at least, the education benefit of this debate and what will happen tomorrow or Wednesday is also, I think, tremendously important. This method of abortion is simply indefensible, it is a late-term method used on unborn babies that can surely feel the pain of what is happening and are utterly defenseless. With an estimated 80 percent plus of these grisly late-term abortions being elective in nature, with hundreds of these repulsive procedures being performed in the United States annually, it is time for all people of decency to unite in passing this legislation.

William Wilberforce, the great 18th and 19th century reformer who spent his life fighting the horrors of the slave trade said concerning slavery in his day, "Our posterity looking back to the history of these enlightened times will scarce believe that it has been suffered to exist so long, a disgrace and dishonor to this country."

Madam Speaker, I believe someday history will look back to our so-called enlightened times and they will scarce believe that we have suffered to exist so long a disgrace and dishonor to this country. It is time that we pass H.R. 1833.

Mr. CANADY of Florida. I thank the gentleman from Arkansas. I now yield 1 minute to my good friend the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. I thank the gentleman for yielding. I would like to add to my colleague's remarks my appreciation to the gentleman for his courage in bringing this difficult issue before the House now.

Madam Speaker, Mother Teresa said one time, "How can people say that there are too many children? That is like saying that there are too many flowers." I very much appreciated that remark. I think of it when we discuss debates like this.

I hope and look forward to a time when we can persuade America that there is room in this country for all of the souls that are created here. I believe that some day we will be able to persuade America of that. Until we can reach that point, at least we can take some incremental steps. At least we can outlaw procedures like this, the gruesome details of which have been discussed in specificity by some of my other colleagues.

I want to make this point and that is why I asked the gentleman to yield a moment to me. I understand that those who oppose this bill are going to oppose it on the grounds that if we outlaw this particular gruesome procedure, it will mean somehow that Roe versus Wade cannot stand. I hope that that indeed is the case someday. But I would like to ask them this question. If they cannot justify Roe versus Wade without justifying procedures like this, if they feel so intellectually insecure or morally insecure about that decision that they believe it cannot stand as the result of a chain of events that would be let loose by outlawing gruesome procedures like this, then maybe it is time for them to reexamine their position about Roe versus Wade. No American can look at this diagram, can read what it means to babies all around this country and believe that this procedure can be justified in a civilized society.

Mr. CANADY of Florida. I thank the gentleman from Missouri. I appreciate his comments.

Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. I thank the gentleman from Florida for holding this very important special order this evening. Indeed during the course of this I am reminded of something which I believe was said by Abraham Lincoln. To paraphrase him now, he said, I believe the American people once fully informed of the facts will make the correct decision.

Madam Speaker, as I have listened tonight, I have noted those speakers who have preceded me have made mention of the fact that in this debate, certain facts are ignored. It has been detailed here, some would say with perhaps great explicitness, the brutality and the violence of this procedure, and really "procedure" is almost too kind a word. It in itself is a euphemism.

As I stand here, Madam Speaker, tonight in this Chamber, with colleagues and interested bodies and indeed via the technology of television many fellow Americans looking on, I think it is also important to talk about other facts, because those who oppose our efforts to ban this type of procedure will use certain ad hominem arguments, they will suggest that somehow those of us on this side of the debate would champion violence at various clinics.

Let us go on record and be unequivocal about this point tonight. Madam Speaker, we, and indeed I think I can speak for all of us in this Chamber, abhor any act of violence toward any American. But we are talking about an incredibly violence act tonight. One of my colleagues called it child abuse.

We pride ourselves on living in the so-called information age. Those who may take exception to the details of this procedure being delineated during the course of this debate, I would simply ask this question. Is it not important that all the facts be known? Is it not important that we be fully informed as we make this decision? Because again as Lincoln pointed out, once we are fully informed of the facts, then we make the correct decision.

It is a very simple question, really, one that is often lost in the midst of rhetorical flourish, in the euphemisms that abound, in the abstractions of alleged constitutional rights, that indeed we champion, for this is the most basic of those rights, the right to life, the right that the innocent preborn be given an opportunity to live or at the very least through outlawing this heinous procedure, that this particularly gruesome method of extermination go the way of so many acts noted for cruelty and insensitivity and blatant violence.

It is important to look at the facts. It is important to end this violence. It is an action that I am confident that many, who may have varying degrees of disagreement on other aspects of this debate, in the final analysis will rally behind.

Mr. CANADY of Florida. I thank the gentleman from Arizona. I would now yield 3 minutes to the gentleman from Indiana [Mr. SOUDER].

Mr. SOUDER. I thank the gentleman very much and appreciate his leadership on this bill.

I grew up in a very peace-loving family that would not destroy innocent children. I remember one time my mom said when I was little, I was worried about a spider that she wanted me to kill and I did not want to damage the spider, let alone a human life. But it was more kind of a general feeling than specific knowledge on the abortion issue.

I happened to be at graduate school at the University of Notre Dame when the Supreme Court decision Roe versus Wade came down and I got very involved in the pro-life movement and heard about the methods of the candy apple babies, so-called because they burn off their skin and you just see the red, or the method of cutting up the babies and the sheer horror of the pictures and the knowledge is just so overwhelming and that is where if the American people knew the truth about the abortion issue it would not be tolerated. You would not allow this type of thing. If you knew somebody in your neighborhood took their dog out in the street and did this to their dog, you would not want to associate with them. Yet people in your neighborhood do this to their babies.

How can this be happening in this country? As a father I do not understand how a people can take their children that we love so dearly and that we care and do this cruel and inhumane punishment to them.

We have heard all through this year about how speakers have come down here into the well and attacked us on our balanced budget proposals and say that we are heartless, that we are cold-blooded, that we are cruel, that we lack compassion, that we do not have human decency, that we are causing inordinate pain and suffering.

This is those things. You can debate how much money we should spend on different programs, but these partial-birth abortions, when you stick a scissors into the back of a human life and you suck their brains out, there is no debating whether this is compassionate or heartless. Let those who have been using those terms so loosely and throwing them around for political purposes defend this in their vote on Wednesday if they want to see compassion.

Even the AMA's Council on Legislation agreed that the procedure was basically repulsive. Basically repulsive? It is disgusting. It has been hard to sit down here and listen to people talk about this without getting tears in your eyes about the children and the little tiny defenseless babies in this country who are being treated worse than animals in this society. It is very discouraging that we have all of these humane shelters, all of these people devoted to protecting animals, yet there is this double standard for human beings. I do not understand how this country has tolerated this, particularly this most flagrant of procedures, the last step.

Many times they even want to suck out these brains in the name of science, they want to use it, the fetal tissue from these living babies to supposedly save somebody else's life or impact them. I do not know how we can stand here in this country, the land of freedom, and land where people died to have the right to life and the right to survive and do this.

I want to close with the story about my cousin. We have heard about people who are handicapped and my cousin Kalisa was born with one stub and without another leg and her organs were not able to keep her alive and they knew she was going to die, they did not know what year but they said maybe 8 years and she lived until she was 10 years old and she could not continue living.

But there is not one person who ever came in touch with my cousin who does not believe that her life brought more to this society than many of us who have all of our means, all of our arms and legs and all of our organs because Kalisa was always happy, she knew where she was going to go, she was a light to others, she knew that she was not going to live long and she was a positive influence on others. Those people who say that because somebody has a handicap or because somebody is less intelligent or something else deserve to die should be reprimanded, should be shamed in this House, and then to propose procedures like this, if they cannot stand with us on saying that we are not going to take the weakest in our society and destroy them with this most disgusting method, I am disappointed they would be reelected in this country and speak for the American people.

□ 2145

Thank you for your leadership on this.

Mr. CANADY of Florida. Madam Speaker, I yield to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Madam Speaker, one of the great tragedies of our Nation is the practice of abortion. Since 1973, with the Roe versus Wade decision, we have seen a culture of death, as the Pope described it, brought about by over 30 million abortions. Thirty million abortions have cheapened the value of life in our Nation. But, Madam Speaker, if abortion is not bad enough, the procedure of partial birth abortions is the most hideous example of brutality that can be imagined. It is absolutely outrageous. The procedure is used in mid-term, or the mid-term point in pregnancy, and the American Medical News reported most fetuses aborted this way are alive until the end. In fact, evidence indicates the mother's anesthesia often does not put the fetus to sleep. Therefore, the baby would have to endure the horrible pain.

What are the pro-abortion arguments for this procedure? Pro-abortion forces say that procedure is used mostly on malformed babies or babies who would not live anyway. That is false. A doctor who performed more than 1,000 partial birth abortions said 80 percent are elective, that an even greater question is who should have the right to choose life and death for the other 20 percent.

Pro-abortion forces say very few are performed. In the Louisville Courier-Journal earlier this year, an ACLU member said partial birth abortions are primarily limited to the third trimester. These make up less than 1 percent of all abortions. By that projection, that is more than 4,000 each year, or three or 4 abortions a day, and two doctors alone reportedly performed nearly 500 a year.

Are we supposed to be reassured?

Madam Speaker, I think H.R. 1833 is a good bill. This horrible, brutal practice that destroys the most innocent should be stopped and stopped immediately.

Mr. CANADY of Florida. Madam Speaker, I yield to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Madam Speaker, I thank the gentleman for yielding. Although I am opposed to abortion as a matter of conscience, I was particularly shocked when I learned of the cruelty and callousness of this procedure. As one of the Members earlier stated, the AMA in their Legislative Council voted without dissent to endorse this legislation, with one of the members saying that a partial birth abortion "was not a recognized medical technique."

I think perhaps what is most disturbing about a partial birth abortion is how closely this comes to infanticide. While I respect the views of these who disagree with me on the matter of abortion, any validity their arguments may have surely disappears when discussing this grotesque procedure.

When this issue comes to the House floor this week for debate, they will drag out euphemisms, never once addressing the issue we are talking about here, a viable unborn little baby.

I believe the American people are solidly behind this legislation. I hope and pray that we can have a successful effort later this week.

Pass H.R. 1833.

Mr. LIPINSKI. Mr. Speaker, I rise today in support of H.R. 1833, the ban on partial-birth abortions. To me, there are two amazing observations surrounding this issue: one that it is legal and two, that there are people who are willing to stand up and defend it.

I was shocked, as I am sure many of my colleagues were, to find out that in this country it is legal to partially deliver a baby, insert scissors at the base of its head and suction out the brains. Some suggest that the baby is already dead during the procedure, but I submit to you the following interview between the American Medical News [AMN] and abortionist, Dr. Martin Haskell:

> AMN. Let's talk first about whether or not the fetus is dead beforehand . . .
>
> HASKELL. No it's not. No, it's really not.

This bill has the support of the 12 member American Medical Association's legislative council who unanimously agreed that this form of abortion should be abolished. One legislative council representative called the procedure basically repulsive, saying that it was not a recognized medical technique. And lest we forget what the American public has to say, I remind you that an overwhelming majority rejected any type of late-term abortions.

Unbelievably, there are a small number of people who defend this procedure by stating that it is necessary to provide the option to end the life of babies with severe abnormalities or to protect the life of the mother. What do you consider an abnormality? One abortionist has admitted performing this procedure on babies because they had a cleft lip. Dr. Haskell has stated, "I'll be quite frank: most of my abortions are elective in that 20–24 week range . . . In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective." With respect to a woman's health, no doctor is going to perform a 3-day procedure on a woman whose life is in danger. There are many other procedures available to a doctor to protect the life of the mother without killing her baby.

Mr. Speaker, I am amazed. I thought that pro-life and pro-abortion advocates would finally be able to find some common ground in this contentious debate. I thought that no one would be able to defend such an abhorrent procedure. Sadly, I was wrong. Luckily, there is still time to review the facts, and I urge my colleagues to do just that. Read over the procedure. Read over the AMA legislative counsel's unanimous decision. Read over the polls on America's view on late term abortions. Then do the only thing you can do and vote for the ban on partial-birth abortions.

Thank you.

Mrs. VUCANOVICH. Mr. Speaker, I would like to commend the following editorial which appeared in the September/October issue of the American Enterprise magazine. Maggie Gallagher does an excellent job of describing the brutal reality of an inhuman procedure known as partial birth abortion.

After you have examined the facts, I invite you to join with me in voting for H.R. 1833—the Partial Birth Abortion Act Ban of 1995.

[From the American Enterprise, September-October 1995]

A PERFECTLY LEGAL PROCEDURE

(By Maggie Gallagher)

She still has recurring nightmares—flashbacks, like a soldier back from Vietnam: "I see the baby, its hands and legs moving. Then the scissors jab, and the body goes limp. It haunts me."

Despite what you might think, Brenda Schafer, a 38-year-old registered nurse from Franklin, Ohio, is not a witness to a gruesome crime. She is an eyewitness to a perfectly legal procedure going on across America under the cover of abstract, pious words that all sensible people believe in—words like, "a doctor-patient relationship" and "a woman's right to choose."

The procedure is called a partial-birth abortion, and perhaps 500 to 4,000 of them are carried out every year. According to Brenda, it is impossible to exaggerate the procedure's horrors. Here is what she saw the day the temp agency assigned her to Dr. Martin Haskell's Dayton, Ohio abortion clinic: "The whole baby was delivered, except for its head. I could see the hands and legs moving. Have you ever seen a baby fling out its arms when it is startled? That's what it looked like. I saw Dr. Haskell insert a pair of scissors, then the baby flinched. He inserted a high-power suction catheter [to remove the brain tissue], and the baby went limp. I almost threw up all over the floor." The baby was not defective and, at a gestational age of 26-and-a-half weeks, was well past the 23 to 24 weeks doctors considered the point of viability; most premature infants born at that age do pretty well.

There were six partial-birth abortions that day in that clinic alone. Brenda assisted in three of them. One mother sought an abortion because her baby had Down's syndrome; the other two carried babies with no defects. One mother was a 17-year-old unwed woman. The other, whose partial-birth abortion is described above, was a married 40-year-old with a grown son who apparently decided, rather late, that she didn't want a change-of-life baby.

While the larger issue of abortion is of course enormously controversial, we know that practices like partial-birth abortions, abortion for sex selection, and late-term abortion are strongly opposed by large majorities of Americans. Aiming to bring some peace to the abortion wars by at least eliminating these most offensive procedures, the House Committee on the Judiciary recently approved a bill to ban partial-birth abortions. Abortion-rights advocates, however, have made it clear they will accept no limitations of abortion on demand, at any time or for any reason. NOW president Patricia Ireland has denounced the House bill, while Barbara Bradford of the National Abortion Federation sent out talking points for abortion defenders that urged: don't apologize, it's legal procedure.

Brenda says she once believed in the noble-sounding slogans of the pro-choice movement: "I have four teenage daughters. I told them if they got pregnant, I'd make them have an abortion." Like many Americans, she was fiercely committed to abortion rights in the abstract; it was the reality she literally couldn't stomach.

When it was over, the mother who underwent a partial-birth abortion that day insisted on seeing the results. So Brenda and the other nurses cleaned it up, wrapped it in a blanket, and put the corpse of a little baby in her arms. Face-to-face with what she had done, the woman began crying inconsolably, repeatedly pleading, "God forgive me."

ENDING WELFARE FOR LOBBYISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 60 minutes.

Mr. MCINTOSH. Madam Speaker, I am here to speak tonight on an issue that is continuing to be debated in the House and in the Senate, and that is our efforts to end welfare for lobbyists. As many of you know, last summer this House of Representatives passed a landmark piece of legislation that was added to the Labor-HHS appropriations bill, that said from now on anybody who receives a Federal grant has to make a choice. They can either continue to receive the Government funds or they can give up the funds and then continue to be lobbyists. But they cannot do both as long as they are receiving a Federal subsidy.

That bill, I think, strikes an important blow on behalf of taxpayers everywhere who no longer wish to be seeing their taxes used to finance some of the biggest, most powerful and influential lobbying organizations right here in Washington, DC, organizations who have continually over the last 40 years lobbied this Congress for more and more and more spending so that we have runaway deficits and the largest national debt in history.

This legislation, legislation that we referred to as ending welfare for lobbyists, I think is very important and strikes a blow on behalf of taxpayers everywhere for responsible Government. Tonight I wanted to discuss with you and several of my colleagues the nature of this problem and what our solution is and how we plan to go forward in implementing that reform on behalf of the taxpayers.

First, I have a chart here that gives you an idea of what is happening. We discovered that currently there are $39 billion that the Federal Government says it gives out in grants each year. Now, some of that money goes to very worthwhile causes and to groups who are not lobbyists, but the large percentage of that money goes to groups who turn around and lobby the Government for more spending and for various social programs. That subsidy for the lobbying activities here in Washington is exactly the area that we are targeting with this legislation.

Again, I want to emphasize what we will be doing is saying to the groups, "If you want to be a charity and do good works, that you are entitled to do, and we will support you under the various Federal programs. But if you want to be a lobbyist, you need to do it on your own time and on your own dime, because the taxpayer is not going to subsidize lobbying any longer."

Madam Speaker, at this point I yield to my colleague, the gentleman from Arizona [Mr. HAYWORTH], who is here to join us in support of this bill.

Mr. HAYWORTH. Madam Speaker, I thank my friend from Indiana for again introducing and really being the catalyst for this important legislation.

Madam Speaker, I think perhaps you were also in the Chamber the night this particular measure was first debated. I can recall, after all, this is known as the people's House, and as my good friend from Indiana joined me here on the floor, I guess it is safe to say that there was a particularly raucous response from one of our friends on the minority from California. Indeed, to read his comments the following day in the Wall Street Journal, I found it to be somewhat incredible; quoting him now, "It is a glorious day if you are a fascist; if you are a fascist, it is a glorious day."

My friend from California took great unbrage at the fact that through the efforts of my friend from Indiana this new majority was moving not to extinguish advocacy, but to say, as my colleague from Indiana did so quite eloquently, if you are engaged in lobbying, do it on your own time with your own dime. Would that it were just a dime being spent.

But as my friend from Indiana, in concert with my good friend from Maryland and our more senior colleague from Oklahoma have detailed, this is not penny ante here. This is $39 billion in money from the taxpayers of America, Madam Speaker, from you and I and other taxpayers out there working hard to feed their families and to provide a future for their children, or as seniors on a fixed income, to make ends meet.

Their money is going into a process that I think is fair to describe, and I am not exaggerating here, it can only be described as somewhat incestuous, where people come to the Hill and lobby for funds and, indeed, many of their endeavors are worthwhile, and yet even in receiving the taxpayers' largesse, they return, courtesy of those same funds, to again ask for more and more of the taxpayers' dollars.

Good people can disagree. I have often made that observation in the Chamber. And while I would never impugn the motives of my friend from California who on that particular raucous occasion perhaps it can be said chose to impugn our motives, could it be that as the Wall Street Journal editorialized, that in moving to correct this abuse we had tapped into a power source for those so willing to take the taxpayers' money in the advocacy of a certain social agenda?

Madam speaker, in the preceding special order I paraphrased the comments of Abraham Lincoln, and the message still applies here: The American people, once fully informed of the facts, will make the correct decision. There has been a widespread cry across this Nation for reform.

On the first day of this new Congress, this new majority passed the Shays Act, a simple but powerful notion that those who serve in this Chamber should live under the same laws as every other American. Now, indeed, if we are called to a higher standard, then a reexamination of where the hard-earned money of the American people goes is also in order, and I salute my friend from Indiana and, indeed, my good friend from Maryland who joins us here tonight in their efforts to fully inform the American people, because there is no place for the relentless assault on the pocketbooks of hard-working taxpaying Americans for continued subsidizing of big Government-orchestrated charities. We must make a change, and we, the new Members of this institution, stand united to make sure that change is realized.

With that, as I continue the dialog, I see our good friend from Maryland, and perhaps I should yield back to the gentleman who controls the time, my friend from Indiana, for the purposes of recognizing our friend from nearby Maryland.

Mr. McINTOSH. I thank the gentleman from Arizona [Mr. HAYWORTH]. Thank you for that very eloquent endorsement of what you have pointed out is, in fact, one of the leading reforms that our freshman class is really insisting that we include in this budget process as we send forward these spending bills to the President.

Let me now yield to one of the coauthors of this provision, who along with the gentleman from Oklahoma [Mr. ISTOOK] and now Senator SIMPSON and Senator CRAIG in the Senate, is the lead sponsor of this bill, and I yield to my colleague, the gentleman from Maryland [Mr. EHRLICH].

Mr. EHRLICH. I thank the gentleman.

I wish I could be as eloquent as our friend from Arizona, our freshman colleague. We appreciate your support very much on this very important initiative.

The only thing I can say to you, my friend, is I am sorry that you have been attacked at a personal level. That is a political culture I am not used to, and hopefully the American people will not get used to it either.

I bring some words tonight from across the hallway, from our friend, Senator SIMPSON.

We have not had an opportunity to talk about this, but as you know and the American people should know, he has been a wonderful friend during this entire process. His leadership in the other body has been unmatched, I am sure you would agree.

Mr. McINTOSH. That is correct.

Mr. EHRLICH. I thought his words on the floor of the Senate last week were just profound, and I would like to recite them for a minute or two. I see we have been joined by our friend, the gentleman from Washington [Mr. TATE], as well.

Senator SIMPSON, in taking the floor to rebut some of the more ridiculous charges our piece of legislation has had to undergo, made these statements.

□ 2200

> Hell hath no fury like an individual whose access to Federal bucks has been conditioned in any way. Because that is not what this issue is all about, access to the Federal Treasury. It is not about free speech or the First Amendment, or anything of the sort. Those are merely the terms which are being applied during the argument by those who wish to continue to ensure themselves of continued delivery of Federal money.

I have four statements, with the gentleman's indulgence, because they are so profound, they are so on point.

The second statement from Senator SIMPSON:

> I know that is a strange and even bizarre thing in this day and age, to talk about "responsibility," instead purely of "rights" or purely of "victims." We are all experts in our own rights, but rarely do we acknowledge that these rights confer responsibilities. And that is what this issue is about, the responsibility of those who receive Federal money.

The third statement by our colleague from the Senate, and this is a point we have discussed on this floor many times.

> Already in the law there are restrictions on the amount of lobbying that can be done by 501–C–3 organizations which take the 501–H election to identify themselves as charities.

These are the facts, the facts for the American people.

> In return for the benefit of tax deductible contributions, these organizations agree to limit their lobbying expense. They may spend 20 percent of the first $500,000 in lobbying, 15 percent of their next $500,000, 10 percent of their next $500,000, and 5 percent after that, up to a global cap of $1 million on lobbying.

The same point we have made on this floor time after time, that the gentleman from Indiana, the chairman of the subcommittee, Mr. McINTOSH, has made time and time again during the course of his public hearings.

Finally, Mr. SIMPSON's last statement, he made all sorts of wonderful statements in the course of his speech in the Senate,

> I personally will have my old bald dome battered, because I have stated all along that I would seek to protect true charities from the scope of any legislation, the 501–C–3 organizations which we all care so much about and should. Well, the amendment which hopefully will shortly be presented as the Istook-Simpson compromise, will indeed protect them. We will protect them not by creating a blanket exception for all charitable groups, but by leaving in place and spending restrictions formulas that already apply to charitable organizations.

I would ask my friend and colleague from Indiana, has not our friend Senator SIMPSON hit the proverbial nail on the head?

Mr. McINTOSH. I believe that is exactly correct. I see our colleague from Indiana, a good friend of mine is here, with some questions he had.

Let me take a moment to recite some of the provisions in the bill. In the debate, those are often lost, the facts people do not focus on. I think it is important to let the American people know what we are doing.

As the gentleman from Maryland pointed out, the core of this bill is to use the current IRS provision for 501–C–3 charitable groups and say that is going to be the limit of how much any group that receives a Federal grant can spend in lobbying activities. It is a small amount of their overall funding, starting out at I think 20 percent, going down to 5 percent totally with a cap. That is what they can do with their private funds.

With any government funds that the taxpayer is giving those groups, what we are saying is no taxpayer dime can be used for lobbying whatsoever. We are going to make that very clear. More importantly, we are going to put some real teeth into that provision and say first of all, it is a violation of the law to do so. Second, the taxpayer is empowered to be a watchdog, and if the taxpayer sees that a group is spending taxpayer dollars to lobby and engage in political campaigns, they have a right to bring a suit to stop that from happening.

Then, finally, we are going to force disclosure, because one of the things we discovered was that these groups will often hide behind various forms of organization, where the group that does the lobbying does not get the dollars directly, but there is an intermediate group that receives a taxpayer grant, and then they give another grant to the lobbyist organization.

So we are going to force everyone to disclose where the money comes from and where it is spent when they have Federal dollars at stake, and we are going to force disclosure of all lobbying activities by these groups to ensure that the taxpayer can have a full accountability for how the funds are spent.

Let me real quickly address two things we thought were very important. One was, as Senator SIMPSON mentioned, to exempt true charities from coverage. They will be covered under the IRS rules, but it makes it clear they are not the targets of this legislation. It is the lobbying groups here in Washington who have lived off of the taxpayer dollars for so long who are going to be chiefly affected by this.

Mr. EHRLICH. That point is so important. The true charities, and we have made this point time and time again as well, the charities actually interested in fulfilling their mission, rather than becoming lobbyists, the people actually out there doing good in the world and not interested in continually coming here and asking for additional moneys.

Mr. MCINTOSH. That is so true. Later in the hour I would like to talk about some of those groups who come to us and say we are doing the right thing, because we are preserving the true nature of these charities.

One final point is it was pointed out to us that some of these groups might inadvertently be caught up in the legislation. What we did was made a very clear statement we would create a de minimis exception. If a group writes to their city council and says "We really think you ought to think of a new program to help clean up the inner-city," we do not intend that to be caught up in this legislation. That is not a problem of lobbyists coming and asking us to spend more and more money each year. That type of thing will be covered by our de minimis exception that makes it very clear that all groups can spend a small amount, $25,000 each year, in stating their positions to the public. We thought that was fair as a way of preserving their first amendment rights, but not having them be corrupted and turned into lobbying organizations.

Those are the key elements of this bill. I think it is very fair, very well drafted, and goes directly to the problem, that the taxpayers are not being protected right now from their funds going to subsidize these lobbying efforts.

Let me now recognize my friend and colleague from Indiana [Mr. SOUDER].

Mr. SOUDER. Madam Speaker, I appreciate the gentleman's leadership on this and the beating the gentleman has been taking on behalf of all those who agree with him. Whenever he takes the lead, he becomes a target for personal smear and innuendo from people who do not want to debate the issue, but the side issue to distract from the main issue, with the gentleman's addressing some of the things that have come up to me in my district and many others. Let me see if I can clarify this question.

Organizations that receive Federal funds, are they now restricted from any lobbying? For example, if it is a large organization and they spend some time advocating any kind of Federal policies, does that mean they can no longer do that if they get any money?

Mr. MCINTOSH. No, the bill is not as absolute as that. What it says is they are now restricted to a limited amount of advocacy, using the IRS formula that charitable groups right now are supposed to follow but which is not codified into law. Some groups, such as the National Council of Senior Citizens, are not covered by that limit, so they can go out and set up a political action committee, which they have done. They can go out and take out television ads, which they have done. This would put them under the same limit that the charities have if they are receiving those Federal dollars.

Mr. SOUDER. One of the great honors I have had was to work with Focus on the Family over the years, and particularly as Dr. Dobson looked at developing and working with Gary Bowers to develop the Family Research Council, and I was working with them in some of the early years. One of the things that Dr. Dobson has to do in his radio addresses is balance how many times he talks about government issues and how many times he deals with political issues. Many 501–C–3's, all of them which deal with social issues, are already under these restrictions.

Why is it so shocking to the other groups that they have to behave the way most of these groups have to do already in this country? What makes them special? Why were they exempt in this process in the first place?

Mr. MCINTOSH. I think the gentleman asks a very good question, why is there this double standard. I think what happened is over the years, certain groups almost became an extension of the government. The National Council of Senior Citizens receives 96 percent of its funds from the Federal Government. Like the Government, they became arrogant and thought that they could be above the standard, there would not be anybody there to police them, and they did not have to be accountable to the taxpayer. So now that we are starting to hold them accountable to what is very accepted with groups, like Dr. Dobson and other groups, they are starting to scream about it, because they thought they had a free ride and a special privilege. What we are saying is now the taxpayer does not want to put up with that any longer.

Mr. SOUDER. What is their defense for saying in the funds directly coming to them from the Federal Government for use for charitable work, whether it is seniors, or low income, or people who are handicapped, or people being abused, why do they feel that those dollars that are being given from the taxpayers for those purposes should be used directly for lobbying? Is there a reason that they say that they should be allowed to do that, other than self-fulfilling, they want more money for their group?

Mr. MCINTOSH. The only reason I have heard some of them say is, "Well, it is already not allowed." But then my question to them is why do you oppose this bill, if you say it is already not allowed? I think the answer must be that they know that that is not being enforced. In fact, we have one example with where a government agency gave a grant to a group who held an entire conference teaching people how to go and lobby. When they were called on the carpet and the GAO investigated and said this is an abuse of this Federal grant, the agency sort of shrugged their shoulders and said, "Oh well, too bad."

Now what we are doing is putting teeth in it by letting the taxpayer be the enforcement mechanism for making sure that they have to live under the law as well.

Mr. EHRLICH. If the gentleman will yield, I know our colleague from Indiana will appreciate this as well, because I think being part of the process, attending the subcommittee hearings, reading the testimony, listening to the testimony, another part of the answer really is when you get used to something, it is very human, and you think you are going to have it forever. You believe it is going to increase forever. You get very angry, and you tend to call people names when someone takes it away from you.

We have had to endure the name calling. The gentleman from Indiana has provided wonderful leadership on this and has been attacked personally. We have all been attacked. I am tired of it. If they would just talk about the issues, we might get some progress made. But the fact is they are angry, and we have seen it played out time and time again. That is a very human element to this entire debate.

Mr. EHRLICH. Is it not true also, which I think is a very good point, that some people argue this is a chilling effect on public debate? Is it not true that, for example, if there is an organization that would, say, favor the National Endowment for the Arts or the Institute for Museum Services, that what we are saying is the organization itself that receives the funds will now have a cap on how much they can spend in lobbying. But it does not keep an individual member of a Chicago Art Institute or the Fort Wayne Art Museum or a supporter of the philharmonic from writing us as Members of Congress or speaking out in public.

It is just the group cannot use its funds for those purposes if they get Federal funds. It that not correct?

Mr. McINTOSH. That is correct. Each of us as individuals would have our first amendment rights to speak out. In fact, one of the provisions that our colleague from Maryland put into the bill was an absolute exemption for individuals, so that any person, as compared to an organization, who wants to exercise their first amendment rights would be totally protected under this statute.

Mr. EHRLICH. Most people I know who give money to a philharmonic or art museum expect that money to go to the philharmonic for music or for the art, not to lobbying Congress. I do not think that was the intent that they thought they would give it.

Mr. McINTOSH. I think that is right. If the gentleman would let me share with you an example that a reporter called up the other day and asked me about, and apparently there is a group in Washington State that is Big Brother-Big Sister. They raise a lot of their money by having nightly bingo games. People come and they pay to play bingo, and it is a fund-raising technique. It is a very successful one for them. But they also spend a certain amount of their money lobbying the State legislature to make sure that bingo continues to be an eligible fund-raising tool. They are entitled to that, and it makes sense they would want to do that. But they apparently spend more than 15 percent of their funds lobbying the State legislature, because they do not receive a grant themselves. But they were worried they would no longer be able to take money from someone who does get a Federal grant. The rule we put in there is if you lobby more than 15 percent, you cannot receive the money indirectly.

So my suggestion to the reporter was why do they not set up a separate organization as a lobbying group? One night a week they can have a bingo game and tell everybody, "We are raising money to lobby with this night's proceeds. The other 6 nights we are going to help people with the Big Brothers and Big Sisters." Then you have disclosure, and the people who give the money will know what they are giving the money for. They will know whether or not this is for lobbying, or to help people with a charitable good.

To me, I think that an ideal world. People know what their money is going for, and the groups have the freedom to enact their programs and proceed with those. If they want to lobby, they can set up another group that does not get taxpayer money, that they can set up for the lobbying purposes.

Mr. EHRLICH. I know there are others who desire to speak, our good friend from Washington, but I have one other question I wanted to ask you, and that is we have talked about this, but a representative of ARC, it used to be the Association of Retarded Citizens, came to me and was concerned they would not be able to advocate for people that they were working with as they go, say, to a housing authority to talk to them, and go along with that citizen for housing, or if they had a job training program, as we have in our legislation, for those who have special needs.

My understanding of this legislation is this is focused on lobbying to Congress, to legislatures, not for helping citizens who fall into their purview. Is that not correct?

□ 2215

Mr. McINTOSH. Madam Speaker, the gentleman is exactly correct, and we have clarified the language to make certain that that is very clear. The ARC came and testified in our committee, they did not like the bill as it was drafted, and I thought they had a very telling and important comment in that area about a possible problem that could be created where they help citizens who really do need help going to a government agency and applying for assistance they are entitled to.

So we went back and changed the legislation to reflect that concern and be able to make it very clear that they would still be able to engage in that activity.

Mr. EHRLICH. Madam Speaker, if the gentleman would yield. As my colleagues can tell, I am a little angry tonight because of the personal attacks against the gentleman personally.

Mr. McINTOSH. Madam Speaker, let me thank the gentleman, but let me just comment. One thing I have taken solace in is, a friend of mine reminded me of the saying President Reagan had, which is "It is dangerous any time you get between the hog and the bucket". And I think our legislation may be doing exactly that.

Mr. EHRLICH. Madam Speaker, I think our friend from Indiana asked a very good question, but the gentleman's answer tells the American people a lot about the process we have brought to this entire debate. I know myself and my staff, Representative ISTOOK and his staff, the gentleman particularly and his entire staff have spent hundreds of hours meeting with groups actually trying to get input, to secure input relevant input to make the bill better. A very open process, which I am told around here was pretty rare before we got here. The gentleman deserves credit for that and yet the attacks continue.

Mr. McINTOSH. I think I know what it is, Madam Speaker, I think they realize if the American people find out the truth of where their taxpayer dollars are being spent to subsidize lobbying they will not win. But if they make it a personal attack, they might distract enough people and actually end up winning in the ultimate vote. Fortunately, I think all of us freshmen here are committed to getting down to the truth and delivering on our promises to the American people and so we will not let them get us sidetracked with those.

Madam Speaker, I want to recognize now a colleague from Washington State who has been very active in our subcommittee in helping to craft this bill, Mr. TATE.

Mr. TATE. Madam Speaker, for the sake of not trying to sound like a broken record, I want to thank the Member from Indiana for taking all the arrows on our behalf on this issue. We all came here, all of us, to make real changes in Washington, DC. I do not think that is a surprise. I think we all knew going into this, from the git-go, that there would be attacks. The opposition would use every tool that they possibly had to stop the agenda.

The defenders of big government do not want to see things changed. That means less power in Washington, DC, and more power in Washington State. That means less power in Washington, DC, and more in Indiana. And less power in Washington, DC, and more in Maryland. That is what it is all about. But I never knew they would be using my own tax dollars to lobby against these changes. It is one thing to do it privately, it is another thing to do it publicly. That is what they are so-so concerned about.

Recently in the Washington Times there was an editorial titled "Federally Funded GOP Bashing, talking about the case study of what has been going on out in my State, and this is what they said.

> In the past knew months a variety of groups have spent monies that total in the hundreds of thousands of dollars. The problem is not that these activists are targeting Mr. Tate. That, after all, is politics. The problem is that many of these groups are engaged in very political, very partisan activities and receive big bucks from the Federal Government. The campaign they have mounted passes anyone's test of political activity.

That is the point. I want people to get involved in politics. I think all of us, we ran for office because we wanted to make changes. Everyone should gutted involved in politics, even if they disagree with us. But the difference is they should not use the public trough, lay sideways in the public trough, literally, and take that money and spend it trying to defeat some of the things we are working on. That is the thing I find outrageous, using the taxpayers' dollars.

Madam Speaker, the other attacks I have heard is this whole issue of free speech. I say this over and over. Free speech is not free if I have to pay for it. The taxpayer should not have to pay for this kind of lobbying. Imagine the outrage we would hear if the Christian Coalition was receiving money, or the

National Rifle Association, or the National Right to Life. To me this is not an issue about left and right. I would be just as upset if it was the other side.

That is the point, it is wrong no matter what ideology it happens to be. We should not be funding these sort of activities.

Mr. EHRLICH. Madam Speaker, if the gentleman would yield for a point. The gentleman may have missed the colloquy we engaged in on this floor, I believe three weeks ago, with the Representative from Colorado and the Representative from Maryland. They even admitted on the floor that day that it is not a defunding of the left. We have been attacked as defunding the left. They actually admitted that day it is not defunding the left.

I wanted to gentleman to know that, because one of the principal charges against us, against this piece of legislation has been diffused by the main opponents.

Mr. TATE. Madam Speaker, that is exactly the point. This week it is the GOP. Maybe a couple of years from now it is the Democrat party. To me it does not matter. It is wrong no matter what party it is. It is wrong to use the taxpayers' money to fund these kinds of acts, no matter who or what organization it is.

So, Madam Speaker, I guess what I would tell these organizations that are running attacks against the gentleman from Indiana [Mr. McINTOSH] and the gentleman from Maryland [Mr. EHRLICH] and against other freshmen that are standing up against big government and their special interests and high paid lobbyists back here in Washington, DC, I would tell those organizations if they want to lobby, do it on their own dime, do it on their own time, not on the taxpayers' time.

So I appreciate the gentleman from Indiana once again taking a lot of heat, and he should be judged by his enemies. He should be judged by the work he is doing. I can tell my colleagues when I was home for town meetings this weekend, I had more people come up to me and say, "You know what, RANDY, don't give up. Keep on fighting. Because we know if these groups are attacking you, you must be doing something right; that you must really be making changes".

The louder they scream, the more effective we must be. So I just thank the gentleman for his work.

Mr. McINTOSH. Madam Speaker, I thank the gentleman for that. Let me tell my colleagues, however, it is more than me. It is the dedicated effort of all of us and our colleagues, and Senator SIMPSON and Senator CRAIG on the Senate side, who are working very hard to make sure we can win passage in that body and send it forward to the President.

I want to give my colleagues a brief update about what is happening with this bill so that the American people can follow it in the next couple of weeks and see what happens.

Our goal is to make sure that this provision, ending the welfare for lobbyists, is part of the spending bill that gets sent to the President that helps finance his White House staff, helps finance the IRS and the agents there, helps finance the Treasury Department and the law enforcement agents there. What we want to do is make sure that when the President signs a bill funding all of this operations over in the White House he has to also sign a bill on behalf of the taxpayer ending the welfare for lobbyists.

So what we are doing is negotiating with our colleagues in the Senate to make sure that that provision is part of that very important spending bill. There is a core group of approximately 60 Members here in the House who have all signed a letter to the Speaker urging that that bill not go forward unless this very important provision is included in it.

I do not want to take all the accolades. I think those 60 Members who have stood up and said, "We must do the right thing for taxpayers around the country before we take care of business here as usual and send the President a funding bill for all his White House staff," they are the heroes that will make sure that this, in fact, remains intact.

Now, Madam Speaker, there is some discussion that all these spending bills may get wrapped up into something called a continuing resolution that would allow the Government to continue business as usual. If that happens, I think the leadership is very determined to make it a bare-bones bill that does not include a lot of the fat that might otherwise be put in there. But, also, I think it is important that if we have that continuing resolution we say one thing that is business as usual, taxpayers' subsidized lobbying is going to end. We mean to make sure that happens in this body so that we can deliver on that promise to the American voters.

Mr. EHRLICH. Madam Speaker, if the gentleman would yield briefly, I know the gentleman from Arizona wants to pitch in.

Where would we be without the leadership? They have killed us about 10 times already, and we have come back every time stronger. The leadership in this House, the leadership in the Senate, Senator LOTT, I think we have to mention Senator LOTT as well, who has been a wonderful mainstay on our side with respect to this issue, our leadership, the Speaker, the majority leader, the majority whip have come and saved us time and time again because they know how important this provision is to the American people and their representatives here in Congress, particularly the freshman class so well represented here on the floor tonight.

Mr. McINTOSH. Madam Speaker, that is absolutely correct. They have done a tremendous job of shepherding this bill.

I would yield to the gentleman from Arizona [Mr. HAYWORTH].

Mr. HAYWORTH. Madam Speaker, I thank the gentleman from Indiana, and I listened with great interest to my two colleagues from Indiana, my good friend from Maryland, and my friend from Washington State who preceded me here at this location.

Madam Speaker, I thought our friend from Washington State made a very valid point that needs to be amplified. Disagreement over political philosophies is not the issue here; but, again, dipping into the pockets of American taxpayers to fund that disagreement is absolutely the issue we are talking about tonight.

My friend from Washington State, lest he be accused of sour grapes, was far too modest to detail what has gone on against him in his home district. I just thought for the RECORD it would be good to analyze where some of the attacks on our friend from Washington State, from whence they have come, groups financed, oft times in large measure by tax dollars from the American public against our friend RANDY TATE in Washington State.

A radio advertisement in March dealing with lawsuit limits, this suit brought by Citizen Action and Trial Lawyers. $15,000 goes into that anti-RANDY TATE ad campaign.

AFL-CIO radio ads in July dealing with OSHA regulation, $20,000.

AFL-CIO TV ads in August dealing with OSHA regulation, $80,000.

Save America's Families. Gee, I thought we were trying to do that, but I guess in this Orwellian newspeak one takes on a title that works.

Save America's Families TV and radio ads in September dealing with Medicare or, in honor of tomorrow's holiday, we could daresay their attack as Mediscare, $85,000.

A telephone campaign from the same aforementioned group, $10,000.

A Medi-caravan, $10,000.

$230,000 from these advocacy groups personally attacking a Member of Congress.

Now, again, Madam Speaker, I will applaud anyone's right to come to the well of this House, anyone's right as one of our constituents, anyone's right through the first amendment to the courage of their convictions; but it is a far cry to talk about the courage of one's convictions and the convenience of taxpayer dollars.

To those again who would try to misdirect this debate, to those again who would cry that it is an effort to silence a particular political philosophy, I would just simply say once again the facts speak for themselves. Indeed, the efforts of my colleagues here in drafting this legislation, to take into account not only the legitimate concerns of charity but also another angle. If I daresay, on first amendment rights, to make sure that Congress does not absolutely prohibit or proscribe entreaties with elected officials on behalf of charities or on the parts of these organizations, the gentleman has included that in the legislation.

□ 2230

So, indeed this is to silence no one. But let the American people understand something that has been made painfully clear to those of us assembled here on the floor and, indeed to you, Madam Speaker, that in the midst of an historic shift to change this institution, sadly, arguments that come from those opposed to our changes have nothing to do with policy and have everything to do with power.

Who has the majority in this Chamber? Who has the opportunity to advocate certain policies? And, again, I say that political conviction is one thing, but political convenience is quite another. And in the case of our good friend from Washington State, and in indeed in the case of several others, again we draw this distinction. It is fine to have disagreements. It is fine to have at times what might be characterized as bare-knuckled comparisons and contracts in the political arena. But even rhetorically as you make your points, realistically do not pick the pockets of Mr. and Mrs. America to do that. Have the courage of your convictions, rather than the convenience of taxpayer largesse.

Let me close with this comment. Those who would say we are silencing a certain philosophy, I think, perhaps so championed that philosophy that they are the same type of folks who believe that electricity emanates from the light switch, that milk is found in a container, and that this money originates with the Government here.

The money does not originate with the Government here, Madam Speaker. It is in the pockets of every American who is working hard. And if those Americans choose to voluntarily give to an organization to advocate a point of view, that is their right. But involuntary servitude to a political philosophy must be stopped. That is what we are trying to do with this piece of legislation.

Mr. McINTOSH. Here, here. Let me commend the gentleman. As the gentleman was speaking, I realized that this is part of the large, titanic struggle that we are engaged in in this Congress. Because each of those issues that they were advertising against in our colleague's district in Washington State was a part of the Contract With America.

There was the effort to reform the legal system so that the lawyers do not continue to become richer and richer at the expense of the populace. There was the issue of regulatory reform to hold back the bureaucrats that are strangling our businesses and farmers in this country. And, finally, there is the issue that we considered last week of getting to a balanced budget and a tax cut in this country.

In each case, the opponents of our Contract With America were saying, "We want your taxpayer dollars to pay for our lobbyists, and we are going to insist that you give us funds to pay for our lobbyists out of the taxpayer's pockets in this country, and once again we are going to put that money to use to try to stop you from what you were sent here to do on behalf of the taxpayers; to once again give the Government back to the American people so that it is their government and not the government of the bureaucracies and the large lobbying groups who are resided here in Washington, DC."

So, the gentleman has inspired me in a way that I have not thought of being on this issue. That it is a part of this larger, overall struggle that this Congress is engaged in returning power to the people. I commend the gentleman for that.

I recognize my colleague from Indiana.

Mr. SOUDER. First off, I want to say that $230,000 is really an impressive endorsement of my colleague from Washington. It shows how committed he is to change. The people back in his home State, when they hear that, they ought to say, "Boy, RANDY is really out here doing things. They really want him out."

The problem is that we do not like it that they are doing it with our money or our tax deductions. If people want the tax deductions, they should follow the 5-percent rule. If people want to do it with our money, then they should not be doing it to defeat RANDY TATE. They have all the opportunity in the world.

In fact, every $10,000 that goes against RANDY TATE in his campaign should be considered a badge of honor that he is here reforming things. He should say, "Go get some more and come after me, because every dollar you are spending does it." But do not do it with the taxpayers' money and do not do it with our deductions.

Which really gets to a bigger question, which as somebody who boosts increasing the charitable deduction and who has made it a major part of what I came here to do, it has been frustrating to have some disagreements with the friends of mine in the charitable areas over this issue.

At the same time, the plain truth of the matter is that this is one of the things that we are fighting and what we are trying to deal with in this bill, and that is the corrupting influence that Government funds can have on the people who are caring for people who really need it. The people in Catholic social services and Lutheran social services and the tons of volunteer organizations dealing with people in prisons and child abuse, domestic violence, the terrible problems that we have in this society, feel the problem that we have in this country is a lot that many of us are ignoring those who are hurting and have not been taking an involvement.

They are struggling and they see these terrible problems and think, Boy, if we could just dip into the Federal dollars to solve this. But you start chasing your tail. First, you have to start compromising and start filling out paperwork and changing the nature of your organization. All the sudden there are religious restrictions and many of the most powerful groups have a very strong moral component that they cannot do with tax dollars.

They start chasing the Federal dollars and then they start to convert themselves and instead of spending their money on helping the people, the ones they could help, they are now trying to chase and get the Government involved. And the Government, who has been completely ineffective, tends to corrupt the influence of those groups in the first place.

So, there is a deeper question here, and that is not only are we trying to talk about the political ends and whether or not some of these groups have been using their funds to damage people in Congress who are trying to cause changes, but there is the core question of what this is doing to the organizations themselves and their mission and this society.

We need organizations in this country dedicated to values without the big hand of Government steering them and trying to control what they can and cannot say. Part of this is to say, If you want the Federal funds, then stay out of the lobbying. And if you want to be completely independent and raise your money, then you can follow and get the 501(c)(3) restrictions on the 5 percent, but do not go over that, because your primary mission is to be independent and to help those who are hurting. Your primary mission is not to lobby Congress and to turn into mini-politicians.

We are in danger in this country of watching our charitable end turn into another quasi-government and become corrupted and as ineffective as what we have seen. As one pastor in Detroit who was told that he had to do it the Government's way, otherwise he could not get government funds. He could not talk about religion. He was an African-American pastor. He said, "From what I have seen what the Government has done, every housing project you have touched is crumbling; every juvenile delinquency program you have does not work; every drug abuse program does not have good return. Everything my church has done in the community has worked. Our housing, our juvenile delinquency, our drugs, our child care.

Yet, you tell me unless I do it your way, I cannot have the money."

It is a sad day when our charitable organizations start to get into this web of Government. This is a great way, and really the undergirding of much of what you are doing, not the political. I thank the gentleman from Indiana for his leadership.

Mr. MCINTOSH. Thank you. Let me share testimony from one young man who came to our subcommittee, because it reinforces everything that the gentleman just said. Isaac Randolph is a former firefighter from Indianapolis, a black gentleman who is very dedicated to his community and that city.

He wants to help black youths who are in danger are being caught up in the gang violence and drugs and ruining their lives. He quit his job, a very good job with the city, and started a group called the St. Florian Society, named after the patron saint of firefighters.

He has been dedicating his life to trying to teach leadership skills and encourage young people from the inner-city to respect themselves, learn leadership, and make something of their lives. He receives a little bit of Federal grant money through the city, although most of it he collects really from the private sector.

He came and testified saying that he thought our bill was incredibly important, because he thought that the nature of the charitable activity that he was engaged in would be corrupted if it continued to be the goal of those groups to lobby and advocate for government programs, rather than getting in there and helping the inner-city youths in his neighborhood, helping the elderly, helping communities around the country.

It was very moving testimony from a gentleman who has dedicated his life to helping those around him. I think it is something we should take to heart very deeply as we move forward in this area.

So, the testimony in the subcommittee has been very supportive of exactly the point the gentleman is making about preserving and strengthening the true charitable activities that work in our country.

Mr. EHRLICH. Just a quick follow-up, I know the gentleman from Arizona [Mr. HAYWORTH] has some very important information to share, but we get so bogged down from time to time with the opposition to this initiative, with the organized way in which they have gone about attacking us across the country, particularly on the Internet. That is a subject for another day and hopefully we will have a colloquy on that as well.

But I think we get so bogged down with respect to the opposition that we lose sight of all the grassroots groups out there, the individuals, the organizations that have supported this legislation from day one. Just to name a few, because I have the letters right here and I know the chairman of the subcommittee has seen the letters: National Taxpayers Union; Citizens for a Sound Economy; the Association of Concerned Taxpayers; The 60-Plus Association, a seniors group; the U.S. Chamber of Commerce; the Seniors Coalition, another seniors group; the Association of Concerned Taxpayers; Americans for Tax Reform; the National Association of Manufacturers, and on and on and on and on and on.

Through the efforts of the gentleman from Indiana [Mr. MCINTOSH], we have been able to put together this coalition of people who know we need to change the law because it is broken.

I congratulate the gentleman from Indiana. I am proud to serve on his subcommittee.

Mr. MCINTOSH. Thank you so much. It is a great subcommittee because of the members, more than everything. Yes, Mr. HAYWORTH?

Mr. HAYWORTH. I thank the gentleman from Indiana. We detailed a few figures concerning taxpayer-funded opposition or taxpayer-funded advocacy in the political arena involving our friend from Washington State. Others, Madam Speaker, may be joining us tonight saying, Well, you are not giving us the entire picture. We need some more evidence, if you will. What else can you show us? you talk about abuses of the taxpayers' money. What else can you show us?

I think it is instructive to go back to Federal funding as it existed from July 1993 through June 1994, and take a look at what has gone on. And I dare say, given the fact that this Congress was controlled by those with another philosophy, perhaps these appropriations even increased in the last fiscal year.

But that fact notwithstanding, the AFL–CIO, July 1993 to June 1994, over $2 million in taxpayers' money. And, of course, big labor is operating a program called Standup designed to defeat the new agenda in Congress. But, again, it is not the disagreement, but the fact that over $2 million of taxpayers' money went into that endeavor.

AFSCME, the American Federation of State, County and Municipal Employees, $148,000 of taxpayers' money going into political advocacy.

Perhaps most egregiously, the National Council of Senior Citizens, a whopping $68 million. I had to take a look at this to make sure I had this right. $68 million. Over 90 percent, as the gentleman from Indiana pointed out, 96 percent of this charitable organization's funding comes from the pockets of hard-working taxpayers. Yet, the same organization, taking over $68 million in taxpayers' money contributed $405,000 to 134 candidates for Congress.

Again, if people want to contribute to political campaigns, that is their right. But 96 percent of that $68 million and over $400,000 going into those endeavors? Madam Speaker, it appears it was charitable only to the candidates involved. It was charitable only to those ceaseless proponents of a welfare state where big government is the answer to every question and where they would will a veil of secrecy descend. And when that veil is lifted, the most amazing and, yes, the most vile epithets are employed.

As we began in special orders tonight, I invoked the words of outrage from our friend from California who said as we passed this bill, quote, "It's a glorious day if you are a Fascist. If you are a Fascist, it's a glorious day."

Madam Speaker, nothing could be further from the truth. It is a glorious day for the American taxpayers when we are willing to stand up and say no more of this abuse. Let us lift this veil of secrecy and more importantly, let us terminate this egregious action.

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Mr. EHRLICH. Madam Speaker, was the gentleman in the subcommittee public hearing day, when we were referred to as McCarthyites?

Was the gentleman in the room?

Mr. HAYWORTH. Unfortunately, I was not there, but I have been treated as every Member of this institution. Every Member of this new majority has been treated to a ceaseless parade of epithets from those who see the gravy train about to come to an end. And it is a measure of their desperation, as has been noted here, that they will make any comparison, no matter how vile, no matter how reprehensible.

I have to say, with great confusion, I am surprised the fourth estate that so assiduously covers matters here does not respond on its editorial pages with outrage about these statements, but then again I guess we are new to this town and we have a lot to learn from those groups. But it is amazing to see those comments bandied about.

Mr. SOUDER. Madam Speaker, one of the things that we hear is, why are you guys picking on these groups? Why are you just doing this?

The plain truth of the matter is that, if there is any doubt about this freshman class and those of us who are here today, we are not picking on just this group. We are picking on everybody. We are going after this entire system, and we are not going to exempt any different groups.

We are looking at term limits. We finally got a commitment that we are going to do gift reform. We got a commitment finally that we are going to do lobby reform. We have a commitment that the freshmen are going to work on a week or at least a couple days or at least a number of initiatives this coming year on finance reform.

For 40 years, the other party was in control, and they did not do it. We have Members of this body, former Members of this body going to prison. We have others resigning in disgrace, getting long pensions and all sorts of things.

We came here to reform the whole system. We are not going to exempt one group because they look to be charitable corporations. If they are abusing taxpayer funds, they are going to get hit, too. If Members are abusing it, they are going to get hit. If PAC's are abusing it, they are going to get hit.

We were sent here to Washington to change this system. I commend the gentleman for his leadership on this issue. I commend the gentleman on other things and the other freshmen. It is not that we are just picking on this. We are, as I said, going to pick on everybody who is abusing the taxpayers' dollars and abusing this wonderful House and trying to return it back to the people. I am proud to be here with my fellow freshmen here tonight and those who came here really committed to reform.

Mr. McINTOSH. Madam Speaker, I find it ironic. I think the opponents of this measure are trying to make any argument to any group to try to stop us from going forward and protecting the taxpayer.

The most recent ones that I read in the mail today was that they were arguing that this bill that we have would be bad because it would limit businesses in their lobbying effort if they receive a Federal grant for research or other activities. So how ironic that people who have been attacking businesses all of their lives are now worried that we might be limiting the ability of businesses to lobby to a million dollars per business and that this could be a grave threat.

My answer is, it is not business, it is not charity. It is anybody who lives off of the Federal Government and the taxpayer funds who needs to realize we are serious. This is real lobbying reform. We are not going to subsidize your lobbyists anymore. We are going to put an end to it so that we end welfare for lobbyists.

Mr. EHRLICH. Madam Speaker, the bottom line is, if they do not realize we are serious by now, they will never realize it. As the gentleman well knows, because he has been the target particularly, and the gentleman from Washington [Mr. TATE], they know we are serious. That is why they are so scared because they know we have the facts and we have the votes and we have the leadership, your leadership.

Mr. TATE. Madam Speaker, if the gentleman will continue to yield, it has been referenced many times about the freshmen coming to this town. We brought fresh ideas. But it is amazing from the folks across the aisle, they want to do things the way they have always done it.

We can understand the mentality a little better when I think, well, why are you worried about this? This is $40 billion, billion with a B. This is a lot of money. I am not sure how much was spent on political campaigns last year, but I think those pale in comparison to $40 billion, to me if we can really reform the way things are done around here.

The other argument, as we are closing, is, how can we do this? How can we change this? How can they look into the taxpayers' eyes in my district, as they are working and struggling to get by to put food on the table, to buy shoes for the kids, to save money for education, to put a little money aside for health care, to maybe even save money to go on vacation and to find out that their own money is being sent to Washington, DC, to lobby for more of their hard earned money.

Basically, the taxpayer works hard, sends his money to Washington, DC, then some nameless bureaucrat writes a check to some group that turns around and lobbies for more of that hard earned taxpayers' money, which is what it really comes down to.

So I would challenge those across the aisle that oppose this to talk to the constituents in my district that work hard for their taxpayer dollars.

STANDING UP FOR THE AMERICAN TAXPAYER

The SPEAKER pro tempore (Mrs. SEASTRAND). Under a previous order of the House, the gentleman from Indiana [Mr. SOUDER] is recognized for 5 minutes.

Mr. SOUDER. Madam Speaker, I yield to the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Madam Speaker, let me come to a close here and say, no matter how much they attack us as individuals, I appreciate all of the efforts that each of you have put in in moving this bill forward and working with our leadership here, Speaker GINGRICH, Majority Leader ARMEY, Majority Whip DELAY, and the leadership in the Senate, from Senator DOLE to Senator LOTT to the Senators who have supported this, Senator SIMPSON and Senator CRAIG in making this bill a reality.

They can throw mud at us as individuals. They can run advertisements attacking us in our districts. They can impugn our motives and try to destroy our reputations in the press. But we were not sent here for any of those purposes. We were sent here to stand up for the American taxpayer and to do what is right.

We have now sent notice to this town that we will not rest until we have put an end to taxpayer subsidies for the bill lobbying groups here in Washington, DC. I think the American taxpayers will be relieved and heartened that we are willing to stand up and insist on this reform on their behalf.

I thank all of my colleagues for coming here tonight and working so hard to make this bill a possibility.

COMMUNICATION FROM HON. ANDREW JACOBS, JR., MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. ANDREW JACOBS, Jr., Member of Congress:

U.S. CONGRESS,
WAYS AND MEANS COMMITTEE,
October 26, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I have determined that compliance with the subpoena is not consistent with the privileges and precedents of the House.

Sincerely,

ANDY JACOBS, Jr.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. JOHNSON of Connecticut (at the request of Mr. ARMEY) for today, on account of the birth of her first grandchildren, twin boys.

Mr. MCHUGH (at the request of Mr. ARMEY) for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes each day, on today and October 31.

Mr. KIM, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SOUDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. ACKERMAN.
Mr. COLEMAN.
Mrs. MEEK of Florida.
Mr. HAMILTON.
Miss COLLINS of Michigan.
Mr. POSHARD.
Mr. FRAZER.
Mr. RUSH.
Mr. ROEMER.
Mr. LIPINSKI.
Mr. BARCIA in two instances.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. SMITH of New Jersey.
Mr. CUNNINGHAM.
Mr. EHLERS.
Mr. GALLEGLY.
Mr. CRAPO.
Mr. SHUSTER.
Mr. KING.
Mrs. JOHNSTON of Connecticut.

(The following Members (at the request of Mr. MCINTOSH) and to include extraneous matter:)

Mr. RICHARDSON.
Mr. SAM JOHNSON of Texas.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

An act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Rules, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On October 26, 1995:

H.R. 716. An act to amend the Fishermen's Protective Act.

H.R. 1026. An act to designate the U.S. post office building located at 201 East Pikes Peak Avenue in Colorado Springs, CO, as the "Winfield Scott Stratton Post Office."

ADJOURNMENT

Mr. MCINTOSH. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 53 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 31, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1571. A letter from the Energy Information Administration, Department of Energy, transmitting a copy of a report entitled "Emissions of Greenhouse Gases in the United States, 1987–1994," the third in a series of annual reports; to the Committee on Commerce.

1572. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Norway for defense articles and services (Transmittal No. 96-05), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1573. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Denmark for defense articles and services (Transmittal No. 96-06), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 238. A bill to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses; with an amendment (Rept. 104–296). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 248. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–297). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 249. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–298). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1788. A bill to reform the statutes relating to Amtrak, to authorize appropriations for Amtrak, and for other purposes; with an amendment (Rept. 104–299). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRAPO (for himself, Mr. SKEEN, Mr. ALLARD, Mr. STUMP, Mr. SCHAEFER, Mr. COOLEY, and Mrs. CHENOWETH):

H.R. 2555. A bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ESHOO:

H.R. 2556. A bill to redesignate the Federal building located at 345 Middlefield Road in Menlo Park, CA, and known as the Earth Sciences and Library Building, as the "Vincent E. McKelvey Federal Building"; to the Committee on Transportation and Infrastructure.

By Mr. EWING (for himself and Mr. PETERSON of Minnesota:

H.R. 2557. A bill to amend the Agricultural Trade Act of 1978 to provide greater assurances for contract sanctity; to the Committee on Agriculture, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR (by request):

H.R. 2558. A bill to amend chapter 303 of title 49, United States Code, to provide for the transfer of selected National Driver Register functions to non-Federal management, to provide authorizations for appropriations for each of fiscal years 1996 and 1997, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Michigan:

H.R. 2559. A bill to amend the Internal Revenue Code of 1986 to provide an expanded medical expenses deduction; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 2560. A bill to provide for conveyances of certain lands in Alaska to Chickaloon-Moose Creek Native Association, Inc., Ninilchik Native Association, Inc., Seldovia Native Association, Inc., Tyonek Native Corp., and Knikatnu, Inc. under the Alaska Native Claims Settlement Act; to the Committee on Resources.

Mr. BUYER (for himself, Mr. MCHALE, Mr. GILMAN, Mr. SPENCE, Mr. ALLARD, Mr. ANDREWS, Mr. BACHUS, Mr. BAKER of California, Mr. BAKER of Louisiana, Mr. BARR, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BEREUTER, Mr. BILIRAKIS, Mr. BLUTE, Mr. BONILLA, Mr. BONO, Mr. BURTON of Indiana, Mr. CALVERT, Mr. CAMP, Mr. CANADY, Mr. CASTLE, Mr. CHABOT, Mr. CHAMBLISS, Mr. CHRYSLER, Mr. CLINGER, Mr. COBURN, Mr. COLLINS of Georgia, Mr. COX, Mr. CRAMER, Mr. CREMEANS, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Ms. DUNN of Washington, Mr. EHRLICH, Mr. ENSIGN, Mr. EVANS, Mr. EVERETT, Mr. EWING, Mr. FIELDS of Texas, Mr. FILNER, Mr. FLANAGAN, Mrs. FOWLER, Mr. FRANKS of New Jersey, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Mr. GANSKE, Mr. PETE GEREN of Texas, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GUNDERSON, Mr. HANCOCK, Mr. HANSEN, Ms. HARMAN, Mr. HASTINGS of Washington, Mr. HEFLEY, Mr. HOBSON, Mr. HOLDEN, Mr. HORN, Mr. HOSTETTLER, Mr. HOUGHTON, Mr. HUNTER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. ISTOOK, Mr. JACOBS, Mr. KASICH, Mr. KLINK, Mr. KLUG, Mr. KNOLLENBERG, Mr. LAHOOD, Mr. LARGENT, Mr. LAUGHLIN, Mr. LEWIS of

Kentucky, Mr. LIGHTFOOT, Mrs. LINCOLN, Mr. LONGLEY, Mr. LUCAS, Mr. MCCOLLUM, Mr. MCINNIS, Mr. MCINTOSH, Mr. MCKEON, Mr. MYERS of Indiana, Mr. NETHERCUTT, Mr. NEUMANN, Mr. OXLEY, Mr. PARKER, Mr. POMBO, Mr. QUINN, Mr. RIGGS, Mr. ROBERTS, Mr. ROEMER, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROTH, Mr. SCHAEFER, Mr. SCHIFF, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. SHAYS, Mr. SKEEN, Mr. SMITH of Texas, Mr. SOLOMON, Mr. SOUDER, Mr. STEARNS, Mr. STOCKMAN, Mr. STUMP, Mr. TALENT, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TIAHRT, Mr. TORKILDSEN, Mr. TRAFICANT, Mr. UPTON, Mrs. WALDHOLTZ, Mr. WALSH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WHITE, Mr. WOLF, and Mr. HASTERT):

H. Res. 247. Resolution expressing the sense of the House of Representatives relating to the deployment of United States Armed Forces on the ground in the territory of the Republic of Bosnia and Herzegovina to enforce a peace agreement; to the Committee on International Relations.

By Mrs. WALDHOLTZ (for herself, Mr. BARRETT of Wisconsin, Mr. SHAYS, Mr. MINGE, Mr. DEAL of Georgia, Mr. KLUG, Mr. MEEHAN, Mr. LUTHER, Mr. RAMSTAD, Ms. DUNN of Washington, Mr. INGLIS of South Carolina, Mr. FORBES, Mr. LOBIONDO, Mr. SMITH of Michigan, Mr. HAYWORTH, Mr. GANSKE, Mr. SANFORD, Mr. CANADY, Mr. WAMP, and Mr. HOLDEN):

H. Res. 250. Resolution to amend the Rules of the House of Representatives to provide for gift reform; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 118: Mr. FRANKS of New Jersey.

H.R. 218: Mr. COBLE.

H.R. 394: Mrs. MEYERS of Kansas.

H.R. 497: Ms. JACKSON-LEE, Mr. SCOTT, Mr. BEVILL, Mr. PAYNE of Viginia, and Mr. SPRATT.

H.R. 528: Mr. COOLEY, Mr. LOBIONDO, Mr. LANTOS, Mr. HEFLEY, Mr. WELLER, Mr. REGULA, and Mr. POMEROY.

H.R. 540: Mr. STARK, Mr. GUTIERREZ, Mrs. MEYERS of Kansas, and Mr. ENSIGN.

H.R. 580: Mrs. KELLY.

H.R. 703: Mr. FRANKS of New Jersey.

H.R. 1023: Mr. BERMAN, Mr. FIELDS of Louisiana, and Mrs. LOWEY.

H.R. 1078: Ms. WOOLSEY and Mr. GEJDENSON.

H.R. 1136: Ms. DUNN of Washington.

H.R. 1464: Mr. ROHRABACHER, Mr. HORN, Mr. HAYWORTH, Mr. SHAYS, and Mrs. MEYERS of Kansas.

H.R. 1662: Mr. VENTO, Mr. WALSH, Mr. DUNCAN, and Mr. HOUGHTON.

H.R. 1846: Mr. ENGLISH of Pennsylvania and Mr. LEACH.

H.R. 1900: Mr. LEACH, Mr. TRAFICANT, and Mr. MANZULLO.

H.R. 1956: Mr. ACKERMAN, Mr. FORBES, Mr. GOSS, Mr. BATEMAN, Mr. ANDREWS, Mr. LOBIONDO, and Mrs. THURMAN.

H.R. 2027: Ms. LOFGREN.

H.R. 2098: Mr. CAMP, Mr. KINGSTON, Mr. LEWIS of Kentucky, and Mr. HOKE.

H.R. 2121: Mrs. KENNELLY and Mr. ENGLISH of Pennsylvania.

H.R. 2138: Mr. BACHUS and Mr. WELLER.

H.R. 2181: Mr. DINGELL.

H.R. 2211: Mr. EVANS, Mr. NADLER, and Mr. ROMERO-BARCELÓ.

H.R. 2214: Mr. STUPAK.

H.R. 2276: Ms. BROWN of Florida, Mr. BOEHLERT, and Mr. TUCKER.

H.R. 2429:Mr. FOGLIETTA.

H.R. 2452: Mr. BARCIA of Michigan.

H.R. 2461: Mr. EVANS.

H.R. 2481: Mr. PACKARD and Mr. LIPINSKI.

H.R. 2500: Mr. FIELDS of Texas, Mr. EHLERS, and Mr. CUNNINGHAM.

H.R. 2519: Mr. BRYANT of Texas, Mr. GILLMOR, Mr. HALL of Texas, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. OXLEY, and Mr. SMITH of Texas.

H.R. 2550: Mr. JONES, Mr. COMBEST, Mr. DEAL of Georgia, Mr. LAUGHLIN, Mr. FRANK of Massachusetts, Mr. RAMSTAD, Mr. EWING, and Mr. ALLARD.

H.R. 2551: Mr. LUTHER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 359: Mr. PAXON.

H.R. 1745: Mr. TORKILDSEN.

AMENDMENTS

Under clause 6 of XXIII, proposed amendments were submitted as follows:

H.R. 2546

OFFERED BY: MR. BONILLA

AMENDMENT NO. 1: Insert on page 58, after line 4, the following new section:

REVOCATION OF PROPERTY TAX-EXEMPTION FOR NATIONAL EDUCATION ASSOCIATION

SEC. . Effective for taxable years beginning after September 30, 1995, section 4 of the act entitled "An Act to incorporate the National Education Association of the United States", Approved June 30, 1906 (34 Stat. 805; Sec. 46–1036, D.C. Code) is repealed.

H.R. 2546

OFFERED BY: MR. GUNDERSON

AMENDMENT NO. 2: At the end of the bill, add the following:

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the "District of Columbia School Reform Act of 1995".

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(3) AVERAGE DAILY ATTENDANCE.—The term "average daily attendance", when used with respect to a school and a period of time, means the aggregate attendance of the school during the period divided by the number of days during the period on which—

(A) the school is in session; and

(B) the pupils of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—

(A) INDIVIDUAL SCHOOL.—The term "average daily membership", when used with respect to a school and a period of time, means the aggregate enrollment of the school during the period divided by the number of days during the period on which—

(i) the school is in session; and

(ii) the pupils of the school are under the guidance and direction of teachers.

(B) GROUPS OF SCHOOLS.—The term "average daily membership", when used with respect to a group of schools and a period of time, means the average of the average daily memberships during the period of the individual schools that constitute the group.

(5) BOARD OF EDUCATION.—The term "Board of Education" means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term "Board of Trustees" means the governing board of a public charter school, the members of which board have been selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONTROL PERIOD.—The term "control period" means a period of time described in section 209 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104–8).

(8) CORE CURRICULUM.—The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through 12th grade in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term "District of Columbia government" means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public benefit corporation that has the authority to receive monies directly or indirectly from the District of Columbia (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTIONS.—The term "District of Columbia government" does not include the following:

(i) The Authority.

(ii) A public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term "District of Columbia government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term "District of Columbia public school" means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through the 12th grade; or

(ii) leading to a general education diploma.

(B) EXCEPTION.—The term does not include a public charter school.

(13) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The term "District of Columbia public schools" means all schools that are District of Columbia public schools.

(14) DISTRICT-WIDE ASSESSMENTS.—The term "district-wide assessments" means reliable and unbiased student assessments administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools.

(15) ELIGIBLE APPLICANT.—The term "eligible applicant" means a person, including a private, public, or quasi-public entity and an institution of higher education (as defined in section 481 of the Higher Education Act of 1965), who seeks to establish a public charter school.

(16) ELIGIBLE CHARTERING AUTHORITY.—The term "eligible chartering authority" means any of the following:

(A) The Board of Education.

(B) Any of the following public or federally-chartered universities:

(i) Howard University.

(ii) Gallaudet University.

(iii) American University.

(iv) George Washington University.

(v) The University of the District of Columbia.

(C) Any other entity designated by enactment of a bill as an eligible chartering authority by the District of Columbia Council after the date of the enactment of this Act.

(17) FACILITIES MANAGEMENT.—The term "facilities management" means the administration, construction, renovation, repair, maintenance, remodeling, improvement, or other oversight, of a building or real property of a District of Columbia public school. The term does not include the performance of any such act with respect to real property owned by a public charter school.

(18) FAMILY RESOURCE CENTER.—The term "family resource center" means an information desk—

(A) located at a school with a majority of students whose family income is not greater than 185 percent of the poverty guidelines updated annually in the Federal Register by the Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981; and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) LONG-TERM REFORM PLAN.—The term "long-term reform plan" means the plan submitted by the Superintendent under section 2101.

(20) MAYOR.—The term "Mayor" means the Mayor of the District of Columbia.

(21) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(22) MINOR STUDENT.—The term "minor student" means an individual who—

(A) is enrolled in a District of Columbia public schools or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31-401 and 31-402, D.C. Code).

(23) NONRESIDENT STUDENT.—The term "nonresident student" means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(24) PANEL.—The term "Panel" means the World Class Schools Panel established under subtitle D.

(25) PARENT.—The term "parent" means a person who has custody of a child enrolled in a District of Columbia public school or a public charter school, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(26) PETITION.—The term "petition" means a written application, submitted by an eligible applicant to an eligible chartering authority, to establish a public charter school.

(27) PROMOTION GATE.—The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include achievement on district-wide assessments that, to the greatest extent practicable, measure student achievement of the core curriculum.

(28) PUBLIC CHARTER SCHOOL.—The term "public charter school" means a publicly funded school in the District of Columbia that is established pursuant to subtitle B. A public charter school is not a part of the District of Columbia public schools.

(29) SCHOOL.—The term "school" means—

(A) a public charter school; or

(B) any other day or residential school that provides elementary or secondary education, as determined under State or District of Columbia law.

(30) STUDENT WITH SPECIAL NEEDS.—The term "student with special needs" has the meaning given such term by the Mayor and the District of Columbia Council under section 2301.

(31) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(32) TEACHER.—The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, and the Authority a long-term reform plan, not later than February 1, 1996. The plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996 required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8).

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, Mayor, and District of Columbia Council, and, in a control period, with the Authority; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to these recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term plan shall describe how the District of Columbia public schools will become a world-class education system which prepares students for life-time learning in the 21st century and which is on a par with the best education systems of other nations. The plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally- and internationally-competitive levels by students attending District of Columbia public schools.

(B) The creation of a performance-oriented workforce.

(C) The construction and repair of District of Columbia public school facilities.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools; and

(E) The implementation of an efficient and effective adult literacy program.

(2) OTHER INFORMATION.—For each of the items in subparagraphs (A) through (G) of paragraph (1), the long-term plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals must be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the appropriate congressional committees, the Mayor, the District of Columbia Council, and the Authority; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term plan to the appropriate congressional committees. Any amendment to the long-term plan shall be consistent with the financial plan and budget for fiscal year 1996 for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8).

Subtitle B—Public Charter Schools

SEC. 2151. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert an existing District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2152;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school;

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) has been signed by a majority of the total number of—

(i) parents of minor students attending the school; and

(ii) adult students attending the school; and

(B) has been endorsed by at least a majority of full-time teachers at the school; and

(4) shall explain in the petition the relationship that will exist between the public charter school and its employees.

(b) Independent or Private School.—An eligible applicant seeking to convert an existing independent or private school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2152;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school;

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) has been signed by a majority of the total number of—

(i) parents of minor students attending the school; and

(ii) adult students attending the school; and

(B) has been endorsed by at least a majority of full-time teachers at the school; and

(4) shall explain in the petition the relationship that will exist between the public charter school and its employees.

(c) New School.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert an existing public, private, or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2152.

SEC. 2152. CONTENTS OF PETITION.

A petition to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school.

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the school, which includes, at a minimum—

(A) the methods that will be used to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(B) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the plan for evaluating student academic achievement of the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(5) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which a such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(6) A description of the proposed rules and policies for governance and operation of the school.

(7) Copies of the proposed articles of incorporation and bylaws of the school.

(8) The names and addresses of the members of the proposed Board of Trustees.

(9) A description of the student enrollment, admission, suspension, and expulsion policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(10) A description of the procedures the school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws and regulations of the Federal Government and the District of Columbia.

(11) An explanation of the qualifications that will be required of employees of the proposed school.

(12) An identification, and a description, of the individuals and entities submitting the application, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

SEC. 2153. PROCESS FOR APPROVING OR DENYING CHARTER PETITIONS.

(a) Schedule.—An eligible chartering authority may establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register. An eligible chartering authority shall make a copy of any such schedule available to all interested persons upon request.

(b) Public Hearing.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the authority shall hold a public hearing on the petition to gather the information that is necessary for the authority to make the decision to approve or deny the petition.

(c) Notice.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) Approval or Denial.—Subject to subsection (i), an eligible chartering authority shall approve a petition to establish a public charter school, if—

(1) the authority determines that the petition satisfies the requirements of this subtitle; and

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this title and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition.

(e) Timetable.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) Extension.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that does not exceed 30 days.

(g) Explanation.—If an eligible chartering authority denies a petition or finds it to be incomplete, the authority shall specify in writing the reasons for its decision and indicate, when appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) Approved Petition.—

(1) Notice.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register.

(2) Charter.—The provisions of a petition to establish a public charter school that has been approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the authority.

(i) Special Rules for First Year.—During the one-year period beginning on the date of the enactment of this Act, each eligible chartering authority—

(1) may approve not more than one petition filed by an eligible applicant seeking to convert an existing independent or private school into a public charter school; and

(2) in considering a petition to establish a public charter school filed by any eligible applicant, shall consider whether the school will focus on students with special needs.

(j) Exclusive Authority of Chartering Authority.—Notwithstanding any other Federal law or law of the District of Columbia, no governmental entity, elected official, or employee of the District of Columbia may make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except the eligible chartering authority with which the petition was filed.

SEC. 2154. DUTIES AND POWERS OF, AND OTHER REQUIREMENTS ON, PUBLIC CHARTER SCHOOLS.

(a) Duties.—A public charter school shall comply with—

(1) this subtitle;

(2) any other provision of law applicable to the school; and

(3) all of the terms and provisions of its charter.

(b) Powers.—A public charter school shall have all of the powers necessary for carrying out its charter, including the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

(2) To acquire real property for use as its school facilities, from public or private sources.

(3) To receive and disburse funds for school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of other Federal or private funds.

(6) To solicit and accept any grants or gifts for school purposes, if the school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to the terms of the petition to establish the school as a public charter school; and

(B) maintains separate accounts for grants or gifts for financial reporting purposes.

(7) To be responsible for its own operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in its own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency, with respect to any contract proposed to be awarded by a public charter school and having a value equal to or exceeding $10,000, the school shall publish a notice of a request for proposals in the District of Columbia Register not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this title; and

(B) shall be exempt from statutes, policies, rules, and regulations governing District of Columbia public schools established by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in this title or in the charter granted to the school.

(4) AUDITS.—A public charter school shall be subject to the same financial audits, audit procedures, and fiduciary requirements as a District of Columbia public school.

(5) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school, the provisions of this title, and any other law applicable to the school.

(6) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(7) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(8) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(9) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file it with the eligible chartering authority that granted the charter. The provisions of section 2153 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(10) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter and to the Authority. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) Student performance on any districtwide assessments.

(ii) Grade advancement for students enrolled in the public charter school.

(iii) Graduation rates, college admission test scores, and college admission rates, if applicable.

(iv) Types and amounts of parental involvement.

(v) Official student enrollment.

(vi) Average daily attendance.

(vii) Average daily membership.

(viii) A financial statement audited by an independent certified public accountant.

(ix) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in subparagraph (B) that are included in an annual report may not identify the individuals to whom the data pertain.

(11) STUDENT ENROLLMENT REPORT.—A public charter school shall report to the Mayor and the District of Columbia Council annual student enrollment on a grade-by-grade basis, including students with special needs, in a manner and form that permits the Mayor and the District of Columbia Council to comply with subtitle E.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31–404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Pre-school.

(B) Pre-kindergarten.

(C) Any grade or grades from kindergarten through 12th grade.

(D) Adult community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2155. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such a board shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be a parent of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the selection or election criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim board may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this title, and other applicable law.

SEC. 2156. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's intellectual or athletic ability, measures of achievement or aptitude, or a student's disability. A public charter school may limit enrollment to specific grade levels or areas of focus of the school, such as mathematics, science, or the arts, where such a limitation is consistent with the charter granted to the school.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert an existing public, private, or independent school into a public charter school, is approved, the school shall give priority in enrollment to—

(1) students enrolled in the school at the time that the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of an existing public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to a public charter school at the current rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student has enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2157. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under the paragraph may submit a request to the Superintendent for an extension of the leave of absence for an additional 2-year term. The Superintendent may not unreasonably withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2–139, effective March 3, 1979, (D.C. Code, sec. 1–627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who become an employee of a public charter school within 60 after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2) .

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system by the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law, an employee of a public charter school shall not be considered to be an employee of the District of Columbia government for any purpose.

SEC. 2158. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2–152, effective March 9, 1979, (D.C. Code, sec. 44–216 et seq.) to a student attending a District of Columbia public school.

SEC. 2159. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services such as facilities maintenance to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2160. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965, and shall be eligible for assistance under such part, if the percentage of pupils enrolled in the public charter school during the preceding fiscal year who were eligible for, and received, free or reduced price school lunches under the National School Lunch Act is equal to or greater than the lowest such percentage for any District of Columbia public school that was selected to provide services under section 1113 of such Act for such preceding year.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(C) NUMBER OF ELIGIBLE PUPILS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of pupils enrolled in the public charter school during the preceding fiscal year who were eligible for, and received, free or reduced price school lunches under the National School Lunch Act.

(D) AGGREGATE NUMBER OF ELIGIBLE PUPILS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of pupils enrolled during the preceding fiscal year in all eligible public charter schools who were eligible for, and received, free or reduced price school lunches under the National School Lunch Act.

(ii) The number of pupils who, during the preceding fiscal year—

(I) were enrolled in a District of Columbia public school selected to provide services under section 1113 of the Elementary and Secondary Education Act of 1965; and

(II) were eligible for, and received, free or reduced price school lunches under the National School Lunch Act.

(iii) The number of pupils who, during the preceding fiscal year—

(I) were enrolled in a private or independent school;

(II) were eligible for, and received, free or reduced price school lunches under the National School Lunch Act; and

(III) resided in an attendance area of a District of Columbia public school selected to provide services under section 1113 of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEARS 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124(c)(2), 1124A(a)(4), 1125(c)(2), and 1125(d) of the Elementary and Secondary Education Act of 1965, for fiscal year 1999 and fiscal years thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if they were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and fiscal years thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the number described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal year 1999 and fiscal years thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the charter school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5), (8), and (9) of section 1112(b).

(B) Subsection 1112(c).

(C) Section 1113.

(D) Section 1115A.

(E) Subsections (a), (b), and (c) of section 1116.

(F) Subsections (a), (c), (d), (e), (f), and (g) of section 1118.

(G) Section 1120.

(H) Subsections (a) and (c) of section 1120A.

(I) Section 1120B.

(J) Section 1126.

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

SEC. 2161. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to the school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to the school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the authority has granted a charter to produce any book, record, paper, or document, if the authority determines that such production is necessary for the authority to carry out its functions under this title.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to an public charter school, the authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, a governing board of such an authority, and the directors, officers, employees, and volunteers of such an authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

SEC. 2162. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of 5-year periods.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b) unless the authority determines that—

(1) the school committed a material violation of the conditions, terms, standards, or procedures set forth in the charter; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in the charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision, in reasonable detail, the grounds for the denial.

(5) ALTERNATIVES UPON NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter granted to a public charter school, or whose decision approving such an application is reversed under section 2162(e), may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the authority, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

(e) BOARD OF EDUCATION RENEWAL REVIEW.—

(1) NOTICE OF DECISION TO RENEW.—An eligible chartering authority, other than the Board of Education, that renders a decision to approve an application to renew a charter granted to a public charter school—

(A) shall provide a copy of the decision to the Superintendent, the Board of Education, and the school not later than 3 days after the decision is rendered; and

(B) shall publish the decision in the District of Columbia Register not later than 5 days after the decision is rendered.

(2) RECOMMENDATION OF SUPERINTENDENT.—Not later than 30 days after an eligible chartering authority provides a copy of a decision approving an application to renew a charter to the Superintendent under paragraph (1), the Superintendent may recommend to the Board of Education, in writing, that the decision be reversed.

(3) STANDARD OF REVIEW BY BOARD OF EDUCATION.—The Board of Education may concur in a recommendation of the Superintendent under paragraph (2), and reverse a decision approving an application to renew a charter granted to a public charter school, if the Board of Education determines that—

(A) the school failed to meet the goals and student academic achievement expectations set forth in the charter, in the case of a school that has a student body the majority of which comprises students with special needs; or

(B) the average test score for all students enrolled in the school was less than the average test score for all students enrolled in the District of Columbia public schools on the most recently administered the district-wide assessments, in the case of a school that has a student body the majority of which does not comprise students with special needs.

(4) PROCEDURES FOR REVERSING DECISION.—

(A) NOTICE OF RIGHT TO HEARING.—In any case in which the Board of Education is considering reversing a decision approving an application to renew a charter granted to a public charter school, the Board of Education shall provide to the Board of Trustees of the school a written notice stating in reasonable detail the grounds for the proposed reversal. The notice shall inform the Board of Trustees of the right to an informal hearing on the proposed reversal.

(B) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under subparagraph (A), the Board may request, in writing, an informal hearing on the proposed reversal before the Board of Education.

(C) DATE AND TIME OF HEARING.—

(i) NOTICE.—Upon receiving a timely written request for a hearing under subparagraph (B), the Board of Education shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(ii) DEADLINE.—An informal hearing under this paragraph shall take place not later than 30 days after the Board of Education receives a timely written request for the hearing under subparagraph (B).

(D) FINAL DECISION.—

(i) DEADLINE.—The Board of Education shall render a final decision, in writing, on the proposed reversal—

(I) not later than 30 days after the date on which the Board of Education provided the written notice of the right to a hearing, in the case of a proposed reversal with respect to which such a hearing is not held; and

(II) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed reversal with respect to which a hearing is held.

(ii) REASONS FOR REVERSAL.—If the Board of Education reverses a decision approving an application to renew a charter, the Board of Education shall state in its decision, in reasonable detail, the grounds for the reversal.

(E) JUDICIAL REVIEW.—

(i) AVAILABILITY OF REVIEW.—A decision by the Board of Education to reverse a decision approving an application to renew a charter shall be subject to judicial review.

(ii) STANDARD OF REVIEW.—A decision by the Board of Education to reverse a decision approving an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2163. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the authority determines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter to a public charter school shall revoke the charter if the authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating in reasonable detail the grounds for the proposed revocation. The notice shall inform the Board of the right of the Board to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision, in reasonable detail, the grounds for the denial.

(5) ALTERNATIVES UPON REVOCATION.—An eligible chartering authority that revokes a charter granted to a public charter school may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2164. DISCONTINUANCE OF ELIGIBLE CHARTERING AUTHORITY.

(a) NOTICE.—In the case of an eligible chartering authority that has granted a charter to a public charter school and that becomes unable or unwilling to continue to act in the capacity of an eligible chartering authority with respect to the school, the authority shall provide written notice of such discontinuance to the school, to the extent feasible, not later than the date that is 120 days before the date on which such discontinuance takes effect.

(b) PETITION BY SCHOOL.—A public charter school that has been granted a charter by an eligible chartering authority that becomes unable or unwilling to continue to act in the capacity of an eligible chartering authority with respect to the school shall file a petition with another eligible chartering authority described in subsection (c)(2). The petition shall request that such other authority assume the powers and duties of an eligible chartering authority with respect to the school and the charter granted to the school. The petition shall be filed—

(1) in the case of a public charter school that received a timely notice under subsection (a), not later than 120 days after such notice was received; and

(2) in the case of a public charter school that did not receive a timely notice under subsection (a), not later than 120 days after the date on which the eligible chartering authority ceases to act in the capacity of an eligible chartering authority with respect to the school.

(c) CHARTERING AUTHORITIES REQUIRED TO ASSUME DUTIES.—

(1) IN GENERAL.—If any of the eligible chartering authorities described in paragraph (2) receives a petition filed by a public charter school in accordance with subsection (b), the eligible chartering authority shall grant the petition and assume the powers and duties of an eligible chartering authority with respect to the school and the charter granted to the school.

(2) ELIGIBLE CHARTERING AUTHORITIES.—The eligible chartering authorities referred to in paragraph (1) are the following:

(A) The Board of Education.

(B) Any other entity established, and designated as an eligible chartering authority, by the District of Columbia Council by enactment of a bill after the date of the enactment of this Act.

(d) INTERIM POWERS AND DUTIES OF SCHOOL.—Except as provided in this section, the powers and duties of a public charter school that has been granted a charter by an eligible chartering authority that becomes unable or unwilling to continue to act in the capacity of an eligible chartering authority with respect to the school shall not be affected by such discontinuance, if the school satisfies the requirements of this section.

SEC. 2165. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally-established institutions shall explore whether it is feasible for the agency or institution to establish one or more public charter schools:

(1) The Library of Congress.

(2) The National Aeronautics and Space Administration.

(3) The Drug Enforcement Agency.

(4) The National Science Foundation.

(5) The Department of Justice.

(6) The Department of Defense.

(7) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) DETERMINATION.—Not later than 120 days after the date of the enactment of this Act, each agency and institution listed in subsection (a) shall make a determination regarding whether it is feasible for the agency or institution to establish one or more public charter schools.

(c) REPORT.—Not later than 270 days after the date of the enactment of this Act, any agency or institution listed in subsection (a) that has not filed a petition to establish a public charter school with an eligible chartering authority shall report to the Congress the reasons for the decision.

Subtitle C—Even Start

SEC. 2201. AMENDMENTS FOR EVEN START PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1002 of the Elementary and Secondary Education Act of 1965 is amended by striking subsection (b) and inserting the following:

"(b) EVEN START.—

"(1) IN GENERAL.—For the purpose of carrying out part B, other than Even Start programs for the District of Columbia as described in paragraph (2), there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) DISTRICT OF COLUMBIA.—For the purpose of carrying out Even Start programs in the District of Columbia as described in section 1211, there are authorized to be appropriated—

"(A) for fiscal year 1996, $2,000,000 for continued funding made in fiscal year 1995, and for new grants, for an aggregate of 8;

"(B) for fiscal year 1997, $3,500,000 for continued funding made in fiscal year 1996 and for new grants, for an aggregate of 14;

"(C) for fiscal year 1998, $5,000,000 for continued funding made in fiscal years 1996 and 1997 and for new grants, for an aggregate of 20 grants in such fiscal year;

"(D) for fiscal year 1999, $5,000,000 for continued funding made in fiscal years 1996, 1997, and 1998 and for new grants, for an aggregate of 20 grants in such fiscal year; and

"(E) for fiscal year 2000, $5,000,000 for continued funding made in fiscal years 1996, 1997, 1998, and 1999 and for new grants, for an aggregate of 20 grants in such fiscal year or such number as the Secretary determines appropriate pursuant to the evaluation described in section 1211(i)(2).".

(b) EVEN START FAMILY LITERACY PROGRAMS.—Part B of title I of the Elementary and Secondary Education Act of 1965 is amended—

(1) in section 1202(a)(1), by inserting "(1)" after "1002(b)";

(2) in section 1202(b), by inserting "(1)" after "1002(b)";

(3) in section 1202(d)(1)—

(A) by inserting "(1)" after "1002(b)"; and

(B) by inserting "or under section 1211," after "subsections (a), (b), and (c),";

(4) in section 1202(d)(3), by inserting "(1)" after "1002(b)";

(5) in section 1202(e)(4), by striking ", the District of Columbia,";

(6) in section 1204(a), by inserting "intensive" after "cost of providing";

(7) in section 1205(4), by inserting ", intensive" after "high-quality";

(8) in section 1206(b)(1), by striking "described in subsection (a)"; and

(9) by adding at the end the following new section:

"SEC. 1211. DISTRICT OF COLUMBIA EVEN START INITIATIVES.

"(a) D.C. PROGRAM AUTHORIZED.—The Secretary shall provide grants, on a competitive basis, to assist eligible entities to carry out Even Start programs in the District of Columbia that build on the findings of the 'National Evaluation of the Even Start Family Literacy Program', such as providing intensive services in parent training and adult literacy or adult education.

"(b) DEFINITION OF 'ELIGIBLE''.—For the purpose of this section, the term 'eligible entity' means a partnership composed of at least—

"(1) a public school in the District of Columbia;

"(2) the local educational agency in existence on September 1, 1995 for the District of Columbia, any other public organization, or an institution of higher education; and

"(3) a private nonprofit community-based organization.

"(c) USES OF FUNDS; COST-SHARING.—

"(1) COMPLIANCE.—Each eligible entity that receives funds under this section shall comply with section 1204(a) and 1204(b)(3), relating to the use of such funds.

"(2) COST-SHARING.—Each program funded under this section is subject to the cost-sharing requirement of section 1204(b)(1), except that the Secretary may waive that requirement, in whole or in part, for any eligible entity that demonstrates to the Secretary's satisfaction that such entity otherwise would not be able to participate in the program under this section.

"(3) MINIMUM.—Except as provided in paragraph (4), each eligible entity selected to receive a grant under this section shall receive not more than $250,000 in any fiscal year, except that the Secretary may increase such amount if the Secretary determines that—

"(A) such entity needs additional funds to be effective; and

"(B) the increase will not reduce the amount of funds available to other programs that receive funds under this section.

"(4) REMAINING FUNDS.—If funds remain after payments are made under paragraph (3) for any fiscal year, the Secretary shall make such remaining funds available to each selected eligible entity in such fiscal year on a pro rata basis.

"(d) PROGRAM ELEMENTS.—Each program assisted under this section shall comply with the program elements described in section 1205, including intensive high quality instruction programs of parent training and adult literacy or adult education.

"(e) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Individuals eligible to participate in a program under this section are—

"(A) the parent or parents of a child described in subparagraph (B), or any other adult who is substantially involved in the day-to-day care of the child, who—

"(i) is eligible to participate in an adult education program under the Adult Education Act; or

"(ii) is attending, or is eligible by age to attend, a public school in the District of Columbia; and

"(B) any child, from birth through age 7, of an individual described in subparagraph (A).

"(2) ELIGIBILITY REQUIREMENTS.—The eligibility factors described in section 1206(b) shall apply to programs under this section.

"(f) APPLICATIONS.—Each eligible entity that wishes to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(g) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall—

"(1) use the selection criteria described in subparagraphs (A) through (F) and (H) of section 1208(a)(1); and

"(2) give priority to applications for programs that—

"(A) target services to schools in which a schoolwide program is being conducted under section 1114 of this subtitle; or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(h) DURATION OF PROGRAMS.—The priority for subgrants described in section 1208(b) shall apply to grants made under this section, except that—

"(1) references in that section to the State educational agency and to subgrants shall be read to refer to the Secretary and to grants under this section, respectively; and

"(2) notwithstanding paragraph (4) of such section, the Secretary shall not provide continuation funding to a recipient under this section if the Secretary determines, after affording the recipient notice and an opportunity for a hearing, that the recipient has not made substantial progress toward achieving its stated objectives and the purpose of this section.

"(i) TECHNICAL ASSISTANCE AND EVALUATION.—

"(1) TECHNICAL ASSISTANCE.—(A) The Secretary shall use not more than 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year to provide technical assistance to eligible entities, including providing funds to one or more local nonprofit organizations to provide technical assistance to eligible entities in the areas of community development and coalition building, and for the evaluation conducted pursuant to paragraph (2).

"(B) The Secretary shall allocate 5 percent of the amounts authorized under section 1002(b)(2) in any fiscal year to contract with the National Center for Family Literacy to provide technical assistance to eligible entities.

"(2) EVALUATION.—(A) The Secretary shall use funds available under paragraph (1)(A) to provide an independent evaluation of programs under this section to determine their effectiveness in providing high quality family literacy services including—

"(i) intensive and high quality services in adult literacy or adult education;

"(ii) intensive and high quality services in parent training;

"(iii) coordination with related programs;

"(iv) training of related personnel in appropriate skill areas; and

to determine if the grant amount provided to grantees to carry out such projects is appropriate to accomplish the goals of this section.

"(B)(i) Such evaluation shall be conducted by individuals not directly involved in the administration of a program operated with funds provided under this section. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors listed in subparagraph (A).

"(ii) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

"(C) The Secretary shall prepare and submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Economic and Education Opportunities of the House of Representatives, the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Committee on Governmental Affairs of the Senate a report regarding the results of such evaluations not later than March 1, 1999. The Secretary shall provide an interim report by March 1, 1998.".

Subtitle D—World Class Schools Panel; Core Curriculum; Assessments; and Promotion Gates

PART 1—WORLD CLASS SCHOOLS PANEL

SEC. 2251. ESTABLISHMENT.

There is established a panel to be known as the "World Class Schools Panel".

SEC. 2252. DUTIES OF PANEL.

(a) IN GENERAL.—Not later than July 1, 1996, the Panel shall recommend to the Superintendent and the Board of Education the following:

(1) A core curriculum for kindergarten through the 12th grade developed or selected by the Panel.

(2) District-wide assessments for measuring student achievement in the curriculum developed or selected under paragraph (1). Such assessments shall be developed at several grade levels, including, at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates, as required under section 2263. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits the following comparisons to be made:

(A) Comparisons among individual schools and individual students in the District of Columbia.

(B) Comparisons between individual schools and individual students in the District of Columbia and schools and students in other States and the Nation as a whole.

(C) Comparisons between individual schools and individual students in the District of Columbia and schools and students in other nations whose students historically have scored high on international studies of student achievement.

(3) Model professional development programs for teachers using the curriculum developed or selected under paragraph (1).

(b) CONTENT.—The curriculum and assessments recommended under subsection (a) shall be either newly developed or existing materials that are judged by the Panel to be—

(1) "world class", including having a level of quality and rigor that is equal to, or greater than, the level of quality and rigor of analogous curricula and assessments of other nations (including nations whose students historically score high on international studies of student achievement); and

(2) appropriate for the District of Columbia public schools.

(c) SUBMISSION TO SECRETARY.—If the curriculum, assessments, and model professional development programs recommended by the Panel are approved by the Board of Education, the Superintendent may submit them to the Secretary of Education as evidence of compliance with sections 1111, 1112, and 1119 of the Elementary and Secondary Education Act of 1965.

SEC. 2253. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Panel shall be comprised of the Superintendent and 6 other members appointed as follows:

(1) 2 members appointed by the Speaker of the House of Representatives.

(2) 2 members appointed by the majority leader of the Senate.

(3) 1 member appointed by the President.

(4) 1 member appointed by the Mayor who—

(A) is a parent of a minor student enrolled in a District of Columbia public school; and

(B) is active in a parent organization.

(b) EXPERTISE.—The members of the Panel appointed under paragraphs (1), (2), and (3) of subsection (a) shall be appointed from among individuals who are nationally recognized experts on education reform in the United States or who are nationally recognized experts on education in other nations, including the areas of curriculum, assessment, and teacher training.

(c) TERMS.—The term of service of each member of the Panel shall begin on the date of appointment of the member and shall end on the date of the termination of the Panel, unless the member resigns from the Panel or becomes incapable of continuing to serve on the Panel.

(d) CHAIRPERSON.—The members of the Panel shall select a chairperson from among them.

(e) DATE OF APPOINTMENT.—The members of the Panel shall be appointed not later than 30 days after the date of the enactment of this Act.

(f) COMMENCEMENT OF DUTIES.—The Panel may begin to carry out its duties under this part when 5 members of the Panel have been appointed.

(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

SEC. 2254. CONSULTATION.

The Panel shall conduct its work in consultation with—

(1) officials of the District of Columbia public schools who have been identified by the Superintendent as having relevant responsibilities;

(2) the consortium established under section 2604(e); and

(3) any other persons or groups the Panel deems appropriate.

SEC. 2255. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the chairperson or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING AND FINAL DECISION.—

(1) PROHIBITION ON PROXY VOTING.—No individual may vote, or exercise any other power of a member, by proxy.

(2) FINAL DECISIONS.—In making final decisions of the Panel with respect to the exercise of its duties and powers, the Panel shall operate on the principle of majority vote.

(d) PUBLIC ACCESS.—The Panel shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) and make available to the public, at reasonable cost, transcripts of such proceedings.

(e) NO PAY FOR PERFORMANCE OF DUTIES.—Members of the Commission may not be paid for the performance of duties vested in the Commission.

(f) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

SEC. 2256. GIFTS.

The Panel may, during the fiscal year ending September 30, 1996, accept donations of money, property, and personal services, except that no donations may be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of the Panel.

SEC. 2257. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Panel, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, shall appoint a Director to be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF EMPLOYEES.—

(1) APPOINTMENT.—The Director may appoint not more than 6 additional employees to serve as staff to the Panel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(2) PAY.—The employees appointed under paragraph (1) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but shall not be paid a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States may detail any of the personnel of such agency to the Panel to assist the Panel in its duties under this part.

SEC. 2258. TERMINATION OF PANEL.

The Panel shall terminate upon the completion of its work, but not later than August 1, 1996.

SEC. 2259. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $2,000,000 for fiscal year 1996. Such sum shall remain available until expended.

PART 2—DUTIES OF BOARD OF EDUCATION WITH RESPECT TO CORE CURRICULUM, ASSESSMENTS, AND PROMOTION GATES

SEC. 2261. DEVELOPMENT OF CORE CURRICULUM AND DISTRICT-WIDE ASSESSMENTS.

(a) IN GENERAL.—If the Board of Education does not approve both the core curriculum and the district-wide assessments recommended by the Panel under section 2252, the Superintendent shall develop or select, with the approval of the Board of Education, an alternative curriculum and alternative district-wide assessments that satisfy the requirements of paragraphs (1) and (2) of subsection (a), and subsection (b), of such section, except that the reference to the Panel in section 2252(b) shall be considered a reference to the Superintendent.

(b) DEADLINE.—If the Board of Education does not approve both the core curriculum and the district-wide assessments recommended by the Panel under section 2252, the Superintendent shall meet the requirements of subsection (a) not later than August 1, 1996.

SEC. 2262. ASSESSMENTS.

(a) ADMINISTRATION OF ASSESSMENTS.—The Superintendent shall administer the assessments developed or selected under section 2252 or 2261 to students enrolled in the District of Columbia public schools and public charter schools on an annual basis.

(b) DISSEMINATION OF INFORMATION.—

(1) IN GENERAL.—Except as provided by paragraph (2), the information derived from the assessments administered under subsection (a) shall be made available, on an annual basis, to the appropriate congressional committees, the District of Columbia Council, the Mayor, parents, and other members of the public.

(2) LIMITATION.—To release any such information, the Superintendent shall comply with the requirements of section 444 of the General Education Provisions Act (20 U.S.C 1232g).

SEC. 2263. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than August 1, 1996, the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from kindergarten through and including the 4th grade.

(b) 5TH THROUGH 8TH GRADES.—Not later than August 1, 1997, the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from the 5th grade through and including the 8th grade.

(c) 9TH THROUGH 12TH GRADES.—Not later than August 1, 1998, the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from the 9th grade through and including the 12th grade.

(d) INTERIM DEADLINE.—Not later than February 1, 1996, the Superintendent shall designate the grade levels with respect to which promotion gates will be established and implemented.

Subtitle E—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2301. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish a formula which determines the amount—

(A) of the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) of the annual payment to each public charter school for the operating expenses of each such public charter school established in accordance with subtitle B.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2302 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2302 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTION.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula—

(A) to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels; and

(B) to increase the amount of the annual payment if the District of Columbia public schools or each public charter school serve a high number of students with special needs (as such term is defined under paragraph (4)).

(4) DEFINITION.—The Mayor and the District of Columbia Council shall develop a definition of the term "students with special needs" for purposes of carrying out this title.

SEC. 2302. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15 of each year, beginning in fiscal year 1997, each District of Columbia public school and public charter school shall submit a report to the Mayor, District of Columbia Council, Board of Education, the Authority, and the eligible chartering authority that approved its charter, containing the information described in subsection (b).

(2) SPECIAL RULE.—Not later than April 1 of each year, beginning in 1997, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2303(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students, enrolled in kindergarten through grade 12 of the District of Columbia public schools and in public charter schools established in accordance with this title and the number of students whose tuition for enrollment in other schools is paid for by funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in pre-school and pre-kindergarten in the District of Columbia public schools and in public charter schools established in accordance with this title.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools established in accordance with this title.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in non-grade level programs in District of Columbia public schools and in public charter schools established in accordance with this title.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the Comptroller General of the United States—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (b); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools established in accordance with this title and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days after the date on which the Comptroller General of the United States receives the initial annual report from the Board of Education under subsection (c), the Comptroller General shall submit to the Authority, the Mayor, the District of Columbia Council, and the appropriate congressional committees the audit conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Comptroller General of the United States $75,000 for fiscal year 1996 for the purpose of carrying out this subsection.

SEC. 2303. PAYMENTS TO PUBLIC CHARTER SCHOOLS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of the District of Columbia Appropriations Act for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2301(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) 1997 INITIAL PAYMENT.—Beginning in 1997, not later than October 15 of each year, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for a public charter school determined by using the formula established pursuant to section 2301(b) to a bank designated by each public charter school.

(B) 1997 FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1 of each year beginning in 1997, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Beginning in 1997, not later than March 15, if the enrollment number of a public charter school has changed from the number reported to the Mayor, District of Columbia Council, Board of Education, the Authority, and the eligible chartering authority that approved its charter as required under section 2302(a)(2), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who has enrolled without another student withdrawing or dropping out, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of school without another student replacement.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) If the funds made available to the District of Columbia public schools for any fiscal year are insufficient to pay the full amount that each school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year.

(ii) If additional funds become available for making payments under this subtitle for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for any fiscal year for the purpose of carrying out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) that has not yet been paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school; and

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under 2301(b) by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school.

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection.

Subtitle F—School Facilities Repair and Improvement

PART 1—SCHOOL FACILITIES

SEC. 2351. AGREEMENT FOR TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than December 31, 1995, the Administrator of the General Services Administration and the Superintendent shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the "Agreement") authorizing, to the extent provided in this subtitle, the Administrator to provide technical assistance to the District of Columbia public schools regarding school facilities repair and improvements, including contracting for and supervising the repair and improvements of such facilities and the coordination of such efforts.

(b) AGREEMENT PROVISIONS.—The Agreement shall include the following:

(1) GENERAL AUTHORITY.—Provisions that give the Administrator authority—

(A) to supervise and direct District of Columbia public school personnel responsible for public school facilities repair and improvements;

(B) to develop, coordinate and implement a systemic and comprehensive facilities revitalization program, taking into account the "Preliminary Facilities Master Plan 2005" (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century) to repair and improve District of Columbia public school facilities, including a list of facilities and renovation schedule that prioritizes facilities to be repaired and improved;

(C) to accept private goods and services for use by District of Columbia public schools, in consultation with the nonprofit corporation referred to in section 2603;

(D) to recommend specific repair and improvement projects in District of Columbia public school facilities by members and units of the National Guard and military reserve, consistent with section 2351(b)(1)(B); and

(E) to access all District of Columbia public school facilities and any records or documents regarding such facilities.

(2) COOPERATION.—Assurances by the Administrator and the Superintendent to cooperate with each other, and with the nonprofit corporation referred to in section 2603, in any way necessary, to ensure implementation of the Agreement.

(c) DURATION OF AGREEMENT.—The Agreement shall remain in effect until the agency designated pursuant to section 2352(a)(2) assumes responsibility for the District of Columbia public school facilities but shall terminate not later than 24 months after the date that the Agreement is signed, whichever is earlier.

SEC. 2352. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 24 months after the date that the Agreement is signed, the Mayor and the District of Columbia Council shall—

(1) in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, design and implement a facilities repair, maintenance, improvement, and management program; and

(2) designate a new or existing agency or authority to administer such program to repair, improve, and maintain the physical condition and safety of District of Columbia public school facilities.

(b) PROCEEDS.—Such management program shall include provisions that—

(1) identify short-term funding for capital and maintenance of such facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identify and designate long-term funding for capital and maintenance of such facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for repair, maintenance, improvement, and management of District of Columbia public schools.

SEC. 2353. DEFINITIONS.

For purposes of this subtitle, the following terms have the following meanings:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the General Services Administration.

(2) FACILITIES.—The term "facilities" means buildings, structures, and real property.

SEC. 2354. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1996 and 1997, $2,000,000 to the District of Columbia public schools for use by the Administrator to carry out this subtitle.

PART 2—WAIVERS

SEC. 2361. WAIVERS.

(a) IN GENERAL.—All District of Columbia fees, all requirements found in the document "The District of Columbia Public Schools Standard Contract Provisions" published by the District of Columbia public schools for use with construction maintenance projects, shall be waived, for purposes of repair and improvement of the District of Columbia public schools for a period of 24 months after the date of enactment of this Act.

(b) LIMITATION.—

(1) WAIVER APPLICATION.—A waiver under subsection (a) shall apply only to contractors, subcontractors, and any other groups, entities, or individuals who donate materials and services to the District of Columbia public schools.

(2) INSURANCE REQUIREMENTS.—Nothing in this section shall be construed to waive the requirements for a contractor to maintain adequate insurance coverage.

SEC. 2362. APPLICATION FOR PERMITS.

An application for a permit during the 24-month period described in section 2311(a), required by the District of Columbia government for the repair or improvement of a District of Columbia public school shall be acted upon not later than 20 days after receipt of the application by the respective District of Columbia permitting authorities.

Subtitle G—Department of Education "D.C. Desk"

SEC. 2401. ESTABLISHMENT.

There shall be established within the Office of the Secretary of the Department of Education a District of Columbia Technical Assistance Office (in this subtitle referred to as the "D.C. Desk").

SEC. 2402. DIRECTOR FOR DISTRICT OF COLUMBIA COORDINATED TECHNICAL ASSISTANCE.

The D.C. Desk shall be administered by a Director for District of Columbia Coordinated Technical Assistance. The Director shall be appointed by the Secretary and shall not be paid at a rate that exceeds the maximum rate of basic pay payable for GS–15 of the General Schedule.

SEC. 2403. DUTIES.

The Director of the D.C. Desk shall—

(1) coordinate with the Superintendent a comprehensive technical assistance strategy by the Department of Education that supports the District of Columbia public schools first year reforms and long-term plan described in section 2101;

(2) identify all Federal grants for which the District of Columbia public schools are eligible to apply to support implementation of its long term plan;

(3) identify private and public resources available to the District of Columbia public schools that are consistent with the long-term plan described in section 2101; and

(4) provide additional technical assistance as assigned by the Secretary which supports reform in the District of Columbia public schools.

Subtitle H—Residential School

SEC. 2451. PLAN.

(a) IN GENERAL.—The Superintendent may develop a plan to establish a residential school for the 1997–1998 school year.

(b) REQUIREMENTS.—If developed, the plan for the residential school shall include, at a minimum—

(1) options for the location of the school, including renovation or building of a new facility;

(2) financial plans for the facility, including annual costs to operate the school, capital expenditures required to open the facility, maintenance of facilities, and staffing costs; and

(3) staff development and training plans.

SEC. 2452. USE OF FUNDS.

Funds under this subtitle shall be used for—

(1) planning requirements as described in section 2451; and

(2) capital costs associated with the startup of a residential school, including the purchase of real and personal property and the renovation of existing facilities.

SEC. 2453. FUTURE FUNDING.

The Superintendent shall identify, not later than December 31, 1996, in a report to the Mayor, City Council, the Authority, the Appropriations Committees of the House of Representatives and the Senate, the House Governmental Reform Committee, the House Economic and Educational Opportunities Committee, and the Senate Labor and Human Resources Committee and the Governmental Affairs Committee, non-Federal funding sources for operation of the residential school.

SEC. 2454. GIFTS.

The Superintendent may accept donations of money, property, and personal services for purposes of the establishment and operation of a residential school.

SEC. 2455. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the District $2,000,000 for fiscal year 1996 to carry out this subtitle for initial start-up expenses of a residential school in the District of Columbia, of which not more than $100,000 may be used to carry out section 2451.

Subtitle I—Progress Reports and Accountability

SEC. 2501. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than 60 days after the date of the enactment of this Act, the Chairman of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the reforms described in section 2502.

SEC. 2502. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than August 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, and the District of Columbia Council a progress report that includes the following:

(1) The status of the approval by the Board of Education of the core curriculum—

(A) recommended by the Panel under section 2252(a)(1); or

(B) selected or developed by the Superintendent under section 2261.

(2) The status of the approval by the Board of Education of the district-wide assessments for measuring student achievement—

(A) recommended by the Panel under section 2252(a)(2); or

(B) selected or developed by the Superintendent under section 2261.

(3) The status of the establishment and implementation of promotion gates under section 2263.

(4) Identification of strategies to assist students who do not meet promotion gate criteria.

(5) The status of the implementation of a policy that provides rewards and sanctions for individual schools based on student performance on district-wide assessments.

(6) A description of the activities carried out under the program established under section 2604(e).

(7) The status of implementation by the Board of Education, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals) of a policy for performance-based evaluation of principals and teachers.

(8) A description of how the private sector partnership described in subtitle K is working collaboratively with the Board of Education and the Superintendent.

(9) The status of implementation of policies developed by the Superintendent and the Board of Education that establish incentive pay awards for staff of District of Columbia public schools who meet annual performance goals based on district-wide assessments at individual schools.

(10) A description of how staffing decisions have been revised to delegate staffing to individual schools and transfer additional decisionmaking with respect to budgeting to the individual school level.

(11) A description of, and the status of implementation of, policies adopted by the Board of Education that require competitive appointments for all positions.

(12) The status of implementation of policies regarding alternative teacher certification requirements.

(13) The status of implementation of testing requirements for teacher licensing renewal.

(14) The status of efforts to increase the involvement of families in the education of students, including—

(A) the development of family resource centers;

(B) the expansion of Even Start programs described in part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

(C) the development and implementation of policies to increase parental involvement in education.

(15) A description of, and the status of implementation of, a policy to allow District of Columbia public schools to be used after school hours as community centers, including the establishment of at least one prototype pilot project in one school.

(16) A description of, and the status of implementation of, a policy to increase the participation of tutors and mentors for students, beginning not later than the 8th grade.

(17) A description of the status of implementation of the agreement with the Administrator of the General Services Administration under part 1 of subtitle E.

(18) A description of the status of the District of Columbia public school central office budget and staffing reductions from the level at the end of fiscal year 1995 and a review of the market-based provision of services provided by the central office to schools.

(19) The development by the Superintendent of a system of parental choice among District of Columbia public schools where per pupil funding follows the student ("Public School Vouchers") and adoption by the Board of Education.

(20) The status of the processing of public charter school petitions submitted to the Board of Education in accordance with subtitle B.

(21) The status of the revision and implementation by the Board of Education of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

Subtitle J—Low-Income Scholarships

SEC. 2551. DISTRICT OF COLUMBIA SCHOLARSHIP CORPORATION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—There is authorized to be established a private, nonprofit corporation, to be known as the "District of Columbia Scholarship Corporation" (referred to in this subtitle as the "Corporation"), which is not an agency or establishment of the United States Government.

(2) DUTIES.—The Corporation shall have the responsibility and authority to administer, publicize, and evaluate the District of Columbia Scholarship Program, and to determine student and school eligibility.

(3) CONSULTATION.—The Corporation shall exercise its authority in a manner consistent with maximizing educational choices and opportunities for the maximum number of interested families, and in consultation with other school scholarship programs in the District of Columbia.

(4) APPLICATION OF PROVISIONS.—The Corporation shall be subject to the provisions of this Act, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, 29-501 et seq.).

(5) RESIDENCE.—The Corporation shall have its place of business in the District of Columbia and shall be considered, for purposes of venue in civil actions, to be a resident thereof.

(b) ORGANIZATION AND MANAGEMENT, BOARD OF DIRECTORS.—

(1) MEMBERSHIP.—

(A) IN GENERAL.—The Corporation shall have a Board of Directors (referred to in this subtitle as the "Board"), comprised of seven members with six members of the Board appointed by the President not later than 30 days after receipt of nominations from the Speaker of the House of Representatives and the majority leader of the Senate.

(B) HOUSE NOMINATIONS.—The President shall appoint three of the members from a list of nine individuals nominated by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(C) SENATE NOMINATIONS.—The President shall appoint three members from a list of nine individuals nominated by the majority leader of the Senate in consultation with the minority leader of the Senate.

(D) DEADLINE.—The Speaker of the House of Representatives and majority leader of the Senate shall submit their nominations to the President not later than 30 days after the date of the enactment of this Act.

(E) APPOINTEE OF MAYOR.—The Mayor shall appoint 1 member not later than 60 days after the date of the enactment of this Act.

(F) POSSIBLE INTERIM MEMBERS.—If the President does not appoint the six members of the Board in the 30-day period described in subparagraph (A), the nominees of the Speaker of the House of Representatives and of the Senate, together with the appointee of the Mayor, shall serve as an interim Board of Directors with all the powers and other duties of the Board described in this subtitle, until the President makes the appointments as described in this subsection.

(2) POWERS.—All powers of the Corporation shall vest in and be exercised under the authority of its Board of Directors.

(3) ELECTIONS.—Members of the Board annually shall elect one of the members to be chairperson.

(4) RESIDENCY.—All members appointed to the Board must be residents of the District of Columbia at the time of appointment and while serving on the Board.

(5) NONEMPLOYEE.—No member of the Board may be an employee of the United States Government or the District of Columbia government when appointed or during tenure on the Board, unless the individual is on a leave of absence from such a position while serving on the Board.

(6) INCORPORATION.—The members of the initial Board of Directors shall serve as incorporators and shall take whatever steps are necessary to establish the Corporation under the District of Columbia Nonprofit Corporation Act (D.C. Code 29-501 et seq.).

(7) GENERAL TERM.—The term of office of each member shall be 5 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term.

(8) CONSECUTIVE TERM.—No member of the Board shall be eligible to serve in excess of two consecutive terms of 5 years each. A partial term shall be considered as one full term. Any vacancy on the Board shall not affect its power, but shall be filled in a manner consistent with this subtitle.

(9) NO BENEFIT.—No part of the income or assets of the Corporation shall inure to the benefit of any Director, officer, or employee except as salary or reasonable compensation for services.

(10) POLITICAL ACTIVITY.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

(11) NO OFFICERS.—The members of the Board shall not, by reason of such membership, be considered to be officers or employees of the United States.

(12) STIPENDS.—The members of the Board, while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board pursuant to this subtitle, shall be entitled to a stipend. Such stipend shall be at the rate of $150 per day for which the Board member has been officially recorded as having worked, except that no member may be paid a total stipend amount in any calendar year in excess of $5,000.

(c) OFFICERS AND STAFF.—

(1) EXECUTIVE DIRECTOR.—The Corporation shall have an Executive Director, and such other staff, as may be appointed by the Board for terms and at rates of compensation to be fixed by the Board.

(2) ANNUAL RATE.—No staff of the Corporation may be compensated by the Corporation at an annual rate of pay which exceeds the basic rate of pay in effect from time to time for level IV of the Executive Schedule under section 5312 of title 5, United States Code.

(3) CITIZENSHIP.—No individual other than a citizen of the United States may be a member of the Board of Directors, or staff of the Corporation.

(4) SERVICE.—All officers and employees shall serve at the pleasure of the Board.

(5) QUALIFICATION.—No political test or qualification may be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, or employees of the Corporation.

(d) POWERS OF THE CORPORATION.—

(1) GENERALLY.—The Corporation is authorized to obtain grants from, and make contracts with, individuals and with private, State and Federal agencies, organizations, and institutions.

(2) HIRING AUTHORITY.—The Corporation may hire, or accept the voluntary services of, consultants, experts, advisory boards, and panels to aid the Corporation in carrying out the purposes of this subtitle.

(e) FINANCIAL MANAGEMENT AND RECORDS.—

(1) AUDITS.—The accounts of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants. The audits shall be conducted at the place where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person conducting the audit.

(2) REPORT.—The report by each such independent audit shall be included in the annual report to Congress required by section 2602.

SEC. 2552. FUNDING.

(a) FUND.—There is hereby established in the Treasury a fund that shall be known as the District of Columbia Scholarship Fund, to be administered by the Secretary of the Treasury.

(b) DISBURSEMENT.—The Secretary of the Treasury shall make available and disburse to the corporation, at the beginning of each of fiscal years 1996 through 2000, such funds as have been appropriated to the District of Columbia Scholarship Fund for the fiscal year in which such disbursement is to be made.

(c) AVAILABILITY.—Funds authorized to be appropriated under this subtitle shall remain available until expended.

(d) USES.—Funds authorized to be appropriated under this subtitle shall be used by the Corporation in a prudent and financially responsible manner, solely for scholarships, contracts, and administrative costs.

(e) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to the Fund—

(A) $5,000,000 for fiscal year 1996; and

(B) $7,000,000 for fiscal year 1997, and $10,000,000 for each of fiscal years 1998 through 2000.

(2) LIMITATION.—Not more than $500,000 may be used in any fiscal year by the Corporation for any purpose other than assistance to students.

SEC. 2553. SCHOLARSHIPS AUTHORIZED.

(a) IN GENERAL.—The District of Columbia Scholarship Corporation established under section 2501 is authorized in accordance with this subtitle to award scholarships to students in grades K–12—

(1) who are District of Columbia residents; and

(2) whose families are at or below 185 percent of the Federal poverty guidelines updated annually in the Federal Register by the Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(b) USE OF SCHOLARSHIP.—A scholarship may be used only for—

(1) the cost of the tuition of a private or independent school located within the geographic boundaries of the District of Columbia or the cost of the tuition of public, private, or independent school located within Montgomery County, Maryland; Prince Georges County, Maryland; Arlington County, Virginia; Alexandria City, Virginia; Falls Church City, Virginia; or Fairfax County, Virginia; or

(2) the cost of fees and other expenses for instructional services provided to students on school grounds outside of regular school hours or the cost of transportation for a student enrolled in a District of Columbia public school, public charter school, or independent or private school participating in the tuition scholarship program.

(c) NOT SCHOOL AID.—A scholarship shall be considered assistance to the student and shall not be considered assistance to the school.

SEC. 2554. ELIGIBILITY.

(a) IN GENERAL.—A student who is entitled to receive a public school education in the District of Columbia and who meets the requirements of section 2553(a) is eligible for a scholarship under subsections (c) and (d) of section 2555.

(b) PRIORITY IN YEAR ONE.—In fiscal year 1996, priority shall be given to students currently enrolled in a District of Columbia public school or preparing to enter kindergarten in 1996.

(c) SUBSEQUENT PRIORITY.—In subsequent fiscal years, priority shall be given to scholarship recipients from the preceding year.

SEC. 2555. SCHOLARSHIPS.

(a) AWARDS.—From the funds made available under this subtitle, the Corporation shall award scholarships and make payments, on behalf of the student, to participating schools as described in section 2559.

(b) NOTIFICATION.—Each school that enrolls scholarship students shall notify the Corporation—

(A) not later than 10 days after the date that a student is enrolled, of the names, addresses, and grade level of each scholarship student to the Corporation; and

(B) not later than 10 days after the date of the withdrawal of any scholarship student.

(c) TUITION SCHOLARSHIP AMOUNT.—

(1) BELOW POVERTY LEVEL.—For a student whose family income is at or below the poverty level, a tuition scholarship amount may not exceed the lesser of—

(A) the cost of a school's tuition; or

(B) $3,000 in 1996 with such amount adjusted in proportion to changes in the Consumer Price Index of all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(2) ABOVE POVERTY LEVEL.—For a student whose family income is greater than the poverty level, but not more than 185 percent above the poverty level, a tuition scholarship amount may not exceed the lesser of—

(A) 50 percent of the cost of a school's tuition; or

(B) $1,500 in 1996 with such amount adjusted in proportion to changes in the Consumer Price Index of all urban consumers published by the Department of Labor for each of fiscal years 1997 through 2000.

(d) FEE OR TRANSPORTATION SCHOLARSHIP AMOUNT.—The fee or transportation scholarship amount may not exceed the lesser of—

(1) fees for instructional services provided to students on school grounds outside of regular school hours or the costs of transportation for students enrolled in the District of Columbia public schools, public charter schools, or independent or private schools participating in the tuition scholarship program; or

(2) $500 in fiscal year 1996 with such amount adjusted in proportion to the changes in the Consumer Price Index of all urban consumers published by the Department of Labor for each of the fiscal years 1997 through 2000.

(e) PROPORTION OF DIFFERENT TYPES OF SCHOLARSHIPS.—In each year, the Corporation shall ensure that the number of scholarships awarded for tuition and the number awarded for fees or transportation shall be equal, to the extent practicable.

(f) FUNDING SHORTFALL.—If, after the District of Columbia Scholarship Corporation determines the total number of eligible applicants for an academic year surpasses the amount of funds available in a fiscal year to fund all awards for such academic year, a random selection process shall be used to determine which eligible applicants receive awards.

(g) EXCEPTION.—Subsection (e) shall not apply to individuals receiving scholarship priority described in subsections (b) and (c) of section 2554.

SEC. 2556. SCHOOL ELIGIBILITY FOR TUITION SCHOLARSHIPS.

(a) APPLICATION.—A school that desires to accept tuition scholarship students for a school year shall file an application with the Corporation by July 1 of the preceding school year, except that in fiscal year 1996, schools shall file such applications by such date as the Corporation shall designate for such purpose. In the application, the school shall—

(1) certify that it has operated during the current school year with not less than 25 students,

(2) assure that it will comply with all applicable requirements of this subtitle; and

(3) provide the most recent financial audit, completed not earlier than 3 years before the date such application is filed, from an independent certified public accountant using generally accepted auditing standards.

(b) ELIGIBILITY CERTIFICATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 60 days after receipt of such information, the Corporation shall certify the eligibility of a school to participate in the tuition scholarship program.

(2) CONTINUATION.—Eligibility shall continue in subsequent years unless revoked as described in subsection (d).

(3) EXCEPTION FOR 1996.—In fiscal year 1996 after receipt of the information described in subsection (a), the Corporation shall certify the eligibility of a school to participate in the tuition scholarship program at the earliest practicable date.

(c) NEW SCHOOLS.—

(1) IN GENERAL.—A school that did not operate in the preceding academic year may apply for a 1-year provisional certification of eligibility to participate in the tuition scholarship program for a single school year by providing to the Corporation not later than July 1 of the preceding calendar year for which such school intends to begin operations—

(A) a list of the organization's board of directors;

(B) letters of support from not less than 10 members of the community;

(C) a business plan;

(D) intended course of study;

(E) assurances that it will begin operations with not less than 25 students; and

(F) assurances that it will comply with all applicable requirements of this subtitle.

(2) CERTIFICATION.—Not later than 60 days after the date of receipt of the information referred to in paragraph (1), the Corporation shall certify in writing the school's provisional eligibility for the tuition scholarship program unless good cause exists to deny certification.

(3) DENIAL OF CERTIFICATION.—If certification or provisional certification is denied for participation in the tuition scholarship program, the Corporation shall provide a written explanation to the applicant school of the reasons for such decision.

(d) REVOCATION OF ELIGIBILITY.—

(1) IN GENERAL.—Upon written petition from the parent of a tuition scholarship student or on the Corporation's own motion, the Corporation may, after notice and hearing, revoke a school's certification of eligibility for tuition scholarships for the subsequent school year for good cause, including a finding of a pattern of violation of program requirements described in section 2557(a).

(2) EXPLANATION.—If the eligibility of a school is revoked, the Corporation shall provide a written explanation for its decision to such school.

SEC. 2557. TUITION SCHOLARSHIP PARTICIPATION REQUIREMENTS FOR INDEPENDENT AND PRIVATE SCHOOLS.

(a) INDEPENDENT AND PRIVATE SCHOOL REQUIREMENTS.—Independent and private schools participating in the tuition scholarship program shall—

(1) not discriminate on the basis of race, color, or national origin, or on the basis of a student's disabilities if the school is equipped to provide an appropriate education;

(2) abide by all applicable health and safety requirements of the District of Columbia public schools;

(3) provide to the Corporation not later than June 30 of each year the most recent financial audit completed not earlier than 3 years before the date the application is filed from an independent certified public accountant using generally accepted auditing standards;

(4) abide by all local regulations in effect for independent or private schools;

(5) provide data to the Corporation as set forth in section 2562, and conform to tuition requirements as set forth in section 2555; and

(6) charge tuition scholarship recipients the same tuition amount as other students who are residents of the District of Columbia and enrolled in the same school.

(b) COMPLIANCE.—The Corporation may require documentation of compliance with the requirements of subsection (a), but neither the Corporation nor any governmental entity may impose additional requirements upon independent and private schools as a condition of participation.

(c) WITHDRAWAL FROM PROGRAM.—Schools may withdraw from the tuition scholarship program at any time, refunding to the Corporation the proportion of any scholarship payments already received for the remaining days in the school year on a pro rata basis. If a school withdraws during an academic year, it shall permit scholarship students to complete the year at their own expense.

SEC. 2558. CHILDREN WITH DISABILITIES.

Nothing in this subtitle shall affect the rights of students or the obligations of the District of Columbia public schools under the Individuals with Disabilities Education Act.

SEC. 2559. PAYMENTS FOR TUITION SCHOLARSHIPS.

(a) IN GENERAL.—

(1) PROPORTIONAL PAYMENT.—The Corporation shall make tuition scholarship payments to participating schools not later than October 15 of each year equal to half the total value of the scholarships awarded to students enrolled at such school, and half of such amount not later than January 15 of the following calendar year.

(2) PRO RATA AMOUNTS FOR STUDENT WITHDRAWL.—

(A) BEFORE PAYMENT.—If a student withdraws before a tuition scholarship payment is made, the school shall receive a pro rata amount based on the school's tuition for the number of days the student was enrolled.

(B) AFTER PAYMENT.—If a student withdraws after a tuition scholarship payment is made, the school shall refund to the Corporation the proportion of any scholarship payments already received for the remaining days of the school year on a pro rata basis. Such refund shall occur not later than 30 days after the date of the withdrawal of a student.

(b) FUND TRANSFERS.—The Corporation shall make tuition scholarship payments to participating schools by electronic funds transfer. If such an arrangement is not available, the school shall submit an alternative proposal to the Corporation for approval.

SEC. 2560. TUITION SCHOLARSHIP APPLICATION PROCEDURES.

The Corporation shall implement a schedule and procedures for processing applications for the tuition scholarship program that includes a list of eligible schools, distribution of information to parents and the general public, and deadlines for steps in the application and award process.

SEC. 2561. TUITION SCHOLARSHIP REPORTING REQUIREMENTS.

(a) IN GENERAL.—A school enrolling tuition scholarship students shall report not later than July 30 of each year in a manner prescribed by the Corporation, the following data:

(1) Standardized test scores, if any, for scholarship students.

(2) Grade advancement for scholarship students.

(3) Disciplinary actions taken with respect to scholarship students.

(4) Graduation, college admission test scores, and college admission rates, if applicable for scholarship students.

(5) Types and amounts of parental involvement required for all families.

(6) Student attendance for scholarship students.

(7) General information on curriculum, programs, facilities, credentials of personnel, and disciplinary rules.

(b) CONFIDENTIALITY.—No personal identifiers may be used in the body of such report except that the Corporation may request such confidential information solely for the purpose of verification.

SEC. 2562. FEE OR TRANSPORTATION SCHOLARSHIP PROCEDURES AND CRITERIA.

(a) POLICIES AND PROCEDURES.—The Corporation shall implement policies and procedures and criteria for administering scholarships for use with providers approved by the Corporation either for the cost of fees for instructional services provided to students on school grounds outside of regular school hours or for the costs of transportation for students enrolled in District of Columbia public schools, public charter schools, or independent or private schools participating in the tuition scholarship program.

(b) INFORMATION DISSEMINATION.—The Corporation shall distribute information describing the policies and procedures and criteria developed pursuant to subsection (a), using the most efficient and practicable methods available, to potential applicants and other interested parties within the geographic boundaries of the District of Columbia.

SEC. 2563. PROGRAM APPRAISAL.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Corporation shall provide for an evaluation of the tuition scholarship program, including—

(1) comparison of test scores between tuition scholarship students and District of Columbia public school students of similar background, including by income level;

(2) comparison of graduation rates between tuition scholarship students and District of Columbia public school students of similar background, including by income level; and

(3) satisfaction of parents of scholarship students.

(b) REPORT TO CONGRESS.—Not later than September 1 of each year, the Corporation shall submit a progress report on the scholarship program to the appropriate congressional committees.

SEC. 2564. JUDICIAL REVIEW.

(a) IN GENERAL.—

(1) JURISDICTION.—The United States District Court for the District of Columbia shall have jurisdiction over any legal challenges to the tuition scholarship program and shall provide expedited review.

(2) PROTECTABLE INTERESTS.—Parents and children shall be considered to have a separate protectable interest and entitled to intervene as defendants in any such action.

(3) TIMELY REVIEW.—The court shall render a prompt decision.

(b) APPEALS.—If the tuition scholarship program or any part thereof is enjoined or ruled invalid, the decision is directly appealable to the United States Supreme Court.

Subtitle K—Partnerships With Business

SEC. 2601. PURPOSE.

It is the purpose of this title to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology, to establish a regional job training and employment center, to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools, and to coordinate private sector investments in carrying out this title.

SEC. 2602. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

Not later than 45 days after the date of the enactment of this Act, the Superintendent of the District of Columbia public schools—

(1) shall provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2603 for the purposes of carrying out the duties under section 2604; and

(2) shall establish a nonprofit organization in accordance with the District of Columbia Nonprofit Corporation Act for the purpose of carrying out the duties under section 2605.

SEC. 2603. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2602(1) if the corporation is a national business organization which is incorporated in the District of Columbia and which—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational entities throughout the United States on the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2604. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT.—The corporation shall establish a council to be known as the "District Education and Learning Technologies Advancement Council" or "DELTA Council" (in this title referred to as the "council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the corporation in the duties of the corporation under subsections (b) through (d) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties of the corporation.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL.—The corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(2) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the corporation, not later than 90 days after the date of the enactment of this Act, shall provide for an assessment of the current availability of state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the corporation—

(i) shall provide for on-site inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools established in accordance with this Act; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act, including—

(i) the extent to which typical public schools within the District of Columbia have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(3) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (2), the corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(B) IMPLEMENTATION.—The corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(4) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term plan under paragraph (3), the corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools established in accordance with this Act.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The corporation shall establish a center to be known as the "District Employment and Learning Center" or "DEAL Center" (in this title referred to as the "center"), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate governmental agencies of the District of Columbia to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortia of colleges, universities, community colleges, and other appropriate providers in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work-experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include needs-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The corporation shall establish initiatives with the District of Columbia public schools and public charter

schools established in accordance with this Act, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as established in certain District of Columbia public schools, which provide a "school-within-a-school" concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—

(1) ESTABLISHMENT OF PROGRAM.—The corporation shall establish a consortium consisting of the corporation, teachers, school administrators, and a consortium of universities located in the District of Columbia (in existence on the date of the enactment of this Act) for the purpose of establishing a program for the professional development of teachers and school administrators employed by the District of Columbia public schools and public charter schools established in accordance with this Act.

(2) CONDUCT OF PROGRAM.—In carrying out the program established under paragraph (1), the consortium established under such paragraph, in consultation with the World Class Schools Panel and the Superintendent, shall, at a minimum, provide for the following:

(A) Professional development for teachers which is consistent with the model professional development programs for teachers under section 402(a)(3), or is consistent with the core curriculum developed by the Superintendent under section 411(a)(1), as the case may be, except that in fiscal year 1996, such professional development shall focus on curriculum for elementary grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

(B) Private sector training of teachers in the use, application, and operation of state-of-the-art technology in education.

(C) Training for school principals and other school administrators in effective private sector management practices for the purpose of site-based management in the District of Columbia public schools and training in the management of public charter schools established in accordance with this Act.

(f) OTHER PRIVATE SECTOR ASSISTANCE AND COORDINATION.—The corporation shall coordinate private sector involvement and voluntary assistance efforts in support of repairs and improvements to schools in the District of Columbia, including—

(1) private sector monetary and in-kind contributions to repair and improve school building facilities consistent with section 601;

(2) the development of proposals to be considered by the Superintendent for inclusion in the long-term reform plan to be developed pursuant to section 101, and other proposals to be submitted to the Superintendent, the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Administrator of the General Services Administration, or the Congress; and

(3) a program of rewards for student accomplishment at participating local businesses.

SEC. 2605. JOBS FOR D.C. GRADUATES PROGRAM.

(a) IN GENERAL.—The nonprofit organization established under section 2602(2) shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist the District of Columbia public schools and public charter schools established in accordance with this Act in organizing and implementing a school-to-work transition system with a priority on providing assistance to at-risk youths and disadvantaged youths.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the nonprofit organization, consistent with the policies of the nationally-recognized Jobs for America's Graduates, Inc.—

(1) shall establish performance standards for such program;

(2) shall provide ongoing enhancement and improvements in such program;

(3) shall provide research and reports on the results of such program; and

(4) shall provide pre-service and in-service training of all staff.

SEC. 2606. MATCHING FUNDS.

The corporation shall, to the extent practicable, provide funds, an in kind contribution, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2604, as follows:

(1) For fiscal year 1996, $1 for every $1 of Federal funds provided under this title for section 2604.

(2) For fiscal year 1997, $3 for every $1 of Federal funds provided under this title for section 2604.

(3) For fiscal year 1998, $5 for every $1 of Federal funds provided under this title for section 2604.

SEC. 2607. REPORT.

The corporation shall prepare and submit to the Congress on a quarterly basis, or, with respect to fiscal year 1996, on a biannual basis, a report which shall contain—

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2604, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2604(b)(2); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period beginning on the date of the submission of the report.

SEC. 2608. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) DELTA COUNCIL; ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY; WORKFORCE PREPARATION INITIATIVES; OTHER PRIVATE SECTOR ASSISTANCE AND COORDINATION.—There are authorized to be appropriated to carry out subsections (a), (b), (d) and (f) of section 2604 $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(2) DEAL CENTER.—There are authorized to be appropriated to carry out section 2604(c) $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

(3) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—There are authorized to be appropriated to carry out section 2604(e) $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(4) JOBS FOR D.C. GRADUATES PROGRAM.—There are authorized to be appropriated to carry out section 2605—

(A) $2,000,000 for fiscal year 1996; and

(B) $3,000,000 for each of the fiscal years 1997 through 2000.

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2609. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) TERMINATION OF FEDERAL SUPPORT.—The authority under this title to provide assistance to the corporation or any other entity established pursuant to this title (except for assistance to the nonprofit organization established under section 2602(2) for the purpose of carrying out section 2605) shall terminate on October 1, 1998.

(b) SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.—It is the sense of the Congress that—

(1) the activities of the corporation under section 2604 should continue to be carried out after October 1, 1998, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination of such activities after such date.

Subtitle L—Parent Attendance at Parent-Teacher Conferences

SEC. 2651. ESTABLISHMENT.

(a) POLICY.—Notwithstanding any other provision of law, the Mayor of the District of Columbia is authorized to develop and implement a policy requiring all residents with children attending a District of Columbia public school system to attend and participate in at least 1 parent-teacher conference every 90 days during the school year.

(b) WITHHOLD BENEFITS.—The Mayor is authorized to withhold payment of benefits received under the program under part A of title IV of the Social Security Act as a condition of participation in these parent-teacher conferences.

SEC. 2652. SUBMISSION OF PLAN.

If the Mayor elects to utilize the powers granted under section 2651, the Mayor shall submit to the Secretary of Health and Human Services a plan for implementation. The plan shall include—

(1) plans to administer the program;

(2) plans to conduct evaluations on the success or failure of the program;

(3) plans to monitor the participation of parents;

(4) plans to withhold and reinstate benefits; and

(5) long-term plans for the program.

SEC. 2653. REPORTS TO CONGRESS.

Beginning on October 1, 1996 and each year thereafter, the District shall annually report to the Secretary of Health and Human Services and to the Congress on the progress and results of the program described in section 2651 of this Act.

H.R. 2546

OFFERED BY: MR. HEINEMAN

AMENDMENT NO. 3: Page 9, insert after line 19 the following:

PUBLIC SAFETY INITIATIVES

METROPOLITAN POLICE DEPARTMENT

INFRASTRUCTURE PROGRAM

For investment in the infrastructure of the Metropolitan Police Department, $20,500,000, of which $12,000,000 shall be for essential renovations (including renovations of cell blocks, replacement of fuel tanks, air conditioning, and heating systems, and other necessary repairs), $1,500,000 shall be for vehicle replacement, and $7,000,000 shall be for routine maintenance costs (including equipment repair, payment of utility bills, and the purchase of new uniforms and equipment).

TECHNOLOGY PROGRAM

For technology necessary to modernize the operations of the Metropolitan Police Department, $9,750,000.

RESTORATION OF AMOUNTS REDUCED UNDER PAY AND OVERTIME REDUCTIONS

For salaries and other personnel expenses, $8,300,000.

OFFICE OF THE UNITED STATES ATTORNEY

For salaries, equipment, support staff, and related expenses for the placement of retired personnel of the Metropolitan Police Department with the Office of the United States Attorney for the District of Columbia, $1,290,000.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

For programs for juvenile offenders in the Superior Court of the District of Columbia, $2,502,000, of which $450,000 shall be for juvenile drug treatment facilities, $1,200,000 shall be for special juvenile courts for drug offenses, $500,000 shall be for full funding of boot camps, and $352,000 shall be for pretrial services.

Page 58, insert after line 4 the following new section:

CRIMINAL JUSTICE STUDY COMMISSION

SEC. 154. (a) ESTABLISHMENT.—There is hereby established the Criminal Justice Study Commission for the District of Columbia (hereafter in this section referred to as the "Commission"). The Commission shall be composed of the following individuals:

(1) The Chief Judge of the Superior Court of the District of Columbia.

(2) The Chair of the Judiciary Committee of the Council of the District of Columbia.

(3) The United States Attorney for the District of Columbia.

(4) The Executive Officer of the District of Columbia courts.

(5) The Director of the District of Columbia Public Defender Service.

(6) The Corporation Counsel of the District of Columbia.

(7) The Director of the Department of Corrections of the District of Columbia.

(8) The Chief of the Metropolitan Police Department of the District of Columbia.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall submit a report to Congress, the Council of the District of Columbia, and the Mayor of the District of Columbia on the appropriateness and effectiveness of establishing mandatory minimum sentences for drug offenses and such other nonviolent or violent offenses as the Commission considers appropriate.

(c) TERMINATION.—Unless Congress provides otherwise, the Commission shall terminate after the expiration of the 1-year period which begins on the date of the enactment of this Act.

H.R. 2546

OFFERED BY: MR. HOSTETTLER

AMENDMENT No. 4: Page 37, line 15, strike "No funds" and insert "(a) No funds".

Page 37, line 22, strike "; nor shall any" and all that follows through "1992".

Page 38, insert after line 2 the following:

(b) The Health Care Benefits Expansion Act (D.C. Law 9–114; sec. 36–1401 et seq., D.C. Code) is hereby repealed.

EXTENSIONS OF REMARKS

THE NEW MEDICARE

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. EHLERS. Mr. Speaker, after months of debate and thousands of meetings across the country, the House passed the Medicare Preservation Act [MPA] on October 19. Crafting the legislation, which generated strong feelings on all sides of the issue, was by no means an easy task. I am pleased with the hard work and sincere effort that was put forth by many people in developing a better Medicare system.

Reforming Medicare is an urgent matter that must be addressed. Because of the complexity of the issue and its widespread effect on our Nation, it is important to understand why the system needs to be reformed and what our reform proposal involves. In April the board of trustees of the Social Security funds reported that the Medicare part A trust fund, which pays for hospital-related services, will be bankrupt in 7 years. The part B trust fund, which pays for outpatient services, is not in danger of bankruptcy, because almost 70 percent of part B premiums is paid by the Federal Government, and the rest is paid by beneficiaries who choose this coverage. In 1996, for the first time since its creation, the part A trust fund will be paying out more in benefits than it collects in taxes. Why? Mainly because the costs of providing Medicare benefits have grown at more than double the growth of private-sector health care costs. If we fail to address this problem and control its excessive costs, Medicare will collapse. It is critical, therefore, that we make reforms to save Medicare because there are thousands of beneficiaries who depend on it. Medicare has served us well for 30 years, but its failure to incorporate private-sector innovations and to end waste, inefficiency, and fraud requires us to develop a better system.

The MPA will expand the types of coverage Medicare offers:

One, current Medicare coverage: A beneficiary can choose to continue the same Medicare coverage they have now. If they choose to do this, their copayments and deductibles will not be increased. They will also continue to pay the same percentage of part B premiums, 31.5 percent, with the Government paying the remainder of the premium.

Two, MedicarePlus: A beneficiary is given choices from a new category of coverage, MedicarePlus. This option will allow beneficiaries to choose the same types of health coverage available in the private sector, such as HMO's and other types of coordinated care, instead of traditional Medicare coverage. These plans will likely offer full health care coverage to beneficiaries, perhaps eliminating the need to purchase costly supplementary insurance plans. These plans might also involve coverage of additional services, such as prescription drugs and eye care, in exchange for a more limited choice of health care providers. Beneficiaries would get detailed information in the mail each year about types of plans available in their area.

Three, medical savings accounts: Beneficiaries could also choose coverage through a medical savings account [MSA]. This option would require beneficiaries to choose a high-deductible insurance policy paid by Medicare. The savings achieved through this policy will be placed in an individual MSA, which will be used to pay for health care expenses within the deductible, or to purchase long-term care insurance.

The reforms don't stop there. The new Medicare Program will also make significant reforms in payments for doctors, hospitals, and other health care providers, in order to control costs. Government-funded Medicare coverage for the wealthy will be phased out, starting with couples with incomes above $125,000 and individuals with incomes above $75,000. A special commission will be created to study the effects of the retirement of the large baby boom generation, when there will be only two workers to support every retiree. Mechanisms to detect fraud and abuse will be strengthened, and beneficiaries who detect any wrongdoing in their bills will be rewarded. Finally, the plan will install a failsafe mechanism to monitor the reforms and ensure that they are achieving the savings necessary to protect the system.

Unfortunately, during the long debate about the MPA some groups and individuals generated misinformation about the proposal. It is important to understand that these reforms were not introduced in order to offset tax cuts or balance the budget. If these reforms are not adopted, the system will simply collapse. This is not a quick fix; these changes are needed to protect and preserve the long-term health of the system.

As is the case with any change, glitches may occur as the plan is implemented. While it would be ideal if the reforms were perfect, it is likely some may need correction. Therefore Congress will monitor the implementation process and correct any mistakes that may occur.

Now that the House has given its approval, the MPA has been incorporated into a larger budget package. It will now move on to the Senate before it is sent to the President for his signature.

EGYPT'S ECONOMIC BIND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a recent World Bank study which highlights the economies of the Middle East in general and Egypt as a leader in that region in particular.

The study entitled "Claiming the Future" was the subject of an October 18, 1995 editorial by Thomas Friedman in the New York Times. Mr. Friedman summarizes portions of the World Bank study which show that in 1960 the Middle East had a per capita income higher than Asia, but in 1990, even with oil wealth, the Middle East per-capita income had only doubled while that of Asia had more than quadrupled. Economic reform, privatization, and development have eluded the Middle East to a larger extent.

These problems are acute in Egypt. The need for economic restructuring is enormous. Egypt and the entire Middle East region will need to focus on economic issues if the region is to catch up with the rest of the world. Egypt and the Middle East need economic reform if they are to generate jobs for the burgeoning youth population now entering the job market.

The excellent New York Times editorial follows:

[From the New York Times, Oct. 18, 1995]

EGYPT RUNS FOR THE TRAIN

(By Thomas L. Friedman)

John Page, the World Bank's chief Middle East economist, likes to say that the difference between the global economy of the 1950's and the 1990's is the difference between two trains. The global economy of the 1950's he says, "was like the old train from Heliopolis [a Cairo suburb] to Cairo. That train stopped at every station, and if you missed one, you could always catch another. It was so slow that if you missed the last one, you could ride your bike and catch up at the next station. If you couldn't afford a ticket, you could always ride on the roof. The global economy of the 1990's by contrast is like the bullet train from Tokyo to Osaka. If you miss it it's gone—goodbye—and you can't catch up."

That's a useful image to keep in mind when visiting Cairo these days because the Arab world in general, and Egypt in particular, is in real danger of missing the train, and the consequences could be catastrophic.

Consider some startling statistics from a new World Bank study of Middle East economies entitled "Claiming the Future," which will be released next month. In 1960, the seven leading Arab economies had an average per-capita income of $1,521, while the seven East Asian "tigers"—Taiwan, South Korea, Hong Kong, Singapore, Thailand, Malaysia and Indonesia—had a per capita income of only $1,456. The Arabs were slightly ahead. By 1991, however, the per-capita income of the Arab countries was only $3,342, while the Asian tigers were up to $58,000 per person.

Today the Arab Middle East attracts 3 percent of global foreign investment, while East Asia attracts 58 percent. Egypt exported and imported more goods and services 20 years ago than it does today, relative to the size of its economy. In other words, Egypt was more integrated with the world economy in 1970,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

under Gamal Abdel Nasser, than in 1990, under Hosni Mubarak. The Arab world lags far behind East Asia in spending on education, in the number of women in the work force and in every measure of productivity.

Why the difference? One explanation is that in East Asia leaders usually based their political appeal on economics—"Have I made you better off today than four years ago?"—while Arab leaders based their political appeal on fighting colonialism or Zionism, or on ethnic and religious bonds, or on sheer brute force. No Arab leader ever said: "Judge me on my G.D.P." So Arab economies existed to support the state, instead of the state existing to support the economy. Or, as the Egyptian intellectual Tahseen Bashir says: "Egypt was first a state, then the people were created."

A year ago 500 Egyptian businessmen gathered for the country's biggest-ever economic conference. They adjusted the date precisely so President Mubarak could attend. The day of the conference Mr. Mubarak canceled because of another pressing engagement—he had to receive the President of Mauritania.

No wonder Mr. Mubarak has failed to institute the structural reforms that could make Egypt attractive to foreign investors and competitive on the world stage—that is downsizing the bloated bureaucracy, privatizing state industries and reforming investment regulations. President Mubarak is terrified that downsizing will lead to unemployment and riots.

That is a legitimate fear. But even if Mr. Mubarak doesn't want to touch his bureaucracy, he could at least reform Egypt's antiquated commercial codes, arbitrary tax regulations and red-tape foreign investment rules (a foreign investor needs the signatures of 26 different officials to set up shop here) so that the private sector can provide the jobs the Government cannot.

Fact: Mr. Mubarak has more mummies in his cabinet than King Tut. His team of ministers is the oldest in the Arab world. It has not risen to the economic challenge, and so investors go elsewhere.

It is time for the U.S. to stop looking at Egypt as a pillar in the peace process, and start looking at it as an economic laggard badly in need of shock therapy. Egypt doesn't need a shuttle by the Secretary of State. It needs a shuttle by the Secretary of the Treasury. The World Bank estimates that the Arab states and Iran will have to create 47 million new jobs by the year 2010 just to accommodate the population boom that will enter the labor force by then.

If governments here do not reform themselves to meet that challenge, this region won't just miss the tram. The whole station will explode.

TRIBUTE TO GEORGE WALLACE

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. KING. Mr. Speaker, it gives me great pleasure to take this opportunity to salute one of my constituents for his role in the global struggle against tyranny during World War II. Mr. George Wallace, from Merrick, NY, is a member of the very best generation this Nation ever produced. Like millions of other men from all across the United States, when war came to America in 1941, he answered the call to duty and did his part.

His service record during the Second World War is both remarkable and typical. I would like to enter into the RECORD a brief outline of his military service.

George Wallace joined the U.S. Army in October 1942. After graduating Officer Candidate School he has commissioned as a 2d lieutenant of the field artillery. Shipped to England in 1944, he graduated Airborne School and was assigned to the 17th Airborne Division, 680th Glider Field Artillery Battalion.

Wallace served with this unit in the Battle of the Bulge and Operation Varsity, the largest airborne operation of the war. Fighting throughout, the Rhineland Campaign, Wallace took part in the capture of Wesel, Munster, and the Ruhr Valley complex.

After V–E Day, he transferred to the 101st Airborne for occupation duties and training for possible action during the then-likely invasion of Japan. Following the deactivation of the 101st, he transferred to the 82nd Airborne and marched with that unit under Gen. James M. Gavin during a victory parade in New York City on January 6, 1946. During the war years, he had had the honor of serving in three different airborne divisions.

Not yet through serving his country, George Wallace stayed on with the Army Reserve until April, 1953. Following his distinguished military service, Wallace joined the New York City Fire Department, where he served for 29 years before retiring as assistant chief of the department.

I was very proud on October 11, 1995, to be joined in Washington by Mr. George Wallace for the special joint meeting of Congress in honor of World War II veterans. We must never forget the courage and sacrifice of those millions of American young men, who like George Wallace answered their country's call during World War II.

HONORING FAROOQ KATHWARI

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents and with the members of the American Jewish Committee as they honor Farooq Kathwari, who will receive the Institute of Human Relations Award on November 2 in Manhattan.

This prestigious award is presented annually by the American Jewish Committee to an individual who represents the bold and humanitarian beliefs and ideals that foster civil and human rights and promote democracy. The Human Relations Award embodies the practices of a pluralistic society and the belief that the goals of justice, freedom, and democracy for one group will be achieved only by guaranteeing them for all peoples.

Mr. Speaker, Farooq Kathwari is a most fitting recipient of this high honor. His story illustrates what our great country stands for, and the bountiful opportunities the United States offers its citizens. Farooq Kathwari came to America 30 years ago as a political refugee from Kashmir, and he now leads one of the Nation's largest home-furnishing companies. He arrived in New York City at age 20 armed with a BA in English and political science, and with a determination to live and grow in a free society. Two years later he earned an MBA, went to work for Newcourt Securities, where he rapidly rose to the position of vice president, and simultaneously launched his own importing business. Soon thereafter, Ethan Allen purchased an interest in his company. In 1980, the firms merged, and Farooq Kathwari became vice president of Ethan Allen. By 1989, he had risen to the post of chairman, president, and CEO.

While becoming a leader in the American and international business communities, Mr. Kathwari did not forget his origins. He enthusiastically undertook a variety of projects supportive of freedom and human rights. Of special note is his work as founder of the Council for Human Rights in Kashmir. Through this organization, Farooq Kathwari has dedicated himself to help foster a dialog for peace in this much-troubled region, and to promote human rights around the world.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me now in honoring Farooq Kathwari, a most compassionate and selfless citizen. May his good works serve as a model for countless others to follow.

HONORING STEPHEN WARD TUTTLE II ON ATTAINING THE RANK OF EAGLE SCOUT

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mrs. MEEK of Florida. Mr. Speaker, I rise to pay special tribute to an outstanding young man in my district, Stephen Ward Tuttle II of Miami, a member of Boy Scout Troop 840 of St. Louis Church. Stephen has earned the highest honor a Scout can achieve, the rank of Eagle Scout.

Stephen Tuttle began his long, arduous climb toward the rank of Eagle Scout as a Cub Scout over 5 years ago. During that time, he has constantly striven for excellence in school, church, and scouting. He has consistently demonstrated discipline, leadership, commitment, and integrity and provided an outstanding example to the Scouts around him and to the community as a whole. He has earned the respect and admiration of his fellow Scouts, schoolmates, family, and those in our community.

Mr. Speaker, I want to congratulate Stephen Tuttle on a job well done. I join with his mother, Laura Tuttle, his scoutmaster, Capt. Roy Hamlin, his troop, and our entire community in recognizing his achievement and wishing him continued success in the future.

SECRETARY WEINBERGER SEES B-2'S STRENGTHS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. CUNNINGHAM. Mr. Speaker, among the many budget issues that Congress continues to work on is our effort to revitalize our national security. In these tight budgetary times, every spending decision we make must be cost and benefit justified.

The following commentary, written by former Secretary of Defense Caspar W. Weinberger in the November 6, 1995, issue of Forbes magazine, provides some of the many outstanding arguments for our Nation to continue to fund the B-2 Stealth Bomber Program. As Secretary Weinberger notes, "few people understand just how good, how revolutionary, this stealth bomber is." That said, I recommend that all of my colleagues in the House and Senate read this piece, and consider the value and benefit that the B-2 offers our national defense.

[From Forbes magazine, Nov. 6, 1995]

KEEP THE B-2 PROGRAM ALIVE

(By Caspar Weinberger)

Whether to continue production of the B-2 stealth bomber, the world's most advanced aircraft, is an issue that creates strange alliances. Many proponents of a strong defense favor terminating the B-2 program, leaving us with only the 20 aircraft already paid for. A second group favor making the required expenditures now (roughly $500 million) that would enable us to resume production of the B-2 should international conditions require it. This would be far less expensive than closing the production line and having to start it up later. A third group, small in number, believe we need more B-2s and should continue production on a low-level scale.

The second group's approach is the most reasonable, practical and necessary. The B-2—the world's only stealth bomber—is, as even one of its strongest opponents admits, "a technological marvel . . .widely praised by our highest-ranking military leaders." But few people seem to understand just how good, how revolutionary, this stealth bomber is and what it adds to our ability to keep peace and freedom.

Of course, the word "stealth" does not mean the plane is invisible. But when the B-2 is at high altitudes, where it flies when delivering nuclear or conventional bombs, it is virtually impossible for any existing or projected defense system to detect it on radar, and it therefore is invulnerable. Two B-2s with a total crew of four can deliver a bombload which, if dropped from conventional planes, would put the lives of 132 crewmen at risk. In the Gulf war's first hours, 45 sorties by stealth fighter F-117s struck almost as many Iraqi targets as did 850 sorties by conventional aircraft. In the first 24 hours of Desert Storm, we sent 1,263 conventional aircraft to strike 144 major targets. Thirty-two B-2s could have attacked the same number of targets— and more effectively because of precision weaponry—in less time.

The debate turns on whether we need this astonishing capability now that the Cold War is over. Senator John McCain (R-Ariz.), a skilled and effective advocate of a strong defense, believes that we no longer need a "large fleet of stealthy, long-range, nuclear delivery aircraft." He also views aircraft carriers, submarines and other weapons as better serving our national security needs because they are "visible, forward-deployed forces," enabling us to "put our capability on peaceful display"—a good deterrent in and of itself. McCain makes the point that, although the B-2 can carry conventional weapons, having it do so is not cost-effective at a fixed price of $556 million per aircraft. Each additional B-2 will use scarce defense budget funds, precluding necessary modernization and replacements for the trucks, tanks, other aircraft, artillery and ships that will be needed shortly. These are understandable, reasonable arguments.

It seems to me, however, that events over the last several years have demonstrated conclusively that we are going to need the B-2's capabilities. The Gulf war exemplifies why we need to be able to project our military power over vast distances quickly and effectively. It would be nice—but scarcely safe—to believe that there will be no more Gulf wars or events that will require such capabilities. But, for example, we are committed to the defense of two other potential hotspots: Taiwan and South Korea. Should the U.S. be called into action, the B-2 would be extremely useful. It serves us well to remember that the more strength we have, the less likely it is that we will have to use it.

In any event, the ultimate question of whether we need to buy more than the already-ordered B-2s need not be decided now. What we do need now is the option to acquire more later and the ability to exercise that option without the staggering costs of restarting production. If we terminate the B-2 production line now, we virtually preclude securing any more of those remarkable aircraft in the future.

We should instead agree to use the funds in the Defense appropriations bill to procure some of the parts necessary from the B-2's nearly 3,400 suppliers, thereby keeping the line open for later low-level production. General John Loh, former commander of our Air Combat Command, sums it up well: "I see the B-2 as the centerpiece of . . . [a] strategy that places increasing importance on projecting immediate, responsive power from the U.S. to a regional crisis anywhere in the world."

INTRODUCTION OF THE STATE WATER SOVEREIGNTY PROTECTION ACT

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. CRAPO. Mr. Speaker, I rise to introduce a bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regulate water, and for other purposes.

Since 1866, Congress has recognized and deferred to the authority of the States to allocate and administer water within their borders. The Supreme Court has confirmed that this is an appropriate role for the States. Additionally, in 1952 the Congress passed the McCarran amendment which provides for the adjudication of State and Federal water claims in State water courts.

However, despite both judicial and legislative edicts, I am deeply concerned that the administration, Federal agencies and some in Congress are setting the stage for ignoring long established statutory provisions concerning State water rights and State water contracts. The Endangered Species Act, the Clean Water Act, the Federal Land Management Policy Act, Endangered Species Act Recovery Plans, rangeland reform, and proposed wilderness legislation have been vehicles used to erode State sovereignty over its water.

It is imperative that States maintain sovereignty over management and control of their water and river systems. All rights to water or reservations of rights for any purpose in States should be subject to the substantive and procedural laws of that State, not the Federal Government. To protect State water rights I am introducing the State Water Sovereignty Protection Act.

RECOGNITION OF JUDE HARRINGTON

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. SHUSTER. Mr. Speaker, far too often the work of the men and women who are charged with preserving our Nation's natural resources goes unnoticed. These individuals, many of whom dedicate their lives toward maintaining America's treasures are rarely recognized for the importance of the service which they provide.

Mr. Speaker, I rise today to pay tribute to such an individual from my own congressional district, Mr. Jude Harrington of Huntingdon, PA. A native of Pennsylvania, Mr. Harrington began his career with the U.S. Army Corps of Engineers in 1980 as a student intern with the Pittsburgh district. He received a bachelors degree in parks and recreation from Slippery Rock University in 1982. After graduating from Slippery Rock, Jude has served the corps at several different locations and in the process has earned a solid reputation as a man of integrity and conviction.

Since 1992, Jude has served as the supervisory ranger for Raystown Lake. His work at the lake has enabled it to become one of the largest tourist and recreation attractions in my district. In fact, last year 1.3 million people traveled to rural Pennsylvania to visit Raystown Lake. Mr. Harrington's primary responsibilities at Raystown are centered upon the management of the lake's natural resources and recreation programs.

Recently, the U.S. Army Corps of Engineers selected Jude Harrington as the national resources management employee of the year. The corps handpicked Jude out of a field of a possible 1,200 candidates from across the Nation. They recognized what we in the Ninth District have known for years, that Jude Harrington is the best of the best when it comes to natural resources management. His work on behalf of Raystown Lake is a testament to both his love for the area and his commitment to the preservation of natural resources. I will close by thanking Jude Harrington for his service to Raystown Lake and congratulating him on being recognized for this honor which he richly deserves.

NO WELCOME MAT FOR MILOSEVIC

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. SMITH of New Jersey. Mr. Speaker, instead of rolling out the red carpet this week for Slobodan Milosevic, the Clinton administration should hand over the Serbain President to international investigators for his alleged role in war crimes perpetrated in the former Yugoslavia. Having ignited the firestorm of extreme Serb nationalism which has consumed most of Bosnia and part of Croatia, Milosevic is now being enlisted as a member of the Clinton administration's fire brigade assembled to douse the smoldering ashes in its aftermath.

Milosevic, who has earned the title "Butcher of the Balkans," has reincarnated himself, in the eyes of the Clinton administration, as a peacemaker despite the fact that he was named a suspected war criminal by Secretary of State Eagleberger during the final days of the Bush administration, and that he heads a government being sued for genocide before the International Court of Justice. The Clinton administration views the Serbian leader as the one who can deliver the Bosnian Serbs in support of a United States-brokered peace plan which will effectively divide Bosnian-Herzegovian along ethnic lines.

Is he really a new peacemaker or is he after something else? I fear the latter is true. Reeling under the devastating impact of economic sanctions imposed in 1992 by the U.N. on Serbia for its role in the wars in neighboring Croatia and Bosnia, Milosevic is keen to cut a deal which will pave the way for the sanctions to be lifted. I am not convinced he has given up on his dream of creating a "Greater Serbia."

The Clinton administration has embraced Milosevic as part of its full-court press to conclude a Bosnian peace accord, at almost any cost, as the presidential campaign season nears. Mr Speaker, I welcome the fact that the President has finally begun to focus on the crisis in Bosnia. At the same time, I have reservations about the conduct of the current negotiations and am vehemently opposed to allowing Mr. Milosevic into the United States.

Despite the hype and new spins, one fact is abundantly clear—Milosevic was the mastermind behind extreme Serb nationalism which spawned mayhem in Bosnia and Croatia and ultimately has led to the murder of tens of thousands of innocent civilians in these countries. Warren Zimmerman, the last United States Ambassador to Yugoslavia has observed "nobody in Belgrade doubts that the war in Bosnia is being masterminded by Milosevic in collusion with his Bosnian Serb henchman, Radovan Karadzic." Zimmerman has characterized the Serbian President as a liar "almost totally dominated by his dark side." The genocidal campaign unleashed by Milosevic has included the rape of tens of thousands of women, the destruction of thousands of mosques and Catholic churches, and the forcible expulsion of hundreds of thousands.

Mr. Speaker, the Bosnian Serb political and military leaders, Karadzic and Mladic, wouldn't dare step foot on United States soil following their indictment as war criminals by the U.N. War Crimes Tribunal in the Hague, earlier this year. There is a cruel irony in the fact that, with his lieutenants largely out of the picture, Milosevic has returned to center stage as the perceived linchpin to peace in the Balkans following a 4-year war of armed aggression and genocide which he, himself, set in motion.

In a speech launching a week-long commemoration at the University of Connecticut of the 50th anniversary of the Nuremberg trials, President Clinton solemnly declared "there must be peace of justice to prevail, but there must be justice when peace prevails." Apparently, the Clinton administration is prepared to put justice aside in their quest for peace in Bosnia which it believes hinges on Milosevic.

Mr. Speaker, I would submit that peace and justice can and should be pursued simultaneously. I agreed with President Clinton when he said, "By successfully prosecuting war criminals in the former Yugoslavia * * * we send a strong signal for those who would use the cover of war to commit terrible atrocities, that they cannot escape the consequences of such actions." But what signal is the Clinton administration sending by welcoming Milosevic to the United States?

Even those who accept Milosevic's participation in the current peace talks—for whatever reason—must acknowledge that the Serbian leader will garner a degree of credibility and prestige by being allowed to enter the United States. Furthermore, Mr. Speaker, by willingly admitting Milosevic, the Clinton administration calls into question its determination to see all war criminals, regardless of rank, brought to justice.

Mr. Speaker, the arrival of Slobodan Milosevic in the United States is repugnant to American principles and is an affront to the memory of the tens of thousands of innocent victims of the Balkan war.

For the RECORD, Mr. Speaker, I wish also to include a disturbing article which was published in the Christian Science Monitor on October 24, 1995.

[From the Christian Science Monitor, Oct. 24, 1995]

SERBIA HELD RESPONSIBLE FOR MASSACRE OF BOSNIANS

(By David Rohde)

Officers from Serbia participated in the attack on the UN-declared "safe area" of Srebrenica, according to credible eyewitness accounts obtained by the Monitor. And senior Western diplomats and UN officials say Serbian President Slobodan Milosevic is responsible for the attack and the subsequent executions of thousands of Muslim civilians.

Muslim witnesses say that an officer from Serbia was directing the roundup of Muslim prisoners in the village of Konjevic Polje, and that a Serb officer captured by Muslim forces was following orders issued from the Serbian capital, Belgrade.

"The Serb officer said they were under orders from Belgrade not to allow any men to escape from Srebrenica," says Bosnian soldier Dzemal Malvic.

"All Muslim men were to be captured or killed," said Mr. Malovic, one of three Bosnian soldiers who say they spoke to and looked at identify papers of the captured Serbian captain.

In a separate interview, a Muslim officer confirmed that the Serbian officer had been captured. The Serbian officer's whereabouts are unknown, and he may have been killed later by Muslim forces.

Western diplomats have long suspected that the Bosnian Serb attack on Srebrenica in mid-July was approved by Belgrade, but the government of President Slobodan Milosevic has vehemently denied it.

Mr. Milosevic's involvement would be an embarrassment for the Clinton administration, eager to portray Milosevic—who will be attending peace talks in Ohio next week—as a peacemaker in the Balkans, not a war criminal.

"Whether by commission or omission, [Milosevic] is responsible, no question," says a senior UN military official based in Zagreb, Croatia. "He had plenty of sources on the ground there. He had to know what was happening, and either approved of it or did nothing to stop it."

A senior Western diplomat in Zagreb also says Milosevic is responsible for what is quickly emerging as one of the darkest hours of Bosnia's 3½ year conflict.

"I have no doubt he directly approved or tacitly approved of the taking of Srebrenica," the diplomat says. "Whether Milosenic knew [about the executions] or not, he knows what kind of man [Bosnian Serb Army commander Gen. Ratko] Mladic is and how he operates."

REPORTS OF MASS EXECUTIONS

Over 2,000 Muslim men were executed by Bosnian Serb forces following the fall of Srebrenica, according to nine survivors interviewed by the Monitor last month.

War-crimes investigators now have evidence that as many as 3,000 to 4,000 men were executed by the Bosnian Serbs, according to a senior UN official close to the investigation. "Wait until everything comes out," he says. "Then, people will understand how big this is."

The UN official close to the International War Crimes Tribunal in The Hague said mass graves ring the area around Srebrenica, and confirmed the existence of a new set of United States spy photos showing a new group of apparent mass graves near the village of Karakaj, as reported by the Boston Globe on Oct. 3.

The photos confirm the accounts of five men interviewed by the Monitor who say over 2,000 Muslim prisoners were executed near the town of Karakaj on July 18. The photos may be the basis for new indictments against General Mladic expected to be issued by the Tribunal.

Bosnian Serb officials have said that mass graves in the village of Nova Kasaba captured in US spy photos and visited by the Monitor in August contain the bodies of Muslim soldiers who were killed in combat and not executed.

But the Karakaj site is too far from the route that Muslim men would have followed to escape from Srebrenica, according to the UN official.

Mevludin Oric, a survivor of the Karakaj execution, said in an interview that one of the officers directing the roundup of prisoners in Konjevic Polje was a 40- to 45-year-old officer from Serbia. Mr. Oric is considered by war-crimes investigators to be one of their most credible witnesses. The Serbian officer was not present at the later execution, Oric added.

Who gave the order to execute thousands of prisoners remains unknown.

But evidence of Milosevic's involvement in Srebrenica has been mounting for months, and it is not known if Mladic would execute such a large number of men without at least the tacit approval of Serbian leaders in Belgrade.

Mladic, who eyewitnesses interviewed by the Monitor said was at Karakaj and three other executions sites during or just before executions began, had been visiting Belgrade regularly for weeks prior to the attack.

Dutch peacekeepers reported seeing members of paramilitary groups from Serbia, and Muslims say they saw Belgrade-based paramilitary leader Zeljko "Arkan" Raznjatovic in Srebrenica.

The Washington Post reported seeing Muslim soldiers driving a jeep with Yugoslav Army license plates on July 17. The Muslims said they had captured the jeep from forces involved in the attack on Srebrenica.

New York Newsday reported on Aug. 12 that Western intelligence officials captured radio intercepts of Yugoslav Army chief Gen. Momcilo Perisic, directing Mladic on how to attack Srebrenica during the offensive.

SERB DENIALS

Yugoslav officials have strenuously denied the accounts, but the Yugoslav Army and Arkan are believed to be tightly controlled by Milosevic, who holds an iron grip over Serbia's military.

Despite the growing evidence, Srebrenica survivors remain skeptical that Milosevic—whom the Clinton administration is depending on to force the Bosnian Serbs to agree to a peace deal—will be tied to or punished for Europe's worst massacre since World War II.

"It all depends on the politicians," Malovic says. "They could punish them, or reward them, for doing this."

CONGRATULATIONS TO THE GOVERNMENT OF PANAMA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. RICHARDSON. Mr. Speaker, I had the privilege of meeting President Ernesto Perez Balladares of Panama for the first time last week. The occasion was a meeting hosted by Enrique Iglesias, president of the IDB, at which many senior level representatives of the U.S. Government agencies that closely follow the affairs of our two countries were present, as well as senior officials from the international financial institutions.

The feeling around the table was unanimous that the structural economic achievements obtained by President Perez Balladares' administration, after only 1 year in office, were considerable, particularly in terms of modernizing and opening up Panama's economy to private domestic and foreign investment.

These include modern legislation to streamline and level the playing field in terms of tax regulations and incentives; considerable flexibilization of heretofore rigid labor laws, and increased participation by the private sector in the key areas of telecommunications, energy, water supply, and ports. Increased investment in these areas are crucial for the successful implementation of the Panama Canal Treaties to which our two governments are fully committed.

Indeed, we heard as well from the Under Secretary of the Army, who is also Chairman of the Panama Canal Commission, a very positive report regarding the growing participation of Panamanians in the management and operation of the canal. I also took note of ongoing major capital investment projects designed to guarantee the future of the canal, in particular the widening of the Culebra Cut. It is fully financed from increases in revenues from canal operations that have taken place made over the last few years.

By treaty rights, Mr. Speaker, these revenues belong to Panama, and could have easily been used by the Panamanian Government for other much needed investments in social and economic development projects; instead, they have been allocated in a conscious and, in my view, responsible decision by the Perez Balladares administration, to maintain and improve the viability of the canal well into the next century.

I wish to share with my colleagues my personal congratulations to the Government of Panama, and particularly to its President, Mr. Ernesto Perez Balladares, for its courageous and decided leadership in the hemisphere; particularly on such difficult issues as the war on drugs; for I also note from very recent media and intelligence reports of continuing and large seizures by his government of shipments of illicit substances destined for our shores. These actions and other strong measures to control and prevent money laundering, I might add, are being carried out in full cooperation with U.S. Government agencies and those of other governments.

I am confident that the United States and Panama will continue to strengthen their relations as we enter delicate exploratory talks on some sort of presence of our military in the Isthmus after the year 2000. I took the opportunity to tell the distinguished President of Panama that I support such a presence, Mr. Speaker, and that the Congress will do its part to support any efforts to strengthen the ties that bind our two nations.

BUDGET CONFEREES SHOULD SUPPORT THE HOUSE-PASSED 2-YEAR EXTENSION OF JET FUEL EXEMPTION

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. SAM JOHNSON of Texas. Mr. Speaker, over the past 5 years our airlines have posted losses of over $13 billion. This has caused almost one-half of those to file for chapter 11 bankruptcy with three of them closing their doors completely. Because of these financial setbacks and heavy Government mandates, over 120,000 U.S. jobs have been lost.

Therefore, I believe that budget reconciliation conferees should support the House-passed measure that extends for 2 years the exemption of the aviation jet fuel tax. This new tax was supported by the Democrats and the Clinton administration and passed as part of the Omnibus Budget Reconciliation Act of 1993. I believe that this new tax will further burden the airline industry by imposing an additional $500 million in new taxes in addition to the $6.5 billion in excise taxes they already pay. To deny this extension could prove detrimental to the future of our airline industry when for the first time in 5 years they are showing slight improvements.

That is why it is so important that our budget conferees support the House-passed jet fuel extension that would give the airlines 2 years, not 17 months, to get back on the road to prosperity. The airlines are already facing a huge tax burden that affects their ability to operate and increases, by a substantial amount, the cost of traveling for all passengers. By delaying this tax, and eventually its repeal, we will help the airlines recover from a disastrous 5 years of losses, create more jobs, and decrease the travel cost for their passengers. I hope that my colleagues and the budget conferees will support the House position and eventually push for full repeal of this devastating tax.

THE WHITE HOUSE CONFERENCE ON TRAVEL AND TOURISM

HON. VICTOR O. FRAZER

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. FRAZER. Mr. Speaker, today I would like to welcome the 1,700 delegates attending the White House Conference on Travel and Tourism to Washington, DC. It is with great price and honor that I also welcome Mrs. Angela Belfon, co-owner of World Wide Travel of St. Thomas, a small business person, as my delegate to the conference.

Small businesses represent the largest creator of jobs in the Nation. The travel and tourism industry is a major employer in the Virgin Islands, consisting primarily of small businesses. This vital segment of our economy must be supported.

Government can play a major role by fostering a partnership with the private sector. This partnership recognizes the importance of the industry as well as the Government's role in monitoring and promoting the travel and tourism industry.

The White House Conference on Travel and Tourism is a good example of how Government and businesses can work together to build a stronger economy.

TRIBUTE TO GENE YODER

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. ROEMER. Mr. Speaker, I rise today to pay special tribute to Mr. Gene Yoder of Goshen, Indiana. Gene is retiring this year as Chairman of the American Association of Homes and Services for the Aging, a position he has held since 1993.

No one has done more to care for older Americans in northern Indiana than Gene Yoder. For the past 25 years, Gene has served as President and CEO of Greencroft, Inc., a campus of senior housing and long-term care services in Goshen.

Greencroft has provided high quality housing and health care to hundreds of senior citizens over the years. In addition to his work at

Greencroft, Gene has touched the lives of thousands of older Americans who reside in more than 5,000 long-term care facilities around the country which he has represented as AAHSA's leader.

Most recently, Gene led an AAHSA delegation which met privately with President Clinton to share concerns about the future of health care and social programs for the elderly. In addition, he served as a delegate to the 1995 White House Conference on Aging.

Gene has also taken an active leadership role on the State level, having served as President of the Indiana Association of Homes for the Aging in 1986, and as a member of the Elkhart County Council of Aging from 1982–83.

Gene's impressive career in services to the aging is clearly a labor of love. He consistently strives to raise awareness about the issues facing the elderly. In his 2-year tenure as Chair of AAHSA, he has helped lead the fight to reduce the use of physical and chemical restraints in long-term care facilities, and has championed the establishment of ethics committees in nursing homes.

Although Gene is stepping down as chairman of AAHSA, he will continue his service to senior citizens through his work at Greencroft and other endeavors. It is a great pleasure for me to pay tribute today to this truly inspiring American, whose lifetime of service to not-for-profit aging services organizations and older Americans is an example for all.

TRIBUTE TO SOUTH STREET JOURNAL FOR ILLINOIS' FIRST CONGRESSIONAL DISTRICT

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 30, 1995

Mr. RUSH. Mr. Speaker, I rise today to pay tribute to the South Street Journal, a community-based newspaper on Chicago's South Side, on the occasion of their second anniversary.

The South Street Journal has always prided itself on social responsibility-providing objective and insightful news while keeping in mind the welfare of the residents of the communities it services. It has built a strong foundation of not only disseminating information but also encouraging communities to become involved in the current events and politics that affect them.

For 2 years, the South Street Journal has provided Chicago's South Side with an informative and relevant community newspaper that fosters open dialog on current events and helps to strengthen community relations. They have helped register voters and have provided a voice to communities that are sometimes overlooked.

South Side communities such as Washington Park, Hyde Park, Douglas, Oakland, Kenwood, Woodlawn, Fuller Park, Armour Square, Grand Boulevard, and the Gap have all seen the benefits the Journal has provided.

Mr. Speaker, today I stand here to formally recognize the South Street Journal for their contribution to the South Side of Chicago, the State of Illinois, and the United States of America.

I am pleased to enter these words of commendation into the RECORD.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 31, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 1

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 1356, to amend the Shipping Act of 1984 to provide for ocean shipping reform.

SR–253

Environment and Public Works

Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee

To resume hearings on S. 851, to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program.

SD–406

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine global proliferation of weapons of mass destruction.

SD–342

10:00 a.m.

Judiciary

To continue hearings to examine changes in Federal law enforcement as a result of the incident in Waco, Texas.

SH–216

NOVEMBER 2

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To resume hearings to examine alternatives to Federal forest land management and to compare land management cost benefits on Federal and States lands.

SD–366

Governmental Affairs

To hold hearings on S. 704, to establish the Gambling Impact Study Commission.

SD–342

10:00 a.m.

Environment and Public Works

Transportation and Infrastructure Subcommittee

To hold hearings on courthouse construction and related GSA public buildings program matters.

SD–406

Special on Aging

To hold hearings to examine fraud in the medicare and medicaid programs.

SD–562

NOVEMBER 7

10:00 a.m.

Indian Affairs

Business meeting, to mark up S. 1341, to provide for the transfer of certain lands to the Salt River Pima-Maricopa Indian Community and the city of Scottsdale, Arizona; to be followed by hearings on S. 1159, to establish an American Indian Policy Information Center.

SR–485

NOVEMBER 8

10:00 a.m.

Judiciary

To hold hearings to examine mandatory victim restitution.

SD–226

NOVEMBER 9

2:00 p.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 231 and H.R. 562, bills to modify the boundaries of Walnut Canyon National Monument in the State of Arizona, S. 342, to establish the Cache La Poudre River National Water Heritage Area in the State of Colorado, S. 364, to authorize the Secretary of the Interior to participate in the operation of certain visitor facilities associated with, but outside the boundaries of, Rocky Mountain National Park in the State of Colorado, S. 489, to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park, S. 608, to establish the New Bedford Whaling National Historical Park in New Bedford, Massachusetts, and H.R. 629, the Fall River Visitor Center Act.

SD–366

NOVEMBER 14

10:00 a.m.

Judiciary

To hold hearings to examine the operation of the Office of the Solicitor General.

SD–226

NOVEMBER 15

10:00 a.m.

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold hearings on S. 582, to amend United States Code to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an

environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding.

SD–226

POSTPONEMENTS

OCTOBER 31

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee

To hold hearings to examine the United States/United Kingdom Bilateral Aviation Agreement.

SR–253

SENATE—*Tuesday, October 31, 1995*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Lane Davenport, the Church of the Ascension and St. Agnes, Washington, DC.

PRAYER

The guest Chaplain, Rev. Lane Davenport, the Church of the Ascension and St. Agnes, Washington, DC, offered the following prayer:

O God, the fountain of all wisdom and graciousness, whose statutes are good and whose law is truth; we humbly beseech Thee, as for the people of the United States in general, so especially for their Senate; that Thou wouldest be pleased to direct and prosper all their consultations, to the advancement of Thy glory, the peace of the world, the safety, honor, and welfare of Thy people; that all things may be ordered and settled by their endeavors, upon the best and surest foundations, that peace and happiness, truth and courage, mercy and justice, religion and piety, may be established among us for all generations. These and all other necessaries, for them, and for all mankind, we beg in Thy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Idaho.

SCHEDULE

Mr. CRAIG. Mr. President, this morning the leaders' time is reserved and there will be a period for morning business until 10 a.m. with Senators permitted to speak for up to 10 minutes each. At 10 a.m., the Senate will begin consideration of the conference report to accompany H.R. 2002, the Transportation appropriations bill.

The majority leader has announced that there will be no rollcall votes prior to 2:15 today. The Senate will recess from 12:30 to 2:15 for the weekly policy conferences to meet.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. KYL). Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Nevada is recognized.

THE DEATH PENALTY

Mr. REID. Mr. President, almost 2 years ago, Senator BRYAN and I traveled with a mother to Arlington Cemetery. We traveled there because her son, just a month before we went to Arlington, had been gunned down on an interstate near Lovelock, NV. He thought a car was stalled, and as he approached the car to offer his assistance, the driver of the car came from the car and brutally murdered this Nevada highway patrolman. What the police officer, officer Carlos Borland, did not know was that the man driving the car was an escaped convict from North Carolina.

It was one of the saddest occasions in which I have ever participated. It was a cold winter day. The entire attendance at the funeral was Senator BRYAN, Senator REID, and the mother of this young man, her only child. She was very proud of him. He was an exemplary student in high school. He had had a great record in the military and chose as his life's profession that of a police officer. She was devastated.

Mr. President, the story does not end there, however, at least for his mother. A week ago, in a Reno newspaper, the Reno Gazette-Journal, wrote an article on the status of various death row cases. Officer Borland's mother is quoted in this news article as saying, "My son gave his life for his State and his country. Give (Sonner)"—the man who killed her son—"the death penalty and he lives for 40 or 50 years. That's not a death penalty. They lie to us."

"We have a death penalty and it's being thwarted by murderers," the article goes on to say.

Mr. President, the reason I mention this is because Nevada has the highest per capita death row population in the entire Nation, more than double that of Texas. The State of Texas has recently executed its 100th inmate since 1977.

It does not matter whether you are for or against the death penalty. The fact is we are a country of laws and the laws should be carried out, and it is wrong what is happening throughout this Nation and in Nevada. People get the death penalty, and as the mother of this executed highway patrolman says, "My son gave his life for his State and his country. Give (Sonner)"—this is the murderer—"the death penalty and he lives for 40 or 50 years. That's not a death penalty. They lie to us." She goes on to say he will probably live longer than she will. Why is this going on?

Let me give you the death sentence appeal process in Nevada, and it is similar in a lot of different places. First, automatic first appeal before the Nevada Supreme Court. If it is denied, you have a petition for a rehearing before the Nevada Supreme Court. If that is denied, you have a petition before the U.S. Supreme Court. If that is denied, you have a postconviction relief petition in the trial court, and if that is denied you appeal again before the Nevada Supreme Court. If that is denied, you petition for rehearing before the Nevada Supreme Court. If that is denied, you go to the Supreme Court.

This is the second time. If that is denied, you petition before a Federal court. If that is denied, then you petition for a rehearing in the same court. And if that is denied, you go to the ninth circuit, or whatever other circuit if it is not in Nevada. If that is denied, you have a petition for a rehearing. If that is denied, you go to the U.S. Supreme Court. If that is denied, then you go back to the Federal Court and take each step over and over again.

This is simply not right. As everyone is aware, this body passed comprehensive habeas reform earlier this year as part of the Antiterrorism Act. We must see to this legislation being signed into law.

It is time to put an end to the endless appeals. Why do I say that? Take the small State of Nevada. In Nevada, a man by the name of McKegue, in August 1979, killed William and Irene Henry during a robbery. He entered prison in August 1971. He was sentenced to die. He is still there. Edward T. Wilson stabbed to death a Reno police officer, Jimmy Hoff. On June 25, 1979, he was committed to be executed. He is still alive. Robert Ybarra, in 1979, murdered a girl outside Ely, NV. He is still alive even though he has been sentenced to death. Ronnie Milligan, he murdered a 77-year-old woman on July 4, 1980. He is still alive even though he has been sentenced to death. Mark Rogers murdered two women and a man outside of a mining camp near Lovelock, NV. He is still alive even though he has been sentenced to death.

Mr. President, I ask unanimous consent that this entire article be made a part of the RECORD so that we can spread on the RECORD of this Congress what is taking place in Nevada and is taking place in almost every State in the Union where there is a death penalty, which is far the majority, and as this newspaper article indicates that people are laughing at the law because it is farcical.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

[From the Reno-Gazette-Journal, Oct. 21, 1995]

TRIMMING TIME ON DEATH ROW

(By Bill O'Driscoll)

It's been a year since the parents of slain Nevada Highway Patrol Trooper Carlos Borland heard a Lovelock jury give his killer, Michael Sonner, the death sentence.

Sonner, who once said he wanted to die, is now appealing. And Maria Borland says she may die of old age before the North Carolina escapee is executed by lethal injection for shooting her son along Interstate 80 in late 1993.

"My son gave his life for his state and his country," she said. "Give (Sonner) the death penalty and he lives for 40, 50 years. That's not a death penalty. They lie to us."

Her husband says Sonner's execution won't bring back their son, but until it happens, justice won't be complete.

"(Sonner) is in confinement with three meals a day, free dental and medical—somethings that people on the street can only fantasize having," Jimmy Borland said.

The Borlands are not alone. The number of inmates on Nevada's Death Row stands at 76, including Duc Cong Huynh and Alvaro Calamboro, both convicted for the January 1994 killings of Peggy Crawford and Keith Christopher at a Reno U-Haul rental.

But just five inmates have been executed since the death penalty was reinstated in 1977, none against his wishes.

A state lawmaker is creating a committee to draft recommendations for Congress and the 1997 Nevada Legislature on how to shorten the distance from conviction to execution.

"We have a death penalty and it's being thwarted by murderers," said Sen. Mark James, R-Las Vegas, who hopes to gather 25 to 30 lawmakers, judges and law enforcement officers on the panel.

"I see no reason why we can't get a finality within two years, even with safeguards," said Washoe District Attorney Dick Gammick, who will be on the panel. "There has to be a time when we say, 'That's enough.'"

Keith Munro of the attorney general's office said the biggest problem is the turnover in attorneys along the way. Each usually tries to return the appeals process to the beginning so as not to inherit the previous lawyer's work.

"Death sentence cases are very complex. Attorneys get tired of them and want to get off. But you can't address that in legislation," he said.

The dizzying appeals process is one that always allows an inmate to try again, Munro said, but with each repeated step, the excuse to get there cannot be used anew.

Still, "You can litigate these cases until they wheel the inmate out of the death chamber," he said.

But there are some time-saving measures already in place. James and others applaud the Nevada Supreme Court for its rule several years ago requiring daily transcripts in capital murder trials to keep lawyers abreast of the cases.

James said two bills that are bogged down in Congress would expedite appeals where they clog the most: the federal courts.

On the other end of the table, State Public Defender James J. Jackson admits the process is a long one, but often necessarily so.

"A lot of the reason why cases get hung up in the federal courts are concerned about a lack of effective counsel," Jackson said. "Yeah it could be more expedited, but when you're talking about the ultimate penalty, yeah, it'll take more time.

Nevada has the highest per-capita Death Row population in the nation, more than double that of Texas, which recently executed its 100th inmate since 1977.

But Texas is the exception, due largely to the lack of attorneys for inmates even up to the time of execution, said Michael Pescetta of the Nevada Appellate and Post-Conviction Project, a Las Vegas-based non-profit agency for the defense of Death Row cases.

"In a 'giddyap' state like Texas, it's not uncommon for a lawyer to see a case for the first time three weeks or a month before the scheduled execution," Pescetta said. "Justice is geared to denying cases and getting on with it, It's not pretty. In Nevada, at least there's an attempt to take more care."

In fact, he said, Nevada is typical of most of the 38 other states where the death penalty is allowed.

But Pescetta senses changing winds in Nevada, saying, "The political landscape has gotten considerably meaner."

James denies any political motivation in forming an ad hoc committee to study reforms.

"The people have said they want the death penalty. We have to do something," he said.

Jimmy Borland agrees.

"They're technically entitled to two appeals. But we're not playing a baseball game here," he said. "If you're going to have a death penalty, then do it."

DEATH SENTENCE APPEAL PROCESS

The many steps on the road to execution in Nevada:

Automatic first appeal before Nevada Supreme Court. If denied:

Petition for rehearing before Nevada Supreme Court. If denied:

Petition before U.S. Supreme Court. If denied:

Petition for post-conviction relief in trial court. If denied:

Appeal before Nevada Supreme Court. If denied:

Petition for rehearing before Nevada Supreme Court. If denied:

Petition before U.S. Supreme Court. If denied, either:

Petition before federal court; if denied, then petition for rehearing in same court; if denied, appeal to 9th Circuit Court of Appeals; if denied, petition for rehearing; if denied, appeal before Supreme Court, if denied, then back to federal court and each step thereafter may be repeated, but at each step inmate must explain why he didn't use excuse before. Or:

Petition for post-conviction relief in trial court; if denied, then appeal to Nevada Supreme Court; if denied, then appeal to U.S. Supreme Court. If denied, back to trial court and each step thereafter may be repeated, but at each step inmate must explain why he didn't use excuse before.

NEVADA'S LONGEST ON DEATH ROW

Kenneth McKegue, 42, of Watsonville, Calif. Sentenced in Washoe County Aug. 2, 1979 for murders of William and Irene Henry during a robbery Dec. 21, 1978. Entered prison Aug. 6, 1979. Age at time of offense: 32.

Edward T. Wilson, 36, of Mountain Home, Idaho. Sentenced in Washoe County Dec. 14, 1979, for stabbing death of Reno Police Officer Jimmy Hoff June 25, 1979. Entered Nevada prison Dec. 19, 1979. Age at time of offense: 20.

Robert Ybarra, Jr., 42, of Sacramento. Sentenced in White Pine County July 23, 1981 for Sept. 29, 1979 murder of a girl outside Ely. Entered prison July 24, 1981. Age at time of offense: 26.

Ronnie Milligan, 45, of Murfreesboro, Tenn. Sentenced in Humboldt County Aug. 31, 1981, for murder of a 77-year-old woman July 4, 1980. Entered prison Aug. 25, 1981. Age at time of offense: 30.

Mark Rogers, 38, of Taft, Calif. Sentenced in Pershing County Dec. 1, 1981, for murder of two women and a man Dec. 1, 1980, in a mining camp outside Lovelock. Entered prison Dec. 3, 1981. Age at time of offense: 23.

Priscilla Ford, 66, of Berren Springs, Mich. Sentenced in Washoe County April 29, 1982, for Thanksgiving Day murder of six people in downtown Reno in 1980 when Ford drove her car down a crowded sidewalk. Entered prison April 30, 1982. Age at time of offense: 51.

Patrick McKenna, 49, of Leadville, Colo. Sentenced Sept. 3, 1982 in Clark County. McKenna murdered his cellmate in the Clark County Jail Jan. 6, 1979. Entered prison Feb. 23. Age at time of offense: 32.

Tracy Petrocelli, 44, of Chicago. Sentenced Sept. 8, 1982 in Washoe County for murder of an automobile salesman. Entered prison Sept. 8, 1982. Age at time of offense: 30.

Roberto Miranda, 52, of Havana, Cuba. Sentenced Sept. 9, 1982, in Clark County for stabbing victim to death during a robbery. Entered prison Sept. 17, 1982. Age at time of offense: 38.

Thomas Nevius, 39, of Plainfield, N.J. Sentenced Nov. 11, 1982 in Clark County for shooting victim during a burglary. Age at time of offense: 24.

Mr. REID. I think it is time we make the law do what it says. What we need is to make sure that these never-ending appeals are terminated. We need to have a process so the people have their day in court or maybe 2 days in court and that they have the appeal process once and maybe twice but not dozens of times.

The time has come to speak out against this. It is too bad that we have to have the death penalty. I personally support it. If we are to have these laws on the books they ought to be enforced.

Whether or not you agree with the death penalty, you should agree that the law, whatever it is, should be carried out, and in this area it simply is not. If we are going to have a death penalty, we must ensure finality of justice after appeals have been exhausted. I think we should set very strict limits on what appeals should be allowed.

So, Mr. President, I call upon Members of this body, especially the Judiciary Committee, to use whatever authority they have to move legislation along that has been before this body before so that these writs of habeas corpus and other interminable delays be put to rest. We must move forward to end this endless appeal process that simply meets no standard of justice.

I appreciate the gravity of the capital offense, but at some point we have to ask, why, why do we even have these laws if we never carry out the sentence of the court. The current imbalance robs the victims and their families of the justice they deserve. It undermines the public's confidence in the system. I believe it also undercuts the deterrent effect of the death penalty.

Thank you, Mr. President.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

BOSNIAN SERB ATROCITIES

Mrs. HUTCHISON. Mr. President, I rise today to talk about the resolution that was passed, the sense of the Senate, last Friday unanimously by this body, speaking in the strongest terms to President Milosevic, who is, even as we speak, on his way to the United States to begin peace talks. I wanted to talk about it this morning because we did not really have a chance to debate it fully last Friday.

I wanted to pass it last Friday because I wanted the message to be on the record over the weekend about the continuing reports of atrocities, murders, and robberies taking place right now in the former Yugoslavia in the northwest area around Banja Luka. I want to highlight this, Mr. President, because we are hosting three Presidents Wednesday for peace talks, and there are still atrocities being reported in this area. I ask, how can we sit down at a peace table with three warring factions when the war is still going on?

So today I am going to talk about the sense-of-the-Senate resolution that was passed, and I am going to ask President Milosevic when he sets foot in the United States to announce that these atrocities will stop, that neutral people will be able to go in and get an accounting for as many as 2,000 men that have not yet been heard from.

A U.N. report released 2 weeks ago charges that Bosnian Serbs are still conducting a brutal campaign of ethnic expulsion. Despite the cease-fire, Bosnian Serbs have been subjecting non-Serbs to untold horror, murder, rape, robbery, forcing people from their homes, and other atrocities.

According to the Assistant Secretary of State for Human Rights, John Shattuck, since mid-September and intensifying between October 6 and 12, many thousands of civilians in northwest Bosnia were systematically forced from their homes by paramilitary units, sometimes abetted by local police who were either too scared or unwilling to intervene, and in some instances by Bosnian Serb Army officials and soldiers.

These unfortunate events implore us to move with extreme caution regarding American involvement in this conflict. The intentions of the parties involved, now more than ever, call for prudent, not precipitous, judgment. Examples of ethnic cleansing persist in northwest Bosnia according to the U.N. reports based on interviews with refugees before and after the October 12 cease-fire.

Assistant Secretary John Shattuck has now gained access into that area. As many as 2,000 men have been separated from the main group of refugees. U.N. officials are trying to determine their fate amid fears that they may have been executed or sent to the front lines as forced slave laborers. The United Nations also reports that during the latest wave of expulsions, Moslems from Bosanski Novi near Banja Luka, were rounded up at the bus station. Draft-age men were separated from the rest and were held for 5 days without food or water. The U.N. spokesman in Zagreb reported that many refugees have been given just a few minutes to flee their homes and that girls as young as 17 have reportedly been taken to the woods and raped. Elderly, sick, and very young refugees have been driven to remote areas and forced to walk long distances on unsafe roads and cross rivers without bridges.

The United Nations has condemned this barbaric treatment of civilians in the strongest possible terms. According to the U.N. High Commissioner for Refugees, more than 2,000 Moslems and Croats have been forced from their homes since mid-September in Bosnian-Serb-controlled areas. Only about 10,000 are believed to remain, which before the war was home to a half million Moslems and Croats. And what is most distressing is the evidence we have seen of recent atrocities committed by the Serbs after the cease-fire was signed on October 12. It appears that, as a result of recent Bosnian and Croatian advances, the Serbs have lost ground. In an attempt to consolidate their control, they are engaged in a campaign of systematic and widespread abuse aimed at cleansing the territory they still hold of remaining Croats and Moslems.

With peace talks scheduled to begin in the United States tomorrow and with the President having clearly indicated his intention to send as many as 20,000 American troops into the heart of this conflict, these new reports of Serbian atrocities are of grave concern and should give us pause.

For the Bosnians, this latest outrage by the Serbs must seem to be a dreadful repeat of what happened last summer during the Serb conquest of Srebrenica in eastern Bosnia. In that episode, thousands of men were taken out and executed by firing squad, according to survivors, and, in fact, the reports just this weekend in the Washington Post confirmed new sightings of mass graves where thousands of people are buried. These sightings were made from satellite photos taken by our intelligence sources. So we know the horrible stories of what happened at Srebrenica, as reported by refugees, is, in fact, unfortunately and sadly true.

But what is even more unfortunate, Mr. President, is that things like this may continue as we speak, and we must do something about it. We must learn from what happened in Srebrenica and recognize that they could be doing it right now, and we must protest.

In fact, Mr. President, the Senate did protest. We passed a resolution that says the following:

> It is the sense of the Senate that the Senate condemns the systematic human rights abuses against the people of Bosnia and Herzegovina. With peace talks scheduled to begin in the United States on November 1, 1995, these new reports of Serbian atrocities are of grave concern to all Americans.
>
> The Bosnian Serb leadership should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families. The International Red Cross, the United Nations agencies, and human rights organizations should be granted full and complete access to all locations throughout Bosnia and Herzegovina.

This resolution was passed unanimously by the U.S. Senate last Friday. We must act now to make sure that these atrocities are stopped and that neutral sources are able to verify that they have stopped and account for the 2,000 missing men.

President Milosevic is going to set foot in Wright-Patterson Air Force Base very shortly today. He should immediately announce—and we call on him to immediately announce—that these forces of terror have been stopped, that these atrocities have been stopped. And to show his good will in these peace talks, he should immediately allow for an accounting of the missing people in Bosnia right now. That would be the very first and best step he could make to show that he is, indeed, sincere about wanting to bring peace to this area.

Mr. President, the Senate spoke forcefully. I hope we are being heard. If we can stop even one murder from happening, it will be worth it.

I wanted to draw attention to the very strong statement that the Senate made last week. I hope that we can use this opportunity, as President Milosevic comes into our country, to ask him to show his good faith by saying that people will be accounted for and the atrocities will stop.

Thank you, Mr. President. I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

ATROCITIES IN THE FORMER YUGOSLAVIA

Mr. CRAIG. Mr. President, let me join my colleague from Texas in her most clarion call this morning to the humanity of the world that this Nation be a part of stopping the atrocities that are allegedly going on in the former Yugoslavia. It is, without question, a great human disaster under any measurement.

I appreciate the words of my colleague from Texas this morning. She has been an outspoken, clear voice on this issue for the last good many weeks as these reports have come in to remind us and push this Senate and this country in the direction of causing a settlement to occur there that is just for both sides. I thank my colleague for that.

TRANSPORTATION APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. LAUTENBERG. Mr. President, the Transportation appropriations bill for fiscal year 1996 which the Senate will consider and pass today is of vital importance to the State of New Jersey. As one of the most populated State in the Nation, efficient and effective transportation is critical to the economic well-being of my State.

This year's Transportation appropriations bill provides more than $650 million in transportation investment to my State. This investment provides good paying jobs in the short term and in the long term will create and maintain the infrastructure that New Jersey needs to attract and keep a strong work force.

Mr. President, I would like to highlight some of the important provisions in this year's bill which I was able to secure for the Garden State.

Transit is an intricate part of northern New Jersey's transportation plan. The single largest component of New Jersey's transit initiatives is the urban core. I appreciate the cooperation that I received from Chairman HATFIELD on funding the Secaucus transfer portion of New Jersey's urban core at $80.25 million. Once completed the Secaucus transfer will link the Bergen and Mainlines to the northeast corridor, providing access to Newark and midtown Manhattan for Bergen County residents. To date I have secured a total of $436 million for urban core projects.

In addition to the urban core and transit formula assistance, New Jersey will be receiving $12.5 million to begin construction of the Hamilton Intermodal Facility, $1.15 million to develop a park-n-ride facility on the Garden State Parkway at interchange 165 and $3 million to support the National Transit Institute at Rutgers.

While this bill will provide New Jersey drivers with transit alternatives, it also recognizes that cars will continue to play a major role in travel within the State. Total highway program spending in the bill amounts to $19.9 billion, an increase of $454 million over last year, and nearly 96 percent of the ISTEA authorization. New Jersey should expect to receive some $500 million in formula highway assistance as a result of this funding level.

To make roads in New Jersey as productive as possible this year's bill includes $1.5 million for TRANSCOM. TRANSCOM is a consortium of 15 transportation and public safety agencies in New Jersey, New York, and Connecticut. Over half of the congestion on my region's roadways is due to traffic incidents and it is TRANSCOM's mission to improve interagency response to such incidents. The funding will be used by TRANSCOM to build upon existing programs to provide the region's transportation agencies with the tools necessary to strengthen their transportation management activities and their delivery of services to the traveling public.

Mr. President, on March 23, 1994, shortly before midnight, a 36-inch-diameter pipeline ruptured catastrophically in Edison Township, NJ. The explosion and fire eventually destroyed eight buildings in the Durham Woods apartment complex. An estimated 2,000 residents were displaced due to the explosion. It was only through the diligent and heroic efforts on the part of numerous local and State agencies that the pipeline explosion did not cause numerous fatalities. This year's bill includes $28.75 million to allow the office of pipeline safety to aggressively prevent another Edison from ever happening again.

In addition to the funding this bill provides to New Jersey, it also includes other bill and report language of interest to my constituents.

The legislation before us today honors one of the great statesmen of New Jersey, former Congressman Bill Hughes. Renaming the FAA Tech Center the William J. Hughes Technical Center is a deserved tribute to Bill. It is a fitting show of appreciation for his hard work on behalf of the people of the Second District and the State of New Jersey.

Mr. President, included in this year's committee report is language which continues to direct the FAA to withhold Federal funding from runaway expansion at Princeton Airport until an environmental assessment is completed, and community involvement is certified by Secretary of Transportation Peña. This is not just an air noise issue. It is a quality of life issue. I am hopeful that we can continue to operate the Princeton Airport in a manner that is compatible with community needs.

The coast of New Jersey is the State's recreational and economic jewel. A provision in this year's bill prohibits the Coast Guard from closing any multimission small boat units. The Coast Guard had recommended closing a number of its rescue stations, including four in New Jersey-Shark River, Townsend Inlet, Salem, and Great Egg.

Mr. President, having better, more efficient transit systems and roads will improve the quality of life for thousands of commuters on a daily basis. I am glad that as ranking minority member of this Transportation Appropriations Subcommittee I was able to secure this funding, as well as the bill and report language for New Jersey.

COMMEMORATION OF HUNGARIAN INDEPENDENCE DAY

Mr. DOLE. Mr. President, last week, the people of Hungary commemorated the 39th anniversary of the Hungarian people's massive uprising against Soviet Communist dominated rule. October 23, Hungarian Independence Day, marked a time when thousands of armed citizens battled the Red Army's military might and held the country for some 2 weeks. President Arpad Goncz, whom I met with last week, was one of those who risked his life for his country's freedom—long delayed, but finally achieved. The bravery of those freedom loving Hungarians, 10,000 of whom risked and lost their lives, will be remembered forever.

As Hungary's Foreign Minister Lazlo Kovacs told a gathering at a Budapest ceremony last week, "the heirs of 23 October 1956 are all those who * * * today contribute with their sacrifices to the creation of a flourishing, democratic, and independent Hungary." The Hungary of 1995 is well on the road to full democracy. In my meeting last week with President Goncz, we discussed Hungary's economic progress, its successful participation in the Partnership for Peace, as well as NATO expansion. No doubt about it, Hungary will be among the first of the new democracies in Eastern Europe to join NATO and I look forward to that day—which I hope will be in the near future. In addition, we discussed Hungary's concerns about the treatment of Hungarian minorities in the region, and developments in the Balkans. President Goncz and I both agreed that a fair peace settlement in the former Yugoslavia, fully recognizing the rights of all nationalities, was crucial for any kind of permanent regional stability. I assured President Goncz that Hungary enjoys the friendship and support of the Congress.

ORDER OF PROCEDURE

Mr. CRAIG. I ask unanimous consent that the remainder of the time this morning and such time as may be necessary be involved in a special order.

The PRESIDING OFFICER. Without objection, it is so ordered.

A HISTORIC BUDGET RECONCILIATION BILL

Mr. CRAIG. Mr. President, last Friday night, or early Saturday morning, this Senate passed a historic budget reconciliation bill that said to our country: We heard you. We heard you. We believe you. And we are, with every effort, attempting to reduce an ever-growing Federal Government that has consumed an increasingly larger part of the gross domestic product of this country, progressively enslaving the taxpayer to a higher and higher portion of the gross work of that taxpayer.

Now, it is interesting that today is Halloween, and guess what is happening out there? The Democrats are, once again, yelling "Trick or treat, America." They are saying, "Boo," to Americans. Once again, they are trying to frighten, or use the tactic of fear in driving the American public in a direction that they have said so clearly for so long that they do not want to go.

What did we hear in the debates of last week and over the weekend, as members of the other side were speaking in opposition to the action that the Congress spoke to? They are saying that Republicans are ghouls, goblins, monsters, vampires, demons, and werewolves, as it relates to the care and concern of the people of this country. They are saying that we want to take seniors' health care away, that we want to attack low-income and working people, that we want to kick students out of college and kick poor people out on the streets, that we want to dirty the water and cause the air to be unbreathable and, of course, to let people die in industrial accidents.

How could the average American really believe that anybody who seeks public service in this country to formulate public policy would want to do any of those things? Well, I suspect you might slip a little of that by during Halloween and talk about the scariness, talk about the pranks and the tricks that are being played out there.

Let me tell you, it is not Halloween. It never will be Halloween. It should never be Halloween. What is it? It is the harvest season of the last election; that is what it is. The Republican Party heard so loudly and so clearly what the American people were saying, and we are responding. The budget resolution of last Friday evening spoke about harvesting the economic security for seniors by providing for a Medicare program that has long-term stability, so they cannot be frightened or scared into thinking that their security is in jeopardy. It is about the harvest of more jobs by creating a productive economy, by controlling debt and deficit structure in this country that, by every economist's projection, is costing us anywhere from 2 to 2.5 percent growth in the domestic product of this country, which spells lack of opportunity or less opportunity for our young people. That is the harvest season of what the Republican Party is attempting to do, what this budget resolution is all about, and the work that will go on in the next several weeks before we put that on the desk of the President for his consideration.

What does it say in the end? It does not say, "Boo"; it does not say, "Trick or treat"; it says to the American people that there will be a higher standard of living for all, that the expectation, in a generational sense, will continue to be there for a better, more productive lifestyle in our country, because we had a Government that did not get in our way, that did not strangle the great ingenuity, humanity, and the energy of this country. That is what we are saying on this Halloween day—no trick or treat and no boos.

I am always so saddened when the other side attempts to use a cultural battle or attempts to frighten people in their effort to convince them that their policy is better than the ones we put forth. Let us debate it on its merits. Let the American people objectively decide what is best for them and then send that to us in the message that they did so clearly last November.

At this time, let me yield to my colleague from Wyoming to speak to this issue.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

A DISTORTED APPROACH TO PUBLIC POLICY

Mr. THOMAS. I rise to join my friend from Idaho to talk a little bit about what is happening. It is an appropriate day. I was in Wyoming this weekend and saw some of the ads that were clothed in masks and costumes, seeking to portray something that I think is not inherent in what we are doing here. It concerns me a great deal, not only because it represents a different point of view, but, more importantly, it represents a distorted approach to developing public policy.

If, indeed, in this country we believe that public policy should be developed by all of us participating, then those of us who participate—and that is all of us in this country—should have some facts upon which to base that public policy. So I want to talk a little bit about what I think the White House has been doing for some time and what our friends on the other side of the aisle have been doing, which has increased over this weekend, and that is to really distort what it is we are seeking to do.

Those who oppose a balanced budget have been using this mask-and-costume approach to characterize this reconciliation bill that passed last week. Instead of having leadership to deal with what the issues are, there has been this use of words and, I believe, distortion, to scare people into what the impacts of this will be. This has been a marketing scheme that has been going on for some time, that has been devised, I guess, by various kinds of groups in the country, to find those words that have impact and to cause people to be frightened into thinking that a balanced budget will throw this country into turmoil, that saving and strengthening Medicare will result in turning out the elderly without health care, that reforming welfare will throw the poor into the street without support, and that allowing middle-class Americans to retain some of their own money will be a disaster.

Mr. President, I am concerned about how we govern ourselves, and that is what this country is all about. That is what democracy is about. That is why people in Greybull, WY, can participate, as well as people in New York City, in governance. In order to do that, there has to be a basis of facts. There are differences and different views, and that is perfectly legitimate. That is what it is all about. There were young people in my office last week who said: I do not understand why there is this controversy going on, or why this debate is going on. Why do we not just do what is good for America?

If we all agreed on what is good for America, there would be no debate. I suggested to them that if they went back to their senior class in Cheyenne and raised these questions, there would not be unanimity there. There are different views, and they come into play here. There are those who have quite a liberal, populist philosophy that more government is better and more taxes is better. I respect that. I do not agree with it, nor do I think the voters agreed with it in the last election. That is what it is all about.

Rather than having a campaign of fear, mistrust, and misunderstanding, we need to have a campaign of facts and then decide on it. What is the purpose of what we did? It is certainly to respond to voters—that is what government is about—to balance the budget, which is the responsible thing to do; to reform welfare, and that is the responsible thing to do.

Mr. President, I hope that we do begin to talk about the facts and that we do, from both the White House and from our friends on the other side of the aisle, have a clear debate of which way to go, but do it based on the facts and based on different views, based on leadership, direction, and based on what I think the voters have told us in the past.

Mr. President, I yield back my time.

Mr. CRAIG. Mr. President, I now would like to recognize Mr. GRAMS of Minnesota.

ANY WAY THE WIND BLOWS

Mr. GRAMS. Mr. President, I, too, would like to talk a little bit about the budget passed last week and the threatened veto.

President Clinton reminds me lately of the weather vane we used to have atop the barn of my family's dairy farm. Ours happened to be shaped like a rooster, and we always knew which way the wind was blowing because that old rooster would spin around and around with the breeze. Like that old weather vane, the President is spending a lot of time on the roof these days, and he must get awful dizzy up there, testing the wind, shifting his position each time it changes.

Last week, this chamber delivered on last November's mandate by the voters and passed a far-reaching, historic piece of legislation that turns this Government around by balancing the budget and cutting taxes.

With the vote behind us, the budget reconciliation conference committee is now moving ahead with our plan, shaping a bill to send to the President. The newspaper columnists and the TV political panels have been busy reporting on just what President Clinton thinks about what we are doing.

Or rather, on what the polls and his many political advisers tell the President he should be thinking. This is a President, after all, for whom "taking a tough moral stand" means finally admitting he raised taxes too much in 1993, and then recanting his story the very next day, blaming his confession on "sleepiness."

What the President is apparently hearing when it comes to the budget is that he ought to veto the reconciliation bill.

Let me quote from the Washington Times of October 20:

> The White House is already preparing the post-veto campaign, mapping out travel schedules for Cabinet secretaries and culling poll results to determine the key issues the President will push.

A top White House aide has even been promoted—a battlefield promotion, I guess—as "assistant to the President." His new duties? To "calculate the political impact of a veto."

Mr. President, this Congress is tackling the serious issues that come with fundamental reform of the Government, issues like how to preserve the troubled Medicare program, how to save our kids and grandkids from having to carry the load of our debts and deficits, how to stop the welfare system's cycle of dependency, how to give working-class folks the tax relief they desperately need. While we are doing all of that, the White House huddles in its War Room calculating how many political points the President would score by trying to squash our efforts.

It seems President Clinton's advisers have told him that he needs to veto the reconciliation bill to, "draw policy differences with the Republicans."

"Without a veto," says a White House spokesman, "you cannot draw the bright lines. And we are in a period where drawing that bright line is everything to the election."

That election is still more than an entire year away.

Yet at a time when this Nation is desperate for strong leadership from its Chief Executive, a distant election has become the guiding force of this Presidency.

Mr. Clinton's advisers say he is going to veto our budget reconciliation bill. Well, it surely cannot be because his agenda is so fundamentally different from ours.

We are calling for tax cuts, and the President says he wants tax cuts, as well. He supports the child tax credit and has hinted lately that he is agreeable to cutting the capital gains tax.

Our budget plan preserves Medicare by slowing its growth and offering seniors choices—proposals strikingly similar to the Medicare plan touted by the President in his health care reform bill just 2 years ago.

We are also easing back the growth of Government spending, and that is something for which President Clinton has been an advocate. After all, is not that what reinventing Government is all about?

Now, after months of adamantly denying it could ever be accomplished, the President has admitted that balancing the budget in 7 years—not 10, or 9, or even 8, as he originally proposed—was a reasonable goal.

Clearly, the President is moving closer toward us as this budget process continues. But still, he is going to wave his veto pen and just say "no"—not because he believes in his heart that he must, but because the political winds suggest that he ought to.

That is not leadership.

I suggest to President Clinton that he resist playing politics and involve himself seriously in negotiations that will move this budget forward, on behalf of all Americans—and not stop it in its tracks to placate his political base.

Mr. President, leadership does not mean having a finger sensitive enough to tell you which way the wind is blowing. And as any farmer knows, a flimsy weather vane that sits too long out in the elements is eventually going to wear out and need to be replaced.

Mr. CRAIG. Mr. President, I ask unanimous consent I be allowed 1 minute to close the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I thank my colleagues for joining me on this Halloween day. I hope the message that we send to the American people is that the efforts we are involved in here in Congress are not a trick but a treat—a treat rewarding them for the profound statement they made last year in the dramatic realignment of the political structure of this country, toward a time when Government's budgets will be balanced, when its programs will be responsive, as concerned about the taxpayers as it is about those who should be the recipients of responsible and caring Government programs.

So the day of Halloween ought not to be scary, but a profound statement to the American people that their Government in this representative form of government heard them and heard them well.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

Mr. GORTON. Mr. President, I submit a report of the committee of conference on H.R. 2002 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2002), making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 20, 1995.)

Mr. GORTON. Mr. President, we are here this morning to present the conference report to accompany H.R. 2002, the fiscal year 1996 Department of Transportation and Related Agencies Appropriations Act. As we all know, the Department of Transportation, like many other departments, is operating under the very strict terms of the continuing resolution. This conference report will allow the Department to operate for fiscal year 1996 without the restrictions of the continuing resolution; but more importantly, it will fund vital programs such as air traffic control, Coast Guard search and rescue, and other critical safety functions.

I am pleased that, in conference with the House, the Senate was able to increase funding for a number of important programs, since the conference allocation for the bill was $100 million higher in budget authority and $193 million higher in outlays than the Senate-passed bill. This year, the problems facing the conferees were the same as those faced in the past—that is, how to strike the best possible balance between the operational needs of the Federal Aviation Administration and the Coast Guard with sufficient funding for the Nation's infrastructure and transportation safety needs. I believe that this agreement provides a balanced and fair solution for the challenges we faced.

The conference report before you today contains a total of $12.5 billion in discretionary budget authority and $36.754 billion in outlays. I will quickly review some of the highlights of the bill.

Total Coast Guard funding is $3.375 billion, which is supplemented by an additional $300 million to be transferred to the Coast Guard by the Department of Defense. The conferees are very appreciative of the fine work and cooperation of Senate Defense Subcommittee Chairman STEVENS and House Chairman YOUNG. With these funds, the Coast Guard conference total will be approximately $110 million more than the fiscal year 1995 enacted level.

For the Federal Aviation Administration, a total of $8.2 billion has been provided, which includes $4.6 billion for FAA's operations; over $1.9 billion for associated facilities and equipment purchases; and $1.45 billion for grants in aid for airport construction. In addition, the conference agreement directs FAA to institute personnel and procurement reforms which are desperately needed. The conferees believe that these reforms will allow the FAA to operate more efficiently. I should point out that these reforms are fully supported by the administration. The reform provisions contained in this bill will not become effective until April 1, 1996, which will allow for sufficient and adequate review by not only the appropriate authorizing committees, but also by all affected FAA employees and systems users.

For the Federal Highway Administration, the bill includes a total of almost $20 billion—$17.55 billion for the Federal-aid highway formula program, and $2.3 billion for those highway programs which are exempt from the obligation ceiling. Highway spending in fiscal year 1996 will be nearly $500 million higher than the comparable fiscal year 1995 levels.

In the transit area, the bill provides a total of slightly more than $4 billion, which includes $400 million for transit operating assistance; $666 million for transit new starts construction; and $333 million for discretionary grants in the bus and bus-related facilities area.

In the rail area, it should be pointed out that Amtrak has been provided a total of $635 million: $305 million will be for operating expenses; $230 million will be for Amtrak's capital purchases; and $100 million is set aside for Amtrak's transition costs.

In closing, Mr. President, I would like to point out to the Members that there were several provisions included by the Senate which were dropped in conference. The provision which designates the National Highway System was not included because the conferees were assured by both the chairman of the House authorizing committee, Mr. SHUSTER, and the chairman of the Senate authorizing committee, Mr. CHAFEE, that the conference on the National Highway System bill is making progress, though perhaps not as quickly as we had hoped, and that with passage of the NHS bill, States will soon be in receipt of the $5.4 billion in apportionments that are being held in abeyance pending enactment of the NHS.

The conferees also agreed to drop a provision which allowed the States flexibility in dealing with an across-the-board cut contained in ISTEA known as section 1003. The National Highway System authorizing conferees have assured us that this issue, too, will be addressed in the NHS conference agreement.

The Senate proposal regarding State-regional infrastructure banks has been deleted from the appropriations bill. However, I have it on good assurance from the chairmen of the House Transportation Infrastructure Committee, that the State infrastructure banks proposal, in a somewhat scaled-down form, will be included in the NHS conference agreement, and will allow both transit and highway projects to participate in the infrastructure bank program.

I also want to inform the Members that the Senate proposal regarding air traffic controllers' revitalization pay, which would have phased out this 5-percent bonus over a 3-year period, has been deleted. The conferees heard from the administration and from many individual controllers that this would have a demoralizing effect on FAA personnel, and that the cut suggested by the Senate, $45 million, would have been especially detrimental as FAA institutes personnel reforms.

Finally, I should point out that the House-initiated proposal which would have moved DOT employees on worker's compensation rolls to retirement rolls, upon eligibility, has been deleted, so that nothing in this bill affects employees' existing rights under worker's compensation and retirement rules.

I want to thank all the Members of the conference for their support on reaching this agreement. I especially want to thank my ranking Member, Senator FRANK LAUTENBERG of New Jersey, for all his valuable time and insights in fashioning this conference agreement. I also want to acknowledge Mr. FRANK WOLF of Virginia, who chaired the conference on behalf of the House and Mr. COLEMAN, the House ranking Member. I believe it was a spirited conference which was entered into in good faith. I believe all the conferees were interested in producing a bill which meets this year's difficult funding challenges in a fair and balanced way.

Not at all incidentally, Mr. President, that, I believe, will be signed by the President of the United States and will not be a part of the disputes in which we are continually engaged.

We have been told by the administration that the President will sign this bill upon receipt. As a result, I urge adoption of the conference report for H.R. 2002, Fiscal Year 1996 Transportation and Related Agencies Appropriations Act.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on H.R. 2002, the transportation appropriations bill for fiscal year 1996.

First, I thank my colleague from the State of Washington for his able work on the subcommittee and for managing the bill this morning. We worked together on many issues and it is a pleasure to be able to stand here with him this morning.

I support this bill, but with considerable reluctance. When it comes to addressing the transportation needs of this country, this bill falls short. Yet, in many areas, fortunately, this bill does not accept some of the more draconian and counterproductive measures called for in the budget resolution or in the House bill. For that I am grateful.

This conference agreement cuts $800 million in outlays from the fiscal year 1995 funding levels for the Department of Transportation. And, while it is over a half a billion dollars higher than the severe reductions called for under the Senate-passed budget resolution, it still signals a sizable disinvestment in our Federal transportation infrastructure.

This is not the direction our country ought to be heading. Consider the fact that, between 1972 and 1990, the United States' public investment in infrastructure as a percentage of GDP ranked dead last of the six other G–7 nations. Among those nations that have the largest economies and the most power, we are last when it comes to investment in infrastructure. During the same period, the 1972 to 1990 period, the average productivity growth in the United States also ranked dead last.

In recent years, Japan's investment in infrastructure as a percentage of its GDP was roughly three times that of the United States. To catch up even for 1 year, we would need to increase spending on infrastructure by more than a quarter of a trillion dollars. This widening investment gap is bad news for America's ability to compete in the 21st century, and it undermines our ability to provide essential jobs that will raise living standards.

Recognizing that reality, over 400 of our Nation's leading economists have urged our Government to increase public investment. With the extraordinary congestion that we face on our Nation's highways and runways across our country, we must do no less, even within the current budget environment.

My remarks are in no way intended to reflect on the distinguished chairman of this subcommittee, Senator HATFIELD. Those of us on the Transportation Subcommittee were extraordinarily fortunate earlier this year when our full committee chairman, Senator HATFIELD, accepted the chairmanship of this subcommittee. I was delighted to hear that he made that decision. Throughout the year, he has skillfully guided the subcommittee through extensive hearings as well as an amicable markup and conference. Senator HATFIELD demonstrated his characteristic fairmindedness, openness and good judgment throughout the process, and I am grateful for the considerations he gave to my concerns throughout the year.

Separate from the funding levels contained in the bill, I am pleased to report that Senator HATFIELD and I were successful in retaining in the conference agreement several of the important policy positions articulated in the Senate bill.

As it relates to the Coast Guard, for instance, the conference agreement retains the provision allowing the commandant to realign his existing search and rescue stations, as well as reallocate billets throughout the Coast Guard to achieve his rebalancing goals.

Under the provision, however, dozens of local communities will be spared the upheaval and the worry of losing their Coast Guard search and rescue presence entirely, and that includes several communities in New Jersey, in Oregon, and in several other States.

The bill before us also includes the provisions for FAA personnel and procurement reform that was included in the Senate bill. Under this provision, absent the enactment of other legislation, the FAA Administrator will be authorized to reform his agency's personnel and procurement processes by April 1, 1996.

Both the Commerce Committee and the House Transportation and Infrastructure Committee are currently working on a comprehensive reform legislation for the FAA. In fact, I recently testified before the Commerce Committee on this legislation. It is my sincere hope that this legislation will be enacted and supersede the provisions in the appropriations bill.

The issue of personnel and procurement reform is a very complex one that requires the input of all affected parties, including the air carriers, general aviation, the unions representing the FAA's employees, and others. I expect the language in the appropriations bill will continue to serve as a strong incentive—if I may characterize it as the pebble in the shoe—to bring all parties to the table to agree on necessary reforms, because I frankly think, as many do, that they are overdue.

I should mention that, during conference committee deliberations on FAA personnel reform, both Congressman COLEMAN and myself sought to ensure that bill language would be included in the conference report ensuring that no new personnel scheme would be put into place that would bar the rights of FAA employees to be a member of the union.

While we were only successful in including the relevant language in the statement of managers, I have obtained an assurance from Secretary Peña that absolutely no measures will be included in the FAA's personnel reform plan that will undermine the ability of FAA employees to be members of a union, just like other people who work for the companies in the country.

Perhaps the most critical decision reached by the conferees as it relates to aviation is the final funding level for the FAA's operations account. The final funding level will be $4.646 billion—almost $50 million more than the House-passed level and almost $100 million more than the level passed by the Senate.

Mr. President, we have a wonderfully safe aviation system in this country. While we have all been disturbed by aviation accidents in recent months, a dispassionate review of the relevant statistics reveals that this past year was not one of the worst years for aviation safety. The fact is that usage of the air traffic control system continually grows but without the kinds of investment I believe is necessary to bring it up to the current and future needs.

The funding level for this account was, perhaps, the greatest deficiency in the Senate-passed bill. As the transportation appropriations bill moved to conference, the administration made clear the priority it attached to adequate funding for FAA operations.

It was a program that gave all the conferees, frankly, a great deal of worry.

I am very pleased that the conferees found a way to fund this account at a level more closely resembling the President's request. Importantly, as part of this effort, we were able to eliminate the provision in the Senate bill imposing a 5-percent pay cut on air traffic controllers.

Frankly, these people are under great stress, and great strain. The last thing that we need to do is worry them further by threatening their ability to attend to their personal and family needs.

I am very pleased, especially during this period of heightened anxiety over the adequacy of our air traffic control system, that we are not imposing a pay cut on our already overworked air traffic controllers.

There are several conference decisions with which I strongly disagree. I find it outrageous, quite frankly, that the Senate conferees receded to the House provision prohibiting the DOT from increasing the corporate average fuel economy standard in 1996.

Simply put so everybody understands it, this provision will prohibit the DOT from requiring the manufacturers of light trucks—a very popular vehicle in America—from trying to do even slightly better in terms of fuel efficiency. Everyone sees the quantity of imported oil we bring into this country increasing. I think it is an outrageous condition for America—to be hostage to foreign suppliers. It is not the way we ought to be going, if we can avoid it. One way we can avoid it is by conserving more here.

This provision is being forced through the process on an appropriations bill because it could not be adopted through freestanding legislation. While I was very disappointed in the outcome, I want to commend Senator GORTON for his leadership in sticking up for the Senate position on this item.

Other areas of deep disappointment for me are the deep cuts included in the bill for transit formula assistance and pipeline safety activities. Transit operating assistance is being slashed by 44 percent. To make matters worse, the conference agreement changes the formula in a way that poses an additional hardship on our major urban areas.

Members need to be aware that a cut of this magnitude will necessitate service reductions and fare increases across the country. Every Senator will have constituents that will pay more money for less transit service. We are talking about longer waits for the bus to get home from work and more cars on our already congested highways.

The Senate budget resolution called for transit operating subsidies to be phased out entirely. I hope that after the experience of a 44-percent cut this year, my colleagues will join with me in saying that enough is enough. I hope that next year we can hold the line and stem the hemorrhage in this program.

Last year's tragic pipeline explosion in Edison, NJ, served as a wake-up call for the entire Nation as to the need to beef up our efforts to ensure pipeline safety. Our Nation's pipeline infrastructure is aging rapidly. President Clinton's budget recognized this reality and requested a 13-percent increase for pipeline safety.

The conferees, however, turned around and cut these activities 16 percent below last year's level—a cut of 26 percent below the President's request. I only hope that it will not require another pipeline explosion with either massive pollution or loss of life to get my colleagues to recognize our extraordinary needs in this area.

So once again, Mr. President, I want to thank Chairman HATFIELD for his consideration throughout the development of this conference agreement. My unhappiness with the bill does not reflect at all on his leadership. What it does say is that this country is not investing enough in its transportation infrastructure. By some accounts, the U.S. ranks 50th or worse in comparison to other industrialized nations, in terms of per capita investment in infrastructure. It is outrageous.

Everybody knows that efficient transportation helps us move goods, helps us move people, helps us become more efficient, more competitive, and provide for a quality of life far better than that which is saddled with air pollution, delays caused by congestion, time away from family, and time away from business appointments.

Mr. President, one of the things that we talked about and all of us feel so deeply here about is the diminution of the quality of life in our country, about how difficult it is for families to make a living where both mother and dad go out to work because it requires two workers to earn what one used to earn. Do you know who pays the heaviest price for that? It is the children. It is those who miss parental contact during the evening hours and the daytime hours.

If this transportation system of ours continues to break down, continues to lack the ability to service our needs, it will impose an even heavier burden on the family. It is pretty simple.

So, Mr. President, I am going to support this bill. It is the best that we could get done in the current budgetary environment. The administration has signaled definitively that President Clinton will sign this conference report.

There are only 2 other appropriations bills that have been signed out of the 13 thus far. That is military construction and agriculture. We will look forward to having this bill signed. We also ask our colleagues who are in committees of jurisdiction—the Commerce Committee and the Environment and Public Works Committee on which I sit, to expedite their action on the transportation authorization bills. Those bills, like this bill, will be critical to the functioning of our country.

Mr. President, with that I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, I understand that the distinguished senior Senators from West Virginia and Arizona wish to be heard on this issue, and I understand that each wishes that we have a recorded vote.

Accordingly, I ask for the yeas and nays on the conference committee report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD addressed the chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, I did not sign the conference report on the Transportation appropriations bill. Why did I not sign the conference report? I did not sign it because I thought that it was patently unfair in its treatment of rural States like my own State of West Virginia. Why did I think that it was patently unfair to rural States like my own State of West Virginia? Because it does not allow one single dollar for the earmark of highway projects—not one—while it proceeds to earmark $687 million for 31 rail transit projects in many areas of the country, and it also earmarks $333 million in 81 instances for buses and bus-related facilities throughout the country. In other words, the conference report contains 112 earmarks amounting to over $1 billion for mass transit projects in urban areas and areas more densely populated, while it refuses to earmark one thin dime for areas that are not served by mass transit but which have to depend upon highways for the transportation of people and goods.

Mr. President and Senators, lend me your ears! I come not to bury mass transit projects but to praise them. I compliment Senators and Members of the other body who have successfully made the case for earmarking mass transit and bus moneys for cities and towns in their States and congressional districts. They are doing exactly what they should be doing. I do not find fault with that. I come not to bury justified earmarks but to praise them. I have always believed that the elected representatives of the people in Congress, both Houses, are in a better position to know the needs of their constituents in the States and congressional districts they serve than is some unelected bureaucrat downtown who otherwise would make the arbitrary decisions as to how much and where transportation dollars will be spent.

I have been in the Senate 37 years, and I have been a member of the Senate Appropriations Committee throughout all of those 37 years. I was chairman of the Senate Appropriations Subcommittee on Transportation, the subcommittee which has jurisdiction over this bill. I was chairman of that Subcommittee on Transportation from March 31, 1971, to July 18, 1975—in other words, over 4 years. I served as chairman of the Senate Appropriations Committee for 6 years during the 101st, 102d and the 103d Congresses, and I never—never—opposed the earmarking of appropriate moneys for rail and other mass transit projects. At the same time, I have also supported the earmarking of moneys for meritorious highway projects, not just in West Virginia but throughout the United States. Yet, in this conference report on appropriations for transportation, highway projects are blatantly—blatantly—discriminated against. There is not one copper penny—not one—not one copper penny for highway projects.

Is that wise? Is that good national transportation policy? Are highways not an important part of the national transportation system?

When the Transportation appropriations bill was passed by the Senate, it contained $39.5 million for nine highway demonstration projects throughout the country. One of these projects, costing $9 million, was in West Virginia.

Mr. President, $39.5 million for highway transportation projects is mere chicken feed—chicken feed—as compared with $1 billion for mass transit and bus transportation; yet, it was at least chicken feed. The House conferees on the Transportation appropriations bill took the position that no moneys—none—no moneys could be earmarked for highways. No matter how needed, highway projects were to get zero dollars—zero dollars! A policy had been laid down by the House Appropriations Subcommittee chairman that there would be no highway funds earmarked at all—none! It is my understanding that several Members of the House of Representatives sought to have funding for highway projects included in the bill, but they were confronted with the policy that was to be the rule of thumb, the line in the sand—no highway projects; none!

There have been news reports that earmarkings were being done away with in the Transportation bill; there would be no more such earmarkings. The so-called "pork-busters" breathed a sigh of relief—hallelujah! No earmarks! Henceforth, highway moneys should be distributed strictly by formula. Thus, a level playing field, it was claimed, was being created for the distribution of highway dollars. A new breed of legislator was in the saddle. Move over, John Wayne, a new breed of legislator was in the saddle. "Down with earmarks" was the battle cry!

Yet, Mr. President, earmarking is not dead. It is very much alive and is more robust than ever. And the Transportation appropriations conference report is proof of it with $1,020,000,000—that is $1 for every minute since Jesus Christ was born—$1,020,000,000 for rail and other mass transit projects, all earmarked in this conference report, all earmarked.

Mr. President, I come not to bury earmarks, but to praise them. In this particular bill I support every earmark. But as one who, while serving on the Appropriations Committee for 37 years, has never objected to the practice of earmarking, I ask, what justice—what justice—is there in a transportation policy that blatantly discriminates against highways? What wisdom, what reasonableness, what sweet reasonableness, what logic can there be in a transportation policy which says, "Come one, come all" to earmarks for mass transit, but which completely closes the door—closes the door—to highways. How sanctimonious can we get? On the one hand we say we have done away with earmarks in the bill; on the other hand, the bill is full of earmarks. This is sheer hypocrisy, sheer hypocrisy.

There is also a $200 million appropriation in this conference report for the Washington metro system. Now, I do not regret that. I do not oppose that funding. I have supported the funding for this Metro mass transit system in the past. Last year there was $200 million; the year before that, there was $200 million, and I believe the year before that, there was $170 million for the Washington metropolitan transit system. Fine. I have no problem with that. Thus, "I am constant as the northern star, of whose true fix'd and resting quality there is no fellow in the firmament." Hence, Mr. President, I come not to bury the Washington metropolitan transit system, but to praise it.

I have been much criticized in past years for getting earmarks for highway projects in West Virginia. The cynics call these highway projects "pork." Are mass transit projects pork? I ask you, Mr. President, are mass transit projects pork? Whether we talk about mass transit or whether we talk about highways, these all constitute infrastructure. And infrastructure is important to the country and the country's economy. Both mass transit and highways are important and vital components of the national transportation system. Mass transit can be adapted to certain areas of the country, but not all areas. Some areas simply must depend for the most part upon highways.

Why should areas that can only be served by highways be deprived? Why should they be denied Federal highway dollars? Are rural areas not a part of America? Are the taxpayers who live in rural areas not Americans, too? Are not their tax dollars just as good as the tax dollars of those who live in urban areas, mass transit areas? A transportation policy that proclaims to the skies that earmarks are evil is a sanctimonious and hypocritical transportation policy when it pronounces the sentence of death on one particular kind of transportation earmarks, while loading the bill down with earmarks for other transportation modes. Such a transportation policy, Mr. President, is not only unfair, it is also unwise. It is penny-wise and pound-foolish. Monies spent on highways provide not only short-term jobs but also result in long-term financial returns for the whole national economy, many times over.

Now, the ancient Persians knew this. Darius Hystaspes—the Great—paid great heed to roads, which he greatly extended and improved.

The Egyptians, the Carthaginians, and the Etruscans all built roads. They did not have mass transit. They did not have buses. They built roads.

The truly great road builders were the Romans. We have all heard that all roads lead to Rome. The Romans knew how to lay down a solid base and how to give the road a pavement of flat stones. They knew that the road must have a crown, that it must be higher in the middle so as to drain water away, and that ditches should be dug alongside to carry away the water. Some Roman roads are still in use even today. And every Senator, I am sure, who has visited Rome and traveled out to Tivoli, for example, has traveled on old Roman roads, built 2,000 years ago.

Great roads the Romans built that men
  might meet,
And walls to keep strong men apart, secure;
Now centuries are gone, and in defeat,
The walls are fallen, but the roads endure.

Now, by contrast, early roads in America were very poor. The trip from New York to Boston in colonial days was truly an adventure. You can say that about some of the roads in West Virginia as well—even today. When I was in the State legislature 50 years ago, almost 50 years ago, 48 years ago, West Virginia had less than 10 miles of divided highways.

In the early 1800's, settlers were moving in great numbers to the West. In 1811, work was begun on a road that led away from Cumberland, MD, toward the West. It was to reach as far west as Vandalia, IL. This was the National Road, the old Cumberland Road. And I am sure that the Presiding Officer, Senator CAMPBELL, who presides over the Senate today with a degree of skill and dignity that "is so rare as a day in June," has traveled with his motorcycle over that old Cumberland Road. The Chair is not supposed to respond, but I see him smiling.

Well, this was the National Road, the old Cumberland Road. For many years it was the chief line of travel for thousands of settlers on their way to the West. Before 1838, Congress had spent nearly $3 million—think of it; Congress had spent nearly $3 million—of Federal funds on that road. Henry Clay was a strong proponent of getting Congress to advance money for building the road. O that Henry Clay were a Member of this Senate today! Or a Member of the other body today—he served in both bodies; he was once Speaker of the House. O that he were here today to plead the cause of highways! He who advocated his national system of public improvements that made sense, and they still make sense today. Henry Clay was a strong proponent of getting Congress to advance money for building that road.

I find it ironic, Mr. President, that the ancients—the Persians, the Etruscans, the Egyptians, the Carthaginians—knew the importance of having good roads and sought to expand their network of roads, yet, we in the Congress, the present-day beneficiaries of the lessons of history, look upon highways with disdain, as evidenced by this transportation appropriations conference report.

There were other voices, Mr. President, not so ancient which also may be summoned in support of building transportation infrastructure. Thomas Babington Macaulay said: "Of all inventions, the alphabet and the printing press alone excepted, those inventions which abridge distance have done most for the civilization of our species. Every improvement of the means of locomotion benefits mankind morally and intellectually, as well as materially, and not only facilitates the interchange of the various productions of nature and art, but tends to remove national and provincial antipathies, and to bring together all of the branches of the great human family." That was Thomas Macaulay.

Francis Bacon, a great English Chancellor, a farsighted and learned man, said: "There be three things which make a nation great and prosperous: a fertile soil; busy workshops; easy conveyance for men and goods from place to place."

Mr. President, I was in the House of Representatives when President Eisenhower advocated the Interstate Highway System, and I supported it. I was a Member of the U.S. Senate and supported the creation of the Appalachian Regional Commission and the establishment of the network of Appalachian Regional Corridors. I have also consistently supported Federal funding in sharing the costs of building those corridors because of the particular and unique needs of the 13 States in Appalachia.

When the Democrats were in control of the Senate during the years 1989 through 1994, I provided allocations, as chairman of the Senate Appropriations Committee, that would result in the funding of transportation projects across the board—mass transit, bus and bus-related facilities, as well as highways—and throughout the entire country. I never took the position that allocations of funds should be for highways only, I never took the position that allocations of funds should be only for West Virginia, and that earmarks for other transportation modes should be eliminated or done away with. I recognized that a national transportation policy—that is what we are talking about, a national transportation policy—should include several different systems—not just one or two, but several, meaning more than two—highways, mass transit, and otherwise. But that is not the way things are to be done now that the tables have turned. For some unfathomable reason—and "unfathomable" goes deeper than the deepest part of the broad Pacific Ocean—highways have been left out! Out! Out! Out with highways!

Mr. President, during a 12-year period, 1973 to 1985, the United States invested three-tenths of 1 percent of its gross domestic product in infrastructure annually; during a 12-year period, the United States invested three-tenths of 1 percent of its gross domestic product in infrastructure annually.

Canada, meanwhile, invested 1.5 percent; the United Kingdom 1.3 percent; France invested 2 percent; the then Federal Republic of Germany invested 2.5 percent; Italy invested 2.7 percent; Japan invested 5.1 percent of its gross domestic product in infrastructure annually during that 12-year period. How did that correspond with those same countries' productivity? While the United States was investing only three-tenths of 1 percent of its gross domestic product annually in infrastructure, its productivity grew only six-tenths of 1 percent annually, on the average. In other words, less than 1 percent.

Canada invested 1.5 percent and experienced productivity growth of 1.3 percent. The United Kingdom invested 1.8 percent and had 1.8 percent productivity growth. France invested 2 percent and grew 2.3 percent. The Federal Republic of Germany invested 2.5 percent and enjoyed 2.4 percent productivity growth annually. Italy invested 2.7 percent, which yielded productivity growth of 1.8 percent. In Japan, productivity growth was 3 percent, while it invested 5.1 percent of its gross domestic product in infrastructure.

So we can see that nondefense public investment translates into increased productivity. Increased productivity means increased economic growth. Increased economic growth means more jobs and, thus, more income for the U.S. Treasury. Increased economic growth also means increased national security. It also means an enhanced competitive position for the Nation. It means a higher standard of living. And increased public investment also encourages increased private investment. And why not? Why would it not?

Mr. President, if you had a company, let us say, and you would like to buy a brand-spanking-new fleet of trucks, all outfitted in bright red paint and chrome, how would you like to put that fleet of new trucks out on roads that are filled with potholes and on bridges in need of repair? How would you like to have your trucks detoured 15, 18, 20 miles around a bridge that was closed because it was unsafe? How much would that cost? How much would it cost you? How much would that lower your productivity? How much would that cut into your profits? You probably would be reluctant to invest in the new trucks at all.

Hence, public investment encourages private investment and is conducive to the profitability of the private sector. Dollars spent on highways not only improve the efficiency, and hence the productivity and economic growth of a region, but they also improve safety on the highways. The decision to eliminate highway funding earmarks in this legislation just does not make sense in terms of our economic growth, our productivity growth, our Nation's transportation needs, our people's safety, or an overall viable transportation policy for this Nation.

Why, then, was such a decision made? What is really going on in this bill with regard to highway projects? What could possibly justify such an arbitrary and shortsighted view of our Nation's transportation needs so as to prompt a total—total—blackballing of highway projects?

In my view, such a tunnel-vision approach could not be engendered by any reasonable contemplation of what makes for sound national transportation policy.

What is going on here is simple knee-jerk politics. It is a large fandango aimed at appearing to be "pure" on the subject of transportation pork, a large fandango aimed at appearing to be pure on the subject of transportation pork. Highway demos have, over the years, gotten a reputation which, in my view, is largely undeserved. Now that bad reputation is being exploited for political gain—for political reasons.

In news story after news story, highway earmarks have been portrayed as a useless waste of the taxpayers' hard-earned dollars. They exist only to promote the reputation and electability of the politician who does the earmarking, so the story goes. Thus, to appear to be virtuous on the subject of pork, one needs to be tough on that Satan of spending, that Beelzebub of budgeting, the demon of deficits—highway demos.

If one is sufficiently vociferous in stomping the serpent of highway demos, then one can earmark bus and mass transit projects with random abandon. We have banished evil from the kingdom! Now vice can flourish! Hallelujah, how sweet it is! Evil has been banished from the kingdom.

Make no mistake about it, targeting moneys to a specific locality is earmarking. That is what has been done in the case of mass transit and bus moneys in this bill. That is earmarking. If it moos, gives milk, and has an udder, it is undoubtedly a cow—even if one insists on saddling it like a horse. It is still a cow. If it barks, wags its tail, and lifts its leg, it is a dog, no matter how loudly one claims that it thrives only on cat food.

An earmark is an earmark is an earmark is an earmark and no amount of obfuscation can change that.

The conference agreement before us will provide $1.665 billion in discretionary grants for mass transit. Not one penny—not one penny—of that amount will go to West Virginia. Not one. Mr. President, $1.665 billion in discretionary grants for mass transit. Within this amount, roughly $665 million will go out by formula to the major rail transit systems in our major urban cities. West Virginia will not see any of that funding.

West Virginia is not alone. There are other States, as well.

The remaining $1 billion provided for transit discretionary grants in this conference agreement have been completely earmarked—completely earmarked—by the conferees. This includes $333 million in grants for bus and bus-related facilities. Yet, there are only two bus grants that are expressly authorized to receive appropriated funds in the bus category—a grant for the State of Michigan and a grant for Altoona, PA. However, the conferees saw fit to earmark every penny of the funds available for bus and bus-related facilities, for a total of 81 projects.

It has not always been the custom to earmark the entire pot of bus funds. Under section 3 of the Transit Act, these funds are to be distributed based on a merit-based competition conducted by the Federal Transit Administration. Indeed, there are currently applications sitting at the Federal Transit Administration for more than half a billion dollars in bus grants. The applications are there. However, not one—not one—of these applications will be entertained in the coming year.

Why? Because every penny has already been earmarked by the conferees. Just 2 years ago, roughly 30 percent of the funds available for bus and bus facilities were distributed by competition. Four years ago, roughly half the funds were distributed based on competition. In the years before that, the Congress earmarked anywhere between 9 percent and 28 percent of the total amount of funding available for bus grants. The conference report before us provides $687 million for so-called transit new starts—$687 million for so-called transit new starts. These are major construction projects for new, expanded transit systems in our major urban centers.

The conference report agreement earmarks every penny made available under this account for 31 cities across the country. This is true despite the fact that the administration saw fit to request funding for only 12 cities..

Now, I know that it will be claimed that the Nation's highway needs can be completely provided for by formula funding. Just do it all by formula. Just mathematically dribble out highway dollars under an agreed-upon formula. No deviations, please. We have all the highway needs of every State completely scoped out, packaged and arithmetically calculated, all by formula.

How utterly preposterous! How convenient for some States and how detrimental for others.

It should not come as a revelation to anybody that different States have different topographies. Some are flat. Some are hilly. Some are mountainous. Some are both flat and hilly. Some are both flat and mountainous. It should also not come as an intuitive flash of genius to anyone that the economies of the States are different. Some are rural. Some are agricultural. Others are urban centers. Some are dependent upon industry. Many State economies have a combination of both or all of these.

If one understands these quite obvious and undeniable geographic and economic differences that exist among the States, it then follows that some States will need more mass transit money, or more bus money, or more highway money than others. It also then becomes apparent that an exclusively formula-driven approach to highway funding is not going to address the highway needs of each and every State. It costs from $10 to $18 million a mile to build four-lane highways in the State of West Virginia. We have mountains, more than a million hills and mountains in West Virginia. It also, then, becomes apparent that an exclusively formula-driven approach to highway funding is not going to address the highway needs of each and every State.

Thus, the reason for earmarking of highway dollars—in order to address the deficiencies of the Federal highway formula in certain States—can easily be understood, can easily be understood by those who want to understand.

Take a State like West Virginia. We are mostly rural, heavily forested, very mountainous, have very little flat land and few cities of any size. We have few airports, sparse airline service, and heavy fog which frequently impairs landings and takeoffs.

West Virginia receives almost no funding from the $1.5 billion airport improvement program. The most formula funding that my State of West Virginia has ever received from that program was $4.3 million in 1 year. West Virginia ranks 49th in the Nation in the number of air passengers.

I do not like to ride airplanes. When I was a little boy I would write to all of the companies that were advertising in publications that had anything to do with aviation. I thought someday I would like to be an aviator, and sail through the clouds with the greatest of ease. It did not work out like that. I am not so wild about flying anymore.

So we are 49th among the States with reference to air passengers. Compare that to the Dallas-Ft. Worth Airport that has received more than $100 million in a single year for the expansion of that airport from the Airport Improvement Program. Is that pork?

The airport in Charleston, West Virginia—probably the State's busiest airport—was built by hacking off the top of several mountain peaks, shoving that dirt into the valleys and then smoothing and leveling that newly-created surface to make a runway. On a foggy morning, taking off or landing at Charleston can be an exciting experience. And it can also be a fatal one, as we have seen. So, there are not large airports, and therefore, some businesses are reluctant to come to my State because of that drawback. Likewise, blasting through mountains, building tunnels through mountains—John Henry has been dead a long, long time—blasting tunnels through mountains, under valleys and riverbeds in order to build tunnels for mass transit is not extremely practical, to say the least. We have almost no mass transit activity in West Virginia. Can you imagine speed rail transit in West Virginia?

We have almost no mass transit. Of the $2.5 billion that was distributed by formula to the States for mass transit assistance in fiscal year 1995, guess how much West Virginia received? Of the $2.5 billion, West Virginia received less than $650,000. It received $642,000, less than $1 million out of $2.5 billion. That is why we need highways. I know they are looked upon with scorn in some quarters. But West Virginia is part of the Union, the only State that was torn from another State in the throes of a great Civil War. It became a Union State in 1863.

For this coming fiscal year, the conference agreement will lower that level of assistance to West Virginia to $515,000. Out of the $2.5 billion, West Virginia will get a half-million. Think of it. I am not complaining about that. God, in his masterful design, in all of that process of creation, made West Virginia mountainous, so we do not have mass transit. We have to depend upon highways. West Virginia, therefore, receives very little mass transit money, no new airport funds, and is, therefore, left almost completely dependent upon highway funds to satisfy its transportation needs.

Come on, pork busters! Go with me to West Virginia! For commerce, for tourist travel, travel by people within the State and by people passing through on their way to somewhere else, means, for the most part, highway travel, and we need highways. Highways are West Virginia's only ticket—only ticket to economic development.

My State is a poor State. Thank God for West Virginia. It is a land of mountains by God's great will, and it produces mountain men and women. Yes, it is a poor State, always has been, trampled by outside interests. One day I will talk about the great coal barons who lived outside the State but who took the State's resources with the blood and the sweat and the tears of mountaineers who helped to build those fortunes for the absentee owners. So, my State is a poor State, and without adequate highways we will always remain so.

Then, there is the issue of safety. That affects everybody. I was in one head-on collision in West Virginia, on West Virginia State Route 2, in which the driver of the other car was killed.

Safety is important. Again, let us look at my State of West Virginia. As I have said, there is very little flat land. We have roads in some areas that have more hairpin curves than they do straight stretches. They are narrow winding, twisting roads, snaking around and over mountains and up and down steep valleys. In the rain, in the snow, in the dark, in the fog, it is quite a harrowing ride in many parts of West Virginia. Lives have been lost again and again because of these narrow, two-lane, twisting ribbons that crisscross my State. I know. I have traversed almost all of them at some time or other.

It would be an education for some Members to travel with me on some rainy night in the fog when the headlights barely penetrate a car length. Perhaps I should invite some of the opponents of highway money to ride along with me, so that they might enjoy the full flavor of unimproved, two-lane mountain highways. I daresay their antiperspirant would fail them. Maybe then—just maybe—a little sympathy might be forthcoming with regard to those evil highway projects.

This is what my people endure daily in West Virginia. This is what travelers passing through my State contend with. This is what truck drivers—whose time is money—have to deal with when they take a load through West Virginia.

But, what is West Virginia in the grand scheme of things? We are small. We are poor. Who cares about our safety or our economic plight? Maybe we should just crawl back into our hollows and mountain caves and stop bothering everybody.

A patchwork quilt of a nation, where some States thrive and others wither, is not a prescription for a strong national economy. An unbalanced transportation policy, like the one promulgated in this conference report, is a major contributor to that checkered economic picture, and it will not serve this Nation well.

So we can beat our breasts. We can beat our breasts and proclaim to the highest heavens that we have eliminated the earmarks in this bill. But that claim is false. The earmarks are there. They are a little disguised perhaps, but they are there.

We can wave our swords and rejoice that we have slain the dragon of highway demos in this bill. That claim is true. But, that dragon is not a dragon at all, and slaying it will only result in the killing of the economic hopes of rural states dependent on highways for prosperity.

Mr. President, Daniel Webster made my case in 1830 in his second reply to Hayne. On Tuesday, January 26, 1830, he said,

> . . . I look upon a road over the Alleghanies—

He was talking about West Virginia except West Virginia was not a State at that time.

. . . I look upon a road over the Alleghanies—

This is not ROBERT C. BYRD talking; this is Daniel Webster, the god-like Daniel.

. . . I look upon a road over the Alleghanies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters.

He did not limit it to just one mode of transportation. He was talking about them all. He said,

. . . I look upon a road over the Alleghanies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters, as being an object large and extensive enough to be fairly said to be for the common benefit. . . . We [New Englanders] look upon the states, not as separated, but as united . . . We do not impose geographical limits to our patriotic feeling or regard; we do not follow rivers and mountains, and lines of latitude, to find boundaries, beyond which public improvements do not benefit us . . . if I were to stand up here and ask, what interest has Massachusetts in a railroad in South Carolina? I should not be willing to face my constituents. These same narrow-minded men would tell me, that they had sent me to act for the whole country, and that one who possessed too little comprehension, either of intellect or feeling, one who was not large enough, both in mind and in heart, to embrace the whole, was not fit to be entrusted with the interest of any part.

That was Daniel Webster. O that we had Webster, or Clay, or both of them in the Senate today. Or in the other body, because they saw beyond the horizon. They saw beyond the geographical limitations, beyond the lines of latitude and the rivers and the ridges of the mountains. They saw a great country benefiting by that which benefited one part.

Mr. President, I do not ask others to vote against this conference report. As I say, I support every mass transit earmark in the conference report. I support every bus and bus facility earmark in the conference report. I do not come to bury earmarks, Mr. President. I come to praise them. But I will vote against this conference report.

We are one country, Mr. President, and we ought to have a transportation policy that adequately addresses the needs of the whole country. The bill before us falls far short of that laudable goal.

I shall vote against this conference report in protest of the unwise transportation policy that is embraced in this bill.

Mr. President, I ask unanimous consent that a table showing earmarks provided for bus and bus-related facilities, and one showing earmarks for mass transit systems, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUS AND BUS-RELATED FACILITIES

The conference agreement provides $333,000,000 for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities. The conferees agree that the recommended funding should be distributed as follows:

Project location and purpose	House	Senate	Conference
Arkansas:			
Little Rock, central Arkansas transit transfer facility	0	$1,000,000	0
Fayetteville, intermodal transfer facility	0	5,400,000	0
State of Arkansas; buses	$6,000,000	0	$6,200,000
California:			
Coachella Valley; SunLine bus facility	1,000,000	0	500,000
Long Beach, bus replacement and parts	0	3,000,000	1,500,000
Los Angeles; Gateway intermodal center	8,000,000	15,000,000	8,000,000
San Diego, San Ysidro intermodal center	0	10,000,000	5,000,000
San Francisco; buses	13,480,000	0	6,740,000
San Francisco, BART ADA compliance/paratransit	0	4,460,000	2,230,000
San Gabriel Valley; Foothill bus facilities	12,500,000	0	9,750,000
San Joaquin, RTD replacement	0	10,560,000	5,280,000
Santa Cruz; bus facility	3,000,000	0	1,500,000
Sonoma County; park and ride facilities	2,500,000	0	1,250,000
Ventura County; bus facility	1,200,000	0	600,000
Yolo County; buses	3,000,000	0	1,500,000
Colorado: Fort Collins and Greeley; buses	2,500,000	0	1,250,000
Connecticut: Norwich; intermodal center	3,000,000	0	1,500,000
Delaware: State of Delaware; buses	2,700,000	0	1,350,000
Florida:			
Metropolitan Dade County; buses	4,000,000	16,000,000	10,000,000
Orlando; Lynx buses and bus operating facility	8,500,000	0	4,250,000
Palm Beach County; bus facility	4,000,000	0	2,000,000
Volusia County; buses and park and ride facility	2,500,000	0	1,250,000
Georgia: Atlanta; buses	7,500,000	0	3,750,000
Hawaii: Honolulu, Oahu; Kuakini medical center parking facility	0	8,000,000	4,000,000
Iowa:			
Ames, Marshalltown, Ottumwa, Regions 6, 14, 15, 16; buses and bus facilities	4,000,000	0	2,350,000
Cedar Rapids; hybrid electric bus consortium	0	2,960,000	1,200,000
Ottumwa; global positioning equipment	0	700,000	0
Waterloo; intermodal bus facility	0	1,340,000	670,000
State of Iowa; buses, equipment, and facilities	0	8,000,000	4,280,000
Illinois:			
Chicago replacement buses/communications system	0	13,700,000	0
State of Illinois; buses	20,000,000	0	16,850,000
Indiana:			
Gary and Hammond; buses	520,000	0	260,000
South Bend; intermodal facility	5,000,000	0	2,500,000
State of Indiana; buses and bus facilities	13,000,000	0	6,500,000
Kentucky: Lexington; buses	2,000,000	0	1,000,000
Louisiana:			
New Orleans; bus facility	6,000,000	0	3,000,000
New Orleans; buses	12,000,000	0	6,000,000
Saint Barnard Parish; intermodal facility	3,000,000	0	1,500,000
Massachusetts: Worcester; intermodal center	4,000,000	0	2,000,000
Maryland: Maryland Transit authority, Maryland; buses	10,000,000	16,000,000	13,000,000
Michigan:			
Lansing intermodal transportation center	0	4,180,000	2,090,000
State of Michigan; ISTEA set-aside requirement	10,000,000	10,000,000	10,000,000
Minnesota: Metropolitan Council, Minnesota; articulated buses	15,000,000	0	7,500,000
Missouri:			
Kansas City; Union Station intermodal	0	13,000,000	6,500,000
St. Louis; Metrolink bus purchase	0	10,000,000	3,500,000
State of Missouri; buses and bus facilities	0	11,000,000	7,000,000
North Carolina: State of North Carolina; buses and bus facilities	10,000,000	0	5,000,000
New Jersey:			
Garden State Parkway; park-n-ride at interchange 165	0	2,300,000	1,150,000
Hamilton Township; intermodal facility/bus maintenance	0	25,000,000	12,500,000
Nevada: Clark County, Nevada; buses and bus facility	14,000,000	20,000,000	17,000,000
New York:			
Albany; buses	0	10,000,000	5,000,000
Buffalo; Crossroads intermodal station	1,000,000	0	500,000
Long Island; buses	0	3,000,000	1,500,000
New Rochelle; intermodal facility	1,500,000	0	750,000
New York City; natural gas buses/fueling station	0	10,000,000	5,000,000
Rensselaer; intermodal station	7,500,000	7,500,000	7,500,000
Rochester-Genessee; buses	0	1,400,000	700,000
Syracuse; buses	2,000,000	0	1,000,000
Syracuse; intermodal station	2,000,000	0	1,000,000
Utica; buses	0	6,000,000	3,000,000
Westchester; bus facility	4,500,000	0	2,250,000
Ohio:			
Cleveland; Triskett bus facility	2,500,000	0	1,250,000
Columbia; buses	0	10,000,000	0
State of Ohio; buses and bus facilities	20,000,000	0	15,000,000
Oregon:			
Wilsonville; transit vehicles	0	500,000	250,000
Eugene lane transit district; radio system	0	1,300,000	650,000
Pennsylvania:			
Allegheny County; busway system	8,000,000	10,000,000	9,000,000
Altoona; ISTEA set-aside requirement	2,000,000	0	1,000,000
Beaver County; bus facility	1,600,000	3,300,000	2,450,000
Erie; intermodal complex	0	8,000,000	4,000,000
North Philadelphia; intermodal center	6,000,000	0	3,000,000
Philadelphia; buses	3,000,000	0	1,500,000
Philadelphia; Chestnut Street/alternative fueled vehicles	0	2,000,000	1,000,000
Philadelphia; lift-equipped buses	15,000,000	0	7,500,000
Tennessee: Nashville, Tennessee; electric buses	600,000	0	300,000
Texas:			
Corpus Christi; buses, dispatching system, and facilities	0	1,600,000	2,450,000
Corpus Christi; bus facilities	2,500,000	0	0
El Paso; buses, equipment and facilities	6,000,000	0	5,200,000
El Paso; bus equipment	2,900,000	0	0
El Paso; satellite transit terminal	1,500,000	0	0
Robstown/Corpus Christi bus shelters/curb cuts/transit center	0	800,000	0
Utah: Utah Transit Authority, Utah; buses	3,500,000	0	1,750,000
Virginia: Richmond; downtown intermodal station	0	10,000,000	5,000,000
Vermont:			
State of Vermont; buses and bus facilities	0	6,000,000	3,000,000
Marble Valley; bus upgrades	0	2,000,000	1,000,000
Washington:			
Everett; intermodal center	0	7,000,000	3,500,000
Pierce County; Tacoma Dome station	3,000,000	5,000,000	5,000,000
Seattle; Metro/King County multimodal	0	4,000,000	2,000,000
Seattle/King County; Seattle metro bus purchase	2,500,000	10,000,000	6,250,000
Wenatchee; Chelan-Douglas multimodal	0	2,000,000	0
Wisconsin: State of Wisconsin; buses	20,000,000	0	10,000,000
Total	333,000,000	333,000,000	333,000,000

The conference agreement provides for the following distribution of the recommended funding for mass transit systems as follows:

Project	*Amount*
Atlanta-North Springs project	$42,410,000
South Boston Piers (MOS-2) project	20,060,000
Canton-Akron-Cleveland commuter rail project	2,250,000
Cincinnati Northeast/Northern Kentucky rail line project	1,000,000
Dallas South Oak Cliff LRT project	16,941,000
DART North Central light rail extension project	3,000,000
Dallas-Fort Worth RAILTRAN project	6,000,000
Florida Tri-County commuter rail project	10,000,000
Houston Regional Bus project	22,630,000

Project	Amount
Jacksonville ASE extension project	9,720,625
Los Angeles Metro Rail (MOS-3)	85,000,000
Los Angeles-San Diego commuter rail project	8,500,000
MARC commuter rail project	10,000,000
Maryland Central Corridor LRT project	15,315,000
Miami-North 27th Avenue project	2,000,000
Memphis, Tennessee Regional Rail Plan	1,250,000
New Jersey Urban Core-Secaucus project	80,250,000
New Orleans Canal Street Corridor project	5,000,000
New York Queens Connection project	126,725,125
Pittsburgh Airport Phase 1 project	22,630,000
Portland-Westside LRT project	130,140,000
Sacramento LRT extension project	2,000,000
St. Louis Metro Link LRT project	12,500,000
Salt Lake City light rail project	9,759,500
San Francisco BART extension project	10,000,000
San Juan, Puerto Rico Tren Urbano project	7,500,000
Tampa to Lakeland commuter rail project	500,000
Whitehall ferry terminal, New York, New York	2,500,000
Wisconsin central commuter project	14,400,000
Burlington-Charlotte, Vermont commuter rail project	5,650,000

SOUTH-NORTH CORRIDOR PROJECT

The conferees note that the Oregon legislature and Portland area voters have approved $850 million in local and state funds for the South-North corridor project. The conferees support the inclusion of the South-North corridor in the Portland area program of interrelated projects and note that a project financing plan, based on a discretionary (section 3) share of fifty percent of the total project costs, will be considered should the Portland region seek funding for this project.

ORANGE COUNTY, CALIFORNIA

The conferees are concerned with the delay of the Federal Transit Administration in obligating the funds previously provided in fiscal years 1994 and 1995 for the Orange County Transitway project. The conferees are concerned that the FTA may fail to recognize that the Anaheim Intermodal Transportation Center is not an element of the Transitway project. The conferees, therefore, direct the FTA to work expeditiously to obligate these funds once all pending planning and financial issues are addressed adequately.

KANSAS CITY

Although no funds have been provided for the Kansas City, Missouri light rail project, the conferees believe that based on the results of the recently completed major investment study, the project may have merit and therefore encourage project sponsors to continue to seek federal support in the future.

Mr. BYRD. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RECONCILIATION BILL

Mr. BYRD. Mr. President, I heard a great deal of blather this morning about tricking and treating, about that great reconciliation bill that was passed last Friday—it may have been a little after midnight—and that that was a great treat for the American people.

Mr. President, here it is on my desk. The white papers represent the Senate amendment; the 1,862 pages just in the white. The two blue volumes, 1,839 pages, represent the House reconciliation bill.

These 1,839 pages that represent the House reconciliation bill were given 6 hours—all of 6 hours—of debate in the other body. Think of it, 6 hours! And the 1,862 pages in the Senate amendment were given 20 hours, plus 1 additional hour, I believe, on the Roth amendment, and a minute equally divided on each of various and sundry other amendments. So there you have it, 1,862 pages, a little over 20 hours, parts of 4 days in the Senate!

Now, who under God's vast Heaven knows what is in this bill? Not one Senator, not one Senator out of the 100 Senators, knew when he cast his vote for or against that monstrosity, not one knew what he was voting on! No single committee held hearings on all of this. Different committees held different hearings on parts of it. But no committee person, no committee chairman, no Member of the Senate, no staff person knew everything that Senators were voting on, and most Senators knew very little about it. We simply rubberstamped the package that was sent to the Senate by the Senate Budget Committee, and not all of the members of that committee knew what they were sending to the Senate. Is that legislating? Is that trick or treating?

Mr. President, those who wish to proclaim to the high heavens that this is a great masterpiece will come to find that "Confusion now hath made his masterpiece," and the worm will turn! The American people are going to find out in due time about the Senate's handiwork and the handiwork of the other body—what we passed for a law.

We might as well have been blindfolded. We might as well have had our ears plugged. When a pile of paper like that is acted upon in the course of 42 hours—including time consumed by roll calls—under the restrictions that govern the actions of the Senate on a reconciliation bill, how can one say that the Senate has not perpetrated a gigantic fraud upon the American people? The people send us here to know what we are doing, to know what we are voting on, and we did not. We did not. And God knows that in the heart of every Senator, that Senator has to admit that he did not know what was in that bill. He knew a little here and a little there, but he did not know most of what is in that bill.

So there you have it. That is the colossal trick or treat of the century! Right there it is. Halloween came last Friday. It is over! The kids may go around tonight and pick up a little candy and chewing gum, here and there, but the American people got theirs last Friday night!

Now the two bodies, the conferees of the two bodies have to meet and go over all of this mass of wood pulp and try to make sense out of it and then bring back what will result from the conference, the resolution of the differences between the two bodies. And who knows what differences there are? We will have that conference report up before the Senate one day.

There is no legal requirement, there is no constitutional requirement that I know of that says the Senate has to pass a reconciliation bill. Show me! I do not know of any. There is no doubt that there would be some serious budgetary consequences that would flow from not having a reconciliation bill but we do not have to have one. All we have to do is pass the appropriations bills, raise the debt limit and go home.

Think of it! If we continue to go down that road, all we will need to do is show up for a week, 10 days perhaps, during a whole year. Except for the Byrd rule, if the Senate so instructs the committees, all the committees could just send to the Budget Committee—it is not the Budget Committee's fault—all the other committees could just send to the Budget Committee whatever their pleasures might be, and the Budget Committee would be forced to put all those into one massive bill, and we could just pass that one bill and pass one omnibus appropriations bill and go home. Hot ziggedy dog, go home!

Just spend just a few days here, we have a few votes, go home! Just pass one bill! Just rubber stamp whatever the Budget Committee is forced to send to the Senate floor. Rubber stamp it! That would be another trick or treat for the American people.

Well, Mr. President, it seems to me it is preposterous to even claim that we are legislating with any knowledge or wisdom of what we are doing when we last week passed a bill like that. It was a joke we played on the American people—and a bad one.

Mr. President, I thank the Chair, and I thank all Senators, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKING SENATE STAFF

Mr. BYRD. Mr. President, the conference report has been the subject of praise and criticism and blame. Let me take this opportunity to express my appreciation and, I am sure, the Senate's appreciation to the floor staff under the direction of the Secretary of the Senate, Kelly Johnston, for the outstanding service that the floor staff provided to the Senate during the lengthy debate on the reconciliation bill that was passed in the early hours of the morning on Saturday, October 28.

I commend the hard work and long hours of the legislative clerk, Scott Bates, and his able assistant, David Tinsley, as well as the bill clerk, Kathie Alvarez. But most particularly, Mr. President, I applaud the outstanding efforts of the office of the Parliamentarian of the Senate, the staff of very hard-working and dedicated professionals. That office is under the supervision of the Senate Parliamentarian, Bob Dove. And he is very ably assisted by Alan Frumin, Kevin Kayes, and Beth Smerko, as well as Sally Goffinet.

The reconciliation bill that the Senate adopted last week was a massive and complicated omnibus bill. Many difficult rulings were required of the Parliamentarian, particularly in the context of the often maligned Byrd rule and the need to interpret the consistency or lack thereof of particular amendments with respect to the Byrd rule.

In many of these instances, proponents of amendments argued adamantly and with passion before the Parliamentarians that their amendments were relevant under the Byrd rule and, therefore, qualified for inclusion in the reconciliation bill. The opponents of such amendments argued just as strongly that a number of these amendments were extraneous or had no budgetary impact and, therefore, did not qualify for inclusion in the reconciliation bill.

The Parliamentarians had the very difficult task of reaching a final determination in questions such as these on the basis of their interpretations of the requirements of the Budget Act in relation to the Byrd rule as well as the precedents of the Senate in this regard. This is a very difficult and thankless responsibility, which, to my knowledge, was carried out without exception on an objective and fair and equitable basis in every instance.

So I congratulate the Parliamentarians on their performance in connection with the record-setting stream of amendments and the interpretations that had to be determined in relation to many of them during the debate on the reconciliation bill. The Senate and the American people owe these hard-working professional staff members our deep gratitude.

I would be recreant if I did not also compliment the majority leader, Mr. DOLE, and the minority leader, Mr. DASCHLE, and the chairman and the ranking member of the Senate Budget Committee, Mr. DOMENICI and Mr. EXON. The two managers of the bill demonstrated great skill, equanimity, and patience in their work.

The majority leader carried a heavy burden. I think he was fair. He was hard driving, but he succeeded in overcoming the difficulties and problems and was successful in getting Senate action on the bill.

Mr. EXON on this side did us all proud. He likewise was fair, patient, and is to be greatly commended.

Mr. DOMENICI is one of the brightest minds in this Senate. That was evidenced in the way he conducted himself during the markup and management of the bill in the committee and on the floor.

And our own minority leader demonstrated great understanding and reached out to all of the members of the minority, as he always does, and, in my judgment, did a masterful job in his work on behalf of the minority and on behalf of the people that we represent.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

The Senate continued with the consideration of the bill.

Mr. McCAIN. Mr. President, I want to take a moment to praise the chairman and the ranking member of the Transportation Appropriations Subcommittee. The conference report they have brought to Senate demonstrates their hard work.

Although I would have dealt with some specific issues differently than the conferees did, they deserve our praise.

However, Mr. President, I do want to comment specifically on a few matters contained in the bill.

First, the House bill as passed contained numerous provisions making appropriations for certain projects contingent upon authorization. I am disappointed that this language was dropped in conference.

If we are going to continue to appropriate funds for unauthorized projects—I would hope that if such an appropriation is made subject to authorization that such language will be preserved.

Second, I am also concerned that in certain accounts the funding levels reported out of the conference are higher than the levels approved by either the Senate or the House. Reprioritization of funds in the conference in this manner does raise many legitimate concerns.

Third, the report to accompany the conferenced bill does contain numerous earmarks not contained in the reports that accompanied either the House or Senate bills. I raise this issue not to criticize, but instead to emphasize for the record that such language does not have the force of law, is not binding, and should only be considered as a recommendation to the administration. I would hope the President and the Secretary of Transportation would use their own judgment and spend these funds in a fair, rational manner based on national priorities.

In past years the Transportation appropriations bill has been riddled with earmarks and pork. I am pleased that this year's bill contains substantially fewer earmarks. To be certain, it does contain earmarks and some pork that I would like to have seen been dropped. But on the whole, the bill deserves our praise and support.

Mr. DOMENICI. Mr. President, I rise in support of the conference report to the Department of Transportation and Related Agencies appropriations bill for fiscal year 1996.

I commend both the distinguished chairman of the Appropriations Committee, Chairman HATFIELD, and the chairman of the House Appropriations Subcommittee on Transportation, Congressman WOLF, for bringing us a balanced bill considering current budget constraints.

The conference report provides $12.7 billion in budget authority and $11.9 billion in new outlays to fund the programs of the Department of Transportation, including Federal-aid highway, mass transit, aviation, and maritime activities.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill totals $13.1 billion in budget authority [BA] and $37.3 billion in new outlays.

The subcommittee is $18 million in BA below its 602(b) allocation, and it is essentially at its outlay allocation.

I urge adoption of the conference report.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the final bill be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TRANSPORTATION SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	382	25,376
H.R. 2002, conference report	12,100	11,378
Scorekeeping adjustment		
Subtotal nondefense discretionary	12,482	36,754
Mandatory:		
Outlays from prior-year BA and other actions completed		60
H.R. 2002, conference report	582	521
Adjustment to conform mandatory programs with Budget Resolution assumptions	2	−0
Subtotal mandatory	584	581
Adjusted bill total	13,066	37,335
Senate Subcommittee 602(b) allocation:		
Defense discretionary		
Nondefense discretionary	12,500	36,754
Violent crime reduction trust fund		
Mandatory	584	581
Total allocation	13,084	37,335
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary		
Nondefense discretionary	−18	−0
Violent crime reduction trust fund		
Mandatory		
Total allocation	−18	−0

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

TASMAN LIGHT RAIL CORRIDOR, SANTA CLARA COUNTY, CA.

• Mrs. BOXER. Mr. President, I would like to ask the distinguished chairman of the Appropriations Committee if he would engage in a brief colloquy with myself and my colleague from California, Senator FEINSTEIN, regarding a critical San Francisco Bay area transportation project.

Mr. HATFIELD. I would be pleased to address this issue with the Senators from California.

Mrs. BOXER. Thank you, Mr. Chairman. The Tasman corridor light rail project is an integral piece of the local rail agreement fashioned by our regional metropolitan planning organization, the Metropolitan Transportation Commission [MTC]. All of the bay area jurisdictions are a party to this agreement which represents the best in local planning and decisionmaking. When the California Supreme Court on September 28, invalidated our so-called Measure A, a half-cent sales tax dedicated to many important highway, commuter rail and transit construction projects, the planned-for local match for the Tasman project appeared to be lost. Due to the perseverance of all involved, in the few short weeks since that ruling the Tasman corridor plan has been revised to reflect the new fiscal realities. It has been proposed that only the west extension to Mountain View be built at this time. The 7.5-mile line will cost $125 million less than the original project, and only 50 percent of its funding will be derived from Federal section 3 new start funds. Of the $122 million in proposed new starts funding, some $33 million has already been appropriated and dedicated to the Tasman project by the MTC. The remainder of the funding will come from identified State, local and flexible Federal funding sources authorized under the Intermodal Surface Transportation and Efficiency Act [ISTEA]. This revised plan has the unanimous support of Santa Clara County's Transit Agency Board, and I expect shortly will be approved by the MTC and later included in the California Transportation Commission's revised State Transportation Improvement Program.

I would like to ask the distinguished chairman whether in view of these positive developments, and in deference to the local and regional planning process which has served us so well, he would agree to the following: that if the revised Tasman project secures all requisite Federal, State, and regional approvals in a timely fashion, the $33 million in unobligated balances referenced in the conference report may be provided by the MTC for the commencement of construction on the Tasman west extension.

Mr. HATFIELD. Yes, that is my understanding.

Mrs. BOXER. I thank the Chairman for his understanding and thoughtful response. At this time I would yield to my distinguished colleague from California, Senator FEINSTEIN, for additional comments.

Mrs. FEINSTEIN. I applaud the efforts of many in the bay area who moved quickly after the court's ruling to make the necessary modifications to the proposed Tasman corridor extension. This project is even more cost effective and compelling today and reflects creative land use planning and promising joint development opportunities. The bay area congressional delegation has rallied around this important project. A similar colloquy occurred in the House with Transportation Appropriations Subcommittee Chairman FRANK WOLF. Our efforts here today represent an important reaffirmation of the value of local and regional planning and decision making, a focus consistent with the goals of ISTEA and more likely to ensure timely and cost-effective project completion. I look forward to working with you, Chairman HATFIELD, in making certain that the plan for the Tasman west extension is financially sound and continues to enjoy the broad-based support it has in the past.•

FERRY BOATS AND FISHERIES

• Mr. STEVENS. Mr. President, I would like to take a moment to address a section of the Transportation appropriations bill that speaks to Federal aid to highways. Specifically, I wish to point out that the Senate included $17 million for ferry boats and facilities.

My State of Alaska has critical needs for a functioning transportation infrastructure. In the southeastern part of the State this is accomplished with ferrys and aviation. As many Members know, this part of Alaska has numerous isolated islands, and road systems that are only local in nature. The extremely mountainous coastline prohibits the Alaskan southeastern towns, including the State Capitol of Juneau, from connecting to any other road system in North America. When the weather is bad, which is quite often in this part of the world, aviation is of limited assistance.

Scheduled ferry service is of immeasurable assistance to the remote southeast towns. If available, a share of the $17 million would be directed to enhancing the ferry system between the towns of Craig, Whale Pass, Blind Slough, and Wrangell.

I ask the Appropriations Committee chairman, Senator HATFIELD, if it is his understanding that Alaska is a State that can avail itself of a share of these ferry boats and facilities funds?

Mr. HATFIELD. The Senator from Alaska is correct. Alaska may apply for a share of the $17 million dedicated to ferry boats and facilities.•

ESSENTIAL AIR SERVICE

• Mr. BAUCUS. Mr. President, the conference report we are considering today makes dramatic cuts in the essential air service program. In fact, the program will see an almost 30 percent cut in funding this year—from over $30 million last year to $22.6 million this year. The statutory language of the conference report maintains the eligibility of EAS communities nationwide—the same number of communities that are eligible today will remain eligible next year.

Therefore, we have a situation where the same number of communities are eligible for EAS funding, yet far fewer dollars are available for the program.

Mr. President, while I remain very concerned with the funding reduction for the EAS program, I am more concerned with language included in the statement of manager's report.

Language included in the statement of manager's report makes it clear that all communities eligible for EAS funding in fiscal year 1995 remain eligible in fiscal year 1996. However, the language continues on to say that the Department "may be required to make prorata reductions in the subsidy or daily/weekly service levels" in order to meet the reduced funding level. In other words, the only discretion the Department has in meeting these funding reductions is an across-the-board reduction in the level of air service of EAS communities.

This language ties the hands of the Department of Transportation. The statement of managers language is being interpreted to be the only solution available in meeting the reduction in funding.

Mr. President, the purpose of the essential air service program is to provide air service to rural, isolated communities. In my home State of Montana, our seven EAS communities are isolated. They are over 600 miles from a medium or large hub airport. A reduction in air service to these communities would be a real economic blow and would further isolate these folks.

I would ask my friend, the chairman of the Appropriations Committee, if the intent of the conferees was to give the Secretary the discretion to determine the type of program that should exist with $22.6 million in funding—and the intent was not to place one option above another? There may be other ways to reach this funding level without an across-the-board reduction in the level of service and the Secretary should have the ability to make decisions that would maintain the integrity of the EAS program in the future.

Mr. HATFIELD. Mr. President, I would say to my friend, that the intent of the conferees was to continue to maintain the current eligibility criteria for the essential air service program. However, the decision on how the program should be structured with a reduced funding level should be left to the discretion of the Secretary.

Mr. BAUCUS. Mr. President, I thank my friend. The Senator from Oregon understands the important rule that reliable air service plays in States like Montana and I appreciate his efforts to preserve this program.

At a time when life in rural America is becoming increasingly difficult, reliable air service is a vital link in our transportation network. The essential air service program is just that—it is essential and its integrity should be maintained.

I thank my friend again.●

Mr. MOYNIHAN. Mr. President, I am pleased to note that the conference report for the Department of Transportation appropriations bill includes an appropriation of $20 million for capital improvements associated with safety-related emergency repairs to Pennsylvania Station in New York City and its associated service building.

Pennsylvania Station is the busiest intermodal station in the Nation, with almost 40 percent of Amtrak's passengers nationwide passing through every day. Unfortunately, it is also the most decrepit of the Northeast corridor stations, others of which, such as Washington, DC's own Union Station, have been renovated with Federal grants. Today, Pennsylvania Station handles almost 500,000 riders a day in a subterranean complex that demands improvement. According to the New York City Fire Commissioner, there have been nine major fires at the station since 1987. Luckily, these fires have occurred at off-hours; as it stands, the station could not cope with an emergency when it is crowded with the 42,000 souls who pass through every workday between 8 and 9 a.m. In addition, structural steel in the station has shown its age and needs immediate repair. And these are just the most pressing needs.

There is a redevelopment plan to change things for the better, a $315 million project to renovate the existing Pennsylvania Station and extend it partially into the neighboring historic James A. Farley Post Office, almost doubling the emergency access to the station's platforms which lie far below street level beneath both buildings. Moreover, there is a financing plan in place that could do this with $100 million from the Federal Government—with this bill, $51.5 million has already been appropriated—$100 million from the State and city, and $115 million from a combination of historic tax credits, bonds supported by revenue from the project's retail component, and building shell improvements by the Postal Service, owner of the James A. Farley Building. On August 31, 1995, Governor Pataki of New York chartered the Pennsylvania Station Redevelopment Corp. to oversee the project, following the signing of a memorandum of agreement by himself, Mayor Giuliani of New York City, Transportation Secretary Federico Peña, and Amtrak President Thomas M. Downs.

Thanks to our colleagues on the Committee on Appropriations, $20 million can now be used immediately for pressing safety repairs at the existing station and its associated service building, in the first step of the overall redevelopment effort. These Federal funds go toward construction, and they will count toward the Federal share of the $315 million project to transform the station into a complex capable of safely handling the crowds that have made Pennsylvania Station the Nation's busiest intermodal facility.

For myself and the 75 million other people a year who use the station, I would like to thank all those who have labored hard to make the station safer, in particular our colleagues Senator HATFIELD, Senator BYRD, and Senator LAUTENBERG.

Mr. COHEN. Mr. President, I want to register my opposition to the provisions of the Transportation appropriations conference report that exempt the Federal Aviation Administration [FAA] from Government-wide procurement and personnel rules. These provisions were included by the Appropriations Committee in the Senate passed bill at the recommendation of the FAA and will take effect on April 1, 1996, unless the Congress enacts preemptive FAA reform legislation before then.

The FAA asserts that these exemptions are necessary because personnel and procurement laws have stood in the way of modernizing the FAA's Air Traffic Control System. The FAA's failure to modernize the system, however, is not rooted in the Federal procurement and personnel systems. Instead, it is a symptom of a widespread and serious management deficiency which permeates the FAA. Numerous GAO reports and DOT Inspector General reports over the last 5 years have outlined the problems the FAA has had in modernizing its air traffic control system. These reports have consistently cited poor management, not the procurement or personnel systems, as the primary cause of FAA's failures.

I understand and share the frustration with the lack of progress at the FAA. The air traffic control system designed to keep our skies safe is crumbling, and each failure of the system leads to a chorus of calls for action. Regrettably, however, out of frustration at the FAA's inability to succeed in modernizing our air traffic control system, Congress is about to grant a special dispensation to an agency that has not earned it and is ill-prepared to accept the responsibilities that such an exemption will require. If the FAA was better at managing than denying there is a problem, defending its poor performance, and deflecting criticism away from the agency, we would have replaced our air traffic control system years ago and would not have 1950's and 1960's technology guiding our Nation's air traffic.

I have been working over the past 3 years to enable Federal agencies such as the FAA to more effectively incorporate advanced computer technology into its operations. Last year, I issued a report that documented how the Federal procurement process contributes to the Government buying outdated technology but also how poor FAA management led to the disaster of the present air traffic control system. Specifically, FAA has failed in its modernization efforts, wasted billions of taxpayer dollars and still has not been able to update its computer systems since the mid-1960's due to consistently poor management. Meanwhile, the Nation's air traffic control system is wearing out. To keep the system running, the FAA must search Radio Shack for spare parts and buy vacuum tubes from Third World manufacturers because no one in the United States makes them anymore.

While it takes the Federal Government an average of 4 years compared to 1 year in the private sector to buy new technology, 30-year-old FAA computers are failing with increasing frequency in Chicago, Dallas, New York and elsewhere across the country. While the Government's antiquated procurement rules definitely slow down the process and may add years to computer buys, the rules do not explain why the FAA has not modernized its systems in decades or explain how scores of other agencies have been able to work within the rules to replace antiquated vacuum tube computers and radars.

I am working to accomplish reforms to the Federal procurement system. This year I introduced The Information Technology Management Reform Act of 1995 which was approved as an amendment to the fiscal year 1996 Defense authorization bill. The amendment includes significant changes to existing procurement regulations and procedures which would help agencies such as the FAA buy technology by providing relief from cumbersome requirements while ensuring a reasonable and responsible approach.

Among other provisions, the amendment repeals the Brooks Act, authorizes commercial-like buying procedures, and emphasizes the results of the procurement process rather than the process itself while holding agencies like the FAA accountable for their results. The Senate is now conferencing this amendment with the House proposed procurement reform bill put forward by Representatives CLINGER and SPENCE. The House has proposed serious reform in the area of streamlining the procurement process, conducting efficient competitions and making it easier to buy commercial products. I believe we will be successful in getting these proposals enacted into law and these reforms will give FAA the flexibility to effectively buy the technology it needs.

These reforms, however, will not guarantee success. We can legislate the framework for effective management to take place, but we cannot legislate good management. While we need to reform the way the Government buys computers, the FAA's failure to modernize the air traffic control system is not derived from legislated procurement and personnel requirements. It is the lack of adequate planning and a constantly changing road map of where the FAA is going that has impeded completion of the modernization effort. This is caused by managers not knowing what they want and continually changing program requirements which drives up the cost to the taxpayer.

The problem is that no one, including Congress, has ever held FAA's managers accountable for their failures. Management problems at FAA will not be solved by the exemptions contained in the appropriations bill. To the contrary, I believe the exemptions will result in more cost and less results. The exemptions do nothing to deal with the fundamental problem of poor management at the FAA.

The proposed exemptions, in addition to lacking merit, also set a dangerous precedent. Having seen the FAA's success in avoiding accountability and obtaining special treatment, other agencies may seek similar legislative exemptions. If Congress acquiesces to these piecemeal approaches, the Federal Government will be plagued by conflicting and contradictory procurement laws and personnel systems which will make it harder—not easier—to do business with the Government. Industry will have to learn literally hundreds of procurement systems. The rational approach is to have one procurement system in the Government that addresses the problems which may be perceived to be unique to FAA, but are common in every agency.

This conference report undermines ongoing efforts to enact Government-wide procurement reform, as well as rewards inept management at the FAA with exemptions from oversight rules when they are most needed. If the conference report is adopted, as I expect it will be, I urge the administration and FAA to use the new discretion authorized by the bill wisely and I urge my colleagues to hold FAA accountable for its progress in modernizing the Nation's air traffic control system. By absolving the FAA of its responsibility for past failures, Congress must now provide greater oversight of what FAA does with its new powers.

The new authority under this bill will not go into effect if Congress enacts FAA reform legislation by April 1 of next year. When the Commerce Committee marks up its own bill to meet this deadline, I urge the committee members to look at what the Congress and the administration are doing to streamline the procurement process. They will then see that we are fixing the procurement system on a Government-wide basis, and they can then focus on the real issue of managerial reform at FAA. For it is only through more effective management that the FAA will be able to efficiently and effectively modernize the air traffic control system and confront the other challenges to aviation safety in the 21st century.

Mr. SPECTER. Mr. President, as a member of the Senate Subcommittee on Transportation Appropriations, I am pleased to speak in support of the fiscal year 1996 Transportation appropriations conference report. This is an important piece of legislation, providing $37.5 billion for purposes including funding our Nation's highway, rail, and air transportation infrastructure, mass transit, Amtrak, and pipeline safety. This legislation will keep Americans on the move, create jobs, and improve our infrastructure, resulting in additional environmental and energy benefits.

I commend Chairman HATFIELD and our ranking minority member, Senator LAUTENBERG, for their efforts in negotiating this comprehensive bill and for recognizing the particular importance of some provisions to Pennsylvania, including highway and transit funding levels.

Given the difficult budget constraints faced by the subcommittee, I am particularly pleased that the bill provides $750 million for Amtrak, including improvements to the Northeast corridor. Amtrak service is essential to Pennsylvanians and I have long stressed the importance of ensuring the viability of a truly national passenger rail service.

The conference report has also adopted a $1.45 billion funding level for airport construction grants-in-aid, $200 million more than the Senate version of the bill. The statement of managers directs the Federal Aviation Administration to fairly consider a letter of intent application from Philadelphia International Airport, which has sought funding for construction of a new runway.

Given the significance to Pittsburgh of the airport busway project, I am very pleased that the conference report provides $31.6 million for fiscal year 1996 to continue construction. I urged our subcommittee to provide this level of funding because this project will ease traffic congestion between downtown and the Pittsburgh International Airport and will mitigate the impact of the Fort Pitt Bridge closing, which would otherwise create a monumental headache for Pittsburgh residents. With spending cutbacks in so many areas, we are fortunate to get this substantial amount of funds for the busway, which means so much to people who live in the Pittsburgh area.

I remain disappointed that the conference report only provides $400 million for mass transit operating assistance, which will lead to cuts of as much as 40 percent for some transit systems. In fiscal year 1995, transit systems received $710 million in Federal operating assistance, which they used to keep fares down and maintain service. On August 9, my distinguished colleague from Pennsylvania, Senator SANTORUM, and I offered an amendment to restore $40 million to the $400 million provided in this bill for mass transit operating assistance. Unfortunately, our amendment was defeated by 68 to 30.

As always, I remain committed to the millions of Pennsylvanians and other Americans who rely on public transit to commute to work, shop, and carry on their lives. Mass transit operating assistance keeps the Nation moving by keeping fares lower and maintaining existing routes. Pennsylvania's citizens and communities depend on good public transportation for mobility, access to jobs, environmental control, and economic stability. It lets the elderly visit their health care providers, shops, or friends. In rural areas, buses are essential to reduce isolation and ensure economic development. And, children use public transportation to go to school in some areas. Without affordable mass transit people in America's inner cities can't get to work. Congress has been considering welfare reform and requirements that people have jobs. If they can't afford to get to work, or bus routes are cut, we are just making it that much harder for lower income Americans to get off welfare.

Although I am troubled by the extent of the mass transit assistance cuts, on balance the Transportation appropriations bill is a good bill, containing much else of importance to Pennsylvania and the Nation, and that is why I supported the conference report as a conferee. However, I intend to keep up my efforts next year to preserve funding for mass transit, and to work with our chairman to ensure that Congress does not go too far, too fast in reducing assistance to transit agencies throughout the Nation.

In closing, Mr. President, I would note that the conference report contains a provision on telecommuting that I authored, section 345, which requires the Secretary of Transportation to study successful private and public sector telecommuting programs and to disseminate to the general public and to Congress information about the benefits and costs of telecommuting. As my colleagues are aware, telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to their home during their normal working hours, substituting telecommunications services, either partially or fully, for transportation to the traditional workplace. I believe that it is in the national interest to encourage the use of telecommuting because it can enable flexible family-friendly employment, reduce air pollution, and conserve energy. Further, as a Senator from Pennsylvania, with major urban areas such as Pittsburgh and Philadelphia, I recognize there is a real need to improve the quality of life in and around America's cities.

According to a July, 1994 Office of Technology Assessment report, between 2 to 8 million American workers already telecommute at least part time. A 1994 survey by the Conference Board found, however, that in 155 businesses nationwide, only 1 percent of employees telecommute, although 72 percent of the businesses had such an option. According to the Office of Technology Assessment, the most significant barriers to telecommuting are business and worker acceptance and costs. My provision responds to the need to broaden public awareness of the benefits and costs of telecommuting, and to identify and highlight successful programs that can be duplicated.

Mr. President, the fiscal year 1996 Transportation appropriations conference report is worthwhile legislation and deserves to be signed into law by the President.

Mr. DORGAN. Mr. President, I wanted to draw attention to something that is mysteriously missing from the conference report on the Transportation appropriations bill. The provision I am concerned about does not involve spending more or less money. Rather, I am concerned about a provision that called for an important study to be done by the Department of Transportation on the question of air fares and whether or not rural areas are paying more and getting less service.

When the Senate considered this bill, an amendment I offered was adopted without any objections. That amendment, which was cosponsored by Senators DOLE, SNOWE, and CONRAD would have required the Department of Transportation to conduct a study on air fares. There was no opposition expressed in the Senate and the Department itself supported the study.

Mr. President, I ask unanimous consent that a letter I received from Transportation Secretary Fredrico Peña supporting this provision be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF TRANSPORTATION,
Washington, DC.

Hon. BYRON DORGAN,
U.S. Senate, Washington, DC.

DEAR SENATOR DORGAN: I am writing this letter in order to endorse the study of air fares and service at small communities that you recently proposed. Since many changes have taken place within the airline industry since deregulation and some of these have affected small communities, I fully agree that a study of fares and service at small communities would be beneficial. I am aware that the General Accounting Office is currently conducting a similar study of small community issues. However, I believe the studies are somewhat different in their focus and I, therefore, endorse your study.

Your recommended approach to the study would compare and evaluate actual air fares and fares adjusted for distance for service between nonhub airports and large hub airports with fares for service between large hub airports. The study also would analyze service at nonhub airports with respect to the operations of regional and major airlines, the types of equipment used, and the levels of competition among commercial carriers.

In order to get a statistically valid comparison, it may be necessary to conduct a survey of regional carriers to get a more valid data set, which may require additional time to conduct a thorough study. We will also endeavor to study the overall fares paid at small communities compared to fares paid at hub airports.

I look forward to working with you and your staff on this project. If we may be of further assistance, please contact me or Steven Palmer, Assistant Secretary for Governmental Affairs, at (202) 366-4573.

Sincerely,

FEDERICO PEÑA.

Mr. DORGAN. It seems to me that we need to make some changes in aviation policy in this country and stop ignoring the fact that rural regions are suffering a serious decline in air service. The airline industry has undergone many changes since deregulation in the early 1980's. The invisible hand of competition replaced the assuring hand of government in the aviation marketplace. As a result, some areas of the country have seen lower prices and more choices in service. In other parts of the country, namely in rural areas, we have seen dramatic losses in air service and higher prices.

I realize that the General Accounting Office has studied the impact that deregulation has had on air fares in previous years. However, my sense is that air service is changing rapidly and it seems to me that more examination of air fares, especially for small rural communities, is needed.

A November 1990 report on "Deregulation and Trends in Airfares at Small and Medium-Sized Communities," found that overall, average fares per passenger mile were more than 9 percent lower in 1988 than in 1979 at small and medium-sized airports and about 5 percent lower at airports serving large communities.

It seems to me that the Department of Transportation should be paying some more attention to the problems of rural America when it comes to air service. Most experts in town and at the Department of Transportation have pledged allegiance to the god of deregulation. They espouse the great virtues of deregulation and the tremendous benefits that the free market has brought in the form of more choices and lower air fares. They are right—but only half right. The fact is that the benefits of deregulation are only the rosy part of the picture. The story not being told enough is the negative effects deregulation has had on smaller, rural communities.

I offered this amendment because it seems that it is very important that the Department of Transportation begin focusing on the impact that deregulation has had on air service in rural areas. I am fully aware that the General Accounting Office [GAO] is currently conducting a similar study. I support that but I also believe that we cannot be satisfied with just having the GAO examining this issue.

The amendment I offered and the Senate adopted would have laid out specific areas for the Department to study, including comparison of air fares in hub markets where there is a concentration of service with fares at competitive hub markets. In addition, this study would have conducted, for the first time I believe, an analysis on the level of service that rural areas are receiving and document which rural markets have had jet service replaced with turbo prop service.

Now this provision was mysteriously dropped, despite the fact that the Department supported it and that it was cosponsored by a bipartisan group of Senators—including the majority leader. It makes no sense that this provision was dropped.

This is one of the primary reasons why I am voting against this bill. I strongly believe that this amendment should have been included in the conference report and no reasonable explanation has been provided as to why it was dropped.

I also oppose this conference report because of the significant cuts to critical rural programs.

ESSENTIAL AIR SERVICE [EAS] REDUCTIONS

The report cuts EAS by about $11 million from last year's level of $33 million. I think that these cuts are going to hurt and that a permanent funding mechanism needs to be found for the EAS program. However, before a permanent solution can be developed, it makes no sense to cut this program to this degree. The EAS program is making the difference between air service and no air service in many rural communities. Cuts of this magnitude will certainly be felt.

I do not believe that cutting the EAS program is justifiable in light of the essential role this program plays in providing air service to rural America. Deregulation has benefited some highly traveled areas of the country and rural areas have suffered. The EAS program was designed to protect rural areas and this bill strikes a critical blow at this important program.

LOCAL RAIL FREIGHT ASSISTANCE PROGRAM RESTORED

The Senate defeated an amendment offered by Senator PRESSLER to restore funding for the Local Rail Freight Assistance program [LRFA]. This program provides support to restore rail links that are likely to be abandoned. It has been a very important program in my home state of North Dakota.

The LRFA program received $17 million last year, of which $6 million was rescinded. Neither the House nor the Senate bill provided funding for LRFA and the conference report does not provide any funding. Although I am pleased that the conference report included an amendment that would authorize the State of North Dakota to spend $2.3 million to restore a rail line in Wahpeton, ND, I do not support the elimination of this important program.

INTERSTATE COMMERCE COMMISSION PHASE-OUT

The conference report provides for $13.4 million for one quarter for the ICC for salaries and expenses and assumes that the ICC will be eliminated and that legislation providing for the continuation of statutory obligations under the jurisdiction of the ICC will be enacted this year. The question as to what happens if the Congress fails to pass such legislation has not been answered. The statutory obligations will remain but the agency that has the sole jurisdiction to enforce them will have no funding to enforce them.

It makes no sense to me that funding for the ICC should be eliminated before the Congress has provided for an efficient way to address the statutory obligations that will continue to exist if the Commission is eliminated.

AIRPORT IMPROVEMENT PROGRAM GRANTS

The Report provides $1.45 billion in the grants-in-aid for airports program [AIP] instead of the $1.6 billion provided under the House bill and the $1.25 billion under the Senate bill. I am very concerned that this level of funding will not be adequate to maintain safe airports and our Nation's transportation infrastructure is in danger of crumbling at these funding levels.

CONCLUSION

Programs like EAS and LRFA are vitally important to rural areas—in fact, they are exclusively rural transportation programs. Both these programs have been seriously cut and in the case of LRFA, eliminated.

At the same time, there is substantial support for transportation programs designed to help urban areas, such as high speed rail and mass transit. Examples include:

$115 million for the northeast corridor improvement program (instead of the $100 million provided by the Senate and $130 million provided by the House).

$19.2 million for high speed rail studies, corridor planning, development, and demonstration (instead of the $10 million provided by the House and $20 million provided by the Senate). These funds will be allocated to Chicago, Detroit, St. Louis, and New York.

The report provides for $42 million for the Federal Transit Administration (FTA does have some rural programs but urban areas primarily benefit from mass transit). In addition, the report provides $85 million for transit planning and research.

Mr. President, this legislation reflects the wrong priorities for this country's transportation needs and that is why I am voting against this legislation.

Mrs. BOXER. Mr. President, I am voting "aye" today on the conference report on transportation appropriations for fiscal year 1996. But I must say that it is not without disappointment that we have not fulfilled our responsibility to maintain and enhance the transportation infrastructure in the United States.

It is a status quo budget for the most part of my State of California, and that means we are continuing to fall behind our needs to repair our highways, transit systems and airports. That failure also means that we cannot fulfill our potential economic productivity. That is a loss for our Nation as well as my State.

Nevertheless, in this extremely tight budget year the conference agreement does provide some needed assistance for California.

I am pleased to see that the conferees were able to increase funding for the Federal Aviation Administration, particularly in the areas of facilities and equipment. The operations budget in the conference agreement is higher than the amount funded in either the Senate or House bills. California is the site of several major air traffic control installations and we must continue to upgrade this critical equipment. I appreciate the conferees support for the FAA's operating budget for air traffic control operations and maintenance activities which enhance aviation safety and security.

Highway funding has increased overall, but unfortunately it is still stagnant for California, the State that has contributed the most to the Highway Trust Fund for nearly 40 years.

The agreement includes significant funding for new buses and intermodal transportation centers in California.

These include $500,000 for the Sunline Transit System, which has a remarkable program promoting a total fleet of natural gas buses; $1.5 million for needed bus replacement and parts for Long Beach Transit; $8 million to complete the Gateway intermodal center in Los Angeles; $5 million for the San Ysidro Intermodal Center in San Diego to help relieve worsening congestion at our international border; $6.7 million for new buses throughout the bay area, plus $2.3 million for bay area paratransit buses and other improvements to help the disabled; $9.75 million for Foothills Transit in the San Gabriel Valley; $5.3 million for clean fuel buses, paratransit buses, and other improvements for the growing San Joaquin Rapid Transit District; $1.5 million to replace a bus facility destroyed by the Loma Prieta earthquake and provide consolidated services in Santa Cruz; $1.2 million for park and ride facilities on congested U.S. 101 in Sonoma County; $600,000 for a bus facility in Ventura County; and $1.5 million to purchase buses for Yolo County.

The conference agreement also provides $5 million for the advanced technology transit bus, under development by Northrop and the Los Angeles MTA. Although the amount is less than the President's request, I appreciate the continuing support for this project by the Senate Appropriations Committee.

I am very concerned over a loss of approximately $100 million in transit system funding. A great part of this loss is attributable to the cuts in operating assistance in both Houses and to a dramatic cut in funding for the Los Angeles Metropolitan Transportation Authority's Red Line extension.

I share the Appropriations Committee's concern over the management of this project. However, I believe the MTA has grasped the gravity of these problems and has taken demonstrable steps to correct them. I am pleased the Senate committee members agreed to our requests to increase the funding from $45 million for the project in the Senate bill to $85 million in the final conference report.

I am, however, disappointed at the cut in funding for the bay area rail extension program. The final agreement of $10 million for the bay area rapid transit district is well below the Senate level of $22.6 million. This cut was not justified considering the major local match provided for rail extension in the region and the willingness of the district to reduce its airport extension project by $200 million this summer.

Finally, I regret that the conference committee was unable to provide assistance for the Alameda Transportation Corridor project to consolidate rail and highway access to the ports of Los Angeles and Long Beach, eliminating more than 200 grade crossings. We have asked for appropriations seed money to enable the project to take advantage of the Federal infrastructure bank already authorized under section 1105 of the Intermodal Surface Transportation and Efficiency Act [ISTEA]. The Senate committee adopted a State infrastructure bank alternative instead and then dropped the idea in conference with the House.

California has 15,000 miles of State highways, 675 miles of rail transit, and 10,000 buses. California's State Transportation Improvement Program faces a $5 billion shortfall, and an annual highway and road maintenance deficit of $800 millilon. We are in danger of losing what we have. There is a lot of talk about how huge budget deficits leave a horrible inheritance for our children, and I agree. However, a decayed and crumbling infrastructure is no less horrible for our children to inherit.

The bill is still due. The infrastructure deficit is increasing. But today we only provide a partial payment.

Mr. BYRD. Mr. President, on behalf of Mr. DOLE, the majority leader, I ask unanimous consent that the vote on the adoption of the transportation conference report occur at 2:15 p.m. today and that paragraph 4 of rule 12 be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

THE CONSERVATION TITLE

Mr. GRASSLEY. Madam President, it is my pleasure today to introduce a bill with the distinguished majority leader, Senator DOLE, the chairman of the Senate Agriculture Committee, Senator LUGAR, and the chairman of the Agriculture Subcommittee on Conservation, Senator CRAIG. This bill amends the conservation title of the farm bill that will be considered later in this Congress.

Madam President, my experience with this legislation that has been on the books for the last 10 years has generally been very favorable. I say that as a farmer, and I say that as a person who visits, as I have occasion to do now, at harvest time with my neighbors at the local New Hartford cooperative grain elevator in my State of Iowa; I say that with 10 years of experience of having hundreds of town meetings around my State, whereas, I do not find much opposition to what we passed 10 years ago.

So my legislation that we are introducing is not finding fault in any way with the basic premise of the legislation 10 years ago, but to make sure that that legislation fits, with the premise that existed 10 years ago, the intent of Congress at that particular time; and also at a time when we are in the process of cutting back Government support for agriculture, as we intend to balance the budget.

Last week, as you remember, the Senate approved the reconciliation bill, and that will bring the Federal budget into balance by the year 2002. And we do not wait until 2002 to start that. We started that last fiscal year when, earlier this calendar year, we passed the rescissions bill.

Now, in order to achieve the savings necessary to balance the budget, many difficult decisions had to be made, many difficult votes had to be cast, and all Federal programs were examined to save money. The farm programs, then, were no exception. Throughout the entire budget process, I have argued that farmers are willing to share in the effort to balance the budget because they have a lot to gain if the budget is balanced. However, I do feel that it is vital to rural America and family farmers that any cut in farm programs be coupled with, on the first hand, tax reform, and on the second, a reduction in the regulatory burden placed on farmers.

I want to emphasize, with regard to the legislation of 1985, the soil conservancy provisions and the antiswampbusting, antisodbusting provisions. When I talk about regulatory reform, I do not mean changing the original intent of that legislation. I simply mean in keeping the enforcement of that legislation to its original intent.

Put simply, then, Madam President, this bill will dramatically cut the redtape and the regulations that farmers have to deal with while continuing, then, to maintain the conservation gains that we have made since the passage of the 1985 legislation.

I want to emphasize, regardless of the rhetoric you may hear, this bill does not jeopardize in any way the environment or the conservation gains that farmers have made since 1985. These conservation gains have been tremendous.

They have been made basically because of a timeframe that farmers could adjust economically to the requirements of the law and an opportunity to educate people about the process so that it could be self-enforcing.

What this bill does, then, is give farmers and the Department of Agriculture additional tools and flexibility to meet these conservation objectives.

Madam President, the bill addresses four major areas within the conservation title. What is called a CRP program, the conservation reserve program, the wetlands reserve provision, the conservation compliance provisions and swampbuster.

I want to briefly discuss those areas as it relates to the reforms that the four of us—Senator DOLE, myself, Senator LUGAR, and Senator CRAIG—propose.

Madam President, since the 1985 farm bill, farmers participating in the farm program have been required to comply with two regulatory mandates regarding conservation. The program referred to as the swampbuster program prohibits farmers from converting wetlands for crop production. No argument with that.

The program referred to as the sodbuster prohibits farmers from producing a crop on highly erodible land unless they comply with an approved conservation plan. It does not mean you cannot operate your farm the way you want to, but it does mean that if you do it you will do it in a way that shows good stewardship of the soil. Also, good stewardship of the soil means better economic return; most importantly, a good resource for future generations is preserved.

In general, the sodbuster program has been received favorably by farmers, and the compliance rate has been very high. Again, I want to emphasize that. That is what I hear on Saturdays when I take grain to the local New Hartford cooperative grain elevator where I visit with my neighbors, but it is also something I hear in 99 counties around Iowa that I hold town meetings in each year.

That is because in Iowa there has been a willingness to cooperate. There has also been some lever—if you want to participate in a farm program, you have to have good soil conservation practices or you will not get the safety net of agriculture. Compliance has been very, very good because it is estimated in my State that 95 percent or better of farmers have compliance with soil conservation plans.

These are plans that they have determined will cut down on erosion on their own farm, and all they have to do is get that plan approved and then farm according to what they felt was a plan that would best fit their farming operation.

This is not one-size-fits-all approach. If you got 98,000 different farming units in the State of Iowa, you would have 98,000 different individual plans. Quite frankly, there is probably more than that. There must be, I guess. Anyway, there are that many individual farming operations. But you could have more than that number of plans.

Now, after 10 years of working with the program, it is obvious that improvements can be made to streamline the regulations and give more flexibility to both the farmer and the Department of Agriculture.

Even more significantly, Madam President, this bill attempts to put Natural Resource Conservation Service, which used to be known as Soil Conservation Service from the 1920's, until 2 years ago, it will put this segment of the Department of Agriculture back into the position of working with farmers instead of working against them.

Let me digress for a minute to explain that this situation now is kind of contentious between the farmers and Soil Conservation Service. It used to be you go into the Office of the Soil Conservation Service. You would sit down across from the desk of these State and Federal employees, and you go in and say to them, "Joe, I have a problem here on my farm. I have this tremendous amount of erosion here. What can I do about it?" Joe, being an expert trained in soil conservation would say to CHUCK GRASSLEY, "Well, I think this is what you need to do. You can do it this way, that is less expensive and might be able to accomplish the goal, or you can put in terraces, much more expensive, but you will be able to accomplish this. Or there are certain tillage practices you can do that might accomplish the same goal."

Probably Joe would come out to your farm another day and would put flags out in the field saying this is where you have to put contour strips, or this is where you have to put terraces.

It was seen very much as a cooperative, working relationship as you would sit across the desk from Joe at the county seat Soil Conservation Service.

Today, farmers do not want to go in to the Soil Conservation Service and sit down across from Joe because they might bring up something that triggers to Joe, who is now a regulator rather than a consultant and a friend, that maybe CHUCK GRASSLEY did something that violated the law and he can be punished for it.

So we want to get this relationship reestablished as a cooperative relationship, a friendly relationship where this person is going to be a consoler and a help to the farmer rather than somebody who is seen as an enemy.

I just described to you how farmers in my State and most States work very closely with the Soil Conservation Service for six decades—60 years. Much of the progress made in conservation on farmland is due to that good working relationship between the farmer and the Department of Agriculture. It was a relationship based on trust and cooperation.

Unfortunately, as I indicated, in the last few years, the farmers have begun to look at people that are now named the National Resource Conservation Service—not the Soil Conservation Service—as a potential adversary.

Some farmers are reluctant to call on the NRCS for assistance due to the fear of being penalized for a possible violation.

On the other hand, the NRCS has had its hands tied to some extent, both by Congress and its own regulations. So we have contributed some to this problem that exists of this relationship of where neighbor could be helping neighbor.

So, Madam President, this situation cannot continue to exist. It is not good for the farmer. It is not good for the NRCS. Most importantly, it is not good for the environment.

There must be a renewal of a partnership between the farmer and the NRCS if we expect the gains in conservation on private property to continue.

The NRCS must work with farmers to assist them, to educate them, instead of just regulating farmers. I sincerely believe, Madam President, that the NRCS wants to play this role as a farmer's helper and this legislation shows that we want to help them do that.

Madam President, now I want to turn to the swampbuster provisions—the issues of wetland protection.

It has become a very emotional issue in my State. Not because the original legislation in 1985 was wrong, it is what bureaucrats have tried to do with it, probably in just the last 3 or 4 years.

While farmers share the goal of protecting valuable wetlands, the scope of swampbuster has been extended far beyond its original intent through the rulemaking process to the detriment of what farmers have wanted to do, sharing this goal. A study of the legislative history shows that Congress never intended to regulate land that had been cropped regularly in the past.

Just think, on a century farm—which means it has been in the same family for over 100 years—until a couple of years ago you could have not had any problems, if that land had been regularly producing, or attempting to produce for a farmer. But now you can have problems. There is another problem. That land that had been converted prior to the passage of the 1985 act was never intended to be regulated. Both of these principles have been eroded through regulation and agency action, not through the basic legislation. This bill restores the original intent of Congress. The bill removes from swampbuster regulation land that has been cropped at least 6 out of the last 10 years.

The bill also eliminates the concept of abandonment—a regulatory concept, not a statutory one—that has been used by the Department to bring prior converted lands back under swampbuster regulation. In other words, we pass the bill, it takes effect on December 28, 1985, and everything that happened before then was history. But not to regulators. They will use some devious means to get back to affect something that took place prior to that magic date.

So, this bill sets a 1-acre minimum for wetland regulation. And most of the conflict here, that has happened between the farmers and the NRCS, has occurred because the Government has literally attempted to regulate every acre of farmland under the farm program. This 1-acre minimum also corresponds with the Army Corps of Engineers' general permit for nonagricultural property.

Just explain to me how we, as a Congress, making law so that the law applies equally across the country to different segments of the economy in the same way, can have the Army Corps of Engineers in nonagricultural land, with something less than 1 acre not being regulated and probably not producing any food for the city slickers of this country, and go over here to agricultural land administered by a different agency and say 1 square foot of wetland can be regulated.

We, again, go back to the intent of Congress not to be nitpicking in 1985. This 1-acre minimum, in conformance with the way it is for the Army Corps of Engineers, ought to solve our problem. It will be perfectly consistent.

Madam President, even though the bill is intended to restore the original intent of Congress on swampbusters, some in the environmental community may criticize these provisions because they want this expansion through regulation and administrative edict beyond what the original 1985 law intended. So I want to say to those who criticize our motives that we agree that the protection of wetlands should be a priority and it should be encouraged. But reasonable people can differ on the means of accomplishing this goal. When the Government is attempting to regulate private property it is vital that the landowner have the proper incentives in order to voluntarily satisfy the policy goals. So this bill provides for several tools that can be used by farmers to voluntarily protect wetlands.

If you do not think that this works, voluntarily protecting wetlands, there has been a massive amount of agricultural land at the incentive of the farmer to put it into wetlands, that have come in under this voluntary program. Tens of thousands of acres have gone into wetlands because the farmers have wanted to put it there.

So this bill, first, expands the existing mitigation provisions and encourages farmers to restore, enhance and create new wetlands. Second, the bill directs the Secretary of Agriculture to pursue mitigation banking, so that farmers will finally be on the same playing field as other landowners. Both of these mitigation provisions ensure that new wetlands will continue to be created.

Last, the bill permits up to 1.5 million acres of cropped wetlands into the Conservation Reserve Program, that is the CRP. So this a strong incentive for farmers to continue to protect valuable wetlands. This provision, along with the reauthorization of the Wetlands Reserve Program, is indicative of this bill's commitment and its sponsors'—DOLE, CRAIG, GRASSLEY, LUGAR—to protecting wetlands on private property.

This bill also focuses on a renewed commitment to water quality protection. The conservation reserve provisions of the bill establish water quality as a coequal criterion with soil erosion for determining eligible lands. Furthermore, at least 1.5 million acres of filter strips, grass waterways, and other riparian areas will be enrolled in the program.

These modifications to the CRP will allow farmers to play an active role in protecting water quality in the rural areas.

So, before closing, I want to just add that all of us share the goal of conserving soil, improving water quality, enhancing wildlife, and protecting wetlands. In fact, the farmers themselves have the highest stake in conserving the land because there is better economic return, there is a responsibility to be a steward for the next generation, and besides, it is a very pretty picture, to have good farmland with good conservation practices. It is just beautiful, from an esthetic standpoint.

But the land is our livelihood and most of us farmers know that we want to pass the land on to our children and our grandchildren.

Sometimes public servants here in Washington who are elected, and bureaucrats who were unelected, forget that the farmers want to do the right thing and that right thing is to protect the environment. The unelected bureaucrats also forget that we are dealing with private property and that private property rights are truly the foundation on which freedoms are built—political freedoms, primarily.

So there must be a balance between the regulatory limits placed on farmers and their private property rights. I believe this bill strikes this delicate balance in a way that will continue to preserve this Nation's most valuable natural resources, our farmlands.

Before yielding the floor, I thank Senator DOLE, Senator CRAIG, and Senator LUGAR for working on this bill with me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, let me first of all associate myself with the remarks of the Senator from Iowa in the introduction of the legislation that he has just, in a very thoughtful and important way, gone through for the RECORD and for the American people.

I think the Senator from Iowa said something very important a few moments ago that is oftentimes missed. He is a farmer. I am a former farmer and rancher.

And he, I, Senator DOLE, and Senator LUGAR, who also have farm heritage and background owning farmland, recognize the phenomenal valuable asset this land is to the American people. Farmers have been foremost, along with ranchers, environmentalists and conservationists.

The legislation we have introduced today speaks to those interests in recognizing the important balance between conserving the land, protecting water quality, ensuring the environment, and allowing a productive environment also for the purposes of being able to farm in a profitable manner.

think this legislation does it, and it allows the farmer once again to take the initiative with USDA and its affiliate agencies as those who cooperate instead of regulators, as the Senator so clearly spoke of.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 1368 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Madam President, I ask unanimous consent that I may be allowed to proceed as if in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

THE UNITED STATES ROLE IN BRINGING PEACE AND JUSTICE TO THE FORMER YUGOSLAVIA

Mr. LIEBERMAN. Madam President, I rise this morning to comment on developments in the former Yugoslavia.

I particularly want to comment on a resolution, House Resolution 247, which was adopted last night in the other body.

Madam President, I say respectfully that there are two parts to this resolution. The first I disagree with. The second I think is unnecessary.

I rise to make the point that as the representatives, the Presidents of the three major parties to the war in Bosnia, Bosnians, Croatians, Serbians—gather in Dayton, OH, to begin the effort that many thought was impossible—to negotiate a peace treaty in the Balkans—that it is appropriate for us to step back. It is a time not to pass resolutions, in my opinion. It is a time to ask questions that are appropriate about the course of the negotiations. But it is primarily a time to give the negotiators some room to see if they can achieve an agreement that will bring peace to the former Yugoslavia.

Madam President, I rise to explain why I am troubled by this resolution, and what I hope will be the course of congressional action here. Let me begin with recent events.

The people of the former Yugoslavia have suffered almost unimaginable horrors for the last several years. Every day seems to bring new reports of genocidal acts in Bosnia.

In the past week alone we have seen disclosures which are chilling, that confirm our worst suspicions about the fate of so many people who lived in the alleged safe haven of Srebrenica, who were driven from their homes and now, according to eyewitness testimony, were slaughtered by Serb forces; according to some accounts, in the presence of, perhaps at the direction of, General Mladic, the commander of the Bosnian Serb forces already indicted by the international war crimes tribunal.

New reports highlight ethnic cleansing and genocide by the Serbs in the area of Banja Luka which continues even now although these reports are sketchy because the international media has been denied access to these locations.

Madam President, last week Assistant Secretary of State for Human Rights John Shattuck was in Bosnia and Croatia to investigate the reports that have come out of the region. He found that prison camps such as Keraterm—the site several years ago of outrageous human rights violations—have been reopened. A cease-fire is declared but a prison camp is reopened, the site of torture has been reopened. He found that people had been forced from their homes in Banja Luka, some sent to prison camps, some sent into forced labor, and apparently too many others murdered, slaughtered, especially in the Sanski Most and Bosanski Novi areas around Banja Luka.

Assistant Secretary Shattuck met in Belgrade with President Milosevic and demanded immediate and unconditional access to all missing persons and to areas where crimes have or may have been committed.

He also discussed the situation of refugees from the Krajina. Several thousand Croatian citizens of Serb background want to return to their homes there. Shattuck found indicators of a human rights situation which is nearly out of control with people of all ethnic backgrounds being dislocated, persecuted and murdered, not for what they have done but simply for who they are.

We cannot let the frequency, the regularity of these reports of systematic campaigns of rape and terror numb us to these atrocities. We must express our outrage as we did when we first heard these reports years ago. We must recommit ourselves to bringing the genocide, the torture, the rape, the slaughter to an end and to bring those responsible for this barbarity to justice.

Last week, I was privileged to join with the distinguished occupant of the chair, Senator HUTCHISON, of Texas, and our colleagues Senators MCCAIN, LEVIN, THURMOND, and others, in offering a resolution expressing the sense of the Senate on this human rights, this life and death crisis. The resolution was unanimously adopted as an amendment to the budget reconciliation bill last Friday.

Let me go to the words of that resolution because we spoke clearly and unanimously to "condemn the systematic human rights abuses against the people of Bosnia and Herzegovina."

We spoke unanimously to demand that the Bosnian Serb leadership "should immediately halt these atrocities, fully account for the missing, and allow those who have been separated to return to their families."

These are words that describe a situation that we can only imagine. It is hard for us to put ourselves into. But men and boys separated from mothers and daughters. Where are they going? What will become of them? We now find, certainly in Srebrenica, that what became of them was that they were slaughtered and buried in mass graves.

Again last week in the resolution promulgated by the occupant of the chair, Senator HUTCHISON, we spoke unanimously to assert that "'ethnic cleansing' by any faction, group, leader or government is unjustified, immoral and illegal and all perpetrators of war crimes, crimes against humanity, genocide and other human rights violations in former Yugoslavia must be held accountable."

Every side in the Bosnian conflict bears some guilt, some responsibility for ethnic violence. The Serbs of Bosnia and of Serbia-Montenegro, the Croats of Bosnia and of Croatia, rebel Moslems in northwest Bosnia, even Bosnian Government forces have inflicted war on civilian populations and driven people from their homes. But there can be no doubt that now, as throughout the years of war and strife suffered by the Bosnian people, the Serbs are primarily responsible and have committed the most heinous and brutal crimes.

America must do all that it can to end these atrocities and to ensure that the guilty are punished without supporting retribution and allowing the cycle of violence to continue. The international community has put in place a mechanism to do this—the War Crimes Tribunal for former Yugoslavia.

Earlier this month in Storrs, CT, at a dedication ceremony for the Thomas J. Dodd Library and Research Center to preserve the memories of the Nuremberg War Crimes Tribunal 50 years ago, President Clinton said: "Those accused of war crimes, crimes against humanity and genocide must be brought to justice. They must be tried and, if found guilty, they must be held accountable." I agree wholeheartedly with the President as I know my colleagues do.

Madam President, in some substantial degree the latest horrific stories of mass slaughter from Srebrenica, reflected in the resolution adopted unanimously on Friday evening, remind us of why so many of us in this Chamber have been concerned about the course of events in the former Yugoslavia. As I saw these events, and others agreed—some did not—from the beginning this has been a case of aggression by Serbia, stimulated in fact from Belgrade. Perhaps it went beyond what Belgrade sought, what Belgrade expected. Perhaps Belgrade was forced to suffer more than they expected because of the economic sanctions. But this has been a course of aggression to build a greater Serbia using genocidal tactics as a means of that aggression.

What did that mean? Again, one nation in Europe invading another, committing genocidal acts based on the religion of a people, in this case Moslem; instability in Europe, at a post-cold war time when that instability could spread, if not checked, throughout the Balkans, involving other countries—Turkey, Greece, Bulgaria, Albania—and sending a terrible message to those who had lived within the former Soviet Union about the lack of concern or unwillingness to act by the world, by the powers in Europe, by NATO.

So, many of us called for a policy of "lift and strike." Lift the arms embargo. At least give the people of Bosnia the weapons with which to defend themselves and then use NATO air power to strike at the Serbs to make them pay for the aggression and for the genocide. For too long no one listened. Excuses were given. But ultimately, a resolution passed this Chamber and the House, overwhelmingly, with bipartisan support, calling for our Government to lift the arms embargo unilaterally if the world community was not prepared to do so multilaterally.

Then came the Croatian invasion and capture of the Krajina. The outrageous, the unspeakable murders at Srebrenica—an army attacking an unarmed safe haven, U.N. peacekeepers from the Netherlands left in a horrible middle position—ultimately aroused the conscience of the world and particularly the NATO powers leading to the extremely successful NATO airstrikes against Serbian targets, poignantly forcing us to raise the question of whether those airstrikes, if they had happened at an earlier time, could have prevented some of the slaughter that occurred. Because once leadership was exercised and power was brought to bear, and those who were the aggressors were forced to suffer some pain and humiliation, the road to peace was opened. Assistant Secretary Holbrooke has moved skillfully, aggressively in difficult circumstances to find some common ground among the parties to bring about a cease-fire that now leads us to the discussions occurring in Dayton, OH, that begin tomorrow.

Some rightly have questioned the idea of negotiating with Serb leaders who may themselves be guilty of war crimes and crimes against humanity. If we hope to reach a settlement which will bring the Bosnian conflict to an end, it may be that we have no choice but to negotiate with Serb leaders. No one should misconstrue these negotiations as excusing, forgiving or forgetting war crimes which have been committed. We are doing none of that. Those who have committed war crimes with their acts or their orders will be brought to justice.

Moreover, before real negotiations can begin, the Serbs must be required to stop ethnic cleansing and other atrocities which are still taking place. This is not an unrealistic or unwarranted precondition, but a test of whether these negotiations can achieve peace. If one party or another chooses to continue to propagate the war or undertakes or tolerates ethnic cleansing, then we are not dealing with leaders who want peace.

If these leaders do not control their own forces and cannot restore an order which prevents further atrocities and turns the guilty over for punishment, then how can these leaders implement a negotiated settlement in which territory will change hands but the rights of all people will be respected?

But if those leaders gathering in Dayton do stop the fighting and the atrocities, we must give them every opportunity to achieve a negotiated settlement. We owe this to those who have already died, but more importantly to those who still live and who want to live in peace.

The settlement which eventually comes from these negotiations may not be what some of us would like, but we should not second-guess the decisions of those who will make them and who are willing to live with the results. However, a few elements will be key to any viable settlement:

To give reconciliation a chance, there must be real protection for human rights.

To provide hope for full reintegration of a multiethnic Bosnian state, there must be significant unity through a meaningful Bosnian central government.

To ensure long-term stability, a regional military balance must be ensured—not just within Bosnia, but among Bosnia, Serbia, and Croatia. This will probably require both arms control and reductions as well as arming and training the Bosnians.

Finally, to ensure justice without retribution, the settlement must require all states of the former Yugoslavia—Serbia-Montenegro and Croatia as well as all parties in Bosnia—to fully cooperate with the War Crimes Tribunal and to comply with its indictments and decisions. There can be no amnesty, no refuge for any guilty party. As President Clinton said in Storrs, CT, "There must be peace for justice to prevail, but there must be justice when peace prevails."

Madam President, the question of whether there will be a peace treaty depends on the three nations that are gathered there under American auspices in Dayton, OH. If they achieve a peace agreement and open the door to the end of this slaughter, and present an opportunity to preserve the stability in Europe—remember again, why are we interested? Twice in this century aggression and genocide unchecked in Europe led to wider war. But if a peace treaty is agreed on, it is clear that NATO forces will be needed to implement that peace treaty to monitor, to keep the parties apart.

Let us be clear that we are on the eve of proximity talks and the prospect of peace because the United States exercised leadership and power and the North Atlantic Treaty Organization exercised power through discriminate and carefully planned air strikes. United States leadership and NATO bombing against the Bosnian Serb aggressors were absolutely essential to bringing all sides to the peace process. But our involvement cannot end there.

U.S. leadership and involvement by the United States and NATO will be essential to the successful implementation of a settlement. The United States cannot bring the parties this close to peace and then just wash our hands of them. We will need to lead this effort and to be involved as befits the leader of the free world. We owe this to our NATO allies and to the alliance which has served peace and stability for nearly 50 years. We owe this to the ravaged people of Bosnia. And we owe this to the memories of all who have been the victims of genocide. It is only right—no, it is necessary—for the United States to stand up to genocide. We did not stand up in time 50 years ago and too many innocents perished as a result. We must not repeat this mistake.

The United States is the leader of NATO. NATO functioned as an extraordinarily successful defensive military alliance against the Soviet Union throughout the cold war. There are those post-cold war who have asked, what is NATO's purpose? But remember, NATO is the strongest functioning military alliance among nations in the world. The NATO powers gathered at our urging to fight alongside us in the gulf war to bring about that magnificent post-cold-war victory. Clearly, NATO will not be willing to play the role of peacekeeper or keeping the peace that may be achieved in Dayton, OH, unless the United States is part of that peacekeeping force. I think we have to be honest about that. If we are not part of that force, NATO will not go in, there will not be peace in the Balkans, and we have only more aggression, more instability, and perhaps more genocide to look forward to.

Beyond that, Madam President, I would say this. The relationship in NATO works both ways. Our allies in Europe are asking us to be part of this. Our friends in Bosnia are saying they will not trust the peace unless we are part of policing it.

But what is the next crisis going to be in which we will not want to carry the burden alone, in which we are turning to our allies in NATO and saying, "Help us"? What will they say if we say to them in this case, "Sorry, folks, you take care of it"?

So I say to my colleagues in the Senate, there is a lot on the line here. That is why I say that the resolution passed in the House last night was untimely and unhelpful. I support the policy of American forces being part of a NATO force to police a peace treaty that is agreed upon in NATO. Are there questions to ask? Yes, there are. Should the administration consult with Congress? Of course it should. And it has been. But this is a time for questions, not resolutions.

Let me also say I support the second part of the House resolution, which says troops should not be dispatched without congressional authorization. But let us remember this: So does President Clinton. He said to Senator BYRD in his letter he would welcome, encourage, and at the appropriate time request an expression of support by Congress. That is what I anticipate.

President Clinton has already begun the important process of consultations with Congress. Key senior officials—Secretary of State Christopher, Secretary of Defense Perry, the Chairman of the Joint Chiefs of Staff, General Shalikashvili—have all come to Congress to explain the why and how of this proposed undertaking. Everyone understands that there are many important questions which remain unanswered. Some of these answers will depend on the outcome of the negotiations in Dayton. Some will depend on ongoing NATO military planning. Some will depend on decisions to be made by the North Atlantic Council. But the President and other administration officials have made clear that the United States will participate in implementing a peace settlement only if several nonnegotiable conditions are met.

The operation must be a NATO operation, with full NATO command and control and no U.N. dual key arrangements.

The mandate for U.S. forces and their missions must be clear.

The forces must be large enough and the rules of engagement sufficiently robust for the NATO force to carry out its mission and to defend itself from any attack.

President Clinton and his Cabinet officials have promised to continue their close consultations with the Congress and to explain their proposals to the American people in order to assure that the President has their support.

This process of consultation should continue in a meaningful, bipartisan way. The President needs the support of Congress and the American people if this mission is to be successful. Just as President Bush recognized the need for congressional support before combat began in the Persian Gulf war, President Clinton realizes the importance of congressional support. Thus, he has said, in words nearly identical to those used by President Bush in January 1991, he "would welcome, encourage and, at the appropriate time, request an expression of support by Congress promptly after a peace agreement is reached."

So I hope that my colleagues in both Chambers will give the negotiators some room, ask questions, but hold the resolution until a much more appropriate and constructive time.

I welcome the coming debate. The stakes are too high for the people of Bosnia, for our men and women in uniform, for the position of America in the world of the next century and for all Americans for us not to engage in this debate.

Just as in those early days of 1991 when I joined a majority of the Senate in supporting George Bush's use of force in the gulf war, we are at a turning point in our history. When His Holiness Pope John Paul II was recently in the United States, he spent a short period of time with President Clinton. The President reports that the Pope said to him at the end of that conversation, "Mr. President, I am not a young man. I have a long memory. This century began with a war in Sarajevo. We must not let this century end with a war in Sarajevo."

If we believe in the hope expressed by the Pope and in the important role which America must play in the world, we must be involved in implementing peace in Bosnia. Without us there will be no involvement by NATO. Without NATO there will be no peace to implement. Without peace in the Balkans, there will be no peace and no stability in Europe, and there will be a continuation of murder and genocide. I am not prepared to accept this outcome for America or the world.

I thank the Chair and I yield the floor.

ORDER OF PROCEDURE

Mr. KERRY addressed the Chair.

What is the business before the Senate?

The PRESIDING OFFICER. The conference report on transportation appropriations.

Mr. KERRY. Is there any time limit at this point in time?

The PRESIDING OFFICER. Yes. The previous order was to recess at the hour of 12:30 p.m. until 2:15 p.m.

Mr. KERRY. I ask unanimous consent that I be permitted to proceed for such time as I might consume. It will not be long. I assume the Senator from Minnesota wants time.

Mr. WELLSTONE. I ask unanimous consent for 5 minutes before we close, if that would be all right.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Madam President, I thank you very much. I shall not be long.

BOSNIAN PEACE POLICY

Mr. KERRY. I listened with interest to the comments of the Senator from Connecticut, with whom I worked on this issue, and others. He is correct that certainly the resolution passed by the Senate with respect to the arms embargo sent a message. But the truth is that the policy that has been put in place in Bosnia that has been successful was the opposite of what that resolution called on the Senate to do. People should reflect on that. The resolution that was passed so dramatically by the Senate said, "Let's abandon the place and basically just arm them and let them fight." Many of us argued that that would have been a disastrous event for the world, for the United Nations, for NATO, and that everybody would have been left asking who was responsible for this extraordinary mess if that had, indeed, been the policy of this country.

Courageously, the President pursued a different policy. The different policy that he pursued was to finally elicit from our friends and allies in Europe a willingness to do what the President had been asking them to do for some period of time, which was to be willing to take certain risks, use the power of NATO, and try to force the process to peace talks.

There is less killing in Bosnia today than there would have been if the policy of the United States Senate had been pursued. There is less killing today because the President and NATO and the European leaders undertook a policy, which I will agree was one that many of us would have liked to have seen put into place some time previously, but nevertheless, a policy different from that espoused by the Senate. It is a policy which now, hopefully, could conceivably result in a peace, though I think Secretary Holbrooke is accurate to say this is a gamble. There are huge variables, and I do not think expectations ought to be high, though obviously hopes ought to be high.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996.

The Senate continued with the consideration of the bill.

Mr. KERRY. Madam President, I rise today in support of the conference report on the Transportation appropriations bill. I would just like to take a moment to acknowledge the exceptional work of Senator LAUTENBERG and Senator HATFIELD in developing this compromise approach that is now on the floor.

This is a critical time for our public infrastructure investments. There are many of us here in the Senate who are deeply disturbed by the level of reduction on the investment side of the ledger, not just in public infrastructure, but in human beings. I am convinced we will pay a price for that. But measured against the overall choices that we are making in the Senate right now, this transportation bill, I think, has done its best, and Senators HATFIELD and LAUTENBERG have done their best, to strike a balance between transit and passenger rail and highway construction programs.

I would have liked to have seen that balance be a little bit different, but I still am heartened by the fact that they held onto important initiatives and, I might add from a parochial point of view, some important initiatives for New England and for Massachusetts. I commend them for doing that.

I am particularly pleased that the conference report recognizes the significance of multimodal and fixed guideway transportation projects as well as the need to maintain Federal support for Amtrak and the Northeast Corridor Improvement Program. I am concerned that operating subsidies for mass transit are significantly reduced and in some places, particularly in rural or outlying areas, we are going to see reductions that have a dramatic impact on low-income, disabled, and senior citizens' ability to be able to get to work, to get to shopping places, to move around the community. And while it may look OK on the short-term ledger of a budget, those things build community as much as a lot of other things that we care about. When people cannot get somewhere, storeowners lose, community centers lose, and the people lose.

So not having a vibrant transit system is not somehow going to be made up, we know, by the private sector because the bottom line has always been that the private sector cannot make money at it. That is why we have the public transit in the first place.

I must express my serious disappointment in the severe reductions in transit operating assistance that will likely mean a reduction of some $3 million for Massachusetts.

The conference report reflects the crossroads at which Congress finds itself with Amtrak. Despite the many benefits of passenger rail, some Members do not consider investment in passenger rail an appropriate use of taxpayer dollars. Others—and I count myself among this group—know from previous experience both here and abroad that the capital-intensive nature of passenger rail makes it unlikely to survive as a viable transportation mode without some form of Government support. Indeed, the U.S. ranks 35th among the nations of the world in per capita spending on passenger rail—behind such countries as Belarus, Botswana, and Guinea. In appropriating $635 million for Amtrak, which is about $160 million less than the fiscal year 1995 funding level, the conferees anticipate enactment of legislation to reform Amtrak. As a member of the Senate Commerce Committee, which has reported legislation to restructure Amtrak so as to place it on a path toward greater fiscal stability and accountability, I pledge to help move this bill forward as soon as possible.

My concern for passenger rail is particularly keen when it comes to the Northeast corridor and the need to move ahead with track work, upgrading maintenance facilities and completion of the electrification of the northern section as soon as possible. This project is vital to reducing congestion in the corridor, which in turn will result in important environmental, energy and employment benefits. The $115 million the conference report provides for NECIP, some $85 million less than in fiscal year 1995, will enable work to move forward, albeit more slowly.

Another area of special importance to Massachusetts is mass transit. I am frankly disappointed and disturbed by the significant reduction in funding agreed to by the conferees for mass transit operating assistance. From $710 million in fiscal year 1995 down to the $400 million contained in the conference report, this severe cut in funding will have a devastating effect on mass transit systems, particularly in the Pioneer Valley, Worcester, Attleboro, and the Lawrence-Haverhill areas. For Pioneer Valley alone, this means a $1 million reduction, or a cut of more than 47 percent in Federal funds. A reduction of this magnitude will most certainly force the transit authorities to curtail service and raise fares, creating significant hardship for those who depend on mass transit—such as the elderly, disabled, and low-income riders—for basic shopping needs, and to commute to work and to school. It is my hope that this sharp downward trend in critical mass transit funding will be reversed next year.

I am grateful to the conferees for including in their report more than $20 million for the south Boston Piers Transitway. The transitway is a critical component of the State implementation plan, and is anticipated to serve 22,000 daily riders. This construction project has stayed on schedule and on budget, and has an impressive cost-effectiveness index of $9 to $16 per new passenger trip.

Another important project that will receive $2 million through the Federal Transit Administration's bus and bus facilities account in fiscal year 1996 is the Worcester Intermodal Center. The center, in a renovated Union Station in Worcester, MA, will provide convenient access to commuter rail, buses, and taxis to Worcester County's 710,000 residents.

I have heard some concerns expressed about the provisions of the conference report relating to reform of the Federal Aviation Administration, FAA, and particularly to those sections dealing with the rights of workers to organize and bargain collectively. As a member of the authorizing committee that oversees the FAA, I intend to monitor closely the FAA's personnel reform plan to assure that the labor rights of FAA workers are fully protected and will keep the statement of the conference managers to this effect in mind as the Commerce Committee considers legislation to restructure the FAA.

Another area about which I am concerned is funding for the U.S. Coast Guard. The Coast Guard is vital to my State of Massachusetts, with its hundreds of miles of coastline, harsh weather conditions, bustling maritime industry, hearty fishing industry, and thriving recreational boating population.

Indeed, the Coast Guard is vital to the safety and well-being of citizens in every coastal State, and in every State with navigable waters. Today, over 50 percent of the U.S. population lives within the coastal zone, and directly benefits from the services the Coast Guard provides. But, indirectly, the Coast Guard, in the performance of its mission, protects every American. In fact, more than two-thirds of the total budget for the Coast Guard goes to operating expenses to protect public safety and the marine environment, enforce laws and treaties, maintain aids to navigation, prevent illegal drug trafficking and illegal immigration, and preserve defense readiness.

With this high demand for services I am amazed that the Coast Guard would consider reducing its operations but in response to our budget dilemma that is exactly what it is doing. The Coast Guard is in the process of an internal downsizing and streamlining program which in 4 years will reduce its size by 12 percent or 4,000 people, and cut $400 million. However, despite these cost cutting efforts, the funding for the Coast Guard provided by the conference—$2.579 billion for operations and $362 million for acquisition, construction and improvements—is well below the President's requests of $2.618 billion for operations and $428 million for acquisition, construction, and improvements.

The Coast Guard has always been able to do more with less, but I am concerned that this level of funding will be inadequate for the Coast Guard to continue successfully to perform important missions and operations. In addition, the conference report contains contradictory provisions concerning funding—the first provision, which I fully endorse, assumes that additional funding of $300 million will be provided in the Department of Defense Appropriations Act for Coast Guard operations. The second provision, which I oppose, makes available at the discretion of the Secretary of Transportation the transfer of up to $60 million to the FAA budget. I do not think setting up agencies within a Department to battle one another for funding is a wise course.

I am pleased to see that the conference agreement disallowed the closure of any Coast Guard multimission small boat stations for fiscal year 1996. While I recognize the necessity of the Coast Guard's streamlining efforts, I am worried that efforts to downsize field operations may unreasonably increase the threat to life, property, and the environment. I concur with the views expressed in the Senate Appropriations Committee report that cited the very real though intangible deterrence benefits of these stations. Combined with their direct benefits, I believe these outweigh the value of the management efficiencies and small budgetary savings that may result from their closure. I also agree with the conference report which stated that the Coast Guard's station closure methodology failed to fairly consider distinctions among small boat stations, such as water temperature and survival time. I have proposed provisions in the Coast Guard authorization bill that establish a more formal process for station closures and require the Coast Guard to take the appropriators' concerns into consideration while allowing the Coast Guard the flexibility to modify the levels of its resources as it sees fit.

Once again, I compliment and thank the Senators from Oregon and New Jersey for their leadership in developing this important legislation. While I would have liked for it to do more in some areas, it is a commendable attempt to meet our Nation's transportation needs within the budget limits allotted to them.

I would just like to finally publicly say I am deeply concerned, also, about the reductions in the Coast Guard. I know that the Coast Guard has accepted the Presidential directive and other directives to streamline and to reduce. Those reductions and that streamlining are good, and it is important. But I am convinced that measured against the extraordinary increase in Coast Guard duties and responsibilities, we are asking them to do more than may be possible.

More than two-thirds of the total budget for the Coast Guard goes to operating expenses for public safety—the marine environment, to enforce laws and treaties, to maintain aids to navigation, to prevent illegal drug trafficking and illegal navigation, immigration, and also to preserve defense readiness. If you look at the increase in responsibility measured against the last 10 years of reduction in resources, once again I think we have to be very careful that we are not shortchanging ourselves.

Madam President, I yield the floor. I thank the Chair.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

THE RECONCILIATION BILL

Mr. WELLSTONE. Madam President, I thank the Chair, and I will try to make this relatively brief. I know the presiding officer has a conference luncheon to go to.

Madam President, when I go back to teaching in 7 years, one of the classes that I am going to teach is going to focus on what happened on Friday night on the floor of the U.S. Senate. And I say this with a slight smile because you have to have a twinkle in your eye, but at the same time I say it with a tremendous amount of indignation.

In the dark of night my State of Minnesota was cut $524 million in medical assistance for people in our State. I will come back to that in a moment.

Late afternoon and early evening I kept asking, "Where is the Finance Committee amendment on the formula?" After all, we are not just talking about formula, we are talking about people's lives. At 6 p.m., one version, 9 p.m., the final version. All of a sudden, back room decisions. No chance for review, no chance to talk to constituents. Some States come out doing very well. Texas gains $5.2 billion; that is good for Texas. California loses $4.2 billion; that is not so good for

California. Then, in a departure from any rational allocation formula, the legislative language of the amendment contains "additional amounts," additional money. We are talking about people leveraging their votes for the following States:

We have $63 million more for Arizona; $250 million more for Florida; $34 million more for Georgia; $76 million more for Kentucky; $181 million more for South Carolina; $250 million more for the State of Washington. And then, at 9 p.m., new legislative language is released adding Vermont to the list, with an additional $50 million.

Madam President, in the dark of night, a decision was made by somebody, and I came out on the floor at 9 o'clock and said, "Who made this decision? Who were the people that made this decision accountable to? What happened to my State of Minnesota? On top of $2.4 billion of cuts in medical assistance, you now have cut my State by $524 million more."

Madam President, the majority leader came out and said, "But Minnesota is doing better than in the House formula." That is true. There we were being cut $3.5 billion. But we thought we had an understanding. We thought there was an agreement and the reductions had been reduced by $1 billion and the Senate by $2.4 billion. Then the majority leader said something to the effect, "Well, the Governor supports this."

Madam President, I am really pleased that the Governor of Minnesota does not support this. Governor Carlson is meeting with the majority leader. He is coming to Washington, DC, to try and find out what happened, and to advocate for our State, which is exactly what he should do. Whether we are Democrats or Republicans, we should be advocating for our States.

The most serious part of this decisionmaking process is—actually, there is an "A" and a "B" to the serious part. A, it is in the dark of the night, behind closed doors—decisionmaking, cutting deals, accountable to nobody, no review, no opportunity to talk to constituents. That is problem No. 1, regardless of what happened to different States.

Problem No. 2: My State was cut by $524 million.

Problem No. 3: Let us translate the statistics in human terms. We have 425,000 recipients on what we call "medical assistance" in Minnesota; 300,000 of them are children. Sixty percent of our payments go to elderly and nursing homes. Many people with disabilities rely on this support so they can stay at home and not be institutionalized. We are projected to grow from 425,000 to 535,000 medical assistance recipients in the year 2002.

Madam President, I intend to fight this all the way. Minnesota was shafted in the dark of the night decisionmaking, and a lot of people in my State are going to be hurt. I am going to make sure this formula is reversed.

Madam President, I think the more people in the country get a chance to see what is in these budget bills, the more they are not going to like it. If the President is strong and he vetoes these bills—which he should—there is no Minnesota standard of fairness in these budget cuts—and the people have a chance to be engaged in this process, I am absolutely convinced that we can inject some fairness, some elementary basic Minnesota fairness, back into this process. But, for right now, I am not letting up. I heard the Senator from Florida give a brilliant speech Friday night. I say to my colleague from Florida, I am not letting up on this. I am fighting this all the way, until Minnesota gets some fairness in this formula. I am not going to let folks, in a back room deal, shaft my State and a lot of the citizens in my State.

I am delighted that the Governor of Minnesota is going to join in this effort to make sure we get a fair formula.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:54 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CRAIG).

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The result was announced—yeas 87, nays 10, as follows:

[Rollcall Vote No. 557 Leg.]

YEAS—87

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bingaman
Bond
Boxer
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feingold
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Robb
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—10

Biden
Byrd
Daschle
Dorgan
Ford
Heflin
Johnston
Kerrey
Reid
Rockefeller

NOT VOTING—2

Bradley
Hatfield

So the conference report was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. Yes.

MIDDLE EAST PEACE FACILITATION ACT

Mr. DOLE. Mr. President, tonight at midnight, the Middle East Peace Facilitation Act [MEPFA] will expire. Last night at 8:20, a written request for a short-term extension was faxed to my office by the State Department. This morning, I spoke to Secretary of State Christopher about the issue. Until the letter and phone call, my office had received no communication about the need for the latest extension. I know the Secretary is concerned that a delay in extending the act could be read as lack of support for the Middle East peace process. I share that concern, but I am also concerned that we have an administration that refuses to deal responsibly with Congress.

I want to be very clear: the U.S. Senate has gone on the record on repeated occasions supporting the Middle East peace process. We have extended MEPFA three times this year: on June 23, on August 11, and on September 29. Each time the Congress acted promptly. I hope we are able to act today as well.

We support the peace process. We understand the risks being taken by both sides. We understand that peacemaking is not easy, and that the process is subject to disruption. As I speak today, Israel's withdrawal from the West Bank town of Jenin has started. Our lead negotiator in the Middle East, Dennis Ross, called my office this morning from Israel to express his concern over the consequences of not extending MEPFA.

Extending MEPFA allows the President to waive certain provisions of law concerning the Palestine Liberation Organization. It allows the provision of United States assistance to the Palestine authority, and it allows a Palestinian office to operate in the United States. The Foreign Operations Appropriations Conference Report provides for a permanent extension of MEPFA but it is not likely to be enacted soon.

If Congress does not act today to provide another short-term extension, the President's waiver authority will lapse. Under these time constraints, unanimous consent is required to proceed.

Today, I am informed the chairman of the Foreign Relations Committee, Senator HELMS, will object to any unanimous-consent request extending MEPFA unless the terms of a previous agreement entered into by the full Senate have been met. The last time the Senate extended MEPFA, Senator HELMS and Senator KERRY of Massachusetts worked out an agreement providing for consideration of S. 908, the Foreign Relations Reorganization Act.

For the benefit of all Senators, I would like to briefly review what has happened over the last month. On September 29, the Senate passed an extension of MEPFA and entered into an agreement providing for consideration of S. 908 after the managers agreed on an amendment. On October 10, Senator HELMS wrote to Senator KERRY and urged him to make some kind of offer. The next day, Senator KERRY responded that "progress was being made" in developing an offer.

On October 19, Senator KERRY met with Senator HELMS and provided an outline—not legislation—of a proposed managers' amendment. Later that day, Senator HELMS made a counter offer to Senator KERRY, changing the amount of savings from reorganization from $1.2 billion over 4 years to $2.5 billion over 5 years. Senator KERRY's response was to propose 25 additional changes in the bill and to request unprecedented guarantees about the outcome of a House-Senate conference.

Until this morning, Senator HELMS had heard very little from Senator KERRY or his staff. While staff negotiations have begun, there is no agreement on the central issue of cost savings. Once again, the administration has refused to provide information to Congress about cost information. I hope the Democrat manager, Senator KERRY of Massachusetts, is able to make a legislative agreement today, whether the administration is willing or not.

The State Department wants Senator HELMS to lift his objection to proceeding with MEPFA despite the almost total lack of effort over the last 32 days. Senator HELMS is completely within his rights to object to any unanimous-consent request. I hope that as the day proceeds, Senator KERRY and the administration decide it is finally time to deal seriously with the Senate majority.

Contrary to some of the statements made by the administration, Senator HELMS is not insisting on "getting his way." What he is insisting on is that the will of the majority be heard, and that the Senate simply have a chance to vote on whether to save money by reorganizing our international affairs agencies.

I believe in the importance of bipartisan cooperation. Let me point out that if the administration had not orchestrated a filibuster of S. 908 earlier this year, the Middle East Peace Facilitation Act would have been permanently extended by now—in that same legislation. Unfortunately, due to the administration's intransigence and refusal to negotiate, MEPFA is once again a last-minute demand on a busy Senate schedule.

I hope we are able to work together on MEPFA, and I hope it happens today. I hope a managers' amendment is filed today. However, it is going to be very difficult, if not impossible, to work together on one issue today if there is no cooperation from the other side on moving to conference on the budget reconciliation bill.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for 5 minutes each until the hour of 3:30 p.m.

At 3:30 p.m., it will be my intention to call up the conference report to accompany the energy-water appropriations bill. A rollcall vote has been requested. Therefore, another vote is expected during today's session of the Senate. We hope to adjourn fairly early this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES ON THE RECONCILIATION BILL

Mr. DOLE. Mr. President, you would think after we broke the record on votes on the reconciliation bill—we had 39 votes here on Friday, and we were here after midnight on Thursday and midnight on Friday—that we could proceed to appoint conferees on the reconciliation bill. But I am now advised that the Democrats will want to use at least part of the 10 hours they are permitted under the Budget Act and maybe have as many as four additional rollcall votes.

I must say, had I known that, we would certainly have been here yesterday, and I was trying to accommodate Members on both sides of the aisle. I will not do that again without checking very carefully.

My view was that we had had an unprecedented number of amendments offered by the other side. We had on this, as I said, 39 votes in 1 day, never having had that many votes in the history of the Senate. And it seemed to me that we would move on to the appointment of conferees and complete action without all this additional 10 hours or 5 hours or 4 hours, whatever it is. So I will have to decide when to bring up the bill—maybe sometime late tomorrow afternoon.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DASCHLE. I would allocate whatever leader time I may need to respond to the distinguished majority leader.

ACCOMMODATING THE SENATE SCHEDULE

Mr. DASCHLE. Mr. President, let me say that last week we began with about 130 amendments which Senators on our side had hoped to offer. I indicated to the majority leader that it would be my hope we could bring that list down to under 30, and we checked the record again and that list was reduced to 25 amendments, as I had hoped we could reduce them to. And so I think to the degree it was possible we accommodated both in time as well as in number the desire on the part of the leadership on both sides to successfully complete the deliberations on the budget resolution Friday night.

With regard to the conference report, again, we faced a number of motions to instruct; that it was my hope we could reduce in number from perhaps as many as 20 to less than a handful. I think we have agreed as a result of the discussion in conference that it will not be 20; it will not be 12; it will not be anything more than 4—4 very specific targeted motions that we would be willing to agree, timewise, to not take the 10 hours.

I wish to accommodate the schedule of the distinguished majority leader, and I hope we could work through this in a way that would accommodate both of our needs. Let me emphasize, our colleagues feel very strongly about a number of the issues that we raised through amendments last week. We feel very strongly this week. We will be watching with the great interest of everybody in the conference what develops in that conference, and we think it is very important to articulate in as strong a way as we can what our concerns are. We have a number of concerns that will not be addressed in these motions to instruct. There were a number of Senators who said they wanted the opportunity to move an amendment or a motion, and we will do that in other ways—in the form of letters, in the form of conversations with our colleagues—but we will limit our motions to instruct to four.

So it is an effort to balance, Mr. President, our degree of concern with our interest in working through this effort procedurally in an effort to accommodate all Senators.

That is what we will do whenever the distinguished leader decides to bring up the conferees motion, and we will be prepared to work with him in that regard.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair informs the Senator we are now in morning business. The Senator from New York.

EXTENSION FOR REPAYMENT OF MEXICO'S LOAN

Mr. D'AMATO. Mr. President, without any fanfare, late this past Friday afternoon, the Clinton administration quietly gave the Government of Mexico an extension on their loan payments owed to the United States taxpayers. This delay contrasts sharply with the much publicized partial prepayment Mexico made on the same loan just a few weeks ago.

Yesterday, the Mexican Government was supposed to pay the remaining $1.3 billion of their $2 billion payment to the United States. This money is only a part of the $12.5 billion in loans given to Mexico by the Clinton administration this year.

On October 6, as part of the public relations campaign for Mexican President Zedillo's visit, Mexico paid back $700 million. At that time the Clinton administration hailed this partial prepayment saying, "The American taxpayer is being repaid ahead of schedule."

But what that amounted to, Mr. President, was nothing more than a publicity stunt. This so-called prepayment turned out to be a sham.

What about the $1.3 billion still owed to the American taxpayers that was due yesterday? On Friday, the real story came out. Without the fanfare, the photo opportunities, and the state dinner at the White House, the Clinton administration quietly announced that it was their plan all along to allow Mexico to postpone paying back its loan.

Mr. President, I am outraged. It appears to this Senator that the loans to Mexico may never be repaid, and the Clinton administration knows it. I have serious doubts that the American taxpayer will ever be repaid all of the $12.5 billion that this administration sent to Mexico.

It is time to stop playing politics and tell the truth to the American public. Make no mistake about what and who is bankrolling the Clinton administration loans to the Mexican Government. It is the U.S. taxpayer, the American citizen. And the reality stands in sharp contrast to what the administration said just weeks ago. The American taxpayers are not being paid back on time.

The Clinton administration's claims that the Mexican bailout is a success rings hollow. The Mexican bailout is a failure for the American taxpayers and the Mexican economy. The history of the Clinton administration's bailout is a failed one.

On December 9, 1994, President Clinton lauded Mexico as an economic success story. And just 10 days later the Mexican Government ineptly devalued their peso by 20 percent. The peso's value subsequently went into a free fall and capital fled Mexico.

Ironically, we have recently learned that Mexican investors have been pulling their money out of Mexico before the peso's crash. They were tipped off, Mr. President. They got their money out long before the rest of the world found out what was happening. The question again emerges, why are American taxpayers forced by the Clinton administration to bail out a foreign economy that was first abandoned by its own wealthy citizens?

I have said all along that American tax dollars are being sent to Mexico to bail out wealthy global speculators. That is wrong. So where are we now? The Mexican Government, with the approval and consent of the Clinton administration, has used American taxpayer dollars to pay off investors, but the Mexican economy remains in shambles. Global speculators have reaped huge profits while U.S. taxpayers are left holding the bag.

Last Thursday, the Mexican peso dropped to a 7-month low, trading at 7.23 pesos to the dollar, almost matching its low point of 7.5 pesos to the dollar in early March. The Mexican Central Bank frantically intervened to support the peso but despite these efforts, the peso closed at 6.925 to the dollar yesterday. Banks in Mexico may have to raise short-term interest rates even higher to help the peso recover its value.

These high interest rates are already crippling Mexican families and small businesses. And, Mr. President, do you know who they hold responsible for this? The United States of America. The Clinton and Zedillo administrations' assertions that the Mexican economy is recovering simply does not hold water. It is not true. The American people and the United States Congress deserve all the facts on the Mexican economic situation.

This summer, I released a report on the Mexican economic crisis that detailed a disturbing pattern of deception and misrepresentation of the true state of the Mexican economy. News reports indicate an internal study commissioned by the International Monetary Fund [IMF], sheds new light on the subject and confirms this disturbing pattern. Now the Clinton administration has classified the report—the Whittome report—and is resisting efforts to make it available to the public. The public has a right to know the whole truth. Why is the Treasury Department hiding this information from the American public?

I have written to the Director of the IMF and copied the Secretary of the Treasury to request that this report be made public. We have sent $12.5 billion worth of taxpayer money directly from the United States and $9.8 billion from the IMF. Another $1.6 billion will be sent from the IMF to Mexico next month. And do you know who is the single largest contributor to the IMF—the United States. According to news reports, the Whittome report provides valuable insight into the handling of the Mexican economic crisis by the administration and the IMF. Yet neither of them wants to share this report with the American public.

On October 18, I wrote to the Director of the IMF asking him to make it available. The public has a right to know the whole truth but so far the Treasury Department and the IMF have not responded to my request.

We were told several weeks ago that Mexico was recovering wonderfully, that it was repaying its debt of $700 million earlier than required, but the administration knew 2-weeks ago that Mexico would be unable to pay the full debt, which was $2 billion. So they put up $700 million, when they still owe us $1.3 billion and call it a success. It is disingenuous to say the least.

Mr. President, let me make a prediction before I close. I predict that there will be a time in the not-too-distant future when we will see Mexico come quietly to the Treasury, the United States Treasury, and make a deal for more money, and this administration will once again go along with it. The American people will be the losers. We should be prepared the next time they come to say no.

There is an old saying, "You don't put good money after bad." But I guess we have an administration that figures if it is not their money, that it only belongs to the American taxpayers, that wise old saying is not valid.

I believe this Congress has a responsibility to demand that report, and I intend to submit a resolution expressing the sense of the Senate that report be made available so that the American people can see that we have a Government that operates in accordance with the rules and they can judge the situation for themselves. They can decide whether or not they are ever going to get that $12.5 billion back. The American public can decide whether or not the administration has dealt with them fairly and candidly.

Mr. President, I thank you for your courtesies and I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Oklahoma is recognized for 5 minutes in morning business.

Mr. INHOFE. Thank you.

AMERICAN TROOPS IN BOSNIA

Mr. INHOFE. Mr. President, I want to take this opportunity and many other opportunities between now and the next few weeks, to strongly urge the President to come to Congress for authorization before he makes a decision to send American troops into Bosnia. We have discussed this in our committee meetings, our Senate Armed Services Committee, and I am very much concerned about the fact that if you look at the history of Bosnia, all the way back to the Ottoman empire, you see that you have these three warring factions that have always warred with each other.

We know that the Archduke who was assassinated was what precipitated World War I right there in Sarajevo. We know that in World War II, Marshal Tito, when he was putting together his alliance to go against the Germans, he had most of them except for Croatia. At that time Croatia was on the other side. We were on the side of the Bosnian Moslems and the Serbs. So it has been a moving target throughout the years.

The only thing that is consistent is that they have been murdering each other. And we have evidence in the last 6 months, all three factions have fired on their own troops and tried to blame the other side. So we have a long and agonizing history of what has been happening over there. There is no more hostile area any place in the world to send our troops on the ground than there.

Back in World War II, any of us who have studied history at all remember how the former Yugoslavians were able to hold off the best that Hitler had on the ratio of 1 to 8. This, in other words, is not the Persian Gulf. These are mountains with caves, Mr. President. This is an area where historically a small number of people have been able to murder a much larger force and take many, many casualties. This is the environment into which we are talking about sending our troops.

I draw an analogy between that and Lebanon in 1983. In 1983, we sent our troops over to Lebanon. We had a very modest mission at that time, and it was not until the months rolled by when the bomb went off and 241 of our troops were killed, and, of course, then there was a public cry, and we brought our troops home.

Or Somalia. I cannot hang that on the Democrats because George Bush, in December, after he lost the election, before the new President, President Clinton, was sworn in, he sent troops to Somalia really just for 7 weeks. And then he went out of office and Clinton came in. At that time I was serving in the other body. Almost every month we sent a resolution to the President, "Bring our troops home. There is no mission that is relative to our Nation's security in Somalia." And it was not until 18 of our Rangers were murdered in cold blood and they dragged their corpses through the streets of Mogadishu that there was enough public outcry to bring the troops back home, and we did with our tail between our legs. Nothing was accomplished. You see, we have adopted a foreign policy in this country where we are sending our troops out on humanitarian missions, as opposed to missions where we have our Nation's security at risk.

Well, now, this came to a head when we had our Senate Armed Services Committee meeting—it was a public meeting—just the other day. We had Secretary Christopher, Secretary Perry, and General Shalikashvili. When we came to the part where we were talking about the mission, the strongest mission they could state that we have in Bosnia is twofold: First to contain a civil war, which has been going on for hundreds of years; second, to protect the integrity of NATO, the North Atlantic Treaty Organization.

So I asked a question—and this was after there was a quote from General Rose, who was the U.N. commander in Bosnia. He said, "If America sends troops over there, they would lose more American lives than they lost in the Persian Gulf." There we lost 390 lives. So I said, "So we can reasonably assume we are going to lose hundreds of American lives if we send troops over on the ground in Bosnia? That being the case, Secretary Perry, is our mission, as you have described it, to contain a civil war and to protect the integrity of NATO worth the cost of many hundreds of American lives?" He said, "Yes," without flinching. I said, "Secretary Christopher?" He said, "Yes." And General Shalikashvili said, "Yes."

So here we have the people who are in the top ranks, the President's three top men, reflecting the wishes of the President—that is, to send troops into Bosnia on the ground.

There is something else that is very curious about this, which came up in this meeting. They stated in the meeting that no matter what the condition was 12 months from now, those troops would be back in the United States.

I ask you, Mr. President, in all of your well-read days on military science, if you have ever found a time when a country sent its troops into a warring area with a time certain to come back, regardless of the circumstances, whether we were in the middle of a very hostile situation or whether it was a peace accord, we are going to bring them home in 12 months?

They all said, "Yes." They had it written down that, "The troops will return in 12 months." As much as I hate to see it, the only thing I could think of with any degree of certainty that is going to happen in 12 months is that it will be election time, November 1996. I hope that does not have anything to do with this decision.

So I plan, in a couple of days, to go over to Bosnia. I am going to go, and I am going to stand in the same places where all of our troops are going to be standing if the President is successful in not coming to Congress for authorization to send troops. I am going to look at the hostility around me, and I am going to listen to the gunfire, and I am going to bring that message back to the American people.

This is something that has to rise above politics. We went through this same thing when President Bush wanted to send troops to the Persian Gulf. Yes, we had a real mission there relative to our Nation's security. That mission was whether or not we could have the energy necessary to be viable in fighting a war—a real mission relative to our Nation's security. At that time, he said we are going to send the troops there, and we said: Mr. President, we do not think it is wise to send the troops over, those soldiers, not knowing they have the support of the American people as well as the support of Congress behind them. He did not have to. Just like President Clinton does not have to come for authority to the Congress, President Bush did not have to, but he did it. It was a very wise move for the sake of those individuals who were going over there to lay their lives on the line, where 390 Americans died valiantly. The President, at that time, came to the Congress, asked for authority, and we had a united America in fighting the Persian Gulf war.

This war over there is not our war, Mr. President. This is a civil war. Sure, it is a problem for people in Western Europe, and I hope that Western Europe gets busy. Let them do what is necessary to protect their security interests. Perhaps they have security interests in Bosnia. We do not.

I do not want to wake up and find out that the American public did not know about this, did not care about this enough that they did not know whether they have an outcry to bring our troops back until our American corpses are dragged through the streets of Sarajevo. We can stop it right now, Mr. President. I plan to go to Bosnia and spend several days there at the end of this week and bring a story back for the American people.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, if I understand it correctly, we are in morning business at the present time?

The PRESIDING OFFICER. Correct.

Mrs. FEINSTEIN. I ask that I may be permitted to speak for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF THE MIDDLE EAST PEACE FACILITATION ACT

Mrs. FEINSTEIN. Mr. President, I rise to discuss the need for an extension to the Middle East Peace Facilitation Act, which expires tonight, and the majority leader's announcement a short time ago that there will be an objection to passing that bill today.

This is very surprising to me. I was sitting in the Judiciary Committee hearings on Waco when I was told about it. I speak today as the ranking member on the pertinent subcommittee of the Foreign Relations Committee and one who was very concerned about what the repercussions would be in the peace process from the resolution we passed last week on Jerusalem. And now we are confronted this week with a situation that I think, again, has a ripple effect throughout the Middle East if we do not take action.

Mr. President, I think we ought to ask, what will one say, what will the Israelis say, what will Prime Minister Rabin say, when they are asked the question about why the Congress has refused to continue funding Palestinian economic development in support of the peace process? Prime Minister Rabin has explicitly asked for this legislation on each of his visits to the United States. Not passing the extension today, it is my understanding, stops not only the funding but the operation of the necessary offices to carry out that funding, including one here in Washington.

What is disturbing is that no one here is even arguing for letting the Middle East Peace Facilitation Act lapse. This dispute before us, in fact, has nothing to do with the Middle East. It has to do with conflicting views about whether or not or to what extent to consolidate the foreign affairs agencies of the United States Government.

This is a legitimate issue. There are strong opinions on both sides.

It seemed to me we had a process for negotiating this issue to reach some agreement. Senator KERRY on our side, the Senator from Massachusetts, and the chairman of our committee, Senator HELMS, had been negotiating. While agreement has not yet been reached, I believe it can with continued good faith at the negotiating table.

Wherever one stands on the question of consolidation one thing should be clear: The Middle East peace process is too important to be held hostage to disagreements over unconnected issues or to partisan disputes.

I wonder if anyone in this body differs with that view? Do any of my colleagues on either side of the aisle believe that the Middle East peace process just does not matter that much? Or that it is expendable enough to be turned into a political football?

One of the truly wonderful things about American foreign policy in the Middle East is that it has always been bipartisan. Strong support for Israel and active pursuit of Middle East peace have never been the province of just one party.

Indeed, this peace process is the outgrowth of the tireless efforts of President George Bush and Secretary of State James Baker. It has been carried forward with skill and dedication by the current administration.

The bipartisan nature of United States support for the Middle East peace process was never more evident than on July 21 when I joined a group of my colleagues in cosponsoring Senate bill 1064, a long-term extension of the Middle East Peace Facilitation Act.

I was proud to stand with Senators HELMS, PELL, DOLE, DASCHLE, MACK, LIEBERMAN, McCONNELL, LEAHY, and LAUTENBERG in expressing strong support for continuing America's leading role in the peace process.

I know, too, that the chairman of the subcommittee on which I serve as ranking member, Near Eastern and South Asian Affairs, Senator BROWN, also supported the sentiments in S. 1064.

I ask my colleagues who joined me that day, what has changed? If the Middle East peace process was deserving of strong bipartisan support on July 21, why is it being held hostage to unrelated legislative disputes on October 31?

I simply do not understand how we can fail to extend this legislation. It is so important to ensuring Israel's ability to live in peace and security with its neighbors in the future. It is so important to protecting a Israel as a Jewish State, to seeing that the legitimate rights of the Palestinian people are recognized and eventually aiming for peace and security in that entire region.

I think we owe it to all those who have supported us in that area not to abandon our commitments. American Jews know what the stakes are in keeping the Middle Eastern Peace Facilitation Act in force.

Mr. President, I ask unanimous consent that an advertisement from the September 17, 1995, New York Times be printed in the RECORD at the conclusion of my remarks.

(See exhibit No. 1.)

Mrs. FEINSTEIN. The ad begins "Prime Minister Rabin, we know that pursuing peace is risky. Not pursuing it is unthinkable." The ad goes on to endorse this legislation explicitly. It reads:

> . . . We support the Middle East Peace Facilitation Act, the United States legislation which enhanced Israel's security by ensuring compliance by the Palestinians with their agreements and advancing economic development in the West Bank and Gaza, to show Palestinians that peace can improve their lives.

This ad reflects nothing less than the consensus of the organized Jewish community in America. It is signed by 29 Jewish organizations. Such a broad consensus of American Jews, Israel's strongest supporters, should not, in fact, be construed as wrong. I hope we will listen to them.

I did not think we would be in this position where one person would prevent this act from being extended and effectively cut off all aid to the peace process, all economic development assistance that in good faith America has pledged.

On top of what happened last week, when these resolutions and these actions and these nonactions by this body are extrapolated universally and particularly in the Middle East, they very often come to have different meanings.

This body went on record in July supporting this process. How can we today turn it off? How can we say what we supported in July, we do not support enough in October to pass a simple amendment to extend the act? Instead, along with ambassadors, along with other treaties, we will hold it hostage?

I think it is wrong. I think it is overkill. I think it is a redoubtable action at best. I hope that the majority leader would be able to prevail on those who want to hold this hostage to achieving goals that are unrelated to the Middle East Peace Facilitation Act, and that those parties would reconsider. I think it is very important that they do.

I thank the Chair for the time.

EXHIBIT 1

[From the New York Times, Sept. 17, 1995]

PRIME MINISTER RABIN, WE KNOW THAT PURSUING PEACE IS RISKY. NOT PURSUING IT IS UNTHINKABLE

Mr. Prime Minister, as you continue the arduous journey to peace, know that American Jewry stands with the Government of Israel.

Overwhelmingly, American Jews say "yes" to Israel's current pursuit of peace with security. Every poll reflects this.

We know there is no alternative to the peace process except continued violence and continued despair. We support your government and its vision of two peoples living side by side, in peace, so that the children of Israel can look forward to the future without fear.

To bring us closer to this goal, we support MEPFA—the Middle East Peace Facilitation Act, U.S. legislation which enhances Israel's security by ensuring compliance by the Palestinians with their agreements and advancing economic development in the West Bank and Gaza to show Palestinians that peace can improve their lives.

The road ahead will be filled with obstacles. But to turn back would be far more dangerous. It would reward terrorists by giving them precisely what they want: the death not only of peace, but of hope.

Mr. Rabin, we say bracha v'hlatzlacha—may you be blessed with good fortune. On the eve of the Jewish New Year 5756, we offer you and the people of Israel our steadfast support and heartfelt prayers in the days ahead.

American Jewish Committee, Robert S. Rifkind, Pres. David Harris, Exec. Vice Pres.

American Jewish Congress, David V. Kahn, Pres., Phil Baum, Exec. Dir.

American Jewish League for Israel, Martin L. Kalmanson, Pres.

American Zionist Movement, Seymour D. Reich, Pres., Karen J. Rubinstein, Exec. Dir.

Americans for Progressive Israel-Hashomer Hatzair, Naftali Landesman, Pres.

Americans for Peace Now, Richard S. Gunther, Co-Pres., Linda Heller Kamm, Co-Pres., Gary E. Rubin, Exec. Dir.

Anti-Defamation League, David H. Strassler, National Chair, Abraham H. Foxman, National Dir.

Association of Reform Zionists of America, Philip Meltzer, Pres., Rabbi Ammiel Hirsch, Exec. Dir.

B'nai B'rith, Tommy Baer, Pres., Dr. Sidney Clearfield, Exec. Vice Pres.

Bnai Zion, Rabbi Reuben M. Katz, Pres., Mel Parness, Exec. Vice Pres.

Federation of Reconstructionist Synagogues and Havurot, Jane Susswein, Pres., Rabbi Mordechai Liebling, Exec. Dir.

Givat Haviva Educational Foundation, Fred Howard, Chair, Hal Cohen, Exec. Dir.

Hadassh—The Women's Zionist Organization of America, Marlene Post, Pres., Beth Wohlgelernter, Exec. Dir.

Israel Policy Forum, Robert K. Lifton, Chair, Jonathan Jacoby, Exec. Vice Pres.

Jewish Labor Committee, Lenore Miller, Pres., Michael S. Perry, Exec. Dir.

Jewish Women International (formerly B'nai B'rith Women), Susan Bruck, Pres., Dr. Norma Tucker, Exec. Dir.

Labor Zionist Alliance, Daniel Mann, Pres.

MERCAZ—Zionist Organization of the Conservative Movement, Roy Clements, Pres.

NA'AMAT USA, Sylvia Lewis, Pres.

National Committee for Labor Israel, Jay Mazur, Pres., Jerry Goodman, Exec. Dir.

National Council of Jewish Women, Susan Katz, Pres., Rosalind Paaswell, Exec. Dir.

National Jewish Community Relations Advisory Council, Lynn Lyss, Chair, Lawrence Rubin, Exec. Vice Chair.

New Israel Fund, Herbert Teitelbau, Pres. Norman S. Rosenberg, Exec. Dir.

Project Nishma, Theodore R. Mann, Co-Chair, Henry Rosovsky, Co-Chair, Edward Sanders, Co-Chair, Thomas R. Smerling, Exec. Dir.

The Abraham Fund, Alan B. Slifka, Pres., Joan A. Bronk, Interim Exec. Dir.

Union of American Hebrew Congregations, Melvin Merians, Chair, Rabbi Alexander Schindler, Pres.

United Synagogue of Conservative Judaism, Alan Ades, Pres., Rabbi Jerome N. Epstein, Exec. Vice Pres.

Women's League for Conservative Judaism, Evelyn Seelig, Pres., Bernice Balter, Exec. Dir.

World Jewish Congress, Edgar M. Bronfman, Pres., Israel Singer, Sec. General.

[From the New York Times, Sept. 12, 1995]

1,000 RABBIS AGREE: THE PEACE PROCESS MUST CONTINUE

Today, every Member of Congress will receive a letter signed by 1,000 American rabbis expressing "strong support for Israel's efforts to achieve peace with her neighbors."

Never before has so large a cross-section of American rabbis spoken so clearly about the urgent need to pursue peace. Reform, Conservative, Reconstructionist and Orthodox—from 47 states and the District of Columbia—they call upon Congress to demonstrate "leadership so that peace and security for Israel can become a reality."

The rabbis urge the renewal of the Middle East Peace Facilitation Act (MEPFA), terming it an "important and effective diplomatic tool for moving the peace process forward."

MEPFA enables the United States to play a constructive role in Israeli-Palestinian negotiations and to provide leadership in the international effort to assist the Palestinian Authority. "Furthermore, it is a key element in the fight against terror," according to the rabbis.

As the new Jewish year 5756 approaches, and Israel continues its courageous journey to a peace that will endure, let us pray, with the rabbis, for the peacemakers to succeed.

RABBINIC SUPPORT FOR
THE PEACE PROCESS,
September 12, 1995.

See peace and pursue it—Psalms 34:15

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES AND THE SENATE: We are writing to express our strong support for Israel's efforts to achieve peace with her neighbors and for the active involvement of the United States in the Middle East peace process.

Right now, the Congress of the United States has the opportunity to help maintain the momentum towards peace in the Middle East and to fight terrorism against Israel. We call upon you to demonstrate your leadership so that peace and security for Israel can become a reality.

The Middle East Peace Facilitation Act (MEPFA) will expire soon. The act permits the United States to play a constructive role in the Israeli-Palestinian negotiations and to provide leadership in the international effort to assist the Palestinian Authority. As such, MEPFA has been an important and effective diplomatic tool for moving the peace process forward. Furthermore, it is a key element in the fight against terror. As Prime Minister Rabin recently said, "The solution between the Palestinians and Israel will create conditions that will reduce the influence of the extreme Islamic terrorist groups."

In its June 1 report, the State Department points out that "the United States needs to be in a position to support, encourage, and facilitate the Israeli-Palestinian dimension of the [peace] process." MEPFA's renewal ensures that the U.S. will play a key role in advancing peace and in fighting terror. Like the leaders of Israel, we believe this role to be essential. We therefore urge you to renew MEPFA in a manner that both the American and Israeli administrations believe will help further the talks and strengthen the fight against terrorism.

We care deeply about Israel. We know that this may be Israel's one true chance for peace, and that this opportunity is fragile. We are deeply concerned about the level of P.L.O. compliance; nevertheless, we are heartened by the progress that, thanks in part to MEPFA, has been attained. At the same time, we understand that reducing our country's involvement or cutting aid to the Palestinian Authority, which has committed itself to making peace with Israel, is not now the proper vehicle for expressing our concern. This is why we call upon you to support peace and let the negotiations continue unhindered.

In the voice of our tradition we say, "One does not have the responsibility to complete the task, but neither is one free to take leave of it." We urge you to play your part in helping peace grow strong. Thank you.

Sincerely,

(Signed by over 1,000 American rabbis.)

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. HOLLINGS. Mr. President, I ask unanimous consent to extend morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION

Mr. HOLLINGS. Mr. President, last Friday in the wee hours of the night there was a total abandonment of any kind of truth in budgeting. There is no better way to express it.

Under this entire charade, once again, we have lied to the American people. There is no question that in those wee hours, Mr. President, that they were trying their dead-level best and finally succeeded in buying off the votes of certain of the Senators with respect to Medicaid.

In order to purchase it, what they did was use Social Security funds. That was a use and violation—not only of the rule but of the law. The rule was called by the distinguished Senator from Florida and the distinguished Senator from Iowa, Senator HARKIN. If you ever want to see distortion, obfuscation, and abandonment of responsibility by the Parliamentarian in the U.S. Senate, I wish you would read that RECORD.

Be that as it may, the Chair would say, I do not know. We will refer to the chairman of the committee, Senator DOMENICI, and say, well, I like what the Chair has ruled. Ruled and on and on and back and forth but no idea of a parliamentary ruling or recognition of the law. That is why I take the floor today.

What really happens is that they constantly are talking about a balanced budget when everybody—both at the White House, the Democratic White House, and the Republican Congress—know that it cannot be done. It cannot be done without increasing taxes.

Here in the extreme, they are talking about decreasing taxes—about tax cuts.

Let me go right to the point here, so I can make a coherent record.

Mr. President, I ask unanimous consent that this little two-page summary of budget tables be printed in the RECORD at this particular point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

"Here We Go Again": Senator Ernest F. Hollings

[In billions of dollars]

Starting in 1995 with:

(a) A deficit of $283.3 billion for 1995:

Outlays	1,530
Trust funds	121.9
Unified deficit	161.4
Real deficit	283.3
Gross interest	336.0

(b) And a debt of $4,927 billion.

How do you balance the budget by:

(a) Increasing spending over revenues $1,801 billion over 7 years?

GOP "SOLID", "NO SMOKE AND MIRRORS" BUDGET PLAN

[In billions of dollars]

Year	CBO outlays	CBO revenues	Cumulative deficits
1996	1,583	1,355	−228
1997	1,624	1,419	−205
1998	1,663	1,478	−185
1999	1,718	1,549	−169
2000	1,779	1,622	−157
2001	1,819	1,701	−118
2002	1,874	1,884	+10
Total	12,060	11,008	−1,052

(b) And increasing the national debt from $4,927.0 billion to $6,728.0 billion?

DEBT[1]

[In billions of dollars]

Year	National debt	Interest costs
1995	4,927.0	336.0
1996	5,261.7	369.9
1997	5,551.4	381.6
1998	5,821.6	390.9
1999	6,081.1	404.0
2000	6,331.3	416.1
2001	6,575.9	426.8
2002	6,728.0	436.0
Increase 1995–2002	1,801.0	100.0
	1996	2002
[1] Debt off CBO's August baseline includes:		
1. Owed to the trust funds	1,361.8	2,355.7
2. Owed to Government accts	81.9	([2])
3. Owed to additional borrowing	3,794.3	4,372.7
[Note: No "unified" debt; just total debt]	5,238.0	6,728.4

[1] Off CBO's August baseline.

[2] Included above.

(c) And increasing mandatory spending for interest costs by $100 billion?

[Deficit in billions of dollars]

How? You don't!

(a) 1996 Budget: Kasich conference report, p. 3	−$108
(b) October 20, 1995, CBO letter from June O'Neill	−$105

—You just fabricate a "paper balance" by "smoke and mirrors" and borrowing more: Smoke and Mirrors.

(a) Picking up $19 billion by cutting the Consumer Price Index (CPI) by .2 percent—thereby reducing Social Security benefits and increasing taxes by increasing "bracket creep".

(b) With impossible spending cuts:

Medicare	270
Medicaid	182
Welfare	83

(c) "Backloading" the plan:

—Promising a cut of $347 billion in FY2002 when a cut of $45 billion this year will never materialize.

[In billions of dollars]

	Outlays	Revenues
(d) By increasing revenues by decreasing revenues (tax cut)		$245
2002 CBO Baseline Budget	1,874	1,884
This assumes:		
(1) Discretionary Freeze Plus Discretionary Cuts (in 2002)		121
(2) Entitlement Cuts and Interest Savings (in 2002)		226
[1996 cuts, $45 B] spending reductions (in 2002)		−$347
Using SS Trust Fund		−115
Total reductions (in 2002)		−462
+Increased borrowing from tax cut		−93
Grand total		−555
(e) By borrowing and increasing the debt (1995–2002)—Includes $636 billion "embezzlement" of the Social Security trust fund		1,801

The Real Problem—

Not Medicare—In surplus $147 billion—Paid For

Not Social Security—In surplus $481 Billion—Paid For

But interest costs on the national debt—are now at almost $1 billion a day and are growing faster than any possible spending cuts

—AND both the Republican Congress and Democratic White House as well as the media are afraid to tell the American people the truth: "A tax increase is necessary".

—SOLUTION: Spending cuts, spending freezes, tax loophole closings, withholding new programs (Americorps) and a 5 percent value added tax allocated to the deficit and the debt.

"Here We Go Again"—Promised Balanced Budgets

	billion
President Reagan (by fiscal year 1984):	
President Reagan (by fiscal year 1991):	
President Bush (by fiscal year 1995):	
1981 Budget	0
1985 GRH budget	0
1990 budget	+$20.5

Mr. HOLLINGS. Mr. President, start in the year 1995; we are going to try to balance the budget. Starting in the year 1995, you start with a deficit of $1.518 trillion in outlays, so you have a deficit here of $283 billion for 1995. And a debt of $4.927 trillion.

If you start with a deficit and a debt of almost $5 trillion and you look at the increased spending over revenues during each of the fiscal years, using Congressional Budget Office figures, you will find that cumulatively, from 1996—and each year is listed in this particular document to 2002—there is an increase of spending of $12.06 trillion over revenues received over each of those years—cumulatively, now, of $11.008 trillion.

So you are spending $1 trillion more than you are taking in over this GOP budget plan. Specifically, you can look at last month. September ended the fiscal year 1995. If you look at the outlays for that year and for this year, 1996, and you see the increase from the $1.530 trillion to $1.583—or a $53 billion increase in spending.

Now we are going to cut spending, balance the budget, cut spending—yet the very first year here we have increased spending $53 billion.

Then you go down to the debt and it is listed there of $1.801 trillion in the debt. And you found out over the 7-year period, you are not only increasing the National debt by $1.8 trillion to a level of $6.728 trillion, but you have increased interest costs on the national debt to $100 billion.

I have listed there what is owed to the trust funds, what is owed to the Government accounts, and what is owed to additional borrowing because, in my limited time, I am trying to talk about the public debt, which is No. 3, "owed to additional borrowing." But we borrow from the trust funds. We owe them, at this particular point, $1.361 trillion. And if we look at the owed to the Government accounts, such as the bank insurance funds, the Federal Savings and Loan Insurance Corporation, the credit union share insurance fund, and these other accounts, as of next year, we will owe some $81.9 billion there.

So we are moving deficits from one pocket to the other. We are not eliminating them. And, yes, we are borrowing at the public till, for a total, of course, of, as we have indicated there, a debt of $6.728 trillion.

So the question is, starting in 1995 with a deficit of $283 billion and a debt of $4.9 trillion, and increasing mandatory spending for interest costs by $100 billion, how do you balance the budget that way? Of course, you do not.

Go right to the next list of figures. My authorities are none other than the chairman of the Budget Committee on the House side, Mr. KASICH, because he was the chairman of our budget conference that got up this GOP budget and so-called reconciliation. On page 3 of the conference report by Mr. KASICH, you will find the word "deficit" for the year 2002: a $108 billion deficit.

Then you go to the letter last week from the Director of the Congressional Budget Office, Miss June O'Neill, and find on October 20, she determined a deficit of $105 billion; whether it is $105 or $108—as the old expression goes, continuing deficits as far as the eye can see—it is over $100 billion.

So, if you cannot do it, what do you do? You fabricate a paper balance, by smoke and mirrors and borrowing more. You fabricate a balance. This Senator knows as a member of the Commerce Committee, by simply borrowing again moneys that have already been represented in legislation as having been consumed. In our telecommunications bill, we came up with a budget point of order. We needed to raise some $8 billion so we put in there the auctions of $8 billion.

Now we come again to the Commerce Committee for their reconciliation responsibility of raising $15 billion and we list again the $8 billion that has already been included in the telecommunications bill. Or, go to the Finance Committee. The Finance Committee, struggling and straining under Medicare, trying to find the money, put in what they call a BELT. The BELT says—for example, on the House side they were $35 billion shy. So it is just rhetoric or language to the effect that, with $35 billion, that the next Congress will have to make it up. That is no way to balance the budget, but that is part of the smoke and mirrors.

You can pick up $19 billion as they have with the Consumer Price Index being reduced by .2 percent, thereby reducing, of course, the Social Security benefits and increasing taxes because what you do is hit bracket creep, as they call it. Then you go with the impossible spending cuts of $270 billion in Medicare, $182 billion in Medicaid, and $83 billion in welfare.

Just take the one—welfare. Suppose you are a Governor and you are assigned the welfare responsibility with a traumatic cut. Now you have added responsibilities. What you have to do is start a training program. Two-thirds, of course, of those on welfare are children but the other one-third are those who are unskilled or untrained, generally female adults who have not had the advantage of schooling. So you have to set up schooling and a training program. Thereupon, you institute a hiring or a Government job program of last resort. Then, to get to work, you have to institute, if you please, a child care center because they have to leave the children at home to take the job. And on down the list. You are not going to save that amount, of course, on welfare.

Another way, of course, in subsection C shows backloading the plan, whereby all the real cuts are made in the last 2 years. The last year alone, for example, in the year 2002, they have to cut $347 billion. Here now, we are struggling and are not going to obtain $45 billion this year with the best of intent and the contract and the headlines and everything else and cannot even reach the $45 billion cut. But in the last year under this GOP budget, balanced budget plan, you have to cut $347 billion.

Then of course, you increase your revenues by decreasing revenues. That sounds like double talk but that is the tax cut. You get into this growth argument that we have heard, now, for the last 2 weeks. All we need is a tax cut. It is going to give us growth, growth, just like Reaganomics said back in 1981 that put us into these horrendous deficits, debt and interest costs on automatic pilot. It is going up, up and away, the spending is. That tax cut is $245 billion. Then you look of course at the—and by borrowing from the public and from the trust funds, another $1.8 trillion. And that borrowing includes $636 billion embezzlement from Social Security.

At the present time, we have a $481 billion balance in Social Security. That is not the problem. Under Social Security, it is paid for, for a good 25 to 30 years, easily. Yes, you have $481 billion there and you are going to borrow another $636. At the end of the particular budget plan, 2002, you are going to owe Social Security over $1 trillion.

So, Social Security is not the problem, 25 or 30 years out; Medicare is not the problem here, 7 years out. The problem is now. We have spending on automatic pilot. Interest costs on the national debt—like death, like taxes—cannot be avoided. In fact, treat it as a tax increase, as I do in a sense. What we have is taxes being increased automatically each day $1 billion a day. That is the real problem.

What happens here is both the Republican Congress and the Democratic White House, as well as the media—and I hope they will read this—are afraid to tell the American people the truth: That is, you cannot do it without a tax increase. So, what we need to do is cut spending, freeze spending, tax loopholes closing, withholding on new programs. I had to vote against AmeriCorps. Everybody is for voluntarism. In fact, I was party to the institution of the Peace Corps. We can make that record sometime. But you cannot go into these new programs when you are trying to get rid of the deficit and the debt and decrease spending on automatic pilot. So you need all of that plus, I suggest, a 5-percent value-added tax.

Mr. President, that is the point. We have seen this exercise. In the early 1980's, I went with the Republican leadership and with Senator Howard Baker for a freeze. We could not get it. Then we realized by 1985 that we had—in order to get this deficit and debt down for it was growing by leaps and bounds—to have automatic cuts across the board. We had Gramm-Rudman-Hollings, and we looked at it. We said we still need to close the loopholes. In 1986, we got tax reform.

Then, listen to this, in 1990, a bipartisan group of eight Senators, who hate taxes as much as anybody else, got together in the Budget Committee and voted for a value-added tax. Why? Because you cannot balance the budget without all of the above—namely, spending cuts, spending freezes, loophole closings, denying new programs, and a tax increase.

We have heard this thing about balanced budgets. I really regret it because I hear it on the floor. I see it on the screen on my TV about a balanced budget. Those working the discipline know there is no idea of balance the budget. I heard it just 15 years ago. President Reagan presented a budget—the document shows it, and I have it here—that the budget would be balanced by 1984.

Again, under President Reagan, in late 1985 under Gramm-Rudman-Hollings we pledged that balance—and we got awards for this one—that the budget would be balanced by 1991. In 1990—at that time they had gone out to Andrews Air Force Base and vetoed, abolished, Gramm-Rudman-Hollings cuts across the board and put in spending caps. Under that budget—I will show you the document—they said that by 1995, just last month, you would have a $20.5 billion surplus.

Has anyone ever heard the word "surplus" in Washington? Balanced budgets by 1984, balanced budgets by 1991, and then, finally, in 1995—we could look at the documents—a surplus of $20.5 billion. Here, instead of a surplus of $20.5 billion, we have a $283.3 billion deficit.

So there it is. "Here we go again," as our fearless leader, President Ronald Reagan, said. "Here we go again."

I thank the distinguished Chair.

CHARLAYNE HUNTER-GAULT AND A SENSE OF HISTORY

Mr. HOLLINGS. Mr. President, I would like to draw my colleagues' attention to a column in today's Washington Post that is a good remembrance of the early 1960's when black students integrated Southern colleges. In touching remarks, South Carolina native Charlayne Hunter-Gault, public television's national news correspondent, weaves an excellent reflection of the history of the times as she remembers the life of Hamilton Earl Holmes. Together in 1961, Ms. Hunter-Gault and Mr. Holmes became the first two African-American students to attend the University of Georgia.

Back in the early 1960's as the University of Georgia integrated, the State of South Carolina was employing every means to keep Clemson University segregated. We ran out of courts.

But fortunately, we had people like Mr. Holmes and Ms. Hunter-Gault who were willing to show us the way in South Carolina. Their courage and ability to stand up led to Clemson's peaceful admission of Harvey Gantt, the former mayor of Charlotte and a former candidate for U.S. Senate.

With the death of Hamilton Earl Holmes, it is important for us to remember the struggles of the past and to find the courage to move forward—and not fall further into the bitterness of racism and make mistakes of the past.

Mr. President, I ask unanimous consent that the text of Ms. Hunter-Gault's column to be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 31, 1995]

ONE IN A MILLION

(By Charlayne Hunter-Gault)

One of the black men who was not "one in a million" at the Million Man March was Hamilton Earl Holmes. But in a real sense, if the purpose was to have black men "stand up"—and surely no one could have thought that this was the first time that has happened—Hamilton had long since pioneered in standing up. And while there might have been millions cheering him on, for the most part he stood up alone.

It was in the early winter of 1961, when Hamilton Holmes, armed with a court order, walked onto the campus of the University of Georgia and into history as the first black man ever to be admitted and attend classes there in its 170-year history. If he never did anything else in his life, that single act of manly courage in the face of jeers, spitting and rioting would have been enough to qualify him as a "standup guy." But Hamp did that and a lot more. For a major part of his purpose in life was to demonstrate to the world that black men were as good as any men. Not better, but as good as, although there were times in his classes in biology and physics and calculus and all the other courses that an aspiring doctor has to take that he earned a second layer of enmity from his classmates by consistently pushing the curve up to 98 or 99 and often a hundred, leaving the next best grade some 10 points behind.

It was such a performance that led him to be elected to Phi Beta Kappa, a notation that appeared beside his name when he graduated in 1963 as one of two black students in a class of 2,000. Had he not been recovering from surgery on a heart that was as big as the world, but in the end was vulnerable to its pressures, he might have been at the Million Man March with his son, Hamilton Jr. (Chip), at his side. And while his was never the gift of oratory, he could have offered his own quiet but soul-elevating testimony to the strength of black men and to black families. He could surely have given the lie, as he always had, to notions of inferiority and rampant irresponsibility. He could have also provided as well a window into a world that existed not so long ago, one that raised obstacles and inflicted pain on black men that only the most ignorant or callous among us would forget.

Hamp had come from a distinguished black family of doctors and educators and activists who challenged the laws that kept blacks "in their place," starting when Hamp was still in junior high school with the all-white Atlanta golf course. His grandfather, a doctor who lived to be 82, once explained the family philosophy to the writer Calvin Trillin: "I trained my children from infancy to fear nothing, and I told my grandson the same thing. I told him to be meek. Be meek, but don't look too humble. Because if you look too humble they might think you're afraid, and there's nothing to be afraid about, because the Lord will send his angel to watch over you and you have nothing to fear."

And Hamp produced a distinguished family. During his 30-year marriage to Marilyn, he had a son who followed in his footsteps, albeit less ceremoniously, to the University of Georgia, graduated and now works in communications, and a daughter, Allison, also a college graduate, who is in banking. Also during those 30 years, he overcame whatever bitterness he had toward the university and became one of its biggest boosters and supporters. This was fairly amazing to me, especially since the two things Hamp wanted most in college were good labs (he had always said he could get the education he needed at Morehouse, the all-black men's college where he had a four-year, all-expenses-paid scholarship, but the university had better facilities) and the opportunity to play football for the Georgia Bulldogs. The officials at Georgia refused to let him play "for his own safety." But when I returned on a visit to Atlanta in the early '80s, one of the biggest "dawgs" around was Hamp, who by then had accepted an appointment as a trustee to the Georgia Foundation, the body that oversees university funding. The other day, Charles Knapp, the current president of the university, called Hamilton "one of our most distinguished graduates."

In the years since Hamp and I were joined at the hip of history, I have often had occasion to think back to the time when we were fighting in federal court to win the right to attend the university. President Knapp's words sent me back to those days, when the top officials of the university tried to keep Hamp out by testifying in court that he was unqualified, not because he was black. The latter would have been illegal under the 1954 Brown decision, and officials of the state had sworn to resist integration, but only "by all legal means." Hamp might have been able to overlook being called "nigger," but "unqualified"? The valedictorian of our Turner High School class of 1956? The smartest student in all Atlanta, according to his proud father, Tup. If there was a fighting word to Hamp, it was that "unqualified."

And while he was slow to anger and preferred classroom combat to the real thing, he was capable of standing up that way too. Once, when he had parked in front of the house of one of the most racist fraternities on campus, and the fraternity guys saw whose car it was, they began to taunt him and make moves that suggested they were prepared to go further. Knowing he had only himself to rely on and understanding the white southern mentality perhaps better than they themselves, Hamp made a quick but deliberate move to open the car door, reached across to the glove compartment and took out something that he immediately placed in his pocket. It was a flashlight, but who knew? Hamp was relying on the prevailing predisposition to embrace every known stereotype of black men, and his instinct proved correct. They backed off in a heartbeat. The irony of the encounter was that the next day, Hamp was summoned to the dean's office and admonished for carrying a gun. The rest of the time, the frat brothers did their dirty deeds in stealth. Like letting the air out of Hamp's tires while he was in class. Early and often.

But Hamp persevered, often finding release in a game of pickup basketball with the brothers from town, who at that point could come to football games but still had to sit in the section reserved for blacks, called the "crow's nest." They were proud of Hamp; and who knows how many of them he inspired—if not to apply to the university then to be all they could be.

If he had been well enough and so inclined, that might have been his message at the Million Man March. He might have dusted off an old speech he made in our senior year, just before he graduated, went on to become the first black student at Emory Medical School and then to a distinguished career as an orthopedic surgeon and teacher.

Back then, in the spring of 1963, he liked to talk about "The New Negro." "Ours is a competitive society," he'd say. "This is true even more so for the Negro. He must compete not only with other Negroes, but with the white man. In most instances, in competition for jobs and status with whites, the Negro must have more training and be more qualified than his white counterpart if he is to beat him out of a job. If the training and qualifications are equal, nine out of 10 times the job will go to the white man. This is a challenge to us as a race. We must not be content to be equal, education- and training-wise, but we must strive to be superior in order to be given an equal chance. This is something that I have experienced in my short tenure at the University of Georgia. I cannot feel satisfied with just equaling the average grades there. I am striving to be superior in order to be accepted as an equal. If the average is B, then I want an A. The importance of superior training cannot be overemphasized. This is a peculiar situation, I know, but it is reality, and reality is something that we Negroes must learn to live with."

How much would he have edited that speech for the march? Hamilton Earl Holmes was not there that day to be one in a million, and today we will bury him, one in a million, to be sure, but also one of many millions of black men who have given more than should have been required of any human beings, and whose death at 54 should give us pause to contemplate the meaning of his life, of theirs and of the millions of black men who live on.

INNOVATIVE LEADERSHIP BY THE INS AGAINST ILLEGAL IMMIGRATION

Mr. KENNEDY. Mr. President, I want to take this opportunity to call the attention of my colleagues in Congress to a compelling example of the kind of innovation we are seeing today by the Clinton administration in addressing the problem of illegal immigration.

Stronger border enforcement is part of the answer. But is obviously not the only answer. The Immigration and Naturalization Service estimates that 40 to 50 percent of the illegal aliens currently in the United States entered the country legally on visitors visas and other temporary visas, then remained illegally in the country after their visas expired.

The overriding challenge we face is to remove the magnet of jobs which encourage so many people to come to the United States illegally or to remain here illegally.

A key element in this strategy must be to assist employers to abide by the law and to hire only those persons entitled to work in the United States.

Clearly, the INS is making progress. Last week, the Ford Foundation and the John F. Kennedy School of Government at Harvard announced that an INS program in Dallas has won one of this year's Innovations in American Government Awards for its success in encouraging employers to remove illegal aliens from their rolls and hiring U.S. workers in their place.

This kind of innovation combats illegal immigration, helps employers, and provides good jobs for American workers. I am hopeful that as Congress considers immigration reform legislation in the coming weeks, we can encourage more new approaches like this to combating illegal immigration.

Mr. President, I ask unanimous consent that an article from the Washington Post describing the Dallas INS initiative be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 26, 1995]

FOUNDATION AWARDS HONOR 15 CREATIVE GOVERNMENT PROGRAMS

(By Stephen Barr)

When the Immigration and Naturalization Service discovered 220 illegal immigrants were working at a Dallas plant that makes aluminum windows and doors, INS agents could have raided the plant and deported the workers. But a raid might have put the company out of business.

So INS assistant district director Neil Jacobs offered the company a "common-sense approach" to the problem. Rather than treat the company as the enemy, he gave it 60 days to recruit replacement workers from Dallas-area community and welfare programs. When the deadline arrived, the INS made its arrests and the company averted a shutdown.

Today, the Innovations in American Government awards program sponsored by the Ford Foundation and Harvard University will announce that Jacob's strategy for enforcing immigration laws is one of 15 local, state and federal programs receiving a $100,000 cash prize.

Thus is the first time that awards have gone to federal programs since the Ford Foundation and Harvard's John F. Kennedy School of Government began their initiative in 1986. The awards will go to six federal and nine state and local programs at a time when a Republican-controlled Congress is cutting federal spending and turning more responsibility over to the states.

Three of the federal programs honored this year, such as Jacobs's "Operation Jobs," reflect the government's search for less punitive and more effective ways to regulate business. A number of the local and state award winners created solutions to their problems by forgoing partnerships with unions, nonprofit organizations and private-sector companies to deliver services cheaper or more efficiently.

In the current cost-cutting environment, Michael Lipsky, the Ford Foundation official responsible for the innovations program, said, "It is the deeply felt position of the foundation that the government deserves more recognition for creativity and ought to be encouraged to be better."

As Debbie Blair, the personnel manager at General Aluminum—a plant in Dallas that tried Jacobs's approach—said, "Clearly, the old tactics used by INS were not successful. They are thinking smarter in trying to figure out a new way to solve an old problem."

In Texas, a major INS problem has been how to handle illegal immigrants, mostly from Mexico, who obtain jobs with fraudulent papers. Although job applicants must show employers documents that indicate they are U.S. citizens or legal residents, federal law allows candidates to choose which papers from a prescribed list to present employers.

In some cases when the INS found widespread violations, it would secure a warrant, raid a company without informing the employer and endanger its own agents as they conducted arrests. Jacobs found, however, that the illegal workers quickly returned to the Dallas area and got new jobs or their old jobs back. "That was frustrating us," he said.

So Jacobs, keeping in step with INS policy to work toward increasing voluntary compliance with the law, threw out his idea for "Operation Jobs" at a staff meeting one day and, after a few false starts, his Dallas office created a system linking the INS to police and community groups. The INS "treats the employer as the client rather than the enemy," he said.

Moving beyond its traditional enforcement functions, the Dallas INS office began putting employers in touch with city social service programs, refugee assistance groups and other community agencies that try to find jobs for laid-off workers, legal immigrants or school dropouts. To avert financial losses, companies are given time to recruit and train the new hires, with the understanding that at a pre-arranged time the INS will show up to make arrests.

"Everybody wins on all sides," said Tina Jenkins, a Tarrant County official who helps out-of-work residents get emergency assistance for rent and utilities. "We get people employed, the employer is happy, and it's good p.r. for INS—they aren't looked at as the bad guys."

Jacobs estimates that about 50 companies have participated in Operations Jobs over the last two years, providing residents of North Texas about 3,000 jobs that previously were held by undocumented workers.

Many companies, of course, gamble that INS will never learn about their hiring practices, and not every INS attempt at cooperation with companies under investigation works out. "We've had situations where we get back in 30 days and no one is left," Jacobs acknowledged. "But most employers feel that if 'I don't show I'm a team player now . . . .' we won't be as cooperative the next time we do an inspection."

Under pressure from the Republican Congress, the Clinton administration has been moving toward more aggressive enforcement of the prohibition on hiring illegal immigrants. Still, in Jacobs's office, fewer than a dozen of the 50 agents he supervises handle employer sanctions.

The notion that regulatory and enforcement agencies like INS and the Occupational Safety and Health Administration, also an award winner this year, should create partnerships with the private sector "doubtless reflects the mood of the time," said Alan Altshuler, the director of the innovations program at Harvard.

"Good government has to be creative, innovative government today," Altshuler said. "It is not enough to simply get rid of waste, fraud and abuse."

The 15 award winners, who were selected from a field of about 1,600, will be honored tonight at a dinner that Vice President Gore is scheduled to attend. The finalists were selected by a committee headed by former Michigan governor William G. Milliken (R) that included industry leaders, journalists and former elected officials.

The program encountered some of Washington's legendary red tape when it was informed that some of the federal agencies being honored could not legally accept the gifts. As a result, the $100,000 prizes will be administered by the nonprofit Council for Excellence in Government. The council will help the agencies sponsor conferences or events to explain their programs to other groups.

The awards represent a small fraction of the $268 million in grant money that the Ford Foundation gave away last year, Lipsky said, but provide the foundation with a forum to "stand for the proposition that there is a great deal of good in government that goes unrecognized. While no one says government is perfect, the balance between positive news and negative news goes heavily toward the negative."

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, on that evening in 1972 when I first was elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned that the total Federal debt which is $27 billion shy of $5 trillion—which we will pass this year. Of course, Congress is responsible for creating this monstrosity for which the coming generations will have to pay.

The young people and I almost always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That is why I began making these daily reports to the Senate on February 25, 1992. I wanted to make a matter of daily record of the precise size of the Federal debt which as of yesterday, Monday, October 30, stood at $4,975,234,385,762.72 or $18,886.08 for every man, woman, and child in America on a per capita basis.

The increase in the national debt since my most recent report this past Friday—which identified the total Federal debt as of the close of business on Thursday, October 26, 1995—shows an increase of $1,559,581,857.19 during that 4-day period. That 4-day increase is equivalent to the amount of money needed by 231,255 students to pay their college tuitions for 4 years.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995

Mr. PRESSLER. Mr. President, I want to take a few moments to update my colleagues on the progress we are making on telecommunications reform in the 104th Congress. Last Wednesday morning I had the honor of chairing the organizational meeting of the Senate-House conference on S. 652, the Telecommunications Competition and Deregulation Act of 1995.

It was truly a historic day. We began the final stage of enacting comprehensive telecommunications deregulation legislation—the most significant and profound change in our Nation's telecommunications policy and law in over 60 years.

As conference chairman, I will continue—as I have throughout this long process—to work in an open, inclusive, and bipartisan fashion with all of my Senate and House colleagues. In particular, I want to thank the Senate Commerce Committee's ranking Democratic member, Senator FRITZ HOLLINGS of South Carolina, for his leadership and willingness to work cooperatively with me at each stage of this process.

I also heartily applaud the tremendous work of our House colleagues in helping get us to this stage of the process. I very much look forward to working closely with them under the able leadership of Commerce Committee Chairman TOM BLILEY, and ranking Democrat JOHN DINGELL, Telecommunications Subcommittee Chairman JACK FIELDS, and ranking Democrat ED MARKEY, and Judiciary Committee Chairman HENRY HYDE, and ranking Democrat JOHN CONYERS.

Let me also add that I look forward to working with President Clinton, Vice President GORE, and others in the executive branch. I have welcomed the administration's input from the beginning of the process.

I am firmly committed to moving this conference forward as rapidly as possible. In order to move quickly, however, we must remain within the confines of the two bills before us. To do otherwise would be like opening the proverbial Pandora's box. It would result in unacceptable delay as we rehash issues resolved through hours, days, weeks and months of negotiation and committee and floor votes at earlier points in this long process.

I am convinced we can rapidly move this conference forward due to the striking degree of similarity between the two bills. Moreover, we have the strong support and commitment from the leadership in both Chambers to act this year.

The time has long passed since Congress needed to reassert its rightful place in establishing national telecommunications policy. Dozens of lines of business restrictions carve up telecommunications and forbid competition. Meanwhile, once separate and distinct industry segments have become indistinguishable due to digital technology. Yet the regulatory apartheid regime remains.

The conference on telecommunications reform will produce a report to change all that. We will open all telecommunications markets to competition. The result will be a procompetitive, deregulatory and balanced regime. Competition and deregulation, after all, are the only sure-fire ways to ensure: an explosion of new technologies and choices for consumers, massive new market investment, captialization, and job creation, lower prices for telecommunications products and services, and an end to monopolies and media concentration.

The legislation we are crafting is, simply put, the most comprehensive deregulation of the telecommunications industry in American history. It will promote advanced telecommunications, information networks and other resources in such a manner as to ensure America remains the envy of the world. In order to maintain our world leadership position in communications, however, we need this legislation and we need it now.

Mr. President, I was pleased to receive a letter from the majority leader, Senator BOB DOLE, reiterating his desire to complete action on the telecommunications reform bill prior to adjourning for the year. This is entirely consistent with my stated intention from the very beginning of this process—to enact a new telecommunications deregulation law in 1995.

Mr. President, I ask unanimous consent to have the letter from Senator DOLE printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 25, 1995.

Hon. LARRY PRESSLER,
Chairman, U.S. Senate Committee on Commerce, Senate Russell Building, Washington, DC.

DEAR LARRY, Thank you for all your hard work on telecommunications reform. The year has been long, but we have moved faster and farther than anyone expected us to. It remains my desire to pass a final bill before we adjourn this session.

The next few weeks are critical and no doubt will be intense. I would appreciate your keeping me and David Wilson informed on the progress of the telecommunications conference committee. You know better than most that we must keep this legislation grounded in strong, straightforward Republican principles of competition and deregulation.

Sincerely,

BOB DOLE,
United States Senate.

EVERGREEN MARINE GROUP: CELEBRATING 20 YEARS OF SERVICE IN CHARLESTON

Mr. HOLLINGS. Mr. President, I rise today to pay tribute to the role Evergreen Marine Group has played in the economic development of my home city, State, and region over the past 20 years.

The M/V *Ever Spring* sailed into Charleston harbor on October 21, 1975. This first vessel began what was to become a long and prosperous relationship. In its first year of operations in Charleston, Evergreen carried 45,000 tons of cargo on 19 ships through the port. Last year, Evergreen carried over 1.5 million tons on more than 100 ships through Charleston.

Cargo ships reflect incredible investments by the ocean carrier and provide many opportunities for economic development in the regions they serve. They represent the equivalent of floating factories, adding value to products by delivering them where they are needed, when needed. Few Americans realize that 95 percent of our international trade moves by ship.

Evergreen's services in Charleston have allowed business and personal relationships to grow and prosper. The trading relationships forged between companies in geographically distanced nations work to bind our world. More than just raw materials, parts and finished goods flow across the oceans—ideas, culture and shared personal experiences make us more aware and considerate of the world in which we live.

Evergreen began its first scheduled container service in 1975, linking Asia with Charleston and the U.S. east coast. Ten years later, Evergreen began the industry's first two-way, round-the-world service. Today, the company operates in almost every trading market on our globe. Evergreen has also diversified into other areas, such as real estate and aviation, becoming the first private, international air carrier in Taiwan.

Yung-fa Chang, Evergreen's founder, has used hard work, tireless dedication to the customer and support of those who are working toward the common goal as the cornerstones of Evergreen's success. This past spring my home State's University of South Carolina, site of the Nation's highest ranking international business program, awarded him an honorary doctor of business administration, a testament to his achievements.

Charleston is one of the most dynamic and fastest growing regions in the country, attracting capital investment and interest from around the globe and we are proud to have Evergreen be a part of our community. We are appreciative of the commitment Evergreen has made to our area and look forward to continued success together.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

MIDDLE EAST PEACE FACILITATION ACT

Mr. PELL. Mr. President, I am informed that there will be a Republican objection to the unanimous-consent request regarding the short-term extension of the Middle East Peace Facilitation Act, also known as MEPFA.

MEPFA was enacted by the Congress in 1994, to give the President much-needed flexibility to help Israel and the Palestinians implement their historic peace treaty. Under the terms of MEPFA, the President can waive certain restrictions against the PLO. In essence, this means the President can provide assistance to the Palestinians, and the PLO can operate an office in the United States.

MEPFA is a vital component of American support for the peace process—both practically and symbolically. On a practical level, U.S. assistance for the Palestinians has helped the fledgling Palestinian Authority to get off the dime and provide desperately needed services to the people of the West Bank and Gaza. Both Israeli and Palestinian officials agree that if their peace agreement is to succeed, there must be a dramatic improvement in the everyday lives of the Palestinian people. They must be aware of the fruits of peace.

U.S. assistance, much of which is channeled through the World Bank's fund for the Palestinians, has helped the donor community secure additional funding from other sources. With the United States leading by example, other nations have come forth with significant donations to help the Palestinians.

The United States has also used MEPFA to influence the Palestinian leadership to move in certain directions. MEPFA guarantees that our aid be transferred only if the Palestinians are complying with the letter and spirit of their peace agreements with Israel. Using our assistance as leverage, the United States has been able to ensure that the Palestinians stand by their word on critical issues such as preventing terrorism against Israel.

Israel's leaders have said that the Palestinians are doing much better when it comes to preventing terrorism, a fact which United States officials confirm. And that, in my view, is the bottom line for the success of the Israel-PLO peace treaty. If the PLO prevents acts of terrorism, then Israelis will feel more secure, more comfortable with the peace agreement. Only then will Israelis and Palestinians establish a truly lasting peace.

On a symbolic level, MEPFA is a very powerful instrument. MEPFA symbolizes the U.S. commitment to be the honest broker of the peace process. MEPFA is a signal to the Palestinians—and indeed to the rest of the world—that the United States is willing to suspend its laws against the PLO to give peace a real chance. In a certain sense, it resembles the dictum put forth during the Reagan administration regarding the former Soviet Union—"trust, but verify." In effect, we have said to the Palestinians we will trust them to fulfill their agreements, and that they will receive our blessing as long as they remain faithful.

The objection lodged earlier today puts all of that at risk. Our Republican colleagues are endangering the Middle East peace process by refusing to allow a brief, short-term extension of current laws. At a time when our traditional ally, Israel, is taking enormous risks for peace, the objection sends just the wrong signal. The objection says that some of us are unwilling to support our best friend in the Middle East, at the very time it needs us the most.

It is even more perplexing to realize that the Senate has already debated, and for all intents and purposes, resolved the substance of this issue. The Senate passed a long-term extension of MEPFA as part of the foreign operations bill, and this short-term extension is only necessary to get us to the point where the foreign ops bill becomes law.

Under these circumstances, its hard to imagine that the objection raised goes directly to the merits of the bill. I would hope that the points I have made would help to convince my colleagues of the importance of acting on this measure today, and if possible, immediately.

It troubles me that there is a willingness among some of my colleagues to jeopardize the Middle East peace process. I would hope on an issue of such critical importance to our Nation's security, we could put aside differences and deal directly with the matter at hand.

I am very concerned that we are running out of time—MEPFA expires at midnight tonight, and the House could go into recess early this evening. I hope very much that we can resolve this issue quickly, but if we cannot, there should be no doubt about the consequences and about where the responsibility lies. I am ready to pass this short-term extension here and now, and in all sincerety, I would ask anyone with an objection to come to the floor so that we might reach an agreement.

THE INTERNATIONAL WAR CRIMES TRIBUNAL FOR THE FORMER YUGOSLAVIA

Mr. PELL. Mr. President, today I wish to address an issue which holds great significance for the international world order. The subject is the International War Crimes Tribunal for the former Yugoslavia, a body which can contribute greatly to the reconciliation of the parties to this brutal conflict. As a guarantor of respect for the rule of law and for the protection of human rights, this tribunal supports the principles upon which any lasting peace must be founded. As the peace negotiations among the Bosnian Serbs, Croats, and Moslems begin tomorrow in Dayton, OH, today is an opportune time to reaffirm that the work of the tribunal is a separate but equally important step in the effort to rebuild civil society in the region. No matter the outcome of this round of negotiations, the work of the War Crimes Tribunal must go forward with strong U.S. support.

Mr. President, over the last few days, we have been horrified by a series of front page stories and photos of the terrible atrocities that have occurred in Bosnia. These press reports indicate that United States intelligence has been instrumental in locating mass graves in Bosnia. Those revelations, when paired with refugee accounts of the terrifying trek from Srebrenica to Central Bosnia, suggest that hundreds, perhaps thousands, of Moslem men and boys were murdered by the Bosnian Serbs. The United States should place a high priority on collecting information related to these atrocities and on making all evidence available to the War Crimes Tribunal. Just as the tribunals at Nuremberg punished the aggressors and facilitated the reconciliation efforts after World War II, so too must this War Crimes Tribunal redress the horrors that have occurred in Bosnia. I am proud to say that my father, the late Herbert C. Pell, a former Congressman from New York City, was President Franklin Roosevelt's representative on the U.N. War Crimes Commission that laid the groundwork for the establishment of the Nuremberg tribunal. Today, we must support this new tribunal to ensure that the injustices of the war in Bosnia are corrected.

The objectives of the tribunal are threefold: To deter further crimes by the war parties, to punish those responsible for war crimes, and to ensure justice during and after the process of reconciliation and reconstruction of Bosnia. Through the public identification, trial, and conviction of war criminals, the international community hopes to contribute to the peace process by demonstrating the strength and effectiveness of international human rights law. The U.N. Security Council created the tribunal in May of 1993, and the court convened for the first time in November of that year. Yet the progress of the tribunal has been slow. While 42 Serbs and 1 Croat have been indicated by the tribunal, only one person is actually in custody. The difficulties of taking defendants into custody are manifold, but this is not the only reason for the lack of progress.

The biggest obstacle facing the tribunal is funding. Recently, Secretary-General Boutros Boutros-Ghali placed restrictions on the work of many U.N. agencies—including the tribunal—to avoid a financial crisis in the United Nations. These fiscal restraints have seriously affected the tribunal by freezing the revenues needed to fund its work. Unfortunately, much of the responsibility for the U.N.'s debt can be laid at our own door. Throughout my tenure as chairman of the Committee on Foreign Relations, I consistently argued against the mounting American debt to the United Nations that today has reached $1.2 billion. Today, despite significant efforts on the part of the U.N. Secretariat to meet American demands for reforming its bureaucracy, Congress is again voting for cuts in funding for the United Nations and its agencies.

A serious consequence for the tribunal of this loss of funding is the postponement announced last week of the only trial actually scheduled on the court's docket. Lawyers for Dusan Tadic, who is current the sole defendant in custody at The Hague, have requested and received a postponement of the trial until next year because of a lack of resources needed to prepare an adequate defense. Justice Richard Goldston, the chief prosecutor for the tribunal, has warned that the court will be unable to guarantee the accused's right to a fair and speedy trial without the appropriate resources. In addition, the tribunal has already been unable to send investigators into the field or to recruit lawyers and other personnel. Clearly, under the current financial crisis, the principles of the tribunal could be compromised.

Therefore, Mr. President, I believe that the United States should continue to offer financial and political support for the War Crimes Tribunal for the former Yugoslavia. Last year, I supported Senator LEAHY's amendment to the 1995 foreign operations appropriations bill that offered $25 million in goods and commodities to the United Nations for its efforts to investigate war crimes. Our contributions have been deeply appreciated and well used by the tribunal in its work. I would urge my colleagues to continue this type of support and demonstrate our firm commitment to international human rights law. As the world waits for the results of the negotiations in Ohio this week, let us remember that the work of the International War Crimes Tribunal is of equal significance in the reconstruction of the State of Bosnia.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1872 MINING LAW

Mr. BUMPERS. Mr. President, I have just come from the second conference committee meeting on Interior appropriations. As you recall, in the first conference committee report there was a provision to take the existing moratorium on mining patents away so that the Bureau of Land Management would start issuing patents again.

Just for background information, the provision last year prevented the Interior Department from accepting new patent applications and prohibited Interior from processing existing applications except those 393 applications which had gotten relatively far in the process.

Today, the conference committee effectively rejected the patent moratorium even though when the original conference committee submitted its report to the House of Representatives, the House voted almost two to one not to accept it and to send it back to the conference committee between the House and the Senate to rework the mining patent provision. Well, they reworked it. They reworked it with Saran Wrap. It is so transparent that it does not even pass the giggle test.

What is so transparent about it? The new conference report says, we will continue the moratorium that we had last year until either: No. 1, the President signs a reconciliation bill that relates —think of it—to patenting and royalties; or No. 2, both the House and the Senate pass another piece of legislation relating to royalties, patenting and reclamation, even if the President vetoes that bill.

Mr. President, royalties, reclamation, and patenting are all in the reconciliation bill. They are scams, but they are in there. And so if the reconciliation bill is signed into law or if Congress includes the same sham provisions on another bill, the moratorium is off. The 233 patent applications that we have told BLM they cannot go forward with will be processed, will ultimately be granted, and the mining companies will receive thousands of acres of land containing billions of dollars worth of gold, silver, platinum and palladium, for which the U.S. Government will not receive one red cent. Let me strike that. They will receive a red cent. The reconciliation bill has a royalty provision. It will provide $18 million to the Treasury over the next 7 years.

I will let you be the judges, Mr. President and colleagues, is this a scam on the American people or not? Under the reconciliation bill, if these provisions stay, the Government will receive $18 million in royalties on Federal lands that are mined over the next 7 years. How much do you think the mining companies are going to take off the land in the next 7 years—Federal lands, patented and unpatented? I will tell you what it is: tens of billions of dollars of gold, silver, platinum, and palladium. And in exchange the taxpayers of this country will receive less than $5 million per year.

In the 123-year period, since the mining law of 1872 was signed by Ulysses Grant, the mining companies have extracted in today's dollars, according to the Mineral Policy Center, $241 billion—not million, billion—worth of gold, silver, platinum, palladium, and other hard rock minerals. What has poor old Uncle Sugar, Uncle Sucker gotten for that $240 billion worth of hard rock minerals? Zip, zero, nothing.

The argument is made that the mining companies create jobs, and they do. So does General Motors; so does RCA; so does General Electric. But we do not build billion-dollar buildings for those people to manufacture in, conditioned on them hiring somebody.

It is the most incredible thing. This is the seventh year I have fought this battle. In 1991, I came close. I came within one vote of stopping this. What do you think happened after that? The number of applicants for patents on lands skyrocketed. It scared the life out of the mining companies. I remember the Stillwater Mining Co., which was owned by a couple of paupers called Manville and Chevron. They applied for their patents on 2,000 acres of land in Montana 4 days after I came within one vote of winning this battle. What do you think there is under the 2,000 acres? There is $38 billion worth of platinum and palladium. That is their figure, not mine. They are the ones that say it is worth $38 billion. Two or three years ago representatives of Stillwater came to my office and said their situation was very dicy. "We are just not sure we can open this up. It may not be profitable."

So what happened? Last year Manville bought Chevron's interest in the mine and just recently Manville sold its interest to a group of public investors for $110 million plus a 5-percent royalty. They can deal with each other and retain overrides of 5 percent. But if you suggest they pay Uncle Sucker 1 percent, the hue and cry goes up in this body as though you have just defamed the Holy Bible.

When I said a moment ago that the provisions in the reconciliation bill were a scam, so transparent they would not even pass the giggle test, there is a provision in the reconciliation bill that is even worse, which says that the mining companies will pay "fair market value."

Now, does that not sound reasonable? You can go home and tell the Chamber of Commerce where they know nothing about this mining legislation, and somebody raises the issue: "But, Senator, how can you vote to give billions of dollars worth of gold and silver away that belong to the taxpayers and not get a dime in return? The mining companies are happy to pay up to 24 percent to private owners, but not one thin dime to the Federal Government. How can you justify that?"

Mr. Politician says: "I tell you how I justify it. I am going to make them pay and I have voted to make them pay fair market value."

Mr. Chamber of Commerce questioner says: "That sounds like a fair deal to me."

That is the end of the story, except for one little thing. Fair market value is defined as the surface, not the minerals.

So Stillwater Mining Co. which has 38 billion dollars' worth of platinum and palladium under their 2,000 acres will pay $10,000 under current law, and once the fair market value goes into effect they pay $200,000, or $100 per acre. Is that not something? Mr. President, $100 an acre for 2,000 acres of land, and the taxpayers of this country get the shaft again.

When you say "fair market value," I have a proposition for the mining companies: I would like to offer an amendment here for my colleagues to vote on, reversing fair market value. Define fair market value as the minerals, and we will give you the surface. They would knock that door down over there getting out of here.

Do you think they do not know what they are doing? Do you think the Senators who come in here and offer these outrageous proposals do not know what they are doing? I invite anybody to ask any Senator to explain one simple question: Why is it, Senator, that the mining companies are willing to pay the States royalties to mine hard rock minerals on State lands, why is it they are willing to pay up to 24 percent royalties on private lands, but if you suggest a 1 percent royalty on Federal lands, they are all going to go broke, shut down, and throw all those poor innocent people out of a job? I invite any Senator to come to the floor and answer that question.

Mr. President, 135 years is long enough. I thought maybe we could develop a little shame, so I raised the issue. How can you vote to cut $270 billion in Medicare for the elderly for their health care? Do not give me that wordsmith junk about how we are not cutting, we are just slowing the growth.

Mr. President, 75 percent of the people on this country over 75 on Social Security live on less than $25,000 a year. They are scared to death they will have a toothache and have to have a root canal. They are terrified of a cancer diagnosis, which they know will break them even if they are covered by Medicare. Mr. President, 50 percent go to bed terrified at night even thinking about the possibility.

So we routinely cut $270 billion from Medicare for the elderly. We cut Medicaid for the poorest of the poor. There were even proposals to cut out Medicare-Medicaid benefits for 13-year-old pregnant girls. Yes, I talked to a doctor Saturday afternoon who told me about witnessing the delivery of a baby of an 11-year-old.

Go to any indigent hospitals and find out what is going on in the world. We will take care of that. We will teach them reliance, independence. We will make good citizens out of them. We are going to cut their school lunches. We are going to cut Medicaid.

If you happen to want a college education, we are cutting education by 30 percent—the most massive cut in the history of the world in education. We are going to cut Head Start. We are going to cut school breakfasts when teachers tell me oftentimes that is the only decent meal the child gets during the day.

What are we going to do for the mining companies? We are going to give them carte blanche to mine all the hard rock minerals they want to mine off of Federal lands that belong to the taxpayers. Is that called corporate welfare? How can you call it anything else?

How can anybody with a straight face say we will balance the budget, and we are going to do it off the backs of the people who can least afford it, and we are going to give a $250 billion tax cut which is really a tax break for the wealthiest people in America.

Many people who make less than $25,000 a year and have children will never get a dime. If you have a wife and two children and you are making $100,000 a year and paying $10,000 in taxes, you get the whole smear. If you have a wife and four children making $20,000 or $25,000 a year and you pay no income tax, you do not get a dime.

What kind of tax equity, tax fairness is that? There is something seriously wrong in this Congress and there is something seriously wrong in this country when we routinely and almost cavalierly allow these giant mining companies all these hard rock minerals—billions of dollars worth every year—for nothing in exchange and penalize the most vulnerable people in America.

I do not often agree with the senior Senator from Texas, Senator GRAMM. However, when he says he wants everybody to start getting out of the wagon and help pull, I could not agree more. I say to these big corporate mining companies, many of which are foreign owned, get out of the back of the wagon and help the rest of us pull.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMPSON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FAIRCLOTH. Mr. President, today I was stunned to see that the United States will consider paying $1 billion to the United Nations.

I was stunned because Mexico owes the United States $1.3 billion—it was due yesterday, and this administration told Mexico they did not have to make the payment on time—maybe later.

When I ran for the Senate in 1992, I said that I wanted to bring more common sense to Washington. This is a perfect example of our misplaced priorities, and our sense of fiscal responsibility.

Mexico owes us over $1 billion—due yesterday and they do not have to pay.

Even though the United Nations is den of waste and abuse with no reforms in sight, this waste and abuse has been going on for a long time.

On October 19, I introduced a sense-of-the-Senate, Resolution 185, that Mexico should repay its debts to the United States on time and in full.

None of these debts should be reduced or rescheduled. The sense-of-the-Senate also says that no further loans should be made to Mexico without specific congressional approval.

Mr. President, 2 weeks ago, in a big public relations move, Mexico made a $700 million repayment on the $12.5 billion in loans that it owes to the United States. However, Mexico owed the United States $2 billion on October 30, 1995.

By paying the $700 million early, they planned—and it worked—to avoid making the full payment, the remaining $1.3 billion, on October 30. Mexico bet correctly. This administration told them they did not have to pay. They could roll over the payment.

Mr. President, if Mexico does not make these payments on time in the beginning, these so called loans will quickly become foreign aid—they will not be paid off.

The Congress did not vote for foreign aid. The American taxpayer cannot afford more foreign aid. And the loans to Mexico should not become foreign aid.

The bulk of the United States loans to Mexico do not come due until 1997. They will not be fully repaid until the year 2000. But if Mexico cannot repay its short term loans on time—then I do not have any hope that the loans coming due in 1997 through 2000 will ever be repaid. They will roll it over into foreign aid.

This particular $2 billion loan has been extended now three times. This is an outrage. And what makes it worse is that the administration wants to throw away another $1 billion of taxpayers money, this time on the United Nations.

The United Nations has a huge bureaucracy. In 1993, the Bush administration found that the United Nations has no means by which to stop waste, fraud, and abuse by its employees. Mr. President, salaries for the 53,000 U.N. bureaucrats are 24 percent higher than for our civil servants. We are the ones paying the bills. They have a $12 billion retirement fund at the United Nations. The Secretary General makes more than our President. And we are sending money to support that type of extravagance.

These U.N. conferences are a waste of money and are boondoggles. There is no better description of them than a boondoggle. In 1996, one is planned in Istanbul called a City Summit held to address urban problems. One was held last March in Copenhagen called a Social Summit. From what we hear it was quite the social occasion. And we all know about the cost of the Woman's Conference held in Communist China in September.

The highlight of the 50th anniversary celebration was their invitation to Fidel Castro—a Communist dictator—who got applause when he asked the United States to end the embargo against Cuba. I am sure this celebration cost the United States a huge sum of money. And that is what we will be paying for with the $1 billion they plan to send.

Further, Mr. President, there are now 16 U.N. peacekeeping operations around the world that are costing us over $1 billion a year.

The fact is that over the last 50 years we have paid the United Nations $96 billion. Current estimates are that we still pay 40 percent of the United Nations budget. We still pay 40 percent of U.N. budget. Yet, when a Communist dictator stands up to criticize this country, he gets a standing ovation.

Mr. President, the point of all this is the United States should be concentrating on collecting the money that is owed us and not finding ways to send more out. Instead, the Clinton administration spends its time and effort trying to appease the United Nations—and finds ways to spend tax dollars.

I want to put this administration on notice that I will do everything I can to stop the United Nations from getting this money until Mexico pays us back in full and on time.

Mr. President, I thank you.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996—CONFERENCE REPORT

Mr. DOMENICI. Mr. President, I submit a report of the committee conference on H.R. 1905 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 26, 1995.)

Mr. DOMENICI. Mr. President, it is my understanding that there will be a request for a rollcall vote on the adoption of this conference report. Therefore, I am advised on behalf of the leader that there will be another vote today expected on this conference report. We will work it as expeditiously as we can. But I understand one Senator wants to speak and will not be here until around 5 o'clock. So we will not finish any sooner than that.

Does the Senator from Arkansas wish to speak?

Mr. PRYOR. Mr. President, I thank the Senator from New Mexico. I think he just answered my question. I was just going to ask the Senator from New Mexico if he could give us approximately the time for a vote. I guess it would be sometime after 5.

I thank the Senator.

Mr. DOMENICI. I thank the Senator very much.

Mr. President, I have a brief statement, and I believe Senator JOHNSTON will have a statement. And then we will proceed with questions and some colloquies.

Mr. President, I am pleased to present the conference report on the fiscal year 1995 energy and water development appropriations bill. This conference report on the bill, H.R. 1905, passed the House of Representatives earlier today, October 31, 1995, by a vote of 402 yeas to 24 nays.

The conference on this bill was held on October 24 and 25, 1995, and the conference report was printed in the CONGRESSIONAL RECORD of October 26, 1995. Since that time, the printed conference report has been available. Therefore, I will not elaborate on the disposition of all the items agreed to in conference.

The conference agreement provides a total of $19,336,311,000 in new budget obligational authority. This amount is $1,225,733,000 less than the President's budget request and $706,688,000 less than the enacted, fiscal year 1995 level. It is $653,854,000 over the House passed bill, and $832,841,000 below the Senate passed bill.

As you know, there are two principal functions within the Energy and Water Development appropriations bill. These functions are separated into defense and domestic discretionary accounts. The bill provides $10,656,458,000 in defense discretionary budget authority for the Department of Energy's atomic energy defense activities. This amount is $459,325,000 below the budget request but $552,678,000 above the current level. For domestic discretionary accounts, which include the U.S. Army Corps of Engineer's Civil Works Program, the Bureau of Reclamation, several independent agencies, and the nondefense activities of the Department of Energy, the conference bill provides $8,679,853,000. This amount is $766,408,000 below the budget request and $1,259,366,000 below the current level.

Due to this dramatic reduction in nondefense spending, our ability to fund new initiatives is extremely limited, and most existing programs are cut significantly below both the current year and the President's request. The conference bill makes significant reductions in the Army Corps of Engineers, the Bureau of Reclamation, solar and renewable energy, the Appalachian Regional Commission, and the Tennessee Valley Authority.

We have made some very difficult decisions in the nondefense activities of the Department of Energy. However, we have done our best to protect the basic science research capabilities of the Department of Energy. While we have made significant reductions in the areas mentioned above, we have held the line on biological and environmental research, basic energy sciences, high energy physics, and nuclear energy.

These are the fundamental basic science missions of the Department of Energy that we must maintain to ensure the best possible future for the Nation. These are missions relating to such areas as the human genome program and other medical research activities, global environmental research, materials and chemical sciences, and the physical sciences.

Title I of the conference bill provides appropriations for the U.S. Army Corps of Engineers' Civil Works Program. The conference agreement provides $3,201,272,000, which is $106,178,000 less than the budget request and $137,647,000 less than the current enacted level.

For title II, the Department of the Interior, the conference agreement includes a total of $844,342,000. This is $11,325,000 above the budget request and $27,057,000 below the current level. Within this total, the bill provides $800,203,000 for the Bureau of Reclamation, which is $11,325,000 more than the budget request and $31,033,000 less than the current level.

A total of $15,389,490,000 is provided in title III for the Department of Energy programs, projects, and activities. Of this amount, $10,639,458,000 is provided for atomic energy defense activities, which is $457,825,000 below the President's budget request and $553,611,000 above the current appropriated level.

Included in the total provided for atomic energy defense activities is $5,557,532,000 for defense environmental restoration and waste management. This amount is $429,204,000 below the budget request but $664,841,000 above the current level. The increase over the 1995 appropriation results primarily from the transfer of facilities from the old materials production account to the Defense Environmental Restoration and Waste Management program.

The conference action on DOE's Defense Environmental Management Program seeks, to the extent possible, to protect funding necessary to meet existing cleanup milestones established in compliance agreements. The conference agreement also seeks to reduce Environmental Management Program personnel at headquarters, where practicable, in an effort to apply available dollars to the cleanup effort.

Title IV, which includes appropriations for the Tennessee Valley Authority, the Appalachian Regional Commission, the Nuclear Regulatory Commission, and other independent agencies, provides $311,550,000 in budget authority. This amount is $57,513,000 below the President's request and $143,859,000 below the current year's level.

I recommend to the Senate that this conference report be approved promptly in order to complete action on this appropriations bill and clear it for the President's consideration and approval. It is our understanding that the President will sign this bill.

Mr. President, the House and Senate have worked hard for several weeks and have agreed upon a conference proposal which not only represents significant reductions from the current year's enacted appropriated levels, but is the leanest energy and water development appropriations bill since fiscal year 1990. We have heard the call of the new Republican majority to change the way Government does business and are proud to Present a bill that cuts budgets, cuts bureaucracy, and streamlines operations.

I wish to express my appreciation and thanks to our House colleagues led by the chairman of the House subcommittee, Congressman JOHN MYERS, and the ranking minority member, Congressman TOM BEVILL. I would like to express my continued admiration and respect for the distinguished Senator from Louisiana and our former chairman, Senator JOHNSTON and thank him for his hard work and support. Of course, I want to also thank my friend, the Chairman of the full Appropriations Committee, Senator HATFIELD and the ranking member of the full Appropriations Committee, Senator BYRD. It is always a pleasure to work with them both. Also, I want to express my appreciation to all the Senate conferees and staff members of the subcommittee.

Mr. President, obviously, on the domestic side of this budget, we are providing substantially less than last year and less than the President asked—that is what is happening in every domestic bill—and we think we have done it in such a way that should receive maximum support from the Senate. There was no objection to any of this in the conference by either our side or the Democratic side.

When it comes to defense, it is obvious that we are in a great transition period with reference to our nuclear deterrent capabilities and we are in a transition period as to what we are going to do for the next 40 years as we build down our nuclear arsenal and attempt to safeguard it and maintain it and make sure that our nuclear deterrent capability remains inviolate for the next 20 to 40 years.

A new approach to this is being taken in this bill. The roots are being laid for a concept called a science-based stockpile stewardship program wherein the three defense nuclear laboratories—Livermore, Los Alamos, and Sandia—will lead the defense activities in the preservation and safekeeping of the nuclear deterrent stockpile. This requires some new scientific capabilities because of one additional fact. That is, currently the United States has agreed that we will have no more underground testing of nuclear weapons. That used to be done in order to calibrate, in order to determine safety, wellbeing, longevity, and all kinds of things with reference to the system; that is, the nuclear deterrent system. We have decided as a nation not to do that, and so the science-based stockpile stewardship program requires that we engage the best of our science in producing new equipment and new instrumentation along with new computers to perform modeling of this capability so we can keep this arsenal safe, and the stewardship of it will be adequacy and deliverability at all times.

This costs a little more money than we had thought. Some new equipment is going to be built, a new facility at Livermore, and we have started that here in this bill. Los Alamos and Sandia will have a mission each with reference to it. In other words, we are going to be able to simulate one way or another what we used to find out in an underground nuclear explosion. And when we do that and do it right, we will be able to maintain the system by replacing parts and the like as we move toward building it down and maintaining it for a long period of time.

So for some who wonder what the Department of Energy does in the defense work, this is the hub of it. There are a lot of other things. But they are going to be charged—and the Defense Department has agreed with this new approach—with essentially doing what I have just described, and that is be the frontrunning institutions in the United States and hopefully in the world in seeing to it that our nuclear deterrent is always safe and deliverable and exactly what we expect as we move it down dramatically to a smaller number.

Now I yield the floor to my colleague, Senator JOHNSTON.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, one of the most able Senators I have ever served with is the distinguished Senator from New Mexico. He also happens to be one of my best friends in this body. So it is with real enthusiasm that I have undertaken to work on this appropriations bill with him. By and large, he has produced, considering the challenges, an excellent bill, for which I congratulate him. I congratulate his staff as well. Our staffs have worked together as a team. I have worked together as a team with him to produce this bill. So I have great praise for him and great admiration for him, and I might say great affection for him all at the same time.

Now, as sometimes is customary in this body, pride goeth before a fall and praise goeth before criticism, and while I mean every word of the praise, Mr. President, I am here to say that I cannot vote for the bill because of one particular area of this bill, which is called nuclear waste.

Mr. President, the conference agreement on the fiscal year 1996 energy and water development appropriation bill, H.R. 1905, provides $19,336,311,000 in new budget obligational authority, including scorekeeping adjustments. This amount is $707 million less than fiscal year 1995 appropriations, and is $1.225 billion less than the President's budget request for this bill. The agreement is $654 million more than the bill as passed by the House, but $833 million less than the bill as passed by the Senate.

I concur in the explanation and summary given by the senior Senator from New Mexico [Mr. DOMENICI], chairman of the subcommittee. I congratulate Senator DOMENICI on bringing his maiden voyage to this conclusion. This is his first appropriation bill as chairman, and he was the chairman of our conference committee also. I commend him for his hard work. I also want to express my appreciation to our House colleagues, led by our good friends Representative JOHN MYERS, of Indian, and Representative TOM BEVILL of Alabama. They have worked together as a team for many years and I am proud of our association. We have had a long tradition of bipartisan cooperation and compromise in this subcommittee, and I hope that spirit will continue. I would like to thank all of the House and Senate conferees.

Mr. President, I would like to mention several Louisiana items contained within the conference agreement. I am pleased that we have included authority for the Corps of Engineers to design and construct flood control improvements to rainfall drainage systems, in Jefferson, Orleans, and St. Tammany parishes in Louisiana. These areas have suffered disastrous floods due to torrential rainfall that occurred in southeast Louisiana in May 1995, which resulted in the loss of seven lives, inundation of 35,000 homes and estimated property and infrastructure losses exceed $3 billion. The chairman of the

House Appropriations Committee, Mr. LIVINGSTON, is to be commended for proceeding and I strongly supported the inclusion of this beginning in the conference report.

Also, included in the report is language directing the Secretary of the Army, acting through the Chief of Engineers, to design and construct a regional visitor's center in the vicinity of Shreveport, LA, as a part of the Red River Waterway project. The successful prosecution of this project which provides navigation from the Mississippi River to Shreveport, is a source of great pride to me. It is a project I have worked on during my entire career in the Senate, and navigation has now been completed.

The conference agreement also approves an amount of $7 million for the Biomedical Research Foundation of Northwest Louisiana to create the Center for Biomedical Technology Innovation. The center will serve as a focal point for the ongoing biomedical research and development that is carried out at many of the national laboratories, and for the clinical testing of products that result from that research. It will focus specifically on the development of instrumentation for minimally invasive procedures—including advanced imaging technologies—technologies for individual self care, telemedicine, and medical robotics. Priority will be given to those technologies which are most likely to reduce the cost of care. The center will be housed within the Foundation's Biomedical Research Institute, and managed by a consortium organized and led by the Biomedical Research Foundation.

Mr. President, the conference agreement, in nearly all cases, represents a fair and reasonable disposition of the differences between the House and Senate, and I hope the conference report will be approved. I regret that I cannot support the conference report.

Mr. DOMENICI. Will the Senator yield before he continues?

Mr. JOHNSTON. Yes, I will.

Mr. DOMENICI. I say that it has not been my privilege heretofore in all the years that we have served for me to chair an appropriations subcommittee and have my friend from Louisiana as ranking member. For the most part it has been reversed; if I was in the Chamber, he was chairman and I was ranking member. But that has not even occurred on this bill heretofore, and I cannot give sufficient accolades in this RECORD about this Senator. Frankly, I am going to miss him tremendously in the Senate, and I think the Senate is going to miss him because of the kinds of things he is going to say right now. It is true that there is a very, very serious deficiency in this bill, but I will answer it when he is finished and I thank him and his wonderful staff for all the help here and in the past as we put these things together. We have maintained a significant nuclear deterrent capability regardless of the criticism for the Department of Energy.

We have maintained that because of the stalwart service of Senators like BENNETT JOHNSTON on this appropriations bill. For those who are not aware of it, this is where the defense work takes place and is appropriated to maintain a nuclear stockpile. And over the years he has worked diligently in that regard.

There is a waste problem that comes from nuclear energy, and he is right, it is a serious problem. I do not believe we could have fixed it in this bill in that regard and disagreed. But I did want to make that statement before he proceeds. I say thank you very much to the Senator.

Mr. JOHNSTON. Mr. President, I thank the Senator for his generous remarks. Everything he says about what this bill accomplishes is exactly true. Mr. President, there is no more difficult nor unpleasant task in all of the Senate than dealing with the question of nuclear waste.

First of all, you have to disagree with your friends from Nevada, two of the most competent, most able, and two of my best friends in this Senate. But, Mr. President, it has been my job over a decade to have the principal responsibility for nuclear waste. Both as chairman of the appropriations subcommittee—this subcommittee—and as chairman of the authorizing committee, it has been my duty to keep it going.

Now, sometimes you try to do what is right and be with your colleagues. But, Mr. President, this program of nuclear waste is too big, it is too important, to deal with it on personalities. We have collected $10 billion for nuclear waste. We have spent $5 billion on nuclear waste and have almost nothing to show for it.

Mr. President, of all the programs in the Federal Government, there is probably more waste, there is probably more mismanagement through the years in this program than in any other program that I know of in the Federal Government. Not only that, Mr. President, it is a program which affects most Americans because there are over 100 reactors out there. There are about 80 reactor sites in this country, each of which is a potential nuclear waste dump unless we solve this problem, not to mention, in addition, the Hanford and Idaho National Labs, as well as Savannah River in South Carolina.

So, Mr. President, this is not an issue that is going to go away. It is an issue that is with us right now.

Now, what have we done in this bill? Mr. President, we have cut back to less than half the requested funding from the Department of Energy. What is that going to mean? By reducing funding to $315 million, we are going to have to stop all work on the environmental impact statement. We are going to have to stop the license application to the Nuclear Regulatory Commission. We are going to have to fire between 875 and 1,300 employees. There will be no work going forward on interim storage. It leaves only a research program with no prospect for completing the repository any time in the foreseeable future.

As a matter of fact, I have put quotes up there from the Director of Nuclear Waste, which says:

> Under the funding levels the program has historically received, the schedules for . . . start of operation in 2010 are not achievable . . .

That is, under funding levels that they have historically received, which is higher than this level.

> A flat funding profile would be insufficient to carry out the program of developing geologic disposal capability by 2010 as currently projected.

That is, if we had level funding at higher levels than this bill calls for, we will not get nuclear waste capability by 2010.

What that means, Mr. President, is it is going to cost the consumer of electricity from $5 to $7 billion additional, because that is what they have to pay for temporary storage onsite up to 2010. That does not carry us beyond 2010.

You can spool those figures up. It is going to cost that $5 to $7 billion, while at the same time we have collected $10 billion for DOE to solve the problem the DOE cannot solve. It cannot solve it at these levels of funding problems. We are paying for it twice and not solving the problem.

Mr. President, if you want to get a scandal that the people can understand out there, then do something like let somebody charge up a meal with a bunch of drinks or something to some defense contractor or somebody in the Federal Government. Everybody gets all exercised. They understand that they are cheating on the Federal Government. They are cheating, you know, violating some ethical rule.

But when you have a program of this size, the sheer enormity of it seems somehow to pass everybody's consciousness. Well, it may pass everybody else's consciousness, but I had responsibility for this, and I want to put in the RECORD what is happening. Ten billion dollars has been collected, and there is no way to solve the problem at these funding levels. You are going to have to spend another $5 to $7 billion, with a "B." Mr. President, those are not incidental dollars; those are huge dollars.

Then what is the American public going to say a few years from now when I guess somebody is going to finally wake up? They are going to say, "What have you done with all that money and the problem is not solved?"

The problem cannot be solved—the Director tells me, Dr. Dreyfus tells me, at this level we will never solve the problem. His official quotes do not say that. It says:

> If the program receives funding at the levels contemplated in the Administration funding proposal, the Department would be able to carry out the program . . . .
>
> Any major reduction . . . would require restructuring of the program plan with significant delays . . . .

Now, look up there at the top and you get the DOE request; $630 million was requested this year. We are down to $315 million. Next year it goes up to $684 million, then to $713 million, then to $732 million.

At the rate we are going, Mr. President, we will be lucky to maintain the $315 million, which means you cannot solve the problem.

Now, what does the administration say? The administration says—privately they will tell you, "Look. This is an election year." At least that is what they say inside. But officially they say, "We should not put any interim storage out at Yucca Mountain until we determine whether the site is suitable." They do not define what suitability in the site is, but a few years ago they said, "If we have this funding at that level, we can determine suitability by the year 2002." That means if you give them that kind of money. So if you do not give them that kind of money, according to that definition at that time, it would be, I guess, who knows when before you would determine even suitability of this site.

Mr. President, you cannot solve the problem. Look. Rather than do what we are doing now—and I have been trying to get this at Yucca Mountain—we honestly ought to abolish this program, abolish the tax, and let the nuclear utilities have the responsibility for their own program and have the money with which to do it. That would be much better than playing out this charade.

Mr. President, it is a charade. The President does not want to solve it. The Congress seems to be incapable of solving it. The antinuclear activists out there, of which there are many, they do not want to solve it because by not solving it then they are able to show that nuclear energy does not work.

Let me tell you, Mr. President, people are not going to build nuclear utilities in this country, not at any time for the foreseeable future, and we can foresee a pretty long time. And that is because of the economics of this program. They do not need to try to kill this program in order to try to make nuclear energy nonviable. That has already occurred. All they are doing is creating a problem all across this country and creating a big expense for taxpayers.

There is a conspiracy here, in effect, Mr. President: The administration, which has a do-nothing attitude; the antinuclear groups, of which there are many; and many out there who want to kill the program; and, believe it or not, the scientists.

You say, "scientists. They are supposed to be the ones in there trying to solve the problem." There is a phenomenon, Mr. President, in our Government now where sometimes you call on scientists to make a judgment in which they may not have a direct interest but their discipline has an interest, and it is sort of like, if you ask the scientists what has to be done, they will give you the most expensive answer because that is in the interest of the science. It is kind of like asking the trial lawyers, "What do you think we ought to do on damage awards? Should we decrease damage awards?" They would say, "Oh, no. You have got to watch out for the victim."

Well, the scientists, unfortunately, Mr. President, always go with the most expensive thing. We asked the National Research Council, a part of the National Academy of Sciences, to study one aspect of this thing and to look into the question of human intrusion. In other words, when you go to build a repository, how much of a safeguard do you have to put on that and to what standards must you build that? Let me tell you what the National Research Council said. I really want to get this off of my chest because I have been seething ever since we got this report. It is the most outrageous thing I have ever seen by a scientist. It says:

> We considered a stylized intrusion scenario consisting of one bore hole of a specified diameter drilled from the surface through a canister of waste to the underlying aquifer.

What that means is that when we get around to building the repository, in order to ensure its safety, we must ensure that somebody is going to put a derrick up there and drill a hole down which pierces one of these canisters and goes down to the underlying aquifer. You say, how could that possibly happen? You have fences out there and you have guards. I do not know how it happens.

I can think of a couple of scenarios. One would be that a meteorite hits the country and destroys civilization, as it did—that is the notion, at least—when the dinosaurs died. Another is that you have some big volcano that virtually kills all life except maybe some cavemen, a few who survived and are able to rebuild civilization; or a nuclear war that virtually wipes out all civilization, except some people in caves.

I must say, Mr. President, if those scenarios happen, then why are you worried about nuclear waste anyway? I mean, civilization is gone. But if civilization survives, there is no way that you would not know that the Yucca Mountain repository is there. There is no way you would not know that. We are not going back in civilization, back in the time of the ancient Greeks, when the location of the town of Messinia was lost and they went back in and dug and found out where it was. Mr. President, civilization is marching forward, not backward. We are not going to get into the situation where, some day, people are going to be digging up there and find out that New York City was up there on the Hudson River. They are going to know that. They are going to know where Yucca Mountain is. But just assume that this takes place and civilization is wiped out. How are they going to drill this bore hole through Yucca Mountain and happen to hit a canister?

Well, there are two assumptions. One is that they know what they are doing. If they know what they are doing, they are not going to be drilling on Yucca Mountain because there is no mineral activity out there by which you would drill a hole. The second is that they do not know what they are doing, and they are going around randomly drilling holes all over the country.

Now, what do you think the chances are, Mr. President—a scientist ought to be able to tell you what the chances are, if you are doing a random hole in the thousands upon thousands of square miles in the United States, and you have one little area that is a nuclear waste dump, and of the nuclear waste dump, most of it does not have the canisters, just what are the chances of that? Is it 1 in 10 billion, 1 in a trillion, 1 in 5 trillion? These scientists ought to be able to say that. But indeed, no, they say that you have to assume "one bore hole of the specified diameter drilled from the surface through a canister of waste to the underlying aquifer."

How did they penetrate this without knowing that they have penetrated a canister? It is the most absurd thing. In any event, I digressed for a moment just to tell you what we are up against on this program. We have the scientists, we have the administration, we have the antinuclear activists, we have the people in Nevada, none of whom want to put in this program, all of which would be fine if we were starting out with a question of whether we are going to do nuclear energy or not, you could take this into consideration.

But, Mr. President, we have nuclear waste now. We are generating it at the rate of about 2,000 metric tons each year. There are 30,000 metric tons of nuclear waste now stored, principally, in what we call "swimming pools," where you basically put the rods down in pools of water, unprotected from anything. That is the only plan we really have. There are 67 powerplants in 32 States that will have run out. By the year 2010, we will have 85,000 metric tons to be stored.

Mr. President, we just simply cannot ignore this problem. I proposed an amendment, Mr. President, in the conference committee which said, let us do the long-lead-time things we need to do, the environmental impact statement, the preliminary design, on an interim storage facility, and if you cannot start construction until 1998 and if, in the meantime, it is found to be not a suitable site, then you would stop all activity on both the interim storage facility, as well as the final storage—the repository, the underground facility, and move on to some other place.

Now, Mr. President, that was rejected by the conference—rejected on the grounds that a bill is moving through the House, and that that bill will have a chance to be enacted next year. Mr. President, next year we have the same problems we have this year. That is, you have an administration that would oppose that bill, that has threatened to veto that bill, and you still have to produce the same 67 votes—only next year is an election year.

Just what are we going to do, Mr. President? We are collecting the money—$10 billion is already collected—and we have spent $5 billion. We have a program which the director says cannot work. We are facing an assurance of having to spend some $5 billion to $7 billion between now and the year 2010 on temporary storage, and that is not funded. That is going to have to be paid for by the utilities.

Mr. President, I will be retiring from the U.S. Senate at the end of next year, and I am sure my friends from Nevada—though we are good friends—will perhaps breathe a sigh of relief and will say this guy who has been trying to cram that nuclear waste down our throats in Nevada is gone and our problem is solved. Well, Mr. President, if we are not to do this activity in Nevada, then I say it is time to terminate the program in Nevada, terminate the collection of the tax, and move on to an alternative program. Let the utilities themselves build their own, what we call, "dry cast storage" on-site. That is the activity that is going to cost the $5 to $7 billion between now and the year 2010. Or, if there is another site other than Nevada, then let us start picking that site. Let us start looking at others. I think they have a formation up in Maine which was suitable; and Texas, down in Deaf Smith County, I believe it was. Another one is up in Hanford. There was a site down in Mississippi. Potential sites are all over the country. Of course, there is the Savannah River. There was one in Tennessee. Let us start looking at those sites, because you have to put it somewhere. It either has to be on-site or somewhere.

Like the old joke about somebody who was found by an irate husband in the closet of his home and he said, "What are you doing there?" and he said, "Everybody has to be somewhere."

Believe me, nuclear waste has got to be somewhere. What we are saying in the Congress is that we do not know, we will put the problem off. Mr. President, I have seen this problem put off year after year after year while the cost escalates.

It was back in 1982 when we passed the Nuclear Waste Policy Act. That act called for us to pick three sites—first a larger number of sites and whittle that down to three sites—and then the three sites would be "characterized." That is, determined whether the three sites would be suitable as a place for the repository, and then the DOE was to pick one of those three.

When we first passed that legislation, the cost of characterization was supposed to be $60 million per site. I thought, just to determine whether a site is suitable—that is outrageous. I remember thinking that so clearly.

A few years passed and we had a hearing on it and we asked what was the cost of characterization and activity that was going forward at that time. They said, "Well, it is going to be $1.2 billion per site."

I then introduced legislation to call on the Department of Energy to pick one of the three sites and characterize that and thereby save $2.4 billion. My version did not pass because when it got to the conference committee with the House they said go ahead and name Yucca Mountain—do it politically, not scientifically. They had the votes.

It so happened that the Speaker of the House was from Texas, one of the three sites. The majority leader was from Washington, the other site. That left Nevada. Nevada got picked. I must say in all fairness Nevada probably would have been scientifically picked at least. That was the indication I got at the time.

But I think Nevada had a proper cause to complain because it was, in fact, a political decision rather than a scientific decision, although that might well have been the place where it would have been picked.

We then proceeded with Yucca Mountain. What has happened in the meantime, we are now told that the cost of characterization of Yucca Mountain is not $60 million as initially estimated, not $1.2 billion as later estimated, but $6.3 billion—not to build the facility, just to determine whether it is suitable.

How in the world did it go up that much in cost? Well, I think to a large extent because these scientists made these kind of determinations that you have to assume all kind of silly scenarios like drilling bore holes down through the canisters, like doing every conceivable study to keep these scientists busy for the rest of their lives and for their sons' and grandsons' and granddaughters' lives ad infinitum.

It is an expanding scope of work which probably is not capable of being done no matter how much money we put in here and certainly not at the levels that are contained in this bill.

Mr. President, I hate to sound a discordant note on what is otherwise an excellent job that the Senator from New Mexico has done. In his defense, he has a bill to pass. He has responsibility for that bill. The President has said he would veto this bill if we came up with interim storage. I can understand that judgment. I have a lot of sympathy for that judgment. I say that in his defense.

At the same time, Mr. President, this body needs to understand, the Congress needs to understand, the nuclear industry needs to understand, the American public and taxpayers and ratepayers need to understand that they are being made the victims of a gigantic shell game, a great rip-off, in which $10 billion has been collected, $5 billion has been spent, and there is no way to solve the problem in the direction we are going.

It will not be solved. People out there who think the Congress has a program that will eventually lead to a repository, they are wrong, Mr. President. It will lead to nothing but an endless stream of money stretching from here to infinity, with no waste dump at the end.

What will happen in the meantime is that the ratepayer will not only have to pay that $10 billion already paid, but the tax at 1 mill per kilowatt hour will continue, and in addition to that, the ratepayers of these utilities—these 80 sites around the country—their ratepayers will have to pay for temporary storage on site. Mr. President, $5 billion to $7 billion worth between now and the year 2010.

Now, are we going to pass that authorizing legislation later this year or later next year? Mr. President, I hope so. But I can say I have no confidence that is so. The history of this program has been delay, avoid the tough decision, get by until after the next election, get by until after the next career, make an excuse, spend some more money, fund some more scientists, and never, whatever you do, do not ever look at the program. Do not ever analyze what they are doing. That can be very, very, disquieting when you find out some of the incredible judgments which have gone into this gigantic waste of money.

It has been, Mr. President, it has been just incredible to consider what has been wasted on this program. No one looks into it—at least no one listens to the alarms—because no one seems to understand.

We talk about the bore holes; what does that mean? The scientists must have a reason for that, right? EPA set a carbon 14 discharge level of one-millionth background radiation, for the amounts of the carbon contained in the body naturally. Nobody said anything.

We tried to straighten that out with legislation. We gave it to the scientists and all we got was babble.

This report is an embarrassment to the National Academy of Sciences, Mr. President. It is almost unintelligible. The nuclear waste director says this means that you cannot build a repository—cannot build one no matter how much money. It just cannot pass the test.

Some of the scientists who did the report said, "Oh, no, this will make it easy to do it." It is babble, Mr. President.

Mr. President, I hope by my little soliloquy here on the floor today that we can awaken a little interest in this subject, that we can alert people who ought to be interested in it, people in the nuclear industry ought to be interested in this. Ratepayers ought to be interested in this. The National Association of Regulated Utility Commissioners ought to be interested in this.

Some years ago they said look, if you do not get this program straightened out, we are going to discontinue allowing you to rate base the 1 mill per kilowatt hour fee. That means that they were going to not pass it on to customers because it was a program that could not work, but we are going to require utilities to eat it—that is, to have their stockholders pay for it. I am telling you, this program cannot work. Who says so? Dr. Dreyfus, who is running the program, says that at these levels of funding, you cannot have an appropriate program. You cannot have a workable program.

I hope we get a little attention here. I hope early next year we can pass legislation. If we cannot, we ought to shut this program down.

I would like to reiterate my praise for the distinguished chairman of this committee for, otherwise, a very good bill. This is not his fault, because he is operating under a veto threat. But it, unfortunately, is going to be his responsibility because he now occupies the position which I did for so many years, which is the guy who has to make the program work. And as of right now, it is not working and cannot work.

I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me once again compliment my friend from Louisiana, Senator JOHNSTON. I am not sure how many people were listening today. But I tell you, there ought to be a lot. Because you have just expressed and explained thoroughly one of the real disasters, in terms of the U.S. Government's inability to cope with a serious problem in a realistic way.

I can recall about 3 years ago when Senator JOHNSTON was presiding, the issue came up and this project was then going to cost about $3.7 billion. It now comes close to $6 billion, I understand—a little more than the $5 billion the Senator indicated. One of the Senators on the committee said, "How much do you think it would cost to build it?" Everybody scurried around. "Build the facility?" The conclusion was it would cost far less than we are going to spend characterizing the mountain.

He gave a rather practical suggestion, it seemed to me. You give this suggestion to average Americans, they would have said, "Do it." He said, "Why don't you just build it and then find out after it is built? Do all the kinds of tests you want as to whether it will succeed. If it will not work, close it down. At least you will have something there finished and completed." Now we are just boring holes in and doing scientific work to try to achieve a goal that seems like, scientifically, the standards have been set so high we are never going to achieve it.

We do not have any disagreement on it. I think at this point we are never going to get that depository finished. We are never going to prove up the requirements. There are going be more lawsuits around, and you will never get a permanent repository in that site—not for a long time, if ever.

So the issue comes, as I see it, what do we try to do on this bill? Let me suggest, so there is no doubt about it, we would have put an interim storage facility in this bill and it would have been sited in the State of Nevada, but for the fact that the President of the United States has sent a rather clear signal through his high-level staff that they would veto a bill that designated that site or any other site specifically.

I might say to my friend from Louisiana, as hard as he tried with his amendment, when he finished it all, it was actually designating Nevada as the site before we really knew that we would have a final site here. He couched it differently but that is a truism.

Essentially, what he, the President of the United States, was saying, and his advisers, was: Do not site it there unless the permanent repository is there or we will veto it.

The Senator from New Mexico has very few alternatives. What I wanted to do was to spend $400 million in this bill and use $85 million to move ahead with the temporary facility, the temporary storage, the interim storage. But we cannot do the interim storage without an authorization bill or without a President signing something. I think my colleague would agree with that. Whether he signs an appropriation bill or authorizing bill, the President of the United States has to sign something for Congress to be able to fund an interim storage facility there or anywhere, because the law does not now permit the Federal Government to build such a facility anywhere.

Having said that, it is clear to me that we ought to at least provide some money in this bill to fund the eventuality of us getting an authorizing bill through here that the President would sign.

I say to my friend, Senator JOHNSTON, I do not deny the authenticity and truthfulness of his remarks, because he is suggesting it probably will not happen, the President will veto it. It is an election year. But I think we had to do some work and say here is some money. So we fenced $85 million in this bill—put a fence around it—and we said it will be spent for an interim facility if in fact this is authorized and permitted by the Government of the United States. That money is sitting there. We are saying to the legislators in the authorizing committees here in the Energy Committee, its counterpart in the House: Pass a bill. You can start the project.

Will the President sign it if we pass it? We do not know. But let me suggest we cannot stall this too much longer. Sooner or later, a President must sign something that will let us move in a different direction.

My original plans were $400 million, $85 million fenced for the interim facility. It turns out that I left the bill that way, and I am fully aware that the $315 million does not satisfy the Director of the program, Mr. Dan Dreyfus' needs to keep this program going on schedule as he wanted it going on schedule. But we were going to tone it down some. If we were building a temporary facility, we were going to cut the expenditures on the permanent facility and spread it out a lot longer. I think we are still on that path.

I might say for the record, this Senator is not going to be carrying this bill very many years on this floor with funding for the permanent deep repository if we have not solved the issue of an interim storage facility. In fact, I may not carry it one more time without that, in terms of continuing what seems to me to be a borderline hoax, in terms of promising the American people we are going to have an underground permanent repository.

The reason I say that is because, in spite of the good work by the current Director, Mr. Dan Dreyfus, who used to work for the Energy Committee—and we are all very, very complimentary of his work—the rules and regulations that we live by, under that project, just may be so that man cannot comply. It may be we cannot comply.

So I hope everyone understands today on the floor of the Senate, with very little attention, some very, very serious remarks have been made about the competency of this process, of the legislative process and the President, to work to get something done that must be done.

I want to add one other comment. The Senator might not remember it, but I remember it. I speak to my friend from Louisiana. I think some of us figured, when then Senator Gary Hart of the State of Colorado proposed that we had to close the loop on atomic energy and had to have a permanent repository, I think some of us were thinking, "Well, if that gets out of hand, it is calculated to stop nuclear power."

In fact, we may go back to the RECORD and find that either you or I said that. We might have said it. That is what it was. It was an approach that said you need to close it at the tail end with a permanent repository. If you cannot do it, then you cannot have nuclear waste and therefore you cannot have nuclear energy.

The calculation is coming true. Not because we cannot do it, but because we refuse to do it in a commonsense, practical way that is really consistent with engineering and science achievement. So that is about where we are.

I ask unanimous consent to have the letter printed in the RECORD wherein the President's staff indicates they would veto this bill and move onto another project.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 13, 1995.
Hon. PETE V. DOMENICI,
Chairman, Subcommittee on Energy and Water Development Appropriations, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to provide the Administration's views on H.R. 1905, the Energy and Water Development Appropriations Bill, FY 1996, as passed by the House and by the Senate. As you develop the conference version of the bill, your consideration of the Administration's views would be appreciated.

The Administration is committed to balancing the Federal budget by FY 2005. The President's budget proposes to reduce discretionary spending for FY 1996 by $5 billion in outlays below the FY 1995 enacted level. The Administration does not support the level of funding assumed by the House or Senate Committee 602(b) allocations. The Administration must evaluate each bill both in terms of funding levels provided and the share of total resources available for remaining priorities. The House-passed version of the bill is $1.8 billion below the President's request, and the Senate version is $0.3 billion below the request. With respect to the overall funding levels for programs covered by H.R. 1905, we generally prefer the Senate's recommended funding levels.

The Administration has very serious concerns about certain language provisions that may be included in the final bill. One is a provision that would direct the construction of an interim storage facility for nuclear wastes at a specific site. Others are provisions that would override environmental and other laws in specific situations, such as those concerning the Bonnevile Power Administration fish program and, potentially, the Animas/La Plata water project. If these provisions were contained in the final bill, the President's senior advisers would recommend that he veto the bill.

Since taking office, the Administration has developed and implemented a number of policies to increase government efficiency, known as "Reinventing Government," and to concentrate resources on investment programs critical to ensuring a strong economic future. The Administration is disappointed that neither the House nor the Senate, in action on this bill, has been more sensitive to these priorities.

DEPARTMENT OF ENERGY—NUCLEAR WASTE DISPOSAL FUND

The Administration strongly objects to any language that would designate a nuclear waste interim storage facility at a specific site. Any potential siting decision concerning such a facility should ultimately be based on scientific analyses. If an interim facility is to be developed, FY 1996 spending on it should only be devoted to non-site-specific design and engineering, with the majority of FY 1996 monies in this account continuing to support the scientific investigation of the proposed permanent waste repository.

The Administration is disappointed with the funding levels in both the House and Senate versions of the bill for the Civilian Radioactive Waste Management program. The Administration urges the conferees to consider seriously the funding level proposed in the President's budget in order to support fully the scientific work on the permanent repository program.

BONNEVILLE POWER ADMINISTRATION (BPA)

The Administration strongly opposes the inclusion of section 509, General Provisions, in the Senate version of the bill. This section, though somewhat vague, would limit BPA's annual fish and wildlife expenditures and introduce language specifying that BPA's spending is adequate to meet environmental requirements, which overrides existing environmental laws. The inclusion of such an override is unacceptable to the Administration. The Administration is working with the Congress and the various interested groups in the Northwest to try to identify a core program of fish recovery activities that could provide a stable base for several years at a reasonable cost.

DEPARTMENT OF ENERGY—GENERAL

The Administration is committed to maintaining the Department of Energy and to moving forward in its restructuring and realignment. We are disappointed that both the House and Senate propose to cut the Department significantly below the FY 1996 request in many areas. Although the Administration appreciates the Senate's overall restoration of nearly $250 million in reductions made by the House to the request for energy supply, research and development, we are concerned about the remaining cuts to many key areas, including the Climate Change Action Plan initiatives and the Department's global climate change research and technology development efforts.

DEPARTMENT OF ENERGY—NUCLEAR ENERGY

The Administration strongly objects to the House action that would eliminate funds requested for the Department of Energy to assist countries with Soviet-designed nuclear power plants in addressing the health and safety problems posed by these plants. The requested $83.5 million was substantially restored by the Senate. Failing to provide these funds would undercut the nuclear safety program developed in concert with other G–7 countries, countries of Central and Eastern Europe, and the New Independent States of the former Soviet Union.

The House version of the bill does not provide the $3.9 million requested for completing the processing and stabilization of North Korean spent fuel, which is currently underway. The fuel stabilization effort is important because it will help to ensure that this fuel is not processed to recover plutonium. This program is part of a United States commitment to encourage North Korea to abandon its nuclear weapons program. This key non-proliferation goal would be threatened by the House's action. The Administration urges the conferees to provide the full $3.9 million, as recommended by the Senate.

DEPARTMENT OF ENERGY—SOLAR AND RENEWABLE ENERGY PROGRAMS

Both the House and the Senate propose significant cuts to the Administration's request for solar and renewable energy research programs. These programs help to create jobs, increase energy security, and protect the environment. The House version of the bill, in particular, would eliminate or drastically reduce many programs that have been making notable technical progress, including many of the most cost-effective implementation programs for reducing greenhouse-gas emissions. The Administration urges the conferees to provide funding at least at the Senate level.

DEPARTMENT OF ENERGY—DEFENSE PROGRAMS

The Administration believes that the Senate additions above the President's request for nuclear weapons stockpile management are unnecessary, especially given the deep cuts made to many of the President's investment initiatives in both the House and Senate versions of the bill.

The Administration strongly urges that the conferees provide the Department of Energy with the flexibility to implement dual-use Cooperative Research and Development Agreements in the weapons programs.

The Administration objects to the House's proposed elimination of funding for detailed design of the National Ignition Facility (NIF). The Senate proposal to fund the NIF at the President's requested level would simply allow design work to continue without delay and would not initiate any construction activities.

DEPARTMENT OF ENERGY—ENERGY RESEARCH

The Administration commends both the House and Senate for supporting the Science Facilities Initiative. However, funding levels proposed by both the House and Senate for the U.S. Magnetic Fusion Energy program send a clear message that the program must be substantially restructured. While the Administration concurs in principle, the President's Committee of Advisors on Science and Technology has concluded that funding over the next several years must be at the level of $320 million to preserve the most indispensable elements of the U.S. fusion effort and associated international collaboration while maintaining momentum toward the goal of practical fusion energy. The Administration urges the conferees to provide at least $275 million for FY 1996.

DEPARTMENT OF ENERGY—DEPARTMENTAL ADMINISTRATION

The Administration is concerned about the personnel implications of both the House and Senate cuts to the President's requested level of funding for the Department's departmental administration. Funding at least at the House level is necessary to provide an orderly downsizing and to ensure proper departmental oversight during a time of substantial change at the Department.

ARMY CORPS OF ENGINEERS

The Administration is disappointed that both the House and Senate have rejected a budget reduction strategy for the Army

Corps of Engineers that would commit resources to those missions with the Clearest Federal role, while devolving others to State and local governments. Given this rejection, the Administration plans to continue to work with Congress on a budget reduction strategy for the Corps. The Administration urges the conferees to remove language contained in both the House and Senate versions of the bill that would limit the flexibility of the Secretary of the Army in his current efforts to restructure the Army Corps of Engineers.

The out-year cost of unrequested new starts is a concern, even though the first year cost is relatively small. For example, those in the House version of the bill would only cost $10 million in the first year, but would require $650 million to complete fully. The Administration urges the conferees to trim the list of projects, especially in the area of beach and shoreline protection projects.

The Administration is disappointed with the decision of the House and the Senate not to provide funding for several much-needed environmental studies and research activities. The Administration requests that the final bill provide flexibility for the Corps to allocate its wetlands protection funds to activities deemed to be most effective.

BUREAU OF RECLAMATION

The Administration urges the conferees to adopt the House level of funding for the Bureau of Reclamation's Safety of Dams Corrective Action program. This funding is necessary to accomplish needed repairs to Federal dams.

OTHER INDEPENDENT AGENCIES

The Administration commends the Senate for restoring funds for the independent river basin commissions. The restored funding is in keeping with the increasing emphasis on State and local resource and project management for local flood control.

We look forward to working with the conferees to address our mutual concerns.

Sincerely,

ALICE M. RIVLIN,
Director.

Mr. DOMENICI. Let me go through Animas-La Plata—Animas-La Plata and some sufficiency language which would have deemed that project to have complied with all environmental requirements; that is what the word "sufficiency" would have meant. In conference, language was sought to make it sufficient with reference to environmental requirements. Obviously, the President's staff—the chief advisor said in that same letter, which is now in the RECORD, that if sufficiency language, getting rid of any future environmental contention regarding that project was put in, they would also recommend a veto.

It is hard to tell how many of these are for real, when a President's staff says it. But I took this one as pretty serious and a compromise was worked out. I am going to put my interpretation of that compromise in the RECORD.

Suffice it to say, there is no sufficiency language in this bill. There is language that says we should proceed with the project, but it is clear that no environmental contests are waived. So that means, on the one hand, we are starting to fund the project here in this bill with another piece of money—$10 million. And we are saying, let us proceed. But we do in no way waive any challenges that might be made to it.

Mr. President, I have a few brief comments about language included in the energy and water conference report that pertains to construction of the Animas-La Plata water project. The language in the report directs the Secretary of the Interior "to proceed without delay" with those portions of the project identified in the October 25, 1991, final biological opinion.

There has been much talk about just what this language means. Specifically, opponents of the project have attempted to paint this as so-called sufficiency language exempting the project from any further environmental analyses required by Federal law. Mr. President, this is not the case. The report language does not override existing Federal environmental requirements, nor does it prevent further judicial review. Consequently, those who say this report language is an attack on the environment or a subterfuge of the judicial process are simply wrong.

At the same time, however, the language makes it clear that the Congress is absolutely committed to the swift and successful completion of this project. Under the terms of the 1988 Colorado Ute Indian Water Rights Settlement Act, the United States has a trust obligation to the Southern Ute and Ute Mountain Ute Indian Tribes to complete the project.

The final bill provides $19.3 billion in budget authority and $11.5 billion in new outlays to finance the operations of the Army Corps of Engineers, the Bureau of Reclamation, the Energy Supply Research and Development and Atomic Energy Defense and Related Programs of the Department of Energy, and several independent agencies.

When outlays from prior year budget authority and other completed actions are taken into account, the bill totals $19.3 billion in budget authority and $19.7 billion in outlays for fiscal year 1996.

The subcommittee which I chair is within its section 602(b) allocation for both budget authority and outlays.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the final bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENERGY AND WATER SUBCOMMITTEE—SPENDING TOTALS—CONFERENCE REPORT

[Fiscal year 1996, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed		4,039
H.R. 1905, conference report	10,656	6,402
Scorekeeping adjustment		
Subtotal defense discretionary	10,656	10,441
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed		4,171
H.R. 1905, conference report	8,680	5,100
Scorekeeping adjustment		
Subtotal nondefense discretionary	8,680	9,271
Mandatory:		
Outlays from prior-year BA and other actions completed		
H.R. 1905, conference report		
Adjustment to conform mandatory programs with Budget		
Resolution assumptions		
Subtotal mandatory		
Adjusted bill total	19,336	19,712
Senate Subcommittee 602(b) allocation:		
Defense discretionary	10,928	10,632
Nondefense discretionary	8,680	9,272
Violent crime reduction trust fund		
Mandatory		
Total allocation	19,608	19,904
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	−272	−191
Nondefense discretionary	−0	−1
Violent crime reduction trust fund		
Mandatory		
Total allocation	−272	−192

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. Mr. President, I think Senator MCCAIN has been waiting. I yield the floor.

Mr. MCCAIN. Mr. President, I have been informed by the Senator from North Dakota that he is going trick-or-treating with his children tonight at 6. I find that a transcendent priority. I will be extremely brief and submit my written comments for the RECORD. I hope all my colleagues will also make their comments brief so it is possible for those Members with children to be able to partake in this time-honored family tradition.

Mr. President, I will be relatively brief. I am again disturbed to find unauthorized projects and unappropriated projects in the conference report. I have said to the Senator from New Mexico on numerous occasions that deprives me of my ability to scrutinize, and vote, if necessary, on projects. It is my initial screening—as I say, I will submit a written statement for the RECORD—20 unauthorized projects are in this, ranging understandably from Petersburg, WV, to Arkansas City, KS, New Orleans, LA, White River, IN, to a Pennsylvania environmental pilot program. The conference report modifies the bill by increasing the authorization from $17 to $50 million for water and sewer projects. Mr. President, $3.5 million is appropriated in the conference report. The authorization is only available for projects within two Members' congressional districts.

Mr. President, this is wrong. It is wrong to do that.

There is funding for the central Indianapolis waterfront concept master plan.

Mr. President, the Corps of Engineers' authority is not to be involved in waterfront master plans unless it has to do with flood control.

The Arkansas City flood control project in Kansas was unauthorized. I will read several of them.

The Homer project in Alaska, $3.8 million; Dog River, AL, project, $200,000; Sacramento River, CA, $300,000; West Dade, FL, $150,000; Holmes Beach County, FL, $150,000; Ohio River, Greenway, IN, $500,000; Indianapolis waterfront, $2 million.

Mr. President, none of these have been authorized. They were inserted in the conference. Mr. President, we deserve better. I do not know if these projects are good or bad, and the American people certainly do not know. And there will be nothing in the CONGRESSIONAL RECORD to let us know if they are good or bad.

I notice that we are going to fund the Appalachian Commission this year for a considerable amount of money. I think it is $140 million. That clearly is something that should not continue since every part of America now needs the same kind of assistance that those States which are now included in the Appalachian Regional Commission receive.

Mr. President, I think that it is important for us to understand—another one, $2 million, acting through the Corps of Engineers, to authorize the director to proceed with engineering, design, and construction of projects for flood control improvement for the rainwater drainage systems in Jefferson, New Orleans, and St. Tampa Parish, LA—authorized to be appropriated $25 million for the initiation and partial accomplishment of projects described in these reports. My understanding is that there has been no screening, and that there has been no request for authorization. There has been nothing except that this was stuck in, in the conference report. The corps has not finished its studies as to whether this is needed.

Mr. President, again, I have no doubt that some of these projects are worthwhile, and have great virtue. But we do not know whether they do or not because they are placed in the conference into the conference report without authorization and without any kind of screening.

I would like to finally say there are several appropriations bills, including the transportation bill and several other appropriations bills, which are excellent, where the business of putting in projects in conference that were in neither the authorization nor the appropriation bills has largely been done away with. I wish I could say that is the same for this bill. It is not the case. And I think that we should reject this practice over time.

Mr. President, I hope my friend from North Dakota enjoys his evening and his children.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, we have been listening to two very well briefed men who are handling this piece of legislation here on the floor. When we begin to talk about nuclear storage and that sort of thing, spending hundreds of millions of dollars, it kind of goes over some heads. But I want to talk about something that affects real people now. Several weeks ago, Mr. President, in the House an amendment was floated to this bill, and to the reconciliation bill, to sell the Power Marketing Administrations. The Power Marketing Administrations with hydroelectric furnish low-cost power to rural areas in this country. To do even better than that, the amendment came out on the bill that would sell the lakes that provide the water to generate the electricity.

I want to tell you. A furor occurred down in my part of the country because you have recreation, fishing, camping, and swimming on these various lakes—four of them in Kentucky where a father has taken a son fishing and camping, and now that son is taking his son to the lake fishing and camping. And it is something a family of low income can enjoy.

So with all these furors that followed this suggestion, our people in my part of the State said, "Sell the lakes? Never." The calls came to Washington, and Speaker GINGRICH was contacted. And he assured them that this was off the table—that it would not be considered. But it would be considered when the communities have calmed down a little bit, and it would be revisited when the communities are more comfortable with the sale, I believe the Speaker said. But Mr. KASICH, the chairman of the Budget Committee, said that they will be sold but it will be done a little later because of the furor. Then the proposal to sell the Power Marketing Administrations was proposed, and another furor followed. Again, the Speaker said that this would be off the table.

So you have to watch around this place, Mr. President, because there is always someone trying to back door you.

If you think the Power Marketing Administrations are off the table, or if the power lines and the facilities to generate this electricity is off the table, you ought to read page 476 of the reconciliation bill from the House.

We have in the statutory language now that the Secretaries of Energy, Interior, and Army cannot sell power marketing administrations. Well, on page 476 of the House reconciliation bill, they repeal those prohibitions. And in the next section they authorize and say, "The Secretaries shall"—that is plural, of Energy, Interior, and Army—"shall secure and enter into arrangements with an experienced private-sector firm to serve as advisor to the Secretaries with respect to the sale of the facilities used to generate and transmit the electrical power marketed by Southeastern Power Administration, Southwestern Power Administration, and Western Power Administration."

And so prior to December 31, 1996, they shall come back with their report to sell. And in these instructions in the reconciliation bill in the House, they say they can cluster the generated facilities where they might be sold at a higher price.

That does not seem to me that power marketing administrations and the facilities used for such a transmission line are off the table. Lo and behold, Mr. President, in this bill—in this bill—we are about to pass here in the Senate, there is no language under amendment 51.

It says:

> The conferees agree that the statutory limitations do not prohibit the legislative branch from initiating or conducting studies or collecting information regarding the sale or transfer of the power marketing administrations to non-Federal ownership.

Mr. President, the power marketing administrations are not off the table. We are just being backdoored, making big headlines, big statements, "They are off the table," then insert them in language, try to hide it, and in the language of this bill, as an afterthought, I suspect, they authorized GAO for the study.

Mr. President, I am torn about whether to vote for this piece of legislation or not because it does authorize GAO to make the study for the sale of these power marketing administrations. So I want to just say to my folks that have an interest in it all across the country—all across the country—that you better be careful because the majority has made up its mind it is going to sell the power marketing administrations. And the testimony in the House committee said that rates would go up, the rates would go up.

If you want rural electrical rates to go up, you just sell your power marketing administration, and you will see what happens to you. This majority is trying to sell everything.

Mr. DOMENICI. Mr. President, I also want to thank the Senator from Arizona for his comments. I am not sure how the Senator arrived at the number of 20 unauthorized projects, and I do not agree with that number, but it is accurate that the conference report does include some authorizations for the Corps of Engineers water projects.

When the energy and water development bill passed the Senate it included four provisions which addressed ongoing projects. The conference agreement includes four additional provisions. For example, a provision is included in response to the devastating flooding which occurred earlier this year in New Orleans, LA, which allows the Corps of Engineers to undertake additional measures to limit the flood damages in that city. Another provision allows the corps to transfer land to the city of Prestonsburg, KY, for a public park.

So, while the conference agreement does include some small authorizations, I do not understand how the Senator arrived at his figure of 20 unauthorized projects in the conference report.

Mrs. MURRAY. Mr. President, I would like to clarify a single sentence in the conference report accompanying H.R. 1905 relating to economic development activities. Within the Department of Energy environmental management account, in the nuclear material and facilities stabilization section, there is a sentence that provides: "Additionally, none of these funds should be used for economic development activities."

It is my understanding that this language was included because there was concern by some members of Congress that money was being diverted from cleanup and restoration efforts and used for economic development. It is clear from this language that money should not be used for economic development activities when those activities are unrelated to the project for which the money was appropriated. However, where this money can be used both to achieve its intended purposes and assist in community transition and diversification, it should be so used.

The Department of Energy should allow the use of these funds to achieve as many positive results as possible and leverage this money to assist the communities they serve in achieving economic diversification.

● Mr. HATFIELD. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman of the Energy and Water Appropriations Subcommittee, Senator DOMENICI. Included in the conference report to the fiscal year 1997 Energy and Water Appropriations bill are provisions related to the Bonneville Power Administration. I would like to focus on these provisions for a moment.

As the chairman is aware, a longer term regional review initiative was recently announced by the Bonneville Power Administration and the department of energy. It is my understanding, as a member of the conference, that the conferees were aware of and supported this reexamination of Bonneville's statutory authorities and responsibilities. However, it is my understanding that the conferees did not intend their action in this conference report to prejudice any future regional discussions regarding the comprehensive regional review of Bonneville and the electric utility industry in the Northwest.

The sharing of benefits established in the Northwest Power Act of 1980 has been accomplished in large part through a provision in the act known as the residential exchange. It is my understanding that conferees believe there should continue to be a fair sharing of the benefits from the Bonneville system for all ratepayers across the region, consistent with existing law. To further this objective, the conferees provided for $145 million to maintain the residential exchange benefits at approximately the fiscal year 1996 level. It was not intended that BPA's residential exchange payment of $145 million in fiscal year 1997 be recouped from BPA's residential exchange customers in the remaining years of the 5-year rate period.

The conference report now before the Senate encourages BPA and its customers to work together to phase out the residential exchange by October 1, 2001. Furthermore, it is my understanding that the conferees did not intend this encouragement to affect the current development of rates by BPA because the outcome of the regional review and settlement discussions are not known at this time.

Mr. President, Let me ask the Senator from New Mexico, if this comports with his understanding?

Mr. DOMENICI. Mr. President, let me say in answer to my friend from Oregon, the distinguished chairman of the full committee and the author of the provision we are now discussing, that his statement does indeed comport with my understanding.

Mr. HATFIELD. I thank my friend for engaging in this dialog with me.●

KOTZEBUE WIND ENERGY PROJECT

Mr. STEVENS. Mr. President, I have a concern regarding the conference report to H.R. 1905, the energy and water development appropriations bill for fiscal year 1996, and would like to ask Senator DOMENICI, the distinguished chairman of the subcommittee, a question about the Kotzebue wind energy project in the State of Alaska.

Mr. DOMENICI. I would be pleased to try and clarify anything of concern to my friend from Alaska.

Mr. STEVENS. On page 90 of the original Senate report (S. Rept. 104–120), the Appropriations Committee highlighted the Kotzebue project and directed the Department of Energy "* * * to provide technical assistance and other appropriate support for this project." Unfortunately, on page 60 of the statement of managers accompanying the conference report to H.R. 1905 (H. Rept. 104–293), the House and Senate conferees indicate that neither technical support nor other support is provided for the Kotzebue project.

I am disappointed by the language in the statement of managers. I want to clarify that the conferees certainly did not intend that the Department of Energy halt its current and future assistance for Kotzebue, which is an ongoing DOE wind energy project. Under the Department's sustainable technology energy partnerships [STEP] program, Kotzebue Electric Association, with the State of Alaska, will receive $580,000 in fiscal year 1995 funds from the Department's Wind Program for its 50/50 cost-shared project that will result in the installation of wind turbines near Kotzebue. This pilot project is at the forefront of Alaska's activities to promote wind energy for many of the State's remote communities. The project will provide information on the potential of wind energy as a reliable power source in our extreme arctic climate.

Furthermore, based on current DOE estimates, approximately $50,000 in fiscal year 1996 funds will be required to provide necessary technical assistance and support for the ongoing Kotzebue project, which will eventually provide 5MW of wind generation for Kotzebue plus outlying villages.

Mr. DOMENICI. I appreciate the Senator's explanation of DOE's continuing involvement in this project, and agree that termination of support for the project would jeopardize many years of work. Accordingly, we did not intend to prohibit the Department of Energy or any other agency from continuing and completing on-going technical assistance and other support for the Kotzebue, AK, wind project.

Mr. STEVENS. I thank the chairman for this clarification. I take it the conference merely meant that no funds have been earmarked for the Kotzebue project. It does not object to the project.

Mr. DOMENICI. The Senator is correct.

ANIMAS-LA PLATA

Mr. CAMPBELL. Mr. President, I rise to commend the conferees to the energy-water development appropriations bill for their action on the Animas-La Plata water project. This conference, led ably by Senators DOMENICI and JOHNSTON and Congressmen MYERS and BEVILL, has taken a decisive step toward the expedient completion of the Animas-La Plata water project.

In 1868, more than 125 years ago, the Ute Bands signed a treaty with the United States. This treaty entitled the Utes to water. One hundred years later, the Ute Tribes were not receiving their entitlement. Finally, in 1972, the United States filed suit on behalf of the Ute Tribes in an effort to quantify the native Americans' water rights.

Mr. President, the Ute Tribes have encountered procedural hurdles and stiff opposition at every turn. Even though the United States promised this water to these tribes, who more than 100 years ago had been relegated by the Federal Government to dry, arid, lands, the fact is that the Utes have not been provided the water that they were clearly entitled to in the middle of the last century.

In 1984, events took a turn for the better. All the interested parties, including the Ute Mountain Utes, the Southern Utes, Federal agencies, the States of Colorado and New Mexico, the local water districts, and other involved parties sat down at the negotiating table. They worked together, and within 2 years, in 1986, they came to an agreement on how water would finally be provided to the Utes.

Mr. President, I suggest to my colleagues that this was a rare display of cooperation. Water rights disputes in the arid West can be bitter, emotional fights of deep acrimony and enormous economic consequence. The Utes could have asserted their Winters Doctrine priority water rights in a manner that would simply have disrupted the social and economic health of the Four Corners area. Instead, they chose good faith negotiation. And we are not holding up our end.

The agreement, in essence, was this: The United States shall provide water to the Ute Tribes, and in return, the Ute Tribes shall defer their precious senior water rights. The Utes surrendered their most valuable tribal asset, in return for which the United States promised to provide water.

The United States would provide water not by taking it away from neighboring towns, farms and mines. Rather, the United States would build the Animas-La Plata project so water could be acquired. This project would create an off-stream reservoir, so that it would not be necessary to dam the Animas River, which would in turn supply the Ute Tribes and non-Indians in the region with water.

In 1988, as a Member of the House of Representatives, I introduced legislation to implement and ratify this agreement. The Colorado Ute Indian Water Rights Settlement Act of 1988 passed the House of Representatives by a wide margin, and it passed this body without a dissenting vote.

After Congress decided to provide water by building the Animas-La Plata project, the Ute Tribes discovered a new and unexpected enemy: The professional environmental advocacy groups of this country.

Mr. President, when we passed the Settlement Act in 1988, at that time the Animas-La Plata project had already met, and was in full compliance with, all the requirements of our environmental statutes, including the National Environmental Policy Act, the Clean Water Act and the Endangered Species Act. A final environmental impact statement had already been completed, all the appropriate consultations had occurred, all the necessary permits were in place.

When we ordered the Bureau of Reclamation to build the project, we expected the Bureau to do just that.

But environmental groups have advanced claim after unfounded claim against this project. Environmental groups contend that more studies and more reviews are needed to complete this project, when in fact, this project has been the focus of years of study and five reports issued pursuant to environmental statutes.

This project has been the subject of two separate biological opinions under the Endangered Species Act, an environmental impact statement and a draft supplemental environmental impact statement under the National Environmental Policy Act, and a section 404(r) permit exemption under the Clean Water Act.

This project has been reviewed with a fine-toothed comb, but environmental groups have threatened more years—40 years, to quote one of them—of litigation and delay. Their avowed purpose is to kill the Animas-La Plata project.

Mr. President, I have heard talk of alternatives to this project. Opponents of this project suggest that we should consider more alternatives. Any party is free to propose an alternative at any time. Some have even suggested that there may be a viable alternative to the Animas-La Plata project. However, those who claim that we should consider more alternatives are simply seeking to kill this project. They are not interested in providing water to the Ute Tribes as the 1988 Settlement Act requires.

If a so-called alternative does not meet all of the terms of the settlement, then it is no alternative at all. Some groups claim they can muster an alternative, but the only proposed alternatives would take water away from parties to the 1986 agreement. Mr. President, that is not an alternative. That is a sham and a dealbreaker.

Why does this situation exist? It exists because environmental extremists simply oppose all major water projects —even an off-stream project like this one, designed to minimize environmental impact. They ignore the social, recreational and economic benefits a water project and settlement such as this can bring to an arid Western region. They disagree with the congressional policy decision to meet the water demands of the Ute Indian Tribes and other water consumers.

They do not want the Animas-La Plata project to be built, even though that is what Congress has ordered. Because they oppose large water projects, they use environmental statutes as an underhanded subterfuge to tie up projects in court. With crafty attorneys, they can delay a project for years, and maybe even kill it.

Mr. President, this is what the environmentalists want. They do not care about economic security or even the unsatisfied water claims of two tribes of native Americans. They will stop at nothing to meet their extreme ideological agenda. Frankly, I am also disappointed that this administration has placed the ideological goals of the Fish and Wildlife Service and EPA ahead of its trust responsibility to native Americans.

If the project dies, then this Nation will have again broken its word to native Americans. I urge my colleagues not to follow this shameful path of dishonor and deceit. There are enough of these unfortunate incidents in the history of this Nation's dealings with native Americans.

Mr. President, the language before the Senate in the Energy-Water Development Appropriations conference report directs the Secretary of the Interior to proceed, quote, "without delay" and construct the Animas-La Plata project. I urge my colleagues to support this action. This project is the best alternative, in the eyes of Congress, to settle this water rights dispute.

I would like to take this opportunity to thank the chairman of the Energy-Water Development Subcommittee, Senator DOMENICI, for his fine efforts on behalf of the Animas-La Plata project. The Senator's efforts are a credit to his uncompromising dedication to the native Americans of Colorado and New Mexico, and I'm sure the people of New Mexico appreciate his service as much as my constituents in Colorado.

BIOFUELS ENERGY SYSTEMS

Mr. GRAMS. Mr. President, I want to clarify the intent of the Energy and Water Development appropriations conference committee with regard to their support of the Biofuels Research and Development Program within the Department of Energy. Based upon contact my office has had with the Subcommittee on Energy and Water Development Appropriations, it was never the intent of the committee to exclude the other 48 States when it made note of projects in Hawaii and Vermont. Projects, including those in my own State of Minnesota, would be eligible to apply for available funds as would be the rest of the country. Furthermore, I understand that it was never the intent of the committee to discourage a continuation of the ongoing biomass electric program in all States parallel to the ongoing biomass fuels research and development program.

While I have received word of the intent of this clarification, I want the record to reflect that I will be carefully watching the interpretation of this conference language by the Department of Energy. Should there be any misunderstanding, I will work with the distinguished chairman of the Energy and Water Subcommittee to rectify this matter.

I also seek unanimous consent to have the attached colloquy between the House Energy Subcommittee Chair and my Minnesota colleague, Representative MINGE, on this matter be printed in the RECORD.

There being no objection, the colloquy was ordered to be printed in the RECORD, as follows:

COLLOQUY BETWEEN REPRESENTATIVES MYERS AND MINGE

Mr. MINGE. I wish to thank the ranking member for the time and Chairman MYERS for entering into this colloquy. I would also commend the chairman and ranking Member for reporting a balanced bill, particularly in support of the Biofuels R&D Program within the Department of Energy. And I would like to clarify the intent of the conference committee with regard to this program. Am I correct in understanding that nothing in the conference report prohibits continuing research, development and demonstration on energy crops for fuels and electricity or in any way discourages a continuation of the ongoing biomass electric program in all States in parallel to the ongoing biomass fuels research, development and demonstration program, on the understanding that the expenditures for the biomass electric program do not reduce the conferees' allocations to other biofuels programs?

Mr. MYERS. Yes, the gentleman from Minnesota is absolutely correct.

Mr. MINGE. I wish to thank the Chairman in regard to the intent of the conference committee.

DISPROPORTIONATE CIVILIAN R&D CUTS IN ENERGY AND WATER APPROPRIATIONS WILL HURT IN THE LONG RUN

Mr. BINGAMAN. Mr. President, I rise to express serious concern about the cuts made to civilian energy research and development programs in the energy and water appropriations conference report that will be adopted by the Senate today. While some level of reduction to Government programs may be expected in order to reduce and eventually eliminate the deficit, the drastic cuts in our civilian R&D programs, not just in this bill, but across the civilian research agencies—with the possible exception of the National Institutes of Health—are shortsighted.

Overall, this budget proposes a 17-percent reduction in our civilian energy R&D from the level requested in the President's budget. An ever larger percentage—35 percent—is cut from solar and renewable energy R&D. A chart comparing budget request levels versus the decisions contained in the conference report, which I ask unanimous consent be included in the RECORD at the conclusion of my remarks, shows the magnitude of the cuts in the energy and water appropriations bill. Cuts that will start us down a path that will ultimately and inevitably harm our Nation's economy and energy security.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. The Republican budget resolution adopted in June will reduce our civilian R&D budget to a four decade low as a percentage of our economy by the year 2002. These cuts will not be made up by the private sector, who are showing, through deep cuts being made in their own research budgets, an ever narrower focus and an unwillingness to invest in long-term research projects. So our research dollars will be shrinking while those of our economic rivals, Germany and Japan for example, continue to rise. Recognizing the importance of civilian research investments, they and other industrialized countries around the world are seeking to emulate the successful American model of the last half century, just as we seem to be abandoning it.

In the energy arena, our investments have paid off in terms of lowering energy costs and creating new technical advancements in photovoltaic, wind energy, solar thermal, biofuels, and geothermal systems. These developments are positioning the United States as a world leader in new technologies. This has been confirmed by a recently completed report of the Yergin Task Force on Strategic Energy R&D which found that "DOE energy R&D has resulted in billions of dollars' worth of annual consumer energy savings and new business opportunities." In addition, the Yergin report concluded that technological R&D advancements from both the public and private sectors are imperative in order for our Nation to meet its future energy needs.

With all of the significant accomplishments these R&D efforts have yielded, with huge potential in energy products and services markets over the next 25 years, and with the serious trade deficit we now face, I ask my colleagues, how do these cuts make sense? Well, Mr. President, in my opinion, they do not.

I plan to vote for the energy and water conference report today. Given where many Republicans started several months ago on the defense side of this bill, the conference report we are voting on today is not as bad as it could have been. Essentially the bill preserves the President's initiatives for stockpile stewardship and arms control verification and nonproliferation technologies, vital programs for our long-term national security. However, the details that have emerged on the DOE civilian research budget present a very bleak story—one I fear will put our Nation's well-being and prosperity at considerable risk in the long run. I urge the President to continue to fight for adequate investments in energy research even if he reluctantly signs the bill into law.

EXHIBIT 1

CUTS IN ENERGY R&D—FISCAL YEAR 1996 ENERGY AND WATER APPROPRIATIONS BILL

[In millions of dollars]

	Request	Conference
Solar and Renewable R&D	423.4	275.2
Nuclear Energy R&D	379.8	231.0
Environment, Safety and Health	164.6	128.4
Energy Research	1,721.4	1,518.5
(Of which:		
Biological and Environmental	(428.7)	(419.5)
Fusion	(363.3)	(244.1)
Basic Energy Sciences	(805.3)	(791.7)
Other Energy Research)	(124.2)	(63.3)
Energy Support Activities	102.6	32.0
(Of which: University and Science Education Programs)	(55.0)	(20.0)
General Science and Research	1,011.7	981.0
Total DOE Civilian Research	3,803.5	3,166.1

Fiscal year 1995 Total = $3,628.5 million.
Cut from Requested Level = $637.4 million or 17 percent.
Cut from fiscal year 1995 Level = $462.4 million or 13 percent.

ANIMAS-LA PLATA PROJECT

Mr. BINGAMAN. Mr. President, there is one more important point I want to make about this bill. I understand language regarding the Animas-La Plata project was considered which would have read, "In order to ensure the timely implementation of the Colorado-Ute Indian Water Rights Settlement Act of 1988, and notwithstanding any other provisions of law, the Secretary of the Interior is directed to proceed without further delay with construction of those facilities approved for construction in the Final Biological Opinion for the Animas-La Plata Project, Colorado and New Mexico, dated October 25, 1991." I understand this language including the phrase "notwithstanding any other provision of law" was rejected.

The conferees adopted substitute language which says, "In order to ensure the timely implementation of the Colorado Ute Indian Water Rights Settlement Act of 1988, the Secretary of the Interior is directed to proceed without delay with construction of those facilities in conformance with the final Biological Opinion for the Animas-La Plata project, Colorado and New Mexico, dated October 25, 1991."

I understand conferees adopted the language they did because they are frustrated with the pace of the work to comply with existing law before the Secretary can legally proceed to implement the Colorado Ute Indian Water Rights Settlement Act. Efforts to finalize numerous steps required to begin construction of the project, including completion of a satisfactory supplemental environmental impact statement demonstrating compliance with the National Environmental Policy Act, Clean Water Act, and the Endangered Species Act have taken several years. Based on assurances from members of the administration and the conference committee, the amendment is intended to provide clear direction to the Bureau of Reclamation to complete the work necessary to move forward by complying expeditiously with these and other provisions of law. The House added $5 million to the administration's budget request for the project for fiscal year 1996, and the Senate concurred, to assist the Bureau in its effort to comply with the directions of the amendment.

Mr. WELLSTONE. In the conference report language, it is stated that $55.3 million is provided for biofuels energy systems. When $27.65 million is taken out for biochemical and thermochemical conversion, that leaves another $27.65 million. Then $3.94 million goes to the regional biomass program and full funding is provided for biomass power projects in Vermont and Hawaii. There is no instruction for the remainder of the nonbiochemical and nonthermochemical biomass funding. Am I correct in stating that that remainder could be applied to the Biomass Power for Rural Development Program?

Mr. DOMENICI. The Senator from Minnesota is correct. DOE could apply the funding as he describes.

I do not think there is anything further on our side.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, during the past 6 months the Northwest congressional delegation and the Clinton administration have spent a great deal of time in an attempt to control the costs imposed on the Bonneville Power Administration's ratepayers by the Endangered Species Act mandating recovery of certain salmon runs of the Columbia and Snake River systems.

The threat of a financial collapse of the Bonneville Power Administration and the reality of exploding fish recovery costs borne by the region prompted this attention. The Bonneville Power Administration bears many financial burdens to threaten its ability to remain competitive. The entire electricity industry is being rocked by fierce winds of change that were not anticipated when the Northwest Power Act was passed by Congress in 1980.

The most immediate and increasing burden on BPA and its ratepayers arises out of Endangered Species Act-mandated salmon recovery costs.

Until just a few weeks ago, Clinton administration officials at the National Marine Fisheries Service estimated that BPA's share of salmon recovery costs for fiscal year 1996 would exceed $600 million. As a consequence, the Clinton administration decided, quite correctly, that neither a collapse of BPA nor huge rate increases in salmon costs would be tolerated by the people of the Pacific Northwest, and so the administration announced that BPA's salmon recovery costs would be administratively capped at $435 million for the year. That agreement is incorporated in this bill.

The Clinton administration also made the political calculation that the President could not afford to anger national environmental organizations by supporting any legislative efforts to control salmon recovery costs borne by Northwest ratepayers. After all, earlier this year, this administration enraged those organizations by signing a rescission bill that included provisions on salvage timber and Northwest timber harvest programs. So the administration, aware of this slow-burning anger among its environmental constituents, decided that it could not support a legislative remedy that would help the ratepayers of the region because that action would further outrage a vital political constituency.

The only positive aspect of the resulting agreement is that it represents the first acknowledgement on the part of the administration that there is an economic limit on Columbia and Snake River salmon costs. But this agreement, while it represents our acknowledgement of fiscal reality, is severely flawed and incomplete.

The agreement is flawed because it is so vague. First, we have not seen any paper outlining the agreement. Second, without legislation, there is no real legal protection for BPA, or for the investment already made by the region's ratepayers.

Without such protection, BPA said that many of its customers would leave the system and purchase power from cheaper alternative sources. BPA said that letting its salmon costs escalate uncontrollably would push it to the brink of financial ruin. It was, in my view, no idle threat.

But the best that BPA can now tell its customers is that the administration promises that $435 million a year from BPA should be enough for fish and, if not, there will be a pool of $325 million in Federal dollars if costs exceed that $435 million.

Mr. President, if the BPA is on the verge of financial ruin, how can a promise from the administration to not spend more than $435 million provide the certainty that BPA says it needs? What confidence can we have in an agreement that can be broken if an administration official decides next year that BPA should spend more than the $435 million? The answer: no confidence. And what happens if a Federal judge is asked to decide whether the $435 million was derived by political science rather than biological science and finds that number insufficient to meet the Endangered Species Act? Answer—the cap will be broken.

What happens if that Federal judge issues orders that require BPA to spend more than the $325 million in taxpayers' dollars made available by the agreement? Answer—taxpayers and ratepayers will pay more.

This agreement provides little, if any, assurance to BPA customers that they—or the Federal Treasury—will not be forced to pick up the tab for ESA-mandated salmon recovery. In short, this agreement, with all of its what ifs, increases the likelihood that the BPA will soon be right back where it started—on the brink of financial ruin because of rapidly escalating salmon-recovery costs.

The agreement is also incomplete. This agreement does nothing to provide any certainty or predictability for other economic interests along the Columbia and Snake Rivers system. BPA gets short-term relief from this agreement with the administration, but no certainty.

Other rivers system users—ports, PUD's, irrigators, agriculture, private utilities, non-Federal hydroelectric projects, recreational, and commercial users—are left with even less protection from Federal decisions to drawdown reservoirs, spill water over dams, increase water flows or even order dam removal.

Arguably, this agreement by the administration to limit BPA fish costs, while not changing Federal salmon policy, increases the chances that fish costs will be shifted onto other economic entities in the region. Clearly, these entities are not disinterested spectators. They are affected greatly by the vagaries of BPA policies and NMFS decisions about how the water from the Columbia and Snake Rivers will be used. The characteristics of this administration's environmental policies are inherent all across this agreement—environmentalists are listened to, but working people do not count.

This agreement is flawed because it fails to deal with the root of BPA's and the region's problem. The root problem is not how much BPA and its ratepayers spend on fish recovery. The root of the problem is that this administration has used the ESA to craft a salmon policy that forces the most expensive possible measures for the least productive returns.

Despite BPA's agreement with the administration, the necessity to control BPA and the region's fish and wildlife costs is hardly resolved. Many will use this agreement as an opportunity to declare victory and go home. but if this agreement accomplishes anything, it illustrates the need for dramatic action now on legislation fundamentally to change salmon restoration and conservation practices on the Columbia and Snake Rivers system.

This agreement is unlikely, in the long term, adequately to stabilize BPA's financial position. And, despite the claims of an administration cabinet member that this agreement will recover the species, it clearly will do little to restore an abundant Northwest fishery. Why? Because this agreement perpetuates the status quo, a status quo that has accomplished little if any salmon recovery.

Presently, I am typecast as an enemy of salmon. I would like to dwell upon this typecast for a moment. Our last great regional natural resource debate was, of course, over the extent of measures to protect the northern spotted owl. I will make a confession. While I do not desire the extinction of that bird, I do not worry overly about its survival. I believe that it will survive, regardless of Federal policies designed to protect it, but more fundamentally, I don't worry because I don't believe that that bird is vital to the human condition or to life on this planet—while I believe that families and people are. I believe that preserving a reasonable amount of owl habitat—our old growth forests—is important, but, in truth, if you wish to portray me as opposed to the proposition that owls are more important than people, you are not far off the mark.

I see salmon in a completely different light. I am committed to conserving and restoring an abundant Northwest salmon fishery. My legislative proposal to accompany the energy and water appropriations conference report would have locked into place a $500 million a year commitment to Columbia and Snake Rivers river salmon recovery.

But ensuring a healthy salmon resource in the Northwest is not a broad enough goal for the Columbia and Snake Rivers system—we must also consider anadromous and nonanadromous fish, and resident fish populations. I will support Federal legislation that provides that consideration and also assures comparable proportionate commitments to salmon runs in other Northwest river systems. I am convinced that, within reason, Northwest citizens will make large investments to restore the region's fishery.

I believe that the region is committed to such an unprecedented environmental investment because salmon are important to our Northwest economy—they are important to our society, our culture, our lives.

Let me emphasize this point. I will support Federal legislation that requires electric ratepayers in the Pacific Northwest to pay for salmon recovery. I believe that people of the region are committed to this goal and are willing to pay for it. I ask only two conditions in return: First, that the level of expenditures be reasonably predictable, and second, that the expenditures be for scientifically credible measures to strengthen the overall fishery.

While it is inaccurate to claim that I am antisalmon, it is definitely true that I disagree profoundly with the administration's salmon management policies.

What exactly is the current Federal salmon management policy in the Northwest? Beyond spending a lot of money, I'm not sure anyone can honestly tell us what's been accomplished, or even what the goal of the recovery plan for Columbia and Snake Rivers salmon is. This is a plan that only a bureaucrat could develop and understand—it's easy to write a plan like this when there is no political accountability, and you are spending someone else's money. That's what the Federal recovery plan for salmon boils down to.

Today, Federal management of the Columbia and Snake Rivers system is driven by the ESA and it concentrates on the weakest salmon runs for recovery.

Fact: This administration's ESA strategy on the Columbia and Snake Rivers does not even propose to restore a vibrant Northwest fishery in any reasonable period of time. Fact: this recovery plan does not say that our national goal is to have the Columbia and Snake brimming with millions of fish. Instead, the ESA requires the region to focus on saving weak salmon runs—not full species of salmon, not even subspecies of salmon but only on what are called distinct population segments. There actions may mean increasing the number of one listed run of Snake River sockeye from 10 in 1994 to 50 by 2000 forty individual fish. Despite the protestations of NMFS biologists, and inside-the-beltway theorists, these recovery measures for sockeye salmon have no connection to an abundant salmon resource.

NMFS states that recovery of the listed salmon runs will require 50 years, and acknowledges that a century of extraordinary measures is probably necessary. To those involved in tribal, commercial, and recreational fishing, I warn that NMFS, empowered by the ESA, is planning for a century with no fishing.

Do not misunderstand, people in the Northwest do care about conserving and enhancing wild salmon. Wild salmon are valuable. But they are valuable because their survival and enhancement can play a large role in the recovery of an abundant and healthy resource. We have learned that some degree of genetic diversity is important to healthy salmon stocks. The problem with the current law is that it empowers Federal regulators to spend unlimited amounts of money to save genetically distinct salmon runs as a goal in itself and not as a measure to a broader goal.

The goal of Federal regulators is not an abundant fishery, nor is their goal connected in any way to economic reality. Federal policy—driven by saving one genetically distinct run—is in conflict with rebuilding an abundant fishery. A fraction of the dollars the Federal Government is taking from the Northwest economy, dedicated to recovery of their specific fish populations, would produce a infinitely greater return if focused on fish populations throughout the system, including saveable salmon runs and some wild stocks.

I make these points about current Federal salmon policy because the agreement arranged by the Clinton administration and BPA does nothing to change what is wrong with current Federal fish management policies and practices. This agreement literally papers over the problems inherent in poor Federal policy with dollars—dollars paid by Northwest ratepayers and U.S. taxpayers.

But in the end, this flawed Federal policy will not be papered over. As long as Northwest salmon recovery measures and costs are dictated by the Federal Government and the EPA we will have court failure. We will have higher costs and little, if any, increase in the number of salmon to show for it.

It is time to change the direction of our salmon recovery policies and the agreement by this administration and BPA does nothing to do so.

Northwest salmon policy should be changed so that it is directed at three goals. First, we must restore an abundant fishery resource. Second, we must enhance the fishery with the least possible economic dislocation. Third, we must give the authority over decisions for salmon recovery back to the region.

Mr. President, I have my own views about effective salmon recovery measures, but I will fight hard to see that Federal law is changed so that nobody in Washington, DC—including me—will make the decisions on how best to conserve and enhance fish populations in the Northwest. The region must be given the freedom itself to make those decisions. If our region, after an inclusive and thoughtful process, decides to spend $500 million a year to restore one weak run of salmon—I will almost certainly disagree—but as a U.S. Senator, I would defend, absolutely, the region's authority to make that choice.

I often disagree with our Northwest Indian tribes on issues of public policy but our Northwest tribes should be heard on how best to restore an abundant fishery. I often disagree with Washington State's representatives on the NW Power Planning Council, but I believe that the Council should be involved in helping to make these decisions. The heads of Northwest fishery agencies and our best scientists should have a significant voice in this process. The region should decide which salmon runs to enhance—not D.C. bureaucrats.

Northwest salmon management measures should be decided by the people, local governments and interests in the Northwest. Today, the region is barred from making these decisions because of Federal law. Federal law grants to one agency, the National Marine Fisheries Service, nearly total control over our Columbia and Snake Rivers systems. I want to dramatically alter this miserable status quo—I want the people of the region to make their own decisions on these issues.

Mr. President, our country is now in a state of revolution over the excessive role the Federal Government plays in our daily lives. The proposition that we should take power from the Federal Government and put it in the hands of local people is driving the debate on issues ranging from education to telecommunications to transportation to welfare. In the opinion of this Senator, the revolution should not stop there.

It shouldn't stop there because these aren't the only fields in which a revolution is occurring. Another is clearly underway in the way our country delivers energy to families and businesses. In the Northwest, this requires a thorough review of BPA and the Northwest utility marketplace.

Our region is just beginning to explore what to do in the face of changes that will dramatically reshape the region's energy marketplace. Over the next few months, I will be seeking the opinions of all who are concerned about what the future holds for Northwest energy policies. We will need to ask questions—tough questions—that don't merely tinker around the edges but delve deeper in order to create more competition and less reliance on government subsidies. In a word—overhaul.

In this process our region will also explore what to do about ESA-mandated salmon recovery measures and how to pay for them. I intend to participate in this process. Questions of energy policy, the role of the Northwest Power Planning Council and salmon recovery and its cost will come before Congress in the next several years.

I believe that residents of the Pacific Northwest will not continue to tolerate exploding costs in the name of salmon recovery, when the immediate benefits are so slight and the promised benefits are esoteric and distant.

Much of the Northwest was built based on a model of Federal answers to regional needs. Those decisions were appropriated at one point in time because our region could not, without Federal aid, have developed and grown. But current salmon recovery measures still reflect the old faith in centralized Federal answers to regional problems.

Now, however, like nearly every issue before the Congress, the answer to the problems of the last 50 years may not be the answers to the problems of the next 50 years. Policies that assure centralized Federal control of energy and salmon policy demand careful review and dramatic change. The status quo is not the answer to the region's problems.

Mr. McCAIN. Will the Senator yield for a question?

Mr. GORTON. Yes.

Mr. McCAIN. Does the Senator know and the other Members know it is Halloween and not only do Members have children who they would like to go to Halloween with, but there are members of the staff here and all over Capitol Hill that would like to observe Halloween?

I know these are important issues. I know the Senator from Nevada is here. We had one Senator who has already had to leave to miss a vote. I ask my colleagues just once to let us go ahead and have this vote and submit written statements for the RECORD.

Mr. DOMENICI. Mr. President, I——

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. I will yield to the Senator.

Mr. DOMENICI. How much time did the Senator from Nevada want?

Mr. BRYAN. Mr. President, 5 minutes.

Mr. DOMENICI. How much time does the Senator from Washington need?

Mr. GORTON. I suppose I would take about 10 minutes.

I think the way in which the question could be answered, I suppose, would be to have the vote tomorrow.

Mr. DOMENICI. I think the leader wants to get this bill finished tonight.

Is there any reason on this side the Senators want a rollcall vote? Could we just agree the Senator would have 10 minutes?

Mr. GORTON. I think I can probably complete in that period of time.

Mr. DOMENICI. Does the Senator from Nevada want 5?

Could we agree to vote at 6:05 p.m.?

Mr. JOHNSTON. From this side I do not think that a vote is necessary.

Mr. DOMENICI. It is.

Mr. WELLSTONE. Yes, it is.

Mr. DOMENICI. I ask unanimous consent that the rollcall vote which has been ordered start at 6:05 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. BIDEN. Reserving the right to object.

Can the Senator put his statement in the RECORD—he will not change the outcome of the vote—so I can catch a 6 o'clock train and get home?

Mr. GORTON. I will not put my statement in the RECORD. I do wish to make it.

Mr. BIDEN. I have no objection.

The PRESIDING OFFICER. Is there any objection to the request?

Without objection, it is so ordered.

Mr. GORTON. Mr. President, I was going to say, under those circumstances I am perfectly willing to allow the vote to take place now and make statements afterward, if that will help the Senator from Delaware.

Mr. BIDEN. That would be wonderful, Mr. President.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. BRYAN. I agree.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will proceed to vote now. And Senators can put their statements in the RECORD or make statements after the vote.

The question is on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from Idaho Mr. [KEMPTHORNE] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The PRESIDING OFFICER (Mr. COCHRAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 6, as follows:

{Rollcall Vote No. 558 Leg.}

YEAS—89

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thompson
Thurmond
Warner
Wellstone

NAYS—6

Brown
Johnston
Lieberman
McCain
Smith
Thomas

NOT VOTING—4

Bradley
Hatfield
Kempthorne
Pryor

So, the conference report on H.R. 1905 was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. DOLE. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, thank you. The bill that has just passed is extremely important to my State as it is to a good many States in this Nation.

Mr. President, this bill funds Yucca Mountain at $400 million for fiscal year

1996 with $85 million set for a monitored retrieval site.

What does that mean? That means that to create a managed site to handle high-level nuclear waste until Yucca Mountain is completed. The bill does not designate where this MRS would be located.

Under the terms of the current Nuclear Waste Disposal Act, an MRS cannot be placed in the same State where the permanent repository is located. This means that this Congress must act, and I hope it would act soon on a bill to designate a site for a monitored retrievable storage.

This administration continues to fight a program to open a permanent nuclear waste repository. They ask for no money in their budget request and they continue to be less than helpful in getting an MRS operational.

This is a national disgrace, Mr. President. This country has spent over $5 billion—let me repeat, $5 billion—of electrical ratepayers' money at Yucca Mountain, and what do we have to show for it? A 1-mile hole in the ground. Which is a start, I have to admit but we have a long way to go before an application can even be filed to begin the process of opening a repository facility.

I have introduced S. 1271, the Nuclear Waste Policy Act of 1995. I hope we could move on legislation like this.

Mr. President, 32 States currently generate power from nuclear energy. A brief summary of a percentage of nuclear energy consumed on a State-by-State basis is included for the RECORD, Mr. President.

It is phenomenal to me that 82 percent of Vermont, 74 percent of Connecticut and 74 percent of Maine's power is generated by nuclear energy. These States should be working every day to open up an MRS and a geologic repository so their States do not have to shut down their nuclear power.

I will say they are simply years away from doing that—and not tens of years but a very, very short period of time.

It is time for this Senate to come to grips with the issue of nuclear waste. The Governor of my State recently entered into an agreement with the Secretary of Energy to finally remove the DOE and defense nuclear materials that are stored at the National Engineering Laboratory in Idaho.

It is imperative that we move forward with operating facilities to meet the terms of that agreement which will remove all materials from Idaho in the year 2035.

Mr. President, there is a uniqueness about this agreement. It is no longer just a signed piece of paper between DOE and a Governor. There is a Federal court order that the Department of Energy is now operating under to deal with the issues of Idaho and to deal with the issues across the Nation.

That means 10,851 shipments of spent fuel and transuranic waste will be leaving Idaho. This is the first time Idaho has ever had a schedule for removal. That schedule is now in place and a Federal judge says to DOE they must respond.

Mr. President, it is time that this Senate and this Congress came together in its obligation to the American people to build the facilities necessary to solve this very, very important problem.

Some day, some ratepayer and some taxpayer is going to catch on to the fact that we are simply spending money and not addressing a problem. Mr. President, $5 billion, $10 billion later, one nuclear reactor down, the lights dark in a portion of a major city in this country because the power can no longer be supplied—that should not be the answer to our problem. We should respond and we should respond in a timely fashion.

I thank the Senator from Washington for allowing me to proceed.

Mr. GORTON. Mr. President, before the last vote, I had the floor and I was asked shortly after I began my remarks under this bill to allow the vote to take place so that various people can go home.

I ask unanimous consent that the remarks I am about to make be consolidated with those I made before the vote and be printed in the RECORD before the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Reserving the right to object, I ask unanimous consent that Senator KERRY be recognized after the completion of Senator GORTON's statement.

Mr. REID. I object.

The PRESIDING OFFICER. Objection heard.

Mr. KERRY. Could the Senator inform us how long he will anticipate speaking?

Mr. GORTON. Approximately 10 minutes.

The PRESIDING OFFICER. Approximately 10 minutes.

Mr. REID. I was similarly situated with the distinguished Senator from Washington. Both of us agreed to forbear making a statement so the vote could proceed.

I simply want the Senator from Washington—we simply agreed to not make our statement so that everybody could cast a vote, and those who wanted to go home went home.

Mr. KERRY. Mr. President, the Senator is correct, and I think that is fair.

I ask unanimous consent that I be permitted to proceed after the Senator from Nevada has completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. How much time are we talking about here?

The PRESIDING OFFICER. Ten minutes.

Mr. KERRY. I cannot say because it depends on—there is no way I can answer that.

Mr. DOLE. Have you got consent to speak for more than 5 minutes?

Mr. KERRY. I have consent to have the floor.

The PRESIDING OFFICER. There was no specific time.

Mr. DOLE. We did not go into morning business? Because we have a speaker on this side who wishes to speak and I wonder how long he is going to have to wait.

Mr. KERRY. Maybe the majority leader and I could visit for a minute and see if we could work that out, Mr. President. Would that meet the minority leader's approval?

Mr. DOLE. Fine. I just do not want to start speaking here and never get back to this side of the aisle.

The PRESIDING OFFICER. The Senator from Washington still controls the time.

Mr. DOLE. Why do we not visit while the Senator from Washington speaks?

Mr. SARBANES. Are we limiting everyone to 5 minutes?

Mr. DOLE. I thought we had gotten the regular, routine morning business for 5 minutes. Apparently not.

Mr. SARBANES. The Senator from Washington, as I understand it, will speak for more than 5 minutes. We have no objection to that.

Mr. GORTON. Both the Senators from Washington and Nevada are speaking on the bill we just passed, deferring their right to speak before the vote in order to accommodate Members who wanted to leave.

Mr. SARBANES. We understand that.

The PRESIDING OFFICER. There have been no other time agreements or restrictions.

Mr. DOLE. There has been no consent on who speaks?

The PRESIDING OFFICER. It will be the Senator from Washington, who has the floor now, then the Senator from Nevada has been recognized to speak following that, and then we had consent for Senator JOHN KERRY of Massachusetts to follow.

The Senator from Washington.

Mr. GORTON. Was my unanimous-consent agreement to have the speech consolidated before the vote?

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GORTON appear at an earlier point in the RECORD.)

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair.

Mr. President, the energy and water conference report that was just adopted earlier this evening is correct when it concludes that the Nation's nuclear waste policy with respect to permanent disposal is deeply flawed.

It is a program that has cost some $5 billion, and the solution to the nuclear waste issue in America is no closer to resolution today than it was in 1982. The reason for that, Mr. President, is that politics and not science has been a driving force. The second reason is because of unrealistic deadlines that have been constantly mandated on the program that have been counterproductive.

Based upon some of the comments made by a number of my colleagues this evening, the Nation is about ready to commit another serious error in nuclear waste policy as it relates to interim or short-term storage or, as it has been characterized by some, a monitored retrieval storage system.

Mr. President, we have been to that show before. In the early 1980's the advocates of nuclear power, in urging upon the Congress the adoption of an AFR program, Away From Reactor Program, indicated that unless action was taken immediately, a number of nuclear reactors around the country would be forced to close down because of the nuclear waste problem and the Nation would face an energy crisis. The Congress did not respond to the request made by the nuclear power industry, and no nuclear reactor was closed as a consequence.

In the debate that is about to ensue on the interim storage issue, we are about ready to fall into that similar trap that was foisted upon us by Congress in 1987 in urging unrealistic deadlines and that science is to take a second place to the politics of nuclear waste.

I think it may be helpful, Mr. President, to respond and to go into a little of the history of the program.

In 1982, the Congress enacted the Nuclear Waste Policy Act. I think the Congress attempted to develop a sensible policy. Its underlying premise is that we should search the entire country looking at various types of repositories. We would look in the New England States of America for granite, look in the Southeast for salt domes. We would look in parts of the West for a volcanic material called tuff. Those three sites would be evaluated and studied—"characterized" is the technical terminology that is used. And those three sites would be forwarded to the President of the United States, and the President would make a decision.

The law also contemplated that there would be regional bounds, or equity; that is, no part of the country would bear the entire burden of the Nation's nuclear waste disposal.

Mr. President, no sooner had that policy been signed into law by President Reagan in the early part of 1983, than immediately politics became a driving force. In the campaign year that ensued, candidates for the Presidency asserted that, if elected—the promise was made to constituents of particular States that those States would be off limits in terms of being considered for a nuclear waste repository.

Indeed, the Department of Energy itself was immersed in the politics of nuclear waste and in an internal memorandum concluded that New England with granite as a possible repository site would be eliminated because the politics—the politics, not the science, Mr. President—would be too difficult. So one particular region of the country would be written off.

Ultimately it was decided that a repository should not attempt to be sited east of the Mississippi River, not because of the science, not because of the geology, but because of the politics.

So I repeat, Mr. President, this is a program that has been driven not by science, but by politics and with the imposition of totally unrealistic time lines.

That is not just the conclusion of the Senator from Nevada. That is the conclusion of virtually every independent comment or observation. The technical review committee, the General Accounting Office, and others have all lamented that politics and unrealistic deadlines have caused the problem.

Mr. President, fast forward to 1987, 5 years after the enactment of the Nuclear Waste Policy Act. In a conference report done in the still of evening, without an opportunity to debate the merits of this amendment, an addition was inserted into the conference report which indicated that rather than three sites being studied or characterized, only one site would be studied and that site would be Yucca Mountain in Nevada.

I know of no scientist worthy of that name who would assert as a matter of public policy and good science that that was a sensible judgment. And yet the politics dictated that the State of Nevada, a small State with a small congressional representation, should be targeted out as the site and the only site to be characterized.

This was not done in the context of public policy debate. It was not done where the representatives of Nevada had an opportunity to debate the merits or demerits. This was done surreptitiously in a conference report, and as the Members of the Chamber fully understand, that means that it is impossible to debate an amendment to remove that provision up or down.

I wish I could say that that is the only tragic experience that the State of Nevada has had with the politics of nuclear waste. In 1992, the issue before the Congress was in an energy bill. In neither the House nor the Senate was debate or consideration given, as that piece of legislation was processed, to a reduction of health and safety standards that would apply only at Yucca Mountain.

Once again, Mr. President, the State of Nevada was victimized by having a provision inserted into the energy bill that had not been debated, had not been considered by the Members of either House, and was added to the conference report. Once again, the State was disadvantaged in terms of raising legitimate public health and safety issues because the conference report is up or down, no opportunity to amend.

The 1987 amendments are known ignominiously in Nevada as the "screw Nevada" plan. The 1992 amendments are "screw Nevada II," and I am afraid that we are about to see unfold in this Congress what might be "screw Nevada III."

Mr. President, the State of Nevada continually seems to be focused with a nuclear bull's-eye on either Yucca Mountain or the Nevada test site. As in 1981 when the Away From Reactor Program was debated, again we hear the hysteria beginning to mount that unless we provide for interim storage, nuclear reactors will close and, indeed, regions of our country may be left without power.

Nonsense. No nuclear reactor closed in 1981 as a result of the failure to adopt the AFR program. And no nuclear reactors are about ready to close today because of the failure to provide for an interim storage.

There are two provisions, Mr. President, that currently exist in the Nuclear Waste Policy Act that I apprehend are in danger. One is a matter of fairness. One simply states that if a State is being characterized, studied, evaluated for the permanent high-level nuclear waste repository, it may not be designated as an interim storage, an MRS, monitor retrieval storage. Nuclear waste, whatever one feels about the propriety or the soundness of pursuing nuclear power, ought not to be the burden of a single State. And the Congress in 1992, to effect some semblance of fairness, made that point that if you are being considered for the permanent repository, you ought not to have to be considered for the interim storage.

Recognizing another political fact of life, a reality, the Congress further concluded that an interim storage ought not to be selected until after the permanent site is selected because of the concern that everybody in this Chamber fully understands, that once an interim site is chosen, it will de facto—de facto—become the permanent site. That is the state of the record.

What is involved with all of this hysteria about the need to have immediately an interim storage? It is the hysteria and propaganda of a nuclear power industry. Current law authorizes on-site storage, called dry-cast storage, and a number of responsible nuclear utilities have availed themselves of it.

Not far from the Nation's Capital, I was privileged to visit such a nuclear reactor site in Calvert Cliffs where onsite dry-cast storage currently exists. It results in no change in the law and is available as a result of it having been licensed by the Nuclear Regulatory Commission.

This provides a window of opportunity of approximately 100 years for us to deal responsibly and sensibly with the issue of nuclear waste and not driven by the immediacy of the politics nor of the unrealistic deadlines that are being thrust upon us.

I know most Members of the Chamber would assume Nevada is the only one with a dog in this fight. That is simply not the case. Mr. President, there are 43 States that will be affected by the transfer of nuclear waste across the country. Some of the largest cities in the country, some of the most populous areas will be affected by some 16,000 shipments that literally will move from every point on the compass.

Not only do we apprehend the possibility of an accident, there are literally hundreds and hundreds of derailments each year in which a shipment of high-level nuclear waste could be the subject of an accident, more recently in Hyder, AZ, as we tragically found out the possibility of an act of terrorism. I cannot think of a more inviting target: a train load of high-level nuclear waste en route to a major metropolitan area to be targeted for an act of terrorism. As we have learned in the Hyder, AZ, incident, it took but a matter of minutes and did not require much sophistication to effect that tragedy.

Mr. President, in this Congress, we have heard a lot about State's rights. Most of the debates in the major pieces of legislation that we have had have constantly emphasized the importance of returning to the States, to abandon the notion that the Federal Government has preeminent wisdom on major public policy issues, to allow the States to make decisions for themselves.

It is for that reason I find it inconsistent with that philosophy that a number of my colleagues in the Chamber are suggesting that the Federal Government must preempt local government decisions and somehow formulate this policy of having an interim storage site chosen by this Congress and the site to be chosen is Nevada. That makes no sense to me, Mr. President, and I see no reason why that need be done.

I might also point out to my colleagues that there is a certain hypocrisy. A number of my colleagues have gotten up and have expressed their strong support and commitment for nuclear power. Many apprehend that the industry, which is on its death bed in terms of its economic vitality and its prospects in the financial markets of the world, they believe passionately that locating an interim-storage site will regenerate interest in terms of the financial markets in the country in nuclear power. That is fine if they believe that. We have heard impassioned pleas by the distinguished senior Senator from Louisiana.

Let me just say to my colleagues that those of you who believe that a nuclear power future is the future that you envision or contemplate for America, and if you think that that is the kind of public policy we need to adopt, volunteer your own State. Volunteer your own State. The current law permits a State to step forward and say, "Look, we will voluntarily accept an interim site," and if that is what you believe and you are honest with your convictions and consistent with your convictions and believe it is in the national interest, then go ahead and volunteer your own State.

What I take strong exception to and bitterly resent is the notion that somehow only Nevada can be the solution for the interim and the permanent nuclear waste problem in America. I do so, Mr. President, because Nevada has not chosen to have a nuclear power future. We have no nuclear reactors in Nevada. We do not want nuclear reactors in Nevada. We had no part of the decision made by many States to locate nuclear reactors in their own States and their own communities, and Nevada ought not to be called upon to bear the burden of the Nation's high-level nuclear waste when it neither sought such a policy nor participated in the decision of other States to do so.

So, end this hypocrisy for those of my colleagues who want nuclear power to continue as a source of energy for America. Step forward and do the responsible thing if that is what you believe: Volunteer your own State. You can do so, but leave my State out of that equation, because we did not buy into the nuclear bargain that you did.

Mr. President, I thank you, and I yield the floor to the distinguished Senator from Massachusetts.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Massachusetts.

MIDDLE EAST PEACE FACILITATION ACT AND STATE DEPARTMENT REORGANIZATION

Mr. KERRY. Mr. President, during the interval, I had an opportunity to visit with the majority leader, and I think that we have agreed to try to find a way to resolve some of the impasse here. But I would just like to say for the Record, and I think it is a very important principle that we need to try to set out on the Senate floor at this time with the hopes that it will enable us to depart from a new point tomorrow with respect to the issue of the State Department reorganization and the reauthorization bill, S. 908.

There is currently a direct linkage, regrettably, between the passage of the Middle East Peace Facilitation Act and the arrival at an agreement by the managers of S. 908. I would simply like to say for the Record, and I do not intend to go on at great length about this or to try to create a firestorm of any kind, but I do want to say for the Record that there are many, many Members on the Democratic side, and particularly all of the members on the Democratic side of the Foreign Relations Committee, who feel very, very strongly that it is inappropriate to link the Middle East Peace Facilitation Act to a reorganization, an internal reorganization of departments of foreign policy in this country.

One represents an internal bureaucratic decision; the other represents an agreement by the United States of America, signed by the President of the United States, to engage in a certain set of actions with respect to a very volatile issue universally accepted to be one of the most complicated and important to the United States and to other countries in the world.

Our ally, Israel, does not deserve to have the peace process made hostage to a bureaucratic decisionmaking process in this country. My hope is that in order to permit us to go forward, we can be told that that linkage will not exist; that that linkage is inappropriate. I think the time is of the essence here, because this facilitation act will expire within hours—the next 24 hours—and we have a small window of opportunity here to try to correct this situation.

I might also add, Mr. President, and I say this purely for the purposes of making the Record clear as to where we stand, that there are now 18 nominations being held up within the Foreign Relations Committee; the START treaty is being held up within the Foreign Relations Committee, and the chemical weapons treaty is also being held up. Clearly, there is a lot of hostage-taking here, and while I understand completely the desire of the chairman to move in a certain direction, I think it is equally important that we try to do so with comity, within a collegiate atmosphere and with bipartisanship, because foreign policy has always been stronger when we are bipartisan.

Let me also say for the Record, I heard the majority leader—and I had a chance to talk with him briefly now—earlier today express his concern that somehow additional requests were made of Senator HELMS at a sort of subsequent, post-meeting time that somehow upset the negotiating process. And I simply want to clarify, for the RECORD, that we have had a series of meetings with Senator HELMS. In fact, on September 29, late in the evening, we entered into a unanimous-consent agreement which said that after the managers of the bill have agreed on a managers' amendment, S. 908 would come back to the floor. Subsequently, we went to work trying to reach some kind of an agreement.

We had a series of meetings over a period of weeks, and during the course of those meetings, we managed to pull together a certain number of proposals that we made to Senator HELMS, including a specific figure of reductions. During the course of the meeting with Senator HELMS, he indicated that the offering of reductions was not sufficient and that, therefore, there was really no room for further discussion at that time. And so the meeting, Mr. President, really terminated prior to our having completed all of the issues.

Subsequent to that meeting, as progress was made in an offering on the numbers and other issues, it became apparent that there might then be more room for discussion, and so those items that were simply never reached during the course of that meeting were put on the table, as they had been, I might add, in previous discussions.

I have secured from the administration a finite list of items. I have indicated to Senator HELMS that that list will not change, and it has not changed. I have indicated to Senator HELMS that we have even screened out a number of issues from the list that we gave him, which the administration gave us, that we thought were important, but which members of the committee felt strongly that they did not want to delete. So it is already a reduced list.

There is one final issue that the majority leader referred to which we think is a fair issue for concern. As we currently stand today in the Senate, a united Democratic caucus is unwilling to allow this bill to move for the simple reason that the caucus objects to having a one-sided process foisted on it, where there is not some kind of give in the legislative process. And so we are concerned that, without some agreement about a Senate position, a Senate consensus, if you will, that we arrive at to go to a conference without some assurance that the Senate position is the position we will try to achieve out of the conference, to effectively do nothing now, because it means that whatever we pass here, without some assurances about where we will go with respect to the Senate position in the conference, would simply open the bill up to be completely rewritten in the conference. So we would simply be back where we are, in a position of not having really furthered the legislative process whatsoever and having forced the Democratic caucus to then come back and filibuster the conference report, which takes none of us anywhere.

So the purpose of the agreement we reached on September 29, where we released the Middle East peace facilitation program in order to arrive at the agreement of the managers' amendment, we said the following: We entered into a unanimous-consent agreement that we would turn to S. 908 after the managers of the bill have agreed on a managers' amendment.

Now, if we have agreed on a managers' amendment, and that is the reason we allowed the bill to come to the floor, what would the purpose be of taking that position and simply throwing it out the window as we go to the conference? So we have simply asked that as we go into the conference, there be some agreement. We are not unwilling to change what we do; we are not unwilling to suggest that the House might not have a better proposal, or that some other proposal might not be put in front of us at a later time; but we believe that there ought to be a de minimis position that the Senate has arrived at and that, by consensus, we would agree on further changes, not that changes could not be made.

That is not an uncommon position for the U.S. Senate to take. We often instruct our conferees that the position taken in the Senate will be the position. We have instructed conferees that we will not recede from a certain position. Indeed, when we have had 87 or 90 votes on a particular issue in the Senate, that has almost automatically dictated that was the consensus position of the Senate—that we would not recede from it.

So we do not think we are asking for anything unreasonable, Mr. President. One of the great difficulties here is that, in the unanimous-consent agreement we came to with the chairman of the committee, there are only 4 hours of debate and only one amendment. If we are to come to the floor with a managers' amendment and only one amendment, and that amendment is to contemplate a full reorganization structure with major reductions which would affect salaries, posts, post closings, and administrative capacity, we have to make sure that it is correct. That is not easy. We have to make sure that we have really crossed the t's and dotted the i's and come to an agreement that we can all understand.

So I say again to my friend, the chairman from North Carolina, that we are prepared to sit tomorrow, but we are not prepared to sit in a hostage situation. We need to know that the committee business can move forward, and we need especially to know that this particular peace initiative, which is so vital to our ability to move forward in the Middle East, will not be linked to this particular effort.

I cannot emphasize that enough. We are at a critical point in the Middle East peace process. Israel's withdrawal from the West Bank town of Janin has just begun. The Secretary has just arrived back from Oman, from the economic summit, where the United States and Japan and Europe are working with countries of the Middle East to finalize the initiatives for the development of the West Bank and Gaza economy. And with the passage, only a week ago, of the Jerusalem initiative in the Senate, it is really even more important that the U.S. Senate fulfill its role, together with the administration, in representing the United States, that we fulfill our role as a facilitator and an honest broker in the peace process.

Our policy in the Middle East has always been bipartisan, and we believe that some things should be above politics. And peace in the Middle East is clearly one of them. So the delinkage, we believe, is extremely important, and holding a critical piece of legislation hostage to a proposal about how the foreign affairs bureaucracy in this country is organized, I think, undoes some of that facilitation capacity and honest broker perception.

So it is my profound hope that tomorrow we will all make wise decisions dealing with these two items and come to an agreement on a managers' amendment, which I believe is possible. I hope we will do that.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Maryland is recognized.

Mr. SARBANES. Madam President, I question this whole idea of linkage. I do not think it has legitimacy. I have never seen it used to this degree, or in this manner, in the 19 years that I have been in the Senate, and I think it is very harmful to the national interests of the United States.

Now all of us have bills we would like to see get enacted. There is a process one goes through in order for that to be accomplished. Senators can oppose that, and of course under the rules of the Senate, if enough Members are in opposition you may be required to gain 60 votes in order to limit debate, in order to get to the consideration of the legislation.

Now, the reorganization plan for the foreign policy agencies of the Government is highly controversial. It has very severe and significant foreign policy implications. Some support it, some oppose it, some are in between. They support some parts of it, oppose other parts of it.

Many objective outside groups who deal in the foreign policy field are critical of one or another aspect of the proposal embraced in the plan put forward by the chairman of the Foreign Relations Committee.

Now, that bill was not a bipartisan product out of the Foreign Relations Committee—just to the contrary. It has been highly controversial ever since it has been brought out of the committee, in my judgment.

Now, that is one problem: what is to be done on the reorganization.

A different problem has been raised by the linkage of the reorganization with every other matter in the foreign policy field. Now, it is graphically demonstrated at this particular time because we have the situation of holding up the Middle East Peace Facilitation

Act, which expires at midnight tonight and needs to be extended.

Of course, failure to extend the Middle East Peace Facilitation Act could cause serious harm to U.S. national interests and to the cause of peace in the Middle East more generally. I will not go into all the provisions of the MEPFA because it is a matter that has been considered here before.

It has been moved through by overwhelming support in the Congress. If the United States fails to play its role in that process, other nations will cease to play their part. Of course, the efforts to move towards peace will be severely hampered. It is clearly a matter of vital national interest and it ought not to be held hostage.

Now, this is not the only hostage that is being held. In fact, the list is very, very long indeed. I do not intend tonight to address all aspects of that. I do want to make the point that in effect everything on the Foreign Relations Committee agenda is being held hostage in the insistence that capitulation be made in order to gain their way on a substantive piece of legislation.

The ambassadors are being held up, the START II treaty is being held up, the Chemical Weapons Convention, the Convention on Biological Diversity, the Law of the Sea Treaty, more than a dozen bilateral investment treaties, mutual legal assistance treaties and extradition treaties are being held up.

Some of these treaties may well turn out to be controversial. Others are not. In any event, we ought to be able to deal with them. We ought to have a business meeting of the committee and address them, report them out, amend them, turn them down—whatever the will of the Members may be on the substance of the matters that are before the Senate.

Now, I have seen ambassadors held up on occasion—usually one or two of them—but I have never seen this unprecedented situation. There are currently 18 ambassadorial nominees in the committee who have had their hearings and are waiting to be reported. Some have had their hearings as far back as early and midsummer. They have been waiting for months now for movement on their confirmation. Others have their files completed and are awaiting hearings. There is also a large number of Foreign Service officers whose promotions are being held up.

This situation is very disturbing for three related reasons. First, it is unfair to the individual nominees and their families who have absolutely nothing to do with this consolidation proposal. The play of the game is that the chairman and others support a certain consolidation proposal, and they in effect say if we do not get our way on it we are not going to allow any other business to be transacted. We will not act on these ambassadors. We are not going to act on these treaties. We are not going to act on any other matter before the committee.

It has been highlighted here of course because we have this pressing issue of the Middle East Peace Facilitation Act which expires at midnight tonight.

These nominees that are being held hostage—our Foreign Service officers—are not being held hostage by foreigners; they are being held hostage right here in the U.S. Senate. It is very unfair to the individual nominees and their families. They are being punished for reasons completely unrelated to their nominations.

Secondly, I think it is symptomatic of a very disturbing trend towards disparaging and undermining the professionals in the Foreign Service.

Finally, I think it is clearly contrary to the national interests of the United States.

Now, many of these nominees have families. They have children who should have started school in the places to which they are expecting to be sent. They have made arrangements in their personal lives to undertake this responsibility and they are being taken hostage not for an issue that involves their nomination—that is a different matter.

None of this involves the nominee or the nominee's record. It is an issue totally unrelated to the nominee. They are being used as hostages in order for people to gain their way on a completely unrelated issue.

Now, U.S. interests also suffer, and I think suffer severely by our failure to send these ambassadors out to assume their jobs. I do not know that I need remind my colleagues about the danger connected with this line of work.

The fact of the matter is in the last 25 years more ambassadors have lost their lives in service to their country than have generals in the armed services. There is an honor roll in the State Department of the men and women who have lost their lives serving the Nation.

Not having these ambassadors out there at their posts only can hurt the United States. They are not there promoting U.S. interests such as human rights, conflict resolution, antiterrorism, counternarcotics cooperation, encouraging U.S. exports. They are not there to assist U.S. tourists or business people. They are not there to deal with sensitive situations. They are not there to promote U.S. good will and to represent American values and ideals. Some of these are countries like Malaysia, South Africa, Indonesia, Pakistan, China, Lebanon. Let me just quote from a letter that was sent by the American Academy of Diplomacy. The American Academy of Diplomacy is chaired by the former Secretary of State, Lawrence Eagleburger. Lawrence Eagleburger is cited by the chairman of the committee in support of his reorganization proposals. In fact, he testified in front of our committee in support of certain aspects of the reorganization proposal which the chairman now is trying to leverage through. He will not take it on its own and deal with it through the regular process. He wants to hold all these other things hostage to it.

Let me quote from the letter the Academy sent on this very issue:

> The Academy has taken no position on the authorization bill which is currently in contention. But it does not believe the country's larger interests are served by linking action on that bill to the ambassadorial nomination process. Doing so would leave the United States without appropriate representation in these countries at a time of dramatic, historical, global change. We believe that decisions on America's diplomatic representation abroad, including both the timing of such action and the qualifications of those nominated, should be made strictly on the basis of our interests in the country involved.

I think that is very well put. I commend the entire letter to my colleagues.

I ask unanimous consent to have it printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. In addition to holding these Ambassadors hostage, the chairman is refusing to take action on a number of other very important matters before the committee, a number of very significant treaties. We have completed hearings on the START II treaty. Agreement has been reached on all the substantive issues relating to that treaty, but no business meeting has been scheduled to consider it. We have not moved on the Chemical Weapons Convention, the Convention on Biological Diversity, and the Law of the Sea Treaty. More than a dozen bilateral investment treaties, mutual legal assistance treaties and extradition treaties are being held.

So, Madam President, I will not go on at greater length. It is late into the evening. There are a number of other observations I would like to make on this ambassadorial issue because I think we are being terribly unfair to a lot of people, people who really put their lives on the line and are disparaged, often, here in the Congress in the course of debate, in a very unfair way.

These attacks on these professionals are extremely unfair. They are losing their lives. Then we are told that they wear long coats and high hats and live in marble palaces.

Ambassador Robert Frasure lost his life in Bosnia. He was not wearing a long coat and high hat. In fact, as State Department spokesman Nicholas Burns put it, "he was riding in an armored personnel carrier and wearing a flak jacket, not striped pants." His wife recently wrote a very moving letter to the editor of the Washington

Post, in the course of which she said, in defense—it should never have been necessary for her to have to defend—but she said:

> Our diplomats are some of the finest, bravest, most courageous people I have ever met. In the past 10 years alone, my husband and I mourned the death of seven of our friends and embassy colleagues.

She then goes on to list them.

She says, commenting about these remarks that have been made, about the long coats and the high hats and the marble palaces:

> I am outraged also because I remember the dangers as well as the many hardships our family endured in Bob's 20-year career.

So, Madam President, I just took the floor to challenge the fundamental premise of the legitimacy of this linkage. I have never seen it done in this manner or to anything approximating this degree. It is my strongly held view that very important national interests of the United States are being sacrificed.

I yield the floor.

EXHIBIT 1

THE AMERICAN ACADEMY OF DIPLOMACY,
Washington, DC, August 9, 1995.

Hon. JESSE A. HELMS,
Chairman, Senate Foreign Relations Committee, Washington, DC.

DEAR MR. CHAIRMAN: The Academy has noted, according to press reports of August 2, that following a deadlock in the Senate on the State Department authorization bill, a hold would be placed on 17 ambassadorial nominations and that committee action was being canceled or postponed on 22 other nominations subject to Senate confirmation.

The Academy has taken no position on the authorization bill which is currently in contention. But it does not believe the country's larger interests are served by linking action on that bill to the ambassadorial nomination process. Doing so would have the United States without appropriate representation in these countries at a time of dramatic, historic global change.

We believe that decisions on America's diplomatic representation abroad, including both the riming of such action and the qualifications of those nominated, should be made strictly on the basis of our interest in the country involved.

Sincerely,

L. BRUCE LAINGEN,
President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Madam President, I thank the Senator from Massachusetts, [Mr. KERRY], and the Senator from Maryland, [Mr. SARBANES], for their remarks and their thoughts. I absolutely agree it is inappropriate to link MEPFA to the State Department legislation. I do not recall in the years I have been in the Senate, 35, or as chairman of the committee, any similar action being taken.

Mr. SARBANES. Will the chairman yield on that point? When did the former chairman, if I may say, the very distinguished former chairman, go on the Foreign Relations Committee?

Mr. PELL. I think it was 1964.

Mr. SARBANES. So the Senator has been on it more than three decades?

Mr. PELL. Correct.

Mr. SARBANES. Has my colleague ever seen anything comparable to what is now taking place?

Mr. PELL. No, and that is the point that bothers me.

Mr. SARBANES. I thank the Senator.

Mr. PELL. I think we should deal with the question of the extension of MEPFA on its merits and the merits clearly lie with the quick passage of the short-term extension. We should not, as Senator KERRY noted, trifle with the peace process for the sake of reorganizing our bureaucracy. We should pass MEPFA now with no linkage.

In this regard, I am particularly struck by the words of the Senator from Maryland. I know I am correct in saying I am the only former Foreign Service officer in the Senate. Because the Foreign Service was only created in 1926 under the Rogers Act, I think I am the only Foreign Service officer ever to have served in the Senate. I would also point out this linkage that is being created by the chairman of the committee not only sets a bad precedent, but is a linkage that should never have been made in the first instance. It has not been done in the past and it would be a great sin to move this way now.

I also congratulate the Senator from Massachusetts on his handling of this debate on this matter. As chairman, and now ranking member, of the International Operations Subcommittee, he has done an outstanding job.

I promised to limit myself to 4 minutes, and I think I have complied.

The PRESIDING OFFICER. The Senator from New Hampshire.

LOUIS BEAULIEU

Mr. SMITH. Madam President, I rise for just a brief moment to pay tribute to a friend who has passed away recently. I wanted the Senate to have some idea of what a great man he was.

Mr. President, my good friend Louis Beaulieu was born March 26, 1924. He passed away this year on his 71st birthday, March 26, 1995.

Mr. President, Louis Beaulieu was not only a friend for over 15 years, but a great American patriot. No, you would not recognize his name with the likes of George Washington, Thomas Jefferson, and Thomas Paine, but if Louis Beaulieu had lived in 1776, he would have stood shoulder-to-shoulder with those great Americans as they carved out a nation. Louis Beaulieu had the same trust in God, love of family, patriotic spirit, and sense of honor that characterized the Founding Fathers that Louis admired and loved so much.

I want to take a few moments to share with my colleagues a little bit about Louis Beaulieu's life.

Louis lived his entire life in Newmarket, NH, and he shared his last 46 years with his wonderful wife, and my close friend, Lois. Together they had seven children, Judy, Jeanne, Janie, Joanne, Janet, Jill, and Louis. For those 46 years Louis also owned and operated a small business side-by-side with Lois. "Beaulieu and Wife Auto Towing and Salvage" was the name Louis gave his business, illustrating his clever wit and unpretentious personality.

Louis left his hometown of Newmarket to serve his country during World War II in the U.S. Army. He was stationed in Bremen, Germany where he was in the counter intelligence corps as well as a French language interpreter.

Louis' patriotism and sacrifice for freedom was further exemplified by his membership in the American Legion and the Veterans of Foreign Wars.

He served his community as a member of the Newmarket Lions Club and the Newmarket Historical Society, and tirelessly devoted his energy to the Amos Tuck Society, New Hampshire Right to Life, Gun Owners of New Hampshire, the National Rifle Association, the National Federation of Independent Business, the National Chamber of Commerce, and the Portsmouth Chamber of Commerce, and, of course, the campaigns of BOB SMITH as Congressman and Senator.

Louis was a hardworking small businessman, a devoted husband and dad, a veteran, and a dedicated community leader. Louis was also a bedrock conservative and was one of the first people who supported me back in the early days when it was "BOB who?" Lois and Louis were both confident that I would win a seat in Congress and bring our brand of yankee conservatism to the ways of Washington. Without their efforts, I would not be serving here today in the Senate realizing my dream—and theirs.

Louis did it all—he made signs, passed out brochures, raised and gave money, attended rallys, hosted events, and campaigned tirelessly for me over the years—always with his wife, Lois, at his side. He did it all with humor, grace, and sincerity and he never asked for anything in return. He was the essence of everything good about America, and everything good about politics. He cared, and he worked tirelessly to make America a better country. And he succeeded in doing just that.

When we lost Louis, we lost a true American patriot, and a very special man. Lois lost a devoted husband, the children lost a wonderful father, and I lost one of my best friends.

I will miss my friend very much. Without the sacrifices that Louis made on my behalf, as I said, I would not be here in the U.S. Senate.

I will do my best in the remaining years that I serve here to strive to remain worthy of the faith, trust, and confidence that Louis Beaulieu had in me, and I will continue to work for the same values and the same principles that Louis so long espoused. In so doing, his legacy will live forever.

Louis Beaulieu, "thanks for the memories", and the friendship.

Madam President, I ask unanimous consent that a tribute written about Louis' wife, Lois, on the eve of his passing be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LEGACY OF LOUIS BEAULIEU

(By Lois Beaulieu, March 25, 1995)

My Louis is a legend in his time; he left us a legacy of hope, love, patience and perseverance. And he planted so many seeds in us all. They will be nurtured and grow with his memory and his spirit which is all around us and will live forever.

Louis goes far and wide, deep and lasting in our memories and our hearts forever.

Family, friends and loved ones are being cleansed and there is a healing process so miraculous he would be proud.

He was a good husband, father and friend to all who knew him.

Our life together was a beautiful adventure in all we did together. We laughed and loved and cried but always together, good and bad, mostly all good. The memories—oh so many memories—he left with us all.

God, thank You for our 46 years together. I know we all belong to You and someday You will call us home to be with You and Louis.

Thank You God for our seven beautiful children: our Judy, Jeanne, Janie, Joey, Janet, Joanne, and Jil. Our seventeen grandchildren: Laura, David, James, Jason, Joshua, Javelle, Jamie, Jennifer, Jeremy, Shelby, Mark, Joseph, Jayne, Manny, Joel, Jacob and three great-grandchildren that Louis lived to see and hold and rock: Lucas James, Sadie Anne and 3-week-old Sarah Beth. Oh how he loved his family.

He was a proud man and so proud of his wife and told me so often. So, so proud of his bang family and bragged about them all the time.

So proud of his business, Beaulieu and Wife we built from the bottom up. He was a great worker, a great lover, a great father, grandfather and great grandfather and—yes—even Santa Claus.

He was also a great friend and pal and buddy to all who knew him.

He loved life, he loved living, he loved working, and he loved his wife and family.

Louis loved his God and Savior, Jesus Christ. He is truly a legend, a one of a kind.

He is imbedded in our hearts forever. His spirit is alive and well and we feel his presence always around us.

Au Revoir, my love, your wife forever and ever—until we meet again—Lois.

Mr. SMITH. Thank you, Madam President.

PRESIDENT STONEWALLING ON AMERICAN POW'S AND MIA'S

Mr. SMITH. Madam President, I want to turn to a subject that has long been an area that I have worked on over the years, and I have come to the Senate floor today to report to my colleagues and to the American people on what I consider to be a very disturbing track record by the administration on the issue of unaccounted for American POW's listed as missing in action.

Many of my colleagues are well aware of the deep concern that I and others have had on the POW/MIA issue as a result of some of the previous debates we have had in the Senate concerning United States policy toward Communist Vietnam. But I do not think some of my colleagues or the American people are generally aware of the extent to which this administration is continuing to stonewall and drag its feet in efforts to resolve key questions on this POW/MIA issue. Although the administration's rhetoric might suggest otherwise, the facts show that many leads which could resolve the uncertainty of our missing are not being pursued with vigor.

That is a sad statement to have to make, Madam President. But it is true. And in some very important areas information is deliberately being withheld from Congress in addition to information still being withheld by Communist countries abroad.

This is an outrage, Madam President. It is bad enough that Communist countries are still withholding information about the remains of our servicemen after all these years. But when our own Government deliberately withholds information that would shed light on this issue, it is especially outrageous. It is a very serious comment to say that our own Government is deliberately withholding information. But I am going to prove that on the floor of the Senate as I continue my remarks, because of the administration's actions and inactions which I shall explain in detail in a few moments.

Communist Vietnam, Communist Laos, Communist North Korea, and Communist China are all being let off the hook on key questions regarding missing American servicemen and women.

As a Vietnam veteran who served this country in the United States Navy, and as a member of the Senate Armed Services Committee, I find the administration's track record on this issue deeply offensive. I am going to explain why. But before I do, I think it is important for people to have a perspective of where I am coming from on this issue.

Many of my colleagues have worked on this issue in the past. Many are familiar with some of the things that I have done. I do not think I would be presumptuous if I said that I considered myself to be somewhat of an expert on this issue. I have worked on it for 11 years. Before coming to the Senate in 1991, I spent 6 years in the U.S. House of Representatives where I was a member of the POW/MIA Task Force, and there I worked to get access to my own Government files that they had in their possession to the families of the missing.

When I came to the Senate in 1991, I introduced legislation which ultimately formed the Select Committee on POW/MIA Affairs. Along with Senator KERRY, I cochaired an 18-month investigation by this committee which sunset at the end of the Bush administration.

Our work has been criticized, and some of that criticism is justified. However, I do not think anyone would dispute the fact that our committee played a pivotal role in helping to open many of our Government's files on the POW/MIA's from the Vietnam war. We held numerous hearings, deposed hundreds of witnesses, and learned a great deal about policy decisions that were made on the POW/MIA issue at the end of the Vietnam war.

I am convinced that our work on that committee forced the Government of Vietnam to do more than to resolve to the issue, and, although I am not convinced that Vietnam has done enough, obviously, it did move them and our own Government in the right direction.

Our committee also helped jump start the establishment of a joint commission with Russia which has been researching cold war shoot-downs along with the plight of the Korean war and the Vietnam war POW/MIA's.

I know my colleagues would agree with me that our Government owes just as much to the families from those wars as they do to the Vietnam families.

The Korean and cold war families have been forgotten, Madam President.

I have traveled to Russia on two occasions to hold talks on this issue. I was the first United States Senator to travel to Pyongyang, North Korea, and I went there for the sole purpose of discussing POW/MIA's. In fact, I have been to North Korea twice to discuss this issue. I brought back 11 remains of our servicemen on one of these trips from Korea.

Finally, I have been to Vietnam five times in the years that I have been in Congress, and two of those trips were with Senator JOHN KERRY of Massachusetts.

I point all of this out not to draw to attention to my efforts—I do not want any attention drawn to my efforts—but to underscore that when there is an attempt to dupe those of us here in the Congress by the administration on information, I do not intend to be duped. I continue to follow this issue closely. I know what the President has done, and, more importantly, I know what he has not done. And he knows that I know what he has not done.

When the Senate Select Committee on POW/MIA Affairs sunset in January 1993—and I might add we had to fight for the funding just to keep it going that long—we stated the following in our final report:

> With this final report, the committee will cease to exist, but that does not mean that

our own hard work on this issue will also end. To the extent that there remain questions outstanding that are not adequately dealt with by the Executive Branch, we will ensure that these questions are pursued.

Let me now explain those issues that are not being adequately dealt with by the executive branch, in my judgment. I have here a chart. This is a summary of several POW/MIA-related provisions from last year's National Defense Authorization Act.

I want the American people to know that this act was signed into law by the President of the United States, Bill Clinton, on October 5, 1994. It is the law of the land. This is not BOB SMITH's opinion. This is not a congressional resolution. This is the law of the land signed October 5, 1994.

And these POW/MIA provisions that were in this bill right here, those provisions had bipartisan support in this Congress. And, as you know, in 1994 it was the other political party who controlled the Congress. So that further exemplifies the bipartisan support of this legislation.

When something is signed into law by the President, the administration has a responsibility to adhere to it—it is the law—not in a manner that they deem appropriate, but in the manner prescribed in the law. It is now a year later. It is October 1995, 1 year since this law, the Defense Authorization Act, went into effect. I think it is appropriate for us to review whether the administration has fully complied with that law.

Section 1031 requires the Defense Department to assist Korean war and cold war POW/MIA families seeking information about their loved ones. Specifically, the Secretary of Defense was required to designate a point of contact for these families that would assist them, the families, in obtaining Government records on their loved ones and ensuring that these records were rapidly declassified.

This past week I received the following letter from the Korean/Cold War Family Association of the Missing concerning the Defense Department's compliance with this law. I want to read it into the RECORD because it is very disturbing.

[Dear Senator SMITH:]

In response to your letter of today's date, I shall herewith attempt to answer in what manner the Defense Department has complied with Section 1031 [right here] of last year's National Defense Authorization Act by the numbers.

1. Establish an official to serve as a single point of contact for immediate family members of Korean/Cold War MIA/POW's.

That is one of the provisions:

In October, 1994 our association began our requests from the DPMO [or the office of POW/MIA's in the government] to name our Single Point of Contact. Jim Wold [who heads that office] insisted that as the Director of DPMO he was automatically our Single Point of Contact. Once we convinced Mr. Wold that it was feasibly impossible for him to act as such, he agreed to appoint a suitable person. In the first quarter of 1995 we were informed Dr. Angelo Collura would serve as our Point of Contact along with two assistants and at that time were given his phone number. Our ability to reach Dr. Collura by phone has been sporadic at best. On too many occasions, when we were finally able to contact Dr. Collura for follow up to previous requests, Dr. Collura stated he was not able to follow through on questions because he was "pulled off Korean/Cold War to work on Vietnam War."

2. To have that official assist family members in locating POW/MIA information and learning how to identify such information. We were told explicitly that it was up to the families to locate the information ourselves because 1. DPMO was not tasked to do it and 2. DPMO did not have the assets to do it. So obviously we have had no assistance in this. When questioned on the matter, we were referred to the DPMO contract with the Federal Research Division of the Library of Congress. This contract was for the FRD to "gather, copy and deliver to DPMO" documents pertaining to Korean/Cold War POW/MIA held in U.S. archives and agencies. As of July, 1995 20,000 pages have been gathered, copied and delivered to DPMO for families to review. There has been no effort to forward specific case pertinent information to the individual families because no one in DPMO is tasked to do so. This haphazard, certainly overly expensive, redundant method of research was DPMO's intent to comply with an entirely separate section of law. Do we feel assistance has been provided? No.

3. To have that official rapidly declassify any relevant documents that are located? Dr. Collura stated it was not his job to declassify documents and he was getting no cooperation from the section of DPMO whose job it was to declassify documents. "They are too busy with Vietnam," or "DPMO can get no cooperation from the agency which originated that document." To date I know of no documents which have been declassified by our Single Point of Contact.

They go on to say, in conclusion:

Can you tell me what they do other than to spend over $13 million annually ignoring not only the spirit of the laws passed but the very laws themselves? Surely a private business, contracted for half that amount of money, could comply with all the sections of the 1995 Defense Authorization Act pertaining to POW/MIA's and getting information to the families.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

KOREAN/COLD WAR FAMILY
ASSOCIATION OF THE MISSING,
Coppell, TX, October 23, 1995.

Senator BOB SMITH,
c/o DINO CARLUCCIO.

DEAR DINO: In response to your letter of today's date, I shall herewith attempt to answer in what manner the Defense Department has complied with Section 1031 of last year's National Defense Authorization Act by the numbers.

1. *Establish an official to serve as a single point of contact for immediate family members of Korean/Cold War POW/MIAs.* In October, 1994 our association began our requests for DPMO to name our Single Point of Contact. Jim Wold insisted that as the Director of DPMO he was automatically our Single Point of Contact. Once we convinced Mr. Wold that it was feasibly impossible for them to act as such, he agreed to appoint a suitable person. In the first quarter of 1995 we were informed Dr. Angelo Collura would serve as our Point of Contact along with assistants and at that time was given his phone number. Our ability to reach Dr. Collura by phone has been sporadic at best. On too many occasions, when we were finally able to contact Dr. Collura for follow up to previous requests, Dr. Collura stated he was not able to follow through on questions because he was "pulled off Korean/Cold War to work on Vietnam War."

2. *To have that official assist family members in locating POW/MIA information and learning how to identify such information.* We were told explicitly that it was up to the families to locate the information ourselves because 1. DPMO was not tasked to do it and 2. DPMO did not have the assets to do it. So obviously we have had no assistance in this. When questioned on the matter, we were referred to the DPMO contract with the Federal Research Division of the Library of Congress. This contract was for the FRD to "gather, copy and deliver to DPMO" documents pertaining to Korean/Cold War POW/MIA held in U.S. archives and agencies. As of July, 1995 20,000 pages had been gathered, copied and delivered to DPMO for families to review. There has been no effort to forward specific case pertinent information to the individual families because no one in DPMO is tasked to do so. This haphazard, certainly overly expensive, redundant method of research was DPMO's intent to comply with an entirely separate section of law. Do we feel assistance has been provided? No.

3. *To have official rapidly declassify any relevant documents that are located?* Dr. Collura stated it was not his job to declassify documents and he was getting no cooperation from the section of DPMO whose job it was to declassify documents. "They are too busy with Vietnam." or "DPMO can get no cooperation from the agency which originated that document." To date I know of no documents which have been declassified by our Single Point of Contact.

Dino, I still do not know what our Single Point of Contact, Dr. Collura does other than to be "pulled off the Korean/Cold War POW/MIAs to work on Vietnam War POW/MIAs", but then after three years of DPMO, I still do not know what DPMO does. Just today I was told by DPMO that it was not a central point of documentation for POW/MIAs. Can you tell me what they do other than to spend over $13 million annually ignoring not only the spirit of the laws passed but the very laws themselves? Surely a private business, contracted for half that amount of money, could comply with all the sections of the 1995 Defense Authorization Act pertaining to POW/MIAs and getting the information to the families.

Again, thank you for your assistance. Without your help, the men and their families would still be in the limbo of 1954. Please see attached final form letter sent to all the families.

Most sincerely,
PAT WILSON DUNTON,
President.

HEADQUARTERS, U.S. AIR FORCE,
Washington, DC, April 16, 1954.

Mrs. GERALDINE B. WILSON,
MacDill Air Force Base, Tampa, FL.

DEAR MRS. WILSON: Reference is made to the letter from General McCormick notifying you that the missing status of your husband has been terminated. In order that you will have all the information presently available to us, I would like to advise you regarding the possible recovery of his remains for return to the United States.

The truce agreement reached with the Communist forces provides for certain activities in connection with the recovery of remains of our honored dead from Communist-held territory. It also provides that the specific procedures and the time limit for the recovery operation shall be determined by the Military Armistice Commission. Until the necessary arrangements for the operation have been completed, we will not know when recovery and return of remains can be initiated.

I appreciate the anxiety you are experiencing, and regret that no information other than that which as now been furnished you is available at this time. You may be sure, however, that we will notify you immediately when further information becomes available.

If I may assist you with any unusual problems or circumstances regarding the above matter, please do not hesitate to contact me. Correspondence should be addressed as follows, to insure prompt delivery to my office:

Director of Supply and Services, Attention: Mortuary Branch, Headquarters, United States Air Force, Washington 25, DC.

Please accept my sincere sympathy in the great loss you have sustained.

Sincerely yours,
L.F. CARLBERG,
Colonel, USAF.

EXECUTIVE SUMMARY

The Secretary of Defense established the Defense Prisoner of War/Missing in Action Office (DPMO) in July 1993 to provide centralized management of prisoner of war/missing in action (POW/MIA) affairs within the Department of Defense. Creation of the office brought together four disparate DoD offices that had been working in the POW/MIA arena for varying amounts of time.

In August 1994, the Director, DPMO, on his own initiative, requested an evaluation of his office by the Deputy Assistant Inspector General for Program Evaluation (PED). We focused our initial work on assessing the processes that provide definition, direction, and structure for the organization. We found that well developed processes in these areas were not yet in place. Specifically, we found that: basic missions and tasks were not well defined or communicated within the organization; no strategic planning process was in place; and the organizational structure was turbulent, poorly defined, and not consistent with current policy guidance regarding organizational layering.

After documenting these observations and providing a briefing to the Director in December 1994, we redirected our work to provide constructive suggestions on defining mission and tasks, establishing a planning process, and structuring the organization at the DPMO. The results of that work are presented in this White Paper and summarized in the paragraphs that follow.

DEFINING MISSIONS AND TASKS

In defining its missions and tasks, the DPMO faces challenges posed by the broad nature of its charter, the different institutional backgrounds of the office's components, and the divergent nature of its internal and external clients. Overcoming these obstacles first requires recognition of the conflicting perspectives that clients and components bring to bear on the operations of the agency. We suggest putting together a specific statement of the organization's purpose and translating it into some general goals as a way to produce awareness of where groups differ on attacking a common problem. This process can also contribute to communication and help foster commitment to the goals that are ultimately established. Only the members of an organization can validly formulate its goals, and the process should incorporate a wide range of input and discussion. However, we do provide some illustrative general goals for DPMO to facilitate our discussion. We recommend finalizing the draft instructions on Missions and Functions as a good vehicle for documenting the results of this effort.

STRATEGIC PLANNING

Carrying out the missions and tasks established by the DPMO means setting up a good planning process. This involves translating the established purposes into more specific objectives or initiatives. Formulating these specific objectives should take into account the internal and external environment and attempt to identify strengths and weaknesses of the organization. The process should also account for the resources needed to reach the objectives and determine ways to measure progress towards achieving objectives. We point out the strategic planning guidelines set forth in the Government Performance and Results Act and urge the DPMO to adopt this model. We suggest that planning efforts should start small and need not wait until full developed strategic plans are in place. We also recommend that the organization adopt performance measures that are simple to apply and linked to the budget process.

ORGANIZATIONAL STRUCTURES

In our discussion of organization structure, we recommend that the DPMO refrain from any ad hoc structural changes until it makes a more systematic assessment of its organizational needs. We analyzed three general alternative ways to divide the work and the assignment of responsibilities and authority in the DPMO:

Alternative 1: The Current Structure With Well Defined Mission and Tasks.

Alternative 2: A matrix-type structure using task forces for specified activities.

Alternative 3: A structure that allocates a significant portion of the work load and responsibility structure by geographic region.

Criteria we present for analyzing structures include clear lines of authority and responsibility, decentralization where possible, and congruence with the strategy of the organization. In formulating the alternatives, we assume that all current functions will remain with the DPMO. The description of each alternative includes any assumptions made concerning the work processes at the DPMO. We believe the alternatives presented are viable alternatives for consideration, in whole or in part, but only those more familiar with the organization can validate our assumptions. Accordingly, we make no specific recommendations on the structure most appropriate for the DPMO.

CONCLUDING REMARKS

In concluding, we recognize the difficulty in setting aside time for such process building. However, in our experience, without the strong leadership that such actions require, the organization will continue to experience difficulty in justifying its resource requirements and completing the assigned mission.

CONCLUSIONS

Likes building a ship while under sail, it is not easy to meld disparate organizational entities together while faced with multiple operational demands. However, that is the challenge faced by the DPMO Our initial research at DPMO led us to conclude that the organization lacked (1) well defined missions and tasks, (2) a planning system to see that major goals were accomplished, and (3) a stable organizational structure that supported effective management.

To assist the office in tackling these areas, we outlined methods that we believe will help the organization define its mission, establish a planning system, and structure its organization. We recognize the difficulty in setting aside time for such process building. However, without the strong leadership that such actions require, the organization will continue to experience difficulty in justifying its resource requirements and completing the assigned mission.

Mr. SMITH. I think the letter certainly sums it up, Madam President. The bottom line is, on section 1031, did the administration comply? The answer is, no, they did not comply. Not only do they not comply, they indicate they have no intention of complying, that they cannot comply, they do not have time to comply.

You have to remember, Madam President, I would point out to you, as one who has worked very closely in constituent services as a Member of the House and Senate, this is not your typical bureaucrat runaround where somebody is trying to find out what happened to some particular thing in the Government or trying to get to the right agency. These are families who lost loved ones, who lost loved ones in the service of their country, and to get that kind of a runaround from people who are told to comply with law is disgraceful.

Let me turn to section 1032. This requires the Secretary of Defense to recommend changes to the Missing Persons Act within 6 months; that is, by April 5, 1995. This is an act from the 1940's that allows the Defense Department to declare that servicemen who became missing in hostile territory are automatically dead after 1 year if no information surfaces indicating who they are.

Senator DOLE, Senator LAUTENBERG, Senator LIEBERMAN and I sponsored legislation to correct this. However, I wanted to allow the Secretary of Defense, to be fair, a chance to submit his own recommendations that we could then work out and reconcile with Senator DOLE's legislation and the Armed Services Committee. I did not try to say I had all the answers. I knew we had problems. We wanted to work it out.

Did we get the report by the end of the 6-month period? The answer is, no, we did not. We did not get it until the end of June, 2 months late. It was obvious the Defense Department made no serious attempts to consult with Members of Congress before submitting what turned out to be an inadequate report. Their delay in submitting the required report has pushed back our own timetable in reviewing this matter. As a result, it remains one of the outstanding issues in the current conference committee deliberations on the fiscal year 1996 Defense Authorization Act.

Congressman DORNAN in the House has worked tirelessly to revise the Missing Persons Act. I want to compliment him for his work. He recognizes the seriousness of this issue, especially as Congress, as we speak, considers sending 25,000 American servicemen into Bosnia, and the White House is leading that effort.

Madam President, we have memos from the Carter administration between President Carter, Secretary of Defense Howard Brown, and National Security Council staff which show in clear terms how the Missing Persons Act was abused, clearly abused, to satisfy other political and foreign policy agendas. There are always other items that move to the surface and push this down. As a result, many Vietnam-era POW/MIA families endured a great injustice as their loved ones were simply written off as dead. These memos clearly show why the law needs to be reformed.

I ask unanimous consent that these memos that I have be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. To sum up on section 1032, Madam President, the record clearly shows that the required report was not submitted by the required date. The administration did not comply. So, again, regrettably the answer is "no" again to the law which was supposed to be complied with in April 1995.

Section 1033 urges the Secretary of Defense to establish contact with the Communist Chinese Ministry of Defense officials on Korean War American POW's and MIA's.

Madam President, we have learned, through declassified CIA documents and through documents obtained from Russia, that the Chinese have a wealth of information—a wealth of information —on missing Americans from the Korean war. In fact, the North Koreans told me that when I visited them in P'yongyang in 1992. They made a point of telling me. They showed me books. They showed me photographs of the camps. And in those photographs, in those books, were Communist Chinese guards.

The North Koreans said, "Senator, we know you're here in North Korea looking for information on American POW's. You ought to talk to the Chinese because they were the ones that ran the camps. They were the ones who packed up the American prisoners and took them across the Yalu River when General MacArthur pushed north."

So, Madam President, section 1033 deals with just that matter that was signed into law on October 5, 1994. Three weeks later, the Secretary of Defense—this is ironic, but 3 weeks later the Secretary of Defense, Dr. Perry, was dispatched to Beijing—not for this issue but another issue more important, more important than this one—where he held high-level meetings with, you guessed it, the Communist Chinese Ministry of Defense officials.

So when Dr. Perry returned, I was excited. The law had passed. It was fresh in their minds. Dr. Perry had been to Communist China meeting with these officials. So I sent him a note and asked him if he raised the subject of unaccounted for Americans held by the Chinese on both sides of the Yalu River during the Korean war. I waited. I never got an answer. Several weeks later, I was informed by a low-level bureaucrat, much to my chagrin, that the subject never came up, never discussed. I was hoping I could say, "Did we get any leads on some information?" The subject never came up. In fact, as far as I know, Dr. Perry was not even made aware of section 1033 by his defense POW/MIA office at the time. After all, we saw the letter to the families. They are not interested. They are not interested.

More than 40 years have passed, Madam President, 40 years, and we still have yet to hold any substantive discussions with the Chinese on missing Americans from the Korean war. Forty years. The families wait.

Just a few weeks ago, I was contacted by the daughter of an American pilot shot down over China—not Korea, China—in the 1950's. Intelligence indications are that the Chinese captured the pilot. He was never heard from again.

What is President Clinton waiting for before he decides to approach China on behalf of the family of this man? How many more years do they have to wait before somebody simply asks the Chinese what happened to him. How many more years? Is that too much to ask? When the Secretary of Defense goes to China for high-level talks, is it too much to ask the Chinese what happened to that pilot that we know was shot down? That is what the Congress recommended. That is what the Congress urged by passing section 1033.

So again I must check the "No" box. Again we come up short. Again the President ignores the law. Again the families wait and wait and wait. No one cares. We do not have the assets. We do not have the resources. We do not have the time. We do not have the interest to be bothered with finding out what happened to that pilot in 1950, do we? Too many other important things to do, is there not?

This is a terrible message for the President who is about to send and wants to send 25,000 more Americans who wear the uniform today into Bosnia—25,000 more Americans into Bosnia, and he cannot ask his Secretary of Defense to ask the Chinese if they know what happened to this pilot and others. I am not holding the President to a standard he cannot meet. I am not asking the President to say absolutely bring him back alive or dead or bring back information. I am asking him to ask the Chinese what happened to him. That is all I am asking.

Section 1034—another section of the law—requires Secretary of Defense to provide Congress within 45 days a complete listing by name of all Vietnam era POW/MIA cases where it is possible Vietnamese or Lao officials can produce additional information.

I am going to skip this section for just a moment because it pertains to Vietnam, and I wish to finish covering the two sections on the Korean war. However, even though I am going to skip it, as you might expect, we are going to check the "No" box here, too, because they have not complied with that either.

This is perhaps the most disturbing affront to Congress, the Vietnam portion, but I will get back to that in a moment.

Let us go to section 1035. This "requires two reports to Congress on U.S. efforts to obtain information from North Korea on POW's and MIA's.

"Do the reports show any progress since October 1994?"

We have a situation where the answer happens to be "Yes." But it further requires the President to seriously consider forming a special commission with North Korea to resolve the issue as recommended by the Senate Select Committee on POW/MIA Affairs in 1993, and the answer to that one is "No."

The remains of those soldiers that we know were in those camps buried in North Korea during the war, where are they? I was allowed to visit, when I went to P'yongyang, the anti-American War Museum in 1992, and I caught a glimpse of their vast archives. It is obvious—obvious—that North Korea has substantial information on Americans that they shot down, captured, or turned over to the Chinese or had taken from them by the Chinese—room after room after room. We were allowed to see maybe half a dozen, maybe a few more, 7 or 8 rooms, in an 80- to 90-room museum full of information on Americans—Americans. It was called the American museum. Some in our Government denied it existed, said there was not any such museum. You are wasting your time to go over there and try to find it. North Koreans denied it, too, but we knew where it was, and we got there.

Let me tell you something. Having served in the Vietnam war and spent 11 years on this issue, to walk through a museum with letters from American POW's that were sent home but never were received at home because the North Koreans intercepted them and hung them up on their walls as trophies, to see photographs of dead

American POW's and live American POW's who had been tortured and suffered, to see it all as the North Koreans proudly displayed with a high-ranking North Korean military officer on either side as I and others walked through that museum, that is tough. That is tough to have to go through.

You know what. As tough as it was, it is not half as tough as coming back here and knowing I cannot get anybody in Government who cares enough to go back over there and try to get answers for these families. That is what is tough.

The key question here is, Do the reports show any progress in these two specified areas? And again the answer to that question is "No." And the reports make it clear. So I think I will check the "No" box again. There was a little "Yes" box here. That is the only "Yes." In fact, the discussions with the North Koreans have been at an impasse now for a long, long time. The North Koreans want several millions from the United States for remains they have already turned over. I am not into that blackmail. We have done that to Vietnam now—millions of dollars for remains, body parts. That is blackmail. It is disgraceful. We should not agree to it. That is not what I talked to the North Koreans about. However, it does not mean that we should not set up a better mechanism to address all of our concerns—remains, possibility that somebody may be, through some heroic effort, left alive, and information, all three, as well as the North Korean concerns about compensation for expenses they can justify.

It was interesting; a South Korean soldier after spending 43 years in a North Korean camp came back alive about a year ago. That did not get a lot of publicity. His picture was not in Time magazine.

It was O.J. Simpson's picture or some rock star's picture, but not this guy.

(Mr. ASHCROFT assumed the chair.)

Mr. SMITH. Mr. President, let me tell you something, he happened to be a South Korean, but what if he had been an American? What if he had been an American? He would have been on Time magazine, would he not? Well, he could have been. He could have been.

I do not know what the President or anyone else in our Government today would have to say to that man, not a young man, not today. What would you say to him when you looked him in the eye when he asked you, "Where had you been for the past 43 years?" What would you say?

That is where the second half of section 1035 comes in. The Congress required the President to give serious consideration to forming a special commission with the North, and this is something the Senate Select Committee on POW/MIA Affairs recommended in its final report. All 12 Senators—Democrat, Republican, liberal, conservative—agreed on this point.

Nonetheless, the administration, obviously, has not given this suggestion any serious consideration, and if they had, they would have contacted me to discuss what the Bush administration and I had already worked out and presented to the North Koreans shortly before President Bush left office. I was very involved in those discussions and there has been no followup with me whatsoever—not one word from the previous administration or this administration, absolutely no interest, no consideration, no interest whatsoever in what those discussions were. I am not a State Department official. I have no authority to negotiate. These were simple discussions, but I thought they might be interested in knowing what we talked about and what we might be able to do as a result of those discussions, but I was hoping for too much.

But, oh, you hear the rhetoric, though, you hear the rhetoric. How we worked so hard, we tried so hard, we have the POW/MIA stamp, we have the ceremonies, POW/MIA recognition day, and we have these great speeches about how we will never forget, "You are not forgotten." Words, Mr. President, they are cheap. There has not been compliance with the second half of section 1035. So we will just check the "no" block there.

Section 1036, require public disclosure of all Defense Department records on American POW's and missing personnel from the Korean war and the cold war that are in the possession of the National Archives by September 30, 1995, 1 month ago. Our National Archives, Mr. President. Not the North Korean's national archives, not the Chinese, not the Russians, our own archives.

Two weeks ago, the administration reported that they had not complied with this section. They need more time, Mr. President. One year was not enough. So Senator KERRY and I have now extended their deadline until January 2, 1996, in the fiscal year 1996 Defense Authorization Act. We gave the administration 3 more months, and it remains to be seen whether they are going to comply.

Open up the archives. Let us see what is in there. It is the Korean war, over 40 years ago. Are there national security secrets in there? What is amazing about this is that Defense Department officials have admitted to me—admitted—and I will not quote them, but they admit it, that they did not even begin to consider whether they would be in compliance with this provision until 10 months after the bill was signed into law.

At that time, when they were asked about it by family members, then they decided they might have to do something. It is not that we did not warn them. In fact, after the law was signed last year, I sent a letter to the Department of Defense reminding them of this obligation. They did not care about the deadline. It is not important. They have too many more important things to do.

So, again, let us check the final "no" box, Mr. President. That is not a very good record, the way I look at it. This is the law. This is the law. These are not simple requests by letters. This is the law. Not one item on there was complied with.

The administration, probably not a very good metaphor, basically thumbed its nose at the Congress and the American people and the families and our Nation's veterans by not complying with the sanctions of this law. I am offended, and every single decent American should be offended. Every mother and father who has a son or daughter poised to go into Bosnia today, sent there by this President or this Congress, ought to be offended.

This is contempt for the laws of Congress, and I know a lot of laws get passed and I know a lot of things are difficult to comply with. God knows I understand that. I serve on the Armed Services Committee and I sympathize with so many of the regulations and laws with which they have to comply. But I have reminded them over and over. I have offered to help. I have given them extensions. Nothing. And yet, if you read any manual on POW's and MIA's today, you know what it will say—try not to laugh, this is the highest national priority—it says in the handbook, "the highest national priority." If that is the highest national priority, I would hate to see what is, really. The President clearly does not care about disregarding this law, and I think the American people are rightfully going to hold him responsible for it.

Let me come back to 1034, the final point on here. This is the section which last year's law pertained to the Vietnam-era POW/MIA cases. This is the most disturbing violation of all, because it occurred during the same period—and this is very offensive to me personally—it occurred during the same period that the President is showering the Communist Government of Vietnam with full diplomatic recognition and expanding the commercial contacts there. In fact, the State Department and our trade representatives are now coming to the Hill to brief congressional staff on further efforts to expand the economic relations, to set up the diplomatic office.

I have stated all along, and fought this every inch of the way and lost, that these initiatives are premature and that they simply amount to nothing more than putting profit over principle. That is what it is.

Section 1034 requires the Secretary of Defense to provide Congress within 45 days—this is not an unreasonable request—within 45 days a complete listing by name of all Vietnam-era POW/

MIA cases where it is possible that Vietnamese or Lao officials can produce additional information. Not additional men, not unreasonable requests, not somebody that was blown up in a fire fight that nobody saw, but POW/MIA cases where it is possible that Vietnamese or Lao officials can produce additional information.

Mr. President, there are 2,170 Americans still unaccounted for from the Vietnam war. We know half of them were believed to be killed in combat at the time of their incident and the other half were listed as missing in action—we know that—which means we did not know what happened to them at the end of the war. That is what it means.

There has been a great debate about how many cases Vietnam really still owes us answers on, how many out of these 2,170 can they legitimately give us answers on. We know they cannot do it all. That would be an unreasonable expectation, because in some cases, frankly, they do not know what happened. There was a lot of concern about some of the wartime photographs that surfaced in the Vietnamese archives on cases where Vietnam had previously said they had no information, no information, do not know what happened to this guy and suddenly up pops a photograph.

So we wanted a case-by-case assessment on this issue. Now you would think that the Department of Defense would have had this information readily available in some type of a database that is constantly updated, if it is the highest national priority. We are trying to find out what happened to the 2,170 men. If we have intelligence information that this or that happened, we ought to be feeding it into a database, we ought to be able to pull it up and send it over here. Wrong.

They spend $54 million a year of the taxpayers' money working on this issue, and they cannot produce a simple list of 2,170 people in which it says on one side this guy was killed in action, here are the witnesses; this guy was captured alive, he was led off, here is the information; this guy was photographed in a POW camp, never came back. They cannot produce it. They cannot do it.

They have the information, Mr. President, because I have read it. I have seen it. Do you know why they do not want to produce the list? I will tell you why. Because if they produce the list, it might screw up the diplomatic relations, mess up the economic gains that American businessmen are going to make by exploiting Vietnam. That is why they do not want to put the list out.

How could the President of the United States—any President—proceed with the normalization of relations with any country—in this case, Vietnam—without first knowing just a simple, basic knowledge of how many cases of missing American servicemen there are? If Vietnamese and Lao officials had more information on them, based on all of our intelligence and investigative activity to date, how can we, in good conscience, move on without getting just that basic information—not out of the Vietnamese, Mr. President, but out of our own Government—what they have that they think the Vietnamese and the Lao have?

I am not saying account for every one of these men. That is not what I am asking for. I am asking them to give me the information on the cases of the men that they have in their best intelligence—perhaps a witness, a buddy who saw a guy led off, whatever. Give it to us because we have reason to believe that the Vietnamese would know what happened to these men, and we can confront them on this.

One example: David Hrdlicka was shot down, captured by the North Vietnamese in Laos, photographed, filmed, used in Communist propaganda, paraded around. Never a word from the Lao or the Vietnamese as to what happened to David Hrdlicka. Do you think they do not know what happened to him? Of course, they know what happened to him. But that information is in that list.

If the Government sends that list over here—our Government—that is going to be a little embarrassing, because when Carol Hrdlicka, David's wife, who has waited all these years, says, "Why are you normalizing relations with a country that will not even tell you what happened to my husband?" What are you going to say, Mr. President? The administration has not complied with this law.

You have to ask yourself these questions: Why? Why? I could go over there, probably in a month, with a couple of staff people and get it myself. It is there. It is not that it is not there. Of course, it is there. Of course, there is a database. What are they afraid of? Are they covering up or sitting on information that would show the American people that Vietnam is not fully cooperating on missing Americans? You bet. You bet. That is exactly the reason why they are not giving us the information, because it is going to show that the Vietnamese are not fully cooperating—are not cooperating in any way, shape, or form, to the full capacity that they could.

If this information were released to the public, it would undermine all of the rhetoric from the President, the Secretary of State and their adjectives like "splendid," "superb," and all this cooperation they claim we have been receiving from Communist Vietnam. That is what we have heard—not just cooperation, but "splendid," "superb," "outstanding," "unprecedented."

Well, boy, it would sure blow that up if the U.S. Congress and every staff member for every Senator and Congressman in this place could look at that list. That is why we do not have the list. Hold the list up, ignore the law until we get it all done, until we get the mission set up, get the full diplomatic relations set up, then let it out, but do not do it now; you will sure mess it up.

I recall the statements by assistant Secretary of State Winston Lord during his last trip to Vietnam this last May. He stated: "We have no reason to believe that the Vietnamese are not making a good-faith effort on the POW/MIA issue." Well, Mr. Lord, let me just say it as nicely as I can: That is not the truth. That is not the truth, and you know it.

If the President has no reason—and that is the exact word—to believe they are not cooperating, which is what he cited as the basis for announcing his decision to normalize relations this past summer, then where is the list? Why do you not let us see the list?

There will be some who will come back down here on the floor, perhaps tonight or tomorrow and say, "There goes SMITH again. I thought we could get the war behind us; I want to get it over and move on. I am tired of fighting the war."

Some things have to be fought. Some things have to be continued because they are right. Many of my colleagues in the 1840's and 1850's stood on the floor of this U.S. Senate and argued against slavery, and it took them a while to get it right, but they got it right, and they were right when they were making those statements and having those discussions on the floor of the Senate. And we are right now to make them now.

History will judge us as being right. History will judge us, who stood up and said we did not get the information, not only from the Vietnamese and the Lao, but from our own Government. We did not get it. History will judge us as being absolutely right. I do not care who says what differently. History will be the judge. I will stand on that judgment.

I want to review in more detail now exactly where we have been concerning this requirement over the last year. I want my colleagues and the American people to see what is going on. I know this is a long speech and people want to go home, but it has been a lot longer for the people who have waited for answers for their loved ones, some all the way back into the fifties, from the cold war. So I am doing it for them. No one else cares, so I am doing it for them.

I want everybody to know what happened over the last year. It would make you sick, Mr. President, to see the obfuscation, the delay tactics that have taken place. I have drawn my conclusion. I am going to be criticized for this. It is a coverup; that is what it is. It is not a coverup in any sense other than you got information and you will not give it to us, according to the law. If you have information that the law prescribes and you will not give it to us, then you are covering it up. If you are not covering up, get it over here. If I get this information over here tomorrow morning, I will withdraw and retract the comment about a coverup. If I do not get it, or there is some indication that I am going to get it quickly, I am going to assume that this information is being covered up so we can get on with normalization and not mess it up.

This information, if we get it here, will show that right up to the present, despite all the comments about cooperation, the Government is nonetheless holding back information on several hundred—not 10, 12 or 20—American servicemen that were lost or captured in Communist Laos and North Vietnam during the war. Several hundred are on that list. What is that list? That list is the best case, best information available by the United States Government through intelligence sources, buddies on the battlefield, copilots, back seaters, men on the ground as to what happened to these individuals. It is not necessarily that they are alive, but that we know what happened to them, and we think the Vietnamese know what happened to them. That is all we are asking for. But, you see, if we publish that list, it would destroy the argument for normalization.

Do you know what people say to me? It is amazing. "Why would a Vietnamese hold back any information?" First of all, I am not interested in why. The first question is, are they holding back and not disclosing information about the fate of our men? In the absence of this list of cases, I can only conclude that the administration is presently engaged in a coverup of information that would answer this question in the affirmative. Pure and simple.

People will yank this phrase out of context. But if you put it in the context that I have said it—and I have been quoted out of context before—they are covering up in providing the information, the best-case information, best available information, as to what happened to certain men who are missing, in order to move forward with diplomatic relations and trade. I am going to let my colleagues and the American people be the judge after they see what happened, because do you know what? Sooner or later I am going to get that list, because I have seen it and I know it exists.

This list was required by law on November 17, 1994. As that date approached, the Deputy Assistant Secretary of Defense sent a letter to Congress requesting a 3-month extension. He also informed us there was an interagency agreement within the executive branch that no revised or new list would ever be produced.

Let me read from the letter we received at the time from the Deputy Assistant Secretary of Defense.

> DEAR MR. CHAIRMAN: The fiscal year 1995 National Defense Authorization Act contained a request that the Secretary of Defense report not later than 45 days to the Congress specified information pertaining to the U.S. personnel involved in the Vietnam conflict that remain unaccounted for.
>
> This letter is to advise you the study is underway and that considerable progress has been made, but it is unlikely the report will be finalized by the time requested. It is anticipated that the report will be finalized within 135 days, at which time it will be forwarded to your committee for review.

This was addressed to Senator NUNN.

> The comprehensive review must be carefully constructed to reinforce current and near-term negotiations. Specifically, there is great potential to any new list to cause confusion for the governments of Vietnam and Laos, and this concern resulted in an interagency agreement that would not produce any new lists.

Gobbledygook.

Mr. President, the law does not give the administration the luxury to decide whether or not a new list would be produced. It said produce a list.

I reminded the administration of that fact last November. I am, frankly, not interested in some bureaucrat's view about causing confusion for the Vietnamese. The Congress, the American people, and the families are the ones who have been confused by Government distortions on this issue since the end of the war. That is another reason we want a straightforward list in the first place.

Notwithstanding that, I try to be reasonable, and in spite of all the hardships these families try to be reasonable. A 3-month extension seemed OK to me, and the Armed Services Committee agreed with it.

I met with the Deputy Assistant Secretary in December of last year in my office and told him I had no objection. Even though I did, I said I had no objection to extending the deadline to February 17, 1995. I expressed my amazement that such a list did not already exist. In fact, I still do not know how the President can look at normalizing relations with Communist Vietnam without having the list of the American POW cases that Vietnam might be holding back on. He is not concerned about it. I just am absolutely aghast to think that that does not bother him, because apparently it does not or he would provide the list.

When the new extended deadline began to approach after the Christmas holidays last year, rumors started to surface that we still would not get the list by the new February deadline. Those rumors turned out to be true.

On January 24, 1995, after more rumors surfaced that the President might upgrade relations with Vietnam, several of my colleagues joined me in sending a letter to the President reminding him of his obligation to provide the required list. In fact, we asked him to give us the list before any decision was made to upgrade relations.

That sent the red flag up, so now we had to speed up the process. Let me just say I sent the letter. But let me tell you who else signed it. It was signed by the chairman of the Foreign Affairs Committee, Senator HELMS; it was signed by the chairman of the Armed Services Committee, Senator THURMOND; it was signed by the chairman of the Intelligence Committee, Senator SPECTER; signed by the chairman of the Asian Pacific Subcommittee, Senator THOMAS; the chairwoman of the International Operations Subcommittee, Senator SNOWE; the House chairman of the International Relations Committee, Congressman GILMAN; the House chairman of the Asian Pacific Subcommittee BEREUTER; and the House chairman of the National Committee on Military Personal, Congressman DORNAN.

The President ignored the request. He said, you will get the list soon, period. This was in January 1995. January 28, he announced the formation of liaison offices between Vietnam and the United States in both Hanoi and here in Washington. Fast track, we call it.

For the first time now we are allowing the Communist Vietnamese government to establish an office here in Washington, even though Congress still had not provided the American people with a list, the White House had not provided Congress with a list of POW/MIA that Vietnam might be holding back on. No list.

I think the administration realized their decision to upgrade relations would not be viewed in a positive light if the list was released just last February. You can be the judge on that.

I next raised the issue with Secretary of Defense Bill Perry at a hearing of the Senate Armed Services Committee on February 9, 1995. I told Dr. Perry's staff beforehand that I would raise the question so there would be no surprises. I do not play the game that way. I wanted him to have a response ready so I did not catch him by surprise.

When I asked him at the hearing if he was going to meet the new deadline by February 17, he said, "Yes, yes." I immediately followed up that day with a letter to the Assistant Secretary of Defense.

The following day I received a response which stated, "The Department will respond to the legislation by February 17, 1995. Let me assure you our response to this Congressional requirement will be provided in compliance with the law."

On February 17, 1995, we received a letter from the Secretary of Defense which did not comply with the law. I repeat, did not comply with the law. It did not provide the updated listing of cases of missing Americans that Vietnam and Laos officials might have more information on.

I want to read an excerpt from that letter that we received from the Secretary of Defense which I have blown up here on a chart. This is the letter to Senator THURMOND, the chairman of the Armed Services Committee.

> In response to this legislation, the Department of Defense has initiated a comprehensive review of each case involving an American who never returned from Southeast Asia.

That sounds good.

> As of February 12, 1995, nearly 50 percent of all cases have been reviewed as part of this process.
>
> Completion of this painstaking case-by-case review will take at least several additional months, at which time these findings will be reported to Congress.

Well, here we go again. We do not have a list. Several additional months—no list.

Is it not a little audacious for the Pentagon to talk about a request if a straightforward analysis—let me quote this language which really jumps off the page, Mr. President. "Completion of this painstaking case-by-case review will take at least several additional months."

Painstaking. How about the pain and the uncertainty that the families have had to endure with their missing loved ones? Believe me, the Pentagon's pain on this issue is nothing compared to the pain of the families. I think the word is an insult. I take offense with the use of that word to imply there is some analyst over in the Pentagon who is going through this whole painstaking process of putting a list together—a simple list of information they already have. I am not asking them to extract this from the Vietnamese and Laos but from our own intelligence files that we believe the Vietnamese have or the Laos on our missing men.

How would you compare their pain? That must be awfully painful for them, is it not, these bureaucrats going through this painstaking process?

What have they been doing for the last 25 years? What have they been doing for the last 25 years if they do not have the information on these people that are missing? My God, what are they telling the families? How can anybody have any sympathy for anybody in this administration or any other administration with that kind of analysis on this issue?

Consider the roller coaster ride that the families have been on year after year, decade after decade, waiting for answers. Hopes up, dashed. Hopes up, dashed. They are the ones that have gone through the pain, Mr. President, not these bureaucrats.

I am not saying that the people in there are not loyal Americans trying to do a job, but we should get the job done.

How much more time do you need? It was clear by this past February that the administration had violated the law. That is the exact phrase—violated the law. I sent a long letter, again, to the Secretary of Defense on March 7, 1995, and I expressed my disappointment that you violated the law. Everybody else has to comply with the law but apparently the President does not.

A month later on April 7, I received another written response from the Under Secretary of Defense, Walter Slocombe, allegedly on behalf of Dr. Perry. Let me just read an excerpt from that letter:

> Section 1034's impact has been to refocus the analyst' work to conduct this comprehensive review earlier than anticipated. Currently, DOD has committed 22 of the 33 analysts (67 percent) within DPMO and an additional 12 analysts from Joint Task Force Full Accounting to working full-time on the comprehensive review. To ensure the type of comprehensive review of all 2,211 cases that both Congress and the families demand and have a right to expect, it is essential that the analysts expend the time and scrutiny required to evaluate every individual's case in the light of all available evidence.
>
> While there will be no arbitrary deadline, I assure you that DOD will continue to give this effort the utmost attention. I am confident the review will be completed during the summer. The department will report the results of DPMO's review to Congress on its completion.

That was in April. Imagine that. The law imposes a deadline. That is what I thought, that you had to comply with the law. I am sure the Senator in the chair, the Senator from Missouri, when the EPA tells one of the communities in your State they have to comply with the Safe Drinking Water Act or Clean Air Act, they nail you with a fine and threaten your community.

This law imposed a deadline, and not an unreasonable one. Yet the Under Secretary of Defense says to Congress, "There will be no arbitrary deadline." In other words, "To heck with you, Congress. Do not tell me when we have to do this. We will get it when we are ready. That is an arbitrary deadline."

Who is he, Mr. President? Who elected him? Is he under the law? I guess not. The Department of Defense must be above the law. And the Clinton administration, I guess the President himself, he must feel the same way—above the law.

You wonder why people are cynical about politics and politicians? It is an affront. It is an affront to Congress. I am taking the floor tonight, and taking the time to work my way through this because I want my colleagues to know that we have laws on the books that are being ignored, and blatantly ignored. We are not even allowed to review our own Government's assessment to judge for ourselves whether Vietnam is fully cooperating. I am not asking for my own assessment. I am asking for our Government's assessment. That is all I am asking for.

And then, without getting that information, my colleagues and I are asked to rubberstamp the President's discussion on diplomatic relations. That is what we did.

I do not think it is going to be that easy. I urge my colleagues to consider these matters the next time they are asked to vote on this issue. I certainly commend Senator CRAIG THOMAS for his support in his committee. I hope it will be a long time coming before you get an ambassador approved out of the Senate.

There used to be an expression as you go along through a speech "stay tuned, it gets worse." The next chart is a statement from June 28, 1995, before Congress. This is a full 3 months after the last letter from Under Secretary Slocombe wherein he assured us that all his analysts were working full time on these cases.

Three months later, in June, we still did not have the list. So, this is sworn testimony by Jim Wold, the Deputy Assistant Secretary of Defense for POW/MIA affairs. Here is what he said.

> We must never forget, however, that the goal of achieving the fullest possible accounting can only be achieved with diligence and hard work. With that in mind, I launched the ongoing DOD comprehensive review of all Southeast Asia cases, which I hope will be completed in mid-July. This all-encompassing look at every individual case will provide a solid analytic assessment of the appropriate "next steps" for achieving the fullest possible accounting. Our unaccounted Americans deserve no less. I will work to ensure that we keep our promise to them. Thank you.

Jim Wold is not entirely accurate or he would have said the goal will only be achieved when Vietnam decides to fully open its archives and its prisons. Then we can say we are diligent hard workers.

We can "say" that. That is not going to resolve this matter if the Vietnamese are deliberately withholding information, and I am going to discuss some of the information that is being withheld. There is a lot of heartwarming rhetoric at the end of this statement, "Our unaccounted Americans deserve no less. I will work to ensure that we keep our promise to them." That is what he said. That is real nice. But the fact is the administration was supposed to work to get the job done and report it to Congress under the reasonable deadline imposed by Congress: 45 days, not 245 days later which was mid-July or 330 days, as it now stands, nearly a year since the deadline. No list.

This information should already have been compiled and available for policy makers, the Congress and the families. It has been held—it has been withheld from the American people. They have it. They can put it together. It may not be in a sheet form that you can just say "Here," listed with the information. They can put it together and they can put it together quickly. They have it. Of course they have it. Could they produce it? Yes. Why do they not? Because it is going to show in black and white the degree to which Vietnam is sitting, as we speak, on information concerning the fate of several hundred American servicemen. Not a few dozen like the administration likes to claim—no, no, no. This is an outrage. It is going to show that they have information on several hundred Americans.

The next chart is a copy of a letter that I sent, again to the Under Secretary of Defense, Mr. Slocombe, continuing to try here. This was dated August 18, 1995, after the President announced, in July, his intention to establish diplomatic relations with Communist Vietnam. You remember that debate. I again tried by sending another letter. My letter followed a similar letter from Senator Thomas in mid-July on this subject, in which he has made clear his intent to withhold in his subcommittee any funding for Vietnam or any ambassadorial nominee to Hanoi until this is reviewed by Congress.

I commend him for having the courage to do that. He has taken considerable heat for it. I cannot possibly say how much I appreciate his support. He has been steadfast on this issue as the chairman of the Senate Foreign Relations Subcommittee on East Asian and Pacific affairs.

But in my August letter, without reading it all, I basically said: Mr. Secretary, where is the list? Where is the list? Where is the list?

No response. No response from the August 18 letter. Not even an acknowledgment, despite numerous followup phone calls after this. Senator THOMAS—no response.

I am told from other sources that these cases finally moved up the policy ladder in the administration, but only after the President made his decision to normalize, which was my point all along. Once we get passed that bogey, then we are home free. They did not want to get it in the way as the President made his decision. Apparently, staffers at the National Security Council are now "very concerned" about releasing this information because of what it shows and the way things are worded in the study. The word is that this assessment or study, which is now being withheld from Congress—and it is being withheld deliberately —shows that Vietnam is likely withholding information on hundreds of POW/MIA cases.

I want to underscore why I am concerned about this. The fact that we still have in my judgment a discrepancy of several hundred cases with no answers from Vietnam or Laos. To do this, I want to refer to the charts, information about POW's from Vietnam that has surfaced in the last 12 years from the Communist Party and intelligence archives of the former Soviet Union. The Russians, to their credit—the Russians to their credit—have been very, very helpful. I am a member of the U.S.-Russian Commission. I met with the Russians on numerous occasions on this subject.

For those who are not familiar with the reports about these documents, let me explain. In 1993, only a few months after President Clinton was sworn in, the administration received from the Russian archives two reports that the Soviet Union, the old Soviet Union, had covertly obtained from the North Vietnamese during the Vietnam war—covertly obtained; a very touchy subject. These were copies of speeches given by two Vietnamese military officials to the North Vietnamese Politburo in 1971 and 1972.

Sections of both of these speeches concern American POW's being held by North Vietnam, and they stated flatly that more American POW's were being held than those the Vietnamese had acknowledged. This is not our intelligence. This is the Soviets.

I might add that the numbers were larger than those that we had assumed. Sections of both of these speeches were looked at. I might add, as I said, that these numbers were much larger than what we found in the Paris Peace Accords in 1973.

That is the essence of these secret speeches before the North Vietnamese Politburo. They had told the world that they held *X* number of POW's, but in reality they held *X*-plus, and they were not going to release them until we withdrew from Vietnam and paid war reparations, which we never did.

These are not my words. This is the document. As our select committee showed in 1992, yes, we withdrew our military forces in 1975 after Congress had cut off the purse strings, but we did not pay the reparations that President Nixon had promised the Vietnamese in secret communications in February of 1973.

So the first Politburo report turned over was a translation of a wartime secret speech by North Vietnamese Gen. Tran Von Quang, who was a former Deputy Chief of Staff of the North Vietnamese Army. In their report, he stated that 1,205 Americans were being held. As I previously pointed out, only 591 came home. So there is an obvious discrepancy. General Quang says in the document we have 1,205; 591 came home.

The secret Politburo report turned over was a translation of another speech given earlier in the war by the Vietnamese former Vice Minister for National Defense Hoang Anh. Like General Quang, he stated that he had only released a list of 368 names of Americans but that they were in fact holding 735. As I previously stated, that figure had gone up to 1,205 a couple of years later when General Quang addressed the Politburo.

These numbers are all confusing, but this is what the report says. This is not a debate about what Bob SMITH believes. It is not a debate about that report itself. It is a debate about what this report says. It says it. It is a document taken from the archives of the Soviet Union. I do not know whether these numbers are accurate. I do not know. But I know that General Quang said they were accurate. It was not a propaganda document. It was said before the Vietnamese Politburo.

Do you not think that President Clinton would be naive if he believed the Vietnamese did not hold back the total number of Americans they had captured during the war for whatever strategic purposes they deemed appropriate at the time? Even former Secretary of Defense Mel Laird, to his credit, had held a press conference in 1970 to say that the list the Vietnamese published at the time was not complete.

For the record, I want to say that these two Russian documents surfaced on President Clinton's watch—not on President Nixon's or Dr. Kissinger's watch in 1973. They did not know about these documents.

There can be no doubt that President Clinton has to be the one to bear the responsibility with regard to holding the Vietnamese accountable in terms of explaining these Politburo reports, these documents. We cannot go back and say, "Dr. Kissinger should have done something on these specific reports," because they did not know about this. It is my judgment that the administration has tried to brush these documents aside.

There will be plenty of people out there who will say, "Oh, my, here is SMITH again." This is a disservice to the Congress, and to the members of the Armed Services Committee, and to the members of our armed services. Instead of keeping faith with the American fighting men by pursuing information like this until we are certain we are doing everything we can to account for the missing Americans, the President has broken faith.

What about the investigative activity of these reports? Did we look into them sufficiently? In short, no. The administration has not even asked to meet with Hoang Anh, the author of one of these reports, even though he is living in retirement in Vietnam. We are going over there to establish diplomatic relations, going to drill for a little oil, set up some airline offices, but we cannot meet with Mr. Anh. We cannot meet with him, and have not met with him. There has been no credible type of detailed information from the Vietnamese Government on either of these reports, just deny them and that they were accurate.

Let me concentrate on that report by Quang which went into a lot of detail about the number of Americans being held. When that document publicly surfaced from the Soviet archives in April of 1993, the Vietnamese put a full court press on it, believe me, to label the document a "fabrication." They knew the President was close to lifting the trade embargo. In fact, some said it was created to squash the trade embargo. I do not know who could create it. It came out of the Soviet archives. It was an authentic document. It was said they were caught between a hot rock and a hard place.

What do they do? They lie. They said the report was cooked up and fabricated by a Harvard researcher. That is where it got very interesting. This was not a POW/MIA activist. This was not a nut. This was a Harvard researcher who had nothing to do with MIA's. He was over there doing another project. He found it. He said, "Whoops. Holy mackerel. Here, this is something important." He tucked it away. His name was Stephen Morris.

When the Russians officially turned that document over, the Russians were able to convince every reasonable scholar and analyst that this was an authentic intelligence document from the GRU, the equivalent to our Defense Intelligence Agency. Simply put, the Russians confirmed when they turned the document over that the Vietnamese had apparently lied to the United States for 20 years.

Was there an uproar by the administration, Mr. President? No. In fact, the first thing they did was to classify the document secret, and withhold it from the American people. "Oh, we do not want to mess up the embargo. We cannot let that out." But Dr. Morris released it to the New York Times. Now we have a problem. So then the administration had to respond.

I have a chart here that is a synopsis of the official comments by the Government of the Socialist Republic of Vietnam.

Let me just quickly go through this. You have to remember that this is an independent researcher, Dr. Morris, who finds the document in the Soviet archives. The Soviets say it is true, it is an accurate document in the sense that it is authentic. You cannot vouch for the exact language in it. But these remarks were made by General Quang, it is an authentic document out of the Soviet archives, out of the GRU intelligence community. So now we have a problem. This is two Communist nations during the war who were friends. This is an embarrassment. And the Communist Vietnamese were livid because it embarrassed them. But they were caught with their proverbial pants down. They had to say something. Here is what they said.

"Vietnam totally denies that ill-intentioned fabrication * * *. Realities prove that the report * * * is completely groundless."

That was in the Foreign Ministry.

"General Tran Van Quang had nothing to do with the General Staff of the Vietnamese People's Army," said the Foreign Minister.

"This is a pure fabrication, and we completely reject it," said the Deputy Director of Vietnam's Office for Seeking Missing Persons.

"* * * it is a forgery document. It's totally false."

This is Le Van Bang, former U.N. Ambassador from Vietnam, the charge d'affaires in Washington, DC. He is here now.

"[General Quang] was in no position to make such a report."

"It's a sheer fabrication. It's non-existent."

"The intelligence service that manufactured this report was a very bad intelligence service. It was absolutely wrong. Never in my life did I make such a report because it was not my area of responsibility * * *. I had nothing to do with American prisoners," said General Quang in April 1993.

Did anybody from the U.S. Government, anybody from the Clinton administration, meet with General Quang? You guessed it. No.

But I did. I did. I went over and spent a half-hour with him. He lied throughout the entire discussion. The reason I know he lied is because I asked him questions that I knew the answer to. He gave me the wrong answers to about just the basic information, about the war years, about information he had that I knew was accurate. He lied. He lied about this.

This is when the Vietnamese really got hot.

"The Russians can possibly open up their documents for you, but as long as the United States side is treating the Vietnamese as 'Trading with the Enemy,' we cannot open our documents for this reason."

That is what the Vietnamese said. He said that to me, particularly the Vietnamese official in Hanoi. It is pretty revealing—that last quote, Mr. President, because the Vietnamese told me personally—that the Russians can open their documents, but we are not going to as long as there is a trade embargo.

That is exactly what they said to me. The Russians can open them up, but we are not opening them up until you get rid of the trade embargo; that is, Trading With the Enemy Act.

Well, the President lifted the embargo 2 years ago. After he lifted the embargo, we were going to have this whole raft of information which was going to come sweeping out of Vietnam.

We were going to be just besieged with it.

Well, we still do not have access to their Communist Party records on POW's. We had to get it through the Russians. So much for superb, splendid, outstanding cooperation, Mr. President.

Let us look at the second chart. Let us see what the Russians had to say about this document. I hope everyone is following this because we just saw what the Vietnamese had to say. These are the Russians. They do not have any reason to be lying to us about this. This is embarrassing to them if anything else. It would be the equivalent of England and the United States with some agreement during the war years that would embarrass one of us against the other. But here we have Dr. Rudol'f Germanovich Pikhoya, the Chief State Archivist of the Russian Federation in August of this year. Here is what he said:

> I am absolutely certain that the numbers—

That is the numbers of POW's.

> cited by General Quang are true. I believe that the data still exists in Vietnam which deals specifically with U.S. POW's . . . I am absolutely positive that the 1205 figure is absolutely true and correct as far as intelligence data is concerned. As an archivist and someone who has analyzed a great many documents, military and otherwise, I can tell you that this is an absolute truth:

He has used the word "absolute" two or three times:

> This number was announced by Quang at a closed Politburo meeting.

How do Russians get information out of a closed Politburo meeting? We do not need to get into that, but we all know how to get it.

Colonel General Ladygin, Chief, Main Intelligence Directorate of the General Staff Ministries of Defense. That is the GRU, the intelligence arm:

> General Tran Van Quang, according to the position he held in the Vietnamese military political leadership in 1972, would have been fully competent in the matters stated in the report and qualified to speak about them at Politburo sessions of the Vietnamese Communist Party Central Committee.

Fully competent in the matter stated. They knew who he was. They were allies. They knew who Quang was. Of course, they knew who he was. That is why they were spying on him, to put it nicely.

Captain 1st Rank Alexander Sivets, Main Intelligence Directorate of the General Staff, GRU. Listen:

> I will reaffirm that the 1205 document could not have been used for propaganda purposes. It was a top secret document not intended for anyone outside the chambers of the Vietnamese Communist Party to see . . . the document that was sent to the (Soviet) Central Party Committee is, in fact, an original document and not a fake. We consider that the Vietnamese leaders, in their desire to exploit the POW problem for their own interests, would officially cite a lower figure than the real one. This is something that we do not doubt . . . we believe that there were more (American POWs) than Vietnam was officially admitting to.

Gen. Dmitri Volkogonov, a real hero in my mind, who has worked hard on this issue on the side of Russia to help us resolve this issue even though he is very sick:

> Upon the request of Senator Smith to President Yeltsin —

That was a hand-delivered letter that my wife delivered to Boris Yeltsin, put it in his hand when he visited in America so there were no bureaucrats in between:

> Upon the request of Senator Smith to President Yeltsin, President Yeltsin ordered me to conduct additional research—

I mean we would not want anybody in the administration to give Yeltsin anything on this so I did:

> to include in the files of the Main Intelligence Directorate of the Ministry of Defense . . . I have studied exhaustively the mechanism used to gather this document—

Listen carefully:

> I have studied exhaustively the mechanism used to gather this document, and I can state that I do not know of any case where such information would have been fabricated. . . (General Ladygin) has stated that General Quang was fully competent to give his report.

That is a nice way of saying we collected intelligence in there. We are not going to tell you how we did it, but we did it.

Maj. Gen. Anitoliy Volkov:

> The Vietnamese denied this document and said it was put forth to throw cold water on U.S. relations. However, I would say in response that there is an old Russian proverb—you cannot change the words of a song.

Once it is a song, it is a song. When you change the words, it is a different song, is it not, Mr. President?

I want to reiterate Mr. President, the Russians have told me right to my face, in my office and in Moscow, that the method by which these reports, the Quang documents, were collected were reliable by the GRU, the intelligence gathering agency. And it was a method through which they acquired other significant reports during the war. In fact, they acquired another report by General Quang to the North Vietnamese Politburo in June 1972, which has nothing to do with POW's and MIA's. In that report, he talks about North Vietnam losses during the Easter offensive in the spring of 1972, and guess what. That information, too, was all accurate. So if he was in a position to know this stuff, how could it not all be accurate? No one in the administration has even asked him about it.

Let us look at what two former National Security Advisers to the President had to say about the Vietnamese Politburo report.

Now, this is very interesting—very interesting. This was on MacNeil/Lehrer—Dr. Brzezinski, who was National Security Council Adviser to President Carter, and Dr. Kissinger, who was the Secretary of State and the National Security Adviser to President Nixon.

Again, following up on the same two reports:

> Dr. Brzezinski, you've stated publicly, and you're quoted in the New York Times as believing the document—

The 1205 document.

> is genuine. What convinces you? Dr. Brzezinski, National Security Adviser to President Carter, right after the war. What convinces you?
>
> Its style, its content, the cover note to the Soviet Politburo. One would have to assume a really very complex Byzantine conspiracy to reach the conclusion that this is not an authentic Soviet document based on a Vietnamese document.

Then MacNeil says:

> Dr. Kissinger, what do you think on the question of authenticity, first of all, of the document?
>
> Dr. Kissinger: I agree with Brzezinski that those parts that I know something about have an authentic ring.

Remember, this document deals not just with MIA's. It dealt with a whole raft of things. They have an authentic ring:

> For example, when they (General Quang) described what their negotiating tactics were, those were the tactics they were using in negotiating with us.

Kissinger was the guy who negotiated the Paris Peace Agreement:

> They say in this document that their proposals were first a cease fire and overthrow of President Thieu, after which they would use the prisoners to negotiate whatever other concerns they had. Now, as of the date of that document, those were their proposals. A month later they changed it, but I could see if you make a report to the Politburo in the middle of September and you want to summarize what the negotiating position is. . . .

He goes on to say:

> If that document is authentic, and it is hard to imagine who would have forged it, for what purpose, then I think an enormous crime has been committed, and then we should—I do not see how we can proceed in normalizing relations until it is fully cleared up.

Dr. Kissinger himself: "I do not see how we can proceed with normalizing relations until it is cleared up."

Not only has it not been cleared up; we have not even talked to anybody about it.

Dr. Brzezinski:

> As far as Vietnam is concerned, I think that if this document is sustained, and it looks unfortunately to be sustainable, we have the right to ask the present Vietnamese government to place those responsible in war crimes trials . . .

Dr. Brzezinski, President Carter's national security adviser.

Let me repeat this:

> As far as Vietnam is concerned, I think that if this document is sustained, and unfortunately it looks to be sustainable, we have the right to ask the present Vietnamese government to place those responsible in war crimes trials . . .

We did not do that, did we? We just gave them diplomatic relations. We are going to give them money, trade, airplane routes.

Dr. Kissinger:

> I don't think that we can normalize relations or ease conditions in international agencies until we have cleared up this issue . . . I don't see how we can proceed with North Vietnamese or with Vietnamese normalization until this question is cleared up . . .

Well, we did. So much for the impact of two National Security Council advisers, very respected, very knowledgeable, certainly more knowledgeable than anyone I know on this issue.

Let us look at what the President says, the Clinton administration denials concerning the 1972 Politburo report on American POW's. This is amazing. You heard Brzezinski, you heard Kissinger, you heard the Russians, the Russian intelligence. Now let us hear what our Government says.

> What General Quang told us is not inconsistent with what we knew about him, and I have no reason to disbelieve General Quang.

That is General Vessey.

> I have no reason to disbelieve [him].
>
> The number of U.S. POWs mentioned in the document could not be correct . . .

Now, we are going to get to the CIA. Now we have to trash this thing, blow it up and make sure we could not possibly have any credibility left because we have to normalize. We cannot let this document get in the way.

So the CIA says:

> The number of U.S. POWs mentioned in the document could not be correct, they contradict what the U.S. Government knows from years of research and the analysis of thousands of other intelligence documents.

So, the U.S. Government, the CIA, sitting here in Washington, DC, knows more than the Russian intelligence, who were on the ground, allies, knows more than anybody else:

> All previously known information and conventional analytical thinking based on this information tend to refute the Russian document . . . Based on historical information we have amassed . . .

They do not say where they amassed it. They just amassed it. No proof.

> We can assume that there is little evidence to support the claims made in the Russian document.

If I wanted to use profanity on the floor of the Senate—and I will not—there is a word for that, Mr. President. It comes from livestock of the male variety:

> While portions of the document are plausible and some portions are accurate and true, evidence in support of its accuracy concerning the POWs is far outweighed by errors, omissions, and propaganda which detracts from its credibility.

Deputy Assistant Secretary of Defense for POW/MIA Affairs.

Let us drop down to Malcolm Toon, the U.S. Chairman, Joint Commission on POW/MIA's:

> I am now prepared to accept as the best available answer to this annoying problem.

It is now an annoying problem. That is a very interesting choice of words, an annoying problem. Here is a guy out of the Communist archives of the Soviet Union, a general who was in a position to know almost everything about POW/MIA's, saying that they had more POW's and MIA's in the turnback, and now it is an annoying problem.

You bet your boots it is an annoying problem. If you want to normalize relations with a government that held them, it sure as heck is an annoying problem. That is what it says, an annoying problem.

But this is the one here. This is Robert Destatte, Vietnam analyst, Defense POW/MIA Office, statement to the Russian Government in August 1995. This is bizarre. Destatte is over there. And here is what he says. He is now going to argue with the Russian intelligence. He knows more about it than they do:

> We have accurate knowledge of the movement of prisoners through the Vietnamese prison system. We have accurate knowledge of the numbers and locations of each of the detention camps in North Vietnam, [not only North Vietnam] South Vietnam, Laos, and Cambodia. Regarding the number of 1205, taking into consideration the Americans who are unaccounted for, it's impossible to come up with the figure 1205 . . . We cannot accept that figure . . . If we look at the document, we know where Tran Van Quang was at the time. We also know what his position was. It's highly unlikely that Tran Van Quang would have presented a report on these issues to the Politburo.

Listen to that. It is highly unlikely. A very clear, precise word. "Highly unlikely that * * * Quang would have presented a report on these issues to the Politburo." That he would have is highly unlikely. "We cannot accept that figure. . ." Baloney. They do not know what they are talking about.

We are told that there is no way that the numbers add up; General Quang did not, could not, have given the report. In fact, we are told there is no reason to disbelieve Quang. I think the fact that he is a North Vietnamese Communist general that waged war on American soldiers for an entire decade, a Vietnamese general who waged war on American soldiers for a decade, is that not enough reason not to brush this report aside? Do you not think he knew what he was talking about? It was not a propaganda piece. It was a document allegedly of an actual transcription of what he said. He is talking to the Politburo in Vietnam. He is not talking to the world out there trying to convince them of something.

It is amazing that the Clinton administration is so confident on this point. The Russians say it is accurate, that Quang did, in fact, give this report. And the Clinton administration says there is no reason to believe Quang. It is an annoying problem.

I cannot imagine—I am not an attorney, but in a court of law, if you were trying this case, I cannot imagine not getting a conviction that this document was real. If the administration wants to talk about whether the numbers make sense, let us look at the breakdown. The numbers certainly are not impossible. The word was that there could not possibly be that many POW's.

Well, here they are. There are the 2,170 lost in North Vietnam, South Vietnam, Laos, Cambodia, China. Total: 1,101. Those are missing.

Here are the ones KIA/BNR, another 1,000. We do not know for sure that every one of them is KIA/BNR, body not recovered. So there is certainly enough in the numbers. Baloney.

If the numbers do add up, why should the administration let Vietnam off the hook on these Russian documents? Why do we not at least investigate?

Let us take Laos as an example. We have 293 personnel missing from Laos; another 178 that we believe died during the war. So 293, 178, equals 471 in Laos.

In the Politburo report General Quang states:

> From other categories of American servicemen in Indochina, we have captured 391 people, including . . . 43 in Laos.

Well, you are talking about 471. It would seem to me that if you add 391 and 43, you are somewhere in the vicinity of 430. And if 471 are missing from Laos, you do not have to be a rocket scientist to figure out there could be 430 people that we do not have accounted for.

Now, let me read from the excerpts from declassified minutes of a White House situation briefing in January 1973, 4 months after Quang's secret report.

During that White House meeting, Admiral Daniel Murphy of the Department of Defense stated:

> We don't know what we will get from Laos.

We are back in 1973 now:

> We don't know what we will get from Laos. We have only six known prisoners in Laos, although we hope there may be 40 or 41.

Mr. President, that is almost the exact number referenced by General Quang.

We never got any POW's back from Laos. Not one. Not one. Nine were sent back by the North Vietnamese into Vietnamese prisons. Not one, including David Hrdlicka, even though he was filmed and those films were sent all over the Communist world. Never got one back. Not one. And they were captured and they were held.

I was in Laos, flew in by helicopter, went up into the remote areas of the caves where Hrdlicka was held. We talked to the villagers who held him. We know he was held there. He was alive. They know what happened to him, too. I am not saying he is alive. I do not know that. My point is they know what happened to him, and there were others captured along the Ho Chi Minh Trail and Laos by Vietnamese units and taken into Vietnam. As I say, nine of them were Americans. Only nine of them ever came home.

In our committee hearings in 1992, Larry Eagleburger had sent a memo to Dr. Kissinger. He was a DOD official at the time. He sent a memo to Dr. Kissinger recommending military action to get back American POW's believed to be captured in Laos. This was at the time peace accords were being negotiated.

President Nixon said, "It's inconceivable that there were not more names on the POW list from Laos." And this number, this 471, tracks with what General Quang said, Mr. President. He was there. Yet, in spite of all this, in spite of all these comments, in spite of all this information, the President of the United States, William Jefferson Clinton, said "We're getting superb cooperation" from the Vietnamese.

The Vietnamese have turned over one document concerning shootdowns of Americans in Laos. One. One document, and that is it, even though our intelligence agencies believe that the Vietnamese have many more records on who they captured in Laos. We know they do. And you know what, if we get that list, we will find out that they do.

The Pentagon refers to that one document that we have as the "Group 559" document, since the information was apparently compiled from the records of the North Vietnamese unit in Laos during the war, which was called group 559. I might say that document was provided in September 1993, 20 years later, 2 months after my last visit to Vietnam.

It was during that visit I sat with the Vietnamese and went through declassified documents from our own intelligence agencies page by page and conclusively proved that North Vietnamese units were, in fact, in Laos during the war shooting down and capturing American pilots. I actually read it to them, the Vietnamese. They never heard these before. It was declassified, so it was perfectly appropriate to do it. I actually read them the radio intercepts that we had on these guys being captured. They were shocked. It was the first time anybody of the United States ever sat down with the Vietnamese and gave them graphic evidence and said, "Hey, guys, I'm sorry, don't give me the line anymore because we have the intercepts, we know you captured these guys. We don't know what you did with them 20 years later, but we know you captured them. So why don't you tell us? Stop the game."

Not one shred of information on any of those guys. Not to me that year I was there, not to anybody else after that, but it is splendid cooperation, Mr. President.

So the Vietnamese put together this summary of shootdowns in Laos. They called it the group 559. They turned it over 2 months later, and our analysts at the Pentagon went through that summary and concluded:

> The analysis of this document makes it clear that the Vietnamese have additional group 559 records that may contain information useful to POW resolution. This document makes explicit reference to wartime documents from which information was obtained.

Do we have these documents? Do we have these documents? No. But we are getting splendid cooperation. We are getting the oil money pumping over there, opening up the airline routes, get the businesses going because we are having splendid cooperation.

Ask the families, Mr. President, whether they think the cooperation has been splendid. Ask the families if they support normalization with Vietnam.

Since that summary document on Laos losses was turned over in 1993, practically nothing—nothing, for the most part—nothing has been turned over by Vietnam concerning cases of Americans lost in Laos.

All of these people who have come down here and railed against me on this issue over the years, railed against all the things I have said, ask them to come down here and rail about Laos. See what they know about Laos. Ask them to come down on the floor of the Senate and say, "Yes, the Lao and Vietnamese in Laos have given us all the information on the Lao shootdowns." Ask them to do that. See if anybody has the nerve to come down and say that.

President Clinton has admitted as much in the 6-month overdue report which he provided to Congress on October 5, 1994. In that report, the President stated:

> The Vietnamese have not turned over any major documents since September 1993.

It is another year later, and they still have not done it, but we are moving down the old fast track. Vietnam has done nothing credible in terms of releasing these records on American losses in Laos in addition to their high level reports on the politburo on the Russians which I spoke about earlier. The Russian intelligence data that we stumbled on by the action of a researcher named Steven Morris caught them in the act, and yet we have to debunk it. We have to say it is not true because if we say it is true or even indicate it might be true, we cannot normalize.

What I have tried to do is, as I have gone through this—and I must admit I am getting tired, Mr. President, but I cannot be as tired as some of the families are who have waited, so I am going to get through this. Bear with me just a little while longer.

Congressman JAMES TALENT, in a hearing chaired by ROBERT DORNAN June 28, 1995, this is now to Gary Sydow, senior analyst, Defense, POW/MIA Office, Department of Defense.

> *Question:* Has the United States been granted access to Vietnam's wartime central committee level or politburo records pertaining to the subject of American POW's captured during the war in Vietnam, Laos, or Cambodia? Have they given us access to those central committee level or politburo records? Because I understand that is where these matters were discussed. Does anybody know?

In other words, have they given us access to the politburo records General Quang referred to.

Gary Sydow, senior analyst: "The answer to that is no."

That is the end of the statement. I have known Gary Sydow since I have been in the Congress. He is a very respected analyst. He has no agenda. He is a good man. He is telling the truth. He told the truth before Congress. The answer to that is no. But that did not stop normalization. That did not stop normalization, no. We have another agenda.

Even the administration representatives who traveled to Vietnam and those who are now stationed there have done little, in my opinion, to press the Vietnamese for the Quang document.

I have to believe in most cases they are honorable men and women, but why do they not ask for the document, why do they not press for the information? That is not asking too much.

Last Thursday, our new Chargé d'Affaires in Hanoi, Mr. Anderson, met with General Quang. Again, I got excited. He is going to meet somebody other than me. He is actually going to talk to General Quang. He is still alive. He still has this information in his head. So he is going to meet with him, this Mr. Anderson. So I got excited.

According to the press reports, the subject of the meeting was to thank each other for work on veterans issues, including the missing in action from both sides. That is what the meeting was about.

General Quang—they could not ask him for a more credible response on his document. The issue was not even raised, as far as I know. This is very disturbing in view of the fact that our new Chargé d'Affaires, Mr. Anderson, was the State Department's representative on POW/MIA issues during the interagency meetings at the end of the Carter administration in 1980. He served with Brzezinski. You would think he would be interested in pursuing these matters now that he is at Hanoi. My office called the State Department to find out what was actually said during that meeting. If the subject of the Guam report was not discussed at this meeting last Thursday, I would question what the point is of having diplomatic relations with Hanoi.

If we are going to have diplomatic relations with Hanoi to get the answers, why do we not ask for the answers? President Clinton said it was the best way to get answers on POW/MIA's. If we are not even going to raise the subject—it is obvious that all we are hearing is rhetoric from the administration, and there is no real commitment to serious follow-up on the issue.

Do you know what the sad thing is, Mr. President. I have been on the floor now—I do not even know—a long time. You just wonder how many people really care, other than the families and some who stay focused on this issue. It is so sad. Earlier in my remarks, I quoted assistant Secretary of State Winston Lord when he stated this past may, "We have no reason to believe that the Vietnamese are not making a good-faith effort." Did he talk to Mr. Sydow? If you are listening, Mr. Lord, talk to Mr. Sydow. He has been around a long time. He knows a lot more about the issue than you do. Read the testimony of the committee, Mr. Lord.

I think it is clear, from everything I have gone through today, that the American people are being misled in terms of cooperation, because they are not cooperating. Are they cooperating at all? Yes. If you want to get into semantics, yes, sure. If we pay them several million dollars, we can dig around out in the crash sites, find a few teeth, a few bone parts, airplane parts. Sure. That is reasonable. That is progress. I am not opposed to that.

But that is not enough. I want the records. I want the Politburo access. I hate to say this, but this administration does not want the American people to find out what we already know about our missing POW's, because it is not a pretty picture, Mr. President. If it got out—and it will, but it will be after the fact—it would stop normalization because the American people would go crazy; they would yell and scream and write letters to their Congressmen and Senators, and they would be outraged. That is why we are not going to see this stuff until it is all done.

That is a sad thing for me to have to stand on the floor of the Senate and say. It is especially true when you look at this next chart of quotes from President Clinton himself and Vice President GORE. I do not know what more you can do other than to judge people by their words.

President Clinton, before he was sworn in as President, stated this because there was a lot of controversy about his lack of service in the war, and so Vietnam was an issue in the campaign. He said:

> I have sent a clear message that there will be no normalization of relations with any country that is at all suspected of withholding information on missing Americans."

That was Bill Clinton prior to his assuming office as President.

During the campaign, he said:

> I think that the Vietnamese would be making a mistake if they think they could get, somehow, a better deal from me. I made real commitments to the American people and to the families and friends and the POWs and the MIAs that, you know, we've got to have a full, complete, good accounting before we normalize relations.

I am sorry to have to give you the bad news, Mr. President, but we do not have a full accounting.

AL GORE, the Vice President, who served in Vietnam, was even stronger. He said, in 1993, after he took office:

> I'll tell you this. The great push towards normalization of relations is very strong, and a lot of other countries are moving there, but it's not going to go forward until we're satisfied that the Vietnamese government has been totally forthcoming and fully

cooperative in giving every last shred of evidence that they have on this issue. We're very concerned about it.

Every last shred of evidence? Oh, my. Last month, the President said that normalizing relations with Vietnam is the best way to ensure further progress. Now it is "further progress." You go from, "we have to get all the answers to normalize" to "if we normalize, we will get more answers." It is a complete reversal, Mr. President, a flip-flop on a campaign promise. The American people need to understand that, and so do the families have to understand that.

The last chart, Mr. President—and this is the last chart and the end of my remarks for tonight—brings it home directly. This basically is a breakdown, by State, of all the missing. As far as I know, every State in the Union has American soldiers missing from the Vietnam war, including nine from my State of New Hampshire. I want my colleagues to understand something. These are not just statistics. Behind every one of those numbers—behind the nine in New Hampshire, behind the 210 in California, behind the 28 in Louisiana, or the 20 in Montana—is a family, a brother, sister, father, mother, wife, husband. They all wait. They all wait. They all wait. All these years, they wait.

You know, in war, you lose people. People die. People get killed, lost. People are not found. We understand that, and so do the men and women who serve understand that, and so do their families understand it. But that is not what we are talking about here. We are talking about sharing information that this Government has with the American people, so they can make an intelligent decision, through their representatives, about whether or not we should normalize with a country that did this to us. They have withheld this from us all these years, but we have basically done that—normalized with them.

I could go on and on. There is a case involving an aircraft shot down by North Vietnamese forces in Laos 1 week after the Paris peace accord—just a week after the Paris peace accord, Mr. President, when they all were supposedly accounted for. One week after, it was shot down. At the time, there were National Security Agency radio intercepts, and based on these intercepts, the probable capture and movement along the Ho Chi Minh trail of Americans by the North Vietnamese in this incident. To show you the agony the families have to go through—and I do not want to get into whether it is right or wrong— now the Pentagon wants to bury the entire crew at Arlington because they found half of a tooth at the crash site in 1993.

Now, how do you explain to a family why half a tooth found at a crash site could conclusively tell a family that is their loved one when we had radio intercepts that these guys were taken away from the crash site? How do you do that?

I am told this is only forensic evidence that was recovered and now they want to bury the whole crew. Their names have been taken off the list. That is what it is—get that list down. Even though the Vietnamese may not have provided one shred of documentary evidence as to what happened to these men. They know what happened to these guys. They could tell us. If they died, they know. If they were led off and executed, they know. If they died in captivity, they know.

What do they do? They say, go ahead, take your shovels. We will sell the shovels to you, sell you the bulldozers, or lease you the bulldozers, give you some men at ridiculously high prices for labor, and we will let you go out there and dig around at the crash site when, in fact, we have all the information in the archives. We know what has happened. That is progress. That is the cooperation we are getting.

It is hard for a family to have to deal with that. Imagine yourself, a father or mother, a spouse, to have to look at that report, then be asked to accept a tooth at that crash site when, in fact, you have radio intercepts, intelligence reports that said these men were captured.

I do not know what is right. I do not know if the radio intercepts were right or wrong but the Vietnamese know. They can tell us. They can tell these families so we do not have to go through this pain anymore.

I have a long list of other cases, and I am not going to go through them. There has been no cooperation of the many requests from Congress for basic information on MIA's.

I hope my reason for taking the time of the Senate tonight, I hope that this issue might somehow, some way, hit home for each of my colleagues. When you look up there in your State and you see that number, think about it. There is a family behind every single number—children, grown now, some of them, children of their own, down at the wall.

I have looked at this issue for 11 years, and I know what I am talking about. I know what I am talking about. Communist Vietnam, Communist Laos, Communist North Vietnam and Communist China, as God is my witness, holds information on American service personnel today as I speak. They hold it and they can account for them.

We do nothing about it except normalize and go on with business as usual as if everything is all right, everything is more important, and then on top of that, we hide it from the Congress in violation of the law to be sure that we get it doing.

If we do not pursue the documents, or call into serious question the President's ill-advised decision to normalize, I am offended as a veteran, as a father with two sons and a daughter, any of whom could be sent off to Bosnia.

Mr. President, this is a tough issue. There is no question about it. It is a tough issue. The people say to me, "Senator, why don't you put the war behind you? Why don't you end this?" Because you have to get the truth. That is all we want, is the truth.

We do not want something that you cannot deliver on. If the Vietnamese cannot provide answers, then tell us why they cannot, but provide us unilaterally with everything that you can. And for God's sake, the United States Government, in a timely fashion, please provide any information that you have so that the families can finally get the peace that they deserve after so many years.

EXHIBIT 1

THE SECRETARY OF DEFENSE,
Washington, DC, February 14, 1977.

Memorandum for the President.

I understand that at your meeting on February 11 with leaders of the National League of Families, you indicated that the moratorium on unsolicited status changes for MIAs would continue. From our conversation before that meeting, my understanding is that the Department of Defense should go through all the files, getting ready to move on a program of unsolicited status changes later this year depending upon the outcome of negotiations with the Vietnamese.

Do I correctly understand your wishes?

HAROLD BROWN.

NATIONAL SECURITY COUNCIL,
March 2, 1977.

Memorandum for Zbigniew Brzezinski.
From: Michel Oksenberg.
Subject: Letter to Carol Bates of National League of Families.

Attached at Tab A is a reply for your signature to a letter from Carol Bates (Tab B).

I chose a reflective reply, since we wish to sustain Ms. Bates' confidence in us. We still have to cross the difficult bridge with these people.

Recommendation: That you sign the letter at Tab A.

NATIONAL SECURITY COUNCIL,
March 15, 1977.

Memorandum for Zbigniew Brzezinski.
From: Michel Oksenberg, MD.
Subject: League of Families' Reaction to Presidential Commission to Hanoi.

Signs are beginning to accumulate that many members of the League of Families are distressed by the purpose of the Woodcock Commission. They believe it is simply a ritualistic effort to obtain an accounting, with the President already having decided that he will accept whatever the Vietnamese give as sufficient to justify movement toward normalization.

I think it important to keep the League on board for as long as possible.

I have just talked to Carol Bates, Administrative Assistant of the League. I think that she is basically a reasonable person, and she indicated to me that a letter from you might enable her to prevent the convening of a meeting and/or press conference that would blast this effort before the Commission returns home with its report.

Recommendation: That you sign the letter to Carol Bates at Tab A.

NATIONAL SECURITY COUNCIL,
March 25, 1977.

Memorandum for Zbigniew Brzezinski.
From: Michel Oksenberg, MD.
Subject: Forthcoming Paris Negotiations with the Vietnamese.

You might wish to underscore to the President the desirability of toning down expectations, should a question arise at the press conference about the Paris negotiations.

The Vietnamese media have been vitriolic in their attacks on the U.S. They have explicitly linked aid to recognition. They have begun to release additional communications which passed between the Nixon Administration and the DRV.

Among other considerations, the hardened mood makes it unlikely that we will be obtaining more information on MIAs. At the same time, in response to the President's request, the Pentagon is forwarding recommendations on status reviews of the MIAs. The Pentagon will recommend that case reviews go forward, i.e., that MIAs be declared KIAs. This will place the President in a difficult political position, should he decide to accept the Pentagon's recommendation. He had earlier pledged not to allow case reviews until adequate accounting had been obtained. And he had raised public expectations that the Vietnamese were going to be more forthcoming on MIA information. Now it looks as if we may be in a deep freeze for at least many months.

Placed in the broadest context, when one considers the Vietnamese statements as well as Congressional votes against aid to Vietnam, we see the inability of two bitter enemies swiftly to place the past behind them, as the President had hoped. I have drafted a Q&A for the President in this realm which I think is appropriate for the occasion and in keeping with his style. You might draw it to his attention (Tab A).

Recommendation: That you mention this to the President before the press conference.

THE SECRETARY OF DEFENSE,
Washington, DC, May 26, 1995.

Memorandum for the President.
Subject: Status Reviews for Servicemen Missing in Southeast Asia.

You have asked for my recommendations concerning status reviews for MIAs.

As you know, since mid-1973 DoD has conducted status reviews only upon the written request of a missing serviceman's primary next of kin or upon receipt of conclusive evidence of death, such as the return of his remains. The Woodcock Commission concluded (as had the House Select Committee on Missing Persons in Southeast Asia, and the Department of Defense) that there is no evidence that any American servicemen are alive and being held against their will in Southeast Asia.

It is true that the Southeast Asian governments probably have significantly more information about our missing men than they have given to us. There is no reason to believe, however, that continuing to carry servicemen as missing in action puts pressure on Hanoi to provide information on our missing men. In fact, the opposite probably is true; it puts pressure on us to make concessions to Hanoi.

Status reviews, and obtaining of a complete accounting, are two distinct issues. An accounting that confirms death by direct evidence validates a declaration or presumption of death for a missing serviceman, but it is not a legal prerequisite to a status change.

Given the overwhelming probability that none of the MIAs ever will be found alive, I believe the time has come to allow the Secretaries of the Army, Navy and Air Force to exercise their responsibilities for status reviews as mandated by law even though we have not received a full accounting.

Reinstatement of reviews will of course be controversial. Certain members of the Congress, some families of the missing men, and others will charge that it is an abandonment of one MIA.

* * * * *

The resumption of reviews will be preceded by (1) an expression of our strong commitment to obtaining further information about the missing men and (2) careful preparation of concerned groups for the change of policy.

The decision will be discussed forthrightly with the National League of Families.

Appropriate Senate and House leaders and key members will be given advance notice.

The procedures for status reviews will be uniform among the Military Departments, in accordance with legal requirements, and announced through simultaneous letters from the Service Secretaries to the PW/MIA families.

The public will be informed of the reasons for reinstituting status reviews and assured that this does not detract from our determination to obtain an accounting. (I suggest that the public announcement would be most effective coming from you, but I am prepared to make it instead.)

Your decision:

1. Reinstate status reviews in accordance with the foregoing: Approve ☐. Disapprove ☐. Other ☐.
2. Presidential statement to apprise public: Approve ☐. Disapprove ☐. Other ☐.
3. Prepare for your approval a detailed plan of procedure: Approve ☐. Disapprove ☐. Other ☐.

HAROLD BROWN.

Mr. THOMAS. Mr. President, I rise today as the chairman of the Subcommittee on East Asian and Pacific Affairs to join with the Senator from New Hampshire in expressing my profound disappointment with the way the Clinton administration is managing—or more correctly, mismanaging—our bilateral relationship with the Socialist Republic of Vietnam.

My colleagues know that I was not supportive of the President's decision to normalize relations with Hanoi. This opposition was not based on my dislike of that country's Communist dictatorship, or even its brutal repression of its own people—although in this administration's view these two bases seem sufficient to continue to deny recognition to Cuba and North Korea. Rather, I did not believe that we should reward Vietnam with the normalization of relations when, in my opinion and the opinion of many of the Members of this body, Hanoi has not been sufficiently forthcoming with information about our country's missing and dead servicemen in Vietnam and Laos.

I will not rehash the normalization issue; the President made that decision and it serves little purpose to argue about a fait accompli. However, one of the issues that brings Senator SMITH and I to the floor today are the increasing signs that this administration's has decided to explore expanding our bilateral relationship to the economic benefit of the Vietnamese Government while completely disregarding the lack of Vietnamese progress on both the POW/MIA and human rights fronts. Representatives from the State Department and the Office of the U.S. Trade Representative were scheduled to come to the Hill this week to brief our staffs on the administration's decision to move toward expanding economic relations with Vietnam. Apparently, interagency discussions have been ongoing to the topic of extending loans and assistance to the Vietnamese through the Import-Export Bank, the Trade Development Agency, and the Overseas Private Investment Corporation. This at a time when POW/MIA issues remain unresolved, the Clinton administration is in flagrant violation of a law requiring the submission to the Congress of a report about the POW/MIA issue, and two American citizens remain jailed in Vietnamese prisons for advocating democracy in that country. The Senator from New Hampshire has already spoken forcefully to the POW/MIA issue, so I will limit my remarks to the second and third topics.

Mr. President, the Clinton Administration continues to fail to live up to its legal obligations with respect to the POW/MIA issue. For example, section 1034 of the act of October 5, 1994, Public Law No. 103-337, 108 Stat. 2840, requires the Secretary of Defense to provide the Congress with a complete list of missing or unaccounted for United States military personnel about whom it is possible that Vietnamese and Laotian officials could produce information or remains. The statute mandated that the report be submitted to us by November 17, 1994. When the DOD requested an extension of the deadline to February 17, 1995, we did not object. We did not object when the DOD supplied us with a sadly incomplete interim report. But Mr. President, almost 9 months after that date—and almost a year after it was due to be submitted—we have still not received that complete report required by the statute.

While I acknowledge that the President has wide latitude in the conduct of foreign policy, that latitude does not extend whether his administration abides by the legal requirements of Federal statutes. I and several other Senators wrote the President this summer requesting that the Defense Department comply with the law; we are still awaiting a response. Congress requested the list in order to determine for ourselves whether Vietnam was providing the United States with the fullest possible accounting of our POW/MIA's. Each day that passes without it, I believe, sends us the signal that the administration is indifferent to both our concerns and our role. As the chairman of the Foreign Relations Subcommittee with jurisdiction over Vietnam, I can assure the President that as each day passes without our receipt of the report, the likelihood that any ambassadorial nominee or funding request for that country will be indefinately held in my subcommittee increases commensurately.

Second, I am very concerned with the seeming disparity with which the Clinton administration has chosen to treat Vietnam's jailing of two American citizens—Tran Quang Liem and Nguyen Tan Tri—versus its reaction to China's arrest of Harry Wu. I spoke at length on the floor on September 5 about Vietnam's atrocious human rights record in general, and the case of these two Americans in particular. In August, a Vietnamese court sentenced Tran and Nguyen who were accused of being counter-revolutionaries and acting to overthrow the people's administration. The two were part of a group trying to organize a 1 day conference in Ho Chi Minh City to discuss human rights and democracy in Vietnam. Radio Hanoi Voice of Vietnam, in somewhat characteristic Communist rhetoric, described their "crimes" as follows:

> Taking advantage of our party's renovation policy, they used the pretext of democracy and human rights to distort the truth of history, smear the Vietnamese communist party and state, instigate bad elements at home, and contact hostile forces abroad feverishly oppose our state in an attempt to set up a people-betraying and nation-harming regime. . . . Their activities posed a particular danger to society and was detrimental to national security.

They were sentenced to terms of 4 and 7 years respectively.

When human rights activist and American citizen Harry Wu was arrested in the People's Republic of China this summer, the Clinton administration appropriately raised a huge diplomatic outcy. When Wu was jailed, public calls for his immediate release came from the highest levels of the administration. It was made clear that Mrs. Clinton would not attend the U.N. Women's Conference in Beijing if he was still being held, and that other high-level contacts would be disrupted. In essence, the signal went out that business as usual would be suspended until his release.

Well Mr. President, where is a similar outcry about the fate of these two Vietnamese-Americans? The only statement I have seen from the State Department so far was one announcing that they had raised this case with the Vietnamese a number of times, here and in Hanoi. The information available to me and other Members of the Senate, however, indicated that the issue was only being raised at the consular level. It was for that reason that Senator GRAMS introduced, and I cosponsored, Senate Resolution 174 calling on the Secretary of State to pursue their release as a matter of the highest priority and requesting that he keep the Foreign Relations Committee informed regarding their status. Senate Resolution 174 passed unanimously on September 19, yet since that time the administration gives the appearance of moving ahead with business as usual. I have seen no public statements by the Secretary regarding the case, and as the chairman of the subcommittee of jurisdiction I have not seen any reports on its status. While I have become aware that there have been some behind-the-scenes moves to secure their release, it is no thanks to the State Department that that information came to my attention.

During his campaign for President, then-candidate Clinton lambasted President Bush's relations with China—not dissimilar, I must note, from those Clinton himself has since adopted—and accused him of coddling dictators. Well, Mr. President, with movement toward increased economic aid in spite of the treatment of our citizens, in spite of Vietnam's horrendous human rights record, one might be tempted to ask who's doing the coddling now?

I have no strong objection to the eventual institution of full diplomatic and economic relations with the people of Vietnam. But to move toward that goal while we have these important issues outstanding is, I believe, an affront to the memories of our missing and killed American servicemen, their families, and the families of the two jailed Americans.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE NOTICE OF THE CONTINUATION OF THE IRAN EMERGENCY—MESSAGE FROM THE PRESIDENT—PM 90

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond November 14, 1995, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on November 1, 1994.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. Indeed, on March 15 of this year, I declared a separate national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. By Executive Order 12959, these sanctions were significantly augmented. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency, including the authority to block certain property of the Government of Iran, and which are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 31, 1995.*

MESSAGES FROM THE HOUSE

At 9:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the following bill, without amendment:

S. 457. An act to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1358. An act to require the Secretary of Commerce to convey the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts.

H.R. 1508. An act to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park.

H.R. 1691. An act to provide for innovative approaches for homeownership opportunity and provide for the temporary extension of the rural rental housing program, and for other purposes.

H.R. 2005. An act to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 249) to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

For consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. KASICH, Mr. WALKER, Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr. SABO, Mr. BONIOR, and Mr. STENHOLM.

As additional conferees from the Committee on the Budget, for consideration of title XX of the House bill, and modifications committed to conference: Mr. KOLBE, Mr. SHAYS, Mr. HOBSON, Ms. SLAUGHTER, and Mr. COYNE.

As additional conferees from the Committee on Agriculture, for consideration of title I of the House bill, and subtitles A–C of title I of the Senate amendment, and modifications committed to conference: Mr. ROBERTS, Mr. EMERSON, Mr. GUNDERSON, Mr. DE LA GARZA, and [vacancy].

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the House bill, and title III of the Senate amendment, and modifications committed to conference: Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. GONZALEZ, and Mr. LAFALCE.

As additional conferees from the Committee on Commerce, for consideration of title III of the House bill, and subtitle A of title IV, subtitles A and G of title V, and section 6004 of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. SCHAEFER, and Mr. DINGELL.

As additional conferees from the Committee on Commerce, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. BILIRAKIS, Mr. HASTERT, Mr. GREENWOOD, Mr. DINGELL, Mr. WAXMAN, and Mr. PALLONE.

As additional conferees from the Committee on Commerce, for consideration of title XVI of the House bill, and subtitle B of title VII of the Senate amendment, and modifications committed to conference: Mr. BLILEY, Mr. BILIRAKIS, Mr. TAUZIN, Mr. BARTON of Texas, Mr. PAXON, Mr. HALL of Texas, Mr. DINGELL, Mr. WAXMAN, Mr. WYDEN, and Mr. PALLONE.

As additional conferees from the Committee on Economic and Educational Opportunities, for consideration of title IV of the House bill, and title X of the Senate amendment, and modifications committed to conference: Mr. GOODLING, Mr. MCKEON, and Mr. CLAY.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of title V of the House bill, and title VIII and sections 13001 and 13003 of the Senate amendment, and modifications committed to conference: Mr. CLINGER, Mr. SCHIFF, and Mrs. COLLINS of Illinois.

As additional conferees from the Committee on International Relations, for consideration of title VI of the House bill, and section 13002 of the Senate amendment, and modifications committed to conference: Mr. GILMAN, Mr. BURTON of Indiana, and Mr. HAMILTON.

As additional conferees from the Committee on the Judiciary, for consideration of title VII of the House bill, and title IX and section 12944 of the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. MOORHEAD, and Mr. CONYERS.

As additional conferees from the Committee on National Security, for consideration of title VIII of the House bill, and title II of the Senate amendment, and modifications committed to conference: Mr. SPENCE, Mr. HUNTER, and Mr. DELLUMS.

As additional conferees from the Committee on Resources, for consideration of title IX of the House bill, and title V (except subtitles A and G) of the Senate amendment, and modifications committed to conference: Mr. YOUNG of Alaska, Mr. TAUZIN, and Mr. MILLER of California.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of title X of the House bill, and subtitles B and C of title IV and title VI (except section 6004) of the Senate amendment, and modifications committed to conference: Mr. SHUSTER, Mr. CLINGER, and Mr. OBERSTAR.

As additional conferees from the Committee on Veterans' Affairs, for consideration of title XI of the House bill, and title XI of the Senate amendment, and modifications committed to conference: Mr. STUMP, Mr. HUTCHINSON, and Mr. MONTGOMERY.

As additional conferees from the Committee on Ways and Means, for consideration of titles XII, XIII, XIV, and XIX of the House bill, and subtitles H and I of title VII and title XII (except section 12944) of the Senate amendment, and modifications committed to conference: Mr. ARCHER, Mr. CRANE, Mr. THOMAS, Mr. SHAW, Mr. BUNNING of Kentucky, Mr. GIBBONS, Mr. RANGEL, and Mr. STARK: *Provided*, That Mr. MATSUI is appointed in lieu of Mr. Stark for consideration of title XII of the House bill.

As additional conferees from the Committee on Ways and Means, for consideration of title XV of the House bill, and subtitle A of title VII of the Senate amendment, and modifications committed to conference: Mr. ARCHER, Mr. THOMAS, Mrs. JOHNSON of Connecticut, Mr. MCCRERY, Mr. GIBBONS, Mr. STARK, and Mr. CARDIN.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 1358. An act to require the Secretary of Commerce to convey the Commonwealth of Massachusetts the National Marine Fisheries Service laboratory located on Emerson Avenue in Gloucester, Massachusetts; to the Committee on Commerce, Science, and Transportation.

H.R. 1508. An act to require the transfer of title to the District of Columbia of certain real property in Anacostia Park to facilitate the construction of National Children's Island, a cultural, educational, and family-oriented park; to the Committee on Governmental Affairs.

H.R. 1691. An act to provide for innovative approaches for homeownership opportunity and provide for the temporary extension of the rural rental housing program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2005. An act to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System; to the Committee on the Environment and Public Works.

The following resolution, previously received from the House for the concurrence of the Senate, was read and referred as indicated:

H. Con. Res. 109. A concurrent resolution expressing the sense of the Congress regarding the need for raising the social security earnings limit.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1563. A communication from the Comptroller of the Under Secretary of Defense, transmitting, pursuant to law, notice of fund transfers; to the Committee on Appropriations.

EC–1564. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report on compliance with the national flood insurance program; to the Committee on Banking, Housing, and Urban Affairs.

EC–1565. A communication from the Chairman of the International Trade Commission, transmitting, pursuant to law, a report on trade during the period April 1 to June 30, 1995; to the Committee on Finance.

EC–1566. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled "The Review of the Public Service Commission Agency Fund for Fiscal Year 1994"; to the Committee on Governmental Affairs.

EC–1567. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on the Employee Assistance Program for fiscal year 1994; to the Committee on Governmental Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following named Captains in the line of the United States Navy for promotion to the permanent grade of Rear Admiral (lower half), pursuant to Title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Stephen Hall Baker, [redacted], United States Navy.

Capt. John Joseph Bepko III, [redacted], United States Navy.

Capt. Jay Alan Campbell, [redacted], United States Navy.

Capt. Robert Charles Chaplin, [redacted], United States Navy.

Capt. James Cutler Dawson, Jr., [redacted], United States Navy.

Capt. Malcolm Irving Fages, [redacted], United States Navy.

Capt. Veronica Zasadni Froman, [redacted], United States Navy.

Capt. Scott Allen Fry, [redacted], United States Navy.

Capt. Gregory Gordon Johnson, [redacted], United States Navy.

Capt. Stephen Irvin Johnson, [redacted], United States Navy.

Capt. Joseph John Krol, Jr., [redacted], United States Navy.

Capt. Stephen Robert Loeffler, [redacted], United States Navy.

Capt. John Thomas Lyons III, [redacted], United States Navy.

Capt. James Irwin Maslowski, [redacted], United States Navy.

Capt. Richard Walter Mayo, [redacted], United States Navy.

Capt. Michael Glenn Mullen, [redacted], United States Navy.

Capt. Larry Don Newsome, [redacted], United States Navy.

Capt. Richard Jerome Nibe, [redacted], United States Navy.

Capt. Paul Scott Semko, [redacted], United States Navy.

Capt. Robert Gary Sprigg, [redacted], United States Navy.

Capt. Robert Timothy Ziemer, [redacted], United States Navy.

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Osie V. Combs, Jr., [redacted], United States Navy.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Jeffrey Alan Cook, [redacted], United States Navy.

The following named officer for appointment to the grade of vice admiral in the United States Navy while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be vice admiral

Rear Adm. Dennis C. Blair, [redacted].

The following named captain in the line of the United States Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to Title 10, United States Code, Section 624, subject to qualifications, therefore, as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. John B. Padgett III, [redacted], United States Navy.

The following named officer for appointment in the United States Air Force to the grade of major general under the provisions of title 10, United States Code, section 624:

To be major general

Brig. Gen. John B. Hall, Jr., [redacted], Regular Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Brett M. Dula, [redacted], United States Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Nicholas B. Kehoe, III, [redacted], United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Thad A. Wolfe, [redacted], United States Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James F. Record, [redacted], United States Air Force.

The following named Medical Corps Competitive Category officers for appointment in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

To be brigadier general

Col. George J. Brown, [redacted], United States Army.

Col. Robert F. Griffin, [redacted], United States Army.

The following named officer for promotion in the Regular Army of the United States to the grade indicated under title 10, U.S.C., sections 611(a) and 624(c):

To be brigadier general

Col. Bettye H. Simmons, [redacted], United States Army.

The following named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, Sections 611(a) and 624:

To be permanent major general

Brig. Gen. Robert W. Roper, Jr., [redacted].
Brig. Gen. Edward L. Andrews, [redacted].
Brig. Gen. David K. Heebner, [redacted].
Brig. Gen. Morris J. Boyd, [redacted].
Brig. Gen. Robert R. Hicks, Jr., [redacted].
Brig. Gen. Stewart W. Wallace, [redacted].
Brig. Gen. James M. Wright, [redacted].
Brig. Gen. Charles W. Thomas, [redacted].
Brig. Gen. George H. Harmeyer, [redacted].
Brig. Gen. John F. Michitsch, [redacted].
Brig. Gen. Lon E. Maggart, [redacted].
Brig. Gen. Henry T. Glisson, [redacted].
Brig. Gen. Thomas N. Burnette, Jr., [redacted].
Brig. Gen. David H. Ohle, [redacted].
Brig. Gen. Milton Hunter, [redacted].
Brig. Gen. James T. Hill, [redacted].
Brig. Gen. Greg L. Gile, [redacted].
Brig. Gen. James C. Riley, [redacted].
Brig. Gen. Randall L. Rigby, [redacted].
Brig. Gen. Daniel J. Petrosky, [redacted].
Brig. Gen. Michael B. Sherfield, [redacted].
Brig. Gen. James C. King, [redacted].
Brig. Gen. Joseph G. Garrett, III, [redacted].
Brig. Gen. Leroy R. Goff, III, [redacted].
Brig. Gen. Daniel G. Brown, [redacted].
Brig. Gen. William P. Tangney, [redacted].
Brig. Gen. Charles S. Mahan, Jr., [redacted].
Brig. Gen. John J. Maher, III, [redacted].
Brig. Gen. Leon J. LaPorte, [redacted].
Brig. Gen. Claudia J. Kennedy, [redacted].

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the RECORDS of March 8, April 24, September 5, 8, 19, October 10, 11, and 19, 1995, and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of March 8, April 24, September 5, 8, 19, October 10, 11, and 19, 1995 at the end of the Senate proceedings.)

*In the Navy there are 23 promotions to the grade of rear admiral (lower half) (list begins with Stephen Hall Baker) (Reference No. 234–1)

**In the Naval Reserve there are 332 promotions to the grade of captain (list begins with John M. Abernathy III) (Reference No. 257–1)

*Captain John B. Padgett, III, USN to be rear admiral (lower half) (Reference No. 275)

**In the Navy there is 1 promotion to the grade of lieutenant commander (Robert W. Ernst) (Reference No. 343–1)

*Brigadier General John B. Hall, Jr., USAF to be major general (Reference No. 426)

*In the Army there are 30 promotions to the grade of major general (list begins with Robert W. Roper, Jr.) (Reference No. 533)

**In the Navy there are 1,240 promotions to the grade of lieutenant commander (list begins with Timothy A. Adams) (Reference No. 623–1)

**In the Navy there are 741 appointments to the grade of commander and below (list begins with Albert M. Carden) (Reference No. 628–1)

Total: 2,369.

* Rear Admiral Dennis C. Blair, USN to be vice admiral (Reference No. 472)

** In the Air Force there are 2,360 promotions to the grade of major (list begins with Tarek C. Abboushi) (Reference No. 611)

* Major General Brett M. Dula, USAF to be lieutenant general (Reference No. 639)

* Major General James F. Record, USAF to be lieutenant general (Reference No. 640)

* Lieutenant General Thad A. Wolfe, USAF to be placed on the retired list in the grade of lieutenant general (Reference No. 641)

* Colonel Bettye H. Simmons, USA to be brigadier general (Reference No. 643)

* In the Army there are 2 appointments to the grade of brigadier general (list begins with George J. Brown) (Reference No. 644)

** In the Army there are 71 promotions to the grade of colonel (list begins with Anthony C. Aiken) (Reference No. 645)

** In the Navy there are 844 promotions to the grade of lieutenant commander (list begins with William D. Agerton) (Reference No. 647)

* Major General Nicholas B. Kehoe, III, USAF to be lieutenant general (Reference No. 668)

** In the Air Force Reserve there are 20 promotions to the grade of lieutenant colonel (list begins with Julian Andrews) (Reference No. 669)

** In the Army there is 1 promotion to the grade of major (Amy M. Autry) (Reference No. 670)

** In the Army there are 2 promotions to the grade of colonel and below (list begins with Michael B. Neveu) (Reference No. 671)

** In the Army there is 1 promotion to the grade of major (Duane A. Belote) (Reference No. 672)

** In the Marine Corps there are 66 appointments to the grade of captain (list begins with Thurmond Bell) (Reference No. 673)

** In the Air Force Reserve there are 714 promotions to the grade of lieutenant colonel (list begins with Laraine L. Acosta) (Reference No. 674)

** In the Air Force there are 28 promotions to the grade of colonel and below (list begins with Larry E. Freeman) (Reference No. 683)

** In the Army there is 1 promotion to the grade of lieutenant colonel (Derek J. Harvey) (Reference No. 684)

** In the Army Reserve there are 16 promotions to the grade of colonel (list begins with Barbara Hasbargen) (Reference No. 685)

** In the Army Reserve there are 567 promotions to the grade of lieutenant colonel (list begins with Mary B. Alexander) (Reference No. 686)

Total: 4,699.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN:

S. 1368. A bill to provide for State regulation of prices charged for services provided by, and routes of service of, motor vehicles that provide tow or wrecker services, and for other purposes; to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation.

By Mr. WELLSTONE:

S. 1369. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, approval, and use of medical devices to maintain and improve the public health and quality of life of individuals, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRAIG (for himself, Mr. DOLE, Mr. LOTT, Mr. BROWN, Mr. BURNS, Mr. CAMPBELL, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mr. INHOFE, Mr. KEMPTHORNE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, and Mr. THOMAS):

S. 1370. A bill to amend title 10, United States Code, to prohibit the imposition of any requirement for a member of the Armed Forces of the United States to wear indicia or insignia of the United Nations as part of the military uniform of the member; to the Committee on Armed Services.

By Mr. HATCH (for himself, Mr. CRAIG, Mr. BENNETT, and Mr. BURNS):

S. 1371. A bill entitled the "Snowbasin Land Exchange Act of 1995"; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. DOLE):

S. 1372. A bill to amend the Social Security Act to increase the earnings limit, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. DOLE, Mr. D'AMATO, Mr. MURKOWSKI, Mr. HATCH, Mr. ABRAHAM, Mr. HELMS, Mr. PRESSLER, Mr. BRYAN, Mr. THURMOND, Mrs. FEINSTEIN, Mr. NICKLES, Mr. COVERDELL, and Mr. STEVENS):

S. Res. 189. A resolution to designate Wednesday, November 1, 1995, as "National Drug Awareness Day"; considered and agreed to.

By Mr. WARNER (for himself and Mr. FORD):

S. Res. 190. A resolution to authorize the printing of a revised edition of the Senate Election Law Guidebook; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 1369. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, approval, and use of medical devices to maintain and improve the public health and quality of life of individuals, and for other purposes; to the Committee on Labor and Human Resource.

THE MEDICAL TECHNOLOGY, PUBLIC HEALTH, AND INNOVATION ACT OF 1995

Mr. WELLSTONE. Mr. President, the legislation I am introducing today would take a significant and responsible step toward improving the effectiveness, timeliness, and predictability of the FDA review process for medical devices.

Over the past 9 months, I have met with numerous representatives of Minnesota's medical device industry, patient advocacy groups, clinicians, and officials at the FDA and have concluded that there are indeed steps that Congress should take to make the regulatory process for medical devices more efficient. Minnesotans want the FDA not only to protect public health, but also to promote public health. They want to know not only that new technologies will be safe, but that they will be available to them in a timely manner. Many of Minnesota's medical device manufacturers, researchers, clinicians, and patients in need of new and improved health care technology have become increasingly concerned about the regulatory environment at the FDA.

Two weeks ago I visited SpineTech, which is a perfect example of Minnesota's burgeoning, world-famous medical device industry. It was formed in 1991 with 4 people, funded by venture capital, and it now employs more than 40 people. It manufacturers a breakthrough disc replacement technology which has been studied in clinical trials for 3 years. The technology, used for individuals with chronic low-back pain, has been shown to result in shorter hospital stays, less invasive surgery and lower medical costs than the alternative therapy.

SpineTech filed its premarket approval application in January of this year. The application has not yet been accepted by the FDA and thus the premarket approval process has not yet even officially begun. The average total elapsed time for FDA review of PMA applications is now about 823 days. The technology has been available in every other advanced industrialized country for the past 2 years.

The technologies that the FDA regulates are changing rapidly. We cannot afford a regulatory system ill-equipped to speed these advances. As a result, both Congress and the administration are reexamining the paradigms that have governed the FDA. Our challenge will be to define FDA's mission and scope of responsibility, as well as to give guidance on an appropriate balance between the risk and rewards of streamlining all aspects of how FDA does its job—including the approval process for breakthrough products.

The legislation that I will be introducing would begin to address these objectives in three important ways.

First, it would enable the FDA to adopt nationally and internationally recognized performance standards to improve the transparency and effectiveness of the device review process and promote global harmonization and interantional trade. Resource constraints and the time-consuming rulemaking process have precluded FDA promulgation of performance standards in the past. This legislation would allow the FDA, when appropriate, to simply adopt consensus standards that are already being used by most of the world and use those standards to assist in determining the safety and effectiveness of class III medical devices. The FDA could require additional data from a manufacturer relevant to an aspect of a device covered by an adopted performance standard if necessary to protect patient safety. Currently, the lack of clear performance standards for class III medical devices is a barrier to the improvement of the quality and timeliness of the premarket approval process.

Second, it would improve communication between the industry and the

FDA and the predictability of the review process. I believe that these two factors are so important that I have even included what would usually be management decisions in the legislation. This bill includes provisions for periodic meetings betwen the applicant and the FDA to ensure that applicants are promptly informed of any deficiencies in their application, that questions that can be answered easily would be addressed right away, and that applicants would be well-informed about the status of their application. I believe that improving communication between the FDA and industry would result in greater compliance with regulations and that this will ultimately benefit consumers and patients.

Third, the legislation would help the FDA focus its resources more appropriately. PMA supplements or 510(k)s that relate only to changes that can be shown to not adversely affect the safety or effectiveness of the device would not require premarket approval or notification. Manufacturers would instead make information and data supporting the change part of the device master record at the FDA. In addition, the FDA would be able to exempt from premarket notification requirements those class II devices for which such requirements are unnecessary to ensure the public health without first having to go through the time consuming and bureaucratic process of reclassifying them to class I. Enabling the FDA to focus its attention where the real risks are will not only streamline the approval process but also benefit consumers and patients.

Finally, I want to be clear that this legislation is a work in progress. I look forward to working with Senator KASSEBAUM, the chairman of the Labor and Human Resources Committee, and my colleagues on the committee on the concepts included in my proposal. I will work vigorously to ensure they are included in any comprehensive FDA legislation considered by the Senate both this year and in the future. I look forward to continuing to work on these issues with Minnesotans and to pressing ahead next year on whatever we cannot accomplish this year. Clearly there are actions Congress can take to improve the FDA without scarificing the assurances of safety that all Americans depend on.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Medical Technology, Public Health, and Innovation Act of 1995".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

SEC. 2. FINDINGS; MISSIONS STATEMENT.

(a) FINDINGS.—The Congress finds the following:

(1) While the United States appropriately puts a top priority on ensuring the safety and efficacy of medical technologies that are introduced into the marketplace the administration of such regulatory effort is causing the United States to lose its leadership role in producing innovative, top-quality medical devices.

(2) One of the key components of the medical device regulatory process that contributes to the United States losing its leadership role in medical device development is the inordinate amount of time it takes for medical technologies to be reviewed by the United States Food and Drug Administration.

(3) The most important result of the United States losing its leadership role is that patients in the United States do not have access to new medical technology in a timely manner.

(4) Delayed patient access to new technology results in lost opportunities to save lives, to reduce hospitalization and recovery time, and to improve the quality of life of patients.

(5) The economic benefits that the United States medical device industry, which is composed principally of smaller companies, has provided through growth in jobs and global trade are threatened by the slow and unpredictable regulatory process at the Food and Drug Administration.

(6) The pace and predictability of the medical device regulatory process, together with a perceived adversarial relationship with the Food and Drug Administration, are in part responsible for the increasing tendency of United States medical device companies to shift research, product development, and manufacturing offshore, at the expense of American jobs, patients, and leading edge clinical research.

(b) MISSION STATEMENT.—This legislation seeks to improve the timeliness, effectiveness, and predictability of the medical device approval process for the benefit of United States patients and the United States economy by—

(1) providing for the use of nationally and internationally recognized performance standards to assist the Food and Drug Administration in determining the safety and effectiveness of medical devices;

(2) facilitating communication between medical device companies and the Food and Drug Administration;

(3) redefining clinical testing requirements to reflect the nature of device evolution; and

(4) targeting the use of Food and Drug Administration resources on those devices that are likely to have serious adverse health consequences.

SEC. 3. PERFORMANCE STANDARDS.

Section 514 (21 U.S.C. 360d) is amended by adding at the end thereof the following new subsection:

"ESTABLISHMENT AND ADOPTION OF OTHER STANDARDS

"(c)(1) The Secretary—

"(A) may establish pursuant to subsection (b) performance standards to assist in determining the safety or effectiveness of class III devices under section 515; and

"(B) may amend or revoke the performance standards established under subparagraph (A).

"(2) The Secretary shall, within 365 days of the date of enactment of this subsection, adopt performance standards established by nationally and internationally recognized standard-setting entities and use the standards when applicable to assist in determining the safety and effectiveness of class III devices under section 515.

"(3) The Secretary may not require, as the condition for approving a premarket approval application under section 515, the conformity of a class III device with a performance standard established or adopted pursuant to paragraph (1) or (2), respectively, if the applicant submits data other than that required by the performance standard to demonstrate a reasonable assurance of the safety and effectiveness of the device.

"(4) The Secretary, in lieu of requiring data demonstrating the conformity of a class III device with a standard described in paragraph (1) and (2), shall accept certification by the applicant that the device conforms with each standard identified in the application.

"(5) The Secretary may revoke the performance standards adopted under paragraph (2).

"(6) A performance standard established under this subsection for a device—

"(A) shall include provisions to provide reasonable assurance of the safe and effective performance of the device;

"(B) shall, where necessary to provide reasonable assurance of the safe and effective performance of the device, include—

"(i) provisions with respect to the construction, components, ingredients, and properties of the device and the compatibility of the device with power systems and connections to the systems;

"(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the device or, if it is determined that no other more practicable means are available to the Secretary to assure the conformity of the device to the standard, provisions for the testing (on sample basis or, if necessary, on an individual basis) of the device by the Secretary or by another person at the direction of the Secretary;

"(iii) provisions for the measurement of the performance characteristics of the device;

"(iv) provisions requiring that the results of each or certain of the tests of the device required to be made under clause (ii) demonstrate that the device is in conformity with those portions of the standard for which the test or tests were required; and

"(v) a provision requiring that the sale and distribution of the device be restricted to the extent that the sale and distribution of the device is restricted under a regulation under section 520(e); and

"(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper installation, maintenance, operation, and use of the device.".

SEC. 4. PREMARKET APPROVAL.

(a) APPLICATION.—Section 515(c) (21 U.S.C. 360e(c)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively; and

(2) by adding at the end thereof the following new paragraphs:

"(3)(A) An applicant—

"(i) shall include in an application described in paragraph (1) an identifying reference to any applicable performance standard established or adopted under paragraph (1) or (2) of section 514(c), respectively; and

"(ii) shall include in the application—

"(I) a certification by the applicant as described in section 514(c)(4), that the device complies with the applicable performance standard; or

"(II) data to support the safety or effectiveness of the device.

"(B)(i) Except as provided in clause (ii), the Secretary may not require an applicant who submits an application for premarket approval for a class III device under paragraph (1) to submit preclinical data and information regarding the device relevant to a performance standard established or adopted under paragraph (1) or (2) of section 514(c), respectively, if such standard defines performance or other specifications for the device, and the applicant certifies that the device conforms to the standard.

"(ii) The Secretary may require an applicant described in clause (i) to submit preclinical data and information regarding a class III device if additional information or data are necessary to protect patient safety.

"(C) The Secretary shall require an applicant who certifies that a device conforms to an applicable performance standard established or adopted under paragraph (1) or (2) of section 514(c), respectively to maintain data demonstrating such conformance for a period of time that is equal to the period of time for the design and expected life of the device and to make the data available to the Secretary upon request.

"(D) The Secretary may deny, withdraw, or temporarily suspend approval of a premarket approval application for a class III device if—

"(i) the Secretary determines that the device does not conform to an applicable performance standard (on which the applicant relied) established or adopted under paragraph (1) or (2) of section 514(c), respectively; and

"(ii) such conformance is considered by the Secretary to be material in approving the device.

"(4) The Secretary shall accept retrospective or historical clinical data as a control or for use in determining whether there is a reasonable assurance of device safety and effectiveness if the data are available and the effects of the device on disease progression are clearly defined and well understood.

"(5) The Secretary may not require the sponsor of an application to conduct clinical trials for a device using randomized controls unless—

"(A)(i) such controls are scientifically and ethically feasible;

"(ii) the effects of the device on disease progression are not clearly defined and well understood as determined by the Secretary; and

"(iii) retrospective or historical data are not available that meet the standards of the Secretary for quality and completeness; or

"(B) such controls are necessary to support specific marketing claims.

"(6) The Secretary may not require in a supplement to a premarket approval application data from randomized clinical trials for a modification to a device if—

"(A) the modification does not substantially and adversely affect safety or effectiveness; and

"(B) the modified device has the same intended use and is intended for similar patient populations as the approved device.".

(b) ACTION ON APPLICATION.—Section 515(d) (21 U.S.C. 360e(d)) is amended—

(1) in paragraph (1)(A), by striking "paragraph (2) of this subsection" each place it appears and inserting "paragraph (6)";

(2) by redesignating paragraphs (2) and (3) as paragraphs (6) and (7), respectively; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) Each premarket approval application and supplement received by the Secretary under subsection (c) shall be reviewed in the following manner to achieve final action on the application within 180 days of the receipt of the application:

"(A) The Secretary shall make a determination within 30 days of the receipt of an application filed under subsection (c) of whether the application satisfies the content requirements of paragraphs (1) and (3) of subsection (c) and applicable regulations, and the Secretary shall notify the applicant of the determination and whether the application has been accepted or has not been accepted for review for premarket approval. If the Secretary fails to notify the applicant within the 30-day period that the application is not sufficiently complete to permit a substantive review, the application shall be considered as filed by the Secretary.

"(B) The Secretary shall, within 45 days after the date of the acceptance of an application for review under subparagraph (A)—

"(i) provide the applicant the opportunity for a meeting (or teleconference) with the Secretary to—

"(I) inform the applicant of the general progress and status of the application;

"(II) advise the applicant of deficiencies in the application that have not been communicated to the applicant.

The applicant shall have the right to be informed in writing with respect to the information communicated to the applicant during the meeting or teleconference under subclauses (I) and (II).

"(ii) determine whether an advisory panel should be convened by the Secretary to review the application or to consider an issue related to the application.

"(C) The Secretary shall, within 90 days after the date of the acceptance of an application for review under subparagraph (A) provide an applicant the opportunity for a meeting (or teleconference) with the Secretary to—

"(i) inform the applicant of the general progress and status of the application;

"(ii) review actions taken by the applicant to correct deficiencies identified at the 45-day meeting described in subparagraph (B);

"(iii) advise the applicant of the deficiencies in the application that have not been communicated to the applicant; and

"(iv) review the proposed labeling for the device.

The applicant shall have the right to be informed in writing with respect to the information communicated to the applicant during the meeting or teleconference under clauses (i) through (iv).

"(D)(i) When an advisory panel is convened under subparagraph (B)(ii) to review an application or to consider an issue related to the application, the Secretary shall within 15 days after the close of the advisory panel meeting provide the applicant the opportunity for a meeting (or teleconference) with the Secretary to identify any remaining issues with respect to the approval of the application.

"(ii) If an advisory panel is not convened under subparagraph (B)(ii), the Secretary shall, within 120 days after the date of the acceptance of an application for review under subparagraph (A), provide the applicant the opportunity for a meeting (or teleconference) with the Secretary to—

"(I) inform the applicant of the general progress and status of the application;

"(II) review the actions taken to correct deficiencies identified in the application at the 90-day meeting described in subparagraph (C); and

"(III) advise the applicant of the deficiencies in the application that have not been communicated to the applicant.

"(iii) The applicant shall have the right to be informed in writing with respect to the information communicated to the applicant during the meeting or teleconference under clauses (i) and (ii).

"(E) The Secretary shall, within 150 days after the date of the acceptance of an application for review under subparagraph (A), notify the applicant of the decision of the Secretary to approve or disapprove the application.

"(F) The Secretary shall exclude the time that an applicant takes to respond to the Secretary's requests for additional data or information in determining when the 45-day, 90-day, 120-day and 150-day periods described in subparagraphs (B), (C), (D), and (E) expire.

"(3) To permit better treatment or better diagnoses of life-threatening or irreversibly debilitating diseases or conditions, the Secretary shall expedite the review for devices—

"(A) representing breakthrough technologies;

"(B) offering significant advantages over existing approved alternatives; or

"(C) for which accelerated availability is in the best interest of the public health.

"(4)(A) The Secretary shall annually publish a status report on the premarket clearance or approval of applications and other device submissions.

"(B) The report described in subparagraph (A) shall include—

"(i) a specific statement from the Secretary concerning the performance of the Food and Drug Administration in reducing the backlog in the reviewing of applications for premarket clearance or approval for a device and meeting statutory time limitations applicable to the review of the applications;

"(ii) with respect to devices, data (which shall be provided by the Center for Devices and Radiological Health and each division of the Office of Device Evaluation of the Center for Devices and Radiological Health) on—

"(I) the number of premarket approval applications, supplements, premarket notifications, and applications for investigational device exemptions, not accepted for filing by the Secretary;

"(II) the total time (beginning on the date of the filing of an application and ending on the date of the clearance or approval of the application) required to review the premarket approval applications, supplements, premarket notifications, and applications for investigational device exemptions;

"(III) the total time (excluding the time periods permitted for an applicant to prepare and submit to the Secretary responses or additional information or data requested by the Secretary) as calculated by the Food and Drug Administration to complete the review of each premarket approval application, supplement, premarket notification, and application for investigational device exemption;

"(IV) the number of adverse decisions made with respect to the applications and supplements described in subclause (II);

"(V) the number of nonapprovable letters for device submissions;

“(VI) the number of deficiency letters for device submissions;

“(VII) the number of times applicants are required to supply information during the review of an application or supplement described in subclause (II); and

“(VIII) the performance of the actions described in paragraph (2), including performance information with respect to the number of premarket approval applications that were or were not reviewed within the time limitations described in such paragraph and the time necessary to carry out each of the actions; and

“(iii) baseline data for the data described in subclauses (I) through (VII) of clause (ii) for the preceding year.

“(5) The Secretary shall complete the review of all premarket approval supplements that do not contain clinical data within 90 days of the receipt of a supplement that has been accepted for filing.”.

(c) ELIMINATION OF PREMARKET APPROVAL OF SUPPLEMENTS.—The Secretary of Health and Human Services shall eliminate premarket approval of supplements that relate to manufacturing and product changes of a device that can be demonstrated through appropriate protocols or other methods to not affect adversely the safety or effectiveness of a device. The Secretary of Health and Human Services shall require the manufacturer of a device to submit to the Secretary of Health and Human Services any information relied upon to support a device-related change that is not subject to premarket approval of a supplement to an application approved under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e). The information shall be made a part of the device master record. The information shall be maintained for a period of time equal to the period of time for the design and expected life of the device, but not less than 2 years after the date of release of the device for commercial distribution by the manufacturer.

SEC. 5. PREMARKET NOTIFICATION REQUIREMENTS.

(a) EXEMPTION FOR CLASS I AND II DEVICES.—Section 510 (21 U.S.C. 360) is amended by adding at the end thereof the following new subsection:

“(l) Within 365 days of the date of enactment of this section, the Secretary shall exempt from the notification requirement under subsection (k) class I and II devices that should not be subject to the notification requirement because such notification is not necessary to provide a reasonable assurance of the safety and effectiveness of the devices. Prior to making such determination, the Secretary shall provide an opportunity for notice and comment with respect to the appropriateness of the exemption for the class I and II devices.”.

(b) LIMITATION ON NOTIFICATION.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall not enforce the requirement for additional notifications under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) for a change or modification to a device initially classified under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)) that—

(A) is other than a major change or a major modification in the intended use;

(B) is supported by nonclinical data or information, when appropriate; and

(C) can be shown to not adversely affect the safety and effectiveness of the device.

(2) MAINTENANCE OF NOTIFICATION DATA.—The Secretary of Health and Human Services shall require the manufacturer of a device to submit to the Secretary of Health and Human Services all data and information relied upon to document that a change or modification of a device described in paragraph (1) does not require an additional notification under section 510(k). The data and information shall be made a part of the device master record. The data and information shall be maintained for a period of time equal to the period of time for the design and expected life of the device, but not less than 2 years after the date of release of the device for commercial distribution by the manufacturer.

SEC. 6. INVESTIGATIONAL DEVICE EXEMPTION.

(a) REGULATIONS.—Section 520(g) (21 U.S.C. 360j(g)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) The Secretary shall, within 120 days of the date of enactment of this paragraph, by regulation amending the content of part 812 of title 21 of the Code of Federal Regulations, amend the procedures with respect to the approval of studies under this subsection as follows:

“(A) The regulation shall include provisions that require the Secretary to permit the sponsor to meet with the Secretary prior to the submission of an application to develop a protocol for a study subject to the regulation, that require that the protocol shall be agreed upon in writing by the sponsor and the Secretary, and that set forth a time limitation for the sponsor to conduct a followup of a study.

“(B) The regulation shall require the Secretary to permit developmental changes in devices subject to the regulation in response to information gathered during the course of an investigation without requiring an additional approval of an application for an investigational device exemption, or the approval of a supplement to the application, if the changes meet the following requirements:

“(i) The changes do not constitute a significant change in the design of the product or a significant change in basic principles of operation.

“(ii) The changes do not adversely affect patient safety.

The regulation shall require that such a change be documented in records the applicant is required to maintain with respect to the investigational device exemption.

“(C) The regulation shall provide for the use of an investigational device for diagnosis or treatment use under a protocol or investigational device exemption if the following requirements are met:

“(i) The device is intended to treat or diagnose a serious or immediately life-threatening disease.

“(ii) There is no comparable or satisfactory device or other therapy available to treat or diagnose that disease in the intended patient population.

“(iii) The device is under investigation in a controlled clinical trial under an investigational device exemption in effect for the trial or all clinical trials for the device have been completed.

“(iv) The sponsor of the controlled clinical trial is actively pursuing marketing approval of the investigational device with due diligence.

“(D) The regulation shall require the Secretary to consult with advisory panels, which have the appropriate expertise, with respect to the establishment of an appropriate time limitation for the conduct of a followup study by the sponsor of the study.

(b) CONFORMING AMENDMENTS.—Section 517(a)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360g(a)(7)) is amended—

(1) by striking “section 520(g)(4)” and inserting “section 520(g)(5)”; and

(2) by striking “section 520(g)(5)” and inserting “section 520(g)(6)”.

SEC. 7. ESTABLISHMENT OF A POLICY AND PERFORMANCE REVIEW PANEL.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 901 et seq.) is amended by adding at the end thereof the following new section:

“SEC. 906. POLICY AND PERFORMANCE REVIEW PANEL.

“(a) ESTABLISHMENT.—There is established a panel to be known as the Food and Drug Policy and Performance Review Panel (hereafter referred to in this section as the ‘Panel’).

“(b) MEMBERSHIP.—The members of the Panel shall be appointed by the Secretary in accordance with subsection (d)(1) and shall include—

“(1) individuals with expertise in medical, scientific, and health policy and regulatory issues;

“(2) representatives of industry, voluntary health associations, and patient advocacy groups; and

“(3) representatives of the Food and Drug Administration.

“(c) TERMS.—

“(1) IN GENERAL.—Each member of the Panel shall serve for a term of not more than 3 years and the terms of office of such members shall be staggered.

“(2) REAPPOINTMENT.—Each member of the Panel may be reappointed, but may not serve more than 3 consecutive terms.

“(3) VACANCIES.—Any vacancy in the Panel shall not affect the powers of the Panel and shall be filled in the same manner as the original appointment.

“(d) ORGANIZATIONAL STRUCTURE.—

“(1) IN GENERAL.—The Chairperson of the Panel shall organize the Panel in a manner that will ensure that there is a portion of the membership of the Panel monitoring the activities of each Center within the Food and Drug Administration. The membership of the Panel shall be composed of individuals with expertise necessary to ensure appropriate review of the performance of each Center.

“(2) DEFINITION.—For the purposes of this section, the term ‘Center’ means the Center for Devices and Radiological Health, Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, Center for Food Safety and Applied Nutrition, Center for Veterinary Medicine, and Center for Toxicological Research.

“(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Secretary shall select a Chairperson and Vice Chairperson from among the members of the Panel.

“(f) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Panel have been appointed, the Panel shall hold its first meeting.

“(g) MEETINGS.—The Panel shall meet at the call of the Chairperson.

“(h) QUORUM.—A majority of the members of the Panel shall constitute a quorum, but a lesser number of members may hold hearings.

“(i) DUTIES.—The Panel shall—

“(1) monitor the activities carried out by the Secretary through the Commissioner of Food and Drugs;

“(2) review the performance of the Food and Drug Administration to determine if the

Food and Drug Administration is carrying out its mission to protect and promote the public health and is developing appropriate policy and effective regulations to carry out its mission;

"(3) review the performance of each Center in accordance with subsection (d)(1);

"(4) meet at least twice annually with appropriate management officials of the Food and Drug Administration and representatives of each Center;

"(5) participate in the development of agency guidelines; and

"(6) seek to facilitate the international harmonization of regulatory requirements, while ensuring that a product that is subject to the provisions of this Act, and that is marketed in the United States, is safe and effective.

"(j) REPORT.—The Panel shall annually prepare and submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that evaluates the performance of the Food and Drug Administration (including a description of the activities that the Food and Drug Administration has successfully or unsuccessfully carried out) and includes a recommendation on the administrative modifications needed to improve such performance.

"(k) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers advisable to carry out the purposes of this Act.

"(l) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from any Federal department or agency such information as the Panel considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Panel, the head of such department or agency shall furnish such information to the Panel.

"(m) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(n) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(o) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(p) TERMINATION OF THE PANEL.—The termination provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel.".

By Mr. CRAIG (for himself, Mr. DOLE, Mr. LOTT, Mr. BROWN, Mr. BURNS, Mr. CAMPBELL, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mr. INHOFE, Mr. KEMPTHORNE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. SMITH, Mr. STEVENS, and Mr. THOMAS):

S. 1370. A bill to amend title 10, United States Code, to prohibit the imposition of any requirement for a member of the Armed Forces of the United States to wear indicia or insignia of the United Nations as part of the military uniform of the member; to the Committee on Armed Services.

MILITARY UNIFORM LEGISLATION

Mr. CRAIG. Mr. President, I am pleased to be joining my colleague from the House of Representatives, Majority Whip TOM DELAY, in introducing legislation that will prohibit the requirement that members of the United States Armed Forces wear United Nations uniform items.

Mr. President, we have all been watching the reports as U.S. Army Specialist Michael New has become a casualty of the debate over American troops participating in U.N. operations.

In violating a lawful order issued through the U.S. Chain of Command, he will be held accountable under the standards set by the U.S. Code of Military Justice for refusing to wear a United Nations cap and shoulder patch.

Specialist New was to have been deployed to participate in operation Able Sentry in Macedonia, the stated purpose of which is to observe the border and discourage, by its presence, the spread of hostilities into Macedonia.

The operations in Macedonia in which the American forces are participating are conducted under the auspices of the United Nations. A Norwegian general officer currently expercises operations control over the American task force Able Sentry.

While a U.N. commander has operational control, it is my understanding that the command of the U.S. task force remains under the U.S. chain of command.

Mr. President, on October 10, Army Specialist Michael New reported for duty without wearing the United Nations shoulder patch and beret he and his unit were issued to wear as part of their uniform while deployed in Macedonia. On October 17, Specialist New was charged for failure to obey a lawful order in violation of article 92, Uniform Code of Military Justice.

Mr. President, I would also note that Michael New will have legal representation and receive due process under these standards, as is extended to any military member who stands accused of violating military rules. The Army has indicated to me that care will be taken to ensure military standards of justice and fairness prevail.

The situation that has resulted from Specialist New's actions has caused me great concern. As one who feels very strongly about this Nation's sovereignty and responsibilities placed on our Armed Forces to protect and defend this Nation, I find myself very frustrated with what has happened.

Mr. President, my sympathy with his decision to refuse to wear the U.N. patch and hat does not change the fact that we must abide by the standards set by the Military Code of Conduct if we are to assure order and fairness in the military. Our military must rely on strict chain of command and order. That is without a doubt.

However, the men and women who have chosen to serve this Nation and the American people should not be put in a position which forces them to bear allegiance to any nation or organization other than the United States of America. Michael New made the decision to serve in the Armed Forces in order to defend the United States, not the United Nations. Therefore, in order to resolve this situation. I am introducing legislation that prevents any member of the U.S. Armed Forces from being required to wear, as part of their military uniform, any insignia of the United Nations.

Mr. President, there is still another, broader issue that must be addressed, and that is the use of U.S. forces under U.N. command.

It is my understanding that except for some expertise that was provided by a limited number of American advisors, until the past 2 or 3 years, no American troops had served in U.N. peacekeeping forces. In my view, the United States should not assume responsibility for resolving every conflict that develops around the world.

American combat troops are not, and should not be used as "world policemen."

Mr. President, I supported Senator NICKLES' amendment to the fiscal year 1994 defense appropriations legislation which would have required congressional approval before American troops could serve under foreign command, except when the President certifies it is an emergency or that our national security is at risk.

Unfortunately, the amendment was defeated on a 33 to 65 vote.

This issue remains unresolved. Therefore I also support hearings in the Senate Armed Services Committee aimed at reviewing Specialist New's case and the proper role U.S. troops should play in international military operations.

Mr. President, I would just urge my colleagues to review the bill that I am introducing today in the greater context of this situation. We must not lose sight of the fact that the men and women who volunteered to serve in our Armed Forces, volunteered to defend the United States of America, not the United Nations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON REQUIREMENT FOR MEMBERS OF THE ARMED FORCES TO WEAR UNIFORM ITEMS OF THE UNITED NATIONS.

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended by adding at the end the following:

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended by adding at the end the following:

"§ 777. Insignia of United Nations: prohibition on requirement for wearing

"No member of the armed forces may be required to wear as part of the uniform any badge, symbol, helmet, headgear, or other visible indicia or insignia which indicates (or tends to indicate) an allegiance or affiliation to or with the United Nations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"777. Insignia of United Nations: prohibition on requirement for wearing.".

By Mr. HATCH (for himself, Mr. CRAIG, Mr. BENNETT, and Mr. BURNS):

S. 1371. A bill entitled the "Snowbasin Land Exchange Act of 1995"; to the Committee on Energy and Natural Resources.

THE SNOWBASIN LAND EXCHANGE ACT OF 1995

Mr. HATCH. Mr. President, I rise today to introduce legislation to effectuate a land exchange at the Snowbasin Ski Resort located east of Ogden, Utah. Senators CRAIG, BENNETT, and BURNS are cosponsoring this legislation.

Basically, the intent of this legislation is simple. It directs the Secretary of Agriculture to exchange 1,320 acres of federally owned land within Utah's Cache National Forest for lands of approximately equal value owned by the Sun Valley Company, which owns the Snowbasin Ski Resort. Snowbasin is located 30 miles north of Salt Lake City and has been open for skiing since the early 1940s. It is one of the world's greatest areas for snow and winter sports as evidenced by the recent decision by the International Olympic Committee (IOC) to have Salt Lake City host the 2002 Winter Olympic Games. It is precisely because of the IOC's decision that this legislation is necessary.

In 1985, a year after it purchased financially plagued Snowbasin, the Sun Valley Company, recognized as an enviromentally sensitive manager of its recreational lands, asked the Forest Service to exchange 2,500 areas of land to improve the resort's base facilities and infrastructure. This request was initially reduced to 1,320. Five years later, after conducting an environmental impact statement and extensive studies and public reviews, the Forest Service decided to exchange approximately 700 acres. At the same time, the Forest Service reached the conclusions that the future success of Snowbasin requires private ownership of lands at the base of the ski area and that a land exchange was consistent with the priorities established in the 1985 Wasatch-Cache Land and Reserve Management Plan.

Unfortunately, since 1990 and despite the diligent efforts of both the Forest Service and the Sun Valley Company, little progress has occurred toward the exchange. I will not take the time to detail these difficulties. However, my colleagues should know that the land exchange process has been long, tedious, and very costly to all parties, particularly to Snowbasin.

Last June, Salt Lake City was selected as the site for the 2002 Winter Olympic Games. Due to its rugged mountain terrain, gradient and technical difficulty, Snowbasin has been identified as the venue for all Downhill, Combined Downhill, and Super G events for men and women. These highly popular races traditionally attract some of the largest Olympic audiences. The snail's pace with which the exchange process has been moving has many people associated with Snowbasin and the Salt Lake City Olympic Organizing Committee, including myself, worried that Snowbasin will not be sufficiently prepared to handle the Olympic skiing events and their accompanying crowds.

I am sure my colleagues can appreciate what it requires for a community to prepare a venue to host any Olympic event. In the case of Snowbasin, these pre-2002 activities include the installation of chairlifts, construction of a connector road, fencing and safety netting, additional ski runs, maintenance buildings, new spectator and service areas, parking lot expansion, restrooms and other items identified in Phase 1 of the Sun Valley Company's Master Plan for Snowbasin. These activities must be done in the near future and can be more effectively and environmentally accomplished if done on private property.

In exchange for the forested acreage, the Sun Valley Company will convey four major parcels to the Forest Service that have been previously identified by the Forest Service as desirable for acquisition. These parcels are specifically listed in our legislation, and their combined acreage exceeds 4,000 acres. Obviously, this land possesses outstanding recreational, wildlife, mountain, and access values for public use and enjoyment. The values of the Federal and non-federal lands involved in this exchange will be determined by utilizing nationally recognized appraisal standards.

Mr. President, we in Utah are overjoyed that the eyes of the world will be upon us, upon our mountains, and upon the "Greatest Snow on Earth". At the same time, there is serious concern whether the facilities to support the Olympics can be constructed, tested for safety, and become fully operational by 2002, especially when considering it will take three summer seasons to complete the development of Phase 1 of the Snowbasin Master Plan. Pursuit of a land exchange at Snowbasin through the administrative process, and possibly the courts, does not alleviate this concern and only exacerbates the problems of timing and uncertainty. Legislative action on Snowbasin places control of this matter with the Congress, rather than the courts, and will ensure that all aspects of the 2002 Winter Olympic Games are in their proper place once the world focuses on Salt Lake City.

I urge my colleagues to carefully review this legislation and the reasons why it is crucial that this proposal be adopted during the 104th Congress. I look forward to working with them to achieve this goal.

Mr. BENNETT. Mr. President, as Utah prepares to host the 2002 Winter Olympics, I am pleased today to join my colleague Senator HATCH in introducing the Snowbasin Land Exchange Act of 1995. Snowbasin Ski Resort, which is owned by Sun Valley Company, will host both the men's and women's downhill ski events. This land exchange will direct the Secretary to exchange 1,320 acres of Forest Service Lands within the Cache National Forest for lands of approximate and equal value owned by Sun Valley Co. This legislation is fundamental to the success of the 2002 Winter Olympics. It is a win-win situation for all parties involved and I encourage my colleagues to support this bill.

By Mr. LIEBERMAN:

S. 1373. A bill to provide for state regulation of prices charged for services provided by, and routes of service of, motor vehicles that provide tow or wrecker services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE TOWING TECHNICAL CORRECTION ACT

• Mr. LIEBERMAN. Mr. President, I introduce an Intrastate Towing Technical Corrections Act. This legislation will clarify that it is not Congress' intent to preempt state or local regulations dealing with the operation of tow trucks. I would like to recognize the junior Senator from Washington who introduced similar legislation in the 103d Congress, which, unfortunately, was not acted upon prior to adjournment.

Last year Congress passed the Federal Aviation Administration Authorization Act of 1994. The act included a provision in section 601 which effectively preempts state and local intrastate trucking regulations pertaining to prices, routes, and service. However, it was not Congress' intention to legislate on towing issues; and it has opened up myriad problems for the consumer, leading to higher towing rates.

In Connecticut, towing rates have been deregulated; and tow operators are free to charge as much as they want. Now, some may say that the market should determine prices—and I agree—but in the towing market the consumer has no other recourse, more times than not, than to pay the tow truck operator after the vehicle has been towed. Safety concerns abound also. Especially when considering large tractor trailers that break down on interstate highways.

I have heard from many constituents that deregulation is causing exorbitant price increases in their towing rates. Again, this was not our intention when we passed the Federal Aviation Administration Authorization Act of 1994. This bill will keep towing charges in line with market prices.

Plain and simple, Mr. President, deregulation is leading to overcharging. My bill would let the States set towing rates. It would be beneficial for the consumer and beneficial for States.

I ask unanimous consent to place in the RECORD excerpts from an article in the Hartford Courant by Tom Condon, which addresses this problem.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Hartford Courant, Aug. 22, 1995]

DEREGULATING TOWING HAS LEFT PUBLIC ON HOOK

(By Tom Condon)

On Aug. 8, a tractor-trailer driver for Dick Harris Trucking Co. of Lynchburg, Va., pulled his rig off I-95 at Exit 34 in Milford. He didn't hit the narrow exit ramp just right, and the tractor and box gently rolled over.

Police called Robert's Service Center of Milford to clear the ramp. The trailer was full of pallets of rolled steel. Robert's crew winched the cargo out of the truck, righted it, then towed everything away.

What the owners of the truck aren't happy with is the towing bill, which is for $10,400.

"It's excessive, that's the problem I have with it," said Bud Holt, vice president of the trucking company. Holt, who said he is a former state trooper and insurance claims adjuster, said Robert's billed some of the workers at $60 an hour, which "is too much."

It doesn't matter, Holt. Welcome to Connecticut, where towing rates have been deregulated, and tow operators can charge as much as they want.

There is another side to the Milford case. Robert Bruno, owner of the service center, says this was a very complicated operation for which he had to rent expensive equipment. He said he had to winch the heavy pallets out of the truck with a rented low motor, then load them on rented flatbeds. Then he righted the tractor and trailer without damaging them.

Bruno said he brought the cargo back to his yard and unloaded it. Then, at the direction of the trucking company, he reloaded it on the flatbeds and took it to a freight yard with a loading dock, so it could be loaded back on the trailer.

He said he got the call at 11:30 a.m., and the last of his crew didn't finish until midnight. He said his real cost was almost $14,000, but he decided to give the trucking company a break, hoping for future business. Holt said he understood the job took 10 hours, and said he thought $1,000 an hour excessive.

Not so, said Bruno. He said some operators would have gouged the trucking company and charged $20,000 for the job, but said he didn't. Bruno has released the trailer, but is still holding the tractor, until the dispute is resolved. Both sides have lawyers.

If this doesn't make the case that deregulation is leading to overcharging, let's go back to old reliable, a guy we can always count on to hose the public, Bob Spillane of Walnut Street Service Inc. of Hartford.

On May 10, an ironworker named Pete Toner of Langdon, N.H., parked his Bronco in a private parking lot—never do that—at the corner of Ashley and Garden streets and visited the Ashley Cafe. When he came out, the car was gone. He then walked to the police lockup at Morgan Street, finally learned the car had been towed, called Spillane and got no answer.

When he got the Bronco the next day, the bill was $139. He said Spillane didn't answer his phone, then charged him for storage. The tow from the bar to Spillane's garage is one block. This is an outrage, but at the moment motor vehicles officials say there's nothing they can do about it (not that they ever did much about it in the past).

On Jan. 1, a federal law went into effect that prevents states or cities from regulating "price, route or service of any motor carrier . . . or any motor carrier with respect to the transportation of property." State officials have interpreted this to mean they can't regulate towing rates.

If a convervative is a liberal who's been mugged, an opponent of deregulation is someone who's had to pay $139 after his car was towed one block. If this idiotic law isn't changed, government is going to have to get back into the towing business to keep the public from getting fleeced. We don't want that.●

ADDITIONAL COSPONSORS

S. 324

At the request of Mr. WARNER, the name of the Senator from Tennessee [Mr. THOMPSON] was added as a cosponsor of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 581

At the request of Mr. FAIRCLOTH, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 837

At the request of Mr. WARNER, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Nebraska [Mr. KERREY], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 881

At the request of Mr. PRYOR, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 1043

At the request of Mr. STEVENS, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1043, a bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes.

S. 1253

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1253, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 1260

At the request of Mr. MACK, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1260, a bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes.

S. 1271

At the request of Mr. CRAIG, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1274

At the request of Mr. LOTT, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1274, a bill to amend the Solid Waste Disposal Act to improve management of remediation waste, and for other purposes.

S. 1344

At the request of Mr. HEFLIN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1344, a bill to repeal the requirement relating to specific statutory authorization for increases in judicial salaries, to provide for automatic annual increases for judicial salaries, and for other purposes.

SENATE RESOLUTION 189—NATIONAL DRUG AWARENESS DAY

Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. DOLE, Mr. D'AMATO, Mr. MURKOWSKI, Mr. HATCH, Mr. ABRAHAM, Mr. HELMS, Mr. PRESSLER, Mr. BRYAN, Mr. THURMOND, Mrs. FEINSTEIN, Mr. NICKLES, Mr. COVERDELL, and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 189

Whereas illegal drug use among the youth of America is on the increase;

Whereas illegal drug use is a major health problem, ruining thousands of lives and costing billions of dollars;

Whereas illegal drug use contributes to crime on the streets and in the homes of this nation;

Whereas national attention has turned from illegal drug use to other issues, and support for sustained programs has decreased;

Whereas public awareness and sustained programs are essential to combat an ongoing social problem;

Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free, and in encouraging personal responsibility;

Whereas the annual Red Ribbon Celebration, coordinated by the National Family Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and community awareness efforts contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drug use: Now, therefore, be it

Resolved, That the Senate designate Wed., Nov. 1, 1995, as "National Drug Awareness Day".

Mr. GRASSLEY. Mr. President, in recent weeks we have seen mounting evidence that teenage drug use in this country is on the increase after more than a decade of decline. One of the principal reasons for this change is that we have lost the public message that drug use is wrong. As a result, a new generation of America's young people are growing up without a clear message about the dangers of drug use. This is not a situation that we can afford to let continue. The last time this happened, in the 1960's and 1970's, we saw an epidemic of use that cost us tens of thousands of lives. Now we see teenage drug use on the rise again. Recent surveys confirm this disturbing trend and indications are that data to be released in the next few days will only confirm the worst fears. It is for this reason that Senator DOLE and I held a press conference yesterday with major family groups, including the National Family Partnership, National Families in Action, CADCA, and PRIDE, to draw attention to the problems of returning teen drug use and the dangerous normalization of this use you can now see and hear on TV, in the movies, and in rock music. For this reason I am submitting a Senate resolution, cosponsored by over a dozen members, to declare November 1, 1995, National Drug Awareness Day. It is important that we all recognize the importance of the issue. We need to renew our commitment to fighting drug use, to prevent a new generation from becoming victims of those who would mislead them into believing that drug use is just an alternative lifestyle with no adverse consequences. Drugs kill, they maim, they ruin lives, they cripple potential. We saw what happened when we ignored the problem once. We cannot let this happen again.

SENATE RESOLUTION 190—TO AUTHORIZE THE PRINTING OF A REVISED EDITION OF THE SENATE ELECTION LAW GUIDEBOOK

Mr. WAGNER (for himself and Mr. FORD) submitted the following resolution; which was considered and agreed to:

S. RES. 190

Resolved, That the Committee on Rules and Administration is directed to prepare a revised edition of the Senate Election Law Guidebook, Senate Document 103-13, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed 600 additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

THE PROFESSIONAL BOXING SAFETY ACT

MCCAIN (AND OTHERS) AMENDMENT NO. 3039

Mr. SMITH (for Mr. MCCAIN, for himself, Mr. BRYAN, and Mr. ROTH) proposed an amendment to the bill (S. 187) to provide for the safety of journeymen boxers, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional Boxing Safety Act of 1995".

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) BOXER.—The term "boxer" means a person who participates in a professional boxing match.

(2) LICENSEE.—The term "licensee" means an individual who serves as a trainer, second, or cut man for a professional boxer.

(3) MANAGER.—The term "manager" means a person or business that helps arrange professional boxing matches for a boxer, and that serves as an advisor or representative of a boxer in a professional capacity.

(4) MATCHMAKER.—The term "matchmaker" means a person or business that proposes, selects, and arranges the boxers to participate in a professional boxing match.

(5) PROFESSIONAL BOXING MATCH.—The term "professional boxing match"—

(A) means a boxing contest held in the United States between individuals for compensation or a prize; and

(B) does not include any amateur boxing match.

(6) PROMOTER.—The term "promoter" means a person or business that organizes, holds, advertises, or otherwise conducts a professional boxing match.

(7) STATE BOXING COMMISSION.—The term "State boxing commission" means a State agency with authority to regulate professional boxing.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to improve and expand the system of safety precautions that protects the welfare of professional boxers; and

(2) to assist State boxing commissions to provide proper oversight for the professional boxing industry in the United States.

SEC. 4. PROFESSIONAL BOXING MATCHES.

(a) IN GENERAL.—

(1) REQUIREMENTS.—Subject to subsection (b), a professional boxing match may be held in the United States only if—

(A)(i) the State in which the professional boxing match is to be held has a State boxing commission;

(ii) the State has entered into a contract with a private organization to carry out the duties of a State boxing commission in accordance with the applicable requirements of this Act; or

(iii) the promoter who seeks to put on a professional boxing match in a State that does not have a boxing commission has entered into an agreement with the chief administrative officer of a State that has a boxing commission to oversee the boxing match;

(B) a licensed practicing physician, whose services are paid by the promoter, is continuously present at the ringside of the professional boxing match;

(C) the promoter has, in accordance with this subsection, provided—

(i) for a physical examination of each boxer who participates in the professional boxing match by a licensed practicing physician, to ensure that each such boxer is physically fit to compete in the boxing match; and

(ii)(I) for an ambulance to be continuously present at the site of the boxing match; or

(II) if applicable, notice in accordance with paragraph (2); and

(D) the State boxing commission has established procedures to carry out sections 5 through 8.

(2) AMBULANCE SERVICE.—

(A) IN GENERAL.—In any case in which an applicable State law does not require that an ambulance be continuously present in the immediate vicinity of a professional boxing match, if the promoter for that boxing match does not choose to provide for such an ambulance, the promoter shall, not later than 24 hours before that boxing match, notify the nearest available ambulance service (including any appropriate emergency medical service) of that boxing match.

(B) Costs.—The promoter for a professional boxing match shall pay the cost of any ambulance service provided in conjunction with the conduct of that boxing match.

(b) Requirements for Privatization.—

(1) Monitoring and evaluation.—If a State enters into a contract with a private organization to carry out the duties of a State boxing commission specified in this Act, the State shall provide for—

(A) continual monitoring of the activities of the private organization that are the subject of the contract; and

(B) regular evaluations by the State of the activities referred to in subparagraph (A).

(2) Cancellation of professional boxing matches.—If a State enters into a contract with a private organization under paragraph (1), notwithstanding that contract, the chief administrative officer of that State may cancel a professional boxing match without consulting the private organization if that chief administrative officer determines that—

(A) the private organization is not performing the obligations of that organization that are specified in the contract in a manner that is satisfactory to the chief administrative officer; or

(B) the cancellation of the professional boxing match is necessary to protect public health, safety, or welfare.

SEC. 5. REGISTRATION.

(a) Requirements.—Each professional boxer shall register with—

(1) the State boxing commission of the State in which such boxer resides (or if the State has in effect a contract with a private organization described in section 4(b), that private organization); or

(2) in the case of a boxer who is a resident of a foreign country, or a State in which there is no State boxing commission and in which no private organization is carrying out the duties of a State boxing commission pursuant to a contract described in section 4(b), the State boxing commission of any State that has such a commission or a private organization that carries out a contract described in section 4(b).

(b) Identification Card.—

(1) Issuance.—A State boxing commission or a private organization that carries out a contract described in section 4(b) shall issue to each professional boxer who registers in accordance with subsection (a), an identification card that contains—

(A) a recent photograph of the boxer;

(B) the social security number of the boxer (or, in the case of a foreign boxer, any similar citizen identification number or professional boxer number from the country of residence of the boxer); and

(C) each personal identification number assigned to the boxer by a boxing registry certified by the Association of Boxing Commissioners.

(2) Renewal.—Each professional boxer shall renew his or her identification card at least once every 3 years.

(3) Presentation.—Each professional boxer shall present his or her identification card to the appropriate State boxing commission or private organization that carries out a contract described in section 4(b) not later than the time of the weigh-in for a professional boxing match.

(c) Relation to State Law.—Nothing in this section shall be construed as preventing a State from applying additional registration requirements.

SEC. 6. REVIEW.

Each State boxing commission and each private organization that carries out a contract described in section 4(b) shall establish procedures—

(1) to evaluate the professional records of each boxer participating in a boxing match in the State;

(2) to ensure that no boxer is permitted to box while under suspension from any State boxing commission due to injury or other medical-related reason, including—

(A) a recent knockout, injury, or requirement for a medical procedure;

(B) failure of a drug test;

(C) poor boxing skills, or the inability to safely compete; or

(D) the use of false aliases, or falsifying, or attempting to falsify, official identification cards or documents; and

(3) to ensure that if such commission (or private organization) is considering permitting a boxer, promoter, manager, or other licensee to participate in a professional boxing match while the individual is under suspension from any State for any reason other than a reason listed in paragraph (2), such commission (or private organization) shall notify and consult with the chief administrative officer of the State that ordered the suspension prior to the grant of approval for such individual to participate in that professional boxing match.

SEC. 7. INSURANCE.

Each State, acting through the State boxing commission of the State or private organization that carries out the regulation of professional boxing matches for that State (if the State has in effect a contract described in section 4(b) with that private organization), shall require that a promoter provide insurance coverage, in an amount determined by the appropriate State official or entity, for each boxer who participates in a professional boxing match that the promoter is involved in conducting to cover an injury sustained while engaged in that match.

SEC. 8. REPORTING.

(a) Boxing Match Results.—Not later than 48 business hours (excluding Saturdays and Sundays) after the conclusion of a professional boxing match, the results of such boxing match shall be reported—

(1) to each professional boxing registry certified by the Association of Boxing Commissions; and

(2) to the Florida State Athletic Commission.

(b) Suspensions.—Not later than 48 business hours (excluding Saturdays and Sundays) after a State boxing commission orders the suspension of a boxer, promoter, or manager, such suspension shall be reported—

(1) to each professional boxing registry certified by the Association of Boxing Commissions; and

(2) to the Florida State Athletic Commission.

(c) Alternate Reporting Entity.—If the State of Florida ceases, for any reason, to publish and circulate a national suspension list at no cost to other States on a frequent basis, the Association of Boxing Commissions shall select a different public or private entity to voluntarily undertake to compile and circulate a suspension list to all State boxing commissions at no cost to the States.

SEC. 9. ENFORCEMENT.

(a) Injunctions.—Whenever a United States Attorney in a State has reasonable cause to believe that a person or entity is engaged in a violation of this Act in such State, the United States Attorney may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order, against the person or entity, as the United States Attorney determines to be necessary to restrain the person or entity from continuing to engage in, or to sanction, a professional boxing match in violation of this Act.

(b) Criminal Penalties.—

(1) Managers, promoters, matchmakers, and licensees.—Each manager, promoter, matchmaker, and licensee who knowingly and willfully violates any provision of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than $20,000, or both.

(2) Boxers.—Any professional boxer who knowingly and willfully violates any provision of this Act shall, upon conviction, be fined not more than $1,000.

(c) Designated United States Attorney.—The Attorney General of the United States shall, for each State, designate a United States Attorney that has an office in that State, to serve, in consultation with the State boxing commission of that State (or, in the absence of a State boxing commission, the appropriate official of the Association of Boxing Commissions)—

(1) as a liaison to respond to allegations concerning violations of this Act; and

(2) as a coordinator for any enforcement activity conducted pursuant to this Act that is carried out by any United States Attorney in that State.

SEC. 10. NOTIFICATION OF DESIGNATED UNITED STATES ATTORNEY.

Each promoter that intends to hold a professional boxing match in a State that does not have a State boxing commission shall, not later than 14 days before the intended date of that event, provide written notification to the United States Attorney designated under section 9(c) for that State. That notification shall contain—

(1) assurances that, with respect to that boxing match, all applicable requirements of this Act will be met;

(2) the name, State of residence, and telephone number of the official of a State boxing commission of another State who will oversee the match pursuant to an agreement described in section 4(a)(1)(A)(iii);

(3) the name of any individual who, at the time of the submission of the notification—

(A) is under suspension from a State boxing commission; and

(B) will be involved in organizing or participating in the event; and

(4) with respect to any individual listed under paragraph (3), the State boxing commission to which a suspension described in paragraph (3)(A) is in effect.

SEC. 11. CONSULTATION WITH STATE BOXING OFFICIALS BY THE ATTORNEY GENERAL.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, to exchange information concerning the implementation and enforcement of this Act and to improve the safety and integrity of professional boxing as a sport, the Attorney General of the United States shall consult with—

(1) the appropriate official of the Association of Boxing Commissions;

(2) tribal organizations (as that term is defined in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)) that regulate professional boxing matches; and

(3) private organizations that assist in the regulation of professional boxing matches.

SEC. 12. PENSION STUDY.

(a) IN GENERAL.—The Secretary of Labor shall conduct a study on the feasibility and cost of a national pension system for professional boxers, including potential funding sources.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall submit a report to the Congress on the findings of the study conducted pursuant to subsection (a).

SEC. 13. PROFESSIONAL BOXING MATCHES CONDUCTED ON INDIAN RESERVATIONS.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) INDIAN TRIBE.—The term "Indian tribe" has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) RESERVATION.—The term "reservation" means the geographically defined area over which a tribal organization exercises governmental jurisdiction.

(3) TRIBAL ORGANIZATION.—The term "tribal organization" has the same meaning as in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)).

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a tribal organization of an Indian tribe may, upon the initiative of the tribal organization—

(A) regulate professional boxing matches held within the reservation under the jurisdiction of that tribal organization; and

(B) carry out that regulation or enter into a contract with a private organization to carry out that regulation.

(2) STANDARDS AND LICENSING.—If a tribal organization regulates boxing matches pursuant to paragraph (1), the tribal organization shall, by tribal ordinance or resolution, establish and provide for the implementation of health and safety standards, licensing requirements, and other requirements relating to the conduct of professional boxing matches that are at least equivalent to—

(A) the otherwise applicable standards and requirements of each State in which the reservation is located; or

(B) if no State in which the reservation is located has established any such standard or requirement—

(i) the standards and requirements of any other State that has established a State boxing commission that carries out the requirements of this Act; or

(ii) the most recently published version of the recommended regulatory guidelines issued by the Association of Boxing Commissions.

THE TECHNICAL CORRECTIONS ACT OF 1995

McCAIN AMENDMENT NO. 3040

Mr. SMITH (for Mr. MCCAIN) proposed an amendment to the bill (S. 325) to make certain technical corrections in laws relating to native Americans, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. CORRECTION TO POKAGON RESTORATION ACT.

Section 9 of the Act entitled "An Act to restore Federal services to the Pokagon Band of Potawatomi Indians" (25 U.S.C. 1300j-7a) is amended—

(1) by striking "Bands" each place it appears and inserting "Band";

(2) in subsection (a), by striking "respective"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "membership rolls that contain" and inserting "a membership roll that contains"; and

(II) by striking "in such" and inserting "in the"; and

(ii) in the second sentence, by striking "Each such" and inserting "The";

(B) in paragraph (2)—

(i) by striking "rolls have" and inserting "roll has"; and

(ii) by striking "such rolls" and inserting "such roll";

(C) in the heading for paragraph (3), by striking "ROLLS" and inserting "ROLL"; and

(D) in paragraph (3), by striking "rolls are maintained" and inserting "roll is maintained".

SEC. 2. CORRECTION TO ODAWA AND OTTAWA RESTORATION ACT.

(a) REAFFIRMATION OF RIGHTS.—The heading of section 5(b) of the Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (25 U.S.C. 1300k-3) is amended by striking "TRIBE" and inserting "BANDS".

(b) MEMBERSHIP LIST.—Section 9 of the Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (25 U.S.C. 1300k-7) is amended—

(1) in subsection (a)—

(A) by striking "Band" the first place it appears and inserting "Bands"; and

(B) by striking "the Band." and inserting "the respective Bands."; and

(2) in subsection (b)(1)—

(A) in the first sentence, by striking "the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band" and inserting "each of the Bands shall submit to the Secretary a membership roll that contains the names of all individuals that are eligible for membership in such Band"; and

(B) in the second sentence, by striking "The Band, in consultation" and inserting "Each such Band, in consultation".

SEC. 3. FEDERAL EMPLOYEES CONTRACTING OR TRADING WITH INDIANS.

(a) REPEAL.—Section 437 of title 18, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended by striking the item relating to section 437.

(c) EFFECTIVE DATE.—The repeal made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.

SEC. 4. INDIAN DAMS SAFETY ACT OF 1994.

Section 4(h) of the Indian Dams Safety Act of 1994 (108 Stat. 1562) is amended by striking "(under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), as amended," and inserting "under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)".

SEC. 5. PASCUA YAQUI INDIANS OF ARIZONA.

Section 4(b) of the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f-3(b)) is amended by striking "Pascua Yaqui tribe" and inserting "Pascua Yaqui Tribe".

SEC. 6. INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994.

Section 3(7) of the Indian Lands Open Dump Cleanup Act of 1994 (108 Stat. 4165) is amended by striking "under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)" and inserting "under section 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944)".

SEC. 7. AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994.

(a) MAINTENANCE OF RECORDS.—Section 303(c)(5)(D) of the American Indian Trust Fund Management Reform Act of 1994 (108 Stat. 4247) is amended by striking "made under paragraph (3)(B)" and inserting "made under subparagraph (C)".

(b) ADVISORY BOARD.—Section 306(d) of the Indian Trust Fund Management Reform Act (25 U.S.C. 4046(d)) is amended by striking "Advisory Board" and inserting "advisory board".

SEC. 8. INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) DEFINITIONS.—Section 4(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(j)) is amended by striking "That except as provided the last proviso in section 105(a) of this Act," and inserting "That except as provided in paragraphs (1) and (3) of section 105(a),".

(b) CARRYOVER FUNDING.—Section 8 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 13a) is amended by striking "the provisions of section 106(a)(3)" and inserting "the provisions of section 106(a)(4)".

(c) REPAYMENT OF FUNDS.—Section 5(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(d)) is amended by striking "106(a)(3) of this Act" and inserting "106(a)(4)".

(d) SELF-DETERMINATION CONTRACTS.—The first sentence of the flush material immediately following subparagraph (E) of section 102(a)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f(a)(2)) is amended by striking "the second sentence of this subsection" and inserting "the second sentence of this paragraph".

(e) CONTRACT OR GRANT PROVISIONS AND ADMINISTRATION.—Section 105(a)(3)(C)(ii) of the Indian Self-Determination and Education Assistance Act (42 U.S.C. 450j(a)(3)(C)(ii)) is amended—

(1) in subclause (VII), by striking "chapter 483" and inserting "chapter 482"; and

(2) in subclause (IX), by striking "The Service Control Act of 1965" and inserting "The Service Contract Act of 1965".

(f) APPROVAL OF CONSTRUCTION CONTRACTS.—Section 105(m)(4)(C)(v) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(m)(4)(C)(v)) is amended by striking "sections 102(a)(2) and 102(b) of section 102" and inserting "subsections (a)(2) and (b) of section 102".

SEC. 9. INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994.

Section 102(11) of the Indian Self-Determination Contract Reform Act of 1994 (108 Stat. 4254) is amended by striking "subsection (e)" and inserting "subsection (e) of section 105".

SEC. 10. AUBURN INDIAN RESTORATION.

(a) ECONOMIC DEVELOPMENT.—Section 203 of the Auburn Indian Restoration Act (25 U.S.C. 1300*l*-1) is amended—

(1) in subsection (a)(2), by striking "as provided in section 107" and inserting "as provided in section 207"; and

(2) in subsection (b), by striking "section 104" and inserting "section 204".

(b) INTERIM GOVERNMENT.—The last sentence of section 206 of the Auburn Indian Restoration Act (25 U.S.C. 1300*l*-4) is amended by striking "Interim council" and inserting "Interim Council".

SEC. 11. CROW BOUNDARY SETTLEMENT ACT OF 1994.

(a) ENFORCEMENT.—Section 5(b)(3) of the Crow Boundary Settlement Act of 1994 (108 Stat. 4636) is amended by striking "provisions of subsection (b)" and inserting "provisions of this subsection".

(b) APPLICABILITY.—Section 9 of the Crow Boundary Settlement Act of 1994 (108 Stat. 4640) is amended by striking "The Act" and inserting "This Act".

(c) ESCROW FUNDS.—Section 10(b) of the Crow Boundary Settlement Act of 1994 (108 Stat. 4641) is amended by striking "(collectively referred to in this subsection as the 'Suspension Accounts')" and inserting "(collectively referred to in this section as the 'Suspension Accounts')".

SEC. 12. TLINGIT AND HAIDA STATUS CLARIFICATION ACT.

The first sentence of section 205 of the Tlingit and Haida Status Clarification Act (25 U.S.C. 1215) is amended by striking "Indian tribes" and inserting "Indian Tribes".

SEC. 13. NATIVE AMERICAN LANGUAGES ACT.

Section 103 of the Native American Languages Act (25 U.S.C. 2902) is amended—

(1) in paragraph (2), by striking "under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4))" and inserting "under section 9161(4) of the Improving America's Schools Act of 1994 (20 U.S.C. 7881(4))"; and

(2) in paragraph (3), by striking "section 4009 of Public Law 100-297 (20 U.S.C. 4909)" and inserting "section 9212(1) of the Improving America's Schools Act of 1994 (20 U.S.C. 7912(1))".

SEC. 14. PONCA RESTORATION ACT.

Section 5 of the Ponca Restoration Act (25 U.S.C. 983c) is amended—

(1) by inserting "Sarpy, Burt, Platte, Stanton, Holt, Hall, Wayne," before "Knox"; and

(2) by striking "or Charles Mix County" and inserting ", Woodbury or Pottawattomie Counties of Iowa, or Charles Mix County".

SEC. 15. YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994.

Section 112(b) of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 (108 Stat. 4532) is amended by striking "December 31, 1995" and inserting "June 30, 1996".

SEC. 16. INDIAN HEALTH CARE IMPROVEMENT ACT.

(a) DEFINITION OF HEALTH PROFESSION.—Section 4(n) of the Indian Health Care Improvement Act (25 U.S.C. 1603(n)) is amended—

(1) by inserting "allopathic medicine," before "family medicine"; and

(2) by striking "and allied health professions" and inserting "an allied health profession, or any other health profession.".

(b) INDIAN HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104(b) of the Indian Health Care Improvement Act (25 U.S.C. 1613a(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the matter preceding clause (i) and inserting the following:

"(3)(A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 254l) that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—";

(ii) by striking "or" at the end of clause (iii);

(iii) by striking the period at the end of clause (iv) and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(v) in an academic setting (including a program that receives funding under section 102, 112, or 114, or any other academic setting that the Secretary, acting through the Service, determines to be appropriate for the purposes of this clause) in which the major duties and responsibilities of the recipient are the recruitment and training of Indian health professionals in the discipline of that recipient in a manner consistent with the purpose of this title, as specified in section 101.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

"(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

"(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

"(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).";

(D) in subparagraph (C), as so redesignated, by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A)" and inserting "described in subparagraph (A) by service in a program specified in that subparagraph"; and

(E) in subparagraph (D), as so redesignated—

(i) by striking "Subject to subparagraph (B)," and inserting "Subject to subparagraph (C),"; and

(ii) by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m)" and inserting "described in subparagraph (A)";

(2) in paragraph (4)—

(A) in subparagraph (B), by striking the matter preceding clause (i) and inserting the following:

"(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—"; and

(B) in subparagraph (C), by striking "(42 U.S.C. 254m(g)(1)(B))" and inserting "(42 U.S.C. 254l(g)(1)(B))";

(3) in paragraph (5), by adding at the end the following new subparagraphs:

"(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

"(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

"(i) it is not possible for the recipient to meet that obligation or make that payment;

"(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

"(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

"(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

"(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.".

(c) REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES.—Section 206 of the Indian Health Care Improvement Act (16 U.S.C. 1621e) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Except as provided" and inserting "(a) RIGHT OF RECOVERY.—Except as provided";

(ii) by striking "the reasonable expenses incurred" and inserting "the reasonable charges billed";

(iii) by striking "in providing" and inserting "for providing"; and

(iv) by striking "for such expenses" and inserting "for such charges"; and

(B) in paragraph (2), by striking "such expenses" each place it appears and inserting "such charges";

(2) in subsection (b), by striking "(b) Subsection (a)" and inserting "(b) RECOVERY AGAINST STATE WITH WORKERS' COMPENSATION LAWS OR NO-FAULT AUTOMOBILE ACCIDENT INSURANCE PROGRAM.—Subsection (a)";

(3) in subsection (c), by striking "(c) No law" and inserting "(c) PROHIBITION OF STATE LAW OR CONTRACT PROVISION IMPEDIMENT TO RIGHT OF RECOVERY.—No law";

(4) in subsection (d), by striking "(d) No action" and inserting "(d) RIGHT TO DAMAGES.—No action";

(5) in subsection (e)—

(A) in the matter preceding paragraph (1), by striking "(e) The United States" and inserting "(e) INTERVENTION OR SEPARATE CIVIL ACTION.—The United States"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) while making all reasonable efforts to provide notice of the action to the individual to whom health services are provided prior to the filing of the action, instituting a civil action.";

(6) in subsection (f), by striking "(f) The United States" and inserting "(f) SERVICES COVERED UNDER A SELF-INSURANCE PLAN.—"; and

(7) by adding at the end the following new subsections:

"(g) COSTS OF ACTION.—In any action brought to enforce this section, the court shall award any prevailing plaintiff costs, including attorneys' fees that were reasonably incurred in that action.

"(h) RIGHT OF RECOVERY FOR FAILURE TO PROVIDE REASONABLE ASSURANCES.—The United States, an Indian tribe, or a tribal organization shall have the right to recover damages against any fiduciary of an insurance company or employee benefit plan that is a provider referred to in subsection (a) who—

"(1) fails to provide reasonable assurances that such insurance company or employee benefit plan has funds that are sufficient to pay all benefits owed by that insurance company or employee benefit plan in its capacity as such a provider; or

"(2) otherwise hinders or prevents recovery under subsection (a), including hindering the pursuit of any claim for a remedy that may be asserted by a beneficiary or participant covered under subsection (a) under any other applicable Federal or State law.".

SEC. 17. REVOCATION OF CHARTER OF INCORPORATION OF THE MINNESOTA CHIPPEWA TRIBE UNDER THE INDIAN REORGANIZATION ACT.

The request of the Minnesota Chippewa Tribe to surrender the charter of incorporation issued to that tribe on September 17, 1937, pursuant to section 17 of the Act* * *.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FORESTS AND PUBLIC LANDS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Forests and Public Lands to consider five miscellaneous land bills. The first is S. 901, to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of certain water reclamation and reuse projects and desalination research and development projects. The subcommittee will also consider S. 1169 to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize construction of facilities for the reclamation and reuse of wastewater at McCall, ID, S. 590, a land exchange for the relief of Matt Clawson, and S. 985, to exchange certain lands in Gilpin County, CO. The last bill to be considered is S. 1196, to transfer certain National Forest System lands adjacent to the Townsite of Cuprum, ID.

The hearing will take place Tuesday, November 7, 1995, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, November 16, 1995 at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 873, a bill to establish the South Carolina National Heritage Corridor; S. 944, a bill to provide for the establishment of the Ohio River Corridor Study Commission; S. 945, a bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor; S. 1020, a bill to establish the Augusta Canal National Heritage Area in the State of Georgia; S. 1110, a bill to establish guidelines for the designation of National Heritage Areas; S. 1127, a bill to establish the Vancouver National Historic Reserve; and S. 1190, a bill to establish the Ohio and Erie Canal National Heritage Corridor in the State of Ohio.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation, and Recreation, Committee on Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 31, 1995, at 3:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 31, 1995, at 10:00 a.m. to hold a hearing on The Aftermath of Waco: Changes in Federal Law Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate Committee on Small Business be authorized to meet during the session of the Senate for a joint hearing with the House Committee on Small Business on Tuesday, October 31, 1995, at 10:00 a.m., in room G50 of the Dirksen Senate Office Building, to conduct a hearing focusing on The Cost of Federal Regulations on Small Business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 31, 1995 at 2:00 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, October 31 and Wednesday, November 1, 1995 to hold hearings on Global Proliferation of Weapons of Mass Destruction.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VA, HUD, INDEPENDENT AGENCIES APPROPRIATIONS

• Mr. ABRAHAM. Mr. President, I would like to take this time to explain some of the votes I cast during consideration of the VA, HUD, independent agencies appropriations bill on September 27, 1995.

Senator BUMPERS offered an amendment to reduce the appropriation for implementing the space station program with the intent of terminating the program. The Bumpers amendment raised the question as to what the United States fundamental goals and needs are in exploring space. While it is clear that the space station has spurred technological and scientific development unrelated to space, I am not convinced that these developments justify the enormous taxpayer expense of the space station. Therefore, at this time, I supported Senator BUMPERS' amendment. Since the amendment failed, however, we will most likely continue to fund the space station for fiscal year 1996, and as we spend more on this program we will come closer to a point at which it would no longer be wise to discontinue funding. I believe we are near that point and will review this budget request again next year to determine whether eliminating funding for the space station would benefit taxpayers.

Senator ROCKEFELLER offered two amendments regarding benefits for veterans. One involved compensation for mentally incompetent service-related disabled veterans and the other would have increased funding for the general veterans medical account. My opposition to these amendments was not based on their content, but rather on the fact that the funding mechanism for both of these amendments involved waiving the Budget Act. More than any veteran-specific funding we can provide, balancing the budget will benefit veterans and their children. Any amendment which increases spending and puts our country further from achieving a balanced budget ought to be rejected. And while I do not doubt that Senator ROCKEFELLER's amendments have merit, his inability to find other spending offsets made them impossible for me to support.

Senator LAUTENBERG also proposed to waive provisions of the Budget Act in order to provide more funding for the Superfund Program. While I share Mr. LAUTENBERG's concern for the environment, very few Americans familiar with the Superfund Program would disagree that it is in need of reform. We have spent billions of dollars on the Superfund Program already, and the results have been minimal. Superfund has resulted in more lawsuits, more paperwork, extreme cleanup mandates, and few cleanups. This is a classic attempt to throw good tax dollars after bad. Without meaningful reform of the program, I am not convinced that Superfund dollars are being well-spent, making it impossible for me to support this amendment.

Senator MIKULSKI offered an amendment which would have restored $425 million in funding for the Corporation for National and Community Service. While I applaud her efforts to encourage Americans to provide more service to their communities, this program costs $26,000 per participant per year—a level which cannot be sustained in the current budget environment.

Furthermore, I could not support funding for this program upon learning that $14 million out of last year's AmeriCorps funds were used to fund Federal agencies. While the administration claims it is cutting staff, they are actually playing a shell game with taxpayers' dollars by using AmeriCorps workers in the Federal Government. I am confident that the original supporters of this program did not intend for these volunteers to choose Federal employment as their community service.

Forty percent of the dollars currently spent on AmeriCorps is used for administrative purposes by the Federal Government. These funds would be more efficiently and effectively spent on a local rather than a national level.

Another amendment which touched on an important social issue was the Sarbanes amendment to transfer $360 million from section 8 contract renewals to homeless assistance grants to increase funding for Federal homeless programs. Most Americans share a common concern regarding the plight of the homeless and agree that the Government should play a role in the solution. Nevertheless, I voted against this amendment for two reasons.

First, the underlying bill provides $760 million for homeless grants, with an additional $297 million in homeless grants funding available from the earlier rescission bill, which deferred this funding from fiscal year 1995 to fiscal year 1996. In total, homeless programs will have $1.057 billion to spend in fiscal year 1996. The Sarbanes amendment would not increase this funding by one penny. All the funds he proposes to transfer would not be available until fiscal year 1997. In other words, this amendment would not have helped one homeless person next year.

Second, I was concerned that an unintended consequence of this amendment would be to increase homelessness. The bill provides $4.35 billion in funding for section 8 contract renewal. Section 8 subsidizes the construction and operation of apartment buildings, provided the owner agrees to rent a certain percentage of those apartments to low-income people. Currently, 1.5 million units are subsidized in this fashion, and many of these contracts are due to expire. If they are not renewed, many of the tenants will lose their homes.

In order to pay for the increase in homeless funding, Senator SARBANES would have reduced funding for renewing section 8 contracts. By taking away from this account, this amendment threatens to put people currently housed under the section 8 program on the street. The Federal Government has a role to play in helping the homeless, and in this case the underlying bill fills this role by addressing the needs of people already living on the streets as well as ensuring we don't encourage additional families to join them.

Overall I believe we have produced a solid appropriations bill, one which stays within the budget limitations necessary to balance the budget by the year 2002, delegates much of the funding to States in the form of block grants so that spending is more effective, and revises or eliminates programs that simply have not been working. I was proud to support final passage of this legislation.•

NATIONAL ENDOWMENT FOR DEMOCRACY

• Mr. GRAHAM. Mr. President, on October 20, a letter from four former National Security Advisers was sent to the chairman and ranking member of the Committee on Foreign Relations expressing their support for the work of the National Endowment for Democracy [NED]. According to these four distinguished experts, NED "has served our national interest well through its timely support of those who advance the cause of democracy."

As we make the difficult budgetary choices that will help guarantee for us and our children a prosperous future, it is essential that we not discard those programs—particularly those that are cost-effective—which enhance our long-term security. As the following letter from Messrs. Allen, Brzezinski, Carlucci, and Scowcroft points out, the National Endowment for Democracy is such a program.

I ask that the letter be printed in the RECORD. The letter follows:

OCTOBER 20, 1995.

Hon. JESSE HELMS,
Hon. CLAIBORNE PELL,
Senate Foreign Relations Committee Washington, DC.

Hon. BENJAMIN GILMAN,
Hon. LEE HAMILTON,
House International Relations Committee, Washington, DC.

As former National Security Advisers to the President, we are familiar with the work of the National Endowment for Democracy (NED). In our assessment, NED, established under President Reagan as an instrument in his campaign for democracy, and sustained with the bipartisan support of the leadership of both houses of Congress, has served our national interest well through its timely support of those who advance the cause of democracy.

The Endowment, a small bipartisan institution with its roots in America's private sector, operates in situations where direct government involvement is not appropriate. It is an exceptionally effective instrument in today's climate for reaching dedicated groups seeking to counter extreme nationalist and autocratic forces that are responsible for so much conflict and instability.

Eliminating this program would be particularly unsettling to our friends around the world, and could be interpreted as a sign of America's disengagement from the vital policy of supporting democracy. The Endowment remains a critical and cost-effective investment in a more secure America, and we support its work. We hope that you will join us in that support.

Sincerely,

RICHARD V. ALLEN,
FRANK C. CARLUCCI,
ZBIGNIEW BRZEZINSKI,
BRENT SCOWCROFT.•

(At the request of Mr. DOLE, the following statements were ordered to be printed in the RECORD.)

CONGRATULATING TIMOTHY A. BROWN

• Mr. SARBANES. Mr. President. I rise today to recognize and congratulate Capt. Timothy A. Brown, international president of the International Organization of Masters, Mates & Pilots, ILA, AFL–CIO, on being awarded the Silver Mariner Award and the Outstanding Professional Achievement Award by the U.S. Merchant Marine Academy at Kings Point, NY. Captain Brown was presented with the award on October 12, 1995, at an awards dinner held at the Merchant Marine Academy Officers Club.

The Silver Mariner Award is given every 5 years to individuals who have attained and sailed on their master's license and who have at least 25 years sailing experience. Individuals receiving the Outstanding Professional

Achievement Award are selected because of their achievement within the maritime industry. Captain Brown's labor efforts on behalf of the maritime industry as president of the International Organization of Masters, Mates & Pilots led to his nomination and subsequent selection by the review panel.

The International Organization of Masters, Mates & Pilots is the International Marine Division of the International Longshoreman's Association, AFL–CIO. With 6,800 members, it represents licensed deck officers, State pilots, and other marine personnel on U.S.-flag commercial vessels sailing in international trade and the inland waterways of the United States, the Panama Canal, and Caribbean, as well as crews sailing civilian-crewed military vessels of the United States.

Captain Brown richly deserves the great honor which has been accorded him. He has been associated with the maritime industry since graduating from the U.S. Merchant Marine Academy at Kings Points, NY, in 1965. Captain Brown continued to associated himself with the maritime industry; from 1983 to 1991 he sailed as a ship's master with SeaLand Service, Inc. In February 1991, he was elected president of the International Organization of Masters, Mates & Pilots on an interim basis and was subsequently reelected in 1992. During his tenure as president, Captain Brown devoted a great deal of time and energy toward legislative initiatives designed to promote the U.S.-flag merchant marine in a competitive world market. Working at both the grassroots and national levels he took the opportunity to explain the importance of the U.S. merchant marine to the national defense and the economy.

Captain Brown serves as an international vice president of the Masters, Mates & Pilots parent organization, the International Longshoremen's Association. He is also a member of the Council of American Master Mariners and the American Merchant Marine Veterans.

Mr. President, again, I congratulate Captain Brown on his accomplishment and for being held in such a high regard by his colleagues in the maritime industry.●

DAVID HENDEL

● Mr. LIEBERMAN. Mr. President, I rise today to offer these most public words of congratulation to a great Connecticut citizen who is retiring after a long and distinguished career with the Metropolitan Life Insurance Co. For nearly 40 years, David Hendel of West Hartford, CT has been a fixture at MetLife and he will be sorely missed in those hallways.

As a past president of the MetLife Veterans Club of Hartford/Providence, a member of the president's club for 6 years, and 10 years on the leadership conference, David has redefined loyalty and dedication in the workplace. If ever there was a man who could be counted on to put forth his best effort day in and day out, David Hendel is that man.

David has not merely made his mark at MetLife, he has also worked hard to better his community and this is what makes him such a special individual. A veteran of the U.S. Army, David has devoted his spare time to such organizations as the West Hartford Zoning Board of Appeals, the West Hartford Democratic Town Committee, and Temple Beth El of West Hartford. Truly, David has taught a generation of West Hartford residents the meaning and value of community service.

A true role model, David has shown us all that we must work both as individuals and as parts of a greater community to leave a positive mark on the world around us. As Members of Congress, we are charged with improving and strengthening the fabric of this Nation. I hope this body recognizes that, by following the lead of citizens like David Hendel, we can all advance toward that lofty goal.●

NOMINATION OF JOHN DOUGLASS TO BE ASSISTANT SECRETARY OF THE NAVY

● Mr. LEVIN. Mr. President, I wish to offer a few comments on the nomination of John Wade Douglass to be the Assistant Secretary of the Navy for Research, Development and Acquisition. John has served as a professional staff member of the Senate Armed Services Committee for more than 3 years, and he has served the committee well.

John has been responsible for technology base programs and defense research and development issues, as well as NATO issues, for the committee's Democratic members. He has worked on such difficult tasks as reducing the size of the Defense Department and its budget while keeping a coherent program of research and technology that will help preserve our national security in the decades to come. He has also dealt with the thorny issues of Bosnia and NATO expansion.

In all his work for the committee, John has offered wise and creative approaches to these difficult issues. For example, he has been a tireless champion of cost-sharing in Federal dual-use research funding, which has now become a standard practice for the Pentagon and other government agencies. This new standard will save the taxpayer hundreds of millions of dollars while improving the chances that the joint research bears fruit for both the military and civilian users.

Mr. President, I have enjoyed the opportunity to work with John over the past 3 years. He has worked with me on a number of issues, always with energy, intelligence, and humor. Clearly, the Navy's gain will be the committee's loss. I want to offer my congratulations to John and wish him well in his new position. If he serves the Navy as well as he did the committee, as I am sure he will, the Nation will be well served indeed.●

Mr. SMITH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROFESSIONAL BOXING SAFETY ACT

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 209, S. 187, the Professional Boxing Safety Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 187) to provide for the safety of journeyman boxers, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3039

(Purpose: To provide a substitute)

Mr. SMITH. Mr. President, I send an amendment to the desk on behalf of Senator MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for Mr. MCCAIN (for himself, Mr. BRYAN, and Mr. ROTH) proposes an amendment numbered 3039.

Mr. SMITH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3039) was agreed to.

Mr. SMITH. I ask unanimous consent that the bill be deemed read a third time, passed as amended, the motion to reconsider be laid upon the table and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 187), as amended, was passed.

AUTHORIZING THE PRINTING OF REVISED EDITION OF THE SENATE ELECTION LAW GUIDEBOOK

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 190, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 190) to authorize the printing of a revised edition of the Senate Election Law Guidebook.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMITH. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 190) was agreed to, as follows:

S. RES. 190

Resolved, That the Committee on Rules and Administration is directed to prepare a revised edition of the Senate Election Law Guidebook, Senate Document 103-13, and that such document shall be printed as a Senate document.

SEC. 2. There shall be printed 600 additional copies of the document specified in section 1 of this resolution for the use of the Committee on Rules and Administration.

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT

Mr. SMITH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 196, S. 325.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 325) to make certain technical corrections in laws relating to native Americans and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3040

(Purpose: To provide a substitute)

Mr. SMITH. Mr. President, I send an amendment to the desk on behalf of Senator MCCAIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for Mr. MCCAIN, proposes an amendment numbered 3040.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. MCCAIN. Mr. President, I rise today to express my support for S. 325, a bill to make technical amendments to various laws affecting Native Americans and to urge its immediate adoption. This bill includes a number of provisions which address a wide range of Indian issues. I am joined by a number of Senators who have sponsored provisions which have been included in S. 325. I will briefly describe the provisions of S. 325 as amended. Section 1 of the bill makes technical corrections to section 9 of the Pokagon Potawatomi Restoration Act. These corrections would change the references in section 9 from plural to singular. Section 2 of S. 325 makes technical corrections to the Odawa and Ottawa Restoration Act. This section corrects all of the references in section 9 by using the plural.

The third section of S. 325 would address a longstanding problem in Indian policy. I have worked extensively with my good friend and colleague from Arizona, Senator KYL, to repeal the Trading with Indians Act. The Trading with Indians Act was originally enacted in the 1800's to protect Indians from unscrupulous Indian agents and other Federal employees. The prohibitions in the Trading with Indians Act were designed to prevent Federal employees from using their positions of trust to engage in private business deals that exploited Indians. These prohibitions carried criminal penalties including a fine of up to $5,000 and removal from Federal employment. The Trading With Indians Act has had significant adverse impacts on employee retention in the Indian Health Service [IHS] and the Bureau of Indian Affairs [BIA]. The problems stemming from the Trading with Indians Act are well-documented. Because the prohibitions in the Trading with Indians Act apply to the spouses of IHS and BIA employees, the adverse impacts are far-reaching. For example, if a spouse of an IHS employee is engaged in a business that is wholly-unrelated to the BIA or the IHS and does not transact business with the BIA or the IHS, the spouse is still in violation of the Trading with Indians Act. It is clear that although this statute served an admirable purpose in the 1800's, it has become anachronistic and should be repealed. The important policies reflected in the Trading with Indians Act are now covered by the Standards of Ethical Conduct for Employees of the Executive Branch.

In addition, to the original sections of the bill there are a number of additional sections included in S. 325 at the request for a number of Indian tribes. Section 4 of the amendment corrects a citation in section 4 of the Indian Dams Safety Act of 1994. Section 5 of S. 325 amends the Pascua Yaqui Indians Act to capitalize the words "Pascua Yaqui Tribe." Section 6 amends section 3(7) of the Indian Lands Open Dump cleanup Act of 1994 to correct the citation to the Solid Waste Disposal Act. Section 7 of the bill amends the American Indian Trust Fund Management Reform Act of 1994 to correct a reference in section 303(c) of the Act and to correct a typographical error in section 306 of the Act. Section 8 of the bill makes several technical and conforming changes to the Indian Self-Determination and Education Assistance Act. Section 9 of the bill corrects a reference in section 102 of the Indian Self-Determination Contract Reform Act of 1994. Section 10 of the bill corrects certain references in sections 203 and 206 of the Auburn Indian Restoration Act. Section 11 of the bill amends the Crow Boundary Settlement Act of 1994 corrects several references in sections 5, 9, and 10 of the Act. Section 12 of S. 325 corrects a typographical error in section 205 of the Tlingit and Haida Status Clarification Act. Section 13 of the bill amends section 103 of the Native American Languages Act to correct several citations in the section. Section 14 of the bill amends section 5 of the Ponca Restoration Act to modify the service area of the Ponca Indian Tribe to include Indians living in Sarpy, Burt, Platte, Stanton, Hall, Holt, and Wayne counties in Nebraska and Indians living in Woodbury and Pottawattomie counties in Iowa. It has been estimated that there are 110 Ponca tribal members living in these counties who are not currently eligible to receive services from the tribe. This amendment to the Ponca Restoration Act would make these members eligible for tribal services from the Ponca Tribe. I would like to recognize the leadership of the delegation from Nebraska, Senators EXON and KERREY, who brought this provision to my attention and urged its inclusion in S. 325.

Section 15 of S. 325 amends section 112 of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 to extend the time for the completion of the activities to be conducted by the parties to the settlement by six months. Under the original Act, the Secretary is required to publish in the Federal Register by December 31, 1995 a statement of findings that includes a finding that the contracts between the parties for Central Arizona Project water have been executed. Due to several unforeseen developments, the Department of the Interior, the Yavapai-Prescott Tribe, and the City of Prescott have requested an additional 6 months to finalize the agreements and publish the Secretary's findings in the Federal Register.

Section 16 of the bill modifies the definition of the term Indian "Health Profession" in the Indian Health Care Improvement Act. This modification will allow the Indian Health Service additional flexibility in awarding scholarships and offering loan repayment to individuals enrolled in degree programs in the health professions. As originally defined, the term health profession unnecessarily restricted the eligibility of individuals for scholarships. Subsection (b) amends section 104 of the Indian Health Care Improvement Act to make clear that an individual serving in an academic setting that is funded under sections 102, 112, or 114 of the Act who is responsible for the recruitment and training of Indian Health Professionals shall be considered to be meeting their service obligations under section 338A of the Public Health Service Act. This provision will allow an individual to meet their service obligation to the IHS by working at a university or other academic setting which is responsible for recruiting and training American Indians in the health professions. The amendment also clarifies that the Secretary may defer an individual's service obligations during the term of an internship, residency or other advanced clinical program. Further, subsection (b) provides that any obligation for service or payment by an individual to the IHS shall expire upon their death. It also authorizes the Secretary to waive or suspend a service or payment obligation upon the Secretary's determination that it would cause extreme hardship or to enforce such a requirement would be unconscionable. Finally, the provision makes clear the terms under which an individual's payment obligation may be discharged in a bankruptcy proceeding. Subsection (c) of this section clarifies certain provisions in section 206 of the Indian Health Care Improvement Act regarding the notice provisions for individuals in collection actions for services provided by IHS or tribal health facilities and recoverable costs in such a collection action and the right of the United States and Indian tribes to recover against an insurance company or employee benefit plan.

Section 17 of the bill provides for the revocation of the charter of incorporation of the Minnesota Chippewa Tribe under the Indian Reorganization Act. The Minnesota Chippewa Tribe has requested the Congress to accept their surrender of the Corporate Charter of the Minnesota Chippewa. By its own terms, this chapter can only be revoked by Act of Congress. This provision would revoke the charter. I would like to express my appreciation to my good friend the Senator from Minnesota, Senator WELLSTONE for his hard work and diligence on behalf of the Minnesota Chippewa Tribe in advancing this amendment. Section 18 of the bill amends section 533(c) of the Equity in Educational Land Grant Status Act of 1994 to clarify how the Indian student count shall be applied to the Tribally Controlled Community Colleges. Section 19 of S. 325 will amend the Advisory Council on California Indian Policy Act of 1992 to extend the term of the Advisory Council on California Indian Policy from 18 months to 36 months in order to allow them to complete their study of issues affecting California Indian tribes. Section 20 of the bill amends the San Carlos Apache Tribe Water Rights Settlement Act of 1992 to extend the deadline for the parties to the settlement complete agreements between the San Carlos Apache Tribe, the Phelps-Dodge Corporation, and the Town of Globe for an additional year. This amendment would extend the deadline from December 31, 1995 to December 31, 1996. The Department of the Interior, the San Carlos Apache Tribe and the other parties to the settlement have expressed their support for this provision.

Section 21 of the bill amends section 401 of the Public Law 100–581, to provide the authority to the Army Corps of Engineers to provide funding for the operation and maintenance of in lieu fishing access sites on the Columbia River. Public Law 100–581 was enacted in 1988 to authorize the U.S. Army Corps of Engineers to develop 32 Indian fishing access sites along the Columbia River for the Warm Springs, Yakima, Umatilla, and Nez Perce tribes. These fishing sites were intended to compensate these Indian tribes for fishing sites which were lost due to the construction of several dams by the Army Corps of Engineers. In a June 25, 1995 Memorandum of Understanding between the Army Corps of Engineers and the Department of the Interior, the Corps agreed to a lump sum payment of funds to provide for the operation and maintenance of such sites. I would like to express my appreciation to the Senator from Oregon, Mr. HATFIELD, for his leadership in advancing this provision. I have worked closely with him in ensuring that this provision is clarified and provides the necessary authority to ensure that these sites are adequately maintained.

Section 22 of the bill provides authority to the Ponca Indian Tribe of Nebraska to utilize funds provided in prior fiscal years to acquire, develop, and maintain a transitional living facility for Indian adolescents. I understand that the Ponca Indian Tribe has worked closely with Senator CONRAD, who has been the principal sponsor of this amendment. I would like to express my appreciation for the work of Senators KYL, THOMAS, KERREY, EXON, CONRAD, HATFIELD, WELLSTONE, and INOUYE in the development of many of these amendments and I urge my colleagues to support passage of S. 325.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3040) was agreed to.

TREATY FISHING SITE AMENDMENT

• Mr. HATFIELD. Mr. President, the relationship of the United States Government with Native American tribes has often been plagued by broken promises and unfinished tasks. Treaties with the four Columbia River fishing tribes, the Warm Springs, Umatillas, Yakima, and the Nez Perce guarantee them the right to fish in the Columbia River. When dams flooded out their fishing sites in the 1930's, the Federal Government agreed to provide 400 acres of new sites "in lieu of those inundated."

Throughout the years, we have failed to make good on that commitment. About 40 acres have been provided, and these areas are in poor condition. In 1988, Congress remedied this dilemma by passing the Columbia River Treaty Fishing Access Sites Act. The Act requires the Army Corps of Engineers to rehabilitate the existing sites and develop new sites to the full 400 acres. Once developed the Corps is to transfer the sites to the Bureau of Indian Affairs as trustee for the tribes.

Since fiscal year 1994, $7.8 million has been appropriated to the Corps for this purpose. Expenditure of this money has been stalled due to a disagreement between the Corps and the BIA over which would be responsible for operation and maintenance costs after the transfer. The two agencies have reached an agreement and my amendment will provide clear legislative authority for the Corps to transfer the Operation and Maintenance funds to the Bureau of Indian Affairs.

I am pleased we have reached an agreement that is acceptable to all the parties involved and I am proud that we have fulfilled our commitment to the tribes.•

Mr. KYL. Mr. President, I rise in support of this legislation to make technical corrections in certain laws relating to Native Americans, particularly section 3 of the bill which would repeal the Trading With Indians Act.

Mr. President, the Chairman of the Indian Affairs Committees, Senator MCCAIN, and I began working for the repeal of the Trading With Indians Act during the last Congress. Senator MCCAIN championed the issue in this body. I sponsored the companion bill while I was still serving in the House of Representatives. I want to thank the chairman for his continuing personal involvement, and for acting so promptly on the issue this year.

The Trading With Indians Act was originally enacted in 1834, and it had a legitimate purpose at that time—to protect Native Americans from being unduly influenced by Federal employees.

But, a law that started out with good intentions more than a century ago has become unnecessary and counterproductive today. It establishes a virtually absolute prohibition against commercial trading with Indians by employees of the Indian Health Service and Bureau of Indian Affairs. The prohibition extends to transactions in which a Federal employee has an interest, either in his or her own name, or in the name of another person, including a spouse, where the employee benefits or appears to benefit from such interest.

The penalties for violations can be severe: a fine of not more than $5,000, or imprisonment for not more than 6 months, or both. The Act further provides that any employee who is found to be in violation should be terminated from Federal employment.

This all means that employees could be subject to criminal penalties or fired from their jobs, not for any real or perceived wrongdoing on their part, but merely because they are married to individuals who may do business on an Indian reservation. The nexus of marriage is enough to invoke penalties. It means, for example, that an Indian Health Service employee, whose spouse operates a law firm on the Navajo Nation, could be fined, imprisoned, or fired. It means that a family member can't apply for a small business loan without jeopardizing the employee's job.

Mr. President, in some cases, the Trading With Indians Act even threatens to break up Indian families. I ask unanimous consent that the text of a column, which Jack Anderson and Michael Binstein wrote on the subject in December of 1993, appear in the RECORD at the conclusion of my remarks.

The protection that the Trading With Indians Act provided in 1834 can now be provided under the Standards of Ethical Conduct for Government Employees. The intent here is to provide adequate safeguards against conflicts of interest, while not unreasonably denying individuals and their families the ability to live and work—and create jobs—in their communities.

Both Health and Human Services Secretary Donna Shalala and Interior Department Assistant Secretary Ada Deer have expressed support for the legislation to repeal the 1834 Act. Secretary Shalala, in a letter dated November 17, 1993, noted that repeal "could improve the ability of IHS to recruit and retain medical professional employees in remote locations. It is more difficult for IHS to recruit and retain medical professionals to work in remote reservation facilities if their spouses are prohibited from engaging in business activities with the local Indian residents, particularly since employment opportunities for spouses are often very limited in these locations."

Let me cite one very specific case in which the law has come into play. It involved Ms. Karen Arviso, who served as the Navajo area IHS health promotion and disease prevention coordinator. Ms. Arviso was one of those people who played a particularly critical role during the outbreak of the hantavirus in the Navajo area several years ago. She put in long hours traveling to communities across the reservation in an effort to educate people about the mysterious disease.

Instead of thanks for her dedication and hard work, Ms. Arviso received a notice that she was to be fired because her husband applied for a small business loan from the Bureau of Indian Affairs. The Trading With Indians Act would require it. What sense does that make?

Mr. President, repeal of the Trading With Indians Act is long overdue. I hope we will pass this legislation today unanimously, and that the House will act on it promptly.

I ask unanimous consent that the Anderson/Binstein column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 6, 1993]

AN OBSOLETE LAW ENDANGERS A MARRIAGE

(By Jack Anderson and Michael Binstein)

This fall, Albert Hale nearly decided to make what he regarded as the ultimate sacrifice for his beloved wife of five years: divorce her.

I don't want my wife to go to jail," Hale said. "If I can save her from going to jail by divorcing her then that's a real option."

The possibility made the Hales heartsick, and left their young daughter—who overheard one of their hushed discussions—distraught. But a 160-year-old federal law offered little latitude. The Trading with Indians Act of 1834 carries a six-month jail sentence and/or up to a $5,000 fine, and the "case" against Regina Hale appeared to be open and shut. If there's a lesson, it may be that old and obsolete laws die hard.

The law prohibits all "commercial" trading with American Indians by Indian Health Service or Bureau of Indian Affairs employees or "in the name of a family member or spouse" of an employee.

An IHS official told us there weren't many violations of the law until the government started hiring greater numbers of Native Americans whose spouses often work on the reservations and own businesses. The two main employers on most reservations are the tribal government and the federal government.

Albert and Regina Hale are American Indians who were born and reared on the Navajo reservation in Window Rock, Ariz. She is now employed as a personnel staffing assistant for the IHS. He has practiced law on the reservation since 1972. They are raising Regina's 9-year-old daughter in their own house on a 1½-acre lot on the reservation, because that's "where we're from."

There they lived as a normal happy family, until one morning when Regina opened the mail and discovered that the marriage rendered her in "violation" of the Trading with Indians Act and would be "cause for severe disciplinary action, as well as criminal penalties."

"We were appalled by the letter . . . but what do you do? How do you as a married couple resolve this? Maybe the best thing to do is get divorced," Albert Hale told our associate, Andrew Conte.

When the law was enacted, Congress feared that non-Indian officials of the War Department would set up shops on the reservations to fleece Indians of the funds they received from the government. Nearly 160 years later, this dusty relic is haunting Regina and Albert Hale, as well as other Indian couples who work for the IHS or the BIA and who own businesses on reservations.

In another case, Karen Arviso, who worked last summer in Crownpoint, N.M., as a community outreach worker to help locate the causes of a mysterious fatal virus in the Southwest, almost lost her job because of the law. When her husband applied for a loan at the BIA to open a gas station on the Navajo reservation, IHS informed her that she would have to resign if he started the business.

"This is one of those anachronisms," Rep. Jon Kyl (R-Ariz.) told us. "The law was needed back 150 years ago, but now you don't need it. This is just one of those things we ought to get off the books because unfortunately real people are in violation of real law and we don't intend for that situation to exist."

Kyl and Sen. John McCain (R-Ariz.) are leading the crusade to repeal the law in Congress.

Though the law has seldom been enforced this century, the few instances in which it has been invoked caused inconvenience rather than imprisonment.

In the early 1980s, an assistant secretary of BIA who wanted to rent his house to an Indian was prevented from doing so. An official at IHS told us other employees of that agency had been prevented from selling Avon products in predominantly Indian neighborhoods.

Health and Human Services Secretary Donna E. Shalala has promised not to fire or prosecute IHS employees because of violations, but word has apparently not reached Arizona. An IHS official there said "they haven't heard anything" about not prosecuting the cases and therefore the Hales and the handful of other people affected by the law are "still under the gun."

Regina Hale promises to fight.

"My daughter heard us the other night talking about getting a divorce and she . . . started to cry because she didn't understand," she said. "We're going to live through this and we're going to fight."

Mr. SMITH. I ask unanimous consent the bill be deemed read a third time and passed as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 325) was deemed read the third time and passed, as follows:

S. 325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION TO POKAGON RESTORATION ACT.

Section 9 of the Act entitled "An Act to restore Federal services to the Pokagon Band of Potawatomi Indians" (25 U.S.C. 1300j-7a) is amended—

(1) by striking "Bands" each place it appears and inserting "Band";

(2) in subsection (a), by striking "respective"; and

(3) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "membership rolls that contain" and inserting "a membership roll that contains"; and

(II) by striking "in such" and inserting "in the"; and

(ii) in the second sentence, by striking "Each such" and inserting "The";

(B) in paragraph (2)—

(i) by striking "rolls have" and inserting "roll has"; and

(ii) by striking "such rolls" and inserting "such roll";

(C) in the heading for paragraph (3), by striking "ROLLS" and inserting "ROLL"; and

(D) in paragraph (3), by striking "rolls are maintained" and inserting "roll is maintained".

SEC. 2. CORRECTION TO ODAWA AND OTTAWA RESTORATION ACT.

(a) Reaffirmation of Rights.—The heading of section 5(b) of the Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (25 U.S.C. 1300k–3) is amended by striking "Tribe" and inserting "Bands".

(b) Membership List.—Section 9 of the Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (25 U.S.C. 1300k–7) is amended—

(1) in subsection (a)—

(A) by striking "Band" the first place it appears and inserting "Bands"; and

(B) by striking "the Band." and inserting "the respective Bands."; and

(2) in subsection (b)(1)—

(A) in the first sentence, by striking "the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band" and inserting "each of the Bands shall submit to the Secretary a membership roll that contains the names of all individuals that are eligible for membership in such Band"; and

(B) in the second sentence, by striking "The Band, in consultation" and inserting "Each such Band, in consultation".

SEC. 3. FEDERAL EMPLOYEES CONTRACTING OR TRADING WITH INDIANS.

(a) Repeal.—Section 437 of title 18, United States Code, is repealed.

(b) Conforming Amendment.—The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended by striking the item relating to section 437.

(c) Effective Date.—The repeal made by subsection (a) shall—

(1) take effect on the date of enactment of this Act; and

(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.

SEC. 4. INDIAN DAMS SAFETY ACT OF 1994.

Section 4(h) of the Indian Dams Safety Act of 1994 (108 Stat. 1562) is amended by striking "(under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), as amended," and inserting "under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)".

SEC. 5. PASCUA YAQUI INDIANS OF ARIZONA.

Section 4(b) of the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f–3(b)) is amended by striking "Pascua Yaqui tribe" and inserting "Pascua Yaqui Tribe".

SEC. 6. INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994.

Section 3(7) of the Indian Lands Open Dump Cleanup Act of 1994 (108 Stat. 4165) is amended by striking "under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)" and inserting "under section 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944)".

SEC. 7. AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994.

(a) Maintenance of Records.—Section 303(c)(5)(D) of the American Indian Trust Fund Management Reform Act of 1994 (108 Stat. 4247) is amended by striking "made under paragraph (3)(B)" and inserting "made under subparagraph (C)".

(b) Advisory Board.—Section 306(d) of the Indian Trust Fund Management Reform Act (25 U.S.C. 4046(d)) is amended by striking "Advisory Board" and inserting "advisory board".

SEC. 8. INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) Definitions.—Section 4(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(j)) is amended by striking "That except as provided the last proviso in section 105(a) of this Act," and inserting "That except as provided in paragraphs (1) and (3) of section 105(a),".

(b) Carryover Funding.—Section 8 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 13a) is amended by striking "the provisions of section 106(a)(3)" and inserting "the provisions of section 106(a)(4)".

(c) Repayment of Funds.—Section 5(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(d)) is amended by striking "106(a)(3) of this Act" and inserting "106(a)(4)".

(d) Self-Determination Contracts.—The first sentence of the flush material immediately following subparagraph (E) of section 102(a)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f(a)(2)) is amended by striking "the second sentence of this subsection" and inserting "the second sentence of this paragraph".

(e) Contract or Grant Provisions and Administration.—Section 105(a)(3)(C)(ii) of the Indian Self-Determination and Education Assistance Act (42 U.S.C. 450j(a)(3)(C)(ii)) is amended—

(1) in subclause (VII), by striking "chapter 483" and inserting "chapter 482"; and

(2) in subclause (IX), by striking "The Service Control Act of 1965" and inserting "The Service Contract Act of 1965".

(f) Approval of Construction Contracts.—Section 105(m)(4)(C)(v) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(m)(4)(C)(v)) is amended by striking "sections 102(a)(2) and 102(b) of section 102" and inserting "subsections (a)(2) and (b) of section 102".

SEC. 9. INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994.

Section 102(11) of the Indian Self-Determination Contract Reform Act of 1994 (108 Stat. 4254) is amended by striking "subsection (e)" and inserting "subsection (e) of section 105".

SEC. 10. AUBURN INDIAN RESTORATION.

(a) Economic Development.—Section 203 of the Auburn Indian Restoration Act (25 U.S.C. 1300l–1) is amended—

(1) in subsection (a)(2), by striking "as provided in section 107" and inserting "as provided in section 207"; and

(2) in subsection (b), by striking "section 104" and inserting "section 204".

(b) Interim Government.—The last sentence of section 206 of the Auburn Indian Restoration Act (25 U.S.C. 1300l–4) is amended by striking "Interim council" and inserting "Interim Council".

SEC. 11. CROW BOUNDARY SETTLEMENT ACT OF 1994.

(a) Enforcement.—Section 5(b)(3) of the Crow Boundary Settlement Act of 1994 (108 Stat. 4636) is amended by striking "provisions of subsection (b)" and inserting "provisions of this subsection".

(b) Applicability.—Section 9 of the Crow Boundary Settlement Act of 1994 (108 Stat. 4640) is amended by striking "The Act" and inserting "This Act".

(c) Escrow Funds.—Section 10(b) of the Crow Boundary Settlement Act of 1994 (108 Stat. 4641) is amended by striking "(collectively referred to in this subsection as the 'Suspension Accounts')" and inserting "(collectively referred to in this section as the 'Suspension Accounts')".

SEC. 12. TLINGIT AND HAIDA STATUS CLARIFICATION ACT.

The first sentence of section 205 of the Tlingit and Haida Status Clarification Act (25 U.S.C. 1215) is amended by striking "Indian tribes" and inserting "Indian Tribes".

SEC. 13. NATIVE AMERICAN LANGUAGES ACT.

Section 103 of the Native American Languages Act (25 U.S.C. 2902) is amended—

(1) in paragraph (2), by striking "under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4))" and inserting "under section 9161(4) of the Improving America's Schools Act of 1994 (20 U.S.C. 7881(4))"; and

(2) in paragraph (3), by striking "section 4009 of Public Law 100–297 (20 U.S.C. 4909)" and inserting "section 9212(1) of the Improving America's Schools Act of 1994 (20 U.S.C. 7912(1))".

SEC. 14. PONCA RESTORATION ACT.

Section 5 of the Ponca Restoration Act (25 U.S.C. 983c) is amended—

(1) by inserting "Sarpy, Burt, Platte, Stanton, Holt, Hall, Wayne," before "Knox"; and

(2) by striking "or Charles Mix County" and inserting ", Woodbury or Pottawattomie Counties of Iowa, or Charles Mix County".

SEC. 15. YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994.

Section 112(b) of the Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994 (108 Stat. 4532) is amended by striking "December 31, 1995" and inserting "June 30, 1996".

SEC. 16. INDIAN HEALTH CARE IMPROVEMENT ACT.

(a) Definition of Health Profession.—Section 4(n) of the Indian Health Care Improvement Act (25 U.S.C. 1603(n)) is amended—

(1) by inserting "allopathic medicine," before "family medicine"; and

(2) by striking "and allied health professions" and inserting "an allied health profession, or any other health profession.".

(b) Indian Health Professions Scholarships.—Section 104(b) of the Indian Health Care Improvement Act (25 U.S.C. 1613a(b)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the matter preceding clause (i) and inserting the following:

"(3)(A) The active duty service obligation under a written contract with the Secretary under section 338A of the Public Health Service Act (42 U.S.C. 2541) that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—";

(ii) by striking "or" at the end of clause (iii);

(iii) by striking the period at the end of clause (iv) and inserting "; or"; and

(iv) by adding at the end the following new clause:

"(v) in an academic setting (including a program that receives funding under section 102, 112, or 114, or any other academic setting that the Secretary, acting through the Service, determines to be appropriate for the purposes of this clause) in which the major duties and responsibilities of the recipient are the recruitment and training of Indian health professionals in the discipline of that recipient in a manner consistent with the purpose of this title, as specified in section 101.";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

"(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

"(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

"(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).";

(D) in subparagraph (C), as so redesignated, by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A)" and inserting "described in subparagraph (A) by service in a program specified in that subparagraph"; and

(E) in subparagraph (D), as so redesignated—

(i) by striking "Subject to subparagraph (B)," and inserting "Subject to subparagraph (C),"; and

(ii) by striking "prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m)" and inserting "described in subparagraph (A)";

(2) in paragraph (4)—

(A) in subparagraph (B), by striking the matter preceding clause (i) and inserting the following:

"(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—"; and

(B) in subparagraph (C), by striking "(42 U.S.C. 254m(g)(1)(B))" and inserting "(42 U.S.C. 254l(g)(1)(B))";

(3) in paragraph (5), by adding at the end the following new subparagraphs:

"(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

"(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

"(i) it is not possible for the recipient to meet that obligation or make that payment;

"(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

"(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

"(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

"(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, United States Code, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.".

(c) Reimbursement From Certain Third Parties of Costs of Health Services.—Section 206 of the Indian Health Care Improvement Act (16 U.S.C. 1621e) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Except as provided" and inserting "(a) Right of Recovery.—Except as provided";

(ii) by striking "the reasonable expenses incurred" and inserting "the reasonable charges billed";

(iii) by striking "in providing" and inserting "for providing"; and

(iv) by striking "for such expenses" and inserting "for such charges"; and

(B) in paragraph (2), by striking "such expenses" each place it appears and inserting "such charges";

(2) in subsection (b), by striking "(b) Subsection (a)" and inserting "(b) Recovery Against State With Workers' Compensation Laws or No-Fault Automobile Accident Insurance Program.—Subsection (a)";

(3) in subsection (c), by striking "(c) No law" and inserting "(c) Prohibition of State Law or Contract Provision Impediment to Right of Recovery.—No law";

(4) in subsection (d), by striking "(d) No action" and inserting "(d) Right to Damages.—No action";

(5) in subsection (e)—

(A) in the matter preceding paragraph (1), by striking "(e) The United States" and inserting "(e) Intervention or Separate Civil Action.—The United States"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) while making all reasonable efforts to provide notice of the action to the individual to whom health services are provided prior to the filing of the action, instituting a civil action.";

(6) in subsection (f), by striking "(f) The United States" and inserting "(f) Services Covered Under a Self-Insurance Plan.—"; and

(7) by adding at the end the following new subsections:

"(g) Costs of Action.—In any action brought to enforce this section, the court shall award any prevailing plaintiff costs, including attorneys' fees that were reasonably incurred in that action.

"(h) Right of Recovery for Failure To Provide Reasonable Assurances.—The United States, an Indian tribe, or a tribal organization shall have the right to recover damages against any fiduciary of an insurance company or employee benefit plan that is a provider referred to in subsection (a) who—

"(1) fails to provide reasonable assurances that such insurance company or employee benefit plan has funds that are sufficient to pay all benefits owed by that insurance company or employee benefit plan in its capacity as such a provider; or

"(2) otherwise hinders or prevents recovery under subsection (a), including hindering the pursuit of any claim for a remedy that may be asserted by a beneficiary or participant covered under subsection (a) under any other applicable Federal or State law.".

SEC. 17. REVOCATION OF CHARTER OF INCORPORATION OF THE MINNESOTA CHIPPEWA TRIBE UNDER THE INDIAN REORGANIZATION ACT.

The request of the Minnesota Chippewa Tribe to surrender the charter of incorporation issued to that tribe on September 17, 1937, pursuant to section 17 of the Act of June 18, 1934, commonly known as the "Indian Reorganization Act" (48 Stat. 988, chapter 576; 25 U.S.C. 477) is hereby accepted and that charter of incorporation is hereby revoked.

SEC. 18. LAND GRANT STATUS FOR 1994 INSTITUTIONS.

Section 533(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended—

(1) in paragraph (4)(A), by striking the "Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3))" and inserting "Indian student count, as determined under paragraph (5)"; and

(2) by adding at the end the following new paragraph:

"(5) Indian Student Count.—For purposes of paragraph (4), the Indian student count shall be—

"(A) for the 1994 Institutions listed in paragraphs (24), (25), and (27) of section 522, determined for those institutions in the same manner as an Indian student count is determined for tribally controlled community colleges pursuant to the definition of 'Indian student count' under section 2(7) of the Tribally Controlled Community College Assistance Act of 2978 (25 U.S.C. 1801(7)); and

"(B) for all of the remaining 1994 Institutions listed in section 522, determined in accordance with the definition of 'Indian student count' under section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3)).".

SEC. 19. ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY ACT OF 1992.

Section 5(6) of the Advisory Council on California Indian Policy Act of 1992 (106 Stat. 2133; 25 U.S.C. 651 note) is amended by striking "18 months" and inserting "36 months".

SEC. 20. SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (title XXXVII of Public Law 102–575) is amended by striking "December 31, 1995" and inserting "December 31, 1996".

SEC. 21. IN-LIEU FISHING SITE TRANSFER AUTHORITY.

Section 401 of Public Law 100–581 (102 Stat. 2944–2945) is amended by adding at the end the following new subsection:

"(g) The Secretary of the Army is authorized to transfer funds to the Department of the Interior to be used for purposes of the continued operation and maintenance of sites improved or developed under this section.".

SEC. 22. ADOLESCENT TRANSITIONAL LIVING FACILITY.

Notwithstanding any other provision of law, any funds that were provided to the Ponca Indian Tribe of Nebraska for any of the fiscal years 1992 through 1995, and that were retained by that Indian tribe, pursuant to a self-determination contract with the Secretary of Health and Human Services that the Indian tribe entered into under section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) to carry out programs and functions of the Indian Health Service may be used by that Indian tribe to acquire, develop, and maintain a transitional living facility for adolescents, including land for that facility.

NATIONAL DRUG AWARENESS DAY

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 189, submitted earlier today by Senator GRASSLEY.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 189) to designate Wednesday, November 1, 1995, as National Drug Awareness Day.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SMITH. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 189) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 189

Whereas illegal drug use among the youth of America is on the increase;

Whereas illegal drug use is a major health problem, ruining thousands of lives and costing billions of dollars;

Whereas illegal drug use contributes to crime on the streets and in the homes of this nation;

Whereas national attention has turned from illegal drug use to other issues, and support for sustained programs has decreased;

Whereas public awareness and sustained programs are essential to combat an ongoing social problem;

Whereas the answer to the illegal drug problem lies in America's communities, with local people involved in grass roots activities to keep their communities safe and drug free, and in encouraging personal responsibility;

Whereas the annual Red Ribbon Celebration, coordinated by the National Family Partnership and involving over 80,000,000 Americans in prevention activities each year, commemorates the sacrifices of people on the front lines in the war against illegal drug use;

Whereas substance abuse prevention, law enforcement, international narcotics control, and community awareness efforts contribute to preventing young people from starting illegal drug use; and

Whereas the American people have a continuing responsibility to combat illegal drug use: Now, therefore, be it

Resolved, That the Senate designate Wednesday, November 1, 1995, as "National Drug Awareness Day".

WORKERS COMPENSATION BENEFITS

Mr. SMITH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 215, H.R. 1715.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1715) respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SMITH. Mr. President, I ask unanimous consent the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1715) was deemed read the third time, and passed.

EXECUTIVE SESSION

Mr. SMITH. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the military nominations reported out of the Armed Services Committee today, with the exception of Capt. John B. Padgett III. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade of major general under the provisions of title 10, United States Code, section 624:

To be major general

Brig. Gen. John B. Hall, J[redacted], Regular Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Brett M. Dula[redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. James F. Recor[redacted], United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Thad A. Wolfe[redacted] United States Air Force.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Nicholas B. Kehoe, III[redacted] United States Air Force.

IN THE ARMY

The following named officers for promotion in the Regular Army of the United States to the grade indicated, under the provisions of Title 10, United States Code, Sections 611(a) and 624:

To be permanent major general

Brig. Gen. Robert W. Roper, Jr[redacted]

Brig. Gen. Edward L. Andrew[redacted].

Brig. Gen. David K. Heebner[redacted].

Brig. Gen. Morris J. Boy[redacted].

Brig. Gen. Robert R. Hicks, J[redacted].

Brig. Gen. Stewart W. Wallac[redacted].

Brig. Gen. James M. Wright[redacted].

Brig. Gen. Charles W. Thoma[redacted].

Brig. Gen. George H. Harmeye[redacted].

Brig. Gen. John F. Michitsc[redacted].

Brig. Gen. Lon E. Maggar[redacted].

Brig. Gen. Henry T. Glisso[redacted].

Brig. Gen. Thomas N. Burnette, Jr.[redacted]

Brig. Gen. David H. Ohle[redacted].

Brig. Gen. Milton Hunte[redacted].

Brig. Gen. James T. Hil[redacted].

Brig. Gen. Greg L. Gile[redacted].

Brig. Gen. Jmes C. Riley[redacted].

Brig. Gen. Randall L. Rigb[redacted].

Brig. Gen. Daniel J. Petrosk[redacted].

Brig. Gen. Michael B. Sherfiel[redacted].

Brig. Gen. James C. King[redacted].

Brig. Gen. Joseph G. Garrett, III[redacted]

Brig. Gen. Leroy R. Goff, II[redacted].

Brig. Gen. Daniel G. Brown[redacted].

Brig. Gen. William P. Tangney[redacted].

Brig. Gen. Charles S. Mahan, Jr.[redacted]

Brig. Gen. John J. Maher, II[redacted].

Brig. Gen. Leon J. LaPort[redacted].

Brig. Gen. Claudia J. Kenned[redacted].

The following-named officer for promotion in the Regular Army of the United States to the grade indicated under title 10, U.S.C., sections 611(a) and 624(c):

To be brigadier general

Col. Bettye H. Simmons[redacted] United States Army.

The following-named Medical Corps Competitive Category officers for appointment in the Regular Army of the United States to the grade of brigadier general under the provisions of title 10, U.S.C., sections 611(a) and 624(c):

To be brigadier general

Col. George J. Brown[redacted] United States Army.

Col. Robert F. Griffin[redacted] United States Army.

IN THE NAVY

The following named Captains in the line of the United States Navy for promotion to the permanent grade of Rear Admiral (lower half), pursuant to Title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Stephen Hall Bake[redacted], United States Navy.

Capt. John Joseph Bepko, I[redacted], United States Navy.

Capt. Jay Alan Campbel[redacted] United States Navy.

Capt. Robert Charles Chapli[redacted], United States Navy.

Capt. James Cutler Dawson, Jr[redacted] United States Navy.

Capt. Malcolm Irving Fage[redacted], United States Navy.

Capt. Veronica Zasadni Froman[redacted], United States Navy.

Capt. Scott Allen Fr[redacted] United States Navy.

Capt. Gregory Gordon Johnso[redacted], United States Navy.

Capt. Stephen Irvin Johnson, [redacted], United States Navy.

Capt. Joseph John Krol, Jr., [redacted], United States Navy.

Capt. Stephen Robert Loeffler, [redacted], United States Navy.

Capt. John Thomas Lyons, III, [redacted], United States Navy.

Capt. James Irwin Maslowski, [redacted], United States Navy.

Capt. Richard Walter Mayo, [redacted], United States Navy.

Capt. Michael Glenn Mullen, [redacted], United States Navy.

Capt. Larry Don Newsome, [redacted], United States Navy.

Capt. Richard Jerome Nibe, [redacted], United States Navy.

Capt. Paul Scott Semk[redacted], United States Navy.

Capt. Robert Gary Sprig[redacted], United States Navy.

Capt. Robert Timothy Zieme[redacted], United States Navy.

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Osie V. Combs, Jr[redacted] United States Navy.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Jeffrey Alan Cook[redacted] United States Navy.

The following named officer for appointment to the grade of vice admiral in the United States Navy while assigned to a position of importance and responsibility under title 10 U.S.C., section 601:

To be vice admiral

Rear Adm. Dennis C. Blai[redacted].

IN THE AIR FORCE

Air Force nominations beginning Tarek C. Abboushi, and ending Michael F. Zupan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 1995.

Air Force nominations beginning Julian Andrews, and ending Janice L. Anderson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1995.

Air Force nominations beginning Laraine L. Acosta, and ending Joan C. Winters, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1995.

Air Force nominations beginning Larry E. Freeman, and ending Timothy L. Cook, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD On October 11, 1995.

IN THE ARMY

Army nominations beginning Anthony C. Aiken, and ending Karen L. Wilkins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 19, 1995.

Army nominations of Amy M. Autry, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1995.

Army nominations beginning Michael B. Neveu, and ending Robert A. Diggs, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1995.

Army nomination of Duane A. Belote, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1995.

Army nomination of Derek J. Harvey, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1995.

Army nominations beginning Barbara Hasbargen, and ending Gary Vroegindewey, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1995.

Army nominations beginning Mary B. Alexander, and ending Craig L. Wardrip, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 11, 1995.

IN THE MARINE CORPS

Marine Corps nominations beginning Thurmond Bell, and ending Earnest R. Walls, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 10, 1995.

IN THE NAVY

Navy nominations beginning John M. Abernathy III, and ending George R. Shayne, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 8, 1995.

Navy nomination of Robert W. Ernest, which was received by the Senate and appeared in the CONGRESSIONAL RECORD on April 24, 1995.

Navy nominations beginning Timothy A. Adams, and ending Michael J. Zielinski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 5, 1995.

Navy nominations beginning Albert M. Carden, and ending Jenevieve J. Williamson, which nominations were received by the Senate and appeared in CONGRESSIONAL RECORD on September 8, 1995.

Navy nominations beginning William D. Agerton, and ending William M. Turner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 19, 1995.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

BILL READ FOR THE FIRST TIME—S. 1372

Mr. SMITH. Mr. President, I understand that S. 1372, introduced earlier today by Senator MCCAIN, is at the desk.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1372) to amend the Social Security Act to increase the earnings limit, and for other purposes.

Mr. SMITH. Mr. President, I will now ask for the bill to be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. At this time I object on behalf of the minority leader, Senator DASCHLE.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR WEDNESDAY, NOVEMBER 1, 1995

Mr. SMITH. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Wednesday, November 1, that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that there then be a period for the transaction of morning business until 12 noon with Senators permitted to speak for up to 10 minutes each; and, further, that the time from 9:30 to 10:30 be under the control of Senator DASCHLE, or his designee, and 10:30 to noon under the control of Senator DOLE, or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SMITH. Mr. President, for the information of all Senators, at approximately 12 noon on Wednesday, it will be the intention of the majority leader to turn to the consideration of the House message to accompany the budget reconciliation bill in order to appoint conferees on the part of the Senate. Several rollcall votes may be necessary on motions to instruct. However, there is an overall 10-hour limitation on those motions. Members can, therefore, expect rollcall votes throughout Wednesday's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SMITH. Mr. President, if there be no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:43 p.m., adjourned until Wednesday, November 1, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 31, 1995:

DEPARTMENT OF EDUCATION

PATRICIA WENTWORTH MCNEIL, OF MASSACHUSETTS, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION, VICE AUGUSTA SOUZA KAPPNER, RESIGNED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. THOMAS A. SCHWARTZ [redacted] U.S. ARMY.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

HENRY LEE BARRETT, OF CALIFORNIA
CAROL E. CARPENTER-YARMAN, OF CALIFORNIA
JOHN R. MORGAN, OF TENNESSEE
DOUGLAS WYLIE PALMER, OF WASHINGTON
WILLIAM R. PARISH III, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

PETER H. DELP, OF CALIFORNIA
MARGARET LORRAINE DULA, OF CALIFORNIA
TAMERA ANN FILLINGER, OF CALIFORNIA
NANCY J. LAWTON, OF VIRGINIA
MICHAEL E. SARHAN, OF ARKANSAS
MARY EDITH SCOVILL, OF VIRGINIA
DEE ANN SMITH, OF VIRGINIA
JAMES E. VERMILLION, OF FLORIDA
MICHAEL F. WALSH, OF PENNSYLVANIA

FOR APPOINTMENTS AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ELLIS MERRILL WALKER ESTES, OF CALIFORNIA
ALONZO SIBERT, OF THE DISTRICT OF COLUMBIA

AGENCY FOR INTERNATIONAL DEVELOPMENT

EMMANUEL BRUCE-ATTAH, OF TENNESSEE
JOSEPH L. DORSEY, OF TEXAS
STEVEN KENNETH DOSH, OF MARIANA ISLANDS
MARSHALL W. HENDERSON, OF CALIFORNIA
MARYANNE HOIRUP-BACOLOD, OF CALIFORNIA
EDITH I. HOUSTON, OF TEXAS
CYNTHIA J. JUDGE, OF OREGON
CEOPUS KENNEDY, OF ALABAMA
JEFFREY RANDALL LEE, OF VIRGINIA
RAYMOND L. LEWMAN, OF WASHINGTON
JENNIFER NOTKIN, OF MASSACHUSETTS
DIANE L. RAWL, OF VIRGINIA

DEPARTMENT OF AGRICULTURE

DAVID W. COTTRELL, OF FLORIDA

UNITED STATES INFORMATION AGENCY

MYUNGSOO MAX KWAK, OF MARYLAND

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

SENECA ELIZABETH JOHNSON, OF IDAHO
LAWRENCE J. KAY, OF IOWA
W. HOWIE MUIR, OF CONNECTICUT

UNITED STATES INFORMATION AGENCY

JOSEPH A. BOOKBINDER, OF NEW YORK
JAMES GREGORY CHRISTIANSEN, OF VIRGINIA
JENNIFER L. DENHARD, OF MARYLAND
KATHERINE HOWARD, OF MICHIGAN
MAURA MARGARET KENISTON, OF NEW YORK
JOSEPH PATRICK KRUZICH, OF OREGON
PHILIP THOMAS REEKER, OF NEW YORK
MICHAEL WILLIAM STANTON, OF VIRGINIA
RODNEY MATTHEW THOMAS, OF RHODE ISLAND
MARK TONER, OF PENNSYLVANIA
DALE EDWARD WEST, OF TEXAS
KATHERINE L. WOOD, OF VIRGINIA
JULIET WURR, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

SERGE M. ALEKSANDROV, OF MARYLAND
LORI H. ALVORD, OF WISCONSIN
CHARLES S. BAXTER, OF VIRGINIA
DAVID A. BLOCK, OF VIRGINIA
CHESTER WINSTON BOWIE, OF MARYLAND
STEPHEN CRAIG BRADLEY, OF VIRGINIA
KIP ANDREW BRAILEY, OF VIRGINIA
STEPHANIE LYNN BRITT, OF VIRGINIA
MARC R. CARDWELL, OF VIRGINIA
THEODORE D. CARLSON, OF VIRGINIA
STACEY T. COSTLEY, OF MARYLAND
JONATHAN S. DALBY, OF VIRGINIA
DOLLIE N. DAVIS, OF MARYLAND
HELEN DAVIS-DELANEY, OF MARYLAND
CLAUDIA N. DEVERALL, OF VIRGINIA
PAUL R. FELDTMOSE, OF MARYLAND
KERRY L. GAFNEY, OF VIRGINIA
MARC T. GALKIN, OF VIRGINIA
FELIX GONZALEZ, OF VIRGINIA
DAMIAN THOMAS GULLO, OF VIRGINIA
BRUCE R. HARRIS, JR., OF VIRGINIA
ANGE BELLE HASSINGER, OF THE DISTRICT OF COLUMBIA
MARGARET H. HENOCH, OF THE DISTRICT OF COLUMBIA
ROBERT DOUGLAS JENKINS, OF VIRGINIA
RICHARD HILL JOHNSON, OF VIRGINIA
KEITH PATRICK KELLY, OF MICHIGAN
DAVID P. LAWLOR, OF VIRGINIA
STEVEN JON LEVAN, OF VIRGINIA
KEVIN G. LEW, OF VIRGINIA
ALAN LONG, OF VIRGINIA
SHARON ANN LUNDAHL, OF VIRGINIA
DEAN PETERSON, OF SOUTH DAKOTA
MICHAEL H. RAMSEY, OF VIRGINIA
E. ELIZABETH SALLIES, OF THE DISTRICT OF COLUMBIA
LINDA M. SIPPRELLE, OF VIRGINIA
RODNEY D. SMITH, OF VIRGINIA
HARRY L. TYNER, OF VIRGINIA

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 3353, 12203(A) AND 12207:

MEDICAL CORPS

To be lieutenant colonel

NELSON M. ALVERIO [redacted]
ARTHUR S. PUA [redacted]

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICER TRAINING CORPS AND ENLISTED COMMISSIONING PROGRAM GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE AND STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BOBBY Z. ABADI [redacted]
EDERLAIDA O. ABREU [redacted]
CHARLES J. ACKERKNECHT [redacted]
DEREK S. ADAMETZ [redacted]
CHARLES F. ADAMS [redacted]
STEPHEN K. AGEE [redacted]
KELLY V. AHLM [redacted]
BARIMA K. AKOASARE [redacted]
ALBERT A. ALARCON [redacted]
HILARY A. ALBERS [redacted]
MARCUS A. ALBERS [redacted]
JOHN C. ALBRIGHTON [redacted]
FREDERICK G. ALEGRE [redacted]
CHARLES G. ALGIER II [redacted]
FERDINAND B. ALIDO [redacted]
SCOTT D. ALLEE [redacted]
KATHERINE F. ALLEN [redacted]
GREGORY G. ALLGAIER [redacted]
CHARLES E. ALLISON, JR [redacted]
JOHN D. ALLISON [redacted]
STEPHEN W. ALLUM [redacted]
NATHANIEL B. ALMOND [redacted]
ERIC P. ANDERSEN [redacted]
ALEXANDER D. ANDERSON [redacted]
BRIAN C. ANDERSON [redacted]
BRIDGETTE M. ANDERSON [redacted]
LAND T. ANDERSON [redacted]
BRIAN S. ANDERTON [redacted]
REBECCA A. ANDREWS [redacted]
STEVEN W. ANTCLIFF [redacted]
CORY R. APPLEBEE [redacted]
WILLIAM ARIAS, JR [redacted]
KAREN M. ARMSTRONG [redacted]
DOUGLAS J. ARNOLD [redacted]
DANIEL P. ARTHUR [redacted]
ERIC J. ASCHEMAN [redacted]
RANDY E. ASHMAN [redacted]
MELISSA C. AUSTIN [redacted]
MORGAN S. AVITABILE [redacted]
LYNDA M. AYALA [redacted]
DANIEL B. AYOTTE [redacted]
PATRICK, C. BABKA [redacted]
CHADWICK S. BACHOROWSKI [redacted]
SCOTT A. BACON [redacted]
GREGORY L. BADGER [redacted]
CARLOS J. BADILLO [redacted]
KENNETH N. BAGUSO [redacted]
PHILIP M. BAHEN [redacted]
CHRISTOPHER E. BAILEY [redacted]
JASON W. BAILEY [redacted]
JOSEPH T. BAILEY [redacted]
GREGORY E. BAKER [redacted]
JOHN F. BAKER [redacted]
BENJAMIN J. BALLARD [redacted]
BRIAN M. BALLER [redacted]
NATHAN A. BALLOU [redacted]
ROMMEL S. BALMEO [redacted]
MARIANIE O. BALOLONG [redacted]
VERLANA R. BANKES [redacted]
RICHARD R. BARBER [redacted]
CHRISTOPHER J. BARKER [redacted]
MATTHEW A. BARKER [redacted]
PAUL R. BARNEY [redacted]
DALE S. BARRETT [redacted]
OSCAR A. BARROW [redacted]
JON A. BARTEE [redacted]
TOBIN P. BASFORD [redacted]
JENNIFER L. BASHAW [redacted]
BRIAN J. BAUMHOVER [redacted]
JASON J. BEACHY [redacted]
SCOTT A. BEAL [redacted]
MARCUS A. BEAMAN [redacted]
ROBERT W. BEAMAN [redacted]
MICHAEL L. BEANE [redacted]
LASHANDRA M. BEARD [redacted]
QUINCY E. BEASLEY [redacted]
GREGORY M, BEATTY [redacted]
CHARLES D. BECK [redacted]
GREGORY B. BECK [redacted]
JOSEPH R. BECKER [redacted]
MICHAEL S. BELK [redacted]
JESSE J. BELSKY [redacted]
MARIO M. BENEDITO [redacted]
JEFFREY L. BENJAMIN [redacted]
DANIEL E. BENNETT [redacted]
HOLLY E. BENNETT [redacted]
KEITH K. BENSON [redacted]
KATHRYN L. BERGER [redacted]
MIKAEL P. BERGH [redacted]
JOHN R. BERGQUIST [redacted]
RYAN J. BERNACCHI [redacted]
JEFFREY S. BERNHARD [redacted]
GEOFFRY S. BERRY [redacted]
RICHARD R. BESSEL [redacted]
THOMAS M. BESTAFKA [redacted]
RICHARD A. BESTGEN [redacted]
KEITH R. BIANDO [redacted]
JASON H. BIEGELSON [redacted]
RACHELLE L. BILBRUCK [redacted]
HEATHER A. BILLETS [redacted]
JOSHUA R. BINDER [redacted]
MICHAEL A. BISBEE [redacted]
RAYMOND K. BIZIOREK [redacted]
ANTOINETTE BLACK [redacted]
KRISTINE T. BLACK [redacted]
DAVID J. BLACKMAN [redacted]
CARL M. BLAHNIK [redacted]
KARA J. BLAISURE [redacted]
JOSE A. BLANDINO [redacted]
ROBERT D. BLONDIN [redacted]
ADAM S. BLOOM [redacted]
JASON R. BLYTH [redacted]
KURT P. BOENISCH [redacted]
CHRISTOPHER G. BOHNER [redacted]
MATTHEW D. BOKMEYER [redacted]
TODD M. BOLAND [redacted]
WILLIAM A. BOLLER [redacted]
JOHN D. BOMKAMP [redacted]
DAVID V. BONFILI [redacted]
KOE P. BORNHOR [redacted]
GREGORY E. BOUCHER [redacted]
CHRISTOPHER L. BOWEN [redacted]
RICHARD L. BOWLES [redacted]
PATRICK W. BOYCE [redacted]
ERIK J. BOYNTON [redacted]
JOHN J. BRABAZON [redacted]
DANIEL S. BRADLEY [redacted]
HARRY C. BRADLEY [redacted]
DOUGLAS W. BRADY [redacted]
JEFFREY D. BRANCHEAU [redacted]
MICHAEL J. BRAND [redacted]
MICHAEL C. BRATLEY [redacted]
STEPHEN J. BREITIGAN [redacted]
WALTER D. BREWER [redacted]
JONATHAN E. BRIEN [redacted]
LUCIA BRIGHTWELL [redacted]
CHRIS T. BRINKAC [redacted]
ANDREW W. BRINKMEIER [redacted]
NEAL BRINN [redacted]
BRYAN A. BRIONES [redacted]
RACHEL W. BRISTOL [redacted]
LATONIA D. BROADWATER [redacted]
ANTHONY V. BROCK [redacted]
DANIEL M. BROOKES [redacted]
ROBERT J. BROOKS [redacted]
SHANE E. BROOKS [redacted]
BYRON B. BROWN [redacted]
CHARLES A. BROWN [redacted]
J.C. BROWN [redacted]
KENDALL R. BROWN [redacted]
TROY A. BROWN [redacted]
MARK J. BROWNFIELD [redacted]
ANNA C. BRYANT [redacted]
TIMOTHY J. BRYANT [redacted]
RYAN J. BRYLA [redacted]
CHRISTOPHER B. BRYSON [redacted]
JOHN L. BUB [redacted]
KURT A. BUCKENDORF [redacted]
JAMES E. BUCKLEW [redacted]
MARK L. BUNN [redacted]

EUGENE A. BURCH II [redacted]
MICHAEL A. BURCHIK, JR. [redacted]
BRIAN H. BURGIN [redacted]
JOHN R. BURKE [redacted]
DEXTER A. BURLEW [redacted]
MICHAEL E. BURLEY [redacted]
JAMES H. BURNS [redacted]
JERRY L. BURNS [redacted]
PAUL C. BURNS [redacted]
SEAN M. BURROW [redacted]
RICHARD E. BURTON [redacted]
JAMIE F. BURTS [redacted]
DAVID V. BUSH [redacted]
STEPHANIE J. BUTLER [redacted]
JONATHAN M. BUTZKE [redacted]
PETER B. BYFORD [redacted]
DAVID W. BYRD [redacted]
NEFTALI CABEZUDO [redacted]
JEAN L. CADER [redacted]
JOHN E. CAGE [redacted]
PAUL M. CAIRNS [redacted]
JUSTIN M. CALLAGHAN [redacted]
JAMES R. CALVERT [redacted]
DELIO A. CALZOLARI, JR. [redacted]
ANDREA H. CAMERON [redacted]
DAVID J. CANNING [redacted]
AGUSTIN E. CAREY [redacted]
COLLEEN A. CARLTON [redacted]
JEFFERY W. CARMODY [redacted]
JOHN R. CARNAHAN [redacted]
TODD R. CARPENTER [redacted]
ARIEL H. CARPIO [redacted]
VICENTE CARRERAS, JR. [redacted]
JEFFREY A. CARROLL [redacted]
TONYA S. CARROLL [redacted]
ROBERT CARTER [redacted]
PHILLIP S. CARY [redacted]
ROSANNA M. CASANOVA [redacted]
LISA M. CASTANEDA [redacted]
JOHN A. CASTEEL [redacted]
GARY L. CAVE [redacted]
CHRISTIAN D. CHAPMAN [redacted]
PIERRE E. CHARPENTIER [redacted]
JUDITH L. CHERRY [redacted]
JEFFREY CHIANG [redacted]
COLIN W. CHINN [redacted]
DAVID Y. CHO [redacted]
PAUL L. CHOATE [redacted]
WON H. CHOE [redacted]
HYOSON CHOI [redacted]
BRANDON CHRISTENSEN [redacted]
MELISSA E. CHRISTOFFEL [redacted]
CHRISTOPHER D. CHUHRAN [redacted]
FRANCIS M. CHUNFAT [redacted]
TODD F. CIMICATA [redacted]
ANDREW J. CLARK [redacted]
DANIEL W. CLARK [redacted]
FRANKIE J. CLARK [redacted]
JENNIFER A. CLARK [redacted]
MICHAEL J. CLARK II [redacted]
NATHAN D. CLARK [redacted]
GABRIEL T. CLEMENS [redacted]
RODNEY G. CLEMENTS [redacted]
JENNIFER L. COCIO [redacted]
ROBERT M. COHEN [redacted]
PAMELA A. COLBY [redacted]
DEREK E. COLE [redacted]
HAROLD T. COLE [redacted]
JOSEPH M. COLE [redacted]
JAYSON L. COLEBANK [redacted]
JOSEPH W. COLEMAN [redacted]
HEATHER M. COLLAZO [redacted]
DAVID COLON [redacted]
RACHEL A. COLUCCI [redacted]
MATTHEW T. COMMONS [redacted]
DANIEL K. COMUNALE [redacted]
CHRISTOPHER M. CONDON [redacted]
BRYAN Z. CONNELLY [redacted]
THOMAS P. CONNELLY, JR. [redacted]
BRENNA C. CONWAY [redacted]
DANIEL W. COOK [redacted]
JOSEPH COOK [redacted]
TANYA N. COOK [redacted]
WENDY A. COOK [redacted]
WILLIAM W. COOK [redacted]
MICHAEL J. COOKSON [redacted]
CHRISTOPHER P. COOPER [redacted]
JOSEPH S. COOPER [redacted]
ROBERT C. COOPER [redacted]
JOAQUIN S. CORREIA [redacted]
MARK D. CORRIERE [redacted]
KEVIN D. CORYELL [redacted]
ERIN M. COTTRELL [redacted]
MICHAEL S. COURSEY [redacted]
RICHARD G. COUTURE, JR. [redacted]
ROBERT G. CRAMPTON [redacted]
AARON R. CRANE [redacted]
GREGORY A. CRAWFORD [redacted]
KENNETH T. CREAMEANS [redacted]
PARIS E. CRENSHAW [redacted]
FRANCIS CRISTINZIO [redacted]
ROBERT F. CROFOOT [redacted]
SCOTT E. CROFT [redacted]
JOHN L. CROGHAN [redacted]
PATRICK A. CROLEY [redacted]
NICOLA M. CROWELL [redacted]
TOBY S. CROWLEY [redacted]
RAYMOND D. CRUMP [redacted]
PHILLIP D. CRUZ [redacted]
ASSUNTA M. CUEVAS [redacted]
KENNETH L. CULBREATH [redacted]
LISBETH A. CUNNINGHAM [redacted]
ROSS H. CUNNINGHAM [redacted]
MICHAEL B. CURTIS [redacted]
RUSSELL A. CZACK [redacted]
DANIEL J. DAHAN [redacted]
DAVID C. DAILY [redacted]
DEBORAH A. DALL [redacted]
JASON A. DARISH [redacted]
WAYNE E. DAVEY [redacted]
JEAN CLAUDE DAVIDSON [redacted]
RICHRD T. DAVIES [redacted]
BILLY R. DAVIS [redacted]
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WILLIAM M. DAVIS [redacted]
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GRANT W. DAWSON [redacted]
THALMUS D. DAY [redacted]
BOYD C. DECKER [redacted]
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JEFFERY E. DEGROFF [redacted]
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ADAM J. DEMELLA [redacted]
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GEORGE DEMOPOULOS [redacted]
DUSTIN A. DEMOREST [redacted]
DOUGLAS A. DENNEY [redacted]
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PAUL C. DESAULNIERS [redacted]
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BRAIN J. DIEBOLD [redacted]
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JEANPAUL E. DUBE [redacted]
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KATHY R. EDMISTON [redacted]
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SELINA ELDER [redacted]
MEGAN A. ELIASON [redacted]
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FERMIN ESPINOZA [redacted]
GEORGE C. ESTRADA [redacted]
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MARIE I. HAMPTON [redacted]
SAMUEL Y. HANAKI [redacted]
BOBBY L. HAND, JR. [redacted]
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RONALD G. HORTILLOSA [redacted]
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JAMES J. JUSTER [redacted]
PRZEMYSLAW J. KACZYNSKI [redacted]
LUCAS P. KADAR [redacted]
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MATTHEW H. KANE [redacted]
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STEPHEN C. KARP [redacted]
GARRETT D. KASPER [redacted]
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KERRI L. KEEHN [redacted]
RACHEL L. KEELER [redacted]
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ERIC S. KEISER [redacted]
ANTHONY S. KELLY [redacted]
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FRANK J. KORFIAS [redacted]
DIONISIOS KORKOS [redacted]
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MARTY D. KUHL [redacted]
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IMEE JEAN U. LACERNA [redacted]
PATRICK L. LAHIFF [redacted]
JEFFREY E. LAMPHEAR [redacted]
CHRISTOPHER P. LANDRY [redacted]
DEREK J. LANG [redacted]
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KEITH A. LANZER [redacted]
MANUEL LARA, JR. [redacted]
WILLIAM J. LARGE [redacted]
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TROY D. LARSON [redacted]
GIUSSEPPE A. LAURITANO [redacted]
JENNIFER L. LAVOIE [redacted]
MAUREEN E. LAWLER [redacted]
JASON D. LAYTON [redacted]
BRIAN T. LE [redacted]
VERONICA LEAL [redacted]
ALARIC C. LEBARON [redacted]
RICHARD LEBRON [redacted]
SUSAN A. LEES [redacted]
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JOHN A. LO [redacted]
JAMES M. LOBUE [redacted]
TRENTIS B. LOFTIES [redacted]
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ERIK B. LOHRKE [redacted]
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SEAN P. LOOFBOURROW [redacted]
ANDREW P. LOTH [redacted]
CHRISTOPHER L. LUCAS [redacted]
TAMARA S. LUCAS [redacted]
PETER J. LUCIANO [redacted]
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MARIA C. MAGNO [redacted]
RYAN D. MAHONEY [redacted]
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ERIC L. MASON [redacted]
JAMES D. MASON, JR [redacted]
CHARLES E. MASSIE, JR [redacted]
MATTHEW A. MATO [redacted]
CARTER J. MAURER [redacted]
NICOLE L. MAVERSHUE [redacted]
MATTHEW E. MAY [redacted]
RAY A. MC BRIDE II [redacted]
TAMSEN A. MC CABE [redacted]
JULIE A. MC CARTHY [redacted]
DIRK K. MC CAULEY [redacted]
GRAYSON C. MC CLAIN [redacted]
LOUIS M. MC CRAY [redacted]
JONAS R. MC DAVIT [redacted]
KARRICK S. MC DERMOTT [redacted]
DWAIN M. MC DOWELL [redacted]
JOEL T. MC FARLAND [redacted]
KEVIN L. MC FARLIN [redacted]
KRISTEN R. MC GAHA [redacted]
THERESA M. MC GEE [redacted]
DALE D. MC GEHEE [redacted]
JASON M. MC GUIRE [redacted]
KATHLEEN M. MC GUIRE [redacted]
KEVIN M. MC HUGH [redacted]
DUSTIN H. MC INTIRE [redacted]
MEGEN Y. MC IVER [redacted]
ERIC B. MC LENDON [redacted]
JUDSON E. MC LEVEY II [redacted]
DAVID P. MC MILLAN [redacted]
JOHN W. MC NEILL [redacted]
TIMOTHY P. MC NEILL [redacted]
SEAN P. MC NULTY [redacted]
ERIC H. MEADE [redacted]
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ERIC C. MICHEL [redacted]
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RENE J. MONCION [redacted]
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AMY E. MONROE [redacted]
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IVORY J. MONTGOMERY [redacted]
JOHN A. MONTIJO [redacted]
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THOMAS E. MYERS [redacted]
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JOHN G. NEEB, JR. [redacted]
DARRELL L. NEELEY [redacted]
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ROBERT Y. PALMORE [redacted]
PAUL R. PAMPURO [redacted]
AUGUST M. PAGE [redacted]
JACK S. PARKER, JR., [redacted]
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ERIC S. PARTIN [redacted]
KEVIN G. PARTRIDGE [redacted]
SCOTT A. PASIETA [redacted]
SWAPAN M. PATEL [redacted]
COREY L. PATTERSON [redacted]
KYRA M. PATTERSON [redacted]
CHRISTOPHER A. PEABODY [redacted]
ELENA G. PECENCO [redacted]
BRYAN S. PEEPLES [redacted]
DENNIS S. PENLAND [redacted]
ANDREW PEREZ [redacted]
STEPHEN G. PERREAULT [redacted]
CHARLES L. PERRY [redacted]
ESLY A. PETERS [redacted]
NICOLE E. PETERSON [redacted]
JOSEPH J. PEZZATO [redacted]
LONNIE R. PHILLIPS [redacted]
SONDRA M. PHIPPS [redacted]
RAYMOND V. PIERIE [redacted]
ADAM A. PIERSON [redacted]
CLARENCE D. PINCKNEY [redacted]
ALBERT J. PIZZICA [redacted]
JUSTIN J. PLUNKETT [redacted]
SEAN P. POLETE [redacted]
JONATHAN S. POLON [redacted]
ALICIA N. PONZIO [redacted]
RICKE PORTALATIN [redacted]
JESSIE A. PORTER [redacted]
NORMAN D. PORTER [redacted]
ROBERT R. PORTER [redacted]
THOMAS A. POST [redacted]
JULIA E. POSTOLAKI [redacted]
RALPH F. POTTER [redacted]
CHRISTOPHER C. POWELL [redacted]
MICHAEL F. POWER [redacted]
MICHAEL K. POWERS [redacted]
MIRANDA F. POWERS [redacted]
RICHARD L. PRESTON [redacted]
ARTHUR V. PREVATTE [redacted]
BRIAN M. PRICE [redacted]
JOHN S. PRICE [redacted]
NATHANAEL B. PRICE [redacted]
SAMMIE PRINGLE [redacted]
DAVID C. PRITCHETT [redacted]
ETHAN R. PROPER [redacted]
SCOTT L. PROPST [redacted]
JAMES N. PUTNAM III [redacted]
ANDRE R. PYATT [redacted]
JOHN M. QUILLINAN [redacted]
ROBERT J. RACE [redacted]
JOSEPH P. RADELL [redacted]
BRIAN E. RAFACZ [redacted]
ROSANNA L. RAGADIO [redacted]
HOLLY L. RAGLAND [redacted]
RONNIE B. RAGUINI [redacted]
JOHN G. RAISBECK [redacted]
CHRISTOPHER A. RAKOV [redacted]
JOEL C. RAMSBORG [redacted]
BOWEN W. RANNEY [redacted]
NATESH A. RAO [redacted]
DAVID M. RAY [redacted]
THOMAS N. RAY, JR [redacted]
DAVID A. REAL [redacted]
JOHN D. REARDON [redacted]
DAVID M. REED [redacted]
ERIC D. REHBERG [redacted]
CHRISTINA M. REID [redacted]
CHAD D. REITHMEIER [redacted]
ROBERT H. REITZ [redacted]
STEPHEN C. RENDALL [redacted]
ELIZA REYES [redacted]
EUGENE H. RHIE [redacted]
ERIC A. RICE [redacted]
RONALD P. RICH [redacted]
WILLIAM C. RICHARDSON [redacted]
LUIS J. RIOSECO [redacted]
MATHEW R. RITCHEY [redacted]
JOHN D. RITCHIE [redacted]
RYAN N. RITTER [redacted]
MIGUEL R. RIVERA [redacted]
STEPHANIE A. ROBERTS [redacted]
BARBARA L. ROBINSON [redacted]
DARRICK F. ROBINSON [redacted]
JAMES T. ROBINSON [redacted]
MICHAEL J. ROBINSON [redacted]
MUI K. ROBINSON [redacted]
KARENANN B. ROBLES [redacted]
CHRISTOPHER L. ROBY [redacted]
DAVID B. ROCHE [redacted]
DAVID A. RODRIGUEZ [redacted]
RICHARD B. ROGERS [redacted]
DANIEL B. ROSADO [redacted]
ANDREW A. ROSE [redacted]
PAUL ROSEN [redacted]
PHILIP R. ROSI II [redacted]
BRYAN L. ROSS [redacted]
GARY L. ROSS [redacted]
JOHN E. ROTTER [redacted]
JAMES H. ROWBOTTOM [redacted]
ERIC J. ROZEK [redacted]
THOMAS A. RUFFO, [redacted]
ROBERT F. RULOF [redacted]
RICHARD C. RUSS [redacted]
CHARLES R. RUSSELL [redacted]
THOMAS F. RYAN [redacted]
RUSSELL C. RYBKA [redacted]
AMY D. SAARE [redacted]
JASON R. SALEMME [redacted]
CHERYL J. SALTSMAN [redacted]
ROBERT A. SALVIA [redacted]
JERRY D. SALYER [redacted]
BENJAMIN A. SAMUEL [redacted]
ALEJANDRO SANCHEZ [redacted]
ANDREW SANDERS [redacted]
KARREY D. SANDERS [redacted]
MICHAEL H. SANDERS [redacted]
REGINALD D. SANDERS [redacted]
ANTHONY A. SANDOVAL [redacted]
KATHLEEN M. SANDOZ [redacted]
EDWIN SANTANA [redacted]
WILFREDO I. SANTOS [redacted]
JONATHAN D. SARGENT [redacted]
CHRISTOPHER J. SARTON [redacted]
KENNETH E. SCHEUERMANN [redacted]
APRIL SCHEUNEMANN [redacted]
JOHN A. SCHIAFFINO [redacted]
EDWARD J. SCHMIDT [redacted]
JAMES W. SCHMITT [redacted]
TOBY V. SCHNEIDER [redacted]
JOHN T. SCHOFIELD III [redacted]
ERIC C. SCHREIBER [redacted]
RYAN D. SCHROEDER [redacted]
PATRICK J. SCHUETTE [redacted]
JOHANNA M. SCHULTZ [redacted]
WILLIAM A. SCHULTZ [redacted]
AARON B. SCHWADERER [redacted]
STACY L. SCHWARTZ [redacted]
STEPHEN H. SCOTT [redacted]
JAMES A. SEELYE [redacted]
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RICHARD E. SESSOMS [redacted]
LINDA C. SEYMOUR [redacted]
DOUGLAS K. SHAMLIN [redacted]
MICHAEL T. SHARP [redacted]
THOMAS H. SHARPE [redacted]
SAMUEL A. SHAW [redacted]
LOUIS J. SHEARER [redacted]
MARCELLE P. SHILLITO [redacted]
GLEN E. SIDARAS [redacted]
ARTHUR T. SILVER [redacted]
CHRISTOPHER S. SIMMONS [redacted]
STEPHEN E. SIMMS [redacted]
PETER M. SIWEK [redacted]
GARRETT D. SMALL [redacted]
VALERIE J. SMALL [redacted]
BRYAN L. SMITH [redacted]
CHRISTOPHER M. SMITH [redacted]
DANIEL A. SMITH [redacted]
EMANUEL K. SMITH III [redacted]
JAN G. SMITH [redacted]
KATHLEEN R. SMITH [redacted]
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LISA D. SMITH [redacted]
MICHAEL A. SMITH [redacted]
MICHAEL S. SMITH [redacted]
RAMONA L. SMITH [redacted]
VICTOR E. SMITH [redacted]
TIMOTHY M. SNAVELY [redacted]
DAVID T. SNEE [redacted]
MICHAEL Y. SNELLING [redacted]
JEFFREY L. SNYDER [redacted]
JEFFREY Z. SNYDER [redacted]
TODD E. SNYDER [redacted]
MARK D. SOHANEY [redacted]
THOMAS B. SONG [redacted]
ATTAPOL SOOKMA [redacted]
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PHILIPP D. SPILLER, JR [redacted]
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SHERRILL D. STAMEY [redacted]
EDWARD A. STANCZAK [redacted]
SHAWN B. STANDLEY [redacted]
VERNON H. STANFIELD [redacted]
MATT T. STANTON [redacted]
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JOEL G. STEWART [redacted]
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WILLIAM P. STINNEY [redacted]
HAROLD E. STOCKTON [redacted]
MARTIN L. STODDARD [redacted]
CARMEN N. STOKS [redacted]
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MATTHEW J. STONEHOUSE [redacted]
ALETTA M. STOUDMIRE [redacted]
MATTHEW L. STOUGHTON [redacted]
CHRISTIAN A. STOVER [redacted]
DONALD W. STRASSER [redacted]
DANIEL G. STRAUB [redacted]
FRANK S. STRAZZULLA [redacted]
KYLE G. STRUDTHOFF [redacted]
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SHANE F. SULLIVAN [redacted]
TIMOTHY M. SULLIVAN [redacted]
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CHRISTOPHER L. SUTHERLAND [redacted]
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SHAUN A. SWARTZ [redacted]
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WILLIAM A. SWICK [redacted]
KAIL C. SWINDLE [redacted]
LESLEY N. SWINT [redacted]
STEPHEN H. SWITZER [redacted]
JESSICA M. SZPOT [redacted]
JOSHUA M. TABOR [redacted]
NANCY E. TALBOT [redacted]
MATTHEW R. TAMBOURINE [redacted]
BRIAN J. TANAKA [redacted]
PAUL M. TATE [redacted]
MATTHEW A. TATTAR [redacted]
CHARLES W. TAYLOR [redacted]
COLLEEN A. TAYLOR [redacted]
LISA M. TAYLOR [redacted]
RICHARD D. TEMER [redacted]
NATHAN W. TEMPLE [redacted]
DONALD I. TENNEY [redacted]
JAMES J. TERRY [redacted]
TRAVIS T. TESCH [redacted]
PATRICIA L. TESTON [redacted]
ANTHONY W. THOMAS [redacted]
DENYSE M. THOMAS [redacted]
JOSEPH M. THOMAS [redacted]
MICHAEL E. THOMAS [redacted]
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SEAN J. THOMAS [redacted]
COREY E. THOMPSON [redacted]
CYNTHIA A. THOMPSON [redacted]
JOHN A. THOMPSON [redacted]
JAMIE D. THOMTON [redacted]
JAMES P. THURMAN [redacted]
JAMES E. TIDWELL [redacted]
MICHAEL E. TIEFENBACH [redacted]
JEFFREY C. TILLMAN [redacted]
MICHAEL D. TIMMCKE [redacted]
JOSEPH W. TIRRELL [redacted]
JANINE R. TOMPKINS [redacted]
BRENT K. TORNGA [redacted]
AMY L. TRAIL [redacted]
CHAD E. TRAXLER [redacted]
JOSEPH C. TREVINO [redacted]
THEODORE M. TREVINO [redacted]
MARIE M. TRICKEL [redacted]
MATTHEW W. TUFTE [redacted]
ALLON G. TUREK [redacted]
THOMAS C. TUREK [redacted]
ANTHONY J. TURNER [redacted]
CAROL L. TURNER [redacted]
JOHN D. TUTWILER [redacted]
MATTHEW E. TWYFORD [redacted]
STEVEN A. TYLER [redacted]
THOMAS A. ULMER [redacted]
CHRISTOPHER M. URBAN [redacted]
GRAYDON S. UYEDA [redacted]
CHRISTOPHER J. VALDIVIA [redacted]
IAN M. VALECRUZ [redacted]
ALEXANDER VALENTIN [redacted]
TOBY S. VALKO [redacted]
AMY E. VANCE [redacted]
DAVID J. VANDYKE [redacted]
ERIC J. VANDYKE [redacted]
NOU VANG, [redacted]
JACKSON W. VAUGHN [redacted]
WOLFGANG J. VELASCO [redacted]
RICARDO VIGIL [redacted]
DEBORAH D. VILAYPHANH [redacted]
ROSS R. VILLANUEVA [redacted]
FAYE L. VODICKA [redacted]
EDWARD F. VOELSING [redacted]
BRADFORD S. VOLK [redacted]
R.B. WADDELL [redacted]
DAVID J. WALKER [redacted]
DAVID A. WALKER, JR [redacted]
SHANNAN A. WALKER [redacted]
WILLIAM L. WALKER [redacted]
JOHN F. WALSER, JR [redacted]
MICHAEL J. WALSH [redacted]
KIMBERLY A. WALTERS [redacted]
TERRY R. WAMSLEY [redacted]
LATEEF T. WARNICK [redacted]
WILLIAM K. WARREN [redacted]
LAKINA A. WASHINGTON [redacted]
JASON L. WATKINS [redacted]
LANDRY S. WATSON [redacted]
STEVEN T. WEATHERLY [redacted]
AMY B. WEBB [redacted]
GODFREY D. WEEKES [redacted]

WILLIAM H. WEILAND [redacted]
ERIC R. WELCH [redacted]
SHANNON J. WELLS [redacted]
BRIAN E. WELSH [redacted]
WILLIAM W. WERTZ [redacted]
ANDREA L. WESTERHOF [redacted]
STEVEN C. WHEAR [redacted]
EUGENE B. WHITE [redacted]
FREDERICK C. WHITNEY [redacted]
ARCELIA WICKER [redacted]
JAMES D. WIGHT [redacted]
TROY E. WILCOX [redacted]
THOMAS J. WILEY [redacted]
TIMOTHY B. WILKE [redacted]
DEMETRIUS WILKINS [redacted]
CHRISTOPHER J. WILLIAMS [redacted]
DONALD P. WILLIAMS [redacted]
HEATHER M. WILLIAMS [redacted]
JASON C. WILLIAMS [redacted]
JEFFREY S. WILLIAMS [redacted]
LUCY K. WILLIAMS [redacted]
MARLON WILLIAMS [redacted]
DARRELL J. WILSON [redacted]
ELY C. WILSON [redacted]
ENID WILSON [redacted]
JOSHUA B. WILSON [redacted]
KURT E. WILSON [redacted]
MICHAEL D. WILSON [redacted]
STEPHEN M. WILSON [redacted]
KIMBERLY D. WINCKLER [redacted]
THOMAS R. WINKLER [redacted]
DAVID S. WINTER [redacted]
FRANK J. WIRTZ [redacted]
MICHAEL P. WISCHNEWSKI [redacted]
REBECCA G. WISE [redacted]
HEATHER L. WISHART [redacted]
KAMAU O. WITHERSPOON [redacted]
CHERYL ANNE WOEHR [redacted]
JAMES J. WOJTOWICZ [redacted]
IAN S. WOLFE [redacted]
CLAYTON C. WOLKING [redacted]
JENNIFER L. WONG [redacted]
ALEXANDER D. WOOD [redacted]
JASON M. WOOD [redacted]
PETER P. WOOD [redacted]
STEVEN J. WOODRUFF [redacted]
GERALD D. WOODS [redacted]
MICHAEL D. WOODS [redacted]
JOSHUA P. WRIGHT [redacted]
PATRICIA A. WRIGHT [redacted]
SHAUNN B. WYCHE [redacted]
TIMOTHY J. WYSE [redacted]
SCOTT A. YACH [redacted]
THOMAS E. YARDLEY [redacted]
JOHN T. YEARY [redacted]
ERIC S. YOUNG [redacted]
STANLEY B. YOUNG [redacted]
DAVID A. YOVANNO [redacted]
STEVEN J. ZACCARI [redacted]
THOMAS A. ZDUNCZYK [redacted]
RYAN G. ZERVAKOS [redacted]
JAMES J. ZIMMERMAN [redacted]
JOSEPH A. ZIRNHELT [redacted]
ROBERT L. ZIRZOW [redacted]
BENJAMIN D. ZITTERE [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A) AND 3370:

ARMY PROMOTION LIST

To be colonel

VIRGIL A. ABEL [redacted]
CRAIG T. ABINGTON [redacted]
DALE M. ABRAHAMSON [redacted]
ROBERT A. ADAMS [redacted]
EDWARD D. AGER [redacted]
DANIEL R. ALLEMEIER [redacted]
ROGER L. ALLEN [redacted]
ROBERT P. ALLISON [redacted]
WILLIAM ALTGILBERS [redacted]
JAMES R. ANDERSON [redacted]
NORMAN H. ANDERSSON [redacted]
JOHN J. ANZIDE [redacted]
NORMAN E. ARFLACK [redacted]
RAYMOND V. AULL [redacted]
MICHAEL A. BAILEY [redacted]
DOLAS D. BAIN [redacted]
ROBERT L. BAIRD [redacted]
DENISE N. BAKEN [redacted]
ROBERT V. BALDWIN [redacted]
EDWARD H. BALLARD [redacted]
JOSEPH E. BALLAS [redacted]
RICHARD A. BALLIET [redacted]
WILLIAM BARKER [redacted]
WILLIAM B. BARKER [redacted]
RONALD F. BARNES [redacted]
HARVEY BARRISON [redacted]
JOHN H. BAUMAN [redacted]
IVAN T. BEACH [redacted]
PAUL M. BEAVER [redacted]
DWAYNE C. BECKFORD [redacted]
IVAN V. BEGGS [redacted]
LOUIS A. BENIAMINO [redacted]
RODGER E. BENROTH [redacted]
TERRY W. BENSON [redacted]
JOHN C. BERNATZ [redacted]
JOSE BERRIOS [redacted]
MARTIN H. BEST [redacted]
STEVEN P. BEST [redacted]
KENT M. BEVAN [redacted]
JAMES A. BEVIS [redacted]
PARK P. BIERBOWER [redacted]
RUSSELL V. BIERL [redacted]
TERRY G. BLAKEMORE [redacted]
ROBERT E. BOIVIN [redacted]
CURTIS R. BOREN [redacted]
DARWIN G. BOSTIC [redacted]
WILLIAM J. BOVER [redacted]
DONALD W. BOYKIN [redacted]
CARL W. BRAMLITT [redacted]
LARRY J. BRANDT [redacted]
JOHN M. BRAUN [redacted]
JOHN D. BRIDGERS [redacted]
JOHN C. BRIGHTON [redacted]
RICHARD W. BRINKER [redacted]
WILLARD BROADWATER [redacted]
DOUGLAS K. BROWELL [redacted]
DONALD L. BROWN [redacted]
RONALD B. BROWN [redacted]
THOMAS W. BROWN [redacted]
JAMES G. BRUMIT [redacted]
RICHARD R. BUCHANAN [redacted]
BRUCE M. BUCHHOLTZ [redacted]
ELBERT T. BUCK [redacted]
LARRY R. BULLOCK [redacted]
WILLIAM K. BURNS [redacted]
CHESTER L. BUSH [redacted]
GEORGE E. BUSH, JR. [redacted]
CAREY B. BUSSEY [redacted]
FULTON W. BYNUM [redacted]
DAVID L. CAIN [redacted]
JOHN L. CAIRER, JR [redacted]
MARC T. CALLAN [redacted]
JAMES J. CAMPBELL [redacted]
JAN M. CAMPLIN [redacted]
DANA E. CARDEN [redacted]
FRANK R. CARLINI [redacted]
FLOYD P. CARLTON [redacted]
ROBERT D. CARMAN [redacted]
JAMES B. CARY [redacted]
GARY E. CATHCART [redacted]
BENJAMIN D. CATHERS [redacted]
KENNETH L. CHAMPION [redacted]
FRANK H. CHAPMAN [redacted]
JAMES E. CHAPMAN [redacted]
RONALD S. CHASTAIN [redacted]
DAN V. CHISHOLM [redacted]
JAMES H. CHISMAN [redacted]
CRAIG, CHRISTENSEN [redacted]
STEPHE CHRISTENSON [redacted]
CHARLES L. CLARK [redacted]
RAYMOND C. CLARK [redacted]
RAYMOND J. CLARK [redacted]
ROBERT E. CLARK [redacted]
MICHAEL J. CLEARY [redacted]
MICHAEL L. CLEARY [redacted]
WILLIAM C. CLEMENTE [redacted]
RICK R. CLIFT [redacted]
ROY M. COFFMAN [redacted]
JOHN S. COLEMAN [redacted]
DAN M. COLGLAZIER [redacted]
RICHARD R. COLSON [redacted]
WILLIAM D. COLVIN [redacted]
JOHN W. CONLEY [redacted]
LARRY J. CONNOLLY [redacted]
WILLIAM L. CONWAY [redacted]
PETER S. COOKE [redacted]
JAMES E. CORFMAN [redacted]
ENRIQUE COSTAS [redacted]
PAUL D. COSTILOW [redacted]
AUDREY M. COTTON [redacted]
NORMAN J. COX, JR. [redacted]
RONALD C. COX [redacted]
WILLIAM A. CRAGG [redacted]
WESLEY E. CRAIG [redacted]
CRAIG W. CRANE [redacted]
STEWART M. CRANE [redacted]
JAMES D. CREEK [redacted]
WILLIAM E. CROCK [redacted]
TINA Y. CUNNINGHAM [redacted]
JOSEPH S. CZYZYK [redacted]
COLOMBA A. DANGELO [redacted]
DOUGLAS W. DANIEL [redacted]
MARK C. DANIELS [redacted]
ROBERT P. DANIELS [redacted]
PHILLIP L. DAVIDSON [redacted]
ALLEN DAVIS III [redacted]
HARRY G. DAVIS [redacted]
JOSEPH M. DAVIS [redacted]
THOMAS C. DAVIS [redacted]
WORTHEN A. DAVIS [redacted]
HERMAN M. DEENER [redacted]
WILLIAM L. DEETZ [redacted]
GARY E. DEKAY [redacted]
RICHARD B. DELGADO [redacted]
TONY J. DEMASI [redacted]
ROBERT B. DICKSON [redacted]
ANTHONY DICORLETO [redacted]
GERALD A. DIGREZIO [redacted]
TIMOTHY DILLIPLANE [redacted]
VINCENT L. DODSON [redacted]
RALPH E. DOMAS [redacted]
RICHARD G. DONOGHUE [redacted]
PAUL L. DOPPEL [redacted]
JIMMY E. DOUGLAS [redacted]
RONALD O. DOWNEY, [redacted]
DONALD W. DRASHEFF [redacted]
MARTIN C. DUNBAR [redacted]
MICHAEL H. DUNFIELD [redacted]
NANCY M. DUNN [redacted]
JOSEPH P. DUNNE [redacted]
MARTIN F. DUNNE [redacted]
DONALD D. DURHAM [redacted]
DAVID W. EASTON [redacted]
STANLEY B. ECKLEY [redacted]
GLENN H. EDDINS [redacted]
MARK E. ELDRIDGE [redacted]
JOHN L. ENRIGHT [redacted]
WILLIAM ETHEREDGE [redacted]
GARY B. EVANS [redacted]
LARRY E. FAGERSTEN [redacted]
NOLAND M. FARMER [redacted]
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NICHOLAS FLETCHER [redacted]
ROBERT D. FOLEY [redacted]
OTIS W. FOX [redacted]
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MICHAEL J. FRIEDL [redacted]
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ROBERT E. FULLEM [redacted]
WILLIAM R. FURR [redacted]
JOHN D. GAINES [redacted]
CHRISTOPH GALLAVAN [redacted]
BERRY L. GAMBRELL [redacted]
DONNIE F. GARRETT [redacted]
GUY A. GIANCARLO [redacted]
CHARLES E. GIBSON [redacted]
BENJAMIN GIGLIOTTI [redacted]
GLENN D. GILLETT [redacted]
ROBERT E. GODWIN [redacted]
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JOHN S. GONG [redacted]
MICHAEL R. GONZALES [redacted]
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TYRONE L. GRAHAM [redacted]
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CURTIS GRANDSTAFF [redacted]
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WILLIAM E. GROWNEY [redacted]
MARLIN T. GUILD [redacted]
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GLENN C. HAMMOND [redacted]
MARK E. HAMMOND, [redacted]
GREGG A. HANSEN [redacted]
ROBERT E. HARRIS [redacted]
MICHAEL W. HARTLEY [redacted]
DONALD A. HAUS, [redacted]
PAUL HAVEY [redacted]
LARRY G. HAYES [redacted]
GEORGE J. HEID [redacted]
RODNEY C. HENELY [redacted]
ROBERT E. HENSON [redacted]
REINALDO HERRERO [redacted]
JOHN B. HERSHMAN [redacted]
OSCAR B. HILMAN [redacted]
GERALDINE M. HINCE [redacted]
LEON E. HOLBROOK [redacted]
BENNIE J. HOLMES [redacted]
JAMES W. HOPPER [redacted]
JOHN G. HULET [redacted]
DONALD W. HULL [redacted]
ERIN A. HURD [redacted]
VIRGIL L. IIAMS [redacted]
WILLIAM E. INGRAM [redacted]
ARLYN R. IRION [redacted]
JOHN C. IRVINE [redacted]
CLIBURN D. IZARD [redacted]
RAYMOND A. JACKSON [redacted]
PAUL E., JENSEN [redacted]
RALPH K. JOHNS, [redacted]
L.Z. JOHNSON [redacted]
MARTIN R. JOHNSON [redacted]
MICHAEL JOHNSON [redacted]
WILLIAM H. JOHNSON [redacted]
ROBERT P. JOHNSTON [redacted]
JACK F. JONES [redacted]
PAUL G. JONES [redacted]
TERRY D. JONES [redacted]
TIMONTHY D. JONES [redacted]
MICHAEL JORGENSEN [redacted]
JOHN R. JUMP [redacted]
THOMAS M. JURKOWSKI [redacted]
JOSEPH H. JUST [redacted]
WILLIAM V. KANE [redacted]
GEORGE KANTOR, JR. [redacted]
STEVEN A. KAVANAUGH [redacted]
ROSS S. KELLY [redacted]
TERRY G. KEMP [redacted]
TIMOTHY M. KENDALL [redacted]
TIMOTHY M. KENNEDY [redacted]
JOHN H. KERN [redacted]
REED J. KIMBALL [redacted]
KIM. KIMMEY, [redacted]
JAMES E. KIRKWOOD [redacted]
HERMAN G. KIRVEN [redacted]
LARRY A. KIVIOJA [redacted]
MICHAEL. KLAPPHOLZ [redacted]
ROBERT L. KLEIN [redacted]
EDMUND H. KNETIG [redacted]
KENNETH E. KOHLS [redacted]

WILLIAM C. KUEFFER [redacted]
JOHN L. LAGGART [redacted]
MICHAEL P. LAHAYE [redacted]
LOUIS A. LALLO [redacted]
TERRY L. LANDRUM [redacted]
JOHN A. LAROCCA [redacted]
DELBERT M. LARSON [redacted]
EARL E. LAUER [redacted]
JAMES J. LAWRENCE [redacted]
JULIUS J. LAWTON [redacted]
JOHN E. LEATHERMAN [redacted]
ROGER W. LECLAIRE [redacted]
LAWRENCE H. LEE [redacted]
TERRANCE J. LEGG [redacted]
STEPHEN D. LEGGETT [redacted]
MICHAEL G. LEHTI [redacted]
JOE L. LEMONS [redacted]
TERRY W. LERCH [redacted]
MARK E. LEWIS [redacted]
BARRY LISCHINSKY [redacted]
MICHAEL W. LOBDELL [redacted]
PHILIP G. LOFTIS [redacted]
WILLIAM H. LOGAN [redacted]
HAL A. LONG [redacted]
JAMES A. LONG [redacted]
LOREN S. LOOMIS [redacted]
ALBERT J. LOPES [redacted]
RICHARD L. LOPEZ, JR. [redacted]
DONALD W. LUDENS [redacted]
JAMES A. LUNDELL [redacted]
CHARLES K. LYDEEN [redacted]
LARRY D. MAAS [redacted]
AARON A. MACHNIK [redacted]
JOSEPH G. MACK [redacted]
KENNETH E. MADDEN [redacted]
WILLIAM B. MADDOX [redacted]
DENNIS P. MAHER [redacted]
JIM E. MAINWARING [redacted]
DEAN J. MALLIRES [redacted]
MICHAEL E. MALONE [redacted]
WILLIAM MARMADUKE [redacted]
DOUGLAS W. MARR [redacted]
MARION D. MARSH [redacted]
MICHAEL A. MARTIN [redacted]
MICAHEL T. MASNIK [redacted]
DAVID J. MASON [redacted]
KENNETH R. MATLOCK [redacted]
RICHARD G. MAXON [redacted]
JAMES A. MAYER [redacted]
MATTHEW J. MC CABE [redacted]
DENNIS, MC CAFFERTY [redacted]
DANNICE J. MC CANN [redacted]
RAMOND C. MC CANN [redacted]
WILLIAM MC DERMOTT [redacted]
NATHANIEL MC GEE [redacted]
JEFFREY L. MC GOWAN [redacted]
STEVEN C. MC NABB [redacted]
RICHARD MC REYNOLDS [redacted]
RONALD E. MC ROBERTS [redacted]
JIM F. MELTON [redacted]
DENIS L. MERCHANT [redacted]
STEVEN L. MESSERVY [redacted]
MICHAEL R. MISSINA [redacted]
JOSEPH W. MEYER [redacted]
BENJA MIERZEJEWSKI [redacted]
JOSEPH J. MIKA [redacted]
DON M. MILLER [redacted]
PHILLIP W. MILLER [redacted]
DENNIS K. MINER [redacted]
ROBERT D. MINTON [redacted]
GEORGE MISERENDINO [redacted]
DAVID C. MITCHELL [redacted]
GREIG W. MITCHELL [redacted]
VERN T. MIYAGI [redacted]
JES MOLANOCARDENAS [redacted]
ROBERT A. MOLIN [redacted]
JAMES H. MONTGOMERY [redacted]
MICHAEL MONTGOMERY [redacted]
MARK A. MONTJAR [redacted]
MICHAEL W. MOODY [redacted]
BRUCE D. MOORE [redacted]
DRUE B. MOORE, JR. [redacted]
JOHN B. MOORE, JR. [redacted]
RICHARD A. MOORE [redacted]
WILLIAM R. MOORE [redacted]
ANDREW J. MORAN [redacted]
GLENN H. MORGAN [redacted]
TERRY MORGAN [redacted]
RAYMOND A. MORRIS [redacted]
MICHAEL J. MORRISON [redacted]
PHILIP J. MORRISS [redacted]
RICHARD R. MORSE [redacted]
JOHN D. MUCHOW [redacted]
STEVEN J. MURA [redacted]
SARA J. MURPHY [redacted]
MARK P. MURRAY [redacted]
FRANK W. MYERS [redacted]
JONATHAN H. MYERS [redacted]
RICHARD C. NASH [redacted]
JOHN L. NATTERSTAD [redacted]
JOSEPH F. NEDER [redacted]
GERARD B. NERY, JR. [redacted]
RICHARD J. NESKE [redacted]
BOBBY C. NEW [redacted]
ROBERT M. NEWBERT [redacted]
DANA L. NEWCOMB [redacted]
CHARLES E. NEWPORT [redacted]
ARTHUR NICHOLS, JR. [redacted]
JAMES M. NIELSEN [redacted]
JOHN C. NODGAARD [redacted]
JACK E. NOEL [redacted]
J.W. NOLES [redacted]
VINCENT F. OCONNELL [redacted]
GERARD A. OCZEK [redacted]
ALLEN W. ODELL [redacted]
HERSHELL ODONNELL [redacted]
JAMES M. OKIEF [redacted]
JOSEPH R. OLIVA [redacted]
ANDREW C. OLIVO [redacted]
EUGENE W. ORSON [redacted]
VICTOR M. ORTIZ [redacted]
DANIEL OSORIO [redacted]
EUGENE M. OTT [redacted]
EDWARD C. OTTO [redacted]
TERRY L. OUTMAN [redacted]
KARSTEN E. OVERA [redacted]
MICHAEL B. PACE [redacted]
JOHN F. PARKER [redacted]
PATRICK D. PASKE [redacted]
LARRY N. PATTERSON [redacted]
JAMES A. PATTON [redacted]
PETER Q. PAUL [redacted]
DAVID J. PAYNE [redacted]
RICHARD C. PAYNE [redacted]
FRANCIS G. PELKEY [redacted]
JOHN E. PENDERGRASS [redacted]
LEE E. PEPPER [redacted]
LYNN P. PEPPERD [redacted]
LEVI H. PERRY [redacted]
NEIL J. PERRY [redacted]
EDWARD A. PETERSEN [redacted]
DONALD R. PETRASH [redacted]
BERNARD A. PFEIFFER [redacted]
KENNETH W. PFEIFFER [redacted]
DONALD E. PHILLIPS [redacted]
GEORGE E. PHILLIPS [redacted]
RANDY G. PHILLIPS [redacted]
ROBERT S. PHILLIPS [redacted]
STEPHEN H.PIERCE [redacted]
KENNETH E. POLING [redacted]
DARRELL P. POLITTE [redacted]
CONRAD W. PONDER [redacted]
JOHN F. PORTER [redacted]
JOHN K. POVALL [redacted]
DANNIE W. POWELL [redacted]
ERNEST W. POWELL [redacted]
KEITH A. PREWITT [redacted]
CHARLES C. PRICE [redacted]
LARRY D. PRICE [redacted]
RANDY J. PRIEM [redacted]
WILLIAM F. PRINCE [redacted]
THOMAS J. PRINCIPE [redacted]
ROBERT S. PRITCHETT [redacted]
JOHN S. PRIZNER [redacted]
WILLIAM H. PUGH [redacted]
GARY A. QUICK [redacted]
DAVID W. RAES [redacted]
ERVIN RAMOSMOLL [redacted]
WILLIAM B. RANEY [redacted]
JOHN RATZENBERGER [redacted]
ROBERT D. RAYBOURN [redacted]
ROBERT E. REED [redacted]
VINCENT P. REEFER [redacted]
PAULA D. RENSHAW [redacted]
RONALD J. RENSKI [redacted]
ARNOLD RETHEMEIER [redacted]
ANDREW RICHARDSON, [redacted]
HENRY B. RICHARDSON [redacted]
RAYNOR J. RICKS [redacted]
WILLIAM J. RIDLEY [redacted]
DONALD G. RINGEL [redacted]
ANGEL M. RIVERA [redacted]
RAY L. ROBINSON [redacted]
TERRY L. ROBINSON [redacted]
JOHN M. ROCCO [redacted]
R. E. ROGERS, JR. [redacted]
JOHN C. ROGGOW [redacted]
JAMES L. ROHRBAUGH [redacted]
JOHN L. ROMAN [redacted]
THOMAS A. ROMAN [redacted]
TONEY L. ROMANS [redacted]
ALAN D. ROSENBAUM [redacted]
MICHAEL J. ROSS [redacted]
ARTHUR ROVINS [redacted]
JAMES R. ROWLAND [redacted]
SANDRA A. ROWLEY [redacted]
MICHAEL L. RUBICH [redacted]
LEONARD RUOTOLO [redacted]
JAMES A. RUSSELL [redacted]
ROGER D. RUSSELL [redacted]
WILLIAM L. RUSSELL [redacted]
RICHARD R. RUST [redacted]
DAVID W. RUTHERFORD [redacted]
ROBERT A. SALVIANO [redacted]
TIMOTHY J. SANKEN [redacted]
MICH SANTARCANGELO [redacted]
DAVID L. SAYLORS [redacted]
CHRISTOP SCAGNETTI [redacted]
DAVID A. SCHAUER [redacted]
DARRLY K. SCHEFFEL [redacted]
SHAWN N. SCHERTZER [redacted]
NORMAN P. SCHIEKE [redacted]
JAMES A. SCHILLER [redacted]
DANIEL L. SCHLIMGEN [redacted]
RICHARD T. SCHNELL [redacted]
JOSEF SCHROEDER [redacted]
TERRY J. SCHROEDER [redacted]
GREGORY D. SCHRUBBE [redacted]
FREDERI SCHUMACHER [redacted]
ROBERT W. SCHUPP [redacted]
DONALD D. SCHUSTER [redacted]
SAMUEL L. SCHUTTE [redacted]
RICHARD D. SCHWARK [redacted]
GUSTAVU SCHWARTING [redacted]
ROGER A. SCHWARTZ [redacted]
LAWRENCE J. SCHWARZ [redacted]
GARTH T. SCISM [redacted]
MICHAEL SEBASTIAN [redacted]
CHARLES E. SECREST [redacted]
JAMES P. SEWELL [redacted]
NANCY W. SEYDLER [redacted]
WINFIELD V. SHAW [redacted]
DAVID G. SHERFICK [redacted]
ANDREW M. SHERIDAN [redacted]
JIM H. SHERMAN [redacted]
JERRY E. SHILES [redacted]
RONALD W. SHINN [redacted]
TOM L. SHIRLEY [redacted]
DAVID T. SHORTER [redacted]
THEODORE G. SHUEY [redacted]
JAMES E. SIMPSON [redacted]
STEPHEN H. SIMPSON [redacted]
WILLIAM A. SIMPSON [redacted]
THOMAS L. SINCLAIR [redacted]
WILLIAM A. SLOTTER [redacted]
WILLIAM H. SMITH [redacted]
ALAN E. SOMMERFELD [redacted]
SANTOS SOSA [redacted]
JAIME SOTO [redacted]
ANDREW C. SPACONE [redacted]
CLAYTON SPANGENBERG [redacted]
JAMES L. SPEICHER [redacted]
JAMES C. SPENCER [redacted]
RONALD L. SPILLER [redacted]
JAMES S. SPINDEN [redacted]
MARK F. SPINLER [redacted]
CECIL S. SPITLER [redacted]
LEIF T. SPONBECK [redacted]
PERRY D. STACY [redacted]
JACK G. STARICH [redacted]
JOHN B. STAVOVY [redacted]
RONALD STEENSLAND [redacted]
LEONARD E. STEPHENS [redacted]
JAMES L. STEVENS [redacted]
WALTER J. STEWART [redacted]
HUGH M. STIRTS [redacted]
RONALD D. STOKES [redacted]
RONALD S. STOKES [redacted]
CHANDLER D. STONE [redacted]
HENRY T. SWANN [redacted]
THOMAS F. SWEENEY [redacted]
WILTON G. SWENSON [redacted]
ROBERT M. TAWES [redacted]
BERNARD TAYLOR JR. [redacted]
WILFORD TAYLOR JR. [redacted]
DENNIS W. TEITGE [redacted]
WILLIAM TERPELUK [redacted]
ROBERT A. THIESING [redacted]
BILLY W. THOMAS [redacted]
JOHNNY W. THOMAS [redacted]
TOM W. THOMAS [redacted]
WILLIAM A. THOMAS [redacted]
REX E. THOMPSON [redacted]
STEPHEN B. THOMPSON [redacted]
RUEDIGER TILLMANN [redacted]
JOHN P. TOBEY [redacted]
THOMAS M. TRITSCH [redacted]
PATRICK J. TUSTAIN [redacted]
WILLIAM H. TUTTLE [redacted]
THOMAS UPTAGRAFFT [redacted]
JAMES A. VANDERHOEK [redacted]
GILBERT VANSICKLE [redacted]
FELIX VARGAS [redacted]
DAVID H. VAUGHAN [redacted]
BERNARD F. VERONEE [redacted]
DAVID C. VOLLRATH [redacted]
ALAN J. WALKER [redacted]
MARK O. WALSH [redacted]
LOUIS P. WARCHOT [redacted]
JAMES R. WARD [redacted]
TEVEN S. WARD [redacted]
JIMMY R. WATSON [redacted]
VERNON A. WATTS [redacted]
HAROLD M. WEAVER [redacted]
THOMAS J. WEISS [redacted]
ARTHUR J. WELCH [redacted]
ROBERT E. WELCH [redacted]
JOHN A. WELLS, JR. [redacted]
MICHAEL P. WELSH [redacted]
RONALD WESTERVELT [redacted]
MITCHEL WILLOUGHBY [redacted]
LARRY E. WILSON [redacted]
CHARLES J. WINN [redacted]
BILLY R. WOOD [redacted]
HENRY B. WOOD [redacted]
ROBERT V. WOOD [redacted]
CHARLES W. WRIGHT [redacted]
ARTHUR H. WYMAN [redacted]
HENRY V. WYSOCKI [redacted]
JAMES T. YARBROUGH [redacted]
RONALD D. YOUNG [redacted]
JAMES A. ZERNICKE [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate October 31, 1995:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be major general

BRIG. GEN. JOHN B. HALL, JR [redacted] REGULAR AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. BRETT M. DULA [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES F. RECOR [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THAD A. WOLFE [redacted] UNITED STATES AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. NICHOLAS B. KEHOE II [redacted] UNITED STATES AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. ROBERT W. ROPER, JR [redacted]
BRIG. GEN. EDWARD L ANDREWS [redacted]
BRIG. GEN. DAVID K. HEEBNE [redacted]
BRIG. GEN. MORRIS J. BOY [redacted]
BRIG. GEN. ROBERT R. HICKS, JR [redacted]
BRIG. GEN. STEWART W. WALLAC [redacted]
BRIG. GEN. JAMES M. WRIGHT [redacted]
BRIG. GEN. CHARLES W. THOMA [redacted]
BRIG. GEN. GEORGE H. HARMEYE [redacted]
BRIG. GEN. JOHN F. MICHITSC [redacted]
BRIG. GEN. LON E. MAGGART [redacted]
BRIG. GEN. HENRY T. GLISSO [redacted]
BRIG. GEN. THOMAS N. BURNETTE, JR [redacted]
BRIG. GEN. DAVID H. OHLE [redacted]
BRIG. GEN. MILTON HUNTER [redacted]
BRIG. GEN. JAMES T. HIL [redacted]
BRIG. GEN. GREG L. GIL [redacted]
BRIG. GEN. JAMES C. RILEY [redacted]
BRIG. GEN. RANDALL L. RIGBY [redacted]
BRIG. GEN. DANIEL J. PETROSK [redacted]
BRIG. GEN. MICHAEL B. SHERFIEL [redacted]
BRIG. GEN. JAMES C. KIN [redacted]
BRIG. GEN. JOSEPH G. GARRETT, I [redacted]
BRIG. GEN. LEROY R. GOFF, I [redacted]
BRIG. GEN. DANIEL G. BROWN [redacted]
BRIG. GEN. WILLIAM P. TANGNEY [redacted]
BRIG. GEN. CHARLES S. MAHAN, JR [redacted]
BRIG. GEN. JOHN J. MAHER, II [redacted]
BRIG. GEN. LEON J. LAPORT [redacted]
BRIG. GEN. CLAUDIA J. KENNEDY [redacted]

THE FOLLOWING-NAMED OFFICER FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 611(A) AND 624(C):

To be brigadier general

COL. BETTYE H. SIMMONS, [redacted] UNITED STATES ARMY.

THE FOLLOWING-NAMED MEDICAL CORPS COMPETITIVE CATEGORY OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTIONS 6119(A) AND 624(C):

To be brigadier general

COL. GEORGE J. BROWN, [redacted] UNITED STATES ARMY.
COL. ROBERT F. GRIFFIN [redacted] UNITED STATES ARMY.

IN THE NAVY

THE FOLLOWING NAMED CAPTAINS IN THE LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

to be read admiral (lower half)

CAPT. STEPHEN HALL BAKER [redacted] UNITED STATES NAVY.
CAPT. JOHN JOSEPH BEPKO, II [redacted] UNITED STATES NAVY.
CAPT. JAY ALAN CAMPBELL [redacted] UNITED STATES NAVY.
CAPT. ROBERT CHARLES CHAPLIN [redacted] UNITED STATES NAVY.
CAPT. JAMES CUTLER DAWSON, JR [redacted] UNITED STATES NAVY.
CAPT. MALCOLM IRVING FAGES, [redacted] UNITED STATES NAVY.
CAPT. VERONICA ZASADNI FROMAN, [redacted] UNITED STATES NAVY.
CAPT. SCOTT ALLEN FRY, [redacted] UNITED STATES NAVY.
CAPT. GREGORY GORDON JOHNSON, [redacted] UNITED STATES NAVY.
CAPT. STEPHEN IRVIN JOHNSON [redacted] UNITED STATES NAVY.
CAPT. JOSEPH JOHN KROL, JR [redacted] UNITED STATES NAVY.
CAPT. STEPHEN ROBERT LOEFFLER [redacted] UNITED STATES NAVY.
CAPT. JOHN THOMAS LYONS, II [redacted] UNITED STATES NAVY.
CAPT. JAMES IRWIN MASLOWSKI [redacted] UNITED STATES NAVY.
CAPT. RICHARD WALTER MAYO [redacted] UNITED STATES NAVY.
CAPT. MICHAEL GLENN MULLEN [redacted] UNITED STATES NAVY.
CAPT. LARRY DON NEWSOME, [redacted] UNITED STATES NAVY.
CAPT. RICHARD JEROME NIBE [redacted] UNITED STATES NAVY.
CAPT. PAUL SCOTT SEMKO, [redacted] UNITED STATES NAVY.
CAPT. ROBERT GARY SPRIGG, [redacted] UNITED STATES NAVY.
CAPT. ROBERT TIMOTHY ZIEMER, [redacted] UNITED STATES NAVY.

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

CAPT. OSIE V COMBS, JR [redacted] UNITED STATES NAVY.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

CAPT. JEFFREY ALAN COOK [redacted] UNITED STATES NAVY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE UNITED STATES NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DENNIS C. BLAIR [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING TAREK C. ABBOUSHI, AND ENDING MICHAEL F. ZUPAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

AIR FORCE NOMINATIONS BEGINNING JULIAN ANDREWS, AND ENDING JANICE L. ANDERSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 1995.

AIR FORCE NOMINATIONS BEGINNING LARAINE L. ACOSTA, AND ENDING JOAN C. WINTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 1995.

AIR FORCE NOMINATIONS BEGINNING LARRY E. FREEMAN, AND ENDING TIMOTHY L. COOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 11, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING ANTHONY C. AIKEN, AND ENDING KAREN L. WILKINS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1995.

ARMY NOMINATION OF AMY M. AUTRY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 1995.

ARMY NOMINATIONS BEGINNING MICHAEL B. NEVEU, AND ENDING ROBERT A. DIGGS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 1995.

ARMY NOMINATION OF DUANE A. BELOTE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 1995.

ARMY NOMINATION OF DEREK J. HARVEY, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 11, 1995.

ARMY NOMINATIONS BEGINNING BARBARA HASBARGEN, AND ENDING GARY VROEGINDEWEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 11, 1995.

ARMY NOMINATIONS BEGINNING MARY B. ALEXANDER, AND ENDING CRAIG L. WARDRIP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 11, 1195.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING THURMOND BELL, AND ENDING EARNEST R. WALLS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 10, 1995.

IN THE NAVY

NAVY NOMINATIONS BEGINNING JOHN M. ABERNATHY III, AND ENDING GEORGE R. SHAYNE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 8, 1995.

NAVY NOMINATION OF ROBERT W. ERNEST, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 24, 1995.

NAVY NOMINATIONS BEGINNING TIMOTHY A. ADAMS, AND ENDING MICHAEL J. ZIELINSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 5, 1995.

NAVY NOMINATIONS BEGINNING ALBERT M. CARDEN, AND ENDING JENEVIEVE J. WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 1995.

NAVY NOMINATIONS BEGINNING WILLIAM D. AGERTON, AND ENDING WILLIAM M. TURNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1995.

HOUSE OF REPRESENTATIVES—*Tuesday, October 31, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. GOODLING].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 31, 1995.

I hereby designate the Honorable WILLIAM F. GOODLING to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority and minority leader, limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentlewoman from New York [Mrs. LOWEY] for 5 minutes.

VOTE AGAINST H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1833 which would ban second- and third-term abortions in the case of severe threats to the life and health of the mother and cases of severe fetal anomaly.

Proponents of the bill attempt to exploit one of the greatest tragedies any family faces by using graphic pictures, sensationalized language, and distorted truths. Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents and only face the decision of abortion due to unavoidable circumstances.

Unfortunately, medical testing is still not sophisticated enough to detect fetal anomalies until late in the pregnancies. Also, some illnesses such as diabetes or kidney failure can suddenly flare up and put the health and life of the mother at risk. The decision to abort at this stage in a pregnancy is agonizing and deeply personal.

This bill is not about choice. It is about necessity. As the mother of three grown children, I thank God every day that my children were born healthy and strong. However, not everyone is so lucky.

Yesterday my office received a call from Claudia Ades, a woman who lives in Santa Monica, CA. She had heard about the bill and called to ask me if there was anything we could do to defeat it. As Claudia said so passionately, "this procedure saved my life and the life of my family."

Three years ago, Claudia was pregnant and happier than she had ever been in her life. However, 6 months into her pregnancy she and her husband discovered that the child she was carrying suffered from a number of severe fetal anomalies, including acute brain damage, a very malformed heart. It was doubtful that the child would survive birth; and, if it survived, its short life would be filled with pain and suffering.

After speaking to a number of doctors, Claudia and her husband finally had to accept their view that there was no way to save this pregnancy. They chose to go to Dr. James McMannus because his procedure would allow Claudia to get pregnant in the future and would allow them to have a family. "This was a desperately wanted pregnancy," Claudia said yesterday, "but my child was just not meant to be in this world."

Who here cannot sympathize with the pain that Claudia and her family faced? Those of us with healthy children can only imagine the horror that Claudia felt when she received the news about her child's condition. It is the news that all mothers pray every day they will never have to hear.

But in those tragic cases where families do hear this horrible news, who should get to decide? If, God forbid, this ever happened to me or somebody in my family, I would want the decision to be mine just as any of you would.

The one thing that I know for sure is that the decision should not be made by the Congress of the United States. At that horrible, tragic moment the Congress, the Government, just has no place in the home, in the hearts, in the decisionmaking of these agonizing families.

I beg my colleagues to think very carefully, to vote against H.R. 1833. This is not a Democrat or Republican issue. This is not a pro-choice or an anti-choice issue. This tragedy can strike any family regardless of party affiliation.

Defeat this bill so that women in Claudia's situation can get the best medical care possible. Defeat this bill because it is the right thing to do.

WORKERS' RIGHTS IN CUBA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized during morning business for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, in his desperate effort to hold on to power at any cost and by any means necessary, Cuban tyrant Fidel Castro has turned the Cuban economy into a slavelike system.

In Castro's new economy, where foreign investors call the shots, workers get the short end of the deal.

While the regime collects all the hard currency produced by foreign investors, the Cuban worker, already denied his civil and human rights, is paid by the State.

Not in hard currency, but in Cuban pesos, at the official rate of one peso per dollar, although, in reality, the real exchange rate is more like 25 pesos to the dollar.

As one foreign investor put it, "you pay $500 for an employee, and he receives the equivalent of $20."

In Cuba, Mr. Speaker, independent labor unions, worker strikes, and collective bargaining are prohibited.

Instead, there is one State-controlled puppet union, the Cuban Workers Central, which reacts to every whim of the Cuban tyrant.

For example, in 1992, when Cuban ports worker Rafael Gutierrez attempted to establish an independent labor union, the Cuban Workers Trade Union, he was arrested and detained at State security headquarters, for subversion and distribution of enemy propaganda.

Mr. Gutierrez was later released, but was not able to find employment due to the regime's persecution against him.

In 1994, Mr. Gutierrez was denied a visa by the Cuban regime to speak at the International Confederation of Free Trade Unions Human Rights Commission, where he would have condemned the regimes' human rights violations.

Finally, tired of the repression against him, Mr. Gutierrez was one of the thousands of Cubans who sought their freedom, aboard a rickety raft, and was one of the refugees held at the Guantanamo Naval Base.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

More deplorable and tragic is how the Cuban regime is now using its repression of workers' rights to attract foreign investment to the island.

Last August, Miguel Taladrid, the regime's Deputy Minister of Foreign Investment and Economic Cooperation, stated that, "The current system is more convenient. We are free from labor conflcits; nowhere else in the world could you get this tranquility."

Unfortunately, the regimes' promotion of its repression of the Cuban worker, is having the desired effect on investors.

A businessman from the Dominician Republic had this to say, "The main reason why I chose to invest in Cuba, rather than in the Dominican Republic, was the assurance by the Cubans that I would not have to negotiate, or be forced to sign, collective agreements with trade unions."

He added that, "The Cuban Government is attracting European investors by promising cheap labor and the absence of free trade unions."

This tragic scenario of workers' rights in Cuba is apparently alien to some of my colleagues from the other side of the aisle, who hosted and expressed their great admiration for Castro during his recent trip to New York City.

My Democrat colleagues from that great city all have excellent lifetime voting records supporting workers' rights in the United States, according to the AFL–CIO. One of them has 100 percent lifetime AFL–CIO record, while the other two have a 95 and 94 percent rating.

Apparently, my colleagues are all for worker rights, except, of course, when those rights might interfere or harm their relationship with their good buddy, Fidel Castro.

For not a peep was heard from them, condemning the repression of workers' rights in Cuba by Castro.

Maybe we should not be surprised, Mr. Speaker, that my colleagues would not want to tarnish their sweet relationship with the tyrant.

After all, they spend a lot of time and effort to assure that the tyrant received a warm greeting in New York City.

One of our colleagues made a heartwarming gift to Castro: a pair of boxing gloves claiming that, "Fidel is No. 1."

Yet another one could not contain himself and repeatedly hugged the tyrant and applauded Castro's rhetoric of being for the working people of the world.

Apparently, my colleagues do not care much for those like Mr. Gutierrez and others who dared to challenge the regimes' repression, for never did they bring up the subject of workers' rights to Castro.

The same congressional colleagues oppose the U.S. embargo against Castro and, instead, promote free and open trade with the tyrant, as an instrument to push him from power.

Oddly, some of them did not promote these views in Haiti or South Africa, where some supported economic embargoes against the undemocratic regimes of those two countries to help bring freedom and democracy.

My colleagues might be for workers' rights in the United States, and Castro might give the impression that he supports working people of the world, but neither my colleagues nor Castro show much concern for the working people of Cuba.

If an award were to be given for hypocrisy, Mr. Speaker, my three New York Democrat colleagues who cheered Castro in New York would win hands down.

Today is trick or treat day. But our New York colleagues got an early start on Halloween. They treated Castro well; they tried to trick the people of the United States and Cuba. But freedom-loving people will not be fooled. Democracy must come to my enslaved native homeland.

VOTE AGAINST H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I must say, as I stand here to discuss the bill H.R. 1833, it is appropriate we do this, I guess, on Halloween, because this is such a ghoulish issue and it is so very distressing to me that this body is moving forward to deal with this issue.

In America, it is wonderful because most people when they become pregnant have no problems. But not all people. Last year, this country was fortunate in that it only had to have about 600 late-term abortions. But let me tell you, every one of those was terribly critical, dealing with the life of the mother or fetal abnormalities that could not be treated in utero, that could be incompatible with life, totally incompatible with life and could harm the mother and her future ability to go on and have a normal family.

Luckily, most people are not going to be affected by this bill. But let me tell you, for anyone who is going to be affected by this bill, they are going to be outraged.

As the gentlewoman from New York talked about, when any family has decided to have a child and is very excited and very enthusiastic about it, and these are the people we are talking about, and they suddenly get toward the end and find some horrendous, awful thing has derailed their dream, if they find the Congress of the United States has started practicing medicine without a license and has decided that the safest procedure a doctor might recommend cannot be given, a procedure that would allow that family to go forward and have another child without really threatening the reproductive organs of the woman or her life is no longer allowed by order of the U.S. Congress, that the fact that her life cannot be taken into account or anything else, I think that family is going to be totally outraged, has every reason to be totally outraged. You have got to really ask, why do we think we have that power?

What we are going to be doing as we deal with this issue is we are really attempting to demonize women who are put in this position and demonize doctors who are trying to treat them. We are trying to say, this is a procedure that is so awful and so terrible that only demons would get into this.

Well, let us think about this. Is trying to save the life of the mother something that you would demonize someone for? If you have a fetus with abnormalities that are not correctable, that are incompatible with life, and we are talking about very severe things, like absence of a head, brain outside the head, one heart, one chamber of the heart, these types of things, where the fetus can die in utero and then start decomposing and cause all sorts of life-threatening things to the mother.

□ 0915

Are we just saying to her, "Well, risk it. You risk it, and that is what you are going to do?" If we pass this bill, we are really rolling back the tremendous progress this country has made on safe motherhood. If you look at earlier years, we were running 800 deaths per 100,000 births. We are now down to 8, but part of that is because we have allowed doctors and families, when they get into these awful, awful, awful conflicts to sit down and decide what the family wants to do and what medical professionals think is the best to do, and we are going to take that away. We are going to take that away if we vote on the bill 1833. We are going to say to them, we know better, and we are going go to back, rolling back the safe motherhood progress that we have made in this country.

You are going to hear all sorts of things on this floor. I beg people to, please, look at the doctor's testimony about how the charts you see are inaccurate and wrong, how the terms you hear are not medically accurate terms, and they do not describe accurately what transpires, how the person that they base all of this on was really fraudulent; it was a person who never participated in these events. We have letters and documentation on all of that.

So here we are taking this urban myth, blowing it up, trying to demonize, trying to undo and get Congress involved in something that is a great,

great tragedy, and if we pass this bill, we are only going to make these tragedies much greater.

I plead with my colleagues to find their spines, to stand up and to really not get involved in this demonization of women, doctors, and their families who have nothing but terrible choices to make.

THE BUDGET DEFICIT CRISIS

The SPEAKER pro tempore (Mr. GOODLING). Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. SCARBOROUGH] is recognized during morning business for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, as we hear the words and the heated rhetoric from the White House regarding the budget deficit crisis, regarding President Clinton's positions on the budget, I thought it would be important for us just to step back, because things move so quickly in Washington and have moved so quickly in the past few years, I think it is important we step back and take a perspective and take a long look at what the President's position has been on budgets, on taxes, and on fiscal matters since he first got elected in 1992.

First of all, we really can go back even to the campaign. Remember when he was campaigning through the snows of New Hampshire and his campaign was in crisis because of some political scandals that were shaking him up. The response was to go to the New Hampshire voters in 1992 and say, "I am proposing a tax break for middle class Americans." I do not know how many people remember that, but he did it, and when he was pressed, Bill Clinton, the candidate, held up his plan. He said, "Others talk about it. I have got a plan right here that is going to give middle class Americans tax cuts."

It helped him survive the crisis in New Hampshire, moved beyond New Hampshire, eventually got elected as President of the United States, and in large part ridiculed George Bush for breaking his "no new taxes" pledge. Well, all of America sat around and watched President Clinton after he got elected take to the airwaves for the first time and said, "Oops, I made a mistake. Instead of giving middle class Americans tax relief, I am actually going to tax you more than any President in the history of the United States ever has. I am going to propose Btu taxes, I am going to propose taxes on senior citizens, going to increase their taxes on Social Security up to 85 percent, I am going to lower the earning limits for senior citizens from $34,000 to $14,000, so senior citizens cannot remain productive after they retire without being penalized by the Federal Government."

Of course, the Republicans at that point did not go out and say that President Clinton wanted senior citizens to die like the administration is now saying that we want senior citizens to die simply because we have got the guts to save Medicare for him, but it just showed how the President flip-flopped back and forth, back and forth, and fast forward 2 years to the speech he made a few weeks ago. I know the House Democrats absolutely have to love when Bill Clinton, after yanking them along for the ride said, "It may surprise you, but I think I raised taxes too much also," and then blamed it on the Republicans. Now I went back over that vote tally, and there was not a single Republican on the House or Senate side that voted to raise the taxes, but somehow Bill Clinton flip-flopped again and said, "Yes, I know I raised taxes too much on you, but it was those Republicans' fault." I am a bit baffled, but that is OK. Bill Clinton was baffled.

The next day he flip-flopped it again and blamed it on talking after 7 p.m. at night, and said, "My mom always told me do not go out and speak after 7 p.m. at night, because you never know what you are going to say." I have a question for the President: What is he going to do when all the Presidential debates coming up next year are going to be after 7 p.m.? So what is he going to do? I mean, if I were running against the President, I would turn to him and say, Mr. President, it is past 7 p.m. Do we believe you on this issue, or is your mom right again, or are you just making it up as you go along? It would be funny if it were not so frightening.

This is a question of leadership. And you do not have to go back 2 years to look at the multiple flips-flops on the budget issue, go back 2 months, look at the first budget he proposed after the election, the Clinton 1 budget. It was voted down 99 to 0 in the Senate. It was voted down 99 to 0 because it continued sky rising deficits.

He said the balanced budget is not necessary. He proposed a second budget. It was voted down 96 to 0, and soon after the polls showed that 88 percent of Americans wanted a balanced budget this year and wanted tax cuts also, miraculously he flip-flopped again, which leads us to what happened last week where he said that he thought he raised taxes too much on Americans, but it was the Republicans' fault.

I mean, now what do we do as Americans? When our President speaks on budget issues, when he speaks on tax issues, when he speaks on deficit issues, what do we believe? Where do we go for leadership from the White House? It is absolutely frightening, because he continues to flip-flop and continues to look at the polls instead of looking at what is in America's best interest.

I ask him to follow the Republican Party's lead, balance the budget, balance it now for the sake of future generations.

PRESERVE ROE VERSUS WADE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from California [Ms. WOOLSEY] is recognized during morning business for 4 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to talk about H.R. 1833, a bill which would criminalize some late-term abortions.

First of all, I would like to say, H.R. 1833, Mr. CANADY's bill to criminalize specific late-term abortions is a cruel attempt to make a political point.

Make no mistake about it, ladies and gentlemen, the Canady bill—with all of the emotional rhetoric, with all of the graphic pictures, with all of the exaggerated testimony—is the first frontal attack on Roe versus Wade by the new majority. Plain and simple. The new majority wants to do away with Roe; the radical right wants to do away with Roe; and the Canady bill is the first step.

So let us be honest about what this debate is really about.

Next, I want to talk about who will be harmed by the Canady bill. This legislation seeks to prohibit a wide array of abortion techniques which are used in the late stages of a pregnancy when and if the life of the mother is in danger or a fetus is so malformed that it has no chance to survive.

The procedures which the Canady bill seeks to prohibit are used very, very rarely. In fact, less than 600 times per year, for all late term abortions and, less than 100 a year for this procedure. These particular abortion techniques are used in extreme and tragic cases. Like a fetus with no brain; or a fetus with missing organs; or a fetus with the spine growing outside of the body. The procedures which will be banned by the Canady bill are used when the fetus has zero chance of survival.

If women are forced to carry these malformed fetuses to term, they are in danger of chronic hemorrhaging, permanent infertility, or death.

That is what H.R. 1833 is all about.

To my colleagues on both sides of the aisle, I know that this is a difficult issue to talk about on the floor of the House of Representatives. I do not think that this subject belongs here. I do not think that Congress should be making decisions on surgical procedures.

Women and their doctors need to make these decisions, not Members of Congress. So let us put the decision back where it belongs. Give women the right to make their own decisions. Let us preserve Roe versus Wade. I urge my colleagues to vote "no" on H.R. 1833 when it is considered later this week.

THE EARNED INCOME TAX CREDIT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California

[Mr. KIM] is recognized during morning business for 5 minutes.

Mr. KIM. Mr. Speaker, yesterday I was not able to complete my statement, and after that I had numerous phone calls and letters asking me to complete. Why? Because the American people deserve to know about the EITC, earned income tax credit.

Many people do not know. I did not know until I joined Congress. This perhaps is the most severe attack, calling it mean spirited cutting, putting all of the poor people out in the cold.

I would like to tell you, the American people, what is really happening on this EITC. First of all, what is EITC? That was established back in 1975. Originally the intent was good, to try to help those people who actually are working, those people who are working, but they do not earn enough to support their families. What we are trying to do is Government subsidize them, give them a credit. They call it a negative income tax. They call it subsidy to the working poor. Excellent idea. Nobody is complaining. I think it is a good idea.

The Republicans are putting it, and the Democrats are putting it. What happened then?

If you make less than $26,000 with kids, then Government again gives you a little subsidy. Now, what happened is this program became out of control. Look at what happened here.

When this started in 1975, it only cost the Government $1.2 billion. Then about 10 years later it cost about $2.5 billion. But since then, we, Congress, keep changing the law to be expanding, it raised income level, and the eligibility has kept changing. Now you do not have to have a family. Anybody can receive this EITC credit without having any family. Even a single person can do it.

From then on, look what happened. Costs have gone up, gone up 1,000 percent, from $2.5 to $25 billion, absolutely out of control. This is what is happening now.

Why do we not recognize this serious problem? I do not know. Colleagues have been dominating, controlling our Congress 40 years. Why did they not address this problem previously? A bureaucrat, can they not see it? It is out of control, a 1,000-percent increase. Why do they not come up with some idea to control this thing? We did, in the budget reconciliation package.

Let me tell you what we are proposing to do. We said, "By golly, we cannot let this go." If you do not think so, costs have gone up to $36 billion. What we are trying to do is control cost, bring it down a little bit, down to $31 billion, from $36 billion to $31 billion, trying to control this out-of-control spending speed. Now, what is wrong with that? You call that a deep cut? I mean, gutting it? Call that a mean spirited cut? All we are trying to do is trying to control this out-of-control spending.

Why is it? Because there is a lot of waste and fraud going on. According to a report, it said more than 1 million people are receiving the EITC illegally, and GAO study says 40 percent of EITC recipients are illegally receiving more money than they deserve.

□ 0930

The waste and fraud is totally out of control. That is what we are trying to control.

What we proposed on this reconciliation package is as follows: No. 1, we are going to stop giving those folks money if they do not have any children to support. We are going back to our original intent, just folks who have children. What is wrong with that?

Second, we are going to eliminate waste and fraud. We are going to make it tough for them to apply for the EITC credit. They have to have proof. Those two combinations alone can save $5 billion, easily. By doing it, we can balance the budget within 7 years.

Now, what does that mean, balancing the budget in 7 years? According to the Wharton Business School, they predict if we balance the budget, the interest will go down by 4 percent. All right. Even if interest rates fall by even 1 percent, the family who currently has a $100,000 mortgage at 8 percent would save $30,000. Can you imagine if we balance the budget, if you own a House with a mortgage of $100,000 at an 8-percent interest rate, you can save $30,000? Further they say GNP will go up 28 percent, creating 20 million additional jobs. That is what we are doing. Mr. Speaker, come on, we are not trying to put those people out in the cold.

PARTIAL BIRTH ABORTION BILL IS BAD LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. LOFGREN] is recognized for 5 minutes.

Ms. LOFGREN. Mr. Speaker, I am here to speak against H.R. 1833, the so-called partial birth abortion bill. As a member of the Committee on the Judiciary, I had heard that this bill had been introduced, and, like I think a lot of Americans today, I thought, what the heck is that? I called around trying to find out what this procedure was, but it turned out that I knew someone who had to utilize this procedure.

As the Speaker knows, I have been in this body for under 11 months. I started in January. But for many years I was a member of the board of supervisors in Santa Clara County, and I served with a wonderful woman, Susan Wilson, who is a typical American person. She grew up in Texas. She was a cheerleader, she married her high school boy, and they moved to San Jose, where she volunteered in her Methodist church, taught sewing, and was a youth counselor. She had three fine sons.

A year ago April, Susie was so excited to tell me she was going to have another granddaughter. Her son Bill and daughter-in-law Vickie were expecting their third child. It was going to be a girl. They even picked out the name Abigail.

Towards Easter time they found out a very sad thing. They found out late, it had been missed in the early tests, that Abigail would not live. Abigail's brain had formed outside of her cranial cavity, and the brain tissue that had formed was malformed. This baby could not live. It was a devastating piece of news for Susie and for Vickie and Bill and for all of us who loved and knew that family. We cried a lot.

But one of the things that was important to Vickie and Bill and to all of us was that Vickie not also die, because they have two children who need a mother.

So Vickie and Bill did as much research as they could to see, could the child be saved? They found out regrettably, no, and they found out what was Vickie's risk. They found out, much to their dismay, that unless there was an intervention, Vickie could die. Certainly Abigail was going to die in any case.

They hoped to have another child. They found if they did not do something, that Vickie's possibility of having another child would be seriously threatened. So they did engage in a late term abortion to save Vickie's life and to preserve the opportunity to have another child. They know now that little Abigail is in heaven, and they are grateful for that, and they know that Vickie is still alive to be the mother, the good mother she is, to her children.

In the Committee on the Judiciary I heard a lot of angry rhetoric, but I did not hear a willingness to listen to the truth, to the real families that have real tragedies that they have to cope with. And I know that they do not need the guidance and help of the Congress of the United States on this very personal and horrible situation. What they need is the help and guidance of God, not the Congress.

A CALL TO COMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CHRYSLER] is recognized for 5 minutes.

Mr. CHRYSLER. Mr. Speaker, a call to the community. An honest conversation on race, reconciliation, and responsibility. At the close of the 20th century, the toxic issue of race confronts society everywhere. It is at the core of the crisis facing American cities. This working document in its final form will be offered to the American people by political, business, religious, artistic, academic, and community leaders representing a broad spectrum of opinion. The aim is to rally all Americans around a vision of community that transcends our divisions.

Mr. Speaker, America is at a crossroads. One road leads to community; the other to the chaos of competing identities and interests. We have all hurt one another, often unconsciously, in ways we would never intend. We need each other. We need to eradicate the scourge of racial division. We must demonstrate that our diversity is our greatest strength and that out of this diversity is rising a new American community. We can offer hope to a world torn by divisions of every kind.

We invite every citizen to join us in a renewed commitment to an American community based on justice, reconciliation and excellence. The original promise of this country, that out of a rich diversity of peoples a great nation would rise, has only partially been fulfilled. This unique experiment remains incomplete because the promise of equal opportunity and dignity for all has not been fully realized. Much of the distrust, resentment and fear in America today is rooted in our unacknowledged and unhealed racial history.

For many of us, race determines where we live, where we send our children to school and where we worship. Because racism is deeply embedded in the institutions of our society, individuals are often insulated from making personal decisions based on conscious racial feelings and do not experience the daily burden that their brothers and sisters of color have to carry. We must change the structures which perpetuate economic and racial separation. But no unseen hand can wipe prejudice away. The ultimate answer to the racial problem lies in our willingness to obey the unenforceable.

The new American community will flow from a spirit of giving freely without demanding anything in return. In the new American community, when any one individual is injured, exploited or demeaned, all of us will feel the pain and be diminished. It will be a place where hearts can put down roots and where each feels accepted and at home. Some painful memories cannot be erased. But forgiving is not forgetting; it is letting go of the hurt.

To build this new American community, we must empower individuals to take charge of their lives and take care of their communities. In cities across America, bold experiments are taking place. Citizens have initiated honest conversations—between people of all backgrounds—on matters of race, reconciliation and responsibility. They have chosen to move beyond blame and guilt, beyond hatred and fear, deciding to face the past with courage and honesty. They are demonstrating that through honesty, a willingness to embrace each other's painful experiences, and with God's power to change us, the wounds of the past can be healed and our Nation become one community.

This approach calls us to a new concept of partnership and responsibility. It means: Listening carefully and respectfully to each other and to the whole community; bringing people together, not in confrontation but in trust, to tackle the most urgent needs of the community; searching for solutions, focussing on what is right rather than who is right; building lasting relationships outside our comfort zone; honoring each person, appealing to the best qualities in everyone, and refusing to stereotype the other group; holding ourselves, communities and institutions accountable in areas where change is needed; and recognizing that the energy for fundamental change requires a moral and spiritual transformation in the human spirit.

PARTIAL BIRTH ABORTION ACT NOT GOOD LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 3 minutes.

Ms. PELOSI. Mr. Speaker, this morning I rise in strong opposition to H.R. 1833. As a mother of five wonderful children who supports a woman's right to choose, I respect the opposition that our colleagues have to that right to choose. Indeed, we have had some very heated debates on that subject on this floor. But today we are breaking new ground, and it is, I think, most unfortunate for America's women and America's families that we have a bill, before us, the so-called partial birth abortion act.

Mr. Speaker, I strenuously object to the procedures of this House that would allow a bill with that name and that misrepresentation to come to the floor. The makers of that motion know that all abortions taking place in the third trimester are for reasons of serious fetal abnormality or risk to the life or health of the mother.

Mr. Speaker, unfortunately, though medical science has developed sophisticated testing to determine potential medical problems in the pregnancy, often these tests are not fully accurate until later in the pregnancy. Some women may undergo several ultrasounds and other tests and be told that all is well, only to have a devastating anomaly detected at the 28th week of pregnancy or beyond. Other women may be diagnosed with cancer or kidney failure late in pregnancy or have a previous condition such as brittle diabetes suddenly flare-up so seriously that their own health and even their lives are threatened. These women are faced with the painful and deeply personal choice of ending a wanted pregnancy.

The intact DNE abortion procedure which H.R. 1833 seeks to outlaw is for many women in these circumstances the safest medical option available. It saves the life and protects the health and safety of the mother. This is also used when the fetus cannot sustain life. It also enables the mother to go on more safely to have other children, which outlawing this procedure might prevent her from doing.

The bill also does not take into account the indescribable agony faced by women and families eagerly awaiting a wanted child upon discovering late in pregnancy that their dreams are shattered. Under this bill, women could be forced to continue their pregnancy, even if it is certain, certain, Mr. Speaker, that the fetus will not survive birth. This is cruel, inhumane, and medically inappropriate. The bill is bad medicine and bad policy.

I know that this is a painful and personal matter for the people affected by it. It should not be a decision by this Congress. It should be a decision by a woman, her family, her doctor, and her God, and I urge our colleagues to oppose this legislation and leave the decision with the family.

RATEPAYER PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. STEARNS] is recognized for 5 minutes.

Mr. STEARNS. Mr. Speaker, I rise today to introduce legislation that will, I believe, begin the process of examination of the electric industry. My bill would repeal prospectively section 210 of the Public Utility Regulatory Policies Act of 1978. This legislation is only one of many important aspects of the electric industry that must be explored and opened up for discussion. I am hopeful that this legislation serves as an instigator of a much larger debate. I now have 15 cosponsors. It is a bipartisan bill.

My only interest in introducing this bill lies in achieving the most efficient and most cost-effective means of electric generation for America's ratepayers. Prospective repeal of PURPA represents a positive step in that direction. It is important to note that PURPA is a mandate, regardless of its intent. It substitutes government intervention where the marketplace should dictate. Furthermore, PURPA has not jump-started the renewable energy generation industry as was the act's intent—only 6 percent of PURPA generated power comes from nonrenewables.

Nonetheless, there are other important concerns surrounding the repeal of PURPA. It is important to note that, just as I support deregulation through the repeal of PURPA, I also support the notion of more comprehensive Federal deregulation legislation that would provide for greater and freer competition in power generation.

I truly understand the concerns of those in opposition to my bill—I recognize that their industry has come about largely because of PURPA. I also recognize that not all PURPA generators abuse the system. In fact, a Georgia-Pacific plant located in my district generates its own power from the plant's waste, but sells none back into the system. In this instance, PURPA encouraged innovation and self-sufficiency, a notion that I strongly believe in: It is the American way. But the American way does not rely on a mandate; it dictates deregulation over regulation.

House Energy and Power Subcommittee Chairman DAN SCHAEFER has indicated that he intends to hold a series of hearings on the variety of issues involved in electricity deregulation and reform. I support his efforts and look forward to the opportunity to finally address these important issues.

Indeed, by introducing this legislation today, I believe that I am helping to initiate debate, not only on this important issue, but on the whole gamut of issues surrounding the regulation of the electric generation industry. I am anxious to work with Chairman SCHAEFER, Chairman BLILEY, the House Committee on Commerce, and all other interested parties as Congress moves forward with its comprehensive examination of this industry.

Everyone will agree that we must begin to explore a move toward an electricity industry that is based on competition, market force, and lower prices for ratepayers. This is certainly my objective as I introduce this necessary first piece of electricity reform legislation.

VOTE AGAINST H.R. 1833

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 2 minutes.

Mrs. MALONEY. Mr. Speaker, in the interests of good health care and good public policy, I urge my colleagues to vote against H.R. 1833. In the first 6 months of the 104th Congress, 12 antichoice bills passed. This one, H.R. 1833, is by far the worst.

The bottom line is, H.R. 1833 represents an unprecedented politically motivated intrusion into the practice of sound and acceptable clinical medicine.

Here are the facts choice opponents purposely ignore. Abortion in late term pregnancy is rare, very rare. Only four one-hundredths of a 1 percent of abortions are performed at 26 weeks. H.R. 1833 provides no exceptions for cases in which the procedure would be necessary to preserve a woman's health or life. The bill presents a direct constitutional challenge to Roe versus Wade.

If facts do not convince you, maybe this family's story will. Vickie Smith, a mother of two children, ended a wanted pregnancy because the fetus had abnormalities incompatible with life. A large part of its brain was formed outside the skull. Because Vickie went through the safest procedure available, she was able to have more children. She is now expecting her third child. With the safest procedure known, Vickie could have become infertile or could have died.

In the interests of good health and public policy, please vote against H.R. 1833. Do not allow an already cruel situation to be politicized. It is bad public policy and bad medicine.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 48 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. MYRICK) at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the beginning of time, O God, Your benediction of grace has not changed; through the steadfast heritage of righteous people, Your blessed work has been accomplished; through Your faithful and abiding word, we have been enriched and the meaning of life has been proclaimed, and through Your love we have been forgiven and redeemed and made new. On this new day we offer our thanksgivings for the bounty of Your blessings to us and to all people. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. TRAFICANT] come forward and lead the House in the Pledge of Allegiance.

Mr. TRAFICANT led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minutes on each side.

JOIN THE EFFORT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, today is Halloween—the Democrat's favorite day. All this year Democrats have made a concerted effort to scare people. They have tried to scare children with school lunch horror stories. They have tried to scare seniors with their Mediscare tales from the crypt. And they have tried to scare the poor with EITC ghost stories.

Democrats have lost the battle of ideas, plain and simple. The only weapon they have is distortion and fear. They have no mandate. They have no positive message of hope. And the only way they can influence policy is to scare the wits out of the American people.

Madam Speaker, fear is not a hallmark of sound political leadership and scaring people is what bullies do.

I challenge our friends on the other side to stop the horror stories, take off your masks, and join our effort to save Medicare, reform welfare, cut taxes on families, and balance the budget.

TRICK OR TREAT

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Madam Speaker, I think it is appropriate here on Halloween to be focused on trick or treat. Today we have an opportunity to do that on the question of reforming this Congress and the issue of gifts and lobby reform, whether there will be more tricks for the public and more treats for the Members of this Congress. Since the opening of this Congress, our Republican colleagues have had repeated opportunities to join us in the type of bipartisan reform of lobby and gift ban that has occurred across the rotunda in the U.S. Senate. thus far, whether it was on day 1 of this Congress, whether it was on June 20, whether it was on June 22, or whether it was on September 6, our Republican colleagues have thus, with the exception of I think two of them, refused to join us in that kind of bipartisan cleanup. What better day than Halloween to say it is time to stop tricking the American people and stop taking treats from the lobby. It is time to get about cleaning up this House and doing the business of the American people.

PRESIDENTIAL TRICK OR TREAT?

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, tonight is Halloween and Americans want to know if they will get a trick or treat from their President.

The President has told Americans that he wants these four things in the Federal budget:

No. 1, a plan that will balance the Federal budget in 7 years.

No. 2, a plan that will save Medicare from bankruptcy.

No. 3, a plan that will end welfare as we know it.

No. 4, a plan that will cut taxes for families and reduce the capital gains tax to spur job creation and economic growth.

Madam Speaker, the President has never presented such a plan. But the House and the Senate have passed and will shortly send to the President a budget reconciliation plan that will achieve all four of the President's goals.

The question is: Will the President trick Americans and veto the only budget plan that will achieve his goals or will the President treat Americans and just sign the balanced budget?

Madam Speaker, Americans want to know what their President will give them this Halloween, trick or treat.

YESTERDAY'S VOTE ON BOSNIAN RESOLUTION A MISTAKE

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Madam Speaker, the vote that we took yesterday on Bosnia, even though it was overwhelming, was a mistake. It undermined the American President, and it undermined America's position as the leader of the free world. I think we will live to regret it.

If you talk the talk, you have got to be willing to walk the walk. We have poured billions of dollars into NATO to protect the integrity of Europe's borders, to promote democracy, and to make good on our vow after the holocaust of World War II that it would never happen again. The Bosnian war is a reflection of the fact that we have allowed it to happen again. If it happens here, it can happen in other places.

The fact is that the war in Bosnia occurred because of a violation of Bosnia's borders by Serbia's invasion with soldiers and armaments. The fact is that the massacre of Bosnian Moslems is the worst holocaust to occur in Europe since World War II. The fact is that America needs to be a leader in securing peace in that area of the world and in fact throughout the world, and we cannot assume that mantle of world leadership if we deliberately prevent our President from acting responsibly and effectively.

KEEPING PROMISES

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Madam Speaker, approximately a year ago, the American people spoke loud and clear when they elected a Republican majority in Congress for the first time in 40 years. They wanted us to come to Washington and keep our promises to cut spending and reform the way Washington works. We have kept our promises.

We have passed a balanced budget. We have passed real welfare reform. We have passed tax cuts for middle class families and small businesses, and we have downsized the huge Federal bureaucracy.

Madam Speaker, the new Republican majority has kept our promises we made last year. We have delivered what the people want. Now it is time for President Clinton to keep his campaign promises, too.

STEALING ALL BUT THE FAMILY JEWELS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, documents now reveal that Alan Greenspan misled us, the Bush White House used phony numbers. NAFTA is Halloween all right, inside out. It is a trick. Certainly not a treat.

The news that breaks today might be good for the South if you think about it. You already lost in the first 9 months of this year 100,000 textile jobs. Fruit of the Loom is laying off 3,200 people and moving to Mexico.

I have heard about people stealing your pants. This is the first time somebody has stolen our goochies, ladies and gentleman.

While Congress is debating 4-year deals, 5-year deals, 7-year deals, I predict in 1999 Congress will be debating a 10-year deal. The reason is very simple. America will never balance the budget, let alone pay one dime off on this massive debt without jobs. As long as the good-paying jobs are going overseas, we will continue to lose our pants.

Thank God it could have been worse. They could have stolen our family jewels.

CELEBRATING HALLOWEEN ALL YEAR

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Madam Speaker, as many other colleagues of mine who come to this well have noted, today is in fact Halloween. In listening to the Clinton liberals here on the other side talk over the past several months, I have come to the conclusion that they have really been trying to celebrate Halloween all year long.

Madam Speaker, it really makes for perverse verse. Because when we talk about Medicare, the liberals howl about Mediscare; and when we speak of Medicaid, the liberals moan of Medifraid; and when we pass the Balanced Budget Act, the liberals scream, "Give us your tax dollars, Jack;" and when we discuss welfare reform, the liberals bitterly cry, "Oh, please keep the norm."

Madam Speaker, the liberals have tried their fear tactics, and they have cried wolf once too often. The American people want us to balance the budget, reform welfare, and preserve and protect Medicare and Medicaid.

Madam Speaker, let us get serious. Friends, join us and let us give the American people what they really want.

104TH CONGRESS SCARIEST ON HALLOWEEN

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, the scariest things this Halloween are the tricks and treats being doled out by the Republican-led Congress. The problem is that the American people get all the tricks, while lobbyists get all the treats.

When lobbyists come knocking on the doors of this House there are plenty of GOP goodies to go around. If you come dressed as a golfer—you will be treated to a gift ban bill that does not ban lobbyist-paid golf trips.

If you come dressed as a corporate big-wig or millionaire—you will be treated to more than your share of the Republican's $245 billion tax cut. And, if you come dressed as a doctor—you will be treated to 3 billion dollars' worth of goodies in the GOP Medicare bill.

But, if you come dressed as a senior citizen, a student or a veteran, a working man or woman, there are no treats, only tricks. The scariest thing this Halloween may just be the 104th Congress.

GO BIG RED

(Mr. BARRETT of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Nebraska. Madam Speaker, I rise today to settle a bet.

About a week ago, the gentleman from Colorado [Mr. ALLARD] challenged me to a small wager on the outcome of the Colorado Buffalo-Nebraska Cornhusker football game. I accepted that challenge, and the Cornhuskers did not let me down.

The decisive score: Nebraska 44, Colorado 21. Nebraska apparently is well on its way to defending its national championship, and perhaps another national championship game in Arizona in the Fiesta Bowl.

This is the cap that the gentleman from Colorado [Mr. ALLARD] will be wearing around Capitol Hill today. I want you all to take a good look at it, and I hope that you will all take the time to congratulate him on the victory of the team whose cap he is sporting.

I know, Madam Speaker, that this time is devoted to serious issues affecting each of our districts, but football is serious in Nebraska as well as Colorado. I can think of few things of any more interest or that unite people more than football.

Go Big Red.

KILLING MEDICARE

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Madam Speaker, the Republicans are cutting Medicare by $270 billion. Why such an extreme cut?

The Republican Speaker, Mr. GINGRICH, tells seniors he wants to save Medicare. The Republican Senate leader says he wants to save Medicare. But what do they say when they are not talking to elderly voters?

Last week the gentleman from Georgia [Mr. GINGRICH] said, "We don't get rid of Medicare in round one because we don't think that's politically smart."

Mr. DOLE told a large group from the insurance industry, he is proud of his 1965 vote against the creation of Medicare.

The Republicans are not saving Medicare, they are making extreme cuts in Medicare to pay for the tax cuts for the wealthiest of Americans.

They have made it clear, in their own words, this is only round one. The Republicans intend to kill Medicare.

CORNHUSKERS TOP BUFFALOES

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Madam Speaker, I rise today to recognize a frightening performance by the Nebraska Cornhusker football team this past Saturday, October 28, against the University of Colorado Golden Buffaloes.

Nebraska quarterback Tommie Frazier and his Cornhuskers bedeviled and bewitched the CU team, proving to the Nation why Nebraska was the national champion last year, and why the team is ranked No. 1 this week.

The Buffs are still haunted by a fumble that was ruled dead, and which cost them a touchdown. And although the Buffs fought a hard battle, they jinxed themselves with untold penalties.

I will be doing my Halloween bit today by wearing a Nebraska football cap, as I promised my good friend, Congressman BILL BARRETT of Nebraska. And I am giving that Cornhusker a sack of candy corn, in the hopes of sweetening Nebraska's chances to repeat as national champs.

□ 1015

MEDICARE: SAVING IT OR DESTROYING IT?

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Madam Speaker, last week the Gingrich plan passed Congress. If you make $20,000 a year, your taxes will go up. If you make 10 times that amount of money, you will get a several thousand dollar tax break.

The Gingrich plan cuts student loans to middle class families and cuts Medicare $270 billion in order to pay for a tax break for America's wealthiest people.

Why do they want to destroy Medicare? Listen to Speaker GINGRICH's own words when he spoke to a group of insurance executives:

> Now, we didn't get rid of it in round one because we don't think that that's politically smart and we don't think that's the right way to go through a transition. But we believe it's going to wither on the vine because we think people are voluntarily going to leave it.

Madam Speaker, that is wrong to want to destroy Medicare, particularly at the same time that you say you are trying to save it.

STOP SUBSIDIZING LOBBYISTS

(Mr. WICKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WICKER. Madam Speaker, I rise today as an advocate for the taxpayer whose hard-earned dollars are going to subsidize Washington lobbyists. The lobbyists I speak of directly benefit from the Federal grant system, designed to help people and charities, not line the pockets of inside-the-beltway lobbyists.

When I tell my constituents that the Federal Government gives away over $39 billion per year in grant money with little or no strings attached, they tell me to stop this business-as-usual attitude in Washington.

If these groups were not spending money on political and partisan activities, they would have much more money for the services they are intended to perform and they would not have to take as much—or any—money from hard-working Americans.

The Istook-McIntosh-Ehrlich amendment to the Treasury-Postal conference report would require Federal grantees to open their books and be accountable to the taxpayers who fund them. Sunshine, Madam Speaker. Let us show the taxpayers how their money is being spent. It is only fair and the right thing to do.

As President of the freshman class, I can tell you that this is the kind of reform we promised the American people last November—let us deliver in the 104th Congress.

MEDICARE

(Mr. THOMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON. Madam Speaker, I rise today to convey the frustrations that so many senior citizens expressed to me while I was in my district the past weekend. I can picture one of the seniors who approached me and begged, "please do not let them take my only source of medical insurance away, I can't afford to pay a dime more." This little lady was talking about the increase in her Medicare premiums that is being proposed by the Republican Congress.

Madam Speaker, this lady's request resonated throughout the Second Congressional District in Mississippi. These seniors cannot afford to pay more so that those wealthy Americans can receive a tax break. Can you imagine a poor senior citizen, receiving only $400 a month in Social Security income, who currently spends $46.10 a month for health care premiums now having to pay $97.70? That's over a 100-percent increase in premiums. That's outrageous. That's cruel. Is this the Government that was created by the people and for the people? The question now is, which people? Ask a low-income senior citizen and they will tell you: the rich people.

How can we, as responsible Members of Congress, advocate raising a poor senior citizen's premium to pay for a tax cut for those Americans who can live without it. This is not democracy but hypocrisy.

The Republican plan to cut $270 billion out of Medicare is a cruel and devastating attack on our mothers and grandmothers. Do you really think that your rich friends need a tax cut this much? I do not think so. Republicans please think about what you are doing and spare the pain that you are causing our seniors with your tax hike on their Medicare. The over 388,000 Medicare beneficiaries in Mississippi beg you not to jeopardize their health insurance. Let us not make these seniors choose between food and medical care.

STOP THOSE WHO WOULD SAVE CASTRO

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Madam Speaker, they cannot have it both ways on Castro. Here, Business Week quotes a fellow named Andreas who is a businessman who is lobbying for Castro. It says the embargo has been a total failure; it ought to be ended.

Then you have got Time Magazine saying the purpose of Castro's visit to New York was very specific: He is desperate to end the embargo. With no more subsidies from the Soviet Union, the economy has ground to a halt. Normalized trade with a huge market 90 miles north would make all the difference for Castro. If the embargo is not working, why is Castro so desperate to get rid of it?

We have got two groups lobbying for Castro. We have the capitalists who want to take advantage of the slave economy and exploit Cuban workers, and we have the ideologues, like a couple of our colleagues, who drooled all over Castro to give him gifts when he went to New York. They are in concert now. They are in coalition.

But we will press forward with Helms-Burton. The American people cannot stand Castro. They know what he is doing to the Cuban people. We are going to succeed, in stopping him. We are going to succeed in passing Helms-Burton and preventing this coalition of capitalists and ideologues from saving him.

WHAT IS THE TRAIN WRECK?

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Madam Speaker, we are coming to the close of this congressional session, but it is the toughest part. You see, the Republicans have passed the Gingrich budget which makes deep cuts in Medicare, imposes new taxes on working families and, frankly, President Clinton and many of the congressional Democrats have said we find this unacceptable.

So how will Speaker GINGRICH force through these changes? What he suggested we do is, frankly, to have the so-called train wreck, in other words, we do not appropriate money for Federal agencies so they have to turn out the lights, and even worse, we would basically not extend the debt ceiling of the United States as is necessary.

What is the debt ceiling? It is basically the full faith and credit of this Government behind our financial obligations. Now, there is a coalition of 130 Republicans led by a Michigan Republican Member of this House who has come up with suggestions to the Treasury Department printed in this morning's Washington Times about how they can get by even if we do not extend the debt ceiling. Do you know what they suggest, these Republicans? They suggest that we do not send the refunds to people for their income tax returns next year. That is one of their bright ideas.

The second one is, do not put money in the Social Security trust fund. That is the height of irresponsibility.

A BALANCED BUDGET AND THE DEBT CEILING

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Madam Speaker, I would suggest to the previous speaker, learn the facts and that would enhance everybody's conclusion of what is best for this country.

I am usually not critical on a partisan basis. But looking at what some of the Democrats have suggested, looking at what Secretary Rubin looks into that television camera and tells the American people is less than the honest truth.

I think it is important, No. 1, that we end up with a balanced budget in this country. I think it is important that we use the single, sole leverage that we have, and that is holding back the vote on yet again increasing the debt ceiling of the United States of America. We have increased this debt ceiling 77 times since 1940. It has become a matter of tradition. I say it is enough.

I say let us do what was done in 1985 and 1986 during Gramm-Rudman. Let us do what was done to President Bush in 1990. Let us use the debt ceiling vote as leverage.

I would ask everybody to attend the Joint Committee on Policy meeting tomorrow at 10 a.m.

CONGRATULATIONS TO WORLD CHAMPION ATLANTA BRAVES

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Madam Speaker, on Saturday night in Atlanta, Justice was served—served a high fastball he parked in the right field seats.

That was all the help Tom Glavine would need. With one of the greatest pitching performances of all time, the Atlanta Braves won the World Series—they are world champions.

Since day one, the Braves were on a mission—a quest. They dug deep within themselves to find the courage, the raw courage, to win the NL East—to beat the Rockies, the Reds, and, finally, the Cleveland Indians—the second best team in baseball.

The old saying—great pitching beats great hitting—held true. The Braves' pitchers were too much for the Indians. But another old saying did not hold true. Nice guys do not always finish last. Congratulations to the World Champion Atlanta Braves. Go Braves, go Braves, go Braves.

INTRODUCTION OF LEGISLATION TO REINFORCE OUR COMMON BOND

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Madam Speaker, yesterday we almost witnessed the divorce of a nation. Our great friend and neighbor to the north, Canada, just narrowly avoided splitting in two over linguistic and cultural differences. Canada may yet split up, and linguistic tensions there were not erased by the razor-thin victory of unity yesterday.

Canada's example is a cautionary tale for the United States. We are the most diverse nation in the world. We have over 190 languages here. They have only two.

Within 5 years, one out of every seven Americans will not speak English. We have to make English our official language so we can keep that commonality, so we can keep one Nation, one language, one people. It is important, as important as never before.

So I am asking the Members here to sign onto the bill, H.R. 739, so we can keep our commonality. I have introduced this legislation that seeks to reinforce the common bond that holds our country together, the English language.

We encourage people to study other languages and speak another language at home, but when you vote, when you work with the Government, it has to be done in the English language so we can keep that commonality.

TAXPAYER-FUNDED POLITICAL ADVOCACY

(Mr. LARGENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LARGENT. Madam Speaker, I rise today to urge my colleagues to support a much needed lobbying reform measure which would put an end to what has come to be known in Washington as Welfare for Lobbyists. I am quite certain that if taxpayers knew that their hard earned money is being spent to subsidize the political activity of certain Federal grant recipients, they would be as outraged as I am over this practice.

As Members of Congress, we have been entrusted by the citizens of this country to oversee how Federal tax dollars are spent. If we continue to allow the incestuous practice of taxpayer-subsidized political activity, we will have betrayed this trust.

We are in the middle of a budget battle. We are trying to reign in wasteful Government spending in the name of fiscal responsibility. How can we face our constituents and say that we have met that responsibility, if we continue to line the pockets of lobbyists with 39 billion dollars' worth of public money?

These lobbyists are exploiting their status as nonprofit grant recipients. The time has come to say "no more." Too many groups have spent too much money to promote the narrow self-interests of too few. Say "no" to this outrage by voting "yes" to the Istook-McIntosh-Ehrlich amendment. Vote to end Welfare for Lobbyists.

PROVIDING FOR CONSIDERATION OF H.R. 2492, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mr. DIAZ-BALART. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 239 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 239

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2492) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1996, and for other purposes. The bill shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. DIAZ-BALART. Mr. Speaker, House Resolution 239 is a closed rule, which is entirely appropriate in this circumstance in order to provide for the timely consideration of the legislative branch appropriations bill. The President vetoed the conference report on this bill on October 3, after it had easily passed both the House and Senate, and in his veto message, claimed he had no problem with the bill's content, merely its timing. Therefore, we do not need to relive the amending process, and rather than going through the process of a veto override attempt, we should pass this bill quickly so that we can move on to the remaining spending bills.

The rule provides for consideration of the bill in the House, with 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. Also, the rule provides one motion to recommit.

House Resolution 239 brings to the floor H.R. 2492, which is identical to the conference report on H.R. 1854, which passed the House on September 6 by an overwhelming vote of 305 to 101. This bill has strong bipartisan support, and even the President described the bill in his veto message as "A disciplined bill, one that I would sign under different circumstances." The House will have shortly completed action on all the spending bills, and the President has now signed both the military construction and agriculture appropriations measures. When H.R. 2492 reaches the President's desk, hopefully the President will also sign this bill, this time.

One issue that arose at the Rules Committee has been debated in many settings, including during debate on the rule on the Transportation appropriations conference report last week—gift ban legislation. Many of us would like to see action on this issue as soon as possible, and in case any of you missed the announcement by the majority leader last week, our leadership is planning to have a lobbying reform bill and tough new gift restrictions on the House floor by November 16. According to the majority leader, the Senate language will serve as the starting point, and later this week, we will be holding a hearing at Rules on the issue. Many Members would like the opportunity to improve on the Senate language, and therefore merely attaching the Senate bill to an appropriations measure in the House is not the way to proceed now that we have a commitment to move gift reform as a separate piece of legislation. Although it was argued that the legislative branch appropriations bill was "an appropriate vehicle," it is nonetheless not germane to attach the Senate gift ban to this bill. Let's give the topic of gift reform the opportunity to be fully debated in the context of its own legislation.

As a Member of Congress who serves on both of the Speaker-appointed committees, and in my role on the Committee on House Oversight, I am very proud of the reforms achieved in the legislative branch appropriations bill, based on the recommendations by House Oversight. We had some tough choices to make, but getting our own House in order and cutting our own budget was a necessary and important first step in the long and difficult road toward achieving a balanced Federal budget.

Mr. Speaker, as you will recall from the House's consideration of this bill in June, and again in September, H.R. 2492 incorporates House oversight plans to greatly reform the internal workings of the House of Representatives. This bill is below the subcommittee's 602(b) allocation and is over 8 percent below last year's spending level. Additionally, H.R. 2492 consolidates offices and paves the way for the privatization of some functions that may be less costly when performed by the private sector.

I would like to commend Chairman THOMAS, Chairman PACKARD, ranking member FAZIO, and of course Chairman LIVINGSTON, for their excellent work in bringing this bill forward.

Mr. Speaker, House Resolution 239 is necessary to preserve the agreements reached in conference, and agreed to in the House and Senate, on legislative branch appropriations. I urge adoption of both the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1030

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the rule providing for the consideration of H.R. 2492. I oppose this rule for one simple reason: The Republican majority has again denied the House the opportunity to use this bill as the vehicle to finally consider and pass real congressional reform.

The Republican majority has spent the last 10 months talking about the reforms the American people voted for last November. But talk is all we have gotten when it comes to enacting a gift ban and reforming lobby laws. I must ask, Mr. Speaker, is the Republican party all talk and no action? The majority leader has time and again promised action on these issues, but time and again the Republican majority has denied the full House the opportunity to take a vote on what the Republicans claim they were elected and sent to Washington to do.

My colleague, the gentlewoman from Utah [Mrs. WALDHOLTZ], has stated her intention to introduce new gift ban and lobby reform legislation and our chairman, the gentleman from New York [Mr. SOLOMON], has stated his intention to hold hearings on this matter. But, I must again ask why do we need to keep on talking about this issue when the opportunity to take action is right here and right now. Because this rule will not allow the House to consider this issue today that I will oppose ordering the previous question on this resolution and will seek to amend the rule to permit the House to consider gift ban and lobby reform legislation.

Mr. Speaker, we have heard many promises from the Republican leadership that this important reform will be considered by November 16. But Mr.

Speaker, since January promises have been made only to be broken. I do not question the sincerity of the pledges made by my chairman or my Rules Committee colleague, but again, I must ask why wait when we can act right now?

Mr. Speaker, when the Rules Committee considered this rule 2 weeks ago, I offered an amendment to the rule proposed by the Republican majority. My amendment would have allowed for the consideration of the gift ban and lobby reform legislation sponsored by my friend, the gentleman from Texas [Mr. BRYANT]. At that meeting—2 weeks ago Mr. Speaker—the Republican majority stated that the legislative branch appropriations bill was not the proper vehicle to consider such legislation. And even if it were, the legislation introduced by Mr. BRYANT was in need of improvement. And so, instead of allowing the House the opportunity to make the so-called needed improvements to the Bryant proposal, much less consider it at all, the Republican majority proceeded to vote on a strict party line vote against my amendment to the rule.

Mr. Speaker, it seems to me that if the Republican majority were so dedicated to the principle of reforming the House, then any bill would be the appropriate vehicle to carry such important reforms. And, Mr. Speaker, if Mr. BRYANT's legislation is so flawed why then should we not bring the original proposal of Mrs. WALDHOLTZ to the floor and amend that proposal as needed? And, in addition to the Waldholtz proposal, why not consider the lobby reform proposal of the gentleman from Pennsylvania [Mr. MCHALE], whose bill has nine Republican cosponsors? Why not, Mr. Speaker?

Since the Speaker's Task Force on Reform has not consulted with the Democratic members of the Rules Committee, we can only speculate about which amendments may be considered necessary to improve the Bryant proposal. I have read in the newspaper that the majority leader is considering rethinking the provision of the Senate-passed gift-ban relating to Members' attendance at charity golf, skiing, and tennis tournaments. Does the Republican majority believe that allowing Members to attend these events for free is a significant improvement on a ban on the acceptance of gifts from those who lobby Congress and seek to influence the legislative process?

I have also read that the majority leader thinks the lobby reform legislation might also be the appropriate vehicle to attach a ban on lobbying by nonprofit groups—such as the American Red Cross or the YWCA—who receive Federal grants. Mr. Speaker, as the majority leader well knows, attaching that issue to this legislation is a sure way to guarantee that nothing is done this year and probably next year. And, Mr. Speaker, what kind of reform is it that allows Members to play golf with lobbyists at exclusive country clubs while at the same time prohibiting the Red Cross from lobbying in our offices?

And so, in order to allow the House to consider proposals adopted by the Senate last summer, it is my intention to offer an amendment to this rule which would allow the House to consider the Waldholtz and McHale proposals along with the legislative branch appropriations bill.

Mr. Speaker, this rule is being used as a convenient way to avoid directly addressing an issue that truly does resonate outside the beltway. Briefings and hearings in the Rules Committee really don't mean much to my constituents. Many of them pay very close attention to the United We Stand movement and support for this issue is considered to be a paramount test of an incumbent's willingness to truly reform the Congress. And, I suspect, on this issue, actions will indeed speak louder than briefings and hearings.

Mr. Speaker, I have repeatedly offered amendments in the Rules Committee which would, had they been adopted by the Republican majority, afforded the House the opportunity to vote on the gift ban and lobby reform legislation. It is time to stop talking about reform and to start enacting reform. I would urge my colleagues to vote for real congressional reform and to defeat the previous question in order that this rule can be amended to allow the consideration of gift ban-lobby reform legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, it is obvious the gentleman from Texas is not opposed to this bill. It is obvious that his only intent in opposing the rule is that it does not permit for a debate on a totally separate and independent issue. The majority leader has made a very clear and succinct promise that the gift ban issue will be brought up within the next couple of weeks, and I think that that is what we fully intend to do.

There is no question that the gift ban needs to be debated at length and in detail on the floor of the House, and it will be. But an hour's debate on a bill that is totally unrelated to it is not the best time nor the place to do it.

I am convinced that the 2 weeks is not going to do harm to the issue. The President has indicated that this is a good bill. This is a good rule. It permits us to readdress the bill that he vetoed for extraneous reasons, totally unrelated to the merits of the bill. Thus, the appropriate thing is for us to pass this rule, to debate the bill, to pass the bill, send it to the President, along with several other appropriations bills, and then debate the gift ban issue at the appropriate time and with the appropriate amount of time to do it properly.

The gentleman from Texas [Mr. BRYANT] surely would not wish for us to limit the debate on the gift ban to 1 hour. It deserves more than that. It is not without controversy, and certainly what would be the time to do it, when we have time.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to limit the debate to an hour on very many issues, but I would point out to the gentleman, we passed this bill by an overwhelming margin in the House last year. It passed by an overwhelming margin when it was a conference committee report. It would be the law today, but for the fact it was filibustered by the Republicans in the Senate at the end of the last session. We are only asking that we take up what has been adopted and passed by the Senate.

Mr. PACKARD. Mr. Speaker, reclaiming my time, the gentleman will get exactly what he is asking for, but not on this bill. It will come up within the 2 week period that has been promised. I am convinced it will happen. Then the gentleman will have an opportunity to debate it in far greater detail than as a rider on a totally unrelated bill.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to first say that the observations and exchange of just a moment ago with regard to the possibility that this matter may be brought up in the future should cause every Member to ask why we are moving as we are moving today. I think it has been answered in part already by the gentleman from Texas [Mr. FROST] who pointed out that this promise has been made over and over and over, and now the entire year has nearly gone by here, and still nothing has been done with regard to limiting the ability of a Member of Congress to take free tickets, free golf, free travel, free recreational travel in the guise of charitable tournaments and so forth, from lobbyists, whose job is to influence our decisions on matters that affect the American public.

It has been promised over and over, but it has not happened. Worse, in the press conference that the gentleman from Texas [Mr. ARMEY], the majority leader, had last week, he suggested that maybe we need to make some alterations in the Senate rules. Now, the Senate already has these rulings in effect in the Senate. Maybe we ought to alter them if we are going to make them apply to the House, so we can allow more of these charitable golf tournaments.

Mr. Speaker, I submit the American people do not want that kind of alteration. If we are delaying taking this up so that we can drag this whole matter back through a bunch of hearings, hash it over again and again, when it has passed the House twice last year, and it is now the rules in the Senate, just to delay it so a few Members can continue to play free golf and take advantage of their job and embarrass all the rest of the House of Representatives by showing up on the television magazine shows, then my answer is, we ought to go ahead and act today.

Let me mention the activities of one Member of the House. I will not call his name, but I am reading from his financial disclosure statement. This is 1988. This Member played in the Bob Hope Charity Classic, where he got $350 in golf clothing and accessories, by the way, as a little bonus for playing. In the Kemper Open Golf Tournament, the Houston Golf Association Golf Tournament, the Danny Thomas Memorial Golf Tournament, the Larry Bird Charity Golf Tournament. In all of these he got between $150 and $300 in gifts at the same time.

In 1989 five more golf tournaments, just the same as the ones I just read.

In 1990, he really hit the big time. The Bob Hope, the Kemper, the Youthlinks, the Mazda, the Danny Thomas, the GTE, the ACLI Golf Tournament. Big bags of gifts all the way.

In 1991, he kept on going to these golf tournaments, and so on and so forth.

I just submit, there is a question about if this guy has too much free time. I mean, playing golf every single weekend someplace, a fancy golf tournament, getting a bag of free gifts, no wonder he comes down to the floor and hollars and hoots and says we ought not to pass any gift legislation.

I just submit, this is a grotesque embarrassment to the House of Representatives. We ought to end it right now. What the gentleman from Texas [Mr. FROST] has said we are going to do is attempt to defeat the previous question on this rule so that we can bring up the Senate gift bill, which has been introduced here by me, but also been introduced by the gentlewoman from Utah [Mrs. WALDHOLTZ].

☐ 1045

We are going to bring up the gentlewoman from Utah, Mrs. WALDHOLTZ's, version of the Senate gift bill which is in effect in the Senate now. It has 17 Republican cosponsors. And we will bring up the gentleman from Pennsylvania, Mr. McHALE's, lobby reform bill, which has 9 Republican cosponsors.

If the previous question is defeated, we will take this up immediately and we will pass it and we will be through with this interminable argument, and we will be able to guarantee to the American people that the next 2 weeks, before this, I do not know, third, or fourth or fifth time the Majority Leader has offered us a deadline for voting, that in the next 2 weeks we will not spend our time trying to find a way to water down a common-sense set of regulations with regard to the ability of a Member of the House of Representatives to take free gifts and free golf and free food and free everything else from the very lobbyists that are hired to influence us in making decisions.

Mr. Speaker, it is a common-sense strategy. I submit that if we, and I am speaking to the Members of the House, do not want to see more of these magazine shows where a few Members of the House are pictured running all over the place in golf carts, on beaches, and everywhere else, getting freebies from lobbyists, then for goodness sakes vote down the previous question and let us pass this thing and be done with it.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, there is a discussion here about whether or not they want to change, the Republicans want to change the gift rule to allow for charity golf outings. I think the list that the gentleman just read makes a point here that, in each of these instances, these are sponsored by corporate entities that have business before the Congress of the United States. Most Members of Congress that play in a charity golf tournament of that nature could not name the charity that is the beneficiary or the charities that are the beneficiaries. What they know is they got there because Kemper invited them or some insurance association invited them, not because the charity invited them.

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman for his additions to my remarks.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume.

We are at this time facing before us the rule for the legislative branch appropriations bill. Last Friday, Mr. Speaker, the majority leader committed to having votes in the House on both the lobbying bill and the gift reform rule on or before November 16. Yesterday my colleague on the Committee on Rules, the gentlewoman from Utah [Mrs. WALDHOLTZ], introduced House Resolution 250, which is identical to the Senate rule.

Today, the chairman of the Committee on Rules announced the first hearing on this resolution at 10 a.m. this Thursday. We then intend to hold another hearing next week to report the resolution, Mr. Speaker, The Committee on the Judiciary is proceeding to report the lobby reform bill in time to meet the deadline set by the Majority Leader.

Mr. Speaker, I see other distinguished colleagues here. For example, the gentleman from California [Mr. FAZIO]. He was before us in the Committee on Rules. He pointed out that this product before us is the work of much bipartisan effort. The President, at the time he vetoed it, as I stated before, stated he vetoed it not for substantive reasons but for reasons of timing. And after that our friends on the other side of the aisle have reiterated that this precisely is a bipartisan product that has achieved consensus.

Mr. Speaker, I think it is important to point out that the amendment that my friend, the gentleman from Texas [Mr. FROST] wishes to offer to this rule is nongermane to the rule and would be held out of order even if the previous question is defeated. So this, Mr. Speaker, is, in fact, a nongermane exercise that we are facing now on a nongermane amendment to the rule to make in order a nongermane amendment to the bill.

It may be difficult for some of our friends on the other side of the aisle to realize that we are facing before us the rule on legislative appropriations, but that is what we are facing at this time and that is what the House should pass this morning, the rule and, subsequently, the bill on legislative branch appropriations.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from Texas.

Mr. DOGGETT. Of course, Mr. Speaker, the only reason it is nongermane is because the Committee on Rules refuses to make it germane.

As far as lobby reform is concerned, I am sure Members have seen today's history of bills and resolutions and realized an indication of Speaker GINGRICH's commitment to reform is the fact that the lobby reform bill came onto his desk on July the 26 and sat there for three months, over three months, until yesterday afternoon before he even bothered to refer it to committee. That is hardly an indication of any commitment to clean this place up, is it?

Mr. DIAZ-BALART. Mr. Speaker, reclaiming my time, what I am trying to do, and obviously I am trying to remain as civil as I think the House deserves at this point on this issue and also as much as I can on the subject that we are debating, the fact is that we have a rule with a framework, providing a framework for debate for a conference committee report on the funding of the legislative branch. I am not getting into issues with regard to the fact that friends on the other side of the aisle had 40 years here to make these changes, and I am not going to get into that.

Mr. DOGGETT. Because Mr. Speaker, the gentleman knows that last year twice the House approved the gift ban.

Mr. DIAZ-BALART. Mr. Speaker, I have not yielded the gentleman time.

The SPEAKER pro tempore. The time is controlled by the gentleman from Florida.

Mr. DIAZ-BALART. So, Mr. Speaker, instead of getting on, continuing on nonrelevant issues, I am trying to focus the attention of the House on what is before us, which is the rule setting the guideline for debate for a conference committee report to fund the legislative branch.

That is what is before us, Mr. Speaker; and I would hope that after having seen the commitment of the leadership of this House to bring forth before us this issue that has been brought out this morning, before November 19 to the floor, that there is a limit to which this exercise that our friends on the other side of the aisle are engaging in can remain useful even for them.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume, and I would point out to my friend from Florida that we brought this very issue up the first day of the legislative session in January. We have brought it up repeatedly. Every time we have attempted to get a vote on this issue we have been prevented from having that vote by the Republican majority, and we will continue to bring this issue up at every opportunity until, finally, it gets to the floor.

The Republican majority has said, "Oh, trust us, it will come up no later than November 16." Well, lo and behold, we will come to November 16 and there may just be another reason why it cannot be voted on at that time.

Mr. Speaker, we will continue to raise this issue at every appropriate juncture.

Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. FAZIO], the ranking Democratic Member on the Committee on House Oversight.

Mr. FAZIO of California. Mr. Speaker, I thank my friend from Texas for yielding.

Mr. Speaker, I will comment on the substance of the legislative branch bill later on, but I do want to support his effort on this rule to bring lobby and gift reform before this Congress today. I think it is worthwhile, particularly in light of the comments of the gentleman from Florida to review what, in fact, has transpired in this Congress.

In 1989, we passed one of the most fundamental reforms of our ethics laws in the modern history of the Congress. President Bush signed it with great fanfare. But in the last Congress we have attempted to conform some of the more stringent provisions that we put in place for executive branch personnel with the Congress of the United States.

The lobby reform bill we considered in the last Congress was passed through the Senate by a 95 to 2 vote. We then took it up on the floor of this House on suspension and passed it 315 to 110 in the last Congress. Then, despite some smoke screen opposition which we have even attempted to deal with this year in this bill, we were able to pass it once again as a conference report, 306 to 112.

We went to the Senate and, lo and behold, the Senate filibustered. The Republican Members of that body, not wanting to grant the Democrats a political victory on the eve of an election, prevented this legislation from going forward to the White House for a certain signature.

So here we are in this Congress, Mr. Speaker, with those same Republicans now in charge for 10 full months and how have we advanced lobby and gift reform? Certainly not in a bipartisan way in this body. The other body passed it, sent it over here unanimously.

As has already been indicated by my friend from Texas [Mr. DOGGETT] the Speaker did not refer it to committee. He held it from July to the present time at the desk. No discharge petition could even be filed because the bill was not before the committee on the Judiciary.

The gentleman from Florida [Mr. CANADY] in his subcommittee had a hearing on lobby reform, but, obviously, no markup was scheduled. No bill was really before them.

Leadership, as exemplified by the gentleman from Texas [Mr. ARMEY] last Friday, has only materialized since this Democratic caucus went on the offensive, adopting a resolution strongly supporting gift and lobby reform, and relentlessly bringing this issue to the floor.

Today, Mr. Speaker, we act in a bipartisan manner by in effect discharging, if possible, the Waldholtz and McHale bills. This is not an effort to push a partisan agenda. We are bringing the bipartisan freshman and sophomore classes together and letting their legislation come before us, if this rule could be amended to bring that about.

So just when lobby and gift reform was likely to pass last week, this bill was pulled from the floor. The legislative branch bill, which was scheduled, was removed from the agenda.

The comments of the gentleman from Texas [Mr. ARMEY] which were designed to really calm us down and indicate to us that we would be dealing with this issue in the future, in my mind create more questions and doubts than they resolve.

First of all, instead of going to the Ethics Committee, the Committee on Standards of Official Conduct, a bipartisan committee where we could have dealt with this issue of gift rules where we historically have judged gift rules, we are going to the partisan Committee on Rules.

Instead of simply passing the Senate version of the gift rule ban, we are now holding up the specter of the golf trips and the various methods by which people get to engage in travel for fun, when, in fact, the charity is only marginally involved in the process.

We also have heard the gentleman from Texas [Mr. ARMEY] refer to a task force, not a committee that will meet in public and debate these issues, but a task force, which the gentleman from Michigan [Mr. HOEKSTRA] will chair which will have jurisdiction. Mr. HOEKSTRA having just been removed from the Committee on the Budget to accommodate another problem on the minority side will apparently guide us. That task force, not in the daylight of public scrutiny apparently, will then take up the question of lobby and gift reform.

Well, it seems to me we have already understood that it is time to move forward on lobby reform. Now we hear that perhaps the gentleman from Texas [Mr. ARMEY] wants to inject the poison pill of the Istook amendment into the lobby reform bill, a proposal which Senator HATFIELD and Members of the Senate Republican majority find unacceptable, certainly on all the appropriations bills that have been considered in the other body.

So that very contentious and difficult issue that bans nonprofit agencies from lobbying is going to be injected into the debate on the question of whether we should pass a simple statute to bring thousands of lobbyists, who don't report on their involvement in the legislative process under current law, into the light of day, requiring them to indicate to the public just who they are representing, how much money they are spending, et cetera.

The Armey approach to lobby and gift reform, it seems to me, is likely to be a disaster. It is likely to slow down this process and make all of the efforts we have been making on this side of the aisle a real waste of all our time. We ought not separate these bills and we ought not amend them. Pass the Senate bills.

I hope the leadership, including the gentleman from Texas [Mr. ARMEY], will relent and allow us to move forward on the Waldholtz and McHale legislation today. I fear we will regret it when we fail to join the Senate in passing gift and lobby reform by the end of this year.

Mr. DIAZ-BALART. Mr. Speaker, I know it is hard to get to the debate on the relevant issue, but I yield at this time such time as he may consume to the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

□ 1100

Mr. SOLOMON. Mr. Speaker, I thank my good friend and valued Rules Committee colleague from Miami, FL, for yielding me this time.

Mr. Speaker, I could not in good conscience remain silent on why we are here today on a bill that is identical to one that was overwhelmingly adopted by both Houses and which the President himself has indicated is a good and disciplined bill that he would sign under different circumstances.

We are here because the President nevertheless vetoed the bill that is $206 million or 8.6 percent below last year's spending level.

What were the so-called circumstances that prompted this veto at the same time he signed the military construction appropriations bill? Well, he just didn't think it was right for us to pass our own appropriations bill before all the others were finished.

Mr. Speaker, that argument might hold some water if other Presidents had taken the same position in the past, or, if the Congress had traditionally waited until last to pass the legislative branch appropriations bill. But that is just not the case.

We have traditionally acted early on the legislative branch bills under Democratic controlled Congresses. And Republican Presidents have traditionally signed them.

It is one thing for a nonincumbent presidential candidate to run against Congress. But it is quite another for a sitting President to use the veto pen for political, rather than fiscal, purposes. To me this is a gross breach of comity between the two branches, with no apparent rationale whatsoever beyond rhetorical politics.

It would be one thing if the President had vetoed this bill because it spent more than last year on Congress, or did not cut our spending as much as we have for the other departments of Government. But even if that were the case, which it is not, those criteria were not used by previous Republican presidents when Democrats ran Congress.

So it is truly regrettable that we must pass this same bill again and hope that this time the so-called circumstances are right—that all the planets are now in proper alignment with each other.

Mr. Speaker, I just want to commend again the chairman and ranking minority member of the Legislative Branch Subcommittee, Mr. PACKARD and Mr. FAZIO, for all the work they have done on this legislation. They have helped this House keep its word to the American people that we would lead the way by making an example of ourselves in reducing spending and staff before asking others to do so. We have kept that commitment. Fiscal restraint and discipline should not be made a punishable act by the President.

With respect to this rule, I regret that a nongermane amendment is being interjected into the previous question vote on a bill that has such overwhelming support. The gentleman from Texas has described the germaneness problem with his amendment on lobbying and gift reform as merely technical. That is a gross understatement, to put it as kindly as I can.

The amendment he wishes to offer if the previous question is defeated has nothing to do with legislative branch appropriations, nor is it even remotely close to any jurisdiction that the Appropriations Committee enjoys.

The amendment falls directly under the jurisdiction of two completely different committees—Judiciary and Standards of Official Conduct.

So, once again we are being asked to go through a futile exercise and a meaningless vote since the amendment to the rule itself would be nongermane to the rule, and the parliamentarians have confirmed that it would be ruled out of order on a point of order.

So why is the minority intent on taking us down this blind alley? Presumably it is being done to send a message. But, the majority leader announced just last Friday that we will vote on the gift rule on or before November 16. And we are proceeding in the Rules Committee which I chair to hold hearings and then report the gift rule.

There is no longer a need to send a message. We had long ago committed to acting on this. It was only a question of when. And now we know.

Mr. Speaker, the previous question vote is not only a futile exercise and futile vote on a blatantly nongermane amendment to this rule; it is an attempt to politicize and polarize on an issue that is broadly bipartisan. Don't be hoodwinked, by these political shenanigans, into thinking that it is anything else.

Vote "yes" on the previous question, vote "yes" on this rule, and vote "yes" on this bill that keeps our commitment to downsizing the Congress.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Speaker, I listened very carefully to the remarks of my good friend, the gentleman from New York [Mr. SOLOMON], a moment ago. He correctly pointed out that a third of the employees of the House had been let go as a cost savings measure.

I would point out to the gentleman I put a bill in that would reduce the size of the House of Representatives by one-third, and perhaps he would like to join me in that legislation.

Mr. Speaker, in my view the reform of the House of Representatives ought not to be a partisan issue. On the very first day of this session I was pleased to stand at this microphone and join with my colleague the gentleman from Connecticut [Mr. SHAYS], as we fought in a bipartisan manner for the passage and ultimately the enactment of the Congressional Accountability Act, repealing the exemptions that Members of Congress had given themselves going back almost six decades of American history.

Similarly I was pleased to support the honorable and I think farsighted effort of my colleague, the gentlewoman from Utah [Mrs. WALDHOLTZ], in her effort to bring to the floor a bill that would for the first time really enact meaningful gift ban legislation.

But today, Mr. Speaker, I am extremely pleased to stand with my colleagues, the gentleman from Texas [Mr. BRYANT] and the gentleman from California [Mr. FAZIO] as we attempt to move forward the issue of lobbying disclosure reform.

If we defeat the previous question, we will have the opportunity to attach to this bill language previously passed in the United States Senate on the vitally important issue of lobbying disclosure.

Let me take a moment, Mr. Speaker, if I may, to point out exactly what it is we are trying to pass today. H.R. 2268, which would be attached to this bill, clearly defines a lobbyist as anyone who spends at least 20 percent of his time lobbying Members of Congress, congressional staffs, Presidential and other political appointees in the executive branch on any topic or any executive branch official on congressional issues. Registration requirements would apply to those lobbyists who receive at least $5,000 from any client in a 6-month period and those companies that use in-house lobbyists and spend at least $20,000 in a 6-month period of time on lobbying activities. Lobbyists will register semiannually with the Clerk of the House, the Secretary of the Senate, and violations of the law will be referred to the U.S. attorney who can seek fines up to $50,000.

Let us be clear, Mr. Speaker. The vote that we will take in the next few minutes is a litmus test for reformers. Those who are satisfied with the current deficient law will vote for the previous question. Those of us who believe in a bipartisan manner that you can vote twice for a good piece of legislation, you can today defeat the previous question and on or after November 16 support any additional legislation that might be brought to the floor, will vote "no."

Today we have an opportunity to make a difference. Just as the gentleman from Connecticut [Mr. SHAYS] made a difference in January, just as the gentlewoman from Utah [Mrs. WALDHOLTZ] is attempting to move forward the issue of gift ban legislation, today, Mr. Speaker, we can vote "no" on the previous question and guarantee that those paid professional lobbyists, who on a daily basis attempt to influence the content of legislation, will continue to pursue their advocacy but will reveal that advocacy and its cost to the American people.

I urge a "no" vote on the previous question.

Mr. DIAZ-BALART. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GOSS], my distinguished colleague on the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank my friend from Florida, Mr. DIAZ-BALART, for yielding me this time and I commend him for his persistence in bringing this good, fiscally responsible bill to the floor for a second time. We are here today, doing deja-vu all over again, because the President apparently chose to use this bill as a soapbox upon which to seek political points rather than exercising sound leadership on matters of fiscal responsibility.

The President vetoed this bill not because he opposed it—he did not. In fact, the President said he would sign the exact same bill—some other time. And so, we will send him the exact same bill, with a new number on it and on a different day, with the hope that the political winds blow in the right direction this time around.

Mr. Speaker, many of our friends on the other side of the aisle have assured us that they do not agree with the President's decision to veto the legislative branch funding bill. Nonetheless, judging by our Rules Committee meeting and floor tactics since then, some of our Democrat colleagues have appeared somewhat gleeful at the opportunity to re-run the debate on lobby and gift reform. Those matters are very important—and in fact, will be on this floor for debate and vote on or before November 16, that is, in a few short weeks. This was the commitment given on Friday by our majority leader, and I have every confidence that commitment will be met.

Mr. ARMEY has tasked our Rules Committee with reviewing the gift rules adopted in the other body, with an eye to strengthening and improving them. And our Rules Committee has plans to move forward this week and next in completing that assignment.

As a member of both committees with jurisdiction over gift reform—that is, the Ethics Committee and the Rules Committee—I am keenly interested in tightening up our rules to improve our credibility with the American people and to better ensure transparency and fair play inside the beltway.

In my office, we accept no gifts and no travel, regardless of who pays for it, not because we can be bought, but because the gray areas involving gifts do cause concern among the people I represent. In fact, I believe that most Members are seeking greater clarity and guidance than currently exist in our rules on this subject.

Mr. Speaker, given the commitment we have received from our leadership, this attempt to attach a non-germane item to the legislative branch funding bill—which has no bearing on House rules—appears a bit mischievous, designed perhaps to score a few political points. I hope Members recognize the tremendous changes that are being implemented by this new majority—and gift reform will be among them by the time the record books of the 1st session of the 104th Congress are written.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

Mr. GOSS. I yield to the distinguished gentleman from California.

Mr. FAZIO of California. Mr. Speaker, I take the gentleman at his word. I am sure he has his own standards in his office as I do. I think we both could agree, though, that the fastest way and the fairest way to accomplish our mutual goals of upgrading the standards we all have to live by would be to take the two pieces of legislation that passed through the Senate and send them on to the President without getting into the complexity of amendments, which I understand the gentleman from Texas [Mr. ARMEY] referred to in his comments the other day which have the effect of only impeding our progress and perhaps weakening the bill.

Mr. GOSS. Reclaiming the time, I would simply say to the distinguished gentleman that we are reviewing that very possibility among other possibilities. We want to get a better outcome than the Senate has had. I like what the Senate has done. I do not think it is enough. I happen to have more stringent rules in my own office. I think many of us do. In the meantime, any Member who is concerned on this subject, of course, has the opportunity to self-exercise his or her own rules as long a they are more stringent than the rules of the House.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER Mr. Speaker, pass the gift ban and lobbying reform.

In a spectacular display of re-writing history, Speaker GINGRICH claimed that "when the Democrats controlled Congress, every effort at political reform failed."

But last Congress, the Democratic House passed lobbying and gift ban reform. The bill was killed by two Republican filibusters in the Senate.

And, according to Congressional Quarterly, it was NEWT GINGRICH himself who blocked these reforms in the House.

Now that they are in the majority, it seems they like their perks, loopholes, and cushy lobbyist ties too much to give them up.

Back in January, Speaker GINGRICH called Democratic attempts to ban gifts pathetically partisan. Ten months later he is still stonewalling. Even the Senate has unanimously passed both lobby disclosure and the gift ban—4 months ago!

No more excuses. No more delays. Defeat this rule. Pass lobbying disclosure and a gift ban now.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in opposition to this rule. Congress must begin to restore the credibility to this institution by passing strong measures to ban gifts to Members of Congress and staff and to prevent undue influence by special interest lobbyists.

Four times this session Democrats have tried to pass gift ban and lobby reform legislation. We have tried to force vote after vote to do what is right. It seems that we are dragging our Republican colleagues kicking and screaming toward these reforms that are needed to restore the integrity of this Congress.

In fact, Republicans pulled a bill from the floor last week that would have banned gifts and would have forced lobbyists to disclose their sources of income. What are my colleagues on the other side of the aisle afraid of?

The Republicans said that they would schedule a vote sometime in the future on these important issues. But why wait? Let us start today. Let us pass the gift ban and lobby reform bills that have been passed by the Senate, get them to the President for his signature, and send a message to the American people that we listened to their call for honest and open Government.

The Republican leadership is stalling and plans to water down the legislation. We have already heard talk of continuing the all-expense-paid Government vacation for Members of Congress. A bill that protects these perks, the golf players' perks, is a hole-in-one for the lobbyists and a double bogey for the American public.

Let us pass a tough gift-ban bill and lobby-reform bill, and let us do it today. Let us not wait for some God-forsaken day or some middle-of-the-night event where nothing will happen. Let us get rid of the golf perks in this body.

Mr. DIAZ-BALART. Mr. Speaker, as a Member of Congress who has never played golf and really has no intention of ever doing so, I yield 7½ minutes to the gentlewoman from Utah [Mrs. WALDHOLTZ], a distinguished member of this House who has worked tirelessly since arriving here for genuine reform, and not political posturing.

□ 1115

Mrs. WALDHOLTZ. Mr. Speaker, I was sitting in the Committee on Rules trying to do my duty, attending my committee meeting, when my ears started burning. I understand my name was made reference to a number of times during the debate, at least the bill I have sponsored.

Mr. Speaker, I think it is very important that we talk candidly about the political theater that is going on the floor this morning. For 40 years the other party has been in charge of this House. For 40 years they had the ability to set the standards of conduct in this Congress. For 40 years they resisted efforts to make substantive change that this Congress made on the first day that we were sworn in.

Mr. Speaker, the first day this Congress was sworn in we did away with proxy voting so that we all actually have to go and in person cast our votes in committee instead of handing them by proxy to someone else who can vote for us while we ignore our committee responsibilities. The first day this Congress was sworn in, Mr. Speaker, we cut committee staffs by a third. We limited the terms of committee chairmen so the fiefdoms that had grown up in this Congress, giving extraordinary power to a select few, all of the opposition party, was broken up, again, Mr. Speaker, for the first time certainly since the other side had controlled this Congress for 40 years. For the first time, Mr. Speaker, the first day this Congress was sworn in we passed an act that will make this Congress have to live by the same employment laws that it passes for the rest of the country, the Shays Act, the Congressional Accountability Act.

Mr. Speaker, those are extraordinary reforms that the other side could have done when they were in control and chose not to. Mr. Speaker, we are not done with the reform process. We had a few intervening items of business to take care of, like balancing the budget of the United States in 7 years, like reforming the Medicare System so it would actually be here in 7 years instead of allowing it to go into bankruptcy which would have happened undoubtedly, Mr. Speaker, without the action of this House over the last several months. And, Mr. Speaker, we had to take care of those items.

I would have preferred that we would have dealt with gift ban and lobbying reform earlier, but we had important work to do. We did it. And the very next day after passing the 7-year plan to balance the budget of this Nation, the leadership of the Republican Party stepped forward to announce a date certain, not some date off in the future, a date certain we will vote on gift ban and lobbying reform, on or before November 16. Why are we waiting until then, Mr. Speaker? To allow the Members of this body to make whatever suggestions they think are necessary to improve upon the work of the Senate.

There have been statements made that it is a mistake to change what the Senate did, because it will have to go back to the Senate for revoting. That is true on lobbying reform. I do not think that is the case or that is a case to be made for not improving a bill if we think it can be improved, and if we can improve the lobbying bill, we should do so and send it back to the Senate and invite our colleagues in the other body to join with us in improving that legislation.

But, and this is critical, Mr. Speaker, the gift-ban legislation that I have proposed is a change to the rules of the House of Representatives. It does not require the assent of the Senate. It does not require the approval of the President. Whatever we decide as a body to do with respect to improving and tightening the rules with respect to gift-ban legislation we can pass in this House and make effective without any action by anybody else.

So, Mr. Speaker, I think it is important that we allow the Members of this body the opportunity to step forward with ideas that they have to improve this legislation, because as I said last week, Mr. Speaker, I am not so vain as to believe that any bill is perfect simply because it has my name as the sponsor on it, and I am eager to listen to the ideas of my colleagues and how they think this bill can be improved. Let me just make reference, Mr. Speaker, to what happened most recently the last time this House took up gift-ban legislation. Mr. Speaker, the bipartisan task force on reform in 1989, gave us the current gift ban or gift rule that is in effect. At that time they raised gifts, the level for exempt gifts, from $35 to $75, plus they added a measure to account for inflation. That is what the opposition gave us when they took up this legislation when they were in control of this body.

Now why did they kick it up so high? Well, at the time the floor debate was that it was because of inflation. We were told at that time on the floor the debate was centered on the fact it was to account for inflation. I understand the word, Member-to-Member, was passed at the time it was because of greens fees. Mr. Speaker, I do not golf. I do not like golf. But if I decided to take up the hobby, I certainly intend to pay for it myself.

This gift-ban legislation is good, strong legislation. This body deserves the opportunity to have hearings on it, to bring it to the floor for discussion, and then to have a vote.

I am proud to support my leadership who have made the commitment to voting on these very critical issues on or before November 16. That is how the legislative process should work, Mr. Speaker. What we are seeing today is political theater, and the American people should not be fooled.

Mr. BRYANT of Texas. Mr. Speaker, will the gentlewoman yield?

Mrs. WALDHOLTZ. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. I would just like to ask the gentlewoman if she is aware the coalition you are a member of, testified before the Constitutional Law Subcommittee 2 months ago, we ought not to deal with any amendments, we ought to take the Senate rules up, which is what I introduced and you introduced, immediately.

My question is, You now want to entertain the possibility people can come forward and weaken Senate rules so Members can play free golf, as the gentleman from Texas [Mr. ARMEY] suggested might be in order?

Mrs. WALDHOLTZ. I was at the press conference. I will simply say the gentleman from Texas [Mr. ARMEY] did not suggest free golf was in order. What I am saying, Mr. Speaker, is we should respect the opportunity that has been established through the committee structure of this House to allow Members the opportunity. This body deserves the opportunity to follow the committee structure for hearings and amendment and debate, and I believe these bills will be strengthened, if changed, not weakened.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds. I would only point out to the gentlewoman that in 1989 the bipartisan committee that handled these matters was exactly evenly divided between Democrats and Republicans. The Vice Chair was the gentlelady from Illinois. Mrs. Martin. The reforms of 1989 were done on a bipartisan basis which she decries now.

The only other point I would make is we have a situation that this is manana, manana, always the next day, always the next week.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, before us today is not political theater, as the gentlewoman suggested, but a clear opportunity to vote for gift and lobbying disclosure reform that is exactly like the Senate so it will be passed and sign into law.

Let me first stress that this has been a bipartisan fight. There are many Republicans like the gentlewoman from Washington [Mrs. SMITH], the gentleman from Connecticut [Mr. SHAYS] who have courageously taken on their own leadership to convince them to do the right thing, and the right thing is to take these relatively small steps forward to clean our own House.

It has been 142 days since the Speaker shook hands with the President in New Hampshire and pledged to act on lobbying reform and campaign finance reform. I cannot understand why the Republican leadership, which took only 100 days to pass the Contract With America, has waited 142 days and still has not fulfilled the commitment of the Speaker's handshake.

Mr. Speaker, today it is time to turn the promise of a handshake into the reality of law, and we certainly do not have to wait 16 days until the arbitrary November 16 date of the gentleman from Texas [Mr. ARMEY].

The proposal before us is not earthshattering reform. The House has passed an even tougher reform bill twice in the last Congress, and the package is identical to the legislation overwhelmingly passed by the Senate.

Is it too much to ask Members to pay for meals over $50?

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I have been at the center of virtually every reform movement that has occurred in this House since the day I got here, limiting outside income, stopping the practicing of law on the side, financial disclosure requirements, you name it. I have done it all, because I believe deeply that this institution cannot afford to be in a situation in which it does not have the absolute faith and confidence of the American people. We simply cannot afford to have the public witness year after year after year television exposés of Members on lobbyists' paid golfing vacations and other trips like that. We have to put an end to that.

This is the right bill to use in order to do just that. I urge you to vote against the rule. I urge you to support the leadership of the gentleman from California and the gentleman from Texas [Mr. BRYANT] and finally end this insider schmoozing which is bringing so much discredit to this institution.

Mr. FROST. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, if the previous question is defeated, we will offer an amendment to the rule that will add two new titles to the bill. The first will incorporate the text of H.R. 2268, the bill offered by the gentleman from Pennsylvania [Mr. MCHALE], and the second one incorporates the text of H.R. 214, the bill offered by the gentlewoman from Utah [Mrs. WALDHOLTZ], relating to gift reform.

I am including the amendment to the rule and the text of the lobbying reform and gift ban proposals at this point in the RECORD.

AMENDMENT TO H. RES. 239, AS REPORTED, OFFERED BY MR. FROST OF TEXAS

At the end of the resolution, add the following:

Immediately upon the adoption of this resolution, there shall be considered as adopted in the House an amendment adding as new titles at the end of the bill (H.R. 2492) the texts of H. Res. 214 (relating to gift reform) and H.R. 2268 (relating to lobbying disclosure), as introduced in the House on September 6, 1995, but excluding sections 16 through 23 of H.R. 2268.

AMENDMENT TO H. RES. 239, AS REPORTED, OFFERED BY MR. FAZIO OF CALIFORNIA

TITLE IV—GIFT REFORM

AMENDMENT TO HOUSE RULES

SEC. 401. Clause 4 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

"4. (a)(1) No Member, officer, or employee of the House of Representatives shall knowingly accept a gift except as provided in this rule.

"(2) A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer, or employee reasonably and in good faith believes to have a value of less than $50, and a cumulative value from one source during a calendar year of less than $100. No gift with a value below $10 shall count toward the $100 annual limit. No formal recordkeeping is required by this paragraph, but a Member, officer, or employee shall make a good faith effort to comply with this paragraph.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2)(A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual's relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.

"(c) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) A gift from a relative as described in section 107(2) of title I of the Ethics in Government Act of 1978 (Public Law 95–521).

"(4)(A) Anything provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.

"(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

"(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

"(ii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

"(iii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

"(5) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, subject to the disclosure requirements of the Committee on Standards of Official Conduct, except as provided in paragraph 3(c).

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the House of Representatives.

"(14) Bequests, inheritances, and other transfers at death.

"(15) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(16) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(17) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

"(18) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

"(19) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(20) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

"(21) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

"(22) Food or refreshments of a nominal value offered other than as a part of a meal.

"(23) An item of little intrinsic value such as a greeting card, baseball cap, or a T-shirt.

"(d)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the House of Representatives.

"(3) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with an event that does not meet the standards provided in paragraph 2.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal friendship exception in subparagraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this subparagraph is required for gifts given on the basis of the family relationship exception.

"(f) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"(g)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from an individual other than a registered lobbyist or agent of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this rule, if the Member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(h) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(i) Each disclosure made under subparagraph (g)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(j) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the House of Representatives.

"(k) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

"(l) A gift prohibited by subparagraph (a) includes the following:

"(1) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.

"(2) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by subparagraph (p).

"(3) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer, or employee.

"(4) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, officers, or employees.

"(m) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, officer, or employee shall not be considered a gift under this rule if it is reported as provided in subparagraph (b).

"(n) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in subparagraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives—

"(1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria;

"(2) the date and amount of the contribution; and

"(3) the name and address of the charitable organization designated or recommended by the Member.

The Clerk of the House of Representatives shall make public information received pursuant to this subparagraph as soon as possible after it is received.

"(o) For purposes of this rule—

"(1) the term 'registered lobbyist' means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

"(2) the term 'agent of a foreign principal' means an agent of a foreign principal registered under the Foreign Agents Registration Act.

"(p) All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.".

EFFECTIVE DATE

SEC. 402. This title and the amendment made by this title shall take effect on and be effective for calendar years beginning on January 1, 1996.

TITLE V—LOBBYING DISCLOSURE

SHORT TITLE

SEC. 501. This title may be cited as the "Lobbying Disclosure Act of 1995".

FINDINGS

SEC. 502. The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decisionmaking process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government.

DEFINITIONS

SEC. 503. As used in this title:

(1) AGENCY.—The term "agency" has the meaning given that term in section 551(1) of title 5, United States Code.

(2) CLIENT.—The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) COVERED EXECUTIVE BRANCH OFFICIAL.—The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above O-7 under section 201 of title 37, United States Code; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2) of title 5, United States Code.

(4) COVERED LEGISLATIVE BRANCH OFFICIAL.—The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) EMPLOYEE.—The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) FOREIGN ENTITY.—The term "foreign entity" means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) LOBBYING ACTIVITIES.—The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) LOBBYING CONTACT.—

(A) DEFINITION.—The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) EXCEPTIONS.—The term "lobbying contact" does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing;

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act; and

(II) the Securities and Exchange Commission or the Commodities Future Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(9) LOBBYING FIRM.—The term "lobbying firm" means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(10) LOBBYIST.—The term "lobbyist" means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(11) MEDIA ORGANIZATION.—The term "media organization" means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) MEMBER OF CONGRESS.—The term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(13) ORGANIZATION.—The term "organization" means a person or entity other than an individual.

(14) PERSON OR ENTITY.—The term "person or entity" means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) PUBLIC OFFICIAL.—The term "public official" means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31, United States Code);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government.

(16) STATE.—The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

REGISTRATION OF LOBBYISTS

SEC. 504. (a) REGISTRATION.—

(1) GENERAL RULE.—No later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Secretary of the Senate and the Clerk of the House of Representatives.

(2) EMPLOYER FILING.—Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

(3) EXEMPTION.—

(A) GENERAL RULE.—Notwithstanding paragraphs (1) and (2), a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $5,000; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $20,000,

(as estimated under section 505) in the semiannual period described in section 505(a) during which the registration would be made is not required to register under subsection (a) with respect to such client.

(B) ADJUSTMENT.—The dollar amounts in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this Act; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

(b) CONTENTS OF REGISTRATION.—Each registration under this section shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes more than $10,000 toward the lobbying activities of the registrant in a semiannual period described in section 505(a); and

(B) in whole or in major part plans, supervises, or controls such lobbying activities.

(4) the name, address, principal place of business, amount of any contribution of more than $10,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3); or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(6) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee first acted (after the date of enactment of this Act) as a lobbyist on behalf of the client, the position in which such employee served.

(c) GUIDELINES FOR REGISTRATION.—

(1) MULTIPLE CLIENTS.—In the case of a registrant making lobbying contacts on behalf of more than 1 client, a separate registration under this section shall be filed for each such client.

(2) MULTIPLE CONTACTS.—A registrant who makes more than 1 lobbying contact for the same client shall file a single registration covering all such lobbying contacts.

(d) TERMINATION OF REGISTRATION.—A registrant who after registration—

(1) is no longer employed or retained by a client to conduct lobbying activities, and

(2) does not anticipate any additional lobbying activities for such client,

may so notify the Secretary of the Senate and the Clerk of the House of Representatives and terminate its registration.

REPORTS BY REGISTERED LOBBYISTS

SEC. 505. (a) SEMIANNUAL REPORT.—No later than 45 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 504, each registrant shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(b) CONTENTS OF REPORT.—Each semiannual report filed under subsection (a) shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to the maximum extent practicable, a list of bill numbers and references to specific executive branch actions;

(B) a statement of the Houses of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest, if any, of any foreign entity identified under section 504(b)(4) in the specific issues listed under subparagraph (A).

(3) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) ESTIMATES OF INCOME OR EXPENSES.—For purposes of this section, estimates of income or expenses shall be made as follows:

(1) Estimates of amounts in excess of $10,000 shall be rounded to the nearest $20,000.

(2) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses totaled less than $10,000 for the reporting period.

(3) A registrant that reports lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may satisfy the requirement to report income or expenses by filing with the Secretary of the Senate and the Clerk of the House of Representatives a copy of the form filed in accordance with section 6033(b)(8).

DISCLOSURE AND ENFORCEMENT

SEC. 506. The Secretary of the Senate and the Clerk of the House of Representatives shall—

(1) provide guidance and assistance on the registration and reporting requirements of this title and develop common standards, rules, and procedures for compliance with this title;

(2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness, and timeliness of registration and reports;

(3) develop filing, coding, and cross-indexing systems to carry out the purpose of this title, including—

(A) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this title;

(4) make available for public inspection and copying at reasonable times the registrations and reports filed under this title;

(5) retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed;

(6) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;

(7) notify any lobbyist or lobbying firm in writing that may be in noncompliance with this title; and

(8) notify the United States Attorney for the District of Columbia that a lobbyist or lobbying firm may be in noncompliance with this title, if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (6).

PENALTIES

SEC. 507. Whoever knowingly fails to—

(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) comply with any other provision of this title; shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation.

RULES OF CONSTRUCTION

SEC. 508. (a) CONSTITUTIONAL RIGHTS.—Nothing in this title shall be construed to prohibit or interfere with—

(1) the right to petition the government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the first amendment to the Constitution.

(b) PROHIBITION OF ACTIVITIES.—Nothing in this title shall be construed to prohibit, or to authorize any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with the requirements of this title.

(c) AUDIT AND INVESTIGATIONS.—Nothing in this title shall be construed to grant general audit or investigative authority to the Secretary of the Senate or the Clerk of the House of Representatives.

AMENDMENTS TO THE FOREIGN AGENTS REGISTRATION ACT

SEC. 509. The Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) is amended—

(1) in section 1—

(A) by striking subsection (j);

(B) in subsection (o) by striking "the dissemination of political propaganda and any other activity which the person engaging therein believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, persuade, or in any other way influence" and inserting "any activity that the person engaging in believes will, or that the person intends to, in any way influence";

(C) in subsection (p) by striking the semicolon and inserting a period; and

(D) by striking subsection (q);

(2) in section 3(g) (22 U.S.C. 613(g)), by striking "established agency proceedings, whether formal or informal." and inserting "judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record.";

(3) in section 3 (22 U.S.C. 613) by adding at the end the following:

"(h) Any agent of a person described in section 1(b)(2) or an entity described in section 1(b)(3) if the agent is required to register and does register under the Lobbying Disclosure Act of 1995 in connection with the agent's representation of such person or entity.";

(4) in section 4(a) (22 U.S.C. 614(a))—

(A) by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "and a statement, duly signed by or on behalf of such an agent, setting forth full information as to the places, times, and extent of such transmittal";

(5) in section 4(b) (22 U.S.C. 614(b))—

(A) in the matter preceding clause (i), by striking "political propaganda" and inserting "informational materials"; and

(B) by striking "(i) in the form of prints, or" and all that follows through the end of the subsection and inserting "without placing in such informational materials a conspicuous statement that the materials are distributed by the agent on behalf of the foreign principal, and that additional information is on file with the Department of Justice, Washington, District of Columbia. The Attorney General may by rule define what constitutes a conspicuous statement for the purposes of this subsection.";

(6) in section 4(c) (22 U.S.C. 614(c)), by striking "political propaganda" and inserting "informational materials";

(7) in section 6 (22 U.S.C. 616)—

(A) in subsection (a) by striking "and all statements concerning the distribution of political propaganda";

(B) in subsection (b) by striking ", and one copy of every item of political propaganda"; and

(C) in subsection (c) by striking "copies of political propaganda,";

(8) in section 8 (22 U.S.C. 618)—

(A) in subsection (a)(2) by striking "or in any statement under section 4(a) hereof concerning the distribution of political propaganda"; and

(B) by striking subsection (d); and

(9) in section 11 (22 U.S.C. 621) by striking ", including the nature, sources, and content of political propaganda disseminated or distributed".

AMENDMENTS TO THE BYRD AMENDMENT

SEC. 510. (a) REVISED CERTIFICATION REQUIREMENTS.—Section 1352(b) of title 31, United States Code, is amended—

(1) in paragraph (2) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person with respect to that Federal contract, grant, loan, or cooperative agreement; and

"(B) a certification that the person making the declaration has not made, and will not make, any payment prohibited by subsection (a).";

(2) in paragraph (3) by striking all that follows "loan shall contain" and inserting "the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on behalf of the person in connection with that loan insurance or guarantee."; and

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6).

(b) REMOVAL OF OBSOLETE REPORTING REQUIREMENT.—Section 1352 of title 31, United States Code, is further amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

REPEAL OF CERTAIN LOBBYING PROVISIONS

SEC. 511. (a) REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT.—The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.) is repealed.

(b) REPEAL OF PROVISIONS RELATING TO HOUSING LOBBYIST ACTIVITIES.—

(1) Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) is repealed.

(2) Section 536(d) of the Housing Act of 1949 (42 U.S.C. 1490p(d)) is repealed.

CONFORMING AMENDMENTS TO OTHER STATUTES

SEC. 512. (a) AMENDMENT TO COMPETITIVENESS POLICY COUNCIL ACT.—Section 5206(e) of the Competitiveness Policy Council Act (15 U.S.C. 4804(e)) is amended by inserting "or a lobbyist for a foreign entity (as the terms 'lobbyist' and 'foreign entity' are defined under section 503 of the Lobbying Disclosure Act of 1995)" after "an agent for a foreign principal".

(b) Amendments to Title 18, United States Code.—Section 219(a) of title 18, United States Code, is amended—

(1) by inserting "or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 503(7) of that Act" after "an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938"; and

(2) by striking out ", as amended,".

(c) Amendment to Foreign Service Act of 1980.—Section 602(c) of the Foreign Service Act of 1980 (22 U.S.C. 4002(c)) is amended by inserting "or a lobbyist for a foreign entity (as defined in section 503(7) of the Lobbying Disclosure Act of 1995)" after "an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938)".

SEVERABILITY

Sec. 513. If any provision of this title, or the application thereof, is held invalid, the validity of the remainder of this title and the application of such provision to other persons and circumstances shall not be affected thereby.

IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS

Sec. 514. (a) Oral Lobbying Contacts.—Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact—

(1) state whether the person or entity is registered under this title and identify the client on whose behalf the lobbying contact is made; and

(2) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under section 504(b)(4) that has a direct interest in the outcome of the lobbying activity.

(b) Written Lobbying Contacts.—Any person or entity registered under this title that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall—

(1) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this title, and state whether the person making the lobbying contact is registered on behalf of that client under section 504; and

(2) identify any other foreign entity identified pursuant to section 504(b)(4) that has a direct interest in the outcome of the lobbying activity.

(c) Identification as Covered Official.—Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered legislative branch official or a covered executive branch official.

ESTIMATES BASED ON TAX REPORTING SYSTEM

Sec. 515. (a) Entities Covered by Section 6033(b) of the Internal Revenue Code of 1986.—A registrant that is required to report and does report lobbying expenditures pursuant to section 6033(b)(8) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would be required to be disclosed under such section for the appropriate semiannual period to meet the requirements of sections 504(a)(3), 505(a)(2), and 505(b)(4); and

(2) in lieu of using the definition of "lobbying activities" in section 503(8) of this title, consider as lobbying activities only those activities that are influencing legislation as defined in section 4911(d) of the Internal Revenue Code of 1986.

(b) Entities Covered by Section 162(e) of the Internal Revenue Code of 1986.—A registrant that is subject to section 162(e) of the Internal Revenue Code of 1986 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would not be deductible pursuant to such section for the appropriate semiannual period to meet the requirements of sections 504(a)(3), 505(a)(2), and 505(b)(4); and

(2) in lieu of using the definition of "lobbying activities" in section 503(8) of this title, consider as lobbying activities only those activities, the costs of which are not deductible pursuant to section 162(e) of the Internal Revenue Code of 1986.

(c) Disclosure of Estimate.—Any registrant that elects to make estimates required by this title under the procedures authorized by subsection (a) or (b) for reporting or threshold purposes shall—

(1) inform the Secretary of the Senate and the Clerk of the House of Representatives that the registrant has elected to make its estimates under such procedures; and

(2) make all such estimates, in a given calendar year, under such procedures.

(d) Study.—Not later than March 31, 1997, the Comptroller General of the United States shall review reporting by registrants under subsections (a) and (b) and report to the Congress—

(1) the differences between the definition of "lobbying activities" in section 503(8) and the definitions of "lobbying expenditures", "influencing legislation", and related terms in sections 162(e) and 4911 of the Internal Revenue Code of 1986, as each are implemented by regulations;

(2) the impact that any such differences may have on filing and reporting under this title pursuant to this subsection; and

(3) any changes to this title or to the appropriate sections of the Internal Revenue Code of 1986 that the Comptroller General may recommend to harmonize the definitions.

EFFECTIVE DATES

Sec. 516. (a) Except as otherwise provided in this section, this title and the amendments made by this title shall take effect on January 1, 1996.

(b) The repeals and amendments made under sections 513, 514, and 515 shall take effect as provided under subsection (a), except that such repeals and amendments—

(1) shall not affect any proceeding or suit commenced before the effective date under subsection (a), and in all such proceedings or suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted; and

(2) shall not affect the requirements of Federal agencies to compile, publish, and retain information filed or received before the effective date of such repeals and amendments.

Mr. FROST. Mr. Speaker, I further include at this point in the Record the following material concerning floor procedure during the 104th Congress:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D;7R.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl 2 and cl 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl 2 and cl 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl 2, cl 5(b), and cl 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl 2 and cl 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment..	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl 2 and cl 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl 2 and cl 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl 2 and cl 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl 2 and cl 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl 6 and cl 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority.. *RULE AMENDED*	N/A.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min), if adopted they will be considered as base text; waives cl 2 and cl 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min) If adopted, it is considered as base text; Pre-printing gets priority.	N/A
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5(c) of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2491	7 Year Balanced Budget Reconciliation	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all points of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 59(c) of rule XXI (3/5 requirement on votes raising taxes).	1D
H. Con. Res. 109	Social Security Earnings Test Reform			

*Contract Bills, 67% restrictive; 33% open. **All legislation, 53% restrictive; 47% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. FROST. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I think it is important for us really to stop the ballyhoo and just tell the truth; just with a swift 1-day hearing on Medicare and an overwhelming and devastating vote last week, we tore the Medicare Program apart. But yet we are being asked today to put off for tomorrow what we can actually do today.

This is a bipartisan effort. We need to throw away the gifts, the golf clubs and whatever else takes us away from the work of this body.

I came to this Congress just this year as a freshman, and on the very first day I stood up and spoke against gifts and lobbyists who cloud the issues and sometimes write the legislation. It is time now to defeat the previous question and join the leadership of the gentleman from California and the gentleman from Texas, both of whom have worked consistently in this bipartisan effort to support gift ban legislation.

What is the problem of voting today on gift and lobby reform. This legislation is the people's legislation—it is important to vote on this legislation to reform our own House today.

Let me also correct the record. In the 103d Congress this U.S. Congress, under Democratic rule, voted overwhelmingly for gift and lobby reform. It then went to the Senate. The conference report was accepted by the House with gift and lobby reform included. The House again voted overwhelmingly. Do you know what happened then, the reason why it was not passed, because there was a Republican filibuster led by the gentleman from Kansas, in the other body, who helped defeat important gift and lobby reform.

It is important to defeat the previous question. It is time now today to vote in the right direction for the U.S. Congress to support today gift and lobby reform by defeating the previous question.

Mr. Speaker, why put off for tomorrow what you can do today? This should be a bipartisan effort. The issue of gift and lobby reform has been an issue that I have supported since I became a Member of Congress 10 months ago. In fact, on the day that I was sworn in as a Member of Congress, I expressed my views that there was a strong need for gift reform and lobby reform so that we could increase the confidence of the American people in their elected representatives.

The Senate has already supported gift and lobby reform in a resounding vote with 98 Senators supporting reform and no Senators opposing reform. It is clear to me that we should act without delay.

I urge my colleagues to vote against the previous question on the rule on the legislative branch appropriations bill so that we can amend the rule to include certain provisions on gift and lobby reform.

The provisions that Congressmen FAZIO and BRYANT would like to offer are reasonable and ought to be supported by all Members of the House of Representatives. Those provisions are identical to provisions passed by the Senate.

The provisions would limit the total value of gifts that a Member or a staff member could accept to $100 per year from any source. No individual gift including meals or entertainment could cost more than $50. Free travel for recreational events such as charity, golf, and ski trips would be prohibited. Meetings and fact-finding trips in connection with official duties would still be permissible.

Many Members of the House have spoken in previous months on the need for reform. Now is the time to act. If we include these provisions in the legislative branch appropriations bill, the President would be in a position to sign those provisions into law as soon as possible.

□ 1130

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, you know, sometimes these gifts come gift wrapped, with a ski trip, a golf fee being paid, a little Cabernet Sauvignon. Sometimes they are not big enough to hold the gifts that come. Because the whole problem is that our Republican colleagues, when they talk about reform, and it is an amazing response to our request for bipartisan support to clean this place up, instead of getting a broom, they get a golf club. They have been unwilling to stand up to the golf caucus in this House. Since day one, they have given us plenty of speeches, they have given us plenty of talk of delay, but they have done absolutely nothing to separate the union between this Congress and the lobby. In fact, they place the lobby on the committee dais. They turned over committee computers to the lobby to write the bills up here. We ought to be putting the lobby names on some of these reforms, like the Gingrich golden rule Medicare cut bill that we passed here a couple of weeks ago.

That is the way they have chosen to operate this House. And now, now that we have pressured them to come forward with reform, after they voted against cleaning this House up on January 4, they voted against cleaning this House up on June 20, they voted against cleaning this House up on June 22, they voted against cleaning this House up on September 6, last week they got so scared about it they jerked this bill off the floor. So, finally, after all the pressure from the Democratic Party, which last year the Democrat Congress passed reform twice, only to see Republicans kill it over in the Senate, finally, they have given us their answer: They held another press conference.

Well, is that not marvelous? At that press conference they told us, as they have this morning, oh, they want to improve the Senate bill. They want to strengthen it. And what was the one example that they gave us of strengthening it at that great press conference? The golf caucus ruled again. They said they might have an exemption for us in the Senate bill to allow more golf gatherings to occur. That is the kind of reform we have been promised here.

Mr. Speaker, I would say that what we need is not more speeches, not more press releases, but a little more bipartisanship. Indeed, in the words of an old Texas song, what we need is a little less talk, and a lot more action. It is time to get down to the main attraction, which is not a matter of showmanship, but a matter of action on this bill.

Dr. King said it more eloquently, when he said that often wait means never. And that is exactly what it means. They have a plan to delay this bill and delay reform, to respond to the golf caucus, not to the needs of the American people.

It is time to clean up this House, and to do it today; not with a golf club, but with a broom. All we are asking is that bill that these very Members say they have sponsored, that they support, a bill that was approved in the U.S. Senate by a vote of 98 to 0, with Republicans and Democrats coming together, that that be made law today; not next week, not never.

Mr. DIAZ-BALART. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). The gentleman from Florida is recognized for 30 seconds.

Mr. DIAZ-BALART. Mr. Speaker, after 40 years of status quo, we have passed more reforms in this House than they have proposed in 40 years; and now we have a commitment by the leadership of this House to bring forth this legislation on gift and lobbying reform before November 16 to this House. That is after balancing the Federal budget, after 40 years of lack of action by the other side, and after saving Medicare.

I am proud of what this leadership has done. I am proud of the commitment to bring forth what they been posturing about, in reality and genuinely, before November 16.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DIAZ-BALART. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces he will reduce to minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 235, nays 184, not voting 13, as follows:

[Roll No. 746]

YEAS—235

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—184

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans

Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—13

Andrews
Collins (MI)
Conyers
Fields (LA)
Harman
Hilliard
Kaptur
Mfume
Moakley
Oxley
Riggs
Tucker
Weldon (PA)

☐ 1154

Messrs. SKELTON, MARTINEZ, and PETERSON of Florida changed their vote from "yea" to "nay."

Mr. DICKEY changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. UPTON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2429, and that I may include tabular and extraneous material and charts.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mr. PACKARD. Mr. Speaker, pursuant to House Resolution 239, I call up the bill (H.R. 2492) making appropriations for the legislative branch for fiscal year ending September 30, 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 2492 is as follows:

H.R. 2492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $69,727,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,513,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $325,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $2,195,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $656,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $996,000 for each such committee; in all, $1,992,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $360,000.

POLICY COMMITTEES

For salaries of the Majority Policy Committee and the Minority Policy Committee, $965,000 for each such committee, in all, $1,930,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $192,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $12,128,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $31,889,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,047,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $15,500,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $3,381,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $936,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $66,395,000.

EXPENSES OF THE UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $305,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $1,266,000.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $61,347,000.

MISCELLANEOUS ITEMS

For miscellaneous items, $6,644,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $204,029,000.

OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

For salaries and expenses of the Office of Senate Fair Employment Practices, $778,000.

SETTLEMENTS AND AWARDS RESERVE

For expenses for settlements and awards, $1,000,000, to remain available until expended.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $11,000,000.

RESCISSION

Of the funds previously appropriated under the heading "SENATE", $63,544,724.12 are rescinded.

ADMINISTRATIVE PROVISIONS

SECTION 1. (a) On and after October 1, 1995, no Senator shall receive mileage under section 17 of the Act of July 28, 1866 (2 U.S.C. 43).

(b) On and after October 1, 1995, the President of the Senate shall not receive mileage under the first section of the Act of July 8, 1935 (2 U.S.C. 43a).

SEC. 2. (a) There is established in the Treasury of the United States within the contingent fund of the Senate a revolving fund, to be known as the "Office of the Chaplain Expense Revolving Fund" (hereafter referred to as the "fund"). The fund shall consist of all moneys collected or received with respect to the Office of the Chaplain of the Senate.

(b) The fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate, not to exceed $10,000 in any fiscal year, for the payment of official expenses incurred by the Chaplain of the Senate. In addition, moneys in the fund may be used to purchase food or food related items. The fund shall not be available for the payment of salaries.

(c) All moneys (including donated moneys) received or collected with respect to the Office of the Chaplain of the Senate shall be deposited in the fund and shall be available for purposes of this section.

(d) Disbursements from the fund shall be made on vouchers approved by the Chaplain of the Senate.

SEC. 3. Funds appropriated under the heading, "Settlements and Awards Reserve" in Public Law 103–283 shall remain available until expended.

SEC. 4. Section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) is amended by striking the second sentence and inserting the following: "The amounts so withheld shall be deposited in the revolving fund, within the contingent fund of the Senate, for the Daniel Webster Senate Page Residence, as established by section 4 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 88b–7).".

SEC. 5. (a) Any payment for local and long distance telecommunications service provided to any user by the Sergeant at Arms and Doorkeeper of the Senate shall cover the total invoiced amount, including any amount relating to separately identified toll calls, and shall be charged to the appropriation for the fiscal year in which the underlying base service period covered by the invoice ends.

(b) As used in subsection (a), the term "user" means any Senator, Officer of the Senate, Committee, office, or entity provided telephone equipment and services by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 6. Section 4(b) of Public Law 103–283 is amended by inserting before "collected" the following: "(including donated moneys)".

SEC. 7. Section 1 of Public Law 101–520 (2 U.S.C. 61g–6a) is amended to read as follows:

"SECTION 1. (a)(1) The Chairman of the Majority or Minority Policy Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for salaries for the Majority and Minority Policy Committees of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable for such committees.

"(2) The Chairman of the Majority or Minority Policy Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for expenses, within the contingent fund of the Senate, for the Majority and Minority Policy Committees of the Senate, to the account from which salaries are payable for such committees.

"(b)(1) The Chairman of the Majority or Minority Conference Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for salaries for the Majority and Minority Conference Committees of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable for such committees.

"(2) The Chairman of the Majority or Minority Conference Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for expenses, within the contingent fund of the Senate, for the Majority and Minority Conference Committees of the Senate, to the account from which salaries are payable for such committees.

"(c) Any funds transferred under this section shall be—

"(1) available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account to which the funds were transferred; and

"(2) made at such time or times as the Chairman shall specify in writing to the Senate Disbursing Office.

"(d) The Chairman of a committee transferring funds under this section shall notify the Committee on Appropriations of the Senate of the transfer.".

(b) The amendment made by this section shall take effect on October 1, 1995, and shall be effective with respect to fiscal years beginning on or after that date.

HOUSE OF REPRESENTATIVES

Salaries and Expenses

For salaries and expenses of the House of Representatives, $671,561,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $11,271,000, including: Office of the Speaker, $1,478,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,470,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,480,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $928,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $918,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $376,000; Republican Steering Committee, $664,000; Republican Conference, $1,083,000; Democratic Steering and Policy Committee, $1,181,000; Democratic Caucus, $566,000; and nine minority employees, $1,127,000.

Members' Representational Allowances

Including Members' Clerk Hire, Official Expenses of Members, and Official Mail

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $360,503,000: *Provided*, That no such funds shall be used for the purposes of sending unsolicited mass mailings within 90 days before an election in which the Member is a candidate.

Committee Employees

Standing Committees, Special and Select

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $78,629,000.

Committee on Appropriations

For salaries and expenses of the Committee on Appropriations, $16,945,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $83,733,000, including: for salaries and expenses of the Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $13,807,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not to exceed $750 for official representation and reception expenses, $3,410,000; for salaries and expenses of the Office of the Chief Administrative Officer, $53,556,000, including salaries, expenses and temporary personal services of House Information Resources, $27,500,000, of which $16,000,000 is provided herein: *Provided*, That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, $3,954,000; for salaries and expenses of the Office of Compliance, $858,000; Office of the Chaplain, $126,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,180,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,700,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,524,000; and other authorized employees, $618,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $120,480,000, including: supplies, materials, administrative costs and Federal tort claims, $1,213,000; official mail for committees, leadership offices, and administrative offices of the House, $1,000,000; reemployed annuitants reimbursements, $68,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $117,541,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $658,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Effective with respect to fiscal years beginning with fiscal year 1995, in the case of mail from outside sources presented to the Chief Administrative Officer of the House of Representatives (other than mail through the Postal Service and mail with postage otherwise paid) for internal delivery in the House of Representatives, the Chief Administrative Officer is authorized to collect fees equal to the applicable postage. Amounts received by the Chief Administrative Officer as fees under the preceding sentence shall be deposited in the Treasury as miscellaneous receipts.

SEC. 102. Effective with respect to fiscal years beginning with fiscal year 1995, amounts received by the Chief Administrative Officer of the House of Representatives from the Administrator of General Services for rebates under the Government Travel Charge Card Program shall be deposited in the Treasury as miscellaneous receipts.

SEC. 103. The provisions of section 223(b) of House Resolution 6, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, establishing the Speaker's Office for Legislative Floor Activities; House Resolution 7, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, providing for the designation of certain minority employees; House Resolution 9, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, providing amounts for the Republican Steering Committee and the Democratic Policy Committee; House Resolution 10, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, providing for the transfer of two employee positions; and House Resolution 113, One Hundred Fourth Congress, agreed to March 10, 1995, providing for the transfer of certain employee positions shall each be the permanent law with respect thereto.

SEC. 104. (a) The five statutory positions specified in subsection (b), subsection (c), and subsection (d) are transferred from the House Republican Conference to the Republican Steering Committee.

(b) The first two of the five positions referred to in subsection (a) are—

(1) the position established for the chief deputy majority whip by subsection (a) of the first section of House Resolution 393, Ninety-fifth Congress, agreed to March 31, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 74a-3); and

(2) the position established for the chief deputy majority whip by section 102(a)(4) of the Legislative Branch Appropriations Act, 1990;

both of which positions were transferred to the majority leader by House Resolution 10, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, as enacted into permanent law by section 103 of this Act, and both of which positions were further transferred to the House Republican Conference by House Resolution 113, One Hundred Fourth Congress, agreed to March 10, 1995, as enacted into permanent law by section 103 of this Act.

(c) The second two of the five positions referred to in subsection (a) are the two positions established by section 103(a)(2) of the Legislative Branch Appropriations Act, 1986.

(d) The fifth of the five positions referred to in subsection (a) is the position for the House Republican Conference established by House Resolution 625, Eighty-ninth Congress, agreed to October 22, 1965, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1967.

(e) The transfers under this section shall take effect on the date of the enactment of this Act.

SEC. 105. (a) Notwithstanding any other provision of law, or any rule, regulation, or other authority, travel for studies and examinations under section 202(b) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(b)) shall be governed by applicable laws or regulations of the House of Representatives or as promulgated from time to time by the Chairman of the Committee on Appropriations of the House of Representatives.

(b) Subsection (a) shall take effect on the date of the enactment of this Act and shall apply to travel performed on or after that date.

SEC. 106. (a) Notwithstanding the paragraph under the heading "GENERAL PROVISION" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a) or any other provision of law, effective on the date of the enactment of this section, unexpended balances in accounts described in subsection (b) are withdrawn, with unpaid obligations to be liquidated in the manner provided in the second sentence of that paragraph.

(b) The accounts referred to in subsection (a) are the House of Representatives legislative service organization revolving accounts under section 311 of the Legislative Branch Appropriations Act, 1994 (2 U.S.C. 96a).

SEC. 107. (a) Each fund and account specified in subsection (b) shall be available only to the extent provided in appropriations Acts.

(b) The funds and accounts referred to in subsection (a) are—

(1) the revolving fund for the House Barber Shops, established by the paragraph under the heading "HOUSE BARBER SHOPS REVOLVING FUND" in the matter relating to the House of Representatives in chapter III of title I of the Supplemental Appropriations Act, 1975 (Public Law 93-554; 88 Stat. 1776);

(2) the revolving fund for the House Beauty Shop, established by the matter under the heading "HOUSE BEAUTY SHOP" in the matter relating to administrative provisions for the House of Representatives in the Legislative Branch Appropriation Act, 1970 (Public Law 91-145; 83 Stat. 347);

(3) the special deposit account established for the House of Representatives Restaurant by section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k note); and

(4) the revolving fund established for the House Recording Studio by section 105(g) of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 123b(g)).

(c) This section shall take effect on October 1, 1995, and shall apply with respect to fiscal years beginning on or after that date.

SEC. 107A. For fiscal year 1996, subject to the direction of the Committee on House Oversight of the House of Representatives, of the total amount deposited in the account referred to in section 107(b)(3) of this Act from vending operations of the House of Representatives Restaurant System, the cost of goods sold shall be available to pay the cost of inventory for such operations.

SEC. 108. The House Employees Position Classification Act (2 U.S.C. 291, et seq.) is amended—

(1) in section 3(1), by striking out "Doorkeeper, and the Postmaster," and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General";

(2) in the first sentence of section 4(b), by striking out "Doorkeeper, and the Postmaster," and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General";

(3) in section 5(b)(1), by striking out "Doorkeeper, and the Postmaster" and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General"; and

(4) in the first sentence of section 5(c), by striking out "Doorkeeper, and the Postmaster," and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General".

SEC. 109. (a) Upon the approval of the appropriate employing authority, an employee of the House of Representatives who is separated from employment, may be paid a lump sum for the accrued annual leave of the employee. The lump sum—

(1) shall be paid in an amount not more than the lesser of—

(A) the amount of the monthly pay of the employee, as determined by the Chief Administrative Officer of the House of Representatives; or

(B) the amount equal to the monthly pay of the employee, as determined by the Chief Administrative Officer of the House of Representatives, divided by 30, and multiplied by the number of days of the accrued annual leave of the employee;

(2) shall be paid—

(A) for clerk hire employees, from the clerk hire allowance of the Member;

(B) for committee employees, from amounts appropriated for committees; and

(C) for other employees, from amounts appropriated to the employing authority; and

(3) shall be based on the rate of pay in effect with respect to the employee on the last day of employment of the employee.

(b) The Committee on House Oversight shall have authority to prescribe regulations to carry out this section.

(c) As used in this section, the term "employee of the House of Representatives" means an employee whose pay is disbursed by the Clerk of the House of Representatives or the Chief Administrative Officer of the House of Representatives, as applicable, except that such term does not include a uniformed or civilian support employee under the Capitol Police Board.

(d) Payments under this section may be made with respect to separations from employment taking place after June 30, 1995.

SEC. 110. (a)(1) Effective on the date of the enactment of this Act, the allowances for office personnel and equipment for certain Members of the House of Representatives, as adjusted through the day before the date of the enactment of this Act, are further adjusted as specified in paragraph (2).

(2) The further adjustments referred to in paragraph (1) are as follows:

(A) The allowance for the majority leader is increased by $167,532.

(B) The allowance for the majority whip is decreased by $167,532.

(b)(1) Effective on the date of the enactment of this Act, the House of Representatives allowances referred to in paragraph (2), as adjusted through the day before the date of the enactment of this Act, are further adjusted, or are established, as the case may be, as specified in paragraph (2).

(2) The further adjustments and the establishment referred to in paragraph (1) are as follows:

(A) The allowance for the Republican Conference is increased by $134,491.

(B) The allowance for the Republican Steering Committee is established at $66,995.

(C) The allowance for the Democratic Steering and Policy Committee is increased by $201,430.

(D) The allowance for the Democratic Caucus is increased by $56.

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,000,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $750,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,116,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $500 per month to one assistant and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) $852,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,260,000, to be disbursed by the Clerk of the House.

Capitol Police Board

Capitol Police

SALARIES

For the Capitol Police Board for salaries, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $70,132,000, of which $34,213,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $35,919,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $2,560,000, to be disbursed by the Clerk of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1996 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

ADMINISTRATIVE PROVISION

SEC. 111. Amounts appropriated for fiscal year 1996 for the Capitol Police Board under the heading "CAPITOL POLICE" may be transferred between the headings "SALARIES" and "GENERAL EXPENSES", upon approval of the Committees on Appropriations of the Senate and the House of Representatives.

Capitol Guide Service and Special Services Office

For salaries and expenses of the Capitol Guide Service and Special Services Office, $1,991,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than forty individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

Statements of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the first session of the One Hundred Fourth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

Administrative Provision

SEC. 112. Section 310 of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e), is amended—

(1) by striking out "Clerk" and inserting in lieu thereof "Sergeant at Arms"; and

(2) by striking out "Librarian of Congress" and inserting in lieu thereof "Architect of the Capitol".

Office of Compliance

For salaries and expenses of the Office of Compliance, as authorized by section 305 of Public Law 104-1, the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,500,000, of which $500,000 shall be transferred from the amount provided for salaries and expenses of the Office of Compliance under the headings "HOUSE OF REPRESENTATIVES", "Salaries and Expenses", and "Salaries, Officers and Employees".

Office of Technology Assessment

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the orderly closure of the Office of Technology Assessment, $3,615,000, of which $150,000 shall remain available until September 30, 1997. Upon enactment of this Act, $2,500,000 of the funds appropriated under this heading in Public Law 103-283 shall remain available until September 30, 1996: *Provided*, That none of the funds made available in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 17 employees except for severance pay purposes.

ADMINISTRATIVE PROVISIONS

SEC. 113. Upon enactment of this Act all employees of the Office of Technology Assessment for 183 days preceding termination of employment who are terminated as a result of the elimination of the Office and who are not otherwise gainfully employed may continue to be paid by the Office of Technology Assessment at their respective salaries for a period not to exceed 60 calendar days following the employee's date of termination or until the employee becomes otherwise gainfully employed whichever is earlier. Any day for which a former employee receives a payment under this section shall be counted as Federal service for purposes of determining entitlement to benefits, including retirement, annual and sick leave earnings, and health and life insurance. A statement in writing to the Director of the Office of Technology Assessment or his designee by any such employee that he was not gainfully employed during such period or the portion thereof for which payment is claimed shall be accepted as prima facie evidence that he was not so employed.

SEC. 114. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, as amended, or any other provision of law, upon the abolition of the Office of Technology Assessment, all records and property of the Office (including the Unix system, all computer hardware and software, all library collections and research materials, and all photocopying equipment), shall be under the administrative control of the Architect of the Capitol. Not later than December 31, 1995, the Architect shall submit a proposal to transfer such records and property to appropriate support agencies of the Legislative Branch which request such transfer, and shall carry out such transfer subject to the approval of the Committees on Appropriations of the House of Representatives and the Senate.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $24,288,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 232 full-time equivalent positions: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63: *Provided further*, That the Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose of surplus or obsolete personal property by inter-agency transfer, donation, or discarding.

Administrative Provision

SEC. 115. Section 8402(c) of title 5, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

"(7) The Director of the Congressional Budget Office may exclude from the operation of this chapter an employee under the Congressional Budget Office whose employment is temporary or intermittent.".

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law, $8,569,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $22,882,000, of which $2,950,000 shall remain available until expended: *Provided*, That hereafter expenses, based on full cost recovery, for flying American flags and providing certification services therefor shall be advanced or reimbursed upon request of the Architect of the Capitol, and amounts so received shall be deposited into the Treasury.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,143,000, of which $25,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings to be expended under the control and supervision of the Architect of the Capitol, $41,757,000, of which $4,850,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $33,001,000, of which $5,261,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $31,518,000: *Provided*, That not to exceed $4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1996.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $60,084,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further*, That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $83,770,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1996".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $3,053,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. (a) Section 201 of the Legislative Branch Appropriations Act, 1993 (40 U.S.C. 216c note) is amended by striking out "$6,000,000" each place it appears and inserting in lieu thereof "$10,000,000".

(b) Section 307E(a)(1) of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c(a)(1)) is amended by striking out "plans" and inserting in lieu thereof "plants".

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $211,664,000, of which not more than $7,869,000 shall be derived from collections credited to this appropriation during fiscal year 1996 under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,869,000: *Provided further*, That of the total amount appropriated, $8,458,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $30,818,000, of which not more than $16,840,000 shall be derived from collections credited to this appropriation during fiscal year 1996 under 17 U.S.C. 708(c), and not more than $2,990,000 shall be derived from collections during fiscal year 1996 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than $19,830,000: *Provided further*, That up to $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not to exceed $2,250 may be expended on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for activities of the International Copyright Institute.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $44,951,000, of which $11,694,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $4,882,000, of which $943,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library buildings.

ADMINISTRATIVE PROVISIONS

SEC. 202. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $194,290, of which $58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 203. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 204. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 205. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 206. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 207. Under the heading "Library of Congress" obligational authority shall be available, in an amount not to exceed $99,412,000 for reimbursable and revolving fund activities, and $6,812,000 for non-expenditure transfer activities in support of parliamentary development during the current fiscal year.

SEC. 208. Notwithstanding this or any other Act, obligational authority under the heading "Library of Congress" for activities in support of parliamentary development is prohibited, except for Russia, Ukraine, Albania, Slovakia, and Romania, for other than incidental purposes.

SEC. 209. (a) The purpose of this section is to reduce the cost of information support for the Congress by eliminating duplication among systems which provide electronic access by Congress to legislative information.

(b) As used in this section, the term "legislative information" means information, prepared within the legislative branch, consisting of the text of publicly available bills, amendments, committee hearings, and committee reports, the text of the Congressional Record, data relating to bill status, data relating to legislative activity, and other similar public information that is directly related to the legislative process.

(c) Pursuant to the plan approved under subsection (d) and consistent with the provisions of any other law, the Library of Congress or the entity designated by that plan shall develop and maintain, in coordination with other appropriate entities of the legislative branch, a single legislative information retrieval system to serve the entire Congress.

(d) The Library shall develop a plan for creation of this system, taking into consideration the findings and recommendations of the study directed by House Report No. 103–517 to identify and eliminate redundancies in congressional information systems. This plan must be approved by the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives. The Library shall provide these committees with regular status reports on the development of the plan.

(e) In formulating its plan, the Library shall examine issues regarding efficient ways to make this information available to the public. This analysis shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives as well as the Committee on Rules and Administration of the Senate, and the Committee on House Oversight of the House of Representatives for their consideration and possible action.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $12,428,000, of which $3,710,000 shall remain available until expended.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $30,307,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $130,000: *Provided further*, That funds, not to exceed $2,000,000, from current year appropriations are authorized for producing and disseminating Congressional Serial Sets and other related Congressional/non-Congressional publications for 1994 and 1995 to depository and other designated libraries.

ADMINISTRATIVE PROVISION

SEC. 210. The fiscal year 1997 budget submission of the Public Printer to the Congress for the Government Printing Office shall include appropriations requests and recommendations to the Congress that—

(1) are consistent with the strategic plan included in the technological study performed by the Public Printer pursuant to Senate Report 104–114;

(2) assure substantial progress toward maximum use of electronic information dissemination technologies by all departments, agencies, and other entities of the Government with respect to the Depository Library Program and information dissemination generally; and

(3) are formulated so as to require that any department, agency, or other entity of the Government that does not make such progress shall bear from its own resources the cost of its information dissemination by other than electronic means.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not to exceed $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of passenger motor vehicles, not to exceed a fleet of twelve: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,800 workyears by the end of fiscal year 1996: *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further*, That expenses for attendance at meetings shall not exceed $75,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to AID projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b));

$374,406,000: *Provided*, That not more than $400,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1996: *Provided further*, That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than $8,000,000 of such funds shall be available for use in fiscal year 1996: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

ADMINISTRATIVE PROVISIONS

SEC. 211. (a) Effective June 30, 1996, the functions of the Comptroller General identified in subsection (b) are transferred to the Director of the Office of Management and Budget, contingent upon the additional transfer to the Office of Management and Budget of such personnel, budget authority, records, and property of the General Accounting Office relating to such functions as the Comptroller General and the Director jointly determine to be necessary. The Director may delegate any such function, in whole or in part, to any other agency or agencies if the Director determines that such delegation would be cost-effective or otherwise in the public interest, and may transfer to such agency or agencies any personnel, budget authority, records, and property received by the Director pursuant to the preceding sentence that relate to the delegated functions. Personnel transferred pursuant to this provision shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.

(b) The following provisions of the United States Code contain the functions to be transferred pursuant to subsection (a): sections 5564 and 5583 of title 5; sections 2312, 2575, 2733, 2734, 2771, 4712, and 9712 of title 10; sections 1626 and 4195 of title 22; section 420 of title 24; sections 2414 and 2517 of title 28; sections 1304, 3702, 3726, and 3728 of title 31; sections 714 and 715 of title 32; section 554 of title 37; section 5122 of title 38; and section 256a of title 41.

SEC. 212. (a) Section 732 of title 31, United States Code, is amended by adding a new subsection (h) as follows:

"(h) Notwithstanding the provisions of subchapter I of chapter 35 of title 5, United States Code, the Comptroller General shall prescribe regulations for the release of officers and employees of the General Accounting Office in a reduction in force which give due effect to tenure of employment, military preference, performance and/or contributions to the agency's goals and objectives, and length of service. The regulations shall, to the extent deemed feasible by the Comptroller General, be designed to minimize disruption to the Office and to assist in promoting the efficiency of the Office.".

SEC. 213. Section 753 of title 31, United States Code, is amended—

(1) by redesignating subsections (b), (c), and (d) as (c), (d), and (e), respectively;

(2) by inserting after subsection (a) a new subsection (b) as follows:

"(b) The Board has no authority to issue a stay of any reduction in force action."; and

(3) in the second sentence of subsection (c), as redesignated, by striking "(c)" and inserting "(d)".

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 306. (a) Upon approval of the Committee on Appropriations of the House of Representatives, and in accordance with conditions determined by the Committee on House Oversight, positions in connection with House parking activities and related funding shall be transferred from the appropriation "Architect of the Capitol, Capitol buildings and grounds, House office buildings" to the appropriation "House of Representatives, salaries, officers and employees, Office of the Sergeant at Arms": *Provided*, That the position of Superintendent of Garages shall be subject to authorization in annual appropriations Acts.

(b) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred under subsection (a) shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e) and (o) of such section.

(c) In the case of days of annual leave to the credit of any such employee as of the date such employee is transferred under subsection (a) the Architect of the Capitol is authorized to make a lump sum payment to each such employee for that annual leave. No such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation.

SEC. 307. None of the funds made available in this Act may be used for the relocation of the office of any Member of the House of Representatives within the House office buildings.

SEC. 308. (a)(1) Effective October 1, 1995, the unexpended balances of appropriations specified in paragraph (2) are transferred to the appropriation for general expenses of the Capitol Police, to be used for design and installation of security systems for the Capitol buildings and grounds.

(2) The unexpended balances referred to in paragraph (1) are—

(A) the unexpended balance of appropriations for security installations, as referred to in the paragraph under the heading "CAPITOL BUILDINGS", under the general headings "JOINT ITEMS", "ARCHITECT OF THE CAPITOL", and "CAPITOL BUILDINGS AND GROUNDS" in title I of the Legislative Branch Appropriations Act, 1995 (108 Stat. 1434), including any unexpended balance from a prior fiscal year and any unexpended balance under such headings in this Act; and

(B) the unexpended balance of the appropriation for an improved security plan, as transferred to the Architect of the Capitol by section 102 of the Legislative Branch Appropriations Act, 1989 (102 Stat. 2165).

(b) Effective October 1, 1995, the responsibility for design and installation of security systems for the Capitol buildings and grounds is transferred from the Architect of the Capitol to the Capitol Police Board. Such design and installation shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, and without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5). On and after October 1, 1995, any alteration to a structural, mechanical, or architectural feature of the Capitol buildings and grounds that is required for a security system under the preceding sentence may be carried out only with the approval of the Architect of the Capitol.

(c)(1) Effective October 1, 1995, all positions specified in paragraph (2) and each individual holding any such position (on a permanent basis) immediately before that date, as identified by the Architect of the Capitol, shall be transferred to the Capitol Police.

(2) The positions referred to in paragraph (1) are those positions which, immediately before October 1, 1995, are—

(A) under the Architect of the Capitol;

(B) within the Electronics Engineering Division of the Office of the Architect of the Capitol; and

(C) related to the design or installation of security systems for the Capitol buildings and grounds.

(3) All annual leave and sick leave standing to the credit of an individual immediately before such individual is transferred under paragraph (1) shall be credited to such individual, without adjustment, in the new position of the individual.

SEC. 309. (a) Section 230(a) of the Congressional Accountability Act of 1995 (2 U.S.C. 1371(a)) is amended by striking out "Administrative Conference of the United States" and inserting in lieu thereof "Board".

(b) Section 230(d)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1371(d)(1)) is amended—

(1) by striking out "Administrative Conference of the United States" and inserting in lieu thereof "Board"; and

(2) by striking out "and shall submit the study and recommendations to the Board".

(c) The amendments made by this section shall take effect only if the Administrative Conference of the United States ceases to exist prior to the completion and submission of the study to the Board as required by section 230 of the Congressional Accountability Act of 1995 (2 U.S.C. 1371).

SEC. 310. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 1996. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

SEC. 311. Section 316 of Public Law 101-302 is amended in the first sentence of subsection (a) by striking "1995" and inserting "1996".

SEC. 312. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104-1 to pay awards and settlements as authorized under such subsection.

SEC. 313. (a) The Sergeant at Arms of the House of Representatives shall have the same law enforcement authority, including the authority to carry firearms, as a member of the Capitol Police. The law enforcement authority under the preceding sentence shall be subject to the requirement that the Sergeant at Arms have the qualifications specified in subsection (b).

(b) The qualifications referred to in subsection (a) are the following:

(1) A minimum of five years of experience as a law enforcement officer before beginning service as the Sergeant at Arms.

(2) Current certification in the use of firearms by the appropriate Federal law enforcement entity or an equivalent non-Federal entity.

(3) Any other firearms qualification required for members of the Capitol Police.

(c) The Committee on House Oversight of the House of Representatives shall have authority to prescribe regulations to carry out this section.

SEC. 314. Notwithstanding any other provision of law, effective September 1, 1995, the Committee on House Oversight of the House of Representatives shall have authority—

(1) to combine the House of Representatives Clerk Hire Allowance, Official Expenses Allowance, and Official Mail Allowance into a single allowance, to be known as the "Members' Representational Allowance"; and

(2) to prescribe regulations relating to allocations, expenditures, and other matters with respect to the Members' Representational Allowance.

This Act may be cited as the "Legislative Branch Appropriations Act, 1996".

The SPEAKER pro tempore. Pursuant to House Resolution 239, the gentleman from California [Mr. PACKARD] and the gentleman from California [Mr. Fazio] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. PACKARD].

□ 1200

Mr. PACKARD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not believe this bill will take very long, and I think that the gentleman from California [Mr. FAZIO] and I can move very quickly through this bill. We have done it before.

Mr. Speaker, the bill has been before the house and had the overwhelming support of the Members of the House. This is the legislative branch appropriations bill. It was passed 305 to 101. There have been no changes in the bill. It is the same bill that we have dealt with before.

The President did veto it, and in his message he said that, "It is, in fact, a disciplined bill . . . one that I would sign under different circumstances," and perhaps at a different time. So, Mr. Speaker, we are sending it back to him in the same form. We think he will sign it, along with other bills.

In fact, he has since signed two appropriations bills, the military construction appropriations bill, the agricultural appropriations bill. The transportation conference report has been passed by the House and is soon to be taken up by the Senate, and several others are pending that will pass that the President, I think, will sign. So, he should sign this bill, and it is really noncontroversial.

Mr. Speaker, let me summarize H.R. 2492 very briefly. It provides budget authority for $2.18 billion. That is $433 million below the President's request, a 16.5-percent reduction. It is $205.7 million below the 1995 level. That is an 8.6-percent reduction in funding from the 1995 levels.

It also reduces staff of the legislative branch by 9.5 percent. The House of Representatives is cut by $57.2 million. That is a cut below 1995 levels. The committee staff is cut by a third, 33 percent. The House administrative offices have been cut by $11.9 million and 313 FTE's below 1995 levels.

The joint committees, the printing and economic and taxation committees combined, are cut by 22.8 percent. We have eliminated the Office of Technology Assessment. I know that is controversial, but it does save the Congress and the Government $22 million. The work of OTA, we feel, is being duplicated by other agencies.

The Architect of the Capitol is cut by $16.8 million below 1995 levels. It ends the subsidies, the bill ends the subsidies on the flag office. It requests a proposal that will lead to the privatization of the custodial and maintenance work here on Capitol Hill. It creates a panel of outside experts to propose how to privatize the Capitol power plant.

The Government Printing Office is cut by $7.9 million below 1995 levels. The only increase in the bill is to provide for the digitalization of the collection for the National Digital Library at the Library of Congress.

In summary, it is an excellent bill, reduced significantly from last year's level, an 8.6-percent reduction; one that the President said that he will sign under the proper circumstances. We strongly urge the Members of the Congress, the House, to pass the bill overwhelmingly today.

Mr. Speaker, I submit the following for the RECORD.

The bill before you today, H.R. 2492, is a bill identical to the conference agreement on H.R. 1854, the 1996 legislative branch appropriations bill. The house adopted that conference report by a vote of 305 to 101 on September 6, 1995.

H.R. 1854 was returned by the President on October 3, 1995. The veto message of the President said:

(a) "H.R. 1854 is, in fact, a disciplined bill"

(b) "H.R. 1854 is ... one that I would sign under different circumstances."

The President had absolutely no substantive objections to the bill.

Since then, he has signed two appropriations bills, military construction and agriculture. The conference report on the Transportation has cleared the House and will be taken up soon by the Senate.

Several others are near completion, and we are proceeding in an effort to bring them to the House and to send them to the President in an expeditious manner.

The legislative bill for fiscal year 1996 will greatly reduce the size of our own branch of Government.

To summarize, H.R. 2492 provides budget authority of $2.18 billion. This is $433 million below the President's budget request, a 16.5 percent reduction. It is $205.7 million below fiscal year 1995; that's an 8.6 percent reduction in funding below the current year. It reduces legislative branch jobs [FTE's] by 2,614 under fiscal year 1995—Senate staffing excluded—that's a 9.5 percent reduction in jobs.

There are several provisions included, primarily to facilitate the operations of the House and Senate. The conference report on H.R. 1854 (House Report 104-212) has been available for several weeks and explains these provisions. In the joint explanatory statement, contained in House Report 104–212, legislative agencies were given directives for carrying out the bill, and we expect that each agency and office covered by this bill will follow those directives. These directives will apply to H.R. 2492 as they did to H.R. 1854.

A few of the highlights of the bill include:

House of Representatives—has been cut $57.2 million below 1995. Included in this reduction, committee staff have been cut 33 percent; committee budgets have been reduced by $39.8 million; House administrative offices have been cut by $11.9 million below 1995; and administrative staff have been reduced by 313 FTE's.

Senate—has been cut $33.7 million below 1995.

Joint Items—Joint committees—printing, economic, taxation—have been cut by 22.8 percent overall.

Office of Technology Assessment—has been eliminated, an additional $22 million savings.

Congressional Budget Office—has been given $1.1 million and 13 more FTE's to perform unfunded mandates workload.

Architect of the Capitol—has been cut $16.8 million below 1995. The bill ends the taxpayer subsidy to the flag office. Flag prices have been raised to reimburse the cost of the flag raising operation. Requests for proposal will be issued to privatize custodial and maintenance work, and a panel of outside experts will propose how the power plant can be privatized.

Government Printing Office—has been cut $7.9 million below 1995. Congressional printing has been cut by $5.6 million, including the elimination of constituent copies of the Congressional Record for Members of the House. The number of daily records printed will be reduced from 16,935 to 10,615, and we have eliminated free copies of documents to judges, to former Members, to press and other media, and to executive agencies.

Library of Congress—Funding increased $1.5 million—only increase in bill. The national digital library program of the library is funded at $3 million, the amount requested.

General Accounting Office—cut $75 million below 1995. The report indicates our intent to reduce GAO by 25 percent over a 2-year period.

Summary

In summary, the bill is $205.7 million below fiscal year 1995. It effects a 2,614 reduction in full-time-equivalent jobs; that's a 9.5 percent cut, not including Senate jobs, in total, it is a $432.8 million reduction below the requests included in the president's budget, a 16.5 percent reduction.

Every member can justify an "aye" vote on passage.

FY 1996 LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2492)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - CONGRESSIONAL OPERATIONS					
SENATE					
Mileage and Expense Allowances					
Mileage of the Vice President and Senators	60,000	60,000		-60,000	-60,000
Expense allowances:					
Vice President	10,000	10,000	10,000		
President Pro Tempore of the Senate	10,000	10,000	10,000		
Majority Leader of the Senate	10,000	10,000	10,000		
Minority Leader of the Senate	10,000	10,000	10,000		
Majority Whip of the Senate	5,000	5,000	5,000		
Minority Whip of the Senate	5,000	5,000	5,000		
Chairman of the Majority Conference Committee	3,000	3,000	3,000		
Chairman of the Minority Conference Committee	3,000	3,000	3,000		
Subtotal, expense allowances	56,000	56,000	56,000		
Representation allowances for the Majority and Minority Leaders	30,000	30,000	30,000		
Total, Mileage and expenses allowances	146,000	146,000	86,000	-60,000	-60,000
Salaries, Officers and Employees					
Office of the Vice President	1,513,000	1,549,000	1,513,000		-36,000
Office of the President Pro Tempore	457,000	469,000	325,000	-132,000	-144,000
Offices of the Majority and Minority Leaders	2,195,000	2,246,000	2,195,000		-51,000
Offices of the Majority and Minority Whips	656,000	672,000	656,000		-16,000
Conference committees	1,992,000	2,040,000	1,992,000		-48,000
Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority	384,000	394,000	360,000	-24,000	-34,000
Policy Committees			1,930,000	+1,930,000	+1,930,000
Office of the Chaplain	192,000	201,000	192,000		-9,000
Office of the Secretary	12,961,000	13,260,000	12,128,000	-833,000	-1,132,000
Office of the Sergeant at Arms and Doorkeeper	32,739,000	35,399,000	31,889,000	-850,000	-3,510,000
Offices of the Secretaries for the Majority and Minority	1,197,000	1,225,000	1,047,000	-150,000	-178,000
Agency contributions and related expenses	17,052,000	18,386,000	15,500,000	-1,552,000	-2,886,000
Total, salaries, officers and employees	71,338,000	75,841,000	69,727,000	-1,611,000	-6,114,000
Office of the Legislative Counsel of the Senate					
Salaries and expenses	3,381,000	3,543,500	3,381,000		-162,500
Office of Senate Legal Counsel					
Salaries and expenses	936,000	985,000	936,000		-49,000
Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate: Expenses allowances	12,000	12,000	12,000		
Contingent Expenses of the Senate					
Senate policy committees	2,574,000	2,672,000		-2,574,000	-2,672,000
Inquiries and investigations	78,112,000	78,863,000	66,395,000	-11,717,000	-12,468,000
Expenses of United States Senate Caucus on International Narcotics Control	348,000	379,000	305,000	-43,000	-74,000
Secretary of the Senate	1,966,500	1,966,500	1,266,000	-700,500	-700,500
(By transfer)	(7,000,000)			(-7,000,000)	
Sergeant at Arms and Doorkeeper of the Senate	74,894,000	72,234,000	61,347,000	-13,547,000	-10,887,000
Miscellaneous items	7,429,000	7,429,000	6,644,000	-785,000	-785,000
Senators' Official Personnel and Office Expense Account	206,542,000	222,663,000	204,029,000	-2,513,000	-18,634,000
Office of Senate Fair Employment Practices	889,000	890,000	778,000	-111,000	-112,000
Settlements and Awards Reserve	1,000,000	1,000,000	1,000,000		
Stationery (revolving fund)	13,000	13,000	13,000		
Official Mail Costs					
Expenses	11,000,000	36,300,000	11,000,000		-25,300,000
Total, contingent expenses of the Senate	384,767,500	424,409,500	352,777,000	-31,990,500	-71,632,500
Total, Senate	460,580,500	504,937,000	426,919,000	-33,661,500	-78,018,000
HOUSE OF REPRESENTATIVES 1/					
Payments to Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	267,200			-267,200	
Salaries and Expenses					
House Leadership Offices					
Office of the Speaker	1,444,000	1,600,000	1,478,000	+34,000	-122,000
Office of the Majority Floor Leader	1,220,764	1,114,000	1,470,000	+249,236	+356,000
Office of the Minority Floor Leader	1,445,413	1,525,000	1,480,000	+34,587	-45,000

1/ Enacted and request reflect current organization of House funding.

FY 1996 LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2492)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Office of the Majority Whip	1,121,649	1,357,000	928,000	-193,649	-429,000
Office of the Minority Whip	897,000	946,000	918,000	+21,000	-28,000
Speaker's Office for Legislative Floor Activity	277,000	376,000	376,000	+99,000	....
House Republican Conference	1,506,587	1,628,000	1,083,000	-423,587	-545,000
House Republican Steering Committee	200,000	205,000	664,000	+464,000	+459,000
Nine minority employees	1,024,000	1,144,000	1,127,000	+103,000	-17,000
House Democratic Steering and Policy Committee	1,153,587	1,226,000	1,181,000	+27,413	-45,000
House Democratic Caucus	553,000	607,000	566,000	+13,000	-41,000
Subtotal, House Leadership Offices	10,843,000	11,728,000	11,271,000	+428,000	-457,000
Members' Representational Allowances					
Expenses	351,217,000	389,100,000	360,503,000	+9,286,000	-28,597,000
Committee Employees					
Standing Committees, Special and Select (except Appropriations)	112,805,000	125,749,000	78,629,000	-34,176,000	-47,120,000
Committee on Appropriations (including studies and investigations)	22,531,000	23,044,000	16,945,000	-5,586,000	-6,099,000
Subtotal, Committee employees	135,336,000	148,793,000	95,574,000	-39,762,000	-53,219,000
Salaries, Officers and Employees					
Office of the Clerk	15,270,000	16,811,000	13,807,000	-1,463,000	-3,004,000
Office of the Sergeant at Arms	2,736,000	3,049,000	3,410,000	+674,000	+361,000
Office of the Chief Administrative Officer	69,725,000	65,132,000	53,556,000	-16,169,000	-11,576,000
Office of Inspector General	295,000	7,125,000	3,954,000	+3,659,000	-3,171,000
Office of Compliance	....	2,130,000	858,000	+858,000	-1,272,000
Transfer to Joint Items, Office of Compliance	....	....	(-500,000)	(-500,000)	(-500,000)
Office of the Chaplain	124,000	128,000	126,000	+2,000	-2,000
Office of the Parliamentarian	983,000	1,240,000	1,180,000	+197,000	-60,000
Office of the Parliamentarian	(669,000)	(835,000)	(775,000)	(+106,000)	(-60,000)
Compilation of precedents of the House of Representatives	(314,000)	(405,000)	(405,000)	(+91,000)	....
Office of the Law Revision Counsel of the House	1,630,000	1,870,000	1,700,000	+70,000	-170,000
Office of the Legislative Counsel of the House	4,400,000	4,592,000	4,524,000	+124,000	-68,000
Other authorized employees	504,000	675,000	618,000	+114,000	-57,000
Former Speakers' staff	(290,000)	(447,000)	(447,000)	(+157,000)	....
Technical assistant, Office of the Attending Physician	(161,000)	(171,000)	(171,000)	(+10,000)	....
Drivers	(53,000)	(57,000)	....	(-53,000)	(-57,000)
Subtotal, Salaries, Officers and Employees	95,667,000	102,752,000	83,733,000	-11,934,000	-19,019,000
Allowances and Expenses					
Supplies, materials, administrative costs and Federal tort claims	3,453,000	2,695,000	1,213,000	-2,240,000	-1,482,000
Official mail (committees, leadership, administrative and legislative offices)	....	....	1,000,000	+1,000,000	+1,000,000
Reemployed annuitants reimbursements	1,279,000	2,451,000	68,000	-1,211,000	-2,383,000
Government contributions	129,895,000	138,698,000	117,541,000	-12,354,000	-21,157,000
Miscellaneous items	778,000	778,000	658,000	-120,000	-120,000
Subtotal, Allowances and expenses	135,405,000	144,622,000	120,480,000	-14,925,000	-24,142,000
Total, salaries and expenses	728,468,000	796,995,000	671,561,000	-56,907,000	-125,434,000
Total, House of Representatives	728,735,200	796,995,000	671,561,000	-57,174,200	-125,434,000
JOINT ITEMS					
Joint Economic Committee	4,090,000	4,265,000	3,000,000	-1,090,000	-1,265,000
Joint Committee on Printing	1,370,000	1,414,000	750,000	-620,000	-664,000
Joint Committee on Taxation	6,019,000	6,460,000	5,116,000	-903,000	-1,344,000
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	1,335,000	1,260,000	1,260,000	-75,000	....
Capitol Police Board					
Capitol Police					
Salaries:					
Sergeant at Arms of the House of Representatives	33,463,000	34,643,000	34,213,000	+750,000	-430,000
Sergeant at Arms and Doorkeeper of the Senate	35,919,000	37,381,000	35,919,000	....	-1,462,000
Subtotal, salaries	69,382,000	72,024,000	70,132,000	+750,000	-1,892,000
General expenses	2,000,000	2,190,000	2,560,000	+560,000	+370,000
Subtotal, Capitol Police	71,382,000	74,214,000	72,692,000	+1,310,000	-1,522,000
Capitol Guide and Special Services Office	1,991,000	2,093,000	1,991,000	....	-102,000
Statements of Appropriations	....	....	30,000	+30,000	+30,000
Office of Compliance	....	....	2,000,000	+2,000,000	+2,000,000
Transfer from House of Representatives, Office of Compliance	....	....	(500,000)	(+500,000)	(+500,000)
Total, Joint items	86,187,000	89,706,000	86,839,000	+652,000	-2,867,000

FY 1996 LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2492)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	21,970,000	23,195,000	3,615,000	-18,355,000	-19,580,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	23,188,000	25,788,000	24,288,000	+1,100,000	-1,500,000
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol					
Salaries	9,103,000	9,823,000	8,569,000	-534,000	-1,254,000
Travel (limitation on official travel expenses)	(20,000)	(20,000)	(20,000)	....	....
Contingent expenses	100,000	100,000	100,000	....	....
Subtotal, Office of the Architect of the Capitol	9,203,000	9,923,000	8,669,000	-534,000	-1,254,000
Capitol Buildings and Grounds					
Capitol buildings	22,797,000	28,085,000	22,882,000	+85,000	-5,203,000
Sec. 310 (purchasing x-ray & metal detectors)	(2,015,000)	....	....	(-2,015,000)	....
Capitol grounds	5,270,000	6,084,000	5,143,000	-127,000	-941,000
Senate office buildings	47,619,000	52,537,000	41,757,000	-5,862,000	-10,780,000
House office buildings	41,364,000	46,054,000	33,001,000	-8,363,000	-13,053,000
Capitol Power Plant	36,637,000	41,062,000	35,518,000	-1,119,000	-5,544,000
Offsetting collections	-3,200,000	-3,200,000	-4,000,000	-800,000	-800,000
Net subtotal, Capitol Power Plant	33,437,000	37,862,000	31,518,000	-1,919,000	-6,344,000
Subtotal, Capitol buildings and grounds	150,487,000	170,622,000	134,301,000	-16,186,000	-36,321,000
Total, Architect of the Capitol	159,690,000	180,545,000	142,970,000	-16,720,000	-37,575,000
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	60,084,000	65,913,000	60,084,000	....	-5,829,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	89,724,000	91,624,000	83,770,000	-5,954,000	-7,854,000
Total, title I, Congressional Operations	1,630,158,700	1,778,703,000	1,500,046,000	-130,112,700	-278,657,000
TITLE II - OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	3,230,000	10,370,000	3,053,000	-177,000	-7,317,000
(By transfer)	(4,000,000)	....	....	(-4,000,000)	....
Subtotal	3,230,000	10,370,000	3,053,000	-177,000	-7,317,000
LIBRARY OF CONGRESS					
Salaries and expenses	210,164,000	231,580,000	211,664,000	+1,500,000	-19,916,000
Authority to spend receipts	-7,869,000	-7,869,000	-7,869,000	....	....
Net subtotal, Salaries and expenses	202,295,000	223,711,000	203,795,000	+1,500,000	-19,916,000
Copyright Office, salaries and expenses	27,456,000	32,983,000	30,818,000	+3,362,000	-2,165,000
Authority to spend receipts	-17,411,000	-19,877,000	-19,830,000	-2,419,000	+47,000
Net subtotal, Copyright Office	10,045,000	13,106,000	10,988,000	+943,000	-2,118,000
Books for the blind and physically handicapped, salaries and expenses	44,951,000	47,583,000	44,951,000	....	-2,632,000
Furniture and furnishings	5,825,000	5,825,000	4,882,000	-943,000	-943,000
Total, Library of Congress (except CRS)	263,116,000	290,225,000	264,616,000	+1,500,000	-25,609,000
ARCHITECT OF THE CAPITOL					
Library Buildings and Grounds					
Structural and mechanical care	12,483,000	19,929,000	12,428,000	-55,000	-7,501,000
GOVERNMENT PRINTING OFFICE					
Office of Superintendent of Documents					
Salaries and expenses	32,207,000	30,307,000	30,307,000	-1,900,000	....
Revolving fund	....	15,420,000	....	....	-15,420,000
Subtotal, Office of Superintendent of Documents	32,207,000	45,727,000	30,307,000	-1,900,000	-15,420,000

FY 1996 LEGISLATIVE BRANCH APPROPRIATIONS BILL (H.R. 2492)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	450,360,000	481,060,000	382,806,000	-67,554,000	-98,254,000
Offsetting collections	-7,000,000	-8,400,000	-8,400,000	-1,400,000	
Subtotal	443,360,000	472,660,000	374,406,000	-68,954,000	-98,254,000
GAO use of collections (formerly receipts)	6,000,000			-6,000,000	
Total, General Accounting Office	449,360,000	472,660,000	374,406,000	-74,954,000	-98,254,000
Total, title II, Other agencies	760,396,000	838,911,000	684,810,000	-75,586,000	-154,101,000
Grand total	2,390,554,700	2,617,614,000	2,184,856,000	-205,698,700	-432,758,000
TITLE I - CONGRESSIONAL OPERATIONS					
Senate	460,580,500	504,937,000	426,919,000	-33,661,500	-78,018,000
House of Representatives	728,735,200	796,995,000	671,561,000	-57,174,200	-125,434,000
Joint Items	86,187,000	89,706,000	86,839,000	+652,000	-2,867,000
Office of Technology Assessment	21,970,000	23,195,000	3,615,000	-18,355,000	-19,580,000
Congressional Budget Office	23,188,000	25,788,000	24,288,000	+1,100,000	-1,500,000
Architect of the Capitol	159,690,000	180,545,000	142,970,000	-16,720,000	-37,575,000
Library of Congress: Congressional Research Service	60,084,000	65,913,000	60,084,000		-5,829,000
Congressional printing and binding, Government Printing Office	89,724,000	91,624,000	83,770,000	-5,954,000	-7,854,000
Total, title I, Congressional operations	1,630,158,700	1,778,703,000	1,500,046,000	-130,112,700	-278,657,000
TITLE II - OTHER AGENCIES					
Botanic Garden	3,230,000	10,370,000	3,053,000	-177,000	-7,317,000
Library of Congress (except CRS)	263,116,000	290,225,000	264,616,000	+1,500,000	-25,609,000
Architect of the Capitol (Library buildings and grounds)	12,483,000	19,929,000	12,428,000	-55,000	-7,501,000
Government Printing Office (except congressional printing and binding)	32,207,000	45,727,000	30,307,000	-1,900,000	-15,420,000
General Accounting Office	449,360,000	472,660,000	374,406,000	-74,954,000	-98,254,000
Total, title II, Other agencies	760,396,000	838,911,000	684,810,000	-75,586,000	-154,101,000
Grand total	2,390,554,700	2,617,614,000	2,184,856,000	-205,698,700	-432,758,000
Scorekeeping adjustments	52,448,000	92,300,000	32,755,277	-19,692,723	-59,544,723
Total mandatory and discretionary	2,443,002,700	2,709,914,000	2,217,611,277	-225,391,423	-492,302,723
Mandatory	92,217,200	92,300,000	92,300,000	+82,800	
Discretionary	2,350,785,500	2,617,614,000	2,125,311,277	-225,474,223	-492,302,723

Mr. Speaker, I reserve the balance of my time.

Mr. FAZIO. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. MORAN], a former member of this subcommittee.

Mr. MORAN. Mr. Speaker, I thank the gentleman from California [Mr. FAZIO], my friend and the ranking Democrat on this subcommittee, for whom I was very proud to serve when he was chairman of the subcommittee.

Mr. Speaker, I have some things that I think need to be said and they need to be said to the Members. I am going to ask the Members that are present to listen to this for a few minutes, because I want to talk about people whose jobs and whose lives are completely, exclusively dependent upon the decisions that we make; not that the Senate and not that the President or anyone else makes. These are people whose jobs and lives are completely dependent upon us.

Mr. Speaker, we are holding hearings over in the Government Operations Committee about a handful of people that served at the pleasure of the President and that the President fired who worked in the travel office. But we have ignored how we have treated our own employees, which in many cases is far worse than anything that the President did to people who worked in the travel office.

One of the first acts that this Congress did was to issue pink slips to all of the nonpartisan employees who work here. These are not people with a legislative or a political agenda. These are the people that deliver our mail and who clean our offices. These are the people who have dedicated their lives to making this great institution and all that it is today.

Mr. Speaker, we have inherited this legacy that they have very carefully and conscientiously established and provided a continuity for the greatness of this institution. They are aware of it; I am not sure how well we are aware of it.

Mr. Speaker, 2 weeks before Christmas, we told these nonpartisan employees that we would not need their services anymore. Since then, the leadership has worked hard to fire as many people as possible.

Mr. Speaker, when this new Congress took over, they hired three dozen people whose principal purpose was to fire as many of our nonpartisan employees as possible, and this bill continues this trend.

The first thing this bill does is to privatize everything it can. And privatization may sound good, Mr. Speaker, but not when it is taken to this extreme. When this bill first came before us, I pointed out how ludicrous it was to privatize the flag office. It was simple to make the flag office self-funding, and thankfully the Senate fixed that part of the bill. Our constituents can still have a flag flown over the Capitol and it does not cost the taxpayers one dime, and it is a great service and one that they appreciate, oftentimes more than we appreciate it.

Unfortunately, there are many parts of this bill that were not looked at so rationally. First, there is the folding room. The folding room was established because all 435 of our offices need help with their mail. We placed impossible deadlines on these people, and they would often work 12-hour shifts without overtime. Think about that, to serve our needs they worked 12-hour shifts without getting overtime.

Mr. Speaker, we asked them to work in the bowels of our office buildings. No windows, no frills. Ninety percent of these people who served us are minorities and, boy, they worked hard and were dedicated to their job.

Now, we fire them. We eliminated it. And what we have done is to place two big photos and I am sure all of my colleagues have seen it. Apparently, it points up the difference between modernization and the way that things used to be done. It is a before-and-after shot. It shows how nice the office is now. How nice and clean and it is all organized. The before shot shows how messy it was when all these working class people were working every day for our benefit.

Mr. Speaker, the trend continues. The people that work the night shift to clean our offices and enable us to take for granted that the office is going to be clean when we come in the morning, the people that deliver all the mail without fail conscientiously, they all fear the same thing will happen to them and they will.

Mr. Speaker, they are all working people with families. They want to be able to plan for their future, yet their supervisors cannot tell them today if they will have a job next week or if they will be out on the street without health insurance. And even if they are lucky enough to stay on after we privatize them, they will lose their benefits that they have today. They will be given an hourly wage and that is it.

These dedicated employees will be told that we no longer can afford to care if their child is sick or if they have a preexisting medical condition. They are going to be on their own, after spending their lives serving us.

Mr. Speaker, in just another minute I want to tell my colleagues some specifics about what these lives are like. It is important to anybody that is listening to this to focus on it for just a minute.

Mary Ann Wise started off working for our institution as a teenager right after high school. She worked hard. She was promoted. After more than 20 years of dedicated service, she was finally promoted to the chief of office systems management, because no one else in this institution better understood office systems management.

I do not know if she is a Republican or Democrat. I do not know. I do not think she knows either, but I know she did her job very well. As a reward, my colleagues, we fired her. We just fired her.

Mike Heny's story is much the same. Mike began working here as a junior accountant. He worked hard and a few years ago the Clerk promoted him to chief of finance. Nonpartisan, just doing his job day in and day out. We fired him, too.

John Kostelnick was in charge of property. Things like the desks and the file cabinets in our offices. I want you to listen to this, please. The leadership gave him a quota. They gave John a quota. They told him to put together a list of people to fire. The leadership did not care how good a job his employees did. They just wanted to fire them. Mr. Speaker, John Kostelnick took the high road and he refused, so he had to resign.

For several years now, the voters have been frustrated with the Congress. I would suggest to my colleagues that it is not right that we take this frustration out on the people who have served this institution for most of their adult lives.

I do not think that frustration carries over to those people. People still want to come up and see the Capitol. They want it to be clean and they want it to be well-maintained. They want their Congressperson's office to be well-served, well-outfitted. These are the people that enabled us to be proud of the office that we work in and the institution that we are a part of.

Mr. Speaker, this is the greatest legislative body in the world. It takes more than politicians to make this institution the great symbol of democracy that it is. It takes the dedication and the hard work of ordinary, nonpartisan people. People with families, with working-class incomes, and with a lot of responsibility that they take very seriously for this institution.

Mr. Speaker, we ought not forget what they do for us, what they have done for us throughout their lives, or what they do for our constituents.

Mr. Speaker, I oppose this bill today.

Mr. FAZIO of California. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, the reason that I would like to follow up on the remarks of the gentleman from Virginia [Mr. MORAN] is that many of my colleagues here may live closer. They may not have the same situation that I do, where my constituents have a 6-hour time difference.

Mr. Speaker, I am here in the evenings that the gentleman from Virginia is referring to when the people are at work in these buildings. Some of my colleagues may be out of here.

Maybe they are at the receptions. Maybe they are out with their lobbyist friends. I do not know.

But, Mr. Speaker, I spend a good deal of my time here. I just want to point out before, my Republican colleagues take revenge on us, if they think they are taking revenge on us as politicians when they are firing people who have given their loyalty to this institution, there is a veritable army of people working here all night. They are here all night working. I ask my Republican colleagues, please, do not take out the revenge that they want to have on the Congress or on politicians by firing working people who do their jobs; who have been nothing but loyal to this institution; who are here every night; who do the job every day, the working people that keep the institution going.

Mr. PACKARD. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we are as sensitive and concerned about the employees of the House and of the agencies of government as anyone. We have got a mandate to downsize government. Every agency of government is being asked to downsize. We cannot downsize government if we do not downsize the number of employees of government.

That is what we are trying to do. We are trying to do it in a sensitive, fair way.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER], a man who supported the bill last time.

□ 1215

Mr. ROEMER. I thank the gentleman from California for yielding me the time.

Mr. Speaker, I took office here in the U.S. Congress in 1991. I have not voted for a legislative appropriations bill until this one. I rise in support, in bipartisan support, with common sense toward supporting this bill, Mr. Speaker.

I think this is a good bill for a number of reasons. There are cuts in this bill, but we can spread the cuts in a fair manner. There are cuts to congressional mail accounts, up to 33 percent of our frank mail account. I believe that that is fair. I think Congress should take the first step in helping us balance the budget.

There are ways by which we can privatize here and some other agencies on the Hill, here in the Washington, DC, area. I think we should be taking those steps as well.

In a bill that I have worked on since I came to Congress in 1991, where I had about 120 Democrats and Republicans cosponsor my legislation, we passed this year, with the support of the gentleman from New Jersey [Mr. ZIMMER], and that was to encourage Members of Congress to save money in their accounts. When we do that, that money can be returned directly to the U.S. Treasury to help reduce the deficit.

I think these are measures we are supporting. I think it is high time that the U.S. Congress does take the first steps toward helping to balance the budget with fair, reasonable, commonsense cuts up here on the Hill.

I support the gentleman's bill in a bipartisan way.

Mr. FAZIO of California. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from California for yielding me the time.

Mr. Speaker, I know it is overwhelmingly politically popular today to talk about downsizing Government and cutting our own employees. I have supported some of the downsizing efforts, including in the legislative branch; and those downsizing efforts have been going on for the past several Congresses, not just in this one. But today I want to talk about something different.

Back in 1992, Montana went from two Members of Congress down to one, me. I am honored to hold that seat.

My colleagues, my staff is not paid enough. My staff is overworked, my staff is overburdened and there are not enough of them; and it is past time that people in a similar situation to mine stand on this floor and say that.

My staff works 9 to 12 hours a day trying to keep up with a quarter of a million more constituents than has the average Member of Congress. A lot of my staff do what I do. They work weekends. My average salary in the staff is $26,000. In this, one of the highest cost-of-living cities in America, it is not right. It is not fair. They are underpaid, and they are overworked. Like me, they are doing their best to serve Montanans; and they are finding it very difficult because we keep cutting them.

I went from representing 450,000 people to now representing 860,000 people, and my postage account has been cut 40 percent from what it was when I represented half as many people as I do today. It is simply not fair to Montanans.

By the way, this is not just true of my office. All Members who look closely at their staff will find that they are underpaid, that there is great tension, and that there are long hours; and it is not fair.

By the way, it is becoming true not just in our offices but throughout America. Today, an announcement will be made by the Federal Government about the condition of wages, salaries, and benefits of the American worker. The increases in wages, salaries, and benefits last year, the year just concluded, the fiscal year, for the American worker, the increases have never been less since America has been keeping records than they are this year.

Inflation, as low as it is, less than 3 percent, has outstripped wages, salaries, and benefits combined. This cheapening down of the American work force is lowering the standard of living for the American people, and it is just simply wrong.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first comment on the comments of my colleague from Montana. It may well be that the Committee on House Oversight should consider the problem of those few States where the reapportionment brings about an anomaly where one or two or three States perhaps may have populations and one single representative that far exceed the average. It may be that we need to take a tip from the Senate, which does apportion staff related to population, and see how we might accommodate the concerns of the gentleman.

I would be happy to yield to him at this time if he would want to respond.

Mr. WILLIAMS. I appreciate the generosity of the gentleman in following up my remarks with the indication that perhaps the committee should take a close look at it.

I know that my colleagues on the other side also have Members who represent a good many more people than the average Member of Congress. I would like to yield to the Chairman to see if he could address this anomaly.

Mr. PACKARD. Mr. Speaker, there is no question that some States are more difficult to administer and to represent. Certainly Alaska is one of them, where they have to have more local congressional offices. The distance, the travel, the ability to service that size of State is a lot different than it is in my district or in many of the districts of the Congress. We are looking at that. I think it is a function of the oversight committee more than it is of the Appropriations Subcommittee, but we think that it must be addressed. We have made a commitment to ourselves to look at this in the coming year so that we can better address the needs of each individual district. But we are still in the mode of downsizing and that means we have to also participate in that process.

Mr. WILLIAMS. I thank the chairman and the ranking member for their comments.

Mr. FAZIO of California. Mr. Speaker, concluding on this point, I may just point out that in many cases during a decade, I think the district of the gentleman from California [Mr. PACKARD] and mine were both typical of this, our population would almost double just given normal growth rates in certain States. As a result, problems occur in that regard as well.

Mr. PACKARD. If the gentleman will yield further, a few years ago. I had the largest district in population in the Congress, well over 1 million. Now I am down to 500,000. Of course the gentleman from Montana [Mr. WILLIAMS] has just the opposite. He represented a 500,000 population or less district and now he has moved up because of reapportionment. These are often problems that are difficult to solve on a permanent basis because circumstances change.

Mr. WILLIAMS. If the gentleman would continue to yield, an important point that I think we are all addressing is this: We are not talking about these funds for ourselves. We are talking about them because they will better serve our constituencies. When you represent close to 900,000 people and take a 40 percent cut in postage and a cut in travel and a cut in personal office expenses, you cannot properly serve your constituents. That is what it is about.

Mr. FAZIO of California. Mr. Speaker, reclaiming my time, I believe we could consider both the population shifts and the differing geography of larger States when we take up the budget in the formal course of events in the House Oversight Committee and I certainly will bring it to the attention of the gentleman from California [Mr. THOMAS]. Those who may wish to introduce a rule change or legislation should do so and we could use that as the basis upon which we should deliberate.

Mr. Speaker, I reserve the balance of my time.

Mr. PACKARD. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. I thank the gentleman from California for yielding me the time.

Mr. Speaker, I had not planned to insert my oars into these waters until I heard the gentleman from Montana speaking. I want to get in on this.

Sure, we work on weekends. We work hard. And many of our people are underpaid. But, Mr. Speaker, that problem exists from boundary to boundary, from border to border, from blue sea to blue sea.

I know many people in my district, and I am sure you all do, too, Republican and Democrat alike, they go to work early in the morning, and they go back home late of a night, as my grandma used to say, 12, 14 hours a day.

I do not want anyone listening to our dialog today to believe that we in the Congress have a corner on the market of hard work, or have a corner on the market of working on weekends. We do work hard, and we work harder than most people realize. But so do the people we represent, Mr. Speaker. That is the point I want to drive home and drive it home firmly.

I am afraid that many of us in this body, guilty by association if for no other reason, but this Congress, my friends of the House, has conducted business for the past several years in a reckless, imprudent manner. We have collected $5 million on the one hand, spent $10 million on the other, and then we incredulously wonder why we have problems fiscally and otherwise. It must be corrected. To correct it, I will admit, Mr. Speaker, will impose some pain. But the fiddler must be paid and we have been too lavish and too irresponsible in days gone by. The time to pay that fiddler, I fear, has come now, and we are going to have to do it and we are going to have to recognize others out there share our concern.

Mr. PACKARD. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. RIGGS], a member of the committee.

Mr. RIGGS. Mr. Speaker, I thank the gentleman, the distinguished subcommittee chairman, for yielding me the time. I simply wanted to alert him, the distinguished ranking member, and my other colleagues, that at the appropriate time I intend to push for full disclosure of the names of Members of Congress, past and present, as well as House officers, who may have violated House rules or the laws of the United States of America as revealed during the course of the ongoing audit of congressional finances.

As the distinguished subcommittee chairman knows as well as the ranking member, we are now in a second phase of that audit which commenced really at the beginning of this Congress and is being conducted by the House inspector general, John Lainhart, in conjunction with the Price Waterhouse accounting firm. That second phase is designed to report to the House, specifically the House Oversight and Ethics Committees, again the names of those abusers and suspected wrongdoers.

But at this juncture, I would like to ask the subcommittee chairman and the distinguished ranking member to make certain, as I am sure they are, but to make certain that they are aware of some of the irregularities and management problems that have been exposed during the course of that audit and to receive their assurance that they are in fact taking steps to rectify these problems. Specifically the Price Waterhouse audit report listed millions of dollars in waste, fraud and abuse. I am quoting from a Washington Times article last week, October 23, entitled Audit of the House May Lead to Prosecutions.

The audit found that Members of Congress overspent their allowances by $14 million in fiscal 1994 but covered the excess by reprogramming money from other accounts. Five unnamed lawmakers were singled out for excessive overspending for employee salaries, office expenses and franked mail. Further, lawmakers violated payroll deadline rules by writing 3,400 supplemental paychecks worth $1.8 million for selected House aides. Another 700 retroactive salary increases worth $530,000 were made after pay periods ended.

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Five million dollars was wasted by the House Information Systems, HIS, to develop an upgraded House financial management system which the auditors and Inspector General Lainhart now say was unsuitable for the House purposes and ineffective, and now which will effectively be junked at a cost of $5 million.

The auditors went on to find $900,000 worth of questionable travel reimbursement, where receipts were not provided or other violations of expense rules occurred.

Last, the auditors found 2,200 possibly duplicative travel payments to lawmakers and House aides, 43 cases were double reimbursements were made but no funds returned, resulting in losses of about $10,000.

So I call the distinguished subcommittee chairman's attention to these abuses, ask him what steps he will be taking.

Mr. PACKARD. If the gentleman will yield, we are aware of the audit. It is an ongoing audit. It has revealed some very interesting and important things for us to take action on. I think the Committee on House Oversight has much more to do with this than the Subcommittee on Appropriations. However, we did appoint, this year our leadership appointed, a House administrative officer. Part of his role is to oversee this activity and make certain the situation is being corrected. Plus over our rules have been improved so this is not happening now, even though it has happened in the past.

Much of the abuse is being corrected through additional rules, and even steps we have taken in our bill.

Mr. RIGGS. Reclaiming my time, I say I appreciate the subcommittee chairman's recognition of these grave irregularities, and I hope he and the ranking member and others will join with me in my effort to require full disclosure.

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Let me assure my colleague, the gentleman from California [Mr. RIGGS], the gentleman from California [Mr. THOMAS] that my office is working diligently on a regular basis to provide oversight to the auditor general and to Price Waterhouse in the conduct of the second phase of the work that they had embarked on. The period of the audit, of course, was during the period when we had a nonlegislative services director responsible for the administration of the House, part of the reforms we had engaged in in the last Congress.

But I think most importantly I can report that the Washington Times article was really a rehash of what had been in the first series of articles when we brought the raw data to the attention of our colleagues. Subsequently in the further work that Price

Waterhouse has done under Mr. Lainhart's direction, many of the very real concerns that we all shared have been dealt with to the increasing confidence, I think it would be fair to say, of the gentleman from California [Mr. THOMAS] and myself.

Problems that were more systematic than individual have been identified largely, and while it is not possible for me to comment in any detail now, I certainly look forward to the completion of the second phase so that we can then assure our colleagues, first, of the degree to which there were problems; second, of the steps that we are going to take to help resolve them, and those are mostly systematic changes; and third, that the individuals who remain culpable, who remain, we believe, responsible for some of their actions, who perhaps will need to be dealt with in the Committee on Standards of Official Conduct, will be properly handled.

There will be no effort on the part of anyone on either side of the aisle to cover up or in any way deny the public the information that is appropriate where we determine, where the auditor general determines, that there have been miscues or malfeasance. There is going to be, I think, however, a great deal of relief on the part of my colleagues and both sides of the aisle, once again, because we will determine, I think, quite properly that the degree to which this sounded like a major scandal in the offering has been vastly overstated.

I am rather optimistic that there will be few individuals who are called before the Committee on Standards of Official Conduct. But I do think it is an important study of this institution, one that we agreed to do, not just at the beginning of this Congress but in the last Congress when we created the office of auditor itself, and I am looking forward to the improvements that this institution, again in a bipartisan manner, can engage in because it is the only way we can learn from the problems of the past.

Mr. RIGGS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. RIGGS. I would like to just engage the gentleman in a brief colloquy, because I find one of the more egregious abuses identified in the audit report to be the $5 million, give or take, that was spent attempting to create a management information service, of the House Information Systems [HIS], and I am particularly disturbed by the comment attributed to one of our colleagues, the gentleman from North Carolina [Mr. ROSE], in the Washington Times article when he is quoted as saying, "Ours was not to reason why. Ours was to get the job done."

But I want to find out, because I genuinely do not know. Apparently the gentleman from North Carolina [Mr. ROSE] is quoted as saying the House Finance Office was a separate entity, and it directed the computer upgrade as a customer of House Information Systems.

I would like to know exactly where responsibility for making that decision, the House Finance Office does not mean anything to me, where does responsibility lie in making the decision to spend $5 million on a management information system that was apparently not suited to our needs?

Mr. ROSE. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from North Carolina.

Mr. ROSE. Mr. Speaker, have you ever heard of Gen. Len Wishart? General Wishart was appointed as the bipartisan administrator of the nonlegislative services of the House. Mr. Michel, you have heard of him, Bob Michel, picked him with Foley. The first thing we assigned to General Wishart was the Finance Office.

The audit that you are talking about covers only the period of time when General Wishart, the bipartisan administrator of nonlegislative services, was in charge of the Finance Office. You all have somehow forgotten that in your rewrite of history.

General Wishart made the decision that the Finance Office should proceed with the development of a new financial management system alongside the one that was already in place. You do not go out and buy pocket Quicken like you guys are talking about doing now to run the finances of this place, you understand. He spent $5 million developing the system. You boys take over and throw it in the street.

Now, I have about had it with using a story about an audit report during a period when your man was in charge of the running of the Finance Office and most of the Clerk's Office.

Mr. FAZIO of California. Mr. Speaker, at this point I would like to conclude my remarks on the purpose we are here for today, and that is the enactment of this legislation.

First of all, let me say that it is a rather unprecedented occurrence that we are participating in. In my view, the President's veto was inappropriate, not because I do not share concerns with some of my colleagues about the final conference report that we adopted on this legislation. As the gentleman from California [Mr. PACKARD] knows, while I did support his bill on passage in the House, I was disappointed at the elimination of OTA and the reductions in the GAO's budget and, therefore, voted against the conference report. But I could not, and did not, counsel the President to veto the legislative branch bill.

In my view, comity between the two branches of government is exceedingly important, and it ought never to be the propensity of the executive branch to in any sense try to affect the legislative branch budget, whether it be on introduction, as part of the unified budget, or whether it be at the point where we adopt what is in the best interests of both parties and both Houses and send the product on to the President for his signature. I must add parenthetically that it is equally inappropriate to micromanage the budget of the executive office of the President.

Let me simply say I regret the President's action. On the other hand, I must say I wish we had not set it up for him quite so dramatically by sending him only 2 of the 13 regular appropriation bills prior to the beginning of the fiscal year and followed it up in the last month or so with only 1 more, the ag appropriations bill.

We will, I believe, end up with 8 or 9 of the legislative budget products of the Congress, the appropriations bills, signed into law. I hope we will not have a difficult time with a second CR. Hopefully we will sometime be able to agree on all 13 of them and have our budget in place, and when we send this bill down as part of a package, I hope it will be signed, even though I may personally disagree with some of the decisions we have made in this conference report.

I want to congratulate the gentleman from California [Mr. PACKARD] for a very difficult task well done. This bill is never easy for anyone, and as I have said several times, I simply wanted to be as good a ranking member for the gentleman from California [Mr. PACKARD] as the gentleman from California [Mr. LEWIS] and the gentleman from Florida [Mr. YOUNG] were for me during the years I chaired this committee.

But there are problems that need to be addressed, and I hope we will continue to address them both in the Committee on House Oversight and in the appropriations bill for the next fiscal year, as relates to a number of activities that we are engaged in here in the House of Representatives.

Mr. Speaker, at this point I will place the remainder of my remarks in the RECORD.

Mr. Speaker, the legislative situation for this bill—the legislative branch appropriations bill for fiscal year 1996—has changed considerably since we passed the conference report on September 6.

A veto by the President was an unprecedented occurrence during my tenure in Congress.

So we are blazing new trails here in considering this bill for a second time.

President Clinton said he'd veto the bill for congressional operations if we sent it to him as one of the first appropriations bills. We did—and he did.

It is not advice I gave him. As the Members of the House know, vetoing the legislative branch bill was a historic first. It was never done during my 14-year tenure as chairman of this appropriations subcommittee.

I'm troubled that the time-honored tradition that Congress governs its own affairs without interference from the Executive has been breached.

I believe there is also a solid separation of powers argument against the President's veto as well.

But Congress also has a responsibility to make progress on appropriations bills.

The President is likely to sign most of the 13 regular appropriations bills.

But the President received only 2 of our regular 13 appropriations bills prior to the beginning of the fiscal year on October 1.

The Agriculture appropriations bill is the only appropriations bill we have sent to the President since September 26—over 4 weeks.

By not getting our work on the appropriations bills done, we've left ourselves vulnerable to the President's argument that we shouldn't be taking care of ourselves first.

So I'm pleased to see the ambitious House schedule for consideration of appropriations bills this week, and I hope we can show the President that we will do the people's business as well as our own.

I understand that H.R. 2492—with the exception of several technical corrections—is identical to the provisions of the House- and Senate-passed conference report for H.R. 1854, the bill vetoed by the President.

I signed the conference report on H.R. 1854 as a courtesy to Chairman PACKARD. RON PACKARD has done a good job under difficult circumstances during his maiden voyage as chairman.

But I opposed the conference report on the House floor for two major reasons: the elimination of the Office of Technology Assessment—which the House had voted to continue—and the cuts to the General Accounting Office of greater than 15 percent, far greater than the reductions in the House-passed bill.

I intend to oppose H.R. 2492 today because these provisions remain the same. I am also disappointed because—once more—we have missed a golden opportunity to enact lobby and gift reform.

In other ways, the conference report was an improvement upon the original House-passed bill: $1.1 million was added for the Congressional Budget Office over the House committee recommendation—more important, we added 13 positions at CBO to cope with their new duties relative to analyzing unfunded mandates.

We restored cuts made to personnel at the Government Printing Office—we brought FTE's to 3,800, an additional 250 over the House level.

We restored funds for the depository library program. It's a good idea to move into the electronic age but the House bill attempted to force everyone to do it overnight.

We restored the Joint Committee on Printing. The Joint Committee has been an efficient method of overseeing printing operations; a divided operation between the House Oversight and Senate Rules Committees would have been a major change with unknown results.

We restored the Folklife Center at the Library and restored funding at the Library of Congress which had been temporarily earmarked for OTA. Neither was a real target for cuts, and the conference demonstrated that by restoring funds to both.

We kept the Flag Office alive; however, the cost of flags will rise to cover the costs of operating the Flag Office.

So there were some improvements to the House version of the bill. However, the shutdown of the Office of Technology Assessment [OTA] was particularly thoughtless. That action has been criticized around the country and in the international community.

But I'm reluctant to open the OTA issue at this late date.

OTA is resigned to their fate. Under the circumstances, the conference committee made generous provisions for OTA's closeout, and as a result, their closeout has been a model of professionalism.

OTA's many specialists have been finalizing reports at breakneck speed and a skeleton staff will be available until early next year to complete reports and provide for orderly close-down and orderly disposition of equipment and records.

OTA's professional closeout is just one more example of the caliber of the agency we are abolishing and the big mistake we are making.

In short, this bill is an improvement upon the original House-passed bill, but I will oppose it for the reasons I've outlined.

Mr. Speaker, I yield back the balance of my time.

Mr. PACKARD. Mr. Speaker, I yield myself such time as I may consume. I will just make a conclusion remark.

I want to take this time to thank the gentleman from California [Mr. FAZIO] for the gentle way in which he operates here. I truly enjoy working with him. All of the members of the subcommittee I have appreciated working with. They have all been very helpful in crafting this bill.

It is a good bill. Three hundred and five Members voted for it last time. I fully expect that more will vote for it this time. It is a good bill. It needs to go to the President and be signed.

If the entire Federal budget followed the model of our bill, we would balance the budget in 1 year and still have a small surplus left over. That is the model we have given to the Members of this body, and we hope that they will accept it as a good model, one that they can support and vote for, and I want to again thank the gentleman from California [Mr. FAZIO] for the privilege of working with him on this issue in this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Pursuant to House Resolution 239, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 7, rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 315, nays 106, not voting 11, as follows:

[Roll No. 747]

YEAS—315

Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bono
Borski
Boucher
Brewster
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sabo
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt

Stark
Stearns
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—106

Abercrombie
Andrews
Becerra
Beilenson
Berman
Bevill
Bonior
Browder
Brown (CA)
Bryant (TX)
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
de la Garza
DeLauro
Dellums
Dicks
Dingell
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Gephardt
Gibbons
Green
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hcyer
Jacobs
Johnson (SD)
Johnston
Kaptur
Kennedy (MA)
Kennelly
Klink
LaFalce
Levin
Lewis (GA)
Lowey
Markey
Martinez
Matsui
McKinney
Meek
Menendez
Minge
Mink
Moran
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Rahall
Rangel
Rose
Roybal-Allard
Rush
Sanders
Sanford
Schroeder
Serrano
Skaggs
Slaughter
Stenholm
Stokes
Studds
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wyden
Yates

NOT VOTING—11

Boehner
Fields (LA)
Mfume
Moakley
Sisisky
Tauzin
Tiahrt
Tucker
Waldholtz
Weldon (PA)
White

□ 1303

Ms. KAPTUR, Mrs. MINK of Hawaii, Mr. BEILENSON, and Mr. CONYERS changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 248 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 248

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 248 waives all points of order against the conference report to accompany H.R. 1905, the Energy and Water Appropriations Act for Fiscal Year 1996 and its consideration.

Mr. Speaker, only 2 of the 13 appropriations bills have been signed into law, and we need to expedite consideration of these measures as they are reported from conference.

Chairman JOHN MYERS and ranking member TOM BEVILL and the rest of the conferees did an excellent job, as always. They worked closely with the authorizing committees, and have brought forth a balanced bill which is $707 million below the fiscal year 1995 level.

I'm particularly pleased that sufficient funds were made available for the Tennessee Valley Authority, which provides important services for the 7-State region which makes up the Tennessee Valley area. These TVA functions would otherwise have to be provided by the Corps of Engineers or some other Federal agency, which would be more costly in my opinion.

Mr. Speaker, this is one of only a few appropriations bills that the President is expected to sign rather than veto, so I urge my colleagues to adopt this rule and pass this conference report without delay.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for yielding the customary one-half hour of debate time to me, and I yield myself such time as I may consume.

Mr. Speaker, we do not oppose this rule. The majority seems now to have accepted as standard practice, rules such as this one waiving all points of order against conference reports for appropriations bills, and against their consideration.

The conferees' resolution of the disagreements in this legislation were made in such a manner that we understand the President is almost certain to sign the bill into law. That is good news for this appropriations bill, at least.

Mr. Speaker, this bill deals with some major environmental, energy and natural resource issues, and many Members are especially concerned about the clear shift in direction that is reflected in the funding priorities in these areas.

For example, the bill makes deep cuts in research and development budgets for solar and other renewable energy sources. Those accounts would be cut by 29 percent from the current level.

These energy sources are essential to helping our Nation reach several very important goals, including reducing the trade deficit, curbing gas emissions and air pollution from energy use, and reducing our Nation's dependence on imported oil—much of which comes from the politically volatile Middle East. The large cut in spending for development of these resources will mean a greatly reduced commitment to achieving these goals, which is troubling, to be frank about it, Mr. Speaker, to many of us.

Meanwhile, funding for Army Corps of Engineers' water projects is reduced by only 6 percent. Not only is that a relatively small cut compared to that provided for renewable energy resources, it is very small compared to the reductions that are being applied this year to many other valuable domestic programs—for example, the one-third reduction in spending that would be applied to the Environmental Protection Agency under the House-passed VA-HUD appropriations bill. If this appropriations bill is viewed in the context of all the other budget decisions the House is making this year, the high priority that the majority has placed on protecting water projects really ought to be questioned.

Mr. Speaker, to repeat, we do not oppose this rule, and we urge our colleagues to approve it so that we may proceed to consideration of the conference report for the energy and water appropriations bill.

Mr. Speaker, I advise my friend and colleague from Tennessee that we have no requests for time on our side and, pending his ending on his side, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Colorado [Mr. MCINNIS], a valuable member of the House Committee on Rules.

Mr. MCINNIS. Mr. Speaker, first of all I appreciate the gentleman from Tennessee Yielding me time.

Mr. Speaker, I rise in support of House Resolution 248, a rule which waives all points of order against the conference report to accompany H.R. 1905, the energy and water development appropriations for fiscal year 1996. I urge my colleagues to support the adoption of this rule, and I want to briefly discuss section 507 of the conference report.

Section 507 provides that "[i]n order to ensure the timely implementation of the Colorado Ute Indian Water Rights Settlement Act of 1988, the Secretary of the Interior is directed to proceed without delay with construction of those facilities in conformance with the final Biological Opinion for the Animas-La Plata project, Colorado and New Mexico, dated October 25, 1991." This language does not seek to waive environmental requirements. However, the conference came to the judgment that this project has already more than satisfied environmental requirements. For example, two separate biological opinions under the Endangered Species Act have been completed. One section 404(r) permit exemption under the Clean Water Act was granted. Furthermore, an environmental impact statement and supplemental draft environmental impact statement under NEPA have occurred, and there are still more reviews currently underway.

This project has been the subject of lengthy environmental consideration, and we are simply saying, Enough is enough. It is time to move forward.

The simple fact is that the construction of the Animas-La Plata project must begin immediately in order to possibly meet the terms of the 1986 settlement agreement between two tribes of native Americans, the United States, and other parties. If the two Ute tribes do not begin receiving water by January 1, 2001, then they have an option until January 1, 2005, to reject water from the Animas-La Plata Project and to institute litigation to obtain direct flow rights to the water with a 100-year-old priority date. That litigation will have a severe economic impact on the rural and urban economies of Colorado and New Mexico, jeopardize the water rights of countless of people throughout the Four Corners region, and cost the U.S. taxpayers millions of dollars. This Congress cannot want to see further litigation and we do not want to break our word to these native Americans. That is why section 507 was included.

Second, a question may arise as to what the conferees meant by the words "timely implementation" and "without delay" is simple. Timely implementation means, right now. That is why they choose the words, "without delay." They could have said, without one year's delay. They could have said, without undue delay. Instead, they chose the unambiguous, without delay. The Secretary should have no trouble interpreting this unambiguous language.

I reiterate that this is primarily an issue of fair dealing with native Americans. Nearly 125 years ago the United States promised these two tribes water to make their reservations a homeland. In 1988 Congress reaffirmed that promise and, in return for this promise, the tribes set aside their most valuable tribal asset—their senior water rights in exchange for the promised project. They in good faith agreed not to seek to take water away from their non-Indian neighbors, but instead to share water with them. Congress now must ensure that the United States lives up to its end of the deal.

The Secretary of Interior has the responsibility under the 1988 legislation to build the Animas-La Plata project. In hearings on the fiscal year 1994 Energy and water development appropriations bill, Secretary Babbitt stated: "I understand that Congress has mandated that this project get going, and I will comply with that mandate."

The Secretary now has yet another mandate from the Congress. Section 507 provides him with the necessary tools to move forward and build this project in accordance with obvious congressional intent. I urge Secretary Babbitt to move forward and build the Animas-La Plata project immediately so that the United States may preserve the integrity of the water rights settlement.

I urge my colleagues to support the adoption of this rule.

Mr. Speaker, I include for the RECORD the following:

A-LP FOES ARE ALL WET

It's been suggested in some quarters of late that supporters of the Animas-La Plata water project near Durango are trying to slip something past the public and the Congress.

What hogwash.

In reality, the efforts under way this month are aimed at keeping on track a project that was long-ago approved—and has subsequently been re-approved—by Congress, by the states of Colorado and New Mexico, by voters in the local water district and by two Ute Indian tribes.

Environmental groups, led by the Sierra Club Legal Defense Fund, continue to work behind the scenes and in court to halt a project that has been legitimately approved by both houses of Congress and signed into law as a treaty obligation to Colorado's long-suffering native Indian tribes.

The current debate, like much that has surrounded the Animas-La Plata since it was authorized by Congress in 1968, is filled with misinformation and half-truths.

For example, one Front Range newspaper said that before Congress approves the project it must be certain that it isn't adding to the list of broken promises to the Indians.

There are several things wrong with that. First is the fact that Congress has already approved the project, initially when it was authorized in 1968; later, through annual appropriations bills; and most importantly, when it adopted the 1988 Indian Water Rights Settlement Act.

Secondly, the 1988 act wasn't approved only by Congress, but by the states of Colorado and New Mexico, and by the Ute Mountain Utes and Southern Ute Indian Tribes. Essential to that act is the construction of the Animas-La Plata to provide water to the Indian tribes, a provision the Indians accepted in return for dropping their long-standing claims under the Winters Doctrine to water in rivers of the region.

If Animas-La Plata isn't built by the deadlines set in that agreement, the Indians are free to go back to court and win a much more costly settlement from the U.S. government. But the Indians have said repeatedly that they want the water the project will provide, not a prolonged court battle.

Much is also made of the fact the Animas-La Plata will be built in two phases, and there is no guarantee the second phase, which won't have federal involvement, will ever be constructed. Therefore, critics charge, there is no guarantee the Indians will get the water due them from the project.

But the Indians will receive 60,000 acre feet of water from Phase 1 of the Animas-La Plata project, no small amount of water currency. (It's instructive to note that when critics talk about the cost of the Animas-La Plata, they use the most recent figures for both Phase 1 and Phase 2, approximately $710 million, not the roughly $525 million for Phase 1. But when they talk about the benefits of the project, they only mention Phase 1.)

In 1991, the U.S. Fish and Wildlife Service acknowledged that the primary features of the project could be constructed with no threat to the endangered Colorado squawfish and issued a final biological opinion stating as much. The sufficiency language now proposed in Congress would simply require construction of what was allowed under that opinion.

However, the 1991 opinion was a disappointment to Sierra Club officials, who have vowed to keep the project tied up in litigation for 40 years. They immediately filed a lawsuit claiming the project violated the National Environmental Policy Act on the grounds that "all reasonable and prudent alternatives" to the project were not adequately examined. Unfortunately, the Sierra Club got a federal judge to agree, forcing the U.S. Bureau of Reclamation to halt its construction plans and file a supplemental Environmental Impact Statement. That supplement is expected to be completed later this year.

This project has had agonizing environmental examination, as well as broad-based official approval. Congress should adopt the language in the appropriations bill and allow the project to proceed.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this rule, which I support, gives evidence of how well our conference system works. Many times, as in this case in title IV, the House which provided no moneys, shall we say, for the Delaware River Basin Commission or the Susquehanna River Basin Commission, an ongoing independent agency, in both cases the Senate, in its wisdom, did something different. Then the conference, in its own type of wisdom, was able to strike a compromise and bring in amounts of money that reflect the desire of the Congress to continue the operation of some of these independent agencies, albeit with a warning that in years to come more and more responsibility for their activities will have to be placed within their own bailiwicks in their local governments.

□ 1315

In the compact types of commissions like the Susquehanna River Basin Commission, New York, Pennsylvania, and Maryland, they will, in due time, be able to reconstruct their funding streams in such a way that they will be able to continue their activities well. They could not do it, though, with a zeroing out of their funding for this particular year.

Hence, the conference saved the ongoing stream of funding for the Susquehanna River Basin Commission, but at a lower level. The conference has worked. The people's will has been met through the work of the House and the Senate.

Mr. Speaker, I urge adoption of the rule.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MYERS of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. MYERS of Indiana. Mr. Speaker, pursuant to the provisions of House Resolution 248, I call up the conference report on the bill (H.R. 1905), making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of October 26, 1995, at page H10913.)

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 12 of this year, the House passed H.R. 1905, and on August 1, the Senate passed similar legislation.

Mr. Speaker, after the August recess, our conferees, from both the House and Senate, started working through September and most of October trying to work out the differences in the bills between the two bodies.

The major difference was that the Senate had about a billion and a half more 602(b) allocation than the House had to work with. We had a reallocation, but we still had some problems about the priorities of what programs we would fund and at what figure.

So, Mr. Speaker, we have worked diligently, and for this I thank the members of the conference and the staff who have been working almost daily since the middle of September trying to resolve the differences. We thank all of them and, again, I thank particularly the gentleman from Alabama [Mr. BEVILL]. The gentleman and I have worked together for almost 30 years now, most of which have been on this subcommittee and under the chairmanship of the gentleman. More recently, under my chairmanship, we have continued to work together closely.

Mr. Speaker, the conference report is $19.3 billion, which is $654 million more than the House-passed version; however, it is $833 million less than the Senate. The important thing is that the bill is $707 million below the level appropriated for 1995.

Mr. Speaker, we have moved in the right direction. The conference report is $1.23 billion less than the President requested. This is the lowest appropriations for energy and water since 1990. We are heading in the right direction.

We have downsized Government. We have made some significant reductions. We have 35 programs that we have terminated. As has been mentioned by the gentleman from Pennsylvania [Mr. GEKAS], we have a few other programs that we intend to terminate next year, but we are giving warning that we just cannot continue to fund some of the responsibilities that rightfully could be the States', and should be the States', or that should not be funded at all.

Mr. Speaker, in no instance did an agency or department funded by this energy and water bill receive appropriations exceeding last year's level. The one exception is in defense. The nondefense discretionary amount is $8.7 billion, which is a 13 percent reduction from last year.

In those reductions, we reduced the Corps of Engineers by $138 million from last year's level. The Bureau of Reclamation has been reduced by $31 million from last year's level. The Department of Energy, including defense, has been reduced by $173 million. ARC, the Appalachian Regional Commission, has been reduced by $102 million.

The gentleman from Tennessee [Mr. QUILLEN] mentioned the Tennessee Valley Authority. We reduced that by $29 million. The Federal Energy Regulatory Commission is reduced by $35 million. The Nuclear Regulatory Commission was reduced by $52 million. This is to mention just a few of the significant reductions that we did make.

However, we did increase defense spending. A lot of my colleagues do not realize that a large amount of our funding is in defense. Nearly 60 percent of our bill is defense. Most of it, of course, is in the nuclear side of defense.

Mr. Speaker, we have a 16-percent cut in DOE administrative costs with the exception of defense. We require the Department of Energy to reduce its support contracts by 50 percent. It is shocking to see how many employees they have. DOE has many more contract employees doing various types of work than they have of their own departmental employees.

Defense spending is $10.6 billion. That is a $550 million increase from last year, all in defense. We have increased defense cleanup, environmental restoration and waste management. Last year we appropriated $4.9 billion, and this year we have included $5.556 billion, which is an increase of 13.5 percent.

Mr. Speaker, this is the only dramatic increase that we have in our bill. It is the one area where we were probably a little bit more generous than we should have been. We recognize that there are some defense production sites in this country where there is a cleanup job to be done. But DOE has done a miserable job of cleaning up most of these sites.

Mr. Speaker, they have been wasting money. More people and more money is just not the answer. We have somewhat of an agreement with the Senate that we are going to manage this a little bit better. We will have to help the DOE with some changes in legislation to help them do a better job, because there is an enormous job to be done here.

We recognize that this bill is larger than the House passed bill. We have made some significant reductions that I have not mentioned. Reductions in fusion are larger than some people would have liked. I am sure we are going to hear about the reduction we made in solar. But we have no choice but to make these reductions.

Mr. Speaker, this is a good bill. It is not the bill that many of us would have liked to have seen, but it is a bill that I think we all can live with. I urge that all my colleagues support the conference report.

Again, I thank those staff and members of the conference who struggled since August to get to this point today.

Mr. Speaker, I rise today in support of the conference report on H.R. 1905, a bill making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.

Mr. Speaker, the conference report on H.R. 1905 is in my judgment, balanced and fair. It

FY 1996 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 1905)

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF DEFENSE - CIVIL						
DEPARTMENT OF THE ARMY						
Corps of Engineers - Civil						
General investigations	171,199,000	155,625,000	129,906,000	126,323,000	121,767,000	-49,432,000
Construction, general	923,668,000	785,125,000	807,846,000	778,456,000	804,573,000	-119,095,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	328,138,000	319,250,000	307,885,000	307,885,000	307,885,000	-20,253,000
Operation and maintenance, general	1,646,535,000	1,749,875,000	1,712,123,000	1,696,998,000	1,703,697,000	+57,162,000
Regulatory program	101,000,000	112,000,000	101,000,000	101,000,000	101,000,000	
Flood control and coastal emergencies	14,979,000	20,000,000	10,000,000	10,000,000	10,000,000	-4,979,000
General expenses	152,500,000	164,725,000	150,000,000	153,000,000	151,500,000	-1,000,000
Oil spill research	900,000	850,000	850,000	850,000	850,000	-50,000
Total, title I, Department of Defense - Civil	3,338,919,000	3,307,450,000	3,219,810,000	3,174,512,000	3,201,272,000	-137,647,000
TITLE II - DEPARTMENT OF THE INTERIOR						
Central Utah Project Completion Account						
Central Utah project construction	22,839,000	18,905,000	18,905,000	18,905,000	18,905,000	-3,934,000
Fish, wildlife, and recreation mitigation and conservation	11,133,000	18,503,000	18,503,000	18,503,000	18,503,000	+7,370,000
Utah reclamation mitigation and conservation account	5,000,000	5,485,000	5,485,000	5,485,000	5,485,000	+485,000
Program oversight and administration	1,191,000	1,246,000	1,246,000	1,246,000	1,246,000	+55,000
Total, Central Utah project completion account	40,163,000	44,139,000	44,139,000	44,139,000	44,139,000	+3,976,000
Bureau of Reclamation						
General Investigations	14,190,000	13,602,000	13,114,000	11,234,000	12,684,000	-1,506,000
Construction program	432,727,000	375,943,000	417,301,000	390,461,000	411,046,000	-21,681,000
Operation and maintenance	274,300,000	288,759,000	278,759,000	267,393,000	273,076,000	-1,224,000
Loan program	9,600,000	16,668,000	11,668,000	11,668,000	11,668,000	+2,068,000
(Limitation on direct loans)	(23,000,000)	(37,000,000)	(37,000,000)	(37,000,000)	(37,000,000)	(+14,000,000)
General administrative expenses	54,034,000	50,327,000	48,150,000	48,150,000	48,150,000	-5,884,000
Emergency fund	1,000,000					-1,000,000
Colorado River Dam fund (by transfer, permanent authority)	(-7,472,000)	(-4,556,000)	(-4,556,000)	(-4,556,000)	(-4,556,000)	(+2,916,000)
Central Valley project restoration fund	45,385,000	43,579,000	43,579,000	43,579,000	43,579,000	-1,806,000
Total, Bureau of Reclamation	831,236,000	788,878,000	812,571,000	772,485,000	800,203,000	-31,033,000
Total, title II, Department of the Interior	871,399,000	833,017,000	856,710,000	816,624,000	844,342,000	-27,057,000
(By transfer)	(-7,472,000)	(-4,556,000)	(-4,556,000)	(-4,556,000)	(-4,556,000)	(+2,916,000)
TITLE III - DEPARTMENT OF ENERGY						
Energy Supply, Research and Development Activities	3,240,548,000	3,355,521,000	2,575,700,000	2,830,324,000	2,727,407,000	-513,141,000
Uranium Supply and Enrichment Activities	73,210,000	75,441,000	64,197,000	64,197,000	64,197,000	-9,013,000
Gross revenues	-9,900,000	-34,903,000	-34,903,000	-34,903,000	-34,903,000	-25,003,000
Net appropriation	63,310,000	40,538,000	29,294,000	29,294,000	29,294,000	-34,016,000
Uranium enrichment decontamination and decommissioning fund	301,327,000	288,807,000	278,807,000	278,807,000	278,807,000	-22,520,000
General Science and Research Activities	984,031,000	1,011,699,000	991,000,000	971,000,000	981,000,000	-3,031,000
Nuclear Waste Disposal Fund	392,800,000		226,599,000	151,600,000	151,600,000	-241,200,000
Environmental Restoration and Waste Management:						
Defense function	(4,892,691,000)	(5,986,736,000)	(5,265,478,000)	(5,989,750,000)	(5,557,532,000)	(+664,841,000)
Non-defense function	(1,045,368,000)	(991,063,000)	(905,348,000)	(906,413,000)	(900,348,000)	(-145,020,000)
Total	(5,938,059,000)	(6,977,799,000)	(6,170,826,000)	(6,896,163,000)	(6,457,880,000)	(+519,821,000)
Atomic Energy Defense Activities						
Weapons Activities	3,229,069,000	3,489,367,000	3,273,014,000	3,751,719,000	3,460,314,000	+231,245,000
Defense Environmental Restoration and Waste Management	4,892,691,000	5,986,736,000	5,265,478,000	5,989,750,000	5,557,532,000	+664,841,000
Other Defense Activities	1,834,657,000	1,423,127,000	1,323,841,000	1,439,112,000	1,373,212,000	-461,445,000
Defense Nuclear Waste Disposal	129,430,000	198,053,000	198,400,000	248,400,000	248,400,000	+118,970,000
Total, Atomic Energy Defense Activities	10,085,847,000	11,097,283,000	10,060,733,000	11,428,981,000	10,639,458,000	+553,611,000
Departmental Administration	387,312,000	423,135,000	362,250,000	352,126,000	366,697,000	-20,615,000
Miscellaneous revenues	-161,490,000	-137,306,000	-122,306,000	-137,306,000	-122,306,000	+39,184,000
Net appropriation	225,822,000	285,829,000	239,944,000	214,820,000	244,391,000	+18,569,000
Office of the Inspector General	26,465,000	30,696,000	26,000,000	25,000,000	25,000,000	-1,465,000
Power Marketing Administrations						
Operation and maintenance, Alaska Power Administration	6,494,000	4,260,000	4,260,000	4,260,000	4,260,000	-2,234,000
Operation and maintenance, Southeastern Power Administration	22,431,000	19,829,000	19,843,000	19,843,000	19,843,000	-2,588,000
Operation and maintenance, Southwestern Power Administration	21,316,000	29,636,000	29,778,000	29,778,000	29,778,000	+8,462,000

FY 1996 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL (H.R. 1905) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	192,285,000	282,759,000	257,652,000	257,652,000	257,652,000	+65,367,000
(By transfer, permanent authority)	(7,472,000)	(4,556,000)	(4,556,000)	(4,556,000)	(4,556,000)	(-2,916,000)
Falcon and Amistad operating and maintenance fund	....	1,000,000	1,000,000	1,000,000	1,000,000	+1,000,000
Total, Power Marketing Administrations	242,526,000	337,484,000	312,533,000	312,533,000	312,533,000	+70,007,000
Federal Energy Regulatory Commission						
Salaries and expenses	166,173,000	136,567,000	132,290,000	131,290,000	131,290,000	-34,883,000
Revenues Applied	-166,173,000	-136,567,000	-132,290,000	-131,290,000	-131,290,000	+34,883,000
Total, title III, Department of Energy	15,562,676,000	16,447,857,000	14,740,610,000	16,242,359,000	15,389,490,000	-173,186,000
(By transfer)	(7,472,000)	(4,556,000)	(4,556,000)	(4,556,000)	(4,556,000)	(-2,916,000)
TITLE IV - INDEPENDENT AGENCIES						
Appalachian Regional Commission	272,000,000	183,000,000	142,000,000	182,000,000	170,000,000	-102,000,000
Defense Nuclear Facilities Safety Board	17,933,000	18,500,000	17,000,000	17,000,000	17,000,000	-933,000
Delaware River Basin Commission:						
Salaries and expenses	343,000	353,000	....	440,000	343,000	....
Contribution to Delaware River Basin Commission	478,000	551,000	....	478,000	428,000	-50,000
Total	821,000	904,000	....	918,000	771,000	-50,000
Interstate Commission on the Potomac River Basin:						
Contribution to Interstate Commission on the Potomac River Basin	511,000	524,000	....	511,000	511,000	....
Nuclear Regulatory Commission:						
Salaries and expenses	520,501,000	520,300,000	468,300,000	474,300,000	468,300,000	-52,201,000
Revenues	-498,501,000	-498,300,000	-457,300,000	-457,300,000	-457,300,000	+41,201,000
Subtotal	22,000,000	22,000,000	11,000,000	17,000,000	11,000,000	-11,000,000
Office of Inspector General	5,080,000	5,500,000	5,000,000	5,000,000	5,000,000	-80,000
Revenues	-5,080,000	-5,500,000	-5,000,000	-5,000,000	-5,000,000	+80,000
Subtotal	....	....	....	....	....	....
Total	22,000,000	22,000,000	11,000,000	17,000,000	11,000,000	-11,000,000
Nuclear Waste Technical Review Board	2,664,000	2,970,000	2,531,000	2,664,000	2,531,000	-133,000
Susquehanna River Basin Commission:						
Salaries and expenses	318,000	332,000	....	280,000	318,000	....
Contribution to Susquehanna River Basin Commission	288,000	360,000	....	288,000	250,000	-38,000
Total	606,000	692,000	....	568,000	568,000	-38,000
Tennessee Valley Authority: Tennessee Valley Authority Fund	137,873,000	140,473,000	103,339,000	110,339,000	109,169,000	-28,704,000
Office of the Nuclear Waste Negotiator	1,000,000	....	....	....	....	-1,000,000
Total, title IV, Independent agencies	455,408,000	369,063,000	275,870,000	331,000,000	311,550,000	-143,858,000
Scorekeeping adjustments	-185,403,000	-395,343,000	-410,343,000	-395,343,000	-410,343,000	-224,940,000
Grand total:						
New budget (obligational) authority	20,042,999,000	20,562,044,000	18,682,457,000	20,169,152,000	19,336,311,000	-706,688,000
(By transfer)	....	....	....	....	....	....

Mr. MYERS of Indiana. Mr. Speaker, I would be remiss if I did not pay a special tribute to the ranking minority member of the subcommittee, the Honorable TOM BEVILL. Mr. BEVILL is one of the true gentlemen of the House who enjoys the respect and admiration of all his colleagues. I am particularly grateful that I had the opportunity to benefit from his counsel, his wisdom, and his friendship.

Mr. Speaker, I urge all Members of the House to vote "aye" on the conference report on H.R. 1905.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Alabama [Mr. BEVILL] for 30 minutes.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill today, and I recommend the approval of this bill.

This bill, when it passed the House, received the biggest vote that this particular bill has ever received in its history. And the vote was 400 to something like 23, I believe. I want to certainly commend the gentleman from Indiana [Mr. MYERS], my colleague of many years and my friend. We have worked together for many years on this particular committee. This is the gentleman's first time to present this bill as chairman. I want to commend the gentleman. He has done a great job. He has been great to work with. We both recommend this bill.

Mr. Speaker, this bill is really a nonpartisan bill. We are in agreement that we have to cut the size of our Federal Government. We are in agreement that we have to cut the spending and get our country back on a sound financial basis.

With that in mind, 2 years ago this bill contained $22 billion. This year, it is $19.3 billion. So, the difference there is more than a $2 billion difference.

Mr. Speaker, I present this bill to you, with the reduction that has been made. As a matter of fact, since the 1994 bill, that amounts to 13-percent below the 1994 appropriation bill. It is 6-percent less than what the President requested.

Mr. Speaker, we have had to make some tough choices, but I want to say we recommend this bill to our colleagues as certainly reasonable under

no science or no research to be found in that $40 million.

That is how we are saving money in order to make sure we balance the budget while at the same time preserving the basic scientific research programs on which this country depends.

The priorities in this bill are the priorities that the House endorsed in passing both the authorization and appropriation bills. Should we be completely satisfied? No, we should not be completely satisfied. Of course not. A conference report is, by definition, a compromise.

But this bill is a down payment on a balanced budget that we will have in 7 years. Basically, we are keeping our promises to the American people. We accomplish this without sacrificing our core scientific programs by cutting out the frills and the nonessentials.

I urge my colleagues to support this bill.

Again, I congratulate the ranking member as well as the chairman of this committee for the hard work and good work they have done and the leadership they have provided.

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Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, I wish to thank the ranking member for the time and Chairman MYERS for entering into this colloquy. I would also commend the chairman and ranking member for reporting a balanced bill, particularly in support of the biofuels research development program within the Department of Energy. And I would like to clarify the intent of the conference committee with regard to this program. Am I correct in understanding that nothing in the conference report prohibits continuing research, development, and demonstration on energy crops for fuels and electricity or in any way discourages a continuation of the ongoing biomass electric program in all States in parallel to the ongoing biomass fuels research, development and demonstration program, on the understanding that the expenditures for the biomass electric program do not reduce the conferees' allocations to other biofuels programs?

Mr. MYERS of Indiana. Mr. Speaker, if the gentleman will yield, your assessment is correct here. There are some great programs here, some very impressive programs being demonstrated.

Mr. MINGE. I thank the gentleman very much. I appreciate your confirming the intent of the conference committee in this regard.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. NETHERCUTT], a member of the Committee on Appropriations and one who has worked very closely with this subcommittee.

Mr. NETHERCUTT. Mr. Speaker, I thank the chairman. I would like to engage in a colloquy with the chairman of the subcommittee.

Mr. Speaker, we have before us a provision of this conference report which raises the concern of the conferees that the comprehensive management of our valuable salmon resources should be undertaken by the administration in the form of a memorandum of agreement. It is my understanding that the conference strongly encourages the administration to work with the Congress and interested parties in the development of the MOA. I, on behalf of my constituents in Washington's fifth district, want the opportunity to review and comment prior to its adoption, and I presume the administration will work with me and my other Northwest colleagues to that end. To the maximum extent practicable, this MOA should not result in increased electric or fish and wildlife costs in the region. Is that understanding correct?

Mr. MYERS of Indiana. If the gentleman will yield, the gentleman from Washington is correct. The committee is very concerned about ensuring we do provide for the salmon problem and also about being careful as to who pays for it.

Mr. NETHERCUTT. Subsection 508(b)(1) of the conference report provides for the sale of excess Federal power outside the region. This section requires that the power be offered on the same essential rates, terms and conditions to customers outside the region as is offered to Northwest customers. I understand this language to require BPA to offer the terms and conditions to Northwest customers first. So that if BPA intends to offer contracts of certain terms outside the region, it must offer the same terms to customers inside the region. The intent is to give customers inside the region a right of first refusal on all of the essential rates, terms and conditions in any contract, before BPA offers for sale energy outside the region. Is this correct?

Mr. MYERS of Indiana. If the gentleman will yield, the gentleman is correct. Your conferees grappled with this and tried to work out problems among parties from the region. We had some issues we had to work out with the Committee on Commerce and the Committee on Resources.

Mr. NETHERCUTT. I thank the chairman very much for his hard work and certainly urge adoption of the conference report.

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. MCINNIS], with whom we have worked very hard trying to work out language on a problem.

Mr. MCINNIS. Mr. Speaker, I also would like to thank the gentleman from Alabama [Mr. BEVILL]. Both of these gentlemen have worked extensively with myself and my staff as well as the staff of our Senators and other members of the Colorado delegation, to come to some type of compromise. I would also like to thank the gentleman from California [Mr. FAZIO] for his cooperation.

Mr. Speaker, I would rise to commend the remaining conferees on the energy and water appropriations bill for the action on the Animas-La Plata water project. The conference committee, led by the able gentleman from Indiana, Mr. MYERS and the gentleman from Alabama, Mr. BEVILL, Senators DOMENICI and JOHNSTON, have taken a decisive step toward expedient completion of the Animas-La Plata water project.

The United States has an 1868, 1868 treaty obligation to provide water to the Ute Mountain, Ute Tribe, and the Southern Ute Tribe. In the Ute Indian Water Rights Settlement Act of 1988, the U.S. Congress reaffirmed this obligation and determined the Animas-La Plata project was the only viable alternative to providing water to the Ute Tribes and directed the Secretary of Interior to begin construction of the Animas-La Plata project.

Today, 7 years after Congress directed the project be built and over a century after the original treaty was signed, the tribes are still waiting to receive their water. In fact, they are still waiting for construction to begin.

It is that failure to execute the terms of the 1988 act in a timely fashion which led the conferees to include section 507 in the appropriations bill. This section provides, in order to ensure the timely implementation of the Colorado Ute Indian Water Rights Act of 1988, the Secretary of the Interior is directed to proceed without delay with construction of those facilities in conformance with the final biological opinion for the Animas-La Plata project in Colorado, and New Mexico, dated October 25, 1991.

I would at this time, Mr. Speaker, like to engage in a very brief colloquy with the chairman about the intent of this language. First of all, does the chairman agree if the construction does not begin in fiscal year 1996 that the water rights settlement is in jeopardy?

Mr. MYERS of Indiana. If the gentleman will yield, this is correct. I have been on this committee for more than 25 years. Animas-La Plata, has been on our platter all that time. We have tried to resolve it. We have tried to work out differences with the environmentalists. It has been through frequent litigation. It is in jeopardy unless we get it moving right now. The committee recognizes that.

Mr. MCINNIS. What would the conferees expect from the Secretary of the Interior with respect to the section 507?

Mr. MYERS of Indiana. It is the intent of this committee to direct the

Secretary to start construction immediately or as soon as possible, so we will fulfill the obligation we have to the Ute Indian Tribes who have given up their water rights through the years.

Mr. MCINNIS. I thank the chairman. I would again like to acknowledge the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS], not only on the merits of what you have said but on the importance that you have placed on the word that we gave to the native American tribes.

Mr. BEVILL. Mr. Speaker, will the gentleman yield?

Mr. MCINNIS. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to emphasize the words of our chairman on this matter, and he has stated the case well, and I concur with his interpretation of the language we adopted in the conference report.

Mr. MCINNIS. Mr. Speaker, I am including at this point in the RECORD a letter dated September 27, 1995, from the Southern Ute Indiana Tribal Council, as follows:

SOUTHERN UTE INDIAN
TRIBAL COUNCIL,
Ignacio, CO, September 27, 1995.

Representative SCOTT MCINNIS,
Cannon House Office Building, Washington, DC.

Re HR–1905, 1996 energy and water development appropriations bill.

DEAR SCOTT: In the very near future, the United States Congress will be considering HR–1905, the 1996 Energy and Water Development Appropriations Bill. Sufficiency Language may be included in that legislation which will, at long last, enable the United States government to fulfill a trust responsibility to the Colorado Ute Indian Tribes by allowing the Animas-La Plata Water Resources Development Project to move forward, as promised by the Congress under the provisions of the 1988 Colorado Ute Indian Water Rights Settlement Act.

When you served in the Colorado legislature in the 1980's, you were an important part of the Settlement Agreement. With your assistance, the Colorado legislature appropriated almost $60 million as the State's share of cost sharing with the federal government for construction of the Animas-La Plata Project. $42 million of those funds still remain in escrow, ready to be spent to fulfill the State of Colorado's commitment to the settlement of the Colorado Ute Indian water claims.

Now that you are in Congress, we are again seeking your assistance to encourage your fellow congressmen to support fulfillment of the 1988 Colorado Ute Indian Water Rights Settlement Act. I know how my ancestors must have felt when the United States government repeatedly broke treaties with the Colorado Ute Indians. First in 1863, then in 1868, 1873, and finally in 1880. With each treaty the homelands of the Utes were reduced in size. Finally, in 1880, Congress confiscated all of the Ute lands in Colorado—over one-third of the State of Colorado. In the 1930's a small remnant of our aboriginal homelands in Southwestern Colorado were restored to tribal ownership.

Now the national environmental groups would have the United States government breach the agreement that was entered into in 1988. At that time, the Colorado Utes chose to negotiate rather than litigate and entered into another treaty, or contract with America, in return for deferring the Colorado Ute senior *Winters* water rights on rivers in Southwestern Colorado that cross the reservation. Congress and then President Reagan said, "We will build the Animas-La Plata Project. The Utes will have wet water—not paper water rights." Upon passage of the Colorado Ute Indian Water Rights Settlement Act, the legislation was hailed as a model for all tribes to follow—negotiate, do not litigate. Since passage, the states of Colorado, New Mexico, the water districts, the municipalities, and the Indian tribes, have been strangled in a swamp of red tape and bureaucratic backpeddling.

Now comes the Sierra Club Legal Defense Fund, not unlike the Indian givers of the last century. Do not honor our commitment to the Indians. Ignore the trust responsibility the United States government has under the Constitution of the United States. Sacrifice the Indian water claims on the alter of economics. It is too expensive to build the Animas-La Plata. Let's give the Indians "wampum" instead of water. My ancestors were all too familiar with the "beads for Manhattan" mentality of the early Indian traders. Colorado Ute Indian tribes honorably negotiated the Colorado Ute Indian Water Rights Settlement Act, which mandates construction of the Animas-La Plata Project. In his inaugural message to the Congress, President Bush said "Great men, like great nations, must keep their promises. The Colorado Ute Indian tribes expect this great nation to keep its promise and construct the Animas-La Plata Project."

Sincerely,
LEONARD C. BURCH, *Chairman,*
Southern Ute Indian Tribe.

Mr. BEVILL. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to take this opportunity to thank the chairman and also the gentleman from Alabama [Mr. BEVILL] for their support in this legislation, and urge support of the conference report.

Let me say first of all that the conferees and certainly the House bill originally rejected the administration's proposed new role, limited role, I would say, for the Army Corps of Engineers in terms of flood control, shore protection, and also small navigation dredging projects. I am very pleased to see the conference adopted this approach and essentially rejected what the administration had proposed for the corps, because what it would have meant is that only projects that were nationally significant would have moved into subsequent phases and actually have been accomplished. Smaller projects would not have been done, whether they were flood control, shore protection, or dredging, and that would have meant essentially the States would have been left on their own to come up with funding and to provide the engineering for these kinds of projects.

I said all along the States do not have the resources or ability to do that, and so effectively what the administration proposed would have meant these projects would not have been done.

I think that the chairman and the ranking member understood this and that is why the policy is not articulated in this legislation. It would have also been particularly detrimental to coastal States, one of which I represent.

I also wanted to praise the conferees for continued support for the continuing authorities program. They have instructed the Secretary to continue with all projects that are currently being conducted under the continuing authorities program, regardless of what stages they are in. This is again particularly beneficial to smaller communities like I represent. For relatively modest cost, the Federal Government puts money into these projects and lets a lot of the smaller towns do the projects, and they are very cost-effective. I have one in my district that I share actually with myself and the gentleman from New Jersey [Mr. ZIMMER] on Poplar Brook. Again, a small amount of Federal dollars is used very cost effectively to achieve a good result.

I just wanted to put in a word of praise to my colleague, the gentleman from New Jersey [Mr. FRELINGHUYSEN], who spoke earlier. He really did an excellent job in supporting the projects in New Jersey, some of which, of course, are in my district. There has been a lot of support for the shore protection project along the Atlantic Coast which has been continuing for a number of years, has been very helpful to us, the tourism industry. We also were successful in getting the House version of funding on a lot of projects in New Jersey, some of which were not in the Senate bill, particularly the South River Dam, a flood control project, a very important project to me. I appreciate that.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of this conference report. I believe it represents a thoughtful approach to the difficult task of balancing our Nation's energy and water priorities in an era of fiscal restraint.

I commend the chairman and the conferees for coming up with a great product.

Included in this bill is a $5.5 billion appropriation for the Department of Energy's environmental restoration and waste management budget—this part of the bill is actually an increase in spending over last year's funding level and it represents an acknowledgment on the part of the Federal Government that it indeed, does have a responsibility to clean up hazardous

stabilization projects of the Pick-Sloan era. The islands, wetlands, and flat floodplains needed to support the wildlife and waterfowl that once lived along the river are gone. An estimated 475,000 acres of habitat in Iowa, Nebraska, Missouri, and Kansas have been lost. Today's fishery resources are estimated to be only one-fifth of those which existed in predevelopment days.

The conference report also provides $200,000 for operation and maintenance and $20,000 for construction of the Missouri national recreation river project. This project addresses a serious problem in protecting the river banks from the extraordinary and excessive erosion rates caused by the sporadic and varying releases from the Gavins Point Dam. These erosion rates are a result of previous work on the river by the Federal Government.

Finally, Mr. Speaker, this Member recognizes that the conference report also provides funding for a Bureau of Reclamation assessment of Nebraska's water supply—$75,000—as well as funding for Army Corps projects in Nebraska at the following sites: Wood River; Papillion Creek and tributaries; Gavins Point Dam, Lewis and Clark Lake; Harlan County Lake; and Salt Creek and tributaries.

Again, Mr. Speaker, this Member commends the distinguished gentleman from Indiana [Mr. MYERS], the chairman of the subcommittee, and the distinguished gentleman from Alabama [Mr. BEVILL], the ranking member of the subcommittee for their continued support of these projects which are important to Nebraska and the First Congressional District, as well as to the people living in the Missouri River Basin.

Mr. BEVILL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. UPTON). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 402, nays 24, not voting 6, as follows:

[Roll No. 748]

YEAS—402

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—24

Andrews
Baesler
Barrett (WI)
Beilenson
Clement
Filner
Ford
Gordon
Hefley
Jacobs
Mica
Nadler
Rangel
Reed
Roemer
Royce
Salmon
Scarborough
Sensenbrenner
Stearns
Tanner
Velazquez
Vento
Ward

NOT VOTING—6

Bereuter
Fields (LA)
Moakley
Roth
Tucker
Weldon (PA)

☐ 1423

Mr. WARD and Mr. ROYCE changed their vote from "yea" to "nay."

Mr. DINGELL changed his vote from "nay" to "yea".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BEREUTER. Mr. Speaker, it was this Member's intent to vote "aye" on October 31, 1995, on H.R. 1905, the fiscal year 1996 Energy and Water Appropriation Conference Report. This Member was present and attempted to vote in favor of the conference report, but apparently for some technical reason the vote was not recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359

Mr. POSHARD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 359.

The SPEAKER pro tempore (Mr. UPTON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 2491, SEVEN-YEAR BALANCED BUDGET RECONCILIATION ACT OF 1995

The SPEAKER pro tempore (Mr. UPTON). Without objection, under the authority granted in clause 6 of rule X, the Speaker appoints Mr. BROWN of California as an additional conferee from the Committee on Agriculture for consideration of title I of the House bill, and subtitles A–C of title I of the

Senate amendment, and modifications committed to conference.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

WAVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 249 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 249

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes. All points of order against the conference report and against its consideration are waived. The motion printed in the report of the Committee on Rules accompanying this resolution to dispose of the amendment of the Senate numbered 115 may be offered only by Representative Callahan of Alabama or his designee. That motion shall be considered as read and shall be debatable for one hour equally divided and controlled by the proponent and an opponent. All points of order against that motion are waived. The previous question shall be considered as ordered on that motion to final adoption without intervening motion or demand for division of the question.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the distinguished gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I am pleased to bring to the floor this rule to provide for consideration of the conference report for H.R. 1868, the foreign operations appropriations bill for fiscal year 1996. This is a simple, fair rule that will allow the House to vote on the conference report, and then on a separate motion dealing with the controversial issue of the restrictions on aid money for abortion. Specifically, as provided under House rules, we will have 1 hour of debate on the conference report itself—including the traditional right of the minority to offer a motion to recommit with or without instructions. Immediately following the consideration of the conference report, the rule provides for a motion to dispose of Senate amendment 115—to be offered by the chairman of the Foreign Operations Subcommittee, the gentleman from Alabama [Mr. CALLAHAN], or his designee. This motion is debatable for a full hour, and the House will be able to cast an up or down vote following that debate. While the Callahan motion might sound complex, it can be summed up as follows: For years, under Presidents Reagan and Bush, there were sensible—in my view—restrictions on the use of foreign aid funds for abortion purposes; this policy is known as the Mexico City policy. However, during consideration of this bill, the House voted in favor of stricter standards, and the Senate voted for more lenient standards. To arrive at an acceptable solution to this dilemma, the conferees have decided to—no surprises here—go with the Mexico City policy. We are facilitating this agreement, by allowing Chairman CALLAHAN to offer his motion following debate on the conference report.

Mr. Speaker, I am especially pleased that this conference report contains the original Goss amendment language on Haiti that the House adopted 252 to 164 on the 28th of June. This language provides a measure of accountability for the billions of taxpayers' dollars that have been spent in Haiti—and continue to be spent today. This measure was important in June, and it remains important today—we are still not sure exactly how much money has been used to restore President Aristide and maintain the peace in Haiti. But we do know that Haiti's fledgling democracy is facing some immediate challenges, including: Presidential elections, scheduled for the end of this year, but that date is rapidly slipping; reform of the justice system; and privatization of the economy which has suffered some setbacks recently.

Mr. Speaker, I look forward to the responsible use of the review mechanism provided under the Goss amendment with regard to Haiti, and I know other Members have other areas of concern in foreign ops as well, and there will be plenty of opportunity to debate them under the provisions of this fair and simple rule. I urge my colleagues to support the rule in the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1430

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleague from Florida, Mr. GOSS, as well as my colleagues on the other side of the aisle for bringing this rule to the floor.

House Resolution 249 makes it in order to consider the conference report on H.R. 1868, the foreign operations appropriation bill for fiscal year 1996, and waives all points of order against the conference report. The Rules Committee reported the rule without opposition by voice vote.

The joint statement of managers of the conference included $108 million for basic education. This was a result of an amendment Mr. HOUGHTON and I offered on the House floor that received 263 votes.

During a hearing of the Rules Committee yesterday, Mr. BEILENSON asked Mr. CALLAHAN, chairman of the Foreign Operations Subcommittee, about the support of the conferees for the funding level of basic education. In response to the question, Mr. CALLAHAN replied that the conferees would strongly insist on that funding level. I hope that AID follows this direction.

I am disappointed with the large cuts in development assistance contained in this bill. However, I am glad that the conference committee earmarked $300 million for child survival and ensured that UNICEF would receive $100 million, and it contained a recommendation that basic education will receive $108 million.

Mr. Speaker, I urge the adoption of the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 6 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I take the well to urge Members to vote against the previous question on the rule when we have the opportunity.

Mr. Speaker, under the rule, the gentleman from Alabama [Mr. CALLAHAN], or his designee, will be permitted to offer an amendment related to amendment No. 115, which has language concerning abortion and the United Nations Population Agency.

However, under the rule, Members are prohibited from offering amendments to that amendment. The White House has stated that if the language contained in the amendment by the gentleman from Alabama [Mr. CALLAHAN] is included in the foreign operations bill, the President will veto the bill. Under those circumstances, I would like to be able to try to offer compromise language that I believe would make real our apparent passage of the conference report on foreign operations today.

My amendment, which I ask unanimous consent to be printed in the RECORD, would take out the so-called Mexico City language, which the administration opposes, leaving in a prohibition on lobbying for or against abortion, and prohibits funds to the United Nations Population Fund, unless UNFPA has terminated its program in China by May 1, 1996.

Mr. Speaker, permanent law already requires that none of the funds in this

their way but they are not quite held in December, they are obviously in substantial compliance and trying to do the job. I look forward to a peaceful turnover and a new President of Haiti and successful growth of democracy.

As to the gentlewoman from California, I have been invited by President Aristide for the succession. I have accepted his invitation. He said it would be February. If it is a little later than that, that is OK. I prefer to be in Haiti during the winter season than the summer season.

Ms. WATERS. Mr. Speaker, if the gentleman will continue to yield, I thank the gentleman. I think that takes care of my concern.

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, on June 29, this institution in a sense of moral outrage voted for an amendment offered by the gentleman from Indiana [Mr. VISCLOSKY] to deny assistance to Azerbaijan in reaction, in outrage to the fact that it continues an illegal and immoral blockade against the people of Armenia.

Our sense of outrage is understandable. Armenia is a landlocked country. Eighty-five percent of everything it needs to feed and to clothe and to warm its people comes through Azerbaijan. Five years since the United States originally took this position, the blockade being in place, they have done nothing, nothing to lift the blockade and stop the suffering of the Armenian people.

Indeed, today 95 percent of the people of Armenia are living on an income of less than $1 a day in a harsh environment. So this House, knowing these facts, cast a vote insisting that the blockade be lifted. The other body, in debating foreign assistance as well, offered no contradictory provisions. There seemed to be no objections here or there. Yet, in the rule before us today, the Committee on Rules, having waived all points of order, we find that this provision is removed, and the Members of this House, if they approve the rule, are without recourse.

We are without recourse despite the fact that the rules of this House specifically state that there is an action of this House, there being nothing contradictory in the other body; therefore the conference would have no contradictory provisions, that an unrelated contradictory provision should not be in the bill. But it is.

We are without the ability to raise a point of order if the rule is enacted. Sadly, therefore, Mr. Speaker, I rise in opposition to the rule and remind the Members that, if they feel this continuing outrage in the same vote they cast in June, that this embargo is wrong. It should stop, consistent with our ability to deliver humanitarian assistance to Azerbaijan, because it is not covered but that no American assistance otherwise will continue unless and until the blockade is lifted. If Members continue to feel that view, there is one way to express themselves. That is to oppose the rule.

Mr. GOSS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, the conference took up and considered a matter that had already been dealt with on the floor of the House. A vote was taken, and no similar provision was included in the Senate bill regarding humanitarian aid through the Government of Azerbaijan upon a finding that humanitarian assistance through nongovernmental organizations would be insufficient. It needs to be stressed, Mr. Speaker, that this language only permits humanitarian aid and does not require the President to provide any such aid in any event. Nonetheless, this provision is a grave error and should not have been included in the conference.

Azerbaijan itself holds the key to providing itself with United States assistance, because under section 907 of the Freedom Support Act, they may receive assistance if they take demonstrable steps, Mr. Speaker, to cease their blockading of and warring with Armenia and Karabakh. This is the correct approach.

The House had already considered and rejected amending section 907 through this bill, but provisions to resume aid to Azerbaijan that were struck on the floor of the House during consideration of the bill in June were reraised in the conference. I believe that as a matter of procedure and as a matter of respect for the will of this body, when no Senate bill contained a similar provision, there should be no provision providing for aid to Azerbaijan other than pursuant to section 907 before us today.

I am sorry the rule that we are considering does not allow this matter to be treated under the normal procedures for items in technical disagreement so that this decision could be reconsidered. While I understand the need to move the bill forward, I would hope that, when ultimately it undoubtedly will go back to the conference committee, that this matter can be corrected.

We should give assistance to Azerbaijan, particularly humanitarian assistance, but they should be forthcoming and lift their blockade on Armenia and Karabakh before we do so. That is exactly what the Freedom Support Act provides in section 907. It ought to be observed.

I might say also, Mr. Speaker, that the conference did, in regard to this area, two very find things. They provided that the Humanitarian Corridor Act should be a part of this bill. That sends a message particularly to Turkey that, if they disrupt humanitarian assistance, they will not be entitled to any assistance from the United States; and that is as it should be.

In addition, we sent a very specific message to Turkey regarding their treatment of their Kurdish minority, their oppression of their Kurdish minority, their genocide against their Kurdish minority that has to be heard. It has now taken the place of repressing of expressions of disagreement with Government policy, and people get sent to jail.

□ 1500

It is time that we sent that message. The bill does so. I commend the conferees in approving both of those sections and commend the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I rise this afternoon in opposition to the rule.

Mr. Speaker, I would like to acknowledge the work that was done on a bipartisan basis many, many weeks ago. It was the very late evening of June 29. I believe it was an all-night session. I remember speaking on the floor, and I think it was about 2:30 in the morning when we debated this, and I think that it was one of the prouder moments for Members of this House as they recognized that Azerbaijan should not be rewarded for blockading Armenia. That blockade has imposed enormous, enormous human suffering on the Armenian people, and so together, from both sides of the aisle, we underscored that suffering, and we said that the House of Representatives was going to take the necessary, and important, and critical steps not to reward Azerbaijan for that, and so we went forward, and the language went forward, and it was unanimous. It was a voice vote of this House.

Now in another late night, when the conference met, it was misrepresented that what we had sent to the conference had somehow changed. It has not changed, and so that is why I rise in opposition to the rule and all of the Members of this House should vote against this rule, so that we can bring back the language that we so in unified fashion passed that late night, and we thought then that we were victorious for human rights, decency. The right thing to do is that that language would be appropriately restored.

I want to commend my colleagues that have worked so hard on this from both sides of the aisle, and this correction really does need to be made. We were misrepresented. The other body did not even speak on this; they saw that what we had done in the House that night, the night of June 29, should be retained, and for that reason I rise in opposition to the rule and ask Members to join me in voting against it.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I am in a dilemma because I both support the words of the gentleman from New Jersey [Mr. TORRICELLI] and the words of the gentleman from Illinois [Mr. PORTER]. I think that the issue of Azerbaijan and Armenia needs to be addressed. The gentleman from Illinois [Mr. PORTER] tells me that it will go back to conference and it will be looked at. I hope that is the case.

On the second point, this Member personally believes that this body in Congress has no reason to get involved in family planning of other countries. As a matter of fact, I feel, no matter what side of the issue one is on, it should stay out of the bedrooms of American citizens, and I do not think it should be funded abroad or here in Congress, either way, and basically stay out of it. As my colleagues know, it is established under Roe versus Wade, and I think this body ought to stay the hell out of it.

Insofar as this bill, I would ask support of the rule, and I will work with the gentlemen on the other side to make sure that the Azerbaijan-Armenia issue is included.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise also in opposition to the rule because it waives all points of order. Yesterday I went before the Committee on Rules and urged that the point of order not be waived with respect to my opposition to language that essentially repeals section 907 of the Free Support Act relating to aid to Azerbaijan. Let me explain why I believe that this is a very serious procedural breach, if I can.

As was mentioned by some of the previous speakers, we had an extensive debate, 2½ hours, on the night of June 29 on the issue of section 907. Under current law section 907 prohibits direct United States aid to the Government of Azerbaijan because of their blockade of Armenia and Karabakh. What happened in the subcommittee was that language was added that essentially repealed section 907 and said that direct government aid could be sent to Azerbaijan for humanitarian purposes assuming that the President decided that that was appropriate. We had extensive debate on the House floor on the issue, and we voted by voice vote overwhelmingly, to take that language out that repeals section 907, and during the debate on the House floor it was abundantly clear that we were talking about humanitarian assistance, that we were talking about the discretion of the President of the United States to grant that humanitarian assistance, and that we were talking about assistance that was going to go to refugees.

Now when the conference met, new language, which is essentially the same as the old language, was put into the conference bill contrary to the vote on the floor of this House that says the same thing, that says that it is OK to give humanitarian assistance to refugees in Azerbaijan if the President decides that that is what he wants to do. There is no difference between this new language and the old language that was deleted by the House of Representatives. Substantively it is the same, and the way I understand it, that means that we should be able to raise the point of order today and take that language out of the conference bill because it is substantially the same.

All we are asking for today, and the reason we are opposed to the rule, is because we are not given the opportunity to reiterate our opposition to this language and to reiterate what the House has already said. I certainly hope there will be an opportunity, if this bill is vetoed or if it is not passed in the Senate, to reopen the conference and that we will have that opportunity in some future weeks to deal with this again, but the bottom line is that this rule is inappropriate because we have the same substantive language here, and do not let anybody say that it is not the same. There is no question that the debate was complete for 2½ hours and this was understood by everyone.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Speaker, I join in this protest against the disregard of the will of this House by the conference committee. I was a participant in the debate in the wee small hours of the morning of June 29, and I do believe that, if for no other reason than out of a regard for the will of the Members of this House, this conference report is out of line.

I protest on another ground as well, and that is that the nation of Azerbaijan has used the revolving-door style of lobbying to accomplish its legislative objectives. There have been press reports about Azerbaijan hiring for millions of dollars a firm headed by a former Member of this body, a convicted felon, who led the lobbying campaign to remove the provision barring aid to Azerbaijan unless it lifted the blockade of Armenia.

Finally, of course, there is the substance of this matter. Azerbaijan has been acting in a heartless, cruel, ruthless way to try to strangle and destroy its neighbor. It is appropriate that the United States, in a demonstration of our humanitarian values, use the power and the leverage that we have to change the policy of Azerbaijan.

Mr. Speaker, I believe that we got it right the first time on June 29, and I believe it was wrong for the conference committee to disregard the will of this House and the will of the other body.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for yielding this time to me, and I rise in strong opposition to this rule. This rule does not allow a point of order to be raised against the language that would now allow direct payments to be made to the Government of Azerbaijan that continues to create a blockade against the country of Armenia. Section 907 that has been mentioned before is a provision that was signed into law by President George Bush, indicates that, as soon as that blockade is lifted, direct payments can be made to the government. So, as the gentleman from Illinois [Mr. PORTER] mentioned earlier in his remarks, the key to this issue lies with the actions of the Government of Azerbaijan.

Originally the House bill contained language that overrode 907 and would allow those direct payments to this government that continues the blockade of the Armenian people. That was stripped by this House by voice vote on the evening of June 29. The House has spoken on this issue, the Senate did not take this issue up, and there was no contention in conference, although language clearly has now been added back in that would allow these payments to be make directly to the Government of Azerbaijan without them having to lift the blockade.

There is a lot of talk and discussion about the plight of the refugees. We all share that concern. But in their heart of hearts, if that Government of Azerbaijan was so concerned, they can lift the blockade, and that is the point of 907 that today, by passing this bill and being prohibited from raising a point of order, we are now in a moment going to overturn.

I again emphasize my strong opposition to this rule because we are not provided an opportunity to strike the provision.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to the rule, and I encourage our colleagues to vote against it for two reasons at least.

One reason has been discussed by our colleagues on both sides of the aisle—the rule does not allow the language that is contained in the legislation about Azerbaijan to be considered. As our colleague from New Jersey [Mr. PALLONE] has said, this rule waives all points of order.

Our colleague, the gentleman from Texas [Mr. WILSON], made a good-faith effort, I believe, in our conference to moderate the language that he was suggesting for the bill. Nonetheless, all of his good intentions notwithstanding,

The SPEAKER pro tempore (Mr. COMBEST). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DURBIN. Mr. Speaker, on that I demand the yeas and nays.

The ayes and noes were ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 165, not voting 10, as follows:

[Roll No. 750]

AYES—257

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Yates
Young (AK)
Young (FL)
Zeliff

NOES—165

Abercrombie
Ackerman
Andrews
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frelinghuysen
Furse
Gejdenson
Gibbons
Gonzalez
Gordon
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoke
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Moorhead
Moran
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Radanovich
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Tanner
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Zimmer

NOT VOTING—10

Fields (LA)
Gephardt
Moakley
Norwood
Portman
Ros-Lehtinen
Tejeda
Tucker
Volkmer
Weldon (PA)

☐ 1556

Mr. FRELINGHUYSEN changed his vote from "aye" to "no."

Mr. DE LA GARZA and Mr. OBERSTAR changed their vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, during rollcall vote No. 750 on H.R. 2492, I mistakenly recorded my vote as "yes" when I should have voted "no."

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–130)

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond November 14, 1995, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on November 1, 1994.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. Indeed, on March 15 of this year, I declared a separate national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. By Executive Order 12959, these sanctions were significantly augmented. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency, including the authority to block certain property of the Government of Iran, and which are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 31, 1995.*

CONFERENCE REPORT ON H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. CALLAHAN. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 1868), making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 26, 1995, at page H10974.)

The SPEAKER pro tempore. The gentleman from Alabama [Mr. CALLAHAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. WILSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 1868, now under consideration, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to bring back to the House the conference report on H.R. 1868, the fiscal year 1996 appropriations for Foreign Operations, Export Financing, and Related Programs.

The conference agreement represents a reduction of approximately $1.5 billion, or 11 percent, below the 1995 enacted level. It is also a cut of almost $2.7 billion, or 18 percent, below the President's request.

In addition, we are below the budget allocation for this bill by $156 million in discretionary budget authority.

The agreement protects important child survival and disease programs, as we had proposed in the House bill. The Senate bill contained no protections whatsoever for these programs. The conferees also direct that $100 million be provided for UNICEF, instead of a cut as assumed in the Senate bill.

In general, the House bill did not include authorization provisions that were not cleared by the relevant authorization committees. I can honestly say that I did not want authorization language on our appropriation bill. I have great respect for Chairman GILMAN and his colleagues on the International Relations Committee and I did my utmost to eliminate objectionable authorization language when the House considered H.R. 1868. However, the Senate included dozens of legislative provisions in the 193 amendments it made to the House bill. We were successful in deleting many of these in conference.

We also worked with the authorization committee to modify or retain those provisions of most interest to them. In particular, we worked closely with them on the Middle East Peace Facilitation Act and the NATO Participation Act amendments.

As I stated earlier, we had 193 Senate amendments to contend with in conference, and we were able to reach an agreement on all but one. The Senate conferees refused to accept the will of the House of Representatives on population funding and abortion.

Once the House has acted on the conference report, under the rule, I will ask the House to send back to the Senate the substance of a compromise amendment I offered in conference on the Mexico City abortion policy. This compromise has the support of the author of the amendment that was approved by the House, Mr. SMITH of New Jersey.

There are several matters in the conference agreement that merit further comment and clarification today.

With regard to concerns about conference report language on Azerbaijan, I want to repeat the statement I made before the Rules Committee: As chairman of the Foreign Operations Subcommittee, I expect to be consulted in advance and notified in writing on a case by case basis each time the President uses the limited waiver provided by the Wilson amendment.

Until the parties involved meet and agree to reduce the tension in the Caucasus region and terminate all blockades, which I believe is possible in coming months, this provision is a temporary, highly conditional waiver of aid to refugees and displaced persons only in Azerbaijan. It in no way overturns the much more extensive limitations on aid under current law, all of which are currently subject to a Presidential waiver.

Once Armenia, Azerbaijan, and Georgia agree to open railroads, pipelines, and other communications in the region, the President will be in a position to make the determination required under section 907 of the Freedom Support Act, and the Wilson provision will no longer be relevant.

With regard to language prohibiting the Agency for International Development's move to the elaborate and expensive new Federal Triangle Building, the language means just what it says. Before the Administrator of AID undertakes any other move that may be required, I expect him to fully consult with the Foreign Operations Subcommittee and make the reports requested by the conferees.

No funds are provided in this conference agreement for AID's move to the Federal Triangle. No other funds should be used for a move to the Federal Triangle. As far as this committee is concerned, that proposal is denied.

In conclusion, I'd like to thank my ranking minority member, Mr. WILSON, for his invaluable assistance in reaching a conference agreement on this bill. I'd also like to pay tribute to Mr. OBEY, the ranking Democrat on the full committee, for his assistance and advice throughout this process. I'm happy to say that they and all the other House and Senate members of the conference have signed the conference report.

In closing, I would remind the House that other members and the administration are ready and willing to add millions to this bill. Defeating this conference agreement would leave the door open for another bill that would cut less than this one.

Mr. Speaker, I include for the RECORD the following material:

FY 1996 FOREIGN OPERATIONS APPROPRIATIONS BILL (H.R. 1868) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Contribution to the Inter-American Development Bank:						
Inter-regional paid-in capital	28,111,959	25,952,110	25,950,000	25,952,110	25,952,110	-2,159,849
(Limitation on callable capital)	(1,594,568,180)	(1,523,767,142)	(1,523,000,000)	(1,523,767,142)	(1,523,767,142)	(-70,801,038)
Fund for special operations	21,338,000	20,835,000	....	20,000,000	10,000,000	-11,338,000
Enterprise for the Americas Multilateral Investment Fund	75,000,000	100,000,000	70,000,000	115,000,000	53,750,000	-21,250,000
Inter-American Investment Corporation	190,000	....	....	....	....	-190,000
Total, contribution to the Inter-American Development Bank	(1,719,208,139)	(1,670,554,252)	(1,618,950,000)	(1,684,719,252)	(1,613,469,252)	(-105,738,887)
Contribution to the Asian Development Bank:						
Paid-in capital	....	13,221,596	13,200,000	13,221,596	13,221,596	+13,221,596
(Limitation on callable capital)	....	(647,858,204)	(647,000,000)	(647,858,204)	(647,858,204)	(+647,858,204)
Development fund	167,960,000	304,528,525	100,000,000	110,000,000	100,000,000	-67,960,000
Total, contribution to the Asian Development Bank	(167,960,000)	(965,608,325)	(760,200,000)	(771,079,800)	(761,079,800)	(+593,119,800)
Contribution to the African Development Fund	62,215,309	127,247,025	....	....	....	-62,215,309
Contribution to the African Development Bank:						
Paid-in capital	133,000	....	....	....	....	-133,000
(Limitation on callable capital)	(2,002,540)	....	....	....	....	(-2,002,540)
Total, contribution to the African Development Bank	(2,135,540)	....	....	....	....	(-2,135,540)
Contribution to the European Bank for Reconstruction and Development:						
Paid-in capital	69,180,353	81,916,447	69,180,000	70,000,000	70,000,000	+819,647
(Limitation on callable capital)	(161,420,824)	(191,138,376)	(161,400,000)	(163,333,333)	(163,333,333)	(+1,912,509)
Total, contribution to the European Bank for Reconstruction and Development	(230,601,177)	(273,054,823)	(230,580,000)	(233,333,333)	(233,333,333)	(+2,732,156)
North American Development Bank:						
Paid-in capital	....	56,250,000	56,250,000	25,000,000	56,250,000	+56,250,000
(Limitation on callable capital)	....	(318,750,000)	(318,750,000)	(318,750,000)	(318,750,000)	(+318,750,000)
International Monetary Fund						
Contribution to the enhanced structural adjustment facility	25,000,000	25,000,000	....	....	....	-25,000,000
Total, contribution to International Financial Institutions	(4,307,796,208)	(5,921,853,401)	(4,424,189,000)	(4,865,097,361)	(4,718,447,361)	(+410,651,153)
Budget authority	1,805,880,750	2,328,864,666	1,030,139,000	1,299,913,669	1,153,263,669	-652,617,081
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,394,050,000)	(3,565,183,692)	(3,565,183,692)	(+1,063,268,234)
International Organizations and Programs						
International organizations and programs	359,000,000	425,000,000	155,000,000	260,000,000	285,000,000	-74,000,000
(By transfer)	....	....	(15,000,000)	(30,000,000)	(30,000,000)	(+30,000,000)
Total, title IV, contribution for Multilateral Economic Assistance	(4,666,796,208)	(6,346,853,401)	(4,579,189,000)	(5,125,097,361)	(5,003,447,361)	(+336,651,153)
Budget authority	2,164,880,750	2,753,864,666	1,185,139,000	1,559,913,669	1,438,263,669	-726,617,081
(By transfer)	....	....	(15,000,000)	(30,000,000)	(30,000,000)	(+30,000,000)
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,394,050,000)	(3,565,183,692)	(3,565,183,692)	(+1,063,268,234)
Grand total, all titles:						
New budget (obligational) authority	13,654,521,750	14,773,904,666	11,901,375,000	12,413,914,000	12,103,536,669	-1,550,985,081
(By transfer)	(850,000)	....	(15,000,000)	(50,000,000)	(50,000,000)	(+49,150,000)
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(22,500,000)	(23,250,000)	(+1,100,000)
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,394,050,000)	(3,565,183,692)	(3,565,183,692)	(+1,063,268,234)
(Loan authorizations)	(1,278,496,000)	(2,619,883,000)	(1,943,658,000)	(2,200,112,000)	(2,027,258,000)	(+748,762,000)
TITLE I - EXPORT AND INVESTMENT ASSISTANCE						
Export Assistance Appropriations	931,031,000	1,043,000,000	967,779,000	986,000,000	970,165,000	+39,134,000
Negative Subsidies and Offsetting Collections	-201,276,000	-292,146,000	-292,146,000	-292,146,000	-292,146,000	-90,870,000
Total, Export Assistance	729,755,000	750,854,000	675,633,000	693,854,000	678,019,000	-51,736,000
TITLE II - BILATERAL ECONOMIC ASSISTANCE						
Bilateral Development Assistance	3,939,688,000	4,235,197,000	3,654,024,000	3,962,213,331	3,500,864,000	-438,824,000
Other Bilateral Economic Assistance	3,793,502,000	3,762,300,000	3,223,600,000	3,055,000,000	3,324,600,000	-468,902,000
Total, Bilateral Economic Assistance	7,733,190,000	7,997,497,000	6,877,624,000	7,017,213,331	6,825,464,000	-907,726,000
TITLE III - MILITARY ASSISTANCE						
Foreign Military Financing Program:						
Grants	3,151,279,000	3,262,020,000	3,211,279,000	3,207,500,000	3,208,390,000	+57,111,000
Direct loans, subsidy costs	47,917,000	89,888,000	64,400,000	64,400,000	64,400,000	+16,483,000
(Estimated level of direct loans)	(619,650,000)	(765,000,000)	(544,000,000)	(544,000,000)	(544,000,000)	(-75,650,000)
Subtotal, Foreign Military Financing Program:						
Budget authority	3,199,196,000	3,351,908,000	3,275,679,000	3,271,900,000	3,272,790,000	+73,594,000
(Program level)	(3,770,929,000)	(4,027,020,000)	(3,755,279,000)	(3,751,500,000)	(3,752,390,000)	(-18,539,000)

FY 1996 FOREIGN OPERATIONS APPROPRIATIONS BILL (H.R. 1868) — continued

	FY 1995 Enacted	FY 1996 Estimate	House	Senate	Conference	Conference compared with enacted
Other, Military	109,500,000	139,781,000	107,300,000	91,033,000	109,000,000	-500,000
Special Defense Acquisition Fund	-282,000,000	-220,000,000	-220,000,000	-220,000,000	-220,000,000	+62,000,000
Total, Military Assistance Programs	3,026,696,000	3,271,689,000	3,162,979,000	3,142,933,000	3,161,790,000	+135,094,000
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE						
Contributions to International Financial Institutions	1,780,880,750	2,303,864,666	1,030,139,000	1,299,913,669	1,153,263,669	-627,617,081
International Monetary Fund (IMF)	25,000,000	25,000,000				-25,000,000
International organizations and programs	359,000,000	425,000,000	155,000,000	260,000,000	285,000,000	-74,000,000
Total, contribution for Multilateral Economic Assistance	2,164,880,750	2,753,864,666	1,185,139,000	1,559,913,669	1,438,263,669	-726,617,081
Grand total, all titles	13,654,521,750	14,773,904,666	11,901,375,000	12,413,914,000	12,103,536,669	-1,550,985,081

□ 1600

Mr. Speaker, I reserve the balance of my time.

Mr. WILSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with a mixed recommendation on the foreign operations appropriations for fiscal year 1996.

On one hand I support passage of the conference report on the bill. Although I am not fully happy with every aspect of the conference report—especially with the large number of earmarks included under the account funding the former Soviet Union—based on the funding available it is as good as we can do. The $12.1 billion bill is $2.7 billion below the President's request, $1.6 billion below last year, $202 million above the House-passed bill and $310 million below the Senate bill.

Therefore I urge Members to support the conference report.

On the other hand, the conference was not able to come to an agreement on how to handle language in the bill concerning the so-called Mexico City policy language that Representative SMITH had added on the floor. The administration has informed me that if this language remains in the bill, the President will veto the bill.

In addition to the Presidential veto that would be created by this language, the Senate appears totally unwilling to accept this language—therefore we can't even get a bill to the President with this language included in the bill.

Mr. Speaker, if Congress is serious about sending a signal to the President for fiscal year 1996 foreign operations, then I urge Members to reject the amendment by Mr. CALLAHAN adding the Mexico City language back into the bill.

Finally, I want to thank Chairman CALLAHAN for his cooperation and manner in handling the conference on the bill. I believe we have been able to come up with a bipartisan agreement on foreign assistance for fiscal year 1996, and therefore one that is in the best interest of the country.

Mr. Speaker, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend for yielding me this time. I commend both he and the ranking minority member, the gentleman from Texas [Mr. WILSON] for their splendid work.

Mr. Speaker, I rise in support of the fiscal year 1996 Foreign Operations Appropriations Conference report. We are continuing the downward trend in foreign aid spending that has occurred over the last decade.

We spent $18.3 billion on foreign operations in fiscal year 1985, which is $25 billion in today's dollars. This bill is $12.1 billion. We have cut foreign aid in half over 11 years.

Mr. CALLAHAN worked with members of the subcommittee, the authorizing committee, the administration, and our Senate counterparts to allocate the shrinking foreign assistance dollars in the fairest manner possible. The conference report was signed by every member of the conference committee. This bipartisan support is a great tribute to the spirit of compromise exhibited by the subcommittee chairman and the members of the committee.

This bill cuts $1.5 billion from last year's level, and $2.8 billion from the President's request. We are 11 percent below last year and 18 percent below the President. Despite the cuts, we have protected the most vulnerable—the world's children.

The conference report provides $300 million for child survival programs, which is $25 million more than current year funding.

This bill reduces old-style government-to-government foreign aid. Instead, we invest in programs that allow private companies to expand exports and foreign investment to make broad-based economic growth a reality in developing free markets.

We have avoided the temptation to score political potshots with this bill. We vastly curtailed the numerous Senate earmarks which would have interfered with our Nation's foreign policy. We cut spending, but we provide the President with the resources to conduct a global foreign policy.

We have accepted the reorganization savings made by the authorizing committee, and kept the funding levels in line with the levels provided in H.R. 1561, the American Overseas Interests Act.

We have maintained the funding levels to meet our Camp David commitments for Egypt and Israel.

And, we've made children a priority.

This is a responsible and balanced bill and I urge your support for Mr. CALLAHAN's good work.

I also want to address a few of the important foreign policy issues which were included in this appropriations bill.

Brown amendment:

The conferees agreed to the Brown amendment which brings some fairness to our relations with Pakistan.

Because of the Pressler amendment, the United States currently holds F–16's and other military equipment that was purchased by Pakistan in the 1980's, and we hold the money Pakistan paid for the equipment.

President Clinton stated that it is "unfair to keep both Pakistan's money and its equipment."

Under the Brown amendment, we will sell the F–16's to a third country and reimburse Pakistan's investment, and we will deliver the 5-year-old equipment that Pakistan purchased before the Pressler sanction took effect.

This is an important compromise which keeps in place the Pressler amendment restrictions against military assistance and military sales, but allows assistance for counternarcotics control, humanitarian assistance, and antiterrorism.

The Brown amendment will go a long way to repair relations with Pakistan which has a long history of support for United States, especially during cold war:

Pakistan signed Mutual Defense Treaty with the United States and allowed United States bases to conduct reconnaissance flights over the Soviet Union during cold war.

Pakistan joined anti-Communist alliances such as CENTO and SEATO which were designed to contain Soviet Union.

Pakistan joined the United States in to rolling-back Soviet invasion of Afghanistan.

Pakistan supported the United States in Persian Gulf.

Pakistan contributes U.N. troops to Bosnia, Haiti, Somalia, and others.

Pakistan is a moderate, Islamic ally.

The Brown amendment doesn't resume military assistance to Pakistan, it merely allows return of military equipment which had been purchased more than 5 years ago.

KEDO;

We have also reached a compromise with the administration over promises the administration made to encourage North Korea to discontinue its dangerous nuclear program.

The conference report provides that the United States may contribute funds to the Korean Peninsula Energy Development Organization [KEDO] for administrative expenses and heavy fuel oil costs associated with the agreed framework. However, none of the funds in the bill may be used to contribute to the lightwater nuclear reactors being provided to North Korea under the terms of the agreed framework.

Turkey:

I would also like to note that the conference committee limited economic support funds to Turkey in recognition of the strong concerns over Turkey's human rights record. However, we avoided more onerous language which would have damaged our important bilateral relationship with Turkey.

I want to bring my colleagues attention to an important article in yesterday's Washington Times. As the article indicates, Turkey is at a crossroads. Turkey's leaders are trying to direct Turkey to align with the western nations, but Islamic fundamentalists are working to push Turkey away from the European Union and NATO, and associate more closely with Islamic nations in the Arab world and central Asia.

We must be careful to urge Turkey to adopt basic human rights in their counterterrorism efforts against the PKK, but we must not push so hard that we drive Turkey into the Islamic fundamentalist fold.

Turkey is making efforts to improve its record. The State Department report on the situation in Turkey contends that Turkey has started human rights training for military, made public the Code of Conduct for the military, and it has passed democracy-expanding proposals in the parliament. The State Department stated in July, "We can and should expect progress."

Just this week, Turkey adopted amendments to Article 8 of the controversial antiterrorism law. The State Department spokesman Nicholas Burns stated:

> The United States is pleased to note that on October 27, Turkey's Parliament approved legislation amending Article 8 of the Anti-Terror Law. We congratulate the Turkish Government, Parliament, and people on this important and positive step forward for democracy and human rights.

I think this Congress should recognize Turkey's positive steps to reform their human rights policies.

Mr. CALLAHAN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER]. Mr. Speaker, the gentleman from Illinois is rock rib in his perseverance of his ideals and philosophies. The gentleman is a valuable member of our subcommittee. I do not know what we would do without the gentleman.

Mr. PORTER. Mr. Speaker, I rise in support of this conference report.

I commend the gentleman from Alabama [Mr. CALLAHAN] and his capable subcommittee staff for their hard work on this conference report—it represents the product of thousands of hours of work and 10 hour conference with the other body.

And I would note, in light of the bill totals that we today consider, that foreign aid spending has clearly made its contribution to deficit reduction.

I also want to particularly note a number of matters addressed in this conference report:

First, I am pleased that we have maintained our commitment to the Camp David peace partners, and also to the ongoing peace process while, at the same time, including reasonable accountability requirements on recipients of peace process assistance. These provisions represent a sensible approach to accountability and one that will not impede the peace process.

Second, I am also pleased that we have maintained our commitment to the reunification of Cyprus with a continuation of $15 million in support for bicommunal efforts on the island.

Third, similarly, I rise in strong support of the full funding for Armenia that we have included. Armenia is proving itself to be a model for other Newly Independent States in developing democratic institutions and practices and resisting extremist views. The $85 million in humanitarian assistance, together with the other funds for Armenia requested by the administration are included in this conference report. These funds are vitally important and I am pleased that they are included.

Fourth, unfortunately, the levels of support for some activities in this bill are not what they should be.

First, I note that the conference report contains $35 million toward the global environment facility, a project initiated by President Bush. While I am glad that we are maintaining support of this activity, I think all members should note that the GEF has done more than its share toward deficit reduction.

Second, I am pleased that we were able to somewhat restore the reductions in assistance to international organizations, with language allowing administrative flexibility in this account. I encourage the President to maintain a strong level of commitment to the United Nations Development Program, as the resources to do so are available. The UNDP is headed by a very capable American, Mr. Gus Speth, and we should give him our strong support. Similarly, the President must also maintain support for the U.N.'s fund for victims of torture.

I also am pleased that we have included language to reauthorize the Au Pair Program for 1 year to end the crisis that ensured on October 1 when this program expired. This program never should have been allowed to expire. I plead with the authorizing committees to move forward on a longer term reauthorization of this activity so that this sort of crisis can be avoided in the future.

This report also contains certain important policy decisions, including those respecting Turkey that I have already discussed.

In particular, I believe that the landmine moratorium provisions that we have included will prove exceptionally valuable in controlling the indiscriminate violence perpetrated by these weapons.

I am also pleased that we have expanded sanctions against the Thai military to force them to stop their cross border mahogany trade with the Khmer Rouge. Not only does this trade bolster one of the most genocidal groups to ever terrorize the planet, but it does so at an immense price to our environment—the Khmer Rouge are destroying ancient rainforests with the same disregard for nature that they have shown for human life. For reasons of foreign policy and environmental protection, these sanctions are badly needed.

In addition, I am pleased that we have stepped up the pressure on Guatemala to bring to justice those who are covering up gross human rights violations and continuing to perpetrate new violations to this day. This month's massacre of Mayan civilians by the Army make clear that the Guatemalan military is not reforming itself and is not respecting human rights. The recent beating of American Sky Callahan shows that the Guatemalan military retains no respect for standards of human rights. We should not support these butchers with U.S. assistance and we should not allow them to enter our country. In this regard, I call on the Judiciary Committee to move swiftly on legislation to rescind visas for members of the Guatemalan military who have been complicit in gross human rights abuses.

Finally, I want to mention the issue of satisfaction of certain obligations to Pakistan. I support the action of the conferees, although I would personally prefer to provide nonlethal aid to Pakistan. I would, however, caution the Government of Pakistan and its lobbyists here in town not to read too much into the conferees' action. This does not represent a retrenchment of our concerns about nuclear proliferation in Pakistan and it does not represent our picking sides in the tensions between Pakistan and India.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COMBEST). The gentleman yields back 1½ minutes.

Mr. WILSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, this bill continues a 10-year downward trend in financing for foreign aid, and that downward trend is unavoidable, given the existing budget crunch that we face. I think the gentleman from Alabama [Mr. CALLAHAN] has done a fine job under the circumstances, as has the gentleman from Texas [Mr. WILSON], and I salute them both.

Mr. Speaker, I think there are some mistakes in this bill. I, for instance, do not believe that we should earmark funds for any country. I think that the Congress, unless we are facing extraordinary circumstances, should not be in a position to require the President to spend money on any country. I certainly do not oppose where these earmarks go. Israel, for instance, deserves great credit for steadfastly trying to move toward a resolution of the turmoil which we have seen in the Middle East for many, many years. I think that Egypt has cooperated fully in that process. I recognize in the past we have earmarked those Middle Eastern countries because we have not wanted to undermine the peace process, and I have no objection to that.

But I do question the wisdom of earmarking over 50 percent of the funds that go to countries that were within the former Soviet Union, even though, again, I have no objection if the President wants to support those initiatives to those countries, because I think we need to be engaged in that region. I would simply say that I have defended Republican Presidents for 8 years against earmarks by the Congress, and I feel obligated to do the same for a Democratic President of my own party.

There are some other problems I have with the bill, as anyone might, but, overall, I think that the bill is not a bad bill, and I intend to vote for it.

Mr. Speaker, there is a problem: The bill as structured, provides for a return to the Mexico City language, which the administration strenuously objects to, and the administration has indicated that the President will veto the bill. I would not personally veto the bill over that item, but the administration intends to do so. So I will simply be offering a motion to recommit to try to find a middle ground.

The gentleman from Alabama [Mr. CALLAHAN] will be providing an amendment, the language of which would cut off family planning funds to organizations with which the committee disagrees with respect to abortion. It would also cut off aid to the UN Population Agency because they have a program in China who the committee feels is conducting forced abortions.

My amendment would contrast with that amendment in this way: First of all, and I will simply read this language, it provides that none of the funds made available under this act may be used to lobby for or against abortion. I think everyone agrees with that.

Second, it would drop the language on the cutoff of family planning assistance, because I believe that we ought to keep a very firm line between the issue of abortion and the issue of family planning.

Third, it would provide the same cutoff that the Callahan amendment would provide in China, except for changing the date. It would read as follows:

> Notwithstanding any other provision of this act or other law, none of the funds appropriated by this act may be made available for the United Nations Population Fund unless the President certifies to the appropriate Congressional committees that, (1), the United Nations Population Fund will terminate all family planning activities in the People's Republic of China no later than May 1, 1996; or, (2), during the 12 months preceding such certification there have been no abortions as a result of coercion associated with family planning activities of the national government or other governmental entities within the People's Republic of China.
>
> As used in this section, the term "coercion" includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressures.

I think it is important for us on both sides of the aisle to send a signal to the United Nations population program that we are firmly convinced that the so-called population program in China is in fact coerced abortion, or at least it is facilitating coerced abortion. Anyone who takes a look at the record understands that is exactly what is going on in China.

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So all my amendment would do is give the agency 2 additional months to end their involvement in China or else face a total cutoff of funds. I think that is more realistic administratively and it would remain identical with respect to the rest of the gentleman's amendment.

Mr. CALLAHAN. Mr. Speaker, I yield myself 2 minutes to respond to my friend, the gentleman from Wisconsin [Mr. OBEY].

No one agrees with him more than I do about earmarking funds. The gentleman taught me well when I served in the minority and he was chairman of this committee, or this subcommittee. I agree with the gentleman wholeheartedly that we make big mistakes, and when this bill left the House there was no earmarking in our bill. So we both share philosophically the same idea with respect to earmarking.

Mr. Speaker, I am sorry that we had to agree to any, but this is a body of compromise and in this compromise we had with the Senate we had to agree to some things, but then they had to agree to some things. They wanted to come back and increase the amount of money, and I felt by earmarking some of the money for some of the countries that they insisted upon that the American people were better served by the reductions that we were able to save in spending in foreign countries.

With respect to the Mexico City language, this language that I intend to introduce is modified to meet some of the demands of the administration. I think we are at a point that the President must recognize that if he vetoes this bill because of the Mexico City language that is going to be therein that he will have to veto the CR, which will contain this language. So he will have to face it one way or the other.

Mr. Speaker, we have compromised with the President. We have given him every latitude. We have preserved for him the ability to have an effective foreign policy. But the President must recognize and live with the fact that the Smith language no doubt is going to be in whatever foreign operations bill we pass this year.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. LIGHTFOOT], my friend and former freshman Member 11 years ago in this House, a member of this subcommittee and certainly a good friend and big contributor to our efforts on foreign operations.

Mr. LIGHTFOOT. Mr. Speaker, I appreciate the gentleman yielding me time. It is nice to be an 11 year old freshman, I guess.

Mr. Speaker, I rise in support of the conference report. Let me commend Chairman CALLAHAN and our ranking Member CHARLIE WILSON, for a job well done. The conference report we are presenting to the House today demonstrates that we can produce a foreign aid bill which advances the foreign policy interests of the United States and plays a role in our Nation's highest national interest—balancing the Federal budget.

The conference report reflects a dramatic 11-percent reduction from the previous year spending in foreign aid. Despite this reduction we maintain our commitment to the Middle East peace process by fully funding the Camp David Accord countries. In addition, the conferees have added language which updates and strengthens funding to the P.L.O. and demonstrates our desire that the P.L.O. continue to be engaged constructively and responsibly in the peace process.

House conferees also accepted language which allows for a one time lifting of the prohibition against military aid to Pakistan. I voted in favor of this language because it has been demonstrated to me that the weapons in question will not alter the military balance in the region. In addition, the administration believes this language will facilitate an improvement in United States-Pakistan relations.

However, I believe the spread of nuclear weapons, particularly in regions of heightened ethnic tensions, represents the post-cold-war world's most profound security concern. I want to make quite clear that I will not support any future arms sales or arms transfers to Pakistan. And I am pleased the managers added, at my request, a reporting requirement on nonproliferation and conventional force reduction in all of south Asia. I think this kind of report will aid us in making future policy decisions about the area.

In order to meet the 7-year commitment to a balanced budget, it is clear that we will have to continue to reduce the size of this bill. We must resist the temptation to try and fund all programs at diminished levels and continue the process begun in this bill, to prioritize and fund what works and zero out what does not work, no matter how well meaning or high sounding the program may be.

In closing, Mr. Speaker, let me just say to the House that we are well represented in conference by Chairman CALLAHAN and Mr. WILSON. They pressed hard to maintain House positions. Most importantly, Mr. CALLAHAN fought hard to keep this bill's spending as low as possible. They and the subcommittee staff; Charlie Flickner, Bill Inglee, John Shank, Nancy Tippins, Kathleen Murphy, and Terry Peel, did an excellent job in getting us to this point.

Foreign aid is not something for which you look forward to voting. But this is a good responsible bill and I urge the House to accept it and then to reaffirm its commitment to banning the use of taxpayer dollars to fund worldwide abortion.

Mr. WILSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I rise today in support of the conference report on the fiscal year 1996 foreign operations appropriations bill and urge its approval. I want to commend Chairman CALLAHAN and the distinguished ranking member, Mr. WILSON, for their diligent work in crafting a very responsible bill within tight budgetary constraints.

I am pleased to note that the conferees have provided the full funding level of $56,250,000 for the U.S. contribution to the North American Development Bank created under the NAFTA agreement. Because the NADBank is a new player in the international capital markets, obtaining full funding was critical to ensuring the Bank's financial strength and ultimately, its success. I want to point out that it is the one development bank that will directly assist U.S. citizens.

While the NADBank's primary focus will be on financing environmental infrastructure projects along the United States-Mexico border, it will also help individuals and businesses throughout the United States make adjustments to ever-changing global trade realities. The Bank's Community Adjustment and Investment Program [CAIP] is designed to address NAFTA related trade dislocation issues.

To that degree, Mr. Speaker, I believe that this will enhance the ability of workers, whether they are in Kenosha or somewhere in Seattle or Texas or California, to adjust to any job losses that are brought about by the NAFTA process.

In conference, I recommended that additional statutory and report language be included to limit and further define the direction of the CAIP. The language adopted by the conferees was intended to ensure that the implementation of the CAIP closely adheres to legislative intent. It was further intended to address a number of concerns that were raised by the conferees regarding eligibility criteria, personnel and operating expenses, and administrative accountability.

Specifically, the language regarding personnel and operating expenses was intended to ensure that the NADBank serve not simply as a pass-through for existing Federal programs, but that it fully utilize its authority to make loans and loan guarantees directly. The use of such authority by the Bank is clearly conveyed in both the implementing legislation and statement of administrative intent. The language adopted by the conferees acknowledges the authority of the Bank to utilize existing Federal loan and loan guarantee programs to implement the CAIP. However, failure by the Bank to utilize its direct lending authority would constitute noncompliance with congressional intent.

The language was further intended to ensure that the agencies involved in implementing the CAIP only assess the Bank reasonable and minimal administrative fees directly associated with processing of the loans or guarantees. Nor should a disproportionate amount of the Bank's budget for direct loans be used for administrative expenses. The Bank was never intended to supplement existing Federal credit programs and should itself be frugal in setting overhead costs.

The language adopted by the conferees regarding accountability was intended to ensure that the NADBank make the final determination regarding both CAIP eligibility and endorsement of projects for financing. It further recommends that each project should be endorsed for financing on a case-by-case basis. The language was intended to prevent Federal agencies from leveraging CAIP funds through credit programs that are not specifically tailored through guidelines developed by the NADBank to assist communities with foreign trade-induced economic impact. Finally, by recommending that projects be endorsed for financing on a case-by-case basis, the conferees wish to prevent any blanket endorsement of loans or loan guarantees made by participating agencies. Instead, it expects each loan or loan guarantee recommended for financing to be carefully evaluated by the NADBank to ensure compliance with its eligibility criteria.

Mr. CALLAHAN. Mr. Speaker, I yield 3½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG] who is a member of our committee, and who is quiet but he is strong in his convictions and he is a tremendous complement to our effort.

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding me time and thank him for those kind comments. I will pay back by saying that I think the gentleman from Alabama [Mr. CALLAHAN] has done an outstanding and remarkable job at being the compromiser in the final minutes and all the way through, but especially in the final moments.

I also want to pay tribute to the ranking member, the gentleman from Texas, [Mr. WILSON], because I truly think this committee has done a great deal to work together.

Mr. Speaker, I rise to express my strong support for this conference report which reflects the careful crafting by the House and Senate conferees. Balancing fiscal restraint and the needs of foreign policy, H.R. 1868 reflects the reasoned compromise and considerable cooperation that took place between the two bodies. It deserves bipartisan support. H.R. 1868 recognizes the fiscal situation we face and reduces the amount of money we spend on foreign assistance. But H.R. 1868 also reflects our continued belief in the importance of maintaining our role as a leader in global events.

This bill does not blindly slash foreign aid. We make serious cuts that reflect careful consideration and the review of every program. We have eliminated and reduced funding to those programs that have failed to justify continued support. This conference report is below the Foreign Operations Subcommittee 602(b) allocation. This bill will help us move towards a balanced budget.

Foreign aid is a crucial component of our foreign policy. The United States has a direct interest in promoting the expansion of capitalism and democracy throughout the world. Accordingly, I feel it is beneficial to American interests to aid countries which have shown a commitment to the ideals of free enterprise and individual freedom.

With the end of the cold war, there exists a sentiment in our country to place foreign affairs on the back burner and focus on domestic problems. We cannot ignore the domestic problems of crime, health care, education, and the economy, but I believe that recent events in the former Soviet Union, North Korea, and Bosnia illustrate that America must not insulate itself from the international community.

Faced with a national debt that is strangling our economy, Congress is operating under severe pressure to reduce spending and rightfully so. I am very committed to reducing the deficit, lowering taxes, and empowering individuals and business by reducing the size and scope of our Federal Government. But we must work toward these goals as the world's only superpower and the greatest proprietor of democracy. We have reduced foreign aid in this bill but we have not eliminated our ability to participate in the world.

Foreign aid which makes up less than 1 percent of our Federal budget is a good investment and has benefited our interests around the globe by furthering the development of economic and political stability in the international community.

H.R. 1868 allows us to continue to remain active in world events while it reflects our budgetary constraints. This conference report reflects the joint work of the House and Senate. I support this conference report very strongly and urge my colleagues to do likewise.

Mr. WILSON. Mr. Speaker, I ask unanimous consent to place a statement in the RECORD concerning administration policy.

Is there objection to the request of the gentleman from Texas?

There was no objection.

The information referred to follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 31, 1995.

STATEMENT OF ADMINISTRATION POLICY

H.R. 1868—foreign operations, export financing and related programs appropriations bill, fiscal year 1996—Sponsors: Livingston, Louisiana; Callahan, Alabama)

This Statement of Administration Policy provides the Administration's views on the item reported in disagreement by the conference on H.R. 1868, the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 1996. Your consideration of the Administration's views would be appreciated.

The conferees have reported in disagreement provisions related to population assistance to non-governmental organizations. This is an issue of the highest importance to the Administration.

The Administration opposes coercion in family planning practices, and no U.S. assistance is used to pay for abortion as a method of family planning. The House provision, however, would prohibit any assistance from being provided to entities that fund abortions or lobby for abortions with private funds, thus ending U.S. support for many qualified and experienced non-governmental organizations providing vital voluntary family planning information and services. The provision would also end U.S. support for the United Nations Population Fund (UNFPA). This would sharply limit the availability of effective voluntary family planning programs abroad that are designed to reduce the incidence of unwanted pregnancy and thereby decrease the need for abortion. The Administration also has serious concerns about the constitutionality of the House provision.

If the House language were included in the bill presented to the President, the Secretary of State would recommend to the President that he veto the bill.

Mr. WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I add my congratulations to the gentleman from Alabama [Mr. CALLAHAN] as well as the gentleman from Texas [Mr. WILSON] for crafting what I think is a good bill under very difficult circumstances.

However, I rise to continue to express my sharp opposition to a provision in the conference report that would rewrite current United States law by severely weakening section 907 of the Freedom Support Act, which prohibits direct United States Government assistance to the Government of Azerbaijan until that country lifts its blockade of Armenia.

Mr. Speaker, I successfully offered an amendment on this issue on June 29, and the House approved it after 2½ hours of debate. The Senate also refused to include any language on section 907. Unfortunately, the conference committee, acting without a mandate by either the House or the Senate, decided to reinsert this provision into the bill; and I am strongly opposed to their actions in this matter.

The gentleman from Texas [Mr. WILSON] has suggested, correctly, that his language is different, correctly, as a matter of form, not of substance. The substance of the issue is to prohibit direct payments to the Government of Azerbaijan until they remove the blockade. That is the essence of the issue.

Mr. Speaker, the sanctions on Azerbaijan were imposed because of that country's ongoing blockade. When the Azerbaijan blockade is lifted, the United States prohibition on direct Government assistance can also be lifted. Countries that violate the conditions that Congress attaches for receiving U.S. assistance should not be rewarded.

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Any attempt to remove section 907 must be viewed as support for Azerbaijan's blockade of Armenia as a legitimate weapon of war as well as support for their hostile position in the ongoing peace negotiations.

In closing, if we allow American dollars to flow to the Government of Azerbaijan, we will be turning our backs on the people of Armenia at a time when they desperately need and deserve our support. The true facts of this case are simple. The Government of Azerbaijan should act in peace, lift the blockade, and everyone can be made whole.

Mr. CALLAHAN. Mr. Speaker, seldom is a freshman Member appointed to the Committee on Appropriations, but even more seldom is it possible for a freshman Member of Congress to grasp the complexity of the appropriations procedure. But, the gentleman from Long Island, NY [Mr. FORBES] is one who has done both. His insistence as a promoter of the Middle East peace process, his concern about Mr. Arafat and the distribution of the moneys to Mr. Arafat, I think, is a very strong compliment to his efforts.

Mr. Speaker, I yield 3½ minutes to the gentleman from New York [Mr. FORBES].

Mr. FORBES. Mr. Speaker, I rise today out of respect, obviously, for the finished product, but also I must express a grave reservation and concern that I have.

Mr. Speaker, I rise in memory of Leon Klinghoffer, and the events of the *Achille Lauro*. I rise in memory of the young woman from New Jersey and the young woman from Connecticut and so many Americans and Israelis who died at the hands, at the bloody hands of Chairman Arafat.

Mr. Speaker, I must tell my colleagues that I rise today because I am extremely concerned. I am concerned because the taxpayers of the United States of America are going to be asked over the next 5 years to spend $500 million to help Chairman Arafat build infrastructure in accord with the Oslo Agreement for Peace in the Middle East.

I am concerned, Mr. Speaker, because I believe that Mr. Arafat, through noncompliance, systematic noncompliance, through a lack of accountability and because of his transparency in perhaps trying to talk the talk, but not walk the walk of the Middle East peace accord, is really disingenuous in this process.

I am concerned that the taxpayers of this Nation are going to be asked to funnel $500 million to Chairman Arafat when, in fact, the PLO has not amended provisions of its charter which declare Israel to be illegitimate and calls for its elimination through armed struggle. The PLO has not legally banned terrorist organizations such as Hamas and the Islamic Jihad, and has done very little to discipline them.

Mr. Speaker, the PLO has failed to prevent incitement to violence and, in fact, PLO officials continue to advocate holy war against Israel. These are not the activities of a peacemaker. I must rise in strong concern for funneling of this taxpayer money, this U.S. taxpayer money to Chairman Arafat and the PLO.

In addition, Mr. Speaker, the State Department made a backdoor deal in extending the Middle East Peace Facilities Act 18 months. So we are now pushing accountability 18 months out so that the Middle East peace accord could perhaps move forward. But some of us believe so that for political considerations, we can move this whole issue beyond the next Presidential election. I find that abhorrent. I find the fact that we are now going to say they must be accountable in 18 months, as opposed to 12 months, wrong.

Moving this accountability from 12 to 18 months is wrong, as it is wrong not to require Chairman Arafat to live up to the Oslo accords before he gets one thin dime from the United States taxpayers.

Mr. WILSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, it is important to be able to discuss this appropriations bill with an eye toward appreciating some of the very hard work that went into the ultimate bill that we now have before us. I do want to thank the gentleman from Texas [Mr. WILSON] and I want to thank the chairman, the gentleman from Alabama [Mr. CALLAHAN], and the gentleman from New York [Mr. GILMAN] and the gentleman from Florida [Mr. JOHNSTON] for working with me on some very important crucial issues.

Mr. Speaker, let me view the cup as being at least half full, inasmuch as we were gratified that in this bill that has cut foreign appropriations to the bone, almost, to be able to support a valuable program, the African Development Foundation, with my amendment on the floor of $11.5 million.

This, to the American people, I would say, is a constructive utilization of our dollars, because it relates to the grassroots that would be working with grassroots in Africa, teaching them and teaching the various nations and instructing them in how to produce, how to create jobs, and how to create income.

So, Mr. Speaker, I am gratified that that support was given, and I think the American people will find that though they have concerns about foreign appropriations, that this is well and a good investment.

Mr. Speaker, I do have, however, extreme concern about another bipartisan effort that I can proudly say was supported by the gentleman from Texas [Mr. WILSON], the gentleman from Alabama [Mr. CALLAHAN], the gentleman from New York [Mr. GILMAN], and the gentleman from Florida [Mr. JOHNSTON].

I think it was supported in that context because they recognized that the American people say other things as well. They do understand that as moneys are appropriated for foreign aid, it is important that the values of this Nation, though we do not handicap our international friends, that we, in fact, do not abandon them and leave missing our values; our values of justice, social justice and human rights.

Mr. Speaker, we attempted to respond to those concerns expressed by many Ethiopian citizens in this Nation. Ethiopia is a great nation with a great history going through periods of great turmoil. Rather than to strap that leadership, we applauded what progress has been made, but we also acknowledged that human rights should be respected and that there should be a practice that would exclude or ensure the stopping of firing university professors because of their beliefs; that we should stop imprisoning journalists and magazine editors; that we should release Dr. Asrat Woldeyes, a surgeon, a champion of human rights; that officials of the previous Government should not be sitting in prison; and that the military must be integrated to include all the people of Ethiopia.

Mr. Speaker, my good friend, the gentleman from Florida [Mr. JOHNSTON] had the opportunity to visit Ethiopia and remarked that there were great concerns that he saw that needed to be addressed. It is unfortunate that the very moderate language that we had included to save lives and to enhance the efforts already being made in Ethiopia, that someone and somehow in this conference saw fit to make many steps backward for human rights and not allow that language to go forward as it relates to Ethiopia.

Mr. Speaker, I might add that I am very pleased with the assistance and the recognition of this issue by both the gentleman from Texas [Mr. WILSON] and the gentleman from Alabama [Mr. CALLAHAN], recognizing that it is important that the State Department be forever vigilant on these issues and that the American people would not want us to abandon our dollars and not provide our values.

Mr. Speaker, I would like to yield just a moment to the gentleman from Alabama to engage in a colloquy on this issue. I appreciate the work of the gentleman.

I note in the conference report that it says the managers expect the Department of State to continue to be attentive to this important issue as it relates to the monitoring of Ethiopia's human rights progress. Mr. Speaker, I would ask the gentleman if he could help me to understand that we are going to view this in a very serious manner, recognizing that there are some great needs of improvement in Ethiopia and also acknowledging their progress.

Mr. CALLAHAN. Mr. Speaker, if the gentlewoman would yield, I agree with her. And in deference to her concern about Ethiopia, I offered the amendment, along with the gentlewoman, to include it in the House bill. But, when it got to the Senate, they had 192 changes and in this compromise they requested, as did the administration, it be taken out.

So, in a spirit of compromise we took it out. But to ensure and to protect the views of the gentlewoman, we did insert the strongest protection we could put in there saying that the managers expect the Department of State to continue to be attentive to this important issue and we as managers of this bill will certainly express to the administration our continued support accordingly.

Ms. JACKSON-LEE. Mr. Speaker, reclaiming my time, I thank the gentleman for that and I take from the gentleman's statement that that will mean a continuing monitoring by the State Department of Ethiopia. I request that the State Department provide us with continuous reports. It is an important issue, although we encourage the progress that may have been made in Ethiopia we should never abandon the human rights issue.

Mr. Speaker, I do understand the spirit of compromise. I would have hoped that we would not have compromised on the back of human rights causes, but I thank the gentleman from Texas as well for his help and I look forward to the monitoring of human rights in Ethiopia on behalf of the American people.

Mr. Speaker, I submit the following for the RECORD:

Mr. Speaker, I must rise to express my concern about this foreign operations appropriations conference committee report. I am concerned that the conferees decided to strike an amendment to the House version that would require the State Department "to closely monitor and take into account human rights progress in Ethiopia as it obligates funds for fiscal year 1996."

FURTHER HUMAN RIGHTS ABUSES IN ETHIOPIA

Mr. Speaker, Ethiopia is a great nation with a rich history. Recently, it has gone through periods of turmoil and unrest. It should be U.S. policy to bolster this nation and to monitor the actions of the new government.

We should all be pleased that there have been elections in Ethiopia. However, we must be diligent in ensuring that the new government does not follow the same path of the many governments that have preceded it.

Human rights must be respected.

Stop the practice of firing university professors because of their beliefs. Many of these professors have been educated in the United States and have strong ties to this country.

Stop imprisoning journalists and magazine editors.

Release Dr. Asrat Woldeyes. He is a surgeon in who has championed human rights and is a prisoner of conscience. The people of Ethiopia are suffering because he cannot provide health care services while he is detained.

Officials of the previous government are still sitting in prison and have not yet been charged.

The military must be integrated. Right now, the military is comprised of primarily only one minority ethnic group. It is a military of elites.

This issue will not die. If it is not contained in this bill, we will have to insert this language in future bills.

Mr. CALLAHAN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, as a member of the Committee on International Relations, I had an opportunity to read recent statements by Yasser Arafat regarding Israel and the peace process. Some of the statements that I read were hair raising, to say the least.

He talked about things that fly in the face of the peace accords. He talked about war and torture and retribution. All of these things are not harmonious with the peace accords that we are talking about in the Middle East.

We extended in this legislation the accountability factor by 18 months. There really is no more accountability for Yasser Arafat to contend with for the next 18 months, and yet we are going to give him $500 million of American taxpayers' money—$500 million.

Mr. Speaker, while we are giving him this money we realize or know or believe from British intelligence that the PLO has between $8 and $12 billion in Swiss bank accounts and other bank accounts around the world. Eight billion dollars to twelve billion dollars, and we are giving them $500 million for infrastructure.

Mr. Speaker, while we are doing this, there was a murder committed. The security forces for the PLO in Jericho took an American citizen, 52-year-old Azem Musllh, an American citizen. They took him out of a restaurant and took him to a jail. His wife went to get him out of jail and they said he was not there. She came back a second time and they said she would have to come back the next day.

Mr. Speaker, when she came back, he was dead. They said he died of a heart attack. When they saw the body, his jaw was broken. He had lacerations on his face. He had burns on the bottoms of his feet that looked like cigarette burns. The man had been literally tortured to death.

Mr. Speaker, this is an American citizen of Palestinian descent. Yet, we are going ahead and giving Yasser Arafat, even though he has talked against the peace process in some of his speeches, we are giving him an 18-month extension, $500 million, and there has been no accountability as far as this man's life has been concerned.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I believe this bill provides $75 million; not $500 million.

Mr. BURTON of Indiana. Mr. Speaker, reclaiming my time, the $500 million is the long-term agreement.

Mr. BERMAN. Mr. Speaker, if the gentleman would continue to yield, but this bill is $75 million.

Mr. BURTON of Indiana. Mr. Speaker, again reclaiming my time, $75 million is the first tranche. Does the gentleman disagree that he is going to get $500 million?

Mr. BERMAN. I think it should depend on what happens and how he performs.

Mr. BURTON of Indiana. Mr. Speaker, I ask the gentleman if he agrees it is going to be $500 million?

Mr. BERMAN. Mr. Speaker, no, I do not. I agree this bill has $75 million.

Mr. BURTON of Indiana. Mr. Speaker, reclaiming my time, the long-term agreement is a $500 million bill. While the bill has a lot of merit, this is one thing with which I take issue.

Mr. Speaker, before we give them one dime, there should be complete accountability about this man's death and those who tortured him and murdered him, who are members of the security forces of the PLO, should be brought to justice before $1 of taxpayers' money should go to the PLO.

Mr. WILSON. Mr. Speaker, could I inquire how much time is remaining?

The SPEAKER pro tempore (Mr. COMBEST). The gentleman from Texas [Mr. WILSON] has 14 minutes remaining; the gentleman from Alabama [Mr. CALLAHAN] has 7 minutes remaining.

Mr. WILSON. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. PALLONE] reluctantly.

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Texas [Mr. WILSON] for reluctantly yielding me 4 minutes to discuss the bill.

Mr. Speaker, I want to say in starting out that this is a good bill which I intend to vote for, but it has two points which I think are bad and which I would like to address at this point.

First of all, with regard to aid to Azerbaijan, which I talked about previously under the rule, I am hopeful that if this bill is vetoed by the President, and it does come back to conference, that there will be an opportunity in conference to address the issue of aid to Azerbaijan again.

□ 1645

I know the gentleman from Texas has in fact submitted slightly different language from what was rejected by the House. However, the substance of the language is the same. And basically what the language does is allow direct American Government assistance to the Government of Azerbaijan.

The gentleman from Texas [Mr. WILSON] previously pointed out that the difference in the language, the way he sees it, is essentially that now, unlike before, the aid can go strictly to refugees, does not include democracy building, and basically allows the President to determine whether the aid is appropriate. But I would submit that when we had the debate on the floor back in June on the old language, it was understood and it was part of the debate that it was understood that we were talking about humanitarian aid to refugees, that we understood that the President would make a determination as to whether or not this aid would be given to Azerbaijan. So essentially there really is no difference here. The language is substantively the same.

The reason why those of us are opposed to this aid to Azerbaijan is because a decision was made with section 907 of the Freedom Support Act that it was wrong for Azerbaijan to continue its blockage of Armenia and Nagorno-Karabakh. That blockade continues. There has not been and cannot be a certification by the President that the blockade is over or that any progress has been made to end it. And so it is inappropriate for us at this point to simply reward the Azerbaijan Government which continues the blockade of Armenia by saying that we are going to give you some direct government assistance.

It is also true that through nongovernmental organizations aid does go to the Azerbaijan refugees for humanitarian purposes. They are receiving that. I am just hopeful, Mr. Speaker, that if this bill comes back to conference we can address this again because we did not have an opportunity today.

The other bad point in the legislation refers to assistance to Pakistan. I object to the language that permits the transfer of seized military equipment to the Government of Pakistan. This provision was not part of the House-passed bill. I am concerned that this language would undermine our Nation's commitment to stop the proliferation of nuclear weapons, will heighten regional instability in South Asia. And, as the New York Times stated recently in an editorial, send the wrong message to Pakistan. Why should we be rewarding Pakistan with $370 million worth of conventional weaponry when Pakistan deliberately lied to the United States about its nuclear program.

It is important to remember that Pakistan has not agreed to do anything in exchange for the release of the seized equipment and the language in the conference report imposes no new conditions on Pakistan. In 1993, President Clinton offered to return all or a portion of the weapons if Pakistan would agree to cap its nuclear program but Pakistan rejected this offer. This language should not be in the bill.

Having noted those two bad points or two bad provisions in the bill or mentioning them, I did want to thank the chairman and the gentleman from Texas [Mr. WILSON] and also the gentleman from Illinois [Mr. PORTER] and others for including some provisions in the conference report that are very favorable to Armenia. There is an $85 million earmark for Armenia. There is the Humanitarian Aid Corridor Act, which we have been pushing for a long time. There is also the transcaucasian enterprise fund which is recalculated. I would be supportive of the bill.

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, lest someone be confused about what is in this bill and what is not, there is no money and I repeat, no money anywhere in this bill that is earmarked for the PLO, for Mr. Arafat or anyone else in that regard. And we insisted upon that.

Included in the bill also, it says, new accountability number one, "New language which states that in providing assistance to Palestinians living under the jurisdiction of the Palestinian authority the beneficiaries of such assistance should be held to the same standard of financial accountability and management control as any other recipient of United States assistance."

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, as I understand it from talking to the gentleman, the President has discretion on the $75 million.

Mr. CALLAHAN. The President has discretion on nearly $600 million.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will continue to yield, and that money will go forward for infrastructure for the PLO?

Mr. CALLAHAN. Mr. Speaker, we give that discretion to the President. They have earmarked some of that Economic Support Fund for Israel. They did earmark some of it in the Senate for Egypt, and we accepted those amendments. The balance of it, as it has been, I suppose, since the Economic Support Fund was established, is left to the discretion of the administration. If the administration wants to do it, yes, they can. But they have to do it under the guidelines and some of the accountability provisions that we have put in here at the gentleman's insistence.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will continue to yield, I appreciate the accountability features that he has put in there. The fact of the matter is, the administration supports strongly the peace process, as we do and as I do. So that money will go forward.

My point is, and I know the gentleman can put a hold on this money if he sees fit, as some others may, I hope that he will do everything in his power to get accountability for this American that was murdered.

Mr. CALLAHAN. Mr. Speaker, I will do everything in my power to insist on accountability. I will do everything in my power to insist that the administration does not give the PLO anything. But I just want this body to be fully aware that there is nothing earmarked, as two previous speakers have indicated, for the PLO in this bill.

Mr. WILSON. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank my friend from Texas for yielding me this time.

There are a number of points I would like to make. I rise in strong support of the bill and urge my colleagues to vote in favor of this bill. If you oppose the Smith amendment, like I do, understand the Smith amendment is not part of this conference report. The Smith amendment will be debated after the adoption of the conference report. I have strong feelings in opposition to that amendment, and I will express them at the time that the Smith amendment is up. My colleagues can vote for this report. If they vote for this report, they will not be voting for the Smith amendment.

The second point with respect to the administration and the veto, should the Smith amendment be adopted, it is not quite that simple. The Senate has taken a contrary position. The reason the Smith amendment is not in the conference report is because the Senate thought it was wrong to stop all funding of UNFPA and to stop funding for any voluntary family planning organizations. They realized that that action will contribute to a greater number of abortions rather than reduce the number of abortions. If the Senate does not agree with the Smith amendment, this bill will not even get to the President.

Third, this is a funny bill in a way. I am strongly in support of it because it does not cut foreign assistance as much as some would have wanted it to. The fact is, thanks to the work of certain Members on the other side, the efforts of the chairman of the Committee on the Budget to reduce this function by $5 billion were thwarted. While I believe this bill is not commensurate in terms of its funding with what should be America's role in the world and, while I am concerned that this bill will leave the United States as the least foreign assistance contributor of any other industrialized country in the world as a percentage of gross national product, the fact is this bill, given the context of the year we are in, given what others wanted to do, provides enough assistance, I think, to continue the merits of the program. I support it.

The bill is significantly above what the bill was when it left the House. The bill provides more for the very important international financial institutions account and particularly IDA, to help the lowest income people than it did when it left the House.

The bill provides special programs for children and earmarks. One of the few earmarks in the bill is $484 million of bilateral economic assistance for programs aimed at child survival and disease. The bill fully funds Israel and Egypt. It would be a tragedy at this time in the peace process for us to do anything that would diminish America's historic support for Israel's security as it enters into this peace process. I am very happy to say that the bill fully funds that aid.

One feature of the peace process, which this bill recognizes, I am no fan of the PLO. I am no fan of the way they have handled a variety of things. I have no doubt that there are aspects of the governance of the Palestinian authority that violate the human rights and liberties of the people living in the areas it now controls. The one thing I know is this peace process cannot succeed if the life of the individual who resides in the Gaza Strip or in the West Bank is not improved. The $75 million in this bill will help to make that happen. It supports the peace process. I think it should be supported.

The bill has some features I do not like. As I indicated, I would rather see a higher level of overall funding. We are significantly below the administration's request. We are significantly below last year's level of funding. While I have tremendous respect for the gentleman from Texas [Mr. WILSON], my friend, and a great deal of respect for his perspectives on these issues, and I like him quite a bit, I do disagree with his conclusions on two areas of the bill, Armenia and Pakistan.

I think the effort to economically strangulate the small country, when we allow assistance to go to Azerbaijan, one of the participants in that strangulation, I am afraid we remove a leverage point to stop that from happening.

I also think the consequence of some of these arms shipments to Pakistan that will be allowed by this bill, my fear is, will reignite and accelerate an arms race in the South Asian Peninsula. Believe me, the Government of India will be here looking for compensatory treatment with additional arms. Pakistanis will be back. There will be economic pressures from our defense contractors to provide those arms. My fear is that an already dangerous situation in the South Asian Peninsula will be accelerated. Notwithstanding those disagreements, there is very little question in my mind that this bill deserves our support, and I urge my colleagues to pass it.

Mr. CALLAHAN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PACKARD], a member of our Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. PACKARD. Mr. Speaker, I want to thank the chairman of committee for yielding time to me.

This is a very good piece of work. It is the first foreign operations funding bill that I will support. We are cutting our foreign operations funding by a significant amount, 11 percent. If every part of government cut to that level, we would balance our budget in a very quick hurry in this place.

I want to congratulate the gentleman from Alabama, Chairman CALLAHAN. This is his first year as chairman. He has done a super job.

It has been a real pleasure to work with the gentleman from Texas [Mr. WILSON]. I am sorry to see that this will be his last term to serve, but it has been a real pleasure to work with him. He is a real expert on foreign affairs, and it has been a pleasure to work with him.

I compliment the work of the committee. I am proud to be able to serve on it because we have put out a good product, one that the Congress should pass overwhelmingly and send to the President.

Mr. WILSON. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, as a member of the House Committee on International Relations, I rise to express my concern and disappointment over several provisions of the foreign operations appropriations bill.

It is unfortunate that while Congress continues to spend heavily on weapons of destruction, funding is being slashed for constructive programs which generate international goodwill and help make poor countries more self-sufficient. I have had the opportunity to visit Africa on many occasions and have seen first-hand the positive results produced by the Development Fund for Africa.

Vital programs help address the scourge of hunger, illiteracy, and poverty. In fact, through foreign aid provided by American and other countries, the death rate for children under 5 has been cut in half.

Now, three accounts, including the Development Fund for Africa, have been combined and funded at a level which is $450 million less than last year's level and less than the President's request.

The measure also cuts $9 million from the President's request for the Agency for International Development, which administers U.S. foreign economic and humanitarian assistance programs in more than 100 countries throughout the developing world. I believe these cuts are counterproductive and fail to live up to America's tradition of humanitarian assistance to the people of struggling nations.

On the issue of Haiti, I am determined to see democracy succeed in that nation. I visited Haiti many times during the effort to reinstate President Arisitide. I had the opportunity to talk with ordinary citizens of Haiti who are excited that at last they are in control of their country's destiny. I think it is important that impartial observers be sent to Haiti to monitor elections and determine the fairness of the process.

Other items in this bill which I find disturbing are the $15 million cut in the Peace Corps budget, $2 million cut in peacekeeping efforts, and $1 million reduction for the Trade and Development agency.

Let me add that I was also disappointed, as one who is deeply concerned about human rights in Northern

Ireland, that the conference report does not require that U.S. assistance be provided only to those who comply with the McBride principles which protect religious minorities. The fund was also cut below the $30 million the President requested to a level of $20 million.

Mr. Speaker, I recognize the need for fiscal responsibility, but I believe that it is in America's best interest to invest globally. These cuts are shortsighted and will undermine America's stature internationally.

I urge my colleagues to oppose the foreign operations appropriations conference report.

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Let me finally add that I was also disappointed, as one who is deeply concerned about human rights in Northern Ireland, that the conference report does not require that United States assistance be provided only to those who comply with the McBride principles which protect religious minorities. The fund was cut below $30 million; the President requested to a level of $20 million.

Mr. Speaker, I recognize the need for fiscal responsibility, but I believe that it is in America's best interest to invest globally. These cuts are shortsighted and will undermine America's stature internationally. I urge my colleagues to oppose the foreign operations cuts.

Mr. CALLAHAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon [Mr. BUNN], who is a member of our Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. BUNN of Oregon. Mr. Speaker, I want to thank the gentleman from Alabama [Mr. CALLAHAN] for yielding this time to me, thank the ranking member, the gentleman from Texas [Mr. WILSON], and the subcommittee staff for all their hard work on this vital bill. We worked together to protect aid to our friends like Turkey, one of our most important and loyal NATO allies. Although this bill cuts over $1.6 billion from last year, it does retain important programs like child survival, peace programs for the Middle East, and military financing for our allies. Foreign aid promotes U.S. national interests and gives the President the diplomatic tools necessary before resorting to any military force.

I am proud to support this bill, and I think it moves us forward in being the key player in the world, and I think that we have done a terrific job with the limited resources we have to maintain that role.

Mr. WILSON. Mr. Speaker, I have no further requests for time, and I urge the passage of the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. CALLAHAN. Mr. Speaker, I have only one other request for time; that is the gentleman from Ohio [Mr. HOKE], and he is not here, so, with that, I will agree to close.

Mr. Speaker, let me just say this is the best bill we can get. It cuts spending. It gives the administration the flexibility that they need to have an effective foreign policy, and I would encourage an "aye" vote on this.

Mr. LEVIN. Mr. Speaker, I rise in opposition to a provision in the foreign operations appropriations for fiscal year 1996 conference report that weakens current law prohibitions on direct aid to Azerbaijan.

During conference, a provision was added that will weaken section 907 of the Freedom Support Act, prohibiting direct government-to-government assistance between the United States and Azerbaijan until that country lifts its blockade of Armenia.

This provision was stripped from the House version of this bill after a lengthy floor debate that went on for over 2½ hours. In recognition of the House's firm action on this matter, the Senate opted not to include similar language in their version. The disregard of the will of both the House and Senate on this matter by the conferees is simply unacceptable.

Until the devastating blockade being imposed on Armenia by its hostile neighbor Azerbaijan is lifted, we cannot afford to compromise our principles by relaxing restrictions under section 907 to allow aid to Azerbaijan. The Government of Azerbaijan has taken no steps to lift the blockade or even allowed the transport of humanitarian aid to Armenia through its borders. Given these facts, I firmly believe that a change in the law is unwarranted.

Mr. DURBIN. Mr. Speaker I rise in opposition to the provision lifting the ban on direct United States aid to the Government of Azerbaijan, as long as Azerbaijan continues its brutal blockade of Armenia and Nagorno-Karabagh.

Just 4 months ago the House of Representatives passed the Visclosky amendment with overwhelming support. The Visclosky amendment would continue the current ban on direct United States aid to the Government of Azerbaijan, as long as Azerbaijan continues its blockade of Armenia and Nagorno-Karabagh. The Visclosky amendment did not forbid humanitarian assistance to the people of Azerbaijan, only direct United States aid to the Government of Azerbaijan.

How can it be, Mr. Speaker, that the conference report provides direct United States aid to the Government of Azerbaijan, when this House overwhelmingly rejected such aid, and the Senate bill preserved the current ban? I will tell my colleagues the simple truth of the matter, as I did when the House debated the Visclosky amendment 4 months ago. It is greed, simple greed. It is the oil of Azerbaijan, and the desire of some to profit from that oil by helping the Government of Azerbaijan to build the infrastructure to extract and transport that oil.

Since 1992 the United States has said that the Government of Azerbaijan will not receive direct United States aid as long as Azerbaijan continues its blockade of Armenia and Nagorno-Karabagh. This blockage has prevented the delivery of assistance to 300,000 Armenian refugees and obstructed the rebuilding of earthquake damage which left 500,000 people in Armenia homeless. The blockade by the Government of Azerbaijan has cut off the transport of food, fuel, medicine and other humanitarian assistance to the people of Armenia. Unless and until Azerbaijan removes its blockade of Armenia and Nagorno-Karabagh and stops its oppressive conduct toward the Armenian people, the United States should continue to forbid direct United States aid to the Government of Azerbaijan.

I strongly supported the Visclosky amendment when it was before the House 4 months ago. The House spoke clearly on this issue by passing the Visclosky amendment with overwhelming support. I joined with many of my colleagues in the House and wrote to the members of the conference committee to urge them to preserve the Visclosky amendment. I also wrote to the chairman of the Rules Committee in support of the Visclosky amendment. I deeply regret that the rule accompanying the conference report protects a provision lifting the ban on direct United States aid to the Government of Azerbaijan.

Mr. Speaker, in this time of crisis the people of Armenia need our strong support. As long as the Government of Azerbaijan continues to strangle the Armenian people by this blockade, the United States should stand resolute and firm in the position that we will not provide assistance to the Government of Azerbaijan.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of this conference report on Foreign Operations Appropriations for FY 1996 (H.R. 1868). This bipartisan legislation passed the House last July 11 on a vote of 333 to 89 and passed the Senate on September 21 by a vote of 91 to 9. The overall bill appropriates $202 million more than the House bill, but $2.7 billion less than President Clinton's request and $1.5 billion less than the fiscal year 1995 appropriations level.

As our Nation's only democratic ally in the region, it is important for the United States to continue to play a role in assisting Israel's fight against terrorism, radicalism and the proliferation of weapons of mass destruction. It should be noted that this assistance is of help not only to Israel, but 70 percent of the aid is spent in the United States, and thus creates new jobs, economic expansion and opens up new markets for United States exports. While being ever mindful of ways to find efficiencies within the Federal budget, the foreign operations budget consist of less than 1 percent of the Federal budget and yet helps create nearly 1 million domestic jobs.

I also want to take time to congratulate both the House and Senate for its leadership and swiftness in overwhelming passage of S. 1322, The Jerusalem Embassy Relocation Implementation Act of 1995. With over 180 United States Embassies around the world, only Israel has been denied the right to have its American Embassy located in its capital city. While Jerusalem is a holy city for three major world religions and home to thousands of religious worshipers, the state of Israel has never denied people of any faith from worshiping in Jerusalem. Now that the peace process is progressing, relocating the U.S. Embassy from Tel Aviv to Jerusalem will hopefully strengthen that peace process.

Israel has been a trustworthy ally in a troubled and unstable region of the world, and it is my view that passage of these two bipartisan bills will help the United States reconfirm its strong commitment to Israel, to human rights, and to peace.

Mr. KENNEDY of Rhode Island. Mr. Speaker, it is with truly mixed emotions that I today will vote in support of this conference report.

There is much in this report that is good, and for the most part of those measures which prompted me to support the bill when it was on the House floor remain.

This bill continues our historic and important commitment to advancing peace in the Middle East. Israel is our strongest ally and is the only democracy in an unstable, volatile, and important region.

The American people have been partners with Israel in difficult days, and today as the prospects for peace appear more promising, we must continue to be a steadfast ally.

This bill also makes important refinements in the Middle East Peace Facilitation Act, toughening standards that apply to actions by the PLO.

As well, this bill includes several provisions which continue our commitment to support the people of Armenia. I applaud the inclusion of the earmark for Armenia, the cap on aid to Turkey, and the inclusion of the Humanitarian Aid Corridor Relief Act.

These are good provisions. The United States must be beside the people of Armenia in their struggle against aggressors.

Unfortunately, the conference ignored the will of the House on section 907 of the Freedom Support Act. After two and a half hours of debate, on June 29 the House voted to maintain a strong Freedom Support Act and says to Azerbaijan, that we will not give you aid until you end your unjust blockade of Armenia.

This was right then. And it is right today.

What is wrong, in fact unconscionable, is to have Conferees turn their back on the expressed will of the House.

Democracy is based upon the simple idea that votes matter, that when people freely express what they believe, and the majority speaks, that they will be heard. By ripping the heart out of the Freedom Support Act, the conference report cavalierly said that votes do not stand for anything.

This back room deal is beneath this Congress. As people in struggling democracies look to us to set an example, it is tragic that we set such a poor example in the very bill that defines how we relate to the rest of the world.

Mr. Speaker, I will vote for this bill. I support much that is in it, but deplore what has been added and how that was done.

Those of us—and I remind you that it is the majority of us—who believe in a strong Freedom Support Act, will take our fight to another day.

We will not give up.

Mr. ROEMER. Mr. Speaker, Chechnya has entered the stage of a precarious balance between war and peace, one which is likely to continue for some time. The peace negotiations are currently deadlocked. The discussion of political issues, including the status of Chechnya, is supposed to take place once the military agreements have been implemented. However, the key military elements of the cease-fire agreement—the decommissioning of Chechen weapons, the withdrawal of Russian troops and the release of prisoners—are far from complete. And given the size of the chasm that exists between the two sides on these issues, it is unlikely that the basic armistice agreements will be implemented anytime soon.

Therefore, I am very encouraged by the fact that the conference report's statement of managers calls for no more than $195 million for aid to Russia, with the remaining $446 million in the Newly Independent States account to be used for aid to the other republics. My amendment, which was adopted as part of the original House-passed bill, cut and then placed limits on the use of funds for Russia in response to its continued aggression in Chechnya.

Mr. Chairman, it is clear that the discussion of political issues is important for us to consider as we conclude our deliberations of this year's foreign aid appropriation to Russia. Relating to the issue of prisoner exchanges, Russian and Chechen negotiators in Grozny agreed initially to exchange all prisoners of war and other people forcibly detained during the conflict. However, this argument began to unravel when it became clear that the two sides could not agree on the actual number of prisoners held. With all of the charges and countercharges and confusion on both sides, it does not appear that this exchange will be resolved anytime soon.

In the area of decommissioning weaponry, the Russian-Chechen armistice agreement provisions have created a truly confusing and frustrating situation. Russian forces continue to confiscate weapons while the armistice clearly stipulated that Chechens were to be compensated for turning over their weapons. But this was not the most serious post-armistice harassment perpetrated by the Russian military. On August 19, when the decommissioning of arms began, Russian soldiers opened fire on the village of Achkhoi-Martan, killing two children. The Russian military falsely informed the media that the children had been killed by an exploding mine.

However, we should be thankful that gradually, the Chechens are gaining control over this situation. Not only are the rank and file paramilitary Chechens returning to their homes, but also the commanders for whom the Russian intelligence services continue to search. While the head of the new National Salvation government says that he controls 90 percent of the Chechen territory, their authority in fact extends over Grozny only in the daytime. At night it is reported, that their power does not extend beyond the territory of Russian troops quarters, check points and commandant's offices.

Mr. Chairman, I urge my colleagues to remain mindful of the delicate balance between war and peace in Chechnya. I further urge my colleagues to be cognizant of Russia's continued presence in Chechnya when voting to provide $195 million to the Government of Russia.

Mr. Chairman, it is time to reassess our national budgetary priorities. In the past U.S. tax dollars have fostered democracy and fought poverty and disease throughout the world. I cannot in good conscience, however, vote for aid to foreign nations when America faces severe problems here at home. Thirty-seven million Americans lack health insurance, too many students are graduating from school unprepared to compete in the world market, and the United States is facing a huge Federal deficit. We cannot send aid to every corner of the world and also make a serious commitment to tackling our problems at home. We simply cannot afford it all, and our U.S. foreign assistance program must therefore be restructured and returned.

While I support foreign aid in instances where there is a demonstrated humanitarian need, or when U.S. national security dictates protecting strategic and regional interests, I believe that we must take a serious look at the ways in which the United States has provided aid in the past. Simple cash or military aid that does not directly foster economic growth abroad may not be in our long-term interests. We must consider restructuring our foreign aid program to emphasize expanding U.S. exports, developing future markets for our products and encouraging economic development in other countries that are important to our national security. As long as we face demanding problems here at home and fail to reform the outdated manner in which we give foreign aid, I cannot support this foreign aid bill.

Mr. CALLAHAN. Mr. Speaker, having no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. OBEY. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the Conference Report on the bill H.R. 1868 to the Committee of Conference with instructions to the managers on the part of the house to: recede from its disagreement to the amendment of the Senate numbered 150, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert: : Provided, That none of the funds made available under this Act may be used to lobby for or against abortion.

SEC. 518A. COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund will terminate all family planning activities in the People's Republic of China no later than May 1, 1996; or (2) during the 12 months preceding such certification, there have been no abortions as the result of coercion associated with the family planning activities of the national government or other governmental entities within the People's Republic of China. As used in this section the term "coercion" includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Evidently a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which the automatic vote by electronic device will be taken on the question of agreeing to the conference report.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 179, nays 245, as follows:

[Roll No. 751]

YEAS—179

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
Danner
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dunn
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley

Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Horn
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McKinney

Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Moran
Morella
Nadler
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Stark
Stokes
Studds
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres

Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky

Ward
Waters
Watt (NC)
Waxman
Wilson
Wise

Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—245

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Forbes
Fox
Franks (CT)
Frisa
Funderburk
Gallegly

Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick

Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Coleman
Fields (LA)
Gephardt

Moakley
Ros-Lehtinen
Tucker

Weldon (PA)
Williams

□ 1727

Messrs. JOHNSON of Texas, EWING, HOKE, FRANKS of Connecticut, BAESLER, and HAMILTON changed their vote for "yea" to "nay."

Messrs. PAYNE of New Jersey, FRELINGHUYSEN, GILMAN, FRANKS of New Jersey, GREENWOOD, MINGE, CRAMER, DAVIS, FOLEY, KLECZKA, EHRLICH, and KOLBE, Ms. DUNN, and Miss COLLINS of Michigan changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 351, nays 71, not voting 10, as follows:

[Roll No. 752]

YEAS—351

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger

Coble
Collins (GA)
Collins (IL)
Combest
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost

Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Heineman
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King

Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mink
Molinari
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanford
Sawyer
Schiff
Schumer
Scott
Seastrand
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stenholm
Stokes
Studds
Stupak
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Upton
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff
Zimmer

NAYS—71

Barrett (NE)
Becerra
Brown (CA)
Brown (OH)
Bryant (TX)
Bunning
Chenoweth
Clyburn
Coburn
Collins (MI)
Condit
Conyers
Cooley
Danner
DeFazio
Dellums
Dingell
Doolittle
Duncan
Everett
Hall (TX)
Hancock
Hayes
Hefley
Hefner
Herger
Hilliard
Houghton
Jacobs
Jones
Kaptur
Lincoln
Lucas
Martinez
Miller (CA)
Minge
Mollohan
Montgomery
Myers
Neumann
Owens
Payne (NJ)
Pombo
Quillen
Rahall
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Sanders
Scarborough
Schaefer
Schroeder
Sensenbrenner
Shuster
Slaughter
Stark
Stearns
Stockman
Stump
Tanner
Taylor (MS)
Thompson
Thornton
Traficant
Velazquez
Volkmer
Watt (NC)
Young (FL)

NOT VOTING—10

Coleman
Fields (LA)
Gephardt
Hutchinson
Moakley
Ros-Lehtinen
Saxton
Torres
Tucker
Weldon (PA)

☐ 1734

Mr. DOOLITTLE changed his vote from "yea" to "nay."

Mr. RUSH and Mrs. COLLINS of Illinois changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HUTCHINSON. Mr. Speaker, on rollcall No. 752, I was inadvertently detained and missed the vote for final passage of the conference report on H.R. 1868. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was inadvertently detained on official business yesterday during rollcall vote No. 752, the vote for final passage of the conference report on H.R. 1868. Had I been present on the floor of the House, I would have voted "yea."

LIMITING DEBATE ON MOTION MADE IN ORDER BY HOUSE RESOLUTION 249 TO DISPOSE OF SENATE AMENDMENT 115

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that debate on the motion made in order by House Resolution 249 to dispose of the amendment of the Senate numbered 115 be limited to 20 minutes equally divided and controlled as otherwise provided in the rule.

The SPEAKER pro tempore (Mr. COMBEST). Is there objection to the request of the gentleman from Alabama?

There was no objection.

AMENDMENT IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 115: Page 44, line 19, after "lizations" insert: *Provided*, That in determining eligibility for assistance from funds appropriated to carry out section 104 of the Foreign Assistance Act of 1961, nongovernmental and multilateral organizations shall not be subjected to requirements more restrictive than the requirements applicable to foreign governments for such assistance: *Provided further*, That none of the funds made available under this Act may be used to lobby for or against abortion.

MOTION OFFERED BY MR. CALLAHAN

Mr. CALLAHAN. Mr. Speaker, I offer a motion.

The Speaker pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CALLAHAN moves that the House recede from its disagreement to the amendment of the Senate numbered 115, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

: *Provided*, That none of the funds made available under this Act may be used to lobby for or against abortion.

PROHIBITION ON FUNDING FOR ABORTION

Sec. 518A. (a) IN GENERAL.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not during the period for which the funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the fetus were carried to term or in cases of forcible rape or incest.

(2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Notwithstanding any other provision of this Act, paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) Subsections (a) and (b) apply to funds made available for a foreign organization either directly or as a subcontractor or subgrantee, and the required certifications apply to activities in which the organization engages either directly or through a subcontractor or subgrantee.

(d) COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA) unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund will terminate all family planning activities in the People's Republic of China no later than March 1, 1996; or (2) during the 12 months preceding such certification, there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term "coercion" includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

The SPEAKER pro tempore. Pursuant to House Resolution 249 and the order of the House, the gentleman from Alabama [Mr. CALLAHAN] and a Member opposed will each be recognized for 10 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am offering a motion today that is an attempt at a compromise on the Mexico City abortion policy. Except for a technical change, it is the same as I offered in conference. Unfortunately, the Senate rejected my offer.

The original Mexico City abortion policy amendment was offered on the House floor by Mr. SMITH of New Jersey, pursuant to the rule for consideration of the Foreign Operations bill.

It passed by a vote of 243 to 187. However, my compromise proposal would modify the House language in the following ways:

First, the Smith amendment as passed prohibited funding to both foreign and domestic organizations if they used non-Federal funds for abortions. The compromise would apply the funding limitation only to foreign organizations, either acting directly or as a subcontractor or subgrantee.

Second, I would modify the provisions on lobbying to apply only to foreign organizations, acting in a foreign country. That would remove any hint of a constitutional problem with the amendment, as some have alleged.

Third, I would modify the language on the U.N. Population Fund to remove the funding prohibition for UNFPA if the President certifies that the organization will terminate all family planning activities in China by March 1, 1996. The agreement between the U.N. Population Fund and China expires on December 31 of this year, and this proposal would give them 2 months to phase out any carry-over activities. Frankly, if China and the U.N. Population Fund sign a new agreement, then we should terminate funding for the organization.

The modification to amendment no. 115 would also strike the Senate provision that puts into statute abortion policy that is contrary to the Mexico City policy. The language proposed by the Senate prohibiting the use of Federal funds to lobby for or against abortion would be retained.

The effect of this amendment is to return to the original Mexico City policy as practiced by the Reagan administration.

Frankly, I prefer the original House position on these matters. But I am interested in moving this conference agreement through the Congress, and I believe this proposal may be a way to do that.

I would also like to note that this motion has the support of the original sponsor of the amendment, Mr. SMITH of New Jersey. I appreciate his effort to work with the committee to fashion this language.

Mr. Speaker, I ask unanimous consent to yield my remaining time to the gentleman from New Jersey [Mr. SMITH].

The SPEAKER pro tempore. Without objection, the gentleman from Alabama yields the remaining time that he has to the gentleman from New Jersey [Mr. SMITH], which is 9 minutes.

There was no objection.

The SPEAKER pro tempore. Is the gentleman from Texas opposed to the motion?

Mr. WILSON. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas [Mr. WILSON] is recognized for 10 minutes.

Mr. WILSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, family planning works and we should not allow differences in our domestic policy to interfere with foreign policy.

The Mexico City policy allowed our country to make effective use of our foreign aid. Reimposing the Mexico City policy will hurt countless families throughout the world and increase the number of unintended pregnancies.

Organizations like International Planned Parenthood offer basic health care screening and information on how to plan a family. Denying United States funds to organizations like International Planned Parenthood just does not make sense. It is arbitrary denial of assistance where it is needed.

If we are serious, Mr. Speaker, about helping people not have unintended pregnancies, we should not impose the Mexico City policy. This policy works. Planned Parenthood works.

Why do we not just let the rest of the world do what they are going to do as we always do what we want to do?

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Speaker, I stand today to remind Members of the debate that we had not too long ago and in support of the Callahan amendment.

Mr. Speaker, the United Nations Fund for Population Assistance has not had a history of which it should be proud in terms of its relationship with the Chinese Government. While they may choose to say otherwise, forced abortions and sterilizations do occur in China today. When Mrs. Clinton was in China last month, she condemned this practice. We can do no less than to back her up.

Last July, I had the opportunity to hear the testimony of Chinese men and women who had fled China after having experienced either a forced abortion or sterilization. One of these women was forcibly sterilized by the Chinese Government because she had the courage to pick up an abandoned baby girl by the side of the road. By adopting this little girl, she violated her quota of children although this little girl was not her birth child. This is anti-woman, both adult and child. It is also anti-family.

As Members, we have a responsibility to speak out for these Chinese girls who are abandoned on the side of the road and placed in literal death houses where they are left to starve to death. It is time to say to the UNFPA, enough is enough. No more dancing around the issue. Americans are sick and tired of being mocked.

Mr. WILSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, I rise in strong opposition to the motion before us. This motion aims to completely eliminate family planning aid overseas.

Proponents of this language claim that it simply cuts abortion funding. What they have not told you is that abortion funding overseas has been prohibited since 1973. This language would cut abortion funding from its current level of zero to zero.

Therefore, this motion goes after family planning.

The world's population is growing at an unprecedented rate. In 40 years our planet's population will more than double. As a responsible world leader, the United States must do more to deter the environmental, political, and health consequences of this explosive growth.

One of the most important forms of aid that we provide to other countries is family planning assistance. No one can deny that the need for family planning services in developing countries is urgent and the aid we provide is both valuable and worthwhile.

And let us not forget what family planning assistance means to women around the world. Complications of pregnancy, childbirth and unsafe abortion are the leading killers of women of reproductive age throughout the third world. One million women die each year as a result of reproductive health problems.

Each year, 250,000 women die from unsafe abortions.

Only 20 to 35 percent of women in Africa and Asia receive prenatal care.

Five hundred million married women want contraceptives but cannot obtain them.

Most of these disabilities and deaths could be prevented.

This motion would defund family planning organizations that perform legal abortions—even if the abortion services are funded with non-U.S. money.

The motion also cuts funds to the UNFPA, an organization that provides family planning and population assistance in over 140 countries. The pretext for this provision is that the UNFPA operates in China, and therefore the funding must be cut. However, the law currently states that no United States funds can be used in UNFPA's China program. Proponents of this language are clearly using the deplorable situation in China as an excuse to eliminate funding for this highly successful and important family planning organization. The UNFPA is in no way linked to reported family planning abuses in China, and should not be held hostage to extremist anti-abortion rhetoric.

I urge my colleagues to oppose this motion. No matter how its proponents try to disguise it, this motion is ultimately intended to end U.S. family planning assistance overseas. A vote for this motion is a vote against sensible, cost-effective family planning programs.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. I thank the gentleman for yielding me the time.

Mr. Speaker, the Callahan amendment represents a proposed compromise with the Senate on the codification of the Mexico City policy, a policy that is supported by the vast majority of the American people.

I think it is important to note that this language does nothing to reduce

U.S. funding of international family planning programs. It merely prevents taxpayer money from going to fund promotion or performance of abortion.

What we are trying to do in this amendment is to stop clouding the issue. To talk about private funds being used and no taxpayers' dollars being used is really quite deceptive. It does not really fool anybody. It is a shell game being played by these organizations. The American people do not want their taxpayer dollars being used to promote, perform, and support abortion policies around the world.

Since rescinding the Mexico City policy, the Clinton administration has committed over $75 million to International Planned Parenthood which performs and promotes abortion as a method of family planning, and they have refused to sign because of their radicalism to the Mexico City policy.

Mr. WILSON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, just 2 months ago, women from different nations, cultures, and religions came together at the United Nations World Conference on Women, in Beijing.

At the Beijing conference, Mr. Speaker, women from around the world spoke about the need to increase access to family planning, particularly in the developing world, where an unwanted pregnancy is often a matter of life or death.

If you believe that women, rich and poor, should have the right to choose safe motherhood, you must vote down the Callahan motion. If you believe that women should have the right to choose how many children they have and under what conditions, you must vote down the Callahan motion. If you believe that the United States has the obligation to support the United Nations in its efforts to slow the Earth's exploding population, and the misery that comes with it, you must vote down the Callahan motion.

Support international family planning; support the conference report language for the foreign operations appropriations bill; vote down the Callahan motion.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentlewoman from Idaho [Mrs. CHENOWETH].

□ 1745

Mrs. CHENOWETH. Mr. Speaker, I have said it once and I will say it again.

This debate is about more than just family planning in China or other countries. This debate is about the United States of America and a consistent policy that has been established from the beginning of this country and has been held forth until now.

But through a weakening of the commitment and the resolve to never, never allow for public funding for abortions, especially overseas, just through the rhetoric and through a potential treaty, that consistent policy could be seriously, seriously diminished.

Even as late as 1994, the General Conference on Population and Development held in Cairo reiterated that in no case should abortion be promoted as a method of family planning.

Mr. Speaker, we take great pride in the fact we have established a new vision for America and we have begun to establish a new trust for this Congress by laying out promises that were made; promises that were kept. And I think in all cases we ought to be able to say to the American people, "This is a promise that we have made and we will make it into the future; that there shall not be this kind of foreign policy that shall be initiated."

Mr. WILSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in opposition to the Callahan-Smith amendment. There are those who are trying to sell this as a compromise amendment. This is not a compromise. It is one side compromising with itself.

This amendment is still terrible in its impact on the poorest of the poor women of the world. Remember our policy in this country has always been antiabortion. Not one cent of this money goes for abortions when it goes overseas.

With the Callahan-Smith amendment, it becomes antifamily planning. The key to this amendment is that no matter how sick or malnourished a woman may be, no matter that she is carrying a seriously malformed fetus, she can not have a health service, maybe in the only women's health clinic that she has access to, like others could have because they can afford to pay their doctor.

These women that we are talking about do not have the options that Americans do. They do not have the many choices of health care providers so that they can get a medically necessary abortion from another source if the woman's health organization to which we provide family planning assistance is restricted from doing so. There are NGO's, nongovernmental organizations, that simply cannot accept these conditions, because the local law forbids it.

Mr. Speaker, there are countries in this world where the only organization providing family planning is International Planned Parenthood. This would say that International Planned Parenthood could not have money. It would take us out of countries where the average number of children per woman of childbearing years is 7; the average number of children produced by a woman in her childbearing years is 7, and we are going to take out the only family planning organization present.

Mr. WILSON. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in opposition to the Callahan amendment. One point must be reiterated in this debate—this amendment has nothing to do with abortion. Current law already prohibits the use of U.S. funds for abortion For 20 years, foreign aid policy and law has clearly stated that U.S. funds cannot be used to pay for abortion services or to lobby on the issue.

What this amendment does do is gut family planning programs—resulting in more abortions.

The Callahan amendment would deny funds to women's health organizations which use their own funds to perform abortions or lobby their governments on abortion policy. I urge my colleagues to recognize that the effect of this provision would be to kill family planning programs.

This amendment is an international gag rule. As democracy movements are opening up public involvement in policymaking throughout the world, we are seeing many private, local organizations becoming more vocal about the harsh reality of women's health. When I participated in the international women's conferences in Cairo and Beijing, I heard thousands of nongovernmental organizations speaking out, telling the world about the lack of access to decent health care in developing countries and of the obstacles women face in choosing how many children they want to have and can afford to care for. This international gag rule would inhibit these groups from providing health information to the public and prevent them from expressing concerns about women's struggles because—quite simply—they need foreign assistance to provide services.

The Callahan amendment is not a compromise because the restrictions would still impact groups throughout the world—those providers who best understand the local needs and problems. Supporters of the amendment argue that it would not impact U.S. groups, but, in fact, it will, because U.S. groups work closely with family planning partners in other countries.

Mr. Speaker, I certainly urge my colleagues to join in opposing the amendment.

Mr. WILSON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker and Members of the House, I would like to point out once more, just in case there is any misunderstanding, the statement of the administration policy, that if the House language were included in the bill presented to the President, the Secretary of State would recommend to the President that he veto the bill.

Mr. Speaker, I yield the balance of my time to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise with great respect for the deeply felt commitment of the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from New Jersey [Mr. SMITH] for their position, but in strong opposition to their proposal.

You have heard it over and over again, and I will say it again: Current law is already antiabortion. This Callahan-Smith provision only makes it antifamily planning. Existing law prohibits use of U.S. funds for abortion activities. Our colleague, the gentlewoman from Maryland [Mrs. MORELLA], pointed out that for 20 years there have been adequate protections in foreign aid law and policy, the Helms amendment.

The House language is extreme because it would defund organizations that provide legal health services. Legitimate and effective women's health organizations would be punished under this amendment simply for providing family planning information. The target of the House provision is the U.N. Population Fund.

Operating in 140 countries, UNFPA is the principal multilateral organization providing worldwide family planning and population assistance. UNFPA assistance is used for family planning and assistance and maternal and child care in the poorest and most remote regions of the world.

Since its founding, UNFPA has saved the lives of countless women and children. Further limitations on the U.S. contributions to UNFPA are unnecessary. No United States funds can be used in UNFPA's China program. No UNFPA funding is linked in any way to family planning abuses in China. UNFPA does not condone or cover up coercion in China. The United States Government should not, as a matter of principle, hold family planning and UNFPA hostage to the legitimate concerns we all hold and share about forced abortions in China.

I urge a "no" vote.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, a little over 3 months ago the House voted overwhelmingly on two important pro-life policies, these anticoercion policies contained in the Callahan motion.

First, we voted to condition our support for the U.N. Population Fund on an end to UNFPA support for the forced abortion policy of the People's Republic of China. In recent months, the government-imposed nightmare of forced abortion and involuntary sterilization in China has taken yet another turn for the worse.

Mr. Speaker, the brutal one-child-per-couple policy has been around since 1979. This means quite literally that brothers and sisters are illegal.

In February of this year, the government announced a new intensified campaign against women who attempt to have a child without explicit government permission. The arrogant leaders in Beijing have decreed children should not be born, so population control cadres march out in lockstep and they force abortions on these women throughout the country.

Yet, and I beg to differ with my good friend from California, the UNFPA continues to laud this program as a totally voluntary program. Nothing, Mr. Speaker, could be further from the truth. Dr. Sadik, from time and time again on national television and in various fora, is saying the Chinese program is voluntary. She is whitewashing, unfortunately, these heinous crimes against women and children. She has even recommended that the Chinese program be replicated and reproduced elsewhere around the world.

Unfortunately, we should be lampooning and bringing scrutiny to these terrible human rights abuses, rather than giving money to organizations that act as cheerleaders.

I was in Beijing, Mr. Speaker, when First Lady Hillary Rodham Clinton gave an excellent speech on forced abortion. Unfortunately, she did not mention China, but everybody knew about whom she was talking.

We need to see the words matched with deeds. Unfortunately, rhetoric and condemnations are not enough. This kind of language, similar to what we had in effect during the Reagan and Bush years, will send a clear, unmistakable message that coercion has no place in family planning programs.

The other program or policy is the Mexico City policy, which simply seeks to erect a wall of separation between abortion and family planning. Again, the other side has suggested this is antifamily planning. Not true.

In effect since 1984, unfortunately repealed by Mr. Clinton, this program and policy sent money to groups, including International Planned Parenthood Federation affiliates who would sign on the dotted line that they would not promote abortion as a method of family planning.

If we are serious that these children who are killed by abortion have worth and are priceless and have value, it seems to me that we should be giving money only to those organizations that are truly committed to family planning and not those that have an agenda of promoting abortion globally as well as in this country.

Mr. Speaker, let me say finally, the gentleman from Alabama [Mr. CALLAHAN] has done an excellent job in crafting, as chairman of this subcommittee, language that is a compromise. We have given in on some points. The language before us, I think, should pass muster in the Senate, and we hope that the President—maybe not the first time, but sometime in the near future—will sign this into law, because it is right. Children have value.

Family planning is not reduced by a dime. By this language, it is conditioned only to those that promote family planning and not those that promote abortion.

Mr. CALLAHAN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Speaker, I urge the House to vote for this amendment, and would announce on behalf of the leadership that this will be the last vote of the evening.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to the rule, the previous question is ordered.

The question is on the motion offered by the gentleman from Alabama [Mr. CALLAHAN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 187, not voting 13, as follows:

[Roll No. 753]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frisa
Funderburk
Gallegly
Ganske
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood

Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—187

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dunn
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Horn
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Moran
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—13

Borski
Coleman
Davis
Fields (LA)
Gekas
Gephardt
Moakley
Mollohan
Murtha
Pomeroy
Ros-Lehtinen
Tucker
Weldon (PA)

☐ 1818

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Speaker, I regret that I was not present for rollcall No. 753, the motion to recede and concur on H.R. 1868, the Foreign Operations Appropriations Act of 1996. Had I been present, I would have voted "no".

CONFERENCE REPORT ON H.R. 1977, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. REGULA submitted the following conference report and statement on the bill (H.R. 1977) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–300)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1977) "making appropriations for the Department of the Interior and related agencies, for the fiscal year ending September 30, 1996, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 21, 24, 26, 40, 54, 57, 67, 77, 83, 85, 94, 99, 100, 105, 107, 111, 117, 118, 123, 136, 138, 147, 148, 155, 163, 166, 169, 171, 172, and 173.

That the House recede from its disagreement to the amendments of the Senate numbered 10, 11, 13, 15, 16, 17, 18, 19, 20, 28, 31, 32, 34, 36, 38, 45, 46, 48, 50, 51, 52, 56, 59, 61, 62, 66, 71, 72, 73, 74, 75, 76, 78, 80, 81, 82, 86, 87, 88, 93, 96, 97, 102, 103, 106, 109, 113, 121, 124, 126, 127, 128, 129, 130, 131, 133, 134, 137, 139, 140, 141, 142, 143, 144, 145, 149, 150, 157, 159, 160, 161, 162, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: , *and assessment of mineral potential of public lands pursuant to P.L. 96–487 (16 U.S.C. 3150 (a)), $568,062,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows: After the first comma in said amendment insert: *of which $2,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of P.L. 96–487 (16 U.S.C. 3150), and*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$568,062,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,115,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$101,500,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,800,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$93,379,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$497,943,000, to remain available for obligation until September 30, 1997,*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$37,655,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$36,900,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided further, That the Director of the Fish and Wildlife Service may charge reasonable fees for expenses to the Federal Government for providing training by the National Education and Training Center: Provided further, That all training fees collected shall be available to the Director, until expended, without further appropriation, to be used for the costs of training and education provided by the National Education and Training Center*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: Following "Public Law 88–567," insert: *if for any reason the Secretary disapproves for use in 1996 or does not finally approve for use in 1996 any pesticide or chemical which was approved for use in 1995 or had been requested for use in 1996 by the submission of a pesticide use proposal as of September 19, 1995,*

And the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,083,151,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$37,649,000*; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$36,212,000*; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$143,225,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment insert the following: *$4,500,000 of the funds provided herein*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$49,100,000*; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided, That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.*

And the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *The National Park Service shall, within existing funds, conduct a Feasibility Study for a northern access route into Denali National Park and Preserve in Alaska, to be completed within one year of the enactment of this Act and submitted to the House and Senate Committees on Appropriations and to the Senate Committee on Energy and (Natural Resources and the House Committee on Resources. The Feasibility Study shall ensure that resource impacts from any plan to create such access route are evaluated with accurate information and according to a process that takes into consideration park values, visitor needs, a full range of alternatives, the viewpoints of all interested parties, including the tourism industry and the State of Alaska, and potential needs for compliance with the National Environmental Policy Act. The Study shall also address the time required for development of alternatives and identify all associated costs.*

This Feasibility Study shall be conducted solely by the National Park Service planning personnel permanently assigned to National Park Service offices located in the State of Alaska in consultation with the State of Alaska Department of Transportation.

And the Senate agree to the same.

Amendment numbered 41:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert the following: *and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g (1) and related purposes as authorized by law and to publish and disseminate data; $73,503,000*; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:, *and of which $137,000,000 for resource research and the operations of Cooperative Research Units shall remain available until September 30, 1997, and of which $16,000,000 shall remain available until expended for conducting inquires into the economic conditions affecting mining and materials processing industries*; and the Senate agree to the same.

Amended numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

: Provided further, That funds available herein for resource research may be used for the purchase of not to exceed 61 passenger motor vehicles, of which 55 are for replacement only: Provided further, That none of the funds available under this head for resource research shall be used to conduct new surveys on private property, including new aerial surveys for the designation of habitat under the Endangered Species Act, except when it is made known to the Federal official having authority to obligate or expend such funds that the survey or research has been requested and authorized in writing by the property owner or the owner's authorized representative: Provided further, That none of the funds provided herein for resource research may be used to administer a volunteer program when it is made known the Federal official having authority to obligate or it is made known to the Federal official having authority to obligate or expend such funds that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified: Provided further, That no later than April 1, 1996, the Director of the United States Geological Survey shall issue agency guidelines for resource research that ensure that scientific and technical peer review is utilized as fully as possible in selection of projects for funding and ensure the validity and reliability of research and data collection on Federal lands: Provided further, That no funds available for resource research may be used for any activity that was not authorized prior to the establishment of the National Biological Survey: Provided further, That once every five years the National Academy of Sciences shall review and report on the resource research activities of the Survey: Provided further, That if specific authorizing legislation is enacted during or before the start of fiscal year 1996, the resource research component of the Survey should comply with the provisions of that legislation: Provided further, That unobligated and unexpended balances in the National Biological Survey, Research, inventories and surveys account at the end of fiscal year 1995, shall be merged with and made a part of the United States Geological Survey, Surveys, investigations, and research account and shall remain available for obligation until September 30, 1996: Provided further, That the authority granted to the United States Bureau of Mines to conduct mineral surveys and to determine mineral values by section 603 of Public Law 94–579 is hereby transferred to, and vested in, the Director of the United States Geological Survey; and the Senate agree to the same.

Amendment numbered 44:

That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$182,994,000*; and the Senate agree to the same.

Amendment Numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

For expenses necessary for, and incidental to, the closure of the United States Bureau of Mines, $64,000,000 to remain available until expended, of which not to exceed $5,000,000 may be used for the completion and/or transfer of certain ongoing projects within the United States Bureau of Mines, such projects to be identified by the Secretary of the Interior within 90 days of enactment of this Act: Provided, That there hereby are transferred to, and vested in, the Secretary of Energy: (1) the functions pertaining to the promotion of health and safety in mines and the mineral industry through research vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania, and at its Spokane Research Center in Washington; (2) the functions pertaining to the conduct of inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines under the minerals and materials science programs at its Pittsburgh Research Center in

Pennsylvania, and at its Albany Research Center in Oregon; and (3) the functions pertaining to mineral reclamation industries and the development of methods for the disposal, control, prevention, and reclamation of mineral waste products vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania: Provided further, That, if any of the same functions were performed in fiscal year 1995 at locations other than those listed above, such functions shall not be transferred to the Secretary of Energy from those other locations: Provided further, That the Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Secretary of the Interior, is authorized to make such determinations as may be necessary with regard to the transfer of functions which relate to or are used by the Department of the Interior, or component thereof affected by this transfer of functions, and to make such dispositions of personnel, facilities, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with, the functions transferred herein as are deemed necessary to accomplish the purposes of this transfer: Provided further, That all reductions in personnel complements resulting from the provisions of this Act shall, as to the functions transferred to the Secretary of Energy, be done by the Secretary of the Interior as though these transfers had not taken place but had been required of the Department of the Interior by all other provisions of this Act before the transfers of function became effective: Provided further, That the transfers of function to the Secretary of Energy shall become effective on the date specified by the Director of the Office of Management and Budget, but in no event later than 90 days after enactment into law of this Act: Provided further, That the reference to "function" includes, but is not limited to, any duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$173,887,000*; and the Senate agree to the same.

Amendment numbered 53:

The the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$1,359,434,000*; and the Senage agree to the same.

Amendment numbered 55:

That the House recede from its disagreement to the amendment of the Senate numbered 55, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$100,255,000 shall be for welfare assistance grants and not to exceed $104,626,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$68,209,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$71,854,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: Before "*: Provided further*" in said amendment, insert: *, to become effective on July 1, 1997*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$100,833,000*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$80,645,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

In lieu of the sum named in said amendment insert: *$500,000*; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment, amended as follows:

In lieu of the first sum named in said amendment insert: *$4,500,000*.

In lieu of the second sum named in said amendment insert: *$35,914,000*.

In lieu of the third sum named in said amendment insert: *$500,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$65,188,000, of which (1) $61,661,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

In lieu of "October 1, 1995" named in said amendment insert: *March 1, 1996*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 108. Prior to the transfer of Presidio properties to the Presidio Trust, when authorized, the Secretary may not obligate in any calendar month more than 1/12 of the fiscal year 1996 appropriation for operation of the Presidio: Provided, That this section shall expire on December 31, 1995.

And the Senate agree to the same.

Amendment numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 118. Section 4(b) of Public Law 94-241 (90 Stat. 263) as added by section 10 of Public Law 99-396 is amended by deleting "until Congress otherwise provides by law." and inserting in lieu thereof: "except that, for fiscal years 1996 through 2002, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be $11,000,000 annually, subject to an equal local match and all other requirements set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments in this subsection to be provided as set forth in subsection (c) until Congress otherwise provides by law.

"(c) The additional amounts referred to in subsection (b) shall be made available to the Secretary for obligation as follows:

"(1) for fiscal years 1996 through 2001, $4,580,000 annually for capital infrastructure projects as Impact Aid for Guam under section 104(c)(6) of Public Law 99-239;

"(2) for fiscal year 1996, $7,700,000 shall be provided for capital infrastructure projects in American Samoa; $4,420,000 for resettlement of Rongelap Atoll; and

"(3) for fiscal years 1997 and thereafter, all such amounts shall be available solely for capital infrastructure projects in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands: Provided, That, in fiscal year 1997, $3,000,000 of such amounts shall be made available to the College of the Northern Marianas and beginning in fiscal year 1997, and in each year thereafter, not to exceed $3,000,000 may be allocated, as provided in appropriations Acts, to the Secretary of the Interior for use by Federal agencies or the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands. The specific projects to be funded in American Samoa shall be set forth in a five-year plan for infrastructure assistance developed by the Secretary of the Interior in consultation with the American Samoa Government and updated annually and submitted to the Congress concurrent with the budget justifications for the Department of the Interior. In developing budget recommendations for capital infrastructure funding, the Secretary shall indicate the highest priority projects, consider the extent to which particular projects are part of an overall master plan, whether such project has been reviewed by the Corps of Engineers and any recommendations made as a result of such review, the extent

to which a set-aside for maintenance would enhance the life of the project, the degree to which a local cost-share requirement would be consistent with local economic and fiscal capabilities, and may propose an incremental set-aside, not to exceed $2,000,000 per year, to remain available without fiscal year limitation, as an emergency fund in the event of natural or other disasters to supplement other assistance in the repair, replacement, or hardening of essential facilities: Provided further, That the cumulative amount set aside for such emergency fund may not exceed $10,000,000 at any time.

"(d) Within the amounts allocated for infrastructure pursuant to this section, and subject to the specific allocations made in subsection (c), additional contributions may be made, as set forth in appropriations Acts, to assist in the resettlement of Rongelap Atoll: Provided, That the total of all contributions from any Federal source after enactment of this Act may not exceed $32,000,000 and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelop Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 105(c)(2) of the Compact of Free Association Act of 1985 (Public Law 99–239, 99 Stat. 1770, 1792) including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.".

And the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$178,000,000*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following: *$136,794,000, to remain available until expended, as authorized by law*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,256,253,000*; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$163,500,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$41,200,000*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows: Following "Forest Service," in said amendment insert: *other than the relocation of the Regional Office for Region 5 of the Forest Service from San Francisco to excess military property at Mare Island, Vallejo, California*; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *Any funds available to the Forest Service may be used for retrofitting Mare Island facilities to accommodate the relocation: Provided, That funds for the move must come from funds otherwise available to Region 5: Provided further, That any funds to be provided for such purposes shall only be available upon approval of the House and Senate Committees on Appropriations.*

And the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Notwithstanding any other provision of law, for the duration of fiscal year 1996 none of the funds provided in this or any other appropriations Act may be used in the Tongass National Forest except to implement the Preferred Alternative P in the Tongass Land and Resource Management Plan and Final Environmental Impact Statement (dated October 1992) as selected in the Record of Decision Review Draft #3–2/93 (hereinafter referred to as "Alternative P") which shall be deemed sufficient to satisfy all requirements of applicable law: Provided, That the Forest Service may amend the plan during fiscal year 1996 only to the extent necessary to accommodate commercial tourism if an agreement is signed between the Forest Service and the Alaska Visitors' Association: Provided further, That the Secretary shall continue the current Tongass land management planning process, and may replace or modify Alternative P with the selected alternative of a revised Tongass Land Management Plan ("TLMP") which shall, to the maximum extent practicable, contain at least the number of acres of suitable, available timber lands and suitable scheduled timber lands identified in Alternative P: Provided further, That if the Forest Service fails to complete work on a revised TLMP during fiscal year 1996, Alternative P shall remain in effect until such time as a revised plan is completed in accordance with this section and is in effect: Provided further, That hereinafter, notwithstanding any other provision of law, any timber sale or offering that was prepared for acceptance, or was awarded to a purchaser after December 31, 1988, which has been the subject of an Environmental Impact Statement under the National Environmental Policy Act ("NEPA") and a review under section 810 of the Alaska National Interest Lands Conservation Act ("ANILCA"), and was subsequently offered or awarded to a different timber purchaser or offeree shall not be subject to additional analysis under NEPA or ANILCA through any action of the Federal Government or by order of any court of law if the Forest Service determines in a Supplemental Evaluation that no such analysis is necessary: Provided further, That section 502 of P.L. 104–19 shall be deemed permanent law.

And the Senate agree to the same.

Amendment numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment insert: *and for promoting health and safety in mines and the mineral industry through research (30 U.S.C. 3, 861(b), and 951(a)), for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), and for the development of methods for the disposal, control, prevention, and reclamation of waste products in the mining, minerals, metal, and mineral reclamation industries (30 U.S.C. 3 and 21a), $417,169,000*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$148,786,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$553,293,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$140,696,000*; and the Senate agree to the same.

Amendment numbered 116:

That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$114,196,000*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$72,266,000*; and the Senate agree to the same.

Amendment numbered 120:

That the House recede from its disagreement to the amendment of the Senate numbered 120, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,722,842,000*; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$238,958,000*; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$308,188,000*; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$6,442,000*; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,840,000*; and the Senate agree to the same.

Amendment numbered 146:

That the House recede from its disagreement to the amendment of the Senate numbered 146, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

PUBLIC DEVELOPMENT

Funds made available under this heading in prior years shall be available for operating and administrative expenses and for the orderly closure of the Corporation, as well as operating and administrative expenses for the functions transferred to the General Services Administration.

And the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of Subsection (g) insert the following:

(g) Section 3(b) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 872(b)) is amended as follows:

"(b) The Corporation shall be dissolved on or before April 1, 1996. Upon dissolution, assets, obligations, indebtedness, and all unobligated and unexpended balances of the Corporation shall be transferred in accordance with the Department of the Interior and Related Agencies Appropriations Act, 1996.".

And the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

SEC. 314. (a) Except as provided in subsection (b), no part of any appropriation contained in this Act or any other Act shall be obligated or expended for the operation or implementation of the Interior Columbia Basin Ecosystem Management Project (hereinafter "Project").

(b)(1) From the funds appropriated to the Forest Service and Bureau of Land Management: a sum of $4,000,000 is made available for the Executive Steering Committee of the Project to publish, and submit to the Committees on Agriculture, Nutrition, and Forestry, Appropriations, and Energy and Natural Resources of the Senate and Committees on Agriculture, Appropriations, and Resources of the House of Representatives, by April 30, 1996, an assessment on the National Forest System lands and lands administered by the Bureau of Land Management (hereinafter "Federal lands") within the area encompassed by the Project. The assessment shall be accompanied by draft Environmental Impact Statements that are not decisional and not subject to judicial review, contain a range of alternatives, without the identification of a preferred alternative or management recommendations, and provide a methodology for conducting any cumulative effects analysis required by section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)) in the preparation of each amendment to a resource management plan pursuant to subsection (c)(2). The Executive Steering Committee shall release the required draft Environmental Impact Statements for a ninety day public comment period. A summary of the public comments received must accompany these documents upon its submission to Congress.

(2) The assessment required by paragraph (1) shall contain the scientific information collected and analysis undertaken by the Project on landscape dynamics and forest and rangeland health conditions and the implications of such dynamics and conditions for forest and rangeland management, specifically the management of forest and rangeland vegetation structure, composition, density and related social and economic effects.

(3) The assessment and draft Environmental Impact Statements required by paragraph (1) shall not: contain any material other than that required in paragraphs (1) and (2); be the subject of consultation or conferencing pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536); or be accompanied by any record of decision or documentation pursuant to section 102(2) of the National Environmental Policy Act, except as specified in paragraph (1).

(c)(1) From the funds appropriated to the Forest Service and the Bureau of Land Management, each Forest Supervisor of the Forest Service and District Manager of the Bureau of Land Management with responsibility for a national forest or unit of land administered by the Bureau of Land Management (hereinafter "forest") within the area encompassed by the Project shall—

(A) review the resource management plan (hereinafter "plan") for such forest, the scientific information and analysis in the report prepared pursuant to subsection (b) which are applicable to such plan, and any policy which is applicable to such plan upon the date of enactment of this section (whether or not such policy has been added to such plan by amendment), including any which is, or is intended to be, of limited duration, and which the Project addresses; and

(B) based on such review, develop a modification of such policy, or an alternative policy which serves the basic purpose of such policy, to meet the specific conditions of such forest.

(2) For each plan reviewed pursuant to paragraph (1), the Forest Supervisor or District Manager concerned shall prepare and adopt an amendment which: contains the modified or alternative policy developed pursuant to paragraph (1)(B); is directed solely to and affects only such plan; and addresses the specific conditions of the forest to which the plan applies and the relationship of the modified or alternative policy to such conditions. The Forest Supervisor or District Manager concerned shall consult at a minimum, with the Governor of the State, and the Commissioners of the county or counties, and affected tribal governments in which the forest to which the plan applies is situated during the review of the plan required by paragraph (1) and the preparation of an amendment to the plan required by this paragraph.

(3) To the maximum extent practicable, each amendment prepared pursuant to paragraph (2) shall establish site-specific standards in lieu of imposing general standards applicable to multiple sites. Any amendment which would result in any major change in land use allocations within the plan or would reduce the likelihood of achievement of the goals and objectives of the plan (prior to any previous amendment incorporating in the plan any policy referred to in paragraph (1)(A)) shall be deemed a significant change, pursuant to section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)) or section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), requiring a significant plan amendment or equivalent.

(4) Each amendment prepared pursuant to paragraph (2) shall comply with any applicable requirements of section 102(2) of the National Environmental Policy Act, except that any cumulative effects analysis conducted in accordance with the methodology provided pursuant to subsection (b)(1) shall be deemed to meet any requirement of such Act for such analysis and the scoping conducted by the Project prior to the date of enactment of this section shall substitute for any scoping otherwise required by such Act for such amendment, unless at the sole discretion of the Forest Supervisor or District manager additional scoping is deemed necessary.

(5) The review of each plan required by paragraph (1) shall be conducted, and the preparation and decision to approve an amendment to each plan pursuant to paragraph (2) shall be made, by the Forest Supervisor or District Manager, as the case may be, solely on: the basis of the review conducted pursuant to paragraph (1)(A), any consultation or conferencing pursuant to section 7 of the Endangered Species Act of 1973 required by paragraph (6), any documentation required by section 102(2) of the National Environmental Policy Act, and any applicable guidance or other policy issued prior to the date of enactment of this Act.

(6)(A) Any policy adopted in an amendment prepared pursuant to paragraph (2) which is a modification of or alternative to a policy referred to in paragraph (1)(A) and upon which consultation or conferencing has occurred pursuant to section 7 of the Endangered Species Act of 1973, shall not again be subject to the consultation or conferencing provisions of such section 7.

(B) If required by such section 7, and not subject to subparagraph (A), the Forest Supervisor or District Manager concerned shall consult or conference separately on each amendment prepared pursuant to paragraph (2).

(C) No Further consultation, other than the consultation specified in subparagraph (B), shall be undertaken on the amendments prepared pursuant to paragraph (2), on any project or activity which is consistent with an applicable amendment, on any policy referred to in paragraph (1)(A), or on any portion of any plan related to such policy or the species to which such policy applies.

(7) Each amendment prepared pursuant to paragraph (2) shall be adopted on or before July 31, 1996: Provided, That any amendment deemed a significant plan amendment, or equivalent, pursuant to paragraph (3) shall be adopted on or before December 31, 1996.

(8) No policy referred to in paragraph (1)(A), or any provision of a plan or other planning document incorporating such policy, shall be effective in any forest subject to the Project on or after December 31, 1996, or after an amendment to the plan which applies to such forest is adopted pursuant to the provisions of this subsection, whichever occurs first.

(9) On the signing of a record of decision or equivalent document making an amendment for the Clearwater National Forest pursuant to paragraph (2), the requirement for revision referred to in the Stipulation of Dismissal dated

September 13, 1993, applicable to the Clearwater National Forest is deemed to be satisfied, and the interim management direction provision contained in the Stipulation of Dismissal shall be of no further effect with respect to the Clearwater National Forest.

(d) The documents prepared under the authority of this section shall not be applied or used to regulate non-Federal lands.

And the Senate agree to the same.

Amendment numbered 153:

That the House recede from its disagreement to the amendment of the Senate numbered 153, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

SEC. 315. RECREATIONAL FEE DEMONSTRATION PROGRAM

(a) The Secretary of the Interior (acting through the Bureau of Land Management, the National Park Service and the United States Fish and Wildlife Service) and the Secretary of Agriculture (acting through the Forest Service) shall each implement a fee program to demonstrate the feasibility of user-generated cost recovery for the operation and maintenance of recreation areas or sites and habitat enhancement projects on Federal lands.

(b) In carrying out the pilot program established pursuant to this section, the appropriate Secretary shall select from areas under the jurisdiction of each of the four agencies referred to in subsection (a) no fewer than 10, but as many as 50, areas, sites or projects for fee demonstration. For each such demonstration, the Secretary, notwithstanding any other provision of law—

(1) shall charge and collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services by individuals and groups, or any combination thereof;

(2) shall establish fees under this section based upon a variety of cost recovery and fair market valuation methods to provide a broad basis for feasibility testing;

(3) may contract, including provisions for reasonable commissions, with any public or private entity to provide visitor services, including reservations and information, and may accept services of volunteers to collect fees charged pursuant to paragraph (1);

(4) may encourage private investment and partnerships to enhance the delivery of quality customer services and resource enhancement, and provide appropriate recognition to such partners or investors; and

(5) may assess a fine of not more than $100 for any violation of the authority to collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services.

(c)(1) Amounts collected at each fee demonstration area, site or project shall be distributed as follows:

(A) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, eighty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditures in accordance with paragraph (2)(A).

(B) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, twenty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditure in accordance with paragraph (2)(B).

(C) For agencies other than the Fish and Wildlife Service, up to 15% of current year collections of each agency, but not greater than fee collection costs for that fiscal year, to remain available for expenditure without further appropriation in accordance with paragraph (2)(C).

(D) For agencies other than the Fish and Wildlife Service, the balance to the special account established pursuant to sub-paragraph (A) of section 4(i)(1) of the Land and Water Conservation Fund Act, as amended.

(E) For the Fish and Wildlife Service, the balance shall be distributed in accordance with section 201(c) of the Emergency Wetlands Resources Act.

(2)(A) Expenditures from site specific special funds shall be for further activities of the area, site or project from which funds are collected, and shall be accounted for separately.

(B) Expenditures from agency specific special funds shall be for use on an agency-wide basis and shall be accounted for separately.

(C) Expenditures from the fee collection support fund shall be used to cover fee collection costs in accordance with section 4(i)(!0(B) of the Land and Water Conservation fund Act, as amended: provided, that funds unexpended and unobligated at the end of the fiscal year shall not be deposited into the special account established pursuant to section 4 (i) (1) (A) of said Act and shall remain available for expenditure without further appropriation.

(3) in order to increase the quality of the visitor experience at public recreational areas and enhance the protection of resources, amounts available for expenditure under this section may only be used for the area, site or project concerned, for backlogged repair and maintenance projects (including projects relating to health and safety) and for interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement relating to public use. The agencywide accounts may be used for the same purposes set forth in the preceding sentence, but for areas, sites or projects selected at the discretion of the respective agency head.

(d)(1) Amounts collected under this section shall not be taken into account for the purposes of the Act of May 23, 1908 and the Act of March 1, 1911 (16 U.S.C. 500), the Act of march 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937 and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l), and any other provision of law relating to revenue allocation.

(2) Fees charged pursuant to this section shall be in lieu of fees charged under any other provision of law.

(e) The Secretary of the Interior and the Secretary of Agriculture shall carry out this section without promulgating regulations.

(f) The authority to collect fees under this section shall commence on October 1, 1995, and end on September 30, 1998. Funds in accounts established shall remain available through September 30, 2001.

and the Senate Agree to the same.

Amendment numbered 154:

That the House recede from its disagreement to the amendment of the Senate numbered 154, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 316. Section 2001 (a)(2) of Public Law 104–19 is amended as follows: Strike "September 30, 1997" and insert in lieu thereof "December 31, 1996".

And the Senate agree to the same.

Amendment numbered 156:

That the House recede from its disagreement to the amendment of the Senate numbered 156, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 319. GREAT BASIN NATIONAL PARK.

Section 3 of the Great Basin National Park Act of 1986 (16 U.S.C. 410mm–1) is amended—

(1) in the first sentence of subsection (e) by striking "shall" and inserting "may"; and

(2) in subsection (f)—

(A) by striking "At the request" and inserting the following:

"(1) EXCHANGES.—At the request";

(B) by striking "grazing permits" and inserting "grazing permits and grazing leases"; and

(C) by adding after "Federal lands." the following:

"(2) ACQUISITION BY DONATION.—

(A) IN GENERAL.—The Secretary may acquire by donation valid existing permits and grazing leases authorizing grazing on land in the park.

(B) TERMINATION.—The Secretary shall terminate a grazing permit or grazing lease acquired under subparagraph (A) so as to end grazing previously authorized by the permit or lease.".

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

SEC. 322. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws unless (1) legislation to carry out reconciliation instructions pursuant to a concurrent resolution on the budget for fiscal year 1996 is enacted into law and such legislation contains, at a minimum, provisions relating to the patenting of and payment of royalties on such claims, or (2) an agreement is approved by the House and Senate in an identical form on other legislation containing provisions relating to the patenting of, payment of royalties on, and reclamation of such claims.

(b) The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994, and (2) all requirements established under Sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and Sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and Section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) PROCESSING SCHEDULE.—For those applications for patents pursuant to subsection (b) which were filed with the Secretary of the Interior prior to September 30, 1994, the Secretary of the Interior shall—

(1) Within three months of the enactment of this Act, file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details how the Department of the Interior will take final action on at least 90 percent of such applications within three years of the enactment of this Act and file reports annually thereafter with the same committees detailing actions taken by the Department of the Interior to carry out such plan; and

(2) Take such actions as may be necessary to carry out such plan.

(d) Mineral Examinations.—In order to process patent applications more expeditiously, the Secretary of the Interior shall require an applicant that has submitted an application subject to subsection (b) to fund the retention by the Bureau of Land Management of a qualified third-party contractor to conduct a mineral examination of the mining claims or mill sites contained in the patent application. The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor.

And the Senate agree to the same.

Amendment numbered 164:

That the House recede from its disagreement to the amendment of the Senate numbered 164, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *328*; and the Senate agree to the same.

Amendment numbered 165:

That the House recede from its disagreement to the amendment of the Senate numbered 165, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *329*; and the Senate agree to the same.

Amendment numbered 167:

That the House recede from its disagreement to the amendment of the Senate numbered 167, and agree to the same with an amendment, as follows:

In lieu of the first section number named in said amendment, insert: *330*; and the Senate agree to the same.

Amendment numbered 168:

That the House recede from its disagreement to the amendment of the Senate numbered 168, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 331. (a) Purposes of National Endowment for the Arts.—Section 2 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951), sets out findings and purposes for which the National Endowment for the Arts was established, among which are—

(1) "The arts and humanities belong to all the people of the United States";

(2) "The arts and humanities reflect the high place accorded by the American people . . . to the fostering of mutual respect for the diverse beliefs and values of all persons and groups";

(3) "Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money [and] such funding should contribute to public support and confidence in the use of taxpayer funds"; and

(4) "Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines".

(b) Additional Congressional Findings.—Congress further finds and declares that the use of scarce funds, which have been taken from all taxpayers of the United States, to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs

is contrary to the express purposes of the National Foundation on the Arts and the Humanities Act of 1965, as amended.

(c) Prohibition on Funding That Is Not Consistent With the Purposes of the Act.—Notwithstanding any other provision of law, none of the scarce funds which have been taken from all taxpayers of the United States and made available under this Act to the National Endowment for the Arts may be used to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

and this prohibition shall be strictly applied without regard to the content or viewpoint of the material or performance.

(d) Section Not To Affect Other Works.—Nothing in this section shall be construed to affect in any way the freedom of any artist or performer to create any material or performance using funds which have not been made available under this Act to the National Endowment for the Arts.

And the Senate agree to the same.

Amendment numbered 170:

That the House recede from its disagreement to the amendment of the Senate numbered 170, and agree to the same with an amendment as follows:

In lieu of the matter proposed by said amendment insert:

Sec. 332. For purposes related to the closure of the Bureau of Mines, funds made available to the United States Geological Survey, the United States Bureau of Mines, and the Bureau of Land Management shall be available for transfer, with the approval of the Secretary of the Interior, among the following accounts: United States Geological Survey, Surveys, investigations, and research: Bureau of Mines, Mines and minerals; and Bureau of Land Management, Management of lands and resources. The Secretary of Energy shall reimburse the Secretary of the Interior, in an amount to be determined by the Director of the Office of Management and budget, for the expenses of the transferred functions between October 1, 1995 and the effective date of the transfers of function. Such transfers shall be subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

And the Senate agree to the same.

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
BARBARA F. VUCANOVICH,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, Jr.,
JIM BUNN,
BOB LIVINGSTON,
Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
MARK O. HATFIELD,
CONRAD BURNS,
ROBERT F. BENNETT,
CONNIE MACK,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY, (Except amendments 136, 138, 168, and 169)
FRITZ HOLLINGS,
HARRY REID,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1977), making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 1977 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 104–173 or Senate Report 104–125 which are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

The managers have included funding in each of the land acquisition accounts that is not earmarked by individual projects. The managers direct the Department of the Interior and the Forest Service to develop a proposed distribution of project funding for review and approval by the House and Senate Committees on Appropriations. In developing the proposed distributions, the agencies are encouraged to give consideration to a broader array of projects than was proposed in the fiscal year 1996 budget, including but not limited to, projects for which capability statements have been prepared.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

Amendment No. 1: Appropriates $568,062,000 for management of lands and resources instead of $570,017,000 as proposed by the House and $563,936,000 as proposed by the Senate. The amendment also adds language to transfer responsibility for mineral assessments in Alaska from the Bureau of Mines.

The net decrease below the House consists of decreases of $1,500,000 for wild horse and burro management, $500,000 for threatened and endangered species, $1,000,000 for recreation wilderness management, $448,000 for recreation resources management, $50,000 for coal management, $50,000 for other mineral resources, $554,000 for land and realty management, $4,000,000 for ALMRS, $500,000 for administrative support, and $834,000 for bureau-wide fixed costs; and increases of $4,981,000 for Alaska conveyance, $500,000 for information systems operations and $2,000,000 for mineral assessments in Alaska formerly funded under the Bureau of Mines.

Amendment No. 2: Restores House provision stricken by the Senate which provides $599,999 for the management of the East Mojave National Scenic Area. The Senate had no similar provision. The amendment also adds language earmarking $2,000,000 for mineral assessments in Alaska.

Amendment No. 3: Restates the final appropriation amount for management of lands and resources as $568,062,000 instead of $570,017,000 as proposed by the House and $563,936,000 as proposed by the Senate.

WILDLAND FIRE MANAGEMENT

Amendment No. 4: Appropriates $235,924,000 for wildland fire management as proposed by the House instead of $240,159,000 as proposed by the Senate.

CONSTRUCTION AND ACCESS

Amendment No. 5: Appropriates $3,115,000 for construction and access instead of $2,515,000 as proposed by the House and $2,615,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Sourdough Campground, AK	$584,000

Byington Campground, ID	290,000
West Aravaipa Ranger Station, AZ	200,000
Railroad Flat Campground, CA	218,000
Penitentie Canyon, CO	220,000
James Kipp Campground, MT	345,000
Datil Well Rec Site reconstruction, NM	41,000
Encampment River Rec Area, WY	60,000
Indian Creek Accessibility Rehab, NV	57,000
El Camino Real Int'l Heritage Ctr., NM-A&E	500,000
Flagstaff Hill, OR	600,000
Total	3,115,000

The managers urge BLM and the non-Federal partners to consider during the A&E phase of the El Camino Real International Heritage Center project the fact that future construction funds are likely to be severely constrained.

PAYMENTS IN LIEU OF TAXES

Amendment No. 6: Appropriates $101,500,000 for payments in lieu of taxes instead of $111,409,000 as proposed by the House and $100,000,000 as proposed by the Senate.

LAND ACQUISITION

Amendment No. 7: Appropriates $12,800,000 for land acquisition instead of $8,500,000 as proposed by the House and $10,550,000 as proposed by the Senate. The $12,800,000 includes $3,250,000 for acquisition management, $1,000,000 for emergency and inholding purchases, and $8,550,000 for land purchases.

Funds provided under this account for land purchases are subject to the guidelines identified at the front of this statement.

OREGON AND CALIFORNIA GRANT LANDS

Amendment No. 8: Appropriates $93,379,000 for Oregon and California grant lands instead of $91,387,000 as proposed by the House and $95,364,000 as proposed by the Senate.

The net increase above the House consists of a reduction of $900,000 for resources management, and increases of $1,115,000 for facilities maintenance, and $1,777,000 for Jobs-in-the-Woods.

The managers are concerned about the many programs in the President's Forest Plan designed to provide assistance to timber dependent communities in the Pacific Northwest. The managers are disturbed by the inability of the agencies involved to provide a detailed accounting of funds appropriated in previous fiscal years in the President's Forest Plan for the unemployed timber worker programs.

The managers expect the Secretary of the Interior and the Secretary of Agriculture to prepare a detailed accounting and report of the funds appropriated in fiscal year 1995 for the President's Forest plan. The report shall include a careful accounting of appropriated funding, including: funds appropriated for timer production; administrative expenses, including the number of Federal employees employed to administer the various aspects of the President's plan; funds appropriated for the various jobs programs under the President's plan, including but not limited to the Jobs in the Woods program; the number of individuals employed by these programs; and the average length of employment in the various jobs. The managers expect the Secretaries to submit the report to the Committees no later than March 31, 1996.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

Amendment No. 9: Appropriates $497,943,000 for resource management instead of $497,150,000 as proposed by the House and $501,478,000 as proposed by the Senate.

The net increase above the House consists of increases of $3,800,000 for cooperative conservation agreements, $750,000 for listing, $2,237,000 for habitat conservation, $1,502,000 for migratory bird management, $600,000 for hatchery operations and maintenance, $800,000 for fish and wildlife management, $478,000 for the National Education and Training Center, and $885,000 for vehicle and aircraft purchase; and reductions of $500,000 for recovery, $230,000 for environmental contaminants, $6,542,000 for refuge operations and maintenance, and $2,987,000 for servicewide administrative support.

The conference agreement includes $3,800,000 for cooperative conservation agreements with private landowners to institute effective management measures that make listing unnecessary. The managers intend that these funds also be used to implement the 4(d) rule which is intended to ease endangered species land use restrictions on small landowners. The managers agree that none of the funding for cooperative conservation agreements or listing be used in any way to conduct activities which would directly support listing of species or designating critical habitat.

The managers have included $750,000 under the listing program to be used only for delisting and downlisting of threatened and endangered species in order to ease land use restrictions on private and public lands.

The conference agreement includes a reduction of $200,000 from the gray wolf reintroduction program. The managers expect the Service to continue the cooperative agreement with the Animal and Plant Health Inspection Service to provide assistance to ranchers experiencing livestock losses to wolves.

The managers agree with the Senate position regarding the continued operation of Federal fish hatcheries. However, the funding provided for hatcheries in total is below last year's level, so reductions will be necessary. The managers encourage those non-Federal parties that have expressed an interest in participating in hatchery transfers to continue to pursue this option, and the Service should provide the transitional assistance for such efforts as was contemplated in the budget. Within the funds restored for hatchery operations and maintenance, $500,000 is provided only for maintenance of those hatcheries transferred during fiscal year 1996.

The managers reiterate, however, the need for the working group proposed by the Senate to identify, by March 1, 1996, savings from the fisheries program that equal or surpass the savings associated with the hatchery transfers or closures proposed in the budget. Outyear funding for fisheries and other programs cannot be assured at a time of declining budgets, and future transfer proposals might not involve transitional assistance. The managers expect that there will be significantly fewer Federal fish hatcheries by the end of fiscal year 1997.

The National Fish and Wildlife Foundation is funded at a level of $4,000,000. The House recommended that no funds be provided for this purpose in the future. The Senate took no position regarding outyear funding for the Foundation.

The managers direct the Department to reinstate its 1992 policy, modified to reflect public comments received, regarding permit terms and conditions for hunting and fishing guides in Alaska providing permit terms of 5 years with one renewal period of 5 years, transferability under prescribed conditions, and a right of survivorship. At such time as the new policy is implemented, existing permits should be reissued consistent with this policy. The managers note that the existing policy limiting terms to one year makes it impossible to obtain financing for guiding operations while the limit on transferability and survivorship prevent long-time family businesses from continuing upon the death or illness of the permit holder.

The managers recognize the Fish and Wildlife Service's fisheries mitigation responsibilities pursuant to existing law and expect the working group to take into account such responsibilities.

Amendment No. 10: Extends availability of $11,557,000 for Lower Snake River compensation plan facilities until expended as proposed by the Senate, instead of limiting the availability to September 30, 1997 as proposed by the House.

Amendment No. 11: includes language proposed by the Senate which prohibits listing additional species as threatened or endangered and prohibits designating critical habitat during fiscal year 1996 or until a reauthorization is enacted. The House had no similar provision.

CONSTRUCTION

Amendment No. 12: Appropriates $37,655,000 for construction instead of $26,355,000 as proposed by the House and $38,775,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Bear River Migratory Bird Refuge, UT, flood repair	$1,000,000
Bosque del Apache NWR, NM, repair	1,820,000
Hawaii captive propagation facility, HI	1,000,000
Mississippi refuges, bridge repair and equipment	1,120,000
National Education Training Center, WV, construction	24,000,000
Quivira NWR, KS, water management	760,000
Russian River, AK, rehab	400,000
Southeast Louisiana refuges, rehab	1,000,000
Wichita Mountains NWR, OK, Grama Lake and Comanche Dams, repair	700,000
Dam safety, servicewide inspections	460,000
Bridge safety, servicewide inspections	395,000
Emergency projects—servicewide	1,000,000
Construction management—servicewide	4,000,000
Total	37,655,000

The managers expect the Department to include the remaining funding necessary to complete the construction of the National Education and Training Center in the fiscal year 1997 budget.

NATURAL RESOURCE DAMAGE ASSESSMENT

Amendment No. 13: Appropriates $4,000,000 for the natural resource damage assessment fund as proposed by the Senate instead of $6,019,000 as proposed by the House.

The reductions below the House consist of $1,597,000 for damage assessments and $422,000 for program management.

LAND ACQUISITION

Amendment No. 14: Appropriates $36,900,000 for land acquisition instead of $14,100,000 as proposed by the House and $32,031,000 as proposed by the Senate. The $36,900,000 includes

$8,000,000 for acquisition management, $1,000,000 for emergency and hardship purchases, $1,000,000 for inholding purchases, $1,000,000 for land exchanges, and $25,900,000 for refuge land purchases.

Funds provided under this account for land purchases are subject to the guidelines identified at the front of this statement.

NORTH AMERICAN WETLANDS CONSERVATION FUND

Amendment No. 15: Appropriates $6,750,000 for the North American Wetlands Conservation Fund as proposed by the Senate instead of $4,500,000 as proposed by the House.

The increase above the House includes $2,230,000 for habitat management and $20,000 for administration.

The House recommended that no funds be provided for this purpose in the future. The Senate took no position regarding outyear funding for this program.

WILDLIFE CONSERVATION AND APPRECIATION FUND

Amendment No. 16: Appropriates $800,000 for the Wildlife Conservation and Appreciation Fund as proposed by the Senate instead of $998,000 as proposed by the House.

Amendment No. 17: Deletes matching requirements proposed by the House and stricken by the Senate. The matching requirements of the Partnerships for Wildlife Act will continue to apply, and do not need to be stated in the appropriations act.

ADMINISTRATIVE PROVISIONS

Amendment No. 18: Provides authority to purchase 113 motor vehicles as proposed by the Senate instead of 54 passenger vehicles as proposed by the House.

Amendment No. 19: Deletes House prohibition on purchasing police vehicles. The Senate had no similar provision.

Amendment No. 20: Includes Senate provision that the Fish and Wildlife Service may accept donated aircraft. The House had no similar provision.

Amendment No. 21: Includes House provision prohibiting the Fish and Wildlife Service from delaying the issuance of a wetlands permit for the City of Lake Jackson, TX. The Senate had no similar provision.

Amendment No. 22: Modifies Senate provision on the distribution of refuge entrance fees by substituting language which allows the Fish and Wildlife Service to charge reasonable fees for expenses associated with the conduct of training programs at the National Education and Training Center. Any fees collected for this purpose will be used to cover costs associated with the operation of this facility. The House had no similar provision.

Amendment No. 23: Modifies Senate provision regarding use of pesticides on farmland within wildlife refuges in the Klamath Basin. The amendment is based, in part, upon the Service's representation that it has already approved or anticipates approval of certain materials that are needed for farming during this fiscal year and that it will consider other materials for 1996 and subsequent years. If these approvals do not occur or are withdrawn, the Senate language will prevail and growers will be subject to the same restrictions as growers on private lands. Allowing the pesticide use proposal process to remain in effect for the next fiscal year will enable growers and the Federal government to work constructively toward an agreeable process.

NATURAL RESOURCES SCIENCE AGENCY

RESEARCH, INVENTORIES AND SURVEYS

Amendment No. 24: Deletes Senate language providing $145,965,000 for a natural resources science agency and providing guidance on the operation of that agency. This agency would have replaced the National Biological Service. The House had no similar provision. The managers have agreed to eliminate the National Biological Service and to fund natural resources research as part of the U.S. Geological Survey as proposed by the House. This item is discussed in more detail under amendment Nos. 42 and 43.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Amendment No. 25: Appropriates $1,083,151,000 for operation of the National park system instead of $1,088,249,000 as proposed by the House and $1,092,265,000 as proposed by the Senate. The reduction from the Senate level reflects the transfer of the equipment replacement account back to the construction account.

In keeping with the demands placed on other Interior bureaus, the managers have not funded uncontrollable costs and expect these costs to be absorbed through reductions to levels of review and management. Efficiencies should also be sought by exploring opportunities that exist and have been outlined in GAO reports to co-locate and combine functions, systems, programs, activities or field locations with other Federal land management agencies.

The managers are concerned about the costs associated with the current reorganization effort and strongly urge the NPS to limit expenditures for task forces, work groups and employee details and special assistants. The managers request that a report be submitted by February 1, 1996, detailing a budget history of past costs and future estimated costs associated with the reorganization.

The managers expect a report within 45 days of enactment of this Act identifying NPS' preliminary allocations for fiscal year 1996. This report will serve as the baseline for any reprogrammings in fiscal year 1996.

In considering these allocations, the managers expect that none of the programmatic increases requested in the budget are to be considered except those necessary to meet specific park operating needs. This includes new and expanded programs. Any new initiative such as those related to training, reorganization or national service should be addressed through the reprogramming process.

The managers expect that the National Park Service will use these operating funds for core park programs.

The managers expect that the principle goal of the reorganization plan, which is to relocate staff from central and regional offices to the parks, will greatly alleviate the pressures placed on parks by increased visitation.

The managers have agreed to the House position regarding the termination of the Pennsylvania Avenue Development Corporation and the transfer of certain specific activities to other agencies including the National Park Service. This item is discussed in greater detail in amendment Number 151 in Title III.

Amendment No. 26: Restores House language stricken by the Senate regarding the availability of funds at the Mojave National Preserve.

NATIONAL RECREATION AND PRESERVATION

Amendment No. 27: Appropriates $37,649,000 for National recreation and preservation instead of $35,725,000 as proposed by the House and $38,094,000 as proposed by the Senate.

The reduction of $445,000 in Statutory and Contractual Aid from the Senate amount reflects the elimination of $23,000 for the Maine Acadian Cultural Preservation Commission and a reduction of $422,000 for the Native Hawaiian Culture and Arts program.

Amendment No. 28: Earmarks $236,000 for the William O. Douglas Outdoor Education Center as proposed by the Senate instead of $248,000 as proposed by the House.

As discussed under amendment No. 155, no funds are provided for the Mississippi River Corridor Heritage Commission. Within funds provided, the National Park Service shall publish the final report and enter into no other activities related to this corridor. The funds included in the Senate bill for the Commission have been transferred to the rivers and trails program.

HISTORIC PRESERVATION

Amendment No. 29: Appropriates $36,212,000 for the Historic Preservation Fund instead of $37,934,000 as proposed by the House and $38,312,000 as proposed by the Senate.

The managers have provided $32,712,000 for State grants and $3,500,000 for the National Trust for Historic Preservation.

The managers agree to a three year period of transition for the National Trust for Historic Preservation to replace Federal funds with private funding.

CONSTRUCTION

Amendment No. 30: Appropriates $143,225,000 for construction instead of $114,868,000 as proposed by the House and $116,480,000 as proposed by the Senate.

The managers agree to the following distribution of funds:

Andersonville National Historic Site, GA (prisoner of war museum)	$2,800,000
Assateague National Seashore, MD (erosion control)	300,000
Blackstone River Valley National Heritage Corridor MA/RI (interpretive project)	300,000
Blue Ridge Parkway, Hemphill Knob, NC (administration building)	1,030,000
Cane River Creole National Historic Park, LA (preservation and stabilization)	4,000,000
Chickasaw National Recreation Area, OK (campground rehabilitation)	1,624,000
Chamizal National Monument, TX (rehabilitation)	300,000
Crater Lake National Park, OR (dormitories construction)	10,000,000
Cuyahoga National Recreation Area, OH (site and structure rehabilitation	2,500,000
Delaware Water Gap National Recreation Area, PA (trails rehabilitation)	1,050,000
Everglades National Park, FL (water delivery system modification)	4,500,000
Fort Necessity National Battlefield, PA (rehabilitation)	265,000
Fort Smith National Historic Site, AR (rehabilitation)	500,000
Gateway National Recreation Area, NY (Jacob Riis Park rehabilitation)	1,595,000
General Grant National Memorial, NY (rehabilitation)	1,000,000
Gettysburg National Military Park, PA (water and sewer lines)	2,550,000

Glacier National Park, MT (rehabilitate chalets)	328,000
Grand Canyon National Park, AZ: Transportation	1,000,000
Gulf Islands National Seashore, MS (erosion control)	600,000
Harpers Ferry National Historical Park, WV (utilities and phone lines)	455,000
Hot Springs NP, AR (stabilization/Lead Point)	500,000
James A. Garfield National Historic Site, OH (rehabilitation/development)	3,600,000
Jean Lafitte National Park and Preserve, LA (complete repairs)	2,100,000
Klondike Gold Rush National Historical Park, AK (restore Skagway historic district)	850,000
Lackawanna Valley, PA (technical assistance)	400,000
Lake Chelan National Recreation Area, WA (planning and design for repair of Company Creek Road)	280,000
Little River Canyon National Park, AL (health and safety)	460,000
Mount Rainier National Park, WA (replace employee dormitory)	6,050,000
Natchez Trace Parkway, MS	3,000,000
National Capital Parks—Central, DC (Lincoln/Jefferson memorials rehabilitation)	4,000,000
New River Gorge National River, WV (trails, visitor access and hazardous materials)	625,000
President's Park, DC: Replace White House electrical system	1,000,000
Sagamore Hill National Historic Site, NY (water and sewer lines)	800,000
Salem Maritime National Historic Site, MA (vessel exhibit)	2,200,000
Saratoga National Historical Park, NY (monument rehabilitation)	2,000,000
Sequoia National Park, CA (replace Giant Sequoia facilities)	3,700,000
Southwestern Pennsylvania Commission (various projects)	2,000,000
Stones River National Battlefield, TN (stabilization)	200,000
Thomas Stone Historic Site, MD (rehabilitation)	250,000
Western Trails Center, IA	3,000,000
Wrangell-St. Elias National Park and Preserve, AK (Kennicott Mine site safety and rehabilitation)	1,500,000
Yosemite National Park, CA (El Portal maintenance facilities)	9,650,000
Zion National Park, UT (transportation system facilities)	5,200,000
Subtotal, line item construction	90,162,000
Emergency, unscheduled, housing	13,973,000
Planning	17,000,000
Equipment replacement	14,365,000
General management plans	6,600,000
Special resource studies	825,000
Strategic planning office	300,000
Total	$143,225,000

The bill provides $1,000,000 for transportation related activities at Grand Canyon National Park. These funds are to be made available for transportation projects that the Superintendent of the Grand Canyon Park has identified as high priority. Therefore, it is the intent of the managers that these moneys be used for any transportation related expenditure, including the design of new transportation facilities and the purchase of new buses.

The managers encourage the National Park Service to proceed expeditiously with the necessary work at Cane River Creole NHP, LA.

The region which comprises the 1.4 million acre East Mojave Desert is embraced by a unique blend of human uses (past and present) and nationally significant natural features. The managers are concerned that National Park Service management of the area has not adequately ensured the continuation of human uses which give the region its character, in balance with protection for the area's scenic and environmental qualities. The managers do not want their action to be construed as repealing portions of the California Desert Protection Act (P.L. 103–433).

The managers believe that it is essential to not only protect the area's unique resources but also preserve its multiple use values, both natural and human, in cooperation with Federal agencies, State agencies and local governments. Recent jurisdictional conflicts involving State wildlife agencies and the National Park Service have jeopardized vital wildlife recovery efforts in this region.

The National Park Service is directed to develop a comprehensive, long-term management plan for the area which incorporates traditional uses and recognizes budgetary constraints. The National Park Service may use up to $100,000 within available funds for these planning activities. The National Park Service is directed to present its management plan to both the House and Senate appropriations and authorizing Committees for final approval prior to any reprogramming of funds so that the Mojave provision will not have to be continued in Fiscal Year 1997.

Amendment No. 31: Earmarks $4,500,000 for the Everglades as proposed by the Senate instead of $6,000,000 as proposed by the House.

Amendment No. 32: Retains the Senate provision indicating Historic Preservation funds may be available until expended to stabilize buildings associated with the Kennicott, Alaska copper mine. The House had no similar provision.

LAND ACQUISITION

Amendment No. 33: Appropriates $49,100,000 for land acquisition instead of $14,300,000 as proposed by the House and $45,187,000 as proposed by the Senate. The $49,100,000 includes $7,200,000 for acquisition management, $3,000,000 for emergency and hardship purchases, $3,000,000 for inholding purchases, $1,500,000 for State grant administration, and $34,400,000 for other land purchases.

Amendment No. 34: Deletes the earmark inserted by the House and stricken by the Senate for Federal assistance to the State of Florida. Authority exists for the Department to use land acquisition funds for a grant to the State of Florida if approved pursuant to the procedures identified for land acquisition in fiscal year 1996.

Amendment No. 35: Modifies language proposed by the Senate which requires that funds which may be made available for the acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress. The House had no similar provision. Consistent with the direction for the land acquisition accounts, no specific earmark is provided for this project. Under the procedures identified for land acquisition, however, funds could be made available for the Elwha and Glines dams.

The Elwha Act, P.L. 102–495, authorizes the purchase of the Elwha and Glines dams by the Secretary of the Interior at a total purchase price of $29,500,000. Recognizing the serious funding constraints under which the Committees are operating, bill language has been included which authorizes funding to be provided over a period of years, as necessary, in order to acquire the dams. The bill language specifies that the appropriated funds may only be used for acquisition. Appropriated funds cannot be expended until the total purchase price of $29,500,000 is appropriated.

Under the Elwha Act, the Secretary is authorized to study the benefits of the removal of both dams, and to assess the costs of such a removal to restore fish runs in the Elwha River. The managers continue to be disturbed greatly by the early projections from the Administration of costs that range from $80–$300 million for dam removal. Due to the lack of available funds, the managers strongly discourage the Administration and those parties supporting dam removal from continuing to support such a policy. Instead, the managers encourage interested parties to pursue other, less costly alternatives to achieve fish restoration. The managers urge parties interested in the Elwha Act to work to find, within the next year, a more fiscally responsible and achievable solution to fishery restoration in lieu of dam removal. If no conclusion can be reached on this issue, the appropriations committees, working with the authorizing committees, will be forced to work to find a legislative solution to the problem.

The managers have included $1,500,000 for administration of the state grant program. These funds are provided only to close down ongoing projects. No funds are provided for new grants and the managers intend that no funds will be provided in the future.

ADMINISTRATIVE PROVISIONS

Amendment No. 36: Retains Senate language regarding an agreement for the redevelopment of the southern end of Ellis Island and providing for Congressional review. Identical language has been included in previous interior appropriations bills.

Amendment No. 37: Modifies language proposed by the Senate to clarify that funds may not be used by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention. The House had no similar provision.

Amendment No. 38: Retains language proposed by the Senate allowing the American Battlefield Protection Program to enter into cooperative agreements of various types with other entities. The House had no similar provision.

Amendment No. 39: Modifies Senate language regarding a feasibility study for a northern access route into Denali National Park and Preserve in Alaska. The modification is to require that the study also be submitted to the House and Senate Committees on Appropriations.

Amendment No. 40: Deletes Senate language regarding the Stampede Creek Mine at Denali National Park in Alaska. The House had no similar provision.

If requested by the University of Alaska at Fairbanks, the National Park Service shall enter into negotiations regarding a memorandum of understanding for continued use of the Stampede Creek mine property. The Park Service should report to the relevant Congressional committees by May 1, 1996 on an assessment of damages resulting from the April 30, 1987 explosion. The repair or replacement should be to the same condition as existed on April 30, 1987. If the University of Alaska at Fairbanks seeks to replace the facilities, the Park Service should consider working with the Army to assist in any compensation to which the University of Alaska at Fairbanks may be eligible since the Army assisted the National Park Service with the explosives work conducted at Stampede Creek on April 30, 1987.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

Amendment No. 41: Appropriates $730,503,000 for surveys, investigations and research instead of $686,944,000 as proposed by the House and $577,503,000 as proposed by the Senate. The amendment also provides authority for minerals information activities formerly conducted in the Bureau of Mines.

Changes to the amount proposed by the House include increases of $24,112,000 for natural resources research, $16,000,000 for minerals information activities transferred from the Bureau of Mines and $4,000,000 for university earthquake research grants, and decreases in Federal water resources investigations of $176,000 for data collection and analysis and $100,000 for hydrology of critical aquifers and a decrease of $277,000 in the National mapping program for cartographic and geographic research.

The managers have provided $4,000,000 for university research in the earthquakes program. If there is a compelling need for additional funds in this program in fiscal year 1996 and an acceptable funding offset can be justified, the USGS should notify the Committees following the existing reprogramming guidelines. The Committees will consider any such request on its merits.

The managers understand that the USGS is constrained from releasing certain information under interagency agreement No. AGP00473.94 with the Bureau of Indian Affairs absent the approval of the BIA. This issue is discussed in more detail in the BIA section of this statement.

The managers have agreed to fund a competitive program for the water resources research institutes with at least a 2 to 1 funding match from non-Federal sources. The managers expect that this approach likely will lead to the closure of some of the institutes. The managers recommend that in fiscal year 1996 a modest base grant of $20,000 per participating institute be provided with the balance of the funding for the program to be competitively awarded based on National program priorities established by the USGS. The need for continuing a small base grant beyond fiscal year 1996 should be carefully examined by the USGS in the context of its fiscal year 1997 budget priorities. The managers do not object to competitions being regionally-based if that approach is determined by the USGS to be the most productive, from the standpoint of meeting the most compelling information needs, and the most cost effective. If a regional approach is selected, the managers suggest that the USGS regions be consolidated so that there are no more than 4 or 5 large regional areas. The competition should not be structured to ensure that every participating institute in a region gets a competitive award. The USGS should report to the Committees in the fiscal year 1997 budget submission on how the competition is to be structured and should report in subsequent budget submissions on the distribution of competitively awarded grants by institute.

Amendment No. 42: Earmarks $137,000,000 for natural resources research and cooperative research units instead of $112,888,000 as proposed by the House. The Senate recommended funding this research under a separate account and at a level of $145,965,000 as discussed in amendment No. 24. The amendment also earmarks $16,000,000 for minerals information activities transferred from the Bureau of Mines, mines and minerals account (see amendment No. 47).

The managers agree that natural resources research in the Department of the Interior should be organized in a manner that ensures that it is independent from regulatory control and scientifically excellent. The managers intend the merger of these research activities into the USGS to be permanent. The USGS is directed to plan and manage the restructuring and downsizing of the former National Biological Service. Retrenchments required to remain within the reduced level of appropriations for the former NBS are to occur predominately in administrative, managerial and other headquarters support functions of that organization so as to maintain, to the maximum extent possible, scientific and technical capabilities.

The managers expect the agency to work closely with the land management agencies to identify priority science needs of concern to the Department's land managers on the ground. The managers are concerned that natural resource research be linked closely to management issues. In addition, attention should be provided to information related to wildlife resources entrusted to the stewardship of the Department; fisheries, including restoration of depleted stocks; fish propagation and riverine studies; aquatic resources; nonindigenous nuisances that affect aquatic ecosystems; impacts and epidemiology of disease on fish and wildlife populations; chemical drug registration for aquatic species; and effective transfer of information to natural resources managers.

During fiscal year 1996, funds appropriated for the functions of the former NBS shall remain a separate entity, titled "natural resources research", within the USGS. Upon completion of the necessary downsizing, and no later than nine months after enactment of this legislation, the managers direct the USGS to provide the Committees with a final plan for the permanent consolidation and integration of natural resources research functions into the USGS. As of October 1, 1996, employees of the former NBS shall be subject to the same administrative guidelines and practices followed by the USGS including peer review of research and investigations, maintenance of objectivity and impartiality, and ethics requirements regarding financial disclosure and divestiture. The managers expect that the USGS budget request for fiscal year 1997 will require amendment subsequent to its submission to reflect appropriately this consolidation. To reiterate, this merger is intended to be permanent and should be implemented fully by October 1, 1996.

During fiscal year 1996 the Department and the USGS are prohibited from reprogramming funds from other USGS programs and activities for any program or activity within the Department for natural resources research activities.

The managers also have agreed to provide $16,000,000 for minerals information activities, transferred from the Bureau of Mines. The funding represents a reduction from the fiscal year 1995 level and may require significant downsizing and restructuring of the program. The USGS should oversee the refocusing of the program. Until such downsizing is completed, the program should remain a separate and distinct budget and organizational entity within the USGS. To the extent job vacancies occur in the transferred program in fiscal year 1996, they should be filled with Bureau of Mines employees subject to termination or reduction-in-force. The managers understand that the existing USGS mineral resources survey activity is undergoing a restructuring and downsizing and expect that effort and the required downsizing of the minerals information program to proceed independently. When both downsizing efforts are completed, a single, refocused minerals program should be created which combines the minerals information activities transferred from the Bureau of Mines with other USGS mineral resources work.

Amendment No. 43: Modifies language inserted by the House and stricken by the Senate providing guidance on the conduct of natural resources research. The change to the House position expands the prohibition on the use of funds for new surveys on private property to include new aerial surveys for the designation of habitat under the Endangered Species Act unless authorized in writing by the property owner. With respect to natural resources research activities, the managers agree that funds may not be used for new surveys on private property without the written consent of the land owner, that volunteers are to be properly trained and that volunteer-collected data are to be verified carefully. The amendment also transfers authority from the Bureau of Mines to the Director of the USGS to conduct mineral surveys, consistent with the funding for that purpose earmarked under amendment No. 42.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

Amendment No. 44: Appropriates $182,994,000 for royalty and offshore minerals management instead of $186,556,000 as proposed by the House and $182,169,000 as proposed by the Senate. Changes to the amount proposed by the House include decreases in information management of $151,000 for the absorption of fixed cost increases and $3,000,000 which is offset by the authority to use additional receipts as provided in amendment Nos. 45 and 46; and decreases in general administration of $306,000 for administrative operations and $105,000 for general support services.

The managers agree that the independent review of the royalty management program which was recommended by the House should not be conducted until the disposition of the hardrock minerals program is legislatively resolved. Accordingly, no funds are earmarked for this effort in fiscal year 1996.

Amendment No. 45: Provides for the use of $15,400,000 in increased receipts for the technical information management system as proposed by the Senate instead of $12,400,000 as proposed by the House.

Amendment No. 46: Permits the use of additional receipts for Outer Continental Shelf program activities in addition to the technical information management system as proposed by the Senate. The House had no similar provision.

BUREAU OF MINES

MINES AND MINERALS

Amendment No. 47: Appropriates $64,000,000 for mines and minerals instead of $87,000,000 as proposed by the House and $128,007,000 as proposed by the Senate. The conference agreement provides for the transfer of health and safety research to the Department of Energy (see amendment No. 110). The $64,000,000 provided for mines and minerals is to be used for the orderly closure of the Bureau of Mines.

The managers expect that the health and safety functions in Pittsburgh, PA and Spokane, WA will be continued under the Department of Energy as will the materials partnerships programs in Albany, OR. The U.S. Geological Survey will assume responsibility for the minerals information program in Denver, CO and Washington, DC. The Bureau of Land Management will assume responsibility for mineral assessments in Alaska. The managers do not object to a limited number of administrative support personnel being maintained in these locations. All other functions of the Bureau of Mines will be terminated and all other Bureau locations will be closed. The funds provided under this head should be sufficient to provide termination costs and to provide for environmental cleanup costs and for the required oversight and closeout of contracts. The managers understand that some contracts will require oversight through a logical completion point to ensure that the Federal investment is not lost. One example is the construction associated with the Casa Grande in situ copper leaching program. The managers expect that there will be few such cases and expect the Secretary to notify the Committees of the rationale for continuing specific contracts, not transferred to DOE, BLM or USGS, beyond the closure of the Bureau. The managers expect the Secretary to proceed apace with the termination of the Bureau using the funds provided herein.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT REGULATION AND TECHNOLOGY

Amendment No. 48: Appropriates $95,970,000 for regulation and technology as proposed by the Senate instead of $93,251,000 as proposed by the House.

ABANDONED MINE RECLAMATION FUND

Amendment No. 49: Appropriates $173,887,000 for the abandoned mine reclamation fund instead of $176,327,000 as proposed by the House and $170,441,000 as proposed by the Senate.

The net decrease below the House consists of reductions of $500,000 for donations, $2,000,000 for reclamation program operations, and $93,000 for administrative support; and increases of $13,000 for executive direction and $140,000 for general services.

Amendment No. 50: Deletes House earmark of $5,000,000 for the Appalachian Clean Streams Initiative. The Senate had no similar provision.

Amendment No. 51: Deletes House provision that allowed the use of donations for the Appalachian Clean Streams Initiative. The Senate had no similar provision.

Amendment No. 52: Includes Senate provision which allows States to use part of their reclamation grants as a funding match to treat and abate acid mine drainage, consistent with the Surface Mining Control and Reclamation Act (SMCRA). The House had no similar provision.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

Amendment No. 53: Appropriates $1,359,434,000 for the Operation of Indian Programs instead of $1,509,628,000 as proposed by the House and $1,261,234,000 as proposed by the Senate. Changes to the amount proposed by the House from Tribal Priority Allocations include decreases of $1,500,000 for contract support, $4,000,000 for small and needy tribes, and a general reduction of $117,136,000.

Changes from Other Recurring Programs include: increases of $1,109,000 for ISEP formula funds, $1,000,000 for student transportation, and $73,000 for Lake Roosevelt; and decreases of $1,109,000 for ISEP adjustments, $1,000,000 for early childhood development, and $1,186,000 for community development—facilities O&M; and a transfer of $3,047,000 from trust services to the Office of Special Trustee for American Indians.

Changes from Nonrecurring Programs include: increases of $400,000 for Self-Determination grants, $1,500,000 for community economic development grants, $250,000 for technical assistance, and $1,500,000 for water rights negotiations; and decreases of $442,000 for attorney fees and $125,000 for resources management for absorption of pay costs.

Changes from Central Office Operations include: a decrease of $126,000 for the substance abuse coordination office, a decrease of $2,000,000 for education program management, a $12,477,000 transfer from trust services to the Office of Special Trustee for American Indians, a transfer of $447,000 from general administration to the Office of Special Trustee for American Indians, and a general reduction of $14,400,000.

Changes from Area Office Operations include a transfer of $2,367,000 from trust services to the Office of Special Trustee for American Indians and a general reduction of $14,447,000.

Changes from Special Programs and Pooled Overhead include: increases of $1,337,000 for special higher education scholarships, $962,000 for the Indian Arts and Crafts Board, $1,780,000 for intra-governmental billings, and $57,000 for direct rentals; and decreases of $866,000 for the Indian Child Welfare Act, $1,500,000 for employee displacement costs, $141,000 for personnel consolidation, $664,000 for GSA rentals, $1,666,000 for human resources development, and a $23,000 general reduction.

Amendment No. 54: Deletes Senate earmark of $962,000 for the Indian Arts and Crafts Board. The House had no similar provision. The managers agree that within Special Programs/Pooled Overhead, $962,000 is earmarked for the Indian Arts and Crafts Board. In light of declining budgets, future funding for this program should be provided through non-Federal sources.

Amendment No. 55: Earmarks $104,626,000 for contract support costs as proposed by the Senate instead of $106,126,000 as proposed by the House and adds language earmarking $100,255,000 for welfare assistance.

Amendment No. 56: Earmarks up to $5,000,000 for the Indian Self-Determination Fund as proposed by the Senate instead of $5,000,000 as proposed by the House.

Amendment No. 57: Earmarks $330,711,000 for school operations costs as proposed by the House instead of $330,991,000 as proposed by the Senate.

Amendment No. 58: Earmarks $68,209,000 for higher education scholarships, adult vocational training, and assistance to public schools instead of $67,138,000 as proposed by the House and $69,477,000 as proposed by the Senate.

Amendment No. 59: Retains a statutory reference to the Johnson O'Malley Act as proposed by the Senate. The House had no similar provision.

Amendment No. 60: Earmarks $71,854,000 for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, and the Navajo-Hopi settlement program instead of $74,814,000 as proposed by the House and $62,328,000 as proposed by the Senate.

Amendment No. 61: Deletes a reference to trust fund management as proposed by the Senate. Responsibility for trust fund management has been transferred to the Office of Special Trustee for American Indians.

Amendment No. 62: Deletes reference to the statute of limitations language, as proposed by the Senate. This language is included in the Office of Special Trustee for American Indians (Amendment No. 80).

Amendment No. 63: Retains Senate language on the use of up to $8,000,000 in unobligated balances for employee severance, relocation, and related expenses and inserts new language regarding the effective date when schools can adjust salary schedules. The House had no similar provision.

The managers agree that:

Under Other Recurring Programs $409,000 is earmarked for Alaska legal services and salmon studies.

Not more than $297,000 shall be available for a grant to the Close Up Foundation.

Amounts specifically earmarked within the bill for Tribal Priority Allocations are subject to the general reduction identified for Tribal Priority Allocations. The managers expect the Bureau to allocate the general reduction in a manner that will not jeopardize funding provided from the Highway Trust Fund for road maintenance. In addition, the general reduction should not be applied to the $750,000 allocated for the Financial Management Improvement Team and for small and needy tribes. BIA should ensure that compacting and non-compacting tribes are treated consistently, except for compacting tribes who meet the criteria for small and needy tribes.

BIA should provide consistent treatment in allocating funds for small and needy tribes and new tribes. Allocations should be based on recommendations of the Joint Reorganization Task Force.

No funds are provided for the school statistics initiative. If the BIA wishes to pursue this initiative, the Committees will consider a reprogramming request.

Several steps must be completed before schools can adjust salary schedules. For this reason, bill language is included that will provide this authority beginning with the 1997–98 school year. The managers expect that within 30 days after enactment of this Act BIA should provide the Committees with a plan and time schedule advising how BIA will adjust salary schedules by the 1997–98 school year. The managers expect BIA to ensure that all necessary steps are taken to facilitate changes in salary rates for any schools desiring to use non-DOD pay rates.

$16,338,000 from the Operation of Indian Programs should be transferred to the Office of Special Trustee for American Indians (see Amendment No. 80).

The managers have agreed to a reduction of $2,000,000 for education program management in the Central Office Operations program. No reduction has been included for area and agency technical support in Other Recurring Programs. The managers expect the Bureau to review education program management at all levels to ensure that resources are properly allocated within the funding provided. If the Bureau wishes to reallocate the funds for these accounts, a reprogramming request should be submitted to the Committees.

The managers expect the Bureau of Indian Affairs to direct the U.S. Geological Survey to provide for the public release of all interpretations of data and reports (draft and final) completed under interagency agreement number AGP00473.94 and all related amendments immediately upon completion of the water studies. Within 15 days of enactment of this Act the BIA shall report to the Committees its decision as to whether or not it will direct the USGS to provide for the public release of the information. If the BIA does not allow for the public release of the information, the BIA should immediately cancel the interagency agreement with the USGS.

The managers have not agreed to the Senate amendment regarding a prohibition of the use of funds for travel and training expenses for the BIA. However, the BIA is expected to follow the guidance detailed in the discussion of Amendment No. 163.

CONSTRUCTION

Amendment No. 64: Appropriates $100,833,000 for construction instead of $98,033,000 as proposed by the House and $107,333,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $4,500,000 for the Chief Leschi School, and $2,500,000 for the fire protection program, and decreases of $3,700,000 for the Navajo irrigation project and $500,000 for engineering and supervision.

The managers agree that the Chief Leschi School complex project will be phased in over a two-year period.

The managers agree that funding provided for construction projects should include the entire cost of a given project, which eliminates the need for a separate appropriation for contract support.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

Amendment No. 65: Appropriates $80,645,000 for Indian land and water claim settlements and miscellaneous payments to Indians instead of $75,145,000 as proposed by the House and $82,745,000 as proposed by the Senate.

Amendment No. 66: Earmarks $78,600,000 for land and water claim settlements as proposed by the Senate instead of $73,100,000 as proposed by the House. Changes to the amount proposed by the House include an increase of $5,500,000 for the Ute Indian settlement.

Amendment No. 67: Earmarks $1,000,000 for trust fund deficiencies as proposed by the House instead of $3,100,000 as proposed by the Senate.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

Amendment No. 68: Appropriates $500,000 for technical assistance instead of $900,000 as proposed by the Senate and no funds as proposed by the House.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

Amendment No. 69: Appropriates $5,000,000 for guaranteed loans instead of $7,700,000 as proposed by the Senate and no funds as proposed by the House.

The managers agree that $4,500,000 is for the cost of guaranteed loans and $500,000 is for administrative expenses.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

Amendment No. 70: Appropriates $65,188,000 for Assistance to Territories instead of $52,405,000 as proposed by the House and $68,188,000 as proposed by the Senate. The changes to the amount proposed by the House include an increase of $13,827,000 for territorial assistance and a decrease of $1,044,000 for American Samoa operations grants. The amount provided for territorial assistance includes increases over the House of $5,650,000 for technical assistance, $2,400,000 for maintenance assistance, $1,500,000 for management controls, and $750,000 for disaster assistance.

Amendment No. 71: Earmarks $3,527,000 for the Office of Insular Affairs as proposed by the Senate instead of no funds as proposed by the House. The managers agree that the Office of Territorial and International Affairs is abolished along with the Office of the Assistant for Territorial and International Affairs. The funding provided is for staff to carry out the Secretary's mandated responsibilities and is to be located under the Assistant Secretary for Policy, Management and Budget. This action is consistent with the reorganization already approved by the Appropriations Committees.

Amendment No. 72: Retains Senate language directing the use of funds for technical assistance, maintenance assistance and disaster assistance.

COMPACT OF FREE ASSOCIATION

Amendment No. 73: Deletes House proposed language and funding for impact aid to Guam as proposed by the Senate.

The managers agree that Guam should be compensated for the impact caused by immigration from the freely associated states as authorized under the Compact of Free Association. Funding for compact impact shall be provided by a re-allocation of existing mandatory grant funds as discussed under Amendment No. 89.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

Amendment Nos. 74 and 75: The managers agree to the Senate language which changes the account name from Office of the Secretary to Departmental Management.

Amendment No. 76: Appropriates $57,796,000 for departmental management as proposed by the Senate instead of $53,919,000 as proposed by the House. A redistribution has been made which includes reductions of $296,000 to the Secretary's immediate office and $51,000 to Congressional Affairs. These funds have been transferred to Central Services.

The managers agree that these accounts have been restrained over recent years and that coordination of the Department's programs, particularly during the ongoing downsizing and restructuring process, is critical to ensure the overall effectiveness of the Department's programs. However, the managers feel that it is important to restrain these offices at the 1995 level considering that most of the Department's programs have sustained reductions, or face elimination, and all are being directed to absorb their uncontrollable expenses. The managers also recognize the need to have flexibility in the Departmental Offices to manage within reduced funding levels and with the displacements and uncertainties caused by reductions-in-force. Therefore, the managers agree that the Department may reprogram funds without limitation among the program elements within the four activities. However, any reprogramming among the four activities must follow the normal reprogramming guidelines.

The managers strongly support language included in the House Report which encourages each agency to reduce levels of review and management in order to cover the costs associated with pay raises and inflation. The Department should carefully review and eliminate excessive or duplicated positions associated with Congressional an Public Affairs offices.

Amendment No. 77: Deletes Senate language which prohibits the use of official reception funds prior to the filing of the Charter for the Western Water Policy Review Commission. The House had no similar provision.

CONSTRUCTION MANAGEMENT

Amendment No. 78: Appropriates $500,000 as proposed by the Senate instead of no funding as proposed by the House.

The managers agree to retain the core policy function from the Office of Construction Management in the Office of Policy, Management and Budget. The balance of the programs are transferred to BIA construction.

NATIONAL INDIAN GAMING COMMISSION

Amendment No. 79: Modifies language inserted by the Senate requiring a report detailing information on Indian tribes or tribal organizations with gaming operations. The modification changes the date the report is due to March 1, 1996. The House had no similar provision.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

Amendment No. 80: Appropriates $16,338,000 for Federal trust programs in the Office of Special Trustee for American Indians and establishes this new account as proposed by the Senate. The House had no similar provision.

The managers agree to the following transfers from the Operations of Indian Programs account within the Bureau of Indian Affairs as proposed by the Senate: $3,047,000 from Other Recurring Programs for financial trust services; $2,367,000 from Area Office Operations for financial trust services; and $10,924,000 from Central Office Operations, including $10,447,000 for the Office of Trust Funds Management.

The managers concur with the need for establishing the office as articulated in the Senate report. The managers believe that the Special Trustee will be effective in implementing reforms in the Bureau of Indian Affairs only to the extent that the Trustee has authority over the human and financial resources supporting trust programs. Lacking such authority, the Trustee cannot be held accountable and the likely result will be simply one more office pointing out the shortcomings of the Bureau of Indian Affairs.

Furthermore, under the current financial constraints facing the Committees and the various downsizing activities taking place in the Department, it is essential that the Committees have a clear understanding of the organizational structure supporting trust programs and an assurance that the significant general reductions proposed to be taken against the Bureau of Indian Affairs do not impair the Secretary's ability to manage trust assets. The managers are aware that there may be additional activities that could be transferred to the Office and encourage the Special Trustee, the Department, the Bureau of Indian Affairs, the tribes, and the Office of Management and budget to work closely with the appropriations and authorizing committees to identify the activities and related resources to be transferred.

Any increase in funding or staffing for the Office of Special Trustee should be considered within the context of the fiscal year 1997 budget request and with consideration for funding constraints and the downsizing occurring throughout the Department, particularly within the Bureau of Indian Affairs.

The managers have recommended funding in a simplified budget structure to allow the Special Trustee some flexibility in establishing the office and the budget structure. Prior to submission of the fiscal year 1997 budget request, the managers expect the Special Trustee to work with the Committees to establish an appropriate budget structure for the Office.

The managers expect the Special Trustee to provide by December 1, 1996 a detailed operating plan for financial trust services for fiscal year 1996. The plan should detail what specific activities relating to the reconciliation effort will be undertaken, both directly by the Office of Special Trustee and by its contractors. The plan should detail what products will be provided to the tribes and the Congress and when such products will be submitted. The plan should include staffing for financial trust services, including the number of vacant positions and when the positions are expected to be filled.

Within the funds provided, support should be provided to the Intertribal Monitoring Association (ITMA). The managers expect ITMA to provide the Special Trustee with any information that is provided to the Appropriations or authorizing committees. If the Office of the Special Trustee plans to continue funding ITMA in fiscal year 1997, the managers expect the Special Trustee to identify the funds to be available for ITMA in the fiscal year 1997 budget request.

To the extent possible, the managers expect that administrative support services will continue to be provided by the Bureau of Indian Affairs during fiscal year 1996. To the extent that resources exist within the Office of Special Trustee for budgeting or other administrative services, these activities should be provided by the Office of Special Trustee, rather than through the Bureau of Indian Affairs. The managers have not included any funds for overhead costs, such as GSA rent, postage, FTS-2000, PAY/PERS, or workers' compensation. These costs should be paid from the Operation of Indian Programs account during fiscal year 1996. The fiscal year 1997 budget should include appropriate overhead amounts in the Office of the Special Trustee.

ADMINISTRATIVE PROVISIONS

Amendment No. 81: Retains language inserted by the Senate changing the name of "Office of the Secretary" to "Departmental Management".

DEPARTMENT OF THE INTERIOR

GENERAL PROVISIONS

Amendment No. 82: Deletes an unnecessary comma as proposed by the Senate.

Amendment No. 83: Retains the House language stricken by the Senate granting the Secretary of the Interior authority to transfer land acquisition funds between the Bureau of Land Management, the U.S. Fish and Wildlife Service and the National Park Service.

Amendment No. 84: Modifies language proposed by the House and stricken by the Senate regarding the expenditure of funds for the Presidio. The managers are aware of legislation which may be enacted regarding the future management of the Presidio in California and have provided a funding limitation in order for the Congress to consider legislation this fall. In light of declining budgets, the managers recognize the need for an alternative approach for the Presidio that does not require additional appropriations from the Interior bill. Because the authorizing legislation may be enacted early in fiscal year 1996, the managers have included language which restricts how much funding can be obligated on a monthly basis for the first quarter of the fiscal year. However, if legislation is not enacted, the managers also recognize the need for National Park Service to be able to fulfill its management and resource protection responsibilities at the Presidio. Thus, the obligation limitation would be lifted on December 31, 1995.

Because of concerns about sufficient resources remaining available to address the requirements of any authorization regarding the Presidio Trust, the managers expect the National Park Service to notify the relevant House and Senate appropriations and authorizing committees before awarding any major contracts after December 31, 1995, and prior to the establishment of the Presidio Trust once it is authorized.

Amendment No. 85: Restores language proposed by the House and stricken by the Senate repealing provisions of the Oil Pollution Act of 1990 with respect to Outer Continental Shelf leases offshore North Carolina. The repeal of this statute is not intended to excuse the United States from the liabilities, if any, it has incurred to date nor to otherwise affect pending litigation.

Amendment No. 86: Retains language proposed by the Senate limiting the allocation of self-governance funds to Indian tribes in the State of Washington if a tribe adversely impacts rights of nontribal owners of land within the tribe's reservation. The House had no similar provision.

Amendment No. 87: Retains language proposed by the Senate which requires the Department of the Interior to issue a specific schedule for the completion of the Lake Cushman Land Exchange Act within 30 days of enactment and to complete the exchange by September 30, 1996. The House had no similar provision.

Amendment No. 88: Retains Senate language authorizing the National Park Service to expend funds for maintenance and repair of the Company Creek Road in Lake Chelan National Recreation Area and providing that, unless specifically authorized, no funds may be used for improving private property. The House had no similar provision.

Amendment No. 89: Revises language proposed by the Senate to reallocate mandatory grant payments of $27,720,000 to the Commonwealth of the Northern Mariana Islands (CNMI).

The managers agree that for fiscal years 1996 through 2002 the CNMI shall receive $11,000,000 annually. This is consistent with total funding, matching requirements, and terms negotiated and set forth in the agreement executed on December 17, 1992, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands.

The managers agree that Guam shall receive impact aid of $4,580,000 in fiscal year 1996. This funding level shall continue through fiscal year 2001, as authorized by the Compact of Free Association. The managers agree that these grant funds must be used for infrastructure needs, as determined by the Government of Guam.

The managers agree that $7,700,000 shall be allocated for capital improvement grants to American Samoa in fiscal year 1996 and that higher levels of funding may be required in future years to fund the highest priority projects identified in a master plan. The managers have agreed to language directing the Secretary to develop such a master plan in conjunction with the Government of American Samoa. The plan is to be reviewed by the Army Corps of Engineers before it is submitted to the Congress and is to be updated annually as part of the budget justification.

The managers understand that renovation of hospital facilities in American Samoa has been identified as one of the more critical and high priority needs. The Secretary of the Interior and the American Samoa Government are reminded that Congress required the creation of a hospital authority as a condition to Federal funding of health care facilities. The managers expect the existing hospital authority in American Samoa to be supported by the American Samoa Government so that it continues the purpose of improving the quality and management of health care.

The managers agree that $4,420,000 shall be allocated in fiscal year 1996 for resettlement of Rongelap Atoll. Language has been included that total additional contributions, including funding provided in this bill, may not exceed $32,000,000 and are contingent on an agreement that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelap.

The managers have deleted language provisions proposed by the Senate which would legislate on several matters including minimum wage, immigration, and local employment in the Northern Mariana Islands.

The managers agree that the Secretary of the Interior should continue to submit an annual "State of the Islands" report. This report has been submitted for the past four years in accordance with Committee directives and is a valuable source of information for the Congress.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

Amendment No. 90: Appropriates $178,000,000 for forest research instead of $182,000,000 as proposed by the House and $177,000,000 as proposed by the Senate.

For forestry research, the managers reaffirm support for the consolidation of budget line items, to provide the agency additional flexibility with restructuring, and to allow efficiencies and cost savings as require to meet funding reductions. The managers agree that no forest and range experiment station, research program, or research project should be held harmless from decreases that would impose disproportionate reductions to other research activities. The agency should maintain its focus on core research activities-including forestry research-that support initiatives relating both to public and private forest lands, and cooperative research efforts involving the universities as well as the private sector, directed at forest management, resource utilization and productivity. The managers urge the Forest Service to avoid location closures where research is not conducted elsewhere, and to consolidate programs that are spread over multiple locations. The managers are particularly concerned that silvicultural and hardwood utilization research continue given the large number of public and private forests which rely on this research.

In addition, the managers note the growing importance of data and other information collected through the Forest Inventory Analysis (FIA) program and the resulting statewide forest inventories. The analysis and collection of information directed at forest health conditions on public and private forest lands has become especially important in recent years.

The managers have included $300,000 for landscape management research at the University of Washington, $479,000 for Cook County Ecosystem project, and $200,000 for research at the Olympic Natural Resources Center in Forks, WA.

STATE AND PRIVATE FORESTY

Amendment No. 91: Appropriates $136,794,000 for State and private forestry as proposed by the Senate but deletes Senate earmarks for cooperative lands fire management and the stewardship incentives program. The House provided $129,551,000 for State and private forestry.

The net increase above the House includes increases of $4,500,000 for the stewardship incentives program, $3,000,000 for forest legacy program, and $5,500,000 for economic action programs; and reductions of $2,000,000 from forest health management, $621,000 from cooperative lands fire management, $1,636,000 for forest stewardship and $1,500,000 for urban and community forestry.

The managers agree to the following distribution of funds within economic action programs:

Forest products conservation and recovery	$1,000,000
Economic recovery	5,000,000
Rural development	4,800,000
Wood in transportation	1,200,000
Columbia River Gorge, economic grants to counties	2,500,000

The managers agree that $2,880,000 within rural development be allocated to the Northeast and Midwest, and that no funds are provided for economic diversification studies.

INTERNATIONAL FORESTRY

The managers agree that up to $4,000,000 for Forest Service funds may be utilized for purposes previously funded through the International Forestry appropriation. Domestic activities requiring international contacts will continue to be funded, as in the past, by the appropriate domestic benefiting program. The managers reiterate their expectations that the Service curtail foreign travel expenditures in light of budget constraints.

Operations formerly funded by International Forestry or other appropriations, other than research activities, of the International Institute of Tropical Forestry, Puerto Rico and the Institute of Pacific Islands Forestry, Hawaii may continue to be funded as appropriate. As with other programs, it may be necessary to reduce funding for these institutes due to budget constraints. Research activities will be funded from the Forest Research appropriation.

The managers also expect the Forest Service to examine the best means to provide leadership in international forestry activities and meet essential representation and liaison responsibilities with foreign governments and international organizations, and agree that the Forest Service should not maintain a separate deputy chief for international forestry.

NATIONAL FOREST SYSTEM

Amendment No. 92 Appropriates $1,256,253,000 for the national forest system instead of $1,266,688,000 as proposed by the House and $1,247,543,000 as proposed by the Senate.

The net decrease below the House consists of reductions of $5,750,000 for recreation management, $1,750,000 for wilderness management, $435,000 for heritage resources, $1,750,000 for wildlife habitat management, $1,000,000 for inland fish habitat management, $1,750,000 for threatened and endangered species habitat management; and increases of $1,000,000 for road maintenance, and $1,000,000 for facility maintenance.

The managers expect the land agencies to begin to rebuild and restore the public timber programs on national forests and BLM lands. With the modest increase in funding provided, the Forest Service is expected to produce 2.6 billion board feet of green sales. With enactment of the new salvage initiative (P.L. 104–19) in response to the emergency forest health situation, the agencies are expected to proceed aggressively to expedite the implementation of existing programmed salvage volumes, with the expectation that the Forest Service will produce an additional increment of 1.5 BBF over the expected sale program for fiscal year 1996. The managers expect a total fiscal year 1996 Forest Service sale accomplishment level off 5.6 BBF, and note that this is nearly half the level authorized for sale just five years ago. The Forest Service is to report timber sale accomplishments on the basis of net sawtimber sold and awarded to purchasers, and on the volume offered. Those regions of the country which sell products other than sawtimber should continue to report accomplishments in the same manner as used in the forest plans. The reports are to provide information on both green and salvage sales.

The managers encourage the Forest Service to use up to $350,000 to commission a third party field review of the environmental impacts and the economic efficiency of the emergency forest salvage program mandated by section 2001 of P.L. 104–19. The managers believe that funding such a review can be appropriately undertaken through the timber salvage sale fund.

The managers note the difference between the House and Senate reports pertaining to tree measurement and timber scaling. The managers also note that House Report 103–551 specifically allow Forest Service managers to use scaling when selling salvage sales or thinnings. The managers expect the Forest Service to use fully the flexibility authorized in House Report 103–551 for rapidly deteriorating timber, and to use sample weight scaling for the sale of low value thinnings. Further, the managers direct the Forest Service to undertake a study to identify: (1) which measurement method is more cost efficient; (2) to assess what percent of timber theft cases involve scaling irregularities and whether tree measurement discourages timber theft; (3) which measurement method is more efficient when environmental modifications are needed after a sale has been awarded; and (4) assess the agency's ability to perform cruising required under tree measurement. The study will measure Forest Service performance based on Forest Service Handbook cruise standards, including identifying how often uncertified employees are involved in cruise efforts. The Forest Service shall contract with an established independent contractor skilled in both cruising and scaling and report back to the Committees no later than March 1, 1996.

The conference agreement includes $400,000 for the development of a plan for preserving and managing the former Joliet Arsenal property as a National tallgrass prairie. The managers are aware of legislation to establish the Midewin National Tallgrass Prairie and urge the Forest Service to take such steps as are necessary, including a reprogramming, to begin implementing the legislation when enacted. The managers also urge the Forest Service to seek full funding for the Midewin National Tallgrass Prairie as part of its fiscal year 1997 budget request.

The managers are concerned about the many programs in the President's Forest Plan designed to provide assistance to timber dependent communities in the Pacific Northwest. The managers are disturbed by the inability of the agencies involved to provide a detailed accounting of funds appropriated in previous fiscal years for the unemployed timber worker programs in the President's Forest Plan.

The managers expect the Secretary of the Interior and the Secretary of Agriculture to prepare a detailed accounting and report of the funds appropriated in fiscal year 1995 for the President's Forest plan. The report shall include a careful accounting of appropriated funding, including: funds appropriated for timber production; administrative expenses, including the number of Federal employees employed to administer the various aspects of the President's plan; funds appropriated for the various jobs programs allowed for under the President's plan, including but not limited to the Jobs in the Woods program; the number of individuals employed by these programs; and the average length of each job. The managers expect the Secretaries to submit the report to the Committees no later than March 31, 1996.

The managers are concerned that the Forest Service reallocates funding pursuant to reprogramming requests before they are transmitted to Congress. The managers direct the Forest Service to adhere to the reprogramming guidelines, and not reallocate funds until the Appropriations Committees have had an opportunity to review these proposals.

The managers believe that additional opportunities exist for contracting Forest Service activities, and encourage expanding the use of contractors wherever possible.

WILDLIFE FIRE MANAGEMENT

Amendment No. 93: Changes the account title to Wildland Fire Management as proposed by the Senate, instead of Fire Protection and Emergency Suppression as proposed by the House.

Amendment No. 94: Appropriates $385,485,000 for wildland fire management as proposed by the House instead of $381,485,000 as proposed by the Senate.

CONSTRUCTION

Amendment No. 95: Appropriates $163,500,000 for construction, instead of $120,000,000 as proposed by the House and $186,888,000 as proposed by the Senate.

The increase above the House includes $23,500,000 for facilities, $5,000,000 for road construction, and $15,000,000 for trail construction. Within the total for facilities, the conference agreement includes $36,000,000 for recreation, $10,000,000 for FA&O, and $2,500,000 for research.

The managers agree to the following earmarks within recreation construction:

Allegheny NF, rehabilitation	$150,000
Bead Lake, WA, boating access	60,000
Bead Lake, WA, roads	176,000
Columbia River Gorge Discovery Center, OR, completion	2,500,000
Cradle of Forestry, NC, utilities	500,000
Daniel Boone NF, KY, rehabilitation	660,000

Gum Springs Recreation Area, LA, rehabilitation phase II	400,000
Johnston Ridge Observatory, WA	500,000
Johnston Ridge Observatory, WA, roads	550,000
Lewis and Clark Interpretive Center, MT, completion	2,700,000
Multnomah Falls, OR, sewer system	190,000
Northern Great Lakes Visitor Center, WI	1,965,000
Seneca Rocks, WV visitor center, completion	1,400,000
Timberline Lodge, OR, water system improvements and new reservoir	750,000
Winding Stair Mountain National Recreation and Wilderness Area, OK, improvements	682,000

The managers agree that for the Northern Great Lakes Visitor Center, WI, funding is provided with the understanding that the project cost is to be matched 50% by the State of Wisconsin.

The conference agreement includes $95,000,000 for roads to be allocated as follows: $57,000,000 for timber roads, $26,000,000 for recreation roads, and $12,000,000 for general purpose roads.

The managers remain interested in Forest Service plans for restoring Grey Towers, and are concerned about the cost of the project. The managers expect the Forest Service to continue the implementation of the master plan for Grey Towers and to explore additional partnerships that can help cost-share required restoration work. The Forest Service should work with the Committees to provide a better understanding of the needs of Grey Towers and explore ways to reduce the cost to the Federal government.

The managers concur in the reprogramming request currently pending for Johnston Ridge Observatory and Timberline Lodge sewer system.

Amendment No. 96: Earmarks $2,500,000 and unobligated project balances for a grant to the "Non-Profit Citizens for the Columbia Gorge Discovery Center," and authorizes the conveyance of certain land, as proposed by the Senate. The House included no similar provision.

Amendment No. 97: Includes Senate provision which authorizes funds appropriated in 1991 for a new research facility at the University of Missouri, Columbia, to be available as a grant for construction of the facility, and provides that the Forest Service shall receive free space in the building. The House had no similar provision.

LAND ACQUISITION

Amendment No. 98: Appropriates $41,200,000 instead of $14,600,000 as proposed by the House and $41,167,000 as proposed by the Senate. The $41,200,000 includes $7,500,000 for acquisition management, $2,000,000 for emergency and inholding purchases, $1,000,000 for wilderness protection, $1,725,000 for cash equalization of land exchanges, and $28,975,000 for land purchase.

Amendment No. 99: Strikes Senate earmark for Mt. Jumbo.

Amendment No. 100: Strikes Senate earmark for Kane Experimental Forest.

The managers expect that any movement of acquisition funds from one project to another regardless of circumstances must follow normal reprogramming guidelines. The managers have deleted all references to specific earmarkings included in the Senate report.

The managers continue to encourage strongly the use of land exchanges as a way in which to protect important recreational or environmentally significant lands, in lieu of the Federal Government acquiring lands. The managers believe that land exchanges represent a more cost-effective way in which to do business and encourage the Forest Service to give high priority to those exchanges either nearing completion, or where land management decisions are made particularly difficult due to checkerboard ownership.

The managers are concerned about the long history of problems associated with the implementation of land acquisition provisions in the Columbia River Gorge National Scenic Act. To date, nearly $40 million has been spent on land acquisitions in the Gorge, and the Forest Service estimates that nearly $20-$30 million in remaining land is left to be acquired. The Gorge Act authorizes land exchanges in the area, and while several exchanges have been completed, a substantial number of acres remain to be acquired to fulfill the purposes of the Scenic Act. The managers strongly support the use of land exchanges versus land acquisitions. The managers understand that the Forest Service has the existing statutory authority to conduct land exchanges in the Scenic Area, including tripartite land-for-timber exchanges.

The managers encourage the Forest Service to enter into land exchanges, including tripartite land exchanges, with willing land owners in the Gorge to diminish the need for future acquisitions.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Amendment No. 101: Retains Senate provision which prohibits any reorganization without the consent of the appropriations and authorizing committees and adds a provision exempting the relocation of the Region 5 regional offices from the requirement to obtain the consent of the authorizing and appropriations committees. The House had no similar provision.

The managers are concerned that the Forest Service is being required to move the Regional Office in Atlanta, Georgia from its present location to a new Federal Center in downtown Atlanta at greatly increased costs. At the same time, accessibility for both the public and employees will be made more difficult. Requiring the Forest Service to absorb increased costs for no increase in effectiveness or efficiency is not acceptable. The managers agree that any relocation of the Atlanta office can occur only pursuant to the bill language restrictions which require the advance approval of the authorizing and appropriations committees. This will allow the committees the opportunity to examine closely the costs and benefits of any such proposal, and require the Administration to justify fully any additional expenditures.

Amendment No. 102: Includes Senate provision which adds the Committee on Energy and Natural Resources to the list of committees which must approve reorganizations pursuant to amendment No. 101. The House had no similar provision.

Amendment No. 103: Includes the Senate provision which adds the Committee on Resources to the list of committees which must approve reorganizations pursuant to amendment No. 101. The House had no similar provision.

Amendment No. 104: Modifies Senate provision by deleting the prohibition on changes to the appropriations structure without advance approval of the Appropriations Committees, and substituting language allowing the relocation of the Region 5 regional office to Mare Island in Vallejo, CA, subject to the existing reprogramming guidelines. The House had no similar provision.

The conference agreement includes bill language which provides authority to finance costs associated with the relocation of the Region 5 regional office to excess military property at Mare Island Naval Shipyard at Vallejo, CA, from any Forest Service account. However, the managers expect a reprogramming request which justifies the relocation and identifies the source of funds to be used before funds are reallocated for this purpose. The allocation of other regions are not to be reduced in order to finance the move.

Amentment No. 105: Retains House language stricken by the Senate providing that 80 percent of the funds for the "Jobs in the Woods" program for National Forest land in the State of Washington be granted to the State Department of Fish and Wildlife. The Senate had no similar provision.

Amendment No. 106: Deletes House provision relating to songbirds on the Shawnee NF. The Senate had no similar provision.

Amendment No. 107: Deletes Senate provision which prohibits revision or implementation of a new Tongass Land Management Plan. The House had no similar provision.

Amendment No. 108: Modifies Senate provision requiring implementation of the Tongass Land Management Plan, Alternative P, during fiscal year 1996, and allows continuation of the current Tongass National Forest land management planning process which may replace or modify Alternative P. Language is also included relating to offering certain timber sales in Alaska, and making permanent section 502 of Public Law 104–19 relating to habitat conservation areas in the Tongass National Forest. The House had no similar provision.

The managers appreciate the critical need to resolve land and resource management issues relating to the Tongass National forest in Southeast Alaska and further recognize that, to date, the Congress has provided sufficient guidance and funding for the Forest Service to develop a workable land management plan. Therefore, the Forest Service is directed to implement the preferred alternative identified in the Final Environmental Impact Statement dated October 1992 and its companion Record of Decision draft dated February 1993. The Forest Service may amend that plan to include a signed agreement between the Forest Service and the Alaska Visitors' Association, and is directed otherwise to proceed with timber sales and other plan features in accordance with this plan. The current plan revision process may continue, provided that any proposed revisions shall, to the maximum extent possible, contain no fewer acres of suitable timber lands than in the plan selected by this bill and any revision shall not take effect during fiscal year 1996.

Amendment No. 109: Includes Senate provision which prohibits applying paint to rocks or rock colorization. The House included no similar provision.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 110: Appropriates $417,169,000 for fossil energy research and development instead of $379,524,000 as proposed by the House and $376,181,000 as proposed by the Senate. The amendment also provides for the transfer of authority for health and safety research in mines and the mineral industry from the Bureau of Mines (see amendment No. 47). Changes to the amount proposed by the House for coal research include an increase of $2,000,000 for Kalina cycle testing and decreases of $1,500,000 in coal preparation research, $1,650,000 for HRI proof of concept testing and $1,000,000 for bench scale research in the direct liquefaction program, $1,000,000 for in house research in the high efficiency integrated gasification combined cycle program, $500,000 for filters testing and evaluation in the high efficiency pressurized fluidized bed program, and $300,000 for international program support and $1,000,000 for university coal research in advanced research and technology development. Changes to the amount proposed by the House for oil technology research include increases of $1,500,000 for a data repository, $250,000 for the gypsy field project and $250,000 for the northern midcontinent digital petroleum atlas in exploration and supporting research, and decreases of $1,000,000 for the National laboratory/industry partnership and $1,000,000 for extraction in exploration and supporting research, $2,000,000 for the heavy oil/unconsolidated Gulf Coast project in the recovery field demonstrations program, and $1,100,000 as a general reduction to the processing research and downstream operations program. Changes to the amount proposed by the House for natural gas research include decreases of $440,000 for conversion of natural gases to liquid fuels, $130,000 for the international gas technology information center and $30,000 for low quality gas upgrading in the utilization program and $1,000,000 for the advanced concepts/tubular solid oxide fuel cell program. Other changes to the House recommended level include increases of $40,000,000 for health and safety research ($35 million) and materials partnerships ($5 million) which are being transferred from the Bureau of Mines $6,295,000 for cooperative research and development and $5,000,000 for program direction at the energy technology centers and a decrease of $4,000000 for environmental restoration.

The funds provided for cooperative research and development include $295,000 for technical and program management support and $3,000,000 each for the Western Research Institute and the University of North Dakota Energy and Environmental Research Center. Within the funds provided for WRI and UNDEERC, the managers agree that a percentage comparable to the fiscal year 1995 rate may be used for the base research program, and the balance is to be used for the jointly sponsored research program.

The managers have included an increase of $5,000,000 for program direction, which is $1,000,000 less than recommended in the Senate bill. The managers expect the Department to allocate these funds commensurate with the program distributions in this bill. The various program and support functions of the field locations should continue to be funded out of the same line-items as in fiscal year 1995.

The managers are aware of proposals regarding the future field office structure of the fossil energy program. The managers take no position on the specifics of the various aspects of the strategic realignment initiative at this time as many of the details are not yet available. The managers expect the Department to comply fully with the reprogramming guidelines before proceeding with implementation of any reorganization or relocation. The managers are concerned about the basis for estimated savings, personnel impacts, budget changes, transition plans, and how any proposed integration will address market requirements and utilization.

In any proposal to privatize the National Institute for Petroleum and Energy Research (NIPER), the Department should seek competitively a non-Federal entity to acquire NIPER and to make such investments and changes as may be necessary to enable the private entity to perform high-value research and development services and compete with other organizations for private and public sector work. In the interim, to the extent the program level for oil technology allows, the Department is encouraged to maintain as much of the program at NIPER as possible.

With respect to the functions of the Bureau of Mines which have been transferred to the Department of Energy, the managers expect the Department to continue to identify the resources being allocated for these purposes and not to subsume these functions into other budget line-items within the fossil energy account. The Secretary should maintain the transferred functions and personnel at their current locations. In fiscal year 1996, any staffing reductions required to accommodate the funding level provided for health and safety research should be taken from within this activity and should not affect any other elements of the fossil energy research and development organization. Likewise, any additional or vacant positions which are required for the health and safety research function should be filled with Bureau of Mines employees who are subject to termination or reduction-in-force. The managers strongly encourage the Administration, and particularly the Office of Management and Budget, to work toward consolidating these health and safety functions in the same agency with either the Mine Safety and Health Administration or the National Institute for Occupational Safety and Health.

The managers do not object to the use of up to $18,000,000 in clean coal technology program funds for administration of the clean coal program. The managers are concerned that a clean coal project was recently changed without addressing Congressional concerns that were raised before and during the application review period. The managers expect the Secretary, to the extent possible, to ensure that the sulfur dioxide facility which was approved as part of the NOXSO clean coal project is constructed so as to begin operation when the elemental sulfur is available from the NOXSO process. The managers also expect the Department to report to the legislative committees of jurisdiction as well as the Appropriations Committees in the House and Senate on the rationale for approving the construction of a sulfur dioxide plant as part of the NOXSO project. As the remaining projects in the clean coal program proceed, the Department should focus on technologies that relate directly to the objectives of the program.

Amendment No. 111: Deletes language inserted by the Senate requiring that any new project start be substantially cost-shared with a private entity. The House had no similar provision. The managers expect the Department to make every effort to increase the percentage of non-Federal cost-sharing in its research and development projects.

NAVAL PETROLEUM AND OIL SHALE RESERVES

Amendment No. 112: Appropriates $148,786,000 for the Naval petroleum and oil shale reserves instead of $151,028,000 as proposed by the House and $136,028,000 as proposed by the Senate.

Amendment No. 113: Repeals the restriction on conducting studies with respect to the sale of the Naval petroleum and oil shale reserves as proposed by the Senate. The House had no similar provision.

ENERGY CONSERVATION

Amendment No. 114: Appropriates $553,293,000 for energy conservation instead of $556,371,000 as proposed by the House and $576,976,000 as proposed by the Senate. Changes to the amount proposed by the House for the buildings program include increases of $150,000 for the foam insulation project in the building envelope program, $100,000 for lighting and appliance collaboratives in commercial buildings in the building equipment program and $1,140,000 for energy efficiency standards for Federal buildings in the codes and standards program, and decreases of $400,000 for residential buildings/building America, $3,000 for residential energy efficiency/climate change action plan, and $1,500,000 for partnership America/climate change action plan in building systems; $150,000 as a general reduction to materials and structures in building envelope; $450,000 as a general reduction to lighting and $100,000 for appliance technology introduction partnerships/climate change action plan in building equipment; and $3,060,000 as a general reduction to the codes and standards program, consistent with the moratorium on issuing new standards (see amendment No. 157).

Changes to the amount proposed by the House for the industry program include an increase of $3,000,000 in industrial wastes to maintain the NICE3 program at the fiscal year 1995 level and decreases of $300,000 for combustion in the municipal solid waste program, $1,000,000 as a general reduction to the metals initiative in the materials and metals processing program with the expectation that none of the reduction is to be applied to the electrochemical dezincing project, $200,000 as a general reduction for alternative feedstocks and $700,000 as a general reduction for process development in the other process efficiency program, and $2,000,000 for environmental technology partnerships in implementation and deployment.

Changes to the amount proposed by the House for the transportation program include increases of $990,000 for metal matrix composites in vehicle systems materials; $200,000 for turbine engine technologies, $200,000 for the ceramic turbine engine demonstration project, $4,500,000 for automotive piston technologies, and $612,000 for combustion and emissions research and development in heat engine technologies; and $16,228,000 for on-board hydrogen proton exchange membrane fuel cells and $2,900,000 for fuel cell research and development in electric and hybrid propulsion development. Decreases from the House include $1,200,000 for fuel cells/battery materials and $500,000 as a general reduction in materials technology; $1,000,000 as a general reduction in vehicle systems materials; $6,462,000 as a general reduction to light duty engine technologies in the heat engine technologies program; and $500,000 for battery development, $1,000,000 to terminate the phosphoric acid fuel cell bus program and $15,528,000 as a general reduction for fuel cell development in the electric and hybrid propulsion development program.

Changes to the amount proposed by the House for the technical and financial assistance program include an increase of $3,250,000 for the weatherization assistance program and a decrease of $295,000 for the inventions and innovations program.

The managers have agreed to the Senate bill language restricting the issuance of new or amended standards in the codes and standards program (see amendment Nos. 156 and 157).

The managers agree that:

1. The Department should aggressively pursue increased cost sharing;

2. Projects that prove to be uneconomical or fail to produce desired results should be terminated;

3. The fiscal year 1997 budget should continue the trend of program downsizing with the focus on completing existing commitments;

4. Ongoing programs should not be grouped under the umbrella of large initiatives and described as new programs in the budget;

5. There should be no new program starts without compelling justification and identified funding offsets;

6. The home energy rating system pilot program should be continued with the existing pilot States; within the funds available for HERS, the managers expect the department to work with Mississippi and other non-pilot program States on the States' home energy rating system;

7. There is no objection to continuing the student vehicle competition in the transportation program at the current year funding level;

8. The Department should work with the States to determine what other programs should be included in a block grant type program along with the consolidated State energy conservation program/institutional conservation program;

9. There is no objection to continuing the interagency agreement with the Department of Housing and Urban Development for public assisted housing and other low-income initiatives to the extent that HUD reimburses the Department for this work;

10. The Office of Industrial Technologies may procure capital equipment using operating funds, subject to the existing reprogramming guidelines;

11. The Department should work with the Office of Management and Budget and the General Services Administration to ensure that agencies fund energy efficiency improvements in Federal buildings;

12. The Department should increase private sector investment through energy savings performance contracts in the Federal energy management program and should develop mechanisms to be reimbursed for these efforts;

13. The Department should submit a new five year program plan for the transportation program in light of current funding constraints; and

14. There are no specific restrictions on the number of contracts to be let for the long term battery development effort or activities within the electric and hybrid vehicle program. Given the level of funding provided, the Department should examine carefully its options in these areas in close coordination with its industry cooperators.

Amendment No. 115: Earmarks $140,696,00 for State energy grant programs instead of $148,946,000 as proposed by the House and $168,946,000 as proposed by the Senate.

Amendment No. 116: Earmarks $114,196,000 for the weatherization assistance program instead of $110,946,000 as proposed by the House and $137,446,000 as proposed by the Senate.

Amendment No. 117: Earmarks $26,500,000 for the State energy conservation program as proposed by the Hose instead of $31,500,000 as proposed by the Senate.

ECONOMIC REGULATION

Amendment No. 118: Appropriates $6,297,000 for economic regulation as proposed by the House instead of $8,038,000 as proposed by the Senate.

The managers agree that the Office of Hearings and Appeals should receive reimbursement for work other than petroleum overcharge cases and related activities are recommended by the House.

ENERGY INFORMATION ADMINISTRATION

Amendment No. 119: Appropriates $72,266,000 for the Energy Information Administration instead of $79,766,000 as proposed by the House and $64,766,000 as proposed by the Senate. The managers expect the reduction to be applied largely to EIA's forecasting efforts.

Department of Health and Human Services Indian Health Service

INDIAN HEALTH SERVICES

Amendment No. 120: Appropriates $1,722,842,000 for Indian health services instead of $1,725,792,000 as proposed by the House and $1,815,373,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $1,500,000 for collections and billings, $750,000 for epidemiology centers, $200,000 for the Indians into Psychology program, and decreases of $2,000,000 for Indian health professionals, $3,000,000 for tribal management, and a $400,000 transfer from hospitals and clinics to facilities and environmental heath support.

Amendment No. 121: Earmarks $350,564,000 for contract medical care as proposed by the Senate instead of $351,258,000 as proposed by the House.

The managers agree that the Indian Self Determination Fund is to be used only for new and expanded contracts and that this fund may be used for self-governance compacts only to the extent that a compact assumes new or additional responsibilities that had been performed by the IHS.

The managers agree that the fetal alcohol syndrome project at the University of Washington should be funded at the fiscal year 1995 level.

The managers are concerned about the adequacy of health care services available to the Utah Navajo population, and urge IHS to work with the local health care community to ensure that the health care needs of the Utah Navajos are being met. IHS should carefully consider those needs in designing a replacement facility for the Montezuma Creek health center.

INDIAN HEALTH FACILITIES

Amendmenht No. 122: Appropriates $238,958,000 for Indian health facilities instead of $236,975,000 as proposed by the House and $151,227,000 as proposed by the Senate. Changes to the amount proposed by the House include increases of $750,000 for the Alaska medical center, $1,000,000 for modular dental units, $500,000 for injury prevention, $400,000 for a base transfer from hospitals and clinics, and a decrease of $667,000 for the Fort Yuma, AZ project.

The managers agree to delay any reprogramming of funds from the Winnebago and Omaha Tribes' health care facility. However, given current budget constraints, if issues relative to the siting and design of the facility cannot be resolved, the managers will consider reprogramming these funds to other high priority IHS projects during fiscal year 1996.

The Talihina, OK hospital is ranked sixth on the IHS health facilities priority list for inpatient facilities. The Choctaw Nation had developed a financing plan for a replacement facility. The Choctaw Nation proposes various funding sources to support its project for a community based hospital. The managers direct IHS to work with the Choctaw Nation to identify resources necessary to staff, equip, and operate the newly constructed facility. The managers will consider these operational needs in the content of current budget constraints.

The managers have not agreed to provisions in the Senate bill requiring the IHS to prepare reports on the distribution of Indian Health Service professionals and on HIV-AIDs prevention needs among Indian tribes. While the managers agree that closer examination of these topics may be warranted, the resources necessary to conduct adequate studies are not available at this time.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

Amendment No. 123: Appropriates $52,500,000 as proposed by the House instead of $54,660,000 as proposed by the Senate.

The managers agree that no funding is provided for the National Advisory Council on Indian Education.

OTHER RELATED AGENCIES

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

Amendment No. 124: Appropriates $20,345,000 for the Office of Navajo and Hopi Indian Relocation as proposed by the Senate instead of $21,345,000 as proposed by the House.

Smithsonian Institution

SALARIES AND EXPENSES

Amendment No. 125: Appropriates $308,188,000 for Salaries and Expenses instead of $309,471,000 as proposed by the House and $307,988,000 as proposed by the Senate.

The $200,000 increase is provided for the Center for folklife programs specifically for the 1996 Festival of American Folklife featuring the State of Iowa. This amount is provided in addition to the $400,000 base funding. The State of Iowa will contribute $250,000 toward this effort.

Amendment No. 126: Earmarks $30,472,000 as proposed by the Senate instead of $32,000,000 proposed by the House for the instrumentation program, collections acquisition and various other programs.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

Amendment No. 127: Appropriate $3,250,000 for zoo construction as proposed by the Senate instead of $3,000,000 as proposed by the House. The increase is limited to repairs and rehabilitation and is not to be used for new exhibits or expansions.

REPAIR AND RESTORATION OF BUILDINGS

Amendment No. 128: Appropriates $33,954,000 for repair and restoration of buildings as proposed by the Senate instead of $24,954,000 as proposed by the House.

CONSTRUCTION

Amendment No. 129: Appropriates $27,700,000 for Construction as proposed by the Senate instead of $12,950,000 as proposed by the House. The managers agree that $15,000,000 is included for the National Museum of the American Indian Cultural Resource Center; $8,700,000 is included to complete the construction and equipping of the Natural History East Court Building and $3,000,000 is for minor construction, alterations and modifications.

The managers are providing $1,000,000 to be used to complete a proposed master plan and initiate detailed planning and design to allow for the development of a proposed financial plan for the proposed extension at Dulles Airport for the Air and Space Museum. The managers expect that the financial plan shall specify, in detail, the phasing of the project and commitments by the Commonwealth of Virginia and the Smithsonian toward construction and operation of the facility.

The managers agree that no Federal funds, beyond the costs of planning and design, will be available for the construction phase of this project.

The managers have provided $15,000,000 for the continued construction of the National Museum of the American Indian Cultural Resource Center in Suitland, Maryland. This amount will bring the Federal contribution to date for this project to $40,900,000. The managers have agreed that no additional Federal funds will be appropriated for this project.

The managers also strongly encourage the Smithsonian to develop alternative cost scenarios for the proposed National Museum of the American Indian Mall Museum including downsizing of the building and decreasing the amount of Federal funding.

Amendment No. 130: The managers agree to concur with the Senate amendment which strikes the House provision permitting a single procurement for construction of the American Indian Cultural Resources Center. The managers understand that authority provided previously for such purposes is sufficient.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

Amendment No. 131: Appropriates $51,844,000 for salaries and expenses as proposed by the Senate instead of $51,315,000 as proposed by the House.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

Amendment No. 132: Appropriates $6,442,000 for repair, restoration and renovation of buildings instead of $5,500,000 as proposed by the House and $7,385,000 as proposed by the Senate.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

Amendment No. 133: Appropriates $10,323,000 for operations and maintenance as proposed by the Senate, instead of $9,800,000 as proposed by the House.

Amendment No. 134: Includes Senate provision which amends 40 U.S.C. 193n to provide the Kennedy Center with the same police authority as the Smithsonian Institution and the National Gallery of Art. The House had no similar provision.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

Amendment No. 135: Appropriates $5,840,000 for the Woodrow Wilson International Center for Scholars instead of $5,840,100 as proposed by the House and $6,537,000 as proposed by the Senate.

The managers continue to have serious concerns about the total costs associated with the proposed move to the Federal Triangle building. Until such time as both the House and Senate Appropriations Committees' concerns are satisfactorily addressed, no funds may be used for this purpose.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

Amendment No. 136: Appropriates $82,259,000 for grants and administration as proposed by the House instead of $88,765,000 as proposed by the Senate.

Amendment No. 137: Deletes House language making NEA funding contingent upon passage of a House reauthorization bill. The Senate had no similar provision.

The managers on the part of the House continue to support termination of NEA within two years, and do not support funding beyond FY 1997. The managers on the part of the Senate take strong exception to the House position, and support continued funding for NEA. The managers expect this issue to be resolved by the legislative committees in the House and Senate.

MATCHING GRANTS

Amendment No. 138: Appropriates $17,235,000 for matching grants as proposed by the House instead of $21,235,000 as proposed by the Senate.

Amendment No. 139: Deletes House language making funding for NEA contingent upon passage of a House reauthorization bill.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

Amendment No. 140: Appropriates $94,000,000 for grants and administration as proposed by the Senate instead of $82,469,000 as proposed by the House.

The managers on the part of the House continue to support a phase out of NEH within three years, and do not support funding beyond FY 1998. The managers on the part of the Senate take strong exception to the House position, and support continued funding for NEH. The managers expect this issue to be resolved by the legislative committees in the Hose and Senate.

MATCHING GRANTS

Amendment No. 141: Appropriates $16,000,000 for matching grants as proposed by the Senate instead of $17,025,000 as proposed by the House.

Amendment No. 142: Earmarks $10,000,000 for challenge grants as proposed by the Senate instead of $9,180,000 as proposed by the House.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

Amendment No. 143: Appropriates $2,500,000 for salaries and expenses as proposed by the Senate instead of $3,063,000 as proposed by the House.

While the Advisory Council works closely with Federal agencies and departments, the National Park Service and State historic preservation officers, it does not have responsibility for designating historic properties, providing financial assistance, overriding other federal agencies' decisions, or controlling actions taken by property owners.

The managers encourage those Federal agencies and departments which benefit from the Advisory Council's expert advice to assist in covering these costs. The managers are concerned that some Advisory Council activities may duplicate those conducted by other preservation agencies. Therefore, the managers direct the Advisory Council to evaluate ways to recover the costs of assisting Federal agencies and departments through reimbursable agreements and to examine its program activities to identify ways to eliminate any duplication with other agencies. The Advisory Council shall report its findings to the Congress by March 31, 1996.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

Amendment No. 144: Appropriates $147,000 as proposed by the Senate instead of $48,000 as proposed by the House.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

Amendment No. 145: Appropriates no funds as proposed by the Senate instead of $2,000,000 as proposed by the House.

PUBLIC DEVELOPMENT

Amendment No. 146: Modifies language proposed by the Senate allowing the use of prior year funding for operating and administrative expenses. The modification allows the use of prior year funding for shutdown costs in addition to operating costs. In addition, prior year funds may be used to fund activities associated with the functions transferred to the General Services Administration. The House had no similar provision.

The managers agree that not more than $3,000,000 in prior year funds can be used for operating, administrative expenses, and shutdown costs for the Pennsylvania Avenue Development Corporation. The managers direct that the orderly shutdown of the Corporation be accomplished within six months from the date of enactment of this Act. No staff should be maintained beyond April 1, 1996. The managers agree that Pennsylvania Avenue Development Corporation staff associated with the Federal Triangle project should be transferred to the General Services Administration, and provision for the transfer has been included in the Treasury-Postal Services Appropriations bill.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

Amendment No. 147: Appropriates $28,707,000 for the Holocaust Memorial Council as proposed by the House instead of $26,609,000 as proposed by the Senate.

Amendment No. 148: Restores language proposed by the House and stricken by the Senate providing that $1,264,000 for the Museum's exhibition program shall remain available until expended.

TITLE III—GENERAL PROVISIONS

Amendment No. 149: Retains Senate provision making a technical correction to Public Law 103–413.

Amendment No. 150: Includes Senate provision that any funds used for the Americorps program are subject to the reprogramming guidelines, and can only be used if the Americorps program is funded in the VA-HUD and Independent Agencies fiscal year 1996 appropriations bill. The House prohibited the use of any funds for the Americorps program.

Since the Northwest Service Academy (NWSA) is funded through fiscal year 1996, the managers agree that the agencies are not prohibited from granting the NWSA a special use permit, from using the NWSA to accomplish projects on agency-managed lands or in furtherance of the agencies' missions, or from paying the NWSA a reasonable fee-for-service for projects.

Amendment No. 151: Modifies House language stricken by the Senate transferring certain responsibilities from the Pennsylvania Avenue Development Corporation to the General Services Administration, National Capital Planning Commission, and the National Park Service. The modification transfers all unobligated and unexpended balances to the General Services Administration. The Senate had no similar provision.

Amendment No. 152: Modifies House and Senate provisions relating to the Interior Columbia River Basin ecoregion management project (the Project). The House and Senate contained different language on the subject, but both versions were clear in their position that the Project has grown too large, and too costly to sustain in a time of shrinking budgets. In addition, the massive nature of the undertaking, and the broad geographic scope of the decisions to be made as part of a single project has raised concerns about potential vulnerability to litigation and court injunctions with a regionwide impact. The language included in the conference report reflects a compromise between the two versions.

Subsection (b) appropriated $4,000,000 for the completion of an assessment on the National forest system lands and lands administered by the BLM within the area encompassed by the Project, and to publish two draft Environmental Impact Statements on the Project. The Forest Service and BLM should rely heavily on the eastside forest ecosystem health assessment in the development of the assessment and DEIS's, in particular, volume II and IV provide a significant amount of the direction necessary for the development of an ecosystem management plan. This document has already been peer reviewed and widely distributed to the public. Therefore, the collaborative efforts by many scientists can be recognized.

The two separate DEIS's would cover the project region of eastern Washington and Oregon, and the project region of Montana and Idaho, and other affected States. The language also directs project officials to submit the assessment and two DEIS's to the appropriate House and Senate committees for their review. The DEIS's are not decisional and not subject to judicial review. The managers have included this language based upon concern that the publication of DEIS's of this magnitude would present the opportunity for an injunction that would shut down all multiple use activities in the region.

The assessment shall contain a range of alternatives without the identification of a preferred alternative or management recommendation. The assessment will also provide a methodology for conducting any cumulative effects analysis required by section 102(2) of NEPA, in the preparation of each amendment to a resource management plan.

The assessment shall also include the scientific information and analysis conducted by the Project on forest and rangeland health conditions, among other considerations, and the implications of the management of these conditions. Further, the assessment and DEIS's shall not be subject to consultation or conferencing under section 7 of the Endangered Species Act, nor be accompanied by any record of decision required under NEPA.

Subsection (c) states the objective of the managers that the district manager of the Bureau of Land Management or the forest supervisor of the Forest Service use the DEIS's as an information base for the development of individual plan amendments to their respective forest plan. The managers believe that the local officials will do the best job in preparing plan amendments that will achieve the greatest degree of balance between multiple use activities and environmental protection.

Upon the date of enactment, the land managers are required to review their resource management plan for their forest, together with a review of the assessment and DEIS's, and based on that review, develop or modify the policies laid out in the DEIS or assessment to meet the specific conditions of their forest.

Based upon this review, subsection (c)(2) directs the forest supervisor or district manager to prepare and adopt an amendment to meet the conditions of the individual forest. In an effort to increase the local participation in the plan amendment process, the district manager or forest supervisor is directed to consult with the governor, and affected county commissioners and tribal governments in the affected area.

Plan amendments should be site specific, in lieu of imposing general standards applicable to multiple sites. If an amendment would result in a major change in land use allocations within the forest plan, such an amendment shall be deemed a significant change, and therefore requiring a significant plan amendment or equivalent.

Subsection (c)(5) strictly limits the basis for individual plan amendments in a fashion that the managers intend to be exclusive.

Language has been included to stop duplication of environmental requirements. Subsection (c)(6)(A) states that any policy adopted in an amendment that modifies, or is an alternative policy, to the general policies laid out in the DEIS's and assessment document that has already undergone consultation or conferencing under section 7 of the ESA, shall not again be subject to such provisions. If a policy has not undergone consultation or conferencing under section 7 of the ESA, or if an amendment addresses other matters, however, then that amendment shall be subject to section 7.

Amendments which modify or are an alternative policy are required to be adopted before July 31, 1996. An amendment that is deemed significant, shall be adopted on or before December 31, 1996. The policies of the Project shall no longer be in effect on a forest on or after December 31, 1996, or after an amendment to the plan that applies to that forest is adopted, whichever comes first.

The managers have included language specific to the Clearwater National Forest, as it relates to the provisions of this section. The managers have also included language to clarify that the documents prepared under this section shall not apply to, or be used to regulate non-Federal lands.

Amendment No. 153: Includes a modified version of provisions included by both the House and Senate relating to a recreational fee demonstration program. This pilot program provides for testing a variety of fee collection methods designed to improve our public lands by allowing 80 percent of fees generated to stay with the parks, forests, refuges and public lands where the fees are collected. There is a tremendous backlog of operational and maintenance needs that have gone unmet, while at the same time visits by the American public continue to rise. The public is better served and more willing to pay reasonable user fees if they are assured that the fees are being used to manage and enhance the sites where the fees are collected.

Most of the provisions of the Senate amendment are incorporated into the amendment agreed to by the managers, which provides for the following:

(1) The maximum number of demonstration sites per agency is extended from 30 to 50.

(2) The time period for the demonstration is extended from one year to three years and these funds remain available for three years after the demonstration period ends.

(3) Agencies may impose a fine of up to $100 for violation of the authority to collect fees established by this program.

(4) The more simplified accounting procedures proposed by the Senate are adopted, such that fewer Treasury accounts need to be established than proposed by the House.

(5) In those cases where demonstrations had fee collections in place before this provision, fees above the amounts collected in 1995 (plus 4% annually) are to be used for the benefit of the collection site or on an agency-wide basis. The other fees collected will be treated like they are at non-demonstration sites, except funds withheld to cover fee collection costs for agencies other than the Fish and Wildlife Service will remain available beyond the fiscal year in which they are collected.

(6) For those Fish and Wildlife Service demonstrations where fees were collected in fiscal year 1995, the fees collected, up to the 1995 level (plus 4% annually), are disbursed as they were in 1995.

(7) The agencies have been provided more latitude in selecting demonstration sites, areas or projects. These demonstrations may include an entire administrative unit, such as a national park or national wildlife refuge where division into smaller units would be difficult to administer or where fee collections would adversely affect visitor use patterns.

(8) The Secretaries are directed to select and design the demonstration projects in a manner which will provide optimum opportunities to evaluate the broad spectrum of resource conditions and recreational opportunities on Federal lands, including facility, interpretation, and fish and wildlife habitat enhancement projects that enhance the visitor experience.

(9) Vendors may charge a reasonable mark-up or commission to cover their costs and provide a profit.

(10) Each Secretary shall provide the Congress a brief report describing the selected sites and fee recovery methods to be used by March 31, 1996, and a report which evaluates the pilot demonstrations, including recommendations for further legislation, by March 31, 1999. The reports to Congress are to include a discussion of the different sites selected and how they represent the geographical and programmatic spectrum of recreational sites and habitats managed by the agencies. The diversity of fee collection methods and fair market valuation methods should also be explained.

(11) In order to maximize funding for start-up costs, agencies are encouraged to use existing authority in developing innovative implementation strategies, including cooperative efforts between agencies and local governments.

(12) Although the managers have not included the Senate amendment language regarding geographical discrimination on fees, the managers agree that entrance, tourism, and recreational fees should reflect the circumstances and conditions of the various States and regions of the country. In setting fees, consideration should be given to fees charged on comparable sites in other parts of the region or country. The four agencies are encouraged to cooperate fully in providing additional data on tourism, recreational use, or rates which may be required by Congress in addressing the fee issue.

(13) The managers request that the General Accounting Office conduct a study and report to the Appropriations Committees by July 31, 1996 on the methodology and progress made by the Secretaries to implement this section.

Amendment No. 154: Deletes House language relating to salvage timber sales in the Pacific Northwest, and substitutes language which makes a technical correction to the emergency salvage timber program, Sec. 2001(a)(2) of Public Law 104-19 that changes the ending date of the emergency period to December 31, 1996. This correction is necessary to conform to the expiration date in Sec. 2001(j). The Senate included no similar provision.

Amendment No. 155: Retains the House language stricken by the Senate prohibiting the use of funds for the Mississippi River Corridor Heritage Commission.

Amendment No. 156: Deletes House language stricken by the Senate placing a moratorium on the issuance of new or amended standards and reducing the codes and standards program in the Department of Energy by $12,799,000 and inserts language regarding grazing at Great Basin National Park. The codes and standards issue is discussed under the energy conservation portion of this statement.

Amendment No. 157: Deletes language proposed by the House and stricken by the Senate and retains Senate alternative language providing for a one-year moratorium on new or amended standards by the Department of Energy. This issue is discussed under the energy conservation portion of this statement.

Amendment No. 158: Modifies House mining patent moratorium that was stricken and replaced by the Senate with fair market value legislation for mining patents. The conference agreement continues the existing moratorium on the issuance of mining patents that was contained in the fiscal year 1995 Interior and Related Agencies Appropriations Act until (1) a concurrent resolution containing reconciliation instructions for fiscal year 1996 is enacted into law that contains provisions relating to the patenting of, and payment of royalties to, such claims, or (2) an agreement is approved by both the House and Senate in an identical form on other legislation containing provisions relating to the patenting of, payment of royalties on, and reclamation of such claims. In the latter case, reclamation will be defined in any such legislation.

The agreement further requires the Secretary of the Interior within three months of the enactment of this Act to file with the House and Senate Appropriations Committees and the authorizing committees a plan which details how the Department will take final action on at least 90 percent of such applications within three years of enactment of this Act, and take such actions as necessary to carry out such plan. In order to process more expeditiously the class of exempted patent applications that are allowed to proceed under the moratorium, the Secretary shall require an applicant to fund the retention by the Bureau of Land Management of a qualified third-party contractor to conduct a mineral examination of the mining claims or mill sites contained in the patent application. BLM will have sole responsibility to choose and pay the third-party contractor.

Amendment No. 159: Includes the Senate provision which prohibits funding for the Office of Forestry and Economic Development after December 31, 1995. The House had no similar provision.

Amendment No. 160: Retains language inserted by the Senate prohibiting redefinition of the marbled murrelet nesting area or modification to the protocol for surveying marbled murrelets. The House had no similar provision.

Amendment No. 161: Retains language inserted by the Senate authorizing the Secretary of the Interior to exchange land in Washington State with the Boise Cascade Corporation. The House had no similar language.

Amendment No. 162: Includes Senate provision which creates a new Timber Sales Pipeline Restoration Fund at the Departments of the Interior and Agriculture to partially finance the preparation of timber sales from the revenues generated from the section 318 timber sales that are released under section 2001(k) of Public law 104–19. The House included no similar provision.

Amendment No. 163: Deletes language proposed by the Senate which would prohibit use of funds for travel and training expenses for the Bureau of Indian Affairs or the Office of Indian Education for education conferences or training activities.

The managers expect the Bureau of Indian Affairs and the Office of Indian Education to monitor carefully the funds used for travel and training activities. The managers are concerned about the cost of travel and training associated with national conferences attended by school board members or staff of schools funded by the Bureau of Indian Affairs. Because of the funding constraints faced by the Bureau, the managers expect that priority will be given to funding those activities which directly support accreditation of Bureau funded schools and covering costs associated with increased enrollment.

Amendment No. 164: Retains language inserted by the Senate prohibiting the award of grants to individuals by the National Endowment for the Arts except for literature fellowships, National Heritage fellowships and American Jazz Masters fellowships. The House had no similar provisions.

Amendment No. 165: Includes Senate provision which delays implementation or enforcement of the Administration's rangeland reform program until November 21, 1995. The House included no similar provision.

Amendment No. 166: Strikes Senate section 331 pertaining to submission of land acquisition projects by priority ranking. Priorities should continue to be identified in the budget request and justifications.

Amendment No. 167: Includes Senate provision that makes three changes to existing law relating to tree spiking. Costs incurred by Federal agencies, businesses and individuals to detect, prevent and avoid damage and injury from tree spiking, real or threatened, may be included as "avoidance costs" in meeting the threshold of $10,000 required for prosecution. The language doubles the discretionary maximum penalties for prison terms to 40 years for incidents resulting in the most severe personal injury. Those injured would have recourse to file civil suits to recover damages under this law. The House had no similar provision.

Amendment No. 168: Modifies Senate language restricting grants that denigrate adherents to a particular religion. The modification specifies that this restriction applies to NEA and incorporates Senate language from Amendment No. 169 restricting NEA Grants for sexually explicit material. The House had no similar provision.

Amendment No. 169: Deletes Senate language restricting NEA grants for sexually explicit material. This issue is addressed in Amendment No. 168.

Amendment No. 170: Deletes language inserted by the Senate extending the scope of the Arts and Artifacts Indemnity Act. The House had no similar provision. The amendment also inserts language providing that former Bureau of Mines activities, which are being transferred to other accounts, are paid for from those accounts for all of fiscal year 1996 and changes a section number.

Amendment No. 171: Deletes language inserted by the Senate mandating energy savings at Federal facilities. The House had no similar provision.

Amendment No. 172: Deletes Senate amendment requiring the Indian Health Service to prepare a report on the distribution of Indian Health Service professionals. The House had no similar provision.

Amendment No. 173: Deletes Senate amendment requiring the Indian Health Service to prepare a report on HIV–AIDS prevention needs among Indian tribes. The House had no similar provision.

APPLICATION OF GENERAL REDUCTIONS

The level at which reductions shall be taken pursuant to the Deficit Reduction Act of 1985, if such reductions are required in fiscal year 1996, is defined by the managers as follows:

As provided for by section 2576(1)(2) of Public Law 99–177, as amended, and for the purposes of a Presidential Order issued pursuant to section 254 of said Act, the term "program, project, and activity" for items under the jurisdiction of the Appropriations Subcommittees on the Department of the Interior and Related Agencies of the House of Representatives and the Senate is defined as (1) any item specifically identified in tables or written material set forth in the Interior and Related Agencies Appropriations Act, or accompanying committee reports or the conference report and accompanying joint explanatory statement of the managers of the committee of conference; (2) any Government-owned or Government-operated facility; and (3) management units, such as national parks, national forests, fish hatcheries, wildlife refuges, research units, regional, State and other administrative units and the like, for which funds are provided in fiscal year 1996.

The managers emphasize that any item for which a specific dollar amount is mentioned in an accompanying report, including all changes to the budget estimate approved by the Committees, shall be subject to a percentage reduction no greater or less than the percentage reduction applied to all domestic discretionary accounts.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1996 recommended by the Committee of Conference, with comparisons to the fiscal year 1995 amount, the 1996 budget estimates, and the House and Senate bills for 1996 follow:

New budget (obligational) authority, fiscal year 1995	$13,519,230,000
Budget estimates of new (obligational) authority, fiscal year 1996	13,817,404,000
House bill, fiscal year 1996	11,984,603,000
Senate bill, fiscal year 1996	12,053,099,000
Conference agreement, fiscal year 1996	12,114,636,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1995	−1,404,594,000
Budget estimates of new (obligational) authority, fiscal year 1996	−1,702,768,000
House bill, fiscal year 1996	+130,033,000
Senate bill, fiscal year 1996	+61,537,000

RALPH REGULA,
JOSEPH M. MCDADE,
JIM KOLBE,
JOE SKEEN,
BARBARA F. VUCANOVICH,
CHARLES H. TAYLOR,
GEORGE R. NETHERCUTT, JR.,
JIM BUNN,
BOB LIVINGSTON,
Managers on the Part of the House.

SLADE GORTON,
TED STEVENS,
THAD COCHRAN,
MARK O. HATFIELD,
CONRAD BURNS,
ROBERT F. BENNETT,
CONNIE MACK,
ROBERT C. BYRD,
J. BENNETT JOHNSTON,
PATRICK J. LEAHY (EXCEPT AMENDMENTS 136, 138, 168, AND 169),
FRITZ HOLLINGS,
HARRY REID,
Managers on the Part of the Senate.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. DICKEY). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1830

MESSAGE TO SPEAKER GINGRICH: AGREE TO RAISE DEBT CEILING

The SPEAKER pro tempore (Ms. PRYCE). Under a previous order of the House, the gentleman from Florida [Mr. GIBBONS] is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, my remarks are addressed to Speaker GINGRICH, and I hope he is listening, or some of his staff is listening, because this is a very serious subject.

Tomorrow, Mr. Speaker, you are going down and visit with the President of the United States in the Oval Office and talk about the debt ceiling. I know, Mr. Speaker, you made some off-the-cuff remarks a couple of months ago saying that you did not care if the Government went into default for a couple of months. At least that is the way I remember it being reported.

I know that those were casual remarks and some that you gave without thinking through the situation, but there is a very serious problem.

Now, it is not a political problem, Mr. Speaker, because let me make it very clear. Every Republican Member of the House and the Senate has voted to increase the debt ceiling on perhaps as many as three times this year and they have agreed to increase the ceiling to $5.500 trillion, so the amount is not in question. The only thing in question is when you are going to take the final step and take the effective date.

Now, I do not know what motivates you, Mr. Speaker, but this could be a very expensive matter, and I hope you will not take it offensively if I say that you could blemish the credit of the United States, a credit that stretches back over 200 years.

We have never defaulted on our debt and we are right at default and tomorrow, tomorrow is a crucial day in the lead time that is necessary in order to extend this debt and prevent a default.

Now, that is not only important for the U.S. Government, but it is important for everybody that lives in the United States, because it means if we increase the uneasiness about the debt and we actually default, there will be a premium added to the cost of money that we borrow.

Not only will there be premium to that money, but there will be a premium to all other borrowing in the United States because the obligation, the debt of the United States always attracts the lowest interest rate and everybody's goes up from there. So if the debt of the United States is sold for more than a reasonable going price because of the uncertainty, then everybody else's debt goes up; the whole economy is destabilized; unemployment can increase. So, this is a very serious matter.

Now, as you have been told as recently as today and five or six times since June, November 15 is the drop-dead. On November 15, the U.S. Government has got to put out a debt that will raise $125 billion. Let me repeat that again: $125 billion. Now, this market is over 200 years old and it is accustomed to operating in certain ways and there are certain rules and regulations that have been imposed upon it.

Those rules begin to toll tomorrow morning at 8 o'clock when the Treasury opens for business. If the rules are followed tomorrow morning, the Treasury must notify the market that they will be offering for purchase debt obligations of the United States in the amount of around $125 billion.

Now, it will take the rest of the week, all of the 24 hours in the day, to sell that debt. The market responds very rapidly, but nobody keeps $125 billion cash in their accounts. The market must operate and go out there and the more orderly that it is done, the lower and the better the interest rate is.

If there is confusion in the market, then the shark folks demand higher interest and that higher interest will ripple through the economy instantaneously.

So, Mr. Speaker, tomorrow is a very important day, and it will take the market until the end of the week to sell that debt. If the Government cannot sell the debt on next Monday, or if it has been hurried because of your actions. Mr. Speaker, in not letting us vote on this question, then it is going to cost us all money, every borrower in the United States. It is going to cost more money, no matter if it is for a car, a home, or anything else.

Mr. Speaker, let us not be reckless. Let us go ahead and let the House vote on setting the effective date. The amount of money has already been agreed to, and trying to use this as some kind of leverage in a bargaining process has never worked in 200 years. It will not work now. It will only cost us money.

Mr. Speaker, I submit for the RECORD at this point a letter from the Secretary of the Treasury dated today directed to Speaker GINGRICH and others.

DEPARTMENT OF THE TREASURY,
Washington, DC, October 31, 1995.

Hon. NEWT GINGRICH,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In anticipation of our meeting tomorrow I want to provide information that you should have as background for your consideration of our request for a prompt increase in the debt limit.

First, I have set forth in an appendix both our current projections and a history of our projections over the past several months.

Second, I want to make clear that if Congress fails to act by Wednesday, November 1, it will disrupt our normal auction process and could force Treasury to take additional actions that involve the interests of federal retirees, commercial banks, and purchasers of savings bonds.

As you know from my letter of October 24, and as we discussed in detail with your staff yesterday, the Treasury Department's normal quarterly refunding auctions are scheduled to be announced tomorrow, November 1. The auctions themselves are scheduled to be held during the week of November 6, and settlement is scheduled for November 15 and 16.

There may well be significant costs of disrupting our usual Treasury auction schedule. If there has been no increase in the debt limit by tomorrow morning, our announcement must put prospective bidders on notice that the auctions might have to be delayed or even cancelled. After such a contingent announcement, "when issued" trading in the securities to be auctioned cannot occur. Dealers may be less able to pre-market securities, and their risk of participation in the auction may thus be increased, raising the costs of the borrowing.

Should Congress fail to take action to raise the debt ceiling by November 6, we will be required once again to depart from our best financial management practices by canceling the scheduled auctions, and may be forced to take further steps to ensure that outstanding debt remains within the limit and that we have cash available to pay the Government's obligations.

As I have indicated in my previous letters, there are a limited number of actions we may be forced to take many of which have legal and practical implications. One such example would include Treasury's action to stop reinvesting the so-called G-Fund (the Federal Employees Retirement System's Government Securities Investment Fund). Securities held in the G-Fund mature and are reinvested on a daily basis, and the governing law provides for an automatic restoration of any lost interest when reinvestment resumes. Because of the inherent volatility of financing flows, such action may be required even prior to the week of November 6th. Furthermore, it will be necessary to call back Treasury cash balances held in our depositary banks. This action will inconvenience those commercial banks with whom the Federal government does business.

Also, should Congress fail to act, Treasury may be forced to suspend the issuance of Savings Bonds—an action that would not only require us to send notices to the 80,000 issuing agents, but also would disrupt millions of Americans' use of a safe and convenient investment for their savings.

While these actions can provide some very limited relief, at the cost of creating significant dislocations and anxieties, it should be clearly understood that they will not be sufficient to substitute fully for the funding that we would ordinarily raise through the regular mid-November refinancings and that should be announced tomorrow. Stated another way, these temporary actions will not satisfy the continuing need for cash to fund the obligations and operations of the Government after November 14. Absent extraordinary steps, Congress must increase the debt limit in order to enable us to raise the funds necessary to pay obligations maturing November 15 and 16.

Finally, you should know that there are various other measures Treasury has been reviewing to avoid default should Congress not increase the debt limit by November 15, including actions involving the Civil Service Retirement Fund, but all such measures present uncertainties involving serious legal and practical issues and have significant costs and other adverse consequences.

Furthermore, the U.S. government's need for financing will not end on November 15 and 16. The financing calendar we distributed last week, and discussed in detail with your staff yesterday, showed four auctions in the last two weeks of November, and additional cash management bills may be needed. Successful completion of those auctions is critical to raising cash to make vital benefit payments on December 1 and during the week of December 4. As we have mentioned before, the months of October, November and the first half of December traditionally have very large seasonal cash deficits due to the absence of any large tax payment dates.

You and other members of the leadership have raised the prospect that Congress might enact a temporary debt limit increase, and we have expressed our total availability to work toward that end. Last Friday, at the President's direction, I proposed that the debt limit be increased by $85 billion, to $4.985 trillion. I would hope to discuss this proposal, and any other approaches you might have, at our meeting tomorrow.

Sincerely,

ROBERT E. RUBIN.

APPENDIX—HISTORY OF TREASURY DEBT LIMIT PROJECTIONS AS OF OCTOBER 31

In a series of communications starting in July we informed the Congressional leadership of our projection that we would reach the debt limit in October. On October 17, we projected that unless we took some special actions, we would go over the limit on October 31. We then took these actions (reducing a bill auction and suspending sales of State and Local Government Series Securities) which enabled us to avoid that result. We also projected on October 17 that, as a consequence of those actions and assuming routine debt and cash management practices, we would reach the limit and exhaust our cash balance in the first few days of November. While daily forecasts vary, our projection today shows that both the debt limit capacity and cash balances remain within very thin margins of error during the week of November 6.

When Treasury staff, led by Under Secretary Hawke, met with your staff yesterday, we described our projections noted above and we also described how changes in government operations and budget decisions can alter these forecasts. For example, since October 24, the lack of legislative progress on certain appropriations bills has shifted some expenditures from late October to late November in our forecasts.

That shift has improved the forecasts only slightly. During the week of November 6, projected room under the debt limit varies but never exceeds $2 billion, and, absent special actions, cash balances will be below our prudent minimum of $5 billion on all but one day of that week. These forecasted thin margins of error show that it will be virtually impossible to have both sufficient debt capacity and cash balances to maintain Treasury's prudent financing and investment practices. I have been informed that the independent projections made by the Federal Reserve are consistent with Treasury's, and I know of no informed source that contradicts these projections. Let me caution again that daily forecasts vary.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1833, PARTIAL-BIRTH ABORTION BAN ACT OF 1995

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–301) on the resolution (H. Res. 251) providing for the consideration of the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2546, DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–302) on the resolution (H. Res. 252) providing for the consideration of the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

INVESTIGATION INTO IRS INVOLVEMENT IN "TRAVELGATE" IS WARRANTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Madam Speaker, about a week and a half ago the Committee on Government Reform and Oversight of the House held an investigative hearing into what is known as Travelgate and during that hearing, we went from the top to the bottom of the entire investigation. There were still some unanswered questions, so I would like to try to illuminate the issue for my colleagues and anybody else who may be paying attention.

Madam Speaker, when this administration took office, some people in the administration, including the First Lady, felt like it was imperative that they do away with the people who were in the travel office that made travel arrangements for the press that followed the President around the country and put their people in.

In other words, they wanted to get rid of the people from the previous administration in charge of the travel office and replace them with people from their administration. The problem was that the people in the press liked the people who were already there. So, even though the administration had the ability to make this change, they chose not to do it because they did not want to make the press corps angry. At least that was the gist of what we heard.

So, Madam Speaker, they had some people start digging around to see if there were any improprieties in the travel office and so claim there was chicanery going on and then fire them. They even got the FBI to start investigating alleged violations or disappearances of small amounts of money in the travel office. Nevertheless, this started.

Once it started, it started becoming a quagmire for them. They tried to get the FBI involved and other agencies involved in something that really need not have taken place.

One of the things that happened was there was a contractor in Tennessee called Ultrair. Ultrair was a contractor for the White House and did some travel arrangements for press and other personnel that followed the President around the country when he went on his trips.

Ultrair, in October 1992, because they handled transactions like this, contacted the IRS on their own. They contacted the IRS to find out if excise taxes should have been withheld or charged for these travel arrangements. They did this voluntarily. Then about 5 or 6 months later, the day after the White House fired the travel office employees, it was reported in the newspapers, the Wall Street Journal and others, that there was some possible kickbacks involved and Ultrair was mentioned in a bad light, even though they had not done anything wrong. All they had asked for was a decision or review by the IRS on whether or not they should withhold excise taxes.

The next day after it appeared in the paper, a horde of IRS agents descended on their office and took control of their books and had them for 2 years. Some people believe this may have been an obstruction of justice, because at a cocktail party later on there was a conversation which was recorded and given to us at the committee meeting by John Podesta, the White House staff secretary, the principal author of the White House travel office management review.

At this cocktail party he put in his notes that, "BK said that PR was on top of it." BK was Bill Kennedy, the assistant counsel to the President of the United States at the time, and PR was Peggy Richardson, who was the commissioner of the IRS.

BK said PR was on top of it. She said at the party the IRS is on top of it, and some references that the IRS agents are aware of something like that which would indicate that the head of the IRS, the commissioner for the IRS was working with the White House to keep control of these documents, which we believe may be an obstruction of justice.

When we had the hearing the other day, I asked the IRS people about this and they said they could not respond because of section 6103 of the Tax Code, which prohibits public disclosure of tax information about a specific taxpayer without the taxpayer's consent. The fact of the matter is we already had a release from the taxpayer for the IRS to give us that information and the IRS, nevertheless, would not give it to us. They said they would, if they saw the document and they would come and talk to our leadership at a closed meeting.

Madam Speaker, this smacks of obstruction of justice. It is something that should be investigated. The IRS is suspect by a lot of people in this country and when the head of the IRS starts saying that she is putting a lid on something and using the power of the IRS to constrict information that is vital to an investigation like Travelgate, it smacks of an obstruction of justice.

Madam Speaker, we need a full-fledged investigation of this. We need to have the IRS come before us in a closed hearing to explain why those documents were taken from Ultrair in Tennessee; why they were held for 2 years; why the FBI couldn't have access to them for the investigation, and why the head of the IRS said at a cocktail party she was keeping a lid on it.

VOLATILITY IN THE MEXICAN MARKET EQUALS UNITED STATES JOB LOSSES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Madam Speaker, last week, the Wall Street Journal finally got around to printing what we all already knew to be true—that none of the promises made by NAFTA's supporters have come true. The promised 200,000 high-skill, high-wage jobs have not materialized. Real wages in the United States have decreased by 3 percent, and in Mexico they have plummeted by over 50 percent. Even the Wall Street Journal now calls NAFTA "a terrible disappointment." It's about time. The Journal itself made an awful lot of promises in regard to NAFTA.

Yet NAFTA's supporters now incredibly claim that Mexico has "turned the corner"—but the financial markets tell us something different. Last week, the peso lost 7 percent of its value in one day, and hit a record low of 7.5 pesos to the dollar—a depreciation to less than half what the peso was worth before NAFTA. At the same time, interest rates jumped 9 percent. And the Mexican Bolsa—their stock market—has continued to plummet in value. This volatility is clearly due to a lack in confidence in Mexico's economy. So who should we believe: NAFTA's supporters, or the market? I'll take the market.

Why should Americans care about volatility in the Mexican market? Isn't it only the Wall Street fat cats and Mexican billionaires who play in that market? My friends, this volatility impacts each and every American as high-skill, high-wage United States jobs are continuing to be shipped to Mexico and our living standards continue to decline.

What is the connection? Think about the volatility in the Mexican market like this: it is like a garage sale for United States corporations. Because pesos cost only half of what they did before NAFTA, for United States corporations, everything in Mexico—including capital, taxes and labor costs—is half as expensive as it used to be. And that is not the end of the story.

□ 1845

United States corporations who operate in Mexico then export their goods from Mexico to the United States still charge us high prices for them. In short, it costs United States corporations half as much to manufacture their goods in Mexico so they are able to earn twice as much when they sell those same goods back here. It is no wonder that our corporations are moving production to Mexico at an accelerating rate.

NAFTA has become the deal of the century for them. In 1994, there were 2,000 maquiladora assembly plants along the border. At the end of this year there will be 2,600, an additional 30 percent. Just today, Lee jeans in St. Joseph, MO, announced it will terminate 479 workers, shutting production down there and moving those jobs to Mexico. Yesterday, Fruit of the Loom, an American staple company, said it will slash its U.S. work force, get ready, by 3,200 jobs to streamline operations here and boost profits, closing plants in Florence, AL, and Franklin, KY, Acadia Parish, LA, Batesville, MI and operations in Bowling Green, KY, Rockingham, NC, and the list goes on and on.

Where is the work going? You guessed it. Most of us know it is going south of our border to Mexican plants where Fruit of the Loom can pay Mexican workers less than $1 a day. I guarantee you that the prices of their products will not come down in our country when they ship it back here.

As our colleague the gentleman from Ohio, JAMES TRAFICANT, said today, America is now losing its pants because of trade agreements like NAFTA. Funny, but sad.

We teach our nation's young people that, when they make mistakes, they should admit them and take responsibility for them, not deny them or try to cover them up.

But NAFTA's supporters are in a state of serious denial. Let us hear no more empty rhetoric about Mexico's economy having turned the corner before NAFTA can be fixed. Those who foisted it upon us have to own up to the fact that it is broken.

NAFTA's supporters need to acknowledge that Mexico's economy is fundamentally unsound and that the agreement is costing us jobs and holding down our wages, and it is destabilizing Mexico. They need to take responsibility for what they have done to the working families of our continent. That would be the first step in the right direction; that would be true leadership.

Let me say that growing NAFTA job losses translate into real people like the 14,000 tomato farmers in southern Florida, the more than 2,000 workers being scheduled to be laid off at Briggs & Stratton in the State of Wisconsin. I will include the entire list in the Record here this evening. It is time to wake up, go back to the bargaining table and strike an agreement that works for working people across this continent.

Madam Speaker, I include for the RECORD the following information:

[From the Wall Street Journal, Oct. 26, 1995]

TWO YEARS LATER, THE PROMISES USED TO SELL NAFTA HAVEN'T COME TRUE, BUT ITS FOES WERE WRONG, TOO

(By Bob Davis)

WASHINGTON.—Promises, promises.

Here's what was predicted two years ago for the North American Free Trade Agreement, followed by what really happened.

Prediction: "I believe the Nafta will create 200,000 American jobs in the first two years of its effect," President Clinton said, flanked by three of his predecessors in the Oval Office.

Reality: No evidence of any overall job gain as a result of trade with Mexico.

Prediction: Quaker Oats Co. said it would add 61 U.S. jobs in Dallas, Cedar Rapids, Iowa, and St. Joseph, Mo., if Nafta passed, by shifting Gatorade, pancake mix and oatmeal production from Mexico.

Reality: Quaker Oats continues to make the stuff in Mexico. No new Nafta related jobs at the factories.

Prediction: "I believe that you have to just say that the peso would become stronger if Nafta passes," said Mr. Clinton, "because it would strengthen the Mexican economy."

Reality: He should leave futures trading to his wife.

VIEWS OF NAFTA FOES

Hardly anything anyone said about Nafta during the congressional fight, including

Nafta foes, has turned out to be true. That's a problem for all the big players in Nafta, particularly President Clinton. Meantime, many Nafta foes consider the trade pact a symbol of fat cat Washington, where promises aren't kept and the little guy always loses. For them, says Nafta-opponent Pat Choate: "Nafta was their first real issue. They lost by a hair. They feel the vote was stolen by the president. And it's turned out worse, than they expected."

Of course, Nafta's ultimate impact won't be known for years. But measured by promises used to sell it. Nafta is a colossal disappointment. Jobs haven't materialized, border-area congestion has worsened, and environmental cleanup remains haphazard. But Ross Perot had it wrong, too. He warned that Nafta would put six million U.S. factory jobs "at risk." Instead, U.S. manufacturers have added about 300,000 jobs since he made the prediction. Nafta probably limited the length of the Mexican recession by boosting exports to the U.S., while also helping some chronically depressed border towns.

At its core, Nafta is a pact to eliminate tariffs among the U.S. Canada and Mexico over 15 years, and protect investments in all three countries. Judging strictly by these criteria, it works. Two-way trade between the U.S. and Mexico—Canada already had its own free-trade pact with the U.S.—has grown 30% since 1993.

But Nafta's significance was always greater than trade statistics; it was a new model for economic development. A big industrialized nation would merge economically with an impoverished neighbor, without paying billions of dollars in aid as the European Union did when pulling in poorer relations. Liberalized trade and investment would make Mexico weathier, the White House said, opening markets and creating jobs. Results were promised—fast.

Improvements should be most obvious at the border, where trade's impact is the strongest. Lured by cheap wages and tariff breaks, U.S. companies have run factories on the Mexican side for 30 years—and aggravated health hazards as factories and a burgeoning population poured refuse into canals on the Mexican side. By cutting tariffs throughout Mexico, the White House argued, development would extend inland, while environmental funds would clean up the border.

What really happened?

So-called maquiladora border factories—which import auto parts and electronics, process them and send them north again—have boomed. Foreign investment in the interior has withered. In the nearly two years since Nafta took effect on Jan. 1, 1994, maquiladora employment rose 20% to 648,000, according to the Mexican forecasting arm of WEFA Group Inc. By the year 2000, it will reach 943,000, the consulting firm predicts.

Maria Luna takes home $31 a week assembling seatbelts at a TRW Inc. factory in Reynosa, Mexico, a few miles south of Brownsville, Texas. How has her life changed since Nafta? A niece from Veracruz recently joined her to seek work and crowd into Ms. Luna's garage-sized shack with 10 others. "People still come," she says. "They though they'd stay here a little time, but they stay."

The border boom results largely from Mexico's peso devaluation, which cut overall labor costs, including benefits, to $1.80 an hour from $2.54. Human factors contribute, too. U.S. managers can live in comfortable homes in Brownsville and El Paso in Texas or in San Diego, sending their children to American schools and commuting across the border to work. That can't be duplicated in Mexico's interior, whose lousy roads and telephone lines also scare off U.S. companies.

One expanding shantytown is Colonia Salinas de Gortari, named for the former Mexican president, on the outskirts of Reynosa. Workers there so they can't afford city rents anymore, so they seize land and build plywood shacks the size of tool sheds, with no running water, no sewage, no electricity, no paved streets. Maria Del Carmen Garcia Luna, who isn't related to Ms. Luna, lives in one of the shacks with her toddler and husband, a Zenith maintenance worker.

NOT ENOUGH MONEY FOR CHILDREN

In the U.S., jobs like her husband's are the backbone of countless blue-collar neighborhoods. But he takes home only $26 a week, and merely buying powered milk for the child consumers 15% of it. "We don't have enough money for meat or chicken," she says.

About the best Nafta has done so far is to limit the impact of the Mexican crisis on the U.S., while offering Mexico a chance to export its way out of trouble. During the last crisis in 1982, U.S. border communities were crippled as Mexico sharply raised tariffs and restricted imports. This time, Mexico kept tariffs at Nafta-reduced levels and pushed exports.

In Brownsville, retailers complain that few Mexicans can afford to shop there for clothes and electronics anymore. But Brownsville's port, which serves the industrial hub of Monterrey, is booming. Cranes load five-foot-high coils of steel into the black-hulled "Sunny Success," bound for Italy. Port managers lobby for a new bridge to ease border transport. Local unemployment remains distressingly high, around 11%, but it hasn't surged, as in 1982.

However, Nafta has failed to deliver on the biggest White House promise: creating U.S. jobs.

During the Nafta debate, Fortune 500 companies forecast job gains, which now look foolishly naive. Johnson & Johnson says it can't locate the person who in 1993 forecast "800 more U.S. positions" as a result of Nafta. "If there is job growth, I don't think that's because of Nafta," says a spokesman.

Some big-time exporters do report gains, General Electric Co. says sales of power equipment and locomotives are up, as Mexico upgrades its infrastructure. But the company notes carefully that this work "isn't creating jobs, it's supporting jobs." In other words, Nafta makes it less likely that GE will have to lay off workers.

SPECIAL NAFTA MATH

U.S. Trade Representative Mickey Kantor gamely argues that Nafta "created a huge number of net jobs." But he needs special Nafta math to do so. He counts just export growth—not jobs lost through imports—and adds in Canada. Mr. Clinton only cited trade with Mexico in his job-growth prediction, and for good reason. Canada's free-trade agreement with the U.S. dates to 1989; Nafta barely affected their trade relations.

Gary Hufbauer, an economist at the Institute for International Economics whose predictions of Nafta job gains were embraced by the Clinton and Bush White Houses, now figures the surging trade deficit with Mexico has cost the U.S. 225,000 jobs. But such estimates are suspect, too. With the U.S. economy near what's considered to be full employment, it's difficult to know how many workers actually lost jobs as a result of Nafta and whether they found new ones quickly. The Labor Department has certified only 21,500 workers for special unemployment benefits because they lost their jobs as a result of trade with Mexico.

The Clinton administration pins much blame for missed promises on the peso's collapse last December, when Mexico ran out of dollars to support it. The country had become to dependent on short-term borrowing to finance imports and didn't recognize enough that it had to devalue.

Some economists say Nafta helped cause delay. It let Mexico see itself as part of the industrial elite, a self-image reinforced when it joined the rich-nation Organization for Economic Cooperation and Development. In August 1994, an internal U.S. Treasury analysis found the peso overvalued by 10%, but noted Mexico didn't agree because it expected a Nafta surge.

Optimists contend the Mexican economy will start growing soon. Yet the peso mess and ensuing recession have pushed the benefits far into the future. "If people notice anything with Nafta, they notice more traffic because there's more trade," says Alfredo Phillips, who runs a border development bank, "Expected improvements haven't occurred." He then adds a new prediction: "We expect we'll see them next year."

MORE ON FOREIGN OPERATIONS APPROPRIATIONS ARMS TO PAKISTAN PROVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I just wanted to talk a bit about the conference report on the foreign operations appropriations bill which was passed just in the last hour or so. As I mentioned on the floor, it is sort of a mixed bag. I supported the bill because I think overall it is a good bill. But there are some good and bad items in it.

I want to talk about one good aspect and one bad aspect, if I could in the time that I have allotted this evening.

First of all, I was very pleased to see that the conferees actually reduced the amount of economic assistance to Turkey. Last year Turkey received $45 million in United States economic support. This year it will be down to $33.5 million, significantly less than the $100 million that was requested by the administration. I think in large part that is due to the efforts of Congressman JOHN PORTER from Illinois and the amendment that he had successfully adopted on the House floor back in June, which was supported by myself and others.

That amendment basically pointed out that Turkey has been involved in a number of issues that are detrimental both to the United States and to a lot of other ethnic groups as well as other countries in its vicinity.

First of all, the reduction in aid, I believe, clearly recognizes the unlawful blockade by Turkey of Armenia. It also recognizes the treatment that Turkey has been giving to the Kurds, an ethnic minority within its borders and even beyond its borders. Turkey has been systematically annihilating Kurds, tearing down, burning villages. In the conference report specific reference is made to one of my constituents, a U.S. citizen by the name of Aliza Marcus, who is a Reuters journalist and a New Jersey resident who is being tried in Turkey on charges of provoking racial hatred for reporting on the Turkish military's forced evacuation and destruction of villages in southeastern Turkey. The conferees say they expect that the Government of Turkey will protect freedom of expression and information by interceding with the military-sponsored state security courts on behalf of Aliza Marcus. This woman has done nothing more than do her job and now she is being tried in Turkish courts.

In addition to that, I believe the reduction in aid to Turkey recognizes that Turkish intransigence on the Cyprus issue. I believe very strongly that Cyprus should be reunited, that the Turkish military should pull out and, in fact, the conference report specifically earmarks $15 million for Cyprus among other things aimed at reunification of that island. So I believe that our efforts on behalf of both Armenia, the Kurds and the Cypriots to point out that Turkey really is no ally of the United States is clearly reflected in the conference report.

I am concerned, though, and I did want to express my concern, that the conference report does include the Senate language which permit the transfer of seized military equipment to the Government of Pakistan. This provision was not part of the House-passed bill, and I regret that this ill-advised and dangerous provision is in the conference report. During the conference I was joined by 40 of my House colleagues from both sides of the aisle in writing to the conferees urging that they not recede to the Senate provision with regard to the arms sales to Pakistan.

As we noted in our letter to the conferees, during the last decade Pakistan was the third largest recipient of United States military assistance. Pakistan asked for the help of the United States in becoming conventionally strong militarily and, in exchange, promised not to develop nuclear weapons. But by 1985, United States intelligence had strong evidence that Pakistan was taking United States arms while going back on its word about developing nuclear capability.

In response to Pakistan's confirmed assurances in 1985, the Congress enacted the Pressler amendment to allow Pakistan to continue to receive United States assistance so long as the President could annually certify that Pakistan does not have a nuclear device. But in 1985, after passage of the Pressler amendment, Pakistan contracted for the delivery of 68 F-16 fighters and other military equipment totaling $2.6 billion.

In 1990, Pakistan had received 40 of the 68 planes and a considerable amount of other equipment had been delivered when President Bush was forced by overwhelming evidence to find that Pakistan had the bomb. The Pressler amendment was invoked ending all military assistance, including weapons contracted and paid for.

Unfortunately, this provision, which is in the conference report, would essentially take away the strong force of the Pressler amendment and allow significant amount of these arms sales to take place and be transferred to Pakistan. I think that that is unfortunate. It violates the Pressler amendment, and it contributes extensively to more instability in Southeast Asia.

Overall though the conference report is a good report and that is why I supported it.

AMERICAN PEOPLE ARE BEING MISLED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Madam Speaker, this House voted last week and the week before for a huge increase in spending on Medicare.

I repeat—we voted for and passed legislation providing for a huge increase in Medicare.

In fact, federal spending overall will go up by many billions every year under the budgets passed by both the House and the Senate. James K. Glasman, the Washington Post columnist, referred to it as the "no-cut budget." These budgets simply attempt to slow the growth in federal spending to about 3 percent a year.

When you are spending in the range of $1.6 trillion to more than $2 trillion during the 7 years of this plan, a 3 percent increase is $50 to $60 billion a year.

That is billion with a B—and even one billion dollars is a lot of money—and these budgets—the Republican budgets—will increase Federal spending $50 to $60 billion every year.

We voted for a huge increase in spending on Medicare—about 7½ percent a year—more than twice the rate of inflation.

Yet all we hear about are cuts—cuts—cuts.

We are told that these mega-billion dollar increases are draconian cuts.

Why—well the main reason is that the Federal bureaucrats who got 15 to 20 percent increases routinely for so many years really feel that 2 or 3 percent increases are cuts.

The first Reagan budget—fiscal 1982—was $581 billion. We almost triple that figure now—an almost 300 percent increase in just 15 years.

I don't think anyone believes that we can sit back and let Federal spending keep exploding like it has without having a major economic crash a few years down the road.

Yet the American people are being misled when they are being told about all these so called cuts. A very false impression is being created.

In fact, I have been in and around politics since I was a small boy, and I do not believe I have ever seen the lies, the distortions, the propaganda, that we have now.

Let me give just a couple of examples. Bruce Babbitt, the Secretary of the Interior, has become the most blatantly political Secretary in the history of the Department.

He has been going all over the country attacking Republicans even at one time using extremist rhetoric comparing us to the Japanese and their sneak attack at Pearl Harbor.

He came to my area of east Tennessee and said Republicans were gutting the national parks, and he has been quoted as saying that there is some sort of Republican hit list to close as many as 200 parks.

What are the facts. Well, last week, National Park Service Director Roger Kennedy admitted under oath that he knew of no such list and no plan to close any parks.

Because of Secretary Babbitt, and because of an incomplete job by reporters, people in my area think the Great Smoky Mountains have been cut.

Well, the truth is that spending on the Great Smokies has gone up from $6.5 to $10.3 million in the last 10 years—and increases of 64 percent, about twice the rate of inflation over that period.

Another increase, a little over 2 percent is scheduled for this fiscal year. Now I wish we could get more, but the point is that there have been no cuts, and in fact, national park spending has gone way up over the past 10 or 15 years.

Another example—and there are hundreds—former Speaker Foley said on the PBS national news Friday night that Republicans had cut the earned income tax credit. Once again—not so.

The earned income tax credit cost this country $1.3 billion in 1975; $2.5 billion in 1985. Then it began exploding. We are now spending $23 billion each year on this program, and it goes to over $27 billion under the Republican budget—once again—no cut, and in fact a several billion dollar increase. Another example—spending on student loans go up from $24 to $36 billion—yet some are calling this a cut.

Most of this outcry about cuts is coming from bureaucrats or fat cat Federal contractors who are having to justify their spending or show the results for the first time in many years—if ever.

And it turns out that most of this spending is doing little good for the intended beneficiaries and instead is really benefiting only bureaucrats or government contractors.

One example, and once again—there are hundreds—the Job Corps Program—again a program that is not—repeat—not being cut.

Counting all costs, we are now spending $25,000 per year per Job Corps student. If we told one of these students that we were spending this much on them, they would be shocked.

Fifty percent drop out in the first 6 months. Seven months is the average stay. Only 12 percent end up in jobs for which they were trained.

We could give each of these students a $1,000-a-month allowance, send them to an expensive private school and still save money. They would probably think they had died and gone to heaven.

Who really benefits from this billion plus program—once again the bureaucrats and few politically connected Federal contractors.

There are two points here Madam Speaker. One is Federal spending is not being cut, and for one specific program—Medicare—we have voted to give it huge increases.

The second point, when you hear about cuts, ask two questions. Who is screaming about the cuts—it is almost always some bureaucrat who is working for the program or some contractor who is making money off of it.

The second question—ask them specifically how much they got under the first Reagan budget 15 years ago and how much will they get during this fiscal year. With very few exceptions, you will find that almost every Federal department, agency, or program has received huge increases since that time.

Ask questions—don't be deceived.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Madam Speaker, I rise tonight, the last day of Breast Cancer Awareness Month, to ensure that our attention to the elimination of breast cancer will continue, because one month of awareness is not enough, when over 47,000 women will die this year from breast cancer.

Our messages this evening are now without hope. In the last few years we have made substantial progress on breast cancer research, diagnosis and treatment. The gains regarding breast cancer are considerable. In this year's budget alone, well over $400 million is dedicated to breast cancer research.

□ 1900

Mammograms have decreased the death rate from breast cancer for women over 50 by 30 percent. Unfortunately the losses relating to breast cancer continue to rise and compel us to continue our battle.

In 1983, Madam Speaker, the odds of a woman developing breast cancer were 1 in 10. Today they are 1 in 8. This year there will be 182,000 new cases diagnosed. In New York City alone approximately 8,500 cases of breast cancer will be reported this year, and in the decade of the 1990's, Madam Speaker, estimates say that 1.5 million cases of breast cancer will be diagnosed and nearly 500,000 women will die of this disease.

Unfortunately an amendment to the Medicare legislation that would have expanded Medicare to fully cover annual mammograms for Medicare beneficiaries over the age of 49 failed. This denial of services is yet another reason the President must veto the Reconciliation Act and negotiate to have this AMA-approved coverage put back in. Obviously in the interest of all women's lives we need to cut our losses and increase our gains in breast cancer screening, prevention, and treatment. We must work together to eradicate breast cancer, not just raise awareness. To reach that goal we need to fight to insure increased research into the cause of and treatments for breast cancer, improved access for all women to high-quality screening diagnoses, and treatment and inclusion of the wisdom and courage of breast cancer survivors, and the influencing of research clinical trials and national policy.

For the approximately 2,750 New York City women who will die this year from breast cancer and the thousand who will be diagnosed, I call on my colleagues to join me in a call to action on breast cancer awareness. Say it, fight it, cure it, fund it.

Madam Speaker, I would like to add into the RECORD two statements from colleagues of mine from the great State of New York who could not be here tonight but who would like their remarks in the record, the gentleman from New York [Mr. KING] and the gentleman from New York [Mr. FRISA].

Mr. KING. Madam Speaker, as you know, October is Breast Cancer Awareness Month. That is why I am pleased to be joining many of my colleagues this evening to participate in a Special Order on raising breast cancer awareness.

While breast cancer is a serious problem in communities all across the country, it has enacted a particularly terrible toll in my home area of Long Island. Between 1984 and 1988, the breast cancer mortality rate for one group of women in Nassau County was 16 percent higher than that of New York State and 36 percent higher than that of the Nation. There is scarcely a family on Long Island that has not been affected by this dreaded disease.

These alarming statistics prompted Congressional action in 1993. Working closely with other concerned Members of Congress, the Long Island delegation was successful in securing authorization for the Long Island Breast Cancer Study Project. Under the auspices of the National Cancer Institute, several of New York's finest research institutions are actively investigating the impact that the environment may have on Long Island's high rate of breast cancer. I am very pleased that this landmark Study is now underway.

Earlier this year, I was approached by fellow Long Islander Diane Sackett Nannery who informed me of her crusade to win approval of a special Pink Ribbon Breast Cancer Awareness Stamp. I immediately enlisted the support of 101 of our colleagues in sending a letter to Postmaster General Marvin Runyon urging approval of the breast cancer stamp. As a result of our efforts and the tireless determination of Diane Nannery, the Postal Service has announced that it will issue a breast cancer awareness stamp in 1996.

A major goal of raising awareness about breast cancer is to encourage women to get screening mammographies. This procedure is simple, safe and the best tool available for detecting a potential problem. The National Cancer Institute recently initiated a new service designed to provide information about FDA-approved mammography facilities. By dialing 1–800–422–6237 women will receive information on the facility nearest them. Through this service, I was able to obtain information on the 59 facilities located in Nassau County.

At a time when many Federal programs are being reduced or eliminated, the new Republican leadership has identified breast cancer research funding as a top priority. Included in the fiscal year 1996 Labor, Health and Human Services and Related Agencies Appropriations bill (H.R. 2127), is a 4-percent increase in funding for the National Institutes of Health. These additional resources will result in more money for breast cancer research at the National Cancer Institute. I look forward to working with my colleagues to ensure that this critical funding receives final approval from Congress in the days ahead.

We have only just begun to fight the scourge of breast cancer. I am committed to doing all that I can to fund research, increase awareness, and make mammography screening available and accessible to women all across the country. The battle against this disease will continue to be a top priority.

Mr. FRISA. Madam Speaker, I want to take this opportunity during Breast Cancer Awareness month to thank my colleague from New York, Representative MALONEY, for organizing this important tribute to women across the country who have battled this dreadful disease.

Unfortunately, my home of Long Island has the distinction of having one of the highest rates of breast cancer in the Nation. Nationally, this disease takes the lives of 46,000 women. Each year, my home, Nassau County, loses about 300 women a year to this deadly disease.

While great strides have been made in recent years toward understanding the causes of breast cancer, and finding better ways to treat this disease, much work still needs to be done.

I want to take this opportunity to commend the efforts of Dr. Marilie Gammon and her team, who are working tirelessly on the Long

Island Breast Cancer Study Project. They have recently announced plans for a comprehensive study into environmental causes of breast cancer.

Her team will be going into the homes of every woman on Long Island who is diagnosed with breast cancer to take water, soil, and dust samples in determining if there is a common link.

I know the toll this disease takes on the women of Long Island and their families. My mother was diagnosed with this disease, and is winning her battle against it. But too many women are losing this battle every day.

We need to support these women, and the friends and family who stand behind them as they battle breast cancer. While it is important that we set aside October for Breast Cancer Awareness Month, the efforts of these women must be recognized every day.

Madam Speaker, it is my sincere hope that in the near future we will have a special order, not to honor the survivors and remember the victims, but to celebrate the discovery of a cure for this devastating disease.

Mr. FARR. Madam Speaker, I am honored to be able to talk on this subject with my colleagues.

October is Breast Cancer Awareness Month.

First of all, let's look at the numbers: By the end of this year, an estimated 17,600 California women will be diagnosed.

Four thousand four hundred California women will die.

Breast cancer is an epidemic against our wives, daughters, sisters, and mothers.

During the 1970's and 80's the incidence increased in older women by 49 percent.

Virtually all women are at risk for developing breast cancer during their lives.

But October is not Breast Cancer Awareness Month to let everyone know how many women will die, it is awareness on how to survive.

How can we protect ourselves and the ones that we love?

Through two steps:

(1) Early detection, and

(2) Increased funding for medical research.

Early detection can be achieved through screening with mammographys and clinical breast examinations.

That means making mammographys available to all women regardless of cost.

The recent cuts in Medicare and Medicaid will definitely have a terrible effect on poorer older women who are in desperate need for these tests.

Increased funding is also needed.

In 1993, the Department of Defense received an appropriation of $210 million for breast cancer research.

The National Institutes of Health plans to spend $426 million for breast cancer research.

In 1995, the funding was completely zeroed out.

These amounts are not sufficient, and I will tell you why . . . .

No major treatment has been introduced.

No proven prevention methods have emerged.

The mortality rate has remained constant.

We must work together to promote early detection and to achieve increased research funding in our fight against breast cancer.

Let's extend awareness beyond October.

We owe it to the women we love.

Mr. LAZIO of New York. Madam Speaker, I rise today in honor of Breast Cancer Awareness Month. We have all heard the startling figures surrounding breast cancer; 2.6 million women are living with this terrible disease today. Breast cancer will strike 1 in 8 women during their lifetimes. An estimated 183,000 new cases will be diagnosed this year.

While we are making gains against this terrible killer, much remains to be done. Breast cancer is still the most common form of cancer among women in the United States; yet its cause is unknown and its cure remains undetermined. Today, our strongest tools in the battle against this disease are increased awareness and continued research.

Continued funding to expand research is crucial. Projects such as the Long Island Breast Cancer Study Project [LIBCSP] are essential. The LIBCSP, in cooperation with the National Cancer Institute, examines possible links between breast cancer and environmental and occupational factors on Long Island, NY, where instances of breast cancer are unusually high. My colleagues in the New York delegation and I worked hard to support this project that may someday help control the factors that lead to this disease, not only in New York, but across the country.

Early detection and treatment are the most effective methods of combatting breast cancer and increasing a woman's chances of survival. Despite these facts, many women do not know how to detect the early warning signs, or to perform a routine self-exam. Too many women living with the disease are not aware of the treatment options available to them. Breast Cancer Awareness Month offers a special opportunity to focus public attention on various treatment options, and offer more women information that is vital to their well being.

This week, the Caucus for Women's Issues will be sending a strong signal to the administration on the importance of increased awareness. I have agreed to join my colleagues in signing a letter to Health and Human Services Secretary Shalala, which calls for a "blueprint for action" to provide women with information on treatment options. The information campaign that we are recommending would serve to reduce the dramatic disconnect between the type of treatment women say they prefer and that which they currently receive. It is time to get the message out that there are viable alternatives to the mastectomy procedure.

Through information we can help women learn to detect breast cancer in its early and most treatable stages. Through information we can enlighten those who have already been diagnosed as to their options. Through research we move closer both to understanding the causes of breast cancer and to finding a cure. Breast Cancer Awareness Month is a step in this direction, but as this month draws to a close I would like to encourage continued focus throughout our Nation on breast cancer and its treatment.

Mr. FORBES. Madam Speaker, I rise today in honor of Breast Cancer Awareness Month. It is a month dedicated to increasing American's awareness of the importance of early detection and diagnosis in the fight against breast cancer. Mr. Speaker, according to the National Cancer Institute Nassau and Suffolk Counties rank first and fourth, respectively, in breast cancer mortality rates among the 116 largest counties in the United States. This staggering statistic cannot be ignored. Too many of our mothers, daughters, and sisters have been afflicted with this destructive disease and it is important that we educate women on the importance of self-checks and mammograms in order to combat the high incidence of breast cancer.

Long Island has some of the highest rates of breast cancer in the Nation and a high death rate among women diagnosed with breast cancer in Nassau and Suffolk County. The Long Island Breast Cancer Study Project will look at exposures to contaminated drinking water, sources of air pollution, electromagnetic fields, pesticides and other toxic chemicals, and hazardous and municipal waste. Research is a valuable instrument in trying to understand this devastating disease.

Mr. Speaker, over this past year I have had the honor of working with Diane Nannery, a resident of Manorville and breast cancer survivor, on increasing breast cancer awareness across the country. Working together with thousands of concerned women in Suffolk County, we were successful in getting a breast cancer awareness stamp to be created by the United States Postal Service for 1996. The breast cancer awareness stamp will serve as a constant reminder to all Americans of the urgency for awareness of this terrible disease. Every time a book of stamps is purchased at the post office, people will be reminded of the urgency for early detection of breast cancer in order to save millions of women's lives. The stamp will be printed sometime next summer.

Mr. Speaker, in 1996, approximately 184,300 new cases of breast cancer will be diagnosed and 44,300 women will die from this disease. Breast Cancer Awareness Month is dedicated to those who have survived breast cancer and those who have not. It is a time to make America aware of breakthroughs in breast cancer treatment, research, and testing. I am honored to have spoken before this body on the importance of awareness in battling breast cancer, and my heart goes out to those families who have lost a loved one to this destructive disease.

Mr. STOKES. Madam Speaker, I rise in observance of National Breast Cancer Awareness Month. In recognition of this occasion, I ask my colleagues to take time out to assess the impact that this devastating disease has had on their constituents, colleagues, families, and friends—for no one is immune to this life threatening disease.

According to the American Cancer Society, over 180,000 new cases are diagnosed each year, approximately 1 every 3 minutes. One person will be diagnosed with breast cancer just during the time span of my statement. Even more devastating, 44,000 women and 300 men are expected to die from the disease. Among women, breast cancer is the most common cancer.

While breast cancer mortality rates have declined 5.5 percent from 1989 to 1992, due to advances in therapy and screening programs, this decline was only seen among whites. Breast cancer deaths for African-American females increased 2.6 percent. We must find the cure for and cause of the mortality differential for this devastating disease. Equally important, we must ensure that all Americans benefit from advances in breast cancer biomedical research, treatment, diagnosis, early detection, and prevention. Early detection is key to increasing the chance of cure and the benefits from more effective treatment options for the disease.

Madam Speaker, while our and our colleagues' families continue to have access to life saving screening, treatment, and prevention health care services for breast cancer, just a few days ago, here in this House, our Republican colleagues celebrated the passage of their legislation to strip those same critical life saving health care services away from millions of families by dismantling Medicaid and Medicare. That unconscionable act will have a negative impact on the progress the Nation has begun to make in ensuring that all women receive early diagnosis, screening, and appropriate treatment for breast cancer.

My heart goes out to the Nation's health care organizations and the hundreds of thousands of volunteers who have worked long and hard to achieve that progress. I applaud their steadfast leadership and commitment to expediting the search for a cure. I ask that they lend their support to me and my colleagues who are working to overturn the Republican assault on the health of the American people. It is just inhumane to force families to see their loved ones go without the critical health care services that they so desperately need.

Madam Speaker, all women must have access to the life saving screening and treatment they need to conquer breast cancer.

Ms. SLAUGHTER. Madam Speaker, I rise today to speak on an issue that is of deep concern to all Americans. Breast cancer is a dreaded and devastating disease which has reached epidemic proportions. Currently, there are 2.6 million women living with breast cancer in the United States. In 1995 alone, an estimated 182,000 new cases will be diagnosed and over 46,000 women will die of this disease.

In the past 5 years, breast cancer research has received strong congressional support. As I noted earlier this year, I am proud, as chair of the Congressional Women's Caucus Task Force on Women's Health, that we have increased research funding by 65 percent. We have begun to make important progress including the discovery of a breast cancer gene, the declining mortality rates for some segments of the population and Medicare coverage of mammograms for early detection.

Despite the progress we have made in the past 5 years, our work is not done. There is still no cure for breast cancer, there is no way to prevent it, and the treatments available continue to be invasive and damaging to the women undergoing them.

It is therefore of utmost importance that we reaffirm our commitment to further breast cancer research. Too many women still suffer and die and too many families are left struggling with their loss.

Today, on the final day of Breast Cancer Awareness Month, we remember all the women, men and children whose lives have been touched by breast cancer. This year, I have lost two young friends to this disease and while their loss can never be compensated, I can and do pledge to work to ensure the Federal commitment remains strong and that we continue to devote all possible resources to winning the battle against this disease.

SERIOUS QUESTIONS MUST BE ANSWERED BEFORE WE COMMIT TROOPS TO BOSNIA

The SPEAKER pro tempore (Ms. PRYCE). Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

Mr. CHABOT. Madam Speaker, I am taking time tonight, along with some of my colleagues, to talk about what I fear could become one of the most serious foreign policy blunders in memory.

Yesterday this House sent a resounding message to President Clinton. The message was simple: Do not send American ground troops to Bosnia without the approval of Congress. And I want to point out to those critics in the administration that this was a bipartisan message. Three hundred fifteen Members, including half of the President's own party in this body, voted in favor of this sense-of-the-House resolution.

Yesterday's vote was a first step, and I want to emphasize first step, in this matter, and now I am confident that this House will take even stronger action in the coming days. Our colleagues, the gentleman from Colorado [Mr. HEFLEY] and the gentleman from California [Mr. ROHRABACHER], have introduced a binding legislative bill that will require the Clinton administration to seek the authorization of Congress before deploying any ground troops into Bosnia. We are not talking politics here, as much as the President would like to make this a partisan issue. We are talking about Congress' plenary control of the power of the purse and its moral obligation to address this fundamental policy issue. I fully expect this House to exercise its constitutional authority in the very near future.

Madam Speaker, many of us in the Congress have a number of very serious questions we would like the Clinton administration to answer, and to date those answers have been few and far between. For instance, what kind of risk to our troops are we talking about? What is this operation going to cost in terms of American lives? Almost certainly there will be casualties in that treacherous and mountainous region of the world.

I explicitly asked the Vice President for the administration's casualty estimates weeks ago, but I have not yet received an answer, not one word, from the administration on this matter. What is it going to cost in terms of taxpayer dollars? And where is the money going to come from? What are the rules of engagement? What happens the first time a stray bullet hits an American peacekeeper? What is the exit strategy?

Madam Speaker, Secretaries Christopher and Perry insist that troops will be home in a year. Few believe that, but, if so, then what? An outbreak of lasting peace in the Balkans? If you believe that, I have got a bridge I would like to sell to you.

These are critical questions, and the answers, are not forthcoming from the White House.

Now I would submit that there is a reason that those answers have not been forthcoming. The reason is that there is no clear mission. President Clinton mistakenly, and apparently without consulting anybody in Congress, promised to send American ground troops to Bosnia in the event of a peace agreement. If he had bothered to ask, somebody would have told him that the last three peace agreements in Bosnia have been dismal failures and that the presence of American troops in that troubled region would likely do little to improve the attitudes of the warring parties.

Does President Clinton have the support of the American people in this instance? Absolutely not. I have received numerous calls and letters in my particular district in Cincinnati from people who have urged me to prevent United States troops from going in on the ground in Bosnia. I am still waiting for one call or one letter from anybody who thinks it is a good idea to send young Americans into Bosnia on the ground.

One of the major newspapers in my district, the Cincinnati Enquirer, published an editorial last week which I think sums up the views of most of my constituents and the constituents of many other Members in this body, and I would like to insert that in the RECORD at this point. This is a copy of the article:

[The Cincinnati Enquire, Oct. 24, 1995]

NO WAY—SENDING U.S. TROOPS TO BOSNIA WOULD BE A DISASTROUS BLUNDER

It may throw a wet blanket on the United Nations' 50th birthday party, but someone besides Russian President Boris Yeltsin should ask some tough questions about the U.N. debacle in Bosnia.

Start by asking President Clinton: How can a contortionist who twisted himself into ethical pretzels to avoid Vietnam, send 20,000 U.S. troops marching into quicksand in Bosnia?

The echoes of Vietnam are unmistakable: Another war in which unsupported troops fight for unexplained goals in an ungrateful land. For all his recent rhetoric about rescuing NATO and performing a "peacekeeping" role, Clinton still has not offered a reason why one American life—much less 20,000—should be risked for a shameful paper "peace" that ratifies the rape and plunder of Bosnia.

The fragile truce now in effect (between attacks) exists only because the Bosnian Serbs dread Croatian attacks more than air strikes or U.N. scolding. Bloodthirsty Bosnian Serbs who bombarded unarmed cities are fleeing from the Croatian army.

So now they suddenly want to talk peace. If a real peace agreement can be worked out in talks that begin Oct. 31 at Wright-Patterson Air Force Base in Ohio, there will be plenty of soldiers on all sides to enforce it.

Sending U.S. troops into a flammable pit of ethnic hatred, where death has been a fact of life since 1992, will invite hostage taking and terrorism against our soldiers, to inflame American outrage against Clinton's policy. Somalia and the near-loss of a U.S. flier in Bosnia should be a fresh, painful reminder that it is sheer folly to gamble American blood in a game where our nation has no cards to play.

If that's not enough Clinton can recall his own protests against Vietnam.

Instead, he threatens to invoke his presidential war powers to send troops, even if Congress balks.

Clinton's crew is already squishy, backing down on promises that U.S. troops would be out in one year. Former Defense Secretary Dick Cheney told CBS, "To talk about a timetable that we will be out within a year, when we don't know what the objective is, and haven't really developed a plan for executing that, raises serious questions about the quality of the decision making process within the administration."

After leaving Bosnia policy on U.N. cruise control until it ran into a ditch, Clinton now wants to floorboard U.S. intervention. If he does, it will take more than a wrecker to pull us out.

Madam Speaker, I want to stress again this is not a partisan issue. This is an issue where first and foremost we are talking about American lives, young men and young women who may be sent to die in a foreign land. We all remember the tragedy in Lebanon. Who can forget the image of those flag-draped caskets coming home from a peacekeeping mission in a land where there was no peace? And we remember the more recent tragedies when this Government sent more of its young people on a loosely defined mission to Somalia. The image of that young American soldier's body being dragged through the streets is forever etched in our memories.

Madam Speaker, let us not commit our young soldiers to another so-called peacekeeping mission which is doomed to failure. Let us put a stop to this ill-advised Bosnian plan before it is too late.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I am honored tonight to participate in this special order, and I thank the gentlewoman from New York [Mrs. MALONEY] for her efforts in organizing this commemoration of Breast Cancer Awareness month. Most importantly, we are here to pay tribute to the women and men who fight to survive this deadly and tragic disease.

Breast cancer claims the lives of more than 44,000 women and 300 men each year. Excluding cancers of the skin, breast cancer is the most common cancer among women, accounting for one out of every three cancer diagnoses.

In 1996, over 184,000 new cases of invasive breast cancer are expected to be diagnosed.

While the statistics are daunting, there is hope.

We have learned over the years that early diagnosis and early treatment of breast cancer dramatically increases survival rates for its victims.

I know something about the importance of early detection—it saved my life.

Nine years ago, I was diagnosed with ovarian cancer. But I was lucky. My cancer was discovered early and I have been cancer free for 9 years. I am forever grateful to the wonderful doctors and nurses who saved my life and to the many researchers whose relentless and often unrecognized efforts have produced so many advancements in cancer detection and treatment.

We know that early detection is the most effective way to keep cancer from killing. Unfortunately, these services are not as readily and widely available as they need to be.

Therefore, we must continue to fight for increased funding for breast cancer research and screening. As a member of the National Security Committee, I worked hard to ensure that the House appropriated $100 million for breast cancer programs in the Department of Defense appropriations bill for fiscal year 1996.

Furthermore, we must fight for increased funding for the breast cancer research at the National Institutes of Health and the National Cancer Institute. The House appropriated a 5.7-percent increase in funding for the National Cancer Institute, which funds the Breast and Cervical Cancer Mortality Prevention programs which I sponsored.

On the last evening of Breast Cancer Awareness month, we must not allow the specter of breast cancer to lurk in the darkness. We must recommit ourselves in the upcoming year to arm our Nation's women with the information, resources and support to combat and survive this horrifying disease. Together, I know we can do it.

REASONS FOR SENDING TROOPS INTO BOSNIA NEED TO BE EXAMINED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. BROWNBACK] is recognized for 5 minutes.

Mr. BROWNBACK. Mr. Speaker, I certainly applaud the gentlewoman from Connecticut [Ms. DELAURO] in her comments, and her fight against cancer and her fight against cancer in this institution as well.

Mr. Speaker, I rise to join my colleagues to ask the President to go to the American people and tell us why we must send troops to Bosnia. It is a simple request, but it is one that must be made, and it is one that we must have the President address to the American people. I would submit, from the calls and comments that I received from the folks that I represent in Kansas, that he has not made his case to the American people. He has not make his case to the Congress. I sit on the Committee on International Relations, and we have heard from several of the Secretaries in this administration, and they fail to put forward a clear plan, a clear reason, a convincing case, a compelling case, for why we should send our young men and women into Bosnia.

Now it seems to me that we have discovered the way to handle these sorts of issues some time ago, and particularly this was exercised during the Persian Gulf war when that President, President Bush, initially said, well, Congress, I need a vote of the Congress, but then there was so much pressure he decided, no, I will get a vote of the Congress, and he took his case to the American people, and he explained why we needed to be in that region of the world, and explained it clearly and concisely, and said here is the reason, here is how we are going to go in, here is what we are going to accomplish, here is how we are going to get out, and it convinced American people and convinced this body. A vote was taken, and a supportive vote was taken, and we conducted that engagement very successfully with a great deal of support of the American people.

Mr. Speaker, we have to do that in this situation in the world, in Bosnia. The vital interests of the American people have to be explained by the Presidency, and it has not been done to date.

Earlier today a colleague of ours, the gentleman from Florida [Mr. WELDON], supplied a certain standard for sending young men and women into combat that I thought was a very good one that we should apply into this case when the President presents his case as to why we should send our troops in

□ 1915

He asked the question simply this way: Would I be willing to go? Would I be willing to send my daughter or my son into harm's way for this cause?

It seems to me that is the same standard we should apply in this particular case once we get from the administration what the plan is. Why we are going in? What are the strategic and vital interests? And that has been taken to the countryside, because maybe then we will be convinced that we should be going into Bosnia, we should be protecting that region of the world.

But as of today, we have not seen any compelling case or any real case at all from the administration as to why we should go. Why should we vote or appropriate the funds or allow the use of funds to send our troops into harm's way in that part of the world, when we do not even know what our plan is to go in, to occupy, and how to get out, and what will we declare as victory once we are there.

I have a lot of questions of the administration myself. What is the deployment strategy we are going to have? Let us take that out to the American people. What are the military goals we are going to pursue in this particular area? What is the exit strategy?

Mr. Speaker, I simply ask the President of the United States to do what we have learned over years and years of the history of this country when we engage in military conflicts, when our young men and women can be sent into conflict and some can come home not alive, and that is simply this: Take the case to the American people first. Explain to the American people first what are our strategic and vital interests of why we need to be here. Why do we need to do this? Take it there first. And then, Mr. President, come to this body. Come to the Congress and ask for a vote of Congress, so each of us in our conscience can look and ask ourselves, would I be willing to go? Would I be willing to send my son or daughter into harm's way for this cause? And then let us have a vote. That is how a democracy should operate. That is how we should operate in this particular case.

I call on the administration to act that way. It is in their best interests and the best interests of the American people.

INCREASED MONEY FOR BREAST CANCER RESEARCH NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I believe this evening is a very important evening, and I thank the gentlewoman from New York for her leadership on this issue and for organizing this special order to save lives.

I rise tonight to speak about an issue of vital importance to all of the women of this Nation, and this issue happens to be breast cancer. As a woman and a mother, I feel there are few issues as important as the breast cancer epidemic facing our Nation.

As you may know, breast cancer is the most commonly diagnosed cancer in American women today. I recall just a few weeks ago joining in with the Susan G. Coleman Foundation in Houston, TX, where some 8,000 women, many of them survivors, gathered to fight against the epidemic of breast cancer, and to encourage more research in that area.

But the most pointed and the most striking part of it was to see mothers and daughters being able to fraternize and fellowship because of what had occurred in terms of breast cancer detection, to see the survivors, and to see that they were willing to continue the fight.

Currently there are 1.8 million women in this country who have been diagnosed with breast cancer, and 1 million more who have yet to be diagnosed. This year, 182,000 women and 1,000 men will discover they have breast cancer, and 46,000 will die from the disease. Breast cancer costs this country more than $6 billion each year in medical expenses and lost productivity.

But these statistics cannot possibly capture the heartbreak of this disease which impacts not only the women who are diagnosed, but their husbands, children, and families, and that is what we are talking about today, keeping families together by eliminating this dreaded disease.

We have made some progress in the past few years by bringing the issue to the Nation's attention. Events such as Breast Cancer Awareness Month are crucial to sustaining this attention. There, however, is more to be done. We in Congress must work with the Department of Health and Human Services to implement the national action plan on breast cancer. The plan provides a framework and a plan for activities in three major areas: The delivery of health care, the conduct of research, and the enactment of policy.

It has six major priorities that I think are key to the direction this Congress should take: Identifying strategies to disseminate information about breast cancer and breast health to scientists, consumers, and practitioners using the state-of-the-art technologies available on the information superhighway; merging all of our talents and all of our strengths to help eliminate, as I said, this dreaded disease; establishing biological resource banks and comprehensive patient data registries to ensure a national resource of information for multiple areas of breast cancer research; ensuring consumer input at all levels in the development of public health and service delivery programs; research studies and educational efforts; involving advocacy groups and women with breast cancer in setting research priorities and patient education.

That was done by the Sisters Network in my district, where one such morning they walked an inner-city neighborhood and began knocking on doors to explain to that community about early detection, and wound up at a church on Sunday morning speaking to the women there about the need for early detection. That is the kind of private help and partnership that should be going on with the Federal Government on this issue.

Expanding the scope and breadth of biomedical and behavioral research activities related to the etiology of breast cancer; making clinical trials more widely available to women who are at risk for breast cancer; decreasing barriers to participation through consumer-clinician dialog; reduction of economic barriers and other strategies; implementing a comprehensive plan to address the needs of individuals carrying breast cancer susceptibility genes; and recommending educational intervention for consumers, health care providers and at-risk patient groups.

Sadly, the death rate for breast cancer has not been reduced in more than 50 years. One out of four women with breast cancer dies within the first 5 years. Forty percent die within 10 years of diagnosis.

Furthermore, the incidence of breast cancer among American women is rising each year. For women ages 30 to 34, the incidence rate tripled between 1973 and 1987. The rate quadrupled for women ages 35 to 39 during the same period.

This Congress has stood well for solving problems. It is important for us to realize here is a problem to be solved. I am particularly concerned about studies which have found that African-American women are twice as likely as white women to have their breast cancer diagnosed at a later stage, after it has already spread to the lymph nodes. A recent study by the Agency for Health Care Policy and Research found that African-American women were significantly more likely than white women to have never had a mammogram, or to have had no mammogram in a 3-year period before development of the symptoms or diagnosis. Mammography was protective against later stage diagnosis in white women, but not in black women. It is clear that more research and testing needs to be done in this area.

We need to help all women, and particularly our inner-city women, but the most important thing is we need to help families, and breast cancer destroys families.

Mr. Speaker, I thank you for this opportunity. It is so very important for our children, our daughters, our sisters, mothers, and granddaughters, detection, treatment, and prevention. Let us help eliminate this devastating disease.

Mr. Speaker, I rise tonight to speak about an issue of vital importance to the women of this Nation. This issue is breast cancer. As a woman and a mother, I feel that there are few issues as important as the breast cancer epidemic facing our Nation.

As you may know, breast cancer is the most commonly diagnosed cancer in American women today. Currently, there are 1.8 million women in this country who have been diagnosed with breast cancer and 1 million more who have yet to be diagnosed. This year, 182,000 women and 1,000 men will discover that they have breast cancer, and 46,000 will die from the disease. Breast cancer costs this country more than $6 billion each year in medical expenses and lost productivity.

But these statistics cannot possibly capture the heartbreak of this disease which impacts not only the women who are diagnosed, but their husbands, children, and families.

We have made progress in the past few years by bringing this issue to the Nation's attention. Events such as this month's Breast Cancer Awareness Month, are crucial to sustaining this attention. There is, however, more to be done.

We, in Congress must work with the Department of Health and Human Services to implement the national action plan on breast cancer [NAPBC]. The plan provides a framework and a plan for activities in three major areas: the delivery of health care, the conduct of research, and the enactment of policy. Its six major priorities include:

Identifying strategies to disseminate information about breast cancer and breast health to scientists, consumers, and practitioners using the state-of-the-art technologies available on the information superhighway.

Establishing biological resource banks and comprehensive patient data registries to ensure a national resource of information for multiple areas of breast cancer research.

Ensuring consumer input at all levels in the development of public health and service delivery programs, research studies, and educational efforts. Involving advocacy groups and women with breast cancer in setting research priorities and in patient education.

Expanding the scope and breadth of biomedical and behavioral research activities related to the etiology of breast cancer.

Making clinical trials more widely available to women with breast cancer and women who are at risk for breast cancer. Decreasing barriers to participation through consumer-clinician dialog, reduction of economic barriers, and other strategies.

Implementing a comprehensive plan to address the needs of individuals carrying breast cancer susceptibility genes and recommending educational interventions for consumers, health care providers, and at-risk patient groups.

Sadly, the death rate from breast cancer has not been reduced in more than 50 years. One out of four women with breast cancer dies within the first 5 years; 40 percent die within 10 years of diagnosis. Furthermore, the incidence of breast cancer among American women is rising each year. For women ages 30 to 34, the incidence rate tripled between 1973 and 1987; the rate quadrupled for women ages 35 to 39 during the same period.

I am particularly concerned about studies which have found that African-American women are twice as likely as white women to have their breast cancer diagnosed at a later stage, after it has already spread to the lymph nodes. A recent study by the Agency for Health Care Policy and Research found that African-American women were significantly more likely than white women to have never had a mammogram or to have had no mammogram in the 3-year period before development of symptoms or diagnosis. Mammography was protective against later stage diagnosis in white women but not in black women. It is clear that more research and testing needs to be done in this area. We also need to increase education and outreach efforts to reach those women who are not getting mammograms and physical exams.

We cannot allow these negative trends in women's health to continue. We owe it to our daughters, sisters, mothers, and grandmothers to do more. Money for research must be increased and must focus on the detection, treatment, and prevention of this devastating disease.

MAINTAIN COMMITMENT TO BREAST CANCER RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY. Mr. Speaker, I want to thank my outstanding colleague, the gentlewoman from New York, CAROLYN MALONEY, for organizing this special order.

Mr. Speaker, over 15 years ago I lost my mother to breast cancer, and tonight I rise not only in honor of my mother, but of all the mothers, all the sisters and daughters, the wives, who have died of breast cancer.

Mr. Speaker, I also rise tonight to salute the many women who have survived this terrible disease—and there are many survivors. We know the grim statistics: in the last 20 years, the incidence of breast cancer has increased by 20 percent. Twenty years ago, 1 in 20 women developed breast cancer. Today, it is 1 in 8. Most Americans have known someone—a mother, sister, friend or coworker affected by this terrible tragedy.

Breast cancer is an extremely complex disease and we are unfortunately far from a cure. We have many more questions about breast cancer than answers. Solving the mystery of breast cancer is like working on an incredibly complicated and frustrating puzzle. Each piece of this puzzle solved is a small victory. The Federal Government's research is helping us to solve this puzzle and to slowly answer these unanswered questions.

One of these unanswered questions is the role the environment plays in breast cancer. Another is the importance of genetics in determining who develops the disease and who does not. Still another question is whether diet can reduce a women's risk of breast cancer.

There is mounting evidence that exposure to pesticides may contribute to breast cancer. For example, a study done several years ago at Mt. Sinai Medical Center in New York found that women with the highest levels of a pesticide compound in their blood were four times more likely to have breast cancer than other women. Another study in Israel found a 10-percent drop in breast cancer during the same time that there was a drop in the levels of pesticides in human and cow milk. The Long Island breast cancer study will help to answer many other important questions regarding the link between environmental and occupational factors in breast cancer. But again, many unanswered questions remain.

Science has also recently begun to document a genetic link to breast cancer. The breast cancer gene is thought to account for 5 percent of all breast cancer cases but 25 percent of the breast cancer in women under age 30.

Last month, researchers found a particular mutation of this breast cancer gene in 1 percent of a study of Jewish women of Eastern European background. Jewish women with a family history of breast cancer who were found to have this gene had a very high risk of developing breast cancer. However, we don't know what kind of risk women face who have this gene but do not have a family history of breast cancer. So it makes no sense to test women for this gene until we know more. Again, many unanswered questions remain.

Lastly, scientists are beginning to develop a link between nutrition and breast cancer. But again, our knowledge is scanty. We know that the risk of breast cancer increases with the degree of obesity. One small study showed that moderate alcohol use might even increase a woman's risk of cancer because of the influence of alcohol on hormones. Research continues to tell us that a low-fat, high-fiber diet may decrease our risk of many cancers including breast cancer. Exercise may also reduce the risk of the disease. But again, many unanswered questions remain.

Breast cancer poses one of the major scientific challenges of today. I urge my colleagues to look at the many unanswered questions as a challenge to continue to maintain the Federal Government's commitment to breast cancer research and the enforcement of environmental regulations. We must not abandon our commitment to the women of America.

But funding research is not enough. We must support efforts to regulate exposures to chemicals strongly suspected of being linked to breast cancer. Tomorrow we will vote on a motion by Representative STOKES to allow the EPA to enforce the Delaney clause. The Delaney clause protects processed foods from contamination by known carcinogens but Congress has voted to restrict EPA from enforcing the Delaney clause. Congress has also tied EPA's hands by cutting its budget by one-third. This is an outrage. Members have a chance tomorrow to support the Stokes motion to demonstrate that they are truly serious about addressing the breast cancer epidemic.

AMERICAN POLICY IN BALKANS A FAILURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, we have witnessed 3 years of failure as far as the policy of the United States concerning the ongoing tragedy in the Balkans. During this 3 years, we have heard the screams of agony and horror. And what has American policy been? An arms embargo against the criminals who are committing the aggression and the victims alike.

This formula of treating the victims and the criminal alike had left the aggressor with all of the tanks, all of the heavy artillery, and an overwhelming superiority in arms. It led to 100,000 deaths or more. The aggressor was, naturally, not deterred by an arms embargo that prevented the victims from arming themselves and defending themselves against aggression.

□ 1930

We have seen mass rapes, ethnic cleansing and genocide. It has been a tragedy. It has been a fiasco on the part of the Western democracies. It has been a lack of moral leadership from the United States in that we have put the victims and the aggressors in the same category. Yet the victims even though they have been raped and murdered and seen their families destroyed and their homes burned and destroyed have never come to the United States and asked us for ground troops, to put our young people in their place. They have not asked for our ground troops to be deployed, and they still are not asking for our ground troops to be deployed.

The plan that we are hearing about today that President Clinton is suggesting of sending 25,000 young Americans to the Balkans has not come as a result of a request from the victims. It is instead a product of the fuzzy thinking and moral relativity of those people who have formulated America's disastrous policy for the past 3 years. They have failed for 3 years, and now they ask us to trust their judgment in sending 25,000 young Americans into a Balkan meat grinder that has been getting nothing but worse due to their leadership.

No, no, hell, no. Twenty-five thousand Americans put in the Balkans. Part of their plan is to put 20,000 Russians into the Balkans at the same time. Putting 20,000 Russians and 25,000 Americans into a conflict situation like that? That is total insanity.

We have another alternative. We are not talking about isolationism versus international activism here. What we need to do is have a policy that is rational and responsible and not putting our people at maximum risk.

We have the alternative. Let us lift the arms embargo on these victims, on the Croatians and on the Bosnians who have been victimized by the aggressor, clearly the aggressor who is grabbing territory in the Balkans. We have invested in smart weapons. We have invested in bombers and aircraft. We have done this to permit us to exercise our influence while minimizing the risk.

The idea of sending so many young Americans to the Balkans carries little chance of success and an incredibly high chance of failure. Failure in this case means a major loss of American lives. The screams and agony that we will hear will not just be coming from the Balkans but will be coming from American homes when their loved ones are lost, when they find out that their loved one has been torn apart by a land mine or by some sort of artillery barrage. Thanksgiving dinner with empty seats. Wives without husbands. Children without fathers.

We should not be putting Americans at risk for such a fiasco, an adventure that has such little chance of success.

I yield to my colleague the gentleman from San Diego.

Mr. HUNTER. I thank the gentleman for yielding. Mr. Speaker, I was attracted to his very articulate statement. He reminds me that when we have the Secretary of Defense before us, the Secretary of State and other leading members of the Clinton administration, the one question they could not answer was, what happens when that one car bomb occurs and you lose 12 or 15 or 20 people? Do you stay there? Do you show resolve? Do you move out immediately?

They offered no answer beyond what has happened already in Somalia and other places. That is, that we are driven out. If we are driven out because of terrorism, then we have lost all of the important things that they talked about. Like holding NATO together, maintaining our credibility with our European allies, et cetera. They never answered that question.

Mr. ROHRABACHER. It is sad and an appropriate question to ask, because I was in the White House in the 1980's when Ronald Reagan made the worst decision of his Presidency, which was to introduce U.S. Marines into the Lebanon conflict. I remember during that time when Ronald Reagan issued the order and the Marines landed, I ran all over the White House, asking, pleading with people, why are we there? What are we doing? How can we possibly succeed?

I went to every office of the decision-markers in the National Security Council, my friends who are in various positions in the government and they said, "DANA, here is the formula. If we do this, this, and this, it will eventually lead to peace in the Middle East."

I said, "This, this and this. For all of these things to happen, the chances of that happening are very small." The chances of this turning into a fiasco, a horrible situation where we lose maybe 100 American lives, the chances are very high.

I thought they would take care of it. I thought that some of the people who understood the implications of what was going on would handle the situation. But instead we got mixed up in the Lebanon situation, in the crisis. We were mixed up in local politics. Our Marines were actually, people do not understand this, the political situation was so complicated the Marines were ordered not to have bullets in their rifles.

The situation in Bosnia is far more complex than what was in Lebanon. We lost 240 young Marines in Lebanon. Let me say, I will never forget the day when it was announced that this bomb exploded, this care bomb exploded and it was not just 20 Americans, and it was these young Marines and the first name on the list was my brother's best friend from high school, who I grew up with, and I vowed that day that I would never sit back and watch a senseless operation go forward without trying my best to save the lives of those young Americans.

Today we have that opportunity. If we try our hardest and we spread the word, this is a democracy, the President is not going to send troops overseas into a risky situation without the support of the U.S. Congress and the American people. We can deter this, we can bring some sense to this, and we can save some American lives.

I ask the American people, I hope everyone contacts their Congressman and the White House saying no troops to Bosnia, no American troops to Bosnia, unless the Congress approves of this operation.

ENDING WELFARE FOR LOBBYISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, in the coming weeks, this Congress has a chance to end welfare for lobbyists once and for all, ending the insidious practice of allowing Federal grant recipients to use taxpayer dollars while advancing their own narrow special interests.

Much has been written and debated on this issue; but, contrary to many Washington political pundits and the special interests who are desperately trying to save their taxpayer-funded subsidies, the issue is really quite simple. The American people do not want their money going to special interests to lobby Congress.

Consistent with the Republican philosophy that people, not the Government, know best how to spend their own money, the Istook-McIntosh-

Erlich language ends this abuse of taxpayer dollars being used directly or indirectly to lobby by Federal grant recipients. This ban on lobbyist subsidies will ensure the Nation's taxpayers that their money is not being used by Washington lobbyists to promote a special interest agenda they may or may not agree with.

To those who oppose this legislation, I have just one question: If you are not abusing Federal taxpayer dollars now, then what is all the fuss about?

The people who oppose this important reform legislation cannot have it both ways. On the one hand, they argue that they do not lobby with taxpayer dollars, while, on the other hand, they contend that ending their subsidy will directly impact their lobbying efforts.

Mr. Speaker, I think we owe the American people who are taxpayers in this Nation a pledge that we will not let their money be used for any special interest group to lobby in this Capitol or any State capitol around this country. Let us promise to let the people of this country decide who, if anyone, should speak for them.

It may be Halloween, but do not let the ghouls and goblins of taxpayer subsidies past scare you out of doing the right thing for our country. urge my colleagues in this House and in the other body to end welfare subsidies for lobbyists.

BUDGET RECONCILIATION PLAN HARDLY REVOLUTIONARY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, last week, Congress passed an historical budget reconciliation plan—a plan that our Republican colleagues call revolutionary.

A revolution, however, involves more than change—a revolution involves change for the better, forward motion, progress. There is great doubt in my mind, and the minds of many of my constituents, that we are progressing.

While, the deed has been done, and the plan has passed, we are now in conference with the Senate, and there is still time to undo some of the damage from that plan.

If the damage is not undone, we will be left with no choice except to urge the President to veto the bill.

This evening, I want to again highlight the great harm that the Republican plan will do to rural America in the area of health care—because past pleas have been largely ignored.

Rural North Carolina, including my congressional district, like most of rural America, will be especially hard hit by these cuts.

Rural communities lack high paying jobs, often lack the infrastructure necessary for economic expansion and, on average, have incomes far below the average American. Rural communities will hurt more from the cuts.

The lack of basic resources and opportunities, such as employment, housing, education, and utility services, especially water and sewer, is compounded by limited access to quality health care and a shortage of health professionals, especially primary and family physicians.

The Republicans seem to want senior citizens to have health care that is cheaper.

Democrats want senior citizens to have health care that is better.

Cheaper and better are not the same. You get what you pay for.

They want to cut corners. We want to cut with conscience.

The Republicans want to put seniors in groups and choose doctors for them, because its cheaper.

Democrats want seniors to choose their own Health Plan or doctors, because it's better.

Under the Republican plan, many seniors in rural North Carolina will be forced to travel many more miles to find a hospital, because it's cheaper.

Democrats want to prevent rural hospitals from closing because of cuts in Medicare, because it's better.

Cheaper could cost less, it could also cost more, but it could cost lives.

Why are the Republicans pushing a cheaper health care plan?

Because they are also pushing an expensive tax cut plan for wealthy Americans.

They have voted to cut the Medicare Program by $270 billion so that they can pay for a tax cut program of $245 billion.

If the Republicans dropped their expensive tax cut plan for the wealthy, they would not have to push their cheaper health care plan for seniors.

Citizens of Rural America have incomes that are 33 percent—yes, one third—lower than their urban counterparts.

The elderly who live in rural areas are 60 percent more likely to live in poverty—60 percent.

Twenty-five percent of rural hospitals already operate at a loss, and that is because Medicare alone accounts for almost 40 percent of the average hospital's net patient revenue.

It is estimated that this plan will cost North Carolinians a loss of over $3,000 for each Medicare recipient in North Carolina between now and the year 2002, and a loss of some $900 for each recipient each year thereafter.

This cut in Medicare will reduce the size of the program by 25 percent—raising the cost of premiums and copayments to each of North Carolina's 999,000 Medicare beneficiaries.

And, when the Medicare cuts are combined with the cuts in the Medicaid Program, Federal health care dollars coming into North Carolina will be reduced by more than $15 billion.

The Medicaid cuts affect North Carolinians of all ages—the elderly, children, the disabled, the poor.

There are some 985,000 Medicaid recipients in our State. We would be forced to eliminate coverage for almost half of those Medicaid recipients.

The Medicare cuts will be especially painful, since more than 8 out of 10 of all Medicare benefits go to senior citizens with incomes of $25,000 or less.

Those who are pushing this cheaper plan fought the creation of Medicare in 1965, and now, in 1995, have voted to do what they failed to do in 1965—cut the comfort of retirement from our senior citizens.

Medicare spending in the rural areas of North Carolina will be cut by $3.3 billion—a 20 percent cut in the year 2002 alone.

Worse, rural North Carolina will lose some of the limited number of hospitals we have.

Because of poverty, rural hospitals lose money on Medicare, while urban hospitals make a small profit.

The typical rural hospital, under the Republican's plan, will lose some $5 million in Medicare funding, over 7 years.

Rural hospitals already need 5,084 more primary care physicians to have the same doctor to population ratio as the Nation as a whole.

This harsh Republican plan will mean tougher times for families and especially for senior citizens.

Mr. Speaker, the people really do want change.

But, they do not want change that takes us back 30 years, when more than one out of every two senior citizens had no health care at all.

They do not want change that forces our seniors to choose between heat and health, that is no real choice. They want change that takes America forward. They want change that is better, not cheaper. The people want a real revolution. The conferees should keep that in mind.

If not, the President should veto the bill.

THE BALANCED BUDGET DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, we hear a lot about numbers and figures and procedure and how things move through the House and the Senate and get ultimately signed into law or not signed into law; but I think it is important in this debate over a balanced budget that we not lose sight of our real objectives. The question before the American people, and the American people are going to have to answer this question: Do you want more taxes and a larger government or do you want a smaller government and less taxes?

It is hard for politicians to cut spending, whether those politicians are in the White House or in this Chamber or over in the Senate. Members of Congress and the White House have decided that if they do more things for people, if they spend more money on more programs, if they take some pork-barrel projects, the propensity to get reelected is greater.

□ 1945

And so that is the tradition that this body has been operating under for the last 40-plus years. In the process of not increasing taxes, we have developed a huge debt for this country, not only the existing debt of $4.9 trillion that is overwhelming, but we have done more than that. We have now made so many promises that the unfunded liability for Medicare, for example, is another $5 trillion. The unfunded liability or actuary debt for social security is another $3.2 trillion. The promises we have made and not funded for civil service retirees is another half a trillion dollars.

Now recently we have promised every private pension fund that the Federal Government will stand behind that pension fund and make it solvent.

Our goal of what we have called the debt limit coalition, 160 members that have sent a letter to the President, we have also written the Speaker, NEWT GINGRICH; we have written BOB DOLE; we say we think balancing the budget by 2002 or sooner is so important that we are not going to vote to increase the debt ceiling. I mean, that is to give us, some of ourselves, the intestinal fortitude. It is to put pressure on the White House to come to this conclusion.

The Federal Government last year borrowed approximately 41 percent of all of the money loaned out in the United States. Can you imagine what would happen to interest rates if the extra demand of Federal Government borrowing was not there? Can you imagine what the additional funds in the economy for people that want to buy a car or build a home or go to college or, more importantly, expand their business? Can you imagine what a great stimulus that would be?

Alan Greenspan, the chairman of the Federal Reserve, suggested that if we have got the wherewithal to end up balancing this budget, we have got such a strong underlying economy in the United States we would see jobs and the economy take off like has never happened before.

That is why this body has got to stick to its guns and insist in the reconciliation bill and in these appropriation bills that we end up on the glide path to a balance budget.

Jim Glassman in today's Washington Post said that default just is not a great fear, many Wall Streeters say, and he quotes Mickey Levy who says the market recognizes any default would have nothing to do with economic soundness and everything to do with political game-playing. He says that the meeting that we have arranged tomorrow with Mr. Druckenmiller and Mr. Langone, who will be speaking at 10 a.m. to a joint meeting of the House and Senate, be available to the press at 11:00, be available at Heritage for a public forum at 12 o'clock and another press luncheon at 1 o'clock, are going to be saying that, look, what is important is the goal that we stick to our guns, that we ultimately have a balanced budget.

I would like everybody listening and my colleagues in the House and the Senate to attend that 10 a.m. meeting tomorrow morning. It is important for our future. We are concerned with the numbers. We are concerned with achieving what is good for America, our kids, and our grandkids, and it is not leaving them a debt and a mortgage. It is ending up with a balanced budget and a strong economy.

Mr. Speaker, I am including at this point in the RECORD at statement by Jim Glassman and also a scenario that I have written on the current debt ceiling.

The material referred to is as follows:

[From the Washington Post, Oct. 31, 1995]

WHAT TRAIN WRECK?

(By James K. Glassman)

When President Clinton sat down with advisers to plot a budget in 1993, they told him he had to convince the bond market he was serious about cutting the deficit. Then, perhaps, interest rates would fall, and the economy would prosper.

Bob Woodward relates the scene in his book "The Agenda":

"Clinton's face turned red with anger and disbelief. 'You mean to tell me that the success of the program and my reelection hinges on . . . a bunch of f-ing bond traders?' . . ."

"Nods from his end of the table. Not a dissent."

Having learned this lesson once; Clinton is applying it again. He seems to be hoping that the bond market, spooked by the prospect that a "train wreck" will cause the Treasury to default, will pressure Republicans into a budget compromise.

This time, however, the bond-market strategy is not working. Instead of panicking, Wall Street actually appears encouraged that Republicans are so serious about a balanced budget that they'll risk being blamed for the financial dislocations a train wreck could cause.

Here's what's happening. Leaders of Congress are using a time-honored weapon—the debt ceiling—to force Clinton to accept the budget they passed last week. If Clinton does not relent, then Congress won't raise the limit on the amount of debt the Treasury can issue, now set at $4.9 trillion.

The White House response has been to brand Republicans as extremists: In order to achieve their Medicare and tax cuts, these loonies would even force the United States to break promises to bondholders, both here and abroad. For example, without the ability to issue new bonds (and thus raise cash), the Treasury might have to postpone interest due on Nov. 15 on some outstanding bonds.

In the language of finance, this delay is called a default—and, in normal circumstances, it's a very big deal.

"You are talking about defaulting on the full faith and credit of the United States for the first time in the history of our country," said Treasury Secretary Robert Rubin a few weeks ago in a theme he's repeated almost daily.

Rubin's line fits into a broader White House strategy. "The idea," says Rep. Christopher Cox (R-Calif.), "is to make the Republicans look scary and them look safe."

But there may be more to it. The administration appears to be hoping that the prospect of a default will frighten Wall Street and drive down bond prices (which means driving up interest rates). Under this scenario, the Republicans, pushed by their financier pals, will capitulate and soften their budget demands.

But that hasn't happened. Instead of falling, bond prices have risen—as interest rates have dropped. The rate on the 30-year Treasury bond has fallen from 6.6 percent in late September, when Speaker Newt Gingrich made it clear that he would use the debt ceiling to accomplish his budget aims, to 6.3 percent—the lowest level since January 1994.

Default just isn't a great fear, many Wall Streeters say. The market recognizes that any default would have nothing to do with economic soundness and everything to do with political game-playing," Mickey Levy, the chief economist for NationsBank Capital markets, told me.

The market likes the GOP budget, and it likes the economy's current fundamentals—reasonable growth, low inflation. So rates are dropping. "I've talked to traders," said Levy. "They say, 'Oh God, if rates go back up at all [because of default fears], it just gives us an opportunity to buy.' "

Stanley Druckenmiller, who runs the day-to-day operations of George Soros's massive hedge funds, emphasized that. "The market deals in reality and not technicalities." Even if the Treasury technically delays some interest payments, the reality is that the "sovereign risk" involved in buying U.S. bonds will not increase. On the contrary.

Druckenmiller became concerned last month at a dinner with Sen. Pete Domenici (R-N.M.) that many members of Congress were under the impression that Wall Street feared a default. Since them, he and Kenneth Langone, who chairs Invemed Inc., a New York investment bank, and founded the Home Depot have been trying to set the record straight.

On Sept. 26, they bought an ad in The Washington Post that said: "Let's not allow fears of temporary 'market instability' to serve as an excuse for equivocating on spending cuts and entitlement reform . . . . If the so-called train wreck occurs, the markets will focus, on the eventual outcome. If the markets believe the chaos will finally lead to decisive action, they will rise."

The Congressional Budget Office, in an August report, took the opposite position. "Even a temporary default—that is, a few days delay in the government's ability to meet its obligations—could have serious repercussions in the financial markets," including "a permanent increase in federal borrowing costs."

Even conservative consultant Jude Wanniski warned that Republicans risked "political disaster" by not raising the debt ceiling and that "financial markets . . . would take a severe beating" as default loomed.

But Druckenmiller, who regularly bets billions on the direction of interest rates, scoffs at this notion. He points out that the costs of a train wreck are minor compared with the benefits of a balanced budget. For one thing, the Treasury won't have to keep borrowing. By the simple mechanics of supply and demand, bonds will become scarcer and more valuable. Rates will fall.

At the invitation of Rep. Nick Smith (R-Mich.), Druckenmiller and Langone will be speaking tomorrow to a joint meeting of the House Republican Policy Committee and the Senate Steering Committee—along with Edward Hyman of ISI, who may be the smartest economist on Wall Street, and James Capra of Capra Asset Management, a talented bond trader who formerly worked for the New York Fed.

The message they'll send is expected to be this: Don't waver on your budget goals, and don't worry about the bond market. Adopt sound policies, and interest rates will fall. So far, anyway, that's exactly what they've done.

PANELISTS

Mr. Edward S. Hyman is Chairman of ISI Groups, Inc. For each of the past 16 years, Mr. Hyman has been rated the #1 economist on Wall Street by the Institutional Investor poll of investors. In addition, he oversees the management of almost $1 billion in bond funds. Mr. Hyman is a regular guest on "Wall Street Week with Louis Rukeyser" and is widely quoted in the domestic and foreign press. ISI's broker dealer clients are institutional investors in the United States and abroad.

Mr. Stanley F. Druckenmiller is Managing Director of Soros Fund Management, a private New York-based investment management firm that serves as principal investment advisor to the Quantum Group of Funds. The Quantum Fund N.V., the oldest and largest fund within the Quantum Group, is generally recognized as having the best performance record of any investment fund in the world in its 26-year history. Mr. Druckenmiller also is chairman and founder of Duquesne Capital Management, an investment advisory firm in Pittsburgh, PA. Overseeing a combined $12 billion in assets at both Soros Fund Management and Duquesne, he serves as chief investment strategist and lead portfolio manager. As such, he is directly responsible for the funds' global currency, fixed income, and stock market position.

Mr. James R. Capra is the sole shareholder of Capra Asset Management, directing the firm's trading activities. Between January 1991 and January 1995, Mr. Capra was a principal at Moore Capital Management where he directed trading strategies in government securities. Until 1991, Mr. Capra served as Senior Vice President and proprietary trader on the government securities desk at Lehman Brothers. In addition to being one of Lehman Brothers' most profitable traders, Mr. Capra also served as chief strategist for the fixed income group. Between 1980 and 1983, he was an officer at the Federal Reserve Bank of New York, where he served as Director of Domestic Economic Research. Between 1974 and 1980, Mr. Capra was the Chief of Budget Projections at the Congressional Budget Office where he coordinated the preparation of budget estimates for annual congressional budget resolutions. His budget projections unit was in charge of CBO calculations of interest on the public debt and the status of the debt relative to the debt limit.

Mr. Kenneth G. Langone is Chairman and Managing Director of Invemed Associates, Inc., a New York investment bank. Mr. Langone is the founder of The Home Depot, Inc., of Atlanta, and he currently serves on the Home Depot Board and Executive Committee. He is Chairman and Chief Executive Officer of Salem Nationalease Corp., of Winston-Salem, NC. Mr. Langone also serves on the boards of Unifi, Inc., of Greensboro, NC; St. Jude Medical, Inc. of St. Paul, MN; Baby Superstore, Inc. of Greenville, SC; and GMIS, Inc. of Malvern, PA.

DEBT CEILING UPDATE

(By Congressman Nick Smith)

The debt ceiling is now close to becoming binding on the Department of Treasury. The latest indication from Treasury is that they will be able to get by the Social Security payments due the first week in November. However, Treasury is arguing that they will not be able to proceed with the regularly scheduled auctions for the week of November 6 without an increase in the debt ceiling. These actions raise cash which allows for settlement of the interest payments due November 15. It is the November 15 interest payment of approximately $25 billion that Treasury will have difficulty making without a debt ceiling increase.

Our best estimates from the private sector indicate that without disinvestment of trust funds or other extraordinary measures Treasury will face a $15 billion to $30 billion problem on November 15. Thus, it is possible that failure to increase the debt ceiling will force extraordinary measures on the Department.

OPTIONS

There are at least three options that we have come across in our discussions with Wall Street analysts. As might be expected, each option has its negatives and its positives. While not advocating any particular option at this time, we thought it would be useful to share what our research has yielded.

1. Temporary Increase in Debt Limit: The first option is to provide for a short term increase in the debt ceiling. This might be justified if Treasury can demonstrate to the Congress that it will be faced with extraordinary measures prior to Congress' passage of the reconciliation bill. In providing for a temporary increase we must be careful not to lose leverage for passage of reconciliation. Some investment analysts have indicated that if Treasury can get by the November 15 layout, it is possible for them to get to the end of February without another increase in the debt ceiling. This would require getting by a low point in the cash balance in early December, but January is a positive cash flow month, and some delay of income tax refunds might provide the opportunity to extend their cash position for several weeks.

Thus, some analysts have suggested a temporary increase in the debt limit which would return to the $4.9 trillion at a date certain. They note that as Treasury settlements of at least $25 billion occur each Thursday, it is important which day of the week is chosen for the end of the debt limit extension. They recommended a Friday, as this gives time to reach agreement on a reconciliation bill.

2. Specified Authority to Disinvest Civil Service Retirement Fund: An alternative would be to provide specific statutory authority to allow for a limited disinvestment of the Civil Service Retirement and Disability Trust Fund. This fund has more than $330 billion available. Under 5 U.S.C. §8348, the Secretary of the Treasury may suspend investment and redeem the assets of the fund "before maturity in order to prevent the public debt of the United States from exceeding the debt limit." When the debt ceiling is finally increased, it can be increased sufficiently to restore the Trust Fund with interest. This has been the procedure in the past.

Doing this would allow the debt ceiling to remain at $4.9 trillion. The disadvantage is that there might be a conflict with those who felt that this would set a precedent allowing Treasury to tap into trust funds for amounts which make the debt ceiling irrelevant. However, our preliminary research indicates that Treasury can already tap into this fund. We could limit the amount by which disinvestment may occur and accomplish the purpose of retaining leverage for the reconciliation. We will be investigating this option further.

3. Allowing Treasury to Securitize Assets, such as the Federal Financing Bank, and Allow Civil Service Retirement Fund to Invest in the Assets: Treasury holds assets, such as the Federal Financing Bank. These assets are capable of being securitized. If the Civil Service Retirement Funds were allowed to replace, say $30 billion of its Treasury debt with these assets, then the Treasury could go into the markets and raise cash. We are just beginning to explore this option.

LOSS OF LEVERAGE

It is important to examine whether Treasury can manage the cash after November 15 with no need for an increase in the debt limit for several weeks. If this were the case, then a veto of the reconciliation bill could serve the President until several months into the current fiscal year and jeopardize the seven year balanced budget. There are two December problems. One is an early December interest payment which would require cash. The second is a late December coupon settlement with Social Security that, under normal conditions, would increase the debt by required issuance of Government Account Securities. We are currently trying to obtain reliable cash flow estimates for December and January. Of course, requiring the debt limit to return to $4.9 trillion on a day certain under the first option, and similarly limiting the length of time under the second and third options would protect against this scenario.

BREAST CANCER AWARENESS MONTH

The SPEAKER pro tempore [Mr. FOX of Pennsylvania]. Under a previous order of the House, the gentleman from Minnesota [Mr. MINGE] is recognized for 5 minutes.

Mr. MINGE. Mr. Speaker, October is breast cancer awareness month. I wish to briefly address this Chamber on that important subject, since it has taken on an imminency for myself and my family in recent months.

Seven and one-half months ago my wife learned that she had breast cancer. This has had a dramatic effect on us. Yet it is altogether too common, and I wish to emphasize some important points.

First, hope. I think that altogether too many Americans feel that cancer is a death sentence. Indeed, that is not the case, especially with breast cancer. If early detection occurs, the long-term survival rate is high. In fact, it is dramatically high, and it indicates that, indeed, treatment is available. Treatment is within the reach of all Americans. The important thing is to actually learn whether or not you have a malignancy.

This brings me to the second point I would like to emphasize, and that is that one must face the situation realistically. Women and, yes, even men, must be aware that they can contract breast cancer and that they should have mammograms. Women should have mammograms, and they should otherwise check to determine whether or not there are lumps or thickenings that indicate the possibility of a malignancy and have checkups. See a physician. Certainly that is something that is widely publicized in this country but, on the other hand, it is altogether too easy to ignore the advice. If the advice is taken and early detection occurs, then hope is a realistic opportunity.

The third point I wish to emphasize is care in our life-styles. Certainly there are indicators of the risk of breast cancer, a history in the family, other considerations. But still a significant majority of the breast cancer cases cannot be predicted based on these indicators, the family history and other considerations. It appears that it is important for us all to lead responsible lives and to avoid habits which increase our risk of cancer and other health problems.

At this point I think that it is safe to say the Federal Government has become a very active participant in assisting women in determining whether or not they have a malignancy and encouraging mammograms and providing assistance for mammograms and establishing standards for mammography. The Federal Government has been very active in helping give hope, that is, developing treatment programs, sponsoring research on what treatment is effective, and I know that we will continue to be very active and aggressive at the Federal level in the research and encouraging treatment.

But that does not mean that the Federal Government can do everything. We certainly have learned over the last several years that that is not a realistic expectation, and I do not think any American has that expectation. We must assume personal responsibility, personal responsibility for healthy lifestyles, personal responsibility for regular checkups, and personal responsibility for following through on recommended treatment regimens.

In closing, I wish to reemphasize the point that problems do not go away if they are simply ignored, but instead we must be vigilant, and whether it is budget discussions such as have occurred here on the floor earlier this evening and I am sure will continue, or matters concerning health care, we must continue to take responsibility for our lives, to encourage our family and our friends to take responsibility for their lives and, finally, to be supportive of individuals who find themselves in this tragic and unfortunate situation.

TRIBUTE TO THE HONORABLE ROBERT K. DORNAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. SAM JOHNSON, is recognized for 5 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I will enter into a colloquy with the gentleman from California [Mr. HUNTER].

I want to talk about a friend of mine, BOB DORNAN from California, and the reason I want to talk about him is because he was a great fighter pilot. At one time, he flew F–100's out there, and you know, I always said fighter pilots do it better than anybody. And BOB came up here and proved it, and in fact, the gentleman from California, Mr. HUNTER, and I and the gentleman from California, Mr. CUNNINGHAM, and DORNAN consider that name that he stuck on us as Tiger Flight as a real honor to be a part of a group like that.

Let me just tell you what he did, because we are talking about Bosnia now and the possibility of sending troops in. Every time you turn around, DORNAN is in there at the hot spot trying to find out what really went on, and let me just refresh your memory about Somalia, which was a disaster for the United States.

He flew in there in a chopper over the site where our chopper was shot down and those troops were killed, and found out that they could have very easily gotten those guys out, very easily blocked the troops, brought pictures back which I saw, and with two or three tanks they could have locked them up and rescued our forces. They did not do that.

Do you know why? Because they were under U.N. control, and the U.N. faulted in their chain of command, which we face here in Bosnia, the same sort of thing, even though it is NATO. There were Italian tanks there, but they were unable to do the coordination to get them there in time.

BOB DORNAN brought the evidence back. Guess what, we pulled out of Somalia with those losses and just wrote those guys off. I do not think that we want to write off any more Americans anywhere in this world.

It was kind of a quagmire over there, and BOB went over there, "Bullet Bob" as they called him, because he is fast on the trigger and he shoots at liberals without an instant's hesitation.

I yield to the gentleman form California [Mr. HUNTER].

Mr. HUNTER. I thank my friend for yielding.

You know, I am reminded, in Somalia, because BOB DORNAN is a guy who really dedicates himself to this Chamber and to his obligation as a U.S. Congressman, and while the rest of us were doing a few things on Somalia, we were getting the briefings, we were participating in the few areas where Members of Congress were given some leave by the administration to register our feelings, but BOB DORNAN went to Somalia.

Going there and back, I think is about a 40-hour plane ride which none of us would look forward to, and in the end, BOB DORNAN contacted every family of a uniformed service member who was killed in Somalia, and he talked to them, and he let them know how much they were appreciated, and their loved ones were appreciated. He did a total analysis of the situation and reported back to those of us on the Committee on Armed Services, in fact, to the whole Congress in great detail.

Mr. SAM JOHNSON of Texas. Did he not go see some of them?

Mr. HUNTER. Absolutely. He went to see a number of the family members of people who had died and members of people who had been wounded, members of the uniformed services who had been wounded. I can remember members of the families sitting, coming, driving or flying from their homes around the United States to be here in this Chamber and meet BOB and listen to his description of what happened.

So BOB was a great ambassador, not just for the uniformed service members themselves but for their families. I think that is representative of everything he has done. He has been, as you said, to every single military hot spot around the world. He goes there when it is hot.

He went to Vietnam literally dozens of times, and a person who really cares about the security of this Nation. You know, he is the only Member of this body who is running for President, and I think he is a great candidate. And he is a guy who, it is kind of interesting that BOB DORNAN is probably the most unpolitical for a guy who has been in Congress for 20 years or more, the most unpolitical Member of this body, because he rarely does things that make sense purely from a political standpoint, from an analytical, how will this advance my career, how will this help me, how will this position assist me from my standpoint.

I can remember when I was a freshman in this House, and we were competing for the Armed Services seat that came up in California with the retirement of one of our senior Members, and all of those who were competing for that seat, myself included, would get up and make a speech. Then we would have, at the end of the speeches, we would have a vote by the members of the California delegation as to who got that seat, and BOB DORNAN got up and started to speak for himself as all the rest of us had. We all were self-promoters except BOB. Halfway through the speech, he stopped and said, "You know, we really should give this seat to DUNCAN HUNTER, a Vietnam veteran from San Diego." He gave about 5 reasons why we should vote for me. He said, "I am voting for DUNCAN," and sat down. I won the seat as a result of that.

I think Members of the body looked at BOB and said, "Why would you do that? That was the most unpolitical thing you could do. You had a good chance of winning it yourself."

But a few years later, here is BOB DORNAN back not only as a member of that committee, the Committee on National Security, but also the chairman of the Personnel Subcommittee where he has done a lot this year to make lives better for our military families, and he is also the chairman of a very important subcommittee in the Intelligence Committee, which is the Technical and Tactical Intelligence Subcommittee.

□ 2000

As the gentleman mentioned, BOB DORNAN has a lot of smarts with respect especially to national security. I thank the gentleman for yielding.

FURTHER TRIBUTE TO ROBERT K. DORNAN

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I will be happy to yield to the gentleman from Texas, SAM JOHNSON, the famous fighter pilot.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman from California for yielding to me.

They call the gentleman from California [Mr. DORNAN] B-2 Bob. I think that he has been an armed services advocate for this Nation and has kept our forces strong, especially the Air Force's. I think that this is one case where we are not supposed to be going to Bosnia, and I would like to get on that subject again, if I can, for just a second, because that is a place where the President has offered 25,000 of our troops as a bargaining chip before there is ever any agreement, before the United States has ever been involved.

Mr. Speaker, it has been pointed out earlier that NATO, as an organization for protection of NATO nations, which we are a part of, but I do not believe Bosnia is a NATO nation. I think that is right, is it not, Mr. HUNTER?

Mr. HUNTER. Mr. Speaker, I thank the gentleman for asking, and no, it is not a member of NATO.

Mr. SAM JOHNSON of Texas. Therefore, why are we there? I have asked the question, is this Nation really taking a good look at itself. Who are we, why are we there? Whose side are we on, and what are we going to do once we get there without a plan to get out. I think this President ought to start listening to this Congress and to the American people, and I know BOB DORNAN feels the same way.

Mr. HUNTER. Well, I thank the gentleman. BOB DORNAN is my candidate. I am endorsing my great seatmate and buddy just north of the San Diego County line, BOB DORNAN. His motto is faith, family, and freedom. The gentleman from California [Mr. DORNAN] has run under that banner for a long time.

We just saw his effect as a conscience, one of the House consciences along with HENRY HYDE and CHRIS SMITH of the pro-life value and ethic in this Congress, how he has been such a leader there. He has a great family, and that faith, family, and freedom is something that always resonates, at least when I see BOB, because I think of his great family.

Sally, I call her Sally Kay Dornan, it is really Sally Hansen Dornan, is a wonderful person. I know her very well, and she helps to preside over their five children, Robin Marie Griffin, Robert Kenneth, II, Teresa Anne Cobin, Mark Douglas and Kathleen Regina Penn, and they have eight grandchildren and I am going to name them, since we have them right here. Richard K. Cobin, Terry Cobin, Kevin Gary Griffin, Collin Robert Griffin, Anna Victoria Cobin, Erin Marie Griffin, Haley Olivia Dornan. Of course, BOB DORNAN's uncle was the "Tin Man", Jack Haley, in the "Wizard of Oz," so that is where Haley comes from, and of course rounding off with Robert K. Dornan, III.

Let me tell you, if you go to BOB DORNAN's house, you do not see any of what the national news media complains about as being a mean demeanor or tough or ill-willed, all of the tough stands that he takes when he sees real liberalism on the horizon. You see a grandfather who lives for those kids. You drive up to that big ex-hockey player's house out there in McLean and you will see BOB DORNAN coming down, if it is in the wintertime, a bobsled run that would challenge what we have in the winter Olympics, and he may have a camera mounted on the front of his helmet and have four or five grandkids cuddled in his arms, or he may be throwing water balloons at them out of the top story of that house. BOB DORNAN lives for his family.

He has a great family. I can remember once watching the Larry King Show, a detractor sitting there and talking about taking on BOB DORNAN in a race, and the phone rang and Larry King took it and it was Mark from California. That was Mark Dornan, his son. When Mark Dornan finished with that particular guest, it was clear who had won. That is how close that Dornan family is.

So faith, family, freedom. BOB DORNAN has a lot to offer this country, and I think he has injected a lot of value, a lot of ethics and a lot of real conservative spirit into this presidential race. I would be happy to yield, having talked so long, to the great fighter pilot, the gentleman from Texas Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. I just want to thank the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, we had a great time in Texas, incidentally, talking to all of the defense industry in this last year with myself and the gentleman from Texas, Mr. SAM JOHNSON, and we had BOB DORNAN there that time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, if the gentleman would yield, he was there, yes.

Mr. HUNTER. Mr. Speaker, DUKE CUNNINGHAM also, and a lot of the ideas that we had for preserving the defense industrial base of this country, we have started to carry out in this Republican-led Congress, and you have been a big part of that.

Mr. SAM JOHNSON of Texas. Mr. Speaker, it has been a revolution for the military.

Mr. HUNTER. So I thank the gentleman from Texas so much, and God bless ROBERT DORNAN. I hope you are out there campaigning hard today, BOB.

OUT-OF-CONTROL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. GUTKNECHT] is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, this House has performed some groundbreaking work by ranging in on the Nation's out-of-control budget. Before we passed a reconciliation bill last week, Americans had been weighed down by the annual deficits that exceeded $200 billion a year. Their children were saddled with a national debt of almost $5 trillion. On its way to that historical reconciliation bill which balances the Federal budget in less than 7 years, Members of this House made some difficult decisions to lift that weight from Americans' shoulders and to free future generations of a lifetime of government servitude.

However, Mr. Speaker, the House's work is not finished. There is one more tough decision left on the table, the decision to lift and end subsidies for special interests. This welfare program is actually a Federal grant system. Under this system, Federal agencies award money to private organizations to perform various services. Unfortunately, these services and the agencies that are paid to perform them, are not always the wisest use of taxpayers' dollars. Expense amounts, and this expense, and this is important, this expense amounts to $40 billion a year.

Fortunately, just as Americans called on Congress to balance the Federal budget, so they have called on Congress to end this unofficial entitlement for special interests. The interests I speak of are those who represent advocacy groups that, because they are classified by the Internal Revenue Service as tax exempt, see themselves as charities. But some of these organizations do not practice charity. Charity is generosity, helpfulness, relief given to needy or suffering people.

What some of these advocacy groups practice, however, is really greed and influence. These organizations do not extend a helping hand to the poor and the needy, they extend their open hand, palm up, to the taxpayers for a handout. Many times, this money goes directly into the organization's coffers to hire more lobbyists who, in turn, ask Congress and Federal agencies for even more money and more legislation and regulations sympathetic to their organization's political agenda.

Americans cannot afford to have special interest charities double-dipping from the public trough, using the net gain from this tax-exempt status to pay lobbyists to hit Congress up for additional money and power. Americans are no longer interested in funding this profane grant system.

A national study performed just last month showed that a strong majority of Americans do not believe that special interest groups who receive funding from the Federal Government should be using these funds, either directly or indirectly, to lobby the Federal Government. By a margin of 70 to 26 percent, Americans agree that tax dollars should not be used to fund political activities. Of course, many of these nonprofit advocates claim that they are not using Federal money to lobby Congress. They maintain that there is a law against such a practice, and that they follow this law. But there is no way to verify this, because no group is required to open their books to Federal inspection.

What is wrong here, and what is wrong with this picture? If an organization is going to use a taxpayer dollar, especially at a time when the dollar is spread so thin, then the organization should account for every penny and prove that the money is being spent appropriately and as it was supposed to be spent.

Mr. Speaker, there is legislation pending in this House that would bring integrity to the Federal grant system and end this unofficial entitlement for lobbyists. Members will soon have an opportunity to vote on the Istook amendment to the Treasury-Postal conference report. If passed, any portion that receives more than one-third of its revenue in Federal funds, could spend no more than $100,000 on advocacy activities. Any nonprofit group with able activities of 300 million or more that engages in political activities will be prohibited from receiving Federal grants.

Mr. KINGSTON. Will the gentleman yield?

Mr. GUTKNECHT. Yes, I do.

Mr. KINGSTON. Mr. Speaker, I wanted to mention to the gentleman from Minnesota that in the Treasury-Post Office conference committee I offered an amendment to the Istook-McIntosh bill that said groups and organizations that spend less than $25,000 a year on lobbying efforts and government outreach and contact would be exempted. That actually exempts 96 percent of these groups that we do need to have input from homeless shelters, museums, art galleries, symphonies and so forth, and that amendment takes away so much of the argument against the Istook bill that people have been giving us, where we need input, and we said okay, we have an amendment that took care of that.

You know, I agree with the gentleman that the big, big money involved in this has been abused by people who say well, we are not lobbying. If they are not, why not support the bill?

Mr. GUTKNECHT. I was just going to get to that, that the amendment that you offered would exempt 96 percent of those groups. What we are really talking about is a handful of people that have abused this system. But frankly, the abuse could amount to $200 million a year. It is time for it to stop. We cannot afford a subsidy for special interests. I think most people agree that it is wrong, and we will have an opportunity in the next several weeks to end subsidies for special interests.

Mr. Speaker, I see my time has expired. I yield back the balance of my time.

BUDGET RECONCILIATION IMPORTANT FOR OUR NATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, happy Halloween. What I wanted to talk about tonight, and I am joined by the gentleman from Minnesota [Mr. GUTKNECHT] and some others perhaps later, this reconciliation process, this huge budget, this huge bill that we have been hearing so much about in the House and why it is so important. It is a massive bill, it is an important bill. It is right that all eyes of the Nation should be watching this particular piece of legislation. It is the bill that calls for a billion dollar budget, calls for Medicare reform, reforms that say protect and preserve Medicare. It changes the way we do our Medicaid allocation.

It has welfare reform in it, it has medical savings accounts and a tax cut for the hardworking middle class America. It is a very important bill, and it is one that we all have a horse in the race on, and so I wanted to talk about that a little bit tonight.

Let me yield the floor to Mr. GUTKNECHT. He has been a valuable part of this as a freshman Member of this House. He knows that it was the freshman class who put the majority agenda forward, starting with the Contract With America, 10 items, 9 of which have passed the House, and then went to work on the 13 appropriations bills, even after the other body voted to end the balanced budget amendment, working on the 13 appropriations bills, saying that it is clear that the American people want a balanced budget.

That is what your freshman class ran on and that is what you followed through on, was a balanced budget. So let me yield the floor to the gentleman from Minnesota [Mr. GUTKNECHT].

Mr. GUTKNECHT. Mr. Speaker, I said to the people of my district that it was a very historic day when we passed that reconciliation bill. It really is what an awful lot of us came here to do. This is what we promised we were going to do when we ran for election, and I am so delighted that we finally got the opportunity to keep that promise. My sense is that if the President hears from the American people, once they understand what really is in this bill and how the bill was put together and they begin to tell the President and the administration how they feel about it, my sense is that the President will reconsider, and he will actually sign this bill or one that looks almost like it.

If I could say to the gentleman from Georgia, I want to just talk a little bit about what we are really doing, because we have heard so much demagoguery and so much rhetoric about these draconian cuts and how this is going to hurt this group or that group. But the truth of the matter is, what we have taken is a fairly simple approach to how we are going to balance this budget. It breaks down into, in my opinion, three categories. First of all, with defense spending, we have adopted essentially a flexible freeze on defense spending.

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On domestic discretionary spending we have made targeted cuts. We have eliminated 300 programs, which I think most people would agree were not very effective anyway.

Mr. KINGSTON. Mr. Speaker, let me interject quickly. Many of these cuts are real cuts. Others are just slowing down of the increase and still others are consolidating programs.

Mr. GUTKNECHT. Mr. Speaker, if the gentleman would continue to yield, he is absolutely correct.

Then on the entitlement side, and this is where there is so much fear mongering going on out there with the senior citizens and other groups, for the most part whether we are talking about school lunches or talking about Medicare or the other entitlements, what we are really talking about is slowing the growth rate to approximately the inflation rate.

The good news is if we do that, if we make targeted cuts in domestic discretionary spending, put a flexible freeze on defense and allow the entitlements to grow, but at a slower rate than they have in the past, the good news is we get to a balanced budget, under the plan that we have, scored by the CBO, in 7 years. My own sense is it is going to be about 5½ years, because we will see economic growth at a higher rate than is currently expected and we will see interest rates at a much lower rate than is currently expected.

The net of that is we will get to a balanced budget in about 5½ years, not 7 years. But the even better news, for those of us with children, is that we will have an opportunity, if we can stick to that discipline, which I do not think is a bitter pill to swallow. It is not tough medicine we are talking about. But if we can stick to the basic budget plan, not only will we balance the budget in 5½ years, the great news is if we stay on that path we will pay off the national debt in about 25 years.

Mr. KINGSTON. Mr. Speaker, I want to go back to a conversation that the gentleman from Minnesota and I had earlier today, and that is the basic premise of this whole bill, which is balancing the budget, and why should we balance the budget?

Mr. GUTKNECHT. Mr. Speaker, if the gentleman would yield once more, the interesting thing is some people have turned this into an arithmetic exercise. It is not about arithmetic. It is not about a lot of the things that we are reading about. It really is about preserving the American dream for our children.

President Kennedy said we all cherish our children's future. We all want our kids to have a little better life than we had. But if we stay on the path we are on now at the Federal level, if the Federal Government continues to mortgage our children's future, what we do is we guarantee that our kids will have a standard of living that will be less than ours.

As a matter of fact, we promised them, or we are promising them under the current circumstances, if we do not make changes, that they will face sure bankruptcy for the Federal Government and our economy.

Mr. KINGSTON. Mr. Speaker, I would ask the gentleman, is it not true that if a baby is born this year, in fact, I have one, little Walker Watson, who is my nephew, he was born in April. Now, I understand his share of the national debt, should he live 75 years, which I am hopeful that he will and beyond that, he will owe $187,000 on the national debt in his lifetime, just interest. Just interest. Not paying down the principal but just interest.

And we also know that the interest on the national debt is almost $20 billion a month. Does the gentleman happen to know offhand what the budget of Minnesota is? The annual budget.

Mr. GUTKNECHT. Mr. Speaker, the annual budget for the State of Minnesota is about $10 billion.

Mr. KINGSTON. Mr. Speaker, the same for Georgia, it is about 10, a little over $10 billion a year. So each month we spend on interest, the budget of Minnesota plus the——

Mr. GUTKNECHT. Mr. Speaker, I would tell the gentleman that is the total budget.

Mr. KINGSTON. The total budget of Minnesota, plus the total budget of Georgia, we spend their annual budgets, combined together, just on interest on the debt. All that money that could be going to health care, that could be going to Medicare, that could be going to education, or, best of all, back to the taxpayers. But it is going straight to the creditors.

Mr. GUTKNECHT. Mr. Speaker, the interesting thing, and I use this example sometimes in my district, because my district borders the Mississippi River. We are just a little west of the Mississippi River. I tell people this, and this gets their attention. I say if they forget everything else that I say they should remember this. Every dollar in personal income taxes collected west of the Mississippi River now goes to pay the interest on the national debt.

That is an amazing statistic. And when the gentleman used the other one, the one he just mentioned, $187,000 in interest for every baby born in America today, that is disgraceful, and I think we all know it is morally wrong.

Mr. KINGSTON. So, Mr. Speaker, if we are building the case, then, we need to balance the budget, the gentleman mentioned a minute ago about the interest. Alan Greenspan, before I think a Senate committee and I believe a House committee as well, said that if we balanced the budget, because the Federal Government would not have to borrow as much, then, as a big fish in the lending marketplace, it would ease up the drive to increase interest rates to the private sector and the interest rates would actually fall 1 to 2 percent.

If that is the case, then the American taxpayers, who are paying monthly car installments, mortgages each month on their home, credit card, or whatever else they are borrowing on, their interest rates will in turn go down, will they not?

Mr. GUTKNECHT. Oh, absolutely. The interesting thing is, when we look at the benefits long term of a balanced budget, and they accrue to everybody. It is not going to benefit just the rich or benefit just the old or the young. I think some of the biggest beneficiary factors, and we have heard a lot of complaints about what will happen to student loans.

The truth of the matter is, the changes we have made in student loans, if someone borrows the maximum, work out to about $7 a month. But let us talk about that college student. They are better able to find a job because the economy will be stronger according to all the leading economists we have heard from. But if they borrow money to buy a car, a $15,000 car loan, annually, the difference in interest rates because we have a balanced budget, will work out to about $180.

That is good, but what gets great is the difference on a $100,000 mortgage. If that college student goes out and gets a $100,000 mortgage, and if interest rates drop by 2 percentage points, that will save that college student $2,162 a year. On a 30-year mortgage we are talking lots and lots of money.

So, Mr. Speaker, for what we are doing with college loans and some of the other targeted cuts we are making in this budget, it seems to me that long term those benefits to those college students are going to be absolutely astronomical. The people who should be leading the debate or leading the fight for this budget ought to be young people. They should be saying, "this is the kind of thing we need to save our future."

Mr. KINGSTON. Mr. Speaker, I agree with the gentleman.

Mr. GUTKNECHT. Mr. Speaker, we are delighted to be joined by some of our colleagues.

Mr. KINGSTON. Mr. Speaker, I see we have the distinguished president and chairman of the "theme team," the gentleman from Ohio [Mr. HOKE], and the distinguished freshman gentleman from South Carolina [Mr. GRAHAM] and then we have the guy from Arizona that shows up regardless.

Mr. HAYWORTH. Mr. Speaker, if the gentleman would yield, I really appreciate the fact that he treats me with such respect when we come to these things.

Mr. KINGSTON. Mr. Speaker, I do not remember anyone yielding.

Mr. HOKE. Mr. Speaker, I wonder if the gentleman from Minnesota might yield for a moment.

Mr. GUTKNECHT. Actually, the gentleman from Georgia [Mr. KINGSTON] controls the time.

Mr. KINGSTON. Mr. Speaker, I will yield.

Mr. HOKE. Mr. Speaker, I wanted to ask the gentleman. Actually, I thought I heard the gentleman say that there were going to be cuts in spending on education. Is that what the gentleman said?

Mr. GUTKNECHT. No, what I said is we are going to change the way student loans are administered, and the absolute maximum that it will cost the average college student is $7 a month.

Mr. HOKE. That is the amount more. I think it is really important. We keep hearing this language over and over and over again about cuts. The amount of money that we are spending on the student loan programs and education goes from $24 billion in fiscal year 1995 to $36 billion in fiscal year 2002, which everywhere in the world, except within the Federal City, is clearly an increase of $12 billion. $12 billion out of $24 billion is a 50 percent increase. We are increasing spending on college loans 50 percent over the next 7 years.

Mr. KINGSTON. And, Mr. Speaker, we are spending more on Pell grants that we ever have and keeping historically black colleges at a level amount. Those are not being cut.

We have also level funded the TRIO program, which includes the important Talent Search Education Program and Upward Bound.

So the gentleman is absolutely correct. There will be more students participating in student loan programs than ever before in history. And yet I hope they are smart enough to maybe tell some of our Democratic colleagues that that does not constitute a cut.

Mr. HOKE. What is disturbing, Mr. Speaker, with all the student loans, one would hope there is more arithmetic being taught than what is apparently being taught around here.

The only thing I wanted to point out about the idea of cuts is there has been a cut in the Federal budget. There absolutely has been a cut, and that is in the area of international aid. Of foreign aid.

We voted on this conference report today. We have cut $1.5 billion from 1995 to fiscal year 1996.

Mr. KINGSTON. And we voted on the legislative branch. The U.S. Congress has taken a cut. We have reduced our staff one-third.

Mr. HOKE. That is absolutely right.

Mr. KINGSTON. Now, Mr. Speaker, the gentleman from South Carolina [Mr. GRAHAM] better get more aggressive, because if you want floor time, we do not yield readily.

Mr. GRAHAM. Mr. Speaker, I tell my colleagues that I come from a very quiet polite district, and if my friends want me to talk, I will be glad to.

Mr. KINGSTON. Mr. HAYWORTH, it is your turn.

Mr. HAYWORTH. Well, I simply wanted to say in defense of the gentleman from South Carolina, knowing his district well, and the golden corner from Pickens and Oconee County, on down through Aiken and down to North Augusta, I know that he, beneath that calm, cool exterior, has a rather tenacious trait and is one who stands up for the working people of his district.

Indeed, I think that is the point we want to make tonight, that we are foursquare behind the working people.

Mr. GRAHAM. Mr. Speaker, I thank the gentleman.

Mr. KINGSTON. Does the gentleman see why we do not yield to him?

Mr. GRAHAM. If the gentleman would yield, I will go over the $10.08 billion in savings we achieved in the student loan program, because I am on the Committee on Economic and Educational Opportunities.

It goes back to the student lunch program. That was the biggest lie in this Congress. We put more money in the lunch program, the federally funded lunch program, than the President did, but we got accused of cutting.

The student loan savings entail the following: We save $1.2 billion of the $10 billion from doing away with direct lending. Direct lending is the best opportunity to recreate the great society that I have seen since we have been in Congress. Direct lending has the Federal Government borrowing the money, allowing the Department of Education to lend it out and become bankers.

The opportunity for the Department of Education to grow under direct lending is unbelievably large. We are in debt. We are having to borrow money we do not have and lend it to replace private capital. We save $1.2 billion by reducing the bureaucracy of the Department of Education by getting rid of direct lending.

Mr. HOKE. If the gentleman would yield for one point on that. It might be helpful to point out to the Speaker, because I see the Speaker was not here when this law was made, when that direct lending program was entered into.

I suppose, being on the committee, the gentleman could probably could tell us that. If he cannot, I can help out.

Mr. GRAHAM. Mr. Speaker, direct lending is a Bill Clinton program that is trying to replace private sector capital. There are literally hundreds of banks in America that provide money that the Federal Government guarantees to provide access to student loans.

Bill Clinton wants to get rid of the guaranteed loan program and replace it with direct lending, where the Federal Government becomes the bank. They have to borrow the money to replace the capital in the private sector. And the bankers will be people who run the Department of Education.

I do not know about my colleagues, but if I was to start a bank, I would not go to the Department of Education to hire people to run the bank.

Mr. HOKE. Mr. Speaker, the gentleman obviously knows his history. He is absolutely right: 1993 budget resolution.

Mr. GRAHAM. Mr. Speaker, if the gentleman will continue yielding, we have not even warmed up yet, $5 billion of the $10 billion came from the banking institutions.

I will readily admit that the guaranteed loan program in this country needs to be reworked. It was a deal negotiated by our brethren on the other side who built the Great Society.

Listen to this. Under the guaranteed loan program, the Federal Government was reimbursing 100 percent of any default prior to this Congress. Excuse me, two Congresses ago. Now it was at 98. We have come into 95. We have doubled the amount of risk that the private sector has in the student loan program.

Do the other gentleman think they would spend much time on a defaulted loan if they knew somebody was to pay them 100 percent of the default? We have doubled the amount of risk that banks have, we have doubled the amount of money we charge for them to participate in the student loan program. We have $5 billion by renegotiating a deal for the American taxpayer with the banking institution. Sixty percent of the savings came away from reducing government and renegotiating a bad deal with the banking world that our brethren on the other side negotiated.

Mr. KINGSTON. Mr. Speaker, the bottom line is we save taxpayer money and we get more student scholarships out there. What could be better?

Mr. GRAHAM. Absolutely. And let us get where the students become involved.

The gentleman from Minnesota [Mr. GUTKNECHT] hit it right on the head there. What we have done from the student aspect is that, from the time a student graduates until 6 months after he graduates, there is a grace period where we forgive the interest. What we have done is we have allowed the interest to run during that 6-month period and saved $3.5 billion for the American taxpayer.

If an individual borrowed the most money there is to borrow for the longest period of time, his payment would be affected, at the most, $9. The average student will have to increase payments by an average of $4 per month, but it saves $3.5 billion to the American taxpayer.

Mr. HAYWORTH. Mr. Speaker, if the gentleman would repeat that, because I think it is the central part of our debate. I think it is very important. If the gentleman would repeat the terms that we have changed here.

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Mr. GRAHAM. The only thing we done to a student participating in the student loan program is the 6-month grace period where we have forgiven the interest in the past, the interest will continue to run. You do not have to pay the interest if you cannot afford it, but it will run in that 6-month period. And when we look at all the loans out there, it adds up to $3.5 billion savings for the American taxpayer and no one student will be affected over $9 a month.

If we have gotten to where students cannot afford to help $4, $5, $9 a month to help balance the budget and lower the interest rate 2 percent, we are hopelessly lost in this country. Two-thirds of the high school students go into the workforce. What about their families?

I got a student loan and my sister got Pell Grants when my parents died. We paid the loans back. I am thankful for the Pell grants, but what we have done is put more money in the Pell grants, but we focused to the target population. We have reduced the income level so that we are really helping people that need it the most. We have stopped being everything to everybody. That is what has happened in the last 40 years. We are giving away government money faster than we could print it.

The last $500 million savings comes in this fashion. Every parent in America can go and borrow money under the PLUS Program. What that does is if your child, because of your income, is ineligible for student loans, you can go to the Federal Government and borrow money for a college education yourself. We have increased the interest rates from 3.1 to 3.9 percent above the Treasury rate, which is still better than anything you can get on the open market. That saves $500 million. That will affect the average payment of a family $3.

That is the $10.08 billion. Sixty percent of it came from the banking institutions and reducing the Department of Education. No one student will pay over $9 a month more. The average student will pay $4 a month more to save $3.5 billion to help balance the budget.

Mr. HAYWORTH. I have to salute the gentleman from South Carolina, because even on this All Hallows Eve, he again demonstrates that facts will overcome fear. And how sad it is that our liberal friends, so bereft of ideas, so divorced from a reasonable discussion on different philosophies of policy, only turn time and again to fear mongering and scare tactics.

I think the fact that our friend from South Carolina has brought forth these items of information in a reasonable, rational way, really befits the entire revolution that is going on here. Because it is revolution, as we know, built not on anything more than what is reasonable and rational and long overdue for the hard-working men and women of this country who are paying the bills. Government does not supply this; taxpayers supply this.

Mr. KINGSTON. The gentleman touched on a point about working versus not working, and I have often heard someone say the difference between a Republican and Democrat is that a Democrat gets money from Washington and Republicans send money to Washington.

We have earlier in the day been talking about welfare reform, big welfare reform legislation tied up into the reconciliation bill. You gentlemen have been involved in that. There are four basic components: No money for illegal aliens; State block grants for flexibility; discouraging teenage pregnancy; and work requirements.

Let us just talk about that for a few minutes. There are some other things in her that we want to talk about. Mr. GUTKNECHT?

Mr. GUTKNECHT. I would just say the byword of the welfare reform, and perhaps the byword or the expression of this whole Congress, is how do we convert this welfare State that has been created over the last number of years into an opportunity society?

I think that is what we really trying to do. The real issue is how do we get away from government responsibility for everything, where everybody is blaming the government and everybody is going to the government for more funding and more programs and so forth, and how do we get more personal responsibility?

At the end of the day I think we all know that we cannot have a system that relies on the government for all of the answers. The government has done such a poor job. When we look at the welfare system, and the welfare State if you will, the war on poverty has spent something like $5.3 trillion over the last 30 years. And the real tragedy of our welfare system and the tragedy of the failure of the welfare State is not that its cost $5.3 trillion. The real tragedy is that it has denied so many human beings of the dignity of work and responsibility.

What we are really trying to do is convert the welfare State into an opportunity society and rebuild those basic values and those basic principles of faith, family, work, and personal responsibility. That is what we have got to have. That is what we want. That is what the American people want.

Mr. KINGSTON. Mr. HAYWORTH has been a champion of the working man and that this is the working man's Congress. Does that fit into this?

Mr. HAYWORTH. As the gentleman from Georgia knows, because he hears it from his constituents, I will point out what I hear time and again from the people of the Sixth District of Arizona. From people who are working hard to set up their own businesses; people who are working hard in the private sector to create more jobs; people who are working hard to put food on the table and build a future for their families. They are absolutely enthused that with this new Congress, we see the end of business as usual in Washington.

Oh, the protestations from the other side are sometimes cacophonous, that is, loud. But, that central truth remains very prevalent. When we consider the fact that in 1948, the average American family of four sent 3 percent of its income in the form of taxes to Uncle Sam. Then to have that accelerate for an average family of four in 1994 to almost one-quarter of that family's income, almost 25 percent, 24 percent, is absolutely unconscionable.

What I am hearing from the people of the Sixth District is this simple fact: They work hard for the money they earn. They are patriotic Americans. They believe in this country. They are not upset about doing their fair share, but that is exactly the point. What is their fair share?

I think as the gentleman knows, again, a lot of disinformation bandied about by our friends on the other side, and indeed some in the fourth estate who seem to be almost in complicity with them, repeating what can only be described as falsehoods. The gentleman at the other end of Pennsylvania Avenue characterizes our welfare reform package as, quote, "Cutting off benefits to teenage mothers."

Well, there is one 4-letter word that the President forgets, and it is not a bad word. It is an important word. C-A-S-H, cash benefits, for mothers under the age of 18. We have not moved to eliminate the Women, Infants and Children's program. We have not moved to eliminate those things that truly provide a safety net. But what we have sought to do is to end what appears to be an endless subsidization of illegitimacy in this country.

Not to demonize any young lady, not to demonize any particular group, but simply to say, as my friend from Minnesota points out, over $5 trillion on the war on poverty. That eclipses our national debt. Clearly it has not worked and there is another route to take is that is what we are doing.

Mr. KINGSTON. The gentleman from South Carolina actually has been on the Committee on Economic and Educational Opportunities. The gentleman has been involved in this debate. Is it moving in the right direction? Are we helping the working man?

Mr. GRAHAM. I think the most complaints I get about welfare come from the recipients themselves. We have created a system somehow over the last 40 years that if recipients want to live together as man and wife under the same roof, they get punished because the income levels may go up a dollar too much and the dad or the mom have to live separate and apart to maintain their benefit package.

If recipients want to work part-time, they are trying to get off of welfare and create a resume, a job portfolio, they go to work part-time and they make a dollar too much, they lose their Medicaid. The number one reason people stay on welfare is the Medicaid, the health insurance.

We have created a system where recipients have to pick and choose between working. In Aiken, South Carolina, two weeks ago I went to a housing project to listen to people about the reforms that we are engaging in. There was a young woman on the front row who was going to college part-time. She had a young child. She was receiving AFDC. She was living in the public housing unit. She was very proud of the job she was doing working part-time.

She told me she made $20 over the guidelines and they were going to take her house away and her Medicaid, so she quit her job.

Never should she ever have to do that again. Our bill allows recipients to work part-time, get in the job market, and receive some benefits so they do not have to pick and choose.

What we did in the Committee on Economic and Educational Opportunities with the WIC, Women Infants and Children's program, many States like South Carolina, we have one of the highest infant mortality rates in the country. We have a lot of low-weight babies born. We have a large population of nutritionally disadvantaged children. But categorical grants limit the way we you can use the money.

We have school breakfast programs required by the Federal Government, but we do not have enough participation in many counties to justify the school breakfast. It would be nice to take that pot of money that was going to school breakfast where there was no need and move it over to help children where there is a need.

That is exactly what we have done in this Congress. We have given the people at the local level more discretion to move money from one account to the other to help the target population. They have to report back to us that the target population is being served. It is good common sense. Categorical granting is wasteful. It is bureaucratic approach.

What we have done in our block grant is look at a target population of nutritionally disadvantaged children, collapsed the money into one block grant, require reporting back from the State level, but allowing money to be used where it can best be used in South Carolina, because Georgia may be a different situation; Arizona may be different; it may be different in Ohio. Every State has different needs. We are allowing States to be more flexible, and to me that is the best thing to improve the quality.

Mr. KINGSTON. Let us hear from the gentleman from Ohio. I also wanted to recognize the gentleman from Michigan [Mr. CHRYSLER] next. He has an interesting tale. We want to talk about another thing in this reconciliation, which is the abolishment of the Department of Commerce.

I wanted to let Mr. HOKE talk about Ohio and welfare quickly.

Mr. HOKE. When I have talked to folks in Ohio about what we are doing with the welfare reform bill, I talk about my own children. And I have a daughter who is 17. She is going to go to college next year. It is a though I were to say, the way that the current welfare program is that Uncle Sam works, it would be as if I were to say, Sweetheart, you know that I will always there for you. I am always going to support you and you can go out and I will take care of finding a place for you to stay. You can have a place to stay and I will make sure that you have medical treatment. If you want to have children, you can have children and I will be there for you and I will support that. But I have a couple of conditions. The first condition is that you cannot get married, and the second condition is that you cannot get a job. As long as you do not get a job and do not get married, I will be there for you. I will continue to support you. As many kids as you want to have, that is fine, and I will continue to do that for you.

And if I were to say to my sons, I have two sons, one 13 and one 15, but when they get a little older I were to say to them, Listen, boys, now that you are young men, I am going to take care of you and you can go out and have as many kids as you want. Father as many kids as you want, but I have a couple of conditions for you too. Number one is you cannot get married and I do not want you to take care of these kids. You are not going to be financially responsible. Second of all, I do not want you to get a job. As long as you do not get a job and you are not financially responsible for the kids that you father, I will take care of you.

What do you think you get out of that if that were the way that you were going to treat your children? I can guarantee we would get a lot of illegitimate babies. That is what we have gotten in this country right now. There are a lot of people that seem to think that this is only a problem that exists in the minority community, and they are absolutely wrong.

Mr. KINGSTON. The illegitimacy among whites is going up faster than the blacks' illegitimacy rate.

Mr. HOKE. That is exactly right. Right now overall in the country one out of four Caucasian babies is born out of wedlock and two out of three babies in the minority community are born out of wedlock. Fully one-third of all the babies in this country are born illegitimate.

In my opinion, that is, A, exactly what we have bargained for with respect to the Federal programs that we have created; and B, and I will not say that the Federal programs have done this solely. I think it would be silly and simplistic to suggest that Federal programs are the sole reason for that, but it is a piece of the puzzle. It is part of why this has happened. But the other thing is I honestly believe that going into the 21st century the largest problem that we have to face as a nation and community and society is the problem that comes along with these incredible numbers of illegitimate births.

Mr. KINGSTON. Generally, the children who are born to mothers who are children, not age-appropriate to be mothers, these kids go on to be dependent, to be school dropouts and drug users. That is statistically a fact and something we have to deal with.

I want to recognize the gentleman from Michigan [Mr. CHRYSLER]. I wanted to say this about him, and stop me if I am incorrect on this. Mr. CHRYSLER did not go to college and started immediately after high school working for an automobile customizing company. Within a number of years of hard work, he ended up buying the company from his employer, selling it, and reselling it, and going on and owning other businesses and has certainly lived the American dream.

Along the way, had no help from the Department of Commerce, which is there to help businessmen like Mr. CHRYSLER somewhere out there, hypothetically, to become entrepreneurs. He did it somehow without their help. Now his number one goal is to abolish the Department of Commerce. He has succeeded in that. We passed that in the reconciliation bill in the House.

□ 2045

We have got some problems in the Senate, but Mr. CHRYSLER, we are delighted to have you here and delighted to have people like you in Congress.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Certainly, it is a story that you only can hear in America. Certainly that is why I am here in Congress, because I want to make sure that my kids and certainly your kids and MARTY's kids all have that same opportunity, because when it is their turn, they at least deserve the opportunity.

MARTY, when he was talking about his daughter, we really have changed this system and it has been a tremendous bill that the House passed. Because we have given the opportunity now to people to get on that bottom rung of that economic ladder, start climbing up out of that dependency on welfare and getting there and not have to lose their child or day care, not losing their health care and not losing their educational opportunities while they are doing that. So it is a dramatic change, and I think it is something that 88 percent of the American people are saying, please change this welfare system from a system that has trapped people on dependency to where we are going today.

It is interesting to note, by the way, that last May we heard a huge hue and cry about the school lunch program. The Republicans were going to eliminate the school lunch program. We are going to take the food out of the children's mouth. But, in fact, guess what happened in August? We started another school year, did we not? Not one story about a school lunch program or a child going without a lunch.

So I guess, digressing a little bit, and going back to the Commerce Department, I did business in 52 countries around the world, never called the Commerce Department. They never called me. That was fine. And I am proud to say that these freshmen that we have here tonight, J.D. and LINDSEY and certainly MARTY and yourself, JACK, all helped us to put a bill through this House that gave us welfare reform, gave us Medicare reform, gave us tax cuts, gave us a balanced budget in 7 years and gave us medical savings accounts in this country and dismantled a complete cabinet level position for the first time in the history of this country.

The legislation went through 11 committees in this House. I testified in front of those committees. It was unprecedented to be able to bring legislation through there. But it was a very simple and easy story. If the Department of Commerce was in fact the voice of business, as you alluded to, JACK, then they would be right now supporting the balanced budget, the capital gains tax cut, the tort reform, the regulatory reform, because that is what American businesses need. They need to have the Government get off of their backs and let them produce their products, quality products at a good price for the American public. In fact, just the opposite, they are diametrically opposed to all of those things.

The Commerce Department was made up of 100 different programs; 71 of them duplicated someplace else within the Federal Government. And we took it one program at a time. We looked at them and we said, we are going to eliminate the programs that we do not need; we are going to consolidate the duplicative programs. We are going to privatize programs that can be better done by the private sector. And we are going to streamline the operations that we needed to keep.

Mr. KINGSTON. What was the bottom line savings on this dismantling of the cabinet?

Mr. CHRYSLER. About $6 to $47 billion, but more importantly, the Commerce Department is set up to give away about $1 billion a year, corporate welfare it is called, Robert Reich calls it corporate welfare. So if we do not have a Commerce Department for 50 years, we just do not give away $50 billion. That is the real savings to the American public. They get a better bang, certainly, for their buck.

We need to have a little less government, lower taxes, we need to let people keep more of what they earn and save. And we need to let people make their own decisions about how they spend their money.

Mr. KINGSTON. I think the gentleman from Ohio, Mr. HOKE, and I are curious because our freshman class had some reforms. How did your freshman class, how did you decide to dismantle the Department of Commerce, how do 72 Members come together on an idea like this? Because it is certainly revolutionary.

Mr. HAYWORTH. First of all, we have to tip our caps rhetorically, at least, to you gentlemen who preceded us. There were too few of you to have a majority. As our friend from Michigan supplied, we all wore pins for a good deal of time during the transition that called us the majority makers. As the late Walter Brennan used to say on the western show, this is no brag, just fact. I will spare the vocal intonations.

Mr. KINGSTON. I thought that was Jack Webb who said, just the facts.

Mr. HAYWORTH. This is no brag, just facts.

This is a major story in American history. The fact is that a class of 73 coming in to change and help symbolize and really do more than symbolize a historic shift in the balance of power simply rested upon the power of ideas. And it is a tribute to the gentleman from Michigan, who, as you very gratefully and very articulately detailed, worked his way up. Let us also pause here, despite his last name, his benefactor is not the Chrysler Corp. Am I right about that?

Mr. CHRYSLER. The gentleman is right.

Mr. HAYWORTH. So those sitting at home saying, oh, sure, he had Lee Iacocca helping him every step of the way, are sorely mistaken. His business was a home grown business. But he took that same type of drive and discipline and working with other Members of the freshman class through a group known as the New Federalists did the heavy lifting. And when people said it could not be done and when it got bogged down in institutional inertia, the fact is that Members of this new majority, including several of you folks who have been here for awhile, stepped forward to say this is too important to leave to the institutional business as usual.

And the important thing to note is that, several Presidents have come to that podium here in this Chamber during joint sessions of Congress, during the respective State of the Union Message, talking about reducing the Cabinet-level agencies. And yet, because there was an unwilling majority on this hill that always believed in the growth of big government, those best laid plans were put aside. They were put on the table. And now, ironically, it is the legislative branch serving as the catalyst to reform and downsize the executive branch and actually all of Government. So my friend from Michigan is to be commended.

Mr. CHRYSLER. It is important, because the freshman class set our actually looking at four different departments: Departments of HUD, Energy, Education, and Commerce. Three of those, I am proud to say, passed and went into the budget resolution act by the Commerce on the Budget: Education, Energy, and Commerce. Unfortunately, we could only get the Senate to pass the Commerce. And now we are having a problem with the Senate getting that one in reconciliation because of a thing known over in the Senate as the Byrd rule. I think there is a little difference between running for reelection every 2 years rather than 6 years.

Mr. KINGSTON. That bird is an ostrich, I have come to the conclusion.

Mr. GRAHAM. I remember when we first got together as a class, I did a survey, I think it was in Baltimore. Would you be in favor of abolishing the following departments, and the four that you named are about 85-percent agreement on those issues.

Our class as a whole drank the same water, from South Carolina to Maine to California to all over this country. We could have taken our campaign literature and I think made overlays. It was remarkable to me how much consensus there was among 73 people from different parts of the country who viewed the problems in Washington, DC, very similar.

Most of us have limited our own terms. Over half of us have never been in politics. When we add our class with your class, there is about 100 votes in this institution to really change the way you define compassion.

To me compassion is not how much money you can spend or how many agencies you create in Washington. At the end of the day, how many people have you helped? If that is the standard, we have done pretty poor with this model of government.

Mr. KINGSTON. I know Mr. HOKE and I, if you remember when we were sworn in 3 years ago, we had all these great hopes. I think we have pushed some things through. But we really did need to merge our fighting 48.

Mr. HOKE. The reality is that this is a winner takes all institution and that if you are going to change things, you have to have the majority on the opening day.

You get to name the Speaker. The Speaker, names the committee chairs. And to be in the minority in this institution is to be certainly about to do things and to help constituents, but it is to be largely marginalized. The fact is that you could, it would be very difficult to overstate the importance of taking over the majority in the House of Representatives.

Mr. KINGSTON. Let me modify that. I know that the gentleman is saying. The majority is the party in here who agrees with the American people. One party in here does not make the majority. One party plus the American people. And I believe that is what we had when we defeated the socialized medicine plan last year.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOX of Pennsylvania). The Chair will remind Members to address themselves through the Chair by the stated designation and not by the first name.

Mr. KINGSTON. I am amazed that the Speaker is still awake at this hour. I guess I did something wrong. I yield to the gentleman.

Mr. HOKE. I am nonplussed.

I think we were talking about the significance of this change. In fact the numbers that the gentleman from South Carolina [Mr. GRAHAM] is talking about, are very important because we are talking about over 110, more like 115. It is a big voting block. It is actually about 50 percent of the majority conference right now, the Republican Conference.

Mr. CHRYSLER. If I could, from the gentleman from Ohio, the number is actually 54 percent of the Republican majority are freshmen and sophomores, so we are of the majority. That really makes a difference, everybody certainly.

Mr. HOKE. I think what the gentleman from Georgia [Mr. KINGSTON] said is absolutely true. I would not want the Speaker to think that we are not aware of this. That is that the American people spoke very, very clearly with respect to the kind of representation that they want. That is what this is all about.

Mr. GRAHAM. Mr. Speaker, if the gentleman would continue to yield, I would like to talk about what reconciliation means, what the appropriation bills mean because you hear these words a lot.

What we need to do is be honest with people at home? If 80 percent of the public wants a balanced budget, there is one way to go about it. About two-thirds of the Federal budget is in entitlement spending. Welfare programs are entitlement programs. Medicare are entitlement programs, which means that the money gets burped out every year.

There is not a whole lot of debate about what goes on. It automatically gets funded. If you did away with all discretionary spending, you would not be close to balancing the budget. So when you talk about reconciliation, you are talking about controlling the entitlements that are two-thirds of the budget.

So maybe we could talk a minute about why we have gone to Medicare, why we have gone to welfare to make these programs more efficient, serve people better and save money because, if you want the Federal budget balanced, you have got to take a 1965 Medicare program, bring it up to 1995 standards. It has grown 11 percent. The private sector is at 3 and 4. You can actually serve people well without spending the amount of money we are spending up here, and you can balance the budget. If there is anybody out there who is not getting a student loan, call my office because it has got nothing to do with the $10 billion we saved.

Mr. KINGSTON. Mr. Speaker, let us quickly go over Medicare. I think that the hour is getting late and the time has about run out. Maybe starting with Mr. CHRYSLER, trustees, April 3, 1995, three of them are Clinton appointees, they say Medicare is going bankrupt in 7 years. What do you do?

Mr. CHRYSLER. In fact, it is going to start spending a billion more than it takes in, started really October 1, that just passed, this year. And so that is why we had to take immediate and decisive and effective action over that item.

Of course by 2002, it is totally bankrupt. You cannot take money from the general fund to fix it. You have to take money out of the trustees fund. That is the reason it was so terribly important. We need to act to preserve and protect and save the Medicare system, and that is exactly the action that was taken. We have done our homework on this much.

It is so important because I know, when I have talked to senior citizens and I have said, here is the system you have now, which is about a 1964 Blue Cross plan that has been codified into law, and this is what you will have under the better Medicare System. I call it the better Medicare System because, if you are not for the better Medicare System, then you must be for the worse Medicare System. But it is the better Medicare System. And when you show that to senior citizens and lay it out in front of them, 85 to 90 percent of them say, absolutely, let me at it. It is great. We only need to move about 14 percent in order to meet the CBO projections.

Mr. KINGSTON. There are some of those options that your parents and mine will be able to get under MedicarePlus.

Mr. HAYWORTH. Mr. Speaker, I think my friend from Michigan makes a very valid point here. The point we should make is that those 14 percent will not be compelled by some capricious action or the big hand of government upon their shoulder to be forced into any program. Quite the contrary, what makes this such a unique program is summed up in its name MedicarePlus. It provides choice.

The gentleman from Georgia alluded just moments ago, health maintenance organization. But really undergirding it all is this notion that I think is very important and we cannot mention it enough. If you like traditional Medicare, if you want to keep the System you have now, you can absolutely keep the current System. But if you would like to try a health maintenance organization and indeed with some of the current insurance, medigap insurance in Arizona, some seniors are absolutely enjoying and enthralled with some limited HMO coverage. If they have that opportunity, they get that. Also the notion of a medisave account so that seniors can have control of their health care dollar.

□ 2100

Just a couple of options, and time would not permit me to go much longer, being a veteran of television.

Mr. KINGSTON. If the gentleman would yield, then we will go through for a wrap-up, but we are running out of time.

Mr. GRAHAM, why do you not say something on Medisave accounts?

Mr. GRAHAM. I am glad you mentioned that. My aunt and uncle worked in the textile industry all their life. social Security is their chief source of income. They have a paper route where they make about $500 a month in addition to that. Medicare is their chief medical service. If they had the medical savings account option available to them, they would have saved over $6,000 in the last 3 years because of this. They pay $46 and a dime out of their check to go to part B premiums. That is what senior citizens pay for part B, the doctor portion of Medicare. They pay $120-something a month; excuse me, $220 a month, total for Medicare supplement policy. They have never in the last 3 years spent over $500 for doctor or hospital bills. They have been lucky, they have been healthy. Under the savings account plan they would not have paid the $46.10, they would not have to have the supplement policy. The Federal Government would have provided a sum of money around $5,000. They would have bought a $10,000 deductible catastrophic illness policy. There would have been some money left over in the account for their routine medical needs. That $220 a month they would not have to spend. In their case they would save $6,600 over the last 3 years if they had had that option.

Mr. KINGSTON. Gentlemen, any final words on Medicare or reconciliation?

Mr. HOKE. I guess the only thing that I would say, and I appreciate the question, is just that, as my colleagues know, one of the things that responsible legislators have to do is they have to look at the reality, they have to deal with reality, and then they have to deal with the reality in a way that will preserve a program that we believe in, and we clearly believe in the Medicare Program, and we will preserve it not only for today and this generation, but the next generation as well. That is exactly what we have done. it has been used politically against us because the opposition made the decision early on that this was some sort of an Achilles' heel.

I personally believe that we have been effective at letting the people know that this is a program that was going bankrupt, not according to us, but according to the President's own trustees, that the only responsible thing was to preserve it, to protect it and save it, and frankly, finally at the end of the day, to improve it for America's seniors. That is what we have stepped up to the plate to do. I do not know if we have done it perfectly, I am not saying we have done it perfectly, but we have done it responsibly, we have done it thoroughly, and in fact we have also taken the political risk of doing it at this time because you know what? If we did not do it, if we did not take that political risk, we would not be doing what the American people expect of us.

Mr. Speaker, I could not be more proud of what we have done with Medicare and, frankly, of the way that we have done that as a model for everything that we have been doing in this Congress in terms of being thoughtful, and responsible and reasonable in going about reshaping the Federal budget.

Mr. KINGSTON. Does the gentleman from Michigan have any closing comments?

Mr. CHRYSLER. Just again, from a real-world perspective, certainly I have in my company, I have medical saving accounts. Seventy-seven percent of my employees got back over a thousand dollars after the first year of operation, and it gives them total control over their health care dollars, and it brings that consumer back into the loop, which is what has been missing in health care in this country as doctors, and hospitals, insurance companies have taken over the health care field and where you and I, the consumer, do not even get a say, and this medical savings account program is one of the major breakthroughs that this Congress has passed, and I am just proud to be here with all of my freshman friends tonight to talk to the American people about that.

Mr. KINGSTON. The gentleman from Arizona?

Mr. HAYWORTH. Understand that we are profoundly changing the way this Government operates, not to hurt anyone, but to empower the American citizenry to help confront the next century. That is what we are doing through reconciliation. That is what we are doing in our 7-year goal to balance the budget. That is what we are doing by reducing the rate of growth, finding real savings, but not radical cuts. It is not what is radical, it is what is rational and reasonable, and it is what the new majority is doing.

Mr. KINGSTON. Mr. GRAHAM.

Mr. GRAHAM. I have options as a Congressman to choose from several health care plans. Senior citizens deserve the same thing. My aunt and uncle would have saved over $6,000 in a 3-year period if they had an option of creating this plan. You can spend less money from Washington, DC and still provide a quality of life better than it exists today if you use good business sense, and that is what has been missing, and we are going to use good business sense.

Mr. KINGSTON. Mr. Speaker, on behalf of the gentleman from Ohio [Mr. HOKE], the gentleman from South Carolina [Mr. GRAHAM], the gentleman from Arizona [Mr. HAYWORTH], and the gentleman from Michigan [Mr. CHRYSLER], this concludes our special order. The bottom line is in reconciliation: What is in it for the American people? Welfare reform, saving, and protecting, and preserving Medicare, Medicaid grants, a middle-class tax cut, medical savings account, but, above all, tackling the balanced budget and going after a budget that will even out after 7 years.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. GIBBONS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

Mrs. LOWEY, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

Ms. SLAUGHTER, for 5 minutes, today.

Mr. FARR, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. CHABOT, for 5 minutes, today.

Mr. BROWNBACK, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today.

Mr. FORBES, for 5 minutes, today.

Mr. STEARNS, for 5 minutes, today.

Mr. KING, for 5 minutes, today.

Mr. LAZIO of New York, for 5 minutes, today.

Mr. BARR, for 5 minutes, today.

Ms. ROS-LEHTINEN, for 5 minutes, on Nov. 1.

Mr. DELAY, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, today.

Mrs. MYRICK, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes each day, today and on November 2.

Mr. ROHRABACHER, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, today and on November 1.

Mr. LONGLEY, for 5 minutes, today.

Mr. MCINTOSH, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

Mr. GRAHAM, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes each day, today and November 1.

Mr. HUNTER, for 5 minutes, today.

Mr. JOHNSON of Texas, for 5 minutes, today.

Mr. CUNNINGHAM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mr. POSHARD.

Mr. WARD.

Mr. MILLER of California.

Mr. ROEMER.

Mr. TORRICELLI.

Mr. ORTIZ.

Mr. CONYERS.

Mr. COYNE.

Mr. GEJDENSON.

Ms. SLAUGHTER.

Mr. DOYLE.

Mr. LANTOS.

Mr. SERRANO.

Mr. LEVIN.

Mr. JACOBS.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. GALLEGLY.

Mr. COOLEY.

Mr. DUNCAN.

Mr. LIVINGSTON.

Mr. RADANOVICH.

Mr. PACKARD.

Mr. SOLOMON.

(The following Members (at the request of Mr. KINGSTON) and to include extraneous matter:)

Mr. BARCIA in two instances.

Mr. MCHUGH.

Mr. PASTOR.

Mr. NEY.

Mr. DOOLEY.

Mr. HAMILTON.

Mr. FOX of Pennsylvania.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 1, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1574. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the list of all reports issued or released in September 1995, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

1575. A letter from the Administrator, General Services Administration, transmitting the Administration's report on cost savings for official travel by Federal employees, pursuant to Public Law 103–355, section 6008(c) (108 Stat. 3367); to the Committee on Government Reform and Oversight.

1576. A letter from the President and CEO, Overseas Private Investment Corporation, transmitting the seventh annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1577. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1578. A letter from the Secretary of Transportation, transmitting the annual report on Transportation user fees, fiscal year 1994, pursuant to 45 U.S.C. 447(e); to the Committee on Transportation and Infrastructure.

1579. A letter from the Secretary of Transportation, transmitting the Department's biennial report entitled "Status of the Nation's Surface Transportation System: Conditions and Performance Report," pursuant to 49 U.S.C. 308(e)(1); to the Committee on Transportation and Infrastructure.

1580. A letter from the Under Secretary of Defense, transmitting notification of fund transfers authorized by sections 9006, 8006, and 8005 of the Department of Defense Appropriations Acts for fiscal year 1993, fiscal year 1994, and fiscal year 1995, respectively, and sections 1001, 1101, and 1001 of the Department of Defense Authorization Acts for those same years; jointly, to the Committees on Appropriations and National Security.

1581. A letter from the Inspector General, Railroad Retirement Board, transmitting the budget request for the Office of Inspector General, Railroad Retirement Board, for fiscal year 1997, pursuant to 45 U.S.C. 231f; jointly, to the Committees on Appropriations, Ways and Means, and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REGULA: Committee of conference. Conference report on H.R. 1977. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–300). Ordered to be printed.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 251. Resolution providing for consideration of the bill (H.R. 1833) to amend title 18, United States Code, to ban partial-birth abortions (Rept. 104–301). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 252. Resolution providing for consideration of the bill (H.R. 2546) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–302). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YOUNG of Alaska:

H.R. 2561. A bill to provide for an exchange of lands located near Gustavus, AK; to the Committee on Resources.

By Mr. STEARNS (for himself, Mr. English of Pennsylvania, Mr. Murtha, Mr. Towns, Mr. Quinn, Mr. McHugh, Mr. Paxon, Mr. Walsh, Mr. Houghton, Mr. Hancock, Mr. Boehlert, Mr. Frelinghuysen, Mr. Clinger, Mr. McHale, and Mr. Talent):

H.R. 2562. A bill to repeal section 210 of the Public Utility Regulatory Policies Act of 1978; to the Committee on Commerce.

By Mr. LONGLEY:

H.R. 2563. A bill to authorize certain operations of Canadian oil spill response and recovery vessels in waters of the United States; to the Committee on Transportation and Infrastructure.

By Mr. CANADY (for himself, Mr. Frank of Massachusetts, Mr. Shays, and Mr. McHale):

H.R. 2564. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Rules, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HORN (for himself, Mr. Inglis of South Carolina, and Mrs. Smith of Washington):

H.R. 2565. A bill to amend the Federal Election Campaign Act of 1971 to ban activities of political action committees in House of Representatives elections and for other purposes; to the Committee on House Oversight.

By Mrs. SMITH of Washington (for herself, Mr. Meehan, Mr. Shays, Mr. Minge, Mrs. Roukema, Mr. Bereuter, Mr. Poshard, Mr. Cardin, Mr. Leach, Mr. Horn, Mr. Inglis of South Carolina, and Mr. Forbes):

H.R. 2566. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on House Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. Stockman and Mr. Blute.

H.R. 228: Mr. Stupak.

H.R. 325: Mr. Boehlert.

H.R. 789: Mr. Watts of Oklahoma.

H.R. 891: Ms. Norton and Mr. Hilliard.

H.R. 911: Mr. Foley, Mr. Durbin, Mr. Hoke, Mr. Talent, Mr. Poshard, and Mr. Frazer.

H.R. 941: Mr. DeFazio.

H.R. 958: Mr. Matsui, Mr. Traficant, Mr. Cramer, Mr. Torkildsen, Ms. Roybal-Allard, Mr. Lazio of New York, Mr. Durbin, and Mr. Torres.

H.R. 963: Mr. Rose and Mr. Hoke.

H.R. 969: Mr. Ackerman.

H.R. 1619: Mr. Kasich.

H.R. 1690: Mr. Matsui, Mr. English of Pennsylvania, Mr. Sam Johnson, Mr. Zimmer, Mr. Stupak, and Mr. Engel.

H.R. 1733: Mr. Smith of Texas, Mrs. Lowey, and Mr. Hinchey.

H.R. 1748: Mrs. Thurman.

H.R. 1947: Mr. Shays.

H.R. 1955: Mrs. Thurman.

H.R. 2019: Mr. Bonilla and Mr. Burton of Indiana.

H.R. 2024: Mr. Greenwood and Mr. Lightfoot.

H.R. 2071: Mr. Matsui.

H.R. 2098: Mr. Salmon, Mr. Hutchinson, Mr. English of Pennsylvania, and Mr. Greenwood.

H.R. 2166: Mr. Stockman, Mr. Luther, Mrs. Chenoweth, and Ms. Kaptur.

H.R. 2190: Mr. Klink, Mr. Salmon, Mr. Royce, Mr. Cremeans, Mrs. Myrick, and Mr. Quillen.

H.R. 2240: Mr. Payne of New Jersey.

H.R. 2276: Mr. Franks of New Jersey and Mr. Brewster.

H.R. 2416: Mr. Ramstad, Ms. Molinari, Mr. Fox of Pennsylvania, Mr. Hilleary, Mr. Lipinski, and Mr. Foley.

H.R. 2420: Mr. Frost, Mr. Fattah, Mr. Ackerman, Mr. Manton, and Mr. Towns.

H.R. 2472: Mr. Diaz-Balart, Mrs. Roukema, and Mr. Torres.

H.R. 2476: Mr. Barrett of Wisconsin and Mr. Gene Green of Texas.

H.R. 2506: Mr. Payne of Virginia and Mr. Durbin.

H.R. 2535: Mr. Jones, Mr. Funderburk, Mrs. Chenoweth, Mr. Baker of California, Mr. Pombo, and Mr. Bono.

H.R. 2540: Mr. Dornan, Mr. Barr of Georgia, Mr. Salmon, Mr. Bunn of Oregon, Mr. Traficant, Mr. Burton of Indiana, Mr. Bartlett of Maryland, Mr. Mica, Mr. Doolittle, Mr. Herger, Mr. Bryant of Tennessee, Mr. Taylor of North Carolina, Mr. Duncan, and Mr. Pombo.

H.J. Res. 114: Mr. Jacobs.

H. Con. Res. 50: Ms. Furse.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 359: Mr. Poshard.

PETITIONS, ETC.

Under clause 1 of rule XXII,

45. The SPEAKER presented a petition of the Syracuse Common Council, Syracuse, NY, relative to the Low Income Housing Tax Credit Program; which was referred to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

CALLS WAITING

HON. WES COOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. COOLEY. Mr. Speaker, the telecommunications industry is undergoing tremendous change. The advent of new technology has brought both new opportunities, and new anxieties, to millions of Americans.

Recognizing the tremendous shift in telecommunications, the U.S. Congress is on the verge of passing sweeping legislation which would free companies from years of stifling government regulation. Although I applaud these efforts, we must be cautious not to assume that fair and open competition will be the immediate result.

So that we may all be more aware of the potential difficulties in transitioning to an open market, I commend to you an article recently printed in the Wall Street Journal. This article should force us to approach the question of telecommunications deregulation cautiously, and with the proper consideration to the hundreds of thousands of Americans who rely on a vibrant, competitive communications industry for their livelihood.

[From the Wall Street Journal, Oct. 24, 1995]

CALLS WAITING: RIVALS ARE HUNG UP ON BABY BELLS' CONTROL OVER LOCAL MARKETS

(By Leslie Cauley)

GRAND RAPIDS, MI.—The color-coded maps pinned to office walls tell the story of US Signal Corp., which has struggled for more than a year to get a toehold in the local telephone market here.

"This is where we are," says Martin Clift, US Signal's director of regulatory affairs, as he points to a small patch of yellow covering 10 downtown blocks. "This is where we want to be," he adds as he motions to the entire 238-square-mile service area. "But they won't let us."

"They" are executives at Ameritech Corp., the Chicago-based regional Bell that holds a monopoly on service here in US Signal's hometown. US Signal says Ameritech has fought nearly every step of the way as the upstart tries to expand into this community of 500,000 in the heart of Ameritech territory.

US Signal hoped to cover half the city by now, but has been able to lease only about 1,700 of the thousands of lines it wants from Ameritech. For most of the past year, the Baby Bell has refused to let it branch out unless US Signal installs expensive gear US Signal says it doesn't need. The smaller rival accuses Ameritech of dragging its feet in processing orders, trying to levy bogus fees and refusing to refund $240,000 for services it never provided. The bickering has cost US Signal more than $1 million in legal fees—far more than the revenue it gets in the market. US Signal Executive Vice President Brad Evans says: "We are at the end of our rope."

Ameritech denies that it has treated US Signal unfairly.

ARSENAL OF TACTICS

More than a decade after the federal government broke up the old AT&T empire, spinning off the seven Baby Bells to end anticompetitive, behavior, the Bells employ an arsenal of tactics to keep competitors at bay. Rivals say the Bells have stalled negotiations, imposed arbitrary fees and set Byzantine technical requirements that jack up costs and cut profits.

"They can virtually make competitors' lives hell," says Terrence Barnich, formerly the top telephone regulator in Ameritech's home state of Illinois.

The Bells insist they play fair and say they have an obligation to protect their shareholders and the huge investments in their networks. While rivals often target only the most lucrative customers, the Bells alone have the responsibility to provide service for everyone, even the poorest and most hard-to-reach customers. It is critical, therefore, that new regulations don't unfairly favor newcomers merely for sake of encouraging competition, they say. "We don't believe standing up for fair rules is anticompetitive," says Thomas Reiman, an Ameritech senior vice president.

RACE TO DEREGULATE

Now Congress is racing to deregulate the nation's telecommunications markets. Bills have cleared the House and Senate, and a conference committee is hammering out joint legislation. Passing a new law will be the easy part. Unraveling the government-sanctioned local monopolies—and ensuring that the Bells play by the rules—will be far more difficult.

"It will be extremely messy," says Eli Noam, director of the Institute of Tele-Information at Columbia University in New York. "It will take a long time for a new competitive equilibrium to be reached—if ever."

Congress wants to let the Bells enter the lucrative long-distance business after they meet a "checklist" showing their local markets are open to competition. Yet local service still provides more than 90% of their combined annual profits. Rivals fear the Bells will exploit vagueness in the legislation (what constitutes "fair" pricing and "timely" negotiations?) to protect their turf.

Ameritech, which serves a five-state region in the Midwest, takes pride in being the first Bell to embrace opening up the local monopoly. Its "Customers First" plan, unveiled two years ago, hailed "a fully competitive communications marketplace." It embodied the basic Bell pitch to Washington: We will let rivals in—if you let us into long distance. The Bells were banned from that market under the terms of the 1984 AT&T split-up.

NEGOTIATING PLOY

But US Signal and other competitors say Ameritech fails to live up to its Customers First plan. The Baby Bell says it has treated US Signal fairly and rejects assertions that it drags out negotiations or hinders rivals. It says it tries to accommodate them as best as it can and that most complaints are a negotiating ploy.

"There are fundamental issues on which we aren't going to lie down and die, just for fear of being branded as anticompetitve," says Ameritech's Mr. Reiman. Steve Nowick, president of its long-distance unit, says rivals expect the Baby Bell to juggle "27 variations" of the same request. "There is a lot of complexity here. We're dancing as fast as we can."

Ameritech has abundant company in the litany of complaints lodged against the Bells. For example:

Nynex Corp. last year touted itself as the first Bell to sign a contract letting a competitor hook up directly to its network. But last week the rival, Teleport Communications Group, asked New York state regulators to "investigate Nynex's attempt to stifle local telephone competition." The pact was supposed to be implemented within 60 days. Sixteen months later, most of the terms still haven't gone into effect.

Nynex denies the charges and accuses Teleport of "grandstanding." It also says the rival is behind in paying its bills, which Teleport denies.

US West Inc. of Denver tried to convince a rival—believed to be AT&T—that they should avoid each other's markets, a lawsuit in Delaware Chancery Court alleges. US West denies the charge, leveled two weeks ago by its partner-turned-adversary, Time Warner Inc. AT&T declines to comment.

In a complaint filed with the Justice Department this month, LCI International Inc., of Reston, Va., says US West shut off service to 4,000 LCI customers in the Denver area, prompting 24% of them to cancel. It says US West hurt LCI in several markets by failing to provide services as promised. When some customers called US West to complain, they were told LCI had gone belly-up, the complaint says.

US West concedes that "errors occurred" but says they were inadvertent.

SBC Communications Inc., the San Antonio-based Bell, charges huge markups when selling network equipment to rivals, MFS Communications Co. of Omaha, Neb., contends. Other Bells let rivals buy gear elsewhere and pay the Bell to install it. SBC requires that they buy from SBC. It charges $137,000 for a pair of "multiplexers" that usually cost $67,000; and $21,000 for running a cable that typically cost $900, MFS claims.

SBC says it marks up prices by 25% at most, as allowed by federal rules. It declines to release any specifics and says its rates are confidential.

UNEQUALED POWER

Conflicts with the Baby Bells, however, underscore the unequaled power the Bells have in dealing with rivals. The Bells still lock up 98% of local revenues in their regions. That stems from their control over millions of phone lines that reach into homes and businesses—an infrastructure that took $100 billion and most of the 20th century to put in place.

For new entrants, duplicating these "local loops" that run from Bell switching centers to customer sites would be financially impossible. So they try to lease Bell lines at "fair" rates, count on the Bells for seamless technical links and access to switching sites, and depend on them to fix things when service goes down.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

That sparks clashes on seemingly small items. Teleport, which serves business customers, accuses Nynex of hoarding phone numbers. In a complaint to the Federal Communications Commission last week, Teleport, of Staten Island, N.Y., says it asked the Bell for 60,000 numbers in Manhattan's 212 area code but got just 20,000. Some big accounts can use 5,000 at a crack. It sought an additional 20,000 numbers in the Bronx but says Nynex refused to provide them until Teleport installs an unneeded switch at Nynex's Bronx site.

Nynex's director of regulatory planning, Larry Chu, questions whether Teleport "really needs" 60,000 numbers in Manhattan. He says the Bronx incident was a "misunderstanding."

INTERCONNECT TO NETWORK

If a newcomer wants to sidestep Bell lines and partner up with, say, the local cable-TV system, it still must "interconnect" to the Bell network so calls can go through. In negotiating interconnection agreements, rivals say the Bells often drag out the talks to thwart them. Only a few deals have been reached.

Most Bells won't let rivals near their own equipment once it is installed, unless they have a Bell escort. That adds to rivals' expenses and ensures that the Bells know exactly what the newcomers are up to.

When a Bell installs a rival's gear, it charges rent for the space the electronic boxes occupy. The fees "can be more expensive than a penthouse at Trump Tower," quips Andrew Lipman, an MFS senior vice president. Setting up in a 10-by-10 foot space, cordoned off with chain-link fencing, can run $60,000 up front, plus charges for power, cabling and rent that can add up to $2,000 a month.

Once inside, rivals don't exactly get the welcome mat. Bell Atlantic Corp. employees in Philadelphia once refused to let MFS workers use the restrooms because they weren't required to by the FCC. "To us, that epitomized the kind of obstacles we face every day," MFS's Mr. Lipman says.

Bell Atlantic spokesman Eric Rabe responds: "I'm sure when Wendy's shows up next to McDonald's, they don't exactly roll out the red carpet. That's the nature of competition." He says the company is getting better at working with rivals.

AT&T IN CHICAGO

Even giants haven't fared well in negotiating with the Bells. AT&T, one of the world's most powerful telecommunications companies, has been trying to break into the Chicago market under Ameritech's Customers First plan since last spring, to no avail.

AT&T says Ameritech won't disclose where "conduit space" is available for AT&T to install new lines, thereby hindering AT&T in designing its network. The long-distance giant has resorted to having its engineers walk the streets, peeking under manhole covers to find the space.

Although AT&T had hoped to launch local service later this fall, it now says it doesn't know when it will proceed.

"This process just hasn't worked," says William Clossey, an AT&T regional vice president.

Tom Hester, Ameritech's general counsel, says of AT&T: "Here they are, one of the world's largest corporations with a tin cup expecting us to fill it up."

US Signal had hoped to avoid such experiences in Grand Rapids. Local entrepreneur Ron VanderPol founded the closely held company in 1983, aiming to get into long distance in the wake of the AT&T split. US Signal now derives about $80 million a year in long distance, mostly in Ameritech's region. It figured its hometown would be the perfect place for getting started in local service.

The city ostensibly was one of the nation's most open local phone markets. A 1992 state law—supported by Ameritech—required local phone companies to let rivals hook up to their networks.

MAJOR HURDLES

US Signal filed for state approval as a local carrier in April 1994 and planned to offer service by the fall. But after US Signal's first meeting with Ameritech later that month, "we knew we had major hurdles," US Signal's Mr. Clift says.

The Bell balked at leasing out any of its phone lines, depriving US Signal of a way to reach customers.

Ameritech negotiators also wanted to charge US Signal $4.40 per name to list customer phone numbers in Ameritech directories. Yet US Signal says the Bell pays phone companies in adjacent areas 30 cents apiece to list the other companies' customers' numbers.

US Signal also says Ameritech refused to refund $240,000 that it had paid it to install gear in five switching sites. The gear was never put into place. Ameritech says it spent the money preparing the sites, then decided against installing the equipment. It did so after a federal appeals court in Washington struck down FCC rules ordering the Bells to let rivals install and maintain their own gear.

In August 1994, US Signal formally complained to Michigan regulators. In February, regulators ordered Ameritech to file new prices and terms for interconnection agreements.

Ameritech did—five times in the succeeding eight months. State officials rejected all of the proposals. A sixth attempt, filed this month, is under review. Representatives of the Michigan Public Service Commission say Ameritech tried to set exorbitant prices, dictate how rivals must set up their networks, and impose charges the state doesn't allow.

For example, Ameritech proposed charging rivals $20.37 a month plus 8.2 cents a call for a customer who wanted to leave Ameritech but hold on to the old phone number.

Regulators ordered Ameritech to reduce that monthly fee to about a dollar.

After pressure from state officials, US Signal says Ameritech made a new offer: Set up your network the way you want, but we will lease you only 96 lines per switching site—instead of the thousands per site that US Signal wanted. Do it our way, Ameritech said, and you will get as many lines as you want. "We just couldn't possibly believe they were serious," Mr. Clift says. "But they were."

TRIAL BASIS

This month, Ameritech backed down a bit. It dropped its demand for extra fees for directory listings. The Bell also agreed to lease all the lines US Signal wanted, regardless of how US Signal set up the network. Just one catch: This will be on only a six-month trial basis, leaving the Bell free to rescind the deal next year.

Two weeks ago, Ameritech filed a motion in the Michigan court of appeals, challenging the authority of regulators and legislators to force the Bell to open up its network. That seems to fly in the face of the company's self-styled image as a crusader for competition in the local phone business. "I don't really understand it," says Mat Dunaskiss, a state senator who helped draft the open-market law. He calls the Bell's action "a step backward."

Ameritech says it filed because it felt regulators "went beyond their authority" in ordering the Bell to provide rivals with connections that Ameritech says are priced below its costs. But Ameritech says it still supports "full and fair competition."

US Signal argues otherwise. One day earlier this month, the tiny rival was besieged with complaints from dozens of customers who kept getting rapid busy signals when they dialed. Engineers checked the system and concluded that Ameritech hadn't set up enough lines to handle the calls.

Mr. Clift says Ameritech readily conceded its error and took care of the problem, which Ameritech says also affected its customers that day.

Customers are beginning to blame US Signal for the foul-ups, even though the company has no control over such matters. "Customers say it's our fault, and let us know they never had these problems with Ameritech," says Mr. Clift, who worries some will make good on their threat to go back to the Bell.

"They haven't left us yet," he says with a sigh. "But they're threatening."

JACK LASKOWSKI, A TRUE LEADER

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. BARCIA. Mr. Speaker, many of us know how important the labor movement has been for the improvement of working conditions and fair compensation for millions of Americans. None of this would have happened if it had not been for tireless, visionary individuals who were willing to work on behalf of their coworkers. Jack Laskowski, the current director of UAW region 1D, has been such an individual who was honored for his dedication at an event last Friday.

Jack has been a member of UAW Local 362 since 1958 when he started to work at General Motors's CPC Powertrain plant in Bay City. He followed on the traditions established by his father, Walter "Bullet" Laskowski, who took part in the UAW's first strike at the Chevrolet plant in Bay City in 1936, which led to the formation of Local 362.

Since 1958, Jack has served as a member of the bargaining committee, chaired by his father. He also was a benefit plans representative and editor of the local paper until he joined the staff of the international union. Jack served on the staff of 1D since 1971, and then became the assistant director in June, 1986, and finally director on June 17, 1992. He has been a vital component of labor's presence in Saginaw, Bay City, and the northern portion of Michigan's lower peninsula.

Jack's involvement in matters affecting people extend beyond his activities in the UAW. He has served as a member of organizations like the NAACP and the Coalition of Labor Union Women. He served a 3-year term as a city commissioner of Bay City. He has throughout his adult life been active in the Democratic party, including his current membership of the Kent County Democratic Party Executive Committee.

He and his wife Sally also raised three wonderful sons, Greg, Tim, and Mike, who have become a bilingual special education teacher, a director of labor at Occupational Health Care, and another generation of GM worker and member of UAW Local 2031, respectively.

I have had the good fortune to know Jack personally for many years. I consider him to be a friend, a capable advisor, and someone I am proud to know. Now, he is going to join the UAW leadership at Solidarity House as a vice president for the UAW. His dedication and devotion will be applied for even a broader range of UAW members.

Mr. Speaker, in recognition of a career of devotion and a lifetime of leadership, I urge you and all of our colleagues to join me in wishing Jack Laskowski the very best in his new position, and thank him for his years of service on behalf of his brothers and sisters with the United Auto Workers.

A SPECIAL THANK YOU TO CLYDE LEWIS

HON. JOHN M. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. MCHUGH. Mr. Speaker, it is my privilege to pay tribute to Clyde Lewis of Plattsburgh, NY, one of the most outstanding patriots of the 24th District of New York and perhaps our Nation.

The residents of northern New York and leaders throughout the Air Force know Mr. Lewis as the Father of Plattsburgh Air Force Base. Mr. Lewis was instrumental in bringing the Air Force to Plattsburgh and over the years helped make Plattsburgh Air Force Base the best of the best. He has also helped the community endure the recent closing of Plattsburgh Air Force Base with grace, pride, and dignity.

Mr. Lewis formed the original Air Base Liaison Commission in July 1952. Its purpose was to represent Plattsburgh and help establish an Air Force based in the area. The commission succeeded in bringing the air base to Plattsburgh and on January 29, 1954, groundbreaking ceremonies were held. While the Air Base Liaison Commission changed its name to the Air Base Liaison Committee in 1958, its duties and firm support of the Air Force did not change. As chairman of the commission and committee, Mr. Lewis committed steadfast support for the men and women of the Air Force and their mission at Plattsburgh.

Mr. Lewis understood that Plattsburgh Air Force Base would be key to a strong national defense and that support from the community would be crucial to the success of the mission as well. Mr. Lewis, himself, had a long and distinguished career in the military. During World War II, he enlisted in the Army Air Force and was appointed an aviation cadet. He earned his wings and was commissioned in March 1943 and served two tours less one mission with the 401st Bomb Group of the 8th Air Force. Mr. Lewis served successively as a flight commander, operations officer and B–17 squadron commander.

Mr. Lewis received numerous honors throughout his military career, including the Distinguished Flying Cross with two oak leaf clusters, the Air Medal with seven oak leaf clusters, the Distinguished Unit Citation with one oak leaf cluster, France's Croix de Guerre with palm and the European Theater of Operations Campaign Medal with six battle stars.

Mr. Lewis has also been involved in numerous civic activities and professional organizations. In 1948 the New York Chamber of Commerce honored him as Outstanding Young Man of the Year and in 1949 he was named National Commander in Chief of the Veterans of Foreign Wars, the first World War II veteran to serve in that position. He continues to be active in the VFW on the national level. He served as chairman of the Plattsburgh Air Base Liaison Commission from 1952 to 1959 and from 1959 on, he served as chairman of the Air Base Liaison Committee. In 1975 Mr. Lewis participated in the National Security Forum, Air War College and in 1978 the Department of Defense Joint Civilian Orientation Conference. He is a member of the Elks Club, Knights of Columbus, and the U.S. Strategic Institute and Defense Orientation Conference. He is also a member of the Clinton County, New York State, and American Bar Associations.

Mr. Speaker, Clyde Lewis is an inspiration to every American. He is a true leader and an example to each and every one of us of what can be accomplished with persistence, faith and dedication. And for all that he has done, and will continue to do, we owe him a great debt of gratitude.

HONORING AMERICAN LEGION TONY F. SOZA POST 41

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. PASTOR. Mr. Speaker, I rise today to salute the American Legion Tony F. Soza Post 41 in Phoenix, AZ, on the occasion of its 50th anniversary and its history of service to the community. Since its original pledge at the inception of Post 41, originally named Thunderbird Post 41, to serve the disabled, the distressed, the widowed, and the orphaned, it has dutifully served those groups and far exceeded its mission. Post 41 has gone on to fund services and charities and provide a home for many organizations. It also has helped organize projects for the betterment of the Phoenix community.

In October 1945, Post 41 was organized with a membership of only 16 dedicated veterans. Largely, the founding group was of Hispanic descent due to geographical and cultural circumstances. By November of that year, it received its charter. The post's first Commander, Ray Martinez, soon asked some prominent citizens to serve as an advisory committee and began lobbying for the property to build the post's home. Soon, construction of the post was finished and, with patriotism and dedication in their hearts and souls, the group moved on to other goals.

They saw a great need for a baby clinic and in 1948, they set out to build one. It was the first baby clinic in the community. Post 41 also made commitments to children and youth programs like high school oratorical competitions, baseball, Boys State, scholarship and school awards, Scouting, flag education, emergency assistance, and community service. They made holiday baskets for needy families and took on a city bond campaign to fund parks and recreation programs to help combat juvenile delinquency.

And the post continued to grow. In 1957, it constructed the Rhonda Room, exclusively for members, which quickly became a popular gathering place for veterans and their families and friends. In 1961, it dedicated the Frank Fuentes Hall, a spacious hall with a separate bar and stage. The post also became a local meeting place for other organizations such as the Unit 41 Women's Auxiliary, the Airborne Luciano Maldonado Chapter, the American GI Forum, and the Vietnam Veterans organization.

In 1990, the post built a new kitchen, dining room, and auxiliary quarters and since then, remodeling and new additions have enhanced the building and its services to its membership of more than 1,000 veterans.

Throughout its history, Post 41 has undertaken huge and numerous tasks and accomplished them proudly. The organization has earned prestige and honor over the decades and earned an unparalleled reputation in the annals of American Legion history throughout the State of Arizona. Although most of its founding fathers have gone the way of old soldiers, they have left behind a strong inspiration that proudly drives the current members in their ongoing mission to serve their community.

I am proud of the accomplishments of the American Legion Tony F. Soza Post 41 and for these reasons I hope that my colleagues join me today in wishing the post the very best in its continued service to veterans and the community.

MAKING CHILDREN'S DREAMS COME TRUE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. ROEMER. Mr. Speaker, I rise today to speak out on behalf of a truly wonderful organization, the Children's Wish Foundation International. I cannot think of a cause more noble than the desire to grant a wish to a fatally ill child. We all look back on our childhood, reminiscing over happy, sad, and exciting events that helped shape the individuals we are today.

There are thousands of children who never reach their 18th birthday; they never have the opportunity to look back on their childhood. Often times their only memories are of chemotherapy, doctor visits, and hospital stays. The Children's Wish Foundation gives these children something to look forward to, a dream come true, a special event or gift to brighten their days.

The tragic loss of our innocent youth is not restricted to the United States alone. Many countries around the globe are coping with the loss of their children. The Children's Wish Foundation would like to recognize the courage of these young children and the volunteers who help make their dreams come true by designating November 26 to December 2 as International Children's Wish Week.

Mr. Speaker, I encourage this body to provide its full support for this endeavor. It is unfortunate to lose a life at such a young age, one full of promise and potential; but even sadder when an opportunity to bring a smile and a special memory to one of these children is missed.

I am blessed with two healthy boys. Not all parents are so fortunate. I know that if there was one specific wish my child dreamed of, I would do everything in my power to make sure that wish came true. The Children's Wish Foundation International assists parents in fulfilling a dream, no matter how large or small, from buying pink hair ribbons for a little girl who is waiting for her hair to grow back after chemotherapy or sending a little boy to Disney Land to meet Mickey Mouse.

I would like to commend the Children's Wish Foundation on its heartwarming work on behalf of those children and families who need it most. I am certain that the memories made through the granting of each child's unique wish will be ones the families hold close to their hearts for the rest of their lives.

TRIBUTE TO SUE SELLORS FINLEY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. ORTIZ. Mr. Speaker, it is with a heavy heart that I rise today to pay tribute to a pillar in my community, Sue Sellors Finley, of Corpus Christi, TX, who died far too soon at the age of only 57.

It is often said that the measure of one's life is noted in the number of lives they influence. If that is the case, the measure of Sue Finley's life is enormous—and her legacy of enriching the lives of young artists in the Coastal Bend is abundant. For more than a decade, Sue worked at Del Mar College in Corpus Christi enhancing the lives of students in the drama department. She literally built up the drama department at Del Mar—set by set, play by play, and class by class.

Under her stewardship, Del Mar had the first season of theater in over two decades, beginning in 1986. The next year, she accepted a full time teaching position as an assistant professor and coordinator of drama. She left us a host of achievements to enjoy and by which to remember her. She founded the Del Mar Mime Crew in 1977, in addition to the annual summer Shakespeare Fest.

In 1986, the college decided to build a new fine arts center and Sue led a delegation of architects to leading theaters across the United States to obtain design ideas. The result of her efforts is the Nell Tribble Bartlett Theater at Del Mar University. The University recently established a scholarship in her honor, the Sue Sellors Finley Endowed Theater Arts Scholarship, created with a $50,000 anonymous donation, making it the largest endowment in drama at the college. This scholarship is a fitting legacy to Sue's love of dramatic arts.

In the course of her short but very full life, Sue's vast array of accomplishments and talent gained great notoriety. In the 1960's, she was renowned in Dallas for her work in "Little Mary Sunshine," and was awarded the Dallas Entertainment Award for best comedienne. She won a Sammy award for best actress for her performance in "Legendary Ladies of Texas," a one-woman, original production. Just this year, she was awarded the YMCA Careers Award honoring her years as a pioneering educator, director, and actress.

Easily, her best and proudest productions are her children, Valerie and Buck. She is survived by her children and her husband, George, who shared her victories and her humor. Mr. Speaker, my community has lost an artistic giant, and I ask that you join me in commemorating her accomplishments here today.

ESSAY BY JOSHUA BARRETT GREEN

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. COYNE. Mr. Speaker, I would like to share with the Members of the House the experience of one recent graduate of the House Page Program. I include the essay at this point in the RECORD.

PERSONAL STATEMENT

(By Joshua Barrett Green)

During the summer of 1995, I had the honor of serving as a page in the United States House of Representatives. This unique experience provided me with an unparalleled opportunity to live in a community of my peers and work in the paradigm of democratic government. Through the valuable friendships I made and the many debates I witnessed, I gained an understanding of America's diversity, a definite respect for our government, and, indeed, a sense of clarity in my own ambitions.

The Congress of the United States is representative in structure to ensure that the diversity of American society is reflected in its government. Just as diversity is evident in the representatives, so too was that same diversity evident in my fellow pages. Issues, such as farmers' subsidies, illegal immigration, and teen pregnancy, to which I had previously given no thought, suddenly became real to me through the concerns of my new friends who brought together the views of their respective communities and, collectively, the diverse views of this nation.

One common misconception regarding modern day politicians relates to their work ethic: they are considered to be lazy. I learned, quite to the contrary, that they are extremely hardworking. One specific example can be found through examination of the Congressional Record for June 28, 1995: this verbatim account of Congressional activity does not record the conclusion of daily business. In fact, there was no conclusion. The House was in session from 9:00 A.M., June 28, until 9:00 P.M., June 29: thirty-six hours straight. Being one of the two pages responsible for the bell system which alerts Congressmen of votes, I was required to be present for the first twenty-four hours. In the debates of that grueling night, I recognized a beauty in the American political system: Congressmen who collectively respect the institution of representation, through their integrity, serve to ensure that each individual will be heard.

Despite friends' predictions of my disillusionment with modern government through my witnessing of back-room political dealings, I was, in fact, impressed by the dignity of public service. What most believe to be corrupting of principles in government, I now recognize as the compromise of individual interests for those of the common good. I am now, thus, firmly committed to service through government, and I plan to be a leader in the government of future generations.

Though representatives are transient as they are voted in and out of office, Congress is not. For two hundred years, Congress has been the center of America's democratic system of government and, despite the rampant skepticism which pervades today's society, the United States House of Representatives retains its nobility of character and preserves the diversity of the American people. By seizing the opportunity to explore the government from within as a page, I learned about this country, I learned about democracy, and I learned about myself.

AWKA, NIGERIA—NEW SISTER CITY OF SAGINAW, MICHIGAN

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. BARCIA. Mr. Speaker, I rise today to call attention to the new sister city partnership that is being established between Saginaw, MI, within my congressional district, and Awka, Nigeria. I want to welcome the visiting officials including His Royal Highness Chief Ikwe P. N. Anugwu, traditional ruler of Mbaukwa, and Chief Alex Ekwieme, former vice president of the Federal Republic of Nigeria.

Sister cities programs are familiar to many of us who appreciate the cultural bounty and value in having one of our communities establish a relationship with another community outside of the United States. The diversity of experiences, the history and richness of each other's traditions, and the feeling of partnership create a new tradition for both communities that enriches both communities equally.

I am particularly happy for the young people of both Saginaw and Awka who now will have the opportunity to learn more about each other, developing understandings of and appreciations for each other that will help mold their abilities to be leaders in the future. Already several young people from Saginaw have experienced the wonders of traveling to another country, coming back feeling as if they have been treated as very special people, a feeling that will be with these young ambassadors for the rest of their lives.

Two visits to Nigeria this year by officials of Saginaw and our young ambassadors have helped to pave the way for the sister city signing ceremony that will soon be held. Efforts to establish partnership programs that will have real impact on the lives of people in both Saginaw and Awka are underway. Affiliations between universities in both areas, including Saginaw Valley State University, will also have lasting value.

Mr. Speaker, at a time when we need to have greater understandings of diverse cultures and ways of life, at a time when we want our young people to be informed and see their intellectual capabilities grow, programs like Sister Cities are more important than ever before. I urge you and all of our colleagues to join me in wishing Saginaw and Awka a successful partnership, and offer the warmest welcome to our new friends from Nigeria.

CONGRATULATIONS TO ST. MARY'S SCHOOL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. POSHARD. Mr. Speaker, I rise today to congratulate St. Mary's School in Mattoon, IL. St. Mary's has been named the 1995 State Champion of Illinois for the President's Council on Physical Fitness and Sports.

In this nationally recognized competition, St. Mary's finished as the top school in Illinois with enrollments between 101 and 500 students. In fact, St. Mary's performance during the 1993–94 school year, in which 62.4 percent of students performed at the 85th percentile rank, was the best among all Illinois schools.

St. Mary's commitment to excellence in physical fitness is known throughout the community. Mr. Speaker, Mike Martin, a local conservation officer, volunteers his time to ensure that St. Mary's School has a physical education program on Monday and Friday mornings. Mr. Martin has not only invested his time, but has also built an obstacle course and weights, out of plaster of Paris and tin cans, so that the students can be in their best possible physical condition.

Mr. Speaker, on Friday, Nov. 3, 1995 these award winning students will be officially recognized for their exceptional performance in four areas: A 1 mile run/walk, which builds heart and lung endurance; curl-ups, which strengthen the abdomen; a sit and reach stretch to flex muscles; pull-ups for upper body strength; and a shuttle run for agility. I am proud to join with the parents, teachers, and friends of these outstanding young people in congratulating them on making physical fitness a priority.

TRIBUTE TO SETON HALL UNIVERSITY AND UNIVERSITY INTERNATIONAL BUSINESS AND ECONOMICS

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. TORRICELLI. Mr. Speaker, I rise today to pay tribute to two educational institutions. On October 24, 1995, Seton Hall University of South Orange, NJ, and the University International Business and Economics of Beijing, China [UIBE], recognized the importance of their 15-year-long collaboration.

Fifteen years ago, Seton Hall and UIBE organized a joint venture which facilitated the opening of China and led to followup investments by several American-based companies. This is the 15th anniversary of the delegation which started this joint venture.

These two schools confirm their commitment to continue and improve this mutually beneficial relationship. Their bond is based on their common desire to foster a better understanding of the cultural and business environment of the United States and of the People's Republic of China.

Through the continuation of their established faculty and student activism, Seton Hall University and the University of International Business and Economics will continue to dedicate themselves to new initiatives that are responsive to the needs of the global community in the 21st century.

I congratulate both entities on their commitment to promoting a program which involves culture and education, and that has contributed to the success of American-based business overseas.

TRIBUTE TO THE AMERICAN SOCIETY OF RADIOLOGIC TECHNOLOGISTS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. DUNCAN. Mr. Speaker, I rise today to pay respect to a medical association that most of us know very little about, but rely on every day when we walk into a hospital or medical clinic for diagnosis of an injury or treatment for cancer. This society has existed for 75 years with most of us taking for granted the fine professionals who are committed to the safety of patients receiving x rays, ultrasound, and radiopharmaceuticals. Therefore, it seems befitting in this centennial year of the discovery of the x ray that we pay tribute to these radiologic technologists, therapists, and sonographers.

1995 commemorates the 100th anniversary of the discovery of the x ray by Wilhelm Conrad Roentgen and celebrates the 75th year of the oldest radiologic technologist society in the world. Roentgen's discovery revolutionized medicine allowing doctors to view the inner workings of the human body like never before. The American Society of Radiologic Technologists was the first to establish professional standards for radiologic technologists performing x rays, emphasizing quality techniques and radiation protection for both patient and technologist.

With more than 200,000 radiologic technology professionals nationwide, the American Society of Radiologic Technologists is on the forefront in promoting patient safety and technologist education. Society founder, Ed Jerman, brought together 13 technologists in 1920 to form an association that would advance the profession and the technologists working in radiologic technology. His dedication to professionalism and service remains the foundation of the society.

Technologists, therapists, and sonographers operate the equipment and deal directly with patients to produce the images that physicians use to diagnose and develop treatment plans. Radiologic technologists' skill and professionalism in performing exams influences the quality of patient health care from excellent images, to accurate diagnosis and treatment, to effective follow up.

For 75 years the ASRT has responded to the issues challenging radiologic technologists and the profession. Ed Jerman was the first to standardize radiographic techniques in the 1920's. The ASRT helped establish uniform educational and accreditation standards in the 1950's. The testimony of the ASRT's leaders assisted in the passage of the Consumer-Patient Radiation Health and Safety Act in 1981. Today, the society continues to promote radiation safety by supporting licensure at the State level and continuing education for all radiologic technologists. The ASRT's dedication to high standards in safety and education acknowledges the vital role of radiologic technology professionals as members of today's health care team.

Mr. Speaker, it is with great honor that I pay tribute to such a hard-working, dedicated group of professionals represented by the American Society of Radiologic Technologists.

TRIBUTE TO FOWLER SCHOOL DISTRICT NO. 45

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. PASTOR. Mr. Speaker, I rise today to pay tribute to the Fowler School District No. 45 in Phoenix, AZ, on the occasion of its 100th anniversary.

The year was 1895, Grover Cleveland was President of the United States and Arizona was a territory. Phoenix was a ranching and farming community with a population of about 4,500. On the west side of the Valley, F.M. Fowler established a home, butcher shop, and freighting business in the 1880s. The Fowler family donated land to build a new, brick school building on the present-day corner of 67th Avenue and Van Buren Street in Phoenix after the old wood-frame building burned. Phoenix School District No. 45 was renamed and will always be known as the Fowler School District.

By today's standards, the school's beginning was modest. But for its time, the Fowler School was considered to be the best countryside school in Arizona Territory. On Friday, November 1, 1895, the Phoenix Daily Herald reported on "An Elegant School House". The article stated:

> The main class room of the school house is 30 x 50 feet inside with ceiling 14 feet high. It is well lighted on all sides and the ventilation is perfect. The main entrance to the building is approached by a flight of stone steps and is 6½ feet wide with an arch overhead. Inside is a short hall with cloak and

hat rooms at either ends one for the lads and the other for the lasses. Over the left cloak room which has an elegant bay window is the bell tower surmounted with a flag pole from which the stars and stripes will float on every school day. The building is surrounded by play grounds of four acres donated to the district by the Fowler brothers.

There are about forty-six scholars in the district who will be welcomed to the new school house about the 20th of the month.

Fowler family members served on the school's trustee board into the 20th Century. In 1916, the Fowler Women's Club organized. Beginning in 1933, the club sponsored free meals for children during the depression era. The Fowler PTA began in 1926 and continues today without interruption.

The school district purchased 3¼ acres of land in 1929. A new schoolhouse was constructed with six classrooms, four small rooms, an auditorium, a basement for heating facilities which also provided a place for teachers to retreat and smoke that forbidden cigarette. As Phoenix grew, so did the Fowler School District.

In 1942, new classrooms, a kitchen, and dining hall were added to the grounds. A bus barn and new classrooms were built after World War II. The 1950s and 1960s were decades of tremendous growth for the historic school district. New laboratories, eight new classrooms, administrative offices, a school nurse and teachers lounge were constructed on this bulging campus. Portable buildings were added in the 1970s to meet the students' needs until 1983.

Sunridge School was built in 1983 to house the kindergarten, first, second, and third grades while new classrooms and laboratories were added at the old Fowler school site. By 1987, the old main building was declared unsafe and was torn down. A new building with a kitchen/cafetorium and five new classrooms were built in its stead. Ever expanding, the Fowler School District opened Santa Maria Middle School for sixth, seventh, and eighth grade students in 1994.

A school that opened with 46 students in 1895 educates 1350 students in 1995. This 1895 modern, one-room school house on four acres of desert land grew to 29 classrooms, auditoriums, laboratories, and new schools on 20 acres of land. The Fowler School District has produced many local community members whose entire lives center around it.

I am proud of the continuing success of the Fowler School District and salute them on the 100th anniversary. I hope that my colleagues will join with me today in wishing them and the people of the Fowler School District the best of anniversaries.

TRIBUTE TO MARION WINSTEAD

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. WARD. Mr. Speaker, I rise today to honor Marion Winstead and to commemorate the establishment of Marion Winstead Drive, dedicated on October 17, 1995 at Riverport in my district of Louisville, KY.

In February of 1945, Marion Winstead became a member of the Teamsters, Local 89 and, in April of 1952, he became an assistant business agent of that same chapter. In December of 1955, Mr. Winstead was elected secretary and treasurer of the Teamsters, Local 89 and in 1976, he was elected president of this chapter.

Marion Winstead's election as president of the Teamsters, Local 89 was only the beginning of his service to Louisville. In 1976, Mr. Winstead was appointed by then Kentucky Governor Julian Carroll to the governor's Economic Development Commission and one year later, he was appointed to the Governor's Commission on Products and Liability. Marion Winstead also served on the Louisville and Jefferson County Tourist and Convention Commission, the Kentucky Labor Management Advisory Council, the commission's of corrections and community services, the Governor's Task Force on Workman's Compensation, the Kentucky Job Training Coordinating Council, the Kentucky Port and River Development Commission, and, in 1995, he was appointed to the Enterprise Zone Authority of Kentucky.

Mr. Speaker, this new street marks another chapter in the growth and job creation which have made Riverport such a success story for our community. Marion Winstead, as chairman of the board of the Louisville/Jefferson County Riverport Authority, led the authority during tough times. Fortunately, he had the steadfastness and determination to see this industrial park through its rougher days. Today, we see the results of all of the hard work done over so many years. Our community is benefiting from the jobs and prosperity created by this thriving industrial park. Mr. Speaker, it is most appropriate that future employees and visitors who come to Riverport will drive on Marion Winstead Drive, for it is Marion Winstead, perhaps more than any other individual, who has made Riverport what it is today.

IN SUPPORT OF RELOCATING THE U.S. EMBASSY TO JERUSALEM

HON. MICHAEL F. DOYLE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. DOYLE. Mr. Speaker, I rise today in strong support of the action taken by the House last week in support of moving the United States embassy in Israel from its current location in Tel Aviv to its rightful place in Jerusalem. As a cosponsor of the original House bill on this matter, I am pleased that we are able to move forward with this legislation in such a timely manner.

Situating the United States' embassy in the Israeli capital is a long overdue acknowledgement that a unified Jerusalem represents the vitality of the nation of Israel. Jerusalem has been under the administration of the Israeli Government for over 25 years, and by moving our embassy we will add to the stability of this situation.

Another reason I endorse this action is simple diplomatic protocol. Of all our hundreds of embassies throughout the world, from Albania to Zimbabwe, this is the only instance where the United States has not located its embassy in the host nation's capital. Certainly Israel, which is one of our closest allies in the world, deserves the respect that would accompany having our official diplomatic representation in their capital city.

Furthermore, the relocation of the U.S. embassy is consistent with the our Nation's support for the ongoing peace process in the Middle East. I am a strong supporter of this process and am sensitive to any possible adverse impact that this or any other related action would have on that process. I am satisfied that the transfer of our embassy will not have any negative consequences in that regard.

In conclusion, I am proud to be a supporter of efforts such as this, which are based on sound public policy goals and are accomplished in a bipartisan manner.

OCTOBER—DOMESTIC VIOLENCE AWARENESS MONTH

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. GEJDENSON. Mr. Speaker, October is Domestic Violence Awareness Month and I rise today to observe this occasion. By now, almost everyone has heard the staggering statistics—6 million women are beaten each year by their husbands or boyfriends and 4,000 women die as a result, every 15 seconds a women is beaten by her husband or boyfriend, 20 percent of women who visit emergency rooms have injuries caused by their husbands or boyfriends, 28 percent of violence against women is committed by the victim's intimate, and 1 in 4 women in America will be assaulted by a domestic partner in her lifetime.

Unfortunately, while Congress has made some progress with passage of the Violence Against Women's Act [VAWA] last year, funding for the important programs created by VAWA has lagged. Earlier this year, the House approved the Commerce, State, Justice appropriations bill which provided $124.5 million for VAWA programs. This figure is $50 million more than originally recommended by the House Appropriations Committee, however, it is still $50 million less than the amount authorized by VAWA. This is appalling.

Last year, Congress appropriated $10 billion to help the survivors of the Los Angeles earthquake. In 1991, we sent $900 million in aid for victims of Hurricane Bob. After the Los Angeles riots in 1992, the Federal Government contributed to the cleanup efforts. In the same year, Congress provided assistance for many victims of Hurricane Andrew. Spending this money was necessary and I supported it. But just as we assist victims of periodic natural disasters, we must also help the victims of the on-going tragedies which occur in our backyards everyday—survivors of domestic violence.

Domestic Violence Awareness Month is an opportunity to inform the public about this devastating crime. But more needs to be done. We, in Congress, have an obligation to ensure the safety of all women in this country and I will continue to work toward this goal.

ABUSE OF PROCESS ON OMNIBUS RECONCILIATION BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. HAMILTON. Mr. Speaker, I am deeply concerned about the process the House followed in considering the omnibus reconciliation bill. Those concerns are outlined in my statement before the Committee on Rules on this bill.

I believe that this process represents an unprecedented attack on this institution. I hope my colleagues will keep in mind the concerns outlined in my statement as the House and Senate meet to conference this bill.

H.R. 2517, THE OMNIBUS RECONCILIATION BILL

Mr. Chairman, Mr. Moakley, and other members of the Committee on Rules, I appreciate the opportunity to appear before you on H.R. 2517, the omnibus reconciliation package.

I am here today because I am troubled by the pattern of abuse of the legislative process that has been developing during this Congress. This bill exemplifies that abuse.

Now I know that reconciliation bills under Democratic majorities were not pure. Problems with the process have been growing over the years, given that the original reconciliation bill dealt with $8 billion, and today we cannot even estimate the total sums both "reconciled" and authorized in this package.

This reconciliation bill enters a new universe in its breadth, the sheer number and complexity of proposals, and the extent to which committees of jurisdiction—and thus, all Members of the minority—were shut out of developing this package.

The reconciliation package contains three large items and several smaller provisions that fall within the jurisdiction of the International Relations Committee.

First, H.R. 2517 contains a major legislative proposal dramatically changing the configuration of the Commerce Department. The Committee has jurisdiction over international trade issues, so the dismantlement of the Commerce Department causes great concern. The Committee never considered the measure.

Second, the bill "deems" enacted the entire foreign affairs agencies' reorganization bill. Action has not yet been completed in the Senate.

Third, the bill contains the text of H.R. 927, the Cuban Liberty and Democratic Solidarity Act, approved by the House last month. This bill was altered substantially by the Senate, and should be scheduled for conference.

The purpose of a reconciliation bill is to bring direct spending in line with the targets set by the budget resolution. Among the many problems with this bill, these items in the jurisdiction of the International Relations Committee have nothing to do with budget reconciliation. These items will cost money.

Quite simply, this is the wrong way for the House to go about its business.

PROBLEMS WITH THE PROCESS

(1) This process places enormous power in the Leadership, who will consult only with those persons and groups they want to include.

The Committee is bypassed, an entire House of the Congress is bypassed. All decisionmaking about the issues occurs behind closed doors in a group formed by the leaders of the majority. Final decisions are made by the Speaker. You have created a largely secret system.

This is a system which reduces accountability. It is an entirely closed process. The average American has no way of learning which Members are involved, which special interest groups are consulted or locked out, and what positions Members have taken on a proposal until it is too late and the House has voted.

Many members of both parties with significant expertise were simply not welcome to contribute to the process.

(2) This process bypasses and undermines the entire committee system.

When the Chairman decides to waive consideration of bills that are central to the committee's jurisdiction, most Members—including all Members of the minority—are shut out. The Commerce proposal in a case in point. Our Committee had no role in developing that proposal. We held no hearings on this proposal, there was no debate, we had no markup, no amendments were permitted, we did not vote. We defaulted on our responsibilities.

The Committee is also stripped of its responsibilities when items that it has considered and moved through the House are included in the reconciliation package. Moving the Committee's foreign affairs reorganization bill or the Cuba bill through the reconciliation bill removes the Committee from meaningful participation in a conference. It puts these major foreign policy bills into a conference with a mix of 1000 other domestic items. The substance of these bills will not likely be discussed in a reconciliation conference.

In the last Congress, Republicans and Democrats working on congressional reform talked about streamling, modernizing, rationalizing, and enhancing the committee system. Congressman Dreier and I worked many long hours on these issues. But we did not talk about what has come to be in the Congress: bypassing committees on major policy issues.

(3) This process produces a monster bill.

This bill is simply overwhelming. What we have before us—all 1754 pages—is not really the entire bill. It does not yet include the Medicare package. There are several other bills that are hundreds of pages themselves—such as H.R. 1561 and the welfare reform package—that this bill incorporates by reference.

This reconciliation package will include bills that majority votes in committees rejected. The "Freedom to Farm" bill, for example.

It includes bills the bulk of which the House has rejected, such as the mining patents and national park concessions proposals.

It includes bills such as the Cuba bill, that have passed the House and Senate in very different forms. There is every reason to send this bill to conference under regular process.

It includes bills—for instance, the Commerce proposal—created by a task force made up only of Members of the majority party, after committees have reported out different measures and some committees—such as the International Relations Committee—were apparently instructed by the Leadership not to act at all.

(4) This process will include a tightly constrained rule.

Reconciliation bills traditionally impose severe constraints on time for debate and the opportunity to amend. You will undoubtedly prescribe a restrictive rule, a rule designed to keep the package intact.

The Senate accords only 20 hours of debate (12 minutes per Member) on the bill. In this bill, that means just over one minute per page.

We have had only a few days to digest this enormous bill. And the contents of the bill we take up on the floor are anyone's guess—I expect your rule will include significant "self-executing" changes.

We will probably know even less about the contents of the reconciliation conference report before we must vote on it.

(5) This process is not defensible because the ends do not justify the means.

I understand that the current Leadership has a very different view of the committee system. If the Leadership is driven only by outcome then process is irrelevant. Having the votes at the end of the day is all that matters.

I believe that the essence of democracy is process, and that the end does not justify the means, that the means is as important as the end.

That means a process that guarantees that all Members will have an opportunity to be heard, if they do not have the chance to prevail.

It means a process that allows every Member to offer amendments and to vote, and every constituent to track how their representative has voted as a bill winds its way from committee, to the floor, to conference, and to the President.

It means a process that allows those who have spent time developing expertise in a particular area to have a seat at the negotiating table.

Eliminating consideration by committees, by one House, silencing voices, reducing the number of people at the negotiating table may get bills through the House faster. You may get bills out of conference more quickly. But in the end we will not get better laws. And we will erode the foundations of this institution.

CONCLUSION

We are subverting the entire legislative process here, decision by decision. We are taking bills to the floor that have not been written or even considered by the committees of jurisdiction and expertise.

Protecting the committee system in this House should not be a partisan issue. Safeguarding the legislative process is not partisan.

For these reasons, I urge you to support Mr. Hall's efforts to strip the foreign affairs reorganization provisions from H.R. 2517. I would also support any efforts to strip the Commerce and Cuba provisions from this bill.

And I ask that you think very seriously about the entire way you're planning to move this reconciliation package. Subverting the legislative process does a grave disservice to this body, and to the American people.

TRIBUTE TO HTC ALBERT MONROE ON 20 YEARS OF NAVY SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. SOLOMON. Mr. Speaker, I don't need to tell anyone in this Chamber about my high regard for veterans, and for the men and women who serve in the Armed Forces. That service is always rendered at great sacrifice, and often at considerable danger. The entire country owes a debt of gratitude to the Americans who have served.

I'd like to single out one of those patriotic Americans today. HTC Albert Monroe of Ballston Lake, NY is retiring after 20 years of outstanding service in the U.S. Navy.

Mr. Speaker, geography makes this a maritime Nation, situated as we are between two large oceans, with the responsibility, as leader of the free world, of keeping our sea lanes free. This places a primary burden on our Navy. The backbone of that Navy, Mr. Speaker, is its noncommissioned officer corps, of which Chief Monroe is a shining example of leadership and service. To the usual burdens of military life are added occasional long deployments at sea, where the psychological pressures would multiply without such leaders as Chief Monroe.

The Navy looks to its chief petty officers as the most important link in the chain of command, the transmitters of orders and monitors of morale. Chief Monroe has met these challenges, as proven by the award of five Good Conduct Medals: a Meritorious Unit Commendation, and Navy Commendation Medal, among his other decorations.

Mr. Speaker, I have inspected our new, all-volunteer Armed Forces on every continent and on most of our U.S. installations. They are the best-trained, best-equipped, and most motivated military forces in our history, and I am proud of them. That level of excellence is directly due to the presence of career personnel like Chief Monroe.

I congratulate Chief Albert Monroe for his 20 years of service, and wish him, his wife Susan, and children Craig and Holli all the best in the future. Mr. Speaker, I ask you and all Members to join me in a salute to this outstanding American.

MORE THAN A DIFFERENCE OF DEGREES

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. RADANOVICH. Mr. Speaker, a respected leader of California's agriculture community, Bill Mattos, has hit the nail on the head. Indeed, Mr. Speaker, the rule he rightly ridicules is one that tolerates as fresh chicken sold to consumers that is frozen so stiff it could drive nails.

For the enlightenment of our colleagues and to illustrate once again the folly of letting frozen masquerade as fresh, because that is what Government says, I take pleasure in presenting the following editorial expression by Mr. Mattos that was published in the Capital Press Agriculture Weekly on October 27, 1995.

POULTRY LABEL CHARADE CONFIRMS PUBLIC'S CYNICISM ABOUT POLITICS

(By Bill Mattos)

When is a frozen chicken fresh?

One newspaper says, "When it's got the political muscle of the 800-pound gorilla that is the poultry lobby."

I guess that's the same frozen poultry thawed on its way to California from some of the nation's largest poultry processors.

Believe it or not, Congress spent more than four hours recently debating chicken labeling, then barred the U.S. Department of Agriculture from enforcing truth in labeling.

Congress just doesn't get it. Voter anger, so visibly demonstrated in the last two federal elections, was not simply about one party vs. the other. Rather, it was directed at the status quo—a sense that in Washington, the concerns of deep-pocketed special interests outweigh the common good.

Recent action in both the House and Senate shows the lengths members will go to please special interests. In the midst of hefty debate on a welfare "revolution" and Medicare "overhaul," Congress found it necessary to vote on whether chicken that has been frozen to rock-solid temperatures can be thawed and called "fresh."

After weeks of serious debate, with California's representatives arguing the merits of freshness, Congress decided that yes, indeed, it should be legal to label defrosted poultry as "fresh."

This legislative squawking is ludicrous. But it means serious, added profits to a few big chicken producers in the Southeast who use these "fresh" labels to sell chicken to unsuspecting consumers nationwide at a higher price.

Consumers who buy fresh food believe it has never been frozen. That's why USDA officials in August announced that chicken producers can no longer put deceptive "fresh" labels on poultry that has been iced to below 26 degrees, and subsequently thawed for sale in grocery stores.

USDA policymakers didn't create this rule overnight. Two years ago, they began studying the issue. They tested the freezing point of poultry—and discovered the meat becomes crystallized at 26 degrees. They held field hearings in cities throughout the country. They drafted a rule and published it in the Federal Register to solicit public comments.

And the public responded: USDA's mailbox received thousands of letters from irate consumers, all of the leading consumer advocacy organizations, as well as chefs, who felt the rule was important enough for them to write in.

Congress held its own hearings, which included testimony by noted chef Wolfgang Puck, who pounded a so-called "fresh" chicken that was rock-solid on a table in front of a House committee. Members participated in chicken bowling with "fresh" chickens that were hard as bowling balls.

The point consumers were trying to make was simple: A "fresh" chicken has never been frozen. Shoppers in search of fresh vegetables bypass the freezer case and go to the produce department. Likewise, those in search of fresh seafood head straight for the lobster tank. So why on earth did the Senate vote to provide an exception for poultry?

The answer: It puts lots of dollars in the pockets of giant poultry corporations in a few states like Arkansas and Mississippi, and costs 40 cents to $2 more per pound for consumers who buy this "fresh" (actually, thawed) chicken.

Southeastern senators whose constituents include the largest chicken-producing conglomerates went to the Senate floor to say it was them vs. California, a state where consumers purchase lots of fresh chicken. Maybe they had a point—but only on the Senate floor. Off the Capitol grounds, it was the Senate vs. millions of consumers, and consumers lost.

In fact, the vote in the Senate was 61 to 38 in favor of defrauding consumers. Senators from the frozen-chicken states locked arms and relied on the old network to reverse a scientifically based USDA rule that was two years in the making. Subsequent objections to this ridiculousness raised elsewhere in Congress were overruled.

Kudos to Sen. Thad Cochran, R-Miss., and Sen. Dale Bumpers, D-Ark., or this legislative feat. Cochran is the chairman of the Senate subcommittee on Agriculture Appropriations, the panel that holds the purse strings for the USDA. He got the ball rolling by slipping language into an appropriations bill before his committee that would prevent the department from using its funding to implement or enforce its truth-in-labeling rule.

But it was Bumpers who, during debate in the Senate, revealed the true thrust of the big chicken lobby's argument: economics. He said it was difficult to ship chickens from Arkansas without freezing them, claiming that "economically, that is not doable." So in pursuant to additional profits for several large companies, Congress overruled conventional scientific wisdom.

These actions typify what is wrong with Washington. The Congress overturned in a matter of weeks a pro-consumer, common-sense ruling by the USDA that took two years and many hours of public input, to make.

In the end, Congress chickened out and voted for the best interests of special interests, hoping consumers didn't notice.

Well, consumers and fresh poultry producers did notice, and we were disgusted.

This isn't a choice between fresh and frozen. It's a choice between consumers' interests and hard-ball politics as usual. What will it be, Washington?

SCHWARTZ, KARSIF & CO., P.C. MARKS 35 YEARS OF SERVICE

HON. JON D. FOX

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. FOX. Mr. Speaker, when Bill Karsif and Sid Schwartz decided to enter into an accounting partnership, the two CPAs flipped a coin to determine the name of the firm. Sid Schwartz won the toss.

Since that time, some 35 years ago, Sidney A. Schwartz and William Karsif, both 67, have never looked back and have been consistently progressive in operating this CPA and financial planning corporation which still carries their names.

Schwartz, Karsif & Co., P.C., currently has offices at the Executive News, Building L, 2300 Computer Avenue, in Willow Grove, PA.

These two talented CPAs who have specialized in providing accounting services and financial planning for small businesses, will mark their 35th anniversary together on December 12 of this year with a special reception for all of their clients, business associates, and friends.

The two became friendly as a result of their membership in the Adelphi Lodge of B'nai B'rith and their neighborhood association in the East Oak Lane section of Philadelphia.

Schwartz is a graduate of the University of Pennsylvania Wharton School and Karsif is a graduate of Temple University. Both are members of the American and Pennsylvania Institutes of CPAs. Schwartz is also a certified financial planner and is active in the CFP Institute.

When they decided to form a partnership, Karsif was working in his own private practice and teaching at Pierce Business School, while Schwartz was also in his own private practice. Schwartz teases about earning $40 per week back then, while Karsif muses about earning $5 per hour.

The two businessmen joined together with one small office located in Center City Philadelphia and an office in the Mt. Airy section. "We knew that together we could offer better services for our clients," they note.

Through the decades that followed, their general accounting practice grew from the original partners, with one junior accountant and a secretary, to a multimillion dollar professional corporation with 24 professionals plus clerical and support staff.

SK&Co grew and acquired an expertise in many areas of small businesses including scrap metals, commercial contract cleaning services, commercial and residential real estate and construction, professional corporation in medicine and law, manufacturing, laboratory research, boarding homes, and personal care facilities. Their current client list spans businesses and corporations in some 25 States.

The firm has expanded its offices three times since its inception in 1961, moving to Cheltenham, PA, in 1971; Rydal, PA, in 1982; and finally to its spacious modern office complex in Willow Grove.

Schwartz says that the company was one of the first to run personal income tax forms on an in-house computer system and has never farmed out client work to outside service bureaus, specifically to maintain absolute confidentiality.

In the late 1980's, following on the heels of its latest expansion, the firm added SKC Financial Planning Inc., an affiliated company, to its services. Schwartz, Karsif & Co. was one of the first accounting corporations to provide asset management and financial planning for the benefit of its clients.

Schwartz and Karsif now hold the title of cochairman of the board and spend their time mainly in tax and financial consulting. They are also active in the area of succession of family-owned businesses. They share the overall responsibilities for expanding the firm's client base.

The current day-to-day operational responsibilities are now being managed by Martin G. Kalos, 44, of Melrose Park, PA, who is the new president and managing shareholder, and Doris C. Liu, 48, of Washington Crossing, PA, who is secretary-treasurer and shareholder. Kalos has been with the corporation for 18 years and Liu has been a part of SK&Co for some 14 years.

TRIBUTE TO MADELEINE HERLING: AN EXTRAORDINARY WOMAN WHO GAVE THE GIFTS OF LOVE AND HOPE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in appreciation and celebration of the life of Madeleine Herling. Annette and I were very saddened by her passing, for the world was graced by her extraordinary life.

Madeleine had an insatiable good will—she could not do enough for her fellow human being. She worked tirelessly as a leader at the Emmanuel Foundation, where she was a vigilant guardian of the lessons of the Hungarian Holocaust and an invaluable advocate for the rights of Hungarian Jews.

Madeleine's contagious warmth and optimism could overcome any dark situation. She used these qualities to bring hope and happiness to those who seemed beyond hope, such as the occupants of an old Jewish nursing home for survivors of the Holocaust. She gave every person she met her undivided attention and devotion.

Mr. Speaker, I rise today to pay tribute to the memory of Madeleine Herling. Please join me in taking a moment to remember the many accomplishments of this extraordinary woman.

FRIGHT NIGHT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. PACKARD. Mr. Speaker, tonight officially marks Halloween—Fright Night. However, my colleagues on the other side of the aisle have waged their scare campaign for months. They have no proposals to balance the budget, save and strengthen Medicare, and change welfare. Instead, my Democrat colleagues, have chosen to spend their time and energy dressing up our Republican proposals in exaggerations and falsehoods. Then, they come to the floor of this Chamber to spring their distortions on the most vulnerable members of society—kids, seniors, and the less fortunate.

Halloween or not, today the masks come off and the truth comes out. Last week, my Republican colleagues and I passed a budget which balances by 2002. This package reins in 40 years of reckless spending, we save Medicare from bankruptcy by strengthening it for today's and tomorrow's seniors; and, we provide tax relief for families struggling to provide a strong future for their kids.

While my Democrat colleagues try to trick the American people with stories of impending doom, the truth is that a balanced budget brings nothing but treats for this country. Lower interest rates translate into more affordable housing, car, and student loans. A balanced budget means a higher standard of living for all Americans.

No tricks, no lies. My Republican colleagues are serious about keeping our promises and changing the culture of Washington to increase opportunities for all Americans.

A TRIBUTE IN MEMORY OF FORMER MEMBER OF CONGRESS B.F. SISK

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. DOOLEY. Mr. Speaker, I ask my colleagues to join me today in remembering a former Member of this body and a true leader from California's Central Valley, B.F. Sisk, who died last week at the age of 84. As one who follows the tradition of moderate Democrats from central California who are dedicated to furthering the cause of valley agriculture that Mr. Sisk helped establish, it is an honor for me to offer this tribute.

Mr. Sisk ran for Congress in 1954 while working as a tire salesman in Fresno and went on to become one of the most influential Members of the House by the time he retired in 1978. His contributions ranged from serving on the House panel that led the way to our country landing on the Moon to being one of the Rules Committee members who ensured that President Kennedy's civil rights and education initiatives were enacted.

But back home, Mr. Sisk was perhaps best known for his dogged work that led to the building of the San Luis unit of the Central Valley project. The San Luis unit includes 115 miles of canals and the 2 million acre-foot San Luis Reservoir—the largest reservoir in the world without a natural stream.

Because of the San Luis unit, millions of acres of farmland on the valley's west side have been brought into production. It is now one of the most productive agricultural regions of the world. In honor of Mr. Sisk's leadership, the dam creating the San Luis Reservoir has been renamed the B.F. Sisk Dam.

Along with a host of other projects he helped bring to the valley, Mr. Sisk also left behind a political legacy. One of his top aides, Tony Coelho, was elected to replace Mr. Sisk when he retired in 1978. As we all know, Mr. Coelho went on to become the House majority whip. Throughout his career, Mr. Coelho cited the mentorship of Mr. Sisk as one of the keys to his success.

Less directly, Mr. Sisk also had an impact on many current Members of Congress, myself included. He set an example of a nonpartisan, moderate Democrat who put accomplishments for his district ahead of party politics. It is an example that I and many others have tried to follow.

Again, I ask my colleagues to join me in paying tribute to the memory of B.F. Sisk.

TRIBUTE TO CARLOS GARCÍA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Mr. Carlos García, a remarkable journalist and a dear friend, who was honored on October 20 at a banquet dinner in commemoration of the 10th anniversary of Guayaquil 85, Inc., in Queens, NY.

Mr. García, who was born in Ecuador, came to the United States in his youth. With perseverance and dedication, he started an exceptional career as a reporter.

During his 23-year career, Mr. García has been able to inform members of the Hispanic community, who like him, were always anxious to learn about the latest news on Latin America, the United States, and their immediate communities.

Through accurate and timely reporting, Mr. García gained the recognition of his peers and became news editor at Noticias del Mundo, one of the most widely read newspapers in Spanish in the New York City area. He also worked for the Spanish radio station Radio WADO, and continues to produce the morning news program "Buenos Dias America."

Mr. Speaker, I ask my colleagues to join me in recognizing Mr. Carlos García for his 23 years of work as an outstanding journalist and for his service to the community.

DR. FRANK P. LLOYD RESIGNS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 1995

Mr. JACOBS. Mr. Speaker, the following editorial published in the Indianapolis News this past weekend, does not overstate the accomplishments and the goodness of Dr. Frank P. Lloyd. It would be impossible to say too much good about this magnificent man:

[From the Indianapolis News, Oct. 28, 1995]

A ONE-IN-A-MILLION LEADER

Too often, the work of a soft-spoken leader goes without due recognition. Such is the case with Dr. Frank P. Lloyd, who resigned last week from the White River State Park Development Commission.

Lloyd has served tirelessly on that body since 1979, when it began its work to create an urban park for the people of Indianapolis. His work for the commission, however, is just one of many of his efforts to better this city.

Upon hearing of Lloyd's resignation, U.S. Rep. Andy Jacobs, Jr. called him a "civil saint" and one of "God's nobleman."

A summary of a few of his accomplishments explains that description.

Lloyd, who will turn 76 this month, received his medical degree from Howard University in 1946 and built a career as an obstetrician. Along the way, he also became involved in many community projects.

In 1968, Lloyd got the idea to give Indianapolis its first radio station with a goal to serve the black community. He and 11 Democrats put their money together and bought a license and began to broadcast on WTLC-FM.

Lloyd also was the chairman of Midwest National Bank, where he put high priority on opening up lending opportunities for minorities.

In a 1993 interview with News reporter Marion Garmel, he said: "What I believe as a black male is that if you're going to try to do something in a community at all, you need three things: access to media, access to money and access to the political world."

He has been successful at all three.

Lloyd has served on the boards of many organizations, including Indiana Bell Telephone, Ameritech, the Christian Theological Seminary, Community Leaders Allied for Superior Schools and the Indiana Advisory Board of the U.S. Commission on Civil Rights.

He was president of the Metropolitan Planning Commission in the 1970s and was chairman of the prestigious American Planning Association, which develops urban policy.

Lloyd also has recognized women deserving a leadership positions. During his stint at Methodist Hospital, from which he retired as president and chief executive officer, Lloyd promoted two women to senior management positions, something that had not been done before.

He also has mustered support for health programs for women and children. When Sen. Richard Lugar was in Indianapolis a few weeks ago, he praised Lloyd during a luncheon speech, crediting him for his work.

"I remember Dr. Frank Lloyd, when I was mayor, said that the best index of the civilization of this city is the infant mortality rate. It tells you very rapidly the sense of concern that people have for each other in a community sense," said Sen. Lugar.

Lloyd clearly has a strong sense of concern for the people of Indianapolis. His accomplishments—there have been far to many to list here—bear that out.

Although he would not seek out recognition for his good deeds, we choose to acknowledge them here, as well as offer a heartfelt thank-you on behalf of the entire community.